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Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, FIRST SESSION

SENATE—*Tuesday, January 3, 1989*

The third day of January being the day prescribed by the Constitution of the United States for the annual meeting of the Congress, the 1st session of the 101st Congress commenced this day at 12 noon.

The Senate assembled in its Chamber at the Capitol.

The Senate was called to order by the Vice President.

PRAYER:

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.*—Romans 13:1.

Almighty God, Lord of Creation, Ruler of the Nations, we thank Thee for Thy presence at this profoundly significant occasion. Help us to take seriously Thy Word, that all authority comes from Thee, and we are accountable to Thee in its exercise. Anoint Thy servants by Thy Holy Spirit with wisdom, strength, courage, and the power to do Thy will on Earth as it is in Heaven. As You have used civil servants for Your purposes throughout the centuries, whether a Pharaoh or a David, may these and all public servants understand that they are ministers of God for good. Help Thy servants to find the delicate balance between representation and leadership. Help them use their power to serve, not to control.

May Your blessing be upon them and their families and all who labor in the United States Senate, that this historic year fulfill Your purpose and bring glory unto Thee.

We pray in His name in whom is all power. Amen.

RESIGNATION AND APPOINTMENT

The VICE PRESIDENT. The Chair lays before the Senate a letter of resignation and a certificate of appointment to fill the vacancy caused by the resignation and, without objection, the reading will be waived and the documents will be printed in the RECORD.

The documents ordered to be printed in the RECORD are as follows:

OFFICE OF THE VICE PRESIDENT-ELECT,
Washington, DC, December 21, 1988.

Hon. GEORGE BUSH,
President of the U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR GEORGE: I have the honor to inform you that I am resigning my seat as a U.S. Senator from the State of Indiana.

This resignation should take effect at noon on January 3, 1989.

Sincerely,

DAN QUAYLE,
Vice President-Elect.

OFFICE OF THE GOVERNOR,
Indianapolis, IN.

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Indiana, I, Robert D. Orr, the Governor of the State of Indiana, do hereby appoint Daniel R. Coats a Senator from the State of Indiana to represent the State of Indiana in the Senate of the United States until the vacancy therein, caused by the resignation of J. Danforth Quayle, is filled by election as provided by law. The term of this appointment shall commence at 12:01 p.m. on January 3, 1989.

Witness: I, Robert D. Orr, hereto set my hand and cause to be affixed the Great Seal of the State at the City of Indianapolis this 27th day of December, in the year of our Lord 1988.

ROBERT D. ORR,
Governor.

CREDENTIALS

The VICE PRESIDENT. The Chair lays before the Senate the credentials of the 32 Senators elected for 6-year terms beginning January 3, 1989, and the one Senator-designate, which, without objection, will be printed in the RECORD, without being read.

All certificates, the Chair is advised, are in the forms suggested by the Senate or contain all the essential requirements of the forms suggested by the Senate.

The documents ordered to be printed in the RECORD are as follows:

STATE OF NEW MEXICO

CERTIFICATE

I, Rebecca Vigil-Giron, Secretary of State of the State of New Mexico, do hereby certify that on the 8th day of November, 1988, Jeff Bingaman was duly chosen by the qualified electors of the State of New Mexico a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His exellency our Governor Garrey Carruthers, and our seal hereto affixed at Santa Fe, New Mexico, this 28th day of December, in the year of our Lord 1988.

GARREY CARRUTHERS,
Governor.

STATE OF TENNESSEE

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, James R. Sasser was duly chosen by the qualified electors of the State of Tennessee as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His Excellency Our Governor Ned McWherter, and our seal hereto affixed at the Capitol in Nashville this 14th day of December, in the year of our Lord 1988.

NED MCWHERTER,
Governor.

STATE OF WISCONSIN

CERTIFICATE OF ELECTION, U.S. SENATOR, NOVEMBER 8, 1988

To the President of the Senate of the United States:

This is to certify that on the Eighth day of November, 1988, Herbert H. Kohl, was chosen by the qualified electors of the State of Wisconsin, a Senator from said State to represent the State in the Senate of the United States for the term of six years, beginning on the Third day of January, 1989.

Witness: His excellency our governor, Tommy G. Thompson, and our seal hereto affixed at Madison this 29th day of December, 1988.

TOMMY G. THOMPSON,
Governor.

COMMONWEALTH OF PENNSYLVANIA

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, John Heinz was duly

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● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

chosen by the qualified electors of the Commonwealth of Pennsylvania as a United States Senator to represent Pennsylvania in the Senate of the United States for a term of six years, beginning on the third day of January, 1989.

Witness: His excellency our Governor Robert P. Casey, and our seal hereto affixed at Harrisburg this twenty-eighth day of December, in the year of our Lord 1988.

ROBERT P. CASEY,
Governor.

STATE OF CALIFORNIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Pete Wilson was duly chosen by the qualified electors of the State of California a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

In witness whereof I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 14th day of December 1988.

GEORGE DEUKMEJIAN,
Governor of California.

STATE OF MINNESOTA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Dave Durenberger was duly chosen by the qualified electors of the State of Minnesota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our Governor Rudy Perpich, and our seal hereto affixed at St. Paul this 28th day of December, in the year of our Lord 1988.

RUDY PERPICH,
Governor.

STATE OF DELAWARE

To the President of the Senate of the United States:

Be it Known, An election was held in the State of Delaware, on Tuesday, the eighth day of November, in the year of our Lord one thousand nine hundred and eighty-eight that being the Tuesday next after the first Monday in said month, in pursuance of the Constitution of the United States and the Laws of the State of Delaware, in that behalf, for the election of a Senator for the people of the said State, in the Senate of the United States.

Whereas, The official certificates or returns of the said election, held in the several counties of the said State, in due manner made out, signed and executed, have been delivered to me according to the laws of the said State, by the Superior Court of the said counties; and having examined said returns, and enumerated and ascertained the number of votes for each and every candidate or person voted for, for such Senator, I have found William V. Roth, Jr., to be the person highest in vote, and therefore duly elected Senator of and for the said State in the Senate of the United States for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and eighty-nine.

I, Michael N. Castle, Governor, do, therefore, according to the form of the Act of the General Assembly of the said State and of the Act of Congress of the United States, in such case made and provided, declare the said William V. Roth, Jr., the person highest in vote at the election aforesaid, and therefore duly and legally elected Senator of and for the said State of Delaware in the Senate of the United States, for the Constitutional term to commence at noon on the third day of January in the year of our Lord one thousand nine hundred and eighty-nine.

Given under my hand and the Great Seal of the said State, in obedience to the said Act of the General Assembly and of the said Act of Congress, at Dover, the thirtieth day of November in the year of our Lord one thousand nine hundred and eighty-eight and in the year of the Independence of the United States of America the two hundred and thirteenth.

MICHAEL N. CASTLE,
Governor.

STATE OF WEST VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Robert C. Byrd was duly chosen by the qualified electors of the State of West Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1989.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.

Done at the Capitol, in the City of Charleston, State of West Virginia, this the 15th day of December, in the year of our Lord, One Thousand Nine Hundred Eighty-Eight and in the One Hundred Twenty-Sixth year of the State.

ARCH A. MOORE, Jr.,
Governor.

STATE OF OHIO

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Howard M. Metzenbaum was duly chosen by the qualified electors of the State of Ohio a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our governor Richard F. Celeste, and our seal hereto affixed at 10:30 a.m. this ninth day of December in the year of our Lord 1988.

By the governor:

RICHARD F. CELESTE,
Governor.

STATE OF MISSISSIPPI

CERTIFICATION OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Trent Lott was duly chosen by the qualified electors of the State of Mississippi, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1989.

Witness: His excellency our governor Ray Mabus, and our seal hereto affixed at the Capitol in the City of Jackson, Mississippi, this 8th day of December, in the year of our Lord 1988.

RAY MABUS,
Governor.

STATE OF MARYLAND

Paul S. Sarbanes, of Baltimore, Maryland Greeting: Be it Known, That the people of the State of Maryland having great trust and confidence in your Integrity and Wisdom, have on the 8th day of November, Nineteen Hundred and eighty eight elected you United States Senator for said State, and you are therefore, to execute the said office justly, honestly, diligently and faithfully; according to law, and hold the same for a term of six years from January 3, 1989, or until you shall be duly discharged therefrom.

Given under my hand and the Great Seal of Maryland at the City of Annapolis on the 16th day of December in the year of Our Lord, One Thousand Nine Hundred and eighty eight.

WILLIAM DONALD SCHAEFER,
Governor.

STATE OF UTAH

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Orrin G. Hatch was duly chosen by the qualified electors of the State of Utah a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

In witness whereof, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 28th day of November, 1988.

NORMAN H. BANGERTER,
Governor.

STATE OF NEW YORK

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, Daniel P. Moynihan was duly chosen by the qualified electors of the State of New York a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1989.

Witness: His excellency our governor Mario M. Cuomo, and our seal hereto affixed at Albany this fourteenth day of December, in the year one thousand nine hundred and eighty-eight.

MARIO M. CUOMO,
Governor.

STATE OF NEVADA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Richard H. Bryan, was duly chosen by the qualified electors of the State of Nevada a Senator from said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our Governor Richard H. Bryan, and our seal hereto affixed at Carson City this 12th day of December, in the year of our Lord 1988.

RICHARD H. BRYAN,
Governor.

STATE OF NEW JERSEY

CERTIFICATION OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Frank R. Lautenburg was duly chosen by the qualified electors of the State of New Jersey a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our Governor Thomas H. Kean, and our seal hereto affixed at Trenton this 6th day of December, in the year of our Lord 1988.

THOMAS H. KEAN,
Governor.

STATE OF NEBRASKA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, Bob Kerrey was duly chosen by the qualified electors of the State of Nebraska a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1989.

Witness: Her excellency our Governor Kay A. Orr, and our seal hereto affixed at Lincoln this sixth day of December, in the year of our Lord 1988.

KAY A. ORR,
Governor.

STATE OF ARIZONA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Dennis DeConcini was duly chosen by the qualified electors of the State of Arizona as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1989.

Witness: Her excellency the Governor of Arizona, and the great seal of Arizona hereto affixed at Phoenix the Capital, this 28th day of November, in the year of our Lord, 1988.

ROSE MOFFORD,
Governor.

STATE OF TEXAS

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Lloyd Bentsen was duly chosen by the qualified electors of the State of Texas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1989.

In testimony whereof, I have hereunto signed my name and caused the Seal of State to be affixed at the City of Austin, this the 7th day of December A.D., 1988.

WILLIAM P. CLEMENTS, Jr.,
Governor.

STATE OF INDIANA

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Richard G. Lugar was duly chosen by the qualified electors of the State of Indiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: I, Robert D. Orr, hereto set my hand and cause to be affixed the Great Seal of the State of Indiana this 7th day of December, in the year of our Lord 1988.

ROBERT D. ORR,
Governor.

COMMONWEALTH OF MASSACHUSETTS

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, nineteen hundred and eighty-eight, Edward M. Kennedy was duly chosen by the qualified electors of the Commonwealth of Massachusetts a Senator from said Commonwealth to represent said Commonwealth in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and eighty-nine.

Witness: His Excellency our Governor, Michael S. Dukakis, and our seal hereto affixed at Boston, this seventh day of December, in the year of our Lord nineteen hundred and eighty-eight.

MICHAEL S. DUKAKIS,
Governor.

STATE OF HAWAII

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, Spark M. Matsunaga was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our governor John D. Waihee, and our seal hereto affixed at Honolulu this 28th day of November, in the year of our Lord 1988.

JOHN D. WAIHEE,
Governor.

STATE OF MISSOURI

CERTIFICATE OF ELECTION FOR UNITED STATES SENATOR, SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, John C. Danforth was duly chosen by the qualified electors of the State of Missouri a Senator to represent Missouri in the United States Senate for a term of six years, beginning on the 3rd day of January, 1989.

In testimony whereof, I hereunto set my hand and cause to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 6th day of December, 1988.

JOHN ASHCROFT,
Governor.

STATE OF MICHIGAN

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, Donald W. Riegle, Jr., was duly chosen by the qualified electors of the State of Michigan, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January 1989.

Given under my hand and the Great Seal of the State of Michigan this 9th day of December in the year of our Lord One Thousand Nine Hundred Eighty-Eight and of the Commonwealth One Hundred Fifty-Two.

JAMES J. BLANCHARD,
Governor.

STATE OF WASHINGTON

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States of America:

This is to certify that on the 8th day of November, 1988, Slade Gorton was duly chosen by the qualified electors of the State of Washington a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our Governor Booth Gardner, and our seal hereto affixed at Olympia, Washington, this 8th day of December, A.D. 1988.

BOOTH GARDNER,
Governor.

STATE OF MONTANA

To the President of the Senate of the United States:

This is to certify that on the 8th day of November 1988, Conrad Burns was duly chosen by the qualified electors of the State of Montana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Given under my hand and Great Seal of the State of Montana, this 1st day of December, in the year of our LORD, One Thousand Nine Hundred and Eighty-Eight.

TED SCHWINDEN,
Governor.

STATE OF CONNECTICUT

To the President of the Senate of the United States:

This is to Certify that on the eighth day of November, nineteen hundred and eighty-eight Joe Lieberman was duly chosen by the qualified electors of the State of Connecticut Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and eighty-nine.

Witness: His Excellency our Governor, William A. O'Neill and our seal hereto affixed at Hartford, this thirtieth day of November, in the year of our Lord nineteen hundred and eighty-eight.

WILLIAM A. O'NEILL,
Governor.

COMMONWEALTH OF VIRGINIA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November 1988, Charles S. Robb was duly chosen by the qualified electors of the Commonwealth of Virginia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1989.

Witness: His excellency our governor, Gerald L. Baliles, and our seal hereto affixed at Richmond this 28th of November, in the year of our Lord 1988.

GERALD L. BALILES,
Governor.

STATE OF RHODE ISLAND

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, John H. Chafee of Warwick was duly chosen by the qualified electors of the State of Rhode Island a Senator

from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1989.

Witness: His excellency our governor Edward D. DiPrete, and our seal hereto affixed at this 23rd day of November, in the year of our Lord 1988.

EDWARD D. DIPRETE,
Governor.

STATE OF MAINE

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the eighth day of November, 1988, George J. Mitchell was duly chosen by the qualified electors of the State of Maine a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3d day of January, 1989.

Witness: His excellency our Governor John R. McKernan, Jr., and our seal hereto affixed at Augusta, Maine this twenty-eighth day of November, in the year of our Lord, 1988.

JOHN R. MCKERNAN, Jr.,
Governor.

STATE OF NORTH DAKOTA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, Quentin N. Burdick was duly chosen by the qualified electors of the State of North Dakota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1989.

Witness: His excellency our Governor George A. Sinner, and our seal hereto affixed at Bismarck, North Dakota, this 29th day of November, in the year of our Lord, 1988.

GEORGE A. SINNER,
Governor.

STATE OF FLORIDA

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the Eighth day of November, A. D., 1988, Connie Mack was duly chosen by the qualified electors of the State of Florida a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3d of January, 1989.

Witness: His excellency our Governor, Bob Martinez, and our seal hereto affixed at Tallahassee, this 6th day of December in the year of our Lord 1988.

BOB MARTINEZ,
Governor.

STATE OF WYOMING

CERTIFICATE OF ELECTION

Whereas according to the official returns of the General Election held in the State of Wyoming on the 8th day of November, 1988, regularly transmitted to the office of the Secretary of State and duly canvassed by the State Canvassing Board, it appears that Malcolm Wallop has been duly elected United States Senator.

Now, therefore, I Mike Sullivan, Governor of Wyoming do hereby certify that he is elected for the term of six years from the third day of January, 1989.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of Wyoming to be affixed. Given at Cheyenne this 23rd day of November, 1988.

MIKE SULLIVAN,
Governor.

STATE OF VERMONT

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the President of the Senate of the United States:

This is to certify that on the 8th day of November, 1988, James M. Jeffords was duly chosen by the qualified electors of the State of Vermont a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning the 3rd day of January, 1989.

Witness: His excellency our Governor Madeleine M. Kunin, and our seal hereto affixed at Montpelier, this 22nd day of November, in the year of our Lord, 1988.

MADELEINE M. KUNIN,
Governor.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. The 32 Senators-elect and the 1 Senator-designate will now present themselves at the desk, in groups of four, as their names are called by the clerk in alphabetical order, escorted from the rear of the Chamber by the Senator from their State, for the administration of their oath of office.

The clerk will read the names of the first group.

The assistant legislative clerk called the names of Mr. BENTSEN, Mr. BINGAMAN, Mr. BRYAN, and Mr. BURDICK.

The VICE PRESIDENT. The Senators will come forward.

These Senators, escorted by Mr. GRAMM, Mr. DOMENICI, Mr. REID, and Mr. CONRAD, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The assistant legislative clerk called the names of Mr. BURNS, Mr. BYRD, Mr. CHAFEE, and Mr. COATS.

These Senators, escorted by Mr. BAUCUS, Mr. ROCKEFELLER, Mr. PELL, Mr. LUGAR, and former Senator Quayle of Indiana, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President, and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The assistant legislative clerk called the names of Mr. DANFORTH, Mr. DECONCINI, Mr. DURENBERGER, and Mr. GORTON.

The VICE PRESIDENT. The Senators will come forward.

These Senators escorted by Mr. BOND, Mr. MCCAIN, Mr. DOLE, Mr. EVANS, and Mr. ADAMS, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The legislative clerk called the names of Mr. HATCH, Mr. HEINZ, Mr. JEFFORDS, and Mr. KERREY of Nebraska.

The VICE PRESIDENT. The next group will come forward.

These Senators, escorted by Mr. GARN, Mr. SPECTER, Mr. LEAHY, and Mr. EXON, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The assistant legislative clerk called the names of Mr. KOHL, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. LOTT.

The VICE PRESIDENT. The next group will please come forward.

These Senators, escorted by Mr. KASTEN, Mr. MITCHELL, Mr. DODD, and Mr. COCHRAN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The assistant legislative clerk called the names of Mr. LUGAR, Mr. MACK, Mr. MATSUNAGA, and Mr. METZENBAUM.

The VICE PRESIDENT. The group will please come forward.

These Senators, escorted by Mr. COATS, Mr. GRAHAM, Mr. INOUYE, and Mr. GLENN, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the names of the next group.

The assistant legislative clerk called the names of Mr. MITCHELL, Mr. MOYNIHAN, Mr. RIEGLE, and Mr. ROBB.

The VICE PRESIDENT. The group will please come forward.

These Senators, escorted by Mr. COHEN, Mr. D'AMATO, Mr. LEVIN, and Mr. WARNER, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will please read the names of the next group.

The assistant legislative clerk called the names of Mr. ROTH, Mr. SARBANES, Mr. SASSER, and Mr. WALLOP.

These Senators, escorted by Mr. BIDEN, Ms. MIKULSKI, Mr. GORE, and former Senator DAN QUAYLE, of Indiana, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

The VICE PRESIDENT. The clerk will read the name of the remaining Senator-elect.

The assistant legislative clerk called the name of Mr. WILSON.

Mr. WILSON, escorted by Mr. CRANSTON, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations.

[Applause, Senators rising.]

CALL OF THE ROLL

The VICE PRESIDENT. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 1]

Adams	Daschle	Heinz
Baucus	DeConcini	Helms
Bentsen	Dixon	Hollings
Biden	Dodd	Inouye
Bingaman	Dole	Jeffords
Bond	Domenici	Kassebaum
Boren	Durenberger	Kasten
Breaux	Exon	Kerrey
Bryan	Ford	Kerry
Bumpers	Fowler	Kohl
Burdick	Garn	Lautenberg
Burns	Glenn	Leahy
Byrd	Gore	Levin
Chafee	Gorton	Lieberman
Coats	Graham	Lott
Cochran	Gramm	Lugar
Cohen	Grassley	Mack
Conrad	Harkin	Matsunaga
Cranston	Hatch	McCain
D'Amato	Hatfield	McConnell
Danforth	Heflin	Metzenbaum
Mikulski	Riegle	Specter
Mitchell	Robb	Stevens
Moynihan	Rockefeller	Symms
Nickles	Roth	Thurmond
Nunn	Rudman	Wallop
Packwood	Sanford	Warner
Pell	Sarbanes	Wilson
Pressler	Sasser	Wirth
Pryor	Shelby	
Reid	Simon	

Mr. DOLE. I announce that the Senator from Colorado [Mr. ARMSTRONG], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The VICE PRESIDENT. Will the Senate be in order, please? A quorum is present.

Will the Senators please take their desks.

LIST OF SENATORS BY STATES

Alabama.—Howell Heflin and Richard Shelby.

Alaska.—Ted Stevens and Frank H. Murkowski.

Arizona.—Dennis DeConcini and John McCain.

Arkansas.—Dale Bumpers and David H. Pryor.

California.—Alan Cranston and Pete Wilson.

Colorado.—William L. Armstrong and Timothy Wirth.

Connecticut.—Christopher J. Dodd and Joseph Lieberman.

Delaware.—William V. Roth and Joseph R. Biden.

Florida.—Bob Graham and Connie Mack.

Georgia.—Sam Nunn and Wyche Fowler.

Hawaii.—Daniel K. Inouye and Spark M. Matsunaga.

Idaho.—James A. McClure and Steve D. Symms.

Illinois.—Alan J. Dixon and Paul Simon.

Indiana.—Richard G. Lugar and Daniel R. Coats.

Iowa.—Charles E. Grassley and Tom Harkin.

Kansas.—Bob Dole and Nancy Landon Kassebaum.

Kentucky.—Wendell H. Ford and Mitch McConnell.

Louisiana.—J. Bennett Johnston and John Breaux.

Maine.—William S. Cohen and George J. Mitchell.

Maryland.—Paul S. Sarbanes and Barbara Mikulski.

Massachusetts.—Edward M. Kennedy and John F. Kerry.

Michigan.—Donald W. Riegle and Carl Levin.

Minnesota.—Dave Durenberger and Rudy Boschwitz.

Mississippi.—Thad Cochran and Trent Lott.

Missouri.—John C. Danforth and Christopher S. Bond.

Montana.—Max Baucus and Conrad Burns.

Nebraska.—J. James Exon and Robert Kerrey.

Nevada.—Harry Reid and Richard Bryan.

New Hampshire.—Gordon J. Humphrey and Warren Rudman.

New Jersey.—Bill Bradley and Frank R. Lautenberg.

New Mexico.—Pete V. Domenici and Jeff Bingaman.

New York.—Daniel Patrick Moynihan and Alfonse M. D'Amato.

North Carolina.—Jesse Helms and Terry Sanford.

North Dakota.—Quentin N. Burdick and Kent Conrad.

Ohio.—John Glenn and Howard M. Metzenbaum.

Oklahoma.—David L. Boren and Don Nickles.

Oregon.—Mark O. Hatfield and Bob Packwood.

Pennsylvania.—John Heinz and Arlen Specter.

Rhode Island.—Claiborne Pell and John H. Chafee.

South Carolina.—Strom Thurmond and Ernest F. Hollings.

South Dakota.—Larry Pressler and Tom Daschle.

Tennessee.—Jim Sasser and Albert Gore.

Texas.—Lloyd Bentsen and Phil Gramm.

Utah.—Jake Garn and Orrin G. Hatch.

Vermont.—Patrick J. Leahy and James Jeffords.

Virginia.—John W. Warner and Charles Robb.

Washington.—Brock Adams and Slade Gorton.

West Virginia.—Robert C. Byrd and John D. Rockefeller.

Wisconsin.—Robert W. Kasten and Herbert Kohl.

Wyoming.—Malcolm Wallop and Alan K. Simpson.

NOTIFICATION TO THE PRESIDENT

The VICE PRESIDENT. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. Without objection, the clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 1) informing the President of the United States that a quorum of each House is assembled.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The resolution (S. Res. 1) reads as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and

that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. Pursuant to Senate Resolution 1, the Chair appoints the Senator from Maine [Mr. MITCHELL], and the Senator from Kansas [Mr. DOLE], as members of a committee to join the committee of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and the Congress is ready to receive any communication he may be pleased to make.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NOTIFICATION TO THE HOUSE

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report the resolution. The assistant legislative clerk read as follows:

A resolution (S. Res. 2) informing the House of Representatives that a quorum of the Senate is assembled.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

The resolution reads as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MITCHELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ELECTION OF THE PRESIDENT PRO TEMPORE OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 3) to elect the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, to be President pro tempore of the Senate of the United States.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution (S. Res. 3) was agreed to as follows:

S. RES. 3

Resolved, That ROBERT C. BYRD, a Senator from the State of West Virginia, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The Senator from West Virginia, the President pro tempore, pursuant to the provisions of the Senate resolution, will approach the rostrum and I appoint the Senator from Maine [Mr. MITCHELL], the Senator from Kansas, [Mr. DOLE], the Senator from South Carolina [Mr. THURMOND], and the Senator from West Virginia [Mr. ROCKEFELLER], as a committee to escort the President pro tempore to the rostrum for the purpose of taking the oath.

The President pro tempore escorted by Senator MITCHELL, Senator DOLE, Senator THURMOND, and Senator ROCKEFELLER advanced to the desk of the Vice President, the oath was administered to him by the Vice President; and he subscribed to the oath in the Official Oath Book.

[Applause, Senators rising.]

NOTIFICATION TO THE PRESIDENT

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution for the information of the Senate.

There will be order in the Senate.

The assistant legislative clerk read as follows:

A resolution (S. Res. 4) notifying the President of the United States of the election of a President pro tempore.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the resolution.

There being no objection, the resolution is considered and agreed to and the motion to reconsider is laid on the table.

The resolution is as follows:

S. RES. 4

Resolved, That the President of the United States be notified of the election of ROBERT C. BYRD, a Senator from the State of West Virginia, as President pro tempore.

NOTIFICATION TO THE HOUSE OF REPRESENTATIVES OF ELECTION OF A PRESIDENT PRO TEMPORE OF THE SENATE

The PRESIDENT pro tempore. The senior Senator from California is recognized.

Mr. CRANSTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 5) notifying the House of Representatives of the election of a President pro tempore of the Senate.

The PRESIDENT pro tempore. Without objection, the resolution will be considered and it is agreed to and the motion to reconsider laid on the table.

The resolution is as follows:

S. RES. 5

Resolved, That the House of Representatives be notified of the election of ROBERT C. BYRD, a Senator from the State of West Virginia, as President pro tempore.

CONGRATULATIONS TO THE ELECTED LEADER OF THE SENATE

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report the resolution for the information of the Senate.

The assistant legislative clerk read as follows:

A resolution (S. Res. 6) congratulating the Honorable ROBERT C. BYRD, a Senator from the State of West Virginia, on his election as President pro tempore of the U.S. Senate.

The PRESIDENT pro tempore. Without objection, the resolution is considered, agreed to, and the motion to reconsider laid on the table.

The resolution is as follows:

S. RES. 6

Resolved, That the majority leader and the minority leader of the Senate, on behalf of the Senate, congratulate ROBERT C. BYRD, a Senator from the State of West Virginia, upon his election as President pro tempore of the U.S. Senate.

COUNTING OF THE ELECTORAL VOTES

The PRESIDENT pro tempore. The senior Senator from Kentucky.

Mr. FORD. Mr. President, I send to the desk a Senate concurrent resolution and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will read the concurrent resolution for the information of the Senate.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 1) to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the concurrent resolution.

Without objection, the concurrent resolution is agreed to, and the motion to reconsider laid on the table.

The concurrent resolution reads as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two

Houses of Congress shall meet in the Hall of the House of Representatives on Wednesday, the 4th day of January 1989, at 1 o'clock post meridiem, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the Letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The PRESIDENT pro tempore. Pursuant to the concurrent resolution, the Senator from Kentucky, Mr. FORD, and the Senator from Alaska, Mr. STEVENS, are appointed as tellers on the part of the Senate.

EXTENSION OF LIFE OF JOINT COMMITTEE ON THE INAUGURAL

Mr. FORD. Mr. President, I send a concurrent resolution to the desk providing for the continuation of the Joint Inaugural Committee on the Inaugural.

The PRESIDENT pro tempore. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 141.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the concurrent resolution. Without objection, the concurrent resolution is agreed to and the motion to reconsider is laid upon the table.

The concurrent resolution is as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1989, the joint committee created by Senate Concurrent Resolution 105 of the One Hundredth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1989, the provisions of Senate Concurrent Resolution 141 of the One Hundredth Congress, to authorize the rotunda of the U.S. Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, are hereby continued with the same power and authority.

Mr. FORD. Mr. President, point of information?

The PRESIDENT pro tempore. The Senator from Kentucky.

Mr. FORD. Does the last concurrent resolution include the use of the rotunda for the inaugural ceremonies?

The PRESIDENT pro tempore. It does.

Mr. FORD. I thank the Chair.

The PRESIDENT pro tempore. The majority leader is recognized.

FIXING HOUR OF DAILY MEETING OF THE SENATE

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution for the information of the Senate.

The legislative clerk read as follows:

A resolution (S. Res. 7) fixing the hour of daily meeting of the Senate.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the resolution.

Without objection, the resolution is agreed to and the motion to reconsider laid on the table.

The resolution is as follows:

S. RES. 7

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

AUTHORIZING THE PRESIDENT PRO TEMPORE TO ADMINISTER OATH OF OFFICE TO HON. EDWARD M. KENNEDY

Mr. MITCHELL. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution for the information of the Senate.

The assistant legislative clerk read as follows:

A resolution (S. Res. 8) authorizing the President pro tempore of the Senate to administer the oath of office to the Honorable Edward M. Kennedy, of Massachusetts.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution? The Chair hears none.

The resolution is agreed to, and the motion to reconsider is laid on the table.

The resolution is as follows:

S. RES. 8

Resolved, That the President pro tempore of the Senate be, and he is hereby, authorized to administer the oath of office during a recess or adjournment of the Senate to the Honorable Edward M. Kennedy, of Massachusetts, and that the said oath, when administered as herein authorized, shall be accepted and received by the Senate as the oath of office of the said Edward M. Kennedy.

PROVIDING FOR A RECESS OF THE SENATE FROM JANUARY 4, 1989, TO JANUARY 20, 1989, AND AN ADJOURNMENT OF THE HOUSE FROM JANUARY 4, 1989, TO JANUARY 19, 1989

Mr. MITCHELL. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the concurrent resolution for the information of the Senate.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 3) providing for a recess of the Senate from January 4, 1989 to January 20, 1989, and an adjournment of the House from January 4, 1989 to January 19, 1989.

The PRESIDENT pro tempore. Without objection, the concurrent resolution is considered, agreed to, and the motion to reconsider laid on the table.

The concurrent resolution is as follows:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, January 4, 1989, at the conclusion of the joint session to count the electoral votes, it stand in recess until 3 o'clock post meridiem on Friday, January 20, 1989, and that when the House of Representatives adjourns on Wednesday, January 4, 1989, it stand adjourned until 12:00 o'clock noon on Thursday, January 19, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the Senate recesses on Friday, January 20, 1989, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand in recess until 12 o'clock noon on Wednesday, January 25, 1989.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

UNANIMOUS-CONSENT AGREEMENTS

Mr. MITCHELL. Mr. President, I submit a series of unanimous-consent requests and ask that they be considered en bloc.

The PRESIDENT pro tempore. The majority leader presents several requests and asks they be considered en bloc. Is there objection?

There is no objection.

Several requests will be considered en bloc; several requests are agreed to en bloc.

The unanimous-consent agreements are as follows:

AUTHORIZING ETHICS COMMITTEE TO MEET DURING THE SESSION OF THE SENATE

Mr. MITCHELL. Mr. President, I ask unanimous consent that for the duration of the 101st Congress, the Ethics Committee be authorized to meet during the session of the Senate.

FIFTEEN-MINUTE ROLLCALL VOTES

Mr. MITCHELL. Mr. President, I ask unanimous consent that for the duration of the 101st Congress, there be a limitation of 15 minutes each upon any rollcall vote, with the warning signal to be sounded at the midway point, beginning at the last 7½ minutes, and when rollcall votes are of 10-minute duration, the warning signal be sounded at the beginning of the last 7½ minutes.

SECRETARY OF THE SENATE TO RECEIVE REPORTS AT THE DESK

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the 101st Congress, it be in order for the Secretary of the Senate to receive reports at the desk when presented by a Senator at any time during the day of the session of the Senate.

LEADERS' TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority and minority leaders may daily have up to 10 minutes each on each calendar day following the prayer and the disposition of the reading of, or the approval of, the Journal.

PRIVILEGE OF THE FLOOR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Parliamentarian of the House of Representatives and his three assistants be given the privilege of the floor during the 101st Congress.

PRINTING OF CONFERENCE REPORTS AND ACCOMPANYING STATEMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXVIII, conference reports and statements accompanying them not be printed as Senate reports when such conference reports and statements have been printed as a House report unless specific request is made in the Senate in each instance to have such a report printed.

FILING OF REPORTS BY THE COMMITTEE ON APPROPRIATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Appropriations be authorized during the 101st Congress to file reports during adjournments or recesses of the Senate on appropriation bills, including joint resolutions, together with any accompanying notices of motions to suspend rule XVI, pursuant to rule V, for the purpose of offering certain amendments to such bills or joint resolutions, which proposed amendments shall be printed.

AUTHORIZING THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that, for the duration of the 101st Congress, the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossments of all Senate-passed bills and resolutions, Senate amendments to House bills and resolutions, Senate amendments to House amendments, to Senate bills and resolutions, and Senate amendments to House amendments to Senate amendments to House bills or resolutions.

AUTHORIZING THE SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE PRESIDENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that for the duration of the 101st Congress, when the Senate is in recess or adjournment, the Secretary of the Senate be authorized to receive messages from the President of the United States, and—with the exception of House bills, joint resolutions, and concurrent resolutions—messages from the House of Representatives and that they be appropriately referred; and that the President of the Senate, the President pro tempore, and the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

PRIVILEGE OF THE FLOOR FOR STAFF MEMBERS

Mr. MITCHELL. Mr. President, I ask unanimous consent that for the duration of the 101st Congress, Senators be allowed to leave at the desk with the Journal Clerk the names of two staff members who will be granted the privilege of the floor during the consideration of the specific matter noted, and that the Sergeant-at-Arms be instructed to rotate such staff members as space allows.

REFERRING TREATIES AND NOMINATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that for the duration of the 101st Congress, it be in order to refer treaties and nominations on the day when they are received from the President, even when the Senate has no executive session that day.

INTRODUCTION OF BILLS AND RESOLUTIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that no bills or further resolutions be in order prior to January 25, with the exception of resolutions to be adopted to establish the membership on Senate Committees; and I further ask unanimous consent that, beginning January 25 for the remainder of the 101st Congress, Senators may be allowed to bring to the desk bills, joint resolutions, concurrent resolutions, and simple resolutions, for referral to appropriate committees.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask that there now be a period of morning business for speeches only for not to exceed 1 hour with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDENT pro tempore. Is there objection?

The Chair hears none. Accordingly, there will be a period for transaction of morning business for not to exceed 1 hour. Senators under the request will be permitted to speak for not to exceed 5 minutes each.

Mr. COHEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Maine [Mr. COHEN].

THE SOUNDS OF SILENCE

Mr. COHEN. Mr. President, throughout this season of "Peace on Earth, Good Will Toward Men," we have had to deal with the tragic aftermath of the senseless terrorist bomb attack on Pan American flight 103 which resulted in the deaths of more than 250 innocent civilians.

Mothers with their children, young students returning to their families for the holidays after a semester studying abroad, residents of Lockerbie whose lives were ended or irreparably altered by the cruel vicissitudes of fate—all of these were victims of this heinous act.

There is no justification for the bombing, and it is incomprehensible to me that any individuals, no matter how demented or driven by some sort of misguided fervor, could undertake such an action. No condemnation can be strong enough to express the revulsion we feel about what was done.

Yet, I have been troubled by the relatively mute international reaction to this crime against humanity. Members of the world community have not stepped forward to join in the forceful expressions of outrage by the United States. These "sounds of silence" have, I fear, demonstrated to the perpetrators of this deed and their sponsors that they can engage in such acts of terrorism with minimal fear of retribution or isolation from civilized society.

This reaction, or I should say lack of reaction, is, unfortunately, becoming all too commonplace, with the result a dulling of moral boundaries. International thugs are coming to conclude that they can commit almost any atrocity with little fear of forceful response. The Iraqis found they could use chemical weapons against the Iranians and their own Kurdish citizens with minimal negative reaction. And Libya's Colonel Mu'ammar Qadhafi is now finding a willingness on the part of companies in "nearly a dozen nations, East and West," to help him build what may be the Third World's

largest chemical munitions plant, according to a recent statement by Bob Gates, who is leaving his post as Deputy Director of the Central Intelligence Agency to become Brent Scowcroft's Deputy at the National Security Council. Bob Gates' comments have been confirmed by other administration officials and a range of press reports.

These press reports have cited firms in Japan, West Germany, Italy, France, and other nations as giving Libya a capability it lacks on its own. This reminds one of Lenin's statement that the West would provide the rope to hang itself, for Qadhafi has to this point demonstrated no moral qualms about using whatever capabilities he possesses against his neighbors, those in his own country who oppose him, or in support of terrorists who would take actions against innocent citizens of nations he considers his enemy.

The headline in this morning's Washington Post sums up the challenge we are facing. "Bonn rebuffs U.S. on Libyan Factory: 'No Evidence' Germans involved in alleged chemical Arms Plant" it reads, quoting a government spokesman as saying that "the information that we have received from the United States is very vague." This response is a classic case of what lawyers call alternative pleading. On the one hand, one of our companies was not involved. On the other, even if it was, you have not shown the plant is capable of producing chemical weapons.

This willingness to wear moral blinders, whether it be on the part of the companies which provide this expertise or the nations which condone it, is simply unacceptable. And by citing the West Germans I do not mean to suggest that they are alone or that they are displaying a greater willingness than any other nation to look the other way in the face of what is clear evidence of what the Libyans are doing. Japan has shown a similar lack of resolve, and so have the other nations whose firms have provided this assistance.

It should also be noted that Soviet leader Mikhail Gorbachev has been curiously silent, both about the terrorist act against Pan American flight 103 and the Libyan chemical buildup. The Soviet leader received positive reviews both in the United States and throughout the world for his speech at the United Nations that he will withdraw 50,000 troops from Europe and reduce Soviet forces by 10 percent. His speech was widely trumpeted as establishing his role as a leader in the effort to achieve peace in a world that has been miniaturized by technology.

But he cannot have it both ways. He cannot promote peace and at the same time turn a blind eye to terrorist actions and those such as the development of a massive Libyan chemical capability which threatens regional stability in the Middle East and risks increasing use of chemical weapons against innocent people. It is imperative that the Soviet Union join with the United States in leading world condemnation of chemical development and chemical use.

Giving M'uammar Qadhafi a chemical capability under the pretext that it is for the production of pharmaceuticals is like giving a flamethrower to a pyromaniac who promises to use it for cooking purposes. None of us should be surprised with the ends to which Mr. Qadhafi will use this capability.

What, then, can and should the United States do? Idle threats are not the answers. We should not come to be regarded as a nation which speaks loudly but carries a small stick. At the same time, we should not act rashly or without full regard for potential consequences of whatever action we might take.

All options, diplomatic, economic, and military, must be fully considered, whether to deal with the perpetrators of the Pan Am bombing or to deal with the Libyan chemical facility. And we have to make clear to sponsors of terrorists such as Libya, Syria, and Iran that we have "zero tolerance" for such sponsorship of these individuals and their actions. Perhaps most important, we must work with our allies and with the Soviets to develop a unified front to deal with this growing problem.

The war against terrorists and outlaw nations is a difficult one and there are no easy solutions. But, as the Reagan administration has demonstrated elsewhere in the international arena, steadfastness and resolve can and do pay dividends and bring results. Let us hope that all nations which have a stake in this war—and that is, in fact, all nations—will join us in showing that resolve.

Mr. President, I ask unanimous consent to insert a letter to President Reagan signed by a number of our colleagues, a letter signed by Senator KASSEBAUM and myself to the Chemical Warfare Review Commission, and an article that appeared in today's Washington Post written by Meg Greenfield.

There being no objection, the material ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 5, 1988.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We very strongly share the concern you expressed in your United Nations speech about the threat of chemical warfare and the erosion of the international regime of restraint on the spread and use of these weapons.

Unless the international community moves swiftly, perhaps the most serious threat we face is that the main lesson from the Iran-Iraq war, and the even more recent Iraqi chemical against a segment of its own population, will be that chemical weapons do work and states that use them can get away with it.

Over the past decade, we have seen both the spread and use of chemical weapons gain increasing momentum. Although we can take action alone in trying to stem this tide by the leverage of our own trade policy, we strongly believe that the most effective restraint is that which can be applied by the international community. This is a problem of international dimension. It is critical that we move as a body of nations to rebuild the barrier to chemical weapons use and reassert the principle that chemical warfare is unacceptable.

We support your call for an international conference to consider actions that will reestablish the moral and legal strictures that have held these weapons in check.

In particular, we would urge that the launching of this conference be a high priority during the remaining months of your administration and that our efforts in organizing this conference focus on mobilizing the international community in three major areas.

First, a top agenda item should be strengthening the existing program of coordinated export constraints, which the nineteen Western industrialized nations have already informally established. We should lead the effort in broadening the lists that the Western industrialized nations use as guidance for export controls to include associated technologies and additional chemicals, as well as broadening the lists of destinations to which exports are controlled. The nineteen Western industrialized countries, which have been meeting since 1984 on these issues, also should formalize their efforts and take immediate action to increase enforcement of the coordinated constraints.

Second, the controls on the spread of chemical weapons can only be effective if they include export controls in the Soviet Union, the Eastern Bloc, and newly industrialized countries. The international conference should focus on incorporating these countries into the Western industrialized nations' efforts in order to achieve enhanced coordination of export controls among as many potential supplier nations as possible.

Third, we believe that the United States should lead the effort in having the United Nations adopt an overall policy of applying international sanctions against any country which violates the Geneva Protocol or other provisions of international law by using chemical weapons. There also must be agreement by members of the United Nations that inspections of suspected uses of chemical weapons by a UN investigating team should be allowed—not only in cases of suspected chemical weapons use during warfare but also when use is suspected under any circumstances.

These issues must be immediately addressed with respect to the use of chemical weapons in the Iran-Iraq War, as well as more broadly in terms of any future use of these weapons.

We believe that agreement on the implementation of international sanctions is essential to enforce the Geneva protocol regime and to demonstrate that the international community will not allow the use of chemical weapons to go unpunished.

The use of chemical weapons is a crime against the international community. It is only through an effective and coordinated

response by the international community that we will be able to reverse the erosion of the regime of constraint on the weapons.

Sincerely,

Nancy Landon Kassebaum, Bill Bradley, William S. Cohen, Joseph R. Biden, Jr., Spark Matsunaga, Rudy Boschwitz, George Mitchell, Albert Gore, Jr., Timothy E. Wirth, David Pryor, Kent Conrad, Orrin Hatch, Daniel J. Evans, Frank Murkowski, Wendell Ford, John F. Kerry, David Boren, Paul Sarbanes, Daniel Moynihan, Dennis DeConcini, Dick Lugar, Alan Cranston, Pete V. Domenici, Edward Kennedy, Sam Nunn, William Proxmire, Howard Metzenbaum, Dave Durenberger, Brock Adams, John McCain, Terry Sanford, Tom Harkin, John H. Chafee, John Heinz, Alfonse D'Amato, John Danforth, Paul Tribble, Jr., Warren Rudman, Patrick Leahy, Ernest F. Hollings, Bob Graham, Richard Shelby, Paul Simon, Donald Riegle, Jr., John Warner, Lowell Weicker, Barbara A. Mikulski, Alan Simpson, Christopher J. Dodd, Larry Pressler, Carl Levin, Charles Grassley, John Glenn, Thomas Daschle, Bennett Johnston, Pete Wilson, Wyche Fowler, Jr., Arlen Specter, Jeff Bingaman, Alan J. Dixon, Mark O. Hatfield, James A. McClure, Dale Bumpers, Thad Cochran.

U.S. Senators.

U.S. SENATE,
Washington, DC., December 21, 1988.

JOHN G. KESTER,
Williams & Connolly, Washington, DC.

DEAR MR. KESTER: In 1985, you served on the President's Chemical Warfare Review Commission, which examined all aspects of U.S. policy regarding chemical warfare.

The Commission's report, issued in June 1985, was an authoritative study which did much to build a stronger consensus in the Congress for a sensible approach to the difficult issues associated with chemical weapons. We are writing with regard to one aspect of the Commission's study which, unfortunately, received much less attention than it deserved and which has become increasingly important in recent months. In its discussion of chemical weapon proliferation, the Commission stated the following:

"(T)he Commission views proliferation as an extremely serious danger which requires more vigorous action than heretofore. The failure of the United States and allied governments to devise and take strong measures against Iraq and its known suppliers has been an inadequate response."

"The Commission agrees with the observation of French officials that the use of chemical weapons must not be allowed to become 'banal.' There is danger that this is precisely what is happening today. When such gross violations of human decency occur, strong action is called for, even at the expense of short-term economic or diplomatic interests. For example, eight chemical ingredients are known to have almost no use except for manufacture of chemical weapons, and about thirty more have both legitimate and illegitimate uses. International transportation of such substances should be tightly controlled. For the longer term, arms control and tighter restrictions on transfer of technology and hardware, in cooperation with other advanced countries, appear to offer the most promise."

In addition, the Commission's concluding recommendations were the following:

"Response to use of chemical weapons: The Commission recommends that the United States devise and apply strict sanctions and penalties against countries that are using chemical weapons, and their suppliers.

"Exports. The Commission recommends that the United States along with other countries implement an effective ban on exports of materials and equipment likely to be used to manufacture chemical weapons."

In our opinion, these observations and recommendations of the Commission are sound and long-overdue in being fully implemented.

As you are aware, the U.S., in coordination with a group of 18 Western countries, has imposed controls on the export of five chemicals to all destinations and the export of an additional dozen chemicals to Iran, Iraq, and Syria and has established a watch list approach for several dozen other dual-use chemicals.

While we support these measures, which began before the Commission conducted its work, we share the view of the Commission that much more can and must be done. In particular, we concur that export controls must be placed on technology, as well as chemical precursors, when by virtue of its nature and its destination it is likely to be used in the production of chemical weapons. We also concur that, to be effective, such controls need to be implemented in cooperation with other advanced countries. In our view, the countries that need to be included extend beyond the 19 Western nations now involved and should include the Soviet Union, its Eastern European allies, and the newly industrialized countries possessing significant chemical capabilities.

We also strongly endorse the Commission's view that the U.S. should devise a sanctions policy against nations that use chemical weapons in violation of international law. To be most effective, we think such sanctions should also be implemented in cooperation with other countries.

The need to act in this area has been made urgent by the very disturbing events of the last two years. During 1987 and 1988, Iraq greatly intensified its use of chemical weapons in attacks against Iran and its own Kurdish minority. In September, the U.S. government publicly announced that Libya was on the verge of producing chemical weapons at a facility that the Director of Central Intelligence has publicly described as the largest in the world. In 1987, Libya reportedly demonstrated its willingness to conduct chemical warfare by staging a limited chemical attack against Chadian forces.

While, as the Commission observed, the world effectively ignored Iraq's many years of chemical warfare against Iran, Iraq's attacks on its own citizens produced widespread denunciations and focused attention on the growing problem of chemical warfare.

As a result, the President proposed a United Nations-sponsored conference on chemical warfare, which will be held from January 9-11, 1989, in Paris. In our view, this conference represents the best opportunity to reverse the international community's lethargy in the face of some five years of chemical warfare—a lethargy which we believe promoted the intensified spread and use of chemical weapons since 1987.

To help ensure that this opportunity is not lost, we initiated a letter to President Reagan, signed by 64 members of the Senate, urging that the U.S. press three objectives in the context of the conference:

(1) The export control program of the 19 Western nations should be strengthened. The lists used as guides for export controls should be expanded to include appropriate technologies, as well as additional chemicals, and additional countries should be included in the list of proscribed destinations. This effort should be more formalized and immediate action should be taken to increase the enforcement of the coordinated constraints.

(2) Intensified efforts should be made to include the Soviet Union, Eastern European countries, and newly industrialized countries in the export control program.

(3) The U.S. should vigorously press the United Nations to adopt an overall policy of applying international sanctions against any country that wages chemical warfare in violation of international law. There must also be agreement by members of the UN that inspections by a UN investigating team of suspected uses of chemical weapons should be allowed under all circumstances, both when use is alleged in warfare between nations and in cases of alleged internal use by a member nation.

You will note that our recommendations closely parallel those of the Commission. In our view, these actions are necessary if the integrity of the Geneva Protocol is to be restored, the barriers to chemical warfare resurrected, and the growing incentives for chemical proliferation contained. We recognize that pursuing such actions could at times be in conflict with other U.S. interests. We are convinced, however, that the Commission was correct in its conclusion that in the face of chemical warfare, "strong action is called for, even at the expense of short-term economic or diplomatic interests."

Unfortunately, we have not been encouraged by the response we have received to date from executive branch officials regarding the implementation of any of these recommended measures. We believe that you and the distinguished individuals who served with you on the Chemical Warfare Review Commission could perform a significant service by publicly addressing these urgent issues. This could, for example, be in the form of a letter reaffirming the Commission's findings and recommendations cited above and endorsing the substance of the Senate proposal we have described. In our view, it would be most helpful if this were to be done in the next few weeks, prior to the Paris conference.

We hope that you will give this suggestion careful consideration.

With best wishes, we are

Sincerely,

NANCY LANDON KASSEBAUM,
U.S. Senator.
WILLIAM S. COHEN,
U.S. Senator.

LEAVE THE TABOO ALONE

(By Meg Greenfield)

Happy New Year. Sweep up the confetti. The first item on your 1989 agenda will be chemical warfare—the growing danger and how, if at all, to contain it. The only good news about the complications involved is that they will certainly haul a nation of incorrigible political yammerers back from the simplifications and sillinesses of a year-long political campaign and compel us all to get serious. An added benefit might be an end to 1988's premier fatuity, the one about peace "breaking out" around the world. Peace—meaning, these days, new cease-fire-

type agreements and arrangements between combatants or would-be combatants, a sort of mutual standing down at least for now—does not "break out." It generally is very hard and painstakingly won. And nowhere will the need for the requisite ingenuity, audacity and commitment be more apparent than in the attempt to bring chemical warfare—both the reality and the potential—under control.

CIA Director William Webster a couple of months ago publicly outlined the dimensions of the problem. The stuff is relatively cheap, easy to produce and deliver, and difficult to detect in its manufacture phase. Webster says that "more than 20 countries may be developing it;" Libya, alas, is a leader in the field with "the largest known chemical-weapons facility in the Third World." This is the one you have lately heard administration mutterings about destroying before it is fully operational. In addition to the growth-industry aspects of the problem there is the enormously consequential fact that the taboo on its use has increasingly been broken in recent years, most notably in the Iran-Iraq war: both sides used chemicals, but Iraq's use was more thoroughgoing and had much to do with the ayatollah's backing off. Iraq paid little for its actions; the outcry was minimal, even pro forma, if not downright phony.

This brings you to the basic paradox in dealing with chemical war: we must use every rational means at our disposal to maintain what is an essentially irrational, but invaluable, taboo against its use. In calling this taboo "irrational" I don't mean to say it is either wrong or unreasonable—on the contrary. What I mean is that the gut feeling that has led to the characterization of chemical (and biological) agents as particularly horrible and intolerable is subject to assault by cold, abstract, detached and profoundly stupid logic. I have heard the arguments made; they hold that these weapons are "no worse" than other weapons of mass destruction, in fact probably produce a "cleaner," less agonizing death, are no sneakier in manner of delivery than the unseen firing of lethal explosives from vast distances away, are more economical, less destructive of buildings, historic artifacts and so on. To all of which the answer must be, in my considered, rational opinion, a loud, unconditional, ear-piercing shriek of "No!"

The fact is that there is no socially beneficial policy, idea or practice, starting with the good works that may flow from religious belief, that is not vulnerable to this kind of reductive reasoning. I say leave the taboo alone. It represents a kind of instinctive wisdom that is superior in every respect to the kind of argument used to undermine it. It is true that people have not always rejected this general kind of combat: an objective of good old siege warfare was to induce disease among the resisting town's population, and it was not unheard of to catapult corpses of your own fallen soldiers over the wall to hasten along the process. But at least in this century a widespread sensibility has developed that favors outlawing chemical and biological agents in warfare, and partial as it may be in relation to all the kinds of weapons available, and imperfect as it may be in observance, it is surely worth preserving. Who cares if the logic on which the moral revulsion rests may be shown to be as intellectually rickety as that which, for a time, held the English longbow to be an ungentlemanly breach of warrior ethics or the American Indians' ambush-style warfare an unconscionably dirty trick? The impulse to outlaw this diabolical stuff is right.

This tells you why it was so unforgivable that, in their relief at seeing the Iraq-Iran hostilities ended, countries around the world countenanced the decisive use of chemical agents in that war. It doesn't tell you, though, how to address the far harder questions of putting these weapons outside the reach of would-be users and creating inhibiting penalties for even thinking about their use.

The Reagan and Bush administrations will have to do that. But others should at least master the outline of the dilemmas. There is first the current argument over whether possession of these weapons can be safely outlawed by treaty at all or whether prohibitions can only be put on their use, owing to the ease with which their manufacture can be concealed. There will very soon also be the question of whether it is legitimate to use force (i.e., other lethal weapons) to destroy a facility such as that outside Tripoli, which holds so much terrible promise. There will also be, eventually, surely, given the ease and economy of space with which this material can be transported, questions of imposing security procedures whose intrusiveness will make current airlines and checkpoint practices look positively convenient.

And there already is the depressing question of whether there is anything too reckless for businesses around the world, particularly in Japan, East Europe and the West, to transact with the likes of Gadhafi. When the subject was the proliferation of nuclear bomb-making materials and technologies, our rectitudinous allies—and some of our own government apologists for the practice—argued movingly, through their sea of deposit slips, that it was much better that we should sell whoever it was these goods than that someone who didn't care how they used them did, etc. etc. We shall no doubt hear that baloney again. The imposition of trade restrictions in this field, like the imposition of moral sanctions—the sustained howl that was never heard over the use of chemical agents in the gulf war—is something that too readily falls prey to a misguided, short-term, cynical idea of political or national self-interest. Judge the conference on chemical warfare that begins this week and the actions of our own government on how forcefully and unambiguously they reject all forms of this easy virtue.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from Idaho is recognized.

PARDONS FOR NORTH AND POINDEXTER

Mr. SYMMS. Mr. President, I have an article that says all I need to say, so I will be very brief. It is by William Rusher in the November 29, 1988 edition of the Conservative Advocate. The title is "Give North and Poindexter Pardons."

When I called Mr. Rusher to obtain this article, I found out he was in the hospital undergoing multiple bypass surgery. We wish him a speedy recovery, and we now know that even conservatives such as William Rusher do have hearts.

I think Mr. Rusher makes some excellent points about what is happening with respect to the extravagant waste of the taxpayers' money in trying to prosecute Mr. North and Mr. Poindexter. It is a problem that is behind us now and it should go with this administration. I believe it would be appropriate if President Reagan would resolve this issue by pardoning them before he leaves office.

I ask unanimous consent to have printed in the RECORD the fine article by William Rusher.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Conservative Advocate, Nov. 29, 1988]

GIVE NORTH AND POINDEXTER PARDONS

(By William A. Rusher)

No one who knows President Reagan doubts for a moment that the question of whether, and when, to pardon Oliver North and John Poindexter is very much on his mind just now.

Clearly Mr. Reagan had hoped that the trial might end, with acquittals of North and Poindexter, before he leaves office on Jan. 20, and thus spare him any need to pardon them. But it now appears that the trial will only be getting under way in January, so if the two men are by any chance convicted the question of whether to pardon them will end up in the lap of President Bush.

Of course, Mr. Reagan may already have obtained Mr. Bush's assurance that, in that case, pardons will be forthcoming. But in all fairness, the whole problem is an outgrowth of Mr. Reagan's administration, not Mr. Bush's. There will undoubtedly be loud protests from the usual sources if these two defendants are pardoned, and Mr. Reagan would seem both morally obliged and, as the outgoing president, far better positioned to take the heat.

On its merits, the case of pardons seems to me overwhelming.

(N.B.: I am talking here only of North and Poindexter. Their co-defendants Richard Secord and Albert Hakim may be equally innocent, but their involvement in the affair was essentially that of businessmen. As such, they were entitled to make a legitimate profit, but the case against them amounts to a charge that they made much more. Whether this is true will presumably come out in their trials, and should determine the desirability of pardon for them.)

The Iran/contra imbroglio essentially broke down into two separate episodes: the sale of arms to Iran, and the furnishing of military aid to the Nicaraguan contras—events related only by the fact that profits from the former paid for the latter.

President Reagan was fully aware of the arms sale, and whatever North and Poindexter had to do with it was done on his authority, no criticism can attach to them.

The provision of military aid to the contras was something else again: Congress, under at least some of the successive Boland amendments, and prohibited this—though it signally failed to provide any criminal penalty for violating the prohibition.

The gaudy congressional inquiry into the whole affair was essentially an effort by the congressional Democrats to prove that Mr. Reagan knew about the aid—something he consistently and strenuously denied. There is no doubt whatever that impeachment would have followed if such proof had been

found, but the air went out of the investigation's tires when none was.

But, in that case, what was all the hullabaloo about? Somebody had to walk the plan for something, if the whole congressional inquiry wasn't to be exposed as the political snipe hunt it was.

So special prosecutor Lawrence Walsh, with 25 lawyers to help him and $8 million to spend, stitched together a theory that, while what North and Poindexter did without Mr. Reagan's knowledge might not be illegal (or at any rate might entail no penalty), they could be prosecuted under the general anti-conspiracy statutes for conspiring to do it.

Such chop-logic is grotesque. North and Poindexter are being destroyed simply to conceal the fact that Sen. Daniel Inouye's extravaganza was a brazen partisan waste of the taxpayers' money. Both men acted from the highest motives, in an area of law made incoherent by Congress' on-again-off-again enactments. Neither made a dime on the deal. (Anyone who complains because North accepted a security fence for his family's house, at a time when they were the special target of Arab terrorists, must be a cynic on anabolic steroids.)

Mr. Reagan should pardon North and Poindexter on Christmas Eve, and then have them both over for turkey.

AIDS UPDATE

Mr. CRANSTON. Mr. President, according to the December 26, 1988 AIDS Weekly Surveillance Report, 82,406 Americans have been diagnosed with AIDS; 46,134 Americans have died from AIDS; and 36,272 Americans are currently living with AIDS.

Mr. President, since my last statement on October 20, 6,969 more Americans have developed AIDS and 3,702 Americans have died from this horrible disease.

Mr. President, last May, I began submitting these statistics for the RECORD on a regular basis because I believe they serve as a reminder that the suffering and the dying from AIDS continues unabated. I will be continuing that practice in this Congress, beginning today.

The statistics regarding AIDS demonstrate clearly the gravity of this epidemic. If current trends continue, in the next few months, the number of Americans diagnosed with AIDS will reach 100,000 and the number of AIDS-related deaths will soon surpass that from the Vietnam war.

We made progress last year in enacting sound policies to accelerate research on, expand health-care services for, and prevent further spread of this epidemic. And, scientists are continuing to make strides in finding better treatments and vaccines.

But that was only a beginning. We must not let up at this critical juncture. Much still remains to be done in order to stop this tragedy from claiming more lives.

Mr. President, the National Organizations Responding to AIDS, a coalition of nearly 50 diverse organizations, including the AIDS Action Council, the Child Welfare League, and the National Association of Counties, developed a white paper that outlined a set of recommendations regarding AIDS policy for the transition team of President-elect BUSH. I believe these recommendations represent a good blueprint for legislative and administrative activities and goals for the coming year. I would like to share the document, entitled "A Call for Executive Action" with my colleagues, and ask unanimous that it be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

NATIONAL ORGANIZATIONS RESPONDING TO AIDS,

November 23, 1988.

President-elect GEORGE H. BUSH,
1825 Connecticut Avenue, NW, Washington, DC.

DEAR PRESIDENT-ELECT BUSH: AIDS is the greatest public health challenge our nation will face with you during your term as Chief Executive. With 75,000 Americans already diagnosed, over half dead, and as many as 1.5 million infected, we collectively face an epidemic of staggering proportions.

The enclosed document represents the collaborative efforts of the undersigned member agencies of the National Organizations Responding to AIDS. It contains recommendations for action we hope will become the building blocks of your Administration's fight against AIDS.

The needs are numerous and diverse. They include increased and coordinated research, expanded targeted education and counseling efforts, and incremental steps toward health care improvements. They demand support for the community-based efforts that have provided the underpinnings to this nation's response to the epidemic.

Meeting these needs aggressively and effectively will require significantly more resources according to both the President's Commission and the Institute of Medicine. Priorities will have to be set within the context of the numerous domestic challenges your Administration will face.

This document begins the process of setting some of those priorities. Our organizations stand available to continue that effort with you. Your leadership is the key to how effectively we move forward in the battle against AIDS.

Sincerely,

The undersigned member organizations of NORA.

THE FOLLOWING NORA ORGANIZATIONS HAVE ENDORSED "A CALL FOR ACTION: RECOMMENDATIONS TO THE TRANSITION TEAM":

AIDS Action Council.
AIDS National Interfaith Network.
American Academy of Pediatrics.
American Association for Counseling and Development.
American Association for Marriage and Family Therapy.
American Association of Sex Educators, Counselors and Therapists.
American College Health Association.
American College of Physicians.
American Foundation for AIDS Research.
American Hospital Association.
American Jewish Committee.
American Psychiatric Association.
American Psychological Association.
American Public Health Association.
American Red Cross.
American Social Health Association.
American Society of Internal Medicine.
Americans for Democratic Action.
Association of Schools of Public Health.
Child Welfare League of America.
Chronic Fatigue Syndrome Information Institute, Inc.
Committee for Children.
Consortium of Social Science Associations.
Disability Rights Education and Defense Fund, Inc.
Equality Center.
Hospice Association of America.
Human Rights Campaign Fund.
National AIDS Network.
National Association for Home Care.
National Association of Community Health Centers, Inc.
National Association of Counties.
National Association of County Health Officials.
National Association of People with AIDS.
National Association of Protection and Advocacy Systems.
National Association of Social Workers.
National Association of Public Hospitals.
National Black Child Development Institute, Inc.
National Council on La Raza.
National Family Planning and Reproductive Health Association.
National Gay and Lesbian Task Force.
National Gay Rights Advocates.
National Hospice Organization.
National Leadership Coalition on AIDS.
National Minority AIDS Council.
National Network of Runaway and Youth Services.
Planned Parenthood Federation of America.
Union of American Hebrew Congregations.
United Church Board for Homeland Ministries.

A CALL FOR EXECUTIVE ACTION

RECOMMENDATIONS TO THE TRANSITION TEAM

AIDS promises to be the major public health challenge of the new Administration. In every area, AIDS is calling into question the standard approaches to public health in America. It poses a threat—to lives and to our health care systems. It also offers an opportunity to restructure our nation's health care delivery so that it is responsive to the research, prevention, care and financing needs of all health care emergencies and catastrophic illnesses, not just AIDS. The dimensions of the epidemic demand that we move beyond our current band-aid approach and embrace a more cost-effective, coordinated and comprehensive response to AIDS.

The new Administration is fortunate in that blueprints for the nation's fight against AIDS are available in some detail, thanks to the work of the Presidential Commission on the HIV Epidemic, through its report released in June 1988; the recommendations of the National Academy of Sciences' Institute of Medicine in its two reports entitled "Confronting AIDS"; and the reports issued by the Surgeon General. The general structure they outline, and the significantly greater resources they call for, provide targeted benchmarks for future efforts.

This paper outlines several key policy initiatives we believe should be part of the new Administration's agenda in developing a programmatic response to AIDS and in crafting a fiscal year 1990 federal budget. These proposals are presented in the con-

text of the major issues affecting the epidemic, with a particular focus on the primary federal agencies involved. However, three critical, overarching issues can only be addressed at the highest levels of the Administration and are worthy of special attention.

There is a pressing need for aggressive leadership from the President in our nation's battle against AIDS. Americans must see in their Chief Executive an example of compassion and dedication to eradicating this public health menace through education, prevention and research activities that can be a model in the public and private sectors.

Anti-discrimination assurances must be strengthened in all aspects of public and private sector employment, housing, public accommodations and health care services. The existing protections in federally funded programs under Section 504 of the Rehabilitation Act must be aggressively enforced. Expansion of these protections into the private sector, whether HIV specific, or ideally, within the context of the Americans with Disabilities Act, must be the primary AIDS legislative goal of the new Administration. This is also the principal recommendation of the Presidential Commission.

Our health care delivery system is already under severe strain in numerous jurisdictions most heavily affected by AIDS. Reforms in health care financing and assistance to those systems are critical. We must improve access to care, not only for the growing numbers of men, women, and children with HIV related disease, but also for all who are catastrophically ill or inadequately served by our existing public and private health care delivery systems.

RESEARCH

It is impossible to consider AIDS research outside the context of general support for basic biomedical research. While we may still have far to go in solving the AIDS puzzle, we would never have accomplished so much without the foundation provided by basic biomedical research. Behavioral research has also been of considerable importance in an epidemic which presently can only be slowed through behavioral change.

Although increases in AIDS research funding have been generously provided over the last several years, other research programs have suffered. For example, the incidence of sexually transmitted disease is at a record high for heterosexuals, yet research in this area has not received increased resources. This hurts the AIDS effort and jeopardizes our ability to respond to future crises.

Support for research requires a commitment to rebuilding our nation's research infrastructure; assuring that increased numbers of researchers and clinicians are trained in infectious diseases and other branches of biomedical and behavioral research, and making government and academic clinical or research positions competitive with positions in the private sector.

While much has been learned about the AIDS virus in the past seven years, much remains to be discovered. Indeed, that very progress is justification for an accelerated and expanded effort in the future. In order to continue the progress, we must go back to the bench and expand AIDS research initiatives in the laboratory. This requires increased support for investigator initiated research. Unless the next Administration continues to show a strong commitment to providing resources for AIDS research and related fields, investigator interest in AIDS may well decline.

National Institutes of Health

The National Institutes of Health have provided the national, and much of the international, leadership in AIDS research efforts. Virtually every institute and center at the NIH is involved in AIDS and HIV-related activities. The rapid expansion of their AIDS activities has strained the entire research support structure. As a result, one of the critical needs facing NIH is increased personnel and expanded facilities. While funding for AIDS research has grown dramatically, staff and facility requirements have not kept pace, making less effective the commitment of funds. This has delayed the NIH's ability to respond to new developments in the research field. For example, the NIH AIDS coordinator testified that trials for promising therapies were delayed for lack of staff. Every day of delay in finding an effective treatment or cure is not only paid in lives, but in health care dollars many times over the cost of increased staffing or other research efforts.

The next Administration must also foster an awareness that speedy review of promising therapies and rapid implementation of trials of those therapies—with specific timetables for reporting results, whether positive or negative—are legitimate expectations of a nation deeply concerned about AIDS. Even allowing for scarce resources, there have been considerable delays in moving some therapies into trials.

One method for achieving a more rapid response to the changing research picture is to use community-based clinical trials to complement the standard trials now under way through the more traditional AIDS Clinical Trial Groups. Community-based trials offer the chance to expand the demographic and geographic reach of trials and to provide all persons with AIDS and HIV infection the hope which attends to participation in clinical trials. This is particularly important and urgently needed within communities where there is a high incidence of low-income and pediatric cases of HIV infection and AIDS. Initial effect at community-based trials are being organized by NIH; the next Administration must assure that this approach receives top priority and adequate funding and staff. A related need is the development of an AIDS treatment registry, making information regarding trials and experimental therapies available to care providers and patients. Indeed, if this approach proves successful in AIDS research, we may well see it applied to other disease, where access to experimental treatments is often too limited.

Access to timely and accurate AIDS information by the federal government, the general public and health care professionals is of paramount importance to the management of this epidemic. Yet this remains one of the most elusive components of our national response to this epidemic. Information concerning AIDS research is currently being maintained on literally dozens of computers with essentially incompatible databases. There are no plans to integrate existing data into a composite reservoir which could be accessible for the purposes intended. In addition, recent legislation has mandated a number of information systems, but it has not endorsed a coordinated or centralized component to these systems. The next Administration must ensure that the information dissemination and referral models which have been identified in recent legislation are implemented effectively. In order to do so, the benefits of establishing an information resource management office should be considered.

The NIH have made substantial progress in the development of new drug therapies that are effective in assisting persons with AIDS and HIV infection. Along with drug development, the U.S. Government must exercise available authorities to allow consumers increased access to such drugs. Furthermore, the Secretary of HHS must exercise full authority to prohibit private pharmaceutical firms from either restricting access to such drugs or pricing therapies beyond the reach of consumers who are in need.

Food and Drug Administration

As the FDA has become more deeply involved in reviewing promising treatments for AIDS and HIV infection, the facility and staff requirements of the agency have also grown. The FDA has recently made a commitment to becoming more involved in working cooperatively with drug companies to expedite the testing and review of HIV-related treatments. Yet, this cannot be accomplished without increased staff and facilities for this initiative and FDA programs in general. For instance, the FDA has 900 fewer FTE positions today than it did 10 years ago. In addition, the recently added FTE's for AIDS research are forced to work out of their home 60% of the time because there is not enough FDA office space to accommodate them. The infrastructure needs which must be addressed include: personnel; additional Senior Executive Service positions; establishment of a Senior Biomedical Scientists Program; creation of a scientific advisors program; medical review training programs; state-of-the-art communications systems; equipment and instrumentation of research facilities; and office space.

A major policy area that deserves close and immediate scrutiny is how to achieve earlier access to promising therapies for persons with life-threatening illnesses such as AIDS without compromising the integrity of the FDA's licensing process. FDA policy must reflect the distinction between the short-term need to provide access to promising therapies and the long-term need to gather comprehensive data prior to licensing. Changes in the treatment IND process announced over a year ago were designed to allow significantly earlier access to drugs for persons with life-threatening conditions who might benefit from a therapy that had not yet passed all the hurdles in the licensing process. That system, for various reasons, has not worked as promised or intended. It should be reviewed, and new attempts made to meet that important goal of assuring access to promising drugs to those whose life-expectancy cannot sustain the lengthy drug licensing process.

The FDA must also address the lack of information about clinical trials and the interim results of those trials. Persons with life-threatening illnesses need access to such information so they can make informed choices about treatments and trials available to them.

Alcohol, Drug Abuse, and Mental Health Administration

Increased behavioral and social science research under the auspices of ADAMHA directed toward assessing successful models of prevention and education are necessary in order to better understand effective methods of altering sexual behavior and practices. This information could be used to benefit the efforts of public health officials and

community professionals working in prevention programs.

As we have more experience with HIV infection, the mental health and counseling needs of individuals with HIV infection are becoming more apparent. The long-term counseling needs of persons with HIV infection must be made a higher priority of ADAMHA, as must research into behavioral change and research into the neurological damage produced by HIV. In addition, ADAMHA must continue to give its attention to research and services for those suffering from AIDS-related dementia, a problem gaining greater recognition. Mental health practitioners and private researchers are reporting alarming increases in the numbers of suicides related to HIV infection and the increasing treatment needs of persons suffering from HIV-related depression. The relationship between alcohol abuse and HIV infection and other dual diagnoses must also be given greater attention.

PREVENTION

Every HIV infection prevented saves us the human and financial costs associated with AIDS. Prevention is still dependent on behavior change. The great strides made within the gay community serve as a model for specialized and targeted education and must be continued. Likewise, the need to reinforce education within the general population, as well as within communities at greater risk, remains an important priority. The success of all these efforts is dependent on freedom from restrictions on content and methodology that interfere with the ability to communicate the prevention message to targeted audiences.

Centers for Disease Control

The Centers for Disease Control is responsible, above all, for AIDS prevention efforts. Greater resources must be committed to populations that have yet to receive adequate attention and access to prevention efforts. These populations include: minorities, adolescents, women, school-aged children, people with disabilities, IV drug users and their sexual partners, prisoners, and other institutionalized populations. Of particular importance are groups that may fall between the gaps of established community organizations and services. Included among these groups are gay minorities, runaway youth and homeless individuals. The diversity of populations at risk with different, but not necessarily mutually exclusive needs, must be recognized.

Targeted funding for education programs should be directed to those community-based organizations and local governments with the most experience in reaching targeted populations. Distribution of funding should not reflect simply absolute percentages of AIDS cases, but the per capita incidence in smaller cities and rural communities. All prevention programs should include evaluation components so that successful strategies can be replicated.

The continuing rise in sexually transmitted diseases is indication of an ever-growing pool of individuals also at risk for contracting HIV infection. Combatting the growing rate of STDs is an investment in preventing HIV infection as well. More resources must be devoted in this direction.

Resources for HIV testing and concomitant counseling must continue to expand. With the increasing likelihood of an early medical intervention for those infected with HIV, the demand for early detection will grow exponentially. The infrastructure must be in place to assure that testing and counseling services meet the CDC's own quality standards. Strong confidentiality and anti-discrimination assurances are a necessary part of an effective counseling and testing program.

Alcohol, Drug Abuse, and Mental Health Administration

One of the key recommendations of the Presidential Commission is that treatment for IV drug users be available on demand. This is a laudable goal, made more imperative in the context of an epidemic that is being exacerbated by IV drug abuse. No where is the evidence of this more tragic and apparent than in the increasing number of children born to drug abusing mothers who are HIV infected. We must immediately begin to build an infrastructure that will make treatment on demand possible, while also building prevention and education programs for those at risk. Care for IVDUs with HIV-related disease must be integrated with treatment for drug use itself. Central to a successful campaign against drug use and addiction is a reexamination of treating drug users strictly from a criminal perspective. Approaching this issue as a social and medical problem might accelerate progress in this area.

HEALTH CARE

The growing caseload of AIDS patients and persons with HIV infection challenges our nation's health care delivery system. The continuum of services needed encompass prevention, education, counseling, legal services, case management, social services, home care, housing, hospice, addiction treatment, and health care.

Health Resources Services Administration

The Health Resources Services Administration has assumed much of the leadership in establishing alternative care models for those effected by the epidemic. HRSA must have the resources to work with state and local governments as well as with private health care agencies to create community care initiatives which provide the continuum of care needed by those with HIV-related illnesses. Data from the Bank of America has found case management and the continuum of care model, used in their study, to be an increasingly effective tool in improving access to care and decreasing the costs associated with care. In fact, for every $1.00 spent in costs to support a case manager, $19.00 was saved in service delivery. To date, our nation's response to the needs of patients has been dependent on the medical model for services including costly hospitalizations.

In addition, training professionals to work effectively with communities that may be at risk is a critical component to the provision of AIDS education. Training for health care and social service workers, along with teachers, law enforcement officers and others is a cost-effective way of reaching members of the general community as well as the targeted populations these professionals work with. Moreover, HRSA must increase its training and education for care providers, with a recognition that "care provider" encompasses a multidisciplinary range of professionals and volunteers beyond physicians and nurses.

As continuums of care are established, the support needs of those caring for people with AIDS must also be recognized. Counseling, mental health, respite and other support services are necessary for the care partners and families of people who are infected with HIV. Including these individuals into the care and treatment continuum is important for sustained and competent care.

AZT Funding

The federal AZT payment program, administered by HRSA, was adopted as a stopgap measure to assure that no person would be denied access to this life-saving therapy because they were ineligible for Medicaid or private benefits and could not afford to pay for AZT out of pocket. This special AZT funding is set to expire in the first three months of the new Administration. In developing a permanent approach to the problem, we must reassess the cost sharing responsibilities within and between the public and private sectors. The issue of financing AZT will become even more compelling as the universe of individuals advised to take AZT grows. If it is recommended for persons who are asymptomatic but are HIV positive, the current system's standard response of forcing an individual to "spend down" assets in order to become eligible for Medicaid becomes even more unconscionable and fiscally unwise.

Care Financing

The health care needs of people with HIV infection place enormous burdens on the U.S. health care system. The service needs of people with AIDS and HIV are adding seriously to the problems created by an estimated 37 million uninsured and 53 million underinsured Americans. The nation has been struggling, without success, to meet the competing needs for improvements in both primary care and long term care.

AZT costs are just one of many care financing challenges posed by AIDS. Other therapies are insufficiently covered by either public or private insurance programs; attendant and other in-home care supports are frequently not recognized as reimbursable items or are capped in such a way as to render them useless; hospice services are both inadequately financed and insufficiently available; and testing is used to deny individuals insurance. Access to primary health care is curtailed or denied because of employment interruptions or pre-existing condition exclusions, such as positive HIV tests. The Executive Branch must provide leadership in the assessment and implementation of incremental improvements in health care financing options for people with AIDS and HIV infection if we are to be able to sustain people in the least restrictive environment possible; assure them quality of care; and curtail serious increases in uncompensated care costs, particularly in high-incidence jurisdictions.

Priorities should include: sustaining individuals on employment-related health insurance as long as possible by working toward the elimination of pre-existing condition exclusions and constructing subsidy programs, perhaps through Medicaid, that would assure ongoing payment of private insurance premiums through the post-employment extension period allowed under COBRA; reducing the waiting period for Medicare eligibility to 18 months so that it becomes available to an individual at the point at which his or her private insurance is no longer available through the COBRA extension; and expanding the scope of services covered by Medicaid, to include home and community-based care and other approaches that might better and more efficiently meet the needs of persons with AIDS.

HCFA should immediately begin a series of technical assistance workshops and semi-

nars for state Medicaid commissioners and advocates on current uses of the Medicaid system. Included in these sessions should be assessments of usable AIDS-related services under each state's plan, and assistance in completing time consuming waiver applications in order to increase the number of community-based services available to Medicaid recipients. Where states are applying for 2176 waivers for the express purpose of providing care for individuals affected by HIV, an expedited review and approval process should be established.

As Medicaid related assistance is reviewed, under-reimbursement should be particularly targeted. The Federal government should require states to reasonably reimburse providers for costs of persons with HIV infection. This is particularly critical in states with restrictive Medicaid eligibility and reimbursement rates. At the present time, under-reimbursement averages about 30%, but this varies widely by state and geographic region.

Ultimately, a broader based reform of the health care financing system for AIDS—and for catastrophic illnesses generally—is needed. We recommend the immediate convening of a panel to study the relevant federal, state, public and private responsibilities in providing and financing HIV care—a panel that should be given a short lead time with instructions to report on specific proposals.

In the interim, we would recommend consideration of impact aid for communities hardest hit by the AIDS epidemic. Since AIDS disproportionately affects uninsured populations, the growth in AIDS cases is adversely affecting the ability of public hospitals in particular to continue providing adequate care for their patients. By overwhelming the system with AIDS patients, the care afforded other poor people at public hospitals—institutions that are often the primary care facilities for millions of poor and uninsured Americans—will be diminished, thus compounding the health care problems experienced by poorer Americans in general. Financial assistance to those high incidence communities with public systems overwhelmed by AIDS might help keep the system running until a longer term solution can be found.

Social Security Administration

Methods for improving access to Social Security disability benefits for persons with HIV-related disease must be examined. Persons with AIDS are given presumptive disability status, although some individuals have continued to experience approval delays. Persons with other forms of HIV-related disease, even when equally disabled, are not granted such status and often face inordinate delays in receiving disability eligibility—delays that often exceed life expectancy. Immediately, the new Administration must examine the disparities in the implementation of current regulations and seek to either clarify and correct these problems or promulgate new regulations.

DISCRIMINATION

Civil Rights Enforcement and Legal Services

As noted in the introduction, federal legislation assuring civil rights protections for people with AIDS and HIV is of primary importance as this Administration begins its efforts to combat the epidemic. Moreover, existing protections must be properly implemented and enforced. The Offices for Civil Rights in the various agencies (Health and Human Services, Education, HUD, etc.) have, until very recently, labored under confused guidance regarding interpretation of Section 504 of the Rehabilitation Act and have been lax in their enforcement of Section 504. These offices have now been given a clear and appropriate mandate through the Justice Department's September 1988 legal memo that people with AIDS and HIV infection are covered under Section 504. The offices must now establish, as a high priority, active enforcement of Section 504 to redress violations.

All efforts in combating AIDS—from prevention and participation in research to provision of health care and services to those with AIDS—are deeply affected by the adequacy of antidiscrimination protections. Whether HIV specific, or, ideally, in the context of the Americans with Disabilities Act, these protections are supported throughout the public health, medical, and research communities, all of which see their absence as hindering efforts to develop effective prevention and control programs. Antidiscrimination protections are not only fair and just, they are good public health.

Persons with HIV infection and AIDS face discrimination and denial of services in a variety of settings. While AIDS service providers, disability rights groups, and civil rights groups have all attempted to provide some legal assistance, there is an inadequate patchwork of legal services seeking to defend the rights and access to care of persons with HIV, their caretakers, and others who may face discrimination. The federal government should assist in expanding and funding the availability of these services, in training lawyers and affected individuals in the law, and in educating the general public to assure that existing laws are adhered to by all concerned.

TRIBUTE TO BILL NICHOLS

Mr. HEFLIN. Mr. President, I was deeply saddened by the death on December 13, 1988, of my close friend and colleague from Sylacauga, AL, Representative BILL NICHOLS. His death came as a great shock to me and left the entire State of Alabama with an enormous sense of loss. In my judgment, Representative NICHOLS embodied the ideal Congressman striving to make America a better place to live while never forgetting his roots nor the good people of Alabama who elected him.

BILL NICHOLS was an incredible talented and intelligent man. He was also the type of man who would go out of his way to help another person and to help his country. He succeeded fabulously at everything he attempted and has left behind a legacy which would make any man proud.

In all that he did, BILL NICHOLS made a difference. He graduated from Auburn University in 1939 and earned a master's degree from there in 1941. In addition to his studies BILL devoted himself to athletics, serving as captain of the Auburn football team. Like many others his age, BILL went to fight for his country in World War II. BILL fought with honor and distinction, earning both the Bronze Star and the Purple Heart. His Purple Heart was awarded after he stepped on a land mine during the Battle of Hurtgen Forest in Germany. BILL underwent 19 operations but eventually lost his leg. To some the loss of a leg would have been devastating, but BILL viewed it as an inconvenience which he promptly overcame. As in the rest of his life, BILL absorbed the minor set-backs and continued with his life, serving as president of both the Parker Fertilizer Co. and the Parker Gin Co. in Sylacauga, AL.

BILL NICHOLS' most important work began when he was elected in 1966 to represent eastern Alabama's Third Congressional District. He was an effective, caring, and immensely popular Congressman. This past October he was elected to his 12th consecutive term and was diligently working at his desk at 7:30 a.m. during recess when he suffered a heart attack.

Perhaps it is fitting that BILL was working when he died. He had a great passion for helping people, especially his eastern Alabama constituents. Somehow BILL always seemed above politics. He had an incredible rapport with the common man and was able to help people without regard to reelection. Of course, it was this type of compassion and caring which made BILL NICHOLS more than a politician—he was a statesman in the most noble sense of the word.

As you can tell by his war record, BILL felt strongly about the defense of this Nation. Throughout his time in Congress, BILL's influence on the House Armed Services Committee increased and eventually he was picked to head the Investigations Subcommittee. It is perhaps from this subcommittee that BILL had the most impact on legislation. In 1986, Congress passed the Goldwater-Nichols Defense Reorganization Act which helped eliminate waste by restructuring the command hierarchies of the Pentagon and the military services. He also played a large role in the investigations which revealed questionable military expenditures like $400 Navy hammers and $5,000 Air Force coffee pots. NICHOLS amended a military spending bill to eliminate such wasteful practices.

BILL NICHOLS was not flashy, yet he was wonderfully effective. He worried less about perceptions than about results. He was unpretentious and driven. He was honest with himself and honest with others. It is this straightforwardness and caring which endeared him to so many.

BILL NICHOLS was an outstanding Congressman whose efforts will be missed by Alabama and by the entire Nation. BILL's death was a great blow to thousands of people. I have lost a close and devoted friend and I will miss him greatly.

MILITARY BASE CLOSING COMMISSION

Mr. CRANSTON. Mr. President, I am in the process of carefully reviewing the recommendations of the Special Commission on Base Closings.

I strongly supported the establishment of this Commission because I believe that it is essential for us to reduce unnecessary expenditures. We simply must reduce Federal spending on redundant programs and the military budget is justifiably a prime target for beginning the process of what must be shared sacrifice. All of us in Congress recognize that there are some inadequate and antiquated military bases which have been funded far beyond their useful lifetime because of home State pressures and legislative action. This is particularly true of older Air Force bases which cannot accommodate today's aircraft and modern training requirements. Closing some of these facilities may also help to reduce air traffic congestion in selected metropolitan areas.

In general, I applaud the intentions of the Base Commission to help reduce the deficit and to save taxpayer money for other defense and social programs. I am concerned that a substantial share of the proposed cuts are targeted on California facilities—but I recognize that California has a disproportionately large share of defense installations. Some California bases will benefit if the Commission's recommendations are carried out. They are Beale and March Air Force bases, as well as the Long Beach and San Diego Naval stations, which will gain jobs. I am particularly concerned about the proposal to close Letterman Hospital and transfer all 6th Army Headquarters personnel from the Presidio to other States. As for the decision not to homeport the *USS Missouri* in San Francisco, I recognize the cost savings that will be realized by curtailing the strategic homeporting program; but as Senator from California I have urged that the entire *Missouri* battlegroup be stationed somewhere in California.

I will be consulting closely with other members of the California delegation in the days ahead to review the recommendations of the Commission. I recognize that with the leadership of the House and Senate Armed Services Committees lined up in support of the entire package, it is not expected that Congress would break open this package of recommendations for consideration on an individual basis. It is possible, however, that there may be debate over funding necessary for accomplishing the transfers of personnel and hardware.

MARTIN LUTHER KING DAY—1989

Mr. LAUTENBERG. Mr. President, on January 16 we will once again celebrate Dr. Martin Luther King's birthday. It is a time to reflect on his contributions to our society, to measure how true we have been to his legacy, and to commit ourselves to renewing our resolve to meet the challenges he laid out for us.

Dr. King's commitment to equality and justice for all Americans is well known. His dedication to raising the consciousness of America and the world to the plight of the poor, the homeless, the hungry, and the downtrodden is reknowned. His leadership of nonviolent protest to compel change in our society is now recognized as one of the greatest movements in American history. His "I Have a Dream" speech still presents moral challenges to our Nation that have yet to be fulfilled.

In thinking of Dr. King's contributions to our society, the moments we most often recall are the 1956 Montgomery bus boycott, the 1964 march on Washington, and the 1968 Memphis sanitation worker's strike that immediately preceded his assassination. But, his legacy has lived on in the increased participation of black Americans in the political process and the hope and inspiration he still provides for many black Americans—young and old.

Dr. King fought for voting rights for black Americans and, long after it was due, enshrined that right in our Constitution and our laws. His leadership lives on in city halls, county councils, and a myriad of political institutions where blacks now hold office and a leadership role in our communities and political system. Their leadership, along with the Federal candidacies of many black leaders, and Jesse Jackson's Presidential candidacy, have instilled pride and hope in many Americans who had never felt they could be active participants in the political process. This leadership at every level of the political system has motivated many minorities, poor people, and others to become involved in the political process at the National, State, and local levels.

Mr. President, in New Jersey blacks have assumed important leadership roles in both political parties. And our State is the richer for it. In November, New Jersey made history by electing our first black Representative to Congress—DONALD PAYNE will take office as Congressman from the 10th Congressional District. Many voters from the 10th Congressional District developed an appreciation for the importance of voting as a result of Martin Luther King's struggles against the widespread disenfranchisement of blacks and poor people throughout the United States.

Mr. President, Dr. King is a hero of mine. During his struggles, I was greatly influenced by his words and deeds. From him I learned that being right is not always popular, that being committed to equality is not a fad, and that being attacked and maligned is sometimes the highest praise one can receive.

I was proud to support legislation to make Dr. King's birthday a National holiday. Proud to have sponsored the law that named our new Federal building in Newark after Dr. King. These symbols are important, for they show that we, as a nation, still hold high Martin Luther King, Jr.'s dreams.

Mr. President, as we observe the Federal holiday commemorating the birthday of Martin Luther King, we must reaffirm our commitment to continuing his work. For until there is opportunity and justice for all Americans the dream will not be fully realized.

RABBINICAL COLLEGE OF AMERICA HONORS IKE HELLER

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Ike Heller, recipient of an honorary doctoral degree from the Rabbinical College of America of Morristown, NJ. A noted industrialist, Mr. Heller has contributed to his community for many years and his philanthropy has made a lasting impact on the lives of many.

Ike Heller is an American success story. In an empty store in Brooklyn he founded, with very little funds, what would become a multimillon dollar business known as the Remco Toy Co. Spurred by this success, he went on to found Heller Construction Co. He pioneered the idea of "vest pocket distribution parks." Built on small amounts of land with direct access to railroad lines, they were highly successful. Today Heller Construction Co. operates and owns more than 9 million square feet of industrial and warehouse space, located in nine States. He has gained well-deserved praise for leading the way for the provision of day care facilities by corporations.

A private man, Ike has shunned publicity for his good deeds. This remarkable man has contributed over the years to community and civic endeavors and to the field of education. As the recepient of an honorary doctoral degree from the Rabbinical College of America, his devotion to Judaism and its ideals are recognized.

He is most deserving of this high honor. I congratulate him and extend my warmest wishes for continued success and happiness.

TRIBUTE TO RUSS BERRIE

Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Russ Berrie, recipient of the Community Achievement Award of the northern New Jersey chapter of the American ORT Federation. A noted businessman, Mr.

Berrie has contributed to his community over the years and his philanthropy has made a lasting impact on the lives of many.

Russ Berrie is an American success story. As a youngster he started a one-man newspaper delivery service and his entrepreneurial expertise continues today. After completing military service and attending classes at New York University and the University of Florida, he became a salesman for a toy manufacturer and later a manufacturer's rep. In 1963, operating out of his garage, he founded his own company. Today, Russ Berrie and Co., Inc., manufacturers over 7,500 products including children's toys, stuffed animals and other gift products and is known worldwide, with 5 subsidiaries and over 2,500 employees.

This remarkable man has contributed over the years to community and civic endeavors and to the field of education. He has donated thousands of dollars' worth of merchandise to needy children and funds to programs aiding senior citizens, the handicapped and disadvantaged.

Mr. Berrie has been lauded by many organizations; including the "Man of the Year" Award by the Catholic Community Services, "Entrepreneur of the Year" by Venture magazine/Arthur Young, and UNICO National's "Antonio R. Rizzuto" Award. A founding member and director of the Boys Town of Jerusalem Foundation of America, he received the Gate of Jerusalem Award in 1987.

Chosen by his service to the community and as a leader in business, Russ Berrie is most deserving of the American ORT Federation's Community Achievement Award. ORT the Organization for Rehabilitation Through Training has a rich 109-year history. Active in 35 countries, it is devoted to the vocational training and economic reconstruction throughout the world, and educated over 200,000 students in vocational teaching fields. I congratulate Russ as a recipient of this high honor, and extend my warmest wishes for continued success and happiness.

CHICO MENDES

Mr. KASTEN. Mr. President, I rise today to express the deep sorrow of all who care about the preservation of the world's rain forests—and indeed all who are concerned with the health of our planet—at the assassination of Francisco Mendes Filho of Brazil.

"Chico" Mendes was a leader in the movement to preserve Brazil's fragile rain forests from devastation by ranchers.

On the night of December 22, 1988, Chico Mendes was murdered by gunmen in the remote Brazilian province of Acre.

The ranching interests have been implicated in the murder, and seven suspects have already been arrested.

Mr. President, it is appropriate for us in this Chamber to ask why Chico Mendes was murdered. As policymakers for the world's greatest Nation, we are responsible at least in part for the state of the world's environment. It cannot fail to be a matter of concern to us that a man who did much to advance the cause of planetary health has been brutally slain.

Chico Mendes died because he stood up for the long-term interest of environmentally sustainable economic growth—against the short-term folly of rapid despoliation followed by equally rapid descent back into the gloom of poverty.

I knew Chico Mendes. He was a friend of mine. He was a valuable ally in the struggle to focus America's attention on the importance of the environmental struggle.

He knew—and proved with both his life of 44 years and his death last month—that environmental concern is not a luxury of wealthy dilettantes but a crucial investment in the future of all the world's citizens.

The fate of the Brazilian rainforests—the cause for which he gave his life—is our cause too. Not out of sentimentality, but out of true sentiment as well as enlightened self-interest. America cannot be true to itself if it sanctions the destruction of the world's common heritage; and America cannot long continue to prosper economically if it ignores the destruction of the very forests that make our air breathable.

Chico Mendes understood that we're all in this together. We can ignore the devastation of distant rainforests with as little impunity as the steering wheel can ignore four flat tires. Because they perform a vital service to the whole global environment—in decreasing the pollution level of our atmosphere—they cannot properly be called simply "Brazilian rainforests."

The fact is, we need them and we use them—so they're our rainforests too.

We have a duty to keep them healthy—especially those of us who help make environmental policy here in the U.S. Senate.

Francisco Mendes Filho will live on—because many will continue his fight. Let us join them, and use the assassination of Chico Mendes not purely as a cause of mourning but as an opportunity to rededicate ourselves to the values he fought and died for.

Chico Mendes was on our side even when many Americans weren't—back when the environment's problems weren't on the cover of Time magazine. It would be a worse offense even than his murder if we were to turn our backs after the great example he gave us.

REMARKS OF SENATOR BOB DOLE; REAGAN FAREWELL DINNER

Mr. THURMOND. Mr. President, Senator BOB DOLE recently paid glowing tribute at the Reagan farewell dinner held on November 29, 1988, at the Library of Congress.

I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR BOB DOLE: REAGAN FAREWELL DINNER

Mr. President, we are gathered together tonight at one of those moments people remember forever. It is a punctuation point in our lives. It is an end to a chapter in our history. It is a time when we realize that we are all older, if not wiser. A time when we understand once again that many are called but few answer.

It is a time when we look ahead and see that thanks to you, our party still holds the destiny of the country in its hands. But as we gather here together, we also look back on the great triumphs you led us to in the past. We count ourselves fortunate to have served with you at a great moment in America's history, Mr. President, a moment that the men and women of this country will remember with special respect as long as they care about their country.

Many of us in this room had served in Congress before you came to Washington, and we all sensed the change immediately. We all knew that this was a different kind of President. A President who knew that there was a difference between leadership and mere office holding. A President who came to power in a dark time but knew that it was really morning in America. A President who, with his charming, courageous and insightful first lady, would give this town a touch of class. We knew immediately that this was not an ordinary man, but rather a man who had a rendezvous with destiny and would not shrink from that appointment.

It was not an easy course you chose, Mr. President. But you forged ahead. And we were fortunate to be at your side. You conscripted us into your army. You gave the order and up the hill we went, flags flying, swords shining. Following your lead, we made it to the top too, with some legislative achievements that will always stand as landmarks in the years to come.

We passed the tax cut that gave our economy a chance to flourish once again. We rebuilt America's defenses and got this country up off its knees. We are proud to have been your advance guard in these and other accomplishments, Mr. President. We are proud to have been the rough riders of the Reagan revolution.

There were great moments in those first six years when you looked to us, your Republican majority, to move the agenda. There have been great moments since then. But what has endured during both your terms, and will endure as long as any of us have memory, is the special relationship that has always existed between us and you. It is this that we will cherish in the years ahead.

It is the way you bound us to your own destiny and gave us all a shared fate that will lead us always to think of ourselves, in Shakespeare's words, as "we few, we happy few, we band of brothers."

And soon you will leave and we will remain behind. We stay on to do the Nation's work and also to protect your legacy and extend it into the future.

In the days ahead we will always be ready to beat back those who would destroy the great landmarks we have built together. We will always be ready to win one more for the gipper. And we know too that your work is far from finished and that there will be times when we will have to call on you to win one more for us. And that when we do, you will ride down out of the hills again, larger than life, ready to save the day one more time.

And so we say farewell to you, Mr. President. Farewell to our Commander in Chief. Farewell to our leader. Farewell to our friend. We will never forget you and Mrs. Reagan. We will never forget the battles we fought together—the ones we won and the ones we lost, always with honor. We will never forget your generosity in allowing us to enter the history books with you.

As you go you take our appreciation, our admiration and above all our prayers. In the words of that old Irish farewell, "may the road rise to meet you, and may God hold you in the hollow of his hand."

REMARKS OF BARBARA BUSH AT NATIONAL LITERACY HONORS DINNER

Mr. THURMOND. Mr. President, Mrs. Barbara Bush made a compelling plea to end illiteracy in our Nation at the National Literacy Honors dinner held on November 15, 1988, in Washington.

I ask unanimous consent that her remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MRS. BUSH'S REMARKS AT NATIONAL LITERACY HONORS DINNER, NOVEMBER 15, 1988, WASHINGTON HILTON HOTEL

Mr. President . . . elect, Governors Clinton and Kean, ladies and gentlemen, friends—thank you all for that very warm welcome. Music—Peter Jennings—Pearl Bailey—Dennis Weaver—Loretta Lynn, And thank you, Jim Duffy, for that generous introduction.

I am overwhelmed and it is you who deserve the applause.

You who have worked your hearts out for literacy, who have given so generously of the best you have;

You . . . the 17 "learners of the month," who lived so much of your lives with the courage that comes from carrying a great burden, and who laid down that burden . . . but not the courage . . . when you learned to read.

You are all heroes to me, and you are all shining examples of the most beautiful sentence F. Scott Fitzgerald ever wrote: "The essence of America is a willingness of spirit."

In fact, you are all shining examples of those thousand points of light we have been hearing a lot about lately.

One week ago today one rich chapter of our lives ended and tonight I have been sitting here re-running literacy highlights of the last eight years.

I remember how the fledgling coalition for literacy struggled to get its awareness campaign going. At that time literacy as an issue wasn't a gleam in anybody's eye except Ted Bell's and, of course, the unsung heroes toiling in the field. But with the help of generous people . . . like Harold McGraw and his business council for effective literacy . . . that very loose coalition of different groups, all with their own agendas, stuck together and worked it out, and got that awareness campaign going . . . and kept the 800 number going . . . and set the tone for what came later, including the miracle of "plus."

Now, what earthly reason did the coalition have for cooperating? . . . or ABC or PBS for becoming such historic bedfellows? . . . or educators and volunteers and corporate people and clergymen and bureacrats for joining forces all over this country?

There really is no earthly reason for any of this truly transcendent cooperation . . . except for the greater good of our country and its people. And that is the essence of America . . . an enormous collective willingness of the heart.

There's a true story I'm fond of telling, so many of you may have heard it before. But it seems so fitting for this splendid night.

Several summers ago in Maine, I was planting peonies that a dear friend had given us. The instructions were clear: "Dig a deep bed, plant the roots deep, mulch, and water well. If you do all this, the plants will not bloom the first year, but they will bloom the next . . . and the next . . . and for a hundred years to come." And as I planted I thought to myself, "I am planting for my children . . . and my grandchildren . . . and my great grandchildren."

And that's what it means to work for literacy. We're doing this for our children and our grandchildren and for all the generations of Americans to come.

A little boy in a southern school once asked Nancy Reagan how she liked being married to the President. "Fine," she said, "as long as the President is Ronald Reagan." Well, I also like it fine as long as the President-elect is George Bush, and I can still plant peonies and work for literacy.

Thank you all so very, very much. You have given me a golden evening, and I am deeply grateful.

REMARKS OF ROBERT V. ROYALL, JR., AS AN OVERVIEW OF THE UNITED STATES AND SOUTHEASTERN ECONOMICS

Mr. THURMOND. Mr. President, Mr. Robert Royall, Jr., chairman and CEO of the Citizens and Southern National Bank recently delivered some interesting and inciteful remarks at the 13th annual joint meeting of the Southeast U.S./Japan Association in Charleston, SC, on October 20, 1988.

I ask unanimous consent that these remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

OVERVIEW OF THE UNITED STATES AND SOUTHEASTERN ECONOMIES

(By Robert V. Royall, Jr.)

INTRODUCTORY COMMENTS

It is certainly a privilege to address you this morning and a pleasure to welcome you to South Carolina and Charleston—one of America's great historical cities and home of the second largest container port on the east coast of the United States. We are privileged to receive the Japanese flag in our port on a weekly basis—and expect K-lines' vessel, the "Ambassador Bridge," to call our Wando Terminal later this week.

I have been asked to speak for a few minutes on the economic climate in the U.S.—specifically in the Southeast—and on the outlook for Japanese investments in our region.

NATIONAL ECONOMIC TRENDS

First, some background on current economic conditions. The industrialized nations of the world are in the midst of a prolonged economic expansion—including the United States and Japan. While we expect some slowing of our economies in 1989, it is likely that the expansion will continue through 1990, both in the United States and Japan.

Each of you recognizes that our economies are going through structural change. For example, there is clear evidence of a globalization of economies, of investment, and of markets—a globalization that is occurring for many reasons—including further improvement in the economic relationship between our two countries. A continuation of this strong economic relationship is essential for the long-term stability of our global economy. When the two largest free market economies of the world can cooperate, a picture of stability for the rest of the world is generated.

With the globalization process, we find our economies becoming more interdependent. Increased foreign direct investment in the United States is one clear manifestation. Of the 213 billion dollars of foreign capital flowing into the United States last year, 12% was in the form of direct investment. More important, that foreign direct investment has experienced a growing rate—last year's 40.6 billion dollars was 62% higher than in 1986 and 114% higher than in 1985. The weaker dollar and a continued emphasis on open trade encourage that direct investment. Yet foreign firms are being joined by American firms in investing in the U.S. The U.S. Commerce Department indicates U.S. manufactures intend to increase their own spending on plant and equipment by 12.5% in real terms in 1989—the largest increase in four years. This investment is a result of the intrinsic strength of the American economy and proximity to growth markets.

Although Great Britain and the Netherlands are the largest direct foreign investors in the United States, with 28% and 21%, Japan has moved from 6% of the total in 1980 to 12% today. The Japanese propensity to save, Japanese firms' ability to finance expansion with internally-generated capital, and the reduced price of American assets as a result of the increased value of the yen combine to encourage that investment. Japan ranks first in direct investment in the U.S. with the number of investing companies—accounting for more than ⅓ of all companies making direct investments last year.

Let's turn to the reverse situation. U.S. direct investment in Japan is also increasing—with companies such as Schick, Polaroid, Coca-Cola, Johnson and Johnson, and IBM experiencing market share growth in Japan. In terms of exports, Japan is the #2 export market for the United States—and is the primary export market for U.S. agricultural products, where we represent ⅓ of Japanese imports. Manufactured goods exported to Japan have increased in recent years, especially in relation to exports elsewhere in the world.

The net result, as reflected in the trade picture between our two countries, reflects a sign of encouragement, with a slight decrease in August from one year ago. However, the overall surplus picture for the fiscal year ending in March, 1989, will likely show little change from the previous year at $94

billion, half of which is with the United States. Obviously, a favorable trend is needed in terms of this imbalance. A free flow between American and Japanese markets is critical if we are to meet the challenges posed by a Common European market in 1992 and a Pacific market in the 21st century.

SOUTHEAST ECONOMIC TRENDS

These investment trends highlight increased globalization, with investments occurring daily between our two countries. Let's look, however, at globalization in a new way. It is generally well known that the United States and Japan have the largest economies in the world.

Perhaps less well known is that today, we are all sitting in the fifth largest country in the world—known as the Southeast United States. Expressed in another way, if the seven-state Southeastern region were a nation, we would rank #5 in the world for our gross national product—exceeded only by the U.S., Japan, West Germany, and France.

In GNP terms, the Southeast has an economic production of over 586 billion dollars—accounting for over 14% of the total U.S. output. The Southeast has also enjoyed rapid gains in output growth—between 1970 and 1986, real gross state product, or GSP, expanded 94%—nearly double that of the U.S. at 49%. Also significant is that this growth in output occurred as a result of increased employment and increased productivity—a 1.3% growth in productivity for the region each year, compared to 1% for the nation.

This growth in the Southeast is not surprising—for business opportunity and the Southeast are synonymous. Growth in industry and population have propelled the Southeast to this premier spot in the U.S. economy. For example:

Over 27% of the total U.S. population growth occurred in the Southeast during the past 10 years—making us the fastest growing market in the nation. The seven-state region grew by an average of 1,835 people each day—from 1977 through 1986. More important, through the year 2000, the Southeast is projected to account for ½ of the nation's growth.

The Southeast's growth and diversification have attracted domestic investment—but it has also attracted more than its share of international investment. Forty percent of the nation's new and expanded foreign facilities were announced in the Southeast last year.

Japanese investment in the Southeast has been especially strong.

(1) 452 firms have invested nearly $5 billion in the region and employed over 37,000 people, with 84% of this employment in manufacturing.

(2) Georgia leads the region with approximately 52% of all Japanese companies and 33% of the employees.

(3) Tennessee leads in investment with 30% of the Southeast total.

(4) And my state of South Carolina recorded a phenomenal 400% increase from 1986 to 1987.

The Southeast Japanese partnership is most successful. While the numbers are strong, we see an equally dynamic change in the nature of Japanese economic activity.

First, a change in the types of goods produced, with more high tech items now in production.

Second, a substantial increase in local content ratios—that is, the percentage of American-made components used in production. The decline in the U.S. dollar relative to the yen has been a major catalyst in integrating Japanese production more fully into the local market. The Japanese External Trade Association (JETRO) indicates a majority of Japanese manufacturers in the U.S. purchase more than 50% of their components locally.

Third, increased research and development is being conducted in the U.S. by Japanese firms—a result of the need for local product development.

Fourth, joint ventures between U.S. and Japanese firms are occurring more frequently—a fifth of all Japanese joint ventures are with the U.S. These cooperative arrangements are especially common in the high tech sectors, with companies like Hitachi and Sperry forming an agreement and Tokyo Electric and Digital Equipment Corporation jointly developing a point-of-sale system for supermarkets.

Fifth, is the re-investment of Japanese earnings in the U.S. in the form of start-ups, mergers and acquisitions, joint ventures, and expansions. Acquisitions in the U.S. more than doubled last year to a record 5.9 billion dollars—from 2.7 billion dollars in 1986.

Finally, the critical placement of production facilities where market demand exists, with less emphasis on year-to-year fluctuations in currency valuations. For example, Honda's more to the Southeast is based on the market potential. Matching the fastest growing region of the world with Japanese production and investment is an example of "international interdependence" at its best.

THE OUTLOOK

This morning, I have attempted to outline a picture of improving relations between our two countries in terms of investment, of globalization of investment opportunity, where country borders become as obsolete as state lines. As the world's fifth largest nation, the Southeast has benefitted and will continue to benefit from foreign investment—as will those Japanese firms which choose to locate or expand in this great region.

As a growth market, we clearly recognize the necessity to further enhance and leverage our opportunities by further improving our business climate. All of the Southeastern states are represented in Inc. Magazine's top 20 states for business climate in their 1988 survey. And each has implemented a variety of public programs to directly foster economic development—from tax incentives, to special training programs, to development of improved infrastructures so vital for a healthy business environment.

Three key areas deserve special mention:

(1) Capital fuels the economic development process and is essential for a region's growth and development. It is now well-known that of the top 10 banks in the world ranked by assets, seven are Japanese, and only one (Citicorp) is from the U.S. As recently noted by stock analysts, it would take 9 Citicorps to equal the Sumitomo Bank in market valuation. There is a clear linkage between the strength of these institutions and the Japanese economic position within the international economy.

The Southeast is also experiencing a renaissance of its banking industry, primarily as a result of interstate banking, which occurred through the leadership of our Southeastern states in 1985. This reciprocal arrangement between Southeastern states enables bank holding companies to cross state lines, thus forming super-regional banks. Today, the Fifth Federal Reserve District, which covers our Southeastern states, ranks #2 in the nation for market capitalization of its banks, only exceeded by New York. It is interesting to note that 6 of the top 10 earners in the banking industry are located in the Southeast. These banks concentrate on the Southeast, providing the critical capital for the nation's fastest growing region.

(2) Japan and the Southeast have another mutual interest—the development of our human capital. Virtually all of the Southeastern states have special programs directed at educating our citizens—South Carolina has the Education Improvement Act designed to improve primary and secondary education, while a recent initiative, known as the "Cutting Edge", is focused on the improvement of higher education and technical programs. Further, virtually every Southeastern state has programs for the illiteracy problem and re-training as needed for the existing work force. There is no doubt that the quality of our human capital is critical to our region's future success.

(3) Access to international markets. Finally, I would be remiss if I passed an opportunity to discuss the region's international access—Atlanta's Hartsfield International Airport and the region's many other airports form one such link. We are also developing another critical international resource, our ports system, which includes the Port of Charleston, now serving the world's top four shipping lines as a load center—and the ports of Savannah, Norfolk, and Jacksonville, with each providing a complete intermodal transportation network.

The Southeast has taken—and will continue to take—steps to open its doors even wider to international investment. We look to Japan to continue in this direction as well. Recent actions are positive—such as Japan's announcement to further open its government bond market, the second largest market in the world, to foreign underwriters.

The botton line is clear—the relationships developed through the Southeast U.S./Japan Association have created substantial results. The Southeast will continue to be a major haven for investment for Japanese companies due to the efforts of many of you here today. The Association has served in many ways to bridge not only the physical trade barriers between our two countries, but the psychological ones as well. Harmonious business and social relationships are as important to you as they are to us—and we are both proud of our records of development.

We look forward to a continuing strong partnership between the world's two leading free markets.

PROGRESS OF JUSTICE: DEDICATION OF ERNEST F. HOLLINGS JUDICIAL CENTER

Mr. THURMOND. Mr. President, Senator ERNEST HOLLINGS, Chief Justice William Rehnquist, Rev. Dr. Edward Counts of St. John's Lutheran Church in Charleston, SC, and Gov. Carroll Campbell made statements marking the progress of justice since our Nation's founding at the dedication of the Ernest F. Hollings Judicial Center in Charleston held on November 11, 1988.

I ask unanimous consent that their remarks be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

CHIEF JUSTICE REHNQUIST

Distinguished platform guests, ladies and gentlemen, it's a great pleasure to be with you today on the occasion of the dedication of the Hollings Judicial Center in Charleston. I had the pleasure of visiting my good friend Clement Haynsworth in Greenville some years ago but this is my first trip to the Low Country. I know from history about Francis Marion, the Swamp Fox, from literature about Rhett Butler, now from Senator Thurmond about Southern oratory. It's a great treat to be on the scene of their exploits, I'm looking forward to a tour of Fort Sumter and some other sightseeing while I'm here. I think there's a certain historical irony to the fact that this afternoon I will be touring Fort Sumter and exactly a week from tomorrow, I will be riding in a parade at Gettysburg, Pennsylvania to commemorate the 125th anniversary of Abraham Lincoln's Gettysburg Address. But it is surely a sign of how far we have come from the dark and bloody days of that conflict that the irony is only historical. I didn't have to come to South Carolina, however, to learn about South Carolinians who have made contributions to the American legal system. In the Supreme Court building where I work, there are busts in our great hall of the 15 Chief Justices who have preceded me in that position. One of them is of John Rutledge of South Carolina. In the building there are also portraits of each of the 104 Associate Justices who have served on the Court and one of them is of James F. Byrnes of South Carolina. John Rutledge served as a South Carolina delegate to the Constitutional Convention of 1787 and he was one of President George Washington's original six appointees to the Supreme Court in 1789. He resigned after only two years in the position but three years later Washington nominated him to be Chief Justice when John Jay resigned from that position. Rutledge, unfortunately, had made a speech denouncing the Jay Treaty and the Senate consisting mostly of Federalists who favored the treaty refused to confirm him. But since he did serve as Chief Justice under an interim appointment, his bust is there in the great hall along with those of 14 other Chief Justices. A century and a half later, President Franklin Roosevelt appointed another South Carolinian, Senator James F. Byrnes, to be Associate Justice of the Supreme Court. He resigned after only a year's service at the importuning of President Roosevelt who wished Byrnes to be his right-hand man in the effort to mobilize the United States for its role in the Second World War. Perhaps we may deduce from the very short tenures of Justice Rutledge and Justice Byrnes either that service on the Supreme Court of the United States is not particularly congenial to South Carolinians or else that they much prefer Charleston to Washington—perhaps both! Most Americans view the Supreme Court of the United States as a distant body sitting in faraway Washington and their actual contacts with the American justice system are on a much more immediate level. The courtrooms and chambers of the Federal District judges which will be housed in the Hollings Judicial Center are much closer to the average man and woman than is the Supreme Court in Washington. Indeed, the cornerstone of the American system of justice is surely in the trial courts, state and Federal, in which witnesses testify and juries deliberate. Our American system of justice is far from perfect. All of you have heard and perhaps experienced complaints about delay and expense in our system of justice but when we think that after all, it is a substitute for physical combat of some sort, our goal should be constructive criticism to improve our system of justice. We can't do without it. The Hollings Judicial Center will be a real and immediate symbol of the American justice system to the people of South Carolina, far more real and far more immediate than any far-away court in Washington.

I first became acquanited with Fritz Hollings almost twenty years ago when I was serving as an Assistant Attorney General in the Justice Department and was working for the Administration to secure the confirmation by the Senate of another great South Carolina jurist, Clement F. Haynsworth, as Associate Justice of the Supreme Court of the United States. I remember walking back to his office with Senator Hollings after a long and somewhat discouraging day on the Hill and being buoyed up by his firm determination to leave no stone unturned in this effort. Fritz Hollings was one of those who had suggested Judge Haynsworth to the President as a candidate for the high court and he worked diligently in the unsuccessful battle for confirmation in the Senate. Before being elected to the United States Senate, Fritz Hollings was, as you all know, Governor of this state. He was Governor during the troubled time of school integration following the Supreme Court decision in the case of *Brown vs. Board of Education* in 1954. In January 1963, as Governor Hollings approached the end of his term, he decided to pave the way for the peaceful integration of Harvey Gantt into Clemson University which occurred shortly after he left office. In his Farewell Address as Governor, he told his fellow South Carolinians what may of them may not have wanted to hear, that all of the efforts to resist the 1954 decision had failed, that South Carolina must now move forward with dignity and within the framework of laws to accept that decision. South Carolina had to make clear, he said, that its choice was a government of laws rather than a government of men. The failure to clear the hurdle of racial integration, he cautioned, would do South Carolinians irreparable harm. In more recent years, Senator Hollings has served as the Chairman of the Senate Subcommittee which reviews budget requests of the Supreme Court and other Federal courts. While no one will ever accuse Fritz of being an easy touch for public money, he has consistently treated us fairly and has acted in a manner which reflects the sensitive appreciation of the needs of the Federal judicial system. And while the Gramm-Rudman-Hollings Act has made life financially more difficult for those on the government payroll, including those in the judicial branch, it was undoubtedly a major effort to try to get a handle on the tremendously difficult problems of the huge Federal budget deficit.

Fritz Hollings is a great South Carolinian, indeed he is a great American, who has contributed mightly to the American legal tradition. Many years ago, Daniel Webster said that justice is the great interest of men on earth. I cannot think of a better tribute to Fritz Hollings than the dedication of this temple of justice in his honor today. Thank you.

JUDGE BLATT

Mr. Chief Justice, for the City of Charleston and for the State of South Carolina and particularly for the Federal judiciary, we are deeply grateful for you being here today to make this such a momentous occassion.

I guess because all of us here today are his dear friends and we love him so much, we've saved what might be called the best for the last. Fritz Hollings has given all of his adult life to the service of the people of South Carolina and he has done it with dignity and he has done it with honor and has exhibited character and integrity. He has handled himself in such a manner that every friend has been proud of what he has done in his various public offices. When we started this building, Fritz never asked us why we wanted something, he only asked us what we wanted and he set about to get what we wanted. I can think of no more deserving tribute possible than having this building given his name. I certainly, as I know Falcon and Weston and all of the judiciary who will work in that building, will work in it with great pride. In that building too as you'll see when you go in it, some of Fritz' friends commissioned an artist, Robert Bruce Williams, to paint his portrait, it hangs on the courtroom floor of the building and I hope you'll get a chance to see it. It's a super portrait, a super portrait of a super person and I'm just as pleased and happy as I can be to introduce to you our guest of honor today, my friend of almost 50 years, Fritz Hollings.

SENATOR HOLLINGS

I came into my headquarters running for reelection year before last and my Campaign Manager says you're going to have to get on up to Anderson, they're telling a pack of lies about you up there. I said, heck, man, I got to get down to Charleston first where they're telling the truth about me! Now Anderson has been juxtaposed and I'm absolutely delighted. Butler, no honeymoon could be any more pleasurable than to be buried alive like we're doing here today, I can tell you that right now. But we congratulate you on it anyway, very, very much.

Mr. Chief Justice, Governor Campbell, Judge Blatt, Mayor Riley, distinguished members of the judiciary, Mr. Davis, on down the list, most of all, Senator Thurmond. Now, Strom, I learned a lot from you, I learned not only to carve that thing up there but not to try to rename Charleston Harbor! I can tell you now I've always been second (it always worried me, not really) to the senior Senator but I stopped worrying when I heard, Strom that the Father of our Country, George Washington, first in war, first in peace, first in the hearts of his countrymen, he married a widow, so you can't be first all the time. I can tell you here and now that there's no greater privilege in all sincerity than to serve as the Junior Senator under Strom. He is the most respected on both sides of the aisle. You can tell by his talk here today, he knows how to make friends for this state and he is absolutely convicted and convinced in his belief and strengths of belief. No one works harder at the people's business than Strom Thurmond of South Carolina and, Strom, I can't thank you enough. Butler, over on the House side, I look forward to serving many, many years as the Junior Senator, I hope I never have to come back and appear in this courtroom but I'll be working at it. I can tell you otherwise that Chief Justice Rehnquist brings to mind that historically this is the Speaker's Corner. The Speaker's Corner, if you read Rutledge's history by Barry, you'll find it was here on this corner that he delivered

his famous address against the Jay Treaty, looking right over the graveyard here at St. Michael's. That did bring the wrath of Alexander Hamilton and the Federalists and he was not confirmed but he was the second Chief Justice, Acting Chief Justice of the Supreme Court. Now today we have the Chief Justice and rather than bringing wrath, he brings charm, he brings wisdom and he brings friendship. He has been our friend. Bill Rehnquist referred to those stormy days and we did work hard, around the clock, because there is no one more deserved of service on our United States Supreme Court than South Carolina's own Clement Haynsworth. Mr. Chief Justice, I can't thank you enough for being here. We are all really honored at your presence.

With respect to the historic nature, if this was the Speaker's Corner for freedom, the Chief has also brought to mind that it is the law's corner for freedom. Free at last, free at last, thank God almighty, free at last—that was Martin Luther King. Substance of equal justice under law started right here on this corner in that courtroom under Judge Waitus Waring in *Brown* vs. *Bascom* and then in his dissenting opinion in *Briggs* vs. *Elliott,* that's when I was admitted to practice. I see Judge Matthew Perry. He was leading the way at that time and there's no question in my mind that for modern day history of America, it began not just here at the Four Corners of Law but right here in this judicial center. And we'll always keep in mind the sensitivity and wisdom, too, of Waitus Waring. The fact of the matter is, you can see his house right after this house that's on the corner, he was the most reviled, vilified, despised judge at the time but not with the young lawyers, I'm going back to that 40 years ago. Judge Waring looked out for the young lawyers when we came in that courtroom. We were nervous, we didn't want to be embarrassed in front of our client and he looked out for us. And that brings me informally to the man who really should be honored, our own Judge Solomon Blatt. Sol is not only the lover of the law but he is the lover of the citizen and citizen rights and as a result he has become, no question, the most popular Federal District judge I have known in my forty years of practice here at the Charleston Bar. I know where the money came from, Sol, you're right, we went over, the last act of Jimmy Carter, we took that Treasury, Post Office, Independent Offices appropriation, we walked it over for the six and a half million and he signed it into law. Then later it was a struggle with my former Congressman friend saying he was going to stand on the corner with a shotgun to make sure it didn't go, we had the North Charleston move, we had the misgivings of our preservationists and everything else. But Judge Solomon Blatt led the way, working with Mayor Riley, the preservationists, the civic community and as has been indicated, working on Strom and Butler and myself. That's why we're here today and we'll be forever indebted to him for his leadership and dedication, we don't even include him anymore in the Barnwell Ring, he's in the Charleston Ring, he's taken over down here and, Sol, we are your greatest admirers, we're grateful to you.

I want to thank my wife, my family, my friends, those who contributed to the portrait inside, my friends for their support, Mayor Riley and Governor Campbell for their laudatory remarks.

On an occasion of this kind, I want to express my particular gratitude to the Charleston Bar. You know, as the pen makes its mark on the parchment, it's the hand that guides the pen and if I've made any mark, it's been the hand of the Charleston Bar, the early day of friendships, the sustenance, the strength, the guidance of the lawyers here. You don't find the real truths in a political poll, in fact it was Winston Churchill who said that nothing is more dangerous than to live in the temperamental atmosphere of a Gallup poll constantly feeling one's pulse, taking one's temperature, he said the only safe duty, the only safe course is to try to do what's right and you come to practice here and you'll immediately learn to work and do what's right. Many a time, we've lost a good hunting trip, a good football week-end and otherwise to searching down the witnesses or staying up in that library all Saturday night, all Sunday night trying to get ready for Monday morning. And that habit has put me half-way in comparison to my senior Senator because no one can outwork him. But if I hadn't gained that habit here, I would have never kept up to some extent with Strom, I can tell you that. I can also tell you that you learn the habits of persistence and perseverance. I saw in the newspaper last week that Henry Guy was retiring and Henry said come around and get your papers. To get my papers in Tannery against Knight would take a 2½ ton truck. That rascal motioned me three times before the Magistrates Court, twice before Judge McMillan in Civil and Criminal, twice before Judge Grimball and finally before the State Supreme Court a year and a half later. But we have learned to persist. Like in our textile case where I started back 30 years ago as a witness and your Governor in the International Tariff Commission and we still try that case today. Then the difficult task, of course, of being a counselor. They always have on the letterhead attorney and counselor and that reminds us that sometimes perhaps they don't need a lawyer, they need Dr. Counts there, a minister or some other distinguished clergyman because the simple reason is that the client comes in with venom and wrath, all they need is a lawyer to say we'll file, we'll sue and start the clock running and start charging them. But that might not be the better course, it may be if recoil is going to kill the gun crew, you'd better not fire it. And finally, the conviction and commitment that is so necessary in your cause. You're not going to ever convince the court and the jury unless you are absolutely convinced yourself. I learned that right here at the hands of the members of the Charleston Bar and particularly one of the last cases Falcon and I tried up here. We had prepared for two years to get it to court, we had tried it for two weeks, we were never offered a dime and after the final argument and the jury went out, they offered us a substantial settlement. And came to mind, the famous saying and rule of Thomas Porcher Stoney, "He either fears his fate too much or his dessert is small who fails to put it to the touch and win or lose it all." Morris, you remember that. Falcon and I put it to the touch and we won it all. And I could go to the United States Senate—I could afford it. So the very procedures and the trial work and the habits learned here at the Charleston Bar is the same as in the United States Senate, we have the adversary proceeding, we bring in the best of witnesses, we make the final argument to the jury and even better yet, we go in the jury room and help decide the case. As we present the facts in Washington, we try to change those facts in South Carolina. Known years back as bigoted and backward, lacking of skills, lacking in health care, we have made tremendous advancements in the past several years but we've got a lot of work to do. Mr. Chief Justice, you mentioned Gettysburg and I think of Dwight Eisenhower when he was President of Columbia University. He bought a tract of land at Gettysburg and the neighboring farmer said, "General, why did you buy this farm down here in Gettysburg?" And Dwight Eisenhower said, "All my life I've been wanting to take a piece of ground and return it to God better than I found it." South Carolina has been my life's case and you, my friends and supporters, have been the best support and the best friendship and the best encouragement anyone could ever have. I'll be forever grateful to you. I should acknowledge on occasions like this that I agree absolutely with Senator Thurmond, we have the most outstanding judiciary of any in the 50 states, we are extremely proud of them, we are proud of our community and working together, we'll return South Carolina back to God better than we found it. Thank you very much.

INVOCATION: DEDICATION OF THE ERNEST F. HOLLINGS JUDICIAL CENTER, NOVEMBER 11, 1988, REV. DR. EDWARD L. COUNTS, PASTOR, ST. JOHN'S LUTHERAN CHURCH, CHARLESTON, SC

Eternal Father, God, Sovereign Lord of all creation, We pause at the beginning of this momentous occasion to offer our praise and thanksgiving for the United States of America, for the inalienable rights and freedoms guaranteed under its Constitution, and for the free electoral process that strong, capable, God-fearing persons might be chosen from among the people, by the people, for the people.

And on this Veterans Day, we are reminded that these freedoms and rights, so often taken for granted, are secured and protected at great sacrifice. And we offer our sincere gratitude for the valor and bravery of those men and women who have served in our armed forces in the past and who serve now in the present that this nation might remain the land of the free and the home of the brave.

O Lord God, Ruler of all nations, We ask your most favorable blessings upon the President of the United States and the President-Elect, upon the Congress, upon the Justices of the Supreme Court, upon the Governor of this State, upon the Mayor of this City, and upon all public servants elected and appointed for the benefit of a good and just society.

And as we stand before this magnificent structure, today to be dedicated to the glory of your Name and to the service of liberty and justice for all, we offer our special petition of gratitude and thanksgiving for your servant, Ernest F. Hollings, whose name this judicial center will bear. We thank you for the blessings that his exemplary life and dedicated service have been, and are, to this nation, to this state, to this city, to his family, to his church, and to his friends.

O righteous God of Truth, Grant that within the halls of this Hollings Judicial Center that justice may reign supreme; that offenders may be justly punished; that the innocent may be rightly protected; and defended.

O God of all Wisdom, Yet, even so as we pray, we confess our human limitations and weaknesses, and we acknowledge that our

judgment is always imperfect and that you alone sit in judgment to declare what is truly right and just.

And so we pray for all courts of justice and all magistrates in our land. Give to them your spirit of wisdom and understanding that they may perceive the truth and administer the laws impartially as instruments of your Divine Will—until that time shall come—when perfect justice is found as we each one stand before your throne of judgement and grace and before the Supreme Judge, the Son of Righteousness, face to face, in whose Name we pray. Amen.

REMARKS BY GOV. CARROLL A. CAMPBELL, JR., HOLLINGS JUDICIAL CENTER DEDICATION, NOVEMBER 11, 1988

I am pleased to be able to participate in these ceremonies to dedicate this new judicial center to the honor of a great South Carolinian. The fact that there is such a distinguished panel of guests assembled today is an indication of the respect and admiration Fritz Hollings commands.

I have to tell you though that another outstanding South Carolinian has benefitted in an indirect way from this new facility. Judge Blatt spent so much time on airplanes between Charleston and Washington making sure this facility was built that he's earned enough frequent flyer points for a round trip to the moon! Seriously, though, Judge Blatt put a lot of time effort in seeing that this new facility exists for the benefit of all South Carolinians—and we thank you for your work, Judge Blatt.

While this new facility will bear the name of Ernest F. Hollings, it is so named not for any one one single accomplishment he has to his credit, but in recognition of a 40-year record of service to the people of South Carolina. And it is quite fitting that he should be honored here in Charleston, for it is the people of this area who first shared him with the State.

As a young man, Fritz Hollings recognized the importance of defending the rights of the public and thus dedicated himself to the practice of law. Later, as a member of the South Carolina House, as Lieutenant Governor and Governor of South Carolina, and now as United States Senator, his dedication to the rights of every individual involved in our judicial process can be found in the pages of his legislative record.

Just this year, he worked to increase the number of Federal prisons and has earmarked money for a federal minimum security facility to be located in South Carolina. He also worked to earmark money for a death penalty resource center to provide assistance to State prosecutors and attorneys involved in dealth penalty cases.

All South Carolinians can be proud of the work that he did on the recent drug bill. He worked all summer as a member of the democratic working group writing the bill and then, as Chairman of the Appropriations Subcommittee, he supported an additional $205 million in funds for increased enforcement of drugs. Along with this funding, 300 new U.S. attorney positions will be created to provide an additional force to prosecute drug cases.

President Grover Cleveland once noted that a truly American sentiment recognizes the dignity of labor and the fact that honor lies in honest toil.

I can think of no finer way to recognize the dignity of Fritz Hollings' labor than by placing his name on the face of this Judicial Center. Just as this Judicial Center now stands as a symbol of fairness and justice in the city of Charleston, Fritz Hollings' name has come to represent fairness and justice to the citizens of South Carolina.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:20 P.M.

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess until 2:20 p.m. this afternoon.

The motion was agreed to, and at 1:13 p.m., the Senate recessed until 2:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the appropriate committees.

(The nominations and treaties received today are printed at the end of the Senate proceedings.)

NATIONAL URBAN POLICY REPORT—MESSAGE FROM THE PRESIDENT—PM 1

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the National Urban Policy and New Community Development Act of 1970 (42 U.S.C. 4503), I transmit herewith the sixth biennial National Urban Policy Report.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 2

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Section 657 of the Department of Energy Organization Act (P.L. 95-91; 42 U.S.C. 7267), I hereby transmit the Ninth Annual Report of the Department of Energy.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 3

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with Section 308 of Public Law 97-449 (49 U.S.C. 308), I hereby transmit the 18th Annual Report of the Department of Transportation, which covers Fiscal Year 1984.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION—MESSAGE FROM THE PRESIDENT—PM 4

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with Section 109(e) of the Hazardous Materials Transportation Act (P.L. 93-633), I hereby transmit the Eighteenth Annual Report on Hazardous Materials Transportation for calendar year 1987.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

EFFECTS OF PETROLEUM IMPORTS ON NATIONAL SECURITY—MESSAGE FROM THE PRESIDENT—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862(c)(2)), I am reporting my determination with respect to the Department of Commerce's investigation into the effect of petroleum imports on national security.

The Department's investigation was in response to a petition filed in December 1987 by the National Energy Security Committee. The Secretary of Commerce has concluded that there has been a substantial improvement in U.S. energy security since the last Section 232 petroleum finding in 1979. However, declining domestic oil production, rising oil imports, and growing Free World dependence on potentially insecure sources of supply raise a number of concerns, including vulnerability to a major supply disruption. The investigation found that the maintenance of U.S. access to sufficient supplies of petroleum is essential to our economic security, foreign policy flexibility, and defense preparedness. Given these factors, the Secretary of Commerce found that petroleum imports threaten to impair the national security.

However, taking into account the Administration's detailed program to improve energy security, transmitted to the Congress on May 6, 1987, the Secretary has recommended that no action to adjust imports under Section 232, such as an oil import fee, be taken because such action would not be cost effective and, in the long run, would impair rather than enhance national security.

I approve the Secretary of Commerce's finding, and based on his recommendation, I determine that no action to adjust oil imports under Section 232 need be taken.

My Administration has done a great deal to build the Nation's foundation for long-term energy security and to strengthen the domestic oil industry. We have decontrolled oil prices and eliminated allocation controls. The Strategic Petroleum Reserve (SPR) contains over 555 million barrels, compared to 108 million barrels 8 years ago. United States imports come from diversified sources, and there have been important developments in conservation and interfuel substitution that contribute significantly to enhancing U.S. energy security. In addition, implementation of the United States-Canada Free Trade Agreement will promote increased bilateral energy trade and provide reliable supplies at competitive prices. Today the Nation is far less vulnerable to an oil supply disruption than in 1973 and 1979.

Despite these improvements, important energy security concerns remain. While lower oil prices have provided substantial benefits to the U.S. economy, they have also led to rising oil consumption, declining U.S. crude production, and rising oil imports. In addition, projections show that the Free World will become increasingly dependent on oil supplies from potentially insecure sources. Therefore, we must continue our efforts to ensure that these trends do not leave the Free World more vulnerable to economically damaging oil supply disruptions.

I was heartened by congressional action on some of my May 6, 1987, recommendations, such as repeal of the Windfall Profit Tax, repeal of restrictions on the use of natural gas, and reauthorization of the Price-Anderson Act for nuclear power plants.

However, a number of my recommendations to improve the Nation's energy security have not been acted upon. I once again urge the Congress to take the following actions:

(1) Enact comprehensive legislation to deregulate wellhead prices of natural gas and to mandate open access to natural gas pipelines.

(2) Permit environmentally sound oil exploration and development of the Arctic National Wildlife Refuge (ANWR) in Alaska and of the Outer Continental Shelf. These areas are the most promising prospects for discovering major new oil reserves in the United States.

(3) Increase the availability of the percentage depletion allowance used in calculation of independent oil and gas producers' income taxes by repealing the "transfer rule" and increasing the net income limitation to 100 percent.

(4) Continue to fill the SPR to reach the goal of 750 million barrels. The Naval Petroleum Reserves at Elk Hills, California, and Teapot Dome, Wyoming, should be sold as a means to accelerate the SPR fill rate and to pay for a new 10 million barrel Defense Petroleum Inventory.

(5) Enact a comprehensive reform of nuclear power licensing to streamline the process and reduce costs while enhancing public safety.

Given the nature of the international oil market, the United States alone cannot assure its energy security. Consequently, we continue to work closely with our partners in the International Energy Agency (IEA) to improve our mutual energy security. With our encouragement, our IEA partners have built up their strategic stocks to 400 million barrels. Together we are making significant progress towards a more balanced mix of energy options. The specific actions I have outlined above, when implemented, will make a further, significant contribution to improving the energy security of the United States and the Free World.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

ANNUAL REPORT ON THE TRADE AGREEMENTS PROGRAM—MESSAGE FROM THE PRESIDENT—PM 6

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with Section 163(a) of the Trade Act of 1974, I hereby transmit the Twenty-ninth Annual Report on the Trade Agreements Program, 1988.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

REPORT ON UNITED STATES GOVERNMENT ACTIVITIES IN THE UNITED NATIONS AND AFFILIATED AGENCIES—MESSAGE FROM THE PRESIDENT—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during the calendar year 1987, the seventh year of my Administration. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress).

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

WHISTLEBLOWER PROTECTION ACT—MESSAGE FROM THE PRESIDENT—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying documents; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

I am pleased to transmit for your consideration and enactment the "Whistleblower Protection Act of 1989." Federal employees who blow the whistle on fraud, waste, abuse, and violations of the law help to ensure that the Federal Government uses

American taxpayers' dollars effectively and efficiently. The Nation's laws must encourage such reports and protect those who make them from reprisal.

At the close of the last Congress, I withheld my approval from S. 508, the Whistleblower Protection Act of 1988, because of the constitutional and other defects in that bill. The measure I am transmitting today corrects those defects. The legislation protects from reprisal Federal employees who expose wrongdoing within the Government. It also ensures that Federal personnel managers are not burdened with routinely defending appropriate personnel decisions.

The "Whistleblower Protection Act of 1989" grants to Federal employees for the first time the right to initiate an action before the Merit Systems Protection Board to contest a personnel action on the ground that it was taken as a reprisal for whistleblowing. The legislation also grants job transfer preference to whistleblowers in filling jobs of equivalent status and tenure as the job held by the whistleblowing employee.

The proposed legislation establishes the Office of Special Counsel as an independent office within the Executive Branch. The Office would protect Federal employees from prohibited personnel practices. To assist in the conduct of investigations in executing this function, the Special Counsel may administer oaths, examine witnesses, take depositions, and receive evidence. The Special Counsel also may seek orders from the Merit Systems Protection Board to stay a personnel action with respect to an employee until the employee's case is resolved.

Under the bill, when the Special Counsel determines that reasonable grounds exist to believe that a prohibited personnel practice has occurred, the Special Counsel generally reports that determination to the agency involved, the Merit Systems Protection Board, the Office of Personnel Management, and in appropriate cases, the President. When necessary to ensure that an agency found to have engaged in a prohibited personnel practice takes corrective action, the Special Counsel may seek an order from the Merit Systems Protection Board requiring such action. In cases involving reprisal for whistleblowing, the individual who does not prevail in the proceeding before the Merit Systems Protection Board may seek Federal court review of the Board's decision.

The bill also entitles employees who make allegations to the Office of Special Counsel to notification of the results of the Office's investigation. The Office of Special Counsel may investigate allegations it receives and may initiate investigations on its own.

Finally, I would note that the proposed legislation does not contain the constitutional defects that were contained in S. 508 of the 100th Congress. Unlike that bill, the proposed legislation is consistent with the constitutional separation of powers, investment of the Executive power in the President, and the proper exercise of the Judicial power of the United States. I urge the Congress to enact the "Whistleblower Protection Act of 1989" swiftly to extend important protections and procedural rights to employees of the Federal Government.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT—PM 9

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the requirements of Section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92-463, 5 U.S.C., App.), I hereby transmit the Seventeenth Annual Report on Federal Advisory Committees for Fiscal Year 1988.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT—PM 10

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Small Business:

To the Congress of the United States:

This is the eighth and final report of my Administration on the state of small business. And it is my pleasure to report to the Congress that there has never been better opportunity in America to start a business, to grow and create new jobs, to research and generate new products and technologies, and to maintain America's economic expansion.

The report for 1988 details the number of new businesses, new jobs, and new investments made by small business. I am pleased and proud that we have 5 million more businesses than we did when I took office, that there are over 1.5 million new women-owned businesses in that time, and that small business has been the major contributor in generating the nearly 18 million new jobs added to our economy since 1982.

In 1988, the 6th year of economic expansion, industries dominated by small firms continued to lead in job creation. Over 350,000 businesses were incorporated in the first half of the year alone, and bankruptcy rates decreased significantly compared to 1987.

At the January 1981 Inaugural I spoke of heroes, not the people who are famous, but the people who every day risk their money, their time, and their reputation in the community, who work hard for themselves and their neighbors, whose day-to-day contributions sum up to national greatness. If we have a greater nation today, it is not only because of economic progress, but because of growth in opportunity.

Millions of Americans continue to convert opportunities to new enterprises, new jobs, and innovative products. And by taking advantage of the opportunities available to them, they create opportunities for other Americans.

Small business owners are effective leaders in other areas as well. Increasingly, the voices of small business men and women are heard in public policy debates. Their concerns reflect not the narrow views of special interest groups, but broad perspectives on issues that affect all of us—the provision of health care for the uninsured, workplace literacy and training, and international competitiveness.

My Administration has listened to these small business owners. Many of their concerns will undoubtedly be the subject of discussion for some time to come. But in a number of specific instances, we have been able to target public and private resources and to alleviate regulatory, paperwork, or other burdens on small firms so that they will be free to do what they do best—create new enterprises, new jobs, and innovative products and processes.

One of the recommendations of the 1986 White House Conference on Small Business delegates was that the Government do a better job of paying its bills on time. I heartily agreed with this recommendation, and the Prompt Payment Act Amendments of 1988, which I signed last October, will strengthen the rules Federal agencies must follow in paying their bills.

Another priority was to strengthen the national record of research and innovation, in which small firms play such an important role. I am very pleased that the Congress agreed with my strong recommendation to extend the research and experimentation tax credit and thus keep American products competitive in the world economy.

We as a Nation have much to learn from our small business leaders. Their creative contributions and those of many other citizens will be an important resource as we search for solutions appropriate to our Nation's needs in the 21st century.

Small firms will continue to have a broad impact on American society.

They employ and train a majority of the Nation's new workers, and they will retrain many workers for new occupations in the years ahead. As we learn more about this vital sector's contributions to the economy, we will be able to shape policies at all levels of Government that will encourage the start-up and growth of America's vital small enterprises.

America's political liberty depends on economic liberty. I salute the small business community, whose strength supports our freedom.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT—PM 11

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with Section 1011 of the Alaska National Interest Lands Conservation Act (P.L. 96-487; 16 U.S.C. 3151), I transmit herewith the seventh annual report on Alaska's mineral resources.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a Soil Conservation Service plan for the Upper Locust Creek Watershed, Missouri and Iowa; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, notification of the transfer of certain funds within the Department of Defense; to the Committee on Appropriations.

EC-3. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Deficit Reductions for Fiscal Year 1989—Compliance With the Balanced Budget and Emergency Deficit Control Act of 1985"; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-4. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on budget rescissions and deferrals for November 1988; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary.

EC-5. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on a violation involving an overobligation of funds in excess of an approved appropriation; to the Committee on Appropriations.

EC-6. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, selected acquisition reports for the quarter ending September 30, 1988; to the Committee on Appropriations.

EC-7. A communication from the Chairman of the Commission on Merchant Marine and Defense, transmitting, pursuant to law, the third report of the Commission dated September 30, 1988; to the Committee on Armed Services.

EC-8. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Reserve Components—Opportunities to Improve National Guard and Reserve Policies and Programs"; to the Committee on Armed Services.

EC-9. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Drug Law Enforcement: Military Assistance For Drug Enforcement Agencies"; to the Committee on Armed Services.

EC-10. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report containing a plan for use of certain funds for upgrading materials in the National Defense Stockpile; to the Committee on Armed Services.

EC-11. A communication from the Assistant Secretary of Agriculture (Food and Consumer Services), transmitting, pursuant to law, the annual report of the Department of Agriculture required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-12. A communication from the President of the United States, transmitting, pursuant to law, a report on the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Affairs.

EC-13. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report entitled "Deposits at Nonproprietary Automated Teller Machines"; to the Committee on Banking, Housing, and Urban Affairs.

EC-14. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the second annual report on the Emergency Food and Shelter National Board Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-15. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the annual report on Department of Defense programs to assist the homeless; to the Committee on Banking, Housing, and Urban Affairs.

EC-16. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-17. A communication from the President of the United States, transmitting, pursuant to law, a report indicating that no aggregate budget outlay reduction is required as indicated by the final report of the Director of the Office of Management and Budget of October 15, 1988 and the final order of the President of that same date; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on the Budget, the Committee on the Budget, and the Committee on Appropriations.

EC-18. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report for 1987 on the relative cost of shipbuilding in the various coastal districts of the United States; to the Committee on Commerce, Science, and Transportation.

EC-19. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to establish $200,000 prizes to accompany the National Medals of Science and Technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-20. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the June, July, and August report of progress on developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC-21. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to Senate Resolution 497, 100th Congress, a plan outlining immediate and long-term actions that the FAA will be taking to address the current situation at Chicago O'Hare International Airport; to the Committee on Commerce, Science, and Transportation.

EC-22. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1986; to the Committee on Commerce, Science, and Transportation.

EC-23. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on Tactile Mobility Aids; to the Committee on Commerce, Science, and Transportation.

EC-24. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain excess oil and gas royalty payments; to the Committee on Energy and Natural Resources.

EC-25. A communication from the Secretary of Energy, transmitting, pursuant to law, the quarterly report on the Strategic Petroleum Reserve for the period July 1 through September 30, 1988; to the Committee on Energy and Natural Resources.

EC-26. A communication from the Secretary of the Interior, transmitting, pursuant to law, the financial statements of the Colorado River Basin project for fiscal year 1987; to the Committee on Energy and Natural Resources.

EC-27. A communication from the State Cochairman Designee and the Federal Cochairman of the Alaska Land Use Council, transmitting, pursuant to law, the annual report of the Council for 1987; to the Committee on Energy and Natural Resources.

EC-28. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report under the Mining and Minerals Policy Act for 1988; to the Committee on Energy and Natural Resources.

EC-29. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease royalties; to the Committee on Energy and Natural Resources.

EC-30. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease royalties; to the Committee on Energy and Natural Resources.

EC-31. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease royalties; to the Committee on Energy and Natural Resources.

EC-32. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease royalties; to the Committee on Energy and Natural Resources.

EC-33. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease royalties; to the Committee on Energy and Natural Resources.

EC-34. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report concerning progress in conducting environmental remedial action at Federal facilities; to the Committee on Environmental and Public Works.

EC-35. A communication from the Inspector General of the Federal Emergency Management Agency, transmitting, pursuant to law, the audit report of the Agency on administration of the Comprehensive Environmental Response, Compensation and Liability Act for fiscal year 1987; to the Committee on Environment and Public Works.

EC-36. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report of the nondisclosure of safeguards information by the Commission for the quarter ended September 30, 1989; to the Committee on Environment and Public Works.

EC-37. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report on incomplete water resources studies eligible for deauthorization; to the Committee on Environment and Public Works.

EC-38. A communication from the Inspector General of the Environmental Protection Agency, transmitting, pursuant to law, a report on mandated Superfund audit activities for the fiscal year 1987; to the Committee on Environment and Public Works.

EC-39. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the progress of discussions with the Government of Canada on the elimination or reduction of tolls on the international Great Lakes and the Saint Lawrence Seaway; to the Committee on Environment and Public Works.

EC-40. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the expenditure and need for worker adjustment assistance training funds under the Trade Act for fiscal year 1988; to the Committee on Finance.

EC-41. A communication from the President of the United States, transmitting, pursuant to law, notice of the intent of the President to designate Guyana as a beneficiary of the trade-liberalizing measures under the Caribbean Basin Economic Recovery Act; to the Committee on Finance.

EC-42. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, the final monthly Treasury Statement of Receipts and Outlays of the U.S. Government for Fiscal Year 1988; to the Committee on Finance.

EC-43. A communication from the Commissioner of Social Security, transmitting, pursuant to law, a report entitled "Social Security: Managing for Today, Planning for Tomorrow"; to the Committee on Finance.

EC-44. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the administration, impact, and cost of the Utilization and Quality Control Peer Review Organization program for fiscal year 1987; to the Committee on Finance.

EC-45. A communication from the Acting Chairman of the United States International Trade Commission, transmitting, pursuant to law, the fifty-fifth quarterly report on trade between the United States and the nonmarket economy countries for the period April through June 1988; to the Committee on Finance.

EC-46. A communication from the Secretary of State, transmitting, pursuant to law, notice of the convening of an accountability review board to look into facts and circumstances surrounding events at and near our embassy in Tegucigalpa, Honduras; to the Committee on Foreign Relations.

EC-47. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the thirteenth 909 day report on the investigation into the death of Enrique Camarena and the investigation of the disappearance of United States citizens in the state of Jalisco, Mexico and the general safety of United States tourists in Mexico; to the Committee on Foreign Relations.

EC-48. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the text of certain International Labor Organization agreements; to the Committee on Foreign Relations.

EC-49. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the text of certain International Labor Organization agreements; to the Committee on Foreign Relations.

EC-50. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the text of certain International Labor Organization agreements; to the Committee on Foreign Relations.

EC-51. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the text of certain International Labor Organization agreements; to the Committee on Foreign Relations.

EC-52. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty-day period prior to November 10, 1988; to the Committee on Foreign Relations.

EC-53. A communication from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting, pursuant to law, a report analyzing the impact of International Monetary Fund supported economic adjustment programs implemented during 1987 on the provision of basic human needs in program countries; to the Committee on Foreign Relations.

EC-54. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the Presidential determination with respect to certain specialized agencies of the United Nations System; to the Committee on Foreign Relations.

EC-55. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to October 27, 1988; to the Committee on Foreign Relations.

EC-56. A communication from the Secretary of State, transmitting, pursuant to law, notice of a decision relating the new U.S. Embassy building in Moscow; to the Committee on Foreign Relations.

EC-57. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the designation of Afghans returning to Afghanistan and internally displaced Afghans as eligible for assistance under the Migration and Refugee Assistance Act; to the Committee on Foreign Relations.

EC-58. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, notice of the approval of a demonstration project for ten Federal Aviation Administration facilities; to the Committee on Governmental Affairs.

EC-59. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the annual report on actions taken under the Program Fraud Civil Remedies Act for fiscal year 1988; to the Committee on Governmental Affairs

EC-60. A communication from the Secretary to the Railroad Retirement Board, transmitting, pursuant to law, the annual report on activities under the Program-Fraud Civil Remedies Act for fiscal year 1988; to the Committee on Governmental Affairs.

EC-61. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 79 244 adopted by the Council on October 11, 1988; to the Committee on Governmental Affairs.

EC-62. A communication from the Special Counsel to the Merit Systems Protection Board, transmitting, pursuant to law, a report of the Administrator of Veterans Affairs setting forth findings and conclusions in an investigation; to the Committee on Governmental Affairs.

EC-63. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Congressional Award Program: Problems at the National Level Must Be Solved if the Program is to Progress"; to the Committee on Governmental Affairs.

EC-64. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Examination of GSA's Financial Statements for Fiscal Years 1987 and 1986"; to the Committee on Governmental Affairs.

EC-65. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report of a proposed Privacy Act system of records, Evaluation of the medicare Alzheimer's Disease Demonstration, System No. 09-70-0039; to the Committee on Governmental Affairs.

EC-66. A communication from the Attorney General, transmitting, pursuant to law, the annual report for the fiscal year 1988, on the activities of the Department of Justice to recover indebtedness owed the United States which was referred to the Department for collection; to the Committee on Governmental Affairs.

EC-67. A communication from the Assistant Secretary for Budget and Programs, Department of Transportation, transmitting, pursuant to law, an annual report summarizing actions taken under the Program Fraud Civil Remedies Act of 1986; to the Committee on Governmental Affairs.

EC-68. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a request for Congressional action to amend a provision of the District of Columbia Self-Government and Governmental Reorganization Act; to the Committee on Governmental Affairs.

EC-69. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 79 245, adopted by the Council on October 11, 1988; to the Committee on Governmental Affairs.

EC-70. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to international narcotics control assistance provided pursuant to the Foreign Assistance Act of 1961; to the Committee on the Judiciary.

EC-71. A communication from the National Commander, American Ex-Prisoners of War, transmitting, pursuant to law, the 1988 audit report as of August 31, 1988, for the American Ex-Prisoners of War; to the Committee on the Judiciary.

EC-72. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Tenth Annual Report to Congress pursuant to Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976; to the Committee on the Judiciary.

EC-73. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the second of three annual GAO reports required by Section 101(a) of the Immigration Reform and Control Act of 1986; to the Committee on the Judiciary.

EC-74. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on Final Regulations—Training Personnel for the Education of the Handicapped; to the Committee on Labor and Human Resources.

EC-75. A communication from the Majority Leader of the Senate, transmitting the United States Senate Security Manual; to the Committee on Rules and Administration.

EC-76. A communication from the Administrator, Veteraans' Administration, transmitting, pursuant to law, a report on the sharing of Medical Resources program of the Veterans' Administration for Fiscal Year 1988; to the Committee on Veterans' Affairs.

EC-77. A communication from the President of the Vietnam Veterans of America, Inc., transmitting, pursuant to law, the Vietnam Veterans of America annual report and audit; to the Committee on Veterans' Affairs.

EC-78. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the labor market situation for veterans prepared by the Bureau of Labor Statistics; to the Committee on Veterans' Affairs.

EC-79. A communication from the Comptroller General of the United States, transmitting a report on Agricultural issues facing agency heads in the new administration; to the Committee on Agriculture, Nutrition, and Forestry.

EC-80. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report relative to the Omnibus Trade and Competitiveness Act of 1988; to the Committee on Agriculture, Nutrition, and Forestry.

EC-81. A communication from the Architect of the Capitol, transmitting, pursuant to law, a report of all expenditures during the period April 1, 1988 through September 30, 1988 from the moneys appropriated to the Architect of the Capitol; to the Committee on Appropriations.

EC-82. A communication from the Comptroller General of the United States, transmitting a report on defense issues facing the new administration and the Congress; to the Committee on Armed Services.

EC-83. A communication from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on the conversion of certain functions to performance by contract at the Naval Air Station, Patuxent River, Maryland; to the Committee on Armed Services.

EC-84. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of certain functions to performance by contract at Edwards Air Force Base, California; to the Committee on Armed Services.

EC-85. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on Tied-Aid Credit; to the Committee on Banking, Housing, and Urban Affairs.

EC-86. A communication from the Comptroller General of the United States, transmitting a report on Housing and Urban Development issues facing agency heads in the new administration; to the Committee on Banking, Housing, and Urban Affairs.

EC-87. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to Venezuela; to the Committee on Banking, Housing, and Urban Affairs.

EC-88. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to Venezuela; to the Committee on Banking, Housing, and Urban Affairs.

EC-89. A communication from the Comptroller General of the United States, transmitting a report on Transportation issues facing agency heads in the new administration; to the Committee on Commerce, Science, and Transportation.

EC-90. A communication from the Director of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a report on the rule recently promulgated by the Commission to ban lawn darts; to the Committee on Commerce, Science, and Transportation.

EC-91. A communication from the Comptroller General of the United States, transmitting a report on NASA issues facing the new administration and the Congress; to the Committee on Commerce, Science, and Transportation.

EC-92. A communication from the Acting Chairman, National Transportation Safety Board, transmitting, pursuant to law, a copy of the National Transportation Safety Board's letter to the OMB appealing the FY 1990 allowance of $25,586,000 for the Board; to the Committee on Commerce, Science, and Transportation.

EC-93. A communication from the Acting Chairman, National Transportation Safety Board, transmitting, pursuant to law, a copy of the National Transportation Safety Board's submission to the OMB on increased pay costs resulting from the FY 1989 4.1 percent pay raise; to the Committee on Commerce, Science, and Transportation.

EC-94. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report of the Fish and Wildlife Service, Department of the Interior, on the administration of the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

EC-95. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-96. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled "Comprehensive Program and Plan for Federal Energy Education: Extension and Information Activities;" to the Committee on Energy and Natural Resources.

EC-97. A communication from the Comptroller General of the United States, transmitting a report on energy issues facing agency heads in the new administration; to the Committee on Energy and Natural Resources.

EC-98. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, a report on the Department's use of Environmental Protection Agency's (EPA) Superfund monies for Fiscal Year 1987; to the Committee on Environment and Public Works.

EC-99. A communication from the Administrator, U.S. Environmental Protection Agency, transmitting, pursuant to law, a report on the Comparative Health Effects Assessment of Drinking Water Treatment Technologies, in response to section 302 of the Safe Drinking Water Act Amendments of 1986; to the Committee on Environment and Public Works.

EC-100. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on revenue options facing the next Congress and Administration; to the Committee on Finance.

EC-101. A communication from the U.S. Trade Representative, Executive Office of the President, transmitting, pursuant to law, a report under Section 101(c) of the United States-Canada Free-Trade Agreement Implementation Act; to the Committee on Finance.

EC-102. A communication from the Comptroller General of the United States, transmitting a report on internal revenue issues facing the new Congress and administration; to the Committee on Finance.

EC-103. A communication from the Director of the Office of Technology Assessment, transmitting, pursuant to law, the OTA's Second Report on the Prospective Payment Assessment Commission (ProPac) and OTA's Second Report on the Physician Payment Review Commission (PPRC); to the Committee on Finance.

EC-104. A communication from the Chairman, Prospective Payment Assessment Commission, transmitting, pursuant to law, a report on the adjustments made by the Secretary of Health and Human Services for the fiscal year 1989 Medicare prospective payment system; to the Committee on Finance.

EC-105. A communication from the Comptroller General of the United States, transmitting a report on Department of State issues facing many key agency heads in the new administration; to the Committee on Foreign Relations.

EC-106. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements other than treaties entered into by the United States; to the Committee on Foreign Relations.

EC-107. A communication from the Acting Secretary, U.S. Postal Rate Commission, transmitting, pursuant to law, the Commission's notice and order concerning filing of petition of Warshawsky & Company for initiation of rulemaking to amend procedural requirements concerning cost and volume data required to support proposals for changes in third-class postal rates; to the Committee on Governmental Affairs.

EC-108. A communication from the Administrator, Agency for International Development, transmitting, pursuant to law, the semiannual report of the Inspector General; to the Committee on Governmental Affairs.

EC-109. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on the findings and recommendations of the Office of Personnel Management review of the use of Veterans' Readjustment Appointments (VRA) and special "on call" employment practices at Tooele Army Depot, Tooele, Utah; to the Committee on Governmental Affairs.

EC-110. A communication from the Comptroller General of the United States, transmitting a report on program evaluation issues facing the new Congress and administration; to the Committee on Governmental Affairs.

EC-111. A communication from the Comptroller General of the United States, transmitting a report on information technology issues facing the new administration; to the Committee on Governmental Affairs.

EC-112. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, a report covering the disposal of surplus Federal real property for historic monument and correctional facility purposes; to the Committee on Governmental Affairs.

EC-113. A communication from the Acting Administrator, General Services Administration, transmitting, pursuant to law, the administration's (GSA's) Office of Inspector General Report to Congress; to the Committee on Governmental Affairs.

EC-114. A communication from the Acting Deputy Under Secretary, Department of Education, transmitting, pursuant to law, a report of a new system of records; to the Committee on Governmental Affairs.

EC-115. A communication from the Secretary of Education, transmitting, pursuant to law, the seventeenth Semiannual Report of the Office of Inspector General; to the Committee on Governmental Affairs.

EC-116. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report to Congress; to the Committee on Governmental Affairs.

EC-117. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, the Inspector General's Semiannual Report to Congress; to the Committee on Governmental Affairs.

EC-118. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, the Office of Inspector General's Semiannual Report to Congress; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 1. A resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

By Mr. DOLE:

S. Res. 2. A resolution informing the House of Representatives that a quorum of the Senate is assembled; considered and agreed to.

By Mr. MITCHELL:

S. Res. 3. A resolution to elect Robert C. Byrd, a Senator from the State of West Virginia, to be President pro tempore of the Senate of the United States; considered and agreed to.

S. Res. 4. A resolution notifying the President of the United States of the election of a President pro tempore; considered and agreed to.

By Mr. CRANSTON:

S. Res. 5. A resolution notifying the House of Representatives of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore; considered and agreed to.

By Mr. MITCHELL:

S. Res. 6. A resolution congratulating Robert C. Byrd, a Senator from the State of West Virginia, on his election as President pro tempore of the United States Senate; considered and agreed to.

S. Res. 7. A resolution fixing the hour of daily meeting of the Senate; considered and agreed to.

S. Res. 8. A resolution authorizing the President pro tempore of the Senate to administer the oath of office to the Honorable Edward M. Kennedy, of Massachusetts; considered and agreed to.

By Mr. FORD:

S. Con. Res. 1. A concurrent resolution to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States; considered and agreed to.

S. Con. Res. 2. A concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 141; considered and agreed to.

By Mr. MITCHELL:

S. Con. Res. 3. A concurrent resolution providing for a recess of the Senate from January 4, 1989, to January 20, 1989, and an adjournment of the House from January 4, 1989 to January 19, 1989; considered and agreed to.

SENATE CONCURRENT RESOLUTION 1—TO PROVIDE FOR THE COUNTING OF THE ELECTORAL VOTES FOR PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. FORD submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representives on Wednesday, the 4th day of January 1989, at 1 o'clock post meridiem, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed of sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

SENATE CONCURRENT RESOLUTION 2—EXTENDING THE LIFE OF THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. FORD submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1989, the joint committee created by Senate Concurrent Resolution 105 of the One Hundredth Congress, to make the necessary arrangements for the

inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1989, the provisions of Senate Concurrent Resolution 141 of the One Hundredth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, are hereby continued with the same power and authority.

SENATE CONCURRENT RESOLUTION 3—PROVIDING FOR A RECESS OF THE SENATE AND AN ADJOURNMENT OF THE HOUSE

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, January 4, 1989, at the conclusion of the joint session to count the electoral votes, it stand in recess until 3 o'clock post meridiem on Friday, January 20, 1989, and that when the House of Representatives adjourns on Wednesday, January 4, 1989, it stand adjourned until 12 o'clock noon on Thursday, January 19, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the Senate recesses on Friday, January 20, 1989, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, it stand in recess until 12 o'clock noon on Wednesday, January 25, 1989.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

SENATE RESOLUTION 1—INFORMING THE PRESIDENT OF THE UNITED STATES THAT A QUORUM OF EACH HOUSE IS ASSEMBLED

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

SENATE RESOLUTION 2—INFORMING THE HOUSE OF REPRESENTATIVES THAT A QUORUM OF THE SENATE IS ASSEMBLED

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

SENATE RESOLUTION 3—RESOLUTION TO ELECT ROBERT C. BYRD AS PRESIDENT PRO TEMPORE OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 3

Resolved, That Robert C. Byrd, a Senator from the State of West Virginia, be, and he is hereby, elected President of the Senate pro tempore, to hold office during the pleasure of the Senate, in accordance with rule I, paragraph 1, of the Standing Rules of the Senate.

SENATE RESOLUTION 4—NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 4

Resolved, That the President of the United States be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

SENATE RESOLUTION 5—NOTIFYING THE HOUSE OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. CRANSTON submitted the following resolution; which was considered and agreed to:

S. RES. 5

Resolved, That the House of Representatives be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

SENATE RESOLUTION 6—CONGRATULATING ROBERT C. BYRD ON HIS ELECTION AS PRESIDENT PRO TEMPORE OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 6

Resolved, That the Majority Leader and the Minority Leader of the Senate, on behalf of the Senate, congratulate Robert C. Byrd, a Senator from the State of West Virginia, upon his election as President pro tempore of the United States Senate.

SENATE RESOLUTION 7—FIXING THE DAILY MEETING HOUR OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 7

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridiem unless otherwise ordered.

SENATE RESOLUTION 8—AUTHORIZING THE PRESIDENT PRO TEMPORE TO ADMINISTER THE OATH OF OFFICE TO SENATOR EDWARD M. KENNEDY

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 8

Resolved, That the President pro tempore of the Senate be, and he is hereby, authorized to administer the oath of office during a recess or adjournment of the Senate to the Honorable Edward M. Kennedy, of Massachusetts, and that the said oath, when administered as herein authorized, shall be accepted and received by the Senate as the oath of office of the said Edward M. Kennedy.

ADDITIONAL STATEMENTS

GREECE VOLUNTEER AMBULANCE SERVICE, INC.

● Mr. D'AMATO. Mr. President, in every community there is a group of people taken for granted. If, God forbid, a loved one is in physical danger, we assume that medical assistance will arrive. Unfortunately, we don't always appreciate this help, our local ambulance corps, unless we need it. I rise today to honor one corps in particular—the Greece Volunteer Ambulance Service [GVA] of Greece, NY—on its 30-year anniversary.

The GVA, a certified ambulance corps, is completely staffed by volunteers, and has greatly contributed to the Greece community for 30 years. Just recently, in fact, it reached its 1-million-mile mark of transport service. Other community services it provides include a 24-hour American Red Cross emergency first aid station, blood pressure checks, CPR and first aid classes, and first aid support for community events.

The GVA volunteers are certified New York State emergency medical technicians and advanced New York State emergency medical technicians. Of course, education is a must—technicians spend up to 2½ years training in either basic life support [BLS] or advanced life support [ALS]. Continuing education is also essential—every 3 years they must be recertified.

Originally incorporated with 12 charter members, the GVA's membership has grown to 150 members. First located at the old treatment plant on Dewey Avenue, it then moved to its present position at a four-bay base on Long Pond Road.

For all of their selfless and generous support to the Greece community, I

salute the GVA volunteers and supporters. Their work and accomplishments do not go unnoticed. I am proud to have such a fine organization in my home State of New York.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Sarah Sewall, a member of the staff of Senator MITCHELL, to participate in a program in the Middle East, sponsored by the National Council on United States-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, from November 9–22, 1988.

The committee has determined that participation by Ms. Sewall in the program in the Middle East, at the expense of the National Council on United States-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Judith Freedman, a member of the staff of Armed Services Committee, to participate in a program in the Middle East, sponsored by the National Council on United States-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, from November 9–22, 1988.

The committee has determined that participation by Ms. Freedman in the program in the Middle East, at the expense of the National Council on United States-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Gina Despres, a member of the staff of Senator BRADLEY, to participate in a program in Tokyo, Japan, sponsored by the Policy Study Group of Japan, from October 30 to November 6, 1988.

The committee has determined that participation by Ms. Despres in the program in Tokyo, Japan, at the expense of the Policy Study Group of Japan, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Tom Bauer, a member of the staff of Senator SIMPSON, to participate in a program in West Germany, sponsored by the Konrad Adenauer Stiftung, from November 26–December 3, 1988.

The committee has determined that participation by Mr. Bauer in the program in West Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Tom Bauer, a member of the staff of Senator SIMPSON, to participate in a program in Taiwan, sponsored by Soochow University, from November 10–19, 1988.

The committee has determined that participation by Mr. Bauer in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mark W. Weller, a member of the staff of Senator LUGAR, to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from November 13–21, 1988.

The committee has determined that participation by Mr. Weller in the program in Taipei, Taiwan, at the expense of Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Jack Gerard, a member of the staff of Senator MCCLURE, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from November 10–19, 1988.

The committee has determined that participation by Mr. Gerard in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Bill LaForge, a member of the staff of Senator COCHRAN, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from November 9–19, 1988.

The committee has determined that participation by Mr. LaForge in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Judith Wagner, a member of the staff of Senator SIMON, to participate in a program in Taipei, Taiwan, from November 13–21, 1988.

The committee has determined that participation by Ms. Wagner in the program in Taiwan, at the expense of Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Lorne Craner, a member of the staff of Senator MCCAIN, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from November 10–19, 1988.

The committee has determined that participation by Mr. Craner in the program in Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Brent Franzel, a member of the staff of Senator BOND, to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from November 13–21, 1988.

The committee has determined that participation by Mr. Franzel in the program in Taiwan, at the expense of Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Jonathan Stein, a member of the staff of Senator SIMON, to participate in a program in East Germany, sponsored by the Konrad Adenauer Stiftung, from November 26–December 3, 1988.

The committee has determined that participation by Mr. Stein in the program in East Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ira Wolf, a member of the staff of Senator ROCKEFELLER, to participate in a program in China sponsored by the Chinese People's Institute for Foreign Affairs, from December 5–13, 1988.

The committee has determined that participation by Mr. Wolf in the program in China, at the expense of the Chinese People's Institute for Foreign Policy, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Jim Fitzhenry, a member of the staff of Senator HATFIELD, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from December 3–14, 1988.

The committee has determined that participation by Mr. Fitzhenry in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Marjorie Chorlins, a member of the staff of Senator DANFORTH, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from December 3–15, 1988.

The committee has determined that participation by Ms. Chorlins in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Tim Roemer, a member of the staff of Senator DECONCINI, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from December 4-15, 1988.

The committee has determined that participation by Mr. Roemer in the program in China, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. John Starrels, a member of the staff of the Joint Economic Committee, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Foundation, from November 26 to December 3, 1988.

The committee has determined that participation by Dr. Starrels, in the program in Germany, at the expense of the Konrad Adenauer Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Greg Billings, a member of the staff of Senator DASCHLE, to participate in a program in Taiwan sponsored by the Tunghai University, from November 10-19, 1988.

The committee has determined that participation by Mr. Billings in the program in Taiwan, at the expense of the Tunghai University, is in the interest of the Senate and the United States.●

RECESS

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess until 12 noon, Wednesday, January 4, 1989.

The motion was agreed to; and at 2:36 p.m. the Senate recessed until Wednesday, January 4, 1989, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 3, 1989:

NOMINATIONS SENT TO THE SENATE FOR THE FOLLOWING-NAMED PERSONS TO WHICH OFFICE THEY WERE APPOINTED DURING THE LAST RECESS OF THE SENATE:

EXECUTIVE OFFICE OF THE PRESIDENT

JOSEPH ROBERT WRIGHT, JR., OF OKLAHOMA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE JAMES C. MILLER III, RESIGNED.

ACTION AGENCY

JANE A. KENNY, OF VIRGINIA, TO BE DEPUTY DIRECTOR OF THE ACTION AGENCY, VICE HENRY M. VENTURA, RESIGNED.

DEPARTMENT OF COMMERCE

LEW W. CRAMER, OF CALIFORNIA, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE (NEW POSITION—P. 100-418).

COMMODITY FUTURES TRADING COMMISSION

WILLIAM P. ALBRECHT, OF IOWA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1993, VICE WILLIAM E. SEALE, RESIGNED.

DEPARTMENT OF DEFENSE

LAWRENCE L. LAMADE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY (NEW POSITION).

DEPARTMENT OF EDUCATION

PATRICK PIZZELLA, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF EDUCATION, VICE MARY MCNALLY ROSE, RESIGNED.

MICHELLE EASTON, OF VIRGINIA, TO BE DEPUTY UNDER SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION, VICE PETER R. GREER, RESIGNED.

CHARLES E.M. KOLB, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY UNDER SECRETARY FOR PLANNING, BUDGET AND EVALUATION, DEPARTMENT OF EDUCATION, VICE BRUCE M. CARNES, RESIGNED.

KENNETH D. WHITEHEAD, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION, VICE C. RONALD KIMBERLING, RESIGNED.

DEPARTMENT OF ENERGY

JOHN R. BERG, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF ENERGY (CONSERVATION AND RENEWABLE ENERGY), VICE DONNA R. FITZPATRICK.

FRANCIS S. RUDDY, OF TEXAS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE J. MICHAEL FARRELL, RESIGNED.

FEDERAL TRADE COMMISSION

MARGOT E. MACHOL, OF THE DISTRICT OF COLUMBIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1987, VICE PATRICIA PRICE BAILEY, RESIGNED.

INTER-AMERICAN DEVELOPMENT BANK

LARRY K. MELLINGER, OF CALIFORNIA, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS, VICE JOSE MANUEL CASANOVA, RESIGNED.

DEPARTMENT OF THE INTERIOR

BECKY NORTON DUNLOP, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR, VICE WILLIAM P. HORN, RESIGNED.

JANET J. MCCOY, OF OREGON, TO AN ASSISTANT SECRETARY OF THE INTERIOR, VICE RICHARD THOMAS MONTOYA, RESIGNED.

ROBERT H. GENTILE, OF OHIO, TO BE DIRECTOR OF THE OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, VICE JED DEAN CHRISTENSEN, RESIGNED.

DEPARTMENT OF LABOR

DAVID COURTLAND O'NEAL, OF ILLINOIS, TO BE ASSISTANT SECRETARY OF LABOR FOR MINE SAFETY AND HEALTH, VICE DAVID A. ZEGEER, RESIGNED.

FRANCIS J. DUGGAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE WILLIAM JOHN MARONI.

JERRY D. BLAKEMORE, OF ILLINOIS, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE DAVID F. DEMAREST, RESIGNED.

JILL HOUGHTON EMERY, OF NEW YORK, TO BE DIRECTOR OF THE WOMEN'S BUREAU, DEPARTMENT OF LABOR, VICE SHIRLEY DENNIS, RESIGNED.

LEGAL SERVICES CORPORATION

J. BLAKELEY HALL, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 1989, VICE LEAANNE BERNSTEIN, TERM EXPIRED.

MERIT SYSTEMS PROTECTION BOARD

SAMUEL W. BOGLEY, OF MARYLAND, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 1995, VICE DENNIS M. DEVANEY, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

DENNIS M. DEVANEY, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 16, 1989, VICE MARSHALL B. BABSON, RESIGNED.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

LINDA LUGENIA AREY, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR THE TERM EXPIRING APRIL 27, 1993, VICE JOHN R. WALL, TERM EXPIRED.

RAILROAD RETIREMENT BOARD

THOMAS J. SIMON, OF VIRGINIA, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD FOR THE TERM OF FIVE YEARS FROM AUGUST 29, 1987, VICE ROBERT A. GIELOW, TERM EXPIRED.

SECURITIES AND EXCHANGE COMMISSION

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 1989, VICE AULANA L. PETERS, RESIGNED.

DEPARTMENT OF STATE

SONIA LANDUA, OF NEW YORK, TO BE COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY, WITH THE RANK OF AMBASSADOR, VICE DIANA LADY DOUGAN, RESIGNED.

KEITH LAPHAM BROWN, OF COLORADO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO DENMARK.

JOHN RANDOLPH HUBBARD, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

WILLIAM ANDREAS BROWN, OF NEW HAMPSHIRE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

RICHARD WOOD BOEHM, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANAGE OF OMAN.

DEPARTMENT OF TRANSPORTATION

GREGORY S. DOLE, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE MATTHEW V. SCOCOZZA, RESIGNED.

UNITED STATES INFORMATION AGENCY

HENRY E. HOCKEIMER, OF MICHIGAN, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY, VICE WOODWARD KINGMAN, RESIGNED.

DEPARTMENT OF STATE

MICHAEL USSERY, OF SOUTH CAROLINA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

INTER-AMERICAN FOUNDATION

JOHN C. DUNCAN, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 1992, VICE LOUIS GUERRERO NOGALES, TERM EXPIRED.

DEPARTMENT OF DEFENSE

GEORGE TRYON HARDING, IV, OF OHIO, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR THE REMAINDER OF THE TERM EXPIRING MAY 1, 1989, VICE FRANCIS CARTER COLEMAN, DECEASED.

DEPARTMENT OF ENERGY

CHANDLER L. VAN ORMAN, OF MARYLAND, TO BE ADMINISTRATOR OF THE ECONOMIC REGULATORY ADMINISTRATION, VICE MARSHALL A. STAUNTON, RESIGNED.

DEPARTMENT OF EDUCATION

PATRICIA MAYES HINES, OF SOUTH CAROLINA, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION, VICE CHESTER EVANS FINN, JR., RESIGNED.

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

WILLIAM G. GOETZ, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1990, VICE ONALEE MCGRAW, TERM EXPIRED.

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR TERMS EXPIRING SEPTEMBER 30, 1991:

DONALD M. CLARK, OF NEW YORK, VICE DONALD BARR, TERM EXPIRED.

CARL M. KUTTLER, JR., OF FLORIDA, VICE JOAN M. GUBBINS, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

F. CLIFTON WHITE, OF CONNECTICUT, TO BE A MEMBER OF THE ADVISORY BOARD FOR RADIO BROADCASTING TO CUBA FOR A TERM OF TWO YEARS. (NEW POSITION)

BOARD FOR INTERNATIONAL BROADCASTING

ARCH MADSEN, OF UTAH, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING MAY 20, 1989, VICE LILLA BURT CUMMINGS TOWER.

EXECUTIVE OFFICE OF THE PRESIDENT

JOHN F. COGAN, OF CALIFORNIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, VICE JOSEPH ROBERT WRIGHT, JR.

FEDERAL INSURANCE TRUST FUNDS

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARDS OF TRUSTEES OF THE FEDERAL HOSPITAL INSURANCE TRUST FUND; THE FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST FUND; AND THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND FOR TERMS OF FOUR YEARS:

MARY FALVEY FULLER, OF CALIFORNIA. (REAPPOINTMENT)

SUZANNE DENBO JAFFE, OF NEW YORK. (REAPPOINTMENT)

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

GEORGE JAMES BENSTON, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION. (NEW POSITION)

FEDERAL LABOR RELATIONS AUTHORITY

KATHLEEN DAY KOCH, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE DENNIS M. DEVANEY.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

DELBA WINTHROP, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF FOUR YEARS (NEW POSITION).

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR TERMS OF SIX YEARS:

LANCE BANNING, OF KENTUCKY (NEW POSITION).

JOAN R. CHALLINOR, OF THE DISTRICT OF COLUMBIA (NEW POSITION).

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

ELINOR H. SWAIM, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR THE REMAINDER OF THE TERM EXPIRING JULY 19, 1989, VICE PATRICIA BARBOUR, RESIGNED.

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR TERMS EXPIRING JULY 19, 1993:

WANDA L. FORBES, OF SOUTH CAROLINA (REAPPOINTMENT).

MARGARET PHELAN, OF KANSAS (REAPPOINTMENT).

CHARLES E. REID, OF NEW JERSEY, VICE BESSIE BOEHM MOORE, TERM EXPIRED.

NATIONAL CONSUMER COOPERATIVE BANK

EWEN M. WILSON, AN ASSISTANT SECRETARY OF AGRICULTURE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF THREE YEARS, VICE ROBERT L. THOMPSON.

NATIONAL COUNCIL ON DISABILITY

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COUNCIL ON DISABILITY FOR THE REMAINDER OF THE TERMS EXPIRING SEPTEMBER 17, 1989:

JOHN A. GANNON, OF OHIO, VICE HARRY J. SUTCLIFFE, DECEASED.

GEORGE H. OBERLE, JR., OF OKLAHOMA, VICE CAROLYN L. VASH, RESIGNED.

MARGARET CHASE HAGER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1990, VICE JOHN S. ERTHEIN, TERM EXPIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

EARL ROGER MANDLE, OF OHIO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1994, VICE RAYMOND J. LEARSY, TERM EXPIRED.

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR TERMS EXPIRING JANUARY 26, 1994:

GARY L. MCDOWELL, OF LOUISIANA, VICE RITA RICARDO-CAMPBELL, TERM EXPIRED.

JEANNE J. SMOOT, OF NORTH CAROLINA, VICE ELLIS SANDOZ, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR TERMS EXPIRING MAY 10, 1994:

ARDEN L. BEMENT, JR., OF OHIO, VICE ROBERT F. GILKESON, TERM EXPIRED.

D. ALLAN BROMLEY, OF CONNECTICUT, VICE CHARLES E. HESS, TERM EXPIRED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

CLARENCE J. BROWN, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1990, VICE RICHARD F. HOHLT, TERM EXPIRED.

SECURITIES INVESTOR PROTECTION CORPORATION

FREDERICK N. KHEDOURI, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1990, VICE DAVID F. GOLDBERG, TERM EXPIRED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

PHILIP LAWRENCE CHRISTENSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE JULIA CHANG BLOCH, RESIGNED.

PEACE CORPS NATIONAL ADVISORY COUNCIL

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR TERMS OF ONE YEAR EXPIRING OCTOBER 6, 1989 (NEW POSITIONS):

PETER L. BOYNTON, OF VIRGINIA

ROBERT W. HAZLETT, OF THE DISTRICT OF COLUMBIA.

CREIGHTON E. MERSHON, SR., OF KENTUCKY.

JOHN J. PETILLO, OF NEW JERSEY.

ALICE ROXANA THOMPSON, OF VIRGINIA.

COLLEEN TOY WHITE, OF CALIFORNIA.

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR TERMS OF TWO YEARS EXPIRING OCTOBER 6, 1990 (NEW POSITIONS):

JOHN BIGELOW, OF IDAHO.

MARC L. HOLTZMAN, OF PENNSYLVANIA.

MAUREEN O'HARA, OF FLORIDA.

JOSEPHINE K. OLSEN, OF MARYLAND.

GARY DALE ROBINSON, OF WASHINGTON.

SUE WAGNER, OF NEVADA.

ALSO THE FOLLOWING NOMINATIONS:

DISTRICT OF COLUMBIA COURT OF APPEALS

MICHAEL W. FARRELL, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF FIFTEEN YEARS, VICE WILLIAM CORNET PRYOR, RETIRED.

NATIONAL LABOR RELATIONS BOARD

THE FOLLOWING-NAMED PERSONS TO BE MEMBERS OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERMS INDICATED, TO WHICH POSITIONS THEY WERE APPOINTED DURING THE RECESS OF THE SENATE FROM AUGUST 11, 1988, TO SEPTEMBER 7, 1988:

FOR THE TERM OF FIVE YEARS EXPIRING DECEMBER 16, 1992:

JOHN E. HIGGINS, JR., OF MARYLAND, VICE DONALD L. DOTSON, TERM EXPIRED.

FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 1993:

WILFORD W. JOHANSEN, OF CALIFORNIA (REAPPOINTMENT).

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

EVERETT ELLIS BRIGGS, OF MAINE.

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DAVID BRYAN DLOUHY, OF TEXAS.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES INFORMATION AGENCY FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

JAMES A. MCGINLEY III, OF FLORIDA.

HERWALD H. MORTON, OF MARYLAND.

MICHAEL T. F. PISTOR, OF ARIZONA.

MORTON S. SMITH, OF MARYLAND.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ROBERT P. JORDAN, OF TEXAS.

MARILYN MCAFEE, OF FLORIDA.

JOHN M. REID, OF VIRGINIA.

WESLEY D. STEWART, OF VIRGINIA.

RICHARD EDWARD UNDELAND, OF VIRGINIA.

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE UNITED STATES INFORMATION AGENCY FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

PETER J. ANTICO, OF NEW YORK.

JOHN B. BARTON, OF FLORIDA.

JOHN THOMAS BURNS, OF FLORIDA.

JAMES BRAERTON CARROLL, OF ILLINOIS.

ANTHONY B. CHILLURA, OF FLORIDA.

GAIL J. GULLIKSEN, OF COLORADO.

BERNARD MICHAEL HENSGEN, OF VIRGINIA.

THOMAS A. HOMAN, OF NEW MEXICO.

MARY ROBERTA JONES, OF THE DISTRICT OF COLUMBIA.

DAVID K. KRECKE, OF MARYLAND.

FREDERICK E. V. LA SOR, OF OHIO.

WILLIAM HENRY MAURER, JR., OF VIRGINIA.

ROBERT E. MCDOWELL, JR., OF KENTUCKY.

ROBERT PETERSEN, OF OHIO.

RICHARD CHARLES SCHOONOVER, OF CALIFORNIA.

JAMES EARL SMITH, OF ARKANSAS.

THOMAS E. E. SPOONER, OF MICHIGAN.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be medical director

DUANE F. ALEXANDER
JOHN J. CLINTON JR.
ARTHUR S. LEVINE
JAMES O. MASON
PAUL J. WIESNER

To be senior surgeon

RICHARD L. FODOR
MARK HALLETT
JAMES M. HUGHES
DARREL A. REGIER
EVERETT R. RHOADES
RICHARD G. WYATT
FRANK E. YOUNG

To be surgeon

MARC E. BABITZ
RONALD G. BANKS
JEFFREY A. LYBARGER
RICHARD D. MANDSAGER
JEFFREY J. SACKS
HAROLD W. SCHNEIDER JR.
STEPHEN B. THACKER
THEODORE F. TSAI

To be senior assistant surgeon

ROBERT F. CHESBRO JR.
TERRENCE L. CHORBA
RICHARD C. DICKER
STEVEN H. FOX
JOSEPH P. ISER
MARTIN J. KILEEN
DAVID M. MANNINO III
WILLIAM J. MARX JR.
FRANK O. RICHARDS JR.
WILLIAM M. SAPPENFIELD
PAUL J. SELIGMAN
ROBERT V. TAUXE
ROBERT P. WISE

To be dental surgeon

ROBERT L. NEALON

To be senior assistant dental surgeon

HOWARD A. ANDERSON
WILLIAM D. BAILEY
GREGORY K. BAKER
ROBERT J. BENCIC
ALLEN M. BERGESON
SCOTT BINGHAM
THOMAS B. BORNSTEIN
JAMES L. CARPENTER
MAUREEN P. CLEARY
MICHAEL J. CRISTY
MARTIN E. DUCHSCHER
ROBERT F. FELKER JR.
MICHAEL A. FOSTER
CHARLES W. GRIM
LORRINE M. HENDERSON
DAVID J. HERMAN
MYRON S. HILTON
RONALD L. JEFFREY
DERRICK T. JOHNSTON
KENNETH T. JONES
THOMAS J. KOVALESKI
RANDALL B. MAYBERRY
ROBERT M. MCCARTHY
GENE J. MCELHINNEY
MARILYN R. MCKEAN
STEVE J. MESCHER
MARK E. NEHRING
ANGEL L. RODRIGUEZ-ESPADA
RAUL A. ROMAGUERA
RICHARD B. TROYER
CLIFFORD D. WHITE

To be senior nurse officer

JOSEPHINE T. WACONDA

To be nurse officer

SHIRLEY A. BOWMAN
KATHYRN L. MCKEON
BEVERLY R. WRIGHT

To be senior assistant nurse officer

JANICE A. BENNETT
EDWARD J. BOES
MICHAEL D. BROWN
JUDITH H. BUDD
MICHAEL W. CHANEY
PATSY J. CLARK-ANDERSON
DORIS L. CLARKE
LESLIE C. COOPER
CHARLES S. CULVER
HOWARD E. DOTY
JANICE A. DRASS
MELVIN T. EDDLESTON
LINDA G.M. FERGUSON

GALE L. HEAVNER
CLARA L. HENDERSON
DIANE P. HOLZEM
GLENDA O. JARRETT
CHRISTOPHER J. JONES
COLLEEN B. JONES
DOROTHY L. JONES
DAVID L. KERSCHNER
MARK P. LECAPITAINE
CALVIN J. MARSHALL
TIMOTHY E. MATHEWS
DEBORAH S. MAYO
JAMES C. MCCANN
EVANGELINA A. MONTOYA
JOHN S. MOTTER
JOHN D. ORELLA
DEBORAH L. PARHAM
KOLYNN F. POWELL
MERIBETH M. REED
RUDOLF R. REICHELT
CAROLYN K. RILEY
LATRICIA C. ROBERTSON
CHERYL A. SEAMAN
MICHAEL A. SHEETS
ANNETTE C. SIEMENS
DOROTHY J. SOLICK
JAMES T. STACKHOUSE
ANDREW C. STEVERMER
DAVID W. TEBOREK
MICHAEL L. VITCH
MARILYN J. VRANAS
BARBARA L. WARFIELD
JOYCE B. WATSON
GALE G. WHITE
DENISE M. WILLIAMS

To be assistant nurse officer

RANDALL W. BOHAM
THOMAS M. CONRAD
LAURIE S. IRWIN-PINKLEY
ELLEN J. KING
KITTY R. MACFARLANE
CRAIG M. POOLE

To be engineer officer

DONALD B. BAD MOCCASIN
RICHARD M. GARWOOD

To be senior assistant engineer officer

RANDALL L. BACHMAN
DENNIS A. BARBER
ALBERT J. BERRETH
DANIEL J. CARPENTER
KEVIN S. CHADWICK
THOMAS C. CLOUTIER
KENNETH J. EVANS
STEVEN J. FORTHUN
KENNITH O. GREEN
SCOTT L. HAMILTON
WILLIAM B. KNIGHT
PAUL M. LAHR
DOUGLAS E. MARX
CHRISTOPHER G. MCCUNE
RICHARD D. MELTON
DOUGLAS C. OTT
RUSSEL D. PEDERSON
GEORGE D. PRINGLE JR.
SVEN E. RODENBECK
RICHARD W. THAYER
MICHAEL R. WEAVER
ROBERT L. WILSON
FRED E. WISEMAN JR.

To be assistant engineer officer

JAMES W. COLLINS

To be scientist

MURRAY L. COHEN

To be senior assistant scientist

GEORGE M. CAUTHEN
MARK S. EBERHARDT
JAMES A. MERCY
ROGER R. ROSA
JOHN M. SPAULDING
PAUL A. STEHR-GREEN
CHING-LONG J. SUN
GLENN D. TODD

To be senior assistant sanitarian

LINDA A. CHANDLER
LARRY J. ELLIOTT
BRUCE M. ETCHISON
JEROME F. JOYCE
DAVID M. MOSIER
DAVID A. PARKER
JON S. PEABODY
DOUGLAS C. PICKUP
WAYNE A. POTTER
ALAN R. SCHROEDER
WALTER M. SNESKO
FRANK H. WILLIAMS

To be assistant sanitarian

JAMES S. SPAHR

To be senior assistant veterinary officer

KIMBERLY S. WAGGIE

To be pharmacist

JIMMY P. DOWDY

To be senior assistant pharmacist

JAMES D. BONA
DARCY S. CUNNINGHAM
MARK L. DEMONTIGNY
JOSEPHINE E. DIVEL
JOHN A. ELTERMANN JR.
RICHARD M. FEJKA
CATHY L. FOREMAN
CAMEON L. JACOBSON
ALVIN J. LEE
KEVIN M. LEMIEUX
JON A. MCARTHUR
MICHAEL A. MORTON
CLAIRE L. NEALLY
DANIEL P. RILEY
BRYAN L. SCHULZ
LINDA J. SHULL
ROBERT E. STALEY JR.
JAMES M. THOMPSON
VIRGINIA A. TIBBETS
THOMAS J. TROSHYNSKI

To be senior assistant dietician

KAREN M. BACHMAN-CARTER
JOHN E. FINN
DENISE B. FORD
LAURA A. MCNALLY
PAULETTE D. WICKS

To be senior assistant therapist

DAVID J. BRUEGGEMANN
FRANKLIN D. KEEL
EDWARD KOZIATEK

To be senior assistant health services officer

ANNA J. ALBERT
FRANCIS J. BEHAN
REGINA A. BRONSON
WESLEY W. CHARLTON
RUST D. COREY
KATHERINE W. DAVIS
LOIS E. FLOWERS
HOWARD A. GOLDSTEIN
COLLEEN L. GOOD BEAR
RICHARD P. HASKINS
THOMAS M. JAKUB
SANDRA C. KETCHER
GREG J. KULLMAN
NINA R. LALICH
JANE E. LINKLETTER
ARNULFO MANANGAN
BERRY A. MILLER
ANTHONY SANCHEZ
PARBATTEE B. SPANGLER
NANCY A. TOLLISON
ROBERT G. TONSBERG
KENNETH W. WALKER
JOSEPH A. ZOGBY

To be assistant health services officer

BEVERLY A. ROTH

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

JOSEPH E. VORBACH.
GEORGE D. PASSMORE, JR.
ERNEST B. ACKLIN, JR.

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

JOHN N. FAIGLE.
PETER A. BUNCH.
DAVID P. CIANCAGLINI.
WILLIAM J. ECKER.

PURSUANT TO THE PROVISIONS OF 14 USC 729, THE FOLLOWING NAMED COMMANDERS OF THE COAST GUARD RESERVE TO BE PERMANENT COMMISSIONED OFFICERS IN THE COAST GUARD RESERVE IN THE GRADE OF CAPTAIN.

PLIMACK, HENRY E.
ARNOLD, DAVID C.
HUGHES, HAROLD E.
COPELAND, HOWARD E.
LANGLAIS, THOMAS V.
LEGWIN, JOHN H. III
IBSEN, PAUL
SAUVAIN, TERRENCE E.
GOEKE, JOSEPH A. III
GRUVER, LAURENCE A.
PLAYFAIR, MALCOLM B.

THE FOLLOWING REGULAR OFFICERS OF THE UNITED STATES COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT COMMANDER:

STEPHEN D. HATHAWAY
MICHAEL B. KARR
RICHARD E. TINKER
MICHAEL D. RILEY
RICHARD M. PICCIONI
ARTHUR E. PILOT, JR.
DENNIS J. HAISE
JOSEPH A. BROOM
JACK A. KEMERER
JOSEPH J. OCKEN
PAUL S. NEELD
THOMAS A. TANSEY
CHARLES D. BRANTLEY
DAVID M. ILLUMINATE
MIKE D. OSMUN
WILLIAM L. CAREY
JOHN J. KELLY
RICHARD N. MACEWAN
ELDO K. DELONG, JR.
RONALD P. SANCTUARY
RAY L. SHULTZ
WILLIAM M. BIGGAR
WILLIAM C. NIELSEN
PATRICK L. BLAIR
ROBERT L. ABAIR
JAMES M. ANDERSON
DOUGLAS E. GREGG
JACK W. GOTWALT
DANNY M. CLARK
GARY E. ODOM
DAVID R. GOMEZ
WAYNE J. ROBERTS
DONALD B. THOMPSON
KATHLEEN M. DONOHOE
MICHAEL OMATSU
TIMOTHY G. EASTMAN
RICHARD A. BRUNDRETT
EDWARD A. BLACKADAR, JR.
LIONAL R. MUNSEY
JOHN C. NOREUS
ARNOLD J. VANRUITENBEEK
DANA A. GRAY
PATRICK C. MCHUGH, JR.
RAYMOND J. MILLER
CURTIS J. OTT
BRUCE D. CHINERY
MICHAEL L. EMGE
KENNETH G. THYSELL
JOSEPH J. SABOE
RICHARD M. GAUDIOSI
PAUL V. KARNA
TOM A. BECK
MARK J. KERSKI
DAVID W. ALLEY
CURTIS L. GUNN
RONALD E. KILROY
DELMAS R. PRICE
LOUIS R. SKORUPA
MARTIN L. PHILLIPS
JOHN J. O'BRIEN, JR.
RONALD E. JOHNSON, SR.
JAMES T. POTDEVIN
FRANCIS X. O'BYRNE, JR.
KENNETH E. SCHOLZ
JOHN S. BURHOE
JEFFREY K. KARONIS
HUGH F. SAGE
ROBERT C. LORIGAN
LISTON A. JACKSON
MICHAEL J. BRENNAN
FRANCIS L. SHELLEY III
PAUL J. TIKKANEN
THOMAS H. GARDINER
ERNEST A. GIBSON III
JAMES C. DISBROW
ALFRED W. SEIDEL
THOMAS J. BLANCETT III
THOMAS E. BELL
JOHN S. MCDONALD
EARLE J. MADDEN, JR.
RALPH A. HEMENWAY
PATRICK A. HARRIS
JONATHAN D. SARUBBI
RICHARD Y. ATLEE II
PHILLIP L. BIEDENBENDER
MICHAEL D. KEARNEY
WILLIAM J. WETZEL
BENJAMIN A. WATSON, JR.
WILLIAM M. MOORE
JOSEPH J. COCCIA
PATRICK C. TWISS
SCOTT D. BAIR
KEVIN B. SMITH
GEORGE A. RUSSELL, JR.
RICHARD R. VANLEAR
CHARLIE L. COZBY, JR.
LLOYD G. SPENCE, JR.
GARY S. ELLIS
GARY J. STOCK
ROY ELLIS
JAMES C. MILBURY
MICHAEL A. MONTEITH
STEPHAN P. GLENN
DAVID C. PAXTON
DAVID G. ATKINSON
JACK R. SMITH
JAMES G. LAW
JAMES L. PERSON
TEDRIC R. LINDSTROM
GARY A. NAPERT
RONALD T. HEWITT
BARRY L. POORE
ROBERT K. ROEMER
MARK A. FROST
MICHAEL J. GARDNER
DOUGLAS C. CONNOR
THOMAS S. FULLAM
JEFFREY A. KAYSER
CHARLES F. BARKER
DAVID K. HEBERT
IAIN ANDERSON
ROBERT L. MAKI
ERIC K. CHAPMAN
PAUL S. DALSANTO
JOHN F. BROOKS
ROBERT W. DURFEY, JR.
STEPHEN T. DELIKAT
RICHARD W. MUTH
JAY P. BOYD
RANDALL R. GILBERT
WILLIAM G. DAVIDSON
ROBERT C. HAYDEN

THE FOLLOWING REGULAR OFFICERS OF THE UNITED STATES COAST GUARD FOR PROMOTION TO THE GRADE OF LIEUTENANT:

PHILLIP D. MILLER
PETER M. HOFFMAN
PAUL W. SCHULTE
ALVARO O. CRESPO
ERIC A. CHAMBERLIN
DANIEL A. RONAN
MICHAEL J. ANDRES
GORDON K. WEEKS, JR.
WILLIAM J. RALL
BRIAN M. JUDGE
ANNE T. FLECK
PETER B. WEDDINGTON
JOHN E. TOMKO
STEVEN G. SAWHILL
CHRISTOPHER J. STICKNEY
GEORGE J. STEPHANOS
DONALD R. TRINER
PATRICK W. BRENNAN
CARL J. UCHYTIL
MICHAEL H. ANDERSON
BRIAN L. DOLPH
MARK S. CARMEL
STEVEN G. WOOD
GARY C. RASICOT
JOSEPH A. DESALVIO
ROBERT E. SMITH
PAUL S. RATTE
MARTIN C. OARD
JOHN F. KOEPPEN
MARK E. CRATER
CHRIS G. KMIECIK
CHRISTOPHER G. HONSE
BRUCE E. HERRING
WILLIAM L. HUCKE
MICHAEL C. HUSAK
DANIEL V. SVENSSON
DAVID J. GARDINER
AARON C. DAVENPORT
KEVIN M. LYON
THOMAS C. PEDAGNO
KEVIN J. RUSSELL
MARK A. SWANSON
DENNIS M. BECKER
MICHAEL A. SPOTTO
THOMAS S. BARONE
SCOTT T. MCNUTT
ERIC P. BROWN
DAVID A. COOLIDGE
JAMES H. WEAKLEY
ROGER D. SCOW
JAMES E. MCCAFFREY
TIMOTHY J. ROURKE
JAMES F. FERGUSON
DAVID M. HAWES
DONALD J. ROSE
MATTHEW R. BARRE
BRUCE D. BAFFER
ERIC B. KRETZ
JONATHAN N. NICKERSON
TIMOTHY A. CHERRY
PATRICK J. DWYER
GERALD D. DEAN
COREY D. CHAMNESS
WILLIAM G. BALSINGER
BRET L. WHITE
ROBERT M. DEAN
SUZANNE E. ENGLEBERT
STEVEN D. POULIN
THOMAS P. MARIAN
STEVEN ROWLAND
DAVID C. RESSEL
JOHN M. CUSHING
CHRISTOPHER J. HALL
PAUL P. FIERSZT
MICHAEL G. HAYDIN
MICHAEL P. GERMINARIO
MICHAEL D. EMERSON
DOUGLAD L. MCKINNIS
WILLIAM J. QUIGLEY
SCOTT A. POYER
JEFFREY S. SCHNEIDER
DAVID M. FUKA
STEPHEN G. NURRE
JOHN E. CAMERON
TIMOTHY R. BROWN
MICHAEL A. GIGLIO
BRIAN J. MERRILL
PHILIP E. MUIR
PATRICIA L. MOUNTCASTLE
CARL T. ALAM
BRIAN J. MUSSELMAN
JOHN R. BINGAMAN
GREGORY W. SHAFFER
JEFFREY E. OGDEN
MICHAEL D. TOSATTO
ELIZABETH K. UHRIG
JAMES T. MOORE
WILLIAM F. BLOUGH
CARI B. THOMAS
STEVEN M. STANCLIFF
JAY J. BRIGGS
ALFRED C. FOLSOM
STEPHEN P. RAUSCH
JAMES G. MAZZONNA
KEVIN D. HARKINS
RUSSELL D. CONATSER
MICHAEL T. CLOSE
SCOTT A. BUSCHMAN
THEODORE F. HARROP
THOMAS C. WIGGANS
RAYMOND W. MARTIN
RICHARD M. KENIN
DOUGLAS R. MENDERS
GEORGE E. BUTLER
JAMES C. LARKIN
JOSEPH W. BILLY
DAVID A. HOOVER
CRAIG A. CORL
CLEMENT D. KETCHUM
ROBERT D. RAYHILL
CHERYL L. HARVEY
ROBERT C. BAXTER
RICHARD A. BUTTON
PETER M. SKILLINGS
BURTON L. DESHAYES
EDWARD W. PARSONS
DANIEL G. MINCHER
KEITH A. MACKENZIE
RONALD D. MITCHELL
JAMES S. ARMSTRONG
RICHARD A. SPARACINO
GARTH L. YOUNG
ROBERT W. FOSTER
BRIAN R. ALDRICH
AMIR ABDUSSABOUR
COLIN M. HURLEY
STEVEN R. GODFREY
VANN J. YOUNG
WILLIAM K. HUNT
CRAIG A. GILBERT
DONALD W. CUTRELL
WILLEM M. LANGE
GUSTAV R. WULFKUHLE
ANTHONY WIEST
GARY W. MERRICK
MICHAEL B. CERNE
WILLIAM J. COFFEY
LUANN BARNDT
DANIEL S. BOBALEK
DAVID A. MCBRIDE
WILLIAM T. DOUGLAS
MATTHEW P. REID
ANDREW P. WHITE
BRAD W. FABLING
JOHN T. HARDIN
JOHN J. SANTUCCI
DONALD G. BRUZDZINSKI
MICHAEL D. DRIEU
KEVIN M. NEDD
DAVID A. CINALLI
GARY A. SCHENK
ROBERT A. SHARRER
BRIAN R. KELLEY
WALTER H. BECKWITH, JR.
HAROLD E. CONSTANTINE, JR.
SCOTT C. SMID
WILLIAM J. PICKETT
JOAN E. DEWITT
KEVIN P. MCCARTHY
STEVEN L. O'HARRA
STEPHEN M. BERNICHE

THE FOLLOWING CADETS OF THE UNITED STATES COAST GUARD ACADEMY FOR APPOINTMENT TO THE GRADE OF ENSIGN:

WENDY ABRISZ
ERIK S. ANDERSON
DOUGLAS M. AUCLAIR
PAUL G. BACA
NICHOLAS A. BARTOLOTTA
DENNIS S. BAUBY
CHRISTOPHER M. BILELLO
PAUL E. BOINAY
GEOFF R. BORREE
ERIC L. BRUNER
GREGORY A. BUXA
DANIEL J. CASEY
TIMOTHY M. COLLINS
EDWARD R. COMER
CATHERINE S. CREESE
DARYL CUNNINGHAM
JOHN J. DALY
JOSEPH S. DELIA
CLAYTON L. DIAMOND
ANTHONY M. DISANTO
GREGORY B. DUERSTOCK
PAUL B. DUTILLE
JEFFREY H. FARRAR
DOUGLAS M. FEARS
THOMAS FLYNN
ROBERT L. GANDOLFO
GLENN GILENO
FRANK T. GOMEZ
ELIZABETH D. GUERRA
BRIAN T. HANLON
PETER J. HATCH
LAWRENCE H. HENDERSON
JOHN D. HICKS
MICHAEL B. HOLZ
ROBERT T. INGALLS
LUIS F. JARAMILLO
CATHERINE W. JONES
DANIEL E. KENNY
GERALD A. KIRCHOFF
THOMAS W. KOWENHOVEN
RONALD LABREC
ANN M. LEU
GARY P. LINDE
WILLARD S. MALCOLM
KENNETH D. MARLEN
DANIEL J. MCLAUGHLIN
PATRICK MCMAHON
PATRICK M. MCMILLIN
KEVIN L. MCQUAIG
THOMAS C. MILLER
ALFRED W. MLEITZKO
SEAN MURTAGH
JOHN P. NADEAU
BRIAN L. NELSON

DELANO G. ADAMS
SHERRY A. ARTINO
CHARLES R. AYDLETTE, JR.
PETER C. BARNETT
CLIFFORD S. BATES
JULIA A. BIER
CLARK E. BLACK
GEORGE G. BONNER
JOHN A. BOYNEWICZ
JEFFREY S. BURKE
BRENT L. CALDWELL
CHARLES D. COIRO
JOHN F. COMAR
JEFFREY L. COX
RALPH E. CROUSHORE III
MELINDA A. DALRYMPLE
RUSSELL A. DAVIDSON
GREGORY J. DEPINET
TIMOTHY E. DICKERSON
GARY L. DUERMIT
JENNIFER V. DUNNING
MICHAEL J. EAGLE
KATHERINE FAVEREY
DAVID S. FIEDLER
RAYMOND P. FONTAINE
PATRICK S. GARDELLA
MATTHEW J. GIMPLE
SUSAN L. GREGG
JOHN J. HALL
CAROLYN L. HARRISS
JONATHAN D. HELLER
CRAIG R. HENZEL
ROBERT S. HOFFMANN
ANN M. IGNACIO
MARK A. JACKSON
CLINTON P. JOHNSTON
LINDA J. KAISLER
KEVIN C. KEIFER
WILLIAM E. KOVACS
ROGER W. KUHN
MARTHA LAGUARDIA
ANDREW S. LIESS
PATRICK J. MAGUIRE
ANDREA M. MARCILLE
ROBERT E. MCKENNA
JAMES D. MCMAHON
JAMES K. MCMANUS
BRENDAN C. MCPHERSON
JULIE S. MEHTA
GLEN J. MINE
RICHARD L. MOUREY
CHRISTOPHER MYSKOWSKI
JAMES C. NAGLE
KENNETH NIEVES
WILLIAM K. NOFTSKER
MICHAEL A. O'BRIEN
CHRISTOPHER OLENICZAK
JUNG A. PARK
JAMIE S. PATTON
JEFFREY M. PETERS
MATTHEW S. POCOCK
CARY J. PORTER
DEBORAH PRENTICE
KENT C. RAMSEYER
TY W. RINOSKI
WILLIAM G. ROSPARS
MARK T. RUCKSTUHL
EDWARD K. RUSSELL
CHARLES B. RYAN
ROLANDO A. SANIDAD
WILLIAM E. SCHNABEL
ROSEMARY J. SHAY
ELLEN C. SHIRVELL
MICHAEL H. SIM
PETER J. SISTARE
DANIEL P. TAYLOR
ANDREW J. TIONGSON
TERRENCE N. TOY
JOHN E. TYSON
TIMOTHY C. WECH
CHRISTINE R. WHITE
ROBERT S. WILBUR
KEITH A. WILLIS
THOMAS P. WOJAHN
ROGER N. WYKLE
JEFFREY P. NOVOTNY
JONATHAN Y. OHTA
ERNEST M. PACHECO
THOMAS C. PARKER
CHRISTOPHER J. PERRONE
DIANA PLUSCH
JACK POLING
DOUG M. POTTER
KEVIN E. RAIMER
KURT W. RICHTER
SCOTT D. ROGERSON
THOMAS A. ROUTHIER
JENNIFER A. RUSIECKI
HOLLY C. RUSSELL
MARC F. SANDERS
KEVIN R. SAREAULT
MICHAEL P. SCHNEIDER
TIMOTHY D. SHILEY
MATTHEW W. SIBLEY
CHARLES M. SIMERICK
DOUGLAS L. SUBOCZ
ROBERT K. THOMPSON
BENJAMIN C. TOBIAS
LEONARD R. TUMBARELLO
ERIC J. VOGELBACHER
CASEY J. WHITE
ROBERT L. WHITEHOUSE
BRIAN S. WILLIS
MICHAEL F. WILSON
JERALD L. WOLOSZYNSKI
LAWRENCE J. ZACHER

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD W. YATES, xxx-xx-xxxx FR, U.S. AIR FORCE.

THE FOLLOWING-OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

COL. GEORGE K. ANDERSON, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. WILLIAM J. BALL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. CHARLES C. BARNHILL, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. BILLY J. BINGHAM, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAY D. BLUME, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. FREDRIC N. BUCKINGHAM, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. HIRAM H. BURR, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. PATRICK P. CARUANA, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAMES L. COLE, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. STEPHEN P. CONDON, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. ROSCOE M. COUGILL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. GARY L. CURTIN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. WILLIAM B. DAVITTE, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. WILLIAM M. DOUGLAS, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. ROBERT W. DREWES, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. LAWRENCE P. FARRELL, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. PHILLIP J. FORD, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. CARL E. FRANKLIN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. RALPH H. GRAHAM, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. RONALD D. GRAY, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JOHN C. GRIFFITH, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. THOMAS R. GRIFFITH, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. OTTO K. HABEDANK, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. GERALD E. HAHN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. TRAVIS E. HARRELL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAMES F. HINKEL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. PATRICIA A. HINNEBURG, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAMES L. HOBSON, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. C. JEROME JONES, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JOHN J. KELLY, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. ROBERT E. LINHARD, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JOHN G. LORBER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAMES E. MCCARTHY, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. LAWRENCE A. MITCHELL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. RICHARD B. MYERS, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JOHN M. NAUSEEF, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. EVERETT H. PRATT, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. GLENN A. PROFITT II, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. HAROLD H. RHODEN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. TEDDY E. RINEBARGER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. DONALD B. SMITH, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. PAUL E. STEIN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. EDWIN E. TENOSO, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. MICHAEL J. TORMA, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. ROBIN G. TORNOW, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. RALPH G. TOURINO, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. MICHAEL G. VERGAMINI, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JAMES L. VICK, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. DONALD R. WALKER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. JOHN D. WOOD, xxx-xx-xxxx FR, REGULAR AIR FORCE.
COL. FREDERICK A. ZEHRER III, xxx-xx-xxxx FR, REGULAR AIR FORCE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE UNDER PROVISIONS OF SECTION 624, TITLE 10 OF THE UNITED STATES CODE:

To be major general

BRIG. GEN. JAMES G. ANDRUS, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. MALCOLM B. ARMSTRONG, xxx-x... xx... FR, REGULAR AIR FORCE.
BRIG. GEN. JOHN L. BORLING, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. STEPHEN B. CROKER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. GERALD A. DANIEL, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. LAWRENCE E. DAY, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. THOMAS E. EGGERS, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. HOWELL M. ESTES III, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. FREDERICK A. FIEDLER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. RICHARD F. HAWLEY, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JOHN E. JACKSON, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. ARLEN D. JAMESON, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JEFFERY D. KAHLA, xxx-xx-xx... FR, REGULAR AIR FORCE.
BRIG. GEN. DONALD L. KAUFMAN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. VERNON J. KONDRA, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. PAUL E. LANDERS, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JOHN D. LOGEMAN, JR., xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. BRUCE J. LOTZBIRE, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. BILLY G. MCCOY, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. BURTON R. MOORE, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JOHN M. NOWAK, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. GARY W. O'SHAUGHNESSY, xxx-xx... xx... FR, REGULAR AIR FORCE.
BRIG. GEN. DAVID C. REED, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. PETER D. ROBINSON, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. RICHARD M. SCOFIELD, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JOHN D. SLINKARD, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. JOSEPH K. STAPLETON, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. KENNETH E. STATEN, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. WILLIAM A. STUDER, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. ROBERT F. SWARTS, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. SAM W. WESTBROOK III, xxx-xx-xxxx FR, REGULAR AIR FORCE.
BRIG. GEN. FRANK E. WILLIS, xxx-xx-xxxx FR, REGULAR AIR FORCE.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. DONALD F. FERRELL, xxx-xx-xxxx, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. CECIL W. GREENE, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JOHN M. HAFEN, xxx-xx-xxxx, AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. JAMES R. MERCER, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
BRIG. GEN. FRED D. WOMACK, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. GORDON M. CAMPBELL, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAMES W. CHAPMAN, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DONALD L. COLEMAN, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOSEPH E. COPENHAVER, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. STEPHEN P. CORTRIGHT, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JOHN F. FLANAGAN, JR., xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RICHARD W. GODFREY, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. HUGH S. HARRIS, JR., xxx-xx-xxxx, AIR NATIONAL GUARD OF THE UNITED STATES.
COL. TALMADGE R. HOWELL, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. JAMES A. MELVIN III, xxx-xx-xx... AIR NATIONAL GUARD OF THE UNITED STATES.
COL. RAYMOND E. MOORMAN, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. SCOTT L. PHILBRICK, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.
COL. DARREL D. THOMSSEN, xxx-xx-xxxx AIR NATIONAL GUARD OF THE UNITED STATES.

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, AND 8373, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. RICHARD A. FREYTAG, xxx-xx-xxxx FV, AIR FORCE RESERVE.
BRIG. GEN. ANGELO J. PERCIBALLI, xxx-xx-xxxx FV, AIR FORCE RESERVE.
BRIG. GEN. JOHN D. RIDDLE, xxx-xx-xxxx FV, AIR FORCE RESERVE.
BRIG. GEN. JULIO L. TORRES, xxx-xx-xxxx FV, AIR FORCE RESERVE.
BRIG. GEN. DUANE A. YOUNG, xxx-xx-xxxx FV, AIR FORCE RESERVE.

To be brigadier general

COL. LAWRENCE B. ANDERSON, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. LARRIE C. BATES, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. JOE L. CAMPBELL, xxx-xx-xx... FV, AIR FORCE RESERVE.
COL. CHARLES B. CASSON, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. ROBERT T. CETOLA, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. GERALD R. CHANCELLOR, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. WAYNE E. DELAWTER, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. WILLIAM W. DIDLAKE, JR., xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. GEORGE A. HALL, xxx-xx-x... FV, AIR FORCE RESERVE.
COL. THOMAS L. NEUBERT, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. THOMAS E. PENICK, JR., xxx-xx-xxxx FV, AIR FORCE RESERVE.

COL. ROBERT L. TATE, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. VERNON R. TATE, xxx-xx-xxxx FV, AIR FORCE RESERVE.
COL. WILLIAM F. WILLOUGHBY, xxx-xx-xxxx FV, AIR FORCE RESERVE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOSEPH T. PALASTRA, JR., xxx-xx-xxxx U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. COLIN L. POWELL, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. DONALD W. JONES, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR PERMANENT PROMOTION IN THE UNITED STATES ARMY IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION OF THE UNITED STATES:

ARMY

To be brigadier general

COL. JOHN EVANS HUTTON, xxx-xx-xxxx.

IN THE MARINE CORPS

THE FOLLOWING NAMED BRIGADIER GENERALS OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

BOBBY G. BUTCHNER.
WALTER E. BOOMER.
MATTHEW P. CAULFIELD.
DONALD R. GARDNER.
JOHN I. HOPKINS.
WILLIAM M. KEYS.
JEREMIAH W. PEARSON III.
JOHN A. STUDDS.

THE FOLLOWING NAMED BRIGADIER GENERAL OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF MAJOR GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

G. RICHARD OMROD.

THE FOLLOWING NAMED COLONELS OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

WAYNE T. ADAMS.
ARTHUR C. BLADES.
JAMES A. BRABHAM, JR.
GARY E. BROWN.
MICHAEL J. BYRON.
THOMAS V. DRAUDE.
JEFFERSON D. HOWELL, JR.
CHARLES C. KRULAK.
JEFFREY W. OSTER.
PAUL K. VAN RIPER.
CHARLES E. WILHELM.
PETER D. WILLIAMS.

THE FOLLOWING NAMED COLONELS OF THE MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

JOHN THOMAS COYNE.
MICHAEL IRA NEIL.

IN THE NAVY

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. RICHARD M. DUNLEAVY, xxx-xx-xxxx/1320, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. DIEGO E. HERNANDEZ, xxx-xx-xxxx/1310, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. JERRY O. TUTTLE, xxx-xx-xxxx/1310, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. PAUL D. BUTCHER, xxx-xx-xxxx U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. RAYMOND P. ILG, xxx-xx-xxxx/1310, U.S. NAVY.

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

WEST, RALPH WHITAKER, JR.
PAPPAS, JIMMY
VOGT, LARRY GENE
BAKER, EDWARD BIGELOW, JR.
HERNANDEZ, JESSE JIMINEZ
MERCER, THOMAS ALEXANDER
MACKE, RICHARD CHESTER
CARLSEN, KENNETH LEROY
DAVIS, GEORGE WASHINGTON, VI
GREENE, JAMES BERNARD, JR.
TAYLOR, JAMES EDWARD
GUILBAULT, ROLAND GEORGE
SMITH, PHILLIP DON
STROHSAHL, GEORGE HENRY, JR.
BENNETT, DAVID MICHAEL
SMITH, LEIGHTON WARREN, JR.,
MCKINNEY, HENRY CLAYTON
ROBINSON, DAVID BROOKS
SMITH, JEROME FROST, JR.
REASON, JOSEPH PAUL

ENGINEERING DUTY OFFICER

CANTRELL, WALTER H

SPECIAL DUTY OFFICER (CRYPTOLOGY)

MCFARLAND, JAMES STEPHEN

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

DENTAL CORPS (2200)

CLEGG, MILTON CHIPMAN

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

LESTAGE, DANIEL B.
HAGEN, DONALD FLOYD

SUPPLY CORPS

COLE, BRADY MARSHALL
FILIPIAK, FRANCIS LEONARD

THE FOLLOWING-NAMED REAR ADMIRAL (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

DENTAL CORPS OFFICER

WILLIAM BERNARD FINAGIN

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) OF THE RESERVE OF THE U.S. NAVY FOR PERMANENT PROMOTION TO THE GRADE OF REAR ADMIRAL IN THE LINE AND STAFF CORPS, AS INDICATED, PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5912:

UNRESTRICTED LINE OFFICERS

STEPHEN GORDON YUSEM
RICHARD KENNETH MAUGHLIN
DAVID ANTHONY JANES
WALLACE NESSLER GUTHRIE, JR.

UNRESTRICTED LINE OFFICER (TAR)

RICHARD KENNER CHAMBERS

MEDICAL CORPS OFFICER

ROBERT CONRAD NUSS

SUPPLY CORPS OFFICER

JAMES HOCK MAYER

THE FOLLOWING-NAMED CAPTAINS IN THE LINE OF THE UNITED STATES NAVY FOR PRMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

BAIRD, DON WILSON
BRIGGS, STEVEN RUSSELL
COLEMAN, JON SUBER
EMERY, GEORGE WILLIAMS
HABERMEYER, HOWARD W., JR.
JONES, ROBERT CHARLES
KATZ, DOUGLAS JEFFREY
LOCKHART, THEODORE CHARLES
MANESS, ANTHONY RAY
MATHIS, WILLIAM WALTER
NEWMAN, WILLIAM EDWARD
PEARSON, JOHN DAVIS
RUCK, MERRILL WYTHE
STERNER, GEORGE RUDOLPH
WILMOT, LOUISE CURRIE
BENNITT, BRENT MARTIN
COADY, PHILIP JAMES, JR.
DUR, PHILIP ALPHONSE
GOEBEL, DAVID MAXWELL
HUCHTING, GEORGE ARTHUR
JORDAN, WESLEY EARL, JR.
LAIR, JAMES ANTHONY
LOPEZ, THOMAS JOSEPH
MARSH, LARRY ROY
MCGOWEN, WILLIAM RANKIN
NORTON, LAFAYETTE FERGUSON
PRUEHER, JOSEPH WILSON
SPANE, ROBERT JOHNSON
STONE, THOMAS EDWARD
WILSON, RICHARD ALEXANDER

ENGINEERING DUTY OFFICER

MCGINLEY, EDWARD STILLMAN, II
WITTER, RAY COWDEN

AERONAUTICAL ENGINEERING DUTY OFFICER

EATON, DONALD RICHARD

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS)

BAKER, BRENT

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS

RIDENOUR, RICHARD IRA

SUPPLY CORPS

SAREERAM, RAY RUPCHAND
BONDI, PETER ALBERT
MORRIS, WILLIAM RICHARD
DAVIDSON, JAMES PATRICK

CIVIL ENGINEER CORPS

BUFFINGTON, JACK EUGENE

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTION 307, TITLE 32, UNITED STATES CODE, AND SECTIONS 8363 AND 593, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

ANDREOTTI, EUGENE R., xxx-xx-xxxx
BAKER, JAMES H., xxx-xx-xxxx
BROWN, JAMES F., xxx-xx-xxxx
CANINO, WILLIAM R., xxx-xx-xx...
CARTER, DAVID C., xxx-xx-xxxx
CLARK, JOHN W., xxx-xx-xxxx
COOPER, THOMAS M., xxx-xx-xxxx
DELGANDIO, FRANK S., JR., xxx-xx-xxxx
DENTON, MICHAEL R., xxx-xx-xxxx
FRAHM, WILLIAM J., xxx-xx-xx...
FULGINITI, RALPH xxx-xx-xxxx
GIBSON, DANIEL J., xxx-xx-xxxx
GRESCH, THOMAS J., xxx-xx-xxxx
GRESHIK, JAMES H., xxx-xx-xxxx
HARPER, STEVEN V., xxx-xx-xxxx

HEATON, JON C., xxx-xx-xxxx
HENDRICKSON, JAMES R., xxx-xx-xxxx
HOLMES, EDWARD T., xxx-xx-xxxx
HUDGINS, JAMES N., xxx-xx-xxxx
HUNT, JIMMY P., xxx-xx-xxxx
KEISTLER, HAROLD E., xxx-xx-xxxx
LANDERS, GEORGE T., xxx-xx-xxxx
MALLORY THEODORE F., III, xxx-xx-xxxx
MARTIN, CHARLES E., xxx-xx-xxxx
MCGRADY, JOSEPH P., xxx-xx-xxxx
MEYER, ROBERT P., JR., xxx-xx-xxxx
MONTANO, MELVYN S., xxx-xx-xxxx
OLSEN, DOUGLAS M., xxx-xx-xxxx
OUELLETTE, WILLIAM J., xxx-xx-xxxx
PETERSON, EVERETT S., III, xxx-xx-xxxx
QUICK, GENE W., xxx-xx-xxxx
RHODES, DAVID H., xxx-xx-xxxx
RODRIGUES, DAVID M., xxx-xx-xxxx
SALLES, GERARD A., SR., xxx-xx-xxxx
SCOBEY, DAVID L., xxx-xx-xxxx
SHURLEY, JOHN R., III, xxx-xx-xxxx
SNYDER, JAMES H., xxx-xx-xxxx
SUMNER, PAUL H., xxx-xx-xxxx
TRUE, HERBERT R., xxx-xx-xxxx
WILSON, GEORGE E., III, xxx-xx-xxxx
WRIGHT, RICHARD L., xxx-xx-xxxx
YORD, HENRY S., xxx-xx-xxxx

JUDGE ADVOCATE

SIEBEN, HARRY A., JR., xxx-xx-xxxx

MEDICAL CORPS

ANDRADA, ADOLFO A., xxx-xx-xxxx
HUDSON, DAVID L., xxx-xx-xxxx
KELLEY, STANLEY C., xxx-xx-xxxx
SMITH, WILBURN A., JR., xxx-xx-xxxx
WENDEL, ROBERT D., xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

MEDICAL CORPS

To be colonel

NEPOMUCENO, NORMANDO R., xxx-xx-xxxx
RIVERA, ANTONIO M., xxx-xx-xxxx
SHIPP, ROBERT H., xxx-xx-xxxx

To be lieutenant colonel

JAITUNI, SUDHIR A., xxx-xx-xxxx

To be major

BOLTON JOE W.R., xxx-xx-xxxx
DAGOSTINO LOUIS A., xxx-xx-xxxx
DONAHEY SUE A., xxx-xx-xxxx
FISCHER ROBERT H., xxx-xx-xxxx
HART AVERY S., xxx-xx-xxxx
HILL GIDEON D., III, xxx-xx-xxxx
KRAULAND JOHN E, xxx-xx-xxxx
KUHAR LISA ANN, xxx-xx-xxxx
MURPHY KENNETH G, xxx-xx-xxxx
WELDON JOHN S, xxx-xx-xxxx

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

BERGMAN, RONALD J., xxx-xx-xxxx
MYERS, JOSEPH W., xxx-xx-xxxx
RAKE GEOFFREY W, xxx-xx-xxxx
WALKER WAYNE T, xxx-xx-xxxx

To be lieutenant colonel

DEENEY, VINCENT F., xxx-xx-xxxx

To be major

OSTRANDER JAMES E, xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

BELL LEROY xxx-xx-xxxx
ELWELL CHARLES, xxx-xx-xxxx
OTIS DAVID xxx-xx-xxxx

To be major

ANDERSON LARRY D. xxx-xx-xxxx
BOHNENKAMP DAVID M., xxx-xx-xxxx
COLLIER CHRISTOPHER, xxx-xx-xxxx
FOGARTY THOMAS J, xxx-xx-xxxx
GAUS PHILLIP C., JR., xxx-xx-xxxx
GREEN FLOYD W xxx-xx-xxxx
HLUDZIK GEORGE C xxx-xx-xxxx
LEONARD DANIEL L xxx-xx-xxxx
MESSERSMITH MARION L xxx-xx-xxxx
NEUSER, STEPHEN W ., xxx-xx-xxxx
PRATT, RONALD C., xxx-xx-xxxx
RUFFIN, STEVEN A., xxx-xx-xxxx
SATHER, DAVID A., xxx-xx-xxxx
SNYDER, JOSEPH A., xxx-xx-xxxx
TJELMELAND, ERIK M., xxx-xx-xxxx

To be captain

EDINGER, BLAKE J., xxx-xx-xxxx
HARKACZ, OREST xxx-xx-xxxx
HRABOWY, ERIK xxx-xx-xxxx
JOHNSON, DANIEL P., xxx-xx-xxxx
MINES, PETE xxx-xx-xxxx

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT AS RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

BRYNER, FRANK R., xxx-xx-xxxx
FISHER, ROBERT B., xxx-xx-xxxx
GINGRAS, MICHEL P., xxx-xx-xxxx
GREGORY, MARVIN G., xxx-xx-xxxx
HATCH, HARVEY R., xxx-xx-xxxx
JACOB, JEAN C., xxx-xx-xxxx
KWOK, ROBERT T., xxx-xx-xxxx
RITER, EARL F., JR., xxx-xx-xxxx
SOLIMAN, MANAL D., xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE ACTIVE DUTY LIST OF THE REGULAR AIR FORCE IN THE GRADE INDICATED UNDER THE PROVISIONS OF SECTIONS 1210 AND 1211, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

MARSHALL, TERRY D., xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE UNITED STATES AIR FROCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

BIOMEDICAL SCIENCES CORPS

To be lieutenant colonel

RENOUDET, VIRGINIA V., xxx-xx-xxxx

CHAPLAIN

To be major

BOND, JOHN W., xxx-xx-xxxx

JUDGE ADVOCATE

ASHCRAFT, WILLIAM O., xxx-xx-xxxx

MEDICAL SERVICES CORPS

TRICHE, GARY J., xxx-xx-xxxx

NURSE CORPS

NILSEN, ARTHUR J., xxx-xx-xxxx
THERIOT, DONNA C., xxx-xx-xxxx

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADES AND DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN MAJOR.

CHAPLIN CORPS

BOND, JOHN W., xxx-xx-xxxx

JUDGE ADVOCATE

ASHCRAFT, WILLIAM O., xxx-xx-xxxx

NURSE CORPS

THERIOT, DONNA C., xxx-xx-xxxx

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. THOMAS R. BECKMAN, xxx-xx-xxxx, 21 OCT 88.
MAJ. JOHN C. CALHOUN, xxx-xx-xxxx, 16 SEP 88.
MAJ. JOHN S. CHILDRESS, xxx-xx-xxxx, 1 OCT 88.
MAJ. GARY A. CORBETT, xxx-xx-xxxx, 18 SEP 88.
MAJ. JOSEPH P. CRIPPES, xxx-xx-xxxx, 2 OCT 88.
MAJ. DEAN A. ELLINGSON, xxx-xx-xxxx, 28 SEP 88.
MAJ. KENNETH E. KLESNER, xxx-xx-xxxx, 2 OCT 88.
MAJ. WOODWARD D. LAMAR, JR., xxx-xx-xxxx 1 OCT 88.
MAJ. JAMES D. LEWIS, xxx-xx-xxxx, 20 AUG 88.
MAJ. RICHARD P. NORTON, xxx-xx-xxxx, 20 SEP 88.
MAJ. LARRY G. O'REAR, xxx-xx-xxxx, 15 SEP 88.
MAJ. JOHN S. PAYNE, xxx-xx-xxxx 1 OCT 88.
MAJ. TERRY L. PFAFF, xxx-xx-xxxx, 24 OCT 88.
MAJ. WILLIAM J. RINEHART, xxx-xx-xxxx, 5 OCT 88.
MAJ. JOHN M. RIX, xxx-xx-xxxx, 2 OCT 88.
MAJ. THOMAS R. STUART, III, xxx-xx-xxxx, 17 AUG 88.
MAJ. EDWARD T. SUTTER, xxx-xx-xxxx, 26 OCT 88.
MAJ. JOHN F. WHITE, xxx-xx-xxxx 15 AUG 88.
MAJ. RONALD W. WHITE, xxx-xx-xxxx, 25 OCT 88.

LEGAL CORPS

MAJ. DONALD J. PERRAULT, xxx-xx-xxxx, 23 SEP 88.

MEDICAL CORPS

MAJ. CHARLES M. BELISLE, xxx-xx-xxxx, 18 OCT 88.
MAJ. DAVID J. SNELL, xxx-xx-xxxx, 10 SEP 88.

DENTAL CORPS

MAJ. WAYNE R. MARPE, xxx-xx-xxxx, 1 OCT 88.

NURSE CORPS

MAJ. SUSAN J. AUGUSTUS, xxx-xx-xxxx, 10 SEP 88.

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. SIMEON D. BATEMAN, III, xxx-xx-xxxx, 11 AUG 88.
MAJ. WILLIAM J. BOARDLEY, xxx-xx-xxxx, 18 AUG 88.
MAJ. DAVID W. CHERRY, xxx-xx-xxxx, 7 OCT 88.
MAJ. JEFFREY M. DIRKS, xxx-xx-xxxx, 10 SEP 88.
MAJ. PATRICK F. DUNN, xxx-xx-xxxx, 19 AUG 88.
MAJ. LANDON E. GEREN, xxx-xx-xxxx, 13 JUN 88.
MAJ. EDWARD N. LEONARDI, xxx-xx-xxxx, 20 AUG 88.
MAJ. JAMES K. LIBERDA, xxx-xx-xxxx, 10 SEP 88.
MAJ. JAMES R. MAURER, xxx-xx-xxxx, 18 AUG 88.
MAJ. BOBBY C. MCCOY, xxx-xx-xxxx, 1 SEP 88.
MAJ. CLINTON E. MCNABB, xxx-xx-xxxx, 29 AUG 88.
MAJ. PETER W. MORRIS, xxx-xx-xxxx, 6 AUG 88.
MAJ. DWIGHT A. MURDOCK, xxx-xx-xxxx, 31 AUG 88.
MAJ. RAYMOND A. PATRONE, xxx-xx-xxxx, 6 AUG 88.
MAJ. WILLIAM A. RICHMOND, III, xxx-xx-xxxx, 25 AUG 88.
MAJ. WILLIAM P. SHAUGHNESSY, JR., xxx-xx-xxxx, 6 AUG 88.
MAJ. JAMES E. STEVENS, xxx-xx-xxxx, 26 SEP 88.

LEGAL CORPS

MAJ. CHARLES E. ERDMANN II, xxx-xx-xxxx, 26 AUG 88.
MAJ. JAMES B. TADJE, xxx-xx-xxxx, 10 JUL 88.

BIOMEDICAL SCIENCE CORPS

MAJ. JEFFREY H. POWELL, xxx-xx-xxxx, 10 SEP 88.

MEDICAL CORPS

MAJ. ROBERT J. O'BRIEN, xxx-xx-xxxx, 15 SEP 88.
MAJ. WINNIFRED B. OLDHAM, xxx-xx-xxxx, 16 AUG 88.

NURSE CORPS

MAJ. NANCY A. SAEGER, xxx-xx-xxxx, 7 AUG 88.

THE FOLLOWING STUDENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1989, FOR APPOINTMENT IN THE REGULAR AIR FORCE, EFFECTIVE UPON THEIR GRADUATION UNDER THE PROVISIONS OF SECTION 2114, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

BAXTER, JOHN S., xxx-xx-xxxx
BOURGEOIS, JAMES A., xxx-xx-xxxx
CARRIER, DELOS D., xxx-xx-xxxx
CARTER, BRUCE M., xxx-xx-xxxx
CASS, DAVID A., xxx-xx-xxxx
CESPEDES, RICHARD D., xxx-xx-xxxx
DEGOES, JOHN J., xxx-xx-xxxx
DESVIGNE, LISA D., xxx-xx-xxxx
DIGERONIMO, ROBERT J., xxx-xx-xxxx
DOAN, PAUL S., xxx-xx-xxxx
DOMENICHINI, ALDO J., xxx-xx-xxxx
DORLAC, WARREN C., xxx-xx-xxxx
DUDEK, TERESA A., xxx-xx-xxxx
ELMER, KATHLEEN B., xxx-xx-xxxx
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GARDNER, BARRY L., xxx-xx-xxxx
GARSCADDEN, ALAN, xxx-xx-xxxx
GEORGE, RITA M., xxx-xx-xxxx
HIGGINS, STEPHEN W., xxx-xx-xxxx
HORN, DENNY J., xxx-xx-xxxx
HUNT, JOHN S., xxx-xx-xxxx
KOST, EDWARD R., xxx-xx-xxxx
LUNA, THOMAS D., xxx-xx-xxxx
MANN, MICHAEL D., xxx-xx-xxxx
MCFARREN, KRISTA L., xxx-xx-xxxx
MILLER, EMILY M., xxx-xx-xxxx
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MURCHLAND, MICHAEL R., xxx-xx-xxxx
NUNES, MARK E., xxx-xx-xxxx
OW, RANDALL A., xxx-xx-xxxx
PACKARD, CRAIG S., xxx-xx-xxxx

PESCOSOLIDO, JAMES R., xxx-xx-xxxx
PETERS, GORDON C., xxx-xx-xxxx
PRITT, WAYNE M., xxx-xx-xxxx
RIRIE, DAVID W., xxx-xx-xxxx
RUEGEMER, JOSEPH L., xxx-xx-xxxx
SCHIERMEYER, ROBERT P., xxx-xx-xxxx
SKOUSEN, GALE J., xxx-xx-xxxx
SLAUSON, JAMES W., xxx-xx-xxxx
VANDECAR, JAMES P., xxx-xx-xxxx
VANDECAR, TAMA R., xxx-xx-xxxx
VIERNES, JAY L., xxx-xx-xxxx
WERNER, MARK E., xxx-xx-xxxx
WINTERSCHEID, MELINDA L., xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE AIR FORCE RESERVE, UNDER THE PROVISIONS OF SECTIONS 593, 8362, AND 8371, TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

ASHLEY, ROGER M., xxx-xx-xxxx
AUSTIN, BOBBY L., xxx-xx-xxxx
BAKER, RONALD L., xxx-xx-xxxx
BALDAUF, JOHN A., xxx-xx-xxxx
BALL, GERALD D., xxx-xx-xxxx
BALL, MICHAEL S., xxx-xx-xx...
BANDICH, STEVEN M., xxx-xx-xxxx
BARKER, ROBERT J., xxx-xx-xxxx
BARRANCO, BENJAMIN C., xxx-xx-xxxx
BARTRUG, JOHN D., xxx-xx-xxxx
BATTON, CARL L., xxx-xx-xxxx
BECKA, JOHN C. JR., xxx-xx-xxxx
BENAJAMIN, RONALD D., xxx-xx-xxxx
BERLAM, ROBERT A., xxx-xx-xxxx
BETTS, JOHN A., xxx-xx-xxxx
BIENVENU, LEO A. JR., xxx-xx-xxxx
BILLMYER, RONALD L., xxx-xx-xxxx
BISHOP, PAUL W., xxx-xx-xxxx
BLOMGREN, ALAN A., xxx-xx-xx...
BORGEL, GREGORY E., xxx-xx-xxxx
BOWMAN, NORMAN H. JR., xxx-xx-xxxx
BRADLEY, JOHN R., xxx-xx-xxxx
BRANDT, BRUCE A., xxx-xx-xxxx
BRESHNAHAN, PATRICK M., xxx-xx-xxxx
BRIMER, JOHN G., xxx-xx-xxxx
BRYSON, LIONEL H., xxx-xx-xxxx
BURGNER, GARY A., xxx-xx-xxxx
BUTTELL, DUANE A. JR., xxx-xx-xxxx
CALDWELL, JAMES A., xxx-xx-xx...
CALFEE, JAMES R., xxx-xx-xxxx
CARNES, CHAPIN P., xxx-xx-xxxx
CARSON, JAMES M., xxx-xx-xxxx
CASPER, KENNETH, xxx-xx-xxxx
CHIK, PHILLIP L., xxx-xx-xxxx
CISNEROS, CHARLES E., xxx-xx-xxxx
CLARK, KIRK B., xxx-xx-xxxx
COHEN, WILLIAM A., xxx-xx-xx...
COMPTON, RONALD J., xxx-xx-xxxx
CONWAY, JOHN L. III, xxx-xx-xxxx
COOPER, PAUL R., xxx-xx-xxxx
CORY, JAMES R., xxx-xx-xxxx
COUGHENOUR, RICHARD W., xxx-xx-xxxx
CRANDALL, RICHARD, W., xxx-xx-xxxx
CRIST NEIL B., xxx-xx-xxxx
CZEKANSKI, JAMES P., xxx-xx-xxxx
DAGOSTINO, JOSEPH F., xxx-xx-xxxx
DALE, PATRICK L., xxx-xx-xxxx
DANGELO, GEORGE A., xxx-xx-xxxx
DELANEY, RICHARD M., xxx-xx-xxxx
DELAURA, LEWIS., xxx-xx-xxxx
DELL, WALTER L., xxx-xx-xx...
DIETZ, MICHAEL N., xxx-xx-xx...
DISRUD, ROGER G., xxx-xx-xxxx
DOGLIANI, HARALD O., xxx-xx-xxxx
DORRIS, RONALD R., xxx-xx-xxxx
DUBIEL, ROBERT D., xxx-xx-xxxx
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DURAND, BERNARD A., xxx-xx-xxxx
EALY, PHILLIP A., xxx-xx-xxxx
EDWARDS, WILLIAM B, III., xxx-xx-xxxx
ELLARD, NORMAN E., xxx-xx-xxxx
ELLIS, DAVID A., xxx-xx-xxxx
ENNIS, JERRY D., xxx-xx-xxxx
ERICKSON, THEODORE O., xxx-xx-xxxx
ESSEX, JACK G., xxx-xx-xxxx
EUSTACE, RICHARD J., xxx-xx-xxxx
FAUSEY, JAMES O., xxx-xx-xxxx
FEE, JERRY W., xxx-xx-xxxx
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FITZGERALD, JOHN W., xxx-xx-xxxx
FLINN, CHARLES A., JR., xxx-xx-xxxx
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GADD, CLAYTON T., xxx-xx-xxxx
GALLAGHER, DAVID J., xxx-xx-xxxx
GANOUNG, EDWIN R., xxx-xx-xxxx
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GEROGE, JOHN S., xxx-xx-xxxx
GILLIOM, DAVID C., xxx-xx-xxxx
GILSTAD, CLAIRE J., xxx-xx-xxxx
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GOUTAS, JOHN N., xxx-xx-xxxx
GRAWI, FRANKLIN L., xxx-xx-xxxx
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GROSS, CHARLES J., xxx-xx-xxxx
HAIGHT, JAMES E. JR., xxx-xx-xxxx
HALATIN THEODORE J., xxx-xx-xxxx
HALL, TRUMAN C. JR., xxx-xx-xx...
HANDREN, EDWARD P., xxx-xx-xxxx
HARGIS, THOMAS G., xxx-xx-xxxx
HAYES, NORMAN L., xxx-xx-xxxx
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HOBGOOD, CHARLES D., xxx-xx-xxxx
HOLLSTEIN, JOHN A., xxx-xx-xxxx
HOLMAN, RICHARD D., xxx-xx-xxxx
HOLT, GARY K., xxx-xx-xxxx
HOUSTON, DEAN, xxx-xx-xxxx
HUGHES, DAVID A., xxx-xx-xxxx
IANNACONE, RICHARD T., xxx-xx-xxxx
ISOM, JAMES D., xxx-xx-xxxx
JACKSON, CLAUDE G., JR., xxx-xx-xxxx
JOHNSON, STEPHAN G., xxx-xx-xxxx
JONES, JOHN A., xxx-xx-xxxx
KAIN, B. ALLYN, JR., xxx-xx-xxxx
KASZNAY, ANDREW J. JR., xxx-xx-xxxx
KERCHER, BARRY L., xxx-xx-xxxx
KERGE, JAMES E., xxx-xx-xxxx
KIEFER, PAUL A., xxx-xx-xxxx
KING, CHARLES H., xxx-xx-xxxx
KIRINCICH, NICHOLAS W., xxx-xx-xxxx
KOLP, TERRY J., xxx-xx-xxxx
KRULL, LARRY G., xxx-xx-xxxx
LABARBERA, SALVATORE J., xxx-xx-xx...
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LEE, WARREN B., xxx-xx-xxxx
LEONARD, GEORGE S. JR., xxx-xx-xxxx
LINDAHL, FREDERICK W., xxx-xx-xx...
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LONG, JAMES F., JR., xxx-xx-xxxx
LUCAS, THERON R., xxx-xx-xxxx
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MAHSMAN, GERRIT E., xxx-xx-xxxx
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MARK, JONATHAN G., xxx-xx-xxxx
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MATLOCK, RICHARD A., JR., xxx-xx-xxxx
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MCCLENON, DAVID W., xxx-xx-xx...
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MCNEIL, JOSEPH A., xxx-xx-xxxx
MELTON, DONALD K., xxx-xx-xxxx
MICHEL, JOSEPH B., xxx-xx-xxxx
MILLER, JOHN O., xxx-xx-xxxx
MISEK, DAVID W., xxx-xx-xxxx
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MOORE, JAMES B., JR., xxx-xx-xxxx
MORSE, JAMES L., xxx-xx-xxxx
MULLEN, RUSSELL E., xxx-xx-xx...
MYERS, DAVID R., xxx-xx-xxxx
NEWBAUER, THOMAS R., xxx-xx-xxxx
NICOLAS, GEORGE F., xxx-xx-xxxx
ODELL, THOMAS M., xxx-xx-xx...
OEHLSCHLAGER, ALVIN W., JR., xxx-xx-xx...
OGILVIE, VICTOR N., xxx-xx-xxxx
ONEAL, LESLIE F., xxx-xx-xx...
PAGE, JOSEPH F., III, xxx-xx-xxxx
PEDEN, WILLIAM D., xxx-xx-xx...
PETERSON, PETER J., JR., xxx-xx-xxxx
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ROSS, DONALD J., xxx-xx-xxxx
RUGH, JACK S., xxx-xx-xxxx
RUSSELL, JOHN C., xxx-xx-xxxx
SABAN, WILLIAM D., xxx-xx-xxxx
SAFRAN, VINCENT P., JR., xxx-xx-xxxx
SCHENK, JOHN F., xxx-xx-xxxx
SCHEUERMANN, CHARLES C., xxx-xx-xxxx
SCHLITT, SANFORD, xxx-xx-xxxx
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SHAVER, ROBERT M., xxx-xx-xxxx
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SHIPPEY, FREDERICK L., xxx-xx-xxxx
SIMMONS, JOSEPH R., JR., xxx-xx-xxxx
SINGLETON, GEORGE L., xxx-xx-xxxx
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SLATER, BRUCE P., xxx-xx-xxxx
SMITH, STEPHEN A., xxx-xx-xxxx
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STIFTER, CARL F., xxx-xx-xxxx
SULLIVAN, MICHAEL J., xxx-xx-xxxx
SULTANY, DENNIS J., xxx-xx-xxxx
SWANICK, DAVID R., JR., xxx-xx-xxxx
TACIK, FRANCIS L., JR., xxx-xx-xxxx
TAYLOR, ROYCE D., xxx-xx-xxxx
THAI, LAWRENCE S., xxx-xx-xx...
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WILES, JOHN A., xxx-xx-xxxx
WILLARD, DEREK H., xxx-xx-xxxx
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WILLIS, GALEN N., JR., xxx-xx-xxxx
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WILTUCK, ROBERT, xxx-xx-xxxx
WOLFE, PETER J., xxx-xx-xxxx
WOLGAST, MARVIN R., xxx-xx-xxxx
WORDELL, LYNDEN E., xxx-xx-xx...
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ZULEEG, RALPH C., xxx-xx-xx...

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KAHLICH, DANIEL P., xxx-xx-xxxx
STANICHAR, JOSEPH M., xxx-xx-xxxx

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BUCHE, WILLIAM A., xxx-xx-xx...
HELDT, LEROY V., xxx-xx-xxxx
MATSUMOTO, TERRY S., xxx-xx-xxxx
MIZUKAWA, JOHN H., xxx-xx-xxxx
PADGETT, CLAUDE E., xxx-xx-xxxx

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DENKINGER, MARC G., xxx-xx-xxxx
DICHIARO, JOSEPH, JR., xxx-xx-xxxx
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HOVEY, ROBERT J., xxx-xx-xxxx
KELLER, PETER A., xxx-xx-xxxx
LYNCH, JOSEPH G., xxx-xx-xxxx
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PENT, MICHAEL R., xxx-xx-xxxx
RIELLY, PETER, xxx-xx-xxxx
RODRIGUEZ, EDWARD F., JR., xxx-xx-xxxx
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BENNETT, JOHN R., xxx-xx-xxxx
BUCHANAN, MILLICENT K., xxx-xx-xx...
BURNS, GEORGE E., xxx-xx-xxxx
CLARK, JACK L., xxx-xx-xxxx
DAVALOS, HUGO A., xxx-xx-xxxx
EISENBERG, BURTON L., xxx-xx-xxxx
FERNANDO, ROLANDO A., xxx-xx-xxxx
GIBNEY, MATTHEW J., III, xxx-xx-xxxx
GOPAL, VENU, xxx-xx-xxxx
GRAY, DALE A., xxx-xx-xxxx
GREER, WILLIS A., xxx-xx-xxxx
MCDONALD, EDWARD C., xxx-xx-xx...
NEWMAN, RICHARD K., xxx-xx-xxxx
OGLETREE, JAN N., xxx-xx-xxxx
PHILLIPS, MICHAEL T., xxx-xx-xx...
PICKETT, JUSTUS C., xxx-xx-xxxx
SPIVEY, JAMES N., xxx-xx-xxxx
SWEDARSKY, ROBERT H., xxx-xx-xxxx
TREVINO, SAUL G., xxx-xx-xxxx
TURLINGTON, JAMES T., xxx-xx-xxxx
WALBROEHL, GORDON S., xxx-xx-xxxx

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ANDERSON, JAMES E., xxx-xx-xxxx
BROWN, MELVA E., xxx-xx-xx...
CAMPBELL, DEIRDRIE D., xxx-xx-xxxx
CHAMINGS, PATRICIA A., xxx-xx-xxxx
CLAPP, MARY A., xxx-xx-xxxx
COYLE, MARY C., xxx-xx-xx...
CUMMINGS, MARJORIE E., xxx-xx-xxxx
DANIELWOLD, SUSAN L., xxx-xx-xxxx
GARLAND, JOY B.J., xxx-xx-xxxx
GIBSON, JEAN, H.T., xxx-xx-xxxx
GRANER, ALICE M.H., xxx-xx-xx...
GRYPHAN, GAYLE F., xxx-xx-xxxx
KEACH, MARGARET N., xxx-xx-xxxx
KOWAL, PATRICIA E., xxx-xx-xx...
MANNING, ELIZABETH A., xxx-xx-xx...
MERSON, NANCY E., xxx-xx-xxxx
NUNN, MAIDANA K., xxx-xx-xxxx
SANGALA, JUNE M., xxx-xx-xxxx
SCHAAG, HELEN A., xxx-xx-xx...
SCOLLIN, KATHLEEN A., xxx-xx-xx...
SIMMERMAN, BEVERLY A., xxx-xx-xx...
SISSON, REBECCA A., xxx-xx-xxxx
VONCANNON, LINDA C., xxx-xx-xx...
WITT SANDRA, xxx-xx-xxxx

MEDICAL SERVICE CORPS

MAZZOTTA, BRUNO R., xxx-xx-xx...
SHY, GEORGE E., JR., xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

DUMAS, RONALD L., xxx-xx-xxxx
MULL, RONALD L., xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL CORPS

To be colonel

*ALVING, BARBARA M., xxx-xx-xxxx
BANKS, RICHARD A., xxx-xx-xxxx
*BAWAPAREKH, SUMITRA L., xxx-xx-xxxx
BERMAN, JONATHAN D., xxx-xx-xxxx
CHACKO, ANNA K., xxx-xx-xxxx
*CONROY, JOHN J., xxx-xx-xxxx
DEAS, BERNARD W. JR., xxx-xx-xxxx
FALL, STEPHEN M., xxx-xx-xxxx
FERRARIS, VICTOR A., xxx-xx-xxxx
GANDY, CHARLES L., III, xxx-xx-xxxx
*GIFFORD, DAVID B., xxx-xx-xxxx
*HAYNES, JOHN D., JR., xxx-xx-xxxx
*HOFFMAN, CLARK G., xxx-xx-xxxx
*HOKE, CHARLES H., JR., xxx-xx-xxxx
HORNE, DANIEL W., III, xxx-xx-xxxx
*HWANG, RICHARD J., xxx-xx-xxxx
*IGARTUA, RAFAEL J., xxx-xx-xxxx
KILEY, KEVIN C., xxx-xx-xxxx
*KINNEY, JAMES B., xxx-xx-xxxx
KUTHIALA, CHITRA, xxx-xx-xxxx
*LANIER, DENNIS M., xxx-xx-xxxx
LEE, YEUTSU M., xxx-xx-xxxx
LEINBACH, CONWELL B., xxx-xx-xxxx
*LIMBO, ZENEN C., xxx-xx-xxxx
*LIN, TSE H., xxx-xx-xxxx
*LOEW, DOLORES A., xxx-xx-xxxx
LONGFIELD, ROBERT N., xxx-xx-xxxx
MAY, DENNIS L., xxx-xx-xxxx
*MCCARTHY, JOSEPH C., JR., xxx-xx-xxxx
*MICHEL, TERREL J., xxx-xx-xxxx
*MORRIS, ALLISTER K., xxx-xx-xxxx
*MULLEN, JOHN P., xxx-xx-xxxx
OMEARA, THOMAS F., xxx-xx-xxxx
OZIMEK, CARL D., xxx-xx-xxxx
*PAGADALA, SUMANTH, xxx-xx-xxxx
*PRABHA, CHANDRA A., xxx-xx-xxxx
*PREECE, HOWARD G., xxx-xx-xxxx
*RAIFE, MICHAEL J., xxx-xx-xxxx
*RESTUCCIA, ROBERT D., xxx-xx-xxxx
RYAN, JOHN B., xxx-xx-xxxx
*RYDER, GEOFFREY C., xxx-xx-xxxx
*SCHULTZ, TERRY K., xxx-xx-xxxx
SELETZ, JULES M., xxx-xx-xxxx
*SEN, JAYANTI K., xxx-xx-xxxx
STEINWEG, KENNETH K., xxx-xx-xxxx
*TANKLEFF, BERT N., xxx-xx-xxxx
TOON, ROBERT D., xxx-xx-xxxx
TYLER, WILLIAM F., xxx-xx-xxxx
*VAUGHAN, GEORGE M., xxx-xx-xxxx
*WIESMANN, WILLIAM P., xxx-xx-xxxx
*WIKER, EDMUND P., xxx-xx-xxxx

IN THE MARINE CORPS

MAJ. TRUMAN W. CRAWFORD, U.S. MARINE CORPS, FOR APPOINTMENT TO THE TEMPORARY GRADE OF LIEUTENANT COLONEL, PURSUANT TO ARTICLE II, SECTION 2, CLAUSE 2 OF THE CONSTITUTION.

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES, FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 2107:

CHRISTY, JOEL M., xx...
GRIFFIN, MICHAEL J., xx...
HARRIS, JULI A., xx...
HERNANDEZ PATRICK L., xx...
LOUCKS RICHARD E., xx...
MAGLINANO SAMUEL A., xx...
SIMMONS PHILIP E., xx...
WADE WILLIAM L., xx...

THE FOLLOWING NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES, FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 2107:

VAN DAMME RICHARD J., JR., xx...
WHITE KENNETH S., xx...
WILSON DANIEL H., xx...

THE FOLLOWING NAMED OFFICERS OF THE REGULAR MARINE CORPS FOR TRANSFER INTO THE REGULAR MARINE CORPS UNDER TITLE 10, UNITED STATES CODE, SECTION 531:

To be captain

BALLARD, ROBERT A., xxx-xx-xxxx
BLAKE, THOMAS M. JR., xxx-xx-xxxx
BRESNAHAN, THOMAS M. JR., xxx-xx-xxxx
BREWER, MACK L., xxx-xx-xxxx
CALLAHAN, JOSEPH H. JR., xxx-xx-xxxx
CANTY, JEREMIAH D., xxx-xx-xxxx
CARROLL, FRANCIS X., xxx-xx-xxxx
COLLINS, MICHAEL E., xxx-xx-xxxx
DADAY, ROBERT P. JR., xxx-xx-xxxx
DAULTON, JAMES T. JR., xxx-xx-xxxx
DEGUZMAN, ARMANDO G., xxx-xx-xxxx
DELANO, WILLIAM D., xxx-xx-xxxx
DIXON, JAMES A., xxx-xx-xxxx
ERLANDSON, CARL E., xxx-xx-xxxx
ERLEY, DOUGLAS L., xxx-xx-xxxx
EWERS, JOHN R. JR., xxx-xx-xxxx
FARNESKI, RONALD V., xxx-xx-xxxx
FORJAN, GARY F., xxx-xx-xxxx
GLADBACH, JAMES P., xxx-xx-xxxx
GOULD, TERRANCE A., xxx-xx-xxxx
HARLEY, NATHANIEL JR., xxx-xx-xxxx
HEADDEN, CHARLES E., xxx-xx-xxxx
HOLZWORTH, CHRISTOPHER E., xxx-xx-xxxx
JEFFRIES, BARRY E., xxx-xx-xxxx
KERCHNER, SCOTT E., xxx-xx-xxxx
KNIEF, ROBERT A., xxx-xx-xxxx
LAWLER, JOHN F., xxx-xx-xxxx
LEPPELMEIER, DAVID R., xxx-xx-xxxx
MAGUIRE, RICHARD F., xxx-xx-xxxx
MANNELLA, MARCUS G., xxx-xx-xxxx
MARCHIORO, STEPHEN D., xxx-xx-xxxx
MASCK, GREGORY T., xxx-xx-xxxx
MASSEY, TIMOTHY P., xxx-xx-xxxx
MAY, THOMAS K., xxx-xx-xxxx
MCCLAREN, HARRY E., xxx-xx-xxxx
MCCLENAHAN, PETER T., xxx-xx-xxxx
MCEWIN, THOMAS L., xxx-xx-xxxx
METCALFE, CHARLES H., xxx-xx-xxxx
MITCHELL, DAVID L., xxx-xx-xxxx
NAKAS, EDWARD V., xxx-xx-xxxx
ODELL, TERRENCE K., xxx-xx-xxxx
PARKER, STEVEN J., xxx-xx-xxxx
PLETZKE, MARK J., xxx-xx-xxxx
PULEO, LOUIS J., xxx-xx-xxxx
RISHELL, ERIC C., xxx-xx-xxxx
ROTELLI, LIONEL J., JR., xxx-xx-xxxx
SALSEDA, GERALD C., xxx-xx-xxxx
SAMPSON, DONALD W., xxx-xx-xxxx
SANNY, JAMES T., SR., xxx-xx-xxxx
SCHLAEFLI, SCOTT A., xxx-xx-xxxx
SHAYNE, ROBERT, xxx-xx-xxxx
SPARR, MICHAEL O., xxx-xx-xxxx
STRAIN, PATRICK M., xxx-xx-xxxx
TOMLINSON, PAUL L., xxx-xx-xxxx
TURNER, TIMOTHY P., xxx-xx-xxxx
TURNER, WILLIAM C., xxx-xx-xxxx
UNDERWOOD, REGINALD C., xxx-xx-xxxx
WALKER, HARLOW H., xxx-xx-xxxx
WALSH, JAMES A., III, xxx-xx-xxxx
YOUNCE, ROBERT C., JR., xxx-xx-xxxx
YOUNG, GEORGE L., III, xxx-xx-xxxx

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AHO, JOHN A., xxx-xx-xxxx
AIROLA, GLENN E., xxx-xx-xxxx
AMATO, VINCENT, JR., xxx-xx-xxxx
ANDERSON, BRIAN J., xxx-xx-xxxx
BAILEY, TIMOTHY J., xxx-xx-xxxx
BANNICK, KATHY A., xxx-xx-xxxx
BARBER, JEFFREY B., xxx-xx-xxxx
BARKER, DAVID A., xxx-xx-xxxx
BAUMANN, PATRICE M., xxx-xx-xxxx
BEACH, BRIAN O., xxx-xx-xxxx
BEASON, LAWRENCE L., JR., xxx-xx-xxxx
BEAZLEY, HENRY E., xxx-xx-xxxx
BENAVIDEZ, DANIEL, JR., xxx-xx-xxxx
BENJAMIN, DWAYNE, xxx-xx-xxxx
BICKERSTAFF, RONALD, xxx-xx-xxxx
BIONDICH, MITCHELL, S., xxx-xx-xxxx
BLACKWOOD, JOHN J., xxx-xx-xxxx
BLACKWOOD, MICHAEL A., xxx-xx-xxxx
BLAIR, JAMES M., xxx-xx-xxxx
BOCCHI, THOMAS R., xxx-xx-xxxx
BOLDEN, WILLIAM K., xxx-xx-xxxx
BOLLING, RUSSELL C., xxx-xx-xxxx
BONNER, DAVID B., xxx-xx-xxxx
BONNER, JAMES C., xxx-xx-xxxx
BONNOT, MATTHEW J., xxx-xx-xxxx
BOOTH, DAVID H., xxx-xx-xxxx
BOWEN, KEVIN M., xxx-xx-xxxx
BRACKMANN, MATTHEW P., xxx-xx-xxxx
BRADFORD, DANIEL S., xxx-xx-xxxx
BRADY, JAMES P., xxx-xx-xxxx
BRASIER, DAVID F., xxx-xx-xxxx
BRINEGAR, GREGG W., xxx-xx-xxxx
BROWN, ETOY D., xxx-xx-xxxx
BROWN, LEON M., xxx-xx-xxxx
BUHL, WILLARD A., xxx-xx-xxxx
BURNS, GERARD K., xxx-xx-xxxx
BURRUSS, LEWIS, JR., xxx-xx-xxxx
BYRNE, BRIAN J., xxx-xx-xxxx
BYRNE, STEPHEN J., xxx-xx-xxxx
CAIRNEY, PETER D., xxx-xx-xxxx
CANTU, SALVADOR, JR., xxx-xx-xxxx
CARTER, DAWN L., xxx-xx-xxxx
CHAPARRO, MIGUEL A., xxx-xx-xxxx
CHARLESTON, CARLEN T., xxx-xx-xxxx
CHEATHAM, GLENN N., xxx-xx-xxxx
CHIAROTTI, CHARLES G., xxx-xx-xxxx
CLARK, JAMES W., JR., xxx-xx-xxxx
CLOUTIER, DAVID L., xxx-xx-xxxx
COATE, ROBERT W., xxx-xx-xxxx
COLONNA, EDWARD J., xxx-xx-xxxx
CONORD, ALBERT T., xxx-xx-xxxx
CORCORAN, STEPHEN P., xxx-xx-xxxx
COWLEY, JOHN D., xxx-xx-xxxx
CUBBAGE, GARY W., xxx-xx-xxxx
CULP, RONALD S., xxx-xx-xxxx
CUNNIFEE, DENNIS M., xxx-xx-xxxx
CUNNINGHAM, JON C., xxx-xx-xxxx
CURATOLA, JOSEPH W., xxx-xx-xxxx
DABNEY, LEWIS P., xxx-xx-xxxx
DEBLIECK, ARLAN M., xxx-xx-xxxx
DEEDS, WARREN D., xxx-xx-xxxx
DENNEY, MARK A., xxx-xx-xxxx
DEREDITA, DANNY A., xxx-xx-xxxx
DIDDAMS, RICHARD L., JR., xxx-xx-xxxx
DONLAN, JAMES G., xxx-xx-xxxx
DOVEY, MICHAEL E., xxx-xx-xxxx
DUPIN, DIANE F., xxx-xx-xxxx
DURKIN, ROBERT T., xxx-xx-xxxx
DYSICO, GEORGE L., xxx-xx-xxxx
EARL, RICHARD E., xxx-xx-xxxx
EHRHARDT, DANIELLE K., xxx-xx-xxxx
ELLIS, GEORGE M., xxx-xx-xxxx
ENGELS, CATHLEEN M., xxx-xx-xxxx
ERLER, RICHARD C., xxx-xx-xxxx
FINELLI, RONALD R., xxx-xx-xxxx
FLOWER, KEITH D., xxx-xx-xxxx
FOBELL, RALPHY A., xxx-xx-xxxx
FONTANEZ, PAUL J., xxx-xx-xxxx
FORD, JAMES A., xxx-xx-xxxx
FRANK, JAMES P., JR., xxx-xx-xxxx
FROSCH, SCOTT B. xxx-xx-xxxx
GAAB, HENRY J., III, xxx-xx-xxxx
GABRI, STEPHEN J., xxx-xx-xxxx
GALLO, GEOFFREY A., xxx-xx-xxxx
GATES, ROBERT W., xxx-xx-xxxx
GERNER, PAUL C., xxx-xx-xxxx
GORRY, THOMAS A., xxx-xx-xxxx
GOITTESMAN, MINDY S., xxx-xx-xxxx
GRANT, SCOTT G., xxx-xx-xxxx
GREEN, KEVIN T., xxx-xx-xxxx
GRENDA, CHRISTOPHER A., xxx-xx-xxxx
GRIDLEY, RONALD A., xxx-xx-xxxx
GRIFFEN, DANIEL J., xxx-xx-xxxx
GROGAN, MICHAEL S., xxx-xx-xxxx
GURFEIN, DAVID H., xxx-xx-xxxx
HAHN, RONALD D., JR., xxx-xx-xxxx
HALL, TIMOTHY J., xxx-xx-xxxx
HAMILTON, THOMAS J., II, xxx-xx-xxxx
HARDY, FREDERICK A., xxx-xx-xxxx
HARKINS, WILLIAM J., JR., xxx-xx-xxxx
HARPER, GERALD F., JR., xxx-xx-xxxx
HECKART, KEVIN E., xxx-xx-xxxx
HEIDT, WILLIAM B., xxx-xx-xxxx
HICKEY, DAN P., xxx-xx-xxxx
HINKLE, ROGER N., xxx-xx-xxxx
HODGE, DANIEL K., xxx-xx-xxxx
HOLLY, CLIFFORD C., xxx-xx-xxxx
HUNT, BOBBY H., xxx-xx-xxxx
HUSTON, JAY L., xxx-xx-xxxx
IMMEL, STEVEN M., xxx-xx-xxxx
JACKSON, RICHARD C., II, xxx-xx-xxxx
JARVIS, ALLAN L., xxx-xx-xxxx
JARVIS, MICHAEL W., xxx-xx-xxxx
JOHNSON, CLAY R., xxx-xx-xxxx
JOHNSON, HAROLD D., III, xxx-xx-xxxx
KACHELEIN, STEPHEN P., xxx-xx-xxxx
KENDALL, STEVEN C., xxx-xx-xxxx
KESSLER, ERIC P., xxx-xx-xxxx
KIBLER, MICHAEL J., xxx-xx-xxxx
KING, EARNEST D., xxx-xx-xxxx
KIRBY, MICHAEL G., xxx-xx-xxxx
KLING, GARY A., xxx-xx-xxxx
KOSTECKI, JOHN A., xxx-xx-xxxx
KUCKUK, PAUL A., xxx-xx-xxxx
KVENLOG, KEVAN B., xxx-xx-xxxx
LADEN, DAVID B., xxx-xx-xxxx
LANGLEY, MICHAEL E., xxx-xx-xxxx
LARA, JOAQUIN A., xxx-xx-xxxx
LASTER, KEVIN C., xxx-xx-xxxx
LAVIOLETTE, MARK D., xxx-xx-xxxx
LAWSON, RANDY J., xxx-xx-xxxx
LEDAY, TIMOTHY E., xxx-xx-xxxx
LEEGE, WILLIAM E., xxx-xx-xxxx
LEISER, BRIAN A., xxx-xx-xxxx
LEVINS, GEORGE T., JR., xxx-xx-xxxx
LEWIS, ANDREW W., xxx-xx-xxxx
LHEUREUX, RAYMOND F., xxx-xx-xxxx
LINN, DAVID A., xxx-xx-xxxx
LOKENSGARD, ROLF M., xxx-xx-xxxx
LONG, MATTHEW P., xxx-xx-xxxx
LORKOWSKI, DONALD L., xxx-xx-xxxx
LOWREY, NATHAN S., xxx-xx-xxxx
LUCIANO, LOUIS P., JR., xxx-xx-xxxx
LUNDSTROM, EDWARD D., xxx-xx-xxxx
LYNCH, TIMOTHY P., xxx-xx-xxxx
MACMANNIS, ANDREW R., xxx-xx-xxxx
MANGOLD, JOHN P., xxx-xx-xxxx
MANZA, JOHN D., xxx-xx-xxxx
MARANO, NICHOLAS F., xxx-xx-xxxx
MARTIN, JAMES M., xxx-xx-xxxx
MCDONALD, MICHAEL V., xxx-xx-xxxx
MCELROY, JOHN F., xxx-xx-xxxx
MCGINLEY, JAMES E., xxx-xx-xxxx
MCGOWAN, SCOTT R., xxx-xx-xxxx
MCGUIRE, THOMAS J., xxx-xx-xxxx
MCKENNA, JAMES A., xxx-xx-xxxx
MEDEIROS, STEPHEN A., xxx-xx-xxxx
MERCHANT, JEFFREY L., xxx-xx-xxxx
MILLER, DREW B., xxx-xx-xxxx
MILLS, PATRICK O., xxx-xx-xxxx
MONYAK, MICHAEL J., xxx-xx-xxxx
MORAN, EDWARD J., II, xxx-xx-xxxx
MORET, LOUIS D., xxx-xx-xxxx
MORSE, DONALD C., xxx-xx-xxxx
MORTON, MICHAEL K., xxx-xx-xxxx
NAGLE, WILLIAM S., JR., xxx-xx-xxxx
NERUD, RICHARD F., JR., xxx-xx-xxxx
NESTOR, DAN C., xxx-xx-xxxx
ORourke, PATRICK J., xxx-xx-xxxx
PALMER, KIRK D., xxx-xx-xxxx
PANTALEO, DANNY D., xxx-xx-xxxx
PAUL, ROY D., xxx-xx-xxxx
PAULSEN, JOEL E., xxx-xx-xxxx
PETRONZIO, PETER, xxx-xx-xxxx
PHELPS, ERIC W., xxx-xx-xxxx
PHILLIPS, RODNEY E., xxx-xx-xxxx
PITTMAN, BENTON, W., xxx-xx-xxxx
PLANETA, CHRISTOPHER C., xxx-xx-xxxx
POPE, RANDY N., xxx-xx-xxxx
PREBLE, RICHARD B., xxx-xx-xxxx
RADAN, MICHAEL J., xxx-xx-xxxx
RICCIO, MARC F., xxx-xx-xxxx
RODRIGUEZ, MARK C., xxx-xx-xxxx
ROMAO, VINCENT A., xxx-xx-xxxx

ROWE, DAVID S., xxx-xx-xx...
RUDDER, STEVEN R., xxx-xx-xxxx
RUTLEDGE, SPENCER, III, xxx-xx-xxxx
SAWYER, SUSAN, xxx-xx-xxxx
SCHACHMAN, ALAN, JR., xxx-xx-xx...
SCHLOTZHAUER, KIRK D., xxx-xx-xxxx
SCHMARR, DAVID J., xxx-xx-xxxx
SCHUTZ, ROBERT C., IV, xxx-xx-xxxx
SCOTT, KYM D., xxx-xx-xxxx
SEAL, DOUGLAS L., xxx-xx-xx...
SHEFFIELD, LORY E., xxx-xx-xxxx
SHORT, PHILLIP R., xxx-xx-xxxx
SMITH, DANIEL J., xxx-xx-xxxx
SMITH, JAMES S., xxx-xx-xxxx
SMITH, JAY C., xxx-xx-xxxx
SMITH, JEFFREY W., xxx-xx-xxxx
SMITH, RUSSELL H., xxx-xx-xxxx
STAVROS, JOHN D., xxx-xx-xxxx
SWETT, CLINTON L., xxx-xx-xx...
SWICKER, PETER C., xxx-xx-x...
TATE, KATHY L., xxx-xx-xxxx
TAYLOR, RAYMOND E., xxx-xx-xxxx
THANARS, DON M., xxx-xx-xxxx
THOMAS, JOSEPH J., xxx-xx-xxxx
THOMAS, REGINALD C., xxx-xx-xxxx
TRUSSELL, GARLAND L., JR., xxx-xx-xxxx
USRY, FLOYD J., JR., xxx-xx-xxxx
VALLEE, PAUL A., xxx-xx-xx...
WEBBERS, RUDOLF, xxx-xx-xxxx
WEBER, PAUL J., xxx-xx-xxxx
WEHNER, JOHN C., xxx-xx-xx...
WEINKLE, ROBERT K., JR., xxx-xx-xxxx
WELLS, JOE, JR., xxx-xx-xxxx
WESTMORELAND, RICHARD A., xxx-xx-xxxx
WHITE, DUFFY W., xxx-xx-xxxx
WIGFALL, VICTOR, II, xxx-xx-xxxx
WIGGINS, DAVID S., xxx-xx-xxxx
WILLIAMS, GREGORY A., xxx-xx-xxxx
WILLIAMSON, RICHARD W., xxx-xx-xx...
WINTERSTEIN, GARY A., xxx-xx-xxxx
WOMELSDORF, ROBERT C., xxx-xx-xxxx
WOODS, CURTIS J., xxx-xx-xxxx
YOUNG, JEFFREY G., xxx-xx-xxxx
ZELLER, JEFFREY R., xxx-xx-xxxx
ZIDEK, STEPHEN C., xxx-xx-xxxx

THE FOLLOWING NAMED U.S. NAVAL ACADEMY GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

ADAMS, CHARLTON P., xx...
ALLAN, PEYTON M., xx...
APPOLLONIO, GEORGE A., xx...
ARCHER, LUTHER., xx...
ART, RAYMOND A., xx...
AUTRY, MARK A., xx...
BAKER, STEVEN P., xx...
BAROUN, SCOTT K., xx...
BASSETT, ROBERT B., xx...
BEKKEN, BRETT M., xx...
BENSON, ROBERT E., xx...
BERGMAN, DAVID M., xx...
BERRY, KENT S., xx...
BEYMER, ROBERT B., xx...
BLANKENSHIP, ANTHONY R., xx...
BLOCK, OLIVER J., xx...
BLADBURY, JEFFREY R., xx...
BRUNO, THOMAS A., xx...
BUFFINGTON, TIMOTHY S., xx...
BURNETT, STEPHEN L., xx...
BURR, DEVON M., xx...
BUSH, LAURA S., xx...
CARLSON, CHRISTOPHER W., xx...
CASEY, DAVID P., xx...
CESTERO, HERMAN J., xx...
CHAPMAN, MARIA S., xx...
CHIO, JEREMY B., xx...
CLOE, DAVID L., xx...
COLBORN, PHILIP A., xx...
COLLER, RUSSELL J., xx...
CORCHUELO, ALBERT F., xx...
CUCCIO, MICHAEL T., xx...
CZAJA, BRUCE A., xx...
DEGUZMAN, RICHARD G., xx...
DELAOSSA MARIO E., xx...
DEVILLIERS, EDWARD M., xx...
DODGE, WILLIAM A., xx...
DOWLING, DAVID J., xx...
ENGEL, BRIAN E., xx...
ETTEN, NICHOLAS J., xx...
FAGAN, FRED T., xx...
FAGAN, JOSEPH M., xx...
FATHEREE, CHRISTOPHER, xx...
FAUST, ANTHONY D., xx...
FRATICELLI, CHRISTOPHER L., xx...
FUNDOUKOS, THEODORE E., xx...
GALBRAITH, ROGER S., xx...
GAMBOA, DIONISIO S., xx...
GARZA, JOSE L., xx...
GEIGER, CAMERON D., xx...
GILBERT, AARON E., xx...
GLASPER, EDDIE L., xx...
GLATT, DONALD J., xx...
GODWIN, JAMES O., xx...
GOERING, TIMOTHY R., xx...
GONSALVES, JAMES D., xx...
GRANT, JULIEN A., xx...
GRASS, STEVEN J., xx...
GRAY, CHARLES S., xx...
GUANDOLO, JOHN D., xx...
HAGAN;, ROBERT M., xx...
HCKS, KEITH E., xx...
HINTON, PIERRE R., xx...
HOLLAND, MONICA K., xx...
HORTON, ANTHONY C., xx...
HUGHES, JONATHAN L., xx...
HULBERT, MARK S., xx...
HULIT, RICHARD S., xx...
IMANIAN, JAMES R., xx...
IRBY, WILLIAM G., xx...
JENSEN, SCOTT S., xx...
JIMENEZ MICHAEL A., xx...
JOBE, DIETER G., xx...
JONES, CHRISTOPHER M., xx...
JONES, RONALD F., xx...
KAINER, JOHN E., xx...
KALDERON, STEVEN A., xx...
KATUIN, KEVAN D., xx...
KIROL, KEITH A., xx...
KLEIN, JOSEPH G., xx...
KLEMICK, MICHAEL T., xx...
LAABS, STEPHEN K., xx...
LADERER, DAVID A., xx...
LADUCA, MICHELLE C., xx...
LAMBRECHT, STEVEN S., xx...
LASORSA, RONALD S., xx...
LEUPOLD, MICHAEL W., xx...
LUGO, FRANK E., xx...
LYMAN, ARTHUR R., xx...
MANDICHAK, JOSEPH M., xx...
MCCANN, DOUGLAS E., xx...
MCCOLL, THEODORE L., x...
MCCORD, DAVID G., xx...
MCDOWALL, JOHN D., xx...
MCFALL, LARRY L., xx...
MCGETTIGAN, MICHAEL D., xx...
MCLAUGHLIN CHRISTIAN F., xx...
MCLUCKIE, MATTHEW P., xx...
MCNEILL, DONALD B., xx...
MENARCHICK, FRANK J., xx...
MERKER, DAVID S., xx...
MILLS, DON A., xx...
MOHLE, BARBARA H., xx...
MOKRIS, CHRIS G., xx...
MONTANUS, PAUL D., xx...
MOSIER, STEPHEN A., xx...
MOYER, WILLIAM E., xx...
MUSE, ROLAND S., xx...
NEELEY, DWIGHT C., xx...
NEFF, RONALD D., xx...
OSTROWSKI, JOHN A., xx...
PECK, THOMAS R., xx...
POWERS, PATRICK J., xx...
PRICE, HENRY W., xx...
REDMAN, WILLIAM M., xx...
REED, EDWIN P., xx...
RIEGERT, PAUL M., xx...
ROBERTS, DOMINIC E., xx...
RODRIGUEZ, JAMES A., xx...
RODRIGUEZ, MICHAEL J., xx...
RUST, CHARLES A., xx...
RYAN, PAUL P., xx...
SABLAN, JON M., xx...
SAHLER, DUSKA L., xx...
SAMUELS, ROBERT B., xx...
SCHAEFER, CHRISTOPHER A., xx...
SCHWEITZER, JOSEPH P., xx...
SHOUP, MICHAEL D., xx...
SIMMONS, WILLIAM E., xx...
SMITH, JOSEPH S., xx...
SMITH, JULIA A., xx...
SMITH, THAD E., xx...
SOLTIS, MATTHEW G., xx...
SPENCER, YESSIC C., xx...
STEADMAN, MICHAEL W., xx...
STEWART, JOEL D., xx...
TAYLOR, TIMOTY S., xx...
THIRY, DOUGLAS B., xx...
THOELE, DANIEL T., xx...
THOMPSON, RICHARD D., xx...
THORN, DAVID S., xx...
TIBBS, WILLIAM R., xx...
TRAVERS, CASEY C., xx...
TUCKER, JOHN R., xx...
TURNBAUGH, DAVID E., xx...
ULSES, MICHAEL J., xx...
VALDEZ, MARCELO J., xx...
VANGILDER, DONALD T., xx...
VINCENT, LAWRENCE S., xx...
WADE, JOSEPH F., xx...
WALDEMAR, TODD C., xx...
WALTON, JAMES C., xx...
WANDO, THOMAS D., xx...
WHALEY, DARRIN L., xx...
WINGFIELD, THEODORE V., xx...
ZELLERS, ERIN L., xx...
ZIPPEL, PAUL J., xx...

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTIONS 531 AND 2107:

ACKERMAN, JOHN B., II, xx...
ACKMANN, MARK A., xx...
ALDER, ROBERT W., xx...
ALLEN, WILLIAM K., xx...
ALOISE, ANDREW P., xx...
AMATURE, JAMES, xx...
AMBROSE, JAMES F., xx...
ANDERSON, BRIAN L., xx...
ANS, MATTHEW J., xx...
APLIN, CAMERON C., xx...
ASPACIO, REGINO A., xx...
AZCARATE, EDUARDO J., xx...
BAKER, JOHN D., xx...
BARGERON, JAY M., xx...
BARLOW, SALINA M., xx...
BARNES, CURTIS L., xx...
BASEL, STEPHEN J., xx...
BATTERSHALL, B.W., xx...
BAUER, BRENT J., xx...
BECHLER, ERIC M., xx...
BELL, GERALD J., xx...
BELL, THOMAS W., xx...
BENGTSON, TODD E., xx...
BENNETT, BRIAN C., xx...
BENTLEY, WILLIAM P., xx...
BENTON, GEORGE T., xx...
BERNHARDT, DAVID T., xx...
BERVEN, STEVEN P., xx...
BEY, CHRISTOPHE S., xx...
BIGGS, GERALD W., xx...
BILLINGSLEA, WILLIE D, xx...
BINGER, GEORGE M., II, xx...
BLYTH, BRIAN J., xx...
BOARD, CARY M., xx...
BOLZA, WILLIAM D., xx...
BORNSCHEIN, ARTHUR W., xx...
BOUCHER, RONALD J., xx...
BOWLEY, JEFFREY R., xx...
BRESNIK, RANDOLPH R., xx...
BRIGGS, ANTHONY D., xx...
BRODERICK CHARLES P., xx...
BROOKS, ANTHONY W., xx...
BROOKS, DAVID A., xx...
BROWN, MICHAEL A., xx...
BRUHL, TABORRI I., xx...
BRUNO, MICHAEL G., xx...
BULFORD, MARK R., xx...
BURGESS, DEBORAH M., xx...
BURKEMPER, RAYMOND R., xx...
BURROUGHS, JOSEPH L., II, xx...
BUSKER, BRADLEY R., xx...
CALLAHAN, TIMOTHY S., xx...
CAMELE, AARON P., xx...
CAMPBELL, DONALD M., xx...
CARROLL, MARTIN J., xx...
CARROLL, PATRICK J., xx...
CARVEY, HARLAN A., xx...
CAVAZOS, JOHN A., xx...
CHRISTY, JOEL M., xx...
CLARK, JOHN A., xx...
CLARK, STEPHEN J., xx...
CLAUSEN, MICHAEL K., xx...
CLOUTIER, GERARD P., xx...
COERR, STANTON S., xx...
COGSWELL, JOSEPH E., xx...
CONNER, THOMAS M., xx...
COON, MATTHEW W., xx...
CORSEY, MICHAEL E., xx...
COTHERN, STEVEN G., xx...
COUNTS, JAMES W., xx...
COURTET, JEFFERY T., xx...
CRABTREE, GALEN D., xx...
CRISAFULLI, FRANCISCO B., xx...
CROCKER, RICARDO A., xx...
CUNARD, ROBERT D., xx...
CURLING, STEPHANIE J., xx...
CYRUS, CHRISTOPH P., xx...
CZAJA, MARC E., xx...
DAMPHOUSEE, PAUL E., xx...
DAVIS, JAMES F., xx...
DEAL, STEVEN E., xx...
DELANEY, ROY H., xx...
DEMMOND, MARY, xx...
DESBORDES, CHARLES H., xx...
DIAZ, RODOLFO G., xx...
DOHERTY, JOHN B., xx...
DOWSE, DAN E., xx...
DRISCOLL, DANIEL F., xx...
EAMES, BRAD A., xx...
EAVES, ROBERT W., II, xx...
EBERHARDT, JANET L., xx...
ELLISON, RICHARD W., xx...
ESKELUND, DAVID J., xx...
ESTEP, WALTER B., xx...
EVANS, SCOTT A., xx...
EYTINA, SARENDA, xx...
FAIRFIELD, DOSTON P., xx...
FALK, SEAN M., xx...
FARRELL, CATHERINE A., xx...
FAULKNER, JUDITH M., xx...
FELDHAUS, ERIK J., xx...
FERENCE, ANTHONY A., xx...
FEGUSON, MICHAEL G., xx...
FIRTH, CHARLOTTE V., xx...
FISHER, TODD J., xx...
FITCH, JOHN M., xx...
FLYNN, JAMES G., xx...
FORD, ALLEN S., xx...
FOSSETT, GEOFFREY R., xx...
FRANKLIN, MICHAEL D., xx...
FRANKS, ROBERT S., xx...
FRAVEL, PATRICK J., xx...
FRONING, DONALD J., JR., xx...
FUHS, JAMES W., xx...
FULCHER, BENJAMIN C., II, xx...
GABRIEL, TIMOTHY R., xx...
GANNON, BRIAN E., xx...
GARRETT, JAMES M., xx...
GERTH, JOHN D., xx...
GIBSON, CHRIS A., xx...
GILL, WARD P., xx...
GILTZ, JOHN R., xx...
GODINEZ, SAUL, xx...
GOMEZMEJIA, MAURICIO F., xx...

GOODWIN, RICHARD J., xx...
GRAFT, BRADFORD A., xx...
GREALISH, JOSEPH E., xx...
GREEN, DAVID L., xx...
GRIM, LEON J., xx...
GRUNY, JIMMIE G., xx...
GRZYMKOWSKI, FRANCIS A., xx...
GUGEL, GREGORY C., xx...
HACKATHORN, TERESA A., xx...
HALL, ROBERT A., xx...
HAM, TED I., xx...
HAMILTON, JAMES L., xx...
HANCOCK, JEFFREY G., xx...
HANLING, STEVE R., xx...
HANSEN, ROBERT W., xx...
HAROOTUNIAN, RICHARD, xx...
HARRINGTON, JOHN D., xx...
HARRIS, JULI A., xx...
HAYDEL, BRODY C., xx...
HAYES, PETER T., x...
HEIMER, NEAL A., xx...
HENDERSON, MICHAEL J., xx...
HENRY, WILLIAM B., xx...
HERONEMUS, DAVID P., xx...
HIBBITTS, CHARLES A., xx...
HILL, JONATHAN R., xx...
HILLMEYER, PATRICK A., xx...
HODGES, DAVID J., xx...
HOLLANDER, JOHN R., xx...
HOOK, TODD D., xx...
HORTON, DAVID P., xx...
HOSS, SEAN O., xx...
HOWELL, EDWARD A., xx...
HRUSKA, JON A., xx...
HRUZ, BENJAMIN R., xx...
HUBBLE, CHRISTOPHE A., xx...
HUNGERFORD, CRAIG W., xx...
HUNT, CHRISTOPHE T., xx...
HUNTE, WAYNE R., xx...
HUNTER, RICHARD E., xx...
HURT, DAVID N., xx...
ISHERWOOD, PAUL A., xx...
ISRAEL, MICHAEL B., xx...
IZEN, JAMES E., xx...
JACKSON, KELLY J., xx...
JANTZEN, BRIAN A., xx...
JOBST, JAMES A., xx...
JOHNSON, BRIAN J., xx...
JOHNSON, TODD S., xx...
JONES, BOBBY S., xx...
JONES, MILO L., xx...
JONES, ROBERT W., xx...
JONES, STEVEN D., xx...
JONES, TIMOTHY D., xx...
JURHS, ADAM T., xx...
KEANE, CHRISTOPHE A., xx...
KELLER, ROBERT F., xx...
KEMP, SCOTT A., xx...
KENDRICK, GREGG R., xx...
KEOGH, THOMAS M., xx...
KERR, SEAN A., xx...
KIM, JOHN, xx...
KING, DOUGLAS L., xx...
KIRALY, WILLIAM E., xx...
KITSON, ALDEN D., xx...
KLENK, PAUL R., xx...
KLOTZNER, KRISTINA L., xx...
KONSTATOS, CONSTANTIN A., xx...
KOON, ROMA J., xx...
KOUNS, VINCENT O., JR., xx...
KREGAL, JAY R., xx...
KRIEG, ROBERT W., xx...
KRISTAN, THOMAS, JR., x...
KRULAK, DAVID C., xx...
LACOST, SHERMAN, S., xx...
LAFLEUR, ANGELIA C., xx...
LAMBERT, WILLIAM B., xx...
LAMPKIN, GEORGE JR., xx...
LANDRY, NATHALIE J., xx...
LARSEN, GERALD K., xx...
LAVRINOVICH, WALTER E., xx...
LAWINGS, MICHAEL A., xx...
LEEDS, PAUL J., xx...
LEIGHTY, JAMES E., xx...
LENNON, TODD L., xx...
LEVASSEUR, MATTHEW P., xx...
LIESS, ANDREW S., xx...
LITCHFIELD, ERIC L., xx...
LITTRELL, SHAWN, xx...
LOCASCIO, MICHAEL B., xx...
LOUCKS, RICHARD E., xx...
LOZANO, ALEXANDER R., xx...
LUCAS, ROBERT B., II, xx...
LUCKEY, DAVID S., xx...
LUSSOW, ERIC J., xx...
MAGLIANO, SAMUEL A., xx...
MANION, ROBERT L., xx...
MARINO, ANTHONY P., xx...
MAROSI, JOHN O., JR., xx...
MARRAY, RAYMOND C., xx...
MARTIN, ANNE M., xx...
MASON, CHARLES H., JR., xx...
MASTRION, KEITH J., xx...
MAURER, DEREK J., xx...
MCCALLUM, ERIC J., xx...
MCCARTHY, CHRISTOPHE M., xx...
MCCLELLAN, RICHARD A., xx...
MCDONALD, STEPHEN S., xx...
MCFADDEN, ROGER J., xx...
MCGRAW, BENJAMIN, xx...
MCGUINNESS, MICHAEL T., xx...
MCKEN, VICTOR O., xx...
MCNEIL, MATTHEW P., xx...
MCREYNOLDS, SHAUGN A., xx...
MELLO, THOMAS, xx...
MENGELBERG, GEORGE R., xx...
MERCIER, ANDRE L., xx...
MIKKLESON, JOHN C., xx...
MILLER, LOUIS M., xx...
MILLIGAN, JERRY E., xx...
MITCHELL, ROBERT W., xx...
MOBERG, LEON D., xx...
MODDER, DONALD J., xx...
MONTGOMERY, WESLEY K., xx...
MONTZ, DENNIS A., xx...
MORGAN, BRIAN J., xx...
MUNGER, CHRISTOPHE J., xx...
MURPHY, BRIAN, xx...
MURPHY, MARK J., xx...
MYERS, JAMES R. JR., xx...
NASTASE, NATHAN I., xx...
NATHAN, LAWRENCE A., xx...
NAVE, KEVIN G., xx...
NELSON, CHAD R., xx...
NESBIT, TEDD C., xx...
NICKEL, KYLE J., xx...
NORDEEN, CLIFFORD T., xx...
ODONNELL, BRIAN N., xx...
ODONNELL, DANIEL E., xx...
OLEARY, MICHAEL D., xx...
OLIVER, HENRY C., xx...
OLIVER, TIMOTHY J., xx...
OMELAN, JOHN A., xx...
OSBORN, ERNEST A., xx...
OSTERLAND, ANTHONY L., xx...
PACKARD, SCOTT E., xx...
PAGE, CHRISTOPHE L., xx...
PANZICA, JOHN P., xx...
PARKS, DAVID L., xx...
PATRICK, ROBERT M., xx...
PATTON, JOHN B., xx...
PAUL, JONATHAN A., xx...
PAUL, MATTHEW J., xx...
PAULY, RICHARD W., xx...
PAVOLKA, MICHELLE L., xx...
PELLEGRINO, STEPHEN C., xx...
PENNINGTON, JOHN E., xx...
PERALES, CELESTIN, xx...
PERDUE, EDWARD P., xx...
PERKO, DAVID E., xx...
PETERSON, ERIK T., xx...
PETTIES, DONALD A., xx...
PETTIT, THOMAS A., xx...
PHILLIPS, PETER C., xx...
PICKETT, BRIAN J., xx...
PIEDMONT, JOHN P., xx...
PLATTE, CURTIS R., xx...
POND, HELENE A., xx...
POPE, MICHAEL J., xx...
PORTER, DUNCAN C., xx...
PORTER, JAMES E., xx...
POST, THOMAS E., xx...
POWERS, DARIN L., xx...
PRATT, GEORGE E., xx...
PRICE, SUSAN J., xx...
PULSCHER, BRIAN J., xx...
REESE, JEAN D., xx...
RESSLER, AARON P., xx...
REVELS, WILLARD W., xx...
RITCHIE, GLENN R., xx...
ROBERTSON, THOMAS M., xx...
ROBINSON, JULIUS C., II, xx...
ROBNETT, DAVID J., xx...
ROGAN, BERNARD D., xx...
ROSCOE, GEORGE M., xx...
ROSSER, WILLIAM C., xx...
ROWE, PETER A., xx...
RUBSAMEN, THEODORE, II, xx...
RUSCIOLELLI, WILLIAMS J., xx...
SALTERS, PETER A., xx...
SANDERS, DONNA M., xx...
SAPPENFIELD, JOHN M., xx...
SCHIEFERDECKER, BRADLEY R., xx...
SCHMIDT, ANN E., xx...
SCHMIDT, DAVID F., xx...
SCHMIDT, RAYMOND W., xx...
SCHMIDT, ROSEMARIE K., xx...
SCHMIEGEL, KEVIN M., xx...
SCHUBERT, MARTIN P., xx...
SCHWARZ, STEPHEN S., xx...
SCOTT, MARK L., xx...
SCOTT, MONTE D., xx...
SCRIBNER, DONALD A., xx...
SEELY, WILLIAM H, II., xx...
SELPH, RICHARD B., xx...
SHANAHAN, TIMOTHY J., xx...
SHARON, CHRISTOPHE A., xx...
SHAW, CAROLE E., xx...
SHOPE, PATRICK A., xx...
SIMMLER, CHRISTOPHE R., xx...
SIMMONS, PHILLIP E., xx...
SLICK, ANTHONY Y., xx...
SMITH, BRIAN E., xx...
SMITH, DANIEL L., xx...
SMITH, JEFFREY S., xx...
SMITH, JOEL P., xx...
SMITH, KEVIN L., xx...
SNEAR, STEPHAN T., xx...
SNITKER, COREY P., xx...
SNYDER, MICHAEL A., xx...
SOBEY, THOMAS J., xx...
SOMMERSDORF, THOMAS G., xx...
SPAHN, THOMAS W., xx...
SPEICHER, JOHN A., xx...
SPENCER, SUSAN A., xx...
STACK, KEVIN P., xx...
STAMBAUCH, MICHAEL P., xx...
STCLAIR, MATTHEW G., xx...
STECKLER, KRISTIN A., xx...
STEERE, JOHN H., xx...
STORMS, JAY P., xx...
STRYKER, RICHARD K., JR., xx...
STUCKER, ROBERT M., xx...
STURGIS, JAMES, JR., xx...
STYER, ANTHONY A., xx...
SWEETSER, JANICE D., xx...
SWIDERSKI, JAMES, xx...
SWINNEY, VINCENT F., xx...
TABB, JAY S., xx...
TANZOLA, ROBERT L., II, xx...
TAYLOR, GEORGE P., IX, xx...
TENYENHUIS, DANIEL J., xx...
TERESKY, DANIEL G., xx...
THEEL, DAVID E., xx...
THOME, GEOFFREY D., xx...
THOMSON, ANDREW S., xx...
THRUSH, TODD R., xx...
TODD, MICHAEL A., xx...
TORREY, MICHAEL H., xx...
TOUPS, DAVID R., xx...
TOWLE, TIMOTHY W., xx...
TRENCHARD, TERENCE D., xx...
TURK, JOEL B., xx...
UECKER, SCOTT A., xx...
VANDERNECK, CHRISTOPHE A., xx...
VANDERWERFF, JAY A., xx...
VANOPDORP, HAROLD R., xx...
VEAL, LANDRY L., xx...
VENDEN, SEAN M., xx...
VESELY, MICHAEL T., xx...
VOELKER, JOHN D., xx...
VOELKER, MARK C., xx...
VOELKER, THOMAS D., xx...
VOSS, PAUL W., xx...
WALL, PATRICK L., xx...
WALSH, KATHLEEN A., xx...
WARE, PAUL J., xx...
WATKINS, WALTER T., xx...
WEBB, JEFF G., xx...
WELBORN, STEPHEN R., xx...
WERKMEISTER, DARIN L., xx...
WESTPHAL, MICHAEL A., xx...
WETMORE, KEVIN E., xx...
WHEELER, KURTIS P., xx...
WHITE, LAWRENCE L., II, xx...
WHITLEY, ERIK T., xx...
WILLIAMS, JAMES C., xx...
WILLIAMS, RONALD S., xx...
WILLIAMS, VALROY F., xx...
WILSON, DAVID M., xx...
WISNIEWSKI, DANIEL S., xx...
WOOD, JAMES J., xx...
WOOD, RANDOLPH L., xx...
WOULFE, DANIEL P., xx...
WRIGHT, DAVID A., xx...
WULSCH, DANIEL L., xx...
YARBOROUGH, PAUL G., xx...
YOCUM, DANIEL R., xx...
YOUNG, CHARLES L., II, xx...
ZAIDE, EDMOND P., JR., xx...
ZUMMER, ANTHONY C., xx...

THE FOLLOWING-NAMED MARINE CORPS ENLISTED COMMISSIONING EDUCATION PROGRAM GRADUATES FOR PERMANENT APPOINTMENT TO THE GRADE OF SECOND LIEUTENANT IN THE U.S. MARINE CORPS, PURSUANT TO TITLE 10, U.S. CODE, SECTION 531:

ALLEN, JEFFREY S., xx...
AMBROSE, VICTOR E., xx...
ANDERSON, LARRY D., xx...
ANTONAVICH, JOHN R., xx...
ARCENEAUX, ALAN J., xx...
ARCHER, ANTHONY C., xx...
ASMUS, FINLEY M., xx...
ASPINWALL, MAUREEN R., xx...
BAILEY, JAMES E., II, xx...
BARBER, WAYNE J., xx...
BECK, ROBERT S., xx...
BENTLEY, KEVIN C., xx...
BLUMENTHAL, ARNOLD M., xx...
BRIX, JOHN F., II, xx...
BRYAN, DANIEL S., xx...
CANE, JOHN H., xx...
DAVENPORT, JOSEPH M., II, xx...
DENNEY, MATTHEW C., xx...
DOMINGUEZ, ANTONIO R., xx...
EILAND, DAVID W., xx...
FEUSTEL, RICHARD D., xx...
FITZGERALD, CHERYL L., xx...
FITZGERALD, CHERYL L., xx...
FITZGERALD, WILLIAM D., xx...
FLYNN, PAUL K., xx...
GERLACH, DAVID B., xx...
GOFF, CURTIS P., xx...
GRAY, JAMES A., xx...
GROSENHEIDER, SCOTT R., xx...
HEISEY, JOHNETH M., xx...
HENRY, DIMITRI, xx...
HINSPATER, DAVID D., xx...
HOBBS, THOMAS M., xx...
HOLMES, JANICE E., xx...
JARRETT, WILLIAM D., xx...
JEFFRIES, JOHN H., xx...
KISH, STEVE C., xx...
MANN, JULIE E., xx...
MARINO, NICK W., xx...

MONROE, WILLIAM J., xx...
MORALES, MARIO L., xx...
POLK, MORGAN M., xx...
RATLIFF, HENRY A., xx...
RICHARDS, ERROL L., xx...
RIORDAN, THOMAS J., xx...
SANCHEZ, MARK S., xx...
SCHENKOSKE, DAVID L., xx...
SCHMID, PATRICK C., xx...
SEIDL, NANCY A., xx...
SPARKS, THOMAS A., xx...
STILLINGS, KRIS J., xx...
SWOPE, TRACY L., xx...
TIEFERT, BRIAN E., xx...
VALENCE, MARTIN D., xx...
VANDAMME, RICHARD J. JR., xx...
WHITE, KENNETH S., xx...
WHITEHEAD, GORDON E., xx...
WIELSMA, RONALD J., xx...
WILLIS, JULIAN M., xx...
WILSON, DANIEL H., xx...

IN THE NAVY

THE FOLLOWING-NAMED EX-U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

PO, BENJAMIN T.
EPSTEIN, MICHAEL J.
MATERNA, THOMAS W.
MCGINN, EDWARD J.

THE FOLLOWING MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

DEMAREST, GERALD B.
JUBIZ, WILLIAM A.

LARRY S. GARSHA, EX-U.S. ARMY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE SECTION 593.

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

DEL SOBRAL, DANIEL M., III
MCGREY, STEVEN J.
PAYNE, BARRY D.
TUREK, MICHAEL G.
WEST, JOHN E.
GAMBLE, BRYAN F.
OLDMIXON, WILLIAM J.
SWARTZLANDER, STEVEN L.
WEIGAND, ANN M.

TIMOTHY M. BYRNE, NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATE, TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

THE FOLLOWING-NAMED NAVY ENLISTED CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JONES, HOWARD W.
TOTTER, JANET E.
PEARCE, DAVID M.

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BENTON, PAUL D., JR.
HANSEN, TIMOTHY W.
SALAZAR, HUGO G.
CHANG, LANCE
KLUSS, DEAN W.

DAN E. MASON, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BISHOP, JOHN W.
CHINNERY, MARTHA S.
DUBBS, WILLIAM F.
HILAMAN, BRAD L.
KEYES, BOOKER, T.
MIREMADI, ARJANG K.
NAGI, CONSTANCE
SIEMERS, DANIEL J.
BRIGHT, JOHN R.
DALTON, JON N.
FETCHERO, JOHN A., JR.
HURST, DAVID B.
KOUJIAN, MICHAEL P.
MURRAY, DAVID W.
SHIPTON, WILLIAM E.

JOHN S. BOND, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

GERALD R. BRUCE, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE CHAPLAIN CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

JOHN A. DIRKS, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

MARK M. ADAMS, U.S. NAVY OFFICER, TO BE APPOINTED PERMANENT COMMANDER IN THE SUPPLY CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BAUER, GREGG E.
CALABRO, LAWRENCE A.
CHASE, ROBERT R.
GATCH, MATTHEW O.
GIBSON, JOHNATHAN T.
HARRIS, DAVID J.
KELLY, BUFORD C.
LENNER, JAY D.
MODLISH, MICHAEL R.
PAI, DOUGLAS, W.
ZOELLNER, S.D.
BELCHOFF, BORIS S.
CARLISLE, S.M.
CUTTER, DAVID C.
GERARD, PHILIP A.
GILL, MICHAEL W.
JONES, DARRELL G.
KIDWELL, BRADLEY J.
MALTERURD, RANDY W.
NELSON, KIRK R.
WARD, JOHN P.

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ALFERT, HAROLD J.
PAPADIMOS, THOMAS J.
FELDMAN, BRUCE D.

AIR FORCE CADET WILLIAM J. PARKER, III TO BE PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531.

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

BAILEY, SCOTT D.
BALL, ROBERT D.
BURKHART, LAWRENCE J.
ENGFER, M.J.
GABBAY, MICHAEL
HOOD, GARY E.
JOHANNES, RICHARD N., JR.
LATRAY, DEAN A.
LEWIS, TODD C.
NESBITT, DANIEL X.
PEACOCK, RICHARD D.
REILLY, RICHARD N.
ROK, MICHAEL G.
SEBENALER, BRIAN W.
SPRAY, JOHN R.
WHITING, GEOFFREY M.
BAKER, MARTY A.
BERNACCHI, MICHAEL D.
DEBOER, DANIEL D.
FELDMAN, KENNETH A.
GORDON, DAVID O.
HOWARD, LANE D.
KERR, KIRT D.
LEE, HENRY C.
MOORE, JAMES D.
OELTJEN, CRAIG L.
POTH, GARY W.
ROCHEFORT, REBECCA R.
RUSSELL, RICHARD W.
SMETANA, RAYMOND S., IV
TRAGAKIS, JAMES W.
WITHERSPOON, WARD L.

IN THE AIR FORCE

THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICER BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

RAWSON G. ABERNETHY, xxx-xx-xxxx
JOHN M. ABRUZZESE, xxx-xx-xxxx
DEAN C. ABSHER, xxx-xx-xxxx
REMEY J. ACEVEDO, xxx-xx-xxxx
DARRELL E. ADAMS, xxx-xx-xxxx
KELLY M. ADAMS, xxx-xx-xxxx
RORY D. ADAMS, xxx-xx-xxxx
DAVID D. ADOLF, xxx-xx-xxxx
CARLETON E. AHLS, xxx-xx-xxxx
HOSSAM E. AHMED, xxx-xx-xxxx
RONALD C. AHNER, xxx-xx-xxxx
SEAN P. ALAND, xxx-xx-xxxx
LAWRENCE C. ALBERS, III, xxx-xx-xxxx
FRANK G. ALBRIGHT, II, xxx-xx-xxxx
MARK R. ALDRICH, xxx-xx-xxxx
JOHN M. ALEMANY, xxx-xx-xxxx
KAREN E. ALEXANDER, xxx-xx-xxxx
MARIO P. ALFONSI, JR., xxx-xx-xxxx
BRIAN L. ALLEN, xxx-xx-xxxx
LUTHER M. ALLEN, xxx-xx-xx...
SUSAN L. ALLEY, xxx-xx-xxxx
JOHN V. ALLISON, JR., xxx-xx-xxxx
DANIEL ALTENES, xxx-xx-xxxx
DONALD L. ALTMAN, JR., xxx-xx-xx...
PAUL W. AMBS, xxx-xx-xxxx
JOSEPH P. ANATRA, xxx-xx-xxxx
ROBERT L. ANDERSEN, xxx-xx-xxxx
ARTHUR H. ANDERSON, JR., xxx-xx-xxxx
DAVID J. ANDERSON, xxx-xx-xxxx
JEFFREY W. ANDERSON, xxx-xx-xxxx
JOSEPH A. ANDERSON, xxx-xx-xxxx
OTTO S. ANDERSON, xxx-xx-xxxx
PETER E. ANDERSON, xxx-xx-xxxx
SHARON L. ANDERSON, xxx-xx-xxxx
JOSEPH O. ANDREWS, xxx-xx-xxxx
MICHAEL A. ANDREWS, xxx-xx-xx...
ALAN R. ANDRYSIAK, xxx-xx-xxxx
WALTER W. ANKETELL, xxx-xx-xx...
MARK ANTHONY, xxx-xx-xxxx
YOLAND S. ANTHONY, xxx-xx-xxxx
DEREK S. ANTONELLI, xxx-xx-xxxx
EDWARD R. APPLER, xxx-xx-xxxx
RICHARD G. ARATA, xxx-xx-xxxx
FRED B. ARCHER, xxx-xx-xxxx
JEFFREY M. ARKELL, xxx-xx-xx...
CRAIG A. ARONSON, xxx-xx-xxxx
WILLIAM P. ASA, xxx-xx-xxxx
JEFFREY R. ASH, xxx-xx-xxxx
KEITH C. ASSZONY, xxx-xx-xxxx
CHARLES E. ATKINSON, JR., xxx-xx-xxxx
TAMSEY G. AUDET, xxx-xx-xxxx
PAUL AUNSPAUGH, JR., xxx-xx-xxxx
AMIN C. AUR, xxx-xx-xxxx
BYRON R. AUSTIN, xxx-xx-xxxx
TIMOTHY W. AUSTIN, xxx-xx-xxxx
MICHAEL J. AXSOM, xxx-xx-xxxx
LOREN M. AYERS, xxx-xx-xxxx
BRADLEY J. AYRES, xxx-xx-xxxx
YVONNE M. BABCOCK, xxx-xx-xxxx
DAVID A. BABEL, xxx-xx-xxxx
DAVID E. BACH, xxx-xx-xxxx
GUSTAVO A. BACHMANFUERTES, xxx-xx-xxxx
BRIAN L. BACON, xxx-xx-xxxx
DIONISIO M. R. BADANA, JR., xxx-xx-xxxx
RAYMOND M. BADUA, xxx-xx-xxxx
CHRISTOPHER J. BAGNATI, xxx-xx-xxxx
DAVID M. BAILEY, xxx-xx-xxxx
DAVID W. BAILEY, xxx-xx-xxxx
GLEN L. BAILEY, xxx-xx-xxxx
HERBERT C. BAILEY, xxx-xx-xxxx
ROGER D. BAILEY, xxx-xx-xxxx
DENNIS M. BAIN, xxx-xx-xxxx
RODNEY D. BAIN, xxx-xx-xxxx
MORGAN BAITY, xxx-xx-xx...
JAMES D. BAKER, xxx-xx-xxxx
JEFFREY W. BAKER, xxx-xx-xxxx
JOSEPH R. BAKER, xxx-xx-xxxx
RAYMOND N. BAKER, xxx-xx-xxxx
WARREN L. BAKER, JR., xxx-xx-xxxx
DAVID L. BAKKE, xxx-xx-xxxx
TODD J. BALAWAJDER, xxx-xx-xxxx
JAMES J. BALDRIGHI, xxx-xx-xxxx
DAVID E. BALL, xxx-xx-xxxx
RICHARD R. BALLEW, xxx-xx-xxxx
JOHN L. BANGERT, xxx-xx-xxxx
TODD C. BANGERTER, xxx-xx-xxxx
STEPHEN P. BANGHART, xxx-xx-xxxx
ALBERT T. BANGI, xxx-xx-xxxx
DAVID W. BANTON, xxx-xx-xxxx
GEOFFREY C. BARBER, xxx-xx-xxxx
SHAWN BARBER, xxx-xx-xxxx
MARYA M. BARDARNOLD, xxx-xx-xxxx
SCOT M. BARGER, xxx-xx-xxxx
DAVID F. BARIBEAU, xxx-xx-xxxx
MICHAEL J. BARKDULL, xxx-xx-xxxx
GARY D. BARMORE, xxx-xx-xxxx
—— BARNARD, III, xxx-xx-xxxx
JAMES B. BARNES, xxx-xx-xxxx
MARK L. BARNES, xxx-xx-xxxx
RICHARD P. BARNES, JR., xxx-xx-xxxx
STEVEN W. BARNES, xxx-xx-xxxx
RAY A. BARNETT, xxx-xx-xxxx
WILLIE L. BARNETT, xxx-xx-xx...
KEITH R. BARON, xxx-xx-xxxx
CHADWICK H. BARR, xxx-xx-xxxx
THOMAS J. BARRALE, xxx-xx-xxxx
STANLEY R. BARRETT, xxx-xx-xxxx
GARY M. BARRETTE, xxx-xx-xxxx
BRYAN D. BARTELS, xxx-xx-xxxx
ANTON BARTH, xxx-xx-xxxx
JOE W. BARTHELL, xxx-xx-xx...
MARC G. BARTHELLO, xxx-xx-xx...
CRAIG M. BARTLETT, xxx-xx-xxxx
JOHN F. BARTON, JR., xxx-xx-xxxx
KEITH B. BARTSCH, xxx-xx-xxxx
CHARLES S. BASS, xxx-xx-xxxx
JEFFREY J. BASSALINE, xxx-xx-xxxx
WILLIAM L. BASSETT, xxx-xx-xxxx
BLAINE D. BAUER, xxx-xx-xxxx
FRED J. BAUER, xxx-xx-xxxx
THOMAS A. BAUER, xxx-xx-xxxx
DANIEL D. BAUMANN, xxx-xx-xxxx
DAVID A. BAUMANN, xxx-xx-xxxx
STEVEN B. BAXTER, xxx-xx-xxxx
GARY W. BAY, xxx-xx-xxxx
MARK R. BAYER, xxx-xx-xxxx
SHELDON R. BEASLEY, JR., xxx-xx-xxxx
THOMAS J. BEATTIE, xxx-xx-xxxx
ALBERT A. BEATY, JR., xxx-xx-xxxx
DAVID G. BECKER, xxx-xx-xxxx
BARTON L. BECKNELL, xxx-xx-xxxx
RANDALL C. BEEM, xxx-xx-xx...
DWIGHT L. BELL, xxx-xx-xxxx
HOWARD S. BELL, xxx-xx-xxxx
JAMES C. BELL, III, xxx-xx-xxxx
STEVEN W. BELL, xxx-xx-xxxx
THOMAS H. BELVIN, JR., xxx-xx-xxxx
JOSEPH T. BENDER, xxx-xx-xxxx
GAIL L. BENNETT, xxx-xx-xxxx
VERNON P. BENNETT, xxx-xx-xxxx
RICHARD R. BENTLEY, xxx-xx-xxxx
SONIA S. BEQUETTE, xxx-xx-xxxx
GUILLERMO BERDINI, xxx-xx-xxxx
DAVID M. BERGE, xxx-xx-xxxx
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THE FOLLOWING OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF SECTION 8067, TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADES AND DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN CAPTAIN.

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JOHNNIE D. WARD, xxx-xx-xxxx

NURSE CORPS

MARLENE E. ABBOTT, xxx-xx-xxxx
JANICE L. ABLES, xxx-xx-xx...
MELISSA A. ALSPAUGH, xxx-xx-xxxx

PATRICIA S. ANGELI, xxx-xx-xxxx
KATHLEEN C. ARNOLD, xxx-xx-xxxx
STEVEN L. BAKER, xxx-xx-xxxx
DAWN R. BATES, xxx-xx-xxxx
STEVEN C. BEAN, xxx-xx-xxxx
LAWRENCE A. BECKER, xxx-xx-xxxx
SUSAN M. BELLAMY, xxx-xx-xxxx
BARBARA BENE, xxx-xx-xxxx
PATRICIA A. BENEDICT, xxx-xx-xxxx
WILLIE C. BERRINGER, xxx-xx-xxxx
JEANETTE A. BLACKBURN, xxx-xx-xxxx
VICTORIA L. BLACKBURN, xxx-xx-xxxx
JACK C. BLAINE, xxx-xx-xxxx
LAURA C. BLOEMER, xxx-xx-xxxx
CHRISTOPHER L. BOLCAR, xxx-xx-xxxx
DANNY R. BOWEN, xxx-xx-xxxx
JACQUELINE A. BRANDT, xxx-xx-xxxx
SUSAN BROWN, xxx-xx-xxxx
MARY D. CARON, xxx-xx-xxxx
DAVID W. CARROLL, xxx-xx-xxxx
NANCY M. CHALOULT, xxx-xx-xxxx
PETER W. CIACCIO, xxx-xx-xxxx
GWENDOLYN J. CLARKE, xxx-xx-xxxx
CHRISTOPHER L. CLAY, xxx-xx-xxxx
KIMBERLY S. COBB, xxx-xx-xxxx
DIANE O. COFFEY, xxx-xx-xxxx
KIMBERLY A. COLLURA, xxx-xx-xxxx
ANN LOUISE COOKE, xxx-xx-xxxx
GAIL A. CORYER, xxx-xx-xxxx
CHRISTOPHER B. COULAHAN, xxx-xx-xxxx
WILLIAM W. CRAIGLE, JR., xxx-xx-xxxx
SUSAN J. CRAW, xxx-xx-xxxx
JENNIFER D. CUNNINGHAM, xxx-xx-xxxx
ROSE M. CUNNINGHAM, xxx-xx-xxxx
KARLENE P. DEPINEUIL, xxx-xx-xxxx
VIRGINIA B. DESIMONE, xxx-xx-xxxx
JEAN B. DESROCHERS, xxx-xx-xxxx
CECILIA A. DEVORE, xxx-xx-xxxx
WAYNE R. DEYKES, xxx-xx-xxxx
THERESA L. DIFATO, xxx-xx-xxxx
VALERIE A. DIVECCHIO, xxx-xx-xxxx
THERESA DONNAMARIA, xxx-xx-xxxx
PATRICIA D. DOTSON, xxx-xx-xxxx
JOHN T. DOUGLAS, xxx-xx-xxxx
SHEILA A. DUNN, xxx-xx-xxxx
LORRAINE EDEN, xxx-xx-xxxx
JOHN K. ELLISON, xxx-xx-xxxx
JOYCE A. EVANS, xxx-xx-xxxx
TIMOTHY P. FAGAN, xxx-xx-xxxx
BARRY L. FELT, xxx-xx-xxxx
DEBRA L. FIELDS, xxx-xx-xxxx
RHONDA FAY FORD, xxx-xx-xxxx
DIANE L. FOWLER, xxx-xx-xxxx
CHARLOTTE J. FULTON, xxx-xx-xxxx
AMANDA I. GARCIA, xxx-xx-xxxx
DEBORAH D. GARNER, xxx-xx-xxxx
KENNETH J. GATES, JR., xxx-xx-xxxx
VICTORIA L. GESTRING, xxx-xx-xxxx
CHRISTY A. GIROUX, xxx-xx-xxxx
ROBIN B. GLASER, xxx-xx-xxxx
JAMES D. GLENN, xxx-xx-xxxx
CASSANDRA I. GOMEZ, xxx-xx-xxxx
GUY V. GOULDING, xxx-xx-xxxx
CARLA K. GRAVES, xxx-xx-xxxx
PETER R. HALEY, xxx-xx-xxxx
PAMELA J. HALL, xxx-xx-xxxx
THOMAS A. HAMLETT, xxx-xx-xxxx
FRED R. HAWKINS, JR., xxx-xx-xxxx
CAROL A. HAZEN, xxx-xx-xxxx
SHARON M. HERMAN, xxx-xx-xxxx
LUISA M. HERNANDEZ, xxx-xx-xxxx
MELVIN D. HILL, xxx-xx-xxxx
MARY F. HIX, xxx-xx-xxxx
DAVID T. HOCKING, xxx-xx-xxxx
PATTI V. HOFFMAN, xxx-xx-xxxx
LINDA K. HOGAN, xxx-xx-xxxx
DOROTHY A. HOGG, xxx-xx-xxxx
MICHELE M. HOMBURGER, xxx-xx-xxxx
BARRY D. HONCOOP, xxx-xx-xxxx
CYNTHIA A. HOOG, xxx-xx-xxxx
BARBARA A. HUDLOW, xxx-xx-xxxx
JONES SHERONDA M. HUNTER, xxx-xx-xxxx
WILLIAM R. HYATT, xxx-xx-xxxx
PAULA R. JAMESON, xxx-xx-xxxx
KRISTINE L. JOHNSON, xxx-xx-xxxx
BRENDA G. JONES, xxx-xx-xxxx
STEPHEN L. JONES, xxx-xx-xxxx
JOYCE L. KELLY, xxx-xx-xxxx
DANIEL O. KENNEDY, xxx-xx-xxxx
ARDENE M. LAWRENCE, xxx-xx-xxxx
JANET R. LEWIS, xxx-xx-xxxx
SOLEDAD LINDO, xxx-xx-xxxx
TAMARA L. LINK, xxx-xx-xxxx
ELLEN K. LOSCH, xxx-xx-xxxx
JAMES J. MALINOSKI, xxx-xx-xxxx
REBECCA C. MARSHALL, xxx-xx-xxxx
JODIE E. J. MATEJCEK, xxx-xx-xxxx
ELIZABETH M. MAU, xxx-xx-xxxx
SUSAN M. MAYER, xxx-xx-xxxx
MARY L. MAYVILLE, xxx-xx-xxxx
AMY K. MCDANIELS, xxx-xx-xxxx
JO ANNE M. MCKAY, xxx-xx-xxxx
THERESE E. MERTEN, xxx-xx-xxxx
DONNA J. MEYERS, xxx-xx-xxxx
GENA J. MIDDLETON, xxx-xx-xxxx
BRENDA J. MILLER, xxx-xx-xxxx
DANNY L. MOORE, xxx-xx-xxxx
VICKIE R. MOORE, xxx-xx-xxxx
LUIS O. MORALES, xxx-xx-xxxx
DANNY A. MORGAN, xxx-xx-xxxx
MARY S. NELSON, xxx-xx-xxxx
CLIFFORD E. NIELSEN, xxx-xx-xxxx
NANCY L. NOBLE, xxx-xx-xxxx
SUSAN L. NOONAN, xxx-xx-xxxx
DENNIS L. OAKES, xxx-xx-xxxx
JOSEPH R. OLEARY, xxx-xx-xxxx
JEAN ANN OMARA, xxx-xx-xxxx
DORA C. OMURA, xxx-xx-xxxx
LISANDRA ORTIZGALARZA, xxx-xx-xxxx
ELIZABETH A. PACE, xxx-xx-xxxx
JOANN M. PAWLETKO, xxx-xx-xxxx
MIRIAM M. PEREZCUEVAS, xxx-xx-xxxx
SHARON M. PICKENS, xxx-xx-xxxx
SUSAN G. POLK, xxx-xx-xxxx
CAROL A. POPEBEHRENS, xxx-xx-xxxx
PATRICIA L. POPPINO, xxx-xx-xxxx
NANCY A. PRATT, xxx-xx-xxxx
MARVIS E. PRICE, JR., xxx-xx-xxxx
SUZANNE M. PRILESZKY, xxx-xx-xxxx
DENISE M. PROCTOR, xxx-xx-xxxx
SUZANNE T. QUIRAO, xxx-xx-xxxx
BARBARA B. RABINOWITZ, xxx-xx-xxxx
RONALD R. RAHL, xxx-xx-xxxx
SHARON L. RIVERA, xxx-xx-xxxx
JUDITH I. ROSEN, xxx-xx-xxxx
ROGER J. RUGLETIC, xxx-xx-xxxx
DENNIS L. RUSSELL, xxx-xx-xxxx
CHERYL C. RYBARCZYK, xxx-xx-xxxx
PAUL J. SAFARA, xxx-xx-xxxx
NANCY C. SAGE, xxx-xx-xxxx
THERESA L. SAUDIA, xxx-xx-xxxx
MARVIN J. SCHUTZIUS, xxx-xx-xxxx
KATHY E. SEARS, xxx-xx-xxxx
CYNTHIA L. SEMONES, xxx-xx-xxxx
LORETTA J. SHIRER, xxx-xx-xxxx
DEBRA S. SITES, xxx-xx-xxxx
JANICE M. SPRUNGL, xxx-xx-xxxx
LENORA STANLEY, xxx-xx-xxxx
KATHERINE L. STERNER, xxx-xx-xxxx
MARY J. STUTSON, xxx-xx-xxxx
CYNTHIA A. TAUSCHER, xxx-xx-xxxx
VICTORIA E. TAYLOR, xxx-xx-xxxx
THOMAS M. THEDERS, xxx-xx-xxxx
DONNA C. THERIOT, xxx-xx-xxxx
PAUL B. THOMAS, xxx-xx-xxxx
TERESA M. THORLEY, xxx-xx-xxxx
DONALD J. TRICARICO, JR., xxx-xx-xxxx
FRANKLIN J. TRZCINSKI, xxx-xx-xxxx
ANTHONY J. TUCKER, xxx-xx-xxxx
JEFFREY D. TUETING, xxx-xx-xxxx
PAMELA W. VANCE, xxx-xx-xxxx
DEBRA L. WAGNER, xxx-xx-xxxx
DONALD B. WARD, xxx-xx-xxxx
REGINA A. WATSON, xxx-xx-xxxx
BETSY J. WEBBSTUWE, xxx-xx-xxxx
GARY B. WHITMORE, xxx-xx-xxxx
ANITA R. WOLFE, xxx-xx-xxxx
SHARON B. WRIGHT, xxx-xx-xxxx
JUDY A. YOUNG, xxx-xx-xxxx
STEVEN J. ZITO, xxx-xx-xxxx

MEDICAL SERVICE CORPS

MATT ADKINS, JR., xxx-xx-xxxx
LOREN A. AHNBERG, xxx-xx-xxxx
BRUCE A. ALLEN, xxx-xx-xxxx
GREGORY O. ALLEN, xxx-xx-xxxx
MARSTON A. BEATTY, xxx-xx-xxxx
BONNIE C. BRAND, xxx-xx-xxxx
DONALD W. BUTTERWORTH, xxx-xx-xxxx
CHARLES M. CAMPBELL, xxx-xx-xxxx
ALAN R. CONSTANTIAN, xxx-xx-xxxx
RICKY C. COOK, xxx-xx-xxxx
ADANTO R. DAMORE, xxx-xx-xxxx
PATRICK L. DANIELS, xxx-xx-xxxx
RONALD S. DORNIN, xxx-xx-xxxx
DENNIS E. FRANKS, xxx-xx-xxxx
ROCKY A. FREUDENBERG, xxx-xx-xxxx
WILLIAM J. GAYNOR, xxx-xx-xxxx
BRIAN W. GRASSI, xxx-xx-xxxx
ELLEN B. GREIF, xxx-xx-xxxx
LAWRENCE W. GREMS, xxx-xx-xxxx
MICHAEL L. GRUMELLI, xxx-xx-xxxx
ROBERT U. HAMILTON, xxx-xx-xxxx
FRED M. HANNAN, JR., xxx-xx-xxxx
DRUSSELL B. JONES, xxx-xx-xxxx
KELLEY J. KASH, xxx-xx-xxxx
MARYANN LAWRENCE, xxx-xx-xxxx
DANITA C. MCALLISTER, xxx-xx-xxxx
GEORGE F. NAYLOR, III, xxx-xx-xxxx
DREXEL J. OWENS, xxx-xx-xxxx
RONALD E. PALMER, xxx-xx-xxxx
RONALD H. PEARSON, xxx-xx-xxxx
DONALD L. RAGSDALE, xxx-xx-xxxx
RICHARD D. ROEKLE, xxx-xx-xxxx
DONALD W. SAMPSON, xxx-xx-xxxx
RICKY L. SHUMAN, xxx-xx-xxxx
WILLIAM J. H. SLAUSON, xxx-xx-xxxx
CHARLES C. SMITH, xxx-xx-xxxx
GEORGE R. SNYDER, JR., xxx-xx-xxxx
NORMAN B. SPECTOR, xxx-xx-xxxx
DAVE E. TOFANELLI, JR., xxx-xx-xxxx
JOHN J. VINACCO, JR., xxx-xx-xxxx
FRANK W. WILLIAMS, xxx-xx-xxxx

BIOMEDICAL SCIENCES CORPS

RICHARD A. ASHWORTH, xxx-xx-xxxx
JEFFREY A. BAILEY, xxx-xx-xxxx
STEVEN L. BENTS, xxx-xx-xxxx
STEVEN F. BERGONZONI, xxx-xx-xxxx
MICHAEL N. BOUCHER, xxx-xx-xxxx
JEFFREY L. BRYANT, xxx-xx-xxxx
RANDAL V. CARLSON, xxx-xx-xxxx
WAYNE C. CHEATUM, xxx-xx-xxxx
JOHN W. COHO, xxx-xx-xxxx
WATUS B. COOPER, JR., xxx-xx-xxxx
FRANCIS CROSBY, JR., xxx-xx-xxxx
MARY M. DALY, xxx-xx-xxxx
DIANE L. DAVIS, xxx-xx-xxxx
CRAIG B. DEZELL, xxx-xx-xxxx
DONALD A. DIESEL, xxx-xx-xxxx
MANUEL A. DOMENECH, xxx-xx-xxxx
KALI K. FESSENDEN, xxx-xx-xxxx
JOHN P. FIELDS, xxx-xx-xxxx
KAREN S. FOSTER, xxx-xx-xxxx
DEBORAH A. GALASKA, xxx-xx-xxxx
PATRICK J. GALASKA, xxx-xx-xxxx
DAVID S. GILMORE, xxx-xx-xxxx
JOSEPH K. HADDAD, xxx-xx-xxxx
ROBERT C. HAROLDSON, xxx-xx-xxxx
HOWARD T. HAYES, xxx-xx-xxxx
JEFFREY P. HILOVSKY, xxx-xx-xxxx
KIRBY R. HOLMES, xxx-xx-xxxx
GREGORY S. HOUSTON, xxx-xx-xxxx
LOREN G. ISAACSON, xxx-xx-xxxx
MARK S. JASTER, xxx-xx-xxxx
RICHARD W. JEFFREY, xxx-xx-xxxx
BONNIE C. JOHNSON, xxx-xx-xxxx
CRAIG E. JORDAN, xxx-xx-xxxx
JULIE I. R. KELLER, xxx-xx-xxxx
GEORGE B. KEMPER, xxx-xx-xxxx
SUSAN E. KNOLL, xxx-xx-xxxx
KLAUS H. KUEHL, xxx-xx-xxxx
FREDERICK L. KYTE, xxx-xx-xxxx
RODNEY T. LUTES, xxx-xx-xxxx
PETER W. MACARTHUR, xxx-xx-xxxx
ALLEN L. MACOMBER, xxx-xx-xxxx
JOSEPH R. MAIDEN, xxx-xx-xxxx
DOUGLAS E. MCCAFFERTY, xxx-xx-xxxx
ARNOLD E. METZ, JR., xxx-xx-xxxx
DAVID J. MIETZNER, xxx-xx-xxxx
EDWARD P. MOLNAR, JR., xxx-xx-xxxx
DEBRA M. NIEMEYER, xxx-xx-xxxx
REBECCA L. OCHKIE, xxx-xx-xxxx
ANTHONY F. OKOREN, JR., xxx-xx-xxxx
BURL M. OLSON, xxx-xx-xxxx
LAMONT D. PACK, xxx-xx-xxxx
DAVID R. PENNINGTON, xxx-xx-xxxx
STEPHEN WALTER PRAWDZIK, xxx-xx-xxxx
BERT R. REITSMA, xxx-xx-xxxx
DONALD E. RUSHER, JR., xxx-xx-xxxx
HEIDI A. SCHUETZLE, xxx-xx-xxxx
ERIC J. SCOTT, xxx-xx-xxxx
KERRY L. SITLER, xxx-xx-xxxx
HEATHER M. SLIMON, xxx-xx-xxxx
LESLIE B. SMITH, xxx-xx-xxxx
MARK H. SMITH, xxx-xx-xxxx
SUSAN S. SMITS, xxx-xx-xxxx
RONALD G. STEELE, xxx-xx-xxxx
JOHN D. STEIN, xxx-xx-xxxx
HOMER D. STOUT, xxx-xx-xxxx
TIMMY J. TARRANT, xxx-xx-xxxx
MICHAEL A. TAYLOR, xxx-xx-xxxx
JAMES M. THOMAS, xxx-xx-xxxx
EARL R. THOMPSON, xxx-xx-xxxx
MARK G. TIEDEMANN, xxx-xx-xxxx
DARI R. TRITT, xxx-xx-xxxx
OBA L. VINCENT, xxx-xx-xxxx
BRUCE E. WEAVER, xxx-xx-xxxx
DONALD J. WHITE, xxx-xx-xxxx
STEVEN T. WHITNEY, xxx-xx-xxxx
JEFFREY C. WIGLE, xxx-xx-xxxx
THOMAS L. ZIEMANN, xxx-xx-xxxx

IN THE AIR FORCE

THE FOLLOWING OFFICERS, UNITED STATES AIR FORCE OFFICER TRAINING SCHOOL, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

PATRICK K. ADAMS, xxx-xx-xxxx
WALTER J. I. ALSTON, II, xxx-xx-xxxx
JOHN D. BANSEMER, xxx-xx-xxxx
JOHN P. BORDEWICK, xxx-xx-xxxx
ROBERT C. CAMPBELL, JR., xxx-xx-xxxx
GREGORY E. CARSWELL, xxx-xx-xxxx
DEE L. CONGER, JR., xxx-xx-xxxx
THOMAS C. DANIEL, xxx-xx-xxxx
BRENT A. DEMOSS, xxx-xx-xxxx
FRANCIS A. DUCHARME, xxx-xx-xxxx
SUSAN E. DUCHARME, xxx-xx-xxxx
CLAYTON K. DYSON, xxx-xx-xxxx
JAMES W. FOWLER, IV, xxx-xx-xxxx
RONALD A. FRANCO, xxx-xx-xxxx
DAVID C. HAYES, xxx-xx-xxxx
RONALD L. HUNTLEY, xxx-xx-xxxx
KELLY G. JOHNSTON, xxx-xx-xxxx
BRIAN J. KAMP, xxx-xx-xxxx
MARK A. KINSEY, xxx-xx-xxxx
MARK R. KLING, xxx-xx-xxxx
MALLORY P. KNIGHT, xxx-xx-xxxx
STEPHEN M. KNIGHT, xxx-xx-xxxx
KELLY T. KREBS, xxx-xx-xxxx
JOHN M. LANDRY, xxx-xx-xxxx
HAROLD W. I. MARTIN, III, xxx-xx-xxxx
ROBERT S. MCALLUM, xxx-xx-xxxx
MICHAEL S. MCCUTCHEON, xxx-xx-xxxx
JEROME H. MESTMAN, xxx-xx-xxxx
MATTHEW M. MODELSKI, xxx-xx-xxxx
WALTER V. MOOD, xxx-xx-xxxx
KEVIN W. MUNDORFF, xxx-xx-xxxx
WILLIAM NEUENSWANDER, xxx-xx-xxxx
TERESA A. NORMAN, xxx-xx-xxxx
THOMAS M. NORRIS, xxx-xx-xxxx

ANTHONY J. ORLANDO, xxx-xx-xxxx
KEITH J. PANNABECKER, xxx-xx-xxxx
JOHN T. PATRICOLA, xxx-xx-xxxx
STEVEN W. PEPPER, xxx-xx-xxxx
STEPHEN P. PERUCCA, xxx-xx-xxxx
GREGORY M. REITER, xxx-xx-xxxx
GARY O. RENFROW, xxx-xx-xxxx
CHRISTOPHER RICHARDSON, xxx-xx-xxxx
RANDY K. ROCKEY, xxx-xx-xxxx
JAMES H. ROCKHILL, xxx-xx-xx...
ROBERT ROGERS, xxx-xx-xxxx
GEORGE A. I. SHERMAN, II, xxx-xx-xxxx
TROY R. STONE, xxx-xx-xxxx
THOMAS A. SUMMERS, xxx-xx-xxxx
STEVEN R. TANAKA, xxx-xx-xxxx
SAM E. THOMAS, xxx-xx-xxxx
SUSAN L. TURLEY, xxx-xx-xxxx
DAVID S. VICTORSON, xxx-xx-xxxx
ROBERT L. WHITAKER, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be colonel

MICHAEL D. BENNER, xxx-xx-xxxx
ROBERT D. CALABRIA, xxx-xx-xxxx
SAMUEL J. CRINO, JR., xxx-xx-xxxx
JOE K. DORSEY, xxx-xx-xxxx
EDWARD M. KNIGHTS, xxx-xx-xxxx
ROBERT G. PETERSEN, xxx-xx-xxxx
SINCLAIR G. SHORT, xxx-xx-xxxx
DENNIS R. SKIRVIN, xxx-xx-xxxx
WILLIAM F. TERHUNE, xxx-xx-xx...
ROBERT E. WITKER, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

HENRY M. AUSTIN, III, xxx-xx-xxxx
CHARLES L. BAILEY, xxx-xx-xx...
ANDREW D. BECKEY, xxx-xx-xxxx
ROBERT F. BORIES, JR., xxx-xx-xxxx
LARRY G. BOSETTI, xxx-xx-xxxx
BRUCE D. BRANDES, xxx-xx-xxxx
ROY A. BRYAN, JR., xxx-xx-xxxx
JAMES C. CARANO, xxx-xx-xxxx
MATTHEW B. CARP, xxx-xx-xxxx
CHARLES H. CHAMPION, JR., xxx-xx-xxxx
EUGENE S. CHANNING, xxx-xx-xxxx
THOMAS A. CLEGG, xxx-xx-xx...
LYNN A. DIEVENDORF, xxx-xx-xxxx
RICHARD I. DONAHUE, xxx-xx-xxxx
JOHN F. DRAUDE, JR., xxx-xx-xxxx
ALEXANDER A. GALENES, xxx-xx-xxxx
ROBERT T. HAWKINS, xxx-xx-xxxx
MICHAEL E. HERNDON, xxx-xx-xxxx
WALTER E. HIGGINS, xxx-xx-xxxx
MACK C. HILL, xxx-xx-xx...
ROBERT E. HINKEL, xxx-xx-xxxx
DENNIS E. HOHN, xxx-xx-xxxx
THOMAS R. HOOPES, xxx-xx-xxxx
HARVEY H. HUETER, xxx-xx-xxxx
ARTHUR S. IRISH, II, xxx-xx-xxxx
DAVID C. JACKSON, xxx-xx-xxxx
JOHN S. JEWELL, xxx-xx-xx...
DENNIS H. JOHNSON, xxx-xx-xxxx
NICKI L. JOHNSON, xxx-xx-xxxx
LARRY L. JONES, xxx-xx-xxxx
LARRY J. KELLER, xxx-xx-xxxx
EDWARD F. LYNCH, xxx-xx-xxxx
MATTHEW J. LYONS, JR., xxx-xx-xxxx
FREDERICK J. MANNING, xxx-xx-xxxx
GEORGE N. MICHELS, xxx-xx-xxxx
CALVIN NEPTUNE, III, xxx-xx-xxxx
ANTHONY J. POLK, xxx-xx-xxxx
DOUGLAS W. REICHARD, xxx-xx-xxxx
DANIEL C. ROBERTS, xxx-xx-xxxx
JACK R. SLAYTON, xxx-xx-xxxx
WILLIAM T. STAHL, xxx-xx-xx...
JAMES M. STRATTA, xxx-xx-xxxx
JAMES D. VINCI, JR., xxx-xx-xx...
GERALD L. WANNARKA, xxx-xx-xxxx
ROGER I. WEED, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be colonel

CLARENCE D. BROWN, xxx-xx-xxxx
ANNETTA J. COOKE, xxx-xx-xxxx
NORRIS F. JESSE, II, xxx-xx-xxxx
THOMAS D. JONES, JR., xxx-xx-xxxx
JUDITH S. RIGGANCANTU, xxx-xx-xxxx

VETERINARY CORPS

To be colonel

RALPH M. BUNTE, xxx-xx-xxxx
JAMES D. ELMORE, xxx-xx-xx...
FREDERICK L. HELM, xxx-xx-xxxx
CLIFFORD I. JOHNSON, xxx-xx-xxxx
JOHN M. PLETCHER, xxx-xx-xxxx
WILLIAM E. RIDDER, xxx-xx-xxxx
THOMAS M. SMITH, xxx-xx-xxxx

ARMY NURSE CORPS

To be colonel

MARGARET E. CLINE, xxx-xx-xxxx
BARBARA J. CONRAD, xxx-xx-xxxx
JANICE M. COX, xxx-xx-xxxx
DONNA J. DEVORE, xxx-xx-xxxx
CECIL B. DRAIN, xxx-xx-xxxx
LAWRENCE J. EBERLIN, xxx-xx-xxxx
PAUL F. FARINEAU, xxx-xx-xxxx
JANET V. GRAHAM, xxx-xx-xxxx
*MARY K. GWALTNEY, xxx-xx-xxxx
RITA E. HADERSBECK, xxx-xx-xxxx
RICHARD D. HAWKINS, xxx-xx-xxxx
GRETCHEN M. HOAGLAND, xxx-xx-xxxx
TERRIS E. KENNEDY, xxx-xx-xxxx
DEANNA MCGOOKIN, xxx-xx-xxxx
SUSAN A. MCMARLIN, xxx-xx-xxxx
KAREN L. RAY, xxx-xx-xxxx
*LOUISE M. RYAN, xxx-xx-xxxx
JUNE SEKIGUCHI, xxx-xx-xxxx
*CLIFFORD M. SIMONS, xxx-xx-xxxx
BARBARA J. SMITH, xxx-xx-xxxx
GRACE E. SQUIRES, xxx-xx-xxxx
JAMES M. TEMO, xxx-xx-xxxx
JANET R. THOMPSON, xxx-xx-xxxx
FRANCIS L. TOURON, xxx-xx-xxxx
JO E. VANATTA, xxx-xx-xxxx
ADELINE P. WASHINGTON, xxx-xx-xxxx
DARLENE R. ZUBER, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

RALPH P. AARON, xxx-xx-xxxx
JOHN P. ABIZAID, xxx-xx-xxxx
DAVID L. ABRAHAMSON, xxx-xx-xxxx
LAWRENCE R. ADAIR, xxx-xx-xxxx
JOSEPH W. ADAMCZYK, xxx-xx-xxxx
PAUL J. ADAMO, xxx-xx-xx...
RUSSELL E. ADAMS, xxx-xx-xxxx
*TOMMY M. ADAMS, xxx-xx-xxxx
RONALD A. ADKINS, xxx-xx-xxxx
HENRY S. ALCOTT, xxx-xx-xx...
JOE A. ALEXANDER, xxx-xx-xxxx
JAY D. ALLEN, xxx-xx-xxxx
THOMAS J. ALLEN, xxx-xx-xx...
CHARLES W. ALSUP, xxx-xx-xx...
AUGUST J. AMOROSO, JR., xxx-xx-xxxx
BRIAN M. ANDERSEN, xxx-xx-xxxx
BRUCE R. ANDERSON, xxx-xx-xxxx
DOC A. ANDERSON, III, xxx-xx-xxxx
KEITH M. ANDERSON, xxx-xx-xxxx
MICHAEL T. ANDERSON, xxx-xx-xxxx
MARY G. ANDREWS, xxx-xx-xxxx
ROGER I. ANGLIN, xxx-xx-xxxx
DOUGLAS K. APO, xxx-xx-xxxx
WILLIAM D. ARCHER, xxx-xx-xx...
THOMAS M. ARIAIL, JR., xxx-xx-xxxx
BRUCE E. ARLINGHAUS, xxx-xx-xxxx
ALBERT E. ARNOLD, III, xxx-xx-xxxx
MICHAEL H. ASHE, xxx-xx-xx...
CHARLES F. ASHLEY, xxx-xx-xxxx
WILLIAM J. ASHTON, xxx-xx-xx...
DELBERT W. ATWOOD, xxx-xx-xxxx
HENRY J. ATWOOD, JR., xxx-xx-xxxx
FORREST W. AURENTZ, xxx-xx-xxxx
BRIAN J. AUSTIN, xxx-xx-xxxx
RICHARD W. AVEY, xxx-xx-xxxx
RODNEY S. AZAMA, xxx-xx-xxxx
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MITCHELL H. STEVENSON, xxx-xx-xxxx
THOMAS F. STEWART, xxx-xx-xxxx
JAMES R. STORDAHL, xxx-xx-xxxx
JOHN L. STORM, xxx-xx-xxxx
TEDDY A. STOUT, xxx-xx-xxxx
GARNETT R. STOWE, JR., xxx-xx-xxxx
DOUGLAS S. STRACK, xxx-xx-xxxx
HENRY W. STRATMAN, xxx-xx-xx...
HERMAN L. STRICKLAND, xxx-xx-xxxx
SHAND H. STRINGHAM, xxx-xx-xxxx
STEVE B. STRIPPOLI, xxx-xx-xxxx
PAUL A. STUART, III, xxx-xx-xxxx
HARRY D. STUMPF, xxx-xx-xxxx
*CHARLES D. STUNSON, xxx-xx-xxxx
THOMAS W. SUITT, xxx-xx-xxxx
DALE E. SULANDER, xxx-xx-xxxx
GEORGE M. SUMERS, JR., xxx-xx-xxxx
HERMAN W. SUMNER, xxx-xx-xxxx
JOE C. SUMRELL, xxx-xx-xxxx
FREDERICK M. SUNDSTROM, xxx-xx-xxxx
KARL E. SWANSON, xxx-xx-xxxx
LEONARD G. SWARTZ, xxx-xx-xxxx
LARRY A. SWARTZLANDER, xxx-xx-xx...
DANE M. SWENSON, xxx-xx-xxxx
LLOYD S. TAKESHITA, xxx-xx-xx...
EDMUND S. TAKEYA, xxx-xx-xxxx
GERALD G. TALLMAN, xxx-xx-xx...
JAMES P. TATUM, xxx-xx-xxxx
JOSEPH R. TAYLOR, xxx-xx-xxxx
LARRY R. TAYLOR, xxx-xx-xxxx
LOUIS E. TAYLOR, xxx-xx-xxxx
WENDY E. TEACH, xxx-xx-xxxx
WENDELL T. TENGAN, xxx-xx-xxxx
WILLIAM A. TERHUNE, xxx-xx-xxxx
FORREST A. TERRELL, xxx-xx-xxxx
HARVEY A. TESTON, JR., xxx-xx-xxxx
HAROLD G. THOMAS, xxx-xx-xxxx
JERRY THOMAS, xxx-xx-xxxx
LARRY A. THOMAS, xxx-xx-xxxx
JOHNNY R. THOMPSON, xxx-xx-xxxx
ALAN W. THRASHER, xxx-xx-xxxx
RANDAL M. TIESZEN, xxx-xx-xxxx
DON D. TILTON, xxx-xx-xxxx
PAUL D. TIMMERBERG, xxx-xx-xxxx
DONALD R. TINDALL, xxx-xx-xxxx
TERRY J. TIPTON, xxx-xx-xxxx
MICHAEL M. TOLER, xxx-xx-xx...
STEVEN A. TOLLE, xxx-xx-xxxx
TIMOTHY E. TOMLINSON, xxx-xx-xxxx
PAUL C. TOPALIAN, xxx-xx-xxxx
ADAM L. TORRES, xxx-xx-xxxx
RONALD E. TRAVERS, xxx-xx-xxxx
DENNIS P. TREECE, xxx-xx-xxxx
RICHARD J. TREHARNE, xxx-xx-xxxx
PAUL W. TROTTI, xxx-xx-xxxx
JOHN F. TROY, JR., xxx-xx-xxxx
TERRY L. TUCKER, xxx-xx-xxxx
WILLIAM A. TUCKER, JR., xxx-xx-xxxx
BURTON W. TULKKI, xxx-xx-xxxx
JOSEPH D. TULLBANE, xxx-xx-xxxx
DAVID A. TUPA, xxx-xx-xxxx
GREGG E. TURNER, xxx-xx-xxxx
THOMAS R. TURNER, II, xxx-xx-xxxx
JOHN B. USHER, xxx-xx-xxxx
RICHARD A. VALLARIO, xxx-xx-xx...
COYD M. VANCE, xxx-xx-xx...
WALTER A. VANDERBEEK, xxx-xx-xxxx
CHARLES M. VANDONGEN, xxx-xx-xxxx
WILLIAM M. VANPATTEN, xxx-xx-xx...
DAVID B. VAUGHAN, xxx-xx-xxxx
MICHAEL J. VEASEY, xxx-xx-xxxx
JAMES P. VERNEY, xxx-xx-xxxx
CARL E. VIKSTROM, xxx-xx-xxxx
GREGORY C. VOGEL, xxx-xx-xxxx
IMRE VOLGYI, xxx-xx-xxxx
LONNIE D. VONA, xxx-xx-xxxx
JAMES S. VOSS, xxx-xx-xxxx
KENNETH R. VREELAND, JR., xxx-xx-xxxx
WENDY A. WADINGER, xxx-xx-xxxx
FRANK H. WAGNER, JR., xxx-xx-xxxx
JOHN F. WAGNER, xxx-xx-xxxx
GARY E. WAITSCHIES, xxx-xx-xxxx
WILLIAM D. WALDBUESER, xxx-xx-xx...
CHARLEY H. WALKER, xxx-xx-xxxx
MARK C. WALLER, xxx-xx-xx...
ROBERT E. WALLER, xxx-xx-xxxx
THOMAS G. WALLER, JR., xxx-xx-xx...
WILLIAM G. WALLS, xxx-xx-xx...
DAVID E. WALTERS, xxx-xx-xxxx
TIMOTHY W. WALTERS, xxx-xx-xxxx
RICHARD L. WAMPLER, xxx-xx-xx...
ROBERT H. WANK, xxx-xx-xxxx
TIMOTHY R. WANKE, xxx-xx-xxxx
CHARLES C. WARE, xxx-xx-xx...
JOHN D. WARREN, xxx-xx-xxxx
JOHN S. WARREN, xxx-xx-xxxx
THOMAS C. WASHBURN, xxx-xx-xxxx
WALTER L. WASHINGTON, xxx-xx-xxxx
NOLAN WATSON, JR., xxx-xx-xxxx
ROBERT E. WATSON, III, xxx-xx-xxxx
ROBERT E. WATTS, xxx-xx-xxxx
GEORGE S. WEBB, xxx-xx-xxxx
WILLIAM L. WEBB, III, xxx-xx-xx...
DONALD G. WEIR, JR., xxx-xx-xxxx
JOHN C. WELCH, xxx-xx-xx...
RICHARD J. WELCH, xxx-xx-xxxx
WILLIAM G. WELCH, xxx-xx-xx...
GERALD L. WELLMAN, xxx-xx-xxxx
GERALD T. WELLMAN, xxx-xx-xxxx
DANIEL W. WELLS, III, xxx-xx-xx...
EILEEN M. WELSH, xxx-xx-xx...
MARK S. WENTLENT, xxx-xx-xxxx
ANDREW C. WEST, xxx-xx-xxxx
NICOLETTE J. WHEELER, xxx-xx-xx...
JOHN G. WHEELOCK, IV, xxx-xx-xxxx
JAMES L. WHELAN, xxx-xx-xx...
MICHAEL J. WHITAKER, xxx-xx-xxxx
DAVID T. WHITE, xxx-xx-xxxx
GLEN R. WHITE, xxx-xx-xxxx
WILLIAM C. WHITTINGSTALL, xxx-xx-xxxx
STEPHEN G. WHITWORTH, xxx-xx-xxxx
JERRY L. WIEDEWITSCH, xxx-xx-xxxx
CHARLES G. WIGNER, xxx-xx-xx...
SCOTT R. WILCOX, xxx-xx-xxxx
DAVID J. WILDERMAN, xxx-xx-xxxx
DAVID G. WILDES, xxx-xx-xxxx
PHILIP L. WILKERSON, JR., xxx-xx-xxxx
BARRY E. WILLEY, xxx-xx-xxxx
JAMES M. WILLEY, xxx-xx-xx...
BENNIE E. WILLIAMS, xxx-xx-xxxx
EDWARD W. WILLIAMS, JR., xxx-xx-xxxx
GARY L. WILLIAMS, xxx-xx-xxxx
MAURICE WILLIAMS, xxx-xx-xxxx
WILLIAM D. WILLIAMS, xxx-xx-xx...
FRANKIE S. WILMOTH, xxx-xx-xxxx
DAVID J. WILSON, xxx-xx-xxxx
JAMES R. WILSON, xxx-xx-xxxx
ROBERT WILSON, xxx-xx-xxxx
TOD J. WILSON, xxx-xx-xxxx
MARGARET J. WINSLOW, xxx-xx-xxxx
HARRY L. WOLBERS, III, xxx-xx-xxxx
WILLIAM E. WOLF, xxx-xx-xx...
JACK L. WOLFE, JR., xxx-xx-xxxx
MICHAEL W. WOLFENBARGER, xxx-xx-xx...
STEPHEN W. WOLFORD, xxx-xx-xxxx
JAMES E. WOOD, xxx-xx-xxxx
JOHN R. WOOD, xxx-xx-xxxx

SAMUEL A. WOOD, xxx-xx-xx...
TIMOTHY L. WOOD, xxx-xx-xxxx
ALFRED J. WOODBRIDGE, xxx-xx-xxxx
DONALD D. WOOLFOLK, xxx-xx-xx...
ROGERS J. WOOLFOLK, xxx-xx-xxxx
ROSS L. WORCH, xxx-xx-xxxx
BARRY E. WRIGHT, xxx-xx-xxxx
RALPH F. WRIGHT, xxx-xx-xxxx
ROBERT L. WYATT, xxx-xx-xxxx
EDWARD S. WYRWAS, xxx-xx-xxxx
JAMES O. YEAMAN, xxx-xx-xxxx
HOWARD W. YELLEN, xxx-xx-xx...
JULIUS M. YOUNG, xxx-xx-xxxx
ROBERT G. YUILL, xxx-xx-x...
GEORGE ZAHACZEWSKY, xxx-xx-xx...
PHILLIP L. ZEDONEK, xxx-xx-xxxx
RICHARD J. ZIEGLER, xxx-xx-xxxx
CHARLES A. ZIMMERMAN, xxx-xx-xx...
LAWRENCE E. ZIOCK, xxx-xx-x...
JOHN G. ZODROW, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be lieutenant colonel

*ERIC D. ADRIAN, xxx-xx-xxxx
*WILLIAM R. ANDERSON, JR., xxx-xx-xxxx
KENNETH E. BLOODWORTH, xxx-xx-xxxx
*MARY H. BURKE, xxx-xx-xxxx
*ARTHUR L. COLE, xxx-xx-xxxx
*PAUL M. COTTONE, xxx-xx-xx...
*ROY F. DORNSIFE, III, xxx-xx-xxxx
*EDWARD E. FLETCHER, xxx-xx-xxxx
PETER R. FLYNN, xxx-xx-xxxx
LINCOLN D. FRETWELL, xxx-xx-xx...
*CARL G. GLASER, xxx-xx-xxxx
*HENRY A. GREENE, xxx-xx-xxxx
*WILLIAM B. HALEY, II, xxx-xx-xxxx
RONALD J. HAYES, xxx-xx-xxxx
ALBERT H. HOLLMANN, xxx-xx-xx...
*WILLIAM C. JOHNSON, xxx-xx-xxxx
EDWARD A. KODITEK, xxx-xx-xxxx
*STEPHEN R. LEE, xxx-xx-xxxx
JOHN T. MCCANN, xxx-xx-xxxx
CHARLES A. NETH, xxx-xx-xxxx
*NICHOLAS C. QUIGLEY, xxx-xx-xxxx
WILLIAM F. ROSE, JR., xxx-xx-xxxx
*JERRY M. SCHWARTZ, xxx-xx-xxxx
ROBERT W. SCOTT, xxx-xx-xxxx
HENRY C. SEYMOUR, xxx-xx-xxxx
*JAMES D. WOODSON, xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

*ROBERT T. ANDERSON, xxx-xx-xxxx
*SIDNEY W. ATKINSON, xxx-xx-xxxx
PABLO *. AYALA, xxx-xx-xxxx
*SILAS A. BARTELL, xxx-xx-xxxx
*RANDALL D. BEHRMANN, xxx-xx-xxxx
*MICHAEL A. BERRY, xxx-xx-xxxx
*JAMES L. BESON, xxx-xx-xx...
*PHILIP W. BLAIR, JR., xxx-xx-xxxx
*JOE G. BLANKENSHIP, xxx-xx-xxxx
DAVID A. BOSSE, xxx-xx-xxxx
*DEBORAH S. BROWN, xxx-xx-xxxx
DORIS *. BROWNE, xxx-xx-xxxx
*EDITH M. BUDIK, xxx-xx-xxxx
*SCOTT H. BURNER, xxx-xx-xxxx
*DENISE C. CABEZA, xxx-xx-xxxx
TONY *. CARTER, xxx-xx-xxxx
*KENNETH F. CASEY, xxx-xx-xxxx
*WILLIAM M. CHAMBERLIN, xxx-xx-xx...
*BLANE M. CRANDALL, xxx-xx-xx...
HOWARD M. CUSHNER, xxx-xx-xx...
*LAWRENCE A. DECKER, xxx-xx-xxxx
*CALVIN B. DELAPLAIN, xxx-xx-xxxx
*HOLLY L. DOYNE, xxx-xx-xxxx
PAUL *. EVANS, xxx-xx-xxxx
FRANK T. FLANNERY, xxx-xx-xxxx
*PAULITO A. FONTELO, xxx-xx-xxxx
*JAMES K. GILMAN, xxx-xx-xxxx
*PATRICK F. GLASOW, xxx-xx-xxxx
*GERALD Q. GREENFIELD, xxx-xx-xxxx
*CLEMENT J. HANSON, xxx-xx-xxxx
*RICHARD T. HARPER, xxx-xx-xxxx
*JAMES A. HASBARGEN, xxx-xx-xxxx
*JOHN C. HOLLAND, xxx-xx-xxxx
*JERRY W. HOPE, xxx-xx-xxxx
*KENNETH D. HOPPER, xxx-xx-xxxx
*THOMAS M. JACKSON, xxx-xx-xx...
*BRUCE H. JONES, xxx-xx-xxxx
*STEPHEN L. JONES, xxx-xx-xxxx
*SHAILESH C. KADAKIA, xxx-xx-xxxx
*JEROME J. KARWACKI, JR., xxx-xx-xxxx
SOK M. KIM, xxx-xx-xxxx
*DANIEL L. KOPP, xxx-xx-xxxx
*MICHAEL A. KULONGOWSKI, xxx-xx-xx...
SHASHI *. KUMAR, xxx-xx-xxxx
*MICHAEL O. LAGRONE, xxx-xx-xxxx
WILLIAM C. LLOYD, III, xxx-xx-xxxx
CHARLES F. LONGER, xxx-xx-xxxx
*VICTORIA C. LUMINARIAS, xxx-xx-xx...
*JAMES W. MARTIN, xxx-xx-xxxx
LESTER *. MARTINEZ-LOPEZ, xxx-xx-xxxx
*JOSE D. MASI, xxx-xx-xxxx
*WILLIAM M. MATTHEW, xxx-xx-xx...
*KATHLEEN A. MCHALE, xxx-xx-xx...
*KELLY T. MCKEE, JR., xxx-xx-xx...
*JAMES G. MILLER, JR., xxx-xx-xxxx
GLENN W. MITCHELL, xxx-xx-xx...
*MADELINE S. MITCHELL, xxx-xx-xx...
*WALTER J. MOORE, xxx-xx-xx...
*ALBERT J. MORENO, xxx-xx-xxxx
*FARLEY B. NEASMAN, xxx-xx-xxxx
*TU H. NGUYEN, xxx-xx-xxxx
*BRIAN T. NOLAN, xxx-xx-xxxx
*BENJAMIN W. PAGE, xxx-xx-xxxx
*GORDON J. PIPER, xxx-xx-xxxx
*M. E. RUEDAPEDRAZA, xxx-xx-xxxx
*ANTHONY S. SADO, xxx-xx-xxxx
*MILTON J. SCHLEVE, xxx-xx-xxxx
*GLEN L. SHEARER, xxx-xx-xxxx
*MOSHE J. SHMUKLARSKY, xxx-xx-xxxx
STEPHEN A. SIHELNIK, xxx-xx-xxxx
*WARREN S. SILBERMAN, xxx-xx-xxxx
*THOMAS W. SMITH, xxx-xx-xxxx
*DONALD L. STEINWEG, xxx-xx-xxxx
VENKATARAMAN SUKUMAR, xxx-xx-xxxx
*DANIEL T. TELL, xxx-xx-xxxx
WILLIAM T. TUCKER, IV, xxx-xx-xx...
*GORDON S. VINCENT, xxx-xx-xxxx
*BETTIE B. WAGSTAFF, xxx-xx-xxxx
*ROBERT H. WEBB, JR., xxx-xx-xxxx
*JAMES H. WHEELER, III, xxx-xx-xxxx
*SNO E. WHITE, xxx-xx-xxxx
*JOAN E. WOODWARD, xxx-xx-xxxx
*THOMAS A. WOODWARD, xxx-xx-xxxx
*DAVID C. WRIGHT, xxx-xx-xxxx
*STEVEN K. YAMAMOTO, xxx-xx-xxxx
*EDWARD J. YANG, xxx-xx-xxxx
*CHARLES J. YOWLER, xxx-xx-xxxx

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

To be lieutenant colonel

SHIRLEY O. FORD, xxx-xx-xxxx

To be major

DOUGLAS R. ARNDT, xxx-xx-xxxx
JAMES E. BAGLEY, xxx-xx-xxxx
DAVIS CHRISTENSEN, xxx-xx-xxxx
ROBERT E. EASTER, xxx-xx-xxxx
EDWARD N. FOSTER, xxx-xx-xxxx
JOSEPH L. FLYNN, xxx-xx-xxxx
LORENZO A. GOINS, xxx-xx-xxxx
EDWARD N. HOFFMAN, xxx-xx-xxxx
ROGER F. LUECKENOTTE, xxx-xx-xxxx
PATRICK C. MAHAFFE, xxx-xx-xxxx
RUSSELL J. O'HARA, xxx-xx-xxxx
GLENN M. PEACH, xxx-xx-xxxx
DAVID E. RETHERFORD, xxx-xx-xxxx
RICHARD A. RUBY, xxx-xx-xxxx
STEPHEN C. SCOTT, xxx-xx-x...
DWIGHT B. VARLEY, xxx-xx-xxxx

To be captain

DANIEL G. AARON, xxx-xx-xxxx
DAVID ABRAHAMSON, xxx-xx-xxxx
JOHN R. AGUON, xxx-xx-xxxx
CHARLES ALLEN, xxx-xx-xx...
GEORGE A. ALLMEYER, xxx-xx-xxxx
JAMES A. ALLSBROOK, xxx-xx-xxxx
GEORGE F. AMADIO, xxx-xx-xxxx
PAUL M. AMALFITANO, xxx-xx-xx...
DEBRA L. ANDERSON, xxx-xx-xxxx
DENNIS W. ATKINS, xxx-xx-xxxx
JOHN W. BAILEY, xxx-xx-xxxx
HOBERT A. BAKER, xxx-xx-xxxx
MELVIN B. BAKER, xxx-xx-xxxx
THOMAS A. BALISH, xxx-xx-xxxx
RICHARD BARTEL, xxx-xx-xxxx
KEVIN R. BARRERAS, xxx-xx-xxxx
CHRISTOPHER W. BAUGHMAN, xxx-xx-xxxx
LAURA C. BAY, xxx-xx-xxxx
CRAIG A. BELL, xxx-xx-xx...
HENRY L. BELL, xxx-xx-xxxx
MICHAEL J. BERRY, xxx-xx-xxxx
STEVEN R. BITTICKS, xxx-xx-xxxx
JAIME L. BONANO, xxx-xx-xxxx
REGINALD S. BOURGEOIS, xxx-xx-xxxx
WALTER W. BOYETT, xxx-xx-xxxx
DENNIS B. BOYKIN, xxx-xx-xxxx
DONALD H. BRANNON, xxx-xx-xxxx
NORMAN R. BREHM, xxx-xx-xxxx
JOHN P. BRONAUGH, xxx-xx-xxxx
STANLEY P. BROWN, xxx-xx-xxxx
JOHN H. BRUNETTI, xxx-xx-xxxx
DONALD J. BURNETT, xxx-xx-xxxx
MICHAEL J. BURNS, xxx-xx-xxxx
HENRY F. BYRNSIDE, xxx-xx-xxxx
CARL R. CALHOUN, xxx-xx-xx...
JOHN W. CALLAGHAN, xxx-xx-xx...
CARLOS G. CAPLLONCH, xxx-xx-xx...
MICHAEL R. CARAM, xxx-xx-xx...
ALBERT CASTALDO, xxx-xx-xx...
WALTER CHAMPION, xxx-xx-xx...
JOHN CHANDLER, JR., xxx-xx-xxxx
JOHN A. CHRISTENSEN, xxx-xx-xxxx
BEN C. CLAPSADDLE, xxx-xx-xxxx
EDWIN J. CLARK, xxx-xx-xxxx
MICHAEL W. CLEMMONS, xxx-xx-xx...
JAMES P. COATES, xxx-xx-xxxx
WADE C. COLE, xxx-xx-xx...
JOHN P. CONKLIN, xxx-xx-xxxx
TERRY E. CONNELLY, xxx-xx-xxxx
JOHN T. CORCORAN, xxx-xx-xxxx
GARY B. CORDES, xxx-xx-xxxx
THOMAS W. CORDINGLY, xxx-xx-xxxx
JERRY L. CORNELL, xxx-xx-xxxx
WILLIAM B. CROSS, xxx-xx-xxxx
WENDELL R. CROUCHER, xxx-xx-xxxx
MICHAEL D. CUMMINS, xxx-xx-xx...
STEPHEN A. DARDEN, xxx-xx-xx...
TIMOTHY R. DAVIDSON, xxx-xx-xxxx
BENSON DAVIS, xxx-xx-xxxx
DELBERT A. DAVIS, xxx-xx-xxxx
JOHN H. DAVIS, xxx-xx-xxxx
CHARLES P. DEEHAN, xxx-xx-xxxx
PATRICK DEVINE, xxx-xx-xxxx
MERRILL E. DICKENSON, xxx-xx-xxxx
TIMOTHY D. DIXON, xxx-xx-xxxx
ANTHONY W. DODD, xxx-xx-xxxx
VICTOR J. DONATE, xxx-xx-xxxx
RICHARD P. DONOVAN, xxx-xx-xxxx
MARTIN B. DOREY, xxx-xx-xxxx
DONALD R. DOUGLAS, xxx-xx-xxxx
MARK E. DUARTE, xxx-xx-xxxx
JIM M. DUCHARME, xxx-xx-xxxx
DARRY O. ECHOLS, xxx-xx-xxxx
MICHAEL S. ENGLAND, xxx-xx-xx...
RUSSELL ENGLISH, xxx-xx-xxxx
DAVID ERNST, xxx-xx-xxxx
THOMAS J. EVELYN, xxx-xx-xxxx
SCOTT D. FABOZZI, xxx-xx-xxxx
MIGUEL A. FALCON, xxx-xx-xx...
JEFFREY H. FARGO, xxx-xx-xxxx
ROBERT A. FARMER, xxx-xx-xxxx
JESSIE O. FARRINGTON, xxx-xx-xxxx
PABLO FELICIANO, xxx-xx-xx...
CHARLES F. FIELDS, xxx-xx-xxxx
KEVIN J. FINNEGAN, xxx-xx-xxxx
JOHN E. FITZPATRICK, xxx-xx-xxxx
THOMAS FITZPATRICK, xxx-xx-xxxx
HARRY D. FLANAGAN, xxx-xx-xxxx
ALFRED J. FONZI, xxx-xx-xxxx
ROBERT W. FOX, xxx-xx-xxxx
DAVID FRANCAVILLA, xxx-xx-xx...
JAMES A. FRANK, xxx-xx-xxxx
KENNETH FREEMAN, xxx-xx-xxxx
KENT E. FRIEDERICH, xxx-xx-xxxx
SILVEN C. GANTT, xxx-xx-xxxx
LEE D. GAZZANO, xxx-xx-xx...
EDWIN W. GIRDLER, xxx-xx-xxxx
LARRY O. GISSENTANNA, xxx-xx-xxxx
EARL S. GLASCOCK, xxx-xx-xx...
ANTHONY GLENN, xxx-xx-xxxx
BARRY M. GRIEVE, xxx-xx-xxxx
LYNN H. GUMMERINGER, xxx-xx-xxxx
LANNY D. GUYTON, xxx-xx-xxxx
JOSEPH F. GUZOWSKI, xxx-xx-xxxx
SCHUCRI A. HANDAL, xxx-xx-xx...
WILLIAM R. HANSON, xxx-xx-xx...
MICHAEL HARBOR, xxx-xx-xx...
ANTHONY J. HARDY, xxx-xx-xxxx
THELMA P. HARPER, xxx-xx-xxxx
BART N. HARRELL, xxx-xx-xxxx
JAMES T. HARRIS, xxx-xx-xxxx
JOHN C. HARRISON, xxx-xx-xxxx
ERNEST HASKELL, xxx-xx-xxxx
PATRICK K. HELLAND, xxx-xx-xx...
TOM W. HENDRIX, xxx-xx-xxxx
HECTOR HERRERA, xxx-xx-xxxx
ROBERT T. HESS, xxx-xx-xxxx
LARRY D. HETHCOX, xxx-xx-xxxx
ROBERT C. HILDENBRAND, xxx-xx-xxxx
RANDALL L. HILL, xxx-xx-xx...
ROBERT J. HODGES, xxx-xx-xxxx
KURT G. HOFFMANN, xxx-xx-xxxx
JOSEPH HOLMAN, xxx-xx-xx...
JOHN W. HOWERTON, xxx-xx-xxxx
LAWRENCE HOYME, xxx-xx-xx...
ALLEN L. HUBER, xxx-xx-xx...
JAMES P. HURST, xxx-xx-xxxx
WALTER K. ISAACS, xxx-xx-xxxx
LEON JACKSON, xxx-xx-xxxx
DAVID H. JEROME, xxx-xx-xxxx
KELLY R. JIMENEZ, xxx-xx-xx...
ROBERT A. JOHN, xxx-xx-xxxx
DARREL L. JOHNSON, xxx-xx-xxxx
HORACE JOHNSON, xxx-xx-xxxx
JOHN K. JOHNSON, xxx-xx-xxxx
GLENN H. JONES, xxx-xx-xxxx
THOMAS C. KEITH, xxx-xx-xxxx
ROBERT KENDRICK, III, xxx-xx-xxxx
WILLIAM G. KIDD, xxx-xx-xxxx
RICHARD A. KILBURN, xxx-xx-xxxx
JOHN J. KILGARIFF, xxx-xx-xxxx
RICK E. KIMLER, xxx-xx-xxxx
LARRY W. KNIGHT, xxx-xx-xxxx
STEVEN J. KOEBRICH, xxx-xx-xxxx
DANIEL P. KOZAR, xxx-xx-xxxx
MARTIN T. KRAJESKI, xxx-xx-xxxx
LARRY W. KRUSE, xxx-xx-xxxx
MARK S. LAKE, xxx-xx-xxxx
LEE R. LETARTE, xxx-xx-xxxx
MARK A. LEVERETTE, xxx-xx-xxxx
MARK R. LINDON, xxx-xx-xxxx
XAVIER P. LOBETO, xxx-xx-xxxx
GREGORY T. LONG, xxx-xx-xxxx
KRISTIE A. LONG, xxx-xx-xxxx

PETER J. LOOKER, xxx-xx-xxxx
DARRELL A. LORENZEN, xxx-xx-xxxx
MONIKA M. LUTZ, xxx-xx-xxxx
JOHN W. LYDON, xxx-xx-xxxx
STEPHEN R. LYNCH, xxx-xx-xxxx
JAMES R. MACHIN, xxx-xx-xxxx
JULIE A. MAGGIORE, xxx-xx-xxxx
ALBERT J. MANDRELL, xxx-xx-xxxx
DANA M. MANGHAM, xxx-xx-xxxx
MICHAEL F. MARASCHIELLO, xxx-xx-xxxx
GORDON E. MARTEL, xxx-xx-xxxx
CAREY H. MARTIN, xxx-xx-xxxx
MICHAEL B. MARTIN, xxx-xx-xxxx
THOMAS D. MAYFIELD, xxx-xx-xxxx
JAMES R. MAYHUGH, xxx-xx-xxxx
MARK N. MAZARELLA, xxx-xx-xxxx
SCOTT MCFARLAND, xxx-xx-xxxx
TIMOTHY M. MCENTEE, xxx-xx-xxxx
STEPHEN J. MCHUGH, xxx-xx-xxxx
JEFFREY S. MCKEE, xxx-xx-xxxx
ROBERT L. MCPEEK, xxx-xx-xxxx
CHARLES C. MELTON, xxx-xx-xxxx
VINCENT F. MERCANDANTE, xxx-xx-xxxx
JOHN MILLAR, xxx-xx-xxxx
RAYMOND MOBLEY, xxx-xx-xxxx
GWENDOLYN E. MONROE, xxx-xx-xxxx
MICHAEL B. MOORE, xxx-xx-xxxx
TOMMY L. MOORE, xxx-xx-xxxx
DAVID W. MOWRY, xxx-xx-xxxx
BARRY R. NAPP, xxx-xx-xxxx
THOMAS E. NEGUS, xxx-xx-xxxx
ROBERT W. NICHOLSON, xxx-xx-xxxx
SHANNON H. NOWELL, xxx-xx-xxxx
ROBERT K. NYE, xxx-xx-xxxx
RANDY F. OLDING, xxx-xx-xxxx
HAROLD L. OWEN, xxx-xx-xxxx
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FRANCIS J. POTTENGER, xxx-xx-xxxx

VETERINARY CORPS

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IN THE ARMY

THE FOLLOWING NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

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IN THE ARMY

THE FOLLOWING NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, 532, AND 533:

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CATHERINE E. STUART, xxx-xx-xxxx
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SILKE G. STUTZ, xxx-xx-xxxx
JOHN A. STYER, xxx-xx-xxxx
KEVIN SULLIVAN, xxx-xx-xxxx
WILLIAM K. SULLIVAN, xxx-xx-xxxx
ELIZABETH A. SULTENFUSS, xxx-xx-xxxx
GLEN E. SUTTON, xxx-xx-xxxx
TIMOTHY E. SWEET, xxx-xx-xxxx
WALTER S. SWEETSER, xxx-xx-xxxx
MICHAEL J. SWENSON, xxx-xx-xxxx
RITA M. SWINT, xxx-xx-xxxx
BRIAN R. TACHIAS, xxx-xx-xxxx
GARY C. TALLMAN, xxx-xx-xxxx
MISOU T. TANG, xxx-xx-xxxx
BRIAN E. TATE, xxx-xx-xxxx
BRADLY S. TAYLOR, xxx-xx-xxxx
JONATHAN A. TAYLOR, xxx-xx-xxxx
RICHARD A. TEOLIS, JR., xxx-xx-xxxx
PATRICK R. TERRELL, xxx-xx-xxxx
REGINALD TERRY, xxx-xx-xxxx
PHILLIP M. THEODORE, xxx-xx-xxxx
ANDREA L. THOMPSON, xxx-xx-xxxx
CARLA J. THOMPSON, xxx-xx-xxxx
DARRYL C. THOMPSON, xxx-xx-xxxx
JEFFREY THOMPSON, xxx-xx-xxxx
SAMUEL C. THOMPSON, xxx-xx-xxxx
DONALD P. THRASHER, xxx-xx-xxxx
CLIFFORD V. THURMAN, xxx-xx-xxxx
WILLIAM D. THURMOND, xxx-xx-xxxx
VICKI L. TINNON, xxx-xx-xxxx
JORGE TORRES, xxx-xx-xxxx
JOSE A. TORRES, xxx-xx-xxxx
KENT L. TOUSSIANT, xxx-xx-xxxx
DAVID TOUZINSKY, xxx-xx-xxxx
RICHARD M. TRACCHIO, xxx-xx-xxxx
ROBERT R. TRESSLER, xxx-xx-xxxx
GREGORY T. TUOHY, xxx-xx-xxxx
PERRY L. TURNER, xxx-xx-xxxx
PHILIP L. TURNER, III, xxx-xx-xxxx
STEVEN C. TURNER, xxx-xx-xxxx
STUART A. TURNER, xxx-xx-xxxx
KARLA K. ULMER, xxx-xx-xxxx
PARIS D. UM, xxx-xx-xxxx
JAMES R. UPCHURCH, xxx-xx-xxxx
JENNIFER N. URBAN, xxx-xx-xxxx
JEFFREY L. URIBE, xxx-xx-xxxx
WILLIAM T. UTROSKA, xxx-xx-xxxx
ROSS M. VACCARO, xxx-xx-xxxx
BRET A. VANCAMP, xxx-xx-xxxx
JOSEPH J. VANCOSKY, xxx-xx-xxxx
RALPH R. VARGAS, xxx-xx-xxxx
JOHN F. VARNER, III, xxx-xx-xxxx
CHRISTOPHER T. VAUGHN, xxx-xx-xxxx
JOHN E. VEATCH, xxx-xx-xxxx
PETER VELAZQUEZ, xxx-xx-xxxx
GARY F. VENGELEN, xxx-xx-xxxx
NATALIE A. VERES, xxx-xx-xxxx
MEREDITH L. VERMILLION, xxx-xx-xxxx
JASON R. VICK, xxx-xx-xxxx
LINDON N. VIDA, xxx-xx-xxxx
ANTHONY W. VIRGILIO, xxx-xx-xxxx
JOSEPH L. VITALE, xxx-xx-xxxx
HANS R. VOGEL, xxx-xx-xxxx
JAMES VOGEL, xxx-xx-xxxx
ADAM C. VOLANT, xxx-xx-xxxx
VAN J. VOORHEES, xxx-xx-xxxx
JEFFREY E. VUONO, xxx-xx-xxxx
DAVID C. WAGNER, xxx-xx-xxxx
JOHNNY L. WALKER, xxx-xx-xxxx
KEITH A. WALLS, xxx-xx-xxxx
KENNETH E. WALRAVEN, xxx-xx-xxxx
CHARLES T. WARD, xxx-xx-xxxx
JERRY D. WARD, xxx-xx-xxxx
JONATHAN T. WARD, xxx-xx-xxxx
ROBERT E. WARD, IV, xxx-xx-xxxx
WILLIAM S. WARNER, xxx-xx-xxxx
BRADLEY D. WARREN, xxx-xx-xxxx
HELEN L. WARREN, xxx-xx-xxxx
KEVIN C. WARREN, xxx-xx-xxxx
TARN D. WARREN, xxx-xx-xxxx
JEFFREY L. WATSON, xxx-xx-xxxx
MICHAEL L. WATTS, xxx-xx-xxxx
JOSEPH WAWRO, xxx-xx-xxxx
EDITH M. WEAKLY, xxx-xx-xxxx
DARLA C. WEAVER, xxx-xx-xxxx
MARK T. WEAVER, xxx-xx-xxxx
JULIAN A. WEBB, xxx-xx-xxxx
REID W. WEBBER, xxx-xx-xxxx
RONALD E. WEBBER, xxx-xx-xxxx
ALLAN L. WEBSTER, xxx-xx-xxxx
CATHERINE D. WEBSTER, xxx-xx-xxxx
LORI A. WEBSTER, xxx-xx-xxxx
LUTHER W. WEBSTER, xxx-xx-xxxx
JODENE M. WEES, xxx-xx-xxxx
STEVEN R. WEIK, xxx-xx-xxxx
ROBERT W. WEISBROD, xxx-xx-xxxx
MARK W. WEISS, xxx-xx-xxxx
JAMES W. WELFORD, xxx-xx-xxxx
SAMMIE W. WELLS, xxx-xx-xxxx
ROBERT H. WELSH, xxx-xx-xxxx
ROSS W. WENDELL, xxx-xx-xxxx
WILLIAM C. WERLING, xxx-xx-xxxx
KEVIN J. WESELS, xxx-xx-xxxx
JONATHAN M. WESTBROOK, xxx-xx-xxxx
MARY WESTERWELLE, xxx-xx-xxxx
JILL M. WESTFALL, xxx-xx-xxxx
CLIFFORD E. WHEELER, JR., xxx-xx-xxxx
BILLY J. WHELCHEL, xxx-xx-xxxx
IAN S. WHITAKER, xxx-xx-xxxx
ABEL C. WHITE, xxx-xx-xxxx
GREGORY A. WHITE, xxx-xx-xxxx
INES N. WHITE, xxx-xx-xxxx
JERRY A. WHITE, III xxx-xx-xxxx
PAUL S. WHITING, xxx-xx-xxxx
CLAYTON C. WIENECKE, xxx-xx-xxxx
CLIFTON W. WILCOX, xxx-xx-xxxx
ANNETTER L. WILHELM, xxx-xx-xxxx
GAIL C. WILLARD, xxx-xx-xxxx
RICHARD M. WILLARD, xxx-xx-xxxx
LORI K. WILLBANKS, xxx-xx-xxxx
PAUL J. WILLE, xxx-xx-xxxx
ARTHUR G. WILLIAMS, xxx-xx-xxxx
JULIAN R. WILLIAMS, xxx-xx-xxxx
LELAND T. WILLIAMS, xxx-xx-xxxx
DEBORAH E. WILLIS, xxx-xx-xxxx
JOY A. WILLIS, xxx-xx-xxxx
THOMAS F. WILLSON, xxx-xx-xxxx
MATTHEW S. WILSON, xxx-xx-xxxx
WILLIAM J. WILSON, xxx-xx-xxxx
DANIEL WINCHESTER, JR., xxx-xx-xxxx
JONATHAN A. WINGATE, xxx-xx-xxxx
ANTHONY A. WIRTH, xxx-xx-xxxx
STEPHEN D. WISE, xxx-xx-xxxx
DAVID D. WISYANSKI, xxx-xx-xxxx
DEBORAH H. WITTE, xxx-xx-xxxx
LAWRENCE H. WITTE, xxx-xx-xxxx
MICHAEL J. WOLBRINK, xxx-xx-xxxx
WENDY L. WOLF, xxx-xx-xxxx
MICHAEL M. WOLL, xxx-xx-xxxx
LARRY M. WOOD, xxx-xx-xxxx
ROGER M. WOOD, xxx-xx-xxxx
ERIC M. WOODRUFF, xxx-xx-xxxx
JOEL A. WOODWARD, xxx-xx-xxxx
JAMES W. WOOLLEY, xxx-xx-xxxx
DONNA M. WURSTER, xxx-xx-xxxx
WALLACE E. YAMAUCHI, xxx-xx-xxxx
JOHN A. YEKULIS, xxx-xx-xxxx
EDWARD J. YEWELL, xxx-xx-xxxx
MONTE L. YODER, xxx-xx-xxxx
BRENT A. YORK, xxx-xx-xxxx
JOSEPH M. YOSWA, xxx-xx-xxxx
ALLEN R. YOUNGER, xxx-xx-xxxx
MICHAEL D. ZABROSKY, xxx-xx-xxxx
FRANK ZACHAR, xxx-xx-xxxx
TIMOTHY E. ZACK, xxx-xx-xxxx
ALBERT G. ZAKAIB, xxx-xx-xxxx
LOUIS R. ZAKARY III, xxx-xx-xxxx
DANIEL E. ZALEWSKI, xxx-xx-xxxx
CATHLEEN D. ZDROJEWSKI, xxx-xx-xxxx
HENRY G. ZEHR, xxx-xx-xxxx
IVAN J. ZIMMERMAN, xxx-xx-xxxx
THEODORE P. ZINDREN, xxx-xx-xxxx
JAMES F. ZINK, xxx-xx-xxxx
RODNEY E. ZION, xxx-xx-xxxx
CYNTHIA M. ZIVIC, xxx-xx-xxxx
ANDRE A. ZOLLARS, xxx-xx-xxxx

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THEIR ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, AND 533:

To be captain

xx...
xx...

VETERINARY CORPS

To be captain

DANIEL E. HOLLAND, xxx-xx-xxxx
MICHAEL S. LAGUTCHIK, xxx-xx-xxxx
MICHAEL C. MURPHY, xxx-xx-xxxx

DENTAL CORPS

To be captain

JEFFREY P. WARDEN, xxx-xx-xxxx

MEDICAL CORPS

To be captain

RANDAL D. ROBINSON, xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT CAPTAIN IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, CAPTAIN

To be captain, line, USN, permanent

JOHN BRECKA
FONDA L. JOHNSTONE
PAUL H. OSTIEN, JR
HARRISON Y. SMITH
JAMES F. SPAGNOLE
STEPHEN A. ZIMMERMAN

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT COMMANDER IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, COMMANDER

To be commander, line, USN, permanent

MICHAEL J. BARTON
JAMES BENTLEY
ROBERT G. CASTNER
EARL W. CRISP
RICHARD L. DEVLIN
RAY G. HAYS
WILLIAM R. ISENBARGER
LORETTA A. JEFFREY
RICHARD J. NELSON

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE LINE OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, LINE, LIEUTENANT COMMANDER

To be lieutenant commander, line, USN, permanent

SCOTT A. ABBOTT
CLIFTON V. BALDWIN
FRANCIS L. BEAULIEU
RANDY A. CASON
DENNIS K. CHRISTENSEN
JAMES S. COLVARD
JAMES COOPER COX
JOHN A. DRESWICK
MICHAEL J. EYSAMAN
WILLIAM FRANCIS FORD
MICHAEL FREDERICKSEN
MARK ALAN GRAGG
CHRISTOPHER GREGERSON
JOHN ROBERT HALL
WILLIAM F. HARRIS
ROBERT A. HORNBECK
STEVEN DAVID JAMES
WILLIAM C. JOHNSON
NANCY RUTH KIMBLE
STEVEN MICHAEL KING
MARK F. KINSLER
STEVEN R. KREMER
JAMES MESSENGER
DONALD PAUL NICKELL
STEVEN S. PAINTER
JOHN ALLEN PAYNE
PAUL M. POMPIER
HELENA EDITH REEDER
PETER FORREST REEVES
JOHN R. REICHL
NEIL SHERMAN RISH, JR
JAMES THOMAS SCHURR
WILLIAM D. SHERRILL
CHARLES F. TEMPLE
WILLIAM THOMPSON
JOHN TERRY THOMSON
RICHARD KIETH TURNER
WILLIAM F. WARLICK
JEFFREY CONRAD WEBER
WILLIAM E. YEAGER
LARRY R. ZIMMERMAN
GLENN L. ZITKA

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, MEDICAL CORPS, CAPTAIN

To be captain, Medical Corps, USN, permanent

RODNEY C. DWYER
FARRUKH MAHMOOD KHAN
NOELINE KHAW
RICHARD K. PRUETT
LEE HOWARD VENSEL

THE FOLLOWING NAMED U. S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, MEDICAL CORPS, COMMANDER

To be commander, Medical Corps, USN, permanent

DAVID A. BAKER
SCOTT W. BARTTELBORT
DAGMAR E. BASTITSA
JOHN L. BOONE
JOSEPH J. CAMPBELL
VINCENCE F. DILLON
JAMES WESLEY FLEMING
MICHAEL S. GURNEY
KENNETH SAMUEL HOYLE
DAVID ALLAN JOHNSON
FRANK STANLEY JONES
TERRY JAMES KELLER
JOHN T. KILLIAN
MICHAEL A. KOSMO
MICHAEL P. KOSTY
STEPHEN D. LANDAKER
MICHAEL T. LONGSTREET
ELIZABETH ANNE LUCK
EDWARD M. LYNCH
STEPHEN F. MCCARTNEY
EDWARD R. MCDEVITT
ROBERT A. MCGUIRE
LARRY E. MENESTRINA
MICHAEL S. MILLER
JAMES M. NANNEY
ROBERT R. OAKLEY
MIMS G. OCHSNER, JR
JAMES J. PASTERNACK
JOHN EDWARD RITCHIE
CHRISTOPHER W. SHOLES
TERRY W. SHORTRIDGE
BRIAN H. STRAND
DEBORAH JANE WEAR

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT COMMANDER IN THE CHAPLAIN CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, COMMANDER

To be commander, Chaplain Corps, USN, permanent

CARL F. CUMMINGS
RICHARD RALPH GATES

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE CHAPLAIN CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, CHAPLAIN CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Chaplain Corps, USN, permanent

REX ALAN AUKER
CATHERINE BEAUMONT
ROGER R. BOUCHER
GARY ALAN DALLMANN
MARTHA MARIE EWING
FRANK E. HIGHTOWER
BERTRAM EDWARD MOORE
SAMUEL F. MORGAN
ANGEL PARIS
RICHARD A. PUSATERI
KERBY EARL RICH
CURTIS D. SCHMIDTLEIN
RALPH CURTIS STEELE
VIRGIL JAMES TILLMAN

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, MEDICAL SERVICE CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Medical Service Corps, USN, permanent

DENNIS M. ALDER
JOSEPH C. ANDORFER
RICHARD R. BOONE
TRACEY MILLER DEBOW
ERIC JOSEPH GETKA
MONTE LEE HARRIS
MARK S. LOCKHART
CYNTHIA F. MARTIN
MICHAEL R. MORAN
ROBERT LEROY ODETTE
JOHN MICHAEL REGTS
MICHAEL JACOBY SMITH
CRAIG S. STAAB
JOHN GAINES WALLACE

THE FOLLOWING-NAMED U.S. NAVAL RESERVE OFFICERS, TO BE APPOINTED PERMANENT LIEUTENANT COMMANDER IN THE NURSE CORPS OF THE U.S. NAVY PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

U.S. NAVAL RESERVE, NURSE CORPS, LIEUTENANT COMMANDER

To be lieutenant commander, Nurse Corps, USN, permanent

CATHERINE L. COSTIN
SHERRY K. DOTSON
MICHAEL R. ESLINGER
JOHN HUDSON FILLMORE
BARBARA BAKER LONG
FRANK PEIFFER

IN THE NAVY

THE FOLLOWING NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVY ENLISTED COMMISSIONING PROGRAM, USN

To be ensign; permanent

RALPH ALBANESE
JOHN W. ALBRIGHT
ANTHONY J. ALLEMAN
STEPHEN H. ALLEY
EARL E. BARNES
MERTON S. BEARUP
ANDREW L. BEEBE
ALICE E. BELLAFIORE
THOMAS R. BENDEL
LENDON L. BENDIX
DONALD J. BERGMAN
JOHN G. BISCHERI
JUDY T. BOLDUC
BOBBY C. BOLT
DENNIS R. BOYER
WILLIAM J. BREITFELDER
DAVID J. BURDICK
JOSEPH CALTABELLOTTA
SEAN O. CAMPBELL
WILLIAM C. CARLSON
TRACY M. CARR
ARCHIE D. CARROLL
PHILIP S. CHAPMAN
WILLIAM C. CHINWORTH
KAROL J. CHORDAS
MARK A. COLBORN
JILL M. COLEMAN
MICHAEL D. CONDON
TOM L. COTHERN
FLOYD R. CRISP
JAMES M. CROUCH
DANIEL W. CROWE
CHRISTOPHER M. DAVID
GERARD A. DAVIS
KARL D. DEANS
BRYAN W. DELP
KENNETH F. DIANOVICH
WILLIAM L. DILLINGHAM
DAVID S. DIMITRIOU
STEVEN P. DOUGLAS
GARY P. DUSSEAULT
JEROME C. EATON
FREDERICK L. FACYSON
MICHAEL W. FENDLEY
MICHAEL P. FINNEGAN
CHARLES R. FRALICK
ROBERT T. FRANKS
ROBERT W. FREES
WILLIAM H. FREY
STEPHEN W. FROELICH
JEFFEREY M. GALLAGHER
ANTHONY R. GASCON
KENDALL GENNICK
JOHN R. GORMAN
GLEN O. GRAEBNER
MICHAEL K. GREENE
MARTIN D. GREGG
SUSAN E. GROENING
JOHN W. HAGERTY
DANIEL J. HECKLER
TIMOTHY S. HILL
MICHAEL A. HOLLAND
WILLIAM R. HULSMAN
JOHN D. IRETON
MARK H. JOHNSON
ROBERT L. JOHNSON
JEFFREY L. JOYNT
JAMES R. JUPENA
BOB G. KELLUM
STEVEN B. KINDRED
BOBBY A. KING
RICHARD L. KIRMIS
DONALD E. KLEIN
BRYAN J. KLIR
DANIEL J. KNICHEL
CLIFFORD S. LANPHIER
JEFFERY S. LECLAIRE
BRADLEY J. LEONHARDT
GREGORY L. LIPSKI
DAVID LOPEZ
ALLAN J. LOVETT
SCOTT W. LOWE
JEFFREY S. MANNING
DANIEL J. MAXWELL
JAMES F. MCALINEY
DAVID W. MCCLARIN
MICHAEL E. MELLOTT
HOMER E. MEREDITH
JOHN N. METZGAR
RICKY L. MILLER
JOSEPH M. MOLNAR
THOMAS P. MURPHY
WILLIAM J. MURPHY
MICHAEL D. MURRAY
STEVEN L. MYRON
JAMES R. NELSON
TERRY V. OSWALD
STEVEN T. PALMER
KEVIN D. PETERSEN
RODRICK B. PHILLIPS
GEORGE A. POST
LARRY J. PRUITT
DAVID P. RAUSCHE
ANGUS P. REGIER
PETER J. REINAGEL
CHRISTOPHER R. RETZER
EVERETT G. RHOADES
BRANT F. ROBINSON
KEVIN G. ROSS
DOUGLAS A. SAMPSON
ANDREW M. SANCHEZ
MICHAEL R. SCHWARZE
MARCUS A. SERRANO
ODILON M. SERRANO
DANIEL P. SHAW
MARIA H. SHERRARO
CLAYTON M. SIMMONS
BRENT E. SMITH
MATTHEW T. SMURR
MICHAEL B. SOWERS
BARRY R. STANGL
TIMOTHY K. STARLING
GLEN G. STEPHENS
PAUL D. STEVENS
KIRK A. STORK
CHARLES A. STOUGH
ROBERT J. STOWE
ORLAND A. SUAREZ
KEVIN P. SUDHOFF
TIMOTHY W. SWANSON
CLYDE R. TATUM
GARY A. TAVE
ARCHIE L. TAYLOR
MARK E. THORNELL
JOSEPH L. THREADCRAFT
MARIE A. THURMAN
GARY L. TISSANDIER
RICKY L. TWIGG
HAROLD W. VALENTINE
HAROLD W. VALENTINE
GEORGEJOHN A. VANRIJN
WILLIAM G. VAWTER
STEPHEN G. VONKOLKOW
PAUL D. VONMOSCH
CHRISTOPHER G. WALKER
ALAN M. WATSON
MARK T. WEATHERFORD
DAVID L. WENDER
CHARLES R. WHEELER
TIMOTHY A. WHITE
EDWARD S. WHITEMORE
LOUIS E. WILBURN
MARK T. WILLIAMS
JONATHAN L. WRIGHT

IN THE NAVY

THE FOLLOWING NAMED NAVAL RESERVE OFFICERS TRAINING CORPS CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U. S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVAL RESERVE OFFICERS TRAINING CORPS, USN

To be ensign; permanent

LAWRENCE N. ABRAMS
JOHN B. ACKERMAN, III
MARK A. ACKMANN
ROBERT A. ADAMCIK
JOHN J. ADAMETZ
CHRISTINA L. ADAMS
GREG T. ADAMS
ARBA J. AGER
FERDINAND R. AGPAOA
NEAL R. AGUE
JOHN V. AGUILERA
JAMES A. AIKEN
DAVID H. AKRIDGE, JR
THOMAS C. ALBANESE
TIMOTHY R. ALBERS
DARYL D. ALBERTSON
CARL S. ALBUQUERQUE
SAMUEL ALCALA
ROBERT W. ALDER
MARLON R. ALDRIDGE
WILLIAM T. ALEX
JEFFREY R. ALEXANDER
JAMES C. ALLEN
TIMOTHY J. ALLEN
WILLIAM K. ALLEN
DEAN C. ALLISON
ANTHONY L. ALLOU, III
DANIEL C. ALMER
ANDREW P. ALOISE
EUGENE J. ALSTON
JOHN W. ALTER
JAMES V. AMATURE
THOMAS R. AMBLAD
JAMES F. AMBROSE, JR
ALFONSO AMENABAR
BRUCE K. AMES
GEORGE S. AMES
STEPHEN D. AMES
WILLIAM L. ANDERSHOCK
BRIAN L. ANDERSON
CHRISTOPHER D. ANDERSON
ERIC A. ANDERSON
GREGORY L. ANDERSON
NICHOLAS M. ANDERSON
WILLIAM H. ANDERSON
JOSEPH C. ANDREATTI
JAMES ANDREWS
MALCOLM C. ANDREWS
MICHELE R. ANDREWS
DAVID H. ANGELI
RODERICK R. ANNET
MATTHEW J. ANS
DOMINIC A. ANTONELLI
DANIEL E. ANTRIM
PAUL M. AOKI
BRUCE A. APGAR
CAMERON C. APLIN
GREGORY K. AREMAN
NICHOLAS S. ARGENTI
JOHN C. ARMERDING
CHARLES A. ARMIN
ALAN D. ARMSTRONG
PETER E. ARNOLDS
TIMOTHY ARRINGTON
CARLOS R. ARTILES
RAYMOND F. ASHLEY
JEFFREY N. ASHWOOD
SCOTT W. ASKINS
REGINO A. ASPACIO
CHRISTOPHER A. ASSELTA
NIALL J. ATWOOD
SHAUN K. AUGUSTINE
ADAM S. AXTHELM
MEGAN P. AYLMER
EDUARDO J. AZCARATE
PAUL E. BACHMANN
EDWARD S. BACON
JOANNA L. BACON
THOMAS P. BACUS
DANIEL R. BAILEY
JEFFREY S. BAIN
JOHN G. BAKER
STEPHEN B. BAKER
STUART P. BAKER
BARRY BAKOS
WILLIAM A. BALDING
LORENZO G. BALDWIN
MICHAEL A. BALDWIN
MICHAEL P. BALDWIN
EDWARD J. BALL
JOHN S. BANIGAN
JIMMIE E. BANTA
JUDI D. BARBOUR
MATTHEW T. BARD
RANDY K. BAREITHER
JAY M. BARGERON
ERIC T. BARKDULL
CHARLES A. BARKER
SALINA M. BARLOW
ELMER L. BARNARD
GEOFFREY C. BARNES
JEFFREY T. BARNUM
KEVIN L. BARRETT
STEVEN D. BARRETT
CHRISTIAN M. BARRY
LAWRENCE J. BARRY, JR
PAUL J. BARTEK
ROBERT B. BARTHELMES, JR
KEVIN J. BARTOL
DONALD A. BASDEN
STEPHEN J. BASEL
JUAN M. BASOMBRIO
JEFFREY D. BASS
LANCE T. BASTING
MICKEY S. BATSON
WILLIAM T. BATSON, III
WILLIAMM BATTERSHALL
BRENT J. BAUER
GARTH A. BAULCH
DAVID J. BAUM
HARRY BAUMSTARK
GLENN E. BAUTISTA
LARRY L. BAXLEY
JOSEPH L. BAXTER
WILLIAM D. BEABER
TAB A. BEACH
TIMOTHY W. BEALE
JAMES R. BEARDMORE
JAMES D. BEARDSLEY
PATRICK J. BEATON
DAVID W. BEAUCLAIR
CRAIG A. BEAUDOIN
JEFFREY P. BEAVER
ERIC BECHLER
KENNETH G. BECK
FREDERICK J. BECKER, III
KRIS H. BECKER
PATRICK J. BECKER
KYLE B. BECKMAN
MARK W. BEDDOES
ANDREW J. BEDNARCHIK
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STEPHEN E. ROBINSON
DAVID J. ROBNETT
JESUS A. ROCA
CHRISTOPHER A. RODEMAN
DONALD B. RODGERS
DANIEL J. RODMAN
MARK A. RODRIEG
CRAIG W. ROEGNER
BERNARD D. ROGAN
GLENN R. ROGERS
STACEY A. ROGERS
TIMOTHY G. ROHRER
RICARDO ROJO
CHRISTOPHER W. ROLLINS
CLAUDE D. ROLLINS
PAUL A. ROMANS
AARON L. RONDEAU
FRANCISCO K. ROSARIO
CARLOS E. ROSCOE
GEORGE M. ROSCOE
DONALD D. ROSE
ANTHONY S. ROSS
DONALD A. ROSS
STEPHEN M. ROSS
RONALD R. ROSSI
GREGORY A. ROUGEAU
BEN H. ROWAN, III
KEVIN L. ROYE
CRAIG RUBIN
PAUL G. RUBINO
THEODORE RUBSAMEN
ELWYN C. RUCKER
ALAN K. RUDIG
TIMOTHY A. RUDY
JOHN A. RUF
MARK R. RUH
DAVID C. RULEY
THOMAS E. RUNYAN, JR
WILLIAM J. RUSCIOLELLI
MICHAEL L. RUSSELL
HEIDI D. RUSTER
DEBORAH K. RUTTENBERG
JAIME M. RUVALCABA
JOHN F. RYAN
MICHAEL S. RYAN
STEPHEN P. RYAN
DWAYNE S. RYDELL
WILLIAM J. RYSANEK
JON S. SAFSTROM
RICHARD A. SAGER
MICHAEL M. SALAS
MIGUEL SALAZAR
PETER A. SALTERS
MONTE D. SALWAY
SCOTT C. SAMPSON
DONNA M. SANDERS
JAMES L. SANDERS
ROBERT B. SANDERS
PHILLIP M. SANDINO
LAWRENCE F. SANDOVAL
ROBERT O. SANTAMARIA
LEONARD D. SANTIAGO
JOHN M. SAPPENFIELD
JEFFREY S. SARE
GEORGE I. SAULNIER, JR
ROBERT C. SAUNDERS
BRIAN M. SAUTER
THOMAS G. SAWYER
GRANT SBROCCO
DANIEL E. SCANGO
MARK R. SCANLAN
MARK W. SCHADT
RALPH S. SCHAEFFER
DOUGLAS M. SCHAUER
CRAIG T. SCHAUPPNER
KEVIN R. SCHEETZ
PAUL R. SCHELLHAMMER
JON D. SCHERNIKAU
BRADLEY R. SCHIEFERDECKER
PAUL J. SCHLISE
MICHAEL W. SCHMID
ANN E. SCHMIDT
DAVID W. SCHMIDT
RAYMOND W. SCHMIDT
ROSEMARIE SCHMIDT
STEPHEN R. SCHMIEDER, JR
KEVIN M. SCHMIEGEL
JOSEPH M. SCHMITT
DOUGLAS P. SCHOEN
WILLIAM R. SCHRACK, II
NICHOLAS S. SCHRODT
DONALD C. SCHROEDER
JAMES A. SCHROEDER
SCOTT D. SCHROEDER
MARTIN P. SCHUBERT
DONALD R. SCHULZ
JEFFREY R. SCHWARZ
EARLE G. SCHWEIZER
JOHN W. SCIUTTI
MARK C. SCOTT
MARK L. SCOTT
MONTE D. SCOTT
DONALD A. SCRIBNER
KENNETH J. SCUDDER
TRENT S. SEAMAN
CHARLES L. SECKLER
WILLIAM H. SEELY
DANIEL P. SEEP
RICHARD SELPH
JOSEPH A. SELVAGGI
KENNETH J. SEMON
SCOTT R. SENAY
PAUL E. SESSIONS
ROBERT N. SEVERINGHAUS
SCOTT P. SEVIGNY
PATRICK J. SHAFFER
DANA SHAFIE
TIMOTHY J. SHANAHAN
CHRISTOPHER A. SHARON
CAROL E. SHAW
MICHAEL D. SHEAHAN
FREDERIC J. SHEEHY
WILLIAM A. SHEEHY
ALLEN T. SHEPHERD
MICHAEL B. SHIDELER
DEBORAH L. SHIFLETT
JOHN C. SHIPLEY
BRIAN K. SHIPMAN
CHARLES J. SHIVERY
BARTON G. SHOCKLEY
KENT B. SHUFORD
OTTO F. SIEBER
ANDREW W. SIEGEL
GORDON A. SILLOWAY
WALTER SILVA
KELLY V. SILVER
CHRISTOPHER R. SIMMLER
PHILIP E. SIMMONS
KENT D. SIMON
THOMAS E. SIMPSON
STEPHEN J. SIMULCIK
MICHAEL C. SINCLAIR
WAYNE A. SINCLAIR
JAMES M. SINGEL
JAMES D. SINGLETON
JAMES G. SIRES
ROBERT SIVAK
MICHAEL R. SKAHAN
RICHARD A. SKIFF, JR
BRYAN D. SKINNER
THOMAS J. SKOLNICKI
JOHN K. SLAUGHTER
DARREN M. SLIGAR
CALVIN D. SLOCUMB
DANIEL E. SMELLER
COLIN K. SMIALEK
ANDREW J. SMITH
ANN M. SMITH
BRET P. SMITH
BRIAN E. SMITH
CYNTHIA D. SMITH
DANIEL L. SMITH
EVERETT K. SMITH
FRED W. SMITH, JR
GORDON F. SMITH
JEFFREY L. SMITH
JOEL P. SMITH
MARTIN C. SMITH
MICHAEL O. SMITH
PATRICK W. SMITH
RUSSELL L. SMITH
SCOTT M. SMITH
TED SMITH
THEODORE R. SMITH
JOHN J. SNELL
MICHAEL A. SNYDER
TIMOTHY C. SNYDER
THOMAS J. SOBEY
JAMES W. SOLE
CHRISTOPHER A. SOLEE
CHERI A. SOLOMON
THOMAS G. SOMMERSDORF
SCOTT E. SONNENSCHEIN
SUSAN J. SORKIN
MICHAEL J. SORNA
MICHAEL J. SOWA
THOMAS W. SPAHN
PHILIP J. SPALDING
CHRISTOPHER G. SPARKS
JOHN A. SPEICHER
JAMES L. SPENCER, IV
DAVID L. SPERRY
TIMOTHY D. SPERRY
PETER D. SPIRA
NEYLAND T. SPRINGER
DAVID L. SPRINKLE
JAY M. SPROTT
DAVID A. STACEY
CHRISTOPHER M. STACK
KEVIN P. STACK
GRANTLAND S. STAFF
ANDRE L. STANDBACK
JEFFREY M. STANDISH
JAY M. STANDRING
DAVID A. STANLEY
JAMES J. STAPLES
STEPHEN P. STARBOARD
JEFFREY A. STARECHESKI
TADEUSZ J. STAWASZ
MATTHEW G. STCLAIR
KRISTIN A. STECKLER
JOHN H. STEERE
HERBERT M. STEIGELMAN, III
MITCHEL R. TAGGART
JAMES L. TANGORRA
ROBERT L. TANZOLA, III
JON C. TAPPE
RICHARD TARASEWICZ
JOSEPH TARDIBONO
RONNIE L. TATUM
ADAM B. TAYLOR
ERIC R. TAYLOR
GEORGE P. TAYLOR
SCOTT J. TAYLOR
EMIL L. TEAGUE
PETER G. TENHAGEN
DANIEL J. TENYENHUIS
DANIEL G. TERESKY
JAMES D. TETRAULT
FREDERICK N. TEUSCHER, JR
JESSE P. TEVES
TIMOTHY J. THATE
DAVID E. THEEL
RUSSELL J. THERRIAULT, JR
BRIAN A. THOMAS
MARK A. THOMAS
MICHAEL E. THOMAS
RENEE M. THOMAS
JAMES T. THOMPSON
JOHN C. THOMPSON
ANDREW S. THOMSON
CHRISTOPHER W. THOMSON
DONALD B. THOMSON
RICHARD J. THORNTON
DAVID L. TIDWELL
CHRISTOPHER E. TIERNAN
KATHRYN E. TIERNEY
MICHAEL K. TIERNEY
RYAN TILLOTSON
DAVID T. TIMMONS
FRANK K. TIPTON
AARON P. TITZE
ANDREW Y. TO
ROBERT T. TOBIN, III
THERESA L. TOLBERT
STEPHEN M. TOMAN
STEPHEN G. TOMASO
KENNETH J. TOMASSO
LINWOOD TOPPIN
VAN E. TORBERT
MICHAEL H. TORREY
CHRISTOPHER T. TORSAK
JOHN H. STEIN
MARK W. STEINBICKER
ROBERT M. STELTENPOHL
GREGORY D. STEPHENS
TODD C. STEPHENS
WILLIAM H. STERLING
MARC A. STERN
HENRY W. STEVENS, III
MARK L. STEVENS
THOMAS B. STEVENS
WILLIAM R. STEVENSON
BRYAN C. STEWART
KEVIN C. STGERMAINE
TIMOTHY L. STIPP
STEPHEN E. STOCKING
MARIO F. STOFFIERE, III
ANGELA J. STOLTZ
JEFFREY L. STOREY
KARL E. STORM
JAY P. STORMS
ROBERT W. STOUSE
DAVID A. STRACENER
MICHAEL J. STRATTON
RICHARD W. STRAYER
JEFFERY C. STREET
KURT D. STRICKER
ERIC J. STROMBERG
KURT D. STRUDTHOFF
BRIAN D. STUART
ROBERT M. STUCKER
ELIZABETH M. STURTEVANT
ANTHONY A. STYER
WILLIAM D. SUDDARTH, JR
TODD SUKO
BRIAN H. SULLIVAN
JAMES B. SULLIVAN
MARK L. SULLIVAN
MARK W. SULLIVAN
MICHAEL A. SULLIVAN
MICHAEL T. SULLIVAN
WILLIAM P. SULLIVAN
DAVID P. SUNLIN
JEFFREY W. SUTER
SCOTT C. SWANN
ROBERT J. SWEENEY
JANICE D. SWEETSER
SCOTT B. SWENSON
JAMES SWIDERSKI
VINCENT F. SWINNEY
KEITH E. SYKES
DAVID V. SYMM
FRANK H. SYMS
THOMAS J. SYPNIEWSKI
STEVEN M. SZILAGYI
TIMOTHY W. TOWLE
THOMAS L. TOWNSEND
JOHN M. TRACEY
BYRON D. TRACY
JOSEPH A. TRAN
VINH X. TRAN
MARC G. TRANCHEMONTAGNE
CHRISTOPHER J. TRANCHETTI
JOHN D. TRASK
MATTHEW E. TRAVIS
BRIAN A. TREAT
TERENCE D. TRENCHARD
MARK A. TRIMBLE
THOMAS P. TRIMBLE
SCOTT D. TRIOU
JOSEPH G. TRIPOLI
MATTHEW G. TROLLINGER
EDWARD J. TROSCIANIEC
DANIEL R. TROSTLE
FRANK G. TRUONG
THI V. TRUONG
THOMAS G. TRYON
DEAN A. TUFTS
JAMES R. TULEYA
ANDREW J. TUNNARD
CHRISTIAN A. TUR
JOEL B. TURK
TERRY N. TURNER
FREDERICK C. TURSHMAN
TIMOTHY P. TUTT
DAVID A. TWOHIG
SCOTT A. UECKER
TODD R. UMENTUM
ERIC R. VAESSEN
ORLANDO VALENTIN
JOHN A. VALLEY
PHILIP J. VANASSE
CHRISTOPHER VANASTEN
RONALD R. VANCOURT
CHRISTOPHER A. VANDERNECK
JAY A. VANDERWERFF
MARK A. VANDZURA
MELISSA A. VANEK
PAUL A. VANGINHOVEN
JAMES A. VANGUILDER
KEVIN E. VANNOTRIC
HAROLD R. VANOPDORP, JR
JEFFREY J.

VANPIETERSOM
MICHAEL B. VANROOY
GERARD J. VANWARMERDAM
DEEAN R. VANWORMER
MICHAEL C. VARICAK
ANDREW B. VARNER
DAVID J. VARNES
LANDRY L. VEAL
THOMAS R. VELTE
WAYNE E. VELZIS
SEAN M. VENDEN
ERIC H. VENEMA
JOHN R. VENUSTI
MICHAEL J. VERALDI
DARRYL J. WADE
WILLIAM L. WADE
BRETT A. WADSWORTH
RICHARD M. WAER
RICHARD J. WAGONER
THOMAS A. WAGONER, JR
VICTOR K. WAHL
MAXIMILIAN F. WALCH
ANTIONETTE C. WALKER
JOHN B. WALKER
STEPHEN J. WALKER
PATRICK L. WALL
SEAN S. WALL
STANLEY J. WALL
GREGORY J. WALLS
MICHAEL T. VESELY
KAREN A. VETTER
MICHAEL D. VIGIL
SUSAN R. VITALE
JAMES D. VOEGEL
JOHN D. VOELKER
MARK C. VOELKER
THOMAS E. VOELKER
LEWIS D. VOGLER
TIMOTHY K. VOGT
DANIEL P. VOLKERT
GREGORY S. VONDERLINDEN
ERIC K. VOSKUIL
PAUL W. VOSS
JON P. WALMAN
DEAN T. WALSH
KATHLEEN A. WALSH
GREGORY J. WALTER
JOHN E. WALTERS
PERRY A. WARBRICK
ANDREW C. WARD
JEFFREY A. WARD
SUSAN J. WARD
PAUL J. WARE
VINCENT E. WARE
STEVE W. WASCOM, JR
DAVID H. WATERMAN
JAMES A. WATKINS
WALTER T. WATKINS
CHRISTOPHER R. WATSON
DUNCAN C. WATSON
STEVEN D. WATSON
DAVID J. WEARS
JOEL T. WEAVER
JEFF G. WEBB
KEVIN D. WEBSTER
RANDOLPH R. WEEKLY
BRYAN J. WEIGHT
TODD D. WEIMERSKIRCH
SCOTT A. WEIR
STEPHEN R. WELBORN
RICHARD T. WELHAM
DEREK C. WELLS
HAYWOOD WELLS
TIMOTHY K. WELSH
BRYAN W. WENGER
JULIE A. WENGER
DARIN L. WERKMEISTER
MIKE T. WESSON
ROBERT K. WEST
MICHAEL T. WESTBROOK
MICHAEL A. WESTPHAL
KEVIN E. WETMORE
KIMBERLY D. WHEAT
KURTIS P. WHEELER
YELONDA M. WHETSTONE
RICHARD L. WHIPPLE
ERIC E. WHITE
FRANKIE L. WHITE
GREGORY P. WHITE
LAWRENCE L. WHITE, III
MARVIN G. WHITE
PATRICK M. WHITE
JASON F. WHITNEY
FRANK D. WHITWORTH
MICHAEL WHORTON
JAMES R. WICKMAN
PAUL R. WIDISH
MICHAEL V. WIECZOREK
PETER J. WIKOWSKY
DOUGLAS E. WILCOX
JULIA M. WILCZYNSKI
DUANE S. WILDER
GARY B. WILDER
JAMES A. WILEY
JAMES D. WILEY
FLETCHER T. WILKINS
DEAN R. WILL
BOBBY L. WILLIAMS
DAVID L. WILLIAMS
DELETTA A. WILLIAMS
JAMES C. WILLIAMS
JOHN C. WILLIAMS
LUTHER L. WILLIAMS
MARCUS J. WILLIAMS
MARK H. WILLIAMS
ROBERT J. WILLIAMS
RONALD S. WILLIAMS
STEVEN M. WILLIAMS
CHRISTOPHER R. WILLIAMSON
STEPHEN F. WILLIAMSON
DOUGLAS K. WILLMARTH
CURTIS S. WILMOT
ALPHONSO L. WILSON
DOUGLAS C. WILSON
JEANINE M. WILSON
JEFFREY D. WILSON
STEPHEN M. WILSON
JOHN C. WINFIELD
GILBERT A. WINTER
KURT F. WINTER
DANIEL S. WISNIEWSKI
ANDREW V. WITHERSPOON
HOWARD R. WITTERMAN
CHRISTINE M. WOJCIAK
MARK A. WOLFF
BRIAN J. WOLSON
THOMAS F. WOMBLE
JAMES J. WOOD
KEVIN P. WOOD
RANDOLPH L. WOOD, III
ANTHONY R. WOODLEY
JEFFREY K. WOODS
JAMES D. WORKS
DAVID A. WRIGHT
DAVID M. WRIGHT, JR
JOHN R. WRIGHT, II
THOMAS A. WROBLESKI
LAWRENCE E. WYSS
STEFAN D. XAUDARO, JR
JAVIER XICOHTENCATL
RICK A. YEATER
GERALD P. YEGGE
NOEL M. YERKOVICH
ANDREW B. YOUEL
DAVID D. YOUNG
DAVID D. YOUNG
EUGENE S. YOUNG
GEORGE K. YOUNG
RICHARD H. YOUNG
KIP B. ZACHARIAS
DANIEL H. ZACZKOWSKI
EDMOND P. ZAIDE
THOMAS V. ZARNOCK
MICHAEL W. ZAVROTNY
SERGEI E. ZELENKOV
JEFFREY R. ZEUNER
ROBERT M. ZIELINSKI
KIRK A. ZIMMER
CHRISTOPHER S. ZIMMERMAN
KRISTOFER L. ZIMMERMAN
RICHARD J. ZINS
BRIAN P. ZOBEL
MICHAEL J. ZUCCHERO
ANTHONY C. ZUMMER
WARREN P. ZWANKA
MICHAEL E. ZWICK

HOUSE OF REPRESENTATIVES—*Tuesday, January 3, 1989*

This being the day fixed by the 20th amendment of the Constitution for the annual meeting of the Congress of the United States, the Members-elect of the 101st Congress met in their Hall, and at 12 o'clock noon, were called to order by the Clerk of the House of Representatives, Hon. Donnald K. Anderson.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray: With grateful hearts, O God, we express our thanks for all Your good gifts to us; the gifts of understanding and friendship; the gifts of forgiveness and reconciliation and peace; the gifts of family, friends, and colleagues, the gifts of faith, hope, and love.

May we be worthy of the freedoms and liberties of our heritage and may we stand the test to speak and act for righteousness and justice. May the solemn responsibilities that we accept today cause us to be good stewards of the noble traditions of our free land and be faithful in our bond with the people of this Nation.

May we, O God, so live our lives that in all things we may do justice, love, mercy, and ever walk humbly with You.

This we pray. Amen.

PLEDGE OF ALLEGIANCE

The CLERK. Will the Members-elect and their guests please rise and join with us in the Pledge of Allegiance.

The Clerk led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

The CLERK. Representatives-elect to the 101st Congress, this is the day fixed by the 20th amendment to the Constitution for the meeting of the 101st Congress and, as the law directs, the Clerk of the House has prepared the official roll of the Representatives-elect. Pursuant to 2 U.S.C. 26, the Clerk of the 101st Congress will make the following announcement:

Certificates of election covering 435 seats in the 101st Congress have been received by the Clerk of the House of Representatives, and the names of those persons whose credentials show that they were regularly elected as Representatives in accordance with the laws of their respective States and of the United States will be called.

Without objection, the Representatives-elect will record their presence by electronic device, and their names will be reported in alphabetical order by States, beginning with the State of Alabama, to determine whether a quorum is present.

There was no objection.

The call was taken by electronic device, and the following Representatives-elect responded to their names:

[Roll No. 1]

ALABAMA

Bevill, Erdreich, Flippo, Harris, Callahan, Dickinson

ALASKA

Young

ARIZONA

Udall, Kolbe, Kyl, Rhodes, Stump

ARKANSAS

Alexander, Anthony, Robinson, Hammerschmidt

CALIFORNIA

Anderson, Bates, Beilenson, Berman, Bosco, Boxer, Brown, Coelho, Dellums, Dixon, Dymally, Edwards, Fazio, Hawkins, Lantos, Lehman, Levine, Martinez, Matsui, Miller, Mineta, Panetta, Pelosi, Roybal, Stark, Torres, Waxman, Campbell, Cox, Dannemeyer, Dornan, Dreier, Gallegly, Herger, Hunter, Lagomarsino, Lewis, Lowery, McCandless, Moorhead, Packard, Pashayan, Rohrabacher, Shumway, Thomas

COLORADO

Campbell, Schroeder, Skaggs, Brown, Hefley, Schaefer

CONNECTICUT

Gejdenson, Kennelly, Morrison, Johnson, Rowland, Shays

DELAWARE

Carper

FLORIDA

Bennett, Fascell, Gibbons, Grant, Hutto, Johnston, Lehman, Nelson, Pepper, Smith, Bilirakis, Goss, Ireland, James, Lewis, McCollum, Shaw, Stearns, Young

GEORGIA

Barnard, Darden, Jenkins, Jones, Lewis, Ray, Rowland, Thomas, Gingrich

HAWAII

Akaka, Saiki

IDAHO

Stallings, Craig

ILLINOIS

Annunzio, Bruce, Collins, Costello, Durbin, Evans, Hayes, Poshard, Rostenkowski, Russo, Sangmeister, Savage, Yates, Fawell, Hastert, Hyde, Madigan, Martin, Michel, Porter

INDIANA

Hamilton, Jacobs, Jontz, McCloskey, Sharp, Visclosky, Burton, Coats, Hiler

IOWA

Nagle, Smith, Grandy, Leach, Lightfoot, Tauke

KANSAS

Glickman, Slattery, Meyers, Roberts, Whittaker

KENTUCKY

Hubbard, Mazzoli, Natcher, Perkins, Bunning, Hopkins, Rogers

LOUISIANA

Boggs, Hayes, Huckaby, Tauzin, Baker, Holloway, Livingston, McCrery

MAINE

Brennan, Snowe

MARYLAND

Byron, Cardin, Dyson, Hoyer, McMillen, Mfume, Bentley, Morella

MASSACHUSETTS

Atkins, Donnelly, Early, Frank, Markey, Mavroules, Moakley, Neal, Studds, Conte

MICHIGAN

Bonior, Carr, Conyers, Crockett, Dingell, Ford, Hertel, Kildee, Levin, Traxler, Broomfield, Davis, Henry, Pursell, Schuette, Upton, Vander Jagt

MINNESOTA

Oberstar, Penny, Sabo, Sikorski, Vento, Frenzel, Stangeland, Weber

MISSISSIPPI

Espy, Montgomery, Parker, Whitten, Smith

MISSOURI

Clay, Gephardt, Skelton, Volkmer, Wheat, Buechner, Coleman, Emerson, Hancock

MONTANA

Williams, Marlenee

NEBRASKA

Hoagland, Bereuter, Smith

NEVADA

Bilbray, Vucanovich

NEW HAMPSHIRE

Douglas, Smith

NEW JERSEY

Dwyer, Florio, Guarini, Hughes, Pallone, Payne, Roe, Torricelli, Courter, Gallo, Rinaldo, Roukema, Saxton, Smith

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

NEW MEXICO

Richardson	Schiff	Skeen

NEW YORK

Ackerman	Nowak	Gilman
Downey	Owens	Green
Engel	Rangel	Horton
Flake	Scheuer	Houghton
Hochbrueckner	Schumer	Lent
LaFalce	Slaughter	Martin
Lowey	Solarz	McGrath
Manton	Towns	Molinari
McHugh	Weiss	Paxon
McNulty	Boehlert	Solomon
Mrazek	Fish	Walsh

NORTH CAROLINA

Clarke	Neal	Ballenger
Hefner	Price	Coble
Jones	Rose	McMillan
Lancaster	Valentine	

NORTH DAKOTA

Dorgan

OHIO

Applegate	Pease	Kasich
Eckart	Sawyer	Lukens
Feighan	Stokes	McEwen
Hall	Traficant	Miller
Kaptur	DeWine	Oxley
Luken	Gillmor	Regula
Oakar	Gradison	Wylie

OKLAHOMA

English	Synar	Edwards
McCurdy	Watkins	Inhofe

OREGON

AuCoin	Wyden	Smith, Robert
DeFazio	Smith, Denny	

PENNSYLVANIA

Borski	Murtha	Ridge
Coyne	Walgren	Ritter
Gaydos	Yatron	Schulze
Gray	Clinger	Shuster
Kanjorski	Coughlin	Walker
Kolter	Gekas	Weldon
Kostmayer	Goodling	
Murphy	McDade	

RHODE ISLAND

Machtley

SOUTH CAROLINA

Derrick	Spratt	Ravenel
Patterson	Tallon	Spence

SOUTH DAKOTA

Johnson

TENNESSEE

Clement	Gordon	Duncan
Cooper	Lloyd	Quillen
Ford	Tanner	Sundquist

TEXAS

Andrews	Laughlin	Archer
Brooks	Leath	Bartlett
Bryant	Leland	Barton
Bustamante	Ortiz	Combest
Chapman	Pickle	DeLay
Coleman	Sarpalius	Fields
de la Garza	Stenholm	Smith
Frost	Wilson	
Gonzalez	Wright	

UTAH

Owens	Hansen	Nielson

VERMONT

Smith

VIRGINIA

Boucher	Sisisky	Slaughter
Olin	Bateman	Wolf
Payne	Bliley	
Pickett	Parris	

WASHINGTON

Dicks	Swift	Miller
Foley	Unsoeld	Morrison
McDermott	Chandler	

WEST VIRGINIA

Mollohan	Rahall	Wise

WISCONSIN

Aspin	Moody	Petri
Kastenmeier	Obey	Roth
Kleczka	Gunderson	Sensenbrenner

WYOMING

Cheney

□ 1230

The CLERK. The quorum call discloses that 421 Representatives-elect have responded to their name. A quorum is present.

ANNOUNCEMENT BY THE CLERK

The CLERK. The Clerk will state that credentials, regular in form, have been received showing the election of the Honorable JAIME B. FUSTER as Resident Commissioner from the Commonwealth of Puerto Rico for a term of 4 years beginning January 3, 1989; the election of the Honorable WALTER E. FAUNTROY as Delegate from the District of Columbia; the election of the Honorable BEN BLAZ, as Delegate from Guam; the election of the Honorable RON DE LUGO as Delegate from the Virgin Islands; and the election of the Honorable ENI F.H. FALEOMAVAEGA as Delegate from American Samoa.

ANNOUNCEMENT OF THE DEATH OF HON. BILL NICHOLS

The CLERK. The Clerk regrets to announce the death on December 13, 1988, of the Honorable BILL NICHOLS, a Representative-elect from the Third District of the State of Alabama.

RESIGNATION AS MEMBER OF THE HOUSE OF REPRESENTATIVES

The CLERK. The Clerk also is in receipt of a letter of resignation of the Honorable DAN COATS, a Representative-elect from the Fourth District of the State of Indiana, effective immediately following noon today.

Without objection, the letters relating to the resignation of the Honorable DAN COATS will be printed in the RECORD.

There was no objection.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 29, 1988.

Hon. JIM WRIGHT,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: Enclosed for your information and review is my official letter of resignation which will become effective January 3, 1989.

I would like to take this opportunity to thank you for your cooperation while I have represented the citizens of the Fourth Congressional District of Indiana for the past eight years. Although I will miss working with you in the House, I look forward to continue working together as a member of the Senate.

Sincerely,

DAN COATS,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 27, 1988.

Hon. ROBERT D. ORR,
Governor, Office of the Governor, State House, Indianapolis, IN.

DEAR GOVERNOR ORR: For the past eight years, I have had the very distinct pleasure of representing the citizens of the Fourth Congressional District of Indiana in the United States House of Representatives. I was honored by my election to a fifth term in the House, and I could think of few things which would keep me from serving in my elected position.

However, your decision to offer me the chance to serve the entire state of Indiana as its Senator-designate requires me to submit to you my resignation from the House of Representatives. This extraordinary opportunity is one that will allow me to continue serving the people of the Fourth Congressional District as well as the rest of the state.

Therefore, I hereby ask you to accept my resignation as the Representative for the Fourth District of Indiana, effective January 3, 1989, so I may accept the appointment as Indiana's newest Senator.

Sincerely,

DAN COATS,
Member of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, December 30, 1988.

Hon. DONNALD K. ANDERSON,
Clerk, House of Representatives,
Capitol Building, Washington, DC.

DEAR SIR: Please find enclosed a copy of the resignation letter dated December 22, 1988, that I have submitted to Indiana Governor Robert Orr.

The enclosed letter to Governor Orr should be understood to mean that I am resigning from the House of Representatives as a Member of the 101st Congress immediately after 12:00 noon on January 3, 1989, so I may be sworn in as a Senator representing the state of Indiana on the aforementioned date.

Sincerely,

DAN COATS,
Member of Congress.

ELECTION OF SPEAKER

The CLERK. The next order of business is the election of the Speaker of the House of Representatives for the 101st Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY. Mr. Clerk, as chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the Office of the Speaker of the House of Representatives of the 101st Congress the name of the Honorable JIM WRIGHT, a Representative-elect from the State of Texas, and the gentleman who was the distinguished Speaker and Leader of the House in the 100th Congress.

The CLERK. The Clerk now recognizes the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Clerk, as chairman of the Republican Conference, I am directed by the unanimous vote of that conference to present for election to the Office of the Speaker of the House of Representatives of the 101st Congress, the name of the Honorable ROBERT H. MICHEL, a Representative-elect from the State of Illinois.

The CLERK. The Honorable JIM WRIGHT, a Representative-elect from the State of Texas, and the Honorable ROBERT H. MICHEL, a Representative-elect from the State of Illinois, have been placed in nomination.

Are there any further nominations?

There being no further nominations, the Clerk will appoint tellers.

The CHAIR appoints the gentleman from Illinois [Mr. ANNUNZIO], the gentleman from Minnesota [Mr. FRENZEL], the gentlewoman from Colorado [Mrs. SCHROEDER], and the gentlewoman from Nebraska [Mrs. SMITH].

The tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will now call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.

The following is the result of the vote:

[Roll No. 2]

WRIGHT—253

Ackerman	Clement	Foley
Akaka	Coelho	Ford (MI)
Alexander	Coleman (TX)	Ford (TN)
Anderson	Collins	Frank
Andrews	Conyers	Frost
Annunzio	Cooper	Garcia
Anthony	Costello	Gaydos
Applegate	Coyne	Gejdenson
Aspin	Crockett	Gephardt
Atkins	Darden	Gibbons
AuCoin	de la Garza	Glickman
Barnard	DeFazio	Gonzalez
Bates	Dellums	Gordon
Bellenson	Derrick	Grant
Bennett	Dicks	Gray
Berman	Dingell	Guarini
Bevill	Dixon	Hall (OH)
Bilbray	Donnelly	Hall (TX)
Boggs	Dorgan (ND)	Hamilton
Bonior	Downey	Harris
Borski	Durbin	Hawkins
Bosco	Dwyer	Hayes (IL)
Boucher	Dymally	Hayes (LA)
Boxer	Dyson	Hefner
Brennan	Early	Hertel
Brooks	Eckart	Hoagland
Brown (CA)	Edwards (CA)	Hochbrueckner
Bruce	Engel	Hoyer
Bryant	English	Hubbard
Bustamante	Erdreich	Huckaby
Byron	Espy	Hughes
Campbell (CO)	Evans	Hutto
Cardin	Fascell	Jacobs
Carper	Fazio	Jenkins
Carr	Feighan	Johnson (SD)
Chapman	Flake	Johnston
Clarke	Flippo	Jones (GA)
Clay	Florio	Jones (NC)
Jontz	Nagle	Sharp
Kanjorski	Natcher	Sikorski
Kaptur	Neal (MA)	Sisisky
Kastenmeier	Neal (NC)	Skaggs
Kennedy	Nelson	Skelton
Kennelly	Nowak	Slattery
Kildee	Oakar	Slaughter (NY)
Kleczka	Oberstar	Smith (FL)
Kolter	Obey	Smith (IA)
Kostmayer	Olin	Solarz
LaFalce	Ortiz	Spratt
Lancaster	Owens (NY)	Stallings
Lantos	Owens (UT)	Stark
Laughlin	Pallone	Stenholm
Leath (TX)	Panetta	Stokes
Lehman (CA)	Parker	Studds
Lehman (FL)	Patterson	Swift
Leland	Payne (NJ)	Synar
Levin (MI)	Payne (VA)	Tallon
Levine (CA)	Pease	Tanner
Lewis (GA)	Pelosi	Tauzin
Lloyd	Penny	Thomas (GA)
Lowey (NY)	Pepper	Torres
Luken, Thomas	Perkins	Torricelli
Manton	Pickett	Towns
Markey	Pickle	Traficant
Martinez	Poshard	Traxler
Matsui	Price	Udall
Mavroules	Rahall	Unsoeld
Mazzoli	Rangel	Valentine
McCloskey	Ray	Vento
McCurdy	Richardson	Visclosky
McDermott	Robinson	Volkmer
McHugh	Roe	Walgren
McMillen (MD)	Rose	Watkins
McNulty	Rostenkowski	Waxman
Mfume	Rowland (GA)	Weiss
Miller (CA)	Roybal	Wheat
Mineta	Russo	Whitten
Moakley	Sabo	Williams
Mollohan	Sangmeister	Wilson
Montgomery	Sarpalius	Wise
Moody	Savage	Wyden
Morrison (CT)	Sawyer	Yates
Mrazek	Scheuer	Yatron
Murphy	Schroeder	
Murtha	Schumer	

MICHEL—170

Archer	Gallegly	Martin (NY)
Armey	Gallo	McCandless
Baker	Gekas	McCollum
Ballenger	Gillmor	McCrery
Bartlett	Gilman	McDade
Barton	Gingrich	McEwen
Bateman	Goodling	McGrath
Bentley	Goss	McMillan (NC)
Bereuter	Gradison	Meyers
Bilirakis	Grandy	Miller (OH)
Bliley	Green	Miller (WA)
Boehlert	Gunderson	Molinari
Broomfield	Hammerschmidt	Moorhead
Brown (CO)	Hancock	Morella
Buechner	Hansen	Morrison (WA)
Bunning	Hastert	Nielson
Burton	Hefley	Oxley
Callahan	Henry	Packard
Campbell (CA)	Herger	Parris
Chandler	Hiler	Pashayan
Cheney	Holloway	Paxon
Clinger	Hopkins	Petri
Coble	Horton	Porter
Coleman (MO)	Houghton	Pursell
Combest	Hunter	Quillen
Conte	Hyde	Ravenel
Coughlin	Inhofe	Regula
Courter	Ireland	Rhodes
Cox	James	Ridge
Craig	Johnson (CT)	Rinaldo
Crane	Kasich	Ritter
Dannemeyer	Kolbe	Roberts
Davis	Kyl	Rogers
DeLay	Lagomarsino	Rohrabacher
DeWine	Leach (IA)	Roth
Dickinson	Lent	Roukema
Dornan (CA)	Lewis (CA)	Rowland (CT)
Douglas	Lewis (FL)	Saiki
Dreier	Lightfoot	Saxton
Duncan	Livingston	Schaefer
Edwards (OK)	Lowery (CA)	Schiff
Emerson	Lukens, Donald	Schuette
Fawell	Machtley	Schulze
Fields	Madigan	Sensenbrenner
Fish	Marlenee	Shaw
Frenzel	Martin (IL)	Shays
Shumway	Smith, Robert (OR)	Vander Jagt
Shuster	Snowe	Vucanovich
Skeen	Solomon	Walker
Slaughter (VA)	Spence	Walsh
Smith (MS)	Stangeland	Weber
Smith (NE)	Stearns	Weldon
Smith (TX)	Stump	Whittaker
Smith (VT)	Sundquist	Wolf
Smith, Denny (OR)	Tauke	Wylie
Smith, Robert (NH)	Thomas (CA)	Young (AK)
	Upton	Young (FL)

ANSWERED "PRESENT"—2

Michel Wright

NOT VOTING—1

Smith (NJ)

□ 1320

The CLERK. The tellers agree in their tallies that the total number of votes cast is 425, of which the Honorable JIM WRIGHT of Texas has received 253 and the Honorable ROBERT H. MICHEL of Illinois has received 170, with 2 voting "present."

Therefore, the Honorable JIM WRIGHT, of Texas, is duly elected Speaker of the House of Representatives for the 101st Congress, having received a majority of the votes cast.

The Clerk appoints the following committee to escort the Speaker-elect to the chair: The gentleman from Illinois [Mr. MICHEL], the gentleman from Washington [Mr. FOLEY], the gentleman from Wyoming [Mr. CHENEY], the gentleman from California [Mr. COELHO], the gentleman from Pennsylvania [Mr. GRAY], the gentleman from California [Mr. LEWIS], the gentleman from Texas [Mr. BROOKS], and the gentleman from Texas [Mr. ARCHER].

The committee will retire from the Chamber to escort the Speaker-elect to the chair.

The Doorkeeper announced the Speaker-elect of the House of Representatives of the 101st Congress, who was escorted to the chair by the Committee of Escort.

Mr. MICHEL. Mr. Speaker, and my colleagues, notwithstanding my being only the second, if not the very first man in our history to suffer the indignity of losing this contest for Speaker five times in a row, I bear no ill-will. The numbers just were not there, and I thank my Republican colleagues for honoring me, again, as their ill-fated candidate for Speaker.

Two hundred years ago when the first Congress met, Fisher Ames, a Member from Massachusetts, wrote a friend that "The House is composed of sober, solid folks. There are few geniuses: There are many who have experienced the virtues of the heart and the habits of business."

I believe much the same can be said for our House membership today. Perhaps we are not the shining geniuses some others in this town think they are, but our Members in the main continue to be solid and hard-working, and we still bring to this House from

our hometowns, the virtues of the heart.

But even a hard-working and most well-meaning body of men and women needs periodically to examine its behavior and analyze its rules and regulations, and it is my belief that in this 101st Congress is one that should deal right up front in a bipartisan and comprehensive way with reforms dealing with campaign reform and our ethical code of conduct.

The key words are "comprehensive" and "bipartisan."

We need to act in a comprehensive manner because we have a number of problems that need our attention.

And let me say a few things about that much-abused word "bipartisan."

□ 1330

Bipartisanship does not mean nonpartisanship. It does not mean the artificial blurring of political distinctions in the name of some specious unity. Quite to the contrary. In order for bipartisanship to work, each side must be clear about the principles for which it stands. It is out of the clash of debate and discussion that true bipartisanship solutions evolve.

If the House is to be a truly representative one in the 101st Congress, Mr. Speaker, then the opposing visions of Republicans and Democrats must be presented in all their contrasting strengths, clashing when it is necessary to clash and compromising when we are able to compromise.

I can assure you, Mr. Speaker, that there will be no problem in discerning the views of House Republicans. We will make them known in a clear and forceful manner as we debate matters of important public policy.

I can also assure you, Mr. Speaker, that there will be no problem finding Republicans with good ideas, ready and willing to work with our Democratic colleagues in fashioning and crafting good legislative proposals.

Let me say finally, Mr. Speaker, that the Speaker's chair is one of our most revered symbols of authority. But there is another great symbol of our House—the table.

In the very language of this Chamber, the second highest motion is to "lay on the table." We talk about laying our cards on the table and sitting around the table to compromise our differences. That is, frankly, what I see Republicans and Democrats doing as the House begins its third century sitting around the table—albeit in unequal numbers—but as respectful adversaries, discussing the great public issues of our time and always facing each other squarely. And our respective roles, Mr. Speaker, dictate that we work together as "partisans" in true "bipartisan" fashion, and I do welcome that opportunity.

So, ladies and gentleman of the House, in keeping with the traditions of this House the vanquished presents the victor. It is my high honor and privilege to present to you the Speaker of the House of Representatives.

[Applause, the Members rising.]

Mr. WRIGHT. Thank you for that, my colleagues. Thank you for your friendship. Thank you, BOB MICHEL, for the graciousness of that presentation, for your words, always incisive, always insightful, often inspiring.

I hope you will not mind or take exception if I disagree on an occasion such as this with your quoting of Fisher Ames, who said that the House was composed of sober, solid folk but few geniuses.

I thought a moment ago, when they conducted the rollcall just ended, that I could discern 425 sober, solid folk of whom I was just absolutely certain that 253 were sheer geniuses.

I had another definition of the House that was uttered on one occasion by former Speaker Henry Clay. I was about to use that quote today, but the last time I used it CLAUDE PEPPER rose and said, "Now, Mr. Speaker, I knew Henry Clay; I served with Henry Clay; Henry Clay was a friend of mine; and with all respect, Mr. Speaker, you're no Henry Clay."

This is truly a historic moment. Two hundred years ago, in 1789, the First Congress met in New York to face the daunting challenge of beginning to build a nation under the revolutionary new concept of representative self-government. On the opening of this 101st Congress, we can reflect that their audacious undertaking became a beacon for people throughout the world who also yearned to breathe free.

In 1789 ours was the only constitutional democracy on Earth. Today there are 60 of us, and the tide of history is running in our favor. After 70 years of Marxist trial and error, the verdict is clear. The Communist ideology and the totalitarian regimes installed to enforce it have failed. We see instead the emergence of democratic movements throughout the Earth in some of the most unexpected places—in Asia and in Eastern Europe. Even in the Soviet Union itself and in Mainland China, the irresistible clamor for a more personal freedom is making itself felt in profound ways.

We may be present at the end of one era and at the beginning of another.

These past 40 years have been dominated by a titantic military and political competition between the two superpowers, and that bipolar world is giving way to a new reality in which the competition—every bit as fateful and intense—is increasingly economic rather than military and in which there are not two but three emerging aggregations of power—one is a rapidly developing Asia, another in an ever more integrated Europe, and the third here in the Western Hemisphere.

Just as the Members of the First Congress faced a new world of challenges and uncertainties, so do we. The House of Representatives, both then and now, has been the most sensitive barometer of the public need and the most malleable instrument of the public will. It is closer to the people than any other instrumentality of government, and that is the way it was intended.

The House did not exactly hit the ground running those 200 years ago. It took 25 meetings over a 29-day period just to obtain a quorum. But once established, the House in that First Congress initiated significant legislation dealing with internal development, foreign trade, roads, rivers, domestic industry, and the world at large. Its Members had a hand in writing the most important declaration of individual political rights in human history—the Bill of Rights. This was the people's House, and that is what it has been ever since.

BOB MICHEL, a moment ago, quoted Fisher Ames as saying that it consisted of sober, solid folk but few geniuses. That was at least more charitable than the definition given by the French aristocrat, Alexis de Tocqueville, who in 1831 wrote of the "vulgarity and poverty of talent" that he saw in the House of Representatives. De Tocqueville wrote that the "eye frequently does not discover a man of celebrity within its walls. Its Members are," he said, "almost all obscure individuals whose names present no associations to the mind. They are mostly village lawyers, men in trade, or even persons belonging to the lower classes of society."

And if, as we look about this Chamber today, we think anything basic has changed in that perception, it would be not because the House has changed but because of the dramatic and forceful changes that have taken place in these 200 years in this society itself, of which we are a mirror and an accurate reflection. Contrary to certain misconceptions, this supposedly staid institution of static membership actually is the scene of continual change and constant turnover.

□ 1340

A majority of the Members here in this Chamber today were not even here at the beginning of this decade. Only about one-fifth of our membership has served for more than 15 years. So, in this, as in our essential character, this House reflects the Nation, ever changing, ever moving and growing, struggling, often uncomfortably and sometimes awkwardly, to accommodate itself to the tidal onrush of events and to try to have a hand in directing those events. Let us resolve, as we begin this 101st Congress, that

we shall be equal to that challenge and worthy of that opportunity.

In 17 days GEORGE HERBERT WALKER BUSH will be inaugurated as the 41st President of the United States. I know that I speak for all of us, Democrats and Republicans alike, in wishing for him success in his mighty endeavors.

He undertakes what has been called a splendid misery, the most awesome responsibility on Earth. There can be no partisanship among us in wishing for GEORGE BUSH success and happiness and health at his hearthside. We wish for him the vision to see the right, the courage to stand for the right and the ability to achieve it, the understanding and cooperation of his fellow creatures, and the finest blessings of all that come only from God. These things we wish to our President-elect, GEORGE HERBERT WALKER BUSH.

In a nation where free men and women think for themselves unanimity is hardly ever possible. It may not even be desirable, but, when we let the larger things that unite us transcend the lesser concerns that divide us, we can achieve the essential unity which is necessary in dealing with other lands on this planet Earth. And so today I pledge to President BUSH the earnest and unstinting cooperation of the leadership of this House in seeking true bipartisanship in every area of our Nation's foreign policy.

Let us honestly and gratefully acknowledge the leadership of the Reagan administration in improving relations with the Soviet Union, helping to abate the crisis in the Persian Gulf, and in encouraging the growth and sustenance of political freedom in countries throughout the world. We owe to this administration our thanks and the thanks of the Nation for those achievements.

Because President-elect BUSH has served in this House I am encouraged that he will exhibit an appreciation for the constitutional responsibilities of the Congress and that he will seek avenues of cooperation between our executive and legislative branches.

And, just as there is need for cooperation and help between branches of our Government, there also is need for greater consultation and cooperation between the two political parties in the House of Representatives. The minority, as the gentleman from Illinois [Mr. MICHEL] has said, does have a point of view and a constructive role to play in the legislative process. I am eager to encourage that role. The gentleman from Illinois [Mr. MICHEL] spoke of a table as the symbol of our general equality among one another, equal access to expression and to participation. Let me add that I hope it will be a roundtable, without head, without foot, and, if there are those of you here who, like I, are of a large family which occasionally had family reunions, let me express the hope that there will not be any second table. We will all eat at the first table together.

Certainly we will not be able to agree on everything, but let us emphasize those broad goals on which we do agree and work together to achieve them.

Our Nation struggles to overcome three deficits, the budget deficit, the trade deficit, and the social deficit caused by the widening gap between the rich and poor and the growing inaccessibility of such necessary fundamentals as housing, higher education, and health care. We cannot expect to vanquish all those evils entirely in the 101st Congress, but, if we have the will, we can make significant progress against all three deficits.

Both political parties are publicly committed to doing so. Neither party has an exclusive franchise upon the wish to make our country better and more humane, and, by working together, we can help our new President fulfill his beautiful promise of a kinder, gentler America.

We in the House leadership are eager to help him attain the goals he has expressed: Wider access for all Americans to education, to child care, to affordable housing, and to a cleaner environment. Today we offer to our new President and to our old friend, Jack Kemp, in his new Cabinet role, the sincere cooperation of the House leadership in reviving the vitality of our decaying inner cities through the creative dynamic of enterprise zones.

Working together we can remove the scourge of drugs from our streets and from our schools. We made significant progress on that bipartisan goal. Let us work together now for full funding so that we make that pledge a reality.

Working together we can pass a clean air bill this year. Let us make that one of our objectives.

By working together we can clean up the murky areas of campaign financing, broaden the basis of small individual contributions and reduce the influence of special interests in our electoral process. This deserves our joint commitment, which I now invite.

As my colleagues know, to profess love for democracy, but disdain for the political process, is to pretend to honor the product while despising the process that creates it. Politics is just as necessary to the functioning of our free society as water is to the flow of a river. It does not have to be filthy and corrupted, and neither does the river. We have the wisdom, if we have the will, to keep them both clean.

As well, we have the responsibility, I believe, to make certain that every citizen's vote counts equally in our Presidential elections. We can help to ensure that by a uniform poll closing law, such as the one that the House passed in the last Congress on which I now invite and ask cooperation of the Senate.

There is hardly a limit to what we can achieve if, in truth, we can work together. By working together we can steadily reduce and eventually eliminate the annual budget deficits that threaten our economic future. We must and we shall.

□ 1350

But Democrats and Republicans made contributions last year to landmark trade legislation. Let us not abandon that effort until America attains the objective of a revived industrial base, fed by enhanced productivity and renewed competitiveness. There is more work to be done and together we can do it.

We can even lift the standards of our own institutional self-expectations.

To this end, Republican leader BOB MICHEL and I have agreed that we will appoint within the next few days a bipartisan task force to review the current standards of official conduct for Members, last revised 12 years ago, and to recommend such improvements and updating as seem warranted under current conditions.

This is going to be a very, very busy and productive year for the 101st Congress. I am determined that so far as the Speaker can influence the schedule, we shall perform our work on time. Just as we did last year, the House will pass all 13 of our regular appropriation bills before we leave for the August recess.

Now, in order to make that possible, we intend to pass the budget resolution by April 15, as the law commands, and for that to happen the authorizing committees must submit a summary of their plans for new authorizations before the end of February. To facilitate this timetable, we need to receive the budget recommendations from the new administration not later than February 20, if at all possible.

In view of these time constraints and the size and scope of the tasks that confront us, I am today asking all the House committees to make every effort to complete all of their organizational work by the end of January, and we will try to accommodate that schedule on the House floor.

Today I shall take the oath of office for the 18th time as a Member of this House. Some of you will be taking it for the first time.

In 1941 when Sam Rayburn was sworn in for his second term as Speaker, he said this:

> The House of Representatives has been my life and my love for more than a quarter of a century. I love its traditions. I love its precedents. I love its dignity. I glory in the power of the House of Representatives.

He said:

As your Speaker and presiding officer, it shall be my highest hope and unswerving aim to preserve, protect and defend the rights, prerogatives, and the power of the House of Representatives.

As I look around our Chamber today and see the new Members, their families and special friends who have come from far to be here, I rejoice in the sense of commitment that pervades this occasion. However long each of us has been here or will be here, there can be no higher calling in earthly labor than to participate in glorifying and sustaining the longest running democracy that has ever endured to serve and bless mankind in the history of the human race.

I am ready now to take the oath of office. If the gentleman from Mississippi, the dean of the House, the distinguished JAMIE WHITTEN, would come forward and administer the oath, I shall take it and then administer the oath to the other Members.

Mr. WHITTEN then administered the oath of office to Mr. WRIGHT of Texas.

[Applause, the Members rising.]

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedents, the Chair will swear in all the Members of the House at this time.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect rose, and the Speaker administered the oath of office to them.

The SPEAKER. The gentlemen and gentlewomen are now Members of the 101st Congress. Congratulations.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY]

MAJORITY LEADER

Mr. GRAY. Mr. Speaker, as chairman of the Democratic caucus, I have been directed to report to the House that the Democratic Members have elected as majority leader of the House the gentleman from Washington, the Honorable THOMAS S. FOLEY, who served with distinction as majority leader in the 100th Congress.

□ 1400

The SPEAKER. The Chair now recognizes the gentleman from California [Mr. LEWIS].

MINORITY LEADER

Mr. LEWIS of California. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to officially notify the House that the gentleman from Illinois, the Honorable ROBERT H. MICHEL, has been selected as minority leader of the House.

MAJORITY WHIP

Mr. GRAY. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected the gentleman from California [Mr. COELHO], to act as majority whip for the 101st Congress.

MINORITY WHIP

Mr. LEWIS of California. Mr. Speaker, as chairman of the Republican Conference, I am directed by that conference to notify the House officially that the Republican Members have selected as our minority whip the gentleman from Wyoming [Mr. CHENEY].

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, DOORKEEPER, POSTMASTER, AND CHAPLAIN

Mr. GRAY. Mr. Speaker, I offer a resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1

Resolved, That Donnald K. Anderson, of the State of California, be, and he is hereby, chosen Clerk of the House of Representatives;

That Jack Russ, of the State of Maryland, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That James T. Molloy, of the State of New York, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That Robert V. Rota, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Postmaster of the House of Representatives; and

That Reverend James David Ford, of the Commonwealth of Virginia, be, and he is hereby, chosen Chaplain of the House of Representatives.

Mr. LEWIS of California. Mr. Speaker, I have an amendment to the resolution, but before offering the amendment, I request that there be a division of the question on the resolution so that we may have a separate vote on the Chaplain.

The SPEAKER. The question will be divided.

The question is on agreeing to that portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

AMENDMENT OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I offer an amendment to the remainder of the resolution offered by the gentleman from Pennsylvania [Mr. GRAY].

The Clerk read as follows:

Amendment offered by Mr. LEWIS of California: That Walter P. Kennedy, of the State of New Jersey, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;

That William R. Pitts, Jr., of the Commonwealth of Virginia, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That Ronald W. Lasch, of the Commonwealth of Virginia, be, and he is hereby, chosen Postmaster of the House of Representatives.

The SPEAKER. The question is on the amendment offered by the gentleman from California [Mr. LEWIS].

The amendment was rejected.

The SPEAKER. The question is on the remainder of the resolution offered by the gentleman from Pennsylvania [Mr. GRAY].

The remainder of the resolution was agreed to.

The SPEAKER. Will the officers-elect present themselves in the well of the House?

The officers-elect presented themselves at the bar of the House and took the oath of office.

The SPEAKER. Congratulations. You have been sworn in.

NOTIFICATION TO SENATE OF ORGANIZATION OF THE HOUSE

Mr. COELHO. Mr. Speaker, I offer a privileged resolution (H. Res. 2) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That the Senate be informed that a quorum of the House of Representatives has assembled; that Jim Wright, a Representative from the State of Texas, has been elected Speaker; and Donnald K. Anderson, a citizen of the State of California, has been elected Clerk of the House of Representatives of the One Hundred First Congress.

The resolution was agreed to.

COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. COELHO. Mr. Speaker, I offer a privileged resolution (H. Res. 3) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has assembled and Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentle-

man from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL].

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. WHITTEN. Mr. Speaker, I offer a resolution (H. Res. 4) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected Jim Wright, a Representative from the State of Texas, Speaker; and Donnald K. Anderson, a citizen of the State of California, Clerk of the House of Representatives of the One Hundred First Congress.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to announce that any Member-elect who failed to take the oath of office may present himself or herself in the well of the House prior to the vote on the previous question on the resolution now pending or on any other rollcall vote.

The question is on the resolution.

The resolution was agreed to.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States;

S. Con. Res. 2. Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con., Res. 141; and

S. Con. Res. 3. Concurrent resolution providing for a recess of the Senate from January 4, 1989 to January 20, 1989, and an adjournment of the House from January 4, 1989 to January 19, 1989.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mrs. Emery, one of his secretaries.

RULES OF THE HOUSE

Mr. COELHO. Mr. Speaker, I offer a privileged resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the One Hundredth Congress, including all applicable provisions of law and concurrent resolutions adopted pursuant thereto which constituted the Rules of the House at the end of the One Hundredth Congress, are hereby adopted as the Rules of the One Hundred First Congress, with the following amendments:

(1) In rule I, amend clause 5(b)(1) by striking the "and" after "reports;" and by striking the period and adding at the end thereof the following: "; and (F) the question of agreeing to motions to instruct conferees as provided in clause 1(c) of rule XXVIII: *Provided, however,* That said question shall not be put if the conference report on that measure has been filed in the House.".

(2) In rule I, amend clause 9(b)(1) by striking the last sentence and inserting in lieu thereof the following: "He shall provide for the distribution of such broadcasts and recordings thereof to news media, the storage of audio and video recordings of the proceedings, and the closed captioning of the proceedings for hearing-impaired individuals.".

(3) In rule I, add at the end the following new clause:

"(10) There is established in the House of Representatives an office to be known as the Office of the Historian of the House of Representatives.".

(4) In rule X, amend clause 1(e) by inserting the following before the last sentence of paragraph (1): "Previous service on the Committee before the One Hundred First Congress shall be disregarded, for the purposes of this prohibition during the One Hundred First Congress, for the ranking minority member of the Committee (who is not the Member designated as the Member from the leadership of the minority party). A minority Member having served on the committee for three Congresses and having served as the ranking minority member in the last such Congress shall be eligible for reelection to the committee as ranking minority Member for one additional Congress.".

(5) In rule XI, amend clause 2(e) by adding at the end the following new subparagraph:

"(3) Each committee shall include in its rules standards for availability of records of the committee delivered to the Archivist of the United States under rule XXXVI. Such standards shall specify procedures for orders of the committee under clause 3(b)(3) and clause 4(b) of rule XXXVI, including a requirement that nonavailability of a record for a period longer than the period otherwise applicable under that rule shall be approved by vote of the committee.".

(6) In rule XI, amend clause 2(i) by—

(a) inserting "(1)" after "(i)";

(b) inserting "the Committee on House Administration," immediately after "Budget,";

(c) striking "paragraph" and inserting "subparagraph" in lieu thereof;

(d) inserting at the end the following new subparagraph:

"(2) No committee of the House may sit during a joint session of the House and Senate or during a recess when a joint meeting of the House and Senate is in progress."; and

(e) amending the heading above clause 2(i) to read: "Prohibition against committee meetings during five-minute rule and during joint sessions and joint meetings".

(7) In rule XI, amend clause 4(a) in the matter relating to the Committee on House Administration by inserting after "contingent fund of the House" the following: ", and on all matters relating to preservation and availability of noncurrent records of the House under rule XXXVI;".

(8) In rule XI, amend clause 6(a)(5) to read as follows:

"(5) The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget and the provisions of subparagraphs (3) (B) and (C) do not apply to the Committee on Rules.".

(9) In rule XI, amend clause 6(c) to read as follows:

"(c) Each employee on the professional, clerical and investigating staff of each standing committee shall be entitled to pay at a single gross per annum rate, to be fixed by the chairman, which does not exceed the maximum rate of pay, as in effect from time to time, under applicable provisions of law.".

(10) In rule XIV, amend the second sentence of clause 1 to read as follows: "Debate may include references to actions taken by the Senate or by committees thereof which are a matter of public record, references to the pendency or sponsorship in the Senate of bills, resolutions, and amendments, factual descriptions relating to Senate action or inaction concerning a measure then under debate in the House, and quotations from Senate proceedings on a measure then under debate in the House and which are relevant to the making of legislative history establishing the meaning of that measure, but may not include characterizations of Senate action or inaction, other references to individual Members of the Senate, or other quotations from Senate proceedings.".

(11) In rule XV, amend the last sentence of clause 5 to read as follows: "The Speaker may, in his discretion, announce after a rollcall vote has been ordered on an amendment reported from the Committee of the Whole House on the State of the Union, that he may reduce to not less than five minutes the period of time in which a rollcall vote, if ordered, will be taken by electronic device on any other subsequent amendment to that bill or resolution reported from the Committee of the Whole. In like manner, the Speaker may, in his discretion, announce after a rollcall vote has been ordered on a motion to recommit a bill, resolution or conference report thereon, that he may reduce to not less than five minutes the period of time in which a rollcall vote, if ordered, will be taken by electronic device on the question of passage or adoption, as the case may be, on such bill, resolution or conference report thereon if the question on final passage or adoption follows without intervening business the vote on the question of recommital.".

(12) In rule XXVIII, amend clause 1 by—

(a) adding the following new paragraph after paragraph (a):

"(b) The time allotted for debate on any motion to instruct House conferees shall be equally divided between the majority and minority parties, except that if the proponent of the motion and the Member from the other party are both supporters of the motion, one-third of such debate time shall be allotted to a Member who is opposed to said motion.";

(b) redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively; and

(c) adding immediately prior to the semicolon in paragraph (c) (as so redesignated) the following: "(but only on the day after the calendar day on which the Member making the motion announces to the House his intention to do so and the form of the motion)".

(13) In rule XXXVI, strike it in its entirety and insert in lieu thereof the following:

"RULE XXXVI.

"PRESERVATION AND AVAILABILITY OF NONCURRENT RECORDS OF THE HOUSE.

"1. (a) At the end of each Congress, the chairman of each committee of the House shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

"(b) At the end of each Congress, each officer of the House elected pursuant to rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

"2. The Clerk shall deliver the records transferred pursuant to clause 1 of this rule, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and the orders of the House.

"3. (a) Subject to paragraph (b) of this clause, clause 4 of this rule, and orders of the House, the Clerk shall authorize the Archivist of the United States to make available for public use the records delivered to the Archivist under clause 2 of this rule.

"(b)(1) Any record that the House or a committee of the House (or a subcommittee thereof) makes available for public use before such record is delivered to the Archivist under clause 2 of this rule shall be made available immediately.

"(2) Any investigative record that contains personal data relating to a specific living individual (the disclosure of which would be an unwarranted invasion or personal privacy), any administrative record with respect to personnel, and any record with respect to a hearing closed pursuant to clause 2(g)(2) of rule XI shall be available if such record has been in existence for 50 years.

"(3) Any record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, any record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

"(4) Any record (other than a record referred to in subparagraph (1), (2), or (3) of this paragraph) shall be made available if such record has been in existence for 30 years.

"4. (a) A record shall not be made available for public use under clause 3 of this rule if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chairman and the ranking minority party member of the Committee on House Administration of any determination under the preceding sentence.

"(b) A determination of the Clerk under paragraph (a) is subject to later order of the House and, in the case of a record of a committee, later order of the committee.

"5. (a) This rule does not supersede rule XLVIII or rule L and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

"(b) The Committee on House Administration may prescribe guidelines and regulations governing the applicability and implementation of this rule.

"(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist of the United States under this rule. Such withdrawal shall be on a temporary basis and for official use of the committee.

"6. As used in this rule the term 'record' means any official, permanent record of the House, including—

"(a) with respect to a committee of the House, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or subcommittee thereof); and

"(b) with respect to an officer of the House elected pursuant to rule II, an official, permanent record made or acquired in the course of the duties of such officer. Such term does not include a record of an individual Member of the House.".

(14) In rule XLVIII, amend clause 1(a) by striking "seventeen" and inserting in lieu thereof "nineteen".

Mr. COELHO (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California [Mr. COELHO] is recognized for 1 hour.

Mr. COELHO. Mr. Speaker, I yield 30 minutes to the gentleman from Oklahoma [Mr. EDWARDS], for the purposes of debate only, pending which I yield myself such time as I may consume.

SWEARING IN OF MEMBER-ELECT

The SPEAKER. First, permit the Chair to administer the oath to the gentleman from Montana [Mr. MARLENEE], who was unavoidably delayed.

Will the gentleman from Montana [Mr. MARLENEE] kindly come to the well of the House and take the oath of office at this time?

Mr. MARLENEE appeared at the bar of the House and took the oath of office.

□ 1410

The SPEAKER. The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the recommended changes to the rules of the House embodied in House Resolution 5, comprise a relatively modest package of changes and additions to the Rules of the House for the 101st Congress. In most instances, the rules changes recommended in House Resolution 5 will enhance the ability of the House to operate in a smooth and predictable fashion. At this time, I would like to take a few minutes to very briefly summarize the recommended changes.

The first amendment enables the Speaker to postpone votes for up to 2 legislative days on the question of agreeing to motions to instruct conferees that are made after a conference has been meeting for 20 calendar days and has not made a report. The amendment does provide, however, that in the case that the conference in question does report prior to the time the Speaker has announced he will put the question, the question shall not be put, and therefore, no vote will occur on the motion to instruct the conferees.

The second amendment is a very simple amendment which requires that the televised broadcasts of the proceedings of the House of Representatives be closed captioned in order that deaf and hearing impaired Americans may have access to these broadcasts.

The third amendment establishes a permanent Office of the Historian in the House of Representatives which will serve as the successor office to the current Office of the Bicentennial.

The fourth amendment is an amendment which has been included in this package at the request of the Republican leader. As Members know, clause 1(e) of rule X provides that in the case of both the majority and the minority, no Member may serve for more than three Congresses of any five successive Congresses on the Budget Committee, with the exception of the Member who serves as the representative of the leadership of the respective parties. Since 1974, the minority leadership representative has served as both the ranking minority member and the leadership representative. However, with the retirement of that Member at the end of the 100th Congress, the Republican Conference has adopted a rule which would require that the ranking Member and the leadership Member be two separate individuals. The proposed amendment to rule X does two things: First, the amendment would allow in the 101st Congress only, a minority member who has served for three terms on the committee, to run within the Republican Conference, for the position of ranking minority member and thus be able to serve on the Budget Committee for one more additional Congress than is permitted by rule X. Second, the amendment would create what is commonly known as the "Giaimo" rule for the minority which would provide, as is provided for the majority, that if a Republican Member is elected as ranking minority member during his third term on the Budget Committee, that he shall be eligible to serve for one additional term on the Budget Committee should he be reelected by the conference as the ranking minority member.

The 5th, 7th, and 13th amendments incorporate the text of House Resolution 419 as reported by the Committee on Rules late in the 100th Congress. These amendments to rule XI and rule XXXVI were reported from the Committee on Rules on a bipartisan basis, but because the resolution was reported late in the session, it was never considered by the full House. These amendments establish a general rule making records of the House and its committees available after 30 years. The current standard is 50 years, which this amendment retains for records of closed sessions, personnel records and investigative files relating to an individual. The change also authorizes a committee to establish shorter or longer limits for its own records or portions of those records. I should note that the amendment does not affect records that have been previously published or otherwise generally available for use, nor does it affect the disposition of the records of a Member's congressional office.

The 6th amendment makes two changes in the text of clause 2(i) of House rule XI. First, the amendment permits the Committee on House Administration to sit without special leave of the House when the House is operating under the 5-minute rule. Currently, only the Committees on Appropriations, Budget, Rules, Standards of Official Conduct, and Ways and Means are allowed to sit during the 5-minute rule without special leave of the House. Second, the amendment creates a new subparagraph in this clause which prohibits all committees from meeting during a Joint Session or during a recess of the House when a joint meeting is in progress. This new subparagraph does not provide special leave for committees to meet as is provided in clause (2)(i)(1). Finally, the amendment changes the heading of clause 2(i) to reflect the inclusion of the new subparagraph (2) which prohibits committee meetings during joint sessions and joint meetings.

The 8th amendment clarifies the status of "associate staff" who are assigned to the Committee on Rules. Currently, Members who serve on the Committees on Appropriations, Budget, and Rules are assigned an "associate staff" member who works directly for the Member but whose salary is paid from the budget of the committee. Clause 6(a)(5) of rule XI currently exempts the "associate staff" of the Committees on Appropriations and Budget from the requirements of subparagraphs 6(a)(3)(B) and 6(a)(3)(C), but the current rule does not exempt "associate staff" of the Committee on Rules. The requirements of those subparagraphs, which apply only to professional staff, prohibit such staff from engaging in any work other than committee business and prohibit the staff member from being assigned any duties other than those pertaining to committee business. While most associate staff work full-time on the business of the committee to which their Member is assigned, there are instances which a staff member may be called upon to engage in other business associated with the Member's other congressional duties. This amendment would extend the exemption currently in the House rules for "associate staff" of the Committees on Appropriations and Budget to the "associate staff" of the Committee on Rules.

The ninth amendment amends clause 6(c) of rule XI which relates to pay levels for committee employees. For some years, the rules of the House have imposed a pay ceiling for committee staff equal to the rate for level V of the executive schedule, and, in addition, have allowed two members of the professional staff of each committee to be paid at a higher rate, equal to level IV of the executive schedule. In all cases, these are ceilings, and the chairman of each committee is responsible for setting staff pay, within the limit.

However, in the continuing resolution of fiscal year 1988, Congress authorized the President pro tempore and the Speaker to issue pay orders setting pay rates for staff positions in their respective Houses. A uniform pay ceiling, set by the Speaker's most recent pay order in the 100th Congress, is higher than either of the rates specified in clause 6(c) of rule XI.

If the Rules of the House are readopted for the 101st Congress containing the obsolete language of the current clause 6(c) of rule XI, there is concern that the language in the rule would be construed as the "latest rulemaking" action of the House. To avoid this potential ambiguity, this amendment revises the rule to eliminate all references to executive branch pay levels. This amendment makes no changes in pay, and the ceilings now in effect would continue unchanged.

The 10th amendment proposes to expand permissible references to the Senate in House debate by allowing Members to include factual descriptions of Senate action or inaction on a measure then under debate in the House and to allow quotation from Senate proceedings when such quotation is relevant to making legislative history for a measure then under debate. The change would only apply when a measure, or a companion measure, is under debate in the House. Characterizations of Senate action or inaction or of individual Members of the Senate would remain improper.

The 11th amendment seeks to amend clause 5 of rule XV to allow the Speaker to reduce the time subsequent to the first 15-minute vote to not less than 5 minutes on a series of rollcall votes on amendments reported back to the House from the Committee of the Whole. The amendment does provide, however, that if there is intervening business between these votes, the subsequent vote on any amendment reported to the House must again be 15 minutes in duration and any following votes may again be reduced to not less than 5 minutes.

The 12th amendment makes two changes in clause 1 of House rule XXVIII. The first change provides that when a motion to instruct conferees is under consideration, the debate time must be equally divided between the majority and the minority. Further, the amendment provides that if both the majority and minority members recognized are in favor of the motion, that the debate time must be divided three ways to give an opponent of the motion 20 minutes of debate on the motion to instruct the conferees. The second change relates to motions to instruct conferees who have been meeting for 20 calendar days. The amendment requires a Member to announce to the House his intention to offer a motion to instruct conferees on the calendar day before he intends to make the motion and also requires the Member to announce what his motion will be in order that other Members may be on notice of the subject of the motion to instruct.

Finally, Mr. Speaker, the 14th amendment increases the size of the Permanent Select Committee on Intelligence from 17 members to 19.

Mr. Speaker, that concludes my explanation of the package of rules changes embodied in House Resolution 5.

□ 1420

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my intention that after the debate is concluded we will try to defeat the previous question so that we are able to offer a substitute.

Mr. Speaker, I yield 6 minutes to the gentleman from Tennessee [Mr. QUILLEN], the ranking Republican member of the Committee on Rules.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise to ask for a "no" vote on the previous question, so that the House will have an opportunity to consider an alternative package of House rules changes proposed by the Republican Conference.

Mr. Speaker, I would like to address particularly some of those proposed changes in the Republican package which affect the House Rules Committee. I have served as the ranking Republican member of the Rules Committee since 1975 and I speak from experience when I say there is a need for procedural change.

The first proposal I would like to address deals with the increasing use of restrictive rules which limit or sometimes prohibit amendments. The use of restrictive rules has increased in each of the last six Congresses. In the 95th Congress only 12 percent of the rules providing for initial consideration of bills were restrictive. By the 100th Congress 43 percent of rules providing for such consideration were restrictive. This procedure hurts Democrats and Republicans alike. Your constituents sent you here to represent them. When a restrictive rule from the Rules Committee prevents you from offering your ideas for the consideration of the House, your constituents lose part of their representation. The Nation loses because some good ideas may never even be considered by the House. While there may be a few occasions when the use of a restrictive rule is appropriate, its use has become commonplace. It is a procedure which should be used only in exceptional circumstances.

The Republican proposal for improving the House rules would deal with this problem by prohibiting any rule from the Rules Committee restricting amendments, unless the chairman of the Rules Committee has orally announced in the House, at least 4 legislative days prior to the Rules Committee meeting on the matter, that less than an open amendment process might be recommended by the committee.

If this proposed rule change is adopted it would not eliminate all restrictive rules, but it would at least ensure that there is adequate time to consider whether a restrictive rule is really necessary.

Mr. Speaker, another problem which has gotten worse in recent years is the use of self-executing rules from the Rules Committee. Self-executing rules are those which provide for the automatic adoption of an amendment or other matter upon the adoption of the rule. This takes away from the House the opportunity for a separate vote on the substance of the matter. This is a procedure which was not used at all during the 96th Congress. It was used on just 1 percent of the rules in the 97th Congress. By the 100th Congress it was used on 16 percent of rules reported by the Rules Committee.

Mr. Speaker, denial of Members' rights to have separate votes on amendments should be discouraged. The Republican proposal for changes in the House rules would improve this situation by prohibiting self-executing rules from the Rules Committee, unless there was a two-thirds vote of the House to agree to consider such a rule.

This change would serve to reduce the number of self-executing rules. It would not be so easy to deny Members the right to have a separate vote on separate issues. This should not be a partisan issue, Mr. Speaker. Both Democrats and Republicans should have the ability to vote for things they favor without having to swallow at the same time things they oppose.

Mr. Speaker, another problem which was been with us for years is the large number of waivers of the Budget Act which have been included in rules reported from the Rules Committee. Mr. Speaker, if we are going to have a Budget Act, we should follow it.

In the last Congress, Mr. Speaker, there were 37 Budget Act waivers and another 47 waivers of all points of order, which would include the Budget Act. Mr. Speaker, the use of budget waivers might be justified in rare circumstances, but it is not justified in the large number of cases where it has been used.

Moreover, the use of blanket waivers of all points of order has increased from none in the 96th Congress to 47 in the 100th Congress. When blanket waivers of all points of order are used it is difficult for Members to know which specific rules are being violated. This is not good procedure, Mr. Speaker.

The Republican proposal for improvements in the House rules would require that any report from the Rules Committee on a rule waiving the Budget Act would include an explanation and justification of the waiver. The Rules Committee report would also be required to include any comments received from the Budget Committee concerning the budget waiver.

The proposed Republican rules changes would provide that a separate vote could be demanded on any budget act waiver. In addition, rules containing blanket waivers of all points of order would require a two-thirds vote for consideration. This should help to reduce the number of blanket waivers.

Mr. Speaker, these changes I have described are not partisan changes. They would be good for Democrats and Republicans alike. Therefore, I ask for a "no" vote on the previous question so that it will be possible to offer the Republican package of improvements to the House rules.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 3 minutes to the minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, the result of gerrymandering of congressional districts around the country following the 1980 decennial census has given us little change in the makeup of the House during the 1980's. Fewer than 20 percent of our races were seriously contested in the last election. So the Democratic Party will again control this House with a wide margin of 261 to 174 and we will be playing by rules promulgated by the majority party.

Despite it all, we on the Republican side seek to defeat the previous question to make a couple of points. The first is that the rules of this body have not been reformed in a comprehensive bipartisan way in a number of years, but they really do need it. And there is an urgent need for reform.

But instead of reform we get isolated adjustments with each new Congress. Gradually, minority rights have been eroded and the party in power is strengthened.

I say we ought to have comprehensive reform. We should ban proxy voting, reduce the number of subcommittees, cut staff, cut spending, halt abuses of franked mail, stop campaigning at taxpayers' expense, and, most importantly, blow the doors off the Chamber and let in the clean, fresh air of open and free debate. Those reforms would make this a more representative House, a better House.

We on this side of the aisle have such a proposal to make. We have a better plan. We can give the American people a glimpse of what the legislative branch of government would be like under Republican rules.

Mr. Speaker, I have designated the gentleman from Oklahoma, Mr. MICKEY EDWARDS, our new chairman of our policy committee, to shepherd the debate on our side during the balance of today in this regard.

But in conclusion, Mr. Speaker, this is the bicentennial Congress. It should be something special. It should be the beginning of a new era in our great Democratic experiment. I would like to think of it as being a Congress of restoration, restoring representative government to its rightful place at the center of that experiment, at the focus of our political life and at the heart of what we do in this House.

Representative government begins with us and the rules we set for ourselves. In this bicentennial Congress we ought to set a good example and adopt some better rules.

Mr. Speaker, I yield back the balance of my time.

□ 1430

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, the House of Representatives is beginning its third century of existence, with the swearing of Members of the 101st Congress, this oldest and greatest national representative assembly celebrates a historic achievement.

And while all Members feel a justifiable sense of pride in serving at such time of commemoration and congratulation, I believe the times also compel us to face up to the fact that this House is experiencing an institutional

crisis of profoundly disturbing proportions.

Indeed, if this House cannot find a better and more responsible way of managing its affairs and meeting its constitutional obligations, the interests of the whole country will continue to suffer. And the lofty ideal of representative government will be held in disrepute.

The evidence of crisis can be seen all around us. The House gets organized late and spends most of the year meeting on only 2 or 3 days a week. The proliferation of subcommittees and staff has led inevitably to a strangulation of the committee system—where most of our work has to get done. As subcommittees compete for turf and for the undivided attention of Members, full committees employ skewed party ratios, proxy voting, and one-third quorum rules in order to get any legislation through at all.

In the full House, the majority party's leadership has turned increasingly toward the use of closed rules and so-called self-executing rules in order to keep the wheels of legislative machinery turning—however creakily. And the Rules Committee now spends most of its time writing exceptions to House rules and issuing budget waivers.

Reconciliation and appropriations bills are littered with extraneous language and unauthorized programs. Meanwhile, bills are reaching the floor that were never passed by any committee—complete rewrites are undertaken in secret by committee kingpins whose jurisdictional lines overlap. Amendments are killed or resurrected at will, depending on the majority leadership's pleasure.

A decade ago, less than one-tenth of the public laws enacted by Congress were of a commemorative or nonsubstantive nature. In the 100th Congress, more than one-third of the public laws passed were in the commemorative or nonsubstantive category. And the unfinished public business of our country continues to be left unattended.

Mr. Speaker, the blame for this institutional crisis can be attributed to many causes. But candor compels us to recognize that the perpetuation of crisis has come to serve the political interests of the majority leadership. In conducting its business, the emphasis this House has placed on so-called efficiency has been purchased at the expense of accountability.

James Madison, who was a member of the first House of Representatives 200 years ago, was also bothered by the problem of balancing efficiency with accountability. And he warned us about it in the Federalist papers. In writing specifically about the functions of the House of Representatives, Madison practically envisioned the present-day situation in this House:

> The countenance of the Government may become more Democratic, but the soul that animates it will be more oligarhic. The machine will be enlarged, but the fewer, and often the more secret, will be the springs by which its motions are directed.

Mr. Speaker, this house is conducting its business in an increasingly autocratic, irrational, and unfair manner. The House is becoming ever more crippled in the exercise of its oversight responsibilities and in its authority over the Federal Budget. And may I say that the "business as usual" rules package that it being offered by the majority today does not even begin to address these problems.

We must defeat the previous question so that the House will have an opportunity—today—to debate and vote on a rules package which really does offer reform, a rules package which really does restore accountability to the deliberations of this House.

Mr. Speaker, the Republican rules package was not fashioned by a secret task force. Ideas and suggestions were solicited from every Member on this side of the aisle. The package addresses every significant aspect of how the House is to be managed.

It places particular emphasis on the committee system and the budget process, those two areas which informed observers have long identified as being the most indicative of how the House is, in fact, being mismanaged.

THE COMMITTEE SYSTEM

Turning first to the committee system, I would note that the Republican rules package incorporates many worthwhile proposals that have been offered in the past. In the interest of fairness and accountability, we propose:

Requiring that party membership ratios on all standing, select, and conference committees (with the exception of the ethics committee) reflect the party ratio in the full House;

Requiring a better balance in the allocation of staff positions, as well as reducing the runaway growth in the number of staff positions;

Eliminating proxy voting in committees; and

Mandating that a working quorum consist of a majority of members on a committee.

A couple of new proposals this year, in the interest of fairness and accountability, include:

Requiring that committee meetings be kept open for all but the most compelling national security or personal reasons; and

Requiring that committee reports on bills include the names of those Members who voted for and against it, and, in the case of a nonrecorded vote, the names of those Members who were actually present when the bill was ordered reported.

In the interest of having an efficient committee system, we propose:

Limiting the number of subcommittees; and

Eliminating the practice of joint referrals to multiple committees, while retaining authority for the Speaker and the committee of original jurisdiction to assign sequential or split referrals.

On a new proposal this year, the Republican rules package would require the Rules Committee to report by the end of this year a more rational and functional jurisdictional system for committees, aimed at eliminating the present overlappings and inefficiencies.

THE BUDGET PROCESS

Turning now to the budget process—something which lies at the very heart of government and on which the constitution places special responsibilities for the House—the Republican rules package also retains several past proposals. We propose:

Limiting the size of appropriations in both short- and long-term continuing resolutions;

Prohibiting legislative language and unauthorized matters in long-term CR's;

Requiring that long-term CR's contain the full text of all provisions to be enacted, as well as cost estimates;

Requiring that all general appropriations measures include a listing of all legislative provisons and unauthorized activities being funded therein; and

Putting teeth back into the reconciliation process by eliminating extraneous items from such bills and requiring that waivers of the budget act be subject to a vote by the full house.

In addition, the Republican rules package this year contains important new safeguards for the budget process. We propose:

Giving the President authority to rescind budget authority for any unauthorized program, unless Congress enacts a joint resolution of disapproval. This new provision would serve two purposes. It would give the President much needed authority to control the spending add-ons that have made such a mockery of the budget process. And it would compel the authorizing committees to revive the oversight and authorization processes that have been neglected so seriously in recent years.

And, finally, we propose:

Requiring automatic rollcall votes on final passage for all appropriations bills, tax hikes, member pay raises, conference reports, budget resolutions, and increases in the national debt limit.

MANAGING THE HOUSE

The Republican rules package also contains a number of provisions that would affect the way in which sessions in the full House are conducted and

the manner in which staff is treated. Aside from requiring a 5-day workweek, the Republican package contains some interesting new ideas. We propose:

Allowing motions to recommit, including those with instructions, on all bills;

Requiring 4-day notice before the Rules Committee could meet to report less than an open rule;

Making so-called self-executing rules, which by their very nature serve to approve other pieces of legislation, subject to a two-thirds vote of the full House; and, finally

Requiring legislation by June 30 of this year that would apply essential health, safety, labor, and civil rights laws to Congress. Isn't it about time that the laws we require the rest of the country to live by were upheld in Congress as well? This is an atrocious double-standard which has been crying out for redress.

CONCLUSION

I would just conclude, Mr. Speaker, by making one observation. This brief debate here this afternoon may seem to many members, particularly on the majority side of the aisle, to be just another pro forma exercise. But on this side of the aisle, we are viewing it very seriously.

The House of Representatives is facing a crisis of accountability. And the tenor of the proceedings here this afternoon, on the first day of the 101st Congress, will go a long way toward determining whether or not this House can put itself in order.

May I say that a continuation of the status quo—"business as usual"—is unacceptable. And the day when members on this side of the aisle will just sit back and take it is long since over. Power is abused in this Chamber and throughout this House. And the American people are going to become better informed about it—you can bet on that.

Early in my remarks, Mr. Speaker, I quoted form James Madison, another one of his statements in the Federalist papers resonates loudly in our present situation:

> Complaints are everywhere heard that the public good is disregarded in the conflicts of rival parties, and that measures are to often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of a self-interested and overbearing majority.

A more accurate description of this House of Representatives could not be written. This House is becoming unrepresentative and undemocratic. And be advised that, starting today. This side of the aisle is going to do something about it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The other day, Mr. Speaker, I saw a sign on the back of a car that said, "Do not steal from the government, they do not like the competition." The problem with that is that it says something about the kind of faith that people have in Government and the kind of trust that they have in Government, and it seems to me, something about the rules process because the fact is that the rules we are probably going to adopt today are essentially the same rules we have been operating under for the last several sessions, and they do not mean much.

Whenever the majority decides that the rules should be put aside to do something they want to do, they simply set the rules aside. We have a rule in this House that says before we spend money we need to authorize the money. In other words, before the money can be spent on one side we are supposed to have a committee look at it and actually authorize that spending.

All the time in Congress we are saying that we do not want to have that rule apply, that we set aside the authorization process in favor of only an appropriation process, and then we wonder why we spend so much money that we cannot afford.

I would hope that Members will defeat the previous question. I hope that in so doing they will allow Members to offer a rules package that will hold Members more accountable. That is the whole effort that is before us here today, whether or not we will be held accountable by the voters for that which we do, or whether or not we will use the rules that we have been using over the last several years to simply ignore the will of the people and to ignore representative democracy. I would hope we would defeat the previous question, adopt a new rules package. Let us be held accountable. Let us have rules that mean something rather than what we have had before that do not mean much.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, we have on this side of the aisle complained about the rules for years with no tallying effect on the makeup of those rules, and we are doing so again today, and I am not going through the awful litany of the unfairness of the rules to the minority or the way that the rules work, how they are invoked, the limitations in the rules that prevent the offering of amendments that squelch debate and prevent this House from working in the way that the framers expected it to work. Those points are all well-known and need not be further developed.

It is only my hope that sometime in the future there will be a majority with the good sense to restore to the House those rules which allow it to work their will and allow a majority to complete their program, and yet allow a minority to attack that program, and have a fair shot at it, which is not the case, under the way the rules are written and under the way the rules are employed at this time.

However, I do have one point I would like to make and that is that the new rules, there is a change, and it is that the House rule No. 1 is going to be amended by adding a new clause 10 creating a permanent Office of the Historian of the House.

I think most Members of this House have not got any idea that we have a historian. As a matter of fact, in 1982, the House rejected the idea of creating or establishing an Office of House Historian, beat that proposition rather badly, 132 to 180. After that very stern defeat the rulers of this establishment created the Office anyway, and we have had for a couple of years a House historian. Now, theoretically, this job was created so that we could prepare for the Bicentennial Congress.

□ 1440

We have had a nice bicentennial Congress, and now I guess we are going to have another nice bicentennial Congress. That job will terminate on September 30 under the current rules. By approving the rules which are presented to us today, we are going to make that job permanent and create another high wage job, notwithstanding the fact that we have a fine Library of Congress to help us with our history, we have a fine Capitol Historical Society, and we have committees by the score that can help us with history, but nevertheless, because the Senate had an historian, we have to have an historian.

Mr. Speaker, this is an absurd use of the taxpayers' money, and it alone should cause the defeat of the rules that are being submitted today.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEWIS], chairman of the Republican Conference.

Mr. LEWIS of California. Mr. Speaker, I certainly appreciate the fact that the gentleman from Oklahoma is being so generous with his time.

I had planned to take no time at all on this issue, but I could not help but choose a moment, this moment, to respond to the Speaker's comment to the House earlier today. The newly elected Speaker indicated that within this great body we sit at a table as equals, and that that table is indeed, by his description, a round table, with no head, no tail, but, rather, one in which the entire family comes together.

Let me suggest that the glue that holds such a table together involves the rules of the House.

It has been suggested by people who know much more about the rules and processes of the House than I, that from time to time that glue has not been applied with fairness and equality. I would suggest that as we address the question of revising the rules of this House, we also pay careful attention to the way in which we exercise those rules. If fairness is a part of the process, indeed we will all enjoy our work at that round table.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Oklahoma for yielding this time to me.

I guess what I would like to do for just a minute is put in some kind of context what we are going through today and why this is both very, very important and at the same time very, very obscure. Most of the real structures of power set up by a parliamentary body like the U.S. House are set up by the way the rules are structured, by the way the committees are structured, and by the way the schedule is designed, so that very often the choices Members actually get to make on a day-to-day basis on the floor of the House have been prearranged. It is like playing a card game when on some days one side gets 17 cards and the other side gets 4 cards, or playing a card game where one side deals to itself only until it gets 4 aces. These initial clearly not exciting, clearly not dynamic, fights over rules, fights over the very structure of the system go to the heart of a legislative body.

I listened with great interest earlier as the Speaker indicated more interest in bipartisanship than I suspect we have heard from a Speaker in modern times. I think if one were to go through the speech of the Speaker and just take the number of times he used the term, "bipartisanship"—he said we would have to rise above partisanship, and he said we have to have a round table so the whole family could gather and we could all sit at the main table—if we were to take step-by-step the number of promises that were a good public oratory and then look at the rules that have been offered which in fact further shift power toward the Democrats and further design a system where the vote of the American people is less important than the structure of power in the House, there is a huge gap.

One of the things I hope we will do is look at how this House could be run if the Democrats wanted to be bipartisan. One of the first steps toward that, frankly, is the Republican rules package being offered today. Because we have been in the minority so long, because we are in a position to look at what power does and how power is abused, because literally we have to go back to 1954 to find any Republican running a committee, setting up a schedule, hiring a majority staff, or serving as chairman, there has been a long process now of what will be 35 years this year, 36 years by the end of this Congress, of the Democrats holding power.

What I want to challenge my friends in the Democratic Party to do is to look seriously at the Speaker's speech and decide—was it just flimflam, or are you serious? Do you truly want bipartisanship, which would mean fair rules, fair scheduling, and fair staffing, or in fact is this just good propaganda?

Then, second, I would challenge the news media to recognize that while the Presidency is easy to cover, the budget, arguments over the fabric of the law, the structure of power over the bureaucracy, those fundamental decisions about how the Government runs are very often decided far more in the House than in the Senate or in the White House, and that while it is harder and more complicated to tell the story of legislation as it evolves from subcommittee to committee, as it goes from committee to the Rules Committee, as it comes to the floor under what are very often, very bizarre and archane procedures, while that is difficult to explain in the age of 9-second sound bites and 14-second stories, it is hard to understand.

This particular drama that is begun today, this particular process is vital. It is a key part of the constitutional freedoms and the decisions being made today and in coming weeks about whether power is to be shared fairly and in true bipartisanship, or whether power is in fact to be extorted by the majority purely on its behalf in a highly partisan manner, those decisions are real, they are vital, and they shape the entire coming Congress.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I yield myself the remaining time on our side.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from Oklahoma [Mr. EDWARDS] is recognized for 6 minutes.

Mr. EDWARDS of Oklahoma. Mr. Speaker, this vote will set the tone for the 101st Congress. It will tell us, both Democrats and Republicans, what we can expect from each other as we attempt to deal with the problems and the opportunities that lie before the America of the 1990's. And it will tell the American people what they can expect from us.

You know and I know, Mr. Speaker, and increasingly the American people know, that how we do things here often determines what we do. If we restrict the right of our Members to offer amendments to legislation brought to us by the leadership, we restrict the right of the people to be represented and we increase the possibility that legislation will be passed which they would not want and which we would not pass in an open forum with the right to amend and debate. If we do not record the votes of Members on bills that tax or spend, we make it easier both to tax more and to spend more, because we can do so without being held accountable.

Mr. Speaker, every parliamentary body needs rules which permit it to operate efficiently. But we have gone beyond the requirements of efficiency and have become secretive; we have gone beyond the requirements of efficiency to limit the ability of the American people to hold us responsible; we have gone beyond the requirements of efficiency to restrict deliberation and debate and public accountability. We are today beginning the second century of this, the people's Congress. We must, Mr. Speaker, set ourselves right.

We in this Congress are great reformers, Mr. Speaker. We have plans to reform business, to reform the military, to reform every department and every agency, to reform how people drive, what they eat. We have plans to reform everything except that one thing which needs reform the most—the Congress of the United States.

Mr. Speaker, for heaven's sake, look at what we're doing. Of the 27 committees in the last Congress, 22 of them allowed people to vote without even being there, allowed committee chairmen to decide on important legislation by voting the proxies of Members who had in some cases not even heard the discussion, and yet were now determining the fate of legislation affecting millions of Americans.

In fact, 18 of the 27 committees have allowed as few as one-third of the members of those committees to make final decisions about what legislation will come to the House floor.

And what happens when those bills come to the House floor? In the last Congress, 43 percent of the legislation we considered came to us under restrictive rules which limited the aiblity of Members to bring up amendments for consideration.

Over half our bills last year were considered under procedures which either set aside the Budget Act—a law we passed—or prohibited points of order to allow the House to do things which would otherwise be in violation of our own rules.

No, Mr. Speaker, we've gone way too far. Now it's time to reform the House of Representatives. I am asking Members to vote no on the previous question so we can offer a package of real rules changes, real reforms in the way we do business. If we do not succeed, I will then offer a motion to commit the rules proposal to a special committee to report back a plan to require ad-

vance notice before you can bring to the floor any legislation on which the right of the people's representatives to debate and amend would be restricted.

Our substitute would eliminate proxy voting and require quorums to conduct committee business. It would restrict the number of committee meetings that could be closed. It would require advance notice of rules that would restrict the right to offer amendment. It would cut down on the automatic passage of legislation simply by passing a rule. It would require us to follow the law by restricting the use of waivers and it would require automatic rollcall votes on bills that would spend the taxpayers' money or raise their taxes.

Let us straighten out our own act, Mr. Speaker. Let us vote no on the previous question and take up some real reform here in our own House.

□ 1450

Mr. Speaker, I yield back the balance of my time.

Mrs. MARTIN of Illinois. Mr. Speaker, what if the House of Representatives threw a big, bicentennial birthday party this year, and forgot to invite the people? Wouldn't that take the cake? Can you imagine—celebrating the 200th anniversary of the people's House without the people? Wasn't that what the American Revolution was all about: restoring the people's right to a representative form of government?

Well, as absurd as this birthday invitation scenario might sound, it's not far from the truth. Something very similar has been happening around here over the last decade: the people are slowly and subtly being evicted from their own House.

How could that be? Well, it seems the House got a little fed up with the democratic reform revolution of the seventies when powers became so dispersed that we became legislatively anemic. And so, a counterrevolution took hold in this decade in which powers were reconcentrated in the majority leadership.

Just think: in two decades time we've moved from committee government to subcommittee government and individual enterprise, to a high-powered oligarchy of rule by a few. Members of this House have abdicated more and more of their legislative powers to the majority leadership, all for the appearance of order, efficiency, and results.

But, what have we sacrificed in the process? What have we lost? Quite simply, we are losing the representative and deliberative nature of this body—the very heart of our democratic system. We are forfeiting a very valuable birthright—the people's birthright of representative government.

Do you think this all sounds a bit exaggerated? Well, maybe it does—until, that is, you consider the facts. And the fact is that is that while the number of measures reported from our committees is down roughly 48 percent from 20 years ago and 31 percent from 10 years ago, the number of substantive laws is only down 25 percent and 22 percent, respectively. Put another way, we are enacting far more unreported, substantive measures.

But, not only do the people's Representatives have less and less influence at the committee level on the laws being enacted; even those bills that are reported are increasingly suspect from a representative standpoint. Thanks to proxy voting, one-third quorum rules, unrepresentative party ratios, and downright poor attendance levels, legislation is increasingly the product of a select few subcommittee chairmen and their allies, and not of the whole committee. And, even then, bills are often changed after being reported from committee by the substitution of leadership alternatives in the Rules Committee.

But, you might ask, can't Members improve a bad bill with amendments once it reaches the House floor? The short answer is, "Good luck!" The House is becoming increasingly less democratic there as well. Whereas 10 years ago 28 percent of all public measures were considered in the Committee of the Whole where amendments may be offered, in the 99th Congress only 14 percent or half that number were considered there.

But, even of those public measures considered in the Committee of the Whole under special rules, an increasing number are considered under a restrictive amendment process—up from 12 percent 10 years ago to 43 percent in the last Congress. In short, Members have less opportunity to amend fewer and fewer bills on the House floor. Again, the American people are being effectively disenfranchised; their vote is being wasted.

Mr. Speaker, I think it is evident from the facts that what is called for is a bicentennial mandate to restore the people's House. We are becoming too much like the House was in 1910 when Speaker Cannon was stripped of his chairmanship of the Rules Committee because of his autocratic abuse of power. Here's how minority leader Champ Clark explained it then:

> This is a fight against the system. We think it has been a bad system * * *. It does not make any difference to me that it has been sanctified by time.* * * The fact that the Speaker of the House was chairman * * * of the Committee on Rules gives the Speaker * * * more power than any one man ought to have over the destinies of this Republic.

Clark went on to say that it was a "revolution" they were working that day, but, in his words, "We are fighting to rehabilitate the House of Repesentatives and to restore it to its ancient place of honor and prestige in our system of government." And the Democratic floor leader concluded as follows:

> You can not restore to the membership of this House the quantum of power that each Member is entitled to without taking from the Speaker of the House some quantum of the power he now enjoys, because he practically enjoys it all.

Mr. Speaker, we find ourselves in a very similar situation today. Today the Speaker again virtually controls the Rules Committee which increasingly deprives Members of their right to shape legislation. We are fighting to restore to those Members the quantum of power to which they are entitled, and to restore the people's House to its ancient place of prestige and honor.

We can have a responsible committee system that is both responsive to party leadership and representative of a House majority. Let's join today in a truly bipartisan, bicentennial reform effort.

A BICENTENNIAL MANDATE: TO RESTORE THE PEOPLE'S HOUSE

(A Summary of the Republican House Rules Substitute for H. Res. 5, Offered by Rep. Edwards of Oklahoma, Opening Day, 101st Congress, January 3, 1989)

The rules of the House of the 100th Congress would be adopted as the rules of the 101st Congress with the following amendments:

(1) *Veto Messages.*—Immediately after the reading of a veto message, the Speaker would be required to state the question on the reconsideration of the vetoed bill, without intervening motion, thereby giving the House a chance to vote immediately on overriding the veto.

(2) *Broadcast Coverage.*—The Speaker would be required to provide *uniform* visual broadcast coverage of the House *throughout the day* which could include periodic views of the entire Chamber if they do not detract from the person speaking.

(3) *House Scheduling Reform.*—The Speaker would be required at the beginning of each session to announce a legislative program for the session that would include target dates for the consideration of major legislation, weeks in which the House would be in session (with full, five-day work weeks assumed unless otherwise indicated), district work periods, and the target date for adjournment. The Speaker would also be required to consult with the minority leader in developing each week's legislative program.

(4) *Oversight Reform.*—Committees would be required to formally adopt and submit to the *House Administration Committee* by March 1st of the first session their oversight plans for that Congress. *It would not be in order to consider the funding resolution for any committee which does not submit its oversight plans as required.* The *House Administration Committee,* after consultation with the majority and minority leaders, would report the plans to the House by March 15th together with its recommendations, and those of the joint leadership group to assure coordination between committees. The Speaker would be authorized to appoint ad hoc oversight committees for specific tasks from the membership of committees with shared jurisdiction. Committees would be required to include an oversight section in their final activity report at the end of a Congress.

(5) *Multiple Referral of Legislation.*—The joint referral of bills to two or more committees would be abolished, while split and sequential referrals would be retained, subject to time limits and designation by the Speaker of a committee of principal jurisdiction.

(6) *Early Committee Organization.*—Committees must be elected within seven legislative days of the convening of a new Congress and must hold their organization meeting not later than three legislative days after their election.

(7) *Committee Ratios.*—The party ratios on committees would be required to reflect that of the full House (except for the Standards Committee which is bipartisan). The requirement would extend to select and conference committees as well.

(8) *Subcommittee Limits.*—No committee (except Appropriations) could have more than six subcommittees, and no Member could have more than four subcommittee assignments.

(9) *Proxy Voting Ban.*—All proxy voting on committees would be prohibited.

(10) *Open Committee Meetings.*—Committee meetings, which can now be closed for any reason, could only be closed for national security, personal privacy or personnel reasons.

(11) *Majority Quorums.*—A majority of the membership of a committee would be required for the transaction of any business.

(12) *Report Accountability.*—Committee reports on bills would be required to include the names of those members voting for and against reporting a bill or, in the case of a nonrecord vote, the names of those members actually present when the bill is ordered reported.

(13) *Same Day Consideration of Rules Committee Reports.*—An order of business resolution from the Committee on Rules could not be considered on the same *calendar* day as reported, *or the subsequent calendar day of the same legislative day,* except by a two-thirds vote of the House.

(14) *Permitting Instructions in Motion to Recommit.*—The Rules Committee could not report an order of business resolution which prevented a motion to recommit, including one with amendatory instructions.

(15) *Restrictive Rule Limitation.*—It would not be in order to consider any order of business resolution from the Rules Committee restricting the right of Members to offer germane amendments unless the chairman of the Committee orally announces to the House, at least four legislative days before the Rules Committee meeting on the matter, that less than an open rule might be recommended by the committee.

(16) *Limitation on Self-Executing Rules.*—It would not be in order to consider any order of business resolution from the Rules Committee that provides for the automatic passage of any bill, joint resolution or conference report, or adoption of any motion, amendment, or resolution, except by a two-thirds House vote on agreeing to such consideration.

(17) *Budget Waivers.*—Any report from the Committee on Rules on a resolution waiving any provisions of the Budget Act against any bill would be required to include an explanation and justification of the waiver together with a summary or text of any comments received from the Budget Committee regarding the waiver. A separate vote could be demanded on any such waiver in a rule, subject to the requisite votes required by the Budget Act for such a waiver. Blanket waiver rules would require a two-thirds vote for consideration.

(18) *Committee Staffing.*—Committee funding resolutions could not be considered until the House has first adopted a resolution from the House Administration Committee setting an overall limit on committee staffing for the session. The minority would be entitled up to one-third of the investigative staff funds, on request. The overall committee staff limit for the 101st Congress could not be more than 90% of the total at the end of the 100th Congress.

(19) *Commemorative Calendar.*—A Commemorative Calendar would be created on which unreported commemoratives would be placed at the written request of the chairman and ranking minority member of the Post Office Committee. The Calendar would be called twice a month and any two objections would cause a commemorative to be removed from the Calendar.

(20) *Automatic Roll Call Votes.*—Automatic roll call votes would be required on final passage of appropriations, tax and Member pay raise bills and conference reports, and on final adoption of budget resolutions and conference reports containing debt limit increases.

(21) *Appropriations Reforms.*—The present restrictions on offering limitations amendments to appropriations bills would be abolished. Short-term continuing appropriations (30-days or less) could only provide for the lesser spending amounts and more restrictive authority as provided in either the House or Senate passed bills, the conference agreement, or the previous year's Act, and a three-fifth House vote would be required to waive this requirement. Long-term continuing appropriations measures (more than 30-days) would be required to contain the full text of the provisions to be enacted; the present prohibition on legislative language and unauthorized matters in appropriations measures would be extended to long-term CRs. Points of order and amendments to provisions in long-term CRs not previously agreed to by the House could only be denied by a three-fifths vote. Cost estimates would be required in reports on long-term CRs. Reports on all general appropriations bills, including long-term CRs would be required to include not only a listing of legislative provisions contained in the measures (as presently required), but of all unauthorized activities being funded by the measure.

(22) *Reconciliation Limitation.*—It would not be in order to report in a reconciliation bill, or consider as an amendment thereto, a provision which is not related to a committee's reconciliation instructions to either reduce spending or raise revenues. Determination would be made by the Budget Committee.

(23) *Authorization Reporting Deadline.*—It would not be in order to consider any bill authorizing budget authority for a fiscal year if reported after May 15 preceding the beginning of the fiscal year (former Budget Act requirement).

(24) *Pledge of Allegiance.*—The Pledge of Allegiance would be required as the second order of business each day.

(25) *Suspension of the Rules.*—Measures could not be considered under the suspension of the rules procedure except by direction of the committee(s) of jurisdiction or on the request of the chairman and ranking minority member of such committee(s). No measure could be considered under suspension which authorizes or appropriates more than $50 million for any fiscal year. Notice of any suspension must be placed in the Congressional Record at least one day in advance of its consideration together with the text of any amendment to be offered to it. No constitutional amendment could be considered under suspension.

(26) *Discharge Motions.*—The Clerk of the House would be required to publish in the Congressional Record the names of those Members signing a discharge petition once a threshhold of 100 signatures as been reached, and to publish an updated list of names at the end of each succeeding week.

(27) *Inclusion of Views With Conference Reports.*—Members of conference committees would be permitted three calendar days in which to file supplemental, minority, or addition views to be published with conference reports.

(28) *Special Rescission Authority.*—The Committees on Rules and Government Operations would be directed to report by May 30, 1989, legislation giving the President authority to rescind budget authority for which an authorization has not been enacted, unless Congress enacts a joint resolution *disapproving* the rescission within 45-days. If the committees do not report, automatic discharge of the first such bill introduced is provided.

(29) *Applicability of Certain Laws to Congress.*—The appropriate committees of Congress would be required to report, not later than June 30, 1989, legislation applying certain Federal health, safety, labor and civil rights laws to Congress. Automatic discharge is provided for the first such comprehensive bill if they do not all report.

(30) *Realignment of Committee Jurisdiction.*—The Committee on Rules would be required to report no later than Dec. 1, 1989, a more rational and functional jurisdictional system for House committees to eliminate overlap, duplication and inefficiencies.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 162, not voting 32, as follows:

[Roll No. 3]

YEAS—231

Ackerman	Conyers	Grant
Akaka	Costello	Gray
Alexander	Coyne	Guarini
Anderson	Crockett	Hall (TX)
Andrews	Darden	Hamilton
Annunzio	de la Garza	Harris
Anthony	DeFazio	Hayes (IL)
Applegate	Dellums	Hayes (LA)
Aspin	Derrick	Hefner
Atkins	Dicks	Hertel
AuCoin	Dingell	Hochbrueckner
Barnard	Dixon	Hoyer
Bates	Donnelly	Hubbard
Bellenson	Dorgan (ND)	Huckaby
Bennett	Downey	Hutto
Berman	Durbin	Jenkins
Bevill	Dyson	Johnson (SD)
Bilbray	Early	Johnston
Boggs	Eckart	Jones (GA)
Bonior	Edwards (CA)	Jones (NC)
Borski	Engel	Jontz
Bosco	English	Kanjorski
Boucher	Erdreich	Kaptur
Boxer	Espy	Kastenmeier
Brennan	Evans	Kennedy
Brooks	Fascell	Kennelly
Brown (CA)	Fazio	Kildee
Bruce	Feighan	Kleczka
Bryant	Flake	Kolter
Bustamante	Flippo	Kostmayer
Byron	Foley	LaFalce
Campbell (CO)	Ford (MI)	Lancaster
Cardin	Ford (TN)	Lantos
Carper	Frank	Laughlin
Carr	Frost	Leath (TX)
Chapman	Garcia	Lehman (CA)
Clarke	Gaydos	Lehman (FL)
Clay	Gejdenson	Leland
Clement	Gephardt	Levin (MI)
Coelho	Gibbons	Levine (CA)
Coleman (TX)	Glickman	Lewis (GA)
Collins	Gonzalez	Lloyd

Lowey (NY)	Panetta	Slaughter (NY)
Luken, Thomas	Parker	Smith (IA)
Manton	Patterson	Solarz
Markey	Pease	Spratt
Martinez	Pelosi	Stark
Matsui	Penny	Stenholm
Mavroules	Pepper	Stokes
Mazzoli	Perkins	Studds
McCloskey	Pickett	Swift
McCurdy	Pickle	Synar
McHugh	Poshard	Tallon
McMillen (MD)	Price	Tauzin
Mfume	Rahall	Thomas (GA)
Miller (CA)	Rangel	Torres
Mineta	Ray	Towns
Moakley	Richardson	Traficant
Mollohan	Robinson	Traxler
Montgomery	Rose	Udall
Moody	Rostenkowski	Unsoeld
Morrison (CT)	Rowland (GA)	Valentine
Murphy	Roybal	Vento
Murtha	Russo	Visclosky
Nagle	Sabo	Volkmer
Natcher	Sangmeister	Walgren
Neal (MA)	Sarpalius	Watkins
Neal (NC)	Savage	Waxman
Nelson	Sawyer	Weiss
Nowak	Scheuer	Wheat
Oakar	Schroeder	Whitten
Oberstar	Schumer	Williams
Obey	Sharp	Wilson
Olin	Sikorski	Wise
Ortiz	Skaggs	Wyden
Owens (NY)	Skelton	Yates
Owens (UT)	Slattery	Yatron

NAYS—162

Archer	Green	Porter
Armey	Gunderson	Pursell
Baker	Hammerschmidt	Quillen
Ballenger	Hancock	Ravenel
Bartlett	Hansen	Regula
Barton	Hastert	Rhodes
Bateman	Hefley	Ridge
Bentley	Henry	Rinaldo
Bereuter	Herger	Roberts
Bilirakis	Hiler	Rogers
Billey	Holloway	Rohrabacher
Boehlert	Hopkins	Roth
Broomfield	Horton	Roukema
Brown (CO)	Hunter	Rowland (CT)
Buechner	Inhofe	Saiki
Bunning	Ireland	Saxton
Burton	Jacobs	Schaefer
Callahan	James	Schuette
Campbell (CA)	Johnson (CT)	Schulze
Chandler	Kasich	Sensenbrenner
Cheney	Kolbe	Shaw
Clinger	Kyl	Shays
Coble	Lagomarsino	Shumway
Coleman (MO)	Leach (IA)	Shuster
Combest	Lent	Skeen
Conte	Lewis (CA)	Slaughter (VA)
Coughlin	Lewis (FL)	Smith (MS)
Courter	Livingston	Smith (NE)
Cox	Lowery (CA)	Smith (NJ)
Craig	Lukens, Donald	Smith (TX)
Crane	Machtley	Smith, Denny (OR)
Dannemeyer	Martin (IL)	
Davis	Martin (NY)	Smith, Robert (NH)
DeLay	McCandless	
DeWine	McCollum	Snowe
Dickinson	McCrery	Solomon
Dornan (CA)	McDade	Spence
Douglas	McEwen	Stangeland
Dreier	McGrath	Stump
Duncan	McMillan (NC)	Sundquist
Edwards (OK)	Meyers	Tauke
Emerson	Michel	Thomas (CA)
Fawell	Miller (OH)	Upton
Fields	Miller (WA)	Vander Jagt
Fish	Molinari	Vucanovich
Frenzel	Moorhead	Walker
Gallegly	Morella	Walsh
Gallo	Morrison (WA)	Weber
Gekas	Nielson	Weldon
Gillmor	Oxley	Whittaker
Gilman	Packard	Wolf
Gingrich	Parris	Wylie
Goss	Pashayan	Young (AK)
Gradison	Paxon	Young (FL)
Grandy	Petri	

NOT VOTING—32

Cooper	Dwyer	Dymally
Florio	Madigan	Schiff
Goodling	Marlenee	Sisisky
Gordon	McDermott	Smith (FL)
Hall (OH)	McNulty	Smith (VT)
Hawkins	Mrazek	Smith, Robert (OR)
Hoagland	Pallone	
Houghton	Payne (NJ)	Stallings
Hughes	Payne (VA)	Stearns
Hyde	Ritter	Tanner
Lightfoot	Roe	Torricelli

□ 1510

So the previous question was ordered.

The result of the vote was announced as above recorded.

MOTION TO COMMIT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Speaker, I offer a motion to commit.

The SPEAKER pro tempore (Mr. KILDEE). The Clerk will report the motion.

The Clerk read as follows:

Motion to Commit offered by Mr. EDWARDS of Oklahoma: Mr. EDWARDS moves to commit the resolution H. Res. 5 to a select committee to be comprised of the Majority Leader and the Minority Leader with instructions to report back the same to the House forthwith with only the following amendment:

At the end of the resolution, add the following new paragraph:

RESTRICTIVE RULE LIMITATION

"(15) In Rule XI, clause 4 is amended by adding the following new paragraph:

"(e) It shall not be in order to consider any resolution reported from the Committee on Rules providing for the consideration of any bill or resolution otherwise subject to amendment under House rules if that resolution limits the right of Members to offer germane amendments to such bill or resolution unless the chairman of the Committee on Rules has orally announced in the House, at least four legislative days prior to the scheduled consideration of such matter by the Committee on Rules, that less than an open amendment process might be recommended by the Committee for the consideration of such bill or resolution.".

Mr. EDWARDS of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I yield to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman from New York for yielding me this time and giving me this opportunity to explain to the Members of the House what we are going to vote on in just a moment.

Mr. Speaker, I have offered a motion to commit to a special committee and to be reported back to the House a provision that would say, and especially the new Members, I want them to listen to this, that if the Committee on Rules is going to report out of the committee and bring to the floor any legislation on which the right to offer amendments would be restricted, any closed rule, any partially closed rule, and understand that last year nearly half of the bills that we considered were under closed or partially closed rule, if that is to be done, the leadership must first notify the House orally, come to the House floor and tell us orally, 4 days in advance so that we in the House will have an ability to know in advance that we are going to be considering important legislation without the right of debate and amendment. That is what we are going to be voting on in just a moment.

Mr. Speaker, I thank the gentleman for giving me the chance to explain that.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, that makes a tremendous amount of sense. That seems very fair to every Member of the House, and I would hope that we would honor the gentleman's request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The question is on the motion to commit offered by the gentleman from Oklahoma [Mr. EDWARDS].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

□ 1538

Mr. EDWARDS of Oklahoma. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 163, nays 239, not voting 23, as follows:

[Roll No. 4]

YEAS—163

Archer	Dannemeyer	Henry
Armey	Davis	Hiler
Baker	DeLay	Holloway
Ballenger	DeWine	Hopkins
Bartlett	Dickinson	Horton
Barton	Dornan (CA)	Hunter
Bateman	Douglas	Inhofe
Bentley	Dreier	Ireland
Bereuter	Duncan	James
Bilirakis	Edwards (OK)	Johnson (CT)
Billey	Emerson	Kasich
Boehlert	Fawell	Kolbe
Broomfield	Fields	Kyl
Brown (CO)	Fish	Lagomarsino
Buechner	Frenzel	Leach (IA)
Bunning	Gallegly	Lent
Burton	Gallo	Lewis (CA)
Callahan	Gekas	Lewis (FL)
Campbell (CA)	Gillmor	Livingston
Chandler	Gilman	Lowery (CA)
Cheney	Gingrich	Lukens, Donald
Clinger	Goss	Machtley
Coble	Gradison	Marlenee
Coleman (MO)	Grandy	Martin (IL)
Combest	Green	Martin (NY)
Conte	Gunderson	McCandless
Coughlin	Hammerschmidt	McCollum
Courter	Hancock	McCrery
Cox	Hansen	McDade
Craig	Hastert	McEwen
Crane	Hefley	McGrath

McMillan (NC)	Roberts	Smith, Robert (NH)
Meyers	Rogers	Snowe
Michel	Rohrabacher	Solomon
Miller (OH)	Roth	Spence
Miller (WA)	Roukema	Stangeland
Molinari	Rowland (CT)	Stearns
Moorhead	Saiki	Stump
Morella	Saxton	Sundquist
Morrison (WA)	Schaefer	Tauke
Nielson	Schiff	Thomas (CA)
Oxley	Schuette	Upton
Parris	Schulze	Vander Jagt
Pashayan	Sensenbrenner	Vucanovich
Paxon	Shaw	Walker
Petri	Shays	Walsh
Porter	Shumway	Weber
Pursell	Shuster	Weldon
Quillen	Skeen	Whittaker
Ravenel	Slaughter (VA)	Wolf
Regula	Smith (MS)	Wylie
Rhodes	Smith (NE)	Young (AK)
Ridge	Smith (NJ)	Young (FL)
Rinaldo	Smith (TX)	
Ritter	Smith, Denny (OR)	

NAYS—239

Ackerman	Fascell	Matsui
Akaka	Fazio	Mavroules
Alexander	Feighan	Mazzoli
Anderson	Flake	McCloskey
Andrews	Flippo	McCurdy
Annunzio	Foley	McHugh
Anthony	Ford (MI)	McMillen (MD)
Applegate	Ford (TN)	Mfume
Aspin	Frank	Miller (CA)
Atkins	Frost	Mineta
AuCoin	Garcia	Moakley
Barnard	Gaydos	Mollohan
Bates	Gejdenson	Montgomery
Bellenson	Gephardt	Moody
Bennett	Gibbons	Morrison (CT)
Berman	Glickman	Murphy
Bevill	Gonzalez	Murtha
Bilbray	Gordon	Nagle
Boggs	Grant	Natcher
Bonior	Gray	Neal (MA)
Borski	Guarini	Neal (NC)
Bosco	Hall (TX)	Nelson
Boucher	Hamilton	Nowak
Boxer	Harris	Oakar
Brennan	Hawkins	Oberstar
Brooks	Hayes (IL)	Obey
Brown (CA)	Hayes (LA)	Olin
Bruce	Hefner	Ortiz
Bryant	Herger	Owens (NY)
Bustamante	Hertel	Owens (UT)
Byron	Hoagland	Pallone
Campbell (CO)	Hochbrueckner	Panetta
Cardin	Hoyer	Parker
Carper	Hubbard	Patterson
Carr	Huckaby	Payne (NJ)
Chapman	Hutto	Pease
Clarke	Jacobs	Pelosi
Clay	Jenkins	Penny
Clement	Johnson (SD)	Pepper
Coelho	Johnston	Perkins
Coleman (TX)	Jones (NC)	Pickett
Collins	Jontz	Pickle
Conyers	Kanjorski	Poshard
Cooper	Kaptur	Price
Costello	Kastenmeier	Rahall
Coyne	Kennedy	Rangel
Crockett	Kennelly	Ray
Darden	Kildee	Richardson
de la Garza	Kleczka	Robinson
DeFazio	Kolter	Rose
Dellums	Kostmayer	Rostenkowski
Derrick	LaFalce	Rowland (GA)
Dicks	Lancaster	Roybal
Dingell	Lantos	Russo
Dixon	Laughlin	Sabo
Donnelly	Leath (TX)	Sarpalius
Dorgan (ND)	Lehman (CA)	Savage
Downey	Lehman (FL)	Sawyer
Durbin	Leland	Scheuer
Dyson	Levin (MI)	Schroeder
Early	Levine (CA)	Schumer
Eckart	Lewis (GA)	Sharp
Edwards (CA)	Lloyd	Sikorski
Engel	Lowey (NY)	Sisisky
English	Luken, Thomas	Skaggs
Erdreich	Manton	Skelton
Espy	Markey	Slattery
Evans	Martinez	Slaughter (NY)
Smith (IA)	Thomas (GA)	Watkins
Solarz	Torres	Waxman
Spratt	Towns	Weiss
Stark	Traficant	Wheat
Stenholm	Traxler	Whitten
Stokes	Udall	Williams
Studds	Unsoeld	Wilson
Swift	Valentine	Wise
Synar	Vento	Wyden
Tallon	Visclosky	Yates
Tanner	Volkmer	Yatron
Tauzin	Walgren	

NOT VOTING—23

Dwyer	Jones (GA)	Roe
Dymally	Lightfoot	Sangmeister
Florio	Madigan	Smith (FL)
Goodling	McDermott	Smith (VT)
Hall (OH)	McNulty	Smith, Robert (OR)
Houghton	Mrazek	Stallings
Hughes	Packard	Torricelli
Hyde	Payne (VA)	

Mr. BUSTAMANTE and Mr. OLIN changed their vote from "yea" to "nay."

So the motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KILDEE). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. MICHEL. Mr. Speaker, I offer a resolution (H. Res. 6) and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. KILDEE). The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, the five minority employees authorized therein shall be the following named persons, effective January 3, 1989, until otherwise ordered by the House, to-wit: William R. Pitts, Junior, Walter P. Kennedy, Ronald W. Lasch, Jay Pierson, and Gordon Jones, each to receive gross compensation pursuant to the provisions of House Resolution 119, Ninety-fifth Congress, as enacted into permanent law by section 115 of Public Law 95-94.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STEARNS. Mr. Speaker, I was unavoidably detained as the communications network in my office was not working and I missed rollcall No. 3. Had I been present I would have voted "no."

HOUR OF MEETING OF THE HOUSE OF REPRESENTATIVES

Mr. PEPPER. Mr. Speaker, I offer a privileged resolution (H. Res. 7) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 7

Resolved, That unless otherwise ordered, the hour of meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays; 2 o'clock post meridiem on Wednesdays; 11 o'clock ante meridiem on all other days of the week up to and including May 13, 1989; that from May 15, 1989, until the end of the first session, the hour of daily meeting of the House shall be 12 o'clock meridian on Mondays and Tuesdays and 10 o'clock ante meridiem on all other days of the week.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER OR HIS DEPUTY TO ADMINISTER OATH OF OFFICE TO THE HONORABLE HOWARD WOLPE

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 8) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 8

Whereas Howard Wolpe, a Representative-elect from the Third District of the State of Michigan, has been unable from sickness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Now, therefore be it

Resolved, That the Speaker, or deputy named by him, is hereby authorized to administer the oath of office to the Honorable Howard Wolpe at Kalamazoo, Michigan, and that the said oath be accepted and received by the House as the oath of office of the Honorable Howard Wolpe.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. FOLEY. Mr. Speaker, your committee appointed on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be

pleased to make has performed that duty.

The President, in responding, wishing to communicate to the Members of the House and the Senate his best wishes and hopes for a successful first session of the Congress.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. GRAY. Mr. Speaker, I offer a privileged resolution (H. Res. 9) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 9

Resolved, That the following named Members, be and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Appropriations: Jamie L. Whitten, Mississippi, Chairman; William H. Natcher, Kentucky; Neal Smith, Iowa; Sidney R. Yates, Illinois; David R. Obey, Wisconsin; Edward R. Roybal, California; Louis Stokes, Ohio; Tom Bevill, Alabama; Bill Alexander, Arkansas; John P. Murtha, Pennsylvania; Bob Traxler, Michigan; Joseph D. Early, Massachusetts; Charles Wilson, Texas; Lindy (Mrs. Hale) Boggs, Louisiana; Norman D. Dicks, Washington; Matthew F. McHugh, New York; William Lehman, Florida; Martin Olav Sabo, Minnesota; Julian C. Dixon, California; Vic Fazio, California; W.G. (Bill) Hefner, North Carolina; Les AuCoin, Oregon; Daniel K. Akaka, Hawaii; Wes Watkins, Oklahoma; William H. Gray III, Pennsylvania; Bernard J. Dwyer, New Jersey; Steny H. Hoyer, Maryland; Bob Carr, Michigan; Robert J. Mrazek, New York; Richard J. Durbin, Illinois; Ronald D. Coleman, Texas; Alan B. Mollohan, West Virginia; Robert Lindsay Thomas, Georgia; Chester G. Atkins, Massachusetts; Jim Chapman, Texas.

Committee on Rules: Claude Pepper, Florida, Chairman; Joe Moakley, Massachusetts; Butler Derrick, South Carolina; Anthony C. Beilenson, California; Martin Frost, Texas; David E. Bonior, Michigan; Tony P. Hall, Ohio; Alan Wheat, Missouri; Bart Gordon, Tennessee.

Committee on Standards of Official Conduct: Julian C. Dixon, California, Chairman; Vic Fazio, California; Bernard J. Dwyer, New Jersey, Alan B. Mollohan, West Virginia; Joseph M. Gaydos, Pennsylvania; Chester G. Atkins, Massachusetts.

Committee on Ways and Means: Dan Rostenkowski, Illinois, Chairman; Sam Gibbons, Florida; J.J. Pickle, Texas; Charles B. Rangel, New York; Fortney H. (Pete) Stark, California; Andrew Jacobs, Jr., Indiana; Harold E. Ford, Tennessee; Ed Jenkins, Georgia; Richard A. Gephardt, Missouri; Thomas J. Downey, New York; Frank J. Guarini, New Jersey; Marty Russo, Illinois; Donald J. Pease, Ohio; Robert T. Matsui, California; Beryl Anthony, Jr., Arkansas; Ronnie G. Flippo, Alabama; Byron L. Dorgan, North Dakota; Barbara B. Kennelly, Connecticut; Brian J. Donnelly, Massachusetts; William J. Coyne, Pennsylvania; Michael A. Andrews, Texas; Sander M. Levin, Michigan; Jim Moody, Wisconsin.

Mr. GRAY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. (Mr. KILDEE). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION AS CHAIRMEN TO STANDING COMMITTEES OF THE HOUSE

Mr. GRAY. Mr. Speaker, I offer a privileged resolution (H. Res. 10) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 10

Resolved, That the following named Members, be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: E de la Garza, Texas, Chairman.

Committee on Armed Services: Les Aspin, Wisconsin, Chairman.

Committee on Banking, Finance and Urban Affairs: Henry B. Gonzalez, Chairman.

Committee on Budget: Leon E. Panetta, California, Chairman.

Committee on the District of Columbia: Ronald V. Dellums, California, Chairman.

Committee on Education and Labor: Augustus F. Hawkins, California, Chairman.

Committee on Energy and Commerce: John D. Dingell, Michigan, Chairman.

Committee on Foreign Affairs: Dante B. Fascell, Florida, Chairman.

Committee on Government Operations: John Conyers, Jr., Michigan, Chairman.

Committee on House Administration: Frank Annunzio, Illinois, Chairman.

Committee on Interior and Insular Affairs: Morris K. Udall, Arizona, Chairman.

Committee on the Judiciary: Jack Brooks, Texas, Chairman.

Committee on Merchant Marine and Fisheries: Walter B. Jones, North Carolina, Chairman.

Committee on Post Office and Civil Service: William D. Ford, Michigan, Chairman.

Committee on Public Works and Transportation: Glenn M. Anderson, California, Chairman.

Committee on Science and Technology: Robert A. Roe, New Jersey, Chairman.

Committee on Small Business: John J. LaFalce, New York, Chairman.

Committee on Veterans' Affairs: G.V. (Sonny) Montgomery, Mississippi, Chairman.

Mr. GRAY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MINORITY MEMBERS TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. LEWIS of California. Mr. Speaker, I offer a privileged motion (H. Res. 11) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 11

Resolved, That the following named Members be, and they are hereby, elected to the Committee on Standards of Official Conduct of the House of Representatives:

1. John T. Myers, Indiana
2. James V. Hansen, Utah
3. Charles Pashayan, Jr., California
4. Thomas E. Petri, Wisconsin
5. Larry E. Craig, Idaho
6. Hank Brown, Colorado

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR A RECESS OF THE SENATE FROM JANUARY 4, 1989, TO JANUARY 20, 1989, AND AN ADJOURNMENT OF THE HOUSE FROM JANUARY 4, 1989, TO JANUARY 19, 1989

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 3) to provide for a recess of the Senate from January 4, 1989, to January 20, 1989, and an adjournment of the House from January 4, 1989, to January 19, 1989.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 3

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses on Wednesday, January 4, 1989, at the conclusion of the joint session to count the electoral votes, it stand in recess until 3 o'clock post meridiem on Friday, January 20, 1989, and that when the House of Representatives adjourns on Wednesday, January 4, 1989, it stand adjourned until 12 o'clock noon on Thursday, January 19, 1989, or until 12 o'clock noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution; and that when the Senate recesses on Friday, January 20, 1989, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, to stand in recess until 12 o'clock noon on Wednesday, January 25, 1989.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONTINUATION OF JOINT COMMITTEE TO MAKE INAUGURATION ARRANGEMENTS

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 2) to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of Senate Concurrent Resolution 141.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 2

Resolved by the Senate (the House of Representatives concurring), That effective from January 3, 1989, the joint committee created by Senate Concurrent Resolution 105 of the One Hundredth Congress, to make the necessary arrangements for the inauguration, is hereby continued with the same power and authority.

SEC. 2. That effective from January 3, 1989, the provisions of Senate Concurrent Resolution 141 of the One Hundredth Congress, to authorize the rotunda of the United States Capitol to be used in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States, are hereby continued with the same power and authority.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

FURTHER SUNDRY MESSAGES FROM THE PRESIDENT

Further sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

□ 1550

PROVIDING FOR A JOINT SESSION TO COUNT ELECTORAL VOTES

The SPEAKER pro tempore (Mr. KILDEE) laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 1) to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 1

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall meet in the Hall of the House of Representatives on Wednesday, the 4th day of January 1989, at 1 o'clock post meridiem, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice President of the United States, and the President of the Senate shall be their Presiding Officer; that two tellers shall be previously appointed by the President of the Senate on the part of the Senate and two by the Speaker on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter "A"; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CERTAIN APPOINTMENTS AND PROCEDURES RELATING TO IMPEACHMENT PROCEEDINGS

Mr. BROOKS. Mr. Speaker, I offer three privileged resolutions (H. Res. 12, H. Res. 13, and H. Res. 14), and I ask unanimous consent that they be considered en bloc.

The SPEAKER pro tempore. Without objection, the resolutions will be considered en bloc.

Mr. GEKAS. Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Speaker, as I understood it, these resolutions being privileged carry automatically within them debate time, and that time will be granted, is that correct?

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] will be recognized for 1 hour and he may yield to the gentleman from Pennsylvania.

Without objection, the resolutions will be considered en bloc.

There was no objection.

The SPEAKER pro tempore. The Clerk will report the resolutions.

The Clerk read the resolutions, as follows:

H. RES. 12

Resolved, That Jack Brooks, John Conyers, Jr., Don Edwards, John Bryant, Hamilton Fish, Jr., and George W. Gekas, Members of the House of Representatives, are appointed managers to conduct the impeachment trial against Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida.

H. RES. 13

Resolved, That the managers on the part of the House of Representatives in the matter of the impeachment of Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida, are authorized to do the following in the preparation and conduct of the impeachment trail:

(1) To employ legal, clerical, and other necessary assistance and to incur such expenses as may be necessary. Expenses under this paragraph shall be paid out of the funds available to the Committee on the Judiciary under clause 5(f) of rule XI of the Rules of the House of Representatives on vouchers approved by the Chairman of the Committee on the Judiciary.

(2) To send for persons and papers, and to file with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

(3) To take such other actions as are necessary to the preparation or conduct of the trail.

H. RES. 14

Resolved, That a message be sent to the Senate to inform the Senate that Jack Brooks, John Conyers, Jr., Don Edwards, John Bryant, Hamilton Fish, Jr., and George W. Gekas, have been appointed managers for the trial of the impeachment of Alcee L. Hastings, judge of the United States District Court for the Southern District of Florida.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the resolutions be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BROOKS] is recognized for 1 hour.

Mr. BROOKS. Mr. Speaker, these three resolutions are necessary in order for the House to proceed with the impeachment trial of Judge Alcee L. Hastings. As the members are aware, the House voted to impeach Judge Hastings in August 1988. The Senate was not able to schedule a trial before the conclusion of the 100th Congress.

Under the precedents, the impeachment itself is not discontinued by the adjournment of the Congress. The House must, however, appoint managers for the conduct of the trial in the 101st Congress, advise the Senate of the appointment of those managers, and authorize those managers to expend funds, to employ staff, send for persons and papers, and to take such other actions as are necessary for the conduct of the trial.

These three resolutions accomplish those objectives. I would point out to my colleagues that these are the resolutions which are customarily adopted by the House, subsequent to an impeachment.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman is absolutely correct in the chronology that he has outlined for these resolutions. What I wanted to point out for the record is that when the Committee on the Judiciary of the House began the impeachment proceedings in the 100th Congress, it did so with a kind of pressing timetable. First, it was important to expedite the proceedings for the sake of the impeachment proceedings themselves because of their importance. Second, naturally, it would be very important for the target of the impeachment, who is entitled to what would be considered on the House floor, if not in court, to a speedy trial, as it were.

Third, what concerned me until today—and it has been made a part of the RECORD now, but we did concern ourselves with it at that particular time—is this: What if we were not able to finish the impeachment proceedings during the 100th Congress? If we did not speed that process up to such a degree, we felt, to get it to the Senate for trial before we finished the 100th Congress, would we be in danger of losing the entire Congress and having to begin all over again in the 101st Congress?

The resolution today makes amply clear that the Senate of the United States, being a continuing body, really never goes out of existence, so if the impeachment proceedings were begun and ended on the part of the House during one term of Congress and the Senate becomes the repository of that impeachment proceeding for the purpose of trial, then it can postpone trial until a later time, not harming the constitutional requirement of how an impeachment ought to go.

So these three resolutions carry on where we left off in the 100th Congress, and I really appreciate the gentleman's bringing this up so quickly so we do not have to worry about it any more and so we can proceed with the proceedings when they return in the Senate.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the resolutions.

The resolutions were agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONTINUATION OF PROVISIONS OF FAIR EMPLOYMENT PRACTICES RESOLUTION

Mr. PANETTA. Mr. Speaker, I offer a resolution (H. Res. 15) and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 15

Resolved, That, effective January 3, 1989, the provisions of House Resolution 558, One Hundredth Congress, shall remain in effect for the duration of the One Hundred First Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so for the purpose of yielding to the distinguished gentleman from California to tell us the purpose of his resolution.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the purpose of this resolution is to reauthorize without change the Fair Employment Practices Resolution which was adopted by the House last October by a vote of 408 to 12.

The resolution applies basic civil rights protection to the employees of the House of Representatives and is the product of contributions by the authors of employee protection legislation introduced in the 100th Congress by Chairman HAWKINS, Representatives MARTIN of Illinois, BARTLETT, and SCHROEDER, and many others who worked together to bring this resolution into place.

The resolution provides for protection against discrimination. It also establishes an office of Fair Employment Practices along with the process to basically enforce those requirements.

I should point out for the Members that the Fair Employment Practices Office did open its doors on November 3, 1988, and is currently operating out of room 101 in House Annex No. 1. Bill Baranoski was appointed by Chairman ANNUNZIO and Mr. FRENZEL as the acting director last November, and it is my understanding that that office has notified all offices in the House of its operation and has handled a number of inquiries over the past 2 months.

The purpose of this resolution is to again reinforce the important steps the House took last October and to continue the effort we have begun in providing protection for civil rights to employees of the House.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I concur in the statement of the distinguished gentleman from California and believe that this landmark resolution must be extended if we are to provide antidiscrimination protection for the employees of the House of Representatives.

I would add, in addition, however, that this does not mean that the committees will not be seeking a more permanent solution to the problem. What we have is a temporary one, but it is important that this office be extended. I congratulate the gentleman from California and the people he mentioned who have been very instrumental in putting this together in the first instance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1600

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Wednesday, January 4, 1989.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Washington?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON WEDNESDAY, JANUARY 4, 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order for the Speaker to declare recesses on Wednesday, January 4, 1989, subject to the call of the Chair, for the purpose of preparing for the joint session to count the electoral votes for President and Vice President of the United States.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. BILL NICHOLS, REPRESENTATIVE FROM THE STATE OF ALABAMA

Mr. DICKINSON. Mr. Speaker, I offer a privileged resolution (H. Res. 16) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 16

Resolved, That the House has heard with profound sorrow of the death of the Honorable BILL NICHOLS, a Representative from the State of Alabama.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 1 hour.

Mr. DICKINSON. Mr. Speaker, let me say that I am not prepared to speak in eulogy of our departed colleague and my very dear friend at this time. I simply take this opportunity to inform the Members of the House that this particular Member, who died during the recess and who is such a dear friend to all of us, so well liked, so well respected; I know that there are a great number of people who would like to participate in a special order in memorial to the gentleman from Alabama [Mr. NICHOLS], and so I would like to take this opportunity to say that as soon as we get back in session after January 20 that it is my intent as dean of the delegation to ask for such special order and that all of the Members of the House will be notified of that special order in ample time for them to prepare for it. I know that this will evoke a very large response.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF HON. RICHARD ENSLEN TO ADMINISTER OATH OF OFFICE TO HON. HOWARD WOLPE

The SPEAKER. Pursuant to the authority of House Resolution 8, 101st Congress, the Chair appoints Hon. Richard Enslen, Federal district court judge, to administer the oath of office to Hon. HOWARD WOLPE.

APPOINTMENT AS MEMBERS OF HOUSE OFFICE BUILDING COMMISSION

The SPEAKER. Pursuant to the provisions of 40 U.S.C., 175 and 176, the Chair appoints the gentleman from Washington [Mr. FOLEY] and the gentleman from Illinois [Mr. MICHEL] as members of the House Office Building Commission to serve with himself.

APPOINTMENT AS MEMBERS OF JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

The SPEAKER. Pursuant to the provisions of Senate Concurrent Resolution 2, 101st Congress, the Chair appoints to the Joint Congressional Committee on Inaugural Ceremonies the following members on the part of the House:

The gentleman from Illinois, Mr. MICHEL,

The gentleman from Texas, Mr. WRIGHT, and

The gentleman from Washington, Mr. FOLEY.

ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM, 1988—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore. (Mr. KILDEE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means.

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES FOR FISCAL YEAR 1988—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations.

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

REPORT ON THE STATE OF SMALL BUSINESS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Small Business:

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

ANNUAL REPORT ON HAZARDOUS MATERIALS TRANSPORTATION, 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce, the Committee on Merchant Marine and Fisheries, and the Committee on Public Works and Transportation:

(For message, see proceedings of the Senate of today, January 3, 1989.)

WHISTLEBLOWER PROTECTION ACT OF 1989—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Post Office and Civil Service:

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

BIENNIAL NATIONAL URBAN POLICY REPORT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

REPORT ON EFFECT OF PETROLEUM IMPORTS ON NATIONAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

(For message, see proceedings of the Senate of today, Tuesday, January 3, 1989.)

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following com-

munication from the Clerk of the House of Representatives:

WASHINGTON, DC,
January 3, 1989.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Under Clause 4 of Rule III of the Rules of the U.S. House of Representatives, I herewith designate Mr. W. Raymond Colley, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in cases of my temporary absence or disability.

If Mr. Colley should not be able to act in my behalf for any reason, then Ms. Dolores C. Snow, Assistant to the Clerk, or Mr. Dallas L. Dendy, Jr., Assistant to the Clerk, should similarly perform such duties under the same conditions as are authorized by this designation.

These designations shall remain in effect for the 101st Congress or until modified by me.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

COMMUNICATION FROM HON. ROBERT H. MICHEL, REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from the Hon. ROBERT H. MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 1989.

Hon. JIM WRIGHT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby select the following Member of the House of Representatives for appointment to the National Commission on Child and Youth Deaths as directed in Public Law 100-294:

Rep. Robert Lagomarsino of California.

Sincerely yours,
ROBERT H. MICHEL,
Republican Leader.

COMMUNICATION FROM HON. ROBERT H. MICHEL, REPUBLICAN LEADER

The SPEAKER pro tempore laid before the House the following communication from Hon. ROBERT H. MICHEL, Republican leader:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 1989.

Hon. JIM WRIGHT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I hereby appoint the following individual for a 4-year term to the John C. Stennis Center for Public Service Training and Development as directed in Public Law 100-458:

Sen. Trent Lott of Mississippi.

Sincerely yours,
ROBERT H. MICHEL,
Republican Leader.

□ 1610

REPORT OF ACTIVITIES OF U.S. GOVERNMENT IN THE UNITED NATIONS AND ITS AFFILIATED AGENCIES DURING CALENDAR YEAR 1987—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committe on Foreign Affairs:

(For message, see proceedings of the Senate of today, January 3, 1989.)

ANNUAL REPORT OF THE DEPARTMENT OF TRANSPORTATION, FISCAL YEAR 1984—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce. The Committee on Public Works and Transportation, and The Committee on Merchant Marine and Fisheries:

(For message, see proceedings of the Senate of today, January 3, 1989.)

ANNUAL REPORT ON ALASKA'S MINERAL RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs:

(For message, see proceedings of the Senate of today, January 3, 1989.)

STATUS OF INQUIRY INTO DISTURBING PATTERN OF DEATH AMONG NAVAL SERVICEMEN WHILE IN TRAINING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. ROTH] is recognized for 5 minutes.

Mr. ROTH. Mr. Speaker, I rise to report to my colleagues on the status of the inquiry into a disturbing pattern of deaths among Navy servicemen while undergoing training. This inquiry began last spring as the result of irregularities that came to my attention surrounding the tragic death of Airman Lee Mirecki, of Appleton, WI. In looking into the matter, I discovered that 16 other Navy men had died since January 1986 while undergoing training. In six of these cases, involving young men at the peak of physical fitness, death was attributed to heart problems.

Having obtained this information, last June I asked for a two-pronged investigation. On June 8, I asked the Comptroller General, to determine what really happened to Lee Mirecki and the other 16 men, and how this pattern of one death every 8 weeks could have occurred. The entire Wisconsin congressional delegation joined me in that request.

On June 21, this House agreed to my amendment to the fiscal year 1989 Defense appropriations bill, requiring a report from the Secretary of Defense on the causes and circumstances of all Navy training deaths since 1985, and the measures he and the Navy Secretary are taking to prevent further deaths. Subsequently, with the help of Senator Proxmire, the other body agreed to my amendment and it was included in the final version of the DOD Appropriations Act.

These two initiatives were carefully undertaken to provide the Congress with a thorough examination of safety in Navy training. My goal is to have two separate reports—first by the Department responsible for overseeing the Navy and the second by our independent investigative agency—to give us two views of this serious situation. With these reports, we should obtain an agenda for improving safety and preventing needless deaths.

Since the 100th Congress adjourned into October, there have been several important developments which my colleagues should note. First, the GAO has responded with a substantial investigation. On December 7, the GAO team conducted a briefing for me and the Wisconsin delegation. They reported finding serious safety problems in Navy training and systemic inadequacies in the Navy's management of safety in its training courses. Specifically, the GAO found:

Inadequate assessment of candidates for the Navy's rescue swimmer school,

Inadequate selection and training of instructors for high-risk courses, and

Inadequate safety precautions and emergency medical procedures.

Significantly, in four of the other deaths aside from Lee Mirecki's, lack of emergency medical responses and failure to follow safety procedures were factors.

Perhaps most shocking was GAO's finding that in all four of the Navy investigations of Lee Mirecki's death, there had been a complete failure to look into the reports of a coverup of the truth. Statements about a coverup began circulating immediately after Lee Mirecki's death—statements that reached his family, reached me and the news media. Yet the Navy failed to look into those statements. The final GAO report, due in mid-February, will

have further details on this incredible dereliction.

Having received GAO's very disturbing findings, I immediately provided this information to Navy officials, and requested a meeting with Defense Secretary Carlucci to discuss his report, which was due on December 31.

For nearly 3 weeks, I heard nothing from Secretary Carlucci's office, despite both telephone and written requests for a meeting. Finally, last Thursday, I was informed that an Assistant Secretary, Mr. Grant Green, would be available to see me. I agreed and met with him last Friday.

With the statutorily required report due the next day, I asked to review its contents. What I was given was a nine-page recitation of the 17 deaths, the barest details of the causes of death, and a sketchy description of supposed improvements in safety procedures.

Frankly, I found the report indecipherable and inadequate. Our congressional mandate was clear: To report on the causes and circumstances of these deaths and report on what was done to prevent further deaths.

My first impression of the DOD report was confirmed when, in the course of the meeting, I learned that the Navy had come to many of the same conclusions as had the GAO team, and that a broad review of safety was underway. Yet nowhere in the DOD report was there a mention of these findings. Assistant Secretary Green and his staff had no explanation for this serious omission.

Mr. Green agreed that the report did not meet the requirements and suggested that the document be submitted as an "interim report." Although the statute does not contemplate an incomplete report, I agreed to accept it, on the condition that the Defense Department finish the job.

That is where the inquiry stands today. On the one hand we have findings by the GAO team that Navy training is still not as safe as it should be, and that Navy investigative procedures are faulty. On the other, we have an unfortunate record of consistently inadequate response by the Navy, and a failure thus far by the Defense Department to look closely at what has occurred in its subordinate agency.

What makes this matter so serious is that the Lee Mirecki tragedy could occur again. Young men and women who commit themselves to defending our country should be trained well and adequately, but that training should not put their lives at needless risk.

Moreover, the American people, and especially the families of those who give their lives in military service, must have confidence that they are told the truth about those tragedies. As one Member of Congress, I will not rest until the military brass fulfill their duty and restore that trust, which their failures have damaged.

□ 1620

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, January 3, 1989.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KILDEE). The Chair wishes to make a statement on behalf of and at the request of the Speaker.

While the Chair ordinarily takes this occasion on opening day of a Congress to announce his policies with respect to particular aspects of the legislative process, including the introduction and referral of bills, recognition for unanimous consent requests of various sorts, and privileges of the floor, the Chair will at this time at the beginning of the 101st Congress in the year of the bicentennial of the U.S. Constitution, preface those announcements with a general statement concerning decorum in the House of Representatives.

It is essential that the dignity of the proceedings of the House be preserved, not only to assure that the House conducts its business in an orderly fashion but to permit Members to properly comprehend and participate in the business of the House. To this end, and in order to permit the Chair to understand and to correctly put the question on the numerous requests that are made by Members, the Chair requests that Members and others who have the privileges of the floor desist from audible conversation in the Chamber while the business of the House is being conducted. The Chair would encourage all Members to review rule XIV to gain a better understanding of the proper rules of decorum expected of them, and especially:

First, to avoid "personalities" in debate with respect to references to other Members, the Senate, and the President; second, to address the Chair while standing and only when and not beyond the time recognized, and not to address the television or other imagined audience; third, to refrain from passing between the Chair and the Member speaking, or directly in front of a Member speaking from the well; to refrain from smoking in the Chamber; and generally to display the same degree of respect to the Chair and other Members that every Member is due.

The Chair will insert in the RECORD an announcement from the Speaker concerning: First, privileges of the floor; second, introduction of bills and resolutions; third, requests for committees to sit during the 5-minute rule; fourth, unanimous consent requests for the consideration of bills and resolutions; and fifth, recognition for 1-minute speeches and special orders. This announcement where appropriate will indicate verbatim the origin of the stated policy and the date thereof, and will show that the Speaker intends to continue the policy reflected in that statement in the 101st Congress.

PRIVILEGES OF THE FLOOR

The Speaker's announced instructions to the Doorkeeper and Sergeant at Arms in the 98th Congress on January 25, 1983, and in the 99th Congress on January 21, 1986, regarding strict enforcement of rule XXXII, specifying those persons having the privileges of the floor during sessions of the House, will be applied during the 101st Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 25, 1983

The SPEAKER. Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the House are extended, and that rule prohibits the Chair from entertaining requests for suspension or waiver of that rule. As reiterated as recently as August 22, 1974, by Speaker Albert under the principle stated in Deschler's Procedure, chapter 4, section 3.4, the rule strictly limits the number of committee staff permitted on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member has an amendment actually pending during the 5-minute rule. To this end, the Chair requests all Members and committee staff to cooperate to assure that not more than the proper number of staff are on the floor, and then only during the actual consideration of measures reported from their committees.

The Chair will again extend this admonition to all properly admitted majority and minority staff by insisting that their presence on the floor, including the areas behind the rail, be restricted to those periods during which their supervisors have specifically requested their presence. The Chair stated this policy in the 97th Congress, and an increasing number of Members have insisted on strict enforcement of the rule. The Chair has consulted with and has the concurrence of the minority leader with respect to this policy and has directed the Doorkeeper and the Sergeant at Arms to assure proper enforcement of the rule.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 21, 1986

The SPEAKER. Rule XXXII strictly limits those persons to whom the privileges of the floor during sessions of the house are extended, and that rule prohibits the Chair from entertaining request for suspension or waiver of that rule. As reiterated by the

Chair on January 25, 1983, and January 3, 1985, and as stated in chapter 4, section 3.4 of Deschler-Brown's Procedure in the house of Representatives, the rule strictly limits the number of committee staff on the floor at one time during the consideration of measures reported from their committees. This permission does not extend to Members' personal staff except when a Member's amendment is actually pending during the 5-minute rule. It also does not extend to personal staff of members who are sponsors of pending bills or who are engaging in special orders. The Chair requests the cooperation of all Members and committee staff to assure that only the proper number of staff are on the floor, and then only during the consideration of measures reported from their committees.

The Chair is making this statement and reiterating this policy because of concerns expressed by many Members about the number of committee staff on the floor during the last weeks of the first session.

The Chair requests each chairman, and each ranking minority member, to submit to the Doorkeeper a list of staff who are to be allowed on the floor during the consideration of a measure reported by their committee. Each staff person should exchange his or her ID for a "committee staff" badge which is to be worn while on the floor. The Chair has consulted with the minority leader and will continue to consult with him. The Chair has furthermore directed the Doorkeeper and the Sergeant at Arms to assure proper enforcement of rule XXXII.

INTRODUCTION OF BILLS AND RESOLUTIONS

The Chair would also announce that the Speaker's statement in the 98th Congress on January 3, 1983, regarding signing of bills and resolutions, his determination of committee jurisdiction on a joint or sequential basis, and regarding the Speaker's discretionary authority to refer nongermane Senate amendments to House bills to the committees of appropriate jurisdiction, will continue to apply in the 101st Congress.

ANNOUNCEMENT BY THE SPEAKER, JANUARY 3, 1983

The SPEAKER. The Chair would like to make a statement concerning the introduction and reference of bills and resolutions.

As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several hundred bills have been introduced. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not apear in the RECORD as of today will be included in the next day's RECORD and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92nd Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

The Chair also desires to announce that pursuant to the authority granted him in rule X, clause 5, he will continue the practice of making referral of bills and resolutions as indicated in the annotations under that clause contained in the House Rules and Manual.

REQUESTS FOR COMMITTEES TO SIT DURING THE 5-MINUTE RULE

The Speaker's guidelines announced during the 98th Congress on March 3, 1983, regarding unanimous consent requests for committees to sit during the 5-minute rule will continue to apply during the 101st Congress.

ANNOUNCEMENT BY THE SPEAKER, MARCH 3, 1983

The SPEAKER. The Chair announces that he will recognize Members to make requests for committees to sit during the 5-minute rule only at certain times during the legislative day. While the precedents indicate that such requests when pending are not votes requiring the presence of a quorum, the Chair wishes to avoid the need for a call of the House pending such requests but at the same time to assure predictability as to when he will accord recognition. Therefore, the Speaker intends to set up the following guidelines:

First, as has been established by precedent, permission to sit shall require unanimous consent if the permission pertains to a day for which the program has not been announced. Thus, prior to the announcement of the legislative program for the following week, only one objection would be required to prevent a committee from sitting. Following the announcement by the majority leader, or his designee, of the program for the next week, the Chair would entertain requests for committees to sit during the following week and 10 objections would then be required. The Chair wants it to be clearly understood that the first available opportunity in the House following the announcement of the program is an appropriate time for considering requests pertaining to the following week if the announcement comes before the completion of all legislative business.

Second, the Chair will not entertain requests on days when all votes on legislative matters have been postponed to a later date; however, the Chair will accept requests for committee hearings to be held later in the week if the request has the concurrence of the ranking minority member of the committee or subcommittee.

Third, on days when legislative business is to be conducted, and when rollcall votes are in order on legislation, the Chair will recognize during the 1-minute period only when he is assured that the ranking minority member of the committee or subcommittee involved supports the request for the hearings or meeting.

Requests that have been objected to by 10 or more Members pursuant to clause 2(i) of rule XI may not be renewed on the same day unless the Chair is assured that the objections have been withdrawn.

The Chair will in no instance entertain requests after the legislative business of the day has been concluded; that is, after leaves of absence have been laid down or unanimous consent requests from the majority and minority tables have been entertained at the end of the day.

UNANIMOUS-CONSENT REQUESTS FOR THE CONSIDERATION OF BILLS AND RESOLUTIONS

The Speaker's statement in the 98th Congress on January 25, 1984, with respect to recognition for unanimous-consent requests for the consideration of unreported bills and resolutions and for the consideration of House bills with Senate amendments will apply during the 101st Congress

ANNOUNCEMENT BY THE SPEAKER, JANUARY 6, 1987

The SPEAKER. As indicated on page 488 of the House Rules and Manual, the Chair has established a policy of conferring recognition upon Members to permit consideration of bills and resolutions by unanimous consent only when assured that the majority and minority floor leadership and committee and subcommittee chairmen and ranking minority members have no objection. Consistent with that policy, and with the Chair's inherent power of recognition under clause 2, rule XIV, the Chair, and any occupant of the Chair appointed as Speaker pro tempore pursuant to clause 7, rule I, will decline recognition for unanimous consent requests for consideration of bills and resolutions without assurances that the request has been cleared by that leadership. This denial of recognition by the Chair will not reflect necessarily any personal opposition on the part of the Chair to orderly consideration of the matter in question, but will reflect the determination upon the part of the chair that orderly procedures will be followed; that is, procedures involving consultation and agreement between floor and committee leadership on both sides of the aisle.

With respect to unanimous consent requests to dispose of Senate amendments to House bills on the Speaker's table, the Chair will entertain such a request only if made by the chairman of the commitee with jurisdiction, or by another committee member authorized to make the request. (Apr. 26, 1984, p. ; Deschler's Precedents ch. 21, sec. 1.23).

RECOGNITION FOR 1-MINUTE SPEECHES AND SPECIAL ORDERS

The Speaker's statement in the 98th Congress on January 25, 1984 with respect to the Speaker's policy for recognition for 1-minute speeches and special orders, alternating between both sides of the aisle, announced on August 8, 1984, and implemented on September 5, 1984, will apply during the 101st Congress.

ANNOUNCEMENT BY THE SPEAKER, AUGUST 18, 1984

The SPEAKER. After consultation with and concurrence by the minority leader, the Chair announces that he will institute a new policy of recognition for "1-minute" speeches and for special order requests. The Chair will alternate recognition for 1-minute speeches between majority and minority Members, in the order in which they seek recognition in the well under present practice from the Chair's right to the Chair's left, with possible exceptions for Members of the leadership and Members having business requests. The Chair, of course, reserves the right to limit 1-minute speeches to a certain period of time or to a special place in the program on any given day, with notice to the leadership.

With respect to recognition for "special order speeches" at the end of legislative business of the day, the Chair will recognize first those Members who wish to address the House for 5 minutes or less, alternating between majority and minority members, otherwise in the order in which those permissions were granted in the House. Thereafter, the Chair will recognize those Members who wish to address the House for longer than 5 minutes up to 1 hour, alternating between majority and minority members in the order in which those permissions were granted by the House.

Thus, all Members can continue to obtain permissions to address the House In the same ways as are presently utilized, either by requests made by the acting majority and minority leaders at the end of the day through their respective Cloakrooms or by individual requests agreed to on the floor for that day or for a future day. For the request to be entertained, it should state "permission to address the House at the conclusion of legislative business, consistent with the Speaker's announced policy of recognition." Thus, Members should be on notice that a special order for more than 5 minutes, although agreed to at a prior time, may be preceded by a series of special orders of 5 minutes or less, or by a longer special order of a Member of the other party.

Further refinements of this policy based upon experience may be announced by the Chair in the future after consultation with the minority leader.

CAMPAIGN FINANCING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, this new Congress will have many important tasks to undertake, much work to do, and a long and difficult road to travel. In the coming months, we will all need to work together; majority and minority, liberal and conservative, urban and rural, north and south, east and west. We cannot delay in our work, nor can we put off doing that which must be done.

One of the most important issues before us is the question of political campaign financing. I am keenly aware of the differences of opinion that exist in this body, in the Congress, and indeed, in the Nation, as to what must be done. But there is no doubt that the way we raise money and spend money for political campaigns is in question more today than ever before. There is no question that something must be done. My leaders in this House, and the leaders of the other party agree with me. Campaign financing reform is at the top of our agenda.

I am also very much aware that every Member is an expert in this matter. We all have to raise money; we all have to spend money; and we all know instinctively what the laws ought to be. For every proposal, there will be 434 counterproposals. For every measure proposed as reform there will be the criticism that it either goes too far, or doesn't go far enough. Every proposal will be greeted with partisan acclaim or scorn. There will be advocates to preserve every existing loophole.

But, in the end, I am confident that the 101st Congress will enact some meaningful legislation—not because it helps incumbents or challengers; not because it preserves the status quo or makes revolutionary changes—but because it is needed and because the people demand it.

In the course of recent elections, a number of abuses have been reported by citizen groups and the media. They deal with unfair, or loaded financial regulation which assures the return of incumbents; with excessive influence purchased by political action committees; with large amounts of unreported money disappearing into State and local organizations; and with inflated campaign expenditures which all but price new candidates out of the campaigns. These are serious matters, and they demand our most serious consideration.

As chairman of the Committee on House Administration, I will have the responsibility to see to it that the House has an opportunity to consider these matters, and to improve the campaign financing system. Our Subcommittee on Elections, ably led by the gentleman from Washington [Mr. SWIFT] is already at work. I am setting these issues as the first priority for our full committee.

We are today introducing several bills to begin the process.

We have developed several bills rather than one omnibus bill because I know that some areas will be the subject of vigorous debate. Sometimes, in such complex matters, it is better to reduce them to a series of simple bills each dealing with part of the problem. That way, we can work out legislation that can be enacted, rather than legislation that is for show only.

I do not pretend that I have all the final answers; I do not hold myself out as the country's greatest expert on campaign finance. But I do know that this Congress is ready to legislate, and I am ready to begin.

The bills we introduce today cover several areas of campaigning and campaign financing which, taken together, represent real reform and improvement. The bills deal with some of the issues which have been raised during the past several campaigns.

My first bill, which Mr. SWIFT is cosponsoring, deals with soft money. That is a term that has been prominent in the press lately. It has different meanings to various groups. It describes political money that does not appear to fall under existing law, because it is not directly associated with Federal elections. It has a great indirect influence, however, and the public is entitled to know where it comes from, where it goes, and how it is used. Chairman SWIFT and I believe that the bill I am introducing today will go a long way toward achieving a better understanding of soft money, and bring it under appropriate regulation.

My second bill, also cosponsored by Mr. SWIFT, deals with the questionable practice of bundling, which permits the assembly of large numbers of contributions into a bundle, so as to exert maximum influence on the recipient. This is wrong, and we ought to stop it.

A third bill, by Mr. SWIFT, which I am pleased to cosponsor, would revise the way in which we regulate the operation and financing of campaigns. It would improve the regulation of multicandidate political committees, or PAC's. It would provide reduced costs for radio and television time and for campaign mailings.

A fourth bill, which has passed the House before, would set a uniform time for closing the polls across the country, so that early announcements would not discourage voters from turning out in the Western time zones.

Mr. SWIFT and I are also introducing a voter registration bill which would simplify the process of registering to vote in Federal elections.

I hope that my colleagues on both sides of the aisle will join me in sponsoring these bills. I know that the process of subcommittee consideration and markup, and full committee markup will in all probability improve and strengthen them. It is my intention to seek the earliest possible subcommittee consideration of these and other bills in our jurisdiction and to report them promptly to the floor.

Additional legislation will be proposed by others. I would expect, for example, legislation to reestablish a tax credit for political contributions, along with bills to deal with other perceived flaws in the present system.

This Congress has a mandate for reforming campaign financing. I urge all my colleagues to study these bills carefully, and to support them. I can assure you that the Committee on House Administration takes its responsibility seriously, that it will listen carefully to the suggestions of all Members, and that it will act both responsibly and promptly.

FIRST TIME HOMEBUYERS' ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, I rise today to introduce legislation designed to help young persons make that all-important first home purchase.

Homeownership, as many of my colleagues are aware, is on the decline. A recent Congressional Research Service report noted that while the homeownership rate rose from 44 percent in the 1940 census to 65.6 percent in 1980, that rate had declined to 63.7 percent in the first half of 1988.

For first-time homebuyers, the need is especially acute. National Association of Realtors president Nestor R. Weigand, Jr., noted in the November 15, 1988, Washington Post that "housing affordability for first time buyers, compared to those for the overall homebuying public, has deteriorated to the worst point in 13 years, and we don't think the situation will remedy itself."

In the Midwest, the decline in homeownership among younger persons is especially pronounced. At this point, I ask unanimous consent to include in the RECORD a table compiled by the Joint Center for Housing Studies of Harvard University which indicates that decline:

The material follows:

HOMEOWNERSHIP RATE BY REGION AND AGE: 1973 to 1987

[In percent]

Region and age	1973	1976	1980	1983	1987
Midwest	69.1	69.5	70.3	70.0	67.1
< 25	25.3	24.4	24.6	21.8	16.2

HOMEOWNERSHIP RATE BY REGION AND AGE: 1973 to 1987—Continued

[In percent]

Region and age	1973	1976	1980	1983	1987
25 to 29	47.9	48.6	50.5	43.5	40.2
30 to 34	66.5	68.6	68.1	63.0	58.6
35 to 39	76.0	77.5	78.0	74.0	69.7
40 to 44	79.2	81.3	80.7	81.6	73.3
45 to 54	80.9	81.1	83.7	82.6	80.7
55 to 64	79.6	82.4	83.1	85.0.	84.2
65 to 74	76.6	77.6	79.1	81.6	79.4
75 plus	71.8	70.0	69.0	74.7	70.1

One of the biggest roadblocks to first-time home purchase, especially for younger families, is the downpayment. Many potential purchasers can afford the monthly mortgage payment. Assembling the hefty downpayment required for even a moderately priced home keeps them out of the homebuying market.

The First Time Homebuyers' Act of 1989, which I introduce today, is designed to give a hand to those saving toward the purchase of a first home. Specifically, it allows withdrawal of funds from an IRA—$5,000 per individual; $10,000 per couple—without initial tax penalty if those funds are applied toward the downpayment of a moderately priced first home.

First-time homebuyers need a hand. The Federal Government, however, simply cannot afford a handout. No housing legislation will become law in the 101st Congress if it results in substantial revenue loss to the Treasury—nor should it. Accordingly, the First Time Homebuyers' Act of 1989 includes a tax recapture mechanism triggered by the purchase of a second home. By requiring repayment of the tax subsidy—typically upon purchase of another home several years after the purchase of the first home—this legislation is designed to help put people into their first homes without draining the Treasury.

Legislation of this type was recommended in the March 1988 Report of the National Housing Task Force. That panel made some very cogent observations about the inability of first-time homeowners to use IRA's to make an investment in their home. The panel's report, "A Decent Place to Live," said:

The law permits a broad range of investment vehicles for IRA's—but not one's own home. This is neither sensible nor fair. To most Americans, a house is their most significant, costly and valuable investment. If a family can invest its IRA in gold or soybean futures, why not in its home?"

The report, which will be discussed widely this year as Congress lays the groundwork for a housing policy of the 1990's, asks a good question. Why should not Americans be allowed to use IRA's to invest in their own homes? In my view, such investment is far more socially productive than using an IRA to speculate on the soybean market.

The National Housing Task Force report also makes an important observation on the revenue aspects of IRA downpayment legislation. The report points out:

While certain families might be encouraged by this program to establish IRA's for the purpose of buying a home, this authority should not cause significant loss of revenues to the Federal Government. It would not change the amount of money that may be deposited in benefit plans, nor the income limits or other conditions on tax-deferred deposits—limitations that have reduced the cost of new IRA's. Normal IRA taxation rules would apply to amounts withdrawn prematurely and to amounts received that are not reinvested in a home. Because taxes are already deferred on the appreciation of a home, there would be no incentive to invest IRA funds beyond the minimum level needed to qualify for a home; above that amount, the buyer would, in effect, be losing the benefit of tax-deferred appreciation and earnings that would otherwise be realized in a retirement account. Thus, overall revenue loss to the Federal Government might indeed be less than if buyers had separate tax-deferred investments in their homes and their retirement accounts.

Mr. Speaker, I urge support for this legislation. At this point, I ask unanimous consent to include in the RECORD a section-by-section description of the First Time Homebuyers' Act of 1989.

THE COAL PIPELINE ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. UDALL] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, today I am introducing the Coal Pipeline Act of 1989 which will allow the construction of interstate coal pipelines. Such pipelines will carry pulverized coal mixed with water or other liquids to a powerplant. This bill would allow interstate coal pipelines, which have obtained State authority for water use and are determined to be in the national interest, to exercise the Federal right of eminent domain.

The Coal Pipeline Act will offer shippers an alternative, less expensive means of transportation thus enhancing competitiveness of American coal. The Coal Pipeline Act will lower rates for consumers and reduce reliance on foreign fuel and the Coal Pipeline Act will provide jobs in the construction, manufacturing, and operation of the pipelines. Without Federal eminent domain authority coal pipelines will not be built. Eminent domain has historically been available to other interstate energy and transportation systems—including railroads—and I believe that it is necessary and appropriate to extend such authority to coal pipelines.

The Federal right of eminent domain is necessary because over the years the railroads have blocked the construction of coal pipelines by forcing the costly litigation of easements over railroad rights-of-way. In August 1984 the railroads successfully blocked the Energy Transportation System, Inc. [ETSI] pipeline project by forcing court determination of 67 separate rights-of-way over a 6-year period. ETSI invested more than $130 million and spent more than 10 years trying to obtain the necessary rights-of-way. ETSI prevailed on the merits each time but was forced to abandon the project because of the expense and delays caused by litigation. I think such actions are unconscionable.

Coal pipelines would mean cheaper and more competitive American coal in the United States and in the world marketplace. Without coal pipelines railroads can charge unreasonably high rates, increasing the delivered price of coal. Currently the railroads have no competition in the transport of coal and since deregulation can charge unreasonably high rates. The Coal Pipeline Act would enable pipelines, that conform to State water law, meet the environmental criteria and are in the national interest to gain the rights-of-way necessary for construction. The bill would only allow construction of coal pipelines that first obtain water rights under appropriate State law and that the Secretary of the Interior determines to be in the national interest.

Mr. Speaker, the Coal Pipeline Act of 1989 will save taxpayers millions of dollars. This legislation has the potential of creating over 300,000 new jobs in construction, manufacturing, and service-related industries, and will enable the steel industry to compete for the production of the millions of tons of steel pipe necessary to build coal pipelines in the United States. Most importantly the Coal Pipeline Act of 1989 will enable the free market to operate, increasing the competitiveness of the American coal in the United States and world marketplace. I urge my colleagues to support this important legislation.

CLEAN AIR ACT AMENDMENTS OF THE 101ST CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, today I am introducing a bill to address the problem of toxic chemicals in the air. I view this bill as a first step toward enactment in this Congress of a comprehensive clean air bill that is fair, reasonable, and effective without encumbering economic expansion in this Nation or hindering competition for our industrial and commercial sectors.

The bill is identical, with one minor technical exception, to the air toxics bill (H.R. 5556) that I introduced late in the 100th Congress by request. That bill was drafted by the Environmental Protection Agency [EPA] and provided to me as a courtesy. While it did not have any official administration status, it was a helpful and good effort and most importantly, a recognition by the EPA that a legislative "fix" for section 112 of the Clean Air Act is needed. I have urged a "legislative fix" for several years.

I have not used the words "by request" this time because I do not think it is necessary. The questions and concerns I raised when I introduced H.R. 5556 remain valid today. They include a concern about the long list of substances, the idea of such a list, the priorities, the deadlines, and the extent of controls. There has not been enough time, particularly with the holidays, to receive and consider responses to these concerns and questions or to hear other comments and to make any changes to meet my concerns. However, no one should delay greatly because, as you know Mr. Speaker, I am considering introduction of a more comprehensive bill that surely will include toxics as one of the important parts.

It is also important to point out that Congress has not amended the Clean Air Act since 1977. During that time, the law—which is permanent and does not need reauthoriza-

tion—has been very effective in improving our Nation's air quality. Since then, there also have been a number of proposals in several Congresses to amend the law in the House. Most centered around the acid rain issue which has been quite controversial.

During the 100th Congress, the debate shifted. The 1987 deadline for ozone and carbon monoxide nonattainment areas expired and legislative proposals to expand the law greatly in regard to those areas were introduced for the first time in the House, along with differing acid rain proposals. Until H.R. 5556, the issue of toxics was not before us despite its clear importance. Late last year, EPA pointed out that changes in the law were also needed to deal with the new PM-10—fine particulate—standard. In short, the scope of the Clean Air Act agenda never fully crystallized in the House during the 100th Congress.

I think we are better informed today and have an opportunity to carefully and deliberately fashion a proper legislative package. That is my objective which I know you share Mr. Speaker. I want to work with you in achieving it before the end of the 101st Congress. I know that many of my colleagues on both sides of the aisle on the Energy and Commerce Committee also share that goal. I look forward to working closely with them, the new administration, industry, labor, the cities, and others to develop a comprehensive bill.

CALENDAR OF EVENTS FOR COMMEMORATION OF THE BICENTENNIAL OF THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, with the convening of the 101st Congress we begin the commemoration of the bicentennial of the House of Representatives which, on March 4, 1989, will complete 200 years of service to the Nation under the U.S. Constitution. It will also mark the beginning of our third century. So, we will be looking back into history for lessons and inspiration as we help prepare for the future and the 21st century. As the jurist Oliver Wendell Holmes, Jr., said, "When I want to understand what is happening today or try to decide what will happen tomorrow, I look back." Our Founding Fathers knew well the power of history and used its lessons well when they drafted the Constitution. It was up to the Congress to fulfill the work of the Founders by turning that great document into a working government.

The Commission on the Bicentenary of the House of Representatives has been given the pleasant assignment of planning the celebration of our 200th anniversary with appropriate exhibits, publications, conferences, and ceremonies. The Office for the Bicentennial of the House has prepared a year-long program in cooperation with the Senate Bicentennial Commission, the Library of Congress, the Smithsonian Institution, the National Archives, the Department of the Army, and others who have lent their efforts to the congressional bicentennial.

Mr. Speaker, I would like to insert into the RECORD the Calendar of Bicentennial Events for 1989. I urge all my colleagues to join in this celebration of 200 years of representative government in the United States.

JANUARY 3

Publication: "Biographical Directory of the United States Congress, 1774-1989: Bicentennial Edition." A joint project of the House Bicentennial Office, the Senate Historical Office, and the Joint Committee on Printing.

JANUARY 23

Exhibit: "The Splendid Hall." Statuary Hall, U.S. Capitol. Featuring the history of the House when Statuary Hall served as its chamber from 1807 to 1857. A joint project of the House Bicentennial Office and the Office of the Architect of the Capitol.

Publication: "A Guide to Research Collections of Former Members of the U.S. House of Representatives." A project of the House Bicentennial Office.

FEBRUARY

Publication: "Black Americans in Congress," to be issued during Black History Month. A project of the House Bicentennial Office.

FEBRUARY 9-10

Conference: "Understanding Congress: A Bicentennial Research Conference." Sponsored by the U.S. Congress, the Library of Congress, the Lyndon Johnson Library, and the Everett Dirksen Congressional Center.

Publications: "Guide to Records of the United States Senate at the National Archives, 1789-1989" and "Guide to Records of the United States House of Representatives at the National Archives, 1789-1989." A project of the National Archives.

Publication: "Respectfully Quoted: A Dictionary of Quotations Requested from the Congressional Research Service." Library of Congress.

Exhibit: "The Tides of Party Politics: Two Centuries of Congressional Elections, 1789-1989." Library of Congress.

FEBRUARY 20

Exhibit: "Congress in Stamps." Cannon House Office Building and other locations. sponsored by the House and Senate bicentennial commissions, and the U.S. Postal Service.

MARCH 2

Exhibit: "The First Federal Congress: 1789-1791." The National Portrait Gallery. Sponsored by the Smithsonian Institution and the U.S. Congress.

Joint Meeting of Congress: House Chamber. To commemorate the 200th anniversary (March 4) of Congress's first meeting.

MARCH 3

Exhibit: "American Voices: 200 Years of Speaking Out." National Archives. A celebration of two centuries of American representative government as seen through petitions from American citizens to their government.

MARCH 8-9

Symposium: "Knowledge, Power and the Congress." Library of Congress.

MARCH 20

Film: "The Congress." Nationwide premiere on PBS Television of Ken Burns' 90-minute documentary film on Congress. Nine o'clock p.m., Eastern Time. Underwritten by Ameritech and produced by WETA-TV.

APRIL 4

Ceremony: House chamber. Special session to commemorate the 200th anniversary of the first quorum of the U.S. House of Representatives.

Postage Stamp: First Day of Issue Ceremony for a commemorative postage stamp in honor of the House of Representatives.

APRIL 30

Ceremony: Federal Hall, New York City. Congressional participation in ceremonies commemorating the 200th anniversary of the inauguration of George Washington.

MAY 30

Exhibit: "This Fierce Spirit of Liberty." National Archives. Documents related to the Bill of Rights.

JUNE 13

Publication: "Women in Congress, 1917-1989." A project of the House Bicentennial Office.

SEPTEMBER 21-22

Conference: "The Judiciary Act of 1789." Co-sponsored by the Judicial Conference of the United States, Georgetown University, and the Supreme Court Historical Society.

SEPTEMBER 28

Exhibit: "'To make all Laws. . . .' The Congress of the United States, 1789-1989." Library of Congress.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Mr. Speaker, if I had been present, I would have voted "yes" on ordering the previous question on House Resolution 5, adopting the rules of the House. The bell system had not been connected in my office. I was not informed of the vote.

PERSONAL EXPLANATION

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from California [Mr. HERGER] is recognized for 5 minutes.

Mr. HERGER. Mr. Speaker, earlier today on rollcall vote No. 4, House Resolution 5, a motion to commit with instructions, I inadvertently voted "nay." My intention was to vote "yea," and I regret that time expired on the vote before I discovered the error.

I trust this explanation of my position on a procedural vote will clear up any possible confusion.

CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 60 minutes.

Mr. DREIER of California. Mr. Speaker, I went through a great deal of thought in the past several weeks as to what I was going to offer as my maiden speech in this historic 101st Congress.

Today, we begin the third century of the U.S. Congress. This Congress will lead us into the last decade, not only

of this century but of this millennium, and there are a wide range of issues which I had wanted to discuss.

Mr. Speaker, of course, as a member of the Committee on Banking, Finance and Urban Affairs, we are dealing with one of the most critical problems—the savings and loan crisis. We, of course, have the budget deficit which is an overwhelming one, and then we look at the problem that expanded within the past 2 weeks, that of international terrorism and the horrible plight of those who were on the Pan American Flight 103. I had actually decided that I was going to talk specifically about an area where I have had the privilege to work and focus a great deal of attention in the past several years, and that is the plight of the people of Afghanistan. Since December 27, 1979, they have been suffering from genocide at the hands of the Soviets, and that continues today even though we are attempting to bring about a total withdrawal of Soviet troops in Afghanistan.

Mr. Speaker, I am not going to talk about those, as I have made a decision to do a couple of things, and it stems in part from the spectacular opening speech which the Speaker provided us today in his acceptance of the Speakership, and that specifically, Mr. Speaker, is the situation as it exists in Central America.

Mr. Speaker, between Christmas and New Year's, I had an opportunity to spend the week in Central America. We were in Honduras, El Salvador, and Costa Rica. I am not going to stand here and encourage Contra aid, which certainly will be an issue which we will face, I hope, at some time. I am not going to lay down that challenge today.

Mr. Speaker, I am one who has supported the negotiating process in the past. I supported the Contadora process. In August 1987, I enthusiastically supported the Reagan-Wright peace plan. I supported the Esquipulas 2 plan which was signed August 7, 1987, and I supported the Sapoa agreements even though I knew as President Reagan has said over and over again, "name one totalitarian Communist regime which has ever negotiated itself out of existence, and you cannot do it." But I have still wanted to hold out that little tiny bit of hope, Mr. Speaker, that as we have tried the diplomatic route over and over again, that we would in fact be successful. Tragically, as the repression continues, it is no secret that we have seen the failure of all of those plans in Central America.

I will tell the Speaker, having spent the last week in Central America, I am very concerned, and I know the Speaker is, too. The Speaker demonstrated that in his opening speech here to us today. He talked about the fact that we desperately want a bipartisan foreign policy.

The SPEAKER pro tempore. The Chair will remind our guests in the Chamber that they are our guests. We appreciate their presence here, but under the rules of the House, signs of approval or disapproval of what takes place on the floor are not allowed, but we do welcome them here.

The gentleman may continue.

Mr. DREIER of California. Mr. Speaker, I know the wonderful people from the State of Delaware do certainly, many of them, support exactly what I am talking about, but I have a sneaking suspicion that the boisterous sign of approval from the gallery had nothing to do with anything that I was saying.

Mr. Speaker, nevertheless, I want to talk about the Speaker's speech which was delivered earlier this afternoon and the call for a bipartisan foreign policy which was a very good and strong one.

Mr. Speaker, in fact, if we look at the foreign policy which this administration has propounded over the past several years, it does, in fact, have bipartisan support. I talked about the situation in Afghanistan. There was virtual unanimity of thought amongst the Democratic and Republican Members of both the House and the Senate in support of the Mujahidin who have been struggling for freedom, and also if we look at other parts of the world, the Mideast, if we look at Western Europe, many of us called for an increase in participation of our allies, specifically West Germany and Japan, in support of their defenses.

□ 1630

Both sides of the aisle joined in that call quite often.

There has been some disagreement in the southern tip of Africa, but nowhere, Mr. Speaker have we had a greater struggle in trying to bring about a bipartisan foreign policy than we have in our own backyard in Central America. I want to provide the 101st Congress with a challenge.

You said, Mr. Speaker, that democracy is on the move. We are all very proud of the fact that over this past decade we have seen for the first time in years free and fair elections held in Guatemala, Honduras, El Salvador, Brazil, Argentina, Bolivia, Uruguay. We have seen in Granada free and fair elections held. Of course also in the Philippines, South Korea, Pakistan, Chile. We know, in fact, that with many of these fledgling democracies democracy is, nevertheless, on the move. I would argue, Mr. Speaker, from having spent last week in Central America, that democracy is on the move even further in Central America.

I said I was not going to stand here and call out for aid to the Democratic Resistance, even though I do believe that it is a necessity. What I am here to do in this maiden speech in this 101st Congress, Mr. Speaker, is laying out a challenge for us in the Congress. That challenge is another diplomatic one.

We have seen over the past several years a tremendous improvement in relations with the Soviet Union. It is no secret that having signed that historic Intermediate Nuclear Force agreement that we have made strides. I do not believe everything is perfect. I do not think anyone believes everything is perfect now, but we have made significant strides. But again, we have seen a destabilization which continues to take place, unfortunately, in Central America. In fact last June when President Reagan went to Moscow General Secretary Gorbachev refused to discuss Central America.

I talked about the bipartisan support which has existed throughout the world, Mr. Speaker. Last week, while in those Central American countries which I visited, time and time again business people, campesinos, military leaders, and political leaders asked me this question over and over again: Why is it that you have bipartisan consensus supporting the Democratic Resistance, the Freedom Fighters, the Mujahidin in Afghanistan, and yet we have an identical cause here, a cause which is identical to that which the people of Afghanistan are fighting, and we are geographically closer to you, and yet you cannot get a bipartisan consensus? Mr. Speaker, I hope that our bipartisan consensus, which frankly has existed over the past several months because we on both sides of the aisle have, not necessarily out of choice, in every instance supported in negotiating process. But I have to ask this question, Mr. Speaker: If the Sandinistas truly are a nationalistic revolution which they claim from July 1979 back when they promised those four basic things to the Organization of American States; free and fair elections, an end to human rights violations, a nonaligned foreign policy, and political pluralism, why, Mr. Speaker, if they truly are a nationalistic revolution are they still receiving $1 billion a year in military and economic aid from the Soviet Union?

I believe that is the challenge we face. We must encourage the Soviet Union, if they truly are interested in perestroika and glasnost, to extricate themselves from this part of the world.

Let me throw this out, Mr. Speaker: what is the strategic significance of Central America to the Soviets? Is there any great economic opportunity which the Soviets could seek in Central America? Absolutely not. There is no significant economic gain to be accrued to the Soviets. The only reason, the only reason that the Isthmus of

Central America has a strategic significance now to us is the fact that there is the Soviet presence.

We have the socialist Nicaragua threat which is close to the Panama Canal and that's an issue which has yet to be resolved. We hear reports that the Soviets may be reducing their assistance to both Cuba and to Nicaragua.

One of the main reasons is, and it has been no secret, we have seen for the past 2 to 3 years a lack of accounting of the expenditure of those Soviet dollars in Nicaragua as they have headed into Nicaragua, specifically over the issue of oil. Even though we hear the reports, military and economic aid from the Soviets continues to flow to Nicaragua.

We know though that Fidel Castro, who 12 years ago was one of Daniel Ortega's chief supporters, is meeting today, this very day in Havana with Ortega as Castro celebrates the 30th anniversary of his Communist rule. We know that the backing which the Cubans have provided to that operation of Daniel Ortega's is going to continue as Ortega is Castro's protege.

What we must do, Mr. Speaker, is encourage the Soviets to extricate themselves from Central America. Why are the Soviets supporting the worst, most difficult military dictator in this hemisphere? Why is it that Nicaragua must have the largest armed force in the region? Why must it have block committees? Why not freedom of assembly, freedom of the press, freedom of religion, those things that were promised to the Organization of American States, those things that were promised in the Esquipulas II agreement a year and a half ago?

The Soviets say that they want normal relations in this part of the world. They should prove it, Mr. Speaker, by getting out now.

What is it that the United States of America wants? We want only that these countries in Central America have the opportunity to continue to evolve as part of Western civilization. Western civilization, of course, comes in a great variety of forms, Mr. Speaker. That is the virtue of freedom. It allows, indeed it demands diversity. We do not seek to impose our will on Central America, only that they be allowed to express their own will, free from the arbitrary use of violence.

The Central Americans I found from spending the week down there do not want us out of Central America, Mr. Speaker. They want the Soviets out of Central America. From us they want support, understanding, empathy, and a consistent policy which is supported by both Democrats and Republicans.

Many Central Americans do not support the Contras not because the Contras, cannot do the job, but because they cannot do the job without consistent United States support, and by themselves they cannot do the job if the Sandinistas can count on unlimited Soviet, Cuban support. The Central Americans believe that if the Soviet support is withdrawn, the Sandinistas cease to be a threat.

The Contras are predominantly peasants, campesinos, who just want to return home and farm without interference, without collectivization, and without being drafted. And I have to say, Mr. Speaker, what I witnessed down there was incredible, young 15-, 16-, 17-year-old boys who told us of how their friends were being corralled and literally kidnaped and taken to join the Sandinista army. They talked about how young 10-, 11-, and 12-year-olds are used by the Sandinistas in Nicaragua and the FMLN, the Communist guerrillas in El Salvador, to crawl on their hands and knees to detect land mines. Then I asked a young person who was at a camp right on the border in southern Honduras if the Democratic Resistance did anything like that, and he said no, not at all.

I have a Contra training manual which is sitting in my office, Mr. Speaker, and probably I will have the opportunity to bring it down later, which talks about the necessity for insuring human rights.

□ 1640

So those on the other side of the aisle who continually talk about human rights violations being perpetrated by the Contras, are, in fact, wrong. If the Soviets withdraw, the United States of America can relax. If the Sandinistas stop forced recruitment into their giant military, and if they allow the campesinos to work their own land and sell their own crops, the Contras will cease being a threat to them.

Well, I will tell you that the fact that the people of Nicaragua cannot work their own land and run their own crops is really what it is that is keeping them strong and together.

I asked individuals time and time again "Why is it that you are here working as a Contra freedom fighter?" They said, "It is simply because Sandinista Soldiers came and took our lands and corralled up so many of our friends."

Mr. Speaker, these demands for a pluralistic society are very reasonable demands, easily verified, that can in fact begin immediately. After all, they were promised in 1979 and in the many agreements which the Sandinistas continue to violate. A prolonged period of diplomacy is not necessary but I am told that within the next couple of days we are going to see a new diplomatic initiative emanating from the Democratic Resistance. And, Mr. Speaker, once again, even though I have my doubts about a totalitarian Communist regime negotiating itself out of existence, I will support this next peace plan.

If, Mr. Speaker, fanatical minorities throughout Central America believe they can count on unlimited, unending Soviet/Cuban support they will endure and they will wear us down. In fact, they may have already done it. If we refuse to know the enemy, let us at least know ourselves, Mr. Speaker. We will tire, and the human tragedy that is already unfolding will come crashing into our consciousness only when the cost of reversing it will have become astronomical.

Mr. Speaker, on several occasions I have pointed to the fact, which was reaffirmed on this trip last week, that the four democratically elected presidents in Central America, Cerezo of Guatemala, Azcona of Honduras, Durate of El Salvador and Arias of Costa Rica do not in fact share the exact same goal which we do. You would think that they do, but they do not.

A number of political and military leaders in those countries asked us to send in U.S. military forces. That is what they want.

What we want to do, Mr. Speaker, is to insure we never have to send a single U.S. combat troop to Central America.

If we are to have the time our system needs to deal with this troubled part of the world, then the Soviets must go and that is the gauntlet which I lay down for the 101st Congress.

Mr. Speaker, in the spirit of bipartisanship in foreign policy which you eloquently discussed today let's insist that the Soviets extricate themselves from Central America and do it now.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 60 minutes, today.

Mr. ROTH, for 5 minutes, today.

Mr. HERGER, for 5 minutes, today.

(The following Members (at the request of Mr. PARKER) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. UDALL, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. HOAGLAND, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. GUNDERSON in four instances.
Mr. GILMAN in two instances.
Mr. RITTER.
Mr. GRANDY.
Mr. FIELDS.
Mr. MICHEL in two instances.
Mr. GALLO in two instances.
Mr. LEWIS of Florida.
Mr. CLINGER.
Mr. HEFLEY.
Mr. SCHULZE.
Mr. LIVINGSTON.
Mr. DRIER of California.
Mr. SHUMWAY.
Mr. HORTON.
Ms. SNOWE in two instances.
Mr. LEACH of Iowa.
Mr. ROTH.

(The following Members (at the request of Mr. PARKER) and to include extraneous matter:)

Mr. ACKERMAN in two instances.
Mr. EDWARDS of California.
Mr. LANTOS.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mrs. LLOYD in five instances.
Mr. HAMILTON in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. DE LA GARZA in 10 instances.
Mr. BATES.
Mr. MORRISON of Connecticut.
Mr. ROE.
Mr. WEISS in six instances.
Mr. OBERSTAR in three instances.
Mr. AUCOIN.
Mr. FLORIO.
Mr. BEILENSON.
Mrs. SCHROEDER.
Mr. WYDEN in five instances.
Mr. UDALL.
Mr. BRYANT in nine instances.
Mr. LEVINE of California.
Mr. HARKINS in three instances.
Mr. LEHMAN of Florida.
Mr. JONES of North Carolina.
Mr. DORGAN of North Dakota.
Mr. RANGEL.
Mr. MOAKLEY.
Mr. STOKES.
Mr. LEHMAN of California.
Mr. KILDEE.
Mr. BOSCO.
Mr. MINETA.

ADJOURNMENT

Mr. PARKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 44 minutes p.m.), pursuant to House Resolution 16, and under its previous order, the House adjourned until tomorrow, Wednesday, January 4, 1989, at 12 noon, in memory of the late Honorable BILL NICHOLS.

APPOINTMENTS AFTER SINE DIE ADJOURNMENT

Pursuant to the provisions of section 114(b), Public Law 100-598, and the order of the House of October 21, 1988, empowering the Speaker to appoint commissions, boards, and committees authorized by law or by the House, the Speaker on November 17, 1988, did appoint to the board of trustees for the John C. Stennis Center for Public Service Training and Development the following Members on the part of the House:

Mrs. BOGGS, Louisiana, for a term of 6 years; and

Mr. ESPY, Mississippi, for a term of 2 years.

Pursuant to the provisions of section 106, Public Law 100-294, and the order of the House of October 21, 1988 empowering the Speaker to appoint commissions, boards, and committees authorized by law or by the House, the Speaker on November 17, 1988 did appoint to the National Commission on Child and Youth Deaths the following Member on the part of the House:

Mr. MILLER, California.

And the Speaker and majority leader of the Senate on November 17, 1988 did jointly appoint the following individuals:

Dr. Michael Dufree, Los Angeles, CA;

Mrs. Stacey Winkler, Los Angeles, CA;

Ms. Una Clarke, Brooklyn, NY;

Mr. Michael Petit, Portland, ME;

Dr. Amy Wheaton, Hartford, CT; and

Dr. Ann Harris Cohn, Chicago, IL.

Pursuant to the provisions of section 203, Public Law 99-660, as amended by Public Law 100-436, and the order of the House of October 21, 1988, empowering the Speaker to appoint commissions, boards, and committees authorized by law or by the House, the Speaker, and the majority leader of the Senate on December 2, 1988, did jointly appoint Mr. Lawton Chiles of Florida, to serve as a member at large of the National Commission on Infant Mortality to fill the existing vacancy thereon.

MESSAGES AND COMMUNICATIONS RECEIVED FOLLOWING THE SINE DIE ADJOURNMENT OF THE 100TH CONGRESS AND FOLLOWING THE PUBLICATION OF THE FINAL ADDITION OF THE CONGRESSIONAL RECORD OF THE 100TH CONGRESS

COMMUNICATION FROM THE CLERK OF THE HOUSE

The text of the communication from the Clerk of the House of Representatives dated October 24, 1988 is as follows:

WASHINGTON, DC,
October 24, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 11:45 a.m. on Monday, October 24, 1988 the following message from the Secretary of Senate: That the Senate agreed to the House amendment to the Senate amendment to H.R. 5210, and passed the following bills without amendment; H.R. 593, H.R. 3011, H.R. 5133, H.R. 5232, H.R. 4879 and H.R. 5560.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The text of the communication from the Clerk of the House of Representatives dated November 30, 1988 is as follows:

WASHINGTON, DC,
November 30, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 2:47 p.m. on Tuesday, November 29, 1988 and said to contain a special message from the President in accordance with the Impoundment Control Act of 1974, including Section 1014 (2 U.S.C. 685(a)).

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

REPORT OF SUNDRY NEW DEFERRALS AND REVISED DEFERRALS OF BUDGET AUTHORITY MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The text of the message from the President of the United States, which was, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed, is as follows:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totaling $4,635,275,000 and three revised deferrals of budget authority now totaling $3,725,586,833.

The deferrals affect programs in Funds Appropriated to the President, and the Departments of State and Transportation.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.
THE WHITE HOUSE, *November 29, 1988.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The text of the communication from the Clerk of the House of Representatives dated December 30, 1988, is as follows:

WASHINGTON, DC,
December 30, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 1:00 p.m. on Thursday, December 22, 1988, the following message from the Secretary of the Senate: That the President pro tempore appointed Mr. Danforth to the Martin Luther King, Jr. Federal Holiday Commission effective June 27, 1988.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

MESSAGE FROM THE SENATE RELATIVE TO APPOINTMENT TO THE MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

The text of the order providing for an appointment to the Martin Luther King, Jr., Federal Holiday Commission is as follows:

Ordered, That pursuant to Public Law 98-399, as amended by Public Law 99-284, the Chair on behalf of the President pro tempore appoints Mr. Danforth to the Martin Luther King, Jr., Federal Holiday Commission, with the appointment to be effective as of June 27, 1988.

COMMUNICATION FROM THE HONORABLE RONALD V. DELLUMS, MEMBER OF CONGRESS

The text of the communication from the Honorable RONALD V. DELLUMS, Member of Congress, dated December 13, 1988, is as follows:

HOUSE OF REPRESENTATIVES,
December 13, 1988.

Hon. JAMES C. WRIGHT, JR.,
The Speaker, House of Representatives, Office of the Speaker, Washington, DC.

DEAR MR. SPEAKER, Pursuant to House Rules, I write to advise you that my office was served with a subpoena, requiring that one of my staff members provide testimony in a case involving a constituent to whom we had provided constituent services.

We determined that, consistent with the constituent's stated desires, compliance with the subpoena was consistent with the House Rules.

Sincerely yours,
RONALD V. DELLUMS,
Member of Congress.

[UNITED STATES OF AMERICA, MERIT SYSTEMS PROTECTION BOARD, SAN FRANCISCO REGIONAL OFFICE]

ABNER J. MORGAN, JR., APPELLANT, V. DEPARTMENT OF THE NAVY, AGENCY

Docket Number SF07528810870

SUBPOENA

Pursuant to Chapter 12, Title 5, United States Code; 5 U.S.C. § 1205(b)(2)(A):

To: Roberta Brooks.

You are hereby required to appear at Naval Aviation Depot, Building 1, Alameda, California, on December 7, 1988, at 9:00 a.m. for the purpose of giving testimony at the hearing in the captioned case.

Fail not at your peril.

In testimony whereof, the undersigned, at the direction of an Administrative Law Judge of the Merit Systems Protection Board, has hereunto set his hand this 2nd day of December, 1988.

EDWARD J. REIDY,
Chief Administrative Law Judge.

In case of contumacy or failure to obey a subpoena issued by an Administrative Law Judge of the Merit Systems Protection Board, the United States District Court for the Judicial District in which the person to whom the subpoena is addressed, resides or is served, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the Court may be punished by the Court as contempt.

COMMUNICATION FROM THE HONORABLE FRANK R. WOLF, MEMBER OF CONGRESS

The text of the communication from the Honorable FRANK R. WOLF, Member of Congress, dated October 25, 1988, is as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 25, 1988.

Hon. JIM WRIGHT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena duces tecum issued by the Circuit Court of Fairfax County, Virginia.

Upon consultation with the General Counsel of the Clerk, I will determine whether compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,
FRANK R. WOLF,
Member of Congress.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The text of the communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations, dated November 22, 1988, is as follows:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, November 22, 1988.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted by the Committee on September 8, 1988.

Sincerely,
GLENN N. ANDERSON,
Chairman.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The text of the communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations, dated October 21, 1988, is as follows:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, October 21, 1988.

Hon. JIM WRIGHT,
THE SPEAKER, HOUSE OF REPRESENTATIVES, WASHINGTON, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on September 27, 1988:

LEASE PROSPECTUSES

Environmental Protection Agency Regional Office, San Francisco-Oakland Bay Area, California.

Internal Revenue Service, Walnut Creek, California.

Multiple Agencies, Premier and Vanguard Buildings, Washington, D.C.

National Labor Relations Board, Washington, D.C.

Small Business Administration Consolidation, Washington, D.C. (as amended).

General Services Administration Swing Space, Washington, D.C. Metropolitan Area.

Internal Revenue Service Headquarters, Washington, D.C.

Multiple Agencies, Agana, Guam.

Swing Space for Multiple Agencies, Chicago, Illinois.

National Security Agency, Linthicum, Maryland.

Park Building, Rockville, Maryland.

Department of Interior, Newton, Massachusetts.

Department of Housing and Urban Development & Other Agencies, Kansas City, Missouri.

United States Customs Service, Port Newark, New Jersey.

Multiple Agencies, Javits Building Expansion, New York, New York.

Federal Aviation Administration, Oklahoma City, Oklahoma.

Multiple Agencies, Portland, Oregon.

Department of Interior, Bureau of Land Management Trade Center, Alexandria, Virginia.

Department of State, Arlington, Virginia.

Multiple Agencies, Falls Church, Virginia.

Department of Defense and General Accounting Office, Crystal Gateway 3, Arlington, Virginia (as amended).

Department of Defense and Executive Office of the President, Jefferson Building, McLean, Virginia.

Department of Defense, Zachary Taylor Building, Arlington, Virginia (as amended).

Department of Defense/Navy Department, Jefferson Plaza 1 & 2, Arlington, Virginia.

Department of Defense, Crystal Mall 2, 3, & 4, Arlington, Virginia.

LEASE PURCHASE

Environmental Protection Agency Consolidation, Washington, D.C.

REPAIR AND ALTERATION

Federal Center Buildings 63 and 64, Jeffersonville, Indiana.

APPROVAL RESOLUTION

International Cultural and Trade Center (ICTC)/Federal Office Building (FOB) Development Proposal.

11 (B) RESOLUTIONS

Monterey, California.
Boston, Massachusetts.
Asheville, North Carolina.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,
GLENN M. ANDERSON,
Chairman.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The text of the communication from the chairman of the Committee on Public Works and Transportation, which was referred to the Committee on Appropriations, dated October 21, 1988, is as follows:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, October 21, 1988.

Hon. JIM WRIGHT,
THE SPEAKER, HOUSE OF
REPRESENTATIVES, WASHINGTON, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on October 13, 1988:

LEASE PROSPECTUSES

Internal Revenue Service, Washington, D.C. Metropolitan Area.

Relocation of National Science Foundation, Washington, D.C. Metropolitan Area.

Matomic Building, Washington, D.C.

Internal Revenue Service, Phoenix, Arizona.

Internal Revenue Service, San Jose, California.

Lease Consolidation, Fort Worth, Texas.

Department of the Navy, Portsmouth, New Hampshire.

Federal Bureau of Investigation, New York, New York.

United States Coast Guard, Martinsburg, West Virginia.

Internal Revenue Service, Philadelphia, Pennsylvania.

LEASE PURCHASE

Consolidation of the National Aeronautics and Space Administration, Washington, D.C.

The original and one copy of the authorizing resolution is enclosed.

Sincerely,

GLENN M. ANDERSON,
Chairman.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Inspector General, Department of Energy, transmitting the audit of the Department's use of the Environmental Protection Agency's Superfund monies for fiscal year 1987, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

2. A letter from the Acting Secretary of Agriculture, transmitting the annual report on the Nation's agricultural research and education (extension and teaching) activities for 1987, pursuant to 7 U.S.C. 3125; to the Committee on Agriculture.

3. A letter from the Director of Management and Budget, transmitting a proposed Soil Conservation Service plan for the Howard Creek Watershed, West Virginia, pursuant to 16 U.S.C. 1005; to the Committee on Agriculture.

4. A letter from the Acting Director, Office of Management and Budget, transmitting a proposed Soil Conservation Service plan for the Upper Locust Creek Watershed, Missouri and Iowa, pursuant to 16 U.S.C. 1005; to the Committee on Agriculture.

5. A letter from the Secretary of Agriculture, transmitting a report on the activities of the U.S. Department of Agriculture, Food Safety and Inspection Service and the Agricultural Marketing Service, respective to residue sampling and testing of imported meat, meat food products, poultry, poultry products and egg products, pursuant to Public Law 100-418, section 4506; to the Committee on Agriculture.

6. A letter from the Assistant Secretary of the Army (Financial Management), transmitting the Department's report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter July 1, 1989, through September 30, 1988, pursuant to Public Law 99-190, section 8014 (99 Stat. 1205); Public Law 99-591, section 9010 (100 Stat. 3341-102); Public Law 100-202, title VIII, section 8010; to the Committee on Appropriations.

7. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notification of the decision to convert the photographic functions at Edwards Air Force Base, California, to contractor performance which was found to be most efficient and cost-effective, pursuant to Public Law 100-202, section 8074; to the Committee on Appropriations.

8. A letter from the Comptroller General of the United States, transmitting a review of one deferral reported in the fifth special message of the President for fiscal year 1988, pursuant to 2 U.S.C. 685 (H. Doc. No. 101-13); to the Committee on Appropriations and ordered to be printed.

9. A letter from the Comptroller General of the United States, transmitting a review of ten new deferrals reported in the first special message of the President for fiscal year 1989, pursuant to 2 U.S.C. 685 (H. Doc. No. 101-14); to the Committee on Appropriations and ordered to be printed.

10. A letter from the Architect of the Capitol, transmitting a report of all expenditures during the period April 1, 1988 through September 30, 1988, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

11. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of November 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-11); to the Committee on Appropriations and ordered to be printed.

12. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of November 1, 1988, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-12); to the Committee on Appropriations and ordered to be printed.

13. A letter from the Comptroller, Department of Defense, transmitting the supplemental contract award report for the period November 1, 1988 to December 31, 1988, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

14. A letter from the Comptroller, Department of Defense, transmitting a copy of the Selected Acquisition Reports (SARS) for the quarter ending September 30, 1988, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

15. A letter from the Assistant Secretary (Shipbuilding and Logistics), Department of the Navy, transmitting notification of the decision to convert the Public Works functions at the Naval Air Station, Patuxent River, Maryland to private contractor performance, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

16. A letter from the Assistant Secretary of the Army (Installations and Logistics), Department of Defense, transmitting notification of the discovery and emergency disposal of a suspected chemical at the East Wing Mountain Area of Dugway Proving Ground, Utah, pursuant to 50 U.S.C. 1518; to the Committee on Armed Services.

17. A letter from the Assistant Secretary (Production and Logistics), Department of Defense, transmitting the Department's report on upgrading material in the National Defense Stockpile for fiscal year 1989; to the Committee on Armed Services.

18. A letter from the Secretary of Housing and Urban Development, transmitting the Department's seventh annual report on the Congregate Housing Services Program covering fiscal year 1986, pursuant to 42 U.S.C. 8007(b); to the Committee on Banking, Finance and Urban Affairs.

19. A letter from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting a report analyzing the impact of International Monetary fund supported economic adjustment programs implemented during 1987 on the provision of basic human needs in program countries, pursuant to 22 U.S.C. 286e-9(b); to the Committee on Banking, Finance and Urban Affairs.

20. A letter from the Associate Director, Office of Policy and Research, ACTION, transmitting the Agency's report, as a member of the Interagency Council on the Homeless, on programs established to assist the homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

21. A letter from the Assistant Secretary, Food and Consumer Services, Department of Agriculture, transmitting the Department's report, as a member of the Interagency Council on the Homeless, on programs established to assist the homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487) to the Committee on Banking, Finance and Urban Affairs.

22. A letter from the Deputy Secretary of Defense, transmitting the Department's report, as a member of the Interagency Council on the Homeless, on programs established to assist the homeless pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

23. A letter from the Director, Federal Emergency Management Agency, transmitting the Agency's second annual report, as a member of the Interagency Council on the Homeless, on the Emergency Food and Shelter National Board Program, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

24. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement with respect to a proposed transaction involving U.S. exports to Venezuela in excess of $100 million, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

25. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting a report entitled, "Deposits at Nonproprietary Automated Teller Machines", pursuant to Public Law 100-86, section 603(e)(4) (101 Stat. 641); to the Committee on Banking, Finance and Urban Affairs.

26. A letter from the Administrator, General Services Administration, transmitting the agency's fifth report on its administration of the personal property donation program and the identification and use of Federal real property to assist the homeless, pursuant to Public Law 100-77, section 501(e) (101 Stat. 510); to the Committee on Banking, Finance and Urban Affairs.

27. A letter from the Secretary of the Interior, transmitting the Department's

report, as a member of the Interagency Council on the Homeless, on programs established to assist the homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

28. A letter from the Secretary of Energy, transmitting a report on the nature and effect of the Department's efforts to assist the homeless, as a member of the Interagency Council on the Homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

29. A letter from the Secretary of Housing and Urban Development, transmitting the Department's second report on new programs to assist the homeless, required of members of the Interagency Council on the Homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

30. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-244, "Franchising Act of 1988", and Report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

31. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-245, "District of Columbia Occupational Safety and Health Act of 1988", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

32. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of Allegations Regarding Contract No. JA/87927 Between DHS and TMA Corporation", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

33. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Bi-Annual Audits of the Advisory Neighborhood Commissions—Ward 2, 6 and 7 for the Period October 1, 1985 through September 30, 1987", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

34. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of the District's Emergency Assistance Services (EAS) Program For Housing Security Deposits," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

35. A letter from the Secretary of Education, transmitting a copy of Final Regulations for Training Personnel for the Education of the Handicapped, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

36. A letter from the Secretary of Education, transmitting a copy of Final Regulations—Territorial Teacher Training Assistance Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

37. A letter from the Secretary of Education, transmitting a copy of Final Regulations for the Transition Program for Refugee Children, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

38. A letter from the Secretary of Education, transmitting a copy of Notice of Final Funding Priorities for Rehabilitation Research and Training Centers for Fiscal Year 1989, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

39. A letter from the Secretary of Education, transmitting a copy of Final Selection Criteria for the Student Assistance General Provisions—Institutional Quality Control Pilot Project, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

40. A letter from the Secretary of Education, transmitting a copy of Final Priorities—The Vocational Education Cooperation Demonstration Program (Dropout Prevention), pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

41. A letter from the Secretary of Education, transmitting the 1988 annual report of the International Research and Studies Program, pursuant to section 606(b), HEA of 1965, as amended; to the Committee on Education and Labor.

42. A letter from the Secretary of Health and Human Services, transmitting the 1988 annual report on compliance by States with personnel standards for radiologic technicians, pursuant to 42 U.S.C. 1006(d); to the Committee on Energy and Commerce.

43. A letter from the Inspector General, Environmental Protection Agency, transmitting the Agency's annual report of the mandated Superfund audit activities for fiscal year 1987, pursuant to 31 U.S.C. 7501 nt.; to the Committee on Energy and Commerce.

44. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report on the comparative health effects assessment of drinking water treatment technologies, pursuant to 42 U.S.C. 300g-1(e); to the Committee on Energy and Commerce.

45. A letter from the Chairman, Federal Trade Commission, transmitting the 72d annual report of the Commission for the fiscal year ending September 30, 1986, pursuant to 15 U.S.C. 46(f); to the Committee on Energy and Commerce.

46. A letter from the Secretary of Transportation, transmitting the annual report concerning progress in conducting environmental remedial action at Federal facilities for 1987 and 1988, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Energy and Commerce.

47. A communication from the President of the United States, transmitting the second annual report on the extent to which significant progress has been made toward ending apartheid in South Africa, pursuant to 22 U.S.C. 5091(b) (H. Doc. No. 101-5); to the Committee on Foreign Affairs and ordered to be printed.

48. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of the Price and Availability Report for the quarter ending September 30, 1988, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

49. A letter from the Assistant Secretary of Defense for Legislative Affairs, transmitting notification of the President's determination of reform in the decision-making procedures in budgetary matters of the U.N. and its specialized agencies (Presidential Determination No. 89-5), pursuant to 22 U.S.C. 287e nt. (99 Stat. 405); to the Committee on Foreign Affairs.

50. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of the President's determination and justification for the request for appropriations to meet unexpected urgent refugee and migration needs in Africa and the Middle East (Presidential Determination No. 89-3), pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

51. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of the intent to continue assistance for El Salvador under the Anti-Terrorism Assistance Program, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

52. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment by the Government of Egypt (Transmittal No. MC-50-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

53. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a seminar in police method and management skills for El Salvadoran Police Officials, December 5-7, 1988, sponsored by the Bureau of Diplomatic Security, Anti-Terrorism Assistance Division, pursuant to 22 U.S.C. 2349aa-3(a)(1); to the Committee on Foreign Affairs.

54. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed lease of defense articles to Pakistan (Transmittal No. 3-89), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

55. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification that the Afghans returning to and resettling in Afghanistan and Afghans internally displaced within Afghanistan have been designated by the President as persons eligible for assistance under section 2(b)(2) of the Migration and Refugee Assistance Act of 1962, as amended, together with a copy of Presidential Determination No. 89-1, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

56. A communication from the President of the United States, transmitting notification of his intention to exercise authority under section 506(a) of the Foreign Assistance Act of 1961, as amended, in order to authorize the furnishing of up to $10 million in emergency military assistance to Jamaica, with a copy of the justification; signed determination to be transmitted at a later date, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

57. A communication from the President of the United States, transmitting certification that Pakistan does not possess a nuclear explosive device and that proposed assistance will reduce the risk that they will possess such device (Presidential Determination No. 89-7), pursuant to 22 U.S.C. 2375(e); to the Committee on Foreign Affairs.

58. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

59. A letter from the Secretary of State, transmitting a report on the status of stinger missiles sold to Bahrain, pursuant to Public Law 100-202, section 573(b) (101 Stat. 1329-176); to the Committee on Foreign Affairs.

60. A letter from the Secretary of State, transmitting on behalf of the President, the Report on the Situation in El Salvador, with information in five areas: the administration of justice, dialogue, death squad activity, civilian control of the military, and agrarian reform, pursuant to Public Law 99-83, section 702(c) (99 Stat. 238); Public Law 100-202, section 561(b) (101 Stat. 1329-171); to the Committee on Foreign Affairs.

61. A communication from the President of the United States, transmitting notification that the Iran emergency is to continue in effect beyond November 14, 1988, pursuant to 50 U.S.C. 162(d) (H. Doc. No. 101-7); to the Committee on Foreign Affairs and ordered to be printed.

62. A communication from the President of the United States, transmitting a report on developments since his last report of April 29, 1988, concerning the national emergency with respect to Nicaragua, pursuant to 50 U.S.C. 1641(c) and 1703(c) (H. Doc. No. 101-8); to the Committee on Foreign Affairs and ordered to be printed.

63. A communication from the President of the United States, transmitting a report on matters concerning the national emergency with respect to Iran covering events through October 1, 1988, including those that occurred since his last report under Executive Order No. 12170 dated June 7, 1988, pursuant to 50 U.S.C. 1703(c); 22 U.S.C. 2349aa-9 (H. Doc. No. 101-9); to the Committee on Foreign Affairs and ordered to be printed.

64. A communication from the President of the United States, transmitting notification that the Libyan emergency is to continue in effect beyond January 7, 1989, pursuant to 50 U.S.C. 1622(d) (H. Doc. No. 101-10); to the Committee on Foreign Affairs and ordered to be printed.

65. A letter from the Acting Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1,000,000 or more; an addendum to the listing of all Letters of Offer that were accepted, as of September 30, 1988, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

66. A letter from the Acting Secretary of State, transmitting a report on the Program Recommendations made by the Accountability Review Board which was convened to look into the facts and circumstances surrounding the act of terrorism at the U.S. Embassy, Athens, Greece, on June 28, 1988, pursuant to 22 U.S.C. 4834(d)(1); to the Committee on Foreign Affairs.

67. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting the text of ILO Convention No. 164 concerning Health Protection and Medical Care of Seafarers as adopted by the International Labor Conference at its 74th (Maritime) Session, at Geneva, October 8, 1987, pursuant to Article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

68. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting the text of ILO Convention No. 163 and Recommendation No. 173 concerning Seafarers' Welfare at Sea and in Port as adopted by the International Labor Conference at its 74th (Maritime) Session, at Geneva, October 8, 1987, pursuant to Article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

69. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting the text of ILO Convention No. 166 and Recommendation No. 174 concerning the Repatriation of Seafarers as adopted by the International Labor Conference at its 74th (Maritime) Session, at Geneva, October 9, 1987, pursuant to Article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

70. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting the text of ILO Convention No. 165 concerning Social Security for Seafarers (Revised) as adopted by the International Labor Conference at its 74th (Maritime) Session, at Geneva, October 9, 1987, pursuant to Article 19 of the Constitution of the International Labor Organization; to the Committee on Foreign Affairs.

71. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting the thirteenth 90-day report on the investigation into the death of Enrique Camarena, the investigations of the disappearance of U.S. citizens in the State of Jalisco, Mexico, and the general safety of U.S. tourists in Mexico, pursuant to Public Law 99-93, Section 134(c) (99 Stat. 421); to the Committee on Foreign Affairs.

72. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

73. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

74. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notice of an international agreement, other than a treaty, to be entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

75. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

76. A letter from the Secretary of State, transmitting a copy of the Accountability Review Board report on the incidents that occurred at or near the U.S. Embassy in Tegucigalpa, Honduras, on April 7, 1988, pursuant to 22 U.S.C. 4834(d)(1); to the Committee on Foreign Affairs.

77. A letter from the Acting Director, Defense Security Assistance Agency, transmitting copies of certain FMS quarterly reports for the fourth quarter of fiscal year 1988, July 1-September 30, 1988, pursuant to operations; to the Committee on Foreign Affairs.

78. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the proposed issuance of a letter of offer to sell certain defense equipment to the Government of Switzerland, pursuant to Public Law 100-461, section 588(b); to the Committee on Foreign Affairs.

79. A letter from the Secretary of State, transmitting an informational copy of a report released by the NATO countries entitled, "Conventional Forces in Europe: The Facts"; to the Committee on Foreign Affairs.

80. A letter from the Inspector General, Department of Energy, transmitting the semiannual report for the Department's Office of Inspector General for the period April 1 to September 30, 1988, pursuant to 42 U.S.C. 7138(c); to the Committee on Government Operations.

81. A letter from the Inspector General, Department of Health and Human Services, transmitting the semiannual report of his office for the period April 1, 1988 through September 30, 1988, pursuant to 42 U.S.C. 3524(a); to the Committee on Government Operations.

82. A letter from the Secretary of Housing and Urban Development, transmitting the semiannual report of the Department's Office of Inspector General for the period April 1, 1988, through September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

83. A letter from the Comptroller General, transmitting a report entitled, "Deficit Reductions for Fiscal Year 1989" (GAO/AFMD-89-32), pursuant to 2 U.S.C. 903; to the Committee on Government Operations.

84. A letter from the Comptroller General, transmitting a list of all reports issued by the GAO during October, 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

85. A letter from the Acting Deputy Under Secretary of Education, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

86. A letter from the Associate Director for Management, U.S. Information Agency, transmitting copies of the Director's letter of assurance and annual statement to the President on the agency's internal control and financial systems, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

87. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

88. A letter from the Administrator, Health Care Financing Administration, Department of Health and Human Services, transmitting notification of a proposed new Federal system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

89. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

90. A letter from the Assistant Secretary for Budget and Programs, Department of Transportation, transmitting the Department's first annual report summarizing administrative remedies for false claims and statements, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

91. A letter from the Director, U.S. Information Agency, transmitting the semiannual report of the activities of the Department's Inspector General covering the period April 1 through September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

92. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's annual report on the Program Fraud Civil Remedies Act for the year ending September 30, 1988, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

93. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

94. A letter from the Acting Administrator, General Services Administration, transmitting a report on the activities of the Inspector General for the 6-month period

ending September 30, 1988, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Operations.

95. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the agency's Office of Inspector General for the period ending September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

96. A letter from the Director, Administration and Management, Office of the Secretary of Defense, transmitting notification of eight altered Federal records systems submitted by the Department of the Air Force, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

97. A letter from the Secretary, Railroad Retirement Board, transmitting the Board's report on the Program Fraud Civil Remedies Act for fiscal year 1988, pursuant to 31 U.S.C. 3810; to the Committee on Government Operations.

98. A letter from the Secretary of the Interior, transmitting the semiannual report on the activities of the Inspector General for the 6-month period from April 1, 1988 through September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

99. A letter from the Secretary of Education, transmitting the semiannual report on the activities of the Inspector General for the period April 1, 1988 through September 30, 1988, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Operations.

100. A letter from the Secretary of Transportation, transmitting a report on the valuation of the U.S. Coast Guard Military Retirement System, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

101. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting the semiannual report on the activities of the Inspector General for the period April 1, 1988 through September 30, 1988, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Operations.

102. A letter from the Vice Chairman, Federal Election Commission, transmitting a copy of the Commission's November 30 reconsideration of its appeal of the OMB's fiscal 1990 passback, pursuant to 2 U.S.C. 437d(d)(1); to the Committee on House Administration.

103. A letter from the Archivist, National Archives and Records Administration, transmitting copies of the Certificates of Ascertainment of the electors of President and Vice President chosen in each of the States and the District of Columbia on November 8, 1988, pursuant to 3 U.S.C. 6; to the Committee on House Administration.

104. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 1988 through September 30, 1988, pursuant to 2 U.S.C. 104a (H. Doc. No. 101-15); to the Committee on House Administration and ordered to be printed.

105. A letter from the Federal and State Cochairmen, Alaska Land Use Council, transmitting the sixth annual report of the activities of the Council for the period January-December, 1987, pursuant to 16 U.S.C. 3181(g); to the Committee on Interior and Insular Affairs.

106. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

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119. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of Proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

120. A letter from the Secretary of State, transmitting the Department's 1988 report on the state of domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, pursuant to 30 U.S.C. 21a; to the Committee on Interior and Insular Affairs.

121. A letter from the Secretary of the Interior, transmitting a report on the financial statements of the Colorado River Basin Project for the year ended September 30, 1987, pursuant to 43 U.S.C. 1544; to the Committee on Interior and Insular Affairs.

122. A letter from the Attorney General, Department of Justice, transmitting certification of the region comprised of the judicial districts established for the States of Louisiana and Mississippi to the Court of Appeals for the Fifth Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

123. A letter from the Attorney General, Department of Justice, transmitting the annual report on activities to recover indebtedness owed to the United States which was referred to the Department for collection for fiscal year 1988, pursuant to 31 U.S.C. 3718(c); to the Committee on the Judiciary.

124. A letter from the National Commander, American Ex-Prisoners of War, transmitting a copy of the 1988 audit report as of August 31, 1988, pursuant to 36 U.S.C. 1101(57), 1103; to the Committee on the Judiciary.

125. A letter from the Adjutant General, Veterans of Foreign Wars of the United States, transmitting the financial statements for the year ended August 31, 1988, together with the independent auditors' reports, pursuant to 36 U.S.C. 1101(47), 1103; to the Committee on the Judiciary.

126. A letter from the President, Vietnam Veterans of America, Inc., transmitting the organization's 1987 annual report and audit, pursuant to 36 U.S.C. 1103; to the Committee on the Judiciary.

127. A letter from the Secretary of the Interior, transmitting the 1987 annual report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act of 1972, pursuant to 16 U.S.C. 1373(f); to the Committee on Merchant Marine and Fisheries.

128. A letter from the Secretary of Transportation, transmitting the Department's annual report for 1987 on the relative cost of shipbuilding in the various coastal districts of the United States, pursuant to 46 U.S.C. app. 1123(c); to the Committee on Merchant Marine and Fisheries.

129. A letter from the Director, Office of Personnel Management, transmitting a report on the proposal for a demonstration project submitted by the Department of Transportation for ten Federal Aviation Administration facilities in the Chicago, IL, New York, NY, and Los Angeles, CA metropolitan areas, pursuant to Public Law 99-574, section 10(e)(1)(B) 3241); to the Committee on Post Office and Civil Service.

130. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of the report of the investi-

gation of the Administrator, Veterans Affairs, into allegations that certain procedures were circumvented relative to four recurring maintenance and repair engineering projects at the Veterans Administration Hospital, Bedford, MA, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

131. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of the report of the Secretary of the Army setting forth the findings and recommendations of the Office of Personnel Management review of the use of Veterans Readjustment Appointments and special "on call" employment practices at Tooele Army Depot, Tooele, UT, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

132. A letter from the Secretary, Board of Governors, U.S. Postal Service, transmitting the agency's semiannual report of its civil misrepresentative investigative activities for the period April 1, 1988–September 30, 1988, pursuant to 39 U.S.C. 3013 (97 Stat. 1317); to the Committee on Post Office and Civil Service.

133. A letter from the Secretary of Transportation, transmitting a report on the progress of discussions with the Government of Canada concerning tolls on the international Great Lakes and the Saint Lawrence Seaway, pursuant to 33 U.S.C. 988 nt.; to the Committee on Public Works and Transportation.

134. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Middle Rio Grande Flood Protection, Bernalillo to Belen, NM, together with other pertinent reports; to the Committee on Public Works and Transportation.

135. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Sims Bayou, TX, together with other pertinent reports; to the Committee on Public Works and Transportation.

136. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the plan outlining immediate and long-term actions the Agency will be taking to address the current situation at Chicago O'Hare International Airport, pursuant to Senate Resolution 497; to the Committee on Public Works and Transportation.

137. A letter from the Administrator, Environmental Protection Agency, transmitting a report, "Availability, Adequacy, and Comparability of Testing Procedures for the Analysis of Pollutants Established under Section 304(h) of the Federal Water Pollution Control Act," pursuant to Public Law 100-4, section 518(b) (101 Stat. 86); to the Committee on Public Works and Transportation.

138. A letter from the Secretary of Transportation, transmitting a report assessing the feasibility of developing and implementing standards for use of tactile mobile aids in transportation facilities and equipment constructed with Urban Mass Transportation Administration assistance, pursuant to Public Law 100-17, section 332; to the Committee on Public Works and Transportation.

139. A letter from the Secretary of Energy, transmitting the Department's tenth annual report on the Automotive Technology Development Program, fiscal year 1988, pursuant to 42 U.S.C. 5914; to the Committee on Science, Space, and Technology.

140. A letter from the Secretary of Labor, transmitting a report on the labor market situation for certain disabled veterans and Vietnam Theater veterans, pursuant to 38 U.S.C. 2010A; to the Committee on Veterans' Affairs.

141. A letter from the National Adjutant, the Disabled American Veterans, transmitting the report of the proceedings of the organization's 67th National Convention, including their annual audit report of receipts and expenditures as of December 31, 1987, pursuant to 36 U.S.C. 90i; 44 U.S.C. 1332 (H. Doc. No. 101-16); to the Committee on Veterans' Affairs and ordered to be printed.

142. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting a report on the agency's Sharing of Medical Resources Program for fiscal year 1988, pursuant to 38 U.S.C. 5057; to the Committee on Veterans' Affairs.

143. A letter from the Acting Chairman, U.S. International Trade Commission, transmitting the Commission's fifty-fifth quarterly report on trade between the United States and the nonmarket economy countries, pursuant to 19 U.S.C. 2441(c); to the Committee on Ways and Means.

144. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting the Commission's report on the adjustments made by the Secretary of Health and Human Services for the fiscal year 1989 Medicare prospective payment system, pursuant to 42 U.S.C. 1394ww(d)(4)(D); to the Committee on Ways and Means.

145. A letter from the U.S. Trade Representative, transmitting recommendations regarding ways to tighten restrictions on U.S. imports from Cuba, pursuant to Public Law 100-418, section 1911; to the Committee on Ways and Means.

146. A letter from the U.S. Trade Representative, transmitting his report on major Canadian practices that will require modification in order to conform with Free-Trade Agreement, pursuant to Public Law 100-449, section 101(c), to the Committee on Ways and Means.

147. A communication from the President of the United States, transmitting notification that no aggregate outlay reduction is required, based on his final order and the final report of the Director of OMB dated October 15, 1988, pursuant to Public Law 100-119, section 252(b)(4) (H. Doc. No. 101-6); to the Committee on the State of the Union of the Whole House and ordered to be printed.

148. A letter from the Secretary, Department of Agriculture, transmittting the Department's country and commodity allocation table showing current programming plans for food assistance for fiscal year 1989, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committee on Agriculture and Foreign Affairs.

149. A letter from the Assistant Secretary of Defense (Comptroller), transmitting his determination that it is in the national interest to transfer working capital funds or fiscal year 1988 funds, pursuant to Public Law 98-473, section 8025 (98 Stat. 1928); Public Law 99-591, section 9015 (100 Stat. 3341-103); Public Law 100-202, section 8015 (101 Stat. 1329-65); jointly, to the Committees on Armed Services and Appropriations.

150. A letter from the Secretary of Health and Human Services, transmitting the Secretary's report on the Operation of Utilization and Quality Control Peer Review Organizations for fiscal year 1987, pursuant to 42 U.S.C. 1320c-10; jointly, to the Committees on Energy and Commerce and Ways and Means.

151. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the Board's submission to the OMB on increased pay costs resulting from the 4.1 percent pay raise, fiscal year 1989, pursuant to 49 U.S.C. app. 1906(b); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

152. A letter from the Acting Chairman, National Transportation Safety Board, transmitting the 1987 annual report of the Board's activities, pursuant to 49 U.S.C. app. 1904; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

153. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a copy of the Board's letter to the OMB appealing the fiscal year 1990 allowance for the Board, pursuant to 49 U.S.C. app. 1903(7); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

154. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the report of the nondisclosure of Safeguards Information for the quarter ending September 30, 1988, pursuant to 42 U.S.C. 2167(d); jointly, to the Committee on Energy and Commerce and Interior and Insular Affairs.

155. A communication from the President of the United States, transmitting the Administration's report on Soviet noncompliance with arms control agreements, pursuant to 22 U.S.C. 2592a; jointly, to the Committees on Foreign Affairs and Armed Services.

156. A letter from the Comptroller General, transmitting a report on the review of U.S.-supported drug control efforts in Colombia and Bolivia (GAO/NSIAD-89-24; November 1988), pursuant to 22 U.S.C. 2291 nt.; jointly, to the Committees on Government Operations and Foreign Affairs.

157. A letter from the Comptroller General, transmitting a report entitled, "Drug Law Enforcement: Military Assistance for Drug Enforcement Agencies" (GAO/NSIAD-89-45; November 1988), pursuant to 10 U.S.C. 380; jointly, to the Committees on Government Operations and Armed Services.

158. A letter from the Comptroller General, transmitting the Rural Telephone Bank interest rates and loan prepayments review, pursuant to 7 U.S.C. 948(b)(3); jointly, to the Committees on Government Operations and Agriculture.

159. A letter from the Comptroller General, transmitting a report on the evaluation of the Congressional Award Foundation and audit for the year ended December 31, 1987 (GAO/AFMD-89-14; November 1988), pursuant to 2 U.S.C. 802(e); jointly, to the Committees on Government Operations and Education and Labor.

160. A letter from the Comptroller General of the United States, transmitting a report on the results of the examination of the Veterans' Administration's consolidated financial statements for fiscal years 1987 and 1986; separate reports on VA's system of internal accounting controls and its compliance with laws and regulations (GAO/AFMD-89-23; November 1988); jointly, to the Committees on Government Operations and Veterans' Affairs.

161. A letter from the Chairman, Commission on Merchant Marine and Defense, transmitting the Commission's third report, "Findings of Facts and Conclusions," relat-

ing to the transportation of cargo and personnel for national defense purposes in war or national emergency, pursuant to 46 U.S.C. app. 1120 nt.; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

162. A letter from the Secretary of Health and Human Services, transmitting an overview of the Department's studies carried out by contract on ways to refine the adjusted average per capita cost (AAPCC) and the adjusted community rate (ACR) used to pay health maintenance organizations (HMOs) and competitive medical plans, including recommendations, pursuant to 42 U.S.C. 1395mm; jointly, to the Committees on Ways and Means and Energy and Commerce.

163. A letter from the Secretary of Health and Human Services, transmitting a report to the Advisability and feasibility of direct payment to physicians for all clinical diagnostic laboratory tests, pursuant to 42 U.S.C. 13951; jointly, to the Committees on Ways and Means and Energy and Commerce.

164. A letter from the Secretary of Transportation, transmitting the "Heavy Vehicle Cost Responsibility Study", an analysis of the highway cost responsibility of heavy vehicles, pursuant to 26 U.S.C. 4481 nt.; jointly to the Committees on Ways and Means and Public Works and Transportation.

165. A letter from the Secretary of Commerce, transmitting the annual report of the Department's activities for the fiscal year ending September 30, 1987, pursuant to 15 U.S.C. 1519; jointly, to the Committees on Energy and Commerce; Ways and Means; Government Operations; the Judiciary; Science, Space, and Technology; Post Office and Civil Service; Banking, Finance and Urban Affairs; Foreign Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted Dec. 13, 1988]

Mr. LELAND: Select Committee on Hunger. Progress report on the activities of the Select Committee on Hunger during the 100th Congress (Rep. 100-1107). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 15, 1988]

Mr. RANGEL: Select Committee on Narcotics Abuse and Control. Annual report for the year 1987 of the Select Committee on Narcotics Abuse and Control 100th Congress (Rep. 100-1108). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 19, 1988]

Mr. ROE: Committee on Science, Space, and Technology. Report on summary of activities of the Committee on Science, Space, and Technology, House of Representatives for the 100th Congress (Rep. 100-1109). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. Activities report of the Committee on Veterans' Affairs, House of Representatives, 100th Congress (Rep. 100-1110), Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 20, 1988]

Mr. ST. GERMAIN: Committee on Banking, Finance and Urban Affairs. A report on summary of activities of the Committee on Banking, Finance and Urban Affairs, House of Representatives, 100th Congress, second session (Rept. No. 100-1111). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 21, 1988]

Mr. ANNUNZIO. Committee on House Administration. Report on the activities of the Committee on House Administration of the House of Representatives during the 100th Congress (Rept. 100-1112). Referred to the Committee of the Whole House on the State of the Union.

Mr. GRAY of Pennsylvania: Committee on the Budget. Summary report on activities of the Committee on the Budget, House of Representatives, 100th Congress (Rept. 100-1113). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 23, 1988]

Mr. DINGELL: Committee on Energy and Commerce. Report on the activity of the Committee on Energy and Commerce for the 100th Congress (Rept. 100-1114). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 27, 1988]

Mr. STOKES: Permanent Select Committee on Intelligence. Report on the activities of the Permanent Select Committee on Intelligence of the House of Representatives during the 100th Congress (Rept. 100-1115). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 28, 1988]

Mr. ROYBAL: Select Committee on Aging. Report on the activities of the Select Committee on Aging in the 100th Congress (Rept. 100-1116). Referred to the Committee of the Whole House on the State of the Union.

Mr. FASCELL: Committee on Foreign Affairs. Report on legislative review activities of the Committee on Foreign Affairs (Rept. 100-1117). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 29, 1988]

Mr. FORD of Michigan: Committee on Post Office and Civil Service. Report on legislative review activities of the Committee on Post Office and Civil Service, 100th Congress (Rept. 100-1118). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. Reports an survey of activities of the House, Committee on Rules, 100th Congress, (Rept. 100-1119). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 30, 1988]

Mr. BROOKS: Committee on Government Operations. Report on activities of the House Committee on Government Operations, 100th Congress, first and second sessions, 1987-88 (Rept. 100-1120). Referred to the Committee of the Whole House on the State of the Union.

Mr. ANDERSON: Committee on Public Works and Transportation. Report on the summary of legislative activities—Committee on Public Works and Transportation (Rept. 100-1121). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on Education and Labor. Report on the activities of the Committee on Education and Labor during the 100th Congress (Rept. 100-1122). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Select Committee on Children, Youth, and Families. Report on the activities for the year 1987 of the Select Committee on Children, Youth, and Families, House of Representatives, 100th Congress, first session (Rept. 100-1123). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary. Report on the activities of the Committee on the Judiciary of the House of Representatives during the 100th Congress (Rept. 100-1124). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Jan. 3, 1988]

Mr. DIXON: Committee on Standards of Official Conduct. Report on summary of activities during the 100th Congress (Rept. 100-1125). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASPIN: Committee on Armed Services. Report on the activities of the Committee on Armed Services for the 100th Congress (Rept. 100-1126). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. Report on the activities of the Merchant Marine and Fisheries Committee, 100th Congress (Rept. 100-1127). Referred to the Committee of the Whole House on the State of the Union.

Mr. LAFALCE: Committee on Small Business. Summary of activities, a report of the Committee on Small Business, House of Representatives, 100th Congress (Rept. 100-1128). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Select Committee on Children, Youth, and Families. Report on the activities for the year 1988 of the Select Committee on Children, Youth, and Families, House of Representatives, 100th Congress 2d session (Rept. 100-1129). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report on activities of the Committee on Appropriations during the 100th Congress (Rept. 100-1130). Referred to the Committee of the Whole House on the State of the Union.

Mr. DELLUMS: Committee on the District of Columbia. Activities and summary report of the Committee on the District of Columbia, House of Representatives, 100th Congress, 1987-88 (Rept. 100-1131). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Legislative and review activities of the Committee on Interior and Insular Affairs of the House of Representatives, during the 100th Congress (Rept. 100-1132). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ:

H.R. 1. A bill to establish a National Housing Trust to assist first-time homebuyers; to

the Committee on Banking, Finance and Urban Affairs.

By Mr. HAWKINS (for himself and Mr. MURPHY):

H.R. 2. A bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; to the Committee on Education and Labor.

By Mr. HAWKINS:

H.R. 3. A bill to authorize appropriations to expand Head Start Programs and programs carried out under the Elementary and Secondary Education Act of 1965 to include child care services; and for other purposes; to the Committee on Education and Labor.

By Mr. DINGELL:

H.R. 4. A bill to amend the Clean Air Act to control hazardous air pollutants; to the Committee on Energy and Commerce.

By Mr. BRYANT (for himself, Mr. COELHO, Mr. BONIOR, Mr. CHAPMAN, Mr. EVANS, Mr. FROST, Mr. GAYDOS, Mr. LEATH of Texas, Mr. DONALD E. LUKENS, Mr. EDWARDS of Oklahoma, Mr. COLEMAN of Texas, and Ms. KAPTUR):

H.R. 5. A bill to provide for the registration of foreign interests in United States property, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RANGEL (for himself; Mr. GARCIA, Mr. COELHO, Mr. SCHULZE, Mr. BROWN of Colorado, Mr. THOMAS of California, Mr. MCGRATH, Mr. GUARINI, Mr. VANDER JAGT, Mr. FOLEY, Mr. FISH, Mr. SCHUMER, Ms. OAKAR, Mr. RIDGE, and Mr. FORD of Tennessee):

H.R. 6. A bill to amend the Housing and Community Development Act of 1987 to improve the enterprise zone development program, to amend the Internal Revenue Code of 1986 to provide tax incentives for investments in enterprise zones, and for other purposes; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. HAWKINS (for himself and Mr. GOODLING):

H.R. 7. A bill to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995; to the Committee on Education and Labor.

By Mr. BARTLETT (for himself, Mr. LEVIN of Michigan, Mr. ARCHER, Mr. MATSUI, Mr. GRADISON, Mr. STARK, Mr. GUNDERSON, Mr. CHANDLER, Mrs. KENNELLY, Mr. BEILENSON, Mr. BROWN of Colorado, Ms. KAPTUR, Mrs. MARTIN of Illinois, Mr. LEHMAN of California, Mr. FRENZEL, Mr. CHAPMAN, Mr. NIELSON of Utah, Ms. PELOSI, Mr. TRAXLER, Mr. HILER, Mrs. MEYERS of Kansas, Mr. LAGOMARSINO, Mr. SHAYS, Mr. PENNY, Mr. ROE, Mr. ROWLAND of Connecticut, Mr. WOLPE, Mr. CLINGER, Mr. FRANK, Mr. HYDE, Ms. OAKAR, Mr. DORNAN of California, Mr. SCHUETTE, Mrs. JOHNSON of Connecticut, Mr. DEFAZIO, Mr. TRAFICANT, Mr. BATES, Mr. FLORIO, Mr. REGULA, Mr. UPTON, Mr. MORRISON of Connecticut, Mr. ACKERMAN, Mr. FOGLIETTA, Mr. ROYBAL, Mrs. BOXER, Mr. GREEN, Mr. SLATTERY, Mr. SABO, Mr. RITTER, Mrs. COLLINS, Mr. FAZIO, Mr. HOPKINS, Mr. WHEAT, Mr. OBERSTAR, Mr. PETRI, Ms. SNOWE, Mr. TORRES, Mr. EDWARDS of California, Mr. MILLER of California, Mr. VENTO, Mrs. SMITH of Nebraska, Mr. NEAL of North Carolina, Mr. GOODLING, Mr. LEVINE of California, Mr. HENRY, Mr. SMITH of New Jersey, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. MCMILLAN of North Carolina, Mr. HERGER, Mr. SHUMWAY, Mr. RAVENEL, Mr. LIGHTFOOT, Mr. BEREUTER, Mr. HOUGHTON, Mr. BARTON of Texas, Mr. MCCRERY, Mr. MILLER of Washington, Mr. TAUKE, Mrs. MORELLA, Mr. BONIOR, Mr. CROCKETT, Mr. MORRISON of Washington, Mr. BAKER, Mr. COELHO, Mr. FROST, Mr. ROBINSON, Mr. PANETTA, Mr. DERRICK, Mr. MFUME, Mr. HEFLEY, Mr. GRANDY, Mr. SUNDQUIST, and Mr. MILLER of Ohio):

H.R. 8. A bill to amend the Social Security Act to take into account monthly earnings in determining the amount of disability benefits payable under title II, to provide for continued entitlement to disability benefits under such title and to medicare benefits for individuals in the disabled and working status, to make miscellaneous improvements in the disabled and working status program under title XVI, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FRANK (for himself, Mr. GLICKMAN, Mr. WOLPE, Ms. KAPTUR, and Mr. NAGLE):

H.R. 9. A bill to amend section 207 of title 18, United States Code, relating to restrictions on postemployment activities; to the Committee on the Judiciary.

By Mr. OBERSTAR (for himself, Mr. CLINGER, and Mr. NOWAK):

H.R. 10. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. ANNUNZIO (for himself and Mr. SWIFT):

H.R. 11. A bill to amend the Federal Election Campaign Act of 1971 to apply the limitations and reporting requirements of such act to soft money; to the Committee on House Administration.

H.R. 12. A bill to amend the Federal Election Campaign Act of 1971 to restrict the practice of "bundling" of contributions to federal office candidates; to the Committee on House Administration.

By Mr. SWIFT (for himself, Mr. ANNUNZIO, Mr. UDALL, Mr. HAMILTON, Mr. PANETTA, Mr. PEASE, Mr. VENTO, Mrs. KENNELLY, Mr. LAFALCE, Mrs. BYRON, Mr. WALGREN, Mr. GEJDENSON, Mr. DYMALLY, Mr. DORGAN of North Dakota, Mr. BATES, and Mr. DEFAZIO):

H.R. 13. A bill to amend the Federal Election Campaign Act of 1971 and certain related provisions to clarify and improve such laws with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes; jointly, to the Committees on House Administration, Energy and Commerce, and Post Office and Civil Service.

By Mr. COELHO (for himself, Mr. LEACH of Iowa, Mr. SYNAR, Mr. SHAYS, Mr. MAVROULES, Mr. BRYANT, Mr. KLECZKA, Mr. MOAKLEY, Mr. MARKEY, Mr. ROE, Mr. COOPER, Mr. VENTO, Mr. CARPER, Mr. CARDIN, Mr. STARK, Mr. CAMPBELL of Colorado, Mr. PEPPER, Mr. FRANK, Mr. AKAKA, Mr. KOSTMAYER, Mr. MRAZEK, Mr. FASCELL, and Mr. UDALL):

H.R. 14. A bill to amend the Federal Election Campaign Act of 1971 to provide for voluntary expenditure limitations and partial public financing for House of Representatives general elections, to further limit contributions by multicandidate political committees to candidates in elections for Federal office, and for other purposes; jointly, to the Committees on House Administration and Energy and Commerce.

By Mr. SWIFT (for himself and Mr. ANNUNZIO):

H.R. 15. A bill to establish national voter registration procedures for Presidential and congressional elections, and for other purposes; to the Committee on House Administration.

By Mr. DINGELL:

H.R. 16. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Mr. SWIFT, Mr. HORTON, Mr. COELHO, and Mr. FISH):

H.R. 17. A bill to establish national standards for voter registration for elections for Federal office, and for other purposes; jointly, to the Committees on House Administration and the Judiciary.

By Mr. SWIFT (for himself, Mr. THOMAS of California, Mr. ANNUNZIO, and Mr. DEFAZIO):

H.R. 18. A bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections; jointly, to the Committees on House Administration and Energy and Commerce.

By Mr. MCHUGH (for himself, Mr. TAUKE, Mr. SWIFT, Mr. ACKERMAN, Mr. BEREUTER, Mrs. COLLINS, Mr. HAMILTON, Mr. LAFALCE, Mr. MANTON, Mr. OWENS of New York, Mr. PEASE, Mr. PETRI, Mr. STUDDS, Mr. WALGREN, and Mr. WHEAT):

H.R. 19. A bill to amend the Internal Revenue Code of 1986 to provide a full credit for contributions to candidates for Congress, and for other purposes; to the Committee on Ways and Means.

By Mr. CLAY (for himself and Mr. HORTON):

H.R. 20. A bill to amend title 5, United States Code, to restore Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DELLUMS (for himself, Mr. ACKERMAN, Mr. AKAKA, Mr. BENNETT, Mr. BERMAN, Mrs. BOXER, Mr. CLAY, Mr. COYNE, Mr. CROCKETT, Mr. DEFAZIO, Mr. DONNELLY, Mr. DOWNEY, Mr. DYMALLY, Mr. EVANS, Mr. FAUNTROY, Mr. FLORIO, Mr. FRANK, Mr. HOYER, Mr. KASTENMEIER, Mr. KENNEDY, Mr. KLECZKA, Mr. JACOBS, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. MARKEY, Mr. MAVROULES, Mr. MFUME, Mr. MINETA, Mr. MOODY, Ms. PELOSI, Ms. OAKAR, Mr. ROYBAL, Mr. SABO, Mr. SHAYS, Mr. STARK, Mr. TORRES, Mr. UDALL, Mr. VENTO, Mr. WEISS, Mr. WHEAT, Mr. WISE, and Mr. WYDEN):

H.R. 21. A bill to prohibit investments in, and certain other activities with respect to, South Africa, and for other purposes; jointly, to the Committees on Foreign Affairs; Armed Services; Banking, Finance and Urban Affairs; Energy and Commerce; Ways

and Means; Rules; the Permanent Select Committee on Intelligence; and Interior and Insular Affairs.

By Mr. FORD of Michigan:

H.R. 22. A bill to amend the Carl D. Perkins Vocational Education Act to establish a program of grants to consortia of local educational agencies and community colleges for purposes of providing tech-prep education; to the Committee on Education and Labor.

By Mr. MINETA:

H.R. 23. A bill to require reauthorization of budget authority of Government programs at least every 10 years, to provide for review of Government programs at least every 10 years, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. HAWKINS (for himself and Mr. GOODLING):

H.R. 24. A bill to amend the Child Nutrition Act of 1966 and the National School Lunch Act to extend certain authorities contained in such acts through the fiscal year 1995; to the Committee on Education and Labor.

By Mrs. SCHROEDER (for herself and Mr. HORTON):

H.R. 25. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. QUILLEN:

H.R. 26. A bill to create a commission to grant exclusive franchises for the exploration for and the commercial development of geothermal energy and for the right to market any such energy in its natural state, and for other purposes; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

H.R. 27. A bill to direct the Secretary of the Interior to acquire certain real property adjacent to the Andrew Johnson National Historic Site in Greeneville, TN, for inclusion within the national cemetery located in that site; to the Committee on Interior and Insular Affairs.

By Mr. FISH (for himself and Mr. EDWARDS of California):

H.R. 28. A bill to establish a commission to investigate racially motivated violence; to the Committee on the Judiciary.

By Mr. FISH (for himself, Mr. HUGHES, Mr. MOORHEAD, Mr. FEIGHAN, Mr. HYDE, and Mr. STAGGERS):

H.R. 29. A bill to amend the Clayton Act regarding interlocking directorates and officers; to the Committee on the Judiciary.

By Mr. KILDEE (for himself and Ms. SNOWE):

H.R. 30. A bill to amend the State Dependent Care Development Grants Act to provide for a Federal program for the improvement of child care, and for other purposes; to the Committee on Education and Labor.

By Mr. MOAKLEY:

H.R. 31. A bill to amend title I of the Ethics in Government Act of 1978 to provide for more useful and effective disclosure by officials of the legislative branch, and for other purposes; to the Committee on Rules.

By Mr. GONZALEZ (for himself, Mr. BARNARD, Mr. WYLIE, and Mr. HILER):

H.R. 32. A bill to deter and remedy unsafe and unsound or abusive practices and fraudulent or other criminal misconduct by directors, officers, employees, agents, and other insiders of federally regulated depository institutions by strengthening and enhancing the enforcement authority of the Federal depository institutions regulatory agencies; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DINGELL (for himself, Mr. BLILEY):

H.R. 33. A bill to amend the Public Health Service Act to establish standards for the certificate of laboratories engaged in drug testing, and for other purposes; to the Committee on Energy and Commerce.

By Mr. KASTENMEIER:

H.R. 34. A bill to establish a Temporary National Commission on Economic Concentration; to the Committee on Judiciary.

By Mr. ROE:

H.R. 35. A bill to establish within the Department of Health and Human Services a home health clearinghouse to provide elderly persons with a single place where they can obtain complete information on the Federal home health programs available to them; to the Committee on Energy and Commerce.

By Mr. BEILENSON:

H.R. 36. A bill to amend the Federal Election Campaign Act of 1971 to provide for the public financing of general election campaigns for the House of Representatives, and for other purposes; to the Committee on House Administration.

By Mr. GEJDENSON (for himself, Mr. MILLER of California, Mr. STUDDS, Mrs. JOHNSON of Connecticut, Mr. DE LUGO, Mr. STANGELAND, Ms. PELOSI , Mr. MINETA, Mr. FRANK, Mr. JONTZ, Mr. HAMMERSCHMIDT, Mr. RICHARDSON, Mr. BATES, Mr. HENRY, Mrs MEYERS of Kansas, and Mr. WEBER):

H.R. 37. A bill to authorize the water resources research activities of the U.S. Geological Survey, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Public Works and Transportation, Energy and Commerce, and Agriculture.

By Mr. QUILLEN:

H.R. 38. A bill to provide for the payment of impact aid to certain school districts; to the Committee on Education and Labor.

By Mr. UDALL (for himself, Mr. AUCOIN, Mr. SHAYS, Mr. WALGREN, Mr. KASTENMEIER, Mr. EVANS, Mr. FAUNTROY, Ms. PELOSI, Mr. LEWIS of Georgia, Mrs. MORELLA, Mr. JACOBS, Mr. ACKERMAN, Mr. ANNUNZIO, Mr. MORRISON of Connecticut, Mr. FUSTER, Mr. MRAZEK, Mr. YATES, Mr. MOAKLEY, Mrs. BOXER, Mr. PENNY, Mr. TOWNS, Mr. MINETA, Mr. STARK, Mr. GREEN, Mr. HORTON, Mr. LEVINE of California, Mr. CLARKE, Mr. MARKEY, Mr. FRANK, Mr. BONIOR, Mr. CONYERS, Mr. VENTO, Mr. PANETTA, Mr. BATES, Mr. JONTZ, Mr. HAYES of Illinois, Mr. FLORIO, and Mr. PRICE):

H.R. 39. A bill to designate certain lands in Alaska as wilderness; to the Committee on Interior and Insular Affairs.

By Mr. OBEY (for himself, Mr. PETRI, Mr. HAMILTON, Mr. KASTENMEIER, Mr. KLECZKA, Mr. YATES, Mr. LAFALCE, Mr. BENNETT, Mr. BEILENSON, Mr. SMITH of New Jersey, Mr. SHUMWAY, Mr. PEASE, Mr. SLATTERY, Mr. VENTO, and Mr. ASPIN):

H.R. 40. A bill to amend section 313 of the Federal Election Campaign Act of 1971 to eliminate an exception that permits certain Members of Congress to use amounts from excess campaign funds for personal purposes; to the Committee on House Administration.

By Ms. OAKAR:

H.R. 41. A bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin; jointly, to the Committee on Education and Labor and Post Office and Civil Service.

By Mr. BENNETT (for himself, Mr. FAUNTROY, Mr. ROE, and Mr. FRANK):

H.R. 42. A bill to authorize the Secretary of Veterans' Affairs to issue exemplary rehabilitation certificates for certain individuals discharged from the Armed Forces; jointly, to the Committee on Armed Services, Veterans' Affairs, and Education and Labor.

By Mr. CLAY:

H.R. 43. A bill to require that certain contracts between the United States and private contractors contain provisions requiring the contractor to provide certain pension and health benefits to its employees, and for other purposes; to the Committee on Education and Labor.

By Mr. FIELDS:

H.R. 44. A bill to provide that certain service of members of the U.S. merchant marine during World War II constituted active military service for purposes of any law administered by the Veterans' Administration and to establish a mechanism to provide for nonprofit organizations for merchant marine memorials; jointly, to the Committee on Merchant Marine and Fisheries and Veterans' Affairs.

By Mr. MOAKLEY (for himself and Mr. PEPPER):

H.R. 45. A bill to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes; jointly, to the Committee on the Judiciary and Rules.

By Mr. ROYBAL:

H.R. 46. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the Old-Age, Survivors, and Disability Insurance Program under title II of the Social Security Act and the Supplemental Security Income Program under title XVI of such act and to provide for more prudent and effective management of the Social Security trust funds; to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska:

H.R. 47. A bill to establish a National Alternative Agricultural Products, and an Agricultural Industrial Materials Corporation, and for other purposes; to the Committee on Agriculture.

By Mrs. BOXER (for herself and Mr. LEVINE of California):

H.R. 48. A bill to establish the California Ocean Sanctuary; jointly, to the Committee on Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. YOUNG of Alaska:

H.R. 49. A bill to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, lands in the Coastal Plain of the Arctic National Wildlife Refuge for oil and gas exploration,

development, and production; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. EDWARDS of California (for himself and Mr. CONYERS):

H.R. 50. A bill to regulate the conduct of the Federal Bureau of Investigation in certain matters relating to the exercise of rights protected by the first article of amendment to the Federal Constitution; to the Committee on the Judiciary.

By Mr. FAUNTROY (for himself, Mr. FOLEY, Mr. DELLUMS, Mr. FASCELL, Mr. FRANK, Mr. TOWNS, Mr. HAYES of Illinois, Mr. MARKEY, Mr. SOLARZ, Mr. CLAY, Mr. SAVAGE, Mr. OWENS of New York, Ms. PELOSI, Mr. LELAND, Mrs. COLLINS, Mr. LAFALCE, Mr. ESPY, Mr. KLECZKA, Mr. DE LUGO, Mr. LEVIN of Michigan, Mr. ROSE, Mrs. SCHROEDER, Mr. STARK, Mr. CONYERS, Mr. TORRES, Mr. WALGREN, Mr. STUDDS, Mr. FLORIO, Mr. WEISS, Mr. BATES, Mr. KILDEE, Mr. MINETA, and Mr. LEVINE of California):

H.R. 51. A bill to provide for the admission of the State of New Columbia into the Union; to the Committee on the District of Columbia.

By Mr. DELLUMS (for himself and Mr. FAUNTROY):

H.R. 52. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia, to provide authority for the District government to appropriate its own budget, to simplify congressional review of District acts, and for other purposes; to the Committee on the District of Columbia.

By Mrs. COLLINS:

H.R. 53. A bill to amend the Hazardous Materials Transportation Act to improve hazardous materials transportation safety and for other purposes; jointly, to the Committees on Ways and Means, Public Works and Transportation, and Energy and Commerce.

By Mr. CRAIG:

H.R. 54. A bill to improve the financial management of the Federal Government by establishing agency chief financial officers, by requiring the development of systems that will provide complete, accurate, and timely information, and by increasing accountability through a process of agency audits and reports, among other things; to the Committee on Government Operations.

By Mr. HERGER (for himself, Mr. CARR, Mr. FRANK, Mr. MCCURDY, Mr. HYDE, Mr. SPENCE, Mr. DONALD E. LUKENS, Mr. LEWIS of Georgia, Mr. EMERSON, Mr. LAGOMARSINO, Mr. DANNEMEYER, Mr. RINALDO, Mrs. MEYERS of Kansas, Mr. SAWYER, Mr. MARTINEZ, Mr. STARK, Mr. HOLLOWAY, Mr. HANSEN, Mr. INHOFE, Mr. HOUGHTON, Mr. FROST, Mr. SIKORSKI, Mr. FOGLIETTA, Mrs. BOXER, Mr. WHITTAKER, Mr. OWENS of New York, Mr. DEFAZIO, Mr. BOEHLERT, Mr. MOORHEAD, Mr. MFUME, Mr. SHAW, Mr. NEAL of North Carolina and Mr. GUNDERSON):

H.R. 55. A bill to amend section 1030 of title 18, United States Code, to provide penalties for persons interfering with the operations of computers through the use of programs containing hidden commands that can cause harm, and for other purposes; to the Committee on the Judiciary.

By Mr. EDWARDS of California (for himself, Mr. FISH, Mrs. SCHROEDER, Mr. ACKERMAN, Mr. AKAKA, Mr. ANDREWS, Mr. ATKINS, Mr. AUCOIN, Mr. BATES, Mr. BEILENSON, Mr. BERMAN, Mrs. BOGGS, Mr. BOSCO, Mr. BOUCHER, Mrs. BOXER, Mr. BRENNAN, Mr. BROOKS, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BRYANT, Mr. CARDIN, Mr. CARPER, Mr. CARR, Mr. CHANDLER, Mr. CLARKE, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. COURTER, Mr. COYNE, Mr. CROCKETT, Mr. DEFAZIO, Mr. DE LUGO, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. DYMALLY, Mr. EVANS, Mr. FASCELL, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. FLORIO, Mr. FORD of Michigan, Mr. FRANK, Mr. FRENZEL, Mr. GALLO, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILMAN, Mr. GLICKMAN, Mr. GREEN, Mr. HAMILTON, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HORTON, Mr. HOYER, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mr. JONTZ, Ms. KAPTUR, Mr. KASTENMEIER, Mr. KENNEDY, Mrs. KENNELLY, Mr. KILDEE, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Mr. LOWERY of California, Mr. MANTON, Mr. MARKEY, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. LEVIN of Michigan, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCCURDY, Mr. MCHUGH, Mr. MILLER of California, Mr. MFUME, Mr. MILLER of Washington, Mr. MINETA, Mr. MOODY, Mrs. MORELLA, Mr. MORRISON of Connecticut, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. NAGLE, Ms. OAKAR, Mr. OLIN, Mr. OWENS of New York, Mr. PANETTA, Mr. PAYNE of New Jersey, Mr. PEASE, Ms. PELOSI, Mr. PEPPER, Mr. RAHALL, Mr. RANGEL, Mr. RICHARDSON, Mr. ROE, Mr. ROYBAL, Mr. SABO, Mrs. SAIKI, Mr. SCHEUER, Mr. SHARP, Mr. SHAYS, Mr. SKAGGS, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mrs. SMITH of Nebraska, Ms. SNOWE, Mr. SOLARZ, Mr. STARK, Mr. STUDDS, Mr. SWIFT, Mr. TORRES, Mr. TOWNS, Mr. TRAXLER, Mr. UDALL, Mr. VENTO, Mr. VISCLOSKY, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, Mr. WHEAT, Mr. WILLIAMS, Mr. WILSON, Mr. WOLPE, Mr. WYDEN, and Mr. YATES):

H.J. Res. 1. Joint Resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. BROOKS:

H.J. Res 2. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. WYLIE:

H.J. Res. 3. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

By Mr. Neal of North Carolina:

H.J. Res. 4. Joint resolution proposing an amendment to the Constitution of the United States providing that, except in cases of national emergency, expenditures of the U.S. Government in any fiscal year shall not exceed its revenues for that fiscal year; to the Committee on the Judiciary.

H.J. Res. 5. Joint resolution proposing an amendment to the Constitution of the United States providing that, except in cases of national emergency, expenditures of the U.S. Government in any fiscal year shall not exceed its revenues for that fiscal year and shall not exceed 20 percent of the gross national product of the preceding calendar year; to the Committee on the Judiciary.

By Mr. BROOKS:

H.J. Res. 6. Joint resolution proposing an amendment to the Constitution of the United States to provide for single 6-year terms for the President and Vice President, and to repeal the 22d article of amendment to the Constitution; to the Committee on the Judiciary.

By Mr. MOAKLEY:

H.J. Res. 7. Joint resolution to repeal an obsolete joint rule of Congress (section 132 of the Legislative Reorganization Act of 1946, as amended) relating to sine die adjournment of Congress; to the Committee on Rules.

By Mr. HYDE:

H.J. Res. 8. Joint resolution to provide for the establishment of a Joint Committee on Intelligence; to the Committee on Rules.

By Mr. BENNETT:

H.J. Res. 9. Joint resolution proposing an amendment to the Constitution to provide that, except in time of war or economic emergency declared by the Congress, expenditures of the Government may not exceed the revenues of the Government during any fiscal year; to the Committee on the Judiciary.

H.J. Res. 10. Joint resolution proposing an amendment to the Constitution of the United States relating to the limitation of expenditures in elections for public office; to the Committee on the Judiciary.

H.J. Res. 11. Joint resolution proposing an amendment to the Constitution to provide for the direct election of the President and the Vice President and to authorize Congress to establish procedures relating to the nomination of Presidential and Vice Presidential candidates; to the Committee on the Judiciary.

H.J. Res. 12. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations; to the Committee on the Judiciary.

By Mr. IRELAND:

H.J. Res. 13. Joint resolution expressing the sense of the Congress that following the achievement of a balanced budget, any existing budget surplus should be applied to reducing the national debt; to the Committee on Government Operations.

By Mr. JACOBS:

H.J. Res. 14. Joint resolution proposing an amendment to the Constitution of the United States with respect to the compelling of testimony from a defendant in a criminal case in open court, a restriction on the use of prior convictions except when they are an element of the crime charged, and the right of a defendant in a criminal case to be informed of the evidence against him; to the Committee on the Judiciary.

H.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States to limit service by Representatives, Senators, and Federal judges; to the Committee on the Judiciary.

H.J. Res. 16. Joint resolution to amend the Constitution of the United States to provide for balanced budgets and elimination of the Federal indebtedness; to the Committee on the Judiciary.

H.J. Res. 17. Joint resolution proposing an amendment to the Constitution of the United States to repeal clause 11, of section 8, of article I of the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 18. Joint resolution proposing an amendment to the Constitution of the United States permitting the President to grant a pardon to an individual only after such individual has been convicted; to the Committee on the Judiciary.

H.J. Res. 19. By Mr. MCEWEN: Joint resolution designating October 1, 1989, as "Farm Safety Day"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Ohio:

H.J. Res. 20. Joint resolution proposing an amendment to the Constitution of the United States to deal with compensation for services of Members of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Ms. OAKAR:

H.J. Res. 21. Joint resolution authorizing establishment of a memorial to honor members of the American press and other news media who have been killed as a result of hostilities while covering a war or other armed conflict; to the Committee on House Administration.

H.J. Res. 22. Joint resolution to designate the week beginning March 6, 1989, as "Federal Employees Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Nebraska:

H.J. Res. 23. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

H.J. Res. 24. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

H.J. Res. 25. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. ROBERT F. SMITH:

H.J. Res. 26. Joint resolution proposing an amendment to the Constitution of the United States to deal with compensation for services of Members of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.J. Res. 27. Joint resolution to express the sense of the Congress on the continuing need for humanitarian assistance for the people of Ethiopia; to the Committee on Foreign Affairs.

H.J. Res. 28. Joint resolution proposing an amendment to the Constitution to require that congressional resolutions setting forth levels of total budget outlays and Federal revenues must be agreed to by two-thirds vote of both Houses of the Congress if the level of outlays exceeds the level of revenues; to the Committee on the Judiciary.

H.J. Res. 29. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations acts; to the Committee on the Judiciary.

H.J. Res. 30. Joint resolution to provide for the establishment of a Joint Committee on Intelligence; to the Committee on Rules.

By Mr. VENTO:

H.J. Res. 31. Joint resolution making emergency supplemental appropriations for the fiscal year ending September 30, 1989, for urgently needed assistance for the homeless as authorized in the Stewart B. McKinney Homeless Assistance Act; to the Committee on Appropriations.

By Mr. WALKER (for himself and Mr. RITTER):

H.J. Res. 32. Joint resolution affirming the legislative intent under the Social Security Act to provide for increases in old-age insurance benefits with due regard to increases in the cost of living; to the Committee on Ways and Means.

By Mrs. BOXER (for herself, Mr. MOAKLEY, Mr. KENNEDY, Mr. DEFAZIO, Mr. TORRES, Mrs. MORELLA, Mr. MINETA, Mr. BOUCHER, Mr. DYMALLY, Mr. CROCKETT, Mr. FRANK, Mr. PANETTA, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. KASTENMEIER, Mr. STARK, Mr. CLAY, Mr. GEJDENSON, Mr. ATKINS, Mr. WEISS, Mr. AUCOIN, Mr. WOLPE, Mr. DELLUMS, Mr. OLIN, Mr. BUSTAMANTE, Mr. DURBIN, Mr. DORGAN of North Dakota, Mr. HALL of Ohio, Mr. TRAXLER, Mr. PENNY, Mr. KILDEE, Mr. CONTE, Mr. HAYES of Illinois, Mr. ACKERMAN, Mr. MARKEY, Mr. OWENS of Utah, Mr. GARCIA, Mr. LEVINE of California, Mr. BERMAN and Mr. EVANS):

H. Con. Res. 1. Concurrent resolution expressing the sense of the Congress that the primary emphasis of United States assistance for El Salvador should be shifted from support for the war effort to promoting economic development and reducing human suffering; to the Committee on Foreign Affairs.

By Mr. DONNELLY (for himself and Mr. MONTGOMERY):

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress with respect to action that should be taken to account for Americans listed as missing in action from the Korean conflict; to the Committee on Foreign Affairs.

By Mr. HAMMERSCHMIDT:

H. Con. Res. 3. Concurrent resolution on the Essential Air Service Program; to the Committee on Public Works and Transportation.

By Mr. JACOBS:

H. Con. Res. 4. Concurrent resolution condemning the use of rapid decompression as a method of animal euthanasia; to the Committee on Agriculture.

H. Con. Res. 5. Concurrent resolution expressing the sense of the Congress that federally funded school lunches should provide optional meatless meals; to the Committee on Education and Labor.

H. Con. Res. 6. Concurrent resolution expressing the sense of the Congress that any Federal agency that utilizes the Draize rabbit eye irritancy test should develop and validate alternative ophthalmic testing procedures that do not require the use of animal test subjects; to the Committee on Energy and Commerce.

By Mr. LENT:

H. Con. Res. 7. Concurrent resolution directing the Commissioner of Social Security and the Secretary of Health and Human Services to immediately conduct a study and report to Congress on steps which can be taken to correct the benefit disparity known as the notch problem, in order to insure equitable and fair treatment for those who have based their retirement plans on benefit levels which have existed for the past decade; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H. Con. Res. 8. Concurrent resolution directing the Commissioner of Social Security and the Secretary of Health and Human Services to immediately conduct a study and report to Congress on steps which can be taken to correct the benefit disparity known as the notch problem, in order to insure fair and equitable treatment for those who have based their retirement plans on the Social Security benefit levels which existed or were projected, during most of their working lifetimes, under the pre-1977 law; to the Committee on Ways and Means.

By Mr. NEAL of North Carolina:

H. Con. Res. 9. Concurrent resolution expressing the sense of the Congress that tax legislation should not take effect earlier than 90 days after implementing regulations are issued; to the Committee on Ways and Means.

H. Con. Res. 10. Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools; jointly, to the Committees on Education and Labor and the Judiciary.

H. Con. Res. 11. Concurrent resolution declaring the sense of Congress regarding periods of silence in the public schools; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. PACKARD:

H. Con. Res. 12. Concurrent resolution expressing the sense of Congress regarding the need for a new national long-term transportation plan; to the Committee on Public Works and Transportation.

H. Con. Res. 13. Concurrent resolution expressing the sense of Congress regarding the need for an alternative method of paying for the costs of catastrophic health insurance; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SMITH of Florida (for himself, Mr. FASCELL, Mr. HAMILTON, Mr. GILMAN, Mr. TORRICELLI, Mr. FEIGHAN, Mr. LANTOS, Mr. LEVINE of California, Mr. MILLER of Washington, Mr. BERMAN, Mr. CARDIN, and Mr. RICHARDSON):

H. Con. Res. 14. Concurrent resolution urging the Government of Greece to extradite Mohammed Rashid to the United States; to the Committee on Foreign Affairs.

By Mr. DENNY SMITH:

H. Con. Res. 15. Concurrent resolution calling for a modified freeze on Federal spending in fiscal year 1990; to the Committee on Government Operations.

By Mr. SOLOMON:

H. Con. Res. 16. Concurrent resolution expressing the sense of the Congress that Fort Crailo in Rensselaer, NY, should be designated as the home of "Yankee Doodle"; to the Committee on Post Office and Civil Service.

By Mr. GRAY:

H. Res. 1. Resolution electing officers of the House of Representatives; considered and agreed to.

By Mr. COELHO:

H. Res. 2. Resolution informing the Senate that a quorum of the House has assembled and has elected Jim Wright, a Representative from the State of Texas, Speaker; and Donnald K. Anderson, a citizen of the State of California, Clerk; considered and agreed to.

H. Res. 3. Resolution authorizing the Speaker to appoint a committee of two Members on the part of the House to join with a committee of the Senate to notify the President that a quorum of each House has been assembled and that Congress is ready to receive any communication that he

may be pleased to make; considered and agreed to.

By Mr. WHITTEN:

H. Res. 4. Resolution authorizing the Clerk of the House to inform the President that the House of Representatives has elected Jim Wright, a Representative from the State of Texas, Speaker; and Donnald K. Anderson, a citizen of the State of California, Clerk; considered and agreed to.

By Mr. COELHO:

H. Res. 5. Resolution adopting the Rules of the House of Representatives for the 101st Congress; considered and agreed to.

By Mr. MICHEL:

H. Res. 6. Resolution relating to the compensation of certain miniority employees; considered and agreed to.

By Mr. PEPPER:

H. Res. 7. Resolution fixing the daily hour of meeting of the House; considered and agreed to.

By Mr. FOLEY:

H. Res. 8. Resolution authorizing the Speaker to administer the oath of office to Representative-elect Howard Wolpe from the State of Michigan; considered and agreed to.

By Mr. GRAY:

H. Res. 9. Resolution designating membership on certain standing committees of the House; considered and agreed to.

H. Res. 10. Resolution designating chairmen of certain standing committees of the House; considered and agreed to.

By Mr. LEWIS of California:

H. Res. 11. Resolution designating minority membership on the Committee on Standards of Official Conduct of the House; considered and agreed to.

By Mr. BROOKS:

H. Res. 12. Resolution appointing managers for the trial of the impeachment of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida; considered and agreed to.

H. Res. 13. Resolution authorizing the managers on the part of the House for the trial of the impeachment of Alcee L. Hastings, judge of the U.S. District Court of the Southern District of Florida, to take certain actions in the preparation and conduct of such trial; considered and agreed to.

H. Res. 14. Resolution ordering that a message be sent to the Senate informing the Senate of the appointment of managers for the trial of the impeachment of Alcee L. Hastings, judge of the U.S. District Court for the Southern District of Florida; considered and agreed to.

By Mr. PANETTA:

H. Res. 15. Resolution to continue the provisions of the Fair Employment Practices Resolution; considered and agreed to.

By Mr. DICKINSON:

H. Res. 16. Resolution expressing the condolences of the House on the death of the late Representative Bill Nichols; considered and agreed to.

By Mr. DONNELLY (for himself, Mrs. KENNELLY, Mr. DOWNEY, Mr. RANGEL, Mr. MCGRATH, Mr. NEAL of Massachusetts, Mr. MOAKLEY, Mr. STUDDS, Mr. MARKEY, Mr. HORTON, Mr. MAVROULES, Mr. GEJDENSON, Mr. ATKINS, Mr. CONTE, Mr. FRANK, and Mr. DOUGLAS):

H. Res. 17. Resolution expressing the House of Representatives' opposition to an imposition of an import fee on crude oil and refined products; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself, Mr. BUECHNER, Mr. PENNY, Mr. SHAYS, and Mr. STENHOLM):

H. Res. 18. Resolution amending the rules of the House of Representatives to prohibit consideration of certain long-term resolutions making continuing appropriations; to the Committee on Rules.

By Mr. JACOBS:

H. Res. 19. Resolution providing for enclosing the galleries of the House of Representatives with a transparent and substantial material; to the Committee on House Administration.

By Mr. LELAND (for himself, Mr. EMERSON, Mr. ACKERMAN, Mr. BRENNAN, Mr. CARR, Mr. DORGAN of North Dakota, Mr. ESPY, Mr. FAZIO, Mr. FLAKE, Mr. GILMAN, Mr. HALL of Ohio, Mr. KOSTMAYER, Mr. MFUME, Mrs. PATTERSON, Mr. PANETTA, Mr. PENNY, Mrs. ROUKEMA, Mr. ROBERT F. SMITH, Mr. UPTON, Mr. BEREUTER, Mr. AKAKA, Mr. ANTHONY, Mr. ATKINS, Mr. AUCOIN, Mr. BARNARD, Mr. BEILENSON, Mr. BENNETT, Mrs. BENTLEY, Mr. BILBRAY, Mr. BROWN of California, Mr. BUSTAMANTE, Mr. BEVILL, Mr. BERMAN, Mr. CARDIN, Mr. CARPER, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. GORDON, Mr. HARRIS, Mr. FEIGHAN, Mr. CONTE, Mr. TRAFICANT, Mr. DURBIN, Mr. VENTO, Mr. MARKEY, Mr. LEWIS of Georgia, Mr. LEVIN of Michigan, Mr. DICKS, Mr. STOKES, Mr. HOYER, Mr. SCHEUER, Mr. MRAZEK, Mr. EDWARDS of California, Mr. FLORIO, Mr. LEHMAN of Florida, Mr. CONYERS, Mr. HALL OF Texas, Mr. EVANS, Mr. VALENTINE, Mr. HAYES of Louisiana, Mr. WOLF, Mr. WILSON, Mr. MARTINEZ, Mr. FROST, Mr. ERDREICH, Mr. NEAL of North Carolina, Mr. RICHARDSON, Mr. MAZZOLI, Mr. WAXMAN, Mr. KOLTER, Mr. DWYER of New Jersey, Mr. MCCURDY, Mr. RANGEL, Mr. WHEAT, Mr. LEHMAN of California, Mrs. SAIKI, Mr. OWENS of Utah, Mr. TOWNS, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. LEVINE of California, Mr. ORTIZ, Mr. GUARINI, Mr. PRICE, Mr. LEACH of Iowa, Mr. ROYBAL, Mr. SAWYER, Mr. SCHUMER, Mrs. KENNELLY, Mr. OBEY, Mr. HAYES of Illinois, Mr. KILDEE, Ms. OAKAR, Mr. TALLON, Mr. WELDON, Mr. HAWKINS, Mr. STUDDS, Mr. MCHUGH, Mr. FRANK, Mr. HORTON, Mr. MANTON, Mr. YATRON, Mr. GUNDERSON, Mr. KASTENMEIER, Mrs. SCHROEDER, Mr. WALGREN, Mr. LIPINSKI, Mr. NATCHER, Mr. SOLARZ, Mr. SYNAR, Mr. OWENS of New York, Mr. WOLPE, Mr. UDALL, Mr. CROCKETT, Mr. HUTTO, Mrs. LLOYD, Mr. WATKINS, Mr. GRANT, Mr. KENNEDY, Mr. WILLIAMS, Mr. MORRISON of Connecticut, Mr. SIKORSKI, Mr. LEATH of Texas, Mr. MILLER of California, Mr. SHARP, Mr. WYDEN, Mr. MATSUI, Mr. DELLUMS, Mr. GEPHARDT, Mr. DOWNEY, Mr. FASCELL, Mr. COELHO, Ms. KAPTUR, Mr. MINETA, Mr. SABO, Mr. HAMILTON, Mr. DYMALLY, Mr. TAUZIN, Mrs. MORELLA, Mr. GARCIA, Mr. COSTELLO, Mr. GRAY, Mr. RUSSO, Mr. MAVROULES, Mr. GEJDENSON, Mr. ROWLAND of Georgia, Ms. SNOWE, Mr. LANCASTER, Mr. KLECZKA, and Mr. TORRES):

H. Res. 20. Resolution to establish the Select Committee on Hunger; to the Committee on Rules.

By Mr. MILLER of Ohio:

H. Res 21. Resolution expressing the sense of the House of Representatives that, for the purpose of making appropriate reductions in the global defense burden of the United States, the President should enter into negotiations with the governments of certain countries that are allies of the United States; to the Committee on Foreign Affairs.

By Mr. MOAKLEY:

H. Res. 22. Resolution making technical amendments in the Rules of the House, and for other purposes; to the Committee on Rules.

By Mr. RANGEL (for himself and Mr. GILMAN):

H. Res. 23. Resolution to establish the Select Committee on Narcotics Abuse and Control; to the Committee on Rules.

By Mr. RHODES (for himself, Mr. CRAIG, Mr. SCHAEFER, Mr. KYL, Mrs. MEYERS of Kansas, and Mr. KOLBE):

H. Res. 24. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation that adjusts the pay of Members, and for other purposes; to the Committee on Rules.

H. Res. 25. Resolution to amend the Rules of the House of Representatives to prohibit Members from receiving honoraria; to the Committee on Rules.

By Mr. SOLOMON:

H. Res. 26. Resolution to express the sense of the House of Representatives on United States policy toward Afghanistan, especially toward the possibility of a Soviet troop withdrawal; to the Committee on Foreign Affairs.

H. Res. 27. Resolution requiring that the pledge of allegiance to the U.S. flag be rendered in the Hall of the House at the start of each legislative day; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

1. By the SPEAKER: Memorial of the Second Pohnpei Legislature, Eastern Caroline Islands, relative to a resolution of appreciation for passing legislation reinstating the eligibility of Federated States of Micronesia students for Pell grants (Public Law 100-369); to the Committee on Education and Labor.

2. Also, memorial of the Fourth Kosrae State Legislature, Eastern Caroline Islands, relative to a resolution expressing the gratitude of the legislature to all who helped to reinstate the eligibility of FSM students to qualify for Pell grants; to the Committee on Education and Labor.

3. Also, memorial of the Legislature of the State of California, relative to Ethiopian Jews; to the Committee on Foreign Affairs.

4. Also, memorial of the Senate of the State of Michigan, relative to American citizens being held prisoner in the Soviet Union and its satellites; to the Committee on Foreign Affairs.

5. Also, memorial of the Legislature of the State of California, relative to the Amerasian Resettlement Program; jointly, to the Committee on Foreign Affairs and the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1. By the SPEAKER: Petition of Manuel E. Garcia, Alameda, CA, relative to a redress of grievances; to the Committee on the Judiciary.

2. Also, petition of the Board of Supervisors, County of El Dorado, Placerville, CA, relative to the passage of an amendment to the Constitution to ensure a balanced Federal budget; to the Committee on the Judiciary.

3. Also, petition of Michael J. Heun, Maricopa County, AZ, relative to a redress of grievances; to the Committee on the Judiciary.

4. Also, petition of the Cameron County Commissioners Court, Brownsville, TX, relative to the illegal entry of non-Mexican aliens into the United States at the United States-Mexico border; to the Committee on the Judiciary.

5. Also, petition of Gaylon L. Harrell, Latham, IL, relative to a redress of grievances; to the Committee on the Judiciary.

6. Also, petition of Robert W. Wangrud, Milwaukie, OR, relative to a redress of grievances; to the Committee on the Judiciary.

7. Also, petition of William A. Goodson, Paulsboro, NJ, relative to a redress of grievances; to the Committee on the Judiciary.

8. Also, petition of the Legislative Commission, State of Nevada, relative to urging Congress to continue the Federal tax exemption for mortgage revenue bonds; to the Committee on Ways and Means.

9. Also, petition of the Association of Pacific Island Legislatures, Agana, GU, relative to the implementation of Public Law 99-239, section 104(e) and a detailed assessment of immigration from the Freely Associated States in Micronesia; jointly, to the Committees on Foreign Affairs and Interior and Insular Affairs.

EXTENSIONS OF REMARKS

A TRIBUTE TO SIX KANSAS CITY FIREFIGHTERS

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WHEAT. Mr. Speaker, today we return to Capitol Hill to convene the 101st Congress of the United States. But before we proceed to the business of the day, I would like to take a moment to pay tribute to six Kansas City firefighters who tragically lost their lives just as the holiday season began.

On Tuesday, November 29, 1988, two devastating chemical explosions took the lives of the six firefighters and left families, friends, and firefighters across the Nation in grief. It was the worst firefighting disaster in the city's history. The entire city mourned the loss of six of its finest men.

It was a loss that was deeply felt by the community, and the tremendous outpouring of sympathy and support from my constituents was commensurate with that pain. Sometimes, in our day to day existence, we tend to overlook the life-threatening danger that hovers above those to whom we entrust the public safety. A tragedy such as this one is a stark and painful reminder of the ever-present threat to which these men and their firefighting brothers expose themselves so that others may live in safety.

Who were these courageous men? Capt. Gerald C. Halloran, Capt. James H. Kilventon, and firefighters Michael R. Oldham, Thomas M. Fry, Robert D. McKarnin, and Luther E. Hurd. They were ordinary people with extraordinary character, men with families, good friends, and much to look forward to.

CAPT. GERALD C. HALLORAN

The senior captain of the fire department, he was a banjo player with a proud Irish heritage. A member of the Knights of Columbus, the John F. Kennedy Council, and the Ancient Order of Hibernians, he was a lover of history, travel, cabinetry, and horse racing. Above all, he considered himself a public servant. He had three children and six grandchildren. He was 57 years old. He gave his life in service to his community.

CAPT. JAMES H. KILVENTON

Firefighting was always James Kilventon's first priority. He also found other ways to enjoy time with his family and friends. He was a great cook, and every firefighter who ever tasted his chili testifies to it. He loved fishing and hunting. He was especially proud of his Irish heritage and was a member of the Knights of Columbus. An ex-Navy man, he was one who was always doing for others. He had been at the fire station 7 years, and he had a daughter and a son. He was 54 years old. He gave his life in service to his community.

MICHAEL R. OLDHAM

A kind and dedicated firefighter and family man. He had recently moved into a new house with his wife and two children. He was a quiet man who enjoyed horticulture, and his home reflected his love of plants and trees. He was a reflective man who enjoyed cooking, fishing, and playing with his children. He was 32 years old. He gave his life in service to his community.

THOMAS M. FRY

He started with the department in 1973 and was the proud father of a 6-year old girl. He loved hunting, waterskiing, and time spent with friends. Firefighting gave him the opportunity to do what he most enjoyed—helping other people. He took up skydiving at one time and he loved off-the-road vehicles. He spent time in Germany in the service and then became a firefighter. He was 41 years old. He gave his life in service to his community.

ROBERT D. MCKARNIN

A veteran of the force who started in 1968, he had two children. He was an outstanding high school athlete, an accomplished woodworker, and a man who realized his dream to become a fireman. He loved fishing and boating and fixing things for other people. He was a handyman, especially with cars. He was a member of the first graduating class of Reytown South High School in Kansas City, and he designed the class ring. He was 42 years old. He gave his life in service to his community.

LUTHER E. HURD

The father of three children and an 11 year veteran firefighter. He was a star high school football player who forsook his athletic aspirations to take care of his ailing mother. He relished time with his wife and children, and he relished firefighting. For several years, he had taught Red Cross cardiopulmonary resuscitation classes, and he served on the fire department's honor guard representing the department at parades and other official events. He was 31 years old. He gave his life in service to his community.

These six men will not be forgotten.

We must rededicate ourselves to recognizing the extreme dangers posed by the transportation and storage of hazardous materials. We must take whatever steps are necessary a minimize the threats these materials present to firefighters and other citizens. And we must provide the necessary support to our Nation's fire and emergency response units to enable them to perform their jobs effectively without needlessly jeopardizing their lives.

Mr. Speaker, these men are gone, but they did not die in vain. We will learn painful lessons from their deaths, and those lessons will save the lives of others in the future.

As firefighters, they gave the supreme sacrifice of their noble profession. For this, each of these men would be proud. Indeed, our entire city is proud.

We salute their courage, and we will miss them.

BETHLEHEM CATHOLIC HIGH SCHOOL WINS FIRST PENNSYLVANIA CLASS 2A FOOTBALL CHAMPIONSHIP

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. RITTER. Mr. Speaker, on Saturday, December 10, the Golden Hawks of Bethlehem Catholic High School [Becahi] defeated the Wilmington Greyhounds 26 to 11 in Altoona to capture the first ever PIAA Class AA football championship. Winning a State championship is a great moment in the career of any coach or player and as the U.S. Representative for these individuals, it is indeed a pleasure to point with pride to their outstanding record and to include my remarks in the RECORD.

But we must also take this opportunity to congratulate the State of Pennsylvania which had never crowned State football champions until this year—accomplishing this in four categories in 1988 with nearly 1,000 football-playing-schools competing. Furthermore, in many States, parochial schools do not participate in State-sponsored athletic playoffs.

Mr. Speaker, congratulations are in order not for Becahi principal, Dick Culver, for his coordination efforts, but also for coach Bob Stem. Coach Stem has a 56–14–1 record at Becahi (112–44–5 overall) and was chosen as Pennsylvania's Small School Coach of the Year by the Associated Press for an undefeated season. The record is even more impressive when one considers that Becahi is the smallest school, and the lone class AA school in the competitive East Penn Conference. Moreover the Golden Hawks played all but one of their games against class AAAA (the largest) schools.

Mr. Speaker, the determination of the Becahi team overcame the lack of size and quantity of its football resources. The spirit generated by the parents, alumni, and friends helped "carry the ball" in pursuit of their common goal. I hope we can generate this same spirit in the 101st Congress.

Mr. Speaker, at this point I include editorials from the Bethlehem Globe Times and the Allentown Morning Call paying tribute to the Golden Hawks.

[From the Allentown (PA) Morning Call, Dec. 12, 1988]

HOORAY, HAWKS! A "TEAM" WIN

"Realistically we did not have the greatest bunch of athletes or the most physical guys, but we were successful because we were a team."—Bob Stem Jr., senior captain, Bethlehem Catholic football team.

And what a team! How about those Golden Hawks? They did themselves, their families, their school and the entire Lehigh Valley proud by nailing down Bethlehem Catholic's first Class 2A State Championship last Saurday. The whoopin' and hollerin' is still going on in Bethlehem. Let it. This bunch of tough-minded, hard-working young men and their coaches earned every whoop and every holler.

In posting a flawless 14-0 record this year, the Golden Hawks demonstrated balance, skill and determination. One of the team's senior captains, young Mr. Stem was right when he described his teammates as not the biggest, not the most physical. But they had the biggest hearts. That's what counts at the end . . . that and motivation. And the motivation came in heaping doses.

In whipping Lawrence County's Wilmington High as convincingly as they did—under brutally cold conditions—the Golden Hawks showed they are truly "a team." The individual efforts seemed to go into a collective fund and at the end of that exciting game, a victory was withdrawn.

"This has to be my proudest moment of my coaching career," declared a triumphant head coach Bob Stem after his Hawks watched the clock tick down on Saturday's final score of 26-11. His pride is shared by everyone in the Lehigh Valley who appreciates good sport, and the spectacle of young athletes doing their best . . . as a team.

[From the Bethlehem (PA) Globe-Times, Dec. 12, 1988]

BETHLEHEM CATHOLIC 11 LIVES A GRIDIRON DREAM

"Dreams can come true and they have for Bethlehem Catholic."

The words were those of Mayor Ken Smith on a frosty Sunday of celebration, but the felling is shared by all in the Bethlehem area.

Bethlehem Catholic, the small school with the big-time football program, has won the PIAA Class AA football championship. And the Golden Hawks did it in typical fashion, combining a balanced offense with a hard-nosed defense that put a far greater chill into the Wilmington High School team than even could the 15-degree temperature in Altoona.

Becahi won the state title with determination, skill and good coaching. This was old-fashioned high school football—seven players going both ways, bone-crushing hits and heroics when heroics were necessary.

And when it comes time to list the heroes—young men by the names of Mattes, Stem, Iasiello, Marsh, Spagnola, Brady and Carpenter—the legend will already be firmly intact.

This little school, which emerged unbeaten from the tough East Penn Conference, had dared to dream. And that dream was realized on a wind-swept field in western Pennsylvania.

But this was not just a victory of players and coaches. It is a victory of a school that has often looked defeat in the face and refused to wince.

It is no surprise this fall that the Golden Hawk volleyball team went to the state semifinals and the Becahi soccer team qualified for the PIAA tournament.

These kids work hard and won't accept less than success.

There is really no reason that the EPC's smallest school should dominate so in football. But it's something that goes beyond numbers and beyond dreams.

It's a drive instilled by a fine coaching staff, led by Bob Stem.

While this state title may surprise some unfamiliar with Stem-led football teams, the only real shame we can see is that the Golden Hawks were limited to the Class AA arena. One can only wonder what this little team—which fares so well in the trenches with the biggest and best from other areas of the state.

That can be left to late-night arguments of what might have been.

What is fact is that in 1988, the Bethlehem Catholic High School football team is the undefeated state champion in its class.

And we, along with this city's residents, are mighty proud of the great honor the Golden Hawks have brought upon themselves and to our community.

THE CLEAN AIR ACT AMENDMENTS OF 1989

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. SWIFT. Mr. Speaker, today I am introducing, on behalf of myself and eight other members of the Committee on Energy and Commerce, a bill to amend the Clean Air Act. This bill is identical to the one which the nine of us introduced 3 months ago, as the 100th Congress was drawing to a close.

At the time we introduced this bill in the last Congress, I pointed to the intransigence of many on both sides—industry and environmentalists—as having doomed our efforts, and those of others, to pass comprehensive clean air legislation. I was not alone in my criticism of those who, in the end, successfully sought to kill a clean air compromise.

Today, I hope, is a day for renewed possibilities. It is the beginning of a new year and a new Congress. We all have the benefit of reflection over last year's progress and last year's failures.

For nearly a decade, there have only been two sides to the clean air debate. One side has maintained that clean air legislation is too expensive, that it would cripple industry, and that it simply is not worth the cost. The other side has argued that improved air quality is too important a goal to allow economic factors to be considered. Ironically, both sides in this debate have implicitly accepted the same premise: that good clean air policy and good economic policy are incompatible.

I reject that premise. I believe that it is possible to have both clean air and a strong economy. I believe that it is possible to improve air quality in a cost-effective fashion. I believe that the American people want and deserve comprehensive clean air legislation that doesn't result in sacrificed jobs or communities. And I believe that it is Congress' responsibility to pass such legislation.

To those who are concerned with clean air legislation, whether they represent industry or environmentalists or anyone else, I extend an invitation to work with us to develop such legislation. I am anxious to work with any and all who are committed to the development of such legislation.

No doubt there will be some on both sides who will choose to continue to carry on the old debate of clean air versus economic growth. To them I say that there is now a third side to this debate. No longer will Congress be limited to choosing between clean air or jobs, clean air or growth, clean air or competitiveness. As the 101st Congress considers clean air legislation, we now have the ability to choose both clean air and jobs, clean air and growth, clean air and competitiveness.

As the third side to the clean air debate unfolds, I am confident that the American people and the Congress will embrace it with enthusiasm. With that spirit of optimism, therefore, I urge all of my colleagues to join with those of us who are introducing this bill. Let this be the Congress that passes the kind of clean air legislation that the American people want and deserve.

INTRODUCTION OF LEGISLATION REQUIRING HOSPITALS TO BE QUALIFIED MEDICAID PROVIDERS

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, earlier today, I introduced legislation, along with Congressman PETE STARK, the chairman of the Health Subcommittee, to address what we believe is becoming a serious problem with hospitals in this country which refuse to acknowledge their responsibility to those individuals who do not have adequate access to health care.

I am referring to hospitals which refuse to accept Medicaid patients or hospitals which refuse to accept patients who do not have health insurance. Simply put, Mr. Speaker, the primary role of a hospital is to care for sick people. But when access to care is denied because a patient is incapable of paying for services, especially by a hospital which receives enormously generous benefits from the taxpayers of this country, it's time for Congress to step in.

A study reported in the Milbank Quarterly showed that 15 percent of for-profit hospitals surveyed discouraged admission of Medicaid patients, 5 percent of private nonprofit hospitals discouraged admission, and 3 percent of public hospitals discouraged admission. Even worse are the statistics for hospitals which discourage admission of uninsured patients: 43 percent of for-profit hospitals, 20 percent of private nonprofit hospitals, and 14 percent of public hospitals. In addition, many hospitals do not have Medicaid provider agreements.

The Health Care Providers Responsibility Act, which we introduce today, has two main provisions, but its overriding purpose is to provide that when a hospital or skilled nursing facility, or other health care facility, receives proceeds from a tax-exempt bond, or when a health care facility is a qualified Medicare provider, the health care facility is required to accept Medicaid patients. Although I think this bill should go further—and will continue to pursue attempts to make it go further—I am introducing this bill today to send a message that hospitals have a responsibility to their community when they receive benefits from the taxpayers of this country.

I want to reiterate this point. When I introduced this legislation last year, and again today, it only provides that a hospital must have a Medicaid provider agreement. It says nothing about care for patients without health insurance and says nothing on its face about patient dumping. I plan to use the next several months—before the reconciliation process begins in the Committee on Ways and Means—to address these major problems, and deal with them as an amendment to this legislation.

A more detailed explanation of the legislation follows:

AMENDMENTS TO TAX-EXEMPT BOND RULES

PRESENT LAW

Condition of bond exemption

Interest on obligations of State and local governments is exempt from Federal income tax under authority of section 103 of the Internal Revenue Code. In the case of a private activity bond (i.e., a bond where proceeds are used to finance private activities), interest on the bond is taxable unless a specific Code provision operates to exclude the interest from taxation.

One such exception is provided for "qualified 501(c)(3) bonds" (Code sec. 145). A bond is a qualified 501(c)(3) bond generally if the proceeds of the issue are used by an organization exempt from tax under section 501(c)(3) of the Internal Revenue Code or by a governmental unit. Other requirements are also imposed on general obligation bonds (see, for example, code sections 147 and 149).

Application of unrelated business income tax

Under present law, if there is a change in the use of facilities financed in whole or in part with proceeds from a tax-exempt private activity bond, several adverse consequences result. In the case of qualified 501(c)(3) bonds, a change in use can result in the 501(c)(3) entity becoming subject to the unrelated business income tax.

Code section 150(b)(3) subjects these entities to the unrelated business income tax if facilities owned by these entitled, financed with proceeds of tax-exempt bonds, are used in a trade or business by a non-exempt person. In addition, no deduction for interest in financing provided by tax-exempt bonds is allowed for entities which become subject to the unrelated business income tax under this section.

EXPLANATION OF PROVISION

Condition of bond exemption

Under the bill, interest on an inpatient health care facility bond would not be exempt from tax unless, at the time the bond was issued, the facility receiving proceeds from the bond was a qualified Medicaid provider is the State in which the facility was located. An "inpatient health care facility bond" is a private activity bond, any proceeds of which are used by or on behalf of an inpatient health care facility. The term inpatient health care facility includes, but is not limited to, hospitals, skilled nursing facilities, and intermediate care facilities. The bill is also intended to cover such services as those commonly provided in hospital emergency rooms.

It is anticipated that the Secretary will monitor the activities of hospitals which have provider agreements and receive proceeds from inpatient health care facility bonds closely. For example, if a hospital had a provider agreement, but discouraged admission of Medicaid patients, or attempted to discharge those patients before they were well, the Secretary would be expected to notify these hospitals that such actions were inappropriate as a condition of receiving the benefits of tax-exempt financing. Such actions by hospitals might well subject the hospitals to loss of a provider agreement under many State Medicaid laws, thus subjecting the hospitals to the unrelated business income tax (as discussed below).

Unrelated business income tax provisions

Under the bill, interest on a general obligation bond would not lose its exemption from Federal income tax retroactively if proceeds from that issue were used to provide an inpatient health care facility which violated the Medicaid standards discussed above. This is because, in the case of a general obligation bond, it is possible that only a fraction of the proceeds would be lent to an inpatient health care facility within the meaning of the bill. A decision was made that it was inappropriate to taint the entire bond issue if only a small fraction of the proceeds were made available to an offending facility, or if it were impossible to trace the proceeds to such a facility.

Nonetheless, inpatient health care facilities which receive proceeds from a general obligation bond are still required to be Medicaid providers. Similar to the rules governing facilities financed under 501(c)(3) bonds which are used by a person other than a 501(c)(3) orgaization or governmental unit, the bill subjects the facility to the unrelated business income tax. Thus, if financing from a general obligation bond were provided to any inpatient health care facility from a bond which purported to be a tax-exempt bond at the time of its issue, and the facility did not meet the requirement specified above relating to being a Medicaid provider, then the owner of the facility would be subject to the unrelated business income tax imposed by Code section 511. The unrelated business income tax would be imposed in any year in which the facility failed the test relating to Medicaid.

The provisions relating to the unrelated business income tax would also apply to an inpatient health care facility which received financing from a inpatient health care facility bond and which violated the Medicaid standard. Thus, interest on bonds would not lose income tax exemption, but the offending facility would become subject to the unrelated business income tax sanction for the taxable year (or years) in which the facility did not have a provider agreement under the State's Medicaid program. Furthermore, any deduction for interest on bond financing which would arise as a result of the facility becoming liable for the unrelated business income tax would be disallowed.

EFFECTIVE DATE

The provision would be effective for bonds issued after December 31, 1989. No inference is intended that this effective date could not be moved forward to an earlier point in time if, upon action on this legislation by the Committee on Ways and Means, the Committee were to determine that the December 31 effective date would cause a rush to market.

AMENDMENTS TO MEDICARE PROGRAM

PRESENT LAW

Under present law, the Medicare reimburses most acute-care hospitals on the basis of a prospective payment system. Reimbursement for care is determined prospectively, and hospitals will generally receive a fixed amount for the care of a Medicare patient. Certain costs are excluded from the prospective payment system, however.

In the case of the costs of direct or indirect medical education, for example, the reimbursement for care of a Medicare patient is adjusted by a direct or indirect medical education factor if the hospital incurs such costs. In addition, the costs of hospital capital are generally passed directly through to a hospital (subject to a 15% reduction in fiscal year 1989). Present law does not require hospitals or skilled nursing facilities to be Medicaid providers as a condition of participation in the Medicare program.

EXPLANATION OF PROVISION

Under the bill, a hospital or skilled nursing facility not having a qualified Medicaid provider agreement in the State in which the facility was located would not receive payments under Part B of the Medicare program, nor adjustments for direct and indirect medical education costs, nor capital-related payments.

EFFECTIVE DATE

The provision would be effective for hospital cost reporting periods beginning on or after September 15, 1989.

CONGRESSIONAL BUDGET REFORM ACT OF 1989

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. IRELAND. Mr. Speaker, today I am introducing the Congressional Budget Reform Act of 1989, legislation which is intended to institutionalize the concept of the legislative-executive budget summit that took place after the stock market crash of 1987. The budget summit was a rather extraordinary achievement, when Congress and the administration formed a consensus on overall budget targets and stuck to them. Unfortunately, this was only made possible by a genuine fear among members of both parties that the economy would collapse under the weight of exploding deficits. This kind of crisis management will not solve the problem of the structural deficit or our long-term debt situation.

Congress attempted budget reform with the 1974 Congressional Budget and Impoundment Control Act, which was intended to make Congress a more involved participant in the budget process. In doing so, the new act cut out the executive branch, which up to that point had been the dominant player in the field. Today, the annual budget submitted by the President is declared "Dead on Arrival" as soon as it reaches Congress, regardless of who occupies the Oval Office. Meanwhile, Congress goes about feverishly working on a budget outline that the administration cannot endorse. In recent years, the result has been nothing short of total stalemate. At the same time, the budget process is one that consumes an inordinate amount of Congress' time. It has become an unending exercise in which we develop budget guidelines that are, in the end, largely ignored by Congress itself.

My legislation does not require a constitutional amendment, as is the case with the balanced budget and line-item veto proposals.

My bill would amend the 1974 Budget Act to change the system from one based on a concurrent resolution to one based on a joint resolution, which must be approved by both the House and Senate and sent to the President for his signature. In this way, the President becomes an equal player in the budget process. It is the key element that is missing from the process, and the one element which is sorely needed if we are to gain any consensus and deal with the Federal deficit. Forging a consensus with the administration early in the budget cycle would also help avoid confrontation and crisis at the end of each fiscal year.

Late last year, the Gerald R. Ford Foundation announced the publication of a work called Broken Purse Strings, which was coauthored by former Congressional Budget Office Director Rudolph G. Penner. Among the recommendations made by this publication is that there be a joint budget resolution setting out spending and revenue targets that would be subject to a Presidential veto. In addition, my colleagues might recall that the distinguished former Senator from Florida, Lawton Chiles, then chairman of the Senate Budget Committee, originally called for the summit which lead to the agreement on the fiscal year 1989 budget. The success of this crisis-inspired summit proves the value of formalizing this process. And that is exactly what my legislation would do.

I fully understand, Mr. Speaker, that there may be resistance among my colleagues to an idea such as this. However, for the benefit of all of us and for future generations, I think we should give it a fair hearing. We must consider it as one of several vital reforms to be made in the budget process and as one approach to getting a handle on the Federal deficit. At times, it seems the pressure to reduce the deficit is off. Then comes a stock market episode, an edging up of interest rates, a minor oil shock or a fall in the dollar, and we are back to crisis management. We can't go on like this. Reform of the budget process to include the executive branch will not only make all the appropriate Government entities a part of budget development, but will also provide a full range of accountability.

THE JOINT MANUFACTURING OPPORTUNITIES ACT OF 1989

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WYDEN. Mr. Speaker, today I and several of my colleagues from the Small Business Committee are reintroducing a bill which could give small U.S. manufacturing firms new strength to compete on a global basis.

I am joined in sponsoring this legislation by Mr. LAFALCE, chairman of the Small Business Committee, and Mr. MCDADE, the committee's ranking minority member. My cosponsors include Mr. MAZZOLI, who is a senior member of both the Small Business and the Judiciary Committees, and my fellow Small Business Subcommittee Chairmen, Mr. SKELTON, Mr. ECKART, and Mr. HATCHER.

Mr. Speaker, this bill addresses a very fundamental question facing our Nation: How do we stop the current hemorrhage of U.S. manufacturing jobs?

Since 1981, the United States has suffered a net loss of approximately 700,000 manufacturing jobs. And unless we act to amend underlying problems, analysts expect that over the next couple of years another 100,000 to 150,000 jobs in basic industries will disappear.

This has staggering implications for our national competitiveness. The United States remains a great wellspring of new technology and innovation, but our inventions and ideas too often are being applied in overseas manufacturing plants where operating costs are lower.

The smaller the manufacturer, the more difficult are these problems. To fight off foreign competition in U.S. markets, even the smallest companies must undertake significant investment for plant modernization, worker retraining, and the development of new products and customers.

I believe that through partnerships our small manufacturers can make themselves more competitive, at a lower cost, by spreading investment and risk. One such avenue is the flexible manufacturing network. This European industrial model emphasizing sharing between companies of manufacturing equipment, product development and research, and marketing was investigated by the Subcommittee on Regulation and Business Opportunities, which I chair, in a September 13, 1988, hearing.

Flex networks in Europe have allowed small companies to form consortia to pursue real business opportunities, and have led to an industrial renaissance in some regions. Witnesses representing a number of U.S. industries expressed interest in this kind of informal joint venturing.

But uniformly they also expressed concern that they would be prosecuted under the Clayton Act for antitrust violations, even though the combinations suggested by small-scale, joint manufacturing and market development networks would not necessarily be anticompetitive.

Mr. Speaker, this bill provides no one with a safe haven from antitrust enforcement. It does, however, direct the courts to use a rule of reason in determining if a given flexible manufacturing network of firms is anticompetitive, rather than assume that any combination violates the Clayton Act.

The legislation limits entry into such networks. No network combination could absorb more than 20 percent of its relative market. Individual partners in these combinations could not employ more than 500 workers, each.

And there is nothing in this bill that hinders the Government's crucial ability to combat price fixing.

Mr. Speaker, finally, I would like to include in the RECORD a recent editorial from the Oregonian commenting on the issue.

[From the Oregonian, Oct. 28, 1988]

ANTITRUST LAW NEEDS FLEXING

There are two ways to look at bills introduced in the final days of a Congress. There's the cynical view—the proposal is political cover for the fall campaign. Or there's the lofty look—the going-nowhere-now proposal is about legislative tomorrows.

Rep. Ron Wyden's Joint Manufacturing Opportunities Act of 1988 is inescapably the latter. The Portland Democrat has no campaign opposition this fall. Wyden's bill would help clear the way for flexible manufacturing networks in the United States, and the impressive list of co-sponsors on both the House Small Business and Judiciary committees shows that Wyden is clearing the way in the House for his legislation.

The European concept of flexible manufacturing involves small businesses joining together to develop, manufacture and market products while maintaining their individual identities. This pooling lets them afford new technologies, thus better respond to their customers' changing demands.

Patterned after the Export Trading Company Act of 1982 and the National Cooperative Research and Development Act of 1984, Wyden's legislation would modify existing antitrust law to allow small companies in the United States to do the same thing.

Price fixing would remain prohibited. But companies with no more than 500 workers could participate in flexible manufacturing networks so long as the arrangement did not absorb more than 20 percent of the market.

Small-business partnerships would not be deemed automatically anti-competitive. Wyden would have the courts apply a rule of reason, considering all factors in determining antitrust violations.

As Wyden learned in September hearings, there are many ways to encourage flexible manufacturing because there are many barriers to it. Retooling is difficult for a small business strapped for cash. Loans are hard to get because creditors and accountants have yet to adjust to flexible manufacturing's new methods and structures. Government support—financial assistance or advice—is necessarily limited.

Still, Wyden's antitrust approach would be a low-cost means of helping flexible manufacturing along by allowing small businesses to help themselves without fear of antitrust prosecution.

Manufacturers have been on the rebound partly because of export sales driven by the weak dollar. But increased international competition will demand new manufacturing processes. Flexible manufacturing should be part of that future, and it's good news for this new form of competitiveness that Wyden will be back in the House to push it along.

FOREIGN OWNERSHIP DISCLOSURE ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, the Foreign Ownership Disclosure Act of 1989 addresses the critical need to establish a centralized and reliable source of data regarding the rapid increase in foreign ownership of U.S. farms, banks, factories, corporations, and Government securities.

This measure requires the systematic registration of most major foreign-owned interests here. For a "significant interest" of more than 5 percent in a U.S. business or real estate property valued at over $5 million the bill asks only the following information: The foreign person's address; identity; nationality; ad-

dress; industry; the date the interest was acquired; the percentage of the interest and its market value; and the name location and industry of U.S. property.

For a "significant interest" of over 25 percent in the U.S. business with assets or annual sales of over $20 million the bill asks for basic financial data such as the balance sheet, income statement, statement of changes in financial condition, overall statement of sales, assets, operating income, location of U.S. facilities and the identity and nationality of the directors and officers.

Access to this data is limited to authorized persons in the Department of Commerce, General Accounting Office, designated State agencies, committees and subcommittees of Congress, and persons conducting qualified research as approved by the Secretary of Commerce.

Our Nation is selling off U.S. assets at an unprecedented pace. Foreign ownership of U.S. assets has tripled in the last 7 years, to more than $1.5 trillion. But this is only what our Government knows about—some experts believe the true figure may be twice that amount. We are using this surge of foreign capital not to promote long-term growth, but to pay for a high national lifestyle of consumption, as reflected in the unprecedented U.S. budget and trade deficits of this decade.

The rapid increase in foreign investment here may have profound implications for our economic independence, our national security, and our political sovereignty. I have introduced legislation today to equip us to make sound policy judgments based on reliable information, and I invite my colleagues to join me in cosponsoring this important measure. It is the intention of Senator TOM HARKIN to introduce similar legislation in the Senate later this month.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Foreign Ownership Disclosure Act of 1989".

SEC. 2. REGISTRATION OF FOREIGN-HELD INTERESTS IN UNITED STATES PROPERTY.

(a) INTERESTS ACQUIRED AFTER EFFECTIVE DATE.—Any foreign person who, after the effective date of the regulations prescribed pursuant to subsection (j), acquires directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise;

shall register that interest with the Secretary within 30 days after the acquisition.

(b) INTERESTS ACQUIRED BEFORE EFFECTIVE DATE.—Any foreign person who, on the effective date of the regulations prescribed pursuant to subsection (j), holds directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise;

shall register that interest with the Secretary within 180 days after the effective date of such regulations.

(c) CONTENTS OF REGISTRATION.—Each registration required under subsection (a) or (b) shall be in such form and in accordance with such procedures as the Secretary may require by regulation and shall contain the following:

(1) The identity, address, legal nature, industry, and nationality of the foreign person.

(2) The date on which the foreign person acquired the interest.

(3) The relation of the foreign person to the United States property.

(4) The name, location, and industry of the United States property.

(5) The market value of (A) the assets of a United States business enterprise or (B) a United States real property.

(6) The percentage size of the interest acquired.

(d) ADDITIONAL DISCLOSURE FOR CONTROLLING INTERESTS.—If the interest registered under subsection (a) or (b) is a controlling interest in a United States business enterprise, the foreign person shall, by an amendment to the registration made within 180 days after registering such interest, provide the Secretary with the following additional current information:

(1) With respect to the foreign person, an English translation of so much of the information listed in subparagraphs (A), (B), and (C) of paragraph (2) that is publicly disclosed in the home country of the foreign person.

(2) With respect to the United States business enterprise—

(A) a—

(i) balance sheet and income statement;

(ii) statement of changes in financial condition; and

(iii) statement of sales, assets, operating income, and depreciation by industrial segment,

prepared in accordance with Generally Accepted Accounting Procedures or in accordance with Statutory or Regulatory Accounting Principles and accompanied by explanatory notes and any current auditor's statements and reports;

(B) the location of all facilities within the United States; and

(C) the identity and nationality of each director and excutive officer.

(e) ANNUAL REPORTS.—(1) Within 90 days after the end of each calendar year, a foreign person who has registered an interest in United States property under this section, and who, at any time during such calendar year, held directly or indirectly—

(A) a significant interest in such property, shall report to the Secretary any changes in the information required under subsection (c) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph; or

(B) a controlling interst in such United States business enterprise, shall report to the Secretary any changes in the information required under subsections (c) and (d) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph.

(2) Any report filed under this section shall be in such form and in accordance with such procedures as the Secretary may require by regulation.

(f) SUBSTITUTION OF OTHER DOCUMENTS.—(1) To the extent a foreign person has prepared other documents which contain information required under this section with respect to an interest required to be registered or reported under this section, the foreign person may provide a copy of such other documents (or the relevant portions thereof) for the purposes of complying with the requirements of this section.

(2) With respect to any interest required to be registered or reported under this section which a foreign person acquires or holds solely through, or by virture of acquiring or holding a significant or controlling interest in, a United States business enterprise which is an issuer whose securities are registered under the Securities Exchange Act of 1934 and which has filed the material required to be filed by such United States business enterprise pursuant to sections 12, 13, 14, and 15(d) of such Act, the foreign person may, in lieu of providing the information otherwise required under this section, provide the Secretary with a copy of the most recent annual and periodic reports, statements, and notices filed pursuant to such Act.

(g) CIVIL PENALTY.—Any foreign person who is late in registering an interest or reporting changes with respect to an interest in accordance with subsections (a) through (f) shall be subject to a civil penalty of not more than $10,000.

(h) CRIMINAL PENALTIES.—(1) Any foreign person who willfully fails to register an interest or submit a report in accordance with subsections (a) through (f), or who willfully submits false or misleading information in the registration or report, shall be fined not more than $10,000, or shall be imprisoned not more than 1 year, or both.

(2) Any foreign person previously convicted of a violation under paragraph (1) who subsequently is convicted of a pattern or practice of violations under paragraph (1) shall be subject to forfeiture of all interests in United States property with respect to which such violations were committed.

(i) INVESTIGATIVE ACTIONS.—The Secretary may undertake such investigative actions as the Secretary considers necessary to monitor compliance with this section. For the purposes of conducting such investigations the Secretary shall have the same powers and authorities as the Federal Trade Commission under sections 9 and 10 of the Federal Trade Commission Act.

(j) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish for notice and public comment regulations to carry out this section. The final regulations prescribed to carry out this section shall take effect not later than 180 days after such date of enactment. Such regulations shall—

(1) establish forms and procedures for making the disclosures required by this section; and

(2) establish procedures for indexing, and providing access to, the information disclosed under this section.

(k) REPORTS TO CONGRESS AND THE PRESIDENT.—The Secretary shall transmit in June of each year, beginning in 1989, a report to the President and the Congress describing—

(1) the extent to which foreign persons hold significant or controlling interests in United States properties, the nationality of those foreign persons, the industries in which those interests are concentrated, and the social, economic, and other effects in the United States of such foreign interests;

(2) the effectiveness and efficiency of the registration and reporting requirements contained in this section in providing the information required under this section and the extent to which the information provides a comprehensive description of the presence of foreign capital in the United States economy;

(3) other Federal data collection activities that overlap with, duplicate, or compliment the registration and reporting requirements established under this section and that could be consolidated or eliminated without compromising the quality of data collected; and

(4) in the case of the first annual report, the feasibility of establishing a system to track individual transactions representing other capital flows into the United States.

(l) REGISTRY OF FOREIGN-HELD INTERESTS.—(1) Not later than 365 days after the effective date of the regulations prescribed pursuant to subsection (j), the Secretary shall compile (and thereafter keep current) a registry of interests registered or reported under this section and the information contained in such registrations or reports. The registry shall index the information for retrieval by—

(A) the name and nationality of any foreign person who registers or reports an interest under subsections (a) through (f) and the standard industrial classification number or numbers (as issued by the Director of the Office of Management and Budget) of any such foreign person; and

(B) the name of the United States property in which any interest registered or reported under this section is held, the standard industrial classification number or numbers of any such United States property, and the State in which any such United States property is located.

(2) Access to the information in the registry shall be available only in accordance with paragraph (3) and only to—

(A) officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, under procedures established by the Secretary of Commerce;

(B) committees or subcommittees of the Congress, under procedures established by the committee or subcommittee;

(C) duly authorized officials and employees of the General Accounting Office, under procedures established by the Comptroller General;

(D) a single agency of each State, as designated by State law, under procedures established by that State in conformance with the procedures established by the Comptroller General under subparagraph (C); and

(E) persons performing qualified research, under procedures established by the Secretary of Commerce by rule or regulation.

(3) The procedures established under paragraph (2) for access to the information in the registry shall be sufficient to prevent disclosure to any unauthorized person of any such information which specifically identifies any interest registered or reported under this section, any foreign person holding such an interest, or any United States property in which such an interest is held, except that duly authorized officials and employees of the General Accounting Office may disclose such information to a committee or subcommittee of the Congress.

(m) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) The term "United States business enterprise" means—

(A) any sole proprietorship, branch, partnership, associated group, association, estate, trust, corporation, or other organization organized under the laws of the United States or of a State or that has its principal place of business in the United States; and

(B) any two or more enterprises described in subparagraph (A) which are acting in concert.

(4) The term "United States property" means—

(A) any United States business enterprise; and

(B) any real property located in the United States, including any minerals therein. For purposes of paragraph (6), contiguous properties in which a foreign person holds an interest shall be considered both separately and in the aggregate as one property.

(5) The term "foreign person" means—

(A) any individual who is not a citizen of the United States;

(B) any business enterprise that is organized under the laws of a foreign government or which has its principal place of business outside of the United States;

(C) any foreign government or any agency or instrumentality of a foreign government; and

(D) any two or more persons acting as a group for the purpose of acquiring or holding any interest referred to in subsection (a) or (b) (and each foreign person in such group), if any foreign person or persons described in subparagraph (A), (B), or (C) of this paragraph hold an equity or ownership interest in such group of 25 percent or more, or the equivalent of such an interest.

(6) The term "significant interest" means any equity or ownership interest that exceeds 5 percent of the total equity or ownership interests in a United States property that (i) has assets or, in the case of real property, is an asset, in the United States with a market value in excess of $5,000,000, or (ii) had gross sales from the United States in the most recent fiscal year in excess of $10,000,000.

(7) The term "controlling interest" means an equity or ownership interest that exceeds 25 percent of the total equity or ownership interests in a business enterprise that—

(A) has assets in the United States with a market value in excess of $20,000,000; or

(B) had gross sales from the United States in the most recent fiscal year in excess of $20,000,000.

(8) The terms "acquire" and "hold", when used with respect to an interest, refer to the ultimate beneficial owner, who must register and report such interest regardless of whether it is held directly or through a nominee or other financial intermediary. Such terms do not refer to a nominee or other financial intermediary who holds such interest on behalf of the ultimate beneficial owner.

(9) The term "equity or ownership interest" shall not include—

(A) any note, bond, debenture, loan, obligation, or other evidence of indebtedness, any put, call, straddle, option, or privilege on any debt, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any debt; and

(B) any mineral interest other than an interest in fee simple absolute or a reversionary interest.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "branch" means the operation or activities carried out by a person in a different location in its own name, rather than through a separately incorporated entity.

(n) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section shall take effect on the effective date of the regulations prescribed under subsection (j).

(2) Subsection (j) of this section shall take effect on the date of the enactment of this Act.

INTRODUCTION OF CHILD DEVELOPMENT AND EDUCATION ACT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HAWKINS. Mr. Speaker, I am introducing today a major new child care initiative, the Child Development and Education Act, which I hope will provide the means for developing a bipartisan consensus on Federal support for child care. This proposal both expands the supply of quality child care as well as making child care more affordable for working families.

Public awareness of the critical need for safe, affordable quality child care has been growing as increasing numbers of women enter the work force. Five years ago, the Select Committee on Children Youth and Families issued a report stating:

As we move toward 1990 more families will need child care. We believe the situation will worsen unless parents are given more child care options and that the gap in current services will grow wider unless greater attention is paid to specific proposals, covering a wide range of public and private initiatives.

Since that time child care has become a national priority. Today, 75 percent of women with children under 6 have jobs outside the home. For many of these mothers of young children work is an economic necessity, not a luxury. Nearly 40 percent of working mothers are single, widowed, divorced, or married to men who earn less than $15,000 a year. The support which our current tax system provides for child care through the child and dependent care tax credit provides only a small portion of the actual cost of child care and barely touches low-income families—only 3 percent of the tax credit goes to the poorest 30 percent of families.

The bill that I am introducing targets resources to low-income families who benefit the least from tax proposals and for whom the lack of affordable child care represents the greatest barrier to work. Generally, families with incomes below the BLS lower living standard income—approximately $18,300 for a family of four—would be eligible for child care support. However, the bill would permit participation utilizing a sliding scale fee for families with incomes up to approximately $27,500.

My bill also recognizes that different approaches may be appropriate for different age levels—center based and family day care for infants and toddlers through public and private providers; preschool programs through an expansion of the Headstart Program, and before school and after school care utilizing the public education system.

Finally, my proposal builds on existing successful, cost-effective programs which utilize educational and developmental activities rather than merely custodial care. For example, the Headstart Program has a proven track record returning $4.75 for every $1 invested in quality preschool education.

The bill I am introducing today is a basis for future discussions. It incorporates many of the provisions of the Act for Better Child Care which was considered by the committee in the last Congress. I look forward to working closely with the author of that measure. Representative DALE KILDEE of Michigan whose leadership has brought us to this point; and the many organizations who worked so diligently to make child care a national priority. I hope that we can develop a consensus between the Congress and the administration of President-elect BUSH which reflects broad bipartisan support for the provision of adequate, affordable child care.

BRIEF SUMMARY OF CHILD DEVELOPMENT AND EDUCATION ACT OF 1989 INTRODUCED ON JANUARY 3, 1989, BY AUGUSTUS F. HAWKINS, CHAIRMAN

FUNDING

There would be authorized to be appropriated $2.5 billion for fiscal year 1990, triggered by a hold harmless provision for the existing Head Start funding at the FY 1990 current services level. Such sums as may be necessary would be authorized for succeeding fiscal years.

Appropriations to carry out this act would be divided as follows:

One-third for expanded Head Start services, including activities described under Title I;

One-third for School-Based Child Care and Development, as described under Title II; and

One-third for Infant and Toddler Child Care, as described under Title III.

TITLE I—EXPANDED HEAD START SERVICES AND ACTIVITIES

Use of funds available under this title include:

Giving Head Start agencies discretion to use funds to expand existing comprehensive Head Start programs to serve greater numbers of low-income (poverty level) children. For a family of four, the 1988 poverty income guideline is approximately $11,650.

Up to 50 percent of the additional funds available to the Head Start agency could be used to extend eligibility for the full-working-day program to children of working parents below the Lower Living Standard Income Level, (LLSIL), as determined by the Bureau of Labor Standards. For a family of four, the 1988 LLSIL is approximately $18,300.

On a sliding fee scale, eligibility could also be extended to families with income between 100 and 150 percent of the LLSIL. For a family of four, 150 percent of the LLSIL would be approximately $27,450.

Enable Head Start programs to be extended from part-day to full-working-day care to meet the needs of working parents of children, generally ages 3 and 4.

Enable Head Start agencies to extend programs over summer months for children of working parents.

TITLE II—SCHOOL-BASED CHILD CARE AND DEVELOPMENT

This title would amend the Elementary and Secondary Education Act (ESEA) providing for administration of the program by the State Education Agency (SEA), which would receive a total of 10 percent of the funds under this title: 5 percent for administration and 5 percent for training, technical assistance, etc.

Local Education Agencies (LEAs) would receive 90 percent of the funds under this title, based on the amounts each agency receives under Chapter 1.

Each LEA must meet existing State regulatory standards for health and safety.

Among the major components of each local education agency's program, and as funding permits, each LEA may offer the following services to children not already participating in Head Start:

Make available, at no cost, early childhood development programs to low-income four-year old children if family income is under the LLSIL. Such early childhood development programs would include the involvement of parents. The 1988 LLSIL for a family of four is approximately $18,300.

Adopt a sliding fee schedule to permit the participation of four-year old children from families with incomes up to 150 percent of the LLSIL. For a family of four, 150 percent of the 1988 LLSIL is approximately $27,450 per year.

Make available, at no cost, before-school and after-school care for children from families whose incomes are below the LLSIL and in which the parent or parents work or are in education or training programs. (Such children would already be attending kindergarten or elementary school classes or early childhood development programs.)

Adopt a sliding fee schedule for such children described above to participate in before-school and after-school care, if their family income is up to 150 percent of the LLSIL. For a family of four, 150 percent of the 1988 LLSIL is approximately $27,450 per year.

In addition, as funding permits, each LEA may:

Permit use of funds to train teachers in the first three grades in the principles of child development, and to train in early childhood development programs; Coordinate health and nutrition services available from other agencies; and if necessary to the program, permit funds to be used for construction and renovation.

TITLE III—INFANT AND TODDLER CHILD CARE

Funding: Through the Department of Health and Human Services, 75 percent of the funds under this title would be given to the States to contract for model center-based child care for eligible infants and toddlers, and to contract for services with individual family day care providers for child care services for infants and toddlers based on parental choice.

Contract Eligibility: Eligible recipients of grants and contracts are community-based organizations, public and private organizations, resource and referral agencies, and individual family day care providers.

Eligibility to Participate and Special Consideration: Children under three years old whose parents are working and have incomes below the LLSIL would be eligible to participate at no cost. Families between 100 and 150 percent of the LLSIL would pay based on a sliding fee scale. 100 percent of the 1988 LLSIL is approximately $18,300; 150 percent of the 1988 LLSIL is approximately $27,450.

Special consideration among eligible participants given to children from families with the lowest incomes on rural and urban areas and children of adolescent parents.

Standards: States must implement standards, developed by the Secretary with advice of National Advisory Committee for center-based care and other day care providers and for infants and toddlers.

All providers must satisfy State health and safety requirements.

Anti-Discrimination and Sectarian Language: The existing non-discrimination provisions and restrictions on sectarian activities in Subchapter B of the Human Services Authorization Act would apply to this part.

Procedural Mechanisms: A mechanism for reimbursement at the market rate for family day care providers and child care centers from the State would be established. Local advisory council and parental participation would be required. Training mechanisms would be established.

Administration: As designated by the State, the Administrating State Agency would not be permitted to use more than 5 percent of funds for administration and not more than 15 percent of funds to assist providers in meeting State health and safety requirements, resource and referral, and other support activities.

PRIVATE SECTOR INITIATIVES IN THE CHILD CARE AREA

A total of 5 percent of funds would be allocated:

Three percent of funds under this title would be set aside to encourage businesses in the State to support or provide child care services to children of working parents, including their own employees. The Governor would appoint a Business Partnership Task Force on a State-wide basis to promote and coordinate these activities.

One percent of funds under this title would be set aside to establish a Federal matching fund administered by the Secretary of HHS to match corporate grants to local child care projects ($1 for every $3 donated by the private sector up to $250,000.)

One percent of the funds under this title would be set aside to establish National Program Grants and Dissemination at the discretion of the Secretary of HHS.

EQUITABLE CENSUS COUNT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MATSUI. Mr. Speaker, as the 101st Congress convenes, I want to let you know that I am reintroducing an important piece of legislation, legislation which passed both the House and Senate overwhelmingly, but was then pocket vetoed by the administration last November. H.R. 4432, which had bipartisan congressional support in the 100th Congress, would have mandated the inclusion of a checkoff system for Asian Americans and Pacific Islanders in the 1990 decenial census form.

In its 1980 census, the Census Bureau listed nine Asian American subgroups, such

as Korean, Chinese, Hawaiian; and Asian Americans were asked to checkoff their appropriate category. If none of the nine applied, respondents were asked to fill in the blank labeled "other." For the 1990 census, the Census Bureau was asking for all Asian Americans to write in their subgroup.

This write-in format will lead to a serious miscount of Asian Americans. Given the language barriers faced by many Asian Americans and the immense potential for clerical error, an accurate count of Asian Americans will be impossible. If fact, the Census Bureau conceded this point to me and other legislators and committed themselves to the use of a checkoff format in the 1990 form. However, with the pocket veto of H.R. 4432, the Census Bureau has decided to review their decision to implement a checkoff system.

I am reintroducing this bill to demonstrate to the Census Bureau and to the incoming administration that there is still strong congressional support for the legislation. In addition, it is critical that Members fo Congress can count on the word of an executive agency; a sense of trust must exist between the legislative and executive branches of Government.

As elected officials, we are under an obligation to ensure that an accurate and fair census count is achieved. I strongly urge you to support this bill and demonstrate Congress' commitment to an equitable census count.

PROTECTING THE RIGHTS OF MEDICAID RECIPIENTS SEEKING ADMISSION TO LONG-TERM CARE FACILITIES

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GALLO. Mr. Speaker, today I am reintroducing legislation I sponsored during the 100th Congress to protect the rights of Medicaid recipients seeking admission to long-term care facilities.

This legislation is aimed at protecting Medicaid eligible patients from having to sign private pay contracts as a precondition of admission to a skilled nursing facility and, further, from being denied admission to a facility if they do not sign the contract.

While serving in the New Jersey Assembly, I became aware of the problem where some New Jersey nursing homes had been refusing to accept Medicaid or potential Medicaid-eligible patients unless the patient paid at the private pay level for a specific time period under a contract with the nursing home.

In response, I introduced legislation that subsequently became State law to prohibit administrators and operators or skilled nursing or intermediate care facilities from requiring incoming patients or their families to sign private pay contracts as a precondition of being accepted for future treatment under Medicaid.

There is an additional provision which, I believe, is equally important in protecting Medicaid patients from being denied admission to skilled nursing or intermediate care facilities. Specifically, New Jersey Medicaid law prohibits nursing homes from denying admission to Medicaid recipients if that nursing home has a Medicaid occupancy rate below the statewide average. Under these circumstances, the skilled nursing facility is required to accept patients on a first-come first-serve basis. The State Medicaid agency may make individual exceptions to this provision based on the licensed bed capacity of a nursing home or the financial condition of a nursing home.

The legislation I have introduced today will make this latter provision a Federal requirement. This legislation will help to ensure that admissions policies at certified extended care facilities are fair to Medicaid patients. It will also provide for greater enforcement of the current Federal law prohibiting private pay contracts as a precondition for admission.

By requiring payment of private rates or denying admission to nursing homes, our senior citizens, poor and disabled individuals and their families have been placed in a very tough position at a time when they are already under great pressure to make a decision regarding the future of a loved one.

RURAL CHALLENGE: HOSPITAL SURVIVABILITY

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GUNDERSON. Mr. Speaker, today, on the first day of the 101st Congress, I am introducing two pieces of legislation responding to the health care challenges facing rural America—the survivability of our small rural community hospitals.

In recent months, no issue has become more critical to maintaining the quality of life in rural America than health care. We see this occurring throughout our Nation, and for the first time in decades, rural Americans, young and old alike, are finding access to health care in jeopardy.

Two main elements contribute to this crisis. First, the financial and regulatory problems facing small rural hospitals. Second, a severe nurse and physician shortage practicing in rural communities.

What is hampering our hospitals is declining demand and money. Because our rural hospitals serve a higher percentage of older Americans, their major stumbling block is our Medicare reimbursement policies.

Under Federal policies, rural hospitals receive less per Medicare patient than a Medicare patient receiving care in an urban hospital. The differential in Medicare reimbursement varies from State to State, however rural hospitals receive anywhere from 20 to 40 percent less in Medicare reimbursement for medical services.

One way to assist small rural hospitals is to shorten the processing time of Medicare reimbursement payments for these hospitals. According to legislation I am introducing today, the Department of Health and Human Services Secretary would be required to provide periodic interim payments under the Medicare Program to hospitals with 100 beds or less within 10 days, rather than the current 14 days. By giving these hospitals a quicker turnaround on Medicare reimbursement we will assist them and provide for a more stable fiscal environment.

The second bill I am introducing today is the "Small Rural Hospital Preservation Act of 1989." This initiative would amend the Social Security Act and provide small, rural hospitals—100 beds or less—the option of electing to receive Medicare reimbursement on a reasonable cost basis, rather than through the current Medicare Prospective Payment System [PPS]. Since 1983, Medicare reimbursement payments have been made at predetermined rates representing the average cost in an urban or rural setting for the treatment of a Medicare patient.

Our rural hospitals are fighting every day to make ends meet while providing quality health care to rural residents. Rural health care is one of my priorities for the 101st Congress. Access to quality health care services is too important to the rural communities I represent in western Wisconsin and to the rest of our rural communities for Congress to ignore.

Mr. Speaker, I strongly urge our colleagues to join me as a cosponsor of these two legislative initiatives and other legislation that will be introduced in the 101st Congress exploring other alternatives responding to the challenge of hospital survivability in rural America.

INTRODUCTION OF THE PAY EQUITY TECHNICAL ASSISTANCE ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am proud to introduce the Pay Equity Technical Assistance Act.

As you know, throughout the last three Congresses, a great deal of interest has been expressed in both Chambers of Congress regarding the issue of wage-based discrimination. This distinguished body has three times passed legislation mandating a study of the Federal pay and classification systems to determine if they are affected by discrimination based on race, gender or ethnicity. In the Senate, a vote last October on whether similar legislation should be considered showed that a pay equity study of the Federal work force enjoys overwhelming support in that body as well.

Pay equity has enormous support outside of Washington as well. Forty-three States, including the District of Columbia, have taken action in the area of wage discrimination, either by forming task forces or commissions to develop recommendations, by performing a study, or by implementing legislation. Many local governments and employers in the private sector have also taken positive steps toward ensuring pay equity.

As the largest employer in the United States, the Federal Government should be setting an example in terms of equity in the workplace. Yet we remain far behind State and local governments, as well as the private sector. I am disappointed by the Federal Government's reluctance to take a candid look at

its own pay and classification scales. However, that hestitation cannot be used as an excuse for not encouraging the efforts and initiatives of other employers in the private and public sector.

The goal of the Pay Equity Technical Assistance Act is to make resources and assistance available to those employers who have decided to take steps to address wage inequities in their workplaces, whether it be through a study to see if such disparities actually exist or through the actual development and implementation of pay equity plans.

In order to accomplish this end, my bill would require the Secretary of Labor to develop and implement a program for the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities, to undertake and promote research into the development of techniques to reduce or eliminate such disparities, and to provide appropriate technical assistance to employers who are interested in correcting discriminatory wage-setting practices.

Our Federal Government must take this kind of leadership role in securing economic justice. We have already laid a strong foundation. The Equity Pay Act of 1963 requires equal pay for equal work. The Civil Rights Act of 1964 prohibits discrimination on the basis of race, sex, or physical disabilities.

Those laws were, and continue to be, important milestones. But we cannot give up the fight. Twenty-five years after the passage of the most comprehensive civil rights legislation of our history, we must ensure that its goals are being attained, that we are living up to the standards that we set for ourselves.

The reality of the situation is not encouraging. While women now constitute 45 percent of the work force, they make only 65 cents for every dollar that men make. Opponents of pay equity insist that this is due to the "market forces" of supply and demand and other factors such as education and skill. But the fact of the matter is that market forces don't always explain the wage gap. At this time, for example, there is a critical shortage of nurses in the United States. Estimates range from 130,000 to 200,000, and many are predicting that the situation will get worse before it gets better. The Secretary of Health and Human Services has stated that by the year 2000, we will have a shortage of 400,000 nurses in this country. Yet, despite this huge demand, registered nurses continue to earn, on average, only $22,000 per year.

Education also often means little in wage setting. On average, women with college degrees who work full-time, year-round, are earning the same amount as male high school dropouts.

We are witnessing a dramatic change in the face of our Nation's history and its day-to-day world as more and more women enter the work force. Now, more than ever, we cannot forget two very important ideas. The first deals with the principles of our Nation. In 1964, we stated quite definitely that justice required discrimination be eliminated in the workplace. Discrimination in pay is a very real and very painful denial of justice, and it continues to affect millions of men and women. We cannot tolerate that kind of affront to the principles of our Nation.

The second deals with the economic needs of our future. We cannot afford the discouragement and apathy that discrimination breeds. We need women in the work force. Both for our Nation's productivity and for the health and welfare of its families. To pay them fairly can only help the economic future of our Nation.

Finally, Mr. Speaker, pay equity is not a liberal issue. It is not a conservative issue. It is an issue of fairness. I look forward to swift consideration of the Pay Equity Technical Assistance Act and urge my colleagues' strong support for this bill.

OREGON LEADERS OPPOSED TO WNP-1 CONVERSION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. AuCOIN. Mr. Speaker, last month Oregonians were given the opportunity to make initial comments on the Department of Energy's plans to build new nuclear weapons production facilities, and with near unanimity they said "no" to the idea of making the Washington Public Power Supply System's mothballed WNP-1 reactor a tritium production facility.

Oregon Secretary of State Barbara Roberts put the case very bluntly: The Department of Energy should clean up the mess it has already created at Hanford before it even begins to consider what, if any, new production facilities are needed.

I couldn't agree with her more—in fact, my own statement at the Energy Department's Portland hearing last month reached the same conclusion. And, Oregon Gov. Neil Goldschmidt concurs.

Leading Oregon public officials like Neil Goldschmidt and Barbara Roberts have been fighting for a greater Federal commitment to defense waste cleanup at Hanford, and other public officials around the country are following their leadership. In Congress, Senator HATFIELD and I have translated this fight into more cleanup funds for Hanford, but much, much more needs to be done.

Mr. Speaker, I commend Secretary Roberts and Governor Goldschmidt for making it clear that Oregonians want national security to include protection from threats of radioactive and toxic contamination caused by defense materials production.

I include Secretary Roberts' testimony in the RECORD.

TESTIMONY BEFORE THE DEPARTMENT OF ENERGY BY HON. BARBARA ROBERTS, SECRETARY OF STATE, STATE OF OREGON, ON BEHALF OF GOV. NEIL GOLDSCHMIDT, DECEMBER 6, 1988

I am Barbara Roberts, Oregon Secretary of State.

I speak today in my role as Vice-Chair of Oregon's Hanford Nuclear Waste Board and on behalf of Governor Neil Goldschmidt, whom I represent on that board. I am here to deliver a very short, very simple message.

First, I want to thank you for bringing this important forum to the people of Oregon today. We welcome the opportunity to help the U.S. Department of Energy understand what Oregonians think about critical issues of our times.

Mister Chairman, there is a far, far more compelling issue at Hanford.

That issue is the Nation's largest single concentration of radioactive wastes—wastes that have been accumulating at Hanford for more than four decades. Nuclear weapons wastes at Hanford present an unprecedented peril to our people and to our environment.

Hanford's nuclear weapons wastes are in shallow burial pits, in trenches, and in underground tanks. Many of those tanks have already leaked. Some of the tanks leaked after only 20 years in the ground—and yet, they contain wastes that will be dangerous for 10,000 years.

If spread over an area the size of a football field, the total volume of this intensely radioactive waste would be 150 feet deep! The less radioactive, but longer-lived plutonium wastes, would double this volume.

One might believe that a hazard so lethal would have prompted Congress and the U.S. Department of Energy to clean up the mess long ago.

But, the fact is that, until the last two years, Congress had never appropriated a dime for disposal of Hanford's dangerous nuclear weapons wastes. And, even now, most of the appropriated money is being used by U.S. DOE to maintain and store the new wastes that Hanford continues to produce every day.

At today's level of funding, we would not begin to actually affect previously accumulated nuclear weapons wastes until next year and, at that rate, it would take several hundred years to complete the job. That is absolutely unacceptable.

Thanks to Senator Hatfield, Representative AuCoin, and the combined Oregon and Washington congressional delegations, last year U.S. DOE was forced to accept more funding for moving ahead with nuclear weapons clean-up.

But what we have, so far, is only a drop in the bucket. U.S. DOE estimates that it will cost up to $60 billion to clean up all the weapons wastes at Hanford. Even if we assume 30 years to complete that job, it would still require more than $2 billion per year.

I know that you are aware that Governor Booth Gardner of Washington and Governor Neil Goldschmidt of Oregon joined forces in 1987 and again in 1988 to urge Congress to make firm commitments to long term financing for Hanford cleanup. I hope U.S. DOE is convinced—as it should be—that these two governors are not going to back down on this issue. Hanford must be cleaned up!

I should note that it is my belief that the people who work at Hanford are far more aware of the need than is U.S. DOE's Washington, D.C. headquarters.

The Environmental Impact Statement issued by U.S. DOE's Richland operations office on clean-up outlines an effective plan. But, the Northwest feels strongly that we must be assured of clean up of these wastes is the very first priority before U.S. DOE considers going forward to make new wastes.

It has been suggested, in some quarters, that nuclear weapons wastes clean up at Hanford will never occur if production of nuclear weapons material is not restored at Hanford. This belief stems from the fear that no one will want to pay billions for clean up if it is not tied to production. That

simply makes no sense. We've had production for 40 years and there has been almost no progress on clean up.

Very simply, if we cannot take care of the mess already made, why should we create more wastes and delude ourselves that future wastes will be cleaned up?

We, in Oregon, find this situation ironic, at best: We are debating the means to produce weapons in the name of national defense. At the same time, we leave ourselves defenseless against the lethal by-products of nuclear weapons production. Oregonians are not amused that we may spend billions on Star Wars to protect us against nuclear warheads from the sky, while a very real nuclear threat seeps toward the Columbia River.

If you want a Hanford message from Oregon, hear this: Clean up the nuclear weapons wastes at Hanford. Get that stuff away from the Columbia River, away from the local ground water, and away from our people.

Then—and only then—can there be any intelligent conversation about a facility to produce new nuclear weapons wastes.

THE 20TH ANNIVERSARY OF THE ORIENTAL DAILY NEWS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ACKERMAN. Mr. Speaker, it is a pleasure for me to offer a few words in honor of the Oriental Daily News, Hong Kong's most widely read newspaper, which will celebrate its 20th anniversary on January 22. This event is of even more interest, because Oriental Daily News plans to open a North American edition in the near future. I am confident that such a step would help to improve the United States-Hong Kong relations.

I got to know the newspaper when I visited Hong Kong in July 1988. During that stay I had the opportunity to speak with Ma Ching Kwan, chairman of the newspaper. I was impressed to see how many people in the city were reached by this Chinese language publication. Over 41 percent of the population of Hong Kong reads Oriental Daily News, which has a daily circulation of over 2 million copies, rivaling and surpassing some of the world's leading newspapers.

Mr. Speaker, the Oriental Daily News has the largest reporting and editing staff of any paper in Hong Kong; it gains over 35 percent of all advertising revenues in Hong Kong, and the paper has won a reputation as an independent voice in Hong Kong that links between the populace and the government.

But Oriental Daily News also offers high-quality journalism. As a broad-based, family-oriented newspaper, it boasts a variety of interesting news stories and features. It is commendable that the readers can buy this good mixture of current news and background stories for a reasonable price. I also appreciate that Oriental Daily News had been quite active in fundraising activities and distributed millions of dollars to the handicapped and accident victims.

Mr. Speaker, I call on my colleagues in the U.S. House of Representatives to join me in congratulating the Oriental Daily News on the occasion of its 20th anniversary.

MEDICARE ELIGIBILITY FOR PERSONS WITH AIDS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, today I am reintroducing legislation which would provide urgently needed Medicare benefits to many individuals suffering from AIDS—acquired immune deficiency syndrome.

Persons with AIDS fall victim not only to a fatal disease, but also to catastrophic medical bills which many are unable to pay. As estimated by a number of health care cost studies, the average total bill for hospital inpatient care from the time of diagnosis until death ranges from $40,000 to $70,000. This does not include expenses for outpatient, nursing, and home health care. The costs of care for AIDS patients tend to be high because these individuals often require successive admissions to hospitals, longer stays due to severe medical complications, more intensive nursing care, and more expensive pharmaceuticals, supplies, and special equipment.

Medicaid pays for the health care of 40 percent of all patients with AIDS. Of the remaining 60 percent, most are unable to pay the astronomical health care costs. Many have lost private health insurance because their debilitating condition leaves them unable to work. Others have exhausted their insurance coverage because of the catastrophic nature of their illness. And many may be unable to obtain individual private health insurance, because some insurance companies are questioning their obligation to provide coverage for AIDS patients.

The legislation I am reintroducing would expedite the availability of Medicare benefits to those AIDS patients who, under current law, already qualify for its coverage by virtue of their disabled status. AIDS patients who are unable to work and have contributed the requisite number of quarters into Social Security, are eligible for the Social Security Disability Insurance [SSDI] Program. In fact, in 1983, the Department of Health and Human Services added AIDS to its list of qualifying impairments for disability to help in the processing of these cases.

Once entitled to disability benefits, AIDS patients, like all SSDI recipients, must then wait 2 years before they can receive Medicare coverage. Unfortunately, individuals afflicted with this terrible disorder often die before they can qualify for coverage. Only about 28 percent of all persons with AIDS are still alive 2 years after their condition is diagnosed.

The National Academy of Sciences/Institute of Medicine reports on AIDS published in 1986 and 1988 noted the problem of the unavailability of Medicare for eligible AIDS patients in their recommendations for potential AIDS health care financing sources. The legislation that I am reintroducing would provide Medicare financing to these eligible AIDS patients and assure them access to health care without the threat of bankruptcy.

My bill would also give desperately needed assistance to localities which have been bearing the financial burden of providing services and health care to those affected by this epidemic. To cope with AIDS, many of our cities are drawing on already scarce economic, medical, technical, and human resources.

This bill does not set up a new program or confer a new entitlement on any group. It merely assures that AIDS patients have access to Federal health benefits to which they are entitled. One reason the Congress established the 2-year waiting period was to ensure that Medicare would only be available to those whose disabilities proved to be severe. There is no question that AIDS sufferers meet this condition. Even though, with the aid of AZT and better treatments for opportunistic infections, persons with AIDS are beginning to live longer, still, few are alive 2 years after diagnosis, and tragically, no one has yet recovered from full-blown AIDS. Only an estimated 1 to 3 percent of persons with AIDS receive Medicare benefits.

Under this legislation, the Secretary of Health and Human Services would, at his or her discretion, be authorized to provide Medicare reimbursement for experimental treatments that are administered as part of an approved clinical protocol. Because there are few treatments for AIDS, much of the medical care involves therapies that are experimental. In view of the uniqueness of this disease, its fatal consequences, and the uncertainties surrounding treatment, the bill would provide important flexibility to the Secretary to determine the need and appropriateness of reimbursing for experimental care.

Mr. Speaker, a growing number of American men and women, from all walks of life, are suffering from this frightening disease. AIDS knows no boundaries and shuns no group. It has afflicted citizens across the entire country and from every economic and racial group. I believe the Federal Government must ensure that victims of this epidemic do not want for medical care because they lack sufficient resources. The Congress must continue to demonstrate its leadership in fighting this epidemic, not only by funding research and public education, but also by helping provide essential health care to those who are living with AIDS.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 5-YEAR WAIVER OF 24-MONTH WAITING PERIOD FOR MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h)(1) Subject to paragraph (2), in the case of an individual who is medically determined to have acquired immune deficiency syndrome (AIDS) and who files an application for hospital insurance benefits under part A of title XVIII pursuant to this subsection, subsection (b) shall be applied as if—

"(A) in paragraph (2)(A), ', and has for 24 calendar months been entitled to,' were deleted;

"(B) in paragraph (2)(B), ', and has been for not less than 24 months,' were deleted;

"(C) in paragraph (2)(C)(ii), ', including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted;

"(D) in the matter in the first sentence following subparagraph (C), 'first month' were substituted for 'twenty-fifth month'; and

"(E) in the second sentence, 'twenty-fourth' were deleted.

"(2) Paragraph (1) shall not result in an individual becoming entitled to hospital insurance benefits under part A of title XVIII for any month before the first month in which the individual both—

"(A) is medically determined to have acquired immune deficiency syndrome, and

"(B) has filed an application under paragraph (1).

"(3) For purposes of this subsection, an individual will be presumed to have acquired immune deficiency syndrome (AIDS) if the individual has been diagnosed, in accordance with standards established by the Secretary after consultation with the Director of the Centers for Disease Control, as having such disease.".

(b) EFFECTIVE DATE AND 5-YEAR SUNSET.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than 45 days after the date of the enactment of this Act and shall apply to services furnished during the five-year period beginning on that first day.

SEC. 2. RECOGNIZING USE OF EXPERIMENTAL TREATMENT FOR AIDS PATIENTS.

(a) IN GENERAL.—Section 1862 of the Social Security Act (42 U.S.C. 1395y) is amended by adding at the end the following new subsection:

"(j) In making determinations under subsection (a)(1)(A) in the case of expenses incurred for items and services furnished in the treatment of acquired immune deficiency syndrome (AIDS), the Secretary shall take into account, and find as reasonable and necessary, a treatment that is experimental in nature if the treatment is in accordance with a clinical protocol recognized as appropriate by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items and services furnished on or after the first day of the first month that begins more than 45 days after the date of the enactment of this Act.

LONG ROAD TO ERA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. EDWARDS of California. Mr. Speaker, the road to equal rights for women has been a long one. Gathered in Seneca Falls, NY, in 1848, women used the Declaration of Independence as a model to argue for the first time for full rights as American citizens.

Seventy-two years later, in 1920, women finally gained the first right of citizenship—the right to vote—after overcoming enormous opposition. Opponents claimed that women's suffrage would not help women, but would destroy them, the family, and the Nation. Today we know how silly those arguments were.

Yet we hear the same tired arguments against the equal rights amendment. Instead of recognizing that American women are entitled as part of their birthright to full rights of citizenship, we hear contradictory arguments that ERA is either not needed, because the States will do it, or that it would destroy women, the family, and our country.

Only one woman at the Seneca Falls meeting lived to see women get the vote. The equal rights amendment was first introduced in Congress in 1923, on the 75th anniversary of Seneca Falls. Another 75 years have passed since then. Women have waited long enough: the ERA needs to be incorporated into our Constitution now.

ERA is more than a symbol of full citizenship. Yes; there are laws protecting women from discrimination in employment, education, credit, and so forth. But enforcement of those laws is subject to the whim of every administration. We have seen in recent years that the commitment to eradicate discrimination is not always there. Then the signal goes out that if it's OK for the Federal Government to back off of its commitment, it's OK for others, too.

The ERA would stand as a permanent, unassailable commitment by creating a constitutional standard of equality against which the actions of Congress, Federal and State and local governments and ultimately the private sector would have to be measured.

Following is the text of the joint resolution I have introduced proposing an amendment to the Constitution relative to equal rights for men and women.

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This article shall take effect two years after the date of ratification.".

THE DECEPTIVE MAILINGS PREVENTION ACT OF 1989

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. SNOWE. Mr. Speaker, today I am introducing, along with 29 of my colleagues, the Deceptive Mailings Prevention Act of 1989. This is essentially the same legislation that I introduced in the last Congress and which was passed in the House under suspension of the rules. I was pleased that this measure received the overwhelming support of my colleagues because I know that this legislation will provide important protection for all those individuals who receive mailings from organizations that purport to be associated with the Federal Government.

Over the last few years, increasing numbers of organizations have used the mail to offer services or to solicit support in a variety of areas. While many of these groups provide a needed service, some have used deceptive or misleading mailings as a means of influencing people to open their mail. For example, many envelopes announce that important Medicare information is inside, while others mimic envelopes used by Government agencies.

In some cases, groups have indicated that they could provide a service for a fee when in fact that service is already available free of charge from the Federal Government. Some offer to check an individual's Social Security earnings record, while others offer to obtain Social Security cards for a fee. Many people do not know that these services are already available from the Social Security Administration, a fact which is not mentioned anywhere in the mailing. As a consequence, people of all ages mistakenly purchase services that are not substantially different from those available free of charge.

My bill would require that nongovernmental organizations which use a seal or insignia, or which use terms that imply Federal Government connection, such as the Internal Revenue Service, Medicare, and Social Security, would have to include on their envelopes a disclaimer informing the recipient that this is not a Government document. On the face of their printed materials, a disclaimer would also be required to indicate that the product or service being offered is neither offered, approved, nor endorsed by the Federal Government.

In a similar vein, this legislation would provide for a disclaimer on the face of mailed materials offered for a fee when these products or services are substantially the same as those offered either free of charge or at a lower price by the Federal Government. In this way, if individuals choose to purchase these types of services, they will be doing so as informed consumers.

The Deceptive Mailings Prevention Act of 1989 is not designed to limit access to services by individuals, or to prohibit solicitations by nongovernmental organizations; nor is it designed to penalize legitimate organizations. Indeed, organizations that have been chosen as agents or licensees of the Federal Government are specifically exempt from the provisions of this bill. The goal of the Deceptive Mailings Prevention Act of 1989 is to assure that those who receive mailings are not misled into believing that free services can only be obtained for a fee or that services, products, or solicitations have been endorsed by the Federal Government.

We owe it to all of our citizens to provide protections against the misuse of the mail. I applaud my colleagues for their strong statement on this issue last year and I look forward to your equally strong support again in this Congress.

The text of H.R. — follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Deceptive Mailings Prevention Act of 1989".

SEC. 2. AMENDMENTS TO TITLE 39.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code, is amended—

(1) in subsection (d)—

(A) by inserting "(1)" after "(d)";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and paragraphs (1) and (2) as subparagraphs (A) and (B) respectively; and

(C) by adding at the end the following:

"(2) Matters otherwise legally acceptable in the mails which—

"(A) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

"(B) constitutes, in fact, a solicitation of donations from the addressee;

is nonmailable mater, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

"(i) the following notice: 'This is a solicitation of donations, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payment in response to this mailing.'; or

"(ii) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe."; and

"(2) by redesignating subsections (f) and (g) as subsections (j) and (k), respectively, and by inserting after subsection (e) the following new subsections:

"(f) Except as provided in subsection (i), matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the purchase of products or services which are in fact provided either free of charge or at a lower price by the Federal Government, or which are substantially the same as products or services provided either free of charge or at a lower price by the Federal Government, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'The products or services offered in this advertisement are also provided either free of charge or at a lower price by the Federal Government.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and inconspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT." or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(g) Except as provided in subsection (i), matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the purchase of products or services and contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'This product or service has not been approved or endorsed by the Federal Government, and this offer is not being made by an agency of the Federal Government', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.'; or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(h) Except as provided in subsection (i), matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity for the contribution of funds and contains a seal, insignia, trade or brand name, or any other term or symbol which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless—

"(1) such matter and the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.'; or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(i) The prohibitions described in subsections (f), (g), and (h) shall not apply with respect to matter otherwise legally acceptable in the mails which constitutes a solicitation by a non-governmental entity if—

"(1) such entity is recognized under law including the provision of chapter 59 of title 38, United States Code) as an agent or licensee of the Federal Government, or is otherwise authorized to carry out a function of the Federal Government; and

"(2) such matter is deposited in the mails by such entity exclusively for the purpose of carrying out its role as such an agent or licensee or carrying out such a function.".

(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended by striking "section 3001(d)" each place it appears and inserting "section 3001(d), 3001(f), 3001(g), or 3001(h)".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to matter deposited for mailing and delivery on or after the date of enactment of this Act.

MAYOR LIVINGSTON'S "YEARS OF SUCCESS"

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MILLER of California. Mr. Speaker, Mayor George Livingston of Richmond, CA, has been a close friend of mine for many years as he has served with great distinction, as councilman and mayor of the city in which I was born.

Over the course of the past 3 years, during which he has served as mayor, he has led the effort to revitalize the city, and with impressive results. Economic development, transportation improvements, and administrative innovations are earning Richmond long overdue recognition, and improving the quality of government and of life for Richmond's residents. A great deal of the credit for those accomplishments are attributable to the work of Major Livingston, and the leadership he has provided together with members of the city council, and other elected leaders and private citizens in the city.

Mayor Livingston's outstanding record was justifiable praised in a recent editorial in the West County Times, which I would like to share with Members of the House today.

The editorial, from the December 15, 1988, edition of the West County Times, follows:

LIVINGSTON'S YEARS OF SUCCESS

Three years ago, George Livingston was elected mayor of Richmond in an acrimonious campaign, Livingston came out of that election with a pledge that he would try to bring the diverse factions of the Richmond City Council together, He also had a list of major city problems he wanted to attack.

Livingston, a 39-year resident of the city who was elected with a 57 percent vote, has measurable success to show on all fronts.

As Richmond's first elected black mayor, he has resisted some pressures from the black community to focus on its problems and has run an administration for all residents.

The council, while still having some differences, is much more inclined today than it was three years ago to work together on problems and to take advantage of the growing perception of Richmond as a good place to live and do business. The environment is such that investors and developers who once ignored Richmond are now interested and going ahead with projects. Livingston was interested in creating a more positive image for the city, and the investor and developer response demonstrates some success in that area.

Some fun was poked at the mayor for another goal, cleaning up Cutting Boulevard. However, his perception that the boulevard and its environs were the only part of Rich-

mond seen by many people headed for the Richmond-San Rafael Bridge was acculate.

Work remains to be done, but the clusters of people outside Cutting Boulevard business, establishments have been reduced, Livingston's personal intervention was a factor in the reduction and in some of the other cleanup that has taken place.

The mayor has a faculty for working with people, and he has been known to get out of his car in a neighborhood and approach individual residents to suggest that they paint a house or clean a yard.

As another part of the cleanup effort, the city, under Livingston's administration, has responded to citizen complaints by setting up special cleanup teams that do nothing but pick up debris on a timely basis.

During Livingston's watch, the city has hired a new city manager, and an administrative reorganization is in progress designed to make City Hall more responsive to public needs.

The council has came to grips with the realities of redeveloping the former Downtown and has scaled down its goals. Developers have responded.

Terminal No. 3, the container operation, has been a drain on city resources that resulted in the port operating at an overall loss. The city addressed that by buying out the existing contract and obtaining a new operator that guarantees Richmond a profit from Terminal No. 3 as well as paying for the buyout.

Livingston has employed his 12 years' prior experience on the council, service on the state Democratic Central Committee and service on other boards and commissions to successfully represent the city at the state and federal level in its quest for funds for housing, the harbor, freeways and manpower training.

And results are beginning to show in Livingston's last and most difficult goal—the reduction of drug trafficking in the city. The effort must be a sustained and intensive one, but already police and citizen efforts are showing results of four of the city's heaviest drug trafficking locations.

Obviously, the mayor has not accomplished any of this by himself. But his conciliatory approach and ability to serve as a catalyst have been important, Richmond is better off for having had George Livingston as mayor for the last three years.

THE GROWING CRISIS IN THE THRIFT INDUSTRY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ROTH. Mr. Speaker, the 101st Congress convenes today faced with a number of pressing national problems. None, however, carries more potential for damage to our economy than the growing crisis in the thrift industry. The events of the past 10 days, in which the Federal Home Loan Bank Board sold dozens of savings and loans at firesale prices, only underscores the extent of the problem.

During 1988, the Board took over 222 thrifts, with assets totaling $90 billion. The cost to the Federal Government—that is the American taxpayer—amounts to a minimum of $38.6 billion, and probably a good deal more in future years.

During the previous Congress, my House Banking Committee delved into the S&L crisis and began the difficult work to find a solution. Legislation was approved to give the Board authority for stopgap measures to prevent a collapse of the Federal Savings and Loan Insurance Corporation, which liabilities for insured accounts in troubled institutions now amount to $60 to $80 billion more than its assets.

But it is the spectacle of last week's financial feeding frenzy at the Bank Board which brings home the nature of the problem, and the need for new leadership in this issue.

Contrary to the blandly reassuring statements by the Bank Board, the sales of bankrupt S&L's do not end the Federal Government's liability. First, in many of the deals the Bank Board retains part ownership, which has been financed in many instances with promissory notes—borrowed money which will have to be repaid. Additional notes have been issued to add to the balance sheets of the failed institutions. Finally, in some of the deals, the Bank Board has given the purchasers guarantees against future losses in taking over the institutions—some running 10 years.

Thus, the $38.6 billion cost announced on Friday is just a minimum. Moreover, these outlays and the future obligations have a significant impact on the Federal budget and deficit. Promissory notes, which the Bank Board contends are guaranteed by the Federal Government, add directly and immediately to Federal spending, and to the deficit. The guarantees against future losses also are considered Federal obligations, and become outlays and debt when they are exercised.

All in all, we have a situation where the Bank Board is dragging us even deeper into a financial black hole. Yet, under current law it has unprecedented authority to commit the American taxpayer to billions of dollars in obligations, but without any effective control. The Board is even free from the Apportionment Act, which is the President's main fiscal management tool.

Clearly, we need fundamental changes, not only to solve the immediate problem of some 200 hopelessly insolvent thrifts in which depositors have federally insured funds, but also to prevent any reoccurrence. When the 101st Congress constitutes its committees, we must begin at once to address these problems squarely. The Bush administration must play a constructive role, bringing to us its options.

This will take some weeks, perhaps even months. In the meantime, the Bank Board will continue to function without control. In considering how to bring some measure of immediate protection for the taxpayer, I have written to the Attorney General, requesting him to use his authority as our chief law enforcement officer to determine whether the Bank Board is acting in the public interest. I have specifically recommended that he review the sales announced last week and move for injunctions against them if they are not in the public interest. A copy of my letter is included, for the information of my colleagues.

As we search for a solution to the crisis in the thrift industry, we must remember that the American taxpayer already is paying too much for a bloated and inefficient Federal Government. We have made some progress in the past several years in curtailing the growth in spending. However, if we are not careful, the S&L crisis will cancel out all our good work of the past several years and put us back on a course of fiscal disaster.

U.S. HOUSE OF REPRESENTATIVES,
December 30, 1988.

HON. RICHARD THORNBURGH,
Attorney General of the United States, Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: The recent actions by the Federal Home Loan Bank Board in making agreements for the sale of insolvent savings and loan institutions raise serious questions whether the Board is properly and prudently carrying out its responsibility under federal law.

As a member of the House Banking Committee, I am deeply concerned about the terms of these sales. Institutions with billions of dollars in assets evidently are being sold for minimal cash payments, coupled with generous tax benefits. The Board also has provided some purchasers with open-ended guarantees against losses.

To finance its participation in these sales and to augment the balance sheets of the institutions, the Board has issued billions of dollars in debt, which the Board contends is federally guaranteed as well. This debt adds directly to the federal budget and the federal deficit.

Even though the federal statutes governing the Board and the FSLIC authorize actions to protect the deposit insurance fund and our thrift system, the Board also must meet the test of prudence to which all government officials are required to adhere.

This is particularly a concern in view of the magnitude of the transactions and the continuing question about the Board's authority to grant federal guarantees.

Accordingly, I request that you review the Board's actions in these sales and, under your authority as the chief federal law enforcement officer, act to insure that the Board carries out its responsibility in accordance with federal law and the requirements of federal officials to protect the public interest.

If you determine that the public interest is not being protected, then I urge you to seek injunctions against these sales, so that the public is not indebted to any improper or imprudent actions by the Board. In my judgment, this is the minimum that can be done immediately to protect the American people and the taxpayer.

I would appreciate having your assessment of this situation at your earliest possible opportunity. The House Banking Committee will begin an examination of these questions next month, and your response will be a significant contribution to our work.

Sincerely,

TOBY ROTH,
Member of Congress.

PUBLIC PRODUCTIVITY ACT: A SPECIFIC INFRASTRUCTURE PROPOSAL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. OBERSTAR. Mr. Speaker, it has been 7 years since the book "America in Ruins," by

Pat Choate and Susan Walters, first raised to national consciousness the deteriorating condition of our Nation's public capital resources, and made "infrastructure" a fitting topic for the front cover of Newsweek, and for feature articles in U.S. News & World Report and Time magazines.

The National Council on Public Works Improvement, in its major report to the Nation released last February, advised that "America's public works are barely adequate to meet current needs and insufficient to support economic growth." Yet the Nation has no comprehensive program to rehabilitate, repair and renovate our portfolio of public capital resources: our roads and streets, highways and bridges, our water supply and wastewater facilities, our public buildings, and other publicly owned facilities.

The legislation I introduce today would provide the seeds of that overall program, for consideration along with other infrastructure measures which I expect will be before the Public Works and Transportation Committee during the 101st Congress.

As the initial multitrillion dollar infrastructure maintenance and rehabilitation estimates were announced, I asked the U.S. Conference of Mayors and the League of Cities to survey their members, to determine, first, how cities handle their infrastructure decisionmaking and financing, and second, the condition of municipal public facilities around the country.

The results were heartening. The survey, "Capital Budgeting and Infrastructure in American Cities: an Initial Assessment," indicated that over 90 percent of those 800 cities responding do use some sort of capital budgeting or some similar orderly decisionmaking process. Further, the survey indicated that infrastructure is a national issue, which is important to all regions of the country, not just the older ones. It also revealed that cities' infrastructure needs vary widely, although priorities cluster in a relatively few general categories such as streets and roads, waste water treatment, storm water collection, and sewers. Cities vary greatly in their ability to finance infrastructure needs, and these needs cannot be met in many cases without Federal and State assistance.

Most important, however, the survey showed that while infrastructure needs are great, we need not be paralyzed by their magnitude. We can break the task down into manageable proportions.

The bill I introduce today will not solve the entire infrastructure problem in this country. Nor can Federal grants do the job alone. I expect the bill which ultimately comes to the House floor will be far more comprehensive than a grants program.

I am convinced, however, that a grant program to help distressed areas repair and improve their infrastructure is a necessary component of a more comprehensive approach to the overall problem.

The importance of maintaining our public capital portfolio goes beyond eradication of potholes and patching of pipe. The future economic well-being of our country depends on sound, adequate public capital facilities, the underpinning for all our private endeavors. Private productivity, which is the quintessential element in keeping our Nation preeminent as an economic force in the world, depends ultimately on public productivity. Industry and business won't expand, and certainly won't locate, in communities where water and sewer capacity aren't adequate, and where raw materials and finished products can't be easily or competitively transported.

Today, as many as half to three-quarters of our communities cannot expand because their infrastructure is inadequate to accommodate new growth.

Increasingly, the private sector is recognizing this interdependence between public infrastructure and private growth. In Cleveland, industry took the lead in supporting a tax increase, provided that half that increase would be dedicated to public capital repairs. Seattle's businessmen, at the invitation of their mayor, fully reviewed the city's budget, and ended up supporting a business tax increase for public facilities repair.

The bill I introduced today has two purposes: one, to protect our priceless existing investment in public capital, which American citizens have built with their tax dollars over the entire life of this country, by reversing the neglect and negative investment of the last several decades; and two, to prevent future neglect, by assisting owners and operators of public facilties to establish long-term Capital Improvement Programs to assure maintenance and upkeep of this great resource.

The Infrastructure Improvement and Public Productivity Act of 1989 is a multiyear, one-shot catch-up program to assist owners and operators of public capital in restoring private productivity by ungrading local public facilities and making them more productive. This bill would provide $2 billion per year in grants, on a 50–50 matching basis, to distressed areas to repair, renovate, reconstruct, or construct public facilities which contribute to that area's economic growth and development.

Eligible recipients would be owners and operators of economic development-related public facilities: States, counties, townships, municipalities, and special districts such as water and sewer districts and port authorities.

Funds would be apportioned to reward States and other levels of government making the greatest effort to preserve their own public facilities; and to target areas where the needs are the greatest.

The second major innovative feature of this bill is the Capital Budgeting and Capital Improvement Programs requirements I referred to above. This is an extremely important element of the program, in that it is the means to assure that owners and operators will establish and maintain an orderly schedule for protecting their capital plants.

Once funds have been allocated to the States, the Governor is required to set aside 1 percent of that allocation for Capital Budgeting and Capital Improvement Programs. The State itself, and any local government, could receive a grant on a one-time basis to develop a Capital Improvement Program.

The National Council on Governmental Accounting has defined a Capital Improvements Program as "a plan for capital expenditures to be incurred each year over a fixed period of years to meet capital needs arising from the long-term work program or otherwise. It sets forth each project or other contemplated expenditure in which the local government is to have a part and specifies the full resources estimated to be available to finance the projected expenditures."

Capital Improvement Programs vary from the simple to the extremely complex, depending on the size of the governmental unit and the sophistication of the participants. The CIP is usually for 5 to 6 years. Capital improvements programming is the multiyear scheduling of capital improvements ranked in order of priority, an identification of all possible funding sources, an analysis of the financing capability of the local government, and a schedule or timetable for development.

In many cases, the first year of the CIP is called the capital budget, which refers to those capital improvements that are programmed for the next fiscal year. A capital budget can generally be thought of as the link between the longer-term Capital Improvements Program and the current annual budget and appropriation process used by most governmental units. Most governmental units update the CIP annually.

An important distinction between the capital budget and the Capital Improvements Program is that the 1-year capital budget is a part of the legally adopted annual operating budget, while the longer-term CIP does not have legally binding significance.

A Capital Improvements Program for all an owner/operator's public facilities would be the condition for receiving funding under this program for repair or improvement of a single project or element in that overall program.

I want to note also that this bill will dovetail nicely with the National Development Investment Act, which passed the House in the 100th Congress by a margin of 330 to 89 and which I am reintroducing today. That bill requires communities to design development investment strategies as a prerequisite for individual projects. These strategies will be important components of the Capital Improvements Programs developed under this legislation.

I put this bill forward to initiate debate on a concrete proposal, and look forward to full discussion of all the issues this legislation raises.

The bill looks to the future in its establishment of a pattern of Capital Budgeting and Capital Improvement Programming, so that, once an area has "caught up" with its deferred infrastructure needs, it won't go back to its old ways of doing business, and allow its newly refurbished facilities to deteriorate again.

This is an ambitious bill, and I do not pretend that it is the final product. Rather, I introduce it as the subject of what I anticipate will be extensive and lively debate. I will welcome comment from all sides on it.

INFRASTRUCTURE IMPROVEMENT AND PUBLIC PRODUCTIVITY ACT

PURPOSE

To establish a multiyear infrastructure repair program by assisting State and local governments in addressing the urgent need to repair and rehabilitate aging public facilities and to encourage the establishment of captial improvement programs that include life-cycle maanagement of capital improvement.

WHAT THE BILL DOES

The Act would authorize $2 billion annually for a period of five years for 50% grants to States, Territories, Counties, Municipalities, Townships, Special Districts, and Authorities for the construction, renovation, reconstruction, and repair of public facilities that are located in or will substantially benefit UDAG (Urban Development Action Grant) eligible areas.

ELIGIBLE PROJECTS

Grants would be available for the construction, renovation, and repair of public facilities such as any road, street, bridge, water or wastewater-treatment system, building, and other facility related to the economic development of the area.

LIMITATIONS

Grant can only be made if project is part of capital improvement program; enhances economic development opportunities; contributes substantially to the economic development of the area; is not inconsistent with areawide plans; applicant demonstrates maintenance of effort; could not otherwise be done; and applicant demonstrates compliance with Davis-Bacon Act.

ALLOCATION OF FUNDS

One percent set-aside of funds appropriated for Secretary to conduct research for improving productivity, management, and extending useful life of public facilities and for the development of new materials, technologies and methods for repairing public facilities.

One fourth of 1 percent set-aside, each for Puerto Rico and the Territories;

Funds to be allocated to each of the States by a formula which considers population, fiscal capacity, tax effort, and capital expenditures; and

One percent set-aside of funds allocated to each State to be used to make grants to establish and improve capital budgeting and capital improvement programs. Economic Development Districts and Areawide Planning Agencies may be used for this purpose.

CONGRESSMAN BARTLETT INTRODUCES THE SOCIAL SECURITY WORK INCENTIVES ACT OF 1989

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BARTLETT. Mr. Speaker, today, Congressmen LEVIN, ARCHER, MATSUI, and I, along with a total of 94 House Members are introducing legislation entitled, the Social Security Work Incentives Act of 1989. This legislation removes an essential disincentive to work by allowing SSDI recipients who do return to work and earn above the SGA level ($300 per month) to be considered "disabled and working."

Eighteen months ago Congress enacted Public Law 99-643, the Employment Opportunities for Disabled Americans Act. This law eliminates work disincentives for supplemental security income [SSI] recipients who want to accept a job without losing their health care benefits.

Data from the Social Security Administration shows that this legislation is having its intended effect. Participation in the 1619(a) program (receiving cash benefits and Medicaid) has increased dramatically since July 1987, when Public Law 99-643 took effect. All persons in the "trial work" status at the end of June 1987 are now in the 1619(a) program. Participation in the 1619(b) program (continued Medicaid coverage only) has increased by 31 percent since July 1987. Passage of this legislation has provided work incentives for the disabled.

But Public Law 99-643 is not enough. It only applies to persons with disabilities who participate in the SSI Program. This work incentive should be extended to persons who participate in the Social Security Disability Insurance [SSDI] program.

Under this bill, when an SSDI recipient returns to work, regardless of whether his earnings would place him in the "disabled and working" status, his monthly benefit will be reduced by $1 for every $2 earned, after exclusion of the first $85 and impairment-related work expenses. The person will be permitted to stay in the "disabled and working" status as long as he continues to have the disabling impairment that is the basis of his eligibility. This is parallel to section 1619 in the SSI program.

The real disincentive in current law, though, is a loss of medical benefits rather than cash benefits. Under the 1619 program, the SSI recipient continues to receive Medicaid upon returning to work, but SSDI participants in similar circumstances cannot receive Medicare.

SSDI recipients do not have access to Medicaid coverage, but are instead covered, after a 2-year waiting period, by Medicare. Under current law, SSDI recipients who return to work are covered by Medicare for 48 months and are then shut off. This legislation will allow SSDI recipients in the "disabled and working" status to continue to receive Medicare benefits for 48 months and be able to buy into Medicare once the 48-month period is exhausted.

The buy-in arrangement is outlined as follows:

The State Medicaid Plan would pay the Medicare premium for individuals with earnings below 150 percent of the poverty line ($8,655 for 1987) and individuals who meet the SSI resource test.

The State Medicaid Plan would pay a portion of the Medicare premium and the individual would pay the rest if the individual's earnings are between 150 percent and 300 percent of the poverty line ($8,655 to $17,310 for 1987).

Individuals whose earnings are above 300 percent of the poverty line would pay the entire Medicare premium.

Other provisions of the legislation would: First, provide for automatic reinstatement for those individuals whose income fluctuates; second, allow an individual who is working and receiving disability benefits on the date of enactment not to be subject to these rules if his income does not exceed 80 percent of substantial gainful activity [SGA]; and third, and allow individuals to retain SSI eligibility for Medicaid even though they receive SSDI benefits based on their parents' retirement, disability, or death.

The Congressional Budget Office has estimated that this legislation will cost $310 million over 5 years. This estimate is based on the number of new recipients, 75,000 over 10 years, that will come onto the SSDI rolls as a result of this legislation. However, the CBO estimate does not include the increases in general revenues from income and employment taxes that will result if this legislation is enacted. I also believe the bill will generate savings to the Disability Insurance Fund through reduced benefits payments. In addition, the legislation will reduce Medicare costs because it requires employers to cover their disabled workers under their employment-based health plan with Medicare as the secondary payor.

In 1987, 2.8 million disabled people received SSDI benefits and approximately 33 percent were under age 45. Under the present system, only one-half of 1 percent of these workers are returning to the work force. SSDI recipients under age 45 are in their prime working years and could contribute substantially to our economy if they could return to work. If this legislation can double that percent, it will be a tremendous success.

I urge my colleagues to cosponsor this legislation. It will promote employment among persons with disabilities by removing a major disincentive which currently exists in the SSDI program.

NATIONAL FLOOD INSURANCE PROGRAM AMENDMENTS

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. JONES of North Carolina. Mr. Speaker, today I am introducing the National Flood Insurance Program amendments for coastal homeowners along with my colleague from Michigan, Congressman FRED UPTON. This bill provides for an extension of payments authorized under section 1306(c) of the National Flood Insurance Act of 1968. Congressman UPTON and I coauthorized this provision during consideration of the Housing and Community Development Act of 1987—Public Law 100-242.

Section 544 of Public Law 100-242 established a new section 1306(c) to the National Flood Insurance Act of 1968. This provision authorizes advance payments under a valid insurance contract for relocation or demolition of erosion-threatened structures. During consideration of this amendment, the Federal Emergency Management Agency [FEMA] expressed concerns that it would result in a wholesale raid of the national flood insurance fund and that it would be technically complicated to administer. In recognition of these concerns, we agreed to the inclusion of a sunset provision as a "safety valve."

During the intervening 18 months, none of the doomsday predictions have proven true. There has been no raid on the flood insurance fund. In fact, only slightly more than 100 claims have been filed. The program has not proven overly complex to administer. FEMA has published guidelines which are generally well received, and the program is progressing. Certainly there have been difficulties and dis-

agreements, but generally good progress is being made, and threatened structures are being safely removed.

The safety valve has done its job. The worst fears have been calmed. It is clear that we can move now to the next step in implementing this provision, and that is why I and Congressman UPTON have proposed to extend the authorization for this program for an additional 3 years. This additional period will allow complete study and documentation of the benefits of this program, after which the Congress may consider making this a permanent feature of the National Flood Insurance Program.

This bill also makes two modest technical amendments. First, the exemption for the Dune Road community on Long Island, NY, is extended slightly to capture all households in that area. This is necessary because the language of Public Law 100-242 was simply not adequately inclusive and this omission was not discovered until after enactment.

Second, an interpretational disagreement is resolved. The word "claim" is deleted from section 1306(c)(1) and replaced with the word "certification." This clarifies that the process of certification by a State or local authority—and approval of that certification by FEMA—serves to trigger this provision. Once certified as subject to imminent collapse—including final determination by FEMA that the certification has been conducted in compliance with program guidelines—a structure must be relocated or demolished, and payment must be provided as proscribed in section 1306(c)(1).

Undoubtedly, other changes will be proposed to improve this provision. While they have not been included for purposes of introduction, I am committed to their full consideration.

This provision enjoyed strong support when originally considered during the 100th Congress. Subsequent to enactment, it has passed the acid test. It deserves extension.

Clearly, erosion is the root-cause of many flood-related damages. Since the Federal Government, through the Flood Insurance Program, is the principal insurer of high hazard coastal structures, shoreline erosion is insidiously increasing the financial exposure of the taxpayer. This provision promises to reverse that trend, and thereby avoid costly damages to coastal property.

Not only does the provision make good financial sense, it makes good common sense. If section 1306 is not extended, property owners across the Nation will again be put in a very difficult position. As erosion brings the water ever closer to their home or business, they will be faced with a catch-22 situation. Even though the structure is doomed to collapse, they will not be able to receive any insurance payment until the damage actually occurs. They will be forced to sit helplessly by and await the inevitable. They could, of course, relocate the structure, but they would have to pay out of their own pocket. It doesn't take a mathematics scholar to figure out what the vast majority will do. They will let the structure fall and collect insurance for a total loss.

If extended, section 1306(c) will allow an advance payment for the structure to be moved in an orderly and timely fashion. The homeowner will not be required to wait helplessly for the structure to collapse. The home will not be a health or safety hazard. The beaches will not be littered with debris. Local governments will not be burdened with the costs of cleanup.

In return for advance coverage, the owner will be required to meet minimal requirements for redevelopment or relocation. These requirements, referred to as "erosion setbacks," are designed to provide a margin of safety and will help prevent repetitive damages. Because relocation is cheaper than total loss, and because repetitive damages will be avoided through implementation of erosion setbacks, Federal flood insurance costs should be reduced over the long term.

Mr. Speaker, as I said earlier, this provision makes good sense. It is an important first step in coming to grips with this difficult national problem. It makes the flood insurance program more responsive. I ask my colleagues to support its extension for at least another 3 years.

THE NOTCH BABY ACT OF 1989

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GRANDY. Mr. Speaker, I rise today to offer legislation with the goal of providing a fair and equitable solution to the Social Security "notch." Some 7 million Americans born in the years 1917-21 are disenchanted with the Social Security System because they receive smaller retirement benefits than they are entitled to, compared to other Social Security recipients.

Undoubtedly, no single issue has "dogged the footsteps" of more Members of Congress than the concerns of those born in the notch—1917-21. Due to the emotional nature of the notch question, few issues have been shrouded in more misinformation and misunderstanding. For this reason, I am reintroducing the legislation authored by our former colleague from Nebraska, Hal Daub, in the 100th Congress as H.R. 1721. While many notch organizations have advocated, and others have promised, more generous resolutions of the notch issue, I am firmly convinced that our seniors deserve better—a straightforward, realistic resolution to their concerns. This legislation is just such a solution.

Last summer, the General Accounting Office released the long-awaited study of the notch. The study outlined three points to consider when addressing the notch issue:

First, the financing of notch legislation should be as neutral as possible in its effect on the Social Security trust fund;

Second, the feasibility of actual implementation of such legislation should be given consideration; and

Third, the transition period should not be lengthened.

I am confident that the Notch Baby Act of 1989 fulfills all three of these criteria.

While the $24.3 billion cost of this bill over 10 years is sizable, it represents the lowest cost alternative to resolving the notch. Therefore, it would have the smallest effect on the solvency of the OASDI trust fund, and upon the withholdings of current workers. Although there is no official definition of an adequate contingency level for the trust funds, a trust fund ratio of 100 percent—or 1 year's reserve—is generally considered to be adequate. At present, the trust fund ratio is expected to reach that 100 percent ratio goal at the end of 1992. With the enactment of this legislation, the trust fund ratio would be 95 percent at the end of 1992 and would reach the 100 percent ratio in mid-1993. The lower comparable cost of this bill, and the minimal affect it would have on the solvency of the trust fund makes this legislation the most realistic resolution to the notch.

The Notch Baby Act of 1989 will allow Social Security beneficiaries born in the years 1917-21 to become eligible for a new, alternative computation method. This method would affect benefits for the months after December 1989.

At this time I would like to read a paragraph from last year's GAO report of the notch:

> No amount of technical discussion and sophisticated analysis is sufficient to convince an individual that it is equitable for him to receive a benefit that is $100 less per month than his nearly identical neighbor. In our view, with the benefit of at least 9 years' hindsight it appears that it might have been better to have allowed the inclusion of post-age 61 earnings in the transitional guarantee computation. Data from SSA show that this would have permitted a smoother phase-out for later age retirees. While such a provision might not have prevented "notches" entirely, it would have alleviated a portion of the problem.

This statement is important because a key factor in my legislation is that post-age 61 earnings are taken into consideration under my new formula. The transition formula under the Notch Baby Act of 1989 is based upon the new law formula plus a declining percentage of the difference between the benefit computed under the old law—including 3 years of post-age 61 earnings—and the benefit under the new law.

The following graph from the GAO report illustrates how the blended formula would work for the "notch babies":

	Guaranteed a PIA of no less than (percent)
Worker reaching age 62 in:	
1979	New law PIA + 60 [1]
1980	New law PIA + 35 [1]
1981	New law PIA + 30 [1]
1982	New law PIA + 25 [1]
1983	New law PIA + 10 [1]

[1] Modified old law PIA–AIME PIA.

This formula allows for the phase-in of the new benefit compulation law created by the 1977 Social Security Amendments. The formula is fair and more closely follows congressional intent relative to the 1977 law. This legislation specifically addresses the discontent associated with the old transition formula by allowing the "notch babies" to calculate earnings after age 61 on par with those born before 1917 and provides a percentage of the difference between old law and new law formulas.

Mr. Speaker, I firmly believe that this proposal is a fair and responsible approach to the notch inequities. I urge my colleagues to support this important legislation.

INTRODUCTION OF THE MERCHANT MARINERS FAIRNESS AND MEMORIAL ACT OF 1989

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. FIELDS. Mr. Speaker, it is an honor for me to introduce the Merchant Mariners Fairness and Memorial Act of 1989.

Mr. Speaker, the purpose of this legislation is twofold. First, it will correct a major injustice that has been perpetrated on thousands of Americans who proudly served in our U.S. merchant marine during World War II.

And, second, it will authorize the Secretary of Transportation to transfer the title of an obsolete vessel from the National Defense Reserve Fleet to a nonprofit group involved in a merchant marine memorial project.

Let me describe why it is essential that Congress enact this legislation.

While it is now 44 years since the end of World War II, there are still many Americans who served in the U.S Maritime Service who have not received any recognition or benefits for the vital role they played in that conflict.

Unlike their brothers in uniform, America's merchant seamen came home to no ticker-tape parades. They came home to no celebration. In fact, little, if anything, was said about the contributions they made to defeating the Axis powers, keeping Europe and Asia free, and preserving our freedom here in the United States. Worst, these merchant seamen came home to none of the benefits enjoyed by the men and women who served America in uniform.

Mr. Speaker, we know that 270,000 merchant seamen helped deliver troops and war material to every Allied invasion site from Guadalcanal to Omaha Beach. They also tranported our troops back home to the United States and, when that task was completed, they carried food and medicine to millions of the world's starving people. The price they paid to keep us free was high: 733 U.S. merchant ships were destroyed; 6,632 seamen were killed, and 609 merchant mariners were taken as prisoners of war. Indeed, their casualty rate was only one-tenth of 1 percent lower than our Marine Corps, which experienced the highest casualty rate of any branch of the military services.

President Franklin Roosevelt noted that our merchant mariners were men who "returned to their jobs at sea again and again, because they realized that the lifelines to our battlefront would be broken if they did not carry out their vital part in this global war."

Gen. Dwight D. Eisenhower, commenting after the Normandy invasion in 1944, said that "when final victory is ours, there is no organization that will share its credit more deservedly than the merchant marine."

Gen. Douglas MacArthur emphatically stated that "they have contributed tremendously to our success. I hold no branch in higher esteem than the merchant marine service."

Finally, Adm. Chester Nimitz said that "without these merchant ships wholly devoted to winning the war, our substantial progress would not have been possible."

Mr. Speaker, despite these well-deserved accolades and expressions of recognition, unfortunately, our merchant seamen became the forgotten patriots of World War II.

While there have been attempts over the past 40 years to legislatively provide veterans status to these merchant seamen, each of those efforts failed.

A prominent advocate of such legislation was Congressman Thomas Joseph Lane of Massachusetts. In fact, on October 8, 1945, Congressman Lane made one of the most eloquent statements on behalf of our World War II merchant mariners. In that speech, Congressman Lane noted that "men of the merchant marine were the first to fight and the first to die. They, above all others, saved England when she stood alone against Nazi aggression and was but a few weeks away from the starvation which meant certain defeat. In those dark days the merchant marine was our last and only hope."

"Theirs was a constant, nerve-wracking vigil against enemy ambush that was frequent, swift, and deadly. Many ships went down with many men. But the lines never faltered. Their war service, constantly exposed to enemy action, was indispensable to victory."

Mr. Speaker, Congressman Lane was absolutely correct in his assessment. These men paid a tremendous price in fighting for us, but have been forgotten by us.

It is also significant to remember that in October 1941, President Roosevelt asked the Congress to enact legislation to lift the ban on arming merchant ships. Less than 1 month later, Congress approved such legislation.

In addition, President Roosevelt issued an Executive order establishing the War Shipping Administration [WSA] on February 7, 1942, as a civilian Federal agency within the Executive Office of the President. By that order, all of the functions, duties and powers conferred upon the U.S. Maritime Commission with respect to the operation and requisition of vessels were transferred to the WSA. In short, almost all of our merchant seamen became employees of the United States.

With that background, we move forward to October 2, 1987, a day which will long be remembered by all World War II merchant seamen. On that day, U.S. District Court Judge Louis S. Oberdorfer declared that the Pentagon's previous decisions to reject veterans status for World War II merchant seamen were "arbitrary and capricious and * * * not supported by substantial evidence."

As a result of this landmark court decision, Secretary of the Air Force Edward C. Aldridge, Jr., issued a statement on January 19, 1988, which stipulated that service of the "American Merchant Marine and oceangoing service during the period of armed conflict, December 7, 1941, to August 15, 1945" should be considered "active duty" for purposes of all laws administered by the Veterans' Administration.

While I am pleased that we have finally made the right decision in granting veterans status to some of these forgotten partriots, I believe the Secretary's decision is badly flawed and must be corrected in one critical respect.

By establishing the so-called period of armed conflict, the Secretary again has made an arbitrary and capricious decision which has no basis in law. In fact, the term "period of armed conflict" doesn't even appear in Judge Oberdorfer's 34-page decision.

By selecting these days, Secretary Aldridge has unfairly penalized thousands of Americans who served in our Nation's U.S. maritime service with distinction during 1945 and 1946.

Based on discussions with the U.S. Coast Guard, which is currently processing applications for veterans status, there are three categories of merchant mariners who are adversely affected by Secretary Aldridge's decision. These include: Those who served in the U.S. merchant marine before August 15, 1945, but did not have any oceangoing voyages prior to that date; those merchant seamen who were in military training on August 15, 1945; and those who were inducted into the U.S. maritime service after August 15, 1945.

It is my understanding that at least 2,000 merchant seamen in the first two categories have already filed applications for veterans status with the Coast Guard.

Consider for a moment Mr. Charles Richard Page, a Houstonian who was in the U.S. maritime service from August 21, 1945, to May 6, 1947. While Mr. Page enlisted in our merchant marine on July 5, 1945, certain bureaucratic delays, over which he had no control, prevented his actual induction by about 5 weeks. Following his induction, he successfully completed his military training at Catalina Island, off the coast of California, and he served with great distinction.

Mr. Speaker, I strongly disagree with those who argue that these individuals are not entitled to veterans' status. Let me tell you why all merchant mariners who served between December 7, 1941, and December 31, 1946, should be granted veterans' status.

Once again using Mr. Page as an example, while it is true he was on "active service" after August 15, 1945, the Japanese did not formally surrender to the United States and its allies until September 2, 1945.

Mr. Page and the other hundreds of merchant mariners who completed training in 1945 and 1946 at places like Kings Point, St. Petersburg, and Catalina Island served on ships under the direct military control of the U.S. Navy. These merchant marines traveled under sealed orders and their vessels were equipped with an array of military equipment, including 50-caliber guns.

In addition, the War Shipping Administration was in control of all ship movements and merchant mariners until December 31, 1946. In fact, early in the war, the Director of the Selective Service, Gen. Lewis Hershey, had instructed all draft boards throughout the country that "service in the merchant marine * * * is so closely allied to service in the Armed Forces that men found by the local board to be actively engaged at sea may well be considered as engaged in active defense of the country. Such service may properly be considered as tantamount to military service."

Mr. Speaker, those ships were not taking pleasure cruises. They were transporting desperately needed supplies, including medicine, to countries that had been devastated by war. The ships and their crews traveled through heavily mined waters, like the Mediterranean Sea, and on more than one occasion merchant ships were sunk by mines.

In fact, there were at least 11 U.S. merchant vessels damaged or lost after August 15, 1945. One of those was the SS *Jesse Billingsley*, which was hit by a mine off the coast of Trieste, Yugoslavia, on November 19, 1946. One U.S. merchant mariner lost his life in that explosion.

Not until December 31, 1946, did President Harry Truman state during a press conference that he was issuing Proclamation 2714 which read in part that "although a state of war still exists, it is at this time possible to declare, and I find it to be in the public interests to declare, that hostilities have terminated."

Mr. Speaker, all other laws that affect World War II veterans use the date December 31, 1946. Quoting from the Veterans' Administration manual, "Chapter IV—Veterans Benefits. War Period. World War II comprises the period from December 7, 1941, to December 31, 1946." In addition, it is important to note that a person could have been inducted into the U.S. Army during the week prior to August 15, 1945, and would be rightly considered a World War II veteran. Why don't all of our World War II merchant mariners receive the same consideration?

Mr. Speaker, the August 15, 1945, date simply has no basis in law. In fact, the overwhelming preponderance of evidence suggests that the correct and only relevant date is December 31, 1946. After all, that is the date of Proclamation 2714, and that is the date used for all other World War II veterans laws. While I don't question the motives of the Secretary of the Air Force for choosing this so-called period of armed conflict, justice demands that Congress finish the job which Secretary Aldridge began. That is the key purpose of my legislation: To extend veterans status to all merchant mariners who served our country's war effort between December 7, 1941, and December 31, 1946.

While it is true that our merchant seamen received letters, ribbons, and other citations for their outstanding service, they are entitled to more than just these tokens of service. They deserve not only our respect, but they deserve to be treated in exactly the same manner as all other World War II veterans.

The second purpose of this important legislation is to give the Secretary of Transportation the authority to provide obsolete vessels to certain nonprofit organizations interested in establishing merchant marine memorials.

While there are many memorials for those who sacrificed their lives in the Armed Forces of this Nation, there are precious few dedicated to those merchant mariners killed during our Nation's conflicts.

As I have already demonstrated, it is clear that the outcome of World War II would have been dramatically different, if the U.S. merchant marine had not done its job with such courage, determination and bravery.

This provision will, in a small way, say to the families of those merchant mariners who lost their lives that their sacrifice was not in vain and that this Nation still honors their gallant efforts.

Under the terms of this provision, to qualify for an obsolete vessel, an organization would be required to raise at least $100,000 in private funds prior to the enactment of this bill.

There are no Federal funds authorized and additional fiscal safeguards have been built into the act. For instance, an obsolete vessel would have to be delivered to the recipient at its current location, in its present condition and without cost to the Federal Government.

Mr. Speaker, these types of merchant marine memorials are long overdue. I would also like to compliment our highly distinguished colleague from Maryland, Congresswoman HELEN BENTLEY, for her tireless dedication to this idea and to the well-being of all our merchant seamen.

Mr. Speaker, now is the time to enact the Merchant Mariners Fairness and Memorial Act of 1989.

INTRODUCTION OF THE BILL TO REPEAL THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1989

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. RITTER. Mr. Speaker, since its passage, I haven't heard 1 of the 72 Members who voted against the Medicare Catastrophic Coverage Act express regret over their vote, but I've heard complaints from many of those who are sorry they voted for it.

Lately, we've been reading more financial reports advising senior citizens on how to adjust their incomes in 1989 to reduce their tax liabilities. They are coming up with clever strategies to avoid paying the new surtax on their income tax that was imposed on them to pay for a Catastrophic Coverage Act they didn't want. But, this is one New Year's gift from Congress which taxpaying seniors find unwelcome.

In reducing tax liabilities to avoid the surtax, taxpaying seniors will withdraw moneys available for benefits. I'd like to ask my colleagues if they know that the Catastrophic Coverage Act contains a provision requiring that "The Secretary would increase the flat premium to replace revenue" in the case of a revenue shortfall. I fear this might result in not only higher Medicare part B payments, but also higher deductibles, lower levels of service and fewer people covered.

The funding mechanism is self-defeating.

And, there are other perverse effects.

At a time when, in many areas of the country, seniors are being asked to reenter the work force, the Medicare Catastrophic Act is a disincentive to work. If seniors make more money and thus pay more income taxes, they will be forced to pay this surcharge on their taxes, That reduces the incentive to work—and the incentive to save, as well.

The Catastrophic Coverage Act of 1988 might better be called the "Seniors' Anti-supply Side Economics Act of 1988."

At a time when society is craving greater savings and investment by seniors to cover retirement expenses, the Medicare Catastrophic Act is a mistake. Its a raw deal for seniors who have saved and invested wisely for their later years. Not only will they have to pay income taxes, but also new surcharges on those taxes for a bill that doesn't even encompass long-term care.

My constituents are writing and calling my office to protest the surtax and the sharp increases in Medicare part B. I understand that's happening in other congressional districts, too.

The financing mechanisms in the bill are onerous for our tax-paying senior citizens, given the inevitable reduction of taxable income and assets, they sow the seeds of their own failure.

For these reasons, I am introducing a bill to repeal the Medicare Catastrophic Act of 1988 and to establish a bipartisan advisory group to study and develop proposals to provide protection against excessive costs of catastrophic illness beyond the scope of current Medicare coverage.

This advisory group would:

Study the needs of Medicare beneficiaries for extended acute illness care beyond what Medicare already provides;

Study the differences in acute care experiences of Medicare beneficiaries who have supplemental insurance or comparable coverage—such as retirement health benefits—compared to those without such coverage;

Study how Medicare benefits may be complimented by Government-backed private supplemental insurance or comparable coverage to protect low income persons not covered by Medicaid, from excessive acute medical care expenses;

Study the relative needs of retirees for extended acute care versus long-term homecare and nursing home insurance for nonacute care situations;

Evaluate short and long-term costs and funding mechanisms of such studies and proposals for providing protection against excessive costs of catastrophic illness beyond the scope of current Medicare coverage; and

Finally, this advisory group would develop proposals to make available extended acute care insurance protection taking into consideration and not eliminating existing coverage, supplemental insurance and comparable coverage.

If you too have been faced with senior's complaints, I urge you to cosponsor this legislation. If you have questions or would like to cosponsor this bill, please contact my office.

ELECTION REFORM

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. SWIFT. Mr. Speaker, the 1988 election campaign was very distressing in many respects. When only 50 percent of the eligible voters bother to go to the polls, when millions of dollars in nonreported funds are loosely

spread about the political scene, when the cost of running for the House now exceeds what it cost only a few years ago to run for the Senate, and when a sizable portion of the electorate feels cheated out of its vote, clearly a need for improvement has been demonstrated, and the demand for change and prompt congressional action becomes overwhelming.

Today, we are introducing a major package of reform bills designed to correct many of the abuses that have entered our present election process. Other colleagues will be joining me in introducing additional legislation aimed at the abuses and gaps in present election law, so we will have today a block of bills, sequentially numbered, focused on improving our election process. You, Mr. Speaker, and the chairman of the House Committee on Administration, FRANK ANNUNZIO, have indicated that this issue is a priority for the 101st Congress, and as chairman of the Subcommittee on Elections, I plan to take immediate action on the proposed legislation. It is my understanding that the Senate also plans to move ahead rapidly in this area. With determination and good will, we can put in place better laws to govern and direct our elections, which, after all, are the basic building blocks of our democracy.

The first bill, introduced by Chairman ANNUNZIO, is the Soft Money Control Act. Although Congress approved public funding for Presidential elections in a deliberate effort to get away from the corrupting influence of huge individual, corporate, and other organization contributions, the money raisers in 1988 found various ways to reap in millions of so-called soft dollars to be used in the Presidential campaign. This practice violates the intent of Congress, and the chairman's Soft Money Control Act will close the loophole through which these funds have found their way into the Presidential election process. By doing so, this bill will restore the integrity of the Presidential campaign funding system, a system which has served the country extraordinarily well since its inception.

The second bill, which Chairman ANNUNZIO and I are introducing along with 15 other original cosponsors, is the Campaign Cost Reduction and Reform Act. This measure is identical to legislation I introduced in the last Congress and offers an innovative and comprehensive approach to reducing the cost of campaigns, thus reducing the need to raise huge amounts of money. The cost of congressional election campaigns is out of control. Not only are challengers placed in an almost impossible financial situation, but incumbents are forced to spend an enormous amount of time raising money instead of doing their jobs. The possibility for corruption and undue influence accelerates with the rising cost of campaigning. This legislation offers specific incentives to candidates to limit their expenditures in return for substantial reductions in campaign costs. Again, I believe that this is the most pragmatic and cost-efficient approach to a serious problem which no longer can simply be debated. I know this is a very emotional and controversial issue. My subcommittee has held numerous public hearings on the subject and I have been working for several years to develop a consensus within the Congress. Everyone recognizes the problem and almost everyone has his own solution. The Campaign Cost Reduction and Reform Act offers a compromise as well as a major step forward in reforming the process. Other approaches will be introduced and will receive full consideration from my subcommittee.

I have also introduced today, along with Chairman ANNUNZIO, the National Voter Registration Act. A postelection New York Times/CBS News poll indicated that nearly 40 percent of those who did not vote would have if they had been registered. Improving the registration process is the most important legislative action we can take to increase voter turnout. The bill provides that an eligible citizen will automatically be registered to vote when he or she applies for or renews a driver's license, unless the individual specifically declines. National statistics indicate that 87 percent of the eligible voters in the United States hold drivers' licenses and perhaps another 2 or 3 percent hold identification cards which have been issued at the driver's license office. Thus, the National Voter Registration Act, when fully implemented by the States, will reach 90 percent of the eligible public. To reach the remaining 10 percent, my bill calls for mail registration procedures and agency registration. The legislation also adjusts the purging process to make it less burdensome for the occasional voter. This measure improves the registration process while extremely limiting the opportunity for fraud. It is the product of extensive hearings and consultations with election officials and voting rights activists conducted by my subcommittee last year. I believe it is a pragmatic, cost-efficient, and politically sound approach to a serious problem for our democracy. Other bills, including legislation providing for election day registration, will be introduced and will receive full consideration.

I am reintroducing today my uniform poll closing bill, legislation which has already twice passed the House. Chairman ANNUNZIO, together with the ranking member on my subcommittee, BILL THOMAS, have joined me in cosponsoring this measure. The uniform poll closing bill, along with the network agreement not to project an election winner until the polls have closed in a specific State, will ensure that all the eligible voters in the continental United States have a fair and equitable opportunity to make their choices before the networks proclaim a winner. While the networks, following their policy, were still able to project the election at 9:20 p.m. eastern standard time because the polls in States with a sufficient number of electoral votes had closed by that hour, millions of voters were left frustrated and feeling disenfranchised since their polls had not yet closed. Enactment of the uniform poll closing bill, in conjunction with the network agreement, would put an end to this early projection problem since all the polls in the continental United States would close at exactly the same hour, thus negating the opportunity for an early projection.

Additional bills which are being introduced as part of this reform package will address such issues as money bundling and tax credits for political contributions. I anticipate other measures on this same general subject will be offered by Members on both sides of the aisle, and I assure my colleagues that the Subcommittee on Elections will consider all such proposals with great care. Because this is an inherently controversial area, it will be extremely difficult to pass meaningful reform without fair and equitable compromises.

I will be circulating more detailed information on these bills over the next several weeks, and I welcome cosponsors along with any suggestions or recommendations. You, Mr. Speaker, and Chairman ANNUNZIO have given me the "full steam ahead" signal on this legislation, and, as soon as the committees are officially organized, my Subcommittee on Elections will get cracking.

INTRODUCTION OF LEGISLATION TO EXEMPT CERTAIN TAXPAYERS FROM IRS USER FEES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to exempt certain taxpayers from the Internal Revenue Service User Fee Program enacted as part of the 1987 budget reconciliation legislation. My legislation restores some fairness to retired senior citizens who have been penalized by the new User Fee Program.

Mr. Speaker, the 1987 reconciliation legislation authorized the Internal Revenue Service to establish a User Fee Program. The bill envisioned that the IRS would set up a series of fees for certain services which the agency had previously been providing for free. For example, if a taxpayer now requests a private letter ruling, the IRS will generally charge that taxpayer at least $200. The legislation did give the IRS some discretionary authority to reduce or waive the fees in certain instances, however.

One year before enactment of the 1987 legislation, in the 1986 Tax Reform Act, Congress agreed to repeal the so-called 3-year recovery rule, under which taxpayers who contributed to their own pension were entitled to recover their own contributions tax free so long as they recovered their total contributions within 3 years. After the employees' contributions were recovered, the pension was fully taxable.

The 1986 act replaced this simplified scheme with a far more complicated method of annuity taxation. In general, a taxpayer who contributes to his own pension must calculate his "exclusion ration" to determine the portion of his pension that is subject to tax. The formula used for calculating the exclusion ratio is extremely complicated, and requires taxpayers to use annuity tables published by the Internal Revenue Service.

It has recently come to my attention that the IRS has used the generic authority contained in the 1987 legislation to impose user fees to charge taxpayers who need to calculate their exclusion ratio. Mr. Speaker, this is adding insult to injury. I opposed the repeal of the 3-year recovery rule. I hope that Congress will someday overturn that mistaken decision.

But to add to the unfairness of repealing the 3-year recovery rule a fee to calculate a tax liability legally due the Government is an outrage. To its credit, the IRS has reduced the fees it could have charged, and is only charging $50.

Still, there is an element of unfairness in the IRS asking taxpayers to use an extremely complicated formula and risk making a costly error or else charging retired employees on a fixed pension $50 to make this calculation for them. Therefore, I have introduced legislation prohibiting the IRS from charging any fee for calculating a taxpayer's exclusion ratio. My bill also clarifies that any fees paid by taxpayers during the last tax season will be deductible. The provisions apply to requests made after January 3, 1989.

Mr. Speaker, this legislation is only fair. Many of us have heard from our constituents with complaints over the complexity of income tax forms, and the $50 fee is merely more complexity and more unfairness in their minds. This legislation deserves strong support, and I will be urging my colleagues on the Ways and Means Committee to move expeditiously on it in the coming months.

ENTERPRISE ZONE LEGISLATION

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. IRELAND. Mr. Speaker, our former colleague, Jack Kemp, who has been nominated to be Secretary of the Department of Housing and Urban Development, worked diligently during his years in Congress to pass legislation to establish enterprise zones. As Secretary, I know he will want to pursue this most worthy goal.

To ensure that the development of enterprise zones remains a priority for Members of Congress in the 101st, I am reintroducing this proposal today. I think the time has come to pass this needed legislation and look forward to working with my colleagues and the Secretary-designate, Jack Kemp, on this most important issue.

THE PEACEFUL ATOM ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WYDEN. Mr. Speaker, today, on the first day of the One Hundred First Congress, I am introducing the Peaceful Atom Act, a bill to bar conversion of civilian nuclear reactors to military use. Joining me are my colleagues from Oregon, Mr. DEFAZIO and Mr. AUCOIN.

Since the beginning of our development of peaceful atomic energy, we have kept a wall between military and civilian uses of this power. That wall lets the whole world join us in enjoying the benefits of peaceful power, while discouraging the spread of nuclear weapons.

I'm sorry to say that wall is in danger. President Reagan has ordered the Nuclear Regulatory Commission to draw up plans for Federal take-over of civilian plants in a defense emergency. And our Department of Energy [DOE] wants to develop the technology to turn a reactor designed for civilian use into a producer of bomb fuels. It has its eyes on a half-built Washington Public Power Supply System [WPPSS] plant in the Pacific Northwest.

The idea of converting the WPPSS reactor sends a special chill down the backs of Oregonians. From the Northwest electric ratepayers' point of view, converting WPPSS makes about as much sense as shaking a hornet's nest. It is sure to trigger new law suits from WPPSS bondholders. At worst, it could send the Bonneville Power Administration scrambling to pay off the multibillion dollar WPPSS-1 debt with nowhere to turn but the taxpayers. The effect on the region's economy is almost too awful to think about.

And there are more environmental wrinkles involved than you can count. There is pollution from tritium reprocessing, pollution that has contaminated DOE's Savannah River Plant with toxic mercury and given it rain that isn't safe to drink. There are questions about the plant's impact on fish and wildlife along the Columbia River and all along the Northwest power grid. There are concerns, valid ones, in every town along Interstate 84 in eastern Oregon, about shipping radioactive fuel, wastes, and bomb materials through those canyons and mountains.

There are unanswered questions about catastrophic accidents, since the enriched fuel at a defense facility offers dangers civilian plants don't have to be designed for, dangers like a "recriticality" if the fuel melts. There are emerging safety concerns, like the plant's ability to withstand earthquakes we didn't think were possible when the plant was designed. And I have to wonder why, if WPPSS conversion is such a good idea, DOE is afraid to turn the plans over to the Nuclear Regulatory Commission for their environmental and safety approval in a licensing proceeding.

But the biggest issue of all, for all Americans, is nuclear nonproliferation. Plans for WPPSS conversion and reactor takeovers are sending a terrible message to the many countries that have nuclear plants but do not have the bomb: nuclear weapons are just within your grasp.

We can't expect other countries to resist the temptation to raid their domestic nuclear industry if we give in ourselves.

In 1983, Congress amended the Atomic Energy Act to prohibit scavenging bomb material from American civilian plant wastes. Now we need to reaffirm that action by barring military use of any plant designed for civilian ends.

Through treaties and diplomacy, we have taken great strides in the past few years to lessen the threat of nuclear holocaust from the weapons of the superpowers. But we must not ignore the parallel threat from proliferation of nuclear weapons among other nations. The Peaceful Atom Act, by itself, will not end the threat. But it will tell the world the United States is serious about keeping the nuclear peace.

I urge my colleagues to support this bill.

THE ALLIES FAIR SHARE DEFENSE ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, today I introduced the Allies Fair Share Defense Act of 1989, a measure to ensure that our NATO allies and Japan contribute a fair share to provide for their own security and defense.

In 1951, Dwight Eisenhower viewed American aid for NATO as essential, but he stated, "If in 10 years, all American troops stationed in Europe for national defense purposes have not been returned to the United States, then this whole project will have failed." Now, more than four decades after the end of World War II, the number of U.S. troops stationed in Europe is 340,243—321,896 on land and 18,347 afloat—nearly 89,000 more than a decade ago. Our allies' forces, in contrast, have barely increased. The United States troop presence in Japan is 48,940—with an additional 22,319 afloat in the East Asian Pacific. All told, 370,836—411,502 including those afloat—members of the U.S. military were stationed outside the United States as of March 31, 1988.

A major U.S. role in the defense of our allies was warranted when, as they emerged from World War II, they were weak economically and fragile politically. The economic and political strength and maturity of our allies now requires that they should take more financial responsibility for their own defense and the worldwide defense of democracy.

We are subsidizing their defense while they are subsidizing their exports. And it's costing us millions of jobs.

Under the protective shield of the United States, European countries, and Japan have been able to modernize their industrial plants, while the United States now has an estimated trade deficit of $152 billion. I believe the time has come to send a clear signal to our allies that we are serious about achieving a better balance of defense expenditures.

Secretary of Defense Carlucci has said that our NATO allies "could and should do more." Rozanne Ridgway, Assistant Secretary of State for European and Canadian Affairs, and George Bader, Principal Deputy for European and NATO policy in the Pentagon's Office of International Security Policy, each insisted during testimony to the defense burdensharing panel that increasing allied contributions to military defense remains high on the diplomatic agenda.

The Senate Appropriations Committee's fiscal year 1988 military construction bill repeatedly emphasized that the deep cuts in projects in Europe and Japan reflected a fundamental demand that the allies pay more and the Pentagon pay less of the total cost of alliance defense.

Recognizing that Italy spends about 2 percent of its gross domestic product [GDP] on defense, Italian Defense Minister Valerio Zanone wants to raise Italian defense spending by $25 billion over the next decade to modernize the Italian Armed Forces. NATO's

Commander of Allied Forces Baltic Approaches, Lt. Gen. Paul Thorsen, resigned from his post and from the Danish Army last year, attacking the "skinflint" Danish politicians and administrators for failing to support NATO and for "continually undermining Danish defense."

A far-reaching report scheduled to be released by the North Atlantic Assembly, a group of influential political leaders from major NATO nations, states, in essence, that Europe must do more for its own defense.

While I am not suggesting that any one of these leaders might support my legislation, it is clear that these concerns deserve attention and response. Accountability must be added to our allies' promises. Our allies must share fairly and fully the risks, burdens, and responsibilities, as well as the benefits of our common efforts.

The United States devotes 6.7 percent of its gross domestic product [GDP] to defense, whereas the member nations of NATO, on the average, spend approximately 3.3 percent of the GDP on defense, and Japanese allocate only slightly more than 1 percent. In fiscal year 1985, a comparison of defense spending and population showed that the United States spent $1,079 per person on defense, NATO allies spent $255 per person, and Japan spent $113 per person.

In 1977, each of the NATO allies pledged to annually increase defense expenditures by 3 percent after inflation. On average, the allies have failed to meet the 3-percent spending objective in each year for the period 1978 to 1985—the total average increase for those years being 2.2 percent. For these same years, U.S. defense spending rose by 5.7 percent per year. Japan during this period raised its defense spending 5.4 percent, but still committed only 1 percent of its GDP to defense.

While I recognize that some NATO allies, such as Greece and Turkey, annually exceed the 3-percent objective and that NATO nations and Japan each donate their land and natural resources and permit foreign troops to live in their countries, and the NATO allies contribute the majority of aircraft, tanks, ships, and troops to the alliance, I would argue that in the post-INF world, our present conventional defense capabilities are dangerously inadequate.

Mr. Speaker, my bill is not designed to terminate America's role in assisting with the defense of NATO nations, Japan, South Korea, or any of our democratic allies worldwide. We will continue to maintain a strong political, economic, and social attachment to our allies. What we want is for our allies to fulfill their repeated promises to the United States with regard to improving their own—and our common—defense capabilities.

My bill is designed to encourage NATO nations and Japan to improve their conventional defense capabilities, because the continued reliance on the early use of nuclear weapons is diametrically opposed to the national security interests of this country and the security interests of our allies. The measure establishes a permanent ceiling on United States forces assigned to permanent duty in NATO countries and Japan and provides for the resolution of United States forces in these countries under certain circumstances.

The "Allies Fair Share Defense Act of 1989" sets a permanent ceiling of 326,414 personnel of the Armed Forces of the United States assigned to permanent duty ashore in member nations of NATO and 65,000 personnel assigned to Japan. Beginning in 1992, and continuing for 3 years, the troop ceiling would be reduced by 30,000 per year for our NATO allies and 7,000 per year for Japan, unless, during the previous fiscal year, each of these countries has increased its defense spending by its real economic growth plus 1 percent.

For example, if West Germany were to realize real economic growth of 1.5 percent in 1990, the following year the government in Bonn would be required to budget an increase of at least 2.5 percent for West German defense spending in 1991. In contrast to the 1977 NATO pledge to increase annual defense expenditures by 3 percent above inflation, which the NATO nations have consistently failed to do, this approach would take into account the direct relationship between economic performance and the relative ability of each ally to increase its contribution to the alliance.

In recognition of the fact that military capabilities are also an important indicator of the allies' ability to share the NATO burden, the member nations of NATO may also prevent the troop reductions by meeting three output goals the allies have set for themselves. These goals are not ones I seek to impose on the alliance, but are objectives they have repeatedly pledged to meet in order to increase the sustainability of the conventional deterrent. My bill simply tells our allies to "put your money where you mouth is and meet your commitments."

The first alternative goal for our NATO allies is to reduce by 20 percent the gap between conventional munitions on hand as of January 1, 1989, and the NATO goal of obtaining and maintaining a 30 days' munitions supply level. An increase of 20 percent is established for each year that this amendment would be in effect, aiming at 100 percent compliance over 5 years. However, the measure applies only to a 3-year period in order to give Congress and our allies a chance to review its effectiveness and the progress being made to comply with its provisions.

The NATO allies have pledged to reach the 30-day munitions supply level in order to be able to sustain their conventional military capability for 30 days. This is all well and good, but the problem is that our allies have yet to develop defense budgets which would enable them to achieve this goal.

The United States has twice the sustainability level of munitions as our allies. What does this mean if the American forces would comprise at most only 25 percent of all the forces in a conventional war scenario? It likely would mean that, when the allies have used all of their ammunition, the conventional war would be over. Then our leaders would have the choice of escalating to nuclear weapons or surrendering. This is not a choice any of us would like to face. The allies must reach the 30-day munitions goal.

The second goal is equally important: to reduce by 20 percent the gap between the number of existing emergency operating facilities and semihardened aircraft shelters available in Europe on January 1, 1989, and the number required to support the United States commitment of reinforcing tactical aircraft. This requires the allies to fulfill their commitment to provide the facilities essential to accommodate the refueling, maintenance, and protection of our rapid reinforcement aircraft whenever they might need to land in Europe.

If a war were to begin in Europe tomorrow, many of America's finest pilots and state-of-the-art aircraft would arrive in Europe only to become sitting ducks—without shelter, without refueling capability, without a way to maintain their aircraft—because our allies have failed to do what they have promised again and again to do. It's time to require our allies to build the facilities necessary for our emergency air support.

The third goal would be certification, made by the Supreme Allied Commander in Europe [SACEUR] to the Secretary of Defense, that the allies have significantly decreased the nuclear threat by increasing their conventional defense capabilities.

These three sustainability objectives give our NATO allies alternative methods to avoid troop reductions. If the NATO allies meet the first real economic growth plus 1 percent objective, there would be no troop withdrawal. If they meet all three of the second path's objectives, there would be no troop reduction. If they meet two of the second path's three objectives, the cut would be 10,000; if they meet only one, the cut would be 20,000.

Japan is also afforded an opportunity to meet a second goal in order to avoid troop reductions. Japan has consistently promised to increase the defense of its sealanes to 1,000 miles. My bill simply requires Japan to follow through on the commitment in increments of one-third between 1990 and 1992 as an alternative way of avoiding the proposed annual troop reduction of 7,000 personnel.

I am not suggesting that Japan be encouraged to launch an offensive military buildup, a prospect that is greatly feared by its neighbors. I am merely suggesting that Japan obtain a defensive goal that it has set for itself: defense of its sealanes to 1,000 miles.

I do commend our NATO allies for the progress they have made in working to develop concrete programs to redress the deficiencies in NATO's defense posture. I also note Japan's break with its policy of artificially holding defense spending to 1 percent or less of its GDP and am optimistic about Japan's $100 billion 5-year military spending plan that seeks to expand its sealane and air defense capabilities. And I encourage Japan to continue to increase its economic assistance to developing countries.

However, much of our allies' progress is still largely in promises and not in programs, and many past promises have never yielded achievements. I think that my bill is necessary to encourage our NATO and Japanese allies to convert words into deeds.

It is important to recognize that the legislation gives our allies adequate time to meet the goals. The first measuring year is 1990, and the first troop withdrawals, in the event of failure by our allies to meet the proposed goals, would not occur until December 1991—3½ years from now.

The possibility of troop reduction is not a threat or punishment. The fact is that if our allies will not pay their fair shares of their own defense, the American taxpayers should not be expected to pay billions of dollars for troops, ammunition, and equipment on their behalf. It would be much less expensive to resort to an undesirable nuclear tripwire and stop paying for a conventional deterrent in Europe and Japan. But I do not think that is what we or our allies want. It is certainly not what I would prefer.

It is time for our allies to fulfill their repeated commitments. That is all my bill requires—that our allies live up to their promises, pay their fair share of defense, and relieve the American taxpayer of an excessive and unwarranted burden.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Allies Fair Share Defense Act of 1989."

SEC. 2. STATEMENT OF FINDINGS AND POLICY.

The Congress finds that—

(1) the member nations of the North Atlantic Treaty Organization (hereinafter in this Act referred to as "NATO") and Japan should each bear a greater share of the cost of their own defense by improving their conventional defense capabilities so as to lengthen the period during which they can be adequately defended by conventional forces in the event of a nonnuclear attack on any NATO member nation or Japan without the necessity of resorting to the early use of nuclear weapons; and

(2) increased defense spending by Japan and NATO member nations and improving conventional sustainability and providing support facilities in NATO member nations for rapid reinforcements from the United States are crucial to accomplishing such a defense capability.

SEC. 3. PROGRAM FOR IMPROVING DEFENSE POSTURE.

(a) PERMANENT CEILING ON OVERSEAS ARMED FORCES.—After September 30, 1990, funds appropriated pursuant to an authorization contained in this or any subsequent Act may not be used to support an end strength level of personnel of the Armed Forces of the United States assigned to permanent duty ashore—

(1) in member nations of NATO (other than the United States) at any level in excess of 326,414; or

(2) in Japan at any level in excess of 65,000.

(b) REDUCTION OF CEILING UNLESS CERTAIN OBJECTIVES ACCOMPLISHED.—

(1) GENERAL RULE.—For 1992, 1993, and 1994, the ceilings imposed by subsection (a) shall be reduced by 30,000 for NATO member nations and 7,000 for Japan effective on December 31 of each such calendar year.

(2) EXCEPTIONS FOR NATO MEMBER NATIONS.—The reduction of the end strength level of personnel of the Armed Forces of the United States assigned to permanent duty ashore in member nations of NATO required under paragraph (1) with respect to any calendar year shall not be implemented if the requirements of either of the following subparagraphs are met during such calendar year:

(A) REAL ECONOMIC GROWTH PLUS ONE PERCENT GROWTH IN DEFENSE SPENDING.—Each member nation of NATO has increased its defense spending during the previous calendar year by an average of at least real total economic growth plus 1 percent real growth.

(B) ALTERNATIVE OBJECTIVES.—The Secretary of Defense certifies to Congress in writing that the member nations of NATO (other than the United States) have accomplished all of the following objectives, by real spending increases and not by reallocating infrastructure funds within existing spending levels, during such calendar year:

(i) INCREASE IN SUPPLY OF AERIAL AND GROUND MUNITIONS.—Those member nations of NATO who have committed forces to the Center Region have placed on firm order, or accepted delivery of, an increase in the supply of aerial and ground munitions so as to reduce, on an average, 20 percent of the gap between the goal, as established in NATO Ministerial Guidance, of 30 days supply and the level of such munitions available in the Center Region of NATO as of January 1, 1990.

(ii) INCREASE IN NUMBER OF EMERGENCY OPERATING FACILITIES AND SEMIHARDENED AIRCRAFT SHELTERS.—Member nations of NATO have increased the number of minimum essential and emergency operating facilities and semihardened aircraft shelters in Western Europe so as to reduce, on an average, 20 percent of the gap between the number of such facilities and shelters available on January 1, 1990, and the number required by NATO Ministerial Guidance to support (under NATO/SHAPE standards) the annual commitment of United States reinforcing tactical aircraft Defense Planning Questionnaire (DPQ) Response of the previous year.

(iii) CERTIFICATION OF SIGNIFICANT IMPROVEMENT IN CONVENTIONAL DEFENSE CAPABILITY.—The Supreme Allied Commander in Europe has certified to the Secretary of Defense in writing that during the previous calendar year the member nations of NATO have undertaken significant measures to improve their conventional defense capability which contribute to lengthening the period of time between an armed attack on any member nation of NATO and the request by the Supreme Allied Commander for the release and use of nuclear weapons.

(3) EXCEPTIONS FOR JAPAN.—The reduction of the end strength level of personnel of the Armed Forces of the United States assigned to permanent duty ashore in Japan required under paragraph (1) with respect to any calendar year shall not be implemented if the requirements of either of the following subparagraphs are met during such calendar year:

(A) REAL ECONOMIC GROWTH PLUS ONE PERCENT GROWTH IN DEFENSE SPENDING.—Japan has increased its defense spending during the previous calendar year by an average of at least real total economic growth plus 1 percent real growth.

(B)(i) INCREASE THE DEFENSE OF SEA-LANES TO 1,000 MILES.—Japan is capable of defending its sea-lanes out of 333⅓ miles by December 31, 1991, to 666⅔ miles by December 31, 1992, and to 1,000 miles by December 31, 1993.

(c) AMOUNT OF REDUCTION RELATED TO NUMBER OF OBJECTIVES ACCOMPLISHED.—(1) If the Secretary of Defense does not certify to the Congress that each member nation of NATO (other than the United States) has met either the objective of subsection (b)(2)(A) or all three objectives of subsection (b)(2)(B) during the previous calendar year, but certifies that at least one of the objectives of subsection (b)(2)(B) has been met, the ceiling prescribed in subsection (b) shall be reduced as follows for member nations of NATO:

(A) REDUCTION IF ONLY 1 OBJECTIVE ACCOMPLISHED.—If the Secretary certifies to the Congress that only one of the three objectives has been met, the ceiling shall be reduced by 20,000.

(B) REDUCTION IF ONLY 2 OBJECTIVES ACCOMPLISHES.—If the Secretary certifies that 2 of the 3 objectives have been met, the ceiling shall be reduced by 10,000.

(2) If the Secretary of Defense does not certify to the Congress that Japan has met either the objective of subsection (b)(3)(A) or the objective of subsection (b)(3)(B) during the previous calendar year, the ceiling prescribed in subsection (b) shall be reduced by 7,000 in each calendar year for which one of the objectives is not met.

(d) REDUCTION AS ADDITIONAL TO PREVIOUS REDUCTIONS.—If a reduction in a personnel ceiling is required to be made under this Act for any calendar year, such reduction shall be in addition to any reduction in that ceiling made under this Act for any previous calendar year.

(e) REPORTS ON ACCOMPLISHMENT OF OBJECTIVES.—

(1) PROGRESS REPORTS.—Not later than March 1 in each of the calendar years 1990 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and of the House of Representatives a report on the status of the following matters as of January 1 of the year in which the report is submitted:

(A) SUPPLY OF AERIAL AND GROUND MUNITIONS.—The number of days of supply of the aerial and ground munitions in hand or on order of the member nations of NATO (other than the United States) which have committed forces to the Center Region.

(B) NUMBER OF EMERGENCY OPERATING FACILITIES AND SEMIHARDENED AIRCRAFT SHELTERS.—The number of emergency operating facilities and semihardened aircraft shelter completed or under construction as they relate to the United States commitment of reinforcing aircraft in the United States Defense Planning Questionnaire (DPQ) Response of the previous year.

(C) OTHER MEASURES TAKEN TO IMPROVE CONVENTIONAL DEFENSE CAPABILITY.—The measures taken by the member nations of NATO to improve their conventional defense capability which contribute to lengthening the period of time between an armed attack on any member nation of NATO and the request by the Supreme Allied Commander for the release and use of nuclear weapons.

(2) BASELINE AND METHODOLOGY.—The first such report shall establish the baseline for measuring the annual performance of member nations of NATO in meeting the objectives established in subpargraphs (A) and (B) of subsection (b)(2) and of Japan in meeting the objectives established in subparagraphs (A) and (B) of subsection (b)(3). The second report shall describe, and employ on a trial basis, the methodology to be used to establish such baseline.

(3) CIRCUMVENTION OF REQUIREMENT TO INCREASE REAL DEFENSE SPENDING.—The report required by this subsection shall also include an assessment of whether reductions in any of the following areas was accomplished by real spending increases and not by reallocating infrastructure funds within existing or planned spending levels:

(A) SUPPLY OF AERIAL AND GROUND MUNITIONS.—The gap in aerial and ground muni-

tions (referred to in subsection (b)(2)(C) of this section).

(B) NUMBER OF EMERGENCY OPERATING FACILITIES AND SEMIHARDENED AIRCRAFT SHELTERS.—The gap in minimum essential and emergency operating facilites and semihardened aircraft shelters (referred to in subsection (b)(2)(B) of this section).

SEC. 4. LIMITATIONS.

This Act shall not apply if—

(1) a declaration of war by the United States is in effect,

(2) there is an armed attack on any member country of NATO or Japan, or

(3) the President declares a national state of emergency and immediately informs the Congress of such action and the reasons therefor.

EDUCATION AGENDA

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HAWKINS. Mr. Speaker, this month the 101st Congress convenes in Washington and a new administration takes office. I congratulate GEORGE BUSH on his assumption to the Presidency and welcome his pledge to become an education President.

Mr. BUSH can begin to write a solid record in improving education in this country by working with the Congress on several important bills which will be considered this year. BILL GOODLING and I are introducing today two important measures: an extension of the Carl D. Perkins Vocational Education Act through 1995, and an extension of the expiring child nutrition and WIC programs through 1995. The Committee on Education and Labor will work this year to fashion good bipartisan legislation in these areas.

In vocational education we anticipate having to face three major issues.

First, it is clear that the school reform movement has bypassed vocational education programs. In high schools throughout the country, enrollments in vocational education are rapidly declining. If vocational education is to be part of a secondary school curriculum, it must be improved in quality and tied in much more closely with academic course work.

The second issue we face is that there must be far better coordination between vocational and technical courses offered in high schools and course offered in community colleges. Our country badly needs technicians and other trained personnel. We cannot waste resources by having high schools and community colleges offering differing programs which are not part of a coordinated path toward technical proficiency.

The third issue is equity of access. We have to ensure that equality of opportunity and access for vocational education programs is made available to all our citizenry.

In summary, the current law must be simplified in order to assist in updating the skills of America's work force. Preliminary studies are showing that the numerous requirements in the act are frustrating school personnel and are not being as helpful as they could be in assisting school districts in operating efficient and up-to-date programs.

Several studies are being performed for the Congress on vocational education. We look forward to the results of these studies as we fashion our legislation. We also look forward to receiving ideas from Members both on and off our committee.

The other major bill which Mr. GOODLING and I are introducing, extends the Supplemental Feeding Program for Women, Infants and Children [WIC], the Summer Feeding Program, the Nutrition Education and Training Program, the State Administrative Expenses Program and the Distribution Program. In this area, we hope to concentrate on improving the quality of the nutrition provided in the numerous settings funded by the Federal Government. It is well documented that adequate nutrition is necessary for a child to learn in school. We must not only continue these programs but we must also improve them so that they can function as effectively as possible. In particular, we will be looking at the possibility of updating nutritional standards and improving the training of personnel.

We must also focus on simplifying the administrative structure of these programs while maintaining accountability for the funding. These programs result in 44 percent of all the paperwork imposed on educational institutions by the Federal Government. The Department of Agriculture is also imposing a two-tiered audit system on these programs, which runs the risk of duplication and time consuming compliance efforts. We must find ways to simplify this structure while achieving full accountability.

WIC is one of the most cost-effective programs operated by the Federal Government. President-elect Bush has promised to support the WIC Program. Since WIC now funds less than one-half of the eligible recipients, I hope that he will work with us to expand the benefits to the other half. Its expansion will mean that the Federal Government will have to spend fewer dollars in the future on health care, education, and other social services, thus providing us with a great return on our investment.

The hearing schedule for the consideration of these two bills is as follows:

Child nutrition: February 8, 28—March 2, 23.

Vocational education: March 7, 9, 14, 16, 21.

UNEMPLOYMENT BENEFITS FOR NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN SCHOOL TERMS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MATSUI. Mr. Speaker, today I am reintroducing a bill to allow States to extend unemployment benefits to nonprofessional school employees between school terms. The Social Security Amendments of 1983 (Public Law 98-21) required the States to deny unemployment benefits between academic years or terms to nonprofessional school employees if the employees have "reasonable assurance" of returning to work in the next academic year. States were also given the option to extend or deny between term unemployment benefits to workers performing services on behalf of an educational institution or an educational service agency but who are not directly employed by either the institution or agency.

As a result of this new Federal mandate, many thousands of nonprofessional employees of elementary, secondary, and higher educational institutions have lost protection against unemployment between academic years or terms. These nonprofessional school employees—custodians, cafeteria workers, bus drivers, crossing guards, and secretaries—are among the lowest paid group of workers in the Nation. Typically, such workers are paid on an hourly basis, at or near the minimum wage level, during the 9-month school period. Given the very low hourly rate of compensation of these workers, it cannot be reasonably maintained that their wages are intended to cover nonwork periods. The automatic unemployment benefits denial requirement is creating a devastating financial hardship for thousands of nonprofessional school workers who are temporarily out of work through no fault of their own. Many of these workers end up applying for public assistance to make ends meet for their family budgets.

Although these workers are willing to work, often they do not possess the additional vocational skills needed to qualify for other employment. In addition, employers may refuse to hire these workers because they know that they will loose the worker when the next school term begins.

It is not fair to single out nonprofessional public school employees for denial of unemployment benefits. All other major categories of seasonal occupational workers are eligible to apply for unemployment benefits. Unworthy benefit claims will be eliminated by existing eligibility requirements set forth in State laws regarding availability for work and work search efforts.

I believe that this bill is consistent with the basic principles of the Unemployment Compensation Program as established in the 1930's. It will extend to a hardworking class of citizens the protection and security they deserve during temporary periods of unavoidable unemployment. I urge my colleagues to cosponsor this bill.

THE VISUALLY IMPAIRED VOTERS ASSISTANCE ACT OF 1988

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GALLO. Mr. Speaker, I rise today to reintroduce the Visually Impaired Voters Assistance Act of 1988 on behalf of myself and 17 original cosponsors.

In the last Congress the bill received strong support and I am confident that my colleagues will recognize the merits of this important legislation and help expedite its passage in the 101st Congress.

As a result of the strong, positive response in New Jersey to Morris County's pioneering effort to give the visually impaired the opportunity to be full participants in the election process, I am offering this legislation to provide equal voting rights to people across the country.

There are over 11 million people in the United States who suffer from some degree of visual impairment that cannot be corrected with eyeglasses or contact lenses.

This means that 1 person in 19 is visually impaired. Among persons age 65 to 74, that number rises to one person in seven.

With the general aging of the population between now and the year 2000, I am concerned that the lack of enlarged ballots may discourage larger and larger percentages of the population from voting.

My bill will require States to make enlarged print voting aids and ballots available in Federal elections to visually impaired voters and will require the chief election officer in each State to ensure that public notice of this service reaches visually impaired voters.

In addition, the bill requires a comprehensive study by the Federal Election Commission of steps currently being taken by the States to provide access to blind voters, either through braille or audio aids. The FEC will report its findings within 1 year.

Leaders of health and medical organizations who represent the visually impaired, including the National Association for the Visually Handicapped and the American Council of the Blind, are extremely enthusiastic about this bill.

I am grateful for those individuals and organizations who contributed their ideas to this legislation. One thing is clear from their comments—this legislation is long overdue.

With this thought in mind, I once again ask my colleagues to join me and 17 of your fellow Members in support of this legislation and to work for its passage so that all visually impaired persons, including thousands of senior citizens, may be able to fully participate in the next Federal election.

ENVIRONMENTAL ENHANCEMENT OF THE UPPER MISSISSIPPI RIVER SYSTEM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GUNDERSON. Mr. Speaker, on this first day of the 101st Congress, I would like to take the time of the House to outline one of my legislative priorities for the upcoming session—the environmental enhancement of the upper Mississippi River system.

Since being elected to Congress in 1980, I have been involved in fashioning a multipurpose upper Mississippi River management plan—one that balances navigational and environmental interests. In 1986, legislation which I had introduced was approved as part of the Water Resources Development Act. Section 1103 of Public Law 99-662 is now known as the Upper Mississippi River Management Act of 1986.

With the authorization now complete, my efforts necessarily have turned to ensuring that adequate and balanced funding is available for the program. In the first 2 fiscal years of the program, the Upper Mississippi River System Environmental Management Program [EMP] has been appropriated $12.7 million. Its authorization for these 2 years, however, has been $35.3 million. At this rate, the EMP will be appropriated $69 million over its 10-year life, despite its authorized level of $191.45 million.

When we enacted the Upper Mississippi River Management Act in 1986, Congress intended for the environmental and navigational elements of the program to proceed in parallel fashion. However, while the EMP has been appropriated at 36 percent of its authorized rate, the major navigational element of the program—the second lock at lock and dam 26 in Alton, IL—has proceeded at 88 percent of its construction estimate.

Today, Mr. Speaker, I am introducing legislation to extend the amounts authorized for the EMP for an additional 2 years without increasing the total amounts authorized. In this way, the authorized but unappropriated funds will not be lost. My legislation will authorize for each of fiscal year 1998 and 1999—the 11th and 12th years of the EMP—one-half the aggregate of the difference between the amounts authorized for the program for each of the preceding 10 fiscal years and the amount appropriated for the program for such preceding 10 fiscal years.

In the 100th Congress, I had introduced legislation—H.R. 3649—to extend the EMP for one additional year. At that time, however, I did note in my statement of introduction that it was likely by the end of the 10-year program more funds would be caught by this mechanism than could effectively be used in any one fiscal year. Therefore, I stated that in future years I would review the legislation and add further years to the authority of the environmental program if needed. The product of my first review of H.R. 3649 and the current authorization and appropriation picture is the legislation which I am introducing today.

I urge my colleagues to consider becoming cosponsors of this bill to amend the Upper Mississippi River Management Act. This legislation is in keeping with the intent of Congress when it adopted section 1103 of the Water Resources Development Act of 1986—balanced management of the upper Mississippi River system.

THE INTRODUCTION OF FEDERAL EMPLOYEES' HEALTH BENEFITS REFORM ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing the Federal Employees' Health Benefits Reform Act, which will bring the standard of health care for Federal employees, under the Federal Employees Health Benefit Program [FEHBP], up to the levels originally stated for this program with its founding in 1959.

As the largest employees health benefit program, the FEHBP should be an example to private sector programs. Anything less is an affront to congressional intent and a disservice to the 10 million Federal workers, annuitants, and dependents who participate in this program. Unfortunately, this is no longer the case. Under the Reagan administration, Federal workers have seen their health plan coverage diminish substantially, to the point where Federal workers now pay more for less coverage and no longer have health benefits equivalent to those provided by the private sector.

In 1982, the Office of Personnel Management reduced health benefits by an average of 12.5 percent and increased premiums by almost 50 percent. A 1984 study conducted by the Hay Associates for the Post Office and Civil Service Committee shows that Federal health benefits had dropped to 2.2 percent less, as a percentage of pay, for the Federal employee than for the private sector workforce. The 99th and 100th Congresses saw a continuation of this downward trend.

Mr. Speaker this legislation provides several provisions that will bring the current FEHBP up to its originally intended level. These include payment requirements for increased Government contribution toward insurance premiums, allowances for retired and riffed employees, and solvency requirements for self-insured plans. It also provides for increased benefits for employees who require medical treatment for nervous, mental, and emotional disorders, including alcoholism and drug addiction.

This bill requires all plans to provide a minimum of 50 outpatient visits and 60 inpatient visits per year, as well as two 28-day alcoholism or drug abuse treatments per lifetime. Such benefits must be provided with copayments and deductibles at the same level as is required for the treatment of a physical illness. The number of benefits can be increased, but only by approval of a peer review group on a case-by-case basis. Not only should we provide adequate benefits for these disorders because it is the humane thing to do, but also because it is good health policy.

The Federal Health Benefits Reform Act also requires the plans to provide dental coverage and prohibits the OPM from contracting with an insurance carrier for health insurance that is not equivalent to 96 percent of the previous year's contract.

Congress must work to guarantee Federal workers and retirees health insurance that is fair and equitable, and that is comparable to that provided by the private sector.

JESALEE FOSTERLING: A LEGACY OF LEADERSHIP

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. AuCOIN. Mr. Speaker, it is altogether fitting today, as we begin a new Congress and a new era in American life, to pay tribute to the long years of invaluable service rendered

to Oregon, and the Nation, by Jesalee Fosterling.

For year, through a variety of political climates and through some of the toughest ideological fights in Oregon, this native Oregonian has been a leader in the cause of civil rights, especially those relating to reproduction. To quote her directly: "If you can't control your own reproductive system, then you can't control any part of your life."

Always one to put personal philosophy into action, she helped found Planned Parenthood of Portland in 1963, becoming the first president of its board of directors. Five years later she was hired as executive director and served in that capacity ever since. For the last 25 years she has worked steadfastly to insure that family planning services will be available to all who need them, especially the young and the poor whose needs are all too often discounted and forgotten.

In addition to founding and guiding the indispensable Planned Parenthood of the Columbia/Willamette, Jesalee has also been an effective advocate for changes in public policy. In the 1960's, prior to Roe against Wade, she was one of only a few people who took on the challenge of convincing the Oregon Legislature to legalize abortion, and succeeded. Furthermore, she worked continually to keep Federal funding for family planning services through title X.

Recently she was a major force in a prochoice coalition that defeated an attempt to prohibit public funding of abortions for women dependent on the State for medical care. Thanks to Jesalee, and those like her, the right to safe and legal abortion is still available to all women in Oregon, and not just those who can afford to pay.

Jesalee has somehow found the time to contribute to the national Planned Parenthood Federation as well as to the local organization, serving on numerous committees with leadership that earned the respect of her colleagues.

Jesalee has now retired, leaving a great legacy of leadership and compassion. All of us who wish every child born to be wanted, loved, and cared for, owe Jesalee Fosterling a great deal of gratitude. She has had the courage, tenacity, and energy to give herself over to a difficult and controversial cause, to inspire others to join in the battle, and to emerge victorious against tremendous odds.

WISHING CONGRATULATIONS TO ALICE RIDDELL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ACKERMAN. Mr. Speaker, today, I rise to pay tribute to a truly outstanding citizen, Alice Riddell, director of Project 25. On January 27, 1989, she will be honored at a special retirement dinner dance sponsored by Project 25, the Alcohol and Drug Abuse Prevention/Intervention Program of Community School District 25.

Alice Riddell has been a leader in the cause of drug prevention in one aspect or another for her entire career. After graduating from Queens College of the City University of New York in 1963, with a degree in education and home economics, Alice began work as a junior high school adviser and narcotics coordinator. Meanwhile, she continued her education at Queens College, receiving her masters degree in 1966, and becoming certified in narcotics by the College's Narcotic Institute 3 years later.

In 1970, she became narcotics coordinator for Community School District 25, where she developed a superlative drug-abuse awareness program for students, administrators, faculty and parents. Her duties included conducting principals' conferences; arranging lines of referral within schools and to the district office; developing a Pupil Personnel Services Committee; creating training programs; providing crisis services to schools and parents; establishing curricula; and preparing original proposals for funds from the New York State Division of Substance Abuse Services. Her pioneering efforts at district 25 set a standard of excellence for the Nation to follow.

Alice Riddell became the director of Project 25 in 1971 and has remained at that position ever since. As director she designed, administered and supervised the alcohol and drug prevention/intervention programs for the 28 schools in district 25. The exemplary services offered by Project 25 are available to administrators, faculty, students, parents and community members.

Mr. Speaker, Alice Riddell has been an integral part of many other drug and alcohol services. In 1982 she began work as supervisor of an After-School and Summer Counseling Program, and in 1984 she became supervisor of the Early Intervention Alcohol Program. In both of these jobs she helped young children overcome problems associated with adolescence. For several years she taught graduate courses on drug abuse and consumer education at Queens College. Most recently she participated as a member of the New York State Regents Committee for Professional Assistance, which was established by the New York State Education Department to address specific problems of licensed professionals who are themselves substance abusers.

Mr. Speaker, Alice Riddell's outstanding service with Project 25 has not gone unnoticed. In 1982, she received the Frank De Silva Memorial Award for outstanding contributions to field of substance abuse; in 1985 she received the Educator of the Year Award from the Catholic Teachers Association; and in 1986 she was given the Excellence Award in Substance Abuse Prevention at the First New York State Substance Abuse Prevention Conference. She has also been listed on numerous occasions in the "Who's Who" world directory.

Alice Riddell has been a proven leader in the fight against drug and alcohol abuse for over 25 years. Her dedication to this vital cause has touched the lives of everyone in Queens County. Indeed, she is a true pioneer in the field of substance abuse prevention/intervention. I would like all of my colleagues in the House of Representatives to join me in thanking Alice for her exceptional career, and for her hard work and dedication to such a worthy cause, and to wish the best of luck in her future endeavors.

THE DEFENSE ECONOMIC ADJUSTMENT ACT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, I am today reintroducing legislation to create a national plan for the economic conversion of our defense plants and military bases to civilian production. By providing viable civilian alternatives to military spending, this bill would limit the economic dislocation resulting from the cancellation of military contracts or the closing of bases that are judged unnecessary for the defense of our Nation.

Recent events, such as the signing of the INF Treaty, the possibility of a START agreement, the general thawing of relations between the United States and the Soviet Union, and the just completed work of the base closing commission, as well as budgetary pressures indicate that there will be reductions or realignments in defense contracts and military facilities in the next few years. Unfortunately, the United States is now economically unprepared to deal with the reality of a non-growth defense budget, military base closings and realignment, and new opportunities for arms reductions.

The policy of economic conversion outlined in the Defense Economic Adjustment Act is a means to limit the effects on individuals and on communities of economic dislocation resulting from the inevitable base closings and defense contract reductions or cancellations. Passage of this legislation would also enhance our economic security, broaden our industrial base, and encourage a more balanced and rational process of developing military strategy and pursuing arms reductions.

Economic conversion would simultaneously allow us to pursue an arms reduction strategy designed to halt the nuclear arms race, which threatens to extinguish life on this planet and, at the same time, address the underlying causes of our Nation's current economic decline.

We only need to look around us to see the deterioration caused by our overemphasis on the military economy. The operation of a large military economy for more than 40 years has lead to major underinvestment in the facilities and services which make up our Nation's infrastructure. These include roads, education facilities, libraries, public health operations, and parks.

In addition, as Prof. Seymour Melman, professor emeritus of industrial engineering at Columbia University and renowned author explains:

A process of technical, industrial, and human deterioration has been set in motion within American society. The competence of the industrial system is being eroded at its base. Entire industries are falling into technical disrepair, and there is massive loss of productive employment because of inability

to hold even domestic markets against foreign competition.

The current relationship between defense contractors and the Federal Government undermines our international competitiveness, erodes our industrial base, and endangers our economic security by adding billions of dollars to the Federal budget deficit. Defense firms depend on large Federal subsidies to insure their profit levels. Thus, unlike most firms in a free enterprise system, their focus is not on making cheaper or better products. Rather, the military-dependent firm concentrates on producing increasingly complex hardware which will satisfy the needs of a particular defense project, regardless of cost. Often, these firms manufacture products which are essentially useless to the civilian population and uncompetitive in international markets.

There is compelling evidence that military spending creates significantly fewer jobs than comparable spending in the civilian sphere. While civilian production creates items of value for consumers and producers, military production does not. Money spent on the military leaves our economy for good and deprives us of the secondary benefits that commonly result from civilian production. For instance, total employment per $1 billion spent is estimated at 20,175 for guided missile and space vehicle production. This compares with 30,394 jobs created in the motor vehicles industry and 71,550 jobs created in eduction services, according to the calculations of the Bureau of Labor Statistics.

Our economic reliance on the military results in a severe brain drain of our most advanced technical workers away from civilian fields. Currently, 75 percent of all Federal research and development funds are spent in the military budget. A large percentage of all scientists and engineers are devoted to military related work. In practical terms, this means that many of our trained scientists and engineers are working to devise more complex and destructive military equipment while U.S. productivity is lagging in important areas such as scientific research and computer technology.

Economic conversion, rather than being the economic risk that some have suggested, is an economic opportunity. By applying more of our technical and scientific resources to the civilian economy, we would be better able to address the problems facing many of our Nation's troubled industries. A greater reliance on civilian production could also help train many underemployed and unemployable individuals whose needs are currently unmet.

However, economic conversion is not only an economic imperative. It is also essential if we hope to make meaningful progress toward arms control. In recent years, we have become accustomed to extraordinarily large defense budget requests.

A policy of economic conversion would allow defense policymakers to consider which weapons are truly necessary for the national defense. Many communities are dependent on the employment generated by defense serving firms. For that reason, as history has repeatedly shown, political and community leaders, quite legitimately, often band together to resist the cancellation of weapons systems or the closing of obsolete bases. In addition, the Defense Department uses the prospect of job loss to pressure elected officials into supporting wasteful military spending. As a result, many of our defense decisions reflect political considerations rather than a weapons system's contribution to national security. At a time when many agree that defense spending must be cut to help reduce the Federal budget deficit, the need for economic conversion is all the greater.

By creating viable alternatives to military spending, economic conversion would assure the millions of workers in military dependent industries that their jobs will not be sacrificed in the effort to achieve meaningful arms control. As a result, proposals for increased military spending would more likely be assessed on their merits, rather than for reasons of job creation. This would significantly enhance the prospects for ending the nuclear arms race.

The Defense Economic Adjustment Act provides a detailed plan for preserving the jobs of those affected by decisions to eliminate unnecessary military spending. Importantly, it is a decentralized plan that places the decisionmaking power in the hands of those directly affected by such cutbacks. The plan contains the following key components:

First, the bill calls for the creation of alternative use committees at large defense facilities. These committees, comprised of both labor and management representatives, are charged with developing detailed plans for alternative civilian products.

Second, the bill creates a Cabinet-level Defense Economic Adjustment Council charged with developing plans for public projects that address human needs. The Council also acts as a clearinghouse on existing federal programs relevant to communities affected by military cutbacks and publishes a guidebook for local conversion planners.

Third, the bill calls for 1 year's advance notification of plans to cut back or terminate a defense contract or a military base. The Defense Economic Adjustment Council is responsible for informing the appropriate local officials and the Alternative Use Committees of pending cutbacks.

Fourth, the bill provides for adjustment assistance for communities and workers while conversion is underway. Communities seriously affected by defense cutbacks would be eligible for Federal planning assistance, and individual workers would be eligible for adjustment benefits, including fund for retraining.

If Congress terminates a military contract, the local Alternative Use Committee would then put in motion an existing plan to convert the affected plant to civilian production. The Federal Government would provide guidance and support for the workers and their community, but the new enterprise would receive no subsidy and would have to compete on its own in the marketplace.

As we move into a period of détente in superpower relations and as we begin to rebuild our economic foundation, an economic conversion policy has become a virtual necessity.

The comprehensive plan for economic conversion contained in the defense Economic Adjustment Act would free our Nation from the tyranny of jobs blackmail in the approval of military contracts and allow us to pursue a lasting peace without sacrificing our commitment to increasing employment. Moreover, it would contribute to a national economic renewal by providing resources necessary for the revitalization of basic industries and the repair of our infrastructure.

Economic conversion provides the hope that humanity will manage to survive into a peaceful and prosperous future. It is in this spirit that I urge my colleagues to join me in support of the Defense Economic Adjustment Act.

A copy of the bill is printed below:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Economic Adjustment Act".

DECLARATION OF PURPOSE AND POLICY

SEC. 2. (a) The Congress finds and declares that during the past three decades the United States has made heavy economic, scientific, and technical commitments for defense; that these commitments led to the development of specialized skills and business practices not directly applicable in the civilian sector of the economy; that as these commitments are modified to take account of changing requirements for national security and domestic needs, careful preparation is necessary if serious economic dislocations are to be avoided; and that the economic ability of the Nation and of management, labor, and capital to adjust to changing national security needs is consistent with the general welfare of the United States.

(b) It is the purpose of this Act to provide the means through which the United States can promote orderly economic adjustment which will (1) minimize the dislocation of workers, communities, and industries, (2) assure that such dislocations do not compound recessionary trends, and (3) encourage conversion of technologies and managerial and worker skills developed in defense production to projects which serve the civilian sector.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Council" means the Defense Economic Adjustment Council established under section 101 of this Act.

(2) "Defense agency" means the Department of Defense, the (nuclear weapons division) of the Department of Energy, the National Aeronautics and Space Administration, the Coast Guard, and any other agency of the Government to the extent it conducts military or other defense-related operations.

(3) "Defense contract" means any contract entered into between a person or nonprofit organization, including subcontractors, component manufacturers, suppliers, service contractors and service suppliers, and a defense agency to furnish defense material or services to such agency, and any contract entered into between a person or nonprofit organization, including subcontractors, component manufacturers, suppliers, service contractors and service suppliers, and any foreign country or person acting on behalf of a foreign country to furnish defense material or services to or for such country pursuant to the Arms Export Control Act, or similar Act.

(4) "Defense contractor" means any facility engaged in the furnishing of defense material pursuant to the terms of the defense

contract or subcontract, including any contract under negotiation.

(5) "Defense facility" means any private plant or other establishment (or part thereof) used under a defense contract or engaged in the production, repair, modification, storage, or handling of defense material, or any Government-owned or Government-leased facility, including bases, forts, shipyards, and depots.

(6) "Defense material" means any item of weaponry, munitions, equipment, or specialized supplies or services intended for use by a defense agency or for sale to or for the use of a foreign country which has primarily military application.

(7) "Defense service" means the research, development, production, test, inspection, or repair of any defense material for use by a defense agency or pursuant to a defense contract.

(8) "Displace" or "displacement" means with respect to any worker, including all Federal civilian employees of the Defense Department, civilian employees of the National Aeronautics and Space Administration, and all civilian employees engaged in defense and space-related production, the separation, on a permanent or temporary basis, of such worker from employment with such facility or agency.

(9) "Fund" means the Workers Economic Adjustment Reserve Trust Fund established by title V of this Act.

(10) "Person" means any corporation, firm, partnership, association, individual, or other entity.

(11) "State" means each of the United States, and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(12) "State agency" means the agency of a State which administers its unemployment compensation law, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

(13) "Substantially and seriously affected" means with respect to any community a community in which a substantial part of the labor force is directly employed by a defense facility or defense contractor in furnishing specialized materials or services under a defense contract as determined by the Director of the Defense Economic Adjustment Council.

TITLE I—DEFENSE ECONOMIC ADJUSTMENT COUNCIL

ESTABLISHMENT

SEC. 101. (a) There is established in the Executive Office of the President the Defense Economic Adjustment Council which shall be composed of—

(1) the Secretary of Commerce;

(2) the Secretary of Labor;

(3) the Secretary of Health and Human Services;

(4) the Secretary of Housing and Urban Development;

(5) the Secretary of Transportation;

(6) the Secretary of Defense;

(7) the Secretary of Energy;

(8) the Director of the Office of Management and Budget;

(9) the Administrator of the General Services Administration;

(10) the Chairman of the Council of Economic Advisers;

(11) six representatives of the business-management community who represent nondefense business to be appointed by the President; and

(12) six representatives of labor union organizations to be appointed by the President.

(b) The Secretaries of Commerce and Labor shall be Cochairmen of the Council, shall preside over meetings of the Council, and shall designate a member of the Council to preside in the absence of the Chairman.

(c)(1) An Office of Economic Adjustment shall be established within the Executive Office of the President to provide necessary staff support for the Council. The Office shall be headed by a Director who shall be appointed by the President and who shall be compensated at the rate provided for grade 18 of the General Schedule under section 5332 of title 5, United States Code.

(2) At the Request of the Council, the staff and any task force established by the Council shall carry out such duties as the Council may prescribe.

(3) The Council may appoint and fix the compensation of such personnel as it deems advisable. The Council may procure temporary and intermittent services to the same extent as authorized by section 3109 of title 5, United States Code.

(4) The Council is authorized to secure directly from any executive department, agency, or other instrumentality of the Government, information, suggestions, estimates, and statistics to carry out this Act, and each such entity shall furnish such information, suggestions, estimates, and statistics directly to the Council upon request made by the Chairman.

(5) The members of such staff and any task force established by the Council may include marketing specialists, production engineers, plant layout experts, and urban planning experts.

(d)(1) Members of the Council who are officers or employees of the Government shall receive no additional compensation by virtue of membership on the Council.

(2) Members appointed to the Council who are not officers or employees of the Government shall receive compensation at the rate of not to exeeed $135 per diem when engaged in the performance of duties of the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, all members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

DUTIES

SEC. 102. (a) The Council shall—

(1) disseminate information furnished by the Secretary of Defense under subsection (b) to the appropriate Federal, State, and local agencies or authorities and alternative use committees as soon as the proposed or pending change described in such notice is known;

(2) encourage the preparation of concrete plans for non-defense-related public projects addressing vital areas of national concern (such as transportation, housing education, health care, environmental protection, and renewable energy resources) by the various civilian agencies of the Government, as well as by State and local governments;

(3) solicit, direct, and coordinate concrete plans for non-defense-related public projects addressing vital areas of national interest, taking State and local concerns into account;

(4) develop and coordinate information on priority, federally funded projects, agency programs and funding possibilities, loans, and loan guarantees pertaining to defense economic adjustment;

(5) monitor existing job services information banks in the Department of Labor and in State agencies to serve as a resource on civilian job information for workers displaced from defense-related employment as a result of shifting or reduced defense-related expenditure;

(6) determine criteria for eligibility for assistance and rule on eligibility appeals pursuant to this Act;

(7) prepare and distribute a Conversion Guidelines Handbook pursuant to section 103 of this Act;

(8) make full use of the provisions of section 15(d) of the Small Business Act; and

(9) perform such other duties as are imposed upon the Council by this Act.

(b)(1) The Secretary of Defense shall notify the Council one year in advance of a pending or proposed change in defense spending (or as soon as possible prior to such proposed change) that would affect employment in the defense industry, including reduction, technical changes, or elimination of a program by Congress, the Secretary of Defense, the Office of Management and Budget, or the President; the termination or slowdown of a research and development or procurement contract; and the proposal to close a military base.

(2) The Secretary of Defense shall furnish the Council with projected future defense spending levels and contract progress reports.

CONVERSION GUIDELINES HANDBOOK

SEC. 103. (a) The Council shall prepare and distribute a Conversion Guidelines Handbook which shall—

(1) include an explanation of the basic issues involved in the retraining, reorientation, and reorganization of personnel (managerial, technical, administrative, and production), trade union rights and collective bargaining contracts, and the redirection of physical plants for efficient, non-defense-related productive activity;

(2) outline the basic requirements of programs for professional retraining of managerial personnel in order to reorient them to the management of non-defense-related enterprise;

(3) outline the basic requirements for a program of professional retraining of technical personnel in order to effectively reorient them to the prevailing conditions of research, product design, and production operations within non-defense-related facilities;

(4) outline the basic requirements for the length and nature of occupational retraining for production workers and junior level administrative employees;

(5) include illustrative case studies of successful conversion to efficient non-defense-related production, or references thereto;

(6) prepare directories, by geographic region and area of specialization, of organizations and individual consultants in fields such as marketing, facilities design, organization, production engineering, and engineering economy whose major professional experience has been in non-defense-related activity, and furnish such lists to local alternative use committees upon their request;

(7) provide a checklist of critical points requiring attention at each stage of the conversion process;

(8) contain an annotated bibliography of conversion related works; and

(9) be revised, as necessary, every two years.

RULES

SEC. 104. (a) The Defense Economic Adjustment Council shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE II—COMMUNITY ECONOMIC ADJUSTMENT PLANNING

ELIGIBILITY

SEC. 201. (a) Each community which is substantially and seriously affected by reduction or elimination of Government defense facilities or curtailment or conclusion of defense contracts shall be eligible for Federal assistance for planning for economic adjustment to avoid substantial dislocations and for economic adjustment assistance should such dislocation occur. The Council shall make available to alternative use committees on a regular basis information on economic development programs of any Federal department, agency, or other instrumentality which provide funds which may be used for such planning. The Council shall report at least annually to the Congress on any such economic development program which make an inadequate portion of its funds available for such planning.

(b) The Council shall develop criteria for eligibility for planning assistance. To the fullest extent practicable, the Council shall utilize data and reports available from other departments, agencies, or instrumentalities of the Government for statistical and other information required to develop the criteria. The criteria shall insure that assistance is directed to those communities which are most vulnerable economically to reductions in defense expenditures.

(c) The Council shall publish semiannually listings of communities currently eligible, or which the Council determines (on the basis of information prcvided under section 102(b)(1)) is likely to be eligible, for such assistance. Communities not included may petition the Council for inclusion on the list. The Council shall make such determination within one month of receipt of the petition.

EXCESS PROPERTY PROVISION

SEC. 202. (a) Any capital property or facilities declared excess by a defense agency in conjunction with a Government-owned facility reduction or closure shall be appraised for purposes of resale to the affected community. The defense agency shall take into account the cost of modernization and of improving abandoned facilities up to minimum safety and environmental standards in determining a fair price for the facility.

(b) In fixing the sale or lease value of any property to be disposed of under subsection (a), the defense agency shall take into consideration any benefit which has accrued or may accrue to the United States from the use of such property by the community involved. Whenever there is a dispute as to the sale or lease value, the defense agency shall submit such a dispute to the Defense Economic Adjustment Council for resolution.

TITLE III—ALTERNATIVE USE COMMITTEES

ESTABLISHMENT

SEC. 301. (a) There shall be established at every defense facility employing at least one hundred persons an alternative use committee, composed of not less than eight members, with equal representation of the facility's management and labor (including representatives of union bargaining units and democratically elected representatives of unorganized workers). The committee shall undertake economic conversion planning and preparation for the employment of the personnel and utilization of the facilities in the event of a reduction or elimination of any defense facility or the curtailment, conclusion, or disapproval of any defense contract.

(b) In the case of a defense facility that is a Government military installation, an alternative use committee shall be established composed of not less than eight members, with equal representation of the base management (as designated by the base commander) and the civilian employees of the installation (including representatives of union bargaining units and democratically elected representatives of unorganized civilians).

(c) In the case of a defense facility that is not a governmental military installation, and of any defense contractor subject to subsection (a), the alternative use committee shall be established in accordance with the provisions of this section notwithstanding the lack of any specific requirement for such a committee in the defense contracts of such facility.

(d) The chief executive officer of any unit of general local government within which the defense facility is located may appoint nonvoting representatives of the local community, not including any individuals employed at the facility, to participate in activities of the alternative use committees in an advisory capacity. The number of such representatives shall not exceed a number equal to one-half the total number of voting representatives on the committee.

(e) The representatives of the unorganized civilian workers on any alternative use committee shall not be discriminated against in any manner for their participation in the committee.

(f) Funds for performing the planning and reporting requirements imposed by this title, including market research, independent studies, and the employment of specialized personnel, shall be paid from funds derived from the defense contract or military base operating expenses. Office space shall be provided to the alternative use committee by the management of the facility without charge.

FUNCTIONS OF THE ALTERNATIVE USE COMMITTEES

SEC. 302. (a) The alternative use committees shall—

(1) evaluate the assets of the defense facility and the resources and requirements of the local community in terms of physical property, manpower skills and expertise, accessibility, environment, and economic needs;

(2) develop and review at least once every two years detailed plans for the conversion of the facility to efficient, non-defense-related productive activity to be carried out in the event the facility is affected by a Government decision to reduce, modify, or close the facility, terminate any defense contracts, or disapprove a license to sell or export defense materials to nongovernmental parties;

(3) provide occupational retraining and reemployment counseling services, or ensure that such retraining and services are provided by other Federal, State, or local agencies, for all employees to be displaced by the implementation of a conversion plan or closing of the facility as soon as the date of commencement of the implementation of that plan or the permanent closing of that facility is known as provided for in section 102(a)(1);

(4) dissolve itelf and return all assets to the control of the management of the facility immediately upon final completion of the conversion.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) The alternative use committees may hire staff personnel as well as any specialists it may determine necessary.

(b) The alternative use committees are authorized to obtain a complete and detailed inventory of all land, building, capital equipment, and other equipment, including its condition, and are authorized to obtain information of a general nature regarding the occupations and skills of civilian employees, and information concerning existing collective-bargaining contracts. Any defense agency or contractor and any department, agency, or other instrumentality of the Government shall provide any such inventory or information upon request from an alterative use committee.

CONVERSION PLANS

SEC. 304. (a) The conversion plans shall—

(1) be so designed as to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel with the types and levels of skill approximating skill levels and types possessed by civilian personnel employed at the defense facility prior to its conversion;

(2) specify the numbers of civilian personnel, by type and level of skill, employed at the facility prior to conversion, whose continued employment is not consistent with the efficient operation of the non-defense-related converted facility;

(3) specify the numbers of positions, by level and type of skill, if any, that will be needed at the converted facility because personnel employed at the preconverted facility do not possess the levels or types of skills required;

(4) indicate in detail what new plant and equipment and modifications to existing plant and equipment are required for the converted facility;

(5) include an estimate of financing requirements and a financial plan for the conversion; and

(6) provide for completion of the entire conversion process within a period not to exceed two years.

(b) No plan shall be approved by an alternative use committee unless the plan provides for extension of wage, labor contract provisions, and other benefits to workers at a defense facility until conversion to non-defense-related operations is completed.

PENALTIES

SEC. 305. Each contractor which fails to submit an alternative use plan or refuses or fails to carry out the provisions of a plan approved by the Council shall lose eligibility for future defense contracts for a period of three years, lose contract termination payments, and lose eligibility for tax credits.

TITLE IV—ECONOMIC ADJUSTMENT ASSISTANCE FOR WORKERS

CERTIFICATION

SEC. 401. (a) All displacements affecting workers employed by a defense contractor attributable, in whole or in part, to a reduction of the volume of defense work in such facility shall, upon certification by the local alternative use committees, be reported by the management of the firm or Government facility to the Defense Economic Adjust-

ment Council and the State employment office acting as agent for the administration of the employees benefit program under this title.

(b) Any worker who loses employment with a defense contractor within the six months preceding a reduction of the volume of defense work of such contractor shall, for purposes of subsection (a), be deemed to be a displacement attributable to that reduction.

(c) Any worker employed by a defense facility not required to have alternative use committees as provided in section 301(a) shall be eligible for benefits in accordance with regulations prescribed by the Council.

ENTITLEMENT TO BENEFITS

SEC. 402. (a) Any worker certified pursuant to section 401 of this Act as eligible for adjustment benefits by reason of such worker's displacement from a defense contractor shall be entitled, for the two-year period following displacement, to whichever of the following benefits are applicable:

(1) Compensation, on a weekly basis, sufficient, when added to any benefits which such worker receives or is entitled to receive for such weekly period under any Federal or State unemployment compensation program (or any plan of such worker's employer providing for such benefits) by reason of such worker displacement, and any earnings during such weekly period from other employment, to maintain an income at a level equal to 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year, of that worker's regular annual wages (based on a forty-hour workweek, or, in the event a defense contractor has a regular workweek payable at straight-time wage rates other than forty hours, for such regular workweek) prior to that worker's displacement.

(2) Vested pension credit under any applicable pension plan maintained by the defense contractor from which such worker was displaced, for the period of that worker's employment with such facility, and the two-year period following that worker's displacement, during which two-year period, for the purpose of the Employee Retirement Income Security Act of 1974 and the corresponding provisions of the Internal Revenue Code of 1986 (relating to a qualified plan) such worker shall be treated as if such worker were employed by such contractor on the same basis as such worker was employed on the day preceding such worker's displacement; except that pension credit during such two-year period shall be reduced to the extent of vested pension credit earned with another employer during such two-year period.

(3) Maintenance of any hospital, surgical, medical, disability, life (and other survivor) insurance coverage which such individual (including members of such individual's family) had by reason of employment by a defense contractor prior to such displacement; except that if such worker so displaced is otherwise employed during such two-year period, such worker shall be entitled to receive benefits under this paragraph to the extent necessary to provide such worker with the same protection described in this paragraph as such worker (including family members) would have had if such worker had not been displaced.

(4)(A) Retraining for civilian work providing pay and status comparable to the employment from which such worker was displaced which is approved by the Secretary of Labor or, in the case of a worker in a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency.

(B) Workers shall be eligible for a job search allowance under the same terms, conditions, and amounts as provided in section 237 of the Trade Act of 1974 (19 U.S.C. 2297).

(5) Reimbursement for reasonable relocation expenses as specified in regulations prescribed by the Secretary of Labor incurred by such worker in moving to another location in order to take advantage of a non-defense-related employment opportunity to which such worker is referred, or which is determined to be suitable, by the Secretary of Labor or, in the case of a State which has entered into a contract with the Council pursuant to section 403 of this Act, by the State agency.

(b) All managerial and technical employees who have spent more than 50 per centum of the ten years preceding implementation of the conversion plan working in defense-related industry or at military bases must participate in or have completed a program of professional retraining meeting the requirements specified in the Conversion Guidelines Handbook of the Defense Economic Adjustment Council in order to be eligible for the special financial assistance, relocation aid, and special job information services provided by this Act. All other employees may elect to enter such a program.

STATE AGREEMENTS

SEC. 403. (a) The Council shall, on behalf of the United States, enter into an agreement with a State, or with any agency administering the unemployment compensation law of any State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986, which—

(1) as agent of the Council, shall upon certification and other determinations required in section 401 of this Act, make such payments and provide such benefits as are authorized by section 402 of this Act, on the basis provided for in this Act, and shall otherwise cooperate with the Council and other State agencies in carrying out the provisions of this Act; and

(2) shall be reimbursed for all benefits paid pursuant to such agreement and all administrative and operational costs incurred in carrying out such agreement.

(b)(1) There shall be paid to each State agency which has an agreement under this section, either in advance or by way of reimbursement, as may be determined by the Council, such sum as the Council estimates the agency will be entitled to receive under such agreement for each calendar month, reduced or increased, as the case may be, by any sum by which the Council finds that its estimates for any prior calendar month were greater or less than amounts which should have been paid to the agency. Such estimates may be made upon the basis of statistical sampling, or other method as agreed upon by the Council and the State agency.

(2) The Council shall from time to time certify to the Secretary of the Treasury for payment to each State agency which has an agreement under this section sums payable to such agency under paragraph (1) of this subsection. The Secretary of the Treasury, prior to audit or settlement by the general Accounting Office, shall make payments to the agency, in accordance with such certification, from the fund.

(3) All money paid a State agency under any such agreement shall be used solely for the purposes for which it is paid; and any money so paid which is not used for such purposes shall be returned, at the time specified in such agreement, to the Treasury.

(c) In any case involving a worker entitled to benefits under section 402 who is in a State with respect to which there is no agreement pursuant to this section, the Secretary of Labor shall, under regulations prescribed by the Secretary, administer such benefits on behalf of such worker. The Secretary of Labor, in administering such benefits, shall, from time to time, certify to the Secretary of the Treasury for payment to such worker the amounts of such benefits to which such worker and the Secretary of the Treasury shall make payments to such worker, in accordance with such certification, from the fund.

LIMITATION ON BENEFITS

SEC. 404. In no case shall any displaced worker be eligible for benefits under section 402(a) of this Act unless such worker agrees (1) to maintain, on a current basis, during the period of this displacement, an active registration with the Secretary of Labor or an appropriate State employment agency, as the case may be, and (2) to accept any employment determined by the Secretary of Labor or agency, as the case may be, to be of the same skill or work of a similar nature, at the same pay as such worker was receiving before such worker was displaced. No such benefits shall be paid under this Act to any worker who fails to maintain such registration or to accept such employment.

TREATMENT OF UNEMPLOYMENT COMPENSATION

SEC. 405. In no case shall any adjustment benefits paid pursuant to this Act be taken into consideration in determining eligibility for, or the amount of, unemployment compensation under any Federal or State unemployment compensation law.

TERMINATION OF BENEFITS

SEC. 406. Adjustment benefits shall terminate when a worker eligible for benefits obtains employment providing 90 per centum of the first $20,000 per year and 50 per centum of the next $5,000 in excess of $20,000 for that year of that worker's previous wages, or two years after displacement, whichever occurs sooner.

TITLE V—ECONOMIC ADJUSTMENT FUND

FUND ESTABLISHED

SEC. 501. There is hereby established in the Treasurey of the United States a trust fund to be known as the Workers Economic Adjustment Reserve Trust Fund.

DEPOSITS INTO THE FUND

SEC. 502. (a)(1) The Federal Government shall not enter into any contract with any person to furnish defense material or services to a defense agency, nor shall it permit the sale of such defense material or services to or on behalf of any country, unless the contract requires the contractor to pay into the fund an amount equal to 1¼ per centum per year of the value of the contractor's gross revenue on such sales.

(2) Payments pursuant to this section shall be computed in such manner, and paid at such time, as the Council, after consultation with the Comproller General, shall by regulation prescribe.

(3) In no case shall payments required pursuant to this section be considered as a cost item in the negotiating or bidding of any defense contract, or in determining profit for purposes of this section of any provisions of law relating to the renegotiation of defense contracts.

(4) Amounts paid by a defense contractor pursuant to this section shall be deposited in the fund.

(b) The Secretary of the Treasury shall determine the projected savings in defense spending as a result of cancellation or cutback of a program or contract and shall deposit 10 per centum of the projected savings in the fund.

(c) Contract termination payments withheld pursuant to section 305 shall be deposited in the fund.

(d) There is authorized to be appropriated to the fund such amounts as may be necessary to enable the Secretary of the Treasury to make the payments and other disbursements authorized by this Act.

MANAGEMENT OF THE FUND

SEC. 503. (a) It shall be the duty of the Secretary of the Treasury to invest such portion of the moneys in the fund as is not, in the judgment of the Secretary, required to meet current withdrawal requirement. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming part of the public debt; except that where such coverage rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be reduced at par plus accrued interest.

TITLE VI—USE OF CERTAIN RESEARCH FUNDS

AMENDMENT TO PUBLIC LAW 91-441

SEC. 601. (a) Section 203 of Public Law 91-441 is amended by—

(1) inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated non-defense sector," in subsection (a) after "function or operation";

(2) inserting "or the Defense Economic Adjustment Council" after "Department of Defense" in paragraph (1) of subsection (a); and

(3) adding at the end of such section the following:

"(g) The Defense Economic Adjustment Council shall be required to define urgent national requirements for nondefense sectors of the economy, and shall be required to include in the designation, any areas so defined by the Congress. Research and development related to energy and fuel efficiency shall be considered a designated area.".

(b) Section 204 of such Act is amended by inserting "or, in the opinion of the Defense Economic Adjustment Council, a potential relationship to an urgent national requirement in a designated nondefense sector of the economy" after "military function or operation".

TITLE VII—AUTHORIZATION OF APPROPRIATIONS

APPROPRIATIONS AUTHORIZED

SEC. 701. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

FBI FIRST AMENDMENT PROTECTION ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. EDWARDS of California. Mr. Speaker, today the gentleman from Michigan [Mr. CONYERS] and I are introducing legislation to establish a simple principle: the Federal Bureau of Investigation should not be monitoring first amendment activities—taking pictures at demonstrations, collecting leaflets and publications, writing down license plate numbers outside conferences—without some direct relevance to the investigation of criminal activity.

In most of its investigations, the FBI already adheres to a criminal standard. It opens a case only when it has reason to believe that a crime has been, is being, or will be committed. However, as was revealed last year, the FBI in some cases will investigate lawful activity by U.S. citizens who support foreign groups. This makes it hard for the FBI to define the scope of its own investigations. It means that the Bureau monitors first amendment activities—marches, meetings, rallies, conferences, demonstrations, petitioning, organizing—of U.S. citizens even where there is no reason to believe that evidence of Federal crimes can be collected.

The bill we are introducing today specifies that the FBI should follow a criminal standard in opening and conducting cases that may involve the collection of information on first amendment rights.

Since 1976, the FBI has adhered to this criminal standard in all its investigations of domestic terrorism, and it has not been hampered at all in its effort to keep domestic terrorism under control. To the contrary, it has been very successful, making important arrests and putting members of dangerous groups in jail.

The FBI should adhere to the same standard in investigating international terrorism. If the FBI receives credible information that an individual or group is engaging in illegal activities, it should investigate those illegal activities. Anything short of the criminal standard means that the FBI will be free to broadly investigate a U.S. group that "supports" a foreign entity our Government has labeled terrorist, even if the U.S. group is not engaged in illegal activity.

In testimony last year before House and Senate committees, the Director of the FBI testified that the secret Attorney General guidelines under which the FBI operates do not contain sufficient guidance and specificity on how to investigate groups that "support" international terrorism. Our bill would provide that guidance and specificity by establishing a criminal standard for all FBI investigations that may involve surveillance of the exercise of First Amendment rights. Our bill would put some specificity in the words "aiding or abetting" in the current Attorney General guidelines, making it clear that the FBI can investigate a domestic group only if it engages in illegal conduct.

Our bill also addresses the question of what to do with the files after a case is closed where the FBI improperly collected information on first amendment activities. The bill would require the FBI to dispose of the records in a manner that protects the individuals whose names show up in those files. The provision ensures that the records may not be disseminated inside the Bureau and may not be disseminated outside the Bureau except to requesters under the FOIA and the Privacy Act. The records will be preserved for historical purposes and will be available to the record subjects, who have a right to know what surveillance they were subject to.

The requirements in the bill are not onerous. They establish a clear reliable standard that will protect the rights of Americans and ensure that the FBI, when it investigates U.S. persons, focuses on criminal activity.

Americans have a right to express peacefully support for anyone and anything, and they should not have the FBI looking over their shoulder. The FBI is our Nation's premier law enforcement agency. It should focus on what it does best: catching criminals and spies.

THE GUARDIANSHIP RIGHTS AND RESPONSIBILITIES ACT OF 1989

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. SNOWE. Mr. Speaker, today I am reintroducing the Guardianship Rights and Responsibilities Act of 1989, legislation that I introduced at the end of the last Congress. This legislation will establish a bill of rights for adults who, either because of physical or mental status, become wards or conservatees of the courts.

Today, across the country, as many as 500,000 adults have been made wards under court guardianship/conservatorship programs. Wards are individuals whose legal rights, decisionmaking authority, and/or possessions have been transferred to someone else's control. While guardianships can be a positive way of protecting the well-being of those incapable of protecting themselves, the current fragmented system provides few safeguards to assure that only those most in need of guardianships are affected, and then only to the extent of their need.

Indeed, in a recent 50-State survey conducted by the Associated Press, it was concluded that wards lose their basic civil rights, often without the protections afforded criminal defendants. For example, there are few due-process protections and the rules of evidence often do not apply: In 44 percent of the cases studied, the alleged ward was not represented by an attorney; in 49 percent of the cases, alleged wards were not present at their hearings; and in 34 percent of the cases, the files contained no medical evidence supporting the need for a guardian.

Further, because few courts grant limited guardianships, an individual, who may have difficulty managing his or her checkbook and who may need assistance in this area only, will also lose such basic civil rights as the right to vote, to decide where to live, to marry or divorce, or to determine the kind of medical help he or she will receive. And those who only need temporary assistance may find it difficult, if not impossible, to have their ward status removed. In 35 States, advanced old age alone is an adequate reason for placing a person under a guardianship.

Guardians are often well-meaning family members who are seeking to protect an older relative. But guardianships are also granted to virtually any competent person, so that many wards are supervised by those who have little or no specialized training which will enable them to deal with the financial, psychological, and biological problems that caring for an older ward will present. In some States, businesses have developed which provide guardianships for those without families, yet standards do not exist to protect against exploitation.

Given the limited or complete absence of supervision or control, it is not surprising that there are many stories of guardians who embezzle assets, provide substandard care, or force unnecessary nursing home care on those over whom they are responsible. Only five States prohibit convicted felons from being appointed as guardians.

I am pleased to point to Maine as an example of a State that has led the way in revising its own standards for guardianships and conservatorships. In many States, however, much needs to be done. And all States carry the same burden of an overloaded court system that would like to do a better job on behalf of those who come before them as alleged or adjudicated wards.

The legislation I am introducing today amends Medicaid to establish minimum standards through a Guardianship Rights and Responsibilities Act. As a condition for participation in the Medicaid Program, States would have 2 years in which to alter their State plans to assure protection of the basic rights identified in this legislation. Since about 50 percent of wards will be placed in nursing homes, Medicaid will ultimately finance their long-term care and, as such, should be an important vehicle for protecting their civil rights.

Because all wards must be assured of one standard of care, this bill of rights will apply to all alleged wards and wards, regardless of place of residence. States will have latitude in determining how they will meet the minimum rights, with the Secretary of Health and Human Services maintaining oversight as to whether the State has substantially complied with the spirit and letter of the Federal provisions.

Among the key elements of this legislation are guarantees to assure due process, the use of clear and convincing evidence in determining the need for a guardian, the use of the least restrictive guardianship, and the establishment of standards for training and monitoring guardians.

In order to assist States to protect wards, this legislation will establish a $5 million, 2-year demonstration grant which will enable States to develop and implement a Guardianship Advocates Program [GAP]. The Guardianship Advocates Program will fill gaps in the present system by providing an advocacy and monitoring function. These court advocates will work within the court system to handle guardianship and conservatorship cases. Guardianship advocates will inform proposed wards of their rights, make recommendations to judges, assist with termination proceedings, be responsible for periodic monitoring and review of reports relating to the physical and financial well-being of wards, and, in general, assist the courts and the wards in the guardianship proceedings. I believe that the success of these demonstration projects will assure that, ultimately, such systems are established in every State to assist wards, guardians and judges to provide the best possible care and protection to those in need.

As you know, we have pledged in this Congress to focus on long-term care. As yet, however, long-term care has been narrowly defined from a service perspective. I believe that long-term care legislation must also address the importance that continued personal autonomy plays in assuring health and well-being. Because most wards will lose the right, long term, to make decisions about their own health and welfare, they are particularly vulnerable. In my view, the needs of our citizens for home health, respite and nursing home care are equaled by the need to have their personal rights protected. This legislation will address the rights of those who are the least able to speak for themselves and, consequently, the most vulnerable to exploitation.

The text of the Guardianship Rights and Responsibilities Act of 1989 follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guardianship Rights and Responsibilities Act of 1989".

SEC. 2. GUARDIANSHIP REQUIREMENTS FOR STATE MEDICAID PLANS.

(a) GUARDIANSHIP REQUIREMENTS AS CONDITION OF ELIGIBILITY.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by—

(1) striking "and" at the end of paragraph (50);

(2) striking the period at the end of paragraph (51) and inserting "; and"; and

(3) by inserting immediately after paragraph (51) the following new paragraph:

"(52) not later than 2 years after the date of the enactment of this paragraph, include assurance that the State has adopted, and assumed responsibility for enforcing, laws relating to guardianship which meet the requirements of section 1925.".

(b) REDUCTION OF PAYMENTS TO STATES FOR FAILURE TO ADOPT AND ENFORCE CERTAIN LAWS RELATING TO GUARDIANSHIP.—Section 1903 of the Social Security Act (42 U.S.C. 1396(b)) is amended by adding at the end the following new subsection:

"(w)(1) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to per centum reduction set forth in paragraph (2) of this subsection, a State must provide that it has adopted, and assumed responsibility for enforcing, laws relating to guardianship which meet the requirements of section 1925 on or before the expiration of the 2-year period beginning on the date of the enactment of this subsection.

"(2) If a State fails to meet the deadline established under paragraph (1), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to that State shall each be reduced 5 percentage points for the first two quarters beginning on or before such deadline, and shall be further reduced an additional 5 percentage points after such period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of paragraph (1) of this subsection, except that—

"(A) neither such per centum may be reduced more than 25 percentage points by reason of this paragraph; and

"(B) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of paragraph (1).".

(c) DESCRIPTION OF REQUIREMENTS.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1925 as section 1926 and by inserting after section 1924 the following new section:

"REQUIREMENTS FOR STATE GUARDIANSHIP LAWS

"SEC. 1925. (a) IN GENERAL.—For purposes of sections 1902(a)(52) and 1903(w), a State has adopted laws relating to guardianship which meet the requirements of this section if the State has adopted laws or issued regulations which include the rights, standards, and duties described in subsections (b) through (1) or, in the determination of the Secretary, which protect individuals in the State as effectively as laws or regulations which include the rights, standards, and duties described in such subsections.

"(b) RIGHTS OF INDIVIDUALS SUBJECT TO GUARDIANSHIP PETITIONS.—The laws of the State shall provide that—

"(1) each individual in the State who is the subject of a guardianship petition shall be provided with an adequate and timely notice, in large print and plain language, of all pending guardianship proceedings, including a copy of the guardianship petition, a clear description of such proceedings and of all rights afforded such individual in the course of such proceedings, and a summary of the possible consequences of a determination of incapacity (or, in the case of a blind or illiterate individual, an oral description of such rights and information);

"(2) a copy of the notice provided under paragraph (1) shall be provided to the individual filing a guardianship petition and to the spouse, child, sibling, nearest relative, or custodian of the individual who is the subject of such guardianship petition;

"(3) each individual in the State who is the subject of a guardianship petition has the right to counsel who will act as an advo-

cate for such individual with respect to such petition unless such individual knowingly and voluntarily waives such right, and the court shall appoint counsel for such individual at public expense if such individual is indigent or if such individual lacks the capacity to waive the right to counsel;

"(4) each individual in the State who is the subject of a guardianship petition has the right to have the question of incapacity heard by a jury upon request; and

"(5) each individual in the State against whom a determination of incapacity and guardianship order is issued

may file an appeal contesting such determination and order in the appropriate court of appeal not later than 30 days after such determination and order is issued, and may at any time petition the court issuing such determinination and order to modify or dismiss such determination or order.

"(c) STANDARDS FOR DETERMINATIONS OF INCAPACITY.—The laws of the State shall provide that—

"(1) no determination of incapacity shall be made at a guardianship hearing unless the individual who is the subject of the guardianship petition is present at such hearing, unless the court determines, on the basis of information provided by a physician, social worker, or other person trained to work with the elderly, the developmentally disabled, or the mentally retarded (whichever is appropriate in the case of a particular individual), that such individual has knowingly and voluntarily waived the right to be present at the hearing or cannot be present because of physical incapacity; and

"(2) no determination of incapacity shall be made at a guardianship hearing on the basis of the age of the individual who is the subject of the guardianship petition but shall instead be made on the basis of clear and convincing evidence that such individual is incapable of administering his own affairs.

"(d) STANDARDS FOR PERSONNEL INVOLVED IN GUARDIANSHIP HEARINGS.—Court personnel in the State involved in guardianship hearings shall be trained to work with the elderly, the developmentally disabled, and the mentally retarded, and shall be briefed on general issues facing such groups, and shall provide necessary visual aids, interpreters, and other devices in order to assist these individuals during guardianship hearings, and shall make reasonable efforts to schedule each guardianship hearing at a time and location convenient for the individual who is the subject of the guardianship petition.

"(e) EFFECT OF DETERMINATION OF INCAPACITY.—A determination of incapacity in a guardianship hearing in the State shall not be considered prima facie evidence that the individual in question is insane or is unable to function in a non-institutionalized setting.

"(f) RIGHTS OF WARDS.—The laws of the State shall provide that—

"(1) each ward in the State shall, when feasible, have his personal preferences taken into account by the court in the appointment of a guardian; and

"(2) during the period of guardianship, each ward in the State shall be entitled to participate in all decisions affecting such ward to the maximum extent possible commensurate with such ward's functional limitations, and shall retain all rights not ordered by the court to be transferred to the guardian.

"(g) STANDARDS FOR GUARDIANSHIPS.—Each guardianship imposed in the State shall be imposed on the ward in the least restrictive manner commensurate with the ward's functional limitations.

"(h) STANDARDS FOR APPOINTMENT OF GUARDIANS.—The laws of the State shall provide that—

"(1) no person may be appointed to serve as a guardian in the State unless such person certifies that he has completed, or agrees to enroll in and complete, a program of court-supervised training, based upon standards developed by the governor of the State or his designee, in the legal, economic, and psychosocial needs of wards, and a guardian shall be removed from his position as guardian if the court determines that he has failed to complete such a program;

"(2) no person who has been convicted of a felony may be appointed to serve as a guardian in the State unless the court determines that an exception to such prohibition is appropriate in a particular case; and

"(3) no person may be appointed to serve as a guardian in the State unless such person has filed, and the court conducting the guardianship hearing has approved, a guardianship plan which includes at least a description of the ward's proposed living arrangements, a plan for meeting the ward's financial, medical, and other remedial needs, and provisions for maintaining contact between the ward and the ward's family and friends.

"(i) DUTIES OF GUARDIANS.—The laws of the State shall provide that—

"(1) each guardian in the State shall file an annual report with the court which issued the order giving such guardian control over the ward's affairs which includes at least a description of the management of the ward's finances during the previous year, a physician's report on the health and physical well-being of the ward, and a recommendation of whether the guardianship should be continued, modified, or terminated;

"(2) each guardian in the State may use funds from the estate of the ward over whose affairs he has control only for the administration of the guardianship and the benefit of the ward, and shall repay to the ward's estate any funds used by such guardian for any purpose determined to be improper by the court which issued the order giving such guardian control over such ward's affairs; and

"(3) each guardian in the State shall keep the court which issued the order giving such guardian control over the ward's affairs informed of the whereabouts of such ward, and shall notify such court whenever such ward is moved to a new residence.

"(j) STANDARDS REGARDING WARDS MOVING TO AND FROM STATE.—The laws of the State shall provide that—

"(1) if the court which issued a guardianship order receives notice pursuant to subsection (i)(3) that a ward has been moved to a new residence in another State, the court shall notify the appropriate court in that State of the existence of the guardianship and shall provide that court with necessary files and background information on the guardianship; and

"(2) upon receiving notice from a court in another State that a ward subject to a guardianship order has been moved into the State, a court in the State shall assume jurisdiction over such guardianship, and may require the guardian to submit a new petition for guardianship or any other supplementary information to enable the court to exercise such jurisdiction.

"(k) COURT REVIEW OF GUARDIANSHIP ORDERS.—Each court in the State which issues a guardianship order shall conduct an annual review of the guardianship to determine whether the guardian is performing his duties in accordance with the appropriate laws and whether the guardianship should be continued, modified, or terminated.

"(l) STANDARDS FOR PRIVATE PROFESSIONAL GUARDIANS.—Each private professional guardian in the State may operate in the State only if such guardian is bonded and licensed or certified in accordance with requirements consistent with the provisions of this section developed by the governor of the State or his designee.

"(m) DEFINITIONS.—For purposes of this section—

"(1) the term 'guardian' means a person vested by law with the power and duty of taking care of the person or property of another 18 years or older who is adjudged incapable of administering his own affairs, except that such term does not include a guardian ad litem;

"(2) the term 'guardianship' means any legal relationship, including a conservatorship, in which a person is vested by law with the power and duty of taking care of the person or property of a ward, except that such term does not include a guardianship ad litem; and

"(3) the term 'ward' means a person 18 years or older adjudged incapable of administering his own affairs and placed by a court under the care of a guardian.".

SEC. 3. DEMONSTRATION GRANTS FOR GUARDIANSHIP ADVOCATE PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall award 2-year demonstration grants to eligible States for the establishment and operation of guardianship advocate programs, including the hiring and training of individuals to serve as guardianship advocates and investigators in such programs.

(b) DUTIES OF ADVOCATES AND INVESTIGATORS.—Individuals hired and trained to serve as guardianship advocates and investigators with funds provided under subsection (a) shall serve as employees of the courts within the State which conduct guardianship hearings and issue determinations of incapacity and guardianship orders, and shall provide information and services to wards and to individuals who are the subjects of guardianship petitions, including—

(1) making reports to the court on individuals who are the subjects of guardianship petitions;

(2) notifying such individuals of their rights under State guardianship law;

(3) monitoring wards and guardians and notifying the court of possible violations of State guardianship law;

(4) investigating complaints of improper conduct made against guardians;

(5) providing advice and assistance to guardians in carrying out their guardianship;

(6) evaluating reports from guardians;

(7) performing other services to assist the courts in conducting and monitoring guardianships; and

(8) investigating and evaluating the movement of wards to new residences.

(c) ELIGIBILITY.—A State shall be eligible to receive a grant under subsection (a) if it submits an application to the Secretary at such time, in such form, and containing such information and assurances as the Sec-

retary may require, including an assurance that the State shall prepare and submit to the Secretary an evaluation of each program in such State funded with a grant received under subsection (a).

(d) PREFERENCE TO SELF-FINANCING PROGRAMS.—In awarding grants under subsection (a), the Secretary shall give preference to those States which provide assurances to the Secretary that the program funded with such a grant will, without Federal financial assistance, continue to operate after the expiration of such grant.

(e) REPORT TO CONGRESS.—Not later than 3 years after the final grant is awarded under subsection (a), the Secretary shall submit a report to Congress describing the programs funded with such grants, evaluating the effect of such programs on the guardianship process and on the protection of the rights of wards and individuals subject to guardianship petitions, and containing recommendations on the desirability of continuing the funding of such programs on a permanent basis.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a) $5,000,000.

(g) DEFINITION.—In this section, the term "State" means each State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

TRIBUTE TO BARBARA SHAW

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MILLER of California. Mr. Speaker, I rise today to pay tribute to Barbara Shaw, a distinguished citizen of Contra Costa County. It gives me great pleasure to congratulate Barbara on her being selected by California's Governor as the State's outstanding Job Training Partnership Act Program volunteer for 1987–88. Barbara was chosen from among many exemplary representatives of California's 51 private industry councils.

Mrs. Shaw's selection, for which she will represent California in the national JTPA Presidential Awards Program, is an acknowledgment of her record of accomplishment in the job training area. Barbara is owner and principal of Barbara Shaw Seminars, a management and training consulting firm which provides services throughout the United States. She has been a member of the Private Industry Council in Contra Costa County since its formation in 1983, and has excelled at numerous key posts, including committee chair and vice chair, and PIC chair for two full terms. She is currently a member of the PIC Executive Committee.

In addition to her PIC duties, Barbara serves on the Board of Directors of the National Association of Private Industry Councils [NAPIC], and as a member of the NAPIC Task Force on Building PICS for the Nineties.

Barbara was selected as California's outstanding JTPA program volunteer for her commitment and able leadership in the job training system. Her expertise on JTPA performance standards, and on the type of public-private partnership arrangements necessary for effective welfare reform, has earned State and national recognition. Barbara has been instrumental in establishing many of the practices and standards now found in the job training system. She led the effort to convince the Department of Labor to abandon the concept of allowing youth employment programs to be considered successful even if no youths were placed in jobs. Her leadership also resulted in the establishment of a PIC-funded Business Resource Center, and the implementation of a coordinated Summer Youth Jobs Program in Contra Costa County which helped approximately 3,000 youths find unsubsidized summer jobs.

Mr. Speaker, at a time when our country's international competitiveness depends increasingly on high worker productivity, the efforts of talented and dedicated job training volunteers like Barbara Shaw are essential. Their activities prepare people to enter the work force and contribute immediately to whatever organization they join.

Once again, I extend my congratulations to Barbara Shaw. She has made her community, her husband Stephen, and her children Justin and Stacey, proud.

ANIMAL WELFARE PROTECTION ACT OF 1989

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ROTH. Mr. Speaker, today I am pleased to introduce legislation, the Animal Welfare Protection Act of 1989, designed to improve enforcement of the Animal Welfare Act.

In the fall of 1986, thousands of Wisconsinites expressed their outrage at the exploits of an animal dealer who since 1981 had been repeatedly cited by the USDA for major violations of the Animal Welfare Act. I contacted the USDA to request an immediate investigation and appropriate disciplinary action. To my dismay, the best the USDA could do under current law was file a formal complaint and initiate a lengthy review and hearing procedure. All the while, the dealer continued to conduct business as usual.

When the case finally resolved, the dealer received a small fine and had his license revoked for 20 days. These light penalties are more the norm than the exception. USDA officials readily agree that stiffer penalties are needed to curtail serious abuses of the Animal Welfare Act. In an effort to rectify this situation, I sat down with USDA officials to draft the Animal Welfare Protection Act.

My legislation will put teeth into the enforcement practices of the Animal Welfare Act. Under my proposal, the USDA will have the authority to request a temporary restraining order or injunction from a U.S. district court. The court order will allow the USDA to suspend immediately the operation of animal dealers, carriers, exhibitors, or intermediate handlers who knowingly deal in stolen animals or place the health of animals covered under the act in serious danger.

Last year, the Administrator of the Animal and Plant Health Inspection Service [APHIS] testified in support of my proposal before the Agriculture Committee. APHIS inspectors are charged with enforcing the Animal Welfare Act and recognize the need for the authority to suspend the operations of unscrupulous animal dealers while an investigation is pending.

Simply put, my bill will afford the USDA a greater ability to initiate prompt disciplinary action in cases of serious violations of the Animal Welfare Act. In fact, the Animal Welfare Protection Act of 1989 is closely modeled after a similar provision in the Packers and Stockyards Act of 1921 which helps prevent unsanitary meat packaging operations.

If the Animal Welfare Act is to be enforced properly, the USDA must have the appropriate authority. At present, it normally takes the USDA 1 to 2 years to process violations of the Animal Welfare Act. Even if an animal dealer is found guilty of serious offenses, it is highly unlikely that their license will be revoked. Since 1983, only one licensed animal dealer has had his license permanently revoked.

My proposal will ensure that individuals who deal in animals must comply with the standards of the act or face the prospect of immediate cessation of operations. I urge my colleagues to support this legislation which gives USDA inspectors the authority they need to crack down on unscrupulous animal dealers.

COMMUNITY ADJUSTMENT ACT OF 1987

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. OBERSTAR. Mr. Speaker, today I have introduced the Community Adjustment Act of 1989, which would establish a program addressed specifically to those areas of this country which are hardest hit by economic dislocations—those suffering long-term economic dislocations, primarily those based on declining industrial sectors, where there are no replacement jobs to provide alternative employment and tax base; and those areas which have lost, or are threatened with the loss of, their major employer.

The important features of this program are that they couple this place-oriented assistance with the people-oriented help provided by title III of the Job Training Partnership Act. JTPA has effectively provided training for displaced workers where alternative employment exists, but it cannot be fully effective where there are no jobs for which to train dislocated workers.

My bill also puts more emphasis on prospective action: It requires the Secretary of Commerce to monitor the national economy for potential nationwide dislocations and, where needed, to assist local jurisdictions in monitoring their own economies so they can take action either to keep a plant open, or help it reopen, with as little disruption to employees' lives and the local economy as possible.

It provides grants to States, economic development districts, Indian tribes and units of local government to design community adjustment strategies, and then to establish locally run revolving loan funds. These RLF's could

be used for loans or loan guarantees for start-up and working capital, fixed assets, purchase, rehabilitation or expansion of facilities or equipment, or to keep the failing business in operation.

The bill also contains an extensive technical assistance section.

It is extremely important, in this time of fiscal restraint, to make our scarce resources go as far as they can. The bill therefore relies to a great extent on technical assistance to do what the limited grant program cannot. We know that we cannot provide financial assistance to every community faced with economic dislocation. Therefore, the bill contains a broad range of alternative forms of assistance.

Prior to applying for any further help, the community can go to the Secretary as soon as it learns that its main employer, be it a plant or Government installation, is going to close, or if it has already closed. The community can ask for, and the Secretary must provide, advisors, consultants, or other assistance, to try to keep the plant open, to find a new buyer, organize an ESOP or workers' coop, or whatever other assistance is needed, to keep the plant open, or to reopen it.

Some communities will be able to receive full funding under this program, first for the adjustment strategy, then for the RLF. But there simply isn't enough money for this full range of aid to all employees.

My bill therefore provides a full range of technical assistance to other communities, including technical assistance teams and nationally recognized experts, to come in and do an analysis, working with the community, to try to find alternative employment—not fast food, minimum wage, low-skill-type jobs, but real, substantive and skilled replacement employment of the kind the workers used to enjoy.

Finally, because limited resources will not allow even technical assistance to all areas, the bill provides for broad dissemination of the experiences gained under this program for many more communities to learn from, and pursue their adjustments on their own without any further help from this program.

The bill also requires the Secretary to give priority funding to new, innovative, or previously unevaluated approaches to economic adjustment. Grant recipients are required to report on the implementation of their strategies for 5 years after the first grant, so that the Secretary will have, for the first time, a full survey of the successes and failures of various approaches, which will be made available to any community.

The bill also puts new emphasis on capacity building at the local level. Applicants must not only show how they intend to implement the adjustment strategy, but must also show how they will be able to continue the adjustment on their own after the grant period. The point is to get the Federal Government in as soon as possible, and out again in 2 years, leaving the community able to continue the adjustment process on its own.

Finally, my bill puts new emphasis on the private sector, not only to participate in the adjustment, but to use its tremendous expertise in identifying replacement industry, and in locating venture and other capital and sources of expertise to help in the adjustment.

I realize that one of the greatest criticisms of the current Economic Development Administration Program is that 80 percent of the Nation is currently eligible. My amendment therefore would single out those most hard-hit areas by requiring the Secretary to develop criteria to make only 20 percent to 25 percent of the population eligible under the long-term economic dislocation criterion.

Of course, any area would be eligible for assistance if its major employer closes with little or no advance warning, or if it is stricken by a Presidentially declared natural disaster. A particular industry could also be eligible, such as fishermen who are badly hurt by a natural phenomenon such as El Nino, which wiped out the fisheries of the Northwest several years ago.

The bill authorized $100 million per year over 3 years for community adjustment strategies and revolving loan funds, and $25 million per year for the technical assistance programs.

I believe that this bill is necessary, and will provide the greatest bang for the economic development buck—providing the full range of assistance for some communities, extensive technical assistance for others, and the accumulated experiences of the program for any community stricken by severe economic dislocation, short or long term.

It is a fresh, innovative approach to help those which are left behind when the economy is good, and which are almost destroyed when the national economy falters.

Attached is a summary of the bill.

COMMUNITY ADJUSTMENT ACT—SUMMARY

PURPOSE

To provide anticipatory and prompt response to the most hard-pressed areas experiencing or threatened with economic dislocation, either because of long-term economic deterioration, or because of loss or threatened loss of major employer, including Department of Defense and other Federal installations.

ELIGIBLE CRITERIA

Long term economic deterioration (Secretary to develop criteria limiting eligibility to 25 percent of U.S. population;

Sudden and severe economic dislocations;

Presidentially declared natural disasters.

ELIGIBLE APPLICANTS

States;

Economic Development Districts;

Indian tribes;

Units of local government;

Public and private nonprofit organizations.

ASSISTANCE AVAILABLE

Grants for Community Adjustment Strategies;

Grants for Revolving Loan Funds for:

Public entities, for construction, renovation, rehabilitation, improvement of public facilities;

Private entities, for loans and loan guaranties for initial and working capital, fixed assets, purchase, rehabilitation or expansion of facilities or equipment.

Technical assistance:

To predict, to extent possible, potential dislocations at national and local levels;

To help an area find new employers and replacement jobs;

To provide immediate assistance to prevent closure or to help reopen a plant;

To test and evaluate new or previously unevaluated responses to economic dislocations;

To make available to all areas the experiences accumulated under this program.

MENTAL HEALTH AND AGING ACT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ROYBAL. Mr. Speaker, based on studies and hearings by my Committee on Aging and developed in partnership with key national mental health and aging organizations, the Mental Health and Aging Act takes another critical step toward addressing the unmet mental health needs of America's elderly and disabled.

America's elderly and nonelderly need improved mental health services. In terms of the elderly, current estimates indicate that between 15 and 25 percent of Americans over the age of 65 suffer from significant mental health problems. This means that as many as 7 million elderly Americans currently need professional mental health services, but very few are receiving treatment of any kind. For children, as for other nonelderly persons, underservedness is a major problem as well.

In spite of great need, estimates indicate that as many as 80 percent of those elderly in need of mental health services fail to receive them, and elderly persons are seriously underrepresented among persons receiving treatment for mental disorders. Responding to the great need of mentally impaired elderly persons, as well as nonelderly persons, for improved care and assistance, I am reintroducing the Mental Health and Aging Act today.

This "Mental Health Initiative" attempts to rectify major deficiencies in Medicare, Medicaid, the mental health block grant and Federal research and training programs. It shifts Medicare and Medicaid funds toward outpatient care, and expands the range of Medicare and Medicaid mental health providers. The bill targets over $30 million toward the elderly, and greatly expands consumer protection (including an enforceable consumer bill of rights). In addition, it puts a higher priority on elderly mental health research and training, and launches an Institute of Medicine study on quality assurance and program effectiveness.

Last year, the 100th Congress approved two of my bill's provisions—(1) expanded demonstration funds for rural populations and (2) a National Mental Health Education Program—as well as provision, supported by Chairman WAXMAN and myself, to set aside 10 percent of the alcohol and drug abuse and mental health services block grant for children. Though it did not survive the House/Senate conference, the House also approved my provision to set aside a portion of the block grant's mental health funding for the elderly. In the 1987 budget reconciliation bill, the Medicare outpatient limit was raised to $1,100 for 1989.

Progress was made in the 100th Congress, but much more remains to be done in the

101st Congress. In that effort, I look forward to working together with House and Senate Members to raise mental health care to the same status as other health care supported by the Federal Government.

Mr. Speaker, I ask that the description and text of the Mental Health and Aging Act be included in the RECORD.

SUMMARY OF MENTAL HEALTH AND AGING ACT OF 1989

PURPOSE

To provide improved Medicare and Medicaid mental health benefits and to encourage the development of community based services for mentally impaired elderly persons, children and their families.

SUMMARY

America's elderly are in need of improved mental health services. Current estimates indicate that between 15 and 25 percent of Americans over the age of 65 suffer from significant mental health problems. This means that as many as 7 million elderly Americans currently need professional mental health services, but very few are receiving treatment of any kind.

Elderly persons display a wide range of mental health complaints. Depression, alcohol abuse, and the misuse of prescription drugs are serious problems, and men over the age of 75 have the highest suicide rate of any age group. Many chronically mentally disabled persons are now living into old age, and while dementia and severe cognitive impairment are increasingly prevalent, estimates indicate that as many as 30 percent of older Americans who are labeled "senile" actually have reversible, treatable conditions.

In spite of such great need, estimates indicate that as many as 80 percent of those elderly in need of mental health services fail to receive them, and elderly persons are seriously under-represented among persons receiving treatment for mental disorders. Responding to the great need of mentally impaired elderly persons for improved care and assistance, the Mental Health and Aging Act of 1989 proposes the following initiatives:

Expands funding for, and encourages development of, community based services for mentally impaired elderly and their families.

Increases biomedical, behavioral and social research and research on prevention, treatment and services for mentally impaired elderly and their families.

Increases training of health care professionals and paraprofessionals relative to elderly mental health.

Expands Medicare benefits for outpatient and community based mental health services.

Requires Medicaid programs to include community based mental health services for eligible recipients.

Requires nursing homes under Medicare and Medicaid to include mental health in plans of care and to ensure access to mental health services.

Establishes Medicare mental health cost containment measures.

Creates Consumer Bill of Rights, establishes quality assurance protection and requires quality assurance and program effectiveness study.

PROVISIONS

Title 1: Development of Mental Health Services for the Elderly (Title 1 is effective on October 1, 1989.)

Section 101. Alcohol and Drug Abuse and Mental Health Services Block Grant. Establishes a set-aside of the block grant for improving mental health services for the elderly.

Funds are to be used to develop more effective services and service delivery systems for the elderly and to improve access and quality assurance programs for mentally impaired elderly and their families. (Note: The 1988 bill's section with respect to children was incorporated into last year's Omnibus Drug Initiative Act, H.R. 5210). Within these populations, special attention is to be given to racial and ethnic minorities and other underserved populations. Requires States to document increased outreach and services for mentally impaired elderly and their families/caregivers, including those elderly living in the community or nursing homes.

Requires States receiving block grant funds to establish, according to regulations determined by the Secretary of Health and Human Services, an appropriate mechanism for ensuring quality of and access to services.

Requires providers and agencies providing mental health services funded under the block grant to comply with the provisions of the Consumer Bill of Rights (See below).

With their allocation, States are to spend on elderly programs at least a percentage, equal to the percentage of elderly people (age 65 and over) in a State, of the funds spent on mental health. Implementation of the elderly set-aside is contingent upon the total Alcohol and Drug Abuse and Mental Health grant receiving an appropriation of at least $535 million.

Sec. 102. Grant Program for Demonstration Projects. Expand the current program to encourage development and coordination of community based services and social support systems for mentally impaired elderly and their families/caregivers. Total authorized funding includes an additional $5 million for programs for the elderly. Funds may be used to:

Develop community based services for mentally impaired elderly and their families/caregivers, including those elderly living in the community or nursing homes.

Develop systems of coordination and cooperation among elderly health, mental health, and social service providers, including Area and State Agencies on Aging and Area and State Mental Health Administrations.

Develop programs for outreach and public education regarding the utility, availability, and barriers to elderly use of mental health services, including programs targeted to specific age cohorts and minorities.

SEC. 103. Training of health care professionals, allied health professionals, and paraprofessionals. Increases training of health care professionals, allied health professionals, and paraprofessionals, with special attention to memers of racial and ethnic minority groups, in order to improve the prevention, diagnosis, treatment, and managment of mental disorders among the elderly.

Adds $4 million in FY 1990, $8 million in FY 1991, and $12 million in FY 1992 to NIMH's clinical training programs related to elderly mental health.

Adds $2 million in FY 1990, $4 million in FY 1991, and $6 million in FY 1992 to NIMH's programs for research training and research career development related to elderly mental health.

Adds $2 million in FY 1990, $4 million in FY 1991, and $6 million in FY 1992 to NIA's programs for research and clinical training and career development related to elderly mental health and psychosocial well-being.

Adds $2 million in FY 1990, $4 million in FY 1991, and $6 million in FY 1992 to AoA's grants to medical, nursing, psychology, social work, gerontology, and health administration schools and to training programs for nursing home aides and home health, homemaker, and other home care providers for training and continuing education related to elderly mental health.

SEC. 104. Biomedical, behavioral and social research on prevention, treatment, and services. Increases biomedical, behavioral and social research on prevention, treatment, and service delivery for mentally impaired elderly. The Department of Health and Human Services is required to develop a plan of prevention, treatment, and service delivery research related to elderly mental health and psychosocial well-being and to implement it through the National Institute on Aging, the National Institute of Mental Health, and the Administration on Aging.

Adds $8 million in FY 1990, $16 million in FY 1991, and $24 million in FY 1992 to NIMH research programs on elderly mental health. At least 10% of these funds are to be used for service delivery research.

Adds $4 million in FY 1990, $8 million in FY 1991, and $12 million in FY 1992 to NIA's research programs on elderly mental health and psychosocial well-being. At least 10% of these funds are to be used for service delivery research.

Adds $2 million in FY 1990, $4 million in FY 1991, and $6 million in FY 1992 to AoA's research and demonstration programs on elderly mental health.

SEC. 105. Institute of Medicine study of quality assurance and program effectiveness. Requires Secretary of the Department of Health and Human Services to contract with the Institute of Medicine for a study of quality assurance and program effectiveness with respect to mental health services.

Study is to determine methods for measuring and assuring the quality and program effectiveness of mental health services and alcohol and drug abuse treatment services as provided in various settings, including psychiatric hospitals, inpatient psychiatric units in general hospitals, nursing homes, community mental health centers and other ambulatory care settings. The study is to develop recommendations to providers, program administrators, and payers (including Medicare and Medicaid).

Funding is set at $500,000 for fiscal year 1990. The study is to be completed and a report submitted to Congress within 18 months of the signing of the contract.

SEC. 106. Additional studies on mental health services. (Due on January 1, 1991.)

Prepaid health plans. Directs the Institute of Medicine to conduct a study comparing mental health services, benefits, access, and quality under Medicare and non-Medicare prepaid health plans and in settings other than prepaid plans.

Mental health facilities. Directs the Secretary of Health and Human Services to conduct a study examining mechanisms for ensuring quality of and access to mental health services delivered by state and local mental health facilities and by independent providers of mental health services.

Minority access to community mental health centers. Directs the Secretary of Health and Human Services to conduct a study examining the representation of racial and ethnic minorities among persons receiving Community Mental Health Center

Services, including current level of utilization and the level of unmet present and future need. In addition, the Secretary is to conduct demonstration projects on how to increase minority utilization to appropriate levels.

Mental health manpower. Directs the Secretary of Health and Human Services to conduct a study examining (a) the adequacy of manpower for meeting present and future mental health needs of the elderly, and (b) the optimal utilization of the various types of mental health professionals for meeting those present and future elderly mental health needs.

Minority manpower and training. Directs the Secretary of Health and Human Services to conduct a study examining the adequacy of (a) manpower for meeting present and future mental health needs of ethnic and minority group elderly, and (b) opportunities for training ethnic and minority group mental health professionals.

Title 2: Medicare and medicaid services and cost containment.

SEC. 201. Outpatient and community based mental health services. Reforms Medicare and Medicaid outpatient and community based mental health service benefits as follows:

Changes current law so that medical management (including an initial assessment and evaluation) of psychiatric disorders is not a mental health service under Medicare Part B, is not counted toward the annual outpatient reimbursement limit and should be reimbursed as a physician service. Medical management visits are "visits of shorter duration than therapy or treatment sessions and for which the main purpose is to permit the attending provider to assess the patient's status, assess the individual's prescription drug plan and progress and peform necessary laboratory tests." (As per Subcommittee on Health and the Environment, House Committee on Energy and Commerce.) (Effective January 1, 1991.)

Abolishes the 50 percent copayment requirement and the annual dollar reimbursement limit for mental health services under Medicare Part B in favor of a 20 percent copayment requirement with an annual limit of 20 covered visits. Coverage may be extended based upon necessity reviews to be conducted through a mechanism determined by the Secretary of Health and Human Services in consultation with provider and consumer representatives. (Effective January 1, 1990.)

Expands outpatient benefits under Medicare Part B to include community based mental health services as follows (Effective January 1, 1990.):

Outpatient mental health services, including psychotherapy and psychoanalysis;

Services in community mental health centers;

Directly reimburses mental health services provided by clinical psychologists, clinical social workers, and psychiatric nurse specialists subject to state law governing clinical practice; and

Such other services as the Secretary may prescribe.

Provides for an expanded Medicare in-home respite care benefit of up to 120 hours per year for beneficiaries which chronic physical or mental impairments. (Effective January 1, 1991.)

Required Medicaid programs to include, on the same basis as physician services, community based mental health services (as defined above) for eligible recipients, including those in their homes or in a nursing home. (Effective January 1, 1990.)

SEC. 202. Definition of institution for mental diseases. Clarifies the definition of Institution for Mental Disease under Medicaid. (Effective January 1, 1990.)

Specifies that a facility may be classified as an Institution for Mental Disease (IMD) under Medicaid only under the following conditions: (1) the facility is under the jurisdiction of the State's mental health authority, or (2) the facility advertises itself as primarily specializing in the treatment of individuals with mental disease, or (3) based upon current diagnosis, less than 50 percent of all patients in the facility have a physical condition independently sufficient to require nursing home care.

Specifies that the delivery of mental health services or psychopharmacological drugs to patients with physical conditions independently sufficient to require nursing home care shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Specifies that staff persons with specialized psychiatric or psychological training shall not be considered an indication that a facility is an Institution for Mental Disease (IMD) under Medicaid.

Sec. 203. Requirement of access to mental health services for nursing home residents. Requires access to mental health services for all nursing home patients as a condition of participation under Medicare and Medicaid (details contained in section on Conditions of Participation). (Effective with OBRA 1987.)

Sec. 204. Review of nursing home payments under Medicare and Medicaid. Requires the Secretary of Health and Human Services to review the levels of reimbursement for nursing home care under the Medicare and Medicaid programs to ensure that reasonable amounts are provided for the provision of mental health services as required by this Act.

Sec. 205. Medicare cost containment. Ensures cost containment under Medicare through mandatory assignment, utilization review, cost indexing, and prospective pricing. (Effective January 1, 1990.)

Requires that all providers of mental health services under Medicare Part B accept assignment for mental health services; i.e., accept Medicare reimbursement as payment in full (except for deductibles and coinsurance) for mental health services.

Clarifies that Fiscal Intermediary and Carrier Utilization review, as well as beneficiary appeal of such review, shall incorporate review of all new services provided under Medicare as a result of this Act.

Requires indexing of mental health outpatient payments based upon the average of the urban consumer price index (CPI) and the Medicare medical economic index (MEI).

Requires the Secretary of Health and Human Services, in consultation with mental health providers and consumers, to develop a prospective pricing (fee-based system) of outpatient mental health services. (Effective January 1, 1991.)

Sec. 206. Conditions of participation for Medicare and Medicaid for quality assurance and access protection. Requires the Department of Health and Human Services to establish conditions of participation as follows (Effective January 1, 1991.):

All mental health providers under Medicare and Medicaid shall (a) comply with the Consumer Bill of Rights (see Bill of Rights below); (b) provide the client with written grievance procedures appropriate for all services; and (c) give in writing the services to be provided. Note: In this Act, "mental health providers" means a psychiatrist, psychologist, clinical social worker, psychiatric nurse specialist, psychiatric hospital, hospital programs (under section 1905(i)) and an institution for mental diseases.

All mental health providers under Medicare and Medicaid shall have (a) the capability to identify clients who may be in need of mental health services; (b) the capability to provide such services or to make appropriate referrals for such services; and (c) the means to coordinate with other agencies, programs, and services providing mental health services or other services to the client.

All mental health providers under Medicare and Medicaid shall (a) include in their client assessments an assessment of mental health needs at a level sufficient to identify clients for whom a comprehensive mental health assessment, conducted by a mental health professional, is indicated; (b) provide or arrange for such comprehensive mental health assessment when indicated; and (c) when appropriate, include mental health services in plans of care and discharge planning.

All mental health providers under Medicare and Medicaid shall have (a) client care processes which include a plan of care which states reasonable goals and objectives, services to be provided to meet those objectives, and outcome measures for each client served; (b) a method for periodic review of client needs and the plan of care; and (c) a statement of criteria for discharge and/or transfer to another agency, program, or service.

All health maintenance organizations or competitive medical plans providing services under Medicare and Medicaid shall provide, according to regulations determined by the Secretary of Health and Human Services, an appropriate package of mental health benefits and an appropriate mechanism for ensuring quality of and access to services provided under those benefits.

All hospitals and nursing homes providing services to chronically mentally ill individuals under Medicare and Medicaid shall have a discharge plan for all such individuals which assures that they will have a plan for mental health care and for coordination of services established prior to discharge.

Section 207. Peer review of mental health services. Clarifies that for both Medicare and Medicaid, future contracts for PRO review shall incorporate review of all new and current services provided under those programs as a result of this Act.

Mental health care consumer bill of rights. Establishes a Mental Health Care Consumer Bill of Rights applicable to all mental health consumers and providers under Medicare, Medicaid, and the Alcohol, Drug Abuse, and Mental Health Block Grant and provides, mechanism to ensure enforcement of the following provisions:

1. The right to appropriate treatment and related services in a safe setting. The right to appropriate treatment and related services under conditions that that are humane and supportive of a person's personal liberty (especially in the areas of confidentiality of a person's records), that give respect and privacy in treatment, care, communications and all daily activities, and that permit the exercise of one's civil rights and provide assistance in doing so when assistance is needed.

2. The right to be free from physical or mental abuse, inappropriate experimenta-

tion, exploitation, corporal punishment, inappropriate seclusion and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the person's medical or psychological symptoms. Restraints may only be imposed, except in emergencies, to ensure physical safety and only on the written order of an appropriate mental health professional.

3. The right to an individualized, written, treatment plan (to be developed promptly after admission of client patient), the right to treatment based on this plan, the right to periodic review and reassessment of treatment related needs, and the right to appropriate revision of the treatment plan. This includes the right to any revision necessary to provide a description of mental health services that may be needed after the individual patient is discharged from a treatment program or service-related facility. This also includes the right to referral as appropriate to other providers of mental health services upon discharge.

4. The right to be informed as to whether services and treatment are covered by health insurance, medical assistance or other sources. The right to receive an itemized copy of these charges and advance notice detailing changes in services or charges. This includes the right to be promptly notified of the acceptance or denial of treatment and services and the reasons for denial, and to receive reasonable notice if treatment, care or services are to be reduced or terminated. The right to assistance to assure a smooth transition in services consistent with client welfare.

5. The right to grievance procedures if rights are violated or services are not satisfactory, including the right to an impartial grievance procedure provided for or by the program or facility.

6. The right to receive treatment, care and services from individuals who are properly trained and competent to perform their duties and in compliance with all state and local laws and regulations.

7. The right to ongoing participation, in a manner appropriate to an individual's capabilities, in the planning of one's mental health services (including the right to participate in the development and periodic revision of the plan of care described in item (3)). In addition to the right to be provided with a reasonable explanation, in terms and language appropriate to the person's cultural background and ability, the right to understand one's mental condition and general physical condition, the objectives of treatment, the nature and significant possible adverse effects of recommended treatments, and, the reasons why a particular treatment is considered appropriate in addition to any appropriate alternative treatments, services, and types of providers of mental health services.

8. The right to refuse a mode or course of treatment, established in accordance with the treatment plan, in the absence of the individual's informed, voluntary, written consent to this particular mode or course of treatment. An exception may be made during an emergency situation if this treatment is documented by a written order of an appropriate mental health professional as necessary for the immediate safety and welfare of the individual or as permitted under applicable state law in the case of a person committed by a court to a treatment program or facility.

9. The right to be informed fully of the provider's assessment of the patient/client's condition upon request. An exception may be made if contraindicated by documentation by the mental health professional in the client record that such access would be detrimental to the individual's health. In this instance, material may be then be made available to a similarly licensed health professional selected by the client and this health professional may, in the exercise of professional judgement, provide the client with access to any or all parts of this material or otherwise disclose the information contained in this material to the individual client.

10. The right, in the case of an individual admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reaonable access to the telephone, mails, and to see visitors during regularly scheduled hours.

NOTE.—While this bill addresses mental health directly, Congressman Roybal introduced several other bills in the 100th Congress which address mental health needs. The "Comprehensive Alzheimer's Assistance, Research, and Education Act—CARE" (H.R. 3130) provides better care and assistance for Alzheimer's Disease and related disorders victims and their families. The "US Health Program Act" (H.R. 200) is a broad health care reform package which would provide catastrophic and basic health protection, including physical and mental health care, for all Americans. The "Medicare and Medicaid Catastrophic and Acute Transitional Care Act" (H.R. 1930) would better protect the income and assets of spouses of Alzheimer's victims in the Medicaid program and provide limited respite care. The "Home Care Quality Assurance Act" (H.R. 1700) would better protect the quality of home care services provided to beneficiaries under certain federal programs. "The Medicare Long-Term Home Care Catastrophic Protection Act" (H.R. 3436/2762; introduced with Representative Pepper) would provide long-term home care protection for Medicare beneficiaries and chronically ill children.

SUMMARY OF FUNDING: PROVISIONS FOR DEVELOPMENT AND REFORM OF MENTAL HEALTH SERVICES

[In millions of dollars above current authorizations]

	Fiscal year—		
	1990	1991	1992
Elderly demonstration projects	5	5	5
Biomedical, behavioral and social research:			
NIMH	8	16	24
NIA	4	8	12
AOA	2	4	6
Total research	14	28	42
Training for professionals and paraprofessionals:			
NIMH clinical	4	8	12
NIMH research	2	4	6
NIA	2	4	6
AOA	2	4	6
Total training	10	20	30
IOM study—program quality/effectiveness	.5		
Medicare	NA	NA	NA
Medicaid	NA	NA	NA
Total	NA	NA	NA

DEWEY KNIGHT: RETIREMENT OF A PUBLIC MAN

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LEHMAN of Florida. Mr. Speaker, I have been in public life for almost 25 years. During that time, I have known and worked with many dedicated, intelligent public employees. A few were truly outstanding. This is the best way to describe Dewey Knight, who is retiring after 30 years of service to Dade County.

Dewey Knight is a special man with special talents. He is a leader, a teacher, a decisionmaker, and a doer. He possesses an intuitive feel for government and for our dynamic, complex Dade County community, and the presence and personality that commands respect as well as friendship.

"When the going gets tough, the tough get going" is the old cliche. In Dade County, when the going got tough, the tough got in touch with Dewey Knight. Over the years, throughout periodic crises, he brought stability and good sense to many difficult situations.

I want to share with my colleagues some recent news stories about the retirement—or rather the transition in life—of my special friend, Dewey Knight.

The news stories follow:

METRO'S DEWEY KNIGHT RETIRES—MAN TO CALL IN A CRISIS FOR 30 YEARS

(By Craig Gemoules)

Dewey Knight went on a grapefruit diet to get his first job with Dade County.

Eighty pounds overweight, with a blood pressure of 180 over 110, he had flunked the first physical exam. Three months later, he tried again—and began a 30-year career that led him to become the highest ranking black in county government.

He has counseled troubled children, helped the poor live easier, brought housing to those who can't afford it and opened employment for countless minorities. His colleagues say he is a champion of the downtrodden, a beacon for the disillusioned.

"Dewey always stands there as a bastion, as clarion, and says, 'Don't forget the little people,'" said Tony Ojeda, an assistant county manager and friend of 14 years.

Knight, 53, retires today as deputy county manager. He was Dade's first black department director, first black assistant county manager, first black deputy county manager and first black interim county manager.

As a youngster, he had wanted to be an insurance executive. When he joined the Air Force and was assigned a counseling job, he discovered the field of human resources—and forgot about insurance. Throughout his career at the county, he has tried to demur as bosses gave him more and more authority and moved him further and further up the bureaucracy.

Friends later said this lack of self-promotion helped him gain trust, because colleagues could see he wasn't out for personal gain.

He was promoted nonetheless. Today, Knight is second-in-charge of the largest government in the southeastern United States.

His reputation for fairness, as well the compassion he showed for the people he was hired to help, have led his bosses to

pick Knight for some of the county's most controversial jobs. Throughout his career, he has been placed squarely in the face of trouble: He was supervisor of a youth counseling service under study by a grand jury; head of a welfare department under siege by protesters; in charge of housing and human services in the wake of riots; replacement for county managers who quit or found themselves under investigation.

"Whenever this government is in crisis, he's the guy they call," said Jesse McCrary, an attorney who befriended Knight 25 years ago.

Knight's office is now filled with boxes, but he has barely begun to pack. "Everything I pick up, it brings back nostalgia," he said. "This is the hardest thing I've had to do."

Knight has been with Metro almost as long as there has been a Metro. The county government was chartered a year before he arrived from Connecticut and took a job as a caseworker in the Kendall Children's Home.

The legacy he hopes to leave is an enduring sensitivity for those people who need government the most: the poor, the elderly, the ill.

He does not wish to be remembered as the man who wouldn't be manager, although he probably will. County commissioners have flat-out offered him the job, even begged him to take it.

Current manager Joaquin Avino once publicly offered to step aside if Knight wanted his job. Avino said his offer was serious.

Three times commissioners called upon Knight to run the county: when manager Ray Goode resigned, when Sergio Pereira was under investigation and again when Pereira resigned. The politics and the pressure convinced Knight he never wanted to make the promotion permanent.

"There's as many differences as day and night across that threshold. . . . It was seven days a week, 24 hours a day. It took its toll on me emotionally, physically."

Knight has had to cope with his own tragedies. His father and grandfather died within days of each other in the spring of 1971. On what would be the final trip to see his grandfather, Knight had a car crash. He injured his shoulder, knocking a seat out of the way so he could rescue his wife and two sons. The car burst into flames moments after the family was clear.

Slightly more than a year ago, Knight's wife, Clara, died of cancer. As did her husband, she devoted her life in helping others. She was an elementary school counselor, who used her own money to buy clothes and shoes for children who attended the all-black school.

The couple never moved from their modest home in Liberty City, although friends said they certainly could have afforded to if they chose.

Knight's first county job, at the Kendall Children's home, paid $8,944 a year. As deputy manager, Knight today earns $110,000 a year.

He is not ready to retire completely and has had lengthy discussions with McCrary about a private sector job. Neither will say just what job that will be, although Knight said it will entail lobbying the Metro Commission.

It will be part time, and then only when Knight is done relaxing. His secretary of 22 years, Bonnie Burrell, bought him a fishing pole for Christmas.

"He's had some fantastic offers," McCrary said, "But the guy's soul still remains in helping people. I think he's going to end up doing just what he's been doing."

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30 YEARS OF CARING

When Metro employees return to work today after a long holiday weekend, they'll find something changed at the Government Center. Dewey Knight, the much-loved deputy county manager, will not be in his 29th-floor office. He retired on Friday after 30 years of selfless service to Dade's residents.

Sure, the sun still will set beautifully over the Everglades, and the tides still will lap regularly upon the beaches. But things won't be the same. Part of Dade's firmament won't be there any more.

Mr. Knight's presence in the county's administration was comforting. Successive county managers and commissioners alike trusted his wise counsel and ability to handle crises. Children, the elderly, the handicapped, and the needy depended on his advocacy of their cause. His first county job was as a social worker, and he remained one for three decades.

Black Dade Countians took particular solace in Mr. Knight's being in such a powerful decision-making position. It is important that his leaving not detract from the county's commitment to representative government and concern for the downtrodden.

Mr. Knight, 58, was the county's first black deputy manager. Created for him, that position recognized his broad experience and personable management style. He also was Dade's first black department head, first black assistant county manager, a responsibility thrust upon him three times. He could have been county manager three times, but he declined. He saw it as a never-ending job that, in his stints as interim manager, took its toll on him physically and emotionally.

Mr. Knight will continue serving on the United Way's board of directors and on a committee studying Dade's homeless. But he'll take some time off first to fish with his two sons, and to play golf, before throwing himself into another job. If Dade is really lucky, that new endeavor will allow him to do what he does so well: advocate for the little people who need help. Thank you, Dewey Knight, for 30 years of caring.

THE DEGRADATION OF HEALTH CARE IN THE UNITED STATES

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BATES. Mr. Speaker, I would like to draw my colleagues' attention to a column written by Dr. Fred A. Baughman, Jr., that recently appeared in the San Diego Union. In this article, Dr. Baughman discusses several problems with our current medical care system. I recommend the following article to my colleagues:

THE DEGRADATION OF HEALTH CARE—U.S.A.

I am saddened and angered at the day-to-day degradation of our health care mission. I am a physician who has been in private practice for 25 years. I have been a hospital chief of staff. I have labored, and even battled, for quality assurance in many capacities. Access to, and the quality of, medical care are more and more difficult to assure in today's "medical marketplace". I would be remiss if I didn't speak out.

In 1986 there was two billion dollars worth of over-prescribing in the Medicare program, with 800,000 unnecessary hospital admissions. We hear Dr. William L. Roper, of the Health Care Financing Administration, lament his inability to control the heightening "intensity" and "volume" of physician prescribing. It would be bad enough if this were just a monetary dilemma but more reprehensible is that much of this money-seeking, unnecessary, prescribing of medical and surgical tests and therapies results in injury and death. There is the wide perception that such is the case in coronary bypass surgery today. Supernumerary, low volume bypass surgery programs, with suboptimal outcomes, are established and perpetuated for competitive economic reasons. In California it is estimated that 30 lives and 16 million dollars per year could be saved if coronary bypass surgery was done only in hospitals doing more than 200 per year.

In 1984, 103,000 "stroke-preventive" carotid endarterectomies were done, half of them on asymptomatic (normal appearing, normal feeling) people. The operative death rate overall was 2.8%, greater than if none of them had surgery. Dr. Mark Dyken, Chairman of the Section on Stroke of the American Heart Association, estimated that 3,808 to 11,560 unnecessary strokes or deaths resulted. In England carotid surgery is done on 20/million; in the United States 433/million! Who's people are better served?

In an article entitled "Death by Pulmonary Artery Flow Directed Catheter", Professor Eugene Robin, of Stanford, said that data suggests "thousands have died and are dying" due to this widely employed diagnostic tool in the management of acute myocardial infarction (heart attack). He called for a moratorium.

Seventeen to 28% of the 500,000 coronary arteriograms done each year have been deemed inappropriate. "C" section deliveries rose from 9.1% in 1974 to 24.1% in 1986. Finally, there is the widely held perception of abuse of hysterectomy, cataract surgery and cardiac pacemakers.

Given patient-directed quality assurance on the one hand and "restraint of trade" on the other, in today's "medical marketplace" it is "no contest". There has been a pervasive retreat from Hippocratic principles as the reins of medical care have been ceded to marketplace forces, both by the A.M.A. and health care politicians of the '70's and '80's.

The "business" of medical practice was simple and took care of itself very nicely when there were no areas of physician glut, as was the case in grand Rapids, Michigan, where I first practiced from 1964 to 1975. Medical practice there was patient-directed, quality-assured, superb. The profession was still grand; it had no need for a huge entrepreneurial superstructure, to be paid for out of the pockets of patients, as is now the case. There was no medical-industrial complex then, with deans moving on to positions or boards of the health care corporate giants; there were no health care corporate giants then.

It was Dr. Robert Petersdorf, formerly dean of our medical school here in San Diego, now President of the Association of American Medical Colleges, the fraternity of deans, who warned in 1983 that the profession would cannibalize itself if the "physician glut" was not addressed. His silence on the issue since assuming leadership of the A.A.M.C. has been duly noted.

In the "whitewash" article by Schwartz in the New England Journal of Medicine early this year, saying "there is no physician glut" and that the physician/populace ratio is "just fine from now to the year 2000", there was one word that Dr. Schwartz omitted that he and the leadership of American medicine studiously avoid and that is "maldistribution".

Physicians, myself among them, are a species that aggregate in places where most people would like to live but can't always afford. Thus, while there are 418 physicians per 100,000 populace in Marin County; 627 per 100,000 in San Francisco County; 607/100,000 in Washington, D.C.; 318/100,000 in New York State, and 325/100,000 in Massachusetts, while most authorities on medical manpower accept that an optimal ratio is 120/100,000, there are just 24 per 100,000 in relatively undesirable East Los Angeles and there are over 1,500 counties nation-wide that are deemed to be under-served. All this is to say nothing of the 37 million working poor in the United States without health care insurance, or the cruel defacto rationing that mounts by the fiscal quarter, as even those who can afford health care insurance are forced into ever more restrictive pre-paid health plans. An insurance agent friend of mine told me the other day that his own health insurance premium had gone up 40% at the start of the year. How many more millions uninsured does this translate to?

Too many doctors, living where they want to live, saying what they must, and then doing what they must to patients in order to generate a living, is what is breaking the bank of medical care, and at the same time making medical care palpably more injurious and deadly. These are grievous charges because these are grievous developments. Do we need more ethics courses in our medical schools? More ethicists? Do we need universal health insurance? Can we afford it? The answer is that our glut and dearth, money-driven health care system is neither fiscally affordable nor health-directed and must be fundamentally changed.

Seats in the not-for-profit, tax-supported, medical schools should be allocated to candidates from all the population centers or areas of each state. Requirements to serve those areas should then be enforced by contract, for however many years it would take to assure an appropriate level of physician staffing in that area. The for-profit, mostly off-shore medical schools, all of dubious quality, should have no role in the health care future of our country.

The medical schools of our country were established state-by-state, supported and maintained as a public health function of government. Such staffing for the care of our citizens nation-wide can no longer be left to whim. Basic health care should be a right, not just a slogan. In this, the greatest of nations, it is a disgrace that it is not. Those who argue that the physicians' freedom of enterprise would thus be abridged need reminding that physicians are not "of the marketplace", that their education and training have been largely tax supported. The societal costs of the education of a physician are estimated to be $400,000 to $500,000. It is only in recent years that the federal government, as an austerity measure, has cut its support of medical schools, leading to an unconscionable rise in tuitions. Canada, our neighbor to the north, does not hesitate to exercise its public health responsibility by augmenting or cutting back to ensure appropriate physician/populace ratios from area to area. America's medical leadership, the A.M.A. and the A.A.M.C., are aware of all of this. They have overseen it. They have refused to accept what it was leading to. At this juncture, I no longer accept that our politician-shapers of health care policy are naive. It is long past time that they stopped doing the expedient thing and undertook to assure accessible, quality health care for all. It can be had, and it can be affordable.

INTRODUCTION OF LEGISLATION IMPOSING ADDITIONAL RESTRICTIONS ON TAX-EXEMPT BONDS USED TO PROVIDE RESIDENTIAL RENTAL PROPERTY

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to impose additional limitations on the use of tax-exempt bonds providing residential rental property. The Technical and Miscellaneous Revenue Act of 1988 contained an important restriction in this area—an amendment which I offered to the legislation in the Committee on Ways and Means—and this legislation takes the next logical step.

Mr. Speaker, the privilege of State and local governments to use tax-exempt financing is a benefit which is granted by Congress. As such, Congress has an interest in insuring that tax-exempt bonds are not used in a manner contrary to the intent of Congress. And when State and local governments use bonds to provide housing serving a more affluent class of individuals than other developers are able to do, Congress has a responsibility to step in. The taxpayers of this country do not want to subsidize luxury apartments, elderly housing serving the wealthiest of senior citizens, and nursing homes which refuse to care for those who are unable to pay. Unfortunately, unless Congress acts, those abuses will continue to occur.

As an example, an article in the September 26, 1988, edition of City and State newspaper described how tax-exempt bonds could be used by local governments to finance construction of moderate income housing while avoiding restrictions in the tax laws. The government agency could also receive income from the project, according to the article. Now, this approach seems somewhat meritorious, unless one considers the need for housing for the homeless and the poor. Serving truly the middle class is also meritorious; the problem comes when multifamily housing complexes begin to look more and more like luxury condominiums and less and less like housing serving a truly legitimate governmental purpose. Nursing homes and continuing care retirement communities also use tax-exempt financing; many also ignore their responsibility to serve the poor and near-poor.

As a result, I am introducing this legislation today as a means of generating discussion on the proper approach to take to resolve these questions. Last year's tax legislation took an important first step, and this legislation goes one step further. A more detailed description of the legislation follows.

PRESENT LAW

Interest on obligations of State and local governments is exempt from tax under authority of section 103 of the Internal Revenue Code. In the case of bonds used to finance private activities, interest is taxable unless a specific Code provision operates to exclude the interest from taxation.

An example of a private activity bond where interest is tax-exempt are bonds used to finance residential rental property. In the case of residential rental property, the facility must serve a specified percentage of low-income residents by meeting one of two tests. The first test is met if 20% of the units are occupied by individuals with income of 50% or less of the area median income. The second test is met if 40% of the units are occupied by individuals with income of 60% or less of the area median income.

When the proceeds of a bond inure to the benefit of tax-exempt (i.e., 501(c)(3)) organizations, housing operated by those entities was, prior to the 1988 Technical and Miscellaneous Revenue Act of 1988, generally not subject to the income targeting requirements discussed above.

The Code's arbitrage provisions generally deny tax-exempt status to bonds where the proceeds of the issue are used to acquire higher yielding investments, including investment property. Prior to enactment of the 1988 Act, it was unclear whether rental property acquired outside of an issuer's jurisdiction was investment property within the meaning of the Code's arbitrage provisions.

The 1988 act

The Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) generally extended the low-income targeting provisions, discussed above, to housing provided by 501(c)(3) bonds. Under the provisions of the 1988 Act, any existing housing acquired with the proceeds of a 501(c)(3) bond must satisfy either the "20-50" test or the "40-60" test, discussed above. The 1988 Act did not require new facilities acquired with the proceeds of a 501(c)(3) bond to meet the low-income targeting requirements. Under the 1988 Act, it is unclear whether property initially financed with taxable debt or equity and later refinanced with tax-exempt debt is considered "existing" property.

In addition, the 1988 Act provided that residential rental property financed with tax-exempt bond proceeds outside of the issuer's jurisdiction is investment property for purposes of the Code's arbitrage provisions. For purposes of this provision, "outside of the issuer's jurisdiction" means the area beyond which the issuer exercises sovereign powers (i.e., the taxing power and the power of eminent domain).

The provisions of the 1988 Act were generally effective for bonds issued after October 21, 1988.

EXPLANATION OF PROPOSAL

The legislation contains three main provisions. First, the legislation clarifies that if housing is financed by sources other than tax-exempt debt and is later re-financed with tax-exempt bonds, the facility is not considered "existing" housing for purposes of the 1988 Act if: (1) there was a reasonable expectation that the facility would be so refinanced and (2) the facility was in fact so re-financed within a reasonable period. The

provision is effective as if included in the 1988 Act.

Residential rental property provided by 501(c)(3) bonds

The bill extends the low-income targeting rules of present law (as modified by the 1988 Act) to all housing provided by 501(c)(3) bonds. Thus, regardless of whether the housing is existing or whether the first use of the facility begins with the 501(c)(3) organization, either the "20-50" test or the "40-60" test must be met.

This additional restriction does not apply, however, if the bond is issued by a general purpose governmental unit and is secured by the full faith and credit of the issuer. For this exemption to apply, the housing must be new housing, or housing which is substantially rehabilitated (within the meaning of Code section 48(g)(1)(C)).

The legislation makes clear that continuing care retirement communities (within the meaning of Code section 7872(g)(4), which provides an exception from the imputed interest rules for these facilities) are considered housing for purposes of this provision. Thus, these facilities are required to meet the low-income targeting requirements, as are nursing homes, if they are financed with qualified 501(c)(3) bonds.

Arbitrage provisions

The legislation provides that residential rental property located within the jurisdiction of the issuer is investment-type property for purposes of the Code's arbitrage provisions unless the facility meets the low-income targeting requirements or unless the bond is issued by a general purpose governmental unit secured by the full faith and credit of the issuer.

This investment-type property would be treated as a nonpurpose investment. Thus, except during permitted temporary periods or when invested as part of a reasonably required reserve or replacement fund, the yield restrictions applicable to nonpurpose investments apply to investments in this property. Similarly, all arbitrage earnings must be rebated to the Federal government.

The provisions do not apply to private activity bonds or to property which is acquired to implement a court ordered or approved desegregation plan for housing. As under the 1988 Act, the issuer's jurisdiction is the area in which the issuer exercises sovereign powers such as the power of taxation and the power of eminent domain.

EFFECTIVE DATE

The legislation is effective for bonds issued after January 3, 1989. A transitional exception is provided for property where construction, reconstruction or rehabilitation of the facility began before that date (or where a binding contract to incur significant expenditures for these purposes was executed before that date) and was completed after January 3, 1989. In addition, the facility must have been described in an inducement resolution or other similar document before that date. Under the transitional exception, bonds must be issued by December 31, 1991, and the facility must be placed in service by December 31, 1992.

Let me say in conclusion, Mr. Speaker, that I am aware of the sensitivity with using today as the effective date of this legislation. In the past, however, I have discovered that a delayed effective date often has the effect of a rush to the bond markets which I hope to avoid by choosing this January 3 date.

THE LOCAL RAIL SERVICE REAUTHORIZING ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WYDEN. Mr. Speaker, today I am introducing legislation to reauthorize the Local Rail Service Assistance [LRSA] Program, a little-known initiative that has helped to preserve freight rail service to local communities throughout the country.

Since 1973, the Local Rail Service Assistance Program has built an impressive record of helping States fight rail-line abandonments. In my home State of Oregon and nationwide, the program has literally saved the day for many shippers and communities, urban and rural, small and large.

Often, communities faced with abandonments or line sales are highly dependent on rail service. Loss of that service can have a devastating effect on local economies by shutting down businesses and throwing workers out of jobs.

The LRSA Program addresses this problem by promoting the rehabilitation of rail lines that have fallen into disrepair due to years of deferred maintenance. The program provides grants on a matching basis to States for rail-line rehabilitation, acquisition, and construction projects as alternatives to abandonment. It also makes funds available to the States for rail-planning efforts. Frequently, LRSA funds are used to help new short-line railroads complete the rehabilitation work needed to make those lines economically viable.

The need for the LRSA Program is clear. Branch-line abandonments, caused by the ongoing consolidation of the railroad industry, continue to threaten local communities with loss of rail service. A 1987 GAO report found that nearly 40,000 miles of track were approved for abandonment between 1970 and 1985. According to estimates, more than 14,000 miles of track have been abandoned in the last 5 years alone.

Since 1980, five railroads in my home State of Oregon have been assisted through 15 projects funded partly by the LRSA Program. Approximately $3 million in Federal funds and $1.3 million in local matching funds have gone into the improvements. Without LRSA assistance, these five lines probably would have been abandoned. Industries served by the rail lines would have cut back operations due to the loss of their rail-served markets, causing an estimated 1,800 layoffs, affecting 3,700 secondary jobs, and resulting in an annual payroll loss of $85 million. The Oregon Department of Transportation has identified a half dozen rail lines in the State still in need of similar assistance.

The legislation I am introducing today would reauthorize the LRSA Program at $10 million in fiscal year 1989 and at $30 million per year in fiscal years 1990 and 1991. The bill provides a 70-percent Federal match for rail-line rehabilitation projects, and a 50-percent match for all other projects.

I am pleased to be joined in introducing this legislation by Mr. FLORIO, Mr. SLATTERY, Mr. TAUKE, Mr. TIM JOHNSON, and Mr. NAGLE. In addition, Senator TOM HARKIN of Iowa, a strong advocate of the LRSA Program, plans to introduce similar legislation in the Senate.

The LRSA Program is a vital means for preserving jobs and economic vitality in communities dependent on rail service. I would urge my colleagues to join in support of this legislation.

ANTI-DRUG ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, there is no greater threat to our national security than drugs—threatening our Nation's youth, strength, and stability from within our borders, although most of the drugs originate elsewhere in the world.

We are living in a nation that is plagued by a drug epidemic. Drugs are eating away at the national fabric of American life. Pilots, train engineers, bus drivers, doctors, lawyers, nurses, schoolchildren—everyone is affected. The United States has a national emergency and we must treat it as such by declaring a war on drugs.

The U.S. Drug Enforcement Administration [DEA], the U.S. Customs Service, the U.S. Coast Guard, and our local and State police are trying to stem the flood of illicit drugs into this country, but the statistics make one fact clear: If they caught every car and truck trying to smuggle dope into the country, if they caught every airline and shipline passenger trying to smuggle dope into this country, they would stop only 30 percent of the cocaine and only 12 percent of the marijuana.

The hard, cold fact is that we're up against highly sophisticated, well-organized industries whose sole service is the delivery of illicit drugs into our country. The profit is so great and the risk of detection and capture is relatively so small that our outmanned drug-stopping forces are falling further and further behind.

Last year Congress passed a comprehensive drug bill that made great strides by both enhancing antidrug law enforcement and expanding prevention and treatment programs. The new law increased appropriations for a number of Federal, State, and local law enforcement agencies targeting drug enforcement programs.

These measures which I have repeatedly supported are positive steps for us as a country to have taken in order to have a chance against what has become our most serious crime problem, our fastest rising health problem, and one of the greatest threats to our national security.

But we need a stronger front line against drugs—the muscle at our borders and along our coastline to stop cocaine, marijuana, heroin, and the other drugs that are sapping our human and financial resources.

There is no question that we are losing the war on drugs. And there is no question that it is a war—a war for our citizens' safety, for our economy, our health, and our young people's minds.

That is why I have reintroduced the "War on Drug Smuggling Act" to commit the best of America's Armed Forces and defense technology—radar, aircraft, and ships—for the national battle to end the importation of drugs across our borders.

My bill would expand the role of our military in the war on international drug trafficking by enabling the heads of the major Federal drug enforcement agencies—the Drug Enforcement Agency, the Customs Service, the Federal Bureau of Investigation, and the Federal Aviation Administration—to call upon the Secretary of Defense to provide military equipment and trained personnel to operate and maintain the equipment to assist in halting drug smugglers.

The law enforcement agency head would make an initial determination of the equipment necessary to detect and interdict the unlawful transport of controlled substances across the border and would then consult with the Defense Department. The Secretary of Defense could decline or modify the request if necessary to preserve military preparedness; but the Secretary would have to make such a finding. In the past, the Defense Department has resisted using its discretionary authority to provide this kind of assistance. My bill would direct the Secretary to provide it upon request, subject to military preparedness requirements.

The measure would also require the heads of the specific Federal law enforcement agencies to meet with the Secretary of Defense, or a designee, and the National Guard Bureau to develop a strategy for: First, one the detection of the unlawful transport of any controlled substance across the international boundaries of the United States; second, the interdiction in the United States of such unlawful transport; and third, the coordination of the efforts of the special law enforcement agencies, the Department of Defense, and the appropriate components of the National Guard in such detection and interdiction.

The Secretary of Defense is directed to invite the chief law enforcement official of each State to attend and participate in any such strategy meeting. "State" is defined as any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Laws presently exist which permit the Secretary of Defense to make available any equipment, base facility, or research facility of the Army, Navy, Air Force, and Marine Corps to any civilian law enforcement official for law enforcement purposes. The Secretary of Defense may also assign members of the above to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of loaned equipment and to provide relevant expert advice. However, Federal law requires the Secretary of Defense to issue regulations to insure that the provision of any assistance does not include direct participation by a member of the Army, Navy, Air Force, or Marine Corps in an interdiction of a vessel or aircraft or in a search, seizure, arrest, or other similar activity, unless such activity is otherwise authorized by law.

My bill would direct the Department of Defense to provide the equipment and personnel and would allow their direct involvement in the interdiction process, but it would in no way change current U.S. law which prohibits our armed forces from performing any law enforcement activity.

Every fact tells us that we're fighting a war. We have the best military in the world. We need it on our side in this war, because we can't win without it.

H.R. —

A bill to provide for military assistance to certain civilian law enforcement agencies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILITARY ASSISTANCE TO CERTAIN CIVILIAN LAW ENFORCEMENT AGENCIES.

(a) SECRETARY OF DEFENSE TO PROVIDE PERSONNEL AND EQUIPMENT ON REQUEST.—On request of the head of any special law enforcement agency listed in subsection (d)(1), the Secretary of Defense shall, as soon as practicable after consultation with the head of the agency and to the extent that it does not adversely affect the military preparedness of the United States, make available to the agency such military equipment and detail to the agency such military personnel, including personnel necessary to properly operate and service such equipment, as the head of the agency considers necessary for the detection of the unlawful transport of any controlled substance across the international boundaries of the United States and the interdiction in the United States of such unlawful transport.

(b) AUTHORITY OF DETAILED PERSONNEL.—Military personnel detailed under subsection (a) to any special law enforcement agency may directly participate in the interdiction of any vessel, aircraft, or land vehicle by the agency.

(c) COORDINATION AMONG FEDERAL AND STATE LAW ENFORCEMENT AGENCIES AND THE DEPARTMENT OF DEFENSE.—

(1) IN GENERAL.—Within 30 days after the date of the enactment of this Act, the heads of the special law enforcement agencies listed in subsection (d)(1) shall meet with the Secretary of Defense (or the designee of such Secretary) and the National Guard Bureau to develop plans for—

(A) the detection of the unlawful transport of any controlled substance across the international boundaries of the United States;

(B) the interdiction in the United States of such unlawful transport; and

(C) the coordination of the efforts of the special law enforcement agency, the Department of Defense, and the appropriate components of the National Guard in such detection and interdiction.

(2) INVOLVEMENT OF STATE LAW ENFORCEMENT AUTHORITIES.—The Secretary of Defense shall invite the chief law enforcement official of each State to attend and participate in any meeting to be held under paragraph (1).

(d) DEFINITIONS.—As used in this section:

(1) SPECIAL LAW ENFORCEMENT AGENCY.—The term "special law enforcement agency" includes—

(A) the Drug Enforcement Administration;

(B) the United States Customs Service;

(C) the Federal Bureau of Investigation; and

(D) the Federal Aviation Administration.

(2) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(3) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

ECONOMIC EQUITY FOR AMERICA'S WORKING POOR

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HAWKINS. Mr. Speaker, today I am introducing the Fair Labor Standards Amendments of 1989, to bring economic equity to low-wage workers. It has been 8 years since the Federal minimum wage was raised to the current level of $3.35 an hour. Since that time the cost of living has risen more than 30 percent. Thus in today's dollars, the current minimum wage is worth only $2.56. My bill will begin to restore the purchasing power of the Federal minimum wage by providing for 3 incremental wage rate increases to $4.65 by 1992.

Raising the minimum wage is also a matter of basic human dignity. If a person is hungry, he or she should be able to provide themselves with a decent meal. If a person is homeless, he or she should be able to provide themselves and their families with decent and adequate shelter.

Increasing the minimum wage is a matter of fundamental economic justice. This bill seeks to continue the national policy established more than 50 years ago of insuring a fair day's pay for a fair day's work. Its purpose is to restore a floor under wages. Its objective is the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers.

My proposal not only provides for incremental increases in the minimum wage, it also incorporates provisions adopted last year by the Committee on Education and Labor. Specifically, the bill provides for an increase in the so-called small business exemption from the current $362,500 to $500,000 of annual sales or business. In addition, the current 40 percent tip credit provision in the FLSA is raised to 45 percent a year after enactment, and to 50 percent the following year and thereafter. These provisions represent a substantial compromise in addressing the concerns of small businesses. Suffice it to say, there is no further necessity to modify or revise the bill which I am introducing.

A final provision creates a 5 member Minimum Wage Review Board to recommend future adjustments to the Congress. Every 2 years the Board would review current economic data and submit to the Congress a recommendation for a minimum wage adjustment to become effective in the following year, with an estimate of the economic impact of implementing such an adjustment. The provision is not self-executing, nor is the Congress required to take any action. The recommendation is merely advisory.

The provision was included to generate a serious dialog on how to keep the issue of the

minimum wage before the Congress in a systematic manner. It provides for periodic, objective scrutiny of economic conditions on which to base reasoned judgments as to whether or not adjustments should be made in the minimum wage. It requires this information to be transmitted to the Congress on a regular basis, but does not mandate a change in the wage rate. I think the concept has significant merit. I hope it will receive serious consideration.

A brief summary of the bill follows:

FAIR LABOR STANDARDS AMENDMENTS OF 1989—SUMMARY

Sec. 1. Short Title.

Sec. 2. Minimum Wage Increase. Amends Section 6(a) of the Fair Labor Standards Act to provide the following minimum wage rates:

January 1, 1990—not less than $3.85 an hour;

January 1, 1991—not less than $4.25 an hour;

January 1, 1992—not less than $4.65 an hour.

Adjustment. During the 90-day period beginning January 1, 1994, a newly established Minimum Wage Review Board shall review current economic data and determine the amount by which the minimum wage rate should be adjusted to reflect changes in wages and prices since the last adjustment. Not later than October 1, 1994, the Board shall transmit to the Congress a recommendation of a minimum wage rate to be placed into effect on January 1, 1995. The recommendation shall include an estimate of the economic effects of placing the wage rate into effect. The process would be repeated every two years.

Establishes a Minimum Wage Review Board consisting of 5 members. The Chair of the Board would be appointed by the President; the remaining 5 members would be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives, based on recommendations from the majority and minority leaders of each House of Congress respectively.

Sec. 3. Change in Enterprise Test.

Effective January 1, 1989, Section 3(s) of the Fair Labor Standards Act is amended to exempt from the Act's coverage retail and service establishments with less than $500,000 in annual gross volume of sales or business.

Sec. 4. Tip Credit.

Section 3(m) of the Fair Labor Standards Act is amended to provide that effective January 1, 1990, the current "tip credit" is increased from 40 percent to 45 percent. Effective January 1, 1991, and thereafter, the "tip credit" is raised to 50 percent.

BILLS INTRODUCED TO IMPROVE LIFE FOR OLDER AMERICANS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, I rise today to inform the House that I am reintroducing several bills that will make life better for millions of Medicare patients. In particular, I am introducing four bills that concentrate on the detection and treatment of breast cancer, provide long-term care services for all senior citizens, and to provide Medicare coverage for seniors who need hearing, dental, and vision services.

Mr. Speaker, breast cancer is an insidious disease that is predicted to take the life of at least 42,000 American women in 1989. In addition, the National Cancer Institute estimates that breast cancer will strike at least 1 woman out of every 10 some time in their lives. However, perhaps the most frustrating aspect of this problem is that while early detection is technologically feasible, it is not affordable for most American women. The Office of Technology Assessment has estimated that the cost of a standard mammogram to be approximately $100. Most older women—19 percent of whom receive an average of only $421 of Social Security benefits per month—must make a decision to spend as much as one-fourth of their monthly income on a needed medical procedure, or to pay the rent.

As a result, I have reintroduced H.R. 2935, a bill of mine from the 100th Congress, that will provide Medicare coverage for annual mammographic screenings for all women covered by Medicare. While I recognize that passage of the Medicare catastrophic prevention bill last year provide for coverage of mammograms, it is still considered medically insufficient to cover the true needs of older women. My bill proposes to provide annual coverage—the medically recommended coverage—instead of the biannual coverage passed in the Medicare catastrophic bill.

In addition, I have reintroduced H.R. 671 from the 100th Congress. This bill will ensure proper treatment of breast cancer by all doctors who receive Medicare payments for the services they provide to older Americans. Specifically, this bill calls for the proper amount and quality of treatment information to be made available for all breast cancer patients. American women need to know that the old days of radical treatments as the cure for every case of breast cancer are gone and that alternative treatments are available which do not disfigure or cost as much for the American taxpayer. Passage of this bill will mean nothing more difficult for doctors than providing a booklet from a respected breast cancer organization that explains the types of options and their applicability as well as their advantages and disadvantages. This is a humane and sensible idea who's time has come.

Mr. Speaker, I am also reintroducing H.R. 679 from the last Congress. This bill is a true comprehensive long-term care bill that covers all the needs of our senior citizens. My bill will cover nursing home costs, congregate home services, community-based mental health care, homemaking or home-help services, and adult day care or day hospital services. As we all witnessed last Congress, long-term care is an issue that requires immediate attention by the Congress. The American people want long-term care services from the Government and they have stated overwhelmingly that they are willing to pay for them. I strongly urge the Congress to consider this important bill.

The fourth bill I am reintroducing is H.R. 678, a bill to provide Medicare coverage for certain vision, dental, and hearing services. This bill will provide coverage for vision, hearing, and dental examinations as well as all needs regarding the acquisition of eyeglasses, hearing aids, dentures, and other dental needs. As all older Americans know, the cost of these services can be an enormous expense that requires them to make painful choices regarding their limited incomes. My legislation will enable all older Americans to live more enjoyable lives.

Mr. Speaker, I believe all of us in this Chamber have the desire to improve life for older Americans. I am hopeful that the 101st Congress will prove to be a watershed for aging issues in general, but for improvements in the Medicare system in particular. The passage of my four bills will help all older Americans and I ask that the Members of the historic 101st Congress consider these bills as soon as possible.

A TRIBUTE TO DANNY AND NATALIE HILLER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding couple, Danny and Natalie Hiller, who are being honored by the Young Israel of Hillcrest at its annual dinner on January 15. Over the years the Hillers have distinguished themselves by their tireless service to the Hillcrest community and their loving commitment to their four children, Lauren, Jordan, Suzanne, and Jared.

Danny Hiller first made an impression upon the congregation as Ba'al Koreh, chanter of the Torah, from 1968 to 1982. He still conducts a Shabbat morning class for the future Ba'alei Koreh to be found among our youth. Danny subsequently rose through the ranks to become president of Young Israel of Hillcrest for 3 years, a length of time exceeded only by his father, Leonard Hiller. Danny's terms in office were characterized by outstanding programming and generous charitable endeavors. Among his many chairmanships were Yom Hashoa Commemoration, United Jewish Appeal, Israel Bond and Journal Dinner, and cochairman of the Sifrei Torah Fund. On a communal level he has been, for the past 3 years, financial secretary for National Council of Young Israel, serving twice as both dinner chairman and convention chairman for National Council. Danny Hiller is also presently a member of Queens Cabinet for United Jewish Appeal and member of the Board of Yeshiva of Central Queens.

Natalie Hiller, who for 2 years served as co-president of Sisterhood, is this year flying solo as president of the Young Israel of Hillcrest Sisterhood. She has given her splendid talents to the beautification of the synagogue, both physically and spiritually. Her innovative programming and inspirational leadership have been evident in the wonderful success enjoyed by Sisterhood. Amazingly, Natalie has never sacrificed her role as a loving and supportive mother and wife.

Mr. Speaker, I ask that my colleagues join me in wishing Danny and Natalie Hiller many more years of happiness and success.

THE SMOKING AND HEALTH ADVERTISING ACT OF 1989

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, I am today reintroducing legislation to add to the vigor of the campaign to educate the public about the hazardous effects of cigarette smoking. "The Smoking and Health Advertising Act of 1989" would require tobacco companies to spend an amount equal or greater to 5 percent of their advertising and promotional budget on public health messages detailing the hazardous effects of smoking.

Specifically, this bill amends the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to the sales of tobacco products unless the taxpayer—the tobacco companies—pays for the specified amount of advertising on the health effects of smoking. All advertisements would be prepared by, or approved by the Secretary of Health and Human Services [HHS] so as to assure their quality.

I strongly believe that this legislation is a fair way to ensure that critical funding is provided for public health advertising without increasing our huge Federal deficit. To those of my colleagues who may question this approach, let me remind you that requiring the tobacco industry to sponsor health messages is not a new concept. Since 1965, Congress has enacted legislation requiring the tobacco industry to print health warnings on cigarette packs and advertisements. And in 1984, Congress enacted the Comprehensive Smoking Act, which requires cigarette companies to print detailed descriptions—on cigarette packs and advertisements—of the hazardous effects of smoking.

It is critical that we take these measures now to strengthen the public health campaign on smoking. According to the Surgeon General, 350,000 people die of smoking related illnesses each year. The tragedy is these premature deaths could be prevented. Despite overwhelming evidence that cigarette smoking is a grave health hazard, people continue to smoke and young children continue to initiate the deadly habit. No other product in the United States is harmful when used properly.

Encouraging new smokers, especially children, women, and minorities, has become increasingly important for the tobacco industry as more and more smokers either quit, or die of smoking related causes. Roughly 2.5 million Americans must start smoking each year to maintain the size of the smoking population.

Unfortunately, the decision to smoke is usually made at an age when peer pressure eclipses rational, educated decision making. Studies show that 22 percent of all smokers start smoking before they are 9 years old, 60 percent before they are 14 years old, and 90 percent begin to smoke before the age of 21. Though a variety of psychological and sociological factors may influence an individual's decision to smoke, there can be no doubt that the highly visible advertising and promotional campaigns launched by the tobacco industry influence prospective smokers—particularly our young people.

Cigarettes are one of the Nation's most heavily advertised consumer products. In addition to purchasing ads in magazines, newspapers, and on billboards, cigarette companies vie for the public's attention by sponsoring entertainment, cultural, and sporting events.

While the public is bombarded with this prosmoking campaign, antismoking and public health messages are virtually invisible. Numerous studies have indicated that counteradvertising is a highly effective way to discourage smoking; however, the resources to produce, distribute, and most importantly, purchase magazine space or television time are woefully inadequate. The approximately $5 million spent each years on counteradvertising stands in stark contrast to the roughly $2.5 billion spent annually by the tobacco industry on advertising and promotion.

The counteradvertising movement has not always been as weak and poorly financed as it now is. In 1967, the Federal Communications Commission [FCC] ruled that the "Fairness Doctrine"—which at the time was enforced and required that broadcasters afford a reasonable opportunity for the presentation of contrasting viewpoints on controversial issues of public importance—be applied to cigarette advertising on television and radio. If no other private or public source was available to finance the broadcast of opposing views the broadcaster was obliged to air those views free of charge.

A highly visible antismoking campaign was launched as a result of the FCC ruling. At its peak, the Fairness Doctrine antismoking messages received 1 minute of air time for every 3 minutes of smoking advertising. Roughly $200 million in 1970 dollars—in commercial air time was donated to the antismoking campaign.

It is estimated that during the 4 years that the Fairness Doctrine antismoking ads were aired per capita cigarette consumption declined by 10 percent. I believe that this statistic is convincing testimony to the fact that counteradvertising is effective.

Ironically, Congress may have done more harm than good for the antismoking movement when it passed the Public Health Cigarette Smoking Act of 1970, which banned cigarette advertisements from television and radio. When cigarette ads were removed from the broadcast media in 1971, the Fairness Doctrine messages disappeared with them. Shortly thereafter, per capita cigarette consumption rose for the first time in 4 years.

I strongly believe that educating America's young people about the harmful effects of cigarette smoking must be one of our top priorities. Our failure to reach American youth is evidenced by the fact that, according to studies, approximately 40 percent of high school seniors do not believe that there is a great health risk in smoking. It is clear that we must do more to convince young people that smoking can kill them.

The first step we can take is to revitalize the counteradvertising movement. The legislation I have today introduced will do that.

In addition to the "Smoking and Health Advertising Act," I am also today introducing a resolution, expressing the sense of the House of Representatives that the Federal Government should encourage both electronic and print media to air or print more antismoking advertisements as a public service.

Today, we are listening to proposals for slashing vital programs because of our burgeoning Federal debt. This legislation will help reduce the billions of dollars paid by the Federal Government to treat smoking-related illnesses. Each year over $22 billion is spent on health care for smoking related illnesses, including $4.2 billion through Medicare and Medicaid. Though these costs are staggering, they pale in comparison to the emotional price paid by the families and loved ones of the hundreds of thousands who die from smoking-related diseases each year.

It is clear that the time has come for a renewed Federal commitment to eliminating smoking in the United States. I believe the bills I have introduced will go a long way toward this goal by providing a two-tiered approach to bringing information about the hazards of smoking to the American people. We can save money, but more important—we can save lives.

I urge my colleagues to support this legislation.

H. RES. —

Resolution expressing the sense of the House of Representatives that the Federal Government should encourage both electronic and print media to air or print more antismoking ads as a public service

Whereas over 350,000 premature deaths each year are caused by tobacco-related illness;

Whereas 180,000 or more deaths in the United States each year are due to lung cancer which is far more than the number of deaths caused by AIDS or any other disease;

Whereas nonsmokers are at risk as well as smokers as shown in a report by the Surgeon General that an estimated 2,400 lung cancer deaths annually can be attributed to passive smoking;

Whereas smoking related diseases cost the United States health care system an estimated $22,000,000,000 yearly and the Federal Government pays approximately $4,200,000,000 yearly for smoking-related health care;

Whereas a smoke-free society would improve the health and environment of all Americans;

Whereas massive and readily accessible education as to the deadly effects of cigarette smoking may discourage young adults from beginning to smoke and may encourage smokers to stop; and

Whereas television, radio, and magazines are the major forms of communication nationwide: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Federal Government should strongly encourage both print and electronic media to voluntarily print or air public service messages describing the deadly effects of cigarette smoking and that such an action would be a critical step in protecting the health of all American citizens.

H.R. —

A bill to amend the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to sales of tobacco products unless the taxpayer pays for a certain amount of advertising on the health effects of smoking.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Smoking and Health Advertising Act of 1989".

SEC. 2. DISALLOWANCE OF DEDUCTION FOR ADVERTISING OR OTHER PROMOTION EXPENSES WITH RESPECT TO SALES OF TOBACCO PRODUCTS UNLESS TAXPAYER PAYS FOR A CERTAIN AMOUNT OF ADVERTISING ON THE HEALTH EFFECTS OF SMOKING.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280I. TOBACCO AND TOBACCO PRODUCT SALES PROMOTION EXPENSES.

"(a) GENERAL RULE.—Except as provided in subsection (b), no deduction shall be allowed under this chapter for any tobacco and tobacco product sale promotion expense.

"(b) EXCEPTION WHERE TAXPAYER PAYS FOR CERTAIN ADVERTISING.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any taxpayer for any taxable year if—

"(A) the amount paid or incurred by the taxpayer during the taxable year with respect to qualified health-awareness advertising, exceeds

"(B) 5 percent of the tobacco and tobacco product sale promotion expenses of the taxpayer for the taxable year.

"(2) QUALIFIED HEALTH-AWARENESS ADVERTISING.—For purposes of paragraph (1), the term 'qualified health-awareness advertising' means any advertisement which—

"(A) is for purposes of informing the public on the health effects of smoking or using smokeless tobacco products, and

"(B) is prepared by, or approved by, the Secretary of Health and Human Services, in consultation with nationally recognized cancer, heart, and lung associations.

"(c) TOBACCO AND TOBACCO PRODUCT SALE PROMOTION EXPENSE.—For purposes of this section—

"(1) IN GENERAL.—The term 'tobacco and tobacco product sale promotion expense' means any amount otherwise allowable as a deduction under this chapter with respect to—

"(A) any advertisement primarily for purposes of—

"(i) promoting the sale of tobacco and tobacco products, or

"(ii) informing or influencing the general public (or any segment thereof) with respect to tobacco and tobacco products, or

"(B) any of the following incurred or provided primarily for purposes described in subparagraph (A)—

"(i) travel expenses (including meals and lodging),

"(ii) any amount attributable to goods or services of a type generally considered to constitute entertainment, amusement, or recreation or to the use of a facility in connection with the providing of such goods or services,

"(iii) gifts, or

"(iv) other promotion expenses.

"Such term shall not include any amount paid or incurred with respect to any qualified health-awareness advertising (as defined in subsection (b)(2)).

"(2) TOBACCO AND TOBACCO PRODUCTS.—The term 'tobacco and tobacco products' means any small cigarette, large cigarette, cigar, pipe tobacco, tobacco which may be rolled into a cigarette, or smokeless tobacco product, including snuff and chewing tobacco.

"(d) REGULATIONS.—Within 90 days after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary to carry out the purpose of this section."

"(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280I. Tobacco and tobacco product sales promotions expenses."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date".

LEO SAUNDERS INSTALLED AS REALTORS PRESIDENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MILLER of California. Mr. Speaker, I know that all Members of the House will want to join me in congratulating Leo Saunders on the occasion of his installation as president of the California Association of Realtors on January 13.

In addition to being a long-time personal friend of mine and business leader in the bay area, Leo has been extremely active in wide-ranging business, civic, and public service activities for more than two decades.

Leo has been deeply involved in some of the more important issues which face the Contra Costa County community, serving on the Contra Costa Transit Authority, the county transportation committee, the water quality committee and the energy committee. He also has been a leading figure in such diverse community activities as the Little League, the Muscular Dystrophy Association, and the American Cancer Society. He also has taught at Diablo Valley College throughout the past decade.

Never reluctant to voice his views on public issues, Leo also has served as councilman and mayor of Clayton, CA, on the mayors' conference, and the Association of Bay Area Governments.

For nearly two decades, Leo Saunders has been a realtor in Walnut Creek, serving as president of the county realtors board in 1980. He instituted the first mediation program in the State, and was recognized as the Realtor of the Year in 1985. He has previously served as a director of the State association (1974–89), and as regional vice president in 1983.

As president of the California Association of Realtors, Leo will head a 125,000 member trade organization, the largest in the State, and will also serve as the chair of the political affairs committee of the National Association of Realtors.

In addition to these many professional and community activities, I also want to note Leo's willingness to serve as an informal advisor to me on many of the complicated issues facing the housing and development business in our State and nationally. I am grateful to him for his advice and counsel, and am deeply impressed by his extraordinary commitment to the quality of life of our community.

Mr. Speaker, I know that you and the Members of the U.S. House of Representatives join me in congratulating Leo Saunders as he assumes the responsibilities of president of the California Realtors Association, and in wishing him great success during his tenure in that position.

THE FEDERAL MILK MARKETING ORDER REFORM ACT OF 1989

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. ROTH. Mr. Speaker, later this month I will introduce legislation to overhaul the Federal milk marketing order system. If we are serious about reducing Federal farm outlays, restoring market competition and ensuring equality of prices for all farmers then we will seriously consider my legislation to reduce the artificial barriers created by the milk marketing order system.

Today, dairy farmers in traditional dairy producing States like Minnesota and Wisconsin receive the lowest prices for their milk in the Nation while those in the South and Southwest get the highest prices. In fact, the gap in prices was further widened in 1985 with the mandated increase in the "Class I" differentials.

Milk marketing orders were established in 1933 to safeguard dairy farmers and consumers from great swings in milk supplies and prices. This was a good approach in 1933 since milk was an extremely perishable, bulky commodity and refrigeration and other preservation technologies were primitive.

In 1989, however, 44 national milk marketing orders provide for cumbersome bureaucracy, unrepresentative transportation allowances and a generally antiquated system that costs the U.S. taxpayer an estimated $800 million a year in waste and income transfer.

Last March, the Government Accounting Office released its findings on the state of the dairy industry. The GAO report concluded that the milk marketing order system is outdated and should be reformed.

In July, the USDA also released its report on the Federal order system. The report concluded that the system could be modified so that it is more competitive and redistributes producer revenues more evenly among the regions. In addition, the report stated that more efficient shipping patterns could be generated and interregional marketing costs reduced.

The normal economic factors of supply and demand play a minimal role in the price farmers receive for their milk. The price per hundredweight is virtually the same throughout the 44 nationwide milk marketing orders, how-

ever, a substantial transportation cost is factored into the price. This difference is the result of an antiquated formula based on the cost of transporting fluid milk from Eau Claire, WI. Thus, marketing orders for regions located farthest from the base point in Eau Claire claim the highest prices.

As a first step toward eliminating the inadequacies of the milk marketing order system, I plan to introduce legislation to repeal the 1985 increases in the class I differentials that have caused such large price variances. My bill will also require the USDA to site an additional four to eight basing points throughout the country. The new basing points will be in areas of the country which have a surplus of milk and can readily meet the needs of deficit areas.

Ideally, I would like to see the price of milk left up to the market forces within the various regions and restrictions lifted on the transportation of milk in any form between the regions. However, changes to the Federal order system will take time. In the meantime, I believe that my proposal offers a rational first step toward addressing a major inadequacy in our Nation's dairy policy—discrimination against traditional dairy producing areas.

The 1985 increases in class I differentials were not based on economics, but politics. At a time when efforts were under way to lower milk production nationwide, several regions received financial incentives to produce more milk. These unfair price increases have directly lead to an explosive expansion of milk production in the South and Southwest. In fact, the Ireland-based Masstock company has targeted Georgia to build a 6,000-cow dairy operation complete with a series of processing plants to market the milk.

The development of additional basing points similar to Eau Claire, WI, will help eliminate price discrepancies between the orders and bring an element of fairness back into the system. The price of milk would be determined as it is now; however, the differentials would be scaled back to reflect the actual costs of producing and transporting milk from the new basing point. Rather than single out Minnesota and Wisconsin, my plan recognizes that there are other areas in the United States with high concentrations of milk production which can readily meet any deficit needs of the Southern States.

It is time that we in Congress set aside our regional differences and bring an element of stability back to the dairy industry. A streamlined milk marketing system is long overdue and I urge my colleagues to support my proposal to bring competition and fairness back into the Federal milk marketing order system.

NATIONAL DEVELOPMENT INVESTMENT ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. OBERSTAR. Mr. Speaker, today I join with my colleagues, the gentleman from New York [Mr. NOWAK] and the gentleman from Pennsylvania [Mr. CLINGER] in introducing the National Development Investment Act and extension of the programs of the Appalachian Regional Commission. The bill, which extends and modifies the programs under the Economic Development Administration, and continues the ARC programs, is very similar to H.R. 2686 which passed the House on August 6, 1987.

This is the fifth consecutive Congress in which we have introduced this legislation, Each time it has passed with overwhelming bipartisan support—most recently by a margin of 330 to 89 in the 100th Congress. The Senate has never acted on the bill, although we hope that this year will prove the exception.

We introduce the bill today to emphasize our concern for those areas of the country, such as my own district in northeastern Minnesota, which have not fully benefited from the current, favorable economy, and will need continued assistance as they try to diversify their economies and rejoin the Nation's mainstream.

This is not a jobs bill. It is not a short-term or miracle cure for those areas. It is a program for stable, long-term sustained growth and permanent, private sector job creation in the Nation's most economically distressed areas.

It will lay the groundwork for recovery at the local level. Our country's economic strength has always been measured by the soundness of the sum of its parts. This bill addresses the most distressed of those parts, our hardest pressed communities.

Title I of this bill, the National Development Investment Act, would establish a successor agency of the Economic Development Administration [EDA]. The programs are simliar to those under EDA: grants for public capital facilities, loans to small businesess, and technical assistance and planning grants. EDA-eligible recipients: States, economic development districts, units of local government, and Indian tribes, would remain eligible for assistance under the new act. In addition, the new bill also would reach, for the first time, pockets of distress in otherwise prosperous areas.

But we have made changes in EDA's current programs, looking toward the challenges of the 1990's and to institute improvements based on our three decades of experience writing economic development legislation.

First, we tightened the eligibility requirements. But limiting eligibility to areas with unemployment rates 1 percent or more above the national level over the past 2 years, and to areas with a per capita income of 80 percent or less of the national average, we were able to confine eligibility to truly distressed areas.

Of course, areas whose major employer has closed or is about to close its doors, or which are stricken with other sudden and severe economic dislocations, would remain eligible.

We also changed eligibility procedures. Previously, once an area was designated as distressed, it remained permanently eligible for assistance. Under the new legislation, an area must demonstrate distress with every application.

Third, we adapted the application procedures to reflect the real process of economic development. Applicants must, prior to receiving a grant, draw up a comprehensive development investment strategy into which the applied-for project must fit. Gone is the projects-for-projects'-sake approach of the past. Each project would, under our legislation, have to be integrally linked to the area's overall economic problems, and contribute to a comprehensive solution to those problems.

Under the new bill, the Federal matching share would be limited to 50 percent of the project cost, and there would have to be major involvement by the private sector.

The bill includes grants for revolving loan funds, to be administered locally, to make loans to small businesses.

Grants would be limited to $2 million per year for each applicant, with a $1 million per application limit for revolving loan funds.

Our legislation authorizes $250 million for development facilities grants, and $75 million for planning, for fiscal year 1990, and such sums as may be necessary for the outyears. It is a 3-year bill.

Title II would continue the programs established under the Appalachian Regional Development Act of 1965, and administered by the Appalachian Regional Commission. It will sustain economic recovery in a major region of America which, like northeastern Minnesota, has not kept pace with the progress of the other parts of this country.

The bill authorizes $39.2 million for economic enhancement grants, and $79.5 million for the highway program, in fiscal year 1990, and such sums as may be necessary for the following 2 years. The non-Federal share is increased to 50 percent for the nonhighway program.

Mr. Speaker, this legislation focuses on the economic development needs of the 1980's and 1990's—on private sector jobs; on small business, which studies have shown to be the major source of jobs; and on repair and rehabilitation of the Nation's deteriorating infrastructure, as well as on construction of new buildings and other public facilities that may be required.

It is a good bill, a sound bill, and a much-needed bill that concentrates assistance on the economic problems of those remaining distressed areas of the country which genuinely need outside assistance.

We would like to add here a brief summary of the bill.

THE NATIONAL DEVELOPMENT INVESTMENT SUMMARY

ELIGIBILITY CRITERIA

Three distress criteria to determine eligibility:

(1) Unemployment: 1% above national average, previous 24 months.

(2) Per capita income: 80% of national average, using latest available statistics.

(3) Anticipated sudden rise in unemployment: imminent plant closing, military base loss, etc.

Only one of the above required to qualify.

Eligibility and grandfathering in current EDA law repealed.

DEVELOPMENT INVESTMENT STRATEGY

Cities and counties under 50,000: work with Economic Development District or state economic development agency to devise investment strategy.

Cities and counties over 50,000 or pockets of distress within city: do their own planning.

Strategy, in 20 pages or less, includes:

Inventory of community's resources, industries, businesses;

Infrastructure available and needed;

Workforce: skills available;

Land availability;

A showing that nonfederal 50% matching funds are available;

A showing that private sector is willing to invest;

Description of industry/business to be created or expanded;

Description of specific ventures to be funded, e.g.; Revolving loan fund, Employee Stock Ownership Plan, Grant for infrastructure.

FUNDING

Strategy Implementation: authorizes $250 million annually for 3 fiscal years.

Planning and Strategy Department: authorizes $75 million annually for 3 fiscal years.

These are grant, not loan, funds.

APPLICATION PROCEDURE

Submitted to Secretary of Commerce.

Secretary reviews application to determine that: it meets distress criteria; the strategy has a good chance of working.

Secretary approves/rejects project.

Best strategies are to be approved—those with best chance for success.

LIMITATIONS

$2 million limit of federal funds per strategy: Revolving Loan Fund limited to $1 million.

Subsequent applications must requalify on new showing of distress.

UNITED STATES-ISRAELI FREE TRADE AGREEMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues some recent correspondence I had with the Department of State and the Office of the U.S. Trade Representative [USTR] regarding allegations the Free Trade Agreement [FTA] had failed to eliminate significant Israeli import barriers against United States goods and that U.S. exporters had not benefited from the FTA.

The replies from the State Department and the USTR provide different perspectives on the FTA but both put criticisms of the FTA into proper context and provide useful information about the FTA and some of its promises as well as problems and challenges.

Attached are a November 22, 1988, Financial Times article on the FTA, my letters to the Department of State and USTR of November 29 and the December 14 USTR reply and the December 21 State Department reply:

[From the Financial Times, Nov. 22, 1988]

UNITED STATES TACKLES WEB OF ISRAELI TRADE BARRIERS

(By Andrew Whitley)

The shock and disbelief among US officials could not have been greater if the altar boy had been caught stealing from the collection after Sunday service.

The offending Israeli document on the table itemising those local goods exempted from purchase tax, to the disadvantage of manufactured imports, ran to 64 pages of single-spaced text. Their value exceeded $1bn. "The Annexe III exemptions were so egregious that they had nothing to say," commented one outraged US participant in a recent round of negotiations in Washington.

Those talks, aimed at thrashing out a long list of US grievances over the way their three-year-old Free Trade Agreement (FTA) with Israel was working, almost broke down on a number of occasions.

Earlier this month the weary negotiators finally initialled a document settling three of the most blatant examples of alleged Israeli "cheating": the purchase tax exemption, an import levy known as Tama, and a ban on the import of US plywood. The first two will be phased out over the next six years, a timetable dictated by the need to comply with the FTA's 1995 deadline for the abolition of all barriers to bilateral trade, while modest quantities of plywood will be allowed in over the coming years under a quota system.

INDUSTRIAL EXPORTS TO ISRAEL

[In millions of dollars]

	1980	1986
Telecoms equipment:		
United States	1.5	3.5
European Community	0.4	21
Refrigeration equipment:		
United States	5	3.9
European Community	4.6	13.5
Tyres:		
United States	0.8	0.9
European Community	1.9	13.3

Source: U.S. Department of Commerce.

A formidable web of discriminatory non-tariff barriers, harder to tackle because of their vague application, remains to be settled.

Among the weapons at the disposal of protectionist-minded local officials are licensing and standards regulations and an ad hoc customs "uplift" which arbitrarily raises the cost of an imported item for valuation purposes. Significantly, Israel has yet to sign the latest General Agreement on Tariffs and Trade convention on customs valuation practices.

On the question of standards, US officials say they have encountered over a hundred instances of so-called voluntary standards being applied to imports as mandatory, while local manufacturers are subject to much less stringent requirements.

As for the task of extracting an import licence from the labyrinthine Israeli bureaucracy, one European diplomat sourly described the process as "more of an art than a science." It was evident from the start that the FTA with Israel was more of a political gift to a close US ally than a genuine attempt to promote the balanced growth of two-way trade.

But what has upset the Special Trade Representative's office lately is the way in which Israeli exporters are clearly benefitting much more than their US counterparts.

While US imports of Israeli goods have climbed by over half to $2.6bn since the agreement was negotiated in 1984, its exports to Israel last year are up by barely 7 per cent over the same period. At the same time, the US share of the Israeli market has declined significantly compared with that of its main competitor, the European Community.

Between 1985 and 1987 the US market presence went down from 20.2 per cent to 16.2 per cent, while that of West European companies rose from 45.5 per cent to 53.2 per cent. Preliminary figures for 1988 show that the deterioration has continued. Although the poor performance can be explained in part by foreign exchange fluctuations, following the appreciation of European currencies against the US dollar, so far there has been no US export improvement in volume terms, as might have been expected from the devaluation.

"I am really puzzled why the J-curve effect hasn't benefited us yet," said a US trade official. As at next January, EC exports to Israel will be given a further boost by the elimination of all duties on industrial goods; provided, that is, additional hidden import barriers are not erected in compensation for the reductions.

"We cannot accept Israeli (non-tariff) adjustments which cancel out the benefits we gain under our accord," warned Mr. Gwyn Morgan, the European Community's ambassador to Israel. The EC has been asked to accept the same phasing out period for offending import barriers as the US has just negotiated, but is expected to press instead for an earlier deadline, of 1992.

Caught unprepared over these alleged breaches in both the letter and spirit of the FTA often upheld by the outgoing Shamir Government as a shining example of the close ties between Israel and the US officials in Jerusalem were reluctant this week to discuss either the Washington negotiations or the general health of the trade pact.

"I have nothing to gain from talking to you," was the only comment of Mr. Marcel Shanton, one of the Industry and Trade Minister's negotiators. Mr. Max Livnat, director of foreign trade, confined himself to noting that at least Israel had been able to win a breathing space in which gradually to demolish the Tama tax.

In their more expansive free-thinking moods, Israeli officials like to talk of the FTA with the US and their separate trade liberalism agreement with the Community, which dates back to 1975, as interlinked bridges. By setting up in Israel, multinationals could profit from the tariff reductions enjoyed in both directions, they say. A US subsidiary could, for example, use its Israel base to export components or finished goods to the large Community market.

In practice, though, the dream remains a long way from being realised. Few US companies have taken advantage of the offer. And those that have, like Intel, the microchip manufacturer, complain loudly about the way in which the rules of the game have been changed since their arrival. Setting aside those Israelis who carry dual US/Israeli citizenship, there is not one expatriate American manager resident in Israel.

ONE HUNDREDTH CONGRESS, CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 29, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: I write regarding the three-year-old Free Trade Agreement (FTA) between the United States and the Government of Israel.

Specifically, I am concerned about recent reports that the FTA has failed to eliminate significant Israeli import barriers against

U.S. goods and that U.S. exporters have not benefited from the FTA.

I would appreciate your comments on the following allegations:

Since the FTA came into effect, U.S. imports of Israeli goods have doubled, but U.S. exports have increased by less than 7%;

Between 1985–1987, the U.S. presence in the Israeli market fell from 20.1% to 16.2%, while the EC presence rose from 45.5% to 53.2%;

Israel continues to impose a series of non-tariff barriers, including discriminatory licensing and standards regulations, against U.S. imports;

I am interested in knowing if these conclusions are accurate and, if so, what specific steps the United States is taking or plans to take to remedy this situation.

I appreciate your prompt consideration of this matter. I look forward to hearing from you.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

ONE HUNDREDTH CONGRESS, CONGRESS OF THE UNITED STATES, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES,
Washington, DC, November 29, 1988.

Hon. CLAYTON YEUTTER,
U.S. Trade Representative, Office of the U.S. Trade Representative, Washington, DC.

DEAR MR. AMBASSADOR: I write regarding the three-year-old Free Trade Agreement (FTA) between the United States and the Government of Israel.

Specifically, I am concerned about recent reports that the FTA has failed to eliminate significant Israeli import barriers against U.S. goods and that U.S. exporters have not benefited from the FTA.

I would appreciate your comments on the following allegations:

Since the FTA came into effect, U.S. imports of Israeli goods have doubled, but U.S. exports have increased by less than 7%;

Between 1985–1987, the U.S. presence in the Israeli market fell from 20.1% to 16.2%, while the EC presence rose from 45.5% to 53.2%;

Israel continues to impose a series of non-tariff barriers, including discriminatory licensing and standards regulations, against U.S. imports;

I am interested in knowing if these conclusions are accurate and, if so, what specific steps the United States is taking or plans to take to remedy this situation.

I appreciate your prompt consideration of this matter. I look forward to hearing from you.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, December 21, 1988.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: I am responding to your letter of November 29, expressing concern about the Free Trade Area Agreement (FTA) between the United States and Israel.

First I would like to respond to the specific points in your letter and then provide a context in which they may be better understood.

Since the FTA entered into force in 1985, U.S. imports of Israeli goods increased from $2.186 billion to $2.753 billion in 1987, or 28%. Exports from the United States to Israel increased over the same period from $1.679 billion to $1.932 billion, or 15%.

As you cited, between 1985–1987, in current dollar terms, the U.S. presence in the Israeli market fell from 20.1% to 16.2% while the EC presence rose from 45.5% to 53.2%. The increase of the EC market share is overstated in volume terms because part of the increased market share reflects the increased *price* but not *volume* of European goods as the value of the dollar fell 33% from 1985 to 1987.

U.S. exporters are indeed confronted with complex and sometimes arbitrarily applied non-tariff barriers that have sometimes prevented them from enjoying all the benefits anticipated under the FTA.

One reason the United States has not benefited more from the FTA is that the United States is the second party to have a free trade arrangement with Israel. The European Community (EC) has had a free trade arrangement with Israel covering industrial goods since 1975. Duty reductions were phased-in and EC industrial goods will enter Israel duty free as of January 1, 1989. Under the U.S.-Israel FTA, concluded 10 years after the EC accord, duties on all products will be phased out by January 1, 1995. Until then, certain U.S. goods will continue to be at a comparative disadvantage with similar EC goods.

On the other hand, we routinely monitor compliance and have consistently sought to ensure that the Government of Israel fully meets its obligations under the FTA. To this end we now meet with our Israeli counterparts twice a year, in a delegation led by the United States Trade Representative. In these meetings, and in frequent informal contacts between our governments, we discuss concerns such as those raised in your letter and to resolve specific problems we each face in implementing the letter and spirit of the FTA. Most recently in November, we reached *ad referendum* agreements to end the discriminatory application of certain Israeli taxes. We also pursued U.S. compliants about the arbitrary lack of or delayed issuance of import licenses and the discriminatory application of certain standards regulations.

I hope this answers your questions. Should you wish further information about this issue, I shall be happy to provide same.

With best wishes,

Sincerely,

J. EDWARD FOX,
Assistant Secretary, Legislative Affairs.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, December 14, 1988.

Hon. LEE H. HAMILTON,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HAMILTON: Thank you for your letter of November 29 regarding bilateral trade performance under the U.S.-Israel Free Trade Area (FTA) Agreement and Israel's trade policies and their effect on the FTA.

Many of the assertions made in your letter about Israeli trade practices are correct and have been the subject of a series of intensive consultations and negotiations over the past seven months. Before addressing the results of these negotiations, however, it may be helpful to briefly describe the nature of the FTA and our trade performance under it.

The U.S.-Israel FTA, which became effective in September 1985, provides for the gradual elimination of all customs duties by January 1, 1995. Some duties were eliminated immediately, others phased out over a longer period of time. All duties, however, will be eliminated by 1995. As a result of the gradual approach adopted for implementing the agreement, it was expected that trade would increase slowly at first as exporters and importers became aware and took advantage of the new benefits of the FTA.

It is true that imports from Israel have increased more rapidly than U.S. exports to Israel, at least at first, but the Israeli advantage has been by far less than that stated in your letter. Over the three year period 1985 through 1987, imports from Israel did not double but increased by 25 percent, while U.S. exports increased just 7 percent. However, U.S. exports to Israel have jumped markedly during the first nine months of 1988, an increase of 26 percent over the same period of 1987, compared to a 12 percent increase in imports from Israel over this period. If one examines trade performance under the FTA from 1985 through an annualized 1988, imports from Israel are found to have increased 36 percent, while U.S. exports to Israel have gone up 34 percent over this period.

More troubling is the fact that the U.S. presence in the Israeli market fell from 20 percent in 1985 to 16 percent in 1987, while the EC presence in Israel rose from 45 percent to 53 percent. This may be reversing itself in 1988, given the large increase in U.S. exports, but data for 1988 are not yet available. A number of macro-economic factors may be responsible for the developments in the previous years that are unrelated to the FTA. One possible related development is that the EC and Israel also have a free trade agreement that went into effect in 1975 and will reach full implementation in 1989. This "head start" in the phase out of customs duties has given the EC advantages in the Israeli market that can only be overcome with time as duties facing U.S. products are phased out.

One way to maximize U.S. exports to Israel is to be constantly vigilant for and attack any non-tariff barriers Israel may attempt to maintain. As your letter correctly notes, the Israelis have been quietly maintaining a number of such practices. When we discovered these barriers early in 1988, we immediately demanded consultations with the Israeli Government and warned that we would take appropriate countermeasures if satisfactory results were not achieved. Through a series of negotiations, the Israelis have agreed to make significant modifications in these practices. Careful monitoring of the implementation of these agreements will not be required to ensure full compliance with their terms.

I am enclosing a summary of these recent agreements. If you would like further information, please feel free to contact Joe Papovich of my staff at 395-3211.

Sincerely,

CLAYTON YEUTTER.

SUMMARY OF RECENT TRADE AGREEMENTS WITH ISRAEL

Purchase Tax Exemptions: The Israelis have been discriminating between domestic producers and importers in the application of their purchase tax (a form of luxury tax)

by exempting domestic Israeli producers from the tax if it was paid by these producers on any raw material input. Since the same opportunity for an exemption does not exist for importers, this gave domestic producers a significant cost advantage. The Israelis have now agreed to eliminate the exemption by either eliminating the purchase tax on products where such discrimination exists or by imposing a purchase tax on domestic products at a rate equal to that applied to like imported products.

TAMA: Agreement has also been achieved on a customs' process known as the TAMA, which is an estimated uplift used by the Israelis to equate import values, for purposes of collecting the purchase tax, with goods sold in Israel at the wholesale level. Israel collects the purchase tax at the wholesale level, yet collects the tax on imports as they pass through customs and on domestically manufactured goods as they leave the plant. Domestic Israeli producers are permitted to declare the mark-up that applies to the goods from the factory to the point of the wholesale transaction, while imports are subjected to the arbitrary uplift in valuation known as the TAMA. We had been concerned that steadily increasing TAMA rates, which are calculated nontransparently, may have been offsetting duty reductions achieved under the FTA.

The Israelis have agreed to progressively phase out the TAMA by 1995 and in the interim to allow registered importers, starting January 1, 1989, the option of either 1) declaring the actual mark-up between importation and sale at the wholesale level (in the same manner as followed by Israeli domestic producers) or 2) using the TAMA rate. Thus full national treatment is achieved immediately for goods imported by registered importers. After 1995, the TAMA will not be utilized in any way on goods entered by registered importers.

Licensing: Rather than according the U.S. the special liberalized licensing benefits agreed upon under the FTA, the Israelis in certain instances were requiring American goods to meet the more stringent licensing requirements imposed on goods from third countries. The Israeli Government agreed to conform to their earlier commitments under the FTA wherever this was not occurring. They also agreed to issue a special directive to all Israeli Ministry of Industry and Trade licensing officers listing all U.S. products to be accorded special licensing status and the procedures to be used in handling applications for their importation.

Standards: The U.S. and Israel agreed that all prevailing standards in Israel will be imposed equally on U.S. and Israeli goods. There will thus be national treatment for U.S. goods. Furthermore, we had discovered that certain voluntary Israeli standards were being applied in a mandatory fashion on imports. To remove the possibility of this occurring in the future, Israel agreed to convert, over the next 24 months, all voluntary standards imposed on imports to mandatory standards.

Plywood: The FTA gives Israel the right to maintain a quantitative restriction on imports of American plywood, but the Israelis had never declared the quota level and had been issuing very few import licenses. We have been insisting on a reasonable, known quota. During these consultations, the Israelis agreed to provide a quota of 2,000 cubic meters for 1989, growing 17 percent annually to 5,000 cubic meters by 1995, with 10 percent annual growth thereafter.

A BILL TO ESTABLISH PUBLIC FINANCING OF GENERAL ELECTION CAMPAIGNS FOR THE HOUSE OF REPRESENTATIVES

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BEILENSON. Mr. Speaker, I am introducing a bill today to finance general election campaigns for the U.S. House of Representatives with public funds, in the same manner as general election campaigns for the Presidency have been funded for the last four presidential elections. This bill is virtually identical to the public financing bills that I sponsored—along with about two dozen of our colleagues—in each of the last two Congresses.

This bill would entitle each major-party House candidate to a grant of $200,000 in Federal funds to spend on his or her general election campaign, in exchange for limiting campaign expenditures to that amount. By doing so, it would assure House candidates a sufficient amount of funds to wage a viable campaign without having to appeal to and depend upon special-interest contributors.

This bill addresses the most disturbing problems with our existing congressional campaign finance system: the growing reliance on contributions from special-interest political action committees [PAC's], excessive campaign spending, the enormous amount of time and effort lawmakers spend raising campaign funds, and the advantages of incumbency in raising those funds.

In the 1986 elections, 323 House Members received more than $100,000 in PAC money for their reelection campaigns; 130 Members received at least $200,000 in PAC funds, compared to only three who received that much 6 years earlier. Campaign expenditure figures for the 1988 elections are expected to show similar, if not greater, use of PAC funds to finance congressional campaigns.

During the last decade, spending on congressional campaigns has increased fivefold. The more PAC's contribute to campaigns, the higher the spending rises. The higher campaign spending rises, the more candidates turn to PAC's for contributions. We cannot break this pattern of higher spending and increased reliance on PAC money without substituting public funds for private, special-interest funds.

Our campaign finance system has also created a distinct advantage for incumbents in our electoral process. In the 1986 elections, PAC's gave six times as much money to incumbents as to challengers. That year, incumbents were able to outspend their challengers by an average of 3 to 1; not surprisingly, incumbents had a reelection rate of 98 percent. Campaign expenditure figures for the 1988 elections, where 99 percent of incumbents seeking reelection were reelected, are expected to show even greater imbalances in spending levels of incumbents and challengers.

The more candidates rely on PAC money to fund their campaigns, the more indebted they become to the special-interest groups represented by the PAC's. This indebtedness shows up both in obvious ways, such as the outcome of a vote on a matter which has been heavily lobbied by an interest group which has donated large sums money to congressional campaigns—and in more subtle ways, such as Members' decisions about whose phone calls to return. The overall effect is that lawmakers are increasingly paying more attention to the views and desires of Washington-based representatives of interest groups, and less to ordinary constituents whom we are elected to represent.

As a result, our citizens are losing confidence in their elected officials and in the integrity of our electoral system; they are becoming increasingly cynical about the democratic political process. Providing congressional candidates with public funds with which to run their campaigns would help infuse Americans with a new sense of confidence in their elected representatives and in the electoral process.

This bill, which is modeled on the successful public financing system we have had for the last four Presidential elections, would provide each major-party candidate who has an opponent with $200,000 for his or her campaign expenses in general, special, or runoff elections. A candidate who accepts the funding would then be limited to spending only that amount on his general election campaign. He could not accept any funds from PAC's or from individuals, nor could he use any of his own money. The $200,000 grant and spending limit would be indexed to the cost of living and thus would probably increase a modest amount with each election cycle.

Minor-party and new-party candidates would also be eligible for Federal funds, but in lesser amounts. The amounts would be based on the same formula as that used in the Presidential system: minor-party candidates would receive an amount proportionate to the vote they received in relationship to the major-party candidates in prior elections; new-party candidates would be eligible for funding retroactively if they received at least 5 percent of the vote.

A candidate could opt to decline the public financing and, instead, raise and spend any amount of money. However, for every dollar he raises, incurs, or spends above $200,000, his opponent would receive $1 in Federal funds. Thus, no matter how much money he spends on his campaign, his opponent could spend an identical amount. That way, there would be no advantage for a candidate who is able to raise a great deal of money privately to do so rather than accept the funding and limits proposed in this bill.

In order to ensure that a publicly financed candidate has at his disposal the same amount of funding as his privately financed opponent, privately financed candidates would be required to file reports of receipts and expenditures at frequent intervals during the campaign—monthly up to 60 days before the election, weekly from 59 to 11 days prior to the election, and daily during the 10 days preceding the election.

Funding for House campaigns would be provided through the taxpayer check-off on Federal income tax return forms that is now used to direct revenue to the Presidential Election Campaign Fund. If there were two

major-party candidates in every congressional district, and each spent his entire $200,000 entitlement, Federal funding would amount to $175 million each election cycle, or $87.5 million on an annual basis. However, the exact cost in any election cycle would depend on how many candidates are unopposed—and therefore ineligible for funds—how many choose private financing, how many spend less than their allotment, and how many minor-party and new-party candidates become eligible for funds.

This bill covers general elections only; campaigns for primary elections would continue to be financed privately. A candidate who chose public financing could not spend unused primary funds during his general election campaign.

Finally, I would like to briefly respond to two perennial arguments against public financing: that public financing favors incumbents, and that it costs too much.

The incumbent-advantage argument is that if challengers and incumbents are held to the same level of funding, the incumbent will have a built-in advantage because the incumbent already has name recognition. There may well be a handful of races in which a challenger is hampered by not being able to spend more than the incumbent, but, by and large, challengers in fact do not raise more than incumbents under our current system; as noted above, the average incumbent now outspends his opponent by 3 to 1.

Our PAC-dominated system has proved to be a greater barrier to challengers than any form of public financing could ever be. As mentioned above, 98 percent and 99 percent of House incumbents who sought reelection in 1986 and 1988 respectively were successful—in large part because PAC's gave six times as much money to incumbents as to their challengers. Except in very unusual cases, public financing would benefit, rather than hamper, challengers.

The cost of public financing is also a common argument against it, especially at a time when huge, recurring Federal budget deficits are forcing us to pare spending wherever possible. But the truth is that one major reason why we are not doing an adequate job of controlling the Federal budget is that Congress won't vote to cut the programs or tax breaks that are designed to benefit the same special-interest groups that are financing congressional campaigns. In my opinion, $87.5 million—the approximate annual cost of this bill—is a small price to pay for a House of Representatives that is not indebted to special-interest groups.

Mr. Speaker, the congressional campaign finance system badly needs an overhaul. Full public funding, which has been tested in our Presidential elections, would vastly increase public confidence in the electoral process and in elected House Members. I urge our colleagues to join in support of it.

PEACE AND THE SUPERPOWERS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BENNETT. Mr. Speaker, I had the great pleasure of meeting Patrick O'Kane of Coventry when I attended a moral re-armament meeting in London a few weeks ago. Active in political affairs in the United Kingdom he speaks and writes with clarity and to the point. I place in the RECORD an article he wrote "Peace and the Superpowers," published in the Industrial Pioneer and another published in the Pioneer which is entitled: "Where Once Was Right and Wrong, We Now Have Right and Left."

PEACE AND THE SUPERPOWERS

With clarity and courage Neil Kinnock's speech to the Labour Party Conference drew the real battlelines we face. He moved the emphasis from policies to principles, from right against left to right against wrong. His conclusion was that the battle is against evil. The trade unions and the Labour Party were born to tackle the evils in a system that saw people as mere commodities. They are needed today as much as ever, but something else needs to be faced squarely if we are to hold the Labour Movement together.

There is the Capitalism of Economics and there is the Capitalism of Power. The latter goes on as much in the trades unions and Labour Party as it does in the board rooms of the City of London. But it is a more insidious kind of capitalism. It takes the loyalty of the workers, the needs of the unemployed and the fears of the minorities not in order to lift them up and give them dignity, but to use them as pawns in a political power game.

Is this the destiny of the Labour Movement, one class fighting the other? This was not Keir Hardie's dream nor that of the founding fathers of the Movement. Their goal was not the fighting of the class war but the ending of it. That is still the destiny of Labour, a moral crusade to end evil.

The greatest threat hanging over us all is nuclear annihilation. Millions march for peace because they fear the bomb. Millions of others fear being defenceless and put their security in the bomb. Fear is running the world, destroying hope for the future. What is Britain's contribution to world peace?

Britain started the Industrial Revolution and produced Adam Smith, who gave us Capitalism, which is now the philosophy of America. As a militant reaction to this, Karl Marx wrote his thesis on Communism in London from the evidence he got from Engels, whose father owned a factory in Manchester. This is now the philosophy of the Soviet Union. These superpowers have huge nuclear arsenals, so the class war becomes the nuclear war.

It is Britain's task to demonstrate that the country which created the philosophies which divide the world, can provide a philosophy which can unite and save the world from itself?

Can those who proclaim peace and an end to war become peacemakers? Can we turn our factories from battlegrounds of confrontation into laboratories for finding concensus on the principle of 'not who is right but what is right'? Can we bring peace to our multicultural cities, so that they can be a microcosm of the global village—peoples of every race, colour and creed sharing, and learning how to live the secret of 'unity in diversity'?

Can we bring peace into our homes so that our family life becomes a source of strength in society? Can we find peace in our own hearts to give inspired leadership despite the chaos around us?

Could it be that with nuclear oblivion hanging over us, we can find the courage and vision to look up out of our entrenched viewpoints to find the one thing that Britian can give the world which will save it: the answer to confrontation and class war? It will take the commitment of us all, but can Labour lead the way?

A Britian at peace with itself will be a peacemaker among the nations.

WHERE ONCE WAS RIGHT AND WRONG, WE NOW HAVE RIGHT AND LEFT

Morality, values, right and wrong, are starting to become, if not fashionable, then certainly topical. The response often thrown at people who do take a stand on moral principles is that they wish to return to "Victorian values." This implies that morality equals "Victorian values," and therefore has something to do with the great economic evils of those days, i.e. that morality was a tool of the rich to hold down the poor.

It is certainly true that many proclaiming Christians did very little to help the poor and were often involved in increasing their misery. It took William Wilberforce 20 years to get the Bill for the abolition of the slave trade through Parliament. Admiral Lord St. Vincent argued that, "The whole of society would go to pieces if the wedge of abstract right were once to enter into any part of it." The Earl of Abingdon said, "Humanity is a private feeling and not a public principle to act upon." Time and again Wilberforce was thwarted by economic interests which overrode the consciences of professing Christians.

Lord Shaftesbury, who was known as the people's Earl, spent a lifetime reforming and improving the conditions of the industrial revolution, which included children as young as four and five working down pits, in the mills and going up chimneys as sweeps. He met sustained resistance from nearly all quarters of the Establishment, who were convinced that the only safety in economic affairs lay in giving capital free play, whatever the results in the lives of men, women and children.

Wilberforce and Shaftesbury achieved so much because they believed that what was morally wrong could never be politically and economically right; that the laws of God are higher than the man-made laws of economics. Many Christians were compromised on this point. One classic example was Charles Trevelyan, permanent Head of the Treasury in the 1840s. He was a very able and convinced Christian. He was a member of the 'Clapham Sect', a group of Christians originally formed around Wilberforce (who died in 1833) to reform Britain and the Empire to Christian ways of living. Yet he, like so many of his day, held on to another belief—"political economy." This meant that there should be no interference in the workings of the market place. because this would undermine the whole system and therefore the well-being of the country.

Unfortunately for Ireland the famines were to devastate the land during the 1840s and Trevelyan and his ideas were to turn

tragedy into catastrophe. (See Chapter 5 of Robert Kee's book: "Ireland—A History"). One million people starved to death or died of disease brought on by famine between 1845 and 1849. Out of a population that had once been 8 million, one and a half million had to emigrate. Charles Trevelyan was knighted for his efforts, but his legacy has cursed the relationship between Britain and Ireland to this day.

In the light of history Wilberforce and Shaftesbury and men like them have proved a great blessing to their nation. They accepted that morality was not only a private affair but a public duty, and that any man-made law of politics or economics which ran contrary to those moral laws was evil and must be opposed.

When we separate private morality from public principle we are compromised, and it is that compromise which is referred to today as "Victorian values." We need to restore moral values, as we are paying the price for indulgence and irresponsibility. These values are meant to be at the forefront of making a better world, as well as better individuals, thereby clarifying our response to unemployment, the inner cities, South Africa, and Third World, etc.

When a society, through indulgence, corruption and neglect, loses sight of its moral heritage, something must fill the vacuum. Where once was right and wrong, we now have right and left, not only as policies and points of view, but as principles. The man-made laws of Adam Smith and Karl Marx have taken over where once the Sermon on the Mount was our shared heritage.

INTRODUCTION OF NORTHERN IRELAND FAIR EMPLOYMENT LEGISLATION

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today, along with a bipartisan group of members of the Committee on Ways and Means, to deal with the serious problems of unemployment and employment discrimination in Northern Ireland. This legislation is similar to legislation we introduced on this subject in the last Congress.

The purpose of the measure is to provide a constructive response to the dual problems of unemployment and employment discrimination in Northern Ireland—problems which are inextricably linked. It is an incentive measure, designed to encourage United States firms to locate in Northern Ireland and designed to encourage firms that are already there to comply with a series of fundamental nondiscrimination standards modeled after standards proposed by the British Government.

I think it is fair to say that every Member of this House is aware of the terrible problems in Northern Ireland, many of which can be traced to the discrepancies in employment rates in Catholic regions of that country and in other areas. Workers also tell of rampant discrimination, both direct and indirect, in employment practices. Some statistics tell an important part of the story.

For example, the unemployment rate in England, Scotland, and Wales is roughly 9 percent. The unemployment rate in Northern Ireland is 18.3 percent. Even worse, in the predominantly Catholic regions of Northern Ireland, the unemployment rate is as high as 59 percent.

To deal with these obvious discrepancies, legislation has recently been introduced in the British Parliament, at the request of Prime Minister Thatcher, designed to further tighten antidiscrimination laws in Northern Ireland. These proposals have yet to be enacted into law—although, with the support of the Prime Minister, I have confidence that they will be. I remain concerned that the British Government may not aggressively enforce these standards, however; furthermore, the United States Government should not be subsidizing behavior overseas which would be blatantly illegal if practiced here on our shores.

Because my legislation deals with income tax incentives, I will first detail the current tax treatment of foreign source income, and explain the two major income tax provisions in our legislation.

PRESENT LAW

FOREIGN TAX CREDIT

The U.S. taxes its citizens on their worldwide income. One major exception to this general rule is the foreign tax credit. It allows U.S. taxpayers a credit against income tax liability for a tax paid to a foreign taxing jurisdiction. The credit is subject to an overall limit, equal generally to the amount of taxes paid on that income had it been earned in the United States. The excess of the tax actually paid over the limit can generally be carried forward. In general, the foreign tax credit is denied with respect to operations in South Africa.

EARNINGS OF SUBSIDIARIES OF U.S. CORPORATIONS—DEFERRAL GENERALLY

Another major exception to the general rule that the U.S. taxes worldwide income is the principle of deferral. Generally, income earned by foreign subsidiaries of U.S. corporations is not subject to tax in the United States unless those earnings are repatriated—that is, distributed to shareholders as dividends. The foreign tax credit can reduce the tax on those dividends, however. In certain cases, the income of a foreign subsidiary of a U.S. corporation can be subject to current U.S. tax, especially in the case of the Code's subpart F provisions.

EXPLANATION OF PROVISION

IN GENERAL

The bill creates an income tax incentive for United States firms to locate in Northern Ireland. Under the incentive, the foreign tax credit could generally be calculated without regard to the limitation, discussed above. In addition, the bill denies the foreign tax credit and the benefits of deferral for firms located in Northern Ireland which fail to comply with a series of fair employment standards. Finally, the legislation contains compliance and monitoring provisions, and grants to the Internal Revenue Service the authority to monitor compliance with the bill's provisions.

FOREIGN TAX CREDIT—INCENTIVE PROVISIONS

The bill allows United States corporations located in Northern Ireland to calculate the foreign tax credit without regard to the foreign tax credit limitation if the firm meets a high unemployment location test and a traditionally discriminated against test.

The first test is met if the firm is located in a region of Northern Ireland which is an area of high unemployment. For purposes of the provision, the sponsors intend that an area of high unemployment is a parliamentary constituency in Northern Ireland with an unemployment rate in excess of 20 percent. The sponsors are aware that unemployment statistics are not kept based upon parliamentary constituencies, but believe that these statistics could be made readily available. Nonetheless, the intent of the sponsors is to encourage employment in at least the following regions of Northern Ireland: Belfast, Cookstown, Dungannon, Limavady, Derry, Magherafelt, Moyle, Newry and Mourne, and Strabane.

The traditionally discriminated against test is met if at least 40 percent of the corporation's work force were composed of a religious minority in all of Northern Ireland. A firm could not meet this test merely by dismissing workers who were not members of a religious minority in Northern Ireland, since the intent of the legislation is to encourage employment.

As discussed, the legislation allows employers to calculate the foreign tax credit without regard to the foreign tax credit limitation. For example, if a firm had Northern Ireland manufacturing income of $10 and worldwide income of $100, and paid $4 in tax on the Northern Ireland income, present law would limit the credit to $3.40. The legislation would allow the full $4 to be claimed as a credit. The benefit would only apply if the tax rate imposed in Northern Ireland did not differ materially from the tax rate imposed on income from other sources by the British Government.

FOREIGN TAX CREDIT AND DEFERRAL—NONDISCRIMINATION STANDARDS

There are four fair employment standards. First, the taxpayer would have to take steps to insure that no direct or indirect discrimination existed in employment, based upon religious or political grounds. Second, the taxpayer would have to end any unjustified employment requirement or condition which places members of one religious group at a disadvantage. Third, the taxpayer would have to establish that they practice equality of opportunity in employment. Finally, the taxpayer would have to take advantage of affirmative action programs—including the use of goals and timetables—designed to give underrepresented gorups better access to employment and training opportunities.

The sponsors intend that these proposals be construed similarly to the proposals recently advanced by the British Government. Therefore, a certificate of compliance with the fair employment standards—or other statement indicating compliance—by the newly-created Fair Employment Commission that a taxpayer was abiding by the Code of Practice would possess strong evidentiary value that the taxpayer was in compliance with the bill's standards.

However, such notice of compliance would not be conclusive since the Secretary of the Treasury could at some point determine that the British Government was not aggressively enforcing the fair employment standards. Finally, a statement that the taxpayer was not in

compliance—by the Commission or the Fair Employment Tribunal, or other agency of the British Government—would be a conclusive presumption that the taxpayer was in violation of the bill's standards.

Under the bill, taxpayers found to be not in compliance with the bill's provisions would lose both the foreign tax credit with respect to Northern Ireland source income, as well as the benefit of deferral with respect to that income, for example, Northern Ireland income would be treated as subpart F income.

DETERMINATIONS BY SECRETARY

Under the legislation, the Secretary would be required to determine by July 1 of every year—beginning in 1990—whether a U.S. taxpayer was in violation of any fair employment standard. In addition, every taxpayer having operations in Northern Ireland would be required to make an annual report to the Secretary on the extent of its compliance with the fair employment standards. A taxpayer who willfully failed to make such a report would be fined not more than $25,000 and could be subject to 1 year in prison. The sponsors intend that a statement by an employer similar to one required under the proposed British legislation would be sufficient for these purposes.

EFFECTIVE DATE

The bill would generally be effective for income taxes paid or accrued, or income received or accured, after December 30, 1989. The employment incentive provisions would be effective for taxable years beginning after that date.

Mr. Speaker, the adoption of this legislation will go a long way toward rectifying the wrongs of the past, to make sure that every child born in the North of Ireland, whether from the minority community or the majority community, will have equal opportunity: in housing, and, most importantly, in the opportunity to earn an honest, decent living. It will insure that those people will not be discriminated against either when hired or when promoted, and it will insure that United States businesses located in the Northern Ireland will adhere to the same fair employment standards that we hold them to in the United States.

Illegal activity or illegal discrimination that would not for one second be tolerated in the United States of America cannot be tolerated in any other nation of the world. I urge every American company doing business in Northern Ireland to take a close look at these employment standards, at their hiring practices and their promotion standards, and make sure even before the enactment of this legislation that they are not in violation of some of the most basic principles of fairness and decency that we enforce on American companies here on American soil.

ELDERLY EARNINGS OPPORTUNITY ACT OF 1989

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WYDEN. Mr. Speaker, today I am introducing the Elderly Earnings Opportunity Act of 1989, to reduce the penalties our older citizens face if they choose to work. Currently, under the earnings test, Social Security benefits are substantially reduced for millions of seniors each year.

My bill will alter the Social Security earnings test in the following ways:

First, eliminate the current provision in the law that requires larger benefit reductions for workers under age 65 than for those age 65 to 69.

Second, gradually phase in an increased amount of earnings which are exempt from the reduction—over and above those that would occur under current law; and

Third, require the Social Security Administration to report to Congress in the year 2002 on the effect of the earnings test on the well being of the elderly and the economy in general.

Mr. Speaker, the earnings test was devised in a different time and under different economic circumstances than we face today. The 1930's was an era that required creative measures to stimulate economic growth and employment while dealing with the enormous hardships and deprivation brought on by the Great Depression. The Social Security Program was an ingenious way to do both these things.

There were thousands of older people who needed their jobs and could not afford to retire—very few had pensions or savings to fall back on. And, there were younger people in desperate need of jobs who were frozen out of the stagnant economy because jobs weren't being freed up for them. The earnings test provide a way out of both these problems—benefits were conditioned on the loss of earnings through retirement or death.

But today's economy needs older workers. It needs their individual service, their production and the cumulative experiences they bring to the work force—skills, talents, and good judgement. Simply put, we need them to help the United States be competitive. We need to be concerned about the shape of our work force in the future. As the baby boom generation enters its retirement years early in the next century, we may badly need the skilled labor older workers provide to keep our economy strong, since there will be fewer younger workers following the baby boomers. For these important reasons, the Congress just last year eliminated the mandatory retirement age.

Congress should build on the elimination of the mandatory retirement test by providing more encentives to senior's who would like to work. The best way we can do that is to raise the Social Security earnings test. This may encourage seniors to stay in the work force and will remove barriers that keep people from working today.

I do understand that some believe there are work incentives in the Social Security system right now: Reductions for early retirement, benefit recomputation for continuing to work, and additional credits for retiring after age 65.

However, the current earnings test proves to be a strong psychological barrier. Some seniors believe that any earnings will jeopardize their benefits, so they don't work at all. And, studies have shown that many who know that only a portion of their benefits will be withheld only work up to that amount.

But more than that, the test is a tough one. Once the exempt amount is exceeded, a very steep penalty is imposed for working. The ratio is almost $1 in taxes for every $2 earned. This is an unfair penalty on seniors of modest means who need to work to make ends meet.

How can low and moderate income elderly people, lacking stocks, bonds, mutual funds and big pensions be expected to supplement their incomes? How can they possibly improve their circumstances? And, how can they contribute to an economy that needs their skills and energy down the road?

Mr. Speaker, we need a growing economy. And, we need to provide opportunities for our workers. We can't do either if we artificially limit a vital national resource—the elderly who want to work. I believe that the Social Security earnings test creates a severe artificial limit.

We must reduce the major hidden tax that keeps our seniors of moderate means from working. Those lacking substantial unearned income should be given greater opportunity to improve their own well-being while contributing to society to the best of their ability.

I hope my colleagues will join me in sponsoring the Elderly Earnings Opportunity Act of 1989. I look forward to expanding the economic opportunity of our Nation's seniors in this historic 101st Congress.

TELECOMMUNICATIONS EQUIPMENT MANUFACTURING—MADE IN THE USA

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, in the past, outgoing President Reagan had described the telecommunications industry as one in which "we are still a leader in innovation."

Despite this optimistic assessment, recent information released by his administration indicates that a more ominous outlook is warranted. Last year, the United States suffered record trade deficits. Trade deficits for telecommunications equipment soared upwards toward $2 billion last year. Today, not one residential telephone instrument—the device pioneered by Alexander Graham Bell—is manufactured by an American company in the United States. I have drafted legislation to reverse this trend.

Today I am introducing a bill to establish our Nation's policy with respect to telecommunications equipment manufacture. Our current policies—or the lack thereof—have resulted in increasing telecommunications trade

deficits, as well as unemployment and worker dislocation in that industry, to say nothing of the erosion of American dominance of the telecommunications industry internationally and the related brain drain.

We have observed American firms like AT&T going offshore to manufacture residential telephones and we have seen an increase in proposed joint venture activities between Bell Operating Companies and foreign telecommunications equipment manufacturers.

Our trade imbalance results from at least two misguided policies. First, the Reagan administration permitted foreign nations, such as Japan, to bar high quality, American produced telecommunications equipment. Second, these same policymakers opened our trade doors to allow foreign manufacturers to make major inroads into our domestic markets. The door of free trade must swing both ways. While foreign products pile up higher on our docks and in our stores, American jobs are exported overseas. This is not an idle notion—the Commerce Department has estimated that over 2½ million jobs were lost last year as a result of the trade deficit.

In addition, American companies, lured by special tax breaks and low wages offered by Third World nations, have migrated offshore enmasse. There these expatriate corporations turn back the clock to recreate sweatshops reminiscent of the 19th century. For example, in 1985 AT&T shut down the last plant in the United States—in Shreveport, LA—where residential telephones were made. This operation is now located in Singapore.

This is not an isolated plant closing—since divestiture, AT&T has closed many of its operations in the United States, costing us not only productive capacity, put also at least 18,000 jobs. Companies such as AT&T apparently pledge allegiance to no flag. Their loyalty is to short-term profit and shareholder satisfaction.

In order to stop this exportation of domestic telecommunications manufacturing employment and profit to foreign countries, I propose legislation to require the Regional Bell Operating Companies to manufacture in the United States any equipment they want to sell here. The Bell Operating Companies are currently prohibited by the modified final judgment, in the AT&T divestiture case, from producing telecommunications equipment and have petitioned Judge Greene to allow them to be released from this restriction.

The judge has already decided not to grant this permission, but, should the BOC's be successful in their effort to obtain this relief by legislative means, as some regional carriers have indicated they hope to pursue, I fear they will follow the model set by their parent—AT&T—and move offshore to manufacture communications and customer premises equipment. I believe such manufacturing must be done in the United States.

My proposal provides for a comprehensive definition of the elusive word "manufacture." It specifies that manufacturing includes engineering design, product development, testing, and production. Under the terms of my bill, all these activities would take place in the United States.

In my view, Congress should take steps now to redirect our national telecommunications trade policy so that it benefits America—its consumers and its workers. we must not forget that the telephone is a uniquely American instrument—it was invented here and our predecessors built the world's best communications network around it.

I want to help give the competitive edge in international telecommunications back to America. Before we open telecommunications equipment manufacturing to more competition, I want to make sure that those interested in reaping profit from such action take full advantage of the abundant technological and human resources available to them right here in the "good old USA."

America can regain its preeminence in telecommunications trade if we look to our home-based resources. I invite my colleagues to join me in this effort to make America strong again—at least in this area of telecommunications trade.

H.R. —

A Bill to require that any telecommunications equipment or customer premises equipment manufactured by any of the former Bell operating companies may not be provided or sold in commerce in the United States unless such equipment is manufactured in the United States, and for other purposes

Be in enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited at the "Telecommunications Equipment Manufacturing Stimulation Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) America's telecommunications system is of critical importance to our national defense;

(2) a key element in maintaining our telecommunications system is ensuring that America possesses state-of-the-art telecommunications equipment and customer premises equipment manufacturing capability;

(3) in recent years, America has increasingly relied on foreign production to meet its telecommunications equipment and customer premises equipment needs;

(4) foreign firms are capturing a growing share of the American telecommunications market and American firms have increasingly turned to overseas production;

(5) investment in domestic manufacturing capacity has diminished, raising serious questions about America's continued ability to satisfy its telecommunications equipment and customer premises equipment needs in times of crisis; and

(6) experience in recent years with other key industries such as computer and semiconductor technology demonstrates the high price when America falls behind other nations in research and development and in investment in manufacturing capability.

(b) PURPOSES.—The purposes of this Act are—

(1) to assure that America's telecommunications manufacturing capability is not further diminished by requiring domestic manufacture and production of telecommunications equipment and customer premises equipment by all former Bell operating companies, to the extent they are allowed to engage in the manufacture of telecommunications equipment and customer premises equipment;

(2) to ensure that the necessary domestic telecommunications manufacturing capability so essential to the Nation's defense remains intact;

(3) to encourage domestic investment by both American and foreign firms desiring to engage in the manufacture of telecommunications equipment and customer premises equipment;

(4) to improve America's trade deficit and balance of payments records; and

(5) to produce and maintain additional skilled manufacturing jobs for American workers, while avoiding massive subsidization by the Federal Government, so that short-term costs borne by customers represent an investment in long term increased competition and national security.

SEC. 3. REQUIREMENT OF DOMESTIC PRODUCTION.

It shall be unlawful for a Bell operating company to use any means or instrumentality of interstate commerce to sell or lease or to provide for sale or lease, directly or through any subsidiary or affiliate—

(1) any telecommunications equipment manufactured, directly or indirectly, by any Bell operating company, unless such equipment was manufactured in the United States; or

(2) any customer premises equipment manufactured, directly or indirectly, by any Bell operating company, unless such equipment was manufactured in the United States.

SEC. 4. ENFORCEMENT BY SECRETARY OF COMMERCE.

(a) GENERAL AUTHORITY OF SECRETARY OF COMMERCE.—The Secretary of Commerce—

(1) shall be responsible for the enforcement of the requirements of this Act,

(2) shall, within six months after the date of enactment of this Act, prescribe such regulations, and provide such exemptions therefrom, as may be necessary for the effective enforcement of such requirements and the prevention of shortages in the supply of telecommunications equipment;

(3) may assess civil penalties pursuant to subsection (b);

(4) shall make the reports required by subsection (c);

(5) may conduct such investigations and hearings, take such testimony, and receive such evidence as may be necessary to carry out this Act; and

(6) for such purposes, may—

(A) administer oaths or affirmations to witnesses;

(B) secure directly from any department or agency of the United States information necessary to carry out this Act; and

(C) issue subpoenas requiring the attendance of witnesses and the production of evidence, which subpoenas shall be enforceable by order of an appropriate district court of the United States.

(b) CIVIL PENALTIES.—(1) Whenever it shall appear to the Secretary of Commerce that any Bell operating company has violated the requirements of this Act, the Secretary of Commerce may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by such Bell operating company, or any person aiding and abetting the violation of such Bell operating company. Such a penalty shall be payable into the Treasury of the United States.

(2) The amount of such penalty shall be determined by the court in light of the facts and circumstances, but shall not exceed three times the amount of profits obtained by the Bell operating company in the transaction or transactions that are the basis of the complaint.

If a Bell operating company upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, Secretary of Commerce shall refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

(c) ANNUAL REPORTS.—(1) The Secretary of Commerce shall, not later than six months after the date of enactment of this Act and annually thereafter, submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the state of the Nation's domestic telecommunications equipment manufacturing industry. Such report shall include—

(A) an evaluation of the continuing need for imposing the requirements of this Act;

(B) recommendations as to amendments to this Act or any other law necessary to enhance and increase the manufacture of telecommunications and customer premises equipment within the United States; and

(C) recommendations as to necessary regulatory treatment of such equipment purchases, sales, and other transactions, in addition to those set forth in section 5 of this Act.

(2) In carrying out any investigation for purposes of preparing the report under paragraph (1), the Secretary of Commerce may secure the assistance of United States Government agencies having responsibilities in telecommunications and related matters, including (but not limited to) the Federal Communications Commission, the National Telecommunications and Information Administration, and the Bureau of the Census.

SEC. 5. DISALLOWANCE OF FOREIGN EQUIPMENT COSTS BY FEDERAL COMMUNICATIONS COMMISSION.

In determining whether any charge, practice, classification, or regulation of any common carrier under title II of the Communications Act of 1934 is or will be just and reasonable, the Federal Communications Commission shall exclude from any computation of the cost of providing the service in question the costs of procurement of any telecommunications equipment or customer premises equipment that is not manufactured in the United States.

SEC. 6. DEFINITIONS.

(a) IN GENERAL.—As used in this Act—

(1) TELECOMMUNICATIONS EQUIPMENT.—The term "telecommunications equipment" has the same meaning as such term has in the Modification of Final Judgment.

(2) CUSTOMER PREMISES EQUIPMENT.—The term "customer premises equipment" has the same meaning given such term in the Modification of Final Judgment.

(3) BELL OPERATING COMPANIES.—The term "Bell operating company" has the same meaning as such term has in the Modification of Final Judgment, except that such term does not include any centralized organization for the provision of engineering, research, and administrative services, the costs of which are shared by such operating companies or their affiliates.

(4) MANUFACTURED.—The term "manufactured" means each of the processes, other than specifying generic or functional characteristics of equipment, that are involved in bringing equipment into production and includes engineering design, product development, testing, manufacturing, engineering, and production.

(5) MANUFACTURED IN THE UNITED STATES.—Equipment is "manufactured in the United States" only if (A) such equipment is assembled in the United States, and (B) substantially all of the total cost of such equipment, including components, indirect costs, research, development, and labor, has been incurred in the United States.

(6) UNITED STATES.—The term "United States" when used in a geographical sense, includes the United States and any place subject to the jurisdiction of the United States.

(7) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the judgment entered August 24, 1982, in United States v. Western Electric, Civil Action Numbered 82-0192 (United States District Court, District of Columbia).

(b) 1943 ACT DEFINITIONS APPLY.—Except as provided in subsection (a), terms used in this Act shall have the same meaning as is given such terms under the Communications Act of 1934.

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

SECRETARY OF THE ARTS AND HUMANITIES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing legislation which will create a Cabinet Office for the Arts and Humanities within the executive branch. I am certain that this agency will be an asset to the administration. It is essential that this country create a federally funded national program dedicated solely to the enhancement of its own cultural heritage, as well as to preserve and protect that heritage for future generations.

Mr. Speaker, why do we need a Secretary of the Arts and Humanities? Being a former fine arts student and professor, I have experienced the tremendous impact that artistic ventures have on society. Now, as a Member of Congress, I am able to advocate the funding of cultural programs on a national level. I know that the Federal Government is promoting the work of artists from all walks of life. However, this small amount of support is just not enough.

Mr. Speaker, in 1965, the National Foundation on the Arts and Humanities was created by Congress. Since its establishment, it has received strong bipartisan support over the years, both in Congress and in the White House. Presidents Johnson, Nixon, Ford, and Carter, who were men of strongly different philosophies on the purpose and function of government, all approved a congressional declaration that financial assistance for the arts and humanities is a proper responsibility of the Federal Government in encouraging and enriching the human mind and spirit, and in fostering the creativity of the American people. Those Presidents requested increased amounts of support for our cultural heritage and development; and each year Congress overwhelmingly approved such increases.

However, Mr. Speaker, did you know that only one-half of 1 percent of the Reagan administration's fiscal year 1989 budget is directed toward the support of the arts? While this figure represents a freeze, rather than a cut in spending, we must realize that these funds support all of our country's major cultural programs. These include: the National Endowment for the Arts, the National Endowment for the Humanities, the Institute of Museum Services, the Smithsonian Institution, the National Gallery of Art, and the Commission of Fine Arts.

As legislators, we have to ask ourselves: Can we justify the impact that these lean funding levels will have in our districts? Can we afford to lose the programs that foster the arts and humanities, museums, aquariums, zoos, and botanical gardens? Can we afford to lose our historical properties and programs that preserve our great works of art?

Ideally, all segments of our society should have the opportunity to take part in the experience of artistic expression and creativity. The Smithsonian Institution's fine collections and research services, as well as the programs under the jurisdiction of the NEA, NEH, and IMS provide direct return to Americans of all ethnic, social, economic, and educational levels. The benefits of these programs are realized in rural as well as urban America, by the old as well as the young. These agencies have helped to make participation in the cultural community more equitable and feasible for all segments of our society. But it is not enough. The Secretary of Arts and Humanities would ensure that all citizens were able to enjoy, learn, and benefit from the arts.

American artists have served as some of our most important ambassadors to the entire world. Through their work, artists have historically brought diverse cultures together. The shared experience of artistic expression and aesthetics creates the elements that enrich the soul and appeal to our higher instincts as human beings. American literature, music, performing and visual arts, and architecture are emulated all over the world and are embraced by those countries where our politics have failed.

People need the arts. Public attendance at museums is tremendous and overflow crowds are not uncommon. Furthermore, in these recent years when trade issues and competitiveness are so heatedly discussed, museums can and do make a unique and extraordinary contribution.

Mr. Speaker, we need to do something about our Nation's "artistic deficit." The Federal Government has an important responsibility to ensure the protection of our cultural heritage. We cannot allow financial danger and fiscal preoccupation to outweigh artistic decisions and creative energy. Our cultural institutions have continued to present innovative works, overwhelmingly high-quality performances and important outreach and educational programs. The continual financial struggle threatens the artistic freedom to invent, to take chances, and to present cultural activities to a broad range of our public. The Federal Government must continue to expand its small but vital role in the cultural integrity of our Nation. It is time to create a Cabinet office dedicated to the arts.

WEISS REINTRODUCES BILLS TO RESTORE SOCIAL SECURITY BENEFITS

HON. TED WEISS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, in 1981, the President and the Congress broke a long standing contract with the American people. In the wake of a tax bonanza for the wealthy and an unprecedented, destabilizing military buildup, Social Security benefits were reduced, and in many cases eliminated. Through this action, the Reagan administration and its supporters in Congress exhibited a complete disregard for the well-being of our Nation's elderly, the disabled and their families, and the widowed and orphaned.

In 1983, Congress agreed to a package of Social Security changes meant to ensure the solvency of the system well into the next century. While many provisions of this agreement were commendable, the agreement once again called upon our Nation's elderly and disabled citizens to make further sacrifices to support the Reagan administration's misguided budget policies. Moreover, the 1983 Social Security changes failed to address many of the inequities that had been forced on the American people 2 years earlier.

Eight years have passed since the administration began to steamroll massive cuts in Social Security. Unfortunately, with the passage of time, some of the initial outrage over the 1981 cuts has failed. Many people have resigned themselves to accepting these policies—inequitable as they are—because the administration has created a climate vehemently hostile to social programs. Consequently, the prospect for reinstituting benefits, recklessly slashed in 1981, was not good.

As we begin the 101st Congress, it is clear that the political climate is changing. It is time to redress the damage wrought upon this Nation's Social Security programs. It is never too late to do what is fair. Today I am reintroducing legislation to restore three of the most important benefits that were cut in 1981. Specifically, these bills would restore student benefits, the mother's and father's benefit for those caring for children under age 18, and the lump-sum death benefit for all beneficiaries.

In the past years, the Social Security student benefit compensated dependent students attending college or vocational school for loss of income due to the death, retirement, or disability of their parents. This important benefit helped to equalize educational opportunities for those students who could not rely on their parents for support during those critical few years. Workers who earned this insurance recognized and appreciated its value in safeguarding the educational and employment future of their children.

Following the 1981 cuts, these benefits were progressively phased out until 1985, when they were completely eliminated. The elimination of the student benefit has inflicted incalculable hardships on those students who are least able to overcome them. Prior to the enacted cuts, approximately 800,000 student beneficiaries received an average of $3,000 per year in benefits. 80 percent of student beneficiaries were eligible because one of both parents were deceased or disabled. In 1977, 70 percent of the recipients of this program came from families whose income was less than $15,000. The cuts have imperiled the opportunity that these children have to advance and to succeed in adulthood by impeding, and in some cases destroying, their ability to pursue higher education.

The President claimed that these students would be adequately compensated for this loss of income security by other student aid programs. However, the administration conveniently failed to explain that in recent years other student assistance programs have also suffered tremendous cuts at the President's insistence. The hard truth is that other programs can not substitute for the critically depleted resources that have resulted from this cut. For the sake of these children, our greatest hope for the future, I urge that Congress take action on this bill to restore the Social Security Student Benefit.

The second bill I am reintroducing would restore benefits paid either to a mother or a father caring for an entitled child up to age 18. As a result of the 1981 reconciliation act, this important benefit only applies through a child's 16th birthday. It is no secret that most children between the ages of 16 and 18 are completing their high school education and depend on their parents to support them. In light of this fact, it is difficult to fathom the Reagan administration's rationale for slashing away at this program.

This cut is but another example of the whittling away of Social Security's protection for families of disabled, retired, or deceased workers raising dependent children. Once again I call upon my colleagues to reassert the priorities which existed before the 1981 cuts and support my effort to reinstate this critical benefit.

The third, and final bill I am reintroducing would restore the lump-sum death benefit in all cases. Following the 1981 cuts, this $225 benefit was restricted to death cases where there is a surviving spouse or dependent child. This benefit is no longer payable to other family members such as a sister, aunt, grandparent, or independent child, who may very well be the ones who assume responsibility for burial expenses. Estimates made when this cut was first enacted suggest that as many as 4.8 million people have been denied benefits as a result of this change.

The lump-sum death benefit is a small, but integral, part of the Social Security program. Implemented in 1935, it has helped to ease the burden of the high costs of funerals, and has given peace of mind to the older Americans who view this sum as critical to financing a dignified burial. This cut was a shameful way to penalize workers and their families. Full funding for the lump-sum death benefit should be promptly restored.

Across the country, older Americans, workers, and their families have expressed outrage that the Congress and the President have repeatedly ignored the Social Security compact and deprived thousands of families of the benefits they have earned. Poll after poll indicated that the American people are close to unanimity in their beliefs that Social Security benefits must be protected at all costs.

The Social Security system does not survive on the tax receipts of American workers alone. It also relies on the continuing support and confidence of workers and their families. By drastically cutting benefits against the public will, the administration and its supporters jeopardize public trust in the Social Security system and in the Government as well. We can not continue to gamble with the hopes and aspirations of millions of Americans. It is essential for the sake of these people and for the sake of the Social Security system as a whole that we act immediately.

Mr. Speaker, it is never too late to correct grave mistakes. I urge my colleagues to join with me to restore these Social Security benefits to the people who earned them and are entitled to them.

The bills follow:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Children's Benefits Act of 1989".

SEC. 2. RESTORATION FROM AGE 16 TO AGE 18 THE AGE OF A CHILD AT WHICH CERTAIN BENEFITS ARE TERMINATED.

(a) IN GENERAL.—Section 202(s)(1) of the Social Security Act is amended by striking out "the age of 16" and inserting in lieu thereof "the age of 18".

(b) CONFORMING AMENDMENT.—The heading of section 202(s) of such Act is amended by striking out "OVER SPECIFIED AGE" and inserting in lieu thereof "AGE 18 OR OVER".

SEC. 3. EFFECTIVE DATE.

The amendments made by the first section of this Act shall apply with respect to benefits for months after the month in which this Act is enacted.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Lump-Sum Death Benefits Act of 1989".

SEC. 2. RESTORATION OF 1981 PROVISIONS FOR DETERMINING ORDER OF PAYMENT OF LUMP-SUM DEATH BENEFITS.

(a) IN GENERAL.—Section 202(i) of the Social Security Act is amended—

(1) in the second sentence, by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) if all or part of the burial expenses of such insured individual which are incurred by or through a funeral home or funeral homes remains unpaid, to such funeral home or funeral homes to the extent of such unpaid expenses, but only if (A) any person who assumed the responsibility for the payment of all or any part of such burial expenses files an application, prior to the expiration of 2 years after the date of death of such insured individual, requesting that such payment be made to such funeral home or funeral homes, or (B) at least 90 days have elapsed after the date of death of such insured individual and prior to the expiration of such 90 days no person has assumed responsibility for the payment of any such burial expenses;

"(2) if all of the burial expenses of such insured individual which were incurred by or through a funeral home or funeral homes have been paid (including payments made under paragraph (1)), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such burial expenses;

"(3) if the body of such insured individual is not available for burial but expenses were incurred with respect to such individual in connection with a memorial service, a memorial marker, a site for the marker, or any other item of a kind of which expenses are customarily incurred in connection with a death and such expenses have been paid, to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid such expenses; or

"(4) if any part of the amount payable under this subsection remains after payments have been made pursuant to paragraphs (1), (2), and (3), to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid other expenses in connection with the burial of such insured individual, in the following order or priority: (A) expenses of opening and closing the grave of such insured individual, (B) expenses of providing the burial plot of such insured individual, and (C) any remaining expenses in connection with the burial of such insured individual."; and

(2) in the third sentence, by inserting after "No payment" the following: "(except a payment authorized pursuant to paragraph (1)(A) of the preceding sentence)".

(b) CONFORMING AMENDMENTS.—Section 216 of such Act is amended—

(1) in subsection (c), by striking out "(except when used in the first sentence of section 202(i))" and inserting in lieu thereof "(except when used in section 202(i))"; and

(2) in subsection (g), by striking out "(except when used in the first sentence of section 202(i))" and inserting in lieu thereof "(except when used in section 202(i))".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to deaths occurring after the month in which this Act is enacted.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(d) of the Social Security Act is amended, in paragraphs (1)(B), (1)(E)(ii), (1)(F)(i), (1)(G)(ii), (6)(D)(i), (6)(E)(i), (7)(A) (in four places), (7)(B), and (7)(D), by striking out "full-time elementary or secondary school student" each place it appears and inserting in lieu thereof "fulltime student".

(b)(1) Section 202(d) of such Act is further amended, in paragraphs (7)(A) (in two places), (7)(B) (in three places), and (7)(D), by striking out "elementary or secondary school" each place it appears and inserting in lieu thereof "educational institution".

(2) Section 202(d)(7)(A) of such Act is further amended by striking out "schools involved" and inserting in lieu thereof "institutions involved".

(c) Subparagraph (C) of section 202(d)(7) of such Act is amended to read as follows:

"(C) An 'educational institution' is (i) a school or college or university operated or directly supported by the United States, or by any State or local government or political subdivision thereof, or (ii) a school or college or university which has been approved by a State or accredited by a State-recognized or nationally recognized accrediting agency or body, or (iii) a non-accredited school or college or university whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.".

(d) Section 202(d)(7)(D) of such Act is further amended by striking out "diploma or equivalent certificate from a secondary school (as defined in subparagraph (C)(i))" and inserting in lieu thereof "degree from a four-year college or university".

(e)(1) Section 202(d) of such Act is further amended, in paragraphs (1)(B)(i), (1)(F)(ii), (1)(G)(iii), (6)(D)(ii), (6)(E)(ii), and (7)(D), by striking out "19" each place it appears in each of those paragraphs and inserting in lieu thereof "22".

(2) Section 202(d)(6)(A) of such Act is amended to read as follows:

"(A)(i) is a full-time student or is under a disability (as defined in section 223(d)), and (ii) has not attained the age of 22, or".

SEC. 2. The amendments made by the first section of this Act shall apply to child's insurance benefits under section 202(d) of the Social Security Act for months ending on or after the date of the enactment of this Act.

MARTIN LUTHER KING DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GILMAN. Mr. Speaker, this year on January 16, 1989 our Nation will once again take time to commemorate the birthday of one of our Nation's great leaders, Martin Luther King, Jr.

To list all of Dr. King's accomplishments would indeed be an extensive task; however, we have only to look at the situation in South Africa today, where there is blatant hostility and violence among the races, to appreciate the tremendous impact which Dr. King's activities have had upon our Nation and to realize that we must continually strive to protect and improve upon the situation which exists today in our Nation.

It is our duty to carry on the mission essentially begun within the civil rights movement with Dr. King's desire to achieve justice and equality through peaceful and nonviolent means. Martin Luther King Day, therefore, must be not only a time to reflect upon our past, but also a time to look to the future and the changes that must be implemented to further the ideals upon which our great Nation was founded—justice and liberty for all.

I would not presume to pretend that our Nation is a utopia of freedom and equality. The recent tragedies of Howard Beach, the Staten Island racial incidents and Tawana Brawley in New York serves to remind us that the work of Dr. King is for from finished. Although we are deeply saddened that this situation could arise in our Nation, it is hoped that we can learn from these tragic occurrences and continue to progress through education and the examples set for us by Dr. King. For in the words of Dr. Martin Luther King, Jr., "If you can't fly, run. If you can't walk, crawl. But by all means, keep on moving." Let us continue the great tradition of Dr. King's ideals both through the appropriate commemoration of this national holiday and through legislation which reflects the ideals Dr. Martin Luther King, Jr., strove so valiantly and diligently to achieve.

Accordingly, I implore my colleagues to encourage our constituents to join in participating in the many community activities which will commemorate the birthday of this notable leader, Martin Luther King, Jr., and to take the time to reflect on the many achievements of this inspirational civil rights leader and to dedicate ourselves to greater civil rights progress in the days ahead.

INTRODUCTION OF OMNIBUS SMALL BUSINESS BILL

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. IRELAND. Mr. Speaker, as we begin the 101st Congress I would like to take this opportunity to salute those men and women who have been such an integral part of the Nation's recent stunning economic recovery. I am talking about our Nation's job producers, innovators, and a major portion of our very social fabric—our small business community. In recognition of this vital economic segment today I will introduce an omnibus small business bill. The legislation will contain concepts put forth in both White House Conferences on Small Business and also introduced in past Congresses by both myself and other Members. It is time these ideas receive a thoughtful hearing before the appropriate committees of the Congress.

First, I propose to raise the status of the Administrator of the Small Business Administration to Cabinet level. As the President's principal adviser on all matters relating to small business the Administrator would be extremely valuable at all Cabinet sessions devoted to various economic questions confronting the Nation. This elevation would merely mean a small adjustment in the Administrator's pay status. The Cabinet exists by tradition and serves as a sounding board and an advisory body. In no way does Cabinet status require enlarging the bureaucracy or Federal expenditures.

Second, I propose permanent authorization for White House Conferences on Small Business. The conferences would be held once during each 4 year period following a Presidential election. The purposes of the conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business; to examine the status of minorities and women as small business owners; to assist small business in carrying out its role as the Nation's job creator; to assemble small businesses to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and thereby, the Nation; and to review the status of recommendations adopted at the next preceding White House Conference on Small Business. The previous two conferences have been very fruitful and bene-

ficial not only to small business, but to our country as well. We should continue them.

Third, I propose that failure to comply with the requirements of the Regulatory Flexibility Act be subject to judicial review. At the present time this is not the case and there appears to be a body of evidence that some agencies on occasion have flaunted this law due to the lack of judicial review. I propose to change this.

Fourth, the Regulatory Flexibility Act which requires all Federal agencies to review the impact of their regulations upon small business has been a very constructive law. Unfortunately, due to the nature of their regulations, the Internal Revenue Service has been exempt from the act as a result of most of IRS' regulations being called interpretive rules. I propose to make such rules subject to the requirements of the Regulatory Flexibility Act.

Fifth, I propose that the chief counsel for advocacy for the Small Business Administration conduct a study on the impact of the Federal Government upon small business. This study should include, but not be limited to, the taxes small business must pay, various tax requirements that must be met, and forms that must be submitted, as well as the regulatory burden of all other Federal agencies by agency. We often in the Congress talk about the burden the Federal Government imposes on the small business community. However to date we have never really sat down to actually quantify this burden. I suspect the burden is far more serious than we know and each succeeding Congress only adds to it. This is information that we must and should have.

Sixth, I propose that the Administrator of the Small Business Administration shall conduct a study of the availability of credit in the United States to small business. There is a little understood market imperfection which exists in our Nation's financial community when it comes time to make a financial commitment to small business be it in the form of start up capital, cash-flow extension or increased business expansion. This issue deserves an in depth look not only at what our financial institutions presently do, but also a look at the laws they must conduct business under and the constraints they often are legally confronted with. Only with such a detailed study are we going to be able to positively come to grips with the present situation and develop solutions to withdraw the Federal Government from the present financial situation we find ourselves in with the various programs of the Small Business Administration.

Mr. Speaker there are other important issues facing the small business community and in fact I am now soliciting opinions on legislation in several other areas as well. However from my years of experience with the small business community I believe this bill I am introducing today gets to the core of several important problems and also corresponds fairly directly with the reports of the first two White House Conferences on Small Business.

CONGRESSIONAL SALUTE TO NATIONAL COMPETITION ON THE CONSTITUTION AND THE BILL OF RIGHTS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to give my heartiest support for the National Bicentennial Competition on the Constitution and Bill of Rights. It is indeed an honor to salute the members of this commission as well as the talented students who participate in this demanding competition.

We must now more than ever encourage the youth of our country to participate and understand the electoral process more thoroughly. This understanding is critical in order for the citizens of this great country to truly enjoy representation in our local, State, and Federal Government. I commend the bicentennial commission and the citizenship and law related education center for doing just this. By stressing the Constitution and the values of government, the commission and the education center enhance our youth's understanding of civic responsibility and the moral foundations first articulated by our Founding Fathers.

Mr. Speaker, I would like to offer my congratulations as well as my personal thanks to all those who contributed their time, skills, and dedication to make this event possible. Each student and member of the commission and education center is to be saluted for all your tireless efforts. Please accept my best wishes for your continued successes.

OPPOSITION TO COMMISSION'S RECOMMENDED PAY INCREASE FOR MEMBERS OF CONGRESS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. FIELDS. Mr. Speaker, today the 101st Congress meets for the first time. I cannot think of a more appropriate subject to address than the proposed congressional pay raise.

The Commission on Executive, Legislative, and Judicial Salaries recently recommended that Federal judges, Members of Congress, Cabinet members, and other high-level Federal executives receive a pay increase of approximately 50 percent. For Members of the House of Representatives, that would mean an increase from $89,500 to $135,000.

President Reagan may accept the Commission's recommendation in full and submit a 50-percent pay raise to Congress or he may modify the Commission recommendation or he may reject it completely. Whatever the President's decision, under current law, Congress has 30 days to block the President's action or the pay raise automatically takes effect. I do not know what the President will decide. But, I do know that now is the time to speak up in opposition to an unwarranted pay increase.

A $45,500 pay increase for Members of Congress is simply overreaching. Mr. Speaker, when I consider that our proposed pay raise alone is higher than the median average income in the United States, I must conclude that the raise is excessive and is unacceptable to the American people.

Aside from the level of the pay increase, the back-door method of gaining pay increases has to raise more than a few eyebrows. Getting automatic pay raises without even being required to vote on them looks somewhat shifty to the average American, and I cannot blame them for feeling that way. Shirking our duty to vote in the full view of the public tarnishes even legitimate pay increases.

To bring the whole issue of congressional pay raises out into the open, I would propose two changes to the current procedure. First, Members of Congress should be required to vote on every pay raise. No more automatic increases should go into effect. Second, any pay raise approved should not go into effect until after the next election cycle, In delaying the pay raise until after the next election, Congress would give the American people the opportunity to approve or to disapprove its decision to increase its own pay.

However, these procedural reforms which I have suggested come too late for the current proposed pay raise. So, Mr. Speaker, I feel I must publicly state my opposition to the pay increase recommended by the Commission. If the President decides to adopt the Commission's recommendation, I would strongly oppose the increase. Mr. Speaker, I would urge you to schedule a vote on the pay raise and not to allow an excessive raise to slip through automatically. From all indications I have received, the House will not be ready for substantive business before the week of January 30, 1989. However, I urge a vote on the pay raise as soon thereafter as possible.

CONGRESSMAN STEVE BARTLETT INTRODUCES THE INDEPENDENT LIVING TRUSTS AND CONTRIBUTION ACT OF 1989

HON. STEVE BARTLETT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BARTLETT. Mr. Speaker, today Congressman MATSUI and I are introducing legislation which will allow parents and families to assist their disabled family member without jeopardizing that individual's eligibility for or amount of benefits under the Supplemental Security Income [SSI] Program.

I became aware of a problem in this area when parents in my congressional district told me of their concern to provide for their disabled child once they have passed away. Currently, a disabled individual can lose SSI benefits along with health insurance benefits if they inherit from their parents. The disabled individual must "spend down" his inheritance before he can again become eligible for SSI benefits. During this period, the SSI recipient loses Medicaid benefits which are essential to the individual. The result has been that many parents have no other choice but to disinherit

their disabled child so that these basic benefits will not be lost.

In working out a solution to this problem, I also discovered that parents and family members cannot provide certain services, such as assistance in rent payments, while they are living without that assistance being deducted from the disabled individual's SSI benefit. For example, if a parent wants to give his disabled son or daughter $50 every month to help his child pay his rent at a group home, the Social Security Administration will deduct that $50 from the disabled individual's SSI benefit each month.

Many parents and families would like to assist their family members who have disabilities without that individual losing his eligibility for SSI benefits. These parents and families are only seeking to privately supplement SSI benefits; they are not seeking to obtain additional Federal dollars for their family member. Rather, these parents and families seek an opportunity to use their own funds to assist the disabled individual without risking that person's basis of support. These parents and families want a clearer, more understandable, and reliable set of criteria for long-term planning. This bill will provide that understanding.

Under this legislation, contributions from family members or others would not be counted as income for purposes of eligibility or benefit computation when those contributions are made to provide services in these areas: Social services, vocational rehabilitation, private medical coverage, educational services, personal assistance or attendant care services, clothing, or subsidies for housing such as rent or mortgage payments. In addition, a family can create a trust to provide these same services and that trust will not be counted as an asset or as income to the SSI recipient.

For housing assistance, a $7,200 yearly cap is placed on the amount that could be excluded from income in making eligibility or benefit level determinations This amount is the total of amounts received by the person and used within 30 days for the purposes of paying the rent, the mortgage, property taxes, repair and maintenance bills, and other home-related costs or amounts placed into a home maintenance account. The home maintenance account must be established for the benefit of the individual at a financial institution. Any portion of the excluded funds which remain in the account at the end of the year will be counted as part of the total amount that the individual can have available in the next year.

Under this bill, a parent or family member can supplement his disabled family member's rent at a group home or apartment, provide an attendant to help the disabled individual get dressed or assist in hygiene care, or provide transportation services so the disabled individual can go to the grocery store. Allowing such services to be provided will assure the parent that his disabled family member will continue the same lifestyle as if the parent were alive or give the parent or family member the opportunity to provide such services during his lifetime.

Most importantly, this legislation does not add new benefits or expend more tax dollars. This bill merely allows private dollars to be used by private citizens to assist their disabled family member.

This legislation will give parents and families a clearer understanding of those areas in which they can make contributions without adversely affecting the disabled individual's basic support system. It will allow more people with disabilities to live independently with private assistance from their families as well as the Federal benefits which form the basis of their support. I urge my colleagues to cosponsor this bill.

THE CORPORATE RAIDER TAX ACT OF 1989

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation in response to the recent wave of mega-mergers, especially hostile takeovers.

The scope of mergers and acquisitions is large and complex. Over the last 3 years there have been over 15,000 deals, aggregating over $750 billion. In 1987 alone total merger and acquisition activity amounted to over $225 billion, and about a tenth of this involved hostile takeovers. While hostile deals were small in number, they were large in dollar terms and large in the negative impact on our economy and society as a whole.

I'm convinced that this orgy of mergers and acquisitions does not serve the public interest. This paper warfare hurts most Americans and enriches a small minority. Those who benefit are the raiders, investment bankers, and merger lawyers. The rest of us lose, because these deals seldom make companies more efficient and competitive. This merger activity simply diverts billions of dollars that could be better spent on research and development or new production facilities. The takeover process results in higher debt levels leaving companies vulnerable to bankruptcy in the event of a recession. Finally, mergers increase concentration in the economy, which reduces competition.

If we continue to allow this paper warfare to be fought without congressional intervention, we will be making an egregious mistake. It's time that Congress stepped in an began writing some of the rules of this warfare.

The Corporate Raider Tax Act of 1989 deals with one troublesome aspect of this larger merger issue, the tax treatment of certain hostile takeovers. The bill disallows the deductibility of interest on indebtedness incurred or continued to purchase or carry stock acquired as part of a hostile qualified stock purchase. It also requires that the purchaser of stock in any hostile stock purchase be treated under the Tax Code as if the acquired corporation had sold all its assets for their fair market value and then liquidated.

It's time that Congress acted to protect American workers and the American economy from the greed of raiders. I urge my colleagues to cosponsor this legislation.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Raider Tax Act of 1989".

SEC. 2. SECTION 338 ELECTION DEEMED MADE IN CASE OF HOSTILE QUALIFIED STOCK PURCHASES.

(a) IN GENERAL.—Section 338 of the Internal Revenue Code of 1986 (relating to certain stock purchases treated as asset acquisitions) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ELECTION DEEMED MADE WHERE HOSTILE QUALIFIED STOCK PURCHASE.—

"(1) IN GENERAL.—In the case of any hostile qualified stock purchase, the election under subsection (a) shall be treated as made with respect to the target corporation.

"(2) HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'hostile qualified stock purchase' means any qualified stock purchase if any significant portion of the stock included in such purchase is acquired pursuant to a hostile offer.

"(b) HOSTILE OFFER.—

"(i) IN GENERAL.—For purposes of subparagarph (A), the term 'hostile offer' means any offer to acquire stock of a corporation if a majority of the independent members of the board of directors of such corporation disapprove such offer.

"(ii) REVOCATION OF DISAPPROVAL.—An offer shall not be treated as a hostile offer if—

"(I) a majority of the independent members of the board of directors of such corporation revoke such disapproval, and

"(II) no stock is acquired pursuant to such offer before such revocation.

"(ii) INDEPENDENT DIRECTORS.—For purposes of this subparagraph, a member of a board of directors shall be treated as independent if such member is not, and was not at any time during the 1-year period ending on the date of his approval or disapproval of the offer, an officer or employee of the target corporation.

"(3) SPECIAL RULES FOR DETERMINING WHETHER THERE IS A QUALIFIED STOCK PURCHASE.—In the case of a hostile offer, for purposes of this section—

"(A) the person (whether or not a corporation) who makes the offer to acquire stock of a corporation shall be treated as the purchasing corporation, and

"(B) all stock acquired by—

"(i) any person acting in concert with such offeror, and

"(ii) any person who is related (within the meaning of section 5881(c)(2)) to such offeror or to the person described in clause (i), shall be treated as acquired by such offeror.

"(4) OTHER SPECIAL RULES.—In applying subsection (b)(1)(A) to a hostile qualified stock purchase, the grossed-up basis of the purchaser's recently purchased stock shall be treated as equal to the sum of any money plus the fair market value of the property (other than money) transferred in exchange for such stock."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to hostile qualified stock purchases (as defined in section 338(i) of the Internal Revenue Code of 1986) with respect to which the acquisition date (as defined in section 338(h)(2) of such Code) is after January 3, 1989.

SEC. 3. DENIAL OF DEDUCTION FOR INTEREST ON INDEBTEDNESS INCURRED TO ACQUIRE STOCK OR ASSETS OF CORPORATION THE STOCK OF WHICH WAS ACQUIRED IN HOSTILE PURCHASE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 2801. INTEREST ON INDEBTEDNESS INCURRED TO ACQUIRE STOCK OR ASSETS OF CORPORATION THE STOCK OF WHICH WAS ACQUIRED IN HOSTILE PURCHASE.

"(a) GENERAL RULE.—No deduction shall be allowed under this chapter for interest on indebtedness incurred or continued by a purchasing shareholder to purchase or carry the stock or assets of any corporation if—

"(1) such stock is purchased as part of a partial hostile qualified stock purchase, or

"(2) such assets are acquired on or after the partial acquisition date and were held by such corporation on such date.

"(b) PARTIAL HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this section, the term 'partial hostile qualified stock purchase' means a hostile qualified stock purchase (as defined in section 338(i)) determined by substituting '20 percent' for '80 percent' each place it appears in section 1504(a)(2) for purposes of applying section 338(d)(3).

"(c) PURCHASING SHAREHOLDER.—For purposes of this section, the term 'purchasing shareholder' means—

"(1) the shareholder who made the hostile offer referred to in section 338(i),

"(2) any person acting in concert with such shareholder, and

"(3) any person who is related (within the meaning of section 5881(c)(2)) to such shareholder or to the person described in paragraph (2).

"(d) PARTIAL ACQUISITION DATE.—For purposes of subsection (a), the term 'partial acquisition date' means, with respect to any corporation, the 1st day on which there is a partial hostile qualified stock purchase with respect to such corporation.

"(e) SUCCESSOR CORPORATION INCLUDED.—The corporation referred to in subsection (a) shall be treated as including its successor described in section 338(a)(2)."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 2801. Interest on indebtedness incurred to acquire stock or assets of corporation the stock of which was acquired in hostile purchase."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred after January 3, 1989.

THE NATIONAL PUBLIC WORKS CORPORATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. CLINGER. Mr. Speaker, the legislation that I introduced today is one important answer to the growing need for a mechanism to finance public facilities with a minimum drain on Federal spending and a high degree of capital leveraging. The Nation's ability to encourage the expansion of business and the development of new industries is constrained by the difficulty of delivering public services. Economic productivity cannot increase if our public facilities are unable to support growth.

Just to maintain our current level of public services over the next 20 years—without any major new expansion in the economy—it is estimated that we would need to spend between $1 and $3 trillion. In a report issued last year, the National Council on Public Works Improvement recommended that total public investment must double if we're to match expected growth. At the same time, however, State and local governments are still in the best position for determining project priorities that address the most serious and immediate challenges confronting their economic development.

The Federal Government dominates public works investment policy by financing about half the outlays on our country's civilian infrastructure. Unfortunately, the assistance is usually in the form of rigid categorical grants that are funded and designed according to national priorities, with very little money available from flexible sources. Once a project is completed with categorical grant funding, no recoupment of Federal funds is possible unless the funds were misspent. Trust funds that generate user fees are the exception to this rule.

Mr. Speaker, I propose a new legislative approach that combines the flexibility of block-grant funding with the advantages of a guaranteed stream of revenue.

ESTABLISHMENT OF A CORPORATION

The bill establishes a National Public Works Corporation that could leverage up to $50 billion in capital for public facilities when fully funded by Federal and State Governments. The Corporation is to be composed of a bipartisan board of directors. The revenues from a fraction of the interest on loans to State and local governments would be used to pay for administrative costs and salaries. The quasi-independent corporation's review of projects would be limited to: First, financial matters of integrity on the institution's reserves and loan portfolio; and second, the technical and competitive aspects of projects. The determination of investment levels and priorities rests with the states.

CAPITALIZATION AND RESERVE FUND

The initial capitalization of the Corporation authorizes $2.5 billion from the Federal Government, to be matched by $2.5 billion from participating States. The combined amounts of actual appropriations and State contributions constitutes a 10-percent reserve requirement for the Corporation. The total amount of outstanding loans may exceed 10 times the amount of reserves. These loans will be financed through the issuance of bonds with the full faith and credit of the Federal Government as a guarantee.

Although States must initially match the Federal contribution on a dollar-for-dollar basis, they ultimately would be permitted to leverage 20 times that amount in project loan funds. Moreover, the States could determine their own contribution schedules, because their fiscal capabilities may vary.

Participation in the Corporation is voluntary. The State chooses the amount and time of contributions. The maximum contribution is limited to the amount that bears the same ratio to $2.5 billion as the State's population bears to the national population. For example, a State with 10 percent of the country's population may contribute up to $250 million. The Federal Government matches the contribution with an equal amount. If fully capitalized, the State is then entitled to loans of up to $5 billion, depending upon the State's contribution. As the loans are repaid, the States are entitled to second generation funds for further loans—an advantage over categorical grant programs.

LOANS TO STATES AND LOCAL GOVERNMENT

The Corporation is authorized to make loans to participating States and to units of government within those States. The loan may be less than the total cost of the project, if other sources of funds are committed from Federal and State grants, local contributions and private donations. The funds are generally available for the construction, reconstruction, rehabilitation, or repair of any public facility. However, the repayment of the loan and the operation, maintenance, and replacement costs of the project must be tied to a guaranteed stream of revenues for the use of the facility.

The interest rate on the loan is based upon the cost of borrowing funds and the corporation's administrative costs. Interest rates may be reduced across the board through a direct appropriation by Congress. This authority is to be used when high interest rates would make the cost of loans from the Corporation an inordinate burden on borrowers.

The Corporation may only approve loans that have the approval of the Governor of a participating State. The board shall ensure that the project is technically feasible and that awards are made on the basis of competitive bidding. The Corporation is granted further powers to audit the borrower's compliance with the loan requirements and to take remedial actions.

DEFAULTS

In the event of a default on the loan by a State and local government, half of the amount of the default would be charged against the State's reserves. A State may replenish its reserves within 2 years, but after that time, the amount of potential loans in the future would be substantially reduced. The reserves are vitally important for maintaining the creditworthiness of the Corporation.

Mr. Speaker, this bill is not intended to be a complete answer to the financing of our infrastructure needs, but it can be an important step in addressing a large part of the problem. The setting of priorities rests with the States. Although the Federal Government will be engaging in a new credit-lending activity, several provisions in the bill contain strong assurances that loan guarantees to bond investors carry as little risk as possible against loan defaults. I believe that this legislation will provide Congress with an opportunity to address the growing infrastructure crisis in the years ahead in a cost effective manner.

POLITICAL FREEDOM FOR FEDERAL AND POSTAL EMPLOYEES

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. CLAY. Mr. Speaker, I am joined today by my colleague and fellow Post Office and Civil Service Committee member, Representative FRANK HORTON, in introducing the Federal Employees' Political Activities Act of 1989. We are continuing the bipartisan effort that was forged in the last Congress to restore to 3 million Federal employees the right to freely participate in this Nation's political process, a right enjoyed by all other citizens.

The legislation we are introducing is identical to H.R. 3400 which passed the House in the last Congress by an overwhelming vote of 305 to 112. The Senate Committee on Governmental Affairs reported out a similar bill which was offered as an amendment to the D.C. appropriations bill in the Senate. Because the Senate was acting under a time constraint to complete all appropriations measures by a midnight deadline, there was not sufficient time to fully debate the Hatch Act reform amendment and it was subsequently tabled.

I believe that this legislation has received sufficient study and deliberation. The 50-year-old Hatch Act, well intended as it may have been, is outdated and in need of reform. A review of the circumstances surrounding the enactment of the Hatch Act in 1939 leads to the inevitable conclusion that the legislation was a congressional overreaction to fear of the growing influence of President Franklin D. Roosevelt during a period of rapid growth of the Federal bureaucracy. It was an overreaction by the Congress to abuses, not of voluntary political activity, but to coercion and kickbacks by employees and recipients in Federal relief programs. At that time, less than 32 percent of the Federal work force of 950,000 was under the classified merit system. Today's Federal work force has approximately 3 million employees of which 78.6 percent are covered by the merit system. Today, we have a well-entrenched merit system that protects both employees and the public from political influence and abuse.

Our bill seeks to modify the Hatch Act by permitting Federal employees the right to participate voluntarily in political activities so long as those activities do not even appear to compromise the integrity of the merit system or the impartial administration of the functions of our government.

The following is a summary of the bill:

States that it is the policy of the Congress that employees should be encouraged to fully exercise their right to participate or not participate in the political processes of the Nation. The exercise of this right should be free and without fear of reprisal or penalty.

The bill contains a prohibition against on-the-job political activity. Federal employees cannot engage in any political activity while on duty, in a Federal facility, in the uniform of a Federal job, or while using any vehicle owned or leased by the Government. The rule against on-the-job political activity applies to most employees in executive agencies and to employees in the competitive service not in the executive branch.

The bill also contains prohibitions against official coercion. Federal employees cannot use official authority or influence to interfere with the result of an election or to intimidate any individual to vote or not to vote, to give or withhold a contribution, or to engage or not engage in any political activity. Federal employees may not use official information for any political purpose, unless the information is available to the public. Federal employees may not give a political contribution to a superior, or give, receive, or solicit a political contribution in a Government building. Federal employees may not solicit, accept, or receive a contribution from, or give a political contribution to, a person who has or is seeking a contract with the employee's agency, is regulated by the agency, or has interests which may be affected by the performance of the employee's duties. The various criminal prohibitions relating to elections and political activities contained in chapter 29 of title 18 of the United States Code, are conformed.

Other than these restrictions, Federal employees can engage in any legal political activity off the job. They may run for partisan political office without taking leave, as long as the campaigning does not interfere with the performance of their duties. An employee who requests leave without pay or annual leave for the purpose of running for office can only be denied such leave by agency management based on the exigencies of the public business.

The special counsel of the Merit Systems Protection Board is authorized to issue regulations and to enforce the administrative prohibitions concerning political activity. Actions brought by the special counsel would be brought under the general disciplinary action procedures of 5 U.S.C. 1207. The Merit Systems Protection Board could impose any penalty provided by that section.

Federal employees deserve the same constitutional protection of the right to free speech and association as is afforded all other Americans. The bill we are introducing today returns these inalienable rights to these dedicated individuals.

INTRODUCTION OF LEGISLATION TO ALLOW DEDUCTION FOR MAKING HOMES ACCESSIBLE TO THE HANDICAPPED

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to help individuals make their homes more accessible to the handicapped. Under existing tax laws, businesses are able to deduct the costs of making establishments more accessible to the handicapped, but in most cases, that same benefit is unavailable to individual taxpayers.

In general, any trade or business that takes steps to make its establishment more accessible to the handicapped is able to deduct those costs in the year incurred. Despite a fundamental income tax principle that capital expenditures must be amortized over the useful life of the property being constructed or improved, the tax laws allow costs associated with making a trade or business accessible to the handicapped deductible in the year incurred.

Unfortunately, individual taxpayers are not able to qualify for as generous a benefit. Generally, expenses incurred to remove architectural barriers to the handicapped are deductible as medical expenses. However, medical expenses are subject to a 7½-percent "floor": in other words, medical expenses must exceed 7½ percent of taxpayer's adjusted gross income before they are deductible—and even then, only the excess over that amount is deductible.

In addition, it is not clear what costs of removing architectural barriers are allowable. Prior to 1986, the Internal Revenue Service had generally taken the position that for an expense to be allowable as a medical expense deduction, it must have been an essential element of treatment and must not have been otherwise incurred for nonmedical reasons. The 1986 Tax Reform Act clarified and liberalized this standard, generally by allowing certain capital expenses designed to make a taxpayer's residence more accessible to the handicapped a qualified medical expense deduction. (See, S. Rept. 99–313, p. 59).

In response to the 1986 act amendments, the Service issued Rev. Rul. 87–106, IRB 1987–43, which listed 13 examples of qualified expenses which would be allowed as a medical expense deduction if used to make a home more accessible to the handicapped. The Service noted that this list was not exhaustive.

The purpose of my legislation is to allow expenses similar to those listed in Rev. Rul. 87–106 as a deduction, without regard to the 7½-percent floor. Thus, a taxpayer who incurred qualified barrier removal expenditures could deduct those amounts in full. Qualified barrier removal expenditures are expenses incurred which make a taxpayer's principal residence more accessible to, and usable by, the handicapped, as defined by the Service in regulations. It is my intent that the Service would use principles similar to those in Rev. Rul. 87–106 in making this determination.

My bill also makes clear that expenses deducted under the provisions of my legislation would not also be allowed as a medical expense deduction. In addition, the taxpayer would not be able to increase the basis in the property improved by the amount claimed as a deduction under this bill.

Mr. Speaker, it is simply unfair that individual taxpayers cannot get the same benefits as businesses for making their own homes accessible to the handicapped. A parent with a disabled child should not, for example, have to incur expenses exceeding 7½ percent of their adjusted gross income in order to qualify for the limited benefits in the 1986 tax bill. My bill will allow taxpayers—all taxpayers—to claim, as an itemized deduction, any qualified expense to make a residence more accessible

to the handicapped. This bill is fair and humane, and I urge my colleagues' support.

SENIORS LONG-TERM CARE INSURANCE

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WYDEN. Mr. Speaker, there are few events sadder than seeing an American family scrimp and save for years only to be impoverished overnight when one spouse goes into a nursing home. The elderly have resorted to increasingly desperate measures to pay for long-term care.

Millions of older Americans are waiting now for elected officials to act to fill what is unquestionably the greatest gap in Medicare—funding for long-term care. While my legislation does not address all of our concerns, it does open the door a little bit wider so that insurers can offer more affordable private policies to more people.

A little over a year ago, a special task force on private long-term health care policies gave me several recommendations for improving seniors' access to long-term care. The legislation I am introducing today reflects one of these recommendations because it will alleviate some of the stumbling blocks to offering private insurance by clarifying that long-term care insurance reserves are the same as other-tax-exempt insurance reserves.

The world of private long-term care insurance has been relatively unchartered territory. Senior citizens haven't purchased insurance because the few policies available have been costly and have provided limited coverage. Insurers haven't offered more extensive coverage because the market is still undeveloped.

A year in a nursing home can cost $23,000 a year—more than the average family income in this country. Those who save conscientiously for this financial disaster quickly lose a lifetime of savings in less than 6 months. My legislation can help drive down the price of the private insurance, so that seniors can find some relief from the crushing costs of nursing home care.

Private insurance will only begin to fill the enormous demand for long-term care gap. Millions will not be able to afford private coverage. For those individuals, we must continue the search for comprehensive solutions to meet their long-term care needs.

However, private long-term health care insurance should be one part of a national policy to fund long-term care in an aging society. My legislation will serve to strengthen our ability to meet the long-term care needs of all Americans.

MUST-CARRY AND CABLE TELEVISION

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, for some time, I have been a vocal opponent of some of the ways in which the cable industry has used its monopoly power to control 45 million cable subscriber's access to over-the-air broadcasts.

Today, in order to rectify this situation, I am pleased to announce that I am introducing the Cable Subscribers Protection Act of 1989. This legislation is urgently needed to assure our Nation's cable viewers access to all the local, over-the-air broadcast signals which have been licensed by the Federal Government to serve these subscribers as well as folks who only have access to directly broadcast signals.

Due to several court decisions and to negligence on the part of the Federal Communications Commission, America's cable subscribers no longer have the basic protection of a reasonable "must-carry" rule, to assure them access to all local broadcast signals. Since it is unlikely that cable subscribers in any market will soon have the choice of two or more cable operators, it is necessary to protect consumers from the potential abuse of the monopoly power of the cable operator.

The legislation I am introducing today will formally link cable's compulsory license with local station "must-carry" rules. As my colleagues well know, the compulsory license enables cable to take and transmit—without permission and without compensation—the signals of any television station it chooses. The cable operator may then sell the retransmission of these local broadcast signals to cable service subscribers, along with other program packages.

The cable compulsory license is an extraordinary privilege constituting an enormous subsidy to the cable industry—all courtesy of the U.S. Government. In my view, cable does not have a first amendment claim to the compulsory license.

Therefore, the legislation I propose will amend both the Communications Act and the Copyright Act so that only cable systems abiding by reasonable "must-carry" requirements would be eligible for the compulsory license for local signals.

Cable operators who are not willing to treat local stations fairly by carrying them on their systems will not be required to do so, but these operators will also not be able to utilize the compulsory license to carry any local station over-the-air broadcasts.

The "must-carry" requirement a cable operator has to meet is simply the most recent set of rules adopted by the FCC—those which were based on the compromise achieved by cable and broadcast industry negotiators, but overruled by the courts.

In addition, my proposal will end the practice of channel-shifting which many cable operators have used to put local stations at a disadvantage with respect to pay-for-service programming. Local stations will have a preferential voice in cable channel positioning.

One final note—the legislation I propose today will condition compulsory license for carriage on local signals only. I have intentionally excluded distant signals for the simple reason that the time to eliminate compulsory license coverage of distant signals has come.

The FCC's "must-carry" rules were struck down in July 1985. Those rules, which had existed for more than 20 years, merely guaranteed that cable subscribers had access to their local television broadcast stations.

Congress put relentless pressure on the Commission to draw up new rules, which in fact they did, to a large extent based on legislation I introduced in 1985 which moved the various industry participants to achieve a compromise solution, which the FCC adopted in 1986.

It was unfortunate in the extreme that several large cable companies ignored the compromise agreed to by their association representatives and challenged the new rules in court. Again, the court found that the revised rules violated the first amendment rights of cable operators.

Once again, cable operators control the fate of many local broadcasters—especially public and independent stations. We cannot allow this situation to continue.

What I want to do is fix this situation once and for all—before it gets worse and in a manner in which neither the courts nor the FCC can overrule a solution which is clearly in the public interest.

I want to reemphasize my continued concern for the fate of local broadcasters and consumers in an arena now totally controlled by cable operators who directly compete with the over-the-air broadcaster for their share of the audience.

While I am one of free television's most vocal critics when it comes to issues like children's programming, I still strongly believe in the promise and responsibility of local broadcasters to serve their communities.

Local broadcasts—both radio and television—are the most democratic of all means of mass communications. These broadcast stations provide every American—in every community—with vast amounts of information and entertainment programming every day at absolutely no charge.

Local over-the-air broadcast is truly a universal service available to virtually everyone with very little regard for income and no regard for social status. Cable service—even if it does provide some very worthwhile additional programming—clearly is not a universal service. With average prices in the range of $20 per month, millions of lower income Americans do not now—and will not in the foreseeable future—have access to cable television.

Therefore, it is very important that free TV continue to be a dynamic communications force in this country. Since over 45 million Americans today depend on cable for their television reception, we as communications policymakers simply cannot allow the local cable operator—who controls this reception pipeline—to determine which local free TV sta-

tions reach those subscribers and which stations do not.

Cable now reaches 50 percent of all U.S. homes. It is obvious that few local stations which do not have cable channel positions will long survive. The demise of local stations because they are not carried on cable would constitute a loss not only to cable subscribers, but to the over-the-air television audience for whom local stations are their only source of television news, information, and entertainment.

While cable systems once happily carried every local station, this situation has changed as cable has emerged as a direct competitor of broadcast television. Today, a typical cable system has sales people on the street selling advertising time on cable programs directly opposite local station programming.

Competition, as a rule, is beneficial to consumers. Competition which is beneficial must also be fair, because, in the competition which pits over-the-air television stations against cable operators, it is not cable subscribers alone who are impacted by an operator's programming decisions, but nonsubscribers as well.

When cable systems may drop local stations—be they public, network affiliates, or independent stations—in order to increase the audience share for paid cable services, then something must be done to protect the public interest and the consumers—for whom we are the ultimate guardians.

The legislation I am introducing will rectify the current untenable situation. I welcome my colleagues' support for this proposal.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Subscriber Protection Act of 1989".

SEC. 2. AMENDMENTS.

(a) COMPLIANCE WITH MUST-CARRY RULES REQUIRED FOR COMPULSORY LICENSE PRIVILEGES WITH RESPECT TO LOCAL BROADCASTS.—Section 111(c) of title 17, United States Code is amended in clause (1) by striking out "where the carriage of the signals" and all that follows through the end of such clause and inserting the following:

"where—

"(A)(i) such secondary transmission takes place entirely within the local service area of such primary transmitter; (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of such Commission; and (iii) the cable system complies with section 640 of the Communications Act of 1934; or

"(B)(i) such secondary transmission takes place in whole or in part beyond the local service area of such primary transmitter; and (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of the Federal Communications Commission.".

(b) FEDERAL COMMUNICATIONS COMMISSION CERTIFICATION OF CARRIAGE.—Title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"COMPLIANCE WITH MUST-CARRY REQUIREMENTS

"SEC. 640. (a) A cable system complies with the requirements of this section if the Federal Communications Commission certifies that the cable system—

"(1) carries, as part of the basic tier of cable service regularly provided to all subscribers at the minimum charge and to each television receiver on which subscribers receive cable service, in full and in their entirety, the signals of television broadcast stations in accordance with sections 76.5 and 76.51 through 76.62 of title 47 of the Code of Federal Regulations as in effect on December 10, 1987; and

"(2) carries each such station on the cable channel on which it was carried on July 19, 1985, or on the channel number assigned to such station by the Commission, at the election of the television broadcast station, or on such other cable channel as may be acceptable to the television broadcast station.

"(b) The requirements of this section shall not be subject to an expiration date.".

(c) DEFINITION OF LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended by striking out the fourth paragraph (containing the definition of local service area of a primary transmitter) and inserting the following:

"The 'local service area of a primary transmitter,' in the case of a television broadcast station, comprises: (1) the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or (2) the area extending 50 air miles from the reference point (as defined in 76.53 of title 47, Code of Federal Regulations) of the station's community of license, if the cable system's principal headend is located within such area, or (3) the area of dominant influence in which the station is located, as demarcated in the ARB Television Market Analysis for the most recent year (or, if the ARB Television Market Analysis ceased to be published, such equivalent area as shall be determined by the Register of Copyrights); or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The 'local service area of a primary transmitter,' in the case of a radio broadcast station comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on the date of the enactment of this Act.

INTRODUCTION OF LEGISLATION TO IMPROVE HEALTH INSURANCE TO COVER SUBSTANCE ABUSE FOR FEDERAL WORKERS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing legislation establishing demonstration programs under the Federal Employees Health Benefits Program [FEHBP] to test the cost effectiveness of various substance abuse treatment programs. Under this bill, the Office of Personnel Management [OPM] will work with FEHBP carriers, Federal agencies, and employee organizations to develop several 3-year demonstration programs.

The programs will be offered in one to five geographic locations and will test various substance abuse treatment and rehabilitation models. Inpatient and outpatient treatment, as well as various other services such as child care, may be offered through the demonstration. An independent evaluator will measure both the cost and efficiency of these treatment programs, and the effects of substance abuse treatment on worker productivity.

Mr. Speaker, ever since 1982, when the administration forced extensive cuts in FEHBP, Federal employees and retirees have not had adequate health insurance coverage for drug abuse or alcoholism rehabilitation. In order to fill in the gaps in their insurance coverage, we must find the most effective and cost-efficient treatment methods. This bill will teach us a great deal at a very low cost. It is vital that we act soon so that the FEHBP can meet the health needs of Federal enrollees.

Similar legislation passed the House in 1986 as part of the omnibus drug bill. I thank you for your support then, and I urge you to continue your support for this vital piece of legislation.

IN SUPPORT OF TERMINATING THE EMBARGO AGAINST NICARAGUA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, today I am introducing, along with 15 of my distinguished colleagues, including three senior members of the Foreign Affairs Committee, legislation to terminate the United States trade embargo against Nicaragua.

On May 1, 1985, President Reagan declared a national emergency to deal with the unusual and extraordinary threat to United States national security posed by Nicaragua and imposed an economic embargo against that country. By imposing the sanctions under the International Emergency Economic Powers Act [IEEPA], President Reagan acted unilaterally, without consulting Congress or any of our allies.

Now, over 3 years later, it is clear that the embargo has not achieved any positive results for U.S. interests in the region. Although the Nicaraguan economy is obviously in shambles, United States agencies and private organizations could not produce hard evidence to measure the real economic impact of the trade sanctions themselves at the hearings held by the Subcommittees on Western Hemisphere and International Economic Policy and Trade last Congress.

However, the embargo has had numerous negative consequences for U.S. policy in the region. It has hurt the private sector in Nicaragua, previously pro-American, as well as United States businesses operating in the country. Second, the sanctions have served

as an embarrassment to the United States. The move was severely criticized by our allies, and no other nation has joined in imposing similar trade sanctions. Last, Nicaragua's reliance on the Soviet Union over the past years has increased dramatically—exactly the opposite effect of what the administration intended to accomplish. In addition, Nicaragua has effectively dissipated many of the effects of the United States embargo by increasing trade with our allies, including Canada, Japan, and Western European nations.

In its implementation of the trade sanctions, the Reagan administration has once again placed ideology over adherence to even the most minimum moral standards of conduct between nations. It has historically been U.S. policy to provide humanitarian aid to the people of other countries, independent of politics. The International Emergency Economic Powers Act [IEEPA] does not give the President the authority to prohibit private donations of goods intended to be used to relieve human suffering. Unfortunately, last Congress' hearings made clear that since 1985, the administration has acted to thwart the efforts of United States citizen and church groups to provide genuine humanitarian aid to the Nicaraguan people. By adopting an overly restrictive interpretation of the humanitarian exception, the administration has successfully blocked the export of such dangerous items as seeds, pencils, and farm tools.

Whatever its intent, the Reagan administration's policy toward Nicaragua over the last 8 years has added to, not alleviated, the suffering of the Nicaraguan people. The administration's relentless military war has dealt a devastating blow to the Nicaraguan economy, and has brought tragedy and bloodshed to countless innocent Nicaraguans. Just recently, the administration decided not to extend disaster relief to Nicaragua, despite the widespread destruction caused by Hurricane Joan.

This month will bring the beginning of a new—and hopefully more reasonable—administration. A new direction in United States policy toward Central America is desperately needed. Terminating an ineffective, immoral and inhumane policy of economic sanctions against Nicaragua would be a worthwhile first step.

I urge my colleagues to join me in supporting this bill to lift the United States trade embargo against Nicaragua.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the prohibitions on trade and other transactions and activities involving Nicaragua which were established under the International Emergency Economic Powers Act and other laws pursuant to the national emergency declared by the President in Executive Order 12513 of May 1, 1985, shall cease to apply as of the date of enactment of this Act.**

THE ANNOUNCEMENT THAT PAN AM 103 WAS THE VICTIM OF SABOTAGE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. GILMAN. Mr. Speaker, as we now know, the British Aviation Authority has confirmed that the destruction of Pan Am 103 was indeed the result of sabotage. Intense heat damage to the plastic lining of the cargo hold of the aircraft, along with evidence uncovered during autopsies performed on the passengers indicate that an explosive device was responsible for this tragedy.

The deliberate use of terror by governments, political and ethnic groups in the Middle East is of long standing. The rising tide of Islamic fundamentalism, coupled with Palestinian radicalism has made 1988 the bloodiest year yet for terrorist incidents.

Mr. Speaker, the world has had enough of this type of brutality. If culpability for this tragedy rests with state supported groups operating out of such countries as Libya, Syria and Iran, we must make them accountable. Diplomatic channels, economic sanctions, as well as the military option must not be ruled out of order to protect our citizens.

Small, radical nations never risk engaging the United States in a large scale military operation. For this reason they choose to perpetrate surrogate acts of terror—the ambiguous alternative to conventional warfare. It is up to the U.S. Government to remove the ambiguity from our response. The international community must work together to put an end to criminal acts of terror throughout the world. There must be no safe haven for terrorists.

A TRIBUTE TO REGINALD F. MARTIN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. STOKES. Mr. Speaker, on Saturday, January 14, 1989, friends and colleagues will gather to pay tribute to Reginald F. Martin upon his retirement as Field Division General Manager/Postmaster in Cleveland, OH. It is a great honor to join in the salute to an outstanding individual and dedicated leader.

Mr. Speaker, Reginald Martin's distinguished career in the U.S. Postal Service spans 37 years. He joined the Postal Service in 1952 as a distribution clerk in the Washington, DC, area. He rose through the ranks and served in a number of key positions within the Postal Service in the Washington, DC, Minneapolis, and Los Angeles areas.

In 1985, Reggie Martin was appointed manager of the northeast Ohio district. As district manager, he directed the operations of 360 post offices, including management sectional centers at Akron, Cleveland, and Youngstown, OH, and mail processing centers at Canton, Mansfield, and Steubenville. In 1986, during realignment of the Postal Service, Mr. Martin took the helm of the Cleveland division—covering a 20-county area of northeastern Ohio and representing annual revenues of over $510 million.

In this capacity, Mr. Martin has proven himself as a person who doesn't change with the times—rather, a progressive thinker who changes before the times. He plays an active role in postal management by getting to know the customers and helping them to meet their needs.

One such need in Cleveland was relief from congested lobbies and crowded parking lots. Mr. Martin felt drive-through windows would alleviate parking problems and improve customer service. The now famous "snorkel box," which comfortably houses a window clerk, is a great success in the Cleveland area and is being considered for implementation nationwide. At one of Cleveland's busiest branch offices, Mr. Martin implemented valet service for local businesses which call for their mail. Business customers who previously had to wait in line now drive through a caller line where clerks retrieve their sacks of mail, thus saving time for all concerned.

Mr. Speaker, as a result of his customer first approach, the Cleveland division has welcomed new postal facilities throughout northeast Ohio. And when capital funds were not available for new construction, Martin's innovative thinking led to the renovation of a supermarket by a team of postal employees. Lakewood, OH, which had waited over 30 years for a larger post office recently received a Christmas gift from Reggie Martin—a beautiful new showcase facility. Mr. Martin and his staff also work closely with the Local Postal Customers' Councils to maintain the high level of customer satisfaction found in the division. Town hall meetings and small, informal business meetings between postal customers and postal officials are held on a regular basis.

But customers are not the only ones to benefit from Mr. Martin's innovative methods. The 14,000 employees of the Cleveland division are fortunate to have Reggie Martin as their leader. He encourages employee and management involvement, strongly supports an affirmative action programs, and fosters a team spirit among his employees.

Mr. Martin is a man of remarkable talent, organizational ability and commitment. Due largely to his efforts, in 1988 we witnessed the renaming of a Cleveland postal station in honor of Cleveland-born Olympic hero, Jesse Owens. Additionally, we were successful in dedicating Cleveland's main postal facility in honor of the late John O. Holly, founder of the Future Outlook League, which was responsible for eliminating discrimination in employment practices in the city over 50 years ago. At this very moment, plans are underway to launch a program to provide clothing for the needy through collections at postal stations throughout the city. Reginald Martin was instrumental in the development of this program and has devoted his time, talent, and staff resources to ensure its success.

Mr. Speaker, I have had the opportunity to call upon Reggie Martin on numerous occasions for assistance. He is always available and willing to help in any manner possible. Reggie is also a kind and gracious individual.

My staff and I have enjoyed working with him. He is a great asset to the U.S. Postal Service and the city of Cleveland. I will miss working with him.

Mr. Speaker, I hope that my colleagues will join me in saluting Reginald Martin upon his retirement. We extend our best wishes to Reginald, his wife, Barbara, and his family on this occasion.

THE ENTERPRISE ZONE DEVELOPMENT AND EMPLOYMENT ACT OF 1989

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. RANGEL. Mr. Speaker, I am honored to rise and announce that I am today introducing the "Enterprise Zone Development and Employment Act of 1989," introduced by Congressmen GARCIA and Kemp in the 100th Congress. However, before briefly describing the intent of this important legislation, I would like to thank you, Mr. Speaker, for the support that you have assured me in this effort. In doing so, you have once again demonstrated to the Members of this great body, and to the American people, your deep commitment toward improving the plight of the neglected urban centers in the United States.

The reintroduction of the legislation will, I believe, encourage more private businesses to invest in our inner-city communities all across this country.

Mr. Speaker, I needn't remind you or any Member of this, the 101st Congress, of the need for us to examine and experiment with various approaches to solving the pressing social and economic problems of our metropolitan areas. The creation of enterprise zones has not been enacted in past sessions of Congress because many of us have believed that the Tax Code should not be the primary means of stimulating the economic growth and revitalization of our economically depressed communities. We have believed that the Government should play the primary role through direct intervention to alleviate these problems.

Now we begin a new Congress with the continuing harsh realities of the Federal budget deficit and the constraints of the Gramm-Rudman legislation. But we have a new President and a new Congress, and we envision a new spirit of commitment to cooperation to come together, executive and legislative, Republican and Democrat, to address the problems of the poorest of the poor, the victims of economic and social problems of which they are not responsible.

The Enterprise Zone Development and Employment Act of 1989 provides for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by encouraging or promoting: First, tax relief at the Federal, State, and local levels; second, regulatory relief at the Federal, State, and local levels; and third, improved local services and an increase in the economic stake of enterprise zone residents in their own communities, via increased involvement of private, local, and neighborhood organizations.

The Federal tax incentives that are included in this bill are the main avenues intended to encourage establishment of new enterprises, as well as the expansion of existing ones, thereby, creating new jobs in these urban areas. Jurisdictions will compete for the limited number of zones by means of local incentive packages, such as relief from taxes or regulations, or improved services or infrastructure.

Mr. Speaker, although I realize that this legislation will not by any means cure all of the ills of inner cities, I do believe that it represents a valid attempt to forge a coalition between the Federal Government and the private sector to jointly address these pressing social and economic problems.

A DEATH IN BRAZIL

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. OBEY. Mr. Speaker, I'd like to bring to my colleagues attention a New York Times editorial written by Tom Wicker regarding the recent murder in Brazil of Francisco Mendes Filho, an Amazonian labor leader who worked diligently and unselfishly to save one of the world's greatest resources, the Brazilian Amazon rain forest.

Mendes was recently recognized by the United Nations Environment Program as one of the world's top 500 ecology leaders, and he was instrumental in bringing about changes in the way international lending institutions finance dangerous road projects in the Amazon. Mr. Mendes struggled during his lifetime to advocate and organize workers practicing rubber tapping, an occupation which allows for sustainable economic growth using the great resources of the Amazon without exploitation. Under his leadership, rubber tappers in the western Amazon were successfully organized to work against the shortsighted bulldozing of the rain forest for cattle-raising operations.

It's tragic that Mr. Mendes was gunned down, allegedly by killers who were envious of his success in getting the Brazilian government to declare reserves for rubber tappers in the forest.

The world will miss this far-sighted individual and will be watching Brazil to ensure that not only will Chico Mendes' work be carried on, but also that his killers will be swiftly brought to justice.

His work was as important to us in the Northern Hemisphere as it was to those Brazilian rubber tappers because all of us, as biological creatures, are intimately reliant on a delicately balanced global environment which he worked to preserve.

The editorial follows:

[From the New York Times, Dec. 27, 1988]

A DEATH IN BRAZIL

The shot that killed Francisco Mendes Filho last week in Brazil may not have been heard round the world, though it was reported on page 1 of The New York Times. But Mr. Mendes's violent death may at least further alert global authorities to the dangers of deforestation—an environmental abuse he fought so effectively that he may have been murdered by the land exploiters he opposed.

Mr. Mendes was a founder and organizer of the union of rubber tappers, whose traditional—and environmentally sound—way of life in the Amazon jungle was threatened by indiscriminate land clearance. At his death, he was the most prominent leader of the rubber tappers, the recognized national spokesman for their interests and the recipient of a Global 500 award from the U.N. Environmental Project for his work in forest protection.

His life had been threatened, he said recently, by local landowners and he was under police protection, which proved insufficient, at the moment he was killed. In the remote regions of the Amazon, such violence is not unusual, and Mr. Mendes had made enemies with his determined battle against further destruction of the tropical forest. He and his followers were credited with saving literally thousands of hectares from the bulldozer. (A hectare is about 2.5 acres.)

But far more of Brazil's rich "tropical moist forest" is gone forever—lost not just to the rubber tappers who "harvested" it without damaging or exploiting it, but to the wildlife whose habitat and ecosystems have been destroyed, to the food and timber uses it might have served and to populations all over the world who depend on the chlorophyllic action of plants and trees to keep the earth's atmosphere from excessive pollution.

That dependence is rapidly becoming precarious. Emissions of carbon dioxide into the atmosphere have increased in recent years from about 1.5 billion tons annually to more than five billion tons. In the first half of the 21st century, carbon dioxide concentration in the air will be about double that of pre-industrial times; that will contribute heavily to the so-called "greenhouse effect," expected to raise the earth's temperatures.

Francisco Mendes thus fought not only the rubber tappers' battle, but the whole planet's. Moreover, the assault to which he responded in the far-off jungles of the Amazon was not merely the product of shortsighted Brazilian development policies. It resulted also from the rising demand in the United States for cheap beef to make the Big Macs and Whoppers on which the new fast-food industry was thriving. Pasture-fed cattle from Latin America were an economical alternative to grain-fed beef from North America.

So Brazil embarked on a self-destructive course: tax credits, exemptions and deductions, as well as subsidized loans, for private entrepreneurs to invest in cattle ranching. Inevitably, these economic seductions led to the large-scale conversion of forest land to pasture—though the forest was far more valuable, inherently and perhaps even economically, than pasture. Between 1965 and 1983, 469 large cattle ranches, averaging 23,000 hectares each, were established in the Amazon region. Twenty-five percent of this land—by my calculation, about 10,517 square miles—actually was cleared by 1983.

The result, through 1983, was a $2.5 billion government investment, in effect subsidizing irredeemable deforestation and land degradation. For most of the entrepreneurs

Mr. Mendes fought so hard, profits were immense.

Brazil is by no means the only offender. Every year, throughout the world, about 11 million acres of tropical forests and woodlands are destroyed—mostly to clear land for agriculture to feed growing populations, or to supply exchange-earning exports. At present rates of loss, by the end of the decade 2007-2017, several countries will have destroyed all their forests: Nigeria, the Ivory Coast, Sri Lanka, Costa Rica, El Salvador.

Thus the kind of fight that Mr. Mendes waged literally to his death was of concern far beyond the Amazon—as are ozone depletion, acid rain, toxic wastes, desertification, ocean spoilage, diminishing resources, rising population and numerous other impending crises.

No more serious problems face George Bush, as he prepares to become President, with all the influence that office can exert on world development and conservation practices. Mr. Bush has made a good start with his nomination of William Reilly to head the Environmental Protection Agency. But even so experienced an environmentalist can have real impact on these global problems only if they are given the highest priority by a President as determined, in his way, as Francisco Mendes Filho was in his.

INTRODUCTION OF LEGISLATION REQUIRING PHYSICIANS TO ACCEPT ASSIGNMENT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to provide an important measure of financial protection in the field of health care costs for America's elderly. My legislation, if enacted, could save Medicare beneficiaries as much as $5.1 billion in health care costs.

Mr. Speaker, under present law, the Medicare Program reimburses physicians under one of two methods. Under both methods, Medicare generally reimburses 80 percent of the reasonable charge for the procedure.[1] A physician may bill the patient directly for the procedure, in which case the patient is reimbursed 80 percent of the reasonable charge by the Medicare Program. Alternatively, the patient may assign his right to reimbursement to the physician, in which case the physician collects 80 percent of the reasonable charge from the Medicare Program and the remaining 20 percent from the patient. Under this second method of reimbursement (the "assignment method"), the physician is prohibited from billing the patient beyond the reasonable charge for the procedure.

The following example illustrates how the system works. Two Medicare beneficiaries go to two different physicians. One physician accepts assignment; the other does not. Both patients undergo a procedure, the Medicare reasonable charge for which is $500. The physician who accepts assignment will receive $400 from the Medicare Program and may bill the patient for the remaining $100.

The other physician may, essentially, charge whatever he wishes for the procedure. Thus, if the physicial billed the patient $1,000, the patient would pay the physician the full amount and the patient would be reimbursed only $400 from the Medicare Program. The first patient has out-of-pocket expenses of only $100; the second patient has out-of-pocket expenses of $600—both for the same procedure.

Quite frankly, Mr. Speaker, this happens all too much. My bill would require physicians to accept the assignment method of reimbursement. There is no reason why a physician should charge a patient more than the Medicare-determined reasonable charge. As I mentioned, this legislation would save Medicare beneficiaries as much as $5.1 billion without costing the Federal Government a dime. It would be a true measure of protection from catastrophic medical expenses, and I urge prompt action on this legislation by the Committee on Ways and Means.

[1] Under the Medicare Catastrophic Coverage Act (P.L. 100-360), the Medicare program will reimburse 100 percent of the reasonable cost for a procedure after a beneficiary incurs $1,370 in Part B charges. However, the program will still not reimburse for amounts in excess of the reasonable charge.

NATIONAL OIL SECURITY POLICY ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, the National Oil Security Policy Act of 1989, addresses the critical need to establish a national security-oriented energy policy, especially in response to the current oil price collapse and the continuing devastation of our domestic energy production industry.

This measure calls for a national energy policy that would limit our dependence on foreign oil to 50 percent of domestic oil consumption, requiring the President to annually assess U.S. oil production, demand, and imports for the subsequent 3 years. If the evaluation shows that foreign oil dependence will exceed the 50 percent level, the President would then be required, within 90 days, to present Congress with a plan to prevent further dependence on foreign oil through production incentives, renewable energy proposals, an oil import fee, or any other appropriate measures.

Congress would then have 90 days to accept, modify, or reject the plan by passing a joint resolution.

The extent to which this Nation has grown to depend upon insecure foreign sources of petroleum is alarming. Last year, petroleum imports averaged over 6 million barrels per day—close to 40 percent of domestic demand. Not since 1980 have petroleum imports reached such a significant percentage of demand.

We are all aware of the volatility of oil in the international arena. We are again becoming increasingly dependent for critical energy sources on nations which will not hesitate to artificially control price, supply, and even availability—nations which have selfishly demonstrated in the past that they do not have the best interests of the United States, or the stability of the world economy, at heart.

In order to ensure the viability of our domestic oil production industry, I have introduced legislation today to keep us from growing more dependent on foreign energy sources, and I invite my colleagues to join me in cosponsoring this important measure.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oil Security Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States is the leader of the free world and has world wide responsibilities to promote economic and political security;

(2) the exercise of traditional responsibilities here and abroad in foreign policy requires that the United States be free of the risk of energy blackmail in times of shortages;

(3) the level of the United States oil security is directly related to the level of domestic production of oil, natural gas liquids, and natural gas;

(4) a national energy policy should be developed which ensures that adequate supplies of oil shall be available at all times free of the threat of embargo or other foreign hostile acts; and

(5) the ability of the United States to exercise its free will and to carry out its responsibilities as leader of the free world could be jeopardized by an excessive dependence on foreign oil imports.

(b) PURPOSE.—The purpose of this Act is to establish a national energy security policy designated to limit United States dependence of foreign oil supplies.

SEC. 3. DUTIES OF THE PRSIDENT.

(a) ESTABLISHMENT OF CEILING.—The President shall establish a National Oil Import Ceiling (referred to in this Act as the "ceiling level") which shall represent a ceiling level beyond which foreign crude and oil product imports as a share of United States oil consumption shall not rise.

(b) LEVEL OF CEILING.—The ceiling level established under subsection (a) shall not exceed 50 percentum of United States crude and oil product consumption for any annual period.

(c) REPORT.—(1) The President shall prepare and submit an annual report to Congress containing a national oil security projection (in this Act referred to as the "projection"), which shall contain a forecast of domestic oil and NGL demand and production, and imports of crude and oil product for the subsequent three years. The projection shall contain appropriate adjustments for expected price and production changes.

(2) The projection prepared pursuant to paragraph (1) shall be presented to Congress with the Budget. The President shall certify whether foreign crude and oil product imports will exceed the ceiling level during the next three years.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress shall have ten continuous session days after submission of each projection to review the projection and make a determination whether the ceiling level will be violated within three years. Unless disap-

proved or modified by joint resolution, the Presidential certification shall be binding ten session days after being submitted to Congress.

SEC. 5. ENERGY PRODUCTION AND OIL SECURITY ACTIONS.

ENERGY PRODUCTION AND OIL SECURITY POLICY.—(1) Upon certification that the ceiling level will be exceeded, the President is required within ninety days to submit an Energy Production and Oil Security Policy (in this Act referred to as the "policy") to Congress. The policy shall prevent crude and product imports exceeding the National Oil Import Ceiling. Unless disapproved or modified by joint resolution, the policy shall be effective ninety session days after being submitted to Congress.

(2) The Energy Production and Oil Security Policy may include—

(A) oil import fee;

(B) energy conservation actions including improved fuel efficiency for automobiles;

(C) expansion of the Strategic Petroleum Reserves to maintain a ninety-day cushion against projected oil import blockages; and

(D) production incentives for domestic oil and gas including tax and other incentives for stripper well production, offshore, frontier, and other oil produced with tertiary recovery techniques.

THE INTRODUCTION OF THE FEDERAL EMPLOYEES HEALTH CARE FREEDOM-OF-CHOICE ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing legislation designed to lower the cost of health care in the Federal Employees Health Benefits Program [FEHBP] and stop discrimination against health professionals. My bill, the Federal Employees Health Care Freedom-of-Choice Act, will guarantee direct access to health care providers for enrollees in the FEHBP.

Freedom of choice is a hallmark of the FEHBP. As the largest employer-sponsored group health program in the world, the FEHBP includes almost 300 plans, offering employees a wide range of options for meeting their health insurance needs.

Freedom of choice is important within plans, as well. However, those Federal employees enrolled in fee-for-service plans do not always have direct access to the qualified health providers of their choice. Currently, FEHBP plans may refuse to reimburse a licensed professional who provides a health care service, simply because that professional is not a physician.

To remedy this problem, I have reintroduced the Federal Employees Health Care Freedom-of-Choice Act. This legislation requires insurance plans in the FEHBP to reimburse nurses, nurse practitioners, nurse midwives, clinical social workers, marriage and family therapists, and chiropractors for covered services. The health practitioners must be licensed in their States to provide the covered health services and must operate within the scope of their practice in order to be reimbursed. Public witnesses testifying in congressional hearings on this topic have stressed repeatedly that such adherence to State law is vital for ensuring continued quality of health care.

Expanded access to health providers increases the likelihood that FEHBP will be able to find the health care they need. This is especially crucial in areas of mental health care and primary care, in which Federal employees' health needs may not always be met. In addition, a greater choice among providers will also promote cost effectiveness within the FEHBP. Often, nonphysician providers charge fees lower than those of physicians. Finally, expanded access to providers will be important to individuals in medically underserved areas, where insufficient access and choice have threatened the quality of health care.

Mr. Speaker, this legislation is the result of years of careful study and deliberation. In 1987 Congress voted to require the Office of Personnel Management [OPM] to study the feasibility of direct reimbursement to nonphysicians under the FEHBP. In its study, the OPM reported that it independently encourages FEHBP insurance carriers to allow direct access to a variety of qualified health care providers. Currently, a number of FEHBP already permit such access to nurse-midwives, clinical social workers, chiropractors, and other providers. Furthermore, the OPM study noted the success of the medically underserved areas experiment, in which direct access to nonphysician providers was guaranteed. This program was important for assuring that quality health care would be available in medically underserved areas. OPM concluded that, based on this experiment, direct access would not increase program costs.

In addition to the OPM study, the Subcommittee on Compensation and Employee Benefits has held hearings on direct access and the OPM report. Witnesses before the subcommittee agreed that any direct access law for the FEHBP should recognize State statutes licensing health care providers and regulating the practice of medicine. These State laws protect the quality of health care by ensuring that providers practice according to accepted guidelines and meet professional standards.

Consequently, the bill I am introducing today includes language which restates and strengthens current policy that Federal law governing the FEHBP shall not override State or local laws which relate to the licensing of certification of practice medicine, nursing, or another health profession. FEHBP insurance plans may not, however, impose their own requirements on practitioners in addition to those mandated by law. To do so restricts freedom of choice, inhibits competition, and denies Federal employees access to health care providers.

The freedom of choice promoted by my legislation will also help control health costs under the FEHBP. A report by the Congressional Budget Office has concluded that enactment of this reform would have no significant impact on the Federal budget. In addition, the budgets of State and local governments would not be directly affected. CBO confirmed our premise that the provision of direct reimbursement will not raise costs.

It is important to remember, Mr. Speaker, that my bill mandates expanded access to providers, but does not require expanded health care services. This legislation would enhance choice, a simple, yet fundamental improvement that would benefit all FEHBP enrollees. Through this legislation, FEHBP enrollees will enjoy broader access to quality health care at no additional cost.

This idea is not new. Identical legislation passed the House in recent years by unanimous vote. The reforms of the Federal Employees Health Care Freedom-of-Choice Act are long overdue within the Federal health insurance program. I urge my colleagues support for vital reform.

PUBLIC HEALTH EMERGENCY FUND

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, when an American community suffers the ravages of an earthquake, hurricane, or flood, a variety of Federal assistance programs are available to States and localities to help them protect public health and rebuild property. We do not expect State or local governments to shoulder this financial burden alone.

I believe the same logic should apply when a public health emergency, such as AIDS, Legionnaire's disease, or toxic shock syndrome arises. State and local governments cannot anticipate these sudden crises when formulating their budgets. Hospitals and health departments may be unable to mobilize adequate resources and personnel expeditiously during an emergency. Sufficient funding for facilities, personnel, and equipment may simply not be available.

A mechanism that permits the Federal Government to assist, as needed, is essential. In these situations, understanding and compassion are not enough.

Mr. Speaker, a bill I am reintroducing today would establish a $100 million revolving fund for treatment and prevention services in response to a public health emergency. The funds would be provided, on an emergency basis only, through grants and contracts to State and local governments in areas particularly hard hit by a health crisis. Those governing bodies would have the option of providing services directly, or contracting out to institutions such as hospitals, clinics, hospices, and community-based organizations.

This bill amends the Public Health Emergency Act, enacted during the 98th Congress, which provides emergency funds for research into the cause, treatment, and prevention of health crises. The fund that I am proposing would complement this act by providing resources for actual treatment and prevention activities.

The best example of the need for this fund is the most recent example. AIDS has hit certain cities across the country particularly hard. These cities include New York, San Francisco, Los Angeles, Newark, Houston, Washington, DC, Chicago, and Miami. In most cases, the local governments are doing the best they can to respond with treatment and prevention ef-

forts, but they are drawing on already scarce resources. The public hospitals, for example, already suffering from inadequate resources, are overwhelmed.

As of December 19, nearly 81,000 cases of AIDS had been reported nationwide. The Public Health Service now estimates there will be a total of 365,000 cases of AIDS diagnosed by the end of 1992; in 1992 alone, they anticipate that 80,000 cases will be diagnosed. The project cost of medical care just in the year 1992 is between $5 billion and $13 billion.

This tremendous cost is compounded by the unfortunate reality that many persons with AIDS do not have health insurance. Those who are covered may carry a policy that does not reimburse for experimental treatment, or expires because of the size of the medical bills. Persons with AIDS must wait 2 years before they qualify for Medicare disability benefits. Many do not qualify for Medicaid.

This bill that I am introducing today will not cover the enormous costs associated with the AIDS epidemic. But at the time AIDS was first identified as an infectious disease spreading rapidly among vulnerable Americans, a public health emergency fund such as my bill would create would have provided the early assistance for prevention that may have helped to keep the disease from spreading as rapidly as it has. Without outside help, local efforts can be expected to focus on only the most immediate needs, and in the case of AIDS this was all too often at the expense of prevention strategies.

Mr. Speaker, an alarming and ever increasing number of Americans are suffering from a frightening disease that no one anticipated. Who knows when an outbreak of a new epidemic will occur. Let us be prepared to help cities and States fight it wherever and whenever it arises. It is imperative that the Congress communicate to State and local public health officials—and to the American people—that next time they need not face the struggle alone.

I strongly urge my colleagues to join me in cosponsoring this important legislation. The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

"(c)(1) The Secretary, acting through the Director of the Centers for Disease Control, may make grants to and enter into contracts with States and political subdivisions of States for programs conducted or supported by the States and political subdivisions for the prevention and treatment of public health emergencies determined under subsection (a) to exist. Funds provided under grants and contracts under this paragraph may be used by States and political subdivisions to conduct such programs and to provide grants and contracts for public and nonprofit private entities to conduct such programs. Applications for grants and contracts from the Secretary shall be subject to such conditions as the Secretary may by regulation prescribe.

"(2) There is established in the Treasury a fund designated the 'Public Health Emergency Prevention and Treatment Fund' to be available to the Secretary without fiscal year limitation to carry out paragraph (1). There is authorized to be appropriated to the fund $100,000,000 for fiscal year 1989. For fiscal year 1989 and each fiscal year thereafter there is authorized to be appropriated to the fund such sums as may be necessary to have $100,000,000 in the fund at the beginning of such fiscal year.

"(3) the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than ninety days after the end of a fiscal year—

"(A) on the expenditures made from the Public Health Emergency Prevention and Treatment Fund in such fiscal year; and

"(B) describing each public health emergency for which the expenditures were made and the activities undertaken with respect to each emergency which were conducted or supported by expenditures from the Fund.".

SEC. 2. Subsection (b) of section 319 of the Public Health Service Act is amended by striking out "Fund" each place it occurs and inserting in lieu thereof "Research Fund."

INTRODUCTION OF LEGISLATION TO CODIFY THE FAIRNESS DOCTRINE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DINGELL. Mr. Speaker, today, I am introducing legislation which would codify the fairness doctrine. In the last Congress, by an overwhelming margin of 200 votes, the House passed a nearly identical piece of legislation. Unfortunately, the President vetoed the bill on June 23, 1987.

Taking advantage of the Presidential veto, the Federal Communications Commission administratively abolished the doctrine on August 4 of the same year. The FCC overextended its mandate in this instance by presuming to create policy in defiance of clearly expressed congressional intent. This inexcusable disregard for congressional intent makes it incumbent upon the Congress to ensure that broadcasters provide balanced coverage of controversial issues.

If my colleagues would take a moment to read this legislation, they would discover that the doctrine is embodied in one very simple sentence; "A broadcast licensee shall afford reasonable opportunity for the discussion of conflicting views."

Mr. Speaker, this is not an onerous burden upon broadcasters. Indeed they readily admit that airing conflicting opinions is only good journalism. Furthermore, over 40 years of successful experience with the doctrine is more than sufficient to demonstrate that the Government is capable of enforcing fairness in broadcasting without interfering in the substance of issues.

The legislation I offer today unambiguously makes the doctrine a part of the Communications Act of 1934. This amendment is necessary only to restore the status quo which existed before an out-of-control regulatory agency arrogated to itself the right to make broadcasting policy.

Opponents of the fairness doctrine argue that scarcity of broadcast frequencies no longer exists, but that argument simply does not hold water. The fact is that broadcast frequencies remain a valuable and scarce national resource. The Federal Government, in order to prevent cacophony on the airwaves, grants to broadcasters exclusive rights to a broadcast frequencies. In return for the monopoly rights to this precious resource, the Government asks only for "fairness."

The fairness doctrine has already been upheld as constitutional by the Supreme Court in its 1969 Red Lion decision. Recognizing the public's right to be informed, the Supreme Court held that as long as there were substantially more people who wanted to broadcast than there are frequencies to allocate, the fairness doctrine advanced first amendment values.

The fundamental scarcity of broadcast frequencies which led to that conclusion has not been remedied. The number of comparative renewal applications pending at the FCC are greater than ever. Likewise, the prices of broadcast properties—which greatly exceed the value of the assets involved—have soared astronomically. These two examples do not suggest that broadcast media have become more accessible. On the contrary, they vividly illustrate the continuing scarcity of broadcast spectrum.

In the last Congress, identical legislation attracted a diverse collection of groups supporting codification of the doctrine. Representatives of all parts of the political spectrum favor codification of the doctrine. Rarely, if ever, has such a broad coalition of interests allied for a cause: General Motors and the United Auto Workers; Mobil Oil and the AFL–CIO; Phyllis Schlafly and Ralph Nader; and a lengthy list of others supported this legislation in the last Congress.

My colleagues may ask themselves why this group came together: The simple answer is that everybody wants to be treated fairly. When Government-sponsored monopolies are no longer required to be fair, everybody loses.

Mr. Speaker, in a democracy the public must be informed in order to make decisions. As legislators we have a duty to guarantee that conflicting points of view be heard thereby enhancing the public's right to be informed.

I encourage my colleagues to support codification of the fairness doctrine.

CONGRESSMAN STEVE GUNDERSON RECEIVES DISTINGUISHED SERVICE AWARD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MICHEL. Mr. Speaker, it has come to my attention that one of our Members has been uniquely cited for his outstanding dedication and continuing efforts on behalf of his constituents as well as all of the citizens of Wisconsin. He is noted as a leader in his field as well I can attest. His constituents must be proud of him as we here in the House of Representatives join in congratulating him on the

receiving of Wisconsin's Farm Bureau Federation's highest citation, the distinguished service award.

I would like to insert here the statement of the Wisconsin Farm Bureau Federation honoring Congressman STEVE GUNDERSON.

CONGRESSMAN STEVE GUNDERSON RECEIVES DISTINGUISHED SERVICE AWARD

STEVE GUNDERSON, you have gained recognition and respect here in Wisconsin and in Washington as a leader in federal education and agriculture policy. From your roots in the rural community of Osseo, you have become a staunch advocate for Wisconsin farmers in the Nation's Capitol.

Your contributions as a public servant began at the age of 23 when you were elected to the Wisconsin Assembly where you served two terms. Later, you worked on Lee Dreyfus' successful campaign for Governor.

Once elected to the House of Representatives in 1980 as the representative from Wisconsin's 3rd Congressional District, you won a seat on the House Agriculture Committee. Your efforts to reduce dairy surpluses and keep the small farmer in business, culminated in the passage of the dairy diversion program. The program has successfully reduced taxpayer costs and surplus production.

But agriculture has not been the only area in which you have been a key player. As a member of the House Education and Labor Committee, you were instrumental in rewriting the Vocational Education Act to assist in training and retraining workers for America's high tech work force. Non-traditional adult students have found in you an advocate working to expand their educational opportunities.

Steve Gunderson, the Wisconsin Farm Bureau Federation is proud to present to you its highest citation, the award for Distinguished Service to Wisconsin Agriculture.

MARK, AN EXTRAORDINARY BOOK

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. FRANK. Mr. Speaker, I do not think in my 8 years in the House I have ever used the CONGRESSIONAL RECORD to call attention to a particular book. I do so today.

The book is entitled "Mark." It is an extraordinary story of a courageous and inspiring young man who died of AIDS, written by an equally courageous and inspiring individual, his father.

When Mark Hoyle was diagnosed with AIDS in 1985, the sad fact was that in much of the country, children with AIDS were being victimized by the adults who ran school systems in a variety of ways. The town of Swansea, MA, broke that mold. Led by a thoughtful, compassionate and wise superintendent, John McCarthy, the citizens of Swansea simply did the right thing: They treated Mark with respect, compassion, and love, and among the things they did was to allow him to continue as a student. I should note that Mark did stay in the Swansea school system for as long as he was physically able, and no one several years after that has been able to point to any health problems whatsoever for any other student.

This book, "Mark," discusses that aspect of Mark's illness, but it does much more. It is an extraordinary story of the way in which people can respond to adversity with the best of human qualities. Jay Hoyle, Mark's father, is obviously a man to be admired for a wide variety of reasons. One of them is his willingness to set down this story in book form—obviously it could not have been easy for him to reveal some of the most intimate feelings he and his family had about the illness which took their son from them. But Jay Hoyle understands that fear, ignorance, and bigotry are among the obstacles which confront people with AIDS, and he has written a book which, if read and understood widely, will do an enormous amount to counteract those.

Mr. Speaker, because this is such a remarkable book, I am going to do something I have never done before and will probably never do again in my career in the House—I ask that the explanatory material on the book jacket be printed here, and I want to express my gratitude to Jay Hoyle, to his wife Dale, and their son Scott, to their fellow and sister residents of Swansea who behaved so responsibly toward Mark, and to Langford Books of South Bend, IN, for agreeing to publish this extremely instructive work.

MARK

Mark Hoyle was a vibrant, all-American youngster . . . popular with his peers . . . honor roll student . . . Little League baseball star . . . enjoying life as a typical teenager . . . until June of 1985, when he was diagnosed as having AIDS, the result of treatments for his severe hemophilia. Mark is a father's moving account of his son's sixteen-month struggle against AIDS, the disease that claimed his life but never his spirit.

Here also is the story of the Hoyles' hometown, the small community of Swansea, Massachusetts. While young AIDS victims in other areas were being greeted by fear, ugliness, and rancor, something different and something very special happened in Swansea. This close-knit community of 15,000 did not turn its back on its youthful victim, choosing instead to reject the venom and violence that had become so public elsewhere. With heartwarming acceptance and generosity, Swansea unconditionally embraced young Mark Hoyle.

Mark is one of the first books to explore the personal and social dimensions which the victims, their families, and communities must face. Written in diary-like form, the book allows the reader to get to know Mark and his family and to experience their daily battle to keep hoping in the face of physical and emotional pain. It contains the proceedings of the explosive school meeting where the pros and cons of Mark's attendance at Case Junior High were aired with passion. The candid and informed presentation by medical personnel and the unbending fairness of school administrators led a huge majority of the parents to join their children in welcoming Mark to school—the first child with AIDS knowingly allowed to attend public school.

Soon the town of Swansea, led by a group called "Friends of Mark," rallied in support of Mark. Raffles, dances, and other fundraisers were held to help with the burden of costly medical bills and, perhaps most importantly, to lift and sustain the spirits of the Hoyle family. Far from being shunned, Mark became Swansea's cause and, in its dramatic and unwavering support of one of its own, the community of Swansea—from the children to the elders—set a lasting example of human goodness and love.

The story of Mark, of the Hoyle family, and of Swansea is one of tragedy being met with courage, faith, and compassion. It is truly a story for our time.

ABOUT THE AUTHOR

James F. (Jay) Hoyle was born in Fall River, Massachusetts, on June 18, 1947. He graduated from St. Anselm College in Manchester, New Hampshire, and for the past nineteen years he has taught in Attleboro, Massachusetts, at St. John the Evangelist School, where his principal subject is history. In addition to being a devoted family man and teacher, Jay finds time to be an ardent fan of the Boston Red Sox, the Celtics, and the Patriots. Jay, his wife Dale, and son Scott are proud residents of the very special community of Swansea, Massachusetts.

BALANCED BUDGET ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, the "Balanced Budget Amendment Act of 1989" addresses the need for a balanced budget and a reduction of this Nation's budget deficit.

This measure would require the President to submit to Congress each year a budget proposal which is in balance and contains no deficit. It would also require the House and Senate Budget Committees to report budgets that are in balance.

If either the President or the Budget Committees believe that a balanced budget is unachievable or undesirable in a given year, they could also propose—in addition to the balanced budget—a spending plan that is not in balance. In such a case, they would have to provide a detailed, comprehensive plan to bring the budget into balance in later years. Any departure from a balanced budget would have to be fully justified.

Changes in the budget process to date—such as the Gramm-Rudman-Hollings automatic cutting mechanism—have focused on the final result. None has focused on the starting point. The effort to balance the budget would be more successful if the budget process had to start with a balanced budget.

The United States has gone from being the world's largest net international creditor in 1982 to being the world's largest net international debtor since 1986. The continued high deficit spending presents a clear and present danger to America's economic independence and to the prosperity of future generations of Americans. I invite my colleagues to join me in cosponsoring this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the national debt reached $2.1 trillion at the end of fiscal year 1984, up from $1.0 trillion at the end of fiscal year 1981;

(2) the United States has gone from being the world's largest net international creditor in 1982 to being the world's largest net international debtor in 1986;

(3) failure to immediately reduce annual budget deficits and the growth in the national debt holds interest rates high and increases and prolongs the United States' dependence on foreign capital to finance the national debt;

(4) the inflow of foreign capital leads to an overvalued dollar which effectively subsidizes foreign imports and taxes our exports, harming American business and sacrificing American jobs; and

(5) persistent, high deficit spending presents a clear and present danger to the America's economic independence and to the prosperity of future generations of Americans.

SEC. 2. BALANCED BUDGET PROPOSAL.

(a) TRANSMISSION OF BALANCED BUDGET PROPOSAL BY PRESIDENT.—The President shall transmit to the Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1990 and for each fiscal year thereafter, a budget proposal which would, if implemented, result in a balanced budget.

(b) TRANSMISSION OF ALTERNATE BUDGET PROPOSALS BY THE PRESIDENT.—

(1) If the President determines that a balanced budget is inappropriate for any fiscal year, he may also transmit, in addition to the balanced budget proposal, alternate budget proposals which, if implemented, would result in a deficit or surplus.

(2) Each alternate budget proposal for a fiscal year transmitted under paragraph (1) shall include an explicit, understandable explanation of the specific differences between such proposals and the balanced budget proposal. The explanation shall include a statement as to why the President determined that a balanced budget would be inappropriate for the fiscal year or years involved and shall show the consequences of each proposal as they would affect the several budget functions and the economy, setting forth the effects of the proposal on spending levels, revenues, employment, inflation, interest rates, and national security.

(3) Alternate budget proposals for a fiscal year transmitted under paragraph (1) shall include a comprehensive plan to balance the Federal budget. Such plan shall include—

(A) a clear explanation of its impact on the following major categories of the budget: defense spending, nondefense discretionary spending, means-tested and nonmeans-tested entitlement spending, interest costs, and revenues;

(B) an analysis of its impact on the major programs within each category;

(C) an analysis of its impact on each major source of revenues; and

(D) a proposed timetable for its implementation.

SEC. 3. REPORTING OF BUDGET BY BUDGET COMMITTEES.

(a) REPORTING OF BALANCED BUDGET.—The Committee on the Budget of each House of Congress shall report for fiscal year and for each fiscal year thereafter a budget that is in balance, showing the consequences of such budget as they would affect the several budget functions and the economy, and setting forth the effects of such budget on spending levels, revenues, employment, inflation, interest rates, and national security.

(b) REPORTING OF ALTERNATE BUDGETS.—

(1) If the Committee on the Budget of either House determines that a balanced budget is inappropriate for any fiscal year, such committee may also report, in addition to the balanced budget which it reports, alternate budget proposals which, if implemented, would result in a deficit or surplus.

(2) Each alternate budget proposal for a fiscal year transmitted under paragraph (1) shall include an explicit, understandable explanation of the specific differences between such proposals and the balanced budget proposal. The explanation shall include a statement as to why the committee determined that a balanced budget would be inappropriate for the fiscal year or years involved and show the consequences of each such proposal as they would affect the several budget functions and the economy, setting forth the effects of the proposal on spending levels, revenues, employment, inflation, interest rates, and national security.

(3) Alternate budget proposals for a fiscal year transmitted under paragraph (1) shall include a comprehensive plan to balance the Federal budget. Such plan shall include—

(A) a clear explanation of its impact on the following major categories of the budget: defense spending, nondefense discretionary spending, means-tested and nonmeans-tested entitlement spending, interest costs, and revenues;

(B) an analysis of its impact on the major programs within each category;

(C) an analysis of its impact on each major source of revenues; and

(D) a proposed timetable for its implementation.

THE OVERSEAS TEACHERS ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, as you know, many of us have sought to improve the working conditions for Department of Defense dependents' school teachers. We have also attempted to maintain the integrity of the teacher work force and protect the compensation program from unwanted budgetary reductions.

The legislation I am introducing today is a modest proposal to help ensure that we attract and retain superior teachers in the overseas school system. We must do our utmost to guarantee the finest possible education for the children of the members of our armed services and civilian employees serving abroad.

The Federal public schools are responsible for the education of 140,000 American children living abroad—they are the sons and daughters of our service men and women who contribute so much to the defense of our country, and who deserve nothing less than the best education for their children. It is important that our military families be able to stay together, with their children assured of a quality public education regardless of where they are stationed around the world.

Most of us would view the prospect of living in Japan, Germany, or Holland—to name but a few of the locations of the over 270 schools—with the excitement of children visiting Disneyland. These places have a mystical allure in the minds of most Americans.

Mr. Speaker, in some countries, however, the realities of life are far less pleasant for our overseas personnel due to the high cost of living and the modest salaries paid them. Many of the employees also encounter substandard housing, language difficulties, cultural adjustments, poor medical facilities, and less sophisticated communications systems. We sometimes forget that Americans have the world's highest standard of living.

Several years ago, I chaired a hearing of the Subcommittee on Compensation and Employee Benefits on legislation I had introduced concerning the overseas school system. This hearing revealed several problem areas, some which may be handled administratively by the Department of Defense, and some which requires congressional legislation.

The most common complaint of career teachers in the overseas system is the denial of transfers. Most teachers would be willing to accept difficult living conditions for a year or two, if they could expect to be transferred to a less demanding assignment. The inadequate housing, nonportable water, and crowded classrooms are more tolerable if the prospect of better surroundings and working conditions are foreseeable.

Finally, Mr. Speaker, it is fitting that the Federal Government recognize the true worth of the teaching professional by establishing within that profession the means to attain reasonable financial rewards consistent with the contribution teachers make to our society.

We ask so much of our armed service members and their families: They suffer frequent dislocations and family separations. They are the true servants of the public—volunteers from every part of America dedicated to the freedom of our great republic. I urge my colleagues to join us in supporting this legislation to help ensure that their children continue to have the best public education possible.

TRIBUTE TO BRIG. GEN. MICHAEL A. BOYD

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WEISS. Mr. Speaker, it is with great pleasure that I pay tribute today to a distinguished constituent of the 17th Congressional District of New York, Michael A. Boyd, who will soon be leaving his position as brigadier general of the 353d Civil Affairs Command of the U.S. Army Reserve.

Brigadier General Boyd is a veteran whose 30 years of service to the U.S. military deserves commendation. Brigadier General Boyd began his military career in 1962, when he entered active duty at Fort Benning, GA, where he was selected as the honor graduate of the infantry officer orientation course. Brigadier General Boyd continued on to achieve the highest academic standing among the members of the intelligence research officer course at the U.S. Army Intelligence School.

After completing active duty, Brigadier General Boyd received an LL.B. from Harvard Law School in 1967. During his time at Harvard, Brigadier General Boyd continued to serve his country by joining the 357th Area Headquarters B. He received the highly regarded Gen. John J. Pershing Award for academic excel-

lence when he completed the Command and General Staff College.

In November 1978, Brigadier General Boyd became the Commander of the 453d Military Intelligence Detachment/Strategic, a position he held through June 1982. During his tenure, this unit was cited for excellence in the preparation and development of studies of many aspects of the Soviet Armed Forces. Brigadier General Boyd assumed command of the 353d Civil Affairs in April 1985 after holding several other positions in the unit.

In civilian life, Brigadier General Boyd is a senior vice president and general counsel with the investment banking firm of Donaldson, Lufkin & Jenrette. In this capacity, he is responsible for all compliance and legal matters for the firm, which has over 3,600 employees and assets in excess of $5.4 billion. I believe his time-consuming and demanding civilian job makes Brigadier General Boyd's dedicated service to his country all the most impressive.

A farewell dinner is being held in Brigadier General Boyd's honor on January 12, 1989. I ask my colleagues in the House of Representatives to join me in thanking Brigadier General Boyd for his outstanding military service and to wish him well in future endeavors.

HONORED ON RETIREMENT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to a very special woman, Rose Marie Grasham Connelly.

On December 31, 1988, Rose was officially retired after working with General Telephone of California for 29½ years. Rose's friends and associates will gather this Friday to honor her and thank her for the many years she has given to General Telephone.

Rose is the youngest of 11 children, 8 of which are still living. Originally from Rockwood, TN, Rose's family moved to Rome, GA, where she studied and graduated from Carroll Lynn Business College with a degree in accounting. This education offered her a position with the United States Steel Corp. in Youngstown, OH, where she later met her husband, Jim Connelly, to whom she has been married for 40 years.

Jim and Rose have two daughters, Theresa Merkel and Martina Hooven. Theresa is a research nurse at Loma Linda University and she and her husband, John, have one daughter, Shannon Marie. Martina is an executive manager for Transamerican Financial Corp. and she and her husband, Jack, have two daughters, Amanda Rose and Elizabeth Marie.

Although retirement will be a different kind of experience for Rose, she doesn't plan on letting it slow her down! She has always been involved with her husband, Jim, in providing local schools and churches with added assistance and she plans to continue to do so in the future. She also plans to find the time to travel with her husband and cater to her three grandchildren.

Please join me in honoring Rose Marie Grasham Connelly on behalf of her hard work and commitment to General Telephone of California. All the best to you, Rose, at your special celebration Friday, January 6, 1989, and throughout your much deserved retirement.

FIRE SAFE CIGARETTE ACT

HON. JOE MOAKLEY

OF MASSACHUSETTES

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MOAKLEY. Mr. Speaker, I am pleased to introduce the Fire Safe Cigarette Act of 1989, legislation which would authorize the Consumer Product Safety Commission to implement a standard for a firesafe cigarette which could save thousands of lives, prevent even more serious injuries, and save millions of dollars in property damage each year.

According to a report released by the Technical Study Group on cigarette and little cigar safety, a firesafe cigarette is technically feasible and can be produced at a minimal cost. The key characteristics that lead to producing a cigarette less likely to cause fires include the presence of a filter tip, less porous paper, more expanded tobacco, no citrate additive, and in some cases a smaller diameter. The development and manufacturing of a firesafe cigarette should not be prolonged any longer. It can be done!

With each and every year that passes, and we continue to debate the issues surrounding fires caused by a carelessly discarded cigarette, thousands of individuals are burned, maimed, and even killed. However, as we deliberate, lives continue to be lost and needless tragedy continues to occur. The statistics are indeed alarming; in 1984 alone, 67,000 cigarette-initiated fires resulted in 1,570 deaths, 7,000 serious injuries, and $390 million in property damage.

It is clear to me that our Nation suffers an incalculable loss from cigarette-initiated fires in terms of human life, natural resources, and property. The Fire Safe Cigarette Act is a reasonable and realistic answer to this pressing problem. I urge my colleagues to support this measure.

IN HONOR OF DOUGLAS G. WARNOCK ON HIS RETIREMENT FROM THE NATIONAL PARK SERVICE

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BOSCO. Mr. Speaker, I rise today to pay tribute to Douglas G. Warnock, who recently retired after 6 years of service as the superintendent of Redwood National Park in northern California.

Doug Warnock has served with the National Park Service for over 30 years, and he is one of the most respected and admired public servants on the north coast. I am fortunate to have had the opportunity to work with Doug on many occasions over the years, and I am grateful for the many lessons he taught me regarding the proper stewardship of our Nation's diverse natural resources.

Doug's decades of caring for our Nation's natural resources and his wealth of experience in bringing the wonders of the environment to countless national park visitors made him a unique and precious resource on the north coast. His presence and expertise will be sorely missed by those of us who treasure Redwood National Park.

Mr. Speaker, I ask unanimous consent to insert in the RECORD a profile of Doug Warnock which appeared in the Eureka Times-Standard on December 28, 1988, and I urge my colleagues to join me in saluting Doug for his many years of service to the Nation and the environment.

SERVICE TO THE PARKS

RETIRING PARK DIRECTOR REFLECTS ON LONG CAREER

(By Robert Belous)

ORICK.—Douglas G. Warnock, superintendent of Redwood National Park for the past six years, retired on Dec. 24. The Christmas-Eve departure brought to a close a career spanning four decades with the National Park Service.

Warnock's park service career began with the white pine blister rust control program at Yosemite National Park, while a sophomore at Dos Palos High School in Dos Palos, Calif.

"The time was easy to remember," Warnock said, "Our work was interrupted on Aug. 15, 1945, with the news of Japan's surrender and the end of World War II."

Following graduation from California State University at Fresno with a degree in biology, and two years' military service with the U.S. Army Field Artillery, Warnock landed his first full-time job with the park service in 1954 as a ranger/naturalist at Carlsbad Caverns National Park in New Mexico.

After two additional assignments in New Mexico (Aztec Ruins and Chaco Canyon National Monuments), Warnock was selected as one of only five employees from the National Park Service for a year-long management training program in Washington D.C. He then returned to Yosemite as district ranger, where he remained for nine years. In 1968, he was selected as chief ranger at Shenandoah National Park in Virginia.

During a subsequent assignment as assistant superintendent at Philadelphia's Independence Hall, Warnock received the once-in-a-lifetime opportunity of helping to plan America's 1975 Bicentennial Celebration.

These duties included arrangements for a visit by Queen Elizabeth II. He also assisted in formal acceptance by the U.S. of a gift from the British Government—a Bicentennial Bell cast by the Whitechapel Foundry of England, which produced the original Liberty Bell in 1752. One of the treasured memories, Warnock recalls, was stepping aboard the HMS Britannia for a private audience with the Queen and Prince Philip.

Following a two-year return assignment to New Mexico as associate regional director for park operations, Warnock was chosen in 1979 as deputy regional director for the newly established Alaska Regional Office in Anchorage.

Overseeing start-up operations for 15 park units along our nation's "Last Frontier," Warnock gained four years of experience in cross-cultural relations with Aleut, Eskimo and Athapascan peoples of bush Alaska.

Alaska's parklands comprise over 51 million acres, or about 1½ times the combined area of all national parks in the contiguous "lower 48 states."

The opportunity to return to his home state came in March 1983, when the Redwood superintendency became available.

"Like many senior managers in the service, I'd always looked forward to taking over one of the large western parks," Warnock said. "But I never anticipated the challenge of repairing 36,000 acres of heavily roaded clearcuts, while at the same time accommodating the fast-growing visitor trend to the redwoods."

During Warnock's six-year tenure, the park's visitation climbed from 549,436 in 1982 to an all-time high of 715,000 during 1988. While still a comparatively young park (established 1968, expanded 1978), Redwood has already surpassed visitation in such longstanding parks as Lassen and Oregon's Crater Lake, both more than 75 years old.

This sharp rise in visitation, Warnock points out, is largely attributable to a very active and positive media profile, and the spreading word that redwood is emerging from its healing phase as one of our great western parklands.

Redwood National Park has been the subject of major feature articles in Sunset magazine, Motorland, Audubon and numerous syndicated news journals, such as the Los Angeles Times and Washington Post.

"When Newsweek magazine mentions Redwood as a place to be sure and visit, it's bound to make a difference," he said.

Warnock was elected for a three-year term to the Board of Directors of the Redwood Empire Association during their October meeting in Eureka. The San Francisco-based organization is dedicated to tourism promotion in California's northern counties.

Rehabilitation of logged lands and aquatic habitats within the park has made substantial progress under Warnock's administration. More than 26,000 trees were planted during 1988, for example, with similar numbers for the prior five years. And 27 miles of equestrian trails have emerged from what was, in part, old logging roads along Redwood Creek.

Also, the completion during 1988 of a controlled-flow diversion culvert at the mouth of Redwood Creek is serving to restore vital salmon and steelhead habitats lost due to construction in 1965 of the Orick levees.

Improved stream conditions throughout the watershed was a major contributor to the 1987-88 season, which brought the best returns of adult salmon and steelhead in more than a decade. The culvert's construction cost of $635,000 was derived from mitigation funds available to the park from the Highway 101 bypass project, a $115 million venture also initialed during Warnock's tenure.

Warnock also presided over construction of the $1.5 million Redwood Information Center near Orick, the park's southern gateway community. Summer visitor counts now exceed 1,000 visitors per day at the popular seaside structure, which was highlighted in the August 1988 issue of Sunset magazine.

In addition, under Warnock's direction the Hiouchi Information Center was reconstructed, the Howland Hill Outdoor School was modernized, several new trailside camping areas were constructed, and the park's 30-mile Coastal Trail system was completed.

Perhaps the most unexpected of Warnock's accomplishments was crafting a four-way cooperative agreement between the park and the California Coastal Conservancy, Humboldt Area Foundation, American Youth Hostels, Inc., and the Del Norte County camp of the California Conservation Corps. Emerging from their arrangement was the complete refurbishment of the former pioneer homestead of the Louis P. DeMartin family at Wilson Creek, 12 miles south of Crescent City.

Badly dilapidated from age and disuse, the turn-of-the-century structure opened to the public in July 1987 as the Redwood AYH Hostel and has since surpassed all projections for visitor use and enjoyment.

"Just watching that old homestead come back to life has been one of the most rewarding opportunities of my time at the park," Warnock recalls.

Warnock, who counts fishing, boating and photography among his hobbies, is married to the former Thelma Alice Ward, a fellow graduate of Fresno State in 1952. They were married the year of their graduation and now have three daughters and two sons.

Thelma Warnock has been an active member and leader for more than 20 years in the National Park Women's Association and is currently the organization's national cochairman. She is also district secretary for the General Federation of Women's Clubs, an active member of the Crescent City chapter and Crescent City United Methodist Church.

The Warnocks plan to maintain their home along the Smith River near Hiouchi, a suburb of Crescent City.

When asked about likely activities for his retirement agenda, Warnock displays a wry smile: "I'll try to keep a quiet eye on my favorite park from time to time and maybe offer the new superintendent a counseling cup of coffee, along with a word or two of advice, just to sweeten the brew," Warnock says.

"After all, I'd like to see more of those salmon and steelhead coming back each year, now that I've got some spare time."

THE PUBLIC UTILITY HOLDING COMPANY MODERNIZATION ACT OF 1989

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, today I am introducing legislation which would simplify the current regulation of public utility companies and permit limited diversification by these companies. My bill would accomplish this by amending the Public Utility Holding Company Act of 1935 to allow registered public utility holding companies the opportunities to invest up to 15 percent of their assets in diversified nonutility activities and businesses, without going through the cumbersome and time-consuming Securities and Exchange Commission [SEC] approval process. Any proposed utility acquisition would remain subject to SEC approval.

Although there are several hundred public utility companies in this country, today only 12 active holding companies are registered public utility holding companies under the terms of the Public Utility Holding Company Act of 1935. These companies are subject to rigorous prior SEC approval of their securities transactions and many other business activities.

Registered public utility holding companies also are prohibited from engaging in businesses unless such businesses are "reasonably incidental, or economically necessary or appropriate to the operations of such integrated public utility system. * * *"

In implementing this provision, the SEC has adopted a functional relationship test to use as a touchstone for evaluating investments by registered holding companies. Moreover, even if the SEC determines that an investment is functionally related to the utilities business, this determination often takes many months, or even years.

In our fast-changing world, business opportunities seldom wait that long. The bureaucratic approval process the SEC must go through thus serves to discourage otherwise sound investments which might be advantageous not only to the businesses involved, but also to the economy in general, and investors and consumers as well.

The Holding Company Act was adopted to address substantial financial abuses which occurred in holding companies during the early part of this century. When Congress enacted the Holding Company Act, the Securities Act of 1933 and the Securities Exchange Act of 1934 were too new to determine their effectiveness.

Financial disclosure and investor protection were concepts then in their infancy. Federal and State regulation of public utilities was largely ineffective. As a consequence, public utility holding companies escaped rigorous Federal and State oversight.

Today, this is no longer the case. Public utilities are perhaps the most pervasively regulated businesses in the country. Financial disclosure requirements administered by the SEC, along with Federal and State economic regulation of electric and gas utilities, are extremely effective and diminish the opportunity for abuse. The antiquated Holding Company Act, however, still limits the operation of holding companies to businesses that are functionally related to the operation of such integrated public utility holding companies.

Thus, registered holding companies are precluded from diversifying assets out of their core utility businesses even if diversification would benefit shareholders and ratepayers by spreading risk or increasing nonutility business opportunities for profit.

First, my bill would allow registered holding companies to undertake limited diversification by permitting investment of up to 15 percent of their total consolidated assets in a nonutility business that does not meet the historic functional relationship test.

Second, this proposal would also allow nonutility subsidiaries, which are not themselves registered holding companies, to issue SEC-approved securities without Commission approval under the additional terms of the Holding Company Act.

Third, this measure would allow a registered utility holding company to acquire securities or interests in other nonutility businesses up to the 15-percent limit without Commission approval.

The effect of these modest changes would be to allow registered holding companies an opportunity to make small, nonutility invest-

ments without prior SEC approval under the Holding Company Act. All other securities laws, as well as Federal and State regulations, would continue to be applicable as would other major provisions of the Holding Company Act.

There is no question that the technical resources and management skill which exist in many utility operations can be applied to other businesses to diversify risk and to benefit both ratepayers and stockholders. Unfortunately, the existing Public Utility Holding Company Act effectively stifles innovative management's ability to use all tools at its disposal.

Mr. Speaker, it is time to bring the outdated Public Utility Holding Company Act of 1935 into the reality of 1989. My bill takes a modest step toward that end. I invite my colleagues to join me in support of this measure by adding their names as cosponsors.

H.R. —

A bill to amend the Public Utility Holding Company Act of 1935 to permit public utility holding companies to invest in or to acquire an interest in any business other than the business of a public utility provided such investments or interests constitute 15 percent or less of the consolidated assets of the holding company, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited at the "Public Utility Holding Company Modernization Act of 1989".

SEC. 2. EXEMPTION FOR FINANCING SUBSIDIARY COMPANIES

Section 6(b) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79f(b)) is amended by striking out the third sentence and inserting in lieu thereof the following new sentence: "The provisions of subsection (a) shall not apply to the issue and sale of any security by a subsidiary company which is not a holding company or a public utility company if such issue and sale are solely for the purpose of financing the business of such subsidiary company. The Commission by rules and regulations or order, subject to such terms and conditions as it deems appropriate in the public interest or for the protection of investors or consumers, shall exempt from the provisions of subsection (a) the issue or sale of any security by any subsidiary company of a registered holding company, if the issue and sale of such security are solely for the purpose of financing the business of such subsidiary company and have been expressly authorized by the State commission of the State in which such subsidiary company is organized and doing business.".

SEC. 3. SAFE HARBOR RULE.

Section 9(c) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79i(c)) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting "; or"; and

"(3) by adding at the end thereof the following new paragaph:

"(4) securities or any investment interest in any business (other than the business of a public utility company as such) the purchase price of which, when aggregated with the book value of all other acquisitions of the holding company system which have not received specific Commission approval pursuant to sections 9(a) (1) and 10 of the Act and applicable rules thereunder, constitute 15 per centum or less of the consolidated assets of the holding company system.".

SEC. 4. ACQUISITION OR RETENTION OF BUSINESS INTERESTS.

Section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)(1)) is amended by adding at the end thereof the following: "The Commission shall permit a reasonably incidental, or as economically necessary or appropriate to the operations of one or more integrated public utility systems, the acquisition or retention in a holding company system of interests in one or more other businesses (other than the business of a public utility company as such) the book value of which in the aggregate constitute up to and including 15 per centum (or such greater percentage as the Commission authorizes) of the total consolidated assets of the holding company system and may permit the acquisition or retention of such additional interests in any business or businesses (other than the business of a public utility company as such) which the Commission shall find consistent with the public interest or for the protection of investors or consumers.".

A MEMORIAL TO SLAIN JOURNALISTS

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing a resolution which will authorize the establishment of a memorial to honor members of the American press and other news media who have been killed as a result of hostilities while covering a war or other armed conflict.

Mr. Speaker, one of the most significant charters that has been solidified by the Bill of Rights is the importance of a free and vigorous press. In a letter written to George Washington in 1792, Thomas Jefferson once said, "The press is the best instrument for enlightening the mind of man and improving him as a rational, moral and social being."

Since Jefferson's time, the power of the press has certainly intensified. It has helped to make us understand and recognize the unrighteousness of war; it has fought and overthrown corruption; it has served to end the exploitation of individuals and nations; it has served to spread culture. And, it is the news correspondent's job to bring us the truth, fairness, interest and importance in every story ensuring that the public remains informed on fast-breaking events.

The news media is the flagbearer of democracy, a symbol of this country's democratic ideology. A war correspondent is a watchdog on government when the government bears the most watching—during times of military conflict.

Since the time of the Revolutionary War, the American news media has kept this Nation informed. While under attack, amidst the battlefield, the war correspondent has brought back to the American people an accurate picture of what has transpired. They are the forgotten soldiers whose thankless job it is to report news both good and bad; news of bloodshed and death tolls, of victories and defeats, of heroics and atrocities. The journalist bears witness to all the contradictions of war.

The war correspondent is one of the bravest soldiers. Armed with only pen, camera and recorder, these reporters venture into the hottest battle, not for themselves, but for the American people. It is the public's need to know that sends the journalist into the center of live crossfire. The public must be made aware of those in the media who have lost their lives while in pursuit of obtaining the truth. By honoring those who have fallen, public attention will be drawn to the great impact these reporters have made, and future reporters will make, on any armed conflict.

The most famous of war correspondents, Ernie Pyle died a hero's death in the Pacific during World War II. He covered the war as realistically as he could—from the infantryman's point of view. He set the standard for war reporting for generations to come—until a bullet ended his life on the island of Iwo Jima on April 16, 1945.

It is difficult to forget some of the images we have seen over the years. I have so many vivid memories of the bombing of Pearl Harbor, the landing at Normandy Beach, the atomic bomb being dropped on Hiroshima, the American marine troops defending Khe Senh, reports of the Tet Offensive, Bay of Pigs, the list goes on and on. In more recent days, who can forget the public's apprehension when awaiting news of the attack on Grenada, the Falkland Islands, the massacres in Lebanon, Afghanistan and Central America? The public relies on the news of the correspondent who ultimately risks his life in order to bring us the continuing saga of war and conflict across the seas.

Mr. Speaker, many members of the news media have died, suffered terrible wounds, and behaved heroically while covering armed conflicts. I feel the importance of this memorial is long overdue.

INTRODUCTION OF H.R. 145

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MINETA. Mr. Speaker, today I introduced H.R. 145, a bill to terminate certain amendments to the foreign repair station rules of the Federal Aviation Administration.

On December 22, 1988, new Federal aviation regulations took effect that permit repairs and maintenance on U.S. airline aircraft to be conducted overseas to a far greater extent than previously allowed. Prior to the regulatory change, U.S. airline aircraft could only be maintained at a foreign repair station if the aircraft were used in international service. Also, the previous regulations, as interpreted by the Federal Aviation Administration, limited overseas repairs to those necessary to move the aircraft in a safe airworthy manner. Routine and periodic scheduled maintenance had been regarded as outside the scope of what was permitted at a foreign repair station.

The December revisions permit U.S. aircraft operated in U.S. domestic service to be main-

tained at foreign repair stations and do not limit the scope of work that may be performed. Any and all types of maintenance are permitted. H.R. 145 would terminate the effectiveness of these regulatory changes and return the regulations to their previous formulation upon the date of enactment of the bill.

I recognize that some changes to the current rules on foreign repair stations are needed. Foreign manufacturers of aircraft and equipment should be able to conduct repairs and maintenances on their own manufactured equipment, even if that equipment is operated solely within the domestic United States. Likewise, foreign-based subsidiaries of U.S. aeronautical firms should have the ability to conduct maintenance on U.S. aircraft without the need for individual regulatory exemptions.

In both of these situations, the companies involved have long-standing, well-understood quality control systems upon which the FAA already relies heavily in the manufacture and maintenance of aircraft. Outside of these circumstances, I see no safety benefit to be gained from permitting U.S. aircraft to be routinely maintained abroad.

In fact, I see a number of potential safety problems if performance of routine maintenance on U.S. aircraft is permitted abroad outside of the circumstances just described. The FAA's air carrier safety inspection workforce continues to be understaffed. Though the FAA has made good strides in recent years in hiring additional inspectors, more are needed. Yet I understand that, in the formulation of the President's fiscal year 1990 budget proposal, there has been resistance by the administration to providing the FAA with all the inspectors the agency needs.

The new rules will certainly require more inspectors. Therefore, if there are not enough inspectors now, we will be even worse off under a regulatory scheme that adds a new dimension to the inspectors' current responsibilities.

Beyond the safety inspection issue, I believe that permitting maintenance to be conducted abroad in a wholesale fashion could significantly weaken airline managements' ability to directly control one of the most significant aspects of the airlines' operations—maintenance.

FAA safety inspections have revealed that airlines which fail to maintain adequate management controls are the ones that are likely to have deficiencies with respect to safety. While the responsibility for maintenance would continue to rest with the airlines under the new rule, I see no reason to encourage, through regulations, a diminishment of practical control and direct authority.

For these reasons, I believe the FAA needs to go back to the drawing board with respect to these regulations. H.R. 145 will force the FAA to do so.

The Subcommittee on Aviation will be monitoring developments under the new rules very closely, and I anticipate the subcommittee will be holding hearings.

Mr. Speaker, if our colleagues wish to cosponsor H.R. 145, they should have their staff contact the Subcommittee on Aviation staff at extension 5-9161.

ACID RAIN ABATEMENT ACT OF 1989

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. COOPER. Mr. Speaker, today I am introducing the Acid Rain Abatement Act of 1989. The content of this bill is identical to H.R. 5211 in the 100th Congress, legislation I introduced on August 11, 1988. I believe that the approach of this bill is more valid than ever when viewed in light of the developments on the issue of acid rain late last fall.

For the past 2 months, Monday morning quarterbacks from Congress, industry and the public interest community have analyzed what went wrong last Congress that prevented us from adopting sensible acid rain control legislation. Everyone is pretty sure it was someone else's intransigence that killed the chances of a bill. The real tragedy in my mind, is that another year has passed without starting on the tough job or cleaning up our air and rain.

Even though we didn't pass a bill, we made significant progress. We're better informed on the facts and control strategies, and we understand more about legislative proposals that won't fly. In my estimation, we were closer to a bill than a lot of people thought. And I'm convinced that if we pick up where we left off, we can pull together to pass a bill that will get us on the road to real acid rain and ozone reductions right away.

On the acid rain issue, I'm offering my approach again as a starting point. Since it was introduced late in the game last year, I don't think it got the serious attention it deserved until it was too late. I'm sure it needs some tinkering, but I think it contains the concepts that will be pretty close to the perimeters of the acid rain package we eventually adopt.

It still won't be the favorite of industry, which wants no bill, and the environmental community, which wants a tougher bill. My bill is smack in the middle with something for everyone—yet with some things everyone dislikes. To me, that's the burden any compromise approach will bear—no one group will get all of what it wants. But it is in the right balance of that burden that we should reach our national policy on this issue.

As we near a new decade, it is time to get started toward some practically achievable sulfur dioxide reductions in the near term. My bill gets us moving toward a realistic short-term goal, and it gives industry time to adopt appropriate control mechanisms to meet the rigorous standards coming into effect down the road.

The 1990's is presenting us with more complex, more challenging environmental problems than we've ever seen before. It's time we put a fix on acid rain so that we can begin to delve more deeply into the problems of global warming and the greenhouse effect. On acid rain, it's time for all interested parties to put their differences aside and come to the middle ground.

H.R. 25, WHISTLEBLOWER PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mrs. SCHROEDER. Mr. Speaker, Representative FRANK HORTON and I are today introducing the Whistleblower Protection Act of 1989. It is precisely the same bill which both the House and Senate unanimously passed last October. It is precisely the same bill which we carefully negotiated out over a 13-month period with the Reagan administration. And, it is precisely the same bill which President Reagan pocket vetoed after Congress adjourned.

The bill creates a real whistleblower protection scheme for Federal employees by:

First, establishing an independent Office of Special Counsel with the clear mission of protecting Federal employees who are the victims of reprisal for disclosing wrongdoing;

Second, clearing away a thicket of court-made law which has made it nearly impossible for whistleblowers to obtain justice;

Third, permitting victims of reprisal to seek relief from the Merit Systems Protection Board directly if not satisfied with the help of the Office of Special Counsel; and

Fourth, setting a sunset on the Office of Special Counsel to ensure that the agency carries out its mission properly.

The bill carefully balances the needs of management against the strong public interest in encouraging disclosures of fraud, waste, abuse, and illegality by protecting employees who come forward with such information.

President Reagan's veto message raised two sets of objections. First, he objected to the burden of proof set in the bill, despite the fact that the burden was jointly drafted by Senator CARL LEVIN and Office of Management and Budget Deputy Director Joe Wright. Since the burden of proof is the very heart of the bill, I do not see how we can weaken the burden of proof and still accomplish the purposes of this legislation.

Second, the President objected to the powers of the Office of Special Counsel, making arguments which had not been raised in the lengthy negotiations we had with the administration. The arguments raised were erroneous as a matter of law. Nevertheless, in this area, I think we could construct another formulation which would achieve the purposes of the legislation.

Our intent is to move this bill on the Suspension Calendar in the very near future. And, I fully expect that we will have a new, strong whistleblower protection law in place by Memorial Day.

ANTITRUST EXEMPTION FOR INDEPENDENT NATURAL GAS PROCEDURES

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. BRYANT. Mr. Speaker, today I am introducing a simple measure to benefit small, independent natural gas producers.

My overriding concern with the state of the energy industry in general is for its survival and the importance of our energy independence to our national security.

In order to enable small gas producers to more readily get their gas to market, I have introduced a bill which would provide antitrust exemptions to allow them to form cooperatives to pool and market larger quantities of gas. With so many of these small producers unable to find buyers for their production, passage of my measure would go a long way toward ensuring the viability of this important segment of our domestic energy industry.

With increased interest on the part of producers as well as consumers, I am confident that this issue will warrant the attention of my colleagues in the 101st Congress. I therefore invite my colleagues to join me in support of this modest proposal to enable our small domestic gas producers to get their production to market.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF ANTITRUST DEFENSE.

There shall be available as a defense to any civil or criminal action brought under the Federal antitrust laws, as that term is defined in section 2(37) of the Natural Gas Policy Act of 1978, or any similar State law, with respect to actions taken to develop cooperative associations of independent producers of natural gas or actions taken by such cooperative associations to carry out any voluntary agreement or plan of action to market natural gas in interstate commerce if—

(1) such action is necessary to market natural gas, and

(2) such action is not taken for the purpose of reducing competition.

SEC. 2. DEFINITION OF INDEPENDENT PRODUCER.

For the purpose of this Act, the term "independent producer" has the same meaning as that term has in section 4992(b) of the Internal Revenue Code of 1954.

THE FEDERAL EMPLOYEES LONG TERM CARE ACT

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am reintroducing the Federal Employees Long Term Care Act, which will establish demonstration projects that would offer Federal employees and retirees long-term care services under the Federal Employees Health Benefits Program [FEHBP]. As you well know, the cost of long-term care represents a catastrophic expense for most families, including Federal workers and retirees.

Under the FEHBP, which serves almost 10 million Federal workers, retirees, and dependents, most health insurance plans cover no more than 60 days of nursing home care. Furthermore, FEHBP plans provide practically no coverage for home nursing, adult day care, or other long-term care services. Consequently, FEHBP enrollees may face financial ruin if they need long term care.

We must find ways to fill this large and dangerous gap in health care insurance. The Federal Employees Long Term Care Act establishes demonstration projects that would offer long term health insurance programs in the Nation, the FEHBP can and should lead the Nation in developing such coverage.

Mr. Speaker, the bill I am re-introducing authorizes demonstration projects modeled on the "Social HMO" [SHMO] experiments which are now operating under Medicare. These SHMO's cover community-based services and nursing home care, which is coordinated so that community care is substituted for institutional care whenever possible. In addition, most care is provided for a fixed fee, paid in advance. As a result, the SHMO experiments are showing that Medicare can save money on expensive hospital and nursing home care, while affording patients better health care and a greater degree of independence.

The Federal Employees Long Term Care Act would authorize two FEHBP plans, which are currently participating in the Medicare SHMO experiment, to offer a similar trial benefit to Federal workers for 3 years. The bill authorizes not more than $3 million annually to pay for the experiment. At the conclusion, the Federal Government will have learned a great deal about how to provide and finance long-term care. We will be able to make informed decisions about whether and how to cover such care under the health insurance program.

Mr. Speaker, I urge my colleagues to support this legislation and provide Federal employees with vitally needed long-term care benefits.

TRIBUTE TO MRS. CANDY L. LANNING

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HEFLEY. Mr. Speaker, the U.S. Congress and the American people continually seem to ask and expect members of our Armed Forces to do more with less and work harder so they can accomplish their assigned mission. As a result, dedication, sacrifice, and devotion to duty are synonymous with being a member of the U.S. military family. But while those who wear the uniforms are the ones most visible and receive praise for a job well done, there is another group equally responsible for their success—their families.

Glowing words are rarely written praising the spouses who are tremendous supporters and also pick up the slack when their partner is away on duty. Yet the sacrifices by our families are a real factor in ensuring the strength of our country and the quality of our lives. In fact, the strength of the family has been an American value since the establishment of the Republic more than 200 years ago.

An excellent and commendable example of this family strength is Mrs. Candy Lanning. Candy is the wife of Major Steven Lanning, who has been assigned to the Pentagon over the past 2 years. During Major Lanning's duty here, Candy has shown tremendous support and loyalty.

Major Lanning has served as Air Force Legislative Liaison. Steve is not only a good friend but has aided immeasurably to my understanding of Air Force Space Programs. He has demonstrated professionalism and has built strong relationships with key Members and congressional staff. On every occasion asked, Steve quickly provided answers, for which I am grateful.

Given Steve's successful military career, Candy Lanning has made both sacrifices and contributions. Not only has she been completely supportive of her husband's job, which many times has exceeded 14 hours per day, she also raises two exceptional children and has been actively involved in the Annandale Virginia Public School System. Candy should have a lot of justifiable pride in the importance and selflessness of her contribution to the Air Force family, her community, and our country.

The Lannings will be leaving the Washington area soon for a reassignment to the Armed Forces Staff College in Norfolk, VA. I will miss Candy, Steve, and their family and I wish them well in their future assignment.

RETIREMENT EQUITY ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DREIER of California. Mr. Speaker, I rise out of concern for senior citizens who are being penalized by certain unfair requirements in the Social Security system. I am hopeful that we wil start the 101st session of Congress by seriously considering the Retirement Equity Act, which repeals three inequities in the Social Security system.

First, my bill eliminates the Social Security outside earnings limitation. This limitation requires Social Security to deduct $1 for every $2 earned above the exempt annual amount. This translates into a 50-percent tax on older workers who want, or need, to continue working. Although Social Security was not intended to be a full retirement program, one-fourth of all retired people depend on Social Security for 90 percent of their income. The outside earnings limitation almost forces these people into full retirement. Secretary Bowen and Commissioner Hardy have agreed that this limitation is in need of revision and I believe it is time for Congress to act.

Second, the Retirement Equity Act eliminates the tax on Social Security beneficiaries who earn above the arbitrary annual limit. We continue to encourage today's workers to plan ahead for retirement, reminding them that

Social Security is only a partial retirement plan. Yet, we tax up to one-half the benefits of retirees if their full retirement earnings amount to more than the arbitrary cap: $25,000 for an individual, or $32,000 for a couple filing jointly. To add fuel to the fire, these income thresholds are not indexed for inflation. This is unfair to senior citizens and discouraging for today's workers who are planning for retirement.

Third, my bill eliminates the FICA and SECA tax on individuals over age 70. It makes no sense that these individuals must continue to pay into a retirement system for which they may never see a return. Not only are they forced to continue paying into the system, but should they make more than $25,000, they are subject to the Social Security tax.

I hope my colleagues will join me in my efforts to eliminate these real inequities in the Social Security system.

A BILL TO PROMOTE FISHERIES AND WILDLIFE CONSERVATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducing legislation designed to promote fisheries and wildlife conservation by providing the President with greater authority to take action against those nations that are violating domestic and international fisheries and wildlife laws.

One of the major issues that confronted the 100th Congress was that of reauthorizing and amending the Marine Mammal Protection Act. In the course of our deliberations on the bills that were presented to us, we received from the other body a suggestion that the President be given greater discretion under section 8 of the Fishermen's Protection Act. This section allows the President to embargo fish products from foreign nations that are diminishing the effectiveness of international conservation agreements and from foreign nations whose vessels use driftnets on the high seas but who have not entered into an acceptable monitoring and enforcement program.

The suggestion from the other body was simple and made sense: since the President has discretion to impose the embargo, why not expand his discretion to embargo any product, not just fish products. Any such embargo would still be a decision made by the President and would have to be consistent with the General Agreement on Tariffs and Trade.

Unfortunately, this issue was discussed at the very end of the Congress and Members in the House believed that further analysis was necessary before taking this step. As a result, the language that was signed into law was limited to an expansion of the definition of "fish products", rather than a major—and in my opinion, necessary—expansion of the President's authority.

The bill that I am introducing today would provide the expansion of powers that the President needs to fully address the wide range of fisheries and wildlife conservation issues that we are facing. This language is supported by many in the U.S. commercial fishing industry and the environmental community. I believe that it is a necessary bill and I intend to push for rapid consideration in the House.

THE INTRODUCTION OF LEGISLATION TO RESTORE TAX FAIRNESS FOR FEDERAL EMPLOYEES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am reintroducing legislation which will correct an inequity in the New Tax Reform Act, passed in 1986, which unfairly penalizes Federal retirees. The Tax Reform Act retroactively repealed the 3-year basis recovery rule with regard to qualified pension plans requiring employee contributions.

Mr. Speaker, as I have stated previously, I believe the new tax law will lead to many constructive changes in our economy. This is landmark legislation, yet it is unfortunate that such a noteworthy bill was marred by a provision which is extremely unjust for Federal retirees.

Prior to the Reform Act, a retiree's annuity was not taxed until all of the employee contributions had been distributed and the contributions were fully recovered within 3 years of the starting date of the annuity. Under the new law, however, Federal income tax on retirement annuity now begins on the first day of retirement, with the tax-free employee's contribution spread out actuarially over the length of the annuity.

Mr. Speaker, the burden of this repeal falls squarely on the shoulders of the public retirees, one-fourth of whom are Federal annuitants. In addition, because the tax reform bill changed the tax treatment of Federal pensions retroactively, many annuitants and employees near retirement now face huge, unexpected tax bills which they will have difficulty paying.

My legislation provides that Federal annuities shall continue to be taxed as though the 3-year basis recovery rule had never been repealed. Under this bill, Federal retirees will continue to recoup all of their contributions to their annuity before their annuity is taxed. In addition, the bill instructs the Office of Personnel Management [OPM] to study and report to Congress on the likely effects of a retroactive tax change on Federal personnel management, morale, and individual retirement and financial planning. The OPM's study will also explore options for instituting such a change gradually, in order to minimize disruptions to the Federal work force and individual Federal retirees. This is the kind of information Congress needs to have on hand before significantly changing the way we tax Federal annuities.

Federal retirees and employees have been slapped with another inequity which they cannot bear and which they do not deserve. In 1985, Federal pay was frozen. Retirement annuities were frozen in recent years, too. Federal employees and retirees have been threatened with reduced pay adjustments, drug testing, benefit cuts, and other indignities. This is no way to treat a dedicated and talented work force. Our astronauts, drug enforcement agents, Social Security Administration personnel, scientists, physicians, air traffic controllers, and other Federal workers deserve better.

Last year, similar legislation was supported by many Federal employee organizations and was cosponsored by over 170 Members of the House. I ask all of my colleagues to join me in support of this important piece of legislation.

REINTRODUCTION OF THE ACT FOR BETTER CHILD CARE SERVICES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. KILDEE. Mr. Speaker, I am pleased to be joined by Congresswoman OLYMPIA SNOWE in reintroducing the "Act for Better Child Care Services" [ABC].

When the 100th Congress convened in January 1987, the issue of child care was only a footnote to our national legislative agenda. Hearings on the issue, the introduction of the "Act for Better Child Care," and the widespread grass-roots support for a comprehensive national child care policy resulted in its rise to the forefront of our national agenda.

As the 101st Congress convenes, ensuring the safety of this Nation's children while their parents must participate in the work force remains a No. 1 priority. With the reintroduction of the "Act for Better Child Care" I reaffirm the principles embodied in this legislation. First, that children must have safe and healthy places to go while their parents are at work. Second, that we must increase the supply of quality child care and third, that we must increase the accessibility of child care for low- and moderate-income families.

Since 1966, the number of mothers in the work force has nearly doubled and the need for child care continues to increase. Currently, three-fourths of all mothers with children under the age of 6 are in the work force. This trend will continue. It is estimated that by 1995 two-thirds of all mothers with children under 6 will be in the work force.

We must provide a comprehensive solution to the growing child care crisis. If legislation is to be effective, it must address various facets of providing child care: Ensuring safe places for children; expanding resource and referral programs so that parents can access quality child care; training for the individuals who will have direct contact with the children in the programs; addressing caregiver salaries to reduce the overwhelming turnover rates in the child care profession; and leveraging business support for child care.

I look forward to working with all my colleagues who are interested in developing a sound child care policy for our Nation's children and invite them to join Congresswoman

OLYMPIA SNOWE and myself by consponsoring the "Act for Better Child Care."

ASSOCIATION OF ELDERLY CAREGIVERS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. FLORIO. Mr. Speaker, I am happy to rise today to honor the Association of Elderly Caregivers, a New Jersey organization whose members have devoted themselves to the full-time care of elderly family members who are unable to care for themselves.

These caregivers not only provide companionship to the frail elderly, but assist them with such vital tasks as dressing, bathing, cooking, cleaning, as well as handling finances and giving medication. Although providing care to a loved one can be infinitely rewarding, it can also be physically and emotionally demanding.

The Association of Elderly Caregivers provides a forum for expressing the needs and concerns of those involved in caregiving. I am proud that New Jersey is home to this fine organization. As a member of the Select Committee on Aging, I look forward to working with the association to address issues of concern to our New Jersey seniors.

I would like to share the following brief description of the association and its members:

THE ASSOCIATION OF ELDERLY CAREGIVERS

The Association of Elderly Caregivers is an informal network of 75 to 100 men and women, largely in New Jersey, who are involved in the fulltime care of elderly family members.

Retired, semi-retired or prematurely retired, they are homebound in caring for spouses, parents or other family members, many with Alzheimer's Disease, who cannot be left alone, who for problems of expense, incontinence, wandering, behavorial problems, etc. are not eligible for Senior Day Centers and who are a matter of indifference to other family members who have chosen not to be involved in their care.

The Caregivers have responsible, largely professional backgrounds whose homebound care prevents them from regularly participating in more formal organizations, such as ADRDA (The Alzheimer's Disease and Related Disorders Association) or attending scheduled meetings.

But all, without exception, are responsible, registered, vote, maintain mail and telephone friendships, exchange views, write letters to editors, phone radio and television call-in programs and, through these and other means are, in fact, often regularly more active in their isolation than the too many others who are indifferent to the world outside them.

THE SAN MATEO TIMES CELEBRATES A CENTURY OF SERVICE TO SAN MATEO COUNTY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LANTOS. Mr. Speaker, as we all know, 1989 is a special and a historic year for the U.S. Congress. It marks 200 years since the first Congress met in Philadelphia in 1789.

This year also marks an important anniversary for San Mateo County, CA, an event which is likewise a celebration of our democracy—the San Mateo Times will celebrate its centennial. Just as it is important that we mark the completion of the second century of our representative form of government established by the U.S. Constitution, it is significant to mark a century of service of the San Mateo Times. A free press, which is guaranteed in our Constitution, is a cornerstone of our democracy.

Mr. Speaker, in 1889 the San Mateo Leader became the first newspaper published in San Mateo County. Indicative of the opportunities that California provides, its founders were 20-year-old Charles Kirkbride and 17-year-old Charles Jury. During World War I, the new owner of the weekly Leader combined it with the first San Mateo County daily to establish the Daily News Leader. In 1901 a second weekly newspaper the San Mateo Times began to appear in the county, and by 1924 it, too, had become a daily.

In 1926 Horace W. Amphlett, who had become the publisher of the San Mateo Times, merged the Times with the Daily News Leader into a single newspaper: the San Mateo Times and Daily News Leader. The philosophy of service to the local community that guided the expanded newspaper was expressed by Publisher Amphlett: "Only such newspapers as fill a definite need in the community—supporting its institutions, safeguarding its interests, and protecting its character abroad—can hope to endure."

Horace Amphlett continued to guide the newspaper until his death in the 1930's. In 1944 J. Hart Clinton, Amphlett's brother-in-law and a staunch champion of freedom of the press, became publisher of the San Mateo Times. Under his leadership circulation has increased more than tenfold, and the printing plant has been modernized. In 1987, John Clinton replaced his father as publisher of the newspaper, and under his direction the newspaper is continuing its important service to San Mateo County.

Throughout the century of its service to the residents of San Mateo County, the newspaper has remained true to the principles of its original founders. The San Mateo Times and Daily News Leader/the Advance Star emphasizes local news of importance to San Mateo County but provides a broad selection of State, national, and international news for its readers.

Mr. Speaker, I invite my colleagues in the Congress to join me in paying well-deserved tribute to the San Mateo Times for its century of service to San Mateo County.

THE COOPER-HEWITT MUSEUM

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing a bill to authorize the Smithsonian Institution to plan and construct facilities for the Cooper-Hewitt Museum, and for other purposes.

In addition to authorizing planning and construction, this bill would also authorize appropriations of $15 million effective October 1, 1989. However, obligation of those funds could not be made until an equal amount is available from non-Federal sources.

Plans for construction at the Cooper-Hewitt would provide additional space to support collections and improve facilities for storage, research, exhibitions, education, and other activities.

Since the Cooper-Hewitt reopened to the public in 1976, the museum has produced numerable exhibitions that have brought the history of decorative arts and design to the attention of thousands of visitors. In their exhibitions, publications, and educational programs, the museum serves to underline the important role of design in our society. The Cooper-Hewitt Museum is a vital component in the educational and cultural matrix of not only New York, but of the Nation as a whole. Its important collections are recognized worldwide as outstanding by major architects, designers, artists, and by most of the major museums.

The physical limitations of the existing structure have made it virtually impossible to display its permanent collections. Storage of these collections is grossly inadequate, putting these valuable artifacts in considerable jeopardy. I had the opportunity to visit the Cooper-Hewitt Museum, and to my dismay, found that the only elevator used by both staff and to mobilize objects in the collection had been condemned. The storage facility is also threatened by faulty wiring, water damage, insufficient temperature control, and inadequate fire hazard protection. The priceless textiles, books, fabrics and jewelry that are stored in the structure are threatened everyday by the state of the area that surrounds it.

For too long in our country, there has been an intellectual bias directed toward the design arts, both commercial and industrial; the perception being that it is somehow below the status of the traditional fine arts of painting and sculpture.

The United States has become an important center for all areas of design and the decorative arts. American design artists have made monumental contributions. I believe that this country should have a museum dedicated solely to the exhibition and enhancement of the design field.

Design is the living art form. It becomes part of our everyday existence in the decisions we make—why we choose the clothes we wear or why we purchase a red car rather than a white one. We are all designers when we make an aesthetic decision about how something looks, whether it serves the particular in-

tended function and how well the two are integrated.

We live in a competitive world market where design plays an integral role. Let's face it—design is important to our Nation's trade policy. The innovation of architects, industrial and interior designers, engineers and city planners, and so forth provide us with the products and initiative that boosts our domestic policy. It is important that we increase our Nation's competitiveness in industry, art and commerce. We must support museums unique as the Cooper-Hewitt in order to ensure the vitality of this country's talents.

Mr. Speaker, I strongly believe that there should be a place of prominence for artists concerned with design and the decorative arts in this country. This legislation will endorse the integrity and quality of just one entity of the Smithsonian Institution. The Cooper-Hewitt Museum and its collections represent an important national treasure that must be preserved for the enjoyment of all Americans who are concerned about the cultural life of our Nation.

AMENDMENT TO BALANCE FEDERAL BUDGET

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. SHUMWAY. Mr. Speaker, today I am pleased to introduce legislation providing for a constitutional amendment which would mandate that the Federal budget be balanced.

I am not proud of the fact that Congress seems to need a constitutional "cattle prod" to practice fiscal responsibility, but four decades of deficit spending make it clear that budgetary balance will not or cannot be achieved voluntarily. During the previous Congress, more than half the House membership indicated similar opinion by sponsoring constitutional amendments. Moreover, 85 percent of the American public has urged adoption of such an amendment.

Action taken by Congress—or, in this case, those not taken—play a critical role in maintaining confidence and general economic stability not only at home, but abroad. And, while numerous factors and efforts contribute to the total perception of reliability and stability, our burgeoning deficit, and our inability to control it, is a major culprit undermining that perception.

As introduced, this bill would require Congress and the President to agree that total outlays in any given fiscal year shall not exceed revenue estimates, unless three-fifths of both Houses vote otherwise. The measure would also limit taxes: no tax increase could go into effect without a majority vote in both Houses, by rollcall vote. Finally, the bill provides for systematic repayment of the national debt. All these provisions could be waived in time of war, a realistic observance.

If enacted, this legislation will not only tame the deficit—it will also ensure our children's futures, removing some of the mortgage now confronting them, and enhance our image as a responsible leader in the international community. I strongly urge my colleagues to join with me in endorsing this amendment.

PRODUCT LIABILITY CRISIS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation addressing one particular segment of the product liability crisis. This crisis, hidden to our citizens in the cost of consumer goods, services and transportation, must be remedied immediately.

Today, a manufacturer remains liable when a product causing injury has outlived its normal economic life and been resold, repaired, worn-out, or even altered by its user. This unfounded liability, creating thousands of frivolous lawsuits, has become a detriment to society.

My legislation, entitled the Economic Statute of Repose Act, would limit manufacturer liability on a product to its economic life or depreciable period under section 168(g) of the Internal Revenue Code. The bill would unburden manufacturers from costly and undeserved liability insurance costs while still allowing injured citizens to sue responsible parties.

IMPROVING EFFECTIVENESS OF THE FEDERAL AVIATION ADMINISTRATION

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LEWIS of Florida. Mr. Speaker, today I am introducing legislation that would remove the responsibility from the Federal Aviation Administration for promoting air commerce. This will have the impact of leaving the agency with essentially the responsibility for regulating and improving air safety only.

This is the same legislation that I introduced in the last Congress and the need for passage is even greater today.

There have been many suggestions on how to improve the effectiveness of FAA. The legislation that I am introducing today will address one problem by clarifying the mission of the agency and increase its effectiveness in improving air safety.

The legislation will repeal section 305 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1346). That section states:

> The Administrator is empowered and directed to encourage and foster the development of civil aeronautics and air commerce in the United States and abroad.

My concern is that this provision, as written, leads to conflicts with the mandated duty of regulating air safety. The legislation simply makes it clear that the major duty of the FAA Administrator is regulating air safety.

This change is needed for several reasons. First, it makes FAA's mission very clear—it is responsible for air safety. The recent tragic crash of Pan Am flight 103 generated several complaints that the agency was more concerned with the commercial impact of advertising the threat against flight 103 than with informing the public of the safety threat. It appears that the threat against flight 103 was not related to the bombing of the aircraft, nevertheless, many in the public do not perceive the agency as having air safety as its most important goal.

Second, the impact of the legislation will be to change FAA's emphasis on air safety. The safety record of the aviation industry continues to improve from the standpoint of safe passenger miles traveled. But today there are more white knuckle flyers than ever before and they are concerned over the adequacy of air safety. Most air travelers want even safer skies. But under the existing system, FAA must, on one hand, develop ways of improving air safety while, on the other hand, be concerned about the impact on encouraging air commerce.

The legislation I am introducing would clarify FAA's choice in that while the impact of its actions on the industry would still be a concern, the agency would not consider the impact on the encouragement of air commerce.

As the ranking Republican on the Transportation, Aviation and Materials Subcommittee, I have examined FAA's budget in great detail. As a consequence, I have come to the conclusion that it currently is deficient in both depth and breadth of air safety research. For example, there are no generic research programs directed toward making the cabin interior both fire resistant and one that will not produce toxic gases. In fact, there are essentially no appreciable long-term research programs, outside of national airspace system work, and one of the reasons, I have been informed, for this lack of activity, is a concern over the impact of the results on the encouragement of air commerce. However, my own informal surveys indicate that the traveling public will be happy to pay for any increased cost through ticket prices, if the cabin interior is made completely fire resistant.

The problem of the lack of long-range research projects was addressed in the last Congress with the passage of the Aviation Safety Research Act of 1988, Public Law 100-591.

The legislation I am introducing today is not a new or novel concept. For example, the Secretary of the Department of Transportation, James Burnley, has testified before congressional committees on several occasions last year on this issue. He stated in one hearing that—

> Because FAA is charged with promoting and protecting the industry's commercial interests, it is sometimes reluctant to take safety and enforcement actions that impose significant costs and burdens on that industry.

On another occasion Secretary Burnley used the example of FAA's own proposed change in restrictions that would have allowed 747's to remove two exit doors on the aircraft so that additional seats could be installed. The reason for the proposed change was commercial in nature and would have made the aircraft less safe.

In the Office of Technology Assessment's July 1988 report "Safe Skies Tomorrow," the recommendation was made that Congress may wish to consider "establishing the preeminence of the safety function in FAA's mandate, holding the Administrator accountable solely for safety. * * *" The legislation I am introducing accomplishes this goal.

I do not think that FAA should be in the business of promoting aviation commerce. That is clearly a job for the private sector. The major job of the FAA should be promoting safety. Even so, if the promotion of safety entails the recommendation of one brand name of technology over another, the legislative intent is that this is acceptable so long as the recommendation is based on safety considerations and not on the promotion of commerce-related issues.

Critics of the legislation say that the promotion of the commerce provision is necessary to provide checks and balances on the FAA regulatory process. They maintain that without the commerce provision FAA will regulate the industry into oblivion by requiring all reinforced steel aircraft that are capable of withstanding any collision with the ground.

However, this argument ignores the fact that there are checks and balances within the FAA procedures that, in my opinion, are sufficient to make sure that every view is heard within the agency.

For example, all rules proposed by FAA must follow the provisions of the Administrative Procedure Act, which includes having the chance to participate in rule making and the right to judicial review of the rule. Moreover, title X of the Federal Aviation Act, addresses the procedures by which any person may appear before the agency and be heard; as well as judicial review of FAA orders. Consequently, there are established avenues for the industry representatives to make their views known within the agency and deletion of the provision on promoting commerce will have no effect on these avenues.

In addition, industry and the aviation community are in daily communication on an informal basis on a variety of issues.

I believe that the elimination of the provision that requires FAA to encourage air commerce will benefit the American flying public and will not have a negative impact on the industry.

Mr. Speaker, this is one step directed toward improving FAA and restoring the confidence of the American public in the safety of air travel. The legislation will benefit the industry, the agency and the flying public.

I urge my colleagues to cosponsor this important legislation.

ADMINISTRATIVELY UNCONTROLLABLE OVERTIME LEGISLATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am reintroducing legislation which amends administratively uncontrollable overtime [AUO] pay for Federal law enforcement officers and FBI agents as discussed in section 5545, title V, United States Code.

As you are aware, employees of the Federal Bureau of Investigation are intricate and invaluable resources to our law enforcement system. Section 5545 of title V, United States Code provides for premium pay for an employee in a position requiring substantial irregular, unscheduled overtime which cannot be controlled administratively. This section of title V calls for such pay to be computed on the base pay on an entry level position, which happens to be the maximum level upon which AUO can be computed. As a result, practically all FBI agents are compensated for this overtime not only at a rate much less than straight time, but are limited to 25 percent of the base of an entry level salary, rather than 25 percent of their actual rate of pay.

FBI agents routinely log substantial amounts or irregular unscheduled overtime in performance of their Federal duties. Recent figures reveal that as a whole, they average about 2½ hours of AUO duty each day. While section 5545 provides a welcome measure of compensation for the many hundreds of additional hours required in their jobs annually, this form of overtime computes to an amount considerably less than straight time.

To ensure at least a small amount of relief from the substantial erosion in real pay—purchasing power—and benefits experienced in recent years, I am proposing legislation to adjust the arbitrary cut off point, enabling AUO to be figured on the prescribed percentage of an employee's current pay rate. This would remove the restrictions limiting this type of premium overtime pay from the minimum rate of entry level salary.

In closing, I would like to emphasize that my proposed amendment to section 5545 is not suggested to provide some slight measure of relief for just FBI agents, but for any Federal employee who falls under this provision. I hope all of my colleagues will join me in supporting this legislation.

INTRODUCTION OF THE LINE-ITEM RESCISSION ACT OF 1989

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. JOHNSON of South Dakota. Mr. Speaker, today I am joined by a bipartisan group of our concerned colleagues in introducing the Line-Item Rescission Act of 1989. This bill would give the President a modified version of a line-item veto without having to amend the Constitution and without imposing on Congress a two-thirds vote obligation in order to override the rescission.

In the past, traditional line-item veto proposals have had a difficult time acquiring needed congressional support, in large part out of concern that the difficult burdens of producing a two-thirds majority to override and veto would result in an imbalance of power between the executive and legislative branches of Government. Nonetheless, many Members of Congress as well as President Reagan and former President Ford recognize that there should be a process by which individual budget lines may be considered on their own merits. Further, with enactment of the Line-Item Rescission Act, the President could play a more direct role in determining the contents of appropriations bills and share in the credit, or blame, for their contents.

Our bill would give the President the ability to determine which projects and programs included in an appropriations bill, a supplemental appropriations, bill, or a continuing resolution, should receive individual scrutiny by the Congress and the American public. Under our bill, the President could issue a rescission notice to the Congress on the day he signs the appropriations bill into law. Each rescission notice would be accompanied by a draft bill or joint resolution that would, if enacted, effectuate the proposed rescission. If the bill or joint resolution is not approved by a majority of Congress, the rescission would not take effect. Our bill would also require that these rescission bills be automatically discharged after a certain period of time for the full House or Senate's consideration.

Finally, our bill requires expedited action on all rescissions so that we have a prompt answer as to whether the project or program will be rescinded or remain in place.

This bill is an excellent alternative for those of us who cannot support a line-item veto and yet do want to address the problem of pork-barrel spending and lack of budget accountability in a meaningful, constructive manner. For those who do support a line-item veto, this bill presents an alternative approach which accomplishes many of the same goals but is politicaly much more "do-able."

INTRODUCTION OF A BILL TO ASSIST THE HONORABLE GEORGE ARNEY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. HORTON. Mr. Speaker, today I introduce a bill on behalf of my good friend and constituent, the Honorable George Arney, supervisor of the town of Sodus, NY. The bill seeks documentation for the boat which George purchased.

Federal law requires documentation for a commercial boat that was sold to a foreign owner at any time. Further, documentation of a vessel is similar to a deed to a property, and the boat cannot be used for financial collateral unless it is documented.

George's boat, the *Terangi,* was built in St. Petersburg, FL, and was documented by its first owner. Unfortunately, the next three owners of the boat, including two Canadians, failed to document it. Thus, it has been impossible for George to demonstrate an adequate chain of title for documentation. Importantly, the *Terangi* has never been docked outside of American waters. The Canadian owners kept the boat at Alexandra Bay on the St. Lawrence River.

By passing this bill, we can offer George some relief from his dilemma. George was unaware of the required documentation proce-

dure at the time he purchased the *Terangi*, and it has caused him financial hardship ever since. Given the circumstances, Mr. Speaker, I believe that providing this good man with his needed documentation is the only fair and equitable course of action to follow.

IN HONOR OF NED TAYLOR

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. MORRISON of Connecticut. Mr. Speaker, on January 7, the friends of Boy Scout Troop 401, based at Old Stone Church in East Haven, CT, will honor Edwin (Ned) Taylor for his more than 10 years of service to the troop and all of Boy Scouting and Cub Scouting. I join them in saluting this fine man.

Ned Taylor's involvement in Scouting began in 1974, when he became the leader of the Webelos at Cub Scout Pack 25 at St. Bernadette's Church in New Haven. Four years later, he assumed the additional responsibilities of Scoutmaster at Troop 401. Ned has also given much time to Boy Scouting's East Shore District organization. He has served as the chairman of the District's Cub Scout Olympics, Cub Scout Day Trek, and Cub Scout Bowl-a-thon. He has been active in organizing Boy Scout Camporees and has hosted Scouts from Taiwan and Switzerland.

Scouting has been an enjoyable experience for the boys in Ned's troop. In addition to regular Scouting activities, Ned has coordinated an annual camping trip to Maine, which regularly draws well over 100 Scouts and family members. Troop 401 also makes an annual trip to hike the 7½ mile Isaac Davis Trail in Action, MA.

Membership in Troop 401 during Ned's tenure has also involved a real commitment to the community. Ned directed the New Haven Handicappers Club, which conducted activities for disabled children, for over 10 years and has involved the troop in the East Haven food bank and the local Goodwill drive. The troop has been very active in the restoration of Fort Nathan Hale Park and in numerous other smaller restoration and fundraising projects.

Ned Taylor's approach to Scouting has been marked of achievement. Over Ned's 10 years as Scoutmaster, Troop 401 has produced a remarkable 27 Eagle Scouts and improved the lives of over 350 boys. Ned Taylor has a remarkable record of helping others. I hope that it can continue and that the Scouts of Troop 401 will continue to learn from his example.

INTRODUCTION OF ADMINISTRATIVE LAW JUDGES PAY CLASSIFICATION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am reintroducing legislation which would amend the Federal Salary Act of 1967, and title 5 of the United States Code. This legislation would transfer the authority to determine the pay classification of Federal administrative law judges from the Office of Personnel Management to the Commission on Executive, Legislative, and Judicial Salaries.

Administrative law judges occupy a unique position in our Federal work force in that they serve in the executive branch. In the days of George Washington, these officers were appointed to calculate import duties and determine which soldiers were disabled. Today, they hear and decide appeals from scores of decisions made by our Federal agencies each year, dealing with everything from the payment of Social Security to the regulations of utilities, the media, and interstate commerce.

To ensure their decisional independence, administrative law judges were classified under the General Schedule pay system, rather than the Senior Executive Service and do not, therefore, receive merit pay, bonuses, or performance evaluations. Moreover, to be entirely impartial, administrative law judges must be free from all political and employment pressures and control.

There is a continued need to keep administrative law judges independent and free from improper control by the agencies to which those judges are assigned, as well as from arbitrary actions of the OPM. Congress has always recognized the efficacy of an independent administrative judiciary. Such independence serves to structurally insulate ALJ's from the potential of agency retaliation for their decisions. To reassure private litigants of the impartiality of the ALJ employed by the opposing agency, to enhance the credibility of the administrative process, to remove any appearance of impropriety, and to maintain public confidence in the administrative process, Congress must continue to foster the independence of administrative law judges.

My legislation would authorize the independent Commission on Executive, Legislative, and Judicial Salaries, rather than the Office of Personnel Management, to determine the pay classification of administrative law judges. No new obligations, rights, or privileges would be created by this transfer of authority. It follows on recommendations of the Federal Administrative Law Judges Conference and the judicial administration division of the American Bar Association. It is needed to solidify the independence of the ALJ's. To retain administrative law judges on the GS pay schedule tends to encourage their agencies to view them as other Government employees and to deal with them as much. Moreover, it nurtures unnecessary tension among ALJ's and other agency personnel who take an adversary role in litigation before them. Such dealings impede fair and impartial dispensing of justice. It is entirely appropriate, therefore, that the pay classification of administrative law judges be determined by an outside source, namely the Commission on Executive, Legislative, and Judicial Salaries, which has studied and recommended the salaries of Federal judges in the judicial branch for years.

LEAKS AND CLASSIFIED INFORMATION

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LIVINGSTON. Mr. Speaker, during the last Congress, we heard talk about a new law requiring the President to notify Congress within 48 hours of any decision to authorize covert action. Whether or not you think this is a good idea, you will surely agree that we cannot tolerate leaks of sensitive classified information.

Today I am introducing legislation which imposes criminal penalties on any Member or other employee of Congress who receives and divulges classified information about covert operations. I believe that if the President must give notice of covert activities to Congress, then Members and staff should be required to keep it to themselves. If they violate this confidence, it is only fair that they face the possibility of a fine, imprisonment, or both.

Let's keep leaks out of the headlines of the Washington Post, We are talking about America's national security. Let's make anyone think twice before they endanger the lives of our agents or subvert our sensitive operations abroad.

REINTRODUCTION OF THE HOTEL AND MOTEL FIRE SAFETY ACT

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. WALGREN. Mr. Speaker, on the first day of the 101st Congress, I am joining with Congressmen SHERWOOD BOEHLERT (R-NY) and ROBERT WALKER (R-PA) to reintroduce the Hotel and Motel Fire Safety Act, which was approved by the House during the last Congress but did not make it through the Congress as a whole. This bill would provide for the development of guidelines covering the installation of automatic sprinkler systems and smoke detectors in hotels and motels.

In the last Congress, Congressman BOEHLERT (R-NY) and I and former Representative MANUEL LUJAN, JR., (R-NM), now nominated by President-Elect BUSH as Secretary of the Interior, introduced H.R. 3704, the Hotel and Motel Fire Safety Act as a result of a hearings held by our Subcommittee on Science, Space, and Technology on the fire at the Dupont Plaza Hotel in San Juan, Puerto Rico where 97 Americans died in 12 minutes on New Year's Eve, 1986. Fire experts revealed that a simple sprinkler system would have prevented this tragedy. In response, the House of Representatives passed H.R. 3704 to ban the holding of federally funded meetings at hotels that failed to meet new fire safety guidelines to be issued by the U.S. Fire Administration requiring sprinkler systems and smoke alarms.

The Senate failed to take similar action, and the bill failed to become law in the last Congress.

Death from fire is one of the worst tragedies. It is even more tragic because so many deaths from fire simply need not happen. It is needless because we now have cost effective automatic sprinkler systems that effectively stop fires before they get going and before they snuff out a life. Yet the public in the United States remains at terrible risk from hotel fires. Despite the fact that there has never been multiple lives lost from a fire in a properly sprinklered building, and despite the public's instinctive and reasonable assumption that the hotels and motels that they check into are protected by reasonable means, most hotel rooms in the United States are not protected by sprinklers. It is time that public safety regulations caught up with public expectations.

When sprinklers can be installed for about the cost of purchasing new carpet, the Federal Government ought to be requiring sprinklers. The public has the right to expect fire safe hotels whenever and wherever they travel in this country. I am committed to working with my colleagues in the 101st Congress to reach this goal.

AMENDMENT TO PROHIBIT SMOKING ON COMMERCIAL AIRCRAFT FLIGHTS OF 2 HOURS OR LESS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. DURBIN. Mr. Speaker, in 1987, Congress adopted an amendment I offered along with my colleague, BILL YOUNG, to prohibit smoking on commercial aircraft flights of 2 hours or less. Enactment of the airplane smoking ban was clearly a significant victory for the health and safety of America's airline passengers and crew.

This historic law was enacted for a 2-year period beginning in April 1988. Today, BILL YOUNG and I are introducing legislation that will permanently ban smoking on flights of 2 hours or less.

The airline smoking ban has been extremely well received by airline passengers and crew. The Federal Aviation Administration recently reported that only 57 passengers have been charged with smoking in an airplane restroom or tampering with a restroom smoke detector since the law went into effect. Only 35 passengers have been charged with smoking elsewhere on no-smoking flights. Considering that approximately 38 million passengers fly on U.S. airlines each month, the number of incidents have been very low.

We urge your support for this important legislation, which will assure that the health and safety of airline cabin crews and passengers flying on short-haul flights will be protected.

INTRODUCTION OF FEDERAL EMPLOYEES RECOGNITION WEEK

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Ms. OAKAR. Mr. Speaker, today I am reintroducing legislation which would declare the week of March 6–12, 1989, "Federal Employees Recognition Week." It is important that we set aside a week to recognize Federal employees' work. This recognition is appropriate and long overdue.

Mr. Speaker, during the last several years, Federal employees have faced repeated attempts to cut their pay, while staffing cutbacks have increased their workload. While I and many of my colleagues have fought to ensure decent treatment for Federal workers, we have not always been successful. Two years ago, Federal employees had their pay frozen and Federal retirees received no cost-of-living adjustment in their pension checks. Despite this, Federal workers have continued to perform duties vital to our Nation's well-being.

In closing, I believe it would be extremely valuable for the public and Congress to be reminded of how much we ask of our public servants. Declaring March 6–12 as "Federal Employees Recognition Week" will focus our attention, however briefly, on the efforts and achievements of the U.S. Government work force.

A TRIBUTE TO JULIAN WEINSTOCK

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to Julian Weinstock, a good friend and community leader who will be honored by the University of Judaism on January 12, 1989, at the Eternal Light Dinner Dance.

As chairman of the board of Weinstock Construction, Julian has been instrumental in creating attractive, affordable residential communities. And while Julian's talents have led to an enormously successful business career, he has always set aside time to give back to his community by involving himself in causes that are dear to him.

As president and chairman of the board of the Medalian Group of Cedars-Sinai Hospital, Julian has worked to build one of the outstanding institutions of communal health.

Julian is also an active supporter of the United Jewish Fund, Vista Del Mar Child Care Service, City of Hope, and Sinai Temple. And, as a long-time friend of the University of Judaism, Julian, together with his wife Lois, has demonstrated his concern for educating young people to take their place as valuable members of the broader community. Julian played an important role in the University of Judaism's acquisition of the site of the Familian Campus and has served as a patron of the university ever since.

Among Julian and Lois' most significant contributions to this world are five wonderful children: Brian, who has already joined Weinstock Construction as its president, and Elaine Gray, Bradley, Darren, and Elisabeth who are completing their education.

Julian is truly one of the leading builders of our community in more ways than one and it is a pleasure to bring his numerous accomplishments to the attention of my colleagues in the House of Representatives. I ask that the Speaker and Members of this body join me in saluting Julian and his wife Lois for their outstanding dedication and devotion to the needs of the community and to wish them much success in all their future endeavors.

HARRY SCHWARTZ: ADVOCATE, EDUCATOR, COMMUNITY LEADER, AND POLITICAL ACTIVIST

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to my good friend, Harry Schwartz, whose tireless efforts on behalf of the Brooklyn shorefront community have made him an admired and respected leader. Bensonhurst West End Community Council recently honored Harry as their "Man of the Year" for community activities over the last two decades. I want to join my shorefront friends in saluting this outstanding humanitarian.

At a time when people are beginning to think seriously about educational reform, the accomplishments of Harry Schwartz seem all the more impressive. Harry could, in fact, offer lessons based on real world experience on how to revitalize an urban public school district.

Nothing is closer to Harry's heart, except his family, than the Brooklyn school children. Harry served as a public school teacher for over 20 years before joining the District 21 School Board. His strong commitment to our youth has helped reinvigorate several youth organizations, and as chairman of Community Board 13's Effective Youth Committee, Harry has helped bring thousands of dollars into the area. Harry has made a difference in lives of hundreds, no thousands, of Brooklyn citizens.

Harry Schwartz is the very rare individual that distinguishes himself to the point where he becomes a local neighborhood institution. Harry is an independent man who wears many hats—advocate, teacher, community leader, and political activist. People trust Harry—because he always speaks his mind.

I am pleased to salute Harry Schwartz today for his selfless devotion to the Brooklyn shorefront. I also consider myself lucky to call him a friend and look forward to working with him to improve Brooklyn for many more years. "Give 'em hell, Harry."

TRIBUTE TO NORMAN MEGEGAT

HON. SILVIO O. CONTE
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 3, 1989

Mr. CONTE. Mr. Speaker, I rise today to honor Mr. Norman Menegat, who is retiring after serving the Commonwealth of Massachusetts for 34 years. Through his position at the University of Massachusetts' Data Processing Center, Mr. Menegat has enriched the lives of many with his commitment and devotion to the educational community.

The University of Massachusetts-Amherst has truly benefited from Mr. Menegat's expertise as a manager and innovator. It was through his leadership, inspiration, and guidance that a highly technical computer system was integrated into the university. Norman Menegat has established himself as a dedicated individual committed to the ideals of higher education.

Through his outstanding achievements as an administrator and citizen, Norman Menegat has earned the respect of the entire Commonwealth. In recognition of his 34 years of loyal service, Norman recently received the 1988 Commonwealth of Massachusetts Citation for Outstanding Performance. I was pleased to see Mr. Menegat honored for more than three decades of uninterrupted services to University of Massachusetts and the State.

On January 10, Norman Menegat will be honored by his many friends and family at a special retirement celebration in Amherst, MA. I want to join in paying tribute to this outstanding individual and to wish Norman a very happy and rewarding retirement.

SENATE—*Wednesday, January 4, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 12 noon, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *in quietness and in confidence shall be your strength* * * *.—Isaiah 30:15.

Be still, and know that I am God * * *.—Psalm 46:10.

Gracious Father in Heaven, let this quiet moment as the Senate opens be more than a formality to be gotten out of the way for more important business. Deliver us from pride which feels no need of God, equating it with weakness. Imbue us with the wisdom which understands God is our strength who "gives to all life and breath and all things."

Make Thy presence felt in this Chamber—in this building—in all the offices. Thy will be done on Earth as it is in Heaven.

Grant it, Lord, in Your name, to Your glory and the blessing of the Nation. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 10 minutes.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The majority leader is recognized.

SENATE CONCURRENT RESOLUTION 4—PROVIDING FOR A RECESS OF THE CONGRESS FROM JANUARY 4, 1989, UNTIL JANUARY 20, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be considered the following concurrent resolution which I send to the desk.

The PRESIDENT pro tempore. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

Concurrent resolution (S. Con. Res. 4) amending Senate Concurrent Resolution 3.

Resolved by the Senate (the House of Representatives concurring), Notwithstanding provisions of Senate Concurrent Resolution 3, the Senate may stand in recess at the close of business on January 4, 1989, until 3 p.m. on January 20, 1989, as provided in Senate Concurrent Resolution 3.

The PRESIDENT pro tempore. Is there objection to proceeding immediately to the consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 4) was agreed to.

The PRESIDENT pro tempore. The majority leader is recognized.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from the following two treaties transmitted to the Senate on January 3, 1989, by the President:

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, with related protocol (Treaty Document No. 101-1); and

ILO Convention (No. 160) Concerning Labor Statistics (Treaty Document No. 101-2).

I also ask that the two conventions be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations; and that the President's messages be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests of the majority leader will be agreed to. The injunction of secrecy will be lifted, and the referral request will be agreed to.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, and the related Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on March 10, 1988. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention and Protocol.

The seizure of the Italian cruise ship *Achille Lauro* in 1985, and the murder of American passenger Leon Klinghoffer, demonstrated that no country, or form of transportation, is immune from the criminal savagery of those who engage in terrorist acts. This Convention is aimed at ensuring that those who engage in such acts on board or against ships engaged in navigation are brought to justice. The Protocol would do the same with respect to acts on or against fixed platforms on the continental shelf. Modeled on earlier conventions dealing with aircraft hijacking and sabotage (to which the United States is a party), they include provisions requiring States to provide severe punishment for such offenses, and to extradite or prosecute those who commit them.

Work on the Convention and Protocol began in 1986 under the auspices of the International Maritime Organization on the basis of an initial draft cosponsored by the Governments of Italy, Austria, and Egypt. That work was completed, and the Convention and Protocol adopted by consensus, at an international conference in Rome in March 1988. The United States and 22 other States signed the Convention at that time, and the United States and 20 other States signed the Protocol. It is clear that the Convention already has broad support in the international community, and it is hoped that all States will join in this major step to deter acts against the safety of maritime navigation.

I recommend, therefore, that the Senate give early and favorable consideration to this Convention and Protocol and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of the Convention (No. 160) Concerning Labor Statistics, adopted by the International Labor Conference at Geneva on July 25, 1985. I transmit also for the Senate's information a certified copy of the recommendation (No. 170) on the same subject, adopted

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

by the International Labor Conference on the same date, which amplifies some of the Convention's provisions. No action is called for on the recommendation.

The report of the Department of State, with a letter from the Secretary of Labor, concerning the Convention is enclosed.

As explained more fully in the enclosed letter from the Secretary of Labor, the Government of the United States already collects, compiles and publishes basic labor statistics in all nine subject areas covered by Convention 160. Ratification of this Convention, therefore, would not require the United States to alter in any way its law or practice in this field.

Moreover, as I stated in transmitting International Labor Organization (ILO) Convention 144 to the Senate on April 10, 1986, ratification by the United States of so few ILO Conventions makes more difficult our attempts to take other governments to task for failing to comply with ILO instruments they have ratified. In part for this reason, the Senate gave its advice and consent to the ratification of ILO Convention 144. I accordingly recommend that the Senate also give its advice and consent to the ratification of ILO Convention 160.

RONALD REAGAN.

THE WHITE HOUSE, *January 3, 1989.*

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

A COMMUNICATION FROM THE ADMINISTRATOR OF GENERAL SERVICES

The PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Administrator of General Services transmitting, pursuant to law, certified copies of the final ascertainment of the Electors for President and Vice President, which are ordered to lie on the table.

OATH OF OFFICE ADMINISTERED TO EDWARD M. KENNEDY, THE SENATOR FROM MASSACHUSETTS

The PRESIDENT pro tempore. The Chair will say for the record that on January 3, 1989, while the Senate was in recess, the oath of office was administered to EDWARD M. KENNEDY, as the Senator from Massachusetts.

The majority leader is recognized.

RECESS

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess until the hour of 12:40 p.m.

The PRESIDENT pro tempore. Those in favor of the motion say "Aye." Those opposed say "No." The ayes have it.

The motion was agreed to, and at 12:18 p.m., the Senate recessed until 12:40 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. FORD].

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate reconvene at 3 p.m., following the recessing of the joint session of the Congress in the House Chamber.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Jenkins, one of its clerks, announced that the House has agreed to the following resolution:

H. Res. 2. A resolution notifying the Senate of the election of Jim Wright, a representative from the State of Texas, as Speaker of the House of Representatives; and the election of Donnald K. Anderson, a citizen of the State of California, as Clerk of the House of Representatives of the 101st Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-119. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report listing General Accounting Office reports from the month of October 1988; to the Committee on Governmental Affairs.

EC-120. A communication from President, Navy Wives Clubs of America, transmitting, pursuant to law, a report on the organization's audit for the year beginning 1 September 1987 and running through 31 August 1988; to the Committee on the Judiciary.

EC-121. A communication from the Attorney General, transmitting, pursuant to law, a report certifying the region specified in paragraph 581(a)(5) of title 28, United States Code, comprised of the judicial districts established for the States of Louisiana and Mississippi to the Court of Appeals for the Fifth Circuit; to the Committee on the Judiciary.

EC-122. A communication from the Attorney General, transmitting, pursuant to law, a report certifying the region specified in paragraph 581(a)(13) of title 28, United States Code, comprised of the judicial districts established for the States of Arkansas, Nebraska, and Missouri to the Court of Appeals for the Eighth Circuit; to the Committee on the Judiciary.

EC-123. A communication from the Archivist of the United States, transmitting, pursuant to law, certificates received from the Executives of the States Certificates of Ascertainment of the electors of President and Vice President of the United States chosen in each of the States and the District of Columbia on November 8, 1988; ordered to lie on the table.

EC-124. A communication from the Attorney General of the United States, transmitting, pursuant to law, certification of certain judicial districts under the Bankruptcy Judges, United States Trustees, and Family Farmer Act; to the Committee on the Judiciary.

EC-125. A communication from the Attorney General of the United States, transmitting, pursuant to law, certification of certain judicial districts under the Bankruptcy Judges, United States Trustees, and Family Farmer Act; to the Committee on the Judiciary.

EC-126. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Justice Issues"; to the Committee on the Judiciary.

EC-127. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Department of Labor Issues"; to the Committee on Labor and Human Resources.

EC-128. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Territorial Teacher Training Assistance Program; to the Committee on Labor and Human Resources.

EC-129. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Education Issues"; to the Committee on Labor and Human Resources.

EC-130. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for October 1987 through August 1988; to the Committee on Small Business.

EC-131. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Veterans' Administration's Financial Statements for Fiscal Years 1987 and 1986"; to the Committee on Veterans' Affairs.

EC-132. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled

"Veterans Affairs Issues"; to the Committee on Veterans' Affairs.

EC-133. A communication from the Secretary of the Senate, transmitting, pursuant to law, a full and complete statement of the receipts and expenditures of the Senate, showing in detail the items of expense under proper appropriations, the aggregate thereof, and exhibiting the exact condition of all public moneys received, paid out, and remaining in his possession from April 1, 1988 through September 30, 1988; ordered to lie on the table.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Con. Res. 4. Concurrent resolution amending Senate Concurrent Resolution 3; considered and agreed to.

SENATE CONCURRENT RESOLUTION 4—AMENDING SENATE CONCURRENT RESOLUTION 3

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 4

Resolved by the Senate (the House of Representatives concurring), Notwithstanding provisions of Senate Concurrent Resolution 3, the Senate may stand in recess at the close of business on January 4, 1989, until 3 p.m. on January 20, 1989, as provided in Senate Concurrent Resolution 3.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet to organize on Thursday, January 26, 1989, at 9 a.m., in SR-301. At this meeting the committee plans to adopt its rules of procedure and to select members for the Joint Committee on Printing and the Joint Committee of Congress on the Library.

The committee will also consider legislative and administrative items currently pending on its agenda, including an original resolution authorizing expenditures by the Committee on Rules and Administration for fiscal year 1989.

For further information regarding this meeting, please contact Carole Blessington of the Rules Committee staff on 224-0278.

Mr. FORD. Mr. President, I wish to announce that immediately following its organizational meeting at 9 a.m., on Thursday, January 26, 1989, in SR-301, the Committee on Rules and Administration will hold a hearing, to begin at 9:30 a.m., to receive testimony on the appropriate use of rule XI of the Rules of Procedure and Practice in the Senate when sitting on impeachment trials in the impeachment of Judge Alcee L. Hastings; and on any other matter which may assist the Senate in a fair trial of the pending impeachment.

Individuals who wish to testify or to submit a statement for the hearing record are requested to contact Jack Sousa, chief counsel of the Rules Committee, on 224-5648.

ADDITIONAL STATEMENTS

THE DEPARTURE OF JOHN MELCHER FROM THE SENATE

● Mr. DODD. Mr. President, today I rise with great sadness to bid farewell to my friend and colleague, John Melcher of Montana. Senator Melcher is one of those rare individuals who is willing to take on the issues that don't bring headlines and glamour. He diligently works on problems that are facing the people of this country every day. John Melcher may be leaving the U.S. Senate, but his dedication to the people of Montana and his contribution to public service will not be forgotten.

Mr. President, I am sure that I speak the feelings of many of my colleagues when I say that Senator Melcher will be missed here in the Senate. John Melcher was elected to the House of Representatives in 1969 where he served until his election to the U.S. Senate in 1976. Since his arrival in the Senate, Senator Melcher has been a leader in both the Agriculture and Energy Committees. In these assignments he has protected the rights of farmers in Montana and fought for fairness in public power systems by preserving rural and municipal utilities. He has also served as chairman of the Special Committee on Aging and has fought tirelessly on behalf of our older Americans. While I have not had the pleasure of serving on a committee with Senator Melcher, I have seen the results of his efforts on the Senate floor.

To conclude my statement, I would like to extend to my friend from Montana good luck in his future endeavors and best wishes to him and his family.●

A TRIBUTE TO CONGRESSMAN BILL NICHOLS: A MAN OF INTEGRITY

● Mr. SHELBY. Mr. President, I rise today to pay tribute to Congressman Bill Nichols, a member of the Alabama delegation whom we recently lost to a sudden heart attack. Bill Nichols will be remembered as one of Alabama's most outstanding Congressmen. Throughout his 22-year political career, Nichols illustrated to his State and to his colleagues that he was a man of integrity, as well as, a man of great compassion. Quite simply, Bill Nichols dedicated his entire life to serving his country.

Before entering a life of politics, Bill Nichols demonstrated his commitment to his country by joining the U.S. Army. He was one of many young American soldiers who saw action on the battlefields of World War II. Although Nichols tragically lost his left leg to a land mine, he was a man of great courage and was rewarded by his country. For his service in the war, Nichols received a Bronze Star and a Purple Heart—badges of extreme honor. Serving in the U.S. Army was only natural for this great man who so strongly believed in the democratic principles which govern this great Nation.

This dedication to his country propelled Bill into the forefront of Alabama politics. He served in Alabama's State Legislature and was recognized as the most outstanding member of the Alabama Senate in 1965. The following year the people of Alabama wisely sent him to Congress, where he was reelected to each succeeding Congress.

While in Washington, Bill Nichols became a formidable and highly respected member of the House Armed Services Committee. His record was one of strength on the most vital decisions that affect our national security. On many occasions, he was called upon by America's leaders to offer his counsel on defense policy. Nichols received nationwide attention for his outstanding leadership ability in military matters when this country was rocked by a defense procurement scandal in 1986. As chairman of the House Subcommittee on Investigations, Bill Nichols worked tirelessly to insure that the system would not break down in the future. Nichols was responsible for drafting a landmark piece of legislation which restructured the positions of command in the Pentagon and military services. The measure became known as the Goldwater-Nichols Defense Reorganization Act.

Bill Nichols was a model public servant. He will be remembered for his enormous strength and quiet intensity, as well as, for his remarkable ability to get the job done and to do it well. His dedication and commitment to his country mark him as one of our Nation's great leaders.

I am proud that I had the opportunity to work with Bill Nichols these past 10 years in Congress. He was a valuable friend whose advice I sought on many occasions. I will miss him.

My heart goes out to Bill's wife, Carolyn, and his three children, Memorie, Margaret, and Flynt. Their grief is shared by all those who were touched by Bill Nichols' life.●

ELECTORAL COUNT

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Pursuant to the provisions of the concurrent resolution (S. Con. Res. 1) to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States, the Senate proceeded in a body to the Hall of the House of Representatives.

(The counting of the electoral votes cast for the President and Vice President of the United States appears in the proceedings of the House of Representatives in today's RECORD.)

RECESS UNTIL 3 P.M.

Pursuant to the provisions of the concurrent resolution (S. Con. Res. 1), the Senate recessed at 1:27 p.m. until 3 p.m.; whereupon, the Senate reassembled when called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL FRIDAY, JANUARY 20, 1989 AT 3 P.M.

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess pursuant to provisions of Senate Concurrent Resolution 3 and Senate Concurrent Resolution 4.

The PRESIDENT pro tempore. You have heard the motion. Those in favor of the motion say "aye"; those opposed will say "no." In the opinion of the Chair the ayes have it. The ayes do have it, and, in accordance with the provisions of Senate Concurrent Resolutions 3 and 4, the Senate will stand in recess until the hour of 3 p.m. on Friday, January 20, in the year of our Lord, 1989.

The motion was agreed to; and, at 3:18 p.m., the Senate recessed until Friday, January 20, 1989, at 3 p.m.

NOMINATIONS

Executive nominations received by the Senate January 4, 1989:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. WILLIAM L. KIRK, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. MICHAEL J. DUGAN, [redacted] FR, U.S. AIR FORCE.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. JIMMIE V. ADAMS, [redacted] FR, U.S. AIR FORCE.

HOUSE OF REPRESENTATIVES—*Wednesday, January 4, 1989*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. KILDEE].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 4, 1989.

I hereby designate the Honorable DALE E. KILDEE to act as Speaker pro tempore on this day.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, just as we pray for the concerns of Your whole created world, so too we pray for ourselves, our Nation, and those needs most immediate to us.

We ask Your blessing upon those elected leaders to whom great responsibility has been given by the people of our land. We especially remember the President-elect, the Speaker, and Members of this House of Representatives. May Your purpose for peace fill their hearts with a passion for justice and mercy, and may they see more clearly how they ought to use their talents and abilities in ways that promote understanding and tolerance and righteousness. Grant us all, O gracious God, a measure of Your good grace, now and evermore. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will ask the gentleman from Texas [Mr. DE LA GARZA] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. DE LA GARZA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take a limited number of 1-minute speeches.

PLO INTIMIDATION OF PALESTINIANS SUPPORTING PEACE WITH ISRAEL

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, when the United States opened a dialog with the PLO, most observers suggested that the true test would be Mr. Arafat's actions rather than Mr. Arafat's rhetoric. Regrettably, Mr. Speaker, Mr. Arafat has failed the first test of whether he is truly serious about peace in the Middle East.

Rather than renounce the PLO's practice of intimidation and assassination, yesterday, Mr. Speaker, Mr. Arafat reinforced that practice. Instead of welcoming an initiative by a prominent West Bank mayor, Elias Freij, for a 1-year truce between Israelis and Palestinians, Mr. Arafat stated that, "Any Palestinian leader who proposes an end to the intifada exposes himself to the bullets of his own people and endangers his life. The PLO will know how to deal with him."

Mr. Speaker, rather than renouncing terror, Arafat embraced it. Arafat clearly wants to retain and to use his longstanding weapon of assassination of his own people as an important weapon in the PLO's arsenal for controlling local Arab leaders.

Mr. Speaker, the world either does not see or chooses to ignore the intimidation and terror Palestinians and the PLO have long inflicted upon those of their brethren who seek coexistence and cooperation with Israel.

For real progress in this troubled region, Mr. Speaker, these terrorist methods must be renounced and removed.

QADHAFI AGAIN SHOWS HE IS A LITTLE TYRANT

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Qadhafi has done it again. He has provoked the United States into a defensive action off the coast of Libya, way deep into international waters, with the intent again to show that he is a little tyrant who feels he can do anything he wants even to a superpower like the United States.

Mr. Speaker, the evidence, although not completely in, indicates that this was a purely defensive action on the part of the United States military establishment in the Mediterranean, and I for one, and I know most of us, will support the President of the United States, not only in defending the action but in insisting on further action if necessary to demilitarize that chemical weapons factory now in existence in Libya.

WORLD WAR I VETERANS' SERVICE PENSION ACT

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, I rise today to introduce, again, the World War I Veterans' Service Pension Act for the veterans of the First World War and their widows.

Almost 5 million American soldiers fought in World War I. Under 100,000 are still alive today. We have never honored our historical responsibilities to these veterans.

From the beginning of this Nation, through the Spanish-American War, our Government provided an old-age pension to all wartime veterans, in just recognition of their service in defending our freedoms.

After World War II, we realized a need to compensate veterans much sooner after their service, and we established home loans, educational benefits, and a variety of other programs.

Under current programs, however, nearly 60 percent of our World War I veterans are not eligible for these benefits from the Veterans' Administration, because their incomes are too high. Too high at $6,200 a year? How many people do you know who can survive on $6,200 a year?

Do not these veterans deserve better? Each day we postpone this legislation, 200 of these valiant men will die, in need and forgotten—forgotten by the country which they did not forget in its time of need.

My bill will provide $150 a month for veterans and $100 a month for their widows. It is hardly a magnificent sum. However, it will make a substantial difference to most of these veter-

ans. It will make a moral difference to all of them, whether they receive it or not.

World War I veterans, their families and I would greatly appreciate your support in the 101st Congress. I am all too aware that time is running out on these great patriots. Hopefully, this will be the year that Congress decides to honor the veterans of World War I by passing my legislation, the World War I Veterans' Service Pension Act.

APPOINTMENT OF MEMBERS AS TELLERS TO COUNT ELECTORAL VOTES

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 1, 101st Congress, the Chair appoints as tellers on the part of the House to count the electoral votes the gentleman from Illinois [Mr. ANNUNZIO] and the gentleman from Minnesota [Mr. FRENZEL].

RECESS

The SPEAKER pro tempore. The Chair understands that the Speaker is on his way down to administer the oath of office to those who were unable to take that oath yesterday, and the Chair will declare a brief recess.

Accordingly (at 12 o'clock and 10 minutes p.m.), the House stood in recess.

□ 1225

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. KILDEE] at 12 o'clock and 25 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

S. RES. 5

Resolved, That the House of Representatives be notified of the election of Robert C. Byrd, a Senator from the State of West Virginia, as President pro tempore.

S. CON. RES. 4

Concurrent resolution amending S. Con. Res. 3.

PROVIDING FOR RECESS OF SENATE FROM JANUARY 4, 1989, TO JANUARY 20, 1989, NOTWITHSTANDING PROVISIONS OF SENATE CONCURRENT RESOLUTION 3

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 4) to provide a recess of the Senate from January 4, 1989, to January 20, 1989, notwithstanding the provisions of Senate Concurrent Resolution 3.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 4

Resolved by the Senate (the House of Representatives concurring), Notwithstanding provisions of Senate Concurrent Resolution 3, the Senate may stand in recess at the close of business on January 4, 1989, until 3 p.m. on January 20, 1989, as provided in Senate Concurrent Resolution 3.

The SPEAKER pro tempore. The question is on the Senate concurrent resolution.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, January 3, 1989, the Chair declares the House in recess until approximately 12:50 p.m.

Accordingly (at 12 o'clock and 26 minutes p.m.) the House stood in recess until approximately 12 o'clock and 50 minutes p.m.

□ 1254

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 54 minutes p.m.

SWEARING IN OF MEMBERS-ELECT

The SPEAKER. Will any Member-elect who has not taken the oath of office come to the well of the House at this time and the Chair will administer the oath of office.

Mr. STAGGERS of West Virginia, Mr. LIPINSKI of Illinois, and Mr. FOGLIETTA of Pennsylvania appeared at the bar of the House and took the oath of office.

COUNTING ELECTORAL VOTES—JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF SENATE CONCURRENT RESOLUTION 1

At 1 o'clock p.m., the Doorkeeper, the Honorable James T. Molloy, announced the Vice President and the Senate of the United States.

The Senate entered the Hall of the House of Representatives, headed by the Vice President and the Secretary of the Senate, the Members and officers of the House rising to receive them.

The VICE PRESIDENT took his seat as the Presiding Officer of the joint convention of the two Houses, the Speaker of the House occupying the chair on his left.

The joint session was called to order by the Vice President.

□ 1300

The VICE-PRESIDENT. Mr. Speaker and Members of Congress, the Senate and the House of Representatives, pursuant to the requirements of the Constitution and the laws of the United States, are meeting in joint session for the purpose of opening the certificates and ascertaining and counting the votes of the electors of the several States for President and Vice President.

Under well-established precedents, unless a motion shall be made in any case, the reading of the formal portions of the certificates will be dispensed with. After ascertainment has been had that the certificates are authentic and correct in form, the tellers will count and make a list of the votes cast by the electors of the several States.

The tellers on the part of the two Houses will take their places at the Clerk's desk.

The tellers, Mr. STEVENS and Mr. FORD on the part of the Senate, and Mr. ANNUNZIO and Mr. FRENZEL on the part of the House, took their places at the desk.

The VICE PRESIDENT. The Chair hands to the tellers the certificates of the electors for President and Vice President of the State of Alabama, and they will count and make a list of the votes cast by that State.

Senator FORD (One of the tellers). Mr. President, the certificate of the electoral vote of the State of Alabama seems to be regular in form and authentic, and it appears therefrom that GEORGE BUSH of the State of Texas received 9 votes for President and Dan Quayle of the State of Indiana received 9 votes for Vice President.

The VICE PRESIDENT. If there is no objection, the Chair will omit in the further procedure the formal statement just made, and we will open the certificates in alphabetical order

and pass to the tellers the certificates showing the votes of the electors in each State; and the tellers will then read, count, and announce the result in each State as was done with respect to the State of Alabama.

Is there objection?

The Chair hears no objection.

There was no objection.

The tellers then proceeded to read, count, and announce, as was done in the case of the State of Alabama, the electoral votes of the several States in alphabetical order.

□ 1320

The VICE PRESIDENT. Members of the Congress, the certificates of all the States have now been opened and read, and the tellers will make final ascertainment of the result and deliver the same to the President of the Senate.

The tellers delivered to the President of the Senate the following statement of the results:

The undersigned, WENDELL H. FORD and TED STEVENS, tellers on the part of the Senate, FRANK ANNUNZIO and BILL FRENZEL, tellers on the part of the House of Representatives, report the following as the result of the ascertainment and counting of the electoral vote for President and Vice President of the United States for the term beginning on the twentieth day of January, nineteen hundred and eighty-nine.

States	Electoral votes of each State	For President			For Vice President		
		George Bush	Michael S. Dukakis	Lloyd Bentsen	Dan Quayle	Lloyd Bentsen	Michael S. Dukakis
Alabama	9	9			9		
Alaska	3	3			3		
Arizona	7	7			7		
Arkansas	6	6			6		
California	47	47			47		
Colorado	8	8			8		
Connecticut	8	8			8		
Delaware	3	3			3		
District of Columbia	3		3			3	
Florida	21	21			21		
Georgia	12	12			12		
Hawaii	4		4			4	
Idaho	4	4			4		
Illinois	24	24			24		
Indiana	12	12			12		
Iowa	8		8			8	
Kansas	7	7			7		
Kentucky	9	9			9		
Louisiana	10	10			10		
Maine	4	4			4		
Maryland	10	10			10		
Massachusetts	13		13			13	
Michigan	20	20			20		
Minnesota	10		10			10	
Mississippi	7	7			7		
Missouri	11	11			11		
Montana	4	4			4		
Nebraska	5	5			5		
Nevada	4	4			4		
New Hampshire	4	4			4		
New Jersey	16	16			16		
New Mexico	5	5			5		
New York	36		36			36	
North Carolina	13	13			13		
North Dakota	3	3			3		
Ohio	23	23			23		
Oklahoma	8	8			8		
Oregon	7		7			7	
Pennsylvania	25	25			25		
Rhode Island	4		4			4	
South Carolina	8	8			8		
South Dakota	3	3			3		
Tennessee	11	11			11		
Texas	29	29			29		
Utah	5	5			5		
Vermont	3	3			3		
Virginia	12	12			12		
Washington	10		10			10	
West Virginia	6		5	1		5	1
Wisconsin	11		11			11	
Wyoming	3	3			3		
Total	538	426	111	1	426	111	1

WENDELL H. FORD,
TED STEVENS,
Tellers on the Part of the Senate.
FRANK ANNUNZIO,
BILL FRENZEL,
Tellers on the Part of the House.

The VICE PRESIDENT. The State of the vote for President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for President of the United States is 538, of which a majority is 270.

GEORGE BUSH, of the State of Texas, has received for President of the United States 426 votes.

Michael S. Dukakis, of the Commonwealth of Massachusetts, has received 111 votes.

LLOYD BENTSEN, of the State of Texas, has received 1 vote.

The State of the vote for Vice President of the United States, as delivered to the President of the Senate, is as follows:

The whole number of electors appointed to vote for Vice President of the United States is 538, of which a majority is 270.

DAN QUAYLE, of the State of Indiana, has received for Vice President of the United States 426 votes.

LLOYD BENTSEN, of the State of Texas, has received 111 votes.

Michael S. Dukakis, of the Commonwealth of Massachusetts, has received 1 vote.

This announcement shall be deemed a sufficient declaration of the persons elected President and Vice President of the United States, each for the term beginning on the 20th day of January 1989, and shall be entered, together with a list of the votes, on the Journals of the Senate and House of Representatives.

Members of the Congress, the purpose for which the joint session of the two Houses of Congress has been called having been accomplished, pursuant to Senate Concurrent Resolution 1, 101st Congress, the Chair declares the joint session dissolved.

(Thereupon, at 1 o'clock and 27 minutes p.m., the joint session of the two Houses of Congress was dissolved.)

□ 1330

The House was called to order by the Speaker.

The SPEAKER. Pursuant to Senate Concurrent Resolution 1, 101st Congress, the Chair directs that the electoral vote will be spread at large upon the Journal.

RECESS

The SPEAKER. The House will stand in recess until 2 o'clock.

Accordingly (at 1 o'clock and 31 minutes p.m.) the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. MONTGOMERY] at 2 o'clock p.m.

ALBERT CROSS RETIRES AS PRESIDENT OF THE MONTEREY PENINSULA HERALD

The SPEAKER pro tempore (Mr. MONTGOMERY). Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I want to bring to the attention of my colleagues the retirement of Albert Cross, the president of the Monterey Peninsula Herald in Monterey, CA.

Al Cross has served as president of the Herald since 1984, and the paper has thrived under his leadership. The Monterey Peninsula relies on the Herald as an indispensable source of local, State, and national news, and Al Cross can take a lot of credit for its status. The Herald is my home town newspaper, and I am proud of the work done by its reporters and editors as well as those who run the business side of the paper.

Al Cross was born in Missouri and began his newspaper career on a weekly newspaper in Weston, MO, in 1948. He subsequently worked on several newspapers in New Mexico and then joined the Blade in Toledo, OH, in 1952. The Blade and the Herald are both owned by Block Newspapers.

After 19 years with the Blade, Al joined the Herald as managing editor in October 1971. He was named executive editor of the paper in May 1980, and was elected a vice president of the company that same year. In November 1981 he returned to the Blade as executive editor, a position he held for 20 months, after which he returned to Monterey as general manager of the Herald. In December 1984, he was elected president of the Monterey Peninsula Herald Co.

Al is a director of the California Newspaper Carrier Foundation and a past director of the California Newspaper Publishers Association. He has also been active in the Associated Press Managing Editors Association and the American Society of Newspaper Editors.

Al and his wife, Mildred, reside in Monterey.

Mr. Speaker, I know my colleagues join me in wishing Al Cross a comfortable and productive retirement. He has certainly earned it.

NOISE REDUCTION IN ALAMEDA, CA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing a bill to encourage the Port of Oakland to reduce noise in residential areas near the Oakland International Airport.

A simple solution to the noise problem exists that will satisfy residents without unduely impeding airport operations. By diverting night flights to runways with an approach over the San Francisco Bay, the airport can promote peace and quiet in residential neighborhoods while still accommodating air traffic. For years, the Port of Oakland has dragged its feet in addressing the airport noise problem. It is now time that Oakland International join with airports around the Nation in becoming a responsible neighbor to the surrounding communities.

H.R. —

A bill to prohibit the Secretary of Transportation from making airport development grants to the Port of Oakland until the Port of Oakland enters into a agreement with the Secretary relating to air traffic at Oakland International Airport

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT AGREEMENT.

The Secretary of Transportation shall not make a grant under the Airport and Airway Improvement Act of 1982 for an airport development project involving the Oakland International Airport, Oakland, California, until the Port of Oakland enters into an agreement satisfactory to the Secretary which ensures that all aircraft which use such airport between the hours of 10 o'clock post meridian and 7 o'clock anti meridian land only at runways 27L, 27R, and 29 and take off from runways 9L, 9R, and 29.

SEC. 2. EFFECTIVE PERIOD OF AGREEMENT.

An agreement entered into under section 1 must remain in effect during the longer of—

(1) the period beginning on the date of approval of the grant application under the Airport and Airway Improvement Act of 1982 and ending on the last day of the useful life of the project for which such grant is sought; and

(2) the 20-year period beginning on such date of approval.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HUTTO) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SMITH of Vermont) and to include extraneous matter:)

Mr. CONTE in seven instances.

Mr. BUECHNER.

Mr. CRANE in six instances.

Mr. LAGOMARSINO.

Mr. LEWIS of California.

(The following Members (at the request of Mr. HUTTO) and to include extraneous matter:)

Mr. GARCIA.

Mr. APPLEGATE in two instances.

Ms. PELOSI.

Mr. ROE.

Mr. KASTENMEIER.

Mr. BATES.

Mr. PANETTA.

Mr. FAZIO in two instances.

Mr. DINGELL.

Mr. MONTGOMERY.

Mr. BENNETT.

Mr. DELLUMS.

Mr. STARK.

ADJOURNMENT

Mr. HUTTO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of Senate Concurrent Resolution 3 of the 101st Congress, the House stands adjourned until 12 noon Thursday, January 19, 1989.

Thereupon (at 2 o'clock and 3 minutes p.m.) pursuant to Senate Concurrent Resolution 3, the House adjourned until Thursday, January 19, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

166. A letter from the Administrator, Department of Agriculture, transmitting a report on the Food for Progress Program; to the Committee on Agriculture.

167. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notification of the decision to convert the commissary resale warehouse function at Plattsburgh Air Force Base, NY, which was found to be the most cost-effective organization analysis, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

168. A letter from the Comptroller, Department of Defense, transmitting the supplemental contract award report for the period January 1, 1989, to February 28, 1989, pursuant to 10 U.S.C. 2431(b); to the Committee on Armed Services.

169. A letter from the Comptroller General, General Accounting Office, transmitting a report on the allegations of censorship of "Stars and Stripes" newspaper (GAO/NSIAD-89-60), pursuant to Public Law 100-180, section 321(b) (101 Stat. 1078); to the Committee on Armed Services.

170. A letter from the Director, Administration and Management, Office of the Secretary, Department of Defense, transmitting notification of the Defense Logistics Agency's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General from a proposed contract with the Government of Oman for fuel and related services in support of U.S. military operations in Oman, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

171. A letter from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting the annual report on the Employment of Minorities, Women and Individuals with Handicaps in the Federal Government, fiscal year 1987; to the Committee on Education and Labor.

172. A letter from the Secretary of Energy, transmitting the Department's eighth annual report on financing, supply and installation activities of public utilities in connection with the Residential Conservation Service Program, pursuant to 42 U.S.C. 8217(g); to the Committee on Energy and Commerce.

173. A letter from the Chairman, Securities and Exchange Commission, transmitting the 17th annual report of the Securities Investor Protection Corporation for the year 1987, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Energy and Commerce.

174. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more, to the Government of Chad (Transaction No. MC-53-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

175. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed manufacturing license agreement for the production of significant military equipment in Korea, a country not a member of the North Atlantic Treaty Organization (Transmittal No. MC-49-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

176. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more, to the Government of Thailand (Transaction No. MC-55-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

177. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more, to Israel (Transaction No. MC-45-88), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

178. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of a proposed manufacturing license agreement for the production of certain items to be manufactured in Taiwan (Transmittal No. MC-44-88), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

179. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 5-89 concerning the Department of the Air Force's proposed lease of defense articles to Switzerland, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

180. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

181. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

182. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of the executive branch's allocation of funds made available for the Economic Support Fund, pursuant to FAA section 653(a); to the Committee on Foreign Affairs.

183. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting notification of the executive branch's allocation of funds for foreign military sales financing, the Military Assistance Program, International Military Education and Training, Peacekeeping Operations, and Anti-Terrorism Assistance, pursuant to FAA section 653(a); to the Committee on Foreign Affairs.

184. A letter from the Secretary of Education, transmitting a report concerning surplus Federal real property disposed of to educational institutions in fiscal year 1988, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

185. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting a report on the Commission's evaluation of the system of internal accounting and administrative controls in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

186. A letter from the Acting Secretary of Agriculture, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

187. A letter from the Director, ACTION, transmitting a report on compliance with the requirements of the internal accounting and administrative control system in effect during the year ended September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

188. A letter from the Director, Office of Management and Budget, transmitting a list of accounts authorized by laws permitting expenditures to be accounted for solely on approval, authorization, or certificate of the President or an official of an executive agency, and which are potentially subject to audit by GAO, pursuant to 31 U.S.C. 3524(b); to the Committee on Government Operations.

189. A letter from the Secretary of Education, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

190. A letter from the Clerk of the House, transmitting a list of reports which it is the duty of any officer or Department to make to Congress, pursuant to rule III, clause 2, of the Rules of the House (H. Doc. No. 101-17); to the Committee on House Administration and ordered to be printed.

191. A letter from the Forest Service, Department of Agriculture, transmitting a report on Federal Lands Cleanup Day activities for fiscal year 1988, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

192. A letter from the Assistant Attorney General, Department of Justice, transmitting a report on revenues deposited in the Crime Victims Fund and the effectiveness of victim compensation and assistance since fiscal year 1985, pursuant to 42 U.S.C. 10604(g); to the Committee on the Judiciary.

193. A letter from the Comptroller General, General Accounting Office, transmitting a report and recommendation concerning the meritorious claim of Dr. Bruce C. Veit against the United States, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

194. A letter from the Chairman, Paralyzed Veterans of America, transmitting a copy of the annual audit report for the fiscal year ended September 30, 1988, pursuant to 36 U.S.C. 1166; to the Committee on the Judiciary.

195. A letter from the Clerk, U.S. Claims Court, transmitting the court's report for the year ended September 30, 1988, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

196. A letter from the Chairman, Migratory Bird Conservation Commission, transmitting the Commission's annual report for fiscal year 1988, pursuant to 16 U.S.C. 715b; to the Committee on Merchant Marine and Fisheries.

197. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting the findings and conclusions of the Secretary of Health and Human Services regarding allegations against certain individuals in the National Health Service Corps, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

198. A letter from the Executive Secretary, Office of the Secretary, Department of Defense, transmitting the report on Department of Defense Procurement from Small and Other Business Firms for Fiscal Year 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

199. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting the report on Department of Defense Procurement from Small and Other Business Firms for October 1987 through August 1988, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

200. A letter from the Secretary of State, transmitting notification of his determination that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency, pursuant to Public Law 99-88, chapter V (99 Stat. 323); jointly, to the Committees on Appropriations and Foreign Affairs.

201. A communication from the President of the United States, transmitting the requisite findings and determinations to permit the export of certain Alaska crude oil to Canada, pursuant 43 U.S.C. 1354, 30 U.S.C. 185(u), and 42 U.S.C. 6212; jointly, to the Committees on Ways and Means, Foreign Affairs, Armed Services, Interior and Insular Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of Jan. 3, 1989]

Mr. ROSTENKOWSKI: Committee on Ways and Means. Report on legislative review activity during the 100th Congress of the Committee on Ways and Means (Rept. 100-1133). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of Jan. 3, 1989]

By Mr. ANNUNZIO:

H.R. 56. A bill to prevent consumer abuse by credit repair organizations; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ARCHER:

H.R. 57. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Ways and Means.

H.R. 58. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 59. A bill to repeal the provision of the Tax Reform Act of 1986 which increased the current year liability test for estimated tax payments from 80 to 90 percent; to the Committee on Ways and Means.

H.R. 60. A bill to repeal the estate tax inclusion related to valuation freezes; to the Committee on Ways and Means.

By Mr. ARCHER (for himself and Mr. CRANE):

H.R. 61. A bill to allow the President an item veto in appropriations bills; to the Committee on the Judiciary.

By Mr. ARCHER (for himself, Mr. CRANE, Mr. IRELAND, Mr. GALLO, Mr. SHAYS, Mr. BILIRAKIS, Mr. MARLENEE, Mr. BRENNAN, and Mr. HALL of Texas):

H.R. 62. A bill proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills; to the Committee on the Judiciary.

By Mr. ARCHER (for himself and Mr. CHANDLER):

H.R. 63. A bill to amend title XVIII of the Social Security Act and other provisions of law to delay for 1 year the effective dates of the supplemental Medicare premium and additional benefits under part B of the Medicare Program and to establish a Bipartisan Commission to Review the Medicare Catastrophic Coverage Act; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. ARMEY:

H.R. 64. A bill to amend the National Labor Relations Act to provide the National Labor Relations Board with further statutory authority with respect to employees and labor unions engaged in violence; to the Committee on Education and Labor.

H.R. 65. A bill to amend the Fair Labor Standards Act of 1938 to facilitate industrial homework, including sewing, knitting, and crafting; to the Committee on Education and Labor.

H.R. 66. A bill to repeal the provisions of the Tax Reform Act of 1986 which limit the deductibility of contributions to individual retirement accounts and to allow the deduc-

tions for such contributions to be computed for married individuals on the basis of their combined compensation; to the Committee on Ways and Means.

H.R. 67. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations for the President's private sector survey on cost control regarding the improvement of executive agency mail management, and for other purposes; jointly, to the Committees on Government Operations and Post Office and Civil Service.

H.R. 68. A bill to provide that rates of pay for Members of Congress shall not reflect any of the increases recently recommended by the President under the Federal Salary Act of 1967, and to provide that Members' pay may not be increased unless the Federal budget is in balance; jointly, to the Committees on Post Office and Civil Service and House Administration.

H.R. 69. A bill to authorize tax incentives for urban enterprise zones, youth employment opportunity wages, a program of urban homesteading, and to improve equal educational opportunity; jointly, to the Committees on Ways and Means; Education and Labor; Banking, Finance and Urban Affairs; and the Judiciary.

By Mr. ARMEY (for himself, Mr. HUNTER, Mr. DORNAN of California, Mrs. BENTLEY, Mr. MARTIN of New York, Mr. RHODES, Mr. BILIRAKIS, Mr. NIELSON of Utah, Mr. HASTERT, Mr. GRANT, Mr. KYL, Mr. HAMMERSCHMIDT, Mr. LAGOMARSINO, Mr. WALKER, Mr. SAXTON, Mr. STANGELAND, Mr. LOWERY of California, Mr. HANCOCK, Mr. KOLBE, Mr. PARRIS, Mr. DANNEMEYER, Mr. SOLOMON, and Mr. COMBEST):

H.R. 70. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to education savings accounts and to provide that amounts paid from such an account for educational expenses shall never be subject to income tax; to the Committee on Ways and Means.

By Mr. BARTLETT (for himself and Mr. MATSUI):

H.R. 71. A bill to amend title XVI of the Social Security Act to allow recipients of supplemental security income benefits to receive certain contributions without affecting their eligibility for such benefits, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. BENNETT:

H.R. 72. A bill to require the registration of consultants to the Department of Defense or to firms contracting with the Department of Defense; to the Committee on Armed Services.

H.R. 73. A bill to amend title 10, United States Code, to improve accountability over profits made by large contractors under negotiated defense-related Federal contracts; to the Committee on Armed Services.

H.R. 74. A bill to establish a series of six regional Presidential primaries at which the public may express its preference for the nomination of an individual for election to the Office of President of the United States; to the Committee on House Administration.

H.R. 75. A bill to prohibit a Member of Congress from accepting any honorarium; to the Committee on House Administration.

H.R. 76. A bill to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

H.R. 77. A bill to provide that the Secretary of the Army may only execute a water resource project in a State if the State enters into a legally binding agreement with the Secretary concerning the reconstruction of lands adversely affected by such projects; to the Committee on Public Works and Transportation.

H.R. 78. A bill to provide for a Veterans' Administration general medical and surgical hospital at Jacksonville, FL; to the Committee on Veterans' Affairs.

H.R. 79. A bill to amend the Internal Revenue Code of 1986 to provide that all individuals and corporations shall pay a minimum tax of not less than 10 percent of economic income; to the Committee on Ways and Means.

H.R. 80. A bill to abolish the National Security Council, and for other purposes; jointly, to the Committee on Armed Services and the Permanent Select Committee on Intelligence.

By Mr. CARR:

H.R. 81. A bill to amend the Internal Revenue Code of 1986 to allow individuals to direct that part or all of their income tax refunds be contributed to a trust fund established for the relief of domestic and international hunger, and to establish a commission to oversee the distribution of such contributions: jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. MCCLOSKEY (for himself, Mr. ACKERMAN, Mr. ARCHER, Mr. BENNETT, Mr. BOUCHER, Mr. BROWN of California, Mr. CLINGER, Mrs. COLLINS, Mr. DE LUGO, Mr. DORNAN of California, Mr. ESPY, Mr. GEJDENSON, Mr. HORTON, Mr. HUTTO, Mr. LAGOMARSINO, Mr. MANTON, Mr. MATSUI, Mr. MAZZOLI, Mr. MCDADE, Mr. MILLER of California, Mr. MONTGOMERY, Ms. OAKAR, Mr. OLIN, Mr. ROBINSON, Mr. ROE, Mrs. SAIKI, Mr. SHUSTER, Mr. SWIFT, Mr. TAUZIN, Mr. TRAFICANT, Mr. WEBER, Mr. WILSON, Mr. WOLF, Mr. ROBERT F. SMITH, Mr. SHAYS, Mr. KOLTER, Mr. SAXTON, Mr. VISCLOSKY, Mr. DE LA GARZA, and Mr. YOUNG of Florida):

H.R. 82. A bill to recognize the organization known as the 82d Airborne Division Association, Inc.; to the Committee on the Judiciary.

By Mr BENNETT:

H.R. 83. A bill to amend the Federal Election Campaign Act of 1971 to prohibit any Member of or candidate for the Congress from making contributions to any other Member of or candidate for the Congress and to prohibit Members of the Congress from soliciting and accepting contributions with respect to elections for congressional leadership officers within a political party; jointly, to the Committees on House Administration and Rules.

By Mr. BENNETT (for himself, Mr. BATES, Mr. MCGRATH, Mr. WILSON, Ms. PELOSI, Mr. SCHEUER, Mr. SHAYS, Mr. ACKERMAN, Mr. YOUNG of Florida, Mr. OWENS of New York, Mr. TORRES, Mr. MILLER of California, Mr. SMITH of Florida, Mr. MARTINEZ, Mr. ATKINS, Mr. BEILENSON, Mr. JACOBS, Mr. MARKEY, Mr. LANTOS, Mr. PEPPER, Mr. BERMAN, and Mr. DORNAN of California):

H.R. 84. A bill to prohibit certain practices in the raising of calves for veal, and for other purposes; to the Committee on Agriculture.

By Mr. BENNETT (for himself, Mrs. BOXER, Mr. FAUNTROY, Mr. BLAZ, Mr. JONTZ, and Mr. BEILENSON):

H.R. 85. A bill to amend title 10, United States Code, to strengthen conflict-of-interest restrictions relating to defense procurement; to the Committee on Armed Services.

By Mr. BENNETT (for himself and Ms. OAKAR):

H.R. 86. A bill to amend title 10, United States Code, to strengthen the ability of the Armed Forces to provide assistance in the interdiction of the transportation of illegal drugs into the United States; to the Committee on Armed Services.

By Mr. BENNETT (for himself, Mrs. COLLINS, and Mr. FRANK):

H.R. 87. A bill to amend the Federal Election Campaign Act of 1971 to provide for mail registration and election day registration for elections for Federal office; to the Committee on House Administration.

By Mr. BENNETT (for himself, Mr. CHAPMAN, Mr. MILLER of California, Mr. DE LUGO, Mr. ATKINS, Mr. LEWIS of Florida, Mr. MCCURDY, Mr. SISISKY, Mr. DORNAN of California, Mr. ESPY, Mr. BILIRAKIS, Mr. BROWN of California, Mr. HORTON, Mr. GRANT, and Mr. YOUNG of Florida):

H.R. 88. A bill to direct the Secretary of the Army to set aside an appropriate area within Arlington National Cemetery for the unmarked burial of cremated remains; to the Committee on Veterans' Affairs.

By Mr. BENNETT (for himself, Mr. OWENS of New York, Mr. MANTON, and Mr. FASCELL):

H.R. 89. A bill to improve the protection of endangered species of wildlife in units of the National Forest System, the National Park System, and the National Wildlife Refuge System by increasing the maximum fine that may be imposed for violating posted speed limits in such units; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Merchant Marine and Fisheries.

By Mr. BENNETT (for himself, Mr. PACKARD, Mr. HOCHBRUECKNER, and Mrs. BOXER):

H.R. 90. A bill to encourage cooperation with law enforcement authorities in the war against drugs by increasing the maximum rewards for the Department of Justice assets forfeiture fund and the Customs forfeiture fund for information on controlled substances offenses; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. BERMAN (for himself, Mr. FASCELL, Mr. HAMILTON, and Mr. HYDE):

H.R. 91. A bill to prohibit exports for military equipment to countries supporting international terrorism, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BILIRAKIS:

H.R. 92. A bill to provide benefits under the survivor benefit plan to surviving spouses of certain members of the Armed Forces retired before September 21, 1972; to the Committee on Armed Services.

H.R. 93. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 55 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. BOEHLERT (for himself, Mr. WALGREN, and Mr. WALKER):

H.R. 94. A bill to amend the Federal Fire Prevention and Control Act of 1974 to allow for the development and issuance of guidelines concerning the use and installation of automatic sprinkler systems and smoke detectors in places of public accommodation affecting commerce, and for other purposes;

to the Committee on Science, Space and Technology.

By Mrs. BOXER:

H.R. 95. A bill to amend the Internal Revenue Code of 1986 to establish as a condition for receiving funds from the Presidential Election Campaign Fund the requirement that certain candidates in a presidential election participate in presidential election debates; to the Committee on House Administration.

H.R. 96. A bill entitled: "The Uniform Poll Closing Act"; to the Committee on House Administration.

H.R. 97. A bill to permit persons who will be 18 years of age on the date of a Federal election to vote in the related primary election; to the Committee on House Administration.

By Mr. BLAZ (for himself, Mr. UDALL, Mr. YOUNG of Alaska, Mr. DE LUGO, and Mr. LAGOMARSINO):

H.R. 98. A bill to establish the Commonwealth of Guam, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Ways and Means.

By Mr. SWIFT (for himself, Mr. SYNAR, Mr. SHARP, Mr. ECKART, Mr. TAUZIN, Mr. SLATTERY, Mr. COOPER, Mr. BRUCE, and Mr. BOUCHER):

H.R. 99. A bill to amend the Clean Air Act; to the Committee on Energy and Commerce.

By Mr. WYLIE:

H.R. 100. A bill to amend the Congressional Budget Act of 1974 to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or economic necessity declared by the Congress, and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. WEISS (for himself, Mr. ACKERMAN, Mr. DELLUMS, Mr. FAUNTROY, Mr. OBERSTAR, Mr. MAVROULES, Mr. KASTENMEIER, Mr. GEJDENSON, Mr. TORRES, Mr. ROE, Mr. STUDDS, Mr. BATES, Mr. RANGEL, Mr. GARCIA, Mrs. BOXER, Mr. WHEAT, Mr. MOAKLEY, Mr. CROCKETT, Mr. ESPY, Mr. MFUME, Mr. HAYES of Illinois, Mr. DYMALLY, Mr. STOKES, Ms. PELOSI, Mr. BERMAN, Mr. OWENS of New York, Mr. KILDEE, Mr. TOWNS, and Mr. BROWN of California):

H.R. 101. A bill to facilitate the economic adjustment of communities, industries, and workers to reductions or realignments in defense or aerospace contracts, military facilities, and arms export, and for other purposes; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Ways and Means.

By Mrs. BOXER (for herself, Mr. BENNETT, Mr. STARK, Mr. JONTZ, Mr. BUSTAMANTE, Mr. EVANS, Mr. KLECZKA, Mr. DEFAZIO, Mr. DICKS, Mrs. SCHROEDER, Mr. FAUNTROY, Mr. BRYANT, Mr. OWENS of Utah, Mr. HOCHBRUECKNER, Mr. AUCOIN, Mr. PORTER, Mr. ACKERMAN, Mr. STUDDS, Mr. DORGAN of North Dakota, Ms. PELOSI, Mr. DELLUMS, Mr. LEVINE of California, and Mr. CLARKE):

H.R. 102. A bill to establish as an independent establishment in the executive branch an Office of Defense Inspector General which shall be responsible for overseeing financial programs and activities of the Department of Defense and which shall be independent of the Secretary of Defense; jointly, to the Committees on Armed Services and Government Operations.

By Mr. BRYANT:

H.R. 103. A bill to require that any telecommunications equipment or customer premises equipment manufactured by any of the former Bell operating companies may not be provided or sold in commerce in the United States unless such equipment is manufactured in the United States, and for other purposes: to the Committee on Energy and Commerce.

H.R. 104. A bill to provide for comprehensive national oil security policy; to the Committee on Energy and Commerce.

H.R. 105. A bill to amend title 18 of the United States Code to establish national criteria for the imposition of the sentence of death in cases of espionage and treason, and for other purposes: to the Committee on the Judiciary.

H.R. 106. A bill to provide a limited antitrust exemption for independence natural gas producer cooperative; to the Committee on the Judiciary.

H.R. 107. A bill to prescribe an end strength level of United States forces assigned to permanent duty in NATO countries and Japan and to provide for the reduction of United States forces in these countries under certain circumstances; jointly, to the Committees on Armed Services and Foreign Affairs.

H.R. 108. A bill to provide for military assistance to certain civilian law enforcement agencies; jointly, to the Committees on Armed Services and the Judiciary.

H.R. 109. A bill to amend the copyright laws to provide compulsory licenses only to those cable service providers who provides adequate carriage of local broadcast signals, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

H.R. 110. A bill to require that the President transmit to the Congress, and that the Congressional Budget Committees report, a balanced budget for each fiscal year; jointly, to the Committees on Government Operations and Rules.

By Mr. ROYBAL:

H.R. 111. A bill to amend the Public Health Service Act, the Older Americans Act of 1965, and the Social Security Act with respect to the mental health of elderly individuals, and for other purposes; jointly, to the Committees on Education and Labor, Energy and Commerce, and Ways and Means.

By Mr. BRYANT (for himself, Mr. CHAPMAN, and Mr. HAMMERSCHMIDT):

H.R. 112. A bill to amend the Public Utility Holding Company Act of 1935 to permit public utility holding companies to invest in or to acquire an interest in any business other than the business of a public utility provided such investments or interests constitute 15 percent or less of the consolidated assets of the holding company system, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CLINGER:

H.R. 113. A bill to amend the Public Works and Economic Development Act of 1965 to establish a National Public Works Corporation for purposes of providing financial assistance to States and local governments for the construction, rehabilitation, and repair of certain public facilities, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. COLLINS:

H.R. 114. A bill to require the President to direct the Secretary of Defense, the Secretary of Health and Human Services, and the Administrator of Veterans' Affairs to submit to the appropriate committees of the Congress a joint report addressing the question of U.S. Government responsibility for providing benefits and services to individuals who served with certain voluntary organizations in support of the Armed Forces of the United States stationed in the Republic of Vietnam during the Vietnam era; to the Committee on Armed Services.

H.R. 115. A bill to provide that funds appropriated to the Department of Defense may not be used to purchase articles of packaged food not packaged in the United States or its possessions; to the Committee on Armed Services.

H.R. 116. A bill to require the Secretary of Housing and Urban Development to provide assistance for emergency repairs in lower income housing projects operated by the Chicago Housing Authority; to the Committee on Banking, Finance, and Urban Affairs.

H.R. 117. A bill to require the Secretary of Housing and Urban Development to establish energy conservation standards for public housing projects and to carry out a program to demonstrate the effectiveness of energy conservation measures in public housing projects; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. MATSUI (for himself, Mr. SCHULZE, and Mr. COELHO):

H.R. 118. A bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules for determining contributions in aid of construction; to the Committee on Ways and Means.

By Mrs. COLLINS:

H.R. 119. A bill to amend the Truth in Lending Act to require lenders to post current interest rates charged for various categories of loans to consumers; to the Committee on Banking, Finance and Urban Affairs.

H.R. 120. A bill to strengthen the development of children and the functioning of families by establishing a comprehensive Federal child care program designed to improve the quality and availability of child care services while protecting parental rights, and for other purposes; to the Committee on Education and Labor.

By Mr. PALLONE:

H.R. 121. A bill to prohibit the Department of the Interior from expending any further funds for the proposed Mid-Atlantic coast offshore oil and gas lease sale number 121; to the Committee on Interior and Insular Affairs.

By Mrs. COLLINS:

H.R. 122. A bill to improve coordination in the formulation of telecommunications policy within the executive branch, and for other purposes; to the Committee on Energy and Commerce.

H.R. 123. A bill to make it an unfair practice for any retailer to increase the price of certain consumer commodities once he marks the price on any such consumer commodity, and to permit the Federal Trade Commission to order any such retailer to refund any amounts of money obtained by so increasing the price of such consumer commodity; to the Committee on Energy and Commerce.

H.R. 124. A bill to authorize the Secretary of Health and Human Services to fund adolescent health demonstration projects; to the Committee on Energy and Commerce.

H.R. 125. A bill to amend the Communications Act of 1934 to require the Federal Communications Commission to continue and improve efforts to promote diversity in media ownership, management, and pro-

gramming, and for other purposes; to the Committee on Energy and Commerce.

H.R. 126. A bill to amend the Privacy Act of 1974 in order to improve the protection of individual information and to reestablish a permanent Policy Protection Commission as an independent entity in the Federal Government, and for other purposes; to the Committee on Government Operations.

H.R. 127. A bill to amend title 18 of the United States Code to provide penalties for assaults against the elderly that result in medical expenses paid by the United States; to the Committee on the Judiciary.

H.R. 128. A bill to provide for the mandatory registration of handguns; to the Committee on the Judiciary.

H.R. 129. A bill prescribing the availability of information in products liability actions involving products distributed in commerce; to the Committee on the Judiciary.

H.R. 130. A bill to amend part A of title XVIII of the Social Security Act to provide emergency assistance to medicare-participating hospitals to enable them to continue to provide vital medical and other health services; to the Committee on Ways and Means.

H.R. 131. A bill to provide for the establishment and operation of a national lottery to assist in financing the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 132. A bill to promote fisheries and wildlife conservation; to the Committee on Merchant Marine and Fisheries.

By Mrs. COLLINS:

H.R. 133. A bill to establish requirements relating to Federally funded child care services; jointly, to the Committees on Education and Labor and Ways and Means.

H.R. 134. A bill to strengthen the authority of the Equal Employment Opportunity Commission to enforce nondiscrimination policies in Federal employment; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

H.R. 135. A bill prescribing rules relating to the retention by product manufacturers of records on products distributed in commerce; jointly, to the Committees on the Judiciary and Energy and Commerce.

H.R. 136. A bill to require the Secretary of Transportation to issue regulations to assist in the designation of the safest routes for the transportation of hazardous materials; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

H.R. 137. A bill to provide for the establishment and operation of a national lottery to assist in financing a general revenue sharing program; jointly, to the Committees on Ways and Means and Government Operations.

H.R. 138. A bill to amend the Internal Revenue Code of 1986 to deny deductions for expenses of advertising to persons who discriminate against minority owned or formatted communications entities in the purchase or placement of advertisements, and to permit persons aggrieved by such discrimination to bring civil actions to recover lost profits and other appropriate damages; jointly, to the Committees on Ways and Means and the Judiciary.

H.R. 139. A bill to amend title XVIII of the Social Security Act to provide payment for dental services under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. VENTO (for himself, Mrs. SAIKI, Mr. FRANK, Mr. KENNEDY, and Mr. TORRES):

H.R. 140. A bill to alleviate homelessness by expanding and preserving the supply of permanent, affordable, and decent housing; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. COLLINS:

H.R. 141. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program for routine Papanicolaou tests; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 142. A bill to provide for the establishment and operation of a national lottery and a savings bond program to assist in financing Medicare, education, and child care programs; jointly, to the Committees on Ways and Means, Energy and Commerce, and Education and Labor.

H.R. 143. A bill to amend title XVIII of the Social Security Act to permit direct payment under the medicare program for services of registered nurses as assistants at surgery; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. COOPER:

H.R. 144. A bill to amend the Clean Air Act to provide further controls of certain stationary sources of sulfur dioxides and nitrogen oxides to reduce acid deposition, to provide for the commercialization of clean coal technologies for existing stationary sources, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MINETA (for himself, Mr. OBERSTAR, Mr. INHOFE, Mr. SYNAR, Mr. MCCURDY, and Mr. WHEAT):

H.R. 145. A bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration; to the Committee on Public Works and Transportation.

By Mr. CRAIG:

H.R. 146. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit Federal agencies to use pesticides on public lands without duplicating the research or analyses of the Environmental Protection Agency under that act; to the Committee on Agriculture.

H.R. 147. A bill to amend the Internal Revenue Code of 1986 to provide assistance to families; to the Committee on Ways and Means.

H.R. 148. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians' fees, and to eliminate the reimbursement differential between hospitals in different areas; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DEFAZIO (for himself and Mr. JOHNSON of South Dakota):

H.R. 149. A bill to provide that adjustments in rates of pay for Members of Congress be deferred until the beginning of the Congress following the Congress in which they would otherwise occur, and to provide that such adjustments may not exceed any cost-of-living increases in benefits under title II of the Social Security Act; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. DONNELLY:

H.R. 150. A bill to amend the Immigration and Nationality Act to provide a procedure for an alien who dies while serving on active duty with the U.S. Armed Forces during certain periods of hostilities to be considered a citizen of the United States at the time of the alien's death; to the Committee on the Judiciary.

H.R. 151. A bill to amend the Internal Revenue Code of 1986 to provide additional restrictions on tax-exempt bonds used to provide residential rental property for family units; to the Committee on Ways and Means.

H.R. 152. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for improvements to the taxpayer's principal residence to remove architectural barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 153. A bill to amend the Revenue Act of 1987 to provide that the user fees imposed under such act do not apply to certain taxpayers, and for other purposes; to the Committee on Ways and Means.

H.R. 154. A bill to amend the Internal Revenue Code of 1986 to increase the excise tax on smokeless tobacco, and for other purposes; jointly to the Committee on Ways and Means.

H.R. 155. A bill to amend title XVIII of the Social Security Act to require payments for physicians' services under the Medicare Program be made on an assignment-related basis; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. DONNELLY (for himself, Mrs. KENNELLY, Mr. MCGRATH, Mr. COYNE, Mr. DOWNEY, and Mr. RUSSO):

H.R. 156. A bill to amend the Internal Revenue Code of 1986 to create incentives for fair employment in Northern Ireland, and for other purposes; to the Committee on Ways and Means.

By Mr. DONNELLY (for himself and Mr. STARK):

H.R. 157. A bill to amend the Internal Revenue Code of 1986 to provide that tax-exempt bonds may be used to provide a hospital or other inpatient health care facility only if the facility accepts Medicaid patients and to amend title XVIII of the Social Security Act to require hospitals, as a condition of receipt of certain Medicare funding, to accept Medicaid patients and to require skilled nursing facilities, as a condition of Medicare participation, to accept Medicaid patients; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DORGAN of North Dakota:

H.R. 158. A bill to amend the Internal Revenue Code of 1986 to provide that the deemed sale rules shall apply in the case of hostile stock purchases and to deny any deduction for interest incurred in connection with a hostile stock purchase; to the Committee on Ways and Means.

By Mr. DREIER of California:

H.R. 159. A bill entitled: "Retirement Equity Act of 1989"; to the Committee on Ways and Means.

By Mr. DURBIN (for himself, Mr. YOUNG of Florida, Mr. MCCLOSKEY, Mr. SHARP, Mr. HAWKINS, Mr. KILDEE, Mr. GEJDENSON, Mr. ECKART, Mr. FEIGHAN, Mr. BATES, Mr. VISCLOSKY, Mr. JONTZ, Mr. TRAFICANT, Mr. EVANS, Mr. LEVINE of California, Mr. SMITH of Florida, Mr. SCHUMER, Mr. SIKORSKI, Mr. BRYANT, Mr. SYNAR, Mr. ANDREWS, Mr. MORRISON of Connecticut, Mr. KOSTMAYER, Mr. GLICKMAN, Mrs. BOXER, Mr. DEFAZIO, Mr. LEHMAN of Florida, Mr. STALLINGS, Ms. PELOSI, Mr. FRANK, Mr. CARDIN, Mr. LELAND, Mr. WAXMAN, Mr. TORRICELLI, Mr. GUARINI, Mr. STARK, Mr. SANGMEISTER, Mr. HALL of Ohio, Mr. WYDEN, Mr. MRAZEK, Mr. LEHMAN of California, Mr. SAWYER, Mr. ATKINS,

Mr. CAMPBELL of Colorado, Mr. MOODY, Mr. THOMAS A. LUKEN, Mr. MILLER of California, Mr. FAZIO, Mr. OBERSTAR, Mr. SCHEUER, Mr. WHEAT, and Mr. WEISS):

H.R. 160. A bill to amend the Federal Aviation Act of 1958 to make permanent the prohibition against smoking on scheduled flights of 2 hours or less in duration; to the Committee on Public Works and Transportation.

By Mr. DYSON:

H.R. 161. A bill to establish a program to provide financial assistance for research relating to oyster diseases; to the Committee on Merchant Marine and Fisheries.

By Mr. EMERSON:

H.R 162. A bill to prohibit the use of Federal funds for abortions except where the life of the mother would be endangered; to the Committee on Energy and Commerce.

H.R. 163. A bill regarding the flagrant and malicious desecration of the United States flag; to the Committee on the Judiciary.

H.R. 164. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and related beneficiaries, and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 165. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Ways and Means.

H.R. 166. A bill to repeal the provision of the Tax Reform Act of 1986 which requires a taxpayer to include on his tax return the tax identification number of dependents who have attained age 5; to the Committee on Ways and Means.

By Mr. FAUNTROY:

H.R. 167. A bill to establish a District of Columbia Supreme Court; to the Committee on the District of Columbia.

H.R. 168. A bill to establish an Office of the Attorney General for the District of Columbia, to transfer prosecutorial authority for local offenses and custodial responsibility for prisoners convicted of local offenses to the District of Columbia government, to provide for the local appointment of the judges of the District of Columbia courts, and for other purposes; to the Committee on the District of Columbia.

By Mr. FAWELL (for himself, Mr. DREIER of California, Mr. RHODES, Mr. OXLEY, Mr. BATEMAN, Mr. MCCANDLESS, Mr. MCCRERY, Mr. BURTON of Indiana, Mr. PORTER, Mr. SMITH of New Hampshire, Mr. KYL, and Mr. KOLBE):

H.R. 169. A bill to restore the Medicare and Medicaid law to the provisions in effect before the enactment of the Medicare Catastrophic Coverage Act of 1988 and to establish a Presidential Commission on the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. FISH:

H.R. 170. A bill to amend the Federal Rules of Evidence to provide an explicit exception in certain child abuse cases; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.R. 171. A bill to eliminate an exception in section 313 of the Federal Election Campaign Act of 1971 that permits certain Members of Congress to use excess campaign funds for personal purposes; to the Committee on House Administration.

H.R. 172. A bill to provide that certain nonprofit hospital insurers shall not be required to discount unpaid losses in computing taxable income for taxable years beginning before January 1, 1990; to the Committee on Ways and Means.

H.R. 173. A bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Ways and Means.

H.R. 174. A bill to amend the Internal Revenue Code of 1954 to provide that the amount of the charitable deduction allowable for expenses incurred in the operation of a motor vehicle will be determined in the same manner Government employees determine reimbursement for use of their vehicles on Government business; to the Committee on Ways and Means.

H.R. 175. A bill to amend the Internal Revenue Code of 1986 to provide that income of a child on investments attributable to the child's earned income shall not be taxed at the parents' rate of tax; to the Committee on Ways and Means.

H.R. 176. A bill to amend the Internal Revenue Code of 1954 relating to the tax-exempt interest on certain governmental obligations; to the Committee on Ways and Means.

H.R. 177. A bill to amend the Internal Revenue Code of 1986 to allow noncorporate shareholders of foreign sales corporations the same deduction for dividends received from such corporations as is allowed to corporate shareholders; to the Committee on Ways and Means.

By Mr. FRENZEL (by request):

H.R. 178. A bill to amend the foster care and adoption assistance programs under part E of title IV of the Social Security Act, and for other purposes; to the Committee on Ways and Means.

By Mr. GALLO:

H.R. 179. A bill to amend title XIX of the Social Security Act to require skilled nursing facilities and intermediate care facilities that participate in the Medicaid Program to make available at least the average proportion of beds available in the State to medicaid patients; to the Committee on Energy and Commerce.

By Mr. GALLO (for himself, Mr. LAGOMARSINO, Mr. DYMALLY, Mr. HYDE, Mr. WILSON, Mr. ROE, Mr. OWENS of Utah, Mr. HAYES of Illinois, Mr. DEFAZIO, Mrs. BOXER, Mr. FUSTER, Mr. COURTER, Mrs. ROUKEMA, Mr. SAXTON, Mr. FROST, Mr. TOWNS, Mr. DE LUGO, and Mr. MINETA):

H.R. 180. A bill to require that enlarged print voting aids and ballots be made available to visually impaired voters with respect to elections for Federal office, and for other purposes; to the Committee on House Administration.

By Mr. GRANDY:

H.R. 181. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 (and related beneficiaries) and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 182. A bill to modify the method by which pay for civilian employees of the Government is adjusted; to the Committee on Post Office and Civil Service.

H.R. 183. A bill to amend title XVIII of the Social Security Act to provide a special enrollment period and to eliminate premium increases in the Medicare Part B Insurance Program for individuals who enter the United States after residing outside the United States for an extended period of time; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GUNDERSON:

H.R. 184. A bill to amend the Upper Mississippi River Management Act of 1986 to extend the amounts authorized for an additional 2 years without increasing the total amounts authorized; to the Committee on Public Works and Transportation.

H.R. 185. A bill to require the Secretary of Health and Human Services to provide periodic interim payments under the Medicare Program to hospitals with 100 beds or fewer within 10 days, rather than 14 days, of the end of each payment period; to the Committee on Ways and Means.

H.R. 186. A bill to amend title XVIII of the Social Security Act to permit small rural hospitals to elect to be paid on a reasonable cost basis; to the Committee on Ways and Means.

By Mr. HALL of Texas:

H.R. 187. A bill relating to conveyance of certain interests in lands for use by the United States Fish and Wildlife Service; to the Committee on Merchant Marine and Fisheries.

H.R. 188. A bill relating to the rights and interest of the United States of America under as conservation easement affecting certain land in Wood County, TX; to the Committee on Merchant Marine and Fisheries.

By Mr. HANSEN (for himself and Mr. NIELSON of Utah):

H.R. 189. A bill to direct the Secretary of the Army to convey the land comprising Fort Douglas, UT, to the University of Utah; to the Committee on Armed Services.

By Mr. HOUGHTON:

H.R. 190. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Ways and Means.

By Mr. IRELAND:

H.R. 191. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require that budget resolutions be presented to the President for his approval or disapproval, and for other purposes; jointly, to the Committees on Government Operations and Rules.

H.R. 192. A bill to raise the status of the Administrator of the Small Business Administration, to provide for a National White House Conference on Small Business, to authorize judicial review of actions under chapter 6 of title 5, United States Code, relating to regulatory flexibility analyses, to make interpretative rules under the Internal Revenue Code of 1986 subject to regulatory flexibility analyses, to direct a study of the impact of the Federal Government on small business, and to direct a study of the availability of credit to small business; jointly, to the Committees on Small Business and the Judiciary.

H.R. 193. A bill to amend the Internal Revenue Code to provide tax incentives for the establishment of enterprise zones, and for other purposes; jointly, to the Commit-

tees on Way and Means and Judiciary, and Banking, Finance and Urban Affairs.

By Mr. JACOBS:

H.R. 194. A bill to prohibit the procurement by the Secretary of the Army of additional trucks under the Heavy Expanded Mobility Tactical Truck [HEMTT] program; to the Committee on Armed Services.

H.R. 195. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require manufacturers of automobiles to provide to the Secretary of Transportation for dissemination to the public all vehicle warranty and repair information it provides their dealers; to the Committee on Energy and Commerce.

H.R. 196. A bill entitled the "Former Presidential Enough Is Enough and Taxpayers Relief Act of 1989; to the Committee on Government Operations.

H.R. 197. A bill to amend the Federal Election Campaign Act of 1971 to provide for public financing of advertising and related expenses in campaigns for the House of Representatives and to prohibit contributions by multicandidate political committees to candidates who accept such financing; to the Committee on House Administration.

H.R. 198. A bill to amend the Federal Election Campaign Act of 1971 to disallow the personal use of amounts received as contributions; to the Committee on House Administration.

H.R. 199. A bill to establish the Federal right of every unemancipated child to be supported by such child's parent or parents and, therefore, to confer upon certain local courts of the District of Columbia and every State and territory of the United States jurisdiction to enforce such right regardless of such child's residence; to the Committee on the Judiciary.

By Ms. OAKAR:

H.R. 200. A bill to require States to enact laws which require physicians and surgeons to inform breast cancer patients of alternative effective methods of treatment for breast cancer in order to qualify for Federal funds under titles V and XIX of the Social Security Act and title XIX of the Public Health Service Act; to the Committee on Energy and Commerce.

H.R. 201. A bill to amend title II of the Social Security Act to eliminate the reductions in social security benefits which are presently required in the case of spouses and surviving spouses who are also receiving certain Government pensions; to the Committee on Ways and Means.

H.R. 202. A bill to amend title II of the Social Security Act to restore minimum benefits for future beneficiaries; to the Committee on Ways and Means.

H.R. 203. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assures that each spouse will have social security protection in his or her own right; to the Committee on Ways and Means.

H.R. 204. A bill to amend title II of the Social Security Act to provide for the payment of a transition benefit to the spouse of an insured individual upon such individual's death if such spouse has attained age fifty and is not otherwise immediately eligible for benefits; to the Committee on Ways and Means.

H.R. 205. A bill to amend title II of the Social Security Act to provide full benefits for disabled widows and widowers without regard to age (and without regard to any previous reductions in their benefits); to the Committee on Ways and Means.

H.R. 206. A bill to amend title II of the Social Security Act to provide that an individual's "years of coverage" for purposes of computing the special minimum benefit may include up to 10 additional years (not otherwise includible for that purpose) in which such individual had a child age 6 or under in his or her care; to the Committee on Ways and Means.

H.R. 207. A bill to amend title XVIII of the Social Security Act to provide an optional part C insurance program to provide coverage of certain vision, hearing, and dental services; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 208. A bill to amend title XVIII of the Social Security Act to provide for medicare coverage for hospital-based comprehensive care programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 209. A bill to amend title XVIII of the Social Security Act to provide for annual coverage of screening mammography for women over 64 years of age and to increase base payment limit from $50 to $60; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 210. A bill to provide for a demonstration project relating to treatment for drug abuse and alcohol abuse under the health benefits program for Federal employees; to the Committee on Post Office and Civil Service.

H.R. 211. A bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement of certain additional types of health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 212. A bill to provide that a demonstration project be conducted to determine the feasibility and desirability of providing benefits relating to certain social and long-term health services under the Federal employees health benefits program; to the Committee on Post Office and Civil Service.

H.R. 213. A bill to amend the Federal Salary Act of 1967 and title 5 of the United States Code to provide that the authority to determine levels of pay for administrative law judges be transferred to the Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Post Office and Civil Service.

H.R. 214. A bill to restore the 3-year basis recovery rule with respect to annuities under chapters 83 and 84 of such title for Federal income tax purposes; jointly, to the Committees on Post Office and Civil Service and Ways and Means.

H.R. 215. A bill to amend title 5, United States Code, with respect to the method by which premium pay is determined for irregular, unscheduled overtime duty performed by a Federal employee; to the Committee on Post Office and Civil Service.

H.R. 216. A bill to amend the Federal employee health benefit provisions of title 5, United States Code, to increase the Government contribution rate, to extend coverage for employees who are separated due to reductions in force, to require carriers to obtain reinsurance or stop-loss insurance (or to otherwise demonstrate financial responsibility), to assure adequate mental health benefit levels and otherwise limit benefit reductions, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 217. A bill to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; to the Committee on Post Office and Civil Service.

H.R. 218. A bill to authorize the Smithsonian Institution to provide for additional facilities for the Cooper-Hewitt Museum, and for other purposes; jointly, to the Committee on House Administration and Public Works and Transportation.

H.R. 219. A bill to establish a Department of Arts and Humanities; to the Committee on Government Operations.

H.R. 220. A bill to provide financial assistance for programs for the prevention, identification, and treatment of elder abuse, neglect, and exploitation, to establish a National Center on Elder Abuse, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. JACOBS:

H.R. 221. A bill to amend title 18 of the United States Code, to provide for rewards for information leading to the apprehension and conviction of certain kidnapers; to the Committee on the Judiciary.

H.R. 222. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to require a 20 percent reduction in certain assistance under such Act to a law enforcement agency unless such agency has in effect a binding law enforcement officers; bill of rights; to the Committee on the Judiciary.

H.R. 223. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firemen not employed by the United States who are killed or totally disabled in the line of duty; to the Committee on the Judiciary.

H.R. 224. A bill to amend title 18, United States Code, to provide penalties for the manufacture, sale, and use of radar detectors; to the Committee on the Judiciary.

H.R. 225. A bill to make "America, the Beautiful" the national anthem of the United States of America; to the Committee of Post Office and Civil Service.

H.R. 226. A bill to amend Public Law 85-745 to provide that a former President may receive monetary allowances under that law only after waiving any rights to receive any other annuity or pension to which the former President would otherwise be entitled under any other Federal law; to the Committee on Post Office and Civil Service.

H.R. 227. A bill to amend the Federal Aviation Act of 1958 to authorize reduced-rate air transportation to the United States for certain persons who have been or will be adopted by a resident of the United States; to the Committee on Public Works and Transportation.

H.R. 228. A bill to amend title 38, United States Code, to permit the next of kin of a deceased veteran to designate the style of flag to be furnished at the burial of such veteran; to the Committee on Veteran's Affairs.

H.R. 229. A bill to amend the Internal Revenue Code of 1986 to deny the business deduction for any amount paid or incurred for regularly scheduled air transportation to the extent such amount exceeds the normal tourist class fare for such transportation; to the Committee on Ways and Means.

H.R. 230. A bill to amend the Internal Revenue Code of 1986 to increase to 32 cents per pack the Federal excise tax on cigarettes and to provide that the revenues from the additional tax shall be deposited in

the Federal Hospital Insurance Trust Fund under the Social Security Act; to the Committee on Ways and Means.

H.R. 231. A bill to amend the Internal Revenue Code of 1986 to reinstate the tax on interest received by foreigners on certain portfolio investments; to the Committee on Ways and Means.

H.R. 232. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of the basis of the taxpayer's principal residence; to the Committee on Ways and Means.

H.R. 233. A bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment and privacy, and for other purposes; jointly, to the Committees on Education and Labor and Government Operations.

H.R. 234. A bill to prohibit payment of Federal retirement benefits, except in certain cases, to those who are not retired as defined under the Social Security Act; jointly, to the Committees on Post Office and Civil Service and Armed Services.

By Mr. JOHNSON of South Dakota (for himself, Mr. HENRY, Mr. FRENZEL, Mr. NELSON of Florida, Mr. HANSEN, Mr. DONALD LUKENS, Mr. DE FAZIO, Mr. PENNY, Mr. YOUNG of Florida, Mr. SMITH of New Hampshire, Mr. SOLOMON, and Mr. STENHOLM):

H.R. 235. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority; to the Committee on Rules.

By Mr. JONES of North Carolina (for himself and Mr. UPTON):

H.R. 236. A bill to amend the National Flood Insurance Act of 1968 to extend the program of flood insurance for structures on land subject to imminent collapse or subsidence; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KASTENMEIER:

H.R. 237. A bill to implement the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes; to the Committee on the Judiciary.

H.R. 238. A bill to prohibit the production of lethal binary chemical munitions by the United States and to call on the President to enter into immediate negotiations with the Soviet Union for a mutual, verifiable ban on the production and stockpiling of chemical weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. KLECZKA:

H.R. 239. A bill to amend the Internal Revenue Code of 1986 to allow an individual to withdraw up to $5,000 from an individual retirement account for the purchase of a principal residence by a first-time home buyer; to the Committee on Ways and Means.

By Mr. KOLTER:

H.R. 240. A bill to amend the Federal Food, Drug, and Cosmetic Act to require food and drug manufacturers to maintain a toll-free telephone line for inquiries respecting foods containing vitamins or minerals, herbal foods, foods for special dietary uses and over-the-counter drugs and to require the labels and advertising of such products to contain a reference to such line; to the Committee on Energy and Commerce.

H.R. 241. A bill to amend the Internal Revenue Code of 1986 to terminate the exclusion from gross income of Americans working abroad, and for other purposes; to the Committee on Ways and Means.

H.R. 242. A bill to amend the Internal Revenue Code of 1986 to permit individuals to include cash contributions with their income tax returns to be used for grants to reduce the costs of organ transplants, and for other purposes; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. LAGOMARSINO:

H.R. 243. A bill to amend the Internal Revenue Code of 1986 to allow first-time home buyers to make withdrawals from their individual retirement accounts for the purpose of acquiring, constructing, or reconstructing a principal residence, without incurring any tax; to the Committee on Ways and Means.

H.R. 244. A bill to provide that no increase in pay for Members of Congress shall take effect without a recorded vote in each House; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. LAGOMARSINO (for himself, Mr. THOMAS of California, and Mr. MATSUI):

H.R. 245. A bill to require the Secretary of Energy to convey to the State of California by quitclaim deed certain lands in a naval petroleum reserve and to provide that money received from a naval petroleum reserve shall be treated the same as money received from other public lands; jointly, to the Committees on Interior and Insular Affairs and Armed Services.

By Mr. LEACH of Iowa:

H.R. 246. A bill to amend the Federal Election Campaign Act of 1971 to prohibit certain contributions by nonparty multicandidate committees; to the Committee on House Administration.

By Mr. LELAND:

H.R. 247. A bill to amend the Communications Act of 1934 to assure equal employment opportunities are afforded by radio and television broadcasting stations; to the Committee on Energy and Commerce.

H.R. 248. A bill to amend the Communications Act of 1934 to provide for greater participation of women and minorities in telecommunications; to the Committee on Energy and Commerce.

By Mr. LENT:

H.R. 249. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 250. A bill to amend title 38, United States Code, to provide for the pro-rating of veterans compensation and pension for the month in which the death of a veteran occurs; to the Committee on Veterans' Affairs.

H.R. 251. A bill to amend title II of the Social Security Act to require the establishment of procedures to assure that benefit payments will not be made thereunder to deceased individuals; to the Committee on Ways and Means.

H.R. 252. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Ways and Means.

H.R. 253. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 254. A bill to amend the Internal Revenue Code of 1954 to allow individuals a deduction for commuting expenses incurred on public mass transit; to the Committee on Ways and Means.

H.R. 255. A bill to amend the Internal Revenue Code of 1954 to provide basic $10,000 exemption from income tax, in the case of an individual or a married couple, for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 256. A bill to amend the Internal Revenue Code of 1954 to exclude from the gross income of any participant in any state or local government plan so much of any distribution from such plan as represents his allocable share of tax-exempt interest of such plan; to the Committee on Ways and Means.

H.R. 257. A bill to amend the Internal Revenue Code of 1954 to provide that the medical expenses of handicapped individuals and individuals who have attained age 65 shall be deductible without regard to the requirement that only medical expenses in excess of certain percentages of adjusted gross income are deductible; to the Committee on Ways and Means.

H.R. 258. A bill to amend the Internal Revenue Code of 1954 to allow certain low- and middle-income individuals a refundable tax credit for a certain portion of the property taxes paid by them on their principal residences or of the rent they pay for their principal residences; to the Committee on Ways and Means.

H.R. 259. A bill to amend title II of the Social Security Act to improve the treatment of women through the establishment and payment of working spouse's benefits; to the Committee on Ways and Means.

H.R. 260. A bill to amend the Internal Revenue Code of 1954 to provide that tax-exempt interest shall not be taken into account in determining the amount of social security benefits to be taxed; to the Committee on Ways and Means.

By Mr. LEWIS of Florida:

H.R. 261. A bill to repeal the authority of the Secretary of Transportation to encourage and foster air commerce in the United States; to the Committee on Public Works and Transportation.

By Mr. LIVINGSTON:

H.R. 262. A bill to amend the National Security Act of 1947; to the Committee on the Judiciary.

By Mrs. LLOYD:

H.R. 263. A bill to improve American competitiveness through grants for workplace literacy programs; to the Committee on Education and Labor.

H.R. 264. A bill to provide Federal financial assistance to facilitate the establishment of alliances between local education agencies and the private sector to increase the use of resources of the private and nonprofit sectors in the provision of elementary and secondary education, and for other purposes; to the Committee on Education and Labor.

H.R. 265. A bill to amend the Internal Revenue Code of 1986 to provide that the basic standard deduction for heads of households shall be the same as the basic standard dedication for joint returns and surviving spouses; to the Committee on Ways and Means.

H.R. 266. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to individuals for maintaining a household a member of which is a dependent of the taxpayer who has attained age 65; to the Committee on Ways and Means.

H.R. 267. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to limit application of the benefits and premiums of the Medicare Catastrophic Coverage Act of 1988 to those voluntarily enrolled in part B of the Medicare Program; to the Committee on Ways and Means.

H.R. 268. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions to education savings accounts and to provide that amounts paid from such an account for educational expenses shall never be subject to income tax; to the Committee on Ways and Means.

H.R. 269. A bill to amend title II of the Social Security Act to provide for an improved benefit computation formula for workers who attain age 65 in or after 1982 and to whom applies the 5-year period of transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and related beneficiaries, and to provide prospectively for increases in their benefits accordingly; to the Committee on Ways and Means.

H.R. 270. A bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the exclusion for educational assistance programs; to the Committee on Ways and Means.

H.R. 271. A bill to repeal provisions of law providing for salary adjustments for Members of Congress, and to provide that legislation increasing Member's compensation, Federal income tax benefits, or limitations on outside earnings is considered separately from other legislation, is adopted only by a recorded vote, and does not take effect until the start of the Congress following the Congress in which approved; jointly, to the Committees on Appropriations, Post Office and Civil Service, and Rules.

H.R. 272. A bill to amend the Congressional Budget Act of 1974 to provide for a 2-year budgeting cycle, to provide for separate and timely consideration each of authorizing legislation, budget resolutions, and appropriations, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. THOMAS A. LUKEN:

H.R. 273. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the registration of certain nonprofit entities which provide health services and sell prescription drugs; to the Committee on Energy and Commerce.

H.R. 274. A bill to establish a commission to study the establishment of a National Lottery; to the Committee on Ways and Means.

H.R. 275. A bill to amend title 18, United States Code, to prohibit certain arrangements commonly called surrogate motherhood, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. McCOLLUM:

H.R. 276. A bill to award a congressional gold medal to the family of Brig. Gen. Herbert Wassom in honor of the late Brig. Gen. Herbert Wassom; to the Committee on Banking, Finance and Urban Affairs.

H.R. 277. A bill to award a congressional gold medal to the family of Arnold Raphel in honor of the late Arnold Raphel, the former United States Ambassador to Pakistan; to the Committee on Banking, Finance and Urban Affairs.

H.R. 278. A bill to amend the Immigration and Nationality Act to clarify that immigrant visas may not be issued to aliens who are infected with the etiologic agent for acquired immune deficiency syndrome; to the Committee on the Judiciary.

H.R. 279. A bill to amend title 18, United States Code, to make the knowing disclosure of classified information by Federal officers and employees a criminal offense; to the Committee on the Judiciary.

By Mr. McCOLLUM (for himself and Mr. COURTER):

H.R. 280. A bill to express the opposition of the United States to the system of oppression in Angola, to promote the development of democracy in Angola, and for other purposes; jointly, to the Committees on Foreign Affairs Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. McEWEN:

H.R. 281. A bill to amend the Food Security Act of 1985 to authorize and direct the Secretary of Agriculture to establish a strategic forage reserve comprised of multiyear set-aside acreage; to the Committee on Agriculture.

H.R. 282. A bill to create a fiscal safety net program for needy communities; to the Committee on Government Operations.

H.R. 283. A bill designating the first Monday of April 1989, as "Professional Constructors Day"; to the Committee on Post Office and Civil Service.

H.R. 284. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes; to the Committee on Public Works and Transportation.

By Mrs. ROUKEMA (for herself and Mr. CLAY):

H.R. 285. A bill to deny crewmember status in the case of certain strikes and lockouts; to the Committee on Education and Labor.

By Mr. McEWEN:

H.R. 286. A bill to provide that receipts and disbursements of the highway trust fund, the airport and airway trust fund, and the inland waterways trust fund shall not be included in the totals of the budget of the U.S. Government as submitted by the President or the congressional budget; jointly, to the Committees on Public Works and Transportation and Government Operations.

By Mr. McMILLEN of Maryland:

H.R. 287. A bill to amend title 18, United States Code, to create civil and criminal penalties for persons or entities which knowingly and maliciously alter computer hardware or software with the objective of disabling a computer either through the loss of stored data or interference with its proper functioning; to the Committee on the Judiciary.

H.R. 288. A bill to protect the Chesapeake Bay from the disposal of medical waste, and for other purposes; jointly, to the Committees on Energy and Commerce, the Judiciary, Merchant Marine and Fisheries, Public Works and Transportation, and Science, Space and Technology.

By Mr. MATSUI (for himself, Mr. AKAKA, Mr. DYMALLY, Mr. PELOSI, Mrs. BOXER, Mr. MINETA, Mr. EDWARDS of California, and Mr. PASHAYAN):

H.R. 289. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian-Americans and Pacific Islanders in the decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. MATSUI (for himself, Mr. COYNE, Mr. MARTIN of New York, Mr. FAUNTROY, Mr. ACKERMAN, Mr. KOLTER, Mr. FUSTER, Mr. DE LUGO, Mr. OBERSTAR, Mr. ROE, Mr. PEASE, Mr. TORRES, Mr. KILDEE, and Ms. KAPTUR):

H.R. 290. A bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 291. A bill to amend title VII of Civil Rights Act of 1964 to make discrimination against handicapped individuals an unlawful employment practice; to the Committee on Education and Labor.

H.R. 292. A bill to amend the Internal Revenue Code of 1986 to permanently extend the exclusion for amounts received under qualified group legal services plans; to the Committee on Ways and Means.

By Mr. MOAKLEY (for himself, Mr. CONYERS, Mr. BATES, Mr. WAXMAN, and Mr. WHITTAKER):

H.R. 293. A bill to direct the Secretary of Health and Human Services to promulgate fire safety standards for cigarettes and for other purposes; to the Committee on Energy and Commerce.

By Mr. NEAL of North Carolina:

H.R. 294. A bill to amend the Food Security Act of 1985 to provide an additional exemption to program ineligibility for production on highly erodible land, and to provide a 2-year moratorium on that program ineligibility while its effects are studied; to the Committee on Agriculture.

H.R. 295. A bill to direct the Secretary of Commerce to approve and distribute to food service operations instructions for removing food which has become lodged in a person's throat; to the Committee on Energy and Commerce.

H.R. 296. A bill to establish a Department of Environmental Protection, and for other purposes; to the Committee on Government Operations.

H.R. 297. A bill to provide that the percentage of total apportionments of funds allocated to any State from the highway trust fund in any fiscal year be at least 100 percent of the percentage of estimated tax payments paid into the highway trust fund which are attributable to highway users in such State in the latest fiscal year for which data is available; to the Committee on Public Works and Transportation.

H.R. 298. A bill to amend the Internal Revenue Code of 1986 to restore to State and local governments the right to purchase gasoline without payment of the Federal gasoline excise tax; to the Committee on Ways and Means.

H.R. 299. A bill to require the Secretary of the Treasury to modify the proposed regulation relating to the use of the cents-per-mile valuation rule in valuing the fringe benefit received by an employee for personal use of a vehicle provided by his employer; to the Committee on Ways and Means.

H.R. 300. A bill to repeal the provisions of the Internal Revenue Code of 1986 relating to the taxation of up to one-half of an indi-

vidual's Social Security and certain railroad retirement benefits; to the Committee on Ways and Means.

H.R. 301. A bill requiring the President to take retaliatory action against foreign barriers and restrictions that unfairly limit United States trade; to the Committee on Ways and Means.

H.R. 302. A bill to amend the Internal Revenue Code of 1986 to provide for floating Social Security tax rates for old-age, survivors, and disability insurance; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. BOUCHER, Mr. GRANT, Mr. LAGOMARSINO, Mr. MCCURDY, Mr. HOCHBRUECKNER, Mr. FRANK, Mr. KASTENMEIER, Mr. HORTON, Mr. CALLAHAN, Mr. SWIFT, Mr. HUTTO, Mr. YATRON, Mr. DAVIS, Mr. SAXTON, Mr. WOLF, Mr. BAKER, Mr. MATSUI, Mr. YOUNG of Alaska, Mr. WHITTAKER, Mr. BUNNING, Mr. SHAYS, Mr. DORNAN of California, Mr. GEJDENSON, Mr. DREIER of California, Mr. STANGELAND, Mr. TAUZIN, Mr. OWENS of New York, Mr. MCGRATH, Mr. NIELSON of Utah, Mr. LAFALCE, Mr. KOLTER, Mr. COLEMAN of Texas, Mr. HARRIS, Mr. WYDEN, Mr. FEIGHAN, Mr. SHUMWAY, Mr. RUSSO, Mr. DE LUGO, Mr. NELSON of Florida, Mr. BLAZ, Mr. ERDREICH, Ms. SNOWE, Mr. TOWNS, Mr. COURTER, Mr. BENNETT, Mr. COELHO, Mr. SHAW, Mr. FUSTER, Mr. WILSON, Mr. HENRY, Mr. ROE, Mr. GALLEGLY, Mr. FLIPPO, Mr. DEFAZIO, Mr. MOAKLEY, Mr. DONNELLY, Mr. TORRES, Mr. MCMILLEN of Maryland, Mr. SENSENBRENNER, Mr. GONZALEZ, Mr. PETRI, Mr. YOUNG of Florida, Mr. BEREUTER, Mr. ROYBAL, Mr. HOLLOWAY, Mr. JOHNSON of South Dakota, Mr. ROSE, Mr. PERKINS, Mr. KASICH, Mr. JONTZ, Mr. MILLER of Ohio, Mr. KILDEE, Mr. JONES of North Carolina, Mr. GALLO, Mr. DE LA GARZA, Mr. MRAZEK, Mrs. LLOYD, Mr. PORTER, Mrs. VUCANOVICH, Mr. HEFNER, Mr. FROST, Mr. FAZIO, Mr. BATES, Mr. CHAPMAN, and Mr. LENT):

H.R. 303. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay, without deduction from either; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. NEAL of North Carolina:

H.R. 304. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of any contribution to any no net cost tobacco fund or any no net cost tobacco account shall be treated as a deductible expense; to the Committee on Ways and Means.

H.R. 305. A bill to provide that increases in rates of pay for Members of Congress shall take effect only if approved by the Congress, and that any such increase shall be deferred until the beginning of the following Congress; jointly, to the Committee on Post Office and Civil Service and Rules.

By Mr. OBERSTAR:

H.R. 306. A bill to provide an emergency public works jobs program by authorizing the construction of short-term infrastructure repair projects, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 307. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to authorize the appropriation of funds to carry out such acts for fiscal years 1990, 1991, and 1992; to the Committee on Public Works and Transportation.

H.R. 308. A bill to establish a Federal program to assist State and local governments in addressing the urgent need to repair and rehabilitate aging public facilities and to encourage the establishment of capital improvement programs that include life-cycle management of capital improvement, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 309. A bill to establish a Community Adjustment Assistance Program for those areas which are in or facing serious economic distress, and for other purposes; jointly, to the Committee on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. OLIN:

H.R. 310. A bill to remove a restriction from a parcel of land in Roanoke, VA, in order for that land to be conveyed to the State of Virginia for use as a veterans nursing home; to the Committee on Interior and Insular Affairs

By Mr. PACKARD:

H.R. 311. A bill to amend title II of the Social Security Act so as to eliminate the earnings test; to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 312. A bill relating to the treatment of certain furskins under the Endangered Species Act of 1973; to the Committee on Merchant Marine and Fisheries.

H.R. 313. A bill to provide reduced rates for nonprofit senior citizens organizations; to the Committee on Post Office and Civil Service.

H.R. 314. A bill to amend title 39 of the United States Code to provide for door delivery of mail to the physically handicapped, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DINGELL (for himself, Mr. MARKEY, Mr. BLILEY, Mrs. COLLINS, Mr. NIELSON of Utah, Mr. SYNAR, Mr. BRYANT, Mr. ECKART, Mr. BOUCHER, and Mr. COOPER):

H.R. 315. A bill to clarify the congressional intent concerning, and to codify, certain requirements of the Communications Act of 1934 that ensure that broadcasters afford reasonable opportunity for the discussion of conflicting views on issues of public importance; to the Committee on Energy and Commerce.

By Mr. QUILLEN:

H.R. 316. A bill to amend title 38, United States Code, to remove the time limitation for the use of chapter 34 educational assistance benefits; to the Committee on Veterans' Affairs.

H.R. 317. A bill to amend title 38, United States Code, to require that burials be permitted in national cemeteries on weekends and holidays; to the Committee on Veterans' Affairs.

H.R. 318. A bill to amend title II of the Social Security Act to provide that an individual's entitlement to benefits thereunder shall continue through the month of his or her death (without affecting any other person's entitlement to benefits for that month), in order to provide such individual's family with assistance in meeting the extra death-related expenses; to the Committee on Ways and Means.

H.R. 319. A bill to amend title II of the Social Security Act to eliminate benefit disparities by increasing primary insurance amounts, in cases where the benefits involved are computed under the present formula (enacted in 1977), to the extent necessary to assure that such benefits are no less than they would have been if computed under the pre-1977 formula; to the Committee on Ways and Means.

H.R. 320. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn to the Committee on Ways and Means.

H.R. 321. A bill to amend the Internal Revenue Code of 1986 to allow handicapped individuals a deduction for certain transportation expenses; to the Committee on Ways and Means.

H.R. 322. A bill to amend the Internal Revenue Code of 1986 to provide that an individual may deduct amounts paid for his higher education, or for the higher education of any of his dependents; to the Committee on Ways and Means.

H.R. 323. A bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

H.R. 324. A bill to amend titles XVIII and XIX of the Social Security Act to provide for inclusion of the services of registered professional nurses under the Medicare and Medicaid programs; jointly, to the Committees of Ways and Means and Energy and Commerce.

H.R. 325. A bill to amend title XVIII of the Social Security Act to provide for the payment of services by psychologists under the Medicare program; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 326. A bill to limit Medicare denials by peer review organizations of medically necessary inpatient hospital services; jointly, to the committees on Ways and Means and Energy and Commerce.

H.R. 327. A bill to amend titles XVIII and XIX of the Social Security Act to provide for inclusion of the services of licensed practical nurses under the Medicare and Medicaid programs; jointly, to the committees on Ways and Means and Energy and Commerce.

By Mr. RHODES (for himself, Mr. CRAIG, Mr. SCHAEFER, Mr. KYL, Mrs. MEYERS of Kansas, and Mr. KOLBE):

H.R. 328. A bill to nullify the recent pay increase for Members of Congress; jointly, to the Committees on Post Office and Civil Service and House Administration.

H.R. 329. A bill to defer until the first day of the 102d Congress, the rates of pay pertaining to Members of Congress which became effective in February 1989, under the provisions of the Federal Salary Act of 1967, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

H.R. 330. A bill to provide that adjustments in rates of pay for Members of Congress pursuant to the Federal Salary Act of 1967 be deferred until the beginning of the Congress following the date as of which they would otherwise first become effective; jointly, to the Committees on Post Office and Civil Service and House Administration.

H.R. 331. A bill to repeal the provisions of the Federal Salary Act of 1967 which provide for pay adjustments for Members of Congress, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. RITTER:

H.R. 332. A bill to repeal the Medicare Catastrophic Coverage Act of 1988, and to establish a bipartisan advisory group to study and develop proposals to provide protection against excessive costs of catastrophic illness beyond the scope of current Medicare coverage; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ROE:

H.R. 333. A bill to amend section 411 of the Higher Education Act of 1965 to exclude from eligibility calculations for basic grants the value of a family's residence; to the Committee on Education and Labor.

H.R. 334. A bill to amend the Older Americans Act and the Public Health Service Act to provide expanded counseling assistance for the elderly, sick, and disabled; to the Committee on Education and Labor.

H.R. 335. A bill to provide that the U.S. District Court for the Judicial District of New Jersey shall be held at Paterson, New Jersey, in addition to those places currently provided by law; to the Committee on the Judiciary.

H.R. 336. A bill to provide for a system of standardization of measurement of bolts to increase bolt quality and reduce the danger of substandard bolt failure, and for other purposes; to the Committee on Science, Space, and Technology.

H.R. 337. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age sixty shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

H.R. 338. A bill to amend title 38, United States Code, to eliminate the time period in which a veteran has to use his educational benefits; to the Committee on Veterans' Affairs.

H.R. 339. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurnace because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 340. A bill to amend title 38 of the United States Code to promote the care and treatment of veterans in State veterans nursing homes; to the Committee on Veterans' Affairs.

H.R. 341. A bill to amend title 38 of the United States Code in order to waive the payment of premiums for National Service Life Insurance by certain persons who have attained age seventy; to the Committee on Veterans' Affairs.

H.R. 342. A bill to amend title 38, United States Code, to provide for the payment of service pensions to veterans of World War I and the surviving spouses and children of such veterans; to the Committee on Veterans' Affairs.

H.R. 343. A bill to amend title 38 of the United States Code in order to authorize the Administrator of Veterans' Affairs to make scholarship grants to individuals attending medical schools on the condition that such individuals will serve in Veterans' Administration facilities for a certain period of time upon completion of professional training, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 344. A bill to amend title II of the Social Security Act to provide that a divorced spouse may qualify for benefits on the basis of a marriage which lasted for as few as 5 years in the case of certain late-life divorces; to the Committee on Ways and Means.

H.R. 345. A bill to amend title II of the Social Security Act to provide for the payment of a transition benefit to the spouse of an insured individual upon such individual's death if such spouse has attained age fifty and is not otherwise immediately eligible for benefits; to the Committee on Ways and Means.

H.R. 346. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and assure that each spouse will have social security protection in his or her own right; to the Committee on Ways and Means.

H.R. 347. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 348. A bill to amend title II of the Social Security Act to provide that upon the death of one member of a married couple the surviving spouse or surviving divorced spouse shall automatically inherit the deceased spouse's earnings credit to the extent that such credits were earned during the period of their marriage; to the Committee on Ways and Means.

H.R. 349. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to reduce Social Security taxes and apply the proceeds thereof exclusively to the financing of the Old Age, Survivors, and Disability Insurance Program, with the Medicare Program being hereafter financed from general revenues (earmarking a portion of Federal income tax receipts for that purpose) rather than through the imposition of employment and self-employment taxes as at present; to the Committee on Ways and Means.

H.R. 350. A bill to amend title II of the Social Security Act to restore and protect the benefit levels of workers reaching age 65 in or after 1982 (and their widows and widowers) by eliminating the "notch" between those levels and the corresponding benefit levels of persons who reached age 65 before 1982; to the Committee on Ways and Means.

H.R. 351. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

H.R. 352. A bill to amend title 35, United States Code, and the National Aeronautics and Space Act of 1958, with respect to the use of inventions in outer space; jointly, to the Committees on the Judiciary and Science, Space, and Technology.

H.R. 353. A bill to require the Environmental Protection Agency to conduct research on the management of infectious medical wastes; jointly, to the Committees on Science, Space, and Technology and Energy and Commerce.

H.R. 354. A bill to create a national system of health security; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 355. A bill to direct the Secretary of Health and Human Services to provide Federal minimum standards for health insurance for the elderly, and to amend title XVIII of the Social Security Act for the purpose of directing the Secretary to study methods of further improving the regulation of health insurance for the elderly and to evaluate methods by which the Medicare Program could more fully meet the health insurance needs of the elderly; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 356. A bill to amend title XVIII of the Social Act to provide for the enforcement of standards relating to the rights of patients in certain medical facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 357. A bill to amend title XVIII of the Social Security Act to include, as a home health service, nutritional counseling provided by or under the supervision of a registered dietitian; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ROTH:

H.R. 358. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 359. A bill to regulate interstate commerce by providing for uniform treatment of selected product liability problems, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. ROYBAL:

H.R. 360. A bill to amend title XVI of the Social Security Act to raise the supplemental security income resource limits; to the Committee on Ways and Means.

H.R. 361. A bill to amend title XVI of the Social Security Act to gradually raise the level of supplemental security income benefits to the poverty line over a 3-year period; to the Committee on Ways and Means.

By Mr. SCHULZE (for himself and Mr. HENRY):

H.R. 362. A bill to establish a limitation on the bringing of product liability actions which is related to the useful life of the product involved; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. WEISS, Mr. DOWNEY, and Mr. RANGEL):

H.R. 363. A bill to amend part A of title IV of the Social Security Act to establish a demonstration program to test whether the net costs incurred in making emergency assistance payments to homeless AFDC families for temporary housing can be effectively reduced through the construction or rehabilitation (with Federal assistance) of permanent housing that such families can afford with their regular AFDC payments; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. SHUMWAY:

H.R. 364. A bill proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 365. A bill to provide for a White House Conference on Rural Development and Agriculture; to the Committee on Agriculture.

H.R. 366. A bill to amend the Davis-Bacon Act and related statutes in order to provide

new job opportunities, effect significant cost-savings on Federal construction contracts, promote small business participation in Federal contracting; to reduce unnecessary paperwork and reporting requirements; to clarify the definition of prevailing wages, and for other purposes; to the Committee on Education and Labor.

H.R. 367. A bill to authorize the Secretary of the Interior to modify the construction, operation, and maintenance of the O'Neill Unit, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Interior and Insular Affairs.

H.R. 368. A bill to amend the Urban Mass Transportation Act of 1964 to increase the percentage of funds allocated to rural areas, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 369. A bill to amend the Internal Revenue Code of 1986 to restore fairness for farmers, ranchers, and small businessmen under the tax laws by restoring certain provisions changed by the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Mrs. SMITH of Nebraska (for herself, Mr. ROBERTS, and Mr. MARLENEE):

H.R. 370. A bill to direct the Office of Technology Assessment to conduct a study of the effects of the reclassification of anhydrous ammonia as a poisonous gas, to limit the authority of the Secretary of Transportation to take any action regarding such reclassification until after completion of such study, and for other purposes; jointly, to the Committee on Agriculture, Public Works and Transportation, and Energy and Commerce.

By Mrs. SMITH of Nebraska (for herself, Mr. ROBERTS, Mrs. MARTIN of Illinois, Mr. JONES of North Carolina, Mr. JOHNSON of South Dakota, Mr. WHITTAKER, Mr. STALLINGS, Mr. ROBERT F. SMITH, Mr. DURBIN, Mr. OLIN, Mr. CRAIG, and Mr. MARLENEE):

H.R. 371. A bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes; jointly, to the Committees on Agriculture, Public Works and Transportation, and Energy and Commerce.

By Ms. SNOWE (for herself, Mr. MCCOLLUM, Mr. SMITH of Florida, Mr. LAGOMARSINO, Mr. ROE, Mr. COSTELLO, Mr. OWENS of New York, Mr. ACKERMAN, Mr. RINALDO, Mr. NEAL of North Carolina, Mrs. COLLINS, and Mrs. LLOYD):

H.R. 372. A bill to amend title XIX of the Social Security Act to require States to adopt and enforce certain guardianship laws providing protection and rights to wards and individuals subject to guardianship proceedings as a condition of eligibility for receiving funds under the Medicaid program, and for other purposes; to the Committee on Energy and Commerce.

By Ms. SNOWE (for herself, Mrs. ROUKEMA, Ms. KAPTUR, Mr. GUNDERSON, Mr. MONTGOMERY, Mr. FUSTER, Mr. WHEAT, Mr. EMERSON, Mr. YATRON, Mr. DONNELLY, Mr. GOODLING, Mr. HORTON, Mr. LOWERY of California, Mrs. SMITH of Nebraska, Mr. ROBINSON, Mr. HEFNER, Mr. COURTER, Mr. SYNAR, Mr. BATES, Mr. UPTON, Mr. STUDDS, Mr. BEREUTER, Mr. HENRY, Mr. HAMMERSCHMIDT, Mr. BALLENGER, Mr. OWENS of New York, and Mr. LAGOMARSINO):

H.R. 373. A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government, and solicitations which are offered in terms implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H.R. 374. A bill to authorize an employer to pay a youth employment opportunity wage to a person under 20 years of age from May through September under the Fair Labor Standards Act of 1938, and for other purposes; to the Committee on Education and Labor.

H.R. 375. A bill to amend the Higher Education Act of 1965 to prevent double-counting of income in the conduct of needs analysis for student assistance under that act; to the Committee on Education and Labor.

H.R. 376. A bill to require monthly reports by the President on the extent to which the Government of Nicaragua has undertaken the reforms necessary to bring about lasting peace, pluralism, and democracy in Nicaragua; to the Committee on Foreign Affairs.

H.R. 377. A bill to amend the Federal Property and Administrative Services Act of 1949 to allow volunteer fire departments and emergency rescue squads to receive donations of Federal surplus personal property; to the Committee on Government Operations.

H.R. 378. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to exclude receipts and disbursements of the Social Security trust funds from the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Government Operations.

H.R. 379. A bill to establish the Thomas Cole National Historic Site in the State of New York and the Thomas Cole Advisory Commission; to the Committee on Interior and Insular Affairs.

H.R. 380. A bill to reform procedures for the imposition of capital punishment, and for other purposes; to the Committee on the Judiciary.

H.R. 381. A bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes; to the Committee on the Judiciary.

H.R. 382. A bill for the relief of the assignees and descendants of Marcus P. Norton or their heirs; to the Committee on the Judiciary.

H.R. 383. A bill to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any other automatic adjustment; to the Committee on Post Office and Civil Service.

H.R. 384. A bill to provide that increases in the rate of compensation for Members of the House of Representatives and the Senate shall not take effect until the start of the Congress following the Congress in which such increases are approved; to the Committee on Post Office and Civil Service.

H.R. 385. A bill to prohibit the establishment of parking fees at Arlington National Cemetery; to the Committee on Veterans' Affairs.

H.R. 386. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for contributions to individual retirement accounts; to the Committee on Ways and Means.

H.R. 387. A bill to repeal the provisions in the Internal Revenue Code of 1986 relating to the inclusion of Social Security and certain railroad retirement benefits in gross income to the extent such provisions do not apply to nonresident aliens; to the Committee on Ways and Means.

H.R. 388. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and limited deduction of contributions to long-term care savings accounts; to the Committee on Ways and Means.

H.R. 389. A bill to direct the President to impose certain limitations on the amount of milk protein products that may be imported into the United States; to the Committee on Ways and Means.

H.R. 390. A bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

H.R. 391. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the portion of a scholarship which covers living expenses while away from home; to the Committee on Ways and Means.

H.R. 392. A bill to amend the Internal Revenue Code of 1986 to increase the child care credit for lower-income working parents; to the Committee on Ways and Means.

H.R. 393. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 394. A bill to amend the Internal Revenue Code of 1986 to repeal the taxation of social security and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

H.R. 395. A bill to amend the Internal Revenue Code of 1986 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 396. A bill to amend the Internal Revenue Code of 1986 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 397. A bill to require agreements entered into with certain foreign countries that involve the exchange or transfer of scientific or technological information to be submitted to the Secretary of Defense; jointly, to the Committees on Foreign Affairs and Armed Services.

H.R. 398. A bill to enforce the Helsinki Final Act of the Conference on Security and Cooperation in Europe by denying most favored nation status to countries which are not in complete or substantially complete compliance with the Helsinki Final Act; jointly, to the Committee on Ways and Means and Foreign Affairs.

H.R. 399. A bill to impose an embargo on trade between the United States and Nicaragua; jointly, to the Committee on Ways and Means and Foreign Affairs.

By Mr. STANGELAND:

H.R. 400. A bill to provide that each State must establish a workfare program, and require participation therein by all residents

of the State who are receiving benefits or assistance under the aid to families with dependent children, food stamp, and public housing programs, as a condition of the State's eligibility for Federal assistance in connection with those programs; jointly, to the Committees on Agriculture; Banking, Finance and Urban Affairs; Education and Labor; and Ways and Means.

By Mr. TAUKE (for himself, Mr. SYNAR, Mr. INHOFE, Mr. BUNNING, Mr. SHARP, Mr. GALLO, Mr. COMBEST, Mr. SKEEN, Mr. RHODES, Mr. COURTER, Mr. NIELSON of Utah, Mr. LEACH of Iowa, Mr. SMITH of Texas, Mr. ROBERT F. SMITH, Mr. ARMEY, Mr. LAGOMARSINO, Mr. BROWN of Colorado, Mrs. MARTIN of Illinois, Mr. SCHAEFER, Mr. CRAIG, Mrs. JOHNSON of Connecticut, Mr. GORDON, Mr. PENNY, Mr. GLICKMAN, Mr. MONTGOMERY, Mr. SHAYS, Mr. HENRY, Mr. BROWN of California, Ms. SNOWE, Mr. HERGER, Mr. SENSENBRENNER, Mr. UPTON, Mr. PETRI, Mr. BEREUTER, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mr. JOHNSON of South Dakota, Mr. KYL, Mrs. MEYERS of Kansas, Mr. COBLE, Mr. LIGHTFOOT, Mr. RIDGE, Mr. DONALD E. LUKENS, Mr. BATEMAN, Mr. PURSELL, Mr. GRANDY, Mr. CLINGER, Mr. JONTZ, Mr. ENGLISH, Mr. ECKART, and Mr. CAMPBELL of California):

H.R. 401. A bill to defer congressional pay adjustments until the first March 1 following the beginning of the Congress next following the Congress during which certain actions with respect to pay rates are taken, to provide that appropriations of funds for congressional pay be considered separately from appropriations for other purposes, to require a recorded vote in each House on such appropriations, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. UDALL:

H.R. 402. A bill to amend the Mineral Leasing Act of 1920 with respect to the movement of coal over public lands, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Public Works and Transportation.

By Mr. SAXTON (for himself, Mr. HUGHES, Mr. ROE, Mr. STUDDS, Mr. LENT, Mr. CARPER, Mr. MILLER of Washington, Mr. MANTON, Mr. WELDON, Mr. SMITH of New Jersey, Mrs. SAIKI, and Mr. PALLONE):

H.R. 403. A bill to amend the Federal Water Pollution Control Act relating to ocean discharge criteria; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Mr. VANDER JAGT:

H.R. 404. A bill proposing an amendment to the Constitution of the United States repealing the 22d article of amendment thereto; to the Committee on the Judiciary.

By Mr. WALKER:

H.R. 405. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of certain farmland if the owners of the farmland, in a covenant binding themselves and all future owners of their land, restrict the use of such land to use as farmland; to the Committee on Ways and Means.

By Mr. WEISS:

H.R. 406. A bill to provide authority for the President to stabilize prices, wages, interest rates, and corporate dividends; to the Committee on Banking, Finance and Urban Affairs.

H.R. 407. A bill to amend the Public Health Service Act to provide funds for the prevention and treatment of public health emergencies; to the Committee on Energy and Commerce.

H.R. 408. A bill to amend the Public Health Service Act to provide funds for the prevention and treatment of public health emergencies; to the Committee on Energy and Commerce.

H.R. 409. A bill to revive and extend the authorization of appropriations of the General Revenue Sharing Program; to the Committee on Government Operations.

H.R. 410. A bill to amend part A of title IV of the Social Security Act to permit States, with Federal matching under the program of emergency assistance to needy families with children, to purchase, construct, renovate, or rent facilities to provide emergency shelter for such families; to the Committee on Ways and Means.

H.R. 411. A bill to amend title II of the Social Security Act to restore the pre-1981 provisions for determining the order of payment of lump-sum death benefits; to the Committee on Ways and Means.

H.R. 412. A bill to amend the Internal Revenue Code of 1986 to disallow the deduction for advertising or other promotion expenses with respect to sales of tobacco products unless the taxpayer pays for a certain amount of advertising on the health effects of smoking; to the Committee on Ways and Means.

H.R. 413. A bill to amend title II of the Social Security Act to restore child's insurance benefits for postsecondary school students; to the Committee on Ways and Means.

H.R. 414. A bill to amend title II of the Social Security Act to restore from age 16 to age 18 the age of a child at which certain benefits under such title are terminated; to the Committee on Ways and Means.

H.R. 415. A bill to repeal the Balanced Budget and Emergency Deficit Control Act of 1985; jointly, to the Committee on Government Operations and Rules.

H.R. 416. A bill to amend title II of the Social Security Act to waive, for 5 years, the 24-month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

H.R. 417. A bill to amend title II of the Social Security Act to waive, for 5 years, the 24-month waiting period for medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WEISS (for himself, Mr. CROCKETT, Mr. DEFAZIO, Mr. STUDDS, Mr. FRANK, Mr. DYMALLY, Mr. MILLER of California, Mr. RANGEL, Mr. WHEAT, Mr. MOAKLEY, Mr. MCHUGH, Mr. MFUME, Mr. HAYES of Illinois, Ms. PELOSI, Mr. LELAND, Mr. MARKEY, and Mr. COLLINS):

H.R. 418. A bill to lift the trade and other economic sanctions imposed on Nicaragua by the President in 1985; to the Committee on Foreign Affairs.

By Mr. WHEAT (for himself, Mr. SKELTON, Mr. BUECHNER, Mr. CLAY, Mr. COLEMAN of Missouri, Mr. EMERSON, Mr. GEPHARDT, and Mr. VOLKMER):

H.R. 419. A bill to provide for the addition of certain parcels to the Harry S Truman National Historic Site in the State of Missouri; to the Committee on Interior and Insular Affairs.

By Mr. WYDEN:

H.R. 420. A bill to amend title II of the Social Security Act to ease the burden currently imposed by excessive earnings test requirements; to the Committee on Ways and Means.

By Mr. WYDEN (for himself and Mr. DONNELLY):

H.R. 421. A bill to amend the Internal Revenue Code of 1986 to provide that long-term health care insurance contracts shall be treated for purposes of determining the income taxation of insurance companies in the same manner as noncancellable accident or health insurance contracts; to the Committee on Ways and Means.

By Mr. WYDEN (for himself, Mr. FLORIO, Mr. SLATTERY, Mr. TAUKE, Mr. JOHNSON of South Dakota, and Mr. NAGLE):

H.R. 422. A bill to amend the Department of Transportation Act to reauthorize local rail service assistance; to the Committee on Energy and Commerce.

By Mr. WYDEN (for himself, Mr. LAFALCE, Mr. MCDADE, Mr. MAZZOLI, Mr. SKELTON, and Mr. ECKART).

H.R. 423. A bill to modify the application of the antitrust laws to increase competition in trade by encouraging small businesses to jointly manufacture and distribute products; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Mr. DEFAZIO, and Mr. AUCOIN):

H.R. 424. A bill to amend the Atomic Energy Act of 1954 to prohibit the conversion of certain nuclear facilities from civilian nuclear purposes to military purposes; jointly to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. ROTH:

H.R. 425. A bill to amend the Animal Welfare Act with respect to the issuance of temporary restraining orders and injunctions in certain cases; to the Committee on Agriculture.

By Mr. ARCHER:

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States requiring the submission of balanced Federal funds budgets by the President and action by the Congress to provide revenues to offset Federal funds deficits; to the Committee on the Judiciary.

By Mr. BARTON of Texas (for himself, Mr. ARMEY, Mr. DORNAN of California, Mr. YOUNG of Florida, Mr. SMITH of New Hampshire, Mr. HUTTO, Mr. COBLE, Mr. MILLER of Ohio, Mrs. VUCANOVICH, Mr. LAGOMARSINO, Mr. DONALD E. LUKENS, Mr. CRAIG, Mr. ERDREICH, Mr. SOLOMON, and Mr. OXLEY):

H.J. Res. 34. Joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

By Mr. BILIRAKIS:

H.J. Res. 35. Joint resolution designating November 5-11, 1989, as "National Women Veterans Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. COELHO:

H.J. Res. 36. Joint resolution designating April 24, 1989, as "National Day of Remembrance of the Armenian Genocide of 1915-1923"; to the Committee on Post Office and Civil Service.

By Ms. COLLINS:

H.J. Res. 37. Joint resolution to provide for the designation of September 1, 1989, as

"Working Mothers' Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 38. Joint resolution to provide for the designation of the month of February of each year as "National Black History Month"; to the Committee on Post Office and Civil Service.

By Mr. CRAIG:

H.J. Res. 39. Joint resolution to designate the week beginning January 14, 1990 as "National Free Enterprise Week"; to the Committee on Post Office and Civil Service.

By Mr. DARDEN:

H.J. Res. 40. Joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

By Mr. DE LA GARZA:

H.J. Res. 41. Joint resolution proposing an amendment to the Constitution of the United States pertaining to prayer; to the Committee on the Judiciary.

H.J. Res. 42. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations shall not exceed revenues of the United States, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. EMERSON:

H.J. Res. 43. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.J. Res. 44. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives; to the Committee on the Judiciary.

H.J. Res. 45. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. WEISS:

H.J. Res. 46. Joint resolution to provide that the United States shall implement changes in defense policy that will reduce the likelihood of the first use of all nuclear weapons, renounce the first use of all nuclear weapons, and conclude treaties with all nations renouncing the first use of all nuclear weapons; jointly, to the Committees on Foreign Affairs and Armed Services.

H.J. Res. 47. Joint resolution designating October 5, 1989, as "Raoul Wallenberg Day"; to the Committee on Post Office and Civil Service.

By Mr. EMERSON:

H.J. Res. 48. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

H.J. Res. 49. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling the attendance of a student in a public school other than the public school nearest the residence of such student; to the Committee on the Judiciary.

H.J. Res. 50. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.J. Res. 51. Joint resolution proposing an amendment to the Constitution of the United States to limit the tenure of office of Senators and Representatives; to the Committee on the Judiciary.

H.J. Res. 52. Joint resolution proposing an amendment to the Constitution of the United States to provide a single six-year term for the President; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.J. Res. 53. Joint resolution calling for a verifiable comprehensive treaty banning the testing, production, deployment and use of all space-based weapons for use against space, air or ground targets, and ground-based, sea-based, or air-based weapons for use against satellites and the dismantling of existing weapons systems; to the Committee on Foreign Affairs.

H.J. Res. 54. Joint resolution to prohibit military assistance for El Salvador; to the Committee on Foreign Affairs.

By Mr. LAGOMARSINO:

H.J. Res. 55. Joint resolution proposing an amendment to the Constitution of the United States relating to the compensation of Senators and Representatives, providing that no increase in compensation shall take effect earlier than the following Congress; to the Committee on the Judiciary.

H.J. Res. 56. Joint resolution to prevent any pay increase for Members of Congress from taking effect in 1989 under the Federal Salary Act of 1967 or, if any such increase takes effect before this resolution becomes law, to nullify any such increase; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mrs. LLOYD

H.J. Res. 57. Joint resolution directing the Secretary of Agriculture to conduct a study of the effectiveness of current laws and regulations in protecting dogs and puppies bred and raised for sale to retail pet stores from inhumane treatment and premature shipment; to the Committee on Agriculture.

H.J. Res. 58. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.J. Res. 59. Joint resolution expressing the sense of the Congress that the people of the United States should purchase products made in the United States and services provided in the United States, whenever possible, instead of products made or services performed outside the United States; jointly, to the Committee on Energy and Commerce and Post Office and Civil Service.

By Mr. McCOLLUM:

H.J. Res. 60. Joint resolution designating May 1989 as "Older Americans Month"; to the Committee on Post Office and Civil Service.

By Mr. QUILLEN:

H.J. Res. 61. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or threat of war as determined by the Congress; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. RHODES (for himself, Mr. CRAIG, Mr. SCHAEFER, Mr. KYL, Mrs. MEYERS of Kansas, and Mr. KOLBE):

H.J. Res. 62. Joint resolution disapproving the pay increases for Members of Congress recently recommended by the President, and for other purposes; jointly, to the Committee on Post Office and Civil Service and House Administration.

By Mr. ROE:

H.J. Res. 63. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of the Columbiettes; to the Committee on Post Office and Civil Service.

H.J. Res. 64. Joint resolution to provide for the designation of the 48th anniversary of the renewal of Ukrainian independence, June 30, 1989, as "Ukrainian Independence Day"; to the Committee on Post Office and Civil Service.

H.J. Res. 65. Joint resolution to provide for the issuance of a commemorative postage stamp in honor of Patience Lovell Wright; to the Committee on Post Office and Civil Service.

By Mrs. COLLINS:

H. Con. Res. 17. Concurrent resolution calling for the immediate release of all the children detained under the state of emergency regulations in South Africa; to the Committee on Foreign Affairs.

H. Con. Res. 18. Concurrent resolution expressing the sense of the Congress that the Office of Personnel Management should provide certain vocational rehabilitation services in its administration of the civil service disability retirement program; to the Committee on Post Office and Civil Service.

H. Con. Res. 19. Concurrent resolution concerning appropriate notification of hospital closings; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DE LA GARZA:

H. Con. Res. 20. Concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Services to develop a plan outlining the steps which might be taken to correct the Social Security benefit disparity known as the notch problem; to the Committee on Ways and Means.

By Mr. ROE.

H. Con. Res. 21. Concurrent resolution urging a moratorium on the commercial killing of whales; to the Committee on Foreign Affairs.

H. Con. Res. 22. Concurrent resolution concerning the rights of the people of Ireland; to the Committee on Foreign Affairs.

H. Con. Res. 23. Concurrent resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day"; to the Committee on Post Office and Civil Service.

H. Con. Res. 24. Concurrent resolution designation May 3 as "Polish Constitution Day"; to the Committee on Post Office and Civil Service.

By Mr. DENNY SMITH:

H. Con. Res. 25. Concurrent resolution calling for a modified freeze on Federal spending in fiscal year 1990; to the Committee on Government Operations.

By Mr. BENNETT:

H. Res. 28. Resolution expressing the sense of the House of Representatives that the United States should place greater emphasis on the improvement of the capabilities of United States conventional forces, seeking also additional cooperation in conventional defense measures with other member nations of the North Atlantic Treaty Organization; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. DORNAN of California:

H. Res. 29. Resolution amending the rules of the House of Representatives to provide certain qualifications pertaining to service as a Member, and for other purposes; to the Committee on Rules.

By Mrs. LLOYD:

H. Res. 30. Resolution requiring that the pledge of allegiance to the U.S. flag be rendered in the Hall of the House at the start of each legislative day; to the Committee on Rules.

H. Res. 31. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on passage of any measure making appropriations or providing revenue; to the Committee on Rules.

H. Res. 32. Resolution expressing the sense of the House regarding the importance of tax incentives for homeownership and that no additional restrictions or caps be placed on homeownership tax benefits; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. BLILEY, Mr. LEHMAN of Florida, Mrs. VUCANOVICH, Mrs. SCHROEDER, Mr. HASTERT, Mrs. BOGGS, Mr. HOLLOWAY, Mr. MCHUGH, Mr. GRANDY, Mr. WEISS, Mr. ANTHONY, Mrs. BOXER, Mr. LEVIN of Michigan, Mr. MORRISON of Connecticut, Mr. ROWLAND of Georgia, Mr. SIKORSKI, Mr. WHEAT, Mr. EVANS, Mr. DURBIN, Mr. SAWYER, Mr. SKAGGS, Mr. LELAND, Mr. EMERSON, Mr. RANGEL, Mr. GILMAN, and Mr. MARTINEZ):

H. Res. 33. Resolution to establish the Select Committee on Children, Youth, and Families; to the Committee on Rules.

By Mr. WEISS:

H. Res. 34. Resolution expressing the sense of the House of Representatives that the Federal Government should encourage both electronic and print media to air or print more antismoking ads as a public service; to the Committee on Energy and Commerce.

[Submitted Jan. 4, 1989]

By Mr. APPLEGATE:

H.R. 434. A bill to require that each State hold a Presidential primary election on the first Tuesday after the first Monday in May of each Presidential election year; to the Committee on House Administration.

H.R. 435. A bill to amend the Appalachian Development Act of 1965 to include Columbiana County, OH, as part of the Appalachian region; to the Committee on Public Works and Transportation.

By Mr. BATES (for himself, Mr. WAXMAN, Mrs. COLLINS, Mr. WALGREN, Mr. SIKORSKI, Mr. RICHARDSON, Mr. LELAND, Mr. BOUCHER, Mr. BILIRAKIS, Mr. MRAZEK, Mr. GRANT, Mr. MATSUI, Mr. FAUNTROY, Mr. MORRISON of Connecticut, Mr. LAFALCE, Mr. ACKERMAN, Mr. DE LUGO, Mr. MARTINEZ, Mr. HORTON, Mr. FAZIO, Mr. ROE, Mr. TORRES, Ms. PELOSI, Mrs. BOXER, Mr. OWENS of New York, Mr. CROCKETT, Mr. CONYERS, Mr. MOAKLEY, Mrs. BENTLEY, Mr. TALLON, Mr. KOLTER, Mr. RANGEL, Mr. DIXON, Mr. FOGLIETTA, Mr. FEIGHAN, Mr. DEFAZIO, and Mr. HOCHBRUECKNER):

H.R. 436. A bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. BENTLEY:

H.R. 437. A bill to require the Secretary of the Treasury to coin and sell a national medal in honor of the members of the Armed Forces of the United States who served in the Korean conflict; to the Committee on Banking, Finance and Urban Affairs.

H.R. 438. A bill to authorize appropriations for the restoration of Fort McHenry; to the Committee on Interior and Insular Affairs.

H.R. 439. A bill to amend the Shipping Act of 1984 to provide for equitable treatment of U.S. ocean freight forwarders by ocean carrier conferences; to the Committee on Merchant Marine and Fisheries.

H.R. 440. A bill to provide for the fair and proper implementation of the cargo preference laws of the United States; to the Committee on Merchant Marine and Fisheries.

H.R. 441. A bill to establish a mechanism to provide for nonprofit organizations for merchant marine memorials; to the Committee on Merchant Marine and Fisheries.

H.R. 442. A bill to restrict payments to alien recipients of Social Security benefits and for other purposes; to the Committee on Ways and Means.

H.R. 443. A bill to reduce narcotics smuggling; jointly, to the Committees on Foreign Affairs and the Judiciary.

H.R. 444. A bill amending the cargo preference laws to cause components or ingredients of equipment, materials, commodities, or supplies to be included under existing requirements on the transportation of goods by or for the United States; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. BROWN of Colorado:

H.R. 445. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Ways and Means.

H.R. 446. A bill to repeal the provision of the Omnibus Budget Reconciliation Act of 1987 which imposed employer Social Security taxes on cash tips; to the Committee on Ways and Means.

H.R. 447. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from the passive loss rules for losses from real estate acquired from the Federal Savings and Loan Insurance Corporation; to the Committee on Ways and Means.

H.R. 448. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion for capital gain from certain sales of real property acquired from the Federal Savings and Loan Insurance Corporation; to the Committee on Ways and Means.

By Mr. BUECHNER (for himself and Mr. SCHULZE):

H.R. 449. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide that for each dollar increase in revenues enacted with respect to a fiscal year the permissible maximum deficit amount for such fiscal year under the Balanced Budget and Emergency Deficit Control Act of 1985 shall be reduced by the same amount; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 450. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

H.R. 451. A bill to amend the National Labor Relations Act to authorize the Secretary of Labor to prohibit the awarding of Federal contracts to persons who have violated certain judicial orders or orders issued by the National Labor Relations Board; to the Committee on Education and Labor.

H.R. 452. A bill to amend the Internal Revenue Code of 1986 to allow employers a targeted jobs tax credit for employing certain older individuals; to the Committee on Ways and Means.

H.R. 453. A bill entitled the "Elderly Home Care Tax Credit Act of 1989"; to the Committee on Ways and Means.

H.R. 454. A bill to amend the Internal Revenue Code of 1986 to provide an additional standard deduction of $600 to taxpayers for the deafness of the taxpayer the taxpayer's spouse, or any of the taxpayer's dependents; to the Committee on Ways and Means.

H.R. 455. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of recipient's death; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 456. A bill to provide that any individual who is the spouse of a Member of Congress shall be ineligible for any civilian office or position as to which appointment is required to be made by the President with the advice and consent of the Senate; to the Committee on the Judiciary.

H.R. 457. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

H.R. 458. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Ways and Means.

H.R. 459. A bill to amend the Internal Revenue Code of 1986 to restore and make permanent the deduction for charitable contributions by nonitemizers; to the Committee on Ways and Means.

H.R. 460. A bill to repeal the provision of the Internal Revenue Code of 1986 which provides that the accumulated earnings tax shall be applied without regard to the number of shareholders in the corporation; to the Committee on Ways and Means.

H.R. 461. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of capital gains at a rate of 15 percent; to the Committee on Ways and Means.

H.R. 462. A bill to amend the Internal Revenue Code of 1986 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

H.R. 463. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10-percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, to provide amnesty for all tax liability for prior taxable years, and for other purposes; to the Committee on Ways and Means.

H.R. 464. A bill to amend the Internal Revenue Code of 1986 to exclude tips from gross income; to the Committee on Ways and Means.

H.R. 465. A bill to authorize prohibitions of imports from and exports to the Democratic Republic of Afghanistan sponsored by the Union of Soviet Socialist Republics or any political party, faction, or regime in Afghanistan sponsored by the Union of Soviet Socialist Republics; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. DE LA GARZA (for himself, Mr. MADIGAN, Mr. ENGLISH, and Mr. COLEMAN of Missouri):

H.R. 466. A bill to reauthorize appropriations to carry out the Commodity Exchange Act; to the Committee on Agriculture.

By Mr. FEIGHAN (for himself, Mr. MAZZOLI, Mr. CROCKETT, Mr. SMITH of Florida, Mr. MORRISON of Connecticut, Mr. CONYERS, Mrs. SCHROEDER, Mr. BERMAN, Mr. SCHUMER, Mr. CARDIN, Mrs. MORELLA, Mr. BOEHLERT, Mr. SHAYS, Mr. PORTER, Mr. MRAZEK, Mr. TORRICELLI, Mr. STARK, Mr. PEASE, Mr. STOKES, Mr. GRAY, Mr. BEILENSON, Ms. OAKAR, Mr. HOYER, Mr. SABO, Mr. VENTO, Mr. GONZALEZ, Mr. ENGEL, and Mr. STENHOLM):

H.R. 467. A bill to provide for a waiting period before the purchase of a handgun; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 468. A bill to amend title 10, United States Code, to eliminate the two-tier system for calculating the amount of an annuity paid under the Survivor Benefit Plan for the Armed Forces; to the Committee on Armed Services.

By Mr. FISH (for himself, Mr. SYNAR, Mr. MOORHEAD, Mr. FRANK, Mr. HYDE, and Mr. FEIGHAN):

H.R. 469. A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

By Mr. FRANK:

H.R. 470. A bill to amend the Internal Revenue Code of 1986 to provide that a married individual who maintains a separate household shall be treated as unmarried; to the Committee on Ways and Means.

H.R. 471. A bill to amend the Internal Revenue Code of 1986 to provide that an unmarried individual who maintains a household shall be considered a head of household, without regard to whether the individual has a dependent who is a member of the household; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 472. A bill to amend chapters 83 and 84 of title 5, United States Code to expedite the processing of applications of Federal employees seeking retirement benefits, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 473. A bill to prohibit the establishment of parking fees at Arlington National Cemetery; to the Committee on Veterans' Affairs.

H.R. 474. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to furnish to veterans prescription drugs prescribed by private physicians in connection with the treatment of a service-connected disability; to the Committee on Veterans' Affairs.

H.R. 475. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veteran's Affairs.

H.R. 476. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period which is presently required in order for an individual to be eligible for benefits based on disability; to the Committee on Ways and Means.

H.R. 477. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. HUNTER:

H.R. 478. A bill to amend the Immigration and Nationality Act with respect to the naturalization of certain aliens through service in the Armed Forces of the United States for at least 3 years; to the Committee on the Judiciary.

By Mr. KANJORSKI (for himself and Mr. MCMILLEN of Maryland):

H.R. 479. A bill to revoke the charter of the Federal Asset Disposition Association and reform the process for liquidating assets of failed thrift institutions, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MAVROULES:

H.R. 480. A bill to authorize the City of Newburyport, MA, to retain and use certain urban renewal land disposition proceeds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MOLINARI:

H.R. 481. A bill to designate the building located at 2566 Hylan Boulevard, Staten Island, NY, as the "Walter Edward Grady United States Post Office"; to the Committee on Post Office and Civil Service.

H.R. 482. A bill to amend the Public Buildings Act of 1959 to permit certain executive agencies to have their headquarters located anywhere in the National Capital region; to the Committee on Public Works and Transportation.

H.R. 483. A bill to amend title 49, United States Code, to make the term of service of the Administrator of the Federal Aviation Administration 7 years; to the Committee on Public Works and Transportation.

H.R. 484. A bill to amend the Federal Aviation Act of 1958 to require air carriers to schedule operations at airports in such a manner so as not to exceed the capacity of any airport to handle operations during any period of time; to the Committee on Public Works and Transportation.

H.R. 485. A bill to promote the recruitment and retention of airways systems specialists; jointly, to the Committees on Post Office and Civil Service and Public Works and Transportation.

By Ms. OAKAR:

H.R. 486. A bill to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ORTIZ:

H.R. 487. A bill to enhance the prospects for economic development in rural areas by allowing municipal corporations to acquire through eminent domain utility facilities of rural water supply or sewer service corporations; to the Committee on Agriculture.

By Mr. PRICE (for himself, Mr. LANCASTER, Mr. KENNEDY, Mr. NEAL of North Carolina, Mr. TOWNS, Mr. WISE, Mr. STOKES, Mr. SCHEUER, Mr. VALENTINE, Mr. SMITH of Florida, Mr. FEIGHAN, Mr. OWENS of New York, Mr. DARDEN, Mr. NIELSON of Utah, Mr. MOAKLEY, Mr. PENNY, Mr. LEWIS of Georgia, Mr. SLATTERY, and Mr. BUECHNER):

H.R. 488. A bill to amend the Internal Revenue Code of 1986 to restore the prior law exclusion for scholarships and fellowships and to restore the deduction for interest on educational loans; to the Committee on Ways and Means.

By Mr. RAHALL:

H.R. 489. A bill to amend the Mineral Lands Leasing Act of 1920, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 490. A bill to offset the competitive advantage which foreign producers have as a result of not having to meet environmental, health, welfare, and safety requirements of the kinds imposed on United States coal producers, and for other purposes; jointly, to the Committees on Ways and Means and Interior and Insular Affairs.

By Mr. RAHALL (for himself and Mr. CRAIG):

H.R. 491. A bill to establish a mining experimental program on critical minerals; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANGEL:

H.R. 492. A bill to increase the personal exemption from customs duties for returning residents when merchandise is purchased in countries that are beneficiary countries under the Caribbean Basin Initiative; to the Committee on Ways and Means.

H.R. 493. A bill to define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax; to the Committee on Ways and Means.

H.R. 494. A bill to amend the Internal Revenue Code of 1986 to provide that employer subsidies for mass transit and van pooling be treated as working condition fringe benefits which are not included in gross income; to the Committee on Ways and Means.

H.R. 495. A bill to amend the Internal Revenue Code of 1986 to deny tax exempt status to educational institutions which have been found to have a policy of racial discrimination against any group in enrollment, hiring, or in other areas, until such institutions clearly and convincingly demonstrate their abandonment of such policy through the enrollment, hiring, or the taking of other vigorous, affirmative, and continued corrective action with respect to such group; to the Committee on Ways and Means.

H.R. 496. A bill to amend the Internal Revenue Code of 1986 to permanently extend the exclusion for amounts received under qualified group legal services plans; to the Committee on Ways and Means.

H.R. 497. A bill to deny the Prince Edward School Foundation and its successors tax-exempt status during the period beginning on October 3, 1988 and ending when it has demonstrated its nondiscrimination policy for two consecutive school years by having more than a token number of black students in attendance, black teachers on the faculty, and black individuals in administrative and clerical positions; to the Committee on Ways and Means.

By Mr. RHODES (for himself and Mr. UDALL):

H.R. 498. A bill to clarify and strengthen the authority for certain Department of the Interior law-enforcement services, activities, and officers in Indian country, and for other puposes; to the Committee on Interior and Insular Affairs.

By Mr. RHODES (for himself, Mr. DORNAN of California, and Mr. KYL):

H.R. 499. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets and for a 15-percent maximum rate of tax on net capital gain; to the Committee on Ways and Means.

By Mr. HOCHBRUECKNER (for himself, Mr. ACKERMAN, Mr. BERMAN, Mr. BOEHLERT, Mrs. BOXER, Mr. BROWN of California, Mr. CONYERS, Mr. DIXON, Mr. DONNELLY, Mr. DOWNEY, Mr. FAZIO, Mr. FISH, Mr. FRANK, Mr. GALLO, Mr. GEJDENSON, Mr. GILMAN, Mr. HARRIS, Mr. HAYES of Illinois,

Mr. JONTZ, Mr. MRAZEK, Mr. MORRISON of Connecticut, Mr. NEAL of North Carolina, Mr. OWENS of New York, Ms. PELOSI, Mr. ROYBAL, Mr. SABO, Mr. SAXTON, Mr. SCHEUER, Mr. TRAFICANT, Mr. VENTO, and Mr. WEISS):

H.R. 500. A bill to encourage scientific research and development of technologies relating to recycling, and for other purposes; jointly, to the Committees on Science, Space and Technology, Agriculture, Armed Services, and Energy and Commerce.

By Mr. ROTH (for himself, Mr. GUNDERSON, and Mr. PETRI):

H.R. 501. A bill to repeal the minimum adjustments to prices of fluid milk under Federal marketing orders and to establish basing points in various geographical areas of the United States for purposes of determining prices to be paid to milk producers under such orders; to the Committee on Agriculture.

By Mrs. ROUKEMA:

H.R. 502. A bill to prohibit acceptance of honoraria by Members of Congress, to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any automatic adjustment, to provide that any bill or resolution which would increase Members' pay or confer any tax benefit with respect to Members as a separate and distinct class may be passed or adopted (as the case may be) only by a recorded vote, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. STARK (for himself, Mr. BROWN of California, and Mr. BATES):

H.R. 503. A bill to protect the earth ozone layer by requiring that products which contain, are produced with, or are produced from chlorofluorocarbons be labeled; to the Committee on Energy and Commerce.

By Mr. RHODES (for himself and Mr. DORAN of California):

H.R. 504. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of the basis of certain assets; to the Committee on Ways and Means.

By Mr. APPLEGATE:

H.J. Res. 66. Joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office of the judges of the Supreme and inferior courts; to the Committee on the Judiciary.

H.J. Res. 67. Joint resolution designating April 16 through 22, 1989, as "National Ceramic Tile Industry Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Colorado:

H.J. Res. 68. Joint resolution designating May 1989 as "National Stroke Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. CRANE:

H.J. Res. 69. Joint resolution proposing an amendment to the Constitution of the United States providing that no person may be elected to the House of Representatives more than three times, and providing that no person may be elected to the Senate more than once; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.J. Res. 70. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation; to the Committee on the Judiciary.

H.J. Res. 71. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. RANGEL:

H.J. Res. 72. Joint resolution designating August 17, 1989, as "Marcus Garvey Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. BROWN of Colorado:

H. Con. Res. 26. Concurrent resolution expressing the sense of the Congress in opposition to the European Community's current ban on importing U.S. meat products and urging the President to take further trade countermeasures should the European Community increase its list of banned U.S. products; to the Committee on Ways and Means.

By Mr. CRANE:

H. Con. Res. 27. Concurrent resolution expressing the sense of the Congress with respect to the right of all Americans to keep and bear arms in defense of life or liberty and in the pursuit of all other legitimate endeavors; to the Committee on the Judiciary.

By Mr. RANGEL:

H. Con. Res. 28. Concurrent resolution expressing the sense of the Congress that the mail fraud charges brought against Marcus Garvey by the Federal Government were not substantiated and that his conviction on those charges was unjust and unwarranted; to the Committee on the Judiciary.

H. Con. Res. 29. Concurrent resolution expressing the sense of the Congress concerning the desirability of locating Federal Government trade-related activities in the Harlem International Trade Center in the city of New York, NY; to the Committee on Public Works and Transportation.

By Mr. CONTE (for himself, Mr. DONNELLY, Mr. MOAKLEY, Mr. MARKEY, Mr. HORTON, Mr. FRANK, Mr. DOWNEY, Mr. RANGEL, Mr. LENT, Mr. ATKINS, Mr. MCGRATH, Mr. FAUNTROY, Mr. SOLOMON, Mrs. KENNELLY, Mr. GREEN, and Mr. DANNEMEYER):

H. Res. 35. Resolution expessing the House of Representatives' opposition to an imposition of an import fee on crude oil and refined products; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H. Res. 36. Resolution to amend the Rules of the House of Representatives to require each standing committee of the House to review and study pertinent recommendations of the President's Private Sector Survey on Cost Control, and for other purposes; to the Committee on Rules.

H. Res. 37. Resolution to amend the Rules of the House of Representatives to require a rollcall vote on passage of any measure making appropriations or providing revenue; to the Committee on Rules.

By Ms. SNOWE:

H. Res. 38. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation that adjusts the pay of Members, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[Omitted from the Record of Jan. 3, 1989]

By Mr. ARMEY:

H.R. 426. A bill for the relief of Christy Carl Hallien of Arlington, TX; to the Committee on the Judiciary.

By Mr. DONNELLY:

H.R. 427. A bill for the relief of Richard F. Walsh; to the Committee on Armed Services.

H.R. 428. A bill for the relief of James L. Cadigan; to the Committee on Armed Services.

By Mr. FISH:

H.R. 429. A bill for the relief of Melissa Johnson; to the Committee on the Judiciary.

By Mr. GREEN:

H.R. 430. A bill to provide the Court of Claims with jurisdiction to hear, determine, and render judgment upon any claim for backpay by Beatrice Braude against the United States; to the Committee on the Judiciary.

By Mr. HORTON:

H.R. 431. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. McCOLLUM:

H.R. 432. A bill to award a congressional gold medal to Joe Kittinger; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLOMON:

H.R. 433. A bill for the relief of the descendents and assignees of Marcus P. Norton or their heirs; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Submitted Jan. 4, 1989]

H.R. 6: Mr. FRANK, Mr. MINETA, Mr. GONZALEZ, and Mr. ANDERSON.

H.R. 40: Mr. RAY and Mr. BATES.

EXTENSIONS OF REMARKS

H.R. 33, INTEGRITY IN DRUG TESTING

HON. JOHN D. DINGELL
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. DINGELL. Mr. Speaker, yesterday I joined with my distinguished colleague from Virginia, TOM BLILEY, in introducing H.R. 33, a bill to amend the Public Health Service Act to establish standards for the certification of laboratories engaged in urine drug testing. H.R. 33 seeks to ensure that when drug testing is done the results will be accurate, and that when errors occur the responsible party is held to account.

Our legislation is patterned after the provisions of section 10006 of the House omnibus drug bill, which we passed last September. That section enjoyed broad bipartisan support in the House. Similarly, Senators on both sides of the aisle expressed support for the establishment of drug testing laboratory standards during the negotiations on the omnibus bill. While it became necessary in the final hours before adjournment to delete section 10006 from the omnibus drug legislation, these Senators promised to work with us in the 101st Congress to achieve the goals of our provision.

The introduction yesterday of H.R. 33 represents the first step in bringing order, accuracy, and integrity to urine drug testing. Regardless of our individual views on drug testing generally, or on Government-mandated drug testing in particular, the fact is that urine drug testing has become a prevalent tool for ascertaining whether an individual has recently used illegal drugs. It is also a tool susceptible of great abuse if it is not handled knowledgably and properly.

In contrast to ordinary medical testing, the consequences that can flow from an inaccurate drug test may be devastating. The mere hint of some prior drug use, whether or not accurate, can literally destroy a test subject's livelihood and reputation. Similarly, numerous false negatives may undermine the goals of a drug testing program. And yet, while we regulate clinical laboratories in their performance of medical testing, the additional safeguards necessary for the proper performance of forensic urine drug testing are today largely a matter of the test subject's "luck of the draw."

An individual asked or required to provide a urine specimen for a drug test may or may not be protected by a proper chain of custody for that specimen. The individual may or may not know to which laboratory the specimen is being sent. The laboratory may or may not conform to good, state of the art analytical practice. The employer, organization, agency, or other party conducting the drug testing program may or may not understand the limits of drug testing technology or the reasons that errors occur—and errors do occur, as any reputable toxicologist will readily admit.

In hearings before our Subcommittee on Oversight and Investigations, Mr. BLILEY and I have heard testimony and seen evidence of the havoc that a false positive result can wreak on an innocent individual's life. We have seen a major employer, who in good faith pursued the proper course in selecting a laboratory using expert medical assistance, nonetheless held liable to an employee for a false positive because the laboratory failed to perform the confirmatory test for which the employer had paid.

Other horror stories abound. At the Department of Transportation, a veteran air traffic controller was falsely accused of drug use following a urine test. He was rescued from dismissal only because his supervisor challenged the results and discovered a clerical error on the part of the laboratory. At Fort Belvoir, two outstanding officer candidates had their military careers destroyed by positive drug test results, despite evidence of foul play in the laboratory. The former director of the forensic toxicology unit at DOT's Civil Aeromedical Institute in Oklahoma City claimed that confirmation tests were being performed on specimens when the lab did not even have the equipment or personnel to do those tests. He was caught and pleaded guilty to falsifying test results.

We know from our hearings, as well, that specimens get lost, misplaced, and even stolen. Laboratories may falsely claim that the quality or urine supplied was inadequate to permit retesting. Accessioning—the initial identification, racking, and preparation for testing of specimens received by the lab—may be characterized by shoddy or careless practices.

The Committee on Government Operations issued a report last year recommending that proficiency standards be adopted for drug testing laboratories operating in the private sector. Following hearings chaired by the gentleman from Oklahoma, [Mr. ENGLISH], the committee concluded that many drug testing programs use only inexpensive and unreliable screening tests without obtaining necessary confirmation using more accurate, but more expensive, equipment. The committee's report found that "[c]areless actions such as lack of refrigeration, reversed labels, contaminated tools, and faulty recording of results may cause inaccurate results."

Yet, Mr. Speaker, at the present time, national certification and quality standards for drug testing laboratories do not exist, and only 11 States regulate drug testing at all. These 11 States limit the application of their laws to workplace drug testing. And even among the 15 States that purport to regulate clinical laboratories, the extent and quality of such regulation varies tremendously.

H.R. 33 is designed to address these grave problems. It would establish a certification program for laboratories that engage in urine drug testing. The Secretary of Health and Human Services would be authorized to implement the certification program directly or to approve State agencies and private, nonprofit entities as accrediting bodies to act on the Secretary's behalf. The legislation would mandate that after a reasonable period of time, during which laboratories could seek certification, it would be unlawful to use a noncertified lab to perform a urine drug test. The bill provides further essential protections for test subjects whose rights are violated, including civil and criminal penalties and, in certain cases, a private right of action. And it allows the Secretary to permit or require recognized accrediting bodies to maintain standards more protective of the rights of test subjects than those provided in the certification program. Test subjects themselves could similarly contract for more protective arrangements.

The legislation adopts as its model for this certification program the guidelines promulgated last year by HHS to govern drug testing in the Federal workplace. Those guidelines were issued pursuant to congressional action in the 1987 supplemental appropriations bill, and HHS last month approved its first batch of 10 laboratories now certified to perform drug testing for Federal agencies. The HHS guidelines represent the best and most current thinking in the field of forensic toxicology. They are the state of the art. And they therefore provide a sound basis for extension to drug testing in the private sector.

Mr. Speaker, I want to thank my friend from Virginia, Mr. BLILEY, for his close cooperation and involvement in this issue and this legislation. While we have very different views as to the utility and propriety of drug testing in certain circumstances, we have put those differences aside because we share a common goal—assuring that if drug testing is to be done, that it be reliable, accurate, and fair.

We will be seeking cosponsors for H.R. 33 in the near future and plan to move the bill through our committee and to the floor at the earliest possible date. I hope that my colleagues will join us in support of this important measure. I ask unanimous consent that a section-by-section analysis of H.R. 33 be printed in the RECORD immediately following this statement. Thank you.

SECTION-BY-SECTION ANALYSIS OF H.R. 33

A bill to amend the Public Health Service Act to establish standards for the certification of laboratories engaged in drug testing, and for other purposes.

Section 1. *Standards for Certification of Laboratories Engaged in Drug Testing.*

This section adds to Title V of the Public Health Service Act a new Part E, titled "Drug Testing." The new Part E consists of new sections 551 through 557.

SECTION 551—CERTIFICATION PROGRAM

Subsection (a) of the new section 551 requires that the Secretary of Health and Human Services (HHS), not later than one

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

year after enactment, establish a program for the certification of laboratories performing toxicological urinalysis for drug testing programs. This certification program is required, to the maximum extent practicable, to conform to the existing HHS guidelines for federal workplace drug testing and to treat any person conducting a drug testing program in the same manner as the HHS guidelines treat the federal agencies to which they are applicable. These HHS guidelines were developed by the Alcohol, Drug Abuse, and Mental Health Administration and are therefore referred to in the bill as the "ADAMHA guidelines."

Subsection (b) provides that the certification program shall also: (1) allow access by any test subject to certain relevant records; (2) provide that the Secretary in considering applications for certification shall consider whether the applicant has previously owned or operated a laboratory which has had its certification revoked; (3) permit the Secretary to approve State agencies and private, nonprofit entities as accrediting bodies to act on the Secretary's behalf in implementing the certification program; (4) require the Secretary to oversee the performance of any such body; and (5) allow the Secretary access to records necessary to the performance of such oversight.

Subsection (b) further provides that unless a laboratory engages solely in urine drug testing, the laboratory is required to be certified under the Clinical Laboratory Improvement Act (section 353 of the Public Health Service Act) in order to become certified under this section.

Subsection (c) permits the Secretary to take into consideration any special factors or circumstances applicable to the testing of participants in amateur athletic competition that warrant separate or different treatment in the certification program.

Subsection (d) directs the Secretary to revise the requirements of the certification program to reflect improvements in drug testing methods.

SECTION 552—SANCTIONS

Subsection (a) of the new section 552 prohibits any person from performing any toxicological urinalysis in connection with any drug testing program unless that person is a laboratory certified under section 551.

Subsection (b) establishes several protections for test subjects by making it unlawful to engage in certain conduct, including breaching the confidentiality of test results (except in certain specified circumstances), knowingly altering or falsely reporting test results, knowingly adulterating urine specimens, knowingly performing or causing to be performed on a urine specimen a test for any medical condition or any substance *other than drugs or alcohol* without the consent of the person providing the specimen following full disclosure, taking adverse action against any test subject for refusing to give such consent (except in certain specified circumstances), taking adverse action against any test subject based upon a positive result that has not been confirmed by gas chromatography/mass spectrometry, or otherwise knowingly failing to administer or conduct any urine drug test or testing program in accordance with the requirements of the certification program established under new section 551. Civil and criminal penalties are provided for violations of this section.

SECTION 553—CIVIL ACTIONS

Subsection (a) of new section 553 provides for a private right of action by any test subject who is tested or whose test results are handled in violation of, or is deprived of rights under, section 552 or the certification program.

Subsection (b) authorizes the Secretary to bring actions to restrain violations.

Subsection (c) provides for the indemnification by a laboratory of any person conducting a drug testing program who is found liable to a test subject for a false positive result.

SECTION 554—CONSTRUCTIONS

Subsection (a) of new section 554 provides that nothing in the new Part E limits the authority of the Secretary to permit or require an approved accrediting body to maintain standards, procedures, or requirements more protective of the rights of test subjects than those provided under the certification program or under section 552. Similarly, the subsection permits test subjects and their representatives to contract for more protective arrangements.

Subsection (b) provides that the certification program shall supersede the ADAMHA guidelines and any other relevent law to the extent that it imposes more protective standards, procedures, or requirements.

SECTION 555—STATE LAW

New section 555 prohibits States and local governments from adopting or enforcing any law relating to the certification of drug testing laboratories, or relating to requirements for the conduct of drug testing under the certification program, which is different from such certification program.

SECTION 556—FEES

New section 556 establishes a system of certification fees to ensure that this program will be budget-neutral.

SECTION 557—DEFINITIONS

New section 557 defines the following terms: blank specimen, controlled substance, drug, drug testing program, false positive result, person, proficiency challenge, spiked specimen, test subject, and toxicological urinalysis.

Section 2. *Effective Date.*

Except as specified below, the provisions of the bill would take effect on the date of enactment. The prohibitions on the use of a non-certified laboratory, on the disclosure of test results by a person involved in drug testing or a drug testing program, and on the administration or conduct of any drug test or drug testing program except in accordance with the requirements of the certification program would not take effect for one year following the establishment of the certification program under section 551.

IN SUPPORT OF H.R. 33, THE DRUG TESTING LABORATORY CERTIFICATION ACT

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. BLILEY. Mr. Speaker, I am pleased to join with our distinguished chairman of the Energy and Commerce Committee in introducing legislation to establish standards for the certification of drug testing laboratories. During the last Congress, the chairman and I collaborated on a similar drug laboratory standards program. This proposal received broad bipartisan support in the House and was included in the omnibus drug bill (H.R. 5210) as passed by the House on September 22. Unfortunately, these provisions were deleted during negotiations on a final bill with the Senate.

Private drug testing is becoming more and more widespread. The companies that choose to conduct drug testing programs and the employees who comply with these drug tests are both entitled to the same protections that are already accorded to Federal workers under the comprehensive guidelines published by the Secretary of HHS on April 11, 1988; that is, drug tests should be analyzed by laboratories that meet minimum quality standards. Essentially, the bill extends the existing Federal guidelines to the private sector. However, the bill grants the Secretary sufficient flexibility to revise the program requirements as needed to improve program reliability and efficacy.

Other key characteristics of the program include:

First, the Secretary may designate private accrediting bodies to conduct the certification program;

Second, the cost of the certification and oversight are financed by a user fee system. Thus, the budget impact will only entail a small amount of startup, administrative costs;

Third, the program includes protection for employees and reasonable remedies against violations of their rights, such as breaches in confidentiality;

Fourth, it provides for rigorous quality standards for drug testing laboratories and oversight of the certification process by the Secretary; and

Fifth, it allows for special accommodations for drug testing in conjunction with amateur and professional athletics.

It is also important to note that this legislation is neutral with respect to under what circumstances drug testing is or is not appropriate. The purpose of this legislation is not to either encourage or discourage drug testing.

I believe that this bill will ultimately enhance the integrity and effectiveness of existing drug testing programs. I commend the gentleman from Michigan for his interest in this important matter, and I urge my colleagues to support this legislation.

IN RECOGNITION OF VERNON E. BURTON

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. FAZIO. Mr. Speaker, I rise today to recognize Mr. Vernon E. Burton, who has served California agriculture as an extension farm adviser and entomologist for 38 years.

Mr. Burton's outstanding contributions include the development of innovative methods and strategies for nematode control in cotton, which have improved production while reducing pesticide use. He also aided in the development and establishment of treatment thresholds for green peach aphid on sugar, and established and supervised the cotton pest management project in the San Joaquin Valley in the 1970's. That work resulted in the

appropriation of permanent Federal funds for an integrated pest management program.

Other successes of Mr. Burton's work include more effective and efficient control of lygus bugs and spider mites on dry beans, development of a successful pest management program on Burbank potatoes, and investigations on an aphid believed to be a serious insect pest on small grains. Mr. Burton helped prove that the aphid actually had no significant impact on grain yields and thereby insecticide use was markedly reduced.

Over the years he has provided support and guidance to county programs conducted by farm advisers through field test plot activities, recommendations, and suggestions for problem solutions, and printed information and participation in educational programs. He has also helped disseminate educational and informative entomological information to a diverse clientele in agricultural and urban areas throughout the State.

I therefore commend Mr. Vernon E. Burton for his many accomplishments and a successful career, which have contributed greatly to California agriculture and to the University of California's mission for excellence in agricultural research, education, and public service.

HONOR AMERICA WEEK

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to John Georgiafandis and the Steubenville High School Key Club for their annual sponsorship of Honor America Week. Held with the cooperation of the Steubenville City Schools, this observance is to focus on the patriotism and social activism in the Ohio Valley and the United States.

Each year the Key Club plans a week of discussion groups, seminars and displays, with the highlight being an address at the Steubenville High School's Honor America Assembly. The keynote speakers are experts in the sector of America that is the week's focus. Last year, Mary Stout, president of Vietnam Veterans of America, spoke on the MIA/POW issue, her service during the Vietnam war and the thoughts and feelings of that period in history compared to the remnants of the me generation that still pervade society today. In previous years, various military heroes, Senator JOHN GLENN and I have also spoken to the assembly.

The Key Club, through its hard work and dedication, puts together a program for the entire community, filling us all with exhiliration, national patriotism and regional pride. Rarely does a person leave the show without feeling he is glad to be an American.

Mr. Speaker, if each community in the United States honored America 1 week a year, the citizens of this country would be proud of their responsibilities in maintaining this free republic. I urge all my colleagues to join me in praising the Steubenville High School Key Club's wonderful work that makes the citizens of Steubenville more proud to be Americans each year.

INTRODUCTION OF A RESOLUTION IN OPPOSITION TO AN OIL IMPORT FEE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, as the 101st Congress takes its sworn oath to serve the people of this great Nation, I am once again pledging to do all in my power to protect them from the unfair and regressive burden of an oil import tax. Today I am again introducing a resolution expressing the House of Representatives' opposition to the imposition of an oil import fee on any crude oil and refined petroleum products.

Oil import fees have been proposed many times over the past two decades. They are supposed to raise revenue, even-out oil price fluctuations, reduce our dependence on foreign oil, and conserve energy. Within the past few years they have had a particular appeal as a means of deficit reduction, and I am sure that proponents of an oil import fee will be mounting their high-horses again this year to sing its praises. Their song will be brief, since there is little to recommend an oil import fee for those who are concerned with fair and equitable, nonregressive revenue raising.

Since my very first speech on the floor of the House, 30 years ago, I have fought to see that an oil import fee never gains a foothold in Congress. Economists agree that lower oil prices are a tremendous benefit to our economy. A study done by a private consulting firm, Data Resources, Inc., determined that a $5 per barrel drop in oil prices translates into a 0.5 percent increase in the gross national product, lowers inflation by 1 percent, lowers unemployment by 0.4 percent, and reduces the deficit by $20 billion. Lower oil prices spur on the economy.

Recently we have been told that the American consumer can afford the fees because the price of oil has fallen over the last few years. They say that oil import fees are a painless way to bring in revenue to reduce the Federal deficit. However, macroeconomic studies indicate otherwise. Oil import fees drag the economy down.

Above all, it is important to remember that an oil import fee is in essence a tax. Whether the fee is set at $10 per barrel of imported oil, or $0.10 per barrel, it is still going to have a contractionary effect on the economy. The most immediate effect would be an increase in domestic energy costs. The price of foreign oil is a determining factor in the price of domestic oil. Should the price of foreign oil increase because of an oil import fee, domestic producers would be able to raise their prices, without having any additional production costs. The prices of other fuels, such as gas and coal, would increase as the energy market responds to higher oil prices.

That's inflationary. Higher energy costs translate into higher production costs for businesses and higher living expenses for consumers. U.S. industry, struggling to become more competitive, would be particularly ill-served by an oil import fee. Competing with foreign companies unaffected by higher production costs, U.S. businesses would suffer market share losses both domestically and internationally. The U.S. gross national product would decrease because resources, which would be used more profitably for production or investment, are diverted into energy costs and the oil industry. Unemployment in the oil industry would drop, but that drop would be more than offset by the loss of jobs in other industries.

The Department of Energy's 1987 Energy Security report concluded that a $10 per barrel oil import fee would result in a net loss to the U.S. economy of $150 to $200 billion over the next 8 years. The study also found that while a $10 per barrel import fee would collect between $17 and $32 billion per year, Federal tax revenues in other sectors would be significantly reduced. Federal spending could rise as well, because of the effect of higher energy costs on government procurement and on transfer programs tied to inflation.

Numerous other studies have concluded that an oil import fee would be harmful. But despite the preponderance of evidence against oil import fees, some advocates continue to insist that they can work. Yet even they don't deny that an oil import fee is regressive and places the greatest burden on the Northeast and Midwest.

Low-income households expend a much greater percentage of their income on energy than do moderate to high-income households. The Department of Energy's Residential Survey found that low-income households would on average have to spend 21.7 percent of their income on energy if a $10 per barrel oil import fee is enacted. This is an absolute outrage for low-income households everywhere, and it is especially outrageous in New England, where low-income households would have to spend 31.1 percent on energy. I can't conceive of a more unfair, inequitable, and unreasonable attempt to line the pockets of domestic oil producers with the hard-earned cash of families struggling to make ends meet.

The Northeast and Midwest are much more heavily dependent on imported oil for their energy needs than the rest of the country. The worst and most disproportionate effects of an oil import fee would be felt there. They would bear the burden and the costs. They would be subsidizing the rest of the Nation at the expense of their regional industry and residents. That is unwarranted and totally unnecessary. A regressive and ill-conceived tax we don't need.

There are other disadvantages associated with oil import fees that can't be easily quantified. For example, use of a fee would encourage faster depletion of U.S. oil reserves, creating a "drain America first" scenario. Over the long run we would become more, rather than less, dependent on foreign oil. And while an oil import fee might encourage the development of alternative energy sources, there are other better and more direct means to do so.

H.L. Mencken once said that for every complex problem, there is an easy solution. It is short, simple, and wrong. So it is with an oil import fee. I urge all my colleagues to join me

and the original sponsors and cosponsor my resolution.

CRITICAL MINERALS MINING EXPERIMENTAL BILL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. RAHALL. Mr. Speaker, today I am introducing legislation that is aimed at reducing the frightening dependency of this Nation on imports of strategic and critical minerals from politically unstable countries. This bill is identical to H.R. 4180, which had bipartisan support in passing the House during the 100th Congress and continues to enjoy the cosponsorship of the ranking member of the Subcommittee on Mining and Natural Resources, the distinguished gentleman from Idaho, LARRY CRAIG.

I believe this legislation is extremely important to the security of the United States. It is important in this respect because it authorizes and emphasizes Bureau of Mines' research on five specific imported minerals that are bottom line essential for defense applications, not to mention their myriad uses in the industrial sectors of our economy. I think we all can agree that there are national security implications associated with the reliance on essential commodities from any politically volatile country, be it platinum from South Africa or manganese from the Soviet Union.

By way of explanation, this bill would authorize the establishment of an intensive 3-year research program aimed at reducing United States mineral import dependency on South Africa and the Soviet Union through research and improvements in extractive technologies for domestic deposits, substitute materials and recycling.

In carrying out the program, this legislation directs the Bureau of Mines to place a priority on such critical minerals as chromium, cobalt, manganese, platinum group metals [PGM], and vanadium. It is imperative that research on these minerals be accelerated in light of their uses in the basic infrastructure of our society. For example, chromium, manganese, and vanadium are all essential alloys that impart particular qualities to the stainless steel that makes up our bridges, highrise buildings and jet turbines. Cobalt, with its high strength and heat resistance, is also essential for jet turbines, while platinum group metals are the only metals that can be used in the automotive catalytic convertors that help reduce toxic emissions.

On an annual basis, the Secretary of the Interior would submit a progress report to Congress detailing results of the program. The bill would also provide $5 million for fiscal year 1990, $10 million for fiscal year 1991, and $15 million for fiscal year 1992 in budget authority for the program.

Mr. Speaker, I believe this is a good and worthwhile bill and I look forward to working with my colleagues toward its enactment.

TRIBUTE TO WILLIAM B. PHILLIPS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. TRAFICANT. Mr. Speaker, it is with great pride that I rise today to pay tribute to one of the truly great citizens of my 17th Congressional District of Ohio, Mr. William B. Phillips.

On Sunday, January 8, 1989, Mr. Phillips will be honored at his retirement reception at the Canfield Presbyterian Church in Canfield, OH. William Phillips is being recognized for his 31 years as the "answer man" at the Mahoning County Cooperative Extension Service, during which time he earned the respect and confidence of the people in the surrounding communities by coming to their aid with information and advice on agricultural questions.

William Phillips graduated from Ohio State University with a bachelor's degree in 1948. He then worked as a Portage County 4-H agent until 1966, when he came to the Mahoning County office as a 4-H agent and was named agricultural agent a year later. He received his master's degree from OSU in 1967 and is an associate professor in the OSU College of Agriculture. Mr. Phillips retires with the distinction of being the second most senior extension agent in Ohio with 40 years of extension service.

Mr. Phillips moved to Canfield from Youngstown 4 years ago. He has a wonderful, loving wife, Susan, and together they have two children.

I wish to congratulate William B. Phillips on his 31 exceptional years as a servant of the people of Mahoning County. I wish him well in the coming years and am honored to represent such a fine man.

REINTRODUCTION OF FLAT RATE TAX SYSTEM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, "simplicity," "fairness," "efficiency," "promotion of economic growth." These were the rallying cries for reform of the Byzantine Tax Code. Unfortunately, Congress' response—the Tax Reform Act of 1986—failed to achieve these important goals.

I would be hard pressed to describe as "simple" or "efficient" the two volumes—totaling over 1,800 pages—of new tax legislation, the 1,379 pages of general explanation, the 503 pages of proposed technical corrections, the 296 pages of explanation of these proposed technical corrections, and the tens of thousands of pages of resulting Treasury regulations. In terms of "fairness," this was achieved for some taxpayers at the expense of others through many retroactive and hidden tax provisions. Finally, the important issue of encouraging and nurturing "economic growth" was similarly neglected. Those provisions which increase the corporate tax burden by $121 billion over 5 years, retroactively eliminate the investment tax credit, increase the tax on capital gains, and reduce the IRA and 401(k) savings incentives, will certainly have a negative impact on economic growth. While some argue that the increased economic efficiency of the lower rates will overshadow this negative impact, it is disturbing to note that the President's Council of Economic Advisors admits that the tax reform bill raises the cost of capital. Thus, only serving to highlight the disincentives for savings and investment.

Let us not surrender the tax revolt. True reform of the Tax Code is still within our grasp.

Today, I have introduced "Crane Tithe Tax Act of 1989," in order to continue the fight for true tax reform and to amend the complex and inequitable reform of the past. The bill imposes a single tax rate and can be broken down into three basic sections. These consist of: elimination of the corporate income tax, reform of the personal income tax, and tax amnesty.

The first element, elimination of the corporate income tax, recognizes the vivid economic reality that it amounts to just another cost to business. It is the same thing as the cost of labor, material, and overhead, all of which must be passed on to the consumer. The corporate income tax is one of the most indefensible forms of taxation:

Because a tax on corporate income is eventually transformed into higher prices, the tax, falls most heavily onto the lower income individuals, who spend a greater proportion of their income on consumption;

Because a tax on corporate income manifests itself in the form of reduced corporate savings and investment, the tax reduces employment due to the negative impact on economic growth;

Because a tax on corporate income is transferred into reduced wages, it becomes a hidden tax on workers;

Because a tax on corporate income is transferred in the form of reduced dividends, it falls on stockholders, the majority of which are pension plans;

Because many corporate decisions are made as a direct result of tax considerations, the corporate tax prevents true and clear motives and perpetuates corporate inefficiency.

In view of these points, it becomes clear that the corporate income tax should be eliminated. It is a hidden tax on individuals that only works to prejudice the market toward certain investments and lowers economic growth. A truly reformed Tax Code taxes individuals directly and does not interfere with the workings of the free market.

The second section of this bill concerns reforms of the personal income tax. This legislation would levy on the taxpayer a single, flat rate of 10 percent on all earned income above $10,000. All other credits, deductions, exemptions, and exclusions are eliminated. More than one point here requires clarification and discussion.

The first point of clarification is that concerning the precise definition of the term "earned income." "Earned income" in this

context constitutes any and all of the following:

Wages, salaries and other forms of direct employee compensation;

The amount of the taxpayer's net earnings from self-employment for the taxable year;

The amount of dividends which are from a direct service corporation or which are otherwise direct or indirect compensation for services rendered.

The following are exceptions which are not to be termed "earned income":

Passive income, such as interest income, dividend income except as noted above, and capital gains;

Any amount received as a pension or annuity which has resulted from pre-taxed dollars;

Any tip, unless the amount of the tip is not within the discretion of the service representative.

The second point of clarification is that regarding the exemption amount. This exemption is merely a protective measure for individuals such as very low income wage-earners, who are detrimentally affected most drastically by such taxes, or adolescent workers who are trying to establish initial savings, such as educational finances. This exemption is set at $10,000 for every individual, for taxable years beginning after December 31, 1988, and is fully indexed to inflation.

The final section of the bill provides a blanket amnesty from all former tax liabilities, penalties, and interests to all taxpayers not involved in criminal activity. This provision should dramatically increase the tax base by bringing the underground economy back onto the tax roles. But more importantly, it allows citizens an entirely fresh start under a new tax system.

The simplicity of this legislation is obvious. By imposing a single proportional tax on all earned income, while eliminating all shelters, credits, and deductions, any citizen can fully understand the system of taxation. It follows intuitively that taxpayers will be more likely to comply with a tax code with which they can deal knowledgeably. This bill forms the proper basis for continuing the fight for true tax reform.

MORAL RE-ARMAMENT—"BEING SOMETHING FOR GOD AND PEOPLE" CELEBRATES ITS 50TH YEAR

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. BENNETT. Mr. Speaker, on October 29, 1988, it was my pleasure to participate in a celebration in London of the 50th anniversary of the founding of Moral Re-Armament—an important force in the spiritual life of these times. The London Times of October 31 carried the following article on the events:

MORAL RE-ARMAMENT

A service of thanksgiving and dedication was held at St. Margaret's, Westminster, on Saturday, October 29, to mark fifty years of Moral Re-Armament. The Rev. Dr. Donald Gray, Canon of Westminster and Chaplain to the Speaker of the House of Commons, officiated.

The address was given by the Right Rev. Gordon Wheeler, Roman Catholic Bishop Emeritus of Leeds. Others taking part included the Very Rev. Professor Robert Craig, a former Moderator of the General Assembly of the Church of Scotland, Mgr. George Leonard, of Westminster Cathedral, the Rev. Anthony Craig, Church of Scotland, Maryhill, Glasgow, and the Rev. Leslie Marsh, Methodist Superintendent, Frome. Mr. Bernard Weatherill, Speaker of the House of Commons, read a lesson.

More than 1,400 attended the service, which had to be relayed by closed-circuit television to an overflow congregation in the Central Hall, Westminster. Among them were 70 who had come especially from overseas.

Last Wednesday, October 26, Sir Bernard Braine, DL, MP, was host at a luncheon in the House of Commons for members of Parliament to meet some of the overseas visitors attending the anniversary celebrations.

The principal ceremony was in St. Margaret's Church, Westminster Abbey. St. Margaret's is where Chaucer and Pliny were baptised, Sir Walter Raleigh buried and Winston Churchill married. It is the official church of the House of Commons. The speaker of the House of Commons, Bernard Weatherill, read from Isaiah 35; and Miss Hilary Belden of the Church of England School at Twyford read from John 15; and then the Rt. Rev. William Gordon Wheeler, Roman Catholic Bishop Emeritus of Leeds, made the principal address as follows:

Both the readings for today have a very special meaning for Moral Re-Armament. In St. John's Gospel, Jesus says: "As the Father has loved Me, so I have loved you." "If you keep My commandments you will remain in My love."

And Isaiah says: "Behold, your God is coming. He is coming to save you." And this indeed happened in Christ who makes God's love manifest in its fulness. He bids us love one another as He has loved us. It is in this love we strive to bring God back into the leadership of mankind. And what does this call for? Surely a change of heart.

Now I must tell you. I was somewhat taken aback when I was asked if I would give the Address on this notable occasion. And I hope no one will walk out in the next few minutes. The explanation is this. I met Frank Buchman briefly when I was an undergraduate at Oxford in the early thirties at a gathering in the Junior Common Room of Corpus. And, God forgive me, I did not take to the man. I was already prejudiced against him. I felt he had come between me and some of my friends. I resented an American calling his movement "Oxford Group" which many confused with The Oxford Movement of the nineteenth century, in which I was personally much more interested.

Looking back, I think this must have been my loss, for when in recent years I heard of various friends of mine going to Caux [1] and telling me of the wonderful things they had witnessed there; and furthermore when in recent years I read that biography of Frank by Garth Lean, I saw him in a very different light. I am, therefore grateful to Moral Re-Armament and to Canon Gray for giving me the opportunity in old age to regret the immaturity of my thoughts and actions.

I began to see things in a different light when I read of the extraordinary achievement of post-war reconciliation brought about by his establishment and labours in the Mountain House at Caux in Switzerland. Assuredly the hand of God was there and the guidance of His Spirit clearly continues. And this was very much confirmed to me when last year I was invited to Caux, about which I had read and heard so much. It was indeed a very joyful and revealing experience.

Today's thanksgiving for fifty years of Moral Re-Armament, takes us back to East Ham Town Hall in May, 1938, as you heard this morning. At that moment when all the European nations were on the brink of war, a Swedish Socialist Harry Blomberg, spoke of the need for his country, if it was to be a reconciler of the nations, to re-arm morally. Frank, walking in the Black Forest, meditated on that phrase realising that his four Absolutes of Honesty, Purity, Selflessness and Love, could be the recipe for bringing it about. And all this was encapsulated in that great sentence of his speech: "We can, we must, and we will generate a moral and spiritual force that is powerful enough to remake the world."

"To re-make the world." That somehow from his earliest days was the mission in which he was called to participate. He knew that God alone could bring it about; but he himself and others could play their part. And this thought undoubtedly inspired him all his life. "Thy Kingdom come on earth as it is in Heaven" was the guiding prayer. Christ was his inspiration and the gospel message has always been the Christian heart of Moral Re-Armament.

Participation in the re-making of the world must always begin with a personal renewal of every individual, a turning to God, a genuine conversion, a new commitment of one's life to His service and that of all His people. That is why the four Absolutes are a *sine qua non.* For they, surely, and without question, must be the basis of a programme to be pursued by anyone who takes up his or her Cross to be a genuine follower of Christ.

We have heard today how Frank was always conscious, and you too are conscious, of the fact that all who would be His followers must take up a Cross to follow Him. This will surely be achieved only rarely in its fullness. But with the constant help of God it is achievable for anyone, as we know from the lives of all the Saints. It can only happen, as God wants it to happen, when we turn to Him, day after day, unflinchingly, in prayer, in Christian hope, in confidence, and with a deep humility. It calls for a daily quiet time. It calls for silence in which to hear the murmurings of the Spirit of God. It calls for a perseverance undaunted by failures. "He who perseveres to the end will be saved." There is a consolation for many of us in those words of G.K. Chesterton: "What is worth doing at all is worth doing even badly." It can be helped by the daily companionship of others who are trying to be true followers of the same Lord. We all have this effect constantly on one another, sometimes without knowing it.

This is what is meant, I think, by "an ecclesial dimension". And it is something that needs to be widened. I know from the experience of Caux, and other occasions also, the wonderful bond constituted by the love and friendship of like-minded souls in Moral Re-Armament. There has indeed been an emer-

[1] International Conference Centre for Moral Re-Armament in Switzerland.

gence of a living network of men and women around the world who are first and foremost apostles of the Living Christ—this by God's grace will continue. Nevertheless as far as I understand it, Frank Buchman was a loyal son of the Lutheran church, though it is understandable that his specific mission did not allow him to continue his ministry in the normal sense. Doubtless he found therein an added strength as many do today in all the Christian denominations and ecclesial bodies which, after all, are the ordinary sources of the fundamentals of the faith and the practice of worship.

At the same time, Frank's apostolate, I imagine, must have been enriched by, and have enriched, some aspects of the Lutheran church. And I have a feeling that other Christian churches are enriched when dedicated members of Moral Re-Armament bring their particular insights to their own church bodies. This can be a two-way flow.

I know for example from the Catholic standpoint how essential is the strength to be true to the four Absolutes assisted by the graces of the sacramental system, which we believe Jesus founded to help us on our life's pilgrimage. Most churches today are "listening" churches and want to know all the different movements of God's graces. From this there flows also, with all our fellow members throughout the world, a common pursuit of the way of salvation through Jesus Christ our Lord and in the Holy Spirit. There is too, we thank God, in these days a specific ecumenical relationship, working for the unity of all Christians, in a spiritual dimension, stressing God's longing and His Will that we all may be one. He alone can achieve it; but He asks us to pray for it really wholeheartedly as well as to work in other ways.

Frank Buchman drew deeply on the spiritual resources of the Christian churches, Catholic and non-Catholic, with whom his work brought him in touch in different parts of the world. I remember in the thirties meeting the late Archbishop Söderblom of Uppsala. It was in Berne in Switzerland where I was privileged to go to a conference of theologians of the Eastern and Western churches. The Archbishop paid tribute to Frank's pioneer work in the ecumenical field.

I stress this because we all know that Frank's words at East Ham in 1938 made it quite clear that we must generate not only a moral force but also a *spiritual* force that is powerful enough to re-make the world. Commenting on this Dr. Bernard Kaelin, then the Abbot Primate of the Benedictine Order in Rome, once said this at Caux: "Moral Re-Armament can win all men because its standards are universally valid. It is not in itself a religion, nor a substitute for religion. It is not a sect. It has four mighty pillars upon which human living must be based." "Everyone," he said, "must accept these ideas if he is honest with himself."

Cardinal König, who is happily with us today, emphasised this when he spoke at Caux in 1986. He was speaking *à propos* East-West tensions and the need for dialogue: "I believe that a discovery which Frank Buchman made in this area will prove to be correct, that people in the East as well as the West need the courage to look deep inside themselves and to discover the conscience that our Creator has implanted in every one of us; in other words the source of spirit and truth."

To me, this thinking is of great importance for now and for the future. For all men and women are made in the image of God. There is a divine spark in all of us—sometimes it is jolly hard to find, but it's there because God Himself made it so—a divine mechanism if you like, which has moved many dear friends of ours, men and women of many faiths, some of them here today, who want to help bring God's Kingdom on earth. We have met them in different parts of the world. We have met them in Caux. We have met them here today. Indeed this commitment to God's Kingdom, to a world re-made, is one that is total in concept. And we are enriched by their presence. We must only hope that they, too, are enriched by our Christian presence and perhaps perceive something of the sublime mysteries of Incarnation and Redemption which bring new promise to the Coming of God's Kingdom. It is said that the world today does not condemn us for being Christians but for not being Christian enough.

So we come back to those "four mighty pillars" which are more than ever needed in the world today than they were on the eve of the Second World War. We are reminded of that in the Programme of this Golden Jubilee where it says: "In an age of materialism and busyness it encourages people to make available the time and space for silence without which spiritual growth, perception and direction quickly wither. In an age of individualism it forges a global network of men and women from many traditions, working together towards a common goal to build a world where every human need is met."

I hope it does not seem presumptuous for me to say that I see a wonderful enrichment of the original movement itself after these fifty years. Over more than fifty years I imagine Frank himself must have realised that it has grown and it has mellowed perhaps, become more extrovert. And when I think of the incredible achievement of an international bond of reconciliation and love, caring and compassion, self-denial and dedication, the striving for justice and peace, the facing of the problems of the Third World, I find it easy today to make Thanksgiving for the life of Frank Buchman. By his intense occupation with individuals and his charisma for drawing them to God, he stressed the fundamental importance of the individual spiritual growth necessary for the promotion of God's way for all the world.

When I read of the enormous number of people of all types, all nations, and all strata of society, who came his way or sought him out and whose lives were changed by the contact, I realise that here was truly a man of God. He seems to have thought of himself just as a signpost: but others thought of him as something more.

He pursued relentlessly the way of dialogue and took on board of his movement a wide range of expertise in innumerable spheres. And I am sure that in his latter days he had the humility to feel that he himself must decrease so that God's will through Christ would increase through others. And that means all of *you*.

So what about the future? Here indeed is the challenge. It will assuredly be "Faith filled and Spirit led." And so we call on God the Holy Spirit "to renew the face of the earth." Many surprising things of great promise are happening in the world today as we approach the third millennium. By God's grace we shall continue to play some part in the healing of conflicts on all levels. There are many outstanding followers of the Moral Re-Armament movement who, I believe, will play a great part in the economic and social side of humanity's development. This is happening now and will doubtless continue. May the numbers of these dedicated men and women increase. The idea put forward of a world plan in this respect could be a way of advance. One thing is certain—we will have a part to play in *being* something for God and all His people.

Surely we need to do something special for our poor Western World (naturally rich, spiritually deprived) which has drifted so far from its Christian origins. There is a general feeling today in the Christian churches that a complete re-evangelisation has become necessary. You may remember when Harold Macmillan was asked what he considered the cause of the decline in our country from the moral standpoint, he said, "It began when we ceased to be a churchgoing people."

The Christian reclaiming of the Western World, as you well know, is something specially dear to the mind and heart of Pope John Paul II, who by his great spiritual and pastoral example proclaims so tirelessly the message of Christ in all its entirety. It is thought that the task is so vast that it needs the fullest co-operation of all committed Christians and others by their prayer and activity; and that such ecumenical evangelism could lead us closer to Christian unity which today seems in some ways so remote.

In this regard, Moral Re-Armament, enriched by the wisdom of its fifty years, may surely be pointing the way. For the simple message of the four Absolutes, Honesty, Purity, Selflessness, Love, those four "mighty pillars", presented as always in the light of Christ, can provide us with a common front already tried. And can it not lead us to an even greater unity in striving together to help "re-make the world"?

This is the message I would want to give: "Love one another as I have loved you."

Were the whole realm of nature mine,
That were a present far too small;
Love so amazing, so divine,
Demands my soul, my life, my all.

God bless you all.

SERVING THOSE WHO SERVED

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. MONTGOMERY. Mr. Speaker, although the plight of homeless persons is something that requires our continuing attention, occasionally we hear stories that some of our efforts to assist them are bearing fruit. In April 1987, we adopted a supplemental appropriation to fund programs for the homeless. Included in that bill was an amendment I offered to allocate $15 million to expand the VA's domiciliary program in order to increase its capacity to treat homeless veterans. The program was launched a little over a year ago, and there are now 10 Veterans' Administration medical centers which have established new domiciliary programs.

Recently, Mr. Jeff Gammage of the Philadelphia Inquirer visited the Coatesville VA Medical Center west of Philadelphia and reported on how its program is working. His report is encouraging and I want to applaud the VA employees who have helped to make

this particular program successful. So that other Members can learn more about this program, Mr. Gammage's article follows.

IT'S SHELTER AND MORE FOR HOMELESS VETERANS

(By Jeff Gammage)

Eugene Weaver's Air Force career took him all over the world, to secret military bases in Turkey, along the Great Wall of China, through the streets of the Kremlin.

After leaving the military, he held good jobs at several industries in the Philadelphia and Camden area, earning salaries that topped $35,000. But then he got sick, developing cancer and gangrene. A lengthy hospitalization cost him his job and eventually his home. By the time he was well enough to leave the hospital, he had nowhere to go.

Weaver, 56, a proud man who once held the temporary rank of colonel, ended up at the homeless shelter at the Coatesville Veterans' Administration Hospital.

He is among the luckier ones.

For the Coatesville hospital gave Weaver food, shelter and medical treatment. It is one of only 27 hospitals nationally that provide care for homeless veterans. Nationwide, there are only 7,500 beds for as many as 1 million homeless vets.

The Coatesville program was established in October 1987, after Congress appropriated $15 million to create 525 new beds for the homeless at 10 VA hospitals. The centers joined 17 existing shelters across the country.

The goal is to make good use of underused hospital space, space that the Coatesville hospital had available.

"It's hard to accept something like this, because I love to work," said Weaver, who since being interviewed at Coatesville has been moved to a long-term care center in Martinsburg, W. Va. "But I couldn't ask for better treatment."

The VA's domiciliary program—as it is called—is believed to be among the few instances of direct, federally operated shelters for the homeless.

To qualify, a veteran must be homeless, have an income of less than $823 a month and have a medical, psychiatric or drug abuse problem. Veterans come in themselves, or are brought in by counselors who roam the streets of Philadelphia, Newark and Wilmington.

"You ask why they're homeless," said VA spokesman Bonner Day. "The answer is really each of these individuals has an individual story to tell."

For some, homelessness is directly related to their military service. Others left the service and successfully held other jobs before they came to the VA.

Some veterans have spent years trekking from shelter to shelter, unable to understand or accept the wars they helped fight, according to VA officials. Some left conventional society to live like frontiersmen in the woods. Coatesville officials tell of one veteran who lived at a construction site, arriving after the crews left work and leaving each day before they arrived.

Another man held a decent Navy shipyard job but got heavily into cocaine. Eventually his wife took their two kids and left, and the bank foreclosed on his home.

About 80 percent of those who come into VA shelters have been addicted to alcohol or drugs, often to dull the pain of combat memories. And some simply got sick and couldn't meet their mortgage payments.

At the Coatesville hospital, veterans undergo intensive rehabilitation designed to return them to society within 90 days. Some veterans, ill or disabled, may be sent to other, long-term domiciliaries, where they spend years of even the rest of their lives.

In the Coatesville unit, the first weeks are spent testing skills and abilities, the next weeks finding a job, and the last making enough money for independent living. In some special cases, the 90-day limit is extended for months.

The shelter's 40 beds are full; if the beds turned over every three months, the center could help only 160 veterans a year. The waiting list is long.

"The homeless program was intended to get veterans off the street who need food, lodging and medical care," said Richard Rothan, chief of domiciliary operations at the Coatesville VA. "That's a fraction of the problem. . . . If I had double the capacity tomorrow, I could fill it."

The plan, on paper at least, is to expand to 200 beds within five years. In the meantime, the Coatesville hospital does what it can.

The domiciliary unit looks nothing like the stereotype of a homeless shelter. There are no rows of fold-up cots, no bedraggled men in dirty clothes. Instead, the unit resembles a college dormitory, with rows of doors lining a long hallway.

The unit was renovated only weeks ago; the walls still smell of fresh paint.

The veterans live in neat clean rooms under a strict set of house rules: Curfew is 11 p.m., no alcohol or drugs are allowed on the premises. Patients must submit to staff-ordered urine tests and breath analyzers. Those required to stay sober as part of their treatment can be discharged for a positive reading.

No abusive language toward the staff or other patients is tolerated. Weekend passes, to reconcile with spouses or find a new home with other family members, are encouraged, and even two- or three-week passes can be arranged in some cases.

A patient-advisory council provides a forum for patients and staff to resolve disagreements, and also gives patients a voice in setting the rules of the domiciliary.

During their time there, veterans can learn skills in such fields as graphic arts, electronics, metal work, upholstery and furniture-making.

"We pay them to learn, because the furniture itself is of value, and it's used in the hospital," said Ralph Buckles, chief of vocational-rehabilitation therapy. "They go out with a skill. . . . We want them to feel good about what they're doing, to feel they've accomplished something."

It's not easy to get a job when your phone number is a pay phone and your address is the VA hospital. But once veterans do find work—about a third are holding outside jobs at any given time—they are encouraged to save 70 percent of their salary toward future rent.

Half the 40 beds belong to Vietnam era veterans, although national most beds in the domiciliary program are held by veterans of World War II, according to VA.

Rothan believes the VA shelters soon may become the last refuge for another type of veteran: Those suffering from the deadly disease AIDS.

Because of the lack of AIDS shelters and hospices, he expects that more veterans who are victims of AIDS will need the shelters.

"I think the homeless domiciliary is where he's going to be ending up" Rothan said.

Care for homeless veterans actually began long before the world wars, going back to 1865 when President Abraham Lincoln signed a law creating veterans' rest homes, according to VA officials. That makes domiciliary care—albeit in a form far different from today—one of the oldest veterans programs in the nation.

Today, the VA's 27 hospital shelters provide care to about 16,000 veterans. Most shelters operate at capacity. The VA eventually expects to realign them geographically, changing from a few large shelters in rural areas to numerous smaller homes closer to cities and the supply of jobs, housing and transportation.

"We've got a saying: 'It ain't no old soldiers' home anymore,' " said Richard Olson, the VA's Washington-based chief of domiciliary programs. "The whole object here is to restore the vet to active community living."

He estimates that homeless veterans who get jobs and become taxpayers will repay the cost of their care within two years.

Yet the VA isn't sure how many homeless vets are out there. Estimates of the number of homeless veterans range from 47,500 to 1 million, Olson said. The VA said it's difficult to determine a reliable figure because people may be homeless one month but not the next and because the homeless move from place to place.

"We've found for most vets, most of the readjustment problems, drinking, fighting with the family, are controlled or eliminated entirely when the vet gets a job," VA spokesman Day said. "If you have a job, it takes your entire day to get ready, to go to it, to function and to come home. If you don't have one, you have that entire day to brood. You served your country, maybe overseas, and yet this giant economy can't provide you with a job."

Edward Talley had a job. But the 45-year-old Air Force veteran lost his job and his home after suffering severe injuries in a 1986 auto accident.

"The money ran out, and I ended up here," he said, sitting in a meeting room at the Coatesville shelter. "I came here with the clothes on my back.'

The Boothwyn native, who served in the Air Force from 1963-67, has spent more than nine months at the shelter. He planned to leave much earlier, but health problems kept him there undergoing treatment. He sees the shelter as a blessing.

"They can holler about the VA system all they want to, but the VA saved my life," he said. "They put a roof over my head."

SAN FRANCISCO HIT BY BASE CLOSING COMMISSION REPORT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Ms. PELOSI. Mr. Speaker, the much-heralded savings that were to be accomplished by the Commission on Base Realignment and Closure only amounts to a meager fraction of the total $300 billion Defense budget. San Francisco would be one of the hardest hit communities in the closure plan.

Of the savings outlined by the Commission, the two military installations targeted for closure in San Francisco amount to 12 percent of the total. Our city is bearing a disproportionate burden for the sake of a very small savings.

The Commission's recommendation to relocate the U.S.S. *Missouri* runs counter to the economic arguments the Navy has made relative to San Francisco's strategic importance for homeporting. The President's budget should shed more light on that discussion when it is presented to Congress on January 9.

Closing the Presidio is not a deficit-reducing step. The Defense Department still has the discretion to transfer this savings to other defense programs. Congressman PHILLIP BURTON, in his wisdom, passed a law requiring Presidio lands, no longer essential to the 6th Army, to be transferred to the GGNRA. The cost of maintaining the Presidio is simply shifted to the Park Service.

If the Commission report prevails,

We must insist that proper environmental safeguards are provided by the Department of Defense to protect the environment and the community.

We must insist that the Department of Defense immediately address the impact of job loss for 3,200 civilian workers and their families at the Presidio.

We must insist on appropriate action to compensate communities for their economic losses, commensurate with the degree to which they are affected.

It is ironic that our first step to reduce defense spending in the 101st Congress creates so much human suffering with so little savings to the Federal Government. Unless the Department of Defense stands prepared to guarantee that the environmental, personal and economic toll will be mitigated, I will oppose adoption of the report.

I believe the Commission's recommendation to close the Presidio offers no savings to the Federal Government. Congress must judge if an overall reduction of less than one-fourth of 1 percent meets its goals to accomplish the savings intended by this legislation. I, for one, will request that Secretary Carlucci make available to us all the information on which this decision was based.

I look forward to working with Congresswoman BARBARA BOXER, Mayor Agnos, and the San Francisco community to insure that the history and beauty of the Presidio are preserved for future generations.

Included below is an article written by the commander of the Presidio, Col. Joe Rafferty. It offers his analysis of how the Presidio affects the bay area.

[From the San Francisco Progress, June 29, 1988]

THE IMPACT OF THE PRESIDIO

(By Col. Joe Rafferty)

The purpose of this article is to focus on the Presidio of San Francisco and the U.S. Army's impact on the Bay Area as a valued resource, militarily, economically, and culturally.

Many soldiers consider duty at the Presidio to be one of the choice assignments in the Army because it presents a rare opportunity to share in the history of one of the nation's most beautiful posts.

Ironically, the same assignment often results in severe hardship for soldiers and their families, particularly those lower ranking who are waiting for or unable to qualify for on-post housing. For these soldiers, what should be a pleasant and professionally rewarding experience turns into a financial nightmare which taxes the imagination of the Army and its relief agencies. Working to better the "quality of life" for our personnel continues to be a major challenge that faces every commander at the Presidio.

The Presidio of San Francisco is a special installation and, indeed, a special "neighborhood" in San Francisco, being among the oldest continually active military posts in the United States.

The first "presidio," a small fort founded in 1776 by Spanish conquistadores, predates our nation's Declaration of Independence. Parts of the original structure are still present within our current Officers' Club. Therein lie remnants of an adobe wall of the oldest building in San Francisco, the "commandancia," or headquarters of the first Presidio commander.

The post crest incorporates the shields of the Royal Houses of Spain in recognition of these historical origins. This distinctive crest can be seen throughout the post and even on the seventeenth century cannons which were brought to California by the Spanish and now grace the entrance to the Officers' Club.

American troops first raised the Stars and Stripes over the Presidio in 1847, and the United States Army has been present in San Francisco ever since. The Presidio's strategic importance was evident to early Spanish and Mexican authorities, and for the same reasons it continues as a linchpin of our Army's defense of the Western United States. As our nation grew and its interests expanded, the Presidio also grew in both size and its role. Although the garrison has always been prepared for war, no gun at the Presidio has ever been fired in anger during the post's 212 years.

The Presidio has grown with, and aided when needed, our neighbor, the City of San Francisco. We have witnessed and shared great events of the past: times of trouble and turmoil, times of building and rebuilding, and times of celebration. Through good times and bad, the Presidio and the Army were steadfastly there.

The Presidio was designated as a national historic landmark in 1960, and with this in mind, steps are being taken to ensure the retention and preservation of the historic buildings, monuments, and related land areas in the Presidio.

Many San Franciscans may not realize that the Presidio was once an uncomfortable and inhospitable place to be assigned. A century ago the Army began the process of planting thousands of trees to retain the soil, buffer the incessant winds, and convert the post to a place of beauty and stability. Today, the Presidio is, in a sense, a garden spot for the Bay Area with nearly 90 percent of its acreage classified as green area and possessing more than 75 miles of marked trails. These areas are enjoyed by hundreds of thousands of visitors yearly. The Presidio is an "open post" and visitors are welcomed and encouraged to share its scenic beauty.

In particular, San Francisco and Army history are highlighted in many interesting exhibits at the Presidio Army Museum. The museum is open to the public every day but Monday and is free of charge.

As has been the case throughout much of its history, the Presidio is a headquarters for many Army activities affecting the Western United States. In addition to commanding several units assigned directly to the Presidio, the installation provides logistical and administrative support to Active Army, Army Reserve, and National Guard units in 12 western continental states, plus Alaska. This equates to 330,000 military and civilian personnel.

The Presidio is also home to 32 tenant units, including the Headquarters of the Sixth United States Army and Letterman Army Medical Center. A major mission of the Army at the Presidio is to provide support to civil authorities in the event of natural disaster. The Sixth U.S. Army is the coordinating agency for the Department of Defense for disaster relief operations. This mission requires a close working relationship with the City government, especially in the area of earthquake preparedness. Soldiers from the Presidio helped to bring order out of the chaos of the great earthquake of 1906 and are prepared to assist again as may be required.

Although smaller in acreage than just a generation ago, the Presidio's economic impact on the San Francisco Bay Area grows. The installation's financial operations pay some 75,000 Active Army, Army Reserve and National Guard personnel. The Presidio has approximately 2,800 soldiers assigned to units on the post, as well as more than 3,200 civilian employees. This work force of over 6,000 people makes the Presidio one of the top five employers in the Bay Area.

In fiscal year 1986, the total disbursements from the Presidio reached $777 million. That figure grew in 1987 to $806 million. Most of those dollars stayed in the Bay Area. For example, during 1986, $604 million was dispersed in salaries and services. In 1987, this amount increased to $666 million. This two-thirds of a billion dollars annual expenditure clearly demonstrates the Presidio's economic importance to San Francisco and its surrounding communities.

Additionally, Army family members add over 10,000 to the Bay Area population. More than 600 children from the Presidio attend San Francisco public schools, bringing more than $1.8 million to the public school system in federal funding.

Presidio achievements in equal opportunity programs have gained recognition as the top minority and handicapped employer in the area. The Presidio currently employs over 400 workers with reportable disabilities and has received commendations from the Governor, Mayor of San Francisco, and the California congressional delegation in Washington for its leadership role as an employer of the handicapped.

Many San Franciscans will recall that during the late 1970s the Presidio was threatened with closure. The City and citizens of San Francisco rallied in support. The Presidio's importance to the Bay Area, and to the overall defense of the nation, was emphatically shown to Congress and Federal authorities, and the closure was averted. The debate did place many plans to upgrade the installation on hold and it has taken years to recover from that lack of progress.

During the past several years, construction plans were approved to provide safe and essential facilities to our soldiers, replacing deteriorating and outdated buildings. New facilities will include: much needed barracks for our troops; a new commissary where soldiers can purchase food at reduced rates; a new child care center; an expanded shopping complex, and other service-oriented facilities which will enhance the quality of life of soldiers and their families. A number of these projects are funded and should be completed within the next several years.

The Presidio's working relationship with our closest neighbor, the Golden Gate National Recreation Area—which was created from excess Army property in 1972—and the City and County of San Francisco, are excellent.

In conclusion, The Presidio of San Francisco is important to the Army as an urban military installation; but it is an equally valuable Bay Area resource. It continually grows as an economic and cultural factor in Bay Area life. It enables the public, especially during peace time, to learn more about the defense requirements of their country. They have the unique opportunity to hear a bugle blow reveille or occasionally participate in a military ceremony.

The Presidio and its people act as a reminder that the freedoms Americans enjoy have been attained by past sacrifices and can be preserved only by adequate military readiness. It should be reassuring for citizens to know that the Presidio, and the various commands located there, are prepared to lend as much assistance as possible in the event of a natural disaster.

It is my strong conviction that the United States Army has been a good steward for the Presidio of San Francisco, and its record in historic and environmental preservation speaks for itself. The post's appeal and the attractiveness of the Golden Gate National Recreation Area draw hundreds of thousands of visitors annually.

The Army extends a warm invitation to all Bay Area residents, visitors and tourists, to visit the Presidio soon, starting with a trip to our museum on Lincoln Boulevard to learn the interesting history of the post and receive a first-hand look at today's dedicated soldiers who are doing their share in our nation's defense.

LEGISLATION TO PROMOTE THE DELIVERY OF WATER AND SEWAGE SERVICE

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. ORTIZ. Mr. Speaker, I rise today to inform the House of Representatives that I have reintroduced legislation that will promote the delivery of water and sewage service, as well as other human needs, to the residents of rural areas. I originally introduced this legislation at the end of the 100th Congress, but our busy agenda prior to adjournment precluded the opportunity to conduct hearings on this issue. I hope we will be able to fully investigate this legislation during the 101st Congress, and encourage my colleagues to support this effort.

My legislation would enable municipalities to annex rural areas which develop on the outskirts of many cities. As the U.S. Representative for south Texas, many rural subdivisions, commonly referred to as colonias, are in my congressional district. Since these developments are not located within the limits of any municipality, these neighborhoods do not have access to clean water and sewage service, police, fire, garbage collection, and other services which are typically provided by a city government. Delivery of these services is also constrained because county governments are restricted by State law in Texas from assuming debt to provide these certain services. Similar limitations upon county governments in other States may result in the same roadblocks.

To fulfill these unmet needs in rural areas, water supply corporations and other quasi-public entities have formed to provide clean water to rural residents. These entities assume many different agendas and structures, and obtain financing from a variety of State and Federal agencies. In most cases, however, their seed money originates with a combination of grants and loans from the Farmers Home Administration [FmHA]. Once water service is provided by the water supply corporation, a monthly fee must be determined which is affordable for the residents. This fee represents the source of capital that water supply corporations utilize to repay their loans from Federal agencies.

At some point in the development of these rural subdivisions, an adjacent municipality may desire to annex the newly developed areas. Cities often feel an obligation to service nearby areas, and annexation offers a city the opportunity to increase its registered population and tax base. In addition, cities are often interested in extending their jurisdiction over issues related to zoning and land use. While a city obtains these benefits through annexation, they also assume responsibility for expanding water and sewage pipes, and the enforcement of building codes in the rural areas. In addition, a city must provide police, fire, and garbage service to their new citizens.

I am a strong supporter of bringing various levels of government together to address the significant needs in colonies and other rural areas nationally. In this regard, I welcome the interest expressed by cities in annexing adjacent rural areas. But removing those customers from the service area of existing water supply corporations may threaten the repayment schedules for Federal loans extended to the water supply corporations. The Federal Government, through Federal agencies such as the FmHA, have a direct investment in the rural water authorities. They are therefore understandably wary when a debtor loses a portion of the population base needed to service an existing Federal loan.

This issue was recently addressed in a U.S. Circuit Court decision on May 15, 1987, in Mississippi. The court ruled that existing Federal law prohibits municipalities from encroaching on or competing with areas that currently are served by a water supply corporation that is indebted to the FmHA.

I certainly understand the court's ruling in this decision, and empathize with the court's fear that municipalities may attempt to annex the most populous and profitable areas, only leaving distant subdivisions on the outskirts of a water supply corporation's service area. This development could seriously impair service to the remaining customers, and threaten the Federal agencies ability to collect their loan.

With these various concerns in mind, I have worked with interested parties to develop a legislative initiative which enables municipalities to annex areas, without threatening existing service or a water supply corporation's ability to repay a Federal loan. This legislation, which I am introducing today, contains provisions that ensure the municipality provides fair compensation to the currently operating water supply corporation. This compensation must take into account the terms of any loan currently extended to that water supply corporation, and their ability to repay that loan. It must also take into account how a partial annexation of the service area would impact the remaining customers, as well as estimated population changes in the general service area.

I feel this bill is consistent with last year's court ruling, and includes the necessary safeguards to protect any Federal investment and loans to water supply entities. In addition, it provides municipalities with the flexibility to annex rapidly developing areas and encourage economic development. While this legislation necessarily focuses upon the economic impact caused by such an annexation, the purpose is to expedite the extension and delivery of water and sewage services to people in rural areas. Public and private entities at all levels must contribute to this effort, and passage of this bill will encourage the partnerships which are necessary to bring clean water and sewage treatment to all the citizens of our country.

As I stated earlier, I believe it will take the combined and resolute efforts of public and private officials at the local, State and Federal levels to appropriately address the problems related to unrestricted rural development. I am encouraged by reports that legislation will be introduced in the State of Texas Legislature to create a $500 million bond program to address the unmet needs in colonias along the United States-Mexican border. I will be working during the 101st Congress to pursue Federal initiatives which respond to the needs in rural areas. I look forward to attacking these concerns with my colleagues who have similar problems in their congressional districts, and also will all Members who are shocked by the substandard conditions in which many Americans must live.

I encourage my colleagues in the 101st Congress to support the legislation that I am introducing today. If enacted, it will protect the Federal Government's investment in water supply and utility districts, while encouraging municipalities to extend their services to areas with unlimited potential. Greater investment in these areas is required before the residents can attain their capacity for physical and mental achievement. Let us provide governments with the freedom and means of making additional investment.

HONORING THE YOLO COUNTY FARM BUREAU ON ITS 75TH ANNIVERSARY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to an outstanding organization that has

served Yolo County agriculture in the highest capacity for 75 years. The Yolo County Farm Bureau is a voluntary, nongovernmental, bipartisan organization of farmers, designed to accomplish cooperatively that which they cannot do alone. The farm bureau helps farmers help themselves.

Yolo County farmers and their families formed the first farm bureau in the Sacramento Valley on March 7, 1914, to take advantage of the new Agricultural Extension Service that was established by the University of California in July 1913. The Yolo County Farm Bureau was the third farm bureau in the State, organized to help farmers work with the new extension farm advisers. The group of forward-thinking Yoloans subscribed to the basic vision of the new extension program—that practical education for the people can lead to a better society for all.

Passage of the Smith-Hughes Act on May 8, 1914, implemented a national extension program in each of 2,920 counties, involving the U.S. Department of Agriculture working through the agricultural experiment stations of land grant colleges and universities. The purpose of this landmark legislation was to aid in diffusing among the people useful and practical information relating to agriculture and home economics and to encourage its application.

Yolo County residents were eager to help promote this new partnership of Federal, State, and local funding, which was designed to bring the benefits of university agricultural research directly to farmers, and to improve the quality of life for those living in rural communities. Early cooperative farm bureau efforts involved improved agricultural practices, a better road system, rural fire protection, community improvement projects, and sponsorship of youth programs.

Then, as now, farm bureau members work directly with the University of California's county farm adviser to solve problems and improve agricultural production. The farm bureau also works closely with the county agricultural commissioner who enforces State-mandated regulations, and with the Yolo County Board of Supervisors to promote Yolo County's agricultural economy.

Through the years, members of the Yolo County Farm Bureau have exerted leadership roles at the county, State, and national farm bureau levels. The Yolo County Farm Bureau continues to win statewide recognition for its overall program, most recently garnering five outstanding achievement plaques at the State farm bureau's 1988 convention. Meanwhile, membership in the Yolo County Farm Bureau has blossomed over the years—from 67 at its initial meeting in 1914, to 2,119 in 1989.

The farm bureau plays a vital role in shaping Yolo County's future, working for the betterment of the quality of life for all its citizens. I salute the Yolo County Farm Bureau on its 75th anniversary and commend the organization for its exemplary service to agriculture and the people of Yolo County.

FIRST UNITED METHODIST CELEBRATES SESQUICENTENNIAL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. APPLEGATE. Mr. Speaker, today I would like to honor the First United Methodist Church of Bellaire, OH, during the congregation's sesquicentennial celebration. As well as commemorating the 150th year after its formation, First United Methodist is also celebrating the 100th anniversary of its present building.

In light of the growing importance of enduring peace and the dignity of the human spirit, today's religious institutions are more important than ever. The churches also play an important part here in the United States as they provide comfort, compassion and moral guidance to people across the Nation. I commend the First United Methodist Church for its past and continued participation in these processes.

Through the years this church and the members have enriched and inspired the city of Bellaire and the surrounding communities. In fact, the church is older than the city itself; and both of their histories are closely interwoven.

Mr. Speaker, I ask you and my colleagues to join me in congratulating the First United Methodist Church on this most important milestone. Even as patriotism grows in our country we must not lose sight that we are "One Nation under God."

A BILL TO DENY FEDERAL CONTRACTS TO CONSISTENT LABOR LAW VIOLATORS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, as I did in the 100th Congress, I am introducing legislation to generally prohibit the awarding of Federal contracts to consistent, willful labor law violators. This legislation will ensure that we do not reward those companies which have consistently violated the law with any Federal contracts.

Under my bill, the National Labor Relations Board would be authorized to identify and provide to the Secretary of Labor the name of any person who is in willful violation of the provisions of the National Labor Relations Act. The Secretary of Labor would then certify the identification of the person involved and forward the name of the person to the Comptroller General, who would notify each Federal agency and department of the Secretary's certification. Any person so named could not receive any Federal contracts for up to 3 years.

Twenty-two years ago, similar legislation was first introduced. The report on that bill by the House Special Committee on Labor suggested that Federal contracts be denied to repeated violators of the National Labor Relations Act. In the 94th Congress similar legislation was again introduced, and in 1977 President Carter sent a package of reform measures to Congress which included a debarment provision for labor law violators. In the 95th Congress, the House passed a labor reform bill which strengthened NLRB remedies against repeated violators of the National Labor Relations Act.

Several States had laws with similar provisions until the Supreme Court ruled in 1986 in Wisconsin versus Gould that it is the responsibility of the Federal Government—not the States—to enforce Federal labor law. Thus, the need for my legislation is more compelling given the Supreme Court's decision.

Under my bill, the Secretary of Labor may remove or reduce the contract restrictions imposed against a company or union, if there is no other source for the materials or services, or if the national interest so requires. The debarment period is a maximum of 3 years, and can only occur after a pattern of willful violations has been identified by the Secretary of Labor. Existing contracts will not be canceled. All a company or union needs to do to avoid debarment is obey the law.

There should be no financial incentive for those who break the law. We do not want our tax dollars spent on contracts with businesses which fail to uphold our labor laws. The legislation is fair and balanced, and is important for the integrity of the Federal contracting process, and for those who benefit from it. I urge my colleagues to cosponsor the bill, and I urge prompt action by the Education and Labor Committee.

IMPORTED COAL HINDERS U.S. ENERGY SECURITY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. RAHALL. Mr. Speaker, recently it was announced that Venezuelan coal will be delivered to distribution facilities in Camden, NJ, for use by utility and industrial customers. This announcement follows on the heels of the delivery of about 100,000 tons of Colombian coal to Camden during 1988.

These deliveries of foreign coal illustrate the growing threat imports pose to segments of the domestic coal industry and coalfield employment primarily from mines in Colombia and Venezuela which were built with the assistance of United States corporations.

Frankly, as a native of the rich coalfields of southern West Virginia, I never thought that I would live to see the day when the United States would begin to walk down the path of foreign coal dependency.

These coal imports represent a tumor on the energy security of this Nation. This tumor can only be diagnosed as being malignant; growing and spreading throughout the electric utility markets of the gulf and Southeastern States with foreign coal even penetrating the Northeastern region as well.

Today, I am once again introducing two measures aimed at addressing the inequities

that exist which I believe are partly responsible for making foreign coal so attractive to certain domestic buyers.

The first measure would simply impose an $8 per ton duty on imported coal. No tariff is currently collected on these imports. The purpose of the duty is to offset the competitive advantage foreign producers have as a result of not having to meet environmental, health, welfare and safety requirements of the kind imposed on U.S. coal producers.

The second measure seeks to address one of the factors which have been an essential element in the establishment of new mining operations in both Colombia and Venezuela: the financial and technical expertise of United States mining entities. In this regard, the legislation would prohibit the issuance of new Federal coal leases to any entity which is involved in the production and importation into the United States of foreign coal. From a public policy standpoint, I see no reason why the people of this country should award these companies with public coal resources when these very same entities are responsible for robbing other producers, such as those in my State of West Virginia, of market opportunities.

TRIBUTE TO THE HOME SAVINGS & LOAN CO. OF YOUNGSTOWN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today in order to pay tribute to one of the finest institutions in my 17th Congressional District of Ohio, the Home Savings & Loan Co. of Youngstown.

This outstanding institution will celebrate its 100th anniversary on January 15, 1989, and will hold a luncheon to mark the occasion on January 12, 1989, at the Wick-Pollock Inn in Youngstown.

The Home Savings & Loan of Youngstown has served the needs of the Youngstown area and the surrounding communities faithfully for 100 years largely through the efforts of the McKay family. James M. McKay was instrumental in founding the institution and was its president from 1921 until 1944, when his son, J. Russell McKay, became its president and served until 1966. Donald B. McKay, the grandson of James, continues the family tradition of serving as the head of Home Savings & Loan by serving as the company's president from 1966 to the present.

Mr. Speaker, it fills me with a great sense of pride to represent the people of Home Savings & Loan of Youngstown. I want to extend to them my most sincere wishes for a bright future and continued dedicated service to the people of the Mahoning Valley.

TIPS AND TAXES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, today I reintroduced legislation addressing the horrendous administrative mess caused by the present taxation of tips. The treatment of tips under our Federal income tax is a source of agony for both taxpayers and tax collectors. Although a tip is a voluntary and gratuitous gift, current law requires it to be reported as part of the gross income of the recipient.

Most of us realize that the tax on tips is administratively impossible to proctor and collect. A congressional mandate was made which could not be fulfilled, rendering the law an hypocrisy. Because compliance cost is economically prohibitive, the law-abiding employer cannot be effectively law abiding. This paradox forces honest men and women outside of the law, while simultaneously decreasing the credibility and force of the law. The result has been a broadening of the noncriminal underground economy, estimated to be as great as $500 billion in 1984. Enactment of this bill would account for a significant portion of the underground economy, relieving the Government's frustration over tax avoidance.

Tip income should not be considered equal to a salary earned income. Salary income is secure, consistent, and contractually guaranteed. Tips are voluntary, gratuitous, and subject to the sole discretion of the customer. Those employees receiving them lack certainty and security in their takehome pay which fluctuates on a daily basis. Providing them with a tax benefit compensates for this insecurity, so as to equalize their position with the secure wage earner. Removing tips from gross income is another prolabor proposal targeted at the little guy. Cab drivers, bartenders, bellhops, waitresses, porters, and others collecting tips would have a tax free cash available for savings and investment. While workers who fail to report their tip income are forced to spend income, tax free tips would allow workers to save and invest this money without fear of Internal Revenue Service investigations.

In addition, this legislation would provide greater efficiency to the Tax Code. The service industry as a whole would improve if tips were given tax free status. Tax free tips would provide an important incentive to workers and would enhance the quality of work in the service industry. The minimum wage laws would be unaffected by this bill, and employers would still be in compliance with the law.

Excluding tips from gross income would simplify the Tax Code during a period when the public is still wondering where to find the simplicity which is claimed to exist somewhere in the voluminous Tax Reform Act of 1986. This bill would eliminate much of the compliance and administrative difficulties, ease the frustrations over the growing underground economy, promote tax equity, and provide important tax benefits to the foundation of our labor class. I urge Members to consider the public's call for tax simplification, tax fairness, and tax efficiency, and support this bill.

RESOLUTION TO SAVE THE ESSENTIAL AIR SERVICE PROGRAM

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. HAMMERSCHMIDT. Mr. Speaker, yesterday, I introduced a resolution to strongly urge the Department of Transportation [DOT] not to implement the cuts in the Essential Air Service [EAS] Program that it proposed in notice 88–18.

Second, 1 year ago, Congress reauthorized and revised the EAS Program. The purpose of this reauthorization was to ensure continued air service to the small communities and rural areas of this Nation and to correct existing deficiencies in the program that had caused service and passenger usage to deteriorate at some communities. I continue to believe that this revised EAS Program, if fully and faithfully implemented, will be beneficial to small communities and the national air transportation system.

Third, therefore, I was very disappointed to see the recent DOT proposal that would eliminate air service at some 30 to 50 communities. It would have been better if that department had spent the time issuing the necessary rules and procedures to implement the new EAS Program rather than developing options for cutting the old one.

Of course, I recognize that the current fiscal year 1989 appropriation for EAS is below the level needed to sustain current service levels. But this is nothing new.

Fourth, in the past, when the Civil Aeronautics Board [CAB] was responsible for the program, the initial appropriation was often insufficient to carry the program through the entire fiscal year. However, in each case, Congress eventually came through with a supplemental appropriation. This year should be no different. Indeed, there is some indication that the low EAS appropriation was due to a misunderstanding about the amount actually needed to maintain current EAS. This can easily be corrected by a $6.6 million supplemental appropriation.

Fifth, it is my hope that Congress will soon begin a legislative effort to obtain the necessary funding. But given the time it will take to organize the new Congress and begin the legislative process, there is no way that a supplemental appropriation can be passed before the March 1 deadline when the service cuts will take effect under the DOT proposal.

Therefore, it is absolutely essential that DOT not implement the proposed cuts and that it give the legislative process time to solve the problem.

Sixth, to do otherwise would be very damaging to the 30 to 50 communities that would lose air service under the DOT proposal. Once that air service is gone, it will be very difficult to get it back and redevelop the market. The best approach is to maintain the service at current levels and await the supplemental, even though there is a risk of greater cuts later if the legislative effort fails.

In sum, my resolution calls on the Secretary of Transportation not to implement the proposed EAS reductions until Congress has a chance to appropriate supplemental funding for this program.

Seventh, I know that many of my colleagues are also adversely impacted by the EAS cuts and I invite them to join me in cosponsoring this resolution.

VERA MIOSSI—THE NATION LOSES A GREAT CITIZEN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. PANETTA. Mr. Speaker, Vera Miossi of San Luis Obispo County died on October 18, 1988, at the age of 97. But before she died, she set an incredible standard for citizenship to which all of us could aspire.

On the day before she died, Mrs. Miossi cast her last vote, by absentee ballot, for President of the United States. It represented the 20th consecutive Presidential election in which she had voted. From 1912, when she first voted, until 1988, she never missed a Presidential contest. I might add that she was one of the first women to vote in a Presidential election in this country.

I know my colleagues join me in expressing condolences to the family of Vera Miossi upon her death. But I am sure that her family takes pride in her record of citizenship, which also included active participation in numerous citizens' groups and, along with other family members, important contributions of property to local and State government for public purposes.

Mr. Speaker, following is the text of an article about Mrs. Miossi that appeared in the San Luis Obispo County Telegram-Tribune soon after her death. I recommend it to the attention of the Members.

[From the San Luis Obispo County (CA) Telegram-Tribune, Oct. 20, 1988]

VOTER VERA MIOSSI, 97, CASTS ONE LAST BALLOT

(By Warren Groshong)

Vera Miossi wanted in the worst way to cast her ballot Nov. 8.

After all, she had voted in every presidential election since 1912.

But at 97 and in very frail health, the San Luis Obispo County native was afraid she wouldn't last until election day.

Well, Vera Miossi got her wish.

With the help of her son and her nurse, she completed an absentee ballot Monday morning and it was filed with the county clerk.

The following afternoon, Tuesday, Oct. 18, 1988, exactly three weeks before the election, Vera Miossi died in the Miossi La-Cuesta Ranch house where she had lived for 72 years.

George Tays, county elections supervisor, said she was the voter of longest standing in the county, having voted in 20 presidential elections without a miss.

Mrs. Miossi was born Feb. 4, 1891, to pioneer Italian Swiss settlers, James and Sophia Giorgi Gnesa in Green Valley near Cambria. The property later was acquired by the Hearst family.

A homemaker most of her adult life, she was active in many farm, historical, social, community and Catholic organizations.

In 1958, she joined with her sisters in contributing 150 acres of Bishop Peak to the State Park Foundation. In the 1950s, she and her brother-in-law, Arthur Miossi, contributed acreage for a portion of Cuesta Park adjacent to their LaCuesta Ranch. Her son Harold gives this account of his mother's voting record, starting when she registered for the first time in 1912:

"That was the year California franchised women to vote, long before the ratification of the U.S. Constitution in 1920.

"She had just commenced working at the White House Grocery which was then located at the site of the present Coldwell Banker real estate office across from Mission Plaza. Because there was an initiative on the California ballot that year to restrict the sale of spirits which was a large part of the grocery's business, the management encouraged her to register to vote.

"On that same ballot was the historic election for President when the Bull Moose ticket split the Republican ranks in California by running Theodore Roosevelt and Hiram Johnson. Because Governor Johnson controlled the Republican organization, he kept Taft's name off the California ballot, with the result that Roosevelt and Johnson carried enough electoral votes to deny the election to Taft and give the White House to Woodrow Wilson."

She "often commented that she voted for Taft; if she did she would have had to write in his name.

"In 1960, enamored with President Kennedy, she changed her party affiliation to Democrat. She had warm feelings for President Dwight Eisenhower because they were born the same year, same month, but these warm feelings did not appear to extend to subsequent Republican Presidents."

Mrs. Miossi's husband, Ben E. Miossi, died in 1945. She is survived by two sons, Bernard of San Francisco and Harold of San Luis Obispo; a sister, Hilda Giacomazzi of San Luis Obispo and nieces and nephews.

A Mass of Christian burial was celebrated at 10 this morning in the Old Mission Church. Burial was to be in the Lawn Memorial Cemetery.

The family requests that contributions go to favorite charities.

WORD GAMES FOR FARMERS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. BEREUTER. Mr. Speaker, the elimination of foreign barriers to United States agricultural imports and of domestic agricultural subsidies that distort farm trade has been the consistent objective of United States negotiators at the current round of GATT negotiations in Geneva.

The administration, the United States congressional delegation and other agricultural representatives attending the midterm review meeting in Montreal last month should all be praised for holding the line on the United States position.

Ambassador Clayton Yeutter, as the U.S. Trade Representative, has done a commendable job on behalf of agriculture, spearheading the charge for a change in the GATT rules governing agriculture. As the Secretary-designate of the U.S. Department of Agriculture, he provides continuity in pressing the U.S. position.

Future progress in the GATT negotiations, and the future for improved trade relations with our trading partners in general, hinge upon the resolution of the agricultural barrier/export subsidy issue. Failure to do so will prove foolish for the Europeans, and expensive to both the United States, the European Community, and other agricultural exporting countries.

The following is an article which recently appeared in the Economist which illustrates why it is in the best interests of the Europeans, and the United States, to reach an agreement concerning new rules governing agricultural trade at the GATT.

WORD GAMES FOR FARMERS

[From the Economist, Dec. 17, 1988]

Agriculture is the monstrous carbuncle on the fair face of free trade. For the past two years the governments of the big farming countries have solemnly promised to remove the blemish. Last week in Montreal their trade ministers got their chance—and botched it. Their talks ended in bitter deadlock between Europe and America over whether they should "eliminate" or merely "reduce" trade-distorting farm subsidies by the end of the century.

The key words in this semantic spat are "trade-distorting". The basic flaw in the agricultural policy of most OECD countries is the belief that stable and adequate incomes for farmers should be achieved by supporting farm prices and dumping excess production abroad. This technique means that consumers and taxpayers make big farmers richer while small ones still only scratch a living. Indiscriminate largesse produces such nonsenses as each American dairy cow getting $1,400 of government cash in 1986, more than the GDP per head of over half the world's population.

America cannot afford to go on spending this much to increase its surpluses. But its politicians will not put a stop to the excesses until other countries have agreed to do the same. In the distrustful world of farming negotiations, only a firm promise to eliminate price support—the "zero option"—will satisfy the Americans.

When told this goal is unrealistic, Mr. Clayton Yeutter, the American trade negotiator who will be Mr. Bush's agriculture secretary, asks "Why?". The Europeans have several unconvincing replies. The underlying reason, they say, is that the European Community has almost three times as many farmers as America, and European farms are on average less than a tenth of the size of those in America. The CAP lies at the heart of the Community. And, with 1992 looming, now is not the time for open heart surgery.

These are just excuses, and bad ones at that. A thorough revamp of European agriculture would give the Community exactly the economic boost it needs. One recent IMF study calculates that abolishing the CAP would, at the end of five years, shave 1¾% off West Germany's consumer prices and boost its employment by 5½% and real GDP by 3½%.

After last week's meetings in Montreal, there is even more at stake than forgoing such gains. The negotiators made much progress in other areas, especially towards

GATT rules for trade in services. If America and Europe cannot settle their differences over the long-term aim of agricultural reform by the first week in April, this progress on services and other issues will be thrown into the bin. If this were to happen, Europe would lose at least as much as America.

HORMONE WAR

Without agreement, the prospect of a farm war between Europe and America will become reality. From January 1st Europe intends to block all imports of hormone-treated meat, which come mainly from America. The Americans promise to retaliate. Congress will start drafting a new farm bill in 1989. Unless Europe accepts the core of the zero option, the bill will prepare for an export-subsidy war.

Europe cannot afford to laugh off this threat. Though the American administration is strapped for cash, it has rarely resisted calls to support farmers. Nor can Europe afford to go on blaming American intransigence for the lack of progress on agricultural reform. Instead, it should exploit the two vital areas where America is flexible. One, the zero option does not call for the abolition of all subsidies to farmers, and hence of the European peasantry; its emphasis is on price supports that distort trade. So the EEC would be able to promise farmers that it will gradually shift its spending from price to income support. And two, the United States has relaxed its end-of-century deadline for eliminating the most offensive subsidies. Both points offer a way ahead for Europe and America to reform farm trade—and save the GATT round.

PEACE IN THE STRUGGLE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CLAY. Mr. Speaker, I was very pleased to learn of the publication of George Lipsitz' book about one of St. Louis' outstanding black leaders, Mr. Ivory Perry.

Mr. Perry has devoted his life to the struggle for civil rights and racial equality. He is also a personal and political friend with whom I have walked many picket lines and protested many injustices. His story, "Peace in the Struggle" is a true tale of history and heroism and I commend the author for sharing it with us. Ivory Perry is an excellent role model and an inspiration for leaders, for youth, and for all black Americans.

The following description of George Lipsitz's work appeared in the St. Louis Whirl-Examiner, November 15, 1988.

[From the St. Louis Whirl-Examiner, Nov. 15, 1988]

A MAN AMONG MEN IN THE RACE FOR RACIAL JUSTICE

Using oral histories and extensive archival research, George Lipsitz tells the story of Black worker and community activist Ivory Perry and examines the culture of opposition through the events of Perry's life of commitment.

"This powerful book tells of Ivory Perry's choice of a life of protest not in splendid isolation, but in intimate conversation with our world. Perry knows and can tell us what it is to be poor and Black in America. His story assigns our task. By placing Perry's actions in the Civil Rights struggle within a theoretical context, rather than settling for anecdote. Lipsitz prepares us to confront this assignment. And Perry reminds us we had better get to it." William S. McFeely, University of Georgia.

"Lipsitz may be the first American historian of radical social protest who gives full range to the psychological complexities of the historical actors, without either scolding . . . or essentially lionizing . . . the chief protagonist. The narrative, which unravels almost like a novel, is both stirring and immensely tragic. Drawing upon historical and sociological scholarship. Lipsitz raises the insights up to a phenomenological or existential level."—Mari Jo Buhle, Brown University.

"This is a very rich history of a rank and file leader of the Black movement . . . Hopefully it will be a prototype for books that emphasize the fact that social movements put up their own leaders whose qualities of leadership are precisely the same as the values and aspirations of the members of the movement."—George Rawick, University of Missouri.

The story "Peace In The Struggle" is at all local book stores.

INTRODUCTION OF LEGISLATION TO MAKE RETIREMENT BENEFITS A MANDATORY SUBJECT OF COLLECTIVE BARGAINING

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, today I am introducing legislation which would make retirement benefits a mandatory subject of collective bargaining. The legislation would protect the rights of retirees who face rising costs of living, but who do not have the resources to meet the increased costs; 18 years ago the Supreme Court ruled in Allied Chemical and Alkali Workers of America versus Pittsburgh Plate Glass Co., that retirement benefits are not, under section 8 of the National Labor Relations Act, a mandatory subject of collective bargaining. This overturned the NLRB's position on retirement benefits. My bill adopts the original position of the NLRB.

The bill would amend the National Labor Relations Act to make retirement benefits a mandatory subject of collective bargaining. Since the 1971 U.S. Supreme Court decision, millions of retirees have lost the opportunity for improved standards of living because their pension and health benefits have remained unchanged. It would restore the ability of unions to bargain about retirement benefits, thereby giving retirees a chance at improved pensions and health plans. In addition it is illegal to make unilateral changes in an area considered to be a mandatory subject of bargaining. Without this legislation, conditions affecting retired employees can be altered unilaterally by labor or management.

In many cases the retired employees helped to build the company for which they worked. To that extent, they should be able to share in the future successes of that company. I urge that this bill move beyond the hearing stage to enactment, and I hope that my colleagues will join me in this effort.

REINSTATE PREFERENTIAL TREATMENT OF CAPITAL GAINS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, the Tax Reform Act of 1986 has nullifed the many positive actions taken since 1978 to reduce the rate of taxation for capital gains. Despite the lessons of history and the indications of recent studies, Congress has again arbitrarily raised the maximum rate from 20 to 28 percent. Not only will the increased rate discourage investment, it will also reduce the future revenues collected from the tax. A review of the history of the capital gains tax will show that a cut in the rate has always increased revenue. Recent economic studies also indicate this will be true in the future. It is evident that the revenue maximizing rate is about 15 percent so I have introduced appropriate legislation that will set the rate of taxation of capital gains at 15 percent.

Capital gains are those gains resulting from the sale of capital assets, such as stocks, bonds, and real estate. Until passage of the Tax Reform Act, long-term capital gain—long-term gain was that resulting from the sale of a capital asset held for longer than 6 months—was entitled to preferential tax treatment. In general, 60 percent of the long-term capital was excluded from tax. The highest effective tax rate on a long-term capital gain was excluded from tax. The highest effective tax rate on a long-term capital gain was, therefore, 20 percent—40 percent of the long-term gain subject to tax times the highest marginal tax rate, 50 percent.

In the early 1970's, Congress doubled the maximum tax rate on capital gains from 25 to 49 percent. The motivation for this dramatic increase was ostensibly to increase tax revenues, but these high capital gains tax rates caused those years to be some of the most unproductive in recent history in terms of capital investment and small business growth. Many businessmen and high technology innovators still refer to those years as the "dog days of the entrepreneur." The venture or risk capital needed to begin and finance the growth of new corporations virtually disappeared. A period of economic stagnation ensued, and many corporations went under, went deeply into debt, or in the case of many high technolgy companies, were forced to sell or license their products to foreign corporations.

Mr. Ed Zschau, a Congressman from the State of California who retired his seat at the end of the 99th Congress, was a young entrepreneur just starting out in Silicon Valley at this time, who somehow managed to survive this difficult period. As he related over 2 years ago to the New York Times:

In the early 1970s when my company was first getting off the ground, venture capital sources had pretty much dried up. What I did and what many other companies had to

do, was seek capital from foreign companies. But in order to get the money, we had to sell licenses or technology or go into joint ventures. Unfortunately, we sold a lot of our goods off.

Something is wrong with American genius. American ingenuity and American entrepreneurial skills are being leased or sold to our foreign competitors for lack of venture capital to finance their development.

Then, in 1978, behind the leadership of the late Congressman Bill Steiger, Congress acted to reduce the capital gains tax rates from 49 to 28 percent. The results were astonishing, even to those who had proposed the reduction. Within a mere 18 months, more than $1 billion of new venture capital poured into funds for investment in new and growing companies. With a further reduction to 20 percent in 1981, the United States experienced a virtual explosion of investment and capital formation. This explosion has resulted in over 1 million new jobs since 1978, and contrary to the predictions of many, has actually increased capital gains tax revenues. In 1979, the first year of the Steiger tax cut, the Treasury Department, collected $11.7 billion in capital gains tax revenues, up from $8.1 billion collected in 1977 and $9.3 billion collected in 1978. So much for the expected decline in revenues.

Most experts agree that the Tax Reform Act of 1986 will have devastating effects on the formation of capital and will undoubtedly result in a marked capital gains tax revenue loss over the next few years. Harvard Prof. Lawrence Lindsey has simulated the revenue impact of the 1986 tax reform legislation and the proposed 15 percent rate as opposed to the past rate. For the 3 fiscal years from 1988 to 1990 the 1986 tax reform rate would result in a projected loss of $31.7 billion whereas the 15-percent rate would result in a projected gain of $14.8 billion. This is not an isolated instance; five other recent studies have indicated that the optimum capital gains rate lies between 9 and 21 percent. If the Tax Reform Act of 1986 is not amended, capital will become more expensive and our productivity, innovation and economic growth will therefore be reduced. As a result, Federal tax revenues will be diminished as proven both by economists and by history.

Furthermore, the 1986 reform will have the effect of dramatically increasing the capital gains taxation for lower- and middle-income taxpayers who were never subject to a maximum capital gains rate of 20 percent, even under the law in effect before this reform. Take, for example, a retired individual who holds stock as a portion of his security for his retirement. This individual must often sell his stock holdings to provide income on which to live. Under the law in effect prior to passage of this tax reform, however, the entire amount of the gain realized on the sale of these capital assets will be subject to taxation as ordinary income. For a person on a fixed income, struggling to make ends meet, the difference between these two amounts can be critical.

Also surprising to those who believe that a cut in capital gains tax is solely to the benefit of the wealthy are Dr. Martin Feldstein's findings on the origin of the revenue gain from the proposed 15-percent tax. Taxpayers with gross incomes of $100,000 and above would account for over 80 percent of the increased revenue and those with gross incomes of over $200,000 would account for over 50 percent. Thus, a cut in the tax will raise greater revenue from the wealthy who trade at their own convenience, while a hike in the tax will hurt the needy and the elderly who must realize their gains when they need the money.

When the rate of taxation of capital gains is cut, the wealthy willingly pay more taxes because the tax on capital gains is characterized by a voluntary nature of payment. The payment is voluntary because the asset need not be sold and the gain realized if the rate of taxation is deemed too high by the investor. A higher rate discourages the sale of capital assets in an attempt to avoid realizing the capital gain. By this mechanism the investor is locked into investments and the capital market is diminished. Because the investor chooses not to realize gains the Government receives less revenue at the higher rate. When the rate is reduced the market is stimulated and more gains are realized, yielding greater revenues from their taxation.

The fact that investors change their behavior in response to changes in the tax law requires a dynamic analysis of revenue estimates. Many of the studies cited by the opposition are static estimates that do not account for the change in behavior of the taxpayer. A dynamic analysis of the rate indicates that a cut in the rate will again raise the total revenue.

It is essential that we restore preferential capital gains treatment to a maximum rate of 15 percent. By enacting this legislation Congress can help to maintain a favorable atmosphere for economic growth and encourage sensible innovative risk taking. Capital formation cost must remain cheaper at home than abroad so we will not force entrepreneurs to seek financing abroad to develop and implement their innovations. In addition to increasing revenue through enhanced investment, the reduced rate will create more jobs and thereby also raise more revenue. This legislation puts a challenge before Congress to correct one of its great blunders of the Tax Reform Act of 1986.

FASHION FOUNDATION OF AMERICA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. TOWNS. Mr. Speaker, I wish to take cognizance of the programs of the Fashion Foundation of America, aimed to stimulate better design for better living through awards recognizing exemplary people, places, and products.

There was a need to encourage American design talent in the field of fashion at a time when the Paris label was the distinguishing factor in women's wear and the British imprint the symbol of good taste for the men's wardrobe.

While the initial recognition programs were limited to awards for American people, places and products to aid American industry, the citations now are worldwide.

One facet is the annual selection of "Best Dressed Men," originated by Charles Richman, publisher of the Brooklyn Record, who serves as the awards program coordinator.

John Tudor, prominent New York custom tailor and designer, has been serving as chairman of the Men's Division Board of the Fashion Foundation of America. A former president of the National Association of Custom Tailors and Designers of the United States and Canada, Mr. Tudor is highly respected in the industry.

Selections of best dressed men are based on budget as well as occupation with the ability to be "dressed best" for a particular endeavor. The search is continuous.

The Fashion Foundation's 47th annual list of "Best Dressed" men:

Statesman, GEORGE BUSH, President-elect.

Government, Senator LLOYD BENTSEN, Texas.

Civic Affairs, Mayor Tom Bradley, Los Angeles.

International Society, Prince Andrew, Duke of York, England.

Business, Mortimer Levitt, the Custom Shop, Shirtmakers.

Entertainment, Benny Hill, England.

Sports, D. Wayne Lucas, horse-trainer, Belmont Park, NY-Santa Anita, CA.

Communications, Maury Povich, Fox Television.

Law, Raoul Lionel Felder, New York.

Arts, Philip Johnson, architect, New Canaan, CT.

The Fashion Foundation selections have become the hallmark of distinguished dress illustrative of fashions of their time. Presidents cited will go down in fashion history and be remembered: Franklin D. Roosevelt for his cape; Dwight Eisenhower, the jacket; Harry Truman, colorful shirts; Jimmy Carter, jeans; and John F. Kennedy, three-button jacket.

Senator PATRICK MOYNIHAN's head gear influenced hats and Florida radio talk show personality, Alan Burke, favored the crew shirt.

In the "Hall of Fashion Fame," President Ronald Reagan joins Bob Hope, Cary Grant, Jackie Gleason and Fred Astaire, all noted for their eloquence.

The pioneering recognition program of the Fashion Foundation has cited among others: Samsonite luggage, Stetson hats, Alan Stuart sportswear, Renault auto, Haig and Haig Pinch bottle, and Black and White Scotch packaging, and so forth.

A survey for the "Fashion Car of the Year" and the "Fashion Foreign Car of the Year" is current and nominations are invited.

A return to the program of listing America's best dressed women on an annual basis is being considered. Coordinator Charles Richman states that the Fashion Foundation was the first to recognize Jacqueline Kennedy for her fashion leadership, citing her prior to her White House years. He also produced best dressed programs in the women's fashion field including a national CBS luncheon from the Waldor featuring Helena Rubinstein, Carmel Snow of Harper's Bazaar, Eve Symington, Jessica Dragonette, Helen Menken and Dorothy Kilgallen.

Mr. Richman coordinated a best dressed luncheon at the Pierre aired by NBC and featuring Claudette Colbert. Early on, he also coordinated programs citing Katherine Hepburn, Kitty Carlisle Hart and Lauren Bacall as fashion personalities.

The foundation believes that historians will acknowledge the importance of dress in dealings of leaders of nations. President Reagan's summit meetings with Secretary Gorbachev and later with Canada's Prime Minister Mulroney were on a firm fashion footing, all three having been cited by the Fashion Foundation of America.

An added note of the changing times, as drawn from the Fashion Foundation selections, is that earlier it was Prince Alexis Obolensky who was cited, a former Russian who came to New York. Later the Russian accent on the list was that of Secretary Gorbachev.

The Fashion Foundation of America insignia, symbolic of citation, was designed by artist David Lax, whose paintings are in musuems across the Nation. Director emeritus of the Dutchess Community College art department, he has chaired many of the foundation's selection programs. Also participating has been artist Robert Benney, noted for his collection of theatre art and military ship memorabilia, as well as illustrations.

RONALD (RANDY) CLAIR RANDOLPH RETIRES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to a truly sensational man, Mr. Ronald (Randy) Clair Randolph. I have known this man since my days in the California State Legislature, approximately 20 years. I assure you, that it is with great pleasure that I stand here today and commend Randy for his many contributions to San Bernardino County and wish him all the best for a well deserved retirement.

Ronald Clair Randolph was born in Bath, NY, August 7, 1933. After graduating from Havering High School he began an exceptionally honorable career in the U.S. Army by enlisting in December 1951. While remaining active in the Armed Forces, he married Lorraine and continued his military dedication until he was honorably discharged in February 1958. Randy's commitment to his country did not go unobserved for he received several decorations; notedly, the Korean Service Medal with two Bronze Stars, the Commendation Ribbon with medal pendant, the United Nation's Service Medal, the Presidential Unit Citation, and finally, the Purple Heart.

Soon after Randy's discharge from the military in 1958, he began his tenure with the State of California accepting a position in the Department of Corrections Division. He worked as a corrections officer until 1962 when he made the transition to police officer. Randy served in that capacity for only 1 year, for in 1963, he was promoted to deputy marshal of Los Angeles County where he continued to serve through 1970.

San Bernardino County was smart enough to embrace the opportunity of appointing Randy to their municipal court district as marshal of the municipal courts from 1970 to the present. Randy retires this year, after providing the marshal's office of San Bernardino County with over a quarter century of growth and success, labeling it one of the most progressive marshal offices in the State of California. Marshal Randolph has given unselfishly of his time and energies to the judicial system of our State. He is known by his peers and his coworkers as one who does not yield to pressure nor compromise his ideals. He will be missed by those of us who have known him and worked with him all these years.

I must say, and I think Randy would agree that the love and support of his wife, Lorraine, their three children, two grandchildren and a host of friends has helped to give him the strength and will to serve the county of San Bernardino. Thank you Mr. Speaker, for joining me here today to extend my appreciation to a remarkable man, and good friend.

A TRIBUTE TO THE HONORABLE C.J. McLIN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. STOKES. Mr. Speaker, on December 27, 1988, the State of Ohio and our Nation mourned the loss of a dedicated leader and noted black legislator. Ohio State Representative, Clarence Josef McLin, Jr., or C.J., as he was affectionately known, passed away following a lengthy battle with cancer.

First elected to the Ohio Legislature in 1966, C.J. McLin established himself as a black leader in the State house. At the time of his death, he was also known as one of the most powerful black politicians in the State of Ohio's history. In 1967, C.J. founded the Black Elected Democrats of Ohio. Under his leadership, the organization fought discrimination in housing, education, and successfully campaigned to assure State contracts for minority business firms.

C.J. McLin was a champion of public service. His constituency benefited from his commitment to welfare reform, housing, health care, and economic development. He was a tireless advocate on behalf of Central State and Wright State Universities over the years. He investigated prison conditions in the State of Ohio and was responsible for reform legislation. He was also the major force behind the now famous National Afro-American Museum and Cultural Center in Wilberforce, OH.

Mr. Speaker, during his lifetime, C.J. McLin epitomized everything that a politician ought to stand for. He was a man of impeccable integrity, competence, and loyalty. He was also a great teacher. I have benefited greatly from his friendship, advice and counsel during my tenure in Congress. I will miss the close friendship we shared.

On behalf of the Congressional Black Caucus, we extend our deepest sympathy to C.J.'s family, his many supporters and friends.

Mr. Speaker, I am pleased to submit a recent editorial from the Cleveland Plain Dealer regarding C.J. McLin. I hope that my colleagues will join me in paying tribute to this great humanitarian and leader.

[From the Cleveland Plain Dealer, Jan. 4, 1989]

C.J. McLin, Jr.

Then frail and sickly, C. J. McLin Jr. smiled his patented grin at the Democratic National Committee last summer when he proudly led the Jesse Jackson contingent from Ohio. It was a long time coming for the man who had a gimpy leg because a white hospital would not treat him as an injured child, who was discriminated against when he was in the Army by being refused counter service at the PX, and who grew up in such poverty that his mother would split a candy bar three ways for her children. McLin lived long enough to become a towering civil rights leader in Ohio and the founder of the Black Elected Democrats of Ohio, McLin, 67, a Dayton Democrat, died last week after a lengthy bout with cancer.

Rep. Louis Stokes fondly recalled how McLin outslicked the Cleveland contingent at the first BEDO conference by packing the hall with black officials from a small Cincinnati suburb to outvote the big city guys from the North. McLin established himself as the black leader at the Statehouse and he stayed at the top. He made good use of that power. He helped rebuild Central State University after it was blown apart by a tornado. He was the driving force behind the establishment of an Afro-American museum in Wilberforce. He investigated prison conditions in Ohio and pushed through needed reforms. And he was the architect of the minority set—aside program for state contractors, McLin, who chomped on an ever present cigar, was a back-room politician who cut deals with senators, governors, and even presidents.

As an old-time civil rights leader, McLin ran his Dayton district in keeping with his surname—like an Irish political boss. His constituents lined up Saturday mornings in front of his funeral home for favors, jobs, recommendations and money. He bailed kids out of jail during the 1960s riots and took them home to their parents by the scruff of the neck. When those kids got older, he found them jobs with local government agencies. There's hardly a family in his district that did not owe McLin a favor—it was returned at the ballot box where he controlled an awesome bloc of votes. But his true power came from the force of his convictions. He never backed down and he never gave up.

At the convention, he was proud that he was given the opportunity to vote for a black man for president. Yet, Jesse Jackson would not have made it that far if it had not been for C.J. McLin, Louis Stokes, George Forbes and the other courageous black leaders sitting in the convention hall who built strong party organizations that supported Jackson's candidacy. C.J. McLin was a man of his turbulent times—but he made them less troublesome. To the naysayers who believe that politics does not matter, McLin proved them wrong. And for those who believe there are no more leaders, C.J. McLin was one of the best.

HUMAN RIGHTS CONFERENCE IN MOSCOW, 1991

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. YATRON. Mr. Speaker, I have some strong reservations regarding the administration's acceptance of a Helsinki human rights conference in Moscow in 1991. I believe that the decision is premature.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have been closely monitoring human rights developments under Soviet President Gorbachev. Clearly, the improvements in human rights in the Soviet Union over the past several years have been substantial, meaningful, and laudable. No one has been more encouraged by what has transpired in that country than I. Hundreds of political prisoners have been released. Jewish, Armenian, and ethnic German emigration is significantly higher today than it was 3 years ago. The jamming of Voice of America and of Radio Liberty/Radio Free Europe has ceased. Reforms of psychiatry and of the Criminal Code are underway. Most family reunification cases have been resolved. The press has been allowed much greater freedoms. Restrictions on speech, religion, assembly, and association have been significantly relaxed. Intellectual and cultural expression is much more diverse. Less state control of the economy and some steps toward more public involvement in the political process has been achieved and is continuing. Heavy handed tactics against dissidents are not used as in the past.

President Gorbachev deserves credit for many of these positive changes. However, President Reagan and the Congress have continued to place human rights at the top of United States-Soviet bilateral relations.

Unfortunately, I remain deeply concerned that the human rights reforms have not been institutionalized, are arbitrary, and could be rescinded depending on the vicissitudes of Soviet politics. I also believe they do not go far enough to justify holding a human rights conference in Moscow.

In free societies, freedoms and liberties are guaranteed by law and protected by an independent judicial system. Due process protects defendants against Government unfairness. Pluralism ensures that various sectors of society are engaged in the political process.

I am not convinced, at this point, that the Soviet Criminal Code is sufficiently reformed, that the Soviet judicial system guarantees fair trials, that due process is fully respected, or that those outside the Communist Party, espousing views at variance with President Gorbachev, are not subject to Government action. The KGB has not been reformed and can still engage in excesses, impinging on the rights of Soviet citizens. The checks on the power of the Government and the party are tenuous.

The subcommittee continues to receive reports of some troubling developments. Various regional officials have apparently interpreted the reforms differently. Some individuals participating in a protest in Lviv, Ukraine, were subject to criminal action. Ukrainian dissident Ivan Makar was imprisoned this summer, and activist Sergei Grigoryants faced arrest and other forms of harassment. Armenian activist Arykian was expelled. Individuals who want to assemble and protest, face many obstacles. Organizations and associations independent of the party are not accepted and may be subject to criminal action. Government regulation of religion still exists.

In short, we simple do not know how long lived Gorbachev's reforms will be, or whether they will precipitate further improvements. I believe it is premature to agree to a human rights conference in Moscow at this point, regardless of how it may strengthen Gorbachev's efforts toward greater reforms. I would rather wait a little longer before committing to a conference. Too many questions remain.

THE ELDERLY HOME CARE TAX CREDIT ACT OF 1989

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, I rise today to introduce legislation which provides a tax credit for individuals who care for elderly relatives, or those with Alzheimer's disease, in their homes.

This legislation amends the Internal Revenue Code of 1986 to create a new tax credit modeled after the dependent care tax credit under present law. The credit would generally equal 30 percent of qualified elderly care expenses. The percentage amount would be reduced as the taxpayer's income increased from $25,000 to $75,000 at which point the credit would completely phase out.

Examples of qualified expenses include home health agency services, homemaker services, adult day care, respite care, or health care equipment and supplies. Expenses for these purposes, made on behalf of family members who are over 70 years of age, are diagnosed as having Alzheimer's disease or are disabled, are eligible for the tax credit.

Mr. Speaker, the purpose of my bill is to encourage families, if possible, to care for elderly relatives in the home while also recognizing the devastating expenses incurred by those families who must care for a relative with Alzheimer's disease. I believe the "Elderly Home Care Tax Credit Act" of 1989 provides much needed relief to those families willing and able to care for a elderly family member in their homes. I would encourage my colleagues to cosponsor this legislation.

THE ACCUMULATED EARNINGS TAX

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, today I have introduced a bill that would bring a sense of fairness and understanding to the Tax Code. Internal Revenue Code section 532(c), added by Congress in 1984, made the accumulated earnings tax applicable, for the first time, to widely held corporations. The legislative history shows that 532(c) was a reasonable congressional response to the formation of investment corporations which were formed for no true business purpose, but were simply a device to take advantage of the difference between the capital gains tax rate and the dividend tax rate. The investment corporations used their capital to purchase dividend paying stocks of other corporations. The investment corporation, receiving a dividend, was subject only to the nominal tax on the dividend, an effective rate of 6.9 percent, and instead of paying these dividends to its shareholders, it accumulated the dividends. The investment corporation's policy was to never pay dividends and accordingly, its shares increased in value roughly equal to its dividend income.

Shareholders thus paid no taxes on dividends of the underlying stocks held by the investment corporation but could realize income equivalent to the dividend accumulation by selling their shares. The gain on the sale of those shares was taxable as capital gains—20 percent—rather than ordinary dividend income—as high as 50 percent. The congressional response to this tax avoidance scheme was the passage of IRC section 532(c) which, for the first time, applied the accumulated earnings tax to widely held corporations. The potential levy of the accumulated earnings penalty rate made the investment corporation an uneconomical means of avoiding taxation and effectively ended these companies, thereby insuring that dividend income would be taxed at the shareholders level of ordinary income rates.

Under the Tax Reform Act of 1986, capital gains would be taxed at the same rate as dividend income. Accordingly, the act also insures that the investment corporation device, which converts dividend income into capital gains income, is uneconomical. The Tax Reform Act insures that dividend income will be taxed at ordinary rates, for there will no longer be a difference between capital gains and dividend rates. Under these circumstances, section 532(c) should be repealed.

The continued application of 532(c) is not good public policy in the events of applying the accumulated earnings tax to widely held corporations. In a widely held corporation, the payment of a dividend or the accumulation of funds for expansion, investment, or research and development is a decision best left to a board of directors. As a result of the applicability of the accumulated earnings tax to widely held corporations, there may be a tendency for corporations to pay dividends, even when the corporate resources should be husbanded for important future business expenditures.

The ability of the Internal Revenue Service to second guess the directors by applying the accumulated earnings tax to a widely held corporation should not be the driving force

behind a decision regarding dividend policy. Rather, the checks and balances of the marketplace should be allowed to have their natural and free effect on a widely held corporation's board of directors. As such widely held corporations are, by definition, publicly held by many shareholders, it is in the interest of the board to make dividend decisions based on the marketplace and the corporation's business needs. The repeal of section 532(c) will allow corporate directors to determine dividend policy without reference to an unnecessary and punitive application of the accumulated earnings tax.

EDUCATIONAL SYSTEM THREATENED BY BUDGET CUTS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. PRICE. Mr. Speaker, our country has reached a critical point in its history, a point which will determine whether or not we continue our tradition of greatness, of economic success and of unparalleled opportunity. Throughout the years, the cornerstone of American greatness has been our educational system. Unfortunately, the strength of this system has been threatened by short-sighted budget cuts over the past 8 years.

Since 1970 the cost of graduate and undergraduate degrees has tripled, and student financial assistance has declined by 10 percent during the same period. The lack of support in the area of graduate and undergraduate student aid during the Reagan administration has been particularly disturbing. While a bipartisan consensus in Congress has worked to fund student aid at levels higher than those proposed by the administration, the signs of trouble are clear: Student indebtedness and student loan default rates are both rising far too rapidly. This situation was not helped by tax changes in 1986 which eliminated the deduction for interest payments on educational loans and the exclusion of scholarships from taxable income.

Today's students face a burden of debt that will discourage them from pursuing public service careers. We must carefully consider how we will attract young people to lower paying but vitally needed professions such as teaching in light of these discouraging costs.

Mr. Speaker, I believe the time has come to amend the Tax Code to restore these important educational incentives. On behalf of my distinguished colleague, MARTIN LANCASTER, and the 17 other original cosponsors of this legislation, I urge my colleagues to join us in taking this small step to ensure that all Americans will have the opportunity to pursue a higher education.

TRIBUTE BY THE DEMOCRATIC MEMBERS OF THE NEW JERSEY CONGRESSIONAL DELEGATION TO MAYOR DENNIS COLLINS OF BAYONNE, NJ, FOR HIS OUTSTANDING PUBLIC SERVICE TO THE PEOPLE OF BAYONNE AND THE STATE OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. ROE. Mr. Speaker, as dean of the New Jersey Congressional delegation, it is with the greatest pride and admiration that I rise on behalf of the Democratic Members of the delegation: Hon. JAMES J. FLORIO, Hon. WILLIAM J. HUGHES, Hon. FRANK J. GUARINI, Hon. BERNARD J. DWYER, Hon. ROBERT G. TORRICELLI, Hon. FRANK PALLONE, Jr., and Hon. DONALD M. PAYNE of New Jersey, on this opening day of the 101st Congress to pay our highest tribute to an outstanding leader and human being whose work in our home State of New Jersey has gained him national recognition.

I am speaking of the Honorable Dennis Collins, who in 1989 is celebrating 15 years as the deeply respected and admired mayor of the thriving city of Bayonne, NJ, and who has held that esteemed position longer than any other individual in the modern history of Bayonne. For all of his outstanding efforts in guiding Bayonne to its present status as a progressive city and truly model urban community, and for his multitude of contributions to his city, State and Nation, Mayor Collins will be honored by Members of Congress, State and national public officials, and numerous friends, colleagues, family members and constituents with a much-deserved testimonial tribute dinner on January 27 at the prestigious Hi-Hat Club in Bayonne.

Mr. Speaker, it is truly an honor for those of us who are Democratic Members of the New Jersey delegation to serve as sponsors of this memorable event. Dennis Collins has long been recognized as one of our Nation's most outstanding mayors, and Bayonne, under his guidance, has enjoyed a reputation as a unique and great American city. With its many varied peoples living and working together to help create a bustling and prosperous city, Bayonne is truly a microcosm of America itself, serving as a crossroads of the Eastern United States at the center of the great New Jersey-New York metropolitan area. Its great reputation even transcends our national borders, for it enjoys a sister-city relationship with its namesake across the Atlantic, the city of Bayonne, France.

Mr. Speaker, Mayor Collins attended Rutgers University and St. Peter's College and graduated from the Vale School of Real Estate and Insurance and the Professional School of Business. He is a licensed real estate broker in New Jersey. His public service to the community of Bayonne began more than 25 years ago when Dennis Collins was elected as a first ward councilman. His outstanding efforts as first ward councilman led, 4 years later, to his election as councilman-at-large and city council president.

For 8 years he worked tirelessly for the people of Bayonne, improving his city and the lives of those living in it. In 1974, recognizing the love and dedication Dennis Collins possessed for his great city, the people of Bayonne elected him mayor, a position he has held ever since. More than any words I or any of my colleagues could utter about Dennis Collins, Mr. Speaker, the prosperity enjoyed by the people of Bayonne truly serves as the ultimate testament as to the job Mayor Collins has done during his distinguished tenure.

Along with his direct involvement in his local government, Dennis Collins has served the people of Bayonne and New Jersey in countless other ways. He served as a legislative assistant to the New Jersey State Assembly and as assistant secretary of the New Jersey Insurance Commission. He also lent his efforts to the many outstanding initiatives of our truly distinguished late colleague, the Honorable Congressman Dominick V. Daniels, serving as his legislative assistant from 1972 to 1974. Along with his numerous governmental and professional activities, Mayor Collins is deeply involved in community activities, serving as standard bearer of the New Frontier Democrats, and as a member of the Knights of Columbus and American Legion Post 19 of Bayonne. In addition, he and his wife, Mary, are parishioners of Our Lady Star of the Sea R.C. Church.

Mr. Speaker, I know that the testimonial dinner in honor of Mayor Dennis Collins will bring great pride to Mary, to their children, Edward, Dennis, and Mrs. Mary Jane Stanul, and to their three grandchildren. Those of us in the House that know and admire Dennis Collins are also proud to count such an outstanding man among our friends. Truly, Mayor Dennis Collins, through his tireless and dedicated efforts at making his city a better place to live, has immeasurably improved not only his own city, but has made an enormous contribution to his State and our Nation as well. In recognition of those great efforts, Mr. Speaker, I invite you and our colleagues to join me in paying tribute to an outstanding leader, family man, human being, and public servant, the Honorable Dennis Collins, mayor of Bayonne, NJ.

OPENING OF THE BICENTENNIAL CONGRESS

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mrs. BOGGS. Mr. Speaker, the opening of the 101st Congress on January 3, 1989, marks the beginning of the celebration of the 200th anniversary of the U.S. House of Representatives. The First Congress convened in New York City on March 4, 1789, and began the work of implementing the plan of government outlined in the Constitution. This bicentennial Congress offers the opportunity to commemorate the work of the first Federal Legislature and to remember the significant role played by the House of Representatives throughout the past 200 years. In the coming months a series of historical publications, ex-

hibits, and conferences will contribute to a broader understanding of the importance of the First Congress and the history of the legislative branch of the Federal Government. Among the highlights of the bicentennial observances will be a joint meeting of Congress on March 2 in commemoration of the convening of the original Congress and a special session of the House of Representatives on April 4 to mark the anniversary of the first quorum of the House.

In honor of the 200th anniversary of Congress, the Office for the Bicentennial, in conjunction with the Senate Historical Office, has prepared a new edition of the "Biographical Directory of the United States Congress 1774–1989." The first revision of this valuable reference work since 1971, the new volume contains biographies of the more than 11,000 individuals to serve in Congress in the 1st through the 100th Congresses and all delegates to the Continental Congress. The Office for the Bicentennial also has published "A Guide to Research Collections of Former Members of the United States House of Representatives 1789–1987." This reference work lists the location of manuscript collections and other research materials pertaining to approximately 3,300 former Members. The "Biographical Directory" and the "Guide" will together serve as a resource and incentive for further research on the history of the House of Representatives.

On the occasion of the joint meeting of Congress the Office for the Bicentennial will publish a collection of documents relating to the origins of the House of Representatives and the proceedings of the First Congress. During February, as part of the annual observance of Black History Month, the Office will issue a revised and updated version of "Black Americans in Congress," first published in 1976. A new edition of "Women in Congress" will follow in June 1989.

Beginning in late January, an exhibit entitled "The Splendid Hall" will illustrate the history of the House from 1807 to 1857 when it met in the Chamber that now serves as Statuary Hall. An exhibit in the rotunda of the Cannon Building will include a wide selection of U.S. postage stamps that portray the Congress, the Capitol, and individuals who served in the House or Senate.

On February 9 and 10, historians, political scientists, journalists, and former and current Members of Congress will gather for a conference devoted to "understanding Congress." Five topical panels will examine such issues as Congress and the separation of powers, the effects of media and public opinion on Congress, the challenge of writing congressional biography, and the research opportunities found in the diverse sources for congressional history.

These publications and activities sponsored by the House Office for the Bicentennial will coincide with a variety of other events related to the bicentennial Congress. The National Portrait Gallery of the Smithsonian Institution will present an exhibit on the First Federal Congress. The Library of Congress will mount an exhibit of maps that illustrate the political party affiliation of each congressional district in the more than 30,000 House elections held since 1788. The National Archives will open an exhibit entitled "American Voices: Two-hundred Years of Speaking Out" that will include petitions presented to Congress and the other branches of Government. The Archives also will publish the "Guide to Records of the U.S. House of Representatives at the National Archives" and the "Guide to Records of the U.S. Senate at the National Archives."

A 90-minute documentary film, "The Congress," will air nationwide over PBS stations on March 20, 1989. The film was produced by the award-winning film maker Ken Burns with funding from Ameritech. It was produced in cooperation with WETA Public Television in Washington, DC.

The events and publications planned to coincide with the bicentennial Congress will provide the public with a better understanding of the importance of the First Congress in inaugurating the new Government under the U.S. Constitution. The delegates to the Federal Convention in the summer of 1787 reserved for the first Congress much of the responsibility for devising the structure of government. In the early months of its first session, the Congress counted the electoral votes for President, created the executive departments of the Cabinet, created the Supreme Court and the Federal judiciary, and answered the call for constitutional amendment by passing and sending the Bill of Rights to the States for ratification. In the following session, Congress provided for a permanent seat of Government along the banks of the Potomac.

In addition to completing the plan for governmental institutions, the First Congress took up the authorities delegated by the Constitution and provided for a national revenue, devised a plan for repayment of the debt, regulated the commerce of the young Republic, established the Bank of the United States, created a national census, and carried out a variety of other responsibilities denied to the National Government under the Articles of Confederation. The bicentennial of Congress provides an opportunity to examine the unique achievements of the First Congress and to develop a better perspective on the history of the House of Representatives, what the founders called the "first branch of the legislature."

For more information on events during the bicentennial Congress, contact the Office for the Bicentennial, 138 Cannon HOB, Washington, DC 20515–6701. (202) 225–1153.

LEGISLATION TO PRORATE SOCIAL SECURITY BENEFITS IN MONTH OF DEATH

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, I rise today to call attention to what I believe is a grievous injustice perpetrated on our constituents by Social Security law.

Under current law, when a Social Security recipient passes away in any given month, his or her full monthly benefit must be returned to the Social Security Administration without regard to the date of death or to their expenses incurred during that period. Just think: One of your constituents could die at 11:59 p.m. on the last day of the month and still be required to return that month's Social Security benefit. It just doesn't seem fair.

Common sense ought to tell us there's a more equitable way of dealing with a Social Security recipient who incurs expenses in the month of death. And believe it or not there is—my legislation to prorate Social Security benefits in the month of death. Under my bill a Social Security recipient who passes away would receive a prorated benefit calculated by dividing the number of days that person was alive by the number of days in the month. For example, a person who dies on January 20 would receive 20/31 of their monthly Social Security benefit.

It's simple; it's fair; and it ought to be law. I would ask all my colleagues to cosponsor this legislation and help change this inequity.

PROVIDING EQUAL RELIEF FOR RELIGIOUS SCHOOLS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, today I am introducing a bill that would correct a gross injustice of our Tax Code.

Under the Federal Unemployment Tax Act, States are given the opportunity to establish certain requirements in order to grant certain individuals and entities credit against Federal Unemployment Tax. Currently, all 50 States have established these minimum requirements.

Emerging from this legislative guagmire is a situation which is of specific concern to me. Elementary and secondary schools which are under the direction of a church and/or a separate corporation, formed by a church or an association of churches, are given this tax credit. However, elementary and secondary schools which are of religious nature, but are not affiliated with an organized church, do not receive the credit.

Why these schools are discriminated against totally perplexes me. They perform the same duties as affiliated religious schools and teach the doctrine of an organized church. Moreover, they are considered to be too religious to receive a nutrition education funding grant from the Department of Agriculture, but not religious enough to be exempted from State unemployment tax.

My bill would finally rectify this inequality in our Tax Code. All elementary and secondary religious schools, affiliated or independent, would be guaranteed the benefit of this tax credit. It is that simple.

I urge my colleagues to join me in my efforts to bring fairness back into the U.S. Tax Code. Taxation and discrimination of religious institutions is clearly unconstitutional. Let us join together and restore credibility to our beleaguered tax system.

ON REAGAN ADMINISTRATION WHISTLEBLOWER PROTECTION PLAN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mrs. SCHROEDER. Mr. Speaker, late yesterday we heard the last distant quacking of a very lame duck President. Two months after pocket vetoing S. 508, strong whistleblower protection legislation, President Reagan submitted to Congress an anemic proposal entitled "whistleblower protection." President Reagan's transmittal came, coincidentally, on the same day that Representative FRANK HORTON and I introduced H.R. 25, the Whistleblower Protection Act of 1988, which is identical to the bill which President Reagan vetoed last October.

Congress supports strong whistleblower protection because it is a powerful weapon to reduce the deficit. Federal workers are the ones who best know where fraud, waste, and abuse are to be found in Government programs. They know about the Pentagon contractor ripoffs; they know about the safety dangers of the shuttle; they know about defects in the air traffic control system. But, Federal workers are not likely to disclose what they know unless they believe they will be protected in their jobs. You cannot expect someone to heroically disclose waste if it means unemployment.

The Reagan proposal has two central failures. First, the reason the current whistleblower protection system has failed is because the Merit Systems Protection Board and the courts have construed the burden of proof for whistleblowers in such a way that is virtually impossible for the whistleblower to win. S. 508 and H.R. 25 correct this by legislating that the whistleblower must prove that the disclosure was a factor in the personnel action. An agency can then show by clear and convincing evidence that it would have taken the same action in the absence of the disclosure. The administration proposal retains the current, untenable burden of proof. So, the administration proposal provides no improved protection for whistleblowers.

Second, the Office of Special Counsel was established in 1979 to provide protection to Federal employees who were victims of prohibited personnnel practices, including reprisals for whistleblowing. This Office has, sadly, lost sight of its mission. Instead of protecting employees from agency reprisals, the Office of Special Counsel frequently has worked with agency management to harm employees who come to the Special Counsel for help. So, in S. 508 and H.R. 25, we added provisions making it impossible for the Special Counsel to act to the detriment of an employee who seeks the help of that Office. The administration proposal excises these protections.

President Reagan now says he wants strong whistleblower protection legislation. If this is true, he should have signed S. 508. Fortunately, what President Reagan thinks is now irrelevant. Two weeks from tomorrow, he will be another southern California retiree.

What is far more important is what GEORGE BUSH thinks. We will be moving H.R. 25 to House consideration in the near future. If the Bush administration wants to propose changes in H.R. 25, they know where to reach us.

OUTSTANDING SERVICE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. LAGOMARSINO. Mr. Speaker, Members of the House, it's my privilege to offer commendations on behalf of the House of Representatives and the people of the 19th Congressional District of California to Joe Centano, who stepped down from his position as chief of police of Santa Maria, CA, on December 31.

Joe has been an outstanding public servant and civic leader. During his 32 years of service to the city, he rose from the rank of patrol officer to chief of police, coming up through the ranks. A native Santa Marian, he is a graduate of Santa Maria High School, Allan Hancock College, and La Verne College. He received his B.A. in criminology and behavioral science and earned a master's degree in public administration from Golden Gate University. And as part of his retirement plans, Joe plans to keep his hand in the profession by finishing his doctoral dissertation at Golden Gate.

During his long tenure on the police force, Chief Centano served on numerous civic and professional boards and commissions, including the PRIDE Program, United Way, and the Countywide Task Force on Juvenile Justice, a field of particular interest to him. In 1983, he was named Outstanding National Police Chief by the We-Tip Program.

Joe and his wife, Sylvia, have contributed countless hours to the people of Santa Maria, as well as two children. It's my honor to extend the congratulations of the U.S. Congress and the grateful thanks of the people of the United States to Chief Joe Centano and his family for their generous service and devotion to duty.

WHY DID THE UNITED STATES RESTORE AID TO HAITI?

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. OWENS. Mr. Speaker, shortly before the holiday recess, the Reagan administration renewed economic aid to Haiti, giving it $25 million and promising another $5 million in the not too distant future. The administration had cut off aid to Haiti in November, 1987, following the massacres of hundreds to Haitian voters by the military and elements of the terrorist organization the Tonton Macoutes during that country's national elections. The administration has said that it would not restore the aid until Haiti held free and fair elections for a civilian government, respected the human rights of the island's people, and made other significant moves toward democracy.

In renewing the aid, the administration claims to be encouraged by the new military government in Haiti headed by General Prosper Avril, who took power in a bloodless coup last October. But I see little in this newest ruling military junta that justifies such encouragement. Yes, the General purged some 57 key officers known for their brutality and corruption; however, as Haitian opposition leader Louis Dejoie told the Christian Science Monitor, most of the purged officials were small fry, and those with links to the Tonton Macoutes remained in their positions.

Yes, General Avril says he supports free and fair elections for a democratic, civilian government—but in 2½ years. He claims that the Haitian people aren't ready for such elections, a claim disproven in November, 1987 when Haitians literally risked their lives to go to the polls and vote for a President, a Vice President, a Congress and local officials.

And just last Saturday, the Avril government permitted former Port-of-Prince Major Franck Romain to leave Haiti on a safe conduct pass and flee into exile. Romain, who was also a reputed leader in the Tonton Macoute, was under investigation in Haiti for reportedly directing a massacre last September 11 at a Catholic church, in which 12 people were killed and 70 injured. Opposition activities in Haiti correctly point out that the government's allowing Romain his freedom seriously jeopardizes the investigation, and represents a major setback in human rights for Haiti's people.

The administration should have learned its lesson about Haitian dictatorships and their superficial changes a year ago, when the military governments of Henri Namphy and the militarily-controlled civilian government of Leslie Manigat also proclaimed to support democracy and human rights while in reality the Haitian people continued to be victimized and brutalized by solidiers and elements of the Tonton Macoute.

The United States policy toward Haiti must not yield to such cosmetic changes or be an informal, ad hoc policy to go soft on Haiti. It must be based on reality. The administration should report to the Congress as to the current conditions in Haiti, and it should also monitor and report on how and if Haiti is making use of our aid, as the Avril government claimed that it could not go forward with various reforms unless it obtained the aid.

Only full-scale democracy will rescue Haiti from the years of poverty and ignorance which have dominated the island. Only the United Statess refusal to accept surface reforms as the real thing will help bring about fundamental change.

TRIBUTE TO MARTIN LUTHER KING, JR.

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mrs. MORELLA. Mr. Speaker, January 15, 1989 will mark the 60th anniversary of the

birth of the Rev. Martin Luther King, Jr., and I would like to take a moment to pay tribute to this historic leader of the civil rights movement.

Dr. King was a determined and righteous man who inspired faith and hope in millions of his followers and supporters who shared his dream of equal justice under the law for all peoples, regardless of race, creed, or color. From the time of the Montgomery bus boycott, when Dr. King first came to national attention, to Selma, AL, to the March on Washington, Dr. King was a powerful spokesman for underprivileged Americans—in fact, all Americans—who had not been afforded the full rights and protections guaranteed them in the Constitution.

But Dr. King is remembered as a great man not solely because of his effort to bring full constitutional rights, but especially because he was able to accomplish his goals by the practice of nonviolent protest, which he had learned from his study of the Indian leader, Mahatma Gandhi, and the American writer and naturalist, Henry David Thoreau. Dr. King's successful use of this principle set the stage for a revival of grassroots democracy in the United States, beginning with successful efforts to end the Vietnam war and continuing with other issues today. The popular participation engendered by the nonviolent movements serves to strengthen our democratic system of government.

Dr. King had a dream that there would come a day when all men would judge each other by the content of their character rather than the color of their skin, when all men would look upon others as brothers. The progress which has been made since the March on Washington toward achieving Dr. King's dream has been nothing short of remarkable; equally daunting is the work which remains to fulfill the dream, not only nationally, but also on an international basis.

Mr. Speaker, I urge all Members to use the occasion of the 60th anniversary of Dr. King's birth, as I will, to reflect on how we can help to fulfill his dream, and ours.

LEGISLATION TO EXTEND THE TARGETED JOBS TAX CREDIT TO CERTAIN, QUALIFIED ELDERLY EMPLOYEES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, today I am reintroducing a bill that would allow employers to claim the targeted jobs tax credit [TJTC] for a new group of employees. My bill will expand the current definition of eligible targeted groups to include certain, qualified elderly persons. I intend to continue my efforts on behalf of those elderly who are seeking employment, yet are unable to find employers interested in incurring expenses related to hiring, retraining, and otherwise facilitating elderly workers.

Currently, there are 10 groups of employees for which an employer may claim the TJTC, including economically disadvantaged youths, vocational rehabilitation referrals, and supplemental income recipients. This bill would expand the TJTC to include employees who: Have attained the age of 55 before date of hire; earn no more than $20,000 in gross income during any taxable year which the employer files for the tax credit; and receive no wages subsidized under the Older American Community Service Employment Act during any taxable year in which the employer files for the tax credit.

The legislation also includes rules that prohibit employers from abusing the intent of this bill.

By encouraging employers to hire the elderly, this bill would be mutually beneficial to businesses in need of workers, and to many of our Nation's elderly, who are ready and willing to get out and work. I believe there are many businesses that would use the tax credit to offset expenses incurred in hiring elderly workers. It is my hope that this bill will receive the support it deserves, and that it will be signed by the President during the 101st Congress.

REPEAL ESTATE, GIFT, AND GENERATION SKIPPING TRANSFER TAXES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CRANE. Mr. Speaker, today, I introduced legislation which would repeal the current law for taxation of estates, gifts, and generation skipping transfers. I am introducing this bill in order to eliminate an egregious form of double taxation and bring about more simplicity in the Tax Code.

These three taxes are forms of double taxation because both the original funds and the transfers of money are taxed. Individuals pay taxes when wealth is created, that is, when compensation in the form of wages or salaries is received there is an individual income tax. When interest is received from savings there is a tax on interest income. When an individual makes money from the sale of an asset there is a capital gains tax. When an individual receives a dividend from an investment in stock that dividend is taxed. Estate, gift and generation-skipping transfer taxes, instead of taxing the creation of wealth, tax the transfer of this already taxed money. If we are to bring greater fairness to the Tax Code, a dollar should only be taxed once: when it is earned.

The generation-skipping transfer tax provisions are so complex that only a small number of estate planning specialists can profess to have any understanding of them. In addition, the complexity creates serious compliance problems and even competent counsel, as well as professional trustees often encounter extreme difficulty in ascertaining whether or not a taxable event that would trigger a generation-skipping transfer tax has occurred. In addition, once an event is identified, there is much difficulty in establishing the correct tax on the occurrence. Simple elimination of the generation-skipping transfer tax will do much in moving toward the goal of simplicity while losing only a marginal amount of revenue, since the revenues lost from the elimination of all three taxes would account for a reduction of only about 1 percent of Federal revenues from individual income taxes.

The retention of the estate, gift and generation-skipping transfer taxes is but one area where tax reform failed. I urge my colleagues to carefully consider this bill. Money should only be taxed once: when earned. Once an individual earns this money, he should be free to do whatever he wants to do with his money without penalty. If an individual wants to use those already taxed dollars as a gift, to set up a trust for his descendants, or to build an estate which will safeguard the financial security of his or her inheritors, the Federal Government should not interfere by levying a tax on this type of transfer.

ENTERPRISE ZONE IMPROVEMENT ACT OF 1989

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. GARCIA. Mr. Speaker, today Congressman RANGEL and I have introduced legislation to strengthen title VII of the 1987 Housing Act—the Federal Enterprise Zone Program. This legislation, the Enterprise Zone Improvement Act of 1989, will provide businesses with the necessary incentives to locate or expand in specially designated urban and rural areas.

Under title VII, Congress authorized the Department of Housing and Urban Development to designate up to 100 enterprise zones from sites nominated by State and local governments. In order to be eligible for the Federal program, applications must show evidence of local commitment to the nominated area, including a reduction of property taxes or development fees, an increase in the level of public services, simplification of paperwork requirements, minority contracting preferences, provision of land, and community involvement.

Today, 36 States have established enterprise zone programs and have already made their own designations. These areas will also be eligible for Federal designation. With a full set of incentives and support from the Federal, State, and local levels, these areas will become zones of renewal and revitalization.

The Enterprise Zone Improvement Act will provide special tax incentives to encourage business activity within these enterprise zones. These include tax credits to employers for employment related expenses and to employees for qualified wages received. The act encourages investment by offering a tax credit for the cost of enterpise zone construction property and nonrecognition of capital gains when the proceeds are reinvested in replacement property.

The act also encourages business capitalization by allowing investor tax benefits for the purchase of stock issued by enterpise zone businesses. Rules relating to limitations on property financed with tax-exempt industrial development bonds are amended to allow funding for residential rental property and enterpise zone construction property. Tax credits for research are increased from 25 to 27½

percent for research conducted in enterpise zones.

The act also requires every Federal agency that administers a program applicable to enterpise zones to provide special assistance, including expedited processing, priority funding, program set-asides, and technical assistance. This provision is important to assure that eligible public and private activity receives adequate Federal support and to provide the Federal commitment necessary to meet the objectives of the enterpise zone program.

This legislation represents many years of hard work. Former Congressman Jack Kemp and myself originally introduced in 1980, and in each Congress after 1980, legislation that accomplishes these same objectives. The general thrust of the legislation has remained the same. Federal commitment to designated enterprise zones is made through the enactment of special tax benefits for business-related activity and the provision of special Federal assistance applicable to enterpise zones.

I thank Speaker JIM WRIGHT for his support of this legislation today, and Chairman CHARLES RANGEL for his sponsorship and support. This legislation achieves the original objectives of the Kemp-Garcia legislation and represents a significant Federal commitment to blighted urban and rural areas. I urge my colleagues to support this measure.

LET'S LABEL PRODUCTS WITH CFC'S

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. STARK. Mr. Speaker, the destruction of the ozone layer by chlorofluorocarbons [CFC's] and related chemicals has become an established fact. The discussion has turned to how best to reduce and eliminate CFC's.

While I am a strong supporter of the Montreal Protocol, I believe we can and must do more. The Montreal Protocol, and EPA's efforts to administer the phaseouts called for in the protocol, are a freeze on 1986 production levels and a 50-percent reduction in production of CFC's by 1998.

The public can and must be brought in to help reduce CFC use. Labeling is a sure and effective way to enlist this public support in the fight to save the ozone. Voting with dollars, I believe the public will quickly turn to alternative products that do not use CFC's. The public wants to participate in the process.

In order to help consumers, I am today introducing legislation, with Congressman GEORGE BROWN and Congressman BATES, which will label all products which contain, is produced with, or is produced from CFC's. Without this legislation, it will be difficult for the average consumer to make an informed choice.

The choices are out there. Refrigerators are currently being developed that use helium instead of CFC's as a coolant. A consumer can choose to buy paper coffee cups instead of those made using CFC's. This bill will also provide manufacturers with an additional incentive to develop and market products that do not use CFC's.

We label cereal and cigarettes. We put warnings on stepladders and cribs. Literally, with CFC's the fate of the world is at stake. People should have the right to know what they are buying. I believe industry and the new administration would be surprised at the swiftness with which the marketplace will call for alternatives to CFC's.

THE PROPOSED PAY RAISE

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. VISCLOSKY. Mr. Speaker, the Federal deficit is currently $155.1 billion. Congress' first priority must be to erase this deficit and restore our Nation's fiscal stability. In order to achieve this, every American will be called upon to assume their fair share of the burden. Therefore, I must register my opposition to the Commission on Executive, Legislative, and Judicial Salaries' recent recommendation for a 50-percent salary increase for Federal judges, Cabinet Secretaries, top-level executive branch officials and Members of Congress. The recommendation was made to President Reagan and it is my hope that he will reject it.

If this raise were to go into effect, it would mean that each Member of Congress would receive an increase of $45,000. Multiplied by 535, the number of Senators and Representatives, this totals almost $24 million more that must be squeezed from the Federal budget. What kind of example are we setting when we ask our constituents to accept less in Federal services and programs?

Furthermore, like much of the Midwest, the region I represent has not fared well economically in the past 8 years. While there has been some recovery, too many citizens of northwest Indiana are still struggling. A salary increase of this magnitude is clearly ill-timed and sends the wrong message to those who elected us.

I do want to commend the Commission for recommending a ban on honorariums. I endorse efforts to reform the amounts and types of outside earned income that Members of Congress can presently accept. Those of us who choose to enter public service should not do so based on financial compensation.

A BILL TO REAUTHORIZE THE COMMODITY FUTURES TRADING COMMISSION

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. DE LA GARZA. Mr. Speaker, today I am introducing a bill to reauthorize, for 5 years, appropriations to carry out the Commodity Futures Regulatory Program under the Commodity Exchange Act. The act is administered by the Commodity Futures Trading Commission [CFTC], an independent regulatory agency established by Congress in 1974. I am pleased that Hon. EDWARD R. MADIGAN, the ranking Republican member of the Committee on Agriculture, Hon. GLENN ENGLISH, and Hon. E. THOMAS COLEMAN have agreed to cosponsor this important legislation.

It is my impression that the CFTC has done a responsible job in carrying out the act since it was last reauthorized in 1986. In recent years, the CFTC has worked with the futures industry to regulate the markets through a period of unprecedented growth. Notably, this period included the market break during October 1987, when the Dow Jones industrial average fell over 500 points in 1 day. The CFTC's performance during those difficult times acts as evidence that the agency has matured into an effective independent regulatory agency.

It is my intent that this bill will serve as a legislative vehicle for the consideration of the reauthorization of the CFTC. At this time, I am satisfied that a wholesale revision of the Commodity Exchange Act is not warranted. However, I would like to assure America's farmers, cattle producers, financial market participants, members of the futures industry, financial market regulators, and my colleagues in Congress that the Committee on Agriculture will carefully review the soundness of the Futures Regulatory Program, the effectiveness of the CFTC, and the performance of the futures markets during this year's reauthorization hearings. If these hearings indicate that some fine tuning of the act is necessary, I would encourage the committee to amend the act accordingly.

I am aware that the CFTC has under consideration several technical amendments to the act that they soon may commend to Congress for our consideration. I would like to assure all parties concerned that the Committee on Agriculture will carefully consider these technical amendments to the act when they are received.

Finally, and perhaps most importantly, the introduction of this bill so early in the 101st Congress is meant to act as an indication of my resolve, as chairman of the Committee on Agriculture, to carry out the committee's responsibilities in connection with this legislation as expeditiously and as diligently as possible. The integrity of our agricultural and financial markets demands no less.

THE DEAF TAXPAYER ASSISTANCE ACT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. CONTE. Mr. Speaker, I rise today to once again introduce the legislation to provide deaf individuals with an increased standard deduction of $600.

This legislation, the Deaf Taxpayer Assistance Act of 1989, is intended to put the deaf on an equal footing as the elderly and the blind. As many of you will recall, the Tax Reform Act of 1986 eliminated the additional exemption for the elderly and the blind. Instead, however, those individuals were allowed to take an increased standard deduction of $600. The Deaf Taxpayer Assistance Act merely provides an identical increase for

deaf taxpayers, a deaf spouse, or a deaf dependent.

Under the bill, an individual is considered deaf if his or her ability to hear is so seriously impaired that the individual receives spoken language through means such as lip reading, sign language, finger spelling, or reading. By introducing this legislation, it is my hope that more attention will be focused on the deaf and the difficulties that they face: Increased medical expenses, increased personal expenses, and the increased effort necessary to live in a world of sound.

Mr. Speaker, as a long time advocate for our Nation's hearing impaired, I believe this legislation represents an important first step in realizing the difficulty deaf individuals face in our society. I encourage my colleagues to cosponsor the Deaf Taxpayer Assistance Act of 1989.

DEFICIT REDUCTION

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. BUECHNER. Mr. Speaker, GEORGE BUSH has said repeatedly that those who support a tax increase should "read my lips." The response of most congressional leaders proves that very few can lip read. The collective chant heard over and over again in Washington is "tax increase, tax increase, tax increase." How many times have we heard the Washington pundits and media experts say the only way to lower the Federal deficit is to increase taxes?

Through all of the lip reading and political positioning, the taxpayer has the right to ask, "Will a tax increase decrease the deficit?" The answer is, "Of course not!" We all know that any tax increase is not going to be used to decrease the budget deficit. Instead, Congress will use any additional revenue to increase spending and will run the deficit right up to the maximum allowed by Gramm-Rudman.

Today, Mr. Speaker, I am introducing legislation which will commit the Federal Government to meaningful deficit reduction, and make those who support increasing taxes as a means of reducing the deficit to put their money where their mouth is. My legislation would amend the Congressional Budget and Impoundment Control Act by requiring a dollar-for-dollar decrease in the Gramm-Rudman deficit targets for every dollar of tax increase. For example, if taxes are increased by $20 billion for fiscal year 1990, the Gramm-Rudman deficit target for fiscal year 1990 would be lowered from $100 to $80 billion.

I want to make it clear that I do not support increasing taxes as a means of reducing the budget deficit. The deficit problem is the result of Congress not being able to set spending priorities, or display any spending restraint. My legislation will separate those who are interested in further increasing Federal spending from those who are truly interested in deficit reduction. Please join me in sponsoring a bill which would guarantee that the American public's tax dollars are used to decrease the deficit, and not support further Federal spending.

THE ACCOMPLISHMENTS OF MR. TERRY HAWS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. DELLUMS. Mr. Speaker, it is with great admiration that I call my colleagues' attention to the considerable accomplishments of Mr. Terry Haws of my congressional district.

Mr. Haws, who has been actively involved in causes for individuals with mental retardation, has been on the Las Trampas School board of directors for 30 years. He was instrumental in founding the school, which has residences and programs for persons with mental retardation. It was through his efforts that the Las Trampas School established its first group home, the Moraga House, which was followed by two more group homes, allowing Las Trampas residents to live in community settings.

Terry Haws, who is president of the Haws Drinking Faucet Co., also designed the first drinking fountains which were wheelchair accessible.

As a parent of a child with mental retardation, Mr. Haws' philosophy has included not only helping his child, but improving the lives of other children with mental retardation, and has devoted his life to doing just that.

It is with profound respect and admiration that I share with my colleagues the accomplishments of this dedicated and committed constituent, Mr. Terry Haws, on the occasion of his retirement from the board of directors of the Las Trampas School.

THE INTRODUCTION OF THE DEFENSE PRODUCTION ACT AMENDMENTS OF 1988

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Ms. OAKAR. Mr. Speaker, the House Subcommittee on Economic Stabilization—which I have the honor of chairing—has conducted an extensive series of hearings on current problems facing the U.S. industrial base and whether it can supply critical materials in times of national emergency. These hearings were held in conjunction with the subcommittee's jurisdiction over the Defense Production Act of 1950.

To perhaps the surprise of no one, an array of witnesses from business, labor, public organizations, and an Under Secretary of Defense concluded that the U.S. industrial base is eroding and that actions must be taken to reverse its deterioration and restore U.S. industrial strength. This jeopardizes our national security.

Specifically, the subcommittee hearings revealed that the U.S. industrial base is developing a strong dependency on foreign sources for products, parts and components, and other materials used in manufacturing and that such a dependence, especially in times of national emergency, would weaken our national defense. Moreover, the inability of U.S. industry, especially small- and medium-sized subcontractors and suppliers, to provide vital parts and components and other materials would prevent the United States from meeting production surge demands should a national emergency arise. Additionally, the U.S. industrial base is being eroded by a growing dependence on imported parts, components, and raw materials. Clearly, this is a serious threat to our national defense.

Mr. Speaker, this is not a partisan issue; it affects all of us equally. Today, I am introducing legislation designed to get us started in that direction.

I ask that my entire statement be submitted for the record and that an explanation of the legislation follow my remarks.

Mr. Speaker, within the text of this much needed legislation, I amend the Defense Production Act of 1950 to include a national plan for the economic conversion of defense plants and military bases to civilian production. In light of the recent military base closing recommendations and anticipated cuts within the Pentagon's budget, thousands of Americans will be forced to look elsewhere for employment.

Mr. Speaker, while my subcommittee earlier addressed the importance of this country's defense industrial base, I believe we must not overlook the economies of hundreds of American cities heavily dependent upon the flow of Pentagon funding. In short, defense spending has been the primary generator of federally induced jobs in our economy. I propose a national economic conversion plan because as the number of large weapons contracts fall, comprehensive plans must be drawn to facilitate transition from defense dependency to productive civilian alternatives.

Minidepressions in heavily dependent defense communities are not unique. Economic upheavals that many communities are facing can be avoided with proper planning. The grave economic conditions that may occur in pockets of California, Massachusetts, or New York may indeed be alleviated if we craft alternatives to look beyond defense dependency. While civilian production creates items of value for consumers and producers, military production does not. Mr. Speaker, in order to make a smooth transition, I believe this country needs to address and set in motion a planning process which promotes long-term econoomic vitality and security. I believe my national economic conversion plan does just that!

A REVIEW OF THE CRISIS IN EL SALVADOR

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. MILLER of California. Mr. Speaker, I submit the final two parts of an informative five-part series about the crisis in El Salvador, as published in the Christian Science Monitor this month.

I included the first three parts in the RECORD on the day we adjourned, October 21. I am doing so with the hope of encouraging a critical review of what is happening in that country in the wake of the Reagan administration's disastrous policy of the past 8 years.

I again urge my colleagues to take the opportunity to read the report, as follows:

[From the Christian Science Monitor]

THE POLITICS OF POLARIZATION

(By Brook Larmer)

SAN SALVADOR.—Just as the new mayor, Armando Calderón Sol, launches into a tirade about corruption and inefficiency in the government of José Napoleón Duarte, he is cut off by an urgent phone call from the chief of police.

Mr. Calderón Sol—a front-line warrior in the battle to reform the nefarious image of the right-wing Nationalist Republican Alliance (ARENA)—returns with startling news: The police just caught two of his employees selling promises of government jobs for $100 to $200 each.

"There's a crisis of values in every government institution," says Calderón Sol, echoing the theme that, in March, helped him sweep past incumbent mayor Alejandro Duarte, the President's son. "We're trying to create a totally new image. And if we don't do something about corruption, we're not going anywhere."

It's quite a twist on history.

Ever since ARENA was founded by former Army intelligence officer Roberto d'Aubuisson in 1981, it has been known more for chasing down "communists" than corruption.

Mr. d'Aubuisson himself has been charged with leading right-wing death squads that bloodied the streets with up to 25 bodies a day in the early 1980s. US officials accused d'Aubuisson of arranging a machine-gun attack on the American Embassy here in 1981 and linked his associates to a plot to assassinate then-Ambassador Thomas Pickering in 1984.

The controversial ex-Army major is still the party's driving force, according to several diplomats who closely monitor ARENA. But he has lowered his profile since his 1984 election defeat, allowing the more moderate voices of Calderón Sol and presidential candidate Alfredo Cristiani to woo middle-class voters and US policymakers.

The strategy has apparently worked.

ARENA overwhelmed the US-backed Christian Democrats in the March 1988 elections, winning 179 of the country's 262 towns and a majority of deputies in the 60-seat Legislative Assembly. And now, as it promotes reputation for clean, effective government, the far-right party seems poised to wrest the presidency from Duarte's party in elections next March.

The US administration has portrayed ARENA's election victory as another step for a maturing democracy. Assistant Secretary of State Elliot Abrams says: "I can't think of a better test than having a government in power run totally free elections and allow itself to lose them."

SETBACK FOR US POLICY

But a wide range of foreign diplomats and political analysts here—including ARENA leaders themselves—consider the party's rise to be a stinging rejection of an American policy that has staked its hopes on Duarte's moderate Christian Democrats.

Even US officials concede that if d'Aubuisson played a key role in an ARENA presidency, Washington would have to re-evaluate its deep commitment to El Salvador.

Since 1980, the United States has spent more than $3 billion propping up the political middle so that extremists on the right and left would not take power. The Central Intelligence Agency even pumped in several million dollars to ensure Duarte's 1984 election win over d'Aubuisson.

Duarte has notched some successes. Despite the country's current power vacuum and economic woes, the military has not responded with an old-style coup. The leftist rebels are finding it difficult to stir up social unrest. And even Duarte's leftist critics say more Salvadorans now respect the vote as the most effective method for change.

But even with massive US aid—and in part because of the exaggerated expectations it generated—Duarte has lost popular support. Indeed, pollsters here say the March elections were less a popular embrace of ARENA than an angry rejection of the Christian Democrats for failing to produce either prosperity or peace.

VOTERS DISILLUSIONED

For proof, the pollsters point to the fastest-growing group in the electorate: people who don't vote at all. More than 1.4 million voters cast ballots in the 1984 elections that catapulted Duarte into office; only 930,000 people voted in last March's legislative elections.

Like a negligent farmer, critics say, Duarte has failed to cultivate his government. He chose ineffective administrators. He let the misuse of US funds run rampant. And he failed to prevent a damaging internal split from eating away at his party.

But there were also enormous roadblocks. With his lofty goals of peace and reform, Duarte felt trapped between left and right. According to a close friend, his feelings urged him to address the needs of the popular working classes; but his reason told him to cater to the powerful—the Army, the oligarchy, and the US Embassy.

"Duarte created, in theory, a centrist government of reform and change, but he's just clung onto office," says a European diplomat, voicing the frustration of many Salvadorans. "In the face of monumental challenges, he's retreated into the world of illusion. He has come to represent not reform but the status quo."

LEFT JOINS POLITICAL PROCESS

Several leftist politicians have returned after years of exile to try to capture the huge pool of disillusioned voters. They formed a small coalition, the Democratic Convergence—including the political ally of the guerrillas, the Democratic Revolutionary Front—to participate in the 1989 elections. But the leftist leaders have not renounced their ties to the rebels (see accompanying story).

The Christian Democrats' presidential candidate is a former planning minister, Fidel Chávez Meña. With heavy US backing, the colorless technocrat recently won a bitter power struggle with his freewheeling party rival, Adolfo Rey Prendes.

But most political observers say Mr. Chávez Meña piled up a lot of political debts along the way.

"His hands are completely tied," says leftist leader Jorge Villacorta, noting that the candidate owes his biggest debt to the US Embassy. "Chávez Meña is much more compromised with the US than Duarte ever was." he says. "He'd make a good employee."

ARENA'S "MODERATE" MAN

Chávez Meña's opponent in ARENA, businessman Alfredo Cristiani, is also a bit short on clout and charisma. As one European diplomat quipped: "Freddy is very pleasant, very moderate, very mediocre—he'd make a good diplomat."

Mr. Cristiani, a Georgetown University graduate, has impressed US policymakers with his soft-spoken manner and perfect English. The wealthy coffee grower says he wants to roll back Duarte's liberal reforms by returning the banks and export trade to private hands. But he also assails the US for bogging down the war effort with its "human rights psychosis."

Cristiani has attracted middle-class voters looking for a respectable alternative to the Christian Democrats. But critics say his policies would dangerously polarize the country, widening the gap between left and right, rich and poor.

"The only serious chance for stability is if Chávez Meña wins," a top Reagan administration official says. "If Salvadorans want to continue European and North American support, they need Chávez Meña there."

But several other US officials and Cristiani himself seem confident that as long as ARENA maintains a moderate image, the US won't slash badly needed economic and military aid. "If we win a free election," Cristiani says, "the US has no choice but to work with us."

With ARENA running ahead in the polls, US officials here are scurrying around trying to help tame the party. But some officials say they still have a lingering fear that the inexperienced Cristiani will not be able to control ARENA's darker side. There are unsettling signs that Cristiani is not in charge.

Retired Col. Sigifredo Ochoa, ARENA's president of the Legislative Assembly, recently raised new concerns when he warned that any US attempt to impose Chávez Meña as president would be met with "right-wing guerrillas."

At the ARENA party convention Oct. 9, it was d'Aubuisson who wielded influence behind the scenes. According to a party official and a well-informed diplomat, his supporters pressured Calderón Sol, the moderate mayor, to decline the vice-presidential nomination, leaving it open for a close d'Aubuisson ally.

It's not clear how the US would react to an ARENA victory. But just as Duarte's 1984 victory over d'Aubuisson removed El Salvador as a contentious US issue, so ARENA's rise is sure to put the country back on the American political map.

EL SALVADOR'S POLITICAL LEFT IS A STUDY IN CONTRASTS

SAN SALVADOR.—Rubén Zamora seems to thrive on contradictions.

On one hand, he is a driving force behind the Democratic Convergence, a coalition of leftist parties participating in the democratic process for the first time in 16 years. But on the other hand, the European-style Socialist keeps an alliance with the Marxist rebels of the Farabundo Martí Liberation Front.

One of the Convergence's priorities in the campaign for next March's presidential elections is to push for political negotiations, including the FMLN, to bring an end to the eight-year civil war. But statements by the rebels indicate they may yet try to sabotage the elections.

Mr. Zamora and Guillermo Ungo, the left's presidential candidate, returned from eight years of exile last year against the wishes of the FMLN to take advantage of the Central American peace plan and the political void left by the faltering Christian Democrats.

Organizing in rural areas in a bid to build a nationwide party, Zamora says they have found two sentiments among potential supporters: fear, given the thousands of political killings in the past eight years, and hope. "Our task is to make hope predominate over fear."

The leftist leaders admit that their continuing connection to the armed rebels has somewhat undermined their campaign.

Not only has it irked the United States Embassy and the Salvadorian government; it has also scared and confused some potential supporters. In several recent protest marches, more radical groups tied to the FMLN—prone to violence and provocation—have mixed with peaceful demonstrators. This has only "given the Army an instrument to generate terror" against all leftist supporters, one leader says.

The Army is not now engaged in the murders of leftist politicians, as it was in the early '80s. But the Army and government are carrying out an extensive psychological campaign to blame the Convergence for the destruction the FMLN wrought.

At a recent gathering of journalists, President Duarte asked: "How are they going to justify their links with the FMLN"? How are they going to explain it?"

Zamora says it is simple. "The FMLN is an indispensable part of the political solution in this country. It would be a political absurdity to return to fight politically and break relations [with the FMLN]."

At this point in El Salvador, he suggests, elections alone will not resolve the country's problems, since no matter who wins, the real power rests in the hands of the Army. Zamora says political negotiations involving the Army and rebels are needed along with elections.

Also, by severing ties with the FMLN, a force rooted in the country's economic and political injustices, leftist politicians fear they would be reduced to a "bonsai left"—a decorative part of Salvadorian democracy continually pruned by intimidation.

For now, the Convergence is only shooting to finish third in the presidential race. That way, one of their members, most likely Zamora, would be appointed to a five-year seat on the three-member elections council—and play a key brokering role in running the country's future elections.—B.L.

[From the Christian Science Monitor, Oct. 25, 1988]

HARD LESSONS FOR THE UNITED STATES AND THE REGION

(By Brook Larmer)

SAN SALVADOR.—El Salvador's forgotten war is coming back to haunt Washington.

After four years in the shadow of Nicaragua, this tiny United States ally is poised to become one of the stickiest foreign-policy issues to confront the next US administration, diplomats, Salvadoran analysts, and US officials say.

The increasingly polarized situation here—marked by the rise of hard-line conservatives, an intensifying war, and rising human rights abuses—will likely force the US to reevaluate both its huge commitment to El Salvador and the direction of US policy in Central America, US and Salvadoran officials say.

Since 1980, the US has quietly poured more than $1 million a day into El Salvador. The money has had two objectives: to defeat the Marxist rebels and to build a democratic political center that would fend off extremists on the left and right. Neither has been fulfilled. Further, the progress made toward both is in danger.

"One of the first things the new president could face is a collapse of US policy in El Salvador", predicts a senior US Democratic aide with long experience on issues in the region. "The administration continues to frame El Salvador as a success story. But we're just sitting around waiting for disaster to happen."

With $3.3 billion in total US aid since 1980, El Salvador has been able to prevent the kind of communist takeover that toppled neighboring Nicaragua in 1979. While turning up the heat on the region's hottest war, it has also cobbled together a fragile democracy, a modest economic upturn, and a more professional, restrained military.

But now, the US "project" is spinning slowly out of control.

The interminable eight-year war is heating up. Death-squad murders have doubled this year. The government has failed to remedy the wretched poverty that helps fuel the conflict. And the political center has disintegrated, opening the way for the likely victory of a party with a notoriously anti-democratic past in March's presidential elections.

"The country is becoming so polarized that all the old worries of 1980 are coming back," says a Western diplomat, referring to the period when the political extremes plunged El Salvador into war. "The similarities are eerie."

So far, only a few in Washington have shown concern about the dark clouds gathering in El Salvador. But the stormy conditions could have profound implications for both the region and US policy, according to a wide range of diplomats, Salvadoran political analysts, and past and present US officials.

These sources clash over what future US policy in El Salvador should be, but they largely agree on what will emerge as the most prickly issues:

Reining in the new leaders. Leadership posts in both the Army and civilian government are soon expected to be handed over to representatives of more aggressive factions with past links to death squads.

The US virtually handpicked President José Napoleón Duarte and the Army high command in 1983 and 1984. But it will have less control over new conservative leaders, who openly blame the "gringos" for bogging down the war effort. US support for such a government is likely to be far more contentious than backing the centrist Duarte government.

A costly but endless war. The US has spent eight years and $850 million building a professional 57,000-man Army to defeat the 6,000 to 8,000 Marxist guerrillas. The war effort has helped prevent a rebel victory. But after 65,000 deaths, even optimistic US officials say the killing could easily go on for years. Congress will undoubtedly find it increasingly hard to muster the political will to sustain a seemingly endless war.

Roots of revolution. The Reagan administration has portrayed the insurgency as a classic case of Soviet-Cuban expansion. Obsessed with the external threat, it gave short shrift to the internal roots of the revolutionary movement: poverty and injustice. As a result, the US has backed away from Duarte's reforms and distrusted the idea of negotiations. Many Salvadoran analysts doubt the war can ever be won if the lot of the poor is not improved. But to seriously attack social inequities will require a reorientation of US policy.

High costs for the region. As long as the Salvadoran war continues, its two fragile neighbors, Guatemala and Honduras, will be affected by fleeing refugees, fighting on their borders, and the continued militarization of the region. Central America, sapped by large, nonproductive armies and continuing turmoil, is already mired in its worst economic crisis of the century. Stoking the region's hottest war will make it nearly impossible for these nations—both of which inaugurated civilian leaders in 1986 after decades of miltary rule—to consolidate either genuine democracy or economic prosperity.

Keeping Nicaragua in line. Despite the mounting concerns over the direction of events in Salvador, many policymakers say it must not be abandoned, because it plays an ever-more vital role as the region's main buffer against communism. This is so because just a few hundred miles south Nicaragua is consolidating its communist state after the de facto defeat of the US-backed contras.

US officials and Salvadoran Army officers fear that Managua may soon be freer to aid the Salvadoran rebels more directly. It will be up to the next US administration to reconcile the disturbing developments in El Salvador with the perceived need to support its government.

Inching toward talks. With no military victory in sight, many diplomats and left-leaning politicians here think the US should now push for a lasting negotiated solution. But the obstacles are formidable in this deeply polarized country, where the two armies have not budged from their rock-hard positions.

Another obstacle—perhaps the biggest—has been the US Embassy. Duarte negotiated with the rebels three times—against the US's will. According to diplomats and a senior Salvadoran official, the US encouraged him to drop the talks.

As in Nicaragua, the US policy in El Salvador has emphasized military victory, not negotiation. In his last speech before leaving in August, outgoing Ambassador Edwin Corr advised Salvadorans not to let "impatience" result in negotiated concessions with the Marxist rebels.

The US says it supports dialogue, but only within the framework of the Salvadoran Constitution. Under such rules, the rebels would have to put down their arms before negotiating, something they consider tantamount to surrender.

Ironically, the US pushes for exactly the opposite in Nicaragua, where it sides with the antigovernment contra forces.

Little room to maneuver. Even with the many troubling signs in El Salvador, policymakers are at a loss for a clear alternative to current US policy. A drastic cut or a boost in aid would add fuel to Salvador's hard-line extremists. Most analysts say the next US administration will have to navigate cautiously through this funding dilemma, avoiding major cuts but trying to use aid more effectively as leverage for change.

Most experienced political analysts here say an increase in aid would send a misguided message of encouragement to the hard-liners likely to come in power. It would also feed El Salvador's debilitating dependence.

"Clearly, just pouring more money down there doesn't help. We've turned them into junkies," a Democratic aide says.

Overdependence has become a burden on the donor, the US, as well as the receiver, El Salvador. The US cannot fund this war indefinitely. And it will never have long-term success if El Salvador remains a weak client state that is every day more dependent on US handouts.

Building an independent economy in the midst of war is no easy task. But a prominent economist here says El Salvador's intermediate goal should be to "diversify dependence." It should find other markets and money in Europe, he says.

The dangers of slashing aid are just as great. Even top Democratic advisers say a drastic cut in aid would throw away the US's only leverage for pressuring El Salvador on human rights, judicial proceedings, or even negotiations with the guerrillas. Lacking both funding and accountability, hard-line Army elements could get out of control.

"If the US pulls out, either El Salvador falls to the guerrillas or the Army goes the Guatemala route," says one US military analyst. The Guatemalan Army unleashed a terrifying campaign of murder against anyone with suspected leftist ties in the late 1970s, soon after the US cut off aid because of continuing human-rights violations.

Most diplomats and military analysts here say the Salvadoran Army would show more restraint than the right-wing politicians pushing to wipe out the guerrillas quickly. But despite its professed devotion to democracy, the powerful Army is so used to ruling that no one expects it to take a back-row seat in the future.

As four US colonels wrote in a report last spring: "The United States can hardly just walk away from El Salvador without some concern about the Army's role in Salvadoran politics."

Congress is just beginning to stir on the issue of El Salvador. Last spring, it withheld $5 million in US military aid because the Duarte government made no progress investigating the murders of two US labor advisers by government security forces.

Congress recently approved an amendment to the 1989 foreign-aid bill that shifted 25 percent of El Salvador's economic support funds away from war-related activities to address basic human needs.

While small, these cases foreshadow a future in which Congress wields its influence without drastically reducing aid.

"This is the first real change in how the administration distributes aid since Duarte's election," says Caleb Rossiter of the Arms Control and Foreign Policy Caucus. "It's just the beginning."

TRAUMA CARE SYSTEMS PLANNING AND DEVELOPMENT ACT OF 1989

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1989

Mr. BATES. Mr. Speaker, today I am introducing the Trauma Care Systems Planning and Development Act of 1989. This legislation passed in the House of Representatives in the 100th session of Congress but was not considered by the Senate due to time constraints.

This bill will save 20,000 lives per year by providing assistance to States. The legislation authorizes $45 million per year in each of the next 3 years to encourage States to develop, implement, and monitor the trauma care component of each State's emergency medical services.

Each year, 20,000 to 25,000 people in the United States die from their injuries in hospitals unnecessarily. That is 20,000 to 25,000 deaths each year that could have been prevented if organized trauma systems were in place across the United States the way they are in West Germany. Trauma, severe accidental injury, kills 140,000 people in the United States each year, and another 80,000 become permanently disabled from a brain or spinal cord injury. Trauma is the leading cause of death for Americans up to age 34 and that is one of the reasons that one out of every eight hospital beds is occupied by an injured patient. While trauma is primarily a disease of the young, it is far more fatal in older victims. Fully 30,000 of the 140,000 people who die each year from injuries in the United States are over age 65. Studies show that those over age 65 have a 90-percent greater chance of dying from injury than those under age 65 regardless of the severity of the injury.

Those who live in the few areas of the country that have insitituted organized systems of trauma care are the luckly ones. Fully 80 percent of the U.S. population does not live in an area that is part of an organized system of trauma care. A victim injured in an area located near a developed trauma center will have a chance of survival nearly double that of a victim injured near traditional medical centers. In the vast majority of the country, injured victims are simply taken to the nearest hospital. That is why 20,000 to 25,000 people in the United States die from their injuries in hospitals unnecessarily.

Transportation difficulties, long response time for personnel, and the lack of trauma systems, are reasons why we have such a high injury and death rate from trauma in rural areas. This legislation requires participating states to identify rural areas which have no access to emergency medical services through the 911 emergency telepone number.

The economic costs of trauma in addition to the human costs to our Nation are enormous. The national safety council estimates that each year, trauma costs the Nation $135 billion through lost wages, medical expenses, insurance administration costs, and property damage. Injuries from motor vehicles alone—only one-third of all accidental injuries—costs us more every year than any other disease except cancer.

We have a crises in trauma care in this country. In the past 3 years, 8 of Los Angeles County's 24 designated trauma centers have closed, leaving the region's trauma network near collapse. Yet trauma can largely be prevented. Organized systems of trauma care—which involve prompt identification of serious injury, prompt transfer of an injured person to a specialized trauma facility—save lives. This has been strikingly demonstrated in my own district. In San Diego County, CA, we instituted a trauma system 4 years ago. A recent study in San Diego showed that the trauma death rate fell by 55 percent after the implementation of a trauma care system.

This bill has been drafted with the unanimous consent of the medical community. The American College of Surgeons, the American College of Emergency Physicians, the American Medical Association, the American Association of Retired Persons, and the National Association of EMS Physicians are some of the groups that support the enactment of this legislation.

The human costs of trauma to our Nation—in the form of grief over the loss of a loved one—cannot be measured. The economic costs, as noted, are staggering. The cost of my bill is very modest in relation to the actual costs savings that will be accrued, particularly in view of the major public health problem that it addresses.

This measure will go a long way toward reducing the needless loss of lives, and I urge my colleagues to support it. Thank you, Mr. Speaker.

Following is the text of the bill:

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trauma Care Systems Planning and Development Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government and the governments of the States have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services throughout the United States;

(2) physical trauma is the leading cause of death of Americans between the ages of 1 and 44 and is the third leading cause of death in the general population of the United States;

(3) physical trauma in the United States results in an aggregate annual cost of $135,000,000,000 in medical expenses, insurance, administrative costs, property damage, and indirect costs (including more than an annual $31,000,000,000 in lost wages of individuals who are in their most productive work years); and

(4) the number of incidents of physical trauma in the United States is a serious medical and social problem, and the number of deaths resulting from such incidents can be substantially reduced by improving the trauma-care components of the systems for the provision of emergency medical services in the United States.

SEC. 3. ESTABLISHMENT OF PROGRAMS WITH RESPECT TO TRAUMA CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XI the following new title:

"TITLE XII—TRAUMA CARE

"PART A—GENERAL AUTHORITY AND DUTIES OF SECRETARY

"SEC. 1201. ESTABLISHMENT.

"(a) IN GENERAL.—The Secretary shall—

"(1) conduct and support research, training, evaluations, and demonstration projects with respect to trauma care systems;

"(2) foster the development of appropriate, modern trauma care systems through the sharing of information among agencies and individuals involved in planning, fur-

nishing, and studying such services and care;

"(3) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing trauma care;

"(4) provide to State and local agencies technical assistance relating to trauma care systems; and

"(5) sponsor workshops and conferences on trauma care.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a).

"SEC. 1202. ADVISORY COUNCIL ON TRAUMA CARE SYSTEMS.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory council to be known as the Advisory Council on Trauma Care Systems.

"(b) DUTIES.—The Council shall—

"(1) periodically conduct assessments of the needs in the United States with respect to trauma care, including special consideration of the unique needs of rural areas, and the extent to which the States are responding to such needs;

"(2) submit to the Secretary the findings made as a result of such assessments; and

"(3) advise the Secretary with respect to activities carried out under this title.

"(c) MEMBERSHIP.—

"(1) The Secretary shall appoint to the Council 12 appropriately qualified representatives of the public who are not officers or employees of the United States. Of such members—

"(A) 4 shall be individuals experienced or specially trained in trauma surgery (including a critical care nurse);

"(B) 3 shall be individuals experienced or specially trained in emergency medicine;

"(C) 1 shall be an individual experienced or specially trained in the care of injured children;

"(D) 1 shall be an individual experienced or specially trained in physical medicine and rehabilitation; and

"(E) 3 shall be individuals experienced or specially trained in the development, administration, or financing of trauma care systems.

"(2) The Secretary may designate as ex officio members of the Council appropriately qualified representatives of the Department of Health and Human Services, the Department of Transportation, the Federal Emergency Management Agency, and such other agencies of the Federal Government as the Secretary determines to have functions affecting emergency medical services.

"(d) TERMS.—

"(1) Except as provided in paragraph (2), members of the Council appointed under subsection (c)(1) shall serve for a term of 4 years.

"(2) Of the members first appointed to the Council under subsection (c)(1), the Secretary shall appoint 4 members to serve for a term of 4 years, 4 members to serve for a term of 3 years, and 4 members to serve for a term of 2 years.

"(e) VACANCIES.—

"(1) Any member of the Council appointed under subsection (c)(1) to fill a vacancy occurring before the expiration of the term of the predecessor of the member shall be appointed for the remainder of the term of the predecessor.

"(2) A member of the Council appointed under subsection (c)(1) may continue to serve after the expiration of the term of the member until a successor is appointed.

"(f) CHAIRPERSON.—The Secretary, or the designee of the Secretary, shall serve as chairperson of the Council.

"(g) MEETINGS.—The Council shall meet at the call of the chairperson and shall meet not less than once each 3 months.

"(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

"(1) Members of the Council who are officers or employees of the United States may not receive compensation for service on the Council in addition to the compensation otherwise received for duties carried out as such officers or employees.

"(2) Members of the Council appointed under subsection (c)(1) shall receive compensation for each day (including traveltime) engaged in carrying out the duties of the Council. Such compensation may not be in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(i) STAFF.—The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(j) TERMINATION.—Notwithstanding section 14(b) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law after the date of the enactment of the Trauma Care Systems Planning and Development Act of 1989.

"PART B—GRANTS WITH RESPECT TO MODIFICATIONS OF STATE PLANS

"SEC. 1211. ESTABLISHMENT OF PROGRAM.

"(a) REQUIREMENT OF ALLOTMENTS FOR STATES.—Subject to section 1232(c), the Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1219. The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1218.

"(b) PURPOSE OF ALLOTMENTS.—The Secretary may not make payments under subsection (a) to a State for a fiscal year unless the State agrees that, with respect to the trauma-care component of the State plan for the provision of emegency medical services, the payments will be expended only for the purpose of developing, implementing, and monitoring the modifications to such component described in section 1213.

"SEC. 1212. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FISCAL YEAR 1990.

"(a) IN GENERAL.—

"(1) The Secretary may not make payments under section 1211(a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purposes described in section 1211(b), to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to—

"(A) for fiscal year 1991, not less than $1 for each $1 of Federal funds provided in payments from the allotment for such fiscal year; and

"(B) for each fiscal year subsequent to fiscal year 1991, not less than $3 for each $1 of Federal funds provided in payments from the allotment for each such fiscal year.

"(2) With respect to an allotment under section 1211(a) for a State for fiscal year 1990, the Secretary may not require the State to make non-Federal contributions as a condition of receiving payments from the allotment.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 1213. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

"(a) STATE PLAN.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to develop, implement, and monitor, in accordance with this section, modifications to the trauma-care component of the State plan for the provision of emergency medical services. With respect to such component, the State plan will be modified—

"(1) to specify that the modifications required pursuant to paragraphs (2) through (10) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

"(2) to specify the public or private entity that will designate trauma care regions and trauma centers in the State;

"(3) to contain standards and requirements for the designation of trauma centers (including trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient) by such entity, including standards and requirements for—

"(A) the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

"(B) the resources and equipment needed by such centers; and

"(C) the availability of rehabilitation services for trauma patients;

"(4) to contain standards and requirements for the implementation of regional trauma care systems, including standards and guidelines for medically directed triage and transportation of trauma patients (including patients injured in rural areas) prior to care in designated trauma centers;

"(5) to contain standards and requirements for medically directed triage and transport of severely injured children to designated trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient;

"(6) to specify procedures for the accreditation and evaluation of designated trauma centers (including trauma centers described in paragraph (4)) and trauma care systems;

"(7) to provide for the establishment in the State of a central data reporting and analysis system for—

"(A) identifying severely injured trauma patients within regional trauma care systems in the State;

"(B) identifying the cause of the injury and any factors contributing to the injury;

"(C) for identifying the nature and severity of the injury; and

"(D) for monitoring trauma patient care (including prehospital care) in each designated trauma center within regional trauma care systems in the State (including relevant emergency-department discharges and rehabilitation information);

"(8) to provide for the use of procedures by paramedics and emergency medical tech-

nicians to assess the severity of the injuries incurred by trauma patients;

"(9) to provide for the use of appropriate transportation and transfer policies to ensure the delivery of patients to designated trauma centers and other facilities within and outside of the jurisdiction of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers;

"(10) to provide for the conduct of public education activities concerning injury prevention and obtaining access to trauma care; and

"(11) with respect to the requirements established in paragraphs (2) through (10), to provide assurances of coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

"(b) CERTAIN STANDARDS WITH RESPECT TO TRAUMA CARE CENTERS AND SYSTEMS.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that, in carrying out paragraphs (3) and (4) of subsection (a), the State will adopt guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to the applicable guidelines developed by the American College of Surgeons and by the American College of Emergency Physicians.

"(c) WAIVER OF CERTAIN STANDARDS.—

"(1) The Secretary may, with respect to any guideline required to be adopted by a State pursuant to subsection (b), waive the requirement for a State if—

"(A) the State, acting through the principal State agency with respect to emergency medical services, submits to the Secretary an application for the waiver, including a statement of the facts upon which the State justifies the request for the waiver; and

"(B) the Secretary determines that granting the waiver will not result in the diminishment of the availability of quality trauma care in the State.

"(2) The Secretary may grant a waiver under paragraph (1) only after—

"(A) providing notice to the public that the State is applying for the waiver;

"(B) soliciting and considering comments from the public with respect to the application for the waiver; and

"(C) permitting the public not less than a 30-day period in which to respond to the solicitation for such comments, which period shall commence on the day after the Secretary provides the notice required in subparagraph (A).

"(3) The notice and the solicitation of comments required in paragraph (2) shall be made through publication in the Federal Register.

"(d) RULE OF CONSTRUCTION WITH RESPECT TO NUMBER OF DESIGNATED TRAUMA CENTERS.—With respect to commpliance with subsection (a) as a condition of the receipt of a grant under section 1211(a), such subsection may not be construed to specifiy the number of trauma care centers designated pursuant to such subsection.

"SEC. 1214. REQUIREMENT OF ANNUAL REPORT BY DESIGNATED TRAUMA CENTERS.

"The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to require each designated trauma center in the State to provide to the emergency medical system of the State each fiscal year a report that—

"(1) specifies the number of trauma patients cared for by such facility during the fiscal year;

"(2) specifies the total number of inpatient hospital days used by such patients during the fiscal year; and

"(3) describes the diagnoses, treatment, and treatment outcomes for such patients.

"SEC. 1215. REQUIREMENT OF PROVISION OF CERTAIN INFORMATION TO SECRETARY.

"(a) INFORMATION RECEIVED BY STATE REPORTING AND ANALYSIS SYSTEM.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 1213(a)(7).

"(b) AVAILABILITY OF EMERGENCY MEDICAL SERVICES IN RURAL AREAS.—The Secretary may not make payments under section 1211(a) for a fiscal year unless—

"(1) the State involved identifies any rural area in the State for which—

"(A) there is no system of access to emergency medical services through the telephone number 911;

"(B) there is no basic life-support system; or

"(C) there is no advanced life-support system; and

"(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.

"SEC. 1216. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (b), make payments under section 1211(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) for any purpose other than developing, implementing, and monitoring the modifications required by section 1213(a) to be made to the State plan for the provision of emergency medical services;

"(2) to make cash payments to intended recipients of services provided pursuant to such section;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical or communication equipment, ambulances, or aircraft;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) EXCEPTION.—If the Secretary finds that the purpose described in section 1211(b) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in subsection (a)(3).

"SEC. 1217. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments; and

"(2) determining whether the payments were expended in accordance with the purpose of the program involved.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that the State will make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments under section 1211(a) in order to assure that expenditures are consistent with the provisions of the program involved.

"SEC. 1218. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1211(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1211(b) through section 1217;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the information required to be submitted to the Secretary pursuant to section 1215(b)(2); and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1219. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 1211(a) for a State for a fiscal year shall be the greater of—

"(1) $500,000; and

"(2) an amount determined under subsection (b).

"(b) DETERMINATION UNDER FORMULA.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount made available under section 1232(b)(2) for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population of the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

"(B) an amount equal to the population of the United States, as indicated by the most recent data collected by the Bureau of the Census.

"(c) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 1211(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) The amounts referred to in paragraph (1) are any amounts made available pursuant to 1232(b)(2) that are not paid under section 1211(a) to a State as a result of—

"(A) the failure of the State to submit an application under section 1218;

"(B) the failure, in the determination of the Secretary, of the State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made for the State.

"(3) The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"SEC. 1220. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to section 1211(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under such section.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against any amount due to be paid to the State under section 1211(a).

"(b) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1221. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 1211(a).

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under section 1211(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1222. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving payments under section 1211(a), provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1211(b). The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving an allotment under section 1211(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out section 1211(b) and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments to the State under section 1211(a) by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1223. REPORT BY SECRETARY.

"Not later than October 1, 1991, the Secretary shall report to the Congress on the activities of the States carried out pursuant to section 1211. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"PART C—GENERAL PROVISIONS

"SEC. 1231. DEFINITIONS.

"For purposes of this title:

"(1) The term 'Council' means the Advisory Council on Trauma Care Systems established pursuant to section 1202(a).

"(2) The term 'designated trauma center' means a trauma center designated in accordance with the modifications to the State plan described in section 1213.

"(3) The term 'plan for the provision of emergency medical services' means a plan for a comprehensive, organized system to provide for the access, response, triage, field stabilization, transport, hospital stabilization, definitive care, and rehabiliation of patients of all ages with respect to emergency medical services.

"(4) The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(5) The term 'trauma-care component of the plan for the provision of emergency medical services' means a plan for a comprehensive health care system, within rural and urban areas of the State, for the prompt recognition, prehospital care, emergency medical care, acute surgical and medical care, rehabilitation, and outcome evaluation of seriously injured patients.

"SEC. 1232. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there is authorized to be appropriated $45,000,000 for each of the fiscal years 1990 through 1992.

"(b) ALLOCATION OF FUNDS BY SECRETARY.—

"(1) For the purpose of carrying out part A, the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(2) For the purpose of making allotments under section 1211(a), the Secretary shall, subject to subsection (c), make available 90 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(c) EFFECT OF INSUFFICIENT APPROPRIATIONS WITH RESPECT TO ALLOTMENTS.—

"(1) If the amounts made available pursuant to subsections (a) and (b)(2) are insufficient for providing, in accordance with section 1219(a), each State with an allotment under section 1211(a) of not less than $500,000, the Secretary shall, from such amounts as are made available pursuant to such subsections, make grants to the States for carrying out the purpose described in section 1211(b).

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.

"PART D—EMERGENCY RESPONSE EMPLOYEES

"SEC. 1241. DEVELOPMENT OF GUIDELINES AND MODEL CURRICULUM WITH RESPECT TO EMERGENCY RESPONSE EMPLOYEES AND INFECTIOUS DISEASES.

"(a) IN GENERAL.—Not later than 90 days after the effective date of this section, the Secretary, acting through the Director of the Centers for Disease Control, shall develop guidelines and a model curriculum for emergency response employees with respect to the prevention of exposure to infectious diseases during the process of responding to emergencies.

"(b) INCLUSION OF CERTAIN INFORMATION.—The guidelines and the model curriculum developed under subsection (a) shall, to the extent practicable, include—

"(1) information with respect to the manner in which infectious diseases are transmitted; and

"(2) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such diseases and conditions in which such employees are not at risk with respect to such diseases.

"(c) APPOINTMENT OF TASK FORCE.—The Secretary shall establish a task force to assist the Secretary in developing the guidelines and the model curriculum required in subsection (a). The Secretary shall appoint to the task force representatives of the Centers for Disease Control, representatives of State governments, and representatives of emergency response employees.

"(d) DISSEMINATION OF INFORMATION.—The Secretary shall—

"(1) transmit to State public health officers copies of the guidelines and the model curriculum developed under subsection (a) with the request that such officers disseminate such copies as appropriate throughout the State; and

"(2) make such copies available to the public.

"SEC. 1242. NOTIFICATION OF EMERGENCY RESPONSE EMPLOYEES WITH RESPECT TO INFECTIOUS DISEASES.

"(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—The Secretary may not make payments under section 1211(a) unless the State involved agrees to establish the following requirements for medical facilities:

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an infectious disease, the medical facility must, with respect to the determination, notify the designated officer of the emergency response employees who transported the victim to the medical facility.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim must, with respect to the designated officer of the emergency response employees who transported the victim to the initial medical facility, notify the designated officer of any determination by the medical facility that the victim had an infectious disease.

"(3) With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs must be made not later than 48 hours after the determination is made.

"(b) NOTIFICATION UPON REQUEST OF DESIGNATED OFFICER.—The Secretary may not make payments under section 1211(a) unless the State involved agrees to establish the

following requirements for medical facilities.

"(1) If a victim of an emergency is transported by emergency response employees to a medical facility, the medical facility must, upon the request of the designated officer of any emergncy response employees who attended, assisted, or transported the victim, notify the designated officer of any determination by the medical facility that the victim has an infectious disease.

"(2) If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of the death of the victim must, upon the request of the designated officer of any emergency response employees who attended, assisted, or transported the victim, notify the designated officer or any determination by the medical facility that the victim had an infectious disease.

"(3)(A) A medical facility must make a notification required in paragraph (1) or (2) not later than 48 hours after receipt of a request pursuant to the paragraph involved if, prior to the request, a determination described in such paragraph has been made by the medical facility.

"(B) A medical facility must make a notification required in paragraph (1) or (2) not later than 48 hours after making a determination described in the paragraph involved if, after receipt of a request pursuant to such paragraph, the determination is made.

"(c) PROCEDURES FOR NOTIFICATION OF DESIGNATED OFFICER.—The Secretary may not make payments under section 1211(a) unless the State involved agrees to establish the following requirements for medical facilities, with respect to paragraphs (1) and (2)(A), and for designated officers of emergency response employees, with respect to paragraph (2)(B):

"(1) In making a notification required under subsection (a) or (b), a medical facility must provide the date on which the victim of the emergency involved was transported by emergency response employees to a medical facility and, upon request, the location at which such emergency occurred (including, to the extent practicable, the address of the location).

"(2) If a notification under subsection (a) or (b) is mailed or otherwise indirectly made—

"(A) the medical facility sending the notification must, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(B) such designated officer must, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

"(d) DESIGNATION OF INDIVIDUALS TO REQUEST AND RECEIVE NOTIFICATIONS FROM MEDICAL FACILITIES.—The Secretary may not make payments under section 1211(a) unless the State involved agrees as follows:

"(1) The public health officer of each State will, for the purpose of requesting and receiving notifications under subsections (a) and (b), and for the purpose of carrying out subsection (e), designate 1 official or officer of each employer of emergency response employees in the State.

"(2) In making designations required in paragraph (1), a public health officer will give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

"(e) NOTIFICATIONS TO EMPLOYEES.—The Secretary may not make payments under section 1211(a) unless the State involved agrees to establish the following requirements for designated officers of emergency response employees:

"(1) After receiving a notification under subsection (a) or (b), a designated officer of emergency response employees must, to the extent practicable, immediately notify each of such employees who—

"(A) responded to the emergency involved; and

"(B) as indicated by the guidelines and the model curriculum developed by the Secretary under section 1241(a), may have been exposed to an infectious disease.

"(2) A designated officer of emergency reponse employees must, upon request of such an employee—

"(A) determine whether, if a victim of an emergency to which the employee responded had an infectious disease, the employee might have been exposed to the disease; and

"(B) make a request described in subsection (b) if, as indicated by a determination made pursuant to subparagraph (A), the employee might have been exposed to the infectious disease.

"(3) A notification under this subsection to an emergency response employee must inform the employee involved of—

"(A) the fact that the employee may have been exposed to an infectious disease;

"(B) the name of the infectious disease;

"(C) any action by the employee that, as indicated by the guidelines and model curriculum developed by the Secretary under section 1241(a), is medically appropriate; and

"(D) if medically appropriate under such guidelines and model curriculum, the location of the emergency involved and the date and time of such emergency.

"(f) LIMITATION.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that subsections (a)(1) and (b)(1) will not apply to any determination described in such subsections made with respect to a victim of an emergency after the expiration of the 60-day period beginning on the date that the victim is transported by emergency response employees to a medical facility.

"(g) RULES OF CONSTRUCTION.—The Secretary may not make payments under section 1211(a) unless the State involved agrees as follows:

"(1) This section will not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

"(2) This section will not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to make disclosures with respect to the identity of a victim if such disclosures are prohibited under the law of the State or under Federal law.

"(h) ENFORCEMENT.—The Secretary may not make payments under section 1211(a) unless the State involved agrees to establish enforcement provisions, including injunctive relief and a civil cause of action for damages, with respect to violations of the requirements established by the State pursuant to this section.

"(i) DEFINITIONS.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that, for purposes of this section, the following definitions will apply:

"(1) The term 'emergency' means an emergency involving injury or illness.

"(2) The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(3) The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(4)(A) Except as provided in subparagraph (B), the term 'infectious disease' means hepatitis B, hepatitis non-A/non-B, pulmonary tuberculosis, meningoccal meningitis, rubella, and any other disease designated under guidelines issued by the Secretary as an infectious disease for purposes of this section.

"(B) The term 'infectious disease' does not include any condition arising from infection with the etiologic agent for acquired immune deficiency syndrome.".

SEC. 4. REQUIREMENT OF CERTAIN STUDIES RELATING TO TRAUMA CARE.

(a) MEDICAID POLICIES OF STATES.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study for the purpose of determining the policies adopted by States in reimbursing trauma centers pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The study shall assess the adequacy and appropriateness of the reimbursements provided pursuant to such title by States to such centers and shall include recommendations with respect to whether the requirements imposed under such title should be modified in order to ensure that such centers are appropriately reimbursed.

(b) TIME FOR COMPLETION.—The Secretary shall, not later than 1 year after the effective date of this Act, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 5. CERTAIN REQUIREMENTS WITH RESPECT TO COMMUNICATION NEEDS OF EMERGENCY MEDICAL SERVICES.

(a) IN GENERAL.—The Federal Communications Commission shall—

(1) complete a study of the availability of spectra allocations and radio frequencies for emergency medical services communications between ambulances and hospitals, including both public and private ambulances and hospitals;

(2) establish a plan to ensure that the needs of emergency medical services communications shall be adequately provided for in the assignment of spectra allocations and radio frequencies;

(3) with respect to any State responsibilities under such plan, develop information relating to the manner in which the States should carry out such responsibilities, including information relating to the types of equipment that should be utilized and information relating to general operating procedures; and

(4) make such information available to appropriate State officials.

(b) TIME FOR COMPLETION.—The Federal Communications Commission shall, not later than 1 year after the effective date of this Act, complete the study required in paragraph (1) of subsection (a) and submit to the Congress a report describing—

(1) the findings made as a result of the study;

(2) the plan required in paragraph (2) of such subsection; and

(3) the information required in paragraph (3) of such subsection.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1989, or upon the date of the enactment of this Act, whichever occurs later.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 5, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 6

9:30 a.m.
Joint Economic
To hold hearings on employment-unemployment statistics for December.
2359 Rayburn Building

JANUARY 17

10:00 a.m.
Foreign Relations
To hold hearings on the nomination of James A. Baker III, of Texas, to be Secretary of State (pending receipt by the Senate).
SH-216

2:00 p.m.
Foreign Relations
To continue hearings on the nomination of James A. Baker III, of Texas, to be Secretary of State (pending receipt by the Senate).
SH-216

JANUARY 18

10:00 a.m.
Foreign Relations
To continue hearings on the nomination of James A. Baker III, of Texas, to be Secretary of State (pending receipt by the Senate).
SH-216

JANUARY 19

9:30 a.m.
Governmental Affairs
To hold hearings on the nomination of Richard G. Darman, of Virginia, to be Director, Office of Management and Budget.
SD-342

JANUARY 24

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To hold oversight hearings on the Farmers Home Administration implementation of the Agriculture Act of 1987 (P.L. 100-233), as it relates to borrowers.
SR-332

Finance
To hold hearings to review the recent trend in corporate restructurings, debt in the corporate sector, and the relationship of these trends to the tax law.
SD-215

JANUARY 25

10:00 a.m.
Finance
To continue hearings to review the recent trend in corporate restructurings, debt in the corporate sector, and the relationship of these trends to the tax law.
SD-215

JANUARY 26

9:00 a.m.
Rules and Administration
To hold an organizational meeting, to consider committee's rules of procedure, committee's budget for 1989, Joint Committee on Printing and the Joint Committee on the Library membership, and other pending legislative and administrative business.
SR-301

9:30 a.m.
Rules and Administration
To hold hearings on the appropriate use of rule XI of the Senate rules of procedure and practice when sitting on impeachment trials in the impeachment of Judge Alcee L. Hastings, and any other matter which may assist the Senate in the impending impeachment.
SR-301

10:00 a.m.
Finance
To continue hearings to review the recent trend in corporate restructurings, debt in the corporate sector, and the relationship of these trends to the tax law.
SD-215

JANUARY 27

10:00 a.m.
Finance
To hold hearings on the nomination of Carla Hills, of New York, to U.S. Trade Representative.
SH-215

HOUSE OF REPRESENTATIVES—*Thursday, January 19, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, may our experience of Your presence be received with an understanding both for ourselves and as a word to the whole world. May we not limit Your mercy and judgment to our own language or history, boundaries, or traditions, but receive Your gifts of life and love aware of all people from every place, with whom we share every hope, every fear, every joy. Bless us and all the people of the world, this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SWEARING IN OF THE HONORABLE JOHN T. MYERS

The SPEAKER. The Chair will administer the oath to the gentleman from Indiana [Mr. MYERS] who was not here on the opening day. Will the gentleman from Indiana come forward and take the oath of office?

Mr. MYERS of Indiana appeared at the bar of the House and took the oath of office.

The SPEAKER. You are now a Member of the 101st Congress.

PLEDGE OF ALLEGIANCE

The SPEAKER. Now that the gentleman from Indiana [Mr. MYERS] has qualified as a colleague in the 101st Congress, I would like to call on him, if he would, please, to lead us in the Pledge of Allegiance.

Mr. MYERS of Indiana led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

ELECTION OF MEMBERS TO STANDING COMMITTEES OF THE HOUSE

Mr. GRAY. Mr. Speaker, I offer a privileged resolution (H. Res. 39) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 39

Resolved, That the following named Members, Resident Commissioner, and Delegates, be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Walter B. Jones, North Carolina; George E. Brown, Jr., California; Charles Rose, North Carolina; Glenn English, Oklahoma; Leon E. Panetta, California; Jerry Huckaby, Louisiana; Dan Glickman, Kansas; Tony Coelho, California; Charles W. Stenholm, Texas; Harold L. Volkmer, Missouri; Charles Hatcher, Georgia; Robin Tallon, South Carolina; Harley O. Staggers, Jr., West Virginia; Jim Olin, Virginia; Timothy J. Penny, Minnesota; Richard H. Stallings, Idaho; David R. Nagle, Iowa; Jim Jontz, Indiana; Tim Johnson, South Dakota; Claude Harris, Alabama; Ben Nighthorse Campbell, Colorado; Mike Espy, Mississippi; Bill Sarpalius, Texas; vacancy; vacancy.

Committee on Armed Services: Charles E. Bennett, Florida; G.V. (Sonny) Montgomery, Mississippi; Ronald V. Dellums, California; Patricia Schroeder, Colorado; Beverly B. Byron, Maryland; Nicholas Mavroules, Massachusetts; Earl Hutto, Florida; Ike Skelton, Missouri; Marvin Leath, Texas; Dave McCurdy, Oklahoma; Thomas M. Foglietta, Pennsylvania; Roy Dyson, Maryland; Dennis M. Hertel, Michigan; Marilyn Lloyd, Tennessee; Norman Sisisky, Virginia; Richard Ray, Georgia; John M. Spratt, Jr., South Carolina; Frank McCloskey, Indiana; Solomon P. Ortiz, Texas; George (Buddy) Darden, Georgia; Tommy F. Robinson, Arkansas; Albert G. Bustamante, Texas; George J. Hochbrueckner, New York; Joseph E. Brennan, Maine; Owen B. Pickett, Virginia; H. Martin Lancaster, North Carolina; Lane Evans, Illinois; James H. Bilbray, Nevada; John Tanner, Tennessee; Michael R. McNulty, New York.

Committee on Banking, Finance and Urban Affairs: Frank Annunzio, Illinois; Walter E. Fauntroy, District of Columbia; Stephen L. Neal, North Carolina; Carroll Hubbard, Jr., Kentucky; John J. LaFalce, New York; Mary Rose Oakar, Ohio; Bruce F. Vento, Minnesota; Doug Barnard, Jr., Georgia; Robert Garcia, New York; Charles E. Schumer, New York; Barney Frank, Massachusetts; Richard H. Lehman, California; Bruce A. Morrison, Connecticut; Marcy Kaptur, Ohio; Ben Erdreich, Alabama; Thomas R. Carper, Delaware; Esteban Edward Torres, California; Gerald D. Kleczka, Wisconsin; Bill Nelson, Florida; Paul E. Kanjorski, Pennsylvania; Elizabeth J. Patterson, South Carolina; C. Thomas McMillen, Maryland; Joseph P. Kennedy II, Massachusetts; Floyd H. Flake, New York; Kweisi Mfume, Maryland; David E. Price, North Carolina; Nancy Pelosi, California; James A. McDermott, Washington; Peter Hoagland, Nebraska; Richard E. Neal, Massachusetts.

Committee on the Budget: Thomas S. Foley, Washington; Marty Russo, Illinois; Ed Jenkins, Georgia; Marvin Leath, Texas; Charles E. Schumer, New York; Barbara Boxer, California; Jim Slattery, Kansas; James L. Oberstar, Minnesota; Frank J. Guarini, New Jersey; Richard J. Durbin, Illinois; Mike Espy, Mississippi; Dale E. Kildee, Michigan; Anthony C. Beilenson, California; Jerry Huckaby, Louisiana; Martin Olav Sabo, Minnesota; Bernard J. Dwyer, New Jersey; Howard L. Berman, California; Robert E. Wise, Jr., West Virginia; Marcy Kaptur, Ohio; John Bryant, Texas.

Committee on the District of Columbia: Walter E. Fauntroy, District of Columbia; Fortney H. (Pete) Stark, California; William H. Gray III, Pennsylvania; Mervyn M. Dymally, California; Alan Wheat, Missouri; Bruce A. Morrison, Connecticut; vacancy.

Committee on Education and Labor: William D. Ford, Michigan; Joseph M. Gaydos, Pennsylvania; William (Bill) Clay, Missouri; George Miller, California; Austin J. Murphy, Pennsylvania; Dale E. Kildee, Michigan; Pat Williams, Montana; Matthew G. Martinez, California; Major R. Owens, New York; Charles A. Hayes, Illinois; Carl C. Perkins, Kentucky; Thomas C. Sawyer, Ohio; Donald M. Payne, New Jersey; Nita M. Lowey, New York; Glenn Poshard, Illinois; Jolene Unsoeld, Washington; vacancy; vacancy; vacancy.

Committee on Energy and Commerce: James H. Scheuer, New York; Henry A. Waxman, California; Philip R. Sharp, Indiana; James J. Florio, New Jersey; Edward J. Markey, Massachusetts; Thomas A. Luken, Ohio; Doug Walgren, Pennsylvania; Al Swift, Washington; Mickey Leland, Texas; Cardiss Collins, Illinois; Mike Synar, Oklahoma; W.J. (Billy) Tauzin, Louisiana; Ron Wyden, Oregon; Ralph M. Hall, Texas; Dennis E. Eckart, Ohio; Bill Richardson, New Mexico; Jim Slattery, Kansas; Gerry Sikorski, Minnesota; John Bryant, Texas; Jim Bates, California; Rick Boucher, Virginia; Jim Cooper, Tennessee; Terry L. Bruce, Illinois; J. Roy Rowland, Georgia; Thomas J. Manton, New York.

Committee on Foreign Affairs: Lee H. Hamilton, Indiana; Gus Yatron, Pennsylvania; Stephen J. Solarz, New York; Gerry E. Studds, Massachusetts; Howard Wolpe, Michigan; George W. Crockett, Jr., Michigan; Sam Gejdenson, Connecticut; Mervyn M. Dymally, California; Tom Lantos, California; Peter H. Kostmayer, Pennsylvania; Robert G. Torricelli, New Jersey; Lawrence J. Smith, Florida; Howard L. Berman, California; Mel Levine, California; Edward F. Feighan, Ohio; Ted Weiss, New York; Gary L. Ackerman, New York; Morris K. Udall, Arizona; James McClure Clarke, North Carolina; Jaime B. Fuster, Puerto Rico; Wayne Owens, Utah; Harry A. Johnston, Florida; Eliot L. Engel, New York; Eni F. H. Faleomavaega, American Samoa; vacancy; vacancy; vacancy.

Committee on Government Operations: Cardiss Collins, Illinois; Glenn English, Oklahoma; Henry A. Waxman, California; Ted Weiss, New York; Mike Synar, Oklahoma; Stephen L. Neal, North Carolina; Doug Barnard, Jr., Georgia; Barney Frank, Massachusetts; Tom Lantos, California; Robert E. Wise, Jr., West Virginia; Barbara Boxer, California; Major R. Owens, New York; Edolphus Towns, New York; John M. Spratt, Jr., South Carolina; Joe Kolter, Pennsylvania; Ben Erdreich, Alabama;

Gerald D. Kleczka, Wisconsin; Albert G. Bustamante, Texas; Matthew G. Martinez, California; Louise McIntosh Slaughter, New York; Bill Grant, Florida; Nancy Pelosi, California; Donald M. Payne, New Jersey.

Committee on House Administration: Joseph M. Gaydos, Pennsylvania; Charles Rose, North Carolina; Leon E. Panetta, California; Al Swift, Washington; Mary Rose Oakar, Ohio; Tony Coelho, California; Jim Bates, California; William (Bill) Clay, Missouri; Sam Gejdenson, Connecticut; Joe Kolter, Pennsylvania; Ronnie G. Flippo, Alabama; Martin Frost, Texas.

Committee on Interior and Insular Affairs: George Miller, California; Philip R. Sharp, Indiana; Edward J. Markey, Massachusetts; Austin J. Murphy, Pennsylvania; Nick Joe Rahall II, West Virginia; Bruce F. Vento, Minnesota; Pat Williams, Montana; Tony Coelho, California; Beverly B. Byron, Maryland; Ron de Lugo, Virgin Islands; Sam Gejdenson, Connecticut; Peter H. Kostmayer, Pennsylvania; Richard H. Lehman, California; Bill Richardson, New Mexico; George (Buddy) Darden, Georgia; Peter J. Visclosky, Indiana; Jaime B. Fuster, Puerto Rico; Mel Levine, California; James McClure Clarke, North Carolina; Wayne Owens, Utah; John Lewis, Georgia; Ben Nighthorse Campbell, Colorado; Peter A. DeFazio, Oregon; Eni F. H. Faleomavaega, American Samoa; James A. McDermott, Washington.

Committee on the Judiciary: Robert W. Kastenmeier, Wisconsin; Don Edwards, California; John Conyers, Jr., Michigan; Romano L. Mazzoli, Kentucky; William J. Hughes, New Jersey; Mike Synar, Oklahoma; Patricia Schroeder, Colorado; Dan Glickman, Kansas; Barney Frank, Massachusetts; George W. Crockett, Jr., Michigan; Charles E. Schumer, New York; Bruce A. Morrison, Connecticut; Edward F. Feighan, Ohio; Lawrence J. Smith, Florida; Howard L. Berman, California; Rick Boucher, Virginia; Harley O. Staggers, Jr., West Virginia; John Bryant, Texas; Benjamin L. Cardin, Maryland; George E. Sangmeister, Illinois.

Committee on Merchant Marine and Fisheries: Gerry E. Studds, Massachusetts; Carroll Hubbard, Jr., Kentucky; William J. Hughes, New Jersey; Earl Hutto, Florida; W.J. (Billy) Tauzin, Louisiana; Thomas M. Foglietta, Pennsylvania; Dennis M. Hertel, Michigan; Roy Dyson, Maryland; William O. Lipinski, Illinois; Robert A. Borski, Pennsylvania; Thomas R. Carper, Delaware; Douglas H. Bosco, California; Robin Tallon, South Carolina; Solomon P. Ortiz, Texas; Charles E. Bennett, Florida; Thomas J. Manton, New York; Owen B. Pickett, Virginia; Joseph E. Brennan, Maine; George J. Hochbrueckner, New York; Bob Clement, Tennessee; Stephen Solarz, New York; Frank Pallone, Jr., New Jersey; Greg H. Laughlin, Texas; Nita M. Lowey, New York; Jolene Unsoeld, Washington.

Committee on Post Office and Civil Service: William (Bill) Clay, Missouri; Patricia Schroeder, Colorado; Robert Garcia, New York; Mickey Leland, Texas; Gus Yatron, Pennsylvania; Mary Rose Oakar, Ohio; Gerry Sikorski, Minnesota; Frank McCloskey, Indiana; Gary L. Ackerman, New York; Mervyn M. Dymally, California; Thomas C. Sawyer, Ohio; Morris K. Udall, Arizona.

Committee on Public Works and Transportation: Robert A. Roe, New Jersey; Norman Y. Mineta, California; James L. Oberstar, Minnesota; Henry J. Nowak, New York; Nick Joe Rahall II, West Virginia; Douglas Applegate, Ohio; Ron de Lugo, Virgin Islands; Gus Savage, Illinois; Douglas H. Bosco, California; Robert A. Borski, Pennsylvania; Joe Kolter, Pennsylvania; Tim Valentine, North Carolina; Edolphus Towns, New York; William O. Lipinski, Illinois; Peter J. Visclosky, Indiana; James A. Traficant, Jr., Ohio; Louise McIntosh Slaughter, New York; John Lewis, Georgia; Peter A. DeFazio, Oregon; Benjamin L. Cardin, Maryland; Bill Grant, Florida; David E. Skaggs, Colorado; James A. Hayes, Louisiana; Bob Clement, Tennessee; Lewis F. Payne, Jr., Virginia; Jerry F. Costello, Illinois; Frank Pallone, Jr., New Jersey; Ben Jones, Georgia; Mike Parker, Mississippi; Greg H. Laughlin, Texas.

Committee on Science, Space, and Technology: George E. Brown, Jr., California; James H. Scheuer, New York; Marilyn Lloyd, Tennessee; Doug Walgren, Pennsylvania; Dan Glickman, Kansas; Harold L. Volkmer, Missouri; Howard Wolpe, Michigan; Bill Nelson, Florida; Ralph M. Hall, Texas; Dave McCurdy, Oklahoma; Norman Y. Mineta, California; Tim Valentine, North Carolina; Robert G. Torricelli, New Jersey; Rick Boucher, Virginia; Terry L. Bruce, Illinois; Richard H. Stallings, Idaho; James A. Traficant, Jr., Ohio; Lee H. Hamilton, Indiana; Henry J. Nowak, New York; Carl C. Perkins, Kentucky; C. Thomas McMillen, Maryland; David E. Price, North Carolina; David R. Nagle, Iowa; James A. Hayes, Louisiana; David E. Skaggs, Colorado; Jerry F. Costello, Illinois; Harry A. Johnston, Florida; John Tanner, Tennessee.

Committee on Small Business: Neal Smith, Iowa; Thomas A. Luken, Ohio; Ike Skelton, Missouri; Romano L. Mazzoli, Kentucky; Nicholas Mavroules, Massachusetts; Charles Hatcher, Georgia; Ron Wyden, Oregon; Dennis E. Eckart, Ohio; Gus Savage, Illinois; Norman Sisisky, Virginia; Esteban Edward Torres, California; Jim Cooper, Tennessee; Jim Olin, Virginia; Richard Ray, Georgia; Charles A. Hayes, Illinois; John Conyers, Jr., Michigan; James H. Bilbray, Nevada; Kweisi Mfume, Maryland; Floyd H. Flake, New York, H. Martin Lancaster, North Carolina; Michael R. McNulty, New York; Bill Sarpalius, Texas; Peter Hoagland, Nebraska; Richard E. Neal, Massachusetts; Glenn Poshard, Illinois; vacancy.

Committee on Veterans' Affairs: Don Edwards, California; Douglas Applegate, Ohio; Lane Evans, Illinois; Timothy J. Penny, Minnesota; Harley O. Staggers, Jr., West Virginia; J. Roy Rowland, Georgia; James J. Florio, New Jersey; Paul E. Kanjorski, Pennsylvania; Tommy F. Robinson, Arkansas; Charles W. Stenholm, Texas; Claude Harris, Alabama; Joseph P. Kennedy II, Massachusetts; Elizabeth J. Patterson, South Carolina; Tim Johnson, South Dakota; Jim Jontz, Indiana; Lewis F. Payne, Jr., Virginia; Bruce A. Morrison, Connecticut; George E. Sangmeister, Illinois; Mike Parker, Mississippi; Ben Jones, Georgia.

Mr. GRAY (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT OF THE HOUSE FROM TUESDAY, JANUARY 24, 1989, TO FRIDAY, JANUARY 27, 1989

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, January 24, 1989, it adjourn to meet at 11 a.m. on Friday, January 27, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DESIGNATION OF SPEAKER PRO TEMPORE TO LEAD HOUSE PROCESSION IN INAUGURATION CEREMONY

The SPEAKER. The Chair designates the Honorable JAMIE L. WHITTEN, of Mississippi, dean of the House, to act as Speaker pro tempore on Friday, January 20, 1989, to lead the House procession to the inauguration of the President and Vice President.

INAUGURAL CEREMONIES OF THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. GRAY. Mr. Speaker, I offer a privileged resolution (H. Res. 40) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 40

Resolved, That at 10:30 ante meridiem on Friday, January 20, 1989, the House shall proceed to the West Front of the Capitol for the purpose of attending the inaugural ceremonies of the President and Vice President of the United States; and that upon the conclusion of the ceremonies the House stand adjourned until 12 o'clock meridies on Tuesday, January 24, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON FRIDAY, JANUARY 20, 1989

Mr. GRAY. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Friday, January 20, 1989, for the Speaker to declare recesses subject to the call of the Chair.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. GRAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, January 20, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

DR. MARTIN LUTHER KING'S MESSAGE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute.)

Mr. MAZZOLI. Mr. Speaker, this past Monday the United States of America for the fourth time commemorated the birthday of Martin Luther King, Jr., with a national holiday, and millions of words in the form of speeches and written material have ensued, and there is a tendency in all of that emotion to perhaps make Dr. King into something which he was not, and that is into a perfect person, and of course no human being is perfect. A human being cannot be perfect.

But, Mr. Speaker, Dr. King did touch a wellspring in the American people, and I think that the essence and the genuineness of Dr. King was captured in the remarks made by Vice President BUSH, President-elect Bush, 2 days ago, and that is that Dr. King wanted to improve the lot, not just of black people and poor people, but improve the lot of all people in the United States and across the world, and to that end he gave his life.

Mr. Speaker, that is a beautiful message. It is a very powerful message, and it is a message which all of us would do well to emulate. We all need to contribute to make the world and this Nation better.

THE INAUGURATION—A RECONFIRMATION OF OUR LEADERSHIP IN THE WORLD

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, 200 years ago, in January 1789, the Nation was preparing, as we are today, for the inauguration of the first President of the United States. Albeit that did not occur until April of that year, the entire Nation was in the hubbub of the expectancy and excitement that preceded the convening of the First Congress of the United States and the inauguration of the first President.

Two hundred years later we can actually say that everybody in the United States marvels at the fact that the transition that is about to occur from the Reagan administration to the new President of the United States 200 years after that first President came to power is one of easy transition, smoothness, and one of historic significance confirming once again that the Constitution of the United States and the society of the United States are unparalleled in world history and will continue to represent the leadership in the world in all phases of life.

HOW COULD THIS HAPPEN?

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute.)

Mr. LEHMAN of California. Mr. Speaker, 2 days ago an indigent and obviously deranged man walked into a school yard in Stockton, CA, a community in my district, pulled out a Chinese AK–47, an automatic rifle, and murdered at least five young, innocent elementary school students. He wounded 30 others, and he traumatized an entire community which now grieves over a loss that cannot be replaced. He purchased this dangerous lethal weapon, that can only be used to kill people, over the counter from a vendor in Oregon.

Mr. Speaker, how could this happen? Why was a weapon like this for sale over the counter in the first place? How could a deranged indigent come to own one? Why was there not some minimal waiting period required to check into this person's mental stability or his reasons for wanting a lethal automatic weapon in the first place? At least there should have been some impediment for preventing this act to make it less likely that further ones could occur.

Mr. Speaker, this is not a question of legitimate constitutional rights. Deranged people have no rights to own automatic rifles, and society has an obligation to put reasonable restrictions in place. All over the counter sales of AK–47's and weapons of destruction like them should be banned. Real gun enthusiasts do not need them. Mass murderers do.

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SOMETHING WRONG WITH GUN CONTROL

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, the recent tragedy in Stockton, CA, where a deranged criminal brutally murdered several innocent schoolchildren, has already prompted calls for more restrictions on firearms.

Some who are advocating new gun laws aimed at semiautomatic rifles are well-meaning and sincere, but ignorant of the fact that the semiautomatic action is the same in a Remington Model Four 30–06 as in the weapon used in that recent tragic crime.

Others, who make their living advocating restrictive gun laws, are more cynical in their efforts to restrict or ban semiautomatics. Let me quote from a recent pamphlet, published by the disingenuously named "Educational Fund to End Handgun Violence."

Among reasons cited by the authors for the prospective success of bans on semiautomatics are that "it will be a new topic in what has become to the press and public an 'old' debate." The authors continue to laud the potential of this new agenda item:

> The weapons' meanacing looks, coupled with the public's confusion over fully automatic machine guns versus semiautomatic assault weapons—anything that looks like a machine gun is assumed to be a machine gun—can only increase that chance of public support for restrictions on these weapons.

And that is what we have been seeing, Mr. Speaker, widespread confusion over the facts of the incident, the background of the criminal, and the firearms used. Most of this confusion is attributable to an ill-informed yet opinionated mass media. I have even heard one radio personality state that "what makes the AK–47 so deadly is its automatic magazine." To anyone who knows anything about firearms, that is of course ludicrous.

Mr. Speaker, we will again be asked to consider legislation that would restrict the access by law-abiding citizens to a particular type of firearm because of the actions of a homicidal maniac. As my colleagues are aware, this individual was armed with not only a rifle, but with a pistol as well. A pistol, I might add, that the criminal purchased in California, under her 15-day waiting period and police background check. It frankly astonishes me to hear some of my colleagues state that a police background check would have prevented this criminal from acquiring a rifle when it so clearly did not prevent him from acquiring, legally, a handgun.

Yet the calls for "gun control" continue. I have yet to hear calls for the responsible approach to this problem. We understand from news reports that the perpetrator of the Stockton crime had a lengthy criminal arrest record. What has gone unreported is what happened to those arrests. Here was an individual charged with narcotics offenses, weapons offenses, and the crime of robbery. All of those offenses can be classified as felonies. Yet this man was not in prison! If these serious charges were repeatedly plea bargained down to misdemeanors, a fact that would allow him to comply with the waiting period system in California and purchase his pistol, then the American people deserve to hear from the prosecutor and the judge who put this individual back on the streets. If not, then there is something seriously wrong with records retrieval and storage system employed by the State of California.

I for one am proud, Mr. Speaker, that this body had the foresight to act on precisely this issue in the 100th Congress. Last Congress, you will re-

member, we instructed the Justice Department to investigate the adequacy of the current system for storage and retrieval of criminal records. The Justice Department will be reporting back to this body this fall, with a detailed plan setting out improvements in those records, and the availability of technology to allow the instantaneous access to those records at the point of sale of a firearm, whether rifle or handgun.

Most importantly, however, as part of the same amendment to the omnibus antidrug bill, we mandated the revocation of probation for any felon caught in possession of a firearm. It is too soon to tell whether such a mandate would have kept Patrick Purdy in jail, but this new law may well prevent similar tragedies from occurring in the future.

INTRODUCTION OF RESOLUTION TO OPPOSE USE OF GASOLINE TAXES FOR DEFICIT REDUCTION

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON. Mr. Speaker, today more than 60 cosponsors, including the bipartisan leadership of the Committee on Public Works and Transportation, join me in introducing a sense of the House resolution strongly opposing the use of Federal gasoline and diesel taxes for deficit reduction. When used for transportation purposes, these taxes are sensible user fees; however, when used to reduce the deficit, motorfuels taxes are harshly regressive, geographically inequitable, and damaging to our economy.

Moderate- and low-income groups in this country would suffer the most under such a deficit reduction scheme. The lowest income gasoline users would pay more than three times as much for deficit reduction relative to their income as more affluent citizens. Surely we cannot justify basing a contribution to deficit reduction on the amount of gasoline an individual uses. Also, Americans in rural communities, on a per household basis, travel 40 percent more miles a day. These rural citizens should not pay 40 percent more at the gasoline pump for deficit reduction than Americans living in metropolitan areas, especially since rural communities often cannot provide their residents a mass transit alternative.

The American economy would also suffer greatly from an increase in gasoline and diesel taxes for deficit reduction. A recent Wharton econometric study forecasts a $10-billion drop in the gross national product from a 10-cent-per-gallon increase. The recessionary impact of such an increase would force 80,000 persons out of work in the first year, and 180,000 by the third. Furthermore, automobile production, housing construction and petroleum refinery output would all decline significantly, while inflation surged by 0.3 percent. A 10-cent increase would generate all of these negative impacts—imagine the economic damage that a larger increase, supported by some, would cause.

Mr. Speaker, the introduction of this resolution today will send a strong message to keep transportation user fees where they belong, and where they are badly needed—expanding and improving our transportation network.

APPOINTMENT AS MEMBERS TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. The Chair announces the appointment of the following Members to the Permanent Select Committee on Intelligence:

Mr. BEILENSON of California, chairman;
Mr. MCCURDY of Oklahoma;
Mr. KASTENMEIER of Wisconsin;
Mr. ROE of New Jersey;
Mr. MCHUGH of New York;
Mr. DWYER of New Jersey;
Mr. WILSON of Texas;
Mrs. KENNELLY of Connecticut;
Mr. GLICKMAN of Kansas;
Mr. MAVROULES of Massachusetts;
Mr. RICHARDSON of New Mexico; and
Mr. SOLARZ of New York.

BUDGET OF THE UNITED STATES, FISCAL YEAR 1990—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-3)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed, and the accompanying message containing recommendations for executive, legislative and judicial salaries received on January 9, 1989, is also referred to the Committee on Post Office and Civil Service and ordered printed as part 2 of that House Document.

THE BUDGET MESSAGE OF THE PRESIDENT

To the Speaker of the House of Representatives and the President of the Senate:

Eight years ago many in this country were concerned about the future of our economy, our government and, indeed, the Nation itself. Unemployment was high and rising. Inflation and interest rates were reaching record levels. Our Nation's defense capabilities had been weakened by neglect. The international prestige of the U.S. was at low ebb.

To resolve the economic problems then facing us, our administration proposed a recovery program centering on four fundamental principles:

—Reduce personal and business tax rates.
—Reduce the rate of growth of Federal spending.
—Reduce the Federal regulatory burden by eliminating unnecessary restrictions while protecting the public's interest and safety.
—Support a moderate and steady monetary policy to bring inflation under control.

To rebuild our defense capabilities and restore America's standing in the world we proposed expanded national security and international programs.

We also initiated the largest management improvement program ever attempted in order to restore the proper relationships among the Federal, State and local governments, and the private sector; to eliminate waste in Federal programs; and to introduce management controls and efficiencies, while improving services.

Today, the American people can be proud of the progress that has been made on each of these fronts. As a result of this progress, America is internally stronger, internationally more secure, and stands taller in the eyes of the world than it did eight years ago.

EIGHT YEARS OF ACCOMPLISHMENT

Working together, we have accomplished much over the last eight years.

THE ECONOMY

—The current economic expansion, now in its seventy-fourth month, has outlasted all previous peacetime expansions in U.S. history. Business investment and exports are rising, and economic growth is expected to continue into the 1990's.
—Since this expansion began, 19 million new jobs have been created, while the unemployment rate has fallen by more than 5 percentage points—to 5.4 percent, the lowest level in 14 years.
—Inflation, which averaged 10.4 percent annually during the four years before our administration began, has averaged less than a third of that during the past six years.
—Real after-tax personal income has risen 24 percent since 1982, increasing our overall standard of living.

TAXES AND REGULATIONS

—Between 1981 and 1987, changes in the Federal tax code have made the tax laws more equitable, cut income tax rates, and eliminated Federal income taxes for 4.3 million low-income individuals and families.
—Since 1981, the time spent by the public filling out forms required by the Federal Government has been

cut by 600 million hours annually, and the number of pages of regulations published annually in the *Federal Register* has been reduced by over 45 percent.

BUDGET

—The growth in domestic spending has been slowed, and the budget priorities have been shifted to those functions the Federal Government should provide, such as national defense, basic scientific research, and protecting the rights of all citizens.

—The social security system has been rescued from the brink of insolvency and made sound into the next century.

—The runaway growth of spending for means-tested entitlement programs that occurred in the 1970's has been curbed. Eligibility rules have been tightened to retarget benefits to the needy. Basic benefits for the poor, the elderly, and others in need of Federal assistance have been maintained.

—We have begun the process of putting other entitlement programs on a more rational basis, including medicare hospital insurance, which was converted to a system that encourages efficiency and lower costs.

DEFENSE AND INTERNATIONAL AFFAIRS

—Our defenses have been strengthened. Weapons systems have been modernized and upgraded. We are recruiting and retaining higher caliber military personnel. The readiness, training, and morale of our troops have been improved significantly.

—As a result of our greater strength, we were able to negotiate with the Soviet Union a verifiable treaty that completely eliminates an entire class of nuclear missiles.

—We began the Strategic Defense Initiative research and technology program that offers our best hope of a safer world in which our security, and that of our allies, no longer rests on deterrence through the threat of nuclear retaliation, but on defenses that threaten no one.

—Our willingness to defend freedom throughout the world has met with success in the spread of democracy and in turning back the tide of Communist expansion.

MANAGEMENT OF THE GOVERNMENT

—Federal agencies undertook a major management improvement program, "Reform '88," to carry out the cash, credit, and financial operations of the Federal Government in a more business-like manner, and to reduce waste, fraud, and abuse.

—Functions that were pre-empted by the Federal Government are being transferred back to the private sector or to State and local governments.

—Greater use is being made of cost sharing and user fees, shifting the cost of projects and programs where appropriate to those who benefit from them.

THE FEDERAL DEFICIT

The one area in which I have been persistently disappointed throughout my term of office has been in the efforts to bring the budget under control. Time and again I have proposed measures to help curb Federal domestic program spending. Time and again these proposals have been rejected by Congress.

The reasons for the rise in the Federal deficit in the early 1980's are simple. First, we experienced one of the most severe recessions of the postwar period. It has been estimated that 81 percent—over $640 billion—of the growth of the deficit over the 1981–1986 levels originally projected in my March 1981 budget was attributable to that recession. The second reason is that, even after including necessary increases for defense, my March 1981 budget called for net spending reductions totaling $331 billion over 5 years; but Congress approved less than 40 percent of those reductions. Wasteful programs continued to be funded. The necessary reductions have still not been made.

If the deficit is not curbed by continuing to limit the appetite of government, we put in jeopardy all that we worked so hard over the years to achieve. Large deficits brought on by excessive domestic spending undercut the incentives to work and save by absorbing the savings that would otherwise lead to productive investment. We cannot allow this to happen.

I am proud of America's accomplishments. Our economy is booming, our defenses are stronger, and our standing in the world is again second to none.

THIS BUDGET REDUCES THE 1990 DEFICIT BELOW THE G-R-H TARGET AND ACHIEVES BALANCE IN 1993

The fiscal year 1990 budget, my last, represents a continuation of my efforts to reduce the Federal budget deficit through restraint in domestic spending.

The budget I am submitting today complies with the deficit targets set in the Gramm-Rudman-Hollings (G-R-H) Act, by proposing measures that meet the 1990 deficit target of $100 billion and assure a steady reduction in the deficit, leading to a balanced budget in 1993.

Under my proposals, the deficit would decline to less than 2 percent of GNP in 1990, and the Federal debt held by the public would also decline as a proportion of GNP.

BUDGET SUMMARY

(Dollar amounts in billions)

	1988	1989	1990	1991	1992	1993	1994
Receipts	909.0	975.5	1,059.3	1,140.5	1,212.2	1,281.4	1,345.0
Outlays	1,064.0	1,137.0	1,151.8	1,207.3	1,244.4	1,279.0	1,311.6
Surplus or deficit (−)	−155.1	−161.5	−92.5	−66.8	−32.2	2.4	33.4
Surplus or deficit (−) without asset sales	−155.1	−161.5	−98.6	−69.2	−34.3	1.6	32.6
G-R-H deficit targets	−144.0	−136.0	−100.0	−64.0	−28.0	0.0	NA
Difference	11.1	25.5	−1.4	5.2	6.3	−1.6	NA
ADDENDUM							
Surplus or deficit (−) as a percent of GNP	−3.2	−3.2	−1.7	−1.1	−0.5	0.0	0.5

Note.—Totals include social security, which is off-budget.
NA: Not available.

This budget shows that a gradual elimination of the deficit is possible without raising taxes, without cutting into essential social programs, without devastating defense, and without neglecting other national priorities. It can be done in a reasonable, responsible way—with discipline and fairness. New taxes are not required. Receipts will grow dramatically between 1989 and 1990 because our economy is growing. This budget simply proposes to increase spending by less than the increase in revenues, and therefore, reduce the deficit. The proposed reforms will yield additional deficit reductions in future years. We have an opportunity this year to put the worst of the deficit problem behind us and enable the next Administration to begin its term of office with a clean slate and with the promise of continuing prosperity.

FUNDING NATIONAL PRIORITIES

To address urgent national priorities within the deficit limit set by the G-R-

H Act, my budget proposes that some programs—such as those for AIDS research and prevention, drug enforcement, and technology development—receive significant funding increases, while others are reduced, reformed, or, in some cases, terminated.

DEFENSE

Maintaining peace and protecting our country are the foremost responsibilities of the Federal government. Defense budget authority declined in real (inflation-adjusted) terms for the fourth straight year with funding of $299 billion for 1989. This trend cannot continue without severe impact on combat readiness. Therefore, my budget requests defense funding of $315 billion in budget authority and $303 billion in outlays for 1990, and $331 billion in budget authority and $314 billion in outlays in 1991. These amounts provide 2 percent annual real growth in budget authority over the 1989 level, bringing it back up to the 1984 level in inflation-adjusted terms by 1991. The budget also projects 2 percent real growth in these programs in future years.

We must continue to maintain our nuclear deterrent. For 1990, the budget proposes $9.0 billion for atomic energy defense programs, a $0.9 billion increase over 1989. A total of $2.8 billion is dedicated to the modernization of the nuclear materials production complex and to increase environmental clean-up and waste management efforts.

INTERNATIONAL

To consolidate and build on the foreign policy gains of the past eight years, additional funds are needed for international affairs that would promote our foreign policy and national security interests in the Middle East, Central America, and elsewhere. A special program is proposed to foster strong economic growth in the Philippines to support that country's return to democracy. Other increases in foreign aid would pay arrearages on contributions to multilateral lending institutions and make payments to the United Nations and related agencies.

DRUG ABUSE AND LAW ENFORCEMENT

Our fight against drug abuse must continue, as well as our efforts to protect the individual against crime:

—For drug law enforcement, prevention, and treatment programs, I propose $5.7 billion in 1990, an increase of $164 million over 1989. This funding, together with the new authorities and sanctions contained in the Anti-Drug Abuse Act of 1988, will enable us to move toward our goal of a drug-free America.

—To relieve prison overcrowding and adequately house a growing inmate population, I would provide $1.6 billion for prison construction and operation, $193 million more than was devoted to this purpose in 1989.

AIDS RESEARCH AND EDUCATION

This budget reflects my belief that addressing the problem of AIDS must remain a top priority:

—Preventing and alleviating suffering from the Human Immunodeficiency Virus (HIV), which causes AIDS, is our highest public health priority. Federal support for research, prevention, and treatment exceeds $2.1 billion in 1989, and will approach $2.8 billion in 1990. This budget asks for $1.6 billion, or 24 percent over 1989, for Public Health Service HIV funding.

RESEARCH

One of our highest priorities is to strengthen U.S. technology and make America more competitive. For example:

—I propose a continued increase in federally supported basic research aimed at longer-term improvements in the Nation's productivity and global competitiveness. This budget continues the commitment to double National Science Foundation support for academic basic research by 1993, increases support for training future scientists and engineers, and expedites transfer of the results of Government-funded basic research to industry.

—Our space program will provide $13.1 billion for continued development of America's first permanently manned space station; for increased support for improving the performance and reliability of the space shuttle; for initiation of two major new international planetary space science missions; and for support to encourage the commercial development of space.

—Also included in the budget is $250 million in 1990 as the Federal share of support for initiating construction of the Superconducting Super Collider (SSC). Non-Federal cost sharing arrangements will be required to support one-third of the project's costs. The SSC as currently envisaged will be the largest pure science project ever undertaken. It will help keep this country on the cutting edge of high energy physics research well into the next century.

OTHER PRIORITIES

Other areas of Federal responsibility receive priority funding in this budget:

—To continue the Federal Aviation Administration's multi-year program to increase its controller and inspector workforces and to modernize the Nation's air traffic control systems, the budget provides $7.7 billion—a 17 percent increase over the 1989 level.

—To alleviate the problems facing our savings institutions, I propose that the Federal Savings and Loan Insurance Corporation (FSLIC) spend $16 billion in 1989 and $9 billion in 1990 to address the most serious thrift institution problems. The Secretary of the Treasury is developing a comprehensive plan to resolve the savings industry's problems, and reform the financial institution regulatory structure and deposit insurance system to prevent a reoccurrence of these problems. I expect the Secretary to submit his proposals to the new President shortly.

—To improve coordination of Federal rural development programs and to redirect funding toward needy rural areas and program recipients, I am continuing support of the rural development initiative coordinated by the Secretary of Agriculture.

—By emphasizing housing vouchers, I would provide housing assistance to 132,000 additional low-income households in 1990, 5 percent more than the 126,124 additional households receiving housing subsidies in 1989. Housing vouchers can serve more low-income households at a lower Federal cost and provide greater opportunity for these families to rent housing of their own choosing.

—To maintain the progress we have been making in fostering State and local education reform, I would sustain the present level of spending on discretionary education programs at $18.5 billion, but refocus those funds to put more money where the needs of the disadvantaged and students with handicaps are greatest.

—To continue the significant progress we have made in cleaning up the environment, I recommend a $105 million increase for the Environmental Protection Agency's regulatory, research and enforcement programs. I also recommend an increase of $315 million for the Superfund hazardous waste clean-up program in order to maintain the program's momentum and support a stronger enforcement role.

—Because changes in the earth's natural systems can have tremendous economic and social effects, global climate change is becoming a critical concern. Our ability to understand and predict these changes is currently limited, and a better understanding is essential for developing policies. The budget proposes a coordinated and effective Federal research program on global change. This budget is accompanied by a report by the Committee on Earth Sciences that describes this program and its strategy.

—Last year's fires on Federal forestlands indicated the need for more

timely funding for annual firefighting costs. I therefore propose that two new Federal wild land firefighting accounts be established in the Departments of Agriculture and Interior.

—To further strengthen our energy security, I propose legislation authorizing the sale of the naval petroleum reserves to the private sector in exchange for cash and oil to be added to the strategic petroleum reserve. I also propose the establishment of a separate 10 million barrel defense petroleum inventory.

—To provide for the timely completion of my Reform '88 management improvement program I propose an additional $103 million for 1990, to further improve our management and credit systems.

MAJOR PROGRAMS ARE REFORMED TO ACHIEVE DEFICIT REDUCTION

The program structure and incentives underlying many domestic Federal programs need to be altered to promote greater efficiency and cost-effectiveness.

—Current farm price support programs are far too costly. For the period 1986-89 an estimated $130 billion in Federal spending for farm-related assistance programs provided an average of nearly $600,000 per farmer. Much of this assistance goes to farmers with high incomes—more than twice the U.S. family average. I therefore propose outlay reductions for the price and income support programs of $2 billion in 1990 and additional annual reductions of between $2 and $2.5 billion in each year from 1991 through 1994. In addition, I urge reform of the counterproductive sugar price support program.

—The rapidly rising costs of the medicare program need to be moderated. I propose a reasonable increase in the medicare prospective payment system rate and reductions in hospital capital payments and special graduate medical education payments. Also, in an effort to restrain excessive growth in supplementary medical insurance (SMI) costs, I propose extension of the current law SMI premiums, limitations on physician payments, reductions in payments for certain overpriced procedures, and reforms in the durable medical equipment payment system. Medicare spending would still grow by 9 percent between 1989 and 1990 under these proposals—but not by the 13 percent that would occur under current law.

—I also propose reforms in the medicaid program to reduce spending growth between 1989 and 1990 to $1.7 billion, or 5 percent, rather than the $3.3 billion, or 9 percent, that would occur under current law. These reforms reinstate successful incentives employed in the early 1980's. My budget also proposes restructuring Federal financing of administrative expenses to give States greater incentives to operate their administrative systems as efficiently as possible.

—The Government often continues programs at the Federal level that are either duplicative or are no longer needed, or more appropriately undertaken by other levels of government or the private sector. This is the case with the Economic Development Administration, Amtrak, urban mass transit discretionary grants, and most operating subsidies for the Postal Service. Efforts to reverse this situation have been undertaken by prior administrations as well as my own. These programs should be eliminated. The budget proposes termination of 82 programs that are not needed to satisfy national priorities.

—Under current law, outlays for Federal employee retirement and health benefits are estimated to grow from $51.3 billion in 1989 to $55.9 billion in 1990. I propose freezing retirement cost-of-living allowances (COLAs) and other reforms to hold the 1990 level to slightly above that for 1989, reducing the growth that would otherwise occur by $4.4 billion.

ACHIEVING A PROPER FEDERAL ROLE AND IMPROVING MANAGEMENT

As the Federal Government grew, it took on improper responsibilities, and managed its programs inefficiently. We undertook to return the Federal Government to its proper role. We also initiated a major program to improve the management of the remaining programs. These priorities are continued and expanded in this budget.

PRIVATIZATION

The Government and the private sector should each do what it does best. The Federal Government should not be involved in providing goods and services where private enterprise can do the job cheaper and better.

Accordingly, my budget proposes that a number of Federal enterprises be opened to the private sector, through public offerings or outright sales. Following our success in the sale of Conrail and the sale of $21 billion in selected loan portfolios, I am proposing sale of the naval petroleum reserves, the Alaska Power Administration, and the Southeastern Power Administration. I also propose sale of the Federal Government's helium-processing assets, excess real property, and a further $4.3 billion in loan portfolios. In addition, my budget proposes legislation to establish a government corporation for the uranium enrichment enterprise, as the first step towards eventual privatization.

The Federal Government should also depend more on the private sector to provide ancillary and support services for activities that remain in Federal hands. Therefore, I propose a number of pilot projects and studies in areas such as the private delivery of advertising materials and urgent mail, and the Department of Justice's prison hospitals.

IMPROVED MANAGEMENT

In 1981, I made a promise to the American people "to limit Government to its proper role and make it the servant, not the master, of the people." My "Management Improvement Program: Reform '88" has helped make Government more efficient and more responsive. We reduced waste and fraud in Federal programs by combining the efforts of the inspectors general into the President's Council on Integrity and Efficiency, resulting in over $110 billion saved or put to better use—and their efforts are continuing.

I saw that the Federal Government did not have effective cash management practices for dealing with what is now a $2 trillion annual cash flow, nor did it have a government-wide credit management program for what is now a $1 trillion portfolio. This resulted in the waste of billions of dollars each year. We built the necessary government-wide controls in both areas and stopped the drain.

Moreover, we began the establishment of the first government-wide financial accounting system, consolidating and making uniform over 400 previously incompatible individual agency systems. This was essential for any well-managed government, and is presently being implemented.

The Federal Government has a major effect on our daily lives through the collection of taxes and fees, the direct provisions of services, the payment of financial assistance through various entitlement programs, and the regulation of commercial enterprises. Through modernization, improved administration, and automated services the Government has made substantial reductions in the time it takes to provide services to the public. As the 21st century approaches, the Federal Government must adapt its role in our society to changing conditions and changing technology. At the turn of the century, the U.S. population will exceed 268 million, with a larger proportion of elderly citizens. Changes in technology and communication will increasingly link the world's economies, trade, capital flows, and travel as never before.

The 1990 *Management Report*, which is being forwarded to the Congress as part of the 1990 budget submission, reflects the highlights of

OMB's report to me on "Government of the Future." That *Management Report* has been expanded as a beginning to a planning process that has, in part, shaped the proposals in this budget and should become a part of the annual budget process.

BUDGET PROCESS REFORM IS DESPERATELY NEEDED TO CONTINUE DEFICIT REDUCTION

The persistence of the budget deficit is overwhelming evidence that the Federal budget process is fundamentally flawed. Past efforts at "reform" have been directed largely toward protecting a large portion of domestic spending from real fiscal discipline. Fourteen years after passage of the Congressional Budget Act and three years after enactment of the Balanced Budget and Emergency Deficit Control Act, the Federal budget process remains unwieldy and undisciplined. The American people expect better of their political system, and they deserve it.

Under the Congressional Budget Act, Congressional budget resolutions—Congress' proposed budgets—are passed each year. They are not sent to the President for approval and, therefore, are not law. They provide guidance to the committees of Congress, but the guidance is often late and ambiguous. The resolutions are usually passed well after the dates required by law, and well after they are needed by the finance, authorizing, and appropriations committees. Moreover, there is little agreement within Congress on the guidance provided. The House of Representatives and the Senate do not agree, except in the most general terms, on the priorities implied by resolutions both have approved.

Except for last year's on-time performance, Congress' self-imposed budget deadlines have usually been missed, and massive continuing resolutions and reconciliation bills have been the rule rather than the exception. These large, cumbersome bills provide cozy hiding places for hundreds of special interest add-ons, which line-item veto authority would permit the President to challenge.

A number of changes in the budget process—most of which I have recommended before—are needed to instill budget discipline throughout the legislative process. I urge Congress to adopt the following measures:

Balanced budget amendment.—I remain committed to and urge approval of a constitutional amendment requiring a balanced budget. The amendment should require a supermajority vote (at least 60 percent) in the Congress to increase taxes.

Line-item veto.—My successors should be given the authority, subject to Congressional override, to veto line-items in annual appropriations bills, in authorizing legislation that provides or mandates funding for programs, and in revenue bills. Such authority would permit the elimination of substantial waste and would be an effective instrument for enforcing budget discipline.

Enhanced rescission authority.—To enhance the President's ability to control Government spending, I recommend that line-item veto authority be complemented by a change in law that would require the Congress to vote "yea" or "nay" on any rescission proposed by the President. Current law allows the Congress to duck responsibility by simply ignoring proposed rescissions for 45 days.

Biennial budgeting.—The annual budget process consumes too much time and energy. A biennial budget would reduce the repetitive budget tasks, allow more time for considering key spending and revenue decisions, provide less scope for gimmicks that give the illusion of "savings," such as shifting spending from one year to another without affecting the underlying programs, and permit the realization of real savings that would be possible with a more assured availability of funds. For these reasons, I recommend that biennial budgeting be adopted.

Joint budget resolution.—To ensure the broader scrutiny and stricter discipline that is needed in the congressional budget process, I propose that Congress be required to prepare a budget resolution covering a minimum of two years showing revenue proposals individually and showing spending priorities. The Congress should also be required to submit its budget resolution to the President for his signature or veto. Subsequent legislation which exceeds these allocations should not be considered without super-majority approval.

Individual transmittal of appropriations bills.—The practice of transmitting full-year continuing resolutions covering a number of appropriations bills does not permit the Legislative and Executive Branches to exercise proper scrutiny of those bills. Too often in the past, such continuing resolutions have provided convenient cover for special-interest spending that would not survive close scrutiny. To minimize this risk, I propose that appropriations bills be transmitted individually to the President.

Credit reform.—The effects of credit activities are recorded imperfectly under current budget accounting. The subsidy component of Federal lending programs remains hidden.

To correct this major fault in the budget system, I recommended credit reform legislation two years ago. This legislation, which I am recommending again, would measure the true cost—the present value—of the subsidies provided by Federal credit programs and put that cost on an expenditure basis equivalent to the cost of other Federal programs. This change must be an integral part of the reform of the budget process.

Measuring the effects of budget proposals.—Budget discipline and lasting deficit reduction would be facilitated if the Legislative and Executive Branches were to use a common set of principles for scoring budget proposals and actions on them. I urge that the Congressional Budget Office and the Office of Management and Budget be charged with the responsibility to develop, in consultation with the budget, finance, authorizing, and appropriations committees, a common set of budget scoring principles for use by the Legislative and Executive Branches.

Adoption of these reforms should enable the Federal Government to make informed decisions in a deliberate fashion that fosters rational priorities. The American people deserve no less from their elected representatives.

CONCLUSION

The accomplishments of the American people in the past eight years will always be for me a source of pride. However, we must continue our recent progress in reducing the Federal deficit.

Deficit reduction is a key national priority, written into law by the G-R-H Act, which, despite its defects, legislated a process to achieve a balanced budget.

This budget achieves the 1990 target of the amended Act, and projects a budget balance in 1993. It preserves legitimate programs for the aged and needy, provides for adequate national security, devotes more resources to other high-priority activities, and accomplishes all this without raising taxes. Tax increases are not needed. History shows that they would simply be used by the Congress to increase spending. Tax increases have been overwhelmingly voted down in the last three Presidential elections.

I call upon the Congress to enact this budget. Higher taxes are not needed—as this budget demonstrates—but genuine deficit reduction through moderating the growth in spending is essential to enable the next Administration and Congress to address the Nation's agenda for the future.

Over the past eight years, we Americans have made our world a safer place for freedom because we had the will to reinvigorate our economy, rebuild our defenses, and provide for the less fortunate among us. Together, we achieved a new beginning for our country and prepared the way for the next Administration to build on our accomplishments.

RONALD REAGAN.

JANUARY 9, 1989.

RECOMMENDATIONS FOR EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

To the Speaker of the House of Representatives and the President of the Senate:

As required by section 225 of the Federal Salary Act of 1967, Public Law 90-206 (2 U.S.C. 351 et seq.), the latest Quadrennial Commission on Executive, Legislative, and Judicial Salaries ("Commission") has submitted to me recommendations on salaries for Senators, Representatives, Federal judges, Cabinet officers, and other agency heads, and certain other officials in the executive, legislative, and judicial branches.

The statute requires that, in the budget next submitted after receipt of the report of the Commission, I set forth recommendations for adjustment of these salaries. Pursuant to section 225(i), as amended by section 135 of Public Law 99-190, these recommendations will be effective unless Congress disapproves the recommendation by a joint resolution within 30 days following the transmittal of my budget.

The Commission's report, submitted to me on December 14, 1988, documented both the substantial erosion in the real level of Federal executive pay which has occurred since 1969 and the recruitment and retention problems that have resulted, especially for the Federal judiciary. The Commission is to be commended for its diligent and conscientious effort to address the complicated and complex problems associated with Federal pay levels.

The Commission found that Federal executives and legislators have experienced a decline of approximately 35 percent in real salaries since 1969. In contrast, the salaries of General Schedule employees have declined by only 8 percent over the same period. The Commission's recommendations go a long way towards compensating for this salary erosion, but they do not make up the full gap. For example, for an official at Executive Level II, which is also the Congressional salary rate, the salary level adjusted for inflation since 1969 would be $140,340, while the Commission's recommendation is $135,000.

Every one of the Commissions that has met over the past 20 years concluded that a pay increase for key Federal officials was necessary. Each Commission found that pay for senior Government officials fell far behind that of their counterparts in the private sector. They also surmised that we cannot afford a Government composed primarily of those wealthy enough to serve.

In accepting the Commission's salary recommendations, I recognize that we are under a mandate to reduce the Federal deficit and hold the costs of Government to an absolute minimum. Thus, while I have decided to propose a pay increase which accepts in full the salary recommendations made by the Commissioners in their report to me last month, this proposal will not increase the deficit; the funding for the pay increase will be fully absorbed within proposed budget levels.

This increase fulfills my promise made in January 1987, that, assuming continued progress toward eliminating the deficit and favorable economic conditions, I would recommend another step toward overcoming the erosion of real income.

While this represents a substantial increase in salaries, it is coupled with the salutary recommendation of a ban on receipt of all honoraria in all branches of Government. The Commission further recommended that Congress enact legislation to bar officials in the three branches from receiving outside earned income for activities that conflict with the performance of official duties. I endorse these recommendations of the Commission as an appropriate step toward better government. A salary increase and a prohibition on receipt of honoraria together will help ensure that the Government is able to attract and keep talented senior officials and that the questions that arise from outside payments of honoraria are put to rest.

Accordingly, pursuant to subparagraphs (A), (B), (C), and (D) of section 225(f) and section 225(h) of Public Law 90-206 (81 Stat. 643 and 644), as amended:

For the Vice President of the United States	$175,000
For offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, as follows:	
Positions at level I	155,000
Positions at level II	135,000
Positions at level III	125,000
Positions at level IV	120,000
Positions at level V	115,000
For the Speaker of the House of Representatives	175,000
For the President Pro Tempore of the Senate, majority leader and minority leader of the Senate, and majority leader and minority leader of the House of Representatives	155,000
For Senators, Members of the House of Representatives, Delegates to the House of Representatives, and the Resident Commissioner from Puerto Rico	135,000
For other officers and positions in the legislative branch as follows:	
Comptroller General of the United States	135,000
Deputy Comptroller General of the United States, Librarian of Congress, and Architect of the Capitol	125,000
General Counsel of the General Accounting Office, Deputy Librarian of Congress, and Assistant Architect of the Capitol	120,000
For Justices, judges, and other personnel in the judicial branch as follows:	
Chief Justice of the United States	175,000
Associate Justices of the Supreme Court	165,000
Judges:	
U.S. Courts of Appeals	140,000
Court of Military Appeals	140,000
U.S. District Courts	135,000
Court of International Trade.	135,000
Tax Court of the United States	135,000
U.S. Claims Court	135,000

RONALD REAGAN.

JANUARY 9, 1989.

ECONOMIC REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-2)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Joint Committee and ordered to be printed:

To the Speaker of the House of Representatives and the President of the Senate:

It is with great pride in the accomplishments of the American people that I present my eighth, and final, *Economic Report of the President.* When I took office 8 years ago there was widespread doubt concerning the ability and resolve of the United States to maintain its economic and political leadership of the Free World. Political events abroad seemed to demonstrate the impotence of American power, while economic events at home raised concerns about the vitality of our system. Throughout most of the 1970s inflation raged at unacceptably high rates, and unemployment moved upward. Stagflation, a name invented for the era, and malaise were the words used to describe America.

Today, it is as if the world were born anew. Those who doubted the resolve, and resilience, of the American people and economy doubt no more. The tide of history, which some skeptics saw as ebbing inevitably away from Western ideals of freedom of thought, expression, and enterprise, flows in our direction. By strengthening our military posture and reaffirming our commitment to the cause of freedom throughout the world, we have restored respect for America and have achieved the first arms control agreement in history to eliminate an entire class of nuclear missiles. And by reducing taxes and regulatory bureaucracy, we

have unleashed the creative genius of ordinary Americans and ushered in an unparalleled period of peacetime prosperity. The world today is far safer, and more prosperous, than it was 8 years ago. And the America of today is, once again, brimming with self-confidence and a model for other countries to emulate. To be sure, there are challenges for the future, but I leave office confident that, with continued cooperation between the President and the Congress, America will meet these challenges and, in partnership with its allies, will continue to lead the world toward peace, prosperity, and freedom.

AN HISTORICAL PERSPECTIVE

Barely 40 years have passed since the end of World War II, but how the world has changed during that period. Man has walked on the Moon; products once unimagined are now commonplace; goods once considered luxuries are now necessities of life. Notwithstanding these enormous changes, the prime historical reality of this period has been the rivalry between two competing political and economic systems. One system operates by concentrating power in the hands of the few, by limiting personal freedoms, and by centralizing economic decisions. At its best, it is a system of state paternalism; at its worst, one of tyranny.

The other system believes that power emanates from the individual, not from the state; that the function of government is to serve, not dictate to, individuals. The great democracies recognize that political and economic freedom are indivisible; policies that threaten one of these freedoms inevitably undermine the other. These two divergent systems have vied, sometimes with words and sometimes with swords, for the hearts and minds of the rest of the world.

At the end of World War II the outcome of this competition was, to some, far from certain. Many intellectuals, looking back upon the experience of the depression in the interwar period, felt that the future was with communism. These people felt that capitalism, with its emphasis on the individual and decentralized decisionmaking, could not cope with the complexity of a modern economy. In the years that followed, some countries chose state planning and state ownership over the alleged chaos of the marketplace, while many more countries had this authoritarian system imposed upon them. Centralized control was especially attractive for many newly emerging economies, which felt themselves impoverished from, and were resentful of, their colonial experience. These countries turned inward, to highly regulated economies that shunned open markets and international trade as the path to prosperity, and instead sought self-sufficiency.

Today, few doubt which of these systems will emerge triumphant. Comparisons of economies with common cultures and people, such as North and South Korea, East and West Germany, or the People's Republic of China and Hong Kong or Taiwan, uniformly show that systems that emphasized individual initiative, open markets, and personal freedoms—as opposed to collective action—have prospered most. Developing economies have increasingly recognized the benefits of the market system as they have undertaken reforms to reduce the role of government and to increase the role of international trade. Most recently, this trend has even embraced the two largest proponents of state control, as first China and now the Soviet Union have reluctantly recognized that the true chains on individual fulfillment are an overbearing government that destroys motivation and freedom.

Viewed from the perspective of one who remembers well events of 40 years ago, the prosperity that we enjoy today is extraordinary. The economic growth experienced by countries that chose the path of economic and political freedom is virtually unparalleled in human history. This economic success is attributable to all nations that joined in pursuing market-oriented policies at home and in reducing barriers to trade among nations.

Americans can take a special pride in this postwar record. American aid to Western Europe and Japan helped rebuild those war-torn regions. America took the lead in fostering negotiations that reduced trade barriers and created international institutions that promoted financial stability and reconstruction. Open American markets not only benefited consumers at home, but also sped recovery abroad. And America took the lead in preserving the freedoms and prosperity we all enjoy. As Winston Churchill said in 1952: "What other nation in history, when it became supremely powerful, has had no thought of territorial aggrandizement, no ambition but to use its resources for the good of the world? I marvel at America's altruism, her sublime disinterestedness."

THE ROLE OF GOVERNMENT

As I said in my first Inaugural Address, "If we look to the answer as to why for so many years we achieved so much, prospered as no other people on Earth, it was because here in this land we unleashed the energy and individual genius of man to a greater extent than has ever been done before." The central role of government must be to nurture this genius, not to shackle it in a morass of regulations or to tax away the incentives for innovation.

This is not to deny that there are vital functions that a government must perform, but it must always do so in the least intrusive and costly fashion. The guiding philosophy of my Administration has been to leave to private initiative all functions that individuals can effectively perform for themselves, and when government action is necessary, to use the level of government closest to the community for all the public functions it can effectively handle. Federal Government action should be reserved only for those functions that require national attention. In this way government will least interfere with private incentives and will be most responsive to the wishes of the people it serves.

The Federal Government, of necessity, must provide for the national defense. Only through strength can we maintain peace and secure freedom and prosperity for ourselves and all free nations. But we must ensure that our defense money is spent wisely, not on pork-barrel projects, such as maintaining military bases that are no longer necessary. This Administration, through its words and its deeds, has shown its commitment to protecting the health and financial security of our elderly. Similarly, the government must provide a safety net for the Nation's poor, but it must do so in a way that promotes individual initiative. Too often, government programs, created with the best of intentions, serve to prolong, rather than eliminate, poverty.

There are some limited circumstances in which government regulation of private activity may be beneficial. Few would doubt that some rules are needed to protect the Nation's water and air from pollution. However, it is imperative that all such rules and regulations be based on sound economic principles that minimize the intrusion on private decisions. Whether well or poorly designed, whether aimed at worthy or dubious objectives, these rules have one thing in common: They "tax" and "spend" billions of dollars of private funds, unconstrained by public budget or appropriations controls.

The main role of government is to provide a stable economic environment that allows each individual to reach his or her full potential. Individuals and businesses must be able to make long-run plans confident that the government will not change the rules halfway through the game. Government's drain on the economy, both through its use of resources that could be used more productively by the private sector and through taxes that destroy individual incentives, must be minimized. This Administration's long-term view of fiscal policy, which abandoned the outmoded emphasis on fine-tuning the economy, has set the basis for the record peacetime expansion we currently enjoy. This policy, in conjunction with responsible monetary policy, has led to a sizable decrease in both unemployment rates and infla-

tion over the past 8 years. I am pleased to say that my Administration is the first in more than a generation that can lay claim to this accomplishment.

The government's economic role in the international sphere should be similarly circumspect. It is the primary responsibility of governments to promote sound and stable financial markets that encourage international commerce and to reduce barriers to trade at home and abroad. Reducing these barriers will allow markets, not governments, to determine the goods that society produces. Too often policies designed to preserve jobs in one industry reduce competitiveness and employment in other industries. A creative, competitive America is the answer to a changing world, not trade wars that close doors, create greater barriers, and destroy millions of jobs. We should always remember: Protectionism is destructionism. America's jobs, America's growth, America's future depend on trade—trade that is free, open, and fair.

THE RECORD OF THE PAST 8 YEARS

In my first Inaugural Address I stated, "The economic ills we suffer have come upon us over several decades. They will not go away in days, weeks, or months, but they will go away." After a shaky start, necessitated by the sorry state of the economy in 1980, we now have a peacetime economy entering an unprecedented 7th year of expansion. The length, strength, and resilience of this expansion are ample testimony to the wisdom of the policies that we have pursued.

During this expansion, real GNP has risen by more than 4 percent a year, nearly double the growth rate of the previous 8 years. The growth in employment and jobs has been phenomenal; nearly 19 million nonagricultural jobs have been created during this period, with nearly 3.5 million new jobs created in the first 11 months of 1988. Furthermore, this remarkable expansion has benefited all segments of the population. While civilian employment has increased by more than 17 percent, Hispanic employment has grown by more than 45 percent, black employment by nearly 30 percent, and female employment by more than 20 percent. The decline in unemployment rates is equally dramatic—the overall unemployment rate has been cut in half, down to levels not seen in 14 years. And, assertions to the contrary, the jobs created are good ones; over 90 percent of the new jobs are full-time, and over 85 percent of these full-time jobs are in occupations in which average annual salaries exceed $20,000.

Unlike previous experiences, this expansion has been accomplished without simultaneously fueling inflation. The average inflation rate during this period, as measured by the GNP deflator, has been barely one-third the rate of inflation that prevailed in 1980. The scourge of inflation, which served as a hidden tax on the American people and diverted productive resources to unproductive uses, has been brought under control here and in our major trading partners. This, in turn, has led to a dramatic decline in interest rates, which, while still high by historic standards, are far lower than they were in January 1981. In short, we have achieved the objectives that eluded us during the 1970s—rapid economic growth and declining inflation rates.

This record has been achieved not through alchemy, but by using that good old-fashioned recipe of reducing the role of government. Too often the government has sought to solve problems best left to the private sector; and too often these solutions have had devastating side effects. We have at last learned that more government is not the solution to our problem; often it *is* the problem.

Our New Beginning has restored personal incentives through a series of tax reforms and tax cuts. These reforms have reduced the top Federal marginal income tax rate to less than one-half the level that prevailed when we took office and decreased tax liabilities at all income levels. The Tax Reform Act of 1986 improved efficiency by eliminating many tax preferences that distort private decisionmaking. By reducing tax rates and tax loopholes, we have encouraged people to make money the old-fashioned way—by producing goods and services that people want, not by finding new ways to avoid taxes. The tax reforms have increased equity as well, as an estimated 4 million low-income individuals and families have been removed from the income tax rolls by 1988. If imitation is the sincerest form of praise, then the fact that many other major industrial powers have also cut their tax rates is praise indeed.

These tax reforms, combined with regulatory reforms that will result in billions of dollars of saving over this decade, have helped spur productivity growth. Since 1981, manufacturing productivity has grown at an average annual rate exceeding 4 percent, triple the rate for the preceding 8 years and nearly 50 percent faster than that for the period 1948–73. This productivity growth, combined with exchange-rate changes, has led to a surge in U.S. exports that puts to rest the notion that U.S. industry is no longer competitive.

We have also made progress in reining in government expenditures, but much still needs to be done. We have reduced the rate of growth of Federal spending, and over the past 5 years government spending as a percent of GNP has fallen from 25.1 to 23.2 percent. Significant progress has also been made in reducing the budget deficit, both in absolute terms and as a percent of GNP, but further progress can be made only by reducing government spending. Tax increases would only threaten the enormous progress that has been made so far.

Our successes extend to the international sphere as well. The strong U.S. recovery, coupled with a weaker recovery abroad, helped create a sizable U.S. trade deficit. While the trade deficit has been significantly reduced during the past year as a result of our surging exports, it has served as an excuse for those seeking protection from foreign competition. Protectionism, like most forms of government intervention in the economy, serves only to enrich the few at the expense of the many. We have successfully resisted this protectionist pressure, while pursuing major trade liberalization efforts abroad.

The Israel-United States Free-Trade Agreement was the first such agreement entered into by the United States. The recently implemented Free-Trade Agreement with Canada represents an historic step forward for two staunch allies. In addition to creating the world's largest free-trade area between two countries and generating large benefits for both countries, it serves as a model of what can be accomplished in other negotiating forums. The United States remains committed to full multilateral liberalization, as reflected in the fact that we are the driving force behind the current Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade. While these negotiations are not scheduled to conclude until 1990, the results of the recent Mid-term Review indicate that they will result in significant reductions in trade barriers and a significant expansion in trade coverage.

Rather than succumbing to protectionist pressures at home, we have vigorously combatted unfair trade barriers abroad. This was the first Administration to seek, on its own initiative, changes in foreign trade practices that harmed American business. These policies have helped reduce foreign trade barriers and given American companies a chance to compete on equal terms.

THE CHALLENGES AHEAD

As proud as I am of these and many other accomplishments, I will be the first to admit that the agenda is not yet completed. First, and foremost, is a need to reform the budget process and to bring Federal spending under control. The large budget deficit that this Nation faces is not a result of too few taxes, but too much spending. Strong economic growth and the base-broadening effect of tax reform have led to sizable increases in Federal receipts. According to current projections, these receipts will have increased by

over $375 billion between fiscal years 1981 and 1989, but spending will have increased more rapidly—by more than $450 billion over this 8-year period. Projections indicate that Federal revenue will grow by more than $80 billion during the next fiscal year. All that is required to reduce the deficit is to halt, or moderate, the increase in expenditures.

Gramm-Rudman-Hollings is a first step toward bringing the deficit under control. However, further progress toward reform of the budget process is needed. Under current practice, funding for special-interest groups is combined with vital appropriations, leaving the President the choice between vetoing the entire package or accepting some funding that he knows is not in the national interest. To prevent this waste of taxpayers' money, the President needs what most governors already have—a line-item veto and enhanced rescission authority.

Moreover, the current budget process places no real restraint on congressional appropriations, because expanded spending on one program does not require reduced spending on other programs. Too often the temptation is to raise taxes, not lower spending. A law that requires a super majority of the Congress to approve waivers of spending limits or tax limits would help ensure that taxpayers' hard-earned dollars are spent wisely, and that the temptation to increase tax burdens is resisted. Furthermore, reform of government credit operations is required to limit new subsidies and to guarantee that the true costs of these measures are not hidden from public scrutiny. These reforms, together with the balanced budget amendment that I have repeatedly endorsed, would guarantee the fiscal prudence that is needed to sustain the dramatic expansion of the past 6 years. Limiting government expenditures would also help stimulate the private investment that is required to ensure that the next generation of Americans can look forward to the same increase in living standards that previous generations have enjoyed.

Despite the enormous progress we have already made in bringing down inflation, there is still work to be done. Inflation is a hidden, insidious way of taxing the American people. Price stability, not merely lowered inflation, is the key to maintaining the vigor of the American economy and the strong international role of the dollar. Stable, predictable monetary policy can provide the type of price stability that benefits not only our own economy, but also provides significant benefits to those developing countries that are so dependent upon us.

Perhaps most importantly, the challenge for the future is to maintain and expand upon the progress we have made in taking economic decisions away from the government and returning them to the private sector, where they properly belong. Governments are notoriously bad at identifying "industries of the future," and efforts to have the government formulate and implement industrial policy must be strongly resisted. For decades, government policies throughout the world have distorted agricultural production and trade. Adoption of our bold proposal to phase out these policies in the United States and other major producing countries would result in enormous efficiency gains. And, while major deregulatory gains have been made, much more can be accomplished. Reduced regulation of vital sectors, including transportation, energy, and financial industries, has led to significant increases in productivity and to sizable gains for consumers. Further deregulation of the financial sector can help preserve this country's position as the financial capital of the world. Finally, we must resist pressure to increase government requirements for mandated benefits. These programs, while well-intentioned, increase costs, reduce labor market flexibility, and reduce productivity. They undermine the competitiveness of American business and they ultimately hurt the very people they are supposed to benefit.

CONCLUSION

In 8 short years, we have reversed a 50-year trend of turning to the government for solutions. We have relearned what our Founding Fathers knew long ago—it is the people, not the government, who provide the vitality and creativity that make a great nation. Just as the first American Revolution, which began with the shot heard 'round the world, inspired people everywhere who dreamed of freedom, so has this second American revolution inspired changes throughout the world. The message that we brought to Washington—reduce government, reduce regulation, restore incentives—has been heard around the world.

I leave office secure in the knowledge that these policies have worked, and confident that this great Nation will continue to lead the way toward freedom and prosperity for all mankind.

RONALD REAGAN.
THE WHITE HOUSE, *January 10, 1989.*

□ 1220

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. RAHALL) laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
January 10, 1989.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 3:30 p.m. on Monday, January 9, 1989 and said to contain a special message from the President in accordance with the Impoundment Control Act of 1974, including Section 1014 (2 U.S.C. 685(a)).

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

SUNDRY RESCISSION PROPOSALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 101-20)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report six new rescission proposals totaling $143,096,000.

The rescissions affect programs in the Departments of Housing and Urban Development, Interior, Justice, and Labor.

The details of these rescission proposals are contained in the attached report.

RONALD REAGAN.
THE WHITE HOUSE, *January 9, 1989.*

PASSIVE FOREIGN INVESTMENT COMPANIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, today I am introducing legislation to amend the Internal Revenue Code of 1986. The purpose of this legislation is to ensure that certain corporations are not subject to the provisions of section 1296, the section that establishes and defines passive foreign investment companies [PFIC's].

This bill is similar to H.R. 5429, which several of my colleagues and I introduced in the last Congress. However, there is one difference between H.R. 5429 and the legislation introduced today: We eliminated the section of H.R. 5429 requiring that the foreign corporation be treated as a resident under the laws of the foreign country.

Otherwise, last year's bill and this year's bill are identical. Because of that, my statement today is similar to the one I made on the floor last year, when we first introduced H.R. 5429.

The United States usually imposes a tax on U.S. shareholders of a foreign corporation

only when the shareholder receives the corporation's earnings in the form of a dividend.

One exception to this deferral is set forth in subpart F of the Internal Revenue Code. According to the General Explanation of the Tax Reform Act of 1986, prepared by the staff of the Joint Committee on Taxation, "* * * under these provisions, income from certain 'tax haven' or other activities conducted by corporations controlled by U.S. shareholders is taxed currently to the corporation's U.S. shareholders without regard to whether they actually receive the income currently in the form of a dividend."

Another exception to the deferral principle is the foreign personal holding company [FPHC] provision. Under subpart F, if a foreign corporation is controlled by U.S. stockholders, those U.S. shareholders who own at least 10 percent are taxed currently on their share of the firm's passive investment income. Further, if a corporation is controlled by five or fewer U.S. shareholders, and the income of the corporation is primarily from passive investment, then each shareholder is taxed currently on the corporation's passive investment income.

The 1986 Tax Reform Act expanded the scope of current taxation so as to include some types of income not currently taxed under subpart F or the FPHC provisions. The law did this by establishing passive foreign investment companies.

A passive foreign investment company [PFIC] is defined by the act to mean any foreign corporation that meets one of two criteria: Either 75 percent or more of its income for the taxable year consists of passive income; or, 50 percent or more of the average value of its assets consists of assets that produce, or are held for the production of, passive income.

The Joint Committee print points out that "the Congress did not believe that tax rules should effectively operate to provide U.S. investors tax incentives to make investments outside the United States rather than inside the United States."

As a member of the Ways and Means Committee that drafted the 1986 TRA I can confirm that this was indeed our objective. However, in the process of achieving this objective we must make certain that the law does not have any unintended results.

The Deputy Assistant Secretary of Treasury for Tax Policy is quoted in a statement made before the Subcommittee on Taxation and Debt Management of the Senate Finance Committee as saying that, "we are concerned that the passive asset test operates to throw too broad a category of companies into PFIC status."

The Treasury official goes on to say that, "we believe that the level of a foreign corporation's passive assets generally is not relevant, except to the extent that the assets either generate current passive income to the corporation or reflect the accumulation of current passive income within a lower tier corporation."

Mr. Speaker, today I am introducing legislation which would amend this section of the 1986 Tax Reform Act. Joining me are Mr. DONNELLY, Mrs. KENNELLY, Mr. MCGRATH, Mr. DOWNEY, Mr. FOLEY, and Mr. ATKINS. Five of the original cosponsors were involved in drafting the 1986 TRA.

Our legislation would narrow the applicability of the PFIC provision, but it would do so in a manner that respects the original objectives of the 1986 Tax Reform Act.

The bill would amend section 1296 of the code by establishing 1296(e).

The new subsection provides that, in certain circumstances, the 50-percent asset test would be waived. First, the foreign corporation must be a controlled foreign corporation, as defined in subpart F. Second, the company must be located in a country which had a deficit in its balance of trade with the United States. And third, such a corporation must engage in substantial manufacturing or production during the taxable year in such foreign country.

Mr. Speaker, we believe that there is a nexus between the manufacturing operations of U.S. firms [PFIC's] and the trade balance favorable to the United States. We also think that if the 50-percent asset test for PFIC's remains without any consideration given to the origin of the passive assets—in this case, the profit from the manufacturing operations—then U.S. trade with certain countries may be adversely affected. I want to stress that this legislation would only address the 50-percent asset section of the definition. This section contains the more stringent of the two criteria.

For example, we know that Ireland which, according to the Department of Commerce, had a trade deficit with the United States that exceeded $600 million last year, imports items related to U.S. manufacturing operations in Ireland. If the investment decisions in the manufacturing sector are made because of the PFIC provisions, we may inadvertently reduce those imports from the United States. This we do not want to do.

Since we first introduced this legislation, we have received several suggestions which would have broadened the scope of the origin bill. We have not adopted these proposals, primarily because we agree with the intent of the 1986 TRA in this case. And, second, we were concerned about the revenue loss if the scope of the original bill were enlarged.

Mr. Speaker, this legislation is important to make certain that the PFIC provisions of the 1986 TRA as written, do not adversely affect the competitive position of U.S. firms. I commend it to my colleagues.

REMEMBERING BILL NICHOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, William L. Ball III, the Secretary of the Navy, wrote a very fine article for the Washington Post about our former colleague, Congressman Bill Nichols of Alabama.

I agree with Will Ball that we will miss the leadership Bill Nichols brought to the area of national defense. His constituents will miss a very effective spokesman in Washington and I will miss him because he was one of my best friends in Congress.

I want to share Will Ball's article with my colleagues.

The article follows:

REMEMBER BILL NICHOLS

(By William L. Ball III)

There will be sensed a missing presence as members of the House of Representatives are sworn in at the Capitol today. Sadly, the Third District of Alabama will not be represented, its citizens having gathered to bury their Congressman ten days before Christmas.

To colleagues, constituents, and those both in and out of government who knew him, Bill Nichols was a man of uncommon strength and uncommon virtue. His way was that of one who had been tested by hardship time and again, who had bested obstacles few would ever confront, and yet who instinctively never forgot the simple rule at the core of his steady values. To exercise good sense, which was his practice, he knew that a Congressman had to remember who he was . . . and where he came from.

To fellow southerners, he was a model public man, admired for his considerate treatment of people from all stations in life, his agreeable manner and his genuine interest in the circumstances of other . . . his selflessness, unquestioned integrity, and the strength of his convictions. For a time in Alabama he was a cotton man, which meant above all he was fair. Always fair.

So obvious were these qualities in Bill Nichols and so sudden his departure from us that no amount of mourning can compensate for the tributes he deserved here but never received. So many were those whom he inspired in the old-fashioned way—not by image but by living example—that he leaves empty on this day far more than one seat in the House.

There is a diminished roster now in the Congress of those who had a part in two of the traumas of this the American century. Bill Nichols saw what the Great Depression wrought on the rural South—his eleventh birthday was two weeks before the stock market cash. Twelve years later he left Auburn University for combat service in the German forests on the front lines of World War II. Those experiences gave to Bill Nichols and thousands of others who survived war and depression an extraordinary and even historic determination to succeed, to serve, and to create opportunities for America's next generation.

And that's exactly what they did. With an impact and reach none could foresee in 1945, they rebuilt, retooled, and regenerated over the span of four decades a country that without them surely would not have hit full stride.

So, of the achievements of Bill Nichols and the legacy of his generation, my generation ought to pause and take note. The gentleman from Alabama worked hard to preclude the repetition of mistakes for which his generation paid an awful price. The lessons of his remarkable life are many and the good of the republic requires that they be heeded. And were he here today and asked by the freshman House Members in the class of '88 what one thing they above all should do . . . well, he would smile, and with that good-natured twinkle in his eye suggest quietly that a Congresman ought to always remember who he is . . . and where he comes from.

29-059 O-90-9 (Pt. 1)

NOISE REDUCTION IN ALAMEDA, CA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing a bill to encourage the Port of Oakland to reduce noise in residential areas near the Oakland International Airport.

A simple solution to the noise problem exists that will satisfy residents without unduely impeding airport operations. By diverting night flights to runways with an approach over the San Francisco Bay, the airport can promote peace and quiet in residential neigborhoods while still accommodating air traffic. For years, the Port of Oakland has dragged its feet in addressing the airport noise problem. It is now time that Oakland International join with airports around the Nation in becoming a responsible neighbor to the surrounding communities.

INTERIOR APPROPRIATIONS SUBCOMMITTEE HEARING SCHEDULE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. YATES] is recognized for 5 minutes.

Mr. YATES. Mr. Speaker, I submit for the fiscals year 1990 Interior Appropriations Subcommittee hearing schedule. I plan to begin hearings on January 24, 1989, and conclude with a day for Members to testify on concerns with the Interior bill on April 25, 1989.

FY 1990 HEARING SCHEDULE—COMMITTEE ON APPROPRIATIONS, SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES

JANUARY 1989

Tues., Jan. 24:
10:00 NEA
1:30 Same as above
Wed., Jan. 25:
10:00 NEH
1:30 Same as above
Thurs., Jan. 26:
10:00 Advisory Council/Woodrow Wilson
Tues., Jan. 31:
10:00 Comm. of Fine Arts/National Gallery of Art

FEBRUARY 1989

Wed., Feb. 1:
10:00 Outside Witnesses—Natural Resources (BLM, FWS, NPS, FS, GS, Smithsonian)
1:30 Same as above
Thurs., Feb. 2:
10:00 Outside Witnesses—Natural Resources (If necessary)
Tues., Feb. 7:
10:00 DOE: EIA, ERA, Office of Hearings and Appeals, Emergency Preparedness
1:30 Same as above
Wed., Feb. 8:
10:00 National Capital Planning Commission/Institute of Museum Services
1:30 Institute of American Indian and Alaska Native Culture and Arts Development
Thurs., Feb. 9:
10:00 Outside Witnesses—Energy, MMS, & Leasing Questions
1:30 Same as above
Wed., Feb. 22:
10:00 Minerals Management Service
1:30 Same as above
Thurs., Feb. 23:
Indian Health Service
Tues., Feb. 28:
10:00 Secretary of Interior
1:30 Same as above

MARCH 1989

Wed., Mar. 1:
10:00 Secretary of Energy
1:30 Same as above
Thurs., Mar.2:
10:00 Bureau of Mines
Tues., Mar. 7:
10:00 DOE: Fossil, NPR, SPRO, Clean Coal
1:30 Same as above
Wed., Mar. 8:
10:00 Outside Witnesses—Indians
1:30 Same as above
Thurs., Mar. 9:
10:00 Outside Witnesses—Indians
1:30 Same as above
Tues., Mar. 14:
10:00 Fish and Wildlife Service
1:30 Same as above
Wed., Mar. 15:
10:00 DOE: Conservation
1:30 Same as above
Thurs., Mar. 16:
10:00 Smithsonian
Tues., Mar. 21:
10:00 Office of Surface Mining
1:30 Same as above
Wed., Mar. 22:
10:00 Outside Witnesses—NEA, NEH, IMS
1:30 Same as above

APRIL 1989

Tues., Apr. 4:
10:00 Bureau of Indian Affairs
1:30 Same as above
Wed., Apr. 5:
10:00 FDR Memorial/PADC/Holocaust Memorial
Thurs., Apr. 6:
10:00 National Park Service
1:30 Same as above
Tues., Apr. 11:
10:00 Geological Survey
1:30 Same as above
Wed., Apr. 12:
10:00 Indian Ed
1:30 Same as above
Thurs., Apr. 13:
10:00 Office of the Secretary/Office of the Solicitor/Inspector General
Tues., Apr. 18:
10:00 Forest Service
1:30 Same as above
Wed., Apr. 19:
10:00 Bureau of Land Management
1:30 Same as above
Thurs., Apr. 20:
10:00 Territories
1:30 Same as above
Tues., Apr. 25:
10:00 Members of Congress
1:30 Same as above

□ 1230

REPORT OF COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore (Mr. RAHALL). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to render a report by way of accountability with respect to the course of action thus far taken by the now constituted Committee on Banking, Finance and Urban Affairs. I think the record should show that I have been a member of this committee since I arrived as a Member of the U.S. House of Representatives some 27 years and 4 months ago.

In any event, I have opted to stay on that committee even though I had a chance at one time to join the Ways and Means Committee and yielded to my distinguished colleague, the gentleman from Texas [Mr. PICKLE], to enable him to get on the Ways and Means Committee. I could also have gained the prestigious membership of the Appropriations Committee as well as the Rules Committee, but I have opted to stay because this has been a field of interest ever since I have held political elective office.

When I was on the city council of the city of San Antonio, I developed expertise on the budgetary and financial intricacies of the municipality. When I went to the State senate I did the same thing. The State of Texas has a rather unique system where the powers are really divided and shared in the State and Texas because of the 1875 Reconstruction constitution or post-Reconstruction constitution in which fearful as the Texans were then of what they called the carpetbagger Governors, they constructed a constitution that divested the Governor of almost all powers, gave him a very small modicum of appointing powers to some boards and commissions, and that was about it, and placed the bulk of that overwhelming power in the State legislature where they felt those citizens out in those areas in Texas at that time, feeling gravely and unjustly treated by what they called the carpetbaggers regimes, felt they had control over those representatives. So our State constitution of Texas has some 300-plus amendments, mostly because through the sheer course of developments it has been necessary to dilute and delegate some of those powers vested in the State Legislature of the State of Texas.

The comptroller, which is an elective position in the State of Texas and is the man who really has control of the purse strings was someone who I made it a point to go over and introduce myself to and become well-versed with the intricacies of the comptroller system, and it enabled me, for instance, to fight successfully the first legitimate budgets for the State park system, which when I arrived in the State senate in 1957 amounted to $250,000. In the city of San Antonio, we had a budget of $2.5 million for our city park system. So it was my amendment in 1957 to the finance bill that brought one of the first realistic attempts to budget for this wonderful,

wonderful State of Texas park system. It is one of the greatest systems in our Nation.

Incidentally, in the State senate I was the chairman of the State finance committee. It was the State banking committee, and so when I came here I was delighted that I was assigned to the Banking Committee. I was the one of three of us that were sworn in in the middle of the 87th Congress that was assigned to a major standing committee, and of course, that is the Banking Committee.

So I have remained there because first of its range of activity that is so wide and so important. There was a lot of political pressure for me to belong to the Armed Services Committee because of the tremendous historical, national defense outposts that are indentified with my hometown of San Antonio. But at that time I knew that because of the seniority system, which I respected, it would not be possible. But I also had had the experience in the State senate of knowing that it was not what committee you were assigned to, it is what you yourself did with your dedication, with your purposes, with your work, and with whatever efficiency you could muster up in handling whatever line of activity.

But in this great body, the U.S. House of Representatives, the beauty of it is that if there is any particular field of interest that any Member wishes to exercise concern about or devote time to, the field is immeasurable because it is the whole gamut of our activities and human activities in our country. The title of it now is the Committee on Banking, Finance and Urban Affairs. When I came to the Congress, the title of it was the Banking and Currency Committee. That had been its traditional name. It is one of the more historical committees, but it is not one of the original, fundamental committees. As a matter of historical fact, the Banking Committee was derived from what was originally the Ways and Means Committee. But it is now of such a vast range of responsibility, oversight, and jurisdiction, and with the events that are now emerging and daily increasing in seriousness, intensity, and awesomeness, it becomes imperative that my colleagues be informed as to what the intentions are as outlined by myself as the newly elected chairman of the Banking Committee.

I have always looked upon such positions as chairmanships as having only one real basic power, and that is the power to set the agenda, to set the course, to make the path, to blaze the trail, so to speak, with its multiple body in the committee which is now 51 members. When I came to the Congress it was 31 members, which was the exact size of the State Senate of the State of Texas. In that first year, the pace of activity was so different. It was another environment. I do not recall the committee having full committee meetings more than three times that first year. The chairman then was about to retire. The pace was different even in the whole House itself. Seldom did we have recorded votes. Seldom did we have business other than on Tuesdays and maybe Wednesdays, and that was about it.

But nevertheless, times change and the Congress has changed with it. The Legislative Reform Act of 1974 brought about vast changes and growth in the size and composition of the committee, in the size of some of the subcommittees. We are still in the throes of straightening out, ironing out, and perfecting the reforms that were visualized in the 1974 act.

My premise, basically, is that in a multiple body, and this is where I love to serve, and I have had the privilege that few people in the world have of serving on all three levels of the legislative bodies, on the local, the city council of the city of San Antonio 3 years, on the State level in the State Senate of Texas for 5 years, and now in the Congress going on 28 years, those are privileges that I just have no words with which to express my profound respect and feeling for them. In no other country do I know where this opportunity would have been presented to an individual with no particular claims to either economic or social or other advantage of position.

So aware of that, and aware of the fact that this is the activity I have discovered I love above all, and knowing that it is in the give-and-take of many heads, many minds, brilliant, great Members that the people elect and send to our Congresses. It has always been true, the people know what they do. I have never shared some of the skepticism that people in power seem to have about people in general, because my experience is that, as a whole, and as a conglomerate, the people are always somewhat ahead of us. As a matter of fact, in the legislative actions that I consider my accomplishments, the majority have been stemmed and flowed from ideas and recommendations originating from just plain, ordinary citizens out in the constituency.

□ 1240

For instance, the John F. Kennedy half dollar commemorative coin, I was the author of that bill and I introduced it the Monday following the assassination. And that bill was originated because a constituent called me long distance to advise me about the law governing coinage of coins that I was not aware of. And that was that in 1957 or thereabouts, the Congress had passed a law in which it was decided that only every 25 years would a design of a coin be changed. And this constituent was so informed that he said the only eligible coin is the Franklin half dollar "and I would suggest that a bill be introduced to coin one in memory of our President." And I did so. And it was approved quickly.

It became what we now know as the John F. Kennedy half dollar. But that idea did not originate with me; it came from a plain, ordinary, vanilla constituent back home. I could also name at least half a dozen other legislative enactments that are now law that originated that way.

In the case of the banking situation today, the committee had been in the throes of great issues that had emerged because of the rapid change in the world of technology, in the world of communication and in the contraction of the world.

In my case I have been speaking out on these issues every one of these 27 years so that some of the issues that now seem to emerge anew are some that I have been addressing, and some of the newer ones such as the development of the European monetary system and the European currency unit, the ECU, as far as I know I have been the only Member of Congress discussing that, even mentioning it. And I have done that since 1979, immediately after the summit, the economic summit meeting in Bonn in 1979. President Carter was President. The communique then announced, as the last sentence in this brief communique, that the ministers and the leaders agreed in principle to the European monetary system, the EMS, and the European currency unit, the ECU.

Now nobody seemed to be much interested even though it was, in my opinion, one of the more serious developments coming over the horizon that would, together with a combination of other events that traced their history back to the late fifties and early sixties such as the international trade imbalance, the great instability in the international currency markets which were somewhat controlled because of the fixed exchange rates that were the law then, but which were obvious, as well as the international arrangement known as the Bretton Woods arrangement, it was obvious that the world was no longer a 1944-47 world. It was changing. Europe was restored. It was regaining a highly competitive position in the industrial and manufacturing world and in the financial world. It was obvious that the United States could no longer afford the luxury of looking at that world as a 1947 world. Unfortunately, that still exists, even in the case of defense. As I have been pointing out on quite a number of occasions that when we approach our budget on defense, that it still is predicated at $315 billion, on an aspect of Europe that is a 1947 Europe. And, of course, that is a tragic error.

I do not know what time and events will bring about, as in the case of the financial on the international level; all I do know is that now, as Europe is about to complete its projected integration where we will have not a common market but a single market, where the EMS and the ECU are quite in place, and whether Great Britain joins or not I think is immaterial, because it is in place. And if the ECU, with the umbrella of the EMS can afford to present to the world a stable system of currency interchanges and interactions, there is no question that it is just a matter of time before the dollar is supplanted as the international reserve unit.

Now a lot of my colleagues seem to think that means nothing. I do not expect the average citizen who is far removed from these areas of discussion to much understand even though there is this sixth-sense feeling among my constituents because it is intricate. But I think the big difference is this: As I was warning in 1979 that if, in addition to this development, there are other concurrent events that would impact on us because of external forces over which we no longer had any control, that then we would be faced with a serious dilemma of America confronting a real frontal assault on what we call the American standard of living, its economic well-being, and above all, being replaced as the leader that it has been and is entitled to continue to be if, if we are entitled to it. And to be entitled to it we have got to ride ahead and above these issues and abreast of these issues. And what I see with this emerging and, in 1979, unforeseen and unexpected development where our country is now the largest debtor country in the world—and that has been true just the last 4 years—for the first time 4 years ago the United States became a debtor nation since 1914. When you add that to the picture, and then I hear all these economists coming before our committee saying "Oh, yes" and all of the monetary and regulatory agencies saying "Oh, yes, the reason we have this trade imbalance and noncompetitiveness is because the dollar is priced too high; we have got to let it fall." And when I ask these preeminent economists—and I am not an economist, I am just a Member of the House of Representatives, a politician if you please, but it is common sense to me that if you want to let the dollar fall you must be assured you have the power to control.

My question to the economists, the leading ones in the country was "What is to prevent a free fall once you start that?" They could not answer it. Why? Because they know and I know, as well, that there is no way that once you start a certain movement, given instability, a free fall—and that, of course, would mean that the value of the dollar would be of such a nature that with the overhang of the dollar-holders and seeking a more stable and substantial means of their money, they would seek a more stable currency unit. And, of course, the dollar would be supplanted.

Now I cannot think of anything worse happening to us at this juncture while we are still a debtor nation, because what that means is that instead of paying back our debts in our money that we ourselves coined, we will be paying it back in foreign exchange, in foreign money. And that, I think, we do not need a textbook to see is an ominous thing.

The committee is prepared to enter this bramble patch as it has others. We started out immediately after the Congress was convened on January 3 and we had two hearings, one on January 4 and 5 on the lesser developed countries or Third World, as it is called, which I do not like to call it that because that implies that the world can be broken up into first, second and third worlds, which is absolutely not true.

□ 1250

We are all members of this earthly planet, and there is no such thing as that, in my opinion. what we do have is this: At one time our country was a lesser developed country. In fact, it was still pretty much that during the last century. At least that is the way it was considered in the realm of high international finance. When President Roosevelt managed to bring about the decision to build the Panama Canal after the French had failed, he could do it only because we had to go to France to borrow $40 million from the French bankers. We were a debtor nation. That was at the turn of the century and at the time of the construction of the Panama Canal.

But then, by 1914, America became a creditor nation, and so in two World Wars America was the only creditor nation, and it was our credit more than anything else that enabled our allies to stand alive for more than 6 months. I think Americans ought to know that, and I think the world should never forget it. But it does forget, and it will. If we are careless in handling our heritage and we are willing, as I have said repeatedly on this House floor, to forsake our heritage for a mess of pottage, then on whom do we cast blame other than ourselves?

I believe and have believed at all times that the only thing one as a Representative really can do is to vote, to register his voice and to vote. That is all he can do. So I have made use of that, because I feel in using my voice I am rendering an accounting. How else are my constituents going to know how I think, what I believe, and what I stand for? I do not want to run for public office under false flags, and I never have. And the people nevertheless have come through, even on the most passionate and divisive of issues and facing what seemed to be overwhelming odds.

But actually what is overwhelming if the people are with us? And why would the people be with us? If they are fully knowledgeable and we are right, I can assure my colleagues that they will be with us in this so-called case of the financial crisis confronting us. This is not something of a sudden making, anymore than the international situation. But it could be, and it will be. So there is good reason where, under the overarching thesis of the Nation's economy, we embarked immediately on the scheduling of hearings in the full committee on January 4 and 5. For the first time that I know of in legislative history we brought the finance minister of Costa Rica and the Ambassador who accompanied him so they could tell us their side. We also had sitting next to them at the table a representative from our world of banking finances, representatives from the highest levels.

We wanted to hear from them the bankers' side of this tremendous debt overhang, where our principal banks have reached out and made available tremendous sums in the way of loans, particularly since 1979, which was the first time I took this floor and reported that fact.

The only one that seemed to have noticed it was the then Chairman of the Federal Reserve Board, Arthur Burns, may his soul rest in peace. He has since died. He was a great American, and I think he realized what I was striving to report. We had discussions together.

Unfortunately, even as late as 1985, when President Reagan went to the economic summit again in Bonn, the reports in our papers indicated he went there just to lay a wreath at the Bitburg Cemetery, but the truth was that that was the final meeting in which the ECU and EMS were fleshed out. As a matter of fact, I reported to this House before the summit meeting, somewhere around May 1 or 5, 1985, that the finance ministers of these other countries, the Big Six or Big 10, depending on whether the other four came in, had met in Palermo, Italy, and had had the arrangements all fleshed out to present them at the summit in Bonn.

So that was the real issue that developed from that summit in 1985. The rest is history. Today the ECU is valued at $1.25. They have such an interchange that a student at the university in Italy can obtain a $5,000 ECU loan to study at the university in Paris, or for that matter in Luxembourg, or for that matter in Brussels or perhaps in Germany. All of this is

in place now because the currency unit is in place, and is valued at $1.25 because they have reserves.

As a matter of fact, in 1975 the decision was made to repeal the 1932 act. By way of a misnomer, that was called the Private Gold Ownership Prohibition Act. It was really more than that. But when the decision was made to repeal that, I was the only one on the committee that resisted it, because the repeal was outright. There were no residue mechanisms to protect us from the speculation on the part of some of our financial institutions in this very speculative market, this highly controlled market known as the international gold market. And then the Secretary, to my astonishment, proclaimed he was going to have gold sales from our gold stock. So I talked to him. It was the then Secretary, Bill Simon.

So all this history has accumulated. I feel that no man has been better prepared—maybe equally prepared, but not better prepared and not better experienced and not having matters better thought out, because that, I feel, is the essential training, in assuming the chairmanship of the Banking Committee.

So we began with this theme of the Third World debt and its implications. The regulators, great men in themselves, came, and the chairman of the FDIC and the Comptroller of the Currency came and testified, too. The private banking industry representatives testified. We also had this testimony, as I said, from the finance minister of Costa Rica. We had testimony from the United Nations UNICEF and the British Vice Chairman of the Educational Fund. He reported the impact of the debt-servicing burdens that all of these countries were experiencing and pointed out they were in effect having to curtail vastly needed social services, such basic things as inoculations and the like. And there has been a cost in human lives, with the fact that half a million children died in that part of the world, and that could be directly attributable to the reduction in some of these services.

Those were disturbing reports. But they gave us an idea of the interrelationship and how intricate it is today, how we cannot isolate the problems of the S&L's and the problems of the debt overhang on the part of the banks.

So my main thought is that we in the Congress should anticipate that we should not wait for a crisis, that we should anticipate and enact whatever is possible within our constitutional system legislatively, in anticipation and as a contingency. So we set the hearings under the main theme of the state of the economy. We had these two hearings, and then on the 10th, 1 week later, last week, we had the Chairman of the Home Loan Bank Board, because the citizenry was literally up in arms, and that was reflected in the comments made to me the day we convened the Congress by my colleagues because of the rapid blizzard of announcements before the end of the year on some deals that were put together by the Home Loan Bank Board of which the Congress never has had more information than that contained in the press releases.

□ 1300

So that was not tolerable, and together with the distinguished ranking minority member, the gentleman from Ohio [Mr. WYLIE], and up to now I have proceeded strictly on a bipartisan basis with his tremendous help, we then invited the Chairman of the Home Loan Bank Board to come with us as soon as possible, which was the following Tuesday, last Tuesday, and we had an all-day session. The benefit of that session was that we finally obtained some information that we had not been given before.

Since November, when it was obvious that it would be certain I would be elected chairman, I was able to obtain members of the staff, and I have made no changes. When I was elected chairman of the Subcommittee on Housing in 1981, I was the only chairman elected to anything that did not fire anybody or put in his own, so to speak, because I have worked on the other side most of my life, and I know what it is, and I am respectful. To me the main thing is to do the job, and, when the staff does it and does it preeminently, as this has so far, by golly, it is going to be respected, and it is going to be protected, and it is going to be helped, and it is going to be shored up, and that is all I ask.

The only other thing is that I am not one who delegates my functions. I have always said, and I do not mean this to be disrespectful, that staffs are to be on tap and not on top. And that is it because we are elected, and we are the ones that should make the judgment decisions and be accountable for them.

So with this tremendous help of this very good staff then available we were able to designate two who are expert in this area of the savings and loan industry and particularly the FSLIC or the insurance fund. I had them visit several of the regions of the Home Loan Bank Board. We came back, and, after the hearing with the Chairman of the Board we announced hearings in San Francisco, which we held last Thursday, the 12th, and Friday, the 13th, and those were most fruitful hearings. We had excellent hearings. We have a great debt of gratitude to the little lady who is a member of our committee that represents that area in San Francisco, the gentlewoman from California [Ms. PELOSI] who is a member and very valued member of the Committee on Banking, Finance and Urban Affairs. Even though this is her second term, she has just literally shone out. She has come aboard, as we say here, running.

Mr. Speaker, we had very productive hearings that will be helpful to the membership of the committee. We will have a hearing next week, at which time the Chairman of the Home Loan Bank Board, Mr. Greenspan, has agreed to come before us. We will have other witnesses from various sectors, private industry sector and governmental or regulatory sector. Then on the 7th and 8th of February, God willing, we intend to have comprehensive hearings on the so-called leveraged buyouts. Also we have concomitant, or we have corollary activities that are equally worrisome such as hostile takeovers of one bank by another bank. That is unprecedented, and the Federal Reserve Board announced yesterday some momentous decisions in allowing banks to get into the dangerous thing that has had our country involved in a frenetic, what I call money mania, and that is the exchange, the corporate exchange of equity for debt.

Mr. Speaker, yesterday's decision I have protested and made a statement with respect to that, and I have written a letter to the Reserve Board. But they made that decision. I feel that it improperly invades the jurisdiction of the policymaking body, which is the Congress. It is unprecedented. It is a very fateful decision even though some parts of it are sort of in suspense for about a year or so.

The other thing is that we have the question, continuing question, of bank powers or deregulation. There my basic conviction is that just as much time, and debate and consideration as it took to impose the regulation the Congress should take in removing or reregulating. This is a reason why in 1971, when our committee got the demand from the administration then, President Nixon's administration, and the Secretary of the Treasury, my fellow Texan and former Governor, Mr. Connally, that we approve, sight unseen and without the change of a comma, the so-called Economic Stabilization Act. Well, that is a fancy word for wage and price controls. Well, it was I, this liberal, who resisted it to the end. And I did all I could to obstruct. Why? Because there was no comprehensive plan as to administration or accountability. I had an amendment that would have provided the President to report to the Congress every 90 days as to the progress or lack thereof of the wage and price control system. Would not consider it. In fact I was denounced for even thinking of it.

Then I said, "What? You don't have any plans as to how you will remove the control?"

Mr. Speaker, that is the reason why I think we have these aberrations and continue to have what a few years ago was called stagflation. Well, we still have it. I know the boast is by those in power that inflation has been reduced and been controlled. I have a hard time convincing my constituents that they are paying less for light, gas and water because they know they are paying five times more. I have a hard time convincing my constituents that they have deflation at the grocery store because they are paying more for groceries. They are not paying less. I have a hard time convincing them that their salaries have not been deflated because they have.

Mr. Speaker, in the last 5 years every year we have had a steady, no less than 6-percent decline in the net median average earnings in America while at the same time the basic cost of living has not been deflated. I think it is preposterous to try to fool the people with this high-flown oratorical and skillfully rhetorically phrased pretension that we have, particularly when interest rates—there is the real booger.

Mr. Speaker, interest rates are still not stabilized, and that has been at the bottom of the cause. But that is another subject matter.

Eventually I hope we can lead the committee because I am speaking as one. I am speaking only as chairman. I have outlined what, thus far, I have charted. We hope to have our first organizational meeting; that is, to organize the subcommittees and the like, next week on Wednesday, and the final and second organizational meeting the week following, on February 1. Then we will proceed along the lines of subcommittee activity and sharing the jurisdiction of the matters confronting us with the pertinent subcommittees that have been constructed.

Mr. Speaker, we have been very fortunate. I consider that the members on our committee on both sides are some of the outstanding minds and prepared legislators that anybody could hope to have serve them, and so with that we will march forward. In the meanwhile I have met with the Secretary of the Treasury, Mr. Brady, and his assistants. I have met with the Chairman of the Federal Reserve Board, Mr. Greenspan. I have met with the Chairman of the FDIC, Mr. Seidman, and I have met, as well, several times with Mr. Wall, the Chairman of the Home Loan Bank Board. Mostly those meetings were on my solicitation to present my credentials, so to speak, but also to elicit to the max power a cooperative spirit. The problems confronting us in this area are monumental.

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They are unprecedented in three decades at least, maybe four. We have got to be united and even every one of us working in unison with the best of good will, will have a tough time to confront and face and overcome the challenges that we face in the Committee on Banking and other committees and in the Congress as a whole; but as I say and repeat, God willing and in good faith and in unity, essential unity, we will again triumph.

I think that the stakes are so high, particularly in that area that I discussed briefly having to do with the international and the forces outside our shores that now impact us in a way over which we have no control, to the point where perhaps even our basic institutions cannot even themselves control such things as interest rates.

BILL TO RESTORE COASTAL REVIEW POWERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am reintroducing an important bill which I sponsored in the 100th Congress. I am pleased that Congressman ANDY IRELAND is joining me again, as an original cosponsor.

The bill is identical to H.R. 3202 from the 100th Congress. The House Subcommittee on Oceanography held hearings on the bill during the 100th Congress, and approved the bill for full committee consideration. (In addition, the Senate Commerce Committee held hearings on a similar bill introduced by Senator HOLLINGS.)

The purpose of this bill is simple: it will restore to the States the right to review Federal activities which affect their coastal zones for consistency with their State coastal zone management plans, regardless of whether those activities actually take place in the coastal zone. This right was taken away from the States in a 1984 Supreme Court decision.

Restoration of this right is particularly important with respect to offshore oil drilling proposals because it would ensure that States have a say at an early stage in the leasing process. This, in turn, would ensure that the Interior Department (and oil companies) understand State concerns about the impact of drilling on particular areas and would, hopefully, lead to the deletion of sensitive areas before a lease sale takes place. This would help to minimize conflict and litigation later on, to the benefit of States, the Federal Government, oil companies and, of course, the marine environment.

As I noted above, this bill would restore the full Federal-State relationship which was envisioned by the drafters of the Coastal Zone Management Act. That statute was intended to provide for a true partnership under which States are given the opportunity to review Federal activities and federally permitted activities which affect the coastal zone for consistency with approved State coastal management plans, if the States develop an approved coastal management plan. This simple, but important, relationship balances Federal interests with State interests, and helps to ensure that needed projects can go forward if they comply with State coastal protection standards.

The Supreme Court's 5 to 4 ruling that Federal oil and gas lease sales on the Outer Continental Shelf were not subject to consistency review disrupted that balance. It ended the States' ability to review Federal oil and gas lease sales, and it raised serious concerns about whether other Federal activities might also be found, by later courts, also to be exempt from consistency reviews.

This legislation will ensure that States are not stripped of their power to review Federal activities which significantly affect the natural resources or land or water uses in the coastal zone.

Let me make a few other important points with regard to this issue. First, this measure represents an effort merely to restore the original intent of the Coastal Zone Management Act, not an effort to extend that statute beyond its original scope. Section 307(c)(1) of the statute, by its very words, makes it clear that Federal activities "directly affecting" the coastal zone are, in fact, subject to consistency review. It makes no reference to the location of those activities; instead, the exercise of State review is dependent upon the effect of the Federal activity. This bill would restore the original intent of Congress that the effects, rather than the location, of the activity, should determine the applicability of the State consistency review provisions of section 307(c)(1).

A second important point is that State review of Federal oil and gas lease sales would not give States a "veto" power over such sales, as some opponents may claim. Even if a State disagreed with the Federal agency's determination, the lease sale would go forward unless the parties agreed to submit to mediation by the Secretary of Commerce or unless the State succeeded in persuading a court to overturn the Federal agency's action. Hopefully, the possibility of litigation would encourage the parties to resolve their differences through negotiation or mediation. There is simply no State "veto" power over Federal activities.

A third key point is that this legislation has significance beyond OCS oil and gas lease sales. What it involves is the clarification of how we determine whether any Federal activity is subject to State consistency review. As I have noted, this legislation specifies that the test, again, is whether the Federal activity has a "significant" effect on the coastal zone, not whether the activity is located within the coastal zone. Although I believe that clarification of the power of States to review Federal oil and gas lease sales is important enough, taken alone, to justify this measure, we must not forget that many other Federal activities, some of which may take place outside the coastal zone, can also cause direct or significant effects on the coastal zone. Unfortunately, several Federal agencies have argued that the decision in Secretary of Interior versus California prohibits State review of other Federal activities and federally permitted activities outside the coastal zone. If we do not adopt legislation such as that being introduced today, our States may eventually lose all of

their ability to protect their coastal resources from harm caused by Federal activities outside the coastal zone. If that happens, we will be very close to having entirely eviscerated the Coastal Zone Management Act.

As I noted above, I believe that early involvement of States in reviewing Federal activities, especially oil and gas lease sales, is beneficial to all parties involved. The benefits of State consistency reviews of OCS lease sales were eloquently summarized by Justice Stevens. In his dissenting opinion in Secretary of Interior versus California, he explained that:

The sale of OCS leases involves the expenditure of millions of dollars. If exploration and development cannot be squared with the requirements of the CZMA, it would be in everyone's interest to determine that as early as possible. On the other hand, if exploration and development of the tracts would be consistent with the state management plan, a pre-leasing consistency determination would provide assurances to prospective purchasers and hence enhance the value of the tracts to the Federal Government and, concomitantly, the public. Advance planning can only minimize the risk of either loss or inconsistency that may ultimately confront all interested parties.

It is my hope that the importance and wisdom of allowing States to review Federal activities which directly affect their coastal zones will be as obvious to my colleagues as it was to Justice Stevens.

I urge my colleagues to join me and Congressman IRELAND in supporting this important measure.

The following is the text of the bill:

H.R. 543

A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(c)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(1)) is amended to read as follows:

"(c)(1)(A) Each Federal agency conducting or supporting an activity that directly affects the coastal zone shall conduct or support that activity in a manner which is fully consistent with the enforceable, mandatory policies of approved State mangement programs, unless—

"(i) the conduct or support of the activity in that manner is prohibited by applicable Federal law; or

"(ii) a circumstance arising after a management program (or an amendment thereto) is approved, and unforeseen at the time of such approval, presents a substantial obstacle to the achievement by the agency of full consistency in conducting or supporting the activity.

In the event that achievement by a Federal agency of full consistency is prevented pursuant to clause (i) or (ii), the agency may deviate from full consistency only to the extent justified by clause (i) or (ii).

"(B) For purposes of subparagraph A, a Federal agency activity shall be treated as one that "directly affects the coastal zone' if the activity—

"(i) is within the coastal zone, on Federal lands excluded from the coastal zone under section 304(1), landward of the coastal zone, or seaward of the coastal zone, including oil and gas and mineral lease sale activities on the Outer Continental Shelf and the sale, transfer or lease of other Federal lands; and

"(ii) produces or may produce significant effects on any land or water use or natural resource of the coastal zone.".

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. BAKER) to revise and extend his remarks and include extraneous material:)

Mr. MORRISON of Washington, for 5 minutes, on January 30 and 31.

(The following Members (at the request of Mr. ENGEL) to revise and extend their remarks and include extraneous material:)

Mr. COYNE, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, on January 19, 20, and 24.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. YATES, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. FRANK, for 60 minutes, on January 23 and 24.

Mr. PANETTA, for 60 minutes, on January 23.

Mr. GONZALEZ, for 60 minutes, on January 24 and 27.

Mr. STOKES, for 60 minutes, on February 21.

Mr. ANNUNZIO, for 60 minutes, on February 22.

(The following Member (at the request of Mr. GONZALEZ) to revise and extend his remarks and to include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BAKER) and to include extraneous matter:)

Mr. GINGRICH.

Mr. SCHUSTER.

Mr. RINALDO.

Mr. MILLER of Washington.

Mr. SMITH of New Jersey.

Mrs. ROUKEMA.

Mr. HAMMERSCHMIDT.

Mr. CRANE in two instances.

(The following Members (at the request of Mr. ENGEL) and to include extraneous matter:)

Mr. YATRON.

Mr. MARKEY.

Mr. PENNY.

Mr. KANJORSKI.

Mr. TRAFICANT in three instances.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROE in three instances.

Mr. MCHUGH.

Mr. BONIOR.

Mr. FROST in three instances.

Ms. KAPTUR.

Mr. HUBBARD.

Mr. DWYER of New Jersey.

Mr. COLEMAN of Texas in two instances.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, January 20, 1989, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

202. A communication from the President of the United States, transmitting notification of his intention to designate Guyana as a "beneficiary country" for purposes of granting duty-free treatment for a period ending September 30, 1995, pursuant to 19 U.S.C. 2702(a)(1)(A); to the Committee on Ways and Means.

203. A letter from the Deputy Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

204. A letter from the Secretary of Labor, transmitting a report of a violation of the Anti-Deficiency Act, which occurred in connection with funds available for the Veterans Training Grant Program in fiscal 1985, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

205. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1989, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 101-23); to the Committee on Appropriations and ordered to be printed.

206. A letter from the Deputy Secretary, Department of Defense, transmitting the Department's fiscal years 1990-94 5-Year Defense Program, pursuant to 10 U.S.C. 114g; to the Committee on Armed Services.

207. A letter from the Secretary of Defense, transmitting his certification that the Navy and Air Force have budgeted sufficient funds for fiscal years 1990-94 to participate in the Advanced Tactical Aircraft Program, pursuant to section 213, National Defense Authorization Act, Fiscal Year 1989; to the Committee on Armed Services.

208. A letter from the Under Secretary of Defense (Acquisition), transmitting a report of actions taken by the Department to simplify and streamline its acquisition procedures, pursuant to Public Law 100-456, section 809; to the Committee on Armed Services.

209. A letter from the Secretary of Housing and Urban Development, transmitting the Department's fifth report on the Rental Rehabilitation Program, pursuant to 42 U.S.C. 1437o(n); to the Committee on Banking, Finance and Urban Affairs.

210. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the third report on the tied-aid and partially untied-aid credits offers by the Bank, pursuant to 12 U.S.C. 6351-3(g)(1); to the Committee on Banking, Finance and Urban Affairs.

211. A letter from the Chairman, Federal Home Loan Bank Board, transmitting the Board's annual report of its operations for calendar year 1987, pursuant to 12 U.S.C. 1437(b); to the Committee on Banking, Finance and Urban Affairs.

212. A letter from the Secretary of Labor, transmitting the Department's annual report on programs to assist homeless individuals, as a member of the Interagency Council on the Homeless, pursuant to Public Law 100-77, section 203(c)(1) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

213. A letter from the Chairman, Council of the District of Columbia, transmitting the Council's request for congressional action to amend a provision of the District of Columbia Self-Government and Governmental Reorganization Act to eliminate the automatic linkage between the compensation for the Chairman of the Council and that of other Council members; to the Committee on the District of Columbia.

214. A letter from the Administrator, Office of Juvenile Justice and Delinquency Protection, Department of Justice, transmitting a copy of the "Twelfth Analysis and Evaluation: Federal Juvenile Delinquency Programs", pursuant to 42 U.S.C. 5614; to the Committee on Education and Labor.

215. A letter from the Secretary of Labor, transmitting the Department's annual report on black lung benefits during calendar year 1986, pursuant to 30 U.S.C. 936(b); to the Committee on Education and Labor.

216. A letter from the Chairman, Board of Trustees, Harry S. Truman Scholarship Foundation, transmitting the foundation's annual report for 1987-88, pursuant to 20 U.S.C. 2012(b); to the Committee on Education and Labor.

217. A letter from the Secretary of Health and Human Services, transmitting a report on the effectiveness of programs operating under the Family Violence Prevention and Services Act, pursuant to Public Law 98-457, section 306; to the Committee on Education and Labor.

218. A letter from the Secretary of Energy, transmitting the quarterly report of activities undertaken with respect to the development of the strategic petroleum reserve during the period July 1, 1988, through September 30, 1988, pursuant to 42 U.S.C. 6245(b); to the Committee on Energy and Commerce.

219. A letter from the Chairman, Biomedical Ethics Board, Biomedical Ethics Advisory Committee, transmitting an update on the activities of the Board, pursuant to 42 U.S.C. 275(c)(1); to the Committee on Energy and Commerce.

220. A letter from the Secretary of Health and Human Services, transmitting the 1987 annual report on the activities of the National Health Service Corps, the NHSC Scholarship Program, and the NHSC Loan Repayment Program, pursuant to 42 U.S.C. 254b(g), 2541(i); to the Committee on Energy and Commerce.

221. A letter from the Secretary of Health and Human Services, transmitting the second annual report of the Department's Council on Alzheimer's Disease delineating revisions to previous research plans and progress made in research sponsored by the Federal Government, pursuant to Pub. L. 99-660, title IX, sect. 912(2) (100 Stat. 3805); to the Committee on Energy and Commerce.

222. A letter from the Secretary of Health and Human Services, transmitting the second annual report of the Alcohol, Drug Abuse, and Mental Health Advisory Board, pursuant to Pub. L. 99-570, sec. 4003 (100 Stat. 3207-109); to the Committee on Energy and Commerce.

223. A letter from the Director, Office of Congressional Relations, U.S. Consumer Product Safety Commission, transmitting a copy of the rule recently promulgated by the Commission to ban lawn darts, pursuant to 15 U.S.C. 2058(a)(c); to the Committee on Energy and Commerce.

224. A letter from the Administrator, Agency for International Development, transmitting notification of the allocation of funds for development assistance and international organizations and program, fiscal year 1989, pursuant to 22 U.S.C. 2413(a); to the Committee on Foreign Affairs.

225. A letter from the Administrator, Agency for International Development, transmitting the fifth annual report of the Private Sector Revolving Fund, fiscal year 1988, pursuant to 22 U.S.C. 2151f(h); to the Committee on Foreign Affairs.

226. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of the President's determinations for payment of the outstanding fiscal year 1989 funds toward the calendar 1988 budget of the United Nations, pursuant to 22 U.S.C. 287e nt. (99 Stat. 405); to the Committee on Foreign Affairs.

227. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of the proposed approval of a manufacturing license agreement and commercial export license agreement involving the export of defense articles and defense services valued at $50,000,000 or more to Taiwan (Transmittal No. MC-3-89), pursuant to 22 U.S.C. 2776(c)(d); to the Committee on Foreign Affairs.

228 A letter from the Assistant Secretary of State, Legislative Affairs, transmitting a certification, together with a justification thereof, that Bolivia is implementing legislation to establish legal coca requirements, license hectares and make unlicensed coca production illegal, pursuant to Public Law 100-690, section 4302(a); to the Committee on Foreign Affairs.

229. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. 4-89 concerning notification of the Department of the Air Force's proposed lease of defense articles to Switzerland, pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

230. A communication from the President of the United States, transmitting a report on developments since the last report of July 8, 1988, concerning the national emergency with respect to Libya, pursuant to 50 U.S.C. 1641(c); 50 U.S.C. 1703(c); 22 U.S.C. 2349aa-9(c) (H. Doc. No. 101-22); to the Committee on Foreign Affairs and ordered to be printed.

231. A letter from the Secretary of Commerce, transmitting the Department's monthly reports on imports during January, February, and March 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

232. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during April 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

233. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during May 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

234. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

235. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting a special report of the Department, "Afghanistan: Soviet Occupation and Withdrawal;" copy of a statement by President Reagan on the occasion of the ninth anniversary of the Soviet invasion of Afghanistan; to the Committee on Foreign Affairs.

236. A letter from the Deputy Secretary of Defense, transmitting a copy of the NATO Executive Working Group's report on enhancing collective security shared roles, risks, and responsibilities in the alliance; to the Committee on Foreign Affairs.

237. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during June 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

238. A letter from the Secretary of Agriculture, transmitting the Inspector General's semiannual report covering the 6-month period ending September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

239. A letter from the Secretary of Commerce, transmitting the semiannual report on the activities of the Office of Inspector General for the period April 1, 1988, through September 30, 1988, 5 U.S.C. app.; to the Committee on Government Operations.

240. A letter from the Assistant Secretary of the Treasury for Management, transmitting a report on the status and operation of the State and Local Government Fiscal Assistance Trust Fund for fiscal year 1988, pursuant to Public Law 99-272, section 14001(a)(8) (100 Stat. 328); to the Committee on Government Operations.

241. A letter from the Comptroller General, General Accounting Office, transmitting a list or all reports issued by the GAO during November, 1988, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

242. A letter from the Acting Chairman, U.S. International Trade Commission, transmitting the Commission's annual report of actions taken to increase competition for contracts, fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

243. A letter from the Acting Secretary of Agriculture, transmitting notification of a proposed new Federal records system and the deletion and revision of another systems

of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

244. A letter from the Administrator, Agency for International Development, transmitting the semiannual report of the Office of Inspector General of AID for the period April 1, 1988, through September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

245. A letter from the Administrator, Environmental Protection Agency, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

246. A letter from the Administrator, Agency for International Development, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

247. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control during the year ending September 20, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

248. A letter from the Attorney General, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

249. A letter from the Chairman, Federal Communications Commission, transmitting the Commission's annual report of actions taken to increase competition for contracts, fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

250. A letter from the Chairman, Federal Maritime Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1989, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

251. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

252. A letter from the Chairman, Postal Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

253. A letter from the Assistant Secretary for Administration, Department of Agriculture, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

254. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of a proposed altered Federal records system in the Office of the Secretary, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

255. A letter from the Assistant Secretary for Administration, Department of Transportation, transmitting notification of proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

256. A letter from the Deputy Secretary of Defense, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

257. A letter from the Director, Institute of Museum Services, transmitting a report of activities under the Freedom of Information Act for 1988, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

258. A letter from the Director, U.S. Information Agency, transmitting the Agency's fourth annual report, fiscal year 1988, on actions taken to increase competition for contracts, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

259. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

260. A letter from the Deputy Assistant to the President, Executive Office of the President, transmitting a report on the compliance with the requirements of the internal accounting and administrative control system in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

261. A letter from the Acting Chairman, Farm Credit Administation, transmitting a report on the evaluation of its systems of internal accounting and administrative control during the year ending September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

262. A letter from the Director, Federal Emergency Management Agency, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during the fiscal year ending September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

263. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

264. A letter from the Director, Federal Mediation and Conciliation Service, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

265. A letter from the Acting Administrator, General Services Administration, transmitting a report on compliance with the requirements of the internal accounting and administrative control system in effect during the year ended September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

266. A letter from the Chairman, International Cultural and Trade Center Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

267. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

268. A letter from the Archivist, National Archives, transmitting a report of actions taken to increase competition for contracts during fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

269. A letter from the Chairman, National Capital Planning Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

270. A letter from the Chairman, National Endowment For The Humanities, transmitting a report on the compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

271. A letter from the Acting Chairman, Nuclear Regulatory Commission, transmitting a report of actions taken to increase competition for contracts during fiscal year 1989, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

272. A letter from the Assistant U.S. Trade Representative for Administration, Office of the U.S. Trade Representative, transmitting notification of proposed new Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

273. A letter from the Secretary of the Interior, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

274. A letter from the Secretary of the Treasury, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

275. A letter from the Secretary of Agriculture, transmitting a report on the evaluation of its systems of internal accounting and administrative control during the year ending September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

276. A letter from the Secretary of Commerce, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

277. A letter from the Secretary of Defense, transmitting the semiannual report of the activities of the Department's Office of Inspector General for the 6-month period ending September 30, 1988, pursuant to 5 U.S.C. app. (Inspector General Act of 1978) and 5(b); to the Committee on Government Operations.

278. A letter from the Secretary of Education, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

279. A letter from the Secretary of Energy, transmitting a report on the evalua-

tion of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

280. A letter from the Secretary of Labor, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

281. A letter from the Secretary of State, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

282. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during the year ending September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

283. A letter from the Administrator, Small Business Administration, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

284. A letter from the Administrator, Small Business Administration, transmitting the semiannual report of the activities of the Office of Inspector General for the period April 1, 1988, to September 30, 1988, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

285. A letter from the Administrator, Veterans' Administration, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during the year ended September 30, 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

286. A letter from the Librarian of Congress, transmitting his views concerning the disbursement of funds by the Library to the Close Up Foundation; to the Committee on House Administration.

287. A letter from the Director, National Park Service, Department of the Interior, transmitting the third report of its Federal Lands Cleanup Day activities, pursuant to 36 U.S.C. 169i-1(c)(1); to the Committee on Interior and Insular Affairs.

288. A letter from the Director, Congressional and Legislative Affairs (Bureau of Reclamation), Department of the Interior, transmitting a copy of the final report on the status of legislation with respect to Bureau of Reclamation and other water-related issues considered by the 100th Congress; to the Committee on Interior and Insular Affairs.

289. A letter from the Chairman, Federal Trade Commission, transmitting the Commission's 10th annual report, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

290. A letter from the President, National Safety Council, transmitting a report of the audit of the financial transactions, of the Council for the fiscal years ended June 30, 1988 and 1987, pursuant to 36 U.S.C. 1101(36), 1103; to the Committee on the Judiciary.

291. A letter from the Deputy Assistant to the President and Director, Office of Administration, the White House, transmitting a report on White House personnel for fiscal year 1988, pursuant to 3 U.S.C. 113; to the Committee on Post Office and Civil Service.

292. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a copy of the report of the Secretary of Agriculture's findings and conclusions of his review of allegations that violations of law and regulation resulted in mismanagement and gross waste of funds at the Farmers Home Administration; Lewiston, ME, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

293. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the second annual report of incomplete water resources studies which have been authorized, but for which no funds have been appropriated during the preceding 5 full fiscal years (1983-87), pursuant to 33 U.S.C. 2264; to the Committee on Public Works and Transportation.

294. A letter from the Inland Waterways Users Board, transmitting the Board's second annual report of its activities; recommendations with respect to construction and rehabilitation priorities on the inland waterways of the United States, pursuant to Public Law 99-662, section 302(b) (100 Stat. 4111); to the Committee on Public Works and Transportation.

295. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the agency's semiannual report on the effectiveness of the Civil Aviation Security Program for the period January 1, 1988, through June 30, 1988, pursuant to 49 U.S.C. app. 1356(a); to the Committee on Public Works and Transportation.

296. A letter from the Secretary of Transportation, transmitting the Department's report for 1988 on the recommendations received from the National Transportation Safety Board regarding transportation safety, pursuant to 49 U.S.C. app. 1906(b); to the Committee on Public Works and Transportation.

297. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, to construct a greenbelt corridor between Ray Roberts Dam and Lewisville Lake, TX, together with other pertinent reports, pursuant to Public Law 89-298, section 301 (H. Doc. No. 101-19); to the Committee of Public Works and Transportation and ordered to be printed.

298. A communication from the President of the United States, transmitting the "Science and Technology Report to 1985-1988", pursuant to 42 U.S.C. 6615(a); to the Committee on Science, Space and Technology.

299. A letter from the Administrator of Veterans' Affairs, Veterans' Administration, transmitting notification that no activities at the Department of Medicine and Surgery were contracted out during fiscal year 1988; approximately 275 A-76 studies are currently in progress in that Department, pursuant to 38 U.S.C. 5010(c)(7), (c)(5); to the Committee on Veterans' Affairs.

300. A letter from the U.S. Trade Representative, transmitting the report on the operation of the International Coffee Agreement for the period October 1, 1987, to September 30, 1988, pursuant to 19 U.S.C. 1356n; to the Committee on Ways and Means.

301. A letter from the Secretary of Health and Human Services, transmitting a report on the study of the attorney fee payment process under title II of the Social Security Act, together with recommendations, pursuant to Public Law 100-203, title IX, section 9021(b)(1)(3) (101 Stat. 1330-295); to the Committee on Ways and Means.

302. A letter from the Secretary of Transportation, transmitting a copy of the "Weight-Distance Tax (WDT) Feasibility Study," an analysis of the impacts and feasibility of replacing certain current Federal highway user charges with a national WDT, pursuant to Public Law 98-369, section 933 and section 934; to the Committee on Ways and Means.

303. A letter from the Secretary of Agriculture, transmitting the second quarterly commodity and country allocation table showing current programming plans for commodity assistance, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committees on Agriculture and Foreign Affairs.

304. A letter from the Chairman, Federal Election Commission, transmitting a copy of the appeal of the Office of Management and Budget's fiscal 1990 passback for the Commission, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Administration.

305. A letter from the Administrator, Agency for International Development; President and Chairman, Export-Import Bank of the United States, transmitting their semiannual report on the amount and extension of credits under the Trade Credit Insurance Program, pursuant to 22 U.S.C. 2184(g); jointly, to the Committees on Banking, Finance and Urban Affairs and Foreign Affairs.

306. A letter from the Secretary of Energy, transmitting the Department's 12th report "Comprehensive Program and Plan for Federal Energy Education Extension and Information Activities," pursuant to 42 U.S.C. 7373(2); jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

307. A letter from the Secretary of Energy, transmitting the Department's fourth biennial report on implementation of the Alaska Federal-Civilian Energy Efficiency Swap Act of 1980, pursuant to 40 U.S.C. 795d(a); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

308. A letter from the Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting the Department's sixth annual report for the deployment of Federal interim storage entitled "Implementation Plan for Deployment of Federal Interim Storage Facilities for Commercial Spent Nuclear Fuel," pursuant to 42 U.S.C. 10155(f); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

309. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during July 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

310. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during August 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

311. A letter from the Secretary of Commerce, transmitting the Department's monthly report on imports during September 1988 of strategic and critical materials

from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

312. A letter from the Comptroller General, transmitting the results of the reviews of the independent certified public accountants' audits of the calendar year 1987 financial statements of each of the 12 Federal home loan banks and the combined financial statements; reports on the banks' internal accounting controls and their compliance with laws and regulations (GAO/AFMD-89-28); pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

313. A letter from the Comptroller General, transmitting a report on the results of a review of implementation and enforcement of the unlawful employment of aliens, including determination of a possible pattern of discrimination after the second year (GAO/GGD-89-16), pursuant to 8 U.S.C. 1324a; jointly, to the Committees on Government Operations and the Judiciary.

314. A letter from the Comptroller General, transmitting the results of the audit of the attending physician revolving fund as of January 31, 1988; including the report on internal accounting controls and compliance with laws and regulations (GAO/AFMD-89-11); pursuant to Public Law 94-59, title III (89 Stat. 283); jointly, to the Committees on Government Operations and House Administration.

315. A letter from the Comptroller General, transmitting the results of the financial audit of the Office of the Sergeant at Arms, House of Representatives, as of June 30, 1988, and December 31, 1987; including a report on internal accounting controls and compliance with laws and regulations, pursuant to 2 U.S.C. 81a (GAO/AFMD-89-9); jointly, to the Committees on Government Operations and House Administration.

316. A letter from the Comptroller General, transmitting the results of the study of the Secretary of the Army's contracting procedures for civil works projects (GAO/RLED-89-183); pursuant to 33 U.S.C. 2302; jointly, to the Committees on Government Operations and Public Works and Transportation.

317. A letter from the Comptroller General, transmitting a report on the review of the audits of the financial statements of the National Credit Union Administration's operating and share insurance funds and its central liquidity facility for the fiscal years ending September 30, 1987, and 1986; reports on internal accounting controls and compliance with laws and regulations (GAO/AFMD-89-13); pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

318. A letter from the Comptroller General, General Accounting Office, transmitting the financial audit of the Federal Asset Disposition Association's financial statements for the year ended December 31, 1987 (GAO/AFMD-89-16), pursuant to Public Law 100-86, section 403 (101 Stat. 609); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

319. A letter from the Comptroller General, transmitting a report on the Armed Forces' management of the National Guard and Reserves (GAO/NSIAD-89-27); jointly, to the Committees on Government Operations and Armed Services.

320. A letter from the Comptroller General, transmitting a report on DOD's Foreign Currency Rate Adjustment Program (GAO/NSIAD-89-154); jointly, to the Committees on Government Operations and Armed Services.

321. A letter from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting the agency's September report of progress on developing and certifying the Traffic Alert and Collision Avoidance System, pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Public Works and Transportation and Science, Space and Technology.

322. A letter from the Administrator, Federal Aviation Administration, transmitting the June, July, and August 1988 report of progress on developing and certifying the Traffic Alert and Collision Avoidance System (TCAS), pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Public Works and Transportation and Science, Space and Technology.

323. A letter from the Secretary of Health and Human Services, transmitting the report on demonstration project substituting the opportunity for a personal appearance for a face to face evidentiary hearing prior to determination of eligibility concerning permanent disability under section 221 of the Social Security Act, pursuant to 42 U.S.C. 421 nt.; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DE LA GARZA: Committee on Agriculture. Report of the Committee on Agriculture on activities during the 100th Congress (Rept. No. 100-1134). Referred to the Committee of the Whole House on the State of the Union.

Mr. RANGEL: Select Committee on Narcotics Abuse and Control. Annual report for the year 1988 of the Select Committee on Narcotics Abuse and Control, 100th Congress, 2d session (Rept. No. 100-1135). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GONZALEZ (for himself, Mr. RANGEL, Mrs. BOGGS, Mr. PETRI, Mr. RIDGE, Mr. TORRES, Mr. ANDERSON, Mr. COURTER, Mr. KYL, Mr. LEACH of Iowa, Mr. CARPER, Mr. FLAKE, Mr. MOODY, Mr. GARCIA, Mr. VANDER JAGT, Mr. YATES, Mrs. SAIKI, Mr. DELLUMS, Mr. HAWKINS, Mrs. VUCANOVICH, Mr. GRAY, Mr. STOKES, Mr. JONES of North Carolina, Mr. MFUME, Mr. HALL of Texas, Mr. CAMPBELL of Colorado, Mrs. BENTLEY, Mr. FAUNTROY, Mr. RHODES, Mr. DREIER of California, Mr. MCMILLEN of Maryland, Mr. SCHUMER, Mr. BATEMAN, Mr. ACKERMAN, Mr. ERDREICH, Mr. HUBBARD, Mr. BLAZ, Mr. WILSON, Mr. MONTGOMERY, Mr. HOCHBRUECKNER, Mr. DYMALLY, Mr. HAYES of Illinois, Mr. FAZIO, Mr. CROCKETT, Mrs. COLLINS, Mr. ESPY, Mr. CLAY, Mr. TOWNS, Mr. FORD of Tennessee, Mr. OWENS of New York, Mr. BEREUTER, Mr. COBLE, Mr. UDALL, Mr. BALLENGER, Mr. FROST, Mr. CONYERS, Mr. MARTINEZ, Mr. FUSTER, Mr. ORTIZ, Mrs. KENNELLY, Mr. ROYBAL, Mr. SKEEN, Mr. SMITH of New Hampshire, Mr. FOGLIETTA, Mr. TRAFICANT, Mr. VALENTINE, Mr. DE LUGO, Mr. AKAKA, Mr. CRANE, Mr. DEWINE, Mr. SAXTON, Mr. KANJORSKI, Mr. KLECZKA, Mr. HILER, Mr. PAYNE of New Jersey, Mr. SHUMWAY, Mr. BUNNING, Mr. SHAYS, Mr. WOLPE, Mr. ROSE, and Mr. BUSTAMANTE):

H.R. 505. A bill to modernize circulating coins of which the reverse of the first coin will contain the theme of the bicentennial; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GONZALEZ:

H.R. 506. A bill to amend the Hazardous Materials Transportation Act to provide for the registration of hazardous materials carriers, to provide assistance in the routing of hazardous materials and in the training of personnel to deal with such materials, and for other purposes; jointly, to the Committees on Energy and Commerce, Public Works and Transportation, and Ways and Means.

H.R. 507. A bill to amend the Immigration and Nationality Act to provide religious sanctuary as a defense to the criminal offense of harboring or transporting aliens; to the Committee on the Judiciary.

H.R. 508. A bill to provide a bonus payment of $10,000 for each veteran of World War I; to the Committee on Veterans' Affairs.

By Mr. ANNUNZIO (for himself, Mr. HUTTO, and Mr. TAUZIN):

H.R. 509. A bill to provide for the striking of medals in commemoration of the bicentennial of the U.S. Coast Guard; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BAKER (for himself, Mr. HOLLOWAY, Mr. LIVINGSTON, and Mr. MCCRERY):

H.R. 510. A bill to grant the consent of Congress to the Mississippi River Interstate Pollution Phase-Out Compact; to the Committee on the Judiciary.

By Mr. BENNETT:

H.R. 511. A bill to amend the Internal Revenue Code of 1986 to require certain candidates for President of the United States to participate in three Presidential candidate debates as a condition for eligibility for payments under the Presidential Election Campaign Fund Act; to the Committee on Ways and Means.

By Mr. COLEMAN of Texas:

H.R. 512. A bill to direct the Secretary to construct, operate, and maintain an extension of the American Canal at El Paso, TX; jointly, to the Committees on Foreign Affairs and Interior and Insular Affairs.

By Mr. COLEMAN of Texas (for himself and Mr. BRYANT):

H.R. 513. A bill to amend the Low-Level Radioactive Waste Policy Act to prescribe that States which are not members of regional compacts for the disposal of nuclear waste may not locate regional disposal facilities within 60 miles of the border with Mexico; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. COOPER (for himself, Mr. STARK, Mrs. COLLINS, Mr. MRAZEK, Mr. MARTINEZ, and Mr. WALGREN):

H.R. 514. A bill to establish labeling and advertising requirements for food or drink which are labeled "lite" or "light" or which make similar comparative claims to describe fat, sodium, or calorie content and for other purposes; jointly, to the Committees on Agriculture, Energy and Commerce, and Ways and Means.

By Mr. COYNE (for himself, Mr. DONNELLY, Mr. DOWNEY, Mrs. KENNELLY, Mr. MCGRATH, Mr. FOLEY, and Mr. ATKINS):

H.R. 515. A bill to amend the Internal Revenue Code of 1986 to provide that certain corporations engaged in substantial manufacturing operations in certain foreign countries will not be treated as passive foreign investment companies; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 516. A bill to authorize the Secretary of the Treasury to issue gold-backed bonds to the holders of accounts in federally insured financial institutions that are insolvent; to the Committee on Banking, Finance and Urban Affairs.

H.R. 517. A bill to amend the Internal Revenue Code of 1986 to encourage the extended family unit by increasing the amount of the personal exemption for children and for older dependents who reside with the taxpayer, and for other purposes; to the Committee on Ways and Means.

By Mr. CRANE (for himself), Mr. SUNDQUIST, Mr. BURTON of Indiana, Mr. DENNY SMITH, Mr. VOLKMER, Mr. KYL, Mr. SKEEN, Mr. COX, Mr. BUNNING, Mr. HAMMERSCHMIDT, Mr. JOHNSON of South Dakota, Mr. MILLER of Ohio, Mr. PORTER, Mr. OXLEY, and Mr. CRAIG):

H.R. 518. A bill to provide a 1-year delay in the effective date of section 89 of the Internal Revenue Code of 1986; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota:

H.R. 519. A bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. DWYER of New Jersey (for himself, Mr. PENNY, Mr. WISE, Mr. DERRICK, Mr. FLORIO, Mr. FOGLIETTA, Mr. LAGOMARSINO, Mrs. MORELLA, Mr. SHAW, Mr. SLATTERY, Mr. ROE, Mr. BLAZ, Mrs. MEYERS of Kansas, Mr. VENTO, Mr. BATEMAN, Mr. EVANS, Mr. SMITH of Florida, Mr. KANJORSKI, Ms. OAKAR, Mr. ATKINS, Mr. SKELTON, Ms. KAPTUR, Mr. BUSTAMANTE, Mr. MYERS of Indiana, Mr. HOCHBRUECKNER, Mr. NEAL of Massachusetts, Mr. FAZIO, Mr. WOLPE, and Mr. SHUSTER):

H.R. 520. A bill to amend title 10, United States Code, to ensure that checks for military retired and retainer pay and to pay benefits under the retired serviceman's family protection plan and the survivor benefit plan are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Armed Services.

H.R. 521. A bill to ensure that checks to pay benefits under title IV of the Federal Mine Safety and Health Act of 1977 are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Education and Labor.

H.R. 522. A bill to ensure that checks to pay benefits under the Railroad Retirement Act of 1974 are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Energy and Commerce.

H.R. 523. A bill to ensure that checks to pay annuities under the civil service retirement system and the Federal employee retirement system are delivered early if the usual delivery date falls on a Saturday, Sunday, or holiday; to the Committee on Post Office and Civil Service.

By Mr. DYMALLY:

H.R. 524. A bill to require automobile rental companies to make full disclosures of charges in advertising and to rental customers, and for other purposes; to the Committee on Energy and Commerce.

H.R. 525. A bill to permit the naturalization of certain Filipino war veterans; to the Committee on the Judiciary.

H.R. 526. A bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 527. A bill to amend title 5, United States Code, to change the position of the Director of the Census Bureau to level IV from level V the Executive Schedule; to the Committee on Post Office and Civil Service.

H.R. 528. A bill to provide for additional land for the national cemetery in West Los Angeles, CA to the Committee on Veterans' Affairs.

H.R. 529. A bill to amend title 32, United States Code, to provide that the protections afforded to Federal employees under subchapter II of chapter 75 of title 5, United States Code, be extended to National Guard technicians; jointly, to the Committees on Armed Services and Post Office and Civil Service.

H.R. 530. A bill to provide that positions held by civilian technicians of the National Guard be made part of the competitive service; jointly, to the Committees on Post Office and Civil Service and Armed Services.

By Mr. ENGLISH:

H.R. 531. A bill to provide for improved airline safety and service; to the Committee on Public Works and Transportation.

H.R. 532. A bill to amend the Internal Revenue Code of 1986 to repeal the requirement that the taxpayer identification number of dependents be included on the return; to the Committee on Ways and Means.

By Mr. ERDREICH (for himself, Mr. HARRIS, and Mr. FLIPPO):

H.R. 533. A bill to amend chapter 7 of title 31, United States Code, to abolish the Commission on Executive, Legislative, and Judicial Salaries and transfer its functions to the Comptroller General, and to provide that any legislation increasing the rate of pay for Members of Congress is considered separately from other legislation, is adopted by a recorded vote, and does not take effect until the start of the Congress following the Congress in which approved, and to eliminate the automatic annual pay adjustment for Members of Congress; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. FLORIO (for himself, Mr. BOEHLERT, Mr. SCHEUER, Mr. BATES, Mr. ROE, Mr. LAFALCE, Mr. DWYER of New Jersey, Mr. KENNEDY, Mr. MARKEY, Mr. SIKORSKI, Mrs. JOHNSON of Connecticut, Mr. WEISS, Mr. FAZIO, Mr. OWENS of New York, Ms. PELOSI, Mr. RICHARDSON, Mr. NEAL of North Carolina, Mr. WAXMAN, and Mr. WOLPE):

H.R. 534. A bill to establish a Department of Environmental Protection; to the Committee on Government Operations.

By Mr. FRANK:

H.R. 535. A bill to amend the Miller Act to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes; to the Committee on the Judiciary.

H.R. 536. A bill to amend chapter 171 of title 28, United States Code, to allow claims against the United States under that chapter for damages arising from certain negligent medical care provided members of the Armed Forces; to the Committee on the Judiciary.

By Ms. KAPTUR (for herself, Mr. MONTGOMERY, Mr. STOKES, Mr. ACKERMAN, Mr. BROWN of California, Mr. BENNETT, Mr. HAMMERSCHMIDT, Mr. CLINGER, Mr. BOUCHER, Mrs. BENTLEY, Mr. MOAKLEY, Mr. YATRON, Mr. ORTIZ, Mr. WOLPE, Mrs. MEYERS of Kansas, Mr. DE LA GARZA, Mr. HUCKABY, Mr. MARTINEZ, Mr. FROST, Mrs. ROUKEMA, Mrs. VUCANOVICH, Mr. ATKINS, Mr. SAXTON, Mr. SMITH of Florida, Mr. HUGHES, Mrs. COLLINS, Mr. HARRIS, Mr. BONIOR, Mr. FUSTER, Mr. MCCLOSKEY, Mr. ROE, Mr. COSTELLO, Mr. SCHUETTE, Mr. DE LUGO, Mr. ROWLAND of Connecticut, Mr. ANDREWS, Mr. HORTON, Mr. CLARKE, Mr. YOUNG of Florida, Mr. TORRES, Mr. FLORIO, Mr. STENHOLM, Mr. HEFNER, Mr. FASCELL, Mr. FAZIO, Mr. BEVILL, Mr. OWENS of New York, Mr. RAHALL, Mr. RAY, Mr. EVANS, Mr. LEHMAN of California, Mr. FORD of Michigan, Mr. WAXMAN, and Mr. LAGOMARSINO):

H.R. 537. A bill to provide for the establishment of a memorial and museum on Federal land within the District of Columbia to honor members of the Armed Forces who served in World War II and to commemorate the U.S. participation in that conflict; jointly, to the Committees on House Administration and Veterans' Affairs.

By Mr. MCCLOSKEY:

H.R. 538. A bill to provide for the reclamation of surface coal mines when the operator and his surety are bankrupt, and for other purposes; to the committee on Interior and Insular Affairs.

By Mr. MCCURDY (for himself, Mr. BLILEY, Mr. GUNDERSON, Mr. WATKINS, Mr. INHOFE, Mr. SLATTERY, Mr. FRANK, Mr. KOLBE, Mr. PEASE, Mr. HUTTO, Mr. SWIFT, Mr. STUMP, Mr. HEFNER, Mr. BRYANT, Mr. CLINGER, Mr. WALGREN, Mr. BILIRAKIS, Mr. RHODES, Mr. MCMILLAN of North Carolina, Mr. HOUGHTON, Mr. RAY, Mr. TRAXLER, Mr. GIBBONS, Mr. HAMILTON, Mr. BATEMAN, Mr. OLIN, Mr. LANCASTER, Mr. ENGLISH, Mr. GLICKMAN, Mr. STUDDS, Mr. LEWIS of California, Mr. THOMAS of Georgia, Mr. BEREUTER, Mrs. BENTLEY, Mr. PORTER, and Mr. SMITH of Texas):

H.R. 539. A bill to establish a commission to advise the President on proposals for national commemorative events; to the Committee on Post Office and Civil Service.

By Mr. MARKEY (for himself, Mr. RINALDO, Mr. FAUNTROY, Mr. KLECZKA, Mr. LEVINE of California, Mr. LEWIS of California, Mr. STUDDS, and Mr. TOWNS):

H.R. 540. A bill to coordinate the regulatory authority of the Federal Energy Regulatory Commission with that of State or local regulatory agencies relative to service which would bypass local utility service and to facilitate the resolution at the State or local regulatory level of competition policy issues relating to local service; to the Committee on Energy and Commerce.

By Mr. MONTGOMERY (by request):

H.R. 541. A bill to provide funeral transportation, remains transportation, and other benefits with respect to deceased Medal of Honor recipients; to the Committee on Veterans' Affairs.

By Mr. MOORHEAD:

H.R. 542. A bill to amend section 627 of the Tariff Act of 1930 to require customs officers to verify the identification numbers of vehicles before the vehicles are exported; to the Committee on Ways and Means.

By Mr. PANETTA (for himself and Mr. IRELAND):

H.R. 543. A bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone; to the Committee on Merchant Marine and Fisheries.

By Mr. RAHALL (for himself and Mr. CRAIG):

H.R. 544. A bill to amend the Mineral Leasing Act of Acquired Lands to establish a State fish and wildlife assistance fund, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mrs. ROUKEMA:

H.R. 545. A bill to prohibit the production of lethal chemical weapons for 2 years after enactment of this bill, to encourage the negotiation of an international agreement to stop the production, proliferation, and stockpiling of lethal chemical weapons, and to direct the State Department and Commerce Department to develop options for economic sanctions to be applied against nations which use or produce chemical weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mrs. ROUKEMA (for herself, Mr. ROE, Mr. GALLO, Mr. SMITH of New Jersey, Mr. COURTER, Mr. DWYER of New Jersey, and Mr. TORRICELLI):

H.R. 546. A bill to establish a national policy with respect to aircraft noise abatement and to provide for a comprehensive aircraft noise reduction plan for the State of New Jersey; to the Committee on Public Works and Transportation.

By Mr. SCHUETTE:

H.R. 547. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average; to the Committee on Ways and Means.

H.R. 548. A bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules to certain farming businesses; to the Committee on Ways and Means.

H.R. 549. A bill to amend the Internal Revenue Code of 1986 to allow farmers to income average; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 550. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders; to the Committee on Ways and Means.

By Ms. SNOWE (for herself, Mr. HORTON, Mr. WHEAT, Mr. DONNELLY, Mr. GOODLING, Mrs. SMITH of Nebraska, Mr. HEFNER, Mr. SYNAR, Mr. BATES, Mr. UPTON, Mr. STUDDS, Miss SCHNEIDER, Mr. WOLPE, Mr. HAMMERSCHMIDT, Mr. PEASE, Mr. WEBER, Mr. FAZIO, Mrs. MARTIN of Illinois, Mr. OWENS of New York, Mr. FROST, Mr. MURPHY, Mr. DERRICK, Mrs. MEYERS of Kansas, Mr. BOEHLERT, Mrs. ROUKEMA, Mr. SHUMWAY, Mr. BEREUTER, Mr. ATKINS, Mr. HARRIS, Mr. PENNY, Mr. SCHUETTE, Mr. HUGHES, Mr. FOGLIETTA, Mr. LOWERY of California, and Ms. KAPTUR):

H.R. 551. A bill to direct the Federal Trade Commission to conduct a study of deceptive mail practices in conjunction with the sale of products or services related to governmental functions; to the Committee on Energy and Commerce.

By Mr. SOLOMON:

H.R. 552. A bill to increase opportunities for veterans held as prisoners of war during the Vietnam era to participate in Department of Defense procurement actions; to the Committee on Armed Services.

H.R. 553. A bill to increase opportunities for veterans with service-connected disabilities to participate in Department of Defense procurement actions; to the Committee on Armed Services.

H.R. 554. A bill to amend the National Security Act of 1947 to require the congressional intelligence committees to establish certain procedures to prevent the unauthorized disclosure of information furnished to those committees; to the Permanent Select Committee on Intelligence.

By Mr. STARK:

H.R. 555. A bill to prohibit the Secretary of Transportation from making airport development grants to the Port of Oakland until the Port of Oakland enters into an agreement with the Secretary relating to air traffic at Oakland International Airport; to the Committee on Public Works and Transportation.

By Mr. STUMP:

H.R. 556. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 557. A bill to repeal the Medicare Catastrophic Coverage Act of 1988; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TALLON (for himself, Mr. INHOFE, Mr. ROSE, Mr. LAGOMARSINO, Mr. OLIN, and Mr. HANSEN):

H.R. 558. A bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to permit individuals to elect not to receive benefits to which such individuals are entitled as a result of the enactment of the Medicare Catastrophic Coverage Act of 1988 and not to pay premiums imposed pursuant to such act; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TORRICELLI:

H.R. 559. A bill to amend title XVIII of the Social Security Act to provide Medicare coverage of wigs and hairpieces for individuals with alopecia that resulted from treatment of malignant disease; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. ROE, Mr. FLORIO, Mr. MARKEY, Mr. JACOBS, Mr. BATES, Mr. COSTELLO, Mr. MRAZEK, Mr. MANTON, Mr. PALLONE, Mr. DELLUMS, Mr. CLAY, Mr. FOGLIETTA, Mr. AKAKA, Mr. HYDE, Mr. GALLO, Mr. OWENS of New York, Mr. GOODLING, Mr. SHAYS, Mr. DOWNEY, Mr. WALSH, Mr. DYMALLY, Mr. SCHUMER, Mr. YATES, Mr. DORNAN of California, Ms. KAPTUR, Mr. MFUME, Mr. EDWARDS of California, Mr. HOUGHTON, Mr. TRAFICANT, Mr. ACKERMAN, Mr. LIPINSKI, Mr. KOSTMAYER, Mr. RUSSO, Mr. CONYERS, Mr. HAWKINS, and Mr. SMITH of New Hampshire):

H.R. 560. A bill to promote the dissemination of biomedical information through modern methods of science and technology and to prevent the duplication of experiments on live animals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. TORRICELLI (for himself, Mr. PEPPER, Mr. ROE, Mr. FRANK, Mr. SMITH of Florida, Mr. ATKINS, Mr. GARCIA, Mr. FOGLIETTA, Mr. LEVIN of Michigan, Mr. CROCKETT, Mr. RITTER, Mr. DYMALLY, Mr. HANSEN, Mr. BATES, Mr. GOODLING, Mr. FAUNTROY, Mr. DORNAN of California, Mrs. COLLINS, Mr. KILDEE, and Mr. LIPINSKI):

H.R. 561. A bill to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights; to the Committee on Public Works and Transportation.

By Mr. TRAFICANT:

H.R. 562. A bill to prohibit law enforcement Federal financial assistance to States that do not have in effect a law that permits imposition of the death penalty, and requires imposition of the death penalty or life imprisonment without parole, for any conviction of premeditated murder and for any conviction of murdering a law enforcement officer under certain circumstances; to the Committee on the Judiciary.

H.R. 563. A bill to amend the Federal Aviation Act of 1958 to prohibit discrimination against blind individuals in establishing restrictions on seating in aircraft; to the Committee on Public Works and Transportation.

H.R. 564. A bill to eliminate the permanent appropriation of funds for the compensation of Members of Congress; jointly, to the Committees on Appropriations and House Administration.

H.R. 565. A bill to nullify the recent pay increase for Members of Congress; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. VOLKMER:

H.R. 566. A bill to change the effective date for compensation for Members of Congress; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. WOLPE (for himself and Ms. SNOWE):

H.R. 567. A bill to amend the Export Administration Act of 1979 to extend indefinitely the current provisions governing the export of certain domestically produced crude oil; to the Committee on Foreign Affairs.

By Mr. GONZALEZ:

H.J. Res. 73. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 25th amend-

ment to that Constitution; to the Committee on the Judiciary.

By Mr. DYMALLY:

H.J. Res. 74. Joint resolution designating the week of April 16, 1989, through April 22, 1989, as "National Minority Cancer Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. ENGLISH:

H.J. Res. 75. Joint resolution disapproving the salary increases recommended by the President for certain executive, legislative, and judicial positions; to the Committee on Post Office and Civil Service.

By Mr. ERDREICH (for himself and Mr. HARRIS):

H.J. Res. 76. Joint resolution disapproving the pay increases for executive, legislative, and judicial branch positions recently recommended by the President; to the Committee on Post Office and Civil Service.

By Mr. FASCELL (for himself, Mr. LEHMAN of Florida, Mr. PEPPER, and Mr. SMITH of Florida):

H.J. Res. 77. Joint resolution designating the weekend of March 2 through March 5, 1989, as "Graduate and Professional Student Awareness Weekend"; to the Committee on Post Office and Civil Service.

By Mrs. MEYERS of Kansas (for herself, Mr. VANDER JAGT, Mr. FAWELL, Mr. DYMALLY, Mr. BEVILL, and Mr. PEPPER):

H.J. Res. 78. Joint resolution to designate the week beginning April 12, 1989, as "National Auctioneers Week"; to the Committee on Post Office and Civil Service.

By Mr. MILLER of Ohio:

H.J. Res. 79. Joint resolution proposing an amendment to the Constitution of the United States with respect to the English language; to the Committee on the Judiciary.

By Mr. SCHUETTE (for himself, Mr. COELHO, Mr. GUNDERSON, Mr. ROBERT F. SMITH, Mr. EMERSON, and Mr. ROBERTS):

H.J. Res. 80. Joint resolution to urge the President to take appropriate action to maintain access to European Community markets for United States-produced meat and meat products, treated with correct use growth hormones, for human consumption; to the Committee on Ways and Means.

By Mr. SHUMWAY (for himself, Mr. ARCHER, Mr. ARMEY, Mr. BARTON of Texas, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BUNNING, Mr. DORNAN of California, Mr. FAWELL, Mr. HENRY, Mr. IRELAND, Mr. LEWIS of Florida, Mr. MILLER of Ohio, Mr. MONTGOMERY, Mr. PORTER, Mr. SAXTON, Mrs. SMITH of Nebraska, Mr. SOLOMON, and Mr. STANGELAND):

H.J. Res. 81. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

By Ms. SNOWE (for herself, Mr. ACKERMAN, Mr. AKAKA, Mr. APPLEGATE, Mr. BONIOR, Mr. BUNNING, Mr. CARPER, Mr. CARR, Mr. COELHO, Mrs. COLLINS, Mr. DE LUGO, Mr. DONNELLY, Mr. DYMALLY, Mr. ESPY, Mr. FAUNTROY, Mr. FAWELL, Mr. FOGLIETTA, Mr. FRENZEL, Mr. FUSTER, Mr. GARCIA, Mr. GILMAN, Mr. GUNDERSON, Mr. HAMILTON, Mr. HANSEN, Mr. HOPKINS, Mr. LANCASTER, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. LIPINSKI, Mr. THOMAS A. LUKEN, Mr. MARTINEZ, Mr. MATSUI, Mr. MAZZOLI, Mr. MFUME, Mrs. MORELLA, Mr. NEAL of Massachusetts, Mr. NOWAK, Ms. OAKAR, Mr. ORTIZ, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PANETTA, Mr. PURSELL, Mr. RANGEL, Mr. RITTER, Mr. ROBERTS, Mr. ROE, Mr. SABO, Mr. SAVAGE, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHUMER, Mr. SPENCE, Mr. SPRATT, Mr. STENHOLM, Mr. TALLON, Mr. TORRICELLI, Mr. TRAFICANT, Mr. WILSON, and Mr. YATRON):

H.J. Res. 82. Joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day"; to the Committee on Post Office and Civil Service.

By Mr. TRAFICANT:

H.J. Res. 83. Joint resolution disapproving the salary increase for Members of Congress proposed by the President; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. VANDER JAGT:

H.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment thereto; to the Committee on the Judiciary.

By Mr. VOLKMER:

H.J. Res. 85. Joint resolution proposing an amendment to the Constitution of the United States relating to Federal budget procedures; to the Committee on the Judiciary.

H.J. Res. 86. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. GRAY:

H. Res. 39. Resolution designating membership on certain standing committees of the House; considered and agreed to.

H. Res. 40. Resolution providing for the House to proceed to the west front of the Capitol on January 20, 1989, for the purpose of attending the inaugural ceremonies; considered and agreed to.

By Mr. ANDERSON (for himself, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. ROE, Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. RAHALL, Mr. DE LUGO, Mr. SAVAGE, Mr. BOSCO, Mr. KOLTER, Mr. VALENTINE, Mr. TOWNS, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. GRANT, Mr. HAYES of Louisiana, Mr. CLEMENT, Mr. PAYNE of Virginia, Mr. COSTELLO, Mr. PALLONE, Mr. STANGELAND, Mr. GINGRICH, Mr. CLINGER, Mr. MCEWEN, Mr. PACKARD, Mr. HASTERT, Mr. INHOFE, Mr. UPTON, Mr. EMERSON, Mr. CRAIG, Mr. DUNCAN, Mr. HANCOCK, Mr. COELHO, Mr. LIGHTFOOT, Mr. APPLEGATE, Mr. MARTINEZ, Mr. BILBRAY, Mr. VOLKMER, Mr. GALLO, Mrs. SMITH of Nebraska, Mr. CALLAHAN, Mr. LAGOMARSINO, Mr. BARTON of Texas, Mr. DORNAN of California, Mr. GALLEGLY, Mr. SHUMWAY, Mrs. VUCANOVICH, Mr. HORTON, Mr. DOUGLAS, Mr. MARTIN of New York, Mr. COURTER, Mr. DELAY, Mr. BROOMFIELD, Mr. SOLOMON, Mr. COMBEST, Mr. RAVENEL, Mr. SMITH of New Hampshire, Mr. DONALD E. LUKENS, Mr. BLILEY, Mr. BUECHNER, Mr. ROBERTS, and Mr. DREIER of California):

H. Res. 41. Resolution expressing the sense of the House of Representatives that the Federal excise taxes on gasoline and diesel fuel shall not be increased to reduce the Federal deficit; to the Committee on Ways and Means.

By Mr. DYMALLY:

H. Res. 42. Resolution providing for a study by the Committee on Government Operations to review the affirmative action employment practices with regard to business operations within the United States of foreign companies and firms; to the Committee on Rules.

By Mr. SOLOMON (for himself, Mr. PETRI, Mr. MCCRERY, Mr. LIPINSKI, Mr. DREIER of California, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mr. COBLE, Mr. PENNY, Mr. DORNAN of California, Mr. COX, and Mr. ARMEY):

H. Res. 43. Resolution expressing the sense of the House of Representatives with respect to continuing human rights abuses and the conduct of Soviet military forces in Afghanistan; to the Committee on Foreign Affairs.

By Mr. SOLOMON (for himself, Mr. SCHULZE, Mr. HOPKINS, Mr. DORNAN of California, and Mr. ARMEY):

H. Res. 44. Resolution establishing the House of Representatives Classified Information Security Office; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

6. By the SPEAKER: Memorial of the Senate of the State of Louisiana, relative to erosion control of coastal wetlands; to the Committee on Agriculture.

7. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to POW's and MIA's in Southeast Asia; to the Committee on Foreign Affairs.

8. Also, memorial of Senate of the Commonwealth of Pennsylvania, relative to a legislative remedy regarding veterans who are disabled by the disease of drug dependency; to the Committee on Veterans' Affairs.

9. Also, memorial of the Legislature of the State of Louisiana, relative to the implementation of section 907 of the Water Resources Development Act of 1986; to the Committee on Public Works and Transportation.

10. Also, memorial of the Legislature of the State of Louisiana, relative to a proposed amendment to section 906(f) of the Water Resources and Development Act of 1986; to the Committee on Public Works and Transportation.

11. Also, memorial of the Legislature of the State of Louisiana, relative to the construction of certain environmental enhancement projects in the lower Mississippi wetlands; to the Committee on Public Works and Transportation.

12. Also, memorial of the Legislature of the State of Louisiana, relative to coastal wetland restoration by the Corps of Engineers; to the Committee on Public Works and Transportation.

13. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the importation of the Commonwealth's poultry products into the Republic of West Germany; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DYMALLY:

H.R. 568. A bill for the relief of Whiteworth Inc., of Gardena, CA; to the Committee on the Judiciary.

By Mr. MRAZEK:

H.R. 569. A bill for the relief of Maurice G. Hardy; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. PEASE, Mr. WALGREN, Mr. FLORIO, Mr. WHEAT, Mr. JACOBS, Mrs. SCHROEDER, Mr. STUDDS, Mr. HUGHES, Mr. FAUNTROY, Mr. LAFALCE, Mr. BATES, Mr. KILDEE, Mr. MARTINEZ, Mr. NOWAK, Mr. MCHUGH, Mr. OWENS of New York, Mr. WOLPE, Mr. RINALDO, Mr. HOCHBRUECKNER, and Mr. KOLTER.

H.R. 19: Mr. BATES, Mrs. BENTLEY, Mr. BERMAN, Mr. BOEHLERT, Mr. BONIOR, Mrs. BOXER, Mr. FASCELL, Mr. HUGHES, Mr. KANJORSKI, Ms. KAPTUR, Mr. MAZZOLI, Mr. SMITH of Florida, and Mr. SMITH of Iowa.

H.R. 21: Mr. BRYANT, Mr. CARDIN, Mr. SIKORSKI, Mrs. MORELLA, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FASCELL, Mr. WAXMAN, Mr. SMITH of Florida, Mr. GEPHARDT, Mr. BRENNAN, Mr. BATES, Mr. ATKINS, Mr. GRAY, Mrs. COLLINS, Mr. EDWARDS of California, Mr. PANETTA, Mr. STOKES, Mr. DIXON, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. GLICKMAN, Mr. HOCHBRUECKNER, Mr. GIBBONS, Mr. HUGHES, Mr. ECKART, Mr. COSTELLO, Mr. BILBRAY, Mr. MORRISON of Connecticut, Mr. MOAKLEY, Mr. GEJDENSON, Mr. OWENS of New York, Mr. LEHMAN of California, Mr. SAVAGE, Mr. ROSE, Mr. TRAFICANT, Mr. CONYERS, Mr. MILLER of California, Mr. FLAKE, Mr. TRAXLER, Mr. PERKINS, Mr. TOWNS, Mr. LELAND, Mr. AUCOIN, Mrs. SCHROEDER, Mr. PAYNE of New Jersey, Mr. PEASE, Mr. RANGEL, Mr. NAGLE, Mr. FEIGHAN, Mr. ESPY, Mr. WILLIAMS, Mr. BROWN of California, Mr. LEACH of Iowa, Ms. KAPTUR, and Mr. SYNAR.

H.R. 22: Mr. RAHALL.

H.R. 82: Mr. THOMAS of Georgia, Mr. EVANS, Mr. MFUME, Mr. QUILLEN, Mr. THOMAS A. LUKEN, Mr. OWENS of New York, Mr. FAUNTROY, Mr. JONTZ, Mr. MRAZEK, Mr. GALLO, Mr. VENTO, Mr. FAZIO, Mr. FROST, Mr. ATKINS, Mr. SMITH of New Hampshire, Mr. FORD of Michigan, Ms. KAPTUR, Mr. SMITH of Florida, Mrs. BENTLEY, and Mr. FOGLIETTA.

H.R. 112: Mr. MCCURDY.

H.R. 140: Mr. GONZALEZ, Mr. COELHO, Mr. BONIOR, Mr. LEHMAN of California, Mr. SHAYS, Mr. STARK, Mr. ACKERMAN, Mr. DEFAZIO, Mr. DICKS, Mr. ATKINS, Mr. ROE, Mr. PAYNE of New Jersey, Mr. LELAND, Mr. LEHMAN of Florida, Mr. DELLUMS, Mr. AKAKA, Mr. STUDDS, Mr. FOGLIETTA, Mr. HENRY, Mr. KASTENMEIER, Mr. NEAL of Massachusetts, Mrs. COLLINS, Mr. FUSTER, Mr. OWENS of New York, and Mr. MACHTLEY.

H.R. 160: Mr. SLATTERY, Mr. BENNETT, Mr. RITTER, Mr. FAUNTROY, Mr. PORTER, Mr. PEASE, Mr. ROE, Mr. VENTO, Mr. BEREUTER, Ms. SLAUGHTER of New York, Mrs. SCHROEDER, Mr. PENNY, Mr. LEVIN of Michigan, Mr. PEPPER, Mr. COURTER, Mr. STUDDS, Mr. COSTELLO, Mr. FOGLIETTA, Mr. DUNCAN, Mr. IRELAND, Mr. BOSCO, Mr. HANSEN, Mr. CONTE, Mr. PAYNE of New Jersey, Mrs. COLLINS, Mr. LIPINSKI, Mr. DELLUMS, Mr. CONYERS, and Mr. LAFALCE.

H.R. 169: Mr. HORTON, Mr. SHUMWAY, Mr. ARMEY, Mr. FRENZEL, Mr. BAKER, Mr. WALKER, Mr. BUNNING, Mr. DONALD E. LUKENS, Mr. CRAIG, Mr. SMITH of Texas, Mr. HANSEN, Mr. GINGRICH, and Mr. BILBRAY.

H.R. 271: Mr. MFUME.

H.R. 378: Mr. DORNAN of California, Mr. TRAFICANT, and Mr. INHOFE.

H.R. 393: Mr. DORNAN of California and Mr. MCCRERY.

H.R. 401: Mr. ERDREICH, Mr. FLORIO, Mr. MACHTLEY, Mr. EVANS, Mr. BILIRAKIS, Mr. EMERSON, Mr. SAXTON, Mr. SMITH of New Hampshire, Mrs. SMITH of Nebraska, Mr. PACKARD, Mr. SMITH of New Jersey, Mr. KASICH, Mr. THOMAS of Georgia, Mr. SHUMWAY, Mr. CLEMENT, Mr. HANSEN, Mr. HUNTER, Mrs. MORELLA, Mr. SMITH of Mississippi, Mr. TAUZIN, Mr. BALLENGER, Mr. SLAUGHTER of Virginia, Mr. FAWELL, Mr. MILLER of Ohio, Mr. PAYNE of Virginia, Mr. HASTERT, Mr. WEBER, and Mr. CAMPBELL of Colorado.

H.R. 436: Mr. LEVIN of Michigan, Mr. DELLUMS, Mr. UDALL, Mr. FLORIO, Mr. DYMALLY, Mr. MILLER of California, Mr. BOEHLERT, Mr. SMITH of Florida, Mr. JONTZ, Mr. BEILENSON, Mr. EVANS, and Mr. CAMPBELL of Colorado.

H.J. Res. 28: Mr. BURTON of Indiana and Mr. HANSEN.

H.J. Res. 30: Mr. DONALD E. LUKENS, Mr. DORNAN of California, Mr. COX, and Mr. ARMEY.

H.J. Res. 31: Mr. GONZALEZ, Mr. COELHO, Mr. BONIOR, Mr. WAXMAN, Mr. STARK, Mr. SHAYS, Mr. MARTIN of New York, Mr. UDALL, Mr. BUSTAMANTE, Ms. PELOSI, Mr. FAUNTROY, Mr. MOAKLEY, Mr. LELAND, Mr. LEWIS of Georgia, Mr. ACKERMAN, Mr. KASTENMEIER, Mr. STUDDS, Mr. MARTINEZ, Mr. NEAL of Massachusetts, Mr. HENRY, Mr. AUCOIN, Mr. DELLUMS, Mr. DIXON, Mr. FUSTER, Mr. MRAZEK, Mr. MACHTLEY, Mr. WHEAT, Mr. KILDEE, Mr. WALSH, Mr. FORD of Tennessee, Mr. DE LUGO, Mr. DYMALLY, Mrs. COLLINS, Mr. LIPINSKI, Mr. FRANK, Mr. KOLTER, and Mr. MAZZOLI.

H.J. Res. 34: Mr. GUNDERSON, Mr. SCHUETTE, Mr. MOORHEAD, Mr. BARTLETT, Mr. LENT, Mr. BUNNING, Mr. FAWELL, Mr. DOUGLAS, Mr. COURTER, Mr. WHITTAKER, Mr. HANSEN, Mr. SMITH of Texas, Mr. DELAY, Mr. ENGLISH, Mr. PORTER, Mr. BILIRAKIS, Mr. COMBEST, Mr. DEWINE, Mr. BURTON of Indiana, Mr. SKEEN, and Mr. GALLO.

H. Con. Res. 7: Mr. CONTE.

H. Res. 20: Mr. MOODY, Mr. LAGOMARSINO, Mr. BOUCHER, Mr. MOAKLEY, Mr. MCCLOSKEY, Mr. SHAYS, Mr. FAUNTROY, Ms. PELOSI, Mr. YATES, Mr. RAVENEL, Mr. PERKINS, Mr. WISE, Mr. APPLEGATE, Mr. CLAY, Mr. PAYNE of New Jersey, Mr. PORTER, Mr. WEISS, Mr. WALSH, Mr. ASPIN, Mr. ROE, Mr. MCMILLEN of Maryland, Mr. FUSTER, Mr. TANNER, Mr. RAHALL, Mr. NEAL of Massachusetts, Mrs. BOXER, Mr. DIXON, Mr. JOHNSON of South Dakota, Mr. DE LUGO, Mr. BONIOR, Mr. ANDREWS, and Mr. VOLKMER.

H. Res. 21: Mr. DONALD E. LUKENS, Ms. OAKER, Mr. GORDON, Mr. PENNY, Mr. FRANK, Mr. OWENS of Utah, Mr. COSTELLO, Mr. SMITH of Texas, Mr. SHUMWAY, Mr. PAYNE of New Jersey, Mr. MACHTLEY, Mr. RAVENEL, Mr. LIPINSKI, Mr. DURBIN, and Mrs. MORELLA.

H. Res. 27: Mr. GALLO, Mr. WOLF, Mr. BALLENGER, Mr. WALKER, Mr. EMERSON, Mr. DORNAN of California, Mr. DEWINE, Mr. BUNNING, and Mr. MORRISON of Washington.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

10. By the SPEAKER: Petition of the City Council, Cambridge, MA, relative to public housing tenants; to the Committee on Banking, Finance and Urban Affairs.

11. Also, petition of the Thurston County Fire Commissioners Association, Olympia, WA, relative to standards for safety within the fire service; to the Committee on Education and Labor.

12. Also, petition of the Township Committee, Township of Millstone, Perrineville, NJ, relative to a resolution of appreciation for the efforts of their congressional representative concerning the siting of a toxic waste incinerator; to the Committee on Energy and Commerce.

13. Also, petition of the North Atlantic Assembly, Hamburg, Germany, relative to the North Atlantic Alliance; to the Committee on Foreign Affairs.

14. Also, petition of Mr. Rodney D. Strand, Cle Elum, WA, relative to a redress of grievances; to the Committee on the Judiciary.

15. Also, petition of Mr. Edward B. Atkinson, Yakima, WA, relative to a redress of grievances; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

THE NATURAL GAS TRANSITION ACT OF 1988

HON. EDWARD J. MARKEY
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MARKEY. Mr. Speaker, today I am introducing the Natural Gas Transition Act of 1989. This legislation addresses an important problem—the growing trend of natural gas bypasses of local utilities by large gas users. Because of the significant effects that bypasses have on local ratemaking, my bill is designed to give State and local commissions the choice of deciding whether a bypass is or is not in the best interests of a majority of all ratepayers. A detailed description follows:

EXPLANATION

The purpose of this Act is to limit the power of the Federal Energy Regulatory Commission (FERC or Commission) to permit new natural gas service which would displace or "bypass" local public utility service to end use customers. As such, it would function as an overlay to the Natural Gas Act (NGA) and the Natural Gas Policy Act (NGPA), without specifically amending either statute. The Act explicitly recognizes and clarifies the role of the state and local utility regulatory agencies in this area of essentially local concern and provides specific procedures under which proposed service that would bypass local utilities must be evaluated by FERC before any approval may be granted or any blanket authorization may be relied upon to perform the bypass service.

Until recently, the Commission's long-held policy was to prefer that natural gas service to end users be provided by their local distribution companies (LDCs), which are regulated as public utilities. See, *e.g., Panhandle Eastern Pipeline Co.*, 36 FPC 1107 (1966); *Missouri Edison Co.*, 47 FPC 849 (1972); *Southern Natural Gas Co.*, 25 FPC 925 (1961); and *American Louisiana Pipe Line Co., et al.*, 20 FPC 575 (1958). Of the many rationales underlying this policy, the most important consideration was the extent to which the loss of large industrial customers of the LDC economically and operationally impacts its remaining customers.

Recent federal policies deregulating wellhead prices and providing for "open access" transportation, however, have restructured the way gas is bought and sold in the interestate marketplace. In furtherance of its new policy to encourage competition in the natural gas industry, the Commission has shifted its focus of public interest considerations away from the long-term rate consequences on residential customers of the LDC and onto the short-term economic benefits realized by the industrial customer. *See, e.g., Kansas Power & Light Co. v. Williams Natural Gas Co.*, 45 FERC ¶ 61,272 (1988); *American Distribution Co.* (Alabama Div.), 37 FERC ¶ 61,282 (1986); *Panhandle Eastern Pipe Line Co.*, (Hayes Albion), 29 FERC ¶ 61,338 (1984).

Similarly, in a series of recent orders, FERC has substantially broadened the availability of interstate pipeline transportation service that is not subject to any public interest regulatory review. Under Section 311(a) of the NGPA, FERC is authorized to permit interstate pipeline transportation service "on behalf of" LDCs and intrastate pipelines that is free of FERC's NGA jurisdiction. In *Hadson Gas Systems, Inc.*, 44 FERC ¶ 61,082 (1988), *appeal pending, Associated Gas Distributors, et al. v. FERC*, D.C. Cir. No. 88-1856, FERC interpreted this statutory provision in such a manner as to open non-NGA jurisdictional transportation to virtually *all* shippers, including parties bypassing local utilities. *See also Cascade Natural Gas Corp. v. Northwest Pipeline Corp.*, 44 FERC ¶61,081 (1988), *appeal pending, Associated Gas Distributors, et al. v. FERC*, D.C. Cir. No. 88-1857. Thus, under color of NGPA section 311(a), as currently interpreted by FERC, parties may construct new facilities and accomplish a bypass of an LDC with virtually no federal regulatory review of public interest considerations.

The Commission's campaign to relax market entry in the name of competition is at the same time highly disruptive of traditional public utility service and the local regulatory responsibilities of the States. It imposes huge economic costs upon those consumers who must continue to rely on the local utilities for service—economic costs that may well exceed any benefits realized by the pipelines and end users seeking to bypass.

The regulatory authority that is clearly best situated to review the costs and benefits of a proposed bypass is the state or local commission with jurisdiction over the affected public utility. That regulatory body is responsible for setting the rates and terms of utility service to all classes of gas consumers in the utility's service area. Yet, in the context of the most common form of bypass undertaken today—in which the pipeline provides a direct transportation-only service to the end user—the ability of state and local regulatory authorities to review proposed bypass service has been questioned. In *National Steel Corp. v. Long*, 689 F. Supp. 729 (W.D. Mich. 1988), *appeal pending, Michigan Consolidated Gas Co. v. Panhandle Eastern Pipeline Co.*, 6th Cir. No. 88-1650, a federal district court determined that, despite the "substantial local interests at stake" in a bypass case, the Michigan Public Service Commission's regulatory authority was preempted by a FERC decision to authorize an interstate pipeline bypass of a Michigan distributor by means of a transportation-only service. The court explicitly noted, in conclusion, that if federal preemption results in inadequate protection of the important local interests at stake in a bypass case, "then it is for Congress to fashion an appropriate remedy." *Id.* at 738.

Importantly, this Act does not protect LDCs from the threat of bypass in all instances. Nor is it intended to insulate distributors from the pressures of a more competitive marketplace for natural gas. Rather, it achieves a blend of (1) encouraging competition for natural gas supply itself, which furthers the Congressional policy of wellhead competition established in the NGPA and (2) recognizing the primacy of state and local interests in retaining a regulated monopoly in the provision of local natural gas distribution service.

SECTION-BY-SECTION SUMMARY

Section 1

This section designates the title of the Act as the Natural Gas Transition Act of 1989. The reference to "transition" recognizes the fact that the natural gas industry is moving to a more competitive, less regulated environment, and this Act is intended to protect the interests of consumers of gas nationwide during that transition.

Section 2

This section, entitled "Bypass Restraint", consists of four parts. The first, Subsection (a), provides new limits on the Commission's authority, pursuant to either the NGA or the NGPA, to authorize a new service where that service would displace service which is being provided or which could be provided by an LDC. Subsection (a) also provides a new legal standard under which FERC must evaluate proposals for such service.

The second part of Section 2, Subsection (b), creates a prior public notice requirement for any proposed service that would bypass an LDC. The third part, Subsection (c), defines the term "local distribution company" for purposes of this Act. Finally, Subsection (d) provides for immediate effectiveness of the Act upon enactment, and further clarifies the universe of services to which it applies.

Subsection 2(a)

The first subsection of Section 2 is cast in prohibitory language. It states that the Commission may not, by either certificate, rule, or order, permit any interstate natural gas service (*i.e.*, service authorized pursuant to the NGA or the NGPA) that would displace service offered by an LDC in the event of either of two occurrences. One relates to actions taken by the state or local regulatory authority, and the other is triggered by the local utility threatened with the bypass itself.

State/Local Commission Certification. The first situation in which bypass is prohibited, Paragraph (a)(1), is where the state or local regulatory authority that has jurisdiction over the "affected" LDC certifies to FERC that the proposed service would prejudice the present or future interest of the remaining customers of that utility.

The reference to "state or local" authority parallels the term "state commission" as such is defined in NGA Section 2(8), *see* 15 U.S.C. § 717a(8) (1982). The NGA definition of "state commission" is "the regulatory body of the state or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the state or municipality." Likewise, the referenced term is meant to include both state regulatory commissions, the most common regulator of local distribution companies, as well as other local regulatory bodies, such as

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

municipal authorities, which have comparable jurisdiction to state authorities.

The concept of a local commission "certifying" to the federal Commission its determination—which certification is to be treated by FERC as conclusive—is also found in the NGA. The "Hinshaw exemption" in NGA Section 1(c) states that certain interstate activities are exempt from FERC jurisdiction if, among other things, the entity performing those activities is subject to state regulation. The exemption language states that "[a] certification from such State commission to the Federal Power Commission . . . shall constitute conclusive evidence of such regulatory power or jurisdiction."

The term "affected local distribution company" means the LDC that is currently providing, or that could otherwise provide, service to the end user; in other words, the LDC that would be bypassed. Note also that "local distribution company" is defined later in the statute, at Subsection 2(c).

This provision is intended to recognize the essentially local nature of natural gas utility bypass issues. Generally, large industrial end users of gas seek to bypass their local utilities when they are dissatisfied with the rates and/or other terms of service that the utility can provide. As noted above, those rates and terms of service are subject to the regulatory authority of the state or local commissions that have jurisdiction over the LDCs. These commissions are charged with balancing the needs of the utility as a business enterprise with the broader, public interest of all of its customers, residential and commercial as well as industrial, in secure, long-term service at reasonable rates. It is well recognized that a utility's loss of customers due to bypass by an interstate or intrastate pipeline may have a tremendously adverse impact on the remaining customers of the utility.

As the U.S. Supreme Court has recognized with respect to sales of natural gas, the attempt by an interstate pipeline to "compete for the cream of the [LDC's] volume business without regard to the local public convenience and necessity" is a matter of "'essentially local' concern and of vital interest to" the affected State itself. *Panhandle Eastern Pipe Line Co. v. Michigan Public Service Comm'n*, 341 U.S. 329, 373-74 (1951). At present, the States are able to protect these essentially local concerns by asserting jurisdiction over bypasses that are accomplished by means of a direct sale by the interstate pipeline to the industrial end user. Where that pipeline performs a bypass by means of direct transportation, however, and the sale takes place between the end user and some third party, FERC has asserted that the State has no jurisdiction over the pipeline's bypass service. *See Panhandle Eastern Pipe Line Co.*, 42 FERC ¶61,076, 61,349 (1988), *appeal pending, Michigan Consolidated Gas Co. v. FERC*, D.C. Cir. No. 88-1062. This assertion of preemptive federal jurisdiction, moreover, has been upheld by a federal district court in the *National Steel* case discussed above.

Thus, the language of Paragraph 2(a)(1) resolves an apparent inconsistency in the NGA statutory language, as currently interpreted, by placing an appropriate level of authority over proposals to bypass LDCs where it rightfully belongs—in the hands of the local or state regulatory authority. If this body determines that the bypass should not take place given the resultant detriment to the remaining customers of the affected LDC, and certifies so to the Commission, then the bypass may not occur.

It should also be noted that the Act does not dictate or in any way foreclose the procedures to be undertaken at the state level in advance of a state or local commission's certification of the effects of a proposed bypass arrangement. It simply shifts the forum for consideration of the relevant public interest issues in the first instance from the federal to the state level. Thus, an industrial end user that believes a bypass of its local public utility for direct pipeline service would be justified and in the public interest should make its arguments to the local regulatory authorities.

Local Distribution Company Protest. The second occurrence under which the Act prohibits a new bypass service to be undertaken is set forth in Paragraph 2(a)(2). This is where the affected LDC protests the proposed bypass (after receiving advance notice of such proposal, as required in Subsection 2(b) described below) and the would-be bypasser is unable to demonstrate, in a hearing proceeding at FERC, that that LDC is not willing to provide transportation service on terms and conditions that are "in effect, or accepted or approved by" the LDC's state or local regulatory authority. Stated differently, if the affected LDC files a protest at FERC, then the Commission must order an evidentiary hearing. The required procedure is characterized in the Act as a hearing "on the record" which, under the Administrative Procedure Act, means a formal proceeding with adequate opportunity both to present evidence and argument and to meet the presentation of opposing evidence and argument. 5 U.S.C. §§ 554 and 556 (1982). At the hearing, the proponent of the bypass (most likely an interstate or intrastate pipeline) bears the burden of proving that the affected distributor is not willing to transport gas to the end user.

The significance of the determination whether the affected LDC is willing to provide transportation service is grounded in competition considerations. As noted above, during the past several years, the natural gas industry has undergone a dramatic metamorphosis from its traditional structure based on sales (from producer to pipeline, pipeline to distributor, and distributor to end user) to a more flexible national market based on transportation. *See generally, Associated Gas Distributors* v. *FERC*, 824 F.2d 981 (D.C. Cir. 1987), *cert denied*, 108 S. Ct. 1468 (1988); *Maryland Peoples' Counsel* v. *FERC*, 761 F.2d 768 (D.C. Cir. 1985); *Maryland Peoples' Counsel* v. *FERC*, 761 F.2d 780 (D.C. Cir. 1985). Many non-traditional sellers of gas now compete for sales, both at the retail and wholesale levels, and rely on transportation by one or more other parties to deliver the gas. To take a concrete example, where an end user in New England traditionally had but a single natural gas supplier—its local public utility—it now may contract for the purchase of gas from a producer located in the Southwest or a marketer headquartered in Chicago, so long as it can arrange for transportation of the gas to its facilities.

At the federal level, the Commission has been aggressively promoting the opening, by interstate pipelines, of access to transmission (as distinct from sales) capacity. *See, e.g.*, Order No. 436, *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol*, FERC Stats. & Regs. (Regulations and Preambles). ¶30,665 (Oct. 9, 1985), *vacated and remanded, Associated Gas Distributors* v. *FERC, supra, repromulgated in relevant part, Order No.* 500, *III FERC* ¶30,761 (Aug. 7, 1987), *appeal pending, American Gas Ass'n* v. *FERC*, D.C. Cir. No. 87-1588. Several States have followed suit, either with "mini-Order No. 436" open access programs (*e.g.*, Wisconsin, New Mexico), generic transportation rate design guidelines (*e.g.*, Virginia, California), or even stronger mandates to their LDCs to offer transportation (*e.g.*, Kansas, Michigan, Pennsylvania, Maryland). In other States, however, LDCs may still retain substantial discretion to decide whether, and on what terms, to provide transportation services for their end-use customers.

The requirement that an LDC must be willing to provide transportation for its end users, in order to satisfy the statutory inquiry in Paragraph 2(a)(2) and thereby prevent a bypass, is a strong incentive for LDCs to offer such service. By doing so, they provide their end users with competitive alternatives to the LDCs' own sales gas. This, in itself, may eliminate many end-users' incentives to seek a bypass arrangement in order to gain access to lower-priced supplies of gas. For those end users served by "recalcitrant" distributors who refuse to offer them access to transportation as well as sales service, the option of bypass remains viable under the statute.

It should also be noted that, with respect to bypass services proposed under NGA Section 7(c), the evidentiary test of whether the affected LDC is willing to provide transportation service is in no way intended as a replacement for the statutory Section 7 requirement that the proposed service be found to be in the "present or future public convenience and necessity." In other words, if the pipeline cannot meet its burden of proof with respect to availability of LDC transportation, then the certificate cannot be issued. If, however, a pipeline meets its evidentiary burden, then the Commission is still statutorily obligated, under NGA Section 7, to determine that the proposed bypass would serve the public convenience and necessity before a certificate may be issued authorizing the service.

Subsection 2(b)

This subsection of the "Bypass Restraint" provision states that in no event may the Commission authorize a bypass service by certificate, rule, or order until 30 days after it has published a notice of same in the Federal Register. The purpose of this requirement is to insure that the affected state or local regulatory commissions, LDCs and other interested parties have prior notice of the proposed bypass service and, moreover, that they have an adequate opportunity to prepare and file a certification (in the case of a state or local commission acting under Paragraph 2(a)(1)) or a protest.

This prior notice provision is particularly important given that the Commission currently authorizes self-implementing transactions under both NGPA Section 311 and so-called "blanket" certificates pursuant to NGA Section 7. Once it has obtained a blanket authorization, in many cases a pipeline may begin service without seeking any further approvals. FERC regulations authorize new transportation, undertaken pursuant to a blanket certificate, for up to a 120-day period with no prior notice whatsoever. 18 C.F.R. § 284.223(a)(1) (1988). With respect to transportation undertaken pursuant to NGPA Section 311 that would bypass an LDC, regulations require the pipeline merely to certify that before transportation commenced, it gave written notice to the LDC and its state or local commission. 18 C.F.R. §§ 284.106(a)(4) and 284.126(a)(6).

Only long-term transportation for a shipper other than an interstate pipeline requires not only prior notice, but an opportunity for interested parties to protest and obtain a hearing. 18 C.F.R. §§ 284.223(b) and 157.205. The statutory requirement in Subsection 2(b) will provide the opportunity for protest and a hearing in *all* cases of proposed bypass.

It should also be noted that this subsection modifies existing "blanket" authorizations by requiring, at the very least, the specified notice and protest period before commencement of a new service that involves the bypass of an LDC. For additional discussion about the impact of this statute upon pre-existing authorizations, see Section 2(d) below.

Subsection 2(c)

This subsection provides a statutory definition of the term "local distribution company." As it is used in the Act, LDCs are those companies which are (1) "engaged in the distribution of natural gas for consumption," and (2) "regulated or operated as a public utility by a state or local government or agency thereof."

This definition is slightly different from the definition of LDC that appears in Section 2(17) of the NGPA. 15 U.S.C. § 3301(17) (1982). The reason for this is to bring within the definition of LDC those companies that are clearly engaged in the local distribution of gas and are regulated by state or local regulatory authorities, but whose facilities also happen to be located in more than one State. By vitue of their "interstate" facilities, those companies are considered by FERC to be interstate pipelines. Though they may fall under a special exemption from federal certification requirements pursuant to NGA Section 7(f), they are also technically excluded from the NGPA definition of an LDC. As state-regulated local public utilities, however, they are subject to the same regulatory responsibilities as other LDC's. As such, they are equally vulnerable to the threat of bypass and equally deserving of the protections provided under this Act.

Subsection 2(d)

This subsection provides for immediate effectiveness of the Act upon its date of enactment. It also specifies that the provisions of the Act, including the Subsection 2(a) bypass prohibitions and procedures, shall apply to *all* new services (*i.e.,* service not previously provided), whether they require a new approval from the Commission or can be undertaken pursuant to existing (*i.e.,* NGPA Section 311 self-implementing or NGA Section 7 blanket certificate) authority.

Importantly, the Act does *not* reach back retroactively to affect a bypass arrangement that is currently in operation. Thus, no services for which facilities have already been constructed and for which service has commenced will be jeopardized or subject to additional regulatory scrutiny by virtue of this Act. Rather, only *new* bypass arrangements will be subject to the greater scrutiny and procedural protections of Subsections 2(a) and (b).

A TRIBUTE TO EDNA CRISMAN ON THE OCCASION OF HER 100TH BIRTHDAY CELEBRATION

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. KAPTUR. Mr. Speaker, in ancient traditions, a long and prosperous life was a sign of a life lived well and to the benefit of others. Ohio's Ninth District, while far from ancient, has benefited from just such an individual's life. I welcome this opportunity to pay tribute to a truly great woman whose exceptional dedication and zeal has distinguished her as a hallmark of hospitality and good will to the community of Delta, OH. A woman known and loved by generations of families throughout northwest Ohio, Mrs. Edna Crisman celebrated her 100th birthday with friends and admirers following the Veterans Day Parade in her hometown of Delta on November 11, 1888.

Known to many as the "Queen of Delta," Mrs. Crisman has been an active leader in a wide variety of civic, religious, and political activities throughout her many years. Born in Bryan, OH on November 11, 1988, Mrs. Crisman distinguished herself early-on as a young woman of exceptional determination and talent. She attended Ohio University for a brief period, went on to teach public school in the town of Delta, and was a Sunday schoolteacher in her church for over 40 years. She was married on September 1, 1914 to her husband Marion—a marriage which lasted until her husband's death in 1959. When her husband's business began to suffer during the Depression, Mrs. Crisman decided to open a restaurant in her parents' former home in Delta to assist with family expenses. Appropriately known as "Hostess House," Mrs. Crisman's restaurant, still owned and operated by her, has become a cherished landmark of Fulton County. It is here that Mrs. Crisman has most distinguished herself as Delta's "Grand Lady" of hospitality. Her culinary know-how, in a home-style tradition which has few rivals to her expertise, continues to attract generations of families from cities and towns both near and far.

Mr. Speaker, the town of Delta, OH, and in fact all who have been touched by Mrs. Crisman's kind and gentle manner are continually reminded of an era in American life rich in family-oriented values, and abundant in communal good will to friend and stranger alike. Thank you Mrs. Edna Crisman for keeping alive what we so often overlook most in America's fast-paced and expanding culture. While Edna may be the city of Delta's beloved "Hostess," her warm and generous spirit has been a blessing and gift to us all. I know that my colleagues in the Congress join me today in wishing Mrs. Edna Crisman a very happy birthday and best wishes for many years to come.

TRIBUTE TO MARGARET "MEG" HERLIHY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. CONTE. Mr. Speaker, I rise today to remember a dear friend and a grand lady of western Massachusetts politics who passed away in late December, Margaret "Meg" Herlihy.

Meg was everyone's favorite. For 12 years she served her constituents as a Franklin County Commissioner. For 14 years before that, her husband Tom served in that same capacity until his untimely death.

Meg Herlihy personnified Franklin County, MA. She was never considered a Democrat or a Republican. She was considered a representative of the people. And no matter how partisan an issue might become, it was Meg Herlihy who always voted first and foremost for the people of Franklin County.

Meg's death leaves a huge void in Franklin County. Although she had decided against running for reelection last November, and would have stepped down this month, Meg will always be thought of as the consummate public servant. She gave of herself more than anyone could ever ask.

She will be missed as a friend, as a person, and as a county commissioner. My wife Corinne's and my prayers are with her and her family during this diffucult time.

Mr. Speaker, a newspaper in Franklin County, the Greenfield Recorder, wrote an outstanding editorial honoring Margaret H. Herlihy. Following is the text of that eulogy:

[From the Greenfield (MA) Recorder, Jan. 4, 1989]

MEG HERLIHY

Public service, particularly at the county level, is not an especially rewarding activity. It takes a great deal of time, a high degree of commitment and a willingness to put up with problems that range from the petty to the peculiar to the pressing.

Margaret "Meg" Herlihy, who died unexpectedly last Friday, served her fellow Franklin County residents as a county commissioner for 12 years, and did so with style and charm. Today, had all gone according to plan, she would have been at the courthouse as a commissioner for the last time. She did not seek a fourth term in November's elections.

Her death, at age 69, shocked the community. Meg Herlihy was an active, outgoing, lively individual with a wealth of friends. In her 12 years as a county commissioner, she brought dignity and intelligence to the conduct of county business, as did her husband, Thomas, who served in the same position for 14 years prior to his equally unexpected death (it happened while he was playing tennis) in 1974.

Several years ago, Franklin County dedicated a county park in Whately to the memory of Tom Herlihy. Unfortunately, a chronic shortage of funds contributed to the general deterioration of the park, and it no longer serves the public. Perhaps Meg Herlihy's untimely death will prompt a search for a suitable way to permanently memorialize the contributions she and her

husband made to the betterment of this community.

COMMEMORATING DR. LEON H. STEINBERG AS HADASSAH'S MAN OF DISTINCTION

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to one of southern Nevada's most respected physicians, Dr. Leon H. Steinberg. On Saturday, January 28, the Las Vegas Chapter of Hadassah will honor this exceptional Las Vegan at their Annual Presidents Ball. He is truly deserving of this honor.

Born in Warsaw, Poland, Dr. Steinberg emigrated to the United States in 1938. He attained his U.S. citizenship in 1943 and later served in the Medical Corps of the U.S. Air Force from 1946–48. Dr. Steinberg went on to study at the University of Illinois where he received his B.S. degree in 1950 and his M.D. degree in 1954.

While in college, Dr. Steinberg received numerous awards and recognitions. He graduated with highest honors in chemistry and was admitted to the Phi Beta Kappa National Honor Society. While in medical school, he was member of Alpha Omega Alpha, the medical honorary fraternity.

Dr. Steinberg continued his education at the University of Illinois by focusing his studies on radiology. Upon completing his studies, he decided to come to Las Vegas to put his years of schooling into practice. In 1958 he founded the Sunrise Hospital Department of Radiology, where he was director until 1971. He was also codirector of the department of radiology at Valley Hospital from 1975–84. Dr. Steinberg has been in private practice since 1971.

Aside from his professional responsibilities, Dr. Steinberg has found time to actively participate in various community organizations. He is a member of the Shriners, Temple Beth Sholom, and Bnai Brith, as well as being active on the Jewish Federation Board. He and his wife, Faye, have also been blessed with five beautiful children, all of which are pursuing successful careers in various fields.

Mr. Speaker, by any standard—be it professional contribution or community involvement—Dr. Leon Steinberg represents the best southern Nevada has to offer. I ask my colleagues to join me today in commending Dr. Leon Steinberg for his well-deserved recognition as "Hadassah's Man of Distinction."

BLACKS SHOWED PROGRESS UNDER REAGAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. SOLOMON. Mr. Speaker, in one of his last interviews as President, Ronald Reagan wondered if some of the self-appointed "spokesmen" for black Americans weren't more interested in their own power than in the welfare of their own people.

I have to wonder who Jesse Jackson is speaking for when he condemns the Reagan administration's record of concern for black Americans. He certainly can't be speaking for the 2½ million blacks added to the civilian labor force since 1980.

Let's set the record straight: Jesse Jackson may have the rhetoric and the attention of the media, but the Reagan administration has the facts.

In 1980, the black civilian labor force numbered 10,865,000. As George Bush moves into the White House, that number is 13,205,000.

Blacks, like all Americans have been the beneficiaries of the longest sustained peacetime prosperity in our history.

If Jesse Jackson is really concerned about the dignity of black Americans, he should acknowledge that the worst indignity is standing in an unemployment line. There are fewer blacks in those lines, thanks to the enlightened policies of Ronald Reagan, which George Bush was elected to continue.

Nothing would be more conducive to racial harmony in America than less demagoguery and more honesty.

LEGISLATION TO REPEAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. STUMP. Mr. Speaker, today, I am introducing a bill that will repeal the Medicare Catastrophic Coverage Act of 1988.

This new law is far from what Medicare beneficiaries need or want in the way of long-term care. The controversial funding mechanism, and the lack of coverage for out-of-hospital long-term care, represent a costly expansion of Medicare without providing the coverage most elderly people desire—nursing home and home health care coverage.

We need to encourage the availability of affordable long-term care for our elderly. Repealing Public Law 100-360, is the only way to allow for reconsideration of other alternatives.

LEGISLATION REGARDING LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing legislation involving an issue that perhaps many of my colleagues would rather not address but which in my opinion needs to be reconsidered—low-level radioactive waste disposal.

In 1982, Congress relegated to the States the authority to provide for the disposal of low-level radioactive waste generated within their borders. High-level nuclear waste was made the exclusive province of the Federal Government, and low-level waste was at that time left under the exclusive jurisdiction of the States. As generally understood, low-level waste includes medical supplies, protective clothing, and nuclear reactor sludges contaminated with radioactivity.

In the State of Texas, however, the process of selecting a site within the State's border has taken on a direction that I am sure Congress did not anticipate in 1982. The Texas Legislature provided for waste disposal within its borders by establishing the Texas Low-Level Radioactive Waste Disposal Authority in 1981, commonly known as the "Authority." This authority was commissioned to select, prepare, construct, operate, maintain, decommission, close and finance a disposal site for Texas low-level waste.

Subsequent to creating the authority, the Texas Legislature directed it to focus its siting on lands that were State-owned. In fact, in determining acceptable dump sites, the authority was ordered to give preference to publicly owned land. The adoption of this 1985 provision by the Texas Legislature was made along regional lines, and virtually guaranteed the eventual placement of the site somewhere on sparsely populated public land found in west Texas despite the fact that more geologically suitable sites may exist on privately owned land in east Texas. This directive resulted in the consideration of three separate tracts of land in Hudspeth County, a county of 2,500 residents, one of these tracts now being the leading candidate under consideration by the authority.

The decision on the part of the State of Texas to locate the dump site in this area, however, violates our national interests because it ignores a 1983 "Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area" with the Republic of Mexico. This executive agreement declared that an area of 60 miles on both sides of the border between the two countries should be an environmentally protected zone.

As of yet, Mexico has not been informed of this preliminary selection. During the most recent election in Mexico last fall, Mexican congressional candidates along the border campaigned against the potential location of a nuclear waste disposal site proximate to the Rio Grande, and it is also likely that the administration of the new President of Mexico will more aggressively oppose the Hudspeth County site.

Under principles of international environmental law, the potential of liability by the United States exists in the event of a failure of a site. The danger of this is particularly acute given the mountain front setting of the site, the likely shallow groundwater recharge of an international acquifer, the geological activity of the area and the direct surface water connection to the Rio Grande.

The proposed site in Hudspeth County, TX, and the dumping of these materials in our area would threaten not only our country's relationship with Mexico, but also two international acquifers, the Rio Grande River, the Guadalupe Mountains National Park, Lincoln National Forest, Big Bend under the National

Park Service jurisdiction, and a wildlife sanctuary being operated near the Rio Grande. Finally, sites in the area have recently been listed in the National Register of Historic Places.

The site under primary consideration is located near Fort Hancock, TX, and is approximately 11 miles from the Rio Grande. In the State of Texas, this river serves not only as the international border between the United States and Mexico and is also used by thousands of people on both sides of the Rio Grande for irrigation, drinking and domestic consumption and livestock water. The potential for groundwater contamination from a leakage at the facility and the eventual seepage of this groundwater into the Rio Grande certainly could pose a problem for these communities.

The risk of failure is great because part of the radioactive wastes will have an active life of 350 years or more. No one can be sure of the changes that will occur over the next 350 or more years. In the case under consideration the site proposed on the Rio Grande is in an area of potential earthquakes as have occurred and is subject to destructive erosion by the torrential rains which occur in the area.

The bill I am introducing today honors our environmental agreement with Mexico by prohibiting the location of radioactive dump sites within 60 miles of the United States-Mexico border. Congress has already directed the National Park Service to conduct a study that assesses the adverse environmental consequences and damage that could result to NPS property as well as to archaeological sites in the area. As a matter of fact, NPS personnel are visiting the site today, and the report should be available late next month.

I look forward to reviewing the results of this study and to working with my colleagues in the appropriate committees in considering this proposed legislation.

REINTRODUCTION OF THE AIR TRAVEL RIGHTS FOR BLIND INDIVIDUALS ACT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation I introduced in the last Congress to protect the basic rights of blind individuals who travel by air. The bill, entitled the Air Travel Rights for Blind Individuals Act garnered 117 cosponsors last year and I am hopeful that this year this important legislative initiative will enjoy even more support.

The Federal Aviation Administration [FAA] is still considering whether it is necessary to issue regulations regarding existing row seating on aircraft. Having been directly involved in this issue for over 2 years, I believe that the FAA has a responsibility to issue regulations that will prevent airlines from unjustly discriminating against handicapped individuals. I have written to the FAA urging that they issue regulations and that they incorporate the intent of my legislation into these regulations.

Despite the fact that the FAA has conducted research on the evacuation of blind and other handicapped persons, these studies did not address the ability of blind passengers to operate an exit door. In fact, there is no empirical data showing that a blind passenger sitting in an exit row seat poses a safety threat to other passengers. Despite this, the airlines—with the apparent support of the FAA and Department of Transportation—continue to discriminate against blind persons.

While most people can understand an airline's legitimate concern over safety, one cannot understand or condone the callous, rude and condescending manner in which many airlines have treated blind passengers who happened to be assigned to an emergency exit row seat. Most airlines assume that blind passengers would be unable to open the door and exit the plane in an emergency. The airlines' misguided seating policies do not give them the right to treat blind passengers like criminals.

Some airlines have forcibly removed blind passengers from emergency exit row seats and had them arrested. However, they rarely—if ever—have forcibly removed drunk passengers from these same seats. In fact, many airlines continue to sell drinks to drunk passengers. Obviously a drunk person would have extreme difficulty pulling the handle and opening an exit door in an emergency. The sad truth is the airlines—like much of our society—continue to view blind persons as second class citizens, unable to function in the normal world.

Mr. Speaker, I am deeply concerned that the airlines will continue to use the veil of safety to perpetuate the myth that blind individuals cannot function in society and must be treated differently from other people. Action must be taken to ensure that blind passengers are no longer subjected to unjustified and humiliating discrimination.

My legislation simply states that airlines cannot restrict seating in aircraft because of blindness. It would leave the FAA and the airlines free to establish criteria for seating passengers in exit row seats, but they would have to establish a policy that is fair and does not arbitrarily discriminate against certain individuals.

Mr. Speaker, this legislation addresses a very serious problem and I would hope that the Congress would give it the close and expeditious consideration it deserves. I will be working very hard in the coming months to push this initiative forward and I am confident that working together we can devise a fair and just solution to this vexing problem. The full text of my bill is as follows:

H.R. 563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Air Travel Rights for Blind Individuals Act".

SEC. 2. ESTABLISHMENT OF SEATING RESTRICTIONS.

Section 404(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(c)) is amended by adding at the end of paragraph (1) the following: "An air carrier shall not restrict seating in aircraft on the basis of the visual acuity by a passenger or the use by a passenger of a white cane, dog guide, or other such means of assistance.".

SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall take effect on the date of the enactment of this Act.

OSTERHOUT FREE LIBRARY MARKS CENTENNIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. KANJORSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the centennial celebration of the Osterhout Free Library, located in Wilkes-Barre, PA.

The library was founded by Isaac Osterhout and opened its doors to the public on January 29, 1889; it is recognized as one of the first public libraries in northeastern Pennsylvania. In 1904, one of the first children's rooms in the country was opened as part of the Osterhout Free Library, inviting the children of the area to explore the fascinating world of reading.

In 1972, Hurricane Agnes almost destroyed the library, ruining over 69,000 books, photograph records, pamphlets, magazines, and newspapers. By May 1973, with the help of the community, the entire library was refurbished and reopened for public use.

Today the Osterhout Free Library serves as the headquarters for the Luzerne County Library System. It has in its collection over 300,000 books, audio records, video cassettes, and films. Over 100 works of art are on view. In 1983 alone, over 43,000 patrons utilized the library's resources. Programs are offered year-round to all levels from the infant to the adult.

Mr. Speaker, libraries serve to protect our culture, heritage, and knowledge; they act as vessels through which we pass our thoughts to later generations. In them, Benjamin Franklin, Aristotle, James Joyce, and countless others stay alive for our education and enjoyment. On this occasion, as we look back at the many contributions the Osterhout Library has made to the citizens of my district over the past 100 years, I can only hope that it continues to foster the seeds of learning and curiosity that are so vital to an educated, thinking America.

THE DISTINGUISHED CAREER OF NEW YORK STATE SENATOR MARTIN J. KNORR

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MANTON. Mr. Speaker, State Senator Martin J. Knorr is stepping down after 22 years of distinguished service in the New York State Senate. Since 1965, Marty Knorr has represented the 15th Senate District of Queens County, NY. Senator Knorr has been a remarkable and beloved public servant. His tireless and dedicated service to his constitu-

ency have been a model for all who hold public office. Senator Knorr could always be counted on to attend events and public meetings in his district. When a problem or crisis developed in his district, Senator Knorr would lead the effort to find a solution.

Marty Knorr never lost touch with the communities he represented. While a member of the State Senate, he also served as president of the Associated Organizations of Ridgewood, Glendale, Maspeth and Middle Village. Senator Knorr was also a founder of the West Queens Coordination Civic Council, and is a member of the board of trustees of Christ the King Regional High School. During his years of service in the State Senate and State legislature, Marty Knorr has remained an active member of the Queens community, and has received numerous honors and awards for his diligent work on behalf of this constituency.

Mr. Speaker, Senator Knorr is a respected and effective legislator. He has served as assistant Senate majority whip, vice chairman of the majority conference, chairman of the Codes Committee, the Commerce and Economic Development Committee, and the Election Committee.

I want to extend my congratulations to my friend Marty Knorr on an outstanding career in public service. I know that Marty Knorr will be sorely missed in the State Senate, but I am certain he will remain an active member of the community, and will continue to work to improve the quality of life in western Queens.

Mr. Speaker, I am including a biographical sketch detailing the long and illustrious career of Martin J. Knorr.

BIOGRAPHY OF MARTIN J. KNORR, 15TH SENATE DISTRICT

Martin J. Knorr, born in Williamsburgh, Brooklyn, New York, has lived for more than 50 years in Ridgewood, Queens County, New York.

Senator Knorr was educated at Public School 68, Ridgewood, Queens County; Boys' High School, Brooklyn; Dartmouth College, Hanover, New Hampshire; and at the Brooklyn Law School of St. Lawrence University. He was admitted to the New York State Bar in 1934.

He served as Assistant Attorney General of the State of New York, as Law Assistant of the Surrogate's Court of Queens, Associate Attorney of the New York State Department of Taxation and Finance and Supreme Court Law Secretary, 11th Judicial District, Queens County, until he was elected to the Senate in 1965.

Mr. Knorr was elected a member of the New York State Assembly in 1952 and represented the former Third District, Queens County, during 1953 and 1954. He was elected to the Senate in the 1965 general election, re-elected to the Senate in the 1968 general election and in the elections of '70, '72, '74, '76, '78, '80, '82, '84 and in 1986 to represent the 15th Senate District of Queens County.

As a State Senator, Martin J. Knorr has served his constituency well. Over the years, he has served as the Assistant Majority Whip, Vice-Chairman of the Majority Conference, Chairman of the Codes, Commerce and Economic Development and Election Committees, and he has served as a member of most of the Senate Committees.

Senator Knorr is President of Associated Organizations of Ridgewood, Glendale, Maspeth and Middle Village and a member of various other civic and community organizations. He was a founder of the West Queens Coordination Civic Council.

Senator Knorr is a member of the Board of Trustees of Christ the King Regional High School.

In 1964, he was the recipient of the Community Service Award of the Queens County American Legion, Glendale Post #104 for "Loyal and Diligent Service to the Community". Senator Knorr has since been the recipient of many awards: the Department of New York Veterans of Foreign Wars for "Outstanding and Unselfish Service to Veterans"; the Veterans of Foreign Wars Queens County Council for "Outstanding efforts to procure the Veterans Hospital in St. Albans, Queens"; the Queens County American Legion award for "Meritorius Service and Loyal Cooperation"; Queens County Catholic War Veterans as "An Eminent Patriot" and also for "his efforts against Obscenity and Pornography"; the Veterans Service Award of the Queens County Council Jewish War Veterans of the United States; the Blinded War Veterans of New York for "Outstanding Contribution to the Welfare of the Blinded War Veterans"; the Ancient Order of Hibernians Division Six, for "Outstanding Legislation against Obscenity"; the Public Service Award of the Sons of Italy of America, Lodge #2269; the Award of Merit of the Sons of Italy; Mario Biaggi Lodge #2339; the Lithuanian Shrine Committee of New York for "His Service in the Cause of Freedom from Communist Russia of its many Captive Nations"; the Multiple Sclerosis Service Association for "Sincere Interest In and Support Of Their Cause"; the Parents and Taxpayers, Inc. for "Outstanding Leadership in the Struggle for the Neighborhood School Concept and Quality Education"; the Patrolmen's Benevolent Association of the City of New York for "Outstanding Legislative Achievement"; the Guide Dog Foundation for the Blind, Inc., of which he is an Honorary Director; and the Knights of Columbus Morris Park Council in "Grateful Recognition and Appreciation of Faithful and Exceptional Services to Our Community".

Standing committee assignments in 1988—Codes; Crime and Corrections; Elections; Finance; Housing and Community Development; Social Services and Veterans.

TRIBUTE TO WILLIAM AND LILLY ROZAY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to two respected and popular leaders of the San Fernando Valley, William and Lilly Rozay, who will be honored by the board of directors of Shaarey Zedek Synagogue for their dedication, devotion, and achievements on behalf of the community

Bill and Lilly were both born, raised, and educated in Russia and are survivors of the Holocaust. In 1947, the young married couple emigrated with their 10-month-old son, Samuel, to the United States. With hard work and much luck, Bill started a trucking business, and in little time the business grew and enabled them to become involved in community activities.

Bill and Lilly are a loving couple and are well known for their kind and thoughtful ways. Their exemplary leadership in humanitarian endeavors have been characterized by a deep commitment and a strong sense of idealism. Their religious commitment, visionary judgment, and personal effort have contributed greatly to the stature of Shaarey Zedek congregation and the San Fernando Valley Orthodox Jewish community.

Throughout their lives, Bill and Lilly have always shown a willingness and desire to give freely of their valuable time to aid organizations or causes important to their community. The numerous awards and honors earned by Bill and Lilly are a testimony to the untold number of people whose lives were touched and improved by their generosity and dedication.

I am proud to give recognition to this outstanding couple, and I invite my colleagues to share in this expression of admiration and gratitude to William and Lilly.

CONGRESSIONAL SALUTE TO BERGEN COUNTY CLERK CARL R. HARTMANN ON HIS RETIREMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute an outstanding public servant in my home State of New Jersey who recently retired after giving a lifetime of unswerving and dedicated public service to his community, State and Nation.

I am speaking of Carl R. Hartmann, a lifelong resident of Wallington, NJ, who retired at the end of last year after a combined three decades as Wallington Borough Clerk and Bergen County Clerk, and after a total of nearly four decades of continued exemplary service to his community. For all of his tireless efforts, Carl R. Hartmann will be honored for his innumerable contributions with a dinner on Friday, January 27, at the Cotillion in Garfield.

Mr. Speaker, I know that this event will attract scores of congressional, State and community leaders, as well as numerous colleagues and friends. I know, too, that this will be an especially proud evening for his distinguished family; his mother, the former Lena Marofski; his sons, Robert, a former mayor and councilman of Wallington and Mark, a member of the zoning board of adjustment; his wife, Dorothy, who is currently serving her third term on the Wallington Board of Health; his daughter, Karen, his daughters-in-law, Janet and Pamela; his son-in-law Paul Smith, and his two lovely grandchilden, Scott and Daniel. I also know that Carl will be thinking of his late father, the distinguished Karl Hartmann, who served as a Wallington Councilman for 15 years.

Carl R. Hartmann was born in Wallington and attended Wallington public schools and East Rutherford High School. He served in the U.S. Army during World War II, and also served 3 years in the New Jersey National

Guard. He began his long tenure of public service to his great community in 1951 when he was first elected to serve on the Wallington Borough Council, a position he held for 3 years.

In 1957 he became the Wallington Borough Clerk and served in that capacity for 16 years, until 1974 when he became the clerk of Bergen County, a position in which he greatly distinguished himself for 15 years before retiring at the end of last year. Mr. Speaker, it was during this period that Bergen County, NJ, sitting at the hub of the greater northern New Jersey-New York metropolitan area, grew by leaps and bounds into the bustling and prosperous area that it is today with a population in excess of 1 million people. In response to this explosive growth, Carl R. Hartmann proved himself a true innovator.

Among other measures he took to meet the needs of his rapidly expanding county, he was the first county clerk in the State of New Jersey to institute evening hours so that busy county residents could conduct their business after working hours. He also computerized the county's realty division and the filing system for the Bergen County Court Division, and he facilitated residents' access to passport applications.

Along with his many outstanding professional accomplishments, Carl R. Hartmann also served as commander of the Pavlick-Koster Post No. 2640 Veterans of Foreign Wars; as a fireman with the Wallington Fire Department and a member of the Exempt Firemen's Association; as a member of the Wallington Emergency Squad; as a member of the Wallington Recreation Commission, and as president of the Wallington Planning Board.

Mr. Speaker, when we speak of public service, most certainly Carl R. Hartmann stands as the kind of role model we could all emulate. For it is dedicated people such as this outstanding individual who truly make our communities, our States, our Nation and our world, a better place to live. Mr. Speaker, I invite you and our colleagues to join me in saluting a dedicated public servant, in the truest sense of the word, Carl R. Hartmann of Wallington, NJ.

SUSAN KENDZIORA WAGES WAR ON "HIDDEN DISEASE"

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. PURSELL. Mr. Speaker, it is a pleasure for me to rise today to pay tribute to an outstanding individual from Michigan's Second Congressional District, Ms. Susan Kendziora, of Jackson. She has, for the last 2 years, been increasing the public's awareness and understanding of multiple sclerosis through Recreation and Education for Multiple Sclerosis [REMS], a Jackson organization concerned with helping MS victims and increasing the public's awareness of the disease.

As a member of the Labor, Health and Human Services, Education Appropriations Subcommittee, I have become familiar with multiple sclerosis and the pain and frustration it brings its victims and their families. There is no known cure for MS and no known way to prevent it.

Through the efforts of individuals like Susan Kendziora, the public is becoming increasingly aware of the disease and how its victims still have much to offer society.

The following article from the December 29, 1988 edition of the Jackson Citizen Patriot is an outstanding summary of Susan Kendziora's work for REMS and the positive results it brings. I encourage all my colleagues in the House of Representatives to read the article and join me in praising Ms. Kendziora and REMS for their important commitment to the war against multiple sclerosis.

[From the Jackson Citizen Patriot, Dec. 29, 1988]

JACKSON WOMAN WAGES WAR ON "HIDDEN DISEASE"

By David L. Dotson

Although several hundred thousand Americans suffer from multiple sclerosis and closely related disorders, the disease and its effects are largely unknown outside of their families.

Because the symptoms of multiple sclerosis are sometimes invisible, its victims often suffer from more than just the ravages of the disease. They, and their families, also face problems in their jobs from employers and co-workers.

For Susan Kendziora, personnel manager at Jacobson's Jackson store, increasing the public's awareness and understanding of multiple sclerosis is a major concern. For the past two years, Kendziora has been involved with Recreation and Education for Multiple Sclerosis, a Jackson organization concerned with helping its victims and increasing the public's awareness of the disease.

"There are so many people in Jackson that have MS it's unbelievable," she said.

Kendziora, 31, and her husband Jim, 40, got involved with REMS in 1986 after Jim was formally diagnosed as having multiple sclerosis. She was elected secretary-treasurer of REMS shortly after they began attending the group's monthly meetings, and her husband was elected president.

In recognition of her work with REMS, Kendziora was recently nominated by Jacobson's for the 1988 Fred Lazarus Jr. Memorial Award for Community Service, sponsored by the National Retail Merchants Association. Nominations, based on an employee's outstanding initiative in community service, recognize those who have "touched the lives of others in a meaningful way."

During her tenure as secretary-treasurer of REMS the group's membership has expanded 25 percent and its checking account has grown from $100 to $3,000. Money for the account comes from corporate sponsors and from the proceeds of the Page One (Bar) Invitational Golf Outing. The money is used to buy canes, walkers and wheelchairs for MS sufferers who can't afford them.

Kendziora recruits Jackson-area pharmacies, dentists and doctors to contribute to the fund. In return, the sponsors' names go on the monthly newsletter she has developed for REMS members. Members are urged to patronize the sponsors' offices and businesses.

"We tell our members, 'Use these places, please utilize these places,' " she said.

Kendziora also recruits speakers for the group's monthly meetings. The speakers include experts on multiple sclerosis, civil rights, and other issues of concern of MS victims and their families.

"Afterward we just sit around and talk . . . (and) find solutions to problems," she said. "A lot of it is just bringing people together. It's like going to an AA meeting; you're with people who understand."

Despite the growing number of people diagnosed with multiple sclerosis—recent developments have made it much easier to diagnose—awareness of its symptoms and effects is still not widespread, said Kendziora. So it's important for MS victims and their families to have a place where they can share their problems and concerns and vent their frustrations.

"They can talk about their feelings, their fears, their joys," said Kendziora.

Multiple sclerosis is a disease of the brain and spinal cord which interferes with the brain's ability to control functions such as seeing, walking and talking. It commonly affects adults between 20 and 40 years old. Most multiple sclerosis occurs in the earth's temperate zones between 40 and 60 degrees latitude in the northern and southern hemispheres, with fewer cases found closer to the equator.

Although scientists have determined that MS is not contagious and that is is not a mental illness, they have not been able to determine its cause. Nor do they know how to prevent or cure it.

MS symptoms can be mild or severe, from blurred or double-vision to general fatigue to weakness or paralysis of the arms and legs. But the symptoms come and go unpredictably, and that can make it extremely difficult to diagnose.

Kendziora's husband suffered his first MS episode in 1980—a mild attack limited to facial muscles—but then the problem went away for a few years. When the symptoms started up again, it took a long time before Jim was officially diagnosed with multiple sclerosis.

"We'd go to doctor after doctor after doctor," she said. "Nobody really knew what it was."

Jim Kendziora was an avid softball player, working in a job that required him to climb on scaffolding, before MS became a constant presence in his life. Now it takes most of his energy to put in a full day's work, and a 20-minute walk through a department store can "wipe him out for two days," Kendziora said.

At work Jim faced problems with colleagues and supervisors who didn't understand why he wasn't performing as well as he once had. Eventually, after he was diagnosed as having MS, he was switched to a position requiring less physical effort.

"They moved him to a desk job, because there's nothing wrong with his mind," said Kendziora. "But it took a while, and I don't want other people to go through that."

Detection of MS has become easier in recent years, but public awareness and understanding still has far to go. And because it's not a visible handicap, employers don't know how to deal with it. They often interpret MS fatigue as laziness on the employee's part. That lack of understanding has caused problems for many of REMS' 80 members, said Kendziora.

"A lot of them live in fear that they are going to be terminated," she said. "A lot have had to quit, or were forced to resign, or were intimidated into quitting."

The effects of multiple sclerosis aren't limited to those who suffer from the disease, said Kendziora. Spouses and other

family members must take over responsibilities previously handled by the MS victim.

But MS sufferers, along with people with other handicaps, still have a lot to offer businesses and to society in general, she said. That's why she devotes what little free time she has to increasing public awareness of the disease.

"What's really the biggest thing for me right now," said Kendziora, "is to make people understand what MS is."

RETIREMENT OF REIGN GEORGE RIX

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. CONTE. Mr. Speaker, I rise today to honor Mr. Reign George Rix, a long-time educator in the Westfield public schools who is retiring this January from his position as principal of the Westfield Middle School.

Throughout his career, Reign has shown continued dedication to students, to public education, and to the community of Westfield, MA. His tenure within the town's school system began as a teacher of English at Westfield High School, a position he held from 1966–73. Upon assuming the post of assistant principal of the Westfield High School in 1973, Reign has displayed his success as an administrator, extending his expertise and educational knowledge outside of the classroom. After 12 years, Reign was promoted to principal of the Westfield Middle School where he served from 1985 until his retirement this month.

All of Reign's colleagues are truly going to miss the presence of such a committed educator. But it will be the students themselves who will most regret the loss of Reign. Throughout his career, he has been involved in many student activities beyond academia. During his years as assistant principal, he successfully coached the track team.

Athletics, team comradeship, and extracurricular activities of all kinds are vital part of a well-rounded education, to which every educator should be devoted. I commend Reign for his appreciation of high school sports, and applaud his willingness to contribute many hours of his time to supporting and encouraging school spirit and personal growth.

Although his background in education has been extensive, beginning with a graduation from Westfield High School to a master's degree from Westfield State College, it is not just from the academic world that Reign has obtained his expertise, knowledge, and experience. His service in the U.S. Navy during the Korean war is certainly worthy of praise and honor. Never neglecting his concern for this country, Mr. Rix has found time to remain an active member of the American Legion Post 124 for over a quarter-century.

How far Reign's career has taken him, from those younger days of working tirelessly for the family business, the Rix Milk Co. Delivering milk to many Westfield schools, including Westfield High School, Reign never imagined that he would someday find himself serving as teacher and principal in his hometown.

With such a multifaceted career, Reign's prosperity is enhanced by a wonderful family. Reign has been married to Patricia Vedovelli Rix for 32 years and has been blessed with four children and three grandchildren. Reign will always cherish those family commitments which have been a source of strength over the years.

Mr. Speaker, I want to personally salute Mr. Reign Rix for success as an educator, an administrator, and a truly remarkable person. However, as much as I am glad to have been given this opportunity to speak on his behalf, the pleasure is somewhat lost in the knowledge that Reign will leave a void in the public school system of Westfield which will not be easily filled.

TAX DEDUCTIONS FOR HOME HEALTH CARE, ADULT DAY CARE AND RESPITE CARE FOR FAMILIES OF ALZHEIMER'S DISEASE VICTIMS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. SNOWE. Mr. Speaker, today, I am reintroducing legislation which gained broad support in the last Congress. This bill would provide tax deductions from gross income for individual taxpayers who maintain a household which includes a dependent who has Alzheimer's disease or a related disorder. This measure would allow deductions of expenses, other than medical, which are related to the home health care, adult day care and respite care of an Alzheimer's victim.

Since the first Alzheimer's bills were introduced in the 97th Congress, we have all grown more aware and knowledgeable about this disease and the impact it has on both the individual and the family. Indeed, in a report published by the Subcommittee on Human Services of the Select Committee on Aging, of which I am the ranking minority member, we discovered the extent to which families remain involved in the care of family members who suffer from Alzheimer's and other such diseases. Family care remains one of the most critical factors in preventing or delaying nursing home utilization. As discussed in a recent report published by the Office of Technology Assessment, caregivers of dementia victims spend more than 40 hours a week in direct personal care.

In the face of the continued and intense involvement of the family caregiver, services that provide respite from the ongoing pressures of care become essential in the caregiver's ability to support the Alzheimer's victim at home. Home heath care, adult day care, and long-term respite care all provide opportunities to free caregivers from their caregiving responsibilities. Most caregivers willingly provide care for dependent and frail elderly family members. Even so, the presence of these supportive services can be a crucial factor in continued caregiving activities.

Many families are trying to cope with the needs of a dependent older Alzheimer's victim with no financial or professional help. While we seek to provide Government programs for such victims, we should also provide some tax relief for those expenses related to their continued care in the home. Perhaps, by such action we can delay the institutionalization of dementia victims. Surely we can provide financial relief to their caregivers.

WHAT'S WRONG AND RIGHT WITH ELDERS' NEW HEALTH PLAN

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to call to the attention of all Members an article written by Stephen Chapman that appeared in today's edition of the Chicago Tribune. There is considerable controversy surrounding the financing of the Medicare catastrophic health care benefits which we enacted in the last Congress. I believe the financing for these benefits was appropriate, and Mr. Chapman presents sound and strong reasons justifying our decision.

WHAT'S WRONG AND RIGHT WITH ELDERS' NEW HEALTH PLAN

(By Stephen Chapman)

Right now members of Congress must feel like a dog who happily fetches his master's slippers and then gets kicked for drooling on them. Last year, in an effort to appease the elderly, lawmakers approved a program to cover catastrophic health care expenses. This year, as it begins to take effect, they find their generosity under attack by the people it was supposed to gratify.

This brings to mind Randolph Churchill's surgery for a benign tumor, which prompted complaints that doctors had removed the only part of his body that was not malignant. The catastrophic health care plan is generally defective. But what has provoked the greatest uproar is its best feature.

The criticism is aimed at the financing scheme. Instead of paying for this new coverage through the already crushing payroll tax, Congress insisted that the people who benefit from the program also cover the cost. Medicare recipients will pay a flat $4 a month, rising to $10.20 by 1993. They will also be subject to a 15 percent surcharge on their federal income taxes, rising to 28 percent by 1993.

Critics say it's the height of unfairness to tax the elderly for this benefit. "Making seniors pay for this is like saying that only people with children will pay school taxes and only veterans will pay for the cost of VA hospitals," says a spokesman for the National Committee to Preserve Social Security and Medicare.

Not hardly. It's merely a way of saying that the taxpayers' carrying capacity is not unlimited. Payroll tax rates have risen by 50 percent since 1972. To finance catastrophic coverage, they'd have to go still higher.

The elderly already get a great deal from Social Security and Medicare. The average recipient gets back nearly six times more in retirement benefits than he paid in as a worker. This year's retirees can expect to get three times more from Medicare hospital insurance than they've contributed. Most of these benefits have the additional charm of being tax-free.

Older Americans are typically better off financially than younger ones. So the issue is not whether the elderly should have to bear a special burden, but whether workers should be saddled with another burden to enrich those whose incomes exceed their own. As Rep. Bill Gradison (R., Ohio) put it, "The financing was not asking Peter to pay for Paul's benefits. We're asking Peter to pay for Peter's benefits, and that's apparently a revolutionary idea."

Congress decreed, however, that the elderly poor would be spared most of the cost. The thinking was that it doesn't make much sense to protect people against ruinous medical bills by taxing them into poverty. That means 60 percent of the elderly will be unaffected. Only the well-to-do face an increase in their tax bill. And why shouldn't they?

It would be a shame if Congress were to let the complaints force a retreat on the financing method. Insisting that any new benefits to retirees should be paid for by retirees was a welcome departure from Washington's customary indulgence of the senior citizen lobby. But it wouldn't be a shame if Congress were to junk the whole effort.

The main problem is that it offers little that wasn't available before, and at less cost. More than two-thirds of the elderly were already covered by private insurance. If it was essential to protect the others against "catastrophic" expenses, the government could have required them to buy coverage too.

It could have helped pay the cost through vouchers. Or it could have simply expanded Medicare's reliance on HMOs, which pay almost all hospitalization costs. Instead, it evicted a competitive private system and installed a government monopoly.

Senior citizens' groups, unfortunately, demand an even bigger federal role. They want Washington to cover nursing home care, which this program doesn't.

That would be an expensive mistake. The federal government, along with state and local agencies, already pays half of all nursing home costs through Medicaid coverage of the poor. Paying the rest would cost $20 billion a year—mainly to protect the estates of well-to-do patients. (The catastrophic bill makes it easier for those with dependents to qualify for Medicaid, so healthy spouses don't have to become poor to get help.)

Elderly Americans who aren't covered by Medicaid can already buy insurance for nursing home care. If they choose not to pay for it, there's no reason the rest of us should.

The unexpected reaction to the catastrophic health care law ought to make Congress look a lot more carefully before it jumps to channel any new benefits to retirees. Senior citizen groups are right to say it's a lousy program. They're wrong to say it would be a good one if someone else would pick up the tab.

THOUGHTS ON THE PAY RAISE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. CLAY. Mr. Speaker, as expected, the President's recommendation to increase the salaries of Members of Congress and other Government officials has raised a storm of controversy. I was particularly impressed by Mike Royko's comments on this issue and I am happy to recommend his recent column to my colleagues:

[From the Chicago Tribune, Dec. 13, 1988]

CONGRESS PAY ISN'T A BALLPARK FIGURE

(By Mike Royko)

The most popular position to take on pay raises for congressmen is that we shouldn't give these political scoundrels one extra nickel.

As Patrick Buchanan, the conservative columnist, angrily put it while ranting about "Beltway Bandits":

"Currently, members of Congress receive $89,500 a year, five times what the average American earns."

That's an interesting statistic, but I'm not sure what it means.

I'm certain that Buchanan, with his speaking fees and TV shows, rakes in 30 or 40 times what the average American earns. He probably makes at least five or six times what the average congressman is paid.

Does that mean that Patrick Buchanan is a more valuable creature than 30 or 40 average Americans? Or five or six congressmen?

Possibly, although as fierce as Buchanan is, I wouldn't swap a good watchdog for him, and all a good dog costs is the price of table scraps.

Actually, I don't have any strong feelings against congressmen getting pay raises. I've known some congressmen who weren't worth $8.95 a year. Others would be a bargain at $895,000 a year. So maybe it balances out.

That's the problem with trying to decide who's worth how much.

In Chicago, a garbage collector makes about $25,000 a year, and a cop about $33,000.

Compare that to Sylvester Stallone, who took in $63 million over the last two years without emptying one smelly can or firing anything but blanks.

Is Stallone worth 910 cops and 1,240 garbage collectors? Or even one cop and one garbage collector?

Without garbage collectors and cops, we'd have disease and anarchy. Without Sylvester Stallone? Well, we'd still have Arnold Schwarzenegger, who made only $43 million in 1987-88.

Or consider Goose Gossage, who pitches for the Cubs. His employers paid him $1,235,000 for last summer's work. All Gossage did for that money was make Chicagoans unhappy.

It happens that I work for the same corporation that owns the Cubs. They paid me much less than they paid Gossage, although I probably made just as many Chicagoans unhappy as he did. For that matter, I've been making them unhappy since Gossage was a mere tyke.

But do I resent being paid less than Gossage? Of course not. That's because Gossage earned about 15 times as much as Dan Quayle, which seems fair.

That's the trouble with juggling numbers, as Pat Buchanan did with his "five times what the average American earns."

The fact is, the average congressman is not the average American. He is better educated, smarter, reads more, watches fewer game shows and soap operas on TV, knows more about law, foreign affairs, national problems and assumes greater responsibilities. So why shouldn't a congressman be paid as much as a weak-hitting utility infielder?

In the big federal spending picture, a raise for congressmen is just pocket change. The Pentagon will spend more than the entire congressional raise on a few airplanes that don't fly.

Yet, the average person becomes outraged at the thought of a public official—any public official—wanting a pay hike.

We demand good judges, yet we pay them less than they could earn chasing an ambulance. We want good governors to manage our states, but become indignant if they ask to be paid more than the manager of a small factory.

Isn't it kind of goofy that the president of the United States—the most powerful man in the world when he's awake—is paid less than a mediocre point guard in the National Basketball Association? Or a network anchorman? Or some local disc jockeys?

Or consider that Elvis Presley made about $15 million this year. That's not bad for someone who has been dead for 11 years.

That's the salary of 180 congressmen. Or 45 United States presidents. Although I'm not a big fan of George Bush, I hope that he will contribute more to this nation during the next four years than a deceased rock singer.

The key to the public pocketbook seems to be entertainment. Americans don't mind spending a collective fortune on anything that will amuse or divert them. That's why athletes and other entertainers become vastly wealthy. Michael Jackson, Bill Cosby, Bruce Springsteen, Madonna, they're all in the $20 million to $50 million a year range. Some golfer recently picked up more than a million in a weekend.

But we bang the table at the thought of a congressman making what any of the entertainers pay for a car.

Congress ought to wise up. Instead of going on C-Span and holding debates, they ought to learn to dance, sing and slam-dunk a ball.

HUMAN RIGHTS IN TURKEY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. FEIGHAN. Mr. Speaker, in 1988 the Government of Turkey ratified the European Convention for the Prevention of Torture and the United Nations Convention Against Torture. Despite these well-intentioned efforts by the Ozal government, Turkey's Government is still responsible for the brutal and systematic abuse of human rights. This is the title of a new report by Amnesty International.

According to Amnesty:

* * * Although there has been a civilian government in power for more than five years Amnesty International has not observed any fundamental change in the widespread and systematic use of torture. In the first 10 months of 1988 eight people were reported to have died in custody as a result of torture.

This a troubling report. Its pages document the failure of the Government of Turkey to match its international statements condemning torture to a policy that ends its practice. More than 100 prisoners have died in custody between 1980 and 1984. According to AI, alleged torturers were prosecuted and convicted in only 15 of these cases. In other cases, security agents on trial for torture actually received rewards, and even promotions.

Turkey's human rights records will continue to be an issue of concern to Members of Congress and the American people. We have supported the efforts of the Turkish Government in returning the country to a democratic path. The Reagan administration has nurtured a strong political and strategic relationship with that Government. But, the failure to make progress in the human rights area—especially the failure to end the practice of torture—remains a serious obstacle to a better relationship.

I hope that the Government of Turkey will take a long hard look at the findings of this report and respond to the concerns raised by Amnesty's mission to that country last year. In the meantime, I commend the report to my colleagues and ask that the introduction to Turkey: Brutal and Systematic Abuse of Human Rights, be printed in the RECORD at this time.

TURKEY: BRUTAL AND SYSTEMATIC ABUSE OF HUMAN RIGHTS

INTRODUCTION

For years Amnesty International has been concerned about extensive violations of human rights in Turkey in all areas of its mandate: prisoners of conscience, unfair trials of political prisoners, the use of torture and the death penalty. Most notable is the widespread use of torture.

On 12 September 1980 the military seized power in Turkey for the third time in two decades. For more than three years the country was ruled by a National Security Council composed of five generals. By late 1988—eight years after the military coup, five years after a civilian government came to power and one year after its re-election—Amnesty International had not observed any fundamental change in the nature of human rights abuses in Turkey.

In the eight years following the military coup of 12 September 1980: Some 250,000 political prisoners were detained and almost all of them were tortured; thousands of them were imprisoned for non-violent political or religious activities (prisoners of conscience); over 60,000 political prisoners were convicted after unfair trials; over 700 death sentences were passed; over 200 of those sentenced have exhausted all appeals; 50 executions were carried out between October 1980 and October 1984; and over 200 deaths in custody occurred, many alleged to be the result of torture.

In recent years fewer people have been detained on political grounds, and consequently the number of prisoners of conscience has declined and so have the number of allegations of torture and reports of deaths in custody as a result of torture; yet there has been no significant change in the pattern of human rights violations.

Anyone detained on political grounds risks being tortured. Torture victims have also included common criminals, and even juveniles are reported to have been tortured. Amnesty International continues to receive reports of deaths in custody as a result of torture. The thousands of political prisoners include several hundred held for their nonviolent political or religious activities. Although martial law was lifted in July 1987, political trials are continuing in military courts that do not meet international standards for fair trial. State security courts, intended to replace the military courts, have applied similar rules since they were established in 1984. Death sentences are still passed by both military and civil courts.

For more than two decades Amnesty International has expressed its concerns to Turkish governments and drawn attention to violations of human rights in its annual reports and special reports on Turkey. Direct talks have also been held with successive governments, the latest from 27 to 29 June 1988 in Ankara and Istanbul. These were followed by a memorandum outlining Amnesty International's concerns which was sent to the Turkish Government on 25 August.

Amnesty International's most recent findings on Turkey were made public in its Turkey Briefing (AI Index: EUR/44/65/88) on 2 November 1988. This coincided with the launch of a campaign by the organization calling on the Turkish Government to take immediate steps to improve its human rights record.

This report, written in October 1988, updates the information in the Turkey Briefing and elaborates on the legal system which allows for human rights abuses on a large scale.

MOTOR VEHICLE THEFT LAW ENFORCEMENT IMPROVEMENT ACT OF 1989

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MOORHEAD. Mr. Speaker, I am today, introducing the Motor Vehicle Theft Law Enforcement Improvement Act of 1989 designed to enhance the ability of law enforcement agencies to investigate automobile theft.

Motor vehicle theft has been one of the fastest growing property-related crimes in the United States. In 1987 nearly 20 percent of all auto thefts in the United States occurred in California with almost half of these thefts occurring in the Los Angeles area.

Customs Service officials estimate that approximately 200,000 stolen vehicles are exported each year, primarily by professional thieves or people employed by them to effect the exportation. In the past, individuals shipping stolen vehicles out of the country submitted a shipper's export declaration which inadequately defined the item shipped. In addition, a shipper has up to 72 hours after the vessel has sailed to report to U.S. Customs that a vehicle has been exported. Title III of the Motor Vehicle Theft Law Enforcement Act of 1984 amends the Tariff Act of 1930 and was further amended by section 205 of the Trade and Tariff Act of 1984. It provides for civil penalties for each violation of knowingly exporting a stolen vehicle and requires documentation of a vehicle identification number [VIN] to be presented with the vehicle at the time of exportation. It directs the Secretary of the Treasury to prescribe regulations implementing procedures for the lawful exportation of used vehicles. Pursuant to the provisions enacted under title 19 of the United States Code, the United States Customs Service has promulgated proposed regulations on two occasions for the exportation of used vehicles. The most recent proposals require that the vehicle destined to be exported must be presented to U.S. Customs officials with ownership documentation including VIN numbers at least 3 days prior to lading from exportation port.

The legislation introduced here today goes one step further to enchance detection of motor vehicle theft in an effort to curtail the exportation of stolen motor vehicles. The bill directs Customs Service officials to verify the vehicle identification numbers with the National Computer Information Center [NCIC] for the purposes of checking for stolen vehicles prior to exportation. It also requires the Secretary of the Treasury to submit a report to Congress within 180 days of enactment of the bill on the implementation of the system of verifying VIN numbers.

The National Auto Theft Bureau advises that last year 1 out of every 44 registered motor vehicles was stolen or had its contents or accessories stolen. Vehicle theft is still classified as the worst property crime when compared with related costs for larceny-theft, arson, and burglary as recorded in the FBI's uniform crime reports for 1987. Each year thousands of stolen vehicles are exported to Central America and other Caribbean nations. My legislation will require increased cooperation and improved communications on the part of Federal, State, and local agencies with law enforcement efforts to control the illegal exportation of stolen vehicles. I encourage my colleagues to support this legislation.

H.R. 315, LEGISLATION TO CODIFY THE FAIRNESS DOCTRINE

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MARKEY. Mr. Speaker, on January 3, 1989, the distinguished chairman of the Energy and Commerce Committee, Mr. DINGELL, and I introduced H.R. 315, legislation to codify the fairness doctrine. I would like to take this opportunity to urge my colleagues to join as cosponsors of this important legislation.

On June 3, 1987, the House of Representatives passed by a 3-to-1 margin virtually identical legislation, which subsequently, was vetoed by President Reagan. After the President's veto of the legislation, and acting in the wake of a D.C. Court of Appeals ruling that the fairness doctrine was an administrative regulation and not a statutory requirement, the Federal Communications Commission repealed the fairness doctrine on August 4, 1987. Despite a 1969 Supreme Court decision in the Red Lion case upholding the fairness doctrine's constitutionality and in the face of clear congressional support for retention of the doctrine, the Commission decided that the doctrine was unconstitutional and no longer served its intended purpose.

Expeditious consideration and passage of H.R. 315 will erase any lingering doubt as to whether the Congress continues to support balanced and fair broadcasting. Further, expeditious action by the Congress will repair the damage done by the FCC's misguided repeal of this seminal doctrine.

For more than 50 years the fairness doctrine had been a cornerstone of our Nation's broadcasting policy. It had its origins in the Federal Radio Act of 1927, and it had been the practice of the Federal Communications Commission since 1949. The fairness doctrine is vital to the public interest. It guarantees that the public has full and balanced information about important issues of the day and is essential protection to ensure an informed populace.

Simply stated, the fairness doctrine imposed two affirmative obligations on broadcasters. First, the broadcaster must devote reasonable attention to the coverage of controversial issues of public importance. Second, the broadcaster must provide a reasonable, although not necessarily equal, opportunity for the expression of opposing views on such controversial issues.

The fairness doctrine did not require broadcasters to provide every side of an issue with exactly the same amount of time in exactly the same time period. It does, however, require broadcasters to ensure that their programming, taken as a whole, presents issues of public importance and does so in a balanced fashion. It does not seem to be an outrageous idea that broadcasters—who are granted, at no cost, the exclusive use of a scarce public resource, the electromagnetic spectrum—be required to inform the public in a responsible manner.

Opponents of the fairness doctrine have argued that it violates the first amendment and actually chills free speech. That contention is just plain wrong. The Supreme Court addressed that issue in the Red Lion decision 17 years ago and unanimously upheld the fairness doctrine. The Court held that, in the context of broadcasting, the rights of the viewing and listening public are paramount and that the fairness doctrine is both a permissible and effective method of vindicating those rights.

The Court also noted that a license to use the public airwaves is a privilege. It is not for the personal or private use of any individual or group of individuals. The Court stated, and I quote, "The First Amendment confers no right on licensees to prevent others from broadcasting on 'their' frequencies and no right to an unconditional monopoly of a scarce resource which the Government has denied others the right to use."

The fairness doctrine is as important today as it was in 1934. Despite technological changes resulting in more electronic media outlets, our Nation's broadcast spectrum still is scarce. Many more people seek access to the airwaves than the limited availability of broadcast spectrum allows. If you don't believe me, as the proponents of high-definition television who have expended substantial resources to reserve portions of the UHF frequency for broadcasting. Or ask the hundreds of Americans who have spent millions of dollars over the past few years to purchase broadcast licenses so that they also could become broadcasters.

A world without the fairness doctrine condones a world of information haves and have nots. Although VCR's, cable television, microwave television, and direct broadcast satellite television have provided alternative media outlets, there still is a clear role for free, local over-the-air broadcasting in today's electronic media marketplace. A strong public interest standard, including the fairness doctrine, is essential to ensuring broadcasters continue their long history of service to their local communities.

I urge my colleagues to join me in this effort to codify the fairness doctrine by cosponsoring H.R. 315.

REMARKS HONORING THE NORTH TOLEDO AREA CORP.'S 20TH ANNIVERSARY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. KAPTUR. Mr. Speaker, it's been said that the highest and best form of efficiency is the spontaneous cooperation of a free people dedicated to one another. Those of us who serve in Congress look to just such dedication for inspiration as we strive to respond to the confidence and trust bestowed in us. In their 20 years of working to secure a more promising future for their community, the North Toledo Area Corp. has provided a framework in which spontaneous cooperation and shared responsibility have been the foundation for a future of unlimited potential.

Whether to increase neighborhood safety, provide a Thanksgiving dinner to lonely and hungry neighbors, improve student counseling services, or organize a major neighborhood revitalization project, NTAC has been the threshold where creativity and competent ability meet to respond in concrete terms. Founded in 1969 and incorporated in 1970, NTAC has, from its outset, defined itself as a model for those dedicated to making a difference beginning in their own backyard. Young and old alike have joined efforts to promote those values and ideals which are the heart of any vital community. Through family oriented outings, neighborhood-sponsored sports activities, plans promoting new business and industry, and even the coordination of 52 neighbors to cut the grass of Riverside Park, residents of the north Toledo area have demonstrated that sometimes rare, yet always refreshing commitment to enhancing the quality of each other's life and surroundings. Hopes for a "kinder and gentler" America begin and are realized not in the context of political debate but rather through the home-grown and time-honored sense of respect for neighbor as for oneself.

I know my colleagues in the House of Representatives join me in commending the North Toledo Area Corp. on the occasion of their 20th anniversary for exemplifying the mutual reliance and determination that we so admire, cherish, and hope is contagious.

COMMEMORATING SHELLEY BERKLEY AS HADASSAH'S WOMAN OF DISTINCTION

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BILBRAY. Mr. Speaker, I rise today to honor one of southern Nevada's most respected political activists, Shelley Berkley. On Saturday, January 28, the Las Vegas Chapter of Hadassah will honor Mrs. Berkley at their Annual Presidents Ball. Mrs. Berkley's list of accomplishments leaves no doubt that she is truly deserving of this honor.

Born in South Fallsburg, NY, Mrs. Berkley came to Las Vegas as an active, young student. She attended Valley High School, where she was active in student government and other extracurricular activities. Mrs. Berkley continued her education at the University of Nevada, Las Vegas, where she received her B.A. in political science and graduated with high honors. While at UNLV, she remained active in student government. Mrs. Berkley was a student council representative from 1969–71 and was later elected student body president in 1971–72. She was a member of Delta Zeta Sorority, Phi Lambda Alpha—Jr. Honor Society, and Phi Kappa Phi—National Honor Society, as well as being selected commencement speaker for UNLV's 1972 graduation ceremony.

Upon graduating from UNLV, Mrs. Berkley decided to further her political career by pursuing a law degree from the University of San Diego, where she received her J.D. in 1976. As an attorney, Mrs. Berkley has effectively subsumed her political activism into the legal process. She worked briefly as the State coordinator of the Consumer Product Safety Commission's Information and Education Program. She later worked as in-house counsel for Southwest Gas Corp. Currently, Mrs. Berkley serves as counsel for student government at UNLV, where she addresses the legal concerns of students and faculty members, offering advice and representing certain cases in court. She is also the arbitrator for the Nevada Arbitration Association, coordinator for the Clark County Bar Association pro bono project, and producer and cohost of the television talk show, "Legislature in Review."

Mrs. Berkley has won numerous honors and awards over the past few years for her commitment to helping those individuals less fortunate than herself. She has also been instrumental in advancing the concerns of the Jewish community in Las Vegas, as well as being a leader in the struggle for women's rights. Her presence has truly been felt throughout southern Nevada.

Mr. Speaker, I urge my colleagues to join me today in honoring one of southern Nevada's finest citizens, Shelley Berkley.

OPPORTUNITY FOR AMERICA'S VETERANS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. SOLOMON. Mr. Speaker, today I am introducing legislation which will improve the opportunity for veteran-owned businesses.

Many of our Nation's small businesses are owned by veterans who have honorably served this Nation as members of our Armed Forces. Some are also run by veterans who were held as prisoners of war.

These measures will allow both veterans with service-connected disabilities and former prisoners of war to participate in Department of Defense small business procurement actions.

Mr. Speaker, these bills will provide new opportunity to thousands of Americans who have health disabilities related to their service to our country. These bills are going to become public law.

LEGISLATION TO REPEAL "EARNINGS TEST"

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. STUMP. Mr. Speaker, today, I am introducing legislation to repeal what I believe is one of the most inequitable and inefficient provisions of the Social Security Act, the so-called "earnings test."

Under current law, Social Security retirees aged 62 through 69 are limited in what they may earn each year. Retirees who earn more than the established limits have their benefits reduced $1 for each $2 earned in excess of the threshold. In 1989, the thresholds are $6,480 for retirees under age 65, and $8,800 for those aged 65 through 69. Retirees aged 70 and older may earn as much as they want without penalty.

Mr. Speaker, supporters of the current earnings limitation argue that Social Security was designed to partially replace earnings lost due to a diminished capacity to work, and that a person who continues to work beyond retirement age has no "need" for this replacement income. I could not disagree more.

It is a sad fact that many of today's retirees either did not, or could not, make adequate financial provisions for retirement. Therefore, they must rely upon Social Security for nearly all of their retirement income. Many more have seen their retirement savings diminished or depleted due to circumstances beyond their control. These people do not want welfare, they want a chance to work. The earnings test, however, limits their ability to be self-supporting.

We should not force any retiree to return to work. But neither should we stand in the way of those who desire, or are forced out of economic necessity, to return to the work force.

Mr. Speaker, all retirees should be able to earn as much as they want or need without penalty. My bill is designed to help those retirees who wish to be less dependent upon the Government and more self-reliant financially. The Nation can only lose by denying our work force the wealth of knowledge and experience possessed by the retirement age population. The work ethic should not be abolished at age 62.

LEGISLATION TO AUTHORIZE EXTENSION OF AMERICAN CANAL, EL PASO, TX

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to introduce legislation to authorize the construction, operation, and maintenance of an extension to the American Canal in El Paso, TX, by the Secretary of State acting through the Commissioner of the International Boundary and Water Commission. I had introduced this bill late in the 100th Congress, and I am very hopeful that the committees with jurisdiction will move forward on this bill as soon as possible during the current congressional session.

The construction of an extension to the American Canal—which would lie in its entirety on the U.S. side of the international border—and its operations would result in a number of needed benefits to the communities on both sides of the border. Among these benefits are a more equitable distribution of waters between the United States and Mexico, the reduction of water losses, and the elimination of many hazards to public safety.

Congress has previously authorized this construction program when in 1976 it authorized the U.S. Bureau of Reclamation to construct such an extension. As a feature of the Rio Grande project, the American Canal extension would be located along the Rio Grande River within the city of El Paso, county of El Paso, in west Texas. The extension project would consist of widening about 1.4 miles of the existing American Canal, constructing a 13-mile extension of the canal, modifying traffic and drainage structures, and eliminating a portion of the existing Franklin Canal.

A number of benefits would be achieved in this area in Texas, and the canalization effort enjoys the support of local, State and Federal agencies. During the last 6 years, I have worked closely with local officials interested in the extension of the American Canal. The two most directly involved Federal agencies, the Bureau of Reclamation and the International Boundary and Water Commission, have both indicated their support for this project in view of the fact that numerous benefits would arise from the extension of the American Canal.

Primarily, this extension would result in the salvage of between 12,000 and 22,000 acre-feet of water lost annually because of seepage. Water transportation losses fluctuate greatly in the Franklin Canal as well as the Rio Grande due to the dirt lining and seepage losses. Salvaged water could increase annual allotments to each water right acre if a cement lined canal were available. The value of this amount of conserved water is enormous to a community such as El Paso because of the water shortage in the area.

Another benefit that would result is the elimination of health and safety hazards to El Paso citizens. The current use of the Franklin Canal, located in the downtown area, has created a health and safety problem because refuse and garbage are illegally dumped in the canal, creating a breeding ground for bacteria. Disease-carrying mosquitos, spiders, scorpions, and snakes breed and live in the vegetation along the canal, and stagnant water during the months when irrigation is not carried through the Franklin Canal creates further health problems due to contamination.

In addition, a number of drownings occur every year in the canal because of its proximity to residential areas. The 5.5 miles of the Franklin Canal I am proposing to eliminate have the heaviest density of population per square mile than any other area of El Paso. The average size of a family in this area is 5.6 persons, and the largest percentage of children in the families are less than 13 years of age and have no access to public or private swimming pools. The proposed extension would render the Franklin Canal obsolete and it could be filled in for some more beneficial public use in the area.

The possibility of international friction between Mexico and the United States would also be reduced if the American Canal is extended. The present canal does not allow optimal control over the portion of water belonging to the United States and illegal diversion of water is taking place by Mexican farmers. It is widely believed that potentially disruptive international issues might arise from the commingling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river. The proposed extension would eliminate that diversion and would eliminate the source of potential disputes and tension.

This project would have the added benefit of creating construction jobs as well as other employment opportunities in a border area that is beset with economic problems and high unemployment as well as address numerous problems involving this community's most vital natural resource—water.

During the last congressional session, the Subcommittee on International Operations under the Committee on Foreign Affairs conducted a hearing on this proposed legislation. Having a record established in Congress, I am hopeful that this subcommittee and the Interior Subcommittee on Water and Power Resources, which also has jurisdiction over this proposed legislation, will have an opportunity to consider the bill at the earliest possible opportunity.

I ask my colleagues for their support and I look forward to working with them on this matter during the course of the session.

ALL 50 STATES SHOULD HAVE THE DEATH PENALTY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation that would deny Federal law enforcement funds to States that do not have in effect a law requiring the death penalty or life imprisonment without parole for those convicted of first degree murder or killing a law enforcement officer. I believe that this legislation is needed to ensure that justice is served and that dangerous murderers will never kill again.

I am repulsed by the fact that cold-blooded, vicious murderers are housed, fed, clothed and protected for the rest of their lives at the expense of honest taxpayers. A majority of the American people favor the death penalty and last year the Congress passed an important death penalty amendment to the omnibus drug bill that was signed into law.

According to the U.S. Bureau of Justice Statistics, only about 24 percent of convicted cop killers, from 1974–83 received the death penalty. Almost half, 48.5 percent, were sentenced to life in prison—which carries with it an average of less than 6 years of actual time served in prison. Mr. Speaker, this is an outrage and a disgrace. The lives of our brave law enforcement officers are certainly worth more than that. Cold-blooded murderers should be put to death—period. Action must be taken now by Congress to get all 50 States to adopt a death penalty statute for first degree murderers and cop killers.

Currently 37 States, including Ohio, have capital punishment statutes. My bill would apply to the 14 jurisdictions that do not have capital punishment statutes. They are: Alaska, District of Columbia, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, West Virginia, and Wisconsin.

Under this bill, States would have 2 years from the time of enactment to comply or face the loss of all Federal law enforcement funds.

Mr. Speaker, this legislation is a reasonable measure designed to ensure comformity in our laws and to ensure a measure of justice in dealing with cold-blooded, cruel killers. We are in the midst of a serious crime epidemic that is running rampant in our cities and is fast threatening our suburban communities. I urge all Members to support this legislation.

WILKES-BARRE ELKS LODGE CELEBRATES CENTENNIAL

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. KANJORSKI. Mr. Speaker, this month marks the 100th anniversary of Wilkes-Barre Lodge 109 in the Benevolent and Protective Order of Elks. I am happy to bring their accomplishments to the attention of my House colleagues.

Throughout its 100-year history, Elks' Lodge 109 has been associated with several charitable organizations and has provided the community with many valuable services. Presently, the Elks organization is a leading contributor to the National Cerebral Palsy Foundation, providing care for those afflicted by cerebral palsy, and transportation and medical attention to those in need.

Lodge 109 is also involved with the youth of our community, providing young students with scholarship opportunities and financial assistance, giving hope to high school students who could not otherwise afford to attend college. The Elks have made positive contributions in the fight against drugs as well. Currently, Elks from around the Nation are waging their war against drug abuse with the "hugs are better than drugs" program. This program, designed to educate both parents and students about the deadly hazards of drug use, has been tremendously successful in raising community awareness. Speeches by area pharmacists, police officers, and former abusers have demonstrated to our children that drugs are a dead end, a message that the Elks' organization has spread throughout our Nation.

Mr. Speaker, Elks Lodge 109 has served the Wilkes-Barre community since 1889, and it is my sincere hope that the lodge's services will continue well into the future. The 320 men and 85 women—in the Elks' auxiliary—that comprise Elk Lodge 109 deserve the respect of the community and the Nation because they demonstrate to all of us that we can take the time to help our children grow, we can make a difference in the lives of individuals in need of help, and we can make our communities better places to live.

JUDY CHESSER GIVES NEW YORK CITY ROYAL TREATMENT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MANTON. Mr. Speaker, I want to call to the attention of my colleagues an article that appeared in Newsday recently regarding Judy Chesser, director of New York City's Washington office. Judy, who is a good friend and an excellent advocate, has done a truly regal job representing New York City's interests on Capitol Hill. I commend this article to my colleagues and ask that the article be printed in the RECORD at this point:

[From Newsday, Jan. 9, 1989]

CITY'S UNABASHED D.C. ADVOCATE—CALL HER SLUDGE QUEEN

(By Letta Tayler)

WASHINGTON.—She's a smooth-talking lawyer who dresses in Italian suits and shakes hands with the grace of a debutante.

So why is Judy Chesser called "The Sludge Queen?"

Because as Mayor Edward I. Koch's lobbyist on Capitol Hill, Chesser did what most city officials considered impossible: She's almost singlehandedly persuaded Congress not to fine New York City a whopping $730 million a year for dumping sewage sludge off the New Jersey coast.

The House had already approved the fines, but Chesser plotted alternatives. She made the rounds of public hearings, committee rooms and private lunches. She coaxed and cajoled congressional leaders, insisting that the penalties would decimate the city's budget for sewage disposal. She claimed the sludge was not linked to last summer's beach washups of raw sewage and medical waste.

She even toured the Wards Island sewage plant on the East River because, in her words, "I wanted to see what sludge looked like."

Chesser said, "We must have had over 100 meetings, just one-on-one in different offices, talking to staffs, talking to members of Congress."

The effort paid off. When a team of lawmakers negotiated a final sludge bill, they dropped New York City's annual fines to less than $188 million—and said the city could use 90 percent of those fees to finance new sludge dumping sites.

Chesser says sludge consumed more of her energy than any other issue in recent months. But the lobbyist also plies the halls of Congress for solutions to other seemingly insurmountable problems facing New York City, from AIDS and the homeless to air pollution and mass transit.

"Our whole role is to get as many projects, as much money as possible from here to the city of New York," said the 40-year-old Chesser, who worked for the federal government before joining Koch's staff. "And that means you've got to stay alert. Somebody changes one line in a bill and it can cost the city millions.

New York City received about $4.1 billion in federal funds last year. But Chesser said the Reagan administration's abolition of urban programs, especially general revenue sharing and urban development action grants, has cut aid to the city by about $500 million a year since 1980.

To keep that sum from dwindling further, New York City spent more than $758,000 last year for its Washington lobbying office—$77,000 for Chesser's salary and the rest for the office expenses, 10 staff members, and her vast New Jersey Avenue suite that's packed with Broadway theater guides and decorated with Manhattan cityscapes.

Most observers say Chesser is worth the money.

"She's competent. She's active. She's respected," said Brad Johnson, Gov. Mario Cuomo's liaison in Washington, who fought alongside Chesser to make sure New York residents can continue to deduct local income and property taxes under the nation's new tax law.

"There are some very expensive, incompetent representatives of cities here, but Judy is first class," said Frank Shafroth the chief lobbyist for the National League of Cities.

From securing $57 million for New York City homeless shelters last year to battling for passage of the nation's new drug-prevention law, "Judy makes a lot more for the city than she costs," Shafroth said.

Chesser has an unusually tough job because "a lot of members don't like giving aid to New York City," said Robert Dizard, an aide to Rep. Guy Molinari (R-Staten Island). "They figure it's a big Northeast city that should be able to take care of itself."

A loyal foot soldier who always refers to her boss as "the mayor," Chesser also has to contend with Koch's foes within the New York City congressional delegation, who often don't see the need to toe her line.

Chesser joined New York City's Washington office in 1981 and became its director

three years later. She was tapped as an old Washington hand, having worked as a lawyer with the Securities and Exchange Commission and as a legislative aide in the U.S. Department of Health and Human Services.

With her government experience, Chesser concedes she probably could double her salary lobbying with a fancy law firm. "But so far I've never been driven by money alone," she added. "I find this job really challenging and interesting. I enjoy representing the city."

Not enough to live there, though. Although Chesser was born in Albany and graduated from Syracuse University, she was never a resident of the Big Apple.

"That's something I was very careful to make sure the mayor knew," Chesser said. "But I don't think that not having lived in the city hurts my work. I mean, your everyday New York citizen probably hasn't seen a lot of sludge either."

TRIBUTE TO TOM CARNAHAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an extraordinary individual and outstanding member of my community, Mr. Tom Carnahan, who will be honored by the San Fernando Board of Realtors for his devoted service as president.

Tom Carnahan symbolizes the spirit, energy, and future of the San Fernando Valley. He has served the southern California community for many years. His pleasant personality and willingness to be helpful has endeared him to both his colleagues in the real estate business and the public he has served so well. Under his leadership, more than 400 board members were appointed to serve on dozens of committees, thus involving members in every phase of community and professional activities. It is very important to Tom that the San Fernando Board of Realtors help the community it serves.

During his tenure as president, Tom has positively affected the lives of many and has diligently worked hard to improve and expand the board's activities and involvement in the community. Early in his term, Tom targeted the annual walk-a-thon for the Valley Mayors' Fund for the Homeless as one of the board programs worthy of expanded fundraising efforts. The 1-day event raised more than $12,000 in 1987 for area shelters for the homeless and battered women and children of the San Fernando Valley.

Tom Carnahan has had lifetime involvement with the San Fernando Board of Realtors. His father, Joseph Carnahan, was board president in 1961. Tom, himself, has been active in real estate for more than 13 years and a member of the board of realtors since 1976. He was selected realtor-associate of the year in 1981 and has served on the board's executive committee for 5 of the last 6 years, and in 1979 was elected to the board of directors. Both the senior and junior Carnahans are regarded throughout California as respected and knowledgeable realtors.

Tom Carnahan is also active in the California Association of Realtors where he was chairman or vice chairman of several committees. In addition, he has been a director of the National Association of Realtors since 1984 and has served on NAR's multiple listing service, policy, jurisdiction and publications committees.

Tom Carnahan is a native of the San Fernando Valley. He attended Pierce College, the University of Colorado, and the World Campus Afloat. He is married to Nancy and is the proud father of two daughters, Kinsley and Kate.

Few people have given of their time and energy as selflessly as Tom. It is my distinct honor and pleasure to ask my colleagues to join me in honoring Tom Carnahan, an invaluable member of our community.

CONGRESSIONAL TRIBUTE TO MONTCLAIR TOWNSHIP CLERK CONSTANCE ARNOTT ON HER RETIREMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. ROE. Mr. Speaker, on Friday, January 27, 1989, the fine people of the great township of Montclair in my Eighth Congressional District of New Jersey will pay honor to a distinguished public servant who has served Montclair for more than two decades and who is now retiring.

I am speaking of Mrs. Constance Buchanan Arnott, who has served in exemplary fashion as the clerk of the township of Montclair for the past 21 years and is stepping down from that position effective the end of this month. Officials from all levels of government, colleagues, friends, and family will join together to honor Mrs. Arnott on January 27 with a dinner at the prestigious Manor in West Orange. This is certainly a tribute well deserved.

Mr. Speaker, Constance Arnott was born in Rochester, NY, where she graduated from John Marshall High School and Rochester Institute of Technology. She has lived in Montclair for nearly a half century, having moved there on election day in November 1944. Since that time Mrs. Arnott has participated vigorously in all facets of community endeavors in this thriving township.

She served for many years as a volunteer on the Montclair ambulance squad. Mrs. Arnott also worked as a dietician, operated a clothing store in Montclair, and served as a financial secretary before becoming township clerk in 1967. She has held this important post with great distinction and has been recognized for her outstanding work on several occasions, having received the 1974 Municipal Service Award of the Montclair Jaycees, the 1982 John W. Cresbaugh, Jr., Citizenship Award of the Service Clubs Council, and an award in 1988 from the NAACP.

Mr. Speaker, I know that this event in Mrs. Arnott's honor will bring great pride to her family—her daughters Eugenia and Wendy, and her six lovely grandchildren, Gregory, Kevin, and Michael Bliss, and Whitney, Megan, and Alexa Delatush—and to all those who have known her and worked with her. For it is people who serve their communities the way Mrs. Arnott has done that make our towns, our States and our Nation a better place to live.

Mr. Speaker, I ask you and our colleagues to join me in paying tribute to a truly outstanding public servant, Mrs. Constance Arnott, the township clerk of Montclair, NJ.

JACKSON, MICHIGAN'S ROBERT JOHNSON—1989 CITIZEN OF THE YEAR

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. PURSELL. Mr. Speaker, few people can understand the seriousness of our Nation's drug problem like a local chief of police. That is particularly the case with the police chief in Jackson, MI, Mr. Robert L. Johnson. Under Johnson's leadership, the Jackson Police has cracked down on juvenile crime and domestic violence and in 1988 recorded more drug-related arrests than ever before.

Johnson took the initiative, recruiting citizens, community leaders and whole neighborhoods in the battle against illegal drug trafficking and use. He also realized that much of the drug problem is in the black community, of which he is a member, and he had the courage to say so.

For Johnson's willingness to confront Jackson's drug problem head on, the Jackson Citizen Patriot has named Johnson its "1989 Citizen of the Year."

Besides his work as chief of police, Johnson has made a significant contribution in his service on the Jackson Community College Board of Trustees, where he has been an ongoing voice for change.

Mr. Speaker, I value the opportunity to know and work with Bob Johnson. His success demonstrates the value of hard work, honesty and dedication to the principles that have made America great.

I ask my colleagues in the House of Representatives to join me in offering congratulations to Bob Johnson and in wishing him continued good health and success in all his future endeavors.

DELAY IMPLEMENTATION OF SECTION 89

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. CRANE. Mr. Speaker, another example of our misdirected attempt at tax reform is now surfacing. Section 89 of the Internal Revenue Code which directs employers with nondiscrimination rules for welfare plans and overhauls the rules, has missed sorely the intent and desire of this body to provide equal benefits for all employees. The Department of

Treasury report, due last December, on the administration of these new changes has failed to be completed as of today. I ask my colleagues, how can we proceed with this program when no ground rules have been created?

Under section 89, employers would be required to demonstrate through a group of complicated tests, that their benefit programs do not discriminate against "nonhighly compensated" employees. Employers also must ensure equal use of the program by all employees. Section 89 is just another step in the direction of federally mandated, employer-provided health benefits. The pitfalls of this legislation are obvious.

The first problem is the overburdening concept of mandating health benefits. It should be the decision of an employer to provide those benefits that he can afford. It is not the role of the Federal Government to tell an employer how to run his business. In a free-market society, the marketplace will weed out employers who fail to provide adequate wages and benefits while those who do will reap the rewards of quality employees.

In addition to the overindulgence of Federal regulations, we must remember that increased Government interference costs businesses thousands of dollars to "administer in order to comply with section 89. The end result is that the cost-conscious business will take a position that will lead it to either dropping plans or accepting penalties.

Most employers wish to provide certain benefits to all employees. It would be a tragedy if the individuals that section 89 is designed to help turns around and bites them. I am introducing legislation that will postpone this ruling for 1 year, allowing us to study it further and decide if we are on the right track with this legislation. We must postpone it, if for no other reason than to send a message to the business community not to drop their benefit programs and wait until a broader understanding of the implications of section 89 are understood.

THE FEDERAL TRADE COMMISSION DECEPTIVE MAILINGS STUDY

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. SNOWE. Mr. Speaker, today I am introducing, along with 35 of my colleagues, legislation to require the Federal Trade Commission [FTC] to evaluate the degree, type, pervasiveness, and severity of injury resulting from misleading and deceptive mailings that mimic Federal Government documents. This is the same study that received unanimous support in the last Congress when it was offered as a floor amendment to the FTC reauthorization, H.R. 2897.

As you know, the area of deceptive mailings came under intense scrutiny in the last Congress. This year, I again introduced the Deceptive Mailings Prevention Act, legislation which was passed under suspension in the House last year. This bill will give greater authority to the Postal Service to evaluate and enforce regulations dealing with specific types of deceptive mailings.

Currently, the Postal Service has authority to request sanctions against organizations that are fraudulent in practice. Yet, even with additional legislation addressing misleading and deceptive mailings, the Postal Service can still only tackle the problem on a case-by-case basis. The FTC, however, has been given the responsibility by Congress for the "direct protection of the consumer" from deceptive and misleading acts or practices. The FTC, then, is in a unique position, as the principal Federal consumner protection agency, to address deceptive mailings on an industrywide basis. I believe it is the proper rule of the FTC to determine the extent to which a trade rule in this area is warranted. This action will serve to cmplement legislation strengthening the Postal Service.

This legislation addresses two principal areas of concern: When an organization uses symbols, seals, terms, and trademarks that imply they are connected with or endorsed by the Federal Government; and when a nongovernmental organization offers, for a fee, a service which is available either free of charge or at a lower fee from the Federal Government. The pervasiveness of these practices and the types of mailings, are known only anecdotally. For this reason, my amendment would require a study over 18 months to determine the extent of the problem of deceptive mailings of the types described. At the end of the study, the FTC would report to Congress on their results and any need to initiate a trade regulation. To the extent such a regulation is not needed, the FTC would indicate in their report the reason for such a determination.

Mr. Speaker, I believe that the issue of deceptive mailings will grow worse with the availability of increasingly sophisticated direct mail technology and that provisions must be in place to protect consumers. This study is an important step in our efforts to prevent the use of deceptive and misleading mailings.

CONSERVATIVE OPPORTUNITY FOR PUBLIC HOUSING

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. GINGRICH. Mr. Speaker, the following is an editorial from the Atlanta Journal and Constitution written by Dick Williams. This article gives a realistic view of challenges which Jack Kemp will face as Secretary of Housing and Urban Development. I would urge each of my colleagues to read this editorial:

[From the Atlanta Journal and Constitution, Dec. 22, 1988]

KEMP TO PUT OPPORTUNITY AT DOOR OF URBAN POOR

(By Dick Williams)

Now is the time for good conservatives to come to the aid of the opportunity society.

Rep. Jack F. Kemp, by accepting the nomination to be the federal secretary of Housing and Urban Development, is putting his reputation—and that of progressive conservativism—on the line in the sinkhole of federal bureaucracies.

Mr. Kemp will need help from those younger conservatives who dubbed themselves the Opportunity Society a few years back.

It wasn't enough for President-elect George Bush to pick up the catchphrase. The advocates of enterprise and opportunity are going to have to do missionary work on behalf of Mr. Kemp's ideas.

If HUD doesn't build more public housing, liberals will scorn him. Conservatives, quite properly, will score the agency if it does.

It is the agency of Cabrini-Green, Pruitt-Igoe and Carver Homes. It is the agency that helped see to it that one in 11 Atlanta homes is public housing. It is the agency that enriches lavish downtown developers, fly-by-night contractors, overstuffed building trades unions and the mob.

Mr. Kemp, ever the optimist, is setting out to reclaim the cities taken hostage by the underclass and the down-and-out.

The New Yorker is taking a far greater risk than he has ventured in the past. Through 18 years in Congress, ideas were his passion, but direct risks were to be avoided.

Mr. Kemp ran for president, to be sure, but in 1980 he passed up the chance to win a U.S. Senate seat, allowing an unknown Republican wardheeler, Alphonse D'Amato, to sneak in. Mr. Kemp refused to challenge Mario Cuomo for governor, only to see another unknown, Lewis Lehrman, come within an eyelash of an upset.

Now Jack Kemp faces a far tougher pass rush than he ever saw in his days as a quarterback in the wild American Football League. He will need his face mask.

The pressure is on from the propagandists.

One thing on which both sides of the debate seem to agree is that large, public housing projects are deteriorating cesspools. From there, they diverge. Repair them or bulldoze them? Build more or allow tenant ownership of existing units?

The story of HUD under Ronald Reagan is typical of Mr. Reagan's warning about an Iron Triangle of congressmen, sympathetic journalists and special-interest groups.

Mr. Kemp's predecessor, the courtly Samuel Pierce, is roundly pilloried in the press and by Democrats. He is portrayed as caretaker over the strangulation of housing initiatives.

Yet the record is a bright one. In eight years, spending on housing subsidies to low-income families increased from $5.7 billion to $13.8 billion. The difference between propaganda and reality is in the method. The number of recipients increased by a third.

Mr. Reagan and Mr. Pierce opted out of the construction business and chose to give the poor a choice in where they live through rental vouchers. More people are served, but the construction industry is scorched.

Vouchers help prevent the creation of instant slums. By allowing people to live where they can find a place, they put pressure on innercity schools to improve.

They also are a start to ending a national scandal of 50 years standing. Save for the elderly, public housing was never intended to be generational or permanent.

At the dedication of Atlanta's Techwood Homes during the Depression, Eleanor Roosevelt herself described the nation's first federal housing project as temporary quarters for those in temporary need.

Generations later, we have generations of the same families living in Carver and Perry Homes as if taxpayer-subsidized homes were divine right, even the norm.

The naked eye sees that the creation of more public housing units creates more families needing them. The people of Yonkers, N.Y., viciously portrayed as racist or uncaring, see that clearly.

Mr. Kemp, the visionary behind the Reagan tax cuts of 1981, must find a way to spur the involvement of the free market in low-income housing.

Tax reform ended many of the benefits gained from constructing modest rental units. Developers need a carrot—such as Enterprise Zones—to draw them to blighted or transitional neighborhoods.

Most important, the poor need carrots to draw them toward a goal of home ownership. It, after all, is the American norm. Perry Homes is our curse.

CATASTROPHIC COVERAGE ELECTION ACT OF 1989

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. TALLON. Mr. Speaker, today I am reintroducing the Catastrophic Coverage Election Act of 1989 to make the Catastrophic Protection Act optional for all eligible beneficiaries. I invite my colleagues to join me in support of this needed legislation.

I first introduced the bill last September in response to many constituents who wrote and called demanding that Medicare catastrophic coverage be optional. Like most of my colleagues, I dread coming into the office every morning knowing that a stack of mail from angry seniors awaits me. The people of the Sixth District of South Carolina know how to get their message across.

I've always agreed with the idea that Medicare catastrophic coverage should be optional. I voted for the substitute offered by Congressman BOB MICHEL in 1987 that would have financed the new benefits from the optional part B of Medicare. Had that substitute passed as law, I think we would have a much more favorable response from our constituents.

When President Reagan first addressed the need for catastrophic health care, the idea was to provide coverage for people who were dependent on Medicare for their health care protection. By and large, the expansion of the program will provide significant new benefits at a good price to these people.

However, according the Congressional Budget Office, only 28 percent of enrollees have Medicare alone. In fact, approximately 62 percent of Medicare eligible individuals have some form of Medigap policy in addition to Medicare.

There are other numbers which point to the fact that catastrophic coverage ought to be optional. This year, according to CBO, 36 percent of part A enrollees will pay the supplemental premium through a 15-percent income surtax. This 36 percent will be paying for almost 63 percent of the new benefits. Clearly, seniors with a middle to higher income are expected to tow the line on this new catastrophic law.

Seniors can provide excellent reasons why they don't want the coverage. Some are retired Federal employees who have coverage. Others feel that they have saved conscientiously and that they don't want their income depleted by an additional premium. Still more feel that they will be paying for the coverage of others while receiving only minimal benefits themselves.

Insurance exists because of a future risk. While paying for basic health care coverage is worth the risk, Medicare catastrophic coverage ought to be more individualized because those people paying the premiums for such coverage may not feel that is "worth the risk."

Beyond these reasons, there is one basic reason why Medicare catastrophic coverage should be optional—the Government of the United States should be in the business of creating choices, not mandates for people.

Basic health care coverage is a necessity for all Americans and catastrophic coverage should be available to people who are not covered presently. Many agree that catastrophic coverage should be offered through Medicare. However, this coverage should not be at the expense of a large portion of the population simply because they are Medicare eligible.

The Catastrophic Election Act would allow Medicare eligible citizens to choose not to have catastrophic coverage. Individuals not wanting catastrophic coverage will file notice with the Department of Health and Human Services 1 month before eligibility. Beneficiaries would also have the option of coverage during November of every year. By doing so, a person would not have to pay the additional supplemental premium or the increase in the Medicare part B premium.

Remember, if Medicare catastrophic coverage is as good a buy as we intend it to be, then most seniors will choose the expanded coverage. But it is a right of all beneficiaries to have this choice.

KILDEE HONORS DEPARTING PAGES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to express my personal gratitude to all of the pages who have served the House of Representatives so diligently this year. These dedicated and hard working young people will soon be leaving to complete their high school education. They are:

Tammy R. Aimesbury, Janice D. Barlow, Gregory A. Beard, Charles D. Blackburn, Neva M. Brinlee, Sherri Y. Burton, Tania M. Butler, V. Adam Carter, Matthew C. Cluney, Kirsten R. Close, Gary A. Collis.

Rachel E. Cothern, Rhonda K. Crandall, Beth J. Davidson, Peter De Los Santos, Melinda C. Dorin, Matthew B. T. Dodge, Scott C. Eckel, Susan E. Feigenbaum, Michele M. Gast, John M. Gibson, Scott E. Glenn.

Laura M. Hutcheson, Kathleen A. Huvane, John W. Hazel IV, Ruby M. Isala, Brendan T. Kelly, Sarah M. Kendall, Rebecca M. Kislak, Debra J. Klein, Christa M. Lachenmayer, Penny J. Lacer, Meric W. Lallier.

Stephanie L. Lager, Amy K. Lewis, Robert M. Lloyd-Still, Paul C. Lin, Russell A. Loftis, Candice M. Meyer, Nancy C. Marcus, Amy H. Mayer, M. Ashley McKinney Ger Tou Moua, David A. Nida.

Ernest Perez, R. Anders Porter, Peggy Reed, Lea F. Rice, Cheyenne Roberts, Ivan P. Sanchez, Maryellen P. Smith, Katherine A. Smolinski, Kyllie A. Spencer, Leslie A. Storey, Rolf T. Strasheim.

Bom Suek (Sam) Suh, Jessica M. Taylor, Adam J. Tratt, James (Andy) Walker, Jr., Robert E. West, Thomas E. Windish, Brian T. White Craig M. Williams Amy E. Wolf, Sasha C. Wozniak, Zakiya J. Wynn.

It is sometimes easy for the Members of Congress and their staffs to take congressional pages for granted. However, we all realize the importance that the congressional pages play in helping the House of Representatives operate. This group of young people, who have come from all across our Nation, represent what is good about our country. To become a page these young people have proven themselves to be academically superior. They have ventured away from the security of their homes and families to spend a period of time in an unknown city. This experience has allowed them to witness a new culture, to make new friends, and to learn the details of how our Government operates.

As we all have witnessed, the job of a congressional page is not easy. Along with being away from home, the pages must have the maturity to balance priorities for themselves and others. In addition to this, they must have the dedication to work long hours and have the ability to deal with people on a personal level. I am sure this will be considered as one of the most valued and exciting experiences in their lives, and that will this experience they will all move ahead to lead successful and productive lives.

Mr. Speaker, I ask my colleagues to join me in honoring this group of distinguished young Americans. They certainly will be missed.

FAIR FOOD LABELING AND ADVERTISING ACT

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. COOPER. Mr. Speaker, anyone who goes to the grocery store on a regular basis knows that "lite" foods are one of the fastest growing products on the shelves. There are all kinds of "lite" foods now: "lite" syrup, "lite" french fries, "lite" beer. There's even "lite" dog food.

Consumers are creating the demand for these products. But consumers also expect that "lite" should mean something.

Yesterday I appeared on ABC's "Home Show" to discuss legislation I've introduced for the past 3 years to bring some sanity to

the use of the word "lite." Very simply, my bill would create a uniform standard for "lite" products.

The folks on the "Home Show" conducted a call-in poll to see whether consumers agreed with me that we need to regulate "lite" labels. The response was overwhelming: 11,096 people supported my bill, and only 195 opposed it. Clearly, consumers expect honest labeling. The bill I introduce today will make sure they get it.

Americans have been making fundamental changes in their eating habits. In response to advice from medical and public health experts, we're cutting down on fat and sodium, watching our weight, and in general trying to choose healthier food. Industry has responded with a plethora of food products designed for the health conscious consumer.

Lately, the word "lite" has superseded "diet" as a beacon for those watching what they eat. Many "lite" products do deliver significant reductions. Some not only tell you what they have less of, they go further by providing the specific information needed to compare their "lite" product with their regular product.

Unfortunately, however, there are "lite" products on the market that fail to deliver what they promise. Studies show that consumers associate "lite" with a reduction in calories or fat. Industry has spent a considerable amount of effort to develop this association.

Yet there is nothing which says that "lite" must indicate a reduction in something consumers want to avoid. Sometimes "lite" describes the density, texture, taste, or even the color of the product. This means that the consumer choosing a "lite" product for health or dietary reasons may not get the reductions they expect.

Even when "lite" is not misleading, it can be confusing. Much of this stems from the fact that not all foods are required to have nutritional labeling. "Lite" products, because they make nutritional claims, must have nutritional labeling. This means that some "lite" products can make the claim that they have less fat, sodium, or calories without giving the consumer any basis of comparison. In the worst cases, products don't even tell you what makes them "lite"—you just have to trust that they're somehow better for you.

My bill would eliminate the confusion about the term "lite" by creating a uniform standard for it. In order to be labeled "lite," a product would have to have at least a one-third reduction in either calories, fat, or sodium. The product label would have to state the reduction that makes it "lite." This bill limits the comparative terms that can be used to describe a reduction in fat, sodium, or calories. In addition, my bill would prohibit foods from being advertised as "lite" unless they met these requirements.

I don't want to give the impression that Federal agencies haven't made any attempts to regulate the term "lite," because they have. Unfortunately, these efforts address only some "lite" products. In addition, they add to the confusion by creating different standards.

For instance, the U.S. Department of Agriculture defines "lite" as a 25-percent reduction in calories, fat, sodium, breading or other component of a food. However, this only applies to meat and poultry products, and is further limited in that it does not apply to frozen foods or entrees that use "lite" in the brand name.

Currently, the Bureau of Alcohol, Tobacco and Firearms only requires that "lite" alcoholic beverages bear a statement of average analysis, that is, the amount of calories, carbohydrates, and protein it contains. They've proposed various rules since 1986. The latest version offers two alternatives. The first would require "lite" alcoholic beverages to have at least a 20-percent reduction in calories, but would not require a statement to that effect on the label. The second would require the label to compare the calories in the "lite" and regular product—but with no minimum reduction.

The Food and Drug Administration [FDA] has interpreted "lite" as a nutritional claim, which triggers the requirement that the label must include nutritional information. If a product is "lite" because of a calorie reduction, then it falls under the FDA-defined term "reduced calories," which requires at least a one-third reduction. However, this leaves unregulated products called "lite" because of fat or sodium reductions.

In addition to developing a standard for the term "lite," my bill directs FDA to define officially the term "low fat." FDA uses a working definition of low fat that states a product must have less than 2 grams of fat per serving or less than 10 percent of fat by dry weight. Yet it allows 2 percent milk, which exceeds those limits, to be called low fat. Only milk with 1 percent or less milkfat actually qualifies as low fat, and FDA regulations should reflect that.

While the Federal agencies have taken some steps to regulate the word "lite," more needs to be done. The National Research Council of the National Academy of Sciences recognized the need for better regulation in their study "Designing Foods" released last year. Consumers can only make intelligent nutritional decisions when they know what labels mean. We must give them not only clear guidelines on interpreting labels, but also consistent guidelines.

My bill dispels the current confusion about foods labeled "lite." It lets consumers know that "lite" means a third less, and requires the label to disclose what the product has less of. It also limits comparative terms in order to end the free-for-all that now exists. These simple disclosure requirements will help consumers know what they are getting—or not getting—when they buy a "lite" product.

The Fair Food Labeling and Advertising Act enjoy the support of public interest groups such as the American Diabetes Association, the Consumer Federation of America, and the Center for Science in the Public Interest. I urge my colleagues to cosponsor this important piece of consumer information.

LEGISLATION TO ESTABLISH A WORLD WAR II VETERANS' MEMORIAL

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. KAPTUR. Mr. Speaker, today, 53 of our colleagues join me in sponsoring legislation to establish a World War II Veterans' Memorial and Museum. As we approach the 50th anniversary of this Nation's entrance into World War II, there is no one single monument to honor all of our veterans, both deceased and living, who carried this Nation to victory in that conflict. We believe there should be such a place.

Over 16 million Americans served in this Nation's Armed Forces during World War II. Over 400,000 made the ultimate sacrifice in defense of freedom around the world. This was a conflict in which the choice between democracy and tyranny was crystal clear. That war also profoundly shaped the fundamental political, economic, and cultural alliances that have been operative in the decades since its end.

Only a national memorial and museum, located in our Nation's Capital, can pay tribute to those valiant men and women as well as give a sense of the times, the scope of the war, the numerous actors in that conflict, the multiple issues, goals, and objectives that came into play in the war and, of course, the enduring values to which our participation in that struggle was dedicated.

In the last Congress, this measure was endorsed by the major veterans' organizations, the head of the Veterans' Administration and was reported unanimously by the Veterans' Affairs Committee. I hope our colleagues will join us once again in honoring veterans of World War II and in sharing with future generations of Americans the lessons it has imparted.

BILL TO IMPROVE CONGRESSIONAL SECURITY FOR INTELLIGENCE INFORMATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. SOLOMON. Mr. Speaker, since 1980, the President has been required by law to report intelligence operations to Congress under title V of the National Security Act. Last year, several committees of the House of Representatives recommended that the House pass further legislation in this area.

Under that bill, H.R. 3822—1987—not only would the procedures for Presidential reporting have been further delineated, H.R. 3822 would also have required the President—in all instances—to inform Congress within 48 hours of covert actions in support of U.S. foreign policy and national interests overseas. Similar legislation was passed by the Senate in S. 1721—1987.

Make no mistake about it. I oppose any effort to require the President to report such operations to Congress within such a time period. This is because it is essential—both under the Constitution and as a matter of common sense respect for our national security needs—for the President to have the flexibility to undertake sensitive operations abroad without burdensome reporting requirements.

Not only does reporting to Congress widen the circle of persons who have access to potentially extremely sensitive information. It also could prevent foreign countries from coming to our assistance due to their concern over leaks of sensitive matters attributed to the U.S. Congress.

H.R. 3822 was never brought to the floor of the House. Shortly after the bill had been considered by the Rules Committee, the Speaker of the House, JIM WRIGHT, made his notorious statements concerning alleged United States intelligence activities in Nicaragua. The Speaker claimed that he had information from the intelligence agencies that they were involved in civil unrest associated with the activities of the domestic political opposition in Nicaragua. The Sandinista government used political repression and violence to respond to a large opposition rally in the city of Nandaime and later—relying in part on the remarks of Speaker WRIGHT—attempted to justify their actions on the basis of supposed U.S. involvement.

Mr. Speaker, these events of last year only serve to reinforce the perception that Congress is one of the major sources of the national security leaks that have caused so much trouble in recent years. They show all the more the danger that increased congressional oversight of intelligence operations—without a corresponding increase in congressional security—would further cripple our ability to conduct intelligence operations.

The bill I am introducing today would respond to this concern. My bill, which is modeled after the amendments I submitted last year to H.R. 3822, is intended to ensure that the Congress adopt stricter security procedures with respect to intelligence information.

The bill would amend section 501 of the National Security Act, which is the section that contains the requirement of congressional notification for intelligence activities, particularly covert action. Subsection 501(d) of the current law already contains a requirement that:

The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of the Congress under this section.

In my view, the current rules of the House and Senate do not fulfill the statutory requirements. In particular, the rules of the House should be amended to contain specific standards governing the conduct of persons who receive intelligence information under the congressional oversight provisions.

My bill would amend subsection 501(d) to require that the procedures required by that subsection ensure that any Member of Congress, and any officer, staff member, or other employee of the Congress who gains access to intelligence information is made subject to security procedures that are comparable to those applicable to personnel of the intelligence community, including appropriate background investigations and periodic counterintelligence polygraph tests. In addition, these procedures would require in the event of a proven disclosure of intelligence information that access to intelligence information be denied any Member and continued employment be withdrawn from any staff member if that individual had knowingly disclosed such information.

Mr. Speaker, prior to the close of the 100th Congress our Nation's veterans' organizations and military associations had overwhelmingly indicated their opposition to the 48-hour reporting requirements of H.R. 3822 and their concerns about security on Capitol Hill. I request unanimous consent to have included in the RECORD the text of a letter I and several colleagues sent to the Members of the House recording the views of these organizations. In addition to the actions taken by these groups, a large number of communications were received by many Members of the House on this subject.

Mr. Speaker, I commend these organizations for their concern over the continued security and efficacy of critical intelligence operations. I believe that improved congressional security is a fundamental element of any proposal to increase congressional scrutiny of intelligence activities. As a member of the Rules Committee, I look forward to pursuing this proposal as well as others for improved security in the House of Representatives and the Congress in general.

It's time that Congress earned the trust of the new administration, and the American people, on its ability to function as a responsible partner in national security. I urge my colleagues to support my bill to improve congressional security for intelligence information.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 21, 1988.

DEAR COLLEAGUE: We wish to draw your attention to the opposition of our Nation's veterans' organizations and military associations to the provision contained in H.R. 3822, the Intelligence Oversight Act of 1988, mandating the President to report all covert actions to Congress within 48 hours. These organizations represent over 10 million Americans dedicated to preserving the national security interests of the United States.

THE AMERICAN LEGION

"The American Legion cannot support the passage of H.R. 3822, the Intelligence Oversight Act of 1988, in its present form. We urge you to remove those provisions which would require notification within 48 hours of its authorization."

RESERVE OFFICERS ASSOCIATION

"The current statutory framework governing the management of covert action is working well and we urge Congress not to impose a mandatory requirement for the President to notify Congress of covert operations within 48 hours."

FLEET RESERVE ASSOCIATION

"It is interesting to note that all intelligence officials of recent Administrations, both Republican and Democratic, fully oppose the 48-hour notice of any covert action provision of H.R. 3822."

ASSOCIATION OF FORMER INTELLIGENCE OFFICERS

"Foreign governments may not participate in covert activity should there be a necessity to disclose their participation to the Congress. The Canadian government made withholding of such information from Congress a condition of their participation in the exfiltration from Iran of certain U.S. Embassy employees. Is the Congress prepared to trade a life for sensitive information?"

NON-COMMISSIONED OFFICERS ASSOCIATIAON

"This bill is an unfortunate overreaction to a singular incident concerning the timely notification of Congress. The language of H.R. 3822 is so restrictive it could potentially jeopardize all covert operations.;;

AMVETS

"We feel that the overall ramifications of H.R. 3822 would have an adverse effect on Americans who may find themselves in a hostage situation or other terrorist related situation."

RETIRED OFFICERS ASSOCIATION

"If H.R. 3822 were enacted, the element of trust between the executive and legislative branches, essential in the conduct of foreign policy, would be impaired."

VETERANS OF FOREIGN WARS

"We oppose the 48 hour constraint imposed on the Chief Executive and urge you to vote to reject such language. Several former Directors of Central Intelligence have testified that such a time constraint will have a severe impact on our ability to act decisively when it is in our national interest to do so."

Sincerely,

Robert H. Michel, Trent Lott, Dick Cheney, William S. Broomfield, Robert J. Lagomarsino, Gerald B.H. Solomon, Henry J. Hyde, and Bob Livingston—Members of Congress.

PAY RAISE FOR MEMBERS OF CONGRESS SHOULD BE VOTED DOWN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. TRAFICANT. Mr. Speaker, on January 9, 1989, the President recommended in his fiscal year 1990 Federal budget request that the salaries for Members of Congress be increased from the present level of $89,500 to $135,000 a year. Congress has 1 month to vote on a resolution disapproving this pay raise. Should Congress do nothing, the pay raise takes effect automatically. For the 435 House Members and 100 Senators this increase would amount to approximately $21 million.

While I recognize the need to make salary rates for Federal judges and executive branch officials more competitive with the private sector, I do not believe that Members of Congress face the same problems of attrition as do the other two branches. Given the grave deficit problem facing the Nation, now is not the time to raise the salaries of Members of Congress.

Over the past 10 years the people in my area have taken it on the chin. They've seen their pay slashed and their standard of living downgraded. Although I recognize some of the financial difficulties associated with maintaining two residences and the high cost of living in the Washington, DC area, I also recognize that with the serious budget deficit problem facing this Nation we need to make every Federal dollar count. Congress needs to show some leadership in reducing the deficit, and voting down the pay raise is an excellent way to start.

Countless Americans will freeze to death this winter in the streets because there is a shortage of affordable housing; we have senior citizens who have to eat dogfood because their Social Security checks don't go far enough; college costs are skyrocketing at the same time Federal loan programs are being cut—these are but a few of the many major problems facing our Nation. Tough times lay ahead for many Americans. Its about time that Congress started making some small sacrifices.

Today, Mr. Speaker, I am introducing three separate pieces of legislation. These bills would:

First, disapprove the pay raise for Members of Congress;

Second, rescind the pay raise for Members of Congress should Congress fail to act on the motion to disapprove; and

Third, amend Federal law to strike out the provision providing for the permanent appropriation of funds to compensate Members of Congress. This would force Congress to vote on the appropriation of funds for their own compensation.

These bills would provide the House with an opportunity to either vote down the pay raise, nullify the pay raise if the deadline passes with no action, or reform the entire system currently in place to set the salaries for Members of Congress. I urge all Members to support these three bills, which read as follows:

H.J. RES. —

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That the Congress disapproves so much of the recommendations transmitted by the President to the Congress on January —, 1989, pursuant to subsection (h) of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 358) as relates to the rates of pay for offices and positions referred to in subsection (f)(A) of such section.

H.J. RES. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) rates of pay for Members of Congress shall be determined as if the recommendations transmitted by the President to the Congress on January —, 1989, had, to the extent that those recommendations related to Members of Congress, been disapproved in accordance with section 225(i)(1) of the Federal Salary Act of 1967 (2 U.S.C. 359(1)).

(b) For purposes of this section, "Member of Congress" means an individual holding any office or position within the purview of subparagraph (A) of subsection (f) of section 225 of the Federal Salary Act of 1967.

(c) The provisions of this Act shall apply with respect to pay periods beginning after the date of the enactment of this Act.

H.J. RES. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 130 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes" (approved October 1, 1981; Public Law 97-51) is amended by striking out subsection (c) (relating to permanent appropriations for compensation for Members of Congress).

TRIBUTE TO FRANCIS (FRITZ) MINTZ

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BERMAN. Mr. Speaker, it is a pleasure to ask my colleagues to join me in saluting a respected and popular member of the community, Francis (Fritz) Mintz. Francis Mintz is being honored by the Los Angeles Hebrew High School for his many years of dedicated service to the Jewish community and to the entire community at large.

For well over 40 years, Fritz Mintz has served the Jewish and secular communities locally and nationally. His pleasant personality and willingness to be helpful has endeared him to both his colleagues and the public he has served so well. His accomplishments include a full spectrum of triumphs in matters affecting Judaism.

Throughout his career, Fritz has always shown a willingness and desire to give freely of his valuable time to aid organizations and causes important to Judaism. At present, he is national vice president of the Pacific Southwest region of the United Synagogue of America, a national vice president of the Solomon Schechter Day School Association, and a member of the Commission on the Philosophy of Conservative Judaism, editor of the just published Emet Ve-Emunah—"Statement of Principles of Conservative Judaism." He is a member of the Bureau of Jewish Education Board and a guardian on Temple Beth Am's Board of Trustees. He is also past chair of the United Synagogue Committee on Congregational Standards and past president of Temple Ramat Zion. Fritz has built a record of commitment and excellence that is an inspiration to us all.

An attorney and former CPA, Fritz graduated from the University of Wisconsin and is a retired lieutenant colonel in the U.S. Air Force. He and his wife, Beverly, have two children, Sharon and Kenneth, and four grandchildren.

It is my distinct honor and pleasure to ask my colleagues to join me in saluting Mr. Francis (Fritz) Mintz, a lifetime leader of the Jewish community and a truly dedicated citizen.

CONGRESSIONAL SALUTE TO THE TOWNSHIP OF BELLEVILLE, NJ, ON ITS 150TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. ROE. Mr. Speaker, it is with the greatest pride that I rise today to salute an outstanding community in my Eighth Congressional District of New Jersey which, in 1989, is celebrating a truly historic occasion. I am speaking of the township of Belleville, which in 1989 will be celebrating the 150th year of its founding.

This observance, which is a testament to the strength and perseverance of the fine people who settled this outstanding municipality more than a century ago, and who have made Belleville a thriving community at the hub of the bustling metropolitan northern New Jersey area, will be celebrated with a special dinner on January 28, 1989, at the Chandelier Restaurant in Belleville. I would like to take this opportunity to send an especially warm greeting of congratulations to Belleville's distinguished town fathers who have done so much to make Belleville the great community that it is today, Mayor Michael P. Pizzi and Commissioners Vincent J. Frantantoni, Joseph Fornarotto, Joseph F. McGreevy, and Angelo C. Risoli.

Mr. Speaker, the history of Belleville, which was officially incorporated as a township on February 23, 1839, is a rich and varied one. In order to best convey the spirit of the transformation of this multifaceted, closely knit community, I would like to quote from the official history as prepared by David S. Bryant, chairman of the 150th Anniversary Committee and director of the Belleville Public Library:

Belleville, as a special place along the Passaic River, has a history that began centuries before the 1839 date that we celebrate in this sesquicentennial year. Belleville, with lush woods and vast meadows, was home to Indians and then the early English settlers who built gracious homes along the river. Belleville was a comfortable place where ideas and inventions flourished, where copper mines and sandstone quarries as well as early factories provided many employment opportunities.

In this 150th Anniversary year, we can review Belleville's economic evolution from a town known for farming to a manufacturing center and presently, to a location where service industries and retail marketing flourish. Early housing stock was supplemented by homes for workers and, more recently, an abundance of condominium development.

Throughout this evolution in Belleville's appearance and economics, a strong sense of community pride and family life has continued. Belleville's reputation as a warm, giving community persists in our sesquicentennial year. The people * * * at work or play, make spirited, shared efforts to make Belleville the 'Beautiful Village' that is its name.

Today Belleville is a bustling microcosm of the metropolis just a few miles away. With a population in excess of 35,000, it features a highly accessible transportation system, and outstanding governmental, educational, and

recreational facilities. The Belleville Public Library contains more than 100,000 volumes and a recent survey of Belleville High School by the Commission on Education—Middle States Evaluation Team yielded the highest rating possible.

Mr. Speaker, Belleville is, indeed, a great American community in every sense of the word, exemplifying the cohesiveness and the strong family and community values that serve as the fabric that keeps the American people and our great Nation woven together.

Mr. Speaker, I invite you and your colleagues to join me in saluting a truly outstanding American community celebrating its 150th anniversary, the great township of Belleville, NJ.

A TRUE FAMILY CARE PACKAGE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. CRANE. Mr. Speaker, child care legislation and what the Federal Government's responsibility in this area should be, is becoming one of the hottest topics before Congress. The issue centers around the Federal Government's role in assisting the record number of mothers entering the work force that results in the obvious need for someone to care for their children.

I am introducing legislation today that not only addresses the pressing need for child care, but also another important need that is being overlooked, the need to take care of handicapped family members and also our aging family members. My bill, the Family Care Package of 1989, will give a tax deduction to the family and allow them to have more take-home pay, after taxes. A parent will be able to use this extra money to choose what is the best child care for that family. In addition, it encourages care of our parents, and other dependent family members often forgotten in today's nuclear family environment.

My legislation would address pre-school-age dependents by allowing a parent to receive a tax deduction of $3,000 from birth to age 6, and a $2,000 deduction for children between the ages of 6 and 18. Furthermore, it would allow a taxpayer to receive a $3,000 tax deduction in the case of any qualified dependent who is physically or mentally incapable of caring for himself. Finally it would allow a $3,000 deduction for any dependent who has reached the age of 55. All of these deductions would also be indexed yearly for inflation.

The taxpayer who provides more than 50 percent of financial support to a dependent over 55 qualifies for this deduction. The dependent's earned income will be only those distributions stemming from direct compensation such as wages, salaries, and other forms of direct compensation. Not included as earned income are pension income, retirement benefits, interest income from retirement accounts, and other such proceeds. Wage earners whose direct compensation is over $3,000 in a tax year would not qualify for the appropriate deduction.

Current law provides for a deduction for any dependent child of $1,950. The current dependent care credit ranges from 20 percent for upper income individuals to 30 percent for lower income individuals, of care cost. This credit is provided for a percentage of up to $2,400 for 1 child or $4,800 for two or more children. A 30-percent credit would only return $720 for the lowest adjusted gross income level and $1,440 for more than 1 child. My legislation would increase the deduction for children and at the same time abolish the highly ineffective existing child care credit.

The need for this increase in tax deductions is twofold. First, the value of the dollar when the dependent deduction was added to the tax code has failed to be adjusted for the rate of inflation over the years. The proposed deduction would allow the family to regain some equity from this indexing. Second, the family has suffered financially because of the lack of indexation.

The reason the United States is facing this current child care problem is not because of the lack of day care programs, but because of the erosion of family income. That is caused by a tax code that is increasingly biased against dependent children. Rearing children is something which is socially necessary and desirable, and so our tax code should be trying to encourage that. But it is not. The heavy tax burden shouldered by young families is exacerbated by inflation. Consequently that inflation has steadily undermined the value of the income exemption for children. My legislation would take one giant step in the direction of restoring the relative value of the exemption for young children to the level which existed in the 1950's. With the higher exemption, families would be free to use the added income for any purpose they chose, including choosing the day care system of preference.

Over the years, the American three-tier family has disintegrated into today's nuclear family. America has benefited materially and culturally from the three-tier family concept. My legislation will encourage reformation of that time-honored and valued concept. The deduction that I propose guarantees parental choice. They could choose a professional day care center, a church-affiliated center, or care provided by grandma, or even a mom or dad. A tax deduction for other individuals who are dependents would encourage families to take care of their older parents, as well as other handicapped family members instead of institutionalizing them. All too often today, families are finding it economically unfeasible to take care of their older parents and relatives. We, the Members of Congress, must stop penalizing the great American family and its proud heritage. We must take the time to allow the family to be reunited.

LUCEY HENNIGE—A CHAMPION ON AND OFF HER SKATES

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. SHUSTER. Mr. Speaker, it is with great pride that I call the attention of the U.S. Congress to Mrs. Lucille Hennige, who has served me and my constituents so ably, so competently, and so compassionately for almost 12 years.

But it is not for her excellent casework that I speak of her today. Lucey Hennige has an another dimension to her life that I feel warrants special merit.

When Lucey was only 12 years old, she received a pair of shoe roller skates designed for indoor rink skating. Endless practice coupled with natural talent led Lucey to membership in the Roller Skating Rink Operators Association of the United States and to a long series of Virginia State, regional and national competitions. Lucey captured the Virginia State title as novice ladies free style in 1945 and 1946; and won the Virginia State Intermediate Ladies Championship in 1947.

Spinning, jumping, and fancy footwork to Gershwin's Rhapsody in Blue, Lucey and members of her pairs team became the U.S. champions in Oakland, CA, in July 1947. It wasn't easy to get from Norfolk, VA, to Oakland, CA, in those days. Back home her fellow skating club members collected newspapers for months to finance the long, arduous trip; as well as skating for the USO and the March of Dimes to add to the fund.

Lucey tells me that she was inspired by the famous ice skater, Sonja Henie. Lucey is herself an inspiration. She was a pioneer in transforming roller skating into a sport worthy of the Olympics. Roller skating was being considered for the 1947 Olympics, but the war with Germany prevented the competition that year. Lucey understood the unfortunate chain of events that kept her from performing in the Olympics, so she especially treasures the U.S. Gold Medal she won in California.

Long after her roller skates have been put away, Lucey is still "dancin'." Roller skating is an arduous sport requiring great athletic and artistic skill. To look at Lucey, she's petite, she's tiny, but she's one great lady who can swirl, twirl, and move gracefully to the rhythm and the beat of her beloved music with or without her roller skates. I know because she also beats a mean Pennsylvania polka.

STATE FISH AND WILDLIFE ASSISTANCE ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. RAHALL. Mr. Speaker, the purpose of the legislation I, along with the distinguished gentleman from Idaho, LARRY CRAIG, are introducing today, the State Fish and Wildlife Assistance Act, is to enhance game and nongame fish and wildlife programs in States with acquired Federal lands through the establishment of a dedicated fund financed by a portion of mineral receipts collected from Federal leases on these lands.

By way of background, the Interior Department's Bureau of Land Management [BLM] administers the Federal mineral leasing program on both public domain and federally acquired onshore lands. The Department's Minerals Management Service [MMS] is charged

with collecting all mineral leasing receipts, such as from bonuses, rentals, and production royalties, as well as administering the Outer Continental Shelf oil and gas leasing program.

Currently, mineral receipts collected from Federal offshore leases on the Outer Continental Shelf are distributed to the land and water conservation fund and the historic preservation fund as well as the general fund of the U.S. Treasury. For Federal onshore leases on public domain lands, 50 percent of all revenues collected are returned to those States where the leases are located, 40 percent is deposited into the reclamation fund and the remaining 10 percent into the general fund of the U.S. Treasury.

There is, however, no dedicated fund for mineral receipts collected from Federal leases on acquired lands. The term public lands is often used in reference to all Federal land holdings, however, the mineral leasing laws distinguish between those lands purchased by the Federal Government, called acquired lands, from those which have always been in Federal ownership, known as public domain lands. This legislation pertains only to mineral leasing receipts from federally acquired lands.

While the MMS both collects and distributes to the States their share of mineral receipts from leases on public domain lands, for acquired Federal lands after the agency collects the mineral receipts it credits them to the agency that has administrative jurisdiction over the land. These surface managing agencies utilize a variety of different State share mechanisms ranging from a 25-percent State share for mineral receipts collected on Forest Service acquired lands to a 75-percent State share for lands administered by the U.S. Army Corps of Engineers.

In fiscal year 1987, approximately $50 million was collected from Federal mineral leases on acquired lands located in 40 States. The vast majority of these mineral receipts, 94 percent, were collected from leases on Forest Service lands with lesser amounts from those located on acquired lands administered by the BLM, the Bureau of Reclamation and the Army Corps of Engineers. While a small amount of mineral leasing receipts are collected from Fish and Wildlife Service lands they would be exempt under the legislation as from current law any amounts remaining after allocation to the States are dedicated to the migratory bird conservation fund.

The State Fish and Wildlife Assistance Act is premised on the concept that it is appropriate for development oriented activities such as oil and gas leasing, which are not necessarily conducive to fish and wildlife habitat, be made to contribute to the national commitment to enhancing these resources.

Specifically, this legislation would dedicate 50 percent of all bonuses, rents, and production royalties collected from Federal mineral leases located on acquired lands to a newly established State Fish and Wildlife Assistance Fund to be administered by the Secretary of the Interior. For the balance of these mineral receipts, the existing State/county and Federal shares would remain unchanged by the legislation.

Under the bill, amounts deposited in the fund would be allocated to the States to support game and nongame fish and wildlife habitat management activities, including improvement and restoration programs; threatened and endangered species conservation programs; fish stocking programs; and, fish and wildlife habitat improvements on Federal lands through cooperative agreements. If this legislation had been in effect during fiscal year 1987, it would have made available approximately $26.5 million to the States for these purposes.

For a State to qualify for these funds it must contain lands leased under the 1947 Mineral Leasing Act for Acquired Lands. An exception has been made to this requirement for the State of Alaska. For the purposes of this legislation, lands in the national petroleum reserve would be considered acquired Federal lands, thereby ensuring Alaskan participation in this program.

The bill provides a formula for the apportioning of funds to the States. One-half of the allocation is to be based on the ratio of acquired Federal land to the total land in the State, relative to the average ratio in the United States. The other half of the allocation is to be based on the ratio of paid fishing and hunting license holders to total State population, relative to the average ratio in the United States. Finally, each State would be required to submit an annual report to the Secretary of the Interior detailing the disposition of all funds received pursuant to the State Fish and Wildlife Assistance Act.

TRIBUTE TO BEN GOULD

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mrs. MORELLA. Mr. Speaker, the State of Maryland and Montgomery County suffered a tragic loss with the untimely death of Ben Gould, former governmental affairs chairman of the Maryland Association of Retarded Citizens and two-term president of the board of the Montgomery County Association.

Ben Gould was a staunch advocate for the disabled for many years, and his contributions will be greatly missed. In 1980, Ben chaired the ARC/Maryland Governmental Affairs Committee and cochaired the committee with Madeleine Will in 1981. He served on the drafting committee which developed the 1986 Maryland developmental disabilities law. From 1982 to 1984, he served as president of the board of the ARC in Montgomery County. At the time of his death, he was chairman of the ARC/Maryland Governmental Affairs Committee on Federal Legislation.

Ben received both his undergraduate and law degrees from New York University, where he later taught transportation courses. He moved to the Washington area in 1956; he joined the Interstate Commerce Commission and became chief of law enforcement.

Ben retired in 1977, although he hardly retired—he devoted his energies and perseverance to giving dignity and opportunity to the disabled. During my service in both the Maryland State Legislature and in Congress, I worked extensively with Ben. He was particularly instrumental in the drafting of legislation which I introduced last year to provide a deduction for the amount of premiums paid on life insurance contracts established as trusts for disabled individuals. Ben also provided me with a great deal of guidance in legislation affecting the disabled, and his advocacy skills were reflected in the excellent legislative record of the Maryland congressional delegation on these issue.

Truly, Ben Gould will be missed. His integrity, warm personality, intelligence, and sense of humor will always be remembered. To quote a resolution prepared in his memory by the Association for Retarded Citizens of Maryland:

We convey to Edith, John, Susan, Chuck, and Daniel, that we are at one with them in the sorrow of their irreplaceable loss, and * * * we know that they will find some comfort—as do we—in the wonderful memories we all have of that truly splendid man.

THE "SOFT ON DEFENSE" MYTH

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. McHUGH. Mr. Speaker, one of the myths of the recent Presidential election is that Michael Dukakis lost because he was perceived as being "soft on defense."

In a recent article in the Christian Science Monitor, Edith Wilkie, the Executive Director of the Arms Control and Foreign Policy Caucus, lays this myth to rest. As she notes:

Defense was a non-issue in the crucial month when voters climbed into the Bush bandwagon, and the voters who jumped to George Bush were not the "tough on defense" voters.

In short, support for nuclear arms control and improved relations with the U.S.S.R. did not turn the election against Dukakis, and Democrats would be making a mistake to assume otherwise.

Mr. Speaker, I am inserting a copy of Ms. Wilkie's article into the RECORD at this point for the benefit of those who may not have seen it:

[From the Christian Science Monitor, Dec. 21, 1989]

DEFENSE DIDN'T DO IN THE DEMOCRATS

(By Edith B. Wilkie)

As the Democratic Party begins to plan for 1992, some of its neoconservative elements are already calling for a move to the right on defense issues, arguing that Michael Dukakis went from a double-digit lead to a double-digit deficit because he was "soft on defense."

In fact, defense was a non-issue in the crucial month when voters climbed onto the Bush bandwagon, and the voters who jumped to George Bush were not the "tough on defense" voters. Democrats should put to bed the myth of the defense dilemma, and should move toward 1992 with a strengthened commitment to both nuclear and conventional arms control and to a ceiling on military spending.

The polls show that Mr. Dukakis's double-digit lead turned sour in August—a month before the "soft on defense" issue was raised (even in commercials or by surrogates), and

a full two months before Mr. Bush himself started to attack on the issue.

But more important, the change came about during the time that Bush was talking about a kinder and gentler nation—not a more heavily armed one.

Further, the polls show that the voters who abandoned Dukakis in August were not the constituencies supporting a "tough on defense" policy, but rather were (a) women: a 24-point lead in June disappeared by mid-September, and women ultimately broke even on election day; and (b) younger voters: a nearly 20-point lead in Atlanta started evaporating in August, and by election day they voted for Bush.

The "tough on defense" voters were either already with Bush (e.g., the Southern voter) or did not take a position until long after Bush surged ahead (as in the case of the Reagan Democrats, a majority of whom, in the end, "came home" to the Democrats). In short, the "tough on defense" voters were not swing voters.

Finally, "defense," traditionally defined as military power, simply was not a big issue for the American voter in 1988. While there were clear differences between the candidates on specific weapons systems, there was little difference between them on the level of the military budget or on the general approach to the Soviet Union under Mikhail Gorbachev.

Also, polls taken throughout the campaign cycle showed that military security issues rarely appeared on voters' lists of top five issues: one GOP pollster shortly before election day found that an all-time low of only 8 percent of the voters named a foreign policy issue as their most important issue.

Insofar as defense did have an impact, Dukakis' problems were caused far less by his support for arms control than by two other factors: his failure to define, clearly and coherently, an overall national security policy; and his lack of experience in foreign policy—frequently cited by voters as a negative. The Bush media team cleverly capitalized on these weaknesses—picturing not only a somber Bush shaking hands with Mr. Gorbachev, but also a grinning Dukakis seemingly playing war games in his battle tank.

Before a "soft on defense" myth develops, we should remember the factors that did play a key role in the campaign: the use of symbols (expecially Willie Horton), the absence of a prompt counterattack to those symbols, the declining importance of party affiliation, and the state of the economy. Perhaps the most important factor, if election day exit polls are to be believed, was the personal image of the candidate—especially the qualities of experience and competence.

Neo-conservative Democrats who try to finger the defense issue as the loser in 1988 can be expected in the months ahead to urge a "go slow" approach on a START treaty, to embrace modernization of all legs of our strategic triad, and perhaps even to backtrack on arms control victories won in 1988.

The wiser heads in the Democratic Party will assert that we already have sufficient deterrence; that the arms control process must continue and be strengthened by negotiating both arms reductions and qualitative restraints—including an end to nuclear testing; that an arms race in space must be averted; and that now, when the United States is grappling with a huge deficit, and the USSR is struggling to reform its economy, is the time to seize the opportunity to hold down military budgets.

The lesson of 1988 is that strong support for nuclear arms control and improved relations with the USSR under Gorbachev did not turn the election. In planning for 1992, the Democrats would be well served to look at the facts of 1988, not the myths.

CONGRESSIONAL SALARY INCREASE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise to strongly object to the congressional salary increase recently submitted to Congress by President Reagan. I do not believe that a pay increase of this magnitude is ever justifiable, but I find it particularly objectionable now as our Nation confronts immense Federal budget difficulties. President Reagan's proposed budget for fiscal year 1990 calls for reductions in spending for Medicare, for veterans' health services and benefits, for agriculture, for child nutrition, and for other critical programs. How then, can the President or Congress possibly justify a huge increase in salary at this time?

I believe that the salary increase is wrong, but I also believe that the process by which it is secured is in great need of reform. While it is true that Congress surrendered the power to set its salary for the laudable goal of removing itself from self-serving opportunities, it is wrong that pay raises established by the President can become law without a recorded rollcall vote of the congressional membership. For that reason, I am cosponsoring H.R. 401, which would change our system to require a recorded rollcall vote when any President raises congressional salaries. It would also require that any raise which is enacted should not take effect until there has been an intervening election. This reform would restore accountability to our constituents and help diminish the public cynicism and contempt which is generated by the existing pay raise system.

I invite my colleagues—Republican and Democratic—to join me in sponsorship of H.R. 401, and I submit as forcefully as possible that the current salary increase should be subject to a rollcall vote and be defeated. Let us move on from this business to resolve the real problems challenging our Nation—most important, the massive Federal budget deficit.

LET'S GIVE UTILITY CONSUMERS A BREAK

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MATSUI. Mr. Speaker, I have reintroduced legislation (H.R. 118) which would restore prior law and eliminate a burdensome tax cost to utility customers, Government agencies, farmers, homebuyers and renters, developers, and others in your district. The Tax Reform Act of 1986—1986 Act—repealed former section 118(b) of the Internal Revenue Code, which had allowed a utility company providing electric, gas, water, or sewage disposal services to exclude from its gross income contributions in aid of construction [CIAC] which a utility customer or another party had contributed to the company.

Utility companies currently must include in gross income amounts received for the construction of special facilities and pay a tax on these contributions. For example, the amounts a utility receives for construction of special utility lines for a new housing development or to provide essential municipal services are now subject to taxation.

The current tax is not really a tax on utilities, however. Public service commissions, which regulate the utility companies, require them to collect the cost of the income tax attributable to CIAC either, first, from all customers generally, through across-the-board increases in utility rates, or second, from the contributor making the CIAC, such as a Government agency or developer requesting the special utility line. To illustrate the impact of this tax policy, when a hospital needs an emergency backup powerline, a State or local government needs a separate waterline for a school or municipal building, or even the Federal Government needs an extra utility line to a military or similar facility, the cost of the tax on the associated CIAC would be imposed either directly on the contributor or all utility customers in the affected service area.

The tax on a CIAC also can have a profound impact on the price of new homes. If homebuilders pay the cost of the tax on a CIAC made in conjunction with a new housing development, the cost of a new home could increase by as much as $2,000. Even those who rent could be subjected to increased rental payments in such instances.

In short, all utility customers or contributors in need of special utility facilities feel the impact of the tax on the CIAC imposed under the 1986 Act. By restoring prior law, H.R. 118 would exclude a CIAC from a utility's gross income and would eliminate this adverse impact on consumers. The bill would eliminate the cost of the tax on the CIAC and thereby lower the cost of providing utility services.

Beyond the economic reasons to restore prior law, the imposition of a tax on a CIAC is simply not good public policy. Current law indirectly results in the taxing of State and local governments, as well as the Federal Government itself, which flies in the face of sound public policy. The bill also would permit the provision of certain essential governmental services otherwise precluded by budget constraints.

Please join me in correcting this serious public policy error.

UKRAINIAN CONGRESS OF AMERICA CELEBRATES ANNIVERSARY OF UKRAINIAN INDEPENDENCE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BROOMFIELD. Mr. Speaker, I want to call the attention of my colleagues to the celebration of an important anniversary of freedom. On January 22, the Ukrainian Congress Committee of America, southeastern Michigan branch, will mark the 71st anniversary of Ukrainian Independence. Thanks to the good work of the Ukrainian community, the hopes and aspirations of the freedom-loving Ukrainian people are expressed at this annual celebration. The ongoing struggle for human rights and legitimate nationalist aspirations in the Ukraine is more important than ever as we witness some encouraging developments in the Soviet Union. Let us hope Mr. Gorbachev will bring true respect for human rights to the Soviet Union along with honest respect for the rich culture and language of the Ukrainian people.

The tragedy of the Ukraine should be studied and remembered by all Americans. Let us teach our children to profit from the mistakes of the past so that we in the Free World will never lose the liberty that we cherish so deeply. I want to briefly share some of the history of the Ukraine with my colleagues in the Congress.

The Ukraine issued its proclamation of independence on January 22, 1918, and enjoyed the freedoms of a Western democracy for a scant 3 years. An elected parliament governed the Ukraine and that nation had close diplomatic ties with many countries while the Ukrainian people pursued their own destinies and practiced their own religion.

That freedom-loving nation was crushed by the soldiers of the expanding Soviet empire. The Bolshevik armies swept into Ukrainian cities and a puppet government was soon established. The Ukrainian people began their years of suffering under the oppression and tyranny of the Kremlin dictators.

The Ukrainian people, however, were not ready to submit to slavery imposed by either the Soviets or the Nazis. In 1941, the German Army invaded the Ukraine and met heavy resistance from representatives of the Ukrainian National Liberation Movement and a provisional Ukrainian Government. As the Soviet troops retreated, the Ukrainian underground broadcast the declaration of restoration of independence and established a Ukrainian free state. Hitler's response to this event precipitated the Nazi-Ukrainian War of 1941 to 1944. This long conflict cost the Ukraine over 7 million of her citizens.

The Nazi imprisonment and murders of members of the Ukrainian Government and leaders of the Organization of Ukrainian Nationlists failed to crush the brave Ukrainian resistance. The nationalist in the Ukraine undertook a program of civil disobedience and resistance warfare which challenged the German occupation forces. The Ukrainian Insurgent Army forced the Nazi occupiers to retreat to heavily-defended garrisons. Large areas of the Ukraine came under the control of the Ukrainian Insurgent Army. As we all know, peace would not come to the Ukraine. The freedom-loving resistance fighters would soon turn their efforts against their Soviet oppressors.

The Soviets were forced to commit in excess of 1 million troops and police in their efforts to crush the Ukrainian Freedom Fighters. The Ukrainian Resistance was never defeated in a military sense, and they continued their struggle underground.

Today, over 47 million people suffer under Soviet domination in the Ukraine. While some progress has been made, they still have no assurances of civil or political rights. Another 2 million Ukrainians live in the United States where these descendants of a rich Ukrainian heritage hold high the beacon of liberty.

This is why the celebration of the 71st anniversary of Ukrainian independence is important to free men everywhere. Much remains to be done to bring true respect for human rights and true respect for legitimate national aspirations in the Ukraine. I salute the Ukrainian Congress Committee of America, Southeastern Michigan Branch, for their outstanding efforts on behalf of freedom and democracy.

POLICE CHIEF RETIRING

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. FLORIO. Mr. Speaker, it gives me great pleasure to bring to your attention an individual who resides in the First Congressional District of New Jersey and is retiring after 30 years of service with the Gloucester Police Department. Chief Seth Stichler has spent the last 30 years actively involved in many areas of police work. He is past president of the prestigious N.J. State Chiefs of Police Association, the Camden County Chief of Police Association, as well as the South Jersey and American Legion Chiefs of Police Associations.

Seth has also served as emergency management coordinator from April 1985 to the present. It is apparent from his affiliations that he has taken his chosen vocation to heart and served the community well. Chief Stichler served in the U.S. Navy in the Pacific Islands from 1943 to 1950.

Certainly he is to be commended as a fine police officer. I ask you to join with me, his family, and friends in a salute to Chief Seth Stichler on the occasion of his retirement on February 3, 1989. His dedication and accomplishments have certainly set high standards for individuals who will seek law enforcement careers in the future.

GROWING PROBLEM OF FOREIGN INVESTMENT IN THE UNITED STATES

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BRYANT. Mr. Speaker, as you and the Members of the House well know I am very concerned about the growing problem of foreign investment in the United States and its impact upon our economic future. My immediate and particular concern, of course, is that we simply do not have adequate information on the scope and magnitude of foreign investment in our country which is the point of my legislation, H.R. 5, the Foreign Ownership Disclosure Act, requiring a reasonable disclosure of information concerning such investments.

Recently, I had the good fortune to address the convention of the Industrial Union Department [AFL-CIO] on this question. What I found among the IUD's leadership was a serious concern among America's industrial workers of the potential adverse impact of foreign investment on our industrial base, as well as its sometimes negative influence on labor-management relations.

Howard D. Samuel, president of the Industrial Union Department, has written a short article on "The Two Sides of Foreign Investment" which has appeared in a number of newspapers around the country. I would like to share President Samuel's article and his interesting perspective with my colleagues.

THE TWO SIDES OF FOREIGN INVESTMENT

(By Howard D. Samuel, President, Industrial Union Department (AFL-CIO))

The foreign investment issue has reached the TV screen and the editorial page. Presidential candidates discussed the problem; CBS's 60 Minutes and NBC's Today Show have put it up for debate.

Foreign investment in the U.S. is no longer an issue reserved for economists. Ordinary American workers and citizens are discussing it, and beginning to worry about it.

In terms of total American assets, foreigners still own only a tiny fraction. But in terms of specific sectors, they are reaching for dominance. Foreigners already control two industries, consumer electronics and cement, and are close to it in machine tools, chemicals, auto parts, and tires.

Foreigners own 20 percent of all American banking assets, and are heading for majority control of downtown real estate in Los Angeles, Houston and Washington, D.C.

It's a good deal for foreign investors. For a bunch of cheap dollars, they are buying into the largest consumer market in the world, into the most stable political system, and into the world's most advanced technology.

The United States isn't doing badly, either. Without foreign investment, particularly in government bonds, our budget deficits might have driven us into inflation and recession, if not actual bankruptcy.

The claim that direct foreign investment has also provided three million jobs is more dubious. It assumes that every dollar introduced into manufacturing produced a new job. Since most foreign money goes into existing businesses, the jobs numbers are probably inflated.

But there is a down side to growing foreign investment, and American workers and consumers should be aware of it.

In the first place, not all of the foreign investors have proved to be good guests. Since foreigners had very little to do with building the American economy, we have a right to expect them to respect our laws and customs when they venture here to take advantage of what others have built.

But that has not always been the case. Some companies such as BASF, the giant German chemical multinational, and Kawasaki, the Japanese motorcycle manufacture, and a number of others, have been fighting unionization—even where it already exists—and in some cases have been fined for violations of safety and health and environmental laws as well.

These are just two examples of a growing problem, made more ironic by the fact that most of the companies resisting unions in the United States have long records of collective bargaining and would not consider attacking trade unionism or violating environmental laws in their home countries.

That isn't the only problem. We are happy to have Japanese auto manufacturers set up shop and make cars and trucks in the U.S. rather than make them in Japan and export them to the U.S. (Why always to the U.S.? Because the Europeans keep a tight lid on imports.)

But then the Japanese also invite over their favorite parts suppliers to set up shop in the U.S., freezing out U.S. parts manufacturers. Profits to car manufacturers and parts suppliers both don't necessarily stay in the U.S., but are shipped back home.

Finally, we are concerned about the actions taken by foreign interests to protect their economic investments. During the 12 months of 1988, foreign countries and companies will have spent $100 million for lobbyists, lawyers and public relations experts to influence Congressional and executive department decisionmaking. This is not garden-variety talent; the foreigners have hired former members of Congress, former Cabinet members and White House aides, sometimes, as the Deaver case demonstrated, in violation of the law.

Foreign investors have every right to try to influence the U.S. government to protect their interests—although it couldn't happen in most other countries—but we ought to be aware that their motivation is not to enhance the national interests of the U.S. but the interests of their own country.

Does that mean that the American worker is retreating to an America-first state of mind? Not necessarily. It does mean that we are not quite as euphoric about foreign investment as the U.S. Chamber of Commerce or the Treasury Department, that we view the benefits of foreign investment with a skeptical eye.

It means we strongly support new ethics legislation which would limit the ability of high government officials to sell their expertise to foreign interests soon after leaving government employ. (Sometimes it seems the arrangements are initiated while the officials are still working for the U.S.)

It means we support legislation to improve our knowledge about foreign investment. No nation in the world is as loose as we are in regulating foreign investment in—and possible control of—our assets, and no nation is as careless in keeping records about it. We have no accurate record of the total amount of investment, and we know little about the activities of individual companies. That is why we support legislation like the Bryant amendment in the House to force greater disclosure and to improve our record-keeping.

In the meantime, American workers will continue to welcome foreign investors with controlled enthusiasm. We would rather have it than not have it, but we strongly support measures to make sure that we know more about it and that a fair share of the benefit remain in the U.S. We are not ready to become an economic colony of our trading partners.

MARTIN LUTHER KING, JR., NATIONAL HOLIDAY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MAZZOLI. Mr. Speaker, I was particularly proud, once again, to join all Americans in honoring Dr. Martin Luther King, Jr., on the occasion of the fourth national holiday commemorating his birthdate.

Dr. King's life and work inspire and uplift. His commitment to equality and justice is an example each of us—whatever our background or state in life—should emulate.

We as a Nation still have not entirely erased bigotry, hatred, and distrust. And economic analyses show sharp differentials in the earnings and employment outlook between the races. Yet, as Dr. King once said: "We must learn to live together as brothers or we shall all perish together as fools."

It behooves Americans to pull together, and one mechanism toward that laudable goal is the national holiday we celebrate in Dr. King's honor. We are afforded on this holiday a chance collectively to look back in time for advice and counsel on how to look forward together to a greater, more abundant America—an America where all people have the same chance to achieve excellence in a field of pursuit of his or her choice.

Admittedly, America has a long way to go before we reach this elusive but worthy goal, but it has come a far distance toward it.

As Dr. King once said, "if you can't fly, run. If you can't run, walk. If you can't walk, crawl. But by all means keep on moving." So, as we move beyond this 1989 celebration of Dr. King's birthday, let us pledge to move toward a society in which all are created equally and all are measured solely "by the content of their character."

LEGISLATION DESIGNATING ENGLISH AS OFFICIAL LANGUAGE OF UNITED STATES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation to amend the Constitution to designate English as the official language of the United States.

The purpose of the amendment is simple: To provide our common language with a measure of legal protection which it now enjoys as a result of custom only. English is the common glue which has forged unity and strength from our rich cultural diversity. In my view, it is the primary language in which our Government should continue to function. However, without that missing measure of legal protection, I believe that the primacy of English is being threatened.

I don't believe in English only. I do believe in English primarily, and certainly I believe it is incumbent upon the Government to take steps to protect that primacy. I cherish our cultural diversity, but I also cherish our common bond of language.

In the November election, the success of three State initiatives provided further evidence of growing support for the English language amendment. With those successes in Florida, Colorado, and Arizona, a total of 17 States have officially designated English as our national language. Only 23 States have the initiative process. My own State of California previously approved an English language initiative by 73 percent.

It has become increasingly obvious to me that opponents to the bill have no substantive arguments to present. Instead, they rely upon unfounded, highly emotional accusations. For example, they warn that the English language amendment would deny due process to language minorities in the courts. Predictions were made that individuals not fluent in English would be unable to obtain emergency medical care, or assistance in any acute crisis. Still another argument alleged that my amendment would prevent communicating with language minorities in other languages, and would deny educational opportunities to immigrants.

While every one of those attacks is frivolous and untrue, they all continue to circulate. In an effort to terminate these criticisms, I am introducing a revised version of the English language amendment. It states in clear and straighforward terms that the measure will have absolutely no negative effect on educational opportunity, the learning of a foreign language, protection of the public health and safety, or the availability of translators for litigants, defendants, or witnesses in court cases.

The most commonly asked question about the English language amendment is, Why do we need it? We need it to provide English with legal protection as our national language, thereby continuing our heritage as a unilingual nation. We need it to end conflicting Government policies and signals being sent to language minorities. We need it to prevent the divisiveness that is bound to result from a plurality of official languages. We need it to ensure that our Government continues to function primarily in English. And, most importantly, we need it to ensure that newcomers to our shores gain fluency in English—fluency which, in turn, is the door to opportunity.

With the red herring arguments effectively addressed, I don't believe opponents of the English language amendment will have a convincing statement to make. My bill is not an effort to restrict private choice—it is, instead, an effort to clarify public policy, and to offer the full measure of America's opportunity to

every newcomer. What could be more fair—or more American—than that?

I appreciate the support of the many original cosponsors joining me today, and strongly urge my colleagues who are not yet sponsors to join with me in this effort.

TRIBUTE TO JIMMY JAMES

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. FROST. Mr. Speaker, few circumstances of war can be worse than being a prisoner in a foreign nation's camp, particularly one with the brutal character of the Japanese prisoner-of-war camps of the Second World War.

Christmas of 1942 was particularly severe on our men held by the Japanese, as it was the low point of our military presence in the South Pacific.

The North China marines, men captured at Wake Island, Shanghai, and Tientsin, remember the physical and mental torture of spending those days under Japanese guard.

But, they also remember Jimmy James, who now resides in my congressional district. They remember Jimmy James because Jimmy James remembered them.

And, remember them he did—in grand fashion.

Mr. Speaker, the Canton, OH, newspaper, the Repository, has chronicled the generous life of Jimmy James, and I believe the American people would like to know of the Christmas of 1942 and how the North China marines came to honor Jimmy James.

Mr. Speaker, it is my privilege to honor Mr. Jimmy James by inserting the text of the article in the Repository, with the admiration of us all for this 87-year-old patriot.

YULETIDE MIRACLE IN SHANGHAI—MARINES BRING PROVIDER OF LIFE-SAVING CHRISTMAS FEAST FROM TEXAS TO NORTH CANTON REUNION

(By Jim Hillibish)

Jimmy James is a little guy. You've seen his type behind lunch counters. A wry smile. A quick eye. A big belt buckle. A fast right that flips eggs and steak in one spatula slide.

Jimmy James beat the Japanese Imperial Army with his cooking.

In early December 1941, the North China U.S. Marines got their marching orders. They'd been guarding American embassies in Peking, Tienstin and Ching Tao. All 202, including Frank Prater, now of North Canton, were to be withdrawn Dec. 10 from Japanese occupied China to the Philippines.

On Dec. 7, Admiral Isoroku Yamamoto blew apart Pearl Harbor. The North China Marines were instant prisoners of war.

In Shanghai, that sharp little cookie flaying hash and cracking eggs behind the counter was Jimmy James, the only American restaurateur thereabouts. Steak and eggs, doughnuts, ham, hamburgers, you name it, you got it in Jimmy's Lunch. Hot. In American.

And pie, 75 a day.

Jimmy James, of Jackson Minn., had joined the Army and went to China in 1920. He requested duty in northern China because "I'd heard it got cold enough there to ice skate."

The young man, still not shaving regularly, got out in '22 with $400 in savings. He knew Chinese. He hung around. After toiling in construction and as a night jailer in a lockup for foreigners, he figured "why not." He unveiled a hamburger stand in downtown Shanghai.

"The place took off. Seventy percent of our trade was Chinese," he said.

He opened two Jimmy's Lunch spots, and a dinner-dance hall called St. George's. By the mid-1930s, Jimmy was riding a crest of fried chicken and mashed potatoes.

Almost everything changed in '37. "The Japanese invaded. But for some reason, they still let me run my restaurants," he said. Jimmy James gets his way.

Jimmy knew nothing of the 1,550 American and British servicemen, including the North China Marines, imprisoned in Shanghai. Frank Prater was there: "For us, it was the bottom of the barrel. We were starved. It was very brutal. Many of our men were killed by guards for nothing. We lost 30 percent."

And they lost hope. All they knew was the United States had been dealt a terrible, probably fatal, defeat. Breaking hope is the way to brainwash POWs. The Japanese knew this.

Then came a boast in a Japanese-controlled newspaper. "Hordes of defeated American, British POWs in Shanghai Prison." Jimmy James read it over his lunch counter. His teeth clenched.

An angry man fights best with what he knows best. Jimmy knew food. He asked the Japanese command if he could bring over a little something, you know, for Christmas. Some of the Japanese were Christian. A miracle happened. They agreed.

How the following really happened nobody but Jimmy knows. He kind of winks at it, matter-of-factly.

In a week, in famine-wracked China, Jimmy James found and roasted 350 turkeys with dressing and sweet potatoes. He came up with hundreds of mince pies. He located candy by the boxful. He dug up 1,550 American Christmas cards, and a group of American women, including nuns, to sign them. He fashioned Christmas decorations. He cut down a pine tree. He made 7,750 cups of coffee.

Jimmy's convoy pulled up to Shanghai prison on Dec. 25, 1942. The Japanese were so shocked, they simply opened the gates. That's easier than reneging a deal struck with Jimmy James.

"It was funny," Prater recalls. "We'd heard crazy rumors of something coming. We had absolutely nothing decent to eat for a year. We were malnourished. We were beaten. The Far East was down the drain. . .

"'I'll believe it when I see it. And who the hell is this Jimmy James, anyway?,' we all thought."

Words can't describe it. Faces still do. The feast—"We can taste it like yesterday." The signed cards—"We were speechless. American women!"

The Japanese imprisoned Jimmy, separate from the Marines of course, but under the same conditions. "I'd fantasize about throwing away scraps of an order of steak from the restaurant," Jimmy said.

For the Marines, it only got worse. They were shipped to northern Japan. They were enslaved in deep coal mines. Many more died. It went on until the war ended in 1945.

Jimmy was released in '45 and reclaimed his restaurants. That lasted until the communists took over in 1948. He says he lost "everything but a dollar."

The dollar paid off. He invented a dish that made him the "chili-rice king" of Texas. At age 87, he's on TV, ice skating and ballroom dancing.

The North China Marines figured this legend called Jimmy James couldn't possibly have survived his tormentors. Years later, one of them walked into a chili-rice joint in Tyler, Texas. He looked at the little guy behind the counter. It clicked. "You're Jimmy James, aren't you." You bet your chili-rice.

Jimmy took the train from Dallas into town last week. He was a guest of the 87 surviving North China Marines. No way around it. They ordered him to come to the reunion at the Prater house in North Canton and the Holiday Inn Belden Village. They owed him a meal.

War is a strange thing. Such adversity creates bonds only veterans understand. You see it in their handshakes and in their eyes. "You know, there's always some good in bad," Jimmy says.

These ex-POWs say Jimmy's feast pulled them through. In the darkest hours in the blackest of enemy coal mines, they savored the flavor of Christmas Day 1942. Forty-six years later and they're still not over it.

"They could kick the hell out of us, but we knew some guy cared. Guys who gave up hope never got out alive. Jimmy gave us our only hope," Prater says.

James James winks at that.

NO GAS TAX INCREASE FOR DEFICIT REDUCTION

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. HAMMERSCHMIDT. Mr. Speaker, today I join the esteemed chairman of the Public Works and Transportation Committee, Mr. GLENN ANDERSON, and the ranking Republican member of the Surface Transportation Subcommittee, Mr. BUD SHUSTER in cosponsoring a resolution to oppose the use of Federal gasoline and diesel taxes for deficit reduction. This resolution will be one of the most important initiatives of the 101st Congress, and I urge my colleagues to join with us and our many original cosponsors in preventing this detrimental increase from ever being enacted.

The 9-cent Federal gas tax is earmarked for the Federal highway trust fund. These moneys, with State contributions, finance our Nation's highways and mass transit systems. The American public has accepted the concept that those who use the roads should pay for them. This State and Federal partnership has been highly successful, producing the finest transportation system in the world. Over 2 trillion miles are driven on U.S. roads annually. Roads in the United States carry 89.7 percent of all personal travel and 85 percent of the dollar value of everything grown, manufactured, and produced. An increase in the gasoline tax which is not used for transportation needs not only unfairly burdens a limited segment of the population, but it will cripple our infrastructure by reducing funds available at both the Federal and State level.

An increase in the existing gasoline and diesel fuel tax for deficit reduction would have a serious negative effect on the economy. The tax would be inflationary in that it would affect transportation costs all across the United States which would be passed on to the consumer in higher prices for goods and services. In turn, these increases would decrease our gross national product and ability to compete in international markets.

The majority of automobile travel by American families is to earn a living. This is not frivolous, luxury travel which can be easily curtailed. Why should the drivers of America, many of those who drive for a living, be forced to bear the burden of the deficit on their shoulders? An increase would be regressive and impact the poor much harder than others. In addition, drivers in many Western and Southern States and in rural communities use much more gasoline than residents of Eastern States and urban areas. The deficit burden simply would not be distributed equitably throughout the Nation and across all levels of income. A Washington Post-ABC News poll found that 73 percent of Americans oppose raising gasoline taxes to balance the budget. Another poll by Newsweek found that 77 percent of U.S. citizens oppose such an increase. The American people have spoken. As their Representatives in the Congress, let us echo their voices and take a strong stand against this prejudicial and onerous idea.

The budget deficit is a legitimate problem, but an increase in the gas tax is not the correct solution. I urge all of my colleagues to join with me in opposition to any efforts to increase the gasoline and diesel fuels tax for deficit reduction purposes.

DESIGNATING APRIL 1989 AS NATIONAL BARBERSHOP QUARTET MONTH

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Ms. OAKAR. Mr. Speaker, today I am introducing legislation designating the month of April 1989 as "National Barbershop Quartet Month."

Barbershop harmony is a style of unaccompanied singing with three voices harmonizing to the melody. The voice parts are called tenor, lead, baritone, and bass. Characteristically, the lead sings the melody and the tenor provides the high range, the bass provides the lower range and the baritone completes the balance of the chord harmoniously. The style is distinguished by uniformity of word sounds with a special emphasis on close harmony.

Mr. Speaker, the expressions, "Barbershop music" and "Barbershop harmony" survive from an English expression where, during the 16th, 17th, and early 18th centuries, the barbershop was a regular haunt for music while customers awaited service.

The first American barbers' music was probably strummed and vocalized in the South, where a light-hearted, socially oriented society provided the ideal atmosphere for the planting of a seed of harmony that was eventually destined to sprout in all areas of the continent.

Mr. Speaker, the barbershop quartet played an important role in the beginning of an industry that was fated to expand into one of America's most enterprising establishments. Barbershop quartets sing about human interest in love, politics, war, habits and traditions, heroes, villians, slang, and everyday diversions.

In April 1938, the "Society for the Preservation and Propogation of Barbershop Quartet Singing in the United States" was born. This year marks the 51st anniversary of the society during the month of April. Mr. Speaker, barbershop quartet singing, as a hobby and means of individual self-expression, has preserved cherished songs for the ages. For all of these reasons, I have introduced this legislation to commemorate this true American art form.

THE 100TH ANNIVERSARY OF JACOBSON & CO.

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. RINALDO. Mr. Speaker, on February 26, 1989, Jacobson & Co. in Elizabeth, NJ, will celebrate its 100th anniversary.

Gustave Jacobson founded the company in 1889 which began as a small plastering contracting firm. The company quickly ascended to ornamental and decorative plastering and became the leading producer of ornamentation.

In the early days of the company, Jacobson plaster ornamentation was applied to such famous buildings as the Metropolitan Museum of Art, the Presidential Palace in Cuba, and the Hearst Castle in San Simeon, CA, as well as many large theaters around the world.

When ornamental design went out of style, the company became a pioneer in the architectural acoustics field, and today, Jacobson is recognized as the premier ceiling contractor in the Metropolitan New York market. The Trump Tower, American Express Tower, Rainbow Room, windows of the World Restaurant at the World Trade Center are just a few of the major buildings which carry the Jacobson mark of exellence.

After 100 years Jacobson & Co. is still a family-operated company, currently managed by members of the family's fourth generation, John and Neal Jacobson. Several fifth-generation family members are also contributing to the company's second century of craftsmanship.

I am proud to salute Jacobson & Co. on its first 100 years and extend best wishes for another century as a successful small business in my congressional district.

FEDERAL GOVERNMENT SHOULD PAY ITS FAIR SHARE TO COUNTIES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. DORGAN of North Dakota. Mr. Speaker, I am introducing today a bill to increase Federal payments-in-lieu-of-taxes to counties and other units of local government. This legislation is badly needed to make sure that local governments do not suffer when the Federal Government acquires local property and takes it off the tax rolls.

My bill addresses two different payment-in-lieu-of-taxes [PILT] programs. The first is administered by the Bureau of Land Management [BLM] and makes payments for land held by a wide variety of Federal agencies, including the Bureau of Reclamation, the National Park Service, the Forest Service, and the Army Corps of Engineers. This program has been almost fully funded in recent years, but the payment formulas are too low to begin with, leaving local governments short.

The second program is the Refuge Revenue Sharing Program run by the U.S. Fish and Wildlife Service. This program has adequate payment formulas, but unfortunately has been funded at only about 60 percent of the full obligations in recent years. As a result, counties and other jurisdictions which have private land acquired by the Federal Government find that the payments are substantially less than would have been paid in local taxes had the land stayed in private hands.

These problems have caused substantial hardship for counties and their residents, including school boards. When the Federal Government acquires property, local governments must increase the tax burden on everyone else to make up for what the Federal Government is not paying. Consequently, there is growing public resistance to government acquisition of land in many parts of my State, and probably in other parts of the country, as well.

My bill addresses this problem from several angles. First, the bill amends the BLM's payment formula to provide a payment of three-fourths of 1 percent of appraised value, if that is greater than the existing payments options. This formula is currently provided in the Refuge Program, so my bill simply puts the two formulas on a par. However, to address a concern voiced by some, the bill also limits the payment under this formula to no more than would have been received had the land been subject to local property taxes.

Second, the bill indexes for inflation the payment formula options based on a flat rate. For example, both the BLM and the Refuge Programs provide a payment option equal to 75 cents per acre. Over time, however, the value of this option will erode with inflation, so the bill would require an annual adjustment of this payment rate to reflect inflation as measured by the producer price index for finished goods.

Finally, the bill would solve the problem of inadequate funding for the Refuge Program by

simply requiring that the necessary funds be spent.

Mr. Speaker, this is an issue of increasing importance to local governments and jurisdictions, especially in rural areas. North Dakota has the greatest number of national wildlife refuges in the country, as well as vast areas in national grasslands. Most North Dakotans do not mind preserving these natural areas for the benefit of the country, but it should not be to the detriment of the ability of the local government to function.

A key to rural development is to see that county governments, local school boards, and others have the revenues they need and deserve to build and maintain roads, educate their children, offer social services, et cetera. In other words, we need to maintain and improve the quality of life and the business climate so that new businesses will locate in rural areas and present businesses will stay.

I urge my colleagues to support this legislation to give county and other local government jurisdictions their fair share for lands acquired by the Federal Government.

ASSURE TIMELY DELIVERY OF CIVIL SERVICE, RAILROAD, AND MILITARY RETIREMENT, AND BLACK LUNG BENEFIT CHECKS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. DWYER of New Jersey. Mr. Speaker, today I am reintroducing a package of four bills to ensure the timely delivery of Federal pension checks to railroad retirees, military retirees, civil service annuitants, and recipients of black lung benefits. This is the same legislation I introduced at the end of the 100th Congress.

Currently, the post office receives benefit checks on a specified date, usually the first or third of the month. In the event the date of disbursement falls on a Saturday, Sunday, or a holiday, the post office will deliver the checks on the next available business day. As a result, retirees many times must wait several days before they receive their checks. In some instances, these checks have already been delivered several days in advance to the Postal Service, which must then hold them until the designated date of delivery. For those individuals who depend on their monthly checks as their sole source of income, this delay can pose an unnecessary hardship.

As a result, in 1977 Congress approved Public Law 95-216, which included a provision to provide for the early delivery of Social Security benefit checks whenever the regular delivery date for payment of either Social Security or supplemental security income checks falls on a Saturday, Sunday, or a legal public holiday. Unfortunately, Congress never extended this courtesy to the 4.4 million recipients of civil service, railroad, and military retirement benefits, and black lung benefits.

My legislative package would simply assure other Federal retirees the same treatment already afforded to recipients of Social Security benefits. Under my legislation, railroad retirees, military retirees, civil service annuitants, and recipients of black lung benefits would be assured early delivery of their benefit checks in the event the day regularly designated for delivery falls on a weekend or a legal public holiday. Thus my legislation would place this smaller group of retirees on equal footing with recipients of Social Security benefits. I urge my colleagues to support this long overdue legislation.

GLOBAL POVERTY REDUCTION ACT

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. MILLER of Washington. Mr. Speaker, today I join my colleague, Congressman MEL LEVINE in reintroducing the Global Poverty Reduction Act. Despite the name, this bill is a practical, pragmatic approach to mitigating the seemingly intractable poverty in the developing world.

At the end of the last term, this bill had 194 cosponsors in the House and 27 in the Senate. It also had the support of more than 70 private groups. Last term, in introducing this bill, I said it was time to inject some accountability into our foreign economic aid programs. This is true now more than ever. It is time the American taxpayer has some idea what is to be accomplished with their tax dollars. It is time we had some measurable standards of success in achieving these goals.

Mr. Speaker, there is no greater goal, no better use of our development aid dollars than helping to lift the world's children out of the life threatening morass of poverty and illiteracy that engulfs much of the developing world.

This bill would establish standards by which we can measure the effectiveness of our foreign aid programs in achieving these goals. That is good news for the American taxpayer who foots the bill for these programs and good news for the world's poorest people who will benefit from this increased effectiveness.

The bill calls for U.S. foreign development aid to contribute measurably to eradicating absolute poverty in the developing world by advancing specific antipoverty goals including:

A mortality rate for children under 5 years of age no greater than 70 per 1,000;

A female literacy rate of 80 percent;

Not more than 20 percent of the world's population living below the absolute poverty level.

The legislation asks the administration to consult with host country governments, nongovernmental and international organizations to develop and implement a plan that coordinates U.S. foreign development aid to achieve these and other established antipoverty goals by the year 2000.

This in not impractical, utopian "feel good policy." These are attainable goals. For example, according to UNICEF, in 1960, 74 countries had an under 5 mortality rate above 170. Today that figure is down to 33 countries. This will focus our attention on what we are doing right, so we can do more of it.

Mr. Speaker, from the standpoint of economic self-interest, strategic importance and moral leadership, U.S. foreign economic aid—which now accounts for only four-fifths of 1 percent of the Federal budget—can be one of the most effective uses of our tax dollars.

In underdeveloped countries, U.S. economic aid can help strengthen fragile economies, foster self-sufficiency, and encourage the shift away from inefficient centralized economies and toward free enterprise. As these economies develop so do their consumer markets. In the long run, appropriate U.S. aid programs can help nations that were once economic basket cases, wholly dependent on Western donors, become instead, our trading partners, providing important markets for American goods and services.

We also enhance our own security by using U.S. foreign aid programs to encourage the emergence of stable, entrepreneurial, economies. Nations with stable economies which share our free market values are also far more likely to share our democratic political values.

The well spring of economic prosperity is individual initiative. This same initiative invariably spurs political self-determination. As we have seen recently in South Korea, the more broadly prosperous a nation becomes, the more adamant will be the demands of its people for genuine democratic institutions—a free press, freedom to associate, to organize and dissent.

And the proliferation of free-market, democratic societies in the world is our greatest defense against the expansionist totalitarianism of Marxist-Leninist nations.

Finally, foreign aid like the child survival programs and famine relief efforts are more than simple charity. By supporting these programs we as a nation say to the world, there is one standard of decency, one standard of compassion for all members of the human community. And no accident of birth should condemn a child to death.

Unfortunately, our foreign economic aid programs have, too often, done little more than line the pockets of friendly despots. Or these programs have funded grandiose, inappropriate development projects which did little to benefit the world's poorest people. A blanket indictment of all foreign aid, however, throws the baby out with the bath water; precluding thoughtful analysis of the problem and preventing the implementation of effective, cost-efficient programs.

Most Members of Congress have heard the question from their constituent, "why are we so concerned about giving to Third World countries, and not to our own?" the answer is, of course, that the health and well-being of our own citizens has always, and will always, have the first claim on Federal resources.

But this Nation cannot be an island of prosperity in a sea of poverty, for we will inevitably be swept away with the tide. And to enjoy the blessings of liberty, we must exercise the responsibilities of freedom. We neglect these responsibilities at our own peril.

IN HONOR OF WALTER J. WARREN OF BAYSIDE, CA

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BOSCO. Mr. Speaker, I rise today to pay tribute to Walter J. Warren of Bayside, CA, and to urge my colleagues to join me in recognizing Mr. Warren's achievement of 50 years of continuous membership and perfect attendance at the Rotary Club of Arcata, CA.

Walter Warren has long been involved in community and civic affairs in northern California. He joined the Arcata Rotary Club on January 27, 1939, and he and his wife Holly are about to celebrate their 53d wedding anniversary.

Mr. Speaker, I send my very best wishes to Walter Warren, his family, and his friends on this special occasion. I also send my regards to the members of the Arcata Rotary Club, who will honor Walter Warren for his half century of contributions and accomplishments on January 28, 1989.

ANNIVERSARY OF UKRAINIAN NATIONAL REPUBLIC

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. BONIOR. Mr. Speaker, this coming Sunday, January 22, 1989, Ukrainians around the world, and particularly in the 12th Congressional District of Michigan, will commemorate the 71st anniversary of the creation of the democratic Ukrainian National Republic. On that same day, Ukrainians will also observe the 70th anniversary of the Act of Union whereby all Ukrainian lands were united into one independent and sovereign state of the Ukrainian nation.

That young nation, however, was subjected to attacks from Communist forces and fell victim to Soviet imperialism. Although the Ukrainian National Republic was recognized as independent by a number of nations, the Communist government in Moscow relentlessly assailed the young republic. By 1920, the independent government could no longer withstand the pressure of Communist aggression. A puppet government was installed in Ukraine which then became known as the "Ukrainian Soviet Socialists Republic," and incorporated into the Union of Soviet Socialists Republics [U.S.S.R.] without the support or consent of the Ukrainian people.

From that time on, the Ukrainian people have struggled to shed themselves of a government imposed upon them by Russian Communists—a government, Mr. Speaker, which has continuously sought to crush the Ukrainian national identity and wipe the existence of Ukrainian culture off the face of the Earth. The evidence of this effort stains the history of the Soviet Union. One has to recall mass exterminations in the 1920's, induced famines in the 1930's, and Stalinist terror in the 1940's, and most recently the bureaucratic and regulatory carelessness which resulted in the Chernobyl disaster in the 1980's. The Soviets have pursued a comprehensive strategy to suffocate the rich cultural, religious, social, and democratic fabric that binds the Ukrainian nation.

Millions of Ukrainians have lost their lives to this struggle which continues to this day. Arrests, trials, and convictions of hundreds of Ukrainian intellectuals charged with "anti-Soviet propaganda and agitations" are commonplace. These nationalists fight against the abuses of the Soviet Government, its multiple violations of human rights, and its despicable police rule. Because they seek to protect their countrymen from a constant barrage of harassment from the Moscow government, their voices are muffled or silenced. The names include Lukyanenko, Svitlychny, Shukhevych, Chernovol, Goring, and Gell, among hundreds of others.

These patriots battle against Russification whereby the Russian Communists are trying to crush the cultural identity of Ukraine in the hope that this will quell the thirst for freedom of the Ukrainian people. Though the Soviets may outlaw traditional religions, burn libraries, and forbid the speaking of the Ukrainian language, they cannot crush the will of the Ukraine to once again be a free and independent nation. Try as they might, Mr. Speaker, the hope of freedom burns brightly inside of each Ukrainian, be they in Ukraine or anywhere else in the world.

Mr. Speaker, January 22 is a very special day, for on it we pause to think of the vibrant struggle for independence which goes on each day halfway around the world in Ukraine. I urge my colleagues and all Americans to reflect on this ongoing struggle and lend their moral support to the Ukrainian people in their quest to be among the family of free nations.

THE CONGRESSIONAL PAY REFORM ACT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. TAUKE. Mr. Speaker, given that the 101st Congress is the "Bicentennial Congress," it is entirely fitting that we should address the controversial issue of congressional pay increases.

During the first session of Congress, Members debated the issue of congressional pay and the manner in which increases should be determined. In fact, in 1789, 1 of the proposed 12 amendments to the Constitution stated:

> No law varying the compensation of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

As everyone is aware, 10 of these amendments became the Bill of Rights, but 2 of them, including the pay resolution, failed to win the necessary support in three-fourths of the States.

On January 3, I reintroduced the Congressional Pay Reform Act, a measure I originally introduced in 1979. In nearly every Congress over the past decade, Members have been embarrassed by the controversy which surrounds congressional pay adjustments. Things have gotten so bad that the American people believe Congress is incapable of dealing with salary adjustments in other than a chaotic and complicated manner. And they may be right.

The Congressional Pay Reform Act mandates three simple, yet important, reforms in the way we consider our salaries. Under this bill, congressional pay adjustments would be deferred until an election had intervened and the next Congress was seated, thus preventing us from voting for a pay raise which would go into effect during our current term of office.

Second, recorded votes would be required in both the House and Senate so that the public would know how each elected official stood on salary issues. In the past, many pay raises were approved by anonymous vote.

Finally, congressional pay questions would be considered independently of other appropriations bills, thus ending the current practice of combining congressional salary increases with adjustments for Federal employees and agency appropriations. This bill would free the question of salary adjustments from the entanglements of other appropriations bills and would prevent Federal agency appropriations from being held hostage to congressional pay increases. Moreover, automatic cost-of-living increases would not accrue to Members, and future increases for other governmental officials would not be tied to congressional pay increases.

Furthermore, this legislation would not only prevent Members from voting for a pay increase for themselves during their current term of office, it would also require each Member to take a public stand on this issue. At the very least, we owe this to our constituents.

Congressional pay adjustments seem to have become a perpetual source of debate, controversy, and embarrassment. The Congressional Pay Reform Act is an important step toward providing us with a simple, yet effective, way to equitably deal with this issue and help prevent the interruption of the normal operation of the Federal Government.

IRAN-CONTRA RULING

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. HUBBARD. Mr. Speaker, I would like to bring to the attention of my colleagues an article I read with interest which was written by two outstanding Washington attornerys, James Hamilton and Mary Albert. Jim Hamilton is a partner and Mary Albert is an associate in the Washington, DC, office of Olwine, Connelly, Chase, O'Donnell & Weyher.

The article appeared in the November 14, 1988, issue of Legal Times and is entitled, "Iran-Contra Ruling: Immunity's Limits."

I hope my colleagues will find the article as informative as I did.

The article follows:

IRAN-CONTRA RULING: IMMUNITY'S LIMITS

(By James Hamilton and Mary Albert)

The U.S. Court of Appeals for the D.C. Circuit recently declined to disturb the ruling by Judge Gerhard Gessell that the Iran-Contra trials may proceed, despite claims by three defendants that their immunized congressional testimony irrevocably tainted the criminal proceedings against them. But the issues raised by the defendants, Lt. Col. Oliver North, Rear Adm. John Poindexter, and arms dealer Albert Hakim—and by their ardent supporter, the American Civil Liberties Union—deserve a second look.

Using the federal immunity statute, Congress can obtain an order compelling testimony from a witness who asserts his Fifth Amendment privilege to remain silent. Neither a defendant's immunized testimony nor the fruits of that testimony, however, can be used against the defendant in a criminal proceeding. A prosecutor has the "heavy burden" of proving that this has not occurred.

The immunity contentions of the three Iran-Contra defendants were sweeping. Their able lawyers asserted in joint papers that, "given the widespread dissemination of immunized testimony [for example, by the grand jury, witnesses before it, and the staff of Independent Counsel Lawrence Walsh] has been inevitable, undeniable, and so pervasive that the indictments must be dismissed as a matter of law."

CASE AS "OMELET"?

They claimed further that "immunized testimony would inevitably be used against them during pretrial proceedings and at trial" because jurors and witnesses have been exposed to this testimony. "In short," they argued, "this case is an omelet from which the tainted immunized testimony can never be unscrambled."

Adopting the defendants' argument would mean that a congressional committee could never receive immunized testimony in widely televised matters, like Watergate or Iran-Contra, without ineluctably tainting subsequent criminal trials. For a court to hold this would be to concede that the judiciary is powerless to devise lawful proceedings once Congress, using immunized testimony, has exercised its important constitutional right to inform itself and the public of corruption and wrongdoing in the federal government.

Gesell wisely did not so rule. Rather, he reached a preliminary decision that the cases should proceed to trial because "[n]o improper evidentiary use of the immunized testimony has appeared." More specifically, he made the following findings, which defendants vigorously challenged in the Court of Appeals:

The defendants' immunized testimony was not submitted to the grand jury in any form.

The grand jurors were "effectively" warned not to read about or listen to immunized testimony, and this testimony played no part in the grand jury's unanimous decision to indict.

No grand-jury testimony or exhibits became known to Independent Counsel Walsh from either the immunized congressional testimony or its fruits.

Walsh and the other prosecuting attorneys have not read the immunized testimony.

Walsh's staff was legitimately aware of the "essential documents" and all "significant witnesses" and had been in direct contact with these witnesses long before the defendants gave immunized testimony.

Walsh at all times proceeded in good faith and took "strenuous precautions," at great inconvenience and expense, to safeguard the defendants' Fifth Amendment rights.

TRIVIAL EXPOSURE NOT FATAL

Significantly, Gesell dismissed the defendants' claims that a case is tainted if a prosecutor, juror, or witness is merely exposed to immunized testimony. He said:

"Defendants in their zeal treat this as if even the tiniest exposure to a witness or grand juror constituted exposure to an incurable disease. Such is clearly not the case. Exposure to a fleeting snippet means nothing. It has no evidentiary coherence or impact."

Furthermore, he continued:

"Even more significant exposure is trivial where the fact is already known through independent evidence. Surely the law is built at least partly on common sense, and it cannot be—contrary to defendants' assertions otherwise—that a prosecutor who inadvertently overhears mention of a fact already confirmed by his own independent investigation can be said to have made a prohibited use of immunized testimony."

Gesell also concluded that there is no taint if a witness possessing independent knowledge somehow has his memory refreshed by immunized testimony. "If testimony remains truthful," he wrote, "the refreshment itself is not [a prohibited] evidentiary use." This conclusion has come under particular attack by the defendants.

Gesell did, however, make one crucial ruling that gives Walsh heartburn. There must be, the judge said, a separate trial for each defendant. Otherwise, an irreconcilable conflict might result between a defendant's due-process right to use the immunized testimony of another defendant—for example, in cross-examination—and the right of that other defendant to prevent his immunized testimony from being used against him.

The core of Gesell's pragmatic rulings, which have significant ramifications for the interworkings of government, is this: As long as prosecutors exercise extraordinary care—and Walsh is repeatedly praised for doing this—well-publicized, immunized congressional testimony will not doom the subsequent criminal trials of those compelled to give that testimony.

The last word on this issue has not been written; both Gesell and the Court of Appeals have recognized that facts yet to be developed may demonstrate that the proceedings are tainted. But Gesell's central conclusion should remain intact, for to reject it would seriously restrict the power of Congress to probe or would leave the courts wholly unable to try a defendant who has given widely disseminated immunized testimony.

"VOLUNTEERED" STATEMENTS

There is another immunity contention that the Iran-Contra prosecutors have advanced. Their argument, on which Gesell has not finally ruled, could also have widespread, unfortunate consequences if adopted.

Walsh's advocate for immunity issues, Herbert Stern—like Walsh, a former U.S. district judge—has contended that only compelled testimony is immunized by the statute and that any volunteered testimony before the Iran-Contra committees is not immunized. Indeed, Stern argued that "volunteered testimony, and leads therefrom, are usable even where [witnesses] do no more than repeat previously compelled testimony." He also asserted that volunteered testimony acts to waive a witness's Fifth Amendment privilege about the subject at issue and that even compelled testimony thereafter is not immunized.

It may be, to pick a fanciful example, that if North, called to testify about the Iran-Contra affair, voluntarily revealed his role in the Watergate break-in, that testimony would not be immunized. If sensible results are to be reached, however, any testimony about the announced subject of the hearing, the Iran-Contra affair, should be immunized. In a very real sense, North and his compatriots were compelled to come before the committees to tell all they knew about that topic.

Any other conclusion might put an intolerable burden on a congressional witness and his counsel. Some witnesses begin with a prepared statement, as they are allowed to do by the rules of various committees. Pursuant to an immunity order in 1973. John Dean III droned on before the Senate Watergate committee for about six hours. Such a statement is not normally given in response to specific questions; Dean began his prepared remarks after Chief Counsel Samuel Dash said only. "Mr. Dean, you have a statement you wish to present to the committee." If Stern's contention is accepted, that statement might be considered largely volunteered and thus not fully immunized.

Even in answering specific questions, witnesses often refer to earlier responses for context or clarity. A rule that such "volunteered" testimony is not immunized—or that voluntarily repeating prior testimony waives the Fifth Amendment privilege so that subsequent testimony is not immunized—would turn costive even the most garrulous witness.

Another likely result would be that counsel for congressional witnesses—particularly those of vocal nature, like some who appeared before the Iran-Contra panels—would become even more combative and intrusive in protecting their clients. In short, if the rule Stern advocates is adopted in its broadest form. Congress' investigatory procedures would be harmed, and the amount and usefulness of immunized testimony would dwindle.

SIGNIFICANT CONTRIBUTIONS OF CENTER FOR BUSINESS AND ENTREPRENEURIAL MANAGEMENT AT ST. MARY'S COLLEGE, WINONA, MN

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. PENNY. Mr. Speaker, I rise today to share with my colleagues news of the important work being done by the nonprofit Center for Business and Entrepreneurial Management at St. Mary's College in Winona, MN.

Though only in existence since September 1987, the center, under the direction of Brother Herman E. Zaccarelli and James M. Bedtke, MBA, has made several significant contributions to the betterment of the public and private sectors.

Specifically, I would like to mention three of the center's undertakings that are particularly noteworthy.

The first is the development of external business and entrepreneurial education for small businesses throughout the Nation. The center has developed a series of educational materials of over 50 booklets under the title of "Contemporary Management Series."

A second activity of the center is the creation and dissemination of a free, 52-point guide entitled, "The Checklist for Management Success in a Multi-Ethnic Business Environment."

In the business world, one of the foremost challenges facing executives and entrepreneurs is to integrate people of varied cultural backgrounds into a cohesive work force. This checklist helps to focus the employer's attention on the differing attitudes that individuals have regarding group participation, and suggests positive steps that can be taken to improve performance and enhance the employee's self-esteem.

A third major endeavor of the center is the development of a comprehensive program to support local communities that wish to advance their tourism business.

The first step in this process was the creation of a free checklist, "Welcome to Our Town: Guidelines for Establishing a Successful Tourism Program." This unique checklist explains how to conduct professional hotel occupancy and ZIP Code studies, and how to use this information to develop special events and imaginative promotions that will attract the tourist trade.

The Winona Convention and Visitors Bureau works in partnership with the Center for Business and Entrepreneurial Management in collecting and analyzing research of a community's visitor base. This helps to develop more targeted marketing programs resulting in careful allocation of human and financial resources in order to achieve the highest return on investment. That translates into a greater impact on the local economy. The Center for Business and Entrepreneurial Management provides an outside source for obtaining this information on tourism industry trends.

Mr. Speaker, it is important and appropriate that we recognize the diligent efforts of our educators, such as those at the Center for Business and Entrepreneurial Management at St. Mary's College of Minnesota, who are going beyond the campus to offer solutions to the problems in the greater community and hope for our future.

Brother Louis DeThomasis, FSC, Ph.D, is the president of St. Mary's College of Minnesota. The college was founded in 1912. The renowned Christian Brothers teaching order directs the academic life of the nearly 1,200 undergraduate and 700 graduate students. The college offers over 50 undergraduate academic programs, majors, and career preparations and 12 master degree programs, and is accredited by the North Central Association of Colleges and Schools.

TRIBUTE TO FRANCISCO (CHICO) MENDES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. YATRON. Mr. Speaker, I rise to honor internationally known ecologist, Francisco (Chico) Mendes, who was brutally assassinated last month. I am deeply saddened by this appalling and shocking tragedy.

Mr. Mendes was a man of great courage, fortitude, and determination. He was a leader in the effort to preserve Brazil's tropical rain forests, which are increasingly being destroyed for unwise economic activities. Mr. Mendes was also an important force in human rights, as he actively worked to protect indigenous peoples and landless tappers from ruthless exploitation and callous disregard of their basic human rights. The plight of indigenous peoples is indeed most serious. Many times their homes are destroyed, lifestyles totally disrupted, and they are threatened with physical abuse and even death if they offer any resistance to those seeking to pursue forest destruction activities. Mr. Mendes was honored by the U.N. for his activities.

Tropical rain forests are extremely valuable to mankind as a source of critical medicines, food, and industrial products. They contain over two-thirds of the world's life forms, and play a vital role in offsetting the greenhouse effect. Tropical forests also help preserve the soil and water resources, and mitigate deforestation.

Mr. Mendes stood up to some very powerful forces in Brazil and he paid the ultimate price. He must be remembered for his tremendous contributions to the preservation of nature, and human life. I am confident that the authorities in Brazil will bring to justice the individual or individuals responsible for this hideous deed.

PUBLIC HEALTH AND THE NEW NATIONAL EFFORT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 19, 1989

Mr. STOKES. Mr. Speaker, I was present at the 1988 American Public Health Association [APHA] annual meeting when their outgoing president, Dr. Bailus Walker, gave a brilliant presidential address on "Public Health and the New National Effort." In this speech, he spelled out some long-term solutions to national health problems that continue to plague our society.

Dr. Walker's insightful comments have great significance for the public health of America. Indeed, as we debate the many pressing health issues before us, his remarks give us much food for thought.

Mr. Speaker, I want to share this address with you and my colleagues, and hope that you give consideration to Dr. Walker's remarks:

THE AMERICAN PUBLIC HEALTH ASSOCIATION: PUBLIC HEALTH AND THE NEW NATIONAL EFFORT

(By Bailus Walker, Jr.)

Since the mid-nineteenth century—a period in American public health most notable for the extraordinary *Report of the Sanitary Commission of Massachusetts*—public health activities have progressed through a variety of experiences being pushed and pulled by new technologies, changes in patterns of disease and dysfunction and in demographics and new directions in economic and political developments.

Indeed the 1980s for all of us were trying and tumultuous as it became clear that infectious disease was still a threat in the developed world. A viral disease, AIDS, tested our ability to manage the biomedical dimensions of a disease and, at the same time, to cope with a maelstrom of social, economic and political challenges that accompanied this epidemic.

But we proceeded apace on several other fronts. In molecular biology, in neuroscience, in toxicology, in the broad dimensions of clinical epidemiology, in agricultural science and in population science, to name only six, the advances over the last years have been remarkable. Through these fields, we are reaching toward a clearer understanding of the environmental and behavioral determinants of physical and mental disorders and of ways in which scientific advances and technological innovations can help bring about necessary reforms in personal health care and the broader systems of health services. As we move in this direction, we approach a threshold where our technical knowledge of such developments outpaces our social, philosophical and ethical readiness to deal with them. We also intensify the debate over the full social and economic cost of new developments in science and technology, including concerns of equity of access to resources. This latter issue evokes the classic debate of universal access to health care. I call it a classic debate because it has been endemic to the health profession for many decades. And today there seems to be no workable solution for filling the gaps for 37 million Americans either without or with limited health insurance short of a restructuring of the health care system, an unlikely approach in the near term.

During the 1980s, environmental health issues regained enough momentum and had broad enough impact to find its way into the issue papers of the Presidential campaign.

Stunned by evidence of improper waste management, ecological damage and environmental deterioration, America called for a renewed war on air and water pollution. So serious are some of the environmental quality issues that many analysts have called for a "third wave" of attack on environmental problems. The first wave came at the turn of the century and the second arrived in 1962 with the publication of *Silent Spring* by Rachel Carson.

And now as we near the end of this decade, a new President is taking office determined to move on several fronts of primary concern to the public health community and all of its allies.

As this era begins, it is fitting for the public health community—a field for the efforts of many groups and specialties—to consider what role it should play in assuring a continuing effort to meet the health,

social and economic needs of the American people.

Indeed, because we represent a major source of talented people with unique skills in formulating policy, in planning and in the implementation of programs and services, we have a duty to use our resources to devise new and fresh approaches to familiar problems.

Over the past several months, we have seen clear documentation of the need to work on problems selected because of their significance to the well-being of mankind, not only at home but throughout the world; to do so by seeking to understand the root causes of these problems rather than treatment of their symptoms and be willing to persist in such efforts until the job is done.

There is no more appropriate example than the infant mortality rate—a problem so serious that not one but two highly respected commissions earlier this year called to our attention the need to do more to prevent the 40,000 infant deaths that now occur each year.

This problem is distressingly bound up with an ever increase in certain familiar pathologies of disenfranchisement—teenage pregnancy, substance abuse, social and economic disintegration. To be sure, the face of poverty in America has changed over the past two decades. significant social and economic developments have made it possible for many working-class and middle-class families to move away from the urban centers.

The decline in jobs for unskilled workers, deterioration of family stability and changes in the mix of people and services in urban centers have caused the emergence of an underclass. This group is small compared with how many poor there are in the United States but it has grown rapidly. From 1975 to 1985, the underclass grew from 750,000 to 2.5 million. This group is characterized by a growing separation from the rest of society, its norms and especially its resources.

Certainly it is easy to dismiss this problem on the assumption that the price for positive health and well-being for most of us is that government ignores the rest of us. Or we can claim that the state or federal deficit and other priorities prevent us from investing more of our resources in programs to reduce the risk of these human tragedies. Still further we can say that we have put into place legal and other mechanisms, and that we have already stretched our mind and our will as far as we can and there is simply no solution to this problem of tractable poverty, family disintegration and widespread illiteracy.

We have another choice.

We can in the months and years ahead join forces with soon-to-be former Senator Lawton Chiles of Florida, Chairman of the National Commission on Infant Mortality, as he continues his outstanding work in this area. And with Congressman Louis Stokes of Ohio as he pursues new policies and resources to address the fundamental flaws in our prenatal care systems. We can also join forces with the numerous major projects supported by several philanthropic groups to upgrade the chances of both parents and children trapped in poverty.

All of these groups and thousands of other individuals have recognized that removing some social and economic barriers has led to advances for some groups; for an alarmingly large group, the situation has not changed or has changed for the worse.

Perhaps this is the result of our short attention span for national problems. Indeed, it may be getting shorter and shorter. We debate issues, ensure they are publicized, pass new laws or amend existing laws, invest a few dollars, get bored and move on to other issues. All too often, we pursue short-term solutions to problems that require long-term sustained commitments. We are cheating the entire nation if we attempt to dispose of the infant death problem with short-term solutions.

It will not be enough to conduct more research on the determinants of infant mortality or to hold more conferences or symposia because the nation is not interested in further identification or documentation of the problem or in the oratorical excesses which often cloud the real solution to infant deaths. It is concerned about moving forward with progressive and aggressive interventions by the public and private sectors. In this regard, a particular problem for organized public health is the lack of broad supportive relationships with the medical care profession. There are numerous examples of practicing physicians being supportive of comprehensive maternal and child health services but confrontation too often characterizes the relationship from both sides.

The National Academy of Science's Commission to Study the Future of Public Health in the U.S. in its survey found medical care leaders who were simply unaware of the scope of infant health services provided by state and local health agencies. Yet, those same leaders are crucial to the achievement of broad community support for maternal and child health services and numerous related public health activities for which the cooperation of the private medical community is highly desirable.

It is here that the public health community as a whole must exercise more effective and sustained leadership in improving these relationships, in the development of even broader coalitions to coordinate, monitor, urge and advocate long-term actions for a reduction in the U.S. infant mortality rate, presently the worst record among 20 industrialized nations. Our efforts must reach beyond the traditional boundaries of prenatal services to help provide future parents with the social skills and confidence necessary to take advantage of educational opportunities. Not all potential parents come from mainstream backgrounds and enter the health service system prepared to accept counseling and guidance on healthful practices and behavior. The failure of health service providers to recognize this and to understand the sociocultural misalignment between the health service environment and home/community settings account in part for continuing problems of infant mortality.

Many kinds of development, in social, psychological, emotional, moral, linguistic and cognitive areas are critical to the survival of mother and child. The attitudes, values and behavior of the parents and their social network strongly affect the health and welfare of infants. Thus all the money and effort expended on prenatal health services will have only limited benefits as long as the underlying developmental, social and economic issues remain unaddressed. Yet most public health service providers today are not trained to organize and manage the health systems in ways that support the overall social and economic development of parents. Nor does their training enable them to analyze, much less solve, the social misalignment problems of mothers and fathers from outside the mainstream.

In this new era, we must reassess current approaches to maternal and child health services, learn how to implement approaches that work and allocate resources more effectively. Such a reassessment should be guided by knowledge of public health, human ecology, history, parental and child development—and by common sense. Moreover, the service system must be freed from the pressures of political expediency and the interest of researchers must be balanced against those of direct service providers.

As a community, we have an obligation to the people we serve to assure the continuation of functions that are truly important to the health of this nation, especially when these functions cannot be carried out satisfactorily by private means alone. But, even before the National Academy of Sciences' (NAS) report on the future of public health, it was evident that there were significant deficiencies in the system for the delivery of public and personal health services measured in terms of their ability to meet the broad spectrum of needs of the nation.

Addressing essentially the same point, David Rogers observes: "In the last decade, we have seen the progressive weakening of local, county and state public health agencies and public health clinics. We have watched the dissolution of the once proud and distinguished public health service medical officers corps. Public health services hospitals are apparently to vanish from the scene and shifting national priorities are now leading to the cruelest blow of all—sharply declining federal support of schools of public health."

Efforts to correct these perceivable deficiencies tend to reflect the past, not the opportunities for the future—a future in which demographic changes and disease patterns will pose critical questions for the public health professions. These trends have been widely discussed but have not been readily factored into the equation for future health services—preventive, curative and rehabilitative.

How can we hope to provide equitable health opportunity as a human right to all our people as long as there are major deficiencies in the system including fragmentation, ineffective leadership, staff shortage and a poor public image. Effective state and local health agencies are essential to our social and economic progress. Because after all the Federal policies have been developed, dollars appropriated, and technical assistance offered, it is the state and local health departments that reduce those resources to their lowest common denominator—direct services to people.

There is no "conspiracy of silence" concerning deficiencies in this system but there is less than adequate action from within the public health community (and all health is public health) on the appropriate corrective strategy.

But damage due to inattention or lack of organized concern is not irreversible. It can indeed be repaired by active intervention in the stewardship of change. It will require not only an unrelenting commitment to the system of endeavors which comprise the public health services but also the ability to lead the system into the future.

Thus, the NAS *Future of Public Health Report* deserves respectful discussion—a continuing and open dialogue among policymakers, academicians, public health providers, and community leaders on ways to enhance the present-day and continuing future importance of public health service

to the social, economic and political life in the United States.

In this process, we must address a basic problem which should be posed with some sense of urgency: How can one institutionalize the thoughtful consideration of the interrelated areas of endeavor—health sciences research, education of health practitioners, and the delivery of health services—with a view toward effective constructs for action?

In this area, the public health community has special and unique responsibilities to bring about support in the social and political arena for major reforms in the way public health priorities are set, resources allocated, and organizational changes implemented. This is particularly important since these matters are as much economic and social as medical or health sciences.

Legislative and executive branch programs of recent years to deal with the public health service system have had too little thoughtful and constructive consideration of a meaningful nature from within the framework of public health. This is said without rancor for the situation is understandable. The problems are complex, their solution requires the collection and analysis of large bodies of information. Not only is the information costly to gather and process, but also different types of information may imply contradictory policy decisions. Faced with this issue, legislative and executive branches often end up making the most politically expedient decisions, not necessarily the most desirable in terms of public health goals and objectives. Our experience with AIDS is replete with examples of this deficiency.

Another theme which should affect our work in this new era is international health.

Computers and rapid telecommunications are making business, politics, social and cultural issues truly global. What once were domestic public health issues now have direct impact on other nations because of the increasingly interactive global environment.

World hunger and malnutrition continue to be major international priorities. World Bank estimates that a billion people worldwide are chronically undernourished. That is roughly a quarter of the world population. Their problem is lingering malnutrition, undernutrition and outright starvation. But their problems are also medical ones that attend hunger: physical and mental underdevelopment, lowered resistance to infections and a broad spectrum of other dysfunctions.

Few health and medical curricula today devote any time at all to sleeping sickness, schistosomiasis, hook worm, river blindness or leprosy. But for large segments of the world's population, these diseases are all too familiar. They are acute and chronic afflictions that affect a country's vitality and undercut economic and social progress. They diminish life expectancy by years and even decades, wasting valuable human resources.

And then there are the deeply troubling health effects of apartheid in southern Africa, a problem so serious that it must be discussed in its own right. One cannot appreciate fully the impact of this policy until he or she has visited the frontline states in southern Africa and observed the disease, dysfunction and premature deaths caused by the government of South Africa's support for the guerrilla movement and for other forces designed to destabilize that entire region.

Last summer, I, along with other health and medical practitioners visited Mozambique as members of the Mozambique Health Assessment Mission sponsored by the Ford Foundation. Our analyses show that South Africa-supported terrorists have destroyed more than 500 health stations depriving some 3 million people of basic health services; forced the closing of 2,600 schools serving 500,000 children; caused the death of 280,000 children between 1980 and 1987; and forced the displacement of more than one-third of the state's population.

Less than 10 percent of the population have access to safe and sanitary water supplies and guerrilla attacks along the main roads have made it almost impossible to transport food and other supplies to approximately 900,000 people in need.

And here we must commend the outstanding work of UNICEF, CARE, WHO and many other nongovernmental organizations for their interventions in that state. Their efforts are beyond reproach and they deserve commendations of the highest order.

We also commend the Reagan Administration for its positive response to the appeal from APHA and others for the United States to pay its delayed contribution to the United Nations (UN). During the last week in October of this year, UN Ambassador Vernon Walters handed over checks totaling $110,000 million to the UN Secretary General for payments toward the amount Congress authorized for the UN in 1987 and 1988 and $60 million in a voluntary contribution to UNICEF and other relief organizations. It is expected that another payment of $28 million will be made within the next 30 days.

We have every right to be proud of these developments. But for southern Africa, we need a long-term solution to the public health problems and economic distress of the region. That solution is an immediate end to the political system of South Africa which stirs violence, destroys schools, homes and health care facilities and oppresses the majority of its people.

As long as apartheid is in power in South Africa, no amount of UN assistance and no effort by UNICEF or WHO can prevent the occurrence or the progression of physical and mental disorders among the children and adults of the region. Tentative truces between South Africa and its black-ruled neighbors are not enough. What is called for is the political and international will to insist on the complete abolition of a system that wounds children and destroys any hope of a future for them.

But one of the hardest adjustments for any entrenched system to make is for the people in power to discard outdated philosophies and political direction and make room for new possibilities. Social, economic and political systems that are flexible, that make productive use of all of its human resources can take better advantage of future scientific and technological development to prevent disease and premature deaths than those that attempt to graft new economic and social development onto rigid obsolete systems.

In the past, most public health specialists have appreciated that political oppression, social and economic deprivation were serious injustices but few have seen it as a threat to the health of every single community—individual and group. The fact is, however, we cannot build a strong world economy whose strength depends on a high level of wellness, on creative and cognitive skills if health promotion and disease prevention activities are reserved for a small select group.

It is not surprising that historians are taking a new look at the human health effects of social and economic systems and of political ideology and discovering interesting complexities and noteworthy origins. We observe this week the 50th Anniversary of *Kristallnacht*—the Night of Broken Glass—a period in November 1938 when Nazis rampaged against Jewish homes, businesses and places of worship. That tragic event of human resource destruction and everything that followed can be traced to the traditional German weakness of tribal nationalism, social-Darwinistic racism, and knee-jerk authoritarianism reaching far back into the 19th Century—similar in many respects to the development of the apartheid system in South Africa.

But whatever the relationship between *Kristallnacht* and the Holocaust and their similarities to present tragedies in Mozambique, never again should we allow the "virus of racial hatred" to increase the incidence of disease and disability and otherwise take its toll on world communities. We must be constantly aware that indifference and inertia in preventing racial injustices can be as destructive to our human resources as active bigotry.

Perhaps Secretary of State George Shultz summarized it best in a speech to the National Academy of Sciences last September and I can do no better than to quote him:

"For the United States, the course of our present and future policies is clear: We cannot successfully pursue our national political and security interest without taking global conditions into account."

Against all of the foregoing, what can be said about future practitioners of public health in an era when there will be a constant search for new definitions of the responsibilities of a learned profession in a quest for greater progress and prosperity?

The practitioners of the future will need the capability of dealing with a steadily expanding and increasingly sophisticated science base and effectively marrying it to his/her human support responsibilities.

The cutting edge in the advances of public health is the information derived from molecular genetics, physiology and biotechnology. This fact will be progressively more powerful in determining the insight into primary and secondary determinants of community health profiles.

The public health practitioner in this new era will need a deep appreciation for the continuity of his/her activities with those of the research establishment, and an understanding of the synergistic relationship between investigation and direct public health services.

And as AIDS has so clearly taught us, we must have more than simply a passing interest in the application of social science to public health services and to health policy.

As a group of distinguished social scientists have readily acknowledged, much of social science knowledge is too abstract, too uncertain and too qualified to serve practitioners or policymakers in a way that can be immediately applied. But more often than not, such insights and data inform the practitioner's thinking, their view of the problem and the options they consider.

Particularly for the occupational health specialist, new skills, knowledge and attitudes will be necessary to cope with health problems arising from the starting growth in diversity of the labor force. Of the 25 million people expected to join the labor force in the next dozen years, 85 percent will be women, minorities and immigrants. Occupa-

tional disease prevention and control will take place in a context of more dynamic interactions among labor, management and government within the industrial relations system impinged by international market and budgetary forces. The technological settings and the power context in the larger society will be among the epidemiologic considerations for understanding the origin of work-related illness. In a pivotal role, the occupational health specialist will be called on to help employers and employees understand and value differences and minimize stress in a work-setting where the teamwork will be critical to daily productivity. There will also be relevant new centers of concern about health care cost, health services for retirees, family issues such as day care, quality of education, and skill training, particularly in large enterprises requiring substantial out-placement of employees. These issues will be further exacerbated by more decentralized and diffuse U.S. workplaces and periods of bizarre macroeconomics fluctuation.

The curricular derivatives of the views presented here are several. Schools of medicine, of the health sciences, and of public health—if they are not to become extinct—will need more innovative and meaningful interplay with the world of public health practice—the so-called frontline.

This interaction must seek not simply the cultural enrichment of future health practitioners but early and extensive exposure to broad consideration of issues in human welfare—the economic and political aspects.

Techniques for the development and examination of public health policy, communication with the public and interfaces with those in many other fields will suggest themselves.

In the academic settings designed to prepare students for public health practice, all is not bad for scientists concerned with research, the scientist-professional primarily concerned with the provision of service. For continued stress in these areas is a certainty, and stress begets change and to the thoughtful, this provides the opportunity for innovation. But we must guard against the destructive effects of a system where academicians fiercely protect their turf, shrewdly hustle research, distort epidemiologic and biomedical data to enhance their private consulting services. These practices do not serve the larger ends of learning and culture nor do they address in a sincere way society's most pressing health needs.

CONCLUSIONS

The issues I have rehearsed remind us of how important it is to build an effective partnership throughout the public health community, with government, business and industry and with international health, economic and social systems throughout the world.

This coherence of disciplines—the synergism of the sciences, the congruity of responsibilities of health and medical researchers, educators and providers of direct health care—constitutes a tremendous potential to enhance the quality of life of people not only here at home but throughout the world.

We have the talent, the skills and commitment to excellence; if we remain open and engaged there will be reason for optimism and self-congratulations when we meet for the 117th Annual Meeting of this Association.

It has been a privilege to be able to work on parts of that agenda on behalf of APHA and I look forward to doing more in the months ahead.

SENATE—*Friday, January 20, 1989*

(Legislative day of Tuesday, January 3, 1989)

INAUGURATION OF THE PRESIDENT OF THE UNITED STATES AND THE VICE PRESIDENT

Members of the House of Representatives, Members of the Senate, Justices of the Supreme Court, members of the Cabinet, members of the diplomatic corps, the Governors of the States and the Mayor of the District of Columbia, the Joint Chiefs of Staff, and other distinguished guests assembled on the west front.

MRS. BUSH AND MRS. QUAYLE

Mrs. Ford, Mrs. Wright, Mrs. Michel, and Mrs. Stevens escorted Mrs. Bush and Mrs. Quayle to the President's platform.

THE PRESIDENT AND MRS. REAGAN

Mr. Giugni and Mr. Russ escorted the President and Mrs. Reagan, accompanied by Senator STEVENS and Representative MICHEL, to the President's platform.

THE VICE PRESIDENT-ELECT

Ms. Jeanine Drysdale-Lowe, Senate Deputy Sergeant at Arms, and Mr. Russ escorted the Vice President-elect, accompanied by Senator MITCHELL, Senator STEVENS, Representative MICHEL, and Representative FOLEY, to the President's platform.

THE PRESIDENT-ELECT

Senator FORD and Speaker WRIGHT, accompanied by Mr. Michael J. Ruehling, the executive director, and Mr. Giugni and Mr. Russ, escorted the President-elect to the President's platform.

THE INAUGURAL CEREMONY

Mr. FORD. Mr. President, Mr. Vice President, and my fellow Americans: On behalf of the Joint Congressional Committee on Inaugural Ceremonies, welcome to the Bicentennial Presidential Inauguration. It is now my pleasure to present for the invocation the Reverend Billy Graham.

Will everyone please rise?

INVOCATION

Reverend GRAHAM. Shall we pray?

Our Father and our God, Thou hast said blessed is the nation whose God is the Lord.

We recognize on this historic occasion that we are a nation under God. This faith in God is our foundation and our heritage. Thou hast warned us in the Holy Scriptures if the foundations be destroyed, what can the righteous do?

We confess that we are in danger of destroying some of those foundations for times our faith in Thee has faltered and we have chosen to go our own way than the way that Thou would have us go, both as individuals and as a nation.

Forgive us, we pray, as we turn to Thee in repentance and in faith. Restore us to Thyself and recreate within us a desire to follow Thy will for all our lives.

As George Washington reminded us in his Farewell Address, morality and faith are the pillars of our society. May we never forget that.

The Scriptures also say promotion comes not from the East nor from the West but from Thee.

We acknowledge Thy divine help in the selection of our leadership each 4 years.

We recognize, O Lord, in our sovereignty Thou hast permitted Ronald Reagan to lead us for the past 8 years. We pray that as he and his wife, Nancy, leave the White House and go to the west coast, Thou would give them many more years of health and happiness.

Now we come to a new era in our history. In Thy sovereignty, Thou hast permitted George Bush to lead us at this momentous hour in our history for the next 4 years. As he today places his hand upon the Bible and solemnly swears before Thee to preserve, protect, and defend the Constitution, give him the wisdom, integrity, and courage to help this become a nation that is gentle and kind.

Protect him from physical danger; and in the lovely moments of decision, grant him Thy wisdom to know what is morally right, and uncompromising courage to do it. Give him a cool head and a warm heart; give him a compassion for those in physical, moral, and spiritual need.

O God, we consecrate today George Herbert Walker Bush to the Presidency of these United States, with the assurance that from this hour on, as he and his family move into the White House, they will have the presence and the power of the One who said, "I will never leave thee nor forsake thee." We pray Thou will bless his wife, Barbara, and their children as they stand at his side, and his mother, who is here today. And what we pray for President Bush, we also pray for Vice President JAMES DANFORTH QUAYLE and his wife, Marilyn, and their children. We pray as well for the members of the Cabinet, the Congress, the courts, and all others whom Thou hast entrusted with positions of leadership. We pray that the spiritual tide that many of us have sensed running in this Nation may continue. As we read our newspapers and watch our television screens, it seems that evil is getting worse, but we thank Thee for the millions of people who pray daily and go to church and synagogue on the weekends. We believe that this is the day the Lord has made. Let us rejoice and be glad in it.

All this we pray in the name of the Father, the Son, and the Holy Spirit. Amen.

Mr. FORD. It is now my special pleasure to introduce the Harlan Boys' Choir from Harlan, KY, under the direction of Mr. David Davies. They will sing "This Is My Country."

(The Harlan, KY, Boys' Choir sang "This Is My Country.")

[Applause.]

Mr. FORD. It is now my pleasure to present my distinguished colleague, the honorable TED STEVENS, a Senator from Alaska, to introduce the Vice Presidential oath and the Presidential oath.

Senator STEVENS.

Mr. STEVENS. Thank you, Chairman FORD, for your many courtesies.

President and Mrs. Reagan and Vice President and Mrs. Bush, fellow citizens: The Vice President-elect will take his oath of his office as his wife, Marilyn Tucker Quayle, holds the Quayle family Bible. Their children, Tucker, Benjamin, and Corinne, will join them. The Vice President-elect has asked a gracious lady, the first woman to sit on the Highest Court of our land, to administer his oath of office. It is my honor to present now the distinguished Associate Justice of the Supreme Court, the Honorable Sandra Day O'Connor, to administer the oath of office to the Vice President-elect, JAMES DANFORTH QUAYLE.

ADMINISTRATION OF OATH OF OFFICE TO THE VICE PRESIDENT

Associate Justice O'CONNOR. Raise your right hand.

Associate Justice of the United States Sandra Day O'Connor administered to the Vice President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

I, JAMES DANFORTH QUAYLE, do solemnly swear that I will support and defend the Constitution of the United States; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on

which I am about to enter. So help me God.

Associate Justice O'CONNOR. Congratulations.

[Applause.]

Mr. STEVENS. S. Sgt. Alvy Powell, of the U.S. Army Band, will now sing "God Bless America."

(S. Sgt. Alvy Powell, of the U.S. Army Band, sang "God Bless America.")

[Applause.]

Mr. STEVENS. Thank you, Staff Sergeant Powell.

President Reagan, Vice President and Mrs. Quayle, fellow Americans: The wife of the President-elect, Barbara Bush, will hold the Bible first used at the inauguration of President George Washington, together with the Bush Bible.

With us today is the President-elect's mother, Mrs. Prescott Bush; George, Jr.; Neil; Marvin; and Dorothy, with their families, who join their father and mother on this platform.

It is now my great privilege and high honor to present the Chief Justice of the United States, the Honorable William Hubbs Rehnquist, who will administer the oath of office to the President-elect of the United States, George Herbert Walker Bush.

[Applause.]

ADMINISTRATION OF OATH OF OFFICE TO THE PRESIDENT

Mr. Chief Justice REHNQUIST. Please raise your right hand and repeat after me.

The Chief Justice of the United States, William Hubbs Rehnquist, administered to the President-elect the oath of office prescribed by the Constitution, which he repeated, as follows:

I, George Herbert Walker Bush, do solemnly swear that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. So help me God.

Mr. Chief Justice REHNQUIST. Congratulations.

[Applause.]

(Four ruffles and flourishes, "Hail to the Chief," and 21-gun salute.)

Mr. FORD. Ladies and gentlemen, the President of the United States.

INAUGURAL ADDRESS

President BUSH. Mr. Chief Justice, Mr. President, Vice President QUAYLE, Senator MITCHELL, Speaker WRIGHT, Senator DOLE, Congressman MICHEL, and fellow citizens, neighbors, and friends.

There is a man here who has earned a lasting place in our hearts—and in our history. President Reagan, on behalf of our Nation, I thank you for the wonderful things that you have done for America. [Applause.]

I have just repeated, word for word, the oath taken by George Washington 200 years ago; and the Bible on which I placed my hand is the Bible on which he placed his.

It is right that the memory of Washington be with us today, not only because this is our Bicentennial Inauguration, but because Washington remains the Father of our country. And he would, I think, be gladdened by this day, for today is the concrete expression of a stunning fact: our continuity these 200 years since our Government began.

We meet on democracy's front porch, a good place to talk as neighbors and as friends. For this is a day when our Nation is made whole, when our differences for a moment are suspended.

And my first act as President is a prayer. I ask you to bow your heads:

Heavenly Father, we bow our heads and thank You for Your love. Accept our thanks for the peace that yields this day and the shared faith that makes its continuance likely. Make us strong to do Your work, willing to heed and hear Your will, and write on our hearts these words: "Use power to help people." For we are given power not to advance our own purposes, nor to make a great show in the world, nor a name. There is but one just use of power, and it is to serve people. Help us to remember it, Lord. Amen.

I come before you and assume the Presidency at a moment rich with promise. We live in a peaceful, prosperous time, but we can make it better. For a new breeze is blowing, and a world refreshed by freedom seems reborn; for in man's heart, if not in fact, the day of the dictator is over. [Applause.]

The totalitarian era is passing, its old ideas blown away like leaves from an ancient, lifeless tree.

A new breeze is blowing—and a nation refreshed by freedom stands ready to push on: There is new ground to be broken, and new action to be taken.

There are times when the future seems thick as a fog; you sit and wait, hoping the mists will lift and reveal the right path.

But this is a time when the future seems a door you can walk right through—into a room called tomorrow.

Great nations of the world are moving toward democracy—through the door to freedom.

Men and women of the world move toward free markets—through the door to prosperity.

The people of the world agitate for free expression and free thought—through the door to the moral and intellectual satisfactions that only liberty allows.

We know what works: Freedom works. We know what's right: Freedom is right. We know how to secure a more just and prosperous life for man on Earth: through free markets, free speech, free elections, and the exercise of free will unhampered by the state. [Applause.]

For the first time in this century—for the first time in perhaps all history—man does not have to invent a system by which to live. We don't have to talk late into the night about which form of government is better. We don't have to wrest justice from the kings. We only have to summon it from within ourselves.

We must act on what we know. I take as my guide the hope of a saint: In crucial things, unity; in important things, diversity; in all things, generosity.

America today is a proud, free Nation, decent and civil—a place we cannot help but love. We know in our hearts, not loudly and proudly, but as a simple fact, that this country has meaning beyond what we see, and that our strength is a force for good.

But have we changed as a nation even in our time? Are we enthralled with material things, less appreciative of the nobility of work and sacrifice?

My friends, we are not the sum of our possessions. They are not the measure of our lives. In our hearts we know what matters. We cannot hope only to leave our children a bigger car, a bigger bank account. We must hope to give them a sense of what it means to be a loyal friend, a loving parent, a citizen who leaves his home, his neighborhood and town better than he found it.

What do we want the men and women who work with us to say when we are no longer there? That we were more driven to succeed than anyone around us? Or that we stopped to ask if a sick child had gotten better, and stayed a moment there to trade a word of friendship?

No President, no government, can teach us to remember what is best in what we are. But if the man you have chosen to lead this Government can help make a difference; if he can celebrate the quieter, deeper successes that are made not of gold and silk, but of better hearts and finer souls; if he can do these things, then he must.

America is never wholly herself unless she is engaged in high morale principle. We as a people have such a purpose today. It is to make kinder the face of the Nation and gentler the face of the world.

My friends, we have work to do. [Applause.]

There are the homeless, lost and roaming; there are the children who have nothing, no love, no normalcy; there are those who cannot free themselves of enslavement to whatever addiction—drugs, welfare, the demoralization that rules the slums. There is crime to be conquered, the rough crime of the streets. There are young women to be helped who are about to

become mothers of children they can't care for and might not love. They need our care, our guidance, and our education; though we bless them for choosing life.

The old solution, the old way, was to think that public money alone could end these problems. But we have learned that that is not so. And in any case, our funds are low. We have a deficit to bring down. We have more will than wallet; but will is what we need.

We will make the hard choices, looking at what we have, perhaps allocating it differently, making our decisions based on honest need and prudent safety.

And then we will do the wisest thing of all: We will turn to the only resource we have that in times of need always grows: the goodness and the courage of the American people. [Applause.]

I am speaking of a new engagement in the lives of others—a new activism, hands-on and involved, that gets the job done. We must bring in the generations, harnessing the unused talent of the elderly and the unfocused energy of the young. For not only leadership is passed from generation to generation, but so is stewardship. And the generation born after the Second World War has come of age.

I have spoken of a thousand points of light—of all the community organizations that are spread like stars throughout the Nation, doing good.

We will work hand in hand, encouraging, sometimes leading, sometimes being led, rewarding. We will work on this in the White House, in the Cabinet agencies. I will go to the people and the programs that are the brighter points of light, and I will ask every member of my government to become involved.

The old ideas are new again because they are not old; they are timeless: duty, sacrifice, commitment, and a patriotism that finds its expression in taking part and pitching in. [Applause.]

We need a new engagement, too, between the Executive and the Congress.

The challenges before us will be thrashed out with the House and the Senate. We must bring the Federal budget into balance. And we must ensure that America stands before the world united: strong, at peace, and fiscally sound. But, of course, things may be difficult.

We need compromise; we have had dissension. We need harmony; we have had a chorus of discordant voices.

For Congress, too, has changed in our time. There has grown a certain divisiveness. We have seen the hard looks and heard the statements in which not each other's ideas are challenged, but each other's motives. And our great parties have too often been far apart, and untrusting of each other.

It has been this way since Vietnam. That was cleaves us still. But, friends, that war began in earnest a quarter of a century ago; and surely the statute of limitations has been reached. This is a fact: The final lesson of Vietnam is that no great nation can long afford to be sundered by a memory.

A new breeze is blowing—and the old bipartisanship must be made new again. [Applause.]

To my friends—and yes, I do mean friends—in the loyal opposition—and yes, I mean loyal: I put out my hand.

I am putting out my hand to you, Mr. Speaker.

I am putting out my hand to you, Mr. Majority Leader.

For this is the thing: This is the age of the offered hand.

And we can't turn back clocks and I don't want to. But when our fathers were young, Mr. Speaker, our differences ended at the water's edge. And we don't wish to turn back time, but when our mothers were young, Mr. Majority Leader, the Congress and the Executive were capable of working together to produce a budget on which this Nation could live. Let us negotiate soon—and hard. But in the end, let us produce.

The American people await action. They didn't send us here to bicker. They ask us to rise above the merely partisan. [Applause.]

"In crucial things, unity"—and this, my friends, is crucial.

To the world, too, we offer new engagement and a renewed vow: We will stay strong to protect the peace. The "offered hand" is a reluctant fist; but once made, strong, and can be used with great effect.

There are today Americans who are held against their will in foreign lands, and Americans who are unaccounted for. Assistance can be shown here, and will be long remembered. Good will begets good will. Good faith can be a spiral that endlessly moves on.

"Great nations like great men must keep their word." When America says something, America means it, whether a treaty or an agreement or a vow made on marble steps. [Applause.]

We will always try to speak clearly, for candor is a compliment. But subtlety, too, is good and has its place.

While keeping our alliances and friendships around the world strong, ever strong, we will continue the new closeness with the Soviet Union, consistent both with our security and with progress. One might say that our new relationships in part reflects the triumph of hope and strength over experience. But hope is good. And so is strength. And vigilance.

Here today are tens of thousands of our citizens who feel the understandable satisfaction of those who have taken part in democracy and seen their hopes fulfilled.

But my thoughts have been turning the past few days to those who would be watching at home—

To an older fellow who will throw a salute by himself when the flag goes by, and the women who will tell her sons the words of the battle hymns. I don't mean this to be sentimental. I mean that on days like this, we remember that we are all part of a continuum, inescapably connected by the ties that bind.

Our children are watching in schools throughout our great land. And to them I say, thank you for watching democracy's big day. For democracy belongs to us all, and freedom is like a beautiful kite that can go higher and higher with the breeze.

And to all I say: No matter what your circumstances or where you are, you are part of this day, you are part of the life of our great Nation. [Applause.]

A President is neither prince nor pope, and I don't seek "a window on men's souls." In fact, I yearn for a greater tolerance, an easy-goingness about each other's attitudes and way of life.

There are few clear areas in which we as a society must rise up united and express our intolerance. The most obvious now is drugs. And when that first cocaine was smuggled in on a ship, it may as well have been a deadly bacteria, so much has it hurt the body, the soul of our country. And there is much to be done and to be said. But take my word for it: This scourge will stop. [Applause.]

And so, there is much to do; and tomorrow the work begins.

I do not mistrust the future; I do not fear what is ahead. For our problems are large, but our heart is larger. Our challenges are great, but our will is greater. And if our flaws are endless, God's love is truly boundless.

Some see leadership as high drama, and the sound of trumpets calling. And sometimes it is that. But I see history as a book with many pages—and each day we fill a page with acts of hopefulness and meaning.

The new breeze blows, a page turns, the story unfolds—and so today a chapter begins: a small and stately story of unity, diversity, and generosity—shared, and written, together.

Thank you.

God bless you and God bless the United States of America. [Applause.]

Mr. FORD. Please remain standing for the benediction by Rev. Billy Graham, and remain standing for the singing of our national anthem by S. Sgt. Alvy Powell.

Reverend GRAHAM. Shall we pray?

Our Father, we thank Thee for this great day in the history of democracy. May it touch the whole world. And now:

May the Lord bless thee and keep thee; the Lord make His face to shine upon thee and be gracious unto thee; the Lord lift up His countenance upon thee and give thee peace.

Amen.

The national anthem was sung by S. Sgt. Alvy Powell, audience standing. [Applause.]

The inaugural ceremonies were concluded at 12:28 p.m.

The Senate met at 3:02 p.m., and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Trust in the Lord with all thine heart; and lean not unto thine own understanding. In all thy ways acknowledge Him, and He shall direct thy path.—Proverbs 3:5-6.

Eternal God, all wise, all powerful and infinitely patient, thank Thee for this gracious guarantee of Godly direction in our lives when we meet the simple conditions laid down.

As the Senate enters its third century at a time of cosmic, domestic, and world need, give the Senators and all leadership the wisdom of Your Word and the will to obey, to the glory of God and benefit of the people.

In His name who is truth. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MITCHELL. Mr. President, the Senate is in session today for the sole purpose of receiving any executive nominations that President Bush may choose to submit to the Senate for its advice and consent. At the request of President Bush, several committees have already held hearings on some of the President's nominees that will head the Cabinet-level departments, and other committee hearings are scheduled before the Senate reconvenes on next Wednesday.

For the information of my colleagues, I want to outline the Senate's schedule as I now see it for today and next week.

Following this brief statement I will yield to the Republican leader, Senator DOLE. After any remarks he may wish to make and his yielding the floor, we will admit the President's messenger and receive his nominations. The Senate will then, after brief remarks by myself, recess until 12 noon on Wednesday, January 25, according to the provisions of Senate Concurrent Resolution 3.

There will not be any morning business today and under the order previously entered no bills or resolutions may be introduced.

After the Senate reconvenes on Wednesday at 12 noon, I will make a statement setting forth some of our objectives for this Congress. I anticipate that Senator DOLE will make a similar statement on behalf of the Republicans. There will then be a period of time for the transaction of routine morning business which will enable Senators to make speeches and introduce bills and resolutions.

I am planning to have rollcall votes on any of the President's nominations that have then been reported by committees and are ready for floor consideration. I expect that floor consideration on these nominations will begin in midafternoon on Wednesday.

When the Senate completes its business on Wednesday, I expect to recess or adjourn over until 2 p.m. on the following day, Thursday. Although Thursday is the day on which I earlier indicated that the Senate will stay later into the evening, in these first few months I do not anticipate that we should need to stay late next Thursday.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. Under the order, the Republican leader is recognized.

DEATH OF FORMER SENATOR GORDON ALLOTT

Mr. DOLE. Mr. President, it is with great sorrow that I announce to the Senate the passing of a former colleague, Senator Gordon Allott, of Colorado, who passed away Tuesday of this week. Our distinguished colleague, Senator BILL ARMSTRONG, is absent today attending the funeral.

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

A SENATOR'S SENATOR

● Mr. ARMSTRONG. Mr. President, this Tuesday Colorado and the Nation lost a man who was for me both a personal friend and a mentor. He was truly a Senator's Senator. Gordon Allott passed away this Tuesday and he will be greatly missed.

Funeral services are being held this Friday in Colorado. I will be there and of course will be expressing sympathy from all of us to Gordon's wife, Welda; his two sons Roger and Gordon, and the rest of the Allott family. But I know the Senate will also wish to take note of his passing and have asked that these remarks be placed in the RECORD.

We often hear the words "public servant," but I am not sure we always know what that means. For a fitting example, look no further than the life of Gordon Allott. County and city attorney; Army Air Force officer in World War II; district attorney; Colorado Lieutenant Governor; and three-term Member of the U.S. Senate. In the Senate Allott served on the Appropriations and Interior Committees. He was also chairman of the Senate Republican Policy Committee, the post I now hold. He promoted the interests of our State and of the country in a quiet, firm way. We admired his skill as a legislator, his foresight in planning for Colorado's future needs, his personal and public integrity.

Those qualities gave a generation of young men and women in Colorado an example to follow. And that, I think, is Gordon Allott's real legacy. He recruited talented young people; gave many their first start in politics and government; inspired others to become active in their own community. There are many graduates from the Gordon Allott school of public service—some with names of national prominence; others not as well known, but serving with the same dignity and conviction so characteristic of Senator Gordon Allott.

Colorado is truly a wonderful State. For those of us who live there and others who visit, it is so easy to see how our State inspired the words for the song "America the Beautiful." But, as Teddy Roosevelt once observed, Colorado's true wealth is not in our natural resources, not in our mountains, but in our people. Allott was still a young child when Roosevelt said that in a speech in Pueblo, CO; but, he must have had citizens like Gordon Allott in mind. I know I do.●

EXTENDING MY THANKS

Mr. DOLE. Mr. President, I would just take 1 second to thank the distinguished majority leader for outlining the program and to indicate and to extend my heartiest congratulations to President Bush, Vice President QUAYLE. In my view, we had an excellent ceremony. I also want to extend my thanks to the members of the Rules Committee, particularly the chairman, Senator FORD, and the ranking Republican, Senator STEVENS.

Now the hard part comes: Doing all these things that I think the President wants to do.

I was pleased this morning when the President directly suggested to the majority leader and the Speaker that he will be working with the Congress. He has assured me of that a number of times. So I would just say for the record that we wish the President the best of luck. He has our best wishes. He is off to a good start. We look forward to working with him and his administration.

I yield the floor.

ORDER TO PLACE CERTAIN NOMINATIONS ON THE EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that when the Senate receives the nominations of James A. Baker III to be Secretary of State, and Elizabeth Hanford Dole to be Secretary of Labor, they be placed directly on the Executive Calendar.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate will receive a message from the President of the United States.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

BUDGET OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT—PM 12

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on January 9, 1989, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, was referred jointly to the Committee on Appropriations and the Committee on the Budget:

THE BUDGET MESSAGE OF THE PRESIDENT

To the Speaker of the House of Representatives and the President of the Senate:

Eight years ago many in this country were concerned about the future of our economy, our government and, indeed, the Nation itself. Unemployment was high and rising. Inflation and interest rates were reaching record levels. Our Nation's defense capabilities had been weakened by neglect. The international prestige of the U.S. was at low ebb.

To resolve the economic problems then facing us, our administration proposed a recovery program centering on four fundamental principles:

—Reduce personal and business tax rates.

—Reduce the rate of growth of Federal spending.

—Reduce the Federal regulatory burden by eliminating unnecessary restrictions while protecting the public's interest and safety.

—Support a moderate and steady monetary policy to bring inflation under control.

To rebuild our defense capabilities and restore America's standing in the world we proposed expanded national security and international programs.

We also initiated the largest management improvement program ever attempted in order to restore the proper relationships among the Federal, State and local governments, and the private sector; to eliminate waste in Federal programs; and to introduce management controls and efficiencies, while improving services.

Today, the American people can be proud of the progress that has been made on each of these fronts. As a result of this progress, America is internally stronger, internationally more secure, and stands taller in the eyes of the world than it did 8 years ago.

EIGHT YEARS OF ACCOMPLISHMENT

Working together, we have accomplished much over the last eight years.

THE ECONOMY

—The current economic expansion, now in its seventy-fourth month, has outlasted all previous peacetime expansions in U.S. history. Business investment and exports are rising, and economic growth is expected to continue into the 1990's.

—Since this expansion began, 19 million new jobs have been created, while the unemployment rate has fallen by more than 5 percentage points—to 5.4 percent, the lowest level in 14 years.

—Inflation, which averaged 10.4 percent annually during the four years before our administration began, has averaged less than a third of that during the past six years.

—Real after-tax personal income has risen 24 percent since 1982, increasing our overall standard of living.

TAXES AND REGULATIONS

—Between 1981 and 1987, changes in the Federal tax code have made the tax laws more equitable, cut income tax rates, and eliminated Federal income taxes for 4.3 million low-income individuals and families.

—Since 1981, the time spent by the public filling out forms required by the Federal Government has been cut by 600 million hours annually, and the number of pages of regulations published annually in the *Federal Register* has been reduced by over 45 percent.

BUDGET

—The growth in domestic spending has been slowed, and the budget priorities have been shifted to those functions the Federal Government should provide, such as national defense, basic scientific research, and protecting the rights of all citizens.

—The social security system has been rescued from the brink of insolvency and made sound into the next century.

—The runaway growth of spending for means-tested entitlement programs that occurred in the 1970's has been curbed. Eligibility rules have been tightened to retarget benefits to the needy. Basic benefits for the poor, the elderly, and others in need of Federal assistance have been maintained.

—We have begun the process of putting other entitlement programs on a more rational basis, including Medicare hospital insurance, which was converted to a system that encourages efficiency and lower costs.

DEFENSE AND INTERNATIONAL AFFAIRS

—Our defenses have been strengthened. Weapons systems have been modernized and upgraded. We are recruiting and retaining higher caliber military personnel. The readiness, training, and morale of our troops have been improved significantly.

—As a result of our greater strength, we were able to negotiate with the Soviet Union a verifiable treaty that completely eliminates an entire class of nuclear missiles.

—We began the Strategic Defense Initiative research and technology program that offers our best hope of a safer world in which our security, and that of our allies, no longer rests on deterrence through the threat of nuclear retaliation, but on defenses that threaten no one.

—Our willingness to defend freedom throughout the world has met with success in the spread of democracy and in turning back the tide of Communist expansion.

MANAGEMENT OF THE GOVERNMENT

—Federal agencies undertook a major management improvement program, "Reform '88," to carry out the cash, credit, and financial

operations of the Federal Government in a more business-like manner, and to reduce waste, fraud, and abuse.

—Functions that were pre-empted by the Federal Government are being transferred back to the private sector or to State and local governments.

—Greater use is being made of cost sharing and user fees, shifting the cost of projects and programs where appropriate to those who benefit from them.

THE FEDERAL DEFICIT

The one area in which I have been persistently disappointed throughout my term of office has been in the efforts to bring the budget under control. Time and again I have proposed measures to help curb Federal domestic program spending. Time and again these proposals have been rejected by Congress.

The reasons for the rise in the Federal deficit in the early 1980's are simple. First, we experienced one of the most severe recessions of the postwar period. It has been estimated that 81 percent—over $640 billion—of the growth of the deficit over the 1981-1986 levels originally projected in my March 1981 budget was attributable to that recession. The second reason is that, even after including necessary increases for defense, my March 1981 budget called for net spending reductions totaling $331 billion over 5 years; but Congress approved less than 40 percent of those reductions. Wasteful programs continued to be funded. The necessary reductions have still not been made.

If the deficit is not curbed by continuing to limit the appetite of government, we put in jeopardy all that we worked so hard over the years to achieve. Large deficits brought on by excessive domestic spending undercut the incentives to work and save by absorbing the savings that would otherwise lead to productive investment. We cannot allow this to happen.

I am proud of America's accomplishments. Our economy is booming, our defenses are stronger, and our standing in the world is again second to none.

THIS BUDGET REDUCES THE 1990 DEFICIT BELOW THE G-R-H TARGET AND ACHIEVES BALANCE IN 1993

The fiscal year 1990 budget, my last, represents a continuation of my efforts to reduce the Federal budget deficit through restraint in domestic spending.

The budget I am submitting today complies with the deficit targets set in the Gramm-Rudman-Hollings (G-R-H) Act, by proposing measures that meet the 1990 deficit target of $100 billion and assure a steady reduction in the deficit leading to a balanced budget in 1993.

Under my proposals, the deficit would decline to less than 2 percent of GNP in 1990, and the Federal debt held by the public would also decline as a proportion of GNP.

BUDGET SUMMARY

(Dollar amounts in billions)

	1988	1989	1990	1991	1992	1993	1994
Receipts	909.0	975.5	1,059.3	1,140.5	1,212.2	1,281.4	1,345.0
Outlays	1,064.0	1,137.0	1,151.8	1,207.3	1,244.4	1,279.0	1,311.6
Surplus or deficit (−)	−155.1	−161.5	−92.5	−66.8	−32.2	2.4	33.4
Surplus or deficit (−) without asset sales	−155.1	−161.5	−98.6	−69.2	−34.3	1.6	32.6
G-R-H deficit targets	−144.0	−136.0	−100.0	−64.0	−28.0	0.0	NA
Difference	11.1	25.5	−1.4	5.2	6.3	−1.6	NA
ADDENDUM							
Surplus or deficit (−) as a percent of GNP	−3.2	−3.2	−1.7	−1.1	−0.5	0.0	0.5

Note.—Totals include social security, which is off-budget.
NA: Not available

This budget shows that a gradual elimination of the deficit is possible without raising taxes, without cutting into essential social programs, without devastating defense, and without neglecting other national priorities. It can be done in a reasonable, responsible way—with discipline and fairness. New taxes are not required. Receipts will grow dramatically between 1989 and 1990 because our economy is growing. This budget simply proposes to increase spending by less than the increase in revenues, and therefore, reduce the deficit. The proposed reforms will yield additional deficit reductions in future years. We have an opportunity this year to put the worst of the deficit problem behind us and enable the next Administration to begin its term of office with a clean slate and with the promise of continuing prosperity.

FUNDING NATIONAL PRIORITIES

To address urgent national priorities within the deficit limit set by the G-R-H Act, my budget proposes that some programs—such as those for AIDS research and prevention, drug enforcement, and technology development—receive significant funding increases, while others are reduced, reformed, or, in some cases, terminated.

DEFENSE

Maintaining peace and protecting our country are the foremost responsibilities of the Federal government. Defense budget authority declined in real (inflation-adjusted) terms for the fourth straight year with funding of $299 billion for 1989. This trend cannot continue without severe impact on combat readiness. Therefore, my budget requests defense funding of $315 billion in budget authority and $303 billion in outlays for 1990, and $331 billion in budget authority and $314 billion in outlays in 1991. These amounts provide 2 percent annual real growth in budget authority over the 1989 level, bringing it back up to the 1984 level in inflation-adjusted terms by 1991. The budget also projects 2 percent real growth in these programs in future years.

We must continue to maintain our nuclear deterrent. For 1990, the budget proposes $9.0 billion for atomic energy defense programs, a $0.9 billion increase over 1989. A total of $2.8 billion is dedicated to the modernization of the nuclear materials production complex and to increase environmental clean-up and waste management efforts.

INTERNATIONAL

To consolidate and build on the foreign policy gains of the past eight years, additional funds are needed for international affairs that would promote our foreign policy and national security interests in the Middle East, Central America, and elsewhere. A special program is proposed to foster strong economic growth in the Philippines to support that country's return to democracy. Other increases in foreign aid would pay arrearages on contributions to multilateral lending institutions and make payments to the United Nations and related agencies.

DRUG ABUSE AND LAW ENFORCEMENT

Our fight against drug abuse must continue, as well as our efforts to protect the individual against crime:

—For drug law enforcement, prevention, and treatment programs, I propose $5.7 billion in 1990, an increase of $164 million over 1989. This funding, together with the new authorities and sanctions contained in the Anti-Drug Abuse Act

of 1988, will enable us to move toward our goal of a drug-free America.

—To relieve prison overcrowding and adequately house a growing inmate population, I would provide $1.6 billion for prison construction and operation, $193 million more than was devoted to this purpose in 1989.

AIDS RESEARCH AND EDUCATION

This budget reflects my belief that addressing the problem of AIDS must remain a top priority:

—Preventing and alleviating suffering from the Human Immunodeficiency Virus (HIV), which causes AIDS, is our highest public health priority. Federal support for research, prevention, and treatment exceeds $2.1 billion in 1989, and will approach $2.8 billion in 1990. This budget asks for $1.6 billion, or 24 percent over 1989, for Public Health Service HIV funding.

RESEARCH

One of our highest priorities is to strengthen U.S. technology and make America more competitive. For example:

—I propose a continued increase in federally supported basic research aimed at longer-term improvements in the Nation's productivity and global competitiveness. This budget continues the commitment to double National Science Foundation support for academic basic research by 1993, increases support for training future scientists and engineers, and expedites transfer of the results of Government-funded basic research to industry.

—Our space program will provide $13.1 billion for continued development of America's first permanently manned space station; for increased support for improving the performance and reliability of the space shuttle; for initiation of two major new international planetary space science missions; and for support to encourage the commercial development of space.

—Also included in the budget is $250 million in 1990 as the Federal share of support for initiating construction of the Superconducting Super Collider (SSC). Non-Federal cost sharing arrangements will be required to support one-third of the project's costs. The SSC as currently envisaged will be the largest pure science project ever undertaken. It will help keep this country on the cutting edge of high energy physics research well into the next century.

OTHER PRIORITIES

Other areas of Federal responsibility receive priority funding in this budget:

—To continue the Federal Aviation Administration's multi-year program to increase its controller and inspector workforces and to modernize the Nation's air traffic control systems, the budget provides $7.7 billion—a 17 percent increase over the 1989 level.

—To alleviate the problems facing our savings institutions, I propose that the Federal Savings and Loan Insurance Corporation (FSLIC) spend $16 billion in 1989 and $9 billion in 1990 to address the most serious thrift institution problems. The Secretary of the Treasury is developing a comprehensive plan to resolve the savings industry's problems, and reform the financial institution regulatory structure and deposit insurance system to prevent a reoccurrence of these problems. I expect the Secretary to submit his proposals to the new President shortly.

—To improve coordination of Federal rural development programs and to redirect funding toward needy rural areas and program recipients, I am continuing support of the rural development initiative coordinated by the Secretary of Agriculture.

—By emphasizing housing vouchers, I would provide housing assistance to 132,000 additional low-income households in 1990, 5 percent more than the 126,124 additional households receiving housing subsidies in 1989. Housing vouchers can serve more low-income households at a lower Federal cost and provide greater opportunity for these families to rent housing of their own choosing.

—To maintain the progress we have been making in fostering State and local education reform, I would sustain the present level of spending on discretionary education programs at $18.5 billion, but refocus those funds to put more money where the needs of the disadvantaged and students with handicaps are greatest.

—To continue the significant progress we have made in cleaning up the environment, I recommend a $105 million increase for the Environmental Protection Agency's regulatory, research and enforcement programs. I also recommend an increase of $315 million for the Superfund hazardous waste cleanup program in order to maintain the program's momentum and support a stronger enforcement role.

—Because changes in the earth's natural systems can have tremendous economic and social effects, global climate change is becoming a critical concern. Our ability to understand and predict these changes is currently limited, and a better understanding is essential for developing policies. The budget proposes a coordinated and effective Federal research program on global change. This budget is accompanied by a report by the Committee on Earth Sciences that describes this program and its strategy.

—Last year's fires on Federal forestlands indicated the need for more timely funding for annual firefighting costs. I therefore propose that two new Federal wild land firefighting accounts be established in the Departments of Agriculture and Interior.

—To further strengthen our energy security, I propose legislation authorizing the sale of the naval petroleum reserves to the private sector in exchange for cash and oil to be added to the strategic petroleum reserve. I also propose the establishment of a separate 10 million barrel defense petroleum inventory.

—To provide for the timely completion of my Reform '88 management improvement program I propose an additional $103 million for 1990, to further improve our management and credit systems.

MAJOR PROGRAMS ARE REFORMED TO ACHIEVE DEFICIT REDUCTION

The program structure and incentives underlying many domestic Federal programs need to be altered to promote greater efficiency and cost-effectiveness.

—Current farm price support programs are far too costly. For the period 1986-89 an estimated $130 billion in Federal spending for farm-related assistance programs provided an average of nearly $600,000 per farmer. Much of this assistance goes to farmers with high incomes—more than twice the U.S. family average. I therefore propose outlay reductions for the price and income support programs of $2 billion in 1990 and additional annual reductions of between $2 and $2.5 billion in each year from 1991 through 1994. In addition, I urge reform of the counterproductive sugar price support program.

—The rapidly rising costs of the medicare program need to be moderated. I propose a reasonable increase in the medicare prospective payment system rate and reductions in hospital capital payments and special graduate medical education payments. Also, in an effort to restrain excessive growth in supplementary medical insurance (SMI) costs, I propose extension of the current law SMI premiums, limitations on physician payments, reductions in payments for certain overpriced procedures, and reforms in the durable medical equipment payment system. Medicare spending would still grow by 9 percent between 1989 and 1990 under these

proposals—but not by the 13 percent that would occur under current law.

—I also propose reforms in the medicaid program to reduce spending growth between 1989 and 1990 to $1.7 billion, or 5 percent, rather than the $3.3 billion, or 9 percent, that would occur under current law. These reforms reinstate successful incentives employed in the early 1980's. My budget also proposes restructuring Federal financing of administrative expenses to give States greater incentives to operate their administrative systems as efficiently as possible.

—The Government often continues programs at the Federal level that are either duplicative or are no longer needed, or more appropriately undertaken by other levels of government or the private sector. This is the case with the Economic Development Administration, Amtrak, urban mass transit discretionary grants, and most operating subsidies for the Postal Service. Efforts to reverse this situation have been undertaken by prior administrations as well as my own. These programs should be eliminated. The budget proposes termination of 82 programs that are not needed to satisfy national priorities.

—Under current law, outlays for Federal employee retirement and health benefits are estimated to grow from $51.3 billion in 1989 to $55.9 billion in 1990. I propose freezing retirement cost-of-living allowances (COLAs) and other reforms to hold the 1990 level to slightly above that for 1989, reducing the growth that would otherwise occur by $4.4 billion.

ACHIEVING A PROPER FEDERAL ROLE AND IMPROVING MANAGEMENT

As the Federal Government grew, it took on improper responsibilities, and managed its programs inefficiently. We undertook to return the Federal Government to its proper role. We also initiated a major program to improve the management of the remaining programs. These priorities are continued and expanded in this budget.

PRIVATIZATION

The Government and the private sector should each do what it does best. The Federal Government should not be involved in providing goods and services where private enterprise can do the job cheaper and better.

Accordingly, my budget proposes that a number of Federal enterprises be opened to the private sector, through public offerings or outright sales. Following our success in the sale of Conrail and the sale of $21 billion in selected loan portfolios, I am proposing sale of the naval petroleum reserves, the Alaska Power Administration, and the Southeastern Power Administration. I also propose sale of the Federal Government's helium-processing assets, excess real property, and a further $4.3 billion in loan portfolios. In addition, my budget proposes legislation to establish a government corporation for the uranium enrichment enterprise, as the first step towards eventual privatization.

The Federal Government should also depend more on the private sector to provide ancillary and support services for activities that remain in Federal hands. Therefore, I propose a number of pilot projects and studies in areas such as the private delivery of advertising materials and urgent mail, and the Department of Justice's prison hospitals.

IMPROVED MANAGEMENT

In 1981, I made a promise to the American people "to limit Government to its proper role and make it the servant, not the master, of the people." My "Management Improvement Program: Reform '88" has helped make Government more efficient and more responsive. We reduced waste and fraud in Federal programs by combining the efforts of the inspectors general into the President's Council on Integrity and Efficiency, resulting in over $110 billion saved or put to better use—and their efforts are continuing.

I saw that the Federal Government did not have effective cash management practices for dealing with what is now a $2 trillion annual cash flow, nor did it have a government-wide credit management program for what is now a $1 trillion portfolio. This resulted in the waste of billions of dollars each year. We built the necessary government-wide controls in both areas and stopped the drain.

Moreover, we began the establishment of the first government-wide financial accounting system, consolidating and making uniform over 400 previously incompatible individual agency systems. This was essential for any well-managed government, and is presently being implemented.

The Federal Government has a major effect on our daily lives through the collection of taxes and fees, the direct provisions of services, the payment of financial assistance through various entitlement programs, and the regulation of commercial enterprises. Through modernization, improved administration, and automated services the Government has made substantial reductions in the time it takes to provide services to the public. As the 21st century approaches, the Federal Government must adapt its role in our society to changing conditions and changing technology. At the turn of the century, the U.S. population will exceed 268 million, with a larger proportion of elderly citizens. Changes in technology and communication will increasingly link the world's economies, trade, capital flows, and travel as never before.

The 1990 *Management Report*, which is being forwarded to the Congress as part of the 1990 budget submission, reflects the highlights of OMB's report to me on "Government of the Future." That *Management Report* has been expanded as a beginning to a planning process that has, in part, shaped the proposals in this budget and should become a part of the annual budget process.

BUDGET PROCESS REFORM IS DESPERATELY NEEDED TO CONTINUE DEFICIT REDUCTION

The persistence of the budget deficit is overwhelming evidence that the Federal budget process is fundamentally flawed. Past efforts at "reform" have been directed largely toward protecting a large portion of domestic spending from real fiscal discipline. Fourteen years after passage of the Congressional Budget Act and three years after enactment of the Balanced Budget and Emergency Deficit Control Act, the Federal budget process remains unwieldy and undisciplined. The American people expect better of their political system, and they deserve it.

Under the Congressional Budget Act, Congressional budget resolutions—Congress' proposed budgets—are passed each year. They are not sent to the President for approval and, therefore, are not law. They provide guidance to the committees of Congress, but the guidance is often late and ambiguous. The resolutions are usually passed well after the dates required by law, and well after they are needed by the finance, authorizing, and appropriations committees. Moreover, there is little agreement within Congress on the guidance provided. The House of Representatives and the Senate do not agree, except in the most general terms, on the priorities implied by resolutions both have approved.

Except for last year's on-time performance, Congress' self-imposed budget deadlines have usually been missed, and massive continuing resolutions and reconciliation bills have been the rule rather than the exception. These large, cumbersome bills provide cozy hiding places for hundreds of special interest add-ons, which line-item veto authority would permit the President to challenge.

A number of changes in the budget process—most of which I have recommended before—are needed to instill budget discipline throughout the legislative process. I urge Congress to adopt the following measures:

Balanced budget amendment.—I remain committed to and urge approval of a constitutional amendment requiring a balanced budget. The amendment should require a super-

majority vote (at least 60 percent) in the Congress to increase taxes.

Line-item veto.—My successors should be given the authority, subject to Congressional override, to veto line-items in annual appropriations bills, in authorizing legislation that provides or mandates funding for programs, and in revenue bills. Such authority would permit the elimination of substantial waste and would be an effective instrument for enforcing budget discipline.

Enhanced rescission authority.—To enhance the President's ability to control Government spending, I recommend that line-item veto authority be complemented by a change in law that would require the Congress to vote "yea" or "nay" on any rescission proposed by the President. Current law allows the Congress to duck responsibility by simply ignoring proposed rescissions for 45 days.

Biennial budgeting.—The annual budget process consumes too much time and energy. A biennial budget would reduce the repetitive budget tasks, allow more time for considering key spending and revenue decisions, provide less scope for gimmicks that give the illusion of "savings," such as shifting spending from one year to another without affecting the underlying programs, and permit the realization of real savings that would be possible with a more assured availability of funds. For these reasons, I recommend that biennial budgeting be adopted.

Joint budget resolution.—To ensure the broader scrutiny and stricter discipline that is needed in the congressional budget process, I propose that Congress be required to prepare a budget resolution covering a minimum of two years showing revenue proposals individually and showing spending priorities. The Congress should also be required to submit its budget resolution to the President for his signature or veto. Subsequent legislation which exceeds these allocations should not be considered without super-majority approval.

Individual transmittal of appropriations bills.—The practice of transmitting full-year continuing resolutions covering a number of appropriations bills does not permit the Legislative and Executive Branches to exercise proper scrutiny of those bills. Too often in the past, such continuing resolutions have provided convenient cover for special-interest spending that would not survive close scrutiny. To minimize this risk, I propose that appropriations bills be transmitted individually to the President.

Credit reform.—The effects of credit activities are recorded imperfectly under current budget accounting. The subsidy component of Federal lending programs remains hidden.

To correct this major fault in the budget system, I recommended credit reform legislation two years ago. This legislation, which I am recommending again, would measure the true cost—the present value—of the subsidies provided by Federal credit programs and put that cost on an expenditure basis equivalent to the cost of other Federal programs. This change must be an integral part of the reform of the budget process.

Measuring the effects of budget proposals.—Budget discipline and lasting deficit reduction would be facilitated if the Legislative and Executive Branches were to use a common set of principles for scoring budget proposals and actions on them. I urge that the Congressional Budget Office and the Office of Management and Budget be charged with the responsibility to develop, in consultation with the budget, finance, authorizing, and appropriations committees, a common set of budget scoring principles for use by the Legislative and Executive Branches.

Adoption of these reforms should enable the Federal Government to make informed decisions in a deliberate fashion that fosters rational priorities. The American people deserve no less from their elected representatives.

CONCLUSION

The accomplishments of the American people in the past eight years will always be for me a source of pride. However, we must continue our recent progress in reducing the Federal deficit.

Deficit reduction is a key national priority, written into law by the G-R-H Act, which, despite its defects, legislated a process to achieve a balanced budget.

This budget achieves the 1990 target of the amended Act, and projects a budget balance in 1993. It preserves legitimate programs for the aged and needy, provides for adequate national security, devotes more resources to other high-priority activities, and accomplishes all this without raising taxes. Tax increases are not needed. History shows that they would simply be used by the Congress to increase spending. Tax increases have been overwhelmingly voted down in the last three Presidential elections.

I call upon the Congress to enact this budget. Higher taxes are not needed—as this budget demonstrates—but genuine deficit reduction through moderating the growth in spending is essential to enable the next Administration and Congress to address the Nation's agenda for the future.

Over the past eight years, we Americans have made our world a safer place for freedom because we had the will to reinvigorate our economy, rebuild our defenses, and provide for the less fortunate among us. Together, we achieved a new beginning for our country and prepared the way for the next Administration to build on our accomplishments.

RONALD REAGAN.

JANUARY 9, 1989.

BUDGET RESCISSIONS—MESSAGE FROM THE PRESIDENT—PM 13

Under the authority of the order of February 3, 1987, the Secretary of the Senate, on November 29, 1988, during the sine die adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totaling $4,635,275,000 and three revised deferrals of budget authority now totaling $3,725,586,833.

The deferrals affect programs in Funds Appropriated to the President, and the Departments of State and Transportation.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *November 29, 1988.*

MESSAGES FROM THE HOUSE RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate received the following message from the House of Representatives during the recess of the Senate:

The House has agreed to the following concurrent resolutions, without amendment:

S. Con. Res. 1. Concurrent resolution to provide for the counting on January 4, 1989, of the electoral votes for President and Vice President of the United States;

S. Con. Res. 2. Concurrent resolution to extend the life of the Joint Congressional Committee on Inaugural Ceremonies and the provisions of S. Con. Res. 141;

S. Con. Res. 3. Concurrent resolution providing for a recess of the Senate from January 4, 1989 to January 20, 1989, and an adjournment of the House from January 4, 1989, to January 19, 1989; and

S. Con. Res. 4. Concurrent resolution amending S. Con. Res. 3.

The message also announced that the House has agreed to the following resolution:

H. Res. 14. Resolution notifying the Senate of the appointment of managers on the part of the House for the trial of impeachment of Judge Alcee L. Hastings.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-134. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a Soil Conservation Service plan for the Howard Creek Watershed, WV; to the Committee on Agriculture, Nutrition, and Forestry.

EC-135. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the annual report on the Nation's agricultural research and education (extension and teaching) activities for 1987; to the Committee on Agriculture, Nutrition, and Forestry.

EC-136. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the initial country and commodity allocation table showing current programming plans for food assistance under Public Law 480 for fiscal year 1989; to the Committee on Agriculture, Nutrition, and Forestry.

EC-137. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the interest rate charged to borrowers as determined by the Governor of the Rural Telephone Bank; to the Committee on Agriculture, Nutrition, and Forestry.

EC-138. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on a deferral contained in the President's fifth special impoundment message for fiscal year 1988; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Foreign Relations.

EC-139. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on ten deferrals contained in the President's first special impoundment message for fiscal year 1989; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations.

EC-140. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, as amended on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Foresty, the Committee on Armed Services, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Foreign Relations, and the Committee on the Judiciary.

EC-141. A communication from the Assistant Secretary of Energy (Management and Administration), transmitting, pursuant to law, a report entitled "Electric Power: Issues Concerning Expansion of the Pacific Northwest-Southwest Intertie"; to the Committee on Appropriations.

EC-142. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Attending Physician Revolving Fund for the 16-Month Period Ended January 31, 1988"; to the Committee on Appropriations.

EC-143. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on a violation of the Anti-Deficiency Act; to the Committee on Appropriations.

EC-144. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the allocation of funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on Appropriations.

EC-145. A communication from the Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter July 1 through September 30, 1988; to the Committee on Armed Services.

EC-146. A communication from the Comptroller of the Department of the Defense, transmitting, pursuant to law, a supplemental contract award report for the period November 1 through December 31, 1988; to the Committee on Armed Services.

EC-147. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the study with respect to converting the commissary resale warehouse function at Plattsburg Air Force Base, NY, to performance by contract; to the Committee on Armed Services.

EC-148. A communication from the Fiscal Assistant Secretary of the Treasury, transmitting, pursuant to law, a report on the actual amount of revenues deposited in the Panama Canal Commission Fund during fiscal year 1988; to the Committee on Armed Services.

EC-149. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report by NATO's Defence Planning Committee entitled "Enhancing Alliance Collective Security Shared Roles Risks and Responsibilities in the Alliance; to the Committee on Armed Services.

EC-150. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Stars and Stripes: Inherent Conflicts Lead to Allegations of Military Censorship"; to the Committee on Armed Services.

EC-151. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notification that the Defense Logistics Agency intends to exercise a provision of law for exclusion of the clause concerning the examination of records by the Comptroller General, to the Committee on Armed Services.

EC-152. A communication from the President of the United States, transmitting, pursuant to law, a report concerning the extension of the national emergency with respect to Iran; to the Committee on Banking, Housing, and Urban Affairs.

EC-153. A communication from the Associate Director of ACTION (Office of Policy and research), transmitting, pursuant to law, the annual report on the homeless required under the Stewart B. McKinney Homeless Assistance Act, to the Committee on Banking, Housing, and Urban Affairs.

EC-154. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the seventh annual report on the Congregate Housing Services Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-155. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-156. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, the annual report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-157. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report on the Rental Rehabilitation Program for fiscal year 1988; to the Committee on Banking, Housing, and Urban Affairs.

EC-158. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-159. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "International Trade Issues"; to the Committee on Banking, Housing, and Urban Affairs.

EC-160. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: National Credit Union Administration's fiscal years 1987 and 1986 Financial Statements"; to the Committee on Banking, Housing, and Urban Affairs.

EC-161. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-162. A communication from the Secretary of Labor, transmitting, pursuant to law, the report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-163. A communication from the Secretary of Labor, transmitting, pursuant to law, the report required under the Stewart B. McKinney Homeless Assistance Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-164. A communication from the Chairman of the Federal Home Loan Bank Board, transmitting, pursuant to law, the annual report of the Board for calendar year 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-165. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Securities Investor Protection Corporation for 1987; to the Committee on Banking, Housing, and Urban Affairs.

EC-166. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Services Industry Issues"; to the Committee on Banking, Housing, and Urban Affairs.

EC-167. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Home Loan Banks' 1987 Financial Statements"; to the Committee on Banking, Housing, and Urban Affairs.

EC-168. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit: Federal Asset Disposition Association's 1987 Financial Statements"; to the Committee on Banking, Housing, and Urban Affairs.

EC-169. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Budget Deficit"; to the Committee on the Budget.

EC-170. A communication from the Acting Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the Board for 1987; to the Committee on Commerce, Science, and Transportation.

EC-171. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the semiannual report on the effectiveness of the Civil Aviation Security program for the period January 1, through June 30, 1988; to the Committee on Commerce, Science, and Transportation.

EC-172. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the administration of the Pipeline Safety Act for calendar year 1987; to the Committee on Commerce, Science, and Transportation.

EC-173. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report on progress on developing and certifying the Traffic Alert and Collision Avoidance System for September 1988; to the Committee on Commerce, Science, and Transportation.

EC-174. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Commerce Issues"; to the Committee on Commerce, Science, and Transportation.

EC-175. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the administration of the Pipeline Safety Act for calendar year 1987; to the Committee on Commerce, Science, and Transportation.

EC-176. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-177. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Automotive Technology Development Program for fiscal year 1988; to the Committee on Energy and Natural Resources.

EC-178. A communication from the Deputy Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, an annual report describing royalty management and debt collection activities during fiscal years 1986 and 1987; to the Committee on Energy and Natural Resources.

EC-179. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-180. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-181. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-182. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-183. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-184. A communication from the Director of the National Park Service, Department of the Interior, transmitting, pursuant to law, the third summary report of the National Park Service; to the Committee on Energy and Natural Resources.

EC-185. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on proposals received in response to the Innovative Clean Coal Technology Program Opportunity Notice; to the Committee on Energy and Natural Resources.

EC-186. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of oil and gas lease revenues; to the Committee on Energy and Natural Resources.

EC-187. A communication from the Associate Deputy Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report on the observance of Federal Lands Cleanup Day; to the Committee on Energy and Natural Resources.

EC-188. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Interior Issues"; to the Committee on Energy and Natural Resources.

EC-189. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on financing, supply and installation activities of public utilities in connection with the Residential Conservation Service Program; to the Committee on Energy and Natural Resources.

EC-190. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Availability Adequacy and Comparability of Testing Procedures for the Analysis of Pollutants"; to the Committee on Environment and Public Works.

EC-191. A communication from the Chairman of the Migratory Bird Conservation Commission, transmitting, pursuant to law, the annual report of the Commission for fiscal year 1988; to the Committee on Environment and Public Works.

EC-192. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Environmental Protection Agency Issues"; to the Committee on Environment and Public Works.

EC-193. A communication from the Chairman of the Inland Waterways Users Board, transmitting, pursuant to law, the second annual report of the Board; to the Committee on Environment and Public Works.

EC-194. A communication from the Acting Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, a report entitled "Implementation Plan for Deployment of Federal Interim Storage Facilities for Commercial Spent Nuclear Fuel"; to the Committee on Environment and Public Works.

EC-195. A communication from the chairman of the Committee on Energy and Commerce, U.S. House of Representatives, transmitting, pursuant to law, a General Accounting Office report on the Environmental Protection Agency's proposed post-1987 ozone and carbon monoxide program; to the Committee on Environment and Public Works.

EC-196. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Heavy Vehicle Cost Responsibility Study"; to the Committee on Finance.

EC-197. A communication from the Secretary of Health and Human Resources, transmitting, pursuant to law, a report entitled "Appeals By Telephone: Appellant reactions and Implications For Appeals Processing"; to the Committee on Finance.

EC-198. A communication from the United States Trade Representative, transmitting, pursuant to law, a report containing recommendations regarding ways to tighter restrictions on United States imports from Cuba; to the Committee on Finance.

EC-199. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Treasury Issues"; to the Committee on Finance.

EC-200. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Attorney Fees Under Title II of the Social Security Act; to the Committee on Finance.

EC-201. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Health and Human Services Issues"; to the Committee on Finance.

EC-202. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, a report entitled "Separate PPS Payment Rates for Hospitals in Large Urban Areas and Other Urban Areas"; to the Committee on Finance.

EC-203. A communication from the United States Trade Representative, transmitting, pursuant to law, the annual report on the operation of the International Coffee Agreement for coffee years 1987/88; to the Committee on Finance.

EC-204. A communication from the Acting Secretary of State, transmitting, pursuant to law, a report on an incident in Athens, Greece; to the Committee on Foreign Relations.

EC-205. A communication from the President of the United States transmitting, pursuant to law, a report on developments concerning the national emergency with respect to Nicaragua; to the Committee on Foreign Relations.

EC-206. A communication from the President of the United States, transmitting, pursuant to law, a report on Soviet noncompliance with arms control agreements; to the Committee on Foreign Relations.

EC-207. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to December 8, 1988; to the Committee on Foreign Relations.

EC-208. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the Presidential determination for payment of the outstanding fiscal year 1989 funds toward the calendar year 1988 budget of the United Nations.

EC-209. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60 day period prior to December 22, 1988; to the Committee on Foreign Relations.

EC-210. A communication from the Secretary of State, transmitting, pursuant to law, certification that Israel is not being denied its right to participate in the activities of the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC-211. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Foreign Economic Assistance Issues"; to the Committee on Foreign Relations.

EC-212. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on imports during January, February, and March 1988 of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-213. A communication from the Secretary of Commerce, transmitting, pursuant to law, the April 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-214. A communication from the Secretary of Commerce, transmitting, pursuant to law, the May 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-215. A communication from the Secretary of Commerce, transmitting, pursuant to law, the June 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-216. A communication from the Secretary of Commerce, transmitting, pursuant to law, the July 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-217. A communication from the Secretary of Commerce, transmitting, pursuant to law, the August 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-218. A communication from the Secretary of Commerce, transmitting, pursuant to law, the September 1988 report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance; to the Committee on Foreign Relations.

EC-219. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, the semiannual report of the Inspector General for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-220. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report on alterations to eight Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-221. A communication from the Vice President (Human Resources) of the Farm Credit Services, transmitting, pursuant to law, the annual report of the Twelfth District Farm Credit Retirement Plan and Thrift Plan for calendar year 1987; to the Committee on Governmental Affairs.

EC-222. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a proposed new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-223. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a proposed new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-224. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the semiannual report of the Inspector General, U.S. Information Agency for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-225. A communication from the Assistant Secretary of Transportation (Administration), transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-226. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Housing and Urban Development for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-227. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the seminnual report of the Inspector General of NASA for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-228. A communication from the Secretary of the Interior, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of the Interior for the period of April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-229. A communication from the Secretary of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the semiannual report on the Civil Misrepresentation Investigative Activities of the Postal Service for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-230. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report on the Commission's internal control and financial systems; to the Committee on Governmental Affairs.

EC-231. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, a report summarizing and analyzing executive agencies' reports showing the amount of personal property furnished to non-Federal recipients; to the Committee on Governmental Affairs.

EC-232. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Allegations Regarding Contract No. JA/87927 Between DHS and TMA Corporation"; to the Committee on Governmental Affairs.

EC-233. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Bi-Annual Audits of the Advisory Neighborhood Commissions—Wards 2, 6 and 7 for the period October 1 1985 through September 30, 1987"; to the Committee on Governmental Affairs.

EC-234. A communication from the Associate Director of the United States Information Agency (Management), transmitting, pursuant to law, the Agency's annual report on internal control and financial systems for calendar year 1988; to the Committee on Governmental Affairs.

EC-235. A communication from the Administrator of the U.S. Small Business Administration, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Small Business Administration, for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-236. A communication from the Special Counsel of the Merit Systems Protection Board, transmitting, pursuant to law, a report on the investigation into allegations of violations of law and regulations resulting in mismanagement and gross waste of funds at the Farmers Home Administration, Lewiston, ME; to the Committee on Governmental Affairs.

EC-237. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the annual report on competition advocacy for fiscal year 1988; to the Committee on Governmental Affairs.

EC-238. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report on internal accounting and administrative controls of the Department of the Interior; to the Committee on Governmental Affairs.

EC-239. A communication from the Deputy Assistant to the President of the United States and Director, Office of Information, transmitting, pursuant to law, a report concerning personnel employed in the White House Office the Executive residence at the White House the Office of the Vice President the Office of Policy Development (Domestic Policy and the Office of Administration; to the Committee on Governmental Affairs.

EC-240. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and administrative controls of the Postal Rate Commission; to the Committee on Governmental Affairs.

EC-241. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report on the system of internal ac-

counting and administrative controls of the Agency for fiscal year 1988; to the Committee on Governmental Affairs.

EC-242. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "review of the District's Emergency Assistance Services (EAS) Program For Housing Security Deposits"; to the Committee on Governmental Affairs.

EC-243. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General, Department of Transportation for the period April 1 to September 30, 1988; to the Committee on Governmental Affairs.

EC-244. A communication from the Acting Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the annual report of the Commission on competition advocacy for fiscal year 1988; to the Committee on Governmental Affairs.

EC-245. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and administrative controls of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-246. A communication from the Federal Co-chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the annual report on the system of internal accounting and administrative controls of the Commission in effect during fiscal year 1988; to the Committee on Governmental Affairs.

EC-247. A communication from the Assistant Secretary of Agriculture (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-248. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-249. A communication from the Secretary of the Commission of Fine Arts, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-250. A communication from the Special Counsel of the Merit Systems Protection Board, transmitting, pursuant to law, a report on the investigation into allegations that members of the National Health Service Corps were inappropriately assigned and that a member of the Corps misused Government property, supplies, and personnel; to the Committee on Governmental Affairs.

EC-251. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, a report on Competition Advocacy; to the Committee on Governmental Affairs.

EC-252. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report on the activities of the Office of Inspector General, U.S. Department of Commerce, for the period April 1, 1988, through September 30, 1988; to the Committee on Governmental Affairs.

EC-253. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning surplus Federal real property disposed of to educational institutions; to the Committee on Governmental Affairs.

EC-254. A communication from the Secretary of Defense, transmitting, pursuant to law, the Semiannual Report on Audit, Inspection, and Investigative operations in the Department of Defense, which covers the 6-month period ending September 30, 1988; to the Committee on Governmental Affairs.

EC-255. A communication from the Comptroller General of the United States, transmitting a report on Financial Management Issues facing the new administration and the Congress; to the Committee on Governmental Affairs.

EC-256. A communication from the Comptroller General of the United States, transmitting, the second transition report; to the Committee on Governmental Affairs.

EC-257. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, pursuant to law, a report on the system of internal accounting and administrative control of the Agency relative to compliance with the appropriate requirements as set forth in the Federal Managers' Financial Integrity Act of 1982; to the Committee on Governmental Affairs.

EC-258. A communication from the Administrator, U.S. Small Business Administration, transmitting, pursuant to law, a report on the Administration's internal control and financial systems; to the Committee on Governmental Affairs.

EC-259. A communication from the Administrator, Panama Canal Commission, transmitting, pursuant to law, a report on the Commission's system of internal accounting and administrative control; to the Committee on Governmental Affairs.

EC-260. A communication from the Acting Chairman, U.S. International Trade Commission, transmitting, pursuant to law, a report on the Commission's internal control and financial systems; to the Committee on Governmental Affairs.

EC-261. A communication from the Chairman, Commodity Futures Trading Commission, transmitting, pursuant to law, a report on the Commission's internal control and financial systems; to the Committee on Governmental Affairs.

EC-262. A communication from the Director of ACTION, transmitting, pursuant to law, a report on ACTION'S internal control and financial systems; to the Committee on Governmental Affairs.

EC-263. A communication from the Director, Federal Mediation and Conciliation Service, transmitting, pursuant to law, a report on the Service's internal control and financial systems; to the Committee on Governmental Affairs.

EC-264. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on the Board's internal control and financial systems; to the Committee on Governmental Affairs.

EC-265. A communication from the Assistant U.S. Trade Representative for Administration, Office of the U.S. Trade Representative, transmitting, pursuant to law a report on a new system of records; to the Committee on Governmental Affairs.

EC-266. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on the Administration's internal control and administrative control systems in effect during the fiscal year ended September 30, 1988; to the Committee on Governmental Affairs.

EC-267. A communication from the Administrator, NASA, transmitting, pursuant to law, a report on NASA's internal control and financial systems; to the Committee on Governmental Affairs.

EC-268. A communication from the Chairman, Federal Labor Relation Authority, transmitting, pursuant to law, a report on the Authority's internal controls and financial systems; to the Committee on Governmental Affairs.

EC-269. A communication from the Chairman, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report on the Commission's internal controls and financial systems; to the Committee on Governmental Affairs.

EC-270. A communication from the Secretary of State transmitting pursuant to law, a report on the Department's internal control systems; to the Committee on Governmental Affairs.

EC-271. A communication from the Inspector General, Department of Energy, transmitting, pursuant to law, the semiannual report for the Office of Inspector General; to the Committee on Governmental Affairs.

EC-272. A communication from the Secretary of Energy, transmitting pursuant to law, a report on the Department's internal control system; to the Committee on Governmental Affairs.

EC-273. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the Department's financial management/accounting systems; to the Committee on Governmental Affairs.

EC-274. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report on the Special Counsel's internal control and financial systems; to the Committee on Governmental Affairs.

EC-275. A communication from the Director, Selective Service System, transmitting, pursuant to law, a report on the System's internal control and financial systems; to the Committee on Governmental Affairs.

EC-276. A communication from the Acting Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's annual report on competition; to the Committee on Governmental Affairs.

EC-277. A communication from the Acting Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report on the Commission's internal control and financial systems; to the Committee on Governmental Affairs.

EC-278. A communication from the Deputy Secretary of Defense; transmitting, pursuant to law, a report on the Department's internal control and financial systems; to the Committee on Governmental Affairs.

EC-279. A communication from the Chairman, National Advisory Council on Indian Education, transmitting, pursuant to law, the Council's 14th annual report to Congress; to the Select Committee on Indian Affairs.

EC-280. A communication from the Adjutant General, Military Order of the Purple Heart, transmitting, pursuant to law, a report on the Order's financial audit; to the Committee on the Judiciary.

EC-281. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report certifying the region specified in paragraph 581(a)(7) of title 28, United States Code, comprised of the Southern District of Texas and the Western District of Texas to the Court of

Appeals for the fifth Circuit; to the Committee on the Judiciary.

EC-282. A communication from the Attorney General of the United States, transmitting, pursuant to law, a report certifying the region specified in paragraph 581(a)(15) of title 28, United States Code, comprised of the Southern District of California; and the judicial districts established for the State of Hawaii, and for Guam and the Commonwealth of the Northern Mariana Islands to the Court of Appeals for the Ninth Circuit; to the Committee on the Judiciary.

EC-283. A communication from the President, National Safety Council, transmitting, pursuant to law, a report on the Council's financial transactions for the fiscal years ended June 30, 1988 and 1987; to the Committee on the Judiciary.

EC-284. A communication from the President, National Safety Council, transmitting, pursuant to law, the Council's 1988 annual report; to the Committee on the Juidiciary.

EC-285. A communication from the Clerk, United States Claims Court, transmitting, pursuant to law, the Court's report for the year ended September 30, 1988; to the Committee on the Judiciary.

EC-286. A communication from the Administrator, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, transmitting, pursuant to law, a report entitled "Twelfth Analysis and Evaluation: Federal Juvenile Delinquency Programs"; to the Committee on the Judiciary.

EC-287. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report for 1988 on compliance by States with personnel standards for radiologic technicians; to the Committee on Labor and Human resources.

EC-288. A communication from the Secretary of Education transmitting, pursuant to law, the 1988 annual report of the International Research and Studies Program; to the Committee on Labor and Human Resources.

EC-289. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the effectiveness of programs under the Family Violence Prevention and Services Act; to the Committee on Labor and Human Services.

EC-290. A communication from the Secretary of Education, transmitting, pursuant to law a report entitled "Priorities—the Vocational Education Cooperation Demonstration Program (Dropout Prevention)"; to the Committee on Labor and Human Resources.

EC-292. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the second report of the Department of Health and Human Services Council on Alzheimer's; to the Committee on Labor and Human Resources.

EC-293. A communication from the Secretary of Health and Human Services; transmitting, pursuant to law, a report on notice of final funding priorities for rehabilitation and training centers for fiscal year 1989; to the Committee on Labor and Human Resources.

EC-294. A communication from the Secretary of Education, transmitting, pursuant to law, a report on final regulations—Perkins Loan Program, College Work-Study Program, and Supplemental Educational Opportunity Grant Program; to the Committee on Labor and Human Resources.

EC-295. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the second report to Congress of the Alcohol, Drug Abuse, and Mental Health Advisory Board; to the Committee on Labor and Human Resources.

EC-296. A communication from the Director of Communications and Legislative Affairs, U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's annual report on the employment of minorities, women and individuals with handicaps in the Federal Government fiscal year 1987; to the Committee on Labor and Human Resources.

EC-297. A communication from the Secretary of Education, transmitting, pursuant to law, a report on the final selection criteria for the Student Assistance General Provisions, Institutional Quality Control Pilot Project; to the Committee on Labor and Human Resources.

EC-298. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for fiscal year 1988; to the Committee on Small Business.

EC-299. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the second quarterly commodity and country allocation table showing current programming plans for commodity assistance under PL-480; to the Committee on Agriculture, Nutrition, and Forestry.

EC-300. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the Executive Branch's allocation of funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act; to the Committee on Appropriations.

EC-301. A communication from the Cocharimen of the Defense Secretary's Commission on Base Realignment and Closure, transmitting, pursuant to law, the report of the Commission to the Secretary of Defense; to the Committee on Armed Services.

EC-302. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, the contract award report for the period January 1 to February 28, 1989; to the Committee on Armed Services.

EC-303. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the claim of a certain individual for reimbursement of travel expenses; to the Committee on Armed Services.

EC-304. A communication from the Under Secretary of Defense, transmitting, pursuant to law, a report on actions taken by the Department of Defense to simplify and streamline acquisition procedures; to the Committee on Armed Services.

EC-305. A communication from the President of the United States, transmitting, pursuant to law, notice of the continuation of the national emergency with respect to Libya; to the Committee on Banking, Housing, and Urban Affairs.

EC-306. A communication from the President of the United States, transmitting, pursuant to law, a report stating that there have been no amendments to the Libyan Sanctions Regulations; to the Committee on Banking, Housing, and Urban Affairs.

EC-307. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Export Administration for fiscal year 1988; to the Committee on Banking, Housing, and Urban Affairs.

EC-308. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report required by Section 1014(e) of the Congressional Budget and Impoundment Act of 1974; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-309. A communication from the Acting Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a report on the Commission's fiscal year 1990 budget request; to the Committee on Commerce, Science, and Transportation.

EC-310. A communication from the Administrator, Federal Aviation Administration, U.S. Department of Transportation, transmitting, pursuant to law, a report on certain Federal Aviation Administration rulemaking proceedings as required by Section 303 of the Airport and Airway Safety and Capacity Enhancement Act (P.L. 100-223); to the Committee on Commerce, Science, and Transportation.

EC-311. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, a report containing figures for 1986 and 1987 sales and advertising expenditures relative to the Comprehensive Smokeless Tobacco Health Education Act of 1986; to the Committee on Commerce, Science, and Transportation.

EC-312. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on a plan to enable the Coast Guard to meet ninety-five percent of its wartime mobilization requirements by September 30, 1988; to the Committee on Commerce, Science, and Transportation.

EC-313. A communication from the Secretary of Transportation, transmitting, pursunat to law, a report on the plans to accomplish the Coast Guard's Antisubmarine Warfare mission responsibilities in the Maritime Defense Zone; to the Committee on Commerce, Science, and Transportation.

EC-314. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-315. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on implementation of Public Law 96-571, the "Alaska Federal-Civilian Energy Efficiency Swap Act of 1980"; to the Committee on Energy and Natural Resources.

EC-316. A communication from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting, pursuant to law, a report regardiing the refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-317. A communication from the Acting Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the Secretary's report pursuant to Section 175 of the Nuclear Waste Policy Act; to the Committee on Energy and Natural Resources.

EC-318. A communication from the President of the United States; transmitting, pursuant to law, a report on requisite findings and determinations to permit the export of certain Alaska crude oil to Canada; to the Committee on Energy and Natural Resources.

EC-319. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on the annual determination regarding the viability of the domestic uranium mining and milling industry; to the Committee on Energy and Natural Resources.

EC-320. A communication from the Commissioner, Public Building Service, General Services Administration, transmitting, pursuant to law, the Service's annual report on the GSA's implementation of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

EC-321. A communication from the Assistant Secretary, Environment, Safety, and Health, Department of Energy, transmitting, pursuant to law, an annual report summarizing the Department's progress in implementing the requirements of the Superfund Amendments and Reauthorization Act; to the Committee on Environment and Public Works.

EC-322. A communication from the Assistant Secretary of the Army (Civil Works), Department of the Army, transmitting, pursuant to law, a report regarding a project at Little River, Horatio, Arkansas; to the Committee on Environment and Public Works.

EC-323. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the weight-distance tax feasibility study; to the Committee on Finance.

EC-324. A communication from the Secretary of Labor transmitting pursuant to law the ERISA annual report for 1987; to the Committee on Finance.

EC-325. A communication from the Assistant Secretary (Management), Department of the Treasury, transmitting, pursuant to law, a report on the status and operation of the State and Local Government Fiscal Assistance Trust Fund for fiscal year 1988; to the Committee on Finance.

EC-326. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, the annual report on the Private Secot Revolving Fund for fiscal year 1988; to the Committee on Foreign Relations.

EC-327. A communication from the Assistant Legal Advisor for Treaty Affairs, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to January 5, 1989; to the Committee on Foreign Relations.

EC-328. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the annual report on the operation of the Special Defense Acquisition Fund for fiscal year 1988; to the Committee on Foreign Relations.

EC-329. A communication from the Acting Director of the Arms Control and Disarmament Agency, transmitting, pursuant to law, the Fiscal Year 1990 Arms Control Impact Statement; to the Committee on Foreign Relations.

EC-330. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report on the Development Assistance Program Allocations for fiscal year 1989; to the Committee on Foreign Relations.

EC-331. A communication from the President of the United States, transmitting, pursuant to law, the latest recommendations of the Quadrennial Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Governmental Affairs.

EC-332. A communication from the Chairman of the Board of Governors of the United States Postal Service, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-333. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the Department's system of internal control and financial systems for fiscal year 1988; to the Committee on Governmental Affairs.

EC-334. A communication from the Chairman of the United States International Cultural and Trade Center Commission, transmitting, pursuant to law, the annual report on the systems of internal control and financial systems of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-335. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on surplus real property transferred in fiscal year 1988 for public health purposes; to the Committee on Governmental Affairs.

EC-336. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the annual report on systems of internal control and accounting systems for fiscal year 1988; to the Committee on Governmental Affairs.

EC-337. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the system of internal control and financial systems for fiscal year 1988; to the Committee on Governmental Affairs.

EC-338. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the system of internal controls for fiscal year 1988; to the Committee on Governmental Affairs.

EC-339. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the report on the system of internal controls for fiscal year 1988; to the Committee on Governmental Affairs.

EC-340. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the system of internal controls for fiscal year 1988; to the Committee on Governmental Affairs.

EC-341. A communication from the Attorney General of the United States, transmitting, pursuant to law, the report on the internal control and financial systems of the Department of Justice for fiscal year 1988; to the Committee on Governmental Affairs.

EC-342. A communication from the Acting Executive Director of the United States Holocaust Memorial Commission, transmitting, pursuant to law, the report on the internal controls and financial systems of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-343. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report on the system of internal controls and financial systems of the Corporation for fiscal year 1988; to the Committee on Governmental Affairs.

EC-344. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports issued by the General Accounting Office during November 1988; to the Committee on Governmental Affairs.

EC-345. A communication from the Deputy Assistant to the President and Director of the Office of Administration, Executive Office of the President, transmitting, pursuant to law, a report on the system of internal controls and financial systems of the Office for fiscal year 1988; to the Committee on Governmental Affairs.

EC-346. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, a report on the Commission's interagency coordination activities for the period October 1, 1986 through September 30, 1987; to the Committee on Governmental Affairs.

EC-347. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the internal controls and financial systems of the Office of Personnel Management for fiscal year 1988; to the Committee on Governmental Affairs.

EC-348. A communication from the Acting Secretary of Agriculture transmitting, pursuant to law, a report on an altered Primary Act system of records; to the Committee on Governmental Affairs.

EC-349. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the internal controls and financial systems of the Department for fiscal year 1988; to the Committee on Governmental Affairs.

EC-350. A communication from the Acting Chairman of the Farm Credit Administration, transmitting, pursuant to law, a report on the internal controls and financial systems of the Administration for fiscal year 1988; to the Committee on Governmental Affairs.

EC-351. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, a report on the internal controls and financial systems of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-352. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the biennial report on the Senior Executive Service; to the Committee on Governmental Affairs.

EC-353. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, a report on the internal controls and accounting systems of the Department for fiscal year 1988; to the Committee on Governmental Affairs.

EC-354. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government, Fiscal Year 1989"; to the Committee on Governmental Affairs.

EC-355. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the report on the internal controls and accounting systems of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-356. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the internal controls and accounting systems of the Department for fiscal year 1988; to the Committee on Governmental Affairs.

EC-357. A communication from the Chairman of the National Capital Planning Commission, transmitting, pursuant to law, the report on the system of internal control and financial systems of the Commission for fiscal year 1988; to the Committee on Governmental Affairs.

EC-358. A communication from the Chairman of the National Endowment for the

Humanities, transmitting, pursuant to law, the report on the internal controls and financial systems of the Endowment for fiscal year 1988; to the Committee on Governmental Affairs.

EC-359. A communication from the Administrator of General Services, transmitting, pursuant to law, a report on the internal controls and financial systems of the General Services Administration for fiscal year 1988; to the Committee on Governmental Affairs.

EC-360. A communication from the Director of the Institute of Museum Services, transmitting, pursuant to law, the annual report of the Institute under the Freedom of Information Act for calendar year 1988; to the Committee on the Judiciary.

EC-361. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the fifth annual report on agency activities under the Equal Access to Justice Act; to the Committee on the Judiciary.

EC-362. A communication from the Acting Executive Director of the United States Holocaust Memorial Council, transmitting a draft of proposed legislation to authorize appropriations to carry out the programs of the United States Holocaust Memorial Council; to the Committee on the Judiciary.

EC-363. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Act during calendar year 1986; to the Committee on Labor and Human Resources.

EC-364. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Acting Commissioner of Education Statistics on the National Assessment of Educational Progress; to the Committee on Labor and Human Resources.

EC-365. A communication from the Assistant Secretary of Defense (Force Management and Personnel), transmitting, pursuant to law, the audit report of the American Red Cross for the year ended June 30, 1988; to the Committee on Labor and Human Resources.

EC-366. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the Black Lung Benefits Act during calendar year 1986; to the Committee on Labor and Human Resources.

EC-367. A communication from the Secretary of Education transmitting, pursuant to law, the annual report on the administration of the Education for Homeless Children and Youth Program for fiscal year 1988; to the Committee on Labor and Human Resources.

EC-368. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for the Transition Program for Refugee Children; to the Committee on Labor and Human Resources.

EC-369. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report on the performance of the Industrial Applications Centers and their ability to interact with the Nation's small business community; to the Committee on Small Business.

EC-370. A communication from the Administrator of Veterans' Affairs and the Secretary of Defense, transmitting jointly, pursuant to law, a report on the implementation of the progam providing for the sharing of medical information between the Veterans' Administation and the Department of Defense; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE CONCURRENT RESOLUTION. No. 14

"Whereas, the Soil Conservation Service of the United States Department of Agriculture provides technical assistance to private landowners through cooperative agreements between the landowners and local soil and water conservation districts; and

"Whereas, local conservationists work with participating landowners to assess the problems on their property and to develop comprehensive conservation plans to protect wetland resources; and

"Whereas, local districts have the only resource management programs of this type available to individual wetland landowners; and

"Whereas, most of Louisiana's marshland is privately owned, making cooperation with private landowners an essential tool in preserving and restoring the state's vanishing wetlands; and

"Whereas, landowners have signed cooperative agreements on approximately two and one-half million of the over three million acres of coastal marsh area in Louisiana, with conservation plans currently developed for about 700,000 acres; and

"Whereas, several watershed projects are also underway in Louisiana, involving measures to protect, develop, and utilize land and water resources in small watersheds; and

"Whereas, federal participation in these projects is limited to technical assistance, no monies having been budgeted for federal cost share to implement recommended restoration structures at Bayou Penchant in Terrebonne Parish or Bayou L'Ours in Lafourche Parish; and

"Whereas, if the referenced watershed projects were implemented, more than one hundred seventy-six thousand acres of coastal marsh would be restored; and

"Whereas, although federal start-up monies were authorized for the Golden Meadow Plant Materials Center, no annual operations funding has been authorized for that facility; and

"Whereas, annual operations funding would allow accelerated vegetation plantings in critical wetland erosion areas; and

"Whereas, the total budget for the Soil Conservation Service in Louisiana in Fiscal Year 1988 was a mere $536,000 less $125,000 reimbursed from the Department of Natural Resources, an amount which is clearly inadequate for the high priority needs that exist in the coastal area; and

"Whereas, funding requirements of the Soil Conservation Service often place upland conservation programs and funding at a higher priority than work in the wetlands; and

"Whereas, it is in coastal Louisiana that a portion of shoreline and wetlands equivalent to the size of a football field is disappearing every fifteen minutes: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to provide that erosion control in coastal wetlands be elevated within the United States Department of Agriculture's Soil Conservation Service to the same level of priority as erosion control in upland areas and to provide funding commensurate with that change in policy, all for the purpose of reducing the rapid rate of coastal land loss in Louisiana: Be it further

"Resolved, That the Legislature of Louisiana also memorializes the Congress of the United States to accomplish the following with respect to these enumerated projects:

"(1) Provide that the Lake Penchant Watershed Project in Terrebonne Parish include federal cost sharing and provide increased funding over a six-year period for such project for the purpose of restoring one hundred fourteen thousand acres of coastal marsh using vegetative planting and water management.

"(2) Provide that the West Fork Bayou L'Ours Watershed Project in Lafourche Parish include federal cost sharing and provide increased funding over a six-year period for such project for the purpose of restoring over sixty-two thousand acres of coastal marsh using vegetative planting and water management.

"(3) Provide annual operations funding for the Golden Meadow Plant Materials Center for the purpose of accelerating outfield vegetative plantings in critical erosion areas: Be it further

"Resolved, That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-2. A resolution adopted by the City Council of Cambridge, MA, opposing new rules and regulations with respect to public housing tenants; to the Committee on Banking, Housing, and Urban Affairs.

POM-3 A resolution adopted by the City Council of Somerville, MA, relative to affordable housing; to the Committee on Banking, Housing, and Urban Affairs.

POM-4. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION No. 10

"Whereas, Louisiana's coastal marshlands serve multiple functions that are important to the nation's economy by annually supplying: thirty percent of the nation's seafood; forty percent of the wild fur harvest; sixty-six percent of the migratory birds using the Mississippi Flyway with wintering habitat; and twenty-two percent of the nation's energy needs which are obtained from oil and gas beneath the marshlands and offshore waters; and

"Whereas, the marshlands serve as the first line of protection for our coastal communities and their two million residents and an extensive inland navigation system and deep water ports built by state and federal governments; and

"Whereas, the marshlands are disappearing due to natural activities which include subsidence and sea level rise estimated at 0.5 inches a year; and

"Whereas, the marshlands are also disappearing due to human activities which include construction of: flood control levees along the Mississippi River preventing freshwater and sediment from overflowing and rebuilding the marshlands; Mississippi River Ship Channel for navigation which directs river sediment into deep waters of the

Gulf of Mexico where the sediment is lost; and thousands of miles of oil and gas pipelines which are needed to carry these fuels from offshore areas to northern markets disects the marshes; and

"Whereas, together, the natural and human activities have caused 1.4 million acres of Louisiana's marshlands to disappear in the last eighty years: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to direct the implementation of Section 907 of the Water Resources Development Act of 1986 to ensure that in the economic evaluation the benefits attributable to measures be deemed at least equal to the costs of such measures: Be it further

"Resolved, That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-5. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION No. 11

"Whereas, Louisiana's coastal marshlands serve multiple functions that are important to the nation's economy by annually supplying: thirty percent of the nation's seafood worth six hundred eighty million dollars, forty percent of the wild fur harvest worth twenty million dollars, ten million days of recreation worth four hundred million dollars, sixty-six percent of the migratory birds using the Mississippi Flyway with wintering habitat, and twenty-two percent of the nation's energy needs that are obtained from oil and gas fields beneath the marshlands and offshore waters worth an estimated twenty-seven billion dollars; and

"Whereas, Louisiana's marshlands serve as the first line of protection for our coastal communities and their two million residents, for our extensive inland navigation system and deep water ports built by the state and federal government, and for the freshwater supply for our coastal communities, industries, and agriculture; and

"Whereas, our marshlands are disappearing as a result of natural activities, including subsidence and sea level rise estimated at 0.5 inches per year, and human activities which include the construction of flood control levees along the Mississippi River which prevents freshwater and sediment from overflowing and rebuilding the marshlands, Mississippi River Ship Channel for navigation directs river sediment into deep waters of the Gulf of Mexico where the sediment is lost, 8,200 miles of navigation, drainage and irrigation canals segments the marshes; and thousands of miles of oil and gas pipelines which are needed to carry these fuels from offshore areas to northern markets disects the marshes; and

"Whereas, natural and human activities together have caused 1.4 million acres of Louisiana's marshlands to disappear in the last eighty years: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to amend the Water Resources Development Act of 1986 (Public Law 99-662) to amend Section 1155 of that Act to include the following:

" 'The Congress finds that Louisiana's coastal marshlands provide benefits that are of national importance but the marshlands are disappearing, and that the Federal flood control and navigation projects on the lower Mississippi River are preventing river water and sediment from nourishing the marshlands. It is in the public interest to enhance the environment by restoring Louisiana's coastal marshes. Such environmental improvements are deemed to be a co-equal purpose with the flood control and navigation projects on the lower Mississippi River. The non-Federal share of the cost of enhancement projects constructed under this Section shall be twenty-five percent, except where such projects affect publicly owned wildlife refuges, in such cases the first cost shall be all federal. The authorization for projects constructed under Section 1155 is extended through fiscal year 1994. In the five year period, the Secretary is directed to construct environmental enhancement projects by modifying the following projects:

" '(1) Mississippi River and Tributaries Project, LA. (Flood Control Act of 1928) The Secretary is directed to implement a program of marsh creation projects that would use low crested-weirs to divert sediment-laden Mississippi and Atchafalaya River waters below the Old River Control Structure into coastal marshes and water bodies, and marsh restoration projects that would use control structures to divert fresh water from the Mississippi and Atchafalaya Rivers below the Old River Control Structure into coastal marshes and water bodies. $30,000,000 is authorized to be appropriated for each of fiscal years 1990, 1991, 1992, 1993 and 1994 to carry out this work:

" '(2) Mississippi River Ship Channel, Gulf to Baton Rouge, LA Project (Supplemental Appropriation Act for FY 1985, PL 99-88). The Secretary is directed to build marsh creation projects by pumping material dredged from the navigation channel into coastal marshes and water bodies. $15,000,000 is authorized to be appropriated for each of fiscal years 1990, 1991, 1992, 1993 and 1994 to carry out this work; and

" '(3) Gulf Intracoastal Waterway, LA Section (River and Harbor Act of 1946). The Secretary is directed to build marsh creation projects by pumping material dredged from the navigation channel into coastal marshes and water bodies, and marsh restoration projects that would divert fresh water from the GIWW into the marshes and water bodies in the vicinity of mile 225. $5,000,000 is authorized to be appropriated for each of fiscal years 1990, 1991, 1992, 1993 and 1994 to carry out this work': Be it further

"Resolved, That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-6. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION No. 12

"Whereas, Louisiana's coastal marshlands serve multiple functions that are important to the nation's economy by annually supplying thirty percent of the nation's seafood, forty percent of the wild fur harvest, ten million days of recreation, sixty-six percent of the migratory birds using the Mississippi Flyway with wintering habitat, and twenty-two percent of the nation's energy needs that are obtained from oil and gas fields beneath the marshlands and offshore waters; and

"Whereas, the marshlands serve as the first line of protection for our coastal communities and their two million residents, an extensive inland navigation system and deep water ports built by the state and federal governments, and freshwater supplies for coastal communities, industries, and agriculture; and

"Whereas, the marshlands are disappearing due to natural activities, including subsidence and sea level rise estimated at 0.5 inches per year and human activities which include construction of flood control levees along the Mississippi River which prevents freshwater and sediment from overflowing and rebuilding the marshlands; Mississippi River Ship Channel for navigation which directs river sediment into deep waters of the Gulf of Mexico where the sediment is lost; thousands of miles of navigation, drainage, and irrigation canals which segments the marshes; and oil and gas pipelines needed to carry these fuels from offshore areas to northern markets which disect the marshes; and

"Whereas, together, the natural and human activities have caused 1.4 million acres of Louisiana's marshlands to disappear in the last eighty years: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to propose and submit an amendment to Section 906(f) of the Water Resources Development Act of 1986 to read 'the Congress consider the enhancement measures carried out as part of the project for Atchafalaya Floodway System, Louisiana and for Mississippi Delta Region, Louisiana to provide benefits that are national for purposes of this Section. The Secretary is directed to construct these projects, the first costs of such enhancement projects shall be a Federal cost as provided in Subsection (e)': Be it further

"Resolved That a copy of this Resolution be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-7. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"SENATE CONCURRENT RESOLUTION No. 7

"Whereas, Louisiana's coastal wetlands provide benefits which are of national importance in terms of commercial fish and shellfish harvest, fur and hide harvest, waterfowl hunting, recreation, and minerals development; and

"Whereas, although forty percent of the continental United States' marshes occur in Louisiana, Louisiana experiences eighty percent of the national marsh loss; and

"Whereas, this loss is estimated to be about fifty square miles annually, totalling over one million acres of loss by the year 2040 or an area one and one-third the size of Rhode Island; and

"Whereas, among the major causes of wetlands loss are sediment reduction and subsidence brought about by federal flood control and navigation projects; and

"Whereas, the Water Resources Development Act of 1986 was passed by Congress in an effort to modify the prior water resources program so as to be more responsive to public needs and to ensure that taxpayers receive increased value for monies invested in water resources programs; and

"Whereas, it is a public need and in the national interest to enhance the environment by restoring Louisiana's coastal wetlands: Therefore, be it

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to provide that marsh creation, restoration, and preservation be made a major mission of the United States Army Corps of Engineers, co-equal with flood control and navigation, and to require the Secretary of the Army to direct the Corps of Engineers to develop and implement coastal wetland restoration and enhancement projects: Be it further

"Resolved, That the Legislature of Louisiana memorializes the Congress of the United States specifically to amend Sections 704, 906, 1135, and 1155 of the Water Resources Development Act of 1986 to accomplish the following respectively:

"(1) Provide funding and direct the Secretary of the Army to construct a pilot marsh creation project utilizing Mississippi River flow and sediment from a diversion structure below New Orleans.

"(2) Provide funding and direct the Secretary of the Army to construct enhancement measures associated with the Atchafalaya Floodway System and the Mississippi Delta Region.

"(3) Extend the authorization and provide funding for project modification to improve the environment, specifically marsh creation and restoration projects associated with the Mississippi River and Tributaries Project, the Mississippi River Ship Channel (Gulf to Baton Rouge), and the Gulf Intracoastal Waterway (Louisiana section).

"(4) Extend the authorization, provide funding, and direct the Secretary of the Army to develop and implement marsh creation and restoration projects for the enhancement of wetlands in the lower Mississippi Valley: Be it further

"Resolved, That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-8. A resolution adopted by the Second Pohnpei Legislature; to the Committee on Energy and Natural Resources:

"A RESOLUTION

"Thanking the President of the United States of America for signing into law and the Congress of the United States of America for passing the Legislation which reinstated the eligibility of Federated States of Micronesia students attending postsecondary educational institutions for Pell Grants, Supplemental Education Opportunity Grants and the College Work-Study Program.

"Whereas, the loss of Pell Grants, Supplemental Education Opportunity Grants and the College Work-Study Program for our students upon the implementation of the Compact of Free Association had a devastating effect on the future of postsecondary education for the young people of Pohnpei; and

"Whereas, the passing of legislation and the signing into law of Public Law No. 100-369 on July 19, 1988, by the President of the United States reinstated the eligibility of Federated States of Micronesia students for Pell Grants, Supplemental Education Opportunity Grants and the College Work-Study Program; and

"Whereas, once again our students will be able to continue in their efforts to obtain a higher education so they might take their place in the development of their country; now, therefore, be it

"*Resolved* by the Second Pohnpei Legislature, First Regular Session, 1988, that the Pohnpei Legislature for and on behalf of the People of Pohnpei extends its heartfelt appreciation to the President and Congress of the United States of America for this much needed assistance; and be it further

"Resolved, That certified copies of this Resolution be transmitted to the President of the United States of America, the President of the Senate of the United States of America and to the Speaker of the House of Representatives of the United States of America.

POM-9. A resolution adopted by the Nevada Legislative Commission urging the continuation of the federal tax exemption for mortgage revenue bonds; to the Committee on Finance.

POM-10. A resolution adopted by the Episcopal Diocese of Massachusetts relative to achieving peace in the Middle East; to the Committee on Foreign Relations.

POM-11. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Foreign Relations:

"SENATE CONCURRENT RESOLUTION, No. 837

"Whereas, while the fate of prisoners of war and those listed as missing in action during the Vietnam era has been a matter of great concern to the American public, there is also compelling evidence that there could be thousands of American citizens who are casualties of our long and bitter cold war with the Soviet bloc who have been all but forgotten; and

"Whereas, recently uncovered documents from the National Archives suggest that thousands of prisoners of war, including Americans, may have vanished in the Soviet gulag at the close of World War II. There is evidence that the Soviets reneged on a negotiated agreement with the United States and Great Britain to exchange liberated prisoners of war;

"Whereas, further startling revelations involve eyewitness accounts of a special prison camp deep within the Soviet Union which is used to house American prisoners of war from World War II and the Korean Conflict and other American military personnel captured in isolated incidents involving U.S. patrol planes shot down by the Soviets during the cold war; and

"Whereas, while the entire international community, and the United States in particular, looks to the current changes in the Soviet Union with great anticipation and a renewed sense of hope, it would be unconscionable to allow this situation to continue without speaking out. Indeed, it is in this spirit that we implore the United States Congress and the United States Department of State to undertake a thorough investigation of this human rights tragedy and to take the necessary steps to obtain a full and accurate accounting of these serious allegations; now, therefore, be it.

"Resolved by the Senate (the House of Representatives concurring), That we hereby memorialize the United States Congress and the United States Department of State to conduct an investigation into the matter of American citizens being held prisoner in the Soviet Union and its satellites; and be it further

"Resolved, That a copy of this resolution by transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the United States Department of State."

POM-12. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations:

"ASSEMBLY JOINT RESOLUTION No. 78

"Whereas, during the week of April 2-8, 1988, Jews worldwide celebrate the Passover holiday commemorating the exodus of oppressed people from enslavement in Egypt; and

"Whereas, eight thousand Ethiopian Jews are still trapped in remote villages in the Gondar Province of Ethiopia and separated from other members of their immediate families; and

"Whereas, the Jews remaining in Ethiopia are a vulnerable community consisting mostly of women, children, and the elderly and infirm threatened by famine and disease; and

"Whereas, Ethiopian Jews continue to face religious persecution: Jewish studies and the teaching of Hebrew are forbidden, community leaders are questioned and arrested, and the special permission required for holiday gatherings is often denied; and

"Whereas, approximately 30 Ethiopian Jews have been arrested and imprisoned for attempting to emigrate or help others emigrate to Israel; and

"Whereas, sixteen thousand Ethiopian Jews now live outside of Ethiopia due to the courageous efforts of Operation Moses; and

"Whereas, the right of emigration is a fundamental human right, especially where it concerns family reunification; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California urges the government of Ethiopia to allow the remaining 8,000 Jews in Ethiopia's Gondar Province to be reunited with their families in Israel; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States, the Secretary of State, other federal officials, and Members of Congress to urge the government of Ethiopia to complete the resettlement of Ethiopian Jews in Israel; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States, other federal officials, and Members of Congress to use all appropriate diplomatic channels in every meeting, contact, or communication between American and Ethiopian officials to press Ethiopian authorities to take actions urged by this resolution; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of State, the government of Ethiopia, and to each Senator and Representative from California in the Congress of the United States."

POM-13. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 91

"Whereas, Amerasian children living in Vietnam have suffered unduly because of the parentage and have been denied educational and employment opportunities afforded other Vietnamese; and

"Whereas, the United States government and the government of Vietnam signed the Amerasian Homecoming Act in December 1987, thereby allowing a total of 30,000 Amerasians and their families to emigrate to the United States; and

"Whereas, under the auspices of the Amerasian Resettlement Program administered by the Department of Health and Human Services, these Amerasian immigrants are to receive six months of educational training in camps in the Republic of the Philippines before coming to the United States; and

"Whereas, upon arrival in the United States, the Amerasian immigrants will be sent to cluster sites specified in the Amerasian Resettlement Planning Committee in order to help them assimilate; and

"Whereas, the Amerasian immigrants currently have no choice in the cluster site to which they will be assigned; and

"Whereas, over 50 percent of all Vietnamese refugees have settled in California, and a large percentage of the Amerasian immigrants will relocate in this state as well; and

"Whereas, The Amerasian Resettlement Program itself is in danger since Congress has failed to provide funding for the program for the 1988 fiscal year; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California urges the Congress of the United States to provide funding for the Amerasian Resettlement Program, and to enact legislation necessary for the establishment and funding of an appropriate number of cluster sites in the State of California; and be it further

"Resolved, That a representative of the State of California be appointed as a member of the Amerasian Resettlement Planning Committee; and be it further

"Resolved, That Amerasian immigrants be permitted to choose the cluster site at which they will be located, especially if there are relatives living in the vicinity of the cluster site; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Health and Human Services, and to representatives of the Amerasian Resettlement Planning Committee."

POM-14. A resolution adopted by the Association of Pacific Legislatures requesting an assessment of immigration from the Freely Associated States in Micronesia; to the Committee on the Judiciary.

POM-15. A resolution adopted by the City Commission of Miami, Florida favoring the development and adoption of Federal standards related to the quality and availability of child care services; to the Committee on Labor and Human Resources.

POM-16. A resolution adopted by the Legislative Education Study Committee, State of New Mexico, favoring legislation to encourage and expand minority participation in education; to the Committee on Labor and Human Resources.

THE INAUGURATION

Mr. MITCHELL. Mr. President, the inauguration of the President and Vice President occurred today on the west front of the Capitol. The simple yet moving ceremony symbolizes one of the greatest strengths of our democracy—the peaceful transition of power. I join the distinguished Republican leader in extending our congratulations to the new President and Vice President. The President's statement was eloquent, moving, forthcoming, and we intend to reciprocate the hand of friendship.

The program lasted for about 1 hour, but countless hours were spent on logistics, construction of the platform, ticket distribution, preparation for the luncheon in Statuary Hall, and many other tasks. Many people worked on the preparation for the inauguration but the chairman of the Joint Congressional Committee on Inaugural Ceremonies, the distinguished Senator from Kentucky, Mr. FORD, carried the major burden of making the arrangements for this historic occasion. He performed his responsibilities with his characteristic good humor, fairness, and efficiency. I offer my congratulations to Senator FORD on a job well done. He even managed to contol the weather.

I would also like to thank the other members of the Joint Inaugural Committee: the Senator from Alaska, Mr. STEVENS; the Speaker of the House of Representatives; the majority leader, Mr. FOLEY; and the minority leader, Mr. MICHEL.

The executive director for the joint committee, Mike Ruehling, did a truly outstanding job. He was ably assisted by officers and employees of the Senate and the House of Representatives, as well as personnel from the executive branch.

Once again, I offer my appreciation and gratitude to everyone who worked on arrangements for the inauguration. The tireless efforts of all involved, particularly those of the chairman, Mr. FORD, resulted in a memorable event for the entire Nation.

ORDERS FOR WEDNESDAY, JANUARY 25, 1989

LEADERS' TIME

Mr. MITCHELL. Mr. President, I ask unanimous consent that the time of the two leaders to speak on Wednesday, January 25, be extended for as long as is needed by the two leaders.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that following the time used by the two leaders, there be a period of time for the transaction of morning business for not to exceed 2 hours with Senators permitted to speak for up to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY, JANUARY 25, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now stand in recess according to the provisions of Senate Concurrent Resolution 3.

Thereupon, at 3:11 p.m., the Senate recessed until Wednesday, January 25, 1989, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 20, 1989:

DEPARTMENT OF STATE

JAMES ADDISON BAKER III, OF TEXAS, TO BE SECRETARY OF STATE.

DEPARTMENT OF DEFENSE

JOHN GOODWIN TOWER, OF TEXAS, TO BE SECRETARY OF DEFENSE.

DEPARTMENT OF THE INTERIOR

MANUEL LUJAN, JR., OF NEW MEXICO, TO BE SECRETARY OF THE INTERIOR.

DEPARTMENT OF AGRICULTURE

CLAYTON YEUTTER, OF NEBRASKA, TO BE SECRETARY OF AGRICULTURE.

DEPARTMENT OF COMMERCE

ROBERT ADAM MOSBACHER, OF TEXAS, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF LABOR

ELIZABETH HANFORD DOLE, OF KANSAS, TO BE SECRETARY OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

LOUIS W. SULLIVAN, OF GEORGIA, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JACK KEMP, OF NEW YORK, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF TRANSPORTATION

SAMUEL KNOX SKINNER, OF ILLINOIS, TO BE SECRETARY OF TRANSPORTATION.

DEPARTMENT OF ENERGY

ADM. JAMES D. WATKINS, U.S. NAVY, RETIRED, OF CALIFORNIA, TO BE SECRETARY OF ENERGY.

DEPARTMENT OF VETERANS' AFFAIRS

EDWARD J. DERWINSKI, OF ILLINOIS, TO BE SECRETARY OF VETERANS' AFFAIRS.

EDWARD J. DERWINSKI, OF ILLINOIS, TO BE ADMINISTRATOR OF VETERANS' AFFAIRS.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD G. DARMAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

CARLA ANDERSON HILLS, OF CALIFORNIA, TO BE U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

WILLIAM J. BENNETT, OF NORTH CAROLINA, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

MICHAEL J. BOSKIN, OF CALIFORNIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS.

UNITED NATIONS

THOMAS R. PICKERING, OF NEW JERSEY, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY, AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA IN THE SECURITY COUNCIL OF THE UNITED NATIONS.

ENVIRONMENTAL PROTECTION AGENCY

WILLIAM KANE REILLY, OF VIRGINIA, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. OF LABOR

HOUSE OF REPRESENTATIVES—*Friday, January 20, 1989*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. WHITTEN].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 19, 1989.

I hereby designate the Honorable JAMIE L. WHITTEN to act as Speaker pro tempore on Friday, January 20, 1989.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O God, that Your blessings of hope and liberty will be with every person. On this special day of inaugural we ask that the abundance of Your gifts be upon him who will lead our Nation in the days before us. Give to him and all leaders who have the responsibilities of government the wisdom and courage to do justice and the compassion and mercy needed to make us one people, so that in all things "justice will roll down as waters and righteousness like an ever-flowing stream." This we pray, amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Kentucky [Mr. NATCHER] who will lead us in the Pledge of Allegiance to the Flag. Members will please stand.

Mr. NATCHER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. LEWIS of California. Mr. Speaker, I offer a privileged resolution (H. Res. 45) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 45

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

AGRICULTURE

1. Madigan, Ed (IL).
2. Coleman, Tom (MO).
3. Marlenee, Ron (MT).
4. Hopkins, Larry (KY).
5. Stangeland, Arlan (MN).
6. Roberts, Pat (KS).
7. Emerson, Bill (MO).
8. Morrison, Sid (WA).
9. Gunderson, Steve (WI).
10. Lewis, Tom (FL).
11. Smith, Robert (OR).
12. Combest, Larry (TX).
13. Schuette, Bill (MI).
14. Grandy, Fred (IA).
15. Herger, Wally (CA).
16. Holloway, Clyde (LA).
17. Walsh, Jim (NY).

APPROPRIATIONS

1. Conte, Silvio (MA).
2. McDade, Joe (PA).
3. Myers, John (IN).
4. Miller, Clarence (OH).
5. Coughlin, Larry (PA).
6. Young, Bill (FL).
7. Regula, Ralph (OH).
8. Smith, Virginia (NE).
9. Pursell, Carl (MI).
10. Edwards, Mickey (OK).
11. Livingston, Bob (LA).
12. Green, Bill (NY).
13. Lewis, Jerry (CA).
14. Porter, John (IL).
15. Rogers, Hal (KY).
16. Skeen, Joe (NM).
17. Wolf, Frank (VA).
18. Lowery, Bill (CA).
19. Weber, Vin (MN).
20. DeLay, Tom (TX).
21. Kolbe, Jim (AZ).
22. Gallo, Dean (NJ).

ARMED SERVICES

1. Dickinson, Bill (AL).
2. Spence, Floyd (SC).
3. Stump, Bob (AZ).
4. Courter, Jim (NJ).
5. Hopkins, Larry (KY).
6. Davis, Bob (MI).
7. Hunter, Duncan (CA).
8. Martin, Dave (NY).
9. Kasich, John (OH).
10. Bateman, Herb (VA).
11. Blaz, Ben (GU).
12. Ireland, Andy (FL).
13. Hansen, Jim (UT).
14. Rowland, John (CT).
15. Weldon, Curt (PA).
16. Kyl, Jon (AZ).
17. Ravenel, Arthur (SC).
18. Dornan, Bob (CA).
19. Hefley, Joel (CO).
20. McCrery, Jim (LA).
21. Machtley, Ron (RI).

BANKING, FINANCE AND URBAN AFFAIRS

1. Wylie, Chalmers (OH).
2. Leach, Jim (IA).
3. Shumway, Norman (CA).
4. Parris, Stan (VA).
5. McCollum, Bill (FL).
6. Roukema, Marge (NJ).
7. Bereuter, Doug (NE).
8. Dreier, Dave (CA).
9. Hiler, John (IN).
10. Ridge, Tom (PA).
11. Bartlett, Steve (TX).
12. Roth, Toby (WI).
13. McCandless, Al (CA).
14. Saxton, James (NJ).
15. Saiki, Patricia (HI).
16. Bunning, Jim (KY).
17. Baker, Richard (LA).
18. Stearns, Cliff (FL).
19. Gillmor, Paul (OH).
20. Paxon, Bill (NY).

BUDGET

1. Frenzel, Bill (MN).
2. Gradison, Bill (OH).
3. Goodling, Bill (PA).
4. Smith, Denny (OR).
5. Thomas, Bill (CA).
6. Rogers, Hal (KY).
7. Armey, Dick (TX).
8. Buechner, Jack (MO).
9. Houghton, Amory (NY).
10. McCrery, Jim (LA).
11. Kasich, John (OH).
12. Gallo, Dean (NJ).
13. Schuette, Bill (MI).
14. Bentley, Helen (MD).

DISTRICT OF COLUMBIA

1. Parris, Stan (VA).
2. Bliley, Tom (VA).
3. Combest, Larry (TX).
4. Rohrabacher, Dana (CA).

EDUCATION AND LABOR

1. Goodling, Bill (PA).
2. Coleman, Tom (MO).
3. Petri, Tom (WI).
4. Roukema, Marge (NJ).
5. Gunderson, Steve (WI).
6. Bartlett, Steve (TX).
7. Tauke, Tom (IA).
8. Armey, Dick (TX).
9. Fawell, Harris (IL).
10. Henry, Paul (MI).
11. Grandy, Fred (IA).
12. Ballenger, Cass (NC).
13. Smith, Peter (VT).

ENERGY AND COMMERCE

1. Lent, Norman (NY).
2. Madigan, Ed (IL).
3. Moorhead, Carlos (CA).
4. Rinaldo, Matt (NJ).
5. Dannemeyer, Bill (CA).
6. Whittaker, Bob (KS).
7. Tauke, Tom (IA).
8. Ritter, Don (PA).
9. Bliley, Tom (VA).
10. Fields, Jack (TX).
11. Oxley, Mike (OH).
12. Nielson, Howard (UT).
13. Bilirakis, Michael (FL).
14. Schaefer, Dan (CO).
15. Barton, Joe (TX).
16. Callahan, Sonny (AL).

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

17. McMillan, Alex (NC).

FOREIGN AFFAIRS

1. Broomfield, Bill (MI).
2. Gilman, Ben (NY).
3. Lagomarsino, Robert (CA).
4. Leach, Jim (IA).
5. Roth, Toby (WI).
6. Snowe, Olympia (ME).
7. Hyde, Henry (IL).
8. Bereuter, Doug (NE).
9. Smith, Chris (NJ).
10. DeWine, Michael (OH).
11. Burton, Dan (IN).
12. Meyers, Jan (KS).
13. Miller, John (WA).
14. Lukens, Buz (OH).
15. Blaz, Del. Ben (GU).
16. Gallegly, Elton (CA).
17. Houghton, Amory (NY).
18. Goss, Porter (FL).

GOVERNMENT OPERATIONS

1. Horton, Frank (NY).
2. Walker, Robert (PA).
3. Clinger, Bill (PA).
4. McCandless, Al (CA).
5. Nielson, Howard (UT).
6. Lukens, Buz (OH).
7. Hastert, Denny (IL).
8. Kyl, Jon (AZ).
9. Shays, Christopher (CT).
10. Smith, Peter (VT).
11. Schiff, Steve (NM).
12. Douglas, Chuck (NH).
13. Smith, Larkin (MS).
14. Cox, Christopher (CA).
15. Vacancy.

HOUSE ADMINISTRATION

1. Gingrich, Newt (GA).
2. Dickinson, Bill (AL).
3. Thomas, Bill (CA).
4. Vucanovich, Barbara (NV).
5. Roberts, Pat (KS).
6. Gillmor, Paul (OH).
7. Vacancy.
8. Vacancy.

INTERIOR AND INSULAR AFFAIRS

1. Young, Don (AK).
2. Lagomarsino, Robert (CA).
3. Marlenee, Ron (MT).
4. Cheney, Dick (WY).
5. Craig, Larry (ID).
6. Smith, Denny (OR).
7. Hansen, James (UT).
8. Vucanovich, Barbara (NV).
9. Blaz, Ben (GU).
10. Rhodes, Jay (AZ).
11. Gallegly, Elton (CA).
12. Parris, Stan (VA).
13. Smith, Bob (OR).
14. Lightfoot, Jim (IA).
15. Vacancy.

JUDICIARY

1. Fish, Hamilton (NY).
2. Moorhead, Carlos (CA).
3. Hyde, Henry (IL).
4. Sensenbrenner, Jim (WI).
5. McCollum, Bill (FL).
6. Gekas, George (PA).
7. DeWine, Mike (OH).
8. Dannemeyer, Bill (CA).
9. Coble, Howard (NC).
10. Slaughter, French (VA).
11. Smith, Lamar (TX).
12. Smith, Larkin (MS).
13. Douglas, Chuck (NH).
14. James, Craig (FL).

MERCHANT MARINE AND FISHERIES

1. Davis, Bob (MI).
2. Young, Don (AK).
3. Lent, Norman (NY).
4. Shumway, Norman (CA).
5. Fields, Jack (TX).
6. Schneider, Claudine (RI).
7. Bateman, Herb (VA).
8. Saxton, Jim (NJ).
9. Miller, John (WA).
10. Bentley, Helen (MD).
11. Coble, Howard (NC).
12. Weldon, Curt (PA).
13. Saiki, Patricia (HI).
14. Herger, Wally (CA).
15. Bunning, Jim (KY).
16. Inhofe, Jim (OK).
17. Goss, Porter (FL).

POST OFFICE AND CIVIL SERVICE

1. Gilman, Ben (NY).
2. Horton, Frank (NY).
3. Myers, John (IN).
4. Young, Don (AK).
5. Burton, Dan (IN).
6. Morella, Connie (MD).
7. Vacancy.
8. Vacancy.

PUBLIC WORKS AND TRANSPORTATION

1. Hammerschmidt, John Paul (AR).
2. Shuster, Bud (PA).
3. Stangeland, Arlan (MN).
4. Gingrich, Newt (GA).
5. Clinger, Bill (PA).
6. Molinari, Guy (NY).
7. McEwen, Bob (OH).
8. Petri, Tom (WI).
9. Packard, Ron (CA).
10. Boehlert, Sherwood (NY).
11. Lightfoot, Jim (IA).
12. Hastert, Denny (IL).
13. Inhofe, Jim (OK).
14. Ballenger, Cass (NC).
15. Upton, Fred (MI).
16. Emerson, Bill (MO).
17. Craig, Larry (ID).
18. Duncan, Jimmy (TN).
19. Hancock, Mel (MO).
20. Cox, Christopher (CA).

RULES

1. Quillen, Jimmy (TN).
2. Solomon, Jerry (NY).
3. Martin, Lynn (IL).
4. Pashayan, Charles (CA).

SCIENCE, SPACE, AND TECHNOLOGY

1. Walker, Robert (PA).
2. Sensenbrenner, Jim (WI).
3. Schneider, Claudine (RI).
4. Boehlert, Sherwood (NY).
5. Lewis, Tom (FL).
6. Ritter, Don (PA).
7. Morrison, Sid (WA).
8. Packard, Ron (CA).
9. Smith, Bob (NH).
10. Henry, Paul (MI).
11. Fawell, Harris (IL).
12. Slaughter, French (VA).
13. Smith, Lamar (TX).
14. Buechner, Jack (MO).
15. Morella, Connie (MD).
16. Shays, Christopher (CT).
17. Rohrabacher, Dana (CA).
18. Schiff, Steve (NM).
19. Campbell, Tom (CA).

SMALL BUSINESS

1. McDade, Joe (PA).
2. Conte, Silvio (MA).
3. Broomfield, Bill (MI).
4. Ireland, Andy (FL).
5. Hiler, John (IN).
6. Dreier, David (CA).
7. Slaughter, French (VA).
8. Meyers, Jan (KS).
9. Combest, Larry (TX).
10. Baker, Richard (LA).
11. Rhodes, Jay (AZ).
12. Hefley, Joel (CO).
13. Upton, Fred (MI).
14. Holloway, Clyde (LA).
15. Hancock, Mel (MO).
16. Campbell, Tom (CA).
17. Vacancy.

VETERANS' AFFAIRS

1. Stump, Bob (AZ).
2. Hammerschmidt, John Paul (AR).
3. Wylie, Chalmers (OH).
4. McEwen, Bob (OH).
5. Smith, Chris (NJ).
6. Burton, Dan (IN).
7. Bilirakis, Michael (FL).
8. Ridge, Tom (PA).
9. Rowland, John (CT).
10. Smith, Bob (NH).
11. James, Craig (FL).
12. Stearns, Cliff (FL).
13. Vacancy.

WAYS AND MEANS

1. Archer, Bill (TX).
2. Vander Jagt, Guy (MI).
3. Crane, Phil (IL).
4. Frenzel, Bill (MN).
5. Schulze, Dick (PA).
6. Gradison, Bill (OH).
7. Thomas, Bill (CA).
8. McGrath, Ray (NY).
9. Brown, Hank (CO).
10. Chandler, Rod (WA).
11. Shaw, Clay (FL).
12. Sundquist, Don (TN).
13. Johnson, Nancy (CT).

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, this resolution is the Republican Conference selection of the Republican committee members of the 101st Congress.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE HONORABLE RICHARD A. ENSLEN, U.S. DISTRICT JUDGE, REGARDING OATH OF OFFICE ADMINISTERED TO REPRESENTATIVE-ELECT HOWARD WOLPE

The SPEAKER pro tempore laid before the House the following communication from the Honorable Richard A. Enslen, U.S. District Judge, Western District of Michigan:

U.S. DISTRICT COURT,
Grand Rapids, MI, January 4, 1989.

The HONORABLE JIM WRIGHT, SPEAKER,
U.S. House of Representatives, H-209, The Capitol, Washington, DC.

DEAR MR. SPEAKER: On January 3, 1989, you designated me to administer the oath of office to Representative-elect Howard Wolpe, of the Third District of the State of Michigan, under House Resolution 8, One Hundred First Congress.

Under such designation, I have the honor to report that on January 3, 1989, at Kalamazoo, Michigan, I administered the oath of office to Mr. Wolpe. Mr. Wolpe took the oath prescribed by 5 U.S.C. 3331. I have sent two copies of the oath, signed by Mr. Wolpe, to the Clerk of the House.

Yours very truly,

RICHARD A. ENSLEN,
U.S. District Judge.

REMEMBERING DR. KING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, last week, we commemorated the struggle for human dignity, the life of Dr. Martin Luther King and the civil rights movement that he symbolizes.

Dr. King spoke often of the " * * * true neighbor lifting some bruised and beaten brother to a higher and more noble life."

In that one sentence, he captured the essence of a long struggle. Dr. King coupled nonviolent direct action with the irresistable power and energy of moral courage and outrage.

The national holiday celebrating Dr. King's birth recalls a movement that defined a volatile period in our history. More importantly, the civil rights movement and Dr. King's brand of leadership may yet help liberate all Americans from the tyranny of racism.

The spiritual and moral force of the movement, the dynamism and commitment of its leadership, and even the important victories won in the early days of that yet unfinished struggle are not peculiarly American.

But Dr. King does symbolize our unique struggle to come to terms with our history, to come to terms with the fact that millions of Americans share the experience of racial injustice—as the children of both slaves and slave-holders.

The burden of our history—the burden of segregation, of racism and injustice—remains. But the civil rights movement, if truly understood, stands as a definition of what is best and most honorable in us all.

Washington, Jefferson, Adams—these are names that have come to represent the essence of American democracy. In the service of democratic ideals, these people helped create a new system of government 200 years ago.

The American Revolution resulted in a Constitution and a national ethic dedicated to protecting the individual from the excesses of both the government and a tyrannical majority.

Unfortunately, our Constitution and the laws that our elected Representatives enacted were imperfect reflections of the principles and ideals upon which they were founded.

But as in no other era the civil rights movement clearly challenged us to rectify the basic contradictions between practice and principle, between ideal and law in American society.

Dr. Martin Luther King, Jr. challenged the America that dehumanized him and millions like him to become the America we all read about in the Constitution and the Declaration of Independence—the America he dreamed about.

The civil rights movement was not an man's struggle.

But there is no doubt that man's dream helped catalyze the idealism and commitment of an entire generation in this Nation. It was a generation appalled by the hypocrisy of Jim Crow, the bombings in Montgomery, and the beatings in Birmingham.

It is my sincere hope that as we celebrate Dr. King's birthday in the years to come that we are all reminded that the struggle for human dignity continues.

IN HONOR OF COL. THOMAS NAPOLITAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I rise to commend one of our country's truly outstanding and dedicated military officers, Col. Thomas W. Napolitan, Air National Guard. He entered the service in March 1958 as an aviation cadet and received his commission and pilot rating in June 1959. He was awarded a regular commission, and served on active duty as a Strategic Air Command B–47 pilot until December 1963. After leaving active duty, he served as a traditional guardsman in the Illinois Air National Guard for 17 years. From June 1964 until May 1981, he was a member of the 183rd Tactical Fighter Group, Springfield, IL, and flew the F–84F, F–4C, and F–4D. His duties included instructor pilot, senior flight commander, chief of operational training, and chief of the operations center. In May 1981 Colonel Napolitan was selected for full time extended active duty as an Air National Guard Advisor in the Pentagon.

From May 1981 until September 1983, he served in the Organization of the Joint Chiefs of Staff for the Deputy Director for Operations Reconnaissance, Space, Electronic Warfare and C3 Countermeasures. In addition to his role as the Reserve Forces Advisor, he was the JCS primary point of contact for plans, force development, and operations regarding reconnaissance in support of U.S. nuclear policy. He was also the primary coordinator for plans and reconnaissance operations in JCS exercises, and served as the Joint Reconnaissance Center briefing officer.

From September 1983 to May 1986, he served as the Air National Guard Advisor to Headquarters USAF Directorate of Operations. He was the director's principal advisor on all Air National Guard matters, and served as the primary liaison between the National Guard Bureau and the active Air Force operations staff. He was also responsible for mobilization of the Air National Guard and Air Force Reserve during crisis actions.

From May 1986 to present, has served as the Air National Guard assistant to the Deputy Assistant Secretary of the Air Force for Reserve Affairs. His primary duties include advising the Air Force Secretariat Staff on all Air National Guard matters, including personnel, operations, legislation, and foreign affairs. He is designated to represent the Air Force Secretariat Staff on the Secretary of Defense's Crisis Action Council.

He has a bachelor's degree in psychology, a master's degree in psychological counseling, and postgraduate training in family therapy. Concurrently with his previous part-time traditional guardsman activities, his full time civilian positions as a mental health practitioner included service with: Illinois Department of Corrections, Youth Division, St. Charles; Mercy Center, Aurora, family and adolescent counselor; Tri-City Family Project, Geneva, family therapist and program director (Illinois Law Enforcement Commission grant); Niles family service, consultant and educator for school and family program; Human Relations Services, Elgin, executive director.

Colonel Napolitan will again protect us as one of 114,595 air guardsmen in our country.

Mr. Speaker, I ask to enter into the RECORD our commendation and sincere appreciation to Col. Thomas W. Napolitan for his outstanding and dedicated service to his State, the Congress, his commander in chief, and our country. Colonel Napolitan is the best of our country's citizen airmen.

RECESS

The SPEAKER pro tempore. The House will stand in recess until 10:30 a.m.

Accordingly (at 10 o'clock and 5 minutes a.m.), the House stood in recess until 10:30 a.m.

□ 1030

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore at 10 o'clock and 30 minutes a.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that sitting Members have been delivered their official tickets and will be seated on the platform. There are no extra seats available, so former Members cannot join the procession.

The same holds true for children. They can neither go with the procession nor be seated on the platform.

The area where Members of the House are to be seated is not covered. Members should keep this fact in mind in deciding whether to wear overcoats and hats.

The procession will be headed by the Sergeant at Arms bearing the mace. The Clerk will escort the Speaker pro tempore, followed by the House leadership, committee chairmen, ranking minority members, and other Members in order of seniority.

The Chair would encourage Members, as they gather in order of seniority, to congregate by "classes" in the well.

Pursuant to House Resolution 40, the Members of the House will now proceed to the west front to attend the

inaugural ceremonies for the President and Vice President of the United States.

Thereupon, at 10 o'clock and 26 minutes a.m., the Members of the House, preceded by the Sergeant at Arms and the Speaker pro tempore, proceeded to the west front of the Capitol.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HAYES of Louisiana) to revise and extend their remarks and include extraneous materials:)

Mr. HOYER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. STOKES, for 60 minutes, on February 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HAYES of Louisiana) and to include extraneous matter:

Mr. FRANK.

Mr. BATES.

Mr. LEHMAN of California.

Mr. OBERSTAR.

Mr. TRAXLER.

Mr. MAZZOLI.

Mr. LEVINE of California.

ADJOURNMENT

At the conclusion of the inaugural ceremonies (at 12 o'clock and 30 minutes p.m.), the House, without returning to its Chamber, pursuant to House Resolution 40, stood in adjournment until Tuesday, January 24, 1989, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

324. A communication from the President of the United States, transmitting his statement of policy regarding conservation activities on non-Federal land; accompanying the policy statement is "A National Conservation Program for Soil and Water Conservation: The 1988–97 Update" by the Secretary of Agriculture, pursuant to 16 U.S.C. 2006(b); to the Committee on Agriculture.

325. A communication from the President of the United States, transmitting the 1987 annual report on the administration of the Federal Railroad Safety Act of 1970, pursuant to 45 U.S.C. 440; to the Committee on Energy and Commerce.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BATES (for himself, Mr. HUNTER, and Mr. COELHO):

H.R. 570. A bill to provide Federal assistance for planning and construction of wastewater treatment works which are necessary for providing secondary treatment for the city of San Diego, CA; to the Committee on Public Works and Transportation.

By Mr. DORNAN of California:

H.R. 571. A bill to waive the time limitations relating to the award of the Congressional Medal of Honor to Tibor Rubin for distinguishing himself by acts of valor during the Korean war; to the Committee on Armed Services.

H.R. 572. A bill to amend title 10, United States Code, to provide that a court-ordered allocation of military retired pay to a former spouse of a member of the uniformed services based upon treatment of such retired pay as property of both the member and former spouse shall terminate upon the remarriage of the former spouse; to the Committee on Armed Services.

H.R. 573. A bill to amend title 10, United States Code, to provide that a member of the Armed Forces, upon the member's release or discharge from active duty, shall be provided with a copy of the member's medical and personnel records; to the Committee on Armed Services.

H.R. 574. A bill to repeal the War Powers Resolution; to the Committee on Foreign Affairs.

By Mr. HOLLOWAY (for himself, Mr. ARMEY, Mr. BAKER, Mr. BARTLETT, Mrs. BENTLEY, Mr. BLILEY, Mr. BROOMFIELD, Mr. COBLE, Mr. COMBEST, Mr. CRAIG, Mr. DANNEMEYER, Mr. DELAY, Mr. DORNAN of California, Mr. DREIER of California, Mr. EMERSON, Mr. GALLEGLY, Mr. GINGRICH, Mr. GORDON, Mr. HAMMERSCHMIDT, Mr. HASTERT, Mr. HAYES of Louisiana, Mr. HERGER, Mr. HUTTO, Mr. INHOFE, Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. LIVINGSTON, Mr. DONALD E. LUKENS, Mr. MARLENEE, Mr. MCCRERY, Mr. NIELSON of Utah, Mr. OXLEY, Mr. PETRI, Mr. ROBERTS, Mrs. ROUKEMA, Mrs. SAIKI, Mr. SCHUETTE, Mr. SHUMWAY, Mr. SLAUGHTER of Virginia, Mr. SMITH of New Jersey, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. SMITH of Mississippi, Mr. ROBERT F. SMITH, Mr. SOLOMON, Mr. SPENCE, Mr. STENHOLM, Mr. STANGELAND, Mr. UPTON, Mr. WALKER, Mr. WEBER, and Mr. WELDON):

H.R. 575. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit against tax to taxpayers for dependents who have not attained the age of compulsory school attendance as prescribed by the law of the State in which the taxpayer resides, and to repeal the credit for expenses for child care services necessary for gainful employment for expenses with respect to such dependents; to the Committee on Ways and Means.

By Mr. DORNAN of California:

H.R. 576. A bill to amend title 18, United States Code, to prohibit certain conduct relating to surrogate motherhood; to the Committee on the Judiciary.

H.R. 577. A bill to repeal certain provisions of law which violate the doctrine of separation of powers and to eliminate certain restrictions on the authority of the executive branch; jointly, to the Committees on Foreign Affairs; Armed Services; Banking, Finance and Urban Affairs; Veterans' Affairs; Interior and Insular Affairs; and Science, Space, and Technology.

By Mr. DORNAN of California (for himself, Mr. WILSON, Mr. MRAZEK, Mr. WEISS, Mr. LEWIS of California, Mr. SAXTON, and Mr. BILBRAY):

H.R. 578. A bill to amend the Animal Welfare Act to prohibit dog racing and dog training involving the use of live animals as visual lures and to make such act applicable to facilities that are used for dog racing or dog race training; to the Committee on Agriculture.

By Mr. DORNAN of California (for himself, Mr. STENHOLM, Mr. HUNTER, Mr. SMITH of New Jersey, Mr. GUNDERSON, Mr. ARMEY, Mr. LEWIS of Florida, Mr. DEWINE, Mr. LAGOMARSINO, Mr. HUTTO, Mr. CRAIG, Mr. GORDON, Mr. SAXTON, Mr. BUNNING, Mr. HARRIS, Mr. ANNUNZIO, Mr. COSTELLO, Mr. SMITH of Texas, Mr. MACHTLEY, Mr. ROE, Mr. KOLTER, Mr. DONALD E. "BUZ" LUKENS, Mr. COMBEST, and Mr. STANGELAND:

H.R. 579. A bill to protect the rights of victims of child abuse; to the Committee on the Judiciary.

By Mr. DYSON:

H.R. 580. A bill to defer congressional pay adjustments until the first March 1 following the beginning of the Congress next following the Congress during which certain actions with respect to pay rates are taken, to provide that appropriations of funds for congressional pay be considered separately from appropriations for other purposes, to require a recorded vote in each House on such appropriations, and for other purposes; jointly, to the Committees on Post Office and Civil Service and Rules.

By Mr. EVANS:

H.R. 581. A bill to amend title 5, United States Code, to provide that civilian employees of the National Guard may not be required to wear military uniforms while performing civilian services; jointly, to the Committees on Armed Services and Post Office and Civil Service.

By Mr. GALLO:

H.R. 582. A bill to amend the U.S. Housing Act of 1937 to permit the use of housing vouchers to assist lower income families affected by the prepayment of mortgages on projects subsidized by the Secretary of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GALLO (for himself, Mr. COURTER, Mr. ROE, Mr. STOKES, Mr. DE LUGO, Mrs. COLLINS, Mr. SCHUETTE, Mr. BILIRAKIS, Mrs. ROUKEMA, Mr. HUGHES, Mr. ATKINS, Ms. KAPTUR, Mr. FOGLIETTA, Mr. TAUKE, and Mr. BUSTAMANTE):

H.R. 583. A bill to amend the Truth-in-Lending Act to prohibit creditors from extending credit for any residential mortgage transaction under terms and conditions which are less favorable to the consumer than the terms and conditions disclosed to the consumer at the time of application for such credit, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GALLO (for himself, Mr. ROE, Mrs. JOHNSON of Connecticut, Mr.

SAXTON, Ms. SLAUGHTER of New York, Mrs. ROUKEMA, Mr. COURTER, and Mr. SHAW):

H.R. 584. A bill to require the Secretary of Transportation to conduct analyses, by regions of the United States, of hazardous materials transportation incidents and the flow of hazardous materials on highways, water, and railroads; jointly to the Committee on Public Works and Transportation and Energy and Commerce.

By Mr. HENRY:

H.R. 585. A bill to amend the Internal Revenue Code of 1986, the Employment Retirement Income Security Act of 1974, and the Public Health Service Act with respect to continuation of health care coverage; jointly, to the Committee on Ways and Means, Education and Labor, and Energy and Commerce.

By Mr. HENRY (for himself, Mr. WAXMAN, Ms. SNOWE, Mr. FORD of Michigan, Mr. KILDEE, Mr. MINETA, Mr. ACKERMAN, Mr. LEACH of Iowa, Mr. SHAYS, Mr. BEILENSON, Mr. OWENS of New York, Mr. STUDDS, Mr. DEFAZIO, Mr. HOCHBRUECKNER, Mr. FRANK, Mr. MCHUGH, Mr. AUCOIN, Ms. PELOSI, and Mr. LIPINSKI):

H.R. 586. A bill to require a refund value for certain beverage containers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JOHNSON of South Dakota:

H.R. 587. A bill to amend certain laws relating to the Presidential inauguration to limit the disbursement of public funds and furnishment of assistance to the Presidential Inaugural Committee; jointly, to the Committee on Armed Services and Government Operations.

By Mr. KANJORSKI:

H.R. 588. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to establish a presumption of eligibility for disability benefits in the case of certain coal miners who filed claims under part C of such act between July 1, 1973, and April 1, 1980; to the Committee on Education and Labor.

H.R. 589. A bill to extend the authority of the Secretary of the Treasury to enter into agreements with certain cities and counties for the withholding of city and county income and employment taxes from the pay of Federal employees who are residents of, or regularly employed in, such cities and counties; to the Committee on Post Office and Civil Service.

H.R. 590. A bill to change the date of the beginning of the Vietnam era to provide certain benefits available to veterans of a period of war to veterans who served in Southeast Asia during the period beginning on March 1, 1961, and ending on August 4, 1964; to the Committee on Veterans' Affairs.

H.R. 591. A bill to amend the Social Security Act to provide, in the case of any person who is a party in interest with respect to an employee benefit plan, that information requested from the Secretary of Health and Human Services to assist such person with respect to the administration of such plan shall be provided at least once without charge; to the Committee on Ways and Means.

H.R. 592. A bill to restrict the closing and downgrading of field offices of the Social Security Administration; to the Committee on Ways and Means.

By Mr. KANJORSKI (for himself and Mr. SCHULZE):

H.R. 593. A bill to amend part D of title IV of the Social Security Act to make it clear that the existing authority to collect past-due child support from Federal tax refunds (under section 464 of that act), to the extent that such support remains unpaid when the child involved reaches the age of majority, may be exercised after the child reaches that age; to the Committee on Ways and Means.

By Mr. LEVINE of California (for himself, Mr. MILLER of Washington, Mr. JACOBS, Mr. MARTINEZ, Mr. HAYES of Illinois, Mr. THOMAS of California, Mr. GILMAN, Mr. WOLF, Mr. DYMALLY, Mr. PENNY, Mr. WYDEN, Mr. SCHEUER, Mrs. COLLINS, Mr. GUNDERSON, Mrs. BOXER, Mr. LEVIN of Michigan, Mr. BROWN of California, Mr. BOUCHER, Mr. KASTENMEIER, Ms. PELOSI, Mr. LANTOS, Mr. UDALL, Mr. ROYBAL, Mr. FEIGHAN, Mr. MOAKLEY, Mr. SCHUMER, Mr. GARCIA, Mr. AUCOIN, Mr. SWIFT, Mr. FAUNTROY, Mr. ROSE, Mr. DE LUGO, Mr. MCHUGH, Mr. STARK, Mrs. PATTERSON, Mr. INHOFE, Mr. SKEEN, Mr. HOCHBRUECKNER, Mr. SYNAR, Mr. STALLINGS, Mr. VENTO, Mr. KLECZKA, Mrs. SAIKI, Mr. BUSTAMANTE, Mr. FRANK, Mr. MCCLOSKEY, Mr. DEFAZIO, Mr. STOKES, Mr. EVANS, Mr. JOHNSON of South Dakota, Mr. RINALDO, Mr. CONTE, Mr. MAVROULES, Mr. LAFALCE, Mrs. MORELLA, Mr. MOORHEAD, Mr. SHAYS, Mr. VALENTINE, Mr. SPRATT, Mr. CHANDLER, Mrs. ROUKEMA, Mr. WISE, Mr. OWENS of New York, Mr. GRANDY, Mr. AKAKA, Mr. JONTZ, Mr. LEWIS of Florida, and Mr. ERDREICH):

H.R. 594. A bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000; to the Committee on Foreign Affairs.

By Mrs. MEYERS of Kansas (for herself, Mr. MURPHY, Mr. BROOMFIELD, Mr. TOWNS, Mr. DONALD E. LUKENS, Ms. KAPTUR, Mr. LIGHTFOOT, Mr. OWENS of New York, Mr. SCHUETTE, Mr. ARMEY, and Mr. FAWELL):

H.R. 595. A bill to amend the Internal Revenue Code of 1986 to make permanent the limited deduction of health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. MOLINARI:

H.R. 596. A bill to amend title 18, United States Code, to create a new Federal criminal offense of treasonous espionage, consisting of the unauthorized disclosure of classified information detrimental to the national security for profit; to the Committee on the Judiciary.

By Mr. OBERSTAR:

H.R. 597. A bill to amend the Merchant Marine Act, 1936, to repeal the requirements both for additional cargo preference imposed on certain agricultural exports and for allocations of a share of such exports to Great Lakes ports; to the Committee on Merchant Marine and Fisheries.

H.R. 598. A bill to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights; to the Committee on Public Works and Transportation.

H.R. 599. A bill to prevent ground water contamination by pesticides; jointly, to the Committees on Agriculture, Energy and Commerce, and Public Works and Transportation.

By Mr. RANGEL:

H.R. 600. A bill to eliminate the personal exemption from customs duties for returning residents with respect to merchandise that is the product of the Union of South Africa; to the Committee on Ways and Means.

H.R. 601. A bill to amend the Internal Revenue Code of 1986 to allow individuals to direct that part of all of their income tax refunds be contributed to a trust fund established for the relief of incurable diseases, and to establish a commission to oversee the distribution of such contributions; jointly, to the Committee on Ways and Means and Energy and Commerce.

By Mr. SMITH of Iowa:

H.R. 602. A bill to amend the Commodity Exchange Act to require public disclosure of certain information relating to sales of commodities for export, and for other purposes; to the Committee on Agriculture.

H.R. 603. A bill to amend the Commodity Exchange Act to prohibit insider trading; to the Committee on Agriculture.

H.R. 604. A bill to amend the Poultry Products Inspection Act to reestablish minimum inspection and processing standards; to the Committee on Agriculture.

H.R. 605. A bill to authorize loans for study at nonprofit institutions of higher education; to the Committee on Education and Labor.

H.R. 606. A bill to amend the Securities Exchange Act of 1934 to prohibit certain trades; to the Committee on Energy and Commerce.

H.R. 607. A bill to amend the Small Business Act to assist and protect small businesses and to protect small businesses against unreasonable use of economic power by major meatpacking companies, and for other purposes; jointly, to the Committees on Agriculture and Small Business.

H.R. 608. A bill to clarify the eligibility of certain small businesses for loans under the Small Business Act, to aid, protect, and preserve small businesses in meat producing and marketing, and for other purposes; jointly, to the Committees on Agriculture and Small Business.

H.R. 609. A bill to develop natural resources, to provide meaningful employment opportunities producing assets of lasting value, and to enhance the environment, through a program providing incentives to State, local, and Federal agencies to plant trees on public lands; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Small Business.

By Mr. SMITH of Iowa (for himself and Mr. UDALL):

H.R. 610. A bill to require the Secretary of the Interior to establish a program to insure the stockpiling and replacement of topsoil on public lands and other lands which are moved or covered by surface mining projects, reclamation projects, and other Federal and federally assisted projects, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. TRAXLER:

H.R. 611. A bill to nullify the recent increase in certain executive, legislative, and judicial salaries; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H.J. Res. 87. Joint resolution proposing an amendment to the Constitution of the United States limiting the number of consecutive terms Members of the U.S. Senate and House of Representatives may serve; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire (for himself, Mr. TAUKE, Mr. DOUGLAS, Mr. SCHAEFER, Mr. HOLLOWAY, Mr.

PETRI, Mr. WELDON, Mr. NIELSON of Utah, Mr. IRELAND, Mr. TAUZIN, Mr. EMERSON, Mr. ROBERT F. SMITH, Mr. SHUMWAY, Mr. MONTGOMERY, Mr. BUNNING, Mr. SMITH of Texas, Mr. LEACH of Iowa, Mr. COBLE, Mr. DONALD E. LUKENS, Mr. SMITH of Vermont, Mr. BENNETT, Mr. BALLENGER, Mrs. BENTLEY, Mr. CRAIG, Mr. INHOFE, Mr. HILER, Mrs. SAIKI, and Mr. DANNEMEYER):

H.J. Res. 88. Joint resolution disapproving pay increases proposed by the President for Members of Congress; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. TRAXLER:

H.J. Res. 89. Joint resolution proposing an amendment to the Constitution of the United States relating to the means for establishing appropriate compensation levels for Members of Congress; to the Committee on the Judiciary.

H.J. Res. 90. Joint resolution disapproving the pay increases for executive, legislative, and judicial branch positions recently recommended by the President; to the Committee on Post Office and Civil Service.

By Mrs. BENTLEY (for herself, Mr. PENNY, Mr. GRANDY, Mr. RHODES, Mr. BLAZ, Mr. GUNDERSON, Mr. DEFAZIO, Mr. CLINGER, Mr. MCCURDY, Mr. SOLOMON, Mr. RICHARDSON, Mr. YOUNG of Alaska, Mr. FOGLIETTA, Mr. NIELSON of Utah, Mr. LAGOMARSINO, Mr. HUNTER, Mr. CHAPMAN, Mr. SKEEN, Mr. EMERSON, Mr. HILER, Mr. HYDE, Mr. MCCOLLUM, Mr. CONTE, Mrs. SAIKI, Mr. RITTER, Mrs. MARTIN of Illinois, Mrs. COLLINS, Mr. SHAYS, Mr. ROE, Mr. UPTON, Mr. BEREUTER, Mr. BALLENGER, Mrs. LLOYD, Mrs. PATTERSON, Mr. FROST, Mr. HOLLOWAY, Mr. GREEN, Mr. BURTON of Indiana, Mr. DORNAN of California, Mr. LIGHTFOOT, Mrs. MORELLA, Mr. LEWIS of California, Mr. CRAIG, Mr. BOEHLERT, Mr. COLEMAN of Missouri, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. WALSH, Mr. FAWELL, Ms. KAPTUR, Mr. HUGHES, Mr. STANGELAND, Mr. WELDON, and Mr. BATES):

H. Con. Res. 30. Concurrent resolution expressing the sense of the Congress that the Secretary of Labor, in cooperation with the ACTION Agency, should publicize and promote projects under the Retired Senior Volunteer Program and the Older American Community Service Employment Program that encourage and recruit older individuals to provide child care services in community-based child care centers; to the Committee on Education and Labor.

By Mr. LEWIS of California:

H. Res. 45. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

By Mr. DORNAN of California:

H. Res. 46. Resolution amending the Rules of the House to require that any House employee who has a security clearance receive semiannual security briefings; to the Committee on Rules.

By Mr. KANJORSKI:

H. Res. 47. Resolution to amend the Rules of the House of Representatives to require that all testimony of witnesses at committee or subcommittee hearings be taken under oath; to the Committee on Rules.

By Mr. RANGEL:

H. Res. 48. Resolution to urge the Government of South Africa to indicate its willingness to engage in meaningful political negotiations with that country's black majority; to the Committee on Foreign Affairs.

By Mr. SMITH of Iowa:

H. Res. 49. Resolution authorizing the House Administration Committee to investigate, recount, and report on contested elections for the House of Representatives; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DORNAN of California:

H.R. 612. A bill to permit Willie D. Harris to present a claim against the United States in the manner provided for in chapter 171 of title 28, United States Code, and for other purposes; to the Committee on the Judiciary.

By Mr. KANJORSKI:

H.R. 613. A bill for the relief of Lucille White, Gerald J. White, Gary White, and Sara White; to the Committee on the Judiciary.

By Mr. DORNAN of California:

H. Con. Res. 31. Concurrent resolution expressing the sense of the Congress concerning the meritorious conduct of Tibor Rubin during the Korean conflict; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. BRENNAN, Mr. DOUGLAS, Mr. FLORIO, Mr. SABO, Mr. STUDDS, Mr. GLICKMAN, Mr. KANJORSKI, Mr. COBLE, Mr. STENHOLM, Mr. GOODLING, Mr. TAUKE, Mr. GUNDERSON, Mr. SOLARZ, Mr. BILBRAY, Mr. BEREUTER, Mrs. BOXER, and Mr. MORRISON of Connecticut.

H.R. 46: Mr. ERDREICH, Mr. BATES, Mr. ACKERMAN, Mr. OWENS of New York, Mr. MRAZEK, Mr. MILLER of Ohio, Mr. ROE, Mr. DE LUGO, Ms. KAPTUR, Mr. KILDEE, Mrs. COLLINS, Mr. RANGEL, and Mr. FRANK.

H.R. 82: Mr. MYERS of Indiana, Mr. WOLPE, Mr. BONIOR, and Mr. LIPINSKI.

H.R. 111: Mr. HARRIS, Mr. TRAFICANT, Mr. ACKERMAN, Mr. DELLUMS, Mr. FAUNTROY, Mr. OWENS of New York, Mr. ROE, Mrs. COLLINS, Mr. FRANK, Mr. RANGEL, Mr. TRAXLER, Mr. MFUME, and Mr. KOLTER.

H.R. 145: Mr. ANDERSON, Mr. DE LUGO, Mr. ENGLISH, Mr. SMITH of Florida, and Mrs. MEYERS of Kansas.

H.R. 283: Mr. KASICH, Ms. KAPTUR, Mr. BROOMFIELD, Mr. GILLMOR, Mr. DEWINE, and Mr. ROBINSON.

H.R. 286: Mr. STANGELAND, Mr. PETRI, and Mr. RAHALL.

H.R. 303: Mr. STAGGERS, Mr. OXLEY, Mr. COMBEST, Mrs. BENTLEY, Mr. DONALD LUKENS, Mr. RAHALL, Mr. ALEXANDER, Mr. ATKINS, Mr. HASTERT, Mr. WISE, Mr. EMERSON, Mr. PEPPER, Mr. MFUME, Mr. EVANS, Mr. DYSON, Mr. PANETTA, Mr. DYMALLY, Mr. HANSEN, Mr. ENGLISH, Mr. RICHARDSON, Mr. HUGHES, Mr. SMITH of Florida, Mr. FLORIO, Mr. SKEEN, Mrs. COLLINS, Mr. ROBINSON, Mr. WAXMAN, Mr. ROWLAND of Connecticut, Mr. BROWN of California, Mr. SPENCE, Mr. THOMAS A. LUKEN, Mr. GLICKMAN, Mr. TALLON, and Mr. IRELAND.

H.R. 328: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, and Mr. PETRI.

H.R. 329: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. SMITH of Texas, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, Mrs. BENTLEY, Mr. STUMP, Mr. PETRI, and Mr. STALLINGS.

H.R. 330: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. DENNY SMITH, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, Mrs. BENTLEY, Mr. STUMP, Mr. PETRI, Mr. WOLF, and Mr. STALLINGS.

H.R. 331: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. DENNY SMITH, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, and Mr. CLEMENT.

H.R. 360: Mr. DOWNEY, Mr. STARK, Mr. LEVIN of Michigan, Mr. MANTON, Mr. ACKERMAN, Mr. DELLUMS, Mr. FAUNTROY, Mr. YATES, Mr. ROE, Mr. BATES, Mrs. COLLINS, Mr. FRANK, Mr. RANGEL, Mr. KOLTER, and Mr. MARTINEZ.

H.R. 361: Mr. DOWNEY, Mr. STARK, Mr. LEVIN of Michigan, Mr. MANTON, Mr. ACKERMAN, Mr. DELLUMS, Mr. FAUNTROY, Mr. YATES, Mr. ROE, Mr. BATES, Mrs. COLLINS, Mr. FRANK, Mr. RANGEL, Mr. KOLTER, and Mr. MARTINEZ.

H.R. 372: Mr. MARTINEZ, Mr. DOWNEY, Mrs. PATTERSON, Mr. FOGLIETTA, and Mr. MINETA.

H.R. 373: Mr. WEBER, Mr. OXLEY, Mr. GREEN, Mr. WISE, Mr. MURPHY, Mr. COLEMAN of Missouri, Mr. PEASE, Mrs. MEYERS of Kansas, Mr. BOEHLERT, Mr. SCHUETTE, Mr. MARTIN of New York, Mr. HARRIS, Mr. ROBERTS, Mr. STENHOLM, Mr. PORTER, Mr. ERDREICH, Mrs. COLLINS, Mr. NEAL of North Carolina, Mr. MCCURDY, Mr. BONIOR, and Mr. IRELAND.

H.R. 418: Mr. FEIGHAN, Mr. EDWARDS of California, and Mr. AUCOIN.

H.R. 499: Mrs. MEYERS of Kansas, Mr. CRAIG, Mr. HASTERT, Mr. ARMEY, and Mr. PACKARD.

H.R. 504: Mr. CRAIG, Mr. HASTERT, Mr. ARMEY, Mr. IRELAND, and Mr. PACKARD.

H.J. Res. 62: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. RIDGE, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, Mrs. BENTLEY, Mr. PETRI, and Mr. STALLINGS.

H. Res. 24: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. SMITH of Texas, Mr. DEWINE, Mr. SHUMWAY, Mr. COX, Mrs. BENTLEY, Mr. STUMP, Mr. PETRI, and Mr. STALLINGS.

H. Res. 25: Mr. GOODLING, Mr. HALL of Texas, Mr. RAVENEL, Mr. BALLENGER, Mr. BENNETT, Mr. DEWINE, Mrs. BENTLEY, Mr. STUMP, Mr. PETRI, Mr. COX, Mr. JACOBS, and Mr. WOLF.

EXTENSIONS OF REMARKS

THE DEFICIT CRISIS—PRESERVING THE NATION'S FUTURE

HON. LEON E. PANETTA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. PANETTA. Mr. Speaker, on Tuesday, January 17, I had the privilege of addressing the National Press Club. My subject was our Nation's budget deficit and the challenge and opportunity it represents to our Nation and its leadership. I would like to include the text of my speech in the RECORD at this time in the interests of my colleagues who may wish to read it. As we begin a year when the deficit will occupy a great deal of our time and energies, I hope my remarks will provide some background and some guidance as we face the difficult choices before us.

Following is the text of my address:

THE DEFICIT CRISIS—PRESERVING THE NATION'S RESOURCES

It is a great honor for me to have the opportunity to address this historic institution—the National Press Club. It is particularly appropriate since you have been designated as one of the Congress' infamous partners in the Iron Triangle.

It is a comforting thought to know that you are equally responsible for the federal deficit. Whether that is true or not is subject to debate. What is not a matter of debate is the fact that in our democracy, we are partners in making our system of government work.

An informed public is a crucial ingredient of a free society. We in government must never fear the truth, and you in the press must never fear to reveal the truth to the American people. Together, we form not an iron triangle, but the strong infrastructure of a vibrant democracy.

It is in this spirit that I share with you my thoughts about the federal budget deficit—an issue that represents the primary challenge, opportunity, and test of leadership for our nation today.

Our future is dependent on the strength of our economy; the strength of our economy is dependent on resources; and our resources are dependent, in large measure, on our ability to manage our budget properly.

In his book, "The Rise and Fall of the Great Powers," the historian Paul Kennedy tracks the history of the major powers since the 1500's. Whether one contemplates the history of Imperial Spain, Napoleon's France, the British Empire, Bismarck's Prussia, Japan, Germany, the United States, or others, there is a common theme that runs throughout history: nations rise to power by virtue of their ability to possess, develop, and accumulate resources, and they decline in power when they fail to manage those resources properly.

The issue raised by the book which confronts all of us is, where in this cycle is the United States today? Are we in decline by virtue of our inability to manage our resources, or are we willing to make the tough choices necessary to conserve our resources and deploy them effectively and equitably now and in the future?

The most disturbing evidence of our inability to manage these resources properly is the growth of our federal debt. During the last eight years, we have seen eight consecutive 12-digit deficits. The federal debt, the accumulation of all our budget deficits, has nearly tripled since 1980. The debt subject to limit now stands at 2.6 trillion dollars and counting.

It is likely that this year, the Administration will request, and the Congress will have to approve, an increase in the federal debt ceiling beyond 2.8 trillion dollars to accommodate the continuing deficits.

Who is to blame for these deficits? Democrats? Republicans? Congress? President Reagan? The Iron Triangle? Frankly, this nation could never have reached a $2.6 trillion federal debt without the cooperation of most of these institutions. Both political parties, and past and present Administrations and Congresses, have had their favorite spending programs. And, to the extent that government has reflected the contradictory desires of the American people, who want critical defense and domestic programs but do not particularly want to pay for them, all of us share the blame.

And why not? It's a hell of a deal. National security, social benefits, and all other Federal spending for about 85 cents on the dollar. Is it any wonder that some would argue that the deficit is not that serious a problem?

Jonathan Rauch, in this month's Atlantic Monthly, asks the question, "Is the Deficit Really So Bad?" After all, the sky has not fallen; there has been no immediate crisis. Both ends of the political spectrum, if forced to choose, would select deficits rather than do harm to their priorities. Conservatives forced to choose between taxes or defense cuts and higher deficits would choose deficits. Liberals forced to choose between domestic program cuts and deficits would choose deficits.

The result is that the deficit has not been at the top of the agenda for the nation's political leadership. President Reagan, for all of his talk about deficits and balanced-budget amendments, never once in eight years presented a balanced budget to the nation. He was the first to admit that he had other, more important priorities. Neither of the recent Presidential candidates really confronted the deficit issue except in the vaguest of terms—from an undefined "flexible freeze" to a speculative IRS enforcement windfall.

The consequence of all of this is a day-to-day mentality that says, get what you can today, and don't worry about tomorrow. We have been on a borrow, bail-out, and buy-out binge that pervades our society and puts our future economic security at risk. The current approach to the savings and loan crisis is the latest illustration of this attitude—borrow whatever is necessary today to put off the problem, regardless of the exposure to which it subjects the Treasury.

The fact is, this borrowing and these deficits are stealing the very resources our nation needs to continue economic growth, to invest, to produce, to improve our standard of living, and to address the critical problems we face in both defense and domestic areas, both now and in the future.

Our resources are endangered because we are borrowing from the future to pay for our current consumption.

We are borrowing from private saving. Despite the promises made by supply-side economists, net national saving has declined by two-thirds since the 1960's and '70's. Part of this is a decline in personal saving, which is exactly the opposite of what the supply-siders predicted. Our personal saving rate of three to five percent contrasts with Japan's 16 to 17 percent. The U.S. national saving average—the combination of private and public saving—has gone from an average of eight percent of the gross national product in the 1950's to just a little more than three percent in the 1980's. What saving we have is going to finance the deficit—lost capital for investment in our own society.

To replace this lost domestic capital, we are borrowing from foreign investors. We have borrowed close to 500 billion dollars and are now the largest debtor nation in the world. By the early 1990's, it is expected that we will have to borrow over one trillion dollars from abroad. The danger of this huge foreign indebtedness is that we are becoming increasingly dependent on the decisions of foreign investors for the stability of the dollar, and, for that matter, our economy.

We are borrowing from the nation's trust funds. Social security now has a surplus of 69 billion dollars, and is holding a reserve expected to peak at 12 trillion dollars in the year 2030. These funds are now, in effect, being lent to us through the Social Security Trust Fund's purchase of Treasury securities. This means that the federal fund's deficit, excluding social security, is not $155 billion in 1989 but actually in excess of 210 billion dollars. Ultimately, this borrowing must be paid back as the baby boomers reach retirement age. The present level of borrowing puts both the economy and the trust fund at risk.

The consequence of all this borrowing—from savings, from foreigners, from trust funds—is directly reflected in the budget in the form of expanding interest payments. This is really where the borrowing comes home to roost, and where the public ultimately feels the bite of lost resources. Today, close to 15 percent of the budget, almost 170 billion dollars, goes for nothing else but to pay lenders for the money our Treasury must borrow.

In very simple terms, this is 170 billion dollars that cannot be spent to improve our nation's defense, to educate our children, to train unemployed workers, to house low- and middle-income families, to fight the drug war, to repair our aging infrastructure, to clean up the environment, or to reduce the deficit.

The interest portion of the budget is the fastest growing part of the budget—having increased 145 percent in the last eight years. As it consumes more and more of the resource pie, there is increasing pressure on

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the remaining programs for survival, and there is a growing gap between our responsibilities and the resources available to meet them. The savings and loan crisis and the costly clean-up and improvement of our nuclear weapons facilities are only the most visible examples.

Added to these new emergencies are the societal deficits that continue to eat away at our social fabric: the tragic waste of children growing up in poverty without decent housing, nutrition, education, or hope; the growing health care needs of the elderly and those with no health care protection; the homeless; and those afflicted with AIDS or addicted to drugs.

If we agree that controlling the federal deficit is essential to our future economic security and our ability to respond to national priorities, why is it so difficult to accomplish? The reality is that the nature of the budget is such that there are only tough choices left.

A close look at the 1.1 trillion dollar federal budget shows that two-thirds of the budget goes to just four areas: defense, interest payments, social security, and medicare. If you add the remaining entitlement programs—medicaid, civil service and military retirement veterans' compensation and pensions, agricultural support payments, and additional programs serving the poor—some 84 percent of the budget is consumed by defense, entitlement, and interest on the debt. The remaining 16 percent is everything else: education, housing, transportation, health research, law enforcement, space, air safety, the homeless, and funds to operate the court system and government. This area of the budget has been cut in real terms by 18 percent over the last eight years.

Considering these budget realities, an effective deficit reduction proposal must of necessity involve a balance of spending constraints on defense and entitlements, along with additional revenues. Such an approach is both substantively and politically right, particularly when one considers the alternatives. And even the Reagan budget proposes significant new revenues.

Some suggest that it could all be done by raising taxes. But such an approach not only is politically impossible but the wrong taxes could undermine the economy.

Others say it could all come from cutting defense. This approach would not be supprted by either party and could cause untold harm to our nation's security.

Still others say it could all come out of domestic spending. That could mean a 20-percent cut in all domestic discretionary programs, from education to air safety. This approach has been in large measure proposed by the Administration and rejected overwhelmingly time and time again, by Republicans and Democrats alike.

We've heard a new variation recently on this theme—that in reducing the deficit through "spending restraint" in domestic programs, we would not really be cutting spending. We would only be "reducing the increase" that would otherwise take place.

The reality is this: if inflation or other factors force up the cost of a program, and you don't increase spending to keep up, you have to cut real services. That's a spending cut. It's like your family budget. If the price of food increases by five percent, and your pay goes up only enough to increase your grocery spending by two percent, you may be spending more, but you'll be eating less. Government is no different. Let's at least be honest about that.

What about taking it all out of entitlements? That means deep cuts in social security. Enough said about that.

What about letting Gramm-Rudman take effect with its arbitrary cuts across the board—50 percent out of defense and 50 percent out of certain domestic programs? For Fiscal Year 1990, this could mean cuts of more than 15 billion dollars in each area. This prospect makes for great tough talk, but it is a consequence both substantively and politically intolerable.

And then there's the old smoke-and-mirrors approach: use very optimistic projections about the future of the economy and you may not have to cut spending or raise taxes at all. After all, one percentage point in lower interest rate projections can give you much as 10 billion to 11 billion dollars in deficit reduction. That's a hell of a lot easier than cutting programs or raising taxes. But a failed projection ultimately inflicts greater pain than spending cuts or tax hikes, because the fantasy is shattered by increasing deficits.

And finally, there is the suggestion that process changes alone can solve the problem. But there is no Constitutional amendment or procedural change that guarantees the will or courage to make tough choices.

There is no easy approach, and that's why a balanced deficit reduction package makes the most sense.

The problem is not the substance of deficit reduction. The problem is politics. Each party has postured itself in opposition to touching certain areas of the budget, and in doing so, has successfully forced the other party to pay a heavy political price. Most of us have an image of the Republicans opposing all tax increases and all efforts to slow down defense spending, and Democrats opposing all cuts in domestic programs. But these images do not necessarily coincide with the facts.

Fact: Ronald Reagan has signed 11 bills over the last seven years which have raised taxes by 581 billion dollars through 1989. Even the final Reagan budget contains over 13 billion dollars in new revenues, including over seven billion dollars in new taxes, user fees, and offsetting collections.

Fact: Republicans in Congress have generally agreed on the need to limit the growth in defense spending, and President Reagan has signed four appropriations bills with no real growth in defense, or even less.

Fact: Democratic Congresses have supported substantial cuts in domestic programs.

But party leaders believe it serves their parties' interest to emphasize their differences rather than their similarities. The result is stalemate, or only piecemeal steps where dramatic action is needed. Unfortunately, the last Presidential campaign only reinforced these images.

In a democracy, action occurs in one of two ways; through strong leadership or through crisis.

In 1987, crisis finally occurred. The Gramm-Rudman law threatened a 23-billion-dollar across-the-board cut, and on October 19, the stock market crashed. There was both economic and governmental crisis, and the result was the economic summit between the White House and the Congress. As a participant in that summit, I can tell you the final package was not as bold as some of us hoped, but there are several important lessons that emerged:

First, the agreement was bipartisan. There is no way the tough choices that need to be made can be made unless both political parties, the White House, and the Congress concur in the final package.

Second, the 76-billion-dollar package included each of the areas that are essential to an effective deficit-reduction proposal: savings in defense and entitlement spending and new revenues.

And lastly, the agreement stretched over two years. This helped restore a timely budget process to the country for the first time in 40 years. I am convinced that establishing funding targets over a two-year period allowed the Congress to pass each of its appropriations bills before the end of the last fiscal year, and that the absence of budget confrontation allowed both parties to cooperate on a series of successful legislative initiatives in the 100th Congress—from trade to hunger to welfare reform to drug enforcement.

The question is whether these lessons have been learned. Will budget decisions be made by crisis or through leadership? Will we need a stock market crash, a fall in the dollar, or a Gramm-Rudman deadline to bring us to our senses, or will a new Administration and a new Congress give us the opportunity to lead? Will we repeat the first years of the Reagan Administration, when disingenuous projections and bitter partisanship led to disastrous fiscal policy, or will we work together to resolve our differences and do what's right? This will be the first test of leadership for the new President and the new Congress.

The budget debate opened last week with the introduction of President Reagan's last budget. Like the eight which preceded it, this budget does not come close to being balanced. If offers a rosy projection of the economy, and it repeats the same old priorities of increasing defense spending while paying for that increase with drastic cuts in programs for people. It is not a budget that leads to the future. It is a last will and testament—an approach to the budget whose time has passed.

The principal focus now will be on the new President and his budget. He faces a tough challenge. He will have to reconcile the promises he made during the campaign with the realities of deficit reduction.

He promised a kinder and gentler America. He said he supported a new child care initiative, an expanded Headstart program, full funding for the McKinney Act to help the homeless, and a medicaid buy-in program for those without health care protection. None of these initiatives appears in the Reagan budget.

He promised to be the education President. He promised increased funding for magnet schools, merit awards to teachers, and funds for innovation and reform of schools and teachers. The Reagan budget eliminated 24 categorical programs and proposed reductions in the Government Student Loan Program.

He promised to be the environment President. He supported increased efforts to improve the environment. The Reagan budget eliminates grants and incentives for conservation.

He supported new incentives through tax cuts. His proposals included a drop in capital gains tax rates and special breaks for the oil and gas industry.

He supported growth in defense spending, no cuts in social security and a "read my lips" approach to new revenues.

Add all of this up . . . and it doesn't add up. Compromises will have to be made. But that should not be viewed as a failure; that

is what the challenge of leadership is all about.

As Chairman of the House Budget Committee, I am prepared to work with the new President in this effort, to reach out not only to Democrats and Republicans in Congress but to President Bush as well to help resolve this deficit issue once and for all. A long-term compromise that gets us on the path toward lower deficits is possible. It can be done.

But it can happen only if there is a frank and honest assessment of budget realities. Appropriate signals must be sent in the new President's budget submission. Budgets are not just numbers and dollar signs; they are a statement about the priorities of a President and a nation. This nation, the Congress, and indeed the world will be watching how this new President confronts the following challenges:

Will he present a specific proposal—one which does not merely set broad goals but tells Congress in a detailed plan what his policies are for specific government programs?

Will Mr. Bush present a realistic budget—one that is based on economic projections which include attainable interest and growth rates?

Will he keep the tax increases and other revenue increases proposed by President Reagan? Will these fit his "read my lips" definition of new taxes?

Will he be a kinder and gentler President? Will he restore the deep Reagan cuts in such domestic programs as medicaid, school lunches, housing, and aid for the homeless?

Will he hold down defense spending to the level of inflation in order to afford other initiatives in day care, education, and the environment?

How will he provide for America's pressing and non-deferable needs—the savings and loan crisis, the nuclear weapons clean-up?

These are the tests by which we can judge the Bush budget. Is it specific? Is it realistic? Is it credible? And is it fair? If the Bush budget meets these tests, then I am convinced that a new period of cooperation between the President and the Congress will mark this new Administration.

In the end, the answer depends on which George Bush was elected President. Was it the confrontational, "read my lips" George Bush? Or was it the kinder, gentler George Bush, the environmentalist, the "thousand points of light" George Bush?

The initial signs have been positive. His cabinet appointments and his other appointments and statements, as well as his past history, provide us with something to go on. George Bush has always been a pragmatist. He believes in government and what it can accomplish. He now has the opportunity to deliver on his beliefs.

The stakes are high. The economic future of this country—what kind of life we want for ourselves, our children, and their children—depends on how we address the deficit issue.

If we continue to permit the deficit to eat away at this nation's resources, then economic stagnation or decline is sure to follow. Most of us live a more comfortable life than the generations which came before us—if not our parents, then certainly our grandparents. All of us would like to be able to say the same for our own children and grandchildren, that we helped to create for them a better life. But if we do not address this issue, future generations will say that we failed them. And they will be right.

If we do meet this challenge, we can look to the future with hope, with optimism. We have a lot to accomplish in this country. In a country where 20 percent of our children live in poverty, we have a lot to accomplish. In a country where major cities are choked by air pollution and new threats to our environment seem to arise almost daily, we have a lot to accomplish. In a country where millions of the elderly live in fear that long-term illness will deprive them of comfort and dignity in their final days, we have a lot to accomplish. In a country where young people are too often discouraged from performing service for their fellow citizens, we have a lot to accomplish. And in a country where we take satisfaction in 73 months of economic expansion while thousands of our fellow citizens, including a growing number of children, sleep outdoors in the bitter cold, we surely have a lot to accomplish.

But we can't hope to accomplish the fundamental long-term goals we envision for our country if we don't deal with this problem first. The deficit is the issue from which all others flow. Our success or our failure in dealing with the deficit will determine whether we have a chance to deal with these others.

If we can break from the past and join together in a spirit of bipartisanship, not only will the American people be grateful, but future generations will look back on this inauguration week as a historic time in America—a time when America not only decided to remain a great power but, more importantly, remain a government of, for, and by all people.

Thank you.

RESIDENTIAL MORTGAGE CREDIT FAIRNESS ACT

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. GALLO. Mr. Speaker, today I am reintroducing the Residential Mortgage Credit Fairness Act on behalf of myself and 14 original cosponsors. If enacted, this bill would prevent a lender who guarantees a mortgage lock-in from escaping his commitment to the borrower.

Far too often, homebuyers or those refinancing their home loans are forced to accept loans costing far more than the amount for which they originally agreed. Under these circumstances, homebuyers have to come up with additional money at the last minute, surrender their deposit or legal fees, or give up their dreams of homeownership.

Under this bill, which amends the Truth and Lending Act, consumers will be protected from "mortgage rate shock." Lenders who have promised loan terms will be prohibited from using delays in the closing process to escape their promises. On the other hand, the bill does not punish lenders who clearly tell consumers that the interest rate or other terms are not guaranteed or lenders whose closings are held up by unreasonable consumer delays.

The Consumer Union, publisher of Consumer Reports magazine, believes that this "important legislation establishes basic rules of fair play in the mortgage lending market." I strongly agree with Michelle Meier of Consumers Union, who states "since lenders can control the application process, they are in the driver's seat when it comes to closing the loan. If rates rise during the application process, the lender can get out of the lock-in by holding up the closing date unitl the lock-in period has expired."

The Residential Mortgage Credit Fairness Act is fair to both lenders and borrowers. It does not force lenders to offer a lock-in, but those who do will have to honor their commitments. This legislation penalizes the bad apples in the lending industry who currently lure borrowers away from more scrupulous lenders by promising rates that they have no firm intention of honoring.

With this thought in mind, I once again ask my colleagues to join me and a number of our fellow Members in support of this legislation and to work for its passage so that financial institutions will no longer make promises they can't keep.

AIRLINER CABIN AIR QUALITY PROTECTION ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. OBERSTAR. Mr. Speaker, today I have introduced the Airliner Cabin Quality Protection Act of 1989 to permanently prohibit smoking on domestic airline flights.

The Congress has already enacted, as part of the appropriations process, a 2-year ban on smoking on airline flights of 2 hours or less. That ban expires in April 1990. While initially there was great concern for the potential reaction to this ban—fears of fires in lavatories, rebellious smokers, massive resistance—the FAA reports only 18 enforcement incidents between enactment in April and July 2, 1988. I am confident that more up-to-date statistics would continue this virtually incident-free record.

While I supported that provision, I did so only as an interim step toward a long overdue, permanent ban on smoking on board aircraft, in view of the scientifically demonstrated, profound health risks to passengers and crew from passive smoking. There ought to be a prohibition on smoking on all domestic airline flights, whatever the duration of the flight. My bill would accomplish this purpose.

I have prepared a brief survey of the health, safety, and economic issues to be discussed in connection with this bill. I commend it to my colleagues' attention:

First, cigarette smoke can make a significant, measurable contribution to the level of indoor air pollution at levels of smoking and ventilation that are common in the indoor environment. This effect is exacerbated in enclosed environments such as airplanes, where air flow is further restricted. Nonsmokers have a right to a clean and smoke-free environment when they travel.

Second, nonsmokers who report exposure to environmental tobacco smoke have higher levels of urinary continine, a metabolite of nicotine, than those who do not report such exposure.

Third, cigarette smoke in the air can produce an increase in both subjective and

objective levels of eye irritation. Further, some studies suggest that high levels of involuntary smoke exposure may produce small changes in pulmonary function in some subjects.

Fourth, in 1986, three reports bearing on the health risks of smoking aboard commercial aircraft were issued:

The congressionally mandated report on airline cabin air quality, issued in August, 1986 by the National Academy of Sciences, titled, "The Airliner Cabin Environment: Air Quality and Safety," recommended that for health and safety reasons all smoking aboard domestic commercial flights be prohibited.

The November 1986 National Academy of Sciences report on the health effects of involuntary smoking—Environmental Tobacco Smoke: Measuring Exposures and Assessing Health Effects—provided further scientific evidence about the health risks posed to nonsmokers on board aircraft when smoking is permitted anywhere in the passenger cabin.

The December 1986 study on involuntary smoking conducted by the Surgeon General further documented the dangers of environmental tobacco smoke.

Fifth, involuntary smoking is the cause of disease, including lung cancer, in healthy nonsmokers.

Sixth, the National Academy of Sciences found that the separation of smokers and nonsmokers in separate sections board airplanes does not protect all passengers and all flight attendants from exposure to tobacco smoke.

Seventh, the relatively low humidity aboard airplanes combined with the reduced fresh air flow aggravates passenger discomfort and irritation when air quality contaminants are present. Especially sensitive persons, such as asthmatics or those with allergies, may experience extreme discomfort and severe reactions to tobacco smoke exposure in the airliner cabin environment.

Eighth, cigarette smoking is responsible for many inflight fires, which pose a substantial threat to passenger and crew safety.

Ninth, the high concentration of smoke in the smoking section of a passenger cabin cannot be compensated for by increased ventilation, even if such an increase were economically feasible, which it is not.

Tenth, the airline industry is likely already benefiting from a ban on smoking aboard aircraft. The NAS study on airliner cabin air quality states that—

After a period of adjustment and with strict enforcement, prohibiting smoking should reduce on-board fire risk, cleaning costs and costs of replacing damaged materials. Removing tobacoo smoke from the aircraft environment would reduce cabin ventilation requirements and would result in additional fuel savings while reducing irritation and health risk.

These are some of the issues which should be discussed as we debate the merits of a complete ban on smoking aboard domestic aircraft.

I hope that the Public Works and Transportation Committee will move quickly to mark up and report to the House legislation to permanently prohibit smoking on all domestic airline flights.

NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. HENRY. Mr. Speaker, solid waste, particularly solid waste disposal, is an immediate, critical problem facing communities throughout the United States, as you know. Therefore, today I, along with Mr. WAXMAN, Ms. SNOWE, Mr. FORD of Michigan, Mr. KILDEE, Mr. MINETA, Mr. ACKERMAN, Mr. LEACH, Mr. SHAYS, Mr. BEILENSON, Mr. OWENS of New York, Mr. STUDDS, Mr. DEFAZIO, Mr. HOCHBRUECKNER, Mr. FRANK, Mr. MCHUGH, Mr. AUCOIN, Ms. PELOSI, and Mr. LIPINSKI, am introducing the National Beverage Container Reuse and Recycling Act—often referred to as the "national bottle bill."

There is certainly no one solution to the waste dilemma facing our Nation. However, this proposal is patterned after legislation that has proven effective in reducing solid waste, reducing energy consumption, creating jobs, and reducing roadside litter in 10 States across the country. It would prohibit the sale of carbonated soft drinks, beer, wine coolers, mineral water, or soda water in beverage containers unless such a container carried a refund or deposit value—which, at the time of purchase, would be paid by the consumer. Beverage retailers and distributors would be required to pay back that deposit when the containers are returned—thus creating a self-sustaining recycling network.

In the State of Michigan alone, a similar deposit law is responsible for a 7-percent reduction in the State's solid waste stream, $250 million in savings for landfill costs, 8,5 trillion Btu's in energy consumption savings, and a net increase of over 4,000 jobs.

Below, I have attached an article which appeared in the January issue of Michigan Out-of-Doors magazine. It provides a detailed history of the Michigan bottle bill that I hope will encourage my colleagues to support the National Beverage Container Reuse and Recycling Act in the 101st Congress. Mr. Speaker, the proven benefits of bottle deposit laws in States such as Michigan should clearly demonstrate to us that a national bottle bill is in the best interest of the entire Nation. It should be part of any serious proposal that comes from this body which is aimed at addressing our country's growing waste management problems.

MICHIGAN'S BOTTLE BILL—10 YEARS LATER

(By Richard L. Jameson)

While Proposal A drew lots of attention in the fall of 1988, it was Proposal A back in 1976 that was the headline issue.

Proposal A of 1976 was the ban on throwaway pop and beer containers spearheaded by the Michigan United Conservation Clubs.

More citizens cast votes on the "bottle bill" than for President in that hotly contested campaign.

In a bold move in April 1976, the MUCC Executive Committee voted to undertake a petition drive to legislate a ban on throwaway beer and soft drink containers. In eight previous public referenda around the country voters had rejected similar proposals to ban throwaways.

MUCC leaders were mindful of the difficulties in bucking the powerful beverage industry, but they were fed up with the growing litter and solid waste problems and inaction by the Legislature.

Bottle bills had been languishing in the Legislature for more than 10 years, thanks to well-heeled lobbyists from the beer, soft drink, container manufacturing, and related industries.

"We were at a stalemate," according to Rep. Lynn Jondahl, D-East Lansing, who authored the bottle bill language used by MUCC. "The Chamber of Commerce, industry, and labor lobbied againsts even having it brought up for a vote."

Despite the unqualified success of bottle bills in Oregon and Vermont, not many political observers gave much hope that a mandatory deposit bill would be passed in a large industrial state like Michigan.

Some encouragement came from a statewide poll in 1975 that showed a full 73 percent of Michigan citizens favored a ban on throwaways. And Gov. William G. Milliken strongly supported the proposal and publicly signed the first petition as MUCC began its initial attempt at citizen-launched legislation.

Perhaps the first real indication of the success story about to unfold occurred when MUCC collected a record 400,000 signatures in an intense six-week campaign. The beverage industry had underestimated the largest state conservation organization in the country.

MUCC's effort was joined by a broad coalition, including the Farm Bureau, garden clubs, West Michigan Environmental Action Council, Michigan Audubon Society, and others representing a sizable segment of Michigan's voting public. Gov. Miliken's unqualified endorsement led to many resolutions of support from various state boards and agencies. His environmental advisor, William Rustem, actually took a 10-week leave of absence to work for MUCC on the campaign.

The MUCC network of 400 conservation and sportsmen clubs gathered roughly 50 percent of the petition signatures. MUCC met the counterattack of the beverage lobby blow by blow. Additional staff was added, WATS lines installed, and a Detroit area office opened to capture the southeast Michigan vote.

Slick public relations campaigns by the industry were met by a grassroots campaign the likes of which Michigan had never seen. Voters were barraged with countless "vote no" ads on TV, radio, and in newspapers paid for by an industry-labor coalition called the Committee Against Forced Deposits.

Unable to afford expensive media time, MUCC printed circulars and fact sheets by the hundreds of thousands and distributed them through its 400 clubs and many cooperating organizations.

Strong editorial support from the state's media was also a definite factor in garnering public backing for returnable containers. Editorials against Proposal A were few and far between.

When all was said and done, Proposal A gathered 64 percent of the vote for a solid victory. Of Michigan's 83 counties, only four in the western Upper Peninsula had a majority opposed to the bottle bill, which took effect in 1978.

Here's a rundown on the results following the 10th anniversary of the implementation of Michigan's famous bottle law:

LITTER REDUCTION

While litter reduction may not be the most important result of the bottle bill, it was the issue that sold the people on supporting it and is the way that many people measure its success. According to the Michigan Department of Transportation, bottle and can litter decreased by 84 percent after the first year and more than 90 percent the second year. This corresponds to an estimate by the Michigan Public Service Commission that the return rate on deposit containers was about 95 percent. Whatever the actual figure, it is clear that deposits on beer and soft drink containers are an effective way to keep them off our roads, beaches, and lawns.

SOLID WASTE

While litter was the main topic of the debate, perhaps the most important result of the measure was the reduction of solid waste. "It was pure folly to be using billions of containers once and then landfilling them," says Thomas L. Washington, executive director of MUCC. The Michigan bottle bill is keeping some 4.7 billion soft drink and beer containers out of Michigan's overburdened landfills. Disposing of solid waste is now one of the biggest items of city and county budgets.

That seven percent reduction has saved Michigan citizens approximately $250 million since the bottle bill was implemented, according to Public Sector Consultants of Lansing, a highly respected research firm.

The reuse and recycling of billions of containers annually also represents a tremendous saving of raw materials. The metals, minerals, packaging, and other resources used by the beverage industry will be conserved for future generations.

The bottle bill successfully enlisted nearly all of Michigan's 9 million citizens into the biggest recycling effort in the state's history.

ENERGY REDUCTION

Reduction in solid waste also translates into substantial energy savings. Savings occur because it takes far less energy to reuse and recycle containers than it does to manufacture new containers from raw materials. An aluminum container from recycled material uses only 10 percent of the energy required to manufacture the same item from scratch.

Michigan's Public Service Commission estimates the bottle bill is saving approximately two-tenths of one percent of the annual energy budget of Michigan. This translates into 8.5 trillion BTUs or 65 million gallons of gas per year. Over the last 10 years, an impressive amount of energy has been saved equivalent to 650 million gallons of gasoline.

JOBS

While opponents claimed the bottle bill would cause massive unemployment, just the opposite occurred.

While there was a loss of a few hundred jobs in the container manufacturing sector, thousands of new jobs were created in the distribution, retailing, and recycling areas. The Public Service Commission calculated that Michigan's bottle bill caused a net increase of 4,174 jobs.

WINE COOLERS

With the introduction and rapid growth in popularity of wine coolers, MUCC requested the Liquor Control Commission to place deposits on these containers through the LCC's rule-making authority. The Beer and Wine Wholesalers were successful in blocking an LCC proposal to accomplish this. MUCC then launched a citizen-initiative drive to address the wine cooler issue, prompting the Legislature to adopt its own wine cooler deposit bill in October of 1986. The bill goes into effect June 1, 1989.

PUBLIC OPINION

As in Oregon, Vermont, and other bottle-bill states, Michigan deposit law has widespread support. Popular support roughly matches the return rate of containers. Ninety percent of Michigan's citizens supported the bottle bill in a 1987 poll conducted by the Mitchell Group. In other words, support for the bottle bill has grown from two-to-one when it first passed to nine-to-one years after it went into effect. As one legislator put it recently, the bottle bill "is a sacred cow and everyone must realize that it is untouchable."

THE FUTURE

The bottle bill made a significant dent in the area of resource conservation and solid waste, but the problem still persists.

Overpackaging, disposable items, and ever-increasing solid-waste generation still threaten our resource base and our expensive, overburdened landfills. Source reduction and recycling will need to be greatly expanded or we will bury ourselves in society's trash.

The bottle bill showed that citizens are willing to help solve these problems even if it means some inconvenience. A number of states with more serious problems than Michigan have instituted mandatory recycling statewide in an effort to reduce the solid waste stream as much as 75 percent. Eash Lansing, Ann Arbor, Holland, and other Michigan cities have undertaken extensive voluntary curbside recycling programs.

The recently passed Proposal C will make available some $150 million to develop alternatives to landfilling and markets for recyclables. The state's new Solid Waste Policy clearly mandates source reduction and recycling as the new direction to address this problem.

MUCC, as a follow-up to the bottle bill, is drafting legislation to earmark the unknown millions of dollars annually from unclaimed bottle and can deposits. According to a June 1988 study by Public Sector Consultants. Michigan consumers have lost between $260 million and $1.2 billion in unclaimed deposits. Since the beverage industry has no reporting requirements on deposits collected and returned, the estimates are based on figures from other bottle-bill states with reporting requirements.

While the beverage industry argues that it needs the money to offset handling costs, MUCC and others argue that consumers and the environment should benefit from these monies.

As Washington says. "The bottle bill was passed by Michigan citizens concerned about the environment, and the unclaimed deposits rightfully belong in environmental protection program that benefit our state."

REFLECTIONS ON MICHIGAN'S BEVERAGE CONTAINER LAW

"People who have traveled and compared Michigan to other states always comment how clean Michigan is and how lucky we are to have the bottle bill! Other evaluations such as the increase in recycling and energy savings are equally positive."—*State Rep. Lynn Jondahl, author of the bottle bill.*

"Our great state and local park system has been able to operate and maintain itself over the past 10 years without having to divert thousands of hours to picking up bottles and cans, let alone suffer health and safety problems."—*John Greenslit, executive director, Michigan Parks and Recreation Association.*

"The Legislature shouldn't be so reluctant to ask Michigan citizens to do their part in addressing environmental problems. People will rise to the occasion as demonstrated by the bottle bill."—*Alex Sagady, former executive director, Michigan Student Environmental Confederation.*

"Ten years after enactment of the beverage container deposit law, problems caused by the random throwaway of these containers have virtually disappeared. Rural roadsides and adjacent farm fields are clean except for random, widespread exceptions. The economic incentive of a nickel or dime to keep beverage containers in the recycling mainstream is working."—*Al Almy, Michigan Farm Bureau.*

"Bottle deposit legislation has been a high priority for the League of Women Voters ever since we adopted our solid waste management policy emphasizing waste reduction and recycling in the early 1970s. I now hear from one or more Leagues in other states each year inquiring how Michigan did it."—*Connie Ferguson, natural resources chairperson. League of Women Voters of Michigan.*

"The promises of the bottle bill have clearly been borne out by the history of the last 10 years. The mandatory recycling program—which is really all the bottle bill is—has proven effective in reducing solid waste, reducing energy consumption, creating jobs, and substantially reducing roadside litter. Michigan citizens are justifiably proud of their law, a step that has meant a cleaner and better Michigan both for us today and for future generations."—*William R. Rustem, former environmental advisor to Gov. Milliken.*

"If anyone wants to know how successful a bottle bill can be, all they need to do is to walk a trail or drive a highway in Michigan. We have shown here that a simple, painless approach to one of the most visible environmental problems can work remarkably well for everyone involved."—*Ann Woiwode, Sierra Club.*

"No other effort has demonstrated so clearly the public's desire and ability to protect the Michigan environment. The bottle bill and the Michigan Environmental Protection Act are the two crown jewels of environmental protection and citizen action."—*Rich Newberry, West Michigan Environmental Action Council.*

"There is no question that the bottle bill has cleaned up our shorelines, roadsides, and parks. The impact that this law has had has veen very apparent to me in my travels through various states. I'm proud to have been an active participant in the formation and passage of this law. It is a tribute to the conservation ethic of our citizens that this bill was so overwhelmingly accepted."—*Former Gov. William G. Milliken.*

HAZARDOUS MATERIALS TRANSPORTATION: THE NEED FOR A REGIONAL FLOW STUDY

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. GALLO. Mr. Speaker, today I am introducing legislation to require the Secretary of Transportation to conduct an analysis, by regions in the United States, of hazardous materials transportation incidents and the flow of hazardous materials on highways, water, and railroads.

Every year, more than 1.5 billion tons of gasoline and potentially hazardous materials, including chemicals, explosives, and hazardous waste, are transported across the United States.

However, no one Federal agency has the information necessary to properly oversee these shipments and establish workable Federal guidelines. The Federal Government must have more accurate information about the transportation of these dangerous materials.

Therefore, I am introducing this bill calling for a regional examination of commodity flow and accident data for hazardous materials transported on highways, water, and railroad. This information will enable the Department of Transportation, relevant State agencies, and emergency response teams to target enforcement efforts and training dollars, to determine whether specific routes should be designated as hazardous routes, identify accident "hot spots," and determine the appropriate number of first responders and necessary equipment required along major flow routes.

One area that also needs study is the current availability of moneys for first responder training. In September 1988, I requested the General Accounting Office to identify Federal moneys available for first responder training and I look forward to sharing their findings with my colleagues early in 1989.

I chose a regional approach in the legislation because the July 1986 report to Congress by the Office of Technology Assessment showed that the transportation of hazardous materials is largely a regional phenomenon. The average trip length for trucks hauling chemicals, for example, is 260 miles. Based on their comprehensive analysis, OTA concluded that "annual DOT summaries of aggregate regional shipments could provide useful regional and State commodity flow data."

In 1984, a flow study was conducted for the New York/New Jersey region by Mr. Raymond Scanlon, administrator of safety programs for the Port Authority of New York and New Jersey. Mr. Scanlon's study would be an excellent model for the work to be done under the provisions of my bill. This information needs to be brought together on all regions of the country and updated to the present situation.

My bill also requires the Secretary of Transportation to cooperate with other Federal agencies, States and hazardous materials shippers and carriers to improve commodity flow and accident data bases. At present, there are at least 12 Federal agencies and several private emergency response services that share responsibility for the safe transport of hazardous materials, but they do not share a common data base or communications system.

Under present law, the U.S. Department of Transportation is the lead agency for establishing and enforcing regulations on hazardous materials transportation. However, this Agency shares enforcement and related responsibilities with the Federal Highway Administration, the Federal Railroad Administration, the Federal Aviation Administration, the National Highway Traffic Safety Administration, the Coast Guard, the Nuclear Regulatory Commission, the Environmental Protection Agency, the Occupational Health and Safety Administration, the Department of Energy, the Department of Defense, and the Federal Emergency Management Agency.

Mr. Speaker, in the coming months, I expect that both the House Public Works and Transportation Committee and the House Energy and Commerce Committee will begin their consideration of a bill reauthorizing the Hazardous Materials Transportation Act. There are many issues that need to be addressed in the reauthorization. The findings of regional flow studies would help us address those issues.

GLOBAL POVERTY REDUCTION ACT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. LEVINE of California. Mr. Speaker, today JOHN MILLER and I and over 60 of our colleagues are reintroducing the Global Poverty Reduction Act. This legislation, identical to legislation we introduced last year which had 194 cosponsors, seeks to target U.S. development assistance to eliminate the worst aspects of poverty throughout the world by the year 2000.

As we enter the final decade of this century, the progress we have made in previous years toward raising the standard of living for the world's poorest people is in serious jeopardy. A report just released by the U.N. Children's Fund states that for most of the countries of Africa, Latin America, and the Caribbean, "almost every economic signal points to the fact that development has been derailed." Even in countries with increasing per capita GNP, the poorest 40 percent of the population often receives a smaller share of the total, resulting in little or no improvement in standard of living for those on the bottom rungs of the economic ladder.

This legislation is designed to refocus U.S. development assistance to reduce the most devastating effects of poverty—particularly as it affects children. My bill targets three specific performance indicators which would be used to reflect the depth of poverty and the quality of life in developing countries. By focusing development assistance on improving these indicators, the United States can make measurable progress toward reducing malnutrition, disease, starvation, and poverty by the end of this century.

First, this legislation targets the goal of reducing the under five mortality rate for developing countries to less than 70 deaths for 1,000 live births.

Second, we have targeted the improvement of the female literacy rate to 80 percent by the end of this century. A great deal of research and even common sense indicate that declining population growth, the child survival rate, and the educational level of the next generation closely correlate with the rate of female literacy.

Finally, this legislation targets U.S. development assistance toward the goal of reducing the overall rate of overall poverty. Absolute poverty is defined as the income level below which a minimum nutritionally adequate diet—plus essential nonfood requirements, such as medical care—are not affordable.

These three performance indicators are acknowledged by international experts as among the most reflective of the condition of people living in absolute poverty.

The Global Poverty Reduction Act also directs the President to consult with the governments of developing countries, nongovernmental organizations, and international organizations to set additional goals and to devise a plan to utilize U.S. development assistance more effectively in the fight against poverty and hunger.

Additionally, this legislation recognizes the importance of environmental problems in the poverty cycle, and emphasizes the utilization of development activities which are consistent with maintaining and restoring the renewable natural resource base.

This bill proposes no new spending. Rather, it recognizes that in a time of increasingly tight budgets, it is all the more crucial that our foreign aid dollars are wisely spent. To measure the success of our development efforts, we must use specific and quantifiable goals. Such goals increase accountability and, even more importantly, ensure that we will be focusing on those targets most likely to reduce poverty, hunger, and disease among the world's poorest peoples.

I strongly urge my colleagues to join me in support of this important legislation.

TRIBUTE TO JAMES McCRORY

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. SMITH of Texas. Mr. Speaker, today we honor the inauguration of a new President and prepare to start a new Congress.

At this time of "new beginnings," I would like to publically honor James McCrory, political writer for the San Antonio Express-News. Jim launches a "new beginning" of his own today as he retires from a 37-year journalism career.

I have had the privilege of working with Jim ever since my start in San Antonio politics 10 years ago, and have always been treated with fairness and honesty. As he retires, I want to wish this valued friend well.

Over the past 30 years, Jim has managed to interview every President since Harry

Truman. While he has seen politics and journalism change with the ascension of broadcast media, he remains staunchly loyal to the importance of the print journalist's role.

But even as times changed, Jim McCrory's superior ability in political analysis did not. I have always admired and respected Jim for his capacity to get to the heart of a story quickly, clearly, and succinctly.

Jim's professionalism has made its mark on political reporting in San Antonio, and he should be proud to leave journalism improved by his participation.

PREVENTION OF PESTICIDE CONTAMINATION OF GROUND WATER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. OBERSTAR. Mr. Speaker, today I have reintroduced the Ground Water Safety Act, which will help prevent and control contamination of ground water by pesticides.

For many years we assumed that, while surface waters were undeniably contaminated by many pollutants from point and nonpoint sources, our ground water was pure.

Now we find, wherever we look, that ground water has been contaminated as well, by landfills, waste disposal sites, and many other sources including, more and more, by pesticides.

To date, 26 States have detected 46 different pesticides in their well water, attributable to normal application rather than to spills or other causes.

In my own State of Minnesota, a recently completed test of 500 public and private drinking water wells indicates that pesticides and herbicides are present in 38 percent of the wells tested.

In hearings on ground water contamination by pesticides, held last year by the Public Works and Transportation Subcommittee on Investigations and Oversight, which I chair, one witness spoke of farmers' "chemical dependence" on agricultural chemicals, even though they know these can contaminate their family's drinking water. Some farmers, according to this witness, would be willing to see all agricultural chemicals banned, across the board, nationwide. Other witnesses talked of the increasing discovery of pesticides in ground water, and the costs of dealing with it.

We can't say, definitively, at this point, the true extent of the problem; but I predict that as EPA's well water survey continues, and reveals more and more wells contaminated by pesticides, the need for this bill will be evident.

The Ground Water Safety Act deals with the normal application of pesticides, rather than with spills or illegal uses. It makes the bridge between drinking water quality and pesticide application, first by determining which pesticides are likely to leach into which soils; and second by setting an action trigger at a very low health-based ground water contamination level. Under my bill, if a pesticide leaches, that leaching must be controlled. If it's found in drinking water, even at levels well below the health standard, its use can be sharply curtailed or banned in the immediate area before it threatens health.

The bill is thus protective and proactive.

The Resource: This bill protects not only those aquifers in use today, but those which could potentially be used in the future.

The Standard: The standard is the ground water residue guidance level [GRGL], which is set at the maximum contaminant level goal [MCLG], a purely health-based level under the Safe Drinking Water Act, if such has been promulgated. If the pesticide has been detected at three or more ground water sampling points, but has no GRGL, the GRGL is set at 5 micrograms per liter.

Leachers: The Administrator of the Environmental Protection Agency is required, first of all, to establish criteria by which to determine whether a pesticide has the potential to leach into ground water. Pesticide registrants are then required to submit the necessary data from which EPA will determine whether that particular pesticide has leaching potential. If so, EPA can require the registrant to develop management practices to prevent leaching or, if necessary, refuse to register or reregister the pesticide. Any pesticide found at three or more ground water sampling points around the country is automtically determined to be a leacher.

Monitoring: If the pesticide has leaching potential, the registrant will be required to monitor ground water in areas where the pesticide is used. Monitoring results must be provided to EPA and the State.

Action: If EPA determines from the above or other information that the pesticide is likely to reach or exceed the GRCL: that is, it has been found at 25 percent of the GRGL in different parts of the country, EPA must amend the registration to prevent the level from being exceeded.

If a pesticide is found to reach or exceed 50 percent of the GRGL, either the State or EPA must take steps, including if necessary banning the use of the pesticide in the specific area of contamination, to prevent the contamination level from reaching or exceeding the GRGL. EPA may also order the registrant to provide water treatment facilities or alternative water supplies, and take other abatement actions.

State Programs: The bill also establishes State programs to prevent pesticide contamination of ground water, and provides $25 million a year for these programs.

The Nonpoint Source Connection: Contamination of ground water by normal application of pesticides is a nonpoint source problem. However, nonpoint source practices have long been suspected of aggravating or even causing ground water problems. For instance, conservation tillage or no-till, which help prevent erosion and the escape of pesticides, herbicides, and nutrients into surface water, may require increased application of pesticides, which then remain on the land and can leach into ground water. The ability to predict and control or prevent pesticide leaching, and management practices developed therefrom, would be an invaluable addition to nonpoint source [NPS] management practices.

Compounding the potential problem, while the NPS management programs will usually be housed in the water divisions of State environmental protection agencies, pesticide control programs may well be lodged in State agriculture departments.

It is imperative to bring the resources to be protected, and their management agencies and programs, together on the ground, in practice.

My bill therefore amends section 319 of the Clean Water Act, nonpoint source management programs, to assure that these two programs become compatible and mutually supportive.

Section 4 of this bill requires EPA to encourage consultation between State agencies or agency subdivisions, and coordination between programs. It further requires those States where pesticides are a substantial ground water problem to assure that information developed under this bill reaches the NPS agency, and that the NPS program's best management practices [BMP's] reflect this bill's pesticide management practices. Section 4 also permits use of NPS funds to incorporate pesticide control measures into section 319's technical assistance, financial assistance, education, training, technology transfer, and demonstration projects.

Finally, I have provided $5 million a year to EPA to assist in developing management practices that will protect both surface and ground water resources from pesticide contamination.

Mr. Speaker, it truly seems that, in the case of ground water contamination, if we seek, we find it. Treatment is in many cases impracticable, and in some cases impossible, leaving the farm family with the choice of drinking contaminated water, or purchasing bottled water, and even possibly losing the value of their home and farm.

An aquifer once destroyed is destroyed almost in perpetuity. The only course is prevention.

The Ground Water Safety Act is needed now, before more ground water resources are lost or contaminated. I will join with any and all who share this goal, to achieve its enactment at the earliest moment.

MARTIN LUTHER KING DAY CELEBRATED IN ATTLEBORO, MA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. FRANK. Mr. Speaker, those of us who strongly supported the establishment of a holiday to honor the work and life of Dr. Martin Luther King were especially pleased last week to be able to attend community ceremonies in honor of Dr. King.

I was privileged to be invited to participate in the city of Attleboro, where a committee of citizens from the Greater Attleboro area did a superb job of putting together a ceremony at city hall, and a celebration afterward at the Centenary United Methodist Church in Attleboro. I wish to congratulate the members of

the committee, whose names are listed below; the mayor of Attleboro, Kai Shang and City Councillors Judith Robbins and Carolyn Tedino, the Reverend Theodore Lockhart, pastor of Centenary United Methodist Church, and all the other citizens of Attleboro and its neighboring communities who participated in this important event.

No one in our history has done more than Martin Luther King to advance the ideals of freedom and equal treatment of the laws which our Constitution holds out as ideals. Celebrating his work is both a tribute to his memory, and a chance for us to rededicate ourselves to seeing that these ideals—in which we have made so much progress—are in fact fully achieved. I was privileged to be able to participate in that ceremony and I ask that the program from the Dr. Martin Luther King birthday celebration program in Attleboro, MA, be printed here:

LIVING THE DREAM: LET FREEDOM RING

DR. MARTIN LUTHER KING'S BIRTHDAY CELEBRATION PROGRAM

Organ prelude: Mrs. Shirley Young.

Processional: Lift every Voice and Sing.

Call to worship: Rev. Theodore Lockhart, Pastor Centenary United Methodist Church.

Opening prayer: Rev. Richard Green, Pastor, Faith Alliance Church Attleboro, MA.

Scripture, Amos 5:10-15, 21-24: Rabbi Andrea Gouze, Agudas Achim Synagogue, Attleboro, MA.

Selection: "Panis Angelicus," Lisa Hansen, Graduate Attleboro High School.

Scripture, Matt. 5:3-12: Rev. Carol Baker, Pastor, Central Congregational Church, Attleboro Falls, MA.

Selection: Centenary United Methodist Church.

Proclamations: Mayor Kai Shang; Governor Michael Dukakis; Representative Barney Frank.

Selection: John Wesley A.M.E. Zion Church.

Narrations/readings (From the work and life of Dr. Martin Luther King Jr.): Youth Group.

Selection: Pentecostal Church of God, Providence, R.I.

Introduction of speaker: Rev. Arlene Hambrick, Pastor, John Wesley, A.M.E. Zion Church, Attleboro, MA.

Selection: Pentecostal Church of God, Providence, R.I., "A Critical Letter From a Contemporary Jail".

Prayer for peace and unity: Rev. John Magnani, Pastor, St. Mary's Roman Catholic Church, Norton, MA.

Benediction: Rev. Roberta Williams, Pastor, Mansfield United Methodist Church, Mansfield, MA.

Selection: We Shall Overcome.

MEMBERS OF THE YOUTH GROUP IN ORDER OF APPEARANCE

Michael Durant Norton, MA.; Karren Cason Attleboro, MA.; Leland Wyatt Norton, MA.; Erica Bell Taunton, MA.; Vernon Wyatt Norton, MA.; Stacy Morris Norton, MA.; Nicole Forbes Mansfield, MA.; Charon Garvin Norton, MA.; Tiffany Busby Norton, MA.; Adrienne Vincent Attleboro, MA.; Alexander Vincent Attleboro, MA.; Adam Puller Bellngham, MA.; Thomas Lewis N. Attleboro, MA.; and Kevin Merritt Raynham, MA.

DR. MARTIN LUTHER KING, JR. HOLIDAY PLANNING COMMITTEE

Robert Brown, Jr., Providence, RI.; Edna Cason, Attleboro, MA.; Gladys Durant, Norton, MA.; Lawrence Fitton, Attleboro, MA.; Rachel Garvin, Norton, MA.; Rev. Arlene Hambrick, Attleboro, MA.; Hazel Knight, N. Attleboro, MA.; Rev. John E. Knight, N. Attleboro, MA.; Rev. Theodore Lockhart, Attleboro, MA.; and Gloria Wyatt, Norton, MA.

THE SAN DIEGO SEWAGE TREATMENT IMPROVEMENT ACT OF 1989

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. BATES. Mr. Speaker, today I am introducing legislation to assist the city of San Diego in its requirement under the Clean Water Act to achieve secondary treatment of its sewage. Since 1977, public officials at the Federal, State, and local levels have tried to grapple with San Diego's vexing sewage problems with one objective in mind, to seek the best solution for the people of San Diego. This legislation, I believe, is a step in that direction.

Today the city of San Diego is in noncompliance with section 301(i) of the Clean Water Act. This section requires the city of San Diego to treat its sewage to the secondary level by July 1, 1988. On July 27, 1988, the Environmental Protection Agency (EPA) and the State of California Water Resources Control Board filed suit in U.S. District Court against the city of San Diego for violations of the Clean Water Act. The complaint against the city of San Diego is for violating State water quality standards for coliform bacteria at the city's Point Loma wastewater treatment plant.

Currently, the city of San Diego treats its sewage at the primary level at the Point Loma wastewater treatment facility before discharging the effluent into the Pacific Ocean. This facility serves the entire city of San Diego and 14 surrounding communities, or a total of 1.5 million residents. As a result, the city discharges 224 million gallons per day of primary treated sewage into the Pacific Ocean. By the year 2000, sewage treatment volume is expected to double.

According to the officials from the EPA, no other city in the State of California has as far as the city of San Diego to come into compliance with the Clean Water Act. Experts estimate that for the city of San Diego to come into compliance with the Clean Water Act, it will have to spend $1.5 to $2.4 billion. This would make it the most expensive public works project in California after the San Onofre Nuclear Power Plant.

Along with my colleagues Representative DUNCAN HUNTER and Representative TONY COELHO, I am introducing the San Diego Sewage Treament Improvement Act of 1989. The legislation earmarks a total of $10 million to complete the planning phase of the project. Initially, the city of San Diego received $10 million for planning construction of a secondary treatment works, however, an additional $10 million is needed to complete this phase of the project which is expected to be completed by early 1991.

In addition, the bill states that money earmarked for planning must be used for planning water reclamation projects for San Diego and surrounding communities. The benefits derived from reclaimed water are twofold. First, reclaimed water could be used for irrigation (both agriculture and landscape), recharge of nonpotable aquifers, industrial uses, and creation of riparian environments. Second, wastewater reclamation projects is a viable alternative to the advanced ocean dumping system currently under consideration by the Environmental Protection Agency.

The bill also requires the Environmental Protection Agency to make grants to the city for the purpose of constructing wastewater treatment works that would provide secondary wastewater treatment. The Federal share is established at 55 percent.

I am introducing this bill for several reasons. First, the cost of constructing new facilities and upgrading the existing Point Loma plant is $1.5 to $2.4 billion, all to be financed at the local level. The Federal Government, acting through the Environmental Protection Agency, will cease awarding sewage construction grants after fiscal year 1990. After fiscal year 1990, States will be required to set up a State-operated loan program. In San Diego's case, the average ratepayer bill would more than quadruple.

Second, clean water attainment is not just the city of San Diego's problem. Nationally, 188 major municipalities do not meet current Clean Water Act standards. Some communities may be spending billions or even trillions of dollars to improve their sewer infrastructures. The question that comes to mind is, "How can cities be asked to finance such high capital projects out of local revenues?"

I believe it is important for all cities to meet the standards established in the Clean Water Act. In San Diego's case, the environmental impact from dumping primary treated sewage into the Pacific Ocean has a profound affect. Secondary treatment protects the public from the disease potential of human waste and also protects fish and other aquatic life. Recent studies have revealed high bacteriological counts in the Point Loma kelp beds. High bacteria levels are harmful to divers, people who eat shellfish and, in general, degrade the marine environment.

In summary, my bill seeks to rectify a problem with a solution that other cities have enjoyed, financial assistance at the Federal level. The San Diego Sewage Treatment Improvement Act of 1988 is actually modeled after a provision in H.R. 1, the Clean Water Act, that essentially required the Federal Government to pay 75 percent for planning and construction of Boston's secondary treatment works. The bill I have introduced seeks only a 55-percent Federal share.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Diego Sewage Treatment Improvement Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) section 301(i) of the Federal Water Pollution Control Act requires that all municipal wastewater discharges achieve secondary or advanced treatment by July 1, 1988;

(2) the estimated cost of sewage treatment improvements needed for the city of San Diego, California, to meet such standards is $1,500,000,000;

(3) the Environmental Protection Agency has filed suit in the United States district court against the city of San Diego for discharging inadequately treated sewage and for violating water quality standards for coliform bacteria at the Point Loma Wastewater Treatment Plant of such city;

(4) the discharge of inadequately treated sewage is detrimental to marine life; and

(5) no other city in the State of California has as far to go as the city of San Diego in meeting the requirements of section 301(i) of the Federal Water Pollution Control Act.

SEC. 3. PLANNING.

The Administrator of the Environmental Protection Agency shall make a grant of $10,000,000 from funds allotted under section 205 of the Federal Water Pollution Control Act to the State of California for fiscal year 1990 to the city of San Diego, California, for planning construction of wastewater treatment works which are necessary for providing secondary treatment for such city and surrounding communities and for planning water reclamation projects for such city and surrounding communities.

SEC. 4. CONSTRUCTION.

(a) GRANTS.—The Administrator of the Environmental Protection Agency shall make grants to the city of San Diego, California, for purposes of constructing wastewater treatment works which are necessary for providing secondary treatment for such city and surrounding communities.

(b) FEDERAL SHARE.—The Federal share of projects described in subsection (a) shall not exceed 55 percent of the cost of construction thereof.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1991. Such funds shall remain available until expended and shall be in addition to and not in lieu of any other amounts authorized to be appropriated under the Federal Water Pollution Control Act.

PRESIDENTIAL INAUGURAL EVENTS AT TAXPAYERS' EXPENSE

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. JOHNSON of South Dakota. Mr. Speaker, today we witness one of the Nation's most treasured traditions—the swearing in of the next President of the United States. These last few days have been a time of great celebration in Washington, and people across the country have shared in the excitement with us. While I am most enthusiastic about the festivities that have taken place and that will take place today, I continue to be concerned about a problem that grows worse with each inaugural, and that is the unauthorized use of taxpayer dollars for many of the inaugural activities and events.

A GAO study of the 1985 inaugural revealed that many private inaugural events "were largely planned, staffed, and executed by Federal employees at the taxpayers' expense." According to the study, the 1985 inaugural involved seven Government agencies and cost $16 million in government funds. At a time when our Nation is facing huge deficits, we need to carefully scrutinize where and how Federal moneys are being spent. It is unthinkable to ask the taxpayers, who have already borne their share in the deficit reduction process, to pay for extravagant social events that they cannot even attend.

Today I am introducing legislation to correct this situation. First, my bill will prevent taxpayer dollars from being used to pay for inaugural balls and other private social events at future Presidential inaugurals. Second, the legal authority of the Presidential Inaugural Committee has not been clear in the past. My legislation will clearly define the status and the authority of the Inaugural Committee and requires the Committee to reimburse the Government for the costs of private events. Federal spending should be restricted to the actual swearing-in ceremony, protection of the President, and other expenses that are absolutely necessary.

I first introduced this legislation with Senator Proxmire in the 100th Congress, and part of this bill was incorporated into the Defense Authorization Act, but only to be effective for fiscal year 1989. We need to take a serious look at this problem and take steps to provide some permanent solutions so that this situation will not recur at future inaugurals. I urge my colleagues to join me in supporting this legislation and working for its swift passage.

TENANT PROTECTION

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. GALLO. Mr. Speaker, today I am introducing a bill that will provide a mechanism to protect low-income tenants from the dire consequences that follow when an owner of federally assisted housing decides to prepay his or her mortgage. This bill is more comprehensive than similar legislation that I introduced in the last Congress.

My bill amends section 8(o)(3) of the United States Housing Act of 1937 to allow low-income tenants to qualify for the housing voucher demonstration program. Further, it raises the maximum amount of income a person may have and still qualify for housing certificates under the lower income rental assistance program.

The 2-year interim plan set in place in the recently enacted Housing and Community Development Act came too late for the residents of Cherry Hill Garden Apartments and Dover Garden 1, both of which are located in my district, the 11th Congressional District of New Jersey. Further, H.R. 4 contains an interim solution while the measure I propose is a permanent solution that, with little modification, can be made part of any new mechanism designed to preserve our stock of low-cost housing.

As a result of earlier congressional attempts to provide housing for the less fortunate, in the 1960's and early 1970's, low-income families were assisted through a process that called for reducing the owner's mortgage payments and passing along to the tenants the consequent reduction in operating costs. The Department of Housing and Urban Development controlled the rents.

However, in certain instances, the agreement between the owner and the Government allowed the owner to prepay the mortgage. Having prepaid, owners are then free to raise rents to market level thereby removing the units from the supply of housing available to low-income families.

When the owner of Dover Garden and Cherry Hill prepaid, the resident low-income tenants were placed between a rock and a hard place. The demonstration voucher program, which recognizes the fact that market rate rental costs vary according to region of the country, is available only to very low-income families. The certificate program, although it includes low-income and very low-income families, does not reflect the cost of living in the 1980's in suburban New Jersey.

Although the tenants of my district are among the first in the Nation to face this crisis, there are approximately 68 New Jersey projects eligible for repayment and nationwide over 330,000 units.

Not all owners will elect to prepay their mortgages. Unfortunately, however, the most likely to take that step are those who have projects in areas in which housing costs are rising most rapidly, with the result that their existing tenants will have the most trouble relocating.

We must be concerned for these tenants who, through no fault of their own and almost without warning, face a housing crisis. The tenants are as deserving of help after the owner pays off the mortgage as before, but they now are being forced to look for a new place to live in an area that has just lost a low-cost housing unit. I believe that my bill, making housing vouchers and certificates available to existing tenants, is the most effective and workable way to provide that help.

UKRAINIAN INDEPENDENCE DAY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Ms. SLAUGHTER of New York. Mr. Speaker, January 22, marks the anniversary of Ukrainian Independence Day. In 1918, as the First World War drew to a close, Ukrainians were able, for a few short years to determine their own national destiny. On January 22, the Ukrainian National Assembly, meeting in Kiev proudly announced the independence of Ukraine.

Unfortunately, this independence was short lived. By 1923, all Ukrainian territory was under the control of the new Soviet regime in Moscow and Ukraine was soon to be the victim of one of the worst artificially induced famines of all time. Millions of Ukrainians died during the forced collectivization of agriculture ordered by the dictator Joseph Stalin even as Ukraine exported grain to the west of the Soviet Union.

Despite the many setbacks of recent history, Ukrainians have maintained a positive outlook on the future and have striven to keep their national identity and culture alive. January 22, symbolizes that hope and buoys the spirits of Ukrainians and those who care about Ukrainians.

The history of Ukraine is a long and proud one. This commemorative date encourages all of us to remember that history and take pride in its achievements and to learn from its mistakes. Ukrainian culture is unique and its contribution to our heritage must not be forgotten.

CPC-BAY CITY: A LABOR-MANAGEMENT RELATIONS MODEL FOR THE NATION

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. TRAXLER. Mr. Speaker, I rise today to call our colleagues' attention to a major accomplishment at the Chevrolet-Pontiac-GM of Canada plant in Bay City, MI. The management team of this facility and United Auto Workers Local 362 of Bay City are to be commended for developing a most positive labor relations program.

Ten years ago, these two groups held a Quality of Work Life Program that has encouraged the talents of both hourly and management personnel in forging a well trained and well-informed work force, whose ideas and feelings are recognized and valued.

This successful endeavor paved the way for the "living agreement" signed in 1984. This landmark agreement, and outgrowth of contract negotiations that year, pledged the parties to rsesolve problems as they arise. Since then, because of an almost nonexistent grievance load, CPC has been able to focus its attention on production, high quality products, and competitiveness in the marketplace.

This process has worked exceedingly well for this plant, formerly known as Chevrolet-Bay City, to position itself as an industry leader. It has earned national recognition. More importantly, there has been a revitalization of pride in their work, a sense of ownership and responsibility for the quality of their work products, and a concern for each other's well-being. In a word, labor and management have become a real "team".

Through the use of a computer system, machines and products are monitored, and feedback is provided to the production areas so the workers know the results of their efforts and have the leeway to improve on their record. Workers have a voice in the procurement of machinery, based on the premise: Who knows the machine better than the operator? Time and time again, better ways of doing the job have been initiated through suggestions of workers on the line.

I have always felt that American workers are the best in the world, and that American industry is still the model. Anyone who doubts this need only look toward CPC-Bay City, and the leadership who had the foresight and courage to try these innovative programs.

I urge all of our colleagues to offer their strongest congratulations to Chevrolet-Pontiac-GM of Canada of Bay City, MI, its management personnel, UAW No. 362 workers, and the present plant manager, Patricia Carrigan, as they celebrate the success of their historic agreements.

PRO COMPETITION CARGO ALLOCATION ACT OF 1989

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1989

Mr. OBERSTAR. Mr. Speaker, today I have introduced the Pro Competition Cargo Allocation Act of 1989. This bill would repeal two of the most objectionable provisions of the 1985 farm bill's Merchant Marine Act amendments: the extra 25 percent U.S.-flag set-aside, and the Great Lakes set-aside. This would restore the historic 50-percent cargo preference requirement for humanitarian food aid such as the Food for Peace Program, and remove the Great Lakes ports' mandatory allocation of approximately 250,000 tons of food for peace, Public Law 480, title II, bagged, processed, and fortified commodities.

In the three years these provisions have been in effect, they have created only dissatisfaction and objection on the part of the Great Lakes Port Authorities.

Great Lakes port communities are intensely dissatisfied. We were highly competitive with other port ranges under the historic 50/50 cargo preference requirements. In fact, our low bids kept the lid on total program prices in all transportation modes and through all port ranges, saving tax dollars and stretching our Public Law 480 resources. Now, as the U.S.-flag set-aside has risen to 75 percent, lakes ports see their ability to compete, even to remain viable, rapidly disappearing. If our set-aside should terminate at the end of this year, as now scheduled, we may well lose even the few foreign flag lines now serving the Great Lakes/St. Lawrence Seaway System.

Other port ranges are also dissatisfied, and have complained loudly and long that the lakes' set-aside has deprived them of cargoes.

The U.S. Department of Agriculture, which has to administer the program, is not satisfied with it because the Department has had to take into account the legislated set-asides rather than allocating purely on the basis of lowest landed cost.

The U.S. taxpayers should not be satisfied because the two set-asides have already cost them $11 million in calendar year 1988 alone.

The lakes ports' set-aside cost has been modest—$2.6 million for the 1988 program year as compared to over $8 million for the U.S.-flag set-aside. Lakes ports are willing to forgo this set-aside in exchange for the right to compete on the open market for 50 percent of Public Law 480, title II bagged and processed cargoes. We believe that we can compete, and welcome the other port ranges to try to meet our costs.

Mr. Speaker, let me say that Great Lakes ports did not welcome the set-aside. Rather, we were forced into it in self-preservation.

Under the Merchant Marine Act amendments in the 1985 farm bill certain argicultural goods are exempted from cargo preference altogether. Carriage of other agricultural goods on U.S.-flag vessels, including the Food for Peace. Public Law 480 cargoes, rose from their historic 50 to 60 percent in 1986, to 70 percent in 1987, and to 75 percent in 1988.

Because Great Lakes ports have no regular U.S.-flag service, the 75 percent U.S.-flag set-aside is clearly detrimental to the lakes. The Great Lakes delegation was able to secure a brief palliative, a guaranteed set-aside of Public Law 480, title II bagged, processed, fortified commodities, through this calendar year only. After that, if the set-aside is not extended, lake ports will be able to compete with the other port ranges for—not necessarily to win—only the 25 percent non-U.S.-flag-designated cargo.

Public Law 480, title II cargoes are the lifeblood of our ports. Because their handling is labor intensive, they provide jobs for dockworkers who would otherwise be unemployed. These cargoes in addition act as magnets to our ports, drawing ships which then pick up other cargoes as well. Without title II, we could lose these vessels entirely.

Mr. Speaker, I have long supported cargo preference as necessary to a strong U.S. merchant marine. I will continue to do so. I regret having to introduce this bill, but the lakes ports' experiences under the set-aside provisions gives me no choice. The adamant refusal of U.S. lines to serve Great Lakes ports deprives the lakes not only of vessels but, under the 1985 farm bill, of cargoes, dockside employment, and associated economic benefits for ports, cities, and the region, and will mean further economic deprivation in the future unless we take this action.

I have tried to reach some accommodation with other interests on this issue, and am ready at any time to continue those discussions, particularly on ways to invite, or to create, a viable Great Lakes U.S.-flag fleet.

I also invite other port ranges, who claim they can compete with our Great Lakes ports, and who have spoken loudly against the Great Lakes set-aside, to join us on this bill.

The Pro Competition Cargo Allocation Act would help to lower the costs of shipping U.S. agricultural goods abroad, and perserve our Great Lakes ports. If it is enacted, the farmers, dockworkers, stevedores, exporters, and

ports of the Great Lakes region will benefit from the more open, evenhanded opportunity to bid for Public Law 480 shipments, and the taxpayer will save money on the return to 50/50 cargo preference regardless of which ports get the allocations.

HOUSE OF REPRESENTATIVES—*Tuesday, January 24, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D. offered the following prayer:

Gracious God, as we think of our lives and the opportunities that have been given us, may we ever remember those whose lives are burdened with strife, hunger, or pain. As some of us have been blessed with food and security, so many others lack the fundamental necessities of life, some even close to our doors. May we, O God, be good stewards of the gifts we have received and share those gifts with the needy, the poor, the lonely, through acts of love and deeds of good will. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. Cox] come forward, please, and lead us in the Pledge of Allegiance.

Mr. COX led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

APPOINTMENT AS MINORITY MEMBERS OF PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER. Pursuant to clause 6(f), rule X, and clause 1, rule XLVIII, the Chair appoints as minority members of the Permanent Select Committee on Intelligence the following Members of the House:

Mr. HYDE of Illinois;
Mr. CHENEY of Wyoming;
Mr. LIVINGSTON of Louisiana;
Mr. SHUSTER of Pennsylvania;
Mr. COMBEST of Texas;
Mr. BEREUTER of Nebraska; and
Mr. ROWLAND of Connecticut.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON WAYS AND MEANS

The SPEAKER laid before the House the following communication from the chairman of the Committee on Ways and Means:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, January 5, 1989.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to advise you that, pursuant to sec. 8002 of the Internal Revenue Code, the following Members of the Committee on Ways and Means have been designated to serve on the Joint Committee on Taxation during the 101st Congress:

Dan Rostenkowski (D., Ill.)
Sam M. Gibbons (D., Fla.)
J.J. Pickle (D., Tex.)
Bill Archer (R., Tex.)
Guy Vander Jagt (R., Mich.).

Sincerely yours,

DAN ROSTENKOWSKI,
Chairman.

COMMUNICATION FROM THE HONORABLE DALE E. KILDEE, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from the Honorable DALE E. KILDEE:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 3, 1989.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, The Capitol, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that an employee in my office has been served with a subpoena duces tecum issued by the State of Michigan, 68th Judicial District.

After consultation with the General Counsel to the Clerk, and with agreement of the constituents involved, I will comply with the subpoena.

Sincerely,

DALE E. KILDEE,
Member of Congress.

SWEARING IN OF THE HONORABLE CHARLES HATCHER

The SPEAKER. Will the Honorable CHARLES HATCHER, of Georgia, kindly step forward and take the oath of office.

Mr. HATCHER appeared at the bar of the House and took the oath of office.

The SPEAKER. Congratulations. The gentleman from Georgia is a Member of the U.S. House of Representatives.

WORLD CHAMPION SAN FRANCISCO 49'ERS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today with a happy chore to bring to the attention of my colleagues the outcome of the most memorable of all Super Bowls. On Sunday night in Miami, in front of over 70,000 spectators, and millions more, half a billion more, in fact, in a television audience, the San Franciso 49'ers became the NFL's team of the 1980's. The victory was the third world championship for the team in only 8 years.

Under the flawless direction of Coach Bill Walsh and the leadership of Joe Montana, the 49'ers treated sports fans across the country to a 20-16 win, the winning touchdown, scored with only 34 seconds left on the clock, capped a 92-yard drive in 11 plays that started with 3:10 left in the game. This display of determination and teamwork exemplifies the true meaning of the word champion.

In spite of a sprained ankle, Jerry Rice set a Super Bowl record by catching 11 passes for 215 yards, and earning the title of Most Valuable Player.

I am sure my colleague, Congresswoman BOXER, who shares representation of the great city of San Francisco with me, joins me in commending the Cincinnati Bengals for their valiant effort and congratulations to them for coming to the Super Bowl, but we commend Mr. Eddie DeBartolo, Mr. Walsh, Mr. Montana, Mr. Rice, the world champion 49'ers for their outstanding team play in the NFL's ultimate game. Every member of this team put in the ultimate effort, making the final victory that much sweeter to the city of San Francisco and the team's devoted fans.

A BILL TO STUDY THE DEPARTMENT OF TRANSPORTATION'S PROPOSAL TO RECLASSIFY ANHYDROUS AMMONIA

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, I rise to urge my distinguished colleagues to cosponsor, my bill H.R. 370, mandating a study of the proposed reclassification of anhydrous ammonia under the Hazardous Materials Transportation Act.

The Department of Transportation has asked for additional comments on its unacceptable proposal to reclassify anhydrous ammonia as a poisonous gas with a deadline of March 9, 1989. But I believe it is now time to have a

complete and comprehensive study on this issue as provided by my bill.

While I favor protecting the public from hazardous materials, I cannot condone the economic destruction that could occur to our farmers if these unwarranted and unnecessary regulations were established.

We now have an opportunity to present to the United States, as well as the United Nations, an economically, medically, and scientifically sound proposal with respect to transporting anhydrous ammonia. My bill's study would make this possible.

Anhydrous ammonia makes up more than 50 percent of the U.S. fertilizer supply. Reclassification threatens to boost sharply transportation and handling costs of this vital fertilizer.

Join me and the 20 cosponsors of H.R. 370 to find the facts regarding the safe transportation and use of anhydrous ammonia.

SWEARING IN OF THE HONORABLE CLAUDINE SCHNEIDER

The SPEAKER. Will the Honorable CLAUDINE SCHNEIDER of Rhode Island kindly step forward and take the oath of office.

Ms. SCHNEIDER appeared at the bar of the House and took the oath of office.

The SPEAKER. Congratulations. The gentlewoman from Rhode Island is a Member of the U.S. House of Representatives.

JOB CORPS ANNIVERSARY

(Mr. CLARKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLARKE. Mr. Speaker, this year the Nation will celebrate the 25th anniversary of the Job Corps. The Job Corps has proved to be a remarkably effective program for training young people aged 16 to 21—most of them high school dropouts from disadvantaged families—in economically valuable skills and putting them into productive jobs in the American economy.

Eighteen of the Nation's Job Corps Centers are administered by the Department of Agriculture and twelve by the Department of the Interior on public lands. Other Job Corps Centers are operated by major corporations and nonprofit organizations under contract with the Department of Labor. Young men—and in some Centers—young women also—come for periods of up to 2 years to learn marketable skills. During this time they also have the opportunity and necessary instruction to earn their GED, the equivalent of a high school diploma. A high percentage of them earn the GED.

National business and labor organizations have participated actively in the job training program and in placing the Job Corps graduates after graduation.

A valuable byproduct of the Job Corps Program has been literally thousands of community projects performed by Corpsmen for the towns near which the Centers are located. Numerous additions and improvements to public buildings and other facilities have been made by the corpsmen.

In the 11th District of North Carolina we are fortunate to have three of the Nation's Job Corps Centers. We are proud of the work the Job Corps is doing to build the lives of young men and women and commend the corps on 25 years of very valuable service to the Nation.

□ 1210

OLD PAYRAISE

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, I can see it now. Any Member of Congress who fails to work actively and honestly against the pay raise will acquire a new name.

"Congressman 'Payraise' Collier."

"Representative 'Payraise' Taylor."

"Old Payraise" is what the public will be calling our hapless colleagues back in their home districts.

Why? Well, you see, middle-income Americans who are raising families on $20,000 to $30,000 a year just can't figure out why we here in Congress supposedly need an additional $45,000 for a grand total of $135,000 in order to keep bread on the table and humble roofs over our heads.

The American people cannot figure out why so many people in Washington want to raise taxes so Congress can raise its own salaries, while asking everybody else to sacrifice.

You know what, I can't figure it out either.

But the public has figured out that this is a sneaky pay raise arrangement.

There's still time to stop this pay grab.

Schedule a vote.

Schedule a vote, Mr. Speaker.

Give us a chance to show the public that we, here in Congress, are not just here to raise our salaries and get rich.

CIVIL RIGHTS AMENDMENTS ACT OF 1989

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, today I have the privilege of reintroducing, together with 61 of our colleagues as cosponsors legislation to prohibit discrimination on the basis of affectional or sexual orientation in public accommodations, public facilities, federally assisted opportunities, housing, and employment.

Discrimination in any form, against any class of persons, should be abhorrent to all those who live in a civilized society. Skin color, religious expression, and political belief are certainly not legitimate grounds to deny persons their full rights of citizenship. Similarly, we should not deny persons full protection under the law based on their affectional or sexual orientation. The legislation we introduce today, for the 101st Congress, is intended to assure such rights, and including the constitutionally guaranteed right to privacy.

The bill would provide no special privileges nor make any value judgment about homosexuality. It would not, in and of itself, in any way require quotas or affirmative action based on quotas.

Gay men and lesbians are in every occupation and institution in our Nation, be they doctors or nurses, lawyers or clerks, writers, union members, and managers. They are rich and poor, black and white, rural and urban, and number perhaps 20 million of the hard-working, law-abiding citizens among us.

But this minority is different from others in that they do not now have legal recourse when they encounter discrimination. This minority can still be denied housing, or employment, or public accommodation, solely on the basis of personal, private sexual orientation.

Many groups and organizations have long stood for civil rights protections for gays. These include most major unions, health, civil rights, government, church, women's, and other professional organizations. They represent what I believe is a large majority of Americans who oppose this form of bias no less than they reject discrimination directed at other minorities.

I want to again urge my colleagues to join in this effort to guarantee full and equal protection of the law to gay men and lesbians, and thank those Members, listed below, who have already signed as cosponsors for the 101st Congress.

Original cosponsors of the bill for the 101st Congress are: Mr. WAXMAN; Mr. BEILENSON; Mr. BERMAN; Mr. KASTENMEIER; Mr. SHAYS; Mr. STARK; Mr. ACKERMAN; Mr. LEWIS of Georgia; Mr. FRANK; Mr. MATSUI; Mr. LEHMAN; Mr. FAUNTROY; Mr. ROYBAL; Mrs. BOXER; Mr. SCHUMER; Mr. STUDDS; Mr. MARKEY; Ms. PELOSI; Mr. BATES; Mr. KENNEDY; Mr. MOODY; Mrs. MORELLA; Mr. FAZIO; Mr. LEVINE of California; Mr. GREEN; Mr. SABO; Mr. WHEAT; Mr. EVANS; Mr. HAYES of Illinois; Mr. UDALL; Mr. ATKINS; Mr. CLAY; Mr. DE-

FAZIO; Mr. AUCOIN; Mr. COYNE; Mr. MILLER of California; Mrs. LOWEY, of New York; Mr. OWENS of New York; Mr. CROCKETT; Mrs. COLLINS; Mr. GEJDENSON; Mr. YATES; Mr. EDWARDS of California; Mr. DYMALLY; Mr. MRAZEK; Mr. MORRISON of Connecticut; Mr. MILLER of Washington; Mr. KOSTMAYER; Mr. CARDIN; Mr. RANGEL; Mr. MCDERMOTT; Mrs. SCHROEDER; Mr. FOGLIETTA; Mr. CONYERS; Mr. GARCIA; Mr. STOKES; Mr. HOYER; Mr. TOWNS; Mr. BROWN of California; Mr. MARTINEZ, and Mrs. UNSOELD.

A copy of the legislation follows:

H.R. 655

A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Amendments Act of 1989".

SEC. 2. AMENDMENTS TO CIVIL RIGHTS ACT OF 1964.

(a) PUBLIC ACCOMMODATIONS.—(1) Section 201(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(2) Section 202 of such Act (42 U.S.C. 2000a-1) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(b) PUBLIC FACILITIES.—Section 301(a) of such Act (42 U.S.C. 2000b(a)) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(c) FEDERALLY ASSISTED PROGRAMS.—Section 601 of such Act (42 U.S.C. 2000d) is amended by striking "color," and inserting "color, affectional or sexual orientation,".

(d) EQUAL EMPLOYMENT OPPORTUNITIES.—(1) Sections 703(a), 703(b), 703(c), 703(d), 703(e), 703(h), 703(j), 704(b), 706(g), and 717(a) of such Act (42 U.S.C. 2000e-2(a), 2000e-2(b), 2000e-2(c), 2000e-2(d), 2000e-2(e), 2000e-2(h), 2000e-2(j), 2000e-3(b), 2000e-5(g), and 2000e-16(a)) are amended by striking "sex," each place it appears and inserting "sex, affectional or sexual orientation,".

(2) Section 717(c) of such Act (42 U.S.C. 2000e-16(c)) is amended by striking "sex" and inserting "sex, affectional or sexual orientation,".

(3) Section 703(h) of such Act (42 U.S.C. 2000e-2(h)) is amended by striking "sex" the first place it appears and inserting "sex, affectional or sexual orientation,".

(4) The heading of section 703 of such Act is amended by striking "SEX," and inserting "SEX, AFFECTIONAL OR SEXUAL ORIENTATION,".

(e) INTERVENTION BY ATTORNEY GENERAL IN CIVIL RIGHTS CASES.—Section 902 of such Act (42 U.S.C. 2000h-2) is amended by striking "sex" and inserting "sex, affectional or sexual orientation,".

(f) DEFINITION; RULES OF INTERPRETATION.—Title XI of such Act (42 U.S.C. 2000h et seq.) is amended by adding at the end the following new section:

"AFFECTIONAL OR SEXUAL ORIENTATION

"SEC. 1107. (a) DEFINITION.—For purposes of titles II, III, VI, VII, and IX of this Act, the term 'affectional or sexual orientation' means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.

"(b) RULES OF INTERPRETATION.—(1) Nothing in this Act shall be construed to permit or require—

"(A) that a finding of discrimination on the basis of affectional or sexual orientation be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to the incidence of such persons in the activity concerned; or

"(B) the use of any quota as a remedy for discrimination on the basis of affectional or sexual orientation.

"(2) Nothing in this Act shall be construed to require any person to disclose a personal affectional or sexual orientation.".

SEC. 3. AMENDMENTS TO FAIR HOUSING ACT.

(a) HOUSING SALE AND RENTAL, RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS, AND BROKERAGE SERVICES.—(1) Section 804 of the Civil Rights Act of 1968 (42 U.S.C. 3604) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(2) Section 805 of such Act (42 U.S.C. 3605) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(3) Section 806 of such Act (42 U.S.C. 3606) is amended by striking "religion," and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(b) PREVENTION OF INTIMIDATION.—Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(c) DEFINITION.—Section 802 of the Civil Rights Act of 1968 (42 U.S.C. 3602) is amended by adding at the end the following new subsection:

"(p) 'Affectional or sexual orientation' means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.".

(d) RULES OF INTERPRETATION.—(1) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) is amended by adding at the end the following new section:

"RULES OF INTERPRETATION REGARDING AFFECTIONAL OR SEXUAL ORIENTATION

"SEC. 821. (a) FINDINGS OF DISCRIMINATION; QUOTAS.—Nothing in this Act shall be construed to permit or require—

"(1) that a finding of discrimination on the basis of affectional or sexual orientation be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to the incidence of such persons in the activity concerned; or

"(2) the use of any quota as a remedy for discrimination on the basis of affectional or sexual orientation.

"(b) PROTECTION OF PRIVACY RIGHTS.—Nothing in this Act shall be construed to require any person to disclose a personal affectional or sexual orientation.".

(2) Title IX of such Act (42 U.S.C. 3631 et seq.) is amended by adding at the end the following new section:

"APPLICATION OF RULES OF INTERPRETATION REGARDING AFFECTIONAL OR SEXUAL ORIENTATION

"SEC. 902. The provisions of this title are subject to the rules of interpretation described in section 821 of this Act.".

LEGISLATION TO EXTEND HEALTH CARE FACILITIES IN RURAL AREAS

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, today, Mr. VALENTINE, Mr. ROE, Mr. TALLON, Mr. SPRATT, Mr. TOM PETRI, Mr. HILER, Mr. YOUNG of Alaska, Mr. DERRICK, Mr. KOLTER, Mr. ROBINSON and I are introducing legislation of great importance to citizens of our States—and citizens across the Nation—who live in rural areas. This measure addresses a very pressing concern: the future provision of health care in rural America.

There is a sunset provision of law which must be extended immediately if this Nation's rural referral centers are to continue meeting the needs of their customers. The law allowing the reimbursement of many hospitals in rural areas at the so-called small urban rate is scheduled to sunset in October of this year.

We must act to extend this law.

In my State of Idaho and in 41 other States, rural referral centers are the cornerstones of rural health care. With the depressed financial conditions and the high rates of closure among rural hospitals, these rural referral centers are becoming more and more important. In many small cities, they are the sole source of health care.

Because rural referral centers provide a larger variety of specialized services, they are reimbursed from Medicare funds at a rate 11 percent higher than their small rural counterparts. The larger rural referral centers must also pay salaries and expenses comparable to urban hospitals.

If they are to continue offering the much needed, specialized care, rural referral centers must be reimbursed at a rate which properly reflects their costs. That is what I seek through this bill.

I hope that you and my House colleagues will see the necessity of this legislation.

CORRECTIONS TO THE MEDICARE CATASTROPHIC PROTECTION ACT OF 1988

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, there can be no disagreement that the Medicare Catastrophic Coverage Act

of 1988 is an extremely important piece of legislation. For the first time in history, the problem of spousal impoverishment, outpatient prescription drugs, respite care, and mammography were addressed by Congress on the national level. From this ensuing debate, we were able to expand the Medicare Program to provide these benefits to Medicare beneficiaries. We were even able to focus attention and set the stage for policy initiatives for the 38 million Americans that have no health insurance at all. This was quite an accomplishment, indeed.

Then why now, after the Medicare Catastrophic Protection Act is law, are we feeling as if we betrayed America's seniors? Perhaps, Mr. Speaker, it was the rapid process by which we formed, molded, and enacted this legislation. Possibly, it was the lack of grassroots opinions we solicited during the testimonial process of the act. Or perhaps, as most seniors will argue, in our infinite wisdom, we overlooked the overriding health care problem in this country, that of cost. Not only did we overlook this problem, we compounded it. We have created an act that places addtional health care cost on those Americans least able to afford it.

Regardless of the reasons, Mr. Speaker, Congress is now being asked to do something that we don't ordinarily like to do; admit that we made a mistake. Well, I admit it, and I urge my colleagues to admit it and to work together to correct it.

There have been, and will continue to be, numerous bills introduced during the 101st Congress to remedy the problems caused by the Catastrophic Coverage Act of 1988. We owe it to our senior constituency to educate ourselves on these proposals and to support the one that will effectively correct our previous shortsightedness. After all, we can easily be forgiven for making a mistake; however, we can never be forgiven for recognizing the mistake and refusing to correct it.

DOES CONGRESS DESERVE A PAY RAISE?

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, in my opinion, those of us who have to work who say we do not want a $45,000 pay raise are lying in our teeth—for we are all human. But how many of us, in our hearts, can say that the Congress, which has made our country the greatest debtor Nation ever, deserves a pay raise? Is our fear of being honest with ourselves why we are cowardly hiding behind this shameful, gutless, pay-raise process until the clock runs out and our pockets are automatically filled? Whether or not we have a recorded vote on this issue, Mr. Speaker, is up to you and your Democratic majority. What will you Democrats do? The American people are waiting for your answer.

HOME OWNERSHIP: EQUAL OPPORTUNITY MUST BE ASSURED

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, in the next few days, I plan to reintroduce legislation which will help make home ownership more available for many Americans. We must preserve the dream of home ownership for the next generation of Americans, and I hope we will pass legislation to expand these opportunities in the 101st Congress.

Therefore, I am very disturbed by recent reports by the Atlanta Journal-Constitution, and based on information collected by the Federal Home Loan Bank Board, indicating that savings and loan institutions reject black applicants for home loans twice as often as whites. That these disparities are not solely the result of different incomes is suggested by the finding that high-income blacks were rejected more often than low-income whites in 85 of the 100 largest U.S. metropolitan areas during at least one of the past 5 years.

I believe it is critical that Congress look into this situation, and I am certain that the chairman of the House Banking Committee, Mr. GONZALEZ, will soon hold a hearing to examine these findings more closely. If we are to continue to promote home ownership as a national goal, we must make sure that no one is denied this opportunity simply because of their race.

NATIONAL RIFLE ASSOCIATION OVERREACTS ON GUN CONTROL

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, it is axiomatic that the National Rifle Association has enormous influence in our country and in this institution. It is also true that they see any attempt to regulate guns as the first inexorable step toward the confiscation of all firearms.

Well, that is nonsense. Clearly, we have to have the capacity to make distinctions between assault rifles that are used to arm ourselves against our enemies and a handgun or a shotgun that can be used for hunting or target practice purposes.

□ 1220

If one has the time to talk, and look and examine this question deeply or to feel any sense of emphathy toward the children who were killed in Stockton, CA, the message must be clear to us. It is this institution, Mr. Speaker, this House, this Senate, this President, that must begin to turn back the opportunity for any person, for any reason, to have a weapon like the AK-47.

Mr. Speaker, this institution must act this year to begin the process of rationally controlling weapons of mass destruction such as the AK-47.

IN HONOR OF COL. JOHN W. ELLIS, JR.

The SPEAKER pro tempore (Mr. RAHALL). Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I rise to commend one of our Nation's most dedicated military medical officers, Col. John W. Ellis, Jr., Air Force Reserve. After receiving his medical degree from Indiana University in 1960, Colonel Ellis embarked on a long career of service leading to assignment as command surgeon of the Air Force Reserve. After completion of his medical internship at Wilfred Hall Hospital, Lackland Air Force Base, TX, in 1961, and further training in aerospace medicine at Brooks Air Force Base, TX, Colonel Ellis served as a Strategic Air Command flight surgeon at Bergstrom Air Force Base, TX, until 1964. He then practiced medicine in Lubbock, TX, until 1966 when he assumed flight surgeon duties for the Federal Aviation Administration's southwestern and southern regions at Fort Worth, TX, and Atlanta, GA.

In 1968, Colonel Ellis was recalled to active duty during the *Pueblo* crisis with his unit, the 94th TAC Hospital at Dobbins Air Force Base, GA. Demobilized in 1969, he practiced family and occupational medicine in Atlanta from 1970 to 1983.

In January 1983, Colonel Ellis was once again recalled to active duty as a title 10, United States Code, section 265 statutory tour officer at the Pentagon in the capacity of Special Assistant for Medical Programs, Office of Air Force Reserve, Headquarters, USAF.

In August 1987, he was named command surgeon for the entire Air Force Reserve—responsible for overall program management of 12,000 Air Force medical personnel, as well as the occupational health, safety, and physical fitness of all 80,000 active Air Force Reserve personnel.

Colonel Ellis' civic and professional affiliations include the AMA, the American Academy of Family Physicians, the American Academy of Emergency Physicians, the DeKalb County, GA, Medical Society, and charter member and president of the Dunwoody, GA, Rotary Club. In addition to a career in Air Force medicine, Colonel Ellis also served as an occupational medical staff physician for the Lockheed-Georgia Co. and the Gulf Oil Co., in Atlanta. He has authorized several articles in Aerospace Medical magazine and served as contributing editor to text books on public administration.

Colonel Ellis will now retire from active military service. His leadership and dedication will be missed, but never forgotten.

Mr. Speaker, I ask to enter into the RECORD our commendation and sincere appreciation to Col. John W. Ellis, Jr., for outstanding service as a physician and citizen airman to his Nation, his community, the Congress, and the U.S. Air Force. He is the best an American can be.

UKRAINIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, January 22 marked the 71st anniversary of the independence of Ukraine. It was on this day in 1918 that the Ukrainian Central Rada, the Parliament of the Ukrainian people, declared independence after years of oppressive rule.

The Ukrainian National Republic, the government which the Ukrainian people formed, was one based on the rights of its citizens. It protected the rights of minorities and guaranteed certain rights for workers, including freedom of assembly. The government proudly proclaimed:

People of Ukraine! By your own power your will and your word a free Ukrainian republic now exists in your land. The ancient dream of our forefathers, who were fighters for the freedom and rights of the working people has come true * * * From this day forward, the Ukrainian National Republic is the independent, free and sovereign state of the Ukrainian people * * *.

With these words the Ukrainian people had great expectations for a new era of national renewal dedicated to the principles of justice and human dignity. Sadly, however, the reality of freedom for the Ukrainian National Republic was shortlived. By 1922, the Bolsheviks had forced their way into power, and resumed their persecutions, relocations of whole villages, exiles of Ukrainian leaders, brutal mass starvation and executions. Millions of brave Ukrainians perished during these terrible years of Stalin's rule.

These barbaric actions ushered in a long and desolate period of spiritual darkness and persecution under Communist domination which persists to this day. Although General Secretary Gorbachev has promised a new openness in the Soviet Union, the Soviets continue to make arrests and detain Ukrainian intellectuals, writers, professors, students, and scientists for alleged "anti-Soviet agitation and propaganda."

The Communists have attempted to crush the culture, religion, heritage, and language of the Ukrainian people. Despite this most severe repression by the Soviets, the Ukrainians have remained steadfast in their resolve to regain their freedom and national sovereignty.

Mr. Speaker, on this 71st anniversary of Ukrainian independence, I am proud to pay tribute to the millions of Ukrainians who continue their struggle to achieve the blessings of liberty in their own homeland. I am honored to join with Americans of Ukrainian descent in the 11th Congressional District of Illinois which I represent, and all over this Nation, who pray for the independence of the Ukrainian people.

The spirit of the people of the Ukraine and the support they receive from Ukrainians all over the world is testimony to the fact that the tyranny of the Communists, no matter how brutal or oppressive, cannot conquer the soul of a nation and its people.

STATE AND LOCAL LAW ENFORCEMENT COMPENSATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 60 minutes.

Mr. STARK. Mr. Speaker, today Representatives BARBARA VUCANOVICH, NORM DICKS, BILL NELSON, and I are reintroducing a bill to provide compensation to State and local jurisdictions for extraordinary law enforcement costs resulting from demonstrations against Federal nuclear and defense activities.

Currently, State and local governments must devote their limited resources to provide necessary law enforcement services during demonstrations against Federal nuclear or defense policies. In my own district, extraordinary law enforcement services arising from demonstrations at Lawrence Livermore National Laboratory cost local agencies over $1.4 million between 1983–85.

Who should shoulder these potentially high costs? Certainly it should not fall totally on the local taxpayer who has little say in the national nuclear and defense policies which precipitate such demonstrations.

It is unfair that scarce law enforcement resources may be squandered in providing crowd control for controversial Federal facilities, while local citizens and businesses are penalized in the form of diminished police protection and programs. This is particularly difficult considering that Federal agencies are exempt from taxation which pays for local law enforcement.

Our bill, the State and Local Law Enforcement Compensation Act, is a reasonable and moderate response to this situation. It retains ordinary law enforcement services for Federal defense and nuclear agencies on an uncompensated basis, despite their tax-exempt status. Under its provisions, small demonstrations may be adequately policed without the need for Federal expenditures. Yet, it also provides an avenue for local agencies to receive just compensation for the costs of policing massive demonstrations.

Specifically, the bill requires reimbursement of reasonable and necessary costs that exceed the lesser of $50,000 or 1 percent of the law enforcement agency's annual budget. This threshold amount will keep costs to the Federal Government manageable while providing "stop loss insurance" for affected law enforcement agencies.

Critics of this bill, when it was originally introduced in the 10th Congress, labeled it an "open ended entitlement" in a time of difficult budget priorities. We think this standpoint ignores the budget constraints also faced by local agencies, particularly when confronted with unexpected, massive expenditures. Moreover, these broad criticisms overlook the real loser in these situations: The local citizens, who end up getting less protection against street crime for their tax dollar.

It is only right that the Federal Government minimize the burdens it places on State and local jurisdictions. The State and Local Law Enforcement Compensation Act does this. We hope our colleagues will support it.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATRON (at the request of Mr. FOLEY), for January 24 to February 24, on account of surgery.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. COX) to revise and extend his remarks and include extraneous material:)

Mr. COBLE, for 60 minutes, on January 31.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. STARK, for 10 minutes, today.
Mr. PANETTA, for 60 minutes, today.
Mr. EDWARDS of California, for 15 minutes, on January 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. COX) and to include extraneous matter:)

Mr. GUNDERSON in two instances.
Mr. COURTER in two instances.
Mr. SMITH of New Jersey.
Mr. MICHEL.
Mrs. MORELLA.
Mr. GOODLING.
Mr. COLEMAN of Missouri.
Ms. SCHNEIDER.
Mr. SOLOMON in two instances.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. FORD of Michigan.
Mr. BATES.
Mr. TRAFICANT in two instances.
Mr. CARR.
Mr. APPLEGATE.
Mr. MONTGOMERY.
Mr. MAZZOLI.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. STARK in two instances.
Mr. MCMILLEN of Maryland.
Mr. CLAY.

Mr. MAVROULES.
Mr. CLARKE.
Mr. WAXMAN.
Mr. FASCELL.
Mr. MINETA.
Mr. PALLONE.
Mr. DINGELL.
Mr. MANTON.
Mr. RICHARDSON.
Mr. WOLPE.
Mr. BERMAN in two instances.

ADJOURNMENT

Mr. McNULTY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12:25 p.m.), under its previous order the House adjourned until Friday, January 27, 1989, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

326. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notification of the decision to convert the military family housing maintenance function at Carswell Air Force Base, TX, to contractor performance which was found to be the most efficient and cost effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

327. A letter from the Acting Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notification of the decision to convert the communications-computer operations and maintenance function at Minneapolis-St. Paul International Airport, MN, to contractor performance which was found to be the most efficient and cost-effective, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

328. A letter from the Assistant Secretary of Defense (Force Management and Personnel) transmitting an interim report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on actions taken to prevent further deaths, pursuant to Public Law 100-463; to the Committee on Appropriations.

329. A letter from the Secretary of the Army transmitting a copy of the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1986, pursuant to U.S.C. 59, 60; to the Committee on Armed Services.

330. A letter from the Secretary of Defense transmitting the Department's annual report to Congress with addendum for fiscal year 1990, pursuant to 10 U.S.C. 113 (c), (e); to the Committee on Armed Services.

331. A letter from the President, Center for Strategic and International Studies, transmitting a new report on the critical problem of strategic nuclear modernization entitled "Securing Strategic Stability"; to the Committee on Armed Services.

332. A letter from the Chairperson, Interagency Council on the Homeless, transmitting the Council's first annual report on the homeless, pursuant to Public Law 100-77, section 203(c)(2) (101 Stat. 487); to the Committee on Banking, Finance and Urban Affairs.

333. A letter from the Secretary of Education transmitting an annual report on the education for homeless children and youth for the period of October 1, 1987, through September 30, 1988, pursuant to 42 U.S.C. 11434; to the Committee on Education and Labor.

334. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on the Commission's interagency coordination of Federal equal employment opportunity activities for the period October 1, 1986, through September 30, 1987, pursuant to 42 U.S.C. 200e-14; to the Committee on Education and Labor.

335. A communication from the President of the United States transmitting the report of the Department of Health and Human Services regarding the administration of the Radiation Control for Health and Safety Act during calendar year 1987, pursuant to 42 U.S.C. 2631(a); to the Committee on Energy and Commerce.

336. A letter from the Administrator, Environmental Protection Agency, transmitting the interim report on availability of liability insurance and other forms of assurance against financial loss available to local educational agencies and asbestos contractors, pursuant to 15 U.S.C. 2650; to the Committee on Energy and Commerce.

337. A letter from the Secretary, Federal Trade Commission, transmitting the 1989 report on the description of sales, advertising and marketing practices associated with smokeless tobacco products, which contains figures for 1986 and 1987 sales and advertising expenditures, as well as summary data for 1985, pursuant to 15 U.S.C. 4407(b); to the Committee on Energy and Commerce.

338. A letter from the Chairman, Securities and Exchange Commission, transmitting a draft of proposed legislation to amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws; to the Committee on Energy and Commerce.

339. A letter from the Acting Chairman, U.S. Consumer Product Safety Commission, transmitting the fiscal year 1990 budget requests, pursuant to 15 U.S.C. 2076(k)(1); to the Committee on Energy and Commerce.

340. A letter from the Administrator, Agency for International Development, transmitting a report on the International Fund for Northern Ireland and Ireland, pursuant to Public Law 99-415, section 4; to the Committee on Foreign Affairs.

341. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially to the Governments of Germany and Italy (Transmittal No. MC-6-89), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

342. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Korea (Transmittal No. MC-4-89), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

343. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting notification of a proposed manufacturing license agreement with Argentina (Transmittal No. MC-1-89), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

344. A letter from the Secretary of Commerce, transmitting the annual report on Export Administration for fiscal year 1988, pursuant to 50 U.S.C. app. 2413; to the Committee on Foreign Affairs.

345. A letter from the Secretary of Commerce, transmitting a report on the extension for the period January 21, 1989 through January 20, 1990, of export controls maintained for foreign policy purposes, pursuant to 50 U.S.C. app. 2405(f); to the Committee on Foreign Affairs.

346. A letter from the Assistant Secretary of Defense (Force Management and Personnel), transmitting a report on the audit of the American Red Cross for the year ending June 30, 1988, pursuant to 36 U.S.C. 6; to the Committee on Foreign Affairs.

347. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for Michael Ussery, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to the Kingdom of Morocco, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

348. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

349. A letter from the Director, Arms Control and Disarmament Agency, transmitting a report on the more effective use of the Standing Consultative Commission to resolve arms control compliance questions, pursuant to Public Law 100-213, section 39(c) (101 Stat. 1445); to the Committee on Foreign Affairs.

350. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a quarterly report concerning human rights activities in Ethiopia, covering the period October 15, 1988-January 14, 1989, pursuant to Public Law 100-456, section 1310; to the Committee on Foreign Affairs.

351. A letter from the Secretary of Health and Human Services, transmitting a report of surplus real property transferred in fiscal year 1987 for public health purposes, pursuant to 40 U.S.C. 484(o); to the Committee on Government Operations.

352. A letter from the Secretary of Labor, transmitting the Department's semiannual report of the inspector general for the period April 1, 1987 through September 30, 1987, pursuant to 5 U.S.C. app.; to the Committee on Government Operations.

353. A letter from the Acting Secretary of Agriculture, transmitting notification of a proposed altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

354. A letter from the Chairman, Board of Governors of the U.S. Postal Service, transmitting a copy of the annual report for the Board's compliance with the Government in the Sunshine Act, calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

355. A letter from the Secretary, Commission of Fine Arts, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

356. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988,

pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

357. A letter from the Acting Director, Congressional Budget Office, transmitting a report on unauthorized appropriations and expiring authorizations for fiscal year 1989, pursuant to 2 U.S.C. 602(f)(3); to the Committee on Government Operations.

358. A letter from the Secretary, Mississippi River Commission, Department of the Army, transmitting a copy of the annual report for the Commission's compliance with the Government in the Sunshine Act, calendar year 1988, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

359. A letter from the Chairman, Federal Communications Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

360. A letter from the Executive Director, Navajo and Hopi Indian Relocation Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

361. A letter from the Executive Director, Neighborhood Reinvestment Corporation, transmitting a report of activities under the Freedom of Information Act for 1988, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

362. A letter from the Director, Office of Personnel Management, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

363. A letter from the Administrator, Panama Canal Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

364. A letter from the Railroad Retirement Board, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

365. A letter from the Secretary of Energy, transmitting a report of actions taken to increase competition for contracts during fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

366. A letter from the Secretary of Health and Human Services, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

367. A letter from the Secretary of Transportation, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

368. A letter from the Senior Designated Official for Internal Control, Securities and Exchange Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

369. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

370. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

371. A letter from the Director, Bureau of Land Management, transmitting the second annual report on activities involved with Federal Lands Cleanup Day 1988, pursuant to 36 U.S.C. 1691-1(c)(1); to the Committee on Interior and Insular Affairs.

372. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

373. A letter from the Secretary of the Interior, transmitting the 1988 section 8 report on National Historic and National Landmarks that have been damaged or to which damage to their intergrity is anticipated, pursuant to 16 U.S.C. 1a-5(a); to the Committee on Interior and Insular Affairs.

374. A letter from the Secretary of the Interior, transmitting the eighth annual report on oil and gas leasing, exploration and development activities on Federal lands in Alaska, other than the North Slope or the National Petroleum Reserve, pursuant to Public Law 96-487, section 1008(b)(4); to the Committee on Interior and Insular Affairs.

375. A letter from the Speaker, 19th Guam Legislature, transmitting a copy of a report entitled "Guam's Quest for Commonwealth Status Implications for the U.S. Virgin Islands"; to the Committee on Interior and Insular Affairs.

376. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the report of the proceedings of the Judicial Conference of the United States held in Washington, DC, on September 14, 1988, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

377. A letter from the Chairman, Administrative Conference of the United States, transmitting the annual report on fees and other expenses awarded each fiscal year under 5 U.S.C. 504, pursuant to 5 U.S.C. 504(e); to the Committee on the Judiciary.

378. A letter from the Chairman, Board of Directors, Future Farmers of America, transmitting a report on the financial audit of the organization for the period ending August 31, 1988, pursuant to 36 U.S.C. 1101(23), 1103; to the Committee on the Judiciary.

379. A letter from the Director, Office of Personnel Management, transmitting the biennial report on the operation of the Senior Executive Service, pursuant to 5 U.S.C. 3131 nt., 3135 and 4314(d); to the Committee on Post Office and Civil Service.

380. A letter from the Special Counsel, U.S. Merit Systems Protection Board, transmitting the findings and conclusions of the Administrator of Veterans' Affairs regarding allegations of questionable medical practices by a former staff surgeon at the Veterans' Administration Medical Center, Spokane, WA, pursuant to 5 U.S.C. 1206(b)(5)(A); to the Committee on Post Office and Civil Service.

381. A letter from the Administrator, Federal Aviation Administration, transmitting the agency's report of progress on rulemaking proceedings, pursuant to 49 U.S.C. app. 1421 nt.; to the Committee on Public Works and Transportation.

382. A letter from the Secretary of Transportation, transmitting the 1987 annual report on fatal and injury accident rates on public roads in the United States, pursuant to 23 U.S.C. 401 nt.; to the Committee on Public Works and Transportation.

383. A letter from the Secretary of Transportation, transmitting a report on the future of the Bay Area Rapid Transit System, pursuant to Public Law 100-17, section 331(b) (101 Stat. 240); to the Committee on Public Works and Transportation.

384. A letter from the Secretary of Transportation, transmitting a report on the demonstration project assessing benefits on highway safety of the continuous use of unmanned radar equipment, pursuant to Public Law 99-570, section 12016(b) (100 Stat. 3207-187); to the Committee on Public Works and Transportation.

385. A letter from the Administrator, Environmental Protection Agency, transmitting a report on Indian wastewater treatment needs and assistance, pursuant to Public Law 100-4, section 518 (101 Stat. 77); to the Committee on Public Works and Transportation.

386. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of funds appropriated for space flight control and data communications resources, pursuant to Public Law 100-685, section 203; to the Committee on Science, Space, and Technology.

387. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the proposed use of appropriated funds for space flight control and data communications, pursuant to Public Law 100-685, section 203; to the Committee on Science, Space, and Technology.

388. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the annual report on the performance of its industrial application centers and on the ability to interact with the Nation's small business community, pursuant to 15 U.S.C. 648(f); to the Committee on Small Business.

389. A letter from the Secretary of Transportation, transmitting a status report on the plans to accomplish the Coast Guard's antisubmarine warfare mission responsibilities in the maritime defense zone, pursuant to Public Law 100-448, section 19 (102 Stat. 1845); jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

390. A letter from the Secretary of Defense and Administrator, Veterans' Administration, transmitting their joint report on the sharing of medical resources between the two agencies, pursuant to 38 U.S.C. 5011(f); jointly, to the Committees on Veterans' Affairs and Armed Services.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolu-

tions were introduced and severally referred as follows:

By Mr. BATES (for himself, Mr. ROYBAL, Mr. WILSON, Mr. FOGLIETTA, Mr. DYMALLY, Mr. CONYERS, Mr. FAUNTROY, Mr. TORRES, Mr. OWENS of New York, Mr. GARCIA, Mr. TRAFICANT, Mr. TOWNS, Mr. DE LUGO, Mr. MURPHY, Mr. HAYES of Illinois, Mr. DELLUMS, Mr. MARTINEZ, and Mrs. COLLINS):

H.R. 614. A bill to promote nondiscrimination in State medical licensure and medical reciprocity standards; to the Committee on Energy and Commerce.

By Mr. BENNETT:

H.R. 615. A bill to amend the Internal Revenue Code of 1986 to deny the deduction for interest on certain corporate stock acquisition indebtedness; to the Committee on Ways and Means.

By Mr. BURTON of Indiana:

H.R. 616. A bill to amend the joint resolution of June 22, 1942, to provide for the reading of a tribute to the flag before the Pledge of Allegiance; to the Committee on the Judiciary.

H.R. 617. A bill to amend the Federal Aviation Act of 1958 to require the use of dogs at major airports for the purpose of detecting plastic explosives and other devices which may be used in aircraft piracy and which cannot be detected by metal detectors; to the Committee on Public Works and Transportation.

By Mr. DARDEN:

H.R. 618. A bill to direct the Secretary of the Army to prepare plans and specifications for the restoration of the Mayo's Bar lock and dam near Rome, GA; to the Committee on Public Works and Transportation.

By Mr. DORNAN of California:

H.R. 619. A bill to provide that no Federal financial assistance in any form may be provided to investigate the antiprogesterone steroid (known as RU-468) for approval under the Federal Food, Drug, and Cosmetic Act; to the Committee on Energy and Commerce.

H.R. 620. A bill to amend title 18, United States Code, to prohibit the performance of abortions with respect to the Federal penal and correctional institutions; to the Committee on the Juidiciary.

H.R. 621. A bill to provide that no person who counsels anyone in the use of an unapproved drug or device for an abortion may receive any form of Federal financial assistance or payments under Medicare or Medicaid; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. DORNAN of California (for himself, Mr. HYDE, Mr. DOUGLAS, Mr. SAXTON, Mr. STANGELAND, Mr. DEWINE, Mr. HUNTER, Mr. SMITH of New Jersey, Mr. SHUMWAY, Mr. PETRI, Mr. ARMEY, Mr. HUTTO, and Mr. BONIOR):

H.R. 622. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that the labeling of drugs which are derived from materials from a human fetus shall include notice of the source of such materials and the labeling shall be made available to the consumer and the parent or guardian of the consumer; to the Committee on energy and Commerce.

By Mr. DORNAN of California (for himself, Mr. MCCRERY, Mr. STANGELAND, Mr. DEWINE, Mr. HUNTER, Mr. PETRI, Mr. BILIRAKIS, Mr. SMITH of New Jersey, Mr. BUNNING, Mr. BONIOR, Mr. ARMEY, Mr. HUTTO, Mr. TAUKE, Mr. MOORHEAD, Mr. MAZZOLI, and Mrs. SMITH of Nebraska):

H.R. 623. A bill to declare that the preborn are persons entitled to the guarantees contained in the 5th, 13th, and 14th amendments to the Constitution of the United States and prohibiting abortion within the United States; to the Committee on the Judiciary.

By Mr. DORNAN of California (for himself, Mr. HYDE, Mr. MCCRERY, Mr. SAXTON, Mr. SOLOMON, Mr. STANGELAND, Mr. DEWINE, Mr. LENT, Mr. HUNTER, Mr. BILIRAKIS, Mr. MARLENEE, Mr. SMITH of New Jersey, Mr. RINALDO, Mr. PETRI, Mr. ARMEY, Mr. HUTTO, Mrs. SMITH of Nebraska, Mr. SENSENBRENNER, Mr. BAKER, and Mr. BONIOR):

H.R. 624. A bill to amend the Internal Revenue Code of 1986 to deny status as a tax-exempt organization, and as a charitable contribution recipient, for organizations which directly or indirectly perform or finance abortions; to the Committee on Ways and Means.

By Mr. DORNAN of California (for himself, Mr. HYDE, Mr. LENT, Mr. SAXTON, Mr. STANGELAND, Mr. DEWINE, Mr. HUNTER, Mr. BILIRAKIS, Mr. SHUMWAY, Mr. SMITH of New Jersey, Mr. BUNNING, Mr. PETRI, Mr. ARMEY, Mr. BONIOR, Mr. HUTTO and Mrs. SMITH of Nebraska):

H.R. 625. A bill to regulate the interstate transportation, importation, exportation, and storage of human fetal tissue; jointly, to the Committee on Energy and Commerce, Foreign Affairs, and Ways and Means.

By Mr. DORNAN of California (for himself, Mr. HYDE, Mr. MCCRERY, Mr. STANGELAND, Mr. DEWINE, Mr. LENT, Mr. HENRY, Mr. HUNTER, Mr. PETRI, Mr. SOLOMON, Mr. BILIRAKIS, Mr. SMITH of New Jersey, Mr. RINALDO, Mr. ARMEY, Mr. HUTTO, Mr. SENSENBRENNER, Mr. MAZZOLI, and Mr. BONIOR):

H.R. 626. A bill to protect the life of a preborn child; jointly, to the Committees on the Judiciary, Energy and Commerce, Education and Labor, and Post Office and Civil Service.

By Mr. FRANK:

H.R. 627. A bill to exclude foreign reparation payments from consideration as income in determining eligibility and benefits under Federal housing assistance programs; to the Committee on Banking, Finance and Urban Affairs.

H.R. 628. A bill to amend the Communications Act of 1934 to prohibit certain practices involving commercial uses of automatic telephone dialing systems; to the Committee on Energy and Commerce.

H.R. 629. A bill to amend section 3524 of title 18, United States Code, to modify the provisions with respect to visitation rights of parents whose children are relocated under the Witness Protection Program; to the Committee on the Judiciary.

H.R. 630. A bill to amend the Tax Reform Act of 1986 to provide transitional relief from the passive loss rules to all investors in projects placed in service on or before August 16, 1986; to the Committee on Ways and Means.

By Mr. GOODLING (for himself and Mr. GILMAN):

H.R. 631. A bill to provide for orderly trade in nonrubber footwear, to reduce unemployment in the domestic shoe industry, and for other purposes; to the Committee on Ways and Means.

By Mr. HOCHBRUECKNER:

H.R. 632. A bill to provide that no pay increase for Members of Congress shall take effect under the Federal Salary Act of 1967 unless approved by a recorded vote in each House; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. HUNTER:

H.R. 633. A bill to amend chapter 73 of title 10, United States Code, to provide a minimum monthly annuity under such chapter; to the Committee on Armed Services.

By Mr. LAFALCE (for himself, Mr. CONTE, Mr. SKELTON, Mr. MCDADE, Mr. COOPER, Mr. IRELAND, Mr. ERDREICH, Mr. BROOMFIELD, Mr. ECKART, Mr. BURTON of Indiana, Mr. STENHOLM, Mr. PAXON, Mr. NOWAK, Mr. HILER, Mr. HAYES of Illinois, Mr. DENNY SMITH, Mr. MCCURDY, Mr. BUNNING, Mr. SMITH of Iowa, Mr. PETRI, Mr. TORRES, Mr. FAWELL, Mr. FOGLIETTA, Mr. BALLENGER, Mr. SLATTERY, Mr. HENRY, Mr. OLIN, Mr. KYL, Mr. DERRICK, Mr. SCHUETTE, Mr. RAY, Mr. ARMEY, Mr. LANCASTER, Mr. FRENZEL, Mr. MFUME, Mr. DREIER of California, Mr. SISISKY, Mr. HASTERT, Mr. BILBRAY, Mr. RHODES, Mr. MAZZOLI, Mrs. SMITH of Nebraska, Mr. UPTON, Mr. HEFLEY, and Mr. DUNCAN):

H.R. 634. A bill to repeal the nondiscrimination rules of section 89 of the Internal Revenue Code of 1986 and restore prior law; to the Committee on Ways and Means.

By Mr. LAGOMARSINO (for himself, Mrs. JOHNSON of Connecticut, Mrs. MARTIN of Illinois, and Mr. HENRY):

H.R. 635. A bill to establish a demonstration block grant program to increase the quality and availability of child care; to the Committee on Education and Labor.

By Mr. LELAND (for himself and Mr. DELLUMS):

H.R. 636. A bill to limit the influence and control of South Africans in United States business enterprises; to the Committee on Energy and Commerce.

By Mr. LEWIS of Florida:

H.R. 637. A bill to require the Secretary of Veterans' Affairs to establish a pilot program to contract for delivery of inpatient health care to veterans in the areas which will be served upon the completion of the West Palm Beach, FL, Department of Veterans' Affairs Medical Center; to the Committee on Veterans' Affairs.

By Mr. MINETA:

H.R. 638. A bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants; to the Committee on Public Works and Transportation.

By Mr. MINETA (for himself, Mr. FRANK, Mr. TORRES, Mr. BATES, Mrs. BOXER, Mr. BENNETT, Mr. ANDERSON, Mr. FLORIO, Mr. FUSTER, Mr. MATSUI, Mr. FAUNTROY, Mr. APPLEGATE, Mr. HORTON, Mr. FAZIO, Mr. FROST, Mr. TOWNS, Mr. ROE, Mr. BERMAN, Mr. YATES, Mr. DE LUGO, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. BILIRAKIS, Mrs. BENTLEY, Ms. PELOSI, Mr. ROYBAL, Mrs. SAIKI, Mr. SAWYER, Mr. GUNDERSON, Mr. ACKERMAN, Mr. SOLOMON, Mr. FOGLIETTA, Mr. OWENS of New York, Mr. ATKINS, Mrs. MORELLA, Mr. STARK, Mr. GONZALEZ, Mrs. COLLINS, Mr. CONYERS, Mr. MORRISON of Washington, Mr. MOORHEAD, and Mr. MCDERMOTT):

H.R. 639. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens who have served honorably in the Armed Forces of the United States for 4 years; to the Committee on the Judiciary.

By Mr. NATCHER:

H.R. 640. A bill to extend veteran benefits to persons serving in the Armed Forces between November 12, 1918, and July 2, 1921; to the Committee on Veterans' Affairs.

By Mr. PENNY (for himself, Mr. DE LUGO, Mr. NIELSON of Utah, Ms. KAPTUR, Mr. VENTO, Mr. DEFAZIO, Mr. FROST, Mr. KASTENMEIER, Mr. MOODY, and Mr. MCEWEN):

H.R. 641. A bill to amend the Higher Education Act of 1965 in permit institutions of higher education to make loans to their students, if such institutions continue to hold such loans until the beginning of the grace period of the loan, and for other purposes; to the Committee on Education and Labor.

By Mr. PICKLE (for himself, Mr. ARCHER, Mr. JENKINS, Mr. ANDREWS, Mr. MATSUI, and Mr. WOLPE):

H.R. 642. A bill to amend the Internal Revenue Code of 1986 to provide that passive loss limitation shall not apply to deductions allowable for cash out-of-pocket expenses for taxes, interest, and trade or business expenses in connection with rental real estate activities in which the taxpayer actively or materially participates; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. UDALL, Mr. VENTO, Mr. MILLER of California, Mr. YATES, and Mr. CAMPBELL of Colorado):

H.R. 643. A bill to amend section 37 of the Mineral Leasing Act relating to oil shale claims, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RICHARDSON:

H.R. 644. A bill to amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mrs. SAIKI:

H.R. 645. A bill to amend Title 5, United States Code, to establish a pay schedule and to revise the rates of pay for Federal fire service personnel; to the Committee on Post Office and Civil Service.

By Mr. SAXTON:

H.R. 646. A bill to amend the Fair Housing Act to provide a longer transition period with respect to qualifying as housing for older persons for certain purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SMITH of Nebraska:

H.R. 647. A bill to amend the Fair Labor Standards Act of 1938 to facilitate industrial home work, including sewing, knitting, and craftmaking; to the Committee on Education and Labor.

H.R. 648. A bill to authorize amendments to a certain water service contract for the Frenchman Unit of the Pick-Sloan Missouri Basin Program; to the Committee on Interior and Insular Affairs.

H.R. 649. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest paid on education loans; to the Committee on Ways and Means.

By Mr. STARK (for himself, Mrs. VUCANOVICH, Mr. DICKS, and Mr. NELSON of Florida):

H.R. 650. A bill to provide for compensation to State and local law enforcement agencies for expenses resulting from demonstrations against Federal nuclear-related activities: to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 651. A bill to amend the Housing and Urban Development Act of 1968 to reauthorize the emergency Homeownership Counseling Program; to the Committee on Banking, Finance and Urban Affairs.

H.R. 652. A bill to amend the Housing and Community Development Act of 1974 to reauthorize the Urban Development Action Grant Program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VANDER JAGT:

H.R. 653. A bill to suspend for a 5-year period the duty on Bendiocarb; to the Committee on Ways and Means.

H.R. 654. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate $1 to any overpayment of income tax, and to contribute other amounts, for use by the U.S. Olympic Committee; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. WAXMAN, Mr. BEILENSON, Mr. BERMAN, Mr. KASTENMEIER, Mr. SHAYS, Mr. STARK, Mr. ACKERMAN, Mr. LEWIS of Georgia, Mr. FRANK, Mr. MATSUI, Mr. LEHMAN of Florida, Mr. FAUNTROY, Mr. ROYBAL, Mrs. BOXER, Mr. SCHUMER, Mr. STUDDS, Mr. MARKEY, Ms. PELOSI, Mr. BATES, Mr. KENNEDY, Mr. MOODY, Mrs. MORELLA, Mr. FAZIO, Mr. LEVINE of California, Mr. GREEN, Mr. SABO, Mr. WHEAT, Mr. EVANS, Mr. HAYES of Illinois, Mr. UDALL, Mr. ATKINS, Mr. CLAY, Mr. DEFAZIO, Mr. AUCOIN, Mr. COYNE, Mr. MILLER of California, Mrs. LOWEY of New York, Mr. OWENS of New York, Mr. CROCKETT, Mrs. COLLINS, Mr. GEJDENSON, Mr. YATES, Mr. EDWARDS of California, Mr. DYMALLY, Mr. MRAZEK, Mr. MORRISON of Connecticut, Mr. MILLER of Washington, Mr. KOSTMAYER, Mr. CARDIN, Mr. RANGEL, Mr. MCDERMOTT, Mrs. SCHROEDER, Mr. FOGLIETTA, Mr. CONYERS, Mr. GARCIA, Mr. STOKES, Mr. HOYER, Mr. TOWNS, Mr. BROWN of California, Mrs. UNSOELD, and Mr. MARTINEZ):

H.R. 655. A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. DORNAN of California (for himself, Mr. MCCRERY, Mr. STANGELAND, Mr. DEWINE, Mr. LENT, Mr. HUNTER, Mr. PETRI, Mr. BILIRAKIS, Mr. RINALDO, Mr. ARMEY, Mr. SAXTON, Mr. HUTTO, Mr. SKELTON, Mr. MAZZOLI, and Mr. BONIOR):

H.J. Res. 91. Joint resolution to amend the Constitution of the United States to protect the right to life; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H.J. Res. 92. Joint resolution to provide for the contribution by the United States, the Soviet Union, and other states of nuclear material recovered from warheads under arms control treaties for use for peaceful nuclear programs under auspices of the International Atomic Energy Agency, particularly to benefit developing states which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons; to the Committee on Foreign Affairs.

By Mrs. SMITH of Nebraska:

H. Con. Res. 32. Concurrent resolution expressing the sense of Congress with respect to the use of ethanol in reducing air pollution, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DORNAN of California:

H. Res. 50. Resolution expressing the sense of the House of Representatives concerning the right to life of handicapped infants; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOSCO:

H.R. 656. A bill for the relief of Marie K. Madison; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H.R. 657. A bill for the relief of John Haule, Elizabeth Haule, Joseph Haule, and Margaret Haule; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. RUSSO, Mr. EVANS, Mr. DYMALLY, Mr. BROOMFIELD, Mr. HUGHES, Mr. ANNUNZIO, Mr. COBLE, Mr. BOSCO, Mr. LANCASTER, and Mr. SYNAR.

H.R. 18: Mr. AUCOIN.

H.R. 56: Mr. HILER and Mr. WYLIE.

H.R. 58: Mr. WALKER, Mr. HILER, Mr. DENNY SMITH, Mr. SAXTON, Mr. HYDE, Mr. DORNAN of California, Mr. OXLEY, Mr. GUNDERSON, Mr. INHOFE, Mr. PETRI, Mr. CHENEY, Mr. GALLO, Mr. HANSEN, Mr. SMITH of Texas, Mr. MCCRERY, Mr. BALLENGER, Mr. TALLON, Mr. PACKARD, Mr. WALSH, Mr. WOLF, Mr. BARTLETT, Mrs. BENTLEY, Mr. RHODES, Mr. HENRY, and Mr. SHUMWAY.

H.R. 60: Mr. THOMAS of California, Mr. CRANE, Mr. DEWINE, Mr. JOHNSON of South Dakota, Mr. DREIER of California, Mr. ERDREICH, Mr. HENRY, Mr. COX, Mr. ROBERTS, Mr. SENSENBRENNER, Mr. TALLON, Mr. CRAIG, and Mr. FRENZEL.

H.R. 63: Mr. BILIRAKIS, Mrs. MORELLA, Mr. CALLAHAN, Mr. IRELAND, Mr. BILBRAY, Mrs. VUCANOVICH, Mr. GEKAS, Mrs. BENTLEY, Mr. THOMAS of California, Mr. HUTTO, Mr. MILLER of Ohio, Mr. BUNNING, Mr. DUNCAN, Mr. WALKER, Mr. HANCOCK, Mr. MCCRERY, Mr. WYLIE, Mr. LENT, Mr. ARMEY, Mr. BARTON of Texas, Mr. SMITH of New Jersey, Mr. BLILEY, Mr. GUNDERSON, Mr. HANSEN, Mr. DELAY, Mr. ERDREICH, Mr. BROWN of Colorado, Mr. BALLENGER, Mr. LAGOMARSINO, Mr. PAYNE of Virginia, Mr. WOLF, Mr. SHAYS, Mr. RHODES, Mr. BARNARD, Mr. ENGLISH, Mr. JONES of North Carolina, Mr. DEFAZIO, Mr. CRANE, Mr. HASTERT, Mr. HAMMERSCHMIDT, and Mr. SCHAEFER.

H.R. 145: Mr. FORD of Michigan.

H.R. 148: Mr. HANSEN, Mr. RAHALL, Mr. KOLTER, and Mr. SKEEN.

H.R. 180: Mr. DWYER of New Jersey and Mr. HUGHES.

H.R. 210: Mr. ATKINS, Mr. BUSTAMANTE, Mr. FAUNTROY, Mr. DELLUMS, Mr. LEWIS of Georgia, Mr. PAYNE of New Jersey, Ms. KAPTUR, Mr. DE LUGO, Mr. GONZALEZ, Mr.

STARK, Mrs. COLLINS, Mr. KOLTER, Mr. MFUME, and Mr. MARTINEZ.

H.R. 211: Mr. ANNUNZIO, Mr. MATSUI, Mr. FRANK, Mr. FAUNTROY, Mr. ROYBAL, Ms. PELOSI, Mr. STUDDS, Mr. COSTELLO, Mrs. BOXER, Mr. DELLUMS, Mr. LEWIS of Georgia, Mr. STARK, Mr. PAYNE of New Jersey, Ms. KAPTUR, Mr. DE LUGO, Mr. GONZALEZ, Mr. MARTINEZ, Mr. KOLTER, and Mr. DWYER of New Jersey.

H.R. 212: Mr. FAUNTROY, Mr. GARCIA, Mr. DELLUMS, Mr. GONZALEZ, Mrs. COLLINS, Ms. KAPTUR, Mr. MFUME, and Mr. KOLTER.

H.R. 213: Mr. FAUNTROY, Mr. GORDON, Mr. CLAY, Mr. VENTO, Mr. DE LUGO, Mr. STAGGERS, Mr. MARTINEZ, and Mr. FASCELL.

H.R. 214: Mr. HORTON, Mr. ANNUNZIO, Mrs. MORELLA, Mr. FAUNTROY, Mr. MARTIN of New York, Mr. STUDDS, Mr. FASCELL, Mr. LAGOMARSINO, Mr. YATES, Mr. COLEMAN of Texas, Mr. HENRY, Mr. MANTON, Mr. GORDON, Mr. FRANK, Mr. BUSTAMANTE, Mr. SMITH of Florida, Mr. HANSEN, Mr. KASTENMEIER, Mr. ROE, Mr. HUTTO, Mr. PEPPER, Mr. ERDREICH, Mrs. BOXER, Mr. PAYNE of New Jersey, Mrs. ROUKEMA, Mr. MOAKLEY, Mr. BILBRAY, Mr. DE LUGO, Mr. LELAND, Mr. TAUZIN, Mr. GONZALEZ, Mr. OLIN, Mrs. COLLINS, Mr. DWYER of New Jersey, Mr. GIBBONS, Mr. PENNY, and Mr. RAY.

H.R. 215: Mr. FAUNTROY, Mr. PERKINS, Mr. SMITH of Florida, Mr. ROE, Mr. MRAZEK, Mrs. COLLINS, Mr. DORNAN of California, Mr. GONZALEZ, Mr. DE LUGO, and Mr. MARTINEZ.

H.R. 216: Mr. UDALL, Mr. BUSTAMANTE, Mr. FAUNTROY, Mrs. SCHROEDER, Mr. KASTENMEIER, Mr. DELLUMS, Mr. ROE, Mr. DE LUGO, Ms. KAPTUR, Mr. GARCIA, Mrs. COLLINS, Mr. GONZALEZ, Mr. RAHALL, and Mr. MFUME.

H.R. 217: Mr. PENNY, Mr. FAUNTROY, Mr. DYMALLY, Mr. BUSTAMANTE, Mr. LEWIS of Georgia, Mr. FOGLIETTA, Mr. PAYNE of New Jersey, Mr. DE LUGO, and Mr. TORRES.

H.R. 371: Mr. WEBER, Mr. COMBEST, Mr. BROWN of Colorado, Mr. BEREUTER, Mr. MCEWEN, Mr. HORTON, Mr. LEHMAN of California, Mr. ENGLISH, and Mrs. BENTLEY.

H.R. 378: Mr. SMITH of New Hampshire, Mr. HASTERT, and Mr. DENNY SMITH.

H.R. 393: Mr. PACKARD, Mr. DEFAZIO, and Mr. DUNCAN.

H.R. 401: Mr. STALLINGS, Mr. WHITTAKER, Mr. HILER, Mr. SCHIFF, Mr. BARTLETT, Mr. STEARNS, Mr. STAGGERS, and Mr. ROGERS.

H.R. 500: Mr. KENNEDY, Mr. DEFAZIO, Mr. SMITH of Florida, Mr. DOUGLAS, Mr. ATKINS, Mr. STUDDS, Mr. LANCASTER, Mr. MANTON, Mr. HUGHES, Mr. POSHARD, and Mr. PICKLE.

H.R. 533: Mr. BEVILL.

H.R. 560: Mr. HORTON, Mr. MARTINEZ, Mr. MINETA, Mr. DWYER of New Jersey, and Mr. GILMAN.

H.R. 561: Mr. CHANDLER, Mr. GIBBONS, Mr. LAFALCE, Mr. SHUMWAY, and Mr. MCDERMOTT.

H.R. 564: Mr. BENNETT, Mr. MONTGOMERY, and Mr. DORNAN of California.

H.R. 565: Mr. BENNETT, Mr. MONTGOMERY, and Mr. DORNAN of California.

H.R. 567: Mr. FORD of Michigan, Mr. HOCHBRUECKNER, Mr. FAUNTROY, Mr. KILDEE, Mr. HAYES of Illinois, and Mr. LENT.

H.R. 578: Mr. HORTON.

H.R. 579: Mr. RINALDO, Mr. TAUKE, and Mr. INHOFE.

H.R. 583: Mr. DWYER of New Jersey.

H.J. Res. 1: Mr. EARLY, Mr. ENGEL, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FROST, Mr. FUSTER, Mr. GUARINI, Mr. GONZALEZ, Mr. HUGHES, Mr. KOSTMAYER, Mr. LEHMAN of California, Mrs. LOWEY of New York, Mrs. MEYERS of Kansas, Mr. PURSELL, Mrs. ROUKEMA, Mr. ROWLAND of Connecticut, Mr. SAWYER, Ms. SCHNEIDER, Mr. STAGGERS, Mrs. UNSOELD, Mr. FEIGHAN, and Mr. DWYER of New Jersey.

H.J. Res. 22: Mr. FAUNTROY, Mr. HORTON, Mr. OWENS of New York, Mr. MARTIN of New York, Mr. BEILENSON, Mr. ANNUNZIO, Mr. BUSTAMANTE, Mr. FASCELL, Mr. ATKINS, Mr. COLEMAN of Texas, Mr. BATES, Mrs. SAIKI, Mr. EVANS, Mr. DELLUMS, Mr. LEWIS of Georgia, Mr. FAZIO, Mr. PEPPER, Mr. FOGLIETTA, Mr. ERDREICH, Mr. SMITH of Florida, Mr. MRAZEK, Mr. MOAKLEY, Mr. PAYNE of New Jersey, Mrs. BOXER, Mr. GORDON, Mr. WAXMAN, Mr. LELAND, Ms. KAPTUR, Mr. DE LUGO, Mrs. COLLINS, Mr. GONZALEZ, Mr. MARTINEZ, Mrs. MARTIN of Illinois, Mr. PARRIS, Mrs. LLOYD, Mr. WOLF, Mr. KOLTER, Mr. VOLKMER, Mr. RAY, Mr. DEFAZIO, Mr. JONTZ, Mr. TORRES, and Mr. PALLONE.

H.J. Res. 24: Mr. IRELAND.

H.J. Res. 28: Mr. MOORHEAD and Mr. SENSENBRENNER.

H.J. Res. 34: Mr. BARNARD, Mr. PACKARD, Mr. PARRIS, Mrs. BENTLEY, Mr. DUNCAN, and Mr. SENSENBRENNER.

H.J. Res. 83: Mr. BENNETT, Mr. MONTGOMERY, and Mr. DORNAN of California.

H.J. Res. 88: Mr. PEASE and Mr. RAY.

H. Con. Res. 1: Mr. LELAND, Mr. CONYERS, Mr. FEIGHAN, Mr. WYDEN, Mr. FOGLIETTA, Ms. SCHNEIDER, Mr. FAZIO, Mr. OWENS of New York, Ms. PELOSI, Mr. STUDDS, Mr. MORRISON of Connecticut, and Mr. JONTZ.

H. Res. 20: Mr. ENGEL, Mr. MADIGAN, Mr. SMITH of Vermont, Mr. HOCHBRUECKNER, Mr. SLATTERY, Mr. PALLONE, Mr. BRYANT, and Mr. MCDERMOTT.

H. Res. 41: Mr. AKAKA, Mr. COLEMAN of Texas, Mr. DYMALLY, Mr. ENGLISH, Mr. GORDON, Mr. HAYES of Illinois, Mr. HEFNER, Mr. JOHNSON of South Dakota, Mr. JONES of North Carolina, Mr. JONTZ, Mr. PERKINS, Mr. RINALDO, Mr. LIVINGSTON, Mrs. BENTLEY, and Mr. DANNEMEYER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

16. By the SPEAKER: Petition of Sangguniang Panlalawigan of Batangas, Batangas City, Republic of the Philippines, relative to world environmental instability; to the Committee on Energy and Commerce.

17. Also, petition of Association of the Pacific Island Legislatures, Agana, Guam, relative to Guam's quest for a Commonwealth political status with the United States of America and endorsing the Chamorro People's right to self-determination; to the Committee on Interior and Insular Affairs.

18. Also, petition of New Jersey State Bar Association, New Brunswick, NJ, relative to salaries of Federal judges; to the Committee on Post Office and Civil Service.

EXTENSIONS OF REMARKS

PRODUCT LIABILITY REFORM

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. DINGELL. Mr. Speaker, the Committee on Energy and Commerce last year reported the Uniform Product Safety Act of 1988, the first piece of product liability reform legislation ever to be approved by a congressional committee. I was pleased to support the efforts of the Product Liability Coordination Committee with respect to this issue and look forward to working with the PLCC again in the 101st Congress.

As our committee observed in its report on the Uniform Product Safety Act of 1988:

U.S. competitiveness has been adversely affected and . . . manufacturers, product sellers, consumers, and claimants have been deprived of a fair and balanced product liability system.

Product liability reform legislation, by establishing uniform standards and rules of liability, will promote increased safety in the manufacture and use of products sold in commerce while at the same time fostering innovation and the development of new products by reducing manufacturers' uncertainty about the dangers of litigation. Despite the obvious advantages that would flow from such reform, a small but vocal minority of narrow interest groups still seeks to thwart needed change. These few, motivated by the desire for a totally risk-free society and in some cases even by profit, prey upon others' natural aversion to risk to advance their own agendas.

In an excellent article published in the January 23, 1989, issue of the New Republic, Henry Fairlie analyzes the relationship of our current product liability and tort systems to what he terms "America's morbid aversion to risk." He traces the origins of this phenomenon and examines both its seen and unseen costs. In particular, he notes:

One pernicious moral effect of America's growing fear of risk: a commensurate diminution of the notion of individual responsibility for one's actions.

While I do not necessarily subscribe to every word in the piece, I do find Mr. Fairlie's comments regarding product liability to be cogent and compelling. They should be of particular interest to Members who are concerned about our Nation's competitiveness in both the industrial and scientific spheres. For that reason, Mr. Speaker, I am submitting Mr. Fairlie's article for insertion in the RECORD and urge my colleagues to give some thought to the important points he makes.

[From the New Republic, Jan. 23, 1989]

FEAR OF LIVING—AMERICA'S MORBID AVERSION TO RISK

(By Henry Fairlie)

In January 1967 the first Apollo spacecraft caught fire during a test on the launchpad. Three astronauts were killed. The nation was shocked and horrified, all the more so because the screams and scrambles of the astronauts could be clearly heard. But although there was a congressional hearing, and some delay of the manned flights, the Apollo program went smartly ahead, with the full understanding and support of the nation, and within 18 months Apollo 11 landed on the moon, ahead of the deadline set by John Kennedy. The Apollo disaster was not graven on the public mind as a rebuke to America's confidence in its technology, or taken as the occasion to preach that Americans must learn the limits to their energy and power.

Nineteen years later, the space shuttle Challenger was destroyed before our eyes on television. It was a spectacular tragedy, the result of human miscalculation and technical failure, neither of which should have been present, perhaps, but both of which are understood risks in the still dangerous enterprise of space flight. Yet the prevailing mood in America so panicked NASA that it took almost three years to send up another shuttle. NASA even reached the stage, as members of its staff said, of taking so many precautions that it was in danger of enlarging, instead of diminishing the possibility of malfunction.

In the 19 years between these tragedies, the idea that our individual lives and the nation's life can and should be risk-free has grown to be an obsession, driven far and deep into American attitudes. Indeed, the desire for a risk-free society is one of the most debilitating influences in America today, progressively enfeebling the economy with a mass of safety regulations and a widespread fear of liability rulings, and threatening to create an unbuoyant and uninventive society. As many studies show, this is strikingly an American phenomenon, one that seems to have taken root in yet another distortion of the philosophy of rights underlying the Constitution, as if the Declaration of Independence had been rewritten to include freedom from risk among the self-evident rights to life, liberty, and the pursuit of happiness. This morbid aversion to risk calls into question how Americans now envision the destiny of their country.

If America's new timorousness had prevailed among the Vikings, their ships with the bold prows but frail hulls would have been declared unseaworthy. The Norsemen would have stayed home and jogged. Columbus's three tubs would not have been allowed to sail; as it was, one was left wrecked on American shores. The Vikings and Columbus were exploring what was as unknown to them then as our solar system to us today, and it is not only the practical achievements of such venturing that are frustrated by the desire for a risk-free society. Something of the questing endeavor of the human spirit is also lost. The Vikings made sagas of their explorations, as European and English literature flowered during the great Age of Exploration. There once was, but there is not now, a promise of saga in America. Its literature has retreated into a preoccupation with private anxieties and fretting.

At Three Mile Island, the fail-safe system worked. The power station switched itself off. There was a scare, but no disaster. Yet Three Mile Island in the American mind is an emblem of catastrophe. Nuclear power in America, as in no equivalent industrial or industrializing nation, has been almost paralyzed although it is the only sufficient, efficient, and relatively safe source of energy that can avoid the greater risks of pollution and the "greenhouse effect." Of course there is a risk in nuclear power, and there should be thorough inspections and safeguards. Of course, also, there is such a thing as a level of risk that is unacceptable. But in America the threshold of tolerable risk has now been set so low that the nation is refusing to pay the inevitable costs of human endeavor. Stand beneath the majesty of the Grand Coulee Dam, or gaze up at the marvel of the Brooklyn Bridge—"O Harp and Altar," as Hart Crane sang of it—and count the number of lives lost in their construction. But then feel the power, even the beauty, of both dam and bridge, and weigh the cost of lives against the benefits they have brought.

The origins of the widespread refusal to accept a sometimes high level of risk as a normal and necessary hazard of life lie in the early 1970s. As America lost heart in the prosecution of the war in Vietnam, the energy of the dissenters—the vanguard of the "Me Decade"—turned to lavish care for the environment, the snail darter, and their own exquisite, often imagined, physical and emotional well-being. The simultaneous loss of faith in American technology was part of the same phenomenon; technology, it was observed, not only fouled the environment, but had proved incapable of winning a war against guerrillas in the jungle. And beyond this, of course, has been the growth of the larger belief that science itself has somehow betrayed us, that it promises evil and not beneficence.

The loss of courage and faith has manifested itself in many ways, but it has found its most immediately dangerous expression in tort (liability) law. Tort law is not only threatening to make the economy uncompetitive, it is warping the American legal system and its judicial philosophy. As Peter W. Huber observes in The Legal Revolution and Its Consequences, "No other country in the world administers anything like it." Tort law was "set in place in the 1960s and 1970s by a new generation of lawyers and judges. . . . Some grew famous and more grew rich in selling their services to enforce the rights they themselves invented."

In November a court in Albany seriously had to consider a claim for $1 million in damages against New York state, brought by a woman who, while she was sunbathing on the beach in a public park on Long Island, was hit in the neck by a Frisbee being tossed between a nine-year-old boy and a 20-year-old woman. Her lawyer con-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tended that the Frisbee was a "dangerous instrument" that should not have been allowed on the beach. (Since the idea of the Frisbee was taken from the bakery of that name where the workers whizzed pie plates to each other, rather than laboriously carry them, are we to assume that today the Occupational Safety and Health Administration would have stepped in to stop this skilled, efficient, rapid, but clearly "dangerous" method of conveyance?) At least this woman's claim was thrown out: the judge observed that she could have moved to another part of the beach if she feared injury from these alarming flying objects. Consider also the mother who sued a baseball club because her son was injured by a ball fouled back to their seats. It may well be that they had chosen seats there because her son had hopes of capturing a foul ball as a trophy, in which case the risk was known and invited by the mother; in any event, blame cannot be said to lie with the club, the hitter, or the ball. Here we see one pernicious moral effect of America's growing fear of risk: a commensurate diminution of the notion of individual responsibility for one's actions.

Claims of others' liability for our plights are, with the support of judges, lawyers, and juries, producing a "tort tax" on goods and services. They amount to a $300 billion levy on the American economy, observes Huber, that "accounts for 30 percent of the price of a stepladder and 95 percent of the price of childhood vaccines." The development of tort law has been particularly vicious in its effect because of another phenomenon peculiar to the United States—the award of huge punitive damages (as opposed to nominal damages, intended only to compensate the victim for the actual injury inflicted). The flagrant injustice of many of these awards was illustrated in a case brought against the Monsanto Company that sought damages for 65 plaintiffs for alleged personal injuries from one of the company's products used to make wood preservatives. After the longest-running trial in American history, the jury awarded each plaintiff one dollar in nominal damages, but then, "in a burst of tortured reasoning," as Monsanto Chairman Richard J. Mahoney says, awarded $16 million to the plaintiffs in punitive damages.

There is no justification for this. The Supreme Court has recently agreed to hear a case in which the constitutionality of huge punitive damages will be tested. In an earlier case, Justices Antonin Scalia and Sandra Day O'Connor observed that "this grant of wholly standardless discretion to determine the severity of punishment appears inconsistent with due process." Meanwhile, the awards further frustrate, if they are not crushing, the spirit of innovation in American business. The Conference Board in 1988 conducted a survey of chief executive officers. It showed that uncertainty over potential liability had led almost 50 percent to discontinue product lines, and nearly 40 percent to withhold new products, including beneficial drugs. The fault lies not only with the "wholly standardless discretion" allowed to juries to determine the severity of the punishment, but with the present power of a single jury to decide what conduct is liable for punitive damages.

The result of all this, says Justice Richard Neely of the West Virginia Supreme Court, author of *The Product Liability Mess*, is that "as a state court judge much of my time is devoted to ways to make business pay for everyone else's bad luck." When the step of a stepladder breaks because it was made of defective material, the payment of reasonable damages to the injured party is just. But as anyone with any household experience knows, sometimes a broken stepladder is just a broken stepladder, the result of bad luck; and surely each of us has the individual responsibility to approach any stepladder with some circumspection. The prevailing attitude in America is that people should be safeguarded against not only negligence but bad luck; it has become all too easy for lawyers to manipulate jurors who generally are scientifically ignorant and believe that they can be guaranteed a risk-free society.

One confirmation that the obsessive American aversion to risk is a growth of the last two decades is the proliferation in that time of academic and quasi-academic literature on risk, with such titles as "Public Perceptions of Acceptable Risks as Evidence of Their Cognitive, Technical, and Social Structure." The conclusions of much of this literature were drawn together in 1982 by Mary Douglas and Aaron Wildavsky in *Risk and Culture*, their own still impressive critique of this phenomenon. Among the interesting questions asked by the authors is "Why is asbestos poisoning now seen to be more fearsome than fire," especially when asbestos was introduced and welcomed as a prevention of injury or death by fire? The question is made even more interesting by Mahoney's revelation that Monsanto "abandoned a possible substitute product for asbestos just before commercialization, not because it was unsafe or ineffective, but because a whole generation of liability lawyers had been schooled in asbestos liability theories that could possibly be turned against the substitute." In principle, Douglas and Wildavsky note, a society selects which risks it will worry, and perhaps even legislate, about in the hope of diminishing or eliminating them. But why do Americans seem to be more concerned about the risks of pollution than about the budget deficit, economic stagnation, and even war?

Who are the people who promote the intolerance of risk in contemporary America, and select which risks the society should worry about? It is reasonable and almost certainly correct to assume a link between the attitudes that have led to the slowing of such new and promising industries as space technology and nuclear power, the gross development of liability law and litigation, the concern about environmental pollution, and the finicky attention to one's bodily health, comfort, and even purity. Together they form a syndrome. The people who are environmental extremists are likely also to be exorbitantly fussy about the risks to their bodily purity from a multiple of pollutants, natural and artificial, not much concerned about the progress of the space and nuclear power industries, automatically against manufacturing companies in liability cases, and generally uninterested in creating and maintaining a productive industrial economy.

From such people are drawn the staffs and membership of the special interest groups that have sedulously promoted America's risk aversion. Douglas and Woldavsky counted some 75 national environmental groups alone, and thousands more at state and local levels. By something like sleight of hand they represent themselves as public interest groups, but in fact these risk-averse groups speak for a very clear special interest: those who work not in manufacturing industries, but in the now vast services sector, including government and corporate bureaucracies, and who manufacture nothing. In short, they do not get their hands dirty. So it is easy for them—it does not violate their "class interest"—to be indifferent to creating a productive industrial economy. It is no sweat off their backs if a manufacturer is closed down, and its workers laid off for environmental reasons. The risk-averse groups are drawn from a privileged class.

Since it is in the interest of these groups to multiply regulations and strengthen their control of the economy, they have encouraged the growth of government bureaucracy (federal, state, and local). The federal environmental agencies have grown like a coral reef into this bureaucracy and are as indestructible. Since their bureaucrats also wish to keep their paper-shuffling jobs, they work hand in glove to promote yet more regulation of the manufacturing sector of the economy.

One of the reasons why an aversion to risk has taken hold in America is the manner in which the American political system has developed during precisely the same two decades as the growth of the movement for a risk-free society. All the influences that have been observed and analyzed—the decline of parties, the proliferation of committees and subcommittees and the undermining of seniority in Congress, and the development of the primary electoral system—have given advantage to single-issue special interest groups. Direct-mailings have provided special interest groups, as well as candidates, with direct access to the voters without having to work through the established political institutions that would have forced them to adjust their own aims to accommodate the broader national interest. Never has it been so evident that, as Macaulay wrote to his American correspondent H.S. Randall, the biographer of Jefferson, "your Constitution is all sail and no anchor." Those now filling the sails are the special interest groups, of whom the risk-averse are the most successful. European countries, in contrast, simply have not permitted the sacrifice of their political systems to the single-issue special interests. Strong parties compel these special interests to adjust to the national interests.

But these groups could not have been so destructively successful if Americans had not already suffered a loss of faith in their nation—a loss of faith in the science and technology on which American progress has been built (while paradoxically they look to science to create their version of a risk-free country); a loss of faith in America's inexhaustible possibilities, its sense of limitlessness; a loss of faith in the ever-advancing frontier, even, as Kennedy proclaimed, the exploration of the new frontier in space. And with it all, a loss of the American adventuring spirit, of the American gusto whose absence the world now laments, the gusto that, until the 1960s, blew like a fresh wind around the globe, showing what could be accomplished in so short a time by a nation that did not shrink from risk but found it a challenge.

There is something grossly at fault in the conception of the Vietnam War Memorial and the false veneration it excites. It is not, like the Iwo Jima Memorial, a monument to heroism, or even to sacrifice. It is a monument to a loss of life that is seen as wasteful and dishonorable. The feelings it excites reflect a nation that is coming to believe that even war should be fought without risk to its fighting men or risk of defeat.

A nation should lament the deaths, and succor the survivors. But it cannot forever be counting its dead.

UDAG PROGRAM SHOULD BE REAUTHORIZED

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation that would reauthorize the Urban Development Action Grant [UDAG] Program at a level of $225 million a year for fiscal years 1990 through 1993.

Mr. Speaker, since coming to Congress, I have been an outspoken supporter of both the UDAG and the Community Development Block Grant [CDBG] Programs. For the past 8 years, the Reagan administration attempted to cut back or eliminate these programs. Up until last year, Congress consistently blocked these efforts and was able to maintain funding for these programs. Unfortunately, last year in the fiscal year 1989 HUD-Independent Agencies appropriations bill, Congress provided no new funding for the UDAG Program. I believe that this was a serious error and the legislation I am introducing today is an attempt to correct this mistake.

Like many of my colleagues and like countless mayors, county supervisors, city council members, and other local officials, I recognize the central importance of the UDAG Program to local governments—especially in areas which have been devastated by economic hard times. In many instances, UDAG's provided funding for projects that otherwise would not have gone forward. The UDAG Program provided communities that are struggling economically with hope and assistance. UDAG's gave distressed communities the helping hand so vital to their economic revitalization efforts.

Mr. Speaker, the UDAG Program did work and it should not be allowed to die. Many times a UDAG will provide a community with the push it needs to get back on its feet and help itself. Most importantly, UDAG's put private money to work and they stimulate private investment in economically distressed regions.

This is an important bill Mr. Speaker, and I urge all of my colleagues to lend it their strong support. The full text of this bill is as follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "UDAG Reauthorization Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1990 THROUGH 1993.

The second sentence of section 119(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(a)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $225,000,000 for each of the fiscal years 1990 through 1993.".

SEC. 3. EXTENSION OF URBAN COUNTY COMPETITION RULE.

Section 515(g)(2) of the Housing and Community Development Act of 1987 is amended by striking "October 1, 1989" and inserting "October 1, 1993".

TRIBUTE TO LEANNA BROWN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. COURTER. Mr. Speaker, I rise today in tribute to one of New Jersey's most dedicated and committed public servants for 20 years, Senator Leanna Brown.

Leanna has distinguished herself to the citizens of Morris and Passaic Counties through the 20 years of dedicated service in local and State government. Her overwhelming support from her constituency is a tribute to her unique leadership, loyalty, and dedication to the citizens of New Jersey. Her record of excellence in previous leadership positions as assemblywoman for 3 years, freeholder of Morris County and director for 8 years, and her first elected position as councilwoman in Chatham Borough have earned her the respect and admiration of all of the citizens she has represented and all those, including me, with whom she has worked.

In Trenton Leanna has been actively concerned with increasing international trade, and by being a member of the Governor's Commission on International Trade she has promoted trade offices in the Orient.

Beyond her significant achievements as a public servant, Leanna Brown has also been active in charity work, and, in particular, has been admired for her work for children. In recognition of her dedication and countless hours in her charity work and public service she has received numerous awards, including the Woman of Achievement Award from the Douglass College New Jersey State Federation of Women's Clubs, Issues & Action Award '88 Award from the New Jersey Council of Churches, and the Salute to Policy Makers Award from the Executive Women of New Jersey, to name a few.

Leanna Brown has unselfishly served New Jersey throughout her 20 years of public service and has gained a reputation among her peers and constituency for the highest integrity and abilities. The people of Morris and Passaic Counties and the State of New Jersey are indeed lucky to have such a capable and respected individual to represent their needs in the State capitol. I take great pride in noting her accomplishments to my colleagues.

JAPAN STRIKES UNFAIR DEAL WITH UNITED STATES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. SOLOMON. Mr. Speaker, I've always been a staunch supporter of free trade, but free trade must also be fair trade.

Once again, I regret to report, Japan has shown that it employs a double standard when it comes to its trading partners, of which America is the most important.

Our recent effort to sell Japan F–16 fighters has been instructive. A recent New York Times editorial on the subject tells the story, which I place in today's RECORD.

THE LOSING FIGHTER DEAL WITH JAPAN

An American negotiating team trying to sell F–16 fighters to Japan was defeated last month and is now in Tokyo to receive its second humiliation.

Japan wants to buy 140 new fighter planes. General Dynamics makes the world's best fighter, the F–16, in numbers that assure unmatchable economy. Furthermore, by buying American, Japan could reduce the trade surplus that so aggravates its major trading partner and help alleviate the burden America bears in defending, among other countries Japan.

Surely in this case, Japan will buy American, no? No. Japan prefers to develop the FSX, loosely patterned on the F–16, at more than twice the cost. In an agreement signed last month in Tokyo by the retiring Ambassador, Mike Mansfield, General Dynamics has been designated a subcontractor, with a promise of 35 to 45 percent of the development work. In gratitude, the company will hand over all the necessary F–16 technology.

Has the Defense Department given away the store? Its negotiators worked harder than it looks. At first the Japanese insisted on developing a wholly new fighter. The Pentagon finally induced Japan to base the plane on the F–16. New technology developed for the FSX will be made available to the U.S., for military though not commercial use.

Still, the deal is one sided and unfair. Japan shuts out American companies when it wishes to develop a new industry. Japan's insistence on developing the FSX may not relate to its effort to build up its aviation industry. Even so, the rejection of a superior American product seems familiar, and unfair.

Japan argues that defense is in a special category, and it is quite true that many countries like to build their own major weapons systems. But Japan and America have a special relationship. They are major trading partners; America shoulders the heavier part of their mutual defense, spending 6.5 percent of its gross national product on defense compared with Japan's 1 percent. The resources America diverts to defense have a lot to do with the trade imbalance that so benefits Japan.

The Defense Department, having agreed that Japan will develop most of the FSX, has now sent a team to Tokyo to plead for a share of the production contract. Agreeing to that seems the least Japan could do.

In the case of the F–16, the United States had every reason to expect that Japan would want to buy American, and every reason to be disappointed at the grudging concessions Japan has made to the two countries' common interests.

THE FILIPINO VETERANS FAIRNESS ACT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MINETA. Mr. Speaker, today I reintroduced legislation to remedy the unfair situation faced by Filipino nationals who are serving in the U.S. Navy.

Under current law, Filipino servicemen are not allowed the same opportunity to apply for U.S. citizenship afforded other aliens serving in the U.S. Armed Forces. The bill, the Filipino Veterans Fairness Act, would amend the Immigration and Nationality Act to provide special immigrant status for certain aliens serving at least 4 years in our Armed Forces.

Under the terms of our military base agreement with the Republic of the Philippines, Filipinos may enlist in the U.S. Navy without first obtaining residence in this country. But many Filipinos who have enlisted in the U.S. Navy are unable to qualify for naturalization under existing law because they have not first been admitted for permanent residence in the United States. Thus, these Filipinos have no immigrant status at all.

Under U.S. law, all aliens must be admitted to this country for permanent residence before they may enlist in the U.S. Armed Forces. But upon admission for permanent residence and completion of 4 years of honorable service, U.S. law allows these aliens to be naturalized.

The legislation I have reintroduced today would provide special immigrant status for aliens serving in our Armed Forces and allow those service members to take advantage of existing law. The passage of this bill will remedy the current inequality between loyal Filipino service members and other alien enlistees.

The faithful military service of these Filipinos is symbolic of their devotion to the United States. The reenlistment rate for Filipino servicemembers is more than 90 percent. Their loyalty to the United States is documented throughout history and the need for their fair treatment is long overdue.

A TRIBUTE TO MR. IRA FREEMAN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding leader of our community, Mr. Ira Freeman. On January 20, Ira concludes his term as president of the Sun Valley Area Chamber of Commerce.

Ira Freeman is a man of tremendous talent, dedication, and effort. During his tenure, the chamber of commerce has experienced great growth. He coordinated a Clean Up Program which enlisted the aid of local schools and various businesses and organizations in Sun Valley and served as the liaison between the Sun Valley Area Chamber of Commerce and the Sun Valley Residents Association, creating an on-going project for community and graffiti cleanup. Ira is also responsible for the chambers' Hispanic Business Committee to increase the level of participation by Hispanic owned businesses in chamber affairs.

Ira Freeman's contributions to the community extend beyond the chamber of commerce. His seemingly infinite energy has improved the quality of life for all who live and work in the San Fernando Valley. He is owner of Key Pharmacy and is past president of the Professional Pharmacist Society of San Fernando Valley. Ira was recognized by the University of the Pacific as recipient of the Preceptor of the Year Award for training pharmacy students. He is a founding patron of the Valley Free Clinic, a family planning facility. Ira Freeman also cosponsors San Val a valley little league team.

Ira has earned many well-deserved awards, including the 1985 State Assembly Humanitarian Award, Juvenile Justice Connection Project Man of the Year, and Small Business Person of the Year for Sun Valley, just to name a few.

It is my honor to ask my colleagues to join me in saluting Mr. Ira Freeman, an asset to our community, and a dedicated citizen.

WHAT CAN YOU DO WITH LEFTOVER FOOD?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. STARK. Mr. Speaker, with all the parties in Washington last week, much food was consumed and much food was wasted. However, thanks to Robert Egger's food transportation project, some food was redirected to hungry people.

Last Thursday, the Washington Post published a very discouraging article on area hotels refusing to donate leftover food to needy people. This triggered a published response in Friday's Post about Robert Egger, who already was working to provide assurance to hotels that they could donate food in good faith without fear of liability.

For my colleagues who may have missed the articles, they are reprinted here. To contact Robert Egger to pick up leftover food, phone 234-0707.

Congratulations to Senator DAN COATS for being the first person on the Hill to avail himself of the D.C. Central Kitchen's service.

[From the Washington Post, Jan. 19, 1989]

TOSSING THE EXTRA SALAD: HOTELS REFUSE TO DONATE PARTY LEFTOVERS TO NEEDY

(By Jim Naughton)

In this week of inaugural excess, Bryna Monsein thinks her story has particular relevance.

Two weeks ago, the Bethesda resident decided to donate the leftovers from her daughter's wedding reception at the Mayflower Hotel to the Community for Creative Non-Violence. "Wonderful food," she says. "Blackened sirloin, shrimp scampi, chicken piccata, wonderful pasta."

But the Mayflower, fearing it would be liable if anyone became ill, refused.

"I was really sad," she says. "To think of all that food going into the garbage was just pitiful."

But not unusual. A number of local hotels, citing health regulations, insurance and public relations concerns, refuse to redistribute food they haven't served. Still, caterers, who would presumably have the same concerns, have earned a reputation for being generous with their clients' extra food.

"Somehow caterers have been more sensitized than hotels and restaurants," says Carol Fennelly of CCNV.

Hotel managers say it is not a question of sensitivity.

"Once food is dispensed, at no time could it be given away," says Paul J. Sacco, general manager of the Omni Shoreham Hotel. "Health laws would dictate that you would not be able to reissue it."

Sacco's opinion was echoed by other hotel managers, but, according to Sidney Hall, chief of food protection for the District's Department of Consumer and Regulatory Affairs, "There are no such regulations." Hall says hotels can donate food to charity "so long as the food is wholesome and has not been used by former patrons."

But Kevin McPhee, director of food and beverages at the Mayflower, insists that the hotel is legally liable for the food it prepares.

"It is not a question of donating food. We donate food. But donating food that has already been prepared for another purpose, that is another question," he says. "Particularly hot food. If it has to be reheated it is exposed to potential bacteria. We're very careful about these things. We have that liability."

But Fennelly says hotels are protected from liability for food "donated in good faith" by "Good Samaritan" laws in the District, Maryland and Virginia.

Still, some catering directors, like Brent Ashton at the Omni Shoreham, are wary of "loopholes in the law."

Hall says the only condition he is aware of is that food be "transported in the proper vehicle . . . Hot food must be kept hot. Cold food cold."

Fennelly characterizes the hotels' position as "baloney . . . They can do it if they choose to. A lot of restaurants use it as an excuse not to give food away."

"I think a lot of the hotels couldn't necessarily be bothered," says the Rev. John Adams of So Others May Eat, an ecumenical food agency. "It's certainly not against the law."

Bryna Monsein, who doesn't want others to repeat her experience, has sought legal recourse. Her attorney—Earl Colson of Arent, Fox, Kintner, Plotkin and Kahn—has written a letter that he hopes will serve as the basis for future agreements between hotels and relief agencies. In it, a charity acknowledges "that we have received the food in good condition," and promises "to refrigerate and otherwise keep the food in a sanitary condition suitable for consumption."

The agency agrees to release the hotel "from any claim that may arise because of your having supplied this food." And also promises to "indemnify you against any claim made by any homeless person to whom we have provided portions of this food."

"It will stand up in court" as a contract, Colson says. "Whether a hotel will say, 'Oh, that does it,' and contribute the food, I don't know."

Kevin McPhee of the Mayflower says he has seen similar documents before. "What I don't know is, if tested, would it hold?"

In lieu of a test, Monsein recommends a client investigate a hotel's donation policy before booking an event.

"My feeling is if people knew about it, they would make these arrangements in the beginning," she says. "All it involves is saying, 'Will you please?' "

[From the Washington Post, Jan. 20, 1989]

LEFTOVERS FOR THE HUNGRY ROBERT EGGER'S FOOD TRANSPORTATION PROJECT

(By Jim Naughton)

If you've begun to wonder what a point of light looks like, meet Robert Egger.

Last year the 30-year-old District resident quit his job as a restaurant manager to help feed the city's hungry. This morning he'll inaugurate the D.C. Central Kitchen, an organization dedicated to transporting leftover food from hotels and restaurants to shelters and soup kitchens.

Egger, who worked in area restaurants for 10 years, says he undertook the project because restaurateurs and hoteliers threw away huge quantities of food, believing there were no sanitary, legally authorized procedures for donating it.

To overcome their reluctance, Egger, an experienced food handler, bought a van outfitted with a large new refrigerator and is drawing up a contract to absolve donors from liability for illnesses caused by any food donated "in good faith."

The initial response has been encouraging. Joe & Mo's, Tila's, Movable Feast catering and the American Foreign Service Club are among the businesses that have signed a letter of support. The Washington Restaurant and Beverage Association is profiling the Kitchen in its upcoming newsletter, and Leonard Hickman, executive vice president of the Washington Hotel Association, says he plans to call Egger and "see what we can do."

Egger, who will make his first pickups this morning at Holiday Inns in Georgetown and Arlington, is certain that the Kitchen will succeed. His chief worry is that it will succeed too well, too soon.

"I think we are going to be bombarded," he says with a mixture of delight and trepidation. "With all the parties in this town. All the corporate cafeterias. All the banquets. I'm already concerned that we are going to need another van."

The seed for the Kitchen was planted four years ago when Egger and his wife Claudia began working with hunger relief efforts sponsored by Grace Episcopal Church and the Salvation Army.

"We always tried to avoid having to go out on the food delivery truck," he says. "But then when we finally did . . . I know it sounds corny, but it really did change our lives dramatically."

While Egger, who'd managed the Childe Harold and Clyde's in Georgetown, threw himself into raising the $50,000 it took to open and insure the Kitchen, Claudia, executive assistant to a local attorney, supported the couple. The pieces fell into place early this month, and Egger, now working on a small salary, seized on Inauguration Week, with its myriad banquets and receptions, as a propitious time to start.

The Kitchen is currently a have-truck-will-travel operation, but in April, Egger and Jack White, executive director of the Coalition for the Homeless, plan to open a newly renovated industrial-sized kitchen on Florida Avenue NW where crudité plates can be converted into salads and stews.

White made the kitchen available after meeting Egger last year. "He walked in my door one day and said, 'I have an idea,' " White recalls, "It just so happened that his idea met my need. We have what I would describe as an inadequate food program. We're always lacking salad, fresh fruit, the very stuff he's likely to get the most of."

Egger also plans to offer an eight-week food preparation program taught by volunteer chefs who will train homeless people who apply through the coalition.

"In other words it's the homeless preparing food for the homeless," Egger says. "I think we could train some good-caliber entry-level people, even assistant-chef-level people."

"That's what will distinguish what he's doing from other programs," says Rick Stack, a founder and former director of the Capitol Area Community Food Bank.

Stack, who sits on the Kitchen's board of directors, helped Egger research similar programs last year in New York, Philadelphia and Atlanta.

"What the restaurants did in Atlanta to assuage their concern about liability is they would intentionally produce more than they could sell and give that surplus to Atlanta's Table," Stack says. "I know that's what Robert is hoping will happen in the local hospitality industry."

WOMEN'S AND MEN'S CAUCUSES FETES VICTOR R. RODRIGUEZ

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their Annual Dinner Dance at the Fleur De Lis Restaurant. As part of this annual event, the Caucuses honored Victor R. Rodriguez.

Victor Rodriguez, though born in Puerto Rico, was raised in the Brownsville and East New York sections of Brooklyn, in a family of four brothers and seven sisters. After attending the Brooklyn public schools, he enlisted in the U.S. Marine Corps, where he served in the Vietnam war receiving several medals for gallantry and two purple hearts. Following his return to the States, Victor was assigned M.P. duty at the Pentagon in Washington, DC, until his discharge in July 1970.

Mr. Rodriguez enrolled at Brooklyn College in 1971, graduating 6 years later with a B.S. in physical education. He immediately became a teacher at Thomas Jefferson High School, teaching classes to to non-English speaking students. While at Thomas Jefferson, he also coached both the junior varsity and varsity football teams for 10 years.

In 1977, Victor re-enrolled in the masters program at Long Island University, receiving his M.S. in bilingual education in June 1979. Continuing his education, Mr. Rodriguez enrolled at Long Island University again; this time in pursuit of a professional diploma in supervision and administration, which he received in August 1981.

In March 1982, Victor became assistant principal at I.S. 171, in which capacity he served for 5 years. In April 1987, he became principal of P.S. 159. For Victor, being a principal has been the ultimate challenge. He says that "seeing young minds blossom and youngsters grow is a joy. It is a joy because we are molding the minds and bodies of the future. A future filled with high hopes and attainable dreams."

Victor is living proof of that. I extend my sincerest congratulations to Victor on his many accomplishments, and my best wishes for a successful and fulfilling future.

INTRODUCTION OF STUDENT LOAN LEGISLATION

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. PENNY. Mr. Speaker, I rise today to introduce legislation to restore the ability of postsecondary schools to make federally guaranteed loans to their students.

By way of background, in 1986, a provision was included in the reauthorization of the Higher Education Act of 1965 to allow postsecondary schools to act as lenders in the Federal student loan programs. Many members of the Education and Labor Committee at that time felt, as I did, that such a change would expand the number of likely lenders for students to choose from when applying for guaranteed loans, would generate income to allow schools to expand institutional-based aid or nonguaranteed loans to students, and would assist in the reduction of defaults on federally backed student loans.

During the debate on the higher education technical amendments last Congress, critics charged that under the 1986 provision schools would make loans and immediately turn them over to secondary loan markets and therefore would not develop a long-term commitment to a lending program. This concern led to a repeal of the 1986 provisions. This legislation addresses that concern by stipulating that institutions who make loans to their students will be required to hold those loans until the beginning of the grace period of the loan. This requirement will insure that schools do not routinely make loans and immediately sell them to other lenders in the secondary loan market.

Mr. Speaker, this legislation is really very simple: it grants schools the opportunity to make loans to their students that banks and other lenders have long enjoyed. Last Congress, over 30 Members were cosponsors, and several educational organizations, including the American Council on Education, and the National Association of Student Financial Aid Administrators, endorsed this legislation.

When we are searching for ways to increase the amount of aid available to students and examining proposals to reduce the growing student loan default problem, let me suggest, Mr. Speaker and colleagues, that this legislation is an important start in addressing both policy concerns.

The bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 435(d)(2) of the Higher Education Act of 1965 is amended—

(1) by inserting "and" at the end of subparagraph (B); and

(2) by striking out everything after subparagraph (B) and inserting the following:

"(C) shall not, as a regular practice, sell or assign the loans made under this part to any other eligible lender except after the borrower ceases to carry at least one-half the normal full-time academic workload (as determined by the institution).".

A BILL TO LIMIT SOUTH AFRICAN INFLUENCE AND CONTROL OF UNITED STATES BUSINESS ENTERPRISES

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. LELAND. Mr. Speaker, when Congress passed the Comprehensive Anti-Apartheid Act of 1986, it sought to make apartheid economically and morally untenable by prohibiting certain United States investments in South Africa.

Unfortunately as of 1985, United States affiliates of South African companies hold an estimated $84 billion in total assets. Furthermore, South Africa continues to increase its stake in key American industries. For example, Minorco, a South African controlled company, is making a hostile bid for Consolidated Gold Fields—a British concern with strategic mineral assets in the United States. A successful acquisition would give South Africa a greater hold on the international mining industry. Because the use of apartheid-generated profits in such a manner provides economic and social stability for South Africa and fuels apartheid, it should be eliminated.

Today, I am introducing a bill to close this loophole in the Anti-Apartheid Act. Quite simply, this bill prohibits South African business enterprises, persons or governments from acquiring, purchasing or owning 5 percent or more of voting securities of any United States business enterprise. While South African persons can continue to invest minimally in the United States they will not be able to exert control over U.S. corporations.

Our past actions suggest that Americans find apartheid so morally abhorrent that we chose not to associate with such a racist system. If we are to be philosophically consistent, if we are to maintain a congruent policy, and if we seek to send a clear message to South Africa, we must end South African investment in the United States. To permit this practice to continue would be hyprocritical.

I urge you to support this bill and help end the tragedy that is apartheid.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEASURES TO LIMIT THE INFLUENCE AND CONTROL OF SOUTH AFRICANS IN UNITED STATES BUSINESS ENTERPRISES.

(a) No South African person may directly or indirectly acquire, purchase, own, or hold 5 percent or more of the voting securities of any business enterprise incorporated, chartered, or organized in the United States.

(b) For purposes of this Act the following terms have the following meanings:

(1) The term "South African person" means—

(A) any person resident in South Africa or subject to the jurisdiction of South Africa;

(B) any individual, branch, partnership, associated group, association, trust, estate, corporation, or other organization organized under the laws of South Africa, and the Government of South Africa (including a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency); or

(C) any entity of which 5 percent or more of its voting securities is directly or indirectly owned or controlled by any person or entity under subparagraphs (A) and (B).

(2) The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any ownership of any real estate.

(3) The term "associated group" means two or more persons who, by the appearance of their actions, by agreement, or by an understanding, exercise their voting privileges in a concerted manner to influence the management of a business enterprise. Each of the following are deemed to be an associated group:

(A) Members of the same family,

(B) A business enterprise and one or more of the officers and directors.

(C) Members of a syndicate or joint venture.

(D) A corporation and its domestic subsidiaries.

(c) For purposes of this Act in determining any percentage of the voting securities, the voting securities shall be deemed to consist of the amount of the outstanding voting securities, exclusive of any voting securities held by or for the account of the issuer or a subsidiary of the issuer.

(d) A South African person in violation of subsection (a) shall divest ownership of such voting securities as are in violation of the limitation under such subsection within one year after the date of the enactment of this Act.

(e) The United States or any person aggrieved may bring a civil action in an appropriate district court for equitable relief with respect to any violation of this Act. If a plaintiff other than the United States is a prevailing party in such an action, the court shall award costs and reasonable attorney fees to that plaintiff. For purposes of this subsection a "person aggrieved" shall include any shareholder, officer, employee, or employee representative (including designated collective bargaining agent) of a company whose voting securities are acquired, purchased, owned, or held (either directly or indirectly) in violation of this Act.

BLACK COLLEGES GET A BOOST

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. CLAY. Mr. Speaker, I am pleased to share with my colleagues the following article from the St. Louis Limelight. In it, Tony Brown brings attention to the growing consciousness and responsibility among the black community toward higher education. I found this article encouraging, because it illustrates how our contributions enable our children to achieve at black colleges and universities, and to overcome the barriers to social and economic equality.

[From the St. Louis Limelight, December 1988]

COSBY'S DONATE $20 MILLION

(By Tony Brown)

Bill Cosby and Camille Cosby gave $10 million each to Spelman College and demonstrated that the only color of freedom is green. They also reminded the world that the freedom of Black people is the responsibility of Black people.

While not having millions of dollars, thousands of Blacks who graduated from White colleges are making the same point another way. In a desperate attempt to find one another and survive in hostile settings, they are intensely involved in "networking"—a modern term for "extended family."

Black college students, who ten years ago would not have visited a Black college campus, are now stampeding Fisk (enrollment up 19%); Florida A and M (up 15%); South Carolina State (up 9%); Jackson State (up 12%); and Alabama State (up 14%).

Norfolk State University most outstanding science programs in the country with a guaranteed education, has grown to an all-time student enrollment of 8,000. And if you want to get into Hampton University, start applying a few years early.

What's happening? It's not what Newsweek magazine and the majority of the White Press is reporting. Whenever they report on Black colleges or other self-help projects, they select the worst-case scenario.

That's why Black people must listen to a different drummer.

Woodie King, Jr., director of the Broadway play "Checkmates," is doing just that. The White critics knocked Ron Milner's writing, King's directing and the overall production, but Black audiences love it. As a result, a potential flop has turned into a hit.

The 100 Black Men of Atlanta raised $60,000 in a fundraiser with "The White Girl," my movie that will hit the theaters in June, 1989.

"Atlanta Students Give Anti-Drug Movie Rave Reviews" read the headline in The Atlanta Journal and Constitution. "They applauded during the anti-drug statements, boogied in their seats during the dance scenes and cheered when the dope dealer got his due," the Journal said.

"Hey, it was real. The movie told me not to use drugs, and then showed me why," said Marquis Smith, 14, a ninth-grader at Fulton Senior High.

The Journal also explained that "the $60,000 in proceeds from the Atlanta showing will go to the civic club's 'Project Success' program. Under the nine-year endeav-

or, 31 Archer High School students have been adopted by members and will receive full tuition to an accredited college of their choice upon graduation."

"This fundraiser premiere of 'The White Girl' is a unique way of raising money for our scholarship program and getting the anti-drug message out to young people," said John Grant of The Atlanta Black Men.

"Those on hand gave the movie and message a rousing thumbs up," wrote Keith Thomas in The Atlanta Journal.

Meharry Medical College sold 2,000 tickets ($50 and $100) for its sold out premiere in Nashville. St. Catherine Church (AME Zion) in New Rochelle, N.Y.; the Black-owned Norfolk Community Hospital and Norfolk State University; and the Black MBAs and Alpha Phi Alpha Fraternity of Dallas are other groups that have held recent fundraisers in this newly-discovered atmosphere of self help.

We will continue to make the movie available to our community until June of 1989 (Info: 212/575-0876).

There is a new spirit of self-help born out of a new reality that White people and White institutions are not going to free Black people.

Not many, perhaps no one else, can do what Bill and Camille Cosby did, but we can all give something—no matter how small—to a Black charity.

"Thumbs Up" to all who try.

RENTAL REAL ESTATE RELIEF

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. PICKLE. Mr. Speaker, today, I am introducing legislation to modify the passive loss rules enacted as a part of the Tax Reform Act of 1986 and to restore a significant measure of fairness and justice to owners of rental real estate. This bill would reinstate a general tax deduction for cash losses by rental real estate owners. Such a limited deduction would ease the burden sustained by active real estate owners in tough economic times and at the same time maintain one of the principal goals of the 1986 Tax Reform Act of eliminating tax shelters. I introduced this measure during the 100th Congress, and in my judgment the need for this revision is greater than ever.

The passive loss section was a cornerstone of the antitax shelter provisions of the 1986 Tax Reform Act. Generally, I believe these rules are accomplishing their goals. However, the rules go beyond eliminating real estate tax shelters. Unfortunately, their sweeping nature not only stops individuals from deducting paper losses—such as depreciation expenses—but also prevents taxpayers from claiming current business deductions for the cash expenses associated with owning and maintaining rental real estate properties. In other words, the passive loss rules will only allow the real estate owner to defer the deductibility of a loss even if the loss is a true economic or out-of-pocket cash expense.

The bill I am introducing today would allow owners of rental real estate to claim a current tax deduction for only that portion of the owner's cash out-of-pocket expenses—such as utility, insurance, and repair expenses, State and local property taxes, and interest payments—which exceed rental income from the property. Only those rental property owners who actively or materially participate in the ownership and management of the property would qualify for the deduction. Passive investors in the property would be excluded and paper losses would continue to be deferred for all rental property owners.

The inability to deduct out-of-pocket cash expenses presents a significant problem to owners of rental real estate, particularly to those owners in areas, such as my district of Austin, TX, undergoing economic difficulties. Many of these owners find themselves in an economic situation where the current rental income from the property is less than the legitimate, ongoing expenses of owning and operating the property. This creates a "negative cash flow" situation. For example, there may be an unforeseen lag between tenants, rent control ordinances, an unusually high vacancy rate which keeps rental income down, or nonpayment of rent. Additionally, operating expenses may be unusually high because of escalating insurance premiums, adjustments to tax assessments, costs of responding to vandalism and zoning restrictions, and common expenses incurred to repair or renovate an otherwise unmarketable property.

What these taxpayers must do during these unfortunate periods is fund the difference between the rental income they receive and the expenses of maintaining the property, with cash out of their pocket. This negative cash flow, up until the 1986 Tax Reform Act, was fully and immediately deductible by the taxpayer/owner as an expense incurred for the production of income.

My constituents have informed me that the real-world effects of the inability to deduct cash losses are that rental housing properties in economically weakened real estate markets are abandoned. Owners are now discouraged from undertaking the risks associated with redevelopment and rehabilitation of existing projects, rents are increased on those properties with tenants, and because abandonments and foreclosures are more possible, the loan portfolios of the Nation's already deeply troubled financial institutions are further weakened.

Mr. Speaker, during the conference of the 1986 Tax Reform Act, when the House conferees were presented with passive loss rules by the Senate, I attempted to rectify the provision to allow true cash losses sustained by nonpassive owners to be immediately deductible. In conference, I argued that this particular section of the bill was too harsh and needed to be corrected. Unfortunately, the decision was made to enact the passive loss rules, as is, and correct the consequences later.

Mr. Speaker, no matter how much I would like to introduce this legislation with a retroactive effective date, believing that troubled rental real estate owners are deserving of such relief, I am obliged to recognize that budgetary constraints will only permit that the bill be prospective in nature. The legislation is therefore effective beginning the first tax year following the date of enactment.

I believe now is the time to address this principal shortcoming in the 1986 tax changes affecting rental real estate. Importantly, my bill would help sustain active property owners with high cash losses who would otherwise have little recourse but to submit to foreclosure proceedings. Without the ability to deduct cash losses, these people have little incentive to hold on to troubled properties. Besides its immediate help to economically-distressed individuals in the real estate business, my bill will help ease the growth of foreclosed properties and consequently reduce the overwhelming strain on resources of our financial institutions.

Mr. Speaker, I call on my colleagues to join me in a genuine opportunity to help remedy the major problems the passive loss rules have created for real estate owners and investors.

LEGISLATION TO REAUTHORIZE HUD HOUSING COUNSELING PROGRAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation to reauthorize a housing counseling program that was enacted into law in the last Congress. Last fall, the House-Senate conference report on H.R. 4800, the fiscal year 1989 HUD-Independent Agencies appropriations bill instructed the U.S. Department of Housing and Urban Development to use some of the $3.5 million appropriated in the bill for HUD housing counseling programs to implement a new counseling program I had authorized in the Housing the Community Development Act of 1987, Public Law 100-242.

The legislation I am introducing today would reauthorize this new program at a level of $10 million a year for fiscal years 1990 and 1991. Under this program, HUD is authorized to make grants to nonprofit housing counseling organizations. These grants can be used to provide counseling to all homeowners—even those with conventional loans. Previously, HUD counseling programs only covered FHA and other HUD-backed loans. Eligibility for assistance would be limited to those homeowners with good credit and work histories who have been unable to made mortgage payments due to conditions beyond their control.

As enacted into law last year, my legislation would require that lenders, in sending out delinquency notices, also include information on where the homeowner can go to get counseling from HUD-approved counseling agencies. HUD must establish a toll-free number homeowners can call to get information on HUD-approved counseling assistance. HUD will also have to take action to ensure that housing counseling services are available throughout the country—especially in areas with high foreclosure rates.

Mr. Speaker, the approval of this bill and the subsequent appropriation of funds will allow this vital program to continue to assist homeowners. Housing counseling agencies have a proven record of helping homeowners avoid foreclosures. By assisting struggling families to keep their homes, housing counseling agencies help to keep the American

dream of home ownership alive. By preventing foreclosures, these agencies also save the Federal Government millions of dollars every year. Federal money spent on housing counseling programs is a wise investment of the taxpayers' hard earned money and will, in the long run, help to reduce the deficit.

I urge all Members to enthusiastically support this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeownership Counseling Reauthorization Act of 1989".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 1990 AND 1991.

The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1990 and 1991.".

SEC. 3. EXTENSION OF PROGRAM.

Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

A TRIBUTE TO DAVID W. DOWD

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. COURTER. Mr. Speaker, I would like to pay posthumous tribute to David W. Dowd, a man who devoted his life to his family, his community, and the State in which he lived.

Born in West Orange, NJ, Mr. Dowd attended Villanova University, later receiving a law degree from Rutgers University. He was a product of New Jersey, and he never hesitated to return the gifts the State bestowed upon him.

Mr. Dowd served his country in the Second World War in the Army Air Force. After the war he spent time playing professional baseball in the New York Yankees organization, and semiprofessional hockey in Philadelphia.

Mr. Dowd also pursued a long career in State politics. He served in Livingston on the township council, and later as mayor. He was a Republican State senator for Essex County from 1967 to 1970.

Mr. Dowd was a loving father and husband. He leaves behind his wife Congetta, six children, and nine grandchildren. We are all bereaved at the loss of Mr. Dowd, but those who knew him may take pride in the long and faithful service he gave to his community and his country.

SHENENDEHOWA HIGH SCHOOL BOYS SOCCER TEAM IS NATION'S BEST

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. SOLOMON. Mr. Speaker, Shenendehowa High School in Clifton Park, NY, can boast of the best boys soccer team in the entire United States. Not just in their league, or their city, or their county, or their State. Best in the entire country.

Led by cocaptains Mike Bartoletti and Hector Campos, Shenendehowa finished the season with a 23 to 0 record.

In addition, these boys are true All-American types, active in their community and as good in the classroom as they are on the field.

Mr. Speaker, it is my pleasure to place the names of these outstanding young student-athletes on the RECORD. I'm sure you and every Member join me in saluting them.

SHENENDEHOWA HIGH SCHOOL BOYS VARSITY SOCCER TEAM, CLIFTON PARK, NY 1988

Goalkeepers—Dan Traver, Scott Vandermill.

Midfield—Jeff Winterton, Dan Doyle, Neal Clinton, Steven Karbowski, Gannon Fisher, Jeff Koziol, Jeff Weygant.

Backs—Mike Bartoletti, Mark Donoghue, Jeff Bolger, Cassidy Jones, Ned Chiarenza, Brian Darovic, Phil Hatfield, Richard Barron, Erik Swanson.

Forwards—Niles Joseph, Hector Campos, Shawn Cassella, Kevin Smith.

Managers—Sharon Britt, Allison Cieglerski, Cherie Yaksta.

Coaches—Mike Campisi, Matt Chura (Asst.).

FLIGHT ATTENDANTS DUTY TIME

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MINETA. Mr. Speaker, today I am introducing legislation to deal with the apparent and continuing inability of the Federal Aviation Administration and the Department of Transportation to establish rules prohibiting excessive duty hours for airline flight attendants.

Petitions for rulemaking urging FAA and DOT to deal with this problem were filed close to 4 years ago. On November 1, 1985, I and my colleagues, Congressmen Howard, OBERSTAR, LEHMAN, and EDWARDS, and Congresswoman SCHROEDER, wrote to the FAA Administrator urging him to initiate a rulemaking proceeding. No action was taken in response to our letter.

I wrote again in April 1988 renewing our request. On June 13, 1988, I received an answer from Administrator McArtor stating that over the past 2 years the FAA had conducted a thorough analysis of the pending petitions; that this rulemaking continued to have priority for the agency, although over the past 2 years other projects had been given higher priority due to their urgency or a mandate by Congress; and that a decision on whether to go forward with a rule will be made shortly.

Yet despite this promise of a decision by the FAA, none was forthcoming last year. This led me to introduce a bill on September 27, 1988, and to hopefully prompt the Department of Transportation and the Federal Aviation Administration into action.

Now, 3 months later, in the new Congress, with no decision having been made to date, I again find it necessary to deal with the problem by legislation.

Since there is no question that excessive fatigue can interfere with the performance of responsibilities affecting aviation safety, the Federal Aviation Administration has imposed limitations on work hours for airline pilots, flight engineers, flight navigators, mechanics, dispatchers, and air traffic control tower operators. I see no reason why the rationale for these limitations does not require adopting regulations to ensure that flight attendants are adequately rested so that they will be able to perform their important safety functions proficiently.

Flight attendants have important safety responsibilities in dealing with such problems as rapid depressurization, cabin fires, passenger illness or injuries, hijackings, and situations requiring evacuation of an aircraft. Flight attendants are also responsible for taking routine measures to ensure that an aircraft cabin is safe, ensuring that doors are closed, that baggage is safely stowed, and so forth. Attendants are also responsible for detecting conditions during a flight which may indicate a safety problem. I do not think that it can be seriously argued that excessive fatigue would not interfere with a flight attendant's ability to carry out these responsibilities.

Some collective bargaining agreements may include limitations on duty hours which adequately protect against fatigue. However, not all attendants are covered by union contracts.

The matter of excessive duty hours is not a theoretical problem. FAA has advised us that they are aware of cases in which flight attendants have been required to work for as long as 24 consecutive hours. In the accident involving Galaxy Airlines in Reno, NV in 1985, the NTSB investigation disclosed that at the time of the accident, two flight attendants had been on duty for over 18 hours and were scheduled to continue on duty for an additional 7 hours.

My personal preference, and the approach which has generally been followed by the Aviation Subcommittee in dealing with safety problems, is to have the necessary regulations developed by the Federal Aviation Administration rather than the Congress. FAA has the staff resources, the expertise, and the established procedures to gather the necessary information and develop regulations on complex technical problems. The legislation I have introduced is consistent with this approach. The legislation directs DOT and FAA to issue a notice of proposed rulemaking on flight attendant duty time by 60 days after date of enactment and to issue final rules 180 days later.

However, in the event FAA fails to carry out these statutory directives, the legislation imposes regulations establishing duty hour limi-

tations for flight attendants. The regulations would limit flight attendant duty time to a maximum of 14 to 20 hours, depending on the type of flight and require prescribed periods of rest after each duty period. For any flight scheduled for 8 or more hours of flight time, the attendants must be given a rest break of at least 1 hour during the flight. The legislation also requires that flight attendants must be given a minimum of eight periods of rest of 24 consecutive hours at their domicile each calendar month, and at least one period of rest of 24 consecutive hours every 7 days.

I believe that these requirements are reasonable and will prevent excessive duty periods, while giving the airlines flexibility to use their work force efficiently. I recognize that this is a highly technical and complex area and I would welcome suggestions on how these regulations could be improved. As I have indicated, my preference would be for the Congress to not get into the business of adopting the regulations at all, but for the Federal Aviation Administration and the Department of Transportation in the Bush administration to carry out their responsibilities to protect aviation safety by issuing regulations prohibiting excessive duty hours for airline flight attendants. The safety of airline passengers requires nothing less.

A TRIBUTE TO EMEK HEBREW ACADEMY

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. BERMAN. Mr. Speaker, I rise today to recognize the work of a fine educational institution in my community, Emek Hebrew Academy, a citadel of Jewish education. On January 8, 1989, Emek Hebrew Academy celebrated 29 years of outstanding academic achievement.

Emek Hebrew Academy was established to instill, preserve, and teach traditional Orthodox Jewish values. With a current enrollment of 530 students from grades nursery through eighth, Emek is the largest Orthodox Hebrew Day School in the San Fernando Valley. The academy has an excellent reputation in the academic arena and has been a role model for similar institutions of learning. Under the leadership of Rabbi Yochanan Stepen, Rabbi Philip Wachsman, Mrs. Evelyn Sass, and Rabbi Eliezer Eidlit, Emek is fast becoming a center for intensive Jewish adult education and community outreach programs and continues to play a major role in offering the entire San Fernando Valley Jewish community innovative educational programs and vital community services.

It is a pleasure to ask my colleagues to join me in saluting the Emek Hebrew Academy. The academy has an impressive record of being dedicated to the preservation of Jewish culture, heritage, and tradition. It is an honor to have such a fine educational institution in the 26th District.

EDEN EXPRESS—GREAT SUCCESS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. STARK. Mr. Speaker, please join me in honoring one of the most noteworthy causes and innovative businesses in my district. The Eden Express is a model for disabled worker training that should be noted and emulated nationwide.

The Eden Express is an 82 seat restaurant located in Hayward, CA. Founded in 1980 by Sheila Martinsen and Celia Bjerkan, the restaurant is headquarters for a groundbreaking project in which disabled workers (with disabilities such as manic depression, deafness, schizophrenia, and learning impairments) are trained to live in the mainstream and hold steady jobs.

So far the program has turned out more than 400 graduates, 90 percent of whom have moved on to paying jobs. But the Express's most significant achievement has more to do with giving its employee-students a sense of confidence in dealing with some of life's most demanding and necessary responsibilities. The employee-students of this restaurant are learning the intricacies of proper social interaction, grooming, personal budgeting, math, reading, and perhaps most importantly, adjusting to the stress frequently encountered in everyday life.

Through this program, director of training Barbara Cymrot gives the employees a chance to shake the wrenching sense of failure that can often plague the disabled. Meanwhile, with time and careful promotion, executive director Barbara Lawson has established the Eden Express as a pleasant retreat with competitive standard of service and cooking.

Once again I would like to express my gratitude and congratulations to the contributors, owners, and managers of Eden Express, the employers who have put Express graduates to work, and the worker-students who through perseverance, are striving to make life a more pleasurable and satisfying experience.

People magazine of October 10, 1988, contained an excellent description of the Eden Express story, which I would like to reprint at this point in the RECORD. The only thing the article did not bring out clearly enough is that it is a very good restaurant and the food is excellent!

THE EDEN EXPRESS, A RESTAURANT WITH A MISSION AS WELL AS A MENU, TEACHES THE DISABLED TO FEND FOR THEMSELVES

(By Michelle Green, with Michael Alexander)

It is early morning, and the Eden Express seems much like any other unpretentious little eating house in the blue-collar town of Hayward, Calif. The 82-seat restaurant buzzes with the chatter of the breakfast crowd as the youthful, well-scrubbed staff moves about among the butcher-block tables. The newcomers take a seat by the window, and Sean, a heavyset waiter in a striped apron, ambles over to hand them their menus. "Thank you," they say. "You're welcome," he replies, and he means it.

Returning to take the order, Sean pulls a notepad from his pocket, squints at the page and laboriously writes E-G-G-S. But the second customer wants something more complicated. "I'd like the eggs scrambled on the muffin," he says, "not poached, and I want them dry." A look of mild panic flashes in Sean's blue eyes. A subtle kick under the table, from his companion, prompts the diner to simplify his request. He asks for toast instead, and Sean breathes a little inward sigh of relief.

As the tabletop placards explain, the Eden Express is unlike any other restaurant in America. Sean, 20, is learning-disabled, and his co-workers are afflicted with manic depression, deafness, schizophrenia and other disabilities. Founded in 1980, the restaurant is headquarters for a groundbreaking project in which students like Sean are trained to live in the mainstream and rescued from a life of hopelessness. "We give these kids a chance to start dreaming again, to start believing they have a chance to make it out there," says director Barbara Lawson. "The majority of them had given up on themselves."

Celebrating its eighth anniversary this week, the program has turned out more than 400 graduates, 90 percent of whom have moved on to paying jobs. But the Express's most significant achievement has more to do with pride than with paychecks. In afterwork seminars and counseling sessions, Sean and his classmates are learning the intricacies of proper social interaction, grooming, personal budgeting, math and reading—all of the skills they will need in the marketplace. Armed with new confidence, they will have a chance to shake the wrenching sense of failure that often plagues the disabled. "My kids are really proud of me," reports Denise, a 33-year-old learning- and hearing-impaired graduate who passed through Eden's gate and now works as a baker's assistant at Safeway. A single mother of two, she had never held a regular job before she was hired by the supermarket chain in July. "When I got my first paycheck, I was real excited—I went and framed it," she says. "Now my dream is to move from where I'm living into a nicer neighborhood."

Not surprisingly, the program has the enthusiastic support of the mental-health community. Wrote psychiatrist and author Dr. Maryellen Walsh in her 1985 book *Schizophrenia:* "To call Eden Express another rehab project is to call Paris another town, Picasso another artist, and Dietrich just another pretty face."

The Eden Express was conceived by activists with more vision than capital. In 1978 Sheila Martinsen and Celia Bjerkan, both mothers of children who suffered from mental illness, heard about a restaurant in San Rafael that had once served as a workshop for the mentally disabled. Determined to create similar opportunities for children like their own, the two women seized on the idea and scoured Hayward for financial support. Christ Presbyterian Church put up $25,000, and 300 volunteers helped transform a rundown pizza parlor into the tidy Eden Express. (The name is taken from a book by Mark Vonnegut, son of Kurt, about his battle with schizophrenia.) Keeping the project afloat, however, was another matter; within seven months, the Express was $30,000 in debt and one month from bankruptcy.

When Lawson, 51, a social psychologist, heard in April 1981 that the Eden Express needed an executive director, she was only

mildly interested. "I said, 'Oh, I'll just look at it. But there's no way I'll deal with it,' " she remembers. "It was already in the hole." Then the project caught her fancy. "I saw that I could train people," she says, "and put them in the marketplace where they were needed."

A vibrant extrovert with a master's degree in public administration, Lawson, a mother of three, seemed just right for the job. She had not only spent much of her life working with the handicapped, but she knew the restaurant business as well. She and her second husband had once owned an ice-cream parlor in Lafayette, Calif. Lawson also brought to the job a profound understanding of the destructive force of mental disability: Her 27-year-old daughter, Lori, is severely retarded and had been institutionalized since the age of 14. Divorced from Lori's father and struggling through the end of her second marriage, Lawson had fought to keep her own life going while she tried to get the best care for her frustrated, unhappy daughter.

As soon as she was hired, Lawson began soliciting new funds from foundations, corporations (including Chevron, IBM and Safeway), churches and, eventually, such giant charities as the United Way. She established a $2,500 training fee for the four-month program—a charge which, depending upon a student's disability, is often paid by state and federal agencies. And she trimmed operating costs to the bone. "The restaurant was set up to be competitive, but it wasn't," she says. "People in Hayward thought of it in terms of a school cafeteria. I think they thought it was just a little nonprofit thing that got a lot of freebies."

Community response was lukewarm at first. "We had a lot of volunteers walking up and down the street handing out fliers and stuff," says Lawson. "But people said, 'Oh, I feel so sorry for those people, I don't want to come in.' The thing that eventually made a huge difference is that we have trainees delivering goods, going to the post office, to the grocery store. And the public has learned that these people are not frightening."

With time—and careful promotion—the Eden Express established itself as a pleasant retreat with competitive standards of service and cooking. "If we're not doing a good job, the customers just won't come back," says Lawson. "They don't care whether you're dealing with the disabled or not. If you don't get the food out quick, and it's not good food, then the heck with it."

Given the fact many of the trainees have spent their lives on the fringes—living on the streets or locked away in hospitals—it's hardly surprising that service occasionally slips. In ordinary restaurants, waiters only fantasize about snapping at rude customers; at the Eden Express, students with inadequate self-control have occasionally told them off. "Actually, there have been more [outbursts] from the customers than the trainees," says Lawson. "It's tough to get the service real good, because the minute a trainee gets good, we get 'em out there and into jobs."

Trainees begin slowly. Assigned to the laundry room at first, they work up to more demanding jobs in the kitchen and the dining room. Director of training Barbara Cymrot (who admits that she buses the occasional table, in addition to monitoring the progress of her 31 students) says that learning to handle stress is the job skill her charges need most. "You might learn how to wash dishes at 10 a.m., when there are relatively few people in the restaurant," she explains, "but all of a sudden you might be washing dishes at noon, and someone runs in and screams, 'Where are the forks?' Or let's say you dropped something and broke it. Well, some of these people might not show up the next day because they don't want to admit it. We want people to work through these situations here."

A manic depressive who has simply walked out of other jobs when they became too demanding, Jeanette, 31, has been at the Eden Express for three weeks, setting up the salad bar and baking cookies. "I feel I can kind of work at my own pace here," she says. "A lot is being expected of me, but I don't feel pressured."

Jeanette and her colleagues work at the restaurant from 15 to 40 hours a week, and their hourly wages are based on productivity; beginners receive 98 cents an hour, and the most advanced students earn $4.25. Tips are funneled into a scholarship fund. "It's a good program," Jeanette says. "Everyone is pulling together."

Despite the project's conspicuous success, Lawson and the board of directors are still facing challenges. With an annual budget of $380,000, the Eden Express is running in the red. Food sales, training fees and grants cover the overhead, but training expenses eat up potential profits. A recently signed contract to bake 300 dozen cookies a week for a California cookie company will bring in an estimated $10,000 yearly, but it won't solve the biggest problem facing the Express—a downtown renewal project that will drive up the program's $2,300-a-month rent or, more likely, force the restaurant to look for new quarters.

Some of the project's well-placed supporters will undoubtedly help cushion the blow. Hayward Mayor Alex Giuliani has served as guest chef, and city council members occasionally stop in for an Eden burger. "They're all in our corner," says Lawson. "They're concerned about us." But the biggest vote of confidence—and certainly the most encouraging—comes from employers who have put Express graduates to work. "They see that our folks know what they're doing," says training director Cymrot, "and they call to say, 'Send me two more.' "

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS TO HONOR CLEO HARRIS SMITH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the women's and men's caucuses for Congressman EDOLPHUS "ED" TOWNS held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Cleo Harris Smith.

Cleo is director of human services and associate director of hospital administration at Woodhull Medical & Mental Health Center in Brooklyn, NY. She joined the staff at Woodhull as the associated director of social work in psychiatry in 1983, and was promoted to her current position in early 1984.

Ms. Smith has distinguished herself as an innovative administrator whose professional expertise is sought throughout New York State for technical assistance and professional consultation in proposal writing, program development, audit preparation, and as a lecturer in a diverse range of human service areas such as domestic violence, sexual assault, and child abuse.

Prior to joining the staff at Woodhull, Ms. Smith held directorships and professional positions at the East New York Mental Health Clinic, Inc., St. John's Episcopal Hospital, St. John's Episcopal Hospital Psychiatric Clinic, and Brooklyn Jewish Hospital.

As an active and involved professional, Ms. Smith is an adjunct associate professor of social work at New York University School of Social Work, holds membership on the New York University Field Advisory Board, National Association of Social Workers, the National Association of Black Social Workers, National Society for Health Manpower Education and Training [Ashet], NASW Registry of Clinical Social Workers, New York State Division for Youth—cochairperson, advisory board—Society for Hospital Social Work Directors, American Hospital Association, the Discharge Planning Association of New York, and the Alpha Kappa Alpha Sorority, Inc.

Ms. Smith, a native of Missouri, holds a B.A. degree from the University of Missouri, Columbia, MO, and a masters degree in social work from New York University.

The recipient of numerous grants and fellowships, she is a certified social worker and in recognition of her outstanding accomplishments in the field, she obtained the rank of diplomate in clinical social work in 1987.

I extend my sincerest congratulations to Cleo on her many accomplishments, and my best wishes for a successful and fulfilling future.

THE 1988 REPORT OF THE COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mrs. BOGGS. Mr. Speaker, the Honorable Warren E. Burger, Chairman of the Commission on the Bicentennial of the United States Constitution released the Commission's 1988 annual report earlier this month. The report summarizes many of the activities the Commission plans for 1989 when the 200th anniversary of the Congress, the Presidency, and passage of the Judiciary Act of 1789 are observed.

I would like to include the text of this report in the RECORD since it contains much useful information.

COMMISSION ON THE BICENTENNIAL OF THE U.S. CONSTITUTION, WARREN E. BURGER, CHAIRMAN

At the beginning of its official life, the Commission resolved that some "fireworks and parades would be appropriate" but that, in the words of the Chairman's first Bicentennial speech, the Commission's prime ob-

jective would be "to give ourselves a five-year history and civics lesson."

Now, with the advent of the year 1989, Americans are looking forward to two historic celebrations.

Following on the heels of oath-taking by President Elect George Bush in Washington on January 20, the New York Commission will celebrate the 200th anniversary of the First Congress on March 4 and the inaugural of George Washington April 30, 1789.

The 200th anniversary celebration will begin April 16 with the reenactment of Washington's journey by carriage from his Mount Vernon, Va., home to New York City, the first capital under the federal Constitution.

The First Congress had already begun to gather there on the prescribed date, March 4, but not until April 1 did the Congress obtain a quorum and organize the House of Representatives, and until April 6 formally constitute the Senate.

On April 7 the two houses counted the ballots of the first electoral college and notified Washington by the slow and irregular postal communications of the time that he had been unanimously elected first President of the United States.

The reenactment of Washington's seven and one-half day journey to the nation's capital, by an actor wearing authentic period clothing and accoutrement, will symbolize for today's generations the fantastic changes in American life from two centuries ago.

Today George Washington's seven days' journey takes fifty minutes by air, only a little more than four hours by automobile and there is, of course, instant communication by radio, television, and telephone via space satellites.

"But it is also designed to emphasize the continuity and durability of the Constitution over the same 200-year span," Warren E. Burger, Chairman of the Constitution Bicentennial Commission, pointed out in a formal statement.

"The great breakthrough of representative government, with sovereignty still vested in the people themselves, has not only survived these sweeping social, economic, and technological changes but all its fundamental guarantees and rights are intact and stronger than ever."

The New Year marks the third in a five-year series of nationwide programs keyed to the bicentennial anniversary of the Constitution, coordinated and supported by the official national commission created by Congress in 1986.

The programs continue through 1991, when the work of creating the Constitution essentially as it still exists today was completed wih adoption of the Bill of Rights, the first ten amendments.

"The Bill of Rights made explicit some of the most precious, fundamental, and zealously guarded of our rights and privileges as Americans under what is now the world's oldest written constitution," Burger commented, "including the indispensable freedom of religion, speech, press, and assembly."

The year 1987 marked the anniversary of the drafting of the Constitution, completed on September 17, 1787, and heralded with national celebrations radiating out from Washington and Philadelphia.

In 1988 the anniversary of the Constitution's ratification occurred, and this year is the anniversary of the formation of the federal system itself, its powers carefully separated among an executive, legislative, and judicial branch.

The last significant date in the five years of programs will be December 15, 1991, anniversary of the final ratification of the Bill of Rights.

In addition to national events and ceremonies, the Commission is coordinating and supporting thousands of local and regional activities (including 108,000 schools), carried out to a great extent by volunteer services and financing.

Among other things, more than 10 million pocket-size copies of the Constitution have been distributed through a variety of channels.

Other activities include community-college forums, student essay contests, a student re-enactment of the constitutional Convention, adult community forums, films, television programs on famous constitutional cases and publications.

(A summary of highlights of Constitution Bicentennial programs is attached; major projects are indicated by asterisks. Further details may be obtained from the Commission.)

YEAR END REPORT, COMMISSION ON THE BICENTENNIAL OF THE U.S. CONSTITUTION

As the second full year of the Commission's five-year program of awareness and education comes to a close, it is safe to state that Americans are being exposed more than ever in our history to the events that led to the writing and development of our Constitutional form of government. The programs that have been developed, the events that have been staged, have all increased the awareness of this unique document. Many of them are ongoing, which means that an even greater number of Americans will be exposed to the history and civics lesson of the Constitution Bicentennial.

The following is a sampling of the programs and events of 1987 and 1988 to make our citizens aware of the Constitution.

EDUCATIONAL PROGRAMS

Essay Contests

The Commission sponsored two essay contests in 1987, one for high school students (co-sponsored by USA TODAY/Gannett) and one for law school students developed by West Publishing Company. Fourteen thousand essays were entered from 50 states and the District of Columbia and Puerto Rico.

Roads to Liberty Tour

American Express Company provided funding for the "Roads to Liberty: The Magna Carta to the Constitution" tour, which carried many historic documents (including an original Magna Carta) to over 100 cities from March to September, 1987. The 64-foot long trailer exhibited an original draft of the Magna Carta of 1215, a facsimile of the Mayflower Compact, an original draft of the Constitution, the Northwest Ordinance of 1787, the Connecticut Resolves and other documents which were viewed by millions of Americans.

Pocket Constitutions

Easily the most popular of all Commission publications is the 43-page pocket Constitution. This booklet contains the original text of the Constitution, the amendments, a list of historic dates in the development of the government under the Constitution, plus a unique descriptive word index. To date, over 10,000,000 have been distributed by the Commission and other entities.

The Walt Disney Company

Established an exhibit to the Bicentennial at DisneyWorld and DisneyLand; donated large murals of the Christy painting "The Signing of the Constitution" to 207 state capitols and federal buildings.

Xerox Corporation and *RJR-Nabisco* provided funding for September 16, 1987 "A Celebration of Citizenship," televised live from the steps of the U.S. Capitol by ABC.

National Bicentennial Competition

Working with the Center for Civic Education (Calabasas, Calif.), millions of senior high school students are taught a comprehensive course on the Constitution. Schools are then invited to participate in a competition, testing their students' knowledge of Constitutional matters against other schools. Continued success in the competition leads to the national finals in Washington in the spring. The top three schools in each state received awards with the state winner traveling to Washington for the national finals. In 1988, Gompers High School, San Diego, Calif., won top honors over 44 other state winners. New curricula have been developed for this year for fifth and eighth grades.

Convention Reenactment

Winners of the national essay writing competition from 50 states, the District of Columbia and the overseas territories, spent three days in historic Williamsburg, Virginia, in September 1987. They wrote their own "constitution," in mock convention held at the College of William and Mary. Their Constitution "tracked" the original, but added a line item veto power for the President, as well as a balanced budget amendment.

Historical Pictorial Map Contest

Designed to encourage the study of geography and history as it pertains to the Colonial and Founding Period, the contest is open to youngsters from fourth grade to high school. Outline maps and historic timelines have been sent to thousands of schools with assistance from National Geographic and United Parcel Service.

Education Grants

This annual program continues to be one of the foremost efforts in encouraging enhanced teaching of the Constitution in schools. In two years, the Commission has awarded $4.2 million to over 100 teacher training and curriculum development projects in 38 states. Another round of grants will be announced in late Spring 1989.

College-Community Forums

A series of public discussions has been designed to stimulate discussion and insight on the workings of each branch of government. These will include faculty, local leaders, journalists and citizens in a community setting.

Adult and Continuing Education

A program of learning materials on the Constitution for adult education has been developed. These materials will be used by schools and organizations that serve the adult learner. The Commission is also developing a "brown bag" lunch discussion series for government employees.

Department of Defense

One of the Commission's most zealous supporters in promoting the Bicentennial message, the Defense Department has developed numerous programs for use by military as well as civilian audiences. These include a "Constitution Commitment," which includes a re-affirmation of the induction oath by service personnel, pledging to "pro-

tect and defend" the Constitution. Through the Department of the Army the D-O-D has also produced considerable resource material that has been disseminated to public schools and libraries as well as military bases.

Bicentennial School and Bicentennial Campus Programs

All elementary, junior high (middle) and high schools, as well as all post-secondary institutions, are eligible. To become a Bicentennial School or Campus, an ongoing educational effort on the Constitution must be developed to offer various events and programs during the school year. To date, over 500 schools, junior colleges, colleges and universities have been recognized.

Educational Material

With assistance from Scholastic, Harcourt Brace Jovanovich, Bell Atlantic, Polaroid, ABC, CBS, National Geographic Society, United Parcel Service and the Liberty Bell Foundation, the Commission has provided quality educational material to 108,000 schools.

"Equal Justice Under Law"

Five historic Constitutional court cases on video tape are being distributed to education media centers, luncheon clubs and service organizations.

"Constitutional Journal"

A series of vignettes on the writing and ratification by award-winner author Jeffrey St. John is being republished in book form, and will be disseminated by the Commission to libraries and schools nationwide.

DAR Essay Contest

With Commission cosponsorship, the Daughters of the American Revolution is holding a special essay contest for high school juniors and seniors. The topic is: Under the Constitution, how do our responsibilities as We The People influence the Presidency and Congress in the discharge of their duties? The entry deadline is January 15, 1989.

Public Information

The Commission continues to offer the services of its Speakers Bureau and historic project registry.

PUBLIC AWARENESS PROGRAMS

A Celebration of Citizenship

On September 16, 1987, millions of Americans watched on ABC-TV as President Reagan, Chief Justice Rehnquist, Speaker James Wright with other leaders of Congress joining with Chief Justice Burger, Chairman of this Commission on the steps of the Capitol for a tribute to the Constitution. The program, sponsored by RJR-Nabisco and Xerox, ended with the President leading 140,000 people gathered in person plus millions via radio and television, in reciting the Pledge of Allegiance as the House and Senate had done a week earlier.

Constitution Week

As a follow up to the successful CELEBRATION OF CITIZENSHIP in September, 1987, the Commission launched an effort in 1988 to make Constitution Week (September 17-23) an annual, meaningful commemoration. Literature was distributed to thousands of local entities, encouraging them to take part.

Constitution Day, 1987

Philadelphia, site of the 1787 Constitutional Convention, was the scene of a mammoth three-hour parade on the 200th anniversary of the signing of the Constitution. Hundreds of bands, floats and military units marched through the city, as millions watched on television. At 4:00 (e.s.t.), the bells of the ringing of a replica of the Liberty Bell by 13 children representing the original states signalled the sounding of bells around the world in a 200-second salute to the signing. In the evening, an entertainment gala and lavish fireworks display provided a fitting climax to the day.

Journalism Awards

In 1988, the Commission, working with the National Press Foundation (print) and the Ohio State University (radio/television), presented awards to working journalists who produced the best stories in 1987 on the Bicentennial. A similar award for print journalists is planned for 1989.

Public Service Campaign

Working with the Advertising Council and a volunteer ad agency, the Commission has developed a series of print, radio and television ads dealing with the Constitution Bicentennial.

Project Literacy

The Commission is working with the PROJECT LITERACY U.S. (PLUS) to promote civic literacy. Viewers who respond to PLUS public service announcements on ABC-TV receive a Commission pocket Constitution, as well as literature on literacy.

Designated Bicentennial Communities

In an effort to make the Constitution Bicentennial a truly "grass-roots" commemoration, the Commission encouraged towns, cities, counties and states to set up their own bicentennial commissions to plan activities for their citizens. All 50 states, two territories and over 2,500 local entities established a commission to coordinate local events.

Independence Day Parade

The July 4th Parade in Washington, D.C., was a truly national event in 1987, as the Commission provided funding and program support which enabled the parade, with a Ratification theme, to be seen nationwide on public television stations.

Ethnic, Racial Minority, Disabled Programs

The Commission continues to create programs that involve all Americans, including the Constitution in braille.

Bicentennial Products

More than 90 firms have created merchandise designed to create awareness of the Constitution and generate interest in the Bicentennial by use of the official Commission logo. the latest Commission catalog displays many of these items.

Regional Bicentennial Leadership Conferences

Over the past two years, the Commission has sponsored 20 such conferences, bringing together state and local Bicentennial leaders, educators and civic, service and ethnic organization leaders to discuss methods of involving more Americans in the Bicentennial commemoration.

The success of the Commission in bringing the Bicentennial to the attention of the American public has been greatly enhanced by corporations, government agencies and service and civic groups. This assistance has been invaluable to us as we attempt to make the American public aware of the history of the Constitution, and its relevance in today's society.

Corporate America

McDonalds developed trayliners with Bicentennial themes; Roy Rogers has developed trayliners with Bicentennial themes; General Mills distributed millions of cereal boxes with anecdotes about the Constitution on the side panel; International Paper and Champion International produced millions of school lunch milk cartons with Bicentennial messages and logos; CitiCorp and Phillips Petroleum printed and distributed millions of the Commission's pocket Constitutions; American Hotel and Motel Association arranged for the Preamble and other Constitutional information to be placed on trayliners at hotel and motel coffee shops; AT&T and US Sprint provided international telephone calls to newly naturalized U.S. citizens after a Commission-sponsored induction ceremony on September 17, 1988; Reynolds Flexible Packaging has created "All-American" sandwich wrap, which features the Commission logo on one side and a quiz on the ratification of the Constitution on the other; ABC Television featured the Bicentennial in a program on adult literacy, developed a series of Constitutional anecdotes using Saturday morning cartoon characters to present the Constitution story to youngsters.

Network Television

ABC also presented a two-hour special on the Constitution September 16, 1987; CBS Television produced a series of one-minute vignettes on the Constitution in 1987, and a series on the Presidency in 1988.

In addition, CBS presented "It's Freedom, Charlie Brown," the Constitutional Convention featuring Charles Shultz's Peanuts characters; NBC Television used its program aimed at young teenagers Main Street to present a forum for explaining the Constitution; CNN produced a long series of short vignettes on various Constitutional themes.

Federal Agencies developed significant programs during the first two years of the Bicentennial. Significant contributions were made by the Department of Defense, the National Park Service, the Veterans' Administration, Office of Personnel Management, Immigration and Naturalization Service and many others.

THE FUTURE

During the third year of the Bicentennial, we look forward to commemorating the actual genesis of our federal system. Here are some historically significant dates you may be interested in:

January 7: the first Presidential electors are chosen.

February 4: Presidential electors choose George Washington as the first President, and John Adams as Vice-President.

March 4: The First Congress convenes in New York. Programs in New York are planned by the New York State and New York City Commissions.

April 7: The electoral ballots are counted.

April 16-23: George Washington travels from Mount Vernon to New York City after being notified of his election.

April 30: George Washington is inaugurated as the first President of the United States.

July 27: In one of its first acts, Congress creates the Department of Foreign Affairs (Later the State Department).

August 7: The War Department (later the Defense Department) is established by Congress.

September 2: The Treasury Department is created by Congress.

September 22: The office of Postmaster General is established.

September 24: The Federal Judiciary Act, providing for a Chief Justice and five Asso-

ciate Justices of the Supreme Court, and 13 district courts is approved by Congress.

September 25: Twelve proposed amendments to the new Constitution submitted by Congressman James Madison are sent to the states for ratification by the Congress.

SENTENCING COMMISSION UPHELD

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following article which appeared in the Washington Post on January 19, 1989, describing the Supreme Court's overwhelming decision upholding the constitutionality of the 1984 Sentencing Reform Act.

As a member of the House Judiciary Committee which helped craft the 1984 act, I applaud the Court's decision. The wide application of the Sentencing Commission's guidelines in Federal cases will lead to more uniform and more fair sentencing.

Finally, I hope the Sentencing Reform Act will fulfill the dire predictions of its opponents who have said it will put more felons in more jails for longer periods of time.

The Post article follows:

COURT BACKS RULES ON SENTENCING—DECISION REMOVES DOUBTS ON VALIDITY OF 1984 REFORM ACT

(By Al Kamen)

The Supreme Court yesterday upheld the constitutionality of a sweeping overhaul of federal sentencing rules designed to reduce disparities in sentencing by limiting a judge's discretion and abolishing parole.

The court, in an 8-to-1 decision, put to rest doubts about the validity of thousands of sentences imposed under the Sentencing Reform Act of 1984 and overturned rulings by at least 150 district judges who had declared the law unconstitutional.

The U.S. Sentencing Commission, a seven-member panel established by the law to develop the new rules, estimated the court's action would require resentencing only 100 to 150 defendants sentenced by judges who opposed the law.

Justice Harry A. Blackmun, writing for the court in *Mistretta v. U.S.*, rejected claims that the law violated constitutional requirements of separation of powers among the branches of government or delegated excessive authority to the sentencing commission.

Commission Chairman William W. Wilkins, Jr., a federal appeals judge, hailed the ruling as "one of the most important decisions handed down by the court this decade," and said the guidelines "dramatically improve the federal criminal justice system by ensuring more uniform, fair and truthful sentences."

Under the old system, judges had broad discretion in imposing terms, a situation that led to substantial disparities in sentences for similar crimes.

The new determinate sentencing, which covers crimes committed since Nov. 1, 1987, and affects about 40,000 federal defendants each year, eliminates virtually all discretion and makes the process more systematic. An "offense level" is assigned to each crime along with a mathematical formula providing for harsher or more lenient penalties depending upon a broad number of variables, such as age of the defendant or prior offenses.

Under the old system, someone sentenced to nine years in prison might be eligible for parole in three years. Under the new system, with parole eliminated, the same offender must serve nine years, with a maximum reduction of 54 days per year for good behavior while in prison.

Critics of the guidelines, in addition to having constitutional concerns, said they established substantially harsher penalties for many crimes and would worsen chronic prison overcrowding.

Alan B. Morrison, a Washington attorney who represented a Kansas City, Mo., drug dealer appealing a sentence under the new rules, said the "guidelines mean a lot more people are going to jail for a lot longer periods." Morrison said the ruling will "dramatically reduce" plea bargaining, leading to a substantial increase in the number of trials.

Wilkins agreed the new penalties are harsher for certain violent crimes or drug violations and for white collar crimes. "We are going to see an increase" in the prison population, he said, "but I don't think we are going to see any crisis in the prison system" as a result of the guidelines.

Blackmun, in a 51-page opinion that he said was "too long, I fear," acknowledged that the commission, which must include three judges among its seven members, "unquestionably is a peculiar institution within the framework of our government. Our constitutional principles of separated powers are not violated, however," Blackmun said, "by mere anomaly or innovation."

Making the commission part of the judicial branch "is not unconstitutional," he said, "unless Congress has vested in the commission powers that are more appropriately performed by the other branches or that undermine the integrity of the judiciary."

Blackmun said Congress did not improperly abdicate its obligations to make laws when it allows a commission to set the guidelines. Congress gave sufficient policy direction, he said, leaving the commission "the sort of intricate . . . task for which delegation to an expert body is especially appropriate."

Justice Antonin Scalia, the lone dissenter, said the majority "fails to recognize that this case is not about commingling" of the branches of government, "but about the creation of a new branch altogether, a sort of junior-varsity Congress.

"It may well be that in some circumstances such a branch would be desirable," Scalia said, "perhaps the agency before us here will prove to be so. But there are many desirable dispositions that do not accord with the constitutional structure we live under. And in the long run the improvisation of a constitutional structure on the basis of currently perceived utility will be disastrous."

Conservatives and liberals praised the ruling. Solicitor General Charles Fried, who had urged the court to uphold the law, said the guidelines were needed because "more moderate measures consistently failed" to correct what he said were "ugly, unjustified and often racially disparate sentences between judges and sometimes by the same judge. It was the shame of the federal judiciary."

And Sen. Edward M. Kennedy (D-Mass.), a sponsor of the 1984 law, said "today's decision clears the way for long overdue reform of the current chaotic and unfair federal sentencing procedures . . . It is time to end the gross disparities in sentencing that permit too many convicted offenders to avoid any real punishment for their crimes."

Of the nearly 40,000 federal defendants who were sentenced in the 12 months after the guidelines went into effect Nov. 1, 1987, 5,651 committed crimes after that date and could have been sentenced under the guidelines, according to the commission. Of that number, only 1,187 were sentenced under the old system, but the time has run out to appeal in many of those cases. In addition, some defendants have already completed their sentences and others are likely to face stiffer sentences under the guidelines and are not expected to appeal.

THE WOLFSONIAN FOUNDATION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. LEHMAN of Florida. Mr. Speaker, the Wolfsonian Foundation provides Miami with the cultural, historical, and educational enrichment that the Smithsonian has provided for Washington and the visitors to our Nation's Capital.

Mickey's horizons reach beyond just Miami. He is an unofficial but important United States presence in Italy, especially in Genoa and its vicinity. He has assumed responsibility and supported financially, a huge share of the Columbus Discovery Commemorative Fund that in 1992 will help to celebrate the 500th year anniversary of the discovery of America. However, Mickey and I share a special common interest. He is a railroad passenger enthusiast and a dedicated supporter of Amtrak.

As chairman of the Transportation Appropriations Subcommittee responsible for Federal support of Amtrak, I greatly appreciate having staunch allies like Mitchell Wolfson, Jr. For the benefit of my colleagues, following is some additional information on the accomplishments of my public spirited friend.

The Miami based Wolfsonian Foundation was established by Mitchell Wolfson, Jr. in 1986 to support and promote the collection, preservation, scholarly research, conservation and educational activities in the field of decorative, design and propaganda arts in the United States and abroad. The Foundation oversees the Mitchell Wolfson Jr. Collection of Decorative and Propaganda Arts, which consists of nearly 40,000 objects, primarily of American, British, Italian and German design created between 1875 and 1945. Selected objects continue to be added to the Collection with attention to the artistic, historic, social and cultural context in which each work was created. The Foundation also sponsors scholarly publications, seminars, conservation activities, and will soon provide study facilities for visiting scholars, as well as traveling exhibitions and an advanced computer data retrieval program providing scholars from around the world with access to the entire collection.

The Foundation is presently working on the development of two public institutions and their related programs: a research, study center and museum storage facility in Miami Beach Florida, and a house museum

with galleries for changing exhibitions related to the collection in Genoa, Italy. The Miami Beach facility is scheduled for completion in 1990, while the Italian entity, Castello Mackenzie-Wolfson, is presently being restored prior to opening in 1992 as part of the Columbus Quincentenary activities in Italy.

PRESIDENT GEORGE BUSH'S INAUGURAL ADDRESS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MICHEL. Mr. Speaker, on Friday, January 20, President George Bush made his inaugural address. It conveyed a spirit of warmth and good will, sincerity and strength. I was particularly impressed by the style, combining a conversational tone with an emphasis on ideas and values. In short, the President's address was a personal view of a public philosophy. As such, I believe it to be not only a memorable speech, but one that can serve as the philosophical and conceptual foundation of a successful administration. Too often the noble sentiments of an inaugural address are forgotten amidst the clash of political and ideological battles. President Bush's speech, however, is rooted in common sense and ordinary language. I believe its message can serve as a guide to action.

At this point I wish to include in the RECORD, the text of President George Bush's inaugural address, as printed in the New York Times, Saturday, January 21, 1989.

[From the New York Times, Jan. 21, 1989]

THE 41ST PRESIDENT: ASPIRATIONS, "NATION STANDS READY TO PUSH ON"

Following is a transcript of President Bush's Inaugural Address yesterday in Washington, as recorded by The New York Times. Because of slips in Mr. Bush's delivery, two sentences—indicated by italics—are taken from his prepared text.)

Mr. Chief Justice, Mr. President, Vice President Quayle, Senator Mitchell, Speaker Wright, Senator Dole, Congressman Michel and fellow citizens, neighbors and friends.

There is a man here who has earned a lasting place in our hearts and in our history. President Reagan, on behalf of our nation I thank you for the wonderful things that you have done for America.

I've just repeated word for word, the oath taken by George Washington 200 years ago, and the Bible on which I placed my hand is the Bible on which he placed his. It is right that the memory of Washington be with us today, not only because this is our Bicentennial Inauguration but because Washington remains the father of our country. And he would, I think, be gladdened by this day. For today is the concrete expression of a stunning fact: our continuity these 200 years since our Government began.

We meet on democracy's front porch, a good place to talk as neighbors and as friends. For this is a day when our nation is made whole, when our differences for a moment are suspended. And my first act as President is a prayer—I ask you to bow your heads.

"Heavenly Father, we bow our heads and thank You for Your love. Accept our thanks for the peace that yields this day and the shared faith that makes its continuance likely. Make us strong to do Your work, willing to heed and hear Your will, and write on our hearts these words: 'Use power to help people.' For we are given power not to advance our own purposes nor to make a great show in the world, nor a name. There is but one just use of power and it is to serve people. Help us remember, Lord. Amen."

I come before you and assume the Presidency at a moment rich with promise. We live in a peaceful, prosperous time but we can make it better. For a new breeze is blowing and a world refreshed by freedom seems reborn; for in man's heart, if not in fact, the day of the dictator is over. The totalitarian era is passing, its old ideas blown away like leaves from an ancient, lifeless tree.

"A NEW BREEZE IS BLOWING"

A new breeze is blowing—and a nation refreshed by freedom stands ready to push on. There's new ground to be broken and new action to be taken. There are times when the future seems thick as a fog; you sit and wait, hoping the mist will lift and reveal the right path.

But this is a time when the future seems a door you can walk right through—into a room called Tomorrow. Great nations of the world are moving toward democracy—through the door to freedom. Men and women of the world move toward free markets—through the door to prosperity. The people of the world agitate for free expression and free thought—through the door to the moral and intellectual satisfactions that only liberty allows.

We know what works: Freedom works. We know what's right: Freedom is right. We know how to secure a more just and prosperous life for man on earth: through free markets, free speech, free elections and the excercise of free will unhampered by the state.

For the first time in this century—for the first time in perhaps all history—man does not have to invent a system by which to live. We don't have to talk late into the night about which form of government is better. We don't have to wrest justice from the kings—we only have to summon it from within ourselves.

We must act on what we know. I take as my guide the hope of a saint: In crucial things, unity—in important things, diversity—in all things, generosity.

America today is a proud, free nation, decent and civil—a place we cannot help but love. We know in our hearts, not loudly and proudly but as a simple fact, that this country has meaning beyond what we see, and that our strength is a force for good.

Have we changed as a nation even in our time? Are we enthralled with material things, less appreciative of the nobility of work and sacrifice? My friends, we are not the sum of our possessions. They are not the measure of our lives. In our hearts we know what matters. We cannot hope only to leave our children a bigger car, a bigger bank account. We must hope to give them a sense of what it means to be a loyal friend, a loving parent, a citizen who leaves his home, his neighborhood and town better than he found it.

TAKING MEASURE OF SUCCESS

And what do we want the men and women who work with us to say when we're no longer there? That we were more driven to succeed than anyone around us? Or do we stop to ask if a sick child had gotten better, and stayed a moment there to trade a word of friendship.

No President, no government can teach us to remember what is best in what we are. But if the man you have chosen to lead this Government can help make a difference, if he can celebrate the quieter, deeper successes that are made not of gold and silk but of better hearts and finer souls; if he can do these things, then he must.

America is never wholly herself unless she is engaged in high moral principle. We as a people have such a purpose today. It is to make kinder the face of the nation and gentler the face of the world.

My friends, we have work to do. There are the homeless, lost and roaming. There are the children who have nothing—no love, no normalcy. There are those who cannot free themselves of enslavement to whatever addiction—drugs, welfare, the demoralization that rules the slums. There is crime to be conquered, the rough crime of the streets. There are young women to be helped who are about to become mothers of children they can't care for and might not love. They need our care, our guidance and our education, though we bless them for choosing life.

The old solution, the old way, was to think that public money alone could end these problems. But we have learned that that is not so. And in any case, our funds are low. We have a deficit to bring down. We have more will than wallet; but will is what we need.

We will make the hard choices, looking at what we have, perhaps allocating it differently, making our decisions based on honest need and prudent safety. And then we will do the wisest thing of all: We will turn to the only resource we have that in times of need always grow: the goodness and the courage of the American people.

A NEW KIND OF ACTIVISM

And I am speaking of a new engagement in the lives of others—a new activism, hands-on and involved, that gets the job done. We must bring in the generations, harnessing the unused talent of the elderly and the unfocused energy of the young. For not only leadership is passed from generation to generation, but so is stewardship. And the generation born after the Second World War has come of age.

I've spoken of a thousand points of light—of all the community organizations that are spread like stars throughout the nation doing good. We will work hand in hand, encouraging, sometimes leading, sometimes being led, rewarding. We will work on this in the White House, in the Cabinet agencies. I will go to the people and the programs that are the brighter points of light, and I'll ask every member of my Government to become involved. The old ideas are new again because they're not old, they are timeless: duty, sacrifice, commitment, and a patriotism that finds its expression in taking part and pitching in.

And we need a new engagement, too, between the Executive and the Congress. The challenges before us will be thrashed out with the White—with the House and the Senate. And we must bring the Federal budget into balance. And we must insure that America stands before the world united: strong, at peace and fiscally sound. But, of course, things may be difficult.

We need compromise; we've had dissension. We need harmony; we've had a chorus of discordant voices. For Congress, too, has changed in our time. There's grown a certain divisiveness. We've seen the hard looks and heard the statements in which not each other's ideas are challenged, but each

other's motives. And our great parties have too often been far apart and untrusting of each other.

It's been this way since Vietnam: That war cleaves us still. *But, friends, that war began in earnest a quarter of a century ago; and surely the statute of limitations has been reached.* This is a fact: The final lesson of Vietnam is that no great nation can long afford to be sundered by a memory.

A new breeze is blowing—and the old bipartisanship must be made new again.

AGE OF THE OFFERED HAND

To my friends—and yes, I do mean friends—in the loyal opposition—and yes, I mean loyal—I put out my hand, I'm putting out my hand to you, Mr. Speaker, I'm putting out my hand to you, Mr. Majority Leader. For this is the thing: This is the age of the offered hand. And we can't turn back clocks, and I don't want to. But when our fathers were young, Mr. Speaker, our differences ended at the water's edge. And we don't wish to turn back time, but when our mothers were young, Mr. Majority Leader, the Congress and the Executive were capable of working together to produce a budget on which this nation could live. Let us negotiate soon and hard, but in the end let us produce.

The American people await action. They don't send us here to bicker. They asked us to rise above the merely partisan. In crucial things, unity—and this, my friends, is crucial.

To the world, too, we offer new engagement and a renewed vow: We will stay strong to protect the peace. The *"offered hand" is a reluctant fist; but the fist, once made, is strong and can be used with great effect.*

There are today Americans who are held against their will in foreign lands, and Americans who are unaccounted for. Assistance can be shown here and will be long remembered. Good will begets good will. Good faith can be a spiral that endlessly moves on.

"Great nations like great men must keep their word" When America says something, America means it, whether a treaty or an agreement or a vow made on marble steps. We will always try to speak clearly, for candor is a compliment. But subtlety, too, is good and has its place.

While keeping our alliances and friendships around the world strong, ever strong, we will continue the new closeness with the Soviet Union, consistent both with our security and with progress. One might say that our new relationship in part reflects the triumph of hope and strength over experience. But hope is good. And so is strength, and vigilance.

ALL PART OF A CONTINUUM

Here today are tens of thousands of our citizens who feel the understandable satisfaction of those who have taken part in democracy and seen their hopes fulfilled. But my thoughts have been turning in the past few days to those who would be watching at home—to an older fellow who will throw a salute by himself when the flag goes by, and the woman who will tell their sons the words of the battle hymns. I don't mean this to be sentimental. I mean that on days like this we remember that we are all part of a continuum, inescapably connected by the ties that bind.

Our children are watching in schools, throughout our great land. And to them I say, thank you for watching democracy's big day. For democracy belongs to us all and freedom is like a beautiful kite that can go higher and higher with the breeze. And to all I say: No matter what your circumstances or where you are, you are part of this day. You are part of the life of our great nation.

A President is neither prince nor pope, and I don't seek "a window on men's souls." In fact, I yearn for a greater tolerance, and easy-goingness about each others attitudes and way of life.

There are few clear areas in which we as a society must rise up united and express our intolerance and the most obvious now is drugs. And when that first cocaine was smuggled in on a ship, it may as well have been a deadly bacteria, so much as it hurt the body, the soul of our country. And there is much to be done and to be said, but take my word for it: This scourge will stop.

And so, there is much to do; and tomorrow the work begins. And I do not mistrust the future; I do not fear what is ahead. For our problems are large, but our heart is larger. Our challenges are great, but our will is greater. And if our flaws are endless, God's love is truly boundless.

Some see leadership as high drama, and the sound of trumpets calling. And sometimes it is that. But I see history as a book with many pages—and each day we fill a page with acts of hopefulness and meaning.

The new breeze blows, a page turns, the story unfolds—and so today a chapter begins: a small and stately story of unity, diversity and generosity—shared and written together.

Thank you, God bless you God bless the United States of America.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONORS NAPOLEON R. COCKERN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September, 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Napoleon R. Cockern.

Napoleon Cockern was born and raised in Louisiana and attended the public schools of Franklin Parish. He entered the Armed Forces in 1950, serving his country for 22 years, retiring in 1972 having reached the position of chief warrant officer.

Mr. Cockern attended the University of Maryland, Harford Community College, the University of Omaha, and Queens College, receiving a bachelor of science in education as well as a bachelor of science degree in military science.

Widely traveled throughout the United States and more than 100 foreign countries, Napoleon is currently employed as a senior logistic engineer with Unisys in Great Neck, NY.

Cockern is a member of Bridge Street AME Church, where he is treasurer of the senior board of stewards, chairman of the commission on media ministry, cochairman of the public relations commission, member of the finance committee, and member of the board of directors of the Bridge Street Credit Union.

An active member of his community, Napoleon Cockern is treasurer of the H. Frank Carey Dads Association and past secretary of the Franklin Square Police Boys' Club. In addition, he is a life member of the Retired Officers Association, American Association of Retired Persons, DAV of the United States, and a member of the 11th Congressional District Service Academy Review Board.

His wife, Catherine, is an administrator with the New York City Board of Education. His son, Alan, is a freshman at Carey High School; his daughter, Salome, is a sophomore at Duke University in Durham, NC. In his spare time, Napoleon coaches community soccer, basketball, baseball, and softball teams.

Napoleon Cockern is truly an asset to our community. I extend my sincerest congratulations to Napoleon Cockern on his many accomplishments, and my best wishes for a successful and fulfiling future.

PECOS AND EAST FORK OF JEMEZ WILD AND SCENIC RIVERS BILL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. RICHARDSON. Mr. Speaker, many people have a vision of New Mexico filled with brilliant red mesas, azure skies and quiet expanses of remote desert. While New Mexico is blessed with these scenic assets, it also includes snow-capped peaks and wild rivers rushing through alpine forests and lush mountain meadows. Today, I am proud to introduce legislation adding two of New Mexico's high mountain rivers, the Pecos and the East Fork of the Jemez, to the National Wild and Scenic Rivers System.

The Pecos River, renowned in folk tales of the West, originates high in the Pecos Wilderness of the Santa Fe National Forest. Flowing from headwaters above timberline in the Sangre de Cristo Mountains, the Pecos descends through rugged granite canyons alternating with mountain meadows in small, beautiful high elevation valleys. Popular wilderness camping and swimming areas, waterfalls and trails are bound by a rich mosaic of aspen, spruce, fir, and alpine meadows. This 13.5-mile segment is entirely in the wilderness.

The Pecos then enters a broader section of the canyon that is more accessible and is very popular for fishing. After 4 miles, the Pecos is joined by the Rio Mora, a major tributary which also originates high in the wilderness. The canyon then narrows into the area known as the "Pecos Box." The river is flanked by large granite walls that rise several hundred feet. This entire section of the river from the headwaters through the Pecos Box to the small community of Terraro, approximately 20.5 miles, is designated as a wild and scenic river in my bill.

The East Fork of the Jemez River originates in the Valles Caldera, as a small meandering stream in the vast, grassland crater. Flowing south and west, it cuts a rugged, sheer-walled

canyon by the time it reaches the Santa Fe National Forest boundary. In the national forest, the river continues in the canyon containing the southern-most extension of Canadian dogwood. The river flows past a small campground, under a highway, and again enters a rugged stretch of canyon. The sheer rhyolite cliffs and huge boulders are crowned with thick forests of Engelmann Spruce and mixed conifer. The river flows from canyon wall to canyon wall, making passage impossible without wading, swimming or rock scrambling. Swimming and fishing holes are found in smooth rock basins and cracks. Occasional wide areas in the canyon are filled with lush meadows.

The East Fork continues through more rugged canyon, passing near Jemez Falls campground and a hot spring, finally joining with the Rio San Antonio to form the Jemez River at Battleship Rock picnic area. This legislation would designate the 11-mile segment of the East Fork from the national forest boundary to the confluence with the Rio San Antonio as a wild and scenic river.

The East Fork flows through the heart of the most popular recreation area in the Jemez Mountains. It is less than a 2 hour drive from Albuquerque and Santa Fe, and less than an hour from Los Alamos and the Espanola Valley. A popular hiking trail runs along the river and will be nominated for national recreational trail status upon completion. The East Fork and the canyon area are within the feeding zone of the peregrine falcon. The State listed Jemez Mountain Salamander, unique to the Jemez Mountains, is also found within the river canyon.

Designation of the Pecos and East Fork of the Jemez as wild and scenic rivers will ensure their protection and highlight the value of these rivers as important recreation resources in northern New Mexico. The free-flowing character of the rivers and the high water quality will be maintained. The U.S. Forest Service has recommended both the Pecos River and the East Fork of the Jemez River for wild and scenic designation in the Santa Fe National Forest management plan. Almost all of the river segments included in this bill are on national forest land. Therefore, under the Wild and Scenic Rivers Act, there will be no authority for condemnation of private inholdings. In addition, the Forest Service concludes that wild and scenic designation will have little effect on present timber harvesting and grazing because the Pecos is in a wilderness area and the East Fork is managed with an emphasis on semiprimitive nonmotorized recreation.

Mr. Speaker, this legislation will protect and highlight the historic Pecos River and the beautiful East Fork of the Jemez River for the enjoyment of present and future generations. I urge my colleagues to join me in adding these two great New Mexico rivers to the National Wild and Scenic Rivers System. Thank you.

IN MEMORIAM: JOHN E. LAWE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MANTON. Mr. Speaker, it is with a deep sense of sadness that I rise to mark the death of John E. Lawe, president of the Transport Workers Union of America, who passed away on January 5, 1989, after a long battle with cancer. John Lawe was one of the most respected and effective labor leaders in the Nation. John was also an influential leader in the Irish community. He was someone I was indeed proud to call a friend.

Mr. Speaker, John Lawe emigrated from Ireland in 1949 at the age of 30. He went to work for the Fifth Avenue Coach Co., and for 17 years he serviced and drove buses in Manhattan. During this time, he was active in Transport Workers Union [TWU] Local 100. He began his successful union career in 1953 when he became shop steward at the company's 132d Street garage. He also served as a division recording secretary and chairman, and vice president of local 100. In 1977, he became president of local 100. He led the union during a very difficult time of labor-management strife, and intraunion struggles. However, John was successful in strengthening the union. He was known as a tough, but fair and affable negotiator who always won as many union demands as possible.

In 1985, he was elected international president of the TWU of America. In addition to his TWU duties, John served as second vice president of the New York City Central Labor Council and vice president of the New York State AFL–CIO.

Mr. Speaker, John Lawe was born in 1919, in Kilglass, Strokestown, County Roscommon. As the son of an Irish immigrant, I deeply respected and admired John Lawe. My father was also born in County Roscommon, and like John, immigrated to America. John took every advantage of the opportunities available to him in the United States, and he rose to become a leader in the labor movement. But John never forgot Ireland, and he was always an active and prominent figure in the Irish-American community. In 1986, he was named "Irishman of the Year" by the Grand Council of United Emerald Societies for his outstanding work on behalf of the victims of repression in Northern Ireland. In 1987, he served as grand marshal of the St. Patrick's Day Parade. John was also a key figure in the Irish-American labor coalition.

Mr. Speaker, those of us concerned about the repression of the Catholic minority in Northern Ireland lost a strong and powerful voice with the death of John E. Lawe. However, I am certain the work John Lawe did for the victims in Northern Ireland will continue to be felt in the years ahead. John will be missed, but his legacy will endure forever.

Mr. Speaker, I want to extend my deepest sympathies to John's wife, family, and friends.

A TRIBUTE TO DAVID COBB

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. CLEMENT. Mr. Speaker, today I would like to honor a man who coined a phrase that helped my hometown, Nashville, TN, a place that is known worldwide.

Mr. David Cobb, an announcer at WSM radio in Nashville, flagship station for the "Grand Ole Opry," is the man who coined the phrase . . . "Music City, USA."

A radio pioneer, Mr. Cobb recently passed away at the age of 76.

He spent 35 years with WSM Incorporated and was one of the first three announcers at the Grand Old Opry. He was also the staff announcer heard nationally on NBC Television programs in the 1940's, so I am sure that many of my colleagues and millions of Americans have heard his voice in their living rooms.

Around the year 1960 Mr. Cobb ad libbed that "the sounds listeners were hearing on WSM radio came from 'Music City, USA.'" country music.

Although this contribution by Mr. Cobb is invaluable and will last through the ages, it is only one of the many significant contributions he made to his city and industry during his illustrious career.

It is only fitting and proper that he be recognized and saluted for a life that touched so many persons in such a positive way.

I want to submit an article printed in the Tennessean newspaper in Nashville that honors this man. It also recognizes his accomplishments and contributions to his hometown and his industry. I urge all of my colleagues to read this article and realize that Mr. David Cobb was a unique individual who will be sorely missed.

EX-WSM ANNOUNCER DAVID COBB, 76, DIES

(By Clara Hieronymus)

David Cobb, 76, who coined the phrase that was to identify Nashville all over the world as "Music City, USA" has died following heart surgery.

In keeping with his wishes, the body was cremated and there will be no funeral service. A private memorial is to be held at a future date.

Mr. Cobb's 35-year affiliation with WSM Inc.—1937–1972—is bound up with the history of music in Nashville.

He was an announcer with the AM station before the days of FM radio and, with Louie Buck and Judd Collins, was one of the first three announcers at the Grand Ole Opry.

His death came Saturday in Park View Medical Center where he had been admitted on Dec. 9 and underwent surgery Dec. 14 for atheroschlerosis.

WSM production manager Tom Bryant said Mr. Cobb was the staff announcer heard nationally on NBC programs in the 1940s, and recalled that he was the announcer for the WSM broadcasts of the Nashville Symphony Orchestra.

"He had a vast store of classical knowledge and, for years, hosted every music show on the station. He was especially fond of light classical music and hosted a long-

time evening music program for B.H. Stief Jewelers," Bryant said.

WSM's Grant Turner recalled that Mr. Cobb had a Sunday night music show called The World of Classical Music, and that in 1947 he was the first announcer for Ernest Tubb's Midnight Jamboree.

His range of interests was wide in music, especially classical music, and in the literature and history of music.

He did a number of network programs for WSM, and served a year as president of AFTRA, the televison and radio performers' union, and was a member of its board of directors at the time of his death.

Another colleague, Ottis Devine described him as "a very talented man who did a wonderful job for WSM."

It was about 1960 that Mr. Cobb, according to an account in The Nashville Tennessean, ad libbed that "the sounds listeners were hearing on WSM radio were coming from 'Music City, USA.'"

The reporter added in that Nov. 5, 1964, item that "David didn't bother to copyright the phrase or even to boast that he had dreamed it up. But it hit with an impact seldom felt in the industry. His chance remark led to a slogan which has been repeated countless times and has become the symbol of Nashville."

Former WSM President John DeWitt recalled him as "a very unusual and a very bright person who was different from most radio people. He had different ideas from other people, a well-educated man though not a standard type. He would always connect through with something bright and unusual.

"Back when FM first came on the scene, he would create a symphony situation as he described the music to be played, and even supplied the applause afterward. He was always a sort of maverick, but he was usually right."

Back in the 1940s, according to longtime WSM staffer Judd Collins, Mr. Cobb was "a pleasant guy to be around. I always thought he was a little smarter than the rest of us. He was a good announcer, with more of a feel for classical music than for country."

He was as off-beat in his dress and appearance as he was in his attitude toward life. He often sported a mustache or a beard before anyone else considered it appropriate. He got along well with country music people who appreciated his wit and candor.

And, it's true that he enjoyed being outspoken and individualistic. After his retirement from WSM, he became a frequent writer of letters to the editor and his strongly opinionated but logical letters earned him annual invitations to *The Tennessean's* Three Star Forum banquets, which he attended without fail.

He also wrote items for *The Tennessean's Nashville Eye* column, with often acrid, off-the-wall personal observations which elicited strong reactions—both pro and con—from other readers.

Collins spoke of him as a man with remarkable recall and pronounced dramatic flair.

"He made friends for WSM," Collins said.

Irving Waugh, who succeeded Jack DeWitt as WSM president, spoke of Mr. Cobb as a unique individual who was "totally his own man. He had a brilliant mind that was packed with quickly retrievable information. David was a free thinker when there weren't many free thinkers around."

"He was part of what I think of as a very unique staff: Judd Collins, Lionel Ricau, Ott Devine, Louie Buck and David. It was a time when radio was heavily news oriented and recorded information was not permitted except as sound effects.

"There were no recorded spots, but this team did news, classical music, and sports, with backup choral singers and piano. David could do all of it, everything except sports."

Mr. Cobb, a native of Cleveland, is survived by his wife, Jeanne; a son, Tony, of Baltimore; and three grandchildren. He and Jeanne celebrated their 50th wedding anniversary last March.

His father was a medical doctor and his mother an amateur musician who encouraged her son's interest in music.

He was not interested in going to college and was self-taught in music, literature and theater, and once taught a course in music appreciation at the University of Tennessee-Nashville.

He played classical guitar, and acted in productions in the old Community Playhouse, including *Oliver* with the late Barbara Moore, and in *Dracula* at Franklin's Pull-Tight Players theater, among other shows.

He had roles in several films, including *Rhinestone, Love Leads the Way,* and *The Life of Jesse James.* He often said that the highlight of his life was getting to go to Hollywood to be in *Rhinestone.*

During World War II, Mr. Cobb served in the Navy and was assigned to heavy cruiser duty in the battles of Okinawa and Iwo Jima.

PUBLIC LAND RIP-OFF: OIL SHALE LANDS GOING FOR $2.50 AN ACRE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. RAHALL. Mr. Speaker, today I am introducing legislation aimed at stopping one of the biggest public land rip-offs in the history of this Nation.

Under the guise of a law enacted in 1872 to promote mineral development, thousands of acres of public lands claimed to contain valuable oil shale deposits have been sold for a mere $2.50 an acre. That was not a typographical error. On a per acre basis, the Interior Department has, and still intends to, sell off Federal lands for less than what it costs to buy a six-pack of Coca-Cola.

This practice, Mr. Speaker, is an affront to the American people who are entitled to expect from their Government the responsible and sound stewardship of our national public lands heritage.

I am honored to say that joining in the introduction of this bill are the distinguished chairman of the Committee on Interior and Insular Affairs, MO UDALL; the chairman of the Subcommittee on National Parks and Public Lands, BRUCE VENTO; the chairman of the Subcommittee on Water and Power Resources, GEORGE MILLER; the chairman of the Subcommittee on Interior, SIDNEY YATES; and the gentleman from Colorado, who tirelessly fought for the enactment of this very same legislation during the last Congress, BEN NIGHTHORSE CAMPBELL.

This legislation addresses claims made for oil shale lands prior to 1920 under the auspices of the mining law of 1872. Under that law, a citizen could locate a mining claim to "valuable mineral deposits" whose physical "discovery" was required before the claim could be considered valid. A valid claim entitled the holder to exclusive possession of the surface for the purposes of mining the claim and title to the minerals extracted. The locator of the claim could also seek title to the land from the Federal Government upon a showing that the claim was valid, which entailed proving the claim was properly located, represented a discovery of a valuable mineral deposit and that a prescribed minimal amount of work had been conducted on the claim. The title would be issued in a form known as a patent for $2.50 per acre for an oil shale placer claim.

For oil shale, this practice was ended in 1920 by Congress with the Mineral Leasing Act under which oil shale could only be leased from the Federal Government in return for payment of rentals, royalties, and bonuses with the Government retaining title to the land and the minerals. However, while the 1920 act prohibited further claiming of oil shale lands, section 37 of the statute—the "Savings Clause"—stated that valid oil shale claims existing on the date of enactment were still eligible to receive patents if maintained in compliance with the Mining Law of 1872.

Which leads us to 1986, when a Colorado district court judge in one of those decisions which brings howls of protest paved the way for the issuance of 41 patents for oil shale claims on approximately 82,000 acres of public lands. The case should have been appealed. However, in a move that caused many of us to scramble for our history books to read up on the Teapot Dome scandal, the Interior Department instead choose to enter into a settlement agreement with the claim holders and title to these lands has since been transferred for $2.50 an acre to companies and individuals holding the claims. This action created renewed public and congressional interest in this matter.

Today, approximately 1,600 unpatented claims are still in existence covering about 228,000 acres of public land. From the time the claims were made prior to 1920, little to no mining-related work has been done on them. The land certainly has not been utilized for the purpose for which the claims were located, being oil shale development. In fact, it is highly questionable whether these claims have been held all of these years in compliance with the law. In effect, many of the claims may not be valid and should be extinguished.

Mr. Speaker, the Congress in enacting the mining law of 1872 and the Mineral Leasing Act of 1920 intended for these statutes to promote and facilitate mining on public lands. Yet, for the most part, the holders of oil shale claims have managed to elude the intent and purpose of these laws. Despite the fact that many of these claims have been held for over 100 years, the claim holders have yet to taken any actions to develop them. I would submit that the holders of these oil shale claims have had ample opportunity to move toward the development of the mineral resource which they have claimed under the mining laws. It is, in

effect, long past the time for them to fish or cut bait.

There are other public interest issues at stake here as well. These lands hold significant wildlife, agricultural, recreational, scenic, and other values. The continued existence of dormant oil shale claims impedes the management of these lands, and the disposal of this property by patent significantly jeopardizes our national policy of multiple use of public lands not withdrawn for specific public interest purposes.

The legislation we are introducing today is the same bill which overwhelmingly passed the House in 1987. It would prohibit the issuance of patents for any oil shale claim for which a patent application had not been filed and all requirements for a patent had not been fully complied with by today, the date of introduction of the bill. The Secretary would also be required to undertake an expedited program to determine the validity of all unpatented oil shale claims within 2 years after enactment. If a claim is found to be invalid, it would be canceled.

For holders of valid oil shale claims, the legislation provides them with the option of either converting the claim to an oil shale lease or continuing to maintain the claim in compliance with a new diligent development expenditure requirement. The legislation would also ensure that any person who holds an oil shale lease or oil shale claim would be required to reclaim the site and post a bond before disturbance of the site to guarantee the reclamation.

Mr. Speaker, it is my intention as chairman of the Subcommittee on Mining and Natural Resources to move this bill in an expedited fashion.

STEVEN COHN HONORED BY WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Attorney Steven Cohn.

Steve Cohn was born and raised in Williamsburg, NY, attending P.S. 122 and Boys High School. Steven went on to New York University for his B.A., Brooklyn Law School for a J.D., and received a master of law from New York University Law School.

Steve has been an active community and political leader for the past 15 years, having served for the past 6 years as the Democratic State committeeman—district leader—of the 50th Assembly District—Fort Greene, Greenpoint, and Williamsburg.

Steve has been honored by many organizations, including the United Negro College Fund, North Brooklyn Development Corp., Opportunity Development Agency, and the Green Oaks Citizens Clubs, naming but a few.

Steve's district is the most ethnically and religiously diverse district in New York State. One of Steve's proudest achievements is his ability to unify all of the ethnic and religious groups in his district, having them come together on high moral ground.

Steve is a partner in the Brooklyn Heights law firm of Goldberg & Cohn and is a member of many community organizations.

I extend my sincerest congratulations to Steve on his many accomplishments, and my best wishes for a successful and fulfilling future.

A TRIBUTE TO HABITAT TO HUMANITY AND ELECTRIC BOAT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Miss SCHNEIDER. Mr. Speaker, one of the more pressing problems facing Rhode Island is the lack of affordable housing available to moderate income families. Rhode Island's greatest resource in our effort to build more affordable housing is our people. I would like to take this opportunity to recognize two groups, Habitat for Humanity and General Dynamic's Electric Boat Division, for their dedication and hard work in addressing the need for affordable housing. I would like to enter into the CONGRESSIONAL RECORD an article from Together, a General Dynamics publication, as an example of what can be achieved by people offering their time and labor to help others.

JESUS DIDN'T SECLUDE HIMSELF IN THE SUBURBS

The neighborhood around Elma and Broad streets in South Providence, R.I., is what people not up on the latest jargon might call "run-down." The three-decker clapboard tenements, built in the 1920s to house the laborers in the state's textile industry, stand neglected or abandoned. The stores on Broad Street are protected by heavy bars on windows and doors. On most weekends, this is where you can find Daniel Di Biasio, a shipfitter at Electric Boat's Quonset Point facility, applying his carpentry skills for Habitat for Humanity, a national organization that builds or rehabs homes for low-income families. "Jesus," says Di Biasio, "didn't seclude himself in the suburbs."

I LOVE PEOPLE IN DEED, NOT JUST IN WORD

If not measured by miles, South Providence is a long way from the city's suburbs. A couple of blocks from the first house that Rhode Island's Habitat chapter is constructing on Elma sits the abandoned Roger Williams Housing Project, its barracks-like buildings a refuge for drifters and forbidden playground for children. Gentrification, the return of middle-class residents into deteriorating city blocks, has come to some sections of the area. But much of it is still available for the kind of project that attracts Habitat and the volunteers who support the organization's goal: "Building houses in partnership with God's people in need."

"There is a great need for low-cost housing in Providence," says the Rev. Carol Millette, president of Habitat-Rhode Island and an Episcopal deacon at St. Peter's and St. Andrew's Church. "What's available is either substandard or overpriced." The duplex at 29 Elma Street won't be. The two families chosen by Habitat's selection committee, headed by Di Biasio, will have contributed about 500 hours of "sweat equity" to the building's construction, and will then pay about $350 a month on their no-interest 20- to 25-year mortgage. Almost all labor on the house is voluntary, and many of the construction materials and tools are donated by local merchants. Habitat's funds for the purchase of everything else that's needed comes from donations by churches and individuals or from no-interest loans.

Habitat has built more than 3,000 homes since it was founded in 1976. The pace of construction is accelerating. In 1987, the organization built 1,200 dwellings and hopes to reach 2,000 in 1988. With volunteers such as Di Biasio, this goal seems realistic. "I love people in deed, not just in word," he says. "I believe in demonstrating our love through actions. To me, each house (built) is a sermon showing God's love."

Seventeen teenagers from the Baptist Youth Fellowship of the First Baptist Church in Penfield, N.Y., are preaching a sermon of their own in Groton, Conn. To the tunes of soft rock, they are painting and sawing and hammering on the house at 97 Truman Street, a house purchased for rehabbing by the Habitat chapter of Southeastern Connecticut. The group of 12- to 18-year-olds is led by Kathy Thon on this, their second Habitat project of the summer. "First we stayed at school in South Carolina and worked on a house there," she says, "and then we looked for something in New England. We'll put in 40 hours this week. We're sleeping at the Old Mystic Baptist Church and go for a swim every day after work because there is no shower."

There is a shower in the house on Benham Street that is within walking distance of Electric Boat Division. The division has leased the building for $1 a year to Habitat's Project Coordinator, Karen Hall. "This allows me to donate two-thirds of my compensation to Habitat," says Hall, "to recruit labor, deal with inspectors and solicit publicity for our projects. The house on Truman Street is the first property our chapter bought. We had it totally gutted, we're stripping the exterior and rebuilding the interior. Electric Boat is giving us a lot of fixtures like furnaces and water heaters from properties that were demolished. The place on Truman Street is going to be a two-family home for low-income families. We've already selected one family."

Much of the progress on this project was achieved with the help of Hank Buermeyer, senior program coordinator on the division's United Kingdom Trident submarine program. Buermeyer is on Habitat's board of directors and has the professional contacts in Groton that make licensed electricians and plumbers show up and needed construction material appear. He and the kids from upstate New York are part of a housewarming coming soon to Truman Street.

INTRODUCTION OF THE NATIONAL GROUND WATER CONTAMINATION RESEARCH ACT OF 1989

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. GEJDENSON. Mr. Speaker, I am pleased to rise today to announce that I have recently reintroduced the National Ground Water Contamination Research Act that the House of Representatives overwhelmingly accepted by a vote of 399 to 15 in the 100th Congress.

As you well know, ground water contamination is one of the most serious environmental problems facing this Nation. It has occurred all over the country and the number of wells closed because of contamination increases every day. Ground water supplies almost one-half of the Nation with drinking water, and 90 percent of the Nation's rural population with drinking water.

My home State of Connecticut provides an alarming example of how fast the ground water contamination is growing. When I first introduced this legislation in 1985, 1,000 wells had been closed because of contamination in Connecticut. Since December 1985, 200 more tainted wells have been discovered in Connecticut, adding up to a total of 1,200 wells closed across the State.

My interest in the ground water problem goes back to 1982, when I met with families living on pink row, in Montville, CT, who had just learned that their water was contaminated with trichlorethylene [TCE], a cancer-causing chemical. I cannot even begin to convey the fears and frustrations of the parents who discovered that for years their children had been drinking and bathing in water tainted with toxic chemicals.

In addition to the health risks, ground water contamination has serious economic consequences. At a congressional field hearing in Hartford, Ms. Jane Shea of Ellington, CT, testified that her home became virtually worthless after it was discovered that her well was contaminated with the pesticide ethylene dibromide [EDB]. During the 2-year period that her neighborhood struggled with the EDB problem, not a single home was sold in the area. And the cost of extending the town water lines to the homes with tainted wells was over $500,000.

Stories like these are becoming all too common. Every State in the Nation has had wells closed because of contamination and the problem is getting worse.

Unfortunately, a major barrier to the protection of this critical resource from contamination is the lack of basic information on the problem. Industry, environmentalists, farmers and State and local officials all agree that more information is needed now. The primary purpose of the National Ground Water Contamination Research Act is to provide up-to-date information to the Federal, State, and local decisionmakers who need it.

This legislation is identical to H.R. 791, which was passed by the House last year. It authorizes a comprehensive Federal ground water research effort by the U.S. Geological Survey, the Environmental Protection Agency [EPA] and the Department of Agriculture [USDA]. This bill establishes an Interagency Ground Water Research Committee to coordinate the efforts of the different agencies and to ensure that there is no duplication of research efforts. It also recognizes and increases the strengths of the Federal agencies with major ground water research responsibilities.

This bill authorizes $81 million in new spending over the next 3 years. In the long run, measures to protect ground water, like this one, will cost far less and yield far better results than emergency responses to individual cases of ground water contamination. The $9 billion Superfund Program is a sad example of the exorbitant costs of cleaning up ground water.

For two reasons it is vital that the Federal Government develop a comprehensive and coordinated body of ground water information. The first is that ground water contamination knows no boundries. It may be impossible for local authorities to clean up a polluted well if the source of contamination is in another State or town. Second, the State and local agencies who must deal with contamination problems as they happen need the most comprehensive and up-to-date information available. As we learn about sources of contamination, ways that pollutants move through aquifers and methods of cleanup, we need to provide that information to officials around the country who can benefit from it.

Mr. Speaker, I strongly urge my colleagues to join me again in supporting the National Ground Water Contamination Research Act. This legislation is a crucial first step that the Federal Government must take to solve the Ground Water contamination problem. Until we understand what is causing contamination and how widespread it is, we will continue to simply throw money at the problem in response to individual cases. The National Ground Water Contamination Research Act will provide the information that we need to develop intelligent solutions to ground water problems.

LEGISLATION TO RELIEVE BELEAGURED DOMESTIC FOOTWEAR INDUSTRY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. GOODLING. Mr. Speaker, today I am introducing in the 101st Congress legislation to maintain the 17-percent share of the U.S. market which supports our domestic footwear industry.

My legislation will provide 5 years of relief for this beleagured industry—which has an aggressive strategy with which to acquire new equipment, increase productivity, and reduce the price gap. The bill retains imports at record levels; there will be no rollback. The industry will benefit from market expansion only.

In all the political debate in the last Congress concerning H.R. 1154, the Textile and Apparel Trade Act of 1987, the sad state of the domestic footwear industry was forgotten. Also forgotten is the fact that the International Trade Commission [ITC] has unanimously voted relief for the industry four times in 10 years—only to have the executive branch deny action in all but one instance.

Most recently, in 1985 the ITC viewed the rise in import penetration from 49.5 percent in 1980 to 71 percent in 1984 with serious alarm. Taking into account the wage differential—Taiwan, $1.31/hour; Korea, $1.01/hour; Brazil $0.72/hour, the closed markets and high tariffs which divert imports to the world's only open market here in the United States, the fact that other countries' shoe industries are directly or indirectly subsidized, and the national security implications of the reduced industry capacity, the Commission unanimously voted global relief. The administration refused to act on the ruling, and the industry experienced a further 10-percent increase in market penetration in the following 2 years.

Nor has the happy state of the economy as a whole assisted the footwear industry. I have recently learned that yet another footwear company will close a factory in Hanover, PA, in March. In this instance, the rising cost of labor is to blame. However, some of the 200 jobs my district is losing could have been saved if the administration had acted—or the Congress had voted to override the President's veto of the Textile and Apparel Trade Act—because the industry needs the time provided by my legislation to continue its modernization. Automation is less labor intensive, but an automated open plant produces more jobs than any closed facility.

Struggling against unfair competition, the industry has not been idle. Despite the cost, and knowing the wave of the future, our footwear industry has modernized itself into the most technologically advanced in the world. Additional technology can be brought on line to further reduce the wage differential, but further capital investment is difficult to justify for an industry which has experienced 371 plant closings in the past 7 years.

For the shoe industry, which still employs 141,000 across 38 States, this is not a political question, it is a matter of survival.

ALASKAN OIL: LET'S NOT EXPORT A VITAL RESOURCE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. WOLPE. Mr. Speaker, in 1973, Congress opened Alaska's North Slope for oil production, but insisted that its output be consumed within the United States unless exports could be shown to be in the national interest. These restrictions, repeatedly reaffirmed by a bipartisan Congress, have reduced U.S. dependence on OPEC oil, increased U.S. conventional military preparedness, and saved consumers billions of dollars.

Section 7(d) of the Export Administration Act of 1979, which contains the current export restrictions, will expire on September 30, 1990. There are those, including Pacific Rim

countries, who would like to see these restrictions eliminated. However, such a move would make no sense from the standpoint of American economic and national security interests. That is why Congresswoman OLYMPIA SNOWE and I have introduced legislation, H.R. 567, to extend indefinitely the Alaskan oil export restrictions in their current form.

Today, all 2 million barrels per day of Alaskan North Slope production, representing over 25 percent of total U.S. crude output, is consumed domestically. The goals of maximizing national energy self-reliance and defense preparedness which were the foundation of the original restrictions remain as valid today as when they were adopted in 1973.

The export of Alaskan oil will only further increase U.S. dependence on oil from the unstable Persian Gulf region. With imports accounting for over 40 percent of our current oil consumption, and expected to exceed 50 percent by the early 1990's, it makes little sense to increase the vulnerability of our industrial and military facilities to unpredictable supply disruptions. It also makes little sense to undermine the critical development of a more self-sufficient energy system—especially after the grim lessons taught us by the oil embargo of the late 1970's.

Exports of Alaska's North Slope oil would wipe out much of the U.S.-flag tanker fleet which carries Alaska oil to the lower 48 States and Hawaii. The displacement of the tanker fleet would not only cost an estimated 60,000 to 75,000 jobs, but the loss of trained, active crews in our mercantile fleet would also diminish our long-term defense preparedness. We also would be forced to increase our reliance on foreign-flag tankers to carry imported oil in peacetime and domestic oil in the event of a crisis.

Some have argued that exporting Alaskan oil would improve the U.S. balance of trade. First, any oil exported would require the importation of an equal quantity of foreign oil—with no guarantee that the price would not be higher than our own export rate. Second, any positive impact the oil exports could have upon our trade balance with Japan would be largely cosmetic, masking the continuing inequities in our trading relationship in key manufacturing and agriculture sectors.

Finally, net Federal revenue losses would result if Alaskan oil were to be exported. While exports would increase some Alaskan and Federal tax revenues, these benefits would be more than offset by lower tax revenues from the shipping sector, defaults on federally guaranteed shipping loans, writeoffs on infrastructure investments, and increased ship-related defense spending.

Every aspect of the American economy which depends on, or is affected by, petroleum has benefited from the restrictions on the export of Alaska North Slope crude. I urge my colleagues to join in promoting our national energy and security interests by again reaffirming the congressional determination to prevent the unwise export of Alaskan oil.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONORS ROSALIND "ROZ" GALARDI

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman Edolphus "Ed" Towns held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Rosalind "Roz" Galardi.

Roz was born Rosalind Caslin, in Bensonhurst, Brooklyn of parents who were active in veterans' organizations and the Democratic Party, where her father was a district captain for many years.

Roz, now a resident of Queens, NY, still holds Brooklyn dear to her heart, noting that while you can take a person out of Brooklyn, you can't take Brooklyn out of the person. She is employed by the New York State Liquor Authority, as an investigator for New York City Alcoholic Beverage Council Board.

While a Brooklyn resident, Ms. Galardi resided in East New York's Spring Creek Area, where she raised her two sons, Gary, a carpenter, and Ken, a recent graduate of Syracuse University, holding a degree in chemical engineering. A founder of the Flatlands Heights Civic Association, she served as its secretary for many years. In addition, she was a charter member of Community Planning Board No. 5 in East New York for over 10 years, and served as secretary for two terms of office.

Roz has been a member of the Women's Caucus for Edolphus "Ed" Towns for 4 years, and was journal chairperson for the 1987 annual dinner dance.

Roz is a shining example of the kind of commitment and dedication which serves to better our communities. I am proud to have Roz as a member of the Women's Caucus and I look forward to working with her in the years to come.

TECH-PREP EDUCATION ACT, H.R. 22

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. FORD of Michigan. Mr. Speaker, on January 3, 1989, I introduced H.R. 22, the Tech-Prep Education Act. It will amend the Carl D. Perkins Vocational Education Act to establish a program of Federal matching grants to consortia of secondary and postsecondary institutions to encourage the implementation of 4-year tech-prep education programs linking the last 2 years of secondary school with the first 2 years of postsecondary education. Such programs are generally known as "two plus two," hence the number of the bill, H.R. 22. Tech-prep education is a combined high school/postsecondary program which, first, leads to a 2-year degree or certificate, second, provides technical preparation in at least one mechanical, engineering, industrial or practical field, third, provides a high level of competence in mathematics, science, and communications, and fourth, leads to job placement.

Our society needs workers well trained in technology and well versed in basic skills if we are to forge a world-class work force for the future. Today, some education or training beyond high school is required for entry into about 50 percent of all job classifications. By the mid-1990's it is predicted that 75 percent of all job classifications will require some postsecondary education. The work force of the future will need large numbers of computer operators and programmers, laboratory technicians, nurses, dental hygienists, paramedics, travel agents, police officers, mechanics, welders, and technicians in areas such as broadcasting, aerospace, electronics, heating, air-conditioning, instrument and appliance repair, robotics and waste treatment. Training for these and many similar occupational specialties is a principal goal of tech-prep education. In addition, those trained in a tech-prep education will also have high level competency in the basic skills of mathematics and communications so that they can continue to learn and to adapt to the rapidly changing workplace of the future.

I would also hope that tech-prep education would make a contribution to alleviating the problems of youth unemployment and high school dropouts.

A recent study indicates that the unemployment rate among 20- to 24-year-olds with less than a high school diploma was 32 percent. The rate for those in the same age group who were high school graduates was 15 percent, while the unemployment rate for those with 1 to 3 years of postsecondary education and those with 4 or more years of postsecondary education were 9 percent and 6 percent respectively. Providing a well structured and integrated program that bridges high school and postsecondary education will open the doors to the job market and to well-paid professional careers for young Americans.

Today, one in four high school students do not complete high school. At that rate, out of approximately 45 million students in elementary and secondary education, 11 million of them will not complete high school. Tech-prep education by providing a richer, more focused, more practical, and more challenging program for many high school youth can play a role in drop out prevention.

The Tech-prep Education Program is aimed primarily at the two middle quartiles academically of the typical high school. It is not designed to replace the existing vocation education programs which provide students completing the 12th grade with entry level job skills. Rather it is intended to broaden vocational education so that students can have available a somewhat more rigorous program that extends from the last 2 years of high school through the first 2 years of postsecondary education. In addition, it is intended to offer an alternative for the many students in the current high school "general education" curriculum. These students very frequently

graduate from high school with neither entry level job skills nor a clear path to postsecondary education.

It is important to remember that all those who will be in the work force by the year 2000 are already alive and in school today, and a great skilled worker shortage is approaching unless we act to forestall it. The greatest threat to our future economic security and productivity is unskilled workers. In a recent article titled "Finding Workers to Fill the Jobs," David Broder notes, "Skill shortages, rather than job shortages, are likely to become the dominant labor problem of the future."

For students preparing to pursue a 4-year college degree, the high school college prep curriculum provides in most cases a well functioning bridge designed to give students the coursework needed for college admissions and success. The articulation between secondary and postsecondary technical education is much less well developed. High schools and the providers of postsecondary technical education frequently are operating in isolation from each other. Tech-prep education is designed to bring them together for the benefit of the students and America's future economic needs.

It is imperative that high schools and postsecondary education work together in developing and implementing educational programs that will serve the greatest numbers of young Americans. These are the people who will determine the future economic health of our Nation. These are the people who will keep our airplanes flying, our water flowing, our computers humming, our cars running, our goods and services produced and sold and our laws enforced in a society saturated at every level with technology and information.

I introduced a bill comparable to H.R. 22 in the last Congress and circulated it widely among educators for their comment. I was very gratified by the hundreds of enthusiastic responses. For example, in a recent survey of school board members by the National School Boards Association, nearly 92 percent of the respondents agreed that Federal encouragement for coordinating secondary and postsecondary vocational curricula was desirable. This was the largest consensus in favor of any position regarding Federal vocational education policy. Tech-prep education is an idea that has been developed and tested by educators across the Nation. In several States tech-prep education is being implemented in some areas. Federal support of tech-prep education through H.R. 22 will accelerate and broaden the adoption of this important educational innovation.

I hope that my colleagues will cosponsor H.R. 22. If you would like to cosponsor, please contact Gloria Gray-Watson of my staff at 225–6295.

The text of H.R. 22 follows:

H.R. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This part may be cited as the "Tech-Prep Education Act".

SEC. 2. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—Title IV of the Carl D. Perkins Vocational Education Act is amended—

(1) by redesignating part F as part G;

(2) by redesignating section 451 as section 461; and

(3) by inserting after part E the following new part:

"PART F—TECH-PREP EDUCATION

"SEC. 451. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the workforce;

"(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

"(3) a combination of nontraditional school-to-work technical education programs, using state-of-the-art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

"(4) the establishment of systematic technical education articulation agreements between secondary schools and community colleges is necessary for providing youths with skills in the liberal and practical arts and in basic academics and with the intense technical preparation necessary for finding a position in a changing workplace;

"(5) by the year 2000 an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

"(6) more than 50 percent of jobs that are currently developing will require skills greater than those currently provided by existing educational programs;

"(7) dropout rates in urban schools are currently 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school;

"(8) each year, as a result of 1,000,000 youths dropping out of high school with inadequate preparation to enter the workforce, the United States loses $240,000,000,000 in earnings and taxes; and

"(9) employers in the United States pay an estimated $210,000,000,000 annually for formal and informal training, remediation, and in lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the workforce of the United States.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to provide planning and demonstration grants to consortia of local educational agencies and community colleges, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to an associate degree for youths; and

"(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and institutions of higher education.

"SEC. 452. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary of Education shall make grants to pay the Federal share of the cost of activities carried out under this part to consortia of—

"(1) local educational agencies or area vocational schools serving secondary school students; and

"(2) nonprofit institutions of higher education which offer a 2-year associate degree program or a 2-year certificate program and which are qualified as institutions of higher education pursuant to section 481 of the Higher Education Act.

"(b) AMOUNTS OF GRANTS.—

"(1) FEDERAL SHARE.—The Federal share of the cost of any activity carried out with assistance under this part may not exceed—

"(A) for the first year that a grant is received, 100 percent of such cost with respect to planning purposes;

"(B) for the second year that a grant is received, 80 percent of such cost with respect to implementation and operation;

"(C) for the third year that a grant is received, 70 percent of such cost with respect to operation;

"(D) for the fourth year that a grant is received, 60 percent of such cost with respect to operation; and

"(E) for the fifth year that a grant is received, 50 percent of such cost with respect to operation.

"SEC. 453. TECH-PREP EDUCATION PROGRAMS.

"(a) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

"(b) CONTENTS OF PROGRAM.—Any such program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree in a specific career field;

"(3) include the development of tech-prep education program curriculum appropriate to the needs of the consortium participants; and

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to implement effectively tech-prep education curriculum;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in weekend, evening, and summer sessions, institutes or workshops.

"(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Any such program may—

"(1) provide for training programs for counselors designed to enable counselors more effectively to recruit students for tech-prep education programs, ensure their successful completion of such programs and their placement in appropriate employment; and

"(2) provide for the acquisition of tech-prep education program equipment.

"SEC. 454. APPLICATIONS.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(b) FIVE-YEAR PLAN.—Each application submitted under this subsection shall contain a 5-year plan for the development and implementation of activities under this part.

"(c) APPROVAL.—The Secretary shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 453.

"(d) SPECIAL CONSIDERATION.—The Secretary shall give special consideration to applications which—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs;

"(2) demonstrate commitment to continue the program after the termination of assistance under this part; and

"(3) are developed in consultation with business, industry, and labor unions.

"(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In making grants, the Secretary shall ensure an equitable distribution of assistance among the States and among a cross section of urban and rural consortium participants.

"SEC. 455. REPORTS.

"Each grant recipient shall, with respect to assistance received under this part, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this part.

"SEC. 456. DEFINITIONS.

"For purposes of this part:

"(1) The term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

"(2) The term 'tech-prep education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree or 2-year certificate;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, or mechanical, industrial, or practical art or trade;

"(C) provides competence in mathematics, science, and communications (including through applied academics); and

"(D) leads to placement in employment.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Carl D. Perkins Vocational Education Act is amended—

(1) in subsection (a), by striking "(other than part E)" and inserting "(other than parts E and F)"; and

(2) in subsection (d)—

(A) by inserting "(1)" after "(d)"; and

(B) by adding at the end the following new paragraph:

"(2) There are authorized to be appropriated $200,000,000 for the fiscal year 1990 and such sums as may be necessary in each of the 4 succeeding fiscal years to carry out part F of title IV, relating to tech-prep education.".

ROD RODENBERGER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. LAGOMARSINO. Mr. Speaker, I rise to take note today of the retirement of Ronald J. "Rod" Rodenberger as marshal of the Santa Maria, CA, Judicial District.

Rod has served Santa Barbara County for the past 33 years. He began his career in law enforcement in 1955 as a member of the Santa Barbara County Sheriff's Department. He was on the force of the sheriff's office for 13 years, working out of the Santa Maria substation. The last 6 of those years he was head of the juvenile division. He is a former member of the Juvenile Officers Association of Southern California and was awarded a life membership in the PTA for his work with young people in the community.

Elected marshal of the Santa Maria Judicial District in 1968, he was subsequently reelected to three more successive 6-year terms.

During his tenure as marshal he has labored to upgrade and modernize the marshal's office in northern Santa Barbara County. He secured POST [peace officers standards and training] education for all his officers. He instituted a legal services specialist position into his staff to aid in prompt, cost-effective process service and to free up deputies for more involved duties. This program is a first and a model for more efficient use of tax funds.

He designed and supervised the installation of holding facilities in the county building where prisoners awaiting court appearances can be securely retained. He planned and had installed a security alarm system in all the courts which assures the safety of court personnel and the public.

During his time in office he has served as president and vice president of the Judges, Marshals and Constables Association of the Tri-Counties. He worked 3 years as State director for the Marshals Association of California and has been a member of the finance and legal procedures committee, and the professionalization and training committee of the State Marshals Association as well as serving on the legislative committee of that body. He has, as well, served as chairman of the credentials committee of the Marshals Association. He was treasurer for the State Marshals Executive Council for 4 years.

At present Marshal Rodenberger is on the Law Enforcement Advisory Board for Allan Hancock College. He also serves the community as a commissioner for parks and recreation in the city of Santa Maria.

Before entering law enforcement Rod was a professional baseball player. He was a third baseman for the Reno Silver Sox, a farm club for the-then-New York Giants. After leaving professional sports he played for the Santa Maria Indians semipro baseball team and still holds the all-time batting average record for the team. Playing the full season he posted a 0.508 batting average in the 1955 season. He shared his interest in the game with youngsters in Santa Maria while serving as vice president of the South Side Little League in the late 1960's and early 1970's.

Rod served with the U.S. Army in Korea during that conflict and was involved in extensive action during the fall and winter campaigns of 1951.

Rod and his wife, Phyllis, are the parents of 8 children and grandparents of 11.

Mr. Speaker, I know I speak for the entire community when I say that we are grateful for the service Rod has given to the people of Santa Maria, and on behalf of the U.S. Congress, I want to commend him and wish him well on the occasion of his retirement.

ANNOUNCEMENT OF THE 1989 CONGRESS-BUNDESTAG STAFF EXCHANGE

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. COLEMAN of Missouri. Mr. Speaker, since 1983 the United States Congress and the West German Parliament, the Bundestag, have conducted an annual exchange program in which staff members from both countries observe and learn about the workings of each other's political constitutions first hand and convey the views of members from both sides on issues faced by both countries. The exchange also provides an opportunity for the development of professional relationships which will be beneficial to both countries over the long term.

This exchange program is one of several sponsored by both public and private institutions in the United States and West Germany to foster better understanding of the institutions and policies of both countries.

This year, eight congressional staff members will visit Germany over the Easter recess period. They will spend about 10 days in Bonn attending meetings conducted by members of the Bundestag, Bundestag staffers, and representatives of political, business, labor, academic, and media institutions. They will spend a weekend in the district of a Bundestag member. The program will conclude with a visit to Berlin during which the delegates will meet with the representatives of the West Berlin Government and United States Government representatives in both West and East Berlin.

A comparable delegation of Bundestag staffers will come to the United States in late June for a 3-week period. They will attend similar meetings here in Washington and will visit the districts of Members of Congress over the Fourth of July recess.

The program is truly a two-way street; accordingly, participants should be experienced Hill staffers so that they can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staffers to the United States and a number of high ranking members of the Bundestag take the time to meet with our staffers. The United States has tried to reciprocate.

Therefore, participants should have a demonstrable interest in, if not some direct responsibility for, political, security, trade, or environmental issues as they relate to Europe in general and Germany in particular. In addition, U.S. participants will be expected to help plan and execute the program for the Bundestag staffers when they visit the United States. Among the contributions participants should expect to make the planning and conducting topical meetings for the Bundestag staffers and hosting one or two of the staffers in their Member's district over the Fourth of July.

Applications for participation in the United States delegation will be reviewed initially by the Congressional Staff Group on German-American Affairs; final selection of the delega-

tion will be made by the United States Information Agency.

Senators and Representatives who would like a member of their staff to apply for participation in this year's program should direct them to submit a résumé and cover letter in which they state why they believe that they are qualified and giving some assurance of their ability to participate during the time stated to Bill Inglee, House Foreign Affairs Committee, 808 House Annex 1, by Wednesday, February 15.

EQUAL OPPORTUNITY FOR MEDICAL LICENSURE AND RECIPROCITY ACT OF 1989

HON. JIM BATES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. BATES. Mr. Speaker, today I am introducing the Equal Opportunity for Medical Licensure and Reciprocity Act of 1989.

This legislation will prohibit discrimination against foreign medical graduates. It would prohibit a State from subjecting a foreign medical graduate who has completed residency training in the United States and who has obtained a license to practice medicine in any State, to any condition or requirement that materially differs from those applied to graduates of U.S. medical schools. The purpose of the legislation is to eliminate the discrimination against medical doctors who have graduated from medical schools outside the United States and Canada. These doctors have repeatedly experienced discrimination in initial licensure, reciprocity, job promotions, hospital privileges, reimbursement, residency, medical staff appointments, and professional society membership. This legislation only applies to medical doctors that are licensed and practicing medicine in the United States.

In the United States today, there are 500,000 practicing physicians, 122,000 of whom are foreign medical graduates [FMG's]. That means that one out of four physicians in this country have received their medical education from outside the United States and Canada. All of the practicing foreign medical graduates are legal residents of the United States and many are naturalized citizens. Nobel prizes have been awarded to several FMG's.

Yet last year a hearing by the House Energy and Commerce Committee's Subcommittee on Health and the Environment revealed that foreign medical graduates are suffering from overt and covert discrimination in licensure, reciprocity, jobs, hospital privileges, promotions, and publications. The subcommittee hearing demonstrated that different standards, different tests, hidden decisions, and outright rejection of approval to practice in a State or to be allowed on a hospital staff are methods which are applied to this group. At my request the General Accounting Office is currently conducting a study of the discrimination which foreign medical graduates face today.

I, and all fairminded Americans oppose discrimination in any form. History tells us that if discrimination is tolerated against any one group, then it can be directed toward any group. This legislation would help to ensure that foreign medical graduates are a part of the best available medical system. Foreign medical graduates are a part of a medical profession that recognizes talent and quality medicine as the primary and constant concern. For this reason, this legislation should have the support of any individual or group that seeks the common ground of excellent health care. This measure seeks to unify the medical profession in a professional way.

The July 1988 Council on Graduate Medical Education report, prepared by the U.S. Department of Health and Human Services, recommended that the Federal Government "should not establish policies which would discriminate against medical school graduates on the basis of citizenship, immigration status, or medical school location." It is with that intent that I urge my colleagues to support this legislation.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONORS WARREN GEORGE MILLER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their Annual Dinner Dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Warren George Miller.

Warren George Miller was born and raised in Panama, where he attended the public schools. George, as he is known in Brooklyn, graduated from Panama's National Institute, majoring in music. While in Panama, George successfully chaired a committee to establish a high school in the Canal Zone for minority students. He also served as President LaGuardia's campaign manager in the Canal Zone.

In 1957, George migrated to the United States with his wife Daisy, and his children Delia and Warren, Jr. A gifted musician, George played with top Latin musicians in Panama and the United States, such as Tito Puentes. He also worked with many American jazz artists, including Eartha Kitt, Dinah Washington, and Peggy Lee, among others.

George also worked for the Baltimore and Ohio Railroads, as a foreman clerk, and also with Chemical Bank. Very active in community affairs in Brooklyn's East New York, George is now working as Security Coordinator for the New York City Board of Education, Community School District 19.

George Miller is a true asset to our community. I extend my sincerest congratulations to him on his many accomplishments, and my best wishes for a successful and fulfilling future.

"KEEPING THE DREAM ALIVE" GALA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. PALLONE. Mr. Speaker, one of the many legacies that was left to us by Martin Luther King, Jr., was the sense that caring for one's fellow man is one of the highest callings one can follow. Doctor King literally gave his life in the fight to gain justice and equality for all of our citizens so it is entirely fitting to bring recognition to those who, in the pursuit of their own lives, have dedicated themselves to helping others.

I am pleased to extend that recognition to 38 of my constituents who were honored at the "Keeping the Dream Alive" gala for their contributions to community service. I want to particularly thank the Monmouth County alumnae chapter of Delta Sigma Theta sorority and its president Mrs. Willie F. Robinson for holding the gala which took place at the Eatontown Sheraton.

Those who were honored, their sponsoring organizations, and the roles in which they distinquished themselves are as follows:

LIST OF PERSONS HONORED AT THE "KEEPING THE DREAM ALIVE" GALA, SATURDAY, JANUARY 21, 1989

Alpha Kappa Alpha Sorority: Lambda Omega Omega Chapter: *1. Minola Buden—Education; 2. Wanda Williams-Finney—Political Action; 3. Mary Pat Jones—Christian Endeavor; 4. Rozann Patton—Occupation; *5. Sylvia Thomas—Education.

Alpha Phi Alpha Fraternity: 1. Rev. Anthony Hodges—Christian Endeavor; 2. Woodrow Holmes—Occupation; 3. Kenneth Morgan—Community Service; 4. Enoch Peters—Education.

Asbury Park High School: 1. Kenneth C. Jordan—Education.

Asbury Park Middle School: 1. Sidney L. Wells—Education.

Central Jersey Business and Professional Women's Club: 1. Tonya Greenwood—Occupation; 2. Stelma C. Sancious—Christian Endeavor; 3. Frances Williams—Community Service; 4. Helen W. Scott—Education.

Continental Societies, Inc.: North Shore Chapter: 1. Blanche Jones—Political Action; 2. Juanita Robinson—Education; 3. Elizabeth Williams—Occupation.

Drifters: 1. Shirley S. Williams—Community Service.

Faith Baptist Tabernacle: 1. Frances Holman—Community Service.

Kappa Alpha Psi Fraternity: Asbury-Neptune Chapter: 1. Karl Crudup—Education; 2. Darryl Daniels—Political Action; 3. Jesse Galloway—Community Service; 4. Frank Wilson—Occupation.

Monmouth County Business and Professional Women's Club: 1. Agnes Epps (posthumously)—Community Service.

N.A.A.C.P.: Asbury-Neptune Chapter: 1. Rev. Vernon McGowen, Jr.—Community Service/Christian Endeavor.

Monmouth County Men's Club: 1. Thomas D. Marshall—Education.

National Council of Negro Women: 1. Girdie B. Washington—Christian Endeavor.

Neptune Junior High School: 1. Yvonne Dean—Education.

Neptune Township Board of Education: 1. James Terrell—Education.

Omega Psi Phi Fraternity: Asbury Neptune Chapter: 1. Ermon K. Jones—Community Service; 2. Judge Lawrence M. Lawson—Occupation; 3. Bernard Oates—Christian Endeavor.

St. Augustine Episcopal Church: 1. Rev. Sandra A. Wilson—Christian Endeavor; 2. Marie S. Williams—Community Services; 3. Henrietta Zachary—Education.

St. Thomas Episcopal Church: 1. Clinton Crocker—Community Service.

Volunteers in Courts and Corrections: Asbury Park Juvenile Conference Committee: *1. Henrietta Zachary—Community Service.

CAMPAIGN FINANCE REFORM

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MAVROULES. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 14, a comprehensive and necessary campaign finance reform package. I hail my colleagues, Congressmen COELHO, SYNAR, and LEACH for their leadership in introducing this legislation that will modify and reform our present system of congressional campaign financing.

In my judgment, campaign reform is necessary if we are to achieve the ultimate goal of restoring public confidence in our electoral process. In order to do so, I believe that any campaign reform bill passed by the Congress must, first and foremost, achieve two important objectives. It must increase the influence of the individual voter in each congressional district, and it must lessen Congress' dependence on Political Action Committee contributions.

Shockingly, campaign spending for congressional campaigns increased from $60.9 million in 1975–76 to more than $194 million in 1985–86. This whopping increase in campaign cost should be and is a bipartisan concern. Besides being a shameful waste of resources, this level of expense forces members to spend, large amounts of their time fundraising; time often better used addressing the needs of the Nation.

This proposal effectively addresses my areas of concern. The legislation reduces the role, and therefore influence, of political action committees, it places reasonable limits on campaign spending, and it allows greater participation of individual voters. This bill limits, for the first time, the total PAC contributions a House candidate can receive and establishes spending limits and a matching public funding system.

The Coelho-Synar-Leach bill contains two major provisions that move toward these goals. Regarding greater individual voter participation, candidates must demonstrate local involvement by raising 10 percent of the spending limit from individuals, 80 percent of which must be contributed from home State residents in amounts of $250 or less. As recently as 1974, small individual contributions represented 50 percent of the total contributed to House candidates. However, by 1986 small contributions amounted to only 15 percent of the total. This section will return thousands of small contributors to the electoral process.

Since 1977, political action committee contributions to House candidates have increased from $15 to $82 million. According to Common Cause, winning House candidates received 45 percent of their contributions from PAC's; it appears that we are moving quickly toward a time when a majority of members will receive more than half of their contributions from PAC's. H.R. 14 will ensure that those candidates who qualify for matching funds receive no more than $100,000 per 2-year election cycle from PAC's.

Another important provision of H.R. 14 will voluntarily cap campaign spending. Those candidates who agree to a spending limit of $400,000 become eligible for partial matching funds in the general election. The bill also contains other reforms dealing with independent expenditures, negative advertising, the amount of personal funds which a candidate may contribute, and other enforcement issues.

Mr. Speaker, as I have said before, when our Founding Fathers designed our constitutional government some 200 years ago, they envisioned a bicameral legislature which was accountable and responsive to the American people. The high cost of campaigns and our present method of financing them has raised serious doubts as to whether our present system is meeting those lofty goals. If we fail to seize this unique opportunity we may ultimately run the risk of losing the confidence of a vast majority of the electorate.

Most of us can well remember the circumstances surrounding the passage of the Presidential Elections Campaign Act more than a decade ago. I am confident that the lessons gained from that experience will allow us to work together in a bipartisan manner to bring about a new system which is fair and open to everyone; a system not unlike the one envisioned 200 years ago.

HONORING LOU ELLA WALLING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. BROWN of California. Mr. Speaker, today in my home town of Riverside, Lou Ella Walling will be honored as the 1989 Soroptimist Gold Key Award winner. I would like to pause for a moment and recognize this valuable member of our community.

Each year, the Soroptimists honor a person that exemplifies the spirit of voluntarism. It is plain to see why Lou Ella Walling has been chosen for the 1989 award. She has been an active volunteer in the areas of cultural arts, children, the handicapped, and women's organizations for over 20 years. As part of her service, she has presided as president of the Riverside Imperial Epilepsy Society, the Victoria Garden Club, the California Federation of Women's Clubs, the Visiting Nurses Association, and the Riverside Woman's Club.

Our Nation is enhanced because volunteers willingly work to improve the lives of innumerable individuals, to make communities more beautiful, to make art more accessible to everyone, and in general, to improve the lives of each and every one of us. We in Riverside have been especially blessed because Lou Ella Walling has served her community so well. She is especially deserving of the Soroptimist's Gold Key Award and I am sure my colleagues will join with me in recognizing her here today.

TRIBUTE TO BROTHER BOOKER T. ASHE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MOODY. Mr. Speaker, I am privileged to honor Brother Booker T. Ashe for 25 years of service to the Milwaukee community.

As director of the House Peace Community Center, Brother Ashe has provided a sanctuary for the sick, the impoverished, the hungry, and the desperate. He provides the support, concern, and understanding that is absent from the lives of those who seek assistance.

All too often, caring and compassionate people sit idle, perhaps feeling that their individual efforts would have little effect on the problems facing our country. Brother Ashe demonstrates the tremendous good that one man, intolerant of cruelty and suffering, can accomplish.

Brother Ashe entered the Capuchin Order in June 1951 and has dedicated his life to helping others through a variety of activities and organizations. He has served as president of the National Black Clergy Caucus and was a member of the board of directors of the National Office for Black Catholics. He was also a member of the board of the National Catholic Conference for Interracial Justice and he served on the board of the National Association for the Advancement of Colored People.

Locally, Brother Ashe is a past chairperson of the Milwaukee Commission on Community Relations. He has also served on the Milwaukee Council on Alcoholism, the Volunteer Action Center, the Board of Directors of Catholic Social Services, and many other worthwhile and vital community groups. His endless energy and dedication inspire all of us to remember those less fortunate and to work to end the pain and suffering they endure.

Mr. Speaker, I am proud to honor Brother Booker T. Ashe for his unselfish service to Milwaukee and our country.

HAPPY 100TH BIRTHDAY MRS. KALINOWSKI

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mrs. SCHROEDER. Mr. Speaker, Caroline Kalinowski will be 100 years old today and I want to wish her a very special happy birthday.

Mrs. Kalinowski came to the United States from Poland when she was 16. She married

Martin Kalinowski, a coal miner in Pennsylvania, and when he died in 1926, she had the responsibility of raising four young children. She also taught herself to read and write English, and worked in the garment industry in Brooklyn until she was 72 years old.

Mrs. Kalinowski, who now lives in Denver, has five grandchildren and five great-grandchildren.

Happy birthday Mrs. Kalinowski.

ROE VERSUS WADE

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. WEISS. Mr. Speaker, January 22, 1989, marked the 16th anniversary of the historic Supreme Court decision in Roe versus Wade affirming a woman's constitutional right to choose to have an abortion under certain circumstances. Every year since 1973, polls have indicated that the majority of Americans have continued to support this landmark ruling.

With this month's Supreme Court decision to examine a Missouri abortion statute, however, a very vocal minority has stepped up its attacks on the Roe versus Wade ruling. As the Court could use the Missouri case to reconsider Roe versus Wade, now is an especially crucial time for us to reaffirm our commitment to the fundamental right to choose to have an abortion. As Members of Congress, it is our responsibility to protect the rights of the people, no matter how outspoken the opponents may be.

Abortion is legal, and must remain legal.

It is estimated that prior to 1973, hundreds of thousands of women a year were forced to rely upon abortions that put their health and lives at risk. Hundreds of women died annually as a result of botched abortions, and thousands of women suffered permanent disability as a consequence of failed abortions in their homes and on the network of back-alley abortionists. I saw the results of this butchery as a young prosecutor in New York charged with investigating and prosecuting those performing illegal abortions.

We must never return to such a perilous, potentially lethal situation. The Roe versus Wade ruling allowed women to make the very difficult and personal decision to end unwanted pregnancy without risking prosecution, mutilation, or death.

Over the course of the past 16 years, Congress has faltered in its duty to protect the rights set forth in the Roe versus Wade ruling by passing measures that have denied certain women their constitutional right to choose to have an abortion. Our Government is currently straddled with an abortion policy that discriminates against poor women, women in the Armed Forces, military dependents and retirees, women incarcerated in Federal prisons, Peace Corps volunteers, residents of the District of Columbia, and Native American women who receive their medical care through the Indian Health Service.

The commencement of a new administration and a new Congress marks an ideal time to begin remedying the tragedy of this discriminatory policy. As we commemorate Roe versus Wade, we must pledge to guarantee safe and accessible abortion services to the poor as well as the rich. And as we face potential Supreme Court reconsideration of the ruling, we must unite and demonstrate our strong commitment to maintaining right to choose for all women.

LONNIE M. NELMS: A DEDICATED PUBLIC SERVANT RETIRES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. MONTGOMERY. Mr. Speaker, outstanding public service should not go unheralded. It is, therefore, my pleasure to share with my colleagues a glimpse of the career of a dedicated Federal worker whose service to his country has spanned more than three decades.

On December 3, 1988, Mr. Lonnie M. Nelms of Corinth, MS, retired as Director of the Corinth National Cemetery, a post he assumed in August 1981. Almost 6,500 veterans and family members are interred in this picturesque, beautifully-manicured 20-acre cemetery.

Since 1958, Mr. Nelms has held a series of positions throughout the South in the Veterans' Administration's National Cemetery System, which consists of 113 cemeteries in 38 States and Puerto Rico. For his compassionate and dedicated service in behalf of our Nation's deceased veterans and their families, he has been recognized by the VA's Chief Memorial Affairs Director with the Department of Memorial Affairs' Oustanding Career Award.

Mr. Nelms is an Army veteran who served from 1954 to 1956 in France and Germany.

Mr. Speaker, I know my colleagues will want to join with me in congratulating Mr. Nelms for the high caliber and longevity of his government service and in conveying our best wishes for a healthy, happy retirement.

REPEAL OF SECTION 89 EMPLOYEE BENEFIT RULES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. LaFALCE. Mr. Speaker, on behalf of myself and 34 of our colleagues, I am introducing legislation today to repeal section 89 of the Tax Code relating to employee benefit plans. Section 89, which was enacted as part of the Tax Reform Act of 1986, is intended to ensure that employer-sponsored benefit plans are fairly distributed among all employees, regardless of salary level.

I want to emphasize, Mr. Speaker, that we fully support the intent of section 89 and applaud its ultimate goal of encouraging employers to expand health insurance coverage among the working uninsured. But we are concerned that the new law, which took effect Janaury 1, is so complicated and the compliance burden so costly that it may well have the opposite effect.

Section 89 requires all employers to conduct a series of complex statistical tests to determine if their employee benefit plans, principally health and life insurance, are distributed fairly between highly paid and rank-and-file employees.

Business owners will face costly data-gathering requirements and complicated valuation rules to measure the eligibility and benefit provisions of each of their benefit plans. If a benefit plan fails the statistical tests required by section 89, highly paid employees would be taxed on the value of the excess benefits they receive. And if a business fails to report to IRS the amount of excess benefits provided to employees, the employer will also face tax penalties.

Mr. Speaker, section 89 is so complex that the Treasury Department has yet to issue regulations implementing the new law. Last year's Technical Corrections Act imposed a deadline of November 15, 1988, but still no regulations have been issued to provide definitions and guidance to employers.

The extreme complexity of section 89's benefits testing requirements, the costly administrative burden it imposes, and the lack of any formal guidance from Treasury makes it very difficult, if not impossible, for employers to comply with the law.

The compliance burden will fall particularly hard on small businesses because of their heavy reliance on part-time workers and their high rates of employee turnover, and because they simply cannot afford the costs of hiring outside consultants.

As a result, section 89 will likely have an adverse impact on the expansion of health insurance coverage. Those firms that do not now offer health benefits will be futher discouraged from doing so, and those that do provide health plans may be inclined to reduce their benefits or terminate their plans altogether.

It is for these reasons that I am introducing legislation to repeal section 89. Repeal of the law will give Congress an opportunity to review the potential impact on employers and to examine reasonable, simplified alternatives to achieve the policy goals of assuring fair distribution of employee benefits and reducing the ranks of the uninsured.

A TRIBUTE TO REV. D.B. WALKER

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. DERRICK. Mr. Speaker, I rise today to recognize a truly special man, Rev. D.B. Walker of Honea Path, SC.

On January 14, Reverend Walker was honored by his Liberty Baptist Church family for 40 years of faithful, sincere, and efficient ministry.

Born in Anderson County, SC, D.B. Walker attended Anderson County public schools. He

graduated from Benedict College in Columbia, SC, received a masters degree in education from A&T University in Greensboro, NC, and was a public school teacher for 26 years. An honorably discharged veteran of World War II, he served much of his time in uniform overseas. He is married to the former Amanda McPhail and they are the parents of two daughters.

As a teacher and now a minister, D.B. Walker has inspired and touched countless lives. I believe a poem on "Greatness" by C.E. Flynn that was included in the tribute's souvenir bulletin states it best:

"A man is as great as the dreams he dreams,
As great as the love he bears;
"As great as the values he redeems,
And the happiness he shares.
"A man is as great as the thoughts he thinks,
As the worth he has attained;
"As the fountains at which his spirit drinks,
And the insight he has gained.
"A man is as great as the truth he speaks,
As great as the help he gives;
"As great as the destiny he seeks,
As great as the life he lives."

Please join me, Mr. Speaker, in congratulating a great man— Rev. D.B. Walker—for four decades of spiritual guidance to his Honea Path congregation. He has my heartfelt thanks for his contributions to the community. And I want to wish him God's continued blessings.

A TRIBUTE TO TIMOTHY PATRICK FURLONG

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Ms. PELOSI. Mr. Speaker, I rise today in memory of Timothy Patrick Furlong. A native of Dallas, TX, and a resident of Washington, DC, Tim Furlong was an attorney, an activist and fundraiser in the Democratic Party. He was a long-time aide and political associate of U.S. Senator LLOYD BENTSEN. Tim served as a cochairman of the 1988 Washington Gala for the Dukakis-Bentsen Presidential campaign.

Because of Tim's love of politics and knowledge of history and the political process, he was able to provide counsel and assistance to a wide range of elected officials, political candidates and causes. He was a tenacious fighter for what he believed—yet always gracious and dignified in victory or defeat. As a leading lobbyist on Capitol Hill, Tim was well known to Members of Congress and political leaders nationwide where he helped to achieve legislative solutions to a range of public policy problems. Tim earned a reputation for his substantive approach, political savvy and honesty.

A founding partner in the Washington, DC law firm of McAuliffe, Kelly, Furlong, Aldrich & Siemens, he was a former partner in the California and Washington law firm of Manatt, Phelps, Rothenberg & Evans.

Tim loved running, bicycling, football, reading and travel and was a connoisseur of fine wines and foods. His generosity and helping hand were shared by all. He pursued quality in all his endeavors and, above all, in his relationships with his family and friends.

He is survived by his parents, Pat and Katy Furlong; his brother and sister-in-law, Dennis and Dede Furlong; two nieces, Shea and Maggie Furlong; many aunts, uncles and cousins and countless friends across the country. Tim's older brother Michael passed away in March 1988.

Tim was a wonderful friend to each and every one of us. His zest for life, his love and his thoughtfulness will continue to be a very special part of our lives.

OUTSTANDING CITIZENS OF BEAVER COUNTY, PA

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. KOLTER. Mr. Speaker, I rise today to honor two truly outstanding citizens of Beaver County, PA, in my Fourth Congressional District.

The Upper Beaver Valley Jaycees have chosen Joseph Sabella of New Brighton as "Man of the Year," and Dr. Betty Steege of Beaver as "Woman of the Year." Both are to be honored at a distinguished service awards ceremony.

Mr. Sabella, a graduate of New Brighton High School, my alma mater, has served the Jaycees in many fine capacities, including that of JCI senator. His achievements have also been exemplified in various Fourth District community organizations, especially in the area of advocacy for the handicapped. Joe Sabella is certainly a living example of the leadership abilities cherished by the Jaycees.

Dr. Steege is recognized and applauded for her tremendous efforts with Beaver Valley service organizations. Her many years of volunteering have greatly benefited local communities. Betty's significant contributions to local business, education and community development have left a positive lasting impression with area citizens. Her tradition of service, in fact, continues as she begins her term as the first woman president of the United Way of Beaver County.

I rise today to ask my colleagues to join me in congratulating Joseph Sabella and Betty Steege upon their reception of the distinguished service award, and I also commend the Upper Beaver Valley Jaycees for the distinction of conducting the longest continuously run project in the history of the Pennsylvania Jaycees organization.

THE OUTLOOK FOR REFUSENIKS IS MIXED

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. CLARKE. Mr. Speaker, as we begin the work of a new Congress, let us not forget a continuing problem: the denial by the Soviet Government of the right of free emigration. Although many have been released in recent months, the problem is by no means solved.

Let me focus on two refusenik families who illustrate the two sides of the situation.

After many years of waiting, Yuly Kosharovsky has finally been told that he can emigrate. Like many others, he kept faith during the grim years when only a few hundred were allowed to leave each year, when harassment and economic hardship were the predictable results of applying for permission to leave. Despite the risks, Yuly learned Hebrew and became a Hebrew teacher, an activity the Soviet authorities tried by threats and intimidation to discourage. As other veteran refuseniks have been allowed to leave in recent years, Yuly has stepped forward as a spokesman and champion of the many who remained. Articulate and persuasive in English as well as Russian, Yuly did much to keep world attention directed to this continuing injustice. Now, at last, after years of waiting while his beard began turning grey, Yuly Kosharovsky and his family have been told they are free to go.

The Igor Uspensky family illustrates the other side of the situation. They are victims of an unfair and arbitrary Soviet policy that bans emigration of persons in possession of state secrets. There are two problems with that policy. One is that the definition of state secrets is so broad that persons who worked as language teachers and meatcutters have been denied exit permission on the ground of state secrecy. The second problem is that despite President Gorbachev's promise to put a time limit of 5 years on the use of that rule after the end of access to secrets, no limit appears to be in effect. Igor Uspensky and his wife Inessa have been denied repeatedly on secrecy grounds since 1979, most recently in November of last year. Their son Slava, who has never had access to secrets, applied separately and was turned down as well. The Uspensky family has suffered enough. The Soviet Government should let them go.

Mr. Speaker, the Soviet Union has signed international agreements recognizing the right of free emigration. They are therefore under obligation to dismantle their emigration procedures and let people leave who want to do so, except those under prosecution for legitimate crimes. At the very least, the Soviet authorities should put a time limit on secrecy refusals, end the ability of relatives to block emigration, and cancel the pointless requirement that emigrants be invited to go abroad by a close relative already there. This Congress will not be satisfied while those steps remain to be taken.

THE DEDICATED SERVICE OF THE SIMMONS FAMILY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mrs. MORELLA. Mr. Speaker, I would like to draw your attention to the family of Gary and Brenda Simmons of Cabin John, MD. This unique family has provided years of dedicated service to the people of Montgomery County,

MD. In fact, every Simmons over 16 years of age has served in the fire/rescue service in Montgomery County.

Gary is a volunteer assistant chief for the Cabin John Park Volunteer Fire Department, and was formerly a paid firefighter for the Bethesda Fire Department. For many years, Brenda has been the official photographer for both the CJPVFD and the Bethesda-Chevy Chase Rescue Squad. Gary and Brenda's children, Wade and Erica, have served with both Cabin John and Glen Echo Fire Departments as volunteer firefighters and ambulance technicians since first becoming eligible at 16, and Gary and Brenda's youngest son Justin will soon be old enough to follow suit.

I am sad to report that the Simmons' will soon be moving from Maryland's Eighth Congressional District to Georgia's First. Although the citizens of Montgomery County will no longer have the fine services of the Simmons family, I understand that the newest constituents of my colleague, LINDSAY THOMAS, are planning to join a volunteer fire department near Savannah. Although I have lost a real community asset, I would like to thank the Simmons' for their service and to wish them the best of luck in Georgia.

A TRIBUTE TO FLOYD AND LYNN HALL

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. HUBBARD. Mr. Speaker, I want to pay tribute today to a wonderful couple, Floyd Benjamin Hall and Pearl Lynn McCormick Hall, who reside in Metropolis, IL.

Both Mr. and Mrs. Hall are ill and have spent many weeks at Western Baptist Hospital in Paducah, KY.

Their talented daughter, Joyce Lynn Hall Hubbard, has been in western Kentucky and Metropolis the past several weeks, assisting her parents.

The many relatives and friends of Floyd and Lynn Hall are aware of the many accomplishments of this couple for their community, for their church—Metropolis' First Baptist Church—and for countless people in western Kentucky and southern Illinois.

Among those specially helped by this beloved couple was this Member of Congress. In 1967 Floyd and Lynn Hall greatly assisted me—at age 29—in defeating an 8-year incumbent for the office of State senator from Kentucky's First District.

The main reason they supported Carroll Hubbard for State senator in 1967 was that I had married their only child, Joyce Lynn Hall, on August 20, 1966.

Floyd and Lynn Hall were also very helpful to this Member of Congress when I was reelected State senator in 1971.

In 1974, Floyd and Lynn Hall were very helpful to their son-in-law when I was elected to the U.S. House of Representatives, defeating a 16-year incumbent in the Democratic Party primary election.

They have been of tremendous help to me through the years.

I admire their efforts to win the battle now against serious illnesses which currently caused physical weakness and dependency.

Three Kentuckians of whom Floyd and Lynn Hall are understandably very proud are their daughter Joyce and their only grandchildren—Kelly Lynn Hubbard, a 19-year-old sophomore at Duke University in Durham, NC, and Krista Leigh Hubbard, a 15-year-old sophomore at Langley High School in McLean, VA. Krista would probably appreciate it being mentioned that she will be 16 on Wednesday of next week—February 1.

Naturally, those of us who know, love, and appreciate Lynn and Floyd Hall wish for them a speedy, complete recovery. Our prayer is that God will richly bless them now and always.

TRIBUTE TO ROLAND J. LEDEBUHR

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. CARR. Mr. Speaker, I rise to recognize a remarkable individual, Roland Ledebuhr, for receiving the National Association of Realtors, National Distinguished Service Award. I am honored to serve as his Representative in Congress.

This is an honor awarded to those few members who have served with great distinction for years at all levels of organized real estate.

Roland Ledebuhr captures the essence of the Distinguished Service Award through his uncompromising high ethical standards. His life's basic principle of living by the Golden Rule, a concept on which our own code of ethics is founded, is evident in his many accomplishments.

Roland has always been a pillar of strength for the realtors. The leadership posts he has held in the local, State, and national associations are many and broad based. he has held positions of importance and great responsibility, and he has excelled in the execution of his duties, thereby solidifying the level of respect which realtors continue to hold for him.

Roland has been instrumental in steering the National Association of Realtors, the Nation's largest trade and professional association which represents nearly 800,000 members involved in all aspects of the real estate profession. He continues to serve his fellow realtors unselfishly, giving of his time and good counsel.

HONORING VELMA NOONAN

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. WALGREN. Mr. Speaker, it is with pride that I rise today to honor a most distinguished constituent and friend of mine, Velma Noonan. Velma is retiring from United Mental Health, Inc., where she has been instrumental in building a strong grass-roots mental health coalition of consumers, families, advocates, and providers. Velma has not only led that coalition in improving services and supports for mentally ill persons, but has also been a valuable resource for those of us responsible for Government policy. Velma Noonan has worked tirelessly to build a better world without seeking public attention and recognition.

Although Velma is retiring, I have no doubt that her involvement will continue to serve as a fine example for those of us who care about the community in which we live.

Mr. Speaker, I ask you and my colleagues to join with me in recognizing Velma Noonan and commemorating her services to the mental health community.

THE RETIREMENT OF MRS. MARY PRINGLE SYMONDS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay special tribute to a member of my community who, through her uncompromising dedication to the preservation of historic Annapolis, has created a living monument for her fellow Marylanders and the Nation. Mary Pringle Symonds has served unselfishly for over 25 years as a volunteer, commissioner, and president of Historic Annapolis, Inc.; a model organization blending corporate and private sector commitment to the preservation of historic Annapolis.

Mrs. Symonds began her work in Annapolis in 1963 as a volunteer for the Historic District Commission. She spent many long hours generating interest in the pre-Revolutionary seaport of Annapolis which had once served briefly as the capital of the newly formed United States. From 1969 to 1977, Mrs. Symonds served as the first president of the Annapolis Historic District Commission. It was under her leadership that the William Paca House (circa 1765) was restored for the 1976 Bicentennial celebration.

In 1977, Mrs. Symonds became president of Historic Annapolis, Inc. It was in this position that she was most able to promote the historic preservation of Annapolis through local, county and State channels. As Mrs. Symonds retires from her 10-year term as president of Historic Annapolis, Inc., she leaves a cultural legacy to all those fortunate enough to visit the National Historic Landmark of Annapolis.

Although I regret Mrs. Symonds' retirement, I am heartened by the fact that she will continue to serve on the board of Historic Annapolis, Inc. I am proud to offer my congratulations to Mrs. Symonds and extend my best wishes to her. I am sure that my colleagues will be pleased to join me in this much deserved salute to Mrs. Symonds and her work.

A TRIBUTE TO EUGENE ENDRES

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. APPLEGATE. Mr. Speaker, it gives me a great deal of pleasure to bring to the attention of my colleagues in the U.S. House of Representatives and to the American public the induction of Mr. Eugene Endres of New Philadelphia, OH, as an honorary member of the Tuscarawas County Chamber of Commerce. This is, indeed, an honor as only one other person has this distinction.

Born in New Philadelphia, OH, in 1917, Gene has remained in his hometown throughout his life dedicating it to his family, friends, and his profession. His chosen field of a florist began some 53 years ago when he entered the family business in New Philadelphia and of which he served as president for the past 37 years until his retirement last year. It was in this capacity that Gene's reputation as a rose grower became known throughout the floral industry in both this country and in others. He has traveled extensively, always promoting the floral industry, with particular emphasis on the rose, and Tuscarawas County.

Because of his contributions to the industry, Gene has been honored many times by many different groups including the Ohio Agricultural Society and the American Floricultural Society which inducted him into their hall of fame. He also has served as president of Roses, Inc.

Those who know Gene Endres are well aware of his lifetime contributions outside of his profession, as well. Dedicated to the Tuscarawas County area, Gene never misses the opportunity to tout the virtues of the area and all that it has to offer. He has contributed much to the development of the New Philadelphia area by his generous offering of his personal time and resources. Those outside his county who know of it probably have heard about it from Gene.

This most recent honor of confirming upon Gene Endres an honorary membership of the Tuscarawas County Chamber of Commerce is a fitting tribute to a man that has contributed so much.

Mr. Speaker, I am very fortunate to be the representative of an area that has as one of its residents a man like Gene Endres. He is one of which many of us are proud for what he has accomplished and who I am proud to call a friend.

VIOLET ELEMENTARY SCHOOL DEDICATES NEW LEARNING CENTER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. BONIOR. Mr. Speaker, it is my honor to announce that on February 2, 1989, the Violet Elementary School in St. Clair Shores, MI, will dedicate a new learning center to its former principal of 15 years and a good friend of mine, Ms. Elvira T. Hauslein.

As the first principal of Violet elementary in 1960, Ms. Hauslein helped establish and maintain an innovative curriculum for her students. She initiated an outdoor camping program, coordinated a school-to-school project with an elementary school in Israel, and created an international exchange with another elementary school in Godrich, ON, Canada. She also served on the State curriculum committee for health, physical education, and recreation from 1959–61.

The scope of the curriculum she administered at Violet elementary was not confined to regional and international interests. Her knowledge of the aerospace field brought the entire universe to her students. After witnessing the launch of Apollo 17—the only night launch of the Apollo program—Ms. Hauslein brought back souvenirs to her students, enabling them to share the experience as well.

Ms. Hauslein took an active role in aerospace education during a time when our Nation was just beginning to explore beyond our atmosphere with manned flights. She was a member of the Michigan aerospace education curriculum committee, the Air Force Association, the Civil Air Patrol's aerospace education division, and the National Aerospace Education Council. From 1961–62, she served as the Michigan Education Association's assistant program chairperson for aerospace education and later as the group's chairperson.

Her dedication to education found her serving as a representative to the Macomb County radio council. From 1960–62, she arranged programs to tell the story of education to radio listeners across Macomb County.

It is in recognition of the spirit Ms. Hauslein brought to education that the Hauslein Learning Center will continue to satisfy the curiosity of young boys and girls who are fortunate to attend Violet Elementary School.

HON. M. EUGENIA CHARLES, PRIME MINISTER OF DOMINICA, SPEAKS TO THE FUTURE MIAMI CONFERENCE ON THE CARIBBEAN

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 24, 1989

Mr. FASCELL. Mr. Speaker, I recently attended the Conference on Central America and the Caribbean which is held each year in Miami, FL. This annual conference brings together political and governmental leaders from Central America and the Caribbean with officials of the American Government, representatives from Congress, academic experts on the area, and a wide variety of business and corporate representatives who are interested in helping with economic development in the region. The conference has grown in importance over the years and is now regarded as one of the most important forums for multilateral contacts in the region.

At the closing banquet of this outstanding conference, the Honorable M. Eugenia Charles, the Prime Minister of Dominica, delivered an inspiring speech which I believe should be of interest to the Congress and to the public.

ADDRESS BY M. EUGENIA CHARLES, PRIME MINISTER OF DOMINICA, FRIDAY, DECEMBER 2, 1988, MIAMI CONFERENCE ON THE CARIBBEAN

Honorable heads of government, Dr. West, other distinguished guests, ladies and gentleman. Earlier today, I proposed that we look backward.

Now, it is time to look forward. It is time to spread on the record a message from this Conference to those who will be trying to respond to Caribbean Basin concerns over the coming year.

As our chairman this noon, Mr. Brooks, noted, I have been coming to many of these Conferences, and they are not all alike. In every year, of course, they represent an opportunity for doing business, and the informal networking is reinforced by program sessions that cast light on some of the problems and opportunities pertaining to the various most promising areas of business.

But on the policy side, Miami Conferences do differ year to year. Sometimes, when new initiatives have emanated from Washington or great decisions hang in the balance in Congress, the Conference has provided a platform for U.S. policymakers to display their wares, so to speak, for the benefit of the Caribbean consumer. It is an opportunity to educate the business and government leaders in the Caribbean, or in Central America, on the details and purposes of external policies that affect them. This is true not only of U.S. policy—though it does tend to affect us in the region most of all—but of other industrialized trading partners and aid providers which have sent high-level officials to this Conference.

Sometimes, however, especially when there is a hiatus in U.S. policy during a change of Administration, the Caribbean Basin comes out from under the shadow of great-power policymaking, and the spotlight is able to fall upon our own vision of our future.

This is one of those years.

As in 1980, this Conference offers a special opportunity for the leaders of the Caribbean Basin to challenge the incoming U.S. Administration with a call for action on a Caribbean agenda according to our own priorities. We know that President-elect Bush—who has twice participated in the Miami Conference in years past—is no stranger to the concerns of our region. Our hopes are high that the spirit of the CBI will carry forward unabated, and indeed that we will experience a rebirth of enthusiasm in the effort to make the CBI even stronger and more effective.

But it would be unfair to expect Mr. Bush to step forward at this time with a blueprint for Caribbean Basin policy in the new Administration. It is more appropriate for us to lead the way, by examining the issues among ourselves, and pointing out what needs to be done.

We have had a busy week, with very substantive programs in the individual session, and a long day of policy dialogue today. Those of us who had the stimulating experience of participating in this afternoon's "policy forum" now understand why Peter Johnson has been describing this session all along as sort of a Phil Donahue Show with Dante Fascell as the Phil Donahue.

Well, as I lay no claim to the talents of a Donahue—or a Fascell—I promise tonight to be mercifully brief.

There are basically two messages I would like to leave you with. The first is addressed to those outside our region. It is a message

of what the people of the Caribbean Basin need and expect from those who claim to care for us and for our future. The second is addressed to ourselves—the public and private-sector leaders of the Caribbean and Central America.

First, the outside message.

We all know the issues—more trade access, better incentives to attract investors, getting more mileage out of tourism, getting the financial aid needed for infrastructural and human resource development. These are issues that affect all our trading partners and aid providers—the British, the Europeans, the Canadians, the Taiwanese, now potentially the Japanese and others—in addition to the Americans. But giving due regard to where and when we are meeting, I would like to target a few recommendations directly at Mr. Bush and members of the incoming 101st U.S. Congress.

In respect to trade, we are counting on the improved market access promised to be forthcoming in CBI-II. I am encouraged to have heard this week that the legislation will be resubmitted immediately and action could come as early as April. I can only say that it is time for the dragging of feet to stop and the Caribbean agenda to be moved to the top of the pile. For the last two years we have been hearing that there is great support for a bill to boost the CBI—if the trade bill all gets done first, and if the tax bill all gets done first, if the Canada treaty gets done first. One can't help thinking of the Caribbean as cast in the role of Cinderella, who gets to go to the ball if the scrubbing and washing is done and she finds something suitable to wear. It's time to send the message that the countries of the Caribbean have been the forgotten stepchild long enough.

During the past year we in the Caribbean and Central America have had many opportunities to express our views on the CBI-II legislation, and I believe there is broad consensus behind the Gibbons Bill. In my view, if the Congress really wants to help the Caribbean, it must be willing to look again at the exclusion of textiles and leather goods. There must be a willingness to look at quantity, and to realize that the level of exports from CBI countries to the U.S. market is simply not going to hurt U.S. producers.

Aside from new legislation, however, much can be done to improve access to the U.S. market. Many of the obstacles we face are procedural ones, from Customs regulations, agricultural regulations, or other bureaucratic hurdles. None of us is suggesting that the United States relax its standards or do anything that would bring harm to the U.S. population, like admitting fruit with fruitflies. But we have to ask which of all these regulations serve a real purpose, and which are merely hangovers from the past which no one has looked at recently. And it's not too late to implement one idea that had come out early on in the CBI discussions—putting U.S. agriculture inspectors on-site in the CBI countries so that if perishable products are going to be rejected, it happens before rather than after someone pays to ship them to Miami.

Market access, however, is still not enough. It must be complemented—as the original CBI contemplated—with investment incentives. The fact today is that we in the Caribbean welcome investors and give them every encouragement, knowing their plants will mean jobs and foreign exchange earnings. But they don't get any corresponding incentive from the United States. The next Congress would do well to consider restoring the concept of the investment tax credit.

At the same time, it is critically important that Congress leave in place the only existing program that offers an incentive to investors—Puerto Rico's 936 program. I know that many have expressed frustration over the flow of funds from the 936 initiative, and it is extremely important that any remaining bureaucratic obstacles, whether on the part of the U.S. Treasury or of Puerto Rico, be put aside. I would like to note, however, that Dominica has in fact already benefited from this program, and I would encourage others to explore it more creatively. I might add that I myself fail to see what is regarded by many in the region as so objectionable about signing Tax Information Exchange Agreements. Dominica has a TIEA in effect, and I foresee no possible harm that will come to us on that account.

The 936 program at its full potential could provide the tool we need to recapture the interest of the U.S. private sector. For a while, after the launching of the CBI by President Reagan, there was a spurt of high interest by U.S. corporations in exploring the region, but the level of interest needed to really make the CBI concept work has not continued. We need to bring it back.

The original CBI had three components—trade, aid and investment. Like the missing investment component, the aid component was indispensible. Foreign assistance—at meaningful levels and disbursed in an effective manner—must still be seen as an essential part of U.S. policy toward the Caribbean Basin.

This afternoon Congressman Fascell told us that for all practical purposes the Caribbean Basin wouldn't be getting any more U.S. aid, the victim of the U.S. budget squeeze and the earmarking of funds for other parts of the world. We are supposed to accept this as part of political reality.

Well, it is not acceptable. The importance of peace and democracy in the nations surrounding the United States to the security of the United States is part of political reality. The dependence of Caribbean democracy on the ability of our nations to meet the economic needs of our people is part of political reality—for us as elected Caribbean leaders, and, yes, for the United States of America.

For the less developed islands of the Caribbean, particularly, the breaking down of tariff barriers will avail us little if we cannot get the assistance we need to develop our infrastructure and our human resources.

Development assistance, after all, is not money down a rat hole, as many persons apparently believe. Nor are the Caribbean economies the basket cases they were once taken for, even a few years ago. Thanks in part to the CBI and the aid that accompanied it, our finances are now in better shape. Most countries of the region are showing growth in every sector—industry, agriculture and tourism. It is penny wise and pound foolish to deny the modest help that can make us truly self-supporting just a few years over the horizon.

An effective aid program also has as much to do with the way money is spent as with the total amount allocated. I often feel that a small package of money given to us directly, with full accountability in how it is spent, would go a long way further than the same money given to outside contractors and consultants to implement projects for us.

I also feel that something is amiss in the allocation of funds among aid recipients worldwide. While it is important to help the poorest of the poor, it is also important to help those who are also poor but are making a real effort to get out of poverty, and have a real prospect for doing so. The per-capita income test as applied to the small countries of the Caribbean totally obscures their genuine development needs, and should be done away with.

Another aspect of U.S.-Caribbean relations that cannot be emphasized enough is the ongoing process of consultation. Earlier today I applauded the extensive consultation process that produced the CBI. And this Miami Conference forum itself illustrates the great value of coming together for dialogue, both among the countries of the region and with the U.S. and other developed nations.

But consultation must be an ongoing process. Three days a year at the Miami Conference are not enough. Initial discussions leading to new legislation two or three times a decade are not enough. The type of hearings and dialogue that have taken place today should be going on not just at international meetings but within our countries as well.

I would like to emphasize, however, the importance of listening to the right people. It is most unfortunate and counterproductive when meetings are called and persons are invited to speak on behalf of the region who do not in fact represent either the grass-roots institutions of the countries, the political sentiments of the majority of the people, or the substantive expertise in the matters discussed.

It is time for American decision-makers, in Congress, in the Administration, even in corporate boardrooms, to make the extra effort to listen to what the people of the region themselves, their elected leaders, are actually saying. This Conference is an important part of that process.

In closing, however, I would like to direct a few suggestions not to our American hosts but to ourselves, the public and private-sector leaders of the Caribbean Basin.

If we have gotten nothing else from CBI, we have learned that we are one. We are a region, indeed with unique nations but with many common interests. We can work together.

Today the countries of the Caribbean islands and Central America, along with our larger neighbors North and South, are working together. We are cooperating more and more closely in the war against narcotics trafficking. We are working closely on the CBI-II policy effort. We are discovering more opportunities for intra-Caribbean and cross-Caribbean-Basin trade and joint ventures.

We can look to the future with hope.

When we look to Europe, we needn't see the coming unitary market in 1992 as an approaching doom. There is no reason why a free market, approached effectively, cannot enhance our own opportunities.

When we look to Asia, we need not just see competitors for our jobs and exports. We can also see potential investors and joint venture partners and tourists and lenders.

As we in the Caribbean stand at the crossroads between the CBI's access to the U.S. market and Lome's access to the European market, we can use this dual advantage to attract trade and investment from all over the world.

In the spirit of that challenge, we face with confidence the wave of elections coming up over the next year in the Caribbean and Central America.

In the spirit of that challenge, we look forward with confidence to working with a new U.S. President and Congress, and with the nations of Europe and Asia—so many of them represented here.

In the spirit of that challenge, we can go forth from here with confidence to build the economic institutions, the political institutions, the educational resources, and the broadly shared prosperity our people want and deserve.

Thank you very much.

SENATE—*Wednesday, January 25, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity!—Psalm 133:1.

Mighty God, perfect in love, Author of peace, thank Thee for the 200-year miracle that is America—"E Pluribus Unum." Thank Thee for authentic unity in diversity which, like a rich tapestry of many colors, has one design. We know that "united we stand, divided we fall." Grant us the will to unity in diversity and the determination to resist division which leads to futility and destruction.

In the name of the Prince of Peace. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, for the information of all Senators, the Senate will be in session today until 6 p.m., or 6:30 p.m., sometime in that area. If a unanimous-consent agreement can be entered, there will be three back-to-back votes beginning at 5:30 p.m. The first vote will be a 15-minute vote on the nomination of James Baker III to be Secretary of State. This vote will be followed by a 10-minute vote on the nomination of Elizabeth Hanford Dole to be Secretary of Labor. The final vote will be a 10-minute vote on the nomination of Richard Darman to be Director of the Office of Management and Budget.

Hearings are being held this week on the following nominations: John Tower to be Secretary of Defense; Emanuel Lujan to be Secretary of the Interior; Robert Mosbacher to be Secretary of Commerce; Louis Sullivan to be Secretary of Health and Human Services; Jack Kemp to be Secretary of Housing and Urban Development; Samuel Skinner to be Secretary of Transportation; Carla Hills to be U.S. Trade Representative; and Michael Boskin to be a member of the Council of Economic Advisers.

In order that these hearings will be able to proceed uninterrupted, so that we may accommodate the request made by President Bush to me to expedite the handling of his nominees, it is my plan to not be in session tomorrow, to have a pro forma session on Friday, with no business transacted, and to be next in session on Tuesday, January 31.

On Tuesday, I am hopeful that committees will have reported the nominations of Mr. Lujan, Mr. Mosbacher, and Mr. Skinner. I would plan to vote on these and any other nominations which might be reported by that date.

It is my hope that this schedule will permit committees to proceed efficiently with the hearings on the Cabinet nominations, to enable the Senate to act on these nominations in a timely fashion.

The PRESIDENT pro tempore. Staff will please be seated.

EXECUTIVE BUSINESS—UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at 3 p.m. on January 25, 1989, the Senate go into executive session to consider the nomination of James A Baker III, to be Secretary of State, under a time agreement of 1 hour equally divided between the Senator from Rhode Island [Mr. PELL], and the Senator from North Carolina [Mr. HELMS], or their designees; provided that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business to the nomination of Elizabeth Hanford Dole to be Secretary of Labor, under a time agreement of 30 minutes equally divided between the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Utah [Mr. HATCH], or their designees; provided that at the conclusion or yielding back of time the nomination be temporarily laid aside and the Senate proceed, without any intervening business, to the nomination of Richard G. Darman to be Director of the Office of Management and Budget, under a time agreement of 1 hour equally divided between the Senator from Ohio [Mr. GLENN], and the Senator from Delaware [Mr. ROTH], or their designees; provided further that at 5:30 p.m. the Senate proceed, without any intervening business, to a 15-minute vote on the nomination of James A. Baker III, and upon completion of that vote the Senate proceed, without any intervening business, to a 10-minute vote on the nomination of Elizabeth Hanford Dole, and that upon completion of the vote the Senate proceed, without any intervening business, to a 10-minute vote on the nomination of Richard G. Darman.

I ask unanimous consent that it be in order to request the yeas and nays on all three nominations en bloc at this time with one show of seconds.

The PRESIDENT pro tempore. Is there objection?

Mr. SPECTER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Reserving the right to object, I inquire of the distinguished majority leader how much time did he say there would be provided for debate on the nomination of Mr. Baker?

Mr. MITCHELL. One hour.

Mr. SPECTER. I had made an inquiry yesterday of our own Cloakroom asking for 10 minutes on the nomination of Mr. Baker and 5 minutes on Mrs. Dole. I would appreciate having that much time. I do not know how it is going to be formulated based on what the majority leader has said.

Mr. MITCHELL. The unanimous-consent request provides that the allocation of time be under the control of the chairman and ranking members of the respective committees. I see the distinguished Senator from North Carolina, who would control the time on Mr. Baker.

Mr. HELMS. If the Senator will yield, I shall assure the Senator that he will have 10 minutes on the Baker nomination.

Mr. SPECTER. I thank the distinguished ranking member and the distinguished majority leader.

The PRESIDENT pro tempore. There are two requests before the Senate. Is there an objection to the request that the yeas and nays be ordered on one show of seconds on the three nominations? The Chair hears none and it is so ordered.

Does the majority leader wish to ask for that show of seconds now?

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. MITCHELL. Yes. I now ask for the yeas and nays on all three nominations.

The PRESIDENT pro tempore. Is there a sufficient second? Obviously, there is.

The yeas and nays were ordered.

The PRESIDENT pro tempore. Now, the several requests by the distinguished majority leader with respect to the sequence of votes and the time and the control of debate are before the Senate. Is there an objection? The Chair hears none and that will be the order of the Senate.

RECESS UNTIL FRIDAY, JANUARY 27, AT 10 A.M. AND TUESDAY, JANUARY 31, AT 2 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until Friday, January 27, 1989, at 10 a.m., and that on Friday, no business be transacted; that immediately following the convening of the Senate, the Senate then stand in recess until Tuesday, January 31, at 2 p.m.

The PRESIDENT pro tempore. Is there objection? There being no objection, that will be the order of the Senate.

CONSTITUTIONAL COMPROMISE

Mr. MITCHELL. Mr. President, 200 years ago, the Members of the First Congress took the oath of office. The experiment in self-government which they began is now the longest-running and most successful ever. It has given each of us the privilege of being citizens of the most open, the most prosperous, the most just, the most free society in human history.

Two centuries ago the American people and their Government entered into a social contract. That contract was set forth in the Constitution.

It was and is a unique charter of Government, making clear that power flows from the people to the Government, not the other way around.

The men who wrote the Constitution could not have foreseen the changes that have taken place between their time and ours. The genius of the American system has been its ability to adapt to change.

We enter a new era. The New Deal and the Reagan reaction to it are over. We face new circumstances.

They bring fresh challenges—

To respond to new leadership in the Soviet Union;

To protect our citizens from drugs and crime;

To safeguard our environment; and

To awaken the spirit of American citizenship.

Democrats in the Senate will have two objectives as we attempt to meet these and other challenges.

The first will be to reestablish a bipartisan foreign policy and put the divisions of the past behind us.

The second is to establish a new social contract that defines not only what our country will do for our citizens, but what our citizens will do for our country.

The primary obligation of Government is to protect the Nation's security. That means a strong America.

Strength means military strength, an essential aspect of world leadership. It also means economic strength, without which no nation can maintain its military strength.

Our ideals and our self interest demand strong and sustained American support for freedom and democratic values around the globe.

Throughout this century, the Democratic Party has affirmed the positive role of the United States as an agent of democratic change in the world. From Woodrow Wilson's Fourteen Points, to Franklin Roosevelt's Call for the Four Freedoms, to John Kennedy's Alliance for Progress in Latin America and Jimmy Carter's fight for human rights around the world, Democrats have stood for freedom, democracy, and human dignity.

That worldwide quest for freedom and human rights springs from the best impulses in the American tradition. It also reflects the fact that a world of peaceful democracies, where human rights are acknowledged and political liberties are respected, is a world that best serves American interests.

The movement to individual freedom and democratically elected governments has accelerated in recent years because the cause of individual liberty is irresistible. People want it. Technology feeds their desires. The experiments of totalitarians are winding down. They have failed. They could not assure either bread or liberty, and people demand both.

In his Inaugural Address, the President put his hand out to me and to the Speaker of the House. I now extend mine to him. I say to the President, to Senator DOLE, to my Republican colleagues, we will work together to increase the momentum toward freedom, to extend the search for democracy.

To do that we must restore bipartisanship in foreign policy.

The responsibility for our defense is shared by the President and the Congress. But in recent years, it sometimes seemed as if we were opposing each other rather than exercising shared powers. That need not be.

It serves no purpose to refight the political battles of the past. We are here to make a new start. A central aim of that new start for me is to pledge to President Bush that I will do my utmost to foster true bipartisanship.

But full, timely and meaningful consultation with Congress is the basis—indeed, it is the prerequisite—for bipartisanship.

The Constitution explicitly vests the power to declare war in the Congress.

So long as the ultimate sanction remains force, as it does in the world today, we, the Congress, are constitutionally directed to make that grave judgment for the Nation.

Our Nation pursues no war of conquest. Yet we find that we are drawn into smaller conflicts where the lines between active hostilities and uneasy truce are unclear. That was the case in the Persian Gulf last year. It will be the case in other places in the future.

Our system should ensure that when force is necessary, it is used surely and for goals clear to all of us.

The War Powers Act was intended to produce that outcome by enabling Congress and the Executive to act jointly in pursuit of clear and broadly supported purposes. Unfortunately, the act has become the focus of constitutional dispute. In critical moments, the dispute over the law and its premises forces public debate away from the substance of policy, undermining our ability to build and sustain national unity.

Overcoming this stalement should be a high priority for both Congress and the Executive. Last year, in an effort to develop recommendations for a compromise, the Foreign Relations Committee held extensive hearings. Others, including myself and the distinguished President pro tempore, proposed revisions to the law.

Enacting any change in the law will encounter strongly held and conflicting views. But the effort should be made, not in a spirit of acrimony, but in a spirit that takes due account of the President's prerogatives in foreign affairs and the constitutional obligations of Congress.

I believe a constitutionally sound compromise is possible, and I shall work for it with the Foreign Relations Committee and the administration.

I hope the President will undertake meaningful consultation with the Congress on all major foreign policy decisions. That would not only reduce misunderstanding in this body, it would make Congress a partner in policy formulation. It would give the whole Government—not just one branch of it—an incentive to explain and support our policies as the President works to put them into effect.

A bipartisan foreign policy will give President Bush what he must have to govern effectively: The base on which to sustain public support for the pursuit of American goals overseas.

Like other policies, bipartisanship begins with words. But it cannot be made real by words alone, or by good intentions. It requires deeds to match

words, action to carry out intention. Bipartisanship grows from shared responsibility.

Serious consultation will not prevent differences between the Congress and the President. There have always been such differences. There always will be.

But in the great eras of American leadership, the differences have been less important than the agreements. When partisanship stops "at the water's edge" our Nation can achieve great goals and exercise world leadership for the benefit of people everywhere.

The potential for such an era is now upon us. We have an opportunity to join together to forge a new American consensus.

Working together, we can enhance our national resolve and purpose, and fulfill our national interests.

We must do that, for the needs within our own borders are great.

We inherit a national debt and a budget deficit that imposes its own harsh limits on all of us. We also have needs that cannot and will not wait.

It is time to redefine the social contract between Americans and their Government.

What do Americans have a right to expect of their Government? What are an American citizen's responsibilities?

Americans have the right to expect Government to encourage a strong, sound economy, without inflation.

The budget and trade deficits threaten our future. The President and the Congress have a responsibility to act on these deficits with courage and dispatch.

Our economy must become more productive. That means investment in new technology, innovation, and training. But today the budget deficit consumes the funds needed for that investment. It threatens our economic independence. It sends American jobs overseas. And the money we spend to service the debt is denied to other, more productive purposes. That is why we must bring the deficit down.

We look forward to receiving the President's budget proposals. We will work with him to achieve a bipartisan budget reduction agreement, one that is fair, credible and based on realistic economic projections.

The Democratic Policy Committee will soon present a detailed legislative agenda for this Congress. I do not intend this statement to do that.

That agenda will include proposals for dealing with many of the serious problems affecting our society:

The shame of the homeless and the growing lack of affordable housing;

The need for better health care;

The need to reverse the decline of investment in research and development.

The President recognized many of these needs in his inaugural address. He has yet to tell us how he proposes to meet them. We look forward to working with him on ways to achieve our common objective.

If we are to have a kinder, gentler nation, the Government must maintain law and order. People should be able to go about their daily business without fearing for their lives or their property.

Law enforcement is primarily a local responsibility. But it is a national responsibility to prevent the influx of drugs across our borders. In inner cities and suburbs, the violence and crime associated with drugs is increasing beyond the ability of local police to control it.

Congress last year passed a major antidrug bill. We will work with the President to fully fund it this year. But Government alone cannot solve the drug problem. Every citizen has an obligation to obey the law. That means not using illegal drugs.

Citizens also have a right to personal security against the violation of their health. Protection of the environment now requires global as well as national action.

When half the American people breathe air that does not meet basic health standards, when the water quality of many cities is unsure, when companies dump hazardous wastes illegally, citizens, neighborhoods and whole communities are placed at risk.

We must reduce the pollution from which all of us suffer. The Clean Air Act will be improved and extended. It is a controversial law.

But I hope we will be able to accommodate the concerns of the many Senators whose States will be affected by it, concerns that are legitimate and understandable.

Because the American contract between Government and people is to maintain human liberty and individual dignity, citizens have the right to expect that Government will secure a social and economic environment in which each citizen has an equal chance at success.

Equal opportunity does not require an equal outcome. Reward should be related to effort. But giving everyone a fair chance is the essential first step.

If a large percentage of our population, remains poorly educated, untrained and unmotivated, economic growth will be retarded and we will spend ever-increasing amounts on retraining, on social programs, on prisons and other institutions.

An improved standard of living depends on economic growth. To have a productive economy, we must have workers who can compete.

We must invest in early intervention in health and education through successful programs like Head Start.

We must also give fair opportunity to those who labor for the minimum wage. We will raise the minimum wage to a rate that will help those who depend on it.

We should encourage the effort to upgrade teacher quality in our schools. We should continue to improve science and math education, and build on our Nation's primacy in the field of computer learning and teaching.

We must support innovative corporate responses to the changes that have occurred in the work force. Businesses that adopt flexible hours, day care, and family leave policies that meet the demands of their work force deserve encouragement.

We will make sure the day care facilities needed by working families are available and affordable by enacting meaningful child care legislation.

These and other issues will be controversial. But we cannot avoid changes in our society by ignoring them. Working together, we can meet change and benefit from it in the traditional American way.

Our common goal is stability and prosperity. And because ours is a representative democracy, we seek that goal through common action.

In our society, public deference to Government authority is not routine. American Government must earn the respect and trust of American citizens.

When Americans believe that public office is a way to private enrichment, or that elective office is available only to the wealthy or well-connected, then the essential element of trust between the people and their Government is lost, and with it, Government's authority.

We must acknowledge the existence of public mistrust today. We must correct those factors that contribute to it which can be reached by legislation.

That means we must enact an ethics bill. It means we must pass a campaign finance reform bill for the Senate. It means we must ban the practice of accepting honoraria.

The ethics bill enacted last year but vetoed by President Reagan would have extended to former Members of Congress and their staffs the limits on lobbying which now apply only to high-level administration officials.

The use of Government service for private gain has an appearance that is corrupting. It taints every honest public servant. It opens public service to scorn.

The ability to govern depends on appearance as well as substance. So we will reintroduce the ethics legislation this year. We welcome President Bush's suggestions on this legislation. I hope that early this year we will agree on the best approach and enact it into law.

There will be introduced today a campaign reform bill. At the end of last year's debate we were much closer to agreement than we were at the beginning. With good faith efforts on

both sides, the remaining differences can be resolved.

We must also eliminate the practice of accepting honoraria from groups with interests before the Congress.

These changes are essential if we are to act with authority on the issues that face us.

Government is not and should not be the focus of American life. But without Government action, life for many Americans would be harsher, narrower and more unfair than it is today.

Much of what we call legislating is our effort to define and act on the obligations of Government to the people. But what obligations define an American citizen?

Americans recognize that the privileges and liberties of a free society carry responsibilities and obligations.

Americans care about and love their country and its ideals. They want to be part of shaping its future.

What Government hasn't done often enough is ask them to participate. We should do so.

We should reestablish national service on a voluntary basis.

All of us seek a larger meaning in life. We need to know that our lives matter, that our actions count. In recent years, we have been encouraged only to seek personal goals. But personal gratification does not exhaust American ideals.

It is time to reactivate our idealism and the traditional American commitment to giving a helping hand. A program of voluntary national service is one way to do that. We will give a high priority to developing such a program in this Congress.

Two hundred years ago, the First Congress began the task of establishing national priorities. For them, the large question was the one the new States had put: What were the civil and political liberties that all Americans held to be "self-evident truths?" What were the limits to Government's power over the individual and the local community?

Their answer to those questions is enshrined in the Bill of Rights.

For 20th century Americans, the large question is: What must Government provide each American, and what will each American do for his country?

For the past few decades, the extremes have dominated the search for the answer to that question.

One answer has been that Government owes its citizens nothing but defense against external threat, and citizens owe Government nothing but the payment of taxes for which they are legally liable.

At the other extreme, the answer has been that Government must protect its citizens against every contingency, and the citizen's only duty is to make clear his changing needs.

Neither answer reflects the American ideal of national life.

We seek a national community whose members share fairly in prosperity and freedom and who in return do their part to help build prosperity and preserve freedom. The social contract is mutual, not defined alone by what Government must do. It imposes obligations on citizens as well.

America is a unique blend of optimism mixed with hard-headed practicality, of skepticism about Government mixed with idealistic expectations of Government.

I hope Americans never abandon their belief in the perfectability of our institutions and our society. Our common sense tells us perfection is not found in human institutions. But our American spirit tells us to seek it, nonetheless.

Our common goals are to preserve our Nation against foreign domination or threat; to create a society where each citizen's civil and political liberties are secure against the Government; to treat each citizen justly and equally.

To advance those general beliefs through specific actions is a challenge renewed for every Congress and every administration. It does not require or prohibit any particular idea.

It is up to each generation to take the best of all ideas and fit them to the American pattern. This is a challenge we accept gladly and in which we ask our people to join.

Mr. GORE. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. GORE. Mr. President, I wish to compliment the majority leader on the statement the Senate has just heard.

As I was listening to the statement, I heard cadences from the Federalist Papers.

The eloquence of these remarks is very moving to me and I look forward to the leadership of the majority leader.

I was particularly pleased to hear included in this agenda such a prominent reference to the global environmental crisis which this body must help to combat.

Later today, after the distinguished Republican leader and others have spoken, I will be introducing legislation aimed at reducing CO_2 emissions, banning fluorocarbons, protecting biodiversity, dealing with the population crisis, and reforesting areas of the world that are now under siege.

In these and other efforts I look forward to working with the distinguished majority leader and Republican leader and I take great comfort from the force and strength of this opening address that we just heard.

Mr. MITCHELL. I thank the Senator for his remarks.

Mr. SARBANES. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. SARBANES. Mr. President, I join in commending the majority leader for a very eloquent statement of the challenges that lie before us. I particularly want to thank him for the emphasis he placed in his statement on the fundamental values and principles that undergird our democratic system.

The majority leader throughout his career in the Senate, and indeed before as a very distinguished member of the Federal judiciary, has stressed the centrality of the Constitution in our political system and the importance of the principles encapsulated in the Constitution as the guiding principles of our Nation. That emphasis is reflected in the statement which he has made here today. I welcome it. I think it is a very important standard to which we can all repair.

I also strongly welcome the majority leader's emphasis on a social contract between the Government and the people. Such an understanding is an essential component in developing a national commitment to address the challenges that lie before us. I very much welcome the majority leader's statement and join others in commending him for it.

Mr. MITCHELL. I thank the Senator.

Mr. WIRTH. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. WIRTH. Mr. President, on the day of the inauguration of the President we all heard a very eloquent statement referred to by the majority leader about the responsibilities of individuals and the responsibility of individuals with their Government.

That was reflected again today in the very eloquent remarks of the majority leader, and I join my colleagues in commending the majority leader and commending my colleagues to the charge that we have been given. It seems to me that charge, among others, includes two very powerful themes.

One, it is of extraordinary importance for us to do everything we can to once again recharter a course that is bipartisan in nature wherever possible and, second, for us to eschew the extreme and find out once again where that center is because that center must hold.

The majority leader's very clear and eloquent comments on the roll and responsibilities of the Government, the constraints that are placed on the Government by individuals and our constitutional system is a reflection of what I believe is right and why I am in the institution.

I want to thank the majority leader for his very fine comments. We all look forward to his leadership and to a

very fine 2 years. I thank the Senator very much.

Mr. MITCHELL. I thank the Senator very much.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, Senator DOLE has a concurrent resolution dealing with the use of the rotunda to inaugurate a display of the POW-MIA flag that he would like the Senate to consider during his leadership.

I ask unanimous consent that it be in order to consider the resolution at this time and that there be no amendments or motions in order with respect to the resolution.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDENT pro tempore. Under the order, the Republican leader is recognized.

Mr. DOLE. I thank the distingished Presiding Officer.

PROVIDING FOR THE USE OF THE ROTUNDA OF THE CAPITOL TO INAUGURATE THE DISPLAY OF THE POW/MIA FLAG

Mr. DOLE. Mr. President, I send to the desk, on behalf of myself, Senator STEVENS and Senator MITCHELL, the concurrent resolution just referred to and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the title of the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 5) to provide for the use of the rotunda of the Capitol to inaugurate the display of the POW/MIA flag.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, in the 100th Congress, I introduced, and the Congress passed, legislation to display the National League of Families POW/MIA flag in the Capitol rotunda until a satisfactory accounting of America's POW/MIA's has taken place. Today, I am pleased to submit a concurrent resolution, which has been cleared on both sides, to provide for the use of the rotunda on March 9 at 3 p.m. for a ceremonial unveiling of that flag.

The POW/MIA flag is a symbol to all Americans that we must never forget the brave men who made great sacrifices for their country in Vietnam, Korea, and World War II. Display of the flag in the Capitol rotunda will raise American consciousness on this critical national issue and serve as a reminder to the families of the missing servicemen that Congress and America will not rest until our POW/MIA's have been accounted for as full as possible.

While I am encouraged by some recent progress and cooperation from Vietnam and Laos on this matter, much more still needs to be done to locate our missing men. I was pleased to hear from President Bush in his inaugural address that his administration is committed to aggressively pursuing this cause.

Mr. President, it is fitting that the POW/MIA flag will be displayed adjacent to the statute of one of our greatest Presidents, Abraham Lincoln, who wished all men to be free. For as long as the families of or brave men still missing are enslaved by doubts about the whereabouts of their loved ones, we—as a nation—must continue to press for answers.

I hope all Senators will be able to join me on March 9 for this special ceremony to inaugurate the display of the POW/MIA flag.

The PRESIDENT pro tempore. Is there further debate on the concurrent resolution? If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 5) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 5

Whereas America can never forget the sacrifices of or brave servicemen still missing in action, nor the heroic suffering of our prisoners of war;

Whereas the families of Americans missing in Southeast Asia, having suffered greatly themselves, joined together in 1970 as the National League of Families to facilitate and promote the fullest possible accounting for POW/MIAs;

Whereas the official National League of Families POW/MIA flag symbolizes the nationwide recognition that is justly deserved by the missing and unaccounted for servicemen of all armed conflicts; and

Whereas the POW/MIA flag is an effective means of further raising public consciousness on this key American issue; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used on Thursday, March 9, 1989, at 3 p.m., for ceremonies to observe the unveiling of the National League of Families POW/MIA flag which shall be displayed in the Capitol Rotunda until a satisfactory accounting of all America's POW/MIA's has taken place. The POW/MIA flag so displayed shall be in such size and at such place as the Architect of the Capitol, the Speaker and the Minority Leader of the United States House of Representatives, and the Majority and Minority Leaders of the United States Senate shall designate.

SEC. 2. The Architect of the Capitol may prescribe conditions for physical preparations with respect to the use of the rotunda authorized by the first section.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GOOD-BYE, GOOD LUCK TO BOYD HOLLINGSWORTH

Mr. DOLE. Mr. President, for myself and on behalf of my Republican colleagues, I want to wish one of our own, Boyd Hollingsworth, good-bye and good luck.

Boyd, who has been Senator SIMPSON's "man on the floor" for the past 4 years, is moving on to bigger and better things. He has been appointed by President Bush to be his Assistant for Legislative Affairs in the Senate. To put it simply, our loss is the President's gain.

Boyd has been a dedicated member of the Republican team—ever vigilant, ever helpful and informative. His knowledge of Senate procedures, as well as the substance of legislation has been of great help to me, and I know to all Republican Senators.

I know that AL SIMPSON will dearly miss Boyd's counsel and good cheer. But unlike many staffers who leave the Hill, whom we rarely see again, Boyd will continue to be a presence here. So, in every cloud, there is a silver lining.

Again, thank you Boyd, for your years of hard work and commitment. We wish you all the best in your new position.

THE REPUBLICAN AGENDA—THE 101ST CONGRESS

Mr. DOLE. Mr. President, first let me congratulate my friend and the majority leader in the U.S. Senate. We have not had an opportunity until this time to congratulate him on his election, on the way he has conducted himself, on the way we have been getting together trying to work out some of the problems in advance. And I assume that over the next several months we will be spending countless hours on opposite sides of the aisle but maybe not on opposite sides of the issue.

I listened carefully to the majority leader's speech. I commend him for that. It was an outstanding statement of his views and his values. I do believe that in many of the areas he touched upon we can find common ground.

So I congratulate the majority leader and wish him success in the coming months. I do believe that we have this spirit of bipartisanship in the White House and in the Congress.

I really believe that, in many cases, it is going to work and we are going to find ourselves, perhaps, completing legislation that in the past has been very, very troublesome.

I would say at the outset that I pledge my cooperation and my commitment to do what we need to do around here to make the Senate "work," as I did with the distinguished Presiding Officer, Senator BYRD. The Senate will function and should function smoothly. We should be efficient. We try to be.

I believe, as everyone knows, the leaders are almost powerless at times unless our colleagues on both sides of the aisle have the same spirit of cooperation and commitment. So we want to see, as everyone suggests, our quality of life improve and we want the quality of our work to be just as high as the expectations of people who elected us.

So I look forward to working with the distinguished majority leader and all of my colleagues on both sides of the aisle and in continuing the pursuit of bipartisanship that I shared with Senator BYRD, our new President pro tempore.

WRITING ON A CLEAN SLATE

Every 2 years the Senate starts with a clean slate. It is a slate upon which great acts may be written, new ideas take shape, old ones mature. As Senators, as legislators, we face awesome responsibilities and awesome possibilities. And those of us on this side of the aisle face an added charge—to support and further the cause of our new Republican President.

Only 5 days ago, George Bush was inaugurated the 41st President of the United States. He assumes the reins of power from Ronald Reagan, who history will note changed the course of America's future. A man who put us on a true course that has led to the two things most needed, most cherished, by the American people—peace and prosperity.

STAY THE COURSE

From everything he has said, there is little doubt that George Bush intends to "Stay That Course"—to make corrections when they are needed, to chart new directions when called for, but never to lose sight of our ultimate goals: To provide each and every citizen with the opportunity to achieve the American dream, and to ensure that they do so in a world at peace.

That, after all, is what the American people said they wanted last November 8. They heard what George Bush said, they read his lips, and they agreed with him—overwhelmingly.

On February 9, our new President will address the State of the Union. In that speech he will outline his program, his priorities for the coming year. And while it is unlikely it will mirror the agenda outlined by Senator MITCHELL, I expect that many of the same challenges are likely to be addressed.

From our perspective—on the Republican side of the aisle—there are four major areas of concern that we should tackle during the coming session. And there are five specific pieces of legislation that I am personally introducing today, reflecting my own priorities.

ECONOMIC CONCERNS

Topping the list are economic issues—first and foremost, of course, the deficit. We all agree that we have to take serious action to cut the deficit and comply with the Gramm-Rudman-Hollings target.

Frankly, I do not share a story that I saw in a leading paper a couple of days ago that the deficits do not matter. They matter to people in my State. They matter to people across the country. I think we have to face up to our responsibilities. Sooner or later someone will have to pick up the tab. Growth is important, but growth alone will not relieve the pressure.

And to do it, as the American people have said, without raising new taxes. Major decisions on the budget will help shape decisions on other policy matters—from national security to health care. In addition to the budget numbers, I believe it is finally time to institute reforms, including the constitutional amendment to balance the budget and enhanced rescission authority.

In fact, today I will introduce two pieces of legislation addressing budget reform. My proposed constitutional amendment would prohibit Congress from passing a budget in which outlays exceeded receipts except by a three-fifths vote. And to preserve a bias in favor of controlling spending, the amendment requires that increases in the level of taxation cannot be passed except by a majority of all members of the House and Senate; not just those present and voting.

It also seems to me it is time to give the President greater authority to eliminate spending for specific programs. One approach is the line-item veto—an authority I believe the President already has under the Constitution.

The President has rescission authority as well. But this budgetary tool has never really worked because Congress can, and usually does, simply ignore the President's rescission requests. The bill I will introduce today would force Congress to either approve or reject the President's rescission within a 10 day review period. Members are quick to criticize pork barrel spending, but slow to do anything about it. This bill makes Members put their votes where their rehetoric is.

Other economic issues we will undoubtedly be grappling with include the savings and loan crisis, and whether the Federal Government should play a role in the leveraged buyout phenomenon.

PEOPLE ISSUES, SOCIAL SECURITY

Then there are people issues: health—long-term care, aids, and prenatal care; workers' concerns—minimum wage and mandated benefits; and children's needs, child care and education; and of course, the homeless.

One issue of special interest to me, and of specific relevance to senior citizens, is their ability to work, and at the same time receive their full Social Security benefits. To address a problem with the current system, I am today proposing legislation that would phase out the Social Security earnings limit for those over 65. I can think of no better way to harness the unutilized talent of the elderly than to repeal this law, which discourages senior citizens from productive work.

America's elderly have already borne the burdens of decades of hard work. They have paid social security taxes throughout their working lives. Is it fair that they lose some of those benefits simply because they choose to continue offering their skill and ability to America? I don't believe it is.

In addition to the five major bills I am introducing today I will submit a number of other measures, including a measure to deal with the very special problems small rural hospitals face. And to help provide a measure of support to these institutions, I am reintroducing legislation today that would ensure that hospitals of 100 beds or less, in which Medicare patients comprise at least 70 percent of their discharges, receive payments of at least their reasonable cost. This program would last for 3 years, giving us the opportunity to carefully examine how we might do away with the current Medicare payment bias against rural institutions.

I can cite my own hometown where we have a hospital of 35 or 40 beds with seven or eight patients and there are literally hundreds of hospitals in small rural areas that are going to be forced to close their doors unless the Congress addresses this problem very quickly.

Finally, in the domestic area, we face immeiate problems with both energy and the environment: Nuclear energy and nuclear waste disposal, the Clean Air Act renewal and toxic waste—all are problems that should be confronted and resolved in the months ahead.

CHEMICAL WEAPONS

In the days and months ahead the new administration will confront a number of issues affecting our relationships with foreign nations and our own security. Certainly, high on the list is what direction United States-Soviet relations take. I think it is imperative that we, the United States, take the initiative and set the agenda

with the Soviets. But in order to do that, the administration and Congress must be in sync—we must work together to develop a strategy encompassing arms control, regional conflicts, and human rights.

On the national security front, we must again debate the size and shape of our defense capability and how that relates to the arms control agenda. In that context as well, we should discuss whether our allies should assume greater responsibility for their own security.

On one item I believe there is bipartisan consensus.The time has come to reexamine the War Powers Resolution. This is an issue of considerable concern to the administration, as well. So, I hope that before we start hearings on specific legislation, all sides have the opportunity to exchange views, and perhaps see if some common ground exists. Given recent events, I hope we will carefully examine what actions we might take to combat terrorism, and pay special attention to chemical weapons.

The unchecked spread of chemical weapons is the most immediate threat to regional peace and American interests in the real world of 1989. If the capacity to create, store and deliver chemical weapons finally falls into the hands of lunatics like Qadhafi, then we will truly be in not a brave, but a scary, new world. The bill I and others will introduce today is certainly not a panacea—but it is an essential step in what must be a broad strategy. A chemical weapons capability is not a "home grown" product in Libya—the expertise, and much of the equipment and material, must be imported.

Our bill will require a report from the President on what foreign companies are aiding and abetting the spread of chemical weapons around the world; and that report will trigger sanctions against those companies, shutting them out of the American market for a long time. The leverage is real, and the message will be clear—do business with the likes of Qadhafi, and you can kiss good-bye to the American market. The bill will also tighten up our domestic contron regime, to insure that American firms are not knowingly or inadvertently facilitating the spread of chemical weapons.

CAMPAIGN FINANCE REFORM

Finally, there are a number of institutional issues we must confront, campaign finance reform, chief among them.

I know that last year my good friend, the Presiding Officer, Senator BYRD, made every effort he could to bring about some campaign finance reform. As the majority leader said, we were close to an agreement a number of times, but we couldn't quite get there.

A group of Republican Senators will join me today as I introduce the 1989 Congressional Campaign Reform Act. This bill is designed to bring the individual back into the electoral process. We believe that it is the main street American—not the Wall Street executive, the labor union boss, or the PAC Director—who should ultimately have the influence in the electoral process. Toward that end, this bill would reduce PAC contributions, adjust individual contributions, impose strict disclosure rules on "soft" money expenditures, tighten restrictions on independent expenditures and close the so-called millionaire's loophole.

In addition to campaign finance reform, we must also come up with rules to make sure that those who work in government—whether congress or the executive branch—comply with the highest possible ethical standards, as indicated previously by the distinguished majority leader.

This is an issue which the Bush administration is addressing this very day and I know intends to pursue vigorously.

I would hope that we could get together on some bipartisan approach on ethics. I would say I think the bill we passed last year is a good place to start. But in my view, we need to make certain we don't penalize a lot of the young people around here who work for us and work in our offices and our staffs, who may want to go out into the private sector and still have some relationship, appropriate relationship with Congress.

FULFILLING OUR CHARGE

None of us wants to see any man or woman who wants a job, unemployed; or a child whose parents work, uncared for. None of us wants people left homeless, sleeping on the streets or in overcrowded shelters; or our elderly deprived of adequate medical care; our children receiving a second-rate education. None of us wants our beaches closed down because of pollution. None of us wants to see our defense capability threatened because we can not produce the necessary nuclear components safely, or our citizens prevented from traveling freely because of the threat of terrorism.

Now, we can not solve all of these problems. The President can't solve all of these problems. And in some instances we, the Federal Government, should not even try.

The responsibility should be State or local government's, or even the private sector's. But I have no doubt that those of us here today on both sides of the aisle are committed to trying. And there is a Federal responsibility in many, many areas.

So, during this, our bicentennial Congress, let us use our clean slate wisely. If we do, we will fulfill our charge as members of the Senate and keep the beacon of light and hope this Nation radiates to its own citizens and the world's beaming brightly.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend the distinguished Republican leader for his statement. It is a very positive and eloquent one and I look forward very much to working with him during this year, as he and I both recognize there are going to be many disagreements but I think the attitude that he has demonstrated has been very positive, one which will make it possible for us to work together on our areas of agreement and to compete vigorously and fairly in the areas in which we disagree.

So, I look forward to that very much.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will now commence the transaction of morning business for a period not to exceed 2 hours with Senators to speak therein not to exceed 10 minutes each.

AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL. Mr. President, now on behalf of Senator PRYOR and myself, I send to the desk two resolutions making changes in the Senate rules, and I ask unanimous consent that the Senate proceed to their consideration en bloc.

The PRESIDENT pro tempore. The the clerk will state the resolutions by title for the information of the Senate.

The legislative clerk read as follows:

A resolution (S. Res. 9) to amend the Standing Rules of the Senate to limit sense of the Senate or Congress amendments.

A resolution (S. Res. 10) to amend the Standing Rules of the Senate to impose a strict 15 minute limit on votes in the Senate.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolutions?

Mr. DOLE. Mr. President, I object.

The PRESIDENT pro tempore. Objection being heard, the resolutions will go over en bloc, under rule XIV, paragraph 6.

The majority leader is recognized.

AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL. Mr. President, on behalf of the distinguished President pro tempore, I send another rules resolution to the desk and ask unanimous consent the Senate proceed to its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the resolution for the information of the Senate.

The legislative clerk read as follows:

A resolution (S. Res. 11) to provide for germaneness or relevancy of amendments.

The PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

Mr. DOLE. Mr. President, I respectfully object.

The PRESIDENT pro tempore. Objection being heard, the resolution will go over under rule XIV, paragraph 6.

The majority leader is recognized.

INTEGRITY IN POST-EMPLOYMENT ACT OF 1989

Mr. MITCHELL. Mr. President, I understand the distinguished senior Senator from South Carolina, Senator THURMOND, has introduced at the desk the integrity in Post-Employment Act; am I correct?

The PRESIDENT pro tempore. That measure is at the desk.

Mr. MITCHELL. Mr. President, as I indicated in my remarks earlier, this bill, sponsored by Senator THURMOND, cosponsored by many Senators on both sides of the aisle, warants prompt consideration in this Congress. The bill which Senator THURMOND introduced this morning was passed unanimously by the Senate last April and the bill reported from the conference committee was pocket-vetoed by President Reagan in October.

We believe that it is essential to restore the public's trust in the integrity of those individuals who work in the Government. I am today commencing the rule XIV process to have that bill placed on the legislative calendar of business. I do not intend to call this bill up for a reasonable period of time. We want to give the Bush administration an opportunity to review this issue and to make recommendations as they have requested.

However, by having the bill on the calendar, it will be available for the Senate to consider at an appropriate time. Mr. President, I ask that the bill be read for the first time.

The PRESIDENT pro tempore. The clerk will read the title of the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1) to amend section 207 of Title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the United States Government from attempting to influence the United States Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves government service, and for other purposes.

Mr. MITCHELL. Mr. President, I ask that the bill be read for the second time.

Mr. DOLE. Mr. President, I object.

The PRESIDENT pro tempore. Objection having been heard, the second reading of the bill will go over 1 legislative day.

THE 1988 YEAREND REPORT

Mr. MITCHELL. Mr. President, the mailing and filing date of the 1988 Yearend Report required by the Federal Election Campaign Act, as amended, is Tuesday, January 31, 1989. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 8 a.m. to 9 p.m. on the filing date to accept these filings. In general, reports will be available to the public 24 hours after receipt. For further information, please contact the Public Records Office on 202-224-0322.

TRIBUTE FOR DR. WILLIAM E. ALLEN

Mr. MITCHELL. Mr. President, I rise today to commend Dr. William E. Allen, director of the Washington office of the American Dental Association, a dentist who exemplifies a selfless service too little evident these days.

It has been my privilege to know and work with Bill Allen since he came to Washington 3 years ago. At that time he gave up a distinguished career as a pediatric dentist in Pasadena, CA, to head the ADA office here. Prior to coming to Washington, Bill Allen was actively involved in the California Dental Association including service as that association's president. In addition, he served for 14 years in the ADA House of Delegates and for 7 years on the association's council on legislation. Bill Allen chaired the council and many other dental boards and committees, while maintaining an active practice dedicated to improving the oral health of children.

Bill Allen's public service career has been guided by his dedication to improving the image and future of the American dental profession. He is keenly aware of the role the dental profession maintains in the health community and has worked tirelessly to make sure that dentistry's message is heard. In the process he has effectively expanded the role of the dental profession in the political and legislative processes.

He has served his profession well. Maybe, too well. Bill Allen has been promoted and will be leaving Washington to become the American Dental Association's associate executive director at their headquarters in Chicago.

We wish him well and take this opportunity in the Chamber of the U.S. Senate to salute his selfless service.

Mr. CRANSTON addressed the Chair.

The PRESIDENT pro tempore. The assistant Democratic leader [Mr. CRANSTON].

COMMENDATION OF THE NEW MAJORITY LEADER

Mr. CRANSTON. Mr. President, I want to join in the words of commendation for the eloquent statement by our new majority leader. He set forth a very thoughtful program for our Congress and for our country on the great and small issues of our time. I am delighted that he has spelled out so clearly and forcefully and eloquently the tasks that lay before us, and I look forward to working with him in the fulfillment of the very noble goals he set forth, not only for us in the Government but for the citizens of our country who have a vital part to play in the success or the failure of these goals.

I also want to applaud the Republican leader for his statement and his fine view of many issues where I know we will find common ground and be able to work together.

AN OVERVIEW OF S. 11 THROUGH S. 15

Mr. CRANSTON. Mr. President, I will be introducing a number of bills today, and I would like to focus for a few minutes on the first five of those bills, S. 11 through S. 15.

These bills deal with a variety of issues which I believe are important to the Nation as well as the State of California. They range from protecting the environment, improving our educational system, meeting the needs of America's veterans, dealing more effectively with the health crisis posed by AIDS, and enhancing health care services for all Americans.

The first of these bills is S. 11, the California Desert Protection Act—legislation designed to provide lasting protection for the beauty and wildness of the California Desert.

The California Desert is a place of unrivaled scenic, geologic, and wildlife resources, a land of almost incomprehensible beauty that attracts millions of visitors from all over the world annually. But the California Desert is increasingly threatened by incompatible use and development. My California Desert bill will stop the destruction of the desert's special places while allowing multiple uses of the desert. It expands Death Valley and Joshua Tree National Monuments and redesignates them as national parks. It also creates a new Mojave National Park, comprising 1.5 million acres. And it designates 4.5 million BLM land in the California Desert as wilderness. In reintroducing the California Desert Protection Act today, I have high hopes the 101st Congress will ensure that the California Desert remains a national treasure to be enjoyed and cherished by all Americans, now and in the future.

A companion measure will be introduced in the House by Congressman MEL LEVINE of California.

The second bill I am introducing today is S. 12, the Parents as Partners in Learning Act of 1989.

My education bill addresses one of the greatest needs in education, and that is to encourage parents to help their children succeed academically. All that we know about successful schools tells us that parent and community support and understanding is critical to education excellence. We also know that parents will actively support their children's education if they are shown how to do so effectively. Yet most of the recent major education reports do not mention families as a factor in education success and only one or two make any recommendation for school reform based on involving parents. My bill sets forth a modest grant program, based upon criteria drawn from a very successful California program, that will help schools teach parents how best to boost the academic achievement of their children.

The third bill I am introducing today is S. 13, the Veterans Benefits and Health Care Act of 1989.

This bill would provide for COLA's in compensation, rehabilitation, and education and training benefits paid to veterans who have service-connected disabilities and to the dependents and survivors of certain service-disabled veterans.

The needs of these veterans and their families are my top priority as chairman of the Committee on Veterans' Affairs. This bill would also extend a program fostering Federal employment of Vietnam and disabled veterans and provide for needed improvements in a variety of benefits and services programs conducted by the Veterans' Administration, which on March 15 will become the newest Cabinet-level Department, the Department of Veterans' Affairs. The bill also contains important provisions designed to improve and expand treatment of and research into posttraumatic stress disorder—called PTSD—a very serious psychiatric disability currently afflicting almost a half million Vietnam veterans.

The Nation still has some major unfinished business, which it must not further postpone or avoid, in keeping faith with the brave men and women who are veterans of the long and divisive war in Vietnam. Through this bill and in other ways, I will be doing all that I can to ensure that our obligation to these and all other veterans are fully met.

Mr. President, the fourth bill I am introducing today, S. 14, is the AIDs Health Services Act of 1989.

This bill focuses on one of the most serious questions regarding the AIDS epidemic: How do we provide and pay for services for the increasing number of people with AIDS? AIDS patients require a broad range of health care and social services, including mental health services, home care, housing, hospice, addiction treatment, case management services, transportation, and legal services. Unfortunately, few communities are capable of providing these services and have limited resources to develop them. My bill would establish a grant program to help communities develop them. My bill would establish a grant program to help communities develop coordinated systems of care to people infected with the HIV virus.

Finally, Mr. President, the fifth bill I am introducing today is the Emergency Medical Services and Trauma Care Improvement Act of 1989. This bill is designed to improve emergency medical services and trauma care.

Each year, more than 140,000 Americans die from injuries. Injury is the fourth leading cause of death among all Americans and the major killer of children and young adults. Unlike other diseases, much of the death and disability resulting from injury could be prevented. We do not need a miracle cure—we need only to organize and allocate medical resources to ensure that trauma victims are rapidly identified and transported to facilities that can provide specialized trauma care. This bill, S. 15, would provide a modest amount of funding to help States and communities set up trauma systems that meet certain requirements and provide limited financial relief to trauma centers threatening to close because of high uncompensated care costs associated with trauma.

Mr. President, in addition to these five bills designated as S. 11 through S. 15, I will be introducing today and in the near future other measures dealing with pressing national interests.

The agenda before the 101st Congress is very full and rightly so. There are many, many issues that have not been adequately addressed in the past decade. We need to move forward in many areas—housing, the crisis in the thrift industry, voter registration reform, child care, equal rights, and civil rights for all Americans, long-term health care, safeguarding the environment—ranging from global warming and ozone depletion to protecting the California coast—drugs, crime, the deficit, helping America's business remain competitive in the international marketplace, seeing to it that the money we invest in national defense is wisely and prudently spent, and working worldwide in the cause of freedom, human rights, and peace.

I look forward to working with Democratic and Republican Senators, with House Members, with the Bush administration, with constituents and citizens from all across the land to meet the challenges that lie before us.

WILLIAM V. SHANNON—JOURNALIST, AMBASSADOR, AND FRIEND

Mr. KENNEDY. Mr. President, all of us who knew him were shocked and saddened to learn of the death last September of William V. Shannon. In the course of his brilliant career as a journalist and Ambassador to Ireland, Bill Shannon won many admirers in Congress and across the country. We shall miss his friendship, his wise counsel, his insightful columns and editorials, and his many contributions to the special relationship between the United States and Ireland.

A number of Bill Shannon's friends paid tribute to him at a mass in Brookline, MA, on September 30 and at a memorial mass in Dublin on November 2. I believe that the tributes, from both sides of the Atlantic, will be of interest to all of us who knew Bill Shannon and who admired his dedication to excellence, and I ask unanimous consent that the remarks at the services and other materials may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MASS FOR HON. WILLIAM V. SHANNON, ST. AIDAN'S CHURCH, BROOKLINE, MA, SEPTEMBER 30, 1988

REMARKS BY MARTIN F. NOLAN, EDITORIAL PAGE EDITOR OF THE BOSTON GLOBE

One week ago today, in the brilliant sunshine of California, I deposited a quarter in a newspaper box and was rewarded with a column by Bill Shannon on the editorial page of the Peninsula Times-Tribune in Palo Alto.

Like every Bill Shannon column I have ever read, going back to the old New York Post in the 1950s, it was as crisp and clear as an autumn day in New England. The passion in it resonated as eloquently as a speech before the gallows of a young Irish patriot.

The pleasure that any Bill Shannon column gives was doubly enhanced because I hoped it meant the resumption of his weekly column, which gave him and his readers such pleasure and satisfaction. It was not meant to be.

Liz Shannon introduced me the other day to a vistor from Ireland saying "Marty Nolan was Bill's boss at the Boston Globe." Can you imagine such a thing? "And a very unruly lad he was," I replied. Bill's boss, indeed.

Let me tell you the people at the Boston Globe who will really miss Bill Shannon. They are the unsung heroes of the copy desk—Merv Harvey, Marj Pritchard, Connie Noonan, Karen Dobkin. They must translate Boston Globe opinion into English every day. When Bill's copy came by, they automatically smiled because they knew they would never have to scratch their heads and say "What does this mean?" Bill's copy was clean, flawless and on time!

Bill's passion for clarity meant that his clarity enhanced his passion. He was a role model for all of us. Dave Nyhan said the other day that we all want to grow up to be Bill Shannon. The rolling thunder of his prose belied the gentleness of his demeanor, his easygoing elegance. He set high standards. He was a professional and a gentleman who made the art of disagreeing agreeable.

Oh, and what a model of sartorial splendor he was as well! He was a great walking ad for Monaghan's tailors of Dublin among us toilers in corduroy and polyester. One day, after his wit, erudition and knowledge of history enlivened and elevated a discussion among editorial writers, he said, "Ah, but we're all just ink-stained wretches, Marty."

I knew better than that. He was so much more.

When Bill worked for the New York Times, I learned the power of his prose from one of his admirers, Russell Baker. Bill was a fill-in summer columnist, as you recall. In Nantucket one night Russ said "Well, I won't extend this vacation because Bill Shannon is substituting and if any one of us is slow getting back, why common sense says he ought to stay there on the page."

Bill went to Dublin instead for a masterful stay in Phoenix Park. Never was the United States more capably or energetically represented. He always retained a keen interest in the newspaper business, though.

On or about St. Patrick's Day, 1980, Bill and Sean Donlon—then Ireland's ambassador to the United States—met in a new Irish bar in Washington. It was founded by Hughie Kelly of Connemarra, but it still had the Polynesian decor of its previous occupant. An outrigger canoe loomed over our table. "Perhaps it's St. Brendan's canoe," said Bill, as we competed to find a new name for the restaurant—Toora Loora Lau, Trader Mick's and so forth. Hughie settled on The Irish Times.

If Bill's tour of duty might end with that year's election, President Reagan seeming to have a good chance to beat Jimmy Carter, I would hope he'd keep the Boston Globe in mind upon his return, I told Bill. He kept a diplomatic silence, but despite offers elsewhere, he chose Boston University and the Boston Globe.

We were delighted and blessed that God gave us Bill Shannon for these past eight years and saddened that it could not be many more. What a great newspaperman he was. More important, what a great man!

REMARKS BY JON WESTLING, EXECUTIVE VICE PRESIDENT OF BOSTON UNIVERSITY

Last June 1 marked the beginning of what would have been Bill Shannon's eighth year as a member of the faculty of Boston University. But as a figure in the larger world he had been a part of our academic community much longer than that. As the citation of the honorary degree that he received from the university in 1976 read, "many of us awake to find you before us in the morning, and for years we have been pleased to begin the day with your clear, equitable, conscientious voice." Others can better speak to his career as a journalist, but that the best journalism is a form of teaching is a point Bill proved by making the transition from public service and journalism to academic life with the same grace that marked the other transitions in his life—including this final transition.

He gave the commencement address that year, the year of the bicentennial. Its title was, "America: The Double Quest." In it he spoke of the search for justice and the search for equality, and of the hard but essential task of balancing the two. This concern for balance, for the equipoise of opposites, was deeply characteristic of him.

He sought and, with admirable success, achieved a balance between the life of action and the life of contemplation. And it always seemed to me that he and Elizabeth had also achieved a balance that is even rarer: between a serious and productive public life and a richly rewarding private life.

Balance is among the most difficult virtues to cultivate; yet once achieved it can seem—however edifying—rather bland. Bill was never bland. He somehow managed to balance (to choose an Irish way of putting it) with Irish enthusiasm.

His enthusiasms were genuine, even passionate, but they were tempered by his perspicacity, his keen ear for the false note in people and in situations. He loved journalism, but was ruefully aware of its shortcomings. He loved Ireland, but it was with a mature love that sees and accepts the blemishes no less than the beauty. He was deeply committed to the Democratic Party, but knew that virtue is more frequently found in individuals than in collectivities. He loved teaching, but approached it with the wisdom of one who knows that not everything that is learned is taught and not everything that is taught is learned—or worth learning. He loved students, and they loved him, in part perhaps because they sensed his awareness of the storms that sweep the difficult transition from late adolescence to early adulthood.

Bill Shannon was, in short, the sort of person academic communities are designed to create, foster and protect—and the sort of person academic communities must have if their project, the project of education, is to have any chance of success. He was a virtuous man—a journalist of splendid integrity, an exemplary public servant, a good husband, good father, good citizen, good friend. For seven years he gave us at Boston University the best of his wit, his charm, his unquenchable intellectual curiosity, his learning, his grace, his balance, and his enthusiasms. Hundreds of students and colleagues were far the better for knowing him; we shall be far the poorer without him. But we are grateful for what we had, and even in our sadness celebrate the wholeness of a worthy life.

REMARKS BY JOHN B. OAKES, FORMER EDITORIAL PAGE EDITOR OF THE NEW YORK TIMES

Liz, Liam, Christopher and David have written—with grief and pride and love—their own words about Bill; and they have asked me to read them to you. But before I do so, I want to speak for a moment of what Bill meant to me as a colleague and a friend.

In the years that I was associated with Bill on virtually a daily basis, I came to love this shy, reserved man with the somewhat formal manner and quizzical smile, as well as to respect him as one of the most knowledgeable and astute political analysts of our generation.

With his powers of almost total recall, Bill could give you the details—gory, amusing, unedifying as the case may be—of every campaign from dog-catcher to President during the past half-century, especially in this his native State.

Together with his vast store of knowledge he had a penetrating eye for the phony, the shabby, the corrupt. If he felt even the most exalted candidate was unfit for office, he had the courage to say so, always with the facts to back it up—as he did with great prescience in the case of one notorious vice presidential candidate more than 20 years ago. It was he who wrote the memorable phrase that appeared on the editorial page of the Times well before anyone else dared speak the words: "Spiro T. Agnew is unfit for the Office of Vice President of the United States."

Always the gentleman in manner, in dress and—far more important—in heart and spirit, Bill could slice up his toughest opponent without ever raising his voice or even a finger.

He was a man of deep but controlled passion, of unbounded compassion, of sensitivity, of profound convictions but of equally profound tolerance. He was a conservative in that he was a respecter and practitioner of the old-fashioned virtues and values. He was a liberal in the proudest historic American tradition, contemptuous of any effort to twist the word liberal into a form of opprobrium, because his political faith was grounded in a sense of individual freedom, independence and democracy.

Bill was fun to be with, and never more so than in his Dublin Embassy, where he and Liz were beloved by everyone from the powerful and prestigious to the tradesman and the tinker—not because they were the American Ambassador and his wife, but because they were themselves.

Though I worked with Bill for only a dozen years, my wife and I have counted him as a dear friend for twice that time. I admired and loved him, as I do his wife and children, whose words you will now hear.

EULOGY WRITTEN BY ELIZABETH B. LIAM, CHRISTOPHER, AND DAVID SHANNON, AND READ BY JOHN B. OAKES

Our loss is immeasurable.

Our comfort is the shining memory of a husband and father whose unfailing standards of honor, truth, fidelity, and kindness will continue to guide us for the rest of our lives.

He loved being a husband and a father. He was happiest in his home where he was surrounded by his family and the beautiful things he spent a lifetime collecting. He loved beautiful things: china, books, antique furniture, paintings, jewelry. If he had been a wealthy man, he would have been one of the world's great collectors.

He was a fastidious, elegant man whose fine shirts, polished shoes, conservative, well-cut suits—chosen with care and always made by his Dublin tailor—never gave way to even comfortable sloppiness. As we were leaving our New York apartment at midnight twenty-one years ago to make a hurried dash to Mt. Sinai Hospital to produce Christopher, he lingered dangerously long, staring into his closet, finally explaining: "It's important to choose the right tie when you're having a baby."

He was the ultimate indoor man—only his good nature and good humor got him out on the patio for a cook-out. With real bewilderment he would ask: "Why would you want to sit outside with mosquitoes and flies when you have a beautiful dining room?" Instead of taking his boys camping, he took them to fine restaurants and taught them to share his pleasure in good food.

He was a wonderfully generous husband who loved bringing his wife extravagant gifts and occasionally had to be reminded

that his family faced bankruptcy if he didn't restrain himself.

He was a gentleman who loathed courseness of expression or feeling. The only time he cursed was when the Red Sox lost or he couldn't start the car. Then his extraordinary talent for expression was unmatched.

His sense of public right and wrong, always a theme in his writing, carried over into the education of his children. Once, in 1974, his eight-year-old son and a pal were thwarted in an attempt to get into a neighbor's garage to see a brand new bicycle, so they took a hammer to break the lock. Caught in the act, they were brought home to face the punishment doled out to them by Bill. When they attempted to excuse their actions as a trivial matter, he sat them down on the sofa and explained his position this way: "If Mr. and Mrs. Haldeman had made their little Johnny understand the difference between right and wrong, there might not have been a Watergate."

Life with Bill Shannon was an ongoing education. We all learned to understand and appreciate the political process and the preciousness of democracy from him. His patriotism was profound and visceral, and was exemplified in his writing and teaching. He understood the way his government worked and he loved and respected it. The greatest public joy of his life was to serve his country abroad.

He taught his wife and children by example and by words. Life in our home was an ongoing seminar in American history. It's not surprising that two of his sons and their two closest childhood friends are all history majors.

We never talked together of his impending death; we chose to hold out for hope. But in his final two days, when his disease and drugs had clouded his mind, he would murmur sentences that were disconnected in sequence, but clear and profound in meaning. The last sentence of his life was: "Violence is a sin that can never be justified for any political reason." In life and in death, that was his philosophy, his hope, and his goal.

Our pledge to him is to lead our lives by the example he set.

REMARKS BY HON. PADRAIC N. MACKERNAN, AMBASSADOR OF IRELAND TO THE UNITED STATES

Twenty-five years ago in 1963, President John Fitzgerald Kennedy came to Ireland on what was an historic and unforgettable visit.

He epitomized the success of the Irish Diaspora. He came to Ireland and he spoke to Dail Eireann, the Irish Parliament, in words that thrilled and moved anyone who heard him. It was a speech which reflected a love and knowledge of Ireland's cultural heritage, a concern for her people, and a pride in the achievements of Ireland.

The voice was that of President Kennedy. The words were those of Bill Shannon. Fifteen years later, Bill Shannon came to Ireland bearing the words of another American President when he presented his credentials as Ambassador of the United States.

He, too, was the son of the Irish Diaspora. And when he came to Ireland he brought those qualities which he displayed throughout his life, both as a journalist and author and as a public man—qualities of lucidity, compassion and detachment.

Lucidity to understand the depths and complexity of the problems of Ireland; compassion to be concerned about the success of Ireland as an independent nation, about its place in the world, about the links between Ireland and the United States, and about the contributions which Ireland has made to this country, and which the United States by encouragement and example has made and continues to make to Ireland.

He brought the detachment of a scholar who understands that complex political problems cannot be solved by simplistic and violent means. He did very well in Ireland as an Ambassador. And no small part of his success in that regard was the support and help of his wife Elizabeth and their children.

He was greatly revered while he was in our country. And that esteem continued when he returned here to resume his work as a journalist and historian. I think I could say that I knew Bill Shannon for many years—both vicariously when I read his work, and personally when he came to Ireland and when I came as Ambassador of Ireland to the United States. He was a warm and friendly man and a man who cared. That care was not limited. It extended to the artistic world in his concern for the American Irish Foundation and the American Ireland Art Exchange program.

I can do no better than to quote something from Bill Shannon's own writing, which shows the kind of man he was and the values which he tried to adhere to in his own life. In the last chapter of his book, "The American Irish", he writes:

"Political power in itself cannot be a morally worthy end. Those who exercise it are ultimately judged by the manner of its exercise and the ideals it served. Only if these moral criteria are controlling, can man advance towards the highest good".

Bill Shannon understood what these ideals mean in Ireland and also in this country. He knew that in Ireland power cannot grow from the barrel of a gun, but from the ability of men and women to work together to translate ideals and values into facts.

In his last days, he was still writing. He was a lover of poetry as well as a connoisseur of politics. His last article was one about T.S. Eliot, a poet who was also in some degree a public man.

I think I should end this tribute by quoting from another poet, who was also a public man, and whose words reflect the qualities that Bill Shannon cared about and that he translated into the facts of his own life. It is from Yeats' poem, "The Tower":

"I choose upstanding men . . . I declare
They shall inherit my pride,
The pride of a people that were
Bound neither to cause, nor to state,
Neither to slaves that were spat on,
Nor to the tyrants that spat,
The people of Burke and of Grattan
That gave, though free to refuse—
Pride, like that of the morn,
When the headlong light is loose
Or that of the fabulous horn,
Or that of the sudden shower
When all streams are dry
Or that of the hour
When the swan must fix his eye
Upon a fading gleam,
Float out upon a long
Last reach of glittering stream
And there sing his last song."

"Ar dheis De go raibh a anam dhilis".

(May his loyal soul be at God's right hand.)

REMARKS BY SENATOR EDWARD M. KENNEDY

In the revised edition of his classic work, "The American Irish," our friend Bill Shannon wrote these words about my brother Jack—"He was loved more than he knew." And that simple eloquent tribute is just as true of Bill Shannon, for he too was loved more than he knew.

In remembering Bill here, we also honor the extraordinarily loving Shannon family that was the core and foundation of his life—his wife, Liz, who was also his life-long partner in all he did and achieved, and his three children, Liam, Christopher, and David.

Of the many friends I inherited from Jack, Bill Shannon was one of the best—and certainly the brightest.

He had a long and enduring affection for President Kennedy. One spring day, while Bill was serving in Ireland as Ambassador, he made a point of traveling down to Wexford from Dublin, so that he could pay tribute to Jack on May 29th, my brother's birthday.

Bill probably never fully knew how much that perceptive gesture meant to me and to our family. For he was one of the first to understand how much we wished to remember Jack by marking the date of his birth, not the date of his death.

Later, Bill sent me a photograph of himself from that day, standing beside a memorial to President Kennedy that consisted of a stone fountain with some of Jack's most famous words inscribed in Gaelic—"Ask not what your country can do for you—ask what you can do for your country." I asked Bill how he knew what the inscription said. He replied that Gaelic was still Greek to him, but he had managed to learn just enough to be sure of the words.

In Bill's remarks that day in Wexford, he recounted a story about Jack that I recalled when Liz telephoned my Senate office with the sad news last Tuesday.

The original edition of "The American Irish" was published in January 1964. But advance copies had been sent out a few weeks earlier to newspapers and magazines. Publishers knew that President Kennedy liked to read, and many of them had begun sending him copies of their new books.

Two or three times a day, Jack used to step out of the Oval Office, to look over the letters and packages piled on the desk in the adjoining room. One day in November 1963, he noticed that several new volumes had come in, and "The American Irish" happened to be on top. Jack leafed through it and said, "This looks interesting. I'll read it when I get back from Texas."

For a quarter century, that was a poignant memory for Bill, and it is doubly poignant for me now, because when his illness came, Bill had just begun working closely with me in his spare time to gather recollections of my brothers and my family. I had come to know him especially well in these sessions. He was like a member of the family, and we loved him all the more.

I admired Bill for many things—most of all for the warm and caring and thoughtful friend he always was, but also for his intellect and judgment and the wide range of his interests. He loved to talk and fret about the Red Sox. Sad as these recent days have been for us, it may just be that with the Playoffs and Series coming up—God, in His wisdom, decided He needed an expert on the Sox—to teach all the heavenly hosts about the fine points of the game.

In 1967, Bill had published another book, "The Heir Apparent," a well-received campaign biography of Robert Kennedy—so I respected Bill's political advice as well. One day in the spring of 1979, he stopped by my Senate office to brief me on developments

in Dublin and Northern Ireland. And when the briefing was over and conversation turned to other things, he remarked, "Ted, the Presidential polls look great. 1980 is your year for the White House." So, I took Bill's advice—but this time, the "heir apparent" was apparent only to Bill and me.

I recalled that conversation again last spring—when I opened the Globe one morning, turned to the weekly William V. Shannon column, and saw Bill's endorsement of Senator Albert Gore.

Irish to the core, Bill was proud of his roots in County Clare. He loved the Irish in all their ramifications and contradictions—the legends and stereotypes, the scholars and brawlers, the priests and politicians, the art and history, and especially the wit. A few weeks ago, we were regaling each other with the tale of the renegade Irishman jailed for 30 days for stealing a ham. It seems that after three weeks, his wife couldn't stand it any longer. So she went before the judge to plead for her husband's release.

Is he good to you, asked the judge? Well, no sir, he isn't. Does he treat the children well? No sir, he's mean to them. Does he stay at home when he's not in jail? No sir, he runs around a lot. Why on Earth do you want him back again? Well, to tell the truth, judge—we're about to run out of ham.

Because of Bill, we have a richer understanding not only of Irish wit, but of the many other dimensions of Ireland's hold on the United States. He wrote eloquently of those dimensions in "The American Irish"—about the saints and sinners who came to this country over the past century and more—and who did so much to make this land of their dreams a reality. They built our New England mills and cities, dug the canals and laid the railroad tracks that took America to the West. Even today, it is said, under every railroad tie, an Irishman is buried. And Bill Shannon told their story well, with the characteristic brilliance and sensitivity that have always been his trademark.

Writing that classic tale was a labor of love for Bill. But it was often frustrating too. I understand that at one point, Bill was ready to pack the project in. But Liz came to the rescue, saying: "Look, it's like a pile of wet laundry down in the cellar. You just have to pick it all up and iron it."

Later, in the 1970's, Ireland became not only history and heritage, but headlines and heartache too. "The troubles" had come again to that other land Bill loved. He was quick to comprehend the truth that all the news from Ireland was not fit to print. And so he traded in the editorial board of New York for the Embassy desk of Dublin.

At first, there was grumbling about Bill's nomination. The Foreign Service professionals, the big campaign contributors, and the thoroughbred horse-breeders all thought they owned the embassy. There was stiff competition for the post, and few observers gave much chance to the intellectual editorial writer from Brookline. But Bill got a little help from his friends. As a White House liaison man remarked in the spring of 1977, President Carter had no intention of stepping in between Bill Shannon, and Tip O'Neill and Ted Kennedy.

The Senate easily confirmed the nomination, because Bill was so obviously qualified for the job. After all, he reminded me, things hadn't changed that much from old Boston and the days of the "Last Hurrah," when you only had to know two things to do well in American foreign policy—Trieste belongs to Italy, and all Ireland must be free.

And so to his portfolio as reporter, columnist and author, Bill Shannon added the role of distinguished diplomat. I often thought he liked the latter best, because he liked the action most.

It is said that editorial writers are people who come down from the hills after the battle is over and shoot the wounded.

Now, I don't think of Bill Shannon that way, or Marty Nolan either.

But I know that when Bill Shannon stopped writing editorials in New York and started writing cables in Dublin, the State Department in Washington became swiftly and miraculously transformed into a much more even-handed posture on the Irish issue.

It is a tribute to the irresistible logic of Bill's diplomacy that when President Reagan took over from President Carter, he took over Bill Shannon's Irish policy too—and didn't change a thing. We are closer to peace in Northern Ireland today because of Bill Shannon, and closer to unity for all of Ireland too.

Finally, let me mention one other quality of Bill's that captivated Jack and Bobby and me and so many others who knew him. He was a gentle, loving friend, with a powerful, infectious sparkle in his eyes. It made all his soft-spoken words and precise pronunciations echo with insight and delight.

I've often thought that they wrote "When Irish Eyes Are Smiling" for people like Bill Shannon. And the words are an especially appropriate farewell now:

"When Irish eyes are smiling,
"It's like a morn in spring.
"In the lilt of Irish laughter,
"You can hear the angels sing.
"When Irish hearts are smiling,
"They'll steal your heart away."

You stole all our hearts away, Bill. We loved you, and we miss you.

[From the Boston Globe, Sept. 28, 1988]

WILLIAM V. SHANNON, COLUMNIST, FORMER ENVOY TO IRELAND; AT 61

(By Edgar J. Driscoll)

William V. Shannon, award-winning author and journalist and former United States ambassador to Ireland, died yesterday at University Hospital of lymphoma. He was 61 and lived in Brookline.

Mr. Shannon was ambassador to Ireland from 1977-81 during the Carter administration. After leaving Dublin in the spring of 1981, he joined the faculty of the University Professors program at Boston University, teaching a course on the American presidency and conducting graduate seminars in journalism.

From 1964 until his appointment by President Jimmy Carter, Mr. Shannon served on the editorial board of the New York Times, writing political and environmental editorials and columns for the paper.

Since the 1960s he also contributed articles to the Boston Globe. Beginning in 1981 he wrote a weekly column and editorials on domestic and foreign affairs. His last column appeared last week. In 1967, his biography of Robert F. Kennnedy, "The Heir Apparent," was serialized on the Globe's editorial pages.

Mr. Shannon wrote "The American Irish," a history of Irish immigration to this country, and "They Could Not Trust The King," a pictorial account of the Watergate hearings. He and Robert S. Allen wrote "Our Sovereign State" and the best-selling "The Truman Merry-Go-Round."

Mr. Shannon's articles also appeared in Commonweal, the Economist of London, the New Republic and the New York Times Magazine, among others.

Before joining the Times as an editorial writer in 1964, Mr. Shannon was a reporter for the New York Post. He received the New York Newspaper Guild's Page One Award for his coverage of the McCarthy-Army hearings in Washington in 1954.

He also won the Edward J. Meeman Award of the Scripps-Howard Foundation for conservation writing and the Gold Medal of the Eire Society. He was also a trustee of Clark University.

Mr. Shannon was born in Worcester of Irish immigrants. He graduated magna cum laude from Clark University in 1947 and the following year received a master's degree in American history from Harvard University. One of his professors, Arthur Schlesinger Jr., called him "the most brilliant student I ever had." Later he edited the Theodore Roosevelt Papers at MIT.

He was a fellow at the Center for the Study of Democratic Institutions in Santa Barbara, Calif., in 1961-62. In 1969 he won an Alicia Patterson fellowship for journalists and spent the year in London observing the British Parliament.

He was a member of the Tavern Club of Boston, the Century Club of New York, the American Antiquarian Society, the American Historical Association, the Massachusetts Historical Society and Phi Beta Kappa Roman Catholic Club. He also served on the boards of the American Ireland Fund, the American Irish Arts Exchange, Cooperation North and the American Council of Bishops.

Mr. Shannon leaves his wife, Elizabeth (McNelly); three sons, Liam, Christopher and David Shannon, all of Brookline; a brother, John, and two sisters, Mary Willett and Clare Graham, all of Worcester.

A funeral Mass will be said at noon Friday in St. Aidan's Church, Brookline.

[From the Boston Globe, Sept. 28, 1988]

WILLIAM V. SHANNON

For those in the opinion business, he was the finest role model one could have. His columns bristled with strong, clearly expressed views, yet in person his kindness, elegance and easy demeanor charmed all who met him. He was a gentleman and a professional who made the art of disagreeing agreeable.

William V. Shannon, who died of cancer yesterday at University Hospital, was more than that. As the US ambassador to Ireland, he represented the best of Irish-American thought and culture. Never has Washington been represented in Dublin with more grace, charm and passionate understanding than when Bill Shannon was ambassador. In 1977, President Jimmy Carter, to his credit, appointed a nontraditional ambassador—a member of The New York Times editorial board, an intellectual, an academic and an author. Shannon's book, "The American Irish, in America," has never been equaled.

In the 1950s, when he covered the rise of McCarthyism for the New York Post, Shannon reflected the common-sense values of Worcester, where he grew up. As his career in newspapers developed, he avoided the occupational hazard of cynicism and became more optimistic about democracy. His political philosophy was similar to that of the late Sen. Henry Jackson, who said, "I'm a liberal, but I'm not a damned fool about it."

Shannon's erudition and unfailing courtesy won admiration in New York and Washington, but the kitchen-table values of Worcester provided lasting satisfaction. He was devoted to his wife, his sons and the Boston Red Sox.

In Ireland, his diplomatic abilities and love of the country helped elevate the Irish-American dialogue. After his diplomatic service in 1981, he taught at Boston University and wrote for the Globe.

Readers of this newspaper will miss the clarity, insight and passion he brought to his writings. We will miss his sense of fairness and decency, his wit, charm and high standards. Bill Shannon was above all a craftsman, as he showed when he wrote his last column last week. He took great pride in his column, but no greater than we did in printing it.

[From the Washington Post, Sept. 28, 1988]

WILLIAM SHANNON DIES AT 61; WAS JOURNALIST, AMBASSADOR

William V. Shannon, 61, the U.S. ambassador to Ireland during the Carter administration who also was a scholar and a journalist who had distinguished careers at the New York Post, the New York Times and the Boston Globe, died of cancer Sept. 27 at a hospital in Boston.

Mr. Shannon was a Washington correspondent and columnist with the New York Post from 1951 to 1964. He then joined the editorial board of The New York Times. He remained there until 1977, when he went to Ireland as ambassador.

In 1981 he returned to this country. Since then he had been a contributing columnist to The Boston Globe and a teacher of journalism and a course on the American presidency at Boston University.

While serving in Dublin, his common sense and command of the language made him a good representative, encouraging friends and disarming critics. His abilities were particularly in evidence during an awkward episode that occurred while he served there.

Through error, a private letter written by the cultural affairs officer at the U.S. Embassy was released to a Dublin newspaper. It contained many observations that were critical of the Irish and it became the topic of the day. In one passage the Irish were said to be "a people with too much human nature—violent and compassionate—for their own good." In another it was said that Ireland had "food and climate well suited to each other: dull."

The Irish prime minister, the Irish Tourism Council and the Irish Hotels Federation expressed outrage. Mr. Shannon coolly and deftly met the crisis with the following statement: "The Irish are famous for their sense of humor, and I think I shall have to rely on it in this instance."

A resident of Brookline, Mass., Mr. Shannon was born in Worcester, Mass. He graduated magna cum laude from Clark University in 1947 and received a master's degree in American history from Harvard University. He served briefly on the faculty of the Massachusetts Institute of Technology and helped edit the letters of Theodore Roosevelt before moving to Washington in 1949. He was a free-lance writer until joining The New York Post.

Over the years, he contributed articles and reviews to many of this country's leading publications. He had covered the hearings on Sen. Joseph R. McCarthy (R-Wis.) for The New York Post and became an authority on McCarthy's brand of anticommunism. He also was a student of the famous Sacco-Vanzetti case in the 1920s, in which two anarchists were executed in Massachusetts.

Mr. Shannon also wrote several books, including "They Could Not Trust the King," which is about the Watergate case and was published by Macmillan in 1974, and "The American Irish," published by Macmillan in 1964. He was a member of the American-Irish Foundation.

Survivors include his wife of 27 years, the former Elizabeth McNelly, and three sons, Liam, Christopher, and David Shannon, all of Brookline, and a brother, John Shannon, and two sisters, Mary Willett and Clare Graham, all of Worcester.

[From the New York Times, Sept. 29, 1988]

WILLIAM V. SHANNON DIES AT 61; AUTHOR AND FORMER AMBASSADOR

(By Glenn Fowler)

William V. Shannon, an journalist and author who was Ambassador to Ireland in the Carter Administration, died of lymphoma Tuesday at University Hospital in Boston. He was 61 years old and lived in Brookline, Mass.

Mr. Shannon, the son of an Irish immigrant, had spent more than a quarter of a century working for newspapers as a reporter, editorial writer and columnist when he was chosen by President Carter in 1977 as envoy to Dublin. He had written "The American Irish," a history of Irish immigrants and their progeny in the United States that was published by Macmillan in 1964.

Before and after his diplomatic service, Mr. Shannon devoted himself to journalism and scholarship. He was a Washington correspondent for The New York Post from 1951 to 1964 and an editorial writer for The New York Times from 1964 until he went to Ireland.

LAST COLUMN A WEEK AGO

When he returned from his ambassadorship in 1981 he joined the faculty of Boston University, teaching a course on the American Presidency and conducting graduate seminars in journalism. He also wrote for The Boston Globe on foreign and domestic affairs.

Mr. Shannon's fatal illness was diagnosed last March but he continued to teach and write until this fall, when he went on medical leave from the university. His last column for The Globe appeared a week ago today.

Mr. Shannon's "experience in foreign affairs and as a journalist brought a very high level of achievement to bear in his classes," said John Silbver, president of Boston University. "He was an inspiration to our students, a stimulation to our colleagues and a productive and witty colleague."

Most of Mr. Shannon's writing dealt with American political affairs. In 1950 he collaborated with Robert S. Allen on "The Truman Merry-Go-Round." Published by Vanguard, it was a collection of vignettes about life in Washington that took a salty view of President Truman.

WRITINGS FOR PERIODICALS

He wrote "The Heir Apparent: Robert Kennedy and the Struggle for Power" (Macmillan, 1967), less than a year before Senator Kennedy was assassinated while seeking the Presidency.

Mr. Shannon was a frequent contributor to current-affairs periodicals, including The Economist, Commonweal, Harper's, The Atlantic Monthly, New Statesman, The New Republic and Partisan Review. Among his honors was a Page One Award from The New York Newspaper Guild for coverage of national affairs for The New York Post.

Mr. Shannon was born in Worcester, Mass., one of five children of a carpenter who emigrated from Ireland in 1910. He received a bachelor's degree from Clark University in Worcester and a master's degree in history from Harvard.

From 1951 to 1957 he was bureau chief in Washington for The New York Post and for the next seven years he wrote a national-affairs column for The Post. When he moved to The Times in 1964 he wrote on state and local matters as well as national affairs.

Mr. Shannon is survived by his wife, the former Elizabeth McNelly; three sons, Liam, Christopher and David, all of Brookline; a brother, John, of Worcester, and two sisters, Mary Willett and Clare Graham, both of Worcester.

A funeral mass is to be said at noon tomorrow at St. Aidan's Roman Catholic Church in Brookline.

[From the Boston Globe, Oct. 8, 1988]

Letter to the Editor

"SHANNON EPITOMIZED THE BEST OF JOURNALISM"

(By Keith C. Burris, Associate Editor, the Toledo Blade, Toledo, OH)

I never met William Shannon, but when I read an advisory on one of the wire services that Shannon's last column had been transmitted before he had died of cancer, it gave me a jolt. I actually felt that I had lost a friend. Certainly, journalists throughout the nation lost a role model. Shannon epitomized the best of American opinion journalism.

I had routinely seized his column each week to read for my own pleasure and edification.

One of the nice things about writers and writing, even the poor cousins in journalism, is that no one can really know how far a writer's words extend, nor can anyone judge the depth of the words' impression. The first Shannon column I remember clipping and keeping was called "The Challenge Beyond Nihilism"; it appeared in The New York Times during the presidential campaign of 1976. The column was the work of a serious man in a trivial time and a too-often trivial profession.

Shannon wrote principally about politics. I don't think of that as incidental duty: politics is important both in itself, as a human activity, and as a force in history and civilization. Yet many political writers act as if their craft is trivial, as if depth and ponderousness are the same qualities. Like few others, Shannon thought about politics as he chronicled it.

He was a liberal, though an old-fashioned one, perhaps more a liberal Catholic than a liberal Democrat, and he could turn a phrase, but his first commitment seemed to be to thought, analysis and opinion that might shed light. I cannot think of a Shannon column that was merely cute or built upon a foundation of one-liners.

I got to know Shannon a little through correspondence. And I got to know a couple of his friends who shared both their admiration and facts about Shannon's life. One was William Clancy, the late Catholic priest, preacher and Commonweal editor. Another was Eugene McCarthy, the nonconformist Irish-American elder statesman. Both took Shannon seriously because he was a pundit and a historian of ideas.

I had become fond of the man strictly through words, his columns. This seems rare, Victorian, almost precious—but one may hope it is not. The written word and those who take care of words still matter.

[From the Boston Globe, Oct. 8, 1988]

LETTER TO THE EDITOR—"ON THE FRONT LINES WITH FORM, SUBSTANCE"

(By Jack Garvey, Newburyport, MA)

Like many teachers of college writing, I'm always looking for current articles with content relevant to young people and with form and style that set examples.

For as often as I've discussed William V. Shannon's columns with my classes, I've wondered if I should send him part of my paycheck or notes of appreciation. I'm ashamed that I did neither and that it's now too late.

As far as I know, Shannon was the only columnist who recognized the foremost threat to America and treated it as a recurrent theme. In his own words:

"The United States today has a popular culture that is at war against the nation's children and youth."

While the rest continually scribble about sideshow skirmishes or makeshift miracles and party-line patriotism, the front line seems vacant without him.

Until that changes, "the coarsening and corrupting of the nation's youth will continue," as Shannon warned in 1987, "and America's decline will be irreversible."

[From the Irish Echo, Oct. 15, 1988]

BILL SHANNON REMEMBERED

(By Maureen Connelly)

In a send off as would befit a Celtic chieftain or a Clare Shenachie, William Shannon, former ambassador to Ireland in the Carter administration, was laid to rest on September's last day. From the calling hours the eve before at his family's home in Brookline to the noon Requiem Mass at his parish church named after a 7th century Irishman, it was a traditional Irish funeral.

One of five children born in 1927 to parents from County Clare who came to Worcester in 1910, Shannon was educated at Clark and Harvard universities. At the latter, historian Arthur Schlesinger considered him to be his "most brilliant student."

Before his ambassadorship, he spent 25 years as a journalist with the New York Post and the New York Times. After, he was a professor at Boston University and a columnist for the Boston Globe. At the time of his death, from lymphoma, he was co-authoring, with Senator Kennedy, a remembrance of John and Robert Kennedy."

"Of all the friends I inherited from Jack, Bill was one of the best and certainly the brightest," said Kennedy in the opening of his eulogy at St. Aidan's. And, after reminiscing on their friendship and love for Ireland, especially her stories, he recited in almost a whisper the lyrics of "When Irish Eyes Are Smiling."

Shannon's affection for Ireland and her people also was recalled by Ambassador Patrick MacKernan in his eulogy. Just as the Irish have never forgotten JFK's visit there in '63, they will never forget the Shannon years, said MacKernan, and the Rev. Leonard Copenrath, pastor of St. Aidan's, in his homily paused to point out the font where this country's first Irish-Catholic President was baptised in 1917.

Two of Shannon's newspaper pals, Martin Nolan of The Boston Globe and John Oakes of The New York Times, also offered eulogies. Both from the pulpit and in print two days before, Nolan praised Shannon's "kitchen-table values of Worcester," his devotion "to his wife, his sons, and the Boston Red Sox," and his "craftsmanship."

Referring to Shannon's last column, published five days before he died, Nolan remarked, "The passion in it resonated as eloquently as a speech before the gallows of a young Irish patriot."

And Oakes, speaking in behalf of Shannon's widow Elizabeth and their three sons, recalled his last words: "Violence is a sin for which there can never be any justification."

When asked by this Echo writer how they best remember Bill Shannon, Hub-Hibernians all were in agreement as to his intelligence, integrity, humanity and humor. John Daley, president of the Eire Society when Shannon received its gold medal, remembers their conversation on that occasion, April 18, 1975.

It touched on Ireland as well as America's history, the location of the dinner (it was the first time the Eire Society had booked the Harvard Club), and their first roots. Daley discovered that night that his aunt, Helen Lombard, was Shannon's second grade teacher in Worcester.

Mary Tierney, also a former Eire Society president and a columnist with the old Boston Herald, remembers first meeting Shannon in Rome, "where we were both on assignment. We were introduced by Bishop Minihan." To Tierney, Shannon was "a rare combination of journalist and diplomat who excelled in both professions."

Her sentiments were shared by Bill O'Donnell, the former Boston Irish Echo's editor. "We have lost a good friend and a strong advocate of peace and justice in Ireland," said O'Donnell.

Bill McNally, Boston director of the American Ireland Fund, will never forget how Shannon, "single-handedly, selected, after reviewing each entry and interviewing each applicant, the American Ireland Fund's annual literary award winner."

Maeve Finley, one of the Fund's first directors, will always think of him "as a gentleman, and a scholar. We will miss his humanity and his positive thinking."

The Consul General of Ireland in Boston, Brendan Scannell, will continue to consider Bill Shannon as Ireland's champion. "His reputation as an intellectual powerhouse, his kindness and his humanity is legendary in Dublin . . . He was a statesman who unselfishly served two nations, Ireland and America, proudly and with distinction."

And this writer cannot help but ask if senators or scholars, editors and educators, family and friends will ever see his like again.

[From the Boston Globe, Oct. 17, 1988]

BILL SHANNON: A COLUMNIST WHOSE READERS WERE ALSO HIS FAMILY

(By Elizabeth Shannon)

On Sept. 30, Bill Shannon's family, friends and colleagues—400 in all—bade him farewell. As I spoke to many of them, I realized that another and very important "family" in his life was not able to perform the rituals of saying goodbye—his readers.

Bill had been a newspaperman all his adult life, briefly writing news stories, which he didn't like and didn't do well, then switching to columns and editorials, which he loved and did very well.

His first ambition was to be an academic, and some of his friends thought his move into journalism was a strange choice for a scholar and historian, but he didn't think of it as strange at all. He wrote to inform, to teach and to provoke thoughtful political dialogue. His column was his classroom, his readers his students.

Unfailingly gentle and kind in person, the passion and ferocity of his nature in the defense of democracy and honest, good government turned his prose into muscular and courageous attacks on men and events he distrusted. He knew no fear when he chose a target, and his typewriter keys would pound out a drumbeat of cogent, forceful sentences, each one building in beautiful, clean logic to the climax of his argument.

He loved politics the way other men love golf. He would gear up to a national election like a runner warming up for a sprint, looking over candidates early in the race.

Countless evenings at the table, after we had finished dinner, he would sit with a pen and the back of a used envelope, writing lists of states and their votes, comparing them with the previous four years, and the four years before that. Then he would shake his head and say: "He'll never make it." And for him, that was the end of that candidate. He was seldom wrong.

He loved the years of correspondence he had with his readers. From Hawaii right across the country, they wrote to him with regularity; angry at a stand he took, bemused at what they considered a deviation from his liberal stance, pleased with a judgment that matched their own.

He answered them all: the man who wrote in circles of red ink on the back of a grubby postcard, the woman from North Carolina who signed all her letters with a lipstick kiss, the thoughtful attorney from Oklahoma who wrote regularly because she said Bill was the only person she had to "talk politics" with.

Only once did he become the target of vandalism because of his views, and that was when he wrote a column disagreeing with Margaret Thatcher's decision to invade the Falklands. After the passion of so many years of political controversy, it did not loom large as an issue with him, but there are those weeks when you have to write about something.

There is always someone in the world who feels very strongly about an issue, no matter what it is, and the night that column appeared, our car was spray-painted with large red letters: "Up with Mrs. Thatcher. Down with the Falklands."

The policeman who came to take a look at it shook his head in bemusement: "We haven't had many protests about the Falklands," he said. Bill just loved it.

Bill wrote only two personal columns. One was for the New York Post, when he told his readers that he wouldn't appear for a month because he was going on his honeymoon. The second time he was asked by The New York Times Magazine to write a column about values we instill in our children. As always, we talked about the article before he wrote it; there was no trouble about our having a united front on those issues, but I, with our children still so young, finally said: "I'm not going to be a part of your telling people how to raise their children; we haven't raised ours yet." So he added a footnote, saying I had disassociated myself with the article.

He received more mail on that piece than anything he ever wrote. The majority of it was from readers who felt supported by seeing goals for their own children reinforced in print by another parent. Now, 16 years later, I remove the footnote. His

values—as with so many of his political judgments—proved right.

He dictated his last column from his bed nine days before he died. His sons and I want his readers to know how much they meant to him.

[From Commonweal, Oct. 21, 1988]

THE AMBASSADOR GOES HOME

(By James Finn)

When William V. Shannon was buried from St. Aidan's Church in Brookline, Massachusetts on September 30, the many strands of his professional and personal life were brought together. First, the celebrant informed us that St. Aidan was a seventh-century Irish missionary and it was in this same church that John F. Kennedy had been baptized. During the funerary tributes paid to Bill Shannon, Senator Edward Kennedy revealed that a principal reason that President John Kennedy had received the warm reception he did when he visited Ireland was that many of the words he delivered had been composed by William Shannon. Bill himself was later to receive high praise and much affection from the Irish when, under the Carter administration, he served as a very engaged and imaginative U.S. ambassador to Ireland.

Other tributes came from colleagues who knew Bill as a journalist, historian, columnist, editorial writer, and teacher. John Oakes not only spoke of his deep admiration for Bill's professional integrity as editorial writer for the New York Times but of his own long friendship. Noting Bill's fastidiousness in dress and decorum, he remembered waiting nervously to drive Bill to the hospital where his wife, Elizabeth, was preparing to give birth to one of the children. Bill was lingering in front of his closet. "One must be careful what tie to wear when one is going to have a baby," Bill explained. John Oakes then read the loving tribute that Elizabeth Shannon and Liam, Christopher, and David paid to Bill as husband and father.

No one could capture in brief comments anyone as brilliant and accomplished as Bill Shannon. But there did emerge from testimonials delivered at Bill's funeral Mass a sense of his integrity, compassion, wit, elegance, loyalty, and appropriate political detachment. These qualities were evident in his prose as they were in his person.

My own memories of Bill are closely entwined with Commonweal where, Bill said, he made among the editors three very close friends, John Cogley, William Clancy, and myself. I remember Bill coming into the office to write a column and in short order turning out a highly polished, thoughtful piece. An unusual but not a unique achievement. Bill's piece, however, was studded with dates and statistics that most writers have retrieved only from reference books, but which Bill easily found in his remarkably capacious memory. I learned early on not to dispute historical facts; had he questioned it, I think I would have come to doubt even my own birth date.

Bill's deep political interest and insight, his vast memory, and his elegant prose made every book, every article he wrote a pleasure to read and a formidable challenge to those who held contesting views. What made his writing of more than the day's or month's passing interest was that it was grounded in a deep moral sense. Recalling Lord Acton in a piece he wrote for Commonweal over thirty years ago (April 16, 1954), he referred to "academicians who in their eagerness to be fair and to present history in all its many-sided complexity evade altogether the historian's ultimate responsibility for making moral judgment on men and events."

Bill did not evade that responsibility. For example, long before final proof rolled in and before it was popular to say so, Bill declared that "Spiro T. Agnew is not qualified for the high office he seeks." Even when Bill's moral judgments were not explicit, they permeated his political analysis and historical commentary.

Those who knew him primarily through his writing will miss a kind of moral/political analysis that is always rare and today much needed. For those whose lives were closely bound with Bill's, his death leaves a gap that must be permanent. And for those who could join in the message of the funeral Mass celebrating the passage of Bill Shannon to another life, we can truly say: our prayers go with you.

[From the National Review, Oct. 28, 1988]

WILLIAM V. SHANNON, RIP

The disease of liberalism in our time resides in the fact that it has no enemies to the left. Anything goes—Castro, Ortega, Maurice Bishop, Angela Davis, Jesse Jackson, the Salvadoran guerrillas, and, well, you name it, we don't want to.

William V. Shannon, who died of lymphoma on September 27, at age 61, was not a liberal of that round-heeled sort. His roots were in an earlier liberalism that actually made distinctions, hated and despised totalitarianism, and was unabashedly patriotic. NR certainly disagreed with Mr. Shannon on various issues concerning the welfare state, but never on the basic issues of liberty.

Throughout his adult life, Mr. Shannon was a distinguished journalist, writing for the New York Post and later joining the editorial board of the New York Times. He was something of a professional Irishman, his most impressive book being The American Irish (1964), a fine account of that subculture. Perhaps Jimmy Carter's best appointment was Mr. Shannon as ambassador to Ireland in 1977, where he served with great distinction.

He wound up at Boston University, teaching courses in journalism and on the American Presidency. His last column, for the Boston Globe, was written a week before his death. He was a journalist of honor, and will be missed.

[From the Boston Irish News, Nov. 1988]

REMEMBERING WILLIAM V. SHANNON

In the preface to The American Irish which was published in 1964, barely one year after the assassination of John F. Kennedy—the symbol of Irish success and assimilation in America—William V. Shannon recalled the reaction of Joseph P. Kennedy to being called an Irishman by a Boston newspaper.

"I was born here. My children were born here. What the hell do I have to do to be called an American?" Kennedy snapped.

Shannon was well suited to examining that question in its social and historical context. He was the son of Irish immigrants, yet Harvard educated; a first class newspaperman working with elite American publications. As a young reporter he clashed with McCarthyism, one of the uglier manifestations of the Irish experience in America.

Shannon certainly knew his Irish heritage, and took pride in it, but he was fully and confidently assimilated. The very title of his first book The American Irish, leaves no doubt as to where his primary loyalty lay.

Indeed, one of the major themes in The American Irish is the competition between progressive and conservative values within the Irish community in America, something that had, and has, more to do with the nature of American rather than Irish politics.

Even in the early sixties, he was alert to a trend that became more pronounced in the seventies and eighties—the Irish shift away from the Democrats toward the Republicans. His grasp of history provided an early guide to the changes, many of them wrenching, that faced the Irish in America.

Yet he charted and challenged the idols of his tribe graciously, with style and gifted intellect.

Given such an array of talents and confidence it is no surprise that the most influential book on the Irish experience in America began not with praise but by addressing an internal tension and by examining a question of ethnic identity. "To describe one group of Americans" he wrote "in terms of their ancestry and background is not to say that they are any less American for what they did and are. Rather, it is an effort to show what kind of Americans they are and why their history took the form that it did."

The scholarship, diplomacy and journalistic writing of William V. Shannon, 61, who died of cancer on September 27th, established new standards of excellence in American Irish relations.

As American Ambassador to Ireland from 1977 to 1981, during the Carter Administration, he understood the country and its situation. His diplomacy was astute and understated. He knew how to read subtle and complex issues and how to best represent them, to the benefit of American and Irish interests.

His Ambassadorship marked a new threshold of quality by which subsequent Ambassadors are judged.

In his journalistic work, Shannon, a Boston Globe columnist since 1981, and a former editorial writer with the New York Times, showed insight and moderation, particularly when writing about Ireland. He used no rash words, his assessments were measured yet substantial and his reasoning was always based on fact and realism. His presence at The Globe clearly contributed to that paper's above-average coverage of Irish affairs.

In The American Irish Shannon wrote "I happen to think disagreement is . . . a good thing. As a columnist who has to make up his mind several times a week on a broad range of public issues, some of them in bitter dispute, I have always taken comfort from the old Irish proverb, 'Contention is better than loneliness.' "

As diplomat, scholar and journalist Shannon knew how to be contentious and provocative. However, he was always professional, courteous and responsible. His was a rare combination. He succeeded in not only making his mark, over and over again, but in always commanding the greatest of respect.

American Irish dialogue is poorer without him.

MEMORIAL MASS FOR HON. WILLIAM V. SHANNON, CHURCH OF THE SACRED HEART, DONNYBROOK, DUBLIN, IRELAND, NOVEMBER 12, 1988

REMARKS BY DR. GARRET FITZGERALD, T.D., FORMER PRIME MINISTER OF IRELAND

Twenty-five years ago our country was starting to emerge from a crisis of self-confidence induced by the failures of the fifties. At that moment John F. Kennedy, then in the last Summer of his life, came to us. I was present as a journalist in a corner of the public gallery in Dail Eireann, listening to the words he spoke. They were well-chosen words: words woven with skill; words that moved deeply those who heard them in that House, and, through television, those who heard them in their homes across Ireland. Words that spoke of the President's pride of ancestry; words that renewed our faith in ourselves—and in the capacity of this small people to play a role, small indeed, but disproportionate to our size, on the global stage.

It had been to Bill Shannon that John Kennedy had turned to help him to express with sureness of touch and with sensitivity his feelings on an occasion which for him, as for us, was one of unique significance.

For Bill Shannon was a man of two countries: proud of his own America, and deeply attached to Ireland, he bridged what, truth to tell, are two very different worlds. A gifted writer, he had the capacity to express this understanding in language that was evocative in both cultures.

That he cared deeply about Ireland was evident in everything he wrote about this country. And what he wrote was always directed towards a constructive end. At times, like all of us, he was tempted to despair of a way being found out of the tragic trap into which history has led this island, and especially its Northern part, with whose problems Liz, like Bill, became so deeply involved. But at a fundamental level, Bill recognized that in seeking to sort out the lethal debris of that history, we must above all be persistent and never-tiring in our pursuit of peace.

There was, in logic, only one way in which Bill's unique talent and commitment could have an opportunity for full expression, only one way in which his love for these two countries, Ireland and America, could be fulfilled; by his appointment as Ambassador of the United States to Ireland. Of course, it might never have happened; such matters are frequently decided by forces other than logic. But it did happen.

So for four years Bill and Liz, and their chidren, became fully a part of our lives. With style, with gaiety, and above all with a deep sense of personal involvement in this country, for which he cared so deeply, Bill represented America to Ireland, and Ireland to America.

And it was Bill and Liz. Together they threw themselves with equal enthusiasm into the life of this land; derived from this experience an equal stimulus; gained amongst all who came to know them equal affection.

When they came to leave us at the end of Bill's too-brief term, he told me that he had a book that he wished to give me. It had just been given to him by a book-seller, but he felt that I should have it. It was a copy of a literary magazine of the early 1920s that had been presented to my father early in 1922 by the foreign press corps in Dublin with whom my father had worked as Director of Publicity of the Dail government from 1919 to 1921. The names inscribed in it include many notable figures in journalistic history. At some point it had left the possession of our family, and Bill, a journalist himself, felt it should return whence it had come. I value it today, on Bill's account, as on that of my father.

I was fortunate to have the chance to see Bill a few days before he died. Ill though he was, two things were quite unchanged: his concern for Ireland and his sense of humour.

We thank Liz for this opportunity to celebrate the man we knew, and loved.

REMARKS BY SEAMUS HEANEY

"Every idle word that a man shall speak, he shall render an account of it on the day of judgment." When that indignant pronouncement was first made, idle speech still tended to be confined to the lips of the idle speaker. The technology of proliferation had not been invented. Our planet had not yet been swathed in an endless issue of printouts from ceefax machines and word-processors or of handouts from press agents and promoters. Human consciousness was still in closer contact with the Word that was in the beginning. Even those who abused words had a more pristine sense of the word as a bond, and a more inescapable sense that a word abused was the equivalent of an abused trust.

William Shannon was a man who never broke that covenant with the first word. His rectitude was closely bound up with his reticence, and he rebuked the usual idleness of political and journalistic language by the unusual integrity of his own linguistic disciplines. On this occasion, therefore, I wish to praise him as a fellow member of the guild of writers, one of the wardens of the word, those compelled by what W.B. Yeats once called "the fascination of what's difficult."

That Bill would not have counted himself a literary contender does not mean that he did not perceive himself as a natural peer of the pen-people. That is where his heart lay. One rich consequence of this was the way he extended his diplomatic mission, when he lived here as Ambassador, beyond the usual political and commercial circles in order to include the cultural and literary community. That his wife Liz should have been his companion and co-adjutant in this work of hospitality was a happy circumstance both for him and for us. But here I salute, as a member of the aos dána, both the contemporary institution and the ancient sect. I salute in particular Bill's own deliberate, authoritative and typically soundless achievement in amplifying the scope and meaning of the American ambassador's role. By exercising his prerogatives as a public representative and not reneging on his predelictions as an individual intelligence, he was able to fortify the good bonds between the Republic of Ireland and the Republic of the United States within the larger jurisdiction of human civilization itself.

These sonorous words are not in this case idle. For almost two decades Bill worked as consultant, adviser and co-ordinator in the administration of the American Irish Foundation's Literary Award. He was assiduous, discreet and punctiliously fair-minded in this area of responsibility, and, as is often the case with people who work selflessly for the greater good of other writers, he was insufficiently thanked by them. Yet his lack of vanity was such that he could watch without resentment while people took as their due that which he had tactfully and considerately put in their way.

I respected immensely that equanimity of his because it arose from an unfooled and clear-eyed sense of how things really were. His long years as a journalist had transformed a natural vigilance into a mature judiciousness. Whether it was at a dinner table, where his direct gaze and direct talk could establish an outpost of calm in a hurry of blather, or on a leader page where his devotion to principle vied unyieldingly with his realistic sense of what was possible in places as far apart as Boston and Belfast—in all these cases, as he followed the line of his thought to a lucid and pondered conclusion, we benefited from the presence among us of one so incapable of vulgarity or triviality.

The loss of such good intellectual example weakens us all; but even more we are hurt by the personal blow of his early death. In Dublin and then in Boston, Marie and I had got used to the good disposition and wily accurate point of view he brought into play in any company. As host or as guest, he had the capacity to contribute his gifts to the company without ever parading them or himself. And he could be, among friends, as merry and tart as he was tactful.

I am sorry that he did not live to see the American publication of a book of mine called "The Government of the Tongue." This is not just because of the play to be made of my trespassing on his area as a professor of government; but more seriously, because he lived out to the full the two possible meanings I intended by that title. On the one hand, Bill Shannon's utterance was restrained and governed by the light of conscience, justice and charity. On the other hand, because of those very restraints, his utterance, when it did come, had a real governing force and rightness about it. So, when he stood in the judgment place, the Word that was in the beginning must have recognized in him somebody who had kept the faith. Somebody who had put the word of truth, in all its manifestations and demands, at the centre of his exemplary life.

REMARKS BY KEITH KYLE

We had been friends for thirty-four years. I can remember as if it were yesterday coming out of the office of the Economist in the National Press Building in Washington and running into him in the corridor. With that slight initial diffidence which I came to know so well, he invited me to lunch as he had some question to ask me about Britain. What I was able to tell him occupied us through the hors d'oeuvre. From that point on I entered into his debt as the beneficiary of his immense erudition as a student of the history and contemporary practice of American politics.

Bill had originally been a professional historian, working on the complete edition of the letters of Theodore Roosevelt—and one could readily see that he had the gifts of scholarship for such a task. But the fascination he had for live contemporary politics, first displayed in his writing about Massachusetts, brought him inevitably to Washington. He was working for the New York Post when I got to know him; he afterwards moved to the New York Times. We were two young men with a passion to learn and digest all that could be found out in a city totally dedicated to the arts and artifices of government. In Bill, I had found not only a natural teacher but a most estimable companion.

Bill Shannon was a man of quality and a man of discernment. I cannot remember his ever making an ill-considered remark,

though he often made very penetrating ones. He had about him a certain old-world courtliness of manner that made him a most considerate host. And he was very funny, with a merry wit that was not staged but sprang naturally from the context of what he was saying. He never paraded his erudition—that slight diffidence of manner which I had noted at our first meeting did not mislead. It was a clue to his personality. But one felt a tremendous sense of reassurance that that great reservoir of information was available.

He always seemed to me in the worst of days—and there were many of these when I was first in Washington, because this was the time when the most familiar name in public life was that of Joseph McCarthy—to see the scene steadily and to see it whole. But his anger when roused by a public wrong flared through the paragraphs of his powerfully directed prose. He felt deeply, passionately, about such things as corruption, vicious demagoguery and corporate sleaze, but his awareness of and alertness to these hurtful features never made him despair of the political process itself; indeed all his work was a struggle against such an attitude. "It would be tragic if Watergate produced only a new anti-politics, a more pervasive distrust of public life and everyone in it," Bill wrote at the end of a book called "They Could Not Trust the King." "Feebler democracies," he went on, "have died from passivity and easy cynicism . . . Americans can find no safety in privacy and despair."

As a writer, Bill was at his best when he could combine the vivid and realistic portraiture of the individuals involved in a political story with his gift for identifying the public issues that underlay it. He never forgot that politics is a very human activity, sometimes stretching individuals to the limit and beyond, and having therefore much to say about the general human condition. He had a gift for the apt phrase. With our shared passion for American politics, we would often meet at the end of the day to exchange impressions. One day, when I had been observing the scene, full of pathos and banality, in a congressional hearing room where one of Senator McCarthy's imitators had been in action, I found that Bill, suffering from a severe chill, had been unable to go out. I had been describing the scene in some detail and readily agreed that he should make use of it in the column he still had to write that night. Next day I read his piece with special interest. The details were there just as I had described them, but the whole was transformed and given the authentic Bill Shannon stamp by some ringing, searing phrases. One I still remember. This particular committee was termed "the shrinking room of American democracy." The words pinned the proceedings to the wall, with the arrow still quivering.

Bill wrote quite regularly for the Economist, allowing me to go to other parts of the country confident that the Washington scene would be ably covered. Behind the anonymity of the paper, some of the most powerful reports out of Washington came from his typewriter. The friendship born of these years continued after I had left Washington. We met as often as the Atlantic would permit. We had both been bachelors in those early days; now it became a friendship of two families. Earlier this year my wife and I got to see something of Christopher when he was attending classes in England, and we realised from his conversation what a positive influence Bill was on his sons.

Bill had a year in England studying our political system and, of course, after his years on the editorial board of the New York Times, he was appointed Ambassador to Dublin. It is not for me as neither an American nor an Irishman to say much about his diplomatic record. Yet as a person who loves and knows a little about Ireland and stayed with Liz and Bill at Phoenix Park several times, I can say what you all in fact know: that his involvement with Ireland was no matter of mere St. Patrick's Day sentimentalism. His best-known book was on the American Irish. His interest in and concern with the land of his parents long preceded his public service here and only ceased with his death.

After diplomacy, Bill Shannon went back to the academic world as a Professor at Boston University. In a sense his life had come full circle. But he retained his regular links with journalism in his leaders and in his weekly column in the Boston Globe, some of which he used to send to me so as to keep me straight on American affairs. His popular course on the American Presidency will have been no ivory-tower pursuit. He used to ring me up from the Globe when he was going to write something about British politics. The last time was in July. He was animated, full of fun, shrewd in his comments, looking forward to the visit he was shortly paying and did in fact pay to Ireland. We do not have so many men of his quality that we can afford to have them taken away.

[From the Irish Times, Sept. 28, 1988]

DEATH OF MR. BILL SHANNON, DIPLOMAT AND HISTORIAN

The death took place in a Boston hospital last evening of William V. Shannon, the historian, Pulitzer Prize-winning journalist and former ambassador to Ireland.

Mr. Shannon, who was Professor of History in Boston University and a member of the editorial board of the Boston Globe, served in Ireland from 1977 to 1981. A former newspaperman with the New York Times, Mr. Shannon in recent years has been writing from the United States for the Irish Press in Dublin.

Born in Worcester, Massachusetts, 61 years ago, both his parents came from Clare. His father, Patrick Shannon, was from Doolin on the west coast and his mother, Honora McNamara, from the little port of Ballyvaughan, further north.

Both had emigrated out of sheer necessity. His mother joined her brother, who had a grocery store in Worcester while her boyfriend, who followed her out, got a job locally as a carpenter.

Although Bill Shannon always regarded himself as totally American, he was undoubtedly influenced by what was a very Irish household and was well used to hearing patriotic ballads and Irish music on Saturday nights. But because his father died when he was only four, he grew up with little knowledge of the political troubles in Ireland.

His deep knowledge of Irish history and culture he was to acquire at college and during four long visits to Ireland before he became ambassador.

He wrote a book about the American Irish, became a director of the American Irish Foundation and spoke about Ireland most notably in 1975 to the Eire Society of Boston when, in a long dissertation, he sought recognition from the British that Ireland was one nation, indivisible and that all of Ulster belonged under the legal sovereignty of the Republic.

"Northern Ireland is not a country in itself, but a small fragment torn from the living body of Ireland where now the last act of Ireland's long struggle for independence is being played out," he said.

When he became ambassador and was reminded of this speech, he was quick to recall to reporters President Carter's dictum that there was no simple solution to the Northern question.

He further explained that at the time he was in a mood of deep pessimism; it was just after the collapse of the power-sharing executive in the North and the election of the delegates to the Convention which everyone knowledgeable on Irish affairs knew would be stillborn.

Shortly after arriving in Dublin he was highly critical of the American Northern Aid Committee, which he said was a Provisional front organisation. He spoke of the bitter old men of Noraid, "all men in their 70s who fought in this country in the 20s with de Valera."

"I think that something like 10,000 supporters of the losing side in the Civil War emigrated to the U.S., most of them in and around New York. They are still fighting the battles of the 20s."

A graduate of Clarke University, Mr. Shannon did post-graduate work at Harvard before getting his first job at the Massachusetts Institute of Technology. His academic friends were surprised when he opted for journalism, and surprised as he himself was when Tip O'Neill phoned him one day in May 1977 to tell him he had been appointed ambassador to Ireland.

He is survived by his wife Elizabeth and three sons, Liam, Christopher and David.

[From the Irish Times, Nov. 3, 1988]

MEMORIAL MASS FOR U.S. ENVOY WILLIAM SHANNON

A Memorial Mass for the late William V. Shannon, former U.S. Ambassador to Ireland, who died on September 27th, was celebrated by Cardinal O Fiaich at the Sacred Heart Church, Donnybrook, yesterday in the presence of a large congregation.

Eulogies to the former ambassador, a professor of history in Boston University and a member of the editorial board of the Boston Globe at the time of his death, were delivered by the former Taoiseach, Dr. Garret FitzGerald, TD, by the journalist Keith Kyle, a former colleague of Mr. Shannon, and by the poet, Seamus Heaney.

The television personality, Gay Byrne, read the eulogy delivered by Senator Edward Kennedy at the funeral Mass for Mr. Shannon in Brookline, Massachusetts, in which he spoke of Mr. Shannon's close ties with the late President Kennedy, and a eulogy by the family was read by Brother Patrick Hederman of Glenstal Abbey. Music was performed by members of the Rathmines and Rathgar Musical Society.

It was announced at the Mass that a William V. Shannon Memorial Fellowship has been established at Boston University, as a memorial to the former ambassador's lifetime interest in preserving and promoting Irish-American understanding through quality journalism in the covering of issues in American politics and government.

The fellowship will give a young Irish journalist the opportunity to study American history, government and journalism at Boston University for one year, and to

spend a summer working on Capitol Hill in Washington, DC, in a Congressional office. Applications for the fellowship will be sought by public announcement.

The Memorial Mass was attended by Mr. Shannon's widow, Elizabeth, and by his three sons, Liam, Christopher, and David.

The PRESIDENT pro tempore. The junior Senator from Pennsylvania, Mr. SPECTER, is recognized.

Mr. SPECTER. I thank the Chair.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator would yield for a unanimous-consent request?

The PRESIDENT pro tempore. Does the Senator yield for that purpose?

Mr. SPECTER. I would without losing my right to the floor, Mr. President.

Mr. DOMENICI. Mr. President, might I get the attention of the acting majority leader. A number of us are waiting; I am certainly not entitled to go next, but we know we cannot speak longer than 10 minutes. I wonder if we could propound a unanimous-consent request as to some order among the Senators who are present and who seek recognition. Does the distinguished majority leader have any objection to us trying that for a couple of minutes?

Mr. PRYOR. Mr. President, if I may respond to the distinguished Senator from New Mexico, I am not at liberty at this point, I say to my very good friend, to enter into such an agreement or an arrangement. However, if that request could be withheld for a few moments, perhaps there could be consultation to see what might be worked out.

Mr. DOMENICI. What I would then suggest to the distinguished acting majority leader is that those of us on the floor might submit to him how long we want to speak and perhaps we could get a regimen set up and seek consent. I thank the Chair and I thank my friend from Pennsylvania.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

BEGINNING OF THE 101ST CONGRESS

Mr. SPECTER. Mr. President, during the course of the past hour and 15 minutes, as I observed this first opening business day of the Senate in the 101st Congress, I have found it fascinating, really inspirational, to see the proceedings thus far. I join my colleagues who have commended the distinguished new majority leader on his presentation outlining objectives for the Senate and the country. I compliment as well the distinguished Republican leader, who has in turn outlined priorities. Further, I compliment the new President pro tempore, who has presided at the opening session, somewhat different from the past, and I hear it rumored that the President pro tempore may be a continuing Presiding Officer.

Mr. President, I shall speak briefly during morning business on a series of bills which I am introducing today. For the most part, as I say, they represent my continuing efforts from prior Congresses on matters of major national importance—on crime, trade, Social Security, and intelligence issues. The first of these bills is the National Violent Crime Program Authorization Act, which sets forth a series of priorities as I have introduced them in prior Congresses, to dedicate 1 percent of the national budget to domestic defense.

Mr. President, I have had an interest for the past 30 years in crime control. Prior to my service as a Senator and specifically on the Senate Judiciary Committee, I was district attorney of Philadelphia. I worked on the National Commission on Criminal Justice Standards and goals, and I firmly believe that we could have crime control in this country if we took action in two fundamental ways. If we dealt with career criminals in this country, estimated between 200,000 and 400,000 and had sufficient jail cells for lifetime incarceration, I believe that we could reduce violent crime in this country by more than 50 percent, as estimated by the National Commission in 1973, because those career criminals commit in excess of 70 percent of the crimes.

At the same time, Mr. President, I think it is necessary to have a program of realistic rehabilitation for first and some repeat offenders. It is no surprise that when the functional illiterate is released from jail without a trade or skill, that individual goes back to a life of crime. I believe there ought to be realistic efforts made for such rehabilitation, and in that context I think it fair and appropriate when people are career criminals to in effect throw away the key.

The National Violent Crime Program Authorization Act sets forth a comprehensive program to deal with these issues.

Second, Mr. President, I am reintroducing the State Habitual Criminal Incarceration Act which would provide for Federal incarceration for those who are sentenced under State habitual offender acts. More than 40 States currently have such laws, where life sentences are possible for habitual offenders. They vary from three or four offenses depending on the various States. They are not used. They should be used. If there were Federal prison space available for such incarceration, I believe they would be used. And those are criminals who move in interstate commerce, significantly connected with drugs, and it is an appropriate Federal responsibility.

Third, Mr. President, I am reintroducing the State Prison Criminal Rehabilitation Act which provides Federal incentives for States to attempt realistic rehabilitation, very much as we have done in the District of Columbia on a series of bills introduced and measures taken during the time when I chaired the Appropriations Subcommittee for the District of Columbia.

Fourth, Mr. President, I am reintroducing legislation to establish constitutional procedures for the imposition of the sentence of death in Federal criminal cases, as well as create two additional capital offenses.

Fifth, Mr. President, I am reintroducing the Unfair Foreign Competition Act, which would provide for a private right of action to stop subsidies, to stop dumping and to stop violations of our customs and trade laws generally. The trade bill which we passed last year may be of substantial assistance on our trade problems, but I believe there is nothing like the private right of action, such as the private enforcement of the antitrust laws and other private actions. This new private right of action would enforce appropriately existing laws prohibiting dumping, prohibiting subsidies, and prohibiting customs violations.

Sixth, Mr. President, I am reintroducing legislation on Social Security benefits from the "notch" effect realizing the difficulties of enactment of such legislation in light of the budget crunch. This is I think a priority item.

Three other bills will be reintroduced today by me, Mr. President, dealing with intelligence matters. The first would provide for a statutory Central Intelligence Agency inspector general. Last year my legislation in this respect was partially successful on providing statutory improvements which was passed in the Intelligence Authorization Act.

Another bill, Mr. President, would provide for national intelligence reorganization to separate the intelligence—gathering functions from the covert activities, a matter which has long been advocated. I think the time is right for final action by the Congress during this session.

Finally, Mr. President, I am introducing the National Security Reform Act to provide for notice to Congress to avoid the problems which we found in the Iran-Contra affair disclosed in the course of the past 2 years.

Mr. President, I ask unanimous consent that my prepared statements and accompanying bills be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, the materials will be printed in the RECORD.

VIOLENT CRIME LEGISLATION

Mr. SPECTER. Mr. President, I am introducing legislation to address the problems of violent crime in this country. This legislative proposal is an initiative which I have introduced in the

past and am reintroducing today because I believe it is necessary to maintain a full court press on the problem of crime in the streets.

This is the successor of three bills I previously introduced—S. 889 in the 98th Congress, S. 486 in the 99th Congress, and S. 411 in the 100th Congress. This bill provides for the authorization of substantial funding to fight violent crime in the United States. This bill and the accompanying tables are based upon hearings in the judiciary Committee, my experience as district attorney of Philadelphia, and the work of the National Commission on Criminal Justice Standards and Goals, of which I was a member.

The essence of this proposal is to spend 1 percent of the Federal budget on domestic defense, which would amount to approximately $1 billion a year over the next 10 years for a total outlay of $10 billion, with a goal of reducing violent crime in this country by some 50 percent, if we directed our attention to the over 200,000 career criminals who are presently at large.

The cost of crime each year on economic ground alone exceeds $100 billion, and when pain, suffering, and psychological duress are considered, the cost of crime in this country exceeds $500 billion each year. On the basis of my experience over the past 30 years, including my work as a prosecuting attorney, in the defense field, and on the Senate Judiciary Committee, I am convinced that if we attack crime systematically, we can reduce violent crime very materially in this country.

Not a day goes by, Mr. President, in virtually every city, town, and hamlet in the United States, without a report of violent crime by someone who is on probation, on parole, or on bail awaiting trial. We know from documented sources and statistics that 70 percent of the violent crimes in this country are committed by 10 percent of the criminals, and they are career criminals.

The American public has lost confidence in law enforcement in this country, and the American public has lost confidence in the ability of government to provide law and order and justice. Our response should be to reconsider our response to crime in the streets and to fashion a system which does, in fact, work.

I am convinced that the American people are prepared to pay for a criminal justice system which works. The State of California, which authored proposition 13 and the tax revolt, passed two referenda authorizing bonds for prison construction. This evidences the fact that even among those who are most concerned about government expenses, there is a willingness to allocate funds to deal with the serious problem of crime control.

In the District of Columbia, substantial initiatives have been undertaken to attempt to make the District a model city, with funds being allocated for realistic rehabilitation where rehabilitation is possible. Although studies show that the most hardened criminals are not subject to rehabilitation, rehabilitation remains viable for juveniles, first offenders, and even some repeat offenders.

To the extent that it is possible to achieve such rehabilitation, resources ought to be allocated accordingly. To the extent that rehabilitation is not realistic—where we deal with career criminals—then, the only alternative is, in effect, to throw away the key, and give career criminals mandatory sentences in order to separate them from the rest of society.

In the face of current budgetary concerns and the efforts at deficit reduction, it will be difficult to fashion new Federal expenditures, however necessary and cost effective they may be.

My own view is that we are engaged in a long-term process educating the American public about ways that government can successfully deal with violent crime. While this legislation doubtless traces a bleak prospect at this precise moment, there will come a day—and I am optimistic that it will be a day in the not too distant future—when we recognize that action of this type must be taken if we are to deal effectively with the problems of juvenile rehabilitation and speedy trial, if we are to get people off bail who are committing new offenses, if we are to educate judges to impose tough sentences on tough criminals, and if we are to have sufficient jail space in our country to incarcerate the career criminals who commit so many violent crimes.

This legislation, Mr. President, would provide for 200,000 additional jail cells. Estimates from experts at a series of Judiciary Committee hearings have disclosed that there are approximately 200,000 to 400,000 career criminals in the United States. Hardened criminals, however, are being released from jails without serving their sentences, because there is insufficient space in the jails; judges are not sentencing convicts who ought to go to prison, because there is insufficient space; parole boards are releasing prisoners prematurely, because there is insufficient space; parolees who violate their parole are not being incarcerated, because there is insufficient space, and probation violators are not being reincarcerated, because there is insufficient space.

Violent crime, Mr. President, I submit, exacts more public pain and has a greater long-term impact on the United States than any other single issue with which the Congress deals. This is evidenced by the fact that public opinion polls regularly indicate that crime is one of the main issues of concern of the American public.

The proposal I make today would respond to that clearly evidenced concern by devoting substantial Federal funding to the attack on violent crime. It would direct 1 percent of the Federal budget for "domestic defense" with a goal of cutting violent crime in this country by 50 percent.

The time has come for a concerted attack on violent crime in the United States. My judgment is that the people of this country are prepared to pay for an attack on violent crime if it is well conceived and well executed.

The proposal which is advanced here today would attack the problem of violent crime on all levels: To emphasize the necessity for tough sentencing by trial judges; to provide correctional facitities where there can be realistic rehabilitation efforts for adult offenders on their first and second offenses so that we do not turn out functional illiterates without skills, who, not surprisingly, return to a life of crime; and, where we have career criminals, in effect, to throw away the key where there are multiple convictions by the same individual.

The program would also be directed at breaking the crime cycle of the juvenile offender, where a juvenile is a delinquent at 6 or 7, a truant at 8, into vandalism at 10, drug trafficking at 13, robbery at 15, and armed robbery and murder at 17.

The objective of this program—and I think its importance—is to cut violent crime by 50 percent, primarily by directing greater attention to career criminals. According to best estimates, there are approximately 200,000 career criminals in this country at the present time. If we could separate them from society, I think we could actually reduce violent crime by 50 percent.

According to the Bureau of Justice statistics, between 1980 and 1984 violent crime was four to nine times greater in the United States than in Europe. Random violence afflicts 1 in 10 American households every year, serious crime, 1 in every 5. The total loss to our society reaches more than $100 billion a year.

Domestic criminals have succeeded where foreign armies failed: They have terrorized not only millions of victims, but all Americans, denying our constitutional rights and our inalienable birthright to the pursuit of happiness.

Most violent felonies are premeditated crimes for profit, committed without passion or provocation against strangers by repeat offenders whose chosen livelihood is to prey on the vulnerable. Although an arrest is made in only one felony in five, most of these career criminals eventually are arrest-

ed repeatedly, even if for only a tiny fraction of the scores or hundreds of their crimes.

Once taken into our criminal justice system, however, career criminals often evade justice as effectively as they did arrest in other instances. Dismissals, delays, plea bargains, judge shopping, unrealistic bail, lenient sentencing, early parole, crowded prisons, insufficient job training, enforced idleness, and many other problems combine to nullify law, blunt deterrence, and undermine public safety. Usually, career criminals are back on the street soon, if not immediately. Even career robbers sent to prison serve, on the average, less than 5 years. Many serve only a few months.

In short, the problem is a breakdown in the system. The solution is simply to reorient it: treat serious defendants seriously. Since career criminals, though comprising less than 10 percent of all persons arrested, commit more than 60 percent of all offenses, they warrant our greatest efforts. From investigation to release, violent career criminals should be singled out for highly concentrated attention and rapid, realistic disposition by all concerned. That is not improper selective prosecution, just common sense, if uncommon practice.

Violent crime for profit truly can be cut in half as proposed in 1973 by the National Commission on Criminal Justice Standards and Goals. What is required is a crash effort to focus far greater resources far more narrowly on correcting the specific deficiencies that prevent the system from incapacitating the truly dangerous criminals. Ten years ago, the reduction would have taken only 5 years; now it may take much longer.

The program involves spending 1 percent of the Federal budget on strengthening domestic defense against violent crime by increasing Federal manpower and improving State criminal justice systems, which would still handle over 90 percent of the violent crime caseload. The Federal budget allocation for criminal justice comprises a small fraction of the projected Pentagon budget for the same year.

Cutting serious crime in half would cut the annual cost of crime in half, saving $50 billion. Adding a few billion per year would not only save $50 billion per year, but would also make the other 99 percent of the Federal budget buy billions more value. In short, the program, while it requires modest investment up front, would more than pay for itself within a few years. Moreover, it can be phased in gradually as revenues automatically rise as the economy recovers.

The Congressional Crime Caucus, of which I am cochairman, heard startling testimony on the breakdown of the criminal justice system. Criminals are waging war in our urban centers and appear to be winning the battle against our criminal justice system.

During one hearing, we saw a foreshadowing of the unacceptable consequences of a loss of public confidence in the ability of our criminal justice system to provide law, order, and justice. We must never allow citizens to take the law into their own hands. But in so pronouncing, we must also accept our responsibility to assure that the criminal justice systems works, so that no citizen needs to resort to self-help. This legislation is a major step toward revitalizing the criminal justice system and restoring the public's shaken confidence in it.

The issue is not whether our country can find and afford the funds but whether we now know enough about preventing violent career crime to pinpoint the new expenditures like laser beams rather than, as in the past, disperse them like a light bulb and whether doing so would, in fact, produce so large a reduction. The answer, in a word, is "Yes." The attached chart shows in a page how this goal can be accomplished.

Really, the country cannot afford not to undertake this program.

The full psychological impact of violent crime cannot be quantified, because it is suffered not by actual victims but by potential victims—all of us:

What dollar amount can be attributed to the fright Americans experience when they hear an unexpected noise at 3 a.m. and wonder if a burglar is in the house?

What dollar amount can be attributed to the fear women experience as they walk home at night and a sudden movement toward them suggests a rape or assault or worse?

What losses are sustained when business opportunities are ignored because of the risk of crime?

What dollar amount can be attributed to cancellations and reschedulings to avoid events which conclude after dark?

Compounding the agony, much crime is preventable—if only the murderer had not been paroled, the robber had not been placed on probation, the burglar had not been acquitted because the policeman erroneously filled out a search warrant, or the rapist had not been on bail for 6 months, without being tried.

Governments at all levels—Federal, State, and local—now spend approximately $45.6 billion on crime control, including police, prosecutors, defenders, courts, prisons, and parole programs. My proposal contemplates an increased expenditure of 1 percent of the Federal budget—$11 billion in the first year—with the realistic prospect of reducing violent crime by 50 percent.

Accordingly, I urge my colleagues to join in support of this domestic defense initiative.

Mr. President, I ask unanimous consent that a document entitled "National Program to Cut Violent Crime," upon which the proposed program is substantially based, be printed in the RECORD. I ask unanimous consent that this bill, the accompanying tables, and summary summarizing annual increases by function also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A REALISTIC PROGRAM TO REDUCE VIOLENT CRIME BY 50 PERCENT

I. INTRODUCTION

Nearly 16 years ago, after a decade of increasing crime and violence, the National Commission on Criminal Justice Standards and Goals recommended steps for reducing violent crime in America by 50 percent. Unfortunately, many of its key recommendations, such as abolition of plea-bargaining, were never implemented. Now, after another 16 years of escalating street crime, Americans are still waiting for the "crime control" and "safe streets" promised by Congress in a 1968 statute. In fact, the streets have gotten even more dangerous and crime more out of control.

Instead of being decreased 50 percent, as the Commission urged in 1973, violent crime increased. Year in and year out, increases in the crime rate exceeded increases in inflation. And, crime costs citizens even more than inflation and hurts them even worse.

Not only has crime continually increased for decades, but it is vastly worse in America than in any comparable country. The United States suffers much more crime per person than other industrial democracies.

Our crime wave has grown so powerful that now it is destroying whole neighborhoods, bankrupting businesses, shrinking tax revenues, subverting schools and terrorizing senior citizens. Unemployment has numerous causes as many people realize, but few realize that crime is one of them. In fact, crime is cited by businesses as a common cause for closings—not taxes, not government regulation, not foreign competition, but crime.

Nor is violent crime a disaster limited, like a tornado, to some narrow swath. Once the scourge mainly of inner city slums, it now reaches everywhere—cities, suburbs, towns and rural areas; its devastating impact hurts people at all economic levels; it condemns all Americans to living in fear. No epidemic disease or natural disaster has ever ravaged so many Americans. Nor, in the past 16 years, has war. More Americans are killed each year by criminals than by enemy soldiers. As one witness wryly noted in a hearing before a Judiciary Subcommittee, the "score is: Americns killed by Russians—0; Americans killed by criminals—23,000 every year."

The psychological harm from our crime epidemic is immeasurable; the economic harm is not. More economic loss results from crime than from all natural disasters and disease epidemics put together. Each year, crime costs Americans an astonishing 100 billion dollars. The total price of crime, however, is paid not just by the hapless victims, but by all of us—in the form of higher

prices, higher insurance rates and higher taxes.

Our national tolerance for the intolerable dismays American's allies and convinces critics that we are a stupid, suicidal, "sick" society. Tolerating crime breeds disrespect for law. Allowing so many to become actual victims and everyone else to become potential victims threatens to sabotage the social compact. When the law abiding see the lawless getting away with it, and sometimes getting rich, too, what happens to their own willingness to serve in the military, support their community, assist their schools, and pay their taxes? Crime threatens not only the safety of individuals, but the security of society. Yet, we still have not resolved to reduce it!

Eliminating crime must await utopia, but reducing violent crime cannot wait any longer. Strangely, we rarely even talk anymore about "reducing" crime. We talk, sometimes, about "crime control". That merely means stopping further increases! That concedes defeat! We talk, often, about the "causes of crime", as a mystery which, once understood, would magically end our national nightmare of random, anonymous criminal violence—the muggings and murders, the rapes and robberies, the break-ins and burglaries.

We are, I suspect, resigned to this much crime because we have come to believe that we have no alternative. This conclusion has been corroborated each year by relentlessly rising crime rates.

Some social commentators argue that we cannot begin reducing crime until we finish eliminating poverty. Others urge minor adjustments in the criminal process as if it were an end in itself. They imply that further refinements in what is already by far the most complex, costly and cumbersome justice system in the world will somehow reduce crime. Still others minimize the role of the judicial process, arguing that decreasing the number of offenses requires increasing the number of policemen. Almost no one anymore believes that hardened criminals can be rehabilitated at will by correctional programs. For humanitarian reasons, prison reform is still championed by concerned persons. But, few believe that reducing prison overcrowding will reduce recidivism.

Our criminal justice system exists primarily to secure safety for citizens—in our streets, schools and homes. It must be fair, but also effective. Judged by its results, our system is falling. Actually, the breakdown is in the state courts, which have been overwhelmed by the volume of cases. State enforcement efforts need federal help.

Combatting violent crime has traditionally been, and I believe should remain, primarily a local responsibility. Primarily, but not exclusively. Indeed, the Constitution of the United States makes clear that crime control is also a federal responsibility. It obligates our national government to secure "the general welfare", and the Executive "to see that the laws are faithfully executed." In taking their oaths of office, federal officials swear to defend the Constitution and the country from "all enemies, foreign and domestic." And violent criminals are our most harmful domestic enemies.

More protection from crime means more resources. I believe the Justice Department needs sufficient resources as much as the Pentagon.

Other ironies abound in this comparison.

For years, we heard of the "missile gap", but not of the "sentencing gap". Legislatures make robbery a crime punishable by 10 to 20 years imprisonment, but many courts regularly give first time robbers probation or short jail sentences.

We worry, properly, about foreign adversaries having "a definite margin of superiority" in strategic arms. What about the "inferiority" of the law abiding citizen to the career criminal? The criminal goes about freely; the citizen changes his lifestyle. Or the "inferiority" of the manpower and equipment—planes, boats, radios—of the drug enforcers, compared to the drug traffickers.

We are concerned, correctly, that imbalance in military forces has opened a "window of vulnerability." With so many burglaries a year in our country. Another "window of vulnerability" we need to be concerned about is every window in our homes.

We believe instinctively in deterrence against the Soviets. We take it on faith that potential adversaries are deterred by the threat of retaliation. Yet, we lack faith that criminals too can be deterred. Instead, some scholars demand massive empirical proof of this obvious fact. Some then declare the evidence unreliable and the results inconclusive. Always, however, they recommend further research. More studies are not needed, more action is.

We have created national commissions to make recommendations on combatting crime and violence. The money, by and large, was not wisely spent. The recommendations, were, by and large, ignored.

The report of the Attorney General's Violent Crime Task Force was presented on August 17, 1981. It contained 64 principal recommendations and scores of subsidiary ones on actions the federal government should take. While indiscriminate spending would produce as little progress as in the past, these recommendations are practical, proven and cost-effective. Their vigorous implementation is needed desperately. The required actions are affordable. In fact, what we cannot afford is inaction.

I spent fifteen years in law enforcement, served two terms as District Attorney of Philadelphia and was a member of the National Commission on Criminal Justice Standards and Goals. From my personal experience, I am convinced that a practical program for this price can, in fact, cut violent crime in this country in half in five years.

The basic outlines of the program can be found in the reports of the National Commission on Criminal Justice Standards and Goals: eliminate plea bargaining, concentrate on career criminals, make punishment swift, sure and sufficient, assure speedy trials and appeals, teach short-term prisoners marketable job skills, incarcerate unrehabilitable repeat violent felons for lengthy periods. On specifics, some of the necessary actions were set forth in the Violent Crime Task Force Report—reform bail laws for dangerous offenders, eliminate early release on parole, and, most importantly, increase federal law enforcement, prosecutive, and correctional personnel and facilities, and provide the states with the financial assistance they need to curtail crime.

The rest of the actions needed are set forth in my Program for Violent Crime.

In truth, we have as much know-how for crime curtailment as for national defense or space exploration. We can find the funds. We lack only the will.

II. THE PROGRAM

It is a program, not just a set of goals and guidelines. In essence, it targets specific "program activities" in the federal budget for increases that will reduce crime.

1. Fugitives

The vast majority of fugitives have fled from local authorities. They are a federal responsibility because they are thought to have fled across state lines. Federal warrants have been issued for their arrest. Federal agents must find them.

The Marshals Service is the principal federal agency responsibile for finding them. It is a most difficult investigative task since by definition fugitives are specifically trying to avoid being found and therefore avoid former homes, work places and friends. They often have many months "head start" on the Marshals who seldom receive productive investigative leads when the receive the warrants. Despite these difficulties, because of other essential duties and insufficient manpower, the Marshals Service is unable to devote sufficient resources to criminal fugitive warrants in the entire country. Nor are all of them Deputy Marshals. Some are clerks and other support personnel.

As a result, only a small fraction of these violent and drug fugitive cases can be actively investigated on an on-going basis. In most cases, the warrant is merely kept on file should the person be arrested again. Paradoxically, if they are later arrested for a serious crime, execution of the warrant will be both too late—since the further offense will already have been committed—and unnecessary—since the new offense itself will probaly lead to incarceration.

The Marshals' fugitive manpower should be at least doubled.

The result would be to prevent tens of thousands of violent felonies. The program would result in far faster apprehensions as well as apprehensions of many fugitives who otherwise would never be found at all. Most of these offenders are recidivists who fled precisely because they feared long jail sentences. Many are true "career criminals"—offenders who commit scores or even hundreds of offenses each year. Some average a felony a day. Apprehending just one such violent fugitive a year earlier, would thus prevent more than 200 serious crimes, save 300 people from being victims, avoid many thousands or tens of thousands of dollars in losses. Each such arrest would measurably reduce violent crime.

Proportional increases in the fugitive personnel of: the FBI; (2) DEA; and (3) all the other agencies would also be required. These increases are important too, for often the agency that originally investigated the fugitive from federal court will best equipped to find him. Thus, when a federal drug defendant jumps bail before trial, the Drug Enforcement Administration, which is the responsible agency, is best prepared to succeed. (The Marshals are responsible after trial, regardless of offense.) The same reasoning applies to the FBI for bank robbers, terrorists and organized crime goons and other agencies for other offenders.

Therefore, $260 million would be added to its fugitive program and ATF, Customs, IRS, Secret Service, et al.

2. The FBI bank robbery program

Another manpower increase which would surely be cost-effective against violent offenders would be in the FBI Personal Crimes Program. The major offense in this program is bank robbery. While every bank robbery is a federal felony and nearly all bank robberies were once investigated entirely by the FBI, today the many of these cases are turned over to local police and

prosecutors shortly after an initial FBI response team rushes to the scene of the robbery. Many of these transfers are justified. For example, where a sole, unarmed robber is caught in the bank or trying to escape, the nationwide capabilities and expertise of the FBI are hardly needed. However, insufficient manpower in the FBI requires transfer of many cases in which apprehension by FBI would be more likely and faster.

Moreover, federal prosecutions are far faster and federal sentences far longer than in most urban state courts. Therefore, federal handling vastly reduces the chances for the bank robber to escape arrest or to continue to commit violent felonies before trial or upon early release from prison. Nor do bank robberies constitute an unmanageable burden. They represent a small, stable and clearly defined sub-category of all robberies.

In order to handle all the bank robberies that can be better handled at the federal level, the FBI's allocation to this program should be doubled and redoubled over the next five years. The FBI could then handle 6-7,00 cases.

3. The commercial robbery program

Under the Hobbs Act, any robbery that "interferes with" or "in any degree affects interstate commerce" is a federal felony. Court opinions on the coverage of the Hobbs Act have made plain that the Act applies even to "local" robberies where the effect on interstate commerce is "indirect" and "minimal". Indirect effects have been found whenever the taking depleted the inventory or assets of a business which buys goods in interstate commerce. There is little doubt therefore, that the Hobbs Act applies to virtually every robbery of a store, business office, factory, restaurant, hotel or other place of public accommodation.

Despite this broad statute that potentially could result in many thousands of federal robbery prosecutions (in addition to those for bank robbery), in fact few cases a year are brought for these "commercial robberies" in the entire country. The lack of resources has virtually nullified this Congressional enactment.

The justification has been that commercial robberies are adequately handled in the state system. Yet, it is indisputable that in many cities, the backlogs in state court combined with plea-bargaining result in short "misdemeanor" sentences, if not probation, for these serious felonies. Robbery, after all, is one of the five violent felonies historically regarded as so serious as to warrant application of the "felony murder rule" whereby a killing in the course of such a felony is automatically first degree murder, even where the felon(s) originally had no plan or intent to kill.

Federal resources currently allocated to "commercial robberies" are negligible. To be capable of handling all commercial robberies that are highly complicated or conspiratorial, plainly interstate, or in which guns are discharged, the FBI would have to be expanded by about 1,000 persons over a five year period. Estimates are that 10,000 robberies per year fit one or more of these three criteria. With 1,000 persons, the FBI could handle at least half these cases.

Corresponding increases in prosecutors would be necessary. 500 prosecutors could be added to the existing corps and could handle the additional bank robbery and commercial robbery cases.

4. DEA and the drug enforcement program

Interstate drug trafficking, unlike bank robbery or commercial robbery, is primarily, if not exclusively, a federal enforcement responsibility. Yet, DEA has an insufficient number of investigative agents to cover all the cities that serve as distribution points in the trafficking networks. There are at least twenty cities that are major hubs and dozens more than are minor hubs. In addition, DEA has regulatory, training, overseas and intelligence responsibilities that are critical and divert personnel. In certain hubs, DEA offices typically have fewer than a dozen agents. That is not enough manpower to staff even one wiretap! Clearly, two to four times as many agents are needed.

Since a high percentage of robberies and violent crimes are committed by narcotics addicts and since addicts commit offenses much more frequently when taking drugs than in periods of abstinence, reducing the availability of narcotics will help reduce violent crime. According to testimony before the Senate Judiciary Subcommittee on Juvenile Justice by Dr. John Ball and other experts, these addict/criminals each commit multiple crimes nearly everyday of the year. They are thus the very worst of the career criminals who as a group comprise less than 10 percent of all persons arrested but are responsible for more than 70 percent of all violent offenses committed.

In addition, DEA should hire, train and integrate with its investigators, financial analysts with CPA credentials. A corps of 500 such accountants should be gradually built up over a five year period. They must be supported by "accounting assistants" on a one-for-one basis, as well as, secretaries and clerks. The total cost would be about $100 million per year. It should soon result in additional forfeitures of many times that amount. Until the vast profits are taken out of drug trafficking, there will always be ample replacements for those imprisoned. Adequate deterrence against drug traffickers requires that the government capture the profits too.

Corresponding increases in FBI and prosecution manpower devoted to drug enforcement would be required.

With these additional resources, we could triple the number of drug arrests and the major seizures and forfeitures per year.

5. The emergency corrections program

The federal manpower increases called for above will, of course, produce more federal prison inmates. Adding investigators will produce predictable increases in arrests, prosecutions and convictions in each of four categories: fugitives, bank robbers, commercial robbers and drug traffickers. Once convicted, nearly all of these felons will be sentenced to prison, most of them for substantial terms. Indeed, the bulk of the present federal prison population consists of bank robbers and drug traffickers. Consequently, substantial increases will be needed in federal prison capacity to accommodate these additional convicts. The state prison systems certainly cannot help, for most of them are severely overcrowded already.

a. *Start new Federal prisons.*—The solutions are, first, to build new permanent federal facilities, for federal inmates, starting four medium or maximum security institutions (capacity 500) per year for the next five years and four prison camps.

The camps could be opened in about one year of the start and the prisons in about four years of the start of site acquisition. In the meanwhile, increases in the medium to maximum security population could and would be absorbed by existing institutions.

b. *Open temporary prison camps for State convicts.*—Second, in the meanwhile, extensive use should be made, on a temporary basis, of military barracks on abandoned military basis or unused portions of bases, for state inmates. Existing buildings can be renovated within 6-18 months at modest cost. For 260 million dollars per year, the U.S. Bureau of Prisons, within 1-2 years, could open 8 minimum security prison camps per year that could house some 4 thousand inmates for up to three years. These facilities would be used primarily to relieve state overcrowding pending completion of permanent state prison buildings. They could also handle any federal "overflow" of minimum security inmates.

This temporary program is essential since it takes nearly five years to build a prison—from the initial decision to the entry of inmates. Thus, the states cannot eliminate their overcrowding fast enough to meet court orders (usually federal) to release inmates, even those who have not served their sentences or are unready for release, in order for the remaining immates to "fit" in the prison buildings under constitutionally permitted circumstances. More than half the states presently face such a situation. So that the federal government is assured that necessary state prison space will be made available as soon as possible, it could pre-condition a state's eligility for the federal emergency program for state inmates on the state's beginning construction of prisons for the same number of inmates the federal government is being asked to house temporarily.

Although such temporary "barracks style" facilities would be unsuitable for robbers and for some of the drug traffickers, the Federal Prison System's immigration violators, theft defendants and fraud convicts could safely be placed there. Among state prison populations, about one-third are "property offenders", most of whom probably are suitable for such facilities.

Changing prosecution policies and increasing manpower for offenses like "commercial robbery" will itself relieve state prison overcrowding, as will using temporary federal prison camps to house state "property" inmates. Nevertheless, more than 95 percent of violent criminals are now in the state systems and these changes will not alter the division by about more than 10 percent. Therefore, the long range needs of public safety cannot be met in any other way than by expanding the capacity of the jails in nearly every major city and the prisons in nearly every populous state. This step, will require large and continuing expenditures. Billions of dollars must be spent over a five- to ten-year period to build more state prisons. There is no way to avoid it and still reduce violent and major crime.

Housing State prisoners in Federal penitentiaries

However, an additional way the Federal Government could help relieve overcrowding in state prisons would be to house state inmates sentenced to life imprisonment under the habitual criminal statues in most states. These inmates are unusually costly to house both because of the high level of security required and the length of their incarceration. Often they are confined in the most severely overcrowded facility in the state.

At present, the habitual criminal statutes are not fully used to impose life sentences even for convicts with four, six or eight prior felony convictions. One of the main

deterrents is the overcrowding. Another may be the cost. With current knowledge about the realities of recidivism and rehabilitation for this limited group of repeat offenders, the logical policy is incapacitation by imprisonment for life or an equivalent term. While for less hardened offenders, greatly increased efforts at rehabilitation are justified for this group they are not.

Therefore, to encourage state authorities, in appropriate cases in accordance with existing state law, to impose life sentences on career criminals it is proposed that the Federal Government offer to house such inmates on behalf of the states. Each year, two maximum security federal prisons would be started for this purpose. Their capacity when completed would be 4-5,000, enough to accommodate all the anticipated cases.

Since the prison started in the first year of the program would not open until the fourth year, there would be a delay in accepting any of these state inmates. Life sentence violent criminals would require the highest security level and the few federal facilities suitable for these offenders are presently filled to their safe capacity.

c. *Federal financial assistance for State prison construction.*—Like construction of the Interstate Highway System, this endeavor can appropriately be a joint one. The proper federal role is to meet emergency needs by opening temporary prison camps and to help meet long term needs by securing financing. e.g., by guaranteeing loans. In the mid-term, the federal government should at least contribute toward construction costs in proportion to the inmates it could have, but did not prosecute in federal court. In other words, there should be a presumption that in enacting the various statutes that created concurrent federal jurisdiction for drug trafficking and certain violent crimes, even though plenary state jurisdiction was already in existence, Congress intended substantial federal participation in one form or other. Generally, that means federal prosecution leading to incarceration in federal prisons. Where, however, state prosecution is initiated, the federal role should be to help pay for the prisons to house the persons so convicted.

In any event, the federal government would pay for a proportional part of the cost of all new prisons constructed by various states in the next five years. The federal share of the cost can be calculated with data available to the National Institute of Corrections. Since most states failed to build enough new prisons in recent decades, the financial incentive of "matching federal grants" is apparently needed. It can be excepted to work because the states now recognize the urgency. In order to control and limit such federal grants and fix the total annual appropriation for budgetary purposes, Congress could put a cap of $1 billion per year on the prison fund. Generally, it might be operated much like the highway construction trust fund making grants available to qualifying states on a first come, first served basis. This procedure might further increase the incentive for states to begin a serious building program promptly. Indeed, the Congress could stipulate that the funds could only be used in the year appropriated, if still stronger incentives are needed to get the states started on a crash building program.

6. Research and development and support

The balance of the $2.5 billion appropriated for federal activity would go to federal agencies to double the resources presently available for research and development and for training and support of state and local criminal justice agencies. The objectives would include developing means to end plea bargaining and trial delays. Computer technology would be adapted both to investigative and calendar control tasks. Training would be greatly expanded and identification and lab support speeded up.

7. Financial assistance

Some $7.5 billion per year would be given to state and local authorities for new and augmentation programs for police, courts and corrections specifically for career criminals and violent offenders. The goal would be to assure swifter apprehension, sufficient evidence for conviction of the major charge, greatly expedited trial and sentencing, and corrections programs designed to rehabilitate first or second offenders convicted of violent felonies—with the emphasis on training in marketable job skills and basic English reading and writing, and incapacitate third offenders with lengthy sentences of between 15 years and life. Thus, the program, described below, to improve rehabilitation programs complements the approach of The Armed Career Criminal Act, which requires a mandatory minimum sentence of 15 years to up to life for those convicted of three violent felonies or serious drug offenses found in possession of a firearm. The approach for these hardened violent offenders is "to throw away the key."

a. *Special police squads.*—The theory is that at every stage from the commission of the offense through service of sentence, violent offenders and career criminals would be singled out for special attention, handling and treatment. The first goal would be to: double the apprehension rate (15 percent to 30 percent for professional burglars); (19 percent to 40 percent for professional robbers, etc.) This would mean creating or expanding special police squads of highly trained investigators who would respond immediately and in force to the scene of every violent felony and conduct full-scale investigations there, including intensive interviews of all witnesses, and who allow follow-up on all leads, vigorously and continuously. It would require greater use of undercover operations like "stings" and "decoys", greater use of forensic laboratory services, more extensive efforts to trace firearms and stolen property and many other steps. The results would be:

1. More career criminals would be caught;
2. they would be arrested sooner;
3. the evience would be stronger; and
4. a higher percentage would be convicted of the main crime and sentenced to appropriate terms.

The ultimate consequences would be a sharp increase in deterrence which should substantially lower the rate of violent felonies for profit. Those not deterred would be incapacitated with strong cases, fast trials and long sentences. This would further lower the violent crime rate.

In many cities, the Police Department would have to create special detective squads for rape, robbery, burglary, narcotics trafficking, etc. Most cities already have a Homicide Squad. Its operations and techniques could provide a very useful general model for the new squads.

The federal role would be to stimulate the creation of these squads, paying full costs for one year. If further federal funding were thought essential, starting in the second year, states could be required to assume costs in 25 percent annual increments. Thus, in its first "transitional" year the squad would be paid for 75 percent with federal funds. Federal support would decrease to 50 percent in the second year and to 25 percent in the third year. In the fourth year, local authorities would pay the full cost. Under the first approach, 100 cities per year could be given $6.2 million for one year. Under the second approach, 100 cities could be helped in the first year and an additional 50 cities in each succeeding year for a total of 300 cities.

In specific terms, formation of such squads in a typical city would mean hiring and training (or retraining), on the average about 100 detectives. In cities which already have such units, the goal would be to double their size. The cost per city would average about $6 million per year, including costs of training, salaries, support personnel, space (where needed) and other such costs.

The total cost to thus assist police departments in cities would be $620 million per year.

b. *Career criminal units.*—In similar fashion, money should be spent to create or double the size of the Career Criminal Units or specialized prosecution units for rape, robbery, burglary and drug trafficking in the U.S. Attorney and district attorney's offices in the 500 largest counties in the U.S. These units assign a prosecutor to stay with each case from start to finish for thorough preparation and aggressive handling without plea-bargaining. The results are significantly higher conviction rates and far longer sentences for career criminals and violent felons. Such programs, which were started in district attorneys offices in 25 major cities (counties) between 1975–80, proved to have a high impact and, at an average of only $1 million per city, to be highly cost-effective. The program would cost $10 million per year. It would provide $1.5 million for one year only to 100 cities per year for a total of 500 jurisdictions.

c. *Case screening and diversion.*—The most crucial reform needed in U.S. criminal justice is the elimination of plea-bargaining in violent crime cases. Plea-bargaining results in dangerous repeat offenders being released on probation or after serving brief jail sentences. Although in most states, robbery, a major felony, is punishable by 10–20 years imprisonment in the State penitentiary, many defendants convicted of robbery receive only misdemeanor sentences and serve less than two years, often less than one year, in the county jail.

Such inadequate sentences result from plea-bargaining made under duress by prosecutors because the state courts in most urban areas simply cannot try enough cases. Indeed, in many cities, the vast majority of the cases, including violent felonies, are disposed of not by trial but by guilty plea based on concessions by the government on sentencing. Court congestion and trial delays in combination with ever increasing caseloads that reflect ever increasing crime create the pressure for plea-bargaining. Overcrowded jails and prisons only increase the pressure felt by judges to accept plea and sentencing agreements that do not reflect the seriousness of the crime or the criminal.

To try more major cases requires trying fewer minor cases. Diversion of minor and non-violent cases involving defendants who can be rehabilitated is an essential step. It has been tried and proven highly effective in many populous jurisdictions, including Philadelphia where, as District Attorney, I instituted a diversion program called Accelerated Rehabilitative Disposition. Cases

were carefully screened for inclusion in the A.R.D. program which disposed of several hundred cases a week despite using only one judge for one day. Defendants were placed on probation without conviction. The National Commission of Criminal Justice Standards and Goals recognized this program and recommended such diversion programs as appropriate and essential to immediately reducing and and ultimately eliminating plea-bargaining, which the Commission also recommended.

Similar diversion programs have been successfully utilized in federal courts, particularly for drug offenders who were essentially addicts as opposed to traffickers. Although such programs are essential to relieving court congestion, they are not as widely used as they should be. Federal "seed money" is needed to help persuade additional jurisdictions to institute diversion programs. Once authorities see the benefits demonstrated in their own courts, they can be expected to continue and expand the programs and to assume the costs.

Better screening of cases entering both misdemeanor and felony courts is also needed. With their overwhelming caseloads, courts cannot afford to waste scarce resources—judges prosecutors, defenders—on cases that cannot realistically be expected to lead to conviction. All possible judicial time must be carefully husbanded to and applied to disposing of major and violent cases. Intake programs have proven effective in many different kinds of jurisdictions. They should be implemented in all jurisdictions that face crowded court dockets. Again, federal seed money is needed to stimulate the start of such programs in new places.

For $150 million per year, 100 cities each year can institute these programs.

d. *Diagnostic and classification improvements for prisoners.*—Just as better case screening will improve the results of court efforts, better screening of convicts will improve the odds of reducing recidivism. It is true that many convicted persons are adversely influenced by their fellow inmates and that, for them, prisons become schools for crime. But this problem can be diminished although not eliminated by better classification procedures so younger and less serious offenders are not intermingled with career criminals and other hardened or older offenders. In addition, better diagnosis of the specific nature of any drug or alcohol addiction and deficiencies in basic literacy and job skills can greatly improve the chances of rehabilitation if coupled with resources to provide more training, education, counseling, detoxification and prison industry. Specific programs should be formulated individually, for each inmate to encourage him to attain basic English literacy, which most violent crime convicts lack, and to acquire marketable job skills in order to have a realistic chance of obtaining and keeping employment.

Resources for rehabilitation will always be less than the need. Therefore, none can be wasted on inmates who are unlikely to profit from them or misdirected to inmates who need some other kind of training than what is provided to them. The reality is that virtually all first offenders and most second offenders convicted of violent crimes will be released within a few years. Improving public safety requires reducing the recidivism of these groups as much as it requires lengthy incarceration of career criminals with three or more felony convictions.

The U.S. Bureau of Prisons and several state prison systems have sufficiently perfected techniques for diagnostic and classification services and for individualized correctional programming to warrant the replication of these programs in all state prison systems and county jails that do not already have them. The emphasis, of course, should be on the state prisons and on violent offenders.

For $350 million per year, all state systems could begin or expand such programs. By the end of a five year period, enough evidence of lower recidivism rates should have been accumulated to convince the recipients to continue these programs with state and local funding. Meanwhile, the public, not to mention the inmates, would derive important benefits in reduced crime rates.

The importance of these steps cannot be overestimated. Studies show that a small percentage of offenders commit the majority of all violent offenses. Accordingly, a small reduction in the recidivism rate for these offenders when released from prison following a first or second conviction should produce a large reduction in the crime rates.

e. *Training in job skills and basic literacy.*—The evidence is overwhelming that most offenders convicted of violent crimes are functionally illiterate and practically unemployable. Mandatory programs should be instituted in all state prisons to teach 6th grade literacy and basic industrial and commercial skills to all inmates, except the very few who lack the ability or will to achieve even these modest goals.

Many state systems and the federal prison system have developed various techniques including prison industries, for these purposes. Unfortunately, many state institutions do not have adequate programs and some have none at all.

For $350 million a year, all state institutions could, over a five year period, begin or expand such training. On the average, each state would receive $7 million per year.

The realities of local and state politics, all the more so in these times of economic distress, simply preclude getting such funding from most state legislatures. Again, the hope is that once started, the value to public safety of such programs will ultimately be sufficiently recognized to warrant their continuation with state funds.

f. *Juvenile delinquent intervention.*—Over one-third of all violent crime is committed by young offenders. Nearly all these offenders have a long history of escalating criminality, typically starting at about age 9 or 10 with truancy and shoplifting, then burglary of vacant premises at 12, burglary of residences at 14, followed by robbery at 16 and armed robbery at 18. To control and reduce violent crime in this country, we must prevent adults sent to prison from simply being replaced by such "graduating" juveniles. Studies by Professor Marvin Wolfgang and others reveal that only 6 percent of the juveniles who commit any offense commit about 70 percent of all the crime committed by their age group. Moreover, procedures have been developed by the Rand Corporation for identifying this group, so the efforts to cut off this escalating crime cycle can be concentrated on the small percentage of juvenile offenders who are on this path toward major violence.

It is proposed to grant to state and local authorities $880 million per year to vastly increase counseling and other efforts to intervene vigorously and early enough to divert the juvenile from a life of felonious violence. Such intervention should focus on juveniles in the 10-13 age group to have optimal chances of success. The funds would enable 100 cities to each spend $8.8 million each year to create or expand such intervention capabilities to prevent development of future career robbers. If local authorities are required to assume the costs in 25 percent annual increments, starting in the second year, an additional 200 jurisdictions could participate over a five-year period.

Two closely related programs are also recommended: (1) crime prevention in schools—$620 million per year; and (2) runaways and missing children—$350 million per year.

g. *Crime prevention in schools.*—The school program would focus on elementary school and junior high school students and apply counselling and other services to potential juvenile delinquents upon the earliest signs of trouble. According to studies and testimony before the Subcommittee on Juvenile Justice, teachers often identify future criminals even earlier than Juvenile Court authorities. For those youth who do get taken to court, the schools must become part of any correctional program for the individual that may be ordered by the court and implemented primarily by probation personnel.

Resources for such efforts are vastly inadequate. Politically, they are difficult to secure from state and local legislative bodies. Any additional resources that might become available to schools would ordinarily go to the instructional program. The purpose of federal funding would be to replicate proven successes from comparable school systems in all systems with the need. The $620 million per year would pay for the institution of such programs in several hundred school systems.

The programs would stress not so much services to individual youth, but improving the discipline in the school by preventing classroom and hallway violence, drug trafficking and vandalism. Thus, in addition to special counselling, the programs could include additional security personnel and devices.

h. *Runaways and missing children.*—The program for runaways would provide funds to maintain, expand or build suitable facilities for homeless youth so they are not intermingled with juvenile offenders or placed in prison like facilities. One of the great successes of the federal Office of Juvenile Justice and Delinquency Prevention was the deinstitutionalization of runaways and other youth who had committed no crime.

On the average, each state would receive $7 million per year for a total national investment of $350 million.

The money would also help pay for computerized and other information services so important to the families of missing children. Often these children have been the subject of "parental kidnapping". The spouse with whom they had been living have no knowledge of the child's whereabouts or welfare.

i. *Adult crime prevention.*—Programs at $620 million per year each are also proposed for Neighborhood and Commercial Crime Prevention. Numerous well-proven models exist and would be replicated in hundreds of new cities and thousands of new neighborhoods. An example of the former is the neighborhood watch programs in which volunteer residents patrol their area with radio and other equipment provided by the government. They report suspicious persons and events to police who exclusively handle all investigative or enforcement actions. An example of the latter is the installation in

stores of cameras and other security devices to help deter crime as well as assist in the identification and apprehension of criminals. For instance, money marked with a strong dye might be furnished to store tellers and clerks to be given to any robbers.

The funding level would allow 500 cities per year to participate in these two programs. Funding would be for a single year. Thus, over five years, 2,500 cities and towns would benefit.

j. *Drug treatment.*—One of the best possible crime prevention measures would be improved efforts to detoxify drug addicts and habitual abusers of controlled substances. Studies show that a high percentage of crime, including violent crime, is committed by addicts. One study showed that of 243 randomly selected addicts, 238 committed crimes. Moreover, they committed an astonishing 500,000 crimes over an 11 year period. They averaged 2,000 major and minor offenses for every year on the street and committed one or more crimes on nearly 350 days of the year. Another study showed that a group of robbers serving state prison sentences were mostly addicts and committed six drug sales for every robbery.

The proposal is to add $620 million per year to the treatment efforts of state and local authorities, concentrating on addicts who are violent offenders. The money would be for starting or expanding treatment programs and would benefit several hundred jurisdictions over a five year period. On the average, it could help 500 cities and towns per year. Better results might be obtained by giving larger amounts to 1 or 200 cities and continuing the grants for several years.

k. *Victim witness assistance.*—Studies and experience show that monetary and other assistance is often needed by victims and witnesses whose willing cooperation is crucial to securing convictions of violent offenders and career criminals. Medical bills and wages lost on days in court are the greatest financial problems. Information to keep witnesses abreast of developments as their cases proceed through the court systems is also important to assuring the availability and attitude of cooperation of witnesses.

For the $620 million per year that is proposed, programs copying well-established models could be started in up to 500 communities a year.

1. Court calendar control

Nothing is more important in improving criminal justice than assuring speedy trial. All states should, as a prerequisite of federal justice assistance, require that all criminal trials be concluded in six months or less. The standard for violent offenses should be three months with the average being six weeks.

Reducing delays also requires implementing reforms in the administration of criminal case dockets. Computers can play an important role in large jurisdictions. In many situations, adoption of the individual Judge Calendars used so successfully in federal courts would greatly speed trial dispositions. Reforms of discovery rules can also play an important role.

To end plea bargaining, more cases must be disposed of by trial and trials must be conducted more efficiently. Causes of delay are numerous and vary greatly from jurisdiction to jurisdiction. In some, delays in obtaining trial transcripts can delay disposition of post-trial motions and imposition of sentence for many, many months. In others, different problems plague the system.

The National Center for State Courts and other similar institutions have developed and refined analytical techniques to pinpoint the problems and solutions in a particular jurisdiction.

The proposed $260 million per year would support analysis in hundreds of jurisdictions by these institutions that can dispatch teams to work closely with responsible local officials. It would also support application of computer technology to management of the criminal caseload in these jurisdictions. Improvement in case management is essential to improving public safety.

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ADDITIONAL CONSIDERATIONS

Dispersal of State assistance funds

No new federal bureaucracy would be created. Little discretion is entrusted to federal Executive Branch officials and employees because Congress will have decided, as it does for national defense, how much will be spent for what, in each functional area.

There would be no layers of government through which funds would filter to the user. Instead, the money would go directly from the Justice Department to the state or local agency that will spend it. Nor would there be complicated application forms or extended processing time. If a jurisdiction will use money from a specific budget line item for the purpose stipulated, it will get the money.

Where more jurisdictions apply than the funds can accommodate, a "first come, first served" approach would be utilized. As to the size of a grant to a particular agency, for example, a metropolitan court administrator's office, a few simple formulas based on population and/or violent crime rate could be readily devised.

To avoid creating an excessive dependency on federal financing, matching state funds could be required. To give the program maximum immediate impact, however, the first year's grant would not require a match.

Pacing the program

The increase could not all be absorbed in the first year of this program, but most of it could. The increases for federal programs mostly concern on-going operations of agencies like FBI which would hire, train and integrate new personnel. Doing this efficiently and without major disruption would require starting slowly and then increasing the rate. The annual expenditures will be relatively low in the first year and grow sharply in succeeding years, as the money is nearly all used for salaries of new personnel. Thus, the total for federal personnel would not be reached until the fourth or fifth year.

By contrast, the funds for most state programs such as prison construction can and should be allocated in full right from the start. They can be committed under contract very quickly. Even money earmarked for local police departments could be spent quickly since creating a new squad of 50 or 100 detectives is best accomplished in a short time frame. Moreover, adding 100 new employees in departments with thousands represents a small enough percentage increase that no significant disruption is expected.

Most of the funds for state programs should be appropriated as "no year money", meaning that it may be obligated and expended in years subsequent to the year appropriated. Money for all federal programs should be appropriated in due course. Even the funds for federal prison construction can be normal appropriations since for these facilities, unlike state facilities. Congress has both the obligation and the capability to manage the money on an annual basis.

If, as might be expected in the first year, the states do not obligate all funds available for construction, these funds would accumulate. Therefore, in the third year, for example, the fund might contain twice the annual appropriation. However, since the large construction bills would come due in that period, the larger amounts would be needed then. Thus, the full amount for state assistance should be appropriated in the first year of the program.

Adjusting the funding

If the construction fund ever grew larger, even than anticipated needs, in later years of the program the annual appropriation could be decreased. The program is flexible.

Reducing and ending the program

The increased appropriations for federal enforcement operations would probably be continued in large part even beyond the period of the program, but the money for new state construction and new units and operations is intended as a one-time boost to state justice systems in a period of emergency. It could be largely discontinued after about five years, if the 50% decrease is achieved before the end of 10 years. In any event, it would end after 10 years.

It could be predicted that at least half of the funds for federal investigative operations would become part of the permanent budget base. Cut-backs would be appropriate for example in the fugitive programs once the backlogs of unserved warrants are eliminated.

The $630 million for construction of new federal prisons could be also largely discontinued after a few years. Even the $620 million for training and research could be greatly reduced if not totally eliminated.

Therefore, the $10 billion program would not become a permanent part of the federal budget. Less than $1.2 billion would remain.

Footnote: The figures cited above were calculated on a total of $10 billion, reflecting 1 percent of a $1 trillion budget.

SUMMARY OF ANNUAL INCREASES BY FUNCTION [1]

[In millions of dollars]

Use	Result	Increase
National attack on violent crime	Reduce violent crime by 50 percent in 10 yr	10,000
Federal:		
Fugitive programs	Triple arrests rate	260

SUMMARY OF ANNUAL INCREASES BY FUNCTION [1]—Continued

[In millions of dollars]

Use	Result	Increase
Federal robbery prosecutions	Triple arrests	370
Drug enforcement	Triple the number of major arrests, seizures, and forefeitures	620
Training and support services to States	Expand training and speed up support	310
Research and development	For example, weapons defectors and computerization	310
Construction of Federal at prisons	Accommodate increased Federal population	260
Temporary detention facilities for State inmate "overflow" and permanent prisons for State habitual offenders sentenced to life.	End State overcrowding	370
Total Federal		2,500
State:		
Special defective squads	Double arrest rate to 40 percent	620
Case screening and diversion	Cut minor and nonviolent trials in half	150
Career criminal units	End plea bargains	150
Diagnosis, classification, and correctional programing	Cut adult crime cycle, isolate hardened offenders	150
Prison construction	End overcrowding that causes short sentences	1,290
Job and literarcy training	Make convicts employable	350
Juvenile delinquent intervention	Cut off escalating crime cycle	880
Housing for runaways	Keep them out of prisons	350
Victim/witness assistance	Compensation	620
Crime prevention:		
Schools	Cut violence and drugs in half	620
Neighborhoods	Cut burglaries in half	620
Commercial	Cut robberies in half	620
Drug treatment	End addiction	620
Calendar control	End delays	260
Total State		7,500

DETAILS OF ANNUAL INCREASES BY FUNCTION

[In millions of dollars]

Use	Agency	Result	Increases
National attack on violent crime	SAVE [Safety Against Violent Events]	Reduce violent crime by 50 percent in 10 yrs	10,000
Federal:			
Fugitive programs	USMS: 80; FBI: 60; DEA: 40; others, 20 quadruple resources	Increase arrests from 40 to 90 percent of 80,000 warrants per year for Federal and State violent and drug offenders.	260
New Federal prosecutions for violent crimes, such as bank and commercial robbery.	FBI 250 (4,000 slots) and U.S. attorneys 50 (500 prosecutors)	Increase Federal arrests from 3 to 13,000 per year, for robberies, especially armed career robbers.	370
Drug enforcement	200 to double DEA (1,900) investigators 100 for accountants, (1,000 CPA Corps) 100 for FBI, 50 for Customs, 50 for additional 500 Assistant U.S. attorneys (25-percent increase).	Triple the number of major arrests, seizures, and forfeitures. Focus action on financing as much as on commodities to take profit away. Immobilize major organizations.	620
Training, lab, identification, and other support services and technical assistance to States by Federal agencies.	FBI, Treasury, DEA, NIC, DOJ, NIJ, double resources	Expand training and speed up support to respond to all State requests in timely fashion.	310
Research and development. Design means to end plea-bargaining and cut trial delays in half.	BJS, NIJ, FBI and others, double resources	Urgent violent crime projects, including weaponds detectors and computerization of fingerprints, modi operandi, weapons, prior records, stolen property, coconspirators, and case management and cour calendars.	310
Construction of correctional facilities for Federal inmates and operating costs.	BOP starts 4 new prisons and 4 new camps each year	Build new prisons for increased Federal population to prevent crowding and decreased security.	260
Temporary detention facilities for State inmate "overflow" and permanent habitual offenders sentenced to life.	BOP starts 8 camps and 2 prisons per year	Build new prison camps and maximum security penitentiaries to end all State overcrowding.	370
Total Federal			2,500
State:			
Improve investigations with special detective squads	Local police departments—100 cities per year	Double violent crime arrest rate to 40 percent	620
Improve case screening and diversion	Local prosecution, courts, and probation agencies in 100 metropolitan jurisdictions per year.	Cut minor and nonviolent trials in half and increase violent crime trials so plea bargains can be reduced, then eliminated.	150
Improve violent crime prosecutions by forming career criminal units	Police, prosecution, court administration 100 cities per year	End plea bargains	150
Improve convict diagnosis, classification, and correctional programing	State prison systems; all States	Cut adult crime cycle, isolate hardened offenders	350
Prison and other construction	State prison systems; all States with overcrowding—about 40	End short sentences and other problems resulting from overcrowding	1290
Job training/prison industry/functional literacy training	All state prison systems	End pressure of economic need as a cause of recidivism for unhardened convicts.	350
Juvenile delinquent	State and local authorities	Cut off escalating crime cycle	880
Runaways and missing children	State authorities	Create homes so these youth are not mingled with juvenile offenders or placed in prisonlike facilities.	350
Victim/witness	do	Aid and compensation, where none other is available, for medical costs and lost wages.	620
Crime prevention:			
Schools	School police and counselors	Cut violence and drug sales by or to students in half	620
Neighborhoods	Volunteer observers	Cut burglaries in half	620
Commercial	security devices	Cut robberies in half	620
Drug treatment	Local courts	End addiction whenever possible	620
Calendar control applying research and development results to specific localities.	do	End delays and judge shopping	260
Total State			7,500

[1] The figures cited in the tables were calculated on a total of $10 billion, reflecting 1 percent of a $1 trillion Federal budget. These figures will require readjustment based on a fiscal year 1990 budget which exceeds $1 trillion.

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Violent Crime Program Authorization Act, Fiscal Year 1990".

SEC. 2. On the basis of evidence, information, and documents and testimony collected by the committees and subcommittees of the Congress and the reports and recommendations of various national commissions, including the National Commission on Criminal Justice Standards and Goals (1973) and the Attorney General's Violent Crime Task Force (1981), the Congress hereby makes and adopts the following findings:

(1) Violent crime and drug trafficking have become a severe national problem affecting the personal safety and general welfare of citizens of the United States and an intolerable burden upon Interstate Commerce.

(2) The economic costs of crime are estimated to exceed $100,000,000,000 per year and the total cost of crime including pain, suffering, and psychological duress are estimated to exceed $500,000,000,000 per year.

(3) The Federal Government presently allocates approximately $6,500,000,000 of its annual budget to crime control and criminal justice. This allocation represents just over one-half of 1 per centum of the Federal budget.

(4) It is estimated that spending by State and local law enforcement and criminal jus-

tice agencies of the various States is approximately $24,000,000,000 a year. Due to limited revenues, rising costs, and other factors, the States and localities are severely limited in their capability to provide greater resources for law enforcement and criminal justice.

(5) Every year, serious crime afflicts one in every five American households. One in every ten households is affected by criminal violence.

(6) The violent crime rate in America has reached unprecedented and intolerable levels. The violent crime rate has risen 400 per centum since 1945; the United States suffers from a crime rate which is many times that of any other industrial democracy.

(7) The resources available at all levels of government are seriously inadequate to secure public safety. Consequently, only a small fraction of crimes result in an arrest, a small fraction of arrests result in trial and conviction, in contrast to plea bargain, and only a small fraction of convictions for violent offenses result in sentences to prison.

(8) Career criminal constitute less than 10 per centum of all persons arrested but commit more than 60 per centum of the offenses. Despite the priority accorded to them, career criminals are often not handled effectively due to inadequate resources.

(9) Likewise, crime prevention programs have not been given sufficient resources, resulting in much serious crime that could have been prevented. Particular attention is needed for juvenile offenders to break the escalating crime cycle, for drug addicted offenders and for providing literacy and training in marketable job skills to prisoners nearing the end of their sentences.

(10) Drug trafficking, which is estimated to have grown to a $80,000,000,000 a year business that contributes to and causes a high proportion of the violent activity, has not been curtailed despite recent increases in the level of effort, particularly by Federal enforcement agencies.

(11) The prison systems in more than forty States are so overcrowded as to be subject to court orders to release inmates prematurely and to deter judges from imposing sentences in individual cases that fit the crime and the criminal. The prison population has risen sharply in recent years. However, in many States few if any prisons have been built in recent decades.

(12) Major efforts are needed to improve the treatment of victims and witnesses in criminal cases and to compensate them for physical and economic injury and loss.

(13) In order to insure speedy justice, numerous court reforms are needed, including improved case screening and diversion programs, use of computers and other techniques to control judicial calendars.

(14) To improve the arrest rate, conviction rate, and sentences for career criminals, special units are needed in police departments, prosecutors' offices, and other agencies.

In light of the foregoing, a comprehensive national program must be commenced. Such a program should devote 1 per centum of the Federal Budget or approximately $10,000,000,000 for a period of up to ten years with the goal of cutting violent crime for profit in half.

SEC. 3. In order to begin such a program in fiscal year 1990 and to begin it in a gradual, orderly manner, there is authorized to be appropriated for the fiscal year ending September 30, 1990 to carry out the National Violent Crime Program:

(a) For the detection, investigation, apprehension, prosecution, and incarceration of individuals involved in violent crime activity and drug trafficking, not otherwise provided for, $1,200,000,000, of which $300,000,000 for construction of new facilities and construction, remodeling, and equipping buildings and facilities at existing detention and correctional institutions shall remain available until expended, and notwithstanding any other provision of law, there is authorized payment in advance for expenses arising out of contractual and reimbursable agreements with State and local enforcement agencies engaged in cooperative violent crime and drug trafficking enforcement activities, as follows:

	(Millions)
Fugitive programs	125
New Federal prosecutions for violent crimes, such as bank and commercial robbery	175
Drug enforcement	300
Training, lab, identification, and other support services and technical assistance to States by Federal agencies	150
Research and development, for example, design means to end plea-bargaining and cut trial delays in half	150
Construction of correctional facilities for Federal inmates and operating costs	125
Temporary detention facilities for State inmate "overflow" and permanent prisons for confinement of all State habitual offenders sentenced to life	175

(b) For Justice assistance and to carry out the functions of the Justice Office of Assistance, $3,650,000,000, all of which shall remain available until expended: *Provided*, That such funds may only be used to carry out the National Violent Crime Program, pursuant to regulations issued by the Head of Justice Office Assistance and policies and priorities established by the Attorney General in consultation with the Congress and appropriate congressional committees, as follows:

	(Millions)
Improve investigations with special detective squads	300
Improve case screening and diversion	75
Improve violent crime prosecutions by forming career criminal units	75
Improve convict diagnosis, classification, and correctional programming	175
Prison and other construction	625
Job training/prison industry/functional literacy training	175
Juvenile deliquent intervention	425
Runaways and missing children	175
Victim/witness	300
Crime prevention—Schools	300
Crime prevention—Neighborhoods	300
Crime prevention—Commercial	300
Drug treatment	300
Calendar control applying research and development results to specific localities	125

CAREER CRIMINAL INCARCERATION

Mr. SPECTER. Mr. President, I am today introducing the Career Criminal Incarceration Act of 1989. This bill is based upon three bills I previously introduced—S. 58 in the 98th Congress, S. 1189 in the 99th Congress, and S. 414 in the 100th Congress.

In 1983, I authored the Armed Career Criminal Act, which made the commission of a felony involving use of a firearm a Federal offense if the defendant has three prior convictions for robbery or burglary. This bill was signed into law by President Reagan as part of the Comprehensive Crime Control Act on October 12, 1984. In the 99th Congress, I offered an amendment to the omnibus drug bill to broaden the scope of the predicate offenses to include serious drug offenses and violent crimes.

The bill I introduce today is an equally important part of our effort to deal with the plague of career criminals—those 10 percent of criminals who are responsible for 70 percent of all serious crime.

The bill grants the Attorney General authority to incarcerate in Federal facilities persons convicted and sentenced to life imprisonment in State courts under State habitual offender statutes.

Permitting these persons to be transferred to Federal prisons will encourage more prosecutions under State career criminal statutes. These statutes normally allow judges to sentence habitual offenders for significant periods in order to keep them from engaging in further criminal activity. Often, local district attorneys have task forces specially created to target career criminals. Unfortunately, however, long-term incarceration of these criminals is nearly impossible due to already crowded conditions in State prisons. Indeed, State prisoners are sometimes set free early to make room for the continuing stream of newly convicted persons.

By holding persons sentenced to life imprisonment under State career criminal statutes, the Federal Government would reduce the burden of such sentences on States, and encourage them to actively seek long sentences for career criminals under such statutes.

Recent statistics show that State prison populations continue to increase at an alarming rate. In 1984, 24,281 prisoners were added to the prison rolls in the States and the District of Columbia. During the same period, 2,337 prisoners entered the Federal prison system. The number of inmates sentenced to State prisons for more than 1 year grew by 6.2 percent, whereas the comparable population in Federal prisons grew by only 4.8 percent. Even these statistics do not tell the full story. At the end of 1984, State prison systems were operating at approximately 110 percent of capacity. There was a backlog in local jails of more than 11,000 prisoners; overcrowding accounted for the early release of more than 17,000 inmates in 14 States. Overcrowding also resulted in the operation of the entire prison systems of six States and the District of Columbia under a court order or consent decree. At least one major

prison was being operated under court order or consent decree in 25 other States. The prison populations in States without court intervention increased at 9.2 percent compared to a 2.9-percent increase in State systems entirely under court order.

The States need help from the Federal Government to reduce overcrowded prison conditions. Society needs States to actively utilize existing career criminal statutes. This bill serves both of these goals, by allowing special targeting efforts to be directed at career criminals by States without adding to their crowded conditions.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Congress finds that—

(1) career criminals commit a larger percentage of the violent and major felonies afflicting society, causing immeasurable physical injury to innocent persons and damage, destruction, or loss to their property estimated at billions of dollars annually, thereby terrorizing law-abiding citizens, disrupting the community, and undermining respect to law:

(2) the continuing criminal activity of career criminals adversely affects interstate commerce;

(3) despite prior convictions for serious offenses, many repeat offenders are placed on probation or sentenced to unduly short terms of imprisonment by State judges, to the detriment of public safety;

(4) many repeat offenders cannot reasonably be rehabilitated and, unless incarcerated for life, will commit further felonies;

(5) many States have "habitual criminal" statutes providing for life sentences for repeat offenders, upon subsequent felony convictions;

(6) many State prison systems are severely overcrowded, understaffed, and unable to confine convicts sentenced to life imprisonment under such statutes in a safe, secure, and humane manner;

(7) State judges may be deterred by the lack of sufficient prison space, staff, and funding from imposing life sentences for offenders as provided by State law, and the legislatures in those States without habitual criminal statutes may be dissuaded by such considerations from enacting such statutes;

(8) the interests of justice and public safety would be served if State authorities felt free to impose life sentences for repeat major offenders unrestrained by such considerations;

(9) the Federal Bureau of Prisons sometimes has empty cells available and can make additional space available by consolidating inmates, consistent with suitable standards, and ultimately can open additional institutions and cells, without great cost or delay, in certain Federal facilities, including abandoned military facilities and Public Health Service Hospitals; and

(10) the Federal Bureau of Prisons has an outstanding record in safety, effectively and humanely confining inmates sentenced to life imprisonment.

(b) The Congress declares that the purpose of this Act is to remove undue restraints on States imposing life sentences on repeat major offenders by authorizing the Federal Government to assume custody of prisoners sentenced under State habitual criminal statutes to imprisonment for life, without cost to the State.

SEC. 2. (a) Upon request by a State pursuant to section 3, the Federal Bureau of Prisons of the Department of Justice shall promptly arrange and accept custody of convicts who are sentenced to life imprisonment under the habitual criminal statutes of a State, to the extent that space is or can be made readily available in the Federal prison system. The Federal Bureau of Prisons shall confine such convicts until certification to the Attorney General by appropriate authorities of the State that the sentence of a transferred prisoner has been terminated by parole, pardon, or otherwise as provided by State law, or, absent such certification, for the natural life of the prisoner.

(b) This Act shall apply only to the incarceration of persons sentenced to imprisonment for life under the State habitual criminal statutes after the date of enactment.

SEC. 3. (a) All applications for Federal incarceration under this Act shall be subject to approval by the Attorney General of the United States and shall include a certification by the State that the prisoner to be transferred has been sentenced to life imprisonment under a State habitual offender statute.

(b) The Attorney General shall have the authority to review the nature and circumstances of the offenses committed by any prisoner who is proposed for transfer and the existing capacities of the State prison system from which transfer is sought. The Attorney General may reject any application for Federal incarceration based upon each consideration and upon the availability of space in the Federal prison system. The decisions of the Attorney General under this subsection shall not be subject to review by Federal or State courts.

INCENTIVE FOR CRIMINAL REHABILITATION IN STATE PRISONS

Mr. SPECTER. Mr. President, I am reintroducing today legislation which would provide incentives to provide rehabilitation for those who are in the criminal justice system who can be rehabilitated. If you take a first offender and some second offenders, it is possible to have some realistic rehabilitation. It is no surprise when an inmate without a trade or skill, a functional illiterate, is released from jail and goes back to a life of crime. In the District of Columbia there have been initiatives in the course of the past 6 years, which I worked on in my capacity as former chairman of the District of Columbia Subcommittee, which are embryonic, just in their initial phases, but are already proving successful. I believe they can serve as a model on a national basis.

Mr. President, I am today introducing a bill to encourage criminal rehabilitation in State prisons by providing prisoners with training in a marketable job skill and basic literacy.

We must impose tough sentences on tough criminals, particularly career criminals. At the same time, however, we must make a realistic effort at rehabilitation where possible.

As district attorney of Philadelphia, I visited all of the prisons of Pennsylvania, and I have had occasion for more recent visits to Pennsylvania prisons as a Senator. These experiences have shown me that many convicts are routinely released as functional illiterates without a skill or trade. It is not surprising that many of these convicts return to the streets and commit more crimes.

This bill requires that States make a good-faith effort to ensure that prisoners released after a term of imprisonment of 2 years or more have had training in reading, writing, and a basic job skill. In this way, such prisoners will be able to earn their way lawfully on the outside without resorting to a life of crime.

The former Chief Justice of the U.S. Supreme Court repeatedly had emphasized the need for making educational and vocational training available to prisoners. In his yearend report for 1984, Chief Justice Burger stated:

> Prisoners must be given the opportunity to learn marketable skills, both to repay the government some of the costs of confinement and to train them for life after release.

Mr. President, this bill is derived from three previous bills I introduced—S. 59 in the 98th Congress S. 1190 in the 99th Congress, and S. 413 in the 100th Congress.

I believe that the present bill would greatly serve the national interest, by providing our inmates a way out of recidivism. Without the education and training in a marketable vocation that this bill would encourage, these prison inmates stand little chance of leaving crime behind and leading productive, law-abiding lives.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the prison authority of a State shall have an obligation to provide prisoners with training in a marketable job skill and basic literacy, and the parole authority shall not release a prisoner sentenced under the law of the State to a term of two years or more prior to the expiration of his sentence unless the State has made reasonable efforts to meet such obligation. The State shall be deemed to have met its obligations under this section if the prisoner already has such training, the prisoner refuses to accept such training, or the Attorney General concurs in the State's judgment that provision of such training would be unreasonably costly in a particular instance: *Provided, however,* That the Attorney General shall not exempt a State generally from its obligations under this section on the basis

that compliance would be unreasonably costly.

(b) On or before one hundred and eighty days before the effective date of this Act, the Attorney General of the United States shall, after consultation with the State Prison Vocational Skills Advisory Council, promulgate such regulations as are necessary to carry out the purposes of this Act including a determination of what constitutes a "marketable job skill and basic literacy".

SEC. 2. (a) Notwithstanding any other provision of Federal law, any State desiring to receive any grant, contract, award, or other assistance paid for from Federal funds for use in its prison programs, shall certify to the Attorney General that it is in compliance with the provisions of this Act.

(b) Except as provided in subsection (c), any State which fails to comply with this Act shall be ineligible to receive any Federal funds for its prison programs until such time as the State can certify to the Attorney General that it is in compliance with the provisions of this Act.

(c)(1) If the Attorney General determines that a State has made a good faith effort to comply with the provisions of this Act, the Attorney General may grant such State probationary status for one year during which time the State shall be eligible for any Federal funds for prison programs, notwithstanding subsection (a).

(2) No State shall be eligible for probationary status under paragraph (1) for more than two years.

SEC. 3. (a) There is established the State Prison Vocational Skills Advisory Council (hereinafter in this Act referred to as the "Council") which shall advise the Attorney General of the United States regarding regulations necessary to carry out the provisions of this Act. The Council shall be composed of—

(1) the Associate Attorney General, who shall serve as its chairman;

(2) the Director of the Federal Bureau of Prisons;

(3) the Under Secretary of Labor; and

(4) six representatives from State and local prison systems, each from a different State, to be selected by the Attorney General.

(b) It shall be the duty of the Council to advise the Attorney General in formulating regulations as provided in section 1(b).

SEC. 4. Nothing in this Act shall be—

(1) construed to reflect the intent of Congress to invalidate or modify any State law except insofar as it may be directly inconsistent with this Act, or

(2) construed as creating any right in any State prisoner.

SEC. 5. this Act shall become effective one year after the date of the enactment of this Act.

DEATH PENALTY LEGISLATION

Mr. SPECTER. Mr. President, today I introduce legislation which enhances the Federal Government's fight against crime. This bill is based on S. 2863 which I introduced on October 5, 1988, toward the end of the 100th Congress to give my colleagues an opportunity to study this matter in advance of the 101st Congress. My bill will establish constitutional procedures for the imposition of the sentence of death in Federal criminal cases, as well as create two additional capital offenses.

It is my sense that this legislation is long overdue. The various Federal offenses which include a capital penalty have not met constitutional muster since the Supreme Court squarely addressed this issue in Furman versus Georgia, in 1972. This body had not responded to the High Court's ruling and I believe now is the time to do so. There are various Federal statutes which include capital crimes. These offenses include treason, assassination of the President, murder and air piracy and cover other offenses where existing Federal law calls for the death penalty, but procedures have not been updated to accommodate decision by the Supreme Court of the United States since 1972.

This legislation will create two additional capital crimes. The first provides for the death penalty for a prisoner serving a life sentence in a Federal confinement institution who commits murder. This is a continuing problem in our Nation's prison system, including our Federal system. This provision will apply to those prisoners already beyond redemption or rehabilitation—those already sentenced to life imprisonment for their prior heinous crimes.

Clearly, there is no deterrent for someone already serving a life sentence if the most that can happen with another murder is an additional life sentence. This provision will provide such a deterrent by allowing a jury or court to impose the sentence of death after considering numerous relevant factors, including whether the murder occurred during an escape attempt, a kidnapping, a prison riot, the taking of hostages, sexual assault as a result of drug dealing, or by use of a firearm.

This legislation also would amend a statutory provision that I authored in 1986, 18 U.S.C. 2331, and make a violation of that provision a capital crime. This section, which authorizes extraterritorial jurisdiction for the United States over terrorist acts abroad against American citizens, presently provides a maximum penalty of life imprisonment. Sadly, and with increasing frequency, terrorists are attacking American citizens throughout the world and I believe it is wholly appropriate that such despicable actions be considered a capital offense.

CONSTITUTIONALITY

Mr. President, a complete revision of the Federal Criminal Code to provide for the death penalty in appropriate circumstances must meet the constitutional guidelines set forth by the Supreme Court. In Furman against Georgia, the Court did not conclude that capital punishment is unconstitutional, but only the procedures of the Georgia statute were constitutionally invalid because it provided unguided discretion to the factfinder. Other States' statutes were similar to Georgia's and the ultimate effect of the Court's decision was in invalidation of most capital punishment statutes throughout the country. However, 37 States and Congress have reenacted capital punishment statutes in accordance with the procedures articulated by the Court. In fact, in 1976, *Gregg* v. *Georgia*, 428 U.S. 153, the Court again reviewed the constitutionality of capital punishment and upheld Georgia's revised death penalty law.

Since that time, procedures promulgated by the States have continually met constitutional muster. Some have argued, however, including members of the Supreme Court, that capital punishment itself is unconstitutional. My reading of the constitutional results in a different conclusion. There are numerous instances in the Constitution of the United States which specifically recognizes and permits capital punishment. For example, the fifth amendment specifies that "no person shall be held to answer for a capital * * * crime unless on a presentment or indictment of a Grand Jury * * *"; the fifth amendment also provides "nor shall any person be subject for the same offense to be twice put in jeopardy of life and limb * * *"; and that no person shall "be deprived of life, liberty or property without due process of law * * *"

Moreover, in 1953, Chief Justice Warren wrote:

> At the outset let us put to one side the death penalty as an index of the constitutional limit on punishment. Whatever the arguments may be against capital punishment both on moral grounds and in terms of accomplishing the purpose of punishment, and they are forceful, the death penalty has been employed throughout our history and, in a day when it is still widely accepted, it cannot be said to violate the constitutional concept of cruelty." *Trop* v. *Dulles*, 356 U.S. 86, 99 (Dicta) (1958).

In addition to the legal underpinnings of the Court's conclusion that capital punishment is constitutional, there also was some consideration of the general sentiment throughout the country in support of the death penalty:

> Despite the continuing debate, dating back to the 19th Century over the morality and utility of capital punishment, it is now evident that a large portion of American society continues to regard it as an appropriate and necessary criminal sanction.
>
> The most marked indication of society's endorsement of the death penalty for murder is the legislative response to *Furman*. The legislators of at least 35 states have enacted new statutes to provide for the death penalty for at least some crimes that result in the death of another person. The United States Congress in 1974, enacted a statute providing the death penalty for aircraft piracy that results in death. * * * But all of the post-*Furman* statutes make clear that capital punishment itself has not been rejected by the elected representatives of the people." *Gregg* v. *Georgia*, 428 U.S. at 179–81.

Significantly, opinion polls—while not of legal significance, nonetheless support the Court's conclusion that there is "a market indication of society's endorsement of the death penalty." A 1986 poll concluded that 70 percent favored the penalty with 22 percent in opposition and 8 percent with no opinion.

Consequently, with requisite procedural protections, capital punishment is an appropriate and supportable penalty. This legislation will offer the full panoply of procedural protections required by the Supreme Court for the accused and ensure that civil and constitutional rights are maintained. The procedural protections in this bill are similar to those promulgated by the States, as well as provided in S. 2455, "Death Penalty in Cases of Drug Related Killings," offered by my colleague, Senator D'AMATO and passed by the Senate on June 10, 1988, and enacted into law as a provision in the Anti-Drug Abuse Act of 1988.

The procedural process includes bifurcated proceedings; a listing of aggravating factors and a nonexclusive listing of the mitigating factors; and a provision of the automatic appeal of the judgment.

The Government would be required to give notice to the defendant before trial of the intention to seek a sentence of death. If found guilty of the offense, a sentencing hearing would be held before the same jury, or another legally constituted factfinder. The factfinder would make a series of determinations before a sentence of death could be imposed. The threshold requirements for a capital sentence are: First, a conclusion that a general aggravating factor exists; and second, that a specific aggravating factor to the particular offense also exists. If these requirements are not met, the sentence of death cannot be imposed.

Additionally, a finding of any aggravating factor must be by unanimous agreement. The findings of any mitigating factors as specified in the bill or determined independently, would weigh against aggravating factors to determine whether the sentence of death should be imposed.

Unanimous consent would not be required to establish a mitigating factor, such a finding could be made by one or more members of the jury. Any member of the jury who finds a mitigating factor may consider such a factor when deliberating the application of the death penalty.

The imposition of the death penalty would only occur upon the unanimous vote by the jury. Importantly, a sentence of death would not be carried out upon a person who is under 18 years of age at the time the crime is committed, or because the offender by reason of mental disease or defect, is unable to understand his impending death or the reasons for it.

Mindful of the concerns by many that a capital sentence may be imposed discriminatorily, this legislation also would require the court to instruct the jury that it shall not consider the race or color, national origin, or sex of the defendant, or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question regardless of the race of the defendant or the victim. To buttress the jury instructions, each juror would be required to file with the court, a certificate stating that the above-mentioned factors were not considered when reaching his or her individual decision on the imposition of the death penalty.

Capital punishment has long been a contentious issue. However, it is critical in ensuring an orderly society. The Senate has recently addressed this issue with the passage of S. 2455 mentioned previously. Accordingly, that is a recognition that capital punishment is indeed necessary to effectively deter crime. During my years as a public servant, especially during my service as district attorney for the city of Philadelphia, it has been clear that criminals are extremely concerned about the potential sentence they may receive for a criminal act. I have found the death penalty to be a deterrent to burglars and robbers carrying weapons for fear that there may be a killing with the attendant possibility of the death penalty.

The retribution inherent in capital punishment illustrates that the community will not tolerate the disregard of basic human values. Consequently, in light of the Court's affirmative determination of constitutionality of capital punishment, it is my sense that we should expeditiously reform the present statutory codification in order to provide the complete set of penalties originally intended by Congress.

Mr. President, at the present time there are many statutes on the Federal books on capital punishment covering treason, assassination of the President, murder, air piracy, to name a few. None is valid under the interpretations of the Supreme Court of the United States on the decisions handed down since 1972.

There was one effort at legislation in 1974 under the Air Piracy Act and that bill does not conform to the decisions of the Supreme Court of the United States.

In Furman versus Georgia and certain labor cases, the Supreme Court set down certain procedural standards that had to be complied with and there has not been an undating on this important legislation on the Federal books to comply with those Supreme Court decisions.

Mr. President, this legislation would establish compliance with those important rules of procedure articulated by the Supreme Court and would validate those statutes now on the books.

This legislation would add two offenses for capital punishment. One is a situation where a U.S. citizen is murdered by terrorists in the course of a terrorist act.

The second is where someone is serving a life sentence in the Federal penitentiary and commits an additional murder.

Mr. President, the detailed statement which I will offer in a moment contains the full statement of my reasons, but I will state in essence with the remaining time that I have left that this legislation is very important because of the strong public concern that there be an adequate deterrent to murder. Some 35 States have reenacted capital punishment after the Supreme Court decision in Furman versus Georgia and this Senator, while district attorney of Philadelphia was the vice chairman of the Pennsylvania Commission to reconsider the death penalty. The chairman of that Commission was the attorney general of the State, who was opposed to the death penalty, who was the appointing authority, the then-Governor of Pennsylvania, Governor Milton Shapp.

The minority views prevailed and the death penalty was reenacted in Pennsylvania because of public concern on this issue whic has been replicated in some 34 other States.

Mr. President, the experience that I have had as district attorney of Philadelphia has persuaded me that capital punishment is, in fact, a deterrent. One case is illustrative of many which I saw where would-be robbers and would-be burglars were reluctant to take along weapons for fear that a death would result and they would be liable, perhaps, for the death penalty.

There was a celebrated case, Mr. President, of Caters, Rivers, and Williams which was a robbery which three defendants perpetrated in Philadelphia in the late 1950's. Caters and Rivers were young men with marginal IQ's. Caters was 17 and Rivers was 18. They refused to go along on the robbery plan because Williams had a revolver.

Williams said, "Well, I won't take the gun with us." He put it in the drawer and slammed it shut and the three moved on to the scene of the robbery. But, unbeknownst to Caters and Rivers, Williams reached back into the drawer, pulled out the weapon, and put it in his pocket.

In the course of the robbery, Williams used the weapon and a murder ensued. All three received capital punishment. Caters and Rivers said in their statements that had they known that Williams was going to take the revolver, they would not have participated in the robbery because of their con-

cern about capital punishment, about the death penalty.

The two men, Caters and Rivers, as I have indicated, had marginal IQ's, not really enormously adroit or enormously intelligent, but had sufficient capacity and understanding to refuse to go along on a robbery attempt if they faced the possibility of the death penalty.

Caters and Rivers, Mr. President, had their sentences commuted largely on the basis of that underlying concern. Their sentences were commuted to life imprisonment.

But I suggest, Mr. President, that that case is only illustrative of many cases, some of which this Senator has seen, where robbers do not want to carry weapons, were burgulars do not want to carry weapons because they are concerned that a killing may occur and they face the death penalty. My experience has convinced me that the death penalty is an effective deterrent and an appropriate weapon against murder.

Mr. President, I knew that there would not have been time, in the course of the 100th Congress, to consider this legislation, but this is a bill which this Senator intended to press in the 101st Congress. We need a comprehensive revision to the death penalty statutes on the Federal code which are there now but which are invalid. Accordingly, I urge my colleagues in support of this bill, and also unanimous consent that it be printed in the RECORD.

There being no objection, the bill was orderd to be printed in the RECORD, as follows:

S. 36

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEATH PENALTY PROCEDURES.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec. 3591. Sentence of death.
"Sec. 3592. Procedures applicable to the death penalty.

"§ 3591. Sentence of death

"A defendant who has been found guilty of any offense for which a sentence of death is provided shall be sentenced to death only if a hearing is held in accordance with section 3592.

"§ 3592. Procedures applicable to the death penalty

"(a) NOTICE BY THE GOVERNMENT IN DEATH PENALTY CASES.—

"(1) IN GENERAL.—Whenever the Government intends to seek the death penalty for an offense for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (g) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) AMENDMENTS.—The court may permit the attorney for the Government to amend this notice for good cause shown.

"(b) HEARING BEFORE COURT OR JURY.—

"(1) IN GENERAL.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense for which one of the sentences provided is death, the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) COMPOSITION OF JURY.—A jury impaneled pursuant to paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"(c) PROOF OF AGGRAVATING AND MITIGATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense for which the sentence provided is death, no presentence report shall be prepared. In the sentencing hearing, information may be presented as to any matter relevant to the sentence and shall include matters relating to any of the aggravating or mitigating factors set forth in subsections (f) and (g), or any other mitigating factor. Where information is presented relating to any of the aggravating factors set forth in subsection (g), information may be presented relating to any other aggravating factor. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"(d) RETURN OF FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (g), found to exist. If one of the aggravating factors set forth in subsection (g)(1) and another of the aggravating factors set forth in paragraph (2) through (4) of subsection (g) is found to exist, a special finding identifying any other aggravating factor may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (g)(1) is not found to exist or an aggravating factor set forth in subsection (g)(1) is found to exist but no other aggravating factor set forth in subsection (g) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (g)(1) and one or more of the other aggravating factors set forth in subsection (g) are found to exist, the jury, or if there is jury, the court, shall then consider whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors whether the aggravating factors are themselves sufficient to impose a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court shall return a finding as to whether a sentence of death should be imposed.

"(e) IMPOSITION OF SENTENCE.—Upon a finding that a sentence of death should be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who, by reason of a mental disease or defect, is unable to understand his impending death or the reasons for it.

"(f) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the following mitigating factors shall be considered but are not exclusive:

"(1) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, but not so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, although not such duress as constitutes a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2(a) of title 18 of the United States Code) in the of-

fense, which was committed by another, but the defendant's participation was relatively minor, although not so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that his conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(g) AGGRAVATING FACTORS FOR HOMICIDE.—

"(1) GENERAL FACTORS.—Except as provided in paragraphs (2), (3), and (4), in determining whether a sentence of death should be imposed for an offense for which one of the sentences provided is death, the jury, or if there is no jury, the court shall consider each of the following aggravating factors which are not exclusive:

"(A) The defendant—

"(i) intentionally killed the victim;

"(ii) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(iii) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

"(iv) intentionally engaged in conduct which—

"(I) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(II) resulted in the death of the victim.

"(B) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(C) The defendant has previosuly been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(D) In the commission of the offense or in escaping apprehension for a violation of an offense for which a sentence of death is provided, the defendant knowingly created a grave risk of death to one or more persons in addition to the victim or victims of the offense.

"(E) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(F) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(G) The defendant committed the offense after substantial planning and premeditation.

"(H) The victim was particularly vulnerable due to old age, youth, or infirmity.

"(I) The defendant committed the offense in an especially heinous, cruel, or depraved manner.

"(2) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death should be imposed for an offense described in section 794, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(A) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(B) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(C) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(3) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death should be imposed for an offense described in section 1751(c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(A) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(B) the defendent committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism; or

"(C) the defendant committed the offense against—

"(i) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(ii) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(iii) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the Untied States on official business; or

"(iv) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(I) while he is engaged in the performance of his official duties;

"(II) because of the performance of his official duties; or

"(III) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

"(4) AGGRAVATING FACTORS FOR MURDER BY A FEDERAL PRISONER.—In determining whether a sentence of death shall be imposed for an offense described in section 1118, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(A) the defendant committed the offense during the course of seizing, confining, inveigling, decoying, kidnaping, abducting, carrying away, holding hostage, or holding for ransom or otherwise any person;

"(B) the death or injury resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission or attempted commission of, an offense under section 751 (escape by prisoner in custody of institution or officer);

"(C) the defendant committed the offense during the course of perpetrating or attempting to perpetrate a sexual assault on any person;

"(D) the defendant committed the offense during the course, of, on account of, or as a result of any transaction concerning or distribution of any controlled substance as defined by schedules I, II, III, IV, and V of section 812 of title 21;

"(E) the defendant committed the offense while armed with, or having readily available, a firearm, as defined in section 921(a)(3) of this title; and

"(F) the defendant committed the offense during the course of inciting, organizing, promoting, encouraging, participating in, carrying out, or aiding or abetting any person inciting, participating in, or carrying on a riot as defined in section 2102 of this title.

"(h) RIGHT OF THE DEFENDANT TO JUSTICE WITHOUT DISCRIMINATION.—In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death should be imposed it shall not consider the race, color, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what race the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of race, color, national origin, creed, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what race the defendant, or the victim, may be.

"(i) APPEAL IN CAPITAL CASES.—

"(1) REVIEW.—In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28, United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) MATTERS TO BE CONSIDERED.—On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information admitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) AFFIRMING OR REMANDING THE SENTENCE.—The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with or the failure to find any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in

writing the reasons for its disposition of the review of the sentence.

"(4) APPOINTMENT OF COUNSEL.—In any post-conviction proceeding under section 2254 or 2255 of title 28, United States Code seeking to vacate or set aside a death sentence, the court shall appoint counsel to represent any defendant who is or becomes financially unable to obtain adequate representation.

"(j) REFUSAL TO PARTICIPATE BY STATE AND FEDERAL CORRECTIONAL EMPLOYEES.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried our under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervison of the activities of other personnel in carrying out such activities.

"(k) IMPLEMENTATION OF A SENTENCE OF DEATH.—A person who has been sentenced to death pursuant to the provisions of this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgement of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the later State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 227, the following:

"228. Death penalty ..... 3591".

SEC. 2. MURDER BY FEDERAL PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18 of the United States Code is amended by adding the following new section after section 1117:

"§ 1118. Murder by Federal prisoners

"(a) Whoever, while confined in a Federal correctional institution under sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first-degree murder or second-degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by Federal prisoners.".

SEC. 3. DEATH PENALTY FOR TERRORIST ACTS ABROAD AGAINST UNITED STATES NATIONALS.

Section 2331(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) if the killing is a murder as defined in section 1111(a) of this title, be punished by death or by life imprisonment without possibility of parole;".

UNFAIR FOREIGN COMPETITION

Mr. SPECTER. Mr. President, I am today introducing the Unfair Foreign Competition Act of 1989. This legislation would give American industries direct access to Federal courts to halt promptly the injurious import of products which are dumped subsidized, or in violation of our customs laws, and to recover monetary damages for such abuses.

The Substance of the Unfair Competition Act of 1989 has previously been considered by the Senate. On March 4, 1982, I introduced S. 2167 to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or subsidizing of foreign imports. Hearings were held on this bill before the Judiciary Committee on May 24 and June 24, 1982. On December 15, 1982, I offered the text of this bill on the Senate floor as an amendment, which was tabled by a slim margin of 51 or 47.

During the 98th Congress, I reintroduced this legislation as S. 418 on February 3, 1983. The Judiciary Committee held a hearing on this bill on March 21, 1983. I offered the text of S. 418 as an amendment to the omnibus tariff bill on September 19, 1984; the amendment was tabled.

During the 99th Congress, I reintroduced this legislation as S. 236; I expanded the scope of this bill to include customs fraud violations and introduced S. 1655 on September 18, 1985. The Judiciary Committee held a hearing on S. 1655 on November 20, 1985, and favorably reported the bill by unanimous voice vote on March 20, 1986. The Finance Subcommittee on International Trade also held a hearing on S. 1655 pursuant to a sequential referral agreement. Significant progress was made toward reaching a unanimous-consent agreement for full Senate consideration of S. 1655 prior to adjournment of the 99th Congress, but the press of other business prevented its coming up for floor action.

Mr. President, the House of Representatives considered during the 99th Congress H.R. 4800, the omnibus trade bill, which included a similar provision, to wit a limited private right of action provision proposed by Representative GUARINI. The Guarini amendment allows a U.S. manufacturer, producer, or wholesaler to file suit in the Court of International Trade for damages from defendants against whom an antidumping order is issued. The House passed H.R. 4800 with overwhelming bipartisan support on May 22, 1986. The omnibus trade bill, including the Guarini amendment, was introduced as H.R. 3 on January 6, 1987.

In the 100th Congress, I reintroduced this legislation as S. 361 to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or customs fraud.

I expanded the scope of this bill revising the subsidy provision in S. 1396 to include a private right of action to allow injured American parties to sue in Federal court for injunctive relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies, and any importer related to the manufacturer or exporter.

This bill would have provided a comprehensive approach to address three of the most pernicious unfair export strategies used by foreign companies against American companies dumping, subsidies, and customs fraud.

During full Senate consideration of the Omnibus Trade and Competitiveness Act (S. 490), I filed the text of S. 1396 as amendment No. 315 on June 19, 1987, and offered it as an amendment to the trade bill on June 25, 1987. This amendment, however, was tabled. I also filed the Unfair Foreign Competition Act as amendment No. 3314 on September 29, 1988, to the Technical Corrections Act of 1988 (S. 2238).

The unlawful dumping of foreign goods, which involves sales in the United States at artificially low prices, has become a serious threat to American industries. Enormous quantities of dumped and subsidized products, and articles which violate the customs laws, enter the United States each year. Existing laws prohibiting such illegal imports are not being adequately enforced, and do not provide remedies sufficient to compensate injured parties or deter future unlawful conduct. As a result, domestic companies are suffering increasing injury, and thousands of American jobs are lost to illegal imports each year.

The bill I introduce today would address this problem by permitting injured American businesses to file suit in Federal court and seek injunctions against, and appropriate damages for these illegal foreign trade practices. On November 20, 1985, the Judiciary Committee held a hearing on this bill's predecessor, S. 1655. Representatives of various domestic industries, including steel, textiles, and apparel, strongly supported enactment of this legislation. Legal experts testified about the urgent need for a private right of action in Federal court to supplement the current administrative practices.

American industries under this bill would be granted direct access to Federal court to seek swift injunctive relief against illegal imports. The availability to U.S. companies of injunctive relief would place foreign "dumpers" on notice that any investment in dumping in the United States would be lost instantaneously.

Under this bill, an injured domestic business could file suit in the U.S. District Court for the District of Columbia or the Court of International Trade for an injunction against the import and sales of the goods which it could preliminarily demonstrate were being dumped or subsidized. The court's order could be modified to provide a more permanent remedy based on a more detailed finding.

During the 1985 Judiciary Committee hearing, witnesses testified regarding the provision of the bill creating injunctive relief to halt illegal imports. Industry representatives indicated that, under existing law, a complaint about unfair dumped or subsidized imports must proceed through a costly and lengthy administrative procedure involving both the Commerce Department and the International Trade Commission; likewise, the Bureau of Customs is increasingly unable to cope with the rising incidence of customs fraud, primarily transshipments through third countries to circumvent a U.S. quota. Although injunctive relief would be a significant alternative to the current administrative process to halt illegal imports, the remedy of primary interest to the witnesses was the retroactive damages provision of the bill.

The availability under this bill of damages to U.S. companies, if dumping and injury are ultimately found to have occurred, will remove the illegally obtained profits of, and increase the cost of dumping for, importers and foreign exporters and producers. Foreign enterprises, like any domestic company, would be held responsible for the economic consequences of their anticompetitive actions.

The current regulatory scheme rarely imposes retroactive duties; it merely restricts future dumping. This bill would allow domestic companies to recover damages for injuries sustained when injunctive relief cannot be timely provided or is otherwise inadequate.

During the 1985 Judiciary Committee hearing, witnesses testified that the bill's provision to seek damages for injury from illegal imports would provide a more effective deterrent than current law, would provide retroactive relief to fill the gap under existing law which imposes duties on only future imports, and would provide damage awards directly to the injured American industries. International trade lawyers also testified during the hearing that the provision of damages for injury sustained from illegal dumped or subsidized imports or customs fraud violations would be consistent with the General Agreement on Tariffs and Trade (GATT).

By the Government's own admission, customs fraud is rampant with regard to textiles, apparel, computer software, hand tools, sugar, electronics, automotive products, chemicals, petrochemicals, agricultural products, pharmaceutical products, and other industries. Illegal dumping is severely injuring American steel, chemical, glass, textile, electronics, agriculture, rubber and cement industries, among others. Foreign subsidies injure American manufacturers of footwear, steel, textiles, apparel, glass, wool, leather, tires, cement, sugar, iron, railway, cars, and other products.

Customs violations appear in several pernicious forms. Massive country-of-origin fraud occurs, whereby a country which has reached its permissible quota for a given item or product circumvents the quota by transshipping the continued imports through another country which has not yet reached its quota. Most commonly—indeed, in hundreds of thousands of cases—imports are fraudulently mislabeled. Given the sheer volume of imports and the limited resources of the Customs Service, many imported textiles, apparel, and footwear simply are declared to be something which they are not, or are immensely underdisclosed in number—again, in order to evade quotas fixed by the administration.

The Customs Service's Office of Commercial Fraud Enforcement reports that as of September 1, 1988, there were over 3,600 open customs fraud cases. Of these cases, only 559 were accepted by the Office of Enforcement for Investigation, and only 167 grand jury subpoenas were issued.

The Commercial Fraud Enforcement Office also reports that there were more seizures in fiscal year 1988 for textile and apparel violations than for any other violation. The value of these 953 seizures totaled over $56 million. Even more disturbing, the Customs Service estimated that the value of all textile and apparel imports in violation of customs laws was $518 million during that same time period. That figure is expected to rise to $563 million by 1990.

Mr. President, we should not be surprised by recent protectionist calls for new tariffs against goods from countries with large trade surpluses with the United States. I sympathize with the frustrations which lead to such efforts, even as I question their appropriateness. The way to avert such counterproductive measures is to enforce the trade laws which are already in place. This bill will greatly increase the enforcement of those laws, by letting injured American businesses go directly to Federal court—just as they can for violations of the antitrust laws—and seek quick injunctions against continued illegal importation.

The bill I introduced today would in no way interfere with the administration's pursuit of voluntary import restraints. It would offer no new tariffs or quotas or protectionist barriers. It would not displace any existing remedies through the ITC or otherwise. Rather, it would reduce the pressures for resort to such disfavored measures, by allowing vigorous enforcement of laws already on the books.

Mr. President, there is nothing like the vigor of private plaintiffs when it comes to enforcement of trade laws or other means of self-help which have long been demonstrated to be the most effective way to get enforcement and action by those who are most directly affected and injured. We have many decades of evidence of this with regard to private enforcement of our antitrust laws. The theory that private plaintiffs would find strong incentive to bring such antitrust suits—and in so doing would both recoup deserved compensation for their injuries and advance strong national public policy interests—certainly has proved correct. There is no reason that the same would not be true of private suits to enforce our international trade laws.

The legal process is well attuned to this kind of an effective remedy. The case of Marathon versus Mobil Oil is an illustration of a case which involved a complex, factual legal situation which was decided by the U.S. district court in Cleveland in the course of some 6 weeks. It is important to emphasize that once such injunctions are issued they stay in effect and no goods can be shipped in violation of those prohibitions while any appeal is pending. That is so because the order of the district court remains in effect unless and until a supersedeas is ordered, which is not a practical reality given the requirement of posting a bond and the substantial sums of money involved in these matters. Similarly, the Federal discovery procedures lend an excellent avenue for injured U.S. interests to seek discovery from any importer who wants to utilize our markets. If importers wish to do business in the United States, they ought to be subject to the jurisdiction of our courts for equitable relief. They ought to be subject to telling specifically what has happened in terms of subsidies or dumping or in terms of the circuity and violations of the customs laws which are applicable in so many situations.

This is an effective remedy because it does not address the problem after the fact. It stops goods from coming into this country before they can displace American products and American jobs.

We desperately need the vigorous private enforcement this bill would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports. Accordingly, I urge my colleagues to join in supporting this bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIVATE ACTIONS FOR RELIEF FROM UNFAIR FOREIGN COMPETITION.

(a) CLAYTON ACT.—Section 1 of the Clayton Act (15 U.S.C. 12) is amended by inserting "section 801 of the Act of September 8, 1916, entitled 'An Act to raise revenue, and for other purposes' (39 Stat. 798; 15 U.S.C. 72);" after "nineteen hundred and thirteen;".

(b) ACTION FOR DUMPING VIOLATIONS.—Section 801 of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72), is amended to read as follows:

"SEC. 801. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) such article is imported or sold within the United States at a United States price which is less than the foreign market value or constructed value of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle B of title VII of the Tariff Act of 1930 (19 U.S.C. 1673, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section—

"(1) Each of the terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(2) If—

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article, and

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph),

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy.".

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(c) ACTION FOR SUBSIDIES VIOLATIONS.—Title VIII of the Act of September 8, 1916 (39 Stat. 798; 15 U.S.C. 72 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 807. (a) No person shall import or sell within the United States any article manufactured or produced in a foreign country if—

"(1) the foreign country, any person who is a citizen or national of the foreign country, or a corporation, association, or other organization organized in the foreign country, is providing (directly or indirectly) a subsidy with respect to the manufacture, production, or exportation of such article, and

"(2) such importation or sale—

"(A) causes or threatens material injury to industry or labor in the United States, or

"(B) prevents, in whole or in part, the establishment or modernization of any industry in the United States.

"(b) Any interested party whose business or property is injured by reason of an importation or sale in violation of this section, may bring a civil action in the district court of the District of Columbia or in the Court of International Trade against—

"(1) any manufacturer or exporter of such article, or

"(2) any importer of such article into the United States who is related to the manufacturer or exporter of such article.

"(c) In any action brought under subsection (b), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into, or sale or distribution within, the United States by such defendant of the articles in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of the action, including reasonable attorney's fees.

"(d)(1) The standard of proof in any action filed under this section is a preponderance of the evidence.

"(2) Upon—

"(A) a prima facie showing of the elements set forth in subsection (a) in an action brought under subsection (b), or

"(B) affirmative final determinations adverse to the defendant that are made by the administering authority and the United States International Trade Commission under section 705 of the Tariff Act of 1930 (19 U.S.C. 1671d) relating to imports of the

article in question for the country in which the manufacturer of the article is located,

the burden of proof in such action shall be upon the defendant.

"(e)(1) Whenever, in any action brought under subsection (b), it shall appear to the court that justice requires that other parties be brought before the court, the court may cause them to be summoned, without regard to where they reside, and the subpoenas to that end may be served and enforced in any district of the United States.

"(2) Any foreign manufacturer, producer, or exporter who sells products, or for whom products are sold by another party in the United States, shall be treated as having appointed the District Director of the United States Customs Service of the Department of the Treasury for the port through which the product is commonly imported as the true and lawful agent of such manufacturer, producer, or exporter upon whom may be served all lawful process in any action brought under subsection (b) against such manufacturer, producer, or exporter.

"(f)(1) An action may be brought under subsection (b) only if such action is commenced within 4 years after the date on which the cause of action accrued.

"(2) The running of the 4-year period provided in paragraph (1) shall be suspended while any administrative proceedings under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671, et seq.) relating to the product that is the subject of the action brought under subsection (b), or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(g) If a defendant in any action brought under subsection (b) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or similar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such time as the defendant complies with such order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the plaintiff.

"(h)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action brought under subsection (b).

"(2) The court in any action brought under subsection (b) may—

"(A) examine, in camera, any confidential or privileged material,

"(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may order.

"(i) Any action brought under subsection (b) shall be advanced on the docket and expedited in every way possible.

"(j) For purposes of this section, each of the terms 'subsidy' and 'material injury' have the respective meaning given such term by title VII of the Tariff Act of 1930.

"(k) The court shall permit the United States to intervene in any action brought under subsection (b), as a matter of right. The United States shall have all the rights of a party to such action.

"(l) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(d) ACTION FOR CUSTOMS FRAUD.—

(1) Chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1586. Private enforcement action for customs fraud

"(a) Any interested party whose business or property is injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930 (19 U.S.C. 1592) may bring a civil action in the district court of the District of Columbia or in the Court of International Trade, without respect to the amount in controversy.

"(b) Upon proof by an interested party that the business or property of such interested party has been injured by a fraudulent, grossly negligent, or negligent violation of section 592(a) of the Tariff Act of 1930, such interested party shall—

"(1) be granted such equitable relief as may be appropriate, which may include an injunction against further importation into the United States of the articles or products in question, or

"(2) if such injunctive relief cannot be timely provided or is otherwise inadequate, recover damages for the injuries sustained, and

"(3) recover the costs of suit, including reasonable attorney's fees.

"(c) For purposes of this section—

"(1) The term 'interested party' means—

"(A) A manufacturer, producer, or wholesaler in the United States of a like or competing product, or

"(B) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product or a competing product in the United States.

"(2) The term 'like product' means a product which is like, or in the absence of like, most similar in characteristics and uses with products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(3) The term 'competing product' means a product which competes with or is a substitute for products being imported into the United States in violation of section 592(a) of the Tariff Act of 1930.

"(d) The court shall permit the United States to intervene in any action brought under this section, as a matter of right. The United States shall have all the rights of a party.

"(e) Any order by a court under this section is subject to nullification by the President pursuant to the President's authority under section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702).".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by adding at the end thereof the following:

"1586. Private enforcement action for customs fraud.".

SEC. 2. ACCORDANCE WITH GATT.

It is the sense of the Congress that the provisions of this Act are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

PROTECTION OF SOCIAL SECURITY BENEFITS FROM THE "NOTCH" EFFECT

Mr. SPECTER. Mr. President, today I am reintroducing legislation to amend title II of the Social Security Act, to restore benefit equity to those members of our society born between 1917 and 1921, the so-called notch babies. I am aware of the budget constraints facing us this year, but this bill is necessary in addressing the unfair treatment of those retired workers affected by the notch disparity.

The bill I am introducing today is designed to eliminate the disparity resulting from changes made in 1977 in the Social Security benefit computation formula. This legislation is identical to S. 1119, which I introduced in the 100th Congress. I also joined Senator SANFORD as an original cosponsor in introducing S. 1830 a more modest notch initiative on October 29, 1987.

Senior citizens across the country, in addition to the many senior citizen organizations, have mobilized to protect and preserve their benefits from the budget ax, and to recoup those Social Security benefits lost due to a gross error in the automatic benefit increase provision enacted in 1972.

In 1977, Congress approved a plan designed to eliminate a perceived overadjustment for inflation contained in the then-existing plan. This provided a new benefit formula for workers born after 1916. To protect people from an abrupt change in benefits, a transition formula was included in the new plan. This transition formula would have provided for a smooth changeover by dividing Social Security beneficiaries into three categories: those born before 1917, those born between 1917 and 1921—the notch years—and those born after 1921.

The transition formula failed. Supporters of the plan knew benefits under the new plan would be lower—that was the idea—but they grossly underestimated the disparity they would be creating for the notch babies. Under the formula, benefits were supposed to be 5 to 7 percent less than those projected under the 1972 law. Instead, workers with the same earnings record, retiring at the age of 65, and born only a few days apart, one in 1916 and one in 1917, experienced a difference in benefits of up to $1,300 each year.

The Social Security Administration reports that of the nearly 24 million retired American workers currently receiving benefits, approximately 6.6 million are and will be affected by the notch disparity.

The failure of the transition guarantee to protect those born in the notch years is primarily due to two provisions of the formula. First, post-age 62 earnings of people born after 1916 are excluded when calculating the benefits for these workers. Second, benefit increases occurring before the year a worker reached age 62 are not factored into his or her initial benefits, as they would have been under the former rules.

Several bills have been introduced in previous Congresses that were aimed at addressing these limitations in an effort to correct the notch baby inequity. The bill I am introducing today incorporates the best provisions of these bills and thus addresses the notch problem in a comprehensive fashion. The legislation removes the restriction on including post-age 62 earnings in the computation of benefits. It also effectively negates the provision denying the notch babies the same benefit increases other retirees enjoy and provides for a lump-sum retroactive payment for those who have not been allowed to factor in benefit increases since 1979.

The time has arrived for us to restore benefit equity and send a strong message to senior citizens that this body will preserve and protect all benefits which our elderly so richly deserve. Accordingly, I urge my colleagues to join in supporting this vital legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 37

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. (a) Section 215(a)(4) of the Social Security Act is amended—

(1) by striking out "who had wages or self-employment income credited for one or more years prior to 1979" in subparagraph (B) and inserting in lieu thereof "who has 27 or more quarters of coverage based on wages and self-employment income credited for years prior to 1979";

(2) by striking out "prior to 1984" in clause (i) of subparagraph (B) and inserting in lieu thereof "after December 1978";

(3) by inserting "as in effect in December 1984" after "section 215(d)" in clause (ii) of subparagraph (B); and

(4) by striking out the last sentence.

(b) The first sentence of section 215(a)(5) of such Act is amended—

(1) by striking out "(other than an individual described in paragraph (4)(B))";

(2) by striking out "except that," and inserting in lieu thereof "except that (A)"; and

(3) by inserting before the period at the end thereof the following: ", and (B) in the case of an individual described in paragraph (4)(B), such individual's average monthly wage shall be computed as provided by subsection (b)(4)".

SEC. 2. Section 215(b)(4) of the Social Security Act is amended by striking out all that follows "shall remain in effect" and inserting in lieu thereof a period.

SEC. 3. Section 215(f)(7) of the Social Security Act is amended by striking out "For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B)" and inserting in lieu thereof the following: "For purposes of recomputing a primary insurance amount determined under subsection (a) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(i) as in effect after December 1978, the average monthly wage shall be determined as provided by subsection (b)(4). For purposes of recomputing a primary insurance amount determined under subsection (d) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(ii)".

SEC. 4. Section 215(i)(4) of the Social Security Act is amended by striking out "(but the application" and all that follows down through "paragraph (4) of that subsection)".

SEC. 5. (a) Section 215(a)(7)(A) of the Social Security Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection" in the matter preceding clause (i).

(b)(i) Section 215(a)(7)(B)(i) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "In applying subparagraph (A) in the determination of an individual's primary insurance amount, there shall first be computed (I) in the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, an amount which is equal to the individual's primary insurance amount under that paragraph, reduced by substituting (for purposes of this computation) the applicable percent specified in clause (ii) of this subparagraph for the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1), or (II) in the case of an individual whose primary insurance amount would be computed under section 215(a) as in effect in December 1978 by reason of paragraph (4)(B)(i) of this subsection, an amount which is equal to the individual's primary insurance amount under that section, reduced by a percentage equivalent to the percentage reduction which (as determined under regulations prescribed by the Secretary) would occur under subclause (I) if such primary insurance amount were a primary insurance amount under paragraph (1) of this subsection.".

(2) The second sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection".

(3) The third sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting ", or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection".

SEC. 6. (a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of enactment of this Act.

(b) Where an individual is entitled on the date of the enactment of this Act to old-age insurance benefits under title II of the Social Security Act which were computed—

(1) under section 215 of that Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(2) under section 215 of that Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1) of the Social Security Act) shall, with respect to monthly benefits payable for months after December 1984, recompute such individual's primary insurance amount so as to take into account the amendments made by this Act, and shall pay to such individual in a lump sum any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which such recomputation is effective) by reason of such amendments. .

THE STATUTORY CIA INSPECTOR GENERAL ACT, THE NATIONAL INTELLIGENCE REORGANIZATION ACT, AND THE NATIONAL SECURITY REFORM ACT

Mr. SPECTER. Mr. President, I am reintroducing today three bills which I originally proposed on October 27, 1987, during the 100th Congress. The first of these bills constitutes a division from my proposed National Security Reform Act (S. 1818), which I shall refer to as the Central Intelligence Agency Inspector General Act. The second bill represents an update of my National Intelligence Reorganization Act (S. 1820). The third bill is my proposed National Security Reform Act (S. 1818) minus the CIA inspector general provision.

Each of my original bills served, I believe, as a useful catalyst in enacting legislation or in generating debate and discussion on national security matters with my colleagues, members of academia and present and former government officials.

Portions of the legislation relating to the CIA inspector general, originally introduced as S. 1818, the National Security Reform Act, were enacted into law. These provisions, incorporated into the Intelligence Authorization Act of 1989, were signed into law by President Reagan on September 28, 1988, after being passed by both Houses of Congress. These provisions specified that the Director of Central Intelligence shall furnish to the Intelligence Committees the following reports relating to the activities of the inspector general:

First, a report made at the time any inspector general is selected by the DCI, specifying the name and background of the person selected and a certification that such selection was made without regard to political affiliation.

Second, a report made at the time any inspector general is removed by the DCI and the basis for such removal.

Third, semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General to include descriptions of any violations of laws or regulations

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and the status of corrective actions taken.

Fourth, a report of any decision made by the Director of Central Intelligence to prohibit the IG from initiating, carrying out, or completing any audit, inspection, or investigation within the CIA, to be made within 7 days of such decision.

Fifth, a report within 7 days of any other decision made by the DCI which would substantially affect the ability of the inspector general to carry out his duties and responsibilities. This report shall include the position of the inspector general with respect to such decision.

The first bill I am introducing today denominate as the Central Intelligence Agency's Inspector General Act and includes the balance of the inspector general provisions of S. 1818 as revised. Essentially, these provisions include:

First, creation in law of a CIA Office of Inspector General accountable to the Congress.

Second, appointment of the inspector general by the President with the advise and consent of the Senate.

Third, removal of the inspector general only by the President.

Fourth, empowering the IG to issue subpoenas as necessary to carry out his responsibilities.

The purpose of the expanded provisions for a CIA inspector general is to improve the credibility of the CIA and therefore, to improve its effectiveness by requiring independence of the CIA inspector general by mandating that the IG report directly to the Congress.

The second bill I am introducing, Mr. President, is the National Intelligence Reorganization Act, which I also originally introduced in the 100th Congress as S. 1820. As I indicated earlier, this legislation has drawn broad interest especially from academia and former senior government officials. For example, on March 3, 1988, Georgetown's Foreign Service Graduate School sponsored a 1-day symposium on this comprehensive legislation which, in my view, greatly improves the management structure and control of the activities and vast resources of our country's intelligence agencies and departments. Several Presidents since President Eisenhower and past Senate Intelligence Committees have been trying to define more clearly the missions, structure and management of the intelligence community into a more cohesive, integrated and efficient force for national security. Unfortunately, the effort has been only marginally successful; a more comprehensive change is long overdue and the National Intelligence Reorganization Act will serve this end.

I have also consulted with a broad spectrum of former senior government officials from the field of intelligence and national security. In particular, I have placed great value in the counsel provided by former Secretary of Defense, Clark Clifford, who was the principal framer of the 1947 National Security Act which created the CIA. In my view, there is no wiser counsel in America's national security affairs than Mr. Clifford, who has offered several recommendations which I have incorporated into the legislation. I am including for the RECORD, a copy of my June 20, 1988, letter to Mr. Clifford and his July 19, 1988, response.

I am introducing a third bill which is a part of S. 1818. When I first introduced the National Security Reform Act legislation, the administration was in the midst of a major crisis arising from the sale of arms to Iran. That matter illustrated the willingness of certain members of the executive branch to thwart the spirit and letter of the law, in this case, the Intelligence Oversight Act of 1980. That law required the executive branch to report covert actions in a "timely fashion" to the Intelligence Oversight Committees. There was a wise rationale behind this law. It was to provide the President the benefit of congressional counsel before undertaking foreign policy action which might be unwise. As we all painstakingly learned, congressional notification was bypassed and the President and the country were thrust into a major crisis of confidence and credibility. The rest is history.

Consequently, in an unusual Saturday session of the Senate Select Committee on Intelligence on June 27, 1987, members of the committee had an extended debate on legislative measures which might be needed to help ensure that the country is spared another badly conceived Iran-Contra affair. There was near unanimous agreement that the current law on the reporting of covert action to the Congress needed clarification and restructuring. During the debate I offered ideas and language which I later incorporated into a legislative proposal, the National Security Reform Act. Several of these proposals were also incorporated into the comprehensive intelligence oversight bill, S. 1721, which bill overwhelmingly passed the U.S. Senate by a vote of 71 to 19 on March 15, 1988. My legislation differs from S. 1721 in several significant respects. First, I call for the President to inform the Congress within 24 hours instead of 48 hours of any finding he may sign authorizing covert action. I believe that while the 24-hour standard is more stringent, it will provide the opportunity for more timely congressional counsel. The earlier there is congressional input, the better, because it will have a greater likelihood of reversing any unwise Executive action. Clearly, there will be times when key congressional leaders will not be available in which case I would expect a good faith effort of notification. Second, I am in favor of Presidential notification of eight instead of four designated congressional leaders to include the chairmen and ranking minority members of the Senate and House Intelligence Committees. I firmly believe that the Intelligence Committee leaders will understand more fully the nature of the proposed action from their current experience in intelligence matters and will provide valuable insights from such experience.

Regrettably, the Iran-Contra affair also demonstrated the willingness of certain executive branch members to deceive the Congress. Nothing I heard during the Iran-Contra proceedings troubled me more than this deceit. Such acts, if allowed to go unchecked, will only foster more deceit and will represent the initial divisive cracks in the Constitution's call for a system of checks and balances. Therefore, I am again including in the National Security Reform Act a provision to require mandatory penalties where executive branch officials make false statements to congressional committees. The first bill to create an independent inspector general with expanded powers follows, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by deleting all after Sec. 16 and adding the following:

"INSPECTOR GENERAL FOR THE CENTRAL INTELLIGENCE AGENCY

"SEC. 17. (a) PURPOSE; ESTABLISHMENT.—In order to create an objective and effective unit, appropriately accountable to the Congress, to initiate and conduct independently, inspections, investigation and audits relating to programs and operations of the Central Intelligence Agency, there is hereby established in the CIA an office of Inspector General.

"(b) APPOINTMENT AND REMOVAL.—There shall be at the head of the Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be made solely on the basis of integrity, the security standards of the CIA and on prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management or public adminstration. The Inspector General shall report directly to and be under the general supervision of the Director of Central Intelligence.

"(c) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection or investigation, or from issuing any subpoena, concerning ongoing operations only, and only if he determines that such prohibition is necessary to protect vital national security interests of the United States.

"(d) If the Director exercises any power under subsection (c) of this section, he shall

submit an appropriately classified statement of the reasons for the exercise of the power within seven (7) days to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence.

"(e) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the Senate Select Committee on Intelligence and the House Permanent Select Committee the reasons for any such removal.

"(f) DUTIES AND POWERS.—(1) It shall be the duty and responsibility of the Inspector General appointed under this Act—

"(A) to provide policy direction for and to conduct, supervise, and coordinate independently, the inspections, investigations and audits relating to the programs and operations of the CIA to assure they are conducted efficiently and in accordance with applicable law and regulations; and

"(B) to keep the Director fully and currently informed concerning violations of laws and regulations, fraud and other serious problems, abuses and deficiencies and to report the progress made in implementing corrective action.

"(2) In the event the Inspector General is unable to resolve any differences with the Director on the execution of his duties and powers, he shall report such matter to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence within seven (7) days.

"(g) The Inspector General shall have the power to issue subpoenas, as may be necessary, to carry out his work. In addition, he shall have direct access to all records and direct and prompt access to the Director when necessary for any purpose pertaining to the performance of his duties.

"(h) REPORTS.—The Inspector General shall not later than June 30 and December 31 of each year, prepare a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month period. Such reports also should include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevant to his activities; (iii) a description of any violation of law or willful violation of regulations, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting periods in response to Inspector General recommendations.

"(i) Classified semiannual reports of the Inspector General shall be furnished to the Director who shall transmit them to the Senate Select Committee on Intelligence and to the House Permanent Select Committee on Intelligence Representatives within 30 days after receipt, together with any comments he deems appropriate."

NATIONAL INTELLIGENCE REORGANIZATION

Mr. SPECTER. Mr. President, the second bill is the National Intelligence Reorganization Act. A more detailed statement of it's purpose follows:

This bill would enhance considerably the objectivity and reliability of our Nation's intelligence, which the events of the past 3 years have demonstrated to be woefully lacking. It would greatly improve the management structure and control of the activities and vast resources of our country's intelligence agencies and departments.

This bill is based on S. 1820 which I introduced in the 100th Congress and on which I testified before the Senate Intelligence Committee on November 1987.

In his Iran-Contra testimony, Secretary of State George Shultz summarized, in very clear terms; the principal problem with U.S. intelligence. "[One is] the importance of separating the function of gathering and analyzing intelligence from the function of developing and carrying out policy. If the two things are mixed together, it is too tempting to have your analysis and selection of information that's presented favor the policy that you're advocating "Secretary Shultz went on to say that, long before the Iran-Contra events came to light, he already had come to have grave doubts about the objectivity and reliability of some of the intelligence he was receiving precisely because the people who supplied it were too deeply involved in advocating and carrying out policy.

In the 40 years since passage of the National Security Act the Directors of Central Intelligence have been tested repeatedly on their ability to maintain a delicate separation of two competing responsibilities. On the one hand, the Director of Central Intelligence [DCI] has been expected to provide unvarnished intelligence information to the President and other foreign policymakers. On the other hand, he has been asked to be a participant in the making and execution of foreign policy through covert actions. If history has taught us anything, it is that the desired separation cannot and has not been maintained. It is unrealistic and probably unfair to expect our Nation's senior intelligence officer to be the purveyor of objective, unbiased information upon which the President and Secretary of State may formulate a foreign policy, while at the same time charging him to influence and implement that policy in the form of covert action.

The problem is particularly acute when the DCI is a foreign policy activist. Director William Casey was not the first Director of Central Intelligence who desired to be involved to some degree in the formulation or implementation of foreign policy, nor is he likely to be the last. Recognizing this, we should take steps to ensure, to the greatest degree possible, some structural separation of the DCI's current function. We simply cannot afford to have two Secretaries of State, two foreign policymakers who may be attempting to move the country in different directions, one overtly and the other covertly. No one is well served by this contradiction—not the President, not the Congress and not the country.

Now we have a choice, we can preserve the status quo and hope that the current Director of Central Intelligence—and each of his successors—will understand the lessions of the Iran-Contra affair. Or we can create a better system of checks and balances on covert action undertaking. It is up to the Congress to clarify in the law what we expect the Director of Central Intelligence and the CIA to do and not to do. We can do this by providing an organizational framework designed to permit the Director of Central Intelligence to provide objective, reliable and coordinated intelligence to provide objective, reliable and coordinated intelligence to policymakers in a timely manner. However, we must make it clear to the Director—not simply the current one but to all future ones—that it is not the DCI's function to formulate and implement foreign policy.

This bill accomplishes these purposes by:

First, amendment the National Security Act of 1947 to make clear that the principal role of foreign intelligence and of the agencies who provide such intelligence is to ensure the provision of objective, reliable, coordinated and timely information upon which the President and other senior foreign policymakers may base sound foreign policy decisions.

Second, relieving the Director of Central Intelligence of the responsibility for implementing covert actions but charging him with responsibility for overseeing the conformity of such actions with applicable laws and regulations.

Third, establishing the position of "Director of the Central Intelligence Agency" to manage the CIA on a full time basis and to implement cover actions directed by the President.

As I already have stated, this bill will greatly enhance the management of the activities and vast resources of our several intelligence departments and agencies. In 1947, President Truman, mindful of the President's need for intelligence and of Pearl Harbor's bitter lesson stemming from uncoordinated and poorly disseminated intelligence, formed an agency to centralize intelligence. The position of Director of Central Intelligence was created to head the new Central Intelligence Agency and to coordinate the activities of the intelligence entities in existence. Those entities consisted of the intelligence services of the Army and Navy, a small bureau in the State Department and remnants of the OSS. Since 1947, that coordination task has grown enormously with the addition of complex technology, the commitment of vast resources and the establishment of many large, secretive and organizationally complex departments and agencies.

Since John F. Kennedy, several Presidents have directed their Director of Central Intelligence to devote the bulk of their time to the intelligence community. For a number of reasons this has not happened. Suffice it to say that, in some cases. DCI's have found the operational role of the CIA more glamorous than managing an intelligence community composed of agencies and departments opposed to centralized direction. Events such as Watergate, congressional investigations of wrongdoings, and the turnover of DCI's, also have contributed to the neglect.

Today, the intelligence community as it is called, consists of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, the large foreign intelligence and counterintelligence elements of the Army, Navy, Air Force and Marine Corps, offices for the collection of specialized intelligence through reconnaissance, the FBI's Foreign Counterintelligence Division, the State Department's Bureau of Intelligence and Research and elements of the Treasury and Energy Departments. These organizations provide what we call national foreign intelligence. There are other elements in the Government, mostly within the Defense Department, which run a vast system of tactical intelligence nearly as complex and as expensive as that of the national foreign intelligence world. Outside of the Government, there is another world of contractors who design and develop these complex intelligence system and, in some cases, operate them for the intelligence agencies.

Make no mistake about my remarks. These agencies and programs are critical to our national security. The country needs them. But their budgets are in the billions; their growth in terms of people is the greatest in the history of U.S. intelligence; their mission and challenges now and for the foreseeable future are so demanding, complex, and interdependent that their management and leadership can no longer be accomplished by a Director of Central Intelligence who also must manage a large agency such as the CIA.

The Intelligence Oversight Committees which review the programs and budgets of the intelligence community have clearly identified management of the intelligence community as critical issue. In 1976, the Select Committee to study Government operations with respect to intelligence—the predecessor to the Senate Select Committee on Intelligence—"found concern that the function of DCI in his roles as intelligence community leader and principal intelligence adviser to the President is inconsistent with his responsibilities to manage one of the intelligence community agencies—the CIA." The committee also expressed concern that the DCI's new span of control—both the entire intelligence community and the entire CIA—may be too great for him to exercise effective detailed supervision of clandestine activities. Those concerns are even greater today than they were 13 years ago, because of the greater challenges and costs facing intelligence, the growing competition for resources and the unacceptable risks to U.S. foreign policy.

To address this problem, the bill I am introducing today also:

Changes the title of the "Director of Central Intelligence" to the "Director of National Intelligence" to reflect the new, more important status of this position—the title is not new; it was first proposed by the Senate Intelligence Committee in 1980;

Establishes the Director of National Intelligence as the primary adviser to the President on national foreign intelligence and as the full-time manager of the intelligence community with clearly defined statutory responsibilities and authorities for the foreign intelligence effort;

Makes the Director of National Intelligence a statutory member of the National Security Council to ensure that he is aware of emerging issues for which there is an intelligence need and to ensure that there is an objective intelligence base for national security and foreign policy decisions being contemplated;

Ensures that the position of the Director of National Intelligence as leader of the intelligence community is not a hollow one, by giving the position not only the statutory authority to approve and submit the intelligence community program, resources and budget, but also to task all intelligence collection and analytical resources;

Eliminates the need for a Director of the Intelligence Community staff since that 237-person staff plus other offices and personnel would report directly to the Director of National Intelligence.

Finally, I endorse completely the view expressed by Judge Webster, the present CIA Director, that the Agency's directorship should not change every time a new President is elected. This gives rise to charges that the position has been politicized and that there is an inadequate institutional memory of lessons learned from the past. In the past 15 years there have been 7 heads of the CIA and only 2 of these were career intelligence officers. We cannot afford a generalized loss of confidence in the CIA's objectivity and reliability, because of the politicization of its analysis such as was expressed by Secretary of State Shultz, to ensure a more professional approach to intelligence activities and analysis, to reduce the risk of politicization and to protect against the dangers of an intelligence "czar," this bill also would:

Create a fixed, 7-year tenure for the Director of the Central Intelligence Agency.

Require that at least one of the positions of Director or Deputy Director of the Central Intelligence Agency be filled by a career intelligence officer from the intelligence community.

I am not proposing that the Director of National Intelligence be tenured because I believe that the President should have the right to select individuals who are to serve as his primary advisers. I believe that with a separate and tenured Director of the CIA and with other intelligence agency heads not under the administrative control of the Director of National Intelligence (the Directors of the National Security Agency and the defense intelligence agencies are appointed by the Secretary of Defense), we would have a better system of checks and balances against politicization of intelligence.

The beginning of a new administration is a particularly propitious time to consider this reorganization issue. Accordingly, I urge my colleagues to join in support of this legislation.

Mr. President, I ask unanimous consent that the bill and the referenced correspondence with Mr. Clifford be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Intelligence Reorganization Act."

SEC. 2. Section 101(a) of the National Security Act of 1947 is amended in the fourth undesignated paragraph—

(1) by striking out "and" at the end of clause (6);

(2) by striking out the period at the end of clause (7) and inserting in lieu thereof"; and"; and

(3) by adding at the end thereof the following:

"(8) The Director of National Intelligence in his role as primary adviser on intelligence.".

SEC. 3. Title I of the National Security Act of 1947 is amended by inserting new section 102.

"DIRECTOR OF NATIONAL INTELLIGENCE

"SEC. 102. (a)(1) There are hereby established the positions of Director of National Intelligence (hereafter in this Act referred to as the "DNI") and the Deputy Director of National Intelligence who shall each be appointed by, serve at the pleasure of, the President, by and with the advice and consent of the Senate.

"(2) The principal role of foreign intelligence and of the agencies which provide such intelligence is to ensure the provision of objective, reliable, coordinated, and timely information upon which the President and other senior foreign policy makers may base sound foreign policy decisions. To ensure such provision, the DNI shall serve as the nation's senior intelligence officer and primary adviser to the President on for-

eign intelligence matters, Accordingly, the DNI shall be freed from any duties involving the formulation of foreign policy and the implementation of special activities except as may be specifically authorized by this Act. The Deputy Director of National Intelligence shall act for, and exercise the powers of, the Director during his absence or disability.

"(3) the DNI shall be responsible directly to the President and the National Security Council.

"(4) Upon request, any department, agency, or other component of the United States Government involved in intelligence or intelligence-related activities shall detail for the use of the DNI such staff as may be necessary to carry out the duties of the DNI under this section.

"(b) To carry out his reponsibilities under this section, the DNI shall—

"(1) ensure that such objective, reliable and coordinated national foreign intelligence is provided to the President and officials in the executive and legislative branches in a timely manner;

"(2) oversee and provide direction to the national foreign intelligence activities of all agencies, departments, offices, and other entities of the intelligence community.

"(3) develop such strategy, objectives and guidance for the intelligence community as will enhance capabilities for responding to expected future needs for national foreign intelligence;

"(4) provide guidance for national foreign intelligence program and budget development to program managers, heads of agencies, departments, offices, and other entities of the intelligence program and budget;

"(5) review, evaluate, approve, and submit, to the Congress through the President, a national foreign intelligence program and budget;

"(6) review and approve all requests for reprogramming national foreign intelligence funds;

"(7) develop collection strategies, objectives, and targets in the intelligence community for national foreign intelligence requirements and priorities established by the National Security Council;

"(8) direct, control, and manage the tasking of national foreign intelligence collection activities;

"(9) coordinate, produce, and disseminate all national foreign intelligence and, levy analytic tasks on all intelligence community production organizations and entities in consultation with those organizations and entities. Intelligence of the departments and agencies of the Government relating to the national security shall be open to the audit of the DNI, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, shall be made available to the DNI for correlation, evaluation, and dissemination;

"(10) ensure that appropriate mechanisms for competitive analysis are developed so that diverse views and judgments within the intelligence community are brought to the attention of national policymakers;

"(11) conduct jointly with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, military net assessments which allow for independent judgments by the DNI on areas critical to United States national security, strategy, tactics, or specific weapons systems;

"(12) oversee special activities on a perodic basis for compliance with established laws and regulations.

"(13) promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the intelligence community;

"(14) formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the intelligence community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any agency, department, office or other entity of the United States Government with such services;

"(15) establish security countermeasure standards for the safeguard of foreign intelligence systems and information;

"(16) protect intelligence sources and methods from unauthorized disclosure;

"(17) establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities; and

"(18) monitor national foreign intelligence program implementation and conduct program and performance audits and evaluations.".

SEC. 4. (a) Title I of the National Security Act of 1947 is amended by changing old section 102 to be new section 102A with the following changes:

(1) by inserting the words "DIRECTOR OF THE" before the caption "CENTRAL INTELLIGENCE AGENCY".

(b) Section 102A, subsection (a) of the National Security Act of 1947 is amended—

(1) by inserting after the words ". . . National Security Council", the words "and Director of National Intelligence";

(2) by striking out "Director of Central Intelligence" and inserting in lieu thereof "Director of the Central Intelligence Agency"; and

(3) by striking out "Deputy Director of Cerntral Intelligence" and inserting in lieu thereof "Deputy Director of the Central Intelligence Agency".

(c) Section 102A subsection (a) of such Act is further amended—

(1) by inserting "(1)" immediately after "(a)";

(2) by striking out the proviso and the colon immediately proceding such proviso at the end of the second sentence and inserting in lieu thereof a comma and the following:

"except that at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by—

"(a) commissioned officers of the armed services, whether in an active or retired status; or

"(b) individuals not having previously served in career positions in the Intelligence Community;

"(c) the term of service of the Director shall be seven years. The Director may not be reappointed and may be removed by the President only for cause; and

"(d) the provisions of 102A subsections (a)(1) shall apply to the service of the first Director and the first Deputy Director of the Central Intelligence Agency appointed after the date of enactment.".

(d) Section 102A, subsections (b) and (c). References in these sections to the Director or Deputy Director of Central Intelligence shall be deemed to be references to the Director or Deputy Director of the Central Intelligence Agency.

(e) Section 102A subsection (d) of such Act is amended to read as follows:

"(d) For the purpose of carrying out of the Agency's intelligence activities in the interests of national security, it shall be the duty and responsibility of the Agency, under the management direction of the Director of the Central Intelligence Agency:

"(1) to collect, produce, and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable, and to coordinate the collection of foreign intelligence or counterintelligence within the United States with the Federal Bureau of Investigation as authorized by law or procedures established by the Attorney General: *Provided*, That the Central Intelligence Agency shall have no police, subpoena, law enforcement powers, or internal security functions;

"(2) to conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the Federal Bureau of Investigation, as authorized by law and procedures established by the Attorney General;

"(3) to coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

"(4) to conduct special activities approved by the President;

"(5) to conduct services of common concern for the Intelligence Community as directed by the National Security Council and the DNI;

"(6) to carry out or contract for research, development, and procurement of technical systems and devices relating to authorized functions;

"(7) to protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Central Intelligence Agency as are necessary; and

"(8) to conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in paragraphs (1) through (7), including procurement and essential cover and proprietary arrangements.".

SEC. (a) Section 5313 of title 5, United States Code, is amended by—

(1) changing Director of Central Intelligence to read Director of National Intelligence;

(2) adding at the end thereof the following:

"Director of the Central Intelligence Agency.".

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director of the Central Intelligence Agency.".

SEC. 6. The provision of section 102a of the Act relating to the Director of the Intelligence Community staff is repealed.

SEC. 7. The Central Intelligence Act of 1949 is amended by changing references to the Director or Deputy Director of Central Intelligence to mean the Director or Deputy Director of the Central Intelligence Agency.

U.S. SENATE,
Washington, DC, June 20, 1988.

Mr. CLARK CLIFFORD,
815 Connecticut Avenue NW.,
Washington, DC.

DEAR MR. CLIFFORD: As you may be aware, in 1987 I introduced legislation to improve the effectiveness and objectiveness of national intelligence, principally through reorganization.

In view of the fact that your November 20, 1987 letter to the Senate Intelligence Committee suggested an organizational change—separation of the functions of the nation's chief intelligence officer and the director of the CIA, I would appreciate your views on the legislation in its entirety and on its specific features.

1987 marked the 40th anniversary of a historic piece of legislation in which you played so pivotal a role. The National Security Act has brought order and organization to our defense and national security apparatus and has served the nation well. But, in light of lessons learned over 40 years, the missions and structure for intelligence are in need of update for two very important reasons. For one, the number of intelligence agencies have multiplied since 1947 and the nature of intelligence has changed dramatically from one of labor intensity to one of capital intensity. This newer, vast, costly and complex world of intelligence is in need of stronger direction and management which only a leader divorced from the day to day management of the CIA can bring. As a prime example, the Senate Select Committee on Intelligence has recently noted large shortfalls in the planning and programming for collection assets necessary to monitor a potential START agreement. Given the fact that the Intelligence Community has been aware of this need and the number of different intelligence agencies who have been attempting to manipulate the end result, the lack of strong, central management direction has become all too readily apparent.

Secondly, the experiment whereby the nation's chief intelligence officer is also required to execute policy in the form of covert action simply has not worked. It may be unfair to expect the DCI to maintain the delicate balance between implementing foreign policy in the form of covert action and providing unbiased intelligence. Unless the President receives unvarnished intelligence from the DCI without the concern, expressed by Secretary of State Shultz, that it may be driven by policy considerations in the form of covert action, then the President is not being well served.

To the critics who would claim that the proposed reorganization would create a new layer of bureaucracy and would weaken the position of the DCI, I would point out that the infrastructure has been in place for years. The Director of National Intelligence would manage the intelligence agencies through the extant Intelligence Community Staff and the National Intelligence Council. In addition, the stature and authorities of the DNI would be retained through his control of the Intelligence Community budget, by virtue of the fact that he would serve as the President's principal intelligence advisor and, finally through his appointment as a statutory member of the National Security Council.

Among the important features of S. 1820 are the following:

1. Establishes the position of Director of National Intelligence (DNI) and makes him a statutory member of the NSC in his role as primary advisor on intelligence.

2. States the principal role of intelligence and the U.S. intelligence agencies.

3. Establishes that the principal role of the DNI is to serve as the nation's senior intelligence officer and primary adviser to the President on foreign intelligence matters. It relieves the DNI from any duties involving the formulation of foreign policy and the implementation of "special activities."

4. Delineates the DNI's responsibilities and authorities. (Most of these are extracted from Executive Order 12333).

5. Establishes the positions of Director and Deputy Director of the Central Intelligence Agency, requires that one or both be career intelligence officers and provides tenure to the D/CIA for a period of seven years.

6. Delineates the D/CIA's duties and authorities. (Most of these are also extracted from Executive Order 12333.) One duty is "to conduct special activities approved by the President. On this, I envision the D/CIA reporting directly to the President's National Security Advisor.

I look forward to your comments and recommendations.

Sincerely,

ARLEN SPECTER.

CLIFFORD & WARNKE,
ATTORNEYS AND COUNSELLORS AT LAW,
Washington, DC, July 19, 1988.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: I was pleased to receive your recent letter concerning S. 1820 which I have reviewed with interest. As I said in my November 20, 1987 letter to Senator Boren and Senator Cohen, proposals such as S. 1820 to separate the functions of the nation's chief intelligence officer and the director of the CIA should receive consideration by the intelligence committees. This consideration of course must be measured and deliberate.

As you have indicated, there is every reason to attempt to improve coordination of the nation's various intelligence agencies whose activities are vital to our security and effectiveness. A principal means of such coordination must be clear delineation of responsibility and accountability. Moreover, the role of the CIA in engaging in special or covert activities, as well as intelligence activities, pursuant to Section 102(d)(5) of the National Security Act of 1947, necessarily complicates this coordination. It is essential in fulfilling the strictures of the 1947 Act and related laws, along with the constitutional principles on which they are based, to keep covert activities separate from intelligence activities, as well as restricted to their intended scope and purpose. As you know, I recently have testified in this regard before the Senate Intelligence Committee, as well as its House counterpart and the House Foreign Affairs Committee.

The bill that you have proposed, in my estimation, largely addresses the principles and concerns that I have stated. Therefore, I support the overall conception of the legislation. There are, however, some specific aspects of the bill about which I would express some concern and suggest some revision.

First, the bill should establish more clearly the relationship between the DNI and the D/CIA. As I understand it, you propose that the D/CIA be subordinate to the DNI at least in the intelligence field where the DNI would oversee and coordinate all of the intelligence agencies on an equivalent basis. Such a system seems sensible, and the bill should make it more explicit.

Second and perhaps most significantly, the bill must more carefully address the management of covert activities. This is one aspect of the relationship of the DNI and D/CIA described above, but also a broader and more important aspect of the exercise of covert activities. As I understand it, the bill would charge the D/CIA with operational responsibility for formulating and implementing covert activities, but also charge the DNI with responsibility for overseeing such activities "on a periodic basis." In addition, the DNI would serve on the National Security Council and thus be accountable directly to the President, while the D/CIA would not. I believe that it is essential to proper exercise of covert activities, pursuant to the National Security Act of 1947, that the head of the agency charged with primary responsibility for covert activities be accountable directly to the President. As you know, the President must approve all covert activities and must expect to answer for these activities to the Congress and the people. Only in this way can covert activities be controlled and contained. Any unneeded link in the chain of command over these activities threatens the system of constraint and responsibility.

Therefore, I would suggest that the bill be revised to specify that covert activities, unlike intelligence activities, are the sole responsibility of the D/CIA who is directly accountable to the President and the National Security Council—including, of course, the DNI—with regard to these activities. While such a revision entails differentiating between the D/CIA's authority over intelligence activities and covert activities, I view this differentiation as desirable. It will strengthen the intended and essential separation of these activities.

Third, the bill may require some revision with regard to the statutory obligations for reporting activities of the intelligence agencies to the Congress pursuant to the National Security Act of 1947, as amended. Having a single official like the DNI responsible for reporting all intelligence activities is sensible. Covert activities however should remain a subject for the President to report to the Congress. Additionally, the D/CIA as the offical with sole responsibility for covert activities should also be required to report to Congress.

I trust that these comments will prove to be constructive. Your effort to improve the operation of the intelligence agencies is notable, and I wish you success.

Sincerely,

CLARK M. CLIFFORD.

NATIONAL SECURITY REFORM

Mr. SPECTER. Mr. President, the third bill of this package is the National Security Reform Act. A more detailed statement of its purpose follows:

Hearings before the Senate Intelligence Committee and joint hearings before the Select Senate and House committees on the Iran/Contra matter have demonstrated the need for significant action in order to establish the appropriate role for congressional oversight pursuant to the checks and balances contemplated by the U.S. Constitution. Notwithstanding any action which may be taken by the President by way of Executive order on this issue, legislative change is necessary to impose statutory requirements governing this or future admin-

istrations where any such executive orders might be countermanded.

This bill is based on S. 1818 which I introduced in the 100th Congress and on which hearings were held by the Senate Intelligence Committee in late 1987.

This bill has four goals:

First, to encourage timely consultation with key Members of Congress to obtain the benefit of their insights to avoid future blunders like the transaction with Iran on arms for hostages;

Second, to provide for effective congressional oversight by specific statutory requirements establishing precise time limits for notice where the President decides not to consult in advance;

Third, to establish mandatory penalties where executive branch officials make false statements to congressional committees; and

Fourth, to add an Inspector General for the Central Intelligence Agency to help assure lawful internal compliance on matters which do not come within the purview of congressional oversight.

Notwithstanding the obvious failure of the executive branch to provide requisite information to Congress under the provisions of existing statutes, some have argued that there was compliance because of the vagaries of current law. In order to prevent a repetition of such conduct, the National Security Act of 1947 (50 U.S.C. 413) and section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422), known as the Hughes-Ryan amendment, are made more specific by this bill. Existing law prohibits the expenditure of funds by the Central Intelligence Agency for covert activities "unless and until the President finds that each such operation is important to the national security of the United States." Efforts have been made to justify the CIA's action in the Iran/Contra matter by contentions that an oral finding was sufficient and that a later written finding could retroactively justify earlier covert action.

This bill unequivocally requires that the findings be in writing and that the President shall give notice and a copy of any finding to the House and Senate Intelligence Committees contemporaneously with the finding, but in no event later than 24 hours after it is made. A limited exception is provided for an oral finding in situations where the President deems that immediate action by the United States is required to deal with the emergency situation affecting vital national interests and time does not permit the preparation of a written finding. In that event, the finding must be immediately reduced to writing after the action is orally approved, with the written finding to be completed no later than 24 hours after the making of the oral finding.

Where an oral finding is used, there is the additional requirement that the written finding shall include a statement of the reasons of the President for having first proceeded with an oral finding. This bill further provides that a finding shall be effective only with respect to operations beginning after the finding was made by the President in order to preclude any contention that the finding may retroactively cover prior CIA operations.

These statutory requirements leave no room for doubt that no covert action may be undertaken without complying with the requirements of a written finding and the requisite notice, by any personnel of the executive branch or anyone acting on its behalf including foreign governments or any individual. This specific provision would preclude any future argument that the delivery of arms to Iran was legally justified, after the fact, by a retroactive finding or that other entities or actors were not bound by the same limitations affecting the CIA.

This bill further removes any possible ambiguity in section 501(b) of the President's obligation to notify the House and Senate Intelligence Committees of covert action. Section 501(b) now provides:

(b) The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

The phrase "for which prior notice was not given under subsection (a)" carries the direct implication that the House and Senate Intelligence Committees should have been "fully and currently informed" of covert activities which are covered by section 501(b). It is obvious that the President did not comply with section 501(b) to inform the Intelligence Committees in a "timely fashion" where some 14 months elapsed from the time of the first covert action on the Iranian arms sales to the time that information reached the Intelligence Committees. Yet, some have contended that the exigencies of the situation excused the President from giving earlier notice so that requirements of a "timely fashion" were observed.

This bill removes any room for such future arguments by requiring the President to give notice to the Intelligence Committees contemporaneously with any written or oral finding. In order to remove any conceivable ambiguity as to the meaning of "contemporaneously," a time certain is added requiring the information to be transmitted no later than 24 hours after the making of an oral or written finding. Absent the experience of the Iran/Contra matter, it would seem unnecessary to put a 24-hour limitation after the requirement of "contemporaneously," but the recent experience that a time certain be affixed so that no one can later claim that "contemporaneously" means days, weeks, months, or even years later.

The requirement that the President shall contemporaneously inform the Intelligence Committees is intended to provide a procedure where the Intelligence Committees might be consulted in advance so that the President would have the benefit of their thinking if he so chose. The language of section 501(a)(1) to keep the Intelligence Committees "fully and currently informed of all intelligence activities" suggests a design for congressional input. Even with such contemporaneous information and the possibility of congressional input, it would remain within the President's power to proceed or not as he chooses.

There is much to recommend the availability of the institutional experience of the Senate and House Intelligence Committees. Had there been a review by the Intelligence Committees of the sale of arms to Iran, it is likely that the policy would never have been implemented. Had members of the Senate and House Intelligence Committees joined the Secretary of State and the Secretary of Defense and others in discouraging Presidential action in selling arms to Iran, the President might well have ceased and desisted on his own. Had the President declined to terminate that disastrous policy, then the Congress might have utilized its power to terminate funding through its appropriations powers, thereby ending the sale of arms to Iran.

The President's obligations on congressional oversight are further limited by excluding notice to the Intelligence Committees where the President determines that it is essential to limit such disclosure to meet extraordinary circumstances affecting the vital interests of the United States. In that event, such notice is to be given only to the chairman and ranking minority members of the Intelligence Committees, the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate. That more limited disclosure gives sufficient assurances of preservation of secrecy. A valid argument could be made that notice should go only to the leadership of both Houses in the interests of secrecy, but the greater familiarity of the chairman and vice chairman of the Intelligence Committees warrants their being included.

In 1988, the full Senate considered a 48-hour notice requirement included in S. 1721, as introduced by Senator COHEN. Although the Senate passed the bill including this notice requirement on March 15, 1988, the House of

Representatives did not act on the bill prior to adjournment of the 100th Congress. Therefore, I am reintroducing my bill today in an effort to press for enactment of this necessary notice requirement.

This bill further provides for a mandatory sentence of imprisonment for any officer or employee of the United States who provides false information to any committee or subcommittee of the Senate or House of Representatives. No matter how rigorous or exacting statutory requirements may be, the oversight function of Congress cannot be accomplished if executive branch officials present false or misleading testimony to the Congress.

This is especially problemsome where witnesses appear before the Intelligence Committees in a secret session. Where evidence is provided in a public session, there is an opportunity for others to learn of the false information and to come forward with the truth so that the congressional oversight committees can perform their functions. That is not possible where key executive officials appear in secret and provide false information to the Oversight Committees. Under those circumstances, the committees realistically have little or no opportunity to determine the truth.

While false official statements to such congressional committees are covered by section 1001 of the Criminal Code, (18 U.S.C. 1001), this kind of misconduct, either in secret or public session, is so serious that it warrants a mandatory jail sentence.

While there has been experience with witnesses who return to the committee to apologize for prior testimony, such apologies fall far short of correcting the enormous damage which has been done. Obviously, there is no way to know how much false, deceptive, or misleading evidence has been presented in secret where the truthful information has never come to the attention of the committees. This mandatory jail sentence is intended to put members of the executive branch on notice that the matter is extremely serious as reflected by the heavy penalty.

It is obviously well within the ambit for any witness who appears before a congressional committee to decline to answer any question until that witness has had an opportunity to reflect on the question or to consult with his or her superior. Simply stated, it is understandable if a witness declines to answer or asks for a delay, but it is intolerable for false or deceptive answers to be made. The committee would doubtless consider not insisting on an answer where some reason was advanced for nondisclosure. Where any witness chooses to decline to answer a question, there is always an opportunity for further consideration by both the witness and the committee.

In any event, an enforceable legal obligation to answer does not arise as a practical matter until citation for contempt of Congress is obtained and the court orders an answer. It is only at this point that a witness is subject to a sanction for contempt for failing to answer.

This bill further provides that anyone who gives such false or deceptive information may recant and avoid possible criminal liability by correcting the record within 5 days. This 5-day period should be ample time for rethinking the issue and time to make the appropriate correction.

I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Security Reform Act."

SEC. 2. PRESIDENTIAL FINDINGS ON CERTAIN INTELLIGENCE OPERATIONS

Subsection (b) of section 501 of the National Security Act of 1947 is amended to read as follows:

"(b)(1) No covert operations in foreign countries, other than operations intended solely for obtaining necessary intelligence, may be approved, conducted, or funds appropriated or expended for, by or on behalf of the executive branch, unless and until the President makes a finding that each such covert operation is important to the national security of the United States. Operations by or on behalf of the executive branch include action by any officer or employee of the United States Government or any foreign government or individual acting at the request of or with the concurrence of any officer or employee of the United States Government. Each such covert operation shall be considered a significant anticipated intelligence activity for the purposes of this section.

"(2) Each finding of the President under paragraph (1)—

"(A) shall immediately be reduced to writing and signed by the President, except that the President may make such finding orally if the President determines that immediate action by the United States is required to deal with an emergency situation affecting vital United States interests and that time does not permit the drafting of a written finding;

"(B) any oral finding as provided for under (A) shall be reduced to writing immediately after the action is orally approved with the written finding to be completed no later than twenty-four hours after the making of the oral finding;

"(C) the written version of the oral finding shall include a statement of the reasons of the President for having first proceeded with an oral finding;

"(D) shall be effective only with respect to operations beginning after the finding was made by the President.

"(3) The President shall contemporaneously, but in no event later than twenty-four hours after the making of a written finding, inform the intelligence Committees of, and provide a copy of, any such finding which authorizes covert action unless the President determines it is essential to limit such notification to meet extraordinary circumstances affecting vital interests of the United States in which event oral notice shall contemporaneously, but in no event later than twenty-four hours after the making of an oral or written finding, be given to the chairman and ranking minority members of the Intelligence Committees, the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate.".

SEC. 3. DECEIVING CONGRESS OR ITS COMMITTEES.

Whoever being an officer or employee of the United States, in any matter within the jurisdiction of the Senate or the House of Representatives of the United States, or any committee or subcommittee thereof, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or misrespresentation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement of entry shall be imprisoned for not less than one year nor more than five years and may be fined not more than $10,000. Liability under the provisions of this section may be avoided by anyone who notifies in writing the committee or subcommittee of the Senate or House of Representatives of the United States of any violation hereof and provides the truthful information in its place within five days.

Mr. SPECTER. Mr. President, I think there is an optimistic spirit present today. I think in the past our leaders, including you, Mr. President, in your capacity as majority leader, Senator DOLE as the Republican leader, have accomplished much.

Now we have a new administration, a new breeze which is blowing through the city, through the country, and through the world. We have new leadership on the majority side. And there have been eloquent statements today about the prospects for a great productive 101st Congress. I look forward to working with my colleagues on these important tasks.

Mr. President, I yield back the remainder of my time.

I thank the Chair.

CONGRATULATIONS TO THE MAJORITY LEADER

Mr. PELL. Mr. President, I rise today to congratulate the majority leader for his courage, for his wisdom, and for his eloquent remarks which truly serve as a Magna Carta for the coming years here in the Senate under his leadership.

I was particularly struck and pleased by his emphasis on bipartisanship leading to nonpartisanship as we approach and face the various problems in the international field.

In this connection, there are a variety of bills that have been introduced or will be introduced in the area of controlling chemical weapons.

I hope these different bills on both sides of the aisle and by different indi-

vidual Senators can be blended or welded together to give us a bipartisan bill upon which we can all agree.

I was also struck by the majority leader's emphasis on international environmental concerns, because of what value is it if a nation takes action by itself to protect its environment, only to be swamped by environmental fallout—acid rain, whatever it may be—from a neighboring nation?

I would hope that the consideration of these problems would lead to greater support for the U.N. Environmental Program at Nairobi, and for the partial abdication of sovereignty that nations will have to agree to as they move to protect the international environment.

I yield the floor.

PRESERVATION OF THE RAIN FORESTS

Mr. REID. Mr. President, every time a person is killed, of course a life is lost, but also goals and hopes are left unfulfilled.

In Brazil last month, a life was destroyed. Chico Mendes, a union organizer and world-renowned environmentalist, was murdered by people who opposed his efforts to protect the Amazon rain forests.

These craven people are ranchers who burn the forests so their cattle can graze. They succeeded in destroying a life. But they cannot destroy what a person stands for and what he believes—you cannot murder an idea.

Chico Mendes leaves behind his widow, but he leaves much more than his wife. The death of Mendes sparked the birth of a new impetus to preserve the rain forests—to ensure that the goals and hopes of Chico Mendes are not forgotten.

Although Mendes' death was the most publicized, he is only 1 of an estimated 700 killed since 1985 in land disputes involving the rain forests—almost 20 human beings each month.

The Catholic-run Pastoral Land Commission in Brazil estimates that the cattle ranchers' union, to which Mendes' accused murderers belong, was alone responsible for 73 murders in the last past year—more than one murder every week.

Mr. Mendes fought against the destruction of rain forests in the political and legal arena, and fought literally in the paths of bulldozers. He was also a senior environmental consultant for the World Bank, and a recipient of the 1987 U.N. Global 500 Award given to the 500 people throughout the world who did the most to protect our environment. One of his finest achievements was the pioneering of the "extractive reserves," a practice which works upon the premise that we can reap the benefits of the rain forest more profitably by leaving it standing than by burning it to the ground.

Mr. Mendes had an impressive knowledge and understanding of the rain forests. He knew the dangers of their unimpeded, unrestricted, uncontrolled destruction.

The legacy left by Mendes is a critical one for us to carry, for we are now at a frightening juncture in the history of our world. Rain forests are being destroyed at an estimated rate of 54 acres per minute. I repeat, Mr. President: 54 acres per minute, 24 hours a day, 7 days a week, 12 months a year. This ravaging takes no holidays. That is 28 million acres per year. At this rate, the remaining tropical rain forests will be gone entirely in less than 100 years.

The decimation of the rain forests is happening everywhere. Next to Brazil, Indonesia has the largest expanse of rain forests in the world, and its rain forests are being leveled at a rate of 1 million acres each year.

In the Amazon basin in 1987, scientists estimate that fires kindled to clear land for farming and cattle ranching covered 77,000 square miles—an area the size of South Dakota.

These fires and the subsequent deforestation contribute radically to the greenhouse effect. An estimated 10 percent of the carbon dioxide in the Earth's atmosphere is now being attributed directly to burning in the Brazilian Amazon. The increasing amount of carbon dioxide helps create what is effectively a heat trap in our environment. As a result, the Earth's temperature is consistently and ominously rising. Some scientists say that the greenhouse effect generated by deforestation played a contributing role in the 1988 drought that swept the American Midwest.

What is happening to the rain forests is not merely a domestic problem for Brazil. We hear veiled threats from the Brazilian Government that if the United States and other nations impose punitive measures against Brazil, they will not occupy the rain forest in what they call a "rational manner." In addition, the ranchers' union called a press conference to deny involvement in the Mendes murder and denounced "foreign imperialists" for interfering in Brazilian affairs.

This is not a Brazilian affair, Mr. President. This is a world affair. We all stand to lose—and lose big—if something is not done to halt the accelerating destruction of the world's rain forests.

I urge my colleagues to join me in continuing efforts to link credit proposals with environmental protection packages. Brazil is the Third World's leading debtor nation, with $115 billion in foreign debt. With a domestic economy tottering on the brink of collapse, Brazil is in a precarious position. We can help them, but we must extract a commitment that they will do their share by taking steps to protect the remaining rain forests.

But there comes a time, Mr. President, when we cannot wait longer for commitments and promises. This is that time. I therefore plan to introduce legislative measures—I will join my colleagues in measures—that will send Brazil a message: the world will not stand and watch the fires rage unabated. We want constructive policies and action, not technical studies and talk of "rational exploitation." Because each day we wait for such studies to be completed, Mr. President, we lose an area of the rain forest the size of Philadelphia. This loss is permanent. This is unthinkable.

(At this point Mr. BREAUX assumed the chair.)

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Thank you, Mr. President; I appreciate that very much. I will be very brief because I know there is some more business to come before the floor.

I rise today to introduce legislation to designate November 9, 1989, as Montana Centennial Day.

This is a special day for me and, as I look forward to working with this distinguished body of men and women who have dedicated their lives and their talent and their well-being to this great Nation.

As this is a special day for me, 1989 is a special day for my home State of Montana. One hundred years ago, Montana was admitted to the Union. It is the 41st State admitted, November 8, 1889, by President Harrison.

The Montana State delegate met, produced a constitution, and approved it by a popular vote of 24,000 to 2,274, on October 1, 1889. The State was first known as the Treasure State, alluding to the deposits of gold and silver and other precious metals. But the real treasures were discovered a few years later when the great herds of cattle and sheep moved northward to Colorado, Oklahoma, and Texas to a sea of grass and fresh water. Still known as a Treasure State, it has now become more familiar as the Big Sky Country. It is the fourth largest State after Alaska, Texas, and California, encompassing 146,000 square miles. Roughly 800,000 people call Montana home, miners and loggers and farmers and ranchers, educators and those involved in tourism. Life in Montana represents a personal freedom. The free spirit of the cowboy still lives in spectacular scenery. From the eastern prairies to the rugged beauty of the Rockies to the west, Montana truly is the land of the "Big Sky."

I would urge all Senators to join me in cosponsoring Montana Centennial Day, November 8, 1989. Thank you, Mr. President.

MONTANA CENTENNIAL DAY

Mr. BAUCUS. Mr. President, I would like to thank the new Senator from Montana and welcome him to the Senate and the 101st Congress. I would also like to wish him a happy birthday today.

Mr. President, 1989 marks the 100th year of statehood for Montana and designating November 8—the day the territorial Governor received a telegram confirming President Harrison's proclamation creating Montana as the 41st State and Joseph K. Toole became its first Governor—is fitting—as Montana Centennial Day is only fitting considering the colorful history and the rich contributions Montana has given to the rest of the Nation—from its people to its wealth of natural resources.

Montana, "Big Sky Country." As Montana historian K. Ross Toole referred to home, "Montana: High, Wide and Handsome."

French trappers may have visited the Montana area as early as the 1740's. The United States obtained most of what is now Montana as part of the Louisiana Purchase in 1803. The northwest part was gained by treaty with Great Britain in 1846. At various times, parts of Montana were in the territories of Louisiana, Missouri, Nebraska, Dakota, Oregon, Washington and Idaho.

In 1841, Jesuit missionaries established St. Mary Mission, the first attempt at a permanent settlement, near what is now Stevensville. In 1847, the American Fur Co. built Fort Benton on the Missouri River. The town that developed there is Montana's oldest. Montana is a land of immigrants from Europe and the Orient and a land where native Americans are a proud part of our heritage.

It is a land of great people—pioneering, enduring people with a sense of optimism and community, people who helped define the American character, people such as Mike Mansfield and Jeanette Rankin, copper kings W.A. Clark and Marcus Daly, Chief Joseph, and artist Charlie Russell.

Montana, though sparsely populated, represents a great portion of the resource base of our country—metals and minerals, oil, timber, water and power.

This is a land where the Plains meet the Rockies. It's a land of sturdy people, a part of America's past and part of her future.

Montana is a land of extreme beauty and extreme hardship, a land of hope and a land of tragedy, from the bitter winters of the Northern Plains to the strange, unearthly beauty of Yellowstone National Park; from the cradle of women's suffrage to Custer's blunder at the Little Big Horn.

Mr. President, this resolution is only the kickoff of what will be a yearlong celebration of events such as a centennial celebration on the mall, Montana art and film festivals, and the Centennial Minute, a weekly speech on Montana history that I will give here on the Senate floor.

Mr. President, there is a long history of commemorative coins being issued for the centennial of the States of Alabama, Arkansas, Illinois, Iowa, Maine, Missouri, Texas, the centennial of the Wisconsin territory, the 75th anniversary of California, and the 150th anniversary of Vermont.

However, not a single commemorative honors a city or State in the intermountain West. That is why I will introduce in just a few days legislation that will call for the U.S. Mint to strike a $5 commemorative coin in recognition of the centennials of Montana, Idaho, North and South Dakota, Washington, and Wyoming.

The Northwest centennial commemorative coin thus would be an important reminder and recognition of the youth of our Nation, of its western heritage and of its continued vitality.

Mr. President, I urge my colleagues to support this joint resolution and invite them to come to Montana and join us as we celebrate our 100th birthday.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from Illinois.

TREASURY TAX OPTION MAKES NO SENSE

Mr. DIXON. Mr. President, we have had two trial balloons relating to the thrift crisis this month. Earlier in the month, there was a proposal to cut the insured deposit amount from $100,000 to $50,000. Today we are faced with a proposal to finance the recapitalization of the thrift insurance fund by taxing depositors at banks and S&L's at a rate of perhaps 30 cents for every $100 deposits.

Resolving the thrift crisis must receive the top priority of this committee, and the entire Senate. Indeed, I believe it is the No. 1 domestic issue facing this Congress. I want to work in a bipartisan manner with the administration on this issue; it is the only way to solve the savings and loan problem. Having said that, however, I also have to say that there must be some folks at the other end of the avenue that do not deem to share my interest in working out a bipartisan approach. Instead, they seem to be pursuing a comic relief approach.

I hope these proposals are intended as comic relief; I find it hard to believe that there is anyone downtown that would make proposals like these seriously.

Today's paper describes this latest tax proposal as getting a "Bronx cheer" reception in Congress. Frankly, I think that severely understates my view of its merits. This option would not even make a good joke on the David Letterman Show.

There is no question that we are going to need a lot of money to solve this problem. The way to raise that money, however, is not to create further disincentives for savers. We already have a savings rate that is so low that it is undermining our economic competitiveness.

What someone down at Treasury is talking about is equivalent to taxing hostages in order to pay off the kidnapers. Depositors did not cause the thrift problem; they are innocent victims.

Treasury's proposed option poses real risks. Instead of providing the money we need for the FSLIC fund, such a tax may well drive savers out of our depository institutions, banks, savings and loans, and credit unions, and into alternate investments such as Government bonds and mutual funds. The net result, therefore, could be to further undermine our depository institutions during this time of stress. That cannot be Treasury's purpose.

Further, it is worth remembering that the thrifts are already paying very substantial insurance premiums, and that it is likely that the FDIC premium will also rise to provide additional protection to the bank insurance fund. With that in mind, I do not see how it can possibly make sense to try to effectively increase the premiums yet again. It cannot work; it will not work. It will simply destroy the competitive position of our Nation's depository institutions. It will not solve the thrift problem. This proposal, if adopted, would likely make the problem worse, further undermining the health of thrifts, and spreading the problem to our banks and credit unions.

I hope I have made it clear what I think of this proposal, Mr. President. As a member of the Senate Banking Committee, I intend to do everything I can to see that this idea gets the early burial it deserves. I hope the Banking Committee and the full Senate will send Treasury an unmistakable message that this tax plan should be dropped—now.

CALLING FOR CABINET-LEVEL "DRUG CZAR"

Mr. DIXON. Mr. President, on another subject, I am very concerned about what appears to be the desire of President Bush not to include William Bennett, the new drug czar, in his Cabinet.

I am, therefore, pursuing legislative action to put the position of "drug czar" in the White House Cabinet.

The President is making a serious mistake.

In his inaugural address, speaking to the drug problem, President Bush

pledged, "This scourge will stop." The President spoke of the massive problem of drug abuse in this country and of the high priority it would have in his administration. Now the President needs to back up his words with action.

By not making the drug czar a Cabinet position, the President is undercutting his inaugural commitment to turn the tide in the war on drugs. The first step in stopping this scourge should be to give the drug czar the full recognition and power of a top Cabinet member.

For William Bennett to be most effective, he needs to be included in all Cabinet meetings and all Cabinet decisions. President Bush should correct this situation by immediately including William Bennett as a Cabinet member.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

(The remarks of Mr. ROCKEFELLER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

STATEMENT ON THE DISTINGUISHED MAJORITY LEADER

Mr. BYRD. Mr. President, I wish to compliment the distinguished majority leader on his very eloquent and forward-looking and positive statement which he made at the beginning of the session today. I think he has clearly outlined what appears to me to be a wise approach in dealing with our Nation's manifold problems. I know that he will receive the support of Members on both sides of the aisle as he attempts to work in a bipartisan manner with the new President of the United States.

Let me also say that I think our new President got off on the right foot and set the right tone in his inaugural speech. He has indicated not only his willingness but also his desire to work with Congress. Mr. President, this is a sweet and soft breeze that comes from the direction of the White House at the other end of Pennsylvania Avenue. We have had entirely too much confrontation over these past 8 years, not enough cooperation and working together. The new President is a creature of the Congress; he served in the House of Representatives, and he has had many important positions in the executive branch. So he comes to the job very well equipped and with a sense and an understanding as to how the constitutional system works and certainly with the knowledge that the legislative branch is equal to—not above, not below—the executive branch.

I look forward with considerable optimism to the future, believing that Mr. Bush will indeed work with the Congress. I know that our leadership on both sides of the aisle has extended the hand of cooperation in return, and it is in that way that the American people will profit from the services of their elected officials.

JOHN GONELLA

Mr. BYRD. Mr. President, on December 23, 1988, John Gonella, a former member of my staff, died. A man of great breadth and talent, John served as my assistant from 1971 until 1975.

Born in Dollar, Scotland, John Gonella was educated at Dollar Academy, west of Scotland College, and Glasgow University where he graduated with degrees in economics and political science. In 1939 he joined the British Army rising to the rank of lieutenant colonel. During World War II, he volunteered for the British Commandos and served with the 5th Gurkha Rifles and Gurkha Commandos in Africa, Burma, India, Pakistan, Afghanistan, and China. In 1948, he emigrated to the United States and upon adopting U.S. citizenship in 1955, relinquished his service commission.

John Gonella enjoyed a rich and remarkable career serving as a soldier, diplomat, public relations specialist, businessman, civil servant, writer, journalist, and broadcaster. His service in our Government began in 1965 when he served as a Foreign Service officer with the Department of State. In 1966, he was appointed to the White House congressional liaison staff by President Lyndon B. Johnson and assigned duties with the House of Representatives. Before coming to the Senate, he was a consultant for Congressional and Legislative Affairs to the National Cable Television Association. He served as executive assistant to Senator Harrison Williams from New Jersey prior to leaving the Hill in 1977, whereupon he became assistant to the vice president of the Association of American Railroads.

In addition to his regular employment, John Gonella pursued many other interests at various times. He was an avid golf enthusiast and wrote a golf column for the Washington Post during a 5-year period. He served as moderator of the National Council of Churches weekly radio program "Men of Faith;" had his own show "Fore on Four" on WRC-NBC television; served as moderator of Department of State seminars on world affairs; was radio interviewer in the theatre, arts, literature and music fields for the American Radio Guild; lectured in poetry for the District of Columbia Public Libraries; and coordinated visits of foreign dignitaries for the District of Columbia Government and the Department of State. His words were his tools. He spoke and wrote with the precision and artistry of a gifted sculptor.

John Gonella was a very able staff assistant who can best be characterized by his civility and self-effacement. He was truly a gentlemen. He celebrated life to the fullest and enjoyed the rewards that come from having friends. He taught his sons well to place a high premium on friendship, which is a legacy for which they can be proud.

I extend my sympathies to his widow, Ashton, and his two sons, John and Geoffrey, two step-sons, Ashton and David, and five step-grandchildren.

Mr. President, Tennyson said, "I am a part of all that I have met." I believe that. John Gonella will always be a part of me and of those on this Capitol Hill who knew him and had the opportunity to work with him.

Let Fate do her worst, there are relics of joy,
Bright dreams of the past, which she cannot destory;
Which come, in the night-time of sorrow and care,
And bring back the features that joy used to wear.
Long, long be my heart with such memories filled!
Like the vase in which roses have once been distilled,—
You may break, you may shatter the vase, if you will,
But the scent of the roses will hang round it still.

Mr. President, there is a poem titled "Scotland Afar," by Campbell Gillion. I now read it to John's wife, Ashton, and to others in his family.

Afar, O fair Scotland, we hear you pipes calling!
Afar, the Old Country your beauty beguiles!
The mist on your mountains, when evening is falling
Envelopes my heart-land across the long miles.

Afar in some desert, remote on some island,
Away in some city pursuing dull schemes,
There's hope for the soul whose heart is still highland,
Who glimpses the loch and the moor in his dreams.

O where are you highlands, you uplifting mountain,
That rescues the spirit like Scotland the brave;
Those streams that refresh like a soul-quenching fountain
And save us from being a fool or a knave?

Scotland Afar! Your sons' and your daughters'
Descendants remember the rock whence they came
And tugs at the heart across the vast waters,
The ancestral home and old Scottish name.

Mr. HELMS addressed the Chair.

Mr. McCONNELL. Mr. President, I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Kentucky. I will be brief.

Controlling the spread of AIDS;

Directing the Federal Communications Commission to proscribe all obscene and indecent material transmitted by means of intrastate telephone communications by amending section 223 of the Communications Act of 1934;

Protecting the lives of unborn human beings;

Restoring the right of voluntary prayer in public schools and to promote the separation of powers; and

Amending the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

Mr. HELMS. Mr. President, I send five bills to the desk. In the interest of time I ask the clerk to, in tandem, give them first reading, and then I shall ask for second reading. And the distinguished majority leader will object, as he knows. But I send five bills to the desk, and ask that they be stated.

The PRESIDENT pro tempore. The clerk will state the bills separately for the information of the Senate.

The assistant legislative clerk read as follows:

A bill to control the spread of AIDS;

A bill to direct the Federal Communications Commission to proscribe all obscene and indecent material transmitted by means of intrastate telephone communications by amending section 223 of the Communications Act of 1934;

A bill to protect the lives of unborn human beings;

A bill to restore the right of voluntary prayer in public schools and to promote the separation of powers;

A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes.

The PRESIDENT pro tempore. Is there objection to the second reading of the bills?

Mr. MITCHELL. I object, Mr. President.

The PRESIDENT pro tempore. Does the majority leader object en bloc?

Mr. MITCHELL. Yes.

The PRESIDENT pro tempore. Objection having been made, the second reading of the bills will go over 1 legislative day pursuant to rule XIV, paragraph 4.

Mr. HELMS. Mr. President, I thank the distinguished Presiding Officer.

I thank the distinguished Senator from Kentucky for yielding.

Mr. McCONNELL addressed the Chair.

The PRESIDENT pro tempore. The junior Senator from Kentucky is recognized.

Mr. McCONNELL. I thank the Chair.

CAMPAIGN FINANCE REFORM IN THE 101ST CONGRESS

Mr. McCONNELL. Mr. President, I rise today in strong support of the Dole-McConnell-Stevens Campaign Finance Reform Act of 1989. Before discussing what this bill contains, and what additional measures are needed, I would like to speak briefly on the prospects for campaign finance reform in the 101st Congress.

Mr. President, today the distinguished Republican leader introduced a bill on the subject of campaign finance reform. This will be known in this session as the Dole-McConnell-Stevens bill. And it represents the kind of package that a clear majority on this side of the aisle feel would be in the best interest of this institution and of the country.

Before briefly discussing the contents of that bill, let me just make some observations about campaign finance in the 101st Congress. I did notice with interest that the distinguished majority leader raised this issue as well. So it clearly enjoys a priority on both sides of the aisle. I hope we will be able to enact something. Senator Chiles and Senator Stafford, who recently retired from this body, made a recommendation on the way out the door on this subject.

Let me start by reading from an article which appeared recently in the Washington Post: The article is entitled "Two Ex-Senators Recommend Tighter Fund-Raising Laws." In it, Democratic Senator Lawton Chiles and Republican Senator Bob Stafford present their shared views on what needs to be done about our campaign finance system.

Both Chiles and Stafford say: "Everyone understands there is a problem with campaign financing"—and although they "do not expect Congress to approve major changes," they believe "modest changes are possible," including: Stronger restrictions on political action committees, prohibiting bundling by PAC's, clamping down on "soft money," countering independent expenditures, and prohibiting PAC's from paying off campaign debts.

Mr. President, these certainly would be needed changes in our campaign finance system. And we could probably agree to them in principle, on a bipartisan basis, and pass through this body quickly. However, we will get nowhere this year if we try to rewrite the rules of the game to benefit one party or the other.

Obviously as we have said on this side of the aisle frequently, taxpayer financing and spending limits are something that we just simply do not find acceptable. Republicans declared their solid opposition to those two items last year and we conceive of no situation under which those kinds of measures would pass. The spending limits would bootstrap the power of labor-soft money which is totally unlimited and undisclosed. So we went around and around, and spent a lot of time on that issue last year. We actually ended up passing nothing except for one bill which I offered, a bill prohibiting candidates from recovering personal funds they put into a campaign from contributions they raised after an election.

This needed reform passed the Senate by unanimous vote as an amendment to the Ethics in Post-Employment Act. Unfortunately, it did not make it out of the conference. But it is a part of the package the distinguished Republican leader introduced early today. I hope it is something we can agree on as this issue unfolds in the coming weeks.

However, I can assure my friends on the other side of the aisle that our position on taxpayer financing and spending limits has not changed one bit. As our new President would say: "read my lips—no spending limits—not now, not ever." And I might add that the eight cloture votes we endured in the last Congress have only hardened our resolve.

With regard to limited spending, I think it is appropriate now that the Presidential race is over to take a look at what happened in the one race in America where we do have spending limits.

Between the last two Presidential elections we have seen spending increase over 55 percent. Between the last two congressional elections, where there are no spending limits, spending increased only 3 percent. One reason why spending has gone up so much in Presidential contests is that you have to spend more for lawyers to help you get around the limits. One out of four dollars goes to lawyers and accountants.

Mr. President, this system has turned every major candidate into a cheater and forced most of the money spent in Presidential races into undisclosed, unlimited, unaccountable channels. In sum, spending limits have been a disaster, and we cannot accept spreading that disaster to 535 congressional races.

So I say to my friends that if we really want to achieve some meaningful campaign finance reforms, we need to leave these half-baked "reforms" aside, and extend the hand across the aisle to develop a truly bipartisan bill.

We need to, however, focus on what can be done, what would improve the system, and what would not benefit one side or the other.

The legislation that Senator DOLE and I are introducing with 10 other cosponsors is an important step in that direction. This bill would: Cut the PAC contribution limit down to $1,000 per candidate per election from $5,000 per candidate per election, raise the individual limit to $2,000, require full disclosure of "soft money," put controls on independent expenditures, prohibit bundling, and strengthen the broadcast discount bill that I introduced last year and on which Senator

INOUYE from Hawaii gave a hearing in the Commerce Committee; an outstanding morning listening to advice on that measure.

That measure, I think, will pass this body either as part of a package or as a freestanding measure, and it will save campaigns on both sides of the aisle millions of dollars by making certain that we receive the kind of broadcast discount rate that we really ought to be getting.

In addition, we can do something about the "millionaire's loophole." We discussed this frequently over the last Congress. It is part of the package that the Republican leader introduced today. It would attempt to get a handle on it by requiring notification to the other candidates, if your are going to spend a huge amount of your own money on a race, and also prohibit a candidate from paying himself back after an election.

I also will be introducing separate legislation next week to abolish political action committees altogether, and constrict the "millionaire's loophole." As I said earlier, this provision passed the Senate last year by unanimous consent. We ought to get it through Congress this year.

I think we all agree that soft money ought to be fully reported and disclosed. That is something I think could be a part of any bipartisan campaign finance reform bill.

We also should require full disclosure of "soft money" by parties, corporations, nonprofits, and unions. We should strengthen the broadcast discount law by giving candidates nonpreemptible time at the lowest unit charge for preemptible time. The cost of broadcast time accounts for 50 to 75 percent of total spending in competitive statewide races. Yet revenues from political advertising account for only three-fourths of 1 percent of broadcasters' total income. I introduced this broadcast discount measure last year and it received a very favorable hearing in the Senate Communications Subcommittee. There is no reason why this provision also shouldn't become law this year.

I believe these measures add up to real reform of our campaign finance system—and we could achieve most of them on a bipartisan basis and pass them by an overwhelming margin. But to do that, we're going to have to give up the temptation to try to skew the system to benefit one side or the other. That is the first and most important challenge confronting us as we deal with the campaign finance issue this year.

In short, there are a number of things that we agree on, ought to agree on, and that will improve the system.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The distinguished Senator from Alaska, Mr. STEVENS, is recognized.

Mr. STEVENS. I thank the Presiding Officer.

This is the first opportunity I have had to speak in the Senate with my good friend as the Presiding Officer. I welcome him to the position as President pro tempore and also congratulate him for the changes that were made here in the Senate as we were recessed. The new curtains, the new flag of the Senate and the new changes that are made here on the floor, and in the places for our staff to observe the proceedings here, are all part of the bicentennial celebration of the Congress and I think it improved the appearances here a great deal. I thank my good friend from West Virginia.

THE INAUGURATION

Mr. STEVENS. Mr. President, I rise today to briefly comment upon the Presidential inaugural activity.

Five days ago as the world watched our Nation celebrated the peaceful transition of power from one elected President to another.

The swearing in of a new President was in fact the 200th anniversary of the Presidential swearing in ceremony itself. The inaugural ceremony and all that surrounds it was a significant symbol of what can be accomplished by a Nation of free peoples. The ceremony is important not only to this Nation and our history but for the message that it sends to the rest of the world.

Mr. President, I have risen today to commend and personally thank my good friend, the senior Senator from Kentucky, WENDELL FORD, chairman of the Joint Congressional Committee of the Inaugural Ceremonies, for his efforts and for his graciousness.

The success of the Presidential swearing in ceremony was just another example of the fine leadership that Senator FORD is providing, as chairman of the Rules Committee.

As I said, I personally compliment him because of his generosity and thoughtful courtesies that he extended to me and to members of my staff.

The bipartisan manner in which he and our staff carried out the inaugural activities resulted in presenting to the world, I think, one of the finest examples of congressional cooperation. As the Senate knows he yielded to me in order that I might present the Vice President and the President for the taking of their oath.

The Executive Director of the 1989 Joint Congressional Committee for the inaugural ceremonies was Mike Ruehling. It was his duty to see to it that the ceremony was a well-planned and skillfully-executed event which I think everyone will agree he did with flying colors. He had considerable help from a number of people including Lisa Dodge and Stephen Gray who did outstanding work in the committee office. Gail Martin and Carole Blessington of the Rules Committee staff assured that we have an enjoyable lunch following the inaugural. Two minority staff members of the Rules Committee, Wayne Schley and Bethany Erwin worked with me and spent untold hours assisting, in every conceivable way and tended to the Republican Members' needs to the greatest extent possible.

Mr. President, I think the recent ceremonies were a tremendous success. The legislative branch of our Federal Government showed the world we are indeed a united people.

I congratulate again my good friend from Kentucky, Senator WENDELL FORD, and all these find staff members for making the 1989 Presidential swearing in ceremonies so successful and for all they accomplished in this symbolic changing of the guard.

Mr. President, the Senator from Pennsylvania wishes me to yield to him for a unanimous-consent request if that is in order at this time. I yield to my good friend for a unanimous consent request, and I yield the floor.

Mr. HEINZ. Mr. President, I thank the Senator from Alaska for yielding.

May I just say that the Senator from Alaska discharged his responsibilities in the course of the inaugural in exemplary fashion. We are all proud of what the Senator and Chairman FORD did.

UNANIMOUS-CONSENT REQUEST

Mr. HEINZ. Mr. President, I ask unanimous consent that four bills I am introducing today, the one having to do with the indexing of basis on capital gains; another having to do with child care, the Child Partnership Act; third, another bill entitled Foreign Agents Registration Act; and fourth, a bill to prevent the continuation of the practice of counting Social Security surpluses as if they were deficit reduction be introduced, the statements that I have prepared be inserted in the RECORD as if given at the appropriate place.

The PRESIDENT pro tempore. Without objection, it is so ordered. The several requests will be granted.

Mr. HEINZ. I thank the Senator from Alaska for yielding to me.

THE INAUGURAL ADDRESS

Mr. STEVENS. I made inquiry as to whether the inaugural address of the President has been placed in the RECORD as yet. If it has not been placed in the RECORD I ask unanimous consent it be printed in the RECORD

following my remarks as a Republican member of the Joint Committee on the Inaugural. I am checking this fact now.

I withdraw the request because the minority leader wishes to have the whole program put in. I thought it had been put in on Friday. I will check it again.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. The Senator from Illinois, Mr. SIMON.

Mr. SIMON. Thank you, Mr. President. I join those who say it is good to have you presiding, Mr. President. I have a feeling we have a Presiding Officer who knows the rules when Senator BYRD is presiding.

CONGRESSIONAL SALARY ACCOUNTABILITY

Mr. PRESSLER. I send a joint resolution to the desk and ask for its first reading.

The PRESIDENT pro tempore. The clerk will read the joint resolution the first time.

The assistant legislative clerk proceeded to read the joint resolution.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the joint resolution be considered read, and I now ask for its second reading.

The PRESIDENT pro tempore. Is there objection to the second reading of the resolution?

Mr. MITCHELL. Mr. President, I object.

The PRESIDENT pro tempore. Objection having been heard, the second reading of the joint resolution will go over for 1 day under rule XIV, paragraph 4.

Mr. PRESSLER. If this is the proper time, in holding the floor, I wish to explain what this measure is. It has a long list of bipartisan cosponsors. It is a three-part bill that includes a resolution of disapproval, a provision to ensure the House will have a chance to vote to rescind the pay raise, and a provision which permanently does away with these automatic pay raises. The key issue is whether or not Congress votes on its pay raises, and this is the only legislative vehicle that would put the pressure on the House to vote—that is, if it is passed in the Senate. And I hope it will be. There are a large number of bipartisan cosponsors. This resolution has been very carefully crafted to address the issue of a vote in both the Senate and the House and to address the issue of future votes.

I want to commend Senator GRASSLEY, in particular, for his work in working on this matter with me and others. The rest of the bipartisan list of cosponsors includes Senators REID, HELMS, MCCAIN, DECONCINI, SIMON, HUMPHREY, BOREN, BURDICK, THURMOND, HEFLIN, KASTEN, KASSEBAUM, HARKIN, BOND, BRYAN, DOMENICI, COATS, BOSCHWITZ, LEVIN, SHELBY, NICKLES, and DASCHLE.

The point is that we are seeking a situation where both Houses of Congress will vote. In my time in the House and the Senate, I have a long record of working for this. In fact, when I was in the House, I brought a lawsuit to require that the House vote, and it went to the court of appeals and the Supreme Court. It is my strongest feeling that the American people want both Houses of Congress to vote on this pay raise. This particular joint resolution I am attempting to have considered under rule XIV. Hopefully, the Senate will use this as its vehicle. I am also introducing it as the measure that could go to Governmental Affairs Committee and come through that route, if the leadership prefers it. But the point of the matter is that a growing number of the American people want Congress to vote on this raise. There are times when a pay raise may be appropriate. I happen to believe that now is not one of them. Whether this is the proper time or not is a point for debate. But it places Congress in a very bad position, not to vote. If this resolution were to pass, it would be a resolution of disapproval, but it would go to the House desk, where a discharge petition could bring it forth for a vote in the House of Representatives. Also, this particular resolution provides that future pay raises must be voted on.

I know, Mr. President, that the automatic procedure initiated by the quadrennial commission has existed for a long time, but I think it raises the public's ire toward Congress to have news stories going out that this raise is going forward in an automatic fashion.

I also know that there is much room for debate on that, but I believe that this business of delegating to commissions and then not having to act on it is something that justifiably irritates the American public very much.

This piece of legislation was carefully crafted on a bipartisan basis among many Members on both sides of the aisle. There were many other ideas. Some said that a pay raise should not go into effect until the next Congress; for instance, Senators have a 6-year term, and that would not apply in the same way as in the House.

There were other ideas put forward. Finally, it was distilled out to these three points. Most of those participating in the talks and negotiations on this matter believe it is a good resolution of disapproval. I hope that the leadership will take this as their vehicle for the resolution of disapproval. I look forward to working with the leadership on both sides of the aisle. I thank the broad range of cosponsors who have added their names to this piece of legislation.

Mr. President, today I am introducing a resolution to block the President's pay raise recommendations for the executive, legislative, and judicial branches and to prevent future back-door congressional pay hikes. I commend Senator GRASSLEY for his assistance in developing this proposal.

The Congressional Salary Accountability Act contains three important provisions. Specifically it would:

Disapprove the President's pay raise recommendations for the executive legislative, and judicial branches;

Upon enactment of the resolution, executive and legislative salaries would revert back to the January 1, 1989 rate of pay; and

Would require a recorded vote on future congressional pay raises.

There are many reasons why the pay raise should be defeated. It is very obvious that this is the wrong time for a pay increase because of the present budget deficit. It is unfair to fill our pocket books while we ask others to make sacrifices. Some argue that we are losing good people in public service because of the level of pay. I do not buy that. There is no shortage of competent people who want to work for the Government. For example, the new administration already has been overwhelmed with résumés.

The real issue here is the procedure being used to give back-door pay raises to Members of Congress. The deceptive approach of using a Presidential commission to do Congress' dirty work fails to hold the peoples' representatives accountable. The American people deserve a forthright, candid, up-or-down vote on congressional pay raises. That's what we are fighting for.

As our colleagues are aware, the proposed salary increases become effective unless the House and the Senate pass a joint resolution to disapprove them by February 7. The resolution I am introducing today would block the pay raises and require a vote on future congressional pay increases.

We are aware from past mistakes that a simple resolution of disapproval has little chance for success. While the Senate may pass a disapproval resolution before the 30-day deadline expires, we have no guarantee that the House will. Many already believe, with justifiable skepticism, that the pay raises will go through. We hope not, but Congress' track record is not encouraging. We seem always to be able to vote against raising our own pay, but somehow Congress always manages to miss the deadline by 1 day.

But our legislation will hold Congress' feet to the fire beyond the magical February 7 deadline. It will take away this plump raise even after February 7. So this time, even a vote after the deadline date will have teeth; in contrast to the meaningless sham conducted by the House of Representa-

tives last time Congress sneaked through a pay raise.

This resolution goes beyond disapproving the pay raises. It contains three important provisions. The rescission provision is the key component and will keep this issue alive well after February 7, 1989. But, let me make it clear, our first priority is to block the raise before it goes into effect. The purpose of the rescission provision is to prevent the type of meaningless vote we saw 2 years ago. Upon enactment of this resolution, executive and legislative salaries would revert back to the January 1, 1989, rate of pay.

If the House fails to reject these raises before the deadline, we have all year to get this resolution passed in the House. The purpose of this resolution is to keep this issue on the front burner and force the House to vote on this resolution. And yes, if we do not get a vote before the deadline, judges will keep theirs, as required by the Constitution. But then again perhaps that is fitting. They are not a party to this back-door insult to the American taxpayers.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Thank you Mr. President.

Just a few minutes ago my colleague from South Dakota, Senator PRESSLER, spoke about one of the bills he introduced to disapprove the pay raise. I commend my colleague from South Dakota for his leadership on this issue, and I am proud to join him in bringing this legislation to the Senate.

The substance of this resolution is something in which I have often been involved. Over the years I have sponsored or cosponsored many bills or amendments to reject the pay raise but more importantly more attention I have given to reforming the process by which the raise is approved. In fact, it is sometimes a challenge to come up with new ways to present our case, but good policy does not require fancy words or elaborate debate because it stands on its own merit.

The three components as reviewed for us by the Senator from South Dakota would give Congress full opportunity to accept responsibility, resume sensibility and to restore accountability.

First, we reject the pending salary raise. This would not stop the pay increase unless, of course, the House of Representatives acts by midnight on February 7. It does, however, put this body unequivocally in the position of opposition to that pay raise, and that is something we ought to do.

Second, we give Congress an extended period of time in which to act on the pay raise. Unfortunately, in view of the hard line in favor of the pay raise by the House leadership, it is practically impossible given only 7 working days to reject the pay raise within the statutory 30-day time period. We can, and I trust we will, restore public confidence by eventually turning back that pay raise as provided in section 2 of this bill just introduced today.

We could probably adopt a motto for the 30-day period which allows us just to sit and wait for the pay raise, and that motto would be, "There is no time like the present for postponing what you do not want to do."

That is why the third section of this resolution is so critical. In order to avoid such shenanigans again in the future years, a rollcall vote will be required before any pay raise could go into effect.

And, Mr. President, the public does agree with us. Polls by the Washington Post, the Wall Street Journal, and NBC News indicate that most of the American public opposes this pay raise. During the 100th Congress, I received over 4,000 calls and letters from Iowans objecting to the pay raise. This year since November election I have heard from over 1,000 Iowans who oppose the pay raise and more importantly the way that Congress sneaks it in.

It is our intention to build on this massive opposition among constituents to force the House of Representatives to face up to its responsibilities.

Before I conclude, I must briefly discuss the drain this salary grab has on the budget. The $128 million in direct outlays to fund the raise, according to OMB, would come out of existing appropriations.

However, if there is an extra $128 million in the budget, it should go to offset the deficit for this year and, if it is not extra, then money for the raise obviously is going to come from programs and services for the American people.

This $235 million only included in the fiscal year 1989 expense for the salary increase alone. Increased pension benefits are going to result and staff salaries linked to Members' salaries will inflate the amount of public expense to be incurred. We can also expect requests for larger appropriations to fund not only the congressional pay raise but also the ripple effect that it will have on other salaries in the Federal Government.

I do not know why the Congress cannot just say no. But we cannot.

Finally, and most importantly, approving this huge salary raise establishes a precedent that the 101st Congress can't "just say no." How is Congress going to ask its constituents to make sacrifices and tighten their belts when it has just loaded its own larder with a fat raise?

As an example of the ripple effect, the last time Congress gave itself a huge salary increase, 40 percent in 1969, it also gave Federal employees a 16-percent increase.

If Members of Congress do not now have the courage to either declare publicly that they want the raise or to actually reject the raise, I doubt that Congress will be able to successfully grapple with the really tough choices ahead with eliminating the Federal deficit.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter that I sent to President Bush today that asked him to come out and in opposition to this because he has not taken a position yet.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
January 25, 1989.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: Today I introduced legislation, joined by a bipartisan group of 14 senators, to disapprove the 50% pay raise recommended to Congress by President Reagan on January 9, 1989. This legislation would disapprove the pay raise, which must occur by February 7th in order to prevent an automatic increase in salaries. Perhaps more significantly, this joint resolution would also rescind the pay raise if it had already gone into effect and would require a vote for any future pay increases. This legislation will keep pay reform alive well beyond February 7th. It will give Congressman Tom Tauke and his House colleagues time to generate support and passage of this proposed legislation. Additionally, it will communicate to the public that federal government officials are indeed serious about reducing the federal budget deficit.

I share your commitment to reduce the deficit. The tough decisions that Congress and the Administration must make, however, in the process of cutting spending, will not be taken seriously unless we are willing to start with ourselves. I do not understand how Congress or the Administration will be able to ask our constituents to pay increased taxes or cut back on government services when we have just give ourselves a huge increase.

As you know, the joint resolution which I have introduced must eventually be submitted to you. I realize that you have not taken a position on the pay raises recommended by President Reagan. In various press accounts, however, you have stated that you may "have something to say about that after January 20th." I would therefore appreciate your support for my legislation, or the concepts of rejecting the 50% increase and the need for reforming the process of pay increases.

Though the thirty day time period cannot be interrupted, and will undoubtedly expire without Congressional disapproval of the pay raise, your public support will restore faith in government for the 85 percent of the public which opposes the raise. Your support would also increase the momentum behind legislation to reject the pay raise, such as I have introduced today.

I look forward to working with you on this and other efforts to reduce the federal budget deficit!

Sincerely,

CHARLES E. GRASSLEY,
U.S. Senator.

P.S.—Mr. President, I believe it will be easier for you and the Congress to say "yes" to cuts in the budget if we say "no" to a 50 percent pay raise. You must choose between aligning yourself with Speaker Wright and a dozen in the House leadership who favor the raise * * * and the 85 percent of the American people who oppose the issue. I believe your leadership in budget reduction will be strengthened if you join with the 85 percent.

Thanks for your consideration.

C.E.G.

Mr. DECONCINI. Mr. President, I am pleased to join many of my Senate colleagues in cosponsoring this bipartisan resolution to disapprove former President Reagan's proposed 50-percent pay raise for Members of Congress, Federal judges, and senior executive branch employees.

In this time of budget crisis—and I believe it is a crisis—it is unconscionable that the President would seriously support raising Federal salaries at the same time he is cutting programs which directly affect the lives of working Americans. We cannot tell working mothers that there is no money for child care programs and accept this raise. We must not tell our young people that we cannot afford to assist them in getting a college education and accept this raise. We cannot tell the American people that we do not have the funds to aggressively wage the war on drugs and accept this raise.

And we must not allow this raise to go into effect by not taking any action to prevent it. Every Member of Congress should be on record indicating his or her support for or denial of the proposed 50-percent pay increase. Preventing Congress a chance to vote on this legislation would send a signal to the Nation that Congress is unwilling to address the deficit in a straightforward and realistic manner.

This joint resolution of disapproval, which conforms with the provisions of the current Federal Salary Act, disapproves the proposed pay increases for all branches of the Government. It also amends the current law to ensure that any future pay raises will be subject to an affirmative vote of Congress. The Senate has been on the record in the past in supporting these actions.

Finally, a provision is included which really puts teeth in the resolution. It provides for a rescission of the raises for the legislative and executive branch if, for some reason, the proposal goes into effect. This provision would keep the spirit alive and keep the pressure on Congress to take the necessary steps to eliminate the raises.

I am pleased that my colleagues who have been so active on this issue in the past are continuing their efforts. Senators GRASSLEY, REID, PRESSLER, and others are to be congratulated for their fine work. I am confident that the Senate will overwhelmingly oppose these increases and I am hopeful that the House will do the same. We must first resolve our budget crisis before we even consider increasing our pay. The voices of the American people loudly call out in unison in opposition to the proposed raises. Congress must listen to their voices.

A TRIBUTE TO THE GARDEN CLUB

Mr. FOWLER. Mr. President, I rise to pay tribute to the Garden Club of America, its 187 member clubs, and its thousands of members coast to coast.

The Garden Club of America, founded in 1913, is best known for flower shows and horticultural education, two very important parts of its mission. But it is in the areas of environmental education and community involvement that the quiet work of garden clubs often goes unnoticed.

Over the years, garden club members have worked hard to educate Government officials and the general public on important environmental issues, from the prevention of pollution to the preservation of public land, from protection of endangered species to maintaining the scenic beauty of our highways. Garden clubs have supported summer intern programs in national parks and scholarships in environmental studies.

Of particular interest to me is the Garden Club of America's work in raising the awareness of members and their communities about the critical issues our Nation faces in the protection of our water supply. Much of the water we use in our homes is wasted, and through public education programs such as these we can all learn to use water more efficiently.

At the local level, where things really do happen, Mr. President, garden clubs participate in varied activities, from the preservation of historic homes and gardens to civic landscaping, from urban planning to recycling campaigns. Garden club members have been the moving force behind the establishment of neighborhood nature centers and vegetable gardens, as well as numerous parks and recreational facilities.

It is through these activities that the thousands of active garden club members nationwide stimulate the love of gardening and improve the quality of the environment. I can think of few more worthy pursuits, few accomplishments for which our children and grandchildren will thank us more, than those promoted by garden club members.

Mr. President, I ask my colleagues to join me in honoring the Garden Club of America and the thousands of garden club members for their public spirit and public service. I wish them the best of luck in continuing their worthwhile and effective efforts.

HON. JOHN O. (JACK) MARSH, SECRETARY OF THE ARMY

Mr. COHEN. Mr. President, earlier this month I came to the floor of the Senate to criticize the lack of international concern that has been expressed regarding the bombing of Pan Am flight 103 and the construction of a chemical weapons facility in Libya. Today, I want to applaud the efforts of someone who has been a leader in supporting counterterrorist capabilities within the Department of Defense. I am speaking about the Honorable John O. (Jack) Marsh, who has served with great distinction as the Secretary of the Army for the last 8 years.

In 1986, Congress established the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to provide a high-level organizational focus on unconventional forces and missions within the Department of Defense. Senator NUNN and I introduced the legislation establishing this position because terrorism and guerrilla warfare are of increasing prevalence and have not been deterred by conventional means. In 1987, when it became clear that there would be delays in filling this position, Congress stipulated in law that the Secretary of the Army would assume responsibility for this new position until such time as a nominee could be confirmed.

Secretary Marsh did not seek this added burden. No doubt, he had enough to do as the Secretary of the Army. And because the establishment of this new office was opposed by the Defense Department, and entailed disruption of the status quo, Secretary Marsh was placed in the unenviable position of having to push for many uninvited and often unwelcome changes.

Over a year elapsed between the time that Congress created the new Secretariat and the time that Secretary Marsh took command. During that interval, progress was negligible. For example, after an entire year, the new Secretariat still did not have a charter, many of the key staff positions remained vacant, and much of the paltry staff that did exist were stuck in office space outside the Pentagon. It seemed that nothing was happening.

There was an abrupt transformation, however, after Secretary Marsh became responsible for implementing the law establishing this new office. Positions were filled, important programs for special operations forces received full funding, a charter for the office was approved, and office space inside the Pentagon was obtained for the staff of the new secretariat. Secretary Marsh's vigorous and conscientious response to the responsibilities Congress gave him—which he did not

seek—is characteristic of his personal and professional integrity. And the fact that he was able to achieve so much so quickly, despite intense bureaucratic opposition and his other weighty responsibilities, is clear evidence of his skill in managing difficult issues in the Defense Department.

I cite this example of Secretary Marsh's character and ability and because it was a service for which I was particularly thankful. But it is only one example of many.

During the Iran-Contra investigation, we learned that Secretary Marsh objected to requests for Army weapons because the purpose for which these weapons would be used was not specified. As it turns out, these weapons were intended to be part of the arms for hostages initiative. While it might have been easier to go along to get along, Secretary Marsh challenged the legality of these requests and forced a review by higher officials. Although Secretary Marsh was in some instances overruled, his actions protected the Army from the scandal that ensued.

Perhaps the greatest tribute one can pay to Secretary Marsh, however, is simply to point out the manner in which he has quietly and effectively discharged the weighty responsibilities of his office. By all indications, today's Army is better trained, equipped, and educated than any of its predecessors. Morale and retention are up, and problems such as drug abuse and racial tensions are down. It is also worth noting that Secretary Marsh has served in his post longer than any Service Secretary in memory. In fact, if he remains Army Secretary until February 6, which seems likely, he will have established the all-time record for duration among Service Secretaries—surpassing even Henry Dearborn, who served as War Secretary under Thomas Jefferson from March 5, 1801, until March 7, 1809. No doubt, Secretary Marsh has had numerous opportunities to leave his post for far more lucrative positions in the private sector. Instead, he has gone the entire distance with President Reagan.

At a time when the public is hearing a great deal about Pentagon procurement scandals and the trials of those involved in the Iran-Contra affair, it is a pleasure to be able to draw attention to an official who has been a model of selflessness, effectiveness, and dedication to the public interest. Secretary Marsh's performance as Secretary of the Army has truly been in the finest tradition of public service and I commend him for it.

LEGISLATIVE AGENDA OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I rise today to commend and extend my deep gratitude to Senator INOUYE for his leadership of the Select Committee on Indian Affairs. With his devotion and guidance, the committee established an impressive record of accomplishment during the 100th Congress. I am pleased and honored to have the opportunity to serve as the vice chairman of the committee during this Congress. I look forward to a continuation of the bipartisan spirit of cooperation which has marked Senator INOUYE's tenure as chairman. I also want to extend my welcome to Senator COCHRAN and Senator CONRAD. I am pleased that they will be joining us on the committee and look forward to working closely with them.

It is my hope that during this Congress we will see a great strengthening of oversight capabilities and functions of the committee. During the past 15 years, the Congress has enacted several major bills relating to Indiana. I believe that it is very important for us to use a portion of our time in this Congress to assess the implementation of this legislation and, as appropriate, to refine it. I am also very concerned about several areas which have not been addressed by the Congress for many years. Among the issues which we need to examine anew are Indian forestry programs and irrigation systems. The implementation of Federal environmental laws on Indian lands should be thoroughly reviewed. We must take steps to assist tribal governments to improve law enforcement and the administration of justice in Indian country. Innovative and bold measures are needed to improve the deplorable economic conditions on the reservations. And last, but certainly not least, we must find effective ways to end the tragic physical and emotional abuse which plagues Indian children and families.

Mr. President, the need for careful review and deliberation is great. I am gratified to serve with a chairman and a committee which shares this view. I look foward to a productive Congress in which we identify and enact constructive approaches to these and other issues.

INDIAN DEVELOPMENT FINANCE CORPORATION

Mr. McCAIN. Mr. President, one of the top priorities of the Indian Affairs Committee, and one of my personal priorities, in the 101st Congress is to encourage the development of Indian reservation economies. In the 100th Congress, the committee held numerous hearings to solicit comments on ways to improve current programs as well as to explore new ideas which would better assist tribes in alleviating the harsh economic conditions found on Indian reservations.

One alternative is a bill that Senator INOUYE is introducing today calling for the establishment of an Indian Finance Development Corporation. While I support the concept of an institution which would provide development capital, business assistance, and loan guarantees to Indian businesses, I must refrain from cosponsoring the bill in the same form as it was vetoed last year. Unfortunately, the administration did not fully participate in our deliberations on the Indian Finance Corporation. Nonetheless, the President's veto message did raise several concerns which need to be fully addressed. Among those concerns are: possible duplication of programs authorized by the Indian Financing Act and Federal oversight of the financial activities of the Corporation.

The issues raised in the veto message cannot be ignored simply because a new administration has taken office. The issues raised transcend administrations to the question of how can we best utilize precious Federal dollars to effectuate real change in Indian reservation economies?

I am committed to exploring every realistic proposal which will provide tribal governments with a set of economic tools to encourage business development on their lands. In the near future, I will be reintroducing a new version of the bill I introduced last year which utilizes Federal tax incentives to encourage greater tribal-private sector partnerships. This bill, which has been the subject of review by a group of Indian economic experts, will be a mixture of select Federal tax incentives and other forms of Federal assistance. I look forward to a thorough discussion on this bill as well as the Development Finance Corporation bill.

With regard to the Development Finance Corporation, I would like to see the new administration become fully engaged in our deliberations. There is no doubt that there is a need for capital investment in reservation economies. There also can be no doubt that the Federal Government cannot afford to duplicate programs and services already available. I am prepared to work with the administration and Chairman INOUYE to find new ways to address the deplorable economic conditions in Indian country. With deliberate effort and the full participation of all parties, I am confident that we can reach agreement on legislation which will provide for increased public and private support for the development of reservation economies.

DEATH OF WILLIAM NICHOLS, A U.S. REPRESENTATIVE FROM THE STATE OF ALABAMA

Mr. NUNN. Mr. President, like all of my colleagues in the Congress, I was deeply saddened by the death last De-

cember 13 of my close friend and colleague Congressman Bill Nichols.

I knew and worked with Bill Nichols from my first days in the U.S. Senate. As a member of the House Armed Services Committee, Bill worked tirelessly to promote a strong and effective national defense. When I was chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee in the mid-1970's, Bill Nichols was my counterpart on the House Armed Services Committee. His dedication and commitment to the men and women in uniform was evident to all. I recall our work on the landmark personnel legislation of the 1970's—the Defense Office Personnel Management Act and the pay and benefits legislation of the late 1970's.

Bill Nichols became involved in another piece of landmark defense legislation in the 1980's—the effort to reorganize and reform the Pentagon. The passage of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 represented the most far-reaching reform of the national security establishment since the National Security Act of 1947. Along with Senator Goldwater, Bill Nichols was one of the driving forces behind this milestone legislation, and his colleagues in the Congress recognized Bill Nichols' role in this historic effort by naming the legislation after him and Senator Goldwater.

Bill Nichols ably represented the people of the Third District of Alabama for 22 years, but he was also a statesman of national stature. All of us in the Congress will miss his wise counsel and gentle humor.

Secretary of the Navy William Ball also knew Bill Nichols well, and Secretary Ball recently wrote a very moving tribute to Bill Nichols. I ask unanimous consent that Secretary Ball's tribute, most of which appeared in the Washington Post on January 3, be inserted in the RECORD at this point.

There being no objection, the tribute was ordered to be printed in the RECORD, as follows:

REMEMBER BILL NICHOLS

(By William. L. Ball III)

There will be sensed a missing presence as members of the House of Representatives are sworn in at the Capitol today. Sadly, the Third District of Alabama will not be represented, its citizens having gathered to bury their Congressman ten days before Christmas.

To colleagues, constituents, and those both in and out of government who knew him, Bill Nichols was a man of uncommon strength and uncommon virtue. His way was that of one who had been tested by hardship time and again, who had bested obstacles few would ever confront, and yet who instinctively never forgot the simple rule at the core of his steady values. To exercise good sense, which was his practice, he knew that a Congressman had to remember who he was . . . and where he came from.

To fellow southerners, he was a model public man, admired for his considerate treatment of people from all stations in life, his agreeable manner and his genuine interest in the circumstances of others . . . his selflessness, unquestioned integrity, and the strength of his convictions. For a time in Alabama he was a cotton man, which meant above all he was fair. Always fair.

So obvious were these qualities in Bill Nichols and so sudden his departure from us that no amount of mourning can compensate for the tributes he deserved here but never received. So many were those whom he inspired in the old-fashioned way—not by image but by living example—that he leaves empty on this day far more than one seat in the House.

There is a diminished roster now in the Congress of those who had a part in two of the traumas of this the American century. Bill Nichols saw what the Great Depression wrought on the rural South—his eleventh birthday was two weeks before the stock market crash. Twelve years later he left Auburn University for combat service in the German forests on the front lines of World War II. Those experiences gave to Bill Nichols and thousands of others who survived war and depression an extraordinary and even historic determination to succeed, to serve, and to create opportunities for America's next generation.

And that's exactly what they did. With an impact and reach none could foresee in 1945, they rebuilt, retooled, and regenerated over the span of four decades a country that without them surely would not have hit full stride.

So, of the achievements of Bill Nichols and the legacy of his generation, my generation ought to pause and take note. The gentleman from Alabama worked hard to preclude the repetition of mistakes for which his generation paid an awful price. The lessons of his remarkable life are many and the good of the republic requires that they be heeded. And were he here today and asked by the freshman House Members in the class of '88 what one thing they above all should do . . . well, he would smile, and with that good-natured twinkle in his eye suggest quietly that a Congressman ought to always remember who he is . . . and where he comes from.

TRIBUTE TO SENATOR JOHN MELCHER

Mr. LEAHY. Mr. President, as the 101st Congress convenes this year, we will all miss the wisdom and insight of a man I had the pleasure to work with for many years.

No longer will Senator John Melcher, the Senate's only veterinarian, be seated at my right side as ranking majority member of the Senate Committee on Agriculture, Nutrition, and Forestry.

I am sure I speak for all members of the committee when I pause to pay tribute to a rugged individualist who will be missed by farmers and ranchers across America.

But, primarily, he will be remembered as a man who took on concerns for the poor and the hungry the world over. He realized that farming is not only growing food, it is also feeding people.

Where borders and income levels have divided men, women and children, Senator Melcher helped remind the more fortunate among us that we are, all of us, inhabitants of the same world.

Coming from the sweeping wheat fields of Montana, he realized more than most of the incredible ability of our Nation to feed itself and much of the world, and he saw how much of that was not being done.

He felt the terrible injustice of stockpiling huge agricultural surpluses while millions go hungry, and committed himself to rectifying the irony.

In the Senate, he reflected his concern for persistent hunger and malnutrition with continued support and development of legislation to help the hungry.

In the last Congress, he moved the agricultural aid and trade mission into law.

In the last year, I had the pleasure to work with Senator Melcher on the most significant improvements to our Federal food programs in over a decade, the Hunger Prevention Act of 1988.

As always, he took the lead on TEFAP, the Temporary Emergency Food Assistance Program, which provides up to 15 million malnourished Americans each month with modest amounts of surplus commodities. His help in instituting crucial improvements extended this vital lifeline for 2 years.

He will no longer join us at the Agriculture, Nutrition, and Forestry table. But we will continue to work in the spirit of humanity and achievements set forth by Senator John Melcher of Montana.

I ask unanimous consent that the following article be inserted in the RECORD at this point.

There being no objection, the article was order to be printed in the RECORD, as follows:

OF MELCHER AND HIS JOB WELL DONE

(By Colman McCarthy)

In his last days as a senator, John Melcher, the Montana Democrat, is tending to a final constituent service. It involves housing for two of his most loyal supporters, Abigail and Eddie. They are the office cats, a pair of golden-hair short-tailed Manxes that Melcher, the only veterinarian in Congress, has had as longtime companions.

Post-Senate life promises to be sunny for the cats—they'll end up in homes, not alleys. It will be fine, too, for Melcher. He leaves with achievements, not memories. His narrow defeat in November, after 12 years in the Senate and seven in the House, ends a career marked by consistent liberalism and free of the common Senate viruses, vanity and sophism. Next to the Kennedys, Doles and other well-publicized Byrds of bright plumage, Melcher was content to be one of Washington's best-known unknown senators.

His politics had little padding. He was a core-issue man, a farm-state senator who knew that agriculture should be as much about distributing food as growing it. In the current farm bill, the trade and food assist-

ance sections originated with Melcher. In the last Congress, he pushed the Agricultural Aid and Trade Mission bill into law.

Melcher persisted with one argument: For both economic and moral reasons, effective distribution of food should be a major part of the nation's farm policies: "We Americans have food in massive oversupply," he said in 1985. "That oversupply has crushed farm prices. We must dispose of the surpluses in order to strengthen prices, and we should dispose of them by feeding the starving and hungry overseas and the malnourished at home." Millions of Third World people who never heard of John Melcher are getting food because he worked to deliver it.

During the Reagan years when, club in hand, government officials ended the war on poverty and began a war on the poor, Melcher and other senators were forced into defensive legislation: working for amendments to keep things from worsening. One effort was typical. In the summer of 1986, some midlevel numbers people in the Reagan administration played with their calculators and decided that $300 million should be transferred from African famine-relief programs and Food for Peace. The money would go to El Salvador, Honduras, Guatemala and Costa Rica for unspecified economic-development programs. Melcher, seeing the transfer as a hustle to take money from the hungry of Africa to feed the Reagan-Elliott Abrams political agenda for Central America, led a 51-49 vote against the raid.

Such public interest groups as Bread for the World found Melcher to be ever available and approachable. On coming to the House in 1969, he aligned himself with environmental groups then working to enact the first federal strip-mine legislation. Eight years would go by before a law passed, with Melcher and Rep. Morris Udall (D-Ariz.) as two of the leaders.

Melcher's availability showed in personal traits. In 1983, a group of Catholic sisters in Washington raised money to provide a day shelter for homeless women. A Sunday afternoon ceremony was planned for the opening. Because it was a shelter for women that was to be staffed by women, it was thought that women members of Congress should be asked to attend.

Invitations went out. Someone of egalitarian bent suggested that perhaps one male politician ought to be invited. Melcher, who had a daughter who worked with homeless women in Tucson, was chosen.

That Sunday afternoon, at Rachel's Women Center, none of the women members of Congress showed up. Melcher, accompanied by his wife, did. He spent much of the afternoon in the living room and kitchen talking with poor women. He donated money when he left, and told the Catholic sisters to call him or his staff when they needed help extracting food stamp or Social Security benefits for the women.

As a Western liberal, Melcher was part of a long line of progressives sent by Montanans to Washington: Jeannette Rankin, Thomas Walsh, Lee Metcalf, Mike Mansfield. Last month, Feminists for Life, a Kansas City, Mo., group, issued a report on Senate voting records. Three categories—antiwar, antiabortion and economic justice—were examined for what the feminists called "the consistent life vote." On 15 bills or amendments, Melcher scored 100—the only senator to be 15 for 15. Not that the American left especially wants to notice, but Melcher's opposition to abortion belies the comfortable stereotype that it's only the fanatic right that is prolife. What's liberal, he asks the left, about destroying the unborn?

John Melcher's work in the Senate benefited farmers, miners, the elderly, the hungry and a constituency of the world's poor. If all those who had been helped by him—from Washington's homeless women to the Bangladesh starving—could have voted in Montana, he would always have run unopposed.

FRED D. GRANT, CONVERSE COUNTY SCHOOL BOARD MEMBER

Mr. WALLOP. Mr. President, I rise to pay tribute to Fred D. Grant of Glenrock, WY, for his record of more than 50 years of service on the Converse County Wyoming School Board. In recognition of this loyal and unprecedented service, Fred was recently awarded the Golden Bell Award by the Wyoming School Board Association. In addition to the Golden Bell Award, Fred also won the Glenrock Area Chamber of Commerce Award for Outstanding Rural Achievement in 1975. Today, his community will honor Fred for his contributions to the school board. I join with them in congratulating a great public servant for a job well done.

Fred's remarkable record of achievement and dedication to Wyoming's public education system began in 1928 when he served as a board member and treasurer of Converse County Elementary District 16. He held that post until 1956 when that district was consolidated to form Elementary District 18. Fred then served district 18 as a board member and clerk from 1956 until January, 1972, when Converse County was reorganized into two school districts. Since the inception of Converse County School District No. 2 in 1972, Fred has held every office of the board, including his current position as chairman.

Born in 1904, Fred attended rural schools in Converse County Elementary District No. 16 until 1922. The remaining 2 years of his education were completed at Glenrock-Parkerton High School where he was active in football and basketball. He was among the students of the first class to graduate in 1924.

In 1928, Fred married Evelyn Stoddard and moved to a ranch 20 miles from town. They had two children and also raised a niece, putting her through high school and college. Fred has been active in the farm bureau and is a charter member of the Glenrock Soil Conservation District. He is also an active Mason, Odd Fellow, and a member of the Canton Marching Group. At the age of 84, Fred is still an active member of the Wyoming Stockgrowers Association and a rural fire warden.

Mr. President, Fred is a very genteel, quiet, and unassuming person, highly respected by all who know him. More importantly, this man's life should serve as an example not only to his children and grandchildren, but to all of Converse County, to Wyoming, and indeed all Americans. He not only appeals to our high moral standards, he embodies them. His service to the people of Wyoming is unparalleled and I hope my colleagues will join me in thanking Fred for all he has done to improve education and the quality of life in his community. Fred, I extend my heart and my hand to you for your honesty, your loyalty, and your faithful service to your fellow man. You make me feel proud and honored to serve Wyoming.

A FOND FAREWELL TO A LOYAL EMPLOYEE

Mr. DIXON. Mr. President, I take this opportunity to express my appreciation to one of our most valuable employees, Timothy Sean McAnarney, who is leaving our Senate staff in order to join the private sector.

Tim, though young in years, has worked with me longer than any other member of our U.S. Senate staff. Tim McAnarney and I first worked together from 1972 to 1977 during my terms of service as State treasurer of Illinois. Tim had the dual role of assistant director of the Banking Division and deputy investment officer, positions which entailed overseeing the investment of between $300 and $500 million daily.

Tim then joined me as administrative assistant following my election as Illinois secretary of state, performing important sundry duties and tasks until 1980.

In 1981, Tim became special assistant when I was elected U.S. Senator from Illinois. For the past 8 years, Tim has served ably as director of my downstate Illinois office in Springfield, which is our State capital. During the last 8 years, Tim has worked with individual citizens and local and State officials, assisting whenever and wherever he could.

Timothy McAnarney has an abiding interest in government, as evidenced by his academic career. He graduated from Creighton University in Nebraska in 1972 with majors in political science and journalism, and a minor in philosophy. He holds not one, but two masters' degrees. One is a masters in public administration, with a concentration in local government and its relation to State and Federal Governments. The other is a masters in community development, with a concentration in urban development and its related problems. Both of these degrees were granted by Sangamon State University in Illinois.

Tim McAnarney is now embarking on an independent career as a consult-

ant in politics and government. He is well prepared for this task as a result of his experience at the local, State, and national levels.

Tim's fellow staff members join me in expressing our regret at losing his talents and services, but we wish him well in his new endeavor.

IN HONOR OF LEE THOMAS, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. MOYNIHAN. Mr. President, I rise today out of admiration and respect for Mr. Lee Thomas, Administrator of the Environmental Protection Agency for the past 4 years. Mr. Thomas personifies the American public servant, a species, as I have stated before, that is on the verge of becoming endangered, and whose merits have been very much underestimated if not denigrated.

Mr. Thomas has been in administrator of great ability. He joined the EPA in 1983 as an Assistant Administrator under Bill Ruckelshaus, and helped to restore confidence in an agency that has suffered great harm at the hands of irresponsible and incompetent managers. His work at that time on the Agency's Hazardous Waste Program helped to solve some of the most troubled and persistent problems facing the country. This could not have been accomplished had it not been for his balance of judgment, integrity, and ability.

It is no reflection of Mr. Thomas that he worked for an unsympathetic administration that clearly placed its priorities in areas other than the environment. The administration owes a great debt to Mr. Thomas for keeping the Agency respected under these conditions.

As we say goodbye to my friend, Lee Thomas, we wish him well. It is safe to assume that we have not heard the last from Lee. I look forward to working with him in the future. I congratulate him on a job well done.

SAVING THE PANDA

Mr. CRANSTON. Mr. President, the charisma of the giant panda enchants Americans. We wait in long lines to see pandas. Their mating habits are front-page news. But the role accorded the panda by China as a unique kind of goodwill emissary is proving dangerous, perhaps even fatal, to the panda's survival as a species.

The distinguished biologist George B. Schaller, writing recently in OMNI magazine, expresses deep concern for the survival of the panda. He offers some helpful thoughts on what can be done to save the species.

As Schaller points out, "ultimately the responsibility for saving the panda rests with China." But it is important that all of us who care for this incredible species be alert to the threats to pandas and be ready to support our Chinese friends in the choices they must make to assure the panda's survival.

Mr. President, I ask unanimous consent that the article by George B. Schaller be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHINESE ARE CHIEF PANDA STEWARDS

Pandas are China's ambassadors of friendship; they are symbols of our effort to protect the environment. Decoratively colored and with an innocent, childlike quality, the panda has an extraordinary spiritual resonance. Why else would people endure long waits just to watch pandas sleep? Why else would there be an almost voyeuristic interest in their reluctant romances every spring?

Burdening this gentle, self-contained animal with symbolism, reverence, and adulation is harmless. But we also have a moral obligation to assure the species a future in its mist-shrouded mountain home. In this we have so far failed.

During the past decade pandas have declined in number. This has occurred in spite of legal protection, the existence of 12 reserves, and a joint China-World Wildlife Fund conservation program.

Currently China holds far too many pandas in captivity—about 100. The breeding record of these captives is dismal; two or three births a year, usually as the result of artificial insemination. Scattered in zoos and other facilities, the pandas are not part of any coordinated breeding program, and most animals don't ever get an opportunity to reproduce. Those that have cage mates show unexplained restraint; the males being especially inhibited suitors.

I believe all those pandas captured during the bamboo die-off should be given their freedom, for in the wild they will surely breed. . . . There should also be a moratorium on capturing pandas. The animals reproduce so slowly that every individual still in the wild should remain there. Instead, China is investing huge sums to build panda-breeding centers. I have a nightmare of more and more pandas being drained from the wild, until the species exists only in captivity.

In 1974 there were about 145 pandas in Wolong Reserve. Twelve years later there were 72. This startling decline was caused by poaching—villagers who live near the reserve set snares throughout the forest to catch musk deer. The musk gland is a high-priced commodity used in traditional medicines. Pandas are inadvertently strangled by the snares set for the deer. And in recent years they have been killed for their hides, many apparently smuggled to Japan. When I visited the Jiuzhaigou reserve in 1983, I saw so many snares that I was surprised to find any pandas left at all.

As of August 1987, the penalty for killing a panda could be as severe as life imprisonment or death. Because forests are seldom patrolled, however, few poachers are apprehended. China is proud of its effort to save the panda, but, if the government continues to neglect the poaching problem, it may lose the animal it considers a national treasure.

After China loaned two pandas to Los Angeles in conjunction with the 1984 Olympics, zoos began an undisciplined scramble to obtain pandas, and China was eager to proivde them. It soon became a rent-a-panda program, with each country collecting huge profits. Instead of being part of a breeding program in China, pandas have taken to the road to entertain an enthusiastic public that sees only a clownish face, not the image of a dying species.

Ultimately the responsibility for saving the panda rests with China. If the Chinese fail to make the correct choices now, only a few will linger in captivity, mementos of a better past.

—George B. Schaller, director of science for Wildlife Conservation International, author of "The Giant Pandas of Wolong," and former leader of WWF's panda program in China.

VERA MIOSSI

Mr. CRANSTON. Mr. President, Vera Miossi at the age of 97 died on Tuesday, October 18, in San Luis Obispo. The day before her death she had cast an absentee ballot for the November 8 election. It was the 20th consecutive Presidential election in which she had voted starting in 1912. That was the year in which California first enfranchised women, 8 years before the adoption of the 19th amendment to the Constitution.

Vera Miossi was a native Californian, born in 1891 in San Luis Obispo County. She lived a full and productive life as a homemaker and community activist. Her home was the Miossi La Cuesta Ranch, where she lived for 72 years—and where she died.

Vera was an old and dear friend of mine. She and her family have been exemplary members of their community. I will miss her as will her many friends throughout California.

SENATOR JOHN W. WARNER RECEIVES MINUTE MAN AWARD

Mr. BYRD. Mr. President, I should like to call to the attention of my colleagues that, this evening, the Reserve Officers Association [ROA] of the United States, at its 1989 national council midwinter banquet, will present our distinguished colleague from Virginia, Mr. WARNER, with the 1989 "Minute Man of the Year" award. This award is presented annually by the ROA to the citizen who has contributed most to national security in these times.

Mr. President, previous recipients of the ROA's annual "Minute Man of the Year" award include Presidents Ford and Reagan; Senators STENNIS, JACKSON, RUSSELL, THURMOND, NUNN, and STEVENS; and Representatives VINSON, RIVERS, SIKES, HÉBERT, MCCORMACK, LAIRD, ALBERT, MAHON, MONTGOMERY, and others.

Mr. President, the very able ranking minority member of the Armed Services Committee has a distinguished record of civilian and military service to the Nation. He left high school in

1944 to serve as a Navy enlistee in World War II. He subsequently served in Korea as a first lieutenant in the U.S. Marine Corps' 1st Marine Air Wing during the period 1950 to 1952; and he later rose to captain in the Marine Corps Reserve. His distinguished civilian service to the Nation includes that of Under Secretary of the U.S. Navy from February 1969 to April 1972; and Secretary of the Navy from May 1972 to April 1974. He was elected to the Senate on November 7, 1978; and took the oath of office in Richmond, VA on January 2, 1979.

Mr. President, I offer my congratulations to the former Navy enlistee, former Marine Corps captain, former Under Secretary and Secretary of the Navy, and current distinguished colleague and current ranking minority member on the Senate Armed Services Committee, Mr. WARNER, who richly deserves this distinguished award.

I ask unanimous consent to have printed in the RECORD a list of previous recipients of ROA's annual "Minute Man of the Year Award."

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PREVIOUS RECIPIENTS OF ROA'S ANNUAL MINUTE MAN OF THE YEAR AWARD

1958—Brig. Gen. David Sarnoff.
1959—Senator Richard B. Russell.
1960—Col. Bryce N. Harlow.
1961—The Honorable Hugh M. Milton II.
1962—The Honorable Carl Vinson.
1963—The Honorable Dennis Chavez (posthumously).
1964—The Honorable Margaret Chase Smith.
1965—The Honorable L. Mendel Rivers.
1966—The Honorable John C. Stennis.
1967—The Honorable Robert L. F. Sikes.
1968—The Honorable F. Edward Hébert.
1968—Francis Cardinal Spellman (posthumously).
1969—The Honorable John W. McCormack.
1970—The Honorable Melvin L. Laird.
1971—The Honorable Strom Thurmond.
1972—The Honorable Carl Albert.
1973—The Honorable Henry M. (Scoop) Jackson.
1974—The Honorable George H. Mahon.
1975—The Honorable Gerald R. Ford.
1976—The Honorable John L. McClellan.
1977—The Honorable Bob Wilson.
1978—The Honorable Charles E. Bennett.
1979—The Honorable Milton R. Young.
1980—The Honorable Samuel S. Stratton.
1981—The Honorable John Goodwin Tower.
1982—The Honorable G.V. (Sonny) Montgomery.
1983—President Ronald W. Reagan.
1984—The Honorable Sam Nunn.
1985—The Honorable William L. Dickinson.
1986—The Honorable Ted Stevens.
1987—The Honorable Bill Chappell, Jr.
1988—The Honorable Casper W. Weinberger.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The period of the transaction of routine morning business has expired. Under the order, the Senate is now to proceed to go into executive session.

ORDER OF PROCEDURE

Mr. HUMPHREY. Mr. President, will the majority leader yield for just a moment for a question?

The PRESIDENT pro tempore. Does the majority leader yield?

Mr. MITCHELL. I yield for a question.

Mr. HUMPHREY. Mr. President, it appears that the Senator from New Hampshire did not get a word in edgewise before the 3 o'clock arrangement. I wonder if the majority leader would permit an extension of 5 minutes prior to going into executive session.

Mr. MITCHELL. There are, in fact, several Senators who requested the opportunity to speak and introduce bills and resolutions. As I indicated to the Senator from New Hampshire and to them, if we got to 3 o'clock and Senators had not had the opportunity to make their statements and introduce their bills that I would then agree, after the votes later today, to have an additional period for the conduct of morning business within which time every Senator who wishes to do so would have the opportunity to speak and introduce bills. The reason the other Senators are not on the floor is that when I told them that they then left and will come back at that time.

So, if it is agreeable to the Senator, I will, at the conclusion of the last vote, which I now estimate will be about 6:15 p.m., determine how many other Senators there are at that time. I do know at least of two others. I will at that time make provision for the Senator and others to have the opportunity to address their remarks.

In the meantime, as the Senator from New Hampshire knows, the President has personally asked me to expedite the approval of his nominees for the Cabinet and the executive session is intended for that purpose. So I would like to proceed, in an effort to accommodate the President and his Cabinet nominees.

I note that the chairman of the Foreign Relations Committee and the distinguished ranking member are here to begin that process. Would that be agreeable to the Senator?

Mr. HUMPHREY. It is an offer I cannot refuse. I just want to make it clear that I cannot constrain myself in my enthusiasm for the measure introduced by our colleague from South Dakota, and I am anxious to speak to it.

EXECUTIVE SESSION

The PRESIDENT pro tempore. The Senate will now go into executive session.

DEPARTMENT OF STATE

NOMINATION OF JAMES ADDISON BAKER III, OF TEXAS, TO BE SECRETARY OF STATE

The PRESIDENT pro tempore. The clerk will report the first nomination.

The legislative clerk read the nomination of James Addison Baker III, of Texas, to be Secretary of State.

The PRESIDENT pro tempore. Under the order, there will be 1 hour of debate on this nomination. The control of the time will be by Mr. HELMS and Mr. PELL, with half the time to be controlled by each.

Mr. PELL. Mr. President, I yield myself such time as I may need.

Mr. President, I have the honor and personal pleasure of recommending the confirmation of James A. Baker III as Secretary of State.

The Foreign Relations Committee held 2 full days of hearings on Mr. Baker's nomination for this post. We covered a lot of ground and raised a wide range of issues. I am pleased to report to my colleagues that Mr. Baker answered our questions forthrightly and well. On January 19, the committee voted by 19 to 0 to recommend his confirmation as Secretary of State.

Possibly the area in which the committee questions were most searching was that of legislative-executive relations. I am glad to report that Secretary Baker gave us his assurance that he would seek to consult fully and frankly with the Congress on foreign policy and national security issues. In this regard, as a condition of receiving the advice and consent of the Senate, he has agreed to appear and testify upon request before any duly constituted committee of the Senate. With this understanding, Mr. Baker has laid the basis for a productive working relationship and bipartisanship in the conduct of our foreign relations.

Virtually without exception, administrations begin with a reservoir of good will and a spirit of bipartisanship in foreign policy. Based on my almost 25 years on the Foreign Relations Committee, I can attest to the good intentions with which each new administration begins.

In my experience the basic mood of the Congress at the start of each administration is also hopeful that bipartisanship and an atmosphere of cooperation in foreign policy will be maintained.

The events that lead to a breakdown of bipartisanship in foreign policy almost always stem at least in part, often entirely, from a lack of openness and frankness in the consultation process. Who can doubt that, in recent years, the handling of such issues as Contra aid, the Iran-Contra affairs and the reinterpretation of the ABM

Treaty were major factors in the breakdown of executive-legislative relations.

To be sure, there are serious substantive disagreements about these issues—but those disagreements are nothing compared with the sense of betrayal and mistrust that results from the feeling of being misled or misinformed. This is what drains the reservoir of good will and leads to the breakdown of the consultation process itself.

Several of my colleagues have urged that there be regular consultations with the Secretary of State and other senior administration officials on foreign policy and national security issues. The Foreign Relations Committee and other concerned committees provide a forum for such consultations, and I would urge the new Secretary when he is confirmed to take advantage of our open door. We will always stand ready to meet with him. It is my personal hope that the spirit of full consultation and exchange of views that marked his confirmation hearings will be maintained into the new administration.

James Baker becomes Secretary of State as a close friend and adviser of the President. Never before in our history has a Secretary of State come to this office with such a special relationship with the new President. Several of my colleagues joined me in expressing the hope that this special relationship will strengthen the Secretary in ensuring the leading role of the State Department in the conduct of our foreign relations.

In particular, Mr. Baker indicated his awareness of and concern about the practice of our ambassadors and embassies abroad communicating to other agencies and the White House by means of back channels without the knowledge of the Secretary of State. I want the new Secretary to know that he will have our support in his efforts to secure and maintain the leading role for the State Department in our foreign policy. Departure from that principle has often led us astray, as we have seen particularly in the Iran-Contra affair and in other issues going back to the Bay of Pigs invasion on Cuba.

I conclude these comments by urging my colleagues to join me in supporting James A. Baker III for confirmation as Secretary of State.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from North Carolina, Mr. HELMS, is recognized.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

Mr. President, James A. Baker III, hereinafter to be referred to as Jim Baker, is a man whose reputation is such that his nomination has been greeted with approval on both sides of the aisle. I appreciate the comments by my distinguished colleague and chairman of the Foreign Relations Committee. Indeed, the distinguished chairman moved immediately to hold the hearings on Jim Baker's nomination even before the inauguration—indeed, even before the Senate officially received the nomination.

These hearings proved to be both frank and forthright. Of course, there were some matters to which Mr. Baker had not yet made himself acquainted, and that is understandable. But he freely promised to get back to the individual Senators who sought additional information. The reaction of the committee, in my judgment, was a tribute to the nominee's reputation in this city. Jim Baker is a man who has fulfilled search of his past reponsibilities in a capable and professional manner. He went out of his way to make himself available to members of the committee and other Members of the Senate. I think that bodes well for a foreign policy based on bipartisan consultation.

I believe Mr. Baker is uniquely qualified to carry out the President's objectives in the foreign policy field. And, of course, the President comes with a strong mandate from the American people. In the field of foreign policy, the President is enormously qualified and respected. As a matter of fact, both Presidential condidates, during the campaign touched hidden springs of patriotic national feeling and we, as a result, have emerged as a people with our national identity reinvigorated.

We are proud to be Americans in a world which sometimes seems to demand faceless internationalism.

A former distinguished colleague from Georgia, Herman Talmadge, used to say that the State Department has a China desk, it has a Central American desk, and it has an African desk. What the State Department needs, he used to say, is an American desk.

I remember applauding that statement by Senator Talmadge, and I must say here this afternoon, Mr. President, that if I am not mistaken, Jim Baker's desk down at the State Department is going to be that American desk. But we shall see.

The world, in any event, is remarkably different from 8 years ago. We face a new Soviet leadership that is more subtle and more effective in achieving its goals. As a matter of fact, as the President-elect said during the campaign, "We must keep our eyes open. We must be cautious."

Indeed, the Soviet Union is much stronger, militarily, than it was 8 years ago. It has modernized its strategic weapons system and it has tested them against the United States.

But the Soviet economy is bankrupt. And the question is whether the United States banks will be permitted to finance the Soviet deficit in order to bail them out. About that we shall also see. And we addressed that in the give and take, the questions and answers, during the confirmation hearings for Jim Baker.

President Reagan could and did, rightly, boast that not one square foot of territory has fallen to the Communists during his 8 years in office. But the freedom fighters are still fighting in Afghanistan. The freedom fighters in Nicaragua have been left high and dry by Congress. And already thousands of refugees are knocking at our door in their flight from Communist tyranny in Central America. In Namibia, the State Department has mediated an agreement that will almost assuredly result in a so-called democratic takeover, quote unquote, by a Marxist terrorist group called SWAPO.

The same agreement leaves dangerously exposed in Angola our ally, a man who visited many of us in Congress many times, who sat in the Oval Office with the President many times, Jonas Savimbi. Jonas Savimbi is being left dangerously exposed in Angola while the Cuban occupation force supposedly withdraws.

These are only some of the important problems which our Nation faces. There are others as well: The future of free market economies in South America, the role of Soviet intelligence services in spreading the drug trade, the need to eliminate the Communist insurgency in the Philippines, the rise of the European Community as a single trading area in 1992—our trade and financial relationships with the Pacific Rim.

Finally, I would focus just for a moment on the growing menace of the proliferation of chemical warface capability to nations having a long history of promoting terrorism. President Bush said, during the campaign, that there was one thing that he would like to be able to tell his grandchildren, and I quote Mr. Bush:

> Your grandfather, working with the leaders of the Soviet Union, working with the leaders of Europe, was able to ban chemical and biological weapons from the face of the Earth.

Well, this Senator as well would like to be able to tell my grandchildren that I helped the President and I helped the Secretary of State attain this goal. From my discussions with the distinguished chairman I know he shares this goal, too. As a matter of fact, we are sponsoring together legislation in this regard.

So, in summation, Mr. President, I look forward to working with Secretary Baker on these and other challenges, and with a new President, a new administration, we all have a chance to make a fresh start to protect the national interests for ourselves and for those grandchildren whom we love so well.

I reserve the remainder of my time, Mr. President.

Mr. BENTSEN. Mr. President, I want to commend the Foreign Relations Committee for acting unanimously and promptly in approving President Bush's choice for Secretary of State, Jim Baker.

I have known Jim Baker for many years—as a political competitor, as a wise counselor, as a distinguished Secretary of the Treasury, and as a friend. He is a native of Houston who combines those praiseworthy qualities of intellectual toughness and personal friendliness. He comes from a family which has given our State generations of leadership.

Jim Baker has carried on that tradition here in Washington. By hard work and sound judgment, he has earned the respect of people here in Congress, throughout the executive branch, and even among usually skeptical journalists. His grasp of economic issues has won him the respect and admiration of the world financial community.

He has superlative credentials: an excellent education, military service, and two decades of private legal practice, including service on numerous corporate boards before coming to Washington. Throughout, he has maintained an impeccable reputation for integrity.

Jim Baker has also demonstrated talents particularly valuable in a Secretary of State, especially strategic vision and a sense of what is feasible. I saw that time and time again when I worked with him on Treasury Department matters like the 1986 tax bill and the revaluation of the dollar.

Like George Shultz, his distinguished predecessor, Jim Baker, is already an expert on those foreign policy issues which are becoming increasingly important—trade, debt, and economic growth. He also has the practical experience of successful negotiations with foreign governments on those very sensitive topics.

Jim Baker has promised a partnership with Congress on basic foreign policy matters. That is welcome, appropriate, and necessary if we are to avoid the suspicion and hostility which has sometimes hindered us in the past.

Mr. President, I strongly support Jim Baker as Secretary of State. President Bush has made a wise choice of a fine man.

The PRESIDING OFFICER. The Senator from Rhode Island, the chairman of the committee.

Mr. PELL. I yield such time as he may need to the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee.

Mr. President, I welcome this nomination of Mr. James Baker of Texas to be Secretary of State. I will vote to confirm the nomination. Mr. Baker obviously enjoys the trust and support of the President, as a result of their long professional and personal association. It is imperative that, with the important issues on the plate of the Secretary of State, decisions that affect our alliances and our basic relations with our adversaries must be made from a coherent sheet of music. The President and his Secretary of State have to be in sync.

Mr. Baker has a reputation as a problem-solver and as a pragmatist, and one who can work with others. Although Mr. Baker was understandably vague in his confirmation hearing on many of the cutting issues which will require decision by this administration, he made an effort to consult widely with committee members. He made welcome gestures toward the restoration of true bipartisan formulation of foreign and national security policies. The last 8 years have often been difficult and the bipartisan cohesion so necessary to act decisively and speak decisively as the leader of the West was strained and sometimes torn by stormy relations with the Reagan White House. Promises made by President Reagan were not always kept, and an atmosphere of trust did not develop. Indeed, while Mr. Baker was Secretary of the Treasury, there was a long period of unfortunate lack of cooperation in fashioning the concepts and language associated with the Omnibus Trade and Competitiveness Act. Although there was, finally, a measure of cooperation with the Congress on this matter, it was late in coming.

Regardless of that experience, and perhaps partly because of it, Mr. Baker appears to offer a renewed spirit of cooperation and consultation with the Senate, and I applaud that spirit. Indeed, a large portion of his remarks before the Foreign Relations Committee in his confirmation hearing on January 17, 1989, was devoted to this important problem. I, for one, am prepared to go more than halfway, go the extra mile, to forge a new cooperative spirit and cooperative arrangements with the new President and new Secretary of State. As an initial matter, I and my colleagues believe it important that a sensible consultative mechanism between the President and the Congress be established on committing the Nation to hostilities or into situations where hostilities may be "imminent," to quote from the War Powers Resolution of 1973. After 16 years of unsatisfactory experience since that legislation was passed by large majorities in both Chambers, it is overdue for a thorough overhaul and revision. That is the intent of the legislation which I crafted during the second session of the 100th Congress, and which bears the cosponsorship of the distinguished new majority leader, Mr. MITCHELL; the chairman and ranking member of the Armed Services Committee, Messrs. NUNN and WARNER; and the chairman and ranking member of the Intelligence Committee, Mr. BOREN; and Mr. COHEN, as well as Mr. DANFORTH. I hope other Senators will see fit to support this proposal. The Senate Foreign Relations Committee held hearings on it late in the last session, and there was not enough time for the extensive consideration that such legislation deserves on the floor of this body at the end of the last Congress. So I am reintroducing it now in the hope that this body will be able to address the issue and reach an agreement on the revisions I believe are necessary to make it a workable statute.

I hope that the appropriate committee, the Foreign Relations Committee, will be able to hold hearings on the measure. I am not saying that it is a perfect measure at all, but it is a good starting point and through the instrument of hearings and discussion and debate, the bill can be refined and, hopefully, enacted into law.

Mr. Baker indicated his willingness to work with the Senate on this matter during his confirmation hearing. In addition to the matter of war powers, there are many other important issues concerning which, if we work together, we can produce new solutions, such as the state of our alliance; arms control; trade relations; terrorism; international debt; and the state of American technology in the world, to cite just a few. There is a great deal we can do together, with a new common energy.

I look forward, therefore, to working together with Mr. Baker and his State Department team in the weeks and months to come in the 101st Congress.

I thank my good friend the chairman of the Foreign Relations Committee, for this courtesy in yielding time to me.

Mr. PELL. Mr. President, I suggest the absence of a quorum and the time to be charged equally.

The PRESIDING OFFICER. Is there objection? The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time remains on this side on the Baker nomination?

The PRESIDING OFFICER. The Senator from North Carolina is advised he controls 19 more minutes on the nomination of the Secretary of State.

Mr. HELMS. Nineteen?

The PRESIDING OFFICER. Nineteen.

Mr. HELMS. I yield to the distinguished Senator from Kansas as much time as he may require.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I thank the distinguished Senator from North Carolina.

Mr. President, once again, I want to enthusiastically endorse the nomination of Jim Baker to be Secretary of State.

I am proud to call Jim Baker a friend. Through the many years I have known him, I have learned something that I know President Bush believes strongly, too: If you want a job done right, Jim Baker is the one to do it.

I do not have to review his outstanding record of public service—a key player in virtually every Presidential campaign for the past 20 years; Secretary of the Treasury and White House Chief of Staff in one of the great Presidential administrations of this century; former senior official of the Commerce Department under President Ford; outstanding attorney in Texas for two decades.

He has been an "insider" in the best sense of that word; someone who has been at the heart of the action, and who knows how to get things done. He does his homework. He returns his phone calls, he responds to questions we have, and sometimes that is difficult to do with all the other duties he has.

He faces enormous challenges at State—how to handle Gorbachev's new style of Soviet leadership; how to keep the Western alliance strong and unified in the post-INF era; how to deal with terrorism and narcotics, with lunatics like Qadhafi and despots like Ortega. All of these challenges are going to be on Jim Baker's "plate." I am confident he is up to the job.

I should also note that Jim Baker brings to the job special knowledge of the international economic issues that, year after year, grow in importance: trade, debt, investment, exchange rates. Jim Baker understands them all.

And he understands, too, the need to work with Congress. His pragmatic, down-to-earth, straightforward manner is going to take some of the "foggy" out of Foggy Bottom.

President Bush could not have made a better choice. And I could not be more pleased that I am, to endorse this nomination, and urge Jim Baker's speedy, unanimous confirmation.

I thank the chairman of the Foreign Relations Committee, Senator PELL, and Senator HELMS for quick consideration of this nomination. It is a very important one. I understand if he is confirmed, as I know he will be, he will be sworn in as early as tomorrow because there are many things that need to be done.

I thank the distinguished ranking member on our side for yielding me time.

Mr. HELMS. I thank the distinguished Republican leader.

Mr. President, I yield 10 minutes to the distinguished Senator from Pennsylvania, as per our previous agreement.

Mr. SPECTER. I thank the distinguished ranking member of the Foreign Relations Committee.

Mr. President, I congratulate President Bush on his selection of the Honorable James A. Baker III as Secretary of State, and I am pleased to express my support and vote for his confirmation today.

My confidence in Jim Baker's ability and integrity arises from my dealings with him during the past 8 years in his capacities as Chief of Staff for President Reagan and Secretary of the Treasury. During President Reagan's first term, I worked with Mr. Baker on a variety of matters and found him to be prompt in responding both to his mail and telephone calls, which is a relatively rare attribute in Washington. Early on, when Senator HEINZ and I dealt with Jim Baker on a variety of State issues including Pennsylvania judgeships, we found a willingness for a workable accommodation while he represented the administration's positions with vigor and fidelity. He served the President and the Nation admirably in the very difficult role of White House Chief of Staff.

Mr. Baker displayed these qualities in the important position of Secretary of the Treasury. His dealings with his foreign counterparts and the U.S. business community demonstrated skill and knowledge on the difficult issues of international and domestic economics. In his appearances before Senate committees, including mine, he was candid, prepared, knowledgeable and articulate in expressing the administration's positions, and skillful and congenial in the responses to opposing Senators' views and there were many of those.

Prior to occupying these important positions in the Reagan administration, Jim Baker served with distinction as Under Secretary of Commerce, had a distinguished career at the law, and an excellent educational background including the Hill School at Pottstown, PA.

Beyond his work in Government, I have admired Jim Baker's political skills. In some difficult contexts during the recent Presidential campaign, I found him both fair and tough in his responses to some touchy political issues on which I helped. Before that, I found him available and helpful on political matters in Pennsylvania including my own reelection effort.

By all standards, Jim Baker is a man of ability with a potential to grow in international affairs and the important position of Secretary of State. Enjoying the confidence of President Bush as he does, he is an excellent choice for this important Cabinet position.

Since I do not have the opportunity to serve on the Foreign Relations Committee, and therefore have not had an opportunity to make any formal or record suggestions to the perspective Secretary of State, I think it appropriate to use this opportunity for a few observations since it is likely they will come to his immediate attention. In fact, I would be surprised if he were not watching these proceedings, brief as they are, on this matter of importance to him as well as to the country.

I urge the new Secretary of State to move ahead with negotiations on strategic arms reduction at an early date. While I understand the necessity for a new administration to formulate its own position on these complex issues, many of the key players, including the President himself, have had experience from positions in the Reagan administration. To the extent that study and reflection are required for any modification of positions, so be it; but there is much to be said for maintaining the momentum of the INF success and to move ahead as promptly as possible with the important issues of start.

Beyond the Executive's care in negotiations, there is the added review by the Senate on the ratification process. On the INF treaty, the Senate demonstrated its ability to make a thorough review and improve the negotiated product. The public record shows the extensive activities of the Intelligence Committee, on which I serve, and the improvements on verification.

On Mideast peace process, I offer some observations based on study of that region in connection with my positions on the Intelligence Committee and the Foreign Operations Subcommittee of Appropriations, including a recent trip to Iraq, Syria, Saudi Arabia, Egypt, Israel and Jordan.

I suggest extreme caution by the New Secretary of State and the United States in dealings with the PLO. I had substantial reservations about the wisdom of initiating discussions with the PLO based on its record of terrorism, including Chairman Yassir Arafat's personal involvement in the murder of the United States Ambassador in the Sudan in 1974. I found little comfort in Chairman Arafat's meeting the U.S. standards considering the fact that it took so much prompting for him to get it right. The words were veritably put in his mouth before he could articulate them in a way satisfactory to our State Department.

There was no showing of even rhetorical sincerity in that context. Immediately thereafter, as we all know, his PLO lieutenants limited the Arafat renunciation of terrorism, saying it did not apply within Israel, presumably even to civilian targets. Then a few days later, Chairman Arafat threatened Mayor Freij of Bethlehem after the mayor had proposed a truce with the end of violence with the Intifada and the reciprocal stopping of force by the Israeli Army. Arafat then compounded the untenability of his position by denying his spoken threat in the face of a tape recording of his voice held by our State Department.

During my recent trip to the Mideast, I had an opportunity to talk with Mayor Freij on Saturday, January 14, and based on my conversation with him there is no doubt in my mind that he was in fact threatened. As I say, there was a tape recording that threats came from Arafat's own voice.

Against this background, I urge the prospective new Secretary to reexamine the merits of our dealing with the PLO. At an absolute minimum, we should require the substantial showing by the PLO of deeds instead of rhetoric. They ought to be put to their proof with deeds as opposed to mere words.

When the new administration and the Secretary of State have had an opportunity to become familiar with the difficult Mideast issue, I hope Secretary of State Baker would carry forward the activism of Secretary of State Shultz during the past year to year and a half.

On these and other foreign policy issues, I know that my colleagues in the Congress and I stand ready to cooperate with the new administration and the new Secretary of State on finding workable solutions. I applaud Mr. Baker on his stated interest in an accommodation with the Congress which provides a promising opportunity to achieve President Bush's stated interest in a bipartisan foreign policy which provides unity beyond the water's edge.

I thank the distinguished ranking member for the time. I relinquish the remainder of my time and yield the floor.

Mr. HELMS. Mr. President, now how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. HELMS. Nine minutes. I offer 6 minutes to the distinguished Senator from South Carolina and the other 3 minutes to the distinguished Senator from New Mexico, Mr. DOMENICI.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND, is recognized.

Mr. THURMOND. I thank the Chair.

Mr. President, I rise today in strong support of the nomination of James A. Baker III to the Office of Secretary of State.

As the fourth ranking person in the line of succession to the Presidency, the Secretary of State holds a position of enormous consequence in our system of Government. The Secretary serves as the principal foreign policy adviser to the President, and performs a vital role as a member of the National Security Council and as the first-ranking member of the Cabinet.

Mr. President, in my estimation, Jim Baker is eminently qualifed to serve as Secretary of State and I believe the unanimous 19 to 0 vote of the Foreign Relations Committee clearly reflects that fact. He is a man of the utmost integrity, and his remarkable energy and acumen have earned him the respect of those persons with whom he has worked and consulted. For the last few months of 1988, Mr. Baker served as the Presidential campaign chairman for George Bush. Prior to that, he established an impressive record as Secretary of the Treasury from February 1985 to August 1988.

Before serving as Secretary of the Treasury, he served 4 years as Chief of Staff and assistant to President Reagan.

His formidable negotiating skills and his capacity for hard work helped to secure passage in 1981 of President Reagan's landmark tax cut and spending reduction legislation. This legislation is responsible in large measure for the economic recovery our country is enjoying today. Moreover, Mr. Baker can list among his credits the important role he played in the successful legislative effort to place the Social Security Retirement Program on a sound financial footing, thereby easing the concerns of millions of our senior citizens whose economic survival depends on their Social Security benefits.

There were many other accomplishments while he worked at the White House, but they are too numerous to recite here. In short, the experience gained as Chief of Staff and as Treasury Secretary makes him particularly well-suited to serve in the position to which he has been nominated.

Mr. President, the fine record Mr. Baker has made for himself is but part and parcel of a distinguished professional career. After graduating from Princeton University in 1952, Mr. Baker served his country proudly as a lieutenant in the U.S. Marine Corps. Subsequent to his military service, he attended the University of Texas School of Law, graduating with honors in 1957. He then joined the law firm of Andrews, Kurth, Campbell & Jones in his native Houston, TX, where he practiced law for 23 years, and earned a reputation as a superb corporate lawyer. From August 1975 to May 1986, Mr. Baker served as Under Secretary of Commerce. Mr. Baker's strong sense of civic responsibility is evidenced by his active involvement in numerous public service projects, including the Texas Children's Hospital and Tumor Institute.

Mr. President, Jim Baker is a man of exemplary character whose work experience and education have prepared him well to meet successfully the enormous responsibilities of the office of Secretary of State. I have enjoyed working closely with Jim Baker in his role as Chief of White House staff and as Secretary of the Treasury, and I look forward to working with him in the future in his new capacity as the President's chief foreign policy spokesman.

I strongly support the nomination of Mr. Baker to this post. If confirmed by the Senate, as I am sure he will be, I have every confidence that he will perform the new duties with exceptional skill, as he has in the other positions he has held in the past.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico, Mr. DOMENICI, is recognized.

Mr. DOMENICI. Mr. President, I rise too in support of the nomination of James Baker as Secretary of State.

Mr. President, it has been my rare privilege in the last few years to get to know James Baker. We call him "Jim." On a personal level I consider him to be one of my best friends.

Perhaps I am somewhat prejudiced but, I do not believe that we have had a better public servant serving our country and President Reagan than James Baker. I am firmly convinced that when he has completed his term as Secretary of State, we will be able to say that there has been no finer Secretary of State in all our history.

He is just that kind of person. He does everything he undertakes well. He succeeds. He is talented. He understands and works hard with all kinds of people to achieve results.

In his confirmation hearing James Baker said the world is in a transition period. Nothing could summarize where we are better, and no one could serve America, President Bush, and the world better than James Baker as Secretary of State.

Mr. President, the world is moving rapidly toward democracy, toward personal freedom, toward more free enterprise and entrepreneurial spirit. If you would, the world is moving toward capitalism as the best economic system to produce goods and wealth for people.

James Baker understands that transition. He understands the world is changing our way in terms of the worth of an individual. America is a civil country, and wants to have a great civil effect on the free world,

and on those who have not been so free. We represent more than military strength. I believe he understands that.

James Baker will work with other countries to see that the world remains at peace, that prosperity continues to abound in the world, and that the free institutions of government coupled with new economic and financial realities permit wealth and growth to spread to more and more people of the world. President Bush and Secretary Baker want to help create the kind of world that America is truly proud to be a leader in, and a leader of.

He will do that job, and do it well.

I know that in an hour or so we are going to be able to say to him, "Congratulations, and we hope you do a good job." The President was proud to submit his nomination to us. We are proud to confirm him in an official way as Secretary of State.

We say today, "Good luck, Mr. Secretary." You have a lot of friends and a big job. When you are finished the big job, we know you will have done well, and you will have even more friends, not only here but around the world. Those new friends will think well of you, our country, and our system of government.

I yield the floor.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I suggest the absence of a quorum with the time to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I rise in support of the confirmation of James Baker to be Secretary of State. Mr. Baker is unusually qualified for the most responsible position in the land next to the Presidency. As Treasury Secretary in the past administration, he played an important role in developing domestic fiscal policy and was the principal officer in charge of this Nation's economic relations with the international community. As a chief of Staff to the President, he brought a modicum of order to that maelstrom of competing interests, the White House. And, unfortunately, for Democrats, he brought his vast organizational skills to bear as campaign advisor to then-candidate Bush.

Mr. Baker will need all of his experience and skills in his new job. In the Soviet Union, he faces a nation that has been reinvigorated by new leadership; it will be his job to assess whether or not that nation has truly changed its sports; it will be his duty to ensure that we rise to the diplomatic and political challenges posed by the new regime. In the rest of the world he will have to assess and protect United States interests in the face of a mounting Third World debt crisis, economic challenges posed by Japan, Germany and other industrialized nations, and violent regional conflicts.

Mr. President, the world has changed considerably in the last decade. The old assumptions have gone out the window. The world has grown complex; the United States is no longer alone in possessing military or economic power. There are new dangers, but also new opportunities. It is up to Secretary Baker to help guide us through this new world, to assess its challenges, and provide us policies to cope with them. I am confident that Secretary Baker has the wisdom to do these things.

Mr. WARNER. Mr. President, I would like to say a few words about Jim Baker, our next Secretary of State. I have known him for a very long time.

He served in the U.S. Marine Corps, an institution I am privileged to have had some affiliation with through the years. He brings that background, together with the widest range of experience, to the Office of Secretary of State at a most critical time in the history of our Nation.

He follows in the footsteps of George Shultz, a man who won the admiration of the Congress of the United States and indeed the confidence of this institution and the respect of the people of our Nation. Jim Baker, in my judgment, will be able to pick up and carry right on with the same measure of confidence given him by the people, the same respect given him by this institution, the Congress, at a time when the world seems to be filled with uncertainties.

I just stepped out of the hearing, as did other colleagues present here, being conducted by the Armed Services Committee on the confirmation of John Tower. Many subjects have been raised thus far in that hearing, among them the need to provide for a national strategy—a strategy that recognizes the limited assets of this country, but the willingness of this country to not only protect our citizens but those of our allies and the free world.

It is my hope that Secretary of State Baker, hopefully Secretary of Defense John Tower, and the National Security Adviser to the President, can proceed to create volume 2 of the national strategy as required by the Congress. Volume 1 was presented to us last year. I hope volume 2 comes in perhaps a more timely fashion, because as we devise our defense budget, being guided by the priorities of President Bush and his predecessor, President Reagan, whose strong record of national defense is second to none in the history of our country, we will need the guidance of the Secretaries of State and Defense in our own reordering of those priorities in matching the budget that hopefully will be agreed upon between the executive and legislative branches to these funds.

So I wish Mr. Baker very well. I urge him to address at the earliest possible time such subjects as the growing threat of terrorism and the ever-increasing proliferation of chemical weapons.

Mr. MURKOWSKI. Mr. President, I would like to take this opportunity to commend President Bush for his excellent choice of a Secretary of State.

James Baker III is uniquely qualified for the position to which we are about to confirm him.

A Secretary of State must be a person who enjoys the President's closest confidence. The Secretary must be able to command the respect of foreign leadership; must understand the political realities of the American system, and, I believe, must understand not only the diplomatic dynamics of international affairs but must also understand the economic realities.

Jim Baker has all of these qualities and many more. His confirmation, Mr. President, is a encouraging moment for those of us who have sought to increase U.S. exports and to improve the U.S. share of foreign markets.

As a former Under Secretary of Commerce, Secretary Baker is completely conversant with the needs of American business in the foreign trade arena. As a former Secretary of the Treasury, Jim Baker is an expert on our trade deficit.

If we are to deal properly with our trade imbalance, Mr. President, it is essential that our embassies abroad become the front lines in our battle. Our diplomats must put economic and trade matters in the forefront of democracy. Jim Baker is the man to lead in these endeavors.

Further, Mr. President, as Secretary of the Treasury, Mr. Baker established himself as a world leader in the solution of international debt problems.

In the course of 2 days of hearing before the Foreign Relations Committee, Secretary Baker revealed a clear vision and a bold sense of initiative in dealing with our foreign relations problems.

I believe that his definition, in his opening statement, of the "five significant transformations" will long be quoted by students of foreign policy.

In the midst all that has been written about American foreign policy in the last decade of the century, Secretary Baker's five points cut clearly to the point and outline the challenges.

Throughout the 2 days, Mr. President, Secretary Baker fielded questions on every aspect of America's for-

eign interests. His grasp of the board concepts and the details was, indeed, remarkable. Those of us who have known Jim Baker have known of his brilliance, but we have rarely had such a clear demonstration of it.

The most encouraging note sounded in those hearings, Mr. President, was Mr. Baker's call for a new bipartisanship in foreign policy. This call, echoed by our colleagues from both sides of the aisle, and indeed from both sides of this Hill, promises us a new view of international affairs. It is possible that our outlook on the world abroad may provide us with the same view, no matter at which end of Pennsylvania Avenue we stand to look outward.

I firmly believe that President Bush, advised by Secretary Baker, stands the best chance of bringing back a truly national view of foreign affairs. I am encouraged that so many of our colleagues appear willing to join in that attempt.

It is a pleasure to join in confirming Mr. Baker's appointment as Secretary of State. I look forward to lending him my support in building a bipartisan foreign policy consensus and in expanding American trade.

Mr. HUMPHREY. Mr. President, I commend the chairman and ranking member of the Foreign Relations Committee for moving expeditiously to bring this nomination to the floor of the Senate.

After talking privately with Jim Baker, and listening to his testimony for 2 days before the Foreign Relations Committee, I am pleased to support this confirmation. Secretary Baker made significant commitments to the committee on a number of critical issues, and I am confident that he will stick to his word.

The world is a different place than it was 8 years ago. When measured against the yardstick of freedom, the world is a better place. Much of the credit for the success must go to the so-called Reagan doctrine—the former President's commitment to provide material support of anti-Communist freedom fighters. In his farewell speech, President Reagan noted that the Soviets are leaving Afghanistan, the Cubans are withdrawing from Angola, and the Vietnamese are on the verge of leaving Cambodia.

Mr. President, the Reagan doctrine has created an opportunity for peace with freedom in these conflicts. However, as promising as things now appear, there is still a long way to go In each conflict, there is the potential for either historic success or disastrous failure. As I stressed in the hearing, it will be the challenge of the next administration to transform these opportunities into true success.

On this score, I was encouraged by Secretary Baker's testimony. Secretary Baker unequivocally asserted that both he and President Bush are firm believers in the Reagan doctrine. He stressed that he sees no inherent conflict between providing material assistance to freedom fighters on the one hand, and promoting an atmosphere between the United States and the Soviets that fosters the liberalization of Soviet society. At a time when many conservatives are concerned that important regional issues will be relegated to the back burner in the quest for "détente," I welcomed his stated commitment to stand by the freedom fighters that President Reagan so successfully supported.

During the 2 days of hearings, we had an opportunity to question Secretary Baker closely on the specific nature of continued United States support to both the freedom fighters in Afghanistan and Angola. He unflinchingly pledged a continuation of United States military support to the Afghan resistance, as long as the Soviets continue to provide military aid to the Kabul regime.

He importantly reaffirmed that our objectives in Afghanistan do not solely call for the withdrawal of Soviet troops. Our objectives also call for a free expression of self-determination by the Afghan people, free from coercion or interference by any outside forces. This commitment is increasingly important, as it appears that by February 15, the United States will only have achieved part of our objectives. The next step—the restoration of a truly representative Afghan Government in Kabul, is equally important. To increase United States interaction with the Afghan resistance, Secretary Baker has agreed to review the unanimous proposal of the United States Congress, that an ambassadorial rank special envoy be named to the Afghan resistance.

With regard to Angola, Secretary Baker agreed that United States assistance to UNITA should continue until a genuine process of national reconciliation is reached that is fully acceptable to Dr. Jonas Savimbi. President Bush, in a letter this month, pledged continued United States support until a "process" of national reconciliation is reached in Angola. While this Senator applauds the initiative of the President, and the testimony of Secretary Baker, many Senators intend to closely monitor U.S. policy in the weeks and months ahead.

Secretary Baker heard Senators express concern for the future of Cambodia. As he enunciated in his statement before the committee, the United States "must work for a new Cambodia, free of both Vietnamese occupation and the genocidal Khmer Rouge." This Senator agrees with the admonition of Senator CRANSTON, that the United States must play a much more active role in pursuing our stated policy. Recent reports indicate that the Khmer Rouge is gaining strength and positioning for an active role in a future Cambodian Government. If the withdrawal of Vietnamese troops merely delivers the Cambodian people once again into the hands of the Khmer Rouge, the Cambodian tragedy will enter yet another season of suffering.

In addition to these important regional conflicts, Secretary Baker underscored the importance of our relationship with the Republic of China. He agreed to inform the Congress of requests that the administration receives from Taiwan, for military assistance, consistent with the Taiwan Relations Act.

Secretary Baker also highlighted the importance of our friends in Pakistan, and the opportunity to improve relations now that free elections have been held. Pakistan, despite bullying by the Soviet Union, has undergone a remarkable transformation to full democracy in recent months. We must continue to stand by our commitment to Pakistan's security and independence.

The question of the Middle East was discussed extensively during the course of the hearings. As a Senator who was in Lebanon when the United States Marine barrack was attacked, I am acutely aware of the obstacles to peace in that troubled region. I am also deeply aware of the very serious security concerns of our friends in Israel. Despite our past failures, this Senator joined with other members of the committee in encouraging the Secretary to resume our efforts anew, to try to bring some resolution to the conflicts of the Middle East.

On the fundamental question of the sanctity of human life, Secretary Baker reaffirmed support for the so-called Mexico City policy, which bars United States assistance to programs or agencies which promote abortion as a method of family planning. Indeed, he cited his intimate involvement in the formulation of this policy while he was Chief of Staff to President Reagan in 1984. Similarly, he saw no reason to change our policy toward organizations which support or participate in coercive abortion or involuntary sterilization. Since 1985, funds have been withheld from the United Nations fund for population assistance because of their involvement with the family planning program in the People's Republic of China.

Finally, Mr. President, this Senator was encouraged by Secretary Baker's willingness to apply his expertise from the Treasury Department toward a greater effort to foster free enterprise and private ownership through U.S. foreign aid programs.

Mr. President, the next Secretary of State will certainly have his hands full. Much has been written lately

about the tranquil state of international affairs during this transition time. To be certain, President Reagan has passed on a remarkable legacy. Yet, there is much to do. President Bush and his Secretary of State have a historic opportunity to consolidate the gains of the past years.

This Senator welcomes Secretary Baker's overtures to work closely with the Congress. As was pointed out in the hearings, past conflicts with the State Department were not solely conflicts between the Democrats in Congress and a Republican administration. There were frequent conflicts between conservative Senators and the State Department. Many of the conflicts could have been avoided, with greater cooperation and a more receptive State Department.

In this spirit, I support the nomination of James Baker to be Secretary of State, and look forward to working with him on many important issues in the months ahead.

Mr. BIDEN. Mr. President, I am pleased to support the nomination of James A. Baker III to be Secretary of State. Mr. Baker is one of the most able people in Washington today, and I am confident he will be confirmed and will serve the country well as Secretary of State.

During his years of service to President Reagan, first as White House Chief of Staff and then as Treasury Secretary, Jim Baker earned a fine reputation in the Congress, in Washington, and around the country for his competence, his honesty, his dedication. I believe we can expect no less from him as Secretary of State.

Jim Baker will need those skills and more for the many challenges he will face. For I believe we are about to enter a dramatic period in American foreign policy, one full of opportunities. In United States-Soviet relations, we are on the verge of a new era of unprecedented cooperation. The Communist monolith is undergoing radical changes, and a new leader in the Soviet Union has called into question many of the assumptions which have guided the United States since World War II. The end of many regional conflicts and the ascent of democracy signal the beginning of a new era in the developing world, one in which the battles will be fought in the marketplace of ideas, not on the battlefield of war. These opportunities, along with many others, offer President Bush and Secretary Baker a chance to reshape the world.

Such moments in history are extremely rare. How we react to these challenges may well affect the next generation and beyond.

Two elements will be key to the success of this administration in foreign policy: continued cooperation between the superpowers, and renewed cooperation between the executive and legislative branches.

United States-Soviet relations have progressed at a dramatic pace in the last few years. The dialog begun by President Reagan and Mr. Gorbachev has placed us at the beginning of a new age of superpower relations. But it is only a beginning, and there is much to be done. The next few years will be crucial. A quick look at the superpower agenda tells the tale:

In arms control, the United States and the Soviet Union have agreed on an important framework for a significant reduction of our nuclear arsenals.

Negotiations are also about to begin to address the conventional forces imbalance in Europe.

The regional conflicts which have served as a thorn in the side of superpower relations are coming to an end.

The achievement of this agenda will require active and creative diplomacy. Good things do not, as the saying goes, always come to those who wait. We cannot sit back and cede the initiative to Mr. Gorbachev.

Unfortunately, Gorbachev's diplomatic maneuvers in recent months have created the impression that the United States and the Western alliance is willing to watch Gorbachev in hopes that he will continue to make unilateral concessions. And it has raised Mr. Gorbachev's stock in Western Europe to the point where, in some nations, he is more popular than the American President.

In spite of this, there are rumors that the Bush administration could undertake a lengthy review—perhaps up to a year—of our current strategic posture before resuming the START talks.

Such delay, in my view, would be both unnecessary and unwise. History will judge us harshly if we let this opportunity pass.

The new administration also offers us a new opportunity to renew the spirit of bipartisanship in foreign policy that has eluded us for the past two decades. The breakdown of the bipartisan consensus that marked the immediate post-war era has cost us dearly, as it has often divided the country, while sending mixed signals to friend and foe alike. During his testimony before the Foreign Relations Committee, Mr. Baker agreed, and declared that we must have bipartisanship to succeed.

The essential element to bipartisanship will be a strong working relationship with Congress. Mr. Baker has a head start in this area, because he is well known and well liked on Captiol Hill.

As I have emphasized to Mr. Baker both publicly and privately, however, the true test of bipartisanship will come over the use of force, the most critical issue in the foreign policy arena. In recent years, the United States has reached a full constitutional impasse on this question, as the executive branch has continually defied the war powers resolution, the mechanism established to reassert the congressional role in the decision to commit U.S. forces abroad.

I believe we can find a constitutional mechanism acceptable to both branches. But unless the two sides come to the table in good faith to negotiate such a compromise a resolution of this stalemate is impossible. Mr. Baker has pledged to work closely with Congress on this crucial question, so I look forward to his continued cooperation.

As we enter this new era in American foreign policy, we will need strong and steady leadership at the State Department. I am confident that Jim Baker has the ability to provide that leadership. I am eager to work with him, and I wish him well as he guides U.S. foreign policy into the 1990's.

Mr. DODD. Mr. President, earlier this week I had the pleasure of joining my colleagues on the Foreign Relations Committee in voting unanimously to support the nomination of James A. Baker III, to be Secretary of State, and I plan to vote today on the Senate floor to confirm his nomination.

What I find particularly encouraging about the nominations President Bush has made to date is the professionalism of the individuals selected, nominations such as that of Larry Eagleburger to be Deputy Secretary of State, the assignment of Vernon Walters to be our next Ambassador in Bonn, and of Thomas Pickering at the United Nations. I emphasize this point because I think it is the key to building a strong bipartisan foreign policy. I think Mr. Baker and I are in agreement that a bipartisan approach is fundamentally essential to the development of a sound and effective foreign policy, whether with respect to East-West relations, the Middle East, Central America, or southern Africa.

I believe the people appointed thus far understand this—they understand the importance of including Members of Congress. It's smart politics and it's good foreign policy. I hope that Mr. Baker will give serious consideration to including bipartisan congressional representation in the whole range of foreign policy endeavors, from policy planning sessions to treaty negotiations and state visits. Bipartisan congressional participation in these and other functions sends a strong message and helps to underscore our political diversity and our unity of purpose.

Now let me turn to the Latin American region, the area of the world with which I am most familiar. To begin, I want to focus attention again on the matter of personnel. Speaking as chairman on the Subcommittee on Western Hemisphere Affairs, I want to

make a special plea for expertise, quality, and professionalism for the region within the Department. There should be no ideological litmus test, and at a minimum the Assistant Secretary should have some firsthand knowledge of the region and be able to speak Spanish. While all nations of the region are important, Mexico, Brazil, and Argentina in particular deserve the very best people we have available.

I would like to focus my remarks on two areas, Central America and the Latin debt question. And by way of introduction, let me begin by saying the Bush administration has a golden opportunity to improve relations with our neighbors in this hemisphere in a way that the previous administration never understood.

Contrary to what others have thought, Mr. President, Central America is not the whole of Latin America. The emergency of democratic governments in Latin America over the past several years happened not because of our policies, but in spite of them. Today those new democratic governments are in severe jeopardy—in Argentina, Brazil, Peru. I have had a chance to discuss this matter with Mr. Baker and I feel confident that he understands this. I also know we are eager to get this matter behind us and to fashion a policy that will do just that. I am certain that Mr. Baker will have the strong support of the committee in fashioning such a policy.

The starting point is to recognize that the present policy toward Nicaragua and Central America failed. It failed to deal effectively with our security concerns as well as our political concerns. It held one hostage to the other and achieved neither. Clearly, it is not a policy we can "fall back on," and "tinkering" with it is no answer either.

What is urgently needed at this point is a new policy—a realistic and pragmatic one. Such a policy, in my view, will seek to protect our legitimate security concerns and, at the same time, help lay the groundwork for dealing with our legitimate political concerns. It will not seek the overthrow of governments, nor will it finance and support those who do. Rather it will fully endorse all of the provisions of the Esquipulas II agreement and use those provisions to vigorously pursue bilateral and regional negotiations.

In the absence of such a policy, we will be right back to the controversy that plagued us for nearly 8 years, and we will be unable to deal with the real problems confronting the nations of this hemisphere, starting with the debt issue. Foreign debt is the number one political problem throughout the region. To one degree or another, it bedevils every government from Mexico to Argentina. I plan to make it the major focus of attention in my subcommittee, and I hope to hold hearings on it early in this session.

In brief, let me say that there is no doubt in my mind that a double-pronged approach is needed. Some measure of debt reduction must be coupled with real economic reforms that will permit steady growth and development. Take Brazil, for example. We can all understand how burdensome it is for Brazil to carry an external debt in excess of $100 billion. What we can't understand is why less than 10 percent of Brazil's adult population pays taxes. Both problems must be addressed. The future of democratic processes and procedures in much of Latin American depends on it.

Mr. President, I will stop at this point. I look forward to working with Secretary of State Baker in the months and years ahead, and I, together with Congress and the American people, wish him well in his new post.

The PRESIDING OFFICER. All time of the nomination of Secretary of State designee James Baker has expired.

Under the previous order the nomination will now be laid aside temporarily and the Senate will proceed to the consideration of the nomination of Elizabeth Hanford Dole. Thirty minutes under the order has been allotted the nomination to be controlled by the Senator from Massachusetts, Mr. KENNEDY and the Senator from Utah, Mr. HATCH.

DEPARTMENT OF LABOR

NOMINATION OF ELIZABETH HANFORD DOLE, OF KANSAS, TO BE SECRETARY OF LABOR

The PRESIDING OFFICER. The clerk will state the nomination.

The assistant legislative clerk read the nomination of Elizabeth Hanford Dole, of Kansas, to be Secretary of Labor.

The PRESIDING OFFICER. Who yields time?

Thirty minutes have been allotted to the Senator from Massachusetts, Mr. KENNEDY, who controls 15 minutes and the Senator from Utah, Mr. HATCH, who controls 15 minutes.

The Senator from Massachusetts.

Mr. KENNEDY. I thank the Chair.

Mr. President, I yield myself such time as I might use.

Mr. President, today the Senate has before it the nomination of Elizabeth Hanford Dole, selected by President Bush as his Secretary of Labor.

The Committee on Labor and Human Resources heard testimony last week from the nominee, and the nomination was unanimously reported with the recommendation that the nomination be confirmed subject to the nominee's commitment to respond to appear and testify before any duly constituted committee of the Senate.

As I noted at the hearing, the challenges facing us in the employment and labor arenas are daunting, our resources are limited, and the solutions are inevitably controversial.

But Elizabeth Dole is no stranger to such challenges. With her distinguished service at the Office of Consumer Affairs, the Federal Trade Commission, the White House, and the Department of Transportation, she brings to the Department of Labor a wealth of experience, a solid commitment to excellence in public service, and a remarkable record of achievement.

I might also add that in addition to her extensive executive branch expertise, our exhaustive committee background investigation has turned up the fact that she also has close ties to the legislative branch, reportedly even to the Senate leadership. This information was confirmed by the minority leader, who had the pleasure of introducing the nominee at our hearing last week.

I was encouraged by the nominee's testimony, and I am hopeful we will begin to see a fresh start at the Department of Labor. It is no secret that the past 8 years have been controversial times for American workers. Too often, the rights and needs of working men and women took a back seat to the pro-business ideology of the past administration. Enforcement of existing health and safety protections declined, and the development of new standards has been too slow to keep pace with the risks of the modern workplace.

But President Bush has pledged a positive approach on many of the issues facing workers. He has stated his support for an increase in the minimum wage, for reasonable parental leave policies by employees, and for more sensitivity to the problems facing millions of workers in obtaining safe and affordable child care and health insurance. Those issues are priorities for American workers, priorities for the American people, priorities for Congress, and I hope they will be priorities for the Bush administration.

That is a formidable agenda for any Secretary of Labor—perhaps the most formidable since the days of F.D.R. and Frances Perkins. My wish for Secretary Dole is this—may the combination of President Bush and his new Secretary of Labor be as successful in meeting the challenges of the 1990's as that illustrious combination of President Roosevelt and Secretary Perkins was in meeting the challenges of the past. I want the Senate to confirm her nomination.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from Utah.

Mr. HATCH. Mr. President, I rise to wholeheartedly endorse and support the nomination of Elizabeth Dole to be Secretary of Labor. I thank Senator KENNEDY and Senator MITCHELL for holding the hearing and the scheduling of her nomination.

This floor action is very important and it is critical to a smooth and orderly transition that President Bush is able to have his Cabinet Members in place as quickly as possible.

I do not think there is a more important Cabinet Officer than the Secretary of Labor when you stop and think about the agenda and the jurisdiction that the Secretary of Labor has and the importance of it to America.

I applaud the selection of Elizabeth Dole for this key Cabinet position for many reasons.

First and foremost, Elizabeth Dole has demonstrated leadership in several top governmental posts. She has recently served in President Reagan's Cabinet as Secretary of Transportation, and this is a monumental task when you stop and think about it. Our Nation is tied together by a complex system of air traffic, railroads and, of course, interstate highways. To keep people and cargo moving as efficiently and safely as possible requires keen administrative ability as well as careful planning and analysis, all of which she has applied I think with aplomb in that position.

As President Reagan's Assistant for Public Liaison, Elizabeth Dole effectively communicated the President's views to the public and the public's views to the President. I know that she is committed to maintaining this two-way street for discussion and information as the Secretary of Labor.

I would also like to point out, though, this dialog is not limited to the representatives of organized labor and management. These are the two groups we usually think of when we talk about labor policy. Elizabeth Dole knows that the programs and policies of the Labor Department also affects the youth, disadvantaged minorities and women and communities as a whole.

As a member of the Federal Trade Commission, she had a balances approach, and she has balanced the need for regulatory safeguards with the need for invention, choice, and the lowest possible prices in the delivery of goods and services. This experience will serve her well as she balances all of the missions of the Department of Labor.

The Department of Labor, as I have mentioned, in my opinion, is one of the key agencies of the Federal Government. It bears much responsibility for the continued well-being of our entire Nation as well as for individual workers and their families. I am delighted that Mrs. Dole has accepted the challenge of leading this Department into the 1990's, and I urge all Senators to support this nomination.

Before I yield the floor, I would like to say just a word of thanks to the outgoing Secretary of Labor, Ann McLaughlin. It has been a privilege and a pleasure to work with her on labor and employment policy issues, including child care.

She has been open and responsive to all of our concerns here on the Hill and she has been straightforward in her approach to some of these very tough issues with which we have been involved. She was a great inspiration to 2,500 women in Utah last November when she delivered an informative and perceptive keynote address at my annual Utah Women's Conference.

Ann McLaughlin can be very proud of her service to the Reagan administration and proud that her shoes are being filled with a person the caliber of Elizabeth Dole. I wish her all the best and hope there will be another opportunity for us to work together soon.

Let me just say this: This department is important. There are a lot of very difficult issues. One of the things I have noted through the years is that there is such a delicate balance among the various competing groups, and particularly between management and labor in this country, that it is very difficult to make changes in the labor laws of this country. And that is as it should be, because those laws have been formulated, refined, and rerefined time after time to reach the status that we have today. Our system really does work.

I can tell you that there is a constant effort by those, at least on the left, to try and change these laws and to try and give one side of the equation more power, or more opportunity, or more benefits than the other. If we disturb this delicate balance, I think we are going to have more and more difficulty. There ae some very important laws on the books that we have to work on and that we have to continue to refine.

I do share our distinguished chairman of the committee's concerns about many of these issues. But it seems to me that one of the most important issues is child care. I am convinced Elizabeth Dole will help to bring about an effective child-care program in this country that will not have the Federal Government intruding into the homes of every family in this country, especially those families who might be directly or indirectly the beneficiaries of Federal funds.

I believe that this is not a time for us to make political statements, but it is a time for us to get behind this very fine woman and to help her to do this job.

I, for one, am pledging myself to do everything I can to help her and this new President as he takes over and addresses the tough issues in our society today.

With that, I just want to compliment Mrs. Dole again and tell her how much I admire her and respect her and support her for this position. I wish her well.

Mr. KENNEDY. Will the Senator yield?

Mr. HATCH. I am delighted to yield.

Mr. KENNEDY. Mr. President, I would like to be associated with the commendation that my friend, the ranking minority member, made about Secretary McLaughlin.

I further understand that Secretary McLaughlin came out and made that presentation even after the Senator from Utah was reelected in November; am I correct in that?

Mr. HATCH. She did.

Mr. KENNEDY. So that is even a further indication of her good judgment and wisdom.

Mr. HATCH. I am sure she would have gone to Massachusetts had the Senator from Massachusetts needed help during the election.

I can tell you, to make a long story short, that she has been a very great Secretary of Labor in the short time she served. I have a great deal of respect for her, as my good colleague does as well.

Mr. President, I reserve the remainder of my time. I would like to yield some time to the distinguished Senator from Pennsylvania.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 12 minutes remaining.

Mr. HATCH. How about the Senator from Utah?

The PRESIDING OFFICER. The Senator from Utah has 8 minutes remaining.

Mr. BYRD. Mr. President, as his nominee for Secretary of Labor, President Bush has named one of the most outstanding women—indeed, one of the most outstanding citizens—in America.

A native daughter of my home State of North Carolina—at least I should not say it is my home State. My home State is West Virginia, but it is the State in which I was born, the State whose motto is "To be rather than to seem."

A native daughter of North Carolina, Elizabeth Hanford Dole is a graduate of Duke University, from which she graduated in 1958, having served as president of its student body, and where she earned election to Phi Beta Kappa. From Duke, Mrs. Dole went to Cambridge, MA, where she earned a law degree from Harvard Law School,

and a master's degree in education and government from Harvard University.

More recently, for nearly 4 years—longer than anyone to hold the position since its creation—Mrs. Dole served as the Secretary of Transportation. She was the eighth person in that position and the first woman to fill that role.

As Secretary of Transportation, Mrs. Dole oversaw a department of more than 100,000 employees, and was steward of a budget of approximately $26 billion annually.

Prior to joining President Reagan's Cabinet, Elizabeth Hanford Dole had served as Assistant to the President for Public Liaison at the White House. From 1973 until 1979, she had been a member of the Federal Trade Commission. Her public offices also include having been the Executive Director of the President's Committee on Consumer Interests, and Deputy Special Assistant to the President for Consumer Affairs.

Currently, Mrs. Dole serves as a member of the Board of Visitors for the Duke University School of Business, the honorary chairman of the board of overseers at the Duke University Comprehensive Cancer Center, and a member of the visiting committee of Harvard University's John F. Kennedy School of Government. She is also a recent recipient of the Humanitarian Award from the National Commission Against Drunk Driving. In addition, in 1988 Elizabeth Hanford Dole was named in the Gallup Poll as one of the world's 10 most admired women.

Mr. President, The Gallup pollsters did not contact me, but I will cast my vote for her right now as one of the world's 10 most admired women.

Need I say further that among her most important duties, Mrs. Dole herself also numbers being the wife and helpmate of our colleague, the distinguished minority leader, Senator ROBERT DOLE from Kansas.

On many, occasions in the past, I have had the pleasure of working with Mrs. Dole, and I always have found her perceptive, cooperative, responsible, concerned, knowledgeable, and gracious. I look forward to working with her in the future after her confirmation, in areas vital to the Nation and areas vital to West Virginia.

Mr. President, I am delighted by Mrs. Dole's nomination to become the Secretary of Labor, and I look forward to joining our colleagues in voting to confirm this exceptional choice.

I do not have any hankering to become majority leader again, even if other Senators were disposed to give me that choice, but I did say to Mrs. Dole when she called me on the telephone at home to tell me the President was going to nominate her for this office, I said, "Well, Elizabeth, the only reason I would like to be majority leader again, if I could be majority leader for 5 minutes, would be to have the privilege of calling up your nomination before the Senate."

I meant that. I unqualifiably support this nomination. I thank my colleagues, and I yield the floor.

Mr. HELMS. Mr. President, I thank the distinguished President pro tempore for his gracious remarks about a gracious lady, especially since he is North Carolinian and especially since she is the wife of my leader. Elizabeth is a great lady.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Elizabeth Hanford Dole to be Secretary of Labor.

Mr. President, Mrs. Dole possesses excellent qualifications for the position of Secretary of Labor. A native of North Carolina, she graduated with distinction from Duke University, where she was president of the student body, and was elected to Phi Beta Kappa. She continued her studies at Harvard University, where she earned a masters degree, as well as a law degree, and made an outstanding record.

Mrs. Dole's career in public service began at the Department of Health, Education and Welfare, where she handled programs for the education of the handicapped. Under President Nixon, Mrs. Dole served as the Executive Director of the President's Committee on Consumer Interests, and she later became the Deputy Director of the White House Office of Consumer Affairs. Mrs. Dole has also been a member of the Federal Trade Commission, serving for 6 years.

Elizabeth Dole's remarkable ability to deal compassionately and effectively with people from all walks of life led to her being named as assistant to President Reagan for public liaison. In that position, she served with dedication and distinction as the President's goodwill ambassasdor to business, labor and other constituencies, with oftentimes diverse interests.

In 1983, Mrs. Dole became the eighth Secretary of Transportation of the United States. She was the longest serving Secretary of Transportation since the Department was created in 1967.

At the Department of Transportation, Mrs. Dole set policy direction for our Nation's aviation, highway, railroad, mass transit, and maritime resources. She also became the first woman to head a branch of the armed services, the U.S. Coast Guard. During Mrs. Dole's tenure, the Coast Guard played a leading role in our country's drug interdiction effort. Also, as Secretary of Transportation, Mrs. Dole accomplished major economic and safety reforms spanning all modes of transportation, as well as demonstated her effectiveness as an advocate of the Reagan administration's policies, which have led to the last 6 years of unprecedented economic expansion.

For 13 years, Elizabeth Dole has been the loving wife of our distinguished minority leader—and part of the time, majority leader—Senator ROBERT DOLE. If ever a task required a quick wit and engaging personality, that position does. All who have had the pleasure of knowing her, as have Mrs. Thurmond and I, will certainly agree that Mrs. Dole is one of the most able, dedicated, and attractive women in public service today.

Mr. President, Mrs. Dole has exhibited those traits of character and intellect which will serve her well as Secretary of Labor. I am certain that, in the post, as in all of the other positions that she has held, she will serve her country and her President with the utmost distinction, perseverance, and loyalty.

Accordingly, Mr. President, I strongly urge my colleagues to support the confirmation of her nomination.

Mr. METZENBAUM. Mr. President, I am pleased to rise in support in Elizabeth Hanford Dole as the next Secretary of Labor. She has an accomplished record of service: she has been the Deputy Director of the Office of Consumer Affairs; she has been the Commissioner of the Federal Trade Commission; more recently, she was Secretary of the Department of Transportation. She knows the ropes and she will do a great job, I hope, as the new Secretary of Labor.

Her new job may be her most challenging. The Department of Labor jurisdiction reaches into every aspect of working life. It includes job creation and training for those seeking work. It includes working conditions, employee benefits, and safety and health protections for those on the job. And it includes a retirement policy for those leaving work. The Department of Labor plays a key role in developing education, trade, and civil rights policy within the administration.

I am confident that Elizabeth Dole is up to the challenge. She has the qualities to be an outstanding Secretary. She is bright. She is hard-working. She is an activist who wants to make an impact. She is a pragmatist who can communicate with both management and labor.

She has already made strong efforts to build good relations with the Congress. I welcome such a relationship.

In passing, I should say, as the other two speakers before me have just indicated, that her predecessor certainly made every effort to cooperate with the Congress as well.

We have much to discuss, the new Secretary of Labor and those of us in the Congress concerned with labor issues. In particular, I am interested in increasing the participation of women in traditionally male-dominated jobs—

in construction, aerospace, and other industries. Under Secretary McLaughlin, progress was made in opening the doors with respect to issues of importance in that area. But there is much more to be done.

I am concerned about workers safety and health issues: protecting employee whistleblowers who report health and safety violations; and advancing worker notification of occupational hazards. We must reexamine pension policies, policies where some corporations have seen fit to rip off billions of dollars to which the retirees have a rightful interest; pension reversions and the impact of leveraged buyouts on pension security are issues of prime importance to this Congress. I look forward to working with the new Secretary of Labor in these areas as well.

We must make an effort to reach a consensus on these issues. There is no question we are not going to be in total agreement as we start. But if people of good will have the inclination to bring about compromise to solve the problems, we can and will overcome those hurdles that stand in our way.

I believe Elizabeth Dole will make that effort. I urge all of my colleagues to join us in supporting her confirmation as Secretary of Labor.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I am happy to yield 5 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. SPECTER. I thank the distinguished ranking member.

Mr. President, I am pleased to express my support and vote for the confirmation of the Honorable Elizabeth Dole for the position of Secretary of Labor. I particularly commend President Bush for this appointment because he rose above the inevitable bruises of the primary campaign for the Republican nomination for President in selecting this very worthy public servant.

I have had the pleasure to know Elizabeth Dole for more than a decade professionally, politically and personally. My first contact with Mrs. Dole arose from my longstanding friendship of some 45 years with her husband, Senator BOB DOLE, our distinguished Republican leader. I knew BOB DOLE as a war hero when I was a high school student in Russell, KS.

In December 1980, after Senator DOLE's reelection and my first election, we and our wives were guests of honor at a reception at the Elks Club in Senator DOLE's lifelong hometown and my boyhood hometown, Russell, KS. That was the first occasion when I saw Elizabeth Dole at close range and observed her congeniality and charm.

Elizabeth Dole has an outstanding educational background, with a law degree from Harvard; perhaps her only lifelong error is not choosing the Yale Law School. That Harvard Law School degree was attained at a time when it was harder to be a woman student than to succeed in the Harvard paper chase.

She served with distinction as a White House assistant to President Reagan in the early days of his administration and then took on the challenging job of Secretary of Transportation in 1983. In those positions, and even before on the Federal Trade Commission, Mrs. Dole demonstrated brilliance, tenacity, and statesmanship, or perhaps more accurately stateswomanship.

She and I had significant differences on the Conrail issue; but, in the midst of our disagreements, she was not only never disagreeable but always cordial. She performed with unique competence and accomplishment in the important position of Secretary of Transportation.

I very much admired her action when she resigned her high position to campaign for her husband. When the Republican nominee was decided, she equally demonstrated that she was a total team player by her hard work and extensive travels in support of President Bush's successful campaign.

When the Doles and Specters were part of a congressional delegation to the Southwest Pacific this past November, I had an opportunity to talk at length with Elizabeth Dole about her current interests and aspirations. I again found her to be totally devoted to public service and in search of an opportunity to make the maximum contribution to the Nation.

I was delighted to hear the news bulletins on December 24 that the President had offered and she had accepted the prestigious position of Secretary of Labor. Her appointment was immediately applauded by labor and management and those inside and outside the beltway.

Her new position brings me only one possible regret. She had been considering joining a Senate Bible group under the tutelage of a distinguished biblical scholar, Mrs. Naomi Rosenblatt, which meets in my office each Wednesday at 5 p.m. With her new workload, it now seems doubtful that she will be able to join us; but perhaps she will find that the Old Testament has sage advice on the problems of labor and we can have her contribution there as well as in the important position of Secretary of Labor.

I thank the chair and Senator HATCH and yield back the remainder of my time.

Mr. HATCH. I yield 2 minutes to the distinguished Senator from Vermont.

Mr. JEFFORDS. Mr. President, I am pleased to be able to address my first remarks in this body to the happy occasion of Elizabeth Dole's nomination to be Secretary of Labor.

I will keep my remarks brief, as her nomination is without controversy, and has been greeted with universal accolades. This is a rather rare phenomena for any nomination, but is especially so for the position which she is about to enter. It is perhaps the greatest tribute to her that is possible, one that I hope will continue at least through her appearance before the Labor Committee tomorrow afternoon.

The challenges before the Department of Labor and the Congress are tremendous. Mrs. Dole is fortunate in being able to build on the work of some very capable predecessors, Bill Brock and Ann McLaughlin. I was very pleased when she indicated that she will continue to focus on many of the issues that they had begun to address.

I was also very pleased that she has expressed a willingness to work with Congress to seek consensus solutions to the very knotty, problems before us. This consensus is critical. No one's long-term interest is served by turning these issues into political footballs; not the two parties, nor the administration, business or labor.

I look forward to working with Mrs. Dole. She has proven here competence, has demonstrated her commitment, and has earned our support. I urge my colleagues not just to support her nomination today, but to support her in her mission as Secretary of Labor.

I yield to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I would just like to conclude by thanking my colleagues for coming to the floor and making these supportive statements.

I have been here 12 years, going into my 13th year, nothing like the distinguished Senator from Massachusetts, but nevertheless have been intimately involved with the Department of Labor all during that time.

I do not know when we have had a time, since I have been here at least, when we have had a more open door, and the opportunity to do more good, than right now.

We have a President who has opened his arms to the Congress of the United States. He is a hands-on guy who basically, I think, is showing bipartisan spirit that has not been shown around here for years. We will have a new Secretary of Labor, hopefully, at the end of this vote, who in my opinion, really understands Government and what's going on in Washington. She can probably give BOB and the rest of us a few tips. We have a chance to do

some very, very important things for this country.

I believe that Elizabeth Dole will go down in history as one of the truly great Secretaries of Labor. I look forward to working with her and helping her in every way I possibly can.

I am very proud to support this nomination, and I surely hope all of my colleagues will also.

I yield the remainder of my time to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will take only a minute. I wanted to thank both the chairman of the committee and the ranking Republican member for their expeditious handling of this nomination. The fact that they were able to do it before the inaugural proceedings and have it on the floor today, in my view, is an indication of their willingness to cooperate. I am certain that they will receive the same cooperation from the nominee.

Mr. President, I believe I must hold a unique place in American history. Today, I stand before you, and for the second time ask that my Senate colleagues unanimously confirm the nominaton of my wife, Elizabeth, as a Cabinet Secretary.

And I must say, I do so without qualm or hesitation. Because, while I am undoubtedly favorably prejudiced toward the nominee, there is absolutely no question of her extraordinary qualifications for the job as Secretary of Labor.

It would take too long to read through her long list of credentials. Suffice it to say, that the combination of Elizabeth's educational background, her previous Government experience, and, most important, her unswerving commitment to better the lives of American men and women, makes her a natural for this position.

Public service is a phrase. But Elizabeth Hanford Dole brings that phrase to life. She has committed her time, her energies, her considerable abilities to being a force for progress and good in society. The many missions of the Department of Labor—ranging from job training to pensions—are missions I know that the new Secretary will tackle with sustained vigor, patience, and commitment.

I proudly urge my colleagues to ratify President Bush's choice for the Secretary of Labor by unanimously approving the nomination.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I rise to speak on the nomination of Elizabeth Dole to be Secretary of Labor.

Mr. President, I am happy to express my enthusiastic support for the confirmation of Elizabeth Dole to be our new Secretary of Labor. She has a unique combination of abilities and experience that will enable her to be a very distinguished member of the President's Cabinet. She has served as a staff assistant at the Department of Health and Human Services, a member of the White House staff, Deputy Director of the U.S. Office of Consumer Affairs, a member of the Federal Trade Commission, and as Secretary of Transportation.

In all of these positions she has served with distinction. President George Bush chose well when he nominated her to be Secretary of Labor. Our new Secretary of Labor will be faced with many complex issues. American businesses and American workers are being confronted with complex challenges as well. These include a growing demand for worker benefits and greater education in job skill requirements. To deal effectively with these needs in the workplace, we must have a Secretary of Labor who can provide imaginative and strong leadership.

In my view no one is better suited for this tough and challenging job than Elizabeth Dole. She not only has a thorough knowledge of how this Government works but she also has the management skills and personal qualities that will be needed to bring together labor, business, and industry to help solve the problems we face.

As a member of the Committee on Labor and Human Resources I look forward to working with Secretary Dole to find ways to improve access of those on the lower end of the economic ladder to better training and education, and to give them the job skills that are necessary in today's labor force.

I congratulate President Bush on this nomination and express the hope that Elizabeth Dole will enjoy the greatest possible success and satisfaction in the performance of her duties as Secretary of Labor.

Mr. MATSUNAGA. Mr. President, I rise to express my strong support for the nomination of Elizabeth Hanford Dole as Secretary of Labor. I believe that Mrs. Dole will bring to the Labor Department an outstanding wealth of political experience and a strong willingness to work in a bipartisan manner to resolve the many serious human resource issues confronting our Nation.

We all know that the United States has entered an unprecedented era of global trade competition. Until recent years, we Americans took it for granted that our Nation was by far the most economically powerful on Earth. But today we are the world's greatest debtor nation, and our economic prowess is not what it should be. We now understand that we must successfully compete with countries like Japan and West Germany in order to maintain our standard of living. In order to do so, we have finally begun to realize that we simply must do a better job to strengthen our labor productivity.

I am confident that Mrs. Dole will work with Congress to achieve consensus and to build bridges between business and labor as we strive to enhance the quality and flexibility of our work force. I urge my colleagues to vote in support of her nomination.

Mr. GRASSLEY. Mr. President, I rise in support of the nomination of Mrs. Dole as Secretary of Labor. I commend very heartily President Bush on his wise decision in choosing her as his nominee for Secretary of Labor.

I have had the opportunity, over the last several months, to work very closely with Mrs. Dole in her years that she served as Secretary of Transportation. But, more importantly, where you really get acquainted with people, I had an opportunity to work closely with her during the 1988 Presidential election cycle.

Mrs. Dole has spent much time meeting people in my State of Iowa, as well as people in many States around our country. She has a real understanding of the values and aspirations of the working men and women of this country. She appreciates the importance of encouraging positive labor-management relations and particularly as they in the next few years will work to further the longest peacetime economic expansion in U.S. history.

Mrs. Dole has the integrity, the determination, and the leadership ability to help overcome the many problems facing working Americans today.

I know that Mrs. Dole will meet the challenges ahead with the enthusiasm and commitment that is traditionally of Mrs. Dole in whatever she is involved with. I cannot think of a more deserving and appropriate nominee, and I wish Mrs. Dole much success in her position as the next Secretary of Labor.

I yield the floor.

Mr. WARNER. Mr. President, I would first like to join my colleagues in expressing our profound admiration and confidence in Mrs. Dole as she once again takes on a major responsibility on behalf of the citizens of the United States.

I thought to myself as I listened to the remarks of my colleagues of what portion of her career in life that I might address that has not been addressed thus far. Perhaps it has, but I would like to mention that aspect of Mrs. Dole that I have come to admire so greatly. And that is the institution of the marriage that she has with ROBERT DOLE, our distinguished colleague and minority leader and how these two individuals—and, coincidentally, I live in a place here in Washington in which they also dwell so I see quite a bit of them.

Morning, noon, and night they are out pursuing their responsibilities on behalf of the citizens of this country. Indeed, the two of them—and particularly Mrs. Dole—provide an inspiration which is quite unique for so many young people who likewise aspire at some point in their career to contribute of themselves as public servants to the improvement of the welfare of our citizenry.

As I say they do so within the bounds of a marvelous institution of marriage and both God-fearing people strongly believing in religious freedom and pursuing their goals as laid down in the Great Book.

Mr. MURKOWSKI. Mr. President, it gives me great pleasure to rise today in support of the confirmation of Elizabeth Dole as Labor Secretary. Seldom have we had the opportunity to vote in confirmation of such a qualified and well-respected individual.

I have had the pleasure of knowing Elizabeth Dole for several years now. In this time I have always known her to be fair—yet tough, firm in her convictions—willing to listen to new ideas and initiatives, and at all times representative of the highest ideals that we can expect from our Government officials.

Mr. President, Elizabeth Dole has had a long and distinguished career in Government service. She started her career here in Washington in the Department of Health, Education and Welfare, and she has consistently applied herself to public service for more than 20 years. Most recently, Elizabeth Dole completed a distinguished tenure as this Nation's Secretary of Transportation. Elizabeth Dole's vast experience will serve her well in her new position at the Department of Labor.

In the weeks and months ahead, this Nation, and this body, will be confronted by many challenging issues in the area of labor and business relations. Foremost among these issues will be those of minimum wage, child care, parental leave and other mandated benefits. In order to address these, and other serious issues in a responsible and bipartisan manner, it is incumbent upon us to confirm an individual with the insight and experience in Government that Elizabeth Dole possesses.

Mr. President, I ask that this body unanimously support the confirmation of Elizabeth Dole to serve as Labor Secretary.

Mr. DODD. Mr. President, I strongly endorse President Bush's nomination of Elizabeth Hanford Dole to be the next Secretary of Labor. I urge my colleagues today to vote to confirm her nomination.

Elizabeth Dole has an exemplary record of public service. Her tenure in public office is representative of her dedication to and compassion for the welfare of our Nation. Her work in five administrations has given her a solid grasp of the intricacies and nuances of policymaking and the relationship between the legislative and executive branches. This knowledge will be most beneficial when she tackles the challenge of managing the Department of Labor.

To be successful, the next Secretary of Labor must be involved with the full range of economic, trade, education and family issues. The Secretary-designee proved that she has a solid grasp of the challenges ahead in her statement before the Labor Committee last week.

I had the opportunity to discuss with the Secretary-designee, at her confirmation hearing, the necessity of a Federal parental leave policy and a comprehensive child care initiative. With close to 61 percent of women with young children working, parents should not be forced to choose between their work and family. Affordable and good quality child care is essential. Parents should be able to take time off to care for a newborn, newly adopted or seriously ill child without jeopardizing their job.

Today, I have introduced the Act for Better Child Care—to set up a comprehensive program that creates a partnership between the Federal Government, State and local government, and the parents who are choosing the best option for their children. Next week I plan to reintroduce the Parental and Medical Leave Act. It is my hope that the Department and my office will work together to forge balanced legislation in both these areas to protect workers from having to choose between their jobs and their families.

As the new chairman of the Securities Subcommittee, I intend to work closely with the Department on the issue of pension funds. We need to examine the implications for pension funds in a securities market that is becoming an institutional market. It is estimated that pension funds will hold about half of all corporate stock by the year 2000. Our capital markets and, indeed, the way major corporations are governed in this country, are greatly influenced by the behavior of managers of pension fund money. The Department needs to take a close look at the influence that ERISA has on pension managers' decisions.

President Bush, some of my colleagues and I are each talking about ways to develop a domestic service program for our Nation's youth. Senator MITCHELL, today, announced that the development of a comprehensive voluntary service program would be a priority of the 101st Congress. It seems to me that the Department has an important role to play in protecting the rights of the volunteers, preventing displacement of adult workers, supporting a youth service that encourages education and training opportunities and recommending areas where youth volunteers might be of greatest service to their communities.

It is vital that Elizabeth Dole give special attention to improving the performance of the occupational safety and health administration as she promised during her confirmation hearing. While the agency recently promulgated regulations for hundreds of workplace hazards, more work remains to be done.

One particular area of interest I have is in OSHA's performance relating to the construction industry. Last year, I chaired a hearing which examined the enforcement of safety and health standards of OSHA, with a particular focus on the tragedy of the L'ambiance Plaza building collapse which occurred in my home State of Connecticut in 1987. For the past several months, my staff has been working on comprehensive legislation dealing with improving safety in the construction industry. We hope to introduce that legislation next month and look forward to the Department's feedback.

Before closing, I would like to draw attention to a key component of the decade-long debate over changes in the tort system with regard to product liability: the inadequacy of first party insurance. Inasmuch as more than half the economic losses are the result of workplace-related accidents, I think we need a better understanding of why these insurance systems are failing workers.

The Longshoreman and Harbor Workers' Compensation Act, which the Department of Labor administers, has an excellent reputation, far better than that of State worker compensation laws. The Department needs to assess how the Longshoreman's Act and the workers' compensation laws are working with respect to such issues as the adequacy and timeliness of benefits as well as the ability of the system to address occupational diseases. Armed with such information, the Congress and the administration would be in a better position to assess alternatives to the existing tort system, be it for product liability or for automobile accidents.

Elizabeth Dole is qualified to handle the various issues my colleagues and I have raised today and at the hearing. Once again, I encourage my colleagues to join me in supporting her nomination. In anticipation of her confirmation today, I wish Elizabeth Dole success and look forward to working with her.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think we can assure the minority leader that we are going to have a positive vote. We have the votes on

this side for this nominee. Just as long as you have them over there, it will be all right.

Mr. President, I understand that our time now has expired for the consideration of the nominee for the Secretary of Labor and, as I mentioned earlier, I would hope that all of our colleagues would vote favorable consideration to what I consider to be an outstanding nominee.

I yield back whatever time I have.

The PRESIDING OFFICER. The Senator from Massachusetts has 8 minutes remaining. Does he wish to yield back?

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER. The nomination will be temporarily laid aside.

OFFICE OF MANAGEMENT AND BUDGET

NOMINATION OF RICHARD G. DARMAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of Richard G. Darman, of Virginia, to be Director of the Office of Management and Budget.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, the time to be evenly divided.

The PRESIDING OFFICER. If the Senator would withhold. This nomination, under the order, has 1 hour for debate, equally divided; 30 minutes on a side to be controlled by Senator GLENN and Senator ROTH.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum, the time to be evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, on behalf of the Governmental Affairs Committee, I am pleased to recommend to the full Senate for its approval the nomination of Mr. Richard Darman to be Director of the Office of Management and Budget, OMB.

Mr. President, I consider the OMB Director's post to literally be the second most powerful job in the U.S. Government. I am sure there would be other people in the departments who would say their jobs are very important, but outside of the power of the Presidency itself, I know of no office of Government where all the functions of Government come to a focal point as that area overseen by the Office of Management and Budget. That is where all of the different requests for money from different departments are put together. They are hacked at, they are considered and that office literally carries out the President's policies for the U.S. Government.

OMB has immense authority. Mr. Darman will certainly have a leading role in shaping national policy. As OMB Director, Mr. Darman will recommend where Federal dollars are spent and how hundreds of Government programs are managed. Mr. Darman will also review agency regulations pertaining to public health, worker safety and environmental protection. Mr. Darman will help determine not only what information the Government collects from the public, but much of the information the Government gives to the public.

The Committee on Governmental Affairs, which I chair, favorably reported Mr. Darman's nomination on January 23, following the completion of the committees' very thorough investigation and 2 days of hearings, including an extensive FBI report in which there was no derogatory material.

According to our committee rules and regulations, the ranking minority member, Senator ROTH, who is here on the floor with me, and I review that FBI report on behalf of the full committee. I would say Mr. Darman's report was exemplary, as far as I was concerned.

So Mr. Darman has met the committee's standards for personal integrity, professional competence and overall suitability for Presidential appointees.

During his confirmation hearings, Mr. Darman impressed me with his knowledge, his eloquence, his candor and also his wit. He will have to summon all of his considerable skills to tackle the Nation's No. 1 economic problem, the budget deficit, for it threatens not only our economic health but, indeed, our national security.

Quite frankly, I believe that this and the other challenges confronting Mr. Darman are the legacy of the flawed budgetary policies of the past administration, the Reagan administration. As a result of those policies, today we have a Federal debt approaching $3 trillion. That is "T" trillion dollars. It is growing at the rate of nearly $400 million a day. Each and every day we add $400 million to that debt. The United States now has the unenviable distinction of being the world's largest debtor nation, and our trade imbalances top $150 billion per year.

Clearly, we no longer reign unquestionably supreme in the world marketplace. Even more important, the woeful state of financial affairs here at home limit the resources we should be investing to strengthen our future productivity and economic viability. While we must currently pay off the interest due on our debts, future generations will have to pay off the principal. We are truly a nation living on borrowed time and borrowed money.

We are also faced with a host of urgent budget-busting problems: savings and loan crisis, deterioration of our nuclear weapons complex—we just had another 3½ hour hearing on that in our Government Affairs Committee—a shaky air transport system, housing and infrastructure maintenance, Federal prison construction, hazardous waste cleanup and DOD outyear outlays, better known as the bow waves because they all come due out here in a few years in one great big hump.

These serious matters demand our attention as quickly as possible. Delay only increases out costs which are currently pegged for the General Accounting Office to be more than $365 billion in unfunded liabilities. Mr. Darman clearly understands this problem, and he understands the policy dilemmas that await him. We discussed these during the hearings.

In responding to a wide variety of questions from the committee pertaining to budget and economic policy, U.S. international competitiveness and government management and regulation, Mr. Darman demonstrated savvy and drew upon his broad experience in government, in business and academia. I have no doubt whatsoever in Mr. Darman's qualifications and ability to get a handle on the budget problem. In fact, not too many people in either party are as well-suited as Mr. Darman to grapple with it.

What policies will come out yet we do not know, of course. His background indicates he is well qualified to consider matters of this magnitude. There is no question in my mind Mr. Darman will just know how to use OMB's extensive power and authority. So I believe that he has the potential, with his training and background and experience, to be perhaps the most effective OMB Director that we have had in a long time.

Having said this, what I will reserve judgment on is how President Bush, through Mr. Darman, intends to solve our budgetary crisis. In our 2 days of hearings, very few details were offered by Mr. Darman to show us the direction the President is headed. There are few hints on how he is going to pay for our needs, what amounts will be spent, where cuts are going to be made and how the Gramm-Rudman deficit reduction targets will be met.

We still do not know very much about how President Bush's flexible freeze plan will actually be implement-

ed. So in my judgment I do not place great stock in our ability to meet the Gramm-Rudman target simply by growing out of the deficit. The economic signposts just do not support this information.

We are treading in very dangerous waters and I, like very many of my colleagues, hope to receive some indication of where we are going when President Bush submits his own budget plan to us in just a few days, next month. It is my hope we will witness bipartisan cooperation between the executive and legislative branches in arriving at a responsible and a legitimate solution.

Just a couple personal comments in closing. Mr. Darman is somewhat of an anacronism among his colleagues and business school peers. He has devoted most of his adult life to public service. In fact, he has experience in six Federal agencies, much to his credit. Mr. Darman's ethical and professional conduct throughout his Government service has been exemplary. He has never to my knowledge sought private gain at the expense of the public trust. Shortly after his OMB appointment was announced, Mr. Darman established blind trust arrangements and voluntary recusal agreements to protect him against any perception of potential conflicts of interest, and on those recusal agreements he has pledged he will notify us as a Congress any time any one of those recusal agreements would have to be exercised.

I would like to see other incoming nominees follow Mr. Darman's lead in this regard.

In short, Mr. Darman seems to have an old-fashioned view of Government service which I find refreshing and for which he deserves this body's recognition. I offer him my congratulations and I look forward to working with him on the great issues and challenges facing us.

Our vote in committee was unanimous. Out of our 14-member committee, there were 11 votes for him, two votes by proxy later in the day, and one person did not vote but that was not, as I understand, because they were against Mr. Darman; it was just that they did not get their proxy statement in by the 5 o'clock committee deadline. So in effect this was a unanimous report of the Governmental Affairs Committee.

Mr. President, it is my understanding that this is a 1-hour time limit with a vote certain to occur at 5:30; is that correct?

The PRESIDING OFFICER. The Senator is correct. The Senator has 19 minutes remaining.

Mr. GLENN. We may have some other people who wish to speak and this time division was down the middle of the aisle, not on the issue itself of Mr. Darman. It was just divided on the Democrat and Republican side. It was not divided on a pro and con basis.

I see my colleague is waiting to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

The Senator has 28 minutes.

Mr. ROTH. Mr. President, I rise today to express support for the nomination of Richard Darman as the Director of the Office of Management and Budget. President Bush has expressed his utmost confidence in the ability of Mr. Darman to serve in this critical position. I concur in the President's choice, and urge my colleagues to do the same.

Three days ago, on Monday, the Committee on Governmental Affairs unanimously approved Mr. Darman's nomination. I applaud the committee's prompt action on this nomination and Mr. Darman's thoroughness and responsiveness throughout the process, including 2 days of committee hearings.

During 2 days of testimony, Mr. Darman proved his familiarity with the issues confronting the Director of OMB. He reaffirmed the administration's strong desire to reduce the Federal deficit and reiterated President Bush's tough stand against new taxes. Equally important, Mr. Darman expressed the need to keep the economy growing, to increase private savings and investment, and to increase productivity.

Mr. Darman has an outstanding record of public service in a wide array of positions. In 1971, he served as a special assistant to the Secretary and a Deputy Assistant Secretary of the Department of Health, Education, and Welfare. He later served in the Departments of Defense, Justice, and Commerce.

In 1980, he joined the incoming Reagan administration and worked for 4 years as an assistant to the President and Deputy to the Chief of Staff. In 1985, Mr. Darman was nominated by President Reagan to be the Deputy Secretary of Treasury, and was confirmed by the Senate for that position unanimously. Throughout this time, he has gained broad experience in Government—experience which will be a tremendous asset to the new administration.

The Director of OMB is, as the Chairman pointed out in his very elloquent statement, one of the most important and demanding positions in the Federal Government. As a key advisor to the President, the Director of OMB is in a position to greatly influence the successful development of national policy and the effective management of Government programs. I have the utmost confidence that Mr. Darman will serve in this position with distinction and support him enthusiastically.

Many issues were raised during the committee's 2 days of testimony, but perhaps the most important dealt with the Nation's ability to compete in the global marketplace. At a time when the global economy requires us to compete with dynamic and rising countries like some in Europe and on the rim of Asia, it is very important that the purpose of our economic policy remain economic growth. And to continue economic growth, we must improve private savings and investment. Mr. Darman understands this, and repeatedly stressed it in answers to the committee's questions. His emphasis on the need for long-term strategies to address the Nation's needs and improve the national savings rate and investment is very important.

The United States is currently in its 74th month of the longest peacetime expansion in this Nation's history—with more than 19 million new jobs created under the watch of President Reagan and Vice President Bush. Richard Darman understands that we must continue this economic recovery if we are to have any hope of reducing the Federal deficit. During the Presidential campaign, George Bush promised "no new taxes." Richard Darman knows this. Throughout the 2 days of confirmation hearings, he reaffirmed his, and the President's, tough stand against new taxes.

I am very confident of what Mr. Darman can—and will—do. As a proven public servant, with an ability to develop legislative strategy to address the Nation's strongest challenges, Mr. Darman has the opportunity and ability to implement the promise of the Bush administration and he understands the importance of continuing this recordbreaking economic recovery.

Mr. President, I urge my colleagues to support the nomination of Mr. Richard Darman. President Bush has demonstrated his confidence in Mr. Darman's expertise and background, and I believe the public is well served by having an individual with his talents dedicated to Government service.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, while ranking Cabinet officers in order of importance is an impossible task—and certainly not one I personally want to engage in—I think it is fair to say that at least at the outset of the Bush administration, the Director of Management and Budget is the man seated in what could be called either the catbird seat or the hot seat.

His mission right now, to guide the drafting of the 1990 budget, is critical—not only to the fate of our domestic economy, but the world economy. The decisions made during the budget deliberations will also dictate how and what Government will do over the coming year.

In other words, Richard G. Darman, President Bush's choice for Budget Director, has one big job ahead of him. But, I have no doubt that if anyone can handle it, Dick Darman can.

Dick has held positions in the biggest departments in Government—HEW, Defense, and Treasury. So his knowledge of the bureaucracy is considerable. And his special background in economic issues most recently in the private sector, and as Deputy Treasury Secretary during a time when the budget was also a major concern, provides him with very essential and useful experience.

Mr. President, the successful Budget Director must be the master of many trades. He must understand Government, know the way the bureaucracy functions as well as the significance of given Federal programs. He must understand the economy, how Wall Street and Tokyo and London, react. He must understand Congress, plus the needs of State and local governments as well. He must understand how the Washington system works. And finally, he must understand and have the confidence of the man he works for, the President of the United States. Richard Darman understands and does. And so I urge my colleagues to unanimously confirm his nomination today.

Mr. THURMOND. Mr. President, I rise in support of the nomination of Richard G. Darman, who has been selected by President Bush to serve as Director of the Office of Management and Budget [OMB].

Having broad public and private sector experience, Mr. Darman is well-qualified for the position of Director of OMB. In the public sector, Mr. Darman served very ably as Deputy Secretary of the Treasury. In that position he was a key negotiator of the comprehensive tax reform legislation enacted in 1986. Prior to assuming his position as Deputy Secretary, he served in the Reagan White House as Assistant to the President and Deputy to the Chief of Staff. While serving in this capacity, he was instrumental in helping to negotiate the budget and tax acts of 1981, the tax reform legislation of 1982, and the Social Security compromise of 1983.

In addition to his service in the Reagan White House, Mr. Darman served during the Ford administration as Assistant Secretary of Commerce for Policy.

His private sector experience is equally impressive. Most recently, from April 1987 until November 1988, he served as managing director in the Investment Banking Group of Shearson Lehman Hutton. Additionally, Mr. Darman has been a fellow of the Woodrow Wilson International Center for Scholars, a principal and director of ICF Inc., a member of the faculty of the Harvard Graduate School of Government, a trustee of the Brookings Institution, and a contributing editor of U.S. News and World Report.

Mr. President, this impressive list of qualifications speaks well for him, and reinforces the 9-to-0 vote of the Governmental Affairs Committee to send his name to the full Senate.

I urge my colleagues to unanimously approve this very able nominee.

Mr. President, I wish to again thank the distinguished chairman of the committee and thank the able Senator from North Carolina for their consideration.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, I yield time to the distinguished Senator from Michigan who would like to be recognized, and I yield such time as he may require.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank the Chair, and my friend from Ohio.

THE NOMINATION OF RICHARD G. DARMAN TO BE THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. LEVIN. Mr. President, one of the most important decisions which the Senate will make early in this session of the Congress is whether to confirm the nomination of Richard Darman as the new Director of the Office of Management and Budget. Both the history of the past 8 years and the prospects for the next 4 highlight the pitfalls and the promise that are inherent in the position of OMB Director.

We have had the bitter experience, in 1981 and 1982 especially, of being deceived by OMB Director, David Stockman. If we had any concerns at that time, and many of us did, they were bluntly confirmed when Mr. Stockman subsequently wrote:

> Yet since no one in the White House wanted to propose the first triple-digit budget deficit in history, I finally did what the Atlantic story seemed to accuse me of. I out-and-out cooked the books, inventing $15 billion per year of utterly phony cuts in order to get Ronald Reagan's first full budget below the $100 billion deficit level.

This postmortem openness was helpful, but the stakes are too high and the position of OMB Director too crucial for us to settle for after-the-fact honesty. If we are to address the budget deficit problem credibly and effectively, then we must be able to depend on straight talk now from the OMB Director. This is particularly true in light of the preeminent position that the Gramm-Rudman law gives to the economic assumptions and deficit projections of the OMB. To build deficit reduction plans on fantasy serves no one's advantage in the long term.

And it is the long-term economic health of the United States, the long-term quality of life of its citizens, and the long-term security of its position in the world that offers the new OMB Director a positive challenge. Through his recommendations on what programs should be cut and what programs should be increased, he will be making more than an arithmetic judgment. He will be making a judgment that will affect the quantity and quality of jobs here at home and our ability to compete and protect ourselves abroad. He will be working with people in the administration and in the Congress today, but the results of their mutual efforts will affect the lives of generations to come. It is an awesome responsibility.

On a specific point, much of the time of the confirmation hearings was devoted to fleshing out President Bush's promise not to support any tax increase or any new tax. According to Mr. Darman's, and I assume the President's dictionary, it seems to come down to this: First, they are using the term "tax increase" synonymously with the term "new tax." Second, a proposal to raise revenues in a way that most Americans would view as a tax increase is by definition also a tax increase. A tax increase does not by that definition include current revenue increases which result from previously enacted legislation. It also does not include legislation which has been previously proposed by the Reagan-Bush administration and from which President Bush has not disassociated himself; nor, does it include a delay in a previously scheduled tax reduction. Finally, President Bush's no tax pledge will be in effect for some extended and indefinite period of time and perhaps forever, according to Mr. Darman.

Based on past experience, the American people have every right to be skeptical about how forthrightly any tax increase will be advertised. And, Mr. Daman's own definition itself is not without some ambiguity. However, by and large it appears to be a sincere attempt to lay out the parameters of President Bush's no tax increase pledge. The months and years ahead will indicate how wise or realistic it was for the President to make this pledge. But for the moment, this willingness to be clear is a hopeful beginning to Mr. Darman's tenure as Director of the Office of Management and Budget.

Mr. Darman's background has prepared him well for his new position. He has the potential for being a very good Director of OMB if he is straight with the President, straight with the Congress and, most important of all, straight with the American people. We wish him and the administration well on that venture.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Mr. President, how much time remains on each side of the aisle?

The PRESIDING OFFICER. The Senator from Ohio has 13 minutes and 9 seconds; the Senator from Delaware has 21 minutes and 22 seconds.

Mr. BYRD. Mr. President, I rise today to support President Bush's nomination of Richard G. Darman as Director of the Office of Management and Budget. On Monday the Governmental Affairs Committee gave its endorsement of Mr. Darman when it voted unanimously to send his nomination to the full Senate.

Mr. Darman's nomination comes at a crucial time of tight budgets and tough decisions. He literally will be on the frontline of an uphill battle to reduce the mounting Federal deficit. It will be a balancing act between limited dollars and demanding programs. None of this will be easy. It will take dedication to make this work. Mr. Darman has given every indication he has that dedication.

First, he understands that the administration and Congress must work together to bring the budget deficits under control. Mr. Darman's call for early meetings with Congress sends the proper signal to the American people. He also has extensive experience in the executive branch of our Government. This kind of foundation will be a tremendous asset to the process ahead of us.

Second, Mr. Darman brings a strong sense of ethical responsibility to the position. Over the years, a certain amount of cynicism has developed as a result of the politicizing of OMB by past Directors. I was pleased to learn of Mr. Darman's pledge to be candid and forthcoming with Congress.

Last, I took particular interest in his testimony regarding a 2-year budget. His support for the theory is combined with a healthy skepticism about its implementation. This shows a depth of understanding that is refreshing. He noted that a 2-year budget process can produce inaccurate projections and could result in government by supplemental.

I look forward to working with Mr. Darman and the administration in the months ahead. I know we possess the tools, and I feel confident that Congress possesses the will to do its part in solving our Nation's economic crisis. Rarely in our history has there been a more critical need for cooperation between the executive and Congress. The future of our children and grandchildren depends on us.

Ultimately the quality of a government depends upon the quality of the poeple who serve in critical positions. I am confident that Richard Darman has the skills to fill his challenging role in the new administration.

Mr. CONRAD. Mr. President, I rise today to support the nomination of Richard G. Darman as Director of the Office of Management and Budget. He has significant experience with the Federal budget, and brings exceptional management skills to this post. His experience will be needed as we struggle to lead the Nation out of its fiscal morass.

In the last of 8 years, the national debt has tripled; the trade deficit has multiplied sixfold; and the United States has gone from the world's largest creditor Nation to the world's largest debtor Nation; our national savings rate has been cut in half. This combination of circumstances threatens our economic security.

It's clear that new and bold steps are necessary. We must have a change in economic policy. Mr. Darman's intimate knowledge of the problems and the process will be useful in the months and years ahead, as we address our fiscal needs and work to reduce the deficit.

And make no mistake, we must reduce the deficit if we are to preserve our economic health. The annual deficit has come down a bit since the 1986 level of $221.2 billion. Through asset sales, one-time savings, and by hiding the operating deficit behind trust funds, we have reduced the deficit to the $150 to $155 billion level. But there we sit, stagnating.

If we strip away the off-budget trust funds, the deficit continues to grow from the 1987 level of $222 to $239 billion by 1994. Clearly, debt continues to accumulate at record rates. We must begin making the tough decisions necessary to reduce the deficit.

There is a will to act on the deficit in Congress—but we must set our sights higher. Our task is urgent, and difficult. We must achieve real deficit reduction, preserve the Nation's competitiveness, and spur future economic growth. But in our attention to numbers, we cannot neglect the human side of the budget. We must focus attention on the people who have been neglected under current policy, and preserve the programs they need—education, health, nutrition, research and development.

And I know we can find the money to pay for the programs we need. We can collect taxes from those who are not paying their fair share. The gap between the taxes rightfully owed to the Federal Government and what is actually paid stands at $85 billion a year. That gap will grow to $110 billion per year by 1992. Much of that revenue can be collected. According to a study released by the California Institute of Technology last year, Federal revenues would have been $47 billion higher in 1985 if the IRS had maintained the same audit rates that it had in 1977.

There is another area of the budget where significant savings can be achieved. It's high time our allies in western Europe and Japan begin paying their fair share of our joint defense burden. The United States is paying some $150 billion a year to defend Western Europe and Japan. Meanwhile, we are borrowing billions from those same countries to finance our own massive debt. We will never forget our obligations to our allies. But Japan and western Europe enjoy robust economic health. They can pay more and they should.

It was encouraging to see our new President sit down with congressional leaders, and open the door to continuing negotiations with Capitol Hill. Deficit reduction is the most challenging and the most critical issue we face. I urge the President and Mr. Darman to continue this spirit of cooperation, and hope that together we can make real progress.

Mr. GLENN. Mr. President, I suggest the absence of a quorum with the time to be divided equally on both sides.

The PRESIDING OFFICER. Without objection, it is agreed to, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, I am happy to yield to the distinguished minority whip such time as he may need.

NOMINATION OF JAMES A. BAKER III

Mr. SIMPSON. I thank the Senator from Delaware, and I thank the Senator from Ohio.

Mr. President, I will just take a moment to speak on the nominations before us, and in no particular order. But I do want to express my support and admiration for Jim Baker as Secretary of State. He has had an absolutely distinguished career of public service, and he is certainly extremely well qualified for this task he is about to assume.

We all know this remarkable record of his. We have come to know him and understand his remarkable prowess. All of us on both sides of the aisle have seen him serve President Reagan as chief of staff, and serve on the National Security Council, and as chair of the President's Economic Policy Council. He also served ably as the 67th Secretary of the Treasury. That is an interesting statistic. I think that is the second greatest turnover in a Cabinet post position. I believe the largest turnover is in the role of Secretary of the Interior, which is always assuredly a difficult one, since the statutes say they are to preserve and protect and then also to develop and administer multiple use of public lands. Nevertheless, he served as the 67th Secretary, and then he left to

chair the successful Presidential campaign of George Bush.

This is not a partisan commentary, but certainly his presence in the campaign after the convention in August gave extraordinary power and strength to that effort.

So he is now to serve us as Secretary of State. He is a lawyer, a tough, savvy ex-marine—and those are a special breed, as we know. He is an accomplished diplomat and a public servant. I wish to express that I am so very pleased.

He is splendid to work with and splendid to counsel with, to break bread with, a tough, savvy, articulate man, and loyal, loyal, loyal. He is a very trusted friend of our fine President, with a staying power that is evident to us all—and with a very fine whiz of a mind that will be good for the President, but, more important, so good for this country.

My wife Ann and myself wish him and his lovely wife, Susan, every success as they undertake this unique new responsibility.

NOMINATION OF ELIZABETH HANFORD DOLE

Mr. President, with regard to the nomination of Elizabeth Hanford Dole, I am very pleased to speak a few words in her behalf, in support of the nomination of this truly remarkable lady.

She has devoted a large part of her life to public service, and she has done a most extraordinary job.

Most recently, she has ably served our former President as Secretary of Transportation, and she now brings these very considerable talents—and a penchant for extremely hard work—to the post of Secretary of Labor. Although she assumes this post at a time of some excellent statistics on the national scene, figure's showing high employment and economic growth, what has been interesting to me is that she has already shown that she looks beyond the usual rosy economic pictures with which we are often presented in government, to search out solutions for those who are not yet touched or aided or who are not brought along with the rest in what is described as good economic times.

In her statement during her confirmation hearing, she stated that the Department of Labor would have five objectives. Those include addressing the issues of concern to workers with families, developing training programs for the skilled or those who must gain new skills, ensuring that the American workplace is safe, and securing direct labor-management relationships toward being more productive and positive, which I think is so critical.

As the majority leader said this morning in his very powerful remarks, and as the President yesterday spoke of the spirit of cooperation and bipartisanship, and that is something I deeply believe in; certainly it is also something to fully pursue with regard to management and labor in the United States. I do think that this is a noble goal for this Secretary of Labor.

She also spoke of developing a comprehensive pension policy to bring a measure of rationality to the demographic and social changes that are upon us.

So here will be a Secretary of Labor who looks to the future and toward the ensuring of jobs and job training, and I am certainly looking forward to working with her.

Let me add a personal note. In my duties as assistant leader of our party in the Senate, it is often a happy occasion, for my wife and me to share many events with our friends the former majority leader, the present minority leader, Senator DOLE, and Elizabeth Dole. In those times we have had that opportunity on many occasions to be together at these events, I have found her to be a most special lady, of great charm and great grace, a woman of substance and high intellectual ability and quality.

I think there is also another side to her. Those of us who heard her at the national prayer breakfast a couple of years ago were absolutely thrilled to observe again the wholeness of this remarkable lady. A beautiful lady she is, inside and out. She will be a very proud addition to this Cabinet and will grace the Cabinet not just with her physical presence but also with her intellectual capabilities, which are indeed superb.

NOMINATION OF RICHARD DARMAN

Mr. President, a word about Richard Darman. When George Bush tapped Richard Darman to become the Director of the Office of Management and Budget, I do not believe there was anyone in Washington who has been observing the scene for long who might have said: "Well now, who is that?"—because we all have come to know Dick Darman, and have come to respect greatly his rich qualities and his skills.

Each task that he has undertaken in public life has demonstrated his ability to seek compromise, to be accessible, to reach results. In no job will those skills be more needed than from the man who will come to be known as the Bush administration's "budget guy", or the "chap from OMB," and other phrases which will be slightly less tasteful.

As it happens in this particular line of work, it is a very tough job, but he will give the sharp eagle eye to what needs to be done. He will work well with the congressional committees.

I watched the proceedings conducted by Senator GLENN as Mr. Darman presented his position on this issue, as we look for chinks in the armor of overlaid deficit of where we go with regard to this deficit, how we do it—and we have to do it—and where we are with the Presidential campaign platforms and the statements that were made?

Yes, I think the Federal budget deficit is one of the most pressing issues we face as a Nation and those in Congress, those of us here, are the ones who cast the votes. You know you can haggle all you want on that one and we can throw darts down Pennsylvania Avenue at Jimmy Carter or Gerald Ford or John Kennedy or Dick Nixon or Ronald Reagan, but the issue is so clear that we in the Congress cast the votes on the budget, and Richard Darman will be working with us as we grapple with that deficit.

The Nation is very fortunate that he has accepted this tough task. It is a tough one indeed. I have sat through various budget negotiations in the past, and I know that Dick Darman will need to use every single ounce of patience, determination, and his rare skills and all of the resolve within his being to accomplish this result. He signed on for a job that really does truly call for heavy lifting.

So I trust that the various words of praise we have heard today for him will simply not go aglimmering once we get into the heavy work of reducing the deficit. I am convinced he will work with us in good faith.

I hope and pray the Congress will give him and President Bush the good faith cooperation the Nation so desperately needs for this task at this moment.

I know the President and Dick Darman have already been at work on the budget proposals to be submitted to Congress next month; and as we confirm him today we do so with the knowledge that he is a superbly qualified person for this new role and indeed he has also hit the ground running.

BOYD HOLLINGSWORTH

Senator Dole this morning spoke briefly of Boyd Hollingsworth who is my counsel here and who served me as counsel while I carried out the duties of assistant leader of our Republican Party. And so it is indeed with very mixed emotions that I speak and say just a word if I may for 3 minutes, would that be appropriate, to those who manage the time on this side of the aisle?

Mr. GLENN. Take 3 off our side over here. I yield 3 minutes.

Mr. SIMPSON. Boyd Hollingsworth will now become the Senate liaison with the White House, an extraordinary and important job, one that Pam Turner has served in so ably in the past.

I am losing an extraordinary, it is improper to call him a staffer, for I lose a friend. A young man who worked his way through law school at the University of Wyoming, who had a coffee for me when I was running for this job in 1978, whose wife Deena

who was the daughter of a dear fellow I played basketball with at the University of Wyoming—and that goes way back. So it is with such mixed emotions as I watch this fine young man move on with his skills, ability, and dedication. He has been the very source of my Senate activities. We all hear the old saw here that whatever degree of success we see in ourselves is often the result of having dedicated staff and benefitting by their hard work and Boyd Hollingsworth is a superb and prime example of that, a man who has served in my name—and they do—and he will now go on to serve in our fine President's name.

So, I just hate to lose him. I mean that. That is the word I want to use. We have shared many late nights together on this floor. We have shared counsel. We have shared much in the name of not just professional activities but of friendship. So I wish him well. He is one of those members of the small, unique, and dedicated group of people who really make this U.S. Senate work, who keep the train on the track and the engine humming, even though it does cough from time to time with notable regularity. But I say he was a true expert at his craft.

I owe much to him and to his very supportive wife, Deena, and his two children, Melissa and Robert, and hopefully they will see something of him as he now disappears into the great maw between 1600 Pennsylvania Avenue and the U.S. Capitol—but he will be here with us in a new role being just as instructive and just as helpful and cooperative. And so I wish my friend Boyd Hollingsworth well in an extraordinary new adventure in his own life and thank him for so enlightening my activities in this remarkable arena which we all love so well.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I want to very briefly speak about the nominees who are before us and I say to my colleague——

The PRESIDING OFFICER. Will the Senator from Minnesota yield for 1 minute? We will ascertain who yields time.

Mr. ROTH. How much time does the Senator require?

Mr. BOSCHWITZ. Three minutes.

Mr. ROTH. How much time remains?

The PRESIDING OFFICER. Three minutes and nine seconds.

Mr. GLENN. I yield 3 minutes off our side.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes.

NOMINATIONS OF BAKER, DARMAN, AND DOLE

Mr. BOSCHWITZ. I thank the Senator from Ohio.

Mr. President, I will speak briefly about the three nominees before us, Jim Baker at the State Department, Dick Darman at OMB, and Elizabeth Dole at the Labor Department.

I have known Jim Baker now for a decade, and it has been a relationship that I am very proud of. He already has made an extraordinary contribution to our country and comes as well prepared as any Secretary of State within my memory. I know I read in the paper that he will have to rely on the professionals, because he does not have foreign relations experience. On the contrary, I know of few who have come to this position with more. Jim Baker was at the right hand of the President for 4 years, involved in every aspect of national and international policy. By practically unanimous acclaim, he did an extraordinary job.

Furthermore, we know him as an individual who is shrewd, adroit, and intelligent, qualities he demonstrated during the course of the hearings.

He comes, Mr. President, to his post at State at a time when we have made remarkable strides. Peace is bursting out in many parts of the world. In this entire decade, the only decade in my life of which this can be said, not a single square foot of the Earth's surface has fallen to a dictator, either on the right or on the left. This has indeed been a remarkable decade.

So I look forward to working with Jim Baker as a member of the Foreign Relations Committee. I think that, indeed, he does come prepared. I believe that his time in office will be fruitful.

Dick Darman is also an old friend, and I noticed in Time magazine that Dick Darman has to go to meetings by himself. Allegedly, he couldn't find staff. In my experience with Dick Darman, he has always eschewed staff in our meetings. Frankly, I found that refreshing. Because he did not come with a huge retinue. The meeting would only take 10 or 15 minutes, not 25, 35, or 40 minutes.

We came to conclusions quickly and I always found him extremely well prepared. He didn't need staff because he knew enough himself. I look forward to having an excellent relationship with the new Director of OMB, and I think the Nation will profit from his service in this position. He is a man of ideas and has very broad knowledge.

Of course, all of us know Elizabeth Dole. When she was Secretary of Transportation, she was one of the most accessible, one of the most action-oriented members of the Cabinet. So she will be again, as Secretary of Labor. She is an extraordinarily articulate women. She is extraordinarily well organized, and always gets things done.

Mr. President, I believe that the people who are before us today are people who are going to serve this Nation well and be a credit to it.

I yield the floor.

Mr. SASSER. Mr. President, I rise today to express my support for the confirmation of Mr. Richard Darman to be Director of the Office of Management and Budget.

Mr. Darman is an experienced and capable public servant. He has served under three Presidents with great distinction, in the Justice Department, the Commerce Department, the Treasury Department, and the White House. He has been an able and skilled negotiator in many of the most far-reaching pieces of legislation enacted in the past several years, particularly the Social Security Amendments of 1983 and the Budget Summit of 1987.

Mr. Darman also brings superb academic credentials to his position, having graduated from Harvard College and Harvard Business School. He has also served with distinction as a member of the board of trustees of the Brookings Institution, and with the Woodrow Wilson Center at the Smithsonian Institution.

Mr. President, with the inauguration now behind us, it is time for the new administration and the Congress to forge ahead on pressing matters of state. And, Mr. President, the most important matter of state is reducing the Federal budget deficit.

President Bush in his inaugural address called for a "new engagement" between the executive branch and the Congress. He called for a renewal of bipartisanship and a new spirit of compromise and harmony as we tackle such problems as reduction of the Federal budget deficit.

I welcome this call for bipartisanship and I trust that Mr. Darman will serve the President well in this regard as we seek to put our fiscal house in order.

Mr. President, since 1981, the Reagan administration has never—not once—presented to the Congress a balanced budget or a budget which was grounded on very realistic economic assumptions. Through the years, the budget process became a game of one upmanship, with the administration and the Congress locked in a very divisive political gridlock. This has not served the country well.

It was only a near catastrophe on Wall Street in October of 1987—when the stock market dropped by 500 points in a single day—that the Reagan administration seemed willing to forge a bipartisan budget agreement. Consequently, the Congress and the administration reached a consensus that provided for a sound and equitable means of curbing the budget deficit.

But, of course, the job of building a new fiscal policy for the Nation is not yet done. We must take action to bring the budget into balance by 1993, and we must develop a budget policy that

squarely faces up to the fiscal challenges before us.

In one of his first messages to the Congress, President John F. Kennedy said that—

> * * * Apart from any threat to national security the Federal budget should * * * be in balance over the years of the business cycle, running a deficit in years of recession when revenues decline and the economy needs the stimulus of additional expenditures, and running a surplus in years of prosperity, thus curbing inflation, reducing the public debt, and freeing funds for private investment.

Mr. President, that was an excellent prescription for fiscal policy in 1961. It is an excellent prescription for fiscal policy today—one that President Bush and Mr. Darman would do well to follow.

Mr. President, there are a few aspects of Mr. Darman's testimony before the Senate Government Affairs Committee that I would like to touch on.

Mr. Darman promised the committee that President Bush would shortly be sending up comprehensive revisions to President Reagan's 1990 budget. I welcome this commitment.

The 1990 Reagan budget is seriously flawed. It is based on rosy economic assumptions that understate the budget deficit by at least $14 billion.

It ignores the major costs of other pressing problems facing the Nation such as the clean up of the Department of Energy's nuclear plants and restoring the health of our savings and loan system. It also continues the outmoded spending priorities of the past several years, making major reductions in education programs, Medicare and Medicaid, and even programs for the homeless.

We need a new budget from President Bush that will clearly express his fiscal priorities. When Mr. Darman transmits this new budget to the Congress, we can begin to fashion a bipartisan budget resolution.

Mr. Darman also suggested in his testimony that a sequester was a silly way to budget. I could not agree with him more. We do not need to budget by a Gramm-Rudman-Hollings sequester.

By April 1, the Senate Budget Committee must report a budget to the floor. By April 15, a budget resolution must be passed by both Houses of Congress.

We can meet this schedule with the cooperation of the administration. But if the administration does not seek bipartisan cooperation, they could very well be headed down the road of a budget sequester. So I take Mr. Darman at his word when he says that a sequester is simply a bad way to set the budgetary policy of this country.

Finally, I commend Mr. Darman for his commitment to work with the Congress, in a bipartisan way, on resolving the problems of the deficit.

The Senate and House Budget Committees stand ready to tackle the budget crisis head on.

Both budget committees have already begun their hearings on the 1990 budget. I and my ranking minority member, Mr. DOMENICI, are committed to extensive hearings in the weeks ahead as we prepare to markup of the 1990 budget resolution. Democratic and Republican members of the committee will work together in constructing a bipartisan budget resolution if we have the cooperation of the administration in making the regular budget process work. So once again, I am heartened by Mr. Darman's commitment to a bipartisan budget process.

I look forward to the budget that Mr. Darman will bring forth to the Congress. I appreciate his willingness to do the work necessary to avoid budgeting by sequester and I trust that he will exhibit a genuine and enduring commitment to a bipartisan budget policy that will serve this country well as we seek to put our fiscal house in order and restore our ability to compete in the global marketplace in the years ahead.

Mr. MATSUNAGA. Mr. President, I rise to express my support for Richard Darman to be the new Director of the Office of Management and Budget. Mr. Darman is a bright, energetic individual who has wide experience in fiscal affairs. As chief aide to James Baker during the latter's tenure as Treasury Secretary, Mr. Darman learned how government works from a true professional. As a member of the Finance Committee, I had the privilege of working with him on many matters, not the least being the Tax Reform Act of 1986.

A colleague of mine recently stated that the position of OMB Director is the second most important post in government. Not many would debate this assertion. OMB's authority runs laterally across every Federal agency, from the Department of Defense to the Small Business Administration. As such, its power is immense. But with that power must go a commensurate sense of responsibility. While the nature of the job is such that the Director has to see the larger economic and fiscal picture, he also has a responsibility to understand the human impact of OMB's decisions. In my opinion, not every OMB Director has had this sense of responsibility; many have acted less like Cabinet-level officers than like glorified accountants. It is my hope that Mr. Darman, in exercising the power of his office, is able to distinguish between the two.

Mr. President, Director Darman has an unenviable task. On the one hand, he is faced with a $3 trillion debt, a $155 billion deficit, and a legacy of massive defense spending; on the other, he is confronted with a President who has publicly opposed raising taxes as well as with millions of Americans who depend on the Government for food, shelter, education, and general economic security. He will need our good will and, when asked, our collective advice. I offer them both.

Mr. KOHL. Mr. President, the budget deficit is the No. 1 economic problem facing our Nation. President Bush asked Richard Darman to lead the administration's fight to bring that deficit down. Mr. Darman has the potential to be an excellent Director and I support his nomination.

I listened to Mr. Darman during 2 days of hearing before the Senate Committee on Governmental Affairs. He has a strong grasp of Government programs. He also has a demonstrated ability to work with Congress. On the strength of those two traits alone, he will go far.

I do have two reservations about this nomination. First, Mr. Darman was heavily involved in passage of the 1981 legislation that created these deficits. If we believe David Stockman's account, Mr. Darman understood that the legislation would generate huge deficits, but he chose to ignore that problem for political reasons. Mr. Darman disputes this account. At any rate, he worked in the following years to enact legislation that reversed some of the worst parts of the 1981 law.

My second reservation is that we have no idea where he will find the savings needed for deficit reduction. Taxes are ruled out by decree from the Presidential campaign. Where, then, will he turn to find the needed $40 billion in savings? Mr. Darman showed none of his cards. Ultimately, however, I do not lay this at his feet. The new President has done little to specify where he will make the cuts. Until President Bush provides us with more details, we cannot expect his aides to do so.

Mr. President, we can no longer afford to delay dealing with the deficit. The Nation is looking to President Bush for leadership. With the nomination of Richard Darman to be Director of the OMB, the President has started in the right direction.

The PRESIDENT pro tempore. All time has expired. The question is, will the Senate advise and consent to the nomination of James Addison Baker III, of Texas, to be Secretary of State.

On this question the yeas and nays have been ordered. This is a 15-minute rollcall vote. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES], is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 1 Ex.]

YEAS—99

Adams	Fowler	McCain
Armstrong	Garn	McClure
Baucus	Glenn	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerrey	Shelby
Danforth	Kerry	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth

NAYS—0

NOT VOTING—1

Nickles

So the nomination was confirmed.

The PRESIDENT pro tempore. The question is on the next nomination. The question is, Will the Senate advise and consent to the nomination of Elizabeth Hanford Dole of Kansas to be Secretary of Labor? Those in favor of the nomination will vote aye. Those, if any, opposed to the nomination will vote no. The yeas and nays have been ordered. This is a 10-minute rollcall vote.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES] is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 2 Ex.]

YEAS—99

Adams	D'Amato	Heflin
Armstrong	Danforth	Heinz
Baucus	Daschle	Helms
Bentsen	DeConcini	Hollings
Biden	Dixon	Humphrey
Bingaman	Dodd	Inouye
Bond	Dole	Jeffords
Boren	Domenici	Johnston
Boschwitz	Durenberger	Kassebaum
Bradley	Exon	Kasten
Breaux	Ford	Kennedy
Bryan	Fowler	Kerrey
Bumpers	Garn	Kerry
Burdick	Glenn	Kohl
Burns	Gore	Lautenberg
Byrd	Gorton	Leahy
Chafee	Graham	Levin
Coats	Gramm	Lieberman
Cochran	Grassley	Lott
Cohen	Harkin	Lugar
Conrad	Hatch	Mack
Cranston	Hatfield	Matsunaga
McCain	Pressler	Shelby
McClure	Pryor	Simon
McConnell	Reid	Simpson
Metzenbaum	Riegle	Specter
Mikulski	Robb	Stevens
Mitchell	Rockefeller	Symms
Moynihan	Roth	Thurmond
Murkowski	Rudman	Wallop
Nunn	Sanford	Warner
Packwood	Sarbanes	Wilson
Pell	Sasser	Wirth

NAYS—0

NOT VOTING—1

Nickles

So the nomination was confirmed.

The PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of Richard G. Darman, of Virginia, to be Director of the Office of Management and Budget? This is a 10-minute vote. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES], is necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 3 Ex.]

YEAS—99

Adams	Fowler	McCain
Armstrong	Garn	McClure
Baucus	Glenn	McConnell
Bentsen	Gore	Metzenbaum
Biden	Gorton	Mikulski
Bingaman	Graham	Mitchell
Bond	Gramm	Moynihan
Boren	Grassley	Murkowski
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Pryor
Burdick	Helms	Reid
Burns	Hollings	Riegle
Byrd	Humphrey	Robb
Chafee	Inouye	Rockefeller
Coats	Jeffords	Roth
Cochran	Johnston	Rudman
Cohen	Kassebaum	Sanford
Conrad	Kasten	Sarbanes
Cranston	Kennedy	Sasser
D'Amato	Kerry	Shelby
Danforth	Kerrey	Simon
Daschle	Kohl	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Lieberman	Thurmond
Domenici	Lott	Wallop
Durenberger	Lugar	Warner
Exon	Mack	Wilson
Ford	Matsunaga	Wirth

NAYS—0

NOT VOTING—1

Nickles

So the nomination was confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider en bloc the votes by which the nominations were confirmed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask that the President be immediately notified of the confirmation of these nominations.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate return to legislative business and that there be a period for morning business not to extend beyond 30 minutes, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senate returns to legislative business and there will be a period for the transaction of morning business, not to exceed 30 minutes, with Senators allowed to speak for not more than 5 minutes each.

The Senate will be in order.

MEASURES INTRODUCED TODAY BY SENATOR PRESSLER

Mr. PRESSLER. Mr. President, I would like to summarize a group of measures I introduced today.

First of all, I introduced measures regarding the proposed congressional pay raise. One of these is a three-part bill, which I am happy to say now has at least a dozen Democratic and a dozen Republican cosponsors. That measure not only is a resolution of disapproval of the pay raise but also provides for a rescission that would go to the House desk. It also provides that, in the future, all pay raises would have to be voted upon. I explained the purpose of that measure in a statement this afternoon. It was carefully crafted, on a bipartisan basis, and it has support from both sides of the aisle. I believe it would be a very responsible step for the U.S. Senate to vote on that. One of my key concerns is that these raises be voted on in both Houses, as I think our Constitution requires.

Mr. President, in addition to resolutions and bills to require a vote now and in the future on any congressional pay raise, today I introduced 10 other bills and resolutions on a variety of subjects which represent some of my legislative priorities for this Congress. These include:

First, a resolution calling for the negotiation of an International Agricultural Conservation Reserve Treaty. Such a treaty would reduce world surplus grain stocks caused by Government subsidies, increase grain prices, and reduce soil erosion on fragile lands.

Second, the 1991 Mount Rushmore Commemorative Coin Act. This legislation would authorize the sale of a coin to commemorate the 50th anniversary of Mount Rushmore, our national shrine of democracy.

Third, the Student Financial Assistance Amendments Act. My bill proposes to strengthen educational opportunities for students who need financial assistance to attend postsecondary educational institutions.

Fourth, a bill to extend authorization of the Great Plains Conservation Program. This highly efficient, cost-effective voluntary conservation program has yielded $4 in additional agricultural income for each dollar expended. It deserves early reauthorization consideration.

Fifth, the Cable Television Programming Competition and Consumer Protection Act of 1989. This bill would prohibit the practice of volume discounting and exclusive distributorships used by premium cable programmers to discriminate against small competitors of large cable companies. It would enhance the availability of premium programming to rural consumers.

Mr. President, let me say, as a member of the Communications Subcommittee of the Committee on Commerce, that I am very concerned about the poor treatment small cable companies receive from the big program distributors. They are charged higher prices, they are held up, they are given the Chinese water torture treatment, in terms of getting cable programming, and I think it is very unfair.

Sixth, the Joint and Several Liability Reform Act of 1989. This bill would reform the doctrine of joint and several liability by requiring liability to be proportioned according to the actual degree of responsibility, except where the parties have engaged in concerted action. In the latter case, the liability of each defendant would still be joint and several.

This addresses the problems of many smaller cities which literally have been forced to shut off certain municipal services and are in need of day care centers. Day care centers in my State have closed because of insurance and liability problems. We have too many lawsuits in our society; we need to settle problems in other ways. We need to reduce costs without depriving the public of their rights.

Seventh, a resolution declaring November 1989 as "National Alzheimer's Disease Month." This resolution heightens public awareness of the devastating Alzheimer's disease and recognizes the work of organizations fighting to combat it.

Mr. President, my father suffers from Alzheimer's disease. I have been active in an Alzheimer's support group, and this resolution would improve public awareness of this disease.

Eighth, a bill to prohibit further U.S. military or economic assistance to Turkey until certain conditions are met by Turkey regarding its continuing illegal occupation of Cyprus.

Ninth, a bill to establish a rural mobility task force. The Rural Mobility Task Force Act would operate within the Urban Mass Transit Administration to ensure fair consideration of rural transportation needs in mass transit funding decisions.

Tenth, a resolution to establish a Nation Children's Day on the second Sunday in October. We have Mother's Day and Father's Day. This resolution would declare, as many other nations have, that children deserve equal treatment.

Mr. President, I look forward to working with the President pro tempore and our other distinguished colleagues during this 101st Congress.

CHILD CARE

Mr. WILSON. Mr. President, it is not necessary to recite the need for the kind of child care that is increasingly a requirement for America's working families. I will not do that. I will simply state that last year, Senator DODD exerted great leadership in introducing legislation which has come to be known as the ABC bill.

Again, yesterday, he held hearings in his subcommittee of the Committee on Labor and Human Services with respect to the subject of child care, specifically on the ABC bill.

He graciously allowed me to testify with respect to an alternative approach which I have offered as legislation, which I introduced earlier this afternoon as S. 55, the Kids in Day Care Services Act of 1989. Essentially my concern is expressed in the statement that I have earlier introduced. But let me state it simply in this fashion: I think the one-size-fits-all approach where Federal officials with the best intentions and motivations seek to mandate a certain number of slots and preapprove child care facilities is one that severely limits choice, both for the States, more importantly for working parents as consumers of child care, and it seems to me that we can do better.

It seems to me that we ought to maximize choice and flexibility to respond to the very different needs to different communities and indeed different cultures within those communities.

In my own State of California we have come to be, I suspect, the most multiethnic and multicultural society in the Nation, and the differences in the cultural background of those working parents sometimes dictates a different response to the need for child care.

I am also concerned lest we overregulate some who as senior citizens, whether they be neighbors or members of a family, can afford a rich resource for potential child care. I do not think it would be wise for us to falsely limit their ability to participate. So in short, the kids bill, S. 55, offers an alternative approach and one that I think we need to give close attention to because if we are concerned with the adequacy of child care we need to be concerned with many things. The fact that there are not sufficient facilities arises from the reluctance of small business to find themselves encumbered with liability. We need to be concerned about that, Mr. President. We need to be concerned ultimately that there is choice given to the hand that rocks the cradle rather than well-motivated bureaucrats.

At the same time there is another need and again it is one that has grown so clear that we need not really recite the background for necessity of addressing it and it has to do with health care not of children but of older Americans. Increasingly older Americans face the expectation that they will require nursing home care or alternatively home visits by health care professionals. As we grow older it is an increasing expectation that we will experience health problems that require one or the other approach. But today for millions and millions of Americans the gnawing anxiety which is theirs which exceeds even their concern over catastrophic illness is that they will be unable to find or afford that kind of long-term health care. In offering S. 38 this afternoon, with some 38 cosponsors, about equally divided on both sides of the aisle, we are offering what I think is a worthy experiment. This is a bill which is entitled the Federal Employees Long Term Care Insurance Act of 1989. Simply stated, it affords a new option to Federal employees enrolled in the Federal Employees Group Life Insurance plan so that they will be able to exercise the option to convert some portion of the face value of the equity in their life insurance to prepaid health care. Either the kind of long-term care that is so unavailable to them in the form of nursing home care or home visits by health care professionals.

Mr. President, before we embark on a brand new umbrella program to include even those who can care for themselves by exercising some prudence and foresight, we should first determine what the real need is for a taxpayers-supported program.

One of the great benefits of the approach that I am offering in S. 38 with all of these cosponsors is that the employers, the Federal Government as the employer spending tax dollars, makes no increased contribution. The contribution continues to be the same. There is a slight increased contribution required of the insured but what that will do is offer not only to millions of Federal employees the kind of health care coverage which they

cannot now find which they cannot afford but if it works for Federal employees there is no reason why that experience cannot be replicated for the employees of, say, the University of California or the employees of General Motors or any sufficiently large number of public or private sector employees to afford a basis for this kind of risk sharing.

Mr. President, I hope that I can increase the number of cosponsors from 38 to 58 to 68. I think this is an approach that we must try. I thank the chair.

THE PAY RAISE

Mr. HUMPHREY. Mr. President, I want to send two resolutions to the desk. They have been shared with the majority leader and Republican leader.

First, on behalf of Senators PRESSLER, GRASSLEY, MCCAIN, and on my own behalf. And the second resolutions on my own behalf.

I am not seeking consideration of the resolutions at this time.

The PRESIDING OFFICER. Does the majority leader wish to be heard?

Mr. MITCHELL. No.

Mr. HUMPHREY. Mr. President, if I might have the attention of the majority leader, he has had an opportunity to view the proposed resolutions which are in fact proposed rules changes. I have submitted two resolutions. I intend to seek the calling up of only one. But the effect of either is to amend the Senate rules to block the pay raise, which obviously is going to go into effect automatically on February 8, for reasons which I will cite in a few moments.

But I wanted to ask the majority leader if he has had an opportunity to review the proposed rules changes?

Mr. MITCHELL. I have had an opportunity to read them. I have done no more than that.

Mr. HUMPHREY. That is all you have to do. You get the drift pretty quickly. They are short and sweet.

A question about the Senate schedule, if I may? I understand that no votes are now anticipated until Tuesday?

Mr. MITCHELL. That is correct.

Mr. HUMPHREY. The next session of the Senate, the next day the Senate will both be in session and voting is Tuesday. Obviously by then a calendar day will have passed since I introduced these resolutions, and under the rules, the resolution may be considered. That is, the 1-day notice, if you will, will obviously have been fulfilled.

It is going to be my intent to try to somehow bring up whichever of the two resolutions I choose to bring up just as quickly as possible. I wanted to ask the majority leader if he would not support my bringing up whichever of the two I choose on Tuesday, which will be the next opportunity?

Mr. MITCHELL. As the Senator knows, his resolutions are not the only legislative effort with respect to the pay raise. There are, I believe, at least three others that have been or will be introduced, to my knowledge. And there may be additional ones.

I am not prepared at this time to commit myself to any particular one.

Mr. HUMPHREY. Yes.

Mr. MITCHELL. I have not read any of the others except those of the Senator. And to any particular time.

As I understand it, the Senator is also a cosponsor of the resolution introduced by Senator PRESSLER?

Mr. HUMPHREY. Yes.

Mr. MITCHELL. It is his request to me to consider his resolution. May I take that as an indication that I need not consider the resolution of Senator PRESSLER? Or are you asking that they both be considered?

Mr. HUMPHREY. I am asking now that my resolution changing the rules so as to block the pay raise be considered on Tuesday, the next opportunity.

Mr. MITCHELL. But may I take your request to mean, therefore, that you do not request that I take up Senator PRESSLER's resolution?

Mr. HUMPHREY. No, that is not my request. They are not exactly the same. They are significantly different.

I support both.

Mr. MITCHELL. Well, I think the fact that we have, to my knowledge, a minimum of five resolutions, I believe the appropriate course would be to permit myself, and all Senators, to read them, consider them, and attempt to make a judgment in consultation with the Senator and others on the most appropriate course to present the question to the Senate.

As the Senator from New Hampshire knows, I discussed with him and with numerous of the other opponents of the pay raise the various resolutions, in an attempt to determine what the best, most fair and appropriate schedule for presenting this matter to the Senate would be, and I do not believe that either I, the Senator from New Hampshire, or anyone else is sufficiently informed at this point on all of the facts to enable us to reach the best conclusion.

So I think it is best to defer a decision on that for this time.

Mr. HUMPHREY. I understand. I thank the Senator for his answer.

One other question about the schedule. Will it, under whatever unanimous consent or recess arrangement you make for this weekend and Friday, will it be in order to—we are going to be in session on Friday; is that correct?

Mr. MITCHELL. I beg your pardon?

Mr. HUMPHREY. Are we going to be in session on Friday of this week?

Mr. MITCHELL. We will be in session on Friday for pro forma purposes.

Mr. HUMPHREY. Will it be in order Friday to introduce bills and resolutions?

Mr. MITCHELL. No, it will not.

Mr. HUMPHREY. I thank the majority leader.

Mr. MITCHELL. Thank you.

Mr. HUMPHREY. Mr. President, I want to address the pay raise issue generally and the resolutions which I have introduced specifically. I said a moment ago that it is now a foregone conclusion, it would seem, that this 50-percent pay raise is going to go into effect automatically. I say it is a foregone conclusion because the leadership on the House side has sent around a letter stating that from January 23, which was yesterday, until February 8, and including February 8, the House will be in pro forma session. That is a nice fancy term, "pro forma session." What it means is the leadership have told the Members of the House to get out of town until after the deadline expires. The deadline for rejecting this pay raise is midnight of February 7. The House is going to be in pro forma session, which is to say no votes will be had until February 9. They even gave themselves an extra margin of 1 day just to make sure they did not come back too soon. The leadership has dismissed the House. No matter what the Senate may do in the way of rejecting this pay raise, there is no possibility the House can act timely before the expiration of this statutory deadline because the House has been dismissed, for all practical purposes.

How do you like that for brassy arrogence? I have never seen anything like it. How do you like that for callous indifference toward public sentiment on this issue which has aroused so much indignation, and rightfully so, in my opinion?

Fifty percent on the face is absurd. I am not nearly as upset by the amount of the pay raise as the dishonest procedure by which Members secure such a pay raise. I am upset about it because it has a very long-term pernicious effect on respect, if there is any left for this institution of the Congress, amongst the public; it has a long-term pernicious effect upon trust and decency in Government.

It was not intended to be this way. Stealing pay raises without even voting on them. Shame on us.

Regarding the power of Members to set their wages, James Madison said at the Virginia convention on ratifying the Federal Constitution:

"This is a power which cannot be abused," he assured his fellow delegates. "This is a power which cannot be abused without rousing universal attention."

He was saying they can never get away with greed in the Congress.

This is a power which cannot be abused without rousing the universal attention and indignation should the general Congress annex wages disproportionate to their service or repugnant to the sense of the community.

He said, "They would be universally execrated."

Well, James Madison was a pretty bright fellow and helped design the best system of government in the world, but he never anticipated the greed and the dishonesty and the cowardice of this Congress.

The PRESIDING OFFICER. All time allocated for morning business has expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to continue for 10 minutes, if I may. I think the majority leader is aware I have been seeking all day to be recognized.

The PRESIDING OFFICER. Is there objection? The majority leader.

Mr. MITCHELL. Reserving the right to object, there are other Senators waiting and other Senators have been here all day and every other Senator has had 5 minutes. I will be glad to give the Senator additional time. May I ask the Senator SIMPSON be permitted to have his 5 minutes, following which the Senator from New Hampshire may have an additional 5 minutes? Is that satisfactory?

Mr. HUMPHREY. Frankly, no. May I have 10 minutes? I may not need that. It is an important subject. People are interested in this.

Mr. MITCHELL. I recognize that. The Senator is not the only person here. Every other Senator has abided by the request.

Mr. HUMPHREY. I will be happy to wait until all other Senators seeking recognition have been heard.

EXTENSION OF MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Wyoming be entitled to his 5 minutes, following which the Senator from New Hampshire be entitled to an additional 10 minutes.

Mr. HUMPHREY. I thank the Senator.

Mr. MITCHELL. Will that be the last request if that is approved?

Mr. HUMPHREY. For today.

Mr. MITCHELL. For today.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, that was a very gracious act of the majority leader. I will assure my colleague from New Hampshire that indeed the schedule has been adhered to and in part of the order of the day. So that has been an accommodation to my friend, Senator HUMPHREY, which has not been extended to others. I know he is appreciative of that. Indeed, I have been in this post serving as assistant leader, and understand we do have our personal lives to lead. That is one of the fine things about this effort of Senator MITCHELL. I appreciate that very much. It is an extraordinary act.

Hopefully he will not take all that off my 5 minutes. Oh, yes, he probably will.

SPIRIT OF COOPERATION

Mr. SIMPSON. We have had the inauguration. We have now seen the change in cadence, of democracy's march completed once again every 4 years. It has been an impressive pageant of pomp and circumstance. We have seen the election of George Bush; the selection of GEORGE MITCHELL as the majority leader. I think it augers well for the coming session.

I just wanted to share with our colleagues that our mission here is to legislate. It is not to cut ribbons. It is not to do television activity or radio activity. It is to legislate, and it is a very great pleasure for me to note the majority leader is a legislator. I have served with him on two committees. I think I am one of the few who has had the experience in 8 years to serve with him on Environment and Public Works and Veterans' Affairs. It is such a pleasure to engage in the travails of the legislator—and I do consider myself a legislator. I do not lust for another office. I find this a most remarkable arena for my skills and activities, whatever God has given me to perform. And so it is a great pleasure to see a legislator, and certainly Senator BYRD also is a remarkable legislator, skillful parliamentarian, a legislator who has been in the trench in recent years trying to pass legislation for the benefit of the people of the country. That is what our work is about. Nothing more; nothing more mysterious.

So as we embark on this remarkable adventure with a new President and these tremendous challenges—and we all know what they are. We are all grown men and women. We do not have to talk about them. They are here. They are all about us. And we have to do it. We have the savings and loans, nuclear weapons facilities, environmental issues, clean air, the whole spectrum.

So I do think as others have said, there is one instance as I sat on the West Front of the Capitol ground on that impressive day that the response from the crowd started from the back instead of the front. That was when President Bush said something to the effect—I paraphrase—that bickering is not going to get it done because really I have found and believe deeply that the people of America could not care one whit whether you have a Republican amendment passed or a Democrat amendment passed or whether the filibuster went all night, who was leading it, who was opposed or who ate the cabbage or who did this with regard to cloture. They just want to know why we do not get our work done.

We had a bipartisan leadership meeting with the President yesterday.

The majority leader gave a powerful series of remarks this morning. The American people expect a new spirit of cooperation. They want results and not bickering, and I admire the majority leader. I think he is ready to do that. I personally know him to be a very fair and hardworking Senator. Together all of us can achieve good results. I am excited, and it will be a pleasure to work with the majority leader, with BOB DOLE, our superb leader on our side of the aisle, Senator CRANSTON, my counterpart, on that side of the aisle.

I am sure the honeymoon will be over soon. In fact, they will be crashing down the door of the bridal suite any day now. The point is we can do our business differently than we have in the past, with new people in the White House, not to say that any of those who were here before have failed in any way. It just is a renewed opportunity, and I look forward to it with great anticipation.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I merely want to thank my friend and colleague, Senator SIMPSON, and tell him how much I look forward to working with him in this coming session for the objectives which he so eloquently described. I thank my colleague.

Mr. HUMPHREY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that my remarks be printed so as not to be interrupted.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL PAY RAISE

Mr. HUMPHREY. Mr. President, James Madison obviously underestimated badly the greed and the cowardice of the 101st Congress, but he was right about the universal execration in which Members of Congress would be held if they sought a pay raise all out of proportion to their services. Certainly that is the case now and certainly it is the case, even more so, since Members have devised a way of doing it without even leaving their fingerprints, without casting a vote and without leaving themselves accountable in any way to the voters.

This automatic pay raise provision is an abomination. It is an abomination because it destroys the accountability that holds our system together. It destroys the accountability to the voters, to the citizens which James Madison

and the founders believed would be a check on human nature.

Let us face it; we are all human, and we all would like more money. That is human. But when you destroy accountability, you foster cynicism and abuse.

The sneaky pay raise of 1989 is more than a matter of money. It is an attack upon decency in our system of government, and that is why we who are in support of Senator PRESSLER and Senator GRASSLEY and others intend somehow, we are determined somehow, with the help of the leadership or without the help of the leadership, to secure a vote. We are determined to secure a vote on this pay raise issue.

Furthermore, this automatic pay raise provision must be repealed. If Members of Congress want a pay raise, let them vote for it, publicly and honorably. A pay raise without a vote is stealing. It is that simple. You take something without permission, that is not yours, it is stealing. A pay raise without a vote is nothing less than stealing. It is stealing from every honorable citizen, every man, every woman who struggles to maintain a household. It is stealing even from young people who work and pay taxes and save their after-tax money for education and other worthy purposes. It is stealing from the citizens unless it is done in an honorable, public fashion, unless it is done with a vote. That is the way we do things around here. We vote. We make choices on public policy by voting. That is what we get paid for, and so as one editorial I read recently said, "Come on, let's vote." Either that or it is stealing. And it is more than just greed. This grab is more than just greed under the circumstances I have described. It is debauchery. A pay raise without a vote is more than cleverness. It is cowardice. For our part, we are not prepared to let the congressional leadership in the House act as the paymasters of bandits. Members of Congress get paid to vote. The American people want a vote, and we intend to secure one by one means or another, sooner or later.

Mr. President, the legislation introduced by Senator PRESSLER is designed to eliminate the deadline in the current statute. The deadline, as I said, expires at midnight on February 7. The House has devised the most incredibly brazen means of avoiding a vote between now and then. They have told the Members to go home. Most of them have left town. They are hiding in corners, probably under rugs, a few of them. They have left town. There is no way they would have an opportunity to disapprove of this pay raise. It really is shocking. The legislation Senator PRESSLER has advanced will eliminate this deadline so that whenever and if the Senate passes this legislation, as I believe it will, and the House should take up that legislation, the pay raise will be repealed.

Now, the challenge, of course, will be to get the House to take up that legislation. The leadership, based on their perfidious conduct this week, will no doubt just let that Senate legislation lie there until it disintegrates from old age. It does not take a genius to figure out what they are going to do over there, and so we will be forced, if necessary, and we are prepared, if necessary, to offer this legislation as an amendment on every must-pass bill that the Senate sends to the House.

I hope we do not have to do that, but I suspect that we will and we shall. This is a matter of decency or indecency, a matter of doing things right and honorably and in a manly fashion or stealing from the American people. I would certainly be willing to support a cost-of-living increase for Members of Congress, maybe a little more to get rid of less honoraria, although I do not believe it is necessary for people to bribe us to stop us from doing whatever we should do. But I would be willing to entertain something reasonable, providing Senators and Members of the House stand up and vote for it in public, yes or no, on the record.

So that is our intent. We recognize it is not going to be easy, given the dishonorable tactics employed by the House leadership 2 years ago and now again this week, even more dishonorable this week than the last time. At least we had a fighting chance 2 years ago to get a vote before the deadline. As it was 2 years ago, the House deliberately waited until the deadline had expired and then voted the next day and Members could go home and say, "Yes, I voted against the pay raise," knowing full well that under the arrangement made by the House leadership such a vote was completely null and void. It had no meaning whatever.

Well, this year they are not even staying in session. They have dismissed the House. They are in pro forma session. "No more votes this week, boys and girls. Go home and hide from the public and let this thing go into effect automatically"—pretty shocking, disgraceful, disgusting. This Senator is tired of it and intends to oppose it with every means at his disposal.

I thank the Chair. I thank the majority leader especially for his graciousness and patience. I wish him well, as do others. I am delighted to have him at the head of our once-distinguished body and which perhaps can be restored.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. BIDEN, Mr. LEVIN, Mr. SPECTER, Mr. MITCHELL, Mr. SIMON, Mr. GRASSLEY, Mr. BOREN, Mr. PRESSLER, Mr. SIMPSON, Mr. MOYNIHAN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Mr. SANFORD, and Mr. HEINZ):

S. 1. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; read the first time.

INTEGRITY IN POST EMPLOYMENT ACT

Mr. THURMOND. Mr. President, on October 21, 1988, Congress passed the Post Employment Restrictions Act of 1988, major ethics legislation, which strengthens laws against lobbying by high-level Federal officials immediately after they leave public service. This legislation passed the Senate unanimously and the House by an overwhelming margin. Unfortunately, the President pocket vetoed this bill. Although the President vetoed this proposal, enactment of strong, effective ethics legislation continues to be vital. The bill being introduced today, the same that passed the Senate on April 19, 1988, provides a uniform, straightforward, and enforceable way to prevent those who are employed by the Federal Government from leaving public service and marketing their access and influence for financial gain. In addition, the legislation prevents Federal employees from vending sensitive information vital to national interests to foreign interests for profit.

I am pleased that Senator BIDEN, chairman of the Senate Judiciary Committee, and others are joining me as original cosponsors of this legislation, with such strong initial support, I am confident that this important bill can swiftly move through the legislative process.

Clear threats arise out of the abusive use of access and influence and the vending of sensitive information: First, damage to the integrity of Government, as undue and improper influence is brought to bear on decisionmaking processes; second, erosion of public confidence in the operation of the Government, as the American people sense former employees are exerting, or appear to be exerting, improper influence on current Government decisions; and third, jeopardy to the national interests, as some former employees advise foreign clients based on sensitive information gained while in positions of trust with the Federal Government.

I introduced my original proposal in the 99th Congress on April 17, 1986. The bill was referred to the Judiciary Committee where two hearings were held on April 29, 1986, and June 18, 1986. The original legislation was de-

bated by the full committee on June 19, 1986, and June 26, 1986, at which time the bill was reported by the committee.

Since no floor action occurred prior to adjournment of the 99th Congress, the bill was reintroduced in the 100th Congress. On May 19, 1987, the full Judiciary Committee considered the legislation at which time it was reported by the committee.

In April 1988, the full Senate began consideration of the legislation. After a full debate, the legislation was passed by the Senate by unanimous voice vote on April 19, 1988.

Regarding the House, it acted on a proposal that incorporated many of the Senate provisions. Their legislative proposal was considered by the House Judiciary Committee after hearings were held. After informal discussions without a conference between House and Senate Members, on October 21, 1988, the House debated and passed its proposal. On that same day, due to the short time left in the 100th session, the Senate acted on and passed this legislation.

Briefly, I would like to highlight certain provisions included in this legislation which I am introducing today. Major features of this bill would restrict Members of Congress from lobbying the legislative branch and top executive branch officials for 12 months after leaving Government service. Top congressional staff could not lobby the body in which they worked for 1 year. The highest executive branch officials would not lobby the executive branch or Members of Congress for 12 months after termination of employment. Other top executive branch officials could not lobby their former agency for this same period. Additionally, Members, top congressional staff, and high-level executive officials could not be employed by, represent, or advise foreign governments or foreign political parties for 18 months.

In addition, this legislation maintains the lifetime ban in current law that prohibits all executive branch employees from lobbying on any issue in which they had "a personal and substantial" involvement while in Government service.

Under the bill, foreign entities are defined as foreign governments, foreign political parties, or foreign organizations substantially controlled by either. Also, exemptions are included which allow lobbying by former Government officials for certain charitable, scholastic, or humanitarian purposes.

Maximum criminal penalties of $250,000 in fines and 5-year prison terms, or both, are included in the measure, as well as a provision that allows, along with any criminal action, recovery of up to twice the amount of proceeds obtained by any individual who violates restrictions in the bill.

The act would become effective 9 months after the legislation is signed into law.

In conclusion, I believe my original bill was an appropriate starting place for Congress to consider much-needed changes to the weak, confusing, and oftentimes conflicting laws governing former Members and Federal officials who lobby the Government or work for a foreign entity. The legislation being introduced today fine tunes my original proposal. Should additional modifications be necessary to further improve and strengthen this legislation, they will be considered. I urge swift action on this bill.

In closing, when we face a serious problem such as the misuse of influence and access or vending of sensitive information vital to national interests, we have two alternatives—do nothing, or take steps to resolve the problem. I believe we must take action to prevent irreparable damage to our Nation and to restore public confidence and integrity in our system of Government. It is time that public service be just that—not merely a stepping stone for future employment or profit. The American people demand, deserve, and expect a standard of ethics which will instill confidence in all of us that this Government makes decisions based on the merits of an issue, not based on positions taken by those who have the most access, influence, or financial clout.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Integrity in Post Employment Act of 1989".

SEC. 2. STRENGTHENING AND CLARIFYING THE CURRENT PROVISIONS OF SECTION 207 OF TITLE 18.

(a) OFFENSE.—Section 207 of title 18, United States Code, is amended to read as follows:

"§ 207. Disqualification of former executive and legislative branch employees

"(a) PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES IN A PARTICULAR MATTER.—It shall be unlawful for any former officer or employee, including a special Government employee, of the executive branch of the United States, including any independent agency, or of the District of Columbia—

"(1)(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(2) within two years after that former officer's or former employee's employment has ceased, knowingly to act as an agent or attorney for, or otherwise represent or assist in representing—or to aid, counsel, advise, consult or to assist in representing, aiding, counseling, advising or consulting—any person, other than the United States, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while so employed.

"(b) TWO-YEAR PROHIBITION ON EXECUTIVE BRANCH EMPLOYEES.—It shall be unlawful for any former officer or employee described in subsection (a), within two years after that former officer's or former employee's employment has ceased—

"(1) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States, by physical presence in a formal or informal appearance before, or

"(2) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, court, or commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with a particular matter involving specific parties in which the United States or the District of Columbia is a party or has a direct and substantial interest and which was actually pending under the former officer's or former employee's official responsibility within one year prior to the date that former officer or employee ceased employment.

"(c) PROHIBITIONS ON EXECUTIVE AND LEGISLATIVE BRANCH EMPLOYEES.—It shall be unlawful for any person, other than a special Government employee who has served no more than sixty days in the immediately preceding three hundred and sixty-five consecutive days—

"(1) having been employed as a senior official, within one year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any department, agency, commission, or legislative entity (or any member, officer, or employee thereof) in which the person served during the one year prior to the termination of such employment as an officer or employee;

"(2) having been employed as a top level official in the executive branch, within one year after such employment has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by

physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the executive branch of the United States, including any independent agency of the United States, or any officer or employee thereof, or any Member of Congress; or

"(3) having served as a Member of Congress, within one year after such service has ceased—

"(A) knowingly to act as agent or attorney for, or otherwise represent, any other person other than the United States by physical presence in a formal or informal appearance before, or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person other than the United States to,

any entity of the legislative branch of the United States, or any member, officer, or employee thereof, or any top level official of the executive branch; or

"(4) having been employed as a senior or top level official, within eighteen months after such employment has ceased, to be employed by, represent, or advise a foreign entity for compensation, financial gain, or other remuneration.

For the purposes of paragraph (1), the legislative entity in which a person served is the Senate, if the person was employed by the Senate, or the House of Representatives, if the person was employed by the House of Representatives.

"(d) AGENTS COMMUNICATING ON BEHALF OF A FORMER OFFICER OR EMPLOYEE.—It shall be unlawful for any person knowingly, in the course of representing any other person other than the United States, by any oral or written communication to any department, agency, commission, court, or legislative entity of the United States (or any member, officer, or employee thereof) to communicate to such department, agency, commission, court, or legislative entity that such communication is on behalf of a former member, officer, or employee covered under subsection (a), (b), or (c) of this section if such a communication by the former member, officer, or employee is prohibited by subsection (a), (b), or (c).

"(e) COVERAGE.—

"(1) INDIVIDUALS COVERED.—For purposes of the coverage of subsections (a), (b), and (c) of this section—

"(A) the term 'senior official' means any officer or employee of the United States other than those of the judicial branch who is not a top level official (including officers and employees of the legislative branch and officers and employees, including special Government employees, of the executive branch, including any independent agency, commissions, Government corporations, independent establishments as defined in section 104 of title 5, the Postal Service, the Postal Rate Commission, and the District of Columbia), who, at any time during the twelve month period preceding the date of termination of employment of the officer or employee, is—

"(i) compensated at the basic rate of pay for GS-16 of the General Schedule as prescribed in section 5332 of title 5, or at a comparable or greater rate of pay under other authority, including positions listed under section 5314 of title 5 or sections 105(a)(2)(B), (C), and (D) and 106(a)(1)(B), (C), and (D) of title 3; or

"(ii) on active duty as a commissioned officer of a uniformed service and assigned to a pay grade of O-7 or above as prescribed in section 201 of title 37; and

"(B) the term 'top level official' means—

"(i) any officer or employee of the executive branch of the United States, including any independent agency, who, at any time during the twelve month period preceding the date of termination of employment of the officer or employee, holds a position listed in section 5312 or 5313 of title 5 or under sections 105(a)(2)(A) and 106(a)(1)(A) of title 3, or is paid at a comparable rate of pay under other authority; or

"(ii) any Member of Congress, including Delegates and Resident Commissioners.

"(2) EXCEPTIONS.—(A) The prohibitions of subsections (a), (b), and (c) shall not apply to any person—

"(i) who is an elected official of a State or local government and whose actions are on behalf of such government;

"(ii) who is engaging solely in the solicitation or collection of funds and contributions within the United States to be used only for medical assistance, food or clothing to relieve human suffering, in accordance with subchapter II of chapter 9 of title 22, and any rules and regulations prescribed thereunder;

"(iii) whose actions are solely for the purpose of furnishing scientific or technological information if the head of the agency concerned with the particular matter, in consultation with the Office of Government Ethics, or the head of the legislative entity concerned with the particular matter, certifies that the person has outstanding qualifications in a technical discipline regarding the particular matter and that the national interest is served by the participation of such person, and publishes such certification in the Federal Register or, in the case of a legislative entity, in the Congressional Record; or

"(iv) who is providing a statement which is based on that person's special knowledge, provided that no compensation is received for such statement other than that regularly provided by law or regulation for witnesses.

"(B) The prohibitions of subsection (c) shall not apply to any person—

"(i) who is employed by—

"(I) an agency or instrumentality of a State or local government;

"(II) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965; or

"(III) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1954,

and whose actions are on behalf of such agency, instrumentality, institution, hospital, or organization.

"(3) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person covered by this section who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

"(f) PENALTIES AND REMEDIES FOR VIOLATIONS.—

"(1) CRIMINAL SANCTION.—Any person who engages in conduct prohibited by subsection (a), (b), or (c) shall be fined not more than $10,000 or imprisoned for not more than two years, or both. Any person who corruptly engages in such prohibited conduct shall be fined not more than $250,000 or imprisoned for not more than five years, or both.

"(2) CIVIL RECOVERY.—The United States may bring in addition to or in lieu of subsection (f)(1) above, a civil action in any United States district court against any person who engages in conduct prohibited by subsection (a), (b), (c), or (d) and, upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years of the later of (A) the date on which the prohibited conduct occurred, and (B) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred.

"(3) ADMINISTRATIVE ACTION.—Upon finding, after notice and opportunity for a hearing, that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) the head of the department, agency, or commission of the executive branch, including any independent agency, before which the prohibited conduct occurred, may prohibit that person from representing anyone other than the United States before such department, agency, or commission, for a period not to exceed five years, or may take other appropriate disciplinary action. Any such disciplinary action shall be subject to review in a United States district court. Departments, agencies, or commissions shall, in consultation with the Director of the Office of Government Ethics, establish procedures and issue regulations to carry out this subsection.

"(4) INJUNCTIVE RELIEF.—Upon a showing that a person has engaged in conduct prohibited by subsection (a), (b), (c), or (d) of this section, the United States may obtain an injunction to stop or prevent such conduct.

"(g) PARTNERS OF AN OFFICER OR EMPLOYEE.—(1) Whoever, being a partner of a Member, officer or employee, including a special Government employee, of the executive branch or the legislative branch of the United States, including any independent agency, or of the District of Columbia, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with the intent to influence makes any oral or written communication on behalf of any other person other than the United States to, any department, agency, court, or commission of the United States or the District of Columbia or the House of Congress in which the Member, officer or employee serves or is employed in connection with a particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such Member, officer or employee or special Government employee participates or has participated personally and substantially as a Member, officer or employee, shall be fined not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Whoever, being the partner of a Member, officer or employee of the legislative branch in a partnership for the provision of professional services, knowingly acts as an agent or attorney for, or otherwise represents, any other person other than the United States by physical presence in a formal or informal appearance before, or with intent to influence makes any oral or written communication on behalf of any other person other than the United States

to any Member, officer, employee or other component part of the House in which the Member, officer or employee serves in connection with a matter pending before either House or a matter which is the subject of legislative oversight in either House shall be fined not more than $10,000, or imprisoned for not more than one year, or both: *Provided, however,* That the prohibition of this subsection shall not prohibit a formal or informal appearance before, or oral or written contact to a Member, officer, employee or other component part of either House on behalf of the partnership itself. For the purposes of this paragraph, the term 'professional services' includes but is not limited to those involving a fiduciary relationship.

"(h) TESTIMONY.—Nothing in this section shall prevent a person from giving testimony under oath, or from making statements required to be made under penalty of perjury.

"(i) DEFENSE.—In an action under paragraph (1), (2), or (3) of subsection (c) of this section, it is an affirmative defense, which the defendant must establish by a preponderance of the evidence, that the defendant acted without receiving or the expectation of receiving, directly or indirectly, any compensation, financial gain, or remuneration.

"(j) DEFINITIONS.—For purposes of this section—

"(1) The term 'foreign entity' includes—

"(A) the government of a foreign country as defined in section 611(e) of title 22;

"(B) a foreign political party as defined in section 611(f) of title 22; and

"(C) a foreign organization substantially controlled by a foreign country or foreign political party.

"(2) The term 'particular matter' includes, but is not limited to, any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, judicial or other proceeding.

"(3) The term 'participated personally and substantially' means an action taken as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other such action.

"(4) For purposes of subsection (c), the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States including Members of Congress.".

(b) TECHNICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former executive and legislative branch employees.".

SEC. 3. PROHIBITING MEMBERS OF CONGRESS FROM AFFILIATING WITH PROFESSIONAL CORPORATIONS.

Section 208 of title 18, United States Code, is amended by adding the following new paragraph:

"(c) Any Member of the House or Senate who shall (1) affiliate with a firm, partnership, association, or corporation for the purpose of providing professional services for compensation; (2) permit that individual's name to be used by such firm, partnership, association or corporation; or (3) practice a profession for compensation shall be fined not more than $10,000 or imprisoned not more than two years, or both. For the purposes of this paragraph, 'professional services' shall include but not be limited to those which involve a fiduciary relationship.".

SEC. 4. PROHIBITING MEMBERS OF CONGRESS FROM CONVERTING EXCESS CAMPAIGN FUNDS.

Section 439a of title 2, United States Code, is amended by striking all beginning with "with respect to" through "January 8, 1980,".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall—

(1) be effective nine months after the date of enactment of this Act; and

(2) apply to any Member or employee of Congress or employee or officer of the Federal Government, other than those of the judicial branch, employed by any agency, department, or entity of the Federal Government on or after nine months after the date of enactment of this Act.

SEC. 6. SEVERABILITY.

If any provision of this Act, including the amendments made by this Act, or the application of any such provision to any circumstance or person is held invalid, the remainder of this Act, or the application of such provision to any other circumstance or person is not affected thereby.

TITLE II—FAIRNESS IN PERSONAL CAMPAIGN EXPENDITURES

SEC. 201. Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person after the election to such candidate or the principle campaign committee of such candidate to repay any such expenditure or loan.

"(2) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and any spouse of any such person.".

SEC. 202. Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate may use any contributions in a manner prohibited by section 315(i)".

SEC. 203. SEVERABILITY.—If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this Act and the application of any provision to any other person or circumstance shall not be affected thereby.

Mr. METZENBAUM. Mr. President, I am pleased to join with Senators THURMOND, LEVIN, BIDEN, and others in the introduction of the Post-Employment Restrictions Act of 1989. We began the effort to strengthen the laws against lobbying by former Government officials in the 99th Congress. The Senate came close to passing a bill in 1986, only to be stymied during the last days of the Congress. Last fall, after extensive discussions and negotiations with Members of the Senate and the House, the Congress passed legislation, which would have greatly strengthened and improved the current, extremely weak, bar on lobbying by former officials. To the surprise of the Nation, the President chose to veto this measure. This veto was yet another sad chapter in the administration's consistent history of ignoring the importance of high ethical standards.

The measure we are introducing today is virtually identical to the one which passed the Senate in April of 1988 (see CONGRESSIONAL RECORD, April 19, 1988, pp. S4265-4267). This version of the bill is substantially better than the one which eventually was sent to the President. It represents a stronger, clearer, and more easily enforced set of restrictions against the unseemly practice of high level officials lobbying their friends days after they have left office. In brief, the basic provisions of the bill are the following:

Former Members of Congress are barred from lobbying Congress and top level officials in the executive branch for 1 year.

Former top level officials in the executive branch are barred from lobbying the executive branch and Members of Congress for 1 year.

Former senior officials in the executive branch, compensated at the rate of GS-16 and above, are barred from lobbying their own agency for 1 year.

Former senior congressional staff, compensated at the rate of GS-16 and above, are barred from lobbying the House of Congress for which they worked for 1 year.

All the persons listed above are barred from working for a foreign government, foreign political party, or organization controlled by a foreign government for 18 months.

Certain provisions in this bill deserve special comment in light of the President's veto message last fall.

First, the bill we are introducing today provides that the prohibition on lobbying on behalf of another person comes into play only if there has been compensation for the lobbying contact. The bill provides for an affirmative defense if there is no compensation. The President, in his veto message, argued that compensation should not be required for a violation.

Under the bill we are introducing today, it is not necessary to show that compensation was received for a particular contact, for example, for a particular telephone call or office visit. Direct or indirect compensation, such as a general retainer to lobby for a client on a matter, is sufficient to establish the compensation element. It is extremely rare that any significant lobbying contact made on behalf of another person involves no direct or indirect compensation. Therefore, I believe the approach in our bill is ade-

quate to prohibit harmful contacts, without sweeping in innocent contacts on minor matters on behalf of relatives or neighbors.

Second, the President in his veto message claimed that the current lifetime ban on members of the executive branch, which prohibits them from representing a client on matters in which they have participated "personally and substantially," should also apply to Members of Congress. The lifetime ban, which is already part of current law, applies to "particular matters involving "specific parties," that is, particular contracts or legal proceedings. For example, an attorney who represents the Government in a particular lawsuit may not switch sides and represent the private defendant in the same suit. It is difficult to apply this same concept to Members of Congress, or congressional staff, since passage of legislation results in no ongoing proceeding such as a lawsuit or pending contract. Thus, I believe the President's objection was misplaced.

During the campaign last fall, President Bush endorsed the approach taken in the bill we are introducing today. Thus, while we remain open to discussions about the particular provisions in this bill, there is solid ground for believing that the administration will support a measure similar to them.

These provisions are modest and sensible. They will greatly reduce the unseemly spectacle of interest groups hiring lobbyists based on whom they know, not what they know. They will help restore public confidence in the processes of Government. I urge my colleagues to join us in the efforts to pass this bill expeditiously.

Mr. BIDEN. Mr. President, I am pleased to join my colleagues today in introducing the Integrity in Post Employment Act of 1989. This legislation has a long history and I believe that the time has come, once and for all, to strengthen and clarify the criminal laws that apply to the post-employment activities of Federal officers and employees. The bill introduced today provides a uniform and enforceable way to prevent those who are employed by the Federal Government from improperly marketing their access and influence for private gain after leaving public service. I believe that it will go a long way toward restoring public faith and confidence in the integrity of our Government—faith and confidence that are necessary if our Government is to function effectively.

This legislation had its genesis in the 99th Congress, with the work of my friend and distinguished colleague from South Carolina, Senator THURMOND. Concerns about the postemployment activities of Government personnel were raised when a high-ranking Federal official left his post and immediately became a consultant for a foreign entity in connection with certain textile negotiations on which the former employee had worked. The specter of two former White House advisers peddling their influence also impelled us to reconsider the rules of ethical conduct by which the highest officials of our Government should be bound.

Under Senator THURMOND's chairmanship, the Judiciary Committee held hearings in the 99th Congress. Because of concerns that were raised about the scope of the legislation at that time, Senator THURMOND appointed an ad hoc subcommittee, of which I was a member, to revise the measure. Following the ad hoc subcommittee's extensive work to address the concerns that had been raised, the full committee reported the bill. Time ran out, however, and Congress did not have an opportunity to vote.

The legislation was reintroduced in the 100th Congress. It passed the Senate on April 19, 1988, due in large part to the hard work of Senators THURMOND, METZENBAUM, LEVIN, and RUDMAN. Negotiations with the House, which had passed a different version of the bill, continued for some time. Finally, in October, both Houses agreed on the text of postemployment legislation and a bill was sent to the President.

I was dismayed when President Reagan, in November, pocket vetoed the bill that was so carefully worked out in the closing days of the 100th Congress. While I share some of the concerns expressed by the President about maintaining our ability to attract topnotch men and women to Government service, I found the veto message, in general, to be short on substance and long on rhetoric.

For example, the President took us to task for not extending to the Congress the current lifetime ban on former executive branch employees lobbying on specific matters with which they were personally and substantially involved. This was not, as the President charged, sloppy and discriminatory, but instead reflected the fact that certain everyday executive actions—such as awarding a contract to a particular company—are not analogous to the work of Members of Congress.

I am hopeful that the President's veto will not deter this body. There remains a pressing need to strengthen and clarify current criminal conflict of interest laws that apply to the postemployment activities of executive branch personnel, and to establish—for the first time—criminal prohibitions on the postemployment activities of Members of Congress and senior congressional staff. The extension of these prohibitions to Congress is particularly noteworthy. It's about time, in my view, that we set standards that apply not just to others but to ourselves as well.

The bill that I have joined in introducing today—which is the same bill that passed the Senate on April 19, 1988—will, in my view, help ensure that Government decisions are truly made in the public interest by guarding against two principal evils.

First, the legislation will better protect Government decisionmaking from the use of clout—the efforts by some to use their influence with former colleagues to get phone calls returned, meetings scheduled, and decisions made in a manner outside the course of normal Government channels. Second, the legislation will protect against a form of insider trading—the practice by some of using information to which they were privy solely in their capacity as Government employees for their own personal profit or gain.

There is every indication that President Bush shares my desire for a comprehensive and effective bill. He is on record as having endorsed the bill that passed the Senate in April. In addition, the President has established a commission to examine our ethics laws. The commission is clearly a step in the right direction, and I commend President Bush for its establishment.

But I must sound a note of caution. Commissions often have a way of laboring slowly and getting caught up in overstudying a problem. For several years now, we in the Congress have studied the issues encompassed in this legislation, and we believe that the time has come to act. I look forward to learning of the commission's views and I am completely willing, where appropriate, to incorporate its recommendations into the bill introduced today. I would add, however, that neither the Congress nor the American people will tolerate undue delay.

I believe that this legislation is the first page in the final chapter of our effort to improve the standards by which former Government employees and officials conduct themselves and to restore the full faith of the American people in the integrity of our Government. We have sought to balance the compelling interest in fair and impartial decisionmaking with the need to protect fundamental first amendment rights and ensure that we continue to attract and retain highly qualified men and women to serve in Government. I am open to proposals to improve and strengthen the bill—particularly to reflect this balance—and I look forward to working with my colleagues who last year labored so strenuously.

As we move toward enactment of this important legislation, our work must be guided by Henry Clay's reminder that "government is a trust, and the officers of the government are

trustees; and both the trust and the trustees are created for the benefit of the people."

Mr. LEVIN. Mr. President, when President Reagan vetoed the postemployment lobbying bill at the end of the last Congress, he made a mistake. Had he signed that bill, we would now have in a place the strong provisions we need to ensure that public officials are not able to cash in on their public office when they leave. We would have closed some serious loopholes in current law as they pertain to the executive branch and, more importantly, we would have covered members of top staff in Congress.

But the President passed up that chance to strengthen our ethics laws, so we are presented, again, with the need to pass legislation in this area.

The bill Senators THURMOND, METZENBAUM, BIDEN, and myself are introducing today is the same bill the Senate passed without dissent or objection in April of last year. It is not the same bill we sent to the President for signature. That bill was the product of a compromise worked out with the House in the waning days of the 100th Congress. Congressman BARNEY FRANK and I spent many hours in October negotiating the technical details of that compromise bill.

The bill we are introducing today is stronger than the bill President Reagan rejected as being too strong. It is also the bill President Bush endorsed during last year's Presidential campaign. It is because of the support for this bill in the Senate, coupled with President Bush's public support for the bill, that we will be seeking to place the bill directly on the calendar and not have it referred to committee. We hope to get this bill or legislation similar to it passed by the Senate before the April recess so we can negotiate with the House early in this session and have legislation on the President's desk before the July 4th recess.

Mr. President, we've got a serious problem that we must address. The public has seen and heard so much evidence in recent years involving what appears to be personal greed at the expense of good Government that they are losing trust in Government's ability to fairly and competently perform. We must attempt to eliminate unethical behavior on the part of our Federal officials. One way to do that is to strengthen our laws, and a significant step toward doing that is to strengthen and expand the law governing postemployment lobbying by Federal officials. That is the purpose of S. 1.

With the enactment of this legislation, we will send a strong message to the public that their Government is not for hire, that public service is not a commodity to be commercially traded.

We have had laws restricting lobbying by former Government officials in place for many years; 18 U.S.C. 207, the law which this bill amends, was originally enacted in 1962. The purpose of that law is to avoid unfair influence in the outcome of Government decisions by prohibiting the personal intervention of a recently departed Federal official connected either to the subject matter or the decisionmaker. It prohibits such contacts that have the appearance of having special influence and resulting in favored treatment, for a specified period of time, and it imposes criminal penalties for knowing violations.

What we have learned by observing the trials of Michael Deaver and Lyn Nofziger is that the statute which we thought was protecting us from the conduct we condemned has problems that need fixing. This bill attempts to fix those problems. But more than that, this bill expands some of the existing provisions to cover more people in more situations.

18 U.S.C. 207(c) of the postemployment lobbying law—the 1-year ban on lobbying your former agency—is quite limited in its application. As applied to persons at the GS-17 level or above and the military equivalent, it applies only to executive branch personnel; it bars such persons from lobbying only their former agency; and it gives the Office of Government Ethics [OGE] the authority to carve up agencies into even smaller units for purposes of the statute's coverage. The net result of that OGE action is a patchwork-type of system for determining the size of one's "former office." For example, the Executive Office of the President, now, is deemed to consist of 9 separate agencies for the purposes of this statute, but the Department of Agriculture is deemed to be one agency. It doesn't make sense. This bill eliminates that problem by eliminating the authority of OGE to carve up agencies.

The bill also includes Congress in its coverage for the first time. We are so often accused of making exceptions for ourselves in the statutes that we pass. In this bill we have an opportunity to bring Congress within coverage of one of our principal ethics statutes.

The bill would bar top-level Federal officials—except those in the judicial branch—that is, cabinet and deputy secretaries and Members of Congress—from lobbying anywhere in their own branch and any top-level official in the other branch for a year. And, as with current law, it bars senior officials from lobbying their former agency. However, it expands the coverage of senior officials from certain designated officials who are paid at a GS-17 level or above (current law) to anyone—including congressional staff—who is paid at a GS-16 level or above.

The bill increases the size of criminal penalties and also establishes civil sanctions. It also creates a new offense by making unlawful, lobbying on behalf of a former official who is barred from direct lobbying.

This bill is a significant improvement over current law. It makes the current law more precise, tougher, more likely to be enforced and, therefore, more likely to be followed.

As many of you know, President Bush is going to appoint a bipartisan commission on ethics which is expected to address, among other issues, this legislation. It is anticipated that the commission will report its findings and conclusions within 30 days of appointment and that President Bush will use that report as the basis for his legislative proposal in this area.

Mr. President, the sponsors of this bill are prepared to delay for a reasonable period of time the Senate's consideration of this legislation in order to give the new President an opportunity to present us with his proposal. And we look forward to it. For that reason, while we will seek to place this bill directly on the calendar for Senate consideration, we will postpone any floor action on the bill for a reasonable period of time in order to give President Bush the opportunity to put together his proposal. If however, the President's proposal is not ready by that time, we are prepared to proceed to Senate consideration. I urge the President, therefore, to act with all due speed on this matter.

In closing, Mr. President, I would like to remind us all that the vast majority of our public officials act with integrity and commitment to public service. I am confident that they will understand the need for this legislation as an instrument for preserving the public's trust. And for the few public officials who cross the line, or for whom the line is an unavoidable temptation, this legislation makes taking such a step tougher and imposes more severe consequences.

Mr. President, I thank my colleagues, particularly Senators METZENBAUM and THURMOND, with whom I have worked on this bill over the past year, for their perseverance and commitment.

By Mr. BYRD (for himself, Mr. MITCHELL, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. COHEN, and Mr. DANFORTH):

S. 2. A bill to amend the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of U.S. Armed Forces involved in hostilities or providing specified authorization for their continued engagement in such hostilities, and for other purposes; to the Committee on Foreign Relations.

WAR POWERS RESOLUTION AMENDMENTS

● Mr. WARNER. Mr. President, I rise today to introduce with my colleagues,

the distinguished majority leader, Senator MITCHELL, the distinguished President pro tempore and chairman of the Appropriations Committee, Senator BYRD, the distinguished chairman of the Armed Services Committee, Senator NUNN, the distinguished chairman of the Intelligence Committee, Senator BOREN, the distinguished ranking minority member of the Intelligence Committee, Senator COHEN, and the distinguished ranking minority member of the Commerce, Science, and Transportation Committee, Senator DANFORTH, the War Powers Amendments of 1989.

Mr. President, it has become obvious to the cosponsors of these amendments and to other Members of this body that the war powers amendment, as presently written, does not work. The War Powers Resolution does not assist the Congress in making constructive contributions to policies involving the use of U.S. Armed Forces, and at times, the War Powers Resolution can actually prevent the Congress from exercising its authority over and accepting its responsibility for the use of the Armed Forces. Quite bluntly, the War Powers Resolution has not worked in the past, is not working now, and will not work in the future.

For these reasons, I joined with Senators MITCHELL, BYRD, and NUNN last year in introducing Senate Joint Resolution 323, the War Powers Resolution Amendments of 1988. I am pleased to say that as a result of the introduction of that resolution, the Senate Foreign Relations Committee formed a special Subcommittee on War Powers, chaired by my friend and colleague, Senator BIDEN, which conducted a number of hearings on the subject of war powers. I am hopeful that this review begun last year will continue as the result of the introduction of this resolution today.

From its enactment over a Presidential veto in 1973, the War Powers Resolution has been beset by a host of problems, not the least of which is the fact that at least two of its operative provisions are of questionable constitutionality. Another serious problem with the existing resolution is its framework under which the Congress could purportedly exercise its authority and responsibility over use of the Armed Forces by congressional inaction. The provision calling for termination of the use of forces after 60 days unless Congress extends that authority casts doubt about the Nation's ability to make and keep foreign policy commitments. The uncertainty of American resolve resulting from this statutory timetable could lead to increased hostilities and to an unwillingness of adversaries to negotiate until and unless the Congress extends the automatic deadline. It is for these very reasons that not a single President since the enactment of the War Powers Resolution in 1973, be he Republican or Democrat, has acceded to the authority of the resolution. Furthermore, Mr. President, it is exactly because of the uncertainties created by the War Powers Resolution that Members of this body have been reluctant through the years to trigger its provisions.

Mr. President, the purpose underlying the War Powers Resolution was to increase the involvement of the Congress in decisions to introduce and to utilize U.S. Armed Forces in situations involving hostilities or imminent hostilities. In my opinion, the present resolution has just the opposite effect. If we, as Members of the Congress, wish to accomplish this purpose, it is incumbent upon us to fashion legislation that will have that effect. It is for this reason that I join today with my colleagues in introducing the War Powers Resolution Amendments of 1989.

Mr. President, the Senate joint resolution which we introduce today is a continuing effort to address the shortcomings in the present law. The amendments proposed today will remove from the War Powers Resolution those provisions most often described as unconstitutional and will replace the automatic 60-day termination provision with expedited procedures for the consideration of a traditional legislative vehicle, subject to the veto by a President, which could then be overridden, in appropriate cases, by the Congress. Furthermore, the amendments proposed today would provide for the Congress to exercise its oversight authority and responsibility through Congress' well recognized power of the purse.

Mr. President, the resolution introduced today is a serious and sincere effort by its cosponsors to "clean our own house." Now, with President Bush's pledge to seek a new bipartisanship in foreign policy, we in Congress have a unique opportunity to work with, rather than against the executive branch to correct the difficulties in the War Powers Resolution. If we are not willing to admit and attempt to correct shortcomings in legislation intended to enhance the role of the Congress in the foreign policy arena, we cannot and should not expect support in our efforts from either of the other branches of Government or from the American people. And without that support we cannot and should not succeed.●

● Mr. BOREN. Mr. President, I am pleased to join my colleagues under the leadership of the majority leader in this bipartisan effort to amend the War Powers Resolution. This legislation can be an important step through which the President and Congress could cooperate in a meaningful way in the formulation of our foreign policy.

As provided by this bill, regular consultation by the President with the leaders of Congress will, I believe, strengthen our foreign policy through a bipartisan consensus. It will reverse the deterioration of the executive-legislative partnership that began during the Vietnam war.

The President can and should initiate but must have support within the Congress to systematically sustain and give credibility to any foreign policy.

Deleting the provision that Congress must specifically authorize the presence of U.S. Armed Forces in hostile situations within 60 days is key to correcting the problems of the present War Powers Resolution. The expedited procedures under which Congress would consider a resolution of approval or disapproval recommended by the permanent consultative body are comprehensive and workable.

It is time to put an end to the frequent reversals of direction in foreign policy caused by Executive and congressional struggles which have emboldened our enemies and confused and demoralized our friends. I urge my fellow colleagues to cosponsor and help enact this legislation to rebuild a bipartisan consensus in foreign policy.●

By Mr. NUNN (for himself, Mr. ROBB, Mr. GLENN, Mr. BREAUX, and Mr. SASSER):

S. 3. A bill to establish a corporation to administer a program of voluntary national service, and for other purposes; to the Committee on Labor and Human Resources.

CITIZENSHIP AND NATIONAL SERVICE ACT

Mr. NUNN. Mr. President, I thank the Chair for recognition. I assure my colleagues. I know there are people waiting. I have to start a hearing in a few minutes on a confirmation. I will not take but just a moment.

But I want to take a moment on this beginning day to introduce with my colleagues who are on the floor, the Senator from Virginia, Senator ROBB, Senator GLENN, Senator BREAUX, and Senator SASSER, the Citizenship and National Service Act of 1989. Perhaps it should be called 1990 eventually because that is the effective date.

Mr. President, at the start of the 101st Congress, I am pleased to join with my distinguished colleague, Senator ROBB, in introducing the Citizenship and National Service Act of 1989.

This bill proposes an entirely new kind of public enterprise, one that enlists citizen volunteers to deliver vital human services for millions of needy Americans. Called the Citizens Corps, its basic aim is simple: to create new opportunities for American citizens, young and old, to serve each other and their country.

National service is not a new idea, but it is an idea whose time has come.

In fact, this legislation is essentially a new G.I. bill expanded to include civilian as well as military service to the Nation. It would be strictly voluntary but strongly encouraged by Federal benefits.

In brief, the Citizens Corps is intended to achieve three main purposes:

First, to awaken a new spirit of civic obligation and participation in America.

Second, to mobilize our Nation's youth to tackle pressing national needs, military and civilian. And,

Third, to promote upward mobility by expanding Federal support for higher education, job training and housing for those who volunteer to serve their country.

The Citizens Corps is based on a very simple but profound principle: that those who take from the common good should give something back. It rests on the premise that citizenship in a free society entails rights as well as responsibilities, and that a careful balance must be maintained between them if America's experiment in self-government is to endure.

Yet in recent decades, that balance seems to have become tilted in favor of ever-more expansive definitions of our rights as citizens. In Congress we often debate new entitlements; rarely do we speak of new civic duties. We believe the time has come to rectify that imbalance.

By linking public service and public benefits, voluntary national service can help us tackle two urgent problems facing our country: the "social deficit" of unmet human needs that has accumulated over the past decade, and the economic squeeze on low- and middle-income families.

With college and housing costs rising beyond the reach of many American families, and with career opportunities dwindling for high school graduates who lack more than rudimentary job skills, the need for a new program of strategic investment in our people is acute.

At bottom, what we are proposing is a new national commitment to developing the personal and economic potential of our Nation's youth. Such an investment, in my view, is critically important to our Nation's future as we compete in an increasingly sophisticated global marketplace.

Consequently, a central purpose of this bill is to strengthen Federal support for higher education. We believe strongly that as a matter of national policy, no young American should be denied the opportunity of a college or post-secondary education for lack of money.

Yet that is what is happening today. Existing Federal student aid programs by themselves are unequal to the task of ensuring equal opportunity in America. And too many young Americans are trapped in a demoralizing cycle of poverty and dependence; for them the prospect of college or even the chance for a decent job seems hopelessly remote.

We view the Citizens Corps as the means of fulfilling a national commitment to education and training for all young Americans who are willing to invest some "sweat equity" in their own future.

Under our proposal, Federal student aid entitlements would gradually be converted into benefits earned through service in the Citizens Corps. That, in our view, would put Federal support for post-secondary education on a firmer foundation of popular support. It would allow for the expansion in public support to education that is necessary to resolve the current student aid dilemma facing our country.

The following figures illustrate the dimensions of this dilemma:

*Between 1980 and 1988, costs for public and private colleges rose by about 40 percent after inflation, while family income grew by only 33 percent. During the same period, Federal student aid grew by just 3 percent after inflation.

*Federal grants have not kept pace with soaring education costs. In 1980, the maximum Pell grant covered over 40 percent of the average tuition bill, compared to only about 29 percent today.

*The emphasis of Federal aid has shifted from grants and work-study to guaranteed loans, which account for 66 percent of all aid today as opposed to 21 percent in 1976. Since 1980, student indebtedness has increased by 60 percent. Loan default rates have jumped from $200 million in 1981 to $1.4 billion last year. No wonder that Senator PELL, our leading authority on student aid, has warned that we are in danger of creating a new class of "indentured students."

*Most troubling of all is the drop in college enrollment among minorities and young people from low-income families. From 1980 to 1986, the proportion of students from blue collar families enrolling in college dropped by one-fifth. Black enrollment dropped from 34 percent in 1976 to 25 percent in 1985; Hispanic enrollment declined from 36 to 27 percent.

In short, Mr. President, the current Federal student aid programs are not working. Nor is it likely that in their present form they will be significantly improved and expanded given the fiscal constraints we face. We believe that the best way—and perhaps the only way—to muster support for such investments in the current fiscal climate is to link them to work that clearly serves broad national purposes.

The Citizens Corps will expand and effectively guarantee Federal education aid by offering all young Americans an equal opportunity to earn money for college or job training.

Existing Federal aid programs—Pell and supplemental equal opportunity grants, college work study, and guaranteed, Perkins and Plus loans—will not be ended, though participation rates and costs should decline. They will continue to be available to young people who cannot be assigned to tasks by the Citizens Corps, of for whom full-time service would pose an exceptional hardship.

Aside from those exceptions, we believe that any able-bodied youth who seeks the Government's help in financing education or training ought to be willing to give something back by way of national service. Thus, for most young people, the Citizens Corps would eventually supplant existing grant and loan programs as the primary route to college funding.

Furthermore, Mr. President, the Citizens Corps will correct a glaring inequity in the way we invest in our Nation's youth. While the Federal Government now spends over $8 billion annually to help college-bound people, it shows far less concern to the so-called forgotten half of our youth population that does not go on to college.

In an era of global competition, knowledge-intensive industry and rapidly changing technology, these young people especially will need access to advanced vocational and skills training. So both as a matter of social equity and enlightened self-interest, our Nation has a vital interest in making sure that non-college-bound youth also get a chance to share in the American dream.

Therefore, we've designed national service vouchers so that they can also be used to pay for vocational and job training, as well as for home ownership. Thus, the Citizens Corps can also help reverse the current decline in home ownership, which has been hitting young couples hardest.

The link between service and benefits would create a powerful magnet for broad participation in the Citizens Corps. It would make national service the principal route to college for all but the wealthiest in our society, so that borrowing would become a secondary and supplemental means of financing an education.

Linking student aid to national service has encountered two main objections, and I'd like to address them. First, some contend it would have a regressive effect, since the poor rely most on existing programs. However, vouchers would provide more aid, on average than grants. And let's not lose sight that the poor will be the primary beneficiaries of the services provided by hundreds of thousands of new volunteers.

This criticism also ignores the fact that college costs are squeezing many middle-income families, and that existing aid programs are regressive in the

sense that they favor only the more fortunate youths who are college-bound.

Second, critics say that our proposal effectively exempts the rich, who can pay for college themselves, and in a strictly economic sense they are right. Only a compulsory national service program can ensure that everyone is treated exactly the same. However, experience with existing service programs like the Peace Corps shows that people from upper income families are disporportionately represented. And it may also be possible to build a presumption in favor of Citizens Corps graduates into college admissions and government hiring.

Mr. President, let me briefly describe how the Citizens Corps would work.

In return for 1 or 2 years' service at subsistence wages in either civilian or military service, young volunteers would earn national service vouchers worth substantial Federal aid for college, job training or housing.

Civilian service would target social needs that currently aren't being met by either government or the private sector: combatting illiteracy and serving as tutors and teachers' aides in public schools; working in hospitals, hospices, outpatient facilities, clinics and mental health centers; providing in-home care to the ill and elderly; expanding day care opportunities for working parents; repairing run-down housing; staffing shelters for the homeless; assisting in public safety and conservation, and more.

Youths who volunteer for military service would either serve 2 years on active duty or go directly into the Reserves. The goals of this "citizen soldier" option are to expand the military's recruitment and training base and bring about better social representation in our Armed Forces.

Although the chief focus would be on youth service, the Citizens Corps would also enlist a limited number of volunteers over 65 who could work either full- or part-time and would earn a modest hourly wage instead of vouchers. To help keep the program's overhead costs down, many retirees would be assigned to supervisory and administrative positions within the Citizens Corps itself.

I believe that national service can become an important component of a strong national defense. The bill is designed to strengthen recruitment by offering special enlistment options for people who do not plan to make a career in the military. These "citizen soldiers" would serve either in the Reserves or for 2 years in the Active Forces, receiving less pay than career soldiers but a higher post-service voucher. In this way, we would build up the Reserve and National Guard units in our country, broaden the mobilization base of our trained military manpower and, we hope, recruit from a broader cross-section of our Nations' youth. We just don't think it's right to ask only the children of poor and low-income families to defend our Nation.

Citizen soldiers can add an important new dimension to the All-Volunteer Force. Obviously, we will need the Department of Defense's support and expertise in refining enlistment options for citizen soldiers, and I look forward to working closely with all of the military services on this aspect of the bill.

This is the basic concept. It serves many different functions. The function of civic education and participation. The function of national defense. The function of helping our young people get a first-rate education or skills training. The function of helping young people realize the dream of home ownership. And it serves the crucial function of matching the youth and energy and enthusiasm and dedicated service of hundreds of thousands of America's young people to the many social needs of our country.

We know we have a grave problem when there are at least 17 million illiterate Americans. How are they going to fare in a changing labor market that puts a premium on mental agility? How are we going to provide quality child care when, by 1990, there will be 10 million children under 6 with working mothers in this country? And who is going to care for the growing number of Americans over 85—the so-called "old old?"

We believe national service can be part of the solution to these problems—not a panacea, but an innovative way to tackle public needs by expanding civic activism and participation instead of public bureaucracies.

To administer the Citizens Corps, we propose a new Corporation for National Service that would set broad policy and dispense Federal funds to States and localities on a 75–25 matching basis. The actual day to day activities of the Corps would be directed by local councils.

We envision the Citizens Corps as a decentralized and nonbureaucratic way to deliver human service to needy citizens. Rather than creating a vast new bureaucracy in Washington, our plan would strengthen civic and community resources—like charitable organizations, private, nonprofit groups, schools and churches, and local social service agencies—that are intermediate between the individual citizen and the Nation.

Mr. President, the program I have outlined is an ambitious one. It will not be cheap. Since we don't know how many people will volunteer, the costs are extremely difficult to forecast. Yet while we hope to phase national service in gradually, over a 5- to 10-year period, we should not minimize the costs of a full-blown program with perhaps over a million volunteers.

Yet neither should we underestimate the benefits of such a program. Like the GI bill, an investment in developing our people's potential will pay handsome dividends down the road. For example, the average college graduate can expect lifetime earnings about $640,000 greater than someone who didn't go to college and $460,000 more than someone who started college but did not finish.

And, by tackling human needs and social problems at their roots, we can save billions in remediation costs down the road. Better to invest now in dealing with illiteracy, undereducation and health problems than to spend immeasurably more later on welfare, unemployment, police and prisons.

In the light of our current fiscal plight, it is important that this legislation add nothing to the Federal deficit. Part of the costs of Federal service will be defrayed by reducing demand for existing forms of student aid. I would hope that the remaining costs can be covered by prudent restraint in other parts of the Federal budget. If not, then I will be willing to support the revenues necessary to get voluntary service started.

Mr. President, I view this legislation not as the last word but as the conceptual starting point for a thoroughgoing debate on the possibilities of voluntary national service. I am a realist and I know some aspects of this proposal will be controversial. But I urge my colleagues to take a close look at what we are trying to do with this bill. Even where we differ on the means, I believe we are likely to find broad agreement on the central goals of this legislation: delivering social services to needy Americans and expanding opportunities for the young people who serve.

Let me close by underscoring the importance of awakening the spirit of citizenship and civic obligation that has been slumbering in our Nation in recent years. That is the spirit that President John Kennedy invoked when he challenged Americans to "Ask not" what our country can do for for us, but what we can do for our country.

We've heard a lot about patriotism lately. We have heard it defined as waiving the flag and reciting the Pledge of Allegiance. But that definition leaves out the essential ingredient of true patriotism—sacrifice.

Without the willingness to sacrifice—to give something back to our country and our communities—patriotism is nothing more than an empty gesture.

So I think we ought to define patriotism not passively—in terms of rituals to be observed—but actively, in terms of civic duties to be performed.

We need to summon the spirit of civic enterprise and responsibility that built our Nation and made it great, and that is the key to renewing America's greatness today.

Mr. President, this is a basic concept. It served many different functions. The function of civic education and participation, the function of national defense, the function of helping our young people get a first-rate education or skilled training, investing in what we call human capital; the function of helping young people realize the dream of home ownership; and it serves the crucial function of matching the youth, energy, and enthusiasm and dedicated service of hundreds of thousands of America's young people to the many, many unmet social needs of our country.

I believe this legislation is not the last word as we introduce it today, and I ask my colleagues for their comments as we go along. This is the conceptual starting point for a thoroughgoing debate on the possibilities of voluntary national service.

We spent a lot of time debating entitlements, and have been for a long number of years. That debate will continue but I think we ought to add to that debate a debate on civic obligations.

So this is the legislation. We will have differing ideas about how it should be implemented. We are not trying to rush it through because it is a very significant departure from the way we both handle our education programs today, and also from the way we attempt to deliver social services.

But I urge all of my colleagues to take a look at the legislation. I would be delighted to discuss it with them. We have a number of people who have been working on it for a long time. It has been introduced on the House side also today.

I urge my colleagues' consideration.

I thank my colleagues for their patience and, Mr. President, I yield the floor. And I will be sending the bill to the desk, and asking it be given the appropriate number and referred to committee.

The PRESIDENT pro tempore. It will be received and appropriately referred.

● Mr. GLENN. I commend Senators NUNN and ROBB for their innovative approach in attempting to meet two very important national goals, fostering a new spirit of public service, both for service in the military and in the civilian community, and enhancing educational opportunities for our young people. As an original cosponsor of this bill, I believe that this legislation could rekindle a new attitude toward social responsibility—an attitude that was best seen during the years of President Kennedy—of young people eager to work for the good of their country in public service. At the same time, this bill can go a long way toward improving the educational and economic situation of young Americans.

So I am enthusiastic about what this bill could mean to the Nation. There are, however, a number of issues in the bill that need to be fully addressed in hearings, and on the Senate floor.

First, the gradual phase-out of Federal student grants and loans most certainly will concern many, myself among them. We need to ensure that any new system will work as well or better than the current system of grants and loans for both the middle class and for the economically disadvantaged who otherwise would be unable to achieve education or training beyond high school.

My second concern is that our colleges and universities not be put at a disadvantage by this bill. I know that educators across the country will have some very penetrating questions not only on the impact of this bill on the quality and quantity of education in this country, but also as to how the bill will affect their individual schools both programatically and economically.

And, then, of course, we must address the issue of the net monetary cost to the Nation as we enact this dramatic shift in the way we treat both public service and higher education at the Federal level. Quite frankly, I am not sure what the final costs will be. Nobody is. We now have only a general understanding of these additional outlays, but we are far from having a good solid analysis of the costs. That, of course, is a must in this time of very substantial budgetary constraints.

So, Mr. President, there are a lot of unanswered questions—both the ones that I have just posed, and I'm sure many more that others will ask. But this is a complex piece of legislation, and such detailed questioning is not only inevitable, it is right and proper. In fact, we in the Congress would be derelict in our responsibilities if we didn't pose these questions, and insist on satisfactory answers.

I trust that satisfactory answers to these questions will be forthcoming, because I believe that the underlying thrust of this bill—the fostering of a renewed commitment to public service—is sound and proper. I pledge to do my utmost to ensure that the Senate's final product both encourages public service and enhances educational opportunities in our Nation, and does so at an affordable cost.●

Mr. ROBB. Mr. President, I am pleased to join with SAM NUNN, JOHN GLENN, and others to cosponsor the Citizenship and National Service Act of 1989. I'm particularly happy that this issue will be on the front burner of the public policy debate over the coming months, and I look forward to taking the small part that befits a most junior Member of this body.

Mr. President, I've been concerned for some time that the spirit of citizenship—the spirit of belonging and contributing to a larger community—has eroded in recent years, that somehow the perpetual tension in American life between the public interest and our private interests has gotten out of kilter. I believe this bill will, when enacted, help restore the balance in our society between freedom and obligation—between personal interest and public duty.

I believe that the concepts embodied in this bill, S. 3, will help our Nation take long strides toward restoring that sense of citizenship. The bill which we introduce today will put the energy and enthusiasm of over a million young people to work on our most vexing social problems—problems like illiteracy, homelessness, and infant mortality—problems that the private sector either can't or won't address and which seem to fall outside the current capabilities of the public sector.

In return for a year or 2 of our young citizens' talent, commitment and energy, this bill proposes that each enlistee receives vouchers, $10,000 for each year of service. These vouchers could be used to defray college expenses, to finance job training or to make a down payment on a home.

Thus, at the same time that we are giving our young people new opportunities to serve their fellow citizens, we open new doors for personal enrichment. We continue our commitment to excellence in higher education, creating new opportunities for students who want to go to college while at the same time expanding Federal aid to those who choose not to attend college. By making benefits available for purchase of a home and job training, we as a Nation affirm our commitment to the principles of home ownership and full employment.

Another important thing this bill does is to move us away from entitlement-based Federal student aid and toward earned student aid, at the same time leaving entitlement-based aid intact for those who are unable to take part in the National Service Program. It is important to remember that Federal grants and loans are not eliminated under this legislation. True, when the act is fully phased in, most people receiving student aid will have participated in the program, but there will be broad discretion to issue exemptions.

I see voluntary national service as a way of bringing our Nation together, of reminding us that we are one Nation and one community. By going out into the community to help those less fortunate than ourselves, young

people will grow in understanding of their fellow citizens. That understanding will in turn encourage a new spirit of cooperation between Americans from every different background. And that, too, is the spirit of citizenship.

A rite of passage, a ticket to advancement, a first job, a bulwark of our national defense, an emblem of citizenship and a source of civic pride and improvement—national service can be all these things. This bill, S. 3, will weave it gradually but inexorably into our national fabric.

Thank you, Mr. President.

By Mr. KENNEDY (for himself and Mr. MITCHELL)

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; to the Committee on Labor and Human Resources.

MINIMUM WAGE RESTORATION ACT OF 1989

● Mr. KENNEDY. Mr. President, today I am introducing the Minimum Wage Restoration Act of 1989. I am delighted to be joined as a cosponsor by the distinguished majority leader, Senator MITCHELL.

Last September, the Senate had before it a similar bill, designed to restore the purchasing power of the minimum wage, which has lost almost 40 percent of its value to inflation since it was last increased in 1981.

Many businesses opposed the bill, as they have every minimum wage adjustment in the last 50 years. But the hopes of millions of low wage workers were raised last year when Vice President Bush stated that he favored an increase. But the opposition in the Senate continued and final action was prevented by a filibuster at the end of the session.

The fundamental premise of the legislation is that the minimum wage should be a living wage. No man or woman who works full time should be condemned to a lifetime in poverty. We have broken that commitment to our lowest paid workers in recent years, and it is time to restore the minimum wage to its proper level.

The bill I introduce today would increase the minimum wage over 3 years from its current level of $3.35 an hour to $4.65. It would also increase the "volume of business" test by the same percentage, from the current $362,500 to $500,000 in annual sales. The bill also contains a section dealing with the minimum wage and Puerto Rico. Puerto Rico has always been treated separately in the act. The provision reported by the Labor and Human Resources Committee last year and included in this bill will apply the mainland rate to most workers on the island, while taking into account the distinct wage and benefit structure on the island.

Since the last increase in the minimum wage in 1981, its purchasing power has declined by 38.5 percent. For low income workers trying to provide for their families, to meet soaring college costs, or rise out of poverty, the decline in value of the minimum wage has taken a heavy toll.

Contrary to the false claims of opponents of this legislation, minimum wage workers are not "just kids." In fact, only 26 percent are teenagers. Two-thirds are women. Over 6.5 million are full-time workers, and 3.8 million are heads of households.

But this legislation is not only about statistics and numbers. It is about men and women willing to work, who want to work and raise their families, and who deserve a fair chance to achieve these fundamental American goals.

Eight years is too long for hard-working low-income men and women to go without an increase in the minimum wage. I look forward to working with the administration to achieve early action in this measure of simple economic justice for millions of our fellow citizens.

There being no objection, the bill is order to be printed in the RECORD, as follows:

S. 4

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minimum Wage Restoration Act of 1989".

SEC. 2. RESTORATION OF MINIMUM WAGE.

Paragraph (1) of section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than $3.35 an hour during the period ending December 31, 1989, not less than $3.85 an hour during the year beginning January 1, 1990, not less than $4.25 an hour during the year beginning January 1, 1991, and not less than $4.65 an hour after December 31, 1991;".

SEC. 3. CHANGE IN ENTERPRISE TEST.

(a) IN GENERAL.—Effective January 1, 1989, paragraph (2) of section 3(s) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(s)(2)) is amended to read as follows:

"(2) is an enterprise that is comprised exclusively of one or more retail or service establishments, as defined in section 13(a)(2), and whose annual gross volume of sales made or business done is not less than $500,000 (exclusive of excise taxes at the retail level that are separately stated);".

(b) PRESERVATION OF COVERAGE.—The next to last sentence of section 3(s) of such Act is amended—

(1) by striking out "June 30, 1978" and inserting in lieu thereof "December 31, 1989";

(2) by striking out "Fair Labor Standards Amendments of 1977" and inserting in lieu thereof "Minimum Wage Restoration Act of 1989"; and

(3) by striking out "$250,000" and inserting in lieu thereof "$362,500".

SEC. 4. PUERTO RICO AND THE VIRGIN ISLANDS.

(a) SPECIAL INDUSTRY COMMITTEES.—Section 5 of the Fair Labor Standards Act of 1938 (29 U.S.C. 205) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary, on petition by the Minimum Wage Board of Puerto Rico, shall as soon as practicable appoint a special industry committee to recommend the minimum rate or rates of wages to be paid under section 6 to employees in Puerto Rico on a determination that—

"(1) there exists a significant and substantial difference between the wage structure of an industry in Puerto Rico, and the prevailing wage structure of that industry on the mainland;

"(2) there is reasonable cause to believe that the full application of the rate or rates provided by section 6(a)(1) would substantially curtail employment; and

"(3) notice of the petition of the Minimum Wage Board of Puerto Rico has been given to all interested parties and to the public in Puerto Rico."; and

(2) in the first sentence of subsection (e), by striking out "in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands" and inserting in lieu thereof "in Puerto Rico (1) by the United States".

(b) MINIMUM WAGE.—Section 6 of such Act (29 U.S.C. 206) is amended—

(1) in subsection (a)(3)—

(A) by striking out "and the Virgin Islands"; and

(B) by striking out "or the Virgin Islands"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The rate or rates provided by subsection (a)(1) shall be applicable in the case of any employee in Puerto Rico, except that, subject to the exceptional circumstances specified in section 5(a) and to paragraph (2), such rate or rates may be superseded only for so long as and insofar as such employee is covered by a wage order heretofore or hereafter issued by the Secretary pursuant to the recommendations of a special industry committee, that prescribes a wage order rate that is less than the wage rate in effect under subsection (a)(1).

"(2) In the case of any employee in Puerto Rico, no wage order issued by the Secretary pursuant to paragraph (1) shall prescribe a rate that is less than $3.35 an hour.".

(c) WAGE ORDERS.—Section 8 of such Act (29 U.S.C. 208) is amended—

(1) in the first sentence of subsection (a), by striking out "and the Virgin Islands";

(2) in the second sentence of subsection (a), by striking out "committee—" and all that follows through the period at the end of the sentence and inserting in lieu thereof the following "committee shall, from time to time, recommend the minimum wage rates to be paid by employers who are in Puerto Rico and who but for section 6(c) would be subject to the minimum wage requirements of section 6(a)(1).";

(3) in the third sentence of subsection (a), by striking out "or the Virgin Islands, or in Puerto Rico and the Virgin Islands,"; and

(4) in the third sentence of subsection (b)—

(A) by striking out "or in the Virgin Islands"; and

(B) by striking out "and the Virgin Islands".

(d) EMPLOYMENT UNDER SPECIAL CERTIFICATES.—Section 14(b) of such Act (29 U.S.C. 214(b)) is amended by striking out "or the Virgin Islands" each place it appears in paragraphs (1)(A), (2), and (3).

By Mr. DODD (for himself and Mr. HATCH, Mr. KENNEDY, Mr. MITCHELL, Ms. MIKULSKI, Mr. CHAFEE, Mr. D'AMATO, Mr. CRANSTON, Mr. HOLLINGS, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. SIMON, Mr. HARKIN, Mr. ADAMS, Mr. SANFORD, Mr. REID, Mr. BRADLEY, Mr. BURDICK, Mr. DECONCINI, Mr. MOYNIHAN, Mr. RIEGLE, Mr. LAUTENBERG, Mr. DASCHLE, Mr. BINGAMAN, Mr. SARBANES, Mr. BIDEN, Mr. ROCKEFELLER, Mr. KERRY, Mr. LEAHY, Mr. BAUCUS, Mr. SASSER, Mr. LIEBERMAN, Mr. KERREY, Mr. INOUYE, Mr. BRYAN, and Mr. KOHL):

S. 5. A bill to provide for a Federal program for the improvement of child care, and for other purposes; to the Committee on Labor and Human Resources.

THE ACT FOR BETTER CHILD CARE SERVICES OF 1989

● Mr. DODD. Mr. President, I rise today to introduce S. 5, the Act for Better Child Care Services of 1989. I am very pleased to be joined in this effort by Senators HATCH, KENNEDY, MITCHELL, MIKULSKI, CHAFEE, D'AMATO, and some 30 other cosponsors.

Just shy of 4 months ago, as I looked down the barrel of a 9-day filibuster of the children's package on the Senate floor, I said "never in the history of American politics has there been a constituency so popular—but with so little political clout—as the American family." Never in my political career have I been as eager to prove myself wrong as I am today. We are now 4 months older; I hope we are 4 months wiser too.

The American family—the children of this Nation—were just dealt about as good a political hand as any poker player could want. We have a new President who wants a kinder and gentler nation and is willing to invest money to make it happen. We have new leadership in the Senate which is committed to enacting a child care bill this year. Clearly, we have an opportunity for the kind of bipartisan cooperation which comes along rarely in a politician's career. We begin 1989 with a remarkable degree of consensus—on a new Federal role in America's child care system; on the targetting of Federal dollars to low-income families; on the importance of parental choice and variety in the delivery of child care services. We differ over funding mechanisms and whether new Federal dollars should help parents find quality care in addition to helping them pay for it. I look forward to working with the new President and my colleagues in the Senate to see if—together—our mutual goals can be achieved.

To those who say cooperation and compromise is impossible, take a look at the legislation our bipartisan group has introduced today. This package—the product of literally dozens of hours of negotiation—combines the best of the child care legislation introduced in the 100th Congress. The Act for Better Child Care Services of 1989 combines ABC's focus on direct assistance to poor families and quality enhancement, with new provisions to increase supply and broaden State flexibility. New provisions in ABC include a separate section for employer-sponsored child care programs, liability risk retention groups, a revised procedure for the minimum national standards, and provision for ABC reimbursement of relative care. On behalf of America's children, we Senators have extended a political olive branch across the aisle. We truly hope this will set an example others will follow.

Quality child care. Like motherhood and apple pie, it's something everyone believes in. But like motherhood—and like apple pie—there is some disagreement about what goes into it. Some believe the most important quality factors are parental choice and involvement. I count myself in this camp. But to provide real parental choice—real involvement—I believe we must do more than throw families a few hundred dollars in tax credits each year and let them fend for themselves. In my view, parental choice means more. It means helping to increase the supply and variety of local child care services. Parental choice means minimum health and safety standards to help parents measure and improve program quality. Parental choice means better resource and referral networks to educate families about their child care options. Parental choice means parents working in the trenches, helping to set child care policies at the national, State, local, and program levels. ABC would help to ensure all these forms of parental choice and involvement. The tax credit approach alone would not.

To those who say a tax credit is the answer to America's child care crisis, I say you are only partially right. A tax credit would help to supplement the incomes of poor families with young children. But it would not help this Nation with our real challenge in the child care arena—to build a diverse system of child care providers with predictable standards of health and safety. A tax credit may very well complement the ABC infrastructure plan; it is however, no substitute at all.

ABC establishes minimum national health and safety standards for publicly-funded child care programs. Here some see a Federal bureaucratic boogeyman which simply doesn't exist. The standards will be set by a national committee of experts, including representatives of State and local government and the business community. The national committee will then disband immediately and the States will have 4 years to implement and ensure compliance with these standards, using ABC assistance. The national standards are based on those already in use in many States, half of which will comply automatically with the median requirements, by definition. The standards will be set only in those categories which have already been identified by child development experts, the national insurance companies, the U.S. Armed Forces, and the States themselves as the key indicators of quality in child care programs.

We know what these quality indicators are. A vast body of child development research tells us that the quality of a child care program is based largely on the interactive relationship between provider and child. That is why group size, child-staff ratios and provider training—indicators which determine the frequency and content of that interaction—are the cornerstones of the minimum national standards established by ABC. We need these national minimums because of the great discrepancies which currently exist in the State-by-State patchwork of standards and regulations. Half the States don't regulate group size for infants, despite the clear correlation with program quality. Only 28 States have ratios of 5 to 1 or lower for infants—the maximum safe ratio according to child care experts. Twenty-six States have ongoing provider training requirements but seven States have no training requirements at all. As a nation, we can do better for our children.

Six years from now—when these standards are in place throughout the Nation—we will look back on this debate and wonder what all the fuss was about. After all, the Federal Government regulates the food we eat, the prescription drugs we take, the automobiles we drive, the planes we fly, and the air we breathe. We also have a long history of using Federal funds to leverage quality improvements in a wide variety of State and local services: Federal highway funds and the minimum national drinking age is just one such example. What is so novel—so threatening—about using Federal funds to establish a floor of safety protection for all children as we head into the demographic whirlwind in the labor force which the 21st century will bring? I view it as a wise investment for our Nation, for the mothers and fathers in the work force now, and for the workers of the future whose intellectual and social development we can help to promote today.

Mr. President, I thank my colleagues for all their hard work on this legislation and commend this measure to the attention of the full Senate.

SUMMARY OF THE ACT FOR BETTER CHILD CARE SERVICES OF 1989

Authorization of appropriations: $2.5 billion is authorized for fiscal year 1990, with such sums as may be necessary for FYs 1991-1994. In addition, $100 million is authorized in FY 1990 only to fund the new Child Care Liability Risk Retention Fund.

Funds for direct assistance to families: States must allocate 70 percent of ABC funds to provide direct assistance to low-income working families on a sliding fee scale. Eligible children are those up to age 15 whose family income does not exceed 100 percent of state median income ($32,777 nationwide for a family of four); priority for funds is given to families of very low income. Parents have complete discretion to choose from a wide range of child care services, including nonprofit and for-profit child care centers, family day care homes, school-based care, and nonsectarian church-based care.

Funds to improve the quality of child care: States may allocate 10 percent of funds for resource and referral programs; improvements in the states' licensing/inspection requirements; and health and safety training for child care workers. States may use existing R&R networks as long as referral services are available to families in all areas of the state. Within two years of enactment, all licensed providers shall have 40 hours of health and safety training every two years.

Funds to increase the availability of child care: States may use 12 percent of funds for grants and loans to establish or expand child care programs; to recruit and train new family day care providers (including a revolving loan fund for improvements to providers' homes); to help communities establish after-school services and programs for sick or homeless children; and to assist businesses with child care programs through a new public-private partnership section.

Minimum national standards for providers receiving public funds: As a condition of federal assistance, states must require only publicly-funded child care programs to comply with a limited set of minimum health and safety standards within 4 years after they are established (roughly 5½ years after the date of enactment of the Act). The standards are based on those used by the U.S. Armed Forces and the national accreditation organizations. The standards will be developed by a National Advisory Committee composed of experts in the field, representatives of state and local government, and members of the business and religious communities. Any state may request a 1 year variance (with a one-year extension) if the state needs more time to comply with a particular standard in a particular area of the state.

Funds to establish liability risk retention groups: The legislation authorizes $100 million in FY1990 for the establishment of Child Care Liability Risk Retention Groups to increase providers' access to affordable liability insurance through a shared risk pool system.

Church-based child care included: Nonsectarian church-based child care is fully eligible for assistance under the bill. The church-state language is based on other federal social service legislation.

Relative care eligible for funds: Relative care by grandparents, aunts, aunts and uncles is eligible for assistance provided such caregivers comply with state regulations, if any, governing such care.

MAJOR REVISIONS TO THE ACT FOR BETTER CHILD CARE SERVICES FOR THE 101ST CONGRESS

ALLOCATION OF ASSISTANCE

(In percent)

Provision of legislation	ABC/ 100th	ABC/ 101st
Direct assistance to families	75	70
Provisions to increase supply	15	12
Provisions to increase quality	15	10
State administration	10	8

New activities to increase child care supply:

New Child Care Public-Private Partnership Section to fund:

(1) New child care programs for businesses;

(2) Demo programs for communities and local employers;

(3) Business participation in R&R programs;

(4) Information and technical assistance for employers;

(5) Presidential award program for progressive employers.

Grants and loans to family day care and nonprofit providers to establish and expand child care programs.

State-based revolving loan funds for new family providers.

Funds for the establishment and operation of after-school child care services, programs for sick and homeless kids and those which link elderly and children's services.

Revisions in minimum Federal standards for publicly-funded care:

Change in composition of National Advisory Committee on Mimimum Child Care Standards to increase input from states, localities, employers and religious organizations.

Variance mechanism which permits a state to postpone its compliance with the minimum standard(s) for 1 or 2 years.

Scope of national minimum standards bound by range of existing state standards. Additional comment period for national standard(s) which do not exist in states.

Relative care eligible for ABC assistance:

Grandparents, aunts, and uncles (18 or older) are eligible for reimbursement provided they comply with state regulations (if any) governing relative care.

Child care liability risk retention groups:

A $100 million for state-based insurance risk pools.

Enhanced State flexibility:

States have additional funds for quality and supply functions. They also have more flexibility to implement the R&R and training requirements. Also, see change in standards above.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Act for Better Child Care Services of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Authorization of appropriations.
Sec. 5. Amounts reserved; allotments.
Sec. 6. Lead agency.
Sec. 7. Application and plan.
Sec. 8. Special rules for use of State allotments.
Sec. 9. Planning grants.
Sec. 10. Continuing eligibility of States.
Sec. 11. State advisory committee on child care.
Sec. 12. Resource and referral programs.
Sec. 13. Training and technical assistance.
Sec. 14. Child care public-private partnership.
Sec. 15. Federal administration of child care.
Sec. 16. Federal enforcement.
Sec. 17. Payments.
Sec. 18. National Advisory Committee on Minimum Child Care Standards.
Sec. 19. Limitations on use of financial assistance for certain purposes.
Sec. 20. Nondiscrimination.
Sec. 21. Preservation of parental rights and responsibilities.
Sec. 22. Child care liability risk retention group.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of children living in homes where both parents work, or living in homes with a single parent who works, has increased dramatically over the last decade;

(2) the availability of quality child care is critical to the self-sufficiency and independence of millions of American families, including the growing number of mothers with young children who work out of economic necessity;

(3) high quality child care programs can strengthen our society by providing young children with the foundation on which to learn the basic skills necessary to be productive workers;

(4) the years from birth to age 6 are a critical period in the development of a young child;

(5) a significant number of parents do not have a real choice as they seek adequate child care for their young children because of limited incomes, insufficient State child care standards, and the inadequate supply of child care services in their community;

(6) high quality early childhood development programs provided during such period are cost effective because such programs can reduce the chances of juvenile delinquency and adolescent pregnancy and can improve the likelihood that children will finish high school and become employed;

(7) the number of quality child care arrangements falls far short of the number required for children in need of child care services;

(8) the rapid growth of participation in the labor force by mothers of children under the age of 1 has resulted in a critical shortage of quality child care arrangements for infants and toddlers;

(9) the lack of available child care services results in many preschool and school-age children being left without adequate supervision for significant parts of the day;

(10) many working parents who are unable to afford adequate child care services do not receive adequate financial assistance for such services from employers or public sources;

(11) because of the lack of affordable child care, a large number of parents are not able to work or to seek the training or

education they need to become self sufficient;

(12) making adequate child care services available for parents who are employed, seeking employment, or seeking to develop employment skills promotes and strengthens the well-being of families and the national economy;

(13) the payment of the exceptionally low salaries to child care workers adversely affects the quality of child care services by making it difficult to retain qualified staff;

(14) several factors result in the shortage of quality child care options for children and parents, including—

(A) the inability of parents to pay for child care services;

(B) the lack of up-to-date information on child care services;

(C) the lack of training opportunities for staff in child care programs;

(D) the high rate of staff turnover in child care facilities; and

(E) the wide differences among the States in child care licensing and enforcement policies; and

(15) improved coordination of child care services will help to promote the most efficient use of child care resources.

(b) PURPOSES.—The purposes of this Act are—

(1) to build on and to strengthen the role of the family by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child care facility or arrangement;

(2) to promote the availability and diversity of quality child care services to expand child care options available to all families who need such services;

(3) to provide assistance to families whose financial resources are not sufficient to enable such families to pay the full cost of necessary child care services;

(4) to lessen the chances that children will be left to fend for themselves for significant parts of the day;

(5) to improve the productivity of parents in the labor force by lessening the stresses related to the absence of adequate child care services;

(6) to provide assistance to States to improve the quality of, and coordination among, child care programs;

(7) to increase the opportunities for attracting and retaining qualified staff in the field of child care to provide high quality child care services to children; and

(8) to strengthen the competitiveness of the United States by providing young children with a sound early childhood development experience.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of Child Care appointed under section 15(a).

(2) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(3) CENTER-BASED CHILD CARE PROVIDER.—The term "center-based child care provider" means a child care provider that provides child care services in a nonresidential facility.

(4) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate that is issued by the State to parents who may use such certificate only as payment for child care services for an eligible child and that provides to an eligible child care provider a right to reimbursement for such services at the same rate charged by that provider for comparable services to children whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(5) COMMUNITY-BASED ORGANIZATION.—The term "community-based organization" has the meaning given such term by section 4(5) of the Job Training and Partnership Act (29 U.S.C. 1503(5)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" means a day or residential school that provides elementary education, as determined under State law.

(7) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 16 years of age;

(B) whose family income does not exceed 100 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working, seeking employment, or enrolled in a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(8) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed or regulated under State law;

(ii) satisfies—

(I) the Federal requirements, except as provided in clause (iii); and

(II) the State and local requirements;

applicable to the child care services it provides; and

(iii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), complies with such standards that are applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild, niece, or nephew of such provider, if such provider complies with any State requirements that govern child care provided by relatives.

(9) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

(10) FAMILY SUPPORT SERVICES.—The term "family support services" means services that assist parents by providing support in parenting and by linking parents with community resources and with other parents.

(11) FULL-WORKING-DAY.—The term "full-working-day" means at least 10 hours per day.

(12) GROUP HOME CHILD CARE PROVIDER.—The term "group home child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

(13) HANDICAPPING CONDITION.—The term "handicapping condition" means any condition set forth in section 602(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1401(a)(1)) or section 672(1) of the Education of the Handicapped Act (20 U.S.C. 1471(a)).

(14) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

(15) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)), except that with respect to a tribally controlled community college such term has the meaning given it in section 2(a)(5) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(5)).

(16) LEAD AGENCY.—The term "lead agency" means the agency designated under section 6(a).

(17) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given that term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(18) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

(19) SCHOOL-AGE CHILD CARE SERVICES.—The term "school-age child care services" means child care services that are—

(A) provided during such times of the school day when regular instructional services are not in session; and

(B) not intended as an extension of or replacement for the regular academic program, but are intended to provide an environment which enhances the social, emotional, and recreational development of children of school age;

(20) SECONDARY SCHOOL.—The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(21) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(22) SCHOOL FACILITIES.—The term "school facilities" means classrooms and related facilities used to provide education.

(23) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

(24) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

(25) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term "unit of general purpose local government" means any city, county, town, township, parish, village, a combination of such general purpose political subdivisions including those in two or more States, or other general purpose political subdivisions of a State.

(26) TRIBAL ORGANIZATION.—The term "tribal organization" has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

(27) TRIBALLY CONTROLLED COMMUNITY COLLEGE.—The term "tribally controlled community college" has the meaning given it in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this Act, other than section 22, there are authorized to be appropriated $2,500,000,000 for the

fiscal year 1990 and such sums as may be necessary in each of the fiscal years 1991 through 1994.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) IN GENERAL.—To carry out section 22, there are authorized to be appropriated $100,000,000 for fiscal year 1990.

(2) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to paragraph (1) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 5. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under section 4(a) in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(2) INDIANS.—The Secretary shall reserve an amount, not less than 1.5 percent and not more than 3 percent of the amount appropriated under section 4(a) in each fiscal year, to carry out subsection (c) regarding Indian children.

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the remainder of the sums appropriated under section 4(a) for each fiscal year, the Secretary shall allot to each State (excluding jurisdictions referred to in subsection (a)(1)) an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage bears to the sum of the corresponding products for all the States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State who are less than 5 years of age to the number of children in all the States who are less than 5 years of age.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of children in all the States who are receiving free or reduced price lunches under such program.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing—

(i) the per capita income of all individuals in the United States; by

(ii) the per capita income of all individuals in the State.

(B) LIMITATIONS.—If a sum determined under subparagraph (A)—

(i) exceeds 1.2, then the allotment percentage of that State shall be considered to be 1.2; and

(ii) is less that 0.8, then the allotment percentage of the State shall be considered to be 0.8.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) TRIBAL ORGANIZATIONS.—From the funds reserved under subsection (a)(2), the Secretary may, upon the application of a Indian tribe or tribal organization enter into a contract with, or make a grant to such Indian tribe or tribal organization for a period of 3 years, subject to satisfactory performance, to plan and carry out programs and activities that are consistent with this Act. Such contract or grant shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act (25 U.S.C. 450f) and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 655-657), that are relevant to such programs and activities.

(2) INDIAN RESERVATIONS.—In the case of an Indian tribe in a State other than the States of Oklahoma, Alaska, and California, such programs and activities shall be carried out on the Indian reservation for the benefit of Indian children.

(3) STANDARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall establish, through the application process, standards applicable to child care services provided under such programs and activities. For purposes of establishing such standards, the Secretary shall take into consideration—

(i) the codes, regulations, and cultural factors of the Indian tribe involved, as expressed by such tribe or the tribal organization that represents such tribe; and

(ii) the State licensing and regulatory requirements applicable to child care services provided in the State in which such program and activities are carried out.

(B) APPLICATION.—

(i) RULE.—Except as provided in clause (ii), after the Secretary establishes minimum child care standards under section 18(e)(2), such minimum standards shall apply with respect to child care services provided under such programs and activities.

(ii) WAIVERS AND MODIFICATIONS.—The Secretary may waive or modify, for a period not to exceed 4 years beginning on the date such minimum standards are established, any of such minimum standards that would limit the capacity of an Indian tribe or tribal organization to receive funds under this Act if the Secretary determines that there is a reasonable expectation that each of such standards requested to be waived will be met by the applicant by the end of the period for which the waiver is requested.

(4) AVAILABILITY OF STATE CHILD CARE SERVICES.—For the purpose of determining whether to approve an application for a contract or grant under this subsection, the Secretary shall take into consideration the availability of child care services provided in accordance with this Act by the State in which the applicant proposes to carry out a program to provide child care services.

(5) RULE OF CONSTRUCTION.—This subsection shall not be construed—

(A) to limit the eligibility of any individual to participate in any program carried out with assistance received under this Act by a State; or

(B) to modify any requirement imposed on a State by any provision of this Act.

(6) COORDINATION.—To the maximum extent practicable, the applicant for a grant or contract under this subsection and the State in which the applicant is located shall coordinate with each other their respective child care programs and activities, including child care programs and activities carried out with assistance received under this Act.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 7(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 7(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this Act, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(f) DEFINITION.—For the purposes of this section, the term "State" means any of the several 50 States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 6. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this Act shall designate, in an application submitted to the Secretary under section 7(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

(b) REQUIREMENTS.—

(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this Act to support programs and services authorized under this Act and to oversee the plan submitted under section 7(b).

(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this Act with the services of other State and local agencies involved in providing services to children.

(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this Act.

(c) DUTIES.—The lead agency shall—

(1) assess child care needs and resources in the State, and assess the effectiveness of existing child care services and services for which assistance is provided under this Act or under other laws, in meeting such needs;

(2) develop a plan designed to meet the need for child care services in the State for eligible children, including infants, preschool children, and school-age children, giving special attention to meeting the needs for services for low-income children, migrant children, children with a handicapping condition, foster children, children in need of protective services, children of adolescent parents who need child care to remain in school, and children with limited English-language proficiency;

(3) develop, in consultation with the State advisory committee on child care established under section 11, the State plan submitted to the Secretary under section 7(b);

(4) hold hearings, in cooperation with such State advisory committee on child care, annually in each region of the State in order to provide to the public an opportunity to comment on the provision of child care services in the State under the proposed State plan;

(5) assist the chief executive officer in making such periodic reports to the Secretary as the Secretary may by rule require;

(6) coordinate the provision of services under this Act with—

(A) other child care programs and services, and with educational programs, for which assistance is provided under any State, local, or other Federal law, including the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.); and

(B) other appropriate services, including social, health, mental health, protective, and nutrition services, available to eligible children under other Federal, State, and local programs;

(7) identify resource and referral programs for particular geographical areas in the State that meet the requirements of section 12; and

(8) establish in accordance with subsection (d)(1) several local advisory councils that collectively represent the entire geographical area in the State.

(d) LOCAL ADVISORY COUNCILS.—

(1) APPOINTMENT.—Each local advisory council established under subsection (c)(8) shall be composed of individuals who are collectively representative of the local geographical area for which they are appointed and of the ethnic characteristics of the population of such area. Such council shall be composed of individuals appointed from among the following:

(A) Parents of preschool children.

(B) Parents of school-age children.

(C) Individuals who are child care providers.

(D) The heads of Head Start agencies.

(E) The heads of local public agencies that provide social services or human resources.

(F) The heads of local education agencies.

(G) The heads of local public health agencies.

(H) The heads of resource and referral agencies.

(I) Individuals engaged locally in business.

(J) Local representatives of nonprofit private organizations that provide funds for social services or human resources.

(K) Representatives of groups that engage in private activities relating to providing child care services.

(2) DUTIES.—Each local advisory council shall—

(A) assess the extent to which there is an unsatisfied need for child care services in the geographical area for which such council is appointed;

(B) submit to the lead agency, not less frequently than biennially, a report identifying the results of the implementation in such area of the State plan included in the application submitted under section 7;

(C) recommend to the lead agency the uses for which assistance received under this subchapter by the State should be expended in such area, and with respect to each such use, the amount of such funds that should be so expended;

(D) advise local child care providers regarding the means to collectively obtain training, supplies, and insurance relating to providing child care services; and

(E) otherwise assist the lead agency, and the State advisory committee on child care established under section 11 to carry out their respective duties.

(3) ADMINISTRATIVE SUPPORT.—The lead agency shall provide to such council such funds, and administrative support services (including personnel) directly or by contract, as may be necessary to enable such council to carry out its duties.

(4) CONFLICTS OF INTEREST.—A member of such council may not cast a vote on any matter that—

(A) may result in a financial benefit to such member; or

(B) under Federal, State, or local law would create or appear to create a conflict of interest if such vote were cast by such member.

(5) PUBLIC AWARENESS OF COUNCIL PARTICIPATION.—The Secretary shall require by rule that residents of each geographical area for which a local advisory council is appointed are informed of the opportunity to be appointed to such council.

SEC. 7. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this Act, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) PLAN.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this Act and a State plan that is designed to be implemented during a 4-year period and that meets the requirements of subsection (c).

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The plan shall identify the lead agency designated in accordance with section 6(a).

(2) ADVISORY BODIES.—The plan shall demonstrate that the State will establish in accordance with section 11 a State advisory committee on child care.

(3) POLICIES AND PROCEDURES.—The plan shall set forth policies and procedures designed to ensure all of the following:

(A) That, to the maximum extent practicable—

(i) the parents of each eligible child who will receive child care services for which assistance is provided under paragraph (4) are permitted to select the eligible child care provider that will provide such services to such child; and

(ii) the State will attempt to place such child with the eligible child care provider selected by such parents.

(B) That—

(i) all providers of child care services for which assistance is provided under this Act comply with all licensing and regulatory requirements (including registration requirements) applicable under State and local law; and

(ii) such requirements are imposed and enforced by the State uniformly on all child care providers that provide child care services under similar child care arrangements.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards or requirements on child care providers who provide services for which assistance is provided under this Act and who also receive State funds under any other law to provide child care services under a contract or other arrangement with the State.

(C) That procedures will be established to ensure that child care providers receiving assistance under this Act or under other publicly-assisted child care programs comply with the minimum child care standards established under section 18(e)(2) after the expiration of the 4-year period beginning on the date the Secretary establishes such standards, and comply with all applicable State and local licensing and regulatory requirements (including registration requirements).

(D) That the State will not—

(i) reduce the categories of child care providers licensed or regulated by the State on the date of enactment of this Act; or

(ii) reduce the level of standards applicable to child care services provided in the State and to the matters specified in sections 13(a) and 18(d), even if such standards exceed the minimum standards established under section 18(e)(2) by the Secretary unless the State, with the concurrence of the State advisory committee established under section 11, requests a waiver of this subparagraph and demonstrates, to the satisfaction of the Secretary, that the proposed reduction is necessary to increase access to and availability of eligible child care providers and will not jeopardize the health and safety of children.

(E) That funds received under this Act by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of child care services and related programs in the State, except that States may use existing expenditures in support of child care services to satisfy the State matching requirement under section 17(b) and may not use such expenditures to satisfy the matching requirements of any other Federal program.

(F) That for each fiscal year the State will use an amount not to exceed 8 percent of the amount of funds received under section 5 by the State for such fiscal year to administer the State plan.

(G) That the State will pay funds under this Act to eligible child care providers in a timely fashion to ensure the continuity of child care services to eligible children.

(H) That resource and referral agencies will be made available to families in all regions of the State.

(I) That each eligible child care provider who provides services for which assistance is provided under paragraph (4)—

(i) gives priority for provider services to children of families with very low income, taking into account family size;

(ii) after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), complies with such standards except as provided in clause (iii);

(iii) if such eligible child care provider is regulated by a State educational agency that—

(I) administers any State law applicable to child care services;

(II) develops child care standards that meet or exceed the minimum standards established under section 18(e)(2) and the State licensing or regulatory requirements (including registration requirements); and

(III) enforces the standards described in subclause (II) that are developed by such agency, using policies and practices that meet or exceed the requirements specified in subparagraphs (A) through (K) of paragraph (11);

complies with the standards described in subclause (II) that are developed by such agency; and

(iv) complies with the State plan and the requirements of this Act.

(J) That child care services for which assistance is provided under paragraph (4) are available to children with a handicapping condition.

(K) That appropriate State regulations will be issued governing the provision of school-age child care services if the State does not already have such regulations.

(L) That child care providers in the State are encouraged to develop personnel policies that include compensated time for staff undergoing training required under this Act.

(M) Encourage the payment of adequate salaries and other compensation—

(i) to full and part-time staff of child care providers who provide child care services for which assistance is provided under paragraph (4);

(ii) to the extent practicable, to such staff in other major Federal and State child care programs; and

(iii) to other child care personnel, at the option of the State.

(N) That child care services for which assistance is provided under paragraph (4) are available for an adequate number of hours and days to serve the needs of parents of eligible children, including parents who work nontraditional hours.

(4) CHILD CARE SERVICES.—The plan shall provide that—

(A) subject to subparagraph (B), the State will use at least 70 percent of the amount allotted to the State in any fiscal year to provide child care services that meet the requirements of this Act to eligible children in the State on a sliding fee scale basis and using funding methods provided for in section 8(a)(1), with priority being given for services to children of families with very low family incomes, taking into consideration the size of the family; and

(B) the State will use at least 10 percent of the funds reserved for the purposes specified in subparagraph (A) in any fiscal year to provide for the extension of part-day programs as described in section 8(b).

(5) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.—The plan shall provide that the State will use not more than 10 percent of the amount allotted to it in any fiscal year to do each of the following:

(A) Provide financial assistance, pursuant to procedures established under the State Dependent Care Development Grants Act (42 U.S.C. 9801 note), to private nonprofit organizations or public organizations (including units of general purpose local government) that meet the requirements of section 12 for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

(B) Improve the monitoring of compliance with, and enforcement of, the licensing and regulatory requirements (including registration requirements) of the State.

(C) Provide training, technical assistance, and scholarship assistance in accordance with the requirements of subsections (b), (c), and (d) of section 13.

(D) Ensure that adequate salaries and other compensation are paid to full- and part-time staff who provide child care services for which assistance is provided under paragraph (4).

(6) ACTIVITIES TO INCREASE THE AVAILABILITY OF CHILD CARE.—The plan shall provide that the State will use not more than 12 percent of the amount allotted to it in any fiscal year for any of the following activities:

(A) Making grants or low interest loans to existing and potential family child care providers and nonprofit child care providers to help such providers pay the cost of—

(i) establishing child care programs; and

(ii) making renovations and improvements in existing facilities to be used to carry out such programs.

(B) Making grants or low-interest loans to child care providers to assist such providers in meeting Federal, State, and local child care standards, giving priority to providers receiving assistance under this Act or under other publicly assisted child care programs and which serve children of families that have very low incomes.

(C) Providing funds for the child care public-private partnership activities described in section 14.

(D) Providing assistance for the establishment and operation of after school child care programs.

(E) Providing assistance for the temporary care of children who are sick and unable to attend child care programs in which such children are enrolled.

(F) Providing assistance for the establishment and operation of child care programs for homeless children.

(G) Providing assistance to link child care programs with programs designed to assist the elderly.

(H)(i) Establishing and administering a revolving loan fund from which any person desiring to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) may obtain a loan in order to become a licensed family child care provider, pursuant to State and local law, and to comply with the minimum standards applicable to such providers as established under section 18(e)(2).

(ii) To permit the use of funds provided under this Act for the activity described in clause (i), the State shall set forth procedures and guidelines to carry out the purposes of such clause, including procedures—

(I) that provide assurances that only applicants who obtain a license for the operation of a child care facility in accordance with the provisions of State and local law and who will meet the minimum standards applicable to family child care services established under section 18(e)(2), benefit from loans made available pursuant to the provisions of clause (i);

(II) to assure that the revolving fund will be administered by the State and will provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, that is not in excess of $1,500;

(III) to assure that funds used to carry out the purpose of clause (i) are transferred to such fund to provide capital for making loans;

(IV) to assure that interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such funds are deposited into such fund;

(V) to assure that all loans, expenses, and payments pursuant to the operation of the revolving loan fund are paid from such fund;

(VI) to assure that loans made from such fund are made to qualified applicants to enable such applicants to make capital improvements so that such applicant may obtain a State or local family child care provider license and so that such applicant may meet the minimum standards applicable to such providers established under section 18(e)(2); and

(VII) that specify how such revolving loan fund will continue to be financed in subsequent years, such as through contributions by the State or by some other entity.

(I) Providing assistance for any other activity deemed by the State to be in accordance with the purposes of this paragraph.

(7) DISTRIBUTION OF FUNDS.—The plan shall provide that funds will be distributed—

(A) to a variety of types of child care providers, including center-based child care providers, group home child care providers, and family child care providers; and

(B) equitably among child care providers to provide child care services in rural and urban areas.

(8) REIMBURSEMENTS.—The plan shall provide that for child care services for which assistance is provided under this Act, an eligible child care provider shall have a right to reimbursement at the same rate charged by that provider for comparable services to children of comparable ages and special needs whose parents are not eligible for certificates under this Act or for child care assistance under any other Federal or State program.

(9) PRIORITY.—The plan shall provide that priority will be given, in distributing funds in the State, to child care providers that—

(A) in providing child care services assisted by such funds, will give priority to eligible children of families with very low income;

(B) to the maximum extent feasible, provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds and children with a handicapping condition;

(C) provide opportunities for parent involvement in all aspects of providing such services; and

(D) to the maximum extent feasible, offer family support services.

(10) SLIDING FEE SCALE.—The plan shall provide for the establishment of a sliding fee scale that requires cost sharing based on the services provided to and the income of the families (adjusted for family size) of eligible children who receive services for which assistance is provided under this Act.

(11) PARENTAL INVOLVEMENT.—The plan shall establish procedures for parental involvement in State and local planning, monitoring, and evaluation of child care programs and services in the State.

(12) ENFORCEMENT OF LICENSING AND OTHER REGULATORY REQUIREMENTS (INCLUDING REGISTRATION REQUIREMENTS).—The plan shall provide that the State, not later than 4 years after the date of enactment of this Act, shall have in effect enforcement policies and practices that will be applicable to all licensed or regulated child care providers (including child care providers required to register) in the State, including policies and practices that—

(A) require personnel who perform inspection functions with respect to licensed or regulated child care services to have or receive training in health and safety, child abuse prevention and detection, program management, and relevant law enforcement;

(B) to the maximum extent feasible, have personnel requirements to ensure that individuals who are hired as licensing inspectors are qualified to inspect and have inspection responsibility exclusively for children's services;

(C) require—

(i) personnel who perform inspection functions with respect to licensed or regulated child care services to make not less than 1 unannounced inspection of each center-based child care provider and each group home child care provider in the State annually; and

(ii) personnel who perform inspection functions with respect to licensed or regulated child care services to make unannounced inspections annually of not less than 20 percent of licensed and regulated family child care providers in the State;

(D) require licensed or regulated child care providers (including registered child care providers) in the State—

(i) to have written policies and program goals and to make a copy of such policies and goals available to parents; and

(ii) to provide parents with unlimited access to their children and to providers caring for their children, during normal hours of operation of such providers and whenever children of such parents are in the care of such providers;

(E) implement a procedure to address complaints that will provide a reasonable opportunity for a parent, or child care provider, that is adversely affected or aggrieved by a decision of the lead agency or any program assisted under this Act, to be heard by the State;

(F) prohibit the operator of a child care facility to take any action against an employee of such operator that would adversely affect the employment, or terms or conditions of employment, of such employee because such employee communicates a failure of such operator to comply with any applicable licensing or regulatory requirement;

(G) implement a consumer education program designed to inform parents and the general public about licensing requirements, complaint procedures, and policies and practices required by this paragraph;

(H) require a child care provider to post, on the premises where child care services are provided, the telephone number of the appropriate licensing or regulatory agency that parents may call regarding a failure of such provider to comply with any applicable licensing or regulatory requirement; and

(I) require the State to maintain a record of parental complaints and to make information regarding substantiated parental complaints available to the public on request.

(13) DATA COLLECTION.—The plan shall provide for the establishment of procedures for data collection by the State designed to show—

(A) by race, sex, ethnic origin, handicapping condition, and family income, how the child care needs of families in the State are being fulfilled, including information on—

(i) the number of children being assisted with funds provided under this Act, and under other State and Federal child care and preschool programs;

(ii) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

(iii) the regional cost of child care; and

(iv) such other information as the Secretary considers necessary to establish how funds provided under this Act are being used;

(B) the extent to which the availability of child care has been increased; and

(C) how the purposes of this Act and the objectives of the State set forth in the State plan are being met, including efforts to improve the quality, availability, and accessibility of child care;

and shall provide that data collected by the State under this paragraph shall be submitted to the Secretary.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(e) SPECIAL RULE.—In carrying out the provisions of this section, the Secretary shall approve any application with respect to the activities described in the plan submitted under paragraph (5) of subsection (c), if the Secretary determines that the State is making reasonable progress in carrying out the activities which are described in subparagraphs (A) and (D) of paragraph (5).

SEC. 8. SPECIAL RULES FOR USE OF STATE ALLOTMENTS.

(a) FUNDING OF CHILD CARE SERVICES.—

(1) IN GENERAL.—The child care services referred to in section 7(c)(4) that are to be provided out of the allotment to a State, shall be provided—

(A) by contracts with or grants to eligible child care providers who agree to provide such services directly to eligible children;

(B) by grants to units of general purpose local government that agree to enter into contracts with eligible child care providers who agree to provide such services directly to eligible children; or

(C) by distributing child care certificates to parents of eligible children under such terms as the Secretary may prescribe to enable the recipients of such certificates to purchase child care services from eligible child care providers.

(2) LIMITATION ON CERTIFICATES.—Child care certificates authorized by paragraph (1)(C) may be issued by a State only if a resource and referral program carried out by an organization that meets the requirements of section 12 is available to help parents locate child care services made available by eligible child care providers.

(3) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this Act shall be construed to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit, or to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this Act.

(b) PART-DAY PROGRAMS.—

(1) IN GENERAL.—At least 10 percent of the funds available for activities under section 7(c)(4)(A) shall be used by the State to enable child care providers to extend the hours of operation of the part-day programs described in paragraph (2) to provide full-working-day child care services throughout the year, in order to meet the needs of parents of eligible children.

(2) ELIGIBLE PROGRAMS.—As used in paragraph (1), the term "part-day programs" means—

(A) programs of schools and nonprofit child care providers (including community-based organizations) receiving State or local funds designated for preschool;

(B) programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschool programs for which assistance is provided under chapter 1 of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.); and

(D) preschool programs for children with a handicapping condition.

(c) FACILITIES.—

(1) NEW FACILITIES.—No financial assistance provided under this Act shall be expended for the construction of a new facility.

(2) EXISTING FACILITIES.—No financial assistance provided under this Act shall be expended to renovate or repair any facility unless—

(A) the child care provider that receives such financial assistance agrees—

(i) in the case of a grant, to repay to the Secretary or the State, as the case may be, the amount that bears the same ratio to the amount of such grant as the value of the renovation or repair, as of the date such provider ceases to provide child care services in such facility in accordance with this Act, bears to the original value of the renovation or repair; and

(ii) in the case of a loan, to repay immediately to the Secretary or the State, as the case may be, the principal amount of such loan outstanding and any interest accrued, as of the date such provider ceases to provide child care services in such facility in accordance with this Act;

if such provider does not provide child care services in such facility in accordance with this Act throughout the useful life of the renovation or repair; and

(B) if such provider is a sectarian agency or organization, the renovation or repair is necessary to bring such facility into compliance with health and safety requirements imposed by this Act.

SEC. 9. PLANNING GRANTS.

(a) IN GENERAL.—A State desiring to participate in the programs authorized by this Act that cannot fully satisfy the requirements of the State plan under section 7(b) without financial assistance may, in the first year that the State participates in the programs, apply to the Secretary for a planning grant.

(b) AUTHORIZATION.—The Secretary is authorized to make a planning grant to a State described in subsection (a) if the Secretary determines that—

(1) the grant would enable the State to fully satisfy the requirements of a State plan under section 7(b); and

(2) the State will apply, for the remainder of the allotment that the State is entitled to receive for such fiscal year.

(c) AMOUNT OF GRANT.—A grant made to a State under this section shall not exceed 1 percent of the total allotment that the State would qualify to receive in the fiscal year involved if the State fully satisfied the requirements of section 7.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A grant made under this section shall be considered to be expended for administrative costs by the State for purposes of determining the compliance by the State with the limitation on administrative costs imposed by section 7(c)(3)(F).

SEC. 10. CONTINUING ELIGIBILITY OF STATES.

A State shall be ineligible for assistance under this Act after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2) unless the State demonstrates to the satisfaction of the Secretary that—

(1) all child care providers required to be licensed and regulated in the State—

(A) are so licensed and regulated; and

(B) are subject to the enforcement provisions referred to in the State plan; and

(2) all such providers who are receiving assistance under this Act or under other publicly-assisted child care programs—

(A) satisfy the requirements of subparagraphs (A) and (B) of paragraph (1); and

(B) except as provided in section 18(f), satisfy the minimum child care standards established by the Secretary under section 18(e)(2) of this Act.

SEC. 11. STATE ADVISORY COMMITTEE ON CHILD CARE.

(a) ESTABLISHMENT.—The chief executive officer of a State participating in the program authorized by this Act shall—

(1) establish a State advisory committee on child care (hereinafter in this section referred to as the "committee") to assist the lead agency in carrying out the responsibilities of the lead agency under this Act; and

(2) appoint the members of the committee.

(b) COMPOSITION.—The State committee shall be composed of not fewer than 21 and not more than 30 members who shall include—

(1) at least 1 representative of the lead agency designated under section 6(a);

(2) 1 representative of each of—

(A) the State departments of—

(i) human resources or social services;

(ii) education;

(iii) economic development; and

(iv) health; and

(B) other State agencies having responsibility for the regulation, funding, or provision of child care services in the State;

(3) at least 1 representative of providers of different types of child care services, including caregivers and directors;

(4) at least 1 representative of early childhood development experts;

(5) at least 1 representative of school districts and teachers involved in the provision of child care services and preschool programs;

(6) at least 1 representative of resource and referral programs;

(7) 1 pediatrician;

(8) 1 representative of a citizen group concerned with child care;

(9) at least 1 representative of an organization representing child care employees;

(10) at least 1 representative of the Head Start agencies in the State;

(11) parents of children receiving, or in need of, child care services, including at least 2 parents whose children are receiving or are in need of subsidized child care services;

(12) 1 representative of specialists concerned with children who have a handicapping condition;

(13) 1 representative of individuals engaged in business;

(14) 1 representative of fire marshals and building inspectors;

(15) 1 representative of child protective services; and

(16) 1 representative of units of general purpose local government.

(c) FUNCTIONS.—The committee shall—

(1) advise the lead agency on child care policies;

(2) provide the lead agency with information necessary to coordinate the provision of child care services in the State;

(3) otherwise assist the lead agency in carrying out the functions assigned to the lead agency under section 6(c);

(4) review and evaluate child services for which assistance is provided under this Act or under State law, in meeting the objectives of the State plan and the purposes of this Act;

(5) make recommendations on the development of State child care standards and policies;

(6) participate in the regional public hearings required under section 6(c)(5); and

(7) perform other functions to improve the quantity and quality of child care services in the State.

(d) MEETINGS AND HEARINGS.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each fiscal year, the committee shall meet and establish the time, place, and manner of future meetings of the committee.

(2) MINIMUM NUMBER OF HEARINGS.—The committee shall have at least 2 public hearings each year at which the public shall be given an opportunity to express views concerning the administration and operation of the State plan.

(e) USE OF EXISTING COMMITTEES.—To the extent that a State has established a broadly representative State advisory group, prior to the date of enactment of this Act, that is comparable to the advisory committee described in this section and focused exclusively on child care and early childhood development programs, such State shall be considered to be in compliance with subsections (a) through (c).

(f) SUBCOMMITTEE ON LICENSING.—

(1) COMPOSITION.—The committee shall have a subcommittee on licensing (hereinafter in this section referred to as the "subcommittee") that shall be composed of the members appointed under paragraphs (2)(A)(iv), (3), (6), (7), (11), (14), and (15) of subsection (b).

(2) FUNCTIONS.—The subcommittee shall review the law applicable to, and the licensing requirements and the policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 4-year period ending on the date of the establishment of the committee under subsection (a).

(g) REPORT.—

(1) IN GENERAL.—Not later than 1 year after establishment of the committee under subsection (a), the committee shall prepare and submit to the chief executive officer of the State involved a report.

(2) CONTENTS OF REPORT.—A report prepared under paragraph (1) shall contain—

(A) an analysis of information on child care services provided by center-based child care providers, group home child care providers, and family child care providers;

(B) a detailed statement of the findings and recommendations that result from the subcommittee review under subsection (f)(2), including a description of the current status of child care licensing, regulating, monitoring, and enforcement in the State;

(C) a detailed statement identifying and describing the deficiencies in the existing licensing, regulating, and monitoring programs of the State involved, including an assessment of the adequacy of staff to carry out such programs effectively, and recommendations to correct such deficiencies or to improve such programs; and

(D) comments on the minimum child care standards established by the Secretary under section 18(e)(2).

(3) RECEIPT OF REPORT BY THE CHIEF EXECUTIVE OFFICER OF THE STATE.—Not later than 60 days after receiving the report from the committee, the chief executive officer of the State shall transmit such report to the Secretary with—

(A) the comments of the chief executive officer of the State; and

(B) a plan for correcting deficiencies in, or improving the licensing, regulating, and monitoring, of the child care services and programs referred to in subsection (f)(2).

(h) SERVICES AND PERSONNEL.—

(1) AUTHORITY.—The lead agency is authorized to provide the services of such personnel, and to contract for such other services as may be necessary, to enable the committee and the subcommittee to carry out their functions under this Act.

(2) REIMBURSEMENT.—Members of the committee shall be reimbursed, in accordance with standards established by the Secretary, for necessary expenses incurred by such members in carrying out the functions of the committee and the subcommittee.

(3) SUFFICIENCY OF FUNDS.—The Secretary shall ensure that sufficient funds are made available, from funds available for the administration of the State plan, to the committee and the subcommittee to carry out the requirements of this section.

SEC. 12. RESOURCE AND REFERRAL PROGRAMS.

(a) ELIGIBILITY FOR ASSISTANCE.—Each State receiving funds under this Act shall, pursuant to section 7(c)(5)(A), make grants to or enter into contracts with private nonprofit organizations or public organizations (including units of general purpose local government), as resource and referral agencies to ensure that resource and referral services are available to families in all geographical areas in the State.

(b) FUNDING.—Organizations that receive assistance under subsection (a) shall carry out resource and referral programs—

(1) to identify all types of existing child care services, including services provided by individual family child care providers and by child care providers who provide child care services to children with a handicapping condition;

(2) to provide to interested parents information and referral regarding such services, including the availability of public funds to obtain such services;

(3) to provide or arrange for the provision of information, training, and technical assistance to existing and potential child care providers and to others (including businesses) concerned with the availability of child care services; and

(4) to provide information on the demand for and supply of child care services located in a community.

(c) REQUIREMENTS.—To be eligible for assistance as a resource and referral agency under subsection (a), an organization shall—

(1) have or acquire a database of information on child care services in the State or in a particular geographical area that the organization continually updates, including child care services provided in centers, group home child care settings, nursery schools, and family child care settings;

(2) have the capability to provide resource and referral services in a particular geographical area;

(3) be able to provide parents with information to assist them in identifying quality child care services;

(4) to the maximum extent practicable, notify all eligible child care providers in such area of the functions it performs and solicit such providers to request to be listed to receive referrals made by such organization; and

(5) otherwise comply with regulations promulgated by the State in accordance with subsection (d).

(d) LIMITATION ON INFORMATION.—In carrying out this section, an organization receiving assistance under subsection (a) as a resource and referral agency shall not provide information concerning any child care program or services which are not in compliance with the laws of the State and localities in which such services are provided.

SEC. 13. TRAINING AND TECHNICAL ASSISTANCE.

(a) MINIMUM REQUIREMENT.—A State receiving funds under this Act shall require, not later than 2 years after the date of the enactment of this Act, that all employed or self-employed individuals who provide licensed or regulated child care services (including registered child care services) in a State complete at least 40 hours of training over a 2-year period in areas appropriate to the provision of child care services, including training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the needs of special populations of children.

(b) GRANTS AND CONTRACTS FOR TRAINING AND TECHNICAL ASSISTANCE.—

(1) GRANTS AND CONTRACTS.—The State shall make grants to, and enter into contracts with State agencies, units of general purpose local government, institutions of higher education, and nonprofit organizations (including resource and referral organizations, child care food program sponsors, and family child care associations, as appropriate) to develop and carry out child care training and technical assistance programs under which preservice and continuing inservice training is provided to eligible child care providers, including family child care providers, and the staff of such providers including teachers, administrative personnel, and staff of resource and referral programs involved in providing child care services in the State.

(2) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TRAINING FOR FAMILY CHILD CARE PROVIDERS.—To be eligible to receive a grant or enter into a contract for a training and technical assistance program for family child care providers under paragraph (1), a nonprofit organization shall—

(A) recruit and train family child care providers, including providers with the capacity to provide night-time and emergency child care services;

(B) operate resource centers to make developmentally appropriate curriculum materials available to family child care providers;

(C) provide grants to family child care providers for the purchase of moderate cost equipment to be used to provide child care services; and

(D) operate a system of substitute caregivers.

(3) ELIGIBILITY REQUIREMENTS FOR GRANTS AND CONTRACTS RELATING TO TECHNICAL ASSISTANCE.—To be eligible to receive a grant, or enter into a contract under subsection (b) to provide technical assistance, an agency, organization, or institution shall agree to furnish technical assistance to child care providers to assist such providers—

(A) in understanding and complying with local regulations and relevant tax and other policies;

(B) in meeting State licensing, regulatory, and other requirements (including registration) pertaining to family child care providers.

(c) SCHOLARSHIP ASSISTANCE.—The State shall provide scholarship assistance to—

(1) individuals who seek a nationally recognized child development associate credential for center-based or family child care and whose income does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) by more than 100 percent, in amounts sufficient to cover the costs involved in securing such credential; and

(2) caregivers who seek to obtain the training referred to in subsection (a) and whose income does not exceed such poverty line.

(d) CLEARINGHOUSE.—The State shall establish in the lead agency a clearinghouse to collect and disseminate training materials to resource and referral agencies and child care providers throughout the State.

SEC. 14. CHILD CARE PUBLIC-PRIVATE PARTNERSHIP.

(a) ACTIVITIES AUTHORIZED.—Each State using funds as described in section 7(c)(6)(C) shall design activities conducted with such funds to encourage businesses in the State to support or provide child care services to a reasonable mix of children, including children from different socioeconomic backgrounds, and children of employees and nonemployees. Such activities may include—

(1) disseminating information relating to—

(A) model child care programs appropriate for implementation by such businesses;

(B) flexible employee work schedules; and

(C) other technical assistance that would enable employers to establish and operate child care programs;

(2) making grants or loans on a competitive basis to assist employers in establishing innovative child care programs;

(3) establishing a demonstration program under which grants are made to local nonprofit private organizations to improve and expand child care services in cooperation with employees who contribute to the cost of such improvement or expansion;

(4) making grants to non-profit business organizations to provide technical information and assistance to enable employers to develop and operate child care services; and

(5) encouraging such businesses to participate in resource and referral activities carried out by organizations recognized under section 12.

(b) DUTIES OF STATE.—In carrying out the activities described in subsection (a), the State shall—

(1) consult with the State advisory committee on child care established under section 11;

(2) provide outreach to businesses participating in such activities; and

(3) encourage such businesses to contribute to the cost of carrying out such activities.

(c) BUSINESS PARTNERSHIP TASK FORCE.—The State may carry out subsection (a) in consultation with—

(1) a business task force appointed by the State from among representatives of businesses of various sizes in the State; and

(2) a state entity that administers laws relating to productive economic development.

(d) PRESIDENT'S AWARD FOR PROGRESSIVE MANAGEMENT POLICY.—

(1) ESTABLISHMENT AND AWARD.—

(A) IN GENERAL.—There is established the President's Award for Responsive Management Policy to honor public and private sector employers who have—

(i) successfully implemented in their businesses family-oriented personnel programs and policies responsive to the child care needs of working parents; or

(ii) made significant contributions to child care projects in their communities.

(B) CITATION.—The President's Award for Responsive Management Policy shall consist of a certificate, plaque, or other appropriate citation.

(2) NOMINATION AND SELECTION.—

(A) NOMINATIONS.—Each year the President, acting through the Secretary of Labor, shall solicit nominations for the President's Award for Responsive Management Policy from State and local elected officials, educational institutions, State-based employee or business associations, or other State or local entities.

(B) RECIPIENTS.—The President, in conclusion with the Secretary of Labor, shall select not less than 3 such nominees from each State to receive the President's Award for that year.

(C) REPRESENTATION.—Of the nominees selected from each State to receive such awards, at least 1 shall represent—

(i) a small business;

(ii) an intermediate-size business; and

(iii) a large business.

(3) PRESENTATION.—The President shall present the President's Award each year with such ceremonies as the President may consider proper.

(4) REGULATIONS.—The Secretary of Labor shall promulgate such regulations as are necessary to carry out the provisions of this section.

(5) DEFINITIONS.—As used in this section:

(A) INTERMEDIATE-SIZE BUSINESS.—The term "intermediate-size business" means a business with at least 101 but not more than 500 employees.

(B) LARGE BUSINESS.—The term "large business" means a business with 501 or more employees.

(C) SMALL BUSINESS.—The term "small business" means a business with not more than 100 employees.

(D) STATE.—The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 15. FEDERAL ADMINISTRATION OF CHILD CARE.

(a) ADMINISTRATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Administrator of Child Care (hereinafter in this section referred to as the "Administrator"). The Secretary shall appoint an individual to serve as the Administrator at the pleasure of the Secretary.

(b) DUTIES.—The Administrator shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) annually collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this Act;

(4) act as a clearinghouse to collect and disseminate materials that relate to—

(A) the child care training and technical assistance programs described in section 13(b)(1); and

(B) studies that relate to the salaries paid to individuals employed to provide child care services; and

(5) provide technical assistance to assist States to carry out this Act.

SEC. 16. FEDERAL ENFORCEMENT.

(a) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this Act and the plan approved under section 7(d) for the State.

(b) NONCOMPLIANCE.—

(1) IN GENERAL.—If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that—

(A) there has been a failure by the State to comply substantially with any provision or any requirements set forth in the plan approved under section 7(d) for the State; or

(B) in the operation of any program or project for which assistance is provided under this Act there is a failure by the State to comply substantially with any provision of this Act;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this Act (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

(2) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to this paragraph (1), the Secretary may, in addition to imposing the sanctions described in such paragraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this Act, and disqualification from the receipt of financial assistance under this Act.

(3) NOTICE.—The notice required under paragraph (1) shall include a specific identification of any additional sanction being imposed under paragraph (2).

(c) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(1) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this Act; and

(2) imposing sanctions under this section.

SEC. 17. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application approved by the Secretary under section 7(d); and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 5 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 80 percent.

(B) EXCEPTION.—If a State makes the demonstration specified in section 10 throughout a fiscal year for which it requests a grant, then the Federal share shall be 85 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this Act to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 7(c)(3)(F).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 5 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

SEC. 18. NATIONAL ADVISORY COMMITTEE ON MINIMUM CHILD CARE STANDARDS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to improve the quality of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this Act, a National Advisory Committee on Minimum Child Care Standards (hereinafter in this section referred to as the "Committee"), the members of which shall be appointed from among representatives of—

(A) the chief executive officers of the several States;

(B) State legislatures;

(C) units of general purpose local governments;

(D) businesses;

(E) individuals responsible for regulating the insurance industry within the States;

(F) religious institutions;

(G) different types of child care providers;

(H) persons who carry out resource and referral programs;

(I) child care, early childhood development, or early childhood education specialists;

(J) individuals who have expertise in pediatric health care, handicapping conditions, and related fields;

(K) organizations representing child care employees;

(L) individuals who have experience in the regulation of child care services; and

(M) parents who have been actively involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Committee shall be composed of 20 members of which—

(A) 4 members shall be appointed by the President;

(B) 4 members shall be appointed by the majority leader of the Senate;

(C) 4 members shall be appointed by the minority leader of the Senate;

(D) 4 members shall be appointed by the Speaker of the House of Representatives; and

(E) 4 members shall be appointed by the minority leader of the House of Representatives.

(3) CHAIRMAN.—The President shall appoint a chairman from among the members of the Committee.

(4) VACANCIES.—A vacancy occurring on the Committee shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Committee office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Committee to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Committee who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Committee or otherwise engaged in the business of the Committee (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) review Federal policies with respect to child care services and such other data as the Committee may deem appropriate;

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed minimum standards described in subsection (d) for child care services, taking into account the different needs of infants, toddlers, preschool and school-age children; and

(3) develop and make available to lead agencies, for distribution to resource and referral agencies in the State, model requirements for resource and referral agencies.

(d) MINIMUM CHILD CARE STANDARDS.—The proposed child care standards submitted pursuant to subsection (c)(2) shall be minimum standards and shall consist of only the following:

(1) CENTER-BASED CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by center-based child care providers shall be limited to—

(A) group size limits in terms of the number of caregivers and the number and ages of children;

(B) the maximum appropriate child-staff ratios;

(C) qualifications and background of child care personnel;

(D) health and safety requirements for children and caregivers; and

(E) parental involvement in licensed and regulated child care services.

The standards described in subparagraphs (A) and (B) shall reflect the median standards for all States (using for States which apply separate standards to publicly-assisted programs the most comprehensive or stringent of such standards) as of the date of enactment of this Act.

(2) FAMILY CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by family child care providers shall be limited to—

(A) the maximum number of children for which child care services may be provided

and the total number of infants for which child care services may be provided;

(B) the minimum age for caregivers; and

(C) health and safety requirements for children and caregivers.

(3) GROUP HOME CHILD CARE SERVICES.—Such standards submitted with respect to child care services provided by group home child care providers shall be limited to the matters specified in paragraphs (1)(B) and (2).

(4) LIMITATION.—The Committee shall not submit any standard under subsection (c)(2) that is less or more rigorous than the least or most rigorous standard that exists in any of the States at the time of the submission of such recommendation.

(e) CONSIDERATION AND ESTABLISHMENT OF STANDARDS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than 90 days after receiving the recommendations of the committee, the Secretary shall—

(A) publish in the Federal Register—

(i) a notice of proposed rulemaking concerning the minimum standards proposed under subsection (d) to the Secretary; and

(ii) such proposed minimum standards for public comment for a period of at least 60 days; and

(B) distribute such proposed minimum standards to each lead agency and each State subcommittee on licensing for comment.

(2) ESTABLISHMENT OF MINIMUM CHILD CARE STANDARDS.—

(A) ISSUANCE OF RULES.—The Secretary shall, in consultation with the committee—

(i) take into consideration any comments received by the Secretary with respect to the standards proposed under subsection (d); and

(ii) not later than 180 days after publication of such standards, shall issue rules establishing minimum child care standards for purposes of this Act. Such standards shall include the nutrition requirements issued, and revised from time to time, under section 17(g)(1) of the National School Lunch Act (42 U.S.C. 1766(g)(1)).

(B) AMENDING STANDARDS.—The Secretary may amend any standard first established under subparagraph (A), except that such standard may not be modified, by amendment or otherwise, to make such standard less comprehensive or less stringent than it is when first established.

(C) EXTENDED PERIOD FOR COMMENT.—If the Committee recommends a standard under subsection (c)(2) that no State has a requirement concerning, as of the time that such standard is recommended, the Secretary shall provide an additional 30 days during which States may submit comments concerning such standard.

(3) ADDITIONAL COMMENTS.—The National Committee may submit to the Secretary and to the Congress such additional comments on the minimum child care standards established under paragraph (2) as the National Committee considers appropriate.

(f) VARIANCES.—

(1) TIME FOR COMPLIANCE WITH STANDARDS.—Not later than the end of the 4-year period referred to in section 10, States shall comply with the standards established under this section.

(2) EXCEPTION.—At the expiration of the 4-year period referred to in paragraph (1) the chief executive officer, in consultation with the State advisory committee, may submit a request to the Secretary for a 1 year variance from the requirements of one or more particular standards for one or more particular geographic areas of the State.

(3) REQUIREMENTS.—A request for a variance under this subsection shall include—

(A) a statement by the chief executive officer of the State of the steps taken to implement the relevant standards in the relevant geographic areas in the State within the 4-year period;

(B) the specific reasons for the submission of the variance request; and

(C) a detailed plan that outlines the additional procedures and resources to be used to come into compliance with the standards at the end of the variance period.

(4) PERIOD OF VARIANCE.—A variance granted by the Secretary shall be for a 1-year period and may be renewed at the discretion of the Secretary for an additional 1-year period if requested by the State.

(g) TERMINATION OF COMMITTEE.—The National Committee shall cease to exist 90 days after the date the Secretary establishes minimum child care standards under subsection (e)(3).

SEC. 19. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this Act shall be expended for any sectarian purpose or activity, including sectarian worship and instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this Act shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

SEC. 20. NONDISCRIMINATION.

(a) FEDERAL FINANCIAL ASSISTANCE.—Any financial assistance provided under this Act, including a loan, grant, or child care certificate, shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued thereunder.

(b) RELIGIOUS DISCRIMINATION.—A child care provider may not discriminate against any child on the basis of religion in providing child care services in return for a fee paid, reimbursement received, or certificate redeemed, in whole or in part with financial assistance provided under this Act.

SEC. 21. PRESERVATION OF PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this Act shall be construed or applied in any manner to infringe upon or usurp the moral and legal rights and responsibilities of parents or legal guardians.

SEC. 22. CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) PURPOSE.—It is the purpose of this section—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

(b) FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.—

(1) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this section.

(2) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—As used in this section, the term "child care liability risk retention group" means any corporation (or other limited liability association)—

(A) whose members are licensed child care providers pursuant to State and local law and who, after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 17(e)(2), complies with such minimum child care standards that are applicable to the child care services provided by such members; and

(B) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

(c) STATE APPLICATIONS.—

(1) APPLICATIONS.—To qualify for assistance under this section, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including information that meets the requirements of subsection (b) of this section.

(2) CONTENT OF STATE APPLICATION.—

(A) LEAD AGENCY.—The application shall identify the lead agency that has been designated and that is to be responsible for the administration of funds provided under this section.

(B) PARTICIPANTS IN RISK RETENTION GROUP.—The application shall assure that all participants in the child care liability risk retention group are licensed child care providers pursuant to State and local law who, after the expiration of the 4-year period beginning on the date the Secretary establishes minimum child care standards under section 18(e)(2), comply with such standards that are applicable to the child care services they provide. In addition, the applicant shall provide for maximum membership of family-based child care providers in the group.

(C) USE OF FUNDS.—The application shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(D) CONTINUATION OF RISK RETENTION GROUP.—The application shall contain provisions that specify how the child care liability risk retention group will continue to be financed after fiscal year 1992, including financing through contributions by the State or by members of such group.

(d) FEDERAL ENFORCEMENT.—

(1) REVIEW OF APPLICATIONS.—The Secretary shall review and approve State applications submitted in accordance with this section and shall monitor State compliance with the provisions of this section.

(2) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(A) that there has been a failure to comply substantially with any provision or any requirements set forth in the State application of that State; or

(B) that there is a failure to comply substantially with any applicable provision of this section,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this section until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

(e) ALLOTMENT TO STATES.—

(1) IN GENERAL.—The Secretary shall make an allotment to each State from the sums appropriated to carry out the provisions of this section using the same allotment formula established under section 5.

(2) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to paragraph (1), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

(f) PAYMENTS.—

(1) ENTITLEMENT.—Each State for which an application has been approved by the Secretary under this section shall be entitled to payments under this subsection for each fiscal year in an amount not to exceed its allotment under subsection (e) to be expended by the State in accordance with the terms of the application for the fiscal year for which the grant is to be made.

(2) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(3) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under subsection (e) for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

Mr. DECONCINI. Mr. President, I rise today in support of the Act for Better Child Care Services, a bipartisan, comprehensive bill to expand and improve child care in this country. I commend Senator DODD and Senator HATCH for reaching a good compromise that incorporates the best aspects of the child care bills each introduced in the 100th Congress.

As a nation, we are no longer arguing about whether we ought to have a child care program in this country. In a national poll taken last summer, a majority of Americans said child care is now an urgent need. Two out of three surveyed favored national policies to help make child care more available and affordable.

There was a time when a typical family could be defined this way: Dad at work and mom at home looking after the children. Today that stereotype fits less than 1 in 10 families. Today two-income families are the rule rather than the exception.

Today mothers with young children are the fastest growing segment of the labor force. Half the women in America are making the same decision: They're returning to work before their child's first birthday. Their numbers will only increase. By the middle of the next decade, two out of every three preschoolers are expected to have mothers working outside the home.

Now with both parents working, who's going to mind the children? Mr. President, America's families are asking this question—and they're not getting easy answers.

Today we have a national shortage of good child care. From Memphis to Mesa to Monterey, more and more families can't get the child care they need at a price they can afford.

In New York City, 150,000 children under the age of 6 need child care. And how many slots are available? Enough for only a third. In my own State of Arizona there are over 130,000 latchkey children—children who come home from school to an empty house.

In addition to child care's short supply, its costs are soaring. In 1984, these costs took nearly a third of the average American family's income. Twenty years ago child care costs took only about one-tenth. At the same time, we simply do not pay our child care workers adequate salaries. In 1986, two out of every three providers had annual earnings below the poverty line. It's no wonder we have a high turnover in our child care centers.

The bottom line is that good, affordable child care is becoming a critical national need. In some cases, when that need is not met, the result can be tragic.

Little more than a year ago, we were glued to television sets across this Nation. We watched as some pretty heroic people rescued Jessica McClure—the young girl trapped in a well in Texas. She had been playing with two other children in the backyard of an unregulated family day care home. Unattended, Jessica fell into the 8-inch well opening. Fortunately, that child care story had a happy ending.

But not all the stories end happily. In Brooklyn fire broke out in an unlicensed child care center. The provider was looking after more children than State standards allowed and could not get them all to safety. A 2-year-old and a 4-year-old were killed. Tragically, those two children have not been the only victims of a child care system that often doesn't measure up to the mark.

What we see emerging is a two-tier system in which the rich can afford quality care, and everyone else must settle for less. A young single mother in Chicago has been through four sitters in 6 months. Two proved too expensive. One turned out to be too careless, and the fourth robbed her.

This young woman's story makes us take notice that our society simply has not provided adequate alternatives to many parents. Pure and simple, we need to reorder our national priorities. We need to make safe child care available, and we need to make it affordable—especially to those parents and children who are most in need.

Mr. President, I believe the revised ABC bill is a significant step toward meeting this need. The legislation provides $2.5 billion in fiscal year 1990 to fund care for children up to age 15 in a variety of settings—from family day-care homes to after school programs. A large portion of the money—70 percent—would be used to help families pay for child care based on need. This bill calls for new spending in addition to, not instead of, existing Federal programs.

There will be some who say we cannot afford the price tag. But good child care is now an important national need. We can—and we must—reallocate our resources so that we can fund this legislation without increasing the Federal deficit.

In addition to making child care more affordable, the ABC bill also attempts to address other pressing problems in child care. Money would be earmarked to improve the training of child care workers and to recruit and train new family day care providers. Low interest loans would be available for family based child care. Grants and loans would be provided to fund the startup costs of employer-sponsored child care programs.

This last proposal is an issue I have long advocated. Six years ago my wife Susan and I helped establish the onsite child care center for children of any U.S. Senate employee, from cook to clerk to chief of staff. It began with a one-time only startup fee of $20,000 taken from the U.S. Senate budget. Today that center is thriving.

It is not enough, however, just to increase the supply of child care. We must also improve its quality. Toward this end, the ABC bill would establish minimum national standards of health and safety—standards with which only publicly funded child care programs must comply. In a departure from the original legislation, the revised ABC bill makes it easier for States to comply with these standards by allowing a 1-year variance—with the option of an additional year extension—if the State needs more time to comply with a particular standard in a particular area of the State.

Last year opponents of the ABC bill argued that the legislation was a precursor to more and more government and State bureaucracy. But underscore this in bold: The revised ABC bill sets up no Federal bureaucracy. The States would have complete flexibility to develop and administer the child care programs funded under this legislation. The Congressional Budget Office estimates the Federal administrative cost of the bill to be three-tenths of 1 percent of the total authorization, or less than $9 million.

In addition, the States would have complete discretion to give parents child care vouchers or to use grants and contracts with child care providers. In either case, parents would be able to choose from a wide range of

child care services, including nonprofit and for profit child care centers, family day care homes, school-based care and church-based care.

This past September the first high school graduating class of the 21st century entered first grade. These young children are America's workers, parents, teachers, and farmers of tomorrow. They are the potential leaders of the next century. This fact is sad, but true: One out of two children in the class of 2000 has a mother in the labor force, but only a minority had safe, affordable quality child care before they entered school.

We've got to change the odds. To do so, we must be willing to invest in the future. An investment in the future means an investment in our children. The Act for Better Child Care Services is a good beginning—for it will help ensure good beginnings for our children—our best hope for the future.

Mr. SARBANES. Mr. President, as a cosponsor and strong supporter of the Act for Better Child Care Services—the ABC bill—in the last Congress, I am pleased to join in sponsoring this legislation as it is reintroduced in the Senate today. There can be no higher priority than protecting our most valuable resource—the well-being of our children. The ABC bill is the only legislation which has been considered by the Congress which addresses our Nation's pressing child care needs in a comprehensive manner, and I am pleased to cosponsor legislation to ensure the availability of quality, affordable child care services throughout the country.

There can be no doubt that the existing national supply of child care services is inadequate to meet the needs of the increasing number of children who have mothers employed outside of the home. The number of preschool children with mothers in the labor force has grown by 75 percent over the past 15 years, and the number of school-age children with working mothers has increased by 22 percent. In addition, over half of all mothers who currently have infants under 1 year of age work outside the home.

A report on the status of child care services in my State of Maryland, undertaken in 1987 by the Johns Hopkins Institute for Policy Studies at the request of the Maryland Department of Human Resources, indicates that the need for increased child care in Maryland is also very large. The report shows that 60 percent, or 233,877 children, younger than 6 years old had mothers in the labor force; 72 percent, 416,810 children, between the ages of 6 and 14 had working mothers. Yet, in 1986, Maryland had only 941 registered group child care centers with a total capacity of 39,400 slots. Registered family day care homes numbered 8,470 with a total capacity of 33,878 slots.

Economic factors would indicate that mothers will continue to enter the work force in growing numbers. A recent study completed by the House Select Committee on Children, Youth, and Families reports that 35 percent more two-parent families would live below the poverty line if both parents were not employed. It also shows that two-thirds of mothers currently in the work force are either the sole supporter of their families or have husbands who earn less than $15,000 per year.

Given these statistics, it might reasonably be assumed that the Federal Government would have increased its support of child care services to meet the changing needs of our society. Instead, the previous administration sought massive cuts in appropriations for Federal programs providing support for child care services, especially those serving the child care needs of low-income Americans.

The major current Federal program which includes appropriations for child care is the title XX social service block grant [SSBG]. SSBG provides approximately $2.7 billion a year for a variety of social services, including child care. However, with the advent of the Reagan administration's block grant system in 1981, States are no longer required to allot a defined level of funding for child care services. Consequently, only 15 to 18 percent of SSBG appropriations are currently used for child care nationwide. In addition, the funding for this program has been cut dramatically since 1980, absorbing a 20-percent cut in 1981 alone. With diminishing Federal support, States have been required to look to local funding for additional revenues and, in many States, service levels have dramatically declined. It is clear that without a renewed Federal investment and without funds earmarked directly for child care, there is no guarantee that States will be able to provide adequate support for this increasingly critical area.

The child and dependent care tax credit currently provides the largest Federal support for family child care needs. This credit, available to working families with dependent care costs, including child care, allows a deduction of up to 30 percent of dependent care expenses. However, low-income families with little or no tax liability cannot benefit from this credit; and the average credit of less than $350 per taxpayer is hardly enough to offset child care costs currently averaging $2,500 per year in Maryland and $3,000 per year nationwide. Further, a refund collected at the end of the year does not help working families who cannot afford to pay for child care services when they are required. Finally, it should be noted that the tax credit approach to the child care problem does nothing to expand the supply or quality of child care services available to parents.

Besides addressing the important areas of availability and affordability of child care, the ABC bill would also ensure that child care providers offer adequate and safe care for our Nation's children. The existing system of State enforced regulations on child care is a confused jumble of differing standards. Thirty-two States require no first aid training for child care center workers, 21 do not require criminal record checks of providers, and 44 do not require child abuse central registry checks. The quality safeguards included in the ABC bill for child care represent the minimum protection we must afford our children.

Mr. President, the need for a comprehensive, coordinated Federal policy on child care services has never been greater than it is today. With recent projections that by 1995 two-thirds of all preschool children and four out of five school age children will have mothers in the labor force, this need can only increase. We must make a national commitment to ensure the availability of quality, affordable child care for all our Nation's children. Passage of the Act for Better Child Care Services would be a significant step in this critical direction.

Mr. HARKIN. Mr. President, providing safe and affordable child care is of critical importance to our Nation's children, families, and economy. Thus I am proud to again cosponsor the Act for Better Child Care.

We now have a tangible opportunity to strengthen and stabilize America's families. We in Washington argue over whether the Government should subsidize day care, or do more to strengthen the traditional family. But in Davenport and Council Bluffs, IA, where I spent two of my work days at child care centers, I learned that most families have a more pressing, pragmatic concern—when will there be an opening for their child?

Too many children are now being cared for in crowded and unsafe day care facilities or are simply being left alone at home.

America's families are changing rapidly. More than half of women with young children are in the work force today, some because they want to be, most because they have to be. Two out of three women working outside the home are either the sole providers of their children or have husbands earning less than $15,000 per year.

For families where the mother can afford to stay home, we ought to offer our encouragement and support. The current Tax Code provides a dependent child tax credit, and perhaps this ought to be expanded. Tax breaks can be a part of the puzzle, but they hardly begin to address the magnitude

of a problem in which most American families need but cannot find affordable, reliable and safe day care for their children.

Much has been written and said about the ABC bill—much of it misleading. The measure would create no massive new Federal bureaucracy; the money would be parceled out to the States, which would be responsible for administering and monitoring child care services. It would encourage diversity and expand, not constrict, parent's child care options—options which would include family and church-based care. It would target help to working parents at the lower end of the income spectrum, not the upper brackets.

ABC would help communities increase availability of, and access to, child care by funding grants and loans for the establishment of child care programs, building renovation, salaries for child care providers, technical help for businesses seeking to meet employee child care needs, expansion of part day into full day programs, and resource and referral networks.

States could help low- and moderate-income families, earning up to the State's median income, pay for child care either through vouchers to parents or contracts with day care providers.

The ABC bill also establishes an advisory committees including a wide range of day care providers, consumers and State representatives, which will be responsible for setting minimum standards for health and safety. We can no longer force our children to pay the cost of unsafe care.

Of course, better child care entails a cost. But if you think child care is expensive, take a look at the cost of inaction. Our industrial competitors who invest in child care do it because it pays off in increased productivity and economic growth.

We are spending $10 billion a year on welfare. The cost of providing child care is about one-third of the average welfare payment. A small investment in child care can pay dividends down the road, as we reduce the size of the welfare rolls, and recipients get jobs and pay taxes.

Children left unattended, or in inadequate day care facilities, often enter public schools far behind their classmates. Special education programs for disadvantaged children cost $4 billion last year—$4 billion, Mr. President.

But this, of course, is not merely a question of economics. It's a question of how we will provide for our children, and how we want them to grow up. In an editorial appearing in the Des Moines Register this past year, the author stated that the ABC bill "has the potential to make life better for America's working poor, make life safer for their children, and ease the welfare burden on all of society." I think that says it all.

I want to close by thanking my colleague from Connecticut for his persistent efforts on behalf of families and children. CHRIS DODD is a man who truly does care about how our children grow up. Again, I am proud to cosponsor with him the Act for Better Child Care.

Mr. HATCH. Mr. President, it is no doubt a surprise to many in this body that I am a cosponsor of the Act for Better Child Care. I was one of the leading critics of this legislation during the last Congress and expressed my concerns about it every chance I got and in just about every medium. I still have serious reservations about this bill, but I think the time has passed for the sponsors of various child care bills—all of whom have many worthwhile ideas—to stand in their respective corners trying to avoid compromise.

I am sure every Member of the Senate knows how important this issue is to millions of American families. For this reason, I believe we must examine every proposal intended to assist families in finding safe, affordable child care.

I am eager to put partisanship behind us and to roll up my sleeves with my colleagues on both sides of the aisle to develop effective legislation; and, it is time to work with President Bush, who has put forward some of his own ideas on this issue which deserve our serious consideration.

I have cosponsored the Act for Better Child Care, or the ABC bill as it has become known, not because I think it is the perfect solution, but rather because Senators DODD and MIKULSKI and I worked long and hard last fall to come up with a bipartisan compromise on child care. Time in the 100th Congress ran out, and it became clear that such a compromise would not be possible in 1988. Many changes were made, however, and I want to thank Senator DODD for his willingness to pick up in the 101st Congress at the place where we left off. While I believe other amendments will be needed before this bill can be enacted, I am cosponsoring this bill because it symbolizes the kind of bipartisan cooperation that I believe is essential.

Many significant issues remain. Perhaps the most divise is the matter of Federal standards. The ABC bill being introduced today contains provisions which mitigate some of the expected problems associated with the development and implementation of Federal standards, and I do not want to belittle the progress we have made on this troublesome aspect of the bill.

The fact remains, however, that the bill still mandates Federal standards. Not only does the concept of a Federal entity making rules which govern the provision of child care in Cedar City or American Fork, UT, still bother me, but also the fact that Federal standards in any form may have unintended adverse results. Stringent Federal standards may actually lead to an increase in child care costs, the actual reduction of licensed child care slots, and the movement of otherwise qualified and often preferred family based providers to the underground economy. I have serious reservations about imposing Federal standards, particularly when a standard may not be revised by the Secretary of Health and Human Services under a normal rulemaking procedure if it is found to be unworkable. I hope that the discussions on this matter can continue, and that other Senators will share their suggestions for an ultimate solution to the problem of ensuring safe child care without unnecessarily hamstringing States, providers, and parents.

The question also remains as to whether subsidies should go directly to the eligible family in the form of tax breaks or through a middleman such as the State government or a State-selected contractor. There is no question that every family wants freedom of choice among available child care options; and we should never make the mistake of assuming that a family is less interested in exercising parental discretion just because it has a lower income.

We must also carefully evaluate the efficacy of the requirements we impose on State governments from several perspectives. Does the legislation permit sufficient flexibility? Will Federal legislation enhance or hinder a State's own initiatives in child care? Will it transfer too many resources from services to enforcement? Will each State be able to adapt this program to meet the specific needs of its citizens? Does it recognize the efforts States have already made? These questions must be addressed in the course of our debate on child care legislation.

There must also be incentives for private sector involvement in child care. The Federal Government cannot hope to solve a problem of such magnitude by itself. In fact, I believe the ultimate solution will come from the business and nonprofit members of our communities. While the Federal Government may act as a catalyst and may provide some urgently needed financial assistance, the private sector must be encouraged to step up their participation in child care. Federal overregulation is one sure way to stifle such initiative.

In short, I believe the ABC bill Senator DODD has introduced merits further debate along with other proposals introduced by other Senators, including the bill I will reintroduce with Congresswoman NANCY JOHNSON, and the valuable ideas put forward by President Bush. I salute Senator

DODD's continuing commitment to enacting sound, bipartisan child care legislation, and I look forward to working with him, Senator MIKULSKI, Senator KENNEDY, and members of the Labor and Human Resources Committee during the 101st Congress from both sides of the aisle.

We have taken some positive steps forward. It is only a short distance further to achieving our goal of good legislation that will truly provide American families with safe, affordable child care.

● Mr. CHAFEE. Mr. President, today I join my distinguished colleagues Senators DODD and HATCH in supporting the Act for Better Child Care Services of 1989. This comprehensive piece of legislation represents an important step toward addressing the Nation's child care dilemma.

We all care about our children. As parents, we nurture and take care of them. As Americans, we look to them as the beginning of a new generation. But we have failed to ensure that they receive the care they so desperately need during the important formative years of their childhood. That shortage of care is what we must begin to address now, in the 101st Congress.

Proper care is vital to the development of our children. Studies such as the Perry Preschool Program and the Brookline early education project have shown that early childhood programs can give children, especially those from low-income families, the advantages they need to avoid learning and behavioral difficulties later in life. We recognized this fact when we established the Head Start Program for low-income children. But the Head Start Program was not designed to be and was never meant to be a comprehensive child care delivery system.

Today, with more women and single parents than ever in the labor force, there is a critical child care shortage. Let's look at the facts. Fifty-seven percent, or 26.3 million, of all children under age 12 have mothers who are employed. Almost half of these children are under age 5. Finding any steady day care at all—let alone quality day care—for these children is next to impossible for most families. Existing family and day care centers simply do not have the resources to take on all these children. Even if the resources were available, most low-income parents would be unable to budget one-third of their wages for child care.

If parents are lucky enough to find child care and able to afford it, there is still one more problem: How can they be sure it is good child care? The answer is, they can't. On average, child care staffers fall into the lowest 10 percent of U.S. wage earners scale. They make less than parking lot attendants. In other words, we pay people more to watch our cars than our children.

These low salaries lead to high turnover among child care providers. That does not provide much peace of mind for parents, or for their employers. Lack of child care has been recognized as one of the main causes of employee absenteeism.

We simply do not have a national child care system. What we have instead is a combination of day care centers run by underpaid care providers with few resources, and informal family or sitter in-home care. When these arrangements fall through, both children and parents suffer the consequences.

Mr. President, our children deserve more than this. I have joined as a cosponsor of this bill because I believe that it is a first step toward the development of a viable system. This is an issue in which I have been involved over the past two decades, and I have been a supporter of the ABC bill since its introduction in November of 1987. At the same time, I recognize and welcome the fact that other child care proposals have been and will be discussed. I have been especially pleased and encouraged to hear in the past few months President Bush's comments about the problems parents face in obtaining child care. It is my understanding that he intends to put forth his own proposal, and I am looking forward to working with him on this issue. As a child care advocate and a sponsor of ABC, I believe that a bipartisan, joint effort between Congress and the President will solve this problem for the benefit of our children, and our country's future.●

Mr. CRANSTON. Mr. President, I am pleased today to join as an original cosponsor of S. 5, the proposed Act for Better Child Care Services of 1989 [ABC]. This measure is designed to increase the availability of child care by providing grants to States to help broaden the number and variety of child care services, to help make child care more affordable by providing new funds to subsidize services for low income working families, and to help promote quality care by providing funding for the States to improve child care standards and enforcement mechanisms, training, and technical assistance, and resource and referral programs.

The lack of adequate child care is currently one of the most serious problems facing millions of families, and it serves as a major impediment to the attainment of economic security for countless numbers of women, children, and families in this country. Today, almost two-thirds of all mothers with school age children work outside the home. Tremendous demographic changes have taken place in our society during the last decade. Yet, public policies have simply not kept pace with an evolving work force and the changing need of American families. It is imperative that we respond now to these changes through a carefully designed, long-range initiative to help meet the ever increasing demand for quality, affordable child care.

Mr. President, the dimensions of the child care crisis in this country are enormous. It will take the combined efforts of many segments of our society to meet this challenge. On the Federal level, we must provide leadership in developing responsive public policies to support families. Further, we must encourage State and local governmental entities, as well as employers and community organizations, to work together to help resolve this crisis.

The legislative initiative being introduced today represents the kind of collaborative effort demanded by the enormity of the problem. An alliance of a broad range of national organizations, the Alliance for Better Child Care [ABC], including child advocacy groups, women's organizations, religious groups, labor organizations, and a variety of other organizations, have worked together with the sponsors of this measure to develop this legislation, which was initially introduced in November 1987. Although more than 40 Members of the Senate cosponsored this bill in the last Congress, we were not able to complete final action before the adjournment of the 100th Congress.

Mr. President, I strongly support the measure being introduced today. This comprehensive response to our national child care problem promises to provide a sound and realistic approach to the growing need of American families for high quality, yet affordable, child care. I am very hopeful that the 101st Congress will complete the long-overdue action on a comprehensive child care initiative. It is nearly two decades since Congress passed the 1971 comprehensive child development bill—a bill vetoed by former President Nixon. The need for this legislation has grown dramatically in the intervening years. We cannot continue to ignore the widespread need for a comprehensive approach to the child care crisis in this Nation.

BACKGROUND

Mr. President, as chairman of the Child and Human Development Subcommittee of the Senate Committee on Labor and Human Resources during the 95th and 96th Congresses and as a member of its predecessor, the Subcommittee on Children and Youth, since its creation in the 92d Congress, I have consistently worked to protect and promote the well-being of America's children and families. Because the lack of affordable child care has been and remains one of the most

pressing problems facing America's families, throughout my service in the Senate I have been deeply involved in and committed to issues relating to child care services for working parents.

In past Congresses, I have sponsored and cosponsored comprehensive child care measures, ranging from the 1971 child care legislation vetoed by former President Nixon to comprehensive child care legislation, which I have introduced in the Senate since 1979. In addition, I have sponsored and cosponsored child care measures focused upon specific areas of child care, such as improving child care licensing and monitoring programs and the legislation enacted in the 100th Congress promoting the establishment of child care programs in Veterans' Administration facilities. Although we have made some progress in recent years in enacting small measures dealing with child care needs, this patchwork, incremental approach has fallen far short of what is truly necessary if we are to deal effectively with meeting the child care needs of our Nation's working families.

Today's measure represents an effort to deal with this problem in a comprehensive, coordinated fashion. It is a long-overdue step that can and must be taken.

FORMATION OF THE ALLIANCE FOR BETTER CHILD CARE

Mr. President, I want to comment briefly on the development of the Alliance for Better Child Care [ABC] and the proposed Act for Better Child Care Services. As I indicated at the outset, this legislation was developed with the collaboration of a broad range of organizations participating in the Alliance for Better Child Care.

It is particularly gratifying for me to see the emergence of this broad-based coalition of organizations committed to working toward achieving a comprehensive, well-designed approach on the Federal level to address the child care crisis. In 1986, I wrote to the head sof many of the national organziations involved in issues relating to child care urging that they joint together to develop a comprehensive child care initiative. I believed then, as I do now, that the time is ripe for such an initiative. The idea was enthusiastically endorsed, and the formation of the Alliance for Better Child Care quickly followed.

Since then, my staff has worked closely with members of the alliance and the excellent staff of the principal sponsor, the Senator from Connecticut [Mr. DODD] who chairs the Subcomittee of Labor and Human Resources Committee which has jurisdiction over child care legislation, in developing and refining the legislation which is being introduced today. The drafts of the proposed legislation have been widely circulated, and numerous meetings were held both in Washington and in the field with child care experts, parents, and concerned individuals so that the very best ideas and proposals could be incorporated into this legislation. The bill has continuously been refined and modified to reflect the viewpoints and perspectives of a wide array of interests. This measure represents the consensus of numerous individuals and organizations who have been involved in child care issues at the local, State, and national levels. When it is enacted, the Act for Better Child Care Services will move our Nation a major step forward in our efforts to address the child care crisis.

NATIONAL CHILD CARE CRISIS

Mr. President, I have had numerous opportunities to listen directly to parents who constantly struggle with child care problems. During 1986, I held an extensive series of community forums throughout the State of California focused upon the child care crisis in my own State. At these community forums, I met with and heard the concerns of hundreds of Californians regarding the inadequacy of child care services.

Mr. President, it is not an exaggeration to say that what was once a major problem is now a major crisis. During the past 8 years under the Reagan administration, the Nation's inadequate supply of child care has deteriorated even further. At the same time that the Federal Government has reduced its funding for existing child care programs, the number of mothers of young children entering the labor force has continued to grow.

In 1977, when I first began to work on a comprehensive child care proposal, an estimateed 51.7 percent of the mothers of children between the ages of 6 and 17 and 37.6 percent of the mothers of children under age 6 were in the work force. A decade later the numbers have increased to 63.8 percent and 53.1 percent respectively. For 1977 these percentages translated to 22.5 million children between the ages of 6 and 17 and 6.4 million under the age of 6 with mothers in the work force. In 1987, there were 24.7 million children in the older age group and 10.5 million in the under 6 group.

In its recent report, "The Child Care Fact Book 1988," the Children's Defense Fund projects that if current trends continue, two out of three preschool children and four out of five school age children will have mothers in the work force by the year 1995.

FEDERAL CHILD CARE FUNDS DRASTICALLY REDUCED

As the number of children needing care has escalated, resources for child care have been slashed. In 1981, the Social Security Act Title XX Program, the major source of direct financial assistance to child care programs, was reduced by 20 percent for fiscal year 1982 from $3.1 to $2.4 billion, and the $200 million earmark for child care was eliminated. The estimates were at that time that some 150,000 families would lose their child care assistance under title XX as a result of those first-year Reagan cuts. Those projections have been substantiated by reports on how child care programs in various States have actually been hurt by the funding cutbacks. The Children's Defense Fund's recent report cited the following troubling statistics: In fiscal year 1988, 26 States spent less for title XX child care than in fiscal year 1981. Furthermore, 23 States are actually serving fewer children now than in 1981.

Although over the past several years Congress has been able to restore some funds to title XX, following the huge cut in 1981, the fiscal year 1988 funding level of $2.7 billion remained $200 million below the fiscal year 1981 level of $2.9. In real terms, adjusted for inflation, Federal funding for title XX is now only about 72 percent of the 1981 level and about 52 percent of the 1977 level. Given the enormous increase in the need for child care assistance for low-income families, the decrease in support for these services is inexplicable as a matter of public policy.

CALIFORNIA CHILD CARE NEEDS

Mr. President, as I indicated earlier, during 1986, I conducted an extensive series of community meetings about the child care crisis in California. I held 11 of these meetings specifically focused on child care issues. The number of people attending ranged from 75 to 100 to several hundred at some of these forums. Parents, child care providers, community workers, business and civic leaders, and just concerned citizens participated in these meetings.

Mr. President, California has long been recognized as a leader in the area of child care. Indeed, after World War II, when the federally funded child care programs established under the Lanham Act were shut down throughout the Nation, the State of California took over the funding of the California programs, thereby establishing a long history and tradition of support for child care in California.

Both the public and private sectors in California have contributed to building child care resources. California enjoys a unique and extensive system of child care resource and referral agencies, providing in each of the State's 58 counties a central source of information on existing child care services and resources and technical assistance to help develop new services.

Yet, by every measure, child care needs are not being met in my State. In many areas and for many children and families, the lack of child care

services constitutes a crisis which threatens economic survival. The current resources fall well below the existing need for child care services. In the two areas of infant care and extended child care for school age children, the problems are particularly acute. Waiting lists are commonplace. By some estimates, 1 million more children need child care than can be accommodated by licensed facilities. By 1995, it has been projected that 200,000 more California children will need child care. My State, like the rest of the Nation, has simply not been able to keep pace with the escalating demand for services.

ECONOMIC IMPLICATIONS OF CHILD CARE CRISIS

Mr. President, as serious as the problems are in the supply of safe, affordable child care today, there is little doubt that the need will grow in the decade ahead.

It is important to understand that mothers are in the work force for one major reason: economic necessity. Two-thirds of the women in the work force are either sole providers or have husbands who earn less than $15,000. In 1983, 25 percent of the married women in the work force had husbands whose earnings were less than $10,000; 50 percent under $20,000, and nearly 80 percent less than $30,000. The earnings of these women play a critical role in the economic well-being of their families. For the one in six American families headed by a woman, of course, her earnings are a matter of simple survival.

The cost of child care is beyond the reach of many families. A recent study by the League of Women Voters of California found that most Californians are paying between $3,000 and $4,200 a year for full-time care of a preschool child. Full-time care for two preschool children costs between $7,200 and $8,200 a year. That's a staggering amount for any family and especially for a low-income family. Two parents working full-time at the minimum wage would spend about 30 percent of their income just on child care. A single parent working at the minimum wage would expend a staggering 60 percent of wages on child care. For millions of families, child care costs rank at the top of the family budget, next to food and shelter costs.

Mr. President, although adequate child care is a matter which ought to concern every member of our society—male and female alike—there is little question that the lack of adequate child care has a major and profound impact upon the economic well-being of millions of women and children in this country.

SUMMARY OF LEGISLATION

Mr. President, the legislation we are introducing today attacks the child care crisis from a number of different approaches.

It authorizes the appropriation of $2.5 billion to be distrubuted to the States to help low-income families pay for essential child care services and improve the quality of child care for all families. States receiving these funds must demonstrate their own commitment to helping to meet the child care crisis by providing a 20-percent State match.

The bulk of the funds provided—70 percent—must be used to help families earning less than 100 percent of their State median income to pay for child care. The States must establish sliding fee scales so that famillies on the higher end of the scale will pay more for their share of child care costs than families with less income. As a family's income grows, its contribution to paying for child care costs would also increase. States would be required to give priority for services to those families in greatest need.

States would be encouraged to use some of the funds to maximize existing resources; for example, by requiring that a minimum of 10 percent of the funds be used to extended part-day programs like Head Start and State preschool education programs into full-day programs. The bill also provides that child care reimbursement under this program would be at the market rate for child care in the community and provides for higher reimbursement rates for services to infants and disabled children. In order to maximize parental choices, the bill authorizes the States to utilize a variety of funding mechanisms and types of child care providers, ranging from both nonprofit and profit child care centers to family day care homes.

The States would be allowed to use no more than 8 percent of their grants for administrative costs.

States would be allowed to allocate up to 10 percent of their funding to improve the quality of child care services for all families. This funding would be used to establish and operate child care resource referral programs, to improve the States' monitoring and enforcement of licensing requirements, to provide technical assistance and training to family day care providers and centers, and to ensure adequate compensation for the staff who provide child care services.

The remaining 12 percent of the grant would be used by the States to increase the availability of child care. The States would be authorized to provide grants and low-interest loans to child care providers seeking to establish or expand child care programs. Funding would also be available to assist employers with the start up costs of child care programs, and to help communities establish after-school services and programs.

States would be required to offer training programs for all child care providers. Providers would be required to have at least 40 hours of training over a 2-year period.

The legislation also contains a one-time fiscal year 1990 authorization of $100 million to establish liability risk retention groups. This measure is designed to provide liability insurance to child care providers by helping the States establish shared risk pools.

Finally, States which receive Federal funds under this legislation would be required to meet Federal minimum child care standards. A national advisory committee would be established to develop minimum standards in five key areas: Staff/child ratios, group size, parent involvement, caregiver qualifications, and health and safety. States would be allowed a 4-year period to come into compliance with the new standards. Upon complying with the standards, the State match would drop from 20 percent to 15 percent. After 4-years, States which fail to come into compliance would be ineligible for continued funding under the new act.

Mr. President, these provisions relating to child care standards are particularly important in a time of fiscal restraints and the need for accountability for Federal expenditures. If the Federal Government is going to expend Federal funds on child care services, it needs to be assured that the funds are being utilized for good quality care. The legislation requires that States accepting these funds demonstrate a commitment to monitoring the quality of child care programs. Annual visits to child care centers must be established along with complaint procedures. Parents must be assured the right to visit a program their child is enrolled in at any time.

EXPENDITURE OF FEDERAL RESOURCES

Mr. President, in a decade of fiscal restraints and the need to reduce the mounting Federal deficit, some may question the feasibility of enacting legislation to authorize any new spending programs. Although the sponsors and supporters of the proposed Act for Better Child Care Services have not deluded themselves about the task which lies ahead, the broad support for this initiative, both within and outside Congress, demonstrates a realistic recognition of the need for child care legislation of this scope. The problems which American families face in finding adequate and affordable child care are enormous. They demand a substantial and meaningful response.

Recent public opnion polls demonstrate that the majority of Americans recognize the severity of the child care crisis and its implications for our Nation's work force and economic well-being. A 1987 AFSME poll indicated 71 percent of those surveyed supported increased government resources for child care programs. A 1987 Harris

poll found 73 percent of the respondents willing to have their taxes increased to pay for child care. A Martilla and Kiley 1988 poll reported 86 percent agreed that child care was an important issue and 75 percent favored minimum Federal standards for child care.

Mr. President, it is clear that the child care crisis is a problem which cannot be resolved without additional Federal assistance. The Federal Government cannot and should not bear the burden alone. But it can and should play a major role in helping make sure adequate and affordable child care is available for families struggling to stay in the work force and off the welfare rolls.

It is imperative, however, that we succeed in keeping the Federal deficit down so that we can invest the necessary resources in the well-being of children and families. Our Nation must continue to address pressing new social problems. But to do so, we must get our national budget problems resolved, and our national priorities in order. I am committed to major deficit reduction efforts so that our Nation can meet the challenges in child care, education, housing, transportation, and other critical areas that face us in the years to come.

CONCLUSION

Mr. President, there is hardly a community in this country which has not experienced a crisis in the area of child care over the past few years. Throughout the country, there are long waiting lists for admission to existing child care programs. Countless parents are forced to make-do with unsatisfactory child care arrangements so that they can continue to work to support their families.

The measure being introduced today addresses the ever-growing need in this country for a comprehensive, coordinated approach to child care. There is simply no question that the demand and need for child care will continue to grow. If we take steps today to design an efficient and cost-effective mechanism for meeting those needs, the ultimate savings will far outweigh the short-term expenditure.

Indeed, child care itself is both a short-term and a long-term investment in the future. Short-term expenditures may be almost immediately offset by increased tax revenues derived from parent earnings and reductions in governmental subsistence and other expenditures necessitated by the effects of lack of adequate child care arrangements. Some longer term social costs, such as juvenile vandalism, delinquency, and child abuse and neglect, may also be reduced by prudent and cost-effective investment in child care today.

Mr. President, I applaud the many individuals and organizations that have provided their insights, guidance, and encouragement in the development and formulation of this legislation. I look forward to working with my colleagues and interested individuals and organizations to see that this comprehensive child care initiative, so sorely needed, is enacted into law.

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. MCCONNELL, Mr. BOND, Mr. SYMMS, Mr. KASTEN, Mr. BOSCHWITZ, Mr. BURNS, Mr. DANFORTH, Mr. WARNER, Mr. WALLOP, Mr. LOTT, Mr. HELMS, and Mr. GARN):

S. 6. A bill to grant the power to the President to reduce appropriated funds within 10 days after the date of enactment of a bill appropriating such funds; to the Committees on the Budget and Governmental Affairs, jointly, pursuant to the order of 8-4-77.

SPENDING ENHANCEMENT CONTROL ACT OF 1989

Mr. DOLE. Mr. President, today, along with Senator MCCAIN and 12 of my other colleagues, I am introducing a bill to enhance the President's rescission authority. The bill, which we call "The Presidential Spending Control Enhancement Act," increases the President's ability to cut wasteful, special interest spending in appropriations bills.

I would first like to applaud the fine work of Senator MCCAIN on this budget reform bill. It was, in fact, Senator MCCAIN who originally conceived and came forward with this legislation. I have decided to join him on this effort because I share his commitment to enacting this excellent rescission reform bill.

TWO WAYS OF LIMITING SPENDING

Currently, the President has two ways of limiting pork barrel spending. First, he can veto an entire appropriations bill, but all too often this can mean holding up a generally responsible bill for a few items. Or, second, he can use his rescission authority to send Congress a list of budget items he is interested in cutting or eliminating.

The rescission procedure has the advantage of being a far more precise tool for cutting spending than an all or nothing veto of an appropriations bill. But despite its obvious value, the President's rescission authority has recently been all but eliminated by Congress. Although President Reagan was able to obtain congressional approval for almost 70 percent of the dollar value of his requested rescissions in fiscal year 1981 and 1982, Congress approved less than 2 percent of the value of his rescission requests in fiscal years 1983 to 1987.

In the majority of these cases Congress never voted to approve or disapprove the President's rescission request, instead Congress struck down the President's rescission request by simply ignoring it. Our bill would force Congress to either approve or reject the President's rescission request within a 10-day review period.

I believe it is only fair that we require Members of Congress to go on record as either approving or disapproving the President's rescission request. Too often Members of Congress are quick to criticize pork barrel spending, but slow to do anything about it. This bill makes Members put their votes where their mouths are. A reform most Americans will be quick to appreciate.

LINE ITEM VETO POWER

Although many people have viewed enhanced rescission as a substitute for a line item veto, enhanced rescission actually complements, rather than substitutes for a line-item veto. Some critics have argued that a major problem with a line-item veto is that there are great difficulties in determining what is an item. In other words, since spending for specific programs is often allocated in reports attached to appropriations bills, there are often very few specific items to veto in an appropriations bill. Enhanced rescission avoids that problem by allowing the President to define an item when he puts together a rescission request. In this way he can veto spending allocated in the report language, as well as funds contained in the appropriation bill itself. A line-item veto, on the other hand, is the best way of eliminating unwarranted policy provisions, such as the Boland amendment, from appropriations bills.

WHY I AM NOT INTRODUCING A LINE ITEM VETO

While I still support giving the President a line-item veto, I have not cosponsored or introduced a line-item veto bill this year. This is because I believe the Constitution already gives the President the line-item veto power. And, therefore, legislation to provide the President with a line-item veto is probably unnecessary.

CONCLUSION

Both enhanced rescission and the line-item veto will give the President additional control over spending and restore some of the checks and balances that were eliminated by the 1974 Budget Act. With the enactment of enhanced rescission legislation, Congress will likely sharply cut back on their pork knowing that their pet projects could easily be pulled out of a hidden corner in an appropriations bill and placed in a rescission measure for all Americans to see. As a result, enhanced rescission will save the country billions of dollars and force the Congress to end its reputation for fiscal irresponsibility and wasteful special interest spending.

I ask for unanimous consent that the entire bill be printed in the RECORD.

There being no objection, the materials ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Spending Enhancement Control Act of 1989"

SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.

The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LIMITED, EXPANDED RESCISSION OF APPROPRIATIONS BUDGET AUTHORITY

"PART A—LIMITED, EXPANDED RESCISSION OF APPROPRIATIONS BUDGET AUTHORITY

"LIMITED, EXPANDED RESCISSION OF APPROPRIATIONS BUDGET AUTHORITY

"SEC. 1101. (a) EXPANDED AUTHORITY.—Notwithstanding the provisions of title X and subject to the provisions of part B, the President may rescind all or part of any budget authority provided in an appropriations bill, if the President notifies the Congress of such rescission by a special message not later than 10 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of the bill providing such budget authority. If an appropriations bill includes more than one of the regular 13 appropriations bills, the President shall send a separate message for each regular appropriations bill.

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1) Any amount of budget authority rescinded under this title as set forth in such special message shall be deemed canceled unless, within the prescribed 10-day review period, the Congress has, under part B, completed action on an appropriations rescission disapproval bill making available all or part of the amount rescinded.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the Congressional 10 day review period (or a special message is so transmitted after the last session of the Congress adjourns sine die), the rescission shall be effective 10 days after the date the message is transmitted, notwithstanding the adjournment of Congress. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the ten-day review period referred to in section 1102(2) and in section 1111 (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title—

"(1) the term 'Comptroller General' means the Comptroller General of the United States; and

"(2) the term 'appropriations rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of appropriations budget authority, in whole or in part, rescinded in a special message transmitted by the President under section 1101, and upon which the Congress completes action before the end of a period of 10 calendar days (not including Saturdays, Sundays, or holidays) of the Congress after the date on which the President's message is received by the Congress. This ten-day period shall be considered the ten-day review period.

"PART B—CONGRESSIONAL CONSIDERATION OF LIMITED, EXPANDED RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons why the budget authority is being rescinded;

"(4) to the maximum extent practical, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under section 1101 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committee of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) DELIVERY TO COMPTROLLER GENERAL.—A copy of each special message transmitted under section 1101 shall be transmitted to the Comptroller General on the same day it is transmitted to the House of Representatives and the Senate. In order to assist the Congress in the exercise of its functions under section 1111, the Comptroller General shall review each such message and inform the House of Representatives and the Senate as promptly as practical the facts surrounding the rescission of budget authority (including the probable effects thereof).

"(c) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under section 1101 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—Any appropriations rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any appropriations rescission disapproval bill, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any amendment to an appropriations rescission disapproval bill shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the bill. Debate on any amendment to an amendment to such a bill, and debate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such amendment, motion, or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(4) The conference report on any appropriations rescission disapproval bill shall be in order in the Senate at any time after the first day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

"(5) During the consideration of the Senate of the conference report on any appropriations rescission disapproval bill, debate shall be limited to 2 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(6) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one hour, to be equally divided between, and controlled by, the manager of the conference report and the majority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to 30 minutes, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by, the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

"(7) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any appropriations rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider

any amendment to an appropriations rescission disapproval bill that is not germane to that bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate and the House of Representatives only by a vote of three-fifths of the Members, duly chosen and sworn.".

● Mr. McCAIN. Mr. President, each Senator has personal priorities for this session of Congress—proposals that we have worked on between sessions of Congress and which we think are important for the betterment of our country. I am no exception. I have a set of proposals I will be advocating this year that range from armed services issues, to cleaning up hazardous waste sites, to expanding the fight against consumer fraud, to trying to promote economic growth, and ensure basic human needs on our Nation's Indian reservations.

We would all rather focus on our personal agendas, because we feel good when we get them passed. It is also easier and more fun than dealing effectively with the Federal budget deficit—which is without question our No. 1 national domestic problem.

Mr. President, today is the first day Senators may introduce bills in this Congress, and—because I believe we need to focus on the issues of deficit reduction and budget reform—my first bill on this first day is designed to help fight our first and foremost domestic problem—the deficit. The bill is a new, more effective, approach to providing the President with a line item veto over our spending bills. I am very pleased to be joined in this effort by my good friend, the minority leader who has agreed to include this bill as one of our priority legislative goals for this Congress. I am also pleased to be joined by Senators McCONNELL, BOND, SYMMS, BOSCHWITZ, KASTEN, DANFORTH, WALLOP, BURNS, WARNER, GARN, and LOTT.

I know this won't cure all our budget ills. But, until we act more responsibily, I can see no justification for not increasing the President's ability to stop spending taxpayer dollars on low priority or wasteful programs. I would like briefly to describe the "Spending Control Enhancement Act," and explain its approch.

In essense, this measure would provide the President with a constitutional and viable line item veto. It would allow the President to rescind funding for programs he believes are wasteful. It gives him 10 days after enactment of an appropriations bill in which to make known to Congress which funds he intends to rescind, whether he intends to rescind part or all of the funds for a given program, and his justifications for doing so.

The bill would also give the Congress a specific format for response. If Congress wants to restore part or all of the funds the President proposes not to spend, Congress must adopt a resolution of disapproval for each rescission message within 10 days of receiving notice from the President. Congress could either adopt the President's package of cuts, disapprove the whole package, or vote to restore only part of the spending it had initially approved. Congress would not be at liberty to add nongermane matter to the resolution of disapproval—it would be required to address only the spending issues raised by the President's message. If Congress did disagree with the President on his spending cuts, its resolution of disapproval would then be sent to the President for his consideration.

This process would provide the President and Congress with a second chance to purge the Federal budget of excessive spending. It would also force the Congress to negotiate more seriously with the President before passing appropriations bill. Now all we do is use the appropriations bills as vehicles to which to add pet projects—knowing that in many cases the President, faced with a "take it or leave it" omnibus spending package, must take it. The Spending Control Enhancement Act would end that imbalance and give the President the opportunity to weed out these unnecessary and inappropriate items from the appropriations bills.

As everyone in this Chamber knows, various proposals to provide the President with this kind of tool have been made repeatedly over our history, dating back at least to President Grant's day. Most of those proposals have focused on amending the Constitution, with a provision specifically giving the President power over the Federal budget. Such a provision was contained in the Confederacy's Constitution, an example followed by 43 States.

We need to be able to exercise this tool immediately, however, and the constitutional amendment approach has many drawbacks. It is complicated and very time consuming. Furthermore, a constitutional amendment is not amenable to fine tuning or adjustment if proven inadequate or wrongly written.

The altenative to a contitutional amendment is, of course, a statute. Statutory approaches have been proposed before too, but they have generally been unacceptable because their constitutionality has been suspect or because they included procedures that were too troubling to be acceptable.

Both Houses of Congress each, at least once, have attempted enacting a statutory line item veto. The House adopted a rather draconian measure in 1938 but it was dropped in conference.

The Senate debated a statutory line item veto in 1985 under the guidance of the former Senator from Georgia, Mr. Mattingly. His measure would have required the enrolling clerk to separate each section of an appropriations bill into a separate bill before being sent to the President for approval. The President could thus exercise a line item veto by vetoing any of these bills.

While its intent was good, the format of the measure had many problems. It was exceedingly cumbersome. It would not have given the President a precise means of cutting wasteful spending. It would not have allowed the President to reduce the level of funding for programs he felt Congress had funded too generously—he would be faced only with the choice of total rejection or total acceptance of the spending amount Congress provided for every item. Moreover, it contained no systematic mechanism for Congress to respond expediently and easily. Finally, it would have unduly politicized the Office of the Enrolling Clerk by conferring upon it unprecedented power to play with bills after Congress had acted on them.

Our proposal for a line item veto, on the other hand, would not further complicate the budget process nor raise concerns about unconstitutionality. Its stiff proscriptions and the time limit governing the resolution of disapproval will not encumber the Congress with yet another complex layer in the budget process, but would give Congress another opportunity to examine its decisions up close.

In fact, this line item veto is simply an expansion of the rescission authority the President already has, and it is based on a proposal advocated by the House of Representatives during consideration of the Budget Act reform in 1974. During this debate the House advocated requiring the Congress to act in order to overturn Presidential rescissions, but in compromising with the Senate during conference agreed that rescissions would only become effective if affirmed by Congress. Obviously the compromise didn't work, and we need to change it.

My proposal also does not involve transferring authority over spending decisions to the President nor does it mean that Congress is abdicating any of its rightful power of the purse. It is simply an added protection against wasteful spending during a time when appropriations bills are complex and multifold, and hardly free of unnecessary spending.

The President who exercises this second chance, "line item" veto will have cause to exercise it constructively instead of punitively or politically. If he does not, Congress can change or repeal it.

Another advantage of my proposal has is that it obviates the problem of limiting the President to addressing only line items, which is virtually useless in the face of lump sum appropriations bills. Under this proposal,

the President could identify specific items for which he would like to reduce or cancel budget authority. In effect, this makes the Spending Control Enhancement Act a much more precise deficit reduction tool.

Finally, this proposal will place an additional restraint on congressional spending decisions because ultimately, it will discourage the provision of pork barrel projects in appropriations bills. Congress will be reluctant to overturn rescissions for wasteful programs and, at the same time, may be less inclined to fund them for fear that the President will identify them publicly.,

The implementation of this measure alone will clearly not eliminate our budget woes, but it is a major, positive step in the right direction. It is also a good faith effort toward ensuring that the American taxpayers' money is wisely spent. We owe that to the taxpayers. We can not subject them again to headlines such as we saw a year ago in the wake of the continuing resolution we adopted in December of 1987. Those headlines listed myriad pork barrel projects ranging from $500,000 for a highway bypass in Michigan to $8.5 million for high-technology anticancer equipment in California to $350,000 to clean up Mount Rushmore. We were so embarassed by the media's disclosures of our own profligacy that we were compelled to rescind money for a school in France—a token action.

Mr. President, this idea is neither new nor radical. It is a simple and straightforward step in disciplining a dismally disjointed budget process, and one we should adopt as soon as we can.

By Mr. DOLE (for himself, Mr. MCCONNELL, Mr. STEVENS, Mr. COCHRAN, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BOND, Mr. BURNS, Mr. DANFORTH, Mr. RUDMAN, and Mr. CHAFEE):

S. 7. A bill to amend the Federal Election Campaign Act of 1971 to further restrict contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal elections through soft money and independent expenditures, correct inequities resulting from personal financing of campaigns, strengthen the role of political parties, and contain the cost of political campaigns; to the Committee on Rules and Administration.

CONGRESSIONAL CAMPAIGN REFORM ACT

Mr. DOLE. Mr. President, each Senator who served during the 100th Congress became familiar with the issue of campaign finance reform. Time and time again we voted on this issue, but, over the course of a record 9 cloture votes, we saw little movement on either side.

BIPARTISAN CONCERNS

Mr. President, we gained a lot from these discussions. We learned that Members from both parties are concerned about the growing perception that Members of Congress are "bought and paid for" by PAC's and special interests. Both parties are concerned about rising campaign costs, and both are concerned about declining voter turnout.

The debate generated by S. 2, the Democrats' bill, and S. 1672, the 1987 Republican bill, and other proposals has enabled us to identify areas where there is general bipartisan agreement about the need for reform and the kinds of solutions that are appropriate.

Tightening restrictions on independent expenditures and bundling and increasing disclosure requirements on so-called soft money expenses are examples of areas where we have reached consensus. But, this issue is fundamentally partisan because it affects how candidates are elected.

REPUBLICAN CONCERNS

It is no secret that the Democratic Party holds the majority in both Houses of Congress. It follows that proposals favoring incumbents tend to favor the Democrats. As Republicans serving in the minority, our objections to the current system and to most of the Democratic proposals are that they tend to favor incumbents.

A REPUBLICAN ALTERNATIVE

In the past, some have suggested that, in opposing S. 2 and other Democratic proposals for reform, Republicans were acting as obstructionists—that we were critics rather than participants in the process. My response to those critics is look at the record.

Senator Barry Goldwater worked with Senator BOREN on the original campaign finance reform bill that began this whole process. The Republican bill I introduced in 1987 contained an outline for real reform—not incumbent protection. Over the past 2 years, Senator MCCONNELL, Senator PACKWOOD, Senator STEVENS, and others, have introduced reform initiatives that have changed the framework of the debate.

S. 7

Like earlier Republican proposals, the bill that Senator STEVENS, Senator MCCONNELL, and I are introducing today is designed to bring the individual back into the process. We believe that it is the main street American—not the Wall Street executive, the labor union boss, or the PAC director—who should ultimately have the influence in the electoral process.

The declining voter turnout we have witnessed over the past few elections is evidence of growing public disillusionment with the current system. I believe that the best way to promote voter participation is to encourage direct contact between candidates and voters.

The Dole-Stevens-McConnell bill is designed to do just that.

MAJOR PROVISIONS

This legislation contains a number of provisions from earlier bills, but on the tough issues it goes much further. Like the 1987 Dole bill, S. 7 reduces PAC contributions, adjusts individual contributions, imposes strict disclosure rules on soft money expenditures, tightens restrictions on independent expenditures, and closes the millionaire's loophole.

But, there are some important differences between the provisions in this bill and those we have seen in the past, and there are some additional provisions which we have included to make this a more comprehensive proposal.

PACS

Last year, I cosponsored Senator MCCONNELL's bill that eliminated PAC contributions to candidates altogether. The Republican bill, which I introduced in 1987, decreased the maximum contribution a PAC could give to a candidate from $5,000 to $3,000 per election.

In addition to further reducing PAC limits, this legislation takes control of the purse strings away from the PAC director and gives it back to the individual contributor.

If S. 7 were enacted, the maximum PAC contribution would drop from $5,000 to $1,000 per candidate per election. In addition, individual PAC contributors would be allowed to earmark their contributions to specific candidates or parties, giving them greater influence over where their money actually goes.

INDIVIDUAL CONTRIBUTIONS

The $1,000 contribution limit for individuals was first enacted in 1971. I supported the idea of contribution limits then, and I support them now. But, I think some adjustment should be made which puts these limits more in line with original congressional intent.

Inflation is an obvious consideration. There is no doubt that $1,000 in 1988 does not pack the same punch as $1,000 did in 1971. According to the Consumer Price Index at the Bureau of Labor Statistics—U.S. Department of Labor—$2,940 in November 1988 had the same purchasing power as $1,000 did in November 1971. Because campaign costs have been rising more quickly than inflation over this period, one could argue that $1,000 is worth even less to a 1988 campaign.

It is time to reexamine the current limits. Our bill would increase the individual contribution limit from $1,000 to $2,000. Keep in mind, that this is only a partial—51-percent inflation adjustment, but it does recognize the dramatic increase in campaign costs

that has occurred over the past 18 years.

The combination of this increase and the reduction in the pac contribution limits should shift the focus away from the special interests toward individual voters. In my view, that's the kind of change that is necessary for real reform.

BROADCAST DISCOUNT

Everyone knows that campaign costs are on the rise. A study completed in June 1988, indicated that the total cost of House and Senate campaigns more than doubled between 1978 and 1986. The lion's share of this increase is directly attributable to television advertising.

Over the past 8 years, television advertising costs more than tripled, making these costs the largest single component in most campaign budgets. Television advertising alone eats up more than one-half of all the money spent in a campaign.

In 1971, Congress passed a bill that was designed to guarantee candidates the lowest rate available for television advertising. However, broadcasters have changed the way they sell advertising time so dramatically that the 1971 law has become basically irrelevant.

Last year, Senator MCCONNELL introduced the Campaign Cost Reduction Act, S. 2657, which was designed to modify current law to reflect the intent of the original broadcast discount provision. Making these changes will serve the added purpose of helping candidates contain soaring campaign costs.

In my view, Senator MCCONNELL's bill makes a lot of sense. That's why we made it part of S. 7.

MILLIONAIRE'S LOOPHOLE

The explosion in campaign costs has also affected the composition of the House and the Senate. In recent years, both have turned into so-called millionaire's clubs. Wealthy candidates who can freely spend large sums of their personal money on their own campaigns have an advantage because they can fend off otherwise qualified candidates who lacks that kind of personal wealth.

We have tried to come up with a way to discourage self-financed campaigns.

Earlier Republican bills which placed absolute limits on what individual candidates could contribute to their own elections clearly had constitutional problems. So, now we are trying a different approach.

Under the Congressional Campaign Reform Act, congressional candidates would be required to declare their intent to spend or loan over $250,000 of their personal funds in the race at the same time that they file for candidacy. If a candidate chooses to spend more than this amount, the individual contribution limit for his or her opponent would increase from $2,000 to $10,000.

PUBLIC DISCLOSURE

Increasing public disclosure of all receipts and expenditures that affect an election is an essential part of this package. It seems to me that increasing accountability for all campaign-related expenses, whether they are independent expenditures, or so-called soft money contributions by a corporation, a PAC or a labor union, is fundamental to the integrity of the system.

These requirements have been part of the Republican approach to this issue since the beginning, and I think this is one area where both parties now agree.

STRENGTHENING THE PARTIES

As the final part of our reform package, we have included some new ideas that are designed to strengthen the role of the political parties in federal elections, a change advocated by a number of neutral, academic observers who study our political system.

S. 7 raises the cap on the amount of money parties can give to candidates, giving candidates an opportunity to spend more time discussing the issues with constituents and less time raising money.

The simple fact is that campaign costs are on the rise. With this in mind, insulating candidates from some of the rigors of fundraising by providing a large contribution from one source without any begging or pleading is a reasonable approach.

THE PROBLEM WITH THE DEMOCRAT'S PROPOSAL

The Democrats complain that there is too much money in the political system, and if you agree with their argument, the campaign spending limits they have proposed seem reasonable.

But, if you take a closer look and think about how spending limits would limit a challenger, you will see that spending caps overwhelmingly favor incumbents.

THE ELECTION RETURNS

Although we did have a certain amount of turnover here in the Senate, incumbents won a solid majority of the elections. Now, it may be that these returns reflect public support for the actions of the 100th Congress, or the inability of both parties to recruit qualified candidates, or the inability of challengers to mount serious campaigns.

But, the numbers favoring incumbents in the U.S. House of Representatives are staggering. Of the 410 U.S. Representatives who sought reelection last year, only 8 were defeated. In other words, more than 98 percent of all House incumbents seeking reelection successfully retained their seats. Of those eight House Members who were defeated, three were under indictment, and one was actually convicted. Now, that's job security.

Last December, President Reagan said, "with a 98 percent rate of reelection, there is less turnover in the House [of Representatives] than in the Supreme Soviet." I think Ronald Reagan raised a valid point. How can Government be responsive when incumbents have a virtual lock on the political process?

It is time to face the facts.

INCUMBENT ADVANTAGES

Incumbents already enjoy a number of tangible benefits that are not available to challengers. In 1988, the average U.S. Representative spent roughly $410,000 on personal professional staff. In the Senate, 1988 personal staff budgets ranged from $695,000 to $1.4 million, depending on State population.

Franking privileges are another bonus. In election years, franked mail pours out of congressional offices. Between 1987 and 1988 congressional use of franked mail jumped from $63.6 to $113.4 million, a 78.3-percent increase. Other incumbent advantages include access to free media coverage and relatively high name recognition.

In my view, a challenger must at least have an opportunity to offset these advantages. Spending limits would take this opportunity away. If we are really concerned about money tainting the system, we ought to focus on the source of campaign funds, not the amount of money a candidate receives.

ENSURING THAT CHALLENGERS HAVE ACCESS

Although I am a Republican who insists on a two-party system, my interest is not simply a partisan one.

I believe that ensuring access to the electoral process is a fundamental part of democracy. The bottom line is that if our system of government is going to work, challengers must have an opportunity to compete for elected office.

Just as U.S. businesses want a level playing field in the international marketplace, we want a level playing field in the political arena. Our basic philosophy is: Give challengers access and let the people decide.

In my view, that's what the Founding Fathers envisioned when they wrote the Constitution, and that's what democracy is all about.

CONCLUSION

I ask my colleagues to look at this package carefully. In my view, it contains all of the elements for real reform.

It directly addresses the issue of influence by the special interests;

It encourages candidates to focus their attention on individual voters;

It tries to contain campaign costs, while ensuring that challengers have a chance to compete in the political arena; and

It places limits on independent expenditures, "bundling" and "soft

money" contributions and tightens disclosure requirements on those that are allowed.

The bottom line is that the Congressional Campaign Reform Act of 1989 is fair to both political parties, to incumbents and challengers alike.

I urge my colleagues on both sides of the aisle to support this important piece of legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 7

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Campaign Reform Act of 1989".

RESTRICTIONS ON POLITICAL ACTION COMMITTEES

SEC. 2. (a) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by striking out "$5,000" and inserting in lieu thereof "$1,000".

(b) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by adding at the end thereof the following:

"(i) Notwithstanding any other provision of this Act, each multicandidate political committee and separate regulated funds established pursuant to the provisions of this Act shall—

"(1) provide a method so that each person contributing to such committee or fund may specify to which Federal candidate or candidates or which national political party organization or organizations such contribution is being made; and

"(2) provide each contributor with a list of the names and addresses of the authorized committee of every candidate for Federal office and for each national political party organization.".

LIMITATIONS ON INDIVIDUAL CONTRIBUTIONS

SEC. 3. Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)(A)) is amended by striking out "$1,000" and inserting in lieu thereof "$2,000"

FULL DISCLOSURE OF ELECTION-RELATED EXPENDITURES

SEC. 4. Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ii) by inserting before the semicolon at the end thereof the following: ", except that any payment, services, or other benefit furnished or otherwise made available by a corporation or by a labor organization directly attributable to a registration or get-out-the-vote campaign, shall, if the aggregate of such payments and the fair market value of such services or other benefit exceed $2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election"; and

(2) in clause (iii) by striking out "(other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate)".

DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 5. Section 318(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by deleting the period at the end thereof and inserting in lieu thereof the following:

", except that whenever any person makes an independent expenditure through (A) a broadcast communication on any radio or television station, the broadcast communication shall include a statement—

"(i) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(ii) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and in the case of a political committee, the name of any connected or affiliated organization, or (B) a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection, the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.', and a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.

"(4) The person making an independent expenditure described in paragraph (3) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission (e.g. first aired, mailed, published, or displayed):

"(A) effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate;

"(B) an exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication;

"(C) all approximate dates and times when such communication will be publicly transmitted; and

"(D) each specific location, media channel, and publication through which the communication will be publicly transmitted.".

INDEPENDENT EXPENDITURES

SEC. 6. (a) Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by adding the following: "An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate and shall not constitute an 'independent expenditure' where—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees,

"(ii) serving as an officer of the candidate's authorized committees, or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; and

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

(b) Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following:

"(13) Within 3 days after the Commission receives a complaint, filed pursuant to this section, which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter.".

CANDIDATE EXPENDITURES FROM PERSONAL FUNDS

SEC. 7. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1)(A) Within 15 days after a candidate qualifies for the primary election ballot, under applicable State law, such candidate shall file with the Commission and each

other candidate who has qualified for such ballot, a declaration stating whether or not such candidate intends to expend funds and incur personal loans for the primary and general election a total amount, in the aggregate of $250,000 or more from the following sources: (i) his personal funds, (ii) the funds of his immediate family, and (iii) personal loans incurred in connection with his campaign for such office.

"(B) The statement required by this subsection shall be in such form, and contain such information, as the Commission may, by regulation, require.

"(2) Notwithstanding any other provision of law, in any election in which a candidate declares that he intends to expend or incur, in the aggregate, $250,000 or more by expending from personal funds and funds of his immediate family and incurring personal loans for his campaign, or does expend funds and incur loans in a total in excess of such amount, or fails to file the declarations required by this subsection, the limitations on contributions in subsection (a) of this section, as they apply to all other individuals running for such office, shall be increased for such election as follows:

"(A) The limitations provided in subsection (a)(1)(A) shall be increased to $10,000, and

"(B) The limitations provided in subsection (a)(3) shall be increased to an amount equal to 150 percent of such limitation, but only to the extent that contributions above such limitation are made to candidates affected by the increased level provided in subparagraph (A).

"(3) If the limitations in this section are increased pursuant to paragraph (2) for a convention or a primary election as they relate to an individual candidate, and if such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of subparagraph (A) of paragraph (2) shall cease to apply.

"(4) Any candidate who—

"(A) declares, pursuant to paragraph (1) that he does not intend to expend and incur, by expending from his personal funds and the funds of his immediate family and incurring personal loans in connection with his campaign an amount which in the aggregate totals $250,000 or more; and

"(B) subsequently does spend funds or incur loans in excess of such amount, or intends to spend funds or incur loans in excess of such amount,

shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.

"(5) Any candidate who makes expenditures from his personal funds or the personal funds of his immediate family, or incurs personal loans in connection with his campaign for election to office may repay such loan for such expenditures, to himself or to his immediate family, from contributions made to such candidate or any authorized committee of such candidate, except that such loan shall be repaid only to the extent of the actual amount of the loan. Notwithstanding any other provision of law, repayment of any such loan shall not include any interest on the principal amount of such loan.

"(6) Notwithstanding any other provision of law, no candidate may make expenditures from his personal funds or the personal funds of his immediate family, or incur personal loans in connection with his campaign for election to such office at any time after 60 days before the date of such election. The provisions of this paragraph shall apply to all candidates regardless of whether such candidate has reached the limits provided in this subsection.

"(7) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.

"(j) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person, after the election, to such candidate or the principal campaign committee of such candidate to repay any such expenditure or loan.

"(k) For purposes of this section, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse, and any spouse of any such person.".

(b) Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate for the office of President or Vice President may use any contributions in a manner prohibited by section 315(j)".

ROLE OF POLITICAL PARTIES

SEC. 8. Section 315(d)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)(3)) is amended by—

(1) striking out "2 cents" in subparagraph (A)(i) and inserting in lieu thereof "5 cents"; and

(2) striking out "$10,000" in subparagraph (B) and inserting in lieu thereof "$25,000".

DEFINITION OF NATIONAL COMMITTEE

SEC. 9. Section 301(14) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(14)) is amended to read as follows:

"(14) The term 'national committee' means the organization or organizations which, by virtue of the bylaws of a political party, are responsible for the day-to-day operation of such political party at the national level, including the Democratic National Committee, the Democratic Senatorial Campaign Committee, the Democratic Congressional Campaign Committee, the Republican National Committee, the National Republican Senatorial Committee, and the National Republican Congressional Committee, and any other such committees as determined by the Commission.".

REPORTING BY POLITICAL PARTY COMMITTEES

SEC. 10. (a) Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) in subparagraph (J), by striking out "and" after the semicolon;

(2) in subparagraph (K), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(L) for a national committee of a political party, all contributions, loans, transfers, and other receipts from any source to the committee and to any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee;".

(b) Section 304(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)) is amended—

(1) in subparagraph (F), by striking out "and" after the semicolon;

(2) in subparagraph (G), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(H) person who provides any contribution, loan, transfer, service, or any other benefit or thing of value to a national committee of a political party or to any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee, in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount or value of such contribution, loan, transfer, service, or other benefit or thing of value;".

(c) Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(1) in subparagraph (H), by striking out "and" after the semicolon at the end thereof;

(2) in subparagraph (I), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(J) for a national committee of a political party, all disbursements made by the committee or from any account financed, established, maintained, or controlled by such national committee, regardless of whether such account is a political committee;".

COMMUNICATIONS

SEC. 11. Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1), by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to the provisions of subsection (b)(1).".

INTERMEDIARY OR CONDUIT

SEC. 12. (a) Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate; and

"(B) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is (I) a political committee, other than an authorized committee of a candidate, within the meaning of section 301(4), or an officer, employee or other agent of such a political committee or candidate, or a national political party committee, or (II) an officer, employee or other agent of a connected organization, within the meaning of section 301(7), acting in its behalf.

In all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.".

(b) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following:

"(9) When any person, political committee, or national committee of a political party—

"(A) solicits or accepts contributions in the form of check or money order from any source, and

"(B) combines the amount of any such contributions and contributes such combined amount (or any portion of any such amount or contribution) to a candidate for Federal office, or to the authorized agent or authorized political committee of such candidate,

then all such solicited or accepted contributions made through a check or money order shall be made payable to a specific payee by the original drawer of the check or money order.".

SEVERABILITY

SEC. 13. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 14. This Act and the amendments made by this Act shall become effective on November 7, 1990 and shall apply to all contributions and expenditures made after such date.

● Mrs. KASSEBAUM. Mr. President, today I am cosponsoring legislation drafted by the Republican task force on campaign finance to overhaul the current way we fund and run elections for the Senate. Neither I nor the drafters of this plan would claim that it is the perfect reform plan. However, I believe it is a useful and necessary first step toward finding a solution to what all of us view as a growing problem.

As we all know, there is a long history to the debate we are resuming today. It is my understanding that Senator BOREN, Senator BYRD, and others across the aisle are reintroducing S. 2, which was the subject of long debate and, as I recall, seven unsuccessful cloture votes last year.

While it is not clear to me at this point how we will resolve this matter, it is clear that many Members on both sides of the aisle believe it is time for serious and constructive work on our campaign finance laws.

The legislation I am supporting has many features that deserve serious consideration and, I believe, should be part of the bipartisan package that many of us hope will emerge from this effort. It reduces the maximum contribution from political action committees from $5,000 per election to $1,000—a practice I personally have followed since my first campaign in 1978.

This legislation also requires improved and stronger disclosure of so-called soft money spending from any source and complete disclosure of national political party funding. In addition, this bill would establish new requirements for disclosure and timely notice of independent expenditures, a practice that has become increasingly controversial and that is very difficult to even monitor under current law.

Other features address the so-called millionaire's loophole for spending personal funds in campaigns, the role of the parties and the cost of campaigns. While none of these steps is radical or revolutionary, I believe they are ones that can help reduce the inordinate importance that money has attained in political campaigns.

Obviously, the legislation being offered today from both sides of the aisle is merely the starting point for a renewed debate on campaign finance. Much work remains to be done on this issue and I am prepared to do all I can in that effort. In his inaugural address, President Bush said the American people sent us here to find solutions, not to bicker among ourselves. I can think of no issue where the need for cooperation and good faith bargaining is more necessary than this one.●

● Mr. STEVENS. Mr. President, today I am pleased to join with the Republican leader and many of my Republican colleagues in introducing S. 7, a campaign finance reform proposal which is the most sweeping and comprehensive ever introduced in the Senate. If ever there was a foundation for a bipartisan approach to remedying many of the most troubling problems with the Federal Election Campaign Act, S. 7, the Dole-McConnell-Stevens bill, is the foundation. I strongly urge my colleagues on both sides of the aisle to take a hard look at this bill. If true, bipartisan campaign finance reform is the goal of the Senate, S. 7, can be the starting point.

To the majority of Senators who do desire solutions to the problems of campaign finance, let me say that there is only one avenue to that goal, the road marked "bipartisanship." If the Senate learned anything at all from the extended debate on S. 2, it is that Republicans view Democrat-designed spending limits and the taxpayer financing of congressional campaigns as an actual threat to the very survival of Republican candidates. Today's reintroduction, by the majority, of a bill which can only be described as the "son of S. 2," does little to reassure me that my friends on the other side of the aisle have understood our absolute rejection of the kind of reform envisioned by S. 2. We will not be a party to reforming ourselves out of existence.

After all of the hours, days, and weeks, not to mention cloture votes too numerous to recall, which were spent on S. 2 during the 100th Congress, skeptics of campaign finance reform are entitled to wonder whether there is any basis for hope in 1989. Mr. President, I am an optimist by nature. My sense of optimism has not been dampened, despite the course of debate on campaign finance reform proposals during the last Congress. I remain convinced that men and women of good will in the Senate can reach agreement on a package of campaign reforms which will benefit democracy without adversely effecting any of the national political parties.

Yet to begin the process which will lead to an agreement, someone must make the first move. Today, I offer S. 7 as the first step on what we all realize will be a long road. I urge all of my colleagues to review this proposal very seriously.

Many of the elements of the Congressional Campaign Reform Act of 1989, the Dole-McConnell-Stevens bill, have been ideas which I have long championed. In fact, my own involvement in campaign finance law and reform efforts goes back a long way, Mr. President, including service as a conferee on the bill which became the Federal Campaign Act in 1971. Many of the ideas which I've advanced in the 18 intervening years are included in S. 7, most notably, the democratization of political action committees, a substantial enlargement in the role of the national political parties, and a reconfiguration of the contribution limits for individuals and PAC's so that individual contributions will count for more than will the contributions of political action committees.

As to the latter provision, Mr. President, I think that it is important to note that while I do support a reconfiguration of contribution limits, I do not agree with those who believe that political action committees exert a pernicious influence in the political process and should be abolished. On the contrary, PAC's have played a very constructive role in electoral politics and I challenge the notion that PAC's exist solely to exert undue influence. My experience as a Member of the Senate for 20 years and as the former chairman of the National Republican Senatorial Committee tells

me that such charges are without substantiation.

Mr. President, the Dole-McConnell-Stevens bill consists of nine very carefully crafted reform proposals. Each provision stands on its own as a major advance toward bipartisan campaign finance reform. Taken as a whole S. 7, is the most comprehensive campaign finance proposal offered in this body since I began my Senate service in 1968. I commend this bill to my colleagues and I ask unanimous consent that a factsheet explaining each section of the bill be printed in the RECORD at this point. Thank you.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

THE CONGRESSIONAL CAMPAIGN REFORM ACT OF 1989

MAJOR PROVISIONS: RESTRICTIONS ON POLITICAL ACTION COMMITTEES

Lower the PAC contribution limit to $1,000 from $5,000 per candidate per election.

Require PACs to give their members the names and addresses of all federal candidates and the national political parties; and require PACs to let their members "earmark" their contributions for particular parties.

RAISED INDIVIDUAL CONTRIBUTION LIMIT IN CONGRESSIONAL ELECTIONS

Increase the individual contribution limit for Congressional candidates to $2,000 from $1,000 per election.

BROADCAST DISCOUNT/CAMPAIGN COST REDUCTION

Allow Presidential and Congressional candidates to purchase non-preemptible time at the lowest unit charge for preemptible time, in the last 45 days before the primary and the last 60 days before the general election.

FULL DISCLOSURE OF "SOFT MONEY" SPENDING

Require corporations, PACs, labor organizations, and non-profits to report all spending "for the purpose of influencing a federal election" through soft money activities, including voter drives, telephone banks, and membership communications.

STRENGTHENED DISCLOSURE OF PARTY FINANCES

Require complete disclosure by all national political party committees of receipts, expenditures, and soft money activities in Presidential and Congressional elections.

ENLARGING THE ROLE OF POLITICAL PARTIES

Increase the limit on "coordinated expenditures" by national political parties to $0.05 from $0.02, multiplied by the voting age population of each state, and to $25,000 from $10,000 for Representatives from states with more than one Representative.

PROHIBITION AGAINST BUNDLING

Prohibit all bundling of contributions, except by political party committees.

CONTROLS ON INDEPENDENT EXPENDITURES

Define "independent expenditures" to prohibit consultation with a candidate or his agents and require the FEC to hold a hearing within three days of any formal complaint of collusion between an independent expenditure committee and a candidate.

Require all independently-financed political communications, to disclose the person or organization financing it; require that disclosure be complete and conspicuous; and require timely notice to all candidates of the communication's placement and content.

CONSTRICT THE "MILLIONAIRE'S LOOPHOLE"

Require Presidential and Congressional candidates to declare upon filing for an election whether they intend to spend or loan over $250,000 in personal funds in the race; raise the individual contribution limit to $10,000 from $2,000 for all opponents of a candidate who declares such an intention.

Prohibit candidates from recovering personal funds or loans put into their race from contributions raised after the election.

The effective date of this legislation shall be November 7, 1989.●

By Mr. DOLE (for himself, Mr. GARN, Mr. HEINZ, Mr. DODD, Mr. MCCAIN, Mr. KASTEN, Mr. JEFFORDS, Mr. ROTH, Mr. BOSCHWITZ, and Mr. COHEN):

S. 8. A bill to amend the Export Administration Act of 1979 to impose sanctions against companies which have aided and abetted the proliferation of chemical or biological weapons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT

Mr. DOLE. Mr. President, I rise today to introduce the Chemical and Biological Weapons Control Act—a bill aimed at stemming the flow of chemical and biological weapons-related technology and material to such irresponsible and dangerous states as Libya. I am pleased that a number of distinguished Senators have already joined me as cosponsors: Senators GARN, HEINZ, DODD, MCCAIN, KASTEN, JEFFORDS, ROTH, BOSCHWITZ, and COHEN. Senators GARN and HEINZ have been the principal coauthors of this legislation; they and their staff deserve much of the credit for what we all believe to be a good product. In addition, I want to take note of Senator DODD's cosponsorship. This is truly a bipartisan matter, and all of us look forward to working with him—and hopefully many others from both sides—to move this bill.

I don't think anyone doubts the seriousness and the urgency of this problem. The unchecked spread of chemical weapons is the most immediate threat to regional peace and American interests in the real world of 1989. That is not rhetoric, but reality.

If the capacity to create, store, and deliver chemical weapons finally falls into the hands of lunatics like Qadhafi or fanatics like Khomeini, then we will truly be in not a brave, but a scary, new world. The capacity of rational and responsible states to deter war will be vastly diminished; the temptation to war, or political blackmail, by irrational and irresponsible states will be vastly increased.

Last year, when I and others introduced legislation very much like the bill I am introducing today, I said that the evil genie of chemical weapons had already escaped from the bottle. Today—as the headlines verify—that genie is more out of control than ever. Then, it was already clear that Iraq had, and had used, chemical weapons, and that Iran, Syria, and Libya were hell-bent on matching or exceeding Iraq's capability. Now, we know beyond question that Libya is on the verge of achieving a massive chemical weapons production capacity, and—as this week's news reports attest—moving ahead feverishly to develop the capability to deliver such weapons far beyond its own borders.

The genie is out of the bottle. And this—these next months—represents our last real chance to get it back under control. This bill will not do the job, by itself. But I and my cosponsors are convinced that this bill encompasses an approach that must—must—be part of any serious, effective effort to bring these terrible weapons of mass destruction under the control of some kind of international regime.

The ultimate goal must be an international regime, in which all the nations of the Earth join to wipe out all chemical weapons, and establish an effective control mechanism to insure they will never reappear. In the medium term, we must aim at an international regime to halt the spread of chemical weapons capability to all nations—but especially those whose pattern of international conduct has been patently irresponsible and dangerous.

My bill makes clear we must bend every effort to these ends, through multilateral and bilateral diplomacy, and the full force of influence and leverage we can bring to bear around the world.

But, even as we pursue those goals, there is something that we can, and must, do now—and, at the outset, at least, do unilaterally. Something that will have a real impact; and something that will send a powerful signal around the world of American seriousness and resolve.

A chemical weapons capability is not a home grown product in Libya or any of the other countries of major concern—the expertise, and much of the equipment and material, must be imported. Those imports can come from only two sources—the East bloc states, and the private sector of the Free World. In fact, while their record is far from perfect, it now appears that the Soviets and their East bloc allies may be waking up to the danger that the proliferation of chemical weapons represents to them, as well as to us. Though there is a long way to go, there is some hope that they might join us in an effective, international control regime.

Meanwhile, though, we must cope with this sad and dangerous fact: that some Free World companies are not

only capable, but willing, to make a buck by peddling chemical weapons-related technology and material to Libya and other states of its ilk. We must do everything we can to stop the flow of that technology and material, before it is too late.

Our bill, which will amend the Export Administration Act, attacks both halves of the problem—the real world fact that foreign firms are already aiding and abetting Libya and other nations acquire a chemical weapons capability; and the potential that American firms, perhaps inadvertantly, might, too.

In regard to the foreign firms—which are beyond the direct reach of our laws and export control systems—we rely upon the powerful leverage of the marketplace and economic reality. Our bill will require a report from the President on which foreign companies are aiding and abetting the spread of chemical weapons to target countries—those whose possession of chemical weapons would raise a clear and present danger to their neighbors and regional stability, and might well contemplate their first use. Listing of any firm will trigger sanctions against that firm, totally shutting it out of the American market for a long time—in most cases, at least 2 years, even should it stop its activities with the target country immediately upon publication of the report.

The leverage we have and propose to use is real. The experience we have had with the so-called Toshiba case is one bit of evidence to that effect. In addition, we know of one major foreign firm which severed its ties with Libya, largely because of just the introduction of our similar bill of last year. The message is loud and clear to board rooms around the world—do buisness with the likes of Qadhafi, and you can kiss goodbye to the American market. That threat might not be relevant to some very small firms, or those which think themselves smart enough to hide their activities—again, we are not claiming this is the whole answer. But we think logic and the track record to date indicates this approach can work, in many important cases. It can scare some people out of this unsavory business; and it can keep a whole lot more from being tempted to get involved in the first place.

I should also add that our bill provides strong safeguards, to insure that the Presidential report need not compromise any sensitive intelligence activities, or undermine any other efforts to halt the proliferation of chemical weapons.

The other half of the bill makes sure that we have our own house in order, too. That is important in its own right, and important to insure that our signal to our allies, and to foreign firms, is credible. The bill will establish a new, tough control regime on our own exports of technology and material that is directly relevant to a chemical weapons capability—to insure that no such exports go from American firms to target countries. It will require the President to identify the relevant technology and material, and the target countries, and then require licenses for the export of any listed technology/material to any listed country. Penalties would be of the same kind as exist under other sections of the Export Administration Act—fines, and even imprisonment, for violators.

That is the essence of the legislation. A more detailed summary of its provisions is included at the end of this statement.

Let me again stress that we are not proposing an American go-it-alone or ally-bashing approach. We must continue the effort, manifest in the Australia group discussions and the Paris Chemical Weapons Conference, to establish an effective international regime to stop the spread of chemical weapons. We must use our diplomatic skills and political influence to enlist the voluntary support of both our allies and adversaries in this effort.

Meanwhile, however, this bill can both buttress and add teeth to that effort, while having some real impact on the problem in the immediate future. This bill can spur other nations to act responsibly, and can back up any international regime which is established.

The problem is very serious; the hour is very late. It is time for us to act. I hope all Senators will join me and my cosponsors in this important act, by joining us in sponsoring and passing this vital piece of legislation.

Mr. President, I ask unanimous consent that the bill and an analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical and Biological Weapons Control Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) proliferation of the material and technology to produce and deliver chemical and biological weapons threatens American national security interests and regional stability;

(2) reliable reports of Libya's attempt to acquire a chemical weapons production and delivery capability, efforts by Iran and Syria to do likewise, and Iraq's use of chemical weapons against its Kurdish minority are of grave concern to the other states of the Middle East/Persian Gulf region and to the United States;

(3) any efforts by Communist-bloc countries to aid and abet the production or use of chemical or biological weapons, or the development and deployment of delivery systems for chemical or biological weapons, by any state are deplorable;

(4) there are increasing reports that major corporations in certain non-Communist countries have aided and abetted the reported efforts of Libya, Iraq, Iran, and Syria to acquire chemical weapons production and delivery capabilities and, if true, any such activity by those companies is deplorable and represents a threat both to American security interests and the peace and stability of the Middle East/Persian Gulf region;

(5) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as a legitimate basis for constricting free and open trade; title XXI of the General Agreement on Tariffs and Trade states that "[n]othing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . . ."; and

(6) international cooperation has so far been unable to stem the trade in materials essential to produce chemical weapons and their industrial inputs.

SEC. 3. POLICY.

(a) IN GENERAL.—It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation of the material and technology necessary and intended to produce or deliver chemical or biological weapons;

(2) to discourage Communist-bloc countries from aiding and abetting any states from acquiring such material and technology;

(3) to implement a United States control regime to prohibit the flow of United States materials, equipment, and technology that would assist countries in acquiring the ability to produce or deliver chemical or biological weapons; and

(4) to discourage private companies in non-Communist countries from aiding and abetting any states in acquiring such material and technology.

(b) MULTILATERAL DIPLOMACY.—The United States should seek to pursue the policy described in subsection (a) to the extent practicable and effective through multilateral diplomacy, including through efforts such as the efforts of the so-called "Australia Group" and the recently concluded Paris conference on chemical weapons.

(c) UNILATERAL ACTIONS.—The United States retains the right to and should take unilateral actions to pursue the objectives in subsection (a) until such multilateral efforts prove effective and, at that time, to support and enhance the multilateral efforts.

SEC. 4. DEFINITIONS.

Section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) the term 'biological weapons' refers to—

"(A) microbal or other biological agents or toxins, whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes; and

"(B) weapons, equipment, or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict;

"(8) the term "chemical weapons" refers to—

"(A) toxic chemicals, including supertoxic lethal chemicals, other lethal chemicals, other harmful chemicals and their precursors, including key precursors, except such chemicals intended for peaceful purposes as long as the types and quantities involved are consistent with such purposes; and

"(B) munitions and devices specifically designed to cause death or other harm through the toxic properties of such toxic chemicals which would be released as a result of the employment of such munitions and devices;".

SEC. 5. AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979.

Section 6 of the Export Administration Act of 1979 (50 U.S.C. App 2405) is amended—

(1) by redesignating subsections (k) through (o) as subsections (l) through (p), respectively; and

(2) by inserting after subsection (j) the following:

"(k) CHEMICAL WEAPONS.—(1) The Secretary, in consultation with the Secretary of State, shall establish and maintain, in accordance with the provisions of subsection (m)—

"(A) a comprehensive list of goods or technology, whether military or dual-use items, that would assist a country in acquiring the ability to produce or deliver chemical or biological weapons; and

"(B) a list of those foreign countries which are pursuing or expanding such ability, as determined by the President.

"(2) The Secretary shall require a validated license for any export of goods or technology listed under paragraph (1)(A) to a country listed under paragraph (1)(B). The Secretary shall deny any application for such a license if the Secretary has reason to believe that the goods or technology will be used by a country described in paragraph (1)(B) in producing or delivering chemical or biological weapons or will otherwise be devoted to such purposes. Issuance of a license by the Secretary shall be the only approval required for the shipment of goods or technology on the list.

"(3)(A) Notwithstanding any other provision of this Act, a determination of the Secretary to approve or deny an export license application for the export of goods or technology under this subsection may be made only after consultation with the Secretary of State, subject to subparagraph (B). In any case where the Secretary of Commerce proposes to take an action under this subsection without the concurrence of the Secretary of State, the matter shall be referred to the President for resolution.

"(B) In any case where an application subject to this subsection involves a military item, a determination to approve or deny such an application may be made only after consultation with the Secretaries of Defense and State. In any case where the Secretary of Commerce proposes to take an action under this subsection without the concurrence of the Secretary of Defense or State, the matter shall be referred to the President for resolution.".

SEC. 6. REPORT.

Section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413) is amended—

(1) by striking the section heading and inserting "REPORTS";

(2) by striking "CONTENTS" in subsection (a) and inserting "ANNUAL REPORTS"; and

(3) by adding at the end the following:

"(g) REPORTS ON CHEMICAL AND BIOLOGICAL WEAPONS MATTERS.—(1) Not later than 90 days after the date of enactment of this subsection, and every 180 days thereafter, the President shall submit to the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader and Minority Leader of the Senate, the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs of the House of Representatives and the Select Committee on Intelligence, the Committee on Foreign Relations, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the efforts of all foreign countries to acquire the material and technology to produce and deliver chemical and biological weapons, together with an assessment of the present and future capability of those countries to produce and deliver such weapons.

"(2) Each report under this subsection shall include an assessment of whether and to what degree any Communist-bloc country has aided or abetted any foreign country in its efforts to acquire the material and technology described in paragraph (1).

"(3) Each such report shall also list—

"(A) each company which in the past has aided or abetted any foreign country in those efforts; and

"(B) each company which continues to aid or abet any foreign country in those efforts, as of the date of the report.

"(4) Such report shall also include an assessment as to whether any company listed in paragraph (3)(A) or (3)(B) was aware that the assistance provided was for the purpose of developing a chemical and biological weapons production and delivery capability.

"(5) Each report under this subsection shall provide any confirmed or credible intelligence or other information that any non-Communist country has aided or abetted any foreign country in those efforts, either directly or by facilitating the activities of the companies listed in paragraph (3)(A) or (3)(B), or had knowledge of the activities of the companies listed in paragraph (3)(A) or (3)(B), but took no action to halt or discourage such activities.

"(6) Nothing in this section—

"(A) requires the disclosure of information in violation of Senate Resolution 400 of the Ninety-fourth Congress or otherwise alters, modifies, or supersedes any of the authorities contained therein; or

"(B) shall be construed as requiring the President to disclose any information which, in his judgment, would seriously—

"(i) jeopardize the national security of the United States;

"(ii) undermine existing and effective efforts to meet the policy objectives outlined in section 4; or

"(iii) compromise sensitive intelligence operations, with resulting grave damage to the national security interests of the United States.

"(7) If the President, consistent with paragraph (6)(B), decides not to list any company in that part of the report required under paragraphs (3) and (5) which would have been listed otherwise, the President shall include that fact in that report, with his reasons therefor.".

SEC. 7. SANCTIONS AGAINST FOREIGN COMPANIES.

The Export Administration Act of 1979 is amended by inserting after section 11A the following:

"CHEMICAL AND BIOLOGICAL WEAPONS CONTROL VIOLATIONS

"SEC. 11B. (a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) if the President determines that—

"(1) any foreign company has in the past aided or abetted a country on the country list prepared pursuant to section 6(k)(1)(B) of this Act in acquiring goods or technology that were used in producing or delivering chemical or biological weapons or were otherwise devoted to such purposes; or

"(2) any foreign company continues to aid or abet a country on the country list prepared pursuant to section 6(k)(1)(B) of this Act in acquiring goods or technology that are being used in producing or delivering chemical or biological weapons or were otherwise devoted to such purposes.

"(b) SANCTION.—(1) Before October 1, 1990, the United States Government shall not procure, or contract for the procurement of, any goods or services from any company referred to in subsection (a)(1).

"(2) The United States Government shall not procure, or contract for the procurement of, any goods or services from any company referred to in subsection (a)(2). The provisions of the preceding sentence shall cease to apply upon the expiration of 2 years after the President certifies to the Congress that—

"(A) conclusive intelligence or other information demonstrates that such company has totally ceased to aid or abet any foreign country in its efforts to acquire goods and technology described in section 6(k)(1)(A); and

"(B) in the President's judgment, it would be in the national interest of the United States to again procure, or contract for the procurement of, goods and services from such company.

"(3) The importation into the United States—

"(A) before October 1, 1990, of products produced by a company referred to in subsection (a)(1), and

"(B) before the close of the 2-year period described in paragraph (2), of products produced by a company referred to in subsection (a)(2) with respect to which a certification under paragraph (2) was made,

is prohibited.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

"(2) to—

"(A) products or services provided under contracts entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

"(B) spare parts;

"(C) component parts, but not finished products, essential to United States products or production;

"(D) routine servicing and maintenance of products; or

"(E) information and technology; or

"(3) to companies which in the President's assessment provided so-called "dual-use" material or technology, and were unaware that the intended use of that material or technology was the development of a chemical weapons production or delivery system.

"(d) REVIEW OF RELATIONS.—The United States Government should review the full range of its security, political, economic, and commercial relations with any country named in a report submitted under section 14(g) for the purpose of paragraph (2) or (5) of such section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(2) the term 'dual-use', when used in the context of chemical materials or technology, means chemical material or technology which may be utilized both in the production or delivery of chemical weapons and in the production or application of chemicals for other uses;

"(3) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(4) the term 'sanctioned person' means a person, and any parent or successor entity of the person, upon whom sanctions have been imposed under this section.".

CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT

Findings on efforts by Libya, Syria and Iran to acquire weapons; Iraq's use of chemical weapons; reports of assistance from Communist states and major Western corporations; and the failure of international cooperation to stem the problem.

POLICY

To discourage proliferation of materials and technology necessary to produce or deliver chemical/biological weapons;

To discourage assistance to these countries by Communist countries and Western companies;

To implement a U.S. control regime for all U.S. technology that could assist this capability;

To pursue multilateral efforts to control these weapons; and

To take unilateral actions, where necessary, to pursue these objectives.

Definitions of biological and chemical weapons.

U.S. EXPORT CONTROLS

New subsection of the Export Administration Act creating a chemical/biological warfare control regime, including a comprehensive list of controlled materials/technologies and controlled countries.

Shipments of controlled technologies would require licenses, with presumption of denial to "problem projects."

Commerce would license in cooperation with State and DoD, as appropriate.

Penalties for violations by companies subject to U.S. law would be those under the EAA (administrative penalties, denial of export privileges, fines and imprisonment).

Report due semiannually on—

Proliferation of material and technology to produce and deliver chemical/biological weapons; and

Assistance from Communist states and Western companies in providing these capabilities.

Bill provides for protection of classified information and Presidential discretion not to name companies if this would jeopardize national security, intelligence sources or efforts to meet objectives of the law.

SANCTIONS AGAINST FOREIGN COMPANIES

If the President finds that a foreign company is aiding or abetting the chemical/biological warfare capability of a country listed under the C/B warfare control regime in the EAA, sanctions shall be imposed—in the case of companies that have provided assistance in the past, denial of the privilege to import goods into the United States or participate in USG procurement through October 1, 1990; in the case of companies continuing to provide assistance, import and procurement sanctions for a period of two years after the President certifies such assistance has stopped or that it is in the national interest to resume USG procurement.

USG review of all security, political, economic and commercial relations with countries aiding and abetting such proliferation:

Waivers for certain defense procurement; space and component parts; routine service and maintenance; and for companies the President determines were unaware of the intended use of "dual use" materials and technology provided.

Mr. McCAIN. Mr. President, I believe that we are taking actions today that will have a major impact on the future of our Nation and the world. The threat of chemical and biological weapons is ultimately as serious as the threat of nuclear weapons. While such weapons may not be as lethal, they are far easier to acquire and far cheaper to use, and biological weapons open up the spectre of genetic engineering and a long-term threat to the existence of our race.

I strongly support the efforts of the Reagan and Bush administrations to attack the problem of the proliferation of chemical and biological weapons by strengthening the Geneva protocols, and the 1972 treaty on biological weapons. I believe that we need to press all nations to ratify such treaties and agreements, that we need to move toward international inspection, and that we need to halt or minimize any "defensive" research whose true purpose could be the production of chemical and biological weapons.

At the same time, treaties will never be enough. Anyone can sign or ratify a treaty that involves no punishments, and no inspection and verification. Anyone can pass laws that appear to block the sale of equipment and transfer of technology. The entire history of arms control tells us that agreements without teeth are worse than meaningless: They bury the problem, rather than solve it. They withdraw the problem from public attention without halting the threat to peace and to humanity.

We already have firm evidence that these problems will reoccur in the case of chemical and biological weapons. Countries like Iraq, Iran, Libya, and Syria have already signed the agreements and treaties dealing with chemical and biological weapons. Nations like West Germany and Japan have repeatedly assured the United States they would never knowingly sell the equipment to develop and produce chemical weapons.

It is painfully clear that the world has heads of state whose word is nearly worthless, and whose signature on new agreements will be equally worthless. We know all to well that Iran and Iraq have used chemical weapons. We know that all their recent statements and assurances have done nothing to slow down the production of more weapons, or the restructuring of their forces to use them. We know that Libya and Syria are actively following in their footsteps.

We also know that Iran, Iraq, and Syria have long been interested in producing biological weapons, and we have growing reason to suspect that Iraq is actually producing such weapons. Further, we know that Iraq has already misused international agreements to obtain tularemia virus from the United States. This Iraqi action is particularly important because this disease is nearly 10 times more lethal in weapon form than anthrax, and because the United States obtained this culture from the U.S.S.R., which seems to have developed it for weapons purposes in the period before the 1972 treaty. We have every reason to assume that Iraq may soon weaponize two of the three most lethal biotoxins—anthrax and tuleremia—and it may well be on the way to weaponizing the third—equine encephelitis.

Further, we know that we cannot trust even our closest allies to make honest efforts to halt the sale of technology, feedstock, and equipment. We have tried since the early 1980's to persuade Western European states and Japan to come to grips with the problem of the proliferation of weapons of mass destruction. The result has been promises and lies.

We have seen the Government of Japan and Japanese companies repeatedly deny their involvement in activities like the chemical weapons plant in Libya when they either continued to support proliferation or deliberately ignored the warnings of the United States. If there is any honor or "face" within the Japanese Government on this issue, it certainly is not apparent to me.

Worse, it is becoming all too clear that the most senior officials and ministers of the West German Govern-

ment have known since the early 1980's that West German firms were contributing to the proliferation of chemical, biological, and nuclear weapons. My good friend Senator HELMS has already issued a roll of dishonor listing the companies that have publically been associated with the proliferation of chemical and biological weapons. My office has updated and expanded that list, and there are now 34 German companies on this list.

Let me also be blunt, I know that the West German Government is denying that it knew what was going on in Libya, and that its Foreign Minister is claiming to be shocked by what happened. The problem with these statements is that it is clear that the West German Government first denied what it already knew to be the truth, and that it has known for half a decade that West German firms have been assisting nations like Iraq and Syria to produce their chemical weapons.

It is inconceivable, that the Foreign Minister of West Germany could really be shocked by what happened in Libya. In 1983 and 1984, and long before the current investigations of what happened in Libya, the West German Government and the West German Foreign Office were warned in great detail that West German firms were already involved in the proliferation of weapons of mass destruction.

It is inconceivable the United States intelligence data that was then provided to West Germany did not reach the Foreign Minister. It is inconceivable that the West German Government ever really made the efforts it promised to make to investigate what was happening and to halt such proliferation, and it is inconceivable that it did not at least tacitly tolerate what was happening. In fact, if West Germany conducted even half the investigation of West Germany's contribution to nuclear, chemical, and biological proliferation that we in the United States conducted of the Iran-Contra scandal, I believe that Foreign Minister Genscher would be forced to resign.

In short, it is painfully clear that we cannot place our trust in treaties and good intentions alone. We have to find means of enforcing these treaties, and we have to make it clear that we intend to fight proliferation with something more effective than quiet warnings and polite diplomacy. It has to be clear that the foreign governments and companies have a clear choice: They cannot support or tolerate proliferation and maintain close relations, or do business with, the United States.

This is why I am happy to cosponsor the legislation being proposed today by Senator PELL and Senator DOLE. While these two bills differ in scope, they shape the range of action we must take during the coming session. At a minimum, they will establish serious sanctions against any use of such weapons and will expose the governments and companies that aid proliferation.

I hope, however, that we can go further, and make it clear that any company that assists in the proliferation of weapons of mass destruction will not be allowed to do business in the United States.

I also must state that this is one case where I believe that the evidence indicates that such companies must be judged guilty until proven innocent. We have heard excuse after excuse, and denial after denial. We have seen companies use fronts, Swiss companies and banks, and any form of plausible deniability they can think of.

This country has no obligation to excuse firms that aid proliferation, regardless of their excuse. We cannot excuse our own firms, and our support of free trade has never meant the support of a free trade in death.

Firms are going to have to learn that they cannot sell any element of chemical or biological weapons without our making every effort to drive them out of business, whether or not their acts are deliberate or were fully understood by every member of the board. To put it bluntly, I hope that we can agree on legislation that has only one message: One strike and you're out!

In summary, I believe that this is one of those times when a combination of firm diplomacy and firm legislation can really help avert a global tragedy. We have already lived under the threat of nuclear war for far too long. The threat posed by the proliferation of chemical and biological weapons is equally dangerous, and we must have the courage to deal with that threat before it comes to shape the world we live in.

THE "ROLL OF DISHONOR"

Companies reported to be assisting in the proliferation of biological, chemical, and nuclear weapons[1]

CNEA (ARGENTINA)

[Supports Iranian nuclear efforts directly related to the effort to develop a bomb, Washington Times, April 22, 1987 and Economist Foreign Report, April 2, 1987.]

WORMOLD (AUSTRALIA)

[Firefighting and security equipment for Iraqi chemical warfare facilities, USN&WR, Jan. 1989.]

FLAEKT (BELGIUM)

[Libya—cooling tower for chemical weapons, Washington, Times, Jan. 16, 1989.]

CROSS LINK (BELGIUM)

[Libya—freight forwarding aiding procurement of chemical weapons capability, Stern, Jan. 12, 1989, Washington, Post, Jan. 14, 1989.]

PHILLIPS PETROLEUM (BELGIUM)

[Sold 500 tons of thiodiglycol to Iraq for use in production of nerve gas, Wall Street Journal, Sept. 16, 1988.]

J.G. TRADING (BRITAIN)

[Libya—freight forwarding aiding procurement of chemical weapons capability, Stern, Jan. 12, 1989.

IHSAN BARBOUTI INTERNATIONAL (BRITAIN)

[Libya—general contractor aiding in development of chemical weapons, Washington Times, Jan. 16, 1989.]

SARECO INTERNATIONAL LIAISON OFFICE (CANADA)

[Front Office for Iraqi effort to buy chemical weapons, USN&WR.]

DISA (DENMARK)

[Libya—foundry equipment affecting chemical weapons production, Washington, Times, Jan. 16, 1989.]

DE DIETRICH (FRANCE)

[Libya—supplied glass-lined caldrons for chemical weapons, N.Y. Times, Jan. 1, 1989.]

ALFRED TEVES GMBH (W. GERMANY)

[Libya—industrial cooling equipment for chemical weapons, Wall Street Journal, Jan. 18, 1989.]

BISCHOFF (W. GERMANY)

[Libya—tools and machinery for chemical weapons, Stern, Jan. 12, 1989.]

DEUTSCHE BANK (W. GERMANY)

[Libya—banking services for chemical weapons, Stern, Jan. 12, 1989.]

FRANKFURT ZINK (W. GERMANY)

[Libya—gas burning equipment for chemical weapons, Stern, Jan. 12, 1989; AP Jan. 13, 1989.]

GESELLSCHAFT FUR AUTOMATION (W. GERMANY)

[Libya—computers, Stern, Jan. 12, 1989.]

HAMMER (W. GERMANY)

[Air conditioning for Iraqi chemical weapons facilities, USN&WR, Jan. 1989.]

HEBENGER BAU (W. GERMANY)

[Libya, chemical weapons—The Times, London, Jan. 7, 1989.]

HERBIGER (W. GERMANY)

[Erected many buildings for Iraqi chemical weapons plants, USN&WR, Jan. 1989.]

HUNNEBACK (W. GERMANY)

[Libya—building materials for chemical weapons, Stern, Jan. 12, 1989.]

I.B.I. ENGINEERING G.M.B.H. (W. GERMANY)

[Libya—Contractor for Libyan chemical weapons plant, Wall Street Journal, Jan. 16, 1989.]

IMHAUSEN AND IMHAUSEN-CHEMIE G.M.B.H. (W. GERMANY)

[Libya—precursor chemicals, Wall Street Journal, Jan. 18, 1989; Washington, Post, Jan. 14, 1989; New York Times, January 14, 1989.]

INTEC TECHNICAL TREADING LOGISTIC (W. GERMANY)

[Libya—air-to-air refueling, Stern, Jan. 12, 1989.]

KARL KOLB (W. GERMANY)

[Iraq—chemical warfare plant. Klaus Franzel, head of the Baghdad office supplied laboratory equipment to the Iraqi office that pioneered the development of chemical weapons, Christian Science Monitor, Dec. 13, 1988; Wall Street Journal, Jan. 14, 1989.]

[1] Please note that these names come from published sources and that there is no claim for validity.

KONE (W. GERMANY)

[Libya—overhead cranes for chemical weapons, Washington Times, Jan. 16, 1989.]

KRAFTWERKE UNION (KWU) (W. GERMANY)

[Works to support Iran in its nuclear weapons effort using the Argentine Nuclear Power Agency, as a cut out, Washington Times, April 22, 1987 and Economist Foreign Report, April 2, 1987.]

KREBS UND KIEFER (W. GERMANY)

[Libya—stress engineering for chemical weapons, Stern, Jan. 12, 1989.]

KRAUSS KOPF (W. GERMANY)

[Iraq, chemical weapons—International Herald Tribune, Jan. 7-8, 1989.]

KREBS AND KIEFER (W. GERMANY)

[Engineering firm that calculated stress on Libyan chemical weapons plant, Reuters, Jan. 1, 1989.]

LINDE (W. GERMANY)

[Libya—oxygen unit for chemical weapons, Washington Times, Jan. 16, 1989.]

E. MERCK (W. GERMANY)

[Libya—industrial cooling equipment for chemical weapons, Wall Street Journal, Jan. 18, 1989.]

NUKEM (W. GERMANY)

[Depleted Uranium pins for Iraqi nuclear reactors.]

OSTRAG (W. GERMANY)

[Libya—ballistic missiles, Stern, Jan. 12, 1989.]

QUAST (W. GERMANY)

[Reactor vessels, piping and centrifuges for Iraqi chemical weapons plant.]

PAWLING AND HARNISHCHFEGER (W. GERMANY)

[Libya—mobile cranes for chemical weapons, Washington Times, Jan. 16, 1989.]

PILOT PLANT (W. GERMANY)

[A subsidiary of Karl Kolb. Helped Iraq in building a chemical warfare plant, Christian Science Monitor, Dec. 13, 1988.]

PREUSSAG (W. GERMANY)

[Libya—water purification system for chemical weapons, Stern, Jan. 12, 1989.]

QUAST (W. GERMANY)

[Iraq—corrosion-resistant alloy parts for chemical weapons, and helped provide Iraq's SEPP with two million pound pilot plant. Reactor vessels, piping, centrifugres of hastalloy, Christian Science Monitor, Dec. 13, 1988 and USN&WR, Jan., 1989.]

RAAB KARCHER (W. GERMANY)

[Libya—building materials for chemical weapons, Der Speigel, Jan. 15, 1989.]

ROHSTOF EINFUHR G.M.B.H. (W. GERMANY)

[Heavy water for nuclear proliferation to India, Pakistan, and South Africa. Wall Street Journal.]

SALZGITTER INDUSTRIEBAU GMBH (W. GERMANY)

[Libya—industrial planning for chemical weapons, Washington Post, Jan. 17, 1989; Washington Post, Jan. 17, 1989.]

J. SARTORIUS (W. GERMANY)

[Libya—construction materials for chemical weapons, Stern, Jan. 12, 1989.]

SCHOTT GLASSWERKE (W. GERMANY)

[Syria—corrosion-resistant glass pipes for chemical weapons, Wall Street Journal, Sept. 16, 1988.]

FRITZ WERNER (W. GERMANY)

[Support to Iraqi and Iranian chemical weapons effort, USN&WR, Jan., 1989.]

W.E.T. G.M.B.H. (W. GERMANY)

[Heavy duty pumps and chemicals for the Iraqi chemical weapons effort, USN&WR.]

VEB STAHLBAU (E. GERMANY)

[Libya—steel fabrication for chemical weapons, Stern, Jan. 12, 1989.]

PEN TSAO MATERIA-MEDICA-CENTER, LTD. (HONG KONG)

[Libya—document handling affecting chemical weapons. Associated with Imhausen, Stern, Jan. 12, 1989; Wall Street Journal, Jan 17, 1989.]

DEE TRADING (HONG KONG)

[Involvement in Lybian chemical and biological weapons. Associated with Imhausen, Wall Street Journal, Jan. 17, 1989.]

JAPAN STEEL WORKS (JAPAN)

[Libya—bombs and production equipment for chemical weapons, Mainichi, Sept. 15, 1988.]

MARUBENI (JAPAN)

[Libya-equipment for chemical weapons, Christian Science Monitor, Dec. 13, 1988.]

KBS HOLLAND B.V. TRADING COMPANY (NETHERLANDS)

[Bought thiodiglycol from Belgian chemical plant, in Tessanderloo Belgium, a subsidiary of Phillips. BBC Panorama.]

MELCHEMIE HOLLAND B.V. (NETHERLANDS)

[Iraq—chemical precursors for nerve gas, Christian Science Monitor, Dec. 13, 1988.]

IMPRESSARIOS AGUPADOS (SPAIN)

[Involved in a consortium with Kraftwerke Union and CNEA in supporting the Iranian nuclear weapons efforts, Washington Times, April 22, 1987 and Economist Foreign Report, April 2, 1987.]

ORDA A.G. (SWITZERLAND)

[Involved with Rohstof Einfuhr, G.m.b.H. in supplying heavy water to India, Pakistan, and South Africa, Wall Street Journal.]

ENERGOINVEST (YUGOSLAVIA)

[Libya—power substation supporting chemical weapons facility, Washington Times, Jan. 16, 1989.]

Mr. GARN. Mr. President, I rise today to join the Republican leader and my other colleagues to put forth a bill intended to stop the spread of chemical weapons and delivery systems to terrorist states.

As you know, during my 14 years in the U.S. Senate, it has been a primary goal of mine to stop the transfer of Western weapons and technology into the arsenals of our adversaries, experience has shown that while technology security is vital, it is extremely difficult to achieve and protect. We are attempting to control the spread that, in many cases, is relatively unsophisticated, but still deadly.

This bill we are offering, attempts to ensure that we do not arm terrorists or terrorist states with weapons capable of mass destruction. This bill also ensures that we stop the transfer and spread of weapons that the civilized nations agreed not to use at the 1925 Paris Conference. This was reaffirmed by 149 nations at the Paris Conference last month.

Use of sanctions is sure to raise voices of protest from governments and industry. But, just as in the Toshiba-Kongsberg case, we must send the signal to the world realize that there are some crimes the United States will not tolerate. We must stand ready to take unilateral action to stop the export of such destructive technology.

I welcome the opportunity to cosponsor this proposal and look forward to working with my colleagues who are searching for a solution to this threat to world peace.

Mr. HEINZ. Mr. President, today the United States is faced with a moral and political crisis that may very well alter our entire concept of international relations. Through an almost universal consensus, nuclear weapons and effective delivery systems have been limited to the United States, the Soviet Union, and a handful of other nations. To a large degree, the close control of these weapons has been related to the relative peace of the last 44 years. This is not to imply that many long and bloody wars have not been fought, but rather that they have not been allowed to escalate into a superpower confrontation. Equally important, the belligerents have not been able to drag each other into nuclear oblivion.

The spread of biological and chemical weapons may change this situation. The use of chemical weapons as a "poor man's nuke" will upset the current international balance of power and will enable irrational countries, such as Libya, to conduct terrorism at a much more dangerous and grisly level. It is our duty to prevent this from happening.

Chemical and biological weapons have a long, infamous history. During Ghengis Khan's march into Europe he herded disease-infected peasants and animals ahead of him to spread contagians in order to aid his conquest. Several hundred years later, the Turks flung plague infested bodies into Constantinople during the siege. The 20th century, however, has seen the most extensive use of such weapons. World War I was characterized by the development and use of chlorine, phosphene, and mustard gas, all of which were developed during the war. In spite of the 1925 Geneva protocol which banned the use of chemicals as weapons, the practice continued. The Italians and Japanese used chemicals during the 1930's in their attempted subjugation of Ethiopia and China, respectively.

The 1970's and 1980's have seen even more use of these hideous devices. The Soviets have used the most contemporary chemical weapons in their occupation of Afghanistan. The Iranians and Iraqis gassed each other, and their own people, in spite of international condemnation. In Southeast Asia there have been numerous instances of yellow rain and several chemical attacks conducted by the Vietnamese

against the Cambodians. In addition, the Journal of Defense and Diplomacy has reported many cases of chemical use in Africa. The Libyans have used chemicals many times against Chadian forces. Furthermore, the Marxist regimes of Ethiopia, Angola, and Mozambique have each used a variety of chemical devices against anti-Communist resistance movements.

The result of all these cases, especially the Iraqi one, has been the establishment of precedent. Each time a country gets away with this intentional outrage, it becomes easier for it to happen again. The Iraqis ignored the international community and used a variety of chemical systems against poorly protected Iranian forces. Iran, with a population three times that of Iraq, was stalemated. Regardless of the fact that it possessed a 3-to-1 superiority, which in military circles is the requirement for a successful attack, Iran was forced to the negotiating table. The use of chemical weapons by Iraqi forces was a major factor in their success. Furthermore, what was previously considered an unacceptable weapon was used in massive proportions in spite of the public outcry. Thus, what was once considered to be an extravagant luxury only for the superpowers may soon be considered a necessity for Third World nations.

In order to prevent the rampant spread of chemical weapons, especially to unstable, irrational, or morally deviant nations, the United States must act now. It is for this reason that I join Senator DOLE, Senator GARN, Senator DODD, and others in sponsoring the Chemical and Biological Weapons Control Act. The primary goal of the bill is to discourage the proliferation of technology and materials necessary to produce chemical and biological weapons and their delivery systems. In order to facilitate this, the bill also creates a domestic control system by which U.S. technology and material are controlled to problem countries.

Mr. President, this bill is designed to impact only on those who choose to aid morally deviant nations. Essentially, it creates a three-tiered system for domestic controls. Any company who follows these guidelines will have no difficulty whatsoever. Only those firms who choose to violate this process will face repercussions.

The first tier is a list of countries, to be compiled by the President, who have either attempted, or are currently attempting, to acquire material and technology utilized in biological or chemical weapons.

The second tier is a list of materials which are unique or particular to the production of such substances or to their delivery systems. Items on this list are to be considered controlled materials requiring a special license for export and may not be sold to any of the nations listed in the first tier.

The third tier is comprised of ordinary items which are considered to be dual use in that they are utilized in the production of both ordinary items and chemical-biological weapons. These items are not to be controlled in most circumstances, unless they are sold; first, to nations listed in the first tier; second, in conjunction with items listed in the second tier; or third, they are sold to nations who are currently receiving shipments of components from the second tier but not from the same company who is selling the dual use items. In these cases exports of dual use items must be subject to license for export.

Mr. President, this bill differs from other measures which put a blanket halt on American goods as a tactic of foreign policy, as President Carter's 1980 grain embargo and President Reagan's 1982 pipeline embargo did. These measures only hurt American firms while barely affecting the Soviet Union. This bill will only limit trade to certain countries in a few particular items. Furthermore, we hope that our friends and allies will follow our lead in this area and will help to place an effective quarantine on undesirable nations to keep them from acquiring chemical weapons capabilities. It would be ideal if all countries would accept the responsibility of ensuring that their businesses adhered to the same moral standards by which nations are judged. Companies like Toshiba and Imhausen would then be much less inclined to put profits before the people of the world.

Nevertheless, should others shrink from their responsibility, the bill provides for action against foreign companies who violate these standards. While the United States can neither fine nor imprison violators, sanctions can be imposed by the President. Such companies can be denied the privilege to import goods into the United States or to participate in U.S. Government procurement procedures. While we sincerely hope that such measures will not have to be taken, they will be if businesses refuse to accept their moral and social responsibilities.

Mr. President, it is well known that I am not one to join country of the month movements. I do not see how such improvised schemes further the role and the respectability of the United States and its Congress. Yet sometimes they contain the roots of the problem, and if refined can be a useful and responsible solution. This bill is an outgrowth of such a movement. It has evolved from focusing on four specific countries to addressing the proliferation of biological and chemical weapons world-wide. It has been honed and refined to meet both current and future needs of the United States, criteria that all legislation should be expected to maintain.

The threat is very real, very present. Maybe not today, not tomorrow, or possibly not even next month, but soon. Sooner than we all wish, irresponsible nations will be threatening civilized society and holding chemical and biological weapons over each others' heads. We must act now to bring some sense into this most dangerous situation.

Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. KASTEN, Mr. SYMMS, Mr. WILSON, Mr. DURENBERGER, Mr. LUGAR, Mr. HELMS, and Mr. ROTH):

S. 9. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

LIBERALIZATION OF EARNINGS TEST PROVISIONS

Mr. DOLE. Mr. President, President Bush in his inaugural address called for a rebirth of personal activism, saying, "we must bring in the generations, harnessing the unused talent of the elderly * * *."

Mr. President, the best way to harness the unused talent of the elderly is to repeal the very law that discourages senior citizens from using their talent, the Social Security earnings limit.

Together with Senator ARMSTRONG, today I introduce legislation to phase out the Social Security earnings limit for those over age 65. This proposal is substantially similar to one adopted by the Senate in 1983 as part of the Social Security solvency amendments. Regrettably, the final 1983 bill included only a partial rollback of the earnings limit.

Congress should now follow the Senate's leadership in getting rid of the earnings limit.

Under current law, Social Security beneficiaries under age 70 face sharp reductions in their monthly benefit if their earnings exceed a specified amount. These seniors will lose $1 of benefits for every $2 of income they receive above $8,880. Next year, a modest change will allow elderly workers to lose only $1 for every $3 they earn above $9,240. I report this change in the law with a mixture of pride and regret. I am proud to have achieved this modest change as part of the 1983 bill; I regret the House of Representatives refused further reform.

Simply stated, this law is unfair and counterproductive. This provision penalizes senior citizens who want to continue working. By forcing those Americans out of the job market, we are effectively reducing our Nation's wealth.

Under this bill, the earnings limit would be increased by $3,000 a year beginning in 1990 and eliminated entirely in 1995 for beneficiaries above the normal retirement age, currently age

65. The legislation would also accelerate the effective date of the 8 percent delayed retirement credit contained in current law from 2009 to 1995.

It is rather ironic that we want our senior citizens to remain active, but present them with incentives to do exactly the opposite. Indeed, we explicitly recognize that senior citizens possess great stores of wisdom, the kind of knowledge and experience our Nation needs. Certainly it is neither justified nor just that we punish these worthy citizens. And that, my colleagues, is precisely what we do.

America's elderly have already borne the burden of decades of hard work. They have paid Social Security taxes throughout their working lives. It is fair that they lose some of those benefits simply because they choose to continue offering their abilities to America?

The earnings limit effectively denies benefits to those retirees making more than a certain amount of money per year. It does not matter that these retirees contributed a significant portion of their income throughout their careers in order to enjoy these benefits.

At a time when our 41st President is calling for the continued contributions of our Nation's seniors, we are offering them a choice that can't help but drive productive individuals to a full retirement or force them to forgo benefits they've worked for over a lifetime. With many economists predicting that shortages of workers will be one of the most severe economic problems we will face in the 1990's, it would certainly seem wise to reform policies which discourage workers who have a lifetime of experience.

The marginal tax rates imposed by the earnings limit is beyond reason. By its own terms, the test establishes a 50-percent marginal tax rate on individuals who earn in excess of the trigger amount. With other Federal and State tax liabilities figured in, this marginal tax rate may approach 73 percent. The situation will improve next year, but not enough. There is no justification for any extra tax on elderly workers. How many of us would choose to continue our efforts faced with that kind of disincentive?

If the earnings test is such a bad idea, some may ask, why was it part of earlier legislation? The answer to this question lies in the economic climate of our Nation at that point in history. Social Security was started in the wake of the Great Depression—a time when Government wanted to make it more attractive for the elderly to leave the workforce, thereby opening jobs to others. Toward that end, the earnings test was an important step. In this day and age, however, there is no social or economic excuse for this tax on senior citizens.

Finally, there is the all important issue of cost. eliminating the earnings test immediately for all beneficiaries would cost $11 billion in the first year alone and approximately $60 billion over 5 years. By limiting repeal to those over age 65, delaying implementation until 1990, and phasing out the limit over 5 years, the cost of the proposal drops to $500 million in the first year and $6.7 billion over 5 years, a fraction of the projected trust fund surpluses during this peroid.

Moreover, there's good reason to believe the cost of this proposal would be much less than this since the estimate does not take into account additional revenues flowing to the Government as the result of a larger workforce paying income and Social Security payroll taxes, higher wage levels subject to taxation for those no longer constrained by the earnings limit, and additional revenues derived from the existing tax on Social Security benefits. The Social Security Administration estimates that the long-term cost of this proposal to the trust fund is just 0.01 percent of taxable payroll.

Lets accept the challenge issued by President Bush and harness the unused talent of the elderly—repealing the senior citizens earnings limitation is a first step in the right direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIBERALIZATION OF EARNINGS TEST OVER THE PERIOD 1990–1994 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Effective with respect to taxable years ending after 1989, subparagraph (D) of section 203(f)(8) of the Social Security Act is amended to read as follows:

"(D) Notwithstanding any other provision of this subsection, the exempt amount which is applicable to an individual who has attained retirement age (as defined in section 216(l)) before the close of the taxable year involved shall be increased by $3,000 in each taxable year over the exempt amount for the previous taxable year, beginning with any taxable year ending after 1989 and before 1991.".

(b) CONFORMING AMENDMENT.—The second sentence of section 223(d)(4) of such Act is amended by striking out "which is applicable to individuals described in subparagraph (D) thereof" and inserting in lieu thereof "which would be applicable to individuals who have attained retirement age (as defined in section 216(l)) without regard to any increase in such amount resulting from a law enacted in 1987".

SEC. 2. REPEAL OF EARNINGS TEST IN 1995 FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Effective with respect to taxable years ending after 1994—

(1) clause (B) in the third sentence of section 203(f)(1) of the Social Security Act is amended by striking out "age seventy" and inserting in lieu thereof "retirement age (as defined in section 216(l))"; and

(2) section 203(f)(3) of such Act is amended—

(A) by striking out "33⅓ percent" and all that follows through "other individual" and inserting in lieu thereof "50 percent of his earnings for such year in excess of the product of the applicable exempt amount as determined under paragraph (8)", and

(B) by striking out "age 70" and inserting in lieu thereof "retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AND RELATED AMENDMENTS.

Effective with respect to taxable years ending after 1994—

(1) section 203(c)(1) of the Social Security Act is amended by striking out "is under the age of seventy" and inserting in lieu thereof "is under retirement age (as defined in section 216(l))";

(2) the last sentence of subsection (c) of section 203 of such Act is amended by striking out "nor shall any deduction" and all that follows and inserting in lieu thereof "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.";

(2) paragraphs (1)(A) and (2) of section 203(d) of such Act are each amended by striking out "under the age of seventy" and inserting in lieu thereof "under retirement age (as defined in section 216(l))";

(3) section 203(f)(1) of such Act is amended by striking out clause (D) and inserting in lieu thereof the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or";

(4) subparagraph (D) of section 203(f)(5) of such Act is amended—

(A) by striking out "(D) In the case of" and all that follows down through "(ii) an individual" and inserting in lieu thereof the following:

"(D) An individual";

(B) by striking out "became entitled to such benefits" and all that follows and inserting in lieu thereof "became entitled to such benefits, there shall be excluded from gross income any such other income."; and

(C) by shifting such subparagraph as so amended to the left to the extent necessary to align its left margin with that of subparagraphs (A) through (C) of such section;

(5) section 203(f)(8)(A) of such Act is amended by striking out "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting in lieu thereof "the new exempt amount which is to be applicable";

(6) section 203(f)(8)(B) of such Act is amended—

(A) by striking out all that precedes clause (i) and inserting in lieu thereof the following:

"(B) The exempt amount which is applicable for each month of a particular taxable year shall be whichever of the following is the larger—";

(B) by striking out "corresponding" in clause (i); and

(C) by striking out "an exempt amount" in the matter following clause (ii) and inserting in lieu thereof "the exempt amount";

(7) section 203(f)(8)(D) of such Act (as amended by section 1(a) of this Act) is repealed;

(8) section 203(f)(9) of such Act is repealed;

(9) section 203(h)(1)(A) of such Act is amended by striking out "age 70" each place it appears and inserting in lieu thereof "retirement age (as defined in section 216(l))";

(10) section 203(j) of such Act is amended to read as follows:

"Attainment of Retirement Age

"(j) For purposes of this section—

"(1) an individual shall be considered as having attained retirement age (as defined in section 216(l)) during the entire month in which he attains such age; and

"(2) the term 'retirement age (as defined in section 216(l))', with respect to any individual entitled to monthly insurance benefits under section 202, means the retirement age (as so defined) which is applicable in the case of old-age insurance benefits, regardless of whether or not the particular benefits to which the individual is entitled (or the only such benefits) are old-age insurance benefits.";

(11) section 202(w)(2)(B)(ii) of such Act is amended—

(A) by striking out "either"; and

(B) by striking out "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit"; and

(12) the second sentence of section 223(d)(4) of such Act (as amended by section 1(b) of this Act) is further amended by striking out "without regard to any increase in such amount resulting from a law enacted in 1987" and inserting in lieu thereof "but for the liberalization and repeal of the earnings test for such individuals in 1990".

SEC. 4. ACCELERATION OF 8 PERCENT DELAYED RETIREMENT CREDIT.

Effective with respect to taxable years ending after 1990, paragraph (6) of section 202(w) of the Social Security Act is amended—

(1) by striking out "2005" in subparagraph (C) and inserting in lieu thereof "1989"; and

(2) by striking out "2004" in subparagraph (D) and inserting in lieu thereof "1988".

Mr. ARMSTRONG. Mr. President, I am glad to join in submitting legislation to phase out the Social Security earnings limit for beneficiaries over age 65.

This is an issue I care deeply about, and believe strongly that the existing Social Security earnings limit creates a serious injustice to our Nation's elderly.

The Social Security earnings limit must be repealed.

What's so wrong with the earnings test?

For one thing, it practically forces elderly citizens into retirement. After contributing to Social Security for decades and reaching age 65, the elderly are presented with a stark choice: eliminate virtually all significant earnings or face big cuts in the Social Security benefits to which they're otherwise entitled. A cruel choice between a productive life or the benefits they've counted on for a lifetime.

Many elderly citizens, while ready to reduce their workload at age 65, do not want to withdraw completely from the labor force. They want to remain productive and useful members of society. Still others need to earn more to meet increased expenses. Yet because of the low-earnings limit, there is seldom a real alternative to full retirement.

Under current law, Social Security beneficiaries under age 70 face sharp reductions in their monthly benefits if their earnings exceed a specified amount. In 1987, the earnings limit for those age 65 to 70 is $8,160. Those earning above this will receive a cut in Social Security of $1 for every $2 earned above the limit. In 1990, the ratio improves slightly to a cut of $1 for every $3 earned above the limit. The test does not apply to beneficiaries over age 70.

Under my proposal, the earnings limit would be increased by $3,000 a year beginning in 1990 and eliminated entirely in 1995 for beneficiaries above the normal retirement age, currently age 65. The legislation would also accelerate the effective date of the 8 percent delayed retirement credit contained in current law from 2009 to 1995.

It is my hope this legislation will help rekindle debate in the Senate on a provision of law which has so many harmful effects on elderly citizens.

First, the earnings test imposes a terrible disincentive on elderly citizens who want to continue working. After contributing to the Social Security Program for decades and reaching age 65, the elderly are presented with a stark choice: eliminate virtually all significant earnings when retired or face stiff cuts in the benefits to which they are otherwise entitled. A choice like that can't help but drive productive individuals to a full retirement or force them to forgo benefits they've worked for over a lifetime.

Many elderly citizens, while ready to reduce their work activity at age 65, do not want to withdraw from the work force completely. Many desire to remain productive and contributing members of society. Some need additional earnings to meet living and health care expenses at a time when their principle sources of income are fixed. Yet because of the low earnings limit, there is seldom a viable choice but to stop working.

Second, the marginal tax rates imposed by the earnings limit are, simply put, confiscatory. By its own terms, the test establishes a 50 percent marginal tax rate on individuals who earn in excess of $8,880. When other Federal and State tax liabilities are figured in, this marginal tax rate may approach 73 percent. No one supports tax levies on the elderly of that magnitude, but that is precisely what can happen under current Social Security law.

Third, the earnings limit is an administrative monster. The Social Security Administration spends over $200 million a year and uses 8 percent of its employees to police the income levels of beneficiaries. SSA estimates that 60 percent of all overpayments and 45 percent of underpayments are attributable to the limit. For beneficiaries, the earnings limit can mean confusion and frustration at requirements to monitor, estimate, and report income levels. The result is often a sense of disillusionment in the Government and in a program many believed would pay full benefits when they turned 65.

When Social Security was started in the wake of the depression, it was deemed appropriate to establish incentives for the elderly to leave the work force to open jobs for others. The earnings test was born of that notion. Today, that view is a complete anachronism. Congress is now interested in encouraging people to work longer. In the past decade, mandatory retirement laws have been repealed and the normal retirement age under social security was slated to increase to 67 in the next century.

These changes were motivated by several considerations. One was that the elderly shouldn't automatically be shunted aside when they reached a certain age. Another was that life expectancy continues to increase and the elderly are more healthy and productive than 40 years ago. At the same time, birth rates have dropped sharply and the demand for experienced labor is on the rise. There is, in short, a real need to encourage people to continue working, if that is their desire. Directing people into retirement through excessive benefit reductions is obviously inconsistent with that goal.

Let me acknowledge that this proposal is not without some critics. Some may say that retirement benefits should not be paid to people who still work. Again, that view would either discourage senior citizens from pursuing productive lives, or deny them the benefits of a program they contributed to during their working days.

Some may also say this proposal benefits the rich among Social Security beneficiaries, those able to continue working and earn extra income. This view certainly doesn't account for the many who have already opted out of the work force in part because of the earnings limit. Beyond this, it should be noted that over two-thirds of the additional benefits that would be paid under this proposal would go to recipients with incomes below $40,000.

More importantly, this proposal would actually mitigate one of the more egregious anomalies under present law whereby Social Security beneficiaries with unlimited unearned income from pensions, investments, or stock dividends, face no reductions in benefits through the earnings test while those who work to earn $8,880 a year have their benefits cut. Rather than favoring the well-to-do, this pro-

posal should restore some sense of equity in the tax treatment of retired citizens.

Finally, there is the all important issue of cost. Eliminating the earnings test immediately for all beneficiaries would cost $11 billion in the first year alone and about $60 billion over 5 years. By limiting repeal to those over age 65, delaying implementation until 1990, and phasing out the limit over 5 years, the cost of the proposal drops to $500 million in the first year and $6.7 billion over 5 years, a fraction of the projected trust fund surpluses during this period.

Moreover, there's good reason to believe the cost of this proposal would be much less than this since the estimate does not take into account additional revenues flowing to the Government as the result of a larger work force paying income and Social Security payroll taxes, higher wage levels subject to taxation for those no longer constrained by the earnings limit, and additional revenues derived from the existing tax on Social Security benefits. The Social Security Administration estimates that the long-term cost of this proposal to the trust fund is a just 0.01 percent of taxable payroll.

Further ways to minimize the short term cost of the proposal should be explored. But the inequities imposed by the earnings limit on over 1 million elderly citizens are so great, that the time to again consider repealing this law has arrived. I hope my colleagues will join me in pursuing this proposal, reaffirming the Senate's position of 1983, and helping to make the retirement years of the elderly as productive and prosperous as possible.

I ask that the text of the legislation be printed at this point in the RECORD.

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. GRASSLEY, Mr. MCCAIN, Mr. INOUYE, Mrs. KASSEBAUM, Mr. BURDICK, and Mr. DOMENICI):

S. 10. A bill to amend title XVIII of the Social Security Act to ensure that Medicare-dependent, small, rural hospitals receive for a 3-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program; to the Committee on Finance.

PAYMENT FOR INPATIENT HOSPITAL SERVICES UNDER MEDICARE

Mr. DOLE. Mr. President, today, joined by a number of my colleagues, I am again introducing legislation which will provide a measure of support to some of our small rural hospitals. Small or rural hospitals account for more than 50 percent of total hospitals in eight of nine census regions. In these parts of the country where there are a number of large, remote areas with low population density, access to care becomes critical. If weather or distance are a problem, these communities need accessible local hospitals.

When we first put the Medicare prospective payment system into place we acknowledged that this new system might well have a negative impact on certain institutions, including rural hospitals. These hospitals tend to be smaller, have fewer patients, fewer specialized areas, and often serve a population older than average.

A payment system like the DRG system which is based on averages just doesn't work for these hospitals. They face the combined problem of having too few patients many of which are costly.

We have in years since the enactment of the DRG system agreed to a number of changes designed to assist these hospitals, but for some, it just hasn't been enough. Since 1983, 188 rural hospitals have closed. In 1988 alone, 46 rural hospitals closed. And as those of you from rural areas know, many of our communities cannot afford to lose their hospitals as they provide the only reasonably accessible health services.

Our legislation simply helps those hospitals of 100 beds or less, in which Medicare patients comprise at least 70 percent of their discharges. We would, for a period of 3 years, ensure that these institutions receive in payment at least their reasonable costs.

The solution we propose, which arguably moves us away from the prospective payment system, is not a perfect answer to the problem. It is for this reason that we have provided for a sunset of the provision. The 3 years the provision is in place will give us an opportunity to examine more carefully how we might do away with the current payment bias against rural institutions thereby insuring that our citizens in rural communities will have access to services in the future. In fact, I am working with my distinguished colleague Senator BENTSEN on a proposal that would have us solve the problem over the long term by moving to a national rate for all hospitals.

However, Mr. President, in the short run we cannot allow our rural health care system to further decline. This bill provides a small step in an effort to prevent that from occurring.

Mr. President, I ask, unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENSURING ADEQUATE PAYMENTS FOR INPATIENT HOSPITAL SERVICES FURNISHED BY MEDI-CARE-DEPENDENT, SMALL, RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 139ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(G)(i) For cost reporting periods beginning after September 30, 1989, and ending before October 1, 1992, the Secretary shall provide for an additional payment amount for each Medicare-dependent, small, rural hospital (as defined in clause (ii)) to ensure that the total of the payments made to the hospital under this section (including this clause) for any such cost reporting period is at least equal to the reasonable costs associated with the hospital's operating costs of inpatient hospital services for that period. In determining the reasonable costs of a hospital under the previous sentence, limitations under sectin 1861(v) on such cost shall not apply. In the case of a hospital receiving payments on periodic interim basis under section 1815(e)(1) and entitled to additional payment amounts under this subparagraph, such additional payment amounts shall be included in the payments made under section 1815(e)(1).

"(ii) In clause (i), the term 'Medicare-dependent, small, rural hospital' means, for a cost reporting period with respect to which such clause applies, a subsection (d) hospital—

"(I) that is located in a rural area (as defined in subsection (d)(2)(D)) and has no more than 100 beds; and

"(II) for which period at least 70 percent of inpatient hospital services (determined, at the hospital's option, on a per diem basis or on a discharge basis) are attributable to inpatients who are entitled to benefits under part A.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

By Mr. CRANSTON:

S. 11. A bill to provide for the protection of the public lands in the California desert; to the Committee on Energy and Natural Resources.

CALIFORNIA DESERT PROTECTION ACT

Mr. CRANSTON. Mr. President, today I am reintroducing the California Desert Protection Act to provide lasting protection for the beauty and wildness of the California Desert.

In 1987 and 1988 I made three trips to the California desert accompanied by naturalists, environmentalists, and scientists. We camped out on the desert floor. We hiked mountains. We trekked up and through narrow desert wilderness canyons. We found snakes, lizards and other animals on huge, wild sand dunes. We looked at recreational sites for ORVs—dune buggies, ATVs, and motorcycles. We saw countless varieties of flowers and plants, including an 11,000-year-old creosote bush which may be the oldest living organism on the planet earth. We drove hundreds of miles over dirt and paved roads through Death Valley and Joshua Tree National Monuments and the East Mojave National Scenic Area. We flew over huge mining operations, water projects, military installations and miles of farming and ranching lands. We held lizards in our hands and saw nighttime skies of incredible beauty and the myriad stars of endless galaxies.

One sunset we climbed the Eureka Dunes, looming, awesome sand structures that are a miniature ecosystem of incredible complexity. The dunes are surrounded by towering mountain ranges of rugged, stark and massive igneous rocks whose antiquity and structure bespeak of geological aeons of long ago.

Climbing the 8,500 foot Last Chance mountain peak, we saw a sweeping, 360-degree view, the snow-capped Sierra Nevada in the west and, far to the south, Death Valley Sink, 280 feet below sea level.

The overwhelming presence of time and force surround you in the desert. There is an immense, almost incomprehensible beauty there that attracts people from all over the world, totalling some 16 million visitor days a year.

The desert is a land of many uses and many resources. And it is vast enough to support the varied demands being made upon it—by campers, hikers, tourists, the military, residents, energy developers, miners, rockhounds, hunters, ranchers, naturalists, scientists, and educators. The desert can support all these diverse interests, but only if the demands made upon it are in concert with the ecological and economic realities of the region.

In 1976, Congress enacted the Federal Land Policy and Management Act [FLPMA] which established the California Desert Conservation Area and started a process for protecting the resources of the California Desert. FLPMA also called for wilderness review of the public lands administered by the BLM, including those in the California Desert.

The California Desert Protection Act continues this process of providing for appropriate protection of significant resources of the public lands in the California Desert.

Like S. 7 which I sponsored in the 100th Congress, this bill designates 81 separate areas, comprising approximately 4.5 million acres of land in the California Desert, as wilderness to be administered by the Bureau of Land Management.

The BLM itself has identified 5.7 million acres in the California Desert as potential wilderness, and has designated these lands wilderness study areas are to be managed to protect their wilderness values until Congress acts on the BLM wilderness recommendations.

Also like S. 7, the bill I am introducing today creates three new national parks in the California Desert—Death Valley, Joshua Tree, and Mojave.

For each of these parks, I have drawn from the recommendations of the Bureau of Land Management's own desert plan staff and the 1977 and 1987 recommendations of the western regional office of the National Park Service.

However, in response to testimony presented on S. 7 at hearings of the Senate Energy and Natural Resources Committee Subcommittee on Public Lands, National Parks and Forests in July 1987 and information provided subsequently, I am making a number of significant changes in the California Desert Protection Act.

First, I have included new bill language regarding military activities in the California Desert.

As my colleagues may be aware, the areas proposed for addition to the national park and wilderness systems in this legislation are located in a region which is used extensively by the Department of Defense for training, research and development. These military activities have not impaired the natural and cultural values of the proposed parks and wilderness areas. However, the Department of Defense has expressed concern about the continued availability of these lands and airspace as there is a lack of alternative sites available for these military training, testing, and research activities.

I have, therefore, amended the California Desert Protection Act to clarify that the legislation has no impact on the military's existing use of airspace in the California Desert region.

I also have amended the legislation to provide for continued military use of public lands in the California Desert. The bill withdraws 1,100,000 acres for China Lake Naval Weapons Center and 227,369 acres for the Chocolate Mountain Aerial Gunnery Range. The lands are currently being used by the Department of the Navy, for research, development, testing and training purposes. However, the Engle Act provides that peacetime withdrawals of 5,000 acres or more of public land can only be accomplished by an Act of Congress. This legislation will meet the requirements of the Engle Act.

Additionally I have amended the boundaries of the parks and a number of the proposed wilderness areas to accommodate important non-wilderness uses and to correct map errors.

These changes in the following areas include:

Argus wilderness: Deletion of a road and limestone quarry;

Chuckwalla Mountains: Deletion of microwave site, road, and mine;

Clipper Mountains: Deletion of a road and pipeline;

Dead Mountains: Deletion of a road and rock quarry;

Inyo Mountains: Exclusion of mining claims;

Fish Creek: Exclusion of mine;

Hollow Hills: Deletion for utility corridor;

Jacumba: Deletion of transmission line and quarry;

Kelso Dunes: Deletion of gas pipeline;

Kingston Range: Deletion for utility corridor;

Malpais Mesa: Exclusion of mining claims;

Mecca Hills: Deletion of pipeline and map correction to complete boundary;

Mesquite: Deletion for utility corridor;

North Mesquite: Deletion of private property;

Orocopia: Exclusion for utility corridor;

Picacho Peak: Addition of lands;

Piper Mountains: Deletion for utility corridor;

Piute Mountains; Deletion of gas pipeline;

Resting Spring: Deletion of mining road;

Rodman: Deletion of gas pipeline;

Slate Range: Deletion of patented lands;

Soda Mountains: Exclusion for utility corridor;

South Algodones Dunes: Deletion of microwave tower;

Trilobite; Deletion of gas pipeline;

White Mountains WSA: Exclusion for utility corridor;

Mojave National park; Map correction;

Mojave Park wilderness: Deletion of gas pipeline in Granite Mountains portion, map correction and road deletion in Mid Hills portion, deletion of gas pipeline in Providence Mountains portion, map correction and utility corridor deletion in Clark Mountains portion;

Joshua Tree Park additions and wilderness: Deletion of mining claims in Eagle Mountains portion; and

Red Rock Canyon State park additions: Map clarification;

I have also amended the California Desert Protection Act to facilitate and expedite exchanges of lands with State and private property owners in the park and wilderness areas. The revised bill language should be particularly helpful in instances where mineral interests are involved. I intend to continue to work with the two major nonfederal owners of California Desert lands, the State of California and Santa Fe-Southern Pacific, in an effort to reduce conflicts and identify specific parcels for exchange.

Additionally, I have included new language to ensure that Native Americans will continue to have access to the park and wilderness areas for continued traditional cultural and religious use.

I have also included new language to clarify that the important research and educational activities of the University of California at its Granite Mountain Natural Reserve in the East Mojave will continue under a cooperative management agreement with the National Park Service.

Grazing in wilderness areas is a permitted activity and is not affected by

this legislation. However, S. 7 provided that grazing in the new Mojave National Park be phased out as the current grazing permits expire. The 10 cattle ranching operations in the East Mojave are not a major contribution to the economy of the State or even the local area. However, the ranching families affected have made a strong case for continuation of their grazing activities beyond the expiration of the current permits. At the same time, I have received new information that the decline in bighorn sheep populations in the desert stems from diseases transmitted by domestic sheep and cattle. I want to study this issue further and review additional hearing testimony before crafting the final grazing provision in the legislation.

S. 7 also called for the establishment of the Indian Canyons National Historic Site, comprising 490 acres rich in archeological sites. This property is now under active threat of development. Last June 1988 the voters of California approved Proposition 70, the California Wildlife, Coastal and Park Land Bond Act which includes $19 million for acquisition of lands in the Indian Canyons region. It's my understanding the California Department of Parks and Recreation is particularly interested in purchasing the 490 acres, but it's unclear whether $19 million will be sifficient to acquire the entire property. No appraisal has yet been made. Thus, I am again including in the California Desert Protection Act a provision to establish the Indian Canyons National Historic Site. I will be following the California Department of Parks and Recreation's efforts to acquire the Indian Canyons and will modify my legislation at a future date as necessary based upon the State's actions.

Mr. President, I am aware that many people are interested in maintaining vehicular access to their favorite areas of the desert. In drawing the boundaries of the wilderness areas designated by this bill, I have been careful to exclude roads and areas receiving the heaviest ORV use. Unaffected by the legislation and available for vehicular use are 15,000 miles of unmaintained dirt routes—enough to go half way around the world. Another 15,000 miles of paved and maintained dirt roads also would remain open. Also the legislation does not affect 7,000 miles of vehicle accessible washes. In addition, over 740,000 acres of BLM open areas are outside the proposed parks and wilderness areas and remain available exclusively for ORV use. Additionally more than 30,000 acres on State and private lands in the desert are available to ORVers. Nonetheless, I will be reviewing the need for additional vehicular access. Mr. President, the time has come to protect the California desert.

A September 1988 survey conducted by the Field Institute found that the vast majority of Californians support more parks and wilderness in the California Desert. Seventy-five percent of those polled said they want to see more protection for desert wildlife and ecology. Fifty-eight percent expressed a desire for more primitive areas and wilderness. And 67 percent said they want to see the creation of more national parklands in the desert. Only 17 percent said they favor more roads for four-wheel drive vehicles, while a third of the public said they want fewer roads for this purpose. Less than 17 percent said they want to see more open areas for the use of off-road vehicles like dune buggies and motorcycles. Also only a quarter of the respondents said they wanted to see more energy development such as gas and oil exploration and mining in the desert.

The major newspapers throughout the State of California have called for increased protection for the California desert. Most have endorsed the California Desert Protection Act.

The Los Angeles Times says,

The Cranston bill would provide enhanced enjoyment of the desert by present visitors, and give it true lasting protection. (June 14, 1987)

The Sacramento Bee explains,

Cranston's bill wouldn't foreclose on any private property or terminate any current valid mining claims or even add very much to what the government is already spending to administer these lands. It would simply . . . ensure that the most important natural, scenic and scientific values of this complex, fragile resource would be preserved . . . Congress should support its basic purpose. (June 3, 1987)

The San Francisco Chronicle urges,

The passage of the California Desert Protection Act, one of the most important pieces of legislation affecting this state to be introduced in many years, should be one of Congress' top priorities. (April 19, 1987)

The Fresno Bee writes,

Much of the desert already has been put to use—and forever changed—by such things as mining operations, military bases, recreational uses and often abortive agricultural projects. A portion of it, close to its original state, must be preserved for future generations. This bill, introduced by Sen. Alan Cranston would do just that. (March 16, 1986)

I urge my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Desert Protection Act of 1989".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the federally owned desert lands of Southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other federal lands, state parks and other state lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the federal government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features, and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—WILDERNESS ADDITIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's ac-

tivities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

DESIGNATION OF WILDERNESS

SEC. 102. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps, appropriately referenced, dated February 1986, (except as otherwise dated) are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred ninty acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed", dated Janaury 1989, and which shall be known as the Argus Range Wilderness;

(2) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand three hundred twenty acres, as generally depicted on a map entitled "Avawatz Mountains Wilderness—Proposed", and which shall be known as the Avawatz Mountains Wilderness;

(3) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand eight hundred seventy acres, as generaly depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", and which shall be known as the Bigelow Cholla Garden Wilderness;

(4) certain lands in the California Desert Conservation Area, of the Bureau of Land Management and within the San Bernardino National Forest, which comprise approximately thirty-three thousand eight hundred acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", and which shall be known as the Bighorn Mountain Wilderness;

(5) certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", and which shall be known as the Big Maria Mountains Wilderness;

(6) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirteen thousand nine hundred forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", and which shall be known as the Black Mountain Wilderness;

(7) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand two hundred acres, as generally depicted on a map entitled "Blackwater Well Wilderness—Proposed", and which shall be known as the Blackwater Well Wilderness;

(8) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", and which shall be known as the Bright Star Wilderness;

(9) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-two thousand six hundred forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", and which shall be known as the Cadiz Dunes Wilderness;

(10) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-five thousand nine hundred seventy acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", and which shall be known as the Cady Mountains Wilderness;

(11) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", and which shall be known as the Carrizo Gorge Wilderness;

(12) certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management and within the Havasu National Wildlife Refuge, which comprise approximately sixty-eight thousand three hundred acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", and which shall be known as the Chemehuevi Mountains Wilderness;

(13) certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Chimney Peak Wilderness—Proposed", and which shall be known as the Chimney Peak Wilderness;

(14) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred sixty-three thousand nine hundred fifty acres, as generally depicted on a map entitled "Chuckwalla Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Chuckwalla Mountains Wilderness;

(15) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise fifty thousand six hundred sixty acres, as generally depicted on a map entitled "Cleghorn Lakes Wilderness—Proposed", and which shall be known as the Cleghorn Lakes Wilderness: Provided, That the Secretary of Interior may pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "non-wilderness road corridor" on the map entitled "Cleghorn Lakes Wilderness—Proposed";

(16) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Clipper Mountains Wilderness—Proposed", dated January 1989, and which shall be known as Clipper Mountains Wilderness;

(17) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand eight hundred twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", and which shall be known as Coso Range Wilderness;

(18) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighteen thousand six hundred acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", and which shall be known as the Coyote Mountains Wilderness;

(19) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred forty acres, as generally depicted on a map entitled "Darwin Falls Wilderness-Proposed", and which shall be known as the Darwin Falls Wilderness;

(20) certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-nine thousand six hundred eighty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Dead Mountains Wilderness;

(21) certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on a map entitled "Domelands Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Domeland Wilderness as designated by Public Laws 93-632 and 98-425;

(22) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", and which shall be known as the El Paso Mountains Wilderness;

(23) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand three hundred acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Fish Creek Mountains Wilderness;

(24) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand two hundred forty acres, as generally depicted on a map entitled "Frog Creek Wilderness—Proposed", and which shall be known as the Frog Creek Wilderness;

(25) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-four thousand five hundred ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", and which shall be known as the Funeral Mountains Wilderness;

(26) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", and which shall be known as the Golden Valley Wilderness;

(27) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy thousand two hundred forty

acres, as generally depicted on a map entitled "Granite Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Granite Mountains Wilderness;

(28) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand seven hundred twenty acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed," and which shall be known as the Grass Valley Wilderness;

(29) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed," and which shall be known as the Great Falls Basin Wilderness;

(30) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed," dated January 1989, and which shall be known as the Hollow Hills Wilderness;

(31) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand two hundred sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed," and which shall be known as the Ibex Wilderness;

(32) certain lands in the California Desert Conservation Area, of the Bureau of Land Management and the Imperial National Wildlife Refuge, which comprise approximately thirty-nine thousand one hundred twenty acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed," and which shall be known as the Indian Pass Wilderness;

(33) certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management and within the Inyo National Forest, which comprise approximately two hundred five thousand sixty acres, as generally depicted on a map entitled "Inyo Mountains Wilderness—Proposed," dated January 1989, and which shall be known as the Inyo Mountains Wilderness;

(34) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-five thousand one hundred sixty acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated January 1989, and which shall be known as the Jacumba Wilderness;

(35) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred twenty-nine thousand eight hundred twenty acres, as generally depicted on a map entitled "Kelson Dunes Wilderness—Proposed", dated January 1989, and which shall be known as the Kelso Dunes Wilderness;

(36) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred eighty acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed", and which shall be known as the Kiavah Wilderness;

(37) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred fifty thousand ten acres, as generally depicted on a map entitled "Kingston Range Wilderness—Proposed", dated January 1989, and which shall be known as the Kingston Range Wilderness;

(38) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-nine thousand four hundred eighty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Little Chuckwalla Mountains Wilderness;

(39) certain lands in the California Desert Conservation Area, and the Yuma District, of the Bureau of Land Management, and within the Imperial National Wildlife Refuge, which comprise approximately thirty-nine thousand eight hundred sixty acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", and which shall be known as the Little Picacho Wilderness;

(40) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand two hundred forty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated January 1989, and which shall be known as the Malpais Mesa Wilderness;

(41) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand one hundred acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", and which shall be known as the Manly Peak Wilderness;

(42) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand seven hundred twenty acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated January 1989, and which shall be known as the Mecca Hills Wilderness;

(43) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated January 1989, and which shall be known as the Mesquite Wilderness;

(44) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eleven thousand three hundred acres, as generally depicted on a map entitled "Middle Park Canyon Wilderness—Proposed" and which shall be known as the Middle Park Canyon Wilderness;

(45) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed" and which shall be known as the Newberry Mountains Wilderness;

(46) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred eighty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", and which shall be known as the Nopah Range Wilderness;

(47) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand forty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated January 1987, and which shall be known as the Algodones Dunes Wilderness;

(48) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand acres, as generally depicted on a map entitled "North Coso Range Wilderness—Proposed", and which shall be known as the North Coso Range Wilderness;

(49) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand eight hundred forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the North Mesquite Mountains Wilderness;

(50) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand one hundred ten acres, as generally depicted on a map entitled "Old Woman Mountains Wilderness—Proposed", and which shall be known as the Old Woman Mountains Wilderness;

(51) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-seven thousand five hundred acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Ocrocopia Mountains Wilderness;

(52) certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-five thousand six hundred forty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed", dated January 1987, and which shall be known as the Owens Peak Wilderness;

(53) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", and which shall be known as the Pahrump Valley Wilderness;

(54) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred fourteen thousand four hundred twenty acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Prcposed", and which shall be known as the Palen/McCoy Wilderness;

(55) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred twenty acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Palo Verde Mountains Wilderness;

(56) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand three hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated January 1989, and which shall be known as the Picacho Peak Wilderness;

(57) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximate-

ly forty-one thousand six hundred eighty acres, as generally depicted on a map entitled "Pinto Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Pinto Mountains Wilderness;

(58) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand six hundred acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated January 1989, and which shall be known as Piper Mountain Wilderness;

(59) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-nine thousand forty acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated January 1989, and which shall be known as Piute Mountain Wilderness;

(60) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred eighty acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated January 1989, and which shall be known as the Resting Spring Range Wilderness;

(61) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", and which shall be known as the Rice Valley Wilderness;

(62) certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-four thousand one hundred acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", and which shall be known as the Riverside Mountains Wilderness;

(63) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty thousand one hundred acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Rodman Mountains Wilderness;

(64) certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-two thousand six hundred acres, as generally depicted on a map entitled "Sacatar Trail Wilderness—Proposed", dated January 1987, and which shall be known as the Sacatar Trail Wilderness;

(65) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fourteen thousand eight hundred acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", and which shall be known as the Saddle Peak Hills Wilderness;

(66) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the San Gorgonio Wilderness as designated by Public Laws 88-577 and 98-425;

(67) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-three thousand two hundred forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of the Santa Rosa Wilderness designated by Public Law 98-425;

(68) certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand four hundred acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", and which shall be known as the Sawtooth Mountains Wilderness;

(69) certain lands in the California desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-seven thousand acres, as generally depicted on a map entitled "Sheephole Valley Wilderness—Proposed", and which shall be known as the Sheephole Valley Wilderness;

(70) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-nine thousand eight hundred forty acres, as generally depicted on a map entitled "Slate Range Wilderness—Proposed", dated January 1989, and which shall be known as the Slate Range Wilderness;

(71) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand four hundred thirty acres, as generally depicted on a map entitled "Soda Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Soda Mountains Wilderness;

(72) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand nine hundred fifty acres, as generally depicted on a map entitled "South Algodones Dunes Wilderness—Proposed", dated January 1989, and which shall be known as the South Algodones Dunes Wilderness;

(73) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand six hundred fifty acres, as generally depicted on a map entitled "South Avawatz Mountains Wilderness—Proposed", and which shall be known as the South Avawatz Mountains Wilderness;

(74) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", and which shall be known as the South Nopah Range Wilderness;

(75) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", and which shall be known as the Stateline Wilderness;

(76) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", and which shall be known as the Stepladder Mountains Wilderness;

(77) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand six hundred forty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", and which shall be known as the Surprise Canyon Wilderness;

(78) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", and which shall be known as the Sylvania Mountains Wilderness;

(79) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand seven hundred twenty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated January 1989, and which shall be known as the Trilobite Wilderness;

(80) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed", and which shall be known as the Turtle Mountains Wilderness; and

(81) certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-five thousand five hundred acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", and which shall be known as the Whipple Mountains Wilderness.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 103. Subject to valid existing rights, each wilderness area designated under this title shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act: *Provided*, That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

FILING OF MAPS AND DESCRIPTIONS

SEC. 104. As soon as practicable after enactment of this title, a map and a legal description on each wilderness area designated under this title shall be filed by the Secretary concerned with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title: *Provided*, That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as is appropriate.

WILDERNESS REVIEW

SEC. 105. The Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Fed-

eral Land Policy and Management Act (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

DESIGNATION OF WILDERNESS STUDY AREA

SEC. 106. In furtherance of the provisions of the Wilderness Act of 1964, certain lands in the California Desert Conservation Area of the Bureau of Land Management which comprise eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated January 1989, are hereby designated the White Mountains Wilderness Study Area and shall be administered by the Secretary of the Interior in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act.

TITLE II—DEATH VALLEY NATIONAL PARK

FINDINGS

SEC. 201. The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous federal lands of essential and superlative natural, ecological, geological, archeological, paleontological, cultural, historical and wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK

SEC. 202. There is hereby established the Death Valley National Park, as generally depicted on a map entitled "Death Valley National Park," dated February 1986, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, and the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 203. Upon enactment of this title, the Secretary of the Interior shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the map described in section 202 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The areas added to the National Park System by this title shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

MAPS AND LEGAL DESCRIPTION

SEC. 204. Within six months after the enactment of this title, the Secretary shall file a legal description of the park designated under this title with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in section 202. The legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 205. Subject to valid existing rights, the federal lands and interests therein added to the park system by this title are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 206. The Secretary shall not approve any plan of operation prior to determining the validity of any unpatented mining claims within the additions to the park system and submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

SEC. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interests;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous federal lands of essential and superlatives natural, ecological, archeological, paleontological cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the non-designated wilderness within Joshua Tree should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK

SEC. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park," dated January 1989, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, and the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Monument.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary of the Interior shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the map described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The areas added to the National Park System by this title shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file a legal description of the park designated by this title with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in section 302. The legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

TRANSFER AND ADMINISTRATION OF LANDS

SEC. 303. Upon enactment of this title, the Secretary of the Interior shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the map described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The areas added to the National Park System by this title shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

MAPS AND LEGAL DESCRIPTION

SEC. 304. Within six months after the enactment of this title, the Secretary shall file a legal description of the park designated by this title with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in section 302. The legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

SEC. 305. Subject to valid existing rights, federal lands and interests therein added to the park system by this title are withdrawn

from disposition under the public lands laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 306. The Secretary shall not approve any plan of operation prior to determining the validity of any unpatented mining claims within the park and submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

TITLE IV—MOJAVE NATIONAL PARK

FINDINGS

SEC. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national park; and

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the wilderness Act.

ESTABLISHMENT OF THE MOJAVE NATIONAL PARK

SEC. 402. There is hereby established the Mojave National Park, comprising approximately one million five hundred thousand acres, as generally depicted on a map entitled "Mojave National Park," dated February 1986, which shall be on file and available for inspection in the offices of the Director of the National Park Service, Department of the Interior.

TRANSFER OF LANDS

SEC. 403. Upon enactment of this title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary" (shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the map described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

SEC. 404. Within six months after the enactment of this title, the Secretary shall file a legal description of the park designated under this title with the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in section 402. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

ABOLISHMENT OF SCENIC AREA

SEC. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994) and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

ADMINISTRATION OF LANDS

SEC. 406. The Secretary shall administer the park in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4).

DISPOSITION UNDER MINING LAWS

SEC. 407. Subject to valid existing rights, federal lands within the park, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

SEC. 408. The Secretary shall not approve any plan of operation prior to determining the validity of any unpatented mining claims within the park and submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

REGULATIONS OF MINING

SEC. 409. Subject to valid existing rights, all mining claims located within the park shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with the protection of the scenic, scientific, cultural and other resources of the park, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

GRAZING RIGHTS

SEC. 410. The Secretary shall permit those persons holding currently valid grazing permits within the boundary of the park to continue to exercise such permits consistent with other applicable law: Provided, however, that upon expiration of the current term of such permits, the permits shall not be renewed.

UTILITY RIGHTS OF WAY

SEC. 411. Nothing in this title shall have the effect of terminating any validity issued right-of-way or right-of-use within the boundary of the part issued, granted, or permitted for—

(a) systems for transmission or distribution of electric energy,

(b) pipelines for the transmission or distribution of natural gas or oil, and

(c) communication cables or lines.

PREPARATION OF MANAGEMENT PLAN

SEC. 412. Within three years of the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the United States Senate and the Interior and Insular Affairs Committee of the House of Representatives a detailed and comprehensive management plan for the park. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the park and shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational and scientific programs within the park.

GRANITE MOUNTAIN NATURAL RESERVE

SEC. 413. (a) There is hereby designated the Granite Mountains Natural Reserve within the park comprising approximately 9,000 acres as generally depicted on a map entitled "Granite Mountains Natural Reserve", dated January 1989.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

SEC. 414. The Secretary is authorized to construct a visitor center in the park for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the park.

ACQUISITION OF LANDS

SEC. 415. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the park by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the park which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange; and

(2) lands of interests therein within the boundary of the park which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 417. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with section (3) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred fifty-nine thousand seven hundred twenty acres, and potential wilderness additions comprising approximately twenty thousand four hundred acres, as generally depicted on a map entitled "Death Valley National Park Wilderness—Proposed", dated February 1987, and which shall be known as the Death Valley Wilderness;

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-three thousand five hundred acres, as generally depicted on a map entitled "Joshua Tree National Park Wilderness Additions—Proposed", dated January 1989, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94-567; and

(3) Mojave National Park Wilderness, comprising approximately seven hundred forty-seven thousand nine hundred forty acres, as generally depicted on a map entitled "Mojave National Park Wilderness—Proposed", dated January 1989, and which shall be known as the Mojave Wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. A map and description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title: Provided, That correction of clerical and typographical errors in such maps and descriptions may be made.

CESSATION OF CERTAIN USES

SEC. 503. Any lands (in section 501 of this title) which represent potential wilderness additions upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, shall thereby be designated wilderness. Lands designated as potential wilderness additions shall be managed by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 504. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on a map entitled "Red Rock Canyon State Park Additions", dated January 1989, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State park system, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Santuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand and forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

INDIAN CANYONS NATIONAL HISTORIC SITE

SEC. 603. (a) There is hereby established the Indian Canyons National Historic Site, comprising approximately four hundred and ninety acres, as generally depicted on a map entitled "Indian Canyons National Historic Site", dated February 1986.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into negotiations to acquire by exchange the privately owned lands or interests therein within the national historic site designated by subsection (a). The value of the properties so exchanged either shall be equal or, if they are not equal, the values shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(c) The Secretary shall enter into a cooperative management agreement with the Agua Caliente Band of Cahuilla Indians for the purposes of managing the Indian Canyons National Historic Site. Upon execution of the management agreement, the Secretary shall transfer title of the land to be held in trust for the Agua Caliente Band of Cahuilla Indians as part of the Agua Caliente Indian Reservation and such transfer shall remain effective so long as the agreement remains in force and in effect.

LAND TENURE ADJUSTMENTS

SEC. 604. In preparing land tenure adjustment decisions within the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating federal ownership within the national park units and wilderness areas designated by this Act.

STATE EXCHANGES

SEC. 605. (a) Upon the request of the State of California and pursuant to the provisions of this section, the Secretary of the Interior shall exchange public lands or interests in lands elsewhere in the State of California of approximately equal value and selected by the State of California, acting through the State Lands Commission, for any lands or interests therein owned by the State located within the boundaries of the wilderness or the parks which the State wishes to exchange with the United States.

(b) Within six months from the date of enactment of this Act, the Secretary of the Interior shall notify the Chairman of the State Lands Commission what state lands or interests therein are within the wilderness areas and national park units designated by this Act. The notice shall contain a listing of all public lands or interests therein within the boundaries of the State of California which have not been withdrawn from entry and which the Secretary, pursuant to the provisions of section 202 and 206 of the Federal Land Policy and Management Act of 1976, has identified as appropriate for transfer to the State in exchange for state lands. Such listing shall be updated at least annually.

(c) If the Chairman of the State Lands Commission gives notice to the Secretary of the State's desire to obtain public lands so listed, the Secretary shall notify the Chairman in writing whether the Department of the Interior considers the state lands within the wilderness areas and national park units to be of equal value to the list of lands the Chairman has indicated the State wishes to obtain. It is the sense of the Congress that the exchange of lands and interests therein with the State pursuant to this section should be completed within two years after the date of enactment of this Act.

MINERAL EXCHANGES

SEC. 606. (a) The Secretary of the Interior is authorized to exchange the Federal mineral interests in lands within the State of California for private mineral interests in lands located within the boundaries of the wilderness areas and national park units designated by this Act if—

(1) the owner of such private mineral interests has made available to the Secretary all information requested by the Secretary as to the respective values of the private and Federal mineral interests to be exchanged; and

(2) on the basis of information obtained pursuant to paragraph (1) and any other information available, the Secretary has determined that the mineral interests to be exchanged are of approximately equal value; and

(3) the Secretary has determined—

(A) that except insofar as otherwise provided in this section, the exchange is not inconsistent with the Federal Land Policy and Management Act of 1976; and

(B) that the exchange is in the public interests.

(b) The Secretary shall file a legal description of the mineral interest areas exchanged pursuant to this section with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management, Department of the Interior.

(c) It is the sense of the Congress that all exchanges pursuant to this section shall be completed no later than three years after the date of enactment of this Act.

NATIVE AMERICAN USES

SEC. 607. In recognition of the past use of the parks and wilderness areas by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the parks and wilderness areas by Indian people for such traditional cultural and religious purposes. Such access shall be consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).

TITLE VII—MILITARY ACTIVITIES

MILITARY OVERFLIGHTS

SEC. 701. The Congress hereby finds that—

(1) The national parks and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(2) there is a lack of alternative sites available for these military training, testing and research activities;

(3) continued use of lands and airspace in the California desert region is essential for military purposes; and

(4) these military activities in the California desert have not impaired the natural and cultural values of the areas designated as parks and wilderness by this Act.

SEC. 702. Nothing in this Act, including the designation of new units of the National Park or Wilderness Preservation Systems (or any additions to existing units), shall preclude, limit, or otherwise affect low level overflights of military aircraft in the California Desert in approximately the same location and degree as existed prior to the date of enactment of this Act.

MILITARY WITHDRAWALS

SEC. 703. (a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 704.

(b) CHOCOLATE MOUNTAINS.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation off the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and geothermal leasing laws.) Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 4(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragarph (1) are the Federal lands comprising approximately 227,369 acres in Imperial and Riverside Counties, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Withdrawal" dated July 1987 and filed in accordance with section 704.

MAPS AND LEGAL DESCRIPTIONS.

SEC. 702. (A) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

MANAGEMENT OF WITHDRAWN LANDS

SEC. 705. (a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 701 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 703 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation;

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 703(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) the Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary of the Navy, after consultation with the Secretary of the Interior, may take such action as the Secretary of the Navy determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Interior shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 703 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 703 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 703) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 703 if requested by the Secretary of the Navy.

(2) The duration of any memorandum shall be the same as the period of the withdrawal of the lands under section 703.

(f) ADDITIONAL MILITARY USES.—Lands withdrawn by section 703 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands

withdrawn by this title will be used for defense-related purposes other than those specified in section 703. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 703(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 703(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 703(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 703(a). The Secretary of the Interior shall transmit such report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(4) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 703(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(5) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 703(a).

DURATION OF WITHDRAWALS

SEC. 706. (a) DURATION.—The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 12 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which the Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (41 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OF RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

ONGOING DECONTAMINATION

SEC. 707. (a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at lease at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the United States Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

REQUIREMENTS FOR RENEWAL

SEC. 708. (a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 703 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some of all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, of if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation,

the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior;

(3) state the date upon which the lands will be opened to the operation of some or all of the public land laws, including the mining laws.

DELEGABILITY

SEC. 709. (a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 708(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

HUNTING, FISHING, AND TRAPPING

SEC. 710. All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

IMMUNITY OF THE UNITED STATES

SEC. 711. The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to person or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 703 of this title.

EL CENTRO RANGES

SEC. 712. The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1990 the public lands in Imperial County, California, generally depicted on the map entitled "El Centro Ranges" dated July 1987, for the same purposes and to no greater extent than such lands were used by the Secretary of the Navy as of July 1, 1987. Such permission shall be through a cooperative agreement or other appropriate means. Such use shall be subject to such terms and conditions as the Secretary of the Interior may require so as to protect the natural, environmental, scientific, cultural, and other resources and values of such lands and to minimize the extent to which such use by the Secretary of the Navy impedes or restricts use of such or other public lands for recreational and other purposes.

By Mr. CRANSTON:

S. 12. A bill to establish a Parents as Partners in Learning Program, and for other purposes; to the Committee on Labor and Human resources.

PARENTS AS PARTNERS IN LEARNING ACT

Mr. CRANSTON. Mr. President, today I introduce for appropriate reference the Parents as Partners in Learning Act of 1989. As the title suggests, the bill is designed to bring parents more fully into the learning process as active participants in the academic achievement of their children, rather than as persons whose place in the life of the school is marked by an occasional PTA meeting or help with a bake sale. This bill is about parents who help with homework, who provide a quiet place each night for a child to study, who make sure their children get enough sleep and get to school on time, and who spend daily time reading to their children.

Quite a commitment? Yes, and the results can be extraordinary. In fact, hundreds of California parents, now involved in a program called the "quality education project," are making such a commitment and having the time of their lives. As their enthusiasm and involvement increases, the academic achievement of their children accelerates. In turn, the school is enlivened and enriched. In the schools where QEP is operating, the families' place in the learning process is both accepted and well-defined. As a result, there is a synergism between parents and the school that is bringing about greater academic achievement for the student.

We have known for a long time that the attitude of the parent toward a child's education is important to success in school. In fact, the link between achievement and family environment—as several studies have pointed out—is a key factor in educational success. Yet the role of the family is generally overlooked when we talk about education reform. Most of the recent major education reports do not mention families as a factor in education success and only one or two make any recommendation for school reform based on involving parents.

This is more than just an oversight. It is a misreading of psychology, sociology, anthropology, and contemporary history. There was a time in our society when learning was thought to occur almost entirely in school. But television and the information age—and the increasing education level of parents themselves—have changed all that. Much, much learning occurs outside of the classroom. Too, society expects more than academic success from schools, and many of these expectations center around addressing problems thought traditionally within the total purview of the family. Child care, drug abuse, and sexuality issues are just a few of the problems that every American school must consider as thoughtfully as the strategies for learning math and science.

To not be a part of the problem, the family must be a part of the solution.

When the National Center on Education Statistics surveyed 60,000 high school students between 1980-82, NCES found that 32 percent of students with an "A" average said that their parents helped them decide what courses to take while only 13 percent of "C" students reported such parent help. Two-thirds of the "A" students in the study said their parents met with or telephoned the teacher when a learning issue arose, but less than half of the "C" students reported that kind of communication between family and school. The study also found that parent membership in a parent-teacher organization or parent help with school activities had no discernable effect on good grades. What helped with good grades was parent involvement in the day-to-day learning process and a communications program—between teachers and parents and administrators and parents—that was clear, regular, and that reflected respect for parents.

California's quality education project, founded in 1982, is not-for-profit corporation design specifically to bring parents together with teachers and administrators to help raise student achievement, especially for at-risk students. The QEP's premise is that parents will actively support their children's education if they are shown how to do so effectively; that parents will support the school—no matter what their cultural, socioeconomic, language, or educational background—when they feel accepted, cared about, and respected; and that a parent involvement program is successful in direct proportion to the belief and commitment of school leadership and staff. Also critical to success in the view of QEP is a specific plan with supporting materials and evaluation and accountability components

Working in some of the areas of greatest poverty in California, QEP has successfully involved disadvantaged families in their children's school. In one school district in Los Angeles county, the QEP Program raised attendance at parent/teacher conferences by 1272, a 16 percent increase; more than 10,400 additional children took home weekly folders of academic work for review by parents; over 8,000 parents signed pledges promising to participate in school activities and to help their children succeed academically. For 2 successive years in that district, scores on statewide student achievement tests increased.

The basics of QEP can be used to build model projects anywhere in the country: First, home activities where parents can reinforce what is learned at school; second, effective home/school communication which leads to the family supporting the school; and third, parenting skills to help parents interact more positively with their children at home. The fundamental concepts here are clear goals, intelligent marketing, and accountability. As the QEP record shows, they work.

Mr. President, the Parents as Partners in Learning Act is a very simple bill with a modest dollar authorization. The basic components of a model project under this bill are clear and uncomplicated. Applicants for grants must assess the present extent and quality of parent involvement and state clear objectives for each year of

the project. A strong communications component must be set forth to increase family understanding and support of the school. Training must be provided to enable parents to build positive relationships with their children that will bolster academic success. There must be continuing community outreach activities in order to develop community support for the schools. Strong evaluation and dissemination components are required.

The grant requirements provide a structure within which local needs can be met while assuring success through proven means. Grants under the act are to be made in settings that reflect the diversity of this country in order that they may serve as models for other parts of the Nation with similar characteristics.

The Federal authorization is set at $20 million for each of 4 fiscal years. However, the Federal contribution is designed to get initial projects off the ground, rather than to provide ongoing major financial support. Federal support declines each year as projects become self-supporting. When designed with the key components in mind, these projects can demonstrate a degree of success that will assure their becoming a valuable and continuing part of the school program far beyond the end of Federal support.

Mr. President, I ask unanimous consent that a section-by-section analysis of the Parents as Partners in Learning Act be printed at this point in the RECORD, followed by the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 of the bill designates the Act as "Parents as Partners in Learning Act of 1989"

SECTION 2. PURPOSE

Section 2 sets forth the purposes of the Act, including programs in parent involvement, communications between home and school, teacher training, and programs in building community support for schools.

SECTION 3. FINDINGS

Section 3 sets forth various Congressional findings in support of the Act.

SECTION 4. GRANTS AUTHORIZED

Section 4 authorizes the Secretary of Education to make grants under the Act to eligible applicants and establishes priority considerations for the awarding of grants.

SECTION 5. APPLICATION

Section 5 sets forth criteria for the design of applications for grants under the Act.

SECTION 6. USE OF FUNDS

Section 6 describes how funds awarded under the Act may be used.

SECTION 7. ESTABLISHMENT OF A NATIONAL ADVISORY RESOURCE CENTER

Section 7 directs the Secretary to establish a National Advisory Center for Parents as Partners in Learning in order to provide technical assistance, staff training, and model materials in support of Parents as Partners in Learning programs. This section also establishes criteria for a nonprofit organization which will operate the Center.

SECTION 8. EVALUATION AND DISSEMINATION

Section 8 requires the Secretary to conduct annual evaluations and to disseminate materials.

SECTION 9. PAYMENTS

Section 9 sets forth federal share criteria for payments under the Act.

SECTION 10. DEFINITION

Section 10 sets forth definitions of eligible applicants for grants under the Act.

SECTION 11. AUTHORIZATION OF APPROPRIATIONS

Section 11 authorizes expenditures under the Act through fiscal year 1993.

S. 12

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited "Parents as Partners in Learning Act of 1989".

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to build effective parent involvement in schools in order to help raise student achievement;

(2) to positively engage parents in their children's education;

(3) to build consistent and effective communications between home and school so that parents may know their children's progress in all aspects of school life;

(4) to train teachers to communicate effectively with parents;

(5) to train parents in home strategies for raising their children's academic success; and

(6) to train administrators and teachers in building support for schools in the community.

SEC. 3. FINDINGS.

The Congress finds that—

(1) the understanding and active support of parents for all aspects of schooling is important if children are to succeed academically;

(2) parents will support the school, regardless of cultural, socio-economic, language or education background, when parents feel accepted, cared about, and respected;

(3) parents will actively support their children's education when shown how to do so effectively; and

(4) a parent involvement program is successful in direct proportion to the belief and commitment of the school leadership and staff and to the extent that a specific plan with supporting materials, evaluation, and accountability components are provided.

SEC. 4. GRANTS AUTHORIZED.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to eligible applicants to design and carry out projects that seek to build effective parent involvement in the education of their children in order to raise student achievement. In making grants under this Act, the Secretary shall take into consideration regional, cultural, and ethnic diversity within the United States.

(b) PRIORITY.—In awarding grants under this Act the Secretary shall give priority to eligible applicants whose applications—

(1) demonstrate the potential to serve as models for dissemination to other entities wishing to develop parent participation in schools; and

(2) describe programs which serve families in greatest need of assistance.

SEC. 5. APPLICATION.

Each eligible applicant desiring to receive a grant under this Act shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities and services for which assistance is sought;

(2) contain an assessment of the extent and quality of parent involvement in the school;

(3) include clear, written objectives and desired outcomes for each year of the project;

(4) contain assurances of frequent and regular communications between teachers and parents and between administrators and parents, including consideration of the specific language and literacy needs of the parents; and

(5) contain such information and assurances as the Secretary may require to ensure compliance with the provisions of this Act.

SEC. 6. USE OF FUNDS.

Each eligible applicant may use funds provided under this Act to—

(1) provide for home activities where parents can reinforce skills learned at school;

(2) provide parents with training to enable parents to build positive relationships with their children and to communicate successfully with teachers and administrators;

(3) conduct regular and ongoing community outreach activities which develop support for the community's schools;

(4) evaluate program progress in meeting stated objectives; and

(5) disseminate information about successful strategies and materials.

SEC. 7. ESTABLISHMENT OF NATIONAL ADVISORY RESOURCE CENTER CONCERNING PARENTS AS PARTNERS IN LEARNING.

(a) NATIONAL ADVISORY RESOURCE CENTER.—The Secretary shall, by grant or contract with a nonprofit organization, establish and operate a National Advisory Center for Parents as Partners in Learning (hereafter in this Act referred to as the "Center"). The Center shall provide—

(1) technical assistance in developing model Parents as Partners in Learning programs;

(2) staff training for Parents as Partners in Learning programs; and

(3) model materials for Parents as Partners in Learning program implementation.

(b) LIMITATION.—The non-profit organization described in subsection (a) shall—

(1) be expressly incorporated for the purpose of improving the scholastic achievement of students by bringing parents into an active role in their children's education;

(2) be of proven experience and effectiveness in designing and carrying out such programs; and

(3) have previously implemented a statewide program.

SEC. 8. EVALUATION AND DISSEMINATION.

The Secretary shall conduct an annual evaluation of grants made under this Act and shall disseminate such information.

SEC. 9. PAYMENTS.

(a) PAYMENTS.—(1) The Secretary shall pay to each eligible applicant having an application approved under section 5, the Federal share of the cost of the activities described in the application.

(2) The Federal share—

(A) for the first year in which the State receives funds under this Act shall be 90 percent;

(B) for the second such year shall be 75 percent;

(C) for the third such year shall be 50 percent; and

(D) for the fourth such year and each succeeding year thereafter shall be 33⅓ percent.

(b) NON-FEDERAL SHARE.—The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) The term "eligible applicant" means one or more of the following:

(A) a local educational agency;

(B) an individual school;

(C) a nonprofit private organization;

(D) an institution of higher education;

(E) a business concern; or

(F) a State educational agency.

(2) The term "parent" includes a legal guardian or other person standing in loco parentis.

(3) The term "Secretary" means the Secretary of Education.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the purposes of this Act, $20,000,000 for the fiscal year 1990, $20,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, and $20,000,000 for fiscal year 1993.

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 13. A bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health care services for veterans, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS BENEFITS AND HEALTH CARE ACT

Mr. CRANSTON. Mr. President, as the Chairman of the Committee on Veterans' Affairs, I am today introducing S. 13, the proposed "Veterans Benefits and Health Care Act of 1989." I am delighted to note that I am joined by Veterans' Affairs Committee members Senators MATSUNAGA, DECONCINI, and ROCKEFELLER.

Mr. President, this bill has as its basic purposes the provision of cost-of-living increases in certain benefits paid to veterans with service-connected disabilities, and to certain dependents and survivors of such veterans and the continued maintenance and improvement of the VA programs of benefits and services for our Nation's veterans and their dependents. In view of my very strong concern that we must continue our efforts to reduce the Federal deficit, this legislation seeks to find ways to improve VA programs without incurring any significant new costs.

SUMMARY OF PROVISIONS

Mr. President, this measure contains 21 substantive provisions which would:

First, provide, effective December 1, 1989, for a cost-of-living adjustment [COLA], equivalent to and effective on the same date as the COLA which will be provided for Social Security benefits, in VA compensation paid to veterans with service-connected disabilities and in disability and indemnity compensation paid to certain survivors of such veterans.

Second, provide, effective January 1, 1990, a 13.8-percent COLA in the allowances paid to certain service-connected-disabled veterans' dependents or survivors pursuing educational programs under chapter 35 of title 38.

Third, provide, effective January 1, 1990, a 13.8-percent COLA in the allowances paid to service-connected disabled veterans participating in programs of rehabilitation under chapter 31 of title 38.

Fourth, expand the annual clothing allowance provided to veterans so as to include cases in which veterans with certain service-connected skin conditions use medications which stain their clothing.

Fifth, provide that monthly pension payments to hospitalized veterans with no dependents could not be reduced until the veteran has been hospitalized for 8 months—with the Chief Medical Director authorized to extend that period, for no more than two 2-month periods, upon determining that the veteran is likely to be released from the hospital in a reasonable period of time—and raise the limit on such reduced pension payments from $60 to $105.

Sixth, extend the veterans' readjustment appointment authority for Civil Service appointments for 2 years, through December 31, 1991, for Vietnam-era veterans who (a) have a service-connected disability, or (b) served in the Vietnam theater of operations.

Seventh, expand the VA's multiyear procurement authority to include the purchase of non-health-care supplies and services.

Eighth, require the VA to furnish post-traumatic stress disorder—PTSD—treatment to a veteran who served in a theater of combat operations and whom a VA mental health professional has diagnosed as suffering from service-related PTSD.

Ninth, mandate that the VA's Special Committee on Post-Traumatic Stress Disorder submit concurrently to the VA and the two Congressional Veterans' Affairs Committees three reports—the first, due June 1, 1989, giving the Special Committee's evaluation of the results of the study mandated by Public Law 98-160 on the prevalence and incidence of PTSD among Vietnam veterans, and the second and third, due February 1 of 1991 and 1992, respectively, updating prior reviews of the VA's efforts to meet the needs of veterans with PTSD.

Tenth, require the VA to carry out a scientifically-valid study of post-war psychological problems—including PTSD—among Asian-American, American-Indian, Native-Hawaiian, other Native-American Pacific Islander—including American-Samoan Native—and Alaska Native Vietnam veterans.

Eleventh, require the VA to submit, as part of its annual budget documents, detailed information on funds that are estimated to be spent for compensation for PTSD, PTSD treatment, and other PTSD-related VA efforts.

Twelfth, require the VA to furnish services to a service-connected-disabled veteran or the spouse of such a veteran to achieve pregnancy, for example through artificial insemination or in vitro fertilization, in cases in which the veteran's service-connected disability impairs procreative ability.

Thirteenth, modify the existing authority pursuant to which compensated work therapy [CWT] programs are carried out in the VA so as to (a) allow such programs to contract with government entities—including the VA, as well as with the private-industry sources specified in current law, for the work that the patients do, and (b) to allow funds from the revolving fund which supports the CWT program to be used for training and related management functions, including travel, necessary for the operation of the CWT program.

Fourteenth, extend for 3 years, through September 30, 1992, the authorization of such annual appropriations as are necessary for State Veterans' Home construction grants.

Fifteenth, require the VA (a) to carry out a 4-year pilot program under which it would (1) provide specially trained monkeys to no more that 20 veterans who have service-connected disabilities rated 50 percent or more disabling and are quadriplegic, (2) allow the VA to provide up to 10 specially trained service dogs to such quadriplegic veterans who would benefit from the assistance provided by such dogs, and (3) facilitate the provision of monkeys to no more than 20 other veterans who are quadriplegic; and (b) to conduct an evaluation of this program.

Sixteenth, require the VA (a) to conduct a pilot program for the provision of dogs specially trained to provide hearing assistance to individuals who are deaf to no more than 20 veterans with service-connected hearing impairments who are in need of the assistance of such dogs, and (b) to conduct an evaluation of this program.

Seventeenth, require (a) that the Assistant Secretary of Veterans Affairs who is responsible for management, productivity, and logistic support func-

tions be responsible for the technical and functional supervision—but not the day-to-day supervision or line management—of Security Services at VA medical facilities; and (b) the VA, within 90 days after enactment, to submit a report containing (1) a plan for upgrading its security police training, recruitment, and salaries, and (2) an evaluation of the need for (A) establishing a policy on weapons for VAMC's in high-crime areas, and (B) reducing VA security police services in certain VA facilities with no significant security problems.

Eighteenth, revise the VA's authority to enter into agreements for sharing scarce medical resources so as to (a) expand the categories of facilities with which the VA may enter into sharing agreements to include all health-care facilities, (b) delete the requirement that reimbursement rates cover full costs and substitute the standard used in section 5011 of title 38 for VA-Department of Defense sharing agreements, which provides appropriate flexibility after costs are taken into account, and (c) provide that payments for the use of VA resources be returned to the VA facility involved.

Nineteenth, provide that labor-management standards affecting title 38 employees—principally physicians, dentists, and nurses—are generally the same as those for title 5 employees.

Twentieth, provide that the procedures in title 5 for the resolution of specified lesser disciplinary actions—admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade—generally would be used in cases involving title 38 VA health-care personnel, and create in title 38 a grievance-resolution process for title 38 employees that parallels that available to title 5 employees.

Twenty-first, require the head of the VA to establish a task force to identify inconsistencies among certain provisions of law (sections 601(6), 612, 614, 617, and 619 of title 38) relating to eligibility for certain health-care benefits and to recommend legislation to remedy the inconsistencies.

COMPENSATION/DIC COLA

Section 101 of the bill would require the Secretary of Veterans Affairs to make a cost-of-living adjustment [COLA], effective December 1, 1989, in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation [DIC] paid to the survivors of those who have died as a result of service-connected disabilities and to the survivors of certain veterans who died while totally and permanently disabled as the result of service-connected disabilities. The COLA would be at the same percentage as that which will be provided to Social Security recipients and VA pension beneficiaries effective the same date. The Office of Management and Budget currently estimates that this rate will be 3.6 percent; the Congressional Budget Office estimates that it will be 4.9 percent. These increased benefits would actually be paid beginning on January 1, 1990.

Mr. President, I believe that we must attach the highest priority to meeting the needs of the 2.2 million veterans with service-connected disabilities and the 328,000 survivors of those who have made the final sacrifice. This is and always has been my number one priority in veterans' affairs. Through COLA's, we can ensure that the value of these service-connected VA benefits is not eroded by inflation.

Mr. President, Congress has acted periodically to provide COLA's in compensation and DIC benefits in order to ensure that those benefits keep pace with inflation. In fact, Congress has provided for annual increases in these rates every fiscal year since 1976. I urge my colleagues to continue in their support for annual COLA increases for these veterans benefits.

INCREASES IN REHABILITATION AND EDUCATIONAL ALLOWANCES

Mr. President, sections 102 and 103 of S. 13 would provide, effective January 1, 1990, for a 13.8-percent increase in the rates of, first, the subsistence allowance paid under chapter 31 of title 38 to certain veterans with service-connected disabilities who are participating in programs of rehabilitation, and, second, the educational assistance allowance paid under chapter 35 of title 38 to certain dependents and survivors of service-connected disabled veterans who are pursuing programs of education. The increases provided by this measure are consistent with the fiscal year 1990 budget recommendations that I will propose for adoption by the Veterans' Affairs Committee next month in connection with the report of this fiscal year 1990 budget views and estimates to be transmitted to the Budget Committee.

Under the chapter 31 program, veterans who have compensable service-connected disabilities and employment handicaps are provided with programs of vocational rehabilitation and with such other rehabilitation services as are needed to restore their ability to function as independently as possible in their communities. The VA estimates that 23,200 disabled veterans will use chapter 31 bnenefits in fiscal year 1990. While participating in training as part of a program of vocational rehabilitation and for 2 months after the completion of training, chapter 31 participants receive a subsistence allowance, currently $310 a month for a veteran without dependents in order to assist with expenses such as transportation, food, and housing.

The chapter 35, survivors' and dependents' educational assistance, program provides benefits to the children—generally those between 18 and 26 years old—and spouses of veterans who died of service-connected disability or whose service-connected disability is rated permanent and total. In addition, dependents of servicepersons missing in action or interned by a hostile foreign government for more than 90 days are also eligible under this program. Currently, the monthly rate for full-time institutional training is $376, which assists in defraying the costs of tuition, fees, transportation, books, room, board, and other items of subsistence. The VA estimates that 41,900 individuals will pursue an educational program under chapter 35 in fiscal year 1990.

Mr. President, Congress last increased the allowances under chapters 31 and 35, effective October 1, 1984, through the enactment of legislation—derived from a proposal I authored—in Public Law 98-543. According to data from the Bureau of Labor Statistics, the Consumer Price Index rose 13.8 percent from the end of 1984, through December 1988. Disabled veterans in vocational rehabilitation programs require a cost-of-living adjustment in their subsistence allowances in order to offset the increased costs of subsistence and transportation. Survivors and dependents of service-connected disabled veterans using chapter 35 educational assistance are faced with even greater expenses. The Department of Education reports that the costs of tuition, fees, room, and board associated with higher education continue to increase dramatically. In fact, from 1984 through 1988, the cost of higher education has increased 18 percent for public colleges and universities and 28 percent for private institutions. The increase in assistance to chapter 35 participants would help their benefits keep up with today's costs of education and training.

Mr. President, in view of these rising costs, I believe that the proposed 13.8-percent increase is fully justified to maintain adequate financial support for individuals whose readjustment following either a service-connected injury or the death of a spouse or parent is primarily dependent on further education and training. I note that—in recognition of the need for fiscal austerity—this 13.8-percent increase does not include an estimate of further inflation—probably in the realm of 4 percent—that will occur during calendar year 1989.

EXPANSION OF CLOTHING ALLOWANCE

Section 111 of the bill would expand the clothing allowance authorized under section 362 of title 38—which currently is payable to a veteran who, because of service-connected disability, wears or uses a prosthetic or orthopedic appliance—including a wheelchair—which the Secretary determines

tends to wear out or tear the veteran's clothing—so as to include cases in which veterans use medication prescribed for a service-connected skin condition which stains or otherwise damages the veteran's clothing.

Medication used to treat certain skin conditions can cause stains which cannot be removed. However, although current law authorizes a clothing allowance to be paid for damage to clothing resulting from use of prosthetic or orthopedic appliances, it does not cover damage resulting from medication prescribed for a service-connected skin condition.

This provision was included in legislation the Veterans' Affairs Committee reported last year in S. 2011 and the Senate passed in H.R. 4741 on October 18, 1988. Unfortunately, the House would not accept an expanded clothing allowance in our negotiations on H.R. 4741 last year. Therefore, I am again introducing this provision with the hope that my colleagues in the House will accept it this year if it is passed by the Senate again.

REDUCTION OF PENSION CUTOFF FOR HOSPITALIZED VETERANS

Mr. President, section 112 of the bill would protect the pension benefits of certain hospitalized veterans who are reasonably likely to be released from the hospital and returned to the community.

Section 3203(a) of title 38 provides that, when veterans who have no dependents and who are receiving nonservice-connected need-based pensions are hospitalized in a VA facility, their pension benefits will generally be reduced to no more than $60 per month after 3 months of hospitalization. The rationale behind this provision is that the Government, through the provision of medical care, food and shelter, already is providing for the basic needs of the veteran and a need-based pension is not warranted while the veteran remains hospitalized for an extended period of time.

In many cases, however, hospitalized veterans retain significant financial responsibilities. For those who later are released from the hospital, the reduction in pension benefits can mean the difference between the ability to return to an independent life and being overwhelmed by financial obligations which mounted during the hospital stay. The largest continuing expense generally is for rent. By definition veterans receiving need-based VA pension benefits lack financial resources and thus are not likely to have sufficient income or assets—aside from their pensions—from which to pay their rent. Without their pension payments, they thus are likely to be forced through lack of income to give up their living situations. Yet, they also would not have the resources to pay the security deposit and any advance rent required for a new apartment they will need upon release from the hospital, or to meet other financial obligations which may have continued despite their hospitalization.

An exception—consisting of a 3-month delay of the pension reduction—is provided in section 3203(a)(D) for veterans hospitalized longer than three months who are receiving from the VA a prescribed program of rehabilitation under chapter 17 of title 38. Many veterans, however, do not need such a rehabilitation program—for example, spinal-cord injured veterans who develop skin ulcerations which require fairly long periods of hospitalized treatment do not need any training to enable them to function in the community. These veterans thus could not receive the benefit of this exception.

To deal with these situations, section 112 of our bill would extend the period of hospitalization permitted before pension benefits are reduced. The current-law cutoff of 3 months would be extended to 8 months. In addition, the Secretary would be authorized to grant a 4-month extension—that is, suspend the reduction—where he determines that a veteran who has been hospitalized for 8 months is likely to be released in a reasonably short period of time.

These new provisions would not apply to veterans residing in VA nursing homes, since the likelihood of release to the community for nursing home patients who are not receiving primarily rehabilitative services is very small in such instances.

The $60 amount to which benefits are reduced at some point in institutionalization also would be increased to allow for the effects of inflation. That amount has not been increased since 1979. Allowing for inflation, its present-day value is $105 and the bill would raise the $60 limit to $105. I have not yet received a cost estimate of this provision from the Congressional Budget Office. However, depending on the cost estimate and the amount available within the Committee's crosswalk allocation under section 302(b) of the Budget Act, the $105 figure may have to be revised.

EXTENSION OF VETERANS' READJUSTMENT APPOINTMENT AUTHORITY

Mr. President, section 113 would extent for 2 years, through December 31, 1991, the authority set forth in section 2014(b) of title 38, United States Code, for Veterans' Readjustment Appointments [VRA's] for Vietnam-era veterans who have compensable service-connected disabilities—that is, those rated at least 10-percent disabling—or were discharged because of a service-connected disability or who served in the Vietnam theater.

The VRA authority, which would otherwise expire on December 31, 1989, currently permits certain service-disabled Vietnam-era veterans and educationally disadvantaged Vietnam-era veterans to be given excepted appointments in the Federal civil service. The purpose of the VRA authority is to assist these veterans by making it possible for them to be hired noncompetitively into the Federal civil service and to develop additional skills through a program combining education and training with the opportunity for a regular career appointment. The proposed extension would apply to Vietnam theater veterans and those Vietnam-era veterans with compensable service-connected disabilities or those discharged because of a service-connected disability.

The VRA authority was originally created on March 26, 1970, by Executive Order No. 11521 which established a special civil service appointment authority for certain veterans and disabled veterans of the Vietnam era who were discharged after April 9, 1969. In 1973, I authored legislation, based on the Executive order, enacted in Public Law 93-508, which codified the VRA authority as section 2014(b) of title 38 and provided for the continuation of the program through June 30, 1978. Under these original provisions, in order to be considered for an appointment, a qualified veteran must have enrolled in a program of education within 1 year after release from active duty and have had no more than 14 years of education, served on active duty during the Vietnam era, and generally have been separated from the service for 1 year or less. Such a veteran could be given a VRA for any position in the competitive service at or below the General Schedule-5—GS-5—level or its equivalent. A veteran who had satisfactorily completed 2 years of substantially continuous service under a VRA and an education or training program was converted to career conditional employment and automatically acquired a competitive status for civil service purposes.

In the ensuing years, I have been actively involved in extending and refining this authority. In 1978, I authored provisions, enacted in Public Law 95-520, which extended the authority through September 30, 1981. These provisions also extended eligibility to all Vietnam-era veterans with no more than 14 years of education, not just those separated after April 9, 1969, and eliminated the maximum limitation on the number of years of education for Vietnam-era veterans with compensable service-connected disabilities and those who were discharged or released because of a service-connected disability. In addition, that measure raised the grade-level limitation for VRA's from GS-5 to GS-7, expanded requirements for reporting on the use of this authority, and extended the program to September 30, 1981.

In 1981, I authored in the Senate provisions, enacted in Public Law 97-72, that further extended the authority through September 30, 1984. Later in 1984, I authored provisions, enacted in Public Law 98-543, that led to the extension of the authority through September 30, 1986, raised the grade-level limitation from GS-7 to GS-9 and provided veterans who receive VRA appointments with certain appeal rights to the Merit Systems Protection Board during the first year of employment. In 1986, I authored legislation, enacted in Public Law 99-576, extending the VRA authority until December 31, 1989.

Mr. President, the success of the VRA program is evident in the 279,228 veterans hired under the VRA authority since its inception in 1970. In fiscal year 1987 alone, 12,912 veterans were given appointments. Over 80 percent of veterans who have received VRA's have converted to career conditional employment status in the civil service system. In addition, the VRA is one of many successful veterans programs that have contributed to a reduced unemployment rate for Vietnam-era veterans, which—according to the Bureau of Labor Statistics—is only 3.7 percent compared to the 5.3 percent national rate as of November 1988.

Mr. President, I note that the Office of Personnel Management's Annual Report to Congress on Veterans' Employment in the Federal Government for fiscal year 1987 states that only 12 percent of the veterans hired under the VRA were disabled veterans. In addition, only 3 percent of Federal new hires were disabled veterans. According to the Bureau of Labor Statistics study of unemployment among certain disabled veterans and Vietnam theater veterans required under section 9 of Public Law 100-323, the Veterans' Employment, Training, and Counseling Amendments of 1988, disabled veterans experience higher unemployment rates than do other veterans—6.2 percent veterans 4.7 percent. Furthermore, individuals who served in the Vietnam theater of operations have a higher unemployment rate than those who served elsewhere during the Vietnam era—5.2 versus 4.3 percent.

Mr. President, although the VRA is scheduled to expire on December 31 of this year, because of the continuing difficulties that service-disabled Vietnam-era veterans and Vietnam-era veterans who served in the Vietnam theater are experiencing in the job market I do not believe Congress should allow it to expire for these groups. Hence, we are proposing a 2-year VRA extension targeted specifically on disabled and theater veterans of the Vietnam-era.

EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NONMEDICAL ITEMS

Mr. President, section 121 of the bill would expand—to include nonmedical items—the multiyear procurement authority that was enacted with respect to medical-care items in section 404 of Public Law 100-322, on May 20, 1988. This provision is derived from S. 2306, Administration proposed-legislation I introduced by request on April 21, 1988, and section 705 of H.R. 4741 as passed by the Senate on October 18, 1988, to provide the VA with multiyear procurement authority for any supplies and services, not just health-care items.

Each year the VA's Department of Medicine and Surgery [DM&S] spends approximately $1.8 billion to purchase drugs, medical supplies, equipment, and other items to run its 172 hospitals, 117 nursing homes, 16 domiciliaries, 229 outpatient clinics, and other facilities. The health-care multiyear procurement authority provided in Public Law 100-322 allows the VA to reduce these costs, achieve economies in contract administration, increase quality of service from contractors, and encourage competition in its procurement of medical items. In addition to any other benefits, the VA expects a 5- to 10-percent decrease in bid prices for contracts that are found to warrant a multiyear commitment. The new law delineates specific conditions for the use of the multiyear authority that are designed to ensure that it is used in the best interests of the Government and to provide appropriate protections for the contractors.

According to the VA, it is already implementing the new multiyear contract authority in DM&S for maintenance of building service equipment at VA health-care facilities, preventive maintenance of medical equipment, elevators and fire alarm systems, waste maintenance, and pest control, and it is aware of no reason to restrict the authority to its health-care facilities.

The expanded authority could be used for such purposes, the VA advises, as service contracts for grounds maintenance of VA national cemeteries and supply contracts for headstones, markers, and grave liners and for contracts for the approval of courses of education and training for veterans by State approving agencies and for certain rehabilitation services provided to disabled veterans by organizations such as Goodwill Industries and sheltered workshops.

In addition—also pursuant to a VA suggestion made in response to a question I submitted to the VA in followup to the Committee's June 16, 1988, hearing, which covered S. 2306, along with various other measures—this provision would make a technical correction to the current multiyear procurement authority so as to delete an unnecessary and faulty definition of the terms "cancel" and "cancellation."

Mr. President, expansion of the VA's multiyear procurement authority to include nonhealth-care supplies and services should improve the cost-effectiveness and efficiency of VA procurement programs and, as a result, of VA services to veterans.

TITLE II—HEALTH CARE

PART A—PROGRAMS RELATING TO POSTTRAUMATIC STRESS DISORDER AND MENTAL HEALTH

Mr. President, I have long been concerned about the diagnosis and treatment of posttraumatic stress disorder, and have monitored for a number of years the VA's response to veterans with PTSD. This year several factors have combined to make the provisions we are introducing especially important to, and much more necessary for, the veterans who have been afflicted with PTSD as a result of their service to their country. First, the final report by the Research Triangle Institute [RTI], which was released on December 28, 1988, and is discussed in more detail below, indicates that the number of veterans currently suffering with full-blown cases of PTSD, and those with PTSD symptoms which adversely affect their lives but whose symptoms are not of the intensity or breadth required for a diagnosis of PTSD, is alarming—approximately 829,000 of the 3.14 million veterans who served in Vietnam. RTI reports that a substantial number of these veterans have yet to seek mental health help from the VA or any other source. The data also support the concept of PTSD as a chronic, rather than acute, disorder. Although the majority of Vietnam veterans have adjusted well, for those who have not there clearly remains a tremendous unmet need.

These RTI findings raise serious questions about the VA's present capacity, under current law and practice, to furnish the care needed by veterans suffering from this disorder.

In addition, the reality of the very severe budget shortfall now confronting the VA medical program has created a situation in which veterans with combat-related PTSD may be turned away from treatment at VA medical centers. As VA medical centers make adjustments for their budget shortfalls, veterans who are not category "A" veterans—that is, those who have been adjudicated as having a service-connected disability, low-income veterans, and certain other veterans in specified categories—run a very real risk of being turned away from care or of having to wait an inordinate period of time to receive care. For many veterans suffering from PTSD, their first, and sometimes only, contact with the VA is via the Vet centers, for which the category designation is irrelevant. For those veterans

who are severely disabled with PTSD, however, Vet Center treatment may not be enough. Previously, before this budget shortfall, Vet Center counselors could refer a veteran with PTSD to either inpatient or outpatient treatment at the VAMC with the knowledge that the veteran who needed help would almost certainly receive it. Given the shortfall, those veterans suffering from combat-related PTSD may be turned away unless they have an income which is sufficiently low to be in category "A" or they go through the time-consuming process of being adjudicated as service-connected—a process which numerous clinicians have indicated to me is detrimental, and at times disastrous, to the treatment process.

Mr. President, as you know, I have long stressed the VA's paramount mission of caring for those who have been disabled during their service. I believe that this duty extends fully to those individuals who suffer from psychological disorders, and must include efforts by the VA to consider the particulars of the symptoms in making treatment as accessible as possible for these individuals. The provisions we are introducing today will move in that direction.

On August 1, 1988, the committee reported S. 2011 (Rept. No. 100-439, pages 122-129) which, among other things, would have: First, required the VA to give priority care to veterans who had been diagnosed as having PTSD (section 601); second, extended the authorization of the VA Special Committee on PTSD which was established by Public Law 98-528 to assess the VA's capacity to diagnose and treat PTSD and to advise the Chief Medical Director (section 602); and third, authorized the VA to conduct a study of the psychological problems among Asian-American Vietnam veterans and other Vietnam veterans who are members of other minorities who were not included in the study conducted by the Research Triangle Institute (section 603). Additionally, I offered two floor amendments on October 18 during floor consideration of S. 2011: One which expanded the eligibility for priority care to all veterans who had served in hostilities, and one which required the VA to specify in its budget documents the details of its proposed funding for PTSD programs. All of these provisions were passed upon a voice vote by the Senate on October 18, 1988. These provisions were not, however, accepted by the House of Representatives, and the need for legislation in this vital area remains.

BACKGROUND

Posttraumatic stress disorder, while not labled as such until 1980, has been with us for a long time under various names—battle fatigue and shell shock are labels from previous wars for the same disorder. It is a psychological disorder that varies in intensity—from dampening an individual's ability to participate to the fullest degree in life to total incapacitation when suicide appears to be the only hope of escape. It is a disorder which for some veterans remains relatively dormant for the majority of time since the traumatic event and then comes to the fore, usually brought on by another life crisis of some dimension, causing them significant suffering. For other veterans, it is a disorder that has haunted them every day, day in and day out, from the time of the traumatic event.

Although the criteria for a diagnosis are relatively clear-cut, the varied manner in which the symptoms present themselves can make the disorder appear somewhat elusive. But this difficulty should not mislead us—those who suffer from PTSD know just how real it is and how it has kept them from leading fulfilling, productive, happy lives.

The RTI study

Mr. President, I note that RTI has now completed its massive study, mandated by section 102 of Public Law 98-160, of the psychological problems of Vietnam veterans. The results were released to Congress and the public on December 28, 1988. According to the RTI data, approximately 15.2 percent of the male Vietnam theater veterans (479,000) and 8.5 percent of the female theater veterans (610) are currently suffering from full-blown cases of PTSD. Another 11.1 percent of males and 7.8 percent of females, or a total of 350,000 theater veterans, suffer from trauma-related symptoms, which due to the lack of either intensity or breadth of symptoms are not characterized as "full-blown" PTSD cases, but rather as partial cases. It is likely that the vast majority of these 829,000 individuals would benefit from professional treatment.

Equally as shocking are the lifetime prevalence figures. Almost one-third (30.6) of the male theater veterans (over 960,000) and over one-fourth (26.9) of the female theater veterans (over 1,900) have had the full-blown disorder at some time during their lives. From these figures and those I have quoted earlier, it can be seen that about one-half of the men and one-third of the women who have ever had a full-blown case of PTSD still have it today. This illustrates quite clearly that PTSD is a chronic disorder.

Not unexpectedly, the prevalence of PTSD and other postwar psychological problems is significantly higher among those with high levels of exposure to combat and other war zone stressors in Vietnam. The study results also indicate a strong relationship between PTSD and other postwar readjustment problems—that is to say, having PTSD increases the likelihood of having other specific psychiatric disorders and a wide variety of other post-war readjustment problems. This demonstrates that in addition to the painful symptoms of PTSD itself, the lives of Vietnam veterans with PTSD have been profoundly disrupted as they have been experiencing problems in virtually every domain of their lives. As I expected based upon what we have learned from clinicians who work with veterans and their families, the RTI interviews with spouses or partners of Vietnam theater veterans with and without PTSD revealed that PTSD has had a substantial negative impact not only on the veterans' own lives but also on the lives of spouses, childen, and others living with the suffering veteran.

A few words about how RTI identified the presence of PTSD are appropriate. Rather than use a single assessment, RTI painstakingly developed a multimeasure triangulation approach. Acknowledging that no single PTSD assessment is completely error free, RTI made current PTSD diagnoses on the basis of information from multiple indicators, resulting in a composite diagnosis. It is the convergence of information across PTSD indicators, and the cross-measure confirmation by triangulation, that gives these figures particular credibility. Additionally, this multimeasure triangulation did not specify a positive diagnosis if only one of the measures suggested the presence of PTSD, a method often used when multiple measures are used. Instead, a conflict among the measures was resolved, as negative or positive, based upon the preponderance of the evidence. It is our understanding that each of the many layers of review within the VA have found this study to be very solid and credible.

As was revealed by RTI at the committee's July 14, 1988, hearing, there is a substantial difference in the current PTSD prevalence rates among various minorities. The current prevalence of PTSD is estimated to be 27.9 percent among Hispanics, 20.6 percent among blacks, and 13.7 among white/others. Analysis by RTI suggested that differences between blacks and white/others may be attributed to their differing levels of exposure to war zone stress, but differences between Hispanic men and the other two groups could not be explained by this factor. Also, the evidence suggests that black and Hispanic Vietnam theater veterans have generally experienced more mental health and life adjustment problems subsequent to their service in Vietnam than the white/other veterans.

VA PTSD treatment capacity

Mr. President, I have long advocated that the VA should be the leader in the diagnosis and treatment of PTSD, because of the close connection of many cases of PTSD to traumatic events arising in combat. Yet, current-

ly, the VA has only 16 specialized PTSD inpatient programs all of which have waiting lists for admission into the program, ranging at the time of the last survey in August 1988 between one week and 6 months—with the majority having waiting lists between 5 and 10 weeks in length. In addition to these special units, only 15 other VA medical centers currently have special PTSD treatment teams—teams of four personnel—two funded by central office and two from the existing budget at the medical centers—including one psychiatrist, who are specially trained in diagnosing PTSD—among its 172 medical centers. At our July 14, 1988, oversight hearing on PTSD, the VA stated that about 158,000 of the veterans seen by its Vet centers have ever been "seen for PTSD, diagnosable according to present standards" and that about 20,000 veterans receive disability compensation for PTSD. Given the RTI data that 479,000 Vietnam veterans are currently suffering from full-blown PTSD, with another 350,000 suffering from partial cases, and that half of the male Vietnam theater veterans currently experiencing high levels of PTSD symptoms have never been seen by a mental health professional for their PTSD symptomatology and that 87 percent have not been seen recently by any health professional concerning their symptoms, it is apparent that a great number of veterans remain to be treated.

Working on this issue within the VA is the VA's Special Committee on PTSD which was established pursuant to section 110(b) of Public Law 98-528. The committee, which is chaired by Dr. Matthew Friedman, a psychiatrist at the White River Junction Vermont) VA Medical Center, has been of great help in identifying both problems and solutions with regard to the treatment of veterans with PTSD. However, despite the fact that the VA Chief Medical Director has agreed with most of the recommendations made by the special committee in its four reports submitted thus far, testimony from the special committee at the July 14 hearing indicated that numerous significant recommendations have yet to be implemented. For instance, with regard to the specialized PTSD inpatient treatment programs, the special committee recommended in its 1986 report that these programs be visited every 2 years to provide "periodic evaluation of such units with respect to: purposes and goals, program planning and design, length of stay, aftercare, administrative support funding, geographic distribution and clinical outcome"; that explicit standards be developed and used to evaluate the programs; and that there be at least one specialized PTSD unit in each region of the country.

To date, none of these recommendations have been implemented, although the VA is in the process of developing a program guide for these units. With regard to the use of treatment teams, the special committee has recommended, in each of its annual reports since 1985, that each VA Medical Center be provided with a team, and that these teams should be phased-in over a 5-year period. As I just noted, to date only 15 VA medical centers have these treatment teams. On October 4, 1988, the Chief Medical Director provided the committee with an update of activity on these recommendations, which indicates that currently 83 of the 98 of the recommendations have been implemented.

Mr. President, I ask unanimous consent that the Chief Medical Director's reply, dated October 4, 1988, be printed in the RECORD at the conclusion of my remarks.

Mr. CRANSTON. Mr. President, I note that although the special committee, in each of its annual reports, called for more research regarding effective treatment of PTSD and although the CMD concurred in that recommendation, in fiscal year 1987 the VA committed only $832,121 to PTSD out of its $200-million research budget.

As I understand it, the VA is using the $5 million add-on, which I proposed and which was passed by the Senate on July 13, 1988, and enacted on August 19, 1988, in H.R. 4800, the HUD-Independent Agencies Appropriations Act, fiscal year 1989 (Public Law 100-400), to provide funding for an additional 8 to 10 treatment terms, bringing the total up to 23 to 25. Of those teams, two to three will work specifically with programs to help individuals who have a dual diagnoses of PTSD and substance abuse. The VA is also considering having one or two teams conduct a pilot domicilary program in an effort to give the PTSD sufferer, who often does not have any social support structure, a place to go between treatment and integration back into society.

Despite these efforts to reach out to, and meet the needs of, veterans with PTSD, the unmet need of veterans with combat-related PTSD remains enormous. Accordingly, I am introducing the following provisions.

SUMMARY OF PTSD PROVISIONS

Priority care

In view of the continuing high prevalence of PTSD among veterans, as I discussed in detail earlier, and the still too limited extent of the VA's response and commitment of resources to PTSD treatment, I believe that it is fully appropriate and necessary for Congress to direct the VA to provide care and services, on a priority basis, to veterans diagnosed by a DM&S mental health professional, after a personal interview, as suffering with PTSD related to service. Hence, section 201 of this bill would amend section 602 of title 38 to add a new subsection (b) which would require the VA, in the case of a veteran whom a mental health professional designated by the VA's CMD has diagnosed as suffering from combat-related PTSD, to furnish needed inpatient and outpatient mental health services to treat that veteran's PTSD on the same basis as if the disorder were officially adjudicated as service-connected, without the need for such a formal adjudication by the VA's Department of Veterans' benefits.

Mr. President, I anticipate that this provision will result in some reallocation of VA resources. I believe that any such change in focus so as better to serve the needs of veterans with PTSD is fully in accordance with the historic priorities of the VA to address those needs of veterans which are associated with their military service, most especially to seek to treat physical or mental health problems that are related directly to their service.

This provision would apply not only to Vietnam veterans, but to all veterans. Testimony at the committee's July 14, 1988, hearing indicated that substantial numbers of veterans from the Korean war and World War II are seeking help for PTSD at the vet centers. Accordingly, we believe that there is no reason to limit this provision to Vietnam veterans. Thus, veterans of service in theaters of operations during prior periods of war—for example, the European or Pacific theaters of operations during World War II—and veterans of service in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that of battle with an enemy during a period of war—such as in Beirut or Grenada—would all be eligible for priority care under this provision once they are authoritatively diagnosed as suffering from combat-related PTSD.

VA Special Committee

Mr. President, another issue addressed in this bill is the future role of the VA's Special Committee on PTSD. As set forth in section 110(e)(2) of Public Law 98-528, the committee's last report, its fifth annual report, is due on February 1, 1989. Given the important role the special committee has played with regard to identifying problems and solutions, I believe that the reporting requirements of the committee should be extended. Accordingly, section 202 of this bill would require the special committee to submit three additional reports to the Secretary and concurrently to the two Veterans Affairs' Committees. The first report, due by June 1, 1989, would be required to set forth the special committee's evaluation of the results of the RTI study which I discussed earlier. The committee would be required to provide its assessment of the VA's capabil-

ity to meet the need for diagnosis and treatment of veterans with PTSD, an evaluation of the Secretary of Veterans Affairs' report on the study, and recommendations for any further or followup research on the matters addressed in the study. The Secretary would be required to submit to the committees, within 30 days after receiving the report, any comments concerning the report that the Secretary considers appropriate. The second and third reports, due by February 1 of 1991 and 1992, respectively, would be required to provide information updating prior reviews of the overall efforts of the VA to meet the needs of veterans with PTSD. Not later than 60 days after receiving each of the reports, the Secretary would be required to submit to the committees any comments concerning the report that the Secretary considers appropriate.

Study of psychological problems

Mr. President, another issue relating to PTSD is the prevalence of this disorder among various racial/ethnic groups. Although the RTI study oversampled the racial/ethnic groups of blacks and Hispanics, and also oversampled women veterans in order to develop estimates of the prevalence of PTSD and other postwar psychological problems in readjusting to civilian life among these groups, it did not oversample some other racial/ethnic groups, including Asian-American, American Indian, native Hawaiian, other native American Pacific Islanders—including American Samoan native—and Alaska Native populations. Because these various groups exist in small numbers in the general population of Vietnam veterans, oversampling would be required to derive an estimate of the prevalence of PTSD and other postwar psychological problems in the readjustment to civilian life of members of these groups.

Mr. President, based on the data on the current prevalence of PTSD just reported to the Congress by RTI, and discussed earlier in detail, it appears that the prevalence of PTSD among racial/ethnic groups is much higher than among whites. For example, the findings for racial/ethnic subgroups of male Vietnam theater veterans indicates that the prevalence of PTSD for whites/others is about 14 percent, while for blacks the prevalence is 19 percent and for Hispanics it is as high as 27 percent. Several witnesses at the committee's July 14 hearing also described various ethnic/racial groups, including blacks and Asian-Americans, as being reluctant to seek treatment. This reluctance may lead to an incomplete understanding of the scope of this disorder in such populations.

Given this possible culturally based reluctance among some of these groups to seek treatment and the reported higher percentage of PTSD among certain racial/ethnic groups already studied, I believe there is a need to determine the extent to which the groups not oversampled in the RTI study are suffering from PTSD and other postwar psychological problems in readjusting to civilian life. Accordingly, section 203 of this bill would require the VA to conduct such a scientifically valid study, either in-house or by contract, on the incidence of PTSD among Asian-American, American Indian, native Hawaiian, and other native American Pacific Islander—including American Samoan native—and Alaskan Native Vietnam veterans, and to submit a report on the results of the study to the two Veterans' Affairs Committees by October 1, 1991.

Disclosure of resources budgeted for benefits based on PTSD

Mr. President, in an effort to monitor the extent to which the VA is allocating resources to address the needs of veterans suffering from PTSD, including the tremendous unmet need I discussed earlier, section 204 would require the VA to be more specific about its plans to spend money on PTSD-related activities. Specifically, the VA would be required, when submitting its annual budget documents to the Congress, to identify the amounts to be obligated in the upcoming fiscal year for: First, payment of compensation to veterans for disabilities resulting from service-connected PTSD; second, the treatment of veterans for PTSD related to their active-duty service, including specific designation of funds for inpatient care—specialized programs, general programs, and treatment teams—outpatient care, Vet Centers, and contract care; third, PTSD education, training, and research (at the National Center for PTSD, at any mental illness research, education, and clinical centers that may be established, and generally); and fourth, for the operations of the National Center for PTSD.

I believe that requiring the VA to focus in this manner on its allocation of resources to PTSD-related activities would help the Department to make more adequate provision for meeting the needs of veterans who, due to the combat-related nature of their illness, are so deserving of help on a priority basis and who so greatly need that help.

Mr. President, I ask unanimous consent that the executive summary of the RTI report be printed in the RECORD at the conclusion of my remarks.

SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITY AFFECTING PROCREATION

Mr. President, section 211 of the bill would require the VA to furnish services to help a male or a female veteran or a male veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability impairs procreative ability.

This authority is necessary because the VA has maintained that it does not have the authority to furnish medical services for service-connected disabilities that impair the ability to have children. This came to light in the case of a woman who, while serving the U.S. Air Force, developed pelvic inflammatory disease, which was misdiagnosed. The disease progressed, scarred her fallopian tubes, and left her sterile. Although she tried to convince the VA to pay for in vitro fertilization [IVF]—which is the only procedure that offered her the possibility of having a child—the VA chose to interpret its statutory authority very narrowly and refused to provide the procedure, claiming that it lacks the authority to furnish such services.

Thus, veterans who because of a service-connected disability are unable to have children—one of the most basic and fundamental life activities—are being denied access to services to enable them to reproduce and have a family.

According to the Office of Technology Assessment [OTA], only about 16,000 male veterans under the age of 55 have service-connected disabilities that could cause infertility and about 1,300 female veterans have similar service-connected disabilities that could prevent them from becoming pregnant. Only a fraction of those individuals would desire or could benefit from the availability of procreative services. Thus, the numbers of individuals who would likely utilize these services—and thus the cost—would be very small.

If this authority were enacted, the majority of veterans with infertility problems would likely be treated with conventional medical therapies, including drug or hormone treatments, or surgery, to enable pregnancy to be achieved through sexual intercourse. Veterans with spinal cord injuries would be helped to a large degree by the availability of artificial insemination. More sophisticated technologies, such as IVF—in which the egg is fertilized outside the woman's body—would also be authorized. These procedures are generally used only as a last resort to correct reproductive problems for which nothing else works. Although IVF and newer technologies may help as many as 10–15 percent of infertile couples, few utilize them. For example, in 1986, less than 1 percent of the infertile couples in the United States attempted IVF.

Mr. President, I note that the provision we are introducing today is the same as section 8 of S. 2388 and section 2 of S. 6, legislation which I authored in 1986 and 1987, respectively, our committee favorably reported in section 205 of S. 2422 and section 301 of S. 9, respectively, and the Senate passed in section 205 of H.R. 5299 in

1986, and section 301 of H.R. 2616, on December 4, 1987, respectively. Unfortunately, the House did not agree to these provisions and they were not included in the measures which were ultimately enacted.

In both cases, the provisions were supported by all the major veterans organizations. When, on April 13, 1988, this measure was discussed at the conference between the House and the Senate Veterans' Affairs Committee, my colleagues in the House sought to exclude certain specific medical procedures from this provision and were particularly adamant in insisting that IVF be excluded. The Senate conferees and I could not accept that discriminatory result.

In general, I believe it is extremely inappropriate for Congress to legislate how medicine should be practiced by dictating which medical procedures are acceptable and which are not. Reproductive technologies are rapidly evolving, and to set into law a determination that only certain procedures are allowed on the basis of our current knowledge would be bad public policy. It could send a message to the medical community, State public policymakers, and the general public that some medical procedures are better or more acceptable than others when, in fact, no such medical or scientific determination has been made and there is no medical basis for such judgments.

Mr. President, with specific regard to IVF, I have two additional concerns. First, I believe that excluding IVF would be discriminatory toward women veterans. Although the majority of infertility problems for male veterans would be addressed through the availability of medical and surgical procedures as well as artificial insemination, those female veterans for whom no other procedure will work would still be denied the opportunity to have children. In fact, the very case that led to this legislation would have been excluded under such a proposal because she needed IVF.

As more and more women are joining the Armed Forces, women will constitute an ever greater proportion of veterans. We must be sensitive to their needs and ensure that they are provided equal access to health-care services. In my view, this is precisely the type of service that must be provided.

Second, although I am aware that individuals have differing moral or religious views on IVF, I strongly believe decisions about such medical procedures must be left to the individual. I do not believe that we should be setting public health policy according to one view or interpretation. That decision should be one that the individual veteran and his or her physician make. This provision would in no way require any veteran or spouse to undergo IVF or any health-care professional to participate in performing such a procedure. What it would do is make that option available, consistent with individual moral and religious beliefs.

COMPENSATED WORK THERAPY

Mr. President, compensated work therapy [CWT] programs operated by the VA provide, at a low cost to the Government, numerous therapeutic benefits to VA patients, especially those who are chronically mentally ill. These programs, authorized under section 618(b) of title 38, United States Code, and funded by a revolving fund called the Special Therapeutic and Rehabilitation Activities Fund, provide a clinical procedure for evaluating the patient's vocational or avocational interests, aptitudes, and skills, as well as assessing the patient's physical and mental capacities for work in actual work situations. These programs encourage the development of good work habits, by emphasizing attendance, reliability, punctuality, productivity, craftsmanship, and personal responsibility. In essence, individuals working in CWT programs gain a sense of being productive while developing important work skills.

CWT programs involve the use of work subcontracted and paid for by industries. Wages are generally paid on a piece-work basis and are provided and generated through the work contracts. The jobs vary greatly, from simple packaging to fabrications and assembly operation, using complex machinery. Activities take place in VA medical centers, in the community, or on industrial sites.

In fiscal year 1987, there were 43 active CWT programs with 5,293 veterans assigned to the various work projects. The VA does not have the figures for fiscal year 1988, but informs us that the numbers of programs of veterans involved remain essentially the same. In the last 6 months, several new programs have been developed. It is gratifying that this very important program continues to grow.

Mr. President, one obstruction to this growth is the restriction in current law—section 618(b)(1) of title 38—limiting CWT contracts solely to "private industry or other sources outside the Veterans' Administration." The VA's general counsel has indicated that this language restricts contracting not only with the VA but with other governmental agencies and entities as well. With contracts already difficult to find, especially in rural areas, such a restriction can stiltify further growth in the program.

Another problem currently facing the CWT programs is the interpretation by the general counsel's office that the language in section 618(c)(1) prohibits expenditures from the revolving fund for the expenses of travel for purposes of training program personnel at local sites. Given the constraints on and demands for DM&S travel moneys, such an interpretation results in little or no travel for CWT personnel for purposes of conducting onsite training programs for local personnel. The expansion of the CWT program to new sites is thus severely hampered.

To remove these restrictions and aid in the growth of CWT programs, section 212 of this bill would allow the CWT programs to contract with any private or governmental entities, including the VA. This section would also authorize the revolving fund moneys to be used for defraying the costs of travel and related expenses necessary to train employees to administer services under section 618(b).

STATE HOME CONSTRUCTION GRANTS

Mr. President, the VA participates in two separate programs of assistance to State veterans' home hospital, nursing home, and domiciliary facilities: First, a program, under subchapter V of chapter 17 of title 38, of per diem payments for care provided to eligible veterans, and second, a program, under subchapter III of chapter 81 of title 38, of matching grants for the construction, remodeling, or renovation of State home facilities. Second, 213 of our bill would extend for 3 years, through September 30, 1992, the authorization to appropriate such sums as are necessary to carry out the construction grant program.

Currently, a total of 36 States operate 57 State homes with a total of 18,981 beds providing hospital—689 beds, nursing home—11,580 beds, and domiciliary—6,712 beds—care. For fiscal year 1988, $42 million was appropriated for the State home construction program and the VA obligated $39.7 million and paid out $35.6 million. As of September 30, 1988, there was a nearly $165 million backlog of eligible preapproved projects. For fiscal year 1989, $42 million was appropriated and it is estimated that obligations will total $45.3 million and outlays will approach $36.9 million. The administration has requested $42 million for this program for fiscal year 1990.

I strongly support the State Home Program and its cointinuation as an important link in meeting the needs of our aging veteran population, and I believe that continuing the authorization of appropriation for this program is fully warranted in light of its importance in the overall effort to meet the health care needs of the aging veteran population. I note that last year a similar provision, extending the authorization of appropriations for the construction grant program for 3 years, though fiscal year 1992, was favorably reported by our committee as section 614 of S. 2011 and were passed by the Senate in H.R. 4741 on October 18, 1988. Although there was no disagreement on the House's part regard-

ing the concept of extending this program, this provision—like the medical facilities sharing provision I discussed earlier—was dropped when the House and Senate Veterans' Affairs Committees could not agree on unrelated health care matters.

PILOT PROGRAMS FOR PROVIDING VETERANS WITH ASSISTIVE ANIMALS

Mr. President, section 214 of this bill would establish a pilot program in the VA to provide assistive monkeys to certain quadriplegic veterans. Under the program, the VA would be required to: First, provide such a monkey to not more than 20 veterans who are either entitled to compensation by reason of quadriplegia or have service-connected disabilities rated 50 percent or more disabling and are quadriplegic; and second, to facilitate—through information and matching efforts—the provision of monkeys to not more than 20 other veterans with quadriplegia when funding for the purchase of the animals comes from a source other than the VA. Priority for the provision of the monkeys, and for the facilitation of their provision, would be required to be given to veterans with service-connected quadriplegia.

Additionally, this measure would require the Administrator of Veterans' Affairs to evaluate the pilot program and submit to the two Committees on Veterans' Affairs a report on the evaluation, including the benefits to veterans of being provided with monkeys under this program, the costs and cost effectiveness of providing monkeys to veterans who are quadriplegic, the views of the Administrator on the relationship between the provision of a monkey to a veteran and the payment to a veteran of an aid and attendance allowance in conjunction with the veterans' service-connected disability compensation or nonservice connected disability pension, and any recommnedations that the Administrator considers appropriate regarding whether to extend the pilot program or to make the authority permanent.

The bill, in section 215, would also provide for the establishment of a similar pilot program for the provision of signal dogs—dogs specially trained to help deaf individuals overcome their hearing impairment by alerting them through nonaural means to sounds such as a telephone, fire alarm, doorbell, or child's cry—if the Administrator determines that there is no authority otherwise to provide them. Up to this point, very few veterans have applied for signal dogs, and the authority to provide them seems to be unclear.

Background. On August 1, 1988, the committee reported S. 2011—Report No. 100-439—which contained an identical provision—section 615, pages 146-149—derived from S. 2207 and S. 2511, to the provision being introduced today. Although the Senate passed the provisions of S. 2011 by a voice vote on October 18, 1988, as a subsitute amendment for the House-passed H.R. 4741, this provision was not acceptable to the House of Representatives, and was not enacted into law. I continue to believe this pilot program is a worthwhile and innovative way to help improve the quality of life for those veterans with high level quadriplegia.

Clearly, the use of assistive monkeys is novel and a number of questions exist as to the extent to which and conditions under which they should be provided by the VA. Hence, I believe that it would be best to gain some experience with the use of assistive monkeys in the context of a pilot program before seeking to resolve these questions in permanent legislation. These issues include, but are not limited to: The actual benefits to be gained by the use of a monkey; the demand by veterans for monkeys; the ability of Helping Hands—the only organization which, under the dedicated guidance of Dr. M.J. Willard, trains and provides the monkeys—to provide the monkeys in the quantity needed to meet that demand; the effect, if any, that the provision of monkeys should have on aid and attendance allowances; the ability of Helping Hands to train the number of veterans interested in the program to handle the monkeys; the arrangements that need to be made for the care of the monkeys when the veteran is hospitalized; and the best method for handling a situation in which the placement of the monkey did not work out, from either the veterans' or from Helping Hands' point of view.

In these times of severe budget constraints, I believe it is also very important to consider the cost effectiveness of any new benefit. Each monkey is estimated to cost between $11,700 and $21,000 from birth through training to placement. If the assistance provided by a monkey proves enriching to a veteran's life in the manner in which it is anticipated it will, the benefits could be well worth the cost. Before making an open ended commitment of scarce resources to this innovative program, however, I believe further information is needed.

Assistant Monkeys Pilot Program. In order to get an accurate evaluation of the program within the limits of the supply of monkeys—approximately 7 in the next 4 months with another 12 to 14 in the following year, and to assess the proper eligibility requirements for such a benefit, this pilot program would direct the VA, beginning on October 1, to provide monkeys to not more than 20 veterans whose quadriplegia is service connected or who have service-connected disabilities rated at 50 percent or more and who are quadriplegic. These criteria acknowledge the VA health care system's special obligation—as recognized most recently in section 101 of Public Law 100-322 requiring the VA to furnish these veterans with comprehensive outpatient care—to veterans receiving care for service-connected disabilities and those with service-connected disabilities that are 50 percent or more disabling. In addition, the program would require the VA to facilitate the provision of assistive monkeys to not more than 20 non-service-connected veterans with quadriplegia. These additional features would provide the opportunity for a broader evaluation of the benefits and costs of these monkeys.

Signal Dogs Pilot Program. There continues to be some conflict as to whether the VA currently has the authority to provide signal dogs to either service connected or non-service-connected hearing impaired veterans. In August 1967, the general counsel issued an opinion which seems to support the view that the VA has authority to provide signal dogs to both categories of hearing impaired veterans. In more recent opinions, however, the general counsel has taken the position, specifically with regard to assistive monkeys and dogs which provide primarily companionship, that the VA does not currently have such authority to provide any assistive animals other than the authority in section 614(b) of title 38 to provide guide dogs for blind veterans entitled to service-connected disability compensation. Although the general counsel advised me in the spring of 1988 that a thorough review of this conflict is under way, to date, no consistent policy on this matter has been adopted. Therefore, I have included in section 215 of this bill a provision to ensure that, if the general counsel determines that the VA does not have the authority to provide signal dogs to either service-connected or non-service-connected hearing impaired veterans, a pilot program, similar to the one for assistive monkeys, will be undertaken to study the benefits of providing signal dogs.

Witnesses at the committee's June 16, 1988 hearing testified in general support of programs to provide disabled veterans with assistive animals. The VA endorses the concept of a pilot program for providing monkeys but would prefer this authority to be discretionary rather than mandatory.

SECURITY AT VA MEDICAL CENTERS

Mr. President, section 221 of S. 13 deals with the organizational alignment and the operation of the Security Service in the VA's Department of Medicine and Surgery [DM&S] which will become the Veterans Health Services and Research Administration [VHS&RA] when the VA becomes the Department of Veterans Affairs on March 15 under Public Law 100-527.

The DM&S Security Service is responsible for an important function in the 172 VA medical centers across the country. Protection of both the patients and the staff by VA police officers is vital to the ability of these facilities to furnish high quality care to our Nation's veterans in a safe environment.

Mr. President, the hiring practices of VA police officers by VA medical center officials, the training of VA police officers, and the extent to which VA police officers can protect themselves on the job have come under intense scrutiny and criticism in recent months. The VA inspector general's September 30, 1988, report entitled "Audit of Hiring Practices for VA Police Officers" found that 57 percent of VA police officers surveyed were either unqualified, unsuited, or both, for their current positions, including 21 police officers who did not disclose prior criminal conviction on their applications for VA employment. The report included recommendations for improving preemployment screening of police officer applicants, for making a special suitability review of all police officers currently on duty, and for designating police officer positions as noncritical sensitive instead of nonsensitive.

The media have also reported hiring problems at VA medical centers including articles by Jack Anderson and Dale Van Atta in the Washington Post on June 13, 1988, entitled "VA Hiring Ex-Cons as Police Officers," and October 21, 1988, entitled "Criminals Turn Up on VA Police Force." In addition, a November 15, 1988, Jack Anderson and Joseph Spear Washington Post article, entitled "Unarmed VA Guards Easy Marks," spoke to the tragic death of a police officer in the Bronx VAMC when he tried to stop two youths from entering the medical center who had triggered a metal detector. The youths were never apprehended.

Mr. President, upon reviewing the VAIG report and becoming aware of the media articles on the VA police force, on December 6, 1988, I wrote to VA Administrator Thomas Turnage raising a number of concerns and questions that I have relative to the security of patients and staff at VA medical centers. Administrator Turnage responded to these concerns in a letter to me dated January 9, 1989.

Mr. President, I ask unanimous consent that copies of those letters be printed in the RECORD at the conclusion of my remarks.

The need for a higher quality VA police force has been illustrated in numerous incidents of vandalism, general disturbances, forced entries, assaults, and robberies at VA medical centers in fiscal year 1988. These offenses resulted in almost $7.7 million in damage.

Mr. President, section 221 is a step toward resolving some of the serious problems facing the Security Service. First, the bill would assign to the Assistant Secretary who, under section 4(b)(4) of Public Law 100-527, is to handle management, productivity, and logistic support functions responsibility for the functional and technical supervision of the performance of security and law enforcement functions in the VA. Although the problems that I have noted occurred only in health care facilities, the Assistant Secretary would have departmentwide responsibilities under our bill for matters involving physical security. This provision would—in effect—organizationally relocate the Security Service in VA's Central Office by moving it from the VHS&RA to an Assistant Secretary. Under this realignment, the Assistant Secretary responsible for management, productivity, and logistic support functions would also be responsible for the functional and technical supervision of VA police activities while the medical center directors would continue to provide day-to-day supervision of police officers at their facilities. A precedent already exists for this type of organizational arrangement and delineation of duties in that the VA's Office of Facilities provides technical and policy supervision of the Facility Engineering Service at VAMC's. In addition, the fiscal service and supply service at VAMC's receive their technical and policy supervision from the Director of the Office of Budget and Finance and the Associate Deputy Administrator for Logistics, respectively. This approach has worked adequately for the fiscal and supply/procurement functions for several years by focusing the efforts of the Chief Medical Director on policy issues most directly related to the furnishing of health care services. I believe it can work effectively for the security function as well.

Although the VA has developed a plan for implementing the recommendations in the September 30, 1988, audit by the IG, I believe that the findings of the IG may be symptomatic of larger problems in the VA police force which may or may not be related to the recent hiring problems. Thus, the second aspect of this provision would require a report from the new Secretary of Veterans' Affairs within 90 days after enactment of this legislation containing, first, his plan for upgrading VA police officer training, recruitment, and salaries; second, an assessment of the need for establishing a policy to allow police officers serving at medical centers in high crime areas to carry weapons to protect themselves in carrying out their duties; and, third, an assessment of the feasibility of reducing police officer services in medical centers with no significant security problems in order to expand such services in centers with greater such problems.

Mr. President, although there certainly are policies and practices which need to be reviewed and corrected in the VA police force, there are also over a thousand dedicated VA police officers who work in high crime, often dangerous areas every day to make the VA medical system safe for patients and staff. The members of this force often work for less money than others in comparable jobs and I applaud their efforts on behalf of our Nation's veterans.

SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

Expansion of sharing authority. Mr. President, subchapter IV of chapter 81 of title 38, relating to the sharing of medical facilities and information, was enacted in 1966 by Public Law 89-785 for the purpose, in part, of improving the care furnished to veterans. To do so, it authorized the VA to enter into agreements with medical schools, hospitals, and research centers under which the VA could receive from or share with these facilities specialized medical resources which might otherwise not be feasibly available or effectively utilized for veterans or others. Specifically, under section 5053(a) as enacted in 1966 VA "hospitals" could enter into arrangements with "other hospitals (or other medical installations having hospital facilities) or medical schools or clinics for mutual use or exchange of use of (a) a non-VA specialized medical resource when the arrangement would obviate the need for the VA to acquire that kind of resource, or (b) VA specialized medical resources which are justified on the basis of veterans' care but which are not utilized to their maximum effective capacity." Later, in 1979, legislation which I authored, in section 304 of Public Law 96-151, expanded this authority to include sharing arrangements with organ banks, blood banks, or similar institutions.

In 1983, Medicare's prospective payment system was enacted in Public Law 98-21. The literature suggests that a direct result of this legislation was to change the way medicine is practiced so that many specialized medical procedures which formerly were performed only in hospitals were moved to outpatient facilities or facilities which had in the past provided less intensive care than hospitals. Our current health care environment has spawned a variety of entities furnishing community health care and it is sometimes difficult to label or categorize them. I believe that if the VA is to be able to take full advantage of sharing arrangements it must have the flexibility to enter into agreements with these new entities or entities which already exist but are providing a different level of care than in the past.

Therefore, section 222 of the bill would expand the categories of facilities with which the VA could enter into sharing arrangements so as to encompass any health care facility.

Rates of Payment. Current law, section 5053(b) of title 38, requires that these sharing arrangements provide for "reciprocal reimbursement based on a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment." Contrasted with this strict full cost reimbursement approach, section 5011 of title 38 provides that sharing agreements between the VA and the Department of Defense [DOD] are to allow reimbursement to be based upon a mutually agreed upon methodology that provides appropriate flexibility to the heads of the facilities concerned and to take into account local conditions and the needs and actual costs of the health care resources provided. For this purpose, the VA defines actual cost as including the cost of communications, utilities, services, supplies, salaries, depreciation, and related expenses connected with providing the resource. However, encouragement is given to exclude equipment depreciation from the reimbursement rate. Additionally, heads of VA and DOD medical facilities may negotiate a rate that is less than actual cost.

The General Accounting Office [GAO] Report, GAO/HRD-88-51, dated March 1988 entitled "VA/DOD Health Care—Further Opportunities to Increase the Sharing of Medical Resources," stated that several directors at VA facilities were unaware of the less restrictive section 5011 provision for taking actual costs into account and, instead, when negotiating with DOD utilized the measure described in section 5053(b) which requires full cost reimbursement. The GAO concluded that this misuse of the full cost requirement set forth in section 5053(b) created a disincentive to sharing between the two agencies where the amount of the full cost of the services is greater than the price at which the same services may be obtained in the community.

It is reasonable to conclude that a similar impediment exists with respect to sharing between VA and private sector facilities. The purpose of entering into sharing arrangements is to strengthen and improve VA care, and thus ensure adequate and complete health care for veterans, and to provide for fully effective utilization of specialized medical resources, under direct VA control, when veterans' immediate needs do not require maximum utilization. I believe that providing the Administrator with the authority to enter into agreements with private sector facilities based upon mutually agreed upon methodologies which take into account local conditions and the needs and the actual costs to the providing agency's facility of the resources being provided, as required in section 5011, would help to ensure that the stated intent of this title 38 measure could be more fully realized. In addition, requiring the money to be returned to the VA facility involved in the sharing would strengthen that facility's ability to provide health care to veteran patients. Section 222 of the bill we are introducing would make these two changes.

I note that this provision is the same as section 7 of S. 2462, legislation which I authored last year and our committee favorably reported in section 613 of S. 2011 and the Senate passed on October 18, 1988, in H.R. 4741. Unfortunately, although there was no disagreement about this particular provision, it was not included at the time of final passage. Matters pertaining to sharing agreements, as well as most other health care provisions in H.R. 4741 were dropped as a result of differences between the House and Senate Committees on Veterans' Affairs over unrelated health care items.

I am hopeful that we will be able to overcome this obstacle this year and enacted this useful, cost-effective provision.

LABOR-MANAGEMENT RELATIONS

Mr. President, sections 223 and 224 of the bill would address matters concerning labor-management relations involving the VA and those VA health care employees—principally physicians, dentists, and nurses—who are employed under the VA's title 38 personnel system. Specifically, these sections would, first, ensure that title 38 employees are afforded the same labor-management rights as other government employees currently enjoy under chapter 71 of title 5, United States Code, and, second, recognize the professional nature of those employees by creating a hybrid procedure for resolving specified lesser disciplinary actions and grievances involved title 38 employees.

BACKGROUND

During the committee's May 21, 1987, hearing on various measures dealing with the VA health care system and in subsequent activity both in followup to that hearing and in connection with the committee's April 28, 1988, hearing, the committee heard from a variety of sources about problems in the VA's personnel system as it relates to title 38 employees.

Specifically, both the agency and witnesses representing employee groups raised concerns about the current procedures under section 4110 of title 38—the provision under which disciplinary actions involving title 38 employees are carried out, the fairness and timeliness of the overall title 38 personnel system—especially in contrast to the system under title 5 which applies to other Federal employees, including other VA employees not covered by the title 38 system—and the ongoing, costly, and time-consuming litigation over issues relating to the relationship between title 5 and title 38 provisions.

As was discussed in detail in the committee's report accompanying two bills reported by our committee and considered by the Senate in the last Congress—S. 9 (S. Rept. 100-215, pages 145-150) and S. 2011 (S. Rept. 100-439, pages 164-167)—the key issue underlying this matter is the relationship between the VA personnel system under title 38 and the general civil service system under title 5.

When the VA's Department of Medicine and Surgery was established in 1946, the Congress created the separate VA personnel system, distinct from the general civil service system, in order to provide the VA with greater flexibility in recruiting and employing health care professionals. It was the view at that time that the civil service system was too cumbersome to permit the timely hiring that was felt to be necessary in order to enable the VA to meet the health care needs of the returning World War II veterans and also that the other attributes of the civil service system were not compatible with running a large health care organization. The elements of this system, which are set out in chapter 73 of title 38, United States Code, and in regulations and guidelines issued by the VA, have generally served the purpose of enabling the VA to employ needed health care professionals to operate the agency's health care system.

Among the areas addressed in chapter 73 are those relating to employer/employee relations, such as those involving terms and conditions of employment—including how employee grievances over such terms and conditions are resolved—and disciplinary procedures. Specifically, current section 4108(a) gives the head of the VA exclusive authority over the conditions of employment of title 38 personnel "[n]otwithstanding any law, Executive order, or regulation," and current section 4110 sets out the process by which disciplinary actions involving title 38 employees are to be conducted.

Many of these provisions date back to 1946 and, although there have been many significant changes in employee relations in the intervening years—most especially, the enactment in 1978 of the Civil Service Reform Act [CSRA], Public Law 95-454—VA authorities and practices have remained largely unchanged.

Meanwhile in the 1978 CSRA, other Federal employees gained significant new rights to negotiate with regard to terms and conditions of their employ-

ment and to utilize new methods to resolve grievances, including negotiated grievance procedures and binding arbitration. Title 38 employees, by way of contrast, remain limited by section 4108 to whatever rights the head of the VA is willing to accord to them and have been unable to negotiate grievance procedures comparable to those available to other Federal employees. Likewise, under section 4110, all disciplinary actions involving title 38 employees, however minor, must be heard by a disciplinary board of 3 to 5 employees, a trail-like adversarial process that frequently takes many months to reach a resolution and from which the only appeal available is an internal VA action, with no recourse to outside judgment except in a court action. Civil Service employees, on the other hand, have various methods for contesting disciplinary actions, both within and outside of their particular agencies.

As is described in detail in the committee report accompanying S. 9, challenges have been brought in recent years, including by the American Federation of Government Employees [AFGE] and the National Federation of Federal Employees [NFFE], to the legality, in light of the enactment of CSRA, of certain attributes of the title 38 separate VA personnel system, particularly to those relating to the resolution of employee grievances and disciplinary actions. These challenges have been based on the theory that CSRA established governmentwide procedures in the area of labor-management relations and, in so doing, superceded VA specific laws. Although this legal theory was accepted in some cases before the Federal Labor Relations Authority [FLRA] involving VA disciplinary procedures in which the FLRA ruled that the VA was obligated to adhere to CSRA procedures, these results were reversed on appeal to Federal appellate courts.

Last July, the U.S. Court of Appeals for the D.C. Circuit, in the case *Colorado Nurses Association and VA Medical Center, Ft. Lyon, Colorado* v. *Federal Labor Relations Authority*, 851 F.2d 1486 (D.C. Cir. 1988), reversed a prior decision of the FLRA which held that the VA has a duty under the CSRA to bargain over conditions of employment for title 38 employees. The court ruled that the VA Administrator has exclusive discretion to establish regulations concerning the working conditions of those employees appointed under the title 38 personnel system and is, therefore, not under any obligation to bargain with such employees based on the CSRA.

In response to the concerns raised at the 1987 hearing and in followup activity, the committee reported and the Senate passed section 324 of S. 9. Despite the good intentions of all those involved in that effort, it was not possible to develop an approach that was satisfactory to the VA and to the employee organizations, and ultimately the decision was made, in conferring with the House, not to include any provisions on this subject in the legislation that ultimately was enacted as Public Law 100-322. However, because the committee remained interested in trying to resolve the problems that were identified in 1987 in the current DM&S disciplinary and grievance processes and procedures relating to title 38 employees, on August 1, 1988, the committee again voted its support for these provisions, as set forth in section 627 of S. 2011. Then, following the court's decision in *Colorado Nurses*, I proposed, and the Senate adopted, a provision which would have maintained the status quo while parties negotiated a permanent resolution of the issues involved. Unfortunately, neither of these provisions was included in the legislation that ultimately was enacted as Public Law 100-687.

The effort to develop the provisions in the Senate-passed measures in 1987, 1988, and again in this bill, which have included significant consultation with many concerned parties, has been carried out with two fundamental, and sometimes conflicting, principles in mind. These are, first, the separate title 38 personnel system for DM&S generally serves a valid and valuable purpose of permitting the VA to staff and manage a very large, complex, health care system and, as such, should be maintained; and, second, as the Congress recognized with the enactment of the CSRA, there can and should generally be significant opportunity for employees to have disciplinary actions and grievances related to their employment resolved in a timely fashion with an opportunity for outside review.

Need for provisions. The need for these provisions is essentially twofold—to ensure that title 38 employees are afforded the same fundamental rights as other Government employees in terms of their employee-management relations, while protecting the special professional nature of title 38 employees, and to provide the VA with an important tool in its ongoing efforts to recruit and retain qualified health care personnel.

Since the time when the current system was developed, the types of personnel procedures set forth in title 5 have become the norm in labor-management relations. In fact, until the Colorado Nurses decision, the VA generally opted to follow those procedures. However, reports of abandoning those procedures, which the VA can do in its discretion under the current law as construed in Colorado Nurses, are beginning to surface. To continue to apply or abandon title 5 personnel procedures solely at the discretion of the VA, not only deprives those employees of fundamental rights guaranteed to other Federal employees but also unnecessarily exacerbates the already difficult recruitment and retention problems facing the VA.

General personnel procedures and disciplinary actions. Sections 223 and 224 of this bill would make chapter 71 of title 5 applicable to the head of the VA's authority under section 4108, except with respect to the prohibitions set out in paragraphs (1) through (6) of subsection (a) of section 4108, which pertain to potential conflict-of-interest situations arising in the context of health care, and section 4110 which would be amended to set forth a title 38-specific process for resolving lesser disciplinary matters involving title 38 employees who are members of a recognized bargaining unit.

As I noted, section 223 of the bill recognizes the changes in labor-management relations since the time current law was enacted. While following the basic construct of title 5 grievance procedures, this section also protects and preserves the uniqueness of the title 38 system where it is most necessary—where the quality of care may be at issue.

Section 224 of the bill would amend section 4110 of title 38 so as to remove from the coverage of that section disciplinary actions involving lesser proposed penalties—specified as suspension for 14 days or less, reassignment or reduction in rank without a reduction in basic pay, reprimand, or admonishment. All other disciplinary actions would remain covered by the current section 4110 process.

This approach, of specifying those matters which would be excluded from coverage, was adopted so as to be clear that any matters not specified would remain covered by sections 4108 and 4110. For example, because of the current VA practice of treating any proposal to remove a title 38 employee's clinical privileges as the same as a proposed removal, under the bill current 4110 procedures would continue to apply in such cases.

For the disciplinary matters specified in this provision which involve lesser proposed penalties, this section would provide that a title 38 employee would be entitled, in lieu of a 4110 proceeding, to a process which would include: First, advance written notice which sets forth the specific reasons for the proposed action; second, a reasonable time to answer the notice, either in writing or orally, including time to furnish affidavits and other documentary evidence in support of the answer; third, a chance to be represented by an attorney or some other representative; and fourth, a written decision, which would include the reasons for the decision, at the earliest practicable time. These procedures are generally the same as are provided,

pursuant to section 7503(b) of title 5, to all title 5 employees in such disciplinary proceedings.

This section also would provide two methods by which title 38 employees—depending on whether they belong to recognized bargaining units or not—could gain a review of a decision on such a specified lesser disciplinary matter or of a decision on a grievance. These methods, which are parallel to the procedures available to title 5 employees, are either, in the case of title 38 employees who are not members of bargaining units, an agency review procedure established by the head of the VA or, for those employees who are members of such a unit, a negotiated grievance procedure which would include binding arbitration. In any disciplinary case involving binding arbitration, if the subject matter of the disciplinary action involved a question of the employee's clinical competence, as determined by either party, the person selected under the negotiated agreement to arbitrate the case would have to be qualified as an arbitrator and also be qualified as a physician, dentist, nurse, or otherwise qualified, by specialized experience or training or both, in examining and adjudicating health care issues. Appeals from an arbitrator's decision would be authorized to be taken to the Federal Labor Relations Authority.

This provision also specifies that any agency review procedure established by the head of the VA with respect to proposed disciplinary actions and grievance resolution regarding title 38 employees who are not covered by collective bargaining agreements would have to include: First, an informal review of the decision on the disciplinary action by a VA official of a higher level than the official who made the original decision and a prompt decision following that review; second, a right to have the matter reviewed further by an impartial examiner from within the VA who would have to submit a prompt report of findings and recommendations; and third, a prompt review of those finding and recommendations, as well as any comments the employee or the agency or both wishes to make on the findings and recommendations, by an agency official at a higher level than the one who carried out the first informal review. These procedures are generally similar to ones currently provided by the VA through internal agency guidelines.

Mr. President, it is my hope that these changes in labor-management relations involving the VA and its critical title 38 health-care personnel will serve to improve the overall work environment in the VA health-care system and make the VA an attractive employment option for health-care personnel.

TASK FORCE RECOMMENDATIONS TO ELIMINATE INCONSISTENCIES IN CERTAIN LAWS REGARDING HEALTH CARE BENEFITS

Mr. President, as I discussed in my March 23, 1988, floor statement on S. 2011, beginning on page S2904 of the RECORD, current law contains a puzzling array of variations among the circumstances in which the VA may provide veterans with various types of medical and assistive devices and related services. From my review of those provisions—including sections 601(6), 612, 614, 617, and 619 of title 38, United States Code, it has become apparent to me that they have grown like Topsy—each provision adding an important piece to the legislative scheme, but, as a whole, lacking both clarity and a consistent conceptual basis.

For example, under section 614(b) of title 38, the VA may provide to veterans who are entitled to service-connected disability compensation seeing-eye or guide dogs and mechanical or electronic equipment to help veterans overcome the handicap of blindness. To be eligible for the dog and such equipment under this provision, the veteran's blindness need not be service-connected; the requirement is only that the veteran have any service-connected disability as long as it is compensable.

Does the phrase "entitled to" cover situations where the veteran is not actually receiving compensation but is qualified to do so? Apparently so.

Section 612(a)(2) authorizes the VA, as part of the veteran's care, to furnish to any veteran who is receiving outpatient treatment needed for a service-connected disability, or a veteran having a service-connected disability rated at 50 percent or more who is receiving outpatient treatment needed for a non-service-connected disability, home improvements costing up to $2,500 that are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory or sanitary facilities. Section 612(f)(2) authorized the VA to furnish to certain other veterans, as part of outpatient treatment they are receiving from the VA for non-service-connected disabilities in follow-up to hospital care or to obviate the need for hospital care, the same type of home improvements, subject to a $600 limit.

Under section 617(a), the VA may provide "an invalid lift * * *, if medically indicated," in the homes of certain veterans, apparently without regard to whether they are receiving VA care, but subject to certain conditions not required under section 612 (a)(2) or (f)(2), that is, the veteran must be receiving either VA service-connected disability at the special rates provided for totally disabled veterans with certain specific severe disabilities—which are not required to be related to the need for the lift—or needs-based VA non-service-connected-disability pension by reason of being in need of regular aid and attendance. Pension, unlike compensation, is payable only to veterans who served during a period of war.

Section 617(a) also authorizes the VA to furnish to veterans receiving compensation at those special rates or receiving pension by reason of need for aid and attendance any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies—excluding medicines—if medically indicated. Again there is no express requirements that the veteran be receiving VA care. This broad description of the assistance which may be furnished would seem to overlap with much of the home-improvements authority in sections 612 (a)(2) and (f)(2) and with section 614(b)'s mechanical or electronic equipment authority and possibly with the specific invalid lift authority itself.

After the VA ruled—rather incomprehensibly to me in view of the broad section 617(a) authority—that these and other authorities generally did not include the authority to provide telecaptioning television decoders to hearing-impaired veterans, Congress enacted section 617(b) to authorize the VA to provide a decoder to a "veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment." As to this authority, the service-connected impairment need not be the cause of the veteran's profound deafness as long as the hearing impairment is compensable.

I would also note that section 601(6) defines "medical services" to include not only medical examination, treatment, and rehabilitative services, but also to include such items as "wheelchairs, artificial limbs, trusses, and similar appliances * * * and such other supplies or services as the Administrator determines to be reasonable and necessary." This is the term used in section 6121 (a)(1) and (f)(1) to denote the services which the VA is authorized to provide on an outpatient basis, if they are needed, under section 612(a)(1), or reasonably necessary, under section 612(f)(1). The term "medical services" is also included in the definition of the term "hospital care" in section 601(5). Thus, all veterans who are entitled to or eligible for and receiving VA hospital care or outpatient treatment are entitled to or eligible for "reasonable and necessary supplies and services," and there is no clear line in the law to distinguish, for example, the supplies available under sections 601(6) and 612 (a) and (f) and those available—as well as equipment and devices—under section 617(a), except that the term "supplies" under section 617(a) does not include "medicines."

The above discussion raises numerous questions regarding the eligibility criteria for these medical or disability-related items, including the reasoning that supports the variations in the conditions of eligibility, such as the need for the item to ameliorate a service-connected disability; the existence of any service-connected disability; the existence of a service-connected hearing disability for purposes of eligibility for a telecaptioning decoder; the existence of a service-connected disability, not necessarily related to vision, for purposes of eligibility for a seeing-eye dog; the relevance of wartime service only in the case of veterans with non-service-connected disabilities; the receipt of, as opposed to entitlement to, compensation; and whether the assistance in question is medically indicated, needed, or reasonably necessary.

In the same vein, there are troublesome questions about the meaning and relationship of a variety of different terms in these sections such as "artificial limbs, trusses, and similar appliances," "supplies," "prosthetic appliances," "mechanical or electronic equipment," "therapeutic or rehabilitative device," "other medical equipment and supplies," and "devices for assisting in overcoming * * * deafness."

I would emphasize that the foregoing are just a few of the issues raised by the sections that I have discussed. The universe of questions is far greater. Moreover, there are many related questions as to how the VA has utilized these discretionary authorities, whatever they may mean.

Accordingly, I believe a task force is needed to review these provisions of law and how they have been implemented, and to recommend policies and legislation for the elimination of the inconsistencies. Section 225 of this bill would require the Secretary of Veterans' Affairs to establish such a task force, consisting of VA employees, including representatives of the Veterans Health Services and Research Administration, the Veterans' Benefits Administration, and the Office of the General Counsel. The task force would submit a report to the Secretary containing a description of the inconsistencies identified in the law and its implementation, the policies and legislative proposals it is recommending, and the reasons for each recommendation. The Secretary would then review the report and either approve the recommendations or prepare alternative suggestions. Within 180 days after the date of enactment, the Secretary would be required to submit the report, along with his or her recommendations and an explanation for any differences between the two, to the Senate and House Veterans' Affairs Committees.

RECRUITMENT AND RETENTION OF VA HEALTH-CARE PROFESSIONALS

Mr. President, I want to inform my colleagues that later in this session I intend to introduce a comprehensive measure which will be designed to assist the VA in its ongoing efforts to recruit and retain qualified health-care professionals, including physicians.

For some time now, the VA has been experiencing difficulties with recruiting and retaining registered nurses, physical therapists, pharmacists, and other employees involved in direct patient care. The VA is not alone in this situation. According to preliminary results of the American Hospital Association's 1988 Human Resources Survey in which over 3,000 hospitals participated, 48 percent of responding hospitals had difficulty recruiting physical therapists, 31 percent had difficulty recruiting pharmacists, 25 percent had problems attracting radiologic technicians, 22 percent had difficulties attracting medical technicians, and 7 percent had problems recruiting respiratory therapists. This is in addition to 88 percent of those hospitals who reported difficulties in recruiting registered nurses, and 85 percent who stated they were having problems retaining their nurses.

In 1987, I introduced S. 1195 to assist the VA in overcoming the difficulties it was experiencing in obtaining qualified health-care workers. These provisions, including expansion of the VA's scholarship program, tuition reimbursement, and payment of Saturday premium pay, were favorably reported by our committee, passed by the Senate in S. 9, and enacted on May 20, 1988, as part of Public Law 100-322.

In 1988, I introduced S. 2462 with many other provisions designed to increase the competitive advantage of the VA health-care system. These provisions, including ones to carry out a pilot program designed to test recruitment and retention methods, authorize appropriations to encourage post-secondary schools offering health-care training courses to expand and improve their programs, and expeditiously appoint VA-trained graduates to positions in the VA, were incorporated into S. 2011 when favorably reported by our committee and later passed by the Senate as an amendment in the nature of a substitute for H.R. 4741, on October 18, 1988—CONGRESSIONAL RECORD, S16524. Unfortunately our committee reached a stalemate over the issue of the inclusion of a House measure which would have mandated special pay for nurses at an estimated cost of between $70 and $100 million per year, and, as a result, those recruitment and retention provisions included in S. 2011 were not included in the legislation which was enacted as Public Law 100-687. Although I am in favor of increased salaries for nurses I could not support such a measure at a time when the VA was faced with a $635 million budget shortfall.

Mr. President, as I indicated at the time of Senate consideration of those measures which were enacted as Public Law 100-687, I will continue to make recruitment and retention of health-care professionals within the VA a priority for the Committee on Veterans' Affairs. I am currently studying different approaches to the problem of inadequate nurse salaries and will shortly be proposing legislation directed at resolving this issue. Additionally, I will be including in that bill those recruitment and retention provisions previously included in S. 2011 and those included in a floor amendment adopted to S. 2011 on October 18, 1988—CONGRESSIONAL RECORD, S16558.

In addition to the need to study nurses' salaries, it appears that physician compensation in the VA may also be falling behind. According to some VA Chiefs of Staff, it is becoming more difficult to recruit and retain experienced physicians to care for veteran-patients. Although physicians who have newly completed their residency programs are less difficult to attract, there is evidence of VA difficulty in recruiting and retaining seasoned physicians. Thus, we are also carefully studying the problems associated with VA physician recruitment and retention with a view toward developing an appropriate response.

CONCLUSION

Mr. President, as I noted at the outset, the central purposes of this legislation is the provision of cost-of-living increases in certain benefits paid to veterans with service-connected disabilities, and to certain dependents and survivors of such veterans and the continued maintenance and improvement of the VA programs of benefits and services for our Nation's veterans and their dependents. I look forward to working on this measure with our committee's ranking minority member, Mr. MURKOWSKI, and the other members of the committee, with the VA, with the various veterans' service organizations, and with others interested in legislation affecting veterans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point following the insertions previously ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
October 4, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is a reply to your letter of August 17, 1988, which requested a summary of what is being done or being planned regarding the implementation of 97 recommendations incorporated in

the first three Annual Reports of the Special Committee on PTSD.

I have enclosed a white paper which will give you a complete overview of the VA's response to the Special Committee's Annual Reports. These Annual Reports contain a total of 98 recommendations, of which 83 (85 percent of all recommendations) have been or are being implemented. Of the 15 recommendations not implemented, several have been repeated so that only 11 actual recommendations have not been implemented. Five of these non-implemented recommendations are in the area of research where a significant increase in activity related to PTSD has taken place. All of the recommendations relating to the direct clinical care of veterans with PTSD have been implemented with the sole exception of the expansion of Vet Center services for veterans of other combat eras.

Thank you for the opportunity to provide this information.

Sincerely,

JOHN A. GRONVALL, M.D.,
Chief Medical Director.

VETERANS' ADMINISTRATION, DEPARTMENT OF MEDICINE AND SURGERY

STATUS OF RECOMMENDATIONS MADE BY SPECIAL COMMITTEE ON PTSD

The First Annual Report (1985) contained 32 recommendations. (It must be noted that the recommendations were numbered from 1 to 33 but this was due to a typographic error which skipped the number 26. There were two recommendations under "Resource Allocation." The first suggested the establishment of PTSD Treatment Teams in all VA Medical Centers. This has been initiated with the establishment of 15 PTSD Treatment Teams in FY 1987 and with current plans for the establishment of 10 to 12 more PTSD Treatment Teams using funds appropriated through P.L. 100-404, the 1989 Appropriations Act for HUD and Independent Agencies. It is our belief that every VA Medical Center does not require the presence of a PTSD Treatment Team. The second recommendation was that the VA establish a PTSD Treatment Unit in each of the VA's Medical Districts. This recommendation is in the process of being implemented: between Specialized Inpatient PTSD Units, PTSD Treatment Teams, and PTSD outpatient programs, there is currently at least one designated PTSD program in 20 of the VA's 27 existing Medical Districts.

Four recommendations (#3-#6) were listed under "Clinical Data Acquisition." The first recommendation in this section was that the VA establish a tracking system throughout their inpatient and outpatient care components and the second recommendation urged an accelerated timetable for the implementation of clinical software packages for the VA's automated data processing (ADP) system to facilitate tracking. Neither of these recommendations has been fully implemented. Progress has been made in inpatient data collecting capability, but it has not been fully established for outpatient care. Competing priorities have delayed the establishment of this tracking capability. Latest estimates suggest that medical record tracking capability will begin to be installed in December 1988 and be completed in September 1989. The third recommendation was that the data tracking system assess treatment outcome. While we have concurred with this recommendation, the incorporation of treatment outcome data is not a part of any existing VA data base. This is an innovative concept that is currently being stressed in pilot programs guided by Mental Health and Behavioral Sciences Service such as the Homeless Chronically Mentally Ill (HCMI) Veterans Program and the Region I Mental Health Initiatives Project. To help implement P.L. 100-494, a comprehensive evaluation of treatment provided to veterans in Specialized PTSD Inpatient Programs, in PTSD Outpatient Programs and through PTSD Treatment Teams will be developed. The fourth recommendation in this section, the one that has been fully implemented, was that an epidemiological and demographic study of veterans with PTSD being cared for by VA Medical Centers, Outpatient Clinics and Vet Centers be performed. The results of this study have been reported in the Special Committee's Third Annual Report (1987).

Three recommendations (#7-#9) were made under the heading "Improving Access to Care." Recommendation #7 was that adequate diagnosis be provided for combat veterans regardless of service-connected status, and this is being done. Recommendation #8 was that a standardized protocol be developed to identify patients at risk for PTSD, and this is in the process of implementation through DM&S Circular 10-87-52 on PTSD diagnosis as well as through the mechanism of Program Guides on the treatment of PTSD which should be published in FY 1989. The ninth recommendation was that combat veterans be assessed for PTSD regardless of priority for care as defined locally. To a significant degree, this recommendation is being implemented in the same manner as Recommendation #7 by means of continuing education for VA staff on the diagnosis and treatment of PTSD and the requirement that patients in need of care be evaluated regardless of service-connected status.

Under the heading "Diagnosis of PTSD" three recommendations (#10-#12) were made and all have been implemented. Recommendation #10, for increased guidance in diagnosis of PTSD, has been implemented by DM&S Circular 10-87-52 and by continuing PTSD education. Recommendation #11, for the development of PTSD rating scales, has been implemented and Circular 10-87-52 references several of the more popular rating scales. Recommendation #12, calling for education in psychological and physiological techniques in PTSD diagnosis, has also been carried out through training programs at the Regional, Medical District and Medical Center levels.

Under the heading "Treatment", five recommendations (#13-#17) were made, all of which are in the process of implementation. Recommendation #13 is for the development of Mental Health Program Guides for PTSD. These guides, one for PTSD Treatment in General Psychiatry and one for Specialized Inpatient PTSD Units, are being developed and should be in the field in FY 1989. The Program Guides will also satisfy Recommendation #14 which called for the development of criteria for referral of patients to specific PTSD treatment programs. Recommendation #15, was for a specific DRG or pass through status for PTSD. The Department of Medicine and Surgery (DM&S) and the VA RAM Task Force are currently reviewing a proposed revision of psychiatric DRG's which includes special provisions for PTSD. This new classification system will be pilot tested at 12 VA medical centers during FY 1989. Recommendation #16, on adequate staffing for consultation/liaison services, is being implemented through the establishment of PTSD Treatment Teams. Recommendation #17, for systematic coordination and integration of VA treatment services including Vet Center activities, is being implemented and is reinforced through continuing education.

Recommendations #18-#21 came under the heading of "Research"; two have been implemented and two have not. That PTSD research remains a high priority for the VA (Recommendation #18) is demonstrated by the increase in funding for PTSD research from 1986 to 1987; as reported in my testimony to the Senate Veterans Affairs Committee on July 14, 1988. Recommendation #19, requesting special funding for PTSD research, has not been implemented because of our policy that research projects should be funded on the basis of merit and peer review, rather than by topic. Recommendation #20, for a repeat of the 1984 workshop on PTSD research has not been implemented because of budgetary constraints. Recommendation #21, urging awareness and expertise in PTSD on the Mental Health and Behavioral Sciences Merit Review Board, has been implemented. Dr. Terence Keane, Chief of Psychology Service at VA Medical Center, Boston, Massachusetts, served on the Board for three years. He is a recognized leader in PTSD research. Dr. Patricia Sutker, Chief of Psychology Service, VA Medical Center, New Orleans, Louisiana, is also highly respected in the area of PTSD research and has recently been appointed to serve a three year term on the Mental Health and Behavioral Sciences Merit Review Board. There were five recommendations (#22-#25, #27) under "Educaton," all of which have been and continue to be implemented. Recommendation #22, urged a national approach to PTSD training. This is being insured through the PTSD Education Committee which is composed of staff from VA Central Office and the Special Committee on PTSD. Designation of PTSD as a national education focus with special funding for FY's 1985, 1986, 1987 and 1988 also reinforced implementation of this recommendation. Recommendation #23 urged assessment of the impact of PTSD education which has been done by both the Special Committee, which has documented an increase in PTSD diagnosis following PTSD education and the Office of Academic Affairs' program assessments. Recommendation #24 was for the identification of faculty for PTSD education programs which has been done and which is continuing. Recommendation #25, for central direction of PTSD education, has been realized by the PTSD Education Committee cited above. Recommendation #27 (please recall that there is no #26) suggests five target audiences for PTSD education; VA clinical and administrative staff, military personnel, community groups and students of the health professions. Some work has been done with all of these groups although the major emphasis has been on VA staff and students.

The final section of the First Annual Report, "Veterans Benefits Issues" included Recommendations #28-#33. Recommendation #28 has not only been met, it has been exceeded: the Special Committee asked for a three month survey of PTSD claims adjudication but a one year survey was carried out and reported to the Committee. A tracking system for PTSD claims (Recommendation #29) is in place. Recommendation #30 stated that adjudication boards give presumptive accuracy to a clinical diagnosis of PTSD with verification of the stressor re-

quired only in questionable cases. This recommendation has not been implemented since it is contrary to the Department of Veterans Benefits' practice requiring verification with regard to all types of disability. Recommendation #31, for joint training of adjudicators and clinicians, has been implemented as has Recommendation #32, urging adjudicators to consider all relevant clinical information in claims decisions. Recommendation #33, that a PTSD coordinator be designated at each DVB Regional Office, has also been implemented.

In summary, of the 32 recommendations of the First Annual Report, 19 have been implemented, 10 more are in the process of being implemented and three have not been implemented.

The Special Committee on PTSD's Second Annual Report (1986) contained five general recommendations, all of which have been or are being implemented. Chapter 3 of the Report included 42 recommendations on the establishment and management of Specialized Inpatient PTSD Units (SIPUs) which will be incorporated into the Program Guide for Specialized Inpatient Units (1989). Imbedded in the text of Chapters 6-10 of the report were 27 additional recommendations, many of which were similar to the recommendations of the First Annual Report.

Regarding the five general recommendations, the first two, the establishment of PTSD Treatment Teams and the development of standards and evaluation for SIPUs, are both in the process of being implemented as noted above. The standards will be published in the Program Guides and will form the basis for program evaluation of SIPUs beyond that already done for these units as part of Psychiatry Service. The last three general recommendations have all been implemented. They were: a study of numbers and demographics of patients treated for PTSD in outpatient and inpatient services (reported in the Special Committee's Third Annual Report); targeting VA medical centers perceived as having a disproportionately low frequency of diagnosing PTSD for PTSD education (implemented in 1987 and 1988); and continued monitoring of adjudication of PTSD claims.

Chapter 6, "Screening for PTSD", had two recommendations: that there be a question on the 10-10M (patient initial screening form) on combat exposure and that a positive response trigger further evaluation of the patient for combat related problems such as PTSD. These recommendations have been implemented through the inclusion of military history and combat exposure items on the computerized Medical Administration Service software package, by a circular (DM&S 10-88-22) and education on the importance and nature of the military history and by including the military history as a required item for completion in the medical record as part of VA Systematic External Review Program (SERP) surveys. Chapter 7, "Methods for Psychological Assessment of PTSD" included 8 recommendations for a basic PTSD exam and a recommendation for a brief PTSD evaluation extracted from elements of the basic exam. The 8 basic exam elements are: clinical interview, structured interview for PTSD, military history and pre-post military adjustment, mental status exam, psychometric evaluation, combat experience scale, psychophysiological assessment, information from archival records (military/medical) and information from significant others. All these recommendations have been implemented through several mechanisms including DM&S Circular 10-87-52, continuing PTSD education and planned incorporation in the Program Guides.

Chapter 8, "Research", had five recommendations. The first was a repetition of the request to maintain PTSD as a high priority for VA research. This, as noted above, has been implemented. The last four recommendations in this section have not yet been implemented pending availability of resources. These recommendations were: a repeat of the 1979 request for proposals on PTSD research; support for attendance at a mini-residency at the University of Michigan on research design; special research training for staff of the Specialized Inpatient PTSD Units; and a repeat of the Special PTSD Research Training program.

Chapter 9, "Education", had five recommendations. The first recommendation, for formal identification of faculty for VA training, was implemented, and a list was developed. In practice this list has not seen much use since the PTSD Education Committee and the local Regional Medical Education Centers (RMECs) are already aware of subject matter experts in the field. The second recommendation was not truly a "recommendation" but rather it was more a comment on allocation of training funds on PTSD for Vet Centers and other DM&S programs. Further monitoring of education and integration of medical center and vet center training activities has continued. The third recommendation repeated the need for education on PTSD for five major audiences, as listed in First Annual Report Recommendation #27. As noted above, this is being done. PTSD Treatment Teams have been particularly active in education for the community and for students. The fourth and fifth recommendations repeated the need for targeting areas with a low incidence of PTSD diagnosis for education and the need for assessment of the impact of PTSD education. Both of these recommendations have been and continue to be carried out.

Chapter 10, "Veterans Benefits", had six recommendations, four of which were implemented. The third recommendation which was not implemented, suggested that comparable data be submitted on adjudication of claims for psychiatric diagnoses other than PTSD, for purposes of comparison. This could not be done because of the workload increase such activity would impose on DVB, especially in view of staffing cuts. The sixth recommendation, that information from the adjudicators' Spring training be forwarded to the Special Committee, could not be implemented because that training had not yet taken place. PTSD was included in the agenda of the September 1987 adjudicators meeting. The four recommendations which were implemented included: continuation of the PTSD tracking system; identification of adjudication data submitted to the Special Committee by Regional Office; review of Regional Offices that appear to be high or low outliers with regard to approval/disapproval rates; and continuation of joint DM&S, DVB training on PTSD.

In summary, the Second Annual Report had all five general recommendations and 21 of the 27 chapter recommendations implemented; 6 recommendations were not implemented.

The Special Committee's Third Annual Report (1987) had 39 recommendations of which 33 have been, or are being implemented.

Under "Strategic Planning and Resource Allocation", there were two recommendations, both of which are being implemented. Recommendation #1 is that the PTSD data base represented by the Third Annual Report be used in strategic planning and PTSD resource allocation. This recommendation has been further promoted by the Special Committee's distribution of the data base to the Regional Directors in 1988. The second recommendation, to improve the consistency of PTSD treatment in the VA is being promoted by continuing VA-wide PTSD education and will be reinforced by the publication of the Program Guides.

The section on "PTSD Treatment Teams" had three recommendations (#3-#5), all of which are in the process of being implemented. Recommendation #3 urged a five year timetable for establishing PTSD Treatment Teams in all VAMCs. While we do not believe that all VAMCs require Treatment Teams, the "second wave" of 10 to 12 teams will be placed in FY 1989. Recommendation #4, on monitoring the activity and productivity of Treatment Teams is being done and continues to be enhanced. Recommendation #5, on criteria for placement of new Treatment Teams, will be met by involving the Special Committee more deeply with the site selection process for the 1989 Treatment Teams; and VA Medical Centers will be invited to submit applications for funding these PTSD Treatment Teams through an RFP process.

The section on "Special Inpatient PTSD Units" had two recommendations, (#6 and #7) which repeated the request for establishing standards of care through the Program Guides and review of funding strategies for SIPUs under the VA's Resource Allocation Methodology (RAM). As noted above, both of these recommendations are being implemented.

The "Vet Centers" section contained 13 recomendations (#8-#20), all but one of which are in implementation. The recommendations included: incorporation of Vet Centers into the DM&S organizational matrix; review of the Vet Center mission, establishment of goals and policy guidance for Readjustment Counseling Service and Vet Centers; (the new Vet Center Program Guide was published in January 1988); career appointments for Vet Center staff; productivity standards and data for Vet Centers; standards of care and quality assurance for Vet Centers; comprehensive outreach and case management; more comprehensive and sophisticated diagnosis and treatment; identification of medical problems in Vet Center clients; aggressive outreach to female and minority veterans; enhanced communication and collaboration between Vet Centers and VA Medical Centers; and increased clinical supervision and sharing of productivity data with Vet Centers. Recommendation #14, that legislative authority be sought to expand eligibility for Vet Center services to veterans of all combat eras has not been implemented. The Agency currently supports extension of this eligibility of post Vietnam era combat veterans.

The section on "Clinical Data Acquisition" had three recomendations (#21-#23). Recommendations #21 and #22, for repetition of the inpatient and outpatient PTSD survey in FY 1987, were not implemented due to the cost implications. (Further analysis of the existing PTSD data base is being performed.) Recomendation #23, urging timely completion of the National Vietnam Veterans Readjustment Study conducted by the Research Triangle Institute, has been implemented. Preliminary data from the

Study have been provided to the Agency and have been reported to Congress. The full report is expected by November 1988.

Three Recommendations (#24-#26) were made in the "Treatment" section. Recommendation #24, completion of the Program Guides on PTSD, is being implemented with completion expected in FY 1989. Recommendation #25, increased communication, coordination and combined education between VAMCs and Vet Centers, is also being implemented as an ongoing process. Recommendation #26 noted the relatively low incidence of reported PTSD in outpatient alcohol and drug programs. Exploration of this phenomenon and education on the interaction of substance abuse disorders and PTSD have been implemented.

Only one recommendation (#27) was made under "Identifying Veterans at Risk for PTSD," a repetition of the request to record combat information on "10-10M" forms. The implementation of action to meet this request has been described above.

The "Research" section had two recommendations (#28 and #29). They repeated the requests for financial incentives to priority research and the suggestion of a special request for research proposals on PTSD. Neither recommendation has been implemented for the reasons cited above, though, as also noted above, VA research on PTSD has increased significantly in recent years without these special provisions.

The "Education" section has three recommendations (#30-#32), which repeated previous recommendations. These have been implemented. The recommendations include: a national approach on PTSD education; a national faculty and updating of education materials on PTSD; and targeting of areas with low frequency of PTSD diagnosis for PTSD education.

The final section, "Veterans Benefits Issues," had seven recommendations (#33-#39), with implementation of all but one. The recommendation not implemented was #37, a repeat of the request that DVB reconsider its standards for establishing evidence of a stressor in patients whom clinicians have unequivocably diagnosed as having PTSD. The rationale for not implementing this recommendation has been noted above. The recommendations that have been implemented include: continued monitoring by DVB of the adjudication and appeals process regarding PTSD claims; continued review of approval/disapproval rates at the Regional Office level; sharing of information on Board of Veterans Appeal (BVA) actions and DVB Regional Office reviews with the Special Committee; sharing of information on errors in the adjudication process with DVB Regional Offices; awareness of the need for providing a supportive clinical environment in situations where questions to a veteran elaborating on a PTSD stressor is anticipated as being significantly distressing; and ongoing outreach to veterans suffering from PTSD.

In summary, 33 recommendations from the Third Annual Report have been or are being implemented. Of the 6 recommendations not implemented, three are repeats of prior, non-implemented recommendations.

CONTRACTUAL REPORT OF FINDINGS FROM THE NATIONAL VIETNAM VETERANS READJUSTMENT STUDY, NOVEMBER 7, 1988

VOLUME I: EXECUTIVE SUMMARY, DESCRIPTION OF FINDINGS, AND TECHNICAL APPENDICES

(By Richard A. Kulka, Ph.D., William E. Schlenger, Ph.D., John A. Fairbank, Ph.D., Richard L. Hough, Ph.D.*, B. Kathleen Jordan, Ph.D., Charles R. Marmar, M.D.**, Daniel S. Weiss, Ph.D.**, Research Triangle Institute, Research Triangle Park, NC)

EXECUTIVE SUMMARY

The Executive Summary is provided in three parts. In Part A, highlights of some major findings are provided in brief summary form. In Part B, study findings from the various chapters of the report are integrated to address directly the specific issues raised in Public Law 98-160, the enabling legislation for the National Vietnam Veterans Readjustment Study. Part C provides a chapter by chapter summary of the entire report.

A. Highlights of findings

Conducted in response to Public Law 98-160, the National Vietnam Veterans Readjustment Study (NVVRS) is the most rigorous and comprehensive study to date of the prevalence of post-traumatic stress disorder (PTSD) and other psychological problems in readjusting to civilian life among Vietnam veterans.

The sample of veterans examined in the NVVRS was broader and more inclusive than those of past studies. As a result, the descriptions of Vietnam theater and era veterans found in this report are in some ways different from, but more representative than, descriptions provided in previous research.

The majority of Vietnam theater veterans have made a successful re-entry to civilian life and currently experience few symptoms of PTSD or other readjustment problems.

Although in general, male Vietnam theater veterans do not differ greatly in their current life adjustment from their era veteran counterparts, there is some evidence that female theater veterans currently experience more readjustment problems than Vietnam era veteran women of similar age and military occupation.

NVVRS findings indicate that 15.2 percent of all male Vietnam theater veterans are current cases of PTSD. This represents about 479,000 of the estimated 3.14 million men who served in the Vietnam theater. Among Vietnam theater veteran women, current PTSD prevalence is estimated to be 8.5 percent of the approximately 7,200 women who served, or about 610 current cases. For both males and females, these rates of current PTSD for theater veterans are consistently and dramatically higher than rates for comparable Vietnam era veterans (2.5 percent male, 1.1 percent female) or civilian counterparts (1.2 percent male, 0.3 percent female).

An additional 11.1 percent of male theater veterans and 7.8 percent of female theater veterans—350,000 additional men and women—currently suffer from "partial PTSD." That is, they have clinically-significant stress reaction symptoms of insufficient intensity or breadth to qualify as full PTSD, but may still warrant professional attention.

NVVRS analyses of the lifetime prevalence of PTSD indicate that over one-third (30.6 percent) of male Vietnam theater veterans (over 960,000 men) and over one-fourth (26.9 percent) of women serving in the Vietnam theater (over 1,900 women) had the full-blown disorder at some time during their lives. Thus, about one-half of the men and one-third of the women who have ever had PTSD still have it today. These findings are consistent with the conceptualization of PTSD as a chronic, rather than acute, disorder.

NVVRS findings also indicate a strong relationship between PTSD and other postwar readjustment problems: having PTSD increases the likelihood of having other specific psychiatric disorders and a wide variety of other postwar readjustment problems. These findings confirm that, in addition to the painful symptoms of PTSD itself, the lives of Vietnam veterans with PTSD are profoundly disrupted, in that they experience problems in virtually every domain of their lives.

The prevalence of PTSD and other postwar psychological problems is significantly, and often dramatically, higher among those with high levels of exposure to combat and other war zone stressors in Vietnam, either by comparison with their Vietnam era veteran and civilian peers or with other veterans who served in the Vietnam theater and were exposed to low or moderate levels of war zone stress. This suggests a prominent role for exposure to war stress in the development of subsequent psychological problems, and confirms that those who were most heavily involved in the war are those for whom readjustment was, and continues to be, most difficult.

Among men who served in the Vietnam theater, substantial differences in current PTSD prevalence rates were also found by minority status. The current prevalence of PTSD is estimated to be 27.9 percent among Hispanics, 20.6 percent among blacks, and 13.7 percent among white/others. Analyses of several factors that may account for these differences suggested that differences between blacks and white/others may be attributed to their differing levels of exposure to war zone stress, but differences between Hispanic men and the other two groups could not be explained by this factor. More generally, the evidence suggests that black and Hispanic Vietnam theater veteran men have experienced more mental health and life adjustment problems subsequent to their service in Vietnam than white/other veterans.

Interviews conducted with the spouses or partners of Vietnam theater veterans with and without PTSD revealed that PTSD has a substantial negative impact not only on the veterans' own lives, but also on the lives of spouses, children, and others living with such veterans.

Vietnam veterans with post-war psychological problems are more likely to have sought mental health care provided by the VA than those without such problems. Such veterans have also made greater use of mental health services in general, both from the VA and from other sources (e.g., private physicians or clinics), with non-VA sources accounting for the majority of their total mental health service use. Nevertheless, very substantial proportions of Vietnam veterans with readjustment problems have never used the VA or any oher source for their mental health problems, especially during the previous 12 months.

*San Diego State University, San Diego, CA.
**Langley Porter Psychiatric Institute, University of California, San Francisco, San Francisco, CA.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, December 6, 1988.

Hon. THOMAS K. TURNAGE,
Administrator of Veterans' Affairs, Washington, DC.

DEAR TOM: I am writing in reference to the September 30, 1988, "Audit of Hiring Practices for VA Police Officers," Report Number 8R6-A99-122, conducted by the Office of Inspector General. I was shocked and dismayed at the audit's assessment of the present management of the VA's Security Service. I urge you to give the issues addressed in the audit your immediate attention in order to attempt to resolve what may become a dangerous situation relative to security at VA facilities across the country.

There are many unanswered questions that are of concern in light of the IG's report, and I would appreciate your looking into and reporting to me on the following matters:

1. The IG found that 57% of VA police officers surveyed were either unqualified, unsuited, or both for their current positions.

a. What immediate disciplinary action has been taken against the 21 police officers who did not disclose prior criminal convictions on their applications for VA employment?

b. What action has been taken regarding the IG's recommendation that the VA initiate action concerning employment histories and arrest records for all officers currently on duty and use the results of those inquiries to support removing unsuitable employees from police officer positions, and what were the results of this action?

2. What analysis, if any, has been done on the comparability of pay between VA police officers, other comparable federal, state, and local law enforcement personnel, and private sector security officers, particularly working at hospitals?

a. If such analysis has been carried out, what were the findings?

b. If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

3. What analysis, if any, has been done on the comparability of security functions between VA medical centers and private hospitals?

a. If such analysis has been carried out, what were the findings?

b. If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

4. What analysis, if any, has been done utilizing individual activity reports on security incidents from VA medical centers to determine if there is a difference between VAMCs located in predominantly rural areas as compared with those in urban locales?

a. If such analysis has been carried out, what were the findings?

b. If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

5. Would it be appropriate and desirable to transfer dollars and perhaps FTEE for police officers from medical centers with low incidence levels to medical centers with higher incidence levels so as to provide a higher salary for police officers in higher incidence areas?

6. For those medical centers in high-crime surroundings, should not serious consideration be given to the arming of VA police officers running metal detectors, and should not they and all or certain other security officers routinely be issued bullet-proof vests?

Thank you for your attention to this matter. I look forward to hearing from you at your earliest convenience.

With warm regards,
Cordially,

ALAN CRANSTON,
Chairman.

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, DC, January 9, 1989.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of December 6, 1988, concerning the report of the Veterans Administration Office of Inspector General (VAOIG), "Audit of Hiring Practices," dated September 30, 1988.

Based upon preliminary reports provided by the VAOIG early in 1988 which indicated deficiencies in VA police hiring practices, a comprehensive series of corrective actions including the development and implementation of additional policies and procedures was quickly initiated. In May 1988, all facilities were alerted to prepare requests for the Office of Personnel Management's Federal Investigations Processing Center (OPM-FIPC) to repeat National Agency Checks and Inquiries (NACIs) on all currently employed VA police officers. Following coordination with OPM and consultations with national union representatives, the repeat NACIs were initiated in August 1988. Concurrently, a VA police officer position sensitivity level review was conducted in accordance with Federal Personnel Manual procedures. The position was designated as Non-critical-Sensitive which resulted in an Agency decision requiring newly hired VA police officers to undergo a Minimum Background Investigation (MBI) after employment in lieu of the lesser scope NACI investigation.

In August 1988, a new Department of Medicine and Surgery (DM&S) policy was published prohibiting the employment of any person as a VA police officer "who was convicted of a serious crime or whose history reflects a disregard for laws and regulations, questionable character, or a pattern of misconduct or poor work habits." With the publication of this policy, the requirement that minimum background investigations be conducted on all new police hires was initiated along with uniform procedures for conducting and documenting the pre-employment screening of police applicants for verification of qualifications and suitability. The Director of the DM&S Security Service was assigned the responsibility to monitor field facilities' compliance with the VA police officer pre-employment screening requirement. This central monitorship of VA police officer applicant screening extends to the withholding of centrally issued VA police badges in any case where pre-employment screening does not meet the requirements.

I am confident that the described measures will substantially correct deficiencies in VA police officer hiring practices. An enclosed fact sheet provides additional information specific to the questions contained in your letter.

Your interest in this matter is appreciated.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

VETERANS' ADMINISTRATION, DEPARTMENT OF MEDICINE AND SURGERY, VA POLICE OFFICER EMPLOYMENT

Question 1a.—The IG found that 57% of VA police officers surveyed were either unqualified, unsuited, or both for their current positions. What immediate disciplinary action has been taken against the 21 police officers who did not disclose prior criminal convictions on their applications for VA employment?

Answer 1a. Of the 21 police officers reported by the VAOIG as not listing convictions on their applications for Federal employment, two were terminated, three resigned in lieu of proposed terminations, four resigned prior to proposed termination and two were reassigned from police officer positions to nonsensitive positions. The remaining ten cases remain under review for two reasons. First, field facilities were required to forward the Official Personnel Folders (OPFs) of all reportedly unqualified or unsuitable police officers to the VA Office of Personnel and Labor Relations (OP&LR) for examinations by personnel staff specialists and for a joint review with a VA Office of Inspector General (VAOIG) auditor in possession of the case investigative materials. Prior to the OPF transmittals, the affected field facilities had not been provided with the documentation supporting the VAOIG findings in these cases. Second, the results of the repeat National Agency Checks and Inquiries (NACIs) pertaining to these cases have not yet been received from the Office of Personnel Management Federal Investigations Processing Center (OPM-FIPC). The results of the OPM investigations are important to the suitability review and adjudication process in several of these cases.

Question 1b.—What action has been taken regarding the IG's recommendation that the VA initiate action concerning employment histories and arrest records for all officers currently on duty and use the results of these inquiries to support removing unsuitable employees from police officer positions, and what were the results of this action?

Answer 1b. Repeat National Agency Checks and Inquiries (NACIs) were initiated on all current VA police officers in August 1988. On November 1, 1988, the VA Office of Personnel and Labor Relations provided detailed instructions to all field facilities which reiterate the Department of Medicine and Surgery suitability standard for VA police officers and which require a careful review of any adverse information revealed by the repeat NACIs. Field facility Directors and Personnel Officers were instructed to use the Office of Personnel Management (OPM) suitability and adjudication guidelines outlined in the Federal Personnel Manual, Chapters 731 and 732. Field facilities are required to report the results of the repeat NACIs and actions taken on unfavorable information to the VA OP&LR.

Question 2a.—What analysis, if any, has been done on the comparability of pay between VA police officers, other comparable federal, state and local law enforcement personnel, and private sector security officers, particularly any working at hospitals?

Answer 2a. Federal agencies which employ self protection forces (e.g., Department of Defense, General Services Administration, Department of Interior, etc.) under the provisions of Title 5, United States Code, are required to use the Office of Personnel Management "Grade Evaluation Guide for

Police and Security Guard Positions." This standard represents the results of the occupational analyses required to be conducted by OPM on behalf of Federal agencies and is focused on the typical duties experienced in the protection of life and property at the full range of facilities (including hospitals) which are under Federal control. As General Schedule positions subject to the provisions of Title 5, U.S.C., VA police officer grades must be classified by application of the OPM standard and paid according to the General Schedule. Although the grades and pay of VA police officers are not intended to be competitive with that of state, county and municipal police officers, a comparison of the GS-5 entry level pay was made with the entry pay scales of one hundred cities and townships under 10,000 in population using the Fraternal Order of Police national survey of police salaries and benefits. This comparison revealed that the GS-5 entry pay exceeded the police entry pay of 37% of those jurisdictions. As with the pay levels of over 12,000 local government police departments, the pay rates of private sector employers vary considerably with location and the duties prescribed by the employers. Official studies comparing the salaries of VA police officers with similar positions at local facilities employing self protection forces are authorized to determine if salary is the direct cause of serious VA police officer recruitment and retention difficulties. Such studies, as authorized under 38 U.S.C. 4107(g), have resulted in the increase of rates of basic pay for VA police officers at thirty-three locations. In addition to these applications of special pay, it is recognized that GS-5 VA police officer duties may support reclassification to the GS-6 grade level at thirty-nine locations due to a 1988 revision of the OPM police position classification standard. Upgradings at these locations are being encouraged where final reviews of local conditions support the reclassifications.

Question 2b.—If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

Answer 2b. The ongoing unofficial comparison of pay situations in the police occupational area, the fact that all official occupational analyses are the responsibility of OPM, and the existence of specific statutory authority whereby the Administrator may approve special salary rates for VA police on a local need basis serve to nullify the practicality of any independent analysis.

Question 3.—What analysis, if any, has been done on the comparability of security functions between VA medical centers and private hospitals?

Answer 3. The basic responsibilities of VA police officers in the areas of security, law enforcement and patient handling are mandated by 39 U.S.C. 218. Their specific tasks and limitations are well defined in policy, operating procedures, General Counsel opinions and training. VA police officer tasks also conform with the duties of Federally employed police officers as outlined in the OPM classification standard for police officers. Further, in accordance with 38 U.S.C. 218, regulations and law enforcement policies and procedures are subject to consultation with the Attorney General prior to issuance. Although a comparability study of VA and private hospitals was not made, years of ongoing dialogue with leading private hospital security officials indicate that most security officers in the private sector have no local law enforcement authority and less of a direct patient care team support role than do VA police. Whereas the tasks assigned to VA police are uniform nationwide, those of hospital security officers in the private sector vary greatly.

Question 3a.—If such analysis has been carried out, what were the findings?

Answer 3a. No formal analysis was conducted.

Question 3b.—If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

Answer 3b. It is very doubtful that any benefit would be gained by the function comparability study.

Question 4. What analysis has been done utilizing individual activity reports on security incidents from VA medical centers to determine if there is a difference between VAMCs located in predominantly rural areas as compared with those in urban locales?

Answer 4. No specific formal analysis has been done. However, through years of routine monthly reviews of the DM&S Uniform Monthly Crime Report and other closely followed sources of information such as the annual FBI publication, "Crime in the United States—Uniform Crime Reports," it is clear that the rate of security incidents at urban area medical centers exceeds those at medical centers in rural areas. The difference in degrees of security problems and police needs is also reflected in police manpower staffing reports which are a measure of key task activity performance for full time police employees.

Question 4a.—If such analysis has been carried out, what were the findings?

Answer 4a. No formal analysis was conducted.

Question 4b.—If no such analysis has been carried out, how long would it take to do so and would you agree to do so?

Answer 4b. Data currently available clearly indicates that security incidents are consistently higher in urban area locations. A formal analysis to validate this fact appears unnecessary.

Question 5.—Would it be appropriate and desirable to transfer dollars and perhaps FTEE for police officers from medical centers with low incidence levels to medical centers with higher incidence levels so as to provide a higher salary for police officers in higher incidence levels?

Answer 5. As previously discussed, VA police officer grades are determined by the required legal application of an OPM classification standard and commensurate salaries are in accordance with the General Schedule. The available path for increasing salaries where supportable is the special salary rate provision of 38 U.S.C. 4107(g). Where supportable, VA police officer grades can be classified to the GS-6 level. It would not be appropriate, desirable or feasible to transfer minimal security resources of low crime rural area medical centers to high crime facilities to provide higher salaries for urban area VA police.

Question 6.—For those medical centers in high crime surroundings, should not serious consideration be given to the arming of VA police officers running metal detectors, and should not they and certain other security officers routinely be issued bullet proof vests?

Answer 6. The outbreak of a gunfire exchange anywhere within a hospital or a school is as dangerous as the outbreak of a fire or an explosion. The possibility of a gunfire exchange within a hospital must be kept to the absolute minimum. VA policy enforces a firearm-free environment which extends to the operation of metal detectors and egress theft detection stations. Metal detector stations are located in congested hospital lobbies. They serve effectively as a deterrent to any holders of concealed firearms and primarily reveal the far more common possessions of pocket knives. At the longest running and most active VA metal detector station of the VA Medical Center in Bronx, New York, a concealed firearm has not been detected in over two and one-half years. The Security Service Director and other responsible officials of the Department of Medicine and surgery are acutely aware of the present and potential levels of offenses to which VA medical centers and VA police officers are vulnerable. Serious consideration of weapon and equipment needs, including evaluation of whether VA police officers should bear firearms, is ongoing.

Protective vests for VA police officers are an authorized item of issue. However, due to the very low risk of weapon inflicted injuries to VA police officers and the discomfort the wearing of such vest is to many police officers, the VA (like most state, county and municipal police departments) does not require mandatory wear of protective vests. In keeping with labor consultation obligations, medical center managers are instructed to procure and require the wear of protective vests when a majority of the Security Unit members agree upon the need and their mandatory wear.

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Benefits and Health Care Act of 1989".

SEC. 2. REFERENCE TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND OTHER BENEFITS

PART A—COST-OF-LIVING ADJUSTMENTS

SEC. 101. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1989, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) In the case of each of the rates and limitations in sections 314, 315(1), 362, 411, 413, and 414 of title 38, United States Code, that were increased by amendments made by title XI of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687), the Secretary shall further increase such rates and limitations, as in effect on November 30, 1989, by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1989, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph

(A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1990, the Secretary shall publish in the Federal Register the rates and limitations being increased under this section and the rates and limitations as so increased.

SEC. 102. REHABILITATION SUBSISTENCE ALLOWANCES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) RATE INCREASES.—The table in section 1508(b) is amended to read as follows:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$353	$437	$514	$38
Three-quarter time	265	328	386	28
Half-time	176	220	258	19
Farm cooperative, apprentice, or other on-job training:				
Full-time	308	372	429	27
Extended evaluation:				
Full-time	353	437	514	38
Independent living training:				
Full-time	353	437	514	38
Three-quarter time	265	328	386	28
Half-time	176	220	258	19."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1990.

SEC. 103. EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS.

(a) INCREASED ALLOWANCES.—Section 1732 is amended—

(1) in subsection (a)—

(A) by inserting "113.8 percent of" in paragraph (1) after "computed at"; and

(B) by striking out "the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran" in paragraph (2) and inserting in lieu thereof "the lesser of (1) the rate determined under clause (A) of section 1682(b) of this title, or (2) 113.8 percent of the rate provided in clause (B) of such section 1682(b)";

(2) in subsection (b), by striking out "$304" and inserting in lieu thereof "$346";

(3) in subsection (c)—

(A) by inserting "113.8 percent of" in paragraph (2) after "computed at"; and

(B) by striking out "the rate prescribed in section 1682(e) of this title." in paragraph (3) and inserting in lieu thereof "the lesser of (A) the rate determined under clause (A) of section 1682(b) of this title, or (B) 113.8 percent of the rate provided in clause (B) of such section 1682(b). Section 1682(e) of this title, except for the first sentence, shall apply to the educational assistance allowance computed under this paragraph.";

(4) in subsection (e)—

(A) by striking out "(e) In" and inserting in lieu thereof "(e)(1) Subject to paragraph (2) of this subsection, in"; and

(B) by adding at the end the following new paragraph:

"(2) For the purposes of paragraph (1) of this subsection, the amount of the monthly educational assistance allowance prescribed, in subsection (a)(1) or (a)(2) of section 1682 of this title and in section 1787(b)(1) of this title, as referred to in section 1682(g) of this title, for a veteran with no dependents shall be deemed to be equal to 113.8 percent of the amount so prescribed."; and

(5) by adding at the end the following new subsection:

"(f) In the computation of an educational assistance allowance under this section, any amount of 50 cents or more shall be rounded to the next higher dollar and any amount of 49 cents or less shall be rounded to the next lower dollar.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

PART B—OTHER BENEFITS PROVISIONS

SEC. 111. EXPANSION OF CLOTHING ALLOWANCE.

(a) IN GENERAL.—The text of section 362 is amended—

(1) by striking out "Administrator" the first two places it appears and inserting in lieu thereof "Secretary"; and

(2) by striking out all after "each veteran" and inserting in lieu thereof the following: "who, because of disability which is compensable under this chapter—

"(1) wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the clothing of such veteran; or

"(2) uses medication which (A) has been prescribed for a service-connected skin condition, and (B) the Secretary determines stains or otherwise damages such veteran's clothing.".

(b) CONFORMING AMENDMENT.—Section 101 is amended by adding at the end the following new paragraph:

"(33) The term 'Secretary' means the Secretary of Veterans Affairs.".

SEC. 112. PENSION PAYMENTS FOR HOSPITALIZED VETERANS.

(a) AMOUNT OF PENSION.—Section 3203(a)(1) is amended by striking out "$60" each place it appears in subparagraphs (A) and (C) and inserting in lieu thereof "$105".

(b) EXTENSION OF PERIOD FOR PAYMENT OF FULL PENSION TO HOSPITALIZED VETERANS.—Section 3203(a)(1) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Except as provided in subparagraphs (D) and (E) of this paragraph, where any veteran having neither spouse nor child is being furnished hospital or nursing home care by the Department of Veterans Affairs, no pension in excess of $105 per month shall be paid to or for the veteran for any period after—

"(i) in the case of a veteran being furnished hospital care, the end of the eighth calendar month following the month of admission for such care; and

"(ii) in the case of a veteran being furnished nursing home care, the end of the third calendar month following the month of admission for such care.";

(2) in subparagraph (D), by striking out "the last day of the third month referred to in such subparagraph" and inserting in lieu thereof "the last day of the period for which the veteran's pension is not reduced under such subparagraph"; and

(3) by adding at the end the following new subparagraph:

"(E) The Secretary may extend the period during which the pension of a veteran referred to in subparagraph (B)(i) of this paragraph is not reduced under such subparagraph if the Secretary determines that the veteran is likely to be discharged from the hospital within the period for which the extension is granted or within a reasonably short period after the expiration of such extended period. No extension may be granted under this subparagraph for a period exceeding two months. However, successive extensions may be granted. The total period of all extensions granted a veteran under this subparagraph in connection with one hospitalization may not exceed four months.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to veterans who are being furnished hospital care by the Department of Veterans Affairs on or after (1) the first day of the first month that begins after the date of the enactment of this Act, or (2) October 1, 1989, whichever is later.

SEC. 113. LIMITED EXTENSION OF THE VETERANS' READJUSTMENT APPOINTMENT AUTHORITY.

(a) IN GENERAL.—Section 2014(b) is amended—

(1) in paragraph (1)—

(A) by inserting "eligible" before "veterans of the Vietnam era"; and

(B) by striking out "a veteran of the Vietnam era" each place it appears and inserting in lieu thereof "an eligible veteran of the Vietnam era";

(2) in paragraph (2), by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new paragraph:

"(3) In this subsection, the term 'eligible veteran of the Vietnam era' means an eligible veteran who—

"(A) is a veteran of the Vietnam era; and

"(B) either—

"(i) is a disabled veteran; or

"(ii) during such era, served on active duty in the Vietnam theater of operations, as determined under regulations prescribed by the Secretary.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1990.

PART C—PROGRAM ADMINISTRATION

SEC. 121. EXPANSION OF MULTIYEAR PROCUREMENT AUTHORITY TO INCLUDE NONMEDICAL ITEMS.

(a) IN GENERAL.—Section 114 is amended—

(1) by striking out the heading and inserting in lieu thereof the following:

"§ 114. Multiyear procurement";

(2) in subsection (a), by striking out "for use in Veterans' Administration health-care facilities";

(3) in subsection (b)(2)(A), by striking out "health-care"; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 114 and inserting in lieu thereof the following:

"114. Multiyear procurement.".

TITLE II—HEALTH CARE

PART A—PROGRAMS RELATING TO POST-TRAUMATIC STRESS DISORDER AND MENTAL HEALTH

SEC. 201. CARE FOR COMBAT VETERANS WITH SERVICE-RELATED POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—Section 602 is amended—

(1) by inserting "(a)" before "For"; and

(2) by adding at the end the following new subsections:

"(b) Any veteran—

"(1) who served on active duty in a theater of combat operations (as defined in regulations prescribed by the Secretary) during World War I, World War II, the Korean conflict, or the Vietnam Era or in any other area during a period in which hostilities (as defined in subsection (c) of this section) occurred in such area, and

"(2) whom a mental health professional designated by the Chief Medical Director has diagnosed, following an examination of such veteran by such professional, to be suffering from post-traumatic stress disorder related to such service,

shall be furnished care and services for such disorder pursuant to sections 610(a)(1)(A) and 612(a)(1)(A) of this title even though such disorder has not been determined to be service-connected.

"(c) For the purposes of subsection (b) of this section, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 602. Special provisions relating to mental illness disabilities".

(2) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"602. Special provisions relating to mental illness disabilities.".

SEC. 202. SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER.

(a) EVALUATION OF STUDY OF POSTWAR PSYCHOLOGICAL PROBLEMS OF VIETNAM VETERANS.—(1) Not later than June 1, 1989, the Special Committee on Post-Traumatic Stress Disorder (hereinafter in this section referred to as the "Special Committee") established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2691) shall submit concurrently to the Secretary of Veterans Affairs and the Committees on Veterans' Affairs of the Senate and the House of Representatives (hereinafter in this section referred to as the "Committees") a report setting forth the Special Committee's evaluation of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 994). Such report shall include the Special Committee's—

(A) overall evaluation of the conduct, validity, and meaning of the study;

(B) assessment of the capability of the Department of Veterans Affairs to meet the need for the diagnosis and treatment of post-traumatic stress disorder of veterans, and other psychological problems of veterans in readjusting to civilian life, as estimated in the results of such study;

(C) evaluation of the Secretary's report on the study; and

(D) recommendations for any further or follow-up research on the matters addressed in the study.

(2) Not later than 30 days after receiving the Special Committee's report under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than February 1 of each of 1991 and 1992, the Special Committee shall concurrently submit to the Secretary and the Committees a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528; 98 Stat. 2693), together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 60 days after receiving each of the Special Committee's reports under paragraph (1), the Secretary shall submit to the Committees any comments concerning the report that the Secretary considers appropriate.

SEC. 203. STUDY OF PSYCHOLOGICAL PROBLEMS AMONG ASIAN-AMERICAN, AMERICAN-INDIAN, NATIVE-HAWAIIAN, OTHER NATIVE-AMERICAN PACIFIC ISLANDER (INCLUDING AMERICAN SAMOAN NATIVE), AND ALASKA NATIVE VIETNAM VETERANS.

(a) STUDY REQUIREMENT.—The Secretary of Veterans Affairs shall provide for the conduct of a comprehensive study of the following matters:

(1) The prevalence and incidence in the populations of Asian-American, American-Indian, Native-Hawaiian, other Native-American Pacific Islander (including American Samoan Native), and Alaska Native Vietnam veterans of post-traumatic stress disorder; and other psychological problems experienced by such veterans in readjusting to civilian life.

(2) The effects of such disorder and such problems on such veterans.

The Secretary shall provide for particular attention to be devoted in the conduct of the study to veterans who have service-connected disabilities and to women veterans.

(b) REPORT.—Not later than October 1, 1991, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study required by subsection (a).

(c) DEFINITIONS.—In this section:

(1) The terms "veteran", "service-connected", and "Vietnam veteran" shall have the same meanings given those terms in section 102(c) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 38 U.S.C. 612A note).

(2) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(3) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

SEC. 204. FUNDING FOR POST-TRAUMATIC STRESS DISORDER PROGRAMS.

In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary of Veterans Affairs submits to the Congress in conjunction with the President's budget submission for each fiscal year beginning after fiscal year 1990 pursuant to section 1105 of title 31, United States Code, the Secretary shall identify the amounts in the appropriations requests for Department accounts that are estimated to be obligated for—

(1) the payment of compensation to veterans for disabilities resulting from post-traumatic stress disorder (hereinafter in this section referred to as "PTSD") that is service-connected;

(2) the treatment of veterans by or at the expense of the Department for PTSD related to their active-duty service, including specific designation of funds for the treatment of PTSD—

(A) in PTSD programs designated pursuant to section 110(a)(1) of Public Law 98-528;

(B) in inpatient psychiatric programs and outpatient mental health programs other than such designated PTSD programs;

(C) in readjustment counseling programs pursuant to 612A of title 38, United States Code; and

(D) under contract through non-Department providers of (i) readjustment counseling services pursuant to section 612A(e) of such title, (ii) mental health services pursuant to such section 612A(e), or (iii) mental health services pursuant to other authority, and described in the first annual report submitted pursuant to section 110(e)(1) of Public Law 98-528 as having been proposed by the Special Committee on Post-Traumatic Stress Disorder;

(3) education, training, and research at—

(A) the National Center on Post-Traumatic Stress Disorder established under section 110(c) of Public Law 98-528;

(B) any centers of mental illness research, education, and clinical activities that may be established at Department medical centers; and

(C) other Department research facilities; and

(4) the operation of the National Center on Post-Traumatic Stress Disorder.

PART B—OTHER HEALTH-CARE PROGRAMS

SEC. 211. SERVICES TO OVERCOME SERVICE-CONNECTED DISABILITIES AFFECTING PROCREATION.

Clause (A) of section 601(6) is amended to read as follows:

"(A)(i) surgical services, (ii) services to achieve pregnancy in a veteran or a veteran's spouse when such services are necessary to overcome a service-connected disability impairing the veteran's procreative ability, (iii) dental services and appliances as described in sections 610 and 612 of this title, (iv) optometric and podiatric services, (v) (in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 662 of this title, (vi) (except under the conditions described in section 612(f)(1)(A)(i) of this title) wheelchairs, artificial limbs, trusses and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, and (vii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and".

SEC. 212. COMPENSATED WORK THERAPY PROGRAM.

(a) AUTHORIZED SOURCES FOR PROVISION OF THERAPEUTIC WORK.—Subsection (b)(1) of section 618 is amended by striking out "contractual arrangements with private industry or other sources outside the Veterans' Administration" and inserting in lieu thereof "a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity)".

(b) USE OF REVOLVING FUND.—The first sentence of such section is amended by inserting before the period at the end "(including defraying the costs of travel and related expenses necessary to train employees in the administration of services under such subsection)".

SEC. 213. STATE HOME CONSTRUCTION GRANTS.

Section 5033(a) is amended in the first sentence by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1992".

SEC. 214. PILOT PROGRAM FOR FURNISHING ASSISTIVE ANIMALS TO CERTAIN VETERANS.

(a) REQUIREMENT FOR PILOT PROGRAM.—During fiscal years 1990, 1991, 1992, and 1993, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall—

(1) furnish (A) to not more than 20 quadriplegic veterans who have service-connected disabilities rated 50 percent or more, monkeys that are specially trained to assist in the performance of daily living tasks for quadriplegic individuals, and (B) to not more than 10 such veterans, dogs that are so trained; and

(2) facilitate the furnishing of monkeys that are so trained to not more than 20 other quadriplegic veterans.

(b) SELECTION OF VETERAN-PARTICIPANTS.—(1) In determining whether to furnish a monkey or dog referred to in subsection (a) to a veteran, or to facilitate the furnishing of such a monkey to a veteran, under the pilot program, the Secretary shall (A) consider the extent to which the veteran needs and can benefit from the assistance of the monkey or dog, and (B) provide a preference for veterans who have service-connected quadriplegia.

(2) The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for—

(A) carrying out the responsibilities involved in the care of the monkey or dog; and

(B) effectively using the monkey or dog for assistance in performing the veteran's daily living tasks.

(c) ADMINISTRATIVE MATTERS.—(1) The Secretary is authorized to enter into contracts for the furnishing of assistive monkeys and dogs under subsection (a)(1). Under such contracts the Secretary may make advance payments for the furnishing of the monkeys or dogs before receipt of the monkeys or dogs and may either reimburse the provider of such monkeys and dogs for the costs of training the monkeys or dogs or, subject to such terms and conditions as the Secretary determines necessary to protect the interests of the Government, make advance payments for such costs before the costs are incurred.

(2) Ownership of an animal furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of such animal and the veteran.

(d) EVALUATION AND REPORT.—(1) The Secretary shall evaluate the conduct of the pilot program, the nature and extent of the benefit to veterans furnished animals under the program (including any benefits related to employment), the costs and cost-effectiveness of furnishing animals to quadriplegic veterans, and the effects of such program on the recruitment and retention of paid primary caregivers for veterans receiving such animals and on the morale of unpaid primary caregivers for such veterans.

(2) Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience under the pilot program. The report shall contain—

(A) the results of the evaluation carried out under paragraph (1), including descriptions of the procedures and criteria used to select veterans to receive monkeys or dogs, the nature and extent of the benefit that the veterans received from the assistance of such monkeys or dogs, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program;

(B) the Secretary's views on the relationship between the furnishing of a monkey or dog to a veteran and the payment to a veteran of (i) an aid and attendance allowance under section 314(r) of title 38, United States Code, or (ii) an annual rate of pension under section 521 of such title based on the veteran's need of regular aid and attendance; and

(C) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish assistive monkeys and dogs to quadriplegic veterans should be made permanent.

(e) DEFINITIONS.—For the purposes of this section, the terms "veteran" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code.

SEC. 215. PILOT PROGRAM FOR PROVIDING SIGNAL DOGS TO CERTAIN VETERANS.

(a) SIGNAL DOGS PILOT PROGRAM.—(1) Except as provided in paragraph (2), during fiscal years 1990, 1991, 1992, and 1993, the Secretary of Veterans Affairs shall conduct a pilot program under which the Secretary shall furnish signal dogs (as defined in subsection (e)(2)) to not more than 20 veterans who have service-connected hearing impairments and are in need of the assistance of such dogs.

(2) The Secretary is not required to conduct a pilot program under this section if the Secretary determines that the provision of such dogs to such veterans by the Department of Veterans Affairs is authorized under chapter 17 of title 38, United States Code.

(b) SELECTION OF VETERAN-PARTICIPANTS.—In making a determination whether to furnish a signal dog to a veteran under the pilot program, the Secretary shall consider the extent to which the veteran needs and can benefit from the assistance of the signal dog. The Secretary shall approve a veteran for participation in the pilot program only upon the Secretary's determination that the veteran is well-suited for carrying out the responsibilities involved in the care and effective use of the signal dog.

(c) OWNERSHIP OF SIGNAL DOGS FURNISHED TO VETERANS.—Ownership of a signal dog furnished to a veteran under the pilot program shall be determined in accordance with a contract between the provider of such dog and the veteran.

(d) EVALUATION AND REPORT.—The Secretary shall—

(1) evaluate the conduct of any pilot program carried out under this section, the nature and extent of the benefit that the veterans received from the assistance of the signal dogs furnished under the program (including any benefits related to employment), and the costs and cost-effectiveness of furnishing such dogs to veterans who have hearing impairments; and

(2) include in the report required by section 114(d)(2)—

(A) the results of the evaluation carried out under clause (1), including descriptions of the procedures and criteria used to select veterans to receive signal dogs, the nature and extent of the benefit that the veterans received from the assistance of such dogs, and the amounts and types of costs incurred by the Department of Veterans Affairs in the conduct of the program; and

(B) any recommendations that the Secretary considers appropriate regarding whether the pilot program should be continued or whether the authority to furnish signal dogs to hearing-impaired veterans in need of the assistance of such dogs should be made permanent.

(e) DEFINITIONS.—In this section:

(1) The terms "veteran" and "service-connected" have the meanings given those terms in paragraphs (2) and (16), respectively, of section 101 of title 38, United States Code.

(2) The term "signal dog" means a dog specially trained to provide hearing assistance to deaf persons.

PART C—HEALTH-CARE ADMINISTRATION

SEC. 221. SECURITY SERVICES.

(a) SECURITY AND LAW ENFORCEMENT FUNCTIONS.—Section 218 is amended by adding at the end the following new subsection:

"(f) Subject to the authority, direction, and control of the Secretary, the Assistant Secretary assigned management, productivity, and logistic support functions shall be responsible for the functional and technical supervision of the performance of security and law enforcement functions under this section.".

(b) REPORT ON SECURITY AND LAW ENFORCEMENT MATTERS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing—

(1) the Secretary's plan for improving the training, recruitment, and pay of security and law enforcement personnel of the Department of Veterans Affairs; and

(2) the Secretary's assessment of—

(A) the need for establishing a policy on the issuance of weapons to such personnel assigned to medical centers of the Department located in high crime areas and the use of weapons by such personnel; and

(B) the advisability of reducing the security and law enforcement services at Department facilities that do not have significant security problems in order to increase those services at facilities with more significant security problems.

SEC. 222. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) REVISION OF AUTHORITY TO SHARE SPECIALIZED MEDICAL RESOURCES.—Section 5053 is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "charge" and all that follows and inserting in lieu thereof "methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period at the end "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 223. COVERAGE OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION PERSONNEL BY FEDERAL EMPLOYEES' COLLECTIVE BARGAINING PROCEDURES.

Section 4108 is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(2) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs";

(3) by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Services and Research Administration";

(4) in subsection (a), by inserting "except as provided in subsection (e) of this section," after "Notwithstanding any law, Executive order, or regulation,";

(5) in subsection (c)(2), by striking out "non-Veterans' Administration" and inserting in lieu thereof "non-Department of Veterans Affairs";

(6) in subsection (d), by inserting "except as provided in subsection (e) of this section," after "Notwithstanding any other provision of law,"; and

(7) by adding at the end the following new subsection:

"(e) The provisions of chapter 71 of title 5 shall apply to the exercise of the Secretary's authority under this section except with respect to—

"(1) the prohibitions set out in paragraphs (1) through (6) of subsection (a) of this section; and

"(2) the matters covered by section 4110 of this title.".

SEC. 224. DISCIPLINARY ACTIONS AND GRIEVANCES.

Section 4110 is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) The Chief Medical Director, under regulations prescribed by the Secretary, shall from time to time appoint disciplinary boards to determine, upon notice and fair hearing, the charges in any disciplinary action brought against a person employed in a position listed in paragraph (1) of section 4104 of this title (hereafter in this section referred to as the 'respondent') on the basis of the performance or conduct of such person during employment with the Department of Veterans Affairs.

"(2) A disciplinary board appointed in the case of any respondent shall consist of not less than three nor more than five employees of the Veterans Health Services and Research Administration who are senior in grade to the respondent. The majority of the members of such board shall be employed in the same category of position as the respondent.

"(3) The Chief Medical Director may delegate the performance of the function of appointing a disciplinary board to an employee of the Veterans Health Services and Research Administration who is not involved in deciding whether to file charges to be determined by the board and who is not subordinate to any official involved in making such decision.";

(2) in subsection (b), by striking out "Administrator" and inserting in lieu thereof "Secretary";

(3) in subsection (d)—

(A) in the first sentence, by striking out "suitable" and all that follows and inserting in lieu thereof "that the proposed disciplinary action be sustained or modified within limitations prescribed by the Secretary.";

(B) in the second, third, and fourth sentences, by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary";

(4) in subsection (e), by striking out "Administrator" each place it appears and inserting in lieu thereof "Secretary"; and

(5) by adding at the end the following:

"(f)(1) A disciplinary board is not required in the case of a disciplinary action if the proposed action is suspension for 14 days or less, reassignment without a reduction in basic pay, reduction in rank without a reduction in basic pay, reprimand, or admonishment.

"(2) An employee against whom a disciplinary action described in paragraph (1) of this subsection is proposed to be taken shall be entitled to—

"(A) an advance written notice stating the specific reasons for the proposed action;

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(C) representation by an attorney or other spokesperson; and

"(D) a written decision and the specific reasons for the decision at the earliest practicable date.

"(3) Disciplinary actions described in paragraph (1) of this subsection shall be subject to review under either the provisions of section 4120A of this title (in the case of employees appointed under authority of this title who are members of a unit determined appropriate under section 7112 of title 5) or an agency review procedure to be established by the Secretary (in the case of such employees who are not members of such a unit). Any such agency review procedure established by the Secretary shall include—

"(A) an informal review of the decision on the disciplinary action by an official of a higher level than the official who made the decision;

"(B) a prompt decision by such higher level official and a right to formal review by an impartial examiner within the Department of Veterans Affairs;

"(C) a prompt report of the findings and recommendations by the impartial examiner; and

"(D) a prompt review of the examiner's findings and recommendations, together with any comments by the employee and the Department on such findings and recommendations, by an official of a higher level than the official who conducted the review pursuant to clause (A) of this paragraph.".

(b) GRIEVANCES.—(1) Subchapter I of chapter 73 is amended by adding at the end the following new section:

"§ 4120A. Grievances and certain disciplinary reviews

"(a)(1) The Secretary shall authorize review of Department of Veterans Affairs actions on the following matters under procedures established by collective bargaining in accordance with the provisions of chapter 71 of title 5:

"(A) Grievances of employees appointed under authority of this title who are members of a unit determined appropriate under section 7112 of title 5.

"(B) Subject to paragraph (2) of this subsection, disciplinary actions described in subsection 4110(f)(1) of this title involving such employees.

"(2) In the case of a review of a disciplinary action involving any question of clinical competence, as determined by either party, any person selected to serve as an arbitrator in such case under procedures established as provided in paragraph (1) of this subsection must be qualified as an arbitrator and must also be (A) qualified as a physician, dentist, or nurse, or (B) otherwise qualified, by specialized experience or train-

ing or both, in examining and adjudicating health-care issues.

"(b) For the purpose of resolving grievances of supervisors and employees appointed under authority of this chapter who are not members of a unit determined appropriate under section 7112 of title 5, the Secretary shall authorize review of action of the Department on such grievances pursuant to a Department review procedure established by the Secretary under section 4110(f)(3) of this title.".

(2) The table of sections at the beginning of chapter 73 is amended by adding at the end of subchapter I the following new item:

"4120A. Grievances and certain disciplinary reviews.".

SEC. 225. DEVELOPMENT OF RECOMMENDED LEGISLATION FOR THE ELIMINATION OF INCONSISTENCIES IN CERTAIN VETERANS BENEFITS LAWS.

(a) REQUIREMENT TO ESTABLISH TASK FORCE.—The Secretary of Veterans Affairs shall establish a task force to recommend policies and legislation for the elimination of inconsistencies among provisions of law relating to veterans' eligibility for certain health-care benefits.

(b) COMPOSITION OF TASK FORCE.—The task force shall be composed of employees of the Department of Veterans Affairs, including representatives of the Veterans Health Services and Research Administration, the Veterans Benefits Administration, and the Office of the General Counsel.

(c) RESPONSIBILITIES OF TASK FORCE.—The task force shall—

(1) identify inconsistencies among sections 601(6), 612, 614, 617, and 619 of title 38, United States Code, and the implementation of such sections;

(2) after consultation with appropriate representatives of veterans, develop policy recommendations and legislative proposals for the elimination of any such inconsistencies; and

(3) not later than the date specified by the Secretary, submit to the Secretary a report containing (A) descriptions of the inconsistencies identified by the task force, (B) the policies and legislative proposals recommended by the task force for the elimination of such inconsistencies, and (C) the reasons for each such recommendation.

(d) ACTION BY THE SECRETARY.—The Secretary shall review the report submitted by the task force and either approve the recommendations for legislation contained in the report or prepare alternative legislative proposals that the Secretary considers appropriate for the elimination of the inconsistencies identified by the task force.

(e) SUBMISSION OF RECOMMENDATIONS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives—

(1) the report submitted to the Secretary by the task force; and

(2) a report containing—

(A) the legislation recommended by the Secretary for the elimination of the inconsistencies identified by the task force;

(B) an analysis of the legislation recommended by the Secretary; and

(C) the reasons for any differences between the legislation recommended by the Secretary and the legislation recommended by the task force.

By Mr. CRANSTON:

S. 14. A bill to provide for a grant program to assist eligible consortia in providing services to individuals with acquired immunodeficiency syndrome or AIDS-related complex; to the Committee on Labor and Human Resources.

AIDS HEALTH SERVICES ACT

Mr. CRANSTON. Mr. President, I am pleased today to be introducing S. 14, the proposed AIDS Health Care Services Act of 1989. This bill addresses what I consider to be the most serious questions facing public policymakers regarding the AIDS epidemic: How do we provide and pay for services for the increasing number of AIDS patients?

As the number of AIDS cases continues to grow, more and more communities and States across the country are becoming increasingly concerned about their ability to respond to this crisis. Without Federal assistance, I am deeply concerned that many will not be able to. This bill is intended to help fill in the gaps in our health-care system so that people with AIDS and people infected with the human immunodeficiency virus [HIV] have access to the full range of needed health and support services.

BACKGROUND

Mr. President, as of January 16, 1989, more than 84,000 cases of AIDS have been reported. That number is expected to rise to over 250,000 by 1991. This epidemic is no longer one substantially affecting only the two coasts. It crosses all boundaries throughout the country, and communities in middle America are now confronting the same type of crises as New York, Los Angeles, San Francisco, and Miami. Fifteen cities have already reported over 1,000 cases each; nearly half of all States have treated more than 500 AIDS patients. Over 60 percent of all AIDS cases in the United States have now been reported outside New York City, San Francisco, and Los Angeles, and by 1991, it is expected that 80 percent of all persons with AIDS in this country will reside outside of New York City and San Francisco.

The AIDS epidemic has brought us face to face with many of the deficiencies of our present health-care system that have too often been ignored. Lack of health insurance, uncompensated care, undercompensation by Medicaid, lack of access to and availability of nonhospital health services, and growing discrepancies between the uncompensated care loads of private and public hospitals are all serious problems plaguing health care in America. The AIDS epidemic has brought to the surface and magnified these problems, and a financial crisis is looming in our health-care system.

Currently between $1 and $2 billion a year is currently being spent on medical care for AIDS patients. By 1991, those costs may rise to between $4.5 and $8.5 billion annually. And, if current trends continue, the majority of that burden will be borne by the public hospitals and health systems and will seriously strain if not break their ability to continue providing health services to all low-income Americans.

THE SAN FRANCISCO MODEL

San Francisco, largely as a result of intensive efforts by the gay community, has successfully developed an integrated community-based system of comprehensive services for people with the HIV infection. This case-management-based model has resulted in dramatically lowered costs for AIDS care. I would add that, in most instances, community-based care is far preferable to hospitalization because it allows individuals to remain at home with their friends and families and maintain, to the maximum extent possible, their abilities to function independently and to lead an active life.

Other communities are attempting to replicate the San Francisco model through the help of the Robert Wood Johnson Foundation and Federal AIDS service delivery demonstration projects. Although I believe that these projects have been very helpful, the development and maintenance of services is dependent on the availability of funding, which often does not exist for nonhospital services.

The Presidential Commission on the HIV Epidemic stated, on page 143 of its landmark June 1988 report, that "the current situation calls for immediate action to provide funding necessary to help the hardest hit areas and provide care for people in desperate need of assistance. This would mean providing targeted assistance and encouraging cost-effective care through enhanced reimbursement from the Federal Government."

Recommendation 2-11 of the Commission states that "[t]he Public Health Service should provide initial funding and technical assistance to communities in order to establish services to fill existing gaps and to develop coordinated networks of services. Systems created should include continuum of services, emphasize alternatives to hospitalization, and utilize a case-management approach."

Mr. President, that is precisely what the proposed AIDS Health Care Services Act of 1989 is intended to help accomplish.

I want to emphasize the great need that exists for two services in particular—mental health services and shelters—which would be included in the comprehensive service delivery system that would be encouraged and supported under this legislation.

With regard to mental health services, experts have repeatedly said that the mental health and counseling

needs of people with AIDS and HIV infection are much greater than for individuals with other diseases. One recent study found that the relative risk of suicide in men with AIDS was substantially higher than that of the general population. The psychological stress of facing a terminal illness often coupled with discrimination and ostricization is tremendous. In addition, a form of dementia that frequently accompanies AIDS requires psychological or psychiatric assistance. Unfortunately, there are few mental health professionals trained to deal with AIDS and these types of services are often unavailable.

Second, I am deeply concerned that an increasing number of AIDS patients are without a permanent residence. In Los Angeles, for example, it is estimated that up to 15 percent of all people with AIDS suffer some degree of homelessness. Many lost their homes because of a loss of income or discrimination once they become sick. Many others, particularly intravenous drug addicts, may already be homeless. The Presidential Commission found that housing for homeless persons with AIDS is even more limited than it is for the general homeless population. Moreover, homeless shelters are generally inappropriate for people with life-threatening illnesses because they close during the day and do not provide essential medical and support services.

BILL PROVISIONS

Mr. President, this legislation would assist communities in developing a network of services to care for AIDS patients. The needs of people with AIDS are many—from basic shelter to counseling to home-health services. Unfortunately, the majority of communities throughout the country do not have adequate community-based services for AIDS patients. Consequently, many AIDS patients who require a level of care less intensive than hospital care may simply be going without it.

This legislation would require that in order to receive Federal support under the new program city or county health departments, community based organizations, health-care facilities and providers, including drug abuse and mental health clinics, public and private hospitals, and home-health agencies would have to form consortia and must work together to develop a comprehensive service delivery system for AIDS in their locality. Such a system would include, at a minimum, acute inpatient care, long-term care, case management, outpatient service, home health care, mental health services, drug abuse treatment, and extensive support services, including homemaker services, adult day care, respite care, transportation, and legal services.

Consortia would further be required to give priority to establishing primary community health and support services, such as outpatient, mental health, and home-health services, shelter, food, and case management. Secondary services would include hospice care, homemaker service, respite care for caregivers of people with AIDS, adult day care, child care for children infected with the HIV, support services for volunteers providing assistance to people with AIDS, transportation assistance, foster care for children infected with the HIV, and assistance in obtaining legal services relating to infection with the HIV.

With regard to the second tier of services, priority would be given to those which would assist the consortium in providing the full range of services described in tier one. For example, if a lack of available transportation prevents people with AIDS from gaining access to mental health or outpatient services, the consortium should give priority to providing transportation assistance.

Mr. President, this legislation would authorize the appropriation of $250 million for the development of comprehensive service delivery systems for AIDS. Up to 15 percent of the funds would be able to be permitted to be used to supplement Medicaid or otherwise to provide relief for uncompensated costs for inpatient hospital or nursing home care for individuals with AIDS or AIDS-related complex.

Very few nursing homes currently take AIDS patients, although many need that level of care. Part of the reason nursing home beds are unavailable is that reimbursement rates do not cover the cost of care. I believe that this funding could encourage nursing homes to care for people with AIDS.

At least 20 percent of the funds would be required to be used for services targeted to minorities. Blacks and Hispanics represent a disproportionately high percentage of persons with AIDS, and this provision would help ensure that minority health-care needs are met. In addition, each consortium would be required to provide in its application assurances that minorities will be represented in the policymaking and managerial components and that it will conduct outreach to minority communities.

Finally, this legislation would require the Secretary of Health and Human Services to conduct research focused on the provision of services to individuals infected with the HIV, including studies focused on the ability of the Nation's health-care systems to provide services to minorities with AIDS and the extent to which the public and private sectors of society are providing care to people with AIDS, and an analysis of the most cost-effective ways to provide medical and mental health services to different populations of individuals with a spectrum of symptoms resulting from the HIV.

CONCLUSION

Mr. President, one of the greatest challenges that will confront the 101st Congress will be the development and financing of health-care services for people with AIDS. We must begin now to develop alternative modes and comprehensive systems of care and at the same time ensure that our Nation's hospitals—particularly public hospitals—are able to continue providing services to people with AIDS. This bill is intended to start that process, and I urge my colleagues to join with me to ensure that these vitally important issues are addressed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 14

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That Act may be cited as the "AIDS Health Services Act of 1989".

SEC. 2. PURPOSE.

It is the purpose of this Act to encourage the creation of consortia between health and social service providers that provide care to people with acquired immunodeficiency syndrome (hereinafter referred to in this Act as "AIDS") or AIDS-related complex (hereinafter referred to in this Act as "ARC") in order to—

(1) develop appropriate models of continuums of care, from inpatient hospital care to social and support services, responsive to the full spectrum of needs of individuals with illnesses resulting from infection with the etiologic agent for AIDS so that the health-care and social-service needs of such individuals can be met in a manner that supports to the maximum extent possible the opportunities of such individuals for independent, self-sufficient functioning in the community;

(2) promote outreach to members of minority communities;

(3) set priorities for targeting funding to fill gaps and other deficiencies in efforts to implement continuums of health-care and social support services; and

(4) foster communication and cooperative relationships between various service providers in order to enhance coordination of services.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means an association consisting of a city or county health department or agency, community-based service organizations, health-care facilities and providers, including drug abuse and mental health clinics, public and private hospitals, and home health agencies that have entered into arrangements for the purpose of providing for a comprehensive service delivery system.

(2) COMPREHENSIVE SERVICE DELIVERY SYSTEM.—The term "comprehensive service

delivery system" means a coordinated system of care for people infected with the etiologic agent for AIDS that includes at a minimum, acute inpatient care, long-term care, case management, outpatient services, home care, mental health services, drug abuse treatment, and extensive support services including attendant and homemaker services, adult day care, respite care, transportation, and legal services.

SEC. 4. GRANT PROGRAM.

(a) MAKING OF GRANTS.—The Secretary of Health and Human Services (hereinafter referred to in this Act as the "Secretary"), acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible consortia as follows:

(1) INPATIENT AND NURSING HOME CARE.—Not more than 15 percent of the funds provided under this section may be used to supplement benefits under title XIX of the Social Security Act or to otherwise provide relief for uncompensated costs for inpatient hospital or nursing home care for individuals with AIDS or ARC.

(2) PRIMARY COMMUNITY HEALTH AND SUPPORT SERVICES.—Funds provided under this section may be used to develop and provide services for individuals with AIDS or ARC if such services are not adequately provided for in the communities of such individuals, as follows:

(A) Out-patient services.

(B) Mental health and counseling services.

(C) Home health services.

(D) Short-term shelters and other small residential facilities for homeless individuals, and families of individuals, with AIDS or ARC, including residential facilities specifically designed for individuals who—

(i) use intravenous drugs, otherwise abuse substances, or are mentally ill; and

(ii) are infected with the etiologic agent for AIDS.

(E) Nutrition-related services.

(F) Case-management services.

(3) SECONDARY COMMUNITY SUPPORT SERVICES.—Funds provided under this section may be used to develop and provide services for individuals with AIDS or ARC if such services are not adequately provided for in the communities of such individuals. Such services may include—

(A) hospice care;

(B) personal, homemaker, and attendant care;

(C) respite care for parents or other caregivers of individuals, including children and infants with AIDS or ARC;

(D) adult day care for individuals with AIDS or ARC;

(E) child care for children infected with the etiologic agent for AIDS;

(F) support services and counseling for volunteers providing services to individuals with AIDS or ARC;

(G) transportation assistance;

(H) foster care, including training and incentives for foster parents for children infected with the etiologic agent for AIDS; and

(I) assistance in obtaining legal services relating to AIDS or ARC.

(b) PRIORITY SERVICES.—Priority in the provision of funds made available under this section shall be provided to assist in the development and availability of services described in subsection (a)(2).

(c) TARGETING OF FUNDS TO MINORITY COMMUNITIES.—Not less than 20 percent of funds made available under this section to provide services under paragraphs (2) and (3) of subsection (a) shall be used for the provision of services for members of minority communities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $250,000,000 in fiscal year 1990, and such sums as may be necessary in fiscal years 1991 and 1992.

SEC. 5. APPLICATION.

(a) IN GENERAL.—An eligible consortium seeking to receive assistance under section 4 shall submit an application to the Secretary in order to receive a grant under such section.

(b) CONTENTS OF APPLICATIONS.—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance is sought;

(2) contain a plan for establishing in the community concerned a comprehensive service delivery system for individuals with AIDS or ARC;

(3) identify agencies or organizations to provide case-management services for individuals infected with the etiologic agent for AIDS;

(4) contain a community needs and resources assessment report;

(5) contain an estimate of the numbers of patients who will utilize the services provided with funds made available under section 4 at any one time, and the estimated cost of care for each service component;

(6) provide assurances that representatives of minority communities are included in the policymaking and managerial component of the consortium and that major efforts will be made to provide outreach and other services to members of minority communities;

(7) describe a mechanism for information and records sharing to assure nonduplication of services;

(8) provide timetables for implementing the plan described in the applications;

(9) describe a mechanism to evaluate the success of the consortium in carrying out the plan and the cost-effectiveness of the services provided; and

(10) contain such additional information and assurances as the Secretary may by regulation prescribe.

SEC. 6. RESEARCH.

(a) CONDUCTING RESEARCH.—

(1) IN GENERAL.—The Secretary shall conduct health and mental-health services research focused on the delivery of services to individuals infected with the etiologic agent for AIDS.

(2) AREAS OF RESEARCH.—Research conducted under paragraph (1) shall include—

(A) studies on the ability of the nation's health-care systems to provide services to individuals with AIDS who are members of minority communities;

(B) studies on the extent to which various sectors of society are underwriting the costs, health-care needs, and expenditures of individuals infected with the etiologic agent for AIDS; and

(C) an analysis of the most cost-effective ways of providing medical and mental health services to individuals addicted to drugs. bisexual and gay men, women with AIDS, and pediatric AIDS patients, including the health outcomes of individuals who are receiving care in such different settings.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as are necessary for fiscal year 1990.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. GORE, Mr. WILSON, Mr. BIDEN, Mr. BINGAMAN, Mr. CONRAD, Mr. DODD, Mr. KERRY, Mr. INOUYE, Mr. RIEGLE, and Mr. SARBANES):

S. 15. A bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes; to the Committee on Labor and Human Resources.

EMERGENCY MEDICAL SERVICES AND TRAUMA CARE CARE IMPROVEMENT ACT

Mr. CRANSTON. Mr. President, I am pleased to introduce today S. 15, the proposed "Emergency Medical Services and Trauma Care Improvement Act of 1989." Joining me as the principal cosponsor is the chairman of the Labor and Human Resources Committee and the Senate's primary leader for over a decade of efforts to improve health care for all Americans, the Senator from Massachusetts [Mr. KENNEDY]. I am also very pleased to have joining me as original cosponsors: Senators GORE, WILSON, BIDEN, BINGAMAN, CONRAD, DODD, KERRY, INOUYE, PELL, REIGLE, and SARBANES.

Mr. President, the bill I am introducing today is very similar to S. 10, legislation I introduced in the 100th Congress. We made great progress last year. Our legislation was supported by a coalition of more than 27 groups, including the American College of Surgeons, the American College of Emergency Physicians, and American Medical Association, the American Nurses' Association, the American Association of Retired Persons, and the American Academy of Pediatrics. I ask unanimous consent that a September 14, 1988, letter from the coalition be printed in the RECORD at the conclusion of my remarks.

Mr. President, S. 10 was reported unanimously by the Committee on Labor and Human Resources on September 13. On October 3, the Committee on Commerce, Science, and Transportation, which has jurisdiction over two provisions—sections 5 and 6(c)—relating to EMS communications, discharged S. 10 after a 24-hour review. Unfortunately, we were blocked from bringing the bill to the floor for full Senate consideration.

I am also very pleased that the House of Representatives passed similar legislation, which was based on S. 10. My good friends and California colleagues, Representatives BATES and WAXMAN, successfully shepherded that bill through the House.

I am confident that this year we will be successful in enacting this vitally important legislation.

Mr. President, the goals of this legislation are twofold. First, it is designed to remove the barriers and rectify the problems that, in many parts of the country, prevent quick and efficient emergency medical services from being provided. Second, it would provide in-

centives for States and localities to establish well-coordinated regionalized trauma-care systems that would enable severely injured individuals to receive highly specialized trauma care as rapidly as possible following their injury.

SUMMARY OF PROVISIONS

The provisions of the bill may be briefly summarized as follows:

Section 2 would establish congressional findings regarding emergency medical services and trauma care.

Section 3 would authorize the establishment of a Federal clearinghouse for information on EMS and trauma care and establish a new grant program to States for the purposes of providing funds to States and local regions to develop integrated trauma systems and to designated trauma centers to defray a portion of their uncompensated costs resulting from high-cost trauma patients.

Section 4 would require the Secretary of Health and Human Services [HHS] to conduct two studies to determine whether State Medicaid plans are providing financial disincentives for the establishment of trauma centers and to assess the long-term economic and social impacts of trauma.

Section 5 would provide for improved coordination between State EMS and Department of Transportation offices with regard to emergency medical services.

Section 6 would permit Preventive Health and Health Services block grant funds to be used for equipment purchases to improve EMS communications systems; specify that loans under the Farmers Home Administrations' Community Facilities Loan Program may be used for the purchase of EMS communications equipment and implementation of "911" systems; and require the Federal Communications Commission to study the availability of radio frequency channels for communications between ambulances and hospitals and to develop a plan to ensure that sufficient frequencies are allocated for EMS purposes.

Section 7 would establish the effective date of the legislation.

BACKGROUND

INJURY—STILL A LEADING CAUSE OF DEATH AND DISABILITY

Mr. President, in 1985, the prestigious National Academy of Sciences issued a report, "Injury in America," which assessed the magnitude and characteristics of injury, efforts to prevent and treat injury, and Federal support for injury research. It was conducted as a follow up to a landmark study conducted 20 years earlier by the National Research Council, entitled "Accidental Death and Disability: The Neglected Disease of Modern Society." The National Academy of Sciences concluded that, tragically, insufficient progress had been made in injury control since the first study was reported.

Each year, more than 140,000 Americans die from injuries and one person in three suffers a nonfatal injury. Injury is the fourth leading cause of death among all Americans and the major killer of children and young adults. More Americans between the ages of 1 and 34 die from injuries than from all diseases combined.

Injury is also a leading cause of short- and long-term disability. More than 80,000 persons become permanently disabled from brain or spinal cord injuries each year. Over 4 million years of future worklife are lost to injury annually—nearly double that of heart disease or cancer.

Injury represents one of our most expensive health problems, costing $75 to $100 billion a year in direct and indirect costs. The societal costs from motor-vehicle crashes alone in 1980 were estimated to be $36 billion, including costs of $7.6 billion and $3.5 billion to the Federal and State governments, respectively, in direct payments and revenue losses.

Mr. President, I agree with the Chairman of the NAS study that "injury is a public health problem whose toll is unacceptable." Serious injury affects Americans of every socioeconomic level, every ethnicity and race, every age group, and every community.

Mr. President, the time has come for our Nation to make a concerted effort to reduce drastically the impact of these tragedies. We must no longer let injuries—preventable and treatable injuries—rob our young people of their youth and cause pain and suffering to Americans everywhere.

Experts estimate that between 20,000 and 25,000 lives could be saved each year and life-long disabilities from injury could be dramatically reduced by quick response teams providing prehospital care and through the accessibility and availability of sophisticated emergency hospital care when needed. The legislation we are introducing today is designed to ensure that injury and trauma victims—as well as others in need of emergency care—receive that kind of swift and effective medical attention. If enacted, this legislation will directly help save lives and reduce disability.

DEVELOPMENT OF EMERGENCY MEDICAL SERVICES

Mr. President, nearly 17 years ago, I first introduced legislation which was ultimately enacted as the Emergency Medical Services Systems Development Act of 1973. I introduced that legislation in order to improve the ability of communities to respond immediately and effectively to emergency medical crises. In the early 1970's, the state of emergency medical services [EMS] was characterized by poorly trained ambulance and emergency room personnel, outdated equipment, little coordination of services in urban areas, and the absence of emergency care facilities in rural areas.

Only 5 percent of the Nation's ambulance attendants met even minimum standards of training recommended by national professional organizations. In fact, ambulance services in many communities were run by the local undertaker. Fewer than 25 hospitals in the entire Nation had physicians in their emergency departments 24 hours a day. Ambulances brought their patients to the nearest hospital or the hospital they were paid to take them, regardless of the type of medical emergency or the level of care the hospital was capable of providing. Total annual accidental deaths and prehospital cardiac deaths were at an all-time high.

However, new advances in medical technology—portable equipment for treating heart attack victims, fully equipped, mobile, critical-care units, and advanced methods of radio communications and telecommunications—that could drastically reduce the number of deaths and serious injuries from accidents were becoming available. All of this technology, as well as helicopter evacuation capabilities, had been brought together in Vietnam to provide battlefield casualties with rapid, effective treatment, and paramedics trained in on-the-spot emergency medicine were returning from Vietnam.

The 1973 law was designed to help local communities use existing resources and generate other potential sources of support to plan and develop comprehensive and integrated EMS systems through a 5-year sequence from preliminary planning to fully functioning, advanced systems. It provided the leadership and funding that was needed to establish national standards for emergency medical care, organize cost-effective systems of care on a regional basis, and, very importantly, create the training programs necessary for the development of skilled manpower needed to operate the systems.

The first 3 years of the 5-year sequence under the grant program enabled a region to achieve basic life support [BLS] capacity. A BLS system consists of a regional system of care with central communication and dispatch capability, coordination of ambulances, and designation of appropriate emergency rooms in the area for differing degrees of injury. An effective BLS system can provide patient stabilization, airway management, hemorrhage control, shock management with initial wound care, fracture stabilization, and, under medical supervision, specific noninvasive treatment.

Two additional years of support enabled a region to achieve advanced life

support [ALS] capacity which adds to the BLS system the trained paramedic who is in constant communication with a physician and who has the training and technology available to provide life-saving treatment to the patient on the way to the hospital. At the ALS level, mobile prehospital units are equipped with intravenous fluids, drugs, and some form of bioelectric communication and are staffed by paramedics with proper physician backup to perform expert diagnosis, treatment, and triage of critical conditions.

Mr. President, studies carried out in the early 1980's showed that EMS saves lives. Data compiled by 98 EMS regions for calendar year 1979 demonstrated that the median number of fatalities per 100 motor vehicle accident injuries decreased as EMS systems developed. In areas served by EMS systems in the planning stage, there were 3.1 deaths per 100 injuries; in those served by systems having ALS capabilities, the rate was 1.8 deaths per 100 injuries.

Individual regions reported dramatic successes. For example, Clark County, NV, showed a decrease of 23 percent in the early death rate for spinal cord injury victims from 1976 to 1981, during which time an EMS Program was established. The rural EMS Program in Charlottesville, VA, estimated in 1981 that the death risk from acute heart attacks had decreased 26 percent for all persons under the age of 70 in the areas it served since the development of its EMS system.

March 30, 1981, the country witnessed the life-saving capabilities of the EMS system in Washington, DC. On that date, President Reagan was shot. He was rushed to the George Washington University Hospital Trauma Center where a highly trained and expert emergency medical team removed the bullet near his heart. The President's emergency care was so successful because of the high state of readiness, training, and technological skill of the emergency medical team—results of a fully functioning EMS and trauma system. Dr. Benjamin Aaron, the surgeon who operated on the President, said that "only because the President got prompt and highly skilled modern shock trauma care was he in no danger of dying."

Yet, in 1981, despite these successes and the fact that a majority of the 303 designated regions had not yet completed the 5-year cycle, the Omnibus Budget Reconciliation Act of 1981—Public Law 97-35—terminated the so-called categorical grant program, under which grants to the regions were targeted on the development of EMS systems in accordance with national standards, and shifted the funding into the Preventive Health and Human Services [PHHS] block grant. During congressional hearings in 1981 on the proposed transfer, much concern was expresed that termination of the categorical grants would result in disarray and a breakdown in the coordination of the many systems which were in various phases of development throughout the country. I believed that this move might send a signal to State and local governments that the Congress no longer placed a priority on this program.

GAO REPORT ON EMS

Mr. President, 4 years ago, I sought to determine how EMS programs were faring under the block grant—whether the abandonment of the categorical grant program caused support for EMS to drop, development of EMS systems to slow, or fully functioning systems to break down. Since the Office of Emergency Medical Services within the Department of Health and Human Services was dismantled under the 1981 law, information regarding the present status of or funding for regional EMS programs was very difficult to obtain.

In an effort to get more complete answers to the questions regarding EMS under the block grant, in a March 5, 1985, letter I, joined by my good friend from Massachusetts [Mr. KENNEDY], requested that the GAO look into these issues—to review and analyze the levels of support and proficiency of EMS systems throughout the country.

In response, GAO investigated the status of EMS in six States—California, Massachusetts, Iowa, Pennsylvania, Florida, and Texas—and 18 localities within those States where programs were established under the categorical grant program. The GAO's findings were described in a September 1986 report, "States Assume Leadership Role in Providing Emergency Medical Services."

In general, the GAO found that in the six States surveyed, overall expenditures for EMS initially fell soon after EMS' incorporation into the PHHS block grant in 1982. However, by 1985, most States had reversed that trend. In the absence of Federal leadership, the GAO found that States generally are assuming a more active leadership role in financing and regulating emergency medical services.

Mr. President, the GAO also identified areas in which gaps in emergency medical services still exist and in which Federal actions and leadership are desirable. In particular, the GAO concluded that economic and political factors were preventing the development of trauma systems.

Mr. President, the GAO made a number of recommendations for congressional action, and this legislation, like its predecessor, S. 10, is based in good measure on those recommendations.

IMPROVING TRAUMA CARE

Mr. President, section 3 of this legislation would establish a new title XII within the Public Health Service Act dealing with emergency medical services and trauma care.

IMPROVING DISSEMINATION OF INFORMATION ON EMS ACTIVITIES

Since the advent of the 1981 block grant, the Federal role in collecting and disseminating information on the successes and problems experienced by State and local agencies in EMS has been very limited. States are constantly upgrading their emergency and trauma care because of the emergence of new technologies and the development of new initiatives. State officials surveyed by the GAO indicated that they could benefit greatly from a program for sharing information regarding a wide variety of EMS-related matters, such as practices and policies governing regulation of air ambulance services and the establishment of trauma systems, research assessing the most effective service delivery methods, and the generation of new revenues for EMS activities.

BILL PROVISION

In order to assist in the development of a nationwide EMS clearinghouse section 1201 would authorize the appropriation of $500,000 to the Secretary of Health and Human Services for fiscal year 1988. Funding would be phased out in subsequent years—with appropriations of $300,000 authorized for fiscal year 1989 and $100,000 for fiscal year 1990. The Secretary would award the contract for a clearinghouse through a competitive grant process.

With the phasing out of Federal assistance, I am satisfied, as a result of discussions with State EMS officials, that over the 3 fiscal years, the clearinghouse could achieve self-sufficiency through subscriptions, user fees, or other means.

DEVELOPING TRAUMA SYSTEMS

Emergency medical services systems are integrated, coordinated systems designed to provide medical care to those with any unpredicted immediate need—whether for an injury or illness—and continued care once in an emergency facility. Within the general categories of persons in need of emergency care, victims of severe injury require time-sensitive, highly specialized care. Trauma systems specifically focus on the identification, care, and treatment of only severely injured victims and, therefore, could be considered a subset of an EMS system.

Time is of the essence for trauma victims. Death from trauma most often occurs during one of three times following the injury: First, within minutes after the injury, usually because of severe damage to the brain, spinal cord, or heart; second, within hours after an injury, usually from shock, internal bleeding, or damage to other

organs; or third, within days or weeks after an injury, usually from infection or multiple organ failure.

Roughly 30 to 40 percent of the deaths from trauma fall into the second category, and virtually all of these deaths are unnecessary and preventable. But those trauma victims must receive immediate and highly skilled surgical intervention and other medical attention within what is called the golden hour following the initial trauma. This can best be accomplished through a well-coordinated and managed trauma system.

Trauma systems, by necessity, must include emergency medical services and, therefore, can function properly only if an EMS system is in place. Without efficient pre-hospital services, a trauma system would be ineffective. In addition, however, a trauma system must specifically provide for the identification and designation of trauma centers, which have specialized physicians, surgeons, and equipment immediately available on a 24-hour basis; a method to identify severe trauma victims in the pre-hospital phase; and the establishment of policies to ensure that all major trauma victims are transported to trauma centers.

In 1976, the American College of Surgeons [ACS] first published a document entitled "Optimal Hospital Resources for Care of the Seriously Injured," outlining the resources needed for optimal care of injury patients. It recommended guidelines and suggested policies for the establishment of complete trauma systems. Since 1976 the ACS guidelines and policies have been periodically updated, most recently in October 1986.

The first component essential for trauma systems is the organization of trauma services at certain designed institutions. The ACS flatly rejects the notion that a severely injured patient should be taken to the nearest hospital. Rather, it advocates that patients generally be transported immediately to institutions with appropriate levels of skills and technology.

The ACS recommends a system of classifying trauma centers into one of three levels, depending on the availability of specialized surgical personnel and equipment, the frequency with which they perform surgical procedures related to trauma, and the presence of research and teaching activities. Level I and II trauma centers, for example, must have surgical and emergency medical personnel trained in trauma care, including neurosurgeons, available 24 hours a day. Level I centers must also have a wider variety of surgical and nonsurgical specialists on-call or promptly available from other institutions as well as have teaching and research activities. Level III hospitals, which generally serve smaller communities or suburban settings, must demonstrate a commitment to trauma care commensurate with their resources.

I realize that some hospitals have raised concerns that the ACS guidelines would serve to set fixed limits on the number of trauma centers that may be designated in a State or region. However, I do not believe that to be the case. State and local authorities are most qualified to determine the number of trauma centers that are necessary and appropriate within their jurisdictions, and indeed, the ACS guidelines state that "each community must decide on the number of appropriate trauma facilities necessary to meet its commitment to excellence in trauma care [and] must consider the number of severe and urgent injuries to be handled as well as its ability to address its factors of geography and its ability to concentrate its resources."

I also understand that some community hospitals are concerned that trauma centers would draw business away and have opposed the establishment of trauma systems with designated trauma centers. However, a June 24, 1988, Journal of the American Medical Association article, entitled "Trauma Systems: Current Status—Future Challenges," cites a study that did not support this concept of a halo effect.

I believe that it is more cost-effective and medically sound to concentrate scarce and expensive medical resources in a few hospitals. Medical outcomes improve as a facility has more experience in performing a given procedure, and all hospitals cannot afford to provide all types of specialized medical care.

The second essential component of a trauma system is a triage—the classification of patients according to medical need. Various systems for identifying severe trauma patients have been developed; most use some form of numerical scoring. For example, the injury severity score [ISS] system assesses the level of injury in three different anatomical regions. A 1983 study showed that less than 6 percent of all patients treated for injury have an ISS of at least 15, which represents at least a 10-percent risk of dying from a single severe injury or multiple serious injuries. Paramedics and emergency medical technicians must be trained in an agreed-upon triage practice or scoring system in order to assure that severe trauma victims are accurately identified and taken to an appropriate trauma center.

Unfortunately, with any patient assessment system there are always a certain number of patients incorrectly identified as needing trauma-center care who could be adequately cared for at a typical community hospital. The incorrect routing of a patient to a trauma center is referred to as an "overtriage". Policies should be designed to minimize overtriage as much as possible in order to prevent costly overuse of trauma centers, the inappropriate diversion of patients away from community hospitals, and, particularly in cases of accident victims who do not have insurance or another payment source, inappropriate transfers to trauma centers solely for financial reasons.

The third component necessary for a trauma system to function effectively is an efficient network of transfer and transport arrangements between hospitals and ambulance services participating in the system. Transport agreements must involve ambulance services to facilitate the prompt transport of patients to appropriate designated facilities within and between different jurisdictions. At the same time, policies must be implemented to ensure that patients are not transferred to trauma centers who are not seriously injured because of the patient's inability to pay for services. Transfer agreements are particularly important in rural areas, where distances are great and high-level trauma centers may not exist, so that victims who might be transported initially to a level III facility would then later be transferred to a level I or level II facility, if possible.

TRAUMA SYSTEMS SAVE LIVES

Numerous studies have demonstrated that trauma systems result in dramatic reductions in death and disability.

For example, in 1980, Orange County, CA, established a trauma system comprised of five designated trauma centers. The system was established following the release of a study which showed that nonneurological trauma care was inadequate at hospitals without special trauma capabilities. Before implementation of the system, researchers found that 34 percent of the deaths occurring in trauma cases were preventable. After the system was in place, that figure dropped to 15 percent. Thus, more than half of the preventable deaths were in fact being avoided. Furthermore, none of the patients in the study died as a result of bypassing a conventional hospital in order to get to a trauma center.

In August 1984, San Diego implemented its regionalized trauma system. Three years after the system became fully operational, less than 1.5 percent of the total trauma deaths were considered to be potentially preventable. That's a decrease of 55 percent in the preventable death rate. Nearly 97 percent of trauma deaths occurring in San Diego are considered to be nonpreventable.

Finally, West Germany is an example of a country with excellent regional trauma care. It successfully transferred to civilian health care the knowledge and methods Americans de-

veloped in providing battlefield care in Vietnam. West Germany classifies hospitals according to their ability to provide trauma care and has established trauma centers along the main autobahns. A pre-hospital transport system comprised of helicopters and ambulances effectively ensures rapid access to them. It is estimated that 90 percent of the population is within 15 minutes of a trauma center.

As a consequence of this regionalized system, the mortality rate from motor vehicle accidents in West Germany has dropped from 16,000 per year in 1970 to 12,000 per year in 1983—a 25-percent reduction. That is consistent with findings that between 30 and 40 percent of trauma deaths are preventable.

The value of trauma center lies not only in reduction in deaths and disabilities but also in positive financial contribution to society. Dr. Donald Trunkey, a surgeon at the University of California, San Francisco and expert in trauma care, estimates that the reduction in West German trauma deaths translates into an increase of $220 million in the gross national product and of $55 million in taxes. Trunkey speculates that if the death rate from injuries throughout the United States decreased by comparable amount after implementing a regional trauma system, over the first 10 years, this country's GNP could be increased by more than $2 billion and the additional taxes paid could amount to more than half a billion dollars.

BARRIERS TO TRAUMA SYSTEM DEVELOPMENT

Mr. President, despite the clear consensus that trauma systems save lives, very few communities in the United States have developed such systems.

In a March 1988 report, entitled "Trauma System Development", the National Highway Traffic Safety Administration of the Department of Transportation found that none of the five areas studied—Dade County, FL; Allentown, PA; Sacramento, CA; Amarillo, TX; and Bend, OR—had fully developed systems.

In addition, the June 24, 1988 JAMA article reported that only two States had statewide coverage, that 19 States and the District of Columbia had regional systems which lacked one or more components of a complete system, and that the remaining 29 States had yet to initiate the process of trauma center designation. These findings are consistent with those of the GAO, which determined that a majority of the sites it visited lacked one or more components of a trauma system.

The GAO reported that economic and political factors are the major barriers to developing and implementing trauma systems. There is intense competition between hospitals which often see trauma center designation as a way to improve the hospital's image and status within the community to become designated trauma centers, and the process for designation can become vulnerable to local political pressures. Without a systematic approach for designating and accrediting trauma centers that includes a strict evaluation process, communities often find themselves with more so-called trauma centers than the population can support. As a result, many of these trauma centers do not meet the standards for trauma centers recommended by the ACS. Unfortunately, as the GAO noted, most States have not provided the leadership to overcome these political problems and competition between hospitals.

Mr. President, the financial burdens that can accompany trauma center designation are a major problem for many trauma centers, particularly in urban centers that provide a high proportion of uncompensated care associated with trauma. For suburban centers, the majority of trauma patients sustain their injuries from falls or car accidents and are usually covered by some form of insurance. In cities, particularly in inner-city areas, trauma centers treat a higher number or injuries that are the result of knife or gunshot wounds. The costs are high and most often, patients have no insurance to cover them.

Consequently, I am very concerned that communities with trauma systems are finding it increasingly difficult to maintain them. In Los Angeles, 7 out of 23 trauma centers have withdrawn from the trauma system because of high uncompensated care costs—between $500,000 and $2 million per trauma center annually—associated with trauma. In Miami, seven of the eight trauma centers withdrew from the system. In Chicago, 2 out of 10 trauma centers dropped out of the 2-year-old system and a third may do so shortly. Hospitals participating in the city's trauma network expect to lose about $15 million this year. I am also advised that trauma centers in San Diego and San Jose are close to dropping out of their systems.

Mr. President, there have been a number of articles that document these problems which I placed in the RECORD on August 3, 1988. I would urge my colleagues to refer to those articles, which begin on page S 10755 of the CONGRESSIONAL RECORD, for more information.

Mr. President, without access to additional funding for trauma centers, many trauma systems will collapse. Providing financial relief to trauma centers in distress is necessary to preserve the integrity of many trauma systems. In addition, as the DOT report stated, "[i]t is apparent that the problems of uncompensated care is a major disincentive to hospitals' participation in trauma care."

I would note that the conferees on the fiscal year 1989 Labor-HHS-Education Appropriations Act (Report 100-880, pages 15-16) recognized the burden uncompensated care poses to the economic viability of trauma care centers, particularly those located in border States or those serving a disproportionately high percentage of undocumented patients. I understand that 13 trauma centers in communities that border Mexico incurred $8.2 million of bad debts last year as a result of this situation. The conferees further urged the Department of Health and Human Services and appropriate congressional committees to address this problem in order to ensure that the critical care provided by trauma centers can continue.

BILL PROVISIONS

Section 1211 would establish a new program of trauma care grants to States, for which $75 million would be authorized to be appropriated for each of fiscal years 1990, 1991, 1992. Five percent would be available to the Secretary for the purpose of conducting research, training, evaluations, and demonstration projects with respect to emergency medical services and trauma care systems as described in section 1202. Up to 5 percent of a trauma care grant could be used for State administrative expenses.

A minimum of 35 percent of a State's allocation would go to counties, multicounty regions, or States for planning, implementation, and monitoring trauma systems. Each trauma system would be required to meet the standards and requirements established under the State plan. Each system would also be required to provide for the use of triage procedures, to provide for appropriate transportation and transfer policies, and to establish criteria and procedures for the identification and designation of trauma centers.

A minimum of 35 percent of a State's allocation would be used to reimburse trauma centers designated through a formal, competitive process pursuant to the State plan for portions of their uncompensated trauma-care costs. The only trauma centers that would be eligible to receive block grant funds would be those which meet criteria consistent with the guidelines of the American College of Surgeons for level I or level II trauma centers, or in the case of rural communities, level III trauma centers as specified in the State plan and serve areas in which triage, transport, and transfer policies, as described earlier in the summary of trauma-system-plan requirements, have been implemented.

Mr. President, clearly the systemic problems associated with uncompensated care that hospitals confront would not be addressed through this legislation. These problems must be

dealt with comprehensively and nationwide. However, I believe that this program would be able to provide a degree of financial relief to the most severely stressed trauma centers to enable them to continue providing lifesaving care to all who are in need.

Each State would have the discretion to devote the remaining 30 percent to either of the two activities described above. In addition, the Secretary would be permitted to adjust the minimum percentage a State must spend for each of the two activities if the State demonstrates it is unable to use 35 percent of its allotment for one or the other activity. This approach would give States and communities flexibility to apply resources to the development or maintenance of trauma systems and centers.

States would be required to provide matching funds—in cash and or in kind—in the amount of $1 for each $3 of Federal funds. However, the Secretary may not require matching funds in fiscal year 1990.

Section 1214 would require, beginning in fiscal year 1990, that each State annually submit the trauma care component of the State emergency medical services plan. Each State plan would be required to:

First, specify which entity would be authorized to designate trauma centers.

Second, establish a framework and set minimum standards and guidelines for the implementation of regionalized trauma care systems, including guidelines for pre-hospital triage and transportation and including standards for the triage and transport of severely injured children. All transfer policies would be required to specific procedures—consistent with those enacted in section 9121 of Public Law 99-272 with respect to Medicare hospitals—in order to prevent inappropriate transfers.

Third, establish minimum standards and requirements for designation of trauma centers, including the number and type of trauma cases necessary to assure that trauma facilities will provide an acceptable quality of care to trauma cases.

Fourth, establish a process for the evaluation of designated centers and trauma systems.

Fifth, provide for the establishment of a centralized data reporting and analysis system that would accurately identify severely injured trauma patients at all facilities participating in trauma systems, identify the uncompensated trauma-care dollar volume by trauma hospital, identify patients who were inappropriately trainsferred, and monitor patient care at facilities throughout the trauma systems.

Sixth, provide for the conduct of public education activities concerning injury prevention and obtaining access to emergency medical services and trauma care.

Seventh, provide for the coordination and cooperation with a neighboring State that shares a standard metropolitan statistical area.

State standards relating to triage, transfer and transport policies, and the designation of trauma centers would be required to be at least as stringent as the applicable guidelines developed by the American College of surgeons and by the American College of Emergency Physicians. These guidelines are widely recognized by trauma experts to reflect the state-of-the-art for quality trauma care and already serve as the basis for trauma system development in several States.

However, we realize that some States may have unique circumstances that would prevent their trauma systems from meeting or adhering to all aspects of the ACS and ACEP guidelines. Thus the bill would provide that a State may obtain from the Secretary a waiver of such standard or standards if it provides an explanation and sufficient justification for such a waiver in the State plan. First, however, the State must provide all interested parties with an opportunity to respond to the proposed waiver through a public hearing process.

Mr. President, section 1215 would require designated trauma centers to provide to the State's centralized data collection office statistics information regarding the number of major trauma victims, the number of inpatient days consumed by these major trauma victims, and the total amount appropriately billed for which there was no identifiable third-party payor source. Institutions would also provide information on the diagnosis of, treatment provided to, and outcome of care for trauma patients and the number of patients inappropriately transferred.

States would be required to compile and submit such information to the Secretary as well as information regarding rural areas in which there are no 911 emergency telephone systems, no basic life-support systems, or no advanced life-support systems.

RESEARCH ON THE LONG-TERM IMPACT OF TRAUMA

Although trauma is the leading cause of death and disability in children and young adults, destroys the health, lives, and livelihoods of millions of people, and is the most costly of all major health problems, very little data are available about the long-term economic consequences of trauma. Knowledge about the chronic effects of injury on personal abilities in occupations and recreation and on social and psychological functioning is sorely lacking.

In contrast, for many health problems, such as cancers and cardiovascular diseases, long-term studies have provided valuable epidemiologic data on which to base intervention strategies.

BILL PROVISIONS

In order to establish an effective data collection base for evaluating the cost-effectiveness of trauma systems, section 4 would require the Secretary of HHS to conduct a comprehensive study on the long-term economic impact of trauma in the United States. The study would follow a multidisciplinary approach and draw on diverse fields such as epidemiology, statistics, biomedical engineering, behavioral sciences, health economics and general economics in order to identify and evaluate the many factors that influence the impact and long-term outcome of a trauma incident. Such sums as are necessary for the study would be authorized to be appropriated.

IMPROVING COORDINATION OF EMS EXPENDITURES

The GAO also found that many State transportation departments and State health departments do not coordinate expenditures for EMS-related functions. State transportation departments receive Federal highway safety funds from the Department of Transportation [DOT]; State health departments generally receive PHHS block grant moneys from the Department of Health and Human Services. In four of the six States the GAO visited during the fall of 1985, State transportation departments were not coordinating with EMS offices when deciding to use DOT funds for EMS activities.

For example, in California, $1.3 million of Federal highway safety funds were spent on EMS in 1985. The State EMS office director informed the GAO that his office was not involved in that decision and, consequently, could not determine whether the expenditures were consistent with the State plan or needs in the emergency medical services area.

Better coordination of EMS activities between State agencies could increase the effectiveness of such expenditures and minimize duplication.

BILL PROVISION

To accomplish this section 5 would require the State grantees of the State and Community Highway Safety Program and the PHHS block grant to provide assurances that both the State EMS director and State government highway safety representative have opportunities to participate in the development of all plans for EMS services and to review and comment on any proposals for the use of grants that may be applied to EMS-related purposes.

UPGRADING COMMUNICATIONS SYSTEMS

Mr. President, communications between the patient or other individuals on the scene and central dispatcher, between dispatcher and ambulance or

other emergency vehicle, and between emergency vehicle and hospital-care are at the core of a successful EMS system.

First, individuals experiencing or witnessing a medical emergency must be able to gain access to the EMS system. This can best be accomplished through a single coordinated telephone system, such as the 911 emergency telephone number. As the GAO noted, a 911 system has two advantages. Callers need only remember one easily recognized 3-digit number, which is used whenever the system is implemented throughout the country, and an area-wide 911 system automatically routes that call to the most appropriate ambulance service or other emergency responder. In contrast, individuals living in or visiting areas without access to a single area-wide telephone number often experience substantial time delays in reaching the ambulance provider or fire department thus losing precious time which can mean the difference between life and death.

Although the availability of 911 has grown, more than 50 percent of the population of the United States still does not have access. Lack of access is particularly widespread in rural areas. For example, in the regions visited by the GAO, six of the nine urban areas have 100 percent of the population covered by 911, while only two of the nine rural areas have complete coverage. I am very pleased that my own State has implemented 911 throughout the entire State. In the 10 surveyed areas which the GAO found lacked complete 911 coverage, the most common factors cited as barriers to providing a 911 system were start-up and operating costs. Installing a basic 911 system costs on average of $250,000.

Second, the dispatch center must be able to transfer incoming calls to appropriate ambulance service providers as rapidly as possible. The number of times an incoming call is transferred and the amount of information that the dispatch center must obtain in order to make the transfer directly affect response time. For example, an enhanced 911 system, in which the address and telephone number of the incoming call are automatically displayed on a computer screen, reduces errors, speeds response time, and is particularly helpful when children call in for help. Again, lack of funds often prohibits the implementation of this advanced system, which can cost up to four times the amount of a basic 911 system.

Third, the ambulance or other emergency vehicle must be able to contact the base hospital during all phases of the medical emergency. Radio communications are essential for an ambulance to locate the medical emergency and to determine the most appropriate hospital to which the patient should be transported. In addition, in order to provide highly skilled, sophisticated care at the scene of the medical emergency, particularly ALS services for cardiac and trauma patients, paramedics must have radio contact with a physician in order to obtain medical direction. Too often, however, outmoded equipment and interference due to overcrowded radio frequencies hamper radio communications between ambulances and hospitals.

For example, the GAO reported that in Alameda County mountainous terrain blocks communications between the ambulance crew and the hospital in certain areas. Although a new tower would overcome this geographical barrier, Federal funding under the PHHS block grant is prohibited from being used for any such equipment purchases. Many other communities indicated to the GAO that the prohibition prevents them from upgrading and replacing old communications equipment.

New communications equipment is also needed by many communities to take advantage of new radio frequencies as they become available because competition for frequencies is fierce and interference is a major problem. The GAO found that in 10 of the 18 local areas, substantial radio interference from other emergency and nonemergency users exists.

Under Federal Communication Commission (FCC) rules, EMS providers share channels with other nonemergency medical-related users and EMS providers are not necessarily given priority in the allocation of new channels. At the same time, competition for frequencies is increasing markedly. The medical services frequencies in particular are extremely congested, especially in densely populated urban areas.

In 1985, the FCC projected severe shortfalls of available frequencies for public safety users in the 1990's in many major metropolitan areas, such as southern California, New York, and the Baltimore-Washington, DC, areas.

In April 1986, the FCC began taking action to help resolve the frequency-overcrowding problem. It designated an organization to review new license applications for emergency users and to recommend frequencies with the least likelihood of interference. The FCC also allocated a new and unused range of frequencies for public safety users, including EMS.

However, although I am pleased that the FCC has taken first steps to resolve some immediate problems, long-term solutions are still needed.

BILL PROVISIONS

In pursuit of such long-term solutions, section 6 of S. 10 would:

First, in order to improve rural communities' abilities to implement and operate 911 systems, amend the Community Facilities Loan [CFL] Program under the Farmers Home Administration to specify expressly that CFL's may be used for 911 development and communications-equipment purchases. This modification is consistent with the intent of the CFL Program, which is designed to improve community facilities providing essential services to rural residents, including fire and rescue services and health benefits.

Mr. President, the Senate Committee on Agriculture, Nutrition, and Forestry, which has jurisdiction over the CFL Program, notified the chairman of the Labor and Human Resources Committee [Mr. KENNEDY] and myself last year that it had no objection to the provision. I ask unanimous consent that the September 15, 1988, letter from the chairman and ranking minority member of the Committee on Agriculture, Nutrition, and Forestry [Mr. LEAHY and Mr. LUGAR] be printed in the RECORD at the conclusion of my remarks.

Second, amend the prohibition against using PHHS block grant funds for equipment in order to permit expenditures for equipment to improve communications capabilities within an EMS system. In addition, States would be required to provide equal matching funds.

Third, require the FCC to assess the current and future availability of radio frequency channels for EMS communications between ambulances, both public and private, and hospitals and to establish a plan which ensures that the needs of EMS systems would be adequately provided for in making future allocations of frequencies.

As a result of discussions with the FCC last year on this issue, I understand that the FCC has already undertaken a study of these matters and is developing a national assignment plan for recently allocated Public Safety radio frequencies. To the extent that the issues raised regarding the study of available frequencies and establishment of a plan are sufficiently addressed in the FCC's ongoing study, we do not intend that a separate effort be undertaken. However, it is our expectation that the FCC include in its report a discussion of the potential need for protected frequencies for prehospital emergency medical services.

CONCLUSION

Mr. President, nearly 16 years ago the first comprehensive law to upgrade emergency medical services through the United States was enacted. That law and those that followed in 1976 and 1979, which I am very proud to have authored, enabled communities to transform emergency medical services that consisted of poorly trained ambulance and emergency room personnel, outdated equipment, and little coordination of services into efficient and effective EMS

systems able to respond to all kinds of medical crises.

S. 15 would enable communities to build on those systems in order that victims of serious injuries can be assured of receiving the highest quality of medical care available, and more importantly, be given every opportunity to continue full and productive lives.

Saving lives and preventing disabilities resulting from injuries is a goal within our grasp. We need only have the foresight and determination to organize and allocate medical resources to ensure that trauma victims are rapidly identified and transported to facilities specifically designed to provide the optimal level of care. I urge all my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following the letters mentioned above.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Medical Services and Trauma Care Improvement Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government and the governments of the States have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services throughout the United States;

(2) physical trauma causes 140,000 deaths each year, is the leading cause of death of Americans between the ages of 1 and 44, and is the third leading cause of death in the general population of the United States;

(3) physical trauma in the United States results in an aggregate annual cost of $135,000,000,000 in medical expenses, insurance, administrative costs, property damage, and indirect costs (including more than an annual $31,000,000,000 in lost wages of individuals who are in their most productive work years);

(4) barriers still exist in many parts of the country that prevent quick and efficient emergency medical services from being provided;

(5) few States and communities have developed and implemented regional trauma care systems;

(6) uncompensated care costs associated with trauma have forced many trauma centers to drop out of trauma systems; and

(7) the number of deaths and disabilities resulting from incidents of physical trauma can be substantially reduced by improving emergency medical services systems and, in particular, the trauma care components of such systems.

SEC. 3. ESTABLISHMENT OF PROGRAMS WITH RESPECT TO TRAUMA CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XI the following new title:

"TITLE XII—TRAUMA CARE

"PART A—GENERAL AUTHORITY AND DUTIES OF SECRETARY

"SEC. 1201. CLEARINGHOUSE ON EMERGENCY MEDICAL SERVICES AND TRAUMA CARE.

"(a) ESTABLISHMENT.—The Secretary shall by contract provide for the establishment and operation of a National Clearinghouse on Emergency Medical Services and Trauma Care (hereinafter referred to in this title as the 'Clearinghouse').

"(b) DUTIES.—The Clearinghouse shall—

"(1) foster the development of appropriate, modern emergency medical services and trauma care through the sharing of information among agencies and individuals involved in planning, furnishing, and studying such services and care;

"(2) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing emergency medical services and trauma care and, in so doing, give special consideration of the unique needs of rural areas;

"(3) provide technical assistance relating to emergency medical services and trauma care to State and local agencies; and

"(4) sponsor workshops and conferences on emergency medical services and trauma care.

"(c) FEES AND ASSESSMENTS.—A contract entered into by the Secretary under this section may provide that the Clearinghouse shall charge fees or assessments in order to defray, and beginning with fiscal year 1991, to cover, the costs of operating the Clearinghouse.

"(d) AUTHORITY TO ENTER INTO CONTRACTS.—The authority of the Secretary to enter into contracts under this section shall be to such extent or in such amounts as are provided in Appropriation Acts.

"(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $500,000 for the later of fiscal year 1990 or the first fiscal year thereafter for which funds are appropriated under this section, $300,000 for the later of fiscal year 1991 or the second fiscal year after fiscal year 1990 for which funds are so appropriated, and $100,000 for fiscal year 1992 or the third fiscal year after fiscal year 1990 for which funds are so appropriated.

"SEC. 1202. GENERAL DUTIES.

"(a) IN GENERAL.—The Secretary shall—

"(1) conduct and support research, training, evaluations, and demonstration projects with respect to emergency medical services and trauma care systems;

"(2) provide to State and local agencies technical assistance relating to emergency medical services and trauma care systems; and

"(3) establish guidelines for the development of uniform State data reporting systems as described in section 1214(b)(7).

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a).

"PART B—GRANTS WITH RESPECT TO MODIFICATIONS OF STATE PLANS

"SEC. 1211. ESTABLISHMENT OF PROGRAM.

"(a) REQUIREMENT OF ALLOTMENTS FOR STATES.—

"(1) IN GENERAL.—Subject to section 1232(b), the Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1220.

"(2) APPLICATION.—The Secretary shall make payments each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1219.

"(b) AVAILABILITY.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which such amount was paid.

"SEC. 1212. USE OF ALLOTMENTS.

"(a) PLANNING, IMPLEMENTING, ETC.—Not less than 35 percent of the total amount paid to a State under section 1211 for a fiscal year shall be used by a State to pay the costs of planning, implementing, monitoring, and evaluating the operation of, county, regional, or State trauma care systems. Such funds shall be administered by the head of the State agency or office responsible for the planning and coordination of emergency medical services system in the State. Each trauma care system supported with amounts made available under this subsection shall—

"(1) meet the standards and requirements established under the State plan submitted under section 1214;

"(2) provide for the use of triage procedures by paramedics, emergency medical technicians, and other emergency care providers to assess the severity of injury incurred by trauma patients;

"(3) provide for the use of appropriate transportation and transfer policies, including those referenced in section 1214(c), to ensure the delivery of patients to designated trauma centers, including facilities with specialized capabilities and expertise in the care of pediatric trauma patients, and other facilities within and outside of the jurisdiction of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers;

"(4) conduct public education activities concerning preventing injuries and obtaining access to emergency medical services and trauma care; and

"(5) establish criteria and procedures, in accordance with the State plan required under section 1214, for the identification and designation of trauma centers to participate in the trauma care system.

"(b) TRAUMA CARE EXPENDITURES.—Not less than 35 percent of the amount available for a fiscal year to a State from the total amount paid to the State under section 1211 for such fiscal year shall be used by the State to reimburse designated trauma centers for such portions of the uncompensated trauma care expenditures of such centers (including uncompensated professional services) as the State considers appropriate. In order to receive reimbursement for uncompensated trauma care expenditures under this subsection, a designated trauma center shall—

"(1) be a center that—

"(A) meets the standards and requirements established by the State in accordance with the State plan required under section 1214; and

"(B) meets the guidelines for level I or level II trauma centers or in the case of rural communities, a level III trauma center as specified by the State plan required under section 1214;

"(2) serve an area in which the procedures and policies described in paragraphs (1) and

(2) of subsection (a) have been implemented; and

"(3) maintain its designation as a designated trauma center throughout the fiscal year for which reimbursement is provided under this subsection.

"(c) REMAINING AMOUNTS.—After the application of subsections (a) and (b) for a fiscal year, the amount remaining available for such fiscal year to a State from the total amount paid to the State under section 1211 for such fiscal year may be used for any purposes for which funds are required to be used under such subsections.

"(d) ADJUSTMENTS IN USE OF AMOUNTS AND ADMINISTRATION.—

"(1) ADJUSTMENTS.—The percentage of the total amount paid to a State under section 1211 for a fiscal year that is required by subsection (a) to be used for the uses specified in such subsection may be adjusted by the Secretary in order to—

"(A) permit the State to use for such uses such greater proportion of such amount as the Secretary determines, based upon a demonstration by the State of the extent to which the State is unable to use 35 percent of such amount for reimbursements under subsection (b), that the State is unable to use for such reimbursements; or

"(B) permit the State to use for such uses such lesser proportion of such amount as the Secretary determines, based on a demonstration by the State of the extent to which the State does not need to use 35 percent of such amount for such uses in order to carry out adequately during such fiscal year the activities described in subsection (a), that the State needs to use for such uses.

"(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of the total amount paid to a State under section 1211 for a fiscal year may be used for administering the funds made available under section 1211. The State shall pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1213. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FISCAL YEAR 1990.

"(a) IN GENERAL.—

"(1) PROHIBITION.—The Secretary may not make payments under section 1211(a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purposes described in section 1212, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in payments from the allotment for such fiscal year.

"(2) LIMITATION ON CONDITIONS.—With respect to an allotment under section 1211(a) for a State for fiscal year 1990, the Secretary may not require the State to make non-Federal contributions as a condition of receiving payments from the allotment.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"SEC. 1214. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

"(a) STATE PLAN.—

"(1) TRAUMA CARE COMPONENT.—For each fiscal year, beginning with fiscal year 1990, each State shall submit the trauma care component of the State emergency medical services plan (hereafter in this section referred to as the 'State plan') to the Secretary.

"(2) INTERIM PLAN.—For fiscal year 1990, if a State has not completed the State plan, such State may provide, in lieu of a completed plan, an interim plan or description of efforts made toward the completion of the plan.

"(b) REQUIREMENTS OF PLAN.—Each State plan shall—

"(1) specify that the modifications required pursuant to paragraphs (2) through (8) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

"(2) specify the public or private entity that will designate trauma care regions and trauma centers in the State;

"(3) contain minimum standards and requirements for the designation of trauma centers (including facilities with specified capabilities and expertise in the care of the pediatric trauma patient) by such entity, including standards and requirements for—

"(A) the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

"(B) the resources and equipment needed by such centers;

"(C) the availability of rehabilitation services for trauma patients; and

"(D) the provision of assurances that such centers may not refuse the transfer of a trauma patient because the patient is unable to pay for the care that the patient requires;

"(4) contain standards and requirements for the implementation of regional trauma care systems, including standards and guidelines (consistent with the provisions of section 1867 of the Social Security Act (42 U.S.C. 1935dd) and subsection (c) of this section) for medically directed triage and transportation of trauma patients (including patients injured in rural areas);

"(5) contain standards and requirements for medically directed triage and transport of severely injured children to facilities with specified capabilities and expertise in the care of the pediatric trauma patient;

"(6) specify procedures for the evaluation of designated trauma centers (including trauma centers described in paragraph (5)) and trauma care systems;

"(7) provide for the establishment in the State of a central data reporting and analysis system for—

"(A) identifying severely injured trauma patients within regional trauma care systems in the State;

"(B) identifying the cause of the injury and any factors contributing to the injury;

"(C) identifying the nature and severity of the injury;

"(D) monitoring trauma patient care (including prehospital care) in each designated trauma center within regional trauma care systems in the State (including relevant emergency department treatment and rehabilitation information);

"(E) identifying the total amount of uncompensated trauma care expenditures made for each fiscal year by each trauma center in the State; and

"(F) identifying patients transferred inappropriately within regional trauma systems;

"(8) provide for the conduct of public education activities concerning injury prevention and obtaining access to emergency medical services and trauma care; and

"(9) with respect to the requirements established in paragraphs (2) through (8), provide assurances of coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

"(c) EXAMINATION AND TREATMENT FOR EMERGENCY MEDICAL CONDITIONS.—Appropriate transfer policies referred to in subsection (b)(4) and section 1212(a)(3) shall include the following requirements:

"(1) MEDICAL SCREENING REQUIREMENTS.—In the case of a hospital that has a hospital emergency department, if any individual comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital shall provide for an appropriate medical screening examination within the capability of the hospital's emergency department to determine whether or not an emergency medical condition (as such term is defined in section 1867(e)(1) of the Social Security Act (42 U.S.C. 1395dd(e)(1))) exists or to determine if the individual is in active labor (as such term is defined in section 1867(e)(2) of the Social Security Act (42 U.S.C. 1395dd(e)(2))).

"(2) NECESSARY STABILIZING TREATMENT FOR EMERGENCY MEDICAL CONDITIONS AND ACTIVE LABOR.—

"(A) IN GENERAL.—If any individual comes to a hospital and the hospital determines that the individual has an emergency medical condition or is in active labor (as so defined), the hospital must provide either—

"(i) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition or to provide for treatment of the labor; or

"(ii) for transfer of the individual to another medical facility in accordance with paragraph (3).

"(B) REFUSAL TO CONSENT TO TREATMENT.—A hospital shall be considered to meet the requirement of subparagraph (A) with respect to an individual if the hospital offers the individual the further medical examination and treatment described in such clause but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the examination or treatment.

"(C) REFUSAL TO CONSENT TO TRANSFER.—A hospital shall be considered to meet the requirements of subparagraph (A) with respect to an individual if the hospital offers to transfer the individual to another medical facility in accordance with paragraph (3) but the individual (or a legally responsible person acting on the individual's behalf) refuses to consent to the transfer.

"(3) RESTRICTING TRANSFERS UNTIL PATIENT STABILIZES.—

"(A) GENERAL RULE.—If a patient at a hospital has an emergency medical condition which has not been stabilized (as such term is defined in section 1867(e)(4)(B) of the Social Security Act (42 U.S.C. 1395dd(e)(4)(B))) or is in active labor, the hospital may not transfer the patient.

"(B) EXCEPTION.—A patient that has not been stabilized (as such term is defined in section 1867(e)(4)(B) of the Social Security Act (42 U.S.C. 1395dd(e)(4)(B))) or is in active labor may be transferred if—

"(i)(I) the patient (or a legally responsible person acting on the patient's behalf) requests that the transfer be effected, or

"(II) a physician, or other qualified medical personnel when a physician is not read-

ily available in the emergency department, has signed a certification that, based on the reasonable risks and benefits to the patient, and based on the information available at the time, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual's medical condition from effecting the transfer; and

"(ii) the transfer is an appropriate transfer (within the meaning of subparagraph (D)) to that facility.

"(C) REQUIREMENT.—If a patient at a hospital has an emergency medical condition that has been stabilized, the hospital may transfer the patient but only by means of an appropriate transfer.

"(D) APPROPRIATE TRANSFER.—A transfer to a medical facility is an appropriate transfer if—

"(i) the receiving facility—

"(I) has available space and qualified personnel for the treatment of the patient, and

"(II) has agreed to accept transfer of the patient and to provide appropriate medical treatment, except that a hospital may not refuse to accept a transferred patient unless such hospital does not have the facilities or personnel available to provide proper care for such transferred patient, or the hospital has a full census at that time;

"(ii) the transferring hospital provides the receiving facility with appropriate medical records (or copies thereof) of the examination and treatment affected at the transferring hospital;

"(iii) the transfer is effected through qualified personnel and transportation equipment, as required including the use of necessary and medically appropriate life support measures during the transfer; and

"(iv) the transfer meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the patient transferred.

"(4) CALL SCHEDULES.—In the case of a hospital that has a hospital emergency department, such hospital shall provide a call schedule that lists the appropriate medical specialists that will be immediately available for duty to provide ongoing, definitive treatment to a patient after the initial examination by the emergency physicians.

"(d) CERTAIN STANDARDS WITH RESPECT TO TRAUMA CARE CENTERS AND SYSTEMS.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that, in carrying out paragraphs (3), (4), and (5) of subsection (b), the State will adopt guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, at least as stringent as the applicable guidelines developed by the American College of Surgeons and by the American College of Emergency Physicians.

"(e) WAIVERS.—

"(1) IN GENERAL.—If the head of the State agency with jurisdiction over emergency medical services makes a determination that one or more of the standards pursuant to subsection (d) cannot be met in the State, the State may, subject to paragraph (2), request a waiver of such standard or standards if the State provides the Secretary with an explanation of and justification for such a waiver in the State plan submitted under subsection (b).

"(2) HEARING.—Before requesting a waiver under this subsection, the State shall—

"(A) in order to assure interested parties with an adequate notice and opportunity to respond to the proposed waiver—

"(i) provide notice to the public that it is applying for the waiver;

"(ii) solicit and consider comments from the public; and

"(iii) conduct a hearing on the proposed waiver; and

"(B) include with such explanation and justification a description of any comments made at the hearing in opposition to the proposed waiver and the response of the State to such comments.

"(3) PUBLICATION AS NOTICE.—The notice, solicitation of comments and hearing required in paragraph (2)(A) shall be made through publication in the Federal Register.

"(4) GRANTING OF WAIVER.—The Secretary may grant a waiver of such standard or standards on such terms and conditions as the Secretary may prescribe if the Secretary determines that the justification provided by the State is sufficient and that, in the absence of compliance with the standard or standards involved, the availability or quality of care furnished will not be diminished.

"SEC. 1215. REQUIREMENT OF ANNUAL REPORT BY DESIGNATED TRAUMA CENTERS.

"The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to require each designated trauma center in the State to provide to the central data reporting system of the State pursuant to section 1214(b)(7) each fiscal year a report that—

"(1) specifies the number of trauma patients cared for by such facility during the fiscal year;

"(2) specifies the total number of inpatient hospital days used by such patients during the fiscal year;

"(3) describes the diagnoses, treatment, and treatment outcomes for such patients;

"(4) specifies the total amount of uncompensated trauma care expenditures incurred by such facility for such patients for such fiscal year; and

"(5) specifies the number of patients transferred in a manner not in accordance with the provisions of section 1214(c)(3)(D).

"SEC. 1216. REQUIREMENT OF PROVISION OF CERTAIN INFORMATION TO SECRETARY.

"(a) INFORMATION RECEIVED BY STATE REPORTING AND ANALYSIS SYSTEM.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 1214(b)(7).

"(b) AVAILABILITY OF EMERGENCY MEDICAL SERVICES IN RURAL AREAS.—The Secretary may not make payments under section 1211(a) for a fiscal year unless—

"(1) the State involved identifies any rural area in the State for which—

"(A) there is no system of access to emergency medical services through the telephone number 911;

"(B) there is no basic life-support system; or

"(C) there is no advanced life-support system; and

"(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.

"SEC. 1217. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (b), make payments under section 1211(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) to make cash payments to intended recipients of services provided pursuant to the such section;

"(2) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical or communication equipment, ambulances, or aircraft; or

"(3) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) EXCEPTION.—If the Secretary finds that the purpose described in section 1212 cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in subsection (a)(3).

"SEC. 1218. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments; and

"(2) determining whether the payments were expended in accordance with the purpose of the program involved.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that the State will make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments under section 1211(a) in order to assure that expenditures are consistent with the provisions of the program involved.

"SEC. 1219. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1211(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 1212 through section 1218;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the information required to be submitted to the Secretary pursuant to section 1214(a) and 1216(b)(2); and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 1220. AMOUNTS OF ALLOTMENTS.

"(a) FORMULA.—

"(1) IN GENERAL.—Except as provided in subsection (b), the Secretary shall allot to each State under section 1211(a) an amount that shall be the sum of the amounts allotted to the State under paragraphs (2) and (3).

"(2) POPULATION.—Eighty percent of the total amount made available under section 1232(b)(2) for a fiscal year shall be allotted to States under this paragraph. The allotment of a State under this paragraph shall

be the amount that bears the same ratio to the amount available for allotment under this paragraph as the population of the State bears to the population of all States.

"(3) SQUARE MILEAGE.—Twenty percent of the total amount made available under section 1232(b)(2) for a fiscal year shall be allotted to States under this paragraph. The allotment of a State under this paragraph shall be the amount that bears the same ratio to the amount available for allotment under this paragraph as the square mileage of the State bears to the square mileage of all States.

"(4) MAXIMUM ALLOTMENT.—The total amount allotted to a State under this subsection shall not be greater than three times the greater of—

"(A) the amount the State would otherwise receive if a State's allotment were determined by the amount which bears the same ratio to the amount available for allotment as the population of the State bears to the population of all States; or

"(B) the minimum allotment as determined under subsection (b).

"(b) MINIMUM ALLOTMENT.—Notwithstanding subsection (a)—

"(1) if the total amount appropriated under section 1232 for any fiscal year equals or exceeds $25,000,000, the allotment of a State under this section for such fiscal year shall not be less than the greater of—

"(A) $250,000, or

"(B) an amount equal to one-half of one percent of the total amount appropriated to carry out this part for such fiscal year; or

"(2) if the total amount appropriated under section 1232 for any fiscal year is less than $25,000,000—

"(A) the Secretary shall allot 25 percent of such amount equally among the States; and

"(B) the Secretary shall allot 75 percent of such amount according to a formula developed by the Secretary designed to target funds to States that demonstrate in their applications the greatest commitment to establishing and maintaining trauma systems and that have the greatest need to develop, implement, and maintain such systems.

"(c) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) IN GENERAL.—Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 1211(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) TYPE OF AMOUNTS.—The amounts referred to in paragraph (1) are any amounts made available pursuant to 1232(b)(2) that are not paid under section 1211(a) to a State as a result of—

"(A) the failure of the State to submit an application under section 1219;

"(B) the failure, in the determination of the Secretary, of the State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made for the State.

"(3) AMOUNT.—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be in proportion to the amount otherwise allotted to such State for the fiscal year without regard to this subsection.

"SEC. 1221. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) REPAYMENT OF PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to section 1211(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under such section.

"(2) FAILURE TO REPAY.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against any amount due to be paid to the State under section 1211(a).

"(b) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1222. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) MATERIAL FACT.—A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 1211(a).

"(2) INTENT TO DEFRAUD.—A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under section 1211(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1223. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving payments under section 1211(a), provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1212. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) SUPPLIES AND SERVICES.—

"(1) IN GENERAL.—On the request of a State receiving an allotment under section 1211(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out section 1211(b) and, for such purpose, may detail to the grantee any officer or employee of the Department of Health and Human Services.

"(2) REDUCTION IN AMOUNTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments to the State under section 1211(a) by an amount equal to the fair market value of any supplies, equipment, or services provided by the Secretary and shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1224. REPORT BY SECRETARY.

"Not later than October 1, 1991, the Secretary shall prepare and submit to the appropriate Committees of Congress a report on the activities of the States carried out pursuant to section 1211. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"PART C—GENERAL PROVISIONS

"SEC. 1231. DEFINITIONS.

"As used in this title—

"(1) DESIGNATED TRAUMA CENTER.—The term 'designated trauma center' means a trauma center designated in accordance with the modifications to the State plan described in section 1214.

"(2) PLAN FOR THE PROVISION OF EMERGENCY MEDICAL SERVICES.—The term 'plan for the provision of emergency medical services' means a plan for a comprehensive, organized system to provide for the access, response, triage, field stabilization, transport, hospital stabilization, definitive care, and rehabilitation of patients of all ages with respect to emergency medical services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) TRAUMA CARE COMPONENT OF THE PLAN FOR THE PROVISION OF EMERGENCY MEDICAL SERVICES.—The term 'trauma care component of the plan for the provision of emergency medical services' means a plan for a comprehensive health care system, within rural and urban areas of the State, for the prompt recognition, prehospital care, emergency medical care, acute surgical and medical care, rehabilitation, and outcome evaluation of seriously injured patients.

"(5) UNCOMPENSATED TRAUMA CARE EXPENDITURES.—The term 'uncompensated trauma care expenditures' means any amount that is expended by a health care facility to provide health care services to a trauma patient and for which such facility does not receive payment or reimbursement.

"SEC. 1232. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1990 through 1992.

"(b) ALLOCATION OF FUNDS BY SECRETARY.—

"(1) PART A.—For the purpose of carrying out part A, the Secretary shall make available 5 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(2) PART B.—For the purpose of making allotments under section 1211(a), the Secretary shall make available 95 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).".

SEC. 4. REQUIREMENT OF CERTAIN STUDIES RELATING TO TRAUMA CARE.

(a) MEDICAID POLICIES OF STATES.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall conduct a study for the purpose of determining the policies adopted by States in reimbursing trauma centers pursuant to title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The study shall assess the adequacy and appropriateness of the reimbursements provided pursuant to such title by States to such centers and shall include recommendations with respect to whether the requirements imposed under such title should be modified in order to ensure that such centers are appropriately reimbursed.

(b) LONG-TERM ECONOMIC EFFECTS OF TRAUMA.—The Secretary shall conduct a comprehensive multidisciplinary study of the long-term economic effects of incidences of trauma in the United States. In conducting the study, the Secretary shall utilize the services of individuals with expertise in ap-

propriate fields (including epidemiology, statistics, behavioral sciences, and health economics) in order to identify and evaluate as many factors as possible that influence the impact and long-term outcome of a trauma incident.

(c) TIME FOR COMPLETION.—The Secretary shall, not later than 1 year and 3 years after the date of enactment of this Act, complete the studies required in subsections (a) and (b), respectively, and submit to the appropriate Committees of Congress a report describing the findings made as a result of the studies.

SEC. 5. COOPERATION BETWEEN STATE AGENCIES.

(a) CERTIFICATIONS REQUIRED IN APPLICATIONS FOR PHHS BLOCK GRANT.—Section 1905(c) of the Public Health Service Act (42 U.S.C. 300w-4(c)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

"(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety, including the State plan required by section 1910B; and

"(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.".

(b) HIGHWAY SAFETY PROGRAM.—Paragraph (1) of section 402(b) of title 23, United States Code, is amended—

(1) by striking out the period at the end of each subparagraph and inserting in lieu thereof a comma;

(2) by adding "or" at the end of subparagraph (F); and

(3) by adding at the end thereof the following new subparagraph:

"(G) provide procedures that ensure that State officials who are responsible for the administration, planning, and coordination of emergency medical services within the State have the opportunity to—

"(i) participate in the development of the State highway safety program as such program relates to emergency medical services;

"(ii) provide advice on the development and implementation of those provisions of the State highway safety program related to emergency medical services; and

"(iii) review, and comment on, any proposals to use funds provided to the State under this section for emergency medical services.".

SEC. 6. IMPROVING COMMUNICATIONS SYSTEMS.

(a) PREVENTIVE HEALTH SERVICES BLOCK GRANT.—

(1) USE OF ALLOTMENTS.—The last sentence of section 1904(a)(1)(F) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by striking out "1905(c)(2))." and inserting in lieu thereof "1905(c)(2) and other than the purchase of communications equipment for such systems in accordance with paragraph (4)).".

(2) LIMITATION ON USE OF ALLOTMENTS.—Section 1904(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) A State may not, under subparagraph (F) of paragraph (1), use amounts described in paragraph (1) to pay more than 50 percent of the costs of communications equipment for emergency medical services systems.".

(b) WATER AND WASTE FACILITY LOANS AND GRANTS.—The first sentence of section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "emergency telephone service, communications equipment for emergency medical services," after "recreational developments,".

(c) FEDERAL COMMUNICATIONS COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall—

(1) complete a study of the availability of radio frequency channels for emergency medical services communications (including in such study, to the maximum feasible extent, an analysis of communications between public and private ambulances and public and private hospitals);

(2) establish a plan to ensure that the needs of emergency medical services communications (including effective prehospital communications) shall be adequately provided for in the allocation of frequencies for public safety; and

(3) prepare and submit, to the appropriate Committees of Congress, a report that contains the results of such study and plan relating to emergency medical services communications; and

SEC. 7. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1989, or on the date of the enactment of this Act, whichever occurs later.

SEPTEMBER 14, 1988.

DEAR SENATOR: The undersigned organizations request that you support S. 10, the "Emergency Medical Services and Trauma Care Improvement Act of 1988," when it is considered on the floor in the next few weeks.

This legislation would encourage states to develop and implement plans within their emergency medical services systems for providing optimal care to victims of trauma—a disease the National Academy of Sciences has identified as one of the principal public health problems facing our nation today. Injury is the leading cause of death up to age 44, resulting in over 140,000 lost lives each year. Studies have shown that as many as 25,000 of these deaths might be prevented through nationwide access to expert trauma care.

Key elements to a successful trauma system include: access, prehospital care, acute hospital care, and rehabilitation. Trauma systems operate on the principle that patients with severe injuries require special medical capabilities. Consequently, it is inappropriate to simply transport injury victims to the nearest hospital without regard to the appropriateness of its trauma care facilities. It is particularly important that children be cared for in facilities with expertise in the care of the injured pediatric patient. Studies have shown that communities which have established trauma care systems have experienced dramatic reductions in the number of preventable deaths due to injury. Therefore, it is imperative that states organize their resources to ensure that severely injured patients are transported to hospitals that have made the philosophical, economic, and resource commitment to provide the level of care they need.

Rural populations suffer especially from inadequate trauma care. The death rate from accidental injuries in most rural areas is over twice the rate for the largest cities, and almost two of every three deaths involving motor vehicles occur in rural areas. Further, although farm workers constitute only four percent of the nation's workers, 38 percent of machinery-related deaths occur on farms. Rural areas do not have the personnel or financial resources to support the trauma facilities that are available in large cities. Only statewide organization of trauma resources can enable rural area residents to receive state-of-the-art trauma care.

Accidental injuries alone cost this nation $118 billion each year in lost wages, medical expenses, property damage, insurance administration, and indirect costs. In addition to these costs, the price our citizens pay in physical and emotional pain is incalculable. Please vote "yes" for S. 10 as it was reported by the Committee on Labor and Human Resources.

Sincerely,

American Academy of Pediatrics, American Ambulance Association, American Association for the Surgery of Trauma, American Association of Critical Care Nurses, American Association of Neurological Surgeons, American Association of Operating Room Nurses, American Association of Retired Persons, American College of Emergency Physicians, American College of Surgeons, American Medical Association, American Nurses' Association, American Trauma Society, Association for the Advance of Automotive Medicine, Atlantic EMS Council, Congress of Neurological Surgeons, Consumer Federation of America, Emergency Nurses Association, Foundation for Critical Care, International Association of Fire Chiefs, National Association of Emergency Medical Technicians, National Association of EMS Physicians, National Association of Public Hospitals, National Association of State EMS Directors, National Center for the Study of Trauma, National Head Injury Foundation, Inc., National Kidney Foundation, Society for Critical Care Medicine, Surgical Critical Care Task Force.

U.S. SENATE,
COMMITTEE ON AGRICULTURE,
NUTRITION, AND FORESTRY,
Washington, DC, September 15, 1988.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
Hon. ALAN CRANSTON,
U.S. Senate,
Washington, DC.

DEAR TED AND ALAN: We are writing with regard to S. 10, the proposed "Emergency Medical Service and Trauma Care Improvement Act". We understand that section 4(b) of S. 10 would modify the Community Facilities Loan (CFL) program under the Farmers Home Administration to specify expressly that CFLs may be used for 911 development and communications-equipment purchases.

We share your concerns that a majority of rural communities have not yet adopted 911 emergency telephone services and are aware that the most common factors cited as barriers to providing 911 systems are start-up and operating costs. In addition, we share your concerns over the findings of the General Accounting Office that advanced life support services are often not available in

rural areas because of outmoded or worn out communications equipment.

We believe that the modification of the CFL program as proposed by section 4(b) is consistent with Congressional intent for that program, which is designed to improve community facilities providing essential services to rural residents, including fire and rescue services and health benefits.

As the Chairman and Ranking Minority Member of the Agriculture Committee, which has jurisdiction over this provision, we have no objection to this provision and, therefore, will not ask for referral of the bill to our Committee.

Sincerely,

PATRICK LEAHY,
Chairman.
RICHARD LUGAR,
Ranking Minority Member.

EMERGENCY MEDICAL SERVICES AND TRAUMA CARE IMPROVEMENT ACT OF 1989

Mr. KENNEDY. Mr. President, I am please to join my extended colleague Senator CRANSTON in introducing the Emergency Medical Systems and Trauma Care Improvement Act of 1989, which will complete a job which was started by Congress 15 years ago.

In 1973, Congress passed into a law a program which originated in the Labor and Human Resources Committee which I currently chair which was intended to improve emergency and trauma care throughout the country. Many States improved their emergency services because of that program. They established 911 systems. They designated specialized trauma centers and instituted triage and transportation systems to get patients to the right hospital instead of the nearest hospital. Unfortunately, that job remains incomplete.

There are glaring inadequacies which demand our attention. The GAO has reported that approximately 40 percent of the country is not covered by 911 systems. Most rural areas still rely on basic life support systems in their emergency transport; while urban and suburban areas have advanced life support systems available. A recent study documented that 29 States have not begun the process of designating trauma centers and have no systems for triage.

The bill before us today will enable States to remedy this situation and complete the job started 15 years ago.

By Mr. CRANSTON:

S. 16. A bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin; to the Committee on Labor and Human Resources.

PAY EQUITY TECHNICAL ASSISTANCE ACT

Mr. CRANSTON. Mr. President, I am today introducing S. 16, the proposed "Pay Equity Technical Assistance Act." This legislation would require the Secretary of Labor to develop a program for the dissemination of information on the steps which employers in both the public and private sectors can take to eliminate wage disparities which reflect the sex, race, or national origin of employees. An identical bill was introduced in the House of Representatives as H.R. 41 on January 3, 1989, by Representative MARY ROSE OAKAR, who has been a vigorous leader in the fight to achieve pay equity.

In past Congresses, Representative OAKAR and I and our colleague from Washington, former Senator Dan Evans, have introduced legislation, passed three times in the House, which would require the Federal Government to examine its own pay practices in order to determine whether women or minorities employed by the Federal Government have been underpaid in terms of the work they perform. Although 72 Members of the Senate voted last year, on October 7, 1988, to consider our legislation, we were unable to bring that measure to a final vote before adjournment of the 100th Congress. Although the effort to carry out a pay equity study of the Federal work force will continue, it is time to move forward in other areas as well.

Mr. President, the legislation I am introducing today moves beyond the legislation considered in the last Congress for the simple reason that while we have spent the past 6 years in Congress debating a measure limited to a pay equity study of the Federal work force, public and private employers throughout the Nation have been working at identifying and correcting pay inequities.

A perceptive article, "Comparable Worth: It's Already Happening," appeared in Business Week in April, 1986. It outlines how major companies across the country are quietly undertaking the job evaluations and comparisons that provide the basis for wage adjustments to achieve pay equity.

I ask unanimous consent that the text of this article from Business Week appear in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Similar activity has been taking place at the State and local government level. According to a study done last year by the National Committee for Pay Equity, all but seven States have undertaken at least an initial step to address the pay equity problem. Six States have begun or are completing implementation of broad plans to correct inequities, and another 20 States have made or appropriated funds for pay equity adjustments to eliminate wage inequities based on sex and/or race.

The legislation I am introducing is designed to help facilitate this spread of voluntary action to eliminate pay inequities by requiring the Department of Labor to serve as a clearinghouse for the dissemination of information and research on how different employers are dealing effectively with this problem. The bill directs the Secretary of Labor to develop and carry out a continuing program for the dissemination of information, to conduct research, and to provide technical assistance to employers seeking information on ways which they can work to eliminate wages inequities.

Mr. President, many of the opponents of pay equity efforts have said in the past that they do not object to voluntary efforts to employers to identify and remedy wage inequities. This bill is aimed at facilitating such voluntary activity by providing for the dissemination of information on how various employers are remedying these problems and the promotion of research into the techniques that employers seeking assistance might utilize. The bill provides that the Secretary shall establish a program for providing appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, based on the sex, race, or national origin of the employee, rather than the work performed or other appropriate factors.

Mr. President, a decade ago, the Federal Government had an active interest in the problem of the wage gap between male and female workers. In 1980, the Department of Labor issued guidelines, subsequently rescinded by the Reagan administration, governing Federal contractors which were aimed at helping reduce wage disparities. In 1978, the Equal Employment Opportunity Commission commissioned a study by the National Academy of Sciences into the issues surrounding the wage gap. That study released in 1981, "Women, Work and Wages—Equal Pay for Jobs of Equal Value," found that the wage gap results from the fact that women's jobs pay less, regardless of the work entailed, and that the more a job is dominated by women, the less it pays. In the intervening years, however, the Federal Government has abdicated any role in combatting wage inequities. It is time that it began, again, to play a constructive role in dealing with this problem. This bill would charge the Department of Labor with the modest task of helping employers who want to deal with wage disparity problems find out what other employers are doing, what works and what doesn't work, and perhaps stimulating some employers, through the dissemination of information, to take a hard look at their own practices.

Mr. President, wage disparities between male and female workers, and among minority workers, is a serious problem that needs to be addressed. The gap between male and female workers has remained around 65 percent for a number of years. Studies have shown that some portion of this wage gap can be explained by nondiscriminatory factors, such as different work patterns of male and female workers. But virtually every researcher who has looked closely at the problem has concluded that some portion of the wage gap remains inexplicable and that discriminatory practices account for some portion of the gap. We ought to be doing everything we can, in both the public and the private sector, to make sure that every possible effort is made to purge discrimination from the work place and from the wage system.

I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD following the article from Business Week.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARABLE WORTH: IT'S ALREADY HAPPENING—COMPANIES ARE QUIETLY EVENING UP PAY SCALES

(By Aaron Bernstein)

Ever since the concept of comparable worth surfaced a few years ago, Corporate America has derided the idea—which holds that women should be paid the same as men for comparable jobs as well for the same jobs. Destroys the free market, said the National Association of Manufacturers. Opens the door to unending litigation, worried the U.S. Chamber of Commerce.

Now, very quietly, major companies such as AT&T, BankAmerica, Chase Manhattan, IBM, Motorola, and Tektronix are trying forms of comparable worth. These experiments may be the first steps in a movement to raise women's pay, which averages 64¢ for each dollar men earn. Some experts say that stopping discrimination—which they say includes paying women less than men for comparable jobs—would erase half this gap. "In 10 years we'll probably have comparable worth, even though businesses will still be saying we don't," says George P. Sape of Organization Resources Counselors (ORC), a management consulting group.

SCARED TO DEATH

The latest moves have hardly ended the philosophical debate. Women's groups contend that secretaries earn less than janitors, even though the skills needed for the two jobs are comparable, simply because the secretaries are women. Opponents argue that a more plentiful supply of secretaries has kept their pay down.

But pragmatism is pushing companies toward comparable worth anyway. The doctrine was dealt a blow last year when a U.S. appeals court turned down the first major case brought to trial, against the state of Washington. However, proponents are keeping up the legal pressure with dozens of suits. Some 13 states already have laws that require public and private employers to pay equally for "comparable" work. Nurses in Alaska are claiming in a test case that this means comparable worth.

Corporations fear developments in the legislative arena as well. Some 30 states have comparable worth bills pending or have commissions studying the issue. Minnesota has applied the idea to state workers since 1983. Despite its court victory, Washington State is spending $482 million to raise the pay of women. The House of Representatives passed a bill in October that would require a comparable worth study of federal workers.

Such actions worry companies. "The bill in Congress scares employers to death: They fear it will put a stamp of approval on comparable worth," says Virginia R. Lamp, a labor relations attorney at the U.S. Chamber of Commerce.

For years many big companies have been doing the job comparisons necessary to make judgments on comparable worth, mostly for white-collar staffs. They evaluate jobs accordings to factors such as responsibility, skill, and physical labor. The factors are given points, and jobs are ranked by total points. "We call this method internal equity, which can be used to do comparable worth," says Lance A. Berger, a vice-president at Hay Associates Inc., a compensation firm.

EYE STRAIN

Now some companies, such as Tektronix Inc. and Motorola Inc., have started to adhere closely to internal comparisons—even when it means paying more than the market demands. "Many companies go through the exercise of doing the internal equity analysis, but then they upset these relationships if the market tells, them to," says Richard A. Baker, Tektronix' corporate compensation manager. "We look at the market, but that's secondary to us." Both companies say it hasn't cost them much because their high-tech jobs don't have a history of being dominated by one gender.

Tektronix took another step when it put in a new pay system in the 1970s: It put all workers on the same evaluation system. Blue-collar pay rates tend to follow patterns set by unions, even in unorganized companies. Many female clericals are paid less because they're lumped in at the bottom of management evaluation systems, where there are not high-paying blue-collar jobs for comparison.

Other companies are trying to ensure that the factors used to evaluate jobs aren't biased against work usually done by women. After General Electric Co. was hit by a wage discrimination lawsuit in the 1970s, it overhauled its job evaluation methods, which now reflect comparable worth concerns.

BankAmerica Corp. went further in its new pay system by expanding the definition of physical labor used by most evaluation systems to include eye strain. This helps to measure work on video display terminals, which is usually done by women. The bank also looks at muscle strain, which lets it assess work done by tellers—also often female—who stand at bank windows all day. "This isn't the traditional evluation method, which thinks of physical demands as lifting a box or something, as men usually do," says Dan C. Rowland, BankAmerica's director of compensation.

CATCHING DEVIATIONS

Other companies, such as International Business Machines Corp. and Control Data Corp., are looking directly at pay disparities between men and women. One approach is to find an average pay level for a series of jobs. Each employee's pay is then compared with the average. At the same time, a mathematical analysis is done to see if factors such as sex are significant predictors of pay levels. "You look to see if anybody is two or more standard deviations below the norm and hope they're not women," says one consultant. If they are, the company may raise the pay of women below the average.

Industry sources say Chase Manhattan Bank Corp. compared vice-presidents' jobs. It found that those in commercial banking, where women predominate, were paid less than those in male-dominated investment banking, although the jobs weren't that different. The bank narrowed the salary gap, in part by giving commercial bankers more responsibility and paying them more.

Some unionized companies are unwilling converts to comparable worth. The St. Louis Newspaper Guild alleged in a suit last year that the *St. Louis Post-Dispatch*'s largely female staff of in-house sales representatives, who sell ads over the phone, should be paid the same as its outside representatives, who are usually male. On Mar. 27, management agreed to raise in-house sales salaries by about 4.5 percent. "Our lawyers said the case had no merit, but we settled because of the legal fees we were running up," says Nicolas G. Penniman, publisher and general manager.

In 1980, pushed by its union, AT&T developed an evaluation system for comparing all the company's jobs with each other. The two sides didn't agree on how to implement the plan. But it's part of current bargaining aimed at reaching a new pact for 255,000 workers by May 31.

Northwestern Bell Telephone Co., which was spun off as part of U.S. West Inc. in AT&T's breakup, has gone further. Together with its unions, it developed a job evaluation sysem that reflects comparable worth. The two sides will use it to help set wages when they bargain over a new contract in August.

The pay gap between men and women won't shrink overnight. But as long as it persists, companies' subterranean efforts to close it will probably continue.

S. 16

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pay Equity Technical Assistance Act".

SEC. 2. STATEMENT OF PURPOSE.

Recognizing that the identification and elimination of discriminatory wage-setting practices and discriminatory wage disparities is in the public interest, the purpose of this Act is to help eliminate such practices and disparities by—

(1) providing for the development and utilization of techniques that will promote the establishment of wage rates based on the work performed and other appropriate factors, rather than the sex, race, or national origin of the employee; and

(2) providing for the public dissemination of information relating to the techniques described in paragraph (1), thereby encouraging and stimulating public and private employers, through the use of such techniques, to correct wage-setting practices and eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors.

SEC. 3. PROGRAM SPECIFICATIONS.

In order to carry out the purpose of this Act, the Secretary of Labor shall develop and carry out a continuing program under which, among other things, the Secretary shall—

(1) develop and implement a program for the dissemination of information on efforts being made in the private and public sectors to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors;

(2) undertake and promote research into the development of techniques to reduce or eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors; and

(3) develop and implement a program for providing appropriate technical assistance to any public or private entity requesting such assistance to correct wage-setting practices or to eliminate wage disparities, to the extent that they are based on the sex, race, or national origin of the employee, rather than the work performed and other appropriate factors.

SEC. 4. DEFINITION.

For the purpose of this Act, the term "other appropriate factors" includes factors such as—

(1) the skill, effort, responsibilities, and qualification requirements for the work involved, taken in their totality;

(2) geographic location and working conditions; and

(3) seniority, merit, productivity, education, and work experience.

By Mr. CRANSTON (for himself and Mr. HEINZ):

S. 17. A bill to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FIRE SAFE CIGARETTE ACT

Mr. CRANSTON. Mr. President, most people do not realize that year after year cigarette fires are the No. 1 cause of residential fire deaths in the United States. This growing tragedy lies hidden for a very simple reason: Cigarette fires cause death and destruction without fanfare, without making the headlines in our daily newspapers. Because large numbers of lives usually are not lost in any one location at any one time, it is difficult to grasp fully the widespread devastation in terms of lost family members and damaged property that these fires cause.

In 1985, the most recent year for which the U.S. Fire Administration has compiled data, there were a total of 48,300 residential structural fires associated with cigarettes. These fires resulted in 1,640 deaths, 3,980 injuries, and $319.2 million of destroyed property. There were also thousands of nonresidential fires associated with cigarettes during that year.

More and more people are recognizing that cigarette fires pose a serious safety hazard and are an unacceptable risk, especially insofar as a solution is clearly within reach. I applaud the many State efforts, including my home State of California, to grapple with the problem. However, cigarette fires are not confined to any region of this country. It is a national problem that demands a national solution.

Mr. President, in order to address the problem of cigarette-ignited residential fires, I sponsored legislation in the 96th, 97th, and 98th Congresses that would direct the Consumer Product Safety Commission [CPSC] to establish performance standards ensuring that cigarettes and little cigars have a minimum capacity for igniting upholstered furniture and mattresses. That legislation was never enacted.

However, in order to address the Tobacco Institute's claim that a less fire-prone cigarette was infeasible, I joined Senator HEINZ in introducing legislation, S. 1935, in the 98th Congress that established an interagency cigarette safety task force to conduct studies and make recommendations concerning the technical and economic feasibility of developing less fire-prone cigarettes and little cigars. The bill specified that representatives of the Tobacco Institute, as well as private individuals, were to participate in the feasibility studies. S. 1935 passed both Houses and was enacted in 1984.

The final report of the technical study group established by S. 1935 was published in October 1987. According to that report, it is "technically feasible" to develop cigarettes that will have a "significantly reduced propensity to ignite upholstered furniture or mattresses." The report notes that the characteristics which reduce the ignition propensity of the cigarette included: reduced circumference, lower density tobacco, less porous paper, and the reduction of certain chemicals in the paper. The report also delineates the further technical research which is necessary to develop performance standards for less fire-prone cigarettes.

Mr. President, once the feasibility of fire-prone cigarettes was established, I introduced legislation in the 100th Congress mandating the development of performance standards for less fire-prone cigarettes and requiring cigarette manufacturers to comply with such standards. I am pleased to be joined by the Senator from Pennsylvania [Mr. HEINZ] in reintroducing this legislation which was introduced in the House on January 3, 1989, by Representative MOAKLEY.

This is not an antismoking bill. It is legislation directed at a proven safety hazard.

In sum, Mr. President, the time has come for Congress to take a simple step to address the leading cause of residential fires. My bill directs the CPSC to seek the advice and expertise of the National Bureau of Standards and other Federal and State agencies engaged in fire safety in developing standards for less fire-prone cigarettes, and to take into account the results of the feasibility study. The bill further stipulates that the Commission shall issue the standards for firesafe cigarettes within 1 year of the date of enactment. In addition, Mr. President, my bill states that the standards shall be developed in accordance with the Administrative Procedures Act, provides for judicial review, and clarifies that the standards developed pursuant to this bill shall not preempt any State law that prescribes more stringent standards for firesafe cigarettes.

Mr. President, this is a reasonable measure in light of the lives that may be saved and the property damage that can be avoided if cigarette manufacturers are required to produce less fire-prone cigarettes. The time is long overdue for Congress to turn the spotlight on the unpublicized killer and to get the tobacco industry to halt this needless loss of life and property. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, FINDINGS.

(a) SHORT TITLE.—This Act may be cited as "Fire Safe Cigarette Act of 1989".

(b) FINDINGS.—The Congress finds that—

(1) cigarette ignited fires are the leading cause of fire deaths in the United States,

(2) in 1984 there were 1,570 deaths from cigarette ignited fires, 7,000 serious injuries from such fires, and $390 million in property damage caused by such fires,

(3) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 has determined that it is technically feasible to produce a cigarette with less propensity to ignite fires,

(4) it is appropriate for the Congress to require by law the establishment of a fire safety standard for the manufacture and importation of cigarettes,

(5) the value of a fire safety standard which will prevent property damage and personal injury and loss of life is economically incalculable, and

(6) it is appropriate that the regulatory expertise of the Food and Drug Administration be used to implement a fire safety standard.

SEC. 2. FIRE SAFETY STANDARD.

(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Commission shall by rule issue a fire safety standard for cigarettes to reduce the risk of ignition presented by cigarettes. In establishing the standard the Commission shall—

(1) consult with the National Bureau of Standards and seek the advice and expertise

of other Federal and State agencies engaged in fire safety, and

(2) take into account the findings in the report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 (15 U.S.C. 2054 note).

(b) STOCKPILING.—The Commission shall include in the rule issued under subsection (a) a prohibition of stockpiling of cigarettes to which the standard issued under subsection (a) will apply. For purposes of this subsection, the term "stockpile" means the manufacturing or importing of a cigarette between the date a standard is issued under subsection (a) and the date the standard is to take effect at a rate greater than the rate the cigarettes were manufactured or imported for the one year period ending on the date the standard was issued.

(c) PROCEDURE.—The rule under subsection (a) shall be issued—

(1) in accordance with section 553 of title 5, United States Code, except that if the rule is significantly different from the recommendation of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 the Commission shall include in the statement under subsection (c) of such section an explanation for the difference, and

(2) without regard for the requirements of Executive Order 12291.

(d) EFFECTIVE DATE.—The Commission shall prescribe the effective date of the rule issued under subsection (a), except that such date may not be later than 2 years after the date of the enactment of this Act.

(e) JUDICIAL REVIEW.—

(1) Any person who is adversely affected by a rule issued under subsection (a) may, at any time before the 60th day after the Commission issues the rule, file a petition with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or has its principal place of business to obtain judicial review of the rule. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commission shall file in the court the record of the proceedings on which the Commission based the rule as provided in section 2112 of title 28, United States Code.

(2) If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there was no opportunity to adduce such evidence in the proceeding before the Commission the court may order such additional evidence (and evidence in rebuttal thereof) to be taken before the Commission in a hearing or in such other manner, and upon such terms and conditions, as the court deems proper. The Commission may modify the Commission's findings as to the facts, or make new findings, by reason of the additional evidence so taken, and the Commission shall file such modified or new findings, and the Commission's recommendations, if any, for the modification of the rule.

(3) Upon the filing of a petition under paragraph (1), the court shall have jurisdiction to review the rule of the Commission as modified, in accordance with chapter 7 of title 5, United States Code.

SEC. 3. ENFORCEMENT.

(a) PROHIBITION.—No person may manufacture or import a cigarette unless the cigarette is in compliance with a fire safety standard issued under section 2(a).

(b) PENALTY.—A violation of subsection (a) shall be considered a violation of section 19 of the Consumer Product Safety Act.

SEC. 4. PREEMPTION.

(a) IN GENERAL.—This Act and the fire safety standard promulgated under section 2(a) do not preempt or otherwise affect in any way any law of a State or political subdivision which prescribes a fire safety standard for cigarettes which is more stringent than the standard promulgated under section 2(a).

(b) DEFENSES.—In any civil action for damages compliance with the fire safety standard promulgated under section 2(a) may not be admitted as a defense.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) The term "Commission" means the Consumer Product Safety Commission.

(2) The term "cigarette" has the meaning prescribed by section 3 of the Federal Cigarette Labeling and Advertising Act.

● Mr. HEINZ. Mr. President, good morning, over 5 years ago, Senator CRANSTON, Representative MOAKLEY, and I first asked our colleagues in the Congress to move forward with legislation which could save thousands of lives and millions of dollars each year. We wanted a bill to develop and enforce manufacturing specifications for tobacco companies to reduce the risk of a cigarette igniting fabric.

As ranking member of the Senate Special Committee on Aging, I have learned that cigarettes are the No. 1 cause of fire deaths in this country. Recently, the technical study group released a report on cigarette and little cigar fire safety. According to the report, in 1984, 67,000 cigarette-ignited fires resulted in 1,570 deaths, 7,000 serious injuries, and $390 million in property damage. I am particularly concerned that older Americans are two to three times more likely than other age groups to die in home fires.

For over two decades, fire safety efforts have focused on making mattresses and upholstery more flame retardant. Both of these industries are to be applauded for their dedication to developing and applying life-saving standards. But until we make the cigarette itself less likely to start a fire, we have broken the match, but failed to extinguish the flame.

Our efforts in 1983 and early 1984 met with stiff opposition from the tobacco industry and its lobbying groups. Tobacco companies argued that having at least two fire-safe cigarettes on the market did not prove that all cigarettes could be reasonably produced to meet safety standards.

We engineered a compromise, and in October 1984, we mandated an interagency committee to study the technical and commercial feasibility of fire-safe cigarettes. That study is now complete. The Government, industry, and consumer experts who participated in this effort conclude that a fire-safe cigarette is indeed technologically feasible, and can be produced at minimal additional costs.

I think we have paid a high price to prove the obvious. We have invested 3 years, lost almost 5,000 lives, and over $1 billion in property for official confirmation that a fire-safe cigarette can be manufactured and marketed at a cost that is certainly less than the potential benefit to society.

The legislation Congressman MOAKLEY, Senator CRANSTON, and I are introducing today is long overdue. All that now stands between the public and a fire-safe cigarette is the willingness of Congress to act. It is possible, profitable, and prudent for the tobacco industry to support this effort, and I would urge its full cooperation.

We have mandated seat belts and safety standards for cribs and highchairs. We require inspections for food purity and declarations for potential carcinogens. America is a health and safety-conscious nation. It is unconscionable that we continue to ignore one of the greatest public threats of all—a lit cigarette with the potential to maim, kill, and destroy.●

By Mr. CRANSTON:

S. 18. A bill to authorize payments to States to assist in improving the quality of child-care services; to the Committee on Labor and Human Resources.

CHILD-CARE STANDARDS IMPROVEMENT ACT OF 1989

Mr. CRANSTON. Mr. President, I am introducing today, S. 18, the proposed Child Care Standards Improvement Act of 1989. This measure is based upon legislation I first introduced during the 99th Congress as S. 810 and reintroduced as S. 934 in the 100th Congress. Although the Senate approved portions of this measure as part of the 1986 continuing resolution, they were not enacted into law. Some of the concepts first put forward in this measure have since been incorporated into the major comprehensive child care initiative, the proposed Act for Better Child Care Services [ABC], considered in the last Congress. The ABC bill is also being introduced today, and I am proud to be one of its principal sponsors.

This measure is designed to stimulate State efforts to review and upgrade State child care licensing and regulation systems and procedures, thereby providing better protections and quality of care for children. As I indicated, certain concepts proposed in this measure have been incorporated into the ABC bill. At the same time, this measure has been drafted so that it can stand alone or be encompassed in a broader measure such as the ABC bill.

NEED FOR IMPROVEMENTS

Mr. President, I would like to share with my colleagues some of the history behind my efforts in this area. In 1984, Congress enacted legislation as

part of the fiscal year 1985 continuing resolution, section 401 of Public Law 98-473, aimed at encouraging States to require national criminal records checks for child care workers and others who work with young children. That legislation also provided funding for training programs, including training in the prevention of child abuse in child care settings for child care workers and others. The 1984 legislation, which was the result of efforts in the Senate by the Senator from Arizona [Mr. DECONCINI], and in the House by my colleague from California, Representative GEORGE MILLER, added $25 million to the $2.7 billion appropriation for social services block grants to the States under title XX of the Social Security Act.

Although the 1984 legislation represented an important first step toward helping protect the well-being of young children in child care settings, it is clear that there are many more complex issues that relate to the quality of care provided to children in these programs that must be addressed. Simply running the names of child care workers through FBI computers cannot alone guarantee that children are adequately protected and served in child care programs. The qualifications of child care workers, their training and supervision, the ratio of adults to children, health and safety standards, and parental access and participation are some of the critical factors which affect the quality of care that a child is likely to receive.

I first introduced S. 810 on March 28, 1985, to build upon the 1-year provision in the legislation passed in the fall of 1984 on the fiscal year 1985 continuing resolution and to expand those efforts in order to confront many issues that affect the quality of child care. As I indicated earlier, in December 1985 the Senate Appropriations Committee agreed to include in the fiscal year 1986 continuing resolution an amendment in which the distinguished Senator from Arizona [Mr. DECONCINI] and I proposed to continue to make available to the States the $25 million for child care training activities which was authorized and provided for under Public Law 98-473. Unfortunately, we were unable to persuade the House conferees to retain these provisions in the final fiscal year 1986 continuing resolution.

Although I strongly support and believe in the need to enact a comprehensive child care measure along the line of the ABC bill and the legislation, formerly S. 4, which I have introduced over the past decade, I also believe we must seek to move ahead in the child care area wherever and whenever we can.

Thus, I was very proud in the 100th Congress, as chairman of the Senate Veterans' Affairs Committee, to have pushed for enactment of section 412 of Public Law 100-322. This provision is intended to promote the expansion of child care centers at Veterans' Administration, soon to be Department of Veterans' Affairs, facilities.

Enactment of the provision of the proposed Child Care Standards Improvement Act either as part of a comprehensive measure such as the ABC bill, or prior to enactment of that measure, would start the movement needed in this country to improve the quality and standards for child care programs—programs to which we entrust our most valuable resource—our children.

WIDE VARIATIONS IN STATE STANDARDS FOR CHILD CARE PROGRAMS

Mr. President, the need to improve standards and monitoring procedures for child care programs has become a matter of increasing urgency in the past several years. The sexual abuse cases which have attracted media attention are only a small part of the problem. In many States, regulation of child care programs is totally insufficient. The Children's Defense Fund recently issued a report entitled "State Care Fact Book 1988," which demonstrates in a dramatic way the tremendous range in States standards for child care programs. Although all States require child care centers to meet some licensing requirements and most regulate family day-care homes in some fashion, these requirements vary tremendously.

ADULT CHILD STAFF RATIOS

For example, limitations on the number of children cared for by each adult is a critical factor in assuring the quality of care provided. The National Fire Protection Association has recommended a staff-child ratio of 1 adult for every 3 children under the age of 2. Although a number of States, including my own State of California, limit to 3 or 4 the number of children below age 1 that can be cared for by 1 adult, the CDF report finds that 11 States permit 5 or more babies to be cared for in family day-care homes by 1 provider without an assistant. As many as 12 States allow 1 adult to care for 8 or more infants. As Edward Zigler, former head of the Children's Bureau in the Department of Health, Education and Welfare during the Nixon administration, has been quoted as saying, "How could one caregiver get eight babies out of a burning building?"

With regard to older children, a 1985 Department of Health and Human Services report indicated that, while States like Idaho, Illinois, Kansas, Massachusetts, Minnesota, Montana, Nebraska, North Dakota, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia required 1 adult for every 10 4-year olds, States like Arizona, Delaware, Hawaii, North Carolina, South Carolina, and Texas allowed 1 adult to care for twice that number—that is 20 children supervised by 1 adult.

STAFF QUALIFICATIONS AND TRAINING

Similarly, although it is generally recognized that the qualifications and training of child care workers and those who operate child care centers are critical to the quality of the care provided to the children, States vary widely in these requirements for these individuals. For example, according to the HHS report, although 18 States required directors of child care centers to be 21 years or older, 15 States had no requirements regarding the age of center directors. Although 23 States required that these center directors be at least high school graduates or hold GED certificates, 11 States had no educational requirements for center directors. Eighteen States required at least 2 years of relevant experience for center directors, but eight States had no requirements regarding the experience of center directors.

As to child care workers, the disparities were just as great. Although 21 States required that child care workers in child care centers have a high school diploma or GED, 5 States required only that they be able to read and write, and 13 States had no requirements at all regarding the educational background of workers in centers.

According to the HHS document, 36 States did have some requirements regarding participation by child care center staff in in-service training programs. These requirements, however, ranged from very general directives that staff be provided appropriate in-service training to very specific requirements, including designating the subject areas to be covered. For example, HHS cited Nevada as requiring that all new center employees must be given training with respect to the center's policies, procedures, and program and, requiring new staff, within 6 months of employment, to participate in 3 hours of training each year through workshops, conferences, or formal training. North Dakota required an initial 2-day orientation for new staff and 5 hours of training annually. New Mexico required 12 hours of training per year.

In-service training requirements for family-day-care providers appeared to be much more sparse but equally as varied. HHS found 15 States mandating some type of inservice training and 7 requiring orientation sessions for new providers. For example, Tennessee required that family-day-care providers attend 2 hours of workshops or conferences on early-childhood development.

PARENTAL PARTICIPATION AND ACCESS

Mr. President, another area of concern has been parental access to child care facilities and parental involvement. As HHS noted in its January

1985 document, the right of parents to have access to programs is particularly important since "State and local staff who enforce child care requirements are limited in number and cannot frequently visit each facility." According to the survey conducted by the Children's Defense Fund, 27 States do not even have regulations guaranteeing parents access to child care centers. Thirty-five States do not guarantee unlimited parental access to family day care homes. The model standards of the National Association for the Education of Young Children explicitly recommend that parents should be free to visit a center unannounced at any time. In one of the very few recommendations made in the 1985 HHS document, it was stated that parents searching for child care should be sure that they have the right to drop in and visit the program, unannounced and at any time, once the child has been enrolled. I find it difficult to believe that there is any valid reason for such a standard not being universally applicable.

HEALTH AND SAFETY STANDARDS

With respect to health and safety standards utilized by the States, the CDF survey found that 10 States have no specific health training requirements for staff of child care centers. Six States have no requirement that staff wash their hands, even, as CDF points out, after diapering infants. Only 29 of the 50 States require a source of fresh water in a center's diaper changing room.

The Children's Defense Fund report also found that 10 States do not have any immunization requirements for children enrolled in family day care homes, and three States have no immunization requirements for preschool children in child care centers.

The 1985 HHS report collected much of its data from the 1981 Comparative Licensing Study, which was prepared under contract for HHS. That report found that less than half of the States have regulations which specify that centers have at least two exists—a requirement which could be a life or death matter in the case of a fire or other emergency requiring the rapid removal of large numbers of small children. Although local fire and safety codes might also require such exists, the omission of this important safety standard in so many States' child care regulations is troublesome and potentially lethal.

CONTINUED DETERIORATION IN STATE STANDARDS

Mr. President, there is evidence indicating that substantial deterioration has taken place in State laws and procedures relating to child care programs since the Federal standards were suspended in 1980 and States were subjected to massive reductions in title XX funding as a result of the 1981 budget cuts.

In 1983, the Children's Defense Fund did a State-by-State survey of the impact of those cutbacks in the title XX program. The results of their survey indicated 33 States had lowered their child care standards for title XX funded programs and 24 had reduced funds for training of child care workers.

In 1988, the CDF found that while some States had strengthened their child care standards, others had continued to weaken theirs. For instance, legislation passed in 1988 allows group day care providers in Georgia to exceed the limit of 18 children during two 1-hour periods in a day. Texas now no longer requires that probation notices be posted in day care facilities. In Alabama, the staff-to-child ratio for 30-month-olds to four-year-olds were increased from 1-to-10 to 1-to-12. The ratio for 18-month-olds to 30-month-olds was increased from 1-to-6 to 1-to-8.

LICENSING AND MONITORING ACTIVITIES

Mr. President, many States were also forced to cut back carrying out child care licensing and monitoring activities. For example, the 1983 CDF report provided the following very disturbing data: Arizona in 1980–81 provided for four monitoring visits per year to child care centers. In 1981–82, it cut the number of visits to two per year. In 1982–83, monitoring visits were eliminated altogether, except for an annual visit conducted by the State health department. Idaho cut its regional child care licensing staff from 12 positions down to 5. The State of Washington shifted from a 2- to 3-year license for child care programs. It eliminated routine monitoring of facilities which had previously occurred every 6 months.

Mr. President, it is clear that State efforts at monitoring child care programs have simply not kept up with the growth of their programs. For example, testimony presented to the House Select Committee on Children, Youth, and Families in 1984 indicated that in Texas, while the number of regulated facilities increased by 53 percent between 1978 and 1983, the number of child care licensing staff decreased by 43 percent.

Evidence of inadequate State monitoring of child care programs are numerous. For example, the Ohio Children's Defense Fund in 1985 issued an excellent report reviewing the status of child care in Ohio. That report, entitled "Day Care: Investing in Ohio's Children," noted that the Ohio Department of Agriculture employed 180 meat inspectors who made unannounced inspections of nearly 600 meat and poultry plants once a month but that the State employed only one inspector for every 100 child care centers. Ohio also employed over 50 inspectors for roughly 2,000 health-care facilities, including nursing homes, and required, by law, that inspections of nursing homes be unannounced.

A report on child care in the State of Massachusetts, entitled "Final Report of the Governor's Day Care Partnership Project," issued in January 1985 also concluded that licensing staff had not kept up with the increases in the number of centers and homes. That report noted that one-third of the State's child care center licenses had expired, that family-day-care homes must wait months before they are registered—the waiting list for registration was over 2,500—and that the State's regulations had not been reviewed for 8 years. The report concluded that "maintaining the level of day care quality or expanding the supply will be impossible without adequately expanding [the State's] licensing capacity" and specifically recommended that all existing child care regulations be reviewed and revised, giving special attention to the need to improve staff-qualification requirements.

Mr. President, my own State of California, which has in many areas some of the better child care standards in the country, in 1984 had only 78 evaluators to handle licensing of child care programs. This represented a case load of 150 for center evaluators and 250 for family-day-care home evaluators. A 1978 report by the California Governor's Advisory Committee on Child Development Programs strongly recommended that the State institute a maximum case load of 75 facilities per licensing worker for centers and 125 facilities per worker for family-day-care homes. As a result of legislation passed in 1984, 19 more employees were added to the State's center licensing program. According to the 1988 report of the California League of Women Voters, the California Department of Social Services currently has approximately 228 evaluators at State and county levels to handle a caseload of over 40,000 facilities—7,000 centers and 35,000 family day care homes. Monitoring of about 1000 of those centers, which provide subsidized child care, is also conducted by the State department of education. The league's report noted that both the California Department of Social Services and the Department of Education have been criticized for not having enough staff who have been specifically trained in early childhood education.

The impact of limited licensing staffs can be dramatically illustrated at the local level. A report by Coleman Children and Youth Services issued in January 1983 on children's services in San Francisco noted that San Francisco had at that time only one licensing workers for family-day-care homes, resulting in a backlog of over 300 applications awaiting approval.

Until 1985, California required visits to centers and family-day-care homes only once every 3 years. These centers and homes are visited when they are first licensed, and upon request for renewal. As a result of the new law which went into effect in January 1985, the licensing period for centers was reduced from 3 years to 1 year, thereby requiring at least an annual contract. Family-day-care homes continue to have a required visit only once every 3 years.

Mr. President, one of my constituents, Marcy Whitebrook, director of the Berkeley Child Care Employee project, pointed out in testimony to the House select committee how the failure or inability of law enforcement and licensing agencies to respond quickly and decisively to reports of violations of State laws and regulations deters child care workers from reporting unsafe or abusive situations when they feel that their reports will have no impact. Incidentally, California enacted in 1984 legislation to protect against employer retaliations those child care workers who report licensing law violations. This whistleblowing protection can be of great value in encouraging child care workers to report problems to appropriate authorities. Additionally, California has launched a major child care consumer awareness program as part of its overall child care strategy.

Although my own State has helped lead the Nation in developing high quality child care standards, monitoring and enforcement still remain a problem, along with a need for sufficient resources to provide adequate training programs for child care staff—a critical component in any effort to upgrade the quality of child care.

SUMMARY OF LEGISLATION

Mr. President, the legislation I am introducing today has two principal components.

First, it would provide for the establishment of a national advisory committee to help develop recommended standards for child care programs, differentiating between those appropriate for child care centers and those for family-day-care homes and differentiating as well on the basis of the age of the children involved.

Mr. President, it is clearly appropriate for the Federal Government to provide some guidance to State and local governmental entities on the basic standards which should be applied to child care programs. In the 1984 amendment to the continuing resolution, provisions were included directing HHS to prepare and distribute to the States a Model Child Care Standards Act containing minimum licensing or registration standards for day-care centers, family-day-care homes, and group-day-care homes. The legislation specified that the HHS model standards cover six specific areas including, first, training, development, supervision, and evaluation of staff; second, staff qualification requirements, by job classification; third, staff-child ratios; fourth, probation periods for new staff; fifth, employment history checks for staff, and sixth, parent visitation. In January 1985, in response to this legislative mandate, HHS released a document entitled "Model Child Care Standards Act." Unfortunately, however, HHS declined to provide in this document any specific guidance to the States in the six areas delineated in the statutory provision or in other areas. Instead, the document produced by HHS simply reviews the types of requirements that various States have adopted in these areas. It does, however, include in the appendix two model child care standards developed by two private organizations. One is the "Accreditation Criteria and Procedures" developed by the National Academy of Early Childhood Programs, a division of the National Association for the Education of Young Children. The other is "Standards for Day Care Service" by the Child Welfare League of America.

Mr. President, since HHS has failed to provide any guidance in this area, I have included provisions in the legislation that I am introducing to convene a panel of individuals representing parents, experts in the field of child development, and persons with experience in operating child care programs for the purpose of developing a set of recommended standards for child care programs, covering the areas of demonstrated impact on the quality of child care. The legislation directs that the standards deal separately with those appropriate for child care centers and for family-day-care homes, taking into consideration in both cases the age and number of children involved. The legislation does not mandate that States adopt these recommended standards; it merely provides that the standards will be developed so that the States will have some guidance in reviewing their own standards and licensing procedures.

Mr. President, prior to 1981, the Federal Government did have a set of Federal minimum standards for federally funded day care. These standards, originally entitled "Federal Interagency Day Care Regulations" [FIDCR], had been in effect since 1968. In 1978, Congress was provided with the results of a comprehensive HEW report supporting the appropriateness of Federal minimum standards for federally funded day-care programs. Between 1979 and 1980, much effort went into updating and revising the 1968 standards along the lines suggested in the 1978 report. The new standards, which were published in the Federal Register on June 15, 1979, were subjected to intense scrutiny and public hearings throughout the country. Ten regional hearings were held where over 1,000 witnesses testified and over 4,000 submitted written testimony. These standards enjoyed wide and strong support. They represented a realistic and sound approach to dealing with very basic issues in child care. The final regulations were published in the Federal Register in March 1980.

Unfortunately, however, this body voted in June 1980 to suspend entirely any Federal standards for federally funded child care programs. I led the fight on the Senate floor against this total abdication of responsibility for ensuring the safety and well-being of children enrolled in federally funded child care programs. Although those efforts were not successful, time has clearly shown that support for those standards was fully justified.

The tragic consequences of the withdrawal of Federal leadership in the area of child care are readily apparent from the lowering of State standards and diminishment of protections I described earlier. Now many have come to recognize the need for Federal guidance in this area. That was the impetus that led to the provisions included in the fiscal year 1985 continuing resolution, Public Law 98-473. The legislation that I am introducing today is designed to facilitate the development of such model or recommended child care standards. The National Advisory Committee which would be created under this legislation would be charged with the task of reviewing all of the various options for child care standards and devising a set of recommended standards.

Second, Mr. President, in order to continue the efforts begun in 1984 to provide States with fiscal incentives to make improvements in their licensing and monitoring programs, this legislation would authorize the appropriation of $25 million for each of fiscal years 1989, 1990, and 1991 to be used by the Secretary for making grants to States to carry out plans for improving State licensing and monitoring procedures. In effect, my proposal would continue the availability of the additional $25 million added to the fiscal year 1985 continuing resolution but would broaden the purposes for which such funds could be used to encompass other factors affecting the quality of child care services. In order to be eligible to apply for these funds, the Governor of the State would be required to establish or designate a State advisory committee on child care standards. These committees, patterned somewhat on the child-support commissions included in the title IV-D child-support enforcement legislation enacted in 1984 as part of Public Law 98-378, would be charged with the responsibility of reviewing the State's

laws, regulations, and procedures for licensing, regulating, and monitoring child care services and programs within the State and identifying any deficiencies or areas for improvements in the laws or regulating systems.

Under the legislation, these committees would include not less than 15 members, of whom not less than one-third would be parents and not less than one-third would be either representatives of different types of child care programs or individuals who are professionals in the field of child development. The Governor could designate an existing body to carry out these functions so long as it had the requisite representation of parents and child development professionals or child care providers.

These committees would be responsible for preparing a report, by not later than June 1, 1990, on the results of their review for the Governor. This report would be required to be transmitted along with any comment by the Governor to the Secretary of HHS not later than September 30, 1990. In carrying out their reviews, the State advisory committees would be directed to take into consideration various models of appropriate standards for child care programs, including the 1989 HEW standards, the child care standards developed by the National Association for the Education of Young Children, and those developed by the Child Welfare League, which appear in the appendices to the material published by HHS in January 1985, pursuant to Public Law 98-473, as well as to consider the various options described in that material. The legislation provides for the National Advisory Committee to provide information and advice to State advisory committees in carrying out these reviews. Mr. President, the purpose of the bill being introduced today is to create an incentive for States to undertake reviews of their entire system of monitoring the quality of care of children in child care programs. By involving parents and child-development professionals in this type of review, we hope to encourage a thorough and careful reexamination of these issues at the State level.

Mr. President, I believe that this legislation provides a much needed, but realistic approach to dealing with the problems of quality and protection of children in child care programs. It would establish a mechanism for encouraging State governments to review and upgrade their own systems for ensuring the quality of child care programs within the State. It would provide for Federal leadership and guidance through the development of recommended standards which the States can utilize in carrying out their own self-assessments and development of plans for improvement. In sum, the measure is designed to provide a balanced approach to dealing with the troubling problems relating to the care and protection of young children by respecting the particular needs of individual States while restoring the appropriate role of Federal leadership and guidance.

CONCLUSION

Mr. President, there is no question that Government entities at all levels need to be concerned about the care and well-being of young child care settings. More than 54 percent of the mothers of children under the age of 6 are now in the work force, and the vast majority are working full time. Child care is a necessity for most of these families.

Parents need to know that the facilities and homes that are caring for their children while they are at work are safe and adequate places for young children. Government licensing and monitoring programs cannot, alone, guarantee the safety and security of these children, but they can contribute significantly to ensuring that these goals of safety and adequacy are met. I strongly believe that the legislation I am introducing today can contribute to achieving that goal.

Every Member of this body is aware of the deep and growing concern among our constituents that adequate safeguards be provided for young children in child care settings. Fortunately, we do have the opportunity to do something constructive to help resolve these problems.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Child Care Standards Improvement Act of 1989".

GRANTS FOR IMPROVING STATE CHILD-CARE LICENSING AND REGULATORY SYSTEMS

SEC. 2. (a)(1) In order to further the activities begun with funds appropriated for fiscal year 1985 by section 401(a)(2) of Public Law 98-473, making continuing appropriations for the fiscal year 1985, there are authorized to be appropriated $25,000,000 for each of fiscal years 1990, 1991, and 1992 for the purpose of making grants to the States as provided for in subsection (b).

(2) Funds appropriated under this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds became available.

(b)(1) From the funds made available under subsection (a), the Secretary of Health and Human Services (hereafter in this Act referred to as the "Secretary") shall make grants, upon application and submission by a State of a plan which meets the requirements of subsection (b)(2), for the purpose of assisting the State in carrying out such plan.

(2)(A) Except as provided in subparagraph (B), any State desiring to receive a grant under this section shall submit to the Secretary a plan to carry out the recommendations, for correcting the deficiencies in or improving the State's licensing, regulating, or monitoring of child-care programs, contained in the report submitted under section 3.

(B) A State's plan submitted under this paragraph may include carrying out less than all of such recommendations, but in the event that a plan omits carrying out any recommendation the plan shall include a detailed explanation of the reasons for the State not planning to carry out any such omitted recommendation.

(3) No grant may be made under this section unless the State submits an application to the Secretary therefor at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary.

(c) In making grants under this section, the Secretary shall initially allocate funds among the States in the same proportions as their regular allotments as determined under title XX of the Social Security Act, except that if any part of the amount made available under this section remains after all grants have been made in accordance with the preceding provisions of this sentence, the Secretary shall use the remaining part for making further grants to States which require additional assistance to carry out their plans submitted under subsection (b), but for years after fiscal year 1990 priority shall be given in distributing such additional funds to those States which have developed a plan which will lead to such States meeting or exceeding the recommended standards established by the National Advisory Committee pursuant to this Act.

(d) Each State which submits an application for a grant under this section must provide satisfactory assurances that the funds therefrom will be used solely for improving the State's licensing, regulating, or monitoring of child-care programs or otherwise improving the quality of child-care programs within the State.

STATE REVIEW OF CHILD-CARE LICENSING AND REGULATORY SYSTEMS

SEC. 3. (a) As a condition of the State's eligibility for receiving Federal payments under this Act, the Governor of each State shall establish or designate a State Advisory Committee on Child-Care Standards (hereinafter referred to as the "State Advisory Committee") which shall be composed of not less than fifteen members, of which not less than one-third shall be parents of children who are currently enrolled in child-care programs (including both center-based and family day care home programs) and not less than one-third shall be either representatives of different types of child-care programs (including both center-based and family day care home programs) or individuals who are professionals in the field of child development.

(b)(1) It shall be the function of each such State Advisory Committee to examine, investigate, and study the State's laws, regulations, and procedures for licensing, regulating, and monitoring child-care services and programs within the State, to prepare the report described in paragraph (2), and, if requested by the Governor, to monitor such li-

censing, regulating, and monitoring activities on a regular basis.

(2) Each State Advisory Committee shall prepare a report outlining the committee's findings and recommendations resulting from its examination, investigation, and study under this section, including a description of the current status of child-care licensing, regulating, or monitoring within the State, the deficiencies, if any, in the existing licensing, regulating, or monitoring programs (including an assessment of the adequacy of staff to carry out effectively the State program), and recommendations to correct such deficiencies, if any, or to improve such licensing, regulating, or monitoring programs. The report shall set forth separately such information and recommendations with respect to center-based programs and family day care programs. The committee shall submit the report to the Governor not later than June 1, 1990, and the Governor of each State shall, not later than September 30, 1990, transmit it to the Secretary along with the Governor's comments and the State's plan, as provided for under section 2, for correcting deficiencies in or improving its licensing, regulating, or monitoring programs.

(c) In carrying out its activities under subsection (b), each State Advisory Committee shall review and take into consideration the final 1980 HEW Day Care Regulations, volume 45, page 17870 of the Federal Register (March 19, 1980), and the options for child-care standards published by the Department of Health and Human Services in January 1985 pursuant to Public Law 98-473, including the standards set forth in the appendices to that document.

NATIONAL ADVISORY COMMITTEE ON CHILD-CARE STANDARDS

SEC. 4. (a)(1) In order to assist and provide guidance to the States in improving the quality of child-care services, there is established a National Advisory Committee on Child-Care Standards (hereinafter referred to as the "National Advisory Committee").

(2) The National Advisory Committee shall be composed of fifteen members who shall be individuals with expertise in the area of child-care services selected from among persons who are representatives of child-care providers, professionals in the field of child development, or parents who have been actively involved in community child-care programs. The members shall be appointed as follows:

(A) Seven by the President of the United States;

(B) Two by the majority leader of the Senate;

(C) Two by the minority leader of the Senate;

(D) Two by the Speaker of the House of Representatives; and

(E) Two by the minority leader of the House of Representatives.

Not more than four of the members described in clause (A) shall be members of the same political party.

(3) All appointments under this subsection shall be made not later than sixty days after the date of the enactment of this section.

(4) A vacancy in the membership of the National Advisory Committee shall be filled in the same manner in which the original appointment was made. Any such vacancy shall not affect the powers of the National Advisory Committee except with respect to satisfaction of the quorum requirements specified in paragraph (7).

(5) The President shall designate a Chairman of the National Advisory Committee.

(6) The National Advisory Committee shall adopt such rules and regulations as it considers necessary to establish its procedures and to govern the manner of its operations, its organization, and its personnel.

(7) Eight members of the National Advisory Committee shall constitute a quorum.

(b)(1) The National Advisory Committee shall review the options for child-care standards published by the Department of Health and Human Services in January 1985 pursuant to Public Law 98-473, including the standards set forth in the appendices to that document, the standards set forth in the final 1980 HEW Day Care Regulations, volume 45, page 17870 of the Federal Register (March 19, 1980), and such other materials as the National Advisory Committee may deem appropriate and shall, not later than fourteen months after the date of the enactment of this section, submit to the Secretary proposed recommended standards for child-care programs (setting forth separate recommended standards for center-based programs and for family day care programs). Such recommended standards shall cover factors having a demonstrated impact on the quality of child care including, but not limited to—

(A) group size and composition in terms of the number of teachers and the number and age of children;

(B) qualifications, training, and background of child-care personnel, including provision for background checks;

(C) health and safety requirements;

(D) parental rights and opportunities for involvement; and

(E) necessary support services (including, but not limited to, health, nutrition, and social services).

(2) The National Advisory Committee may submit to the Secretary and to the Congress such additional comments on the final recommended standards published pursuant to subsection (c) as the National Advisory Committee considers appropriate and may provide to a State Advisory Committee (established or designated pursuant to section 3), upon its request, such information and advice as the National Advisory Committee considers appropriate.

(c) Not later than thirty days after the National Advisory Committee submits such proposed recommended standards, the Secretary shall publish them in the Federal Register, along with any comments or modifications proposed by the Secretary and, not later than one hundred and eighty days after such publication and, after completion of a process of not less than sixty days for notice and opportunity for public comment and after consulting further with the National Advisory Committee, shall issue final recommended standards and publish them in the Federal Register along with any additional comments that the National Advisory Committee considers appropriate.

(d) The National Advisory Committee shall cease to exist ninety days after the date of publication by the Secretary of the final recommended standards.

(e) Each member of the National Advisory Committee who is not an officer or employee of the United States Government shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for level IV of the Executive Schedule for each day the member is engaged in the performance of the duties of such Committee and, while so serving away from his or her home or regular place of business, be paid per diem, travel, and transportation expenses in the same manner as provided for under subchapter I of chapter 57 of title 5, United States Code.

(f) The Secretary shall make available to the National Advisory Committee such personnel, technical assistance, and funds as are necessary for it to carry out effectively its functions under this section.

ADMINISTRATION

SEC. 5. The Secretary is authorized to—

(1) establish such regulations as may be necessary to carry out the provisions of this Act; and

(2) make payments in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 19. A bill to allow State Governors to file petitions for action under section 301 of the Trade Act of 1974; to the Committee on Finance.

AMENDMENTS TO SECTION 301 OF THE TRADE ACT

● Mr. LEVIN. Mr. President, today, I am introducing legislation to make clear that the workers and businesses of this country can petition through their State Governors to have the U.S. Trade Representative initiate an investigation under section 301 of the Trade Act of unfair trade practices by another country.

Late last year, the USTR denied a petition by Governor Blanchard of Michigan that the USTR initiate an investigation of Canada's discriminatory automotive duty remission programs. The Governor made persuasive arguments that these programs put the American auto-parts producers and workers at an unfair competitive disadvantage.

The USTR denied this petition, one of the grounds being that the Governor of Michigan lacked standing to file a 301 petition.

The legislation that I am introducing today is necessary for two reasons. First, the law itself and the regulations that are based on it are silent on whether the Governor of a State has standing to file a 301 petition. The statute refers to "any interested person." The regulations offer a number of examples along with the general definition which refers to "any person representing a significant economic interest affected * * * by the act, policy or practice complained of in the petition." It is clear to me that the Governor who represents the people of a State which includes an industry that is vital to that State's economic well-being "represents a significant economic interest affected" by an unfair foreign trade practice. Unfortunately, since the USTR has not interpreted the statute in that way, a congressional clarification is necessary. The legislation which I am introducing today will provide that clarification.

Second, this legislation is necessary as a matter of basic fairness. It does

not seek to impose a decision upon the USTR with respect to the substantive merits of the petition. What it does, however, is to give workers and businesses the right to be heard through their State Governors in defense of their economic interests. This legislation allows the Governors to get their feet in the door at the Office of the U.S. Trade Representative on behalf of workers and businesses, instead of having that door slammed in their faces. This step in the direction of fair trade should be taken early in this new Congress, and I urge my colleagues to give it their support.

Mr. President, I ask unanimous consent that the text of this bill be printed immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 19

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (1) of section 302(a) of the Trade Act of 1974 (19 U.S.C. 2412(a)(1)) is amended by inserting "(including the Governor of any State)" after "interested person".●

By Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. PRYOR, Mr. GLENN, Mr. COHEN, Mr. NUNN, Mr. ROTH, Mr. SASSER, Mr. BINGAMAN, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. DURENBERGER, Mr. RIEGLE, Mr. SARBANES, Mr. ADAMS, Mr. BURDICK, Mr. MOYNIHAN, Mr. BOREN, Mr. MATSUNAGA, Mr. WIRTH, Mr. DECONCINI, Mr. KENNEDY, and Mr. MITCHELL):

S. 20. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; read the first time.

WHISTLEBLOWER PROTECTION ACT

● Mr. LEVIN. Mr. President, last fall, the Whistleblower Protection Act of 1988 was unanimously approved by both Houses of Congress with a clear commitment from the Office of Management and Budget that the bill had the administration's support. On October 27, 1988, the administration reneged on this commitment, and the President pocket-vetoed the bill.

This veto violated the basic understanding that we in Congress need to make the legislative process work—that is, the confidence that an administration's word is good when it commits itself to support a bill. Simply put, there is no way that we in the Congress can negotiate with, and address the concerns of, the executive branch unless we have confidence that the President's designated negotiators actually speak for the administration.

The veto of the whistleblower bill also struck a blow against good government by denying much-needed protection to Federal employees who step forward, at the risk of their jobs, to expose waste, fraud, or gross mismanagement in their agencies. Earlier this month, the outgoing administration submitted draft legislation which would not only gut the bipartisan compromise passed unanimously by the House and Senate with the administration's approval last fall, but would go so far as to seriously undermine existing laws protecting whistleblowers.

Needless to say, this extraordinary antiwhistleblower proposal does not even merit serious discussion. We can only hope that the incoming administration will be more sincere in its commitment to assist whistleblowers in their efforts to root out waste and mismanagement.

Because Congress was out of session and did not have an opportunity to act on the veto last year, I am today reintroducing the Whistleblower Protective Act as it was agreed to by the Office of Management and Budget, unanimously approved by both Houses of Congress, and pocket-vetoed. I am hopeful that this bill will be quickly approved by both Houses of Congress and that President Bush will see the merits in this legislation and sign this bill into law.

I am pleased that the cosponsors of last year's bill—Senators GRASSLEY, PRYOR, COHEN, NUNN, METZENBAUM, RIEGLE, SARBANES, DURENBERGER, ADAMS, BURDICK, MOYNIHAN, BOREN, MITCHELL, MATSUNAGA, WIRTH, DECONCINI, and KENNEDY, have agreed to sponsor the bill again this year.

I am also pleased to announce six new sponsors of the bill from the Governmental Affairs Committee, which approved the bill without dissenting vote in markup last spring. The new sponsors are Senators GLENN, ROTH, SASSER, BINGAMAN, KOHL, and LIEBERMAN.

Mr. President, whistleblowers serve as an important check on fraud and waste in our Government programs by identifying potential problems and abuses at an early stage. It is worth noting, for example, that the "Ill Wind" investigation of procurement fraud at the Pentagon was reportedly triggered by the complaints of a whistleblower—in this case, a former Federal employee. All too frequently, however, Federal employee whistleblowers appears to have been punished, rather than rewarded, for their efforts to save the taxpayer's money.

Congress recognized its responsibility to protect whistleblowers in 1978 by passing the Civil Service Reform Act, which created the Office of Special Counsel and the Merit Systems Protection Board to investigate and handle hearings and appeals involving retaliation for whistleblowing by Federal employees and other prohibited personnel practices.

Since 1978, however, it has become clear that the Civil Service Reform Act did not go far enough in its protection for whistleblowers. Despite the enactment of this bill, two separate surveys in 1980 and 1983 found that an astonishing 70 percent of the Federal employees with knowledge of fraud, waste, and abuse did not report it and that the percentage of employees who did not report government wrongdoing because of fear of reprisal rose dramatically from 20 percent in 1980 to 37 percent in 1983. These statistics are a clear sign that the system has not worked as intended and needs to be improved.

The Whistleblower Protection Act of 1989 is a carefully balanced response to this longstanding problem. It is the product of months of discussions with the Office of Management and Budget, the Justice Department, the Office of Personnel Management, the Office of Special Counsel, and the Merit Systems Protection Board.

In the course of these discussions, we agreed to modify numerous provisions of the bill in response to concerns raised by the administration. As a result, changes were made to the purposes section of the bill, the powers and duties of the Office of Special Counsel, timetables for investigations, restrictions on information that may be provided to whistleblowers and to others about investigations of whistleblowers' complaints, the right of the Office of Personnel Management and the Office of Special Counsel and other Federal agencies to participate in litigation of whistleblowers' complaints, the proper venue for appeals, and the proper parties to appeals. As with any good compromise, the administration made concessions, too.

Near the close of the lengthy negotiations, I met personally with the Acting Director of OMB, and we worked out a compromise on the so-called Mount Healthy issue, which we understood to be the administration's sole remaining concern with the bill. Following this meeting, the Office of Management and Budget advised my staff that this compromise was acceptable. The bill was then unanimously passed by both Houses of Congress and sent to the President for signature.

At that time, we had every indication—including a letter from the Acting Director of OMB that was introduced into the CONGRESSIONAL RECORD—that the administration would support enhanced protection for whistleblowers. Instead, the bill was vetoed.

Three reasons were given for the veto of the bill.

First, the argument was made that the bill established too lenient a standard for proving retaliation against a whistleblower—the so-called Mount Healthy provision of the bill. This provision was the subject of months of

direct negotiations between representatives of the administration and my staff. Compromise language was expressly agreed to by the Acting Director of OMB. Even the legislative history of this provision—as presented in a joint explanatory statement of Senate and House managers of the bill and in my own statement on the bill—was expressly agreed to by the administration.

After such extensive negotiations and such a well-balanced and reasonable outcome, we should not compromise further on this issue. The Mount Healthy provision in this bill has been drafted to avoid any implication that protection is to be afforded to employees who are not genuine whistleblowers. We have made it crystal clear that a personnel action must be upheld—even against a genuine whistleblower—if an agency can demonstrate by clear and convincing evidence that it would have taken the same action against the employee regardless of the whistleblowing.

At the same time, however, we must not be so concerned about protecting management's rights that we fail to satisfactorily and fairly protect the whistleblowers. These are the employees who are on the front line in the struggle to save our tax dollars from waste and mismanagement. These are the people who put their jobs on the line to speak up for the public interest. Whistleblowers both need and deserve the protections provided in this bill. The efforts of a Federal employee to expose fraud, waste, or mismanagement in the Government should never be a factor in a personnel action against that employee. That is the important proposition for which this bill stands.

Second, the argument in support of the veto was made that the bill creates "serious constitutional concerns" by limiting the President's power to remove the special counsel from office.

Remarkably, the "good cause" removal provision in this bill which was singled out by the administration for criticism is exactly the same provision in current law. Our bill only restates current law. Moreover, the administration's argument that the President must have unfettered discretion to remove all appointees at will was squarely rejected by the Supreme Court in the Independent Counsel case (*Morrison* v. *Olson*, 108 S. Ct. 2597 (1988)) issued less than a year ago. Perhaps for these reasons, the administration—including the Justice Department—did not raise any objection to the inclusion of this provision in numerous compromise proposals and counterproposals leading up to the final passage of the bill last fall.

Finally, the argument was made in the veto message that by authorizing the special counsel to obtain judicial review of adverse decisions, the bill would unconstitutionally permit the executive branch to "litigate against itself." Here again, the administration raised no objection to the inclusion of this provision in numerous compromise proposals and counterproposals discussed with the House and Senate last summer and fall.

More importantly, however, the argument that it is unconstitutional for the courts to resolve a dispute between two Federal agencies has been squarely rejected by the Supreme Court since the seminal case of *United States* v. *Interstate Commerce Commission*, 337 U.S. 426 (1949). In fact, the Federal Labor Relations Authority is authorized to litigate against other Federal agencies and routinely does so. Recent cases of this nature include *Department of Treasury* v. *FLRA*, 837 F.2d 1163 (D.C. Cir. 1988), *Department of Health and Human Services* v. *FLRA*, 833 F.2d 1129 (4th Cir. 1987), and *Bureau of Alcohol, Tobacco & Firearms* v. *FLRA*, 464 U.S. 89 (S. Ct. 1983).

It now appears that these so-called constitutional arguments were a mere smokescreen for the administration's outright hostility to Federal employee whistleblowers. This hostility finds harsh emphasis in the extraordinary antiwhistleblower proposal sent to the Congress by the outgoing administration earlier this month.

The administration proposal would deprive the Office of Special Counsel—the primary whistleblower protection agency in the Government—of the independent status granted to it under current law. More than that, it would also deprive the Merit Systems Protection Board—the agency that hears whistleblower complaints—of its independence under current law. Further, the proposal would eliminate provisions in current law which give the courts power to compel testimony by Federal agencies and employees in whistleblower cases tried by the MSPB. This remarkable provision would enable Federal employees to defy Board subpoenas without any recourse by the whistleblower or OSC.

In more than 30 key provisions, the outgoing administration retreated from the bipartisan compromise bill it agreed to last October. Many of these proposed changes reflect a deep-seated antipathy to the interests of whistleblowers. For example, the administration proposal would:

Delete a requirement that the special counsel act in the interests of whistleblowers who seek its assistance;

Delete a requirement that the special counsel treat communications from whistleblowers with confidentiality;

Permit the special counsel to intervene in MSPB cases against whistleblowers;

Delete provisions authorizing the MSPB to protect witnesses from harassment and authorizing whistleblowers to petition for sanctions against agency officials who fail to comply with Board orders;

Make it much more difficult for whistleblowers to prove that they have been retaliated against and make it easier for agencies to prevail even in cases where they have taken retaliatory action;

Delete provisions requiring the special counsel to notify whistleblowers of the status of their cases and to inform them of facts that support their allegations; and

Leave whistleblowers with no independent recourse against retaliation through unfavorable performance ratings, decisions concerning pay, benefits, awards, education and training, as well as most unfavorable transfers, details, reassignments, and changes in duties and responsibilities.

In sum, Mr. President, the outgoing administration has not only reneged on its compromise with the Congress to enhance whistleblower protections, but with its proposed legislation, it has sought to undermine important whistleblower safeguards that have already been enacted into law.

Mr. President, the Whistleblower Protection Act of 1989 which I am introducing today along with Senator GRASSLEY is an important and balanced bill which was negotiated on a bipartisan basis. As unanimously passed by the 100th Congress, and as introduced today, this bill would:

Significantly enhance the authorities and responsibilities of the OSC to protect whistleblowers and other employees victimized by prohibited personnel practices;

Ensure that employees seeking the assistance of the OSC are kept informed of the status of their cases, are assured of confidentiality in their communications with OSC, and are protected from any use in any other proceeding of a decision by OSC to terminate an investigation;

Authorize whistleblowers for the first time to appeal their own cases directly to the Merit Systems Protection Board if the Office of Special Counsel fails to act on their behalf; and

Remove certain factors which unfairly impede the ability of the special counsel or an employee to prove that a retaliatory action has been taken in a whistleblowing case.

This bill provides substantial improvements in the laws protecting Federal employee whistleblowers, and I am pleased that it has achieved broad bipartisan support. Protecting whistleblowers is one of the simplest and one of the most effective means available to us to reduce the cost and improve the functioning of our Federal Government. If we are going to achieve a more honest and efficient government, it is essential that we re-

store confidence in Federal employees that their government will respond in an ethical and responsible manner whenever they disclose wrongdoing.

Once again, I would like to thank my cosponsors for their support of this bill. And, I hope we can send this bill to President Bush for his signature as one of our first orders of business in this Congress.●

● Mr. GRASSLEY. Mr. President, I join Senator LEVIN today in introducing the Whistleblower Protection Act. We're back with this legislation in the 101st Congress, and this time, we're going to make it stick.

Congress passed this bill last fall, after extensive discussions with members of the Reagan administration. But in spite of the compromise we worked out, this bill fell victim to President Reagan's pocket veto.

Whistleblowers are a very important part of Government operations. By exposing waste, fraud, and abuse, they work to keep Government honest and efficient. And for their loyalty, they are often penalized—they get fired, demoted, and harassed.

We need stronger protections for whistleblowers. Under the current system, the vast majority of employees choose not to disclose the wrongdoing they see. They are afraid of reprisals and the result is a gross waste of taxpayers' dollars. Government employers should not be allowed to coverup their misdeeds by creating such a hostile environment.

I am hopeful that President Bush will demonstrate a greater commitment to protecting whistleblowers. And support for this legislation is a great starting place.

The bill strengthens the Office of Special Counsel. Currently, OSC turns away almost all whistleblower cases without correcting the discipline imposed on the employee. Under our bill, the mission of OSC would be "to protect Government employees, especially whistleblowers."

And the bill eases the employee's burden of proving retaliation for whistleblowing. In addition, the employer would be required to justify the discipline based upon reasons other than the whistleblowing activity.

The bill we are introducing today is the product of significant compromises made during the last Congress. We worked with various members of the administration to meet their concerns. I hope we can pass this bill swiftly so that the Congress and President Bush can send a strong message to the Federal sector: First, to the vast majority of professional career Government employees—a thank you for the important contribution they make; second, to the whistleblowers in particular—a recognition of their role in the efficient operation of our democratic Government; and third, to those few who abuse the public trust—a warning that their activity will not be tolerated any longer.

Mr. President, as we begin the tough budget decisions, we must utilize every resource available to combat fraud. Whistleblowers provide us with great opportunities to uncover and pare Government waste. Let's not penalize them for the public service they perform.●

● Mr. PRYOR. Mr. President, today I am pleased to be joining Senators LEVIN and GRASSLEY in co-sponsoring the Whistleblower Protection Act of 1989. I would like to commend Senators LEVIN and GRASSLEY for their work on this difficult issue. The bill being introduced today was passed unanimously by both Houses of Congress last November and was then pocket vetoed by the President. Passage of this legislation was a victory for Federal workers who have blown the whistle on Government fraud and waste, and have been persecuted for their honesty. These whistleblowers have come under attack over the past 8 years and have not received the protection that they deserve. The veto of this bill simply continued that treatment.

This bill will substantially improve the protections available to whistleblowers. This legislation will enable the Office of the Special Counsel to more vigorously protect employees and prosecute those managers who retaliate against whistleblowers. However, as has been demonstrated in hearings held by the Subcommittee on Federal Services, Post Office and Civil Service in the 100th Congress, this legislation will only benefit employees if the Office of Special Counsel works to help and defend whistleblowers. Congress is concerned about the manner in which the Office of Special Counsel employs its resources and will continue its oversight in this area.

This legislation will alter the current Mount Healthy test and replace it with a standard which will require the agency to prove by clear and convincing evidence that it would have taken the personnel action even if the whistleblowing activity had not occurred. Currently, agencies only have to show by a preponderance of the evidence that the personnel action would have occurred. This change will significantly heighten the standard of proof required from the agency. I am hopeful that this will improve the Office of Special Counsel's ability to protect whistleblowers from unwarranted adverse personnel actions.

The bill will also provide interim relief to those whistleblowers who receive a favorable decision at the Merit Systems Protection Board [MSPB] regional level. This change will ensure that an employee does not suffer undue hardship waiting for a final decision from the MSPB. The bill also includes a transfer preference for whistleblowers to help them move to a new job if their relationship with management deteriorates as a result of their whistleblowing activity. This preference will only apply to whistleblowers who prevail before the Merit Systems Protection Board.

Mr. President, I believe that this bill addresses many of the concerns that have been raised about current statutory whistleblower provisions. With the assistance of a vigilant Office of Special Counsel, whistleblowers will be better protected from retaliation and able to expose fraud, waste and abuse without fear for their jobs.●

● Mr. GLENN. Mr. President, as an original cosponsor of the Whistleblower Protection Act of 1989, I rise in support of this important legislation upon its introduction today. This bill, like its predecessor in the 100th Congress (S. 508), is designed to strengthen the protections available to Federal employees who blow the whistle on waste and fraud in Federal programs and enhance the authorities and responsibilities of the Office of Special Counsel to protect those Federal employees.

The Office of Special Counsel was created in 1978 as part of the Merit Systems Protection Board [MSPB] to investigate prohibited personnel practices and when appropriate, seek corrective action on behalf of the wronged employee before the Board. For much of its existence, this office has been severely criticized for failing to meet its statutory mandate. In order to encourage Federal employees to continue to report waste and fraud, thereby saving thousands of dollars in taxpayer money, we must send a signal that the system will treat these employees fairly. This bill sends the right signal by establishing the Office of Special Counsel as an independent agency and by clarifying in civil service law that its primary purpose is to protect employees, especially whistleblowers.

Other important provisions of the bill would:

Prohibit the Special Counsel from revealing information to an agency which had been disclosed in confidence by a whistleblower to the Special Counsel;

For the first time, authorize whistleblowers to appeal their own cases directly to the MSPB if the Office of Special Counsel fails to act on their behalf; and

Amend present civil service law to simplify the burden on the Special Counsel or an employee to show unlawful retaliatory action for whistleblowing and to establish that any personnel action against an alleged whistleblower must be justified by an agency with reasons other than the disclosure of waste and fraud.

During the 100th Congress, the Governmental Affairs Committee reported

and Congress passed without dissent a whistleblower protection bill with similar provisions (S. 508). OMB Director Joseph R. Wright, Jr. served as the administration's liaison with Congress on that bill. President Reagan pocket-vetoed the measure despite Mr. Wright's assurances at the time of final congressional approval that the administration would support the bill.

As chairman of the Governmental Affairs Committee, I believe that President Reagan's pocket-veto of this sound legislation was unjustified and perhaps will serve to discourage Federal employees from coming forward. In 1984, the MSPB estimated that 70 percent of Government waste and illegality goes unreported, in part because those Federal employees who personally observe it fear reprisal if they do report.

I hope the Bush admininstration will recognize the importance of this problem for the Federal Government and work responsibly with Congress to correct it. This will require that the Bush administration's communications with Congress, and especially the Governmental Affairs Committee, on this issue be coordinated among the agencies and fully reflect the President's policy. The committee has been assured by Mr. Richard Darman, the nominee for OMB Director, that this will be done during the 101st Congress.

I urge my colleagues to give this bill their full support.●

● Mr. COHEN. Mr. President, I am pleased today to cosponsor the Whistleblower Protection Act of 1989. Good faith whistleblowers—Federal workers who disclose mismanagement, waste, abuse, illegality, or threats to public health—deserve the strengthened procedural protections this bill provides.

The necessity of this legislation has been obvious for at least 5 years. But it has yet to be enacted. In the 100th Congress, both the Senate and the House managed to pass this measure. Its passage was the result of protracted negotiations between the House, the Senate, and the Reagan administration in which a variety of disagreements were supposedly ironed-out. In the end, however, despite assurances to the contrary, President Reagan pocket vetoed this measure. Given the circumstances of the veto, and the explicit need to strengthen the laws that protect whistleblowers, the President's veto was most disappointing. The veto sent exactly the wrong message to Federal employees who witness and wish to report fraud, mismanagement and corruption in Government agencies. It told them not to bother, and that they won't be given meaningful protection if they do come forth.

Indeed, for too many years now, Federal employee whistleblowers have been treated shabbily. Too many have paid a personal price for the millions of dollars they have saved the Government. They have lost their jobs, derailed promising careers or forfeited promotions as the price for calling the public's attention to what they see as wasteful Government spending, illegal activity or hazardous conditions. Too often, instead of being rewarded for their efforts, whistleblowers appear to have been punished. They have suffered retaliation simply for upholding the public trust. Such treatment is unfortunate and we must move now to correct it. Most importantly, we must insure that those Federal employees who disclose wrongdoing are confident that their efforts will not be met by indifference or worse.

One of the goals of the Civil Service Reform Act of 1978 was to strengthen protection for whistleblowers. The law created categories of illegal retaliation known as prohibited personnel practices. It also established the Office of Special Counsel to investigate employees' allegations of retaliation and to litigate on their behalf before the Merit Systems Protection Board.

However, since its creation, the Office of Special Counsel has turned down 99 percent of the whistleblower cases brought to it without attempting disciplinary or corrective action. Between 1981 and 1986, the total number of requests issued by the counsel for stays, or injunctive relief, was approximately the same as in one previous year, 1980.

Indeed, further evidence suggest that rather than strengthening protection for legitimate whistleblowers, the 1978 reform act did little to augment employee confidence in their ability to speak out. Comparing the results of the 1980 and 1983 Merit Systems Protection Board surveys reveals that, in terms of employee confidence, freedom of speech actually declined during this period. In 1980, 19 percent of the employees who witnessed significant misconduct cited fear of reprisal as the reason for remaining silent. By 1983 the figure was 37 percent—what the Merit Systems Protection Board called a significant increase in fear of reprisal.

This bill thus contains several urgently needed protective measures for whistleblowers. As a whole, it significantly improves the protections available to good faith whistleblowers by simplifying the advocacy process, granting increased confidentiality, and mandating specific and rather strict timetables for Office of Special Counsel actions.

It establishes the Office of Special Counsel as an independent agency, separate from the Merit Systems Protection Board and clarifies the Office of Special Counsel's role by establishing that the role of the Special Counsel is to act in the interest of employees seeking assistance.

The bill also provides that Federal employees alleging reprisal for whistleblowing may take their own cases to the Merit Systems Protection Board if the Special Counsel fails to act within 90 days. Moreover, this measure ensures that alleged whistleblowers are kept informed of the status of their cases on a continuous basis and improves the confidentiality between the Office of Special Counsel and employees by prohibiting the special counsel, with certain exceptions, from providing any information on employees who seek corrective action.

It also requires that agencies pay attorney's fees if an employee wins a case against them, expands the definition of prohibited personnel practices to protect those who aid whistleblowers, and requires that a given agency investigate the disclosure of waste, fraud and abuse if the disclosure has a substantial likelihood of being valid.

Mr. President, I believe that this legislation represents a significant improvement over current law, If we are to ask Federal employees to blow the whistle on management abuses and corruption, we have an obligation to ensure that those who do are supported and treated fairly. Good faith whistleblowers represent the highest ideal of public service and embody the American tradition of individuals challenging Government abuses of power. I am hopeful that this bill will encourage good faith whistleblowers by making it clear that their efforts will be protected—just as their courage and integrity will be applauded.●

● Mr. SASSER. Mr. President, I am pleased to rise in support of the Whistleblower Protection Act being reintroduced by my friend and distinguished colleague from Michigan. I am proud to add my name as an original cosponsor of this urgently needed legislation.

This is identical to the bill that Congress enacted last fall. It had been introduced in both Houses in 1987, with bipartisan support. During the lengthy consideration of S. 508 in the 100th Congress, Senator LEVIN and members of the Subcommittee on Federal Services, Post Office and Civil Service worked diligently with the administration to settle differences over the legislation. Members of Congress from both parties voted unanimously to pass the Senate version of the bill, as amended. We did so on the strength of representations that the Department of Justice, and the Office of Management and Budget, were agreeable to the compromises worked out.

But to our amazement, the bill was pocket vetoed after we adjourned last October, on the grounds that fresh concerns had arisen within the executive branch. This about-face was rightfully met with expressions of disappointment on both sides of the aisle, here and in the House.

We can now underscore that concern by acting expeditiously to return this well-considered measure to the White House. That will provide an opportunity to honor last year's commitment. We hope this chance will be seized by the new administration.

I think the need for this legislation was demonstrated to all of us last session. The record of enforcement of whistleblower protection up to now speaks eloquently in support of this bill.

Surveys by the Merit Systems Protection Board showed that 60 percent of employees observed waste, fraud, or mismanagement but remained silent, out of a sense of resignation that nothing would be done. And up to 37 percent of those who witnessed abuses stated that they refrained from reporting them specifically for fear of reprisal.

Those fears, sad to say, have been well founded. When the Merit Systems Protection Board was created in 1978, as part of the reorganization of the civil service, the Office of Special Counsel was instituted at the Board to investigate prohibited personnel practices and other civil service law violations. The Special Counsel was also to protect employees from agency reprisal, including whistleblowers who disclose waste, fraud, and abuse.

Yet, the Special Counsel adopted a policy of protecting the civil service system against employees, rather than the other way around. The Special Counsel's Office in fact, openly admitted its reluctance even to file a complaint on an employee's behalf unless there is substantial certainty that evidence will support the allegation. Thus, rather than investigating allegations, the Special Counsel in effect placed the onus on the employee to prove his case at the outset.

Such deterrents to open disclosure of agency wrongdoing were compounded by agency retaliations against employees who blew the whistle. In fact, up to 99 percent of alleged reprisal cases were closed by the Special Counsel's Office without further disciplinary or corrective action against the agency.

That is the intolerable situation we seek to correct. The Whistleblower Protection Act will achieve this through several key provisions.

First, it will establish the Office of Special Counsel as an independent agency, outside the Merit Systems Protections Board. The bill clarifies that the Special Counsel's primary obligation is the protection of individual employees.

In contrast with existing practice, if the Special Counsel declines to take further action on an employee complaint, the employee under this bill may appeal directly to the Merit Systems Protection Board. The bill does specify, however, that only whistleblowers may take such an independent appeal, rather than any and all disaffected employees. That clarification, by the way, is one of those which was added to last year's bill at the administration's request.

In cases where attempted agency reprisals are alleged, the agency may still prove as an affirmative defense that an adverse personnel action would have been taken even in the absense of an employee disclosure. However, the present bill modifies the Supreme Court's standard in the Mount Healthy decision, and requires that the agency establish its defense by "clear and convincing" evidence, rather than by a mere preponderance of the evidence.

In addition, should the Office of Special Counsel determine that there is not substantial validity to an employee complaint, the Special Counsel may not disclose to the agency the information provided by the employee without the latter's consent. This will go far toward correcting the prior experience, whereby the special counsel seemed far more interested in helping the agency build its case against the employee than in helping to investigate and substantiate the employee's own allegations.

I reiterate, Mr. President, that the bill introduced today reflects the very compromises worked out with executive agencies, when this legislation was passed overwhelmingly in last year's session. We look forward to the new administration's cooperation in promptly ratifying the agreement already achieved, with so much effort.

At a time of ever-heightened concern over the Federal budget and the need to reduce waste and fraud, Federal employees with the conscience to come forward deserve our help. And the bill we introduce today deserves the renewed support of all in this Chamber, which embraced the legislation unanimously last fall.●

● Mr. METZENBAUM. Mr. President, I rise as an original cosponsor and a strong supporter of the Whistleblower Protection Act, introduced today by Senator LEVIN, Senator GRASSLEY, and others. Both Houses of Congress unanimously passed this legislation last term. Regrettably, we must revisit this issue in the 101st Congress because President Reagan, despite representations to the contrary from administration officials, turned his back on Congress and ignored the needs of Federal workers by pocket vetoing the bill.

The Civil Service Reform Act created the Merit Systems Protection Board and the Office of Special Counsel. That act protects Federal employees from reprisals when they disclose Government wrongdoing or fraud. But instead of protecting Federal whistleblowers, the Office of Special Counsel has turned the act on its head.

Federal employees increasingly are afraid to come forward with information about Government fraud, waste, and abuse. Those, who do come forward, do not get relief from the Office of Special Counsel. Coming forward merely marks them as whistleblowers and targets them for reprisal.

The Whistleblower Protection Act corrects the problem. It establishes an independent Office of Special Counsel and makes clear that the primary purpose of the Office is to protect Federal employees from prohibited personnel practices. The bill gives real teeth to the promise of the Civil Service Reform Act by ordering the Office of Special Counsel to act for Federal whistleblowers instead of against them.

I applaud Senators LEVIN and GRASSLEY for their leadership on this issue. I know they share my belief that whistleblowers who uncover wrongdoing and help us enforce the law should be honored as heroes.

My concern for whistleblowers is not limited to civil service employees. Today, I introduced the Major Fraud Act Amendments of 1989 to provide a financial incentive to whistleblowers who furnish information leading to the conviction of contractors for major fraud against the United States. Next month, I will introduce a comprehensive antireprisal package to protect private sector whistleblowers who disclose unlawful practices that threaten the public health and safety. I believe we can move quickly on these three bills—the Whistleblower Protection Act for civil service employees, the Major Fraud Act Amendments for Government contractor whistleblowers, and the antireprisal package for private sector employees. I urge my colleagues to join in this bipartisan effort to protect our citizens who dare to tell the truth about wrongful, unlawful, or dangerous practices.●

● Mr. ROTH. Mr. President, I am pleased to join Senator LEVIN and my other colleagues by cosponsoring the Whistleblower Protection Act of 1989. I believe that in light of the recent procurement problems at the Defense Department and the historic problem of waste and fraud in Government, that a stronger Whistleblower Protection Act is needed to help to alleviate these very serious problems.

Mr. President, as we all know by now, the previous attempt to pass a whistleblower protection bill was pocket vetoed by President Reagan in November of last year. At that time the administration expressed a concern that portions of the bill did not pass constitutional muster and that the reduced burden of proof that whistleblowers were required to show would present numerous administrative and legal problems. In light of these concerns, I want to express my

willingness to engage in dialog with the new administration regarding those areas where we may disagree in the hope of ultimately passing a bipartisan whistleblower protection bill.

Mr. President, passage of the bill would strengthen the procedural protections available to Federal employees who blow the whistle on waste and fraud in Federal programs. During my service in Congress, I have learned first hand, that the problem of waste and fraud in Government is widespread and pervasive. The Whistleblower Protection Act is needed to reduce unnecessary and wasteful Government spending by encouraging and protecting Federal employees who report waste, fraud, and abuse. Many Federal employees are reluctant to report wrongdoing for fear of reprisal. I believe that in order to have an effective whistleblower law we must encourage and protect those employees who decide to blow the whistle on waste and fraud in Government. I believe that this bill goes a long way toward accomplishing that goal.

Mr. President, passage of this bill would protect Federal employees who report waste, fraud, and abuse by enhancing the role of the Office of Special Counsel [OSC] in protecting the employee by making this Office an independent agency, separate from the Merit System Protection Board [MSPB]. The bill also clarifies the purpose of the OSC by establishing that its primary role is the protection of employees, especially whistleblowers. The bill adds an important additional right for an employee to pursue a claim independent of the OSC.

The legislation that is before us today retains the core provisions of the original bill, but does make several substantive and technical changes to the legislation which help to strengthen the law. For example, the legislation provides the MSPB the authority to grant protective orders to protect a witness or other individual from harassment. The bill also facilitates the ability of a whistleblower to prove a prima-facie case of retaliation and at the same time raises the level of proof required for an agency to meet in defending its actions.

Mr. President, passage of this bill is needed to restore the faith of conscientious Federal employees in the fairness and integrity of our Federal service. Additionally, I believe that the act will contribute substantially to our efforts to eliminate the massive and perplexing problem of Government waste and fraud. A central component to eliminating waste is the ability of our Federal workers to exercise their civic duty and report any wrongdoing that they observe in the workplace. But we are fooling ourselves if we believe that this can occur without having adequate protections in place that will protect those employees who risk their jobs and careers to expose the problems of waste and fraud.●

By Mr. ROTH:

S. 21. A bill to provide the President with line-item veto authority; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

LINE-ITEM VETO

● Mr. ROTH. Mr. President, between 1980 and 1988 Federal revenues jumped 76 percent, but Federal spending grew at a faster rate. The Office of Management and Budget estimates that between 1989 and 1994, Federal revenues will jump $370 billion. I believe the source of our budget problem is not that America is undertaxed, but that the Federal Government spends too much. It is critical for the Federal Government to restrain spending growth. And I strongly believe that providing the President of the United States with line-item veto authority will help keep Federal spending down.

The legislation that I introduce today to provide the President with line-item veto authority is, in my opinion, an improvement over other options that have been offered. It is first and foremost simple legislation, not a constitutional amendment that would require two-thirds majorities in both Houses plus a lengthy ratification process to secure the approval of legislatures of three-fourths of the States.

Second, it works as simply as a constitutional amendment. It would allow the President to select specific provisions to veto. That veto would, as a practical matter, require two-thirds majorities in both Houses to override—the same as for a traditional veto of a bill.

Third, the legislation I have introduced is constitutional. It does not interfere with the constitutional process governing the enactment of legislation. Rather, my proposal envisions the interaction of three separate pieces of legislation: The bill creating the budget authority, the legislation I am introducing to empower the President to rescind budget authority that has just been enacted, and legislation that Congress might pass to overturn the President's exercise of his authority. Since the President would surely veto any legislation Congress would enact to overturn his line-item rescission, a two-thirds majority in both Houses would be necessary to revive the vetoed budget authority.

The net result is that the President is given line-item veto authority on the same terms that he has constitutional authority to veto legislation in its entirety. This is as it should be. Line-item veto authority is not novel. It is a prerogative enjoyed by 43 Governors in over 50 States. It is an indispensable tool in achieving the level of fiscal discipline which we sorely lack.●

By Mr. PRESSLER:

S. 22. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problem; to the Committee on Foreign Relations.

PROHIBITION ON MILITARY AND ECONOMIC AID TO TURKEY

Mr. PRESSLER. Mr. President, Turkey invaded Cyprus in 1974. Occupying forces of Turkey still control a large area of northern Cyprus, where they support the illegal Denktash regime. More than 1,600 Greek Cypriots and 5 American citizens who were captured by the Turks in 1974 still are missing and unaccounted for.

It is unfortunate, Mr. President, that the Government of the United States has been implicated, at least indirectly, in the continuing illegal Turkish occupation of Cyprus. The United States is the major supplier of Turkish military equipment. That equipment was illegally used in the 1974 invasion and continues to be used today to enforce Turkish control of northern Cyprus.

The United Nations has managed to initiate a series of discussions between Rauf Denktash, leader of the self-proclaimed breakaway territory, and the President of Cyprus, George Vassiliou. These talks have not resulted in progress toward a peaceful reconciliation. The political and military stalemate still exists.

Mr. President, it is time to put aside patience and forbearance in this matter. Soviet troops are leaving Afghanistan. Cuban troops are leaving Angola. Vietnamese troops are leaving Cambodia. Yet, illegal Turkish troops and colonists remain in Cyprus. Fifteen years of Turkish occupation of over one-third of Cyprus must be brought to an end, and the United States and NATO have an obligation to contribute to a resolution of this problem.

Therefore, today I am introducing a bill to prohibit any military or economic assistance to Turkey until certain conditions are met. All U.S. aid would be prohibited until the President certifies that:

First, all Turkish military forces and illegal Turkish colonists are withdrawn from Cyprus;

Second, the formerly Greek Cypriot-occupied area of Famagusta-Varosha has been returned to the Government of Cyprus for the immediate resettlement of refugees;

Third, the negotiations under United Nations auspices have achieved significant progress toward genuine democracy in Cyprus based on majority rule, the rule of law, and the protection of minority rights;

Fourth, Turkey has released the Americans and Greek Cypriots abducted by the Turkish invaders in 1974;

Fifth, Turkey has withdrawn recognition of the so-called Turkish Republic of Northern Cyprus; and

Sixth, Turkey has taken the necessary steps to reverse the illegal declaration of an independent state in northern Cyprus.

Mr. President, I recognize that this is tough legislation. It is deliberately meant to be tough. We have tried other legislative formulas in the past. They have not worked. The UN-sponsored discussions have resulted in no concrete progress. Those talks are likely to continue to drag on, punctuated now and then by propagandistic displays of movement synchronized with the foreign assistance legislative calendar here in Congress. It is time for us to stop being led around on this issue by a recalcitrant ally. It is time for us to display courage in defending the principles of democracy as applied to Cyprus.

I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 22

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no military or economic assistance may be provided under the Foreign Assistance Act of 1961, as amended, or any other law, for Turkey, and that no credits may be extended and no guarantees may be issued under the Arms Export Control Act for Turkey, until the President certifies to the Congress that—

(1) all Turkish military forces, in excess of those permitted by the 1960 Treaty of Guarantee, and all illegal Turkish colonists are withdrawn from Cyprus; and

(2) the Government of Turkey has returned to the Government of Cyprus under the auspices of the United Nations the formerly Greek Cypriot-occupied area of Famagusta/Varosha for the immediate resettlement of refugees; and

(3) the negotiations under United Nations auspices have achieved significant progress towards establishing a constitutional democracy in Cyprus based on majority rule, the rule of law, and the protection of minority rights; and

(4) the Government of Turkey has released and returned the five Americans abducted by the Turkish invasion forces in 1974 and 1,614 Greek Cypriots who have been missing since the Turkish invasion; and

(5) the Government of Turkey has withdrawn its recognition of the so-called "Turkish Republic of Northern Cyprus;" and

(6) the Government of Turkey has taken all necessary steps to reverse the illegal declaration of an independent state in northern Cyprus.

By Mr. HUMPHREY:

S. 23. A bill to amend title X of the Public Health Act to permit family planning projects to offer adoption services; to the Committee on Labor and Human Resources.

FAMILY PLANNING PROJECTS ADOPTION SERVICES

● Mr. HUMPHREY. Mr. President, I am introducing legislation which would amend title X of the Public Health Service Act to allow family planning clinics to provide, at their discretion, adoption services.

I stress at the outset that the bill does not require family planning projects to offer adoption services. The legislation explicitly provides that projects may offer adoption services based on their assessments of the needs of the community as well as their own budgetary and training restraints.

For too long, our image of family planning has been narrowly focused on the prevention or spacing of pregnancies and limiting family sizes. In reality, family planning means much more. The title X program should reflect it. In my view, it is time to recognize the importance of planning families through adoption. The benefits are obvious for both parents unable to care for children as well as for couples who would otherwise be unable to have a family.

In addition to contraceptive and infertility services, title X grantees provide a variety of services to adolescents. Title X is the largest Federal program dealing with the problem of teenage pregnancy. More than a third of the individuals served by title X are adolescents. Teenagers need accurate and complete information about adoption. Therefore, family planning clinics are the most important place to reach teenagers with information about adoption.

If a young, single woman finds herself pregnant, she may not know much about adoption, and the counselors she encounters may be poorly informed as well. Even if a woman considers adoption, she may dismiss it prematurely as too expensive or too difficult, and instead choose to have an abortion or raise her child out of wedlock. No pregnant woman should ever be coerced into releasing her child for adoption, but she should be allowed to make an informed decision, after considering all available alternatives.

A recent report on teenage pregnancy by the National Research Council stressed the importance of presenting adoption as an option for pregnant adolescents. The report noted the many agencies involved in a teenager's pregnancy—including family planning clinics—and stated that the "fragmentation of needed services may serve as a disincentive for some pregnant teenagers to make adoption plans."

The council's report also included the recommendation that "public agencies, in cooperation with the private sector, explore ways of strengthening adoption services, including, first, improved decision counseling for pregnant teenagers and second, development of effective models for providing comprehensive care to pregnant girls who choose adoption as an alternative to parenthood." This legislation is a much needed start in that direction.

Let me again reiterate that this legislation is written in permissive language only. It is neither my intent nor my desire to force family planning clinics to provide adoption services which they are not able to provide.

This legislation merely clarifies policy regarding adoption services in title X projects. Research has shown that adoption is more likely to be discussed by counselors in a social agency setting than by counselors in a health provider setting. This provision will help to emphasize the role that health care providers can play in discussing and encouraging adoption.

Mr. President, adoption has been called the loving option. I urge my colleagues to support this effort to ensure that adoption does not become the forgotten option because of a lack of information.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 23

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADOPTION SERVICES.

Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended by inserting after the first sentence the following new sentences: "Such projects may also offer adoption services. Any adoption services provided under such projects shall be nondiscriminatory as to race, color, religion, or national origin.".●

By Mr. WALLOP (for himself, Mr. SIMPSON, Mr. STEVENS, and Mr. MURKOWSKI):

S. 24. A bill to clarify that charges and fees may be collected in connection with foreign trade zones at certain small airports; to the Committee on Finance.

REIMBURSEMENT FOR SERVICES AT USER-FEE AIRPORTS

● Mr. WALLOP. Mr. President, the legislation I am introducing today along with Senators SIMPSON, STEVENS, and MURKOWSKI, is intended to allow the U.S. Customs Service to be reimbursed for services provided at foreign trade zones at user-fee airports.

As my colleagues may know, user-fee airports were set up under the law in order to allow the Customs Service to put an inspector at the airport, with the proviso that the airport must reimburse the Customs Service for all expenses in connection with the services provided, including the salary, rent and other charges for the Customs inspector. User-fee airports are

unique in that they are not at or near a port of entry, as is the case with all other foreign trade zones.

As interpreted by the Customs Service and the Treasury Department, current law prohibits the Customs Service from charging fees at the foreign trade zone at a user-fee airport, thus creating a budgetary problem for the U.S. Customs Service.

While most of the services provided by Customs are done in the trade zone at the airport, the foreign trade zone and the user-fee airport in this instance are being treated as two separate entities. This discrepancy in the interpretation of the statute has created several problems for states with user-fee airport designations. Speaking for my State of Wyoming, this situation has been most taxing—our foreign trade zone application has been pending since early 1986. This long and arduous process finally came to fruition on January 19 when Commerce Secretary Verity signed the application. This approval, however, only gives us a 1-year temporary authority contingent on enacting this legislation.

Mr. President, I cannot begin to stress to you the importance of this foreign trade zone to the economic development of Wyoming. For example, a small company—Inter-Mountain Pipe Co.—has already been established at the airport in anticipation of the foreign trade zone. Also, there are many small businesses in Wyoming, particularly the Wyoming Wool Growers Association, which are interested in expanding their businesses through exports. And, in addition to Wyoming's favorable tax climate, I expect our ability to attract new businesses to grow immensely with this foreign trade zone. More importantly, the main purpose of a foreign trade zone is to provide employment by encouraging activities in the United States which could otherwise be conducted outside this country.

In the last year, Wyoming has made some real progress in its efforts to revitalize the economy. I believe Wyoming's foreign trade zone will greatly assist in furthering that effort along. Foreign trade zones continue to be a positive force for U.S. competitiveness and economic development. Recent figures show that there are 1,409 firms using zone, employing 71,508 people. Their facilities received $30.8 billion in merchandise and exports amounted to $6.57 billion. A number of companies in Wyoming have expressed an interest in using this foreign trade zone.

I find this most encouraging because I believe the numerous advantages offered by the zone will provide even greater incentives to Wyoming businesses to expand, thereby creating the potential for new jobs. The enactment of this legislation will nurture the growth that Wyoming has already accomplished and serve to open overseas markets to our products, and I will work very hard to see it through the 101st Congress.

I ask unanimous consent that the text of my legislation be printed in the RECORD in its entirety at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 24

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON FEES.

Paragraph (2) of section 13031(e) of Public Law 99-272 (19 U.S.C. 58c(e)(2)) is amended—

(1) by striking out "This subsection" and inserting in lieu thereof "(A) This subsection", and

(2) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (C) of paragraph (6) shall not apply with respect to any foreign trade zone or subzone that is located at, or in the vicinity of, an airport to which section 236 of the Trade and Tariff Act of 1984 applies.".

SEC. 2. SMALL AIRPORT CUSTOMS FEES.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 58b) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section, customs services provided in connection with, or with respect to, any foreign trade zone or subzone that is located at, or in the vicinity of, any airport described in paragraph (1) or (2) of subsection (a) shall be considered to be customs services provided at such airport.".●

By Mr. HELMS:

S. 25. A bill to protect the lives of unborn human beings; to the Committee on Governmental Affairs.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

● Mr. HELMS. Mr. President, I am today introducing a bill which I have introduced in the two prior Congresses. It is entitled, the Unborn Children's Civil Rights Act. If enacted, this bill would take a first step in overcoming the Roe versus Wade decision.

Specifically, this bill would accomplish four things. First, it would put Congress clearly on record as finding that abortion takes the life of an unborn child, that the Constitution sanctions no right to abortion and that Roe versus Wade was erroneously decided. Second, it would prohibit congressional appropriations from being used to pay for or promote abortion. In this regard, it permanently defunds abortion, thereby relieving Congress of annual fights over abortion restrictions in appropriations bills. Third, it would end certain indirect funding for abortion by prohibiting discrimination at federally funded institutions against individuals who object in conscience to abortion and by curtailing attorneys' fees in abortion-related cases. Fourth, it would provide for appeals to the Supreme Court as a right if a Federal court declares State restrictions on abortion unconstitutional. As a practical matter, this provision will assure Supreme Court reconsideration of the abortion issue in the future.

Mr. President, there's the old adage, "Those who cannot remember the past are condemned to repeat it." All of us have heard those words but many in our Government have refused to heed them. Only 45 years after thousands of German Jews died at the hands of Hitler's Nazis, we have forgotten the critical lesson of that atrocity—that all human life is sacred regardless of the color, race, religion, or physical or mental capabilities of that human being.

We are today reliving the Holocaust. We know it by a different name. It is called abortion. Yet, the same fate that was met by millions of Jews is being met by millions of unborn children right here in this country. At latest count, over 22 million unborn children—the most innocent of human life—have been murdered.

Abortion has become a tool of convenience, Mr. President. We have slipped so far down the slippery slope that now children are being aborted because they do not have the desired hair color, sex, physical attributes, or mental capabilities. The same excuses for murdering countless Jews are now being used to justify the murder of the most innocent and helpless of humanity.

Mr. President, Roe versus Wade was, simply put, an unconstitutional decision. It has no foundation whatsoever in the text or history of the Constitution. It was invented out of whole cloth. As Justice White said in his dissent, Roe was an exercise in raw judicial power.

How has it endured for 17 long years? Why do we permit some 4,000 unborn babies to perish every day through legalized abortion?

The answer is woefully simple, Mr. President. Even though Roe versus Wade is an unconstitutional decision, Congress has been unwilling to right the wrong—to exercise its powers to check and balance a usurping Supreme Court which has destroyed the right to life of the most defenseless among us. The powers exist, but Congress has nonetheless permitted Roe to stand because many Members of Congress are apparently committed to legalized abortion. These Members share the same antihistorical, secularized, liberal view of law and public order as those Justices who gave us Roe versus Wade in the first place.

In their view—with which I disagree—the Ten Commandments are not the eternal rules of Almighty God which give authority to human law, but the transitory precepts of a bygone age in need of periodic updating by wiser heads here on Earth. Of course, human nature being what it is,

there is never any shortage of wiser heads.

Mr. President, for these reasons, Roe versus Wade stands and the holocaust continues. It is not the Constitution or our system of government which is at fault. Ample means exist within them, even apart from a constitutional amendment, to overturn Roe. The fault, on the part of Members of Congress, lies in a failure of intellect to perceive the true nature of abortion and a failure of will to do something about it. These are the ingredients which perpetuate the travesty of Roe versus Wade.

But, Mr. President, the Senator from North Carolina is ever hopeful that, with God's help and human effort, hearts and minds—even in Congress—will change. Enactment of the Unborn Children's Civil Rights Act, certainly would be a step in the right direction. I urge Senators to seek its early enactment.

I ask unanimous consent that the text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 25

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Children's Civil Rights Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution; and

(3) in the case of Roe v. Wade (410 U.S. 113) and Doe v. Bolton (410 U.S. 179) the United States Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by the Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by the Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEY'S FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Between the first and second paragraphs of section 1252 of title 28, United States Code, insert the following new paragraph:

"Notwithstanding the absence of the United States as a party, should any State or any subdivision of any State enforce or enact a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the United States Supreme Court, notwithstanding any other provision of law.".●

By Mr. MOYNIHAN (for himself and Mr. WILSON):

S. 26. A bill to make certain supplemental appropriations in order to fully fund the Anti-Drug Abuse Act of 1988; to the Committee on Appropriations.

ANTI-DRUG ACT OF 1988 APPROPRIATIONS

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will provide full funding for the omnibus drug bill that Congress passed with so much fanfare last October. The Anti-Drug Abuse Act of 1988 authorized $2.8 billion in new money to fight the epidemic of substance abuse, but appropriated less than $1 billion to fund the effort it proposed. When Congress passed the drug bill it made a promise. It is my intent to keep that promise. This bill provides a supplemental appropriation of $1.7 billion, allocating it to the same programs authorized by the drug bill—treatment, law enforcement, education, and research. It is based on the premise that the issue of drug abuse must remain a priority as the new Congress works with the new President to shape the next budget.

In an ABC News poll taken between August 30 and September 1, 1988, Americans chose drug abuse as the most important national problem of the moment by more than a 3 to 1 margin over such problems as the deficit, unemployment, poverty, and the threat of war. Their concern, and our legislative effort, is part of a general awakening to what has been happening to children and young people in this country. According to the 1985 National Household Survey on Drug Abuse, 15.1 percent of those 12 to 17 years of age and 25.5 percent of those 18 to 25 have used illicit drugs in the previous 30 days.

Crack is the most vicious drug the species—us, that is—seems ever to have encountered. No one knows the size of the afflicted population, but the Drug Enforcement Administration estimates there are 600,000 regular users in New York City; 600,000 young persons in a city with 1.1 million inhabitants between the ages of 15 and 24. Young people everywhere are endangered, but most virulently the young people of the inner cities. The violence associated with drug use could resegregate American society. Single parent families could become no-parent families: A devastating prospect already taking shape.

Yet when these children do what we wish them to do and ask for help at a treatment center they are told to come back in 6 months. And when the dealer who sells them crack is arrested, his chances for punishment are so small as to make no matter. The jails, too, keep a waiting list.

These are but some of the reasons the drug bill promised to deliver $2.7 billion. It was an unprecedented bipartisan effort to produce a bill dealing with everything from the eradication of jungle foliage in Peru to the structure of research laboratories in Bethesda, with the Armed Forces, the police, the courts, the hospitals, the jails, the schools, the crack dens all mixed up in between. It committed us to provide the policeman on the street with enough resources to do his job. But law enforcement assistance to the States in 1989 will be only $119 million, down from $178 million in 1987. ABC News reported on January 4 that in Washington, DC, the new money provided by the drug bill will only enable the city to keep 10 extra prisoners in jail for a year.

The drug bill also promised, for the first time, to provide substance abuse treatment on request to addicts. This is perhaps the central policy initiative embodied in the act. But 15 States—Arkansas, Georgia, Idaho, Indiana,

Kansas, Maine, Mississippi, Nebraska, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, West Virginia, and Wyoming—will receive less Federal assistance for drug treatment in 1989 than they did in 1988. According to ABC News, the drug bill will enable the District of Columbia to treat only 30 more addicts in 1989. A result not nearly as impressive as the rhetoric that preceded it, nor one of which we can be proud.

The reasons the drug bill failed to keep its promise are no less real than the conditions that led us to make the promises. If the money had been there to appropriate it would have been appropriated. But Congress, working together with the President, must try again. Last fall I supported a small increase in alcohol and tobacco taxes to fund the drug bill. I would do so again. I supported enhancing IRS tax collection. I would do so again.

This initiative is not meant to be a symbolic gesture. I am introducing this measure to establish that Congress is still serious about drugs. And I do so bearing in mind that perhaps a more elemental principle is at stake. Whether the American people believe their Government when it makes a promise. And whether their Government deserves to be believed. I urge its favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 26

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1989, and for other purposes, namely:

Because of the urgent need to provide drug treatment and rehabilitation services to drug users upon request and to provide law enforcement agencies sufficient resources to arrest, prosecute, and incarcerate violators of the law, there is hereby appropriated an additional sum of $1,786,175,000.

TITLE I—DEPARTMENTS OF JUSTICE AND STATE AND THE JUDICIARY

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $15,000,000.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $46,000,000.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $26,000,000.

GENERAL LEGAL ACTIVITIES ACCOUNT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to be used to increase the number of field attorneys and related support staff used for asset forfeiture and civil enforcement, $3,000,000.

UNITED STATES ATTORNEYS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to be used to increase the number of field attorneys and related support staff used for asset forfeiture and civil enforcement, $3,000,000.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $6,000,000.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", $6,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $104,000,000, to remain available until expended.

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $13,000,000.

NATIONAL INSTITUTE OF CORRECTIONS

For an additional amount for the National Institute of Corrections, $14,000,000.

OFFICE OF JUSTICE PROGRAMS

MANAGEMENT AND ADMINISTRATION

For an additional amount for management and administration, $8,000,000.

NATIONAL INSTITUTE OF JUSTICE

For an additional amount for the National Institute of Justice, $9,000,000.

BUREAU OF JUSTICE STATISTICS

For an additional amount for the Bureau of Justice Statistics, $10,000,000.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

For an additional amount for the Office of Juvenile Justice and Delinquency Prevention, $20,000,000, as authorized by part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974.

BUREAU OF JUSTICE ASSISTANCE

For an additional amount for the Bureau of Justice Assistance, $127,000,000, of which $125,000,000 shall be available until expended for the Drug Control and System Improvement Grant program and $2,000,000 shall be available for Regional Information Sharing Systems Grants, as authorized by the Omnibus Crime Control and Safe Streets Act of 1968.

STATE JUSTICE INSTITUTE

For an additional amount for the State Justice Institute, $15,000,000.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $4,000,000, to remain available until expended, for expenses authorized by the Anti-Drug Abuse Act of 1988 for development, procurement, and implementation of a machine-readable travel and identity document border security program.

REWARDS FOR INFORMATION CONCERNING NARCOTICS-RELATED OFFENSES

For an additional amount for rewards for information concerning narcotics-related offenses, $5,000,000, to remain available until expended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $18,000,000.

DEFENDER SERVICES

For an additional amount as authorized by law for "Defender services", $14,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $1,000,000, to remain available until expended.

SECURITY EQUIPMENT

For an additional amount for procurement, installation, and maintenance of security equipment and protective services for the United States Courts, $5,000,000, to remain available until expended.

TITLE II—DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES

DEPARTMENT OF LABOR

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $895,000,000.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount to carry out the Drug-Free Schools and Communities Act of 1986, as amended, $11,000,000.

NATIONAL COMMISSION ON DRUG-FREE SCHOOLS

For an additional amount for the National Commission on Drug-Free Schools, as authorized by the Anti-Drug Abuse Act of 1988, $1,000,000.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $2,000,000, of which up to $200,000 may be used for administrative expenses.

TITLE III—DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

For an additional amount for preparing and distributing drug abuse education materials, $10,000,000.

NATIONAL FOREST SERVICE

For an additional amount for Federal law enforcement activities relating to the use

and production of narcotics and controlled substances on lands administered by the National Forest Service, $10,000,000, as authorized by the Anti-Drug Abuse Act of 1988.

TITLE IV—DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $64,000,000 to be available only to increase drug interdiction patrols and other special drug interdiction operations: *Provided*, That such funds shall be available only for fuel, maintenance, spare parts, supplies and materials, and related logistics expenses.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements", $100,000,000 to remain available until expended.

FEDERAL HIGHWAY ADMINISTRATION

For an additional amount for "Drunk driving prevention programs", $25,000,000, as authorized by the Drunk Driving Prevention Act of 1988, to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

For an additional amount for "Drug recognition expert training", $5,000,000 to establish a regional pilot program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or 1 or more controlled substances.

TITLE V—DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $4,000,000.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $35,000,000, of which $7,000,000 shall be available for development, procurement, and implementation of a machine-readable travel and identity document border security program.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operation and Maintenance, Air Interdiction Program", $51,000,000, to remain available until expended.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

For an additional amount for the Federal Law Enforcement Training Center, $6,000,000, of which $4,000,000 shall be available only to accommodate the advanced in-service training requirements of the Drug Enforcement Administration that cannot otherwise be met at the Department of Justice training facilities, and $2,000,000 shall be available to increase the level of drug enforcement training for Federal, State, and local law enforcement officers.

EXECUTIVE OFFICE OF THE PRESIDENT

NATIONAL COMMISSION ON MEASURED RESPONSES TO ACHIEVE A DRUG-FREE AMERICA BY 1995

For an additional amount for the National Commission on Measured Responses to Achieve a Drug-Free America by 1995, $1,000,000, as authorized by the Anti-Drug Abuse Act of 1988.

PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION

For an additional amount for the President's Media Commission on Alcohol and Drug Abuse Prevention, $1,000,000, as authorized by the Anti-Drug Abuse Act of 1988.

TITLE VI—FOREIGN ASSISTANCE

DEPARTMENT OF STATE

MULTILATERAL ASSISTANCE

For an additional amount for "Multilateral assistance", $3,000,000, as authorized by the International Narcotics Control Act of 1988.

MILITARY ASSISTANCE PROGRAM

For an additional amount for "Military assistance", $15,000,000: *Provided*, That such funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking.

TITLE VII—DEPARTMENTS OF HOUSING AND URBAN DEVELOPMENT AND VETERANS AFFAIRS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

For an additional amount for the Public Housing Drug Elimination Pilot Program, $8,200,000, as authorized by the Anti-Drug Abuse Act of 1988, to be available until expended.

DEPARTMENT OF VETERANS AFFAIRS

DRUG AND ALCOHOL TREATMENT PROGRAMS

For an additional amount for drug and alcohol treatment programs, $16,000,000, of which $15,000,000 shall be available for providing drug and alcohol treatment services to eligible veterans with alcohol or drug dependence or abuse disabilities, and $1,000,000 shall be available for an evaluation of drug and alcohol treatment programs operated by the Department of Veterans Affairs.

TITLE VIII—DEPARTMENT OF THE INTERIOR

INDIAN HEALTH SERVICES

For an additional amount for Indian alcohol and substance abuse prevention and treatment, $30,000,000, as authorized by the Anti-Drug Abuse Act of 1988.

BUREAU OF LAND MANAGEMENT

For an additional amount for Federal law enforcement activities relating to the use and production of narcotics and controlled substances on Bureau of Land Management public lands, $2,000,000, as authorized by the Bureau of Land Management Drug Enforcement Supplemental Authority Act.

NATIONAL PARK SERVICE

For an additional amount for Federal law enforcement activities relating to the use and production of narcotics and controlled substances in National Park System units, $3,000,000, as authorized by the Anti-Drug Abuse Act of 1986.

INSULAR AREAS

For an additional amount to carry out the United States Insular Areas Drug Abuse Act of 1986, $13,975,000, of which $350,000 shall be available for grants to the Government of American Samoa, $500,000 shall be available to provide the Government of American Samoa with a vessel to be used in the enforcement of narcotics and other laws, $500,000 shall be available for grants to the Government of Guam to carry out the purposes of such Act in accordance with a plan approved by the Secretary of the Interior, $500,000 shall be available for grants to the Government of Guam for drug abuse law enforcement equipment, $125,000 shall be available for grants to the Government of the Northern Mariana Islands, $7,000,000 shall be available for grants to the Government of Puerto Rico, $2,000,000 shall be available for grants to the Government of the Virgin Islands to carry out the purposes of such Act in accordance with a plan approved by the Secretary of the Interior, $2,500,000 shall be available for a grant to the Government of the Virgin Islands for a substance abuse facility, and $500,000 shall be available for grants to the Government of Palau.

TITLE IX—GENERAL PROVISIONS

SEC. 901. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 902. It is the sense of Congress that funding for Federal anti-drug abuse programs for fiscal year 1990 should, at a minimum, maintain the aggregate level of funding provided for such programs for fiscal year 1989 by the regular appropriation Acts for fiscal year 1989, the Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse, and the Anti-Drug Abuse Supplemental Appropriations Act of 1989, and should include the full amount of any increases authorized for fiscal year 1990 by the Anti-Drug Abuse Act of 1988.

SEC. 903. This Act may be cited as the "Anti-Drug Abuse Supplemental Appropriations Act of 1989".

By Mr. MOYNIHAN:

S. 27. A bill to establish a federally sponsored program for the restoration, conservation, and management of Onondaga Lake in Onondaga County, NY, and to provide for the sharing of costs of such clean up, and for other purposes; to the Committee on Environment and Public Works.

ONONDAGA LAKE RESTORATION ACT

Mr. MOYNIHAN. Mr. President, we need a Federal commitment to clean up Onondaga Lake once and for all. The bill I am introducing today, the Onondaga Lake Restoration Act of 1989, will be the centerpiece of this effort. I am determined to make the restoration of Onondaga Lake a model for the rest of the Nation. Some might say that such an effort is hopeless. Not so. The whole Nation can profit and learn from such a model. Cleaning up Onondaga Lake can show that there are very few environmental problems that cannot be overcome.

What I am presenting today may not be what is finally enacted—I am still open to suggestion as to how best to proceed—but I am set on one idea: there will be no more delay. Onondaga County and the city of Syracuse are beginning their own small renaissance right now, and they will not flourish as they should if the lake they share remains so highly polluted. With a clean and usable lake, the area will blossom. Without it, its future is very much in doubt.

It is enough that New York State is home to Love Canal, arguably the single most prominent symbol of reckless toxic waste disposal in the country. But our State has yet another distinction; it has been claimed that Onondaga Lake is the most polluted inland body of water in the country. Such a ranking is impossible to make with undisputed accuracy, but our lake clearly ranks near the bottom of the list. This distinction is something New Yorkers could well do without. But we did something about Love Canal—I helped get Federal money for that—and the time has come to do the same for Onondaga Lake.

Some may be not intimately familiar with the history of the lake, and consequently may believe there is no point in saving it. In the latter part of the last century Onondaga Lake was a well known aquatic playground. Water slides shot into the lake from prestigious lakeside resorts. Pleasure boats abounded and swimming was a common thing on hot days. But for most of this century, the lake has served more as a cesspit than a public waterway. In 1884 the Solvay Process Co. opened operations on the lakeshore for the production of soda ash. This process, however, produced substantial quantities of chemical sludge as waste, which was dumped directly into the lake until 1907. Thereafter it was deposited along the lakeshore, and substantial chemical leaching from the waste beds continued to pollute the lake.

Another unfortunate byproduct of this process was mercury. The Solvay Co., and later Allied Chemical which bought out the original owners, dumped as many as 25 pounds of mercury into the lake per day.

In 1896 the city of Syracuse began construction of a rudimentary sewage system, which drained all of the city's wastes directly into the lake. This was corrected years later by the construction of a sewage treatment plant on the lake's south shore, but many combined sewer outfalls still dump untreated sewage into the lake during heavy rains. In addition, the county's treatment plant discharges nitrogen and phosphorus in sufficient quantities to cause the growth of undesirable levels of algae.

For all practical purposes, the lake has been considered dead for as many years as most of us can remember. But in 1985, Allied Chemical left Onondage County, and moved its soda production facilities to Wisconsin. And since then there have been small stirrings of hope that perhaps the lake can be reborn.

This is a worthy goal, and achievable. The lake may never recover fully from its past, but we can reclaim it for human use. For swimming, for boating, and even for fishing. But this will not come cheap.

My bill will provide $100 billion in Federal funds for the lake. It will bring the Environmental Protection Agency in to the process to look at the lake's various environmental problems, and will charge the Army Corps of Engineers with telling us what we might do to fix it, and how much it will cost. I should point out that much work has been done already in these areas by the State of New York and Onondaga County, but much more still needs to get done. And once our alternatives are clearly set before us, there must be a consensus among all involved on how to proceed.

The $100 billion provided by this legislation will be administered not by the Federal Government, or even the State of New York, but by a lake management conference made up of representatives of the U.S. EPA, the Corps of Engineers, New York State, Onondaga County, the city of Syracuse, a citizens' advisory committee, and a technical advisory committee. This management conference will decide what work should be done and in what order, and will identify additional sources of funding.

Such a collective decisionmaking process has its purpose. It will ensure accountability, and it will give all sides a voice in the decisions that are made about how much to spend, and how to spend it.

Mr. President, this is very simple. In central New York we have a beautiful little lake that has been horribly abused for more than a century. The time has come to correct this longstanding mistake, and I will do everything in my power to see this happen.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the appropriate point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 27

Be it enacted in the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.

This Act may be cited as "The Onondaga Lake Restoration Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(a) Onondaga Lake has been for many years received sewage discharge from a variety of sources, including numerous combined sewer outfalls, which can discharge raw sewage into the lake as many as one hundred times per year;

(b) Onondaga Lake has received industrial discharges of mercury, chlorine, sodium, carbonate ions, calcium, benzene, sodium hyperchloride, various petroleum distillates and other chemical pollutants since the late nineteenth century;

(c) there are restrictions on the consumption of fish taken from Onondaga Lake because of elevated mercury levels in fish flesh;

(d) existing waste beds in the Towns of Geddes and Camillus still contribute many tons of contaminants to the lake every year through runoff and infiltration;

(e) Onondaga Lake borders directly on New York's fifth largest city, and has the potential of being a central part of the economic and recreational activity for the City of Syracuse, Onondaga County, and central New York;

(f) the number, variety and mixture of sources of pollution in Onondaga Lake is unique for bodies of fresh water of comparable size in the United States;

(g) pollution from Onondaga Lake flows into the Oswego River and is a potentially major source of pollution to Lake Ontario and the St. Lawrence River;

SEC. 3. PURPOSE.

It is the purpose of this Act to formulate and implement a cooperative program for the restoration, conservation and management of Onondaga Lake in Onondaga County, New York. This plan shall build on the efforts undertaken to date by the State of New York, Onondaga County, the Central New York Regional Planning and Development Board, the Onondaga Lake Advisory Committee, other public entities and private individuals and businesses, and shall coordinate all activities undertaken to clean up the lake.

SEC. 4. GENERAL PROVISIONS.

Title III of the Federal Water Pollution Control Act is hereby amended by adding a new Section 321, as follows:

"SEC. 321. ONONDAGA LAKE RESTORATION PROGRAM.

"(a) CONVENING OF CONFERENCE.—The Administrator shall convene a management conference for the restoration, conservation, and management of Onondaga Lake. The purpose of the management conference convened with respect to this subsection shall be to—

"(1) catalog and evaluate all existing research and information regarding like conditions;

"(2) assesss the need for ongoing research regarding the lake and assure that such research is carried out as expeditiously as possible;

"(3) coordinate with all ongoing research and modeling efforts in an attempt to gather all information needed to formulate a comprehensive restoration, conservation, and management plan for the lake;

"(4) develop a comprehensive restoration, conservation and management plan that recommends priority corrective actions and compliance schedules addressing point and non-point sources of pollution to restore and maintain the chemical, physical, and biological integrity of the lake, including an assessment of the feasibility and desirability of projects to assure that—

"(A) there is sufficient dissolved oxygen in Lake water to allow fish to survive, reproduce and flourish,

"(B) presence of mercury in the Lake is reduced to the extent that fish taken from the Lake can be consumed without threat to health,

"(C) discharge of untreated sewage into the lake is reduced to negligable levels,

"(D) high phytoplankton levels and other sources of turbidity in the lake are reduced to the extent that lake water can meet the standard of 1.22 meter average visability;

"(E) concentrations of fecal coliform and other bacteria are reduced to the extent that swimming in the Lake is permissible and does not pose a threat to health.

"(5) coordinated implementation of the plan by the State of New York, the Environ-

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mental Protection Agency and all local agencies, governments and other groups participating in the conference under existing authorities, and recommended additional authority that should be granted to the management conference or to any of its participants that will aid in the execution of the plan agreed upon by the management conference;

"(6) monitor the effectiveness of actions taken pursuant to the plan and recommend modifications to the plan should they be necessary; and

"(7) review all Federal financial assistance programs and Federal development projects in accordance with the requirements of Executive Order 12372, as in effect on September 17, 1983, to determine whether such assistance program or project would be consistent with and further the purposes and objectives of the plan prepared under this section. For purposes of paragraph (7), such programs and projects shall not be limited to the assistance programs and development projects subject to Executive Order 12372, but may include any programs listed in the most recent Catalog of Federal Domestic Assistance which may have an effect on the purposes and objectives of the plan developed under this section.

"(b) MEMBERS OF CONFERENCE.—The members of the management conference convened under this section shall include, at a minimum, the Administrator and a representative of—

"(1) the Governor of the State of New York,

"(2) the Assistant Secretary of the Army for Civil Works;

"(3) Onondaga County,

"(4) The City of Syracuse

"(5) a Technical Advisory Committee to be convened by the management conference to provide advice and assistance concerning the technical and scientific aspects of the plan; and

"(6) a Citizens Advisory Committee to be convened by the management conference.

"(c) UTILIZATION OF EXISTING DATA.—In developing a plan under this section, the management conference shall survey and utilize existing reports, data, and studies relating to the lake that have been developed by or made available to Federal, interstate, State, and local agencies.

"(d) APPROVAL AND IMPLEMENTATION OF PLANS.—

"(1) APPROVAL.—Not later than 120 days after the completion of a restoration, conservation and management plan and after providing for public review and comment, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governor of the State of New York concurs.

"(2) IMPLEMENTATION.—Upon approval of a conservation and management plan under this section, such plan shall be implemented. Funds authorized to be appropriated under titles II and VI and section 319, and this section of this Act may be used in accordance with the applicable requirements of this Act to assist States with the implementation of such plan.

"(e) GRANTS.—

"(1) RECIPIENTS.—The Administrator is authorized to make grants to State, interstate, and regional water pollution control agencies and entities, State lake management agencies, interstate agencies, other public or nonprofit private agencies, institutions, organizations, and individuals.

"(2) GRANTS UNDER THIS SUBSECTION SHALL BE MADE TO PAY FOR—

"(A) assisting research, surveys, studies, and modeling and other technical work necessary for the development of a restoration, conservation and management plan under this section, provided that the amount of grants to any person (including a State, interstate, or regional agency or entity) under this paragraph for a fiscal year shall not exceed 75 percent of the costs of such research, survey, studies and work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources;

"(B) conducting activities identified in the plan developed pursuant to this section for the restoration, conservation and management of Onondaga Lake, provided that the amount of grants to any person (including a State, interstate, or regional agency or entity) under this paragraph for a fiscal year shall not exceed 55 percent of the costs of such work and shall be made on condition that the non-Federal share of such costs are provided from non-Federal sources.

"(f) GRANT REPORTING.—Any person (including a State, interstate, or regional agency or entity) that receives a grant under subsection (g) shall report to the Administrator not later than 18 months after receipt of such grant and biennially thereafter on the progress being made under this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator not to exceed $17,000,000 per fiscal year for each of fiscal years 1989, 1990, 1991, 1992, 1993, and 1994 for—

"(1) expenses related to the administration of management conferences under this section, not to exceed 5 percent of the amount appropriated under this subsection;

"(2) making grants under subsection (g); and

"(3) monitoring the implementation of a conservation and management plan by the managment conference or by the Administrator, in any case in which the conference has been terminated."

SEC. 5. ROLE OF THE ARMY CORPS OF ENGINEERS.

The Assistant Secretary of the Army for Civil Works is directed to undertake a study to assess the cost, feasibility, probable duration, and effectiveness of various strategies for the reduction of pollutant and nutrient input into Onondaga Lake. The Assistant Secretary shall cooperate to the fullest extent possible with the State of New York, Onondaga County, the city of Syracuse and other interested parties in establishing a list of alternatives to be assessed, and descriptions of the individual projects. No later than 18 months after the date of enactment of this Act, the Assistant Secretary shall submit a report to Congress and to the Management Conference convened under section 321 of the Federal Water Pollution Control Act as amended that includes the findings of this study. This report shall recommend which projects and techniques will offer the greatest benefits for the clean up of the Lake, and which are the most cost effective.

By Mr. RIEGLE (for himself, Mr. BURNS, and Mr. LIEBERMAN):

S. 28. A bill to amend the Internal Revenue Code of 1986 to increase the basic standard deduction for child dependents; to the Committee on Finance.

INCREASE IN STANDARD DEDUCTION FOR CHILD DEPENDENTS

● Mr. RIEGLE. Mr. President, today I am reintroducing legislation that I originally introduced last April to increase the amount of income that dependents may earn before such income is subject to Federal income tax.

The Tax Reform Act of 1986 contained an unfortunate change in how the incomes of dependents are taxed. In an effort to close a loophole through which some wealthy taxpayers were sheltering part of their income through their dependents, millions of other dependents are now taxed at higher rates on their earnings and savings. The U.S. tax system should be amended to not tax the small incomes of those dependents who work and save.

Our economic system is based on the industriousness of our work force. We want to instill this work ethic at an early age because we know that our children should begin to see the rewards that come from work.

S. 28. The Children's Economic Equity Tax Act, will raise the amount of earned income of a dependent that is not subject to tax to $4,000 and will increase the unearned income level of $500. These increases will allow dependents to keep their hard earned income and to save for college and other expenses. At the same time, the abusive sheltering of income by parents that existed under the hold tax law is still not allowed—the new tax law rules take effect after the new levels of earned and unearned income are reached.

I do not think it was the intent of the tax writers to go after children who work hard at delivering newspapers, doing yard work, babysitting, working at the local fast food restaurant, caddying, and stocking grocery store shelves. These types of jobs are absolutely essential; we should not penalize our children by imposing taxes on the earnings from such jobs. The new law hurts dependents who earn over $500 from jobs and also save some of the money they have earned. Even if the interest from a savings account is only $1, that income is taxed. This type of tax policy needs to be corrected. Such a correction does not weaken tax reform, it corrects the unwanted consequences of the 1986 reform law.

Increasing the earned income standard deduction level to $4,000 will both eliminate the tax of most of our children, but just as important, not encourage them to go around the system by seeking "cash only" types of jobs. Our laws should be designed to encourage our children to follow them, not to circumvent them.

Setting a reasonable unearned income level that is not subject to tax will also encourage our children to save a portion of their earnings. We

want to instill this savings ethic at an early age. As my colleagues well know, the saving base in America is too low. We should be doing everything possible to raise this savings base.

It is my strong hope that Congress will act swiftly to amend our tax code and not tax the initial levels of earned and unearned income of dependents.●

By Mr. FORD (for himself, Mr. ROTH, Mr. DOMENICI, Mr. NICKLES, Mr. DECONCINI, Mr. COHEN, Mr. SYMMS, Mrs. KASSEBAUM, Mr. NUNN, Mr. MCCONNELL, Mr. BUMPERS, Mr. INOUYE, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HEINZ, Mr. DASCHLE, Mr. SHELBY, Mr. SANFORD, Mr. WILSON, Mr. DANFORTH, Mr. PELL, Mr. GARN, Mr. WARNER, Mr. PRESSLER, Mr. WALLOP, Mr. CONRAD, Mr. WIRTH, Mr. BREAUX, and Mr. BENTSEN.

S. 29. A bill to provide for a 2-year Federal budget cycle, and for other purposes; to the Committee on the Budget and Governmental Affairs jointly pursuant to order of August 4, 1977.

BIENNIAL BUDGET ACT

● Mr. FORD. Mr. President, today I am honored to be reintroducing, on behalf of myself and Senator ROTH, the Biennial Budget Act, legislation to put the Federal budget on a 2-year cycle. We are pleased to have joining us in introducing this bipartisan legislation 28 of our colleagues, including Senator DOMENICI, Senator NICKLES, Senator DECONCINI, Senator COHEN, Senator SYMMS, Senator KASSEBAUM, Senator NUNN, Senator INOUYE, Senator MCCONNELL, Senator BUMPERS, Senator BOREN, Senator COCHRAN, Senator BOSCHWITZ, Senator HEINZ, Senator DASCHLE, Senator SHELBY, Senator SANFORD, Senator WILSON, Senator DANFORTH, Senator PELL, Senator GARN, Senator WARNER, Senator CONRAD, Senator PRESSLER, Senator WALLOP, Senator WIRTH, Senator BREAUX, and Senator BENTSEN.

I first introduced a proposal to put the Federal budget on a 2-year cycle in the 1st session of the 97th Congress, and have continued to reintroduce this legislation up through, and including, the 100th Congress. Then in June of last year I was most pleased to introduce, along with my distinguished colleague from Delaware, Senator ROTH, a bipartisan proposal to establish a biennial budget process for the Federal Government: S. 2478. We were pleased to have 29 of our colleagues join us in cosponsoring that legislation last year, which was reported unanimously from the Senate Governmental Affairs Committee in late August. The bill was subsequently discharged from the Senate Budget Committee, under the provisions of the August 4, 1977, unanimous consent agreement governing referral of budget-related legislation, and was placed on the Senate Calendar in late September. While there was obviously insufficient time for the Budget Committee and the full Senate to consider this legislation in the last Congress, I was pleased that this proposal made such progress in the 100th Congress.

With that success, Senator ROTH and I decided to reintroduce our legislation, virtually identical to S. 2478, as reported from the Governmental Affairs Committee in the 100th Congress. In an effort to simplify the legislation, and address the concerns of some of our colleagues, we have deleted the automatic continuing resolution provisions of the bill [section 9 of S. 2478]. I continue to believe that an automatic continuing appropriation removes the incentive for both the Congress and the White House to sandbag individual appropriation bills in the hope of enacting controversial items in a virtually veto-proof continuing resolution. However, in an attempt to expedite consideration of this legislation, I will be introducing this provision as separate legislation.

The bill we are introducing today amends the Congressional Budget and Impoundment Control Act of 1974 to provide for a 2-year Federal budget cycle. In the first session of each Congress, beginning in the 102d Congress, a concurrent budget resolution and reconciliation measure covering a 2-fiscal-year period will be enacted, as will appropriation bills covering the same 2-fiscal-year period. Deficit reduction measures and tax bills included as part of reconciliation would therefore be adopted in the nonelection year of a Congress. The second session of each Congress would be devoted to authorizing legislation and oversight by Congress, and compliance review by the executive branch. The biennial budget period would begin on October 1 of each odd-numbered year and cover the 2 consecutive fiscal years.

It is important to note that this legislation does not disturb the discipline of Gramm-Rudman-Hollings. Each fiscal year in the biennium must comply with the statutory deficit limits of Gramm-Rudman-Hollings, and the threat of a sequester and the procedure for avoiding it remain unchanged. Similarly, this legislation does not preclude action on supplemental spending measures in either year of a Congress, and maintains the existing Budget Act points of order governing such measures.

This legislation again provides increased authority for chairmen and ranking members of standing committees of the Congress to request information, analyses, studies, and other assistance from Federal agencies to aid in the budget formation, appropriations, authorization, and program oversight process. The effective date of this legislation is January 1, 1990, with the first biennium beginning on October 1, 1991, and covering the 2-fiscal-year period of fiscal year 1992-93. This will give the Congress and the executive branch the 101st Congress in which to lay the groundwork for a successful transition to multiyear budgeting.

Many of our colleagues recognize that the complexity of the current congressional budget process does not lend itself to efficient budgeting. While the 1974 reforms were a positive step, our experience over the past nearly 15 years has proven that the process needs reform. Until last year, Congress had been unable to complete action on all regular appropriation bills before the beginning of the fiscal year. This was due in part to the consistent inability of Congress, often in consultation with the White House, to complete action on the budget in time for the appropriations committees to take final action on the individual appropriation bills. This has lead in recent years to a reliance on omnibus spending bills, often resulting in the entire Federal Government operating on a succession of several short-term continuing resolutions.

While biennial budgeting cannot replace the will to make hard decisions about how to cut spending and increase revenues in order to balance the Federal budget, it will give Congress and the executive branch a management tool for getting our fiscal house in order. As the Senate Governmental Affairs Committee noted in its report to accompany S. 2478 in the last Congress,

> While biennial budgeting will not solve all of the problems which have developed relating to the budget process, it will substantially improve the process, and will create a greater presumption in favor of carefully considered, timely decisions.

We know from the experience of the 1987 budget summit agreement, that biennial budgeting can contribute to a more orderly consideration of appropriation measures. The budget summit agreement was an unintended experiment in biennial budgeting that proved to be overwhelmingly successful. That agreement produced a 2-year deficit reduction package that eliminated much of the repetitive floor debate on budget resolutions and priorities, and established caps on appropriations which allow the appropriations committees to begin, and complete, their work in a timely manner. But biennial budgeting can produce other benefits as well.

By dedicating an entire year to the authorization and oversight process, Congress will have the time needed to make reasoned decisions about how to spend the taxpayer's money. A 2-year budget with one session reserved spe-

cifically for oversight and authorizations, will give Congress the adoption of a budget resolution and appropriation bills. We cannot be expect to be able to make responsible decisions about how to allocate over $1 trillion of revenues each year without time to consider those spending decisions outside of the deficit reduction process. Congress simply needs more time to review existing spending programs to determine whether they should be maintained, modified, or replaced.

A 2-year budget will also give the executive branch sufficient time to conduct compliance reviews and discover waste and abuse in Government programs before they become a national scandal. Biennial budgeting will also give both the executive branch and State and local recipients of Federal funds 2 years to plan for the most efficient use of these funds. As a former Governor of a State which operates on a biennial budget, I know the savings that can result from a 2-year budget which gives States and local executives the stability to plan and get a bigger bang out of the buck. The Federal Government can achieve those same savings. Last year, Mr. Robert Helm, then Comptroller of the Department of Defense, testified before the Governmental Affairs Committee that the Department's experience with biennial budgeting, especially in the procurement area, showed that advanced funding had the advantage of enabling managers to pursue Defense procurement in the most efficient manner.

There is a broad, bipartisan base of support building for biennial budgeting. In a survey conducted in the last Congress by the Center for Responsive Politics, more than 85 percent of the Members of Congress polled said they favored 2-year appropriations. Former President Reagan called on Congress in his last two budgets to adopt biennial budgeting, citing in his fiscal year 1980 budget many of the very benefits of biennial budgeting that Senator ROTH and I have been advocating for many years. In testimony before the National Economic Commission last summer, uniform support was expressed for moving to a 2-year budget cycle, including support from former CBO Director, Dr. Alice Rivlin. During hearings in the Governmental Affairs Committee last year, there was uniform support expressed for the concent of biennial budgeting, including testimony from Charles Bowsher, Comptroller General of the United States, former OMB Director, Jim Miller, former Comptroller of the Department of Defense, Robert Helm, and representatives of the Committee for a Responsible Federal Budget, including former House Budget Committee Chairman JIM JONES. The U.S. Chamber of Commerce has also endorsed the concept of biennial budgeting.

The support for biennial budgeting continue to grow. Director/Designate of OMB, Richard Darman, stated at his confirmation hearings last week before the Senate Governmental Affairs Committee, that he thought moving the Federal budget to a 2-year cycle was highly desirable, and that it would find support in the Bush administration. Mr. Darman's comments confirmed what were earlier press reports that members of the Bush administration would be favorable to the idea of biennial budgeting.

Biennial budgeting is not a panacea for our Federal budgetary problems. Nor is it a short-term fix, or a gimmick, for reducing our Federal budget deficit. It is a tried procedure that can produce savings to the Federal Treasury and give both Congress and the executive branch a tool for making informed decisions on how to reduce the deficit and balance the Federal budget.

There are numerous ways to establish a biennial budget cycle, and many members of the Senate have been working on this issue for a number of years. This concept is not without its skeptics, but the overwhelming opinion appears to be that the advantages of moving to multiyear budgeting and appropriations outweigh the concerns. I was pleased to join with my distinguished colleague, Senator ROTH, last year in putting together what we felt was a bipartisan approach to biennial budgeting, and I am encouraged by the strong support we have in reintroducing this legislation again this year. We look forward to working with our colleagues on the Governmental Affairs Committee and the Budget Committee to fashion a proposal which will produce a biennial budget in the next Congress.

This is the year to enact biennial budgeting and lay the foundation for moving to multiyear budgeting and appropriations. I encourage my colleagues to review the benefits of biennial budgeting and join us in producing such legislation.

Mr. President, I ask unanimous consent that a section summary and a copy of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biennial Budget Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that the present annual Federal budgeting process—

(1) allows insufficient time for the fulfillment by the Congress of its legislative and oversight responsibilities;

(2) allows insufficient time for the review and consideration by the Congress of authorizing legislation, budget resolutions, and appropriation bills and resolutions and other spending measures;

(3) allows insufficient time for the evaluation of costly and complicated Federal programs, and thereby contributes to the unrestrained growth of the Federal budget; and

(4) allows insufficient time for agencies and State and local governments to plan for the implementation of programs.

(b) PURPOSE.—It is the purpose of this Act—

(1) to establish a process through which the Federal budget will be adopted for a two-year period;

(2) to improve congressional control over the Federal budget process;

(3) to streamline the requirements of the budget process in order to promote better accountability to the public;

(4) to improve the legislative and budgetary processes by providing additional time for congressional oversight and other vital legislative activities;

(5) to provide stability and coherence for recipients of Federal funds; and

(6) to implement other improvements in the Federal budget process.

SEC. 3. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the Congressional budget process for any Congress (beginning with the One-Hundred-and-Second Congress) is as follows:

"First Session

"On or before:	Action to be completed:
First Monday after January 3.	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 31	Senate Budget Committee reports concurrent resolution on the biennial budget.
April 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
September 30	Congress completes action on reconciliation legislation.
September 30	Congress completes action on biennial appropriation bills.
October 1	Biennium begins.

"Second Session

"On or before:	Action to be completed:
May 15	Congressional Budget Office submits report to Budget Committees.
The last day of the session.	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.".

SEC. 4. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking "each year" and inserting in lieu thereof "biennially".

(b) DEFINITIONS.—

(1) Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking "fiscal year" each place it appears and inserting in lieu thereof "biennium".

(2) Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end thereof the following new paragraph:

"(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) DUTIES OF CBO.—

(1) Section 202(f)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 602(f)(1)) is amended—

(A) by striking "February 15 of each year" and inserting in lieu thereof "February 15 of each odd-numbered calendar year";

(B) by striking "the fiscal year commencing" and inserting in lieu thereof "each fiscal year in the biennium commencing";

(C) by striking "such fiscal year" the first place it appears and inserting in lieu thereof "such biennium"; and

(D) by striking "such fiscal year" the second place it appears and inserting in lieu thereof "each fiscal year in such biennium".

(2) Section 202(f) of such Act (2 U.S.C. 602(f)) is further amended—

(A) in paragraph (2) by striking "The Director shall from time to time" and inserting in lieu thereof "On May 15 of each even numbered year and at such other times as he or she deems appropriate, the Director shall".

(B) in paragraph (3)—

(i) by striking "January 15" and inserting in lieu thereof "February 15",

(ii) by striking "each year" and inserting in lieu thereof "each even-numbered calendar year",

(iii) by striking "the fiscal year ending September 30 of that calendar year" in clause (A) and inserting in lieu thereof "either fiscal year in the biennium beginning October 1 of the preceding calendar year",

(iv) by striking "the fiscal year ending September 30 of that calendar year" in clause (B) and inserting in lieu thereof "either fiscal year of such biennium", and

(v) by striking "fiscal year beginning October 1 of that calendar year" and inserting in lieu thereof "succeeding biennium".

(d) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) by striking "April 15 of each year" and inserting in lieu thereof "April 15 of each odd-numbered year";

(B) by striking "the fiscal year beginning on October 1 of such year" the first place it appears and inserting in lieu thereof "biennium beginning on October 1 of such year";

(C) by striking "the fiscal year beginning on October 1 of such year" the second place it appears and inserting in lieu thereof "each fiscal year in such period"; and

(D) by striking "each of the two ensuing fiscal years" and inserting in lieu thereof "each fiscal year in the succeeding biennium".

(2) Section 301(b) of such Act (2 U.S.C. 632(b)) is amended—

(A) in the matter preceding paragraph (1) by inserting "for a biennium" after "concurrent resolution on the budget"; and

(B) in paragraph (3) by striking "for such fiscal year" and inserting in lieu thereof "for either fiscal year in such biennium".

(3) Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by striking "February 25 of each year" and inserting in lieu thereof "February 25 of each odd-numbered year".

(4) Section 301(e) of such Act (2 U.S.C. 632(e)) is amended—

(A) in the first sentence by striking "fiscal year" and inserting in lieu thereof "biennium";

(B) by inserting between the second and third sentences the following new sentence: "On or before March 31 of each odd-numbered year the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year."; and

(C) in paragraph (6)—

(i) by striking "five" and inserting in lieu thereof "four",

(ii) by striking "such fiscal year" and inserting in lieu thereof "the first fiscal year of such biennium,", and

(iii) by striking "such period" and inserting in lieu thereof "such four-fiscal-year period".

(5) Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking "fiscal year" each place it appears and inserting in lieu thereof "biennium".

(6) Section 301(i)(1)(A) of such Act (2 U.S.C. 632(i)(1)(A)) is amended—

(A) by striking "for a fiscal year" and inserting in lieu thereof "for a biennium"; and

(B) by striking "for such fiscal year" the first place it appears and inserting in lieu thereof "for either fiscal year in such biennium".

(7) The section heading of section 301 of such Act is amended by striking "ANNUAL" and inserting in lieu thereof "BIENNIAL".

(8) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "Annual" in the item relating to section 301 and inserting in lieu thereof "Biennial".

(e) COMMITTEE ALLOCATIONS.—

(1) Paragraphs (1) and (2) of section 302(a) of such Act (2 U.S.C. 633(a)) are amended—

(A) by inserting "for a biennium" after "budget" the first place it appears in each such paragraph; and

(B) by inserting "for each fiscal year in such biennium" after "estimated allocation" each place it appears.

(2) Section 302(c) of such Act (2 U.S.C. 633(c)) is amended—

(A) by striking "for a fiscal year" each place it appears and inserting in lieu thereof "for either fiscal year in a biennium"; and

(B) by striking "for such fiscal year" each place it appears and inserting in lieu thereof "for such biennium".

(3) Section 302(f)(1) of such Act (2 U.S.C. 633(f)(1)) is amended—

(A) by striking "for a fiscal year" and inserting in lieu thereof "for a biennium", and

(B) by striking "such fiscal year" each place it appears in the matter preceding subparagraph (A) and inserting in lieu thereof "a fiscal year in such biennium".

(C) Section 302(f)(2) of such Act is amended—

(i) by striking "for a fiscal year" and inserting in lieu thereof "for a biennium", and

(ii) by striking "for such fiscal year" and inserting in lieu thereof "for a biennium".

(f) SECTION 303 POINT OF ORDER.—

(1) Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by striking "fiscal year" each place it appears and inserting in lieu thereof "biennium".

(2) Section 303(b) of such Act (2 U.S.C. 634(b)) is amended—

(A) by striking "fiscal year" each place it appears and inserting in lieu thereof "biennium"; and

(B) in the matter following paragraph (2) by striking "any calendar year" and inserting in lieu thereof "any odd-numbered calendar year".

(g) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304 of such Act (2 U.S.C. 635) is amended—

(1) by striking "fiscal year" the first two places it appears and inserting in lieu thereof "biennium";

(2) by striking "for such fiscal year"; and

(3) by inserting before the period "for such biennium".

(h) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305(b)(3) of such Act (2 U.S.C. 636(b)(3)) is amended—

(1) striking "the concurrent" and inserting in lieu thereof "a concurrent"; and

(2) by striking "fiscal year" and inserting in lieu thereof "biennium".

(i) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—

(1)(A) Section 308(a)(1) of the Congressional Budget Act of 1974 (2 U.S.C. 639(a)(1)) is amended—

(i) in the matter preceding subparagraph (A) by striking "fiscal year" and inserting in lieu thereof "biennium",

(ii) in subparagraph (A) by striking "fiscal year" and inserting in lieu thereof "biennium", and

(iii) in subparagraph (C) by striking "such fiscal year" and inserting in lieu thereof "such biennium".

(B) Section 308(a)(2) of such Act is amended by striking "fiscal year" and inserting in lieu thereof "biennium".

(2) Section 308(b)(1) of such Act (2 U.S.C. 639(b)(1)) is amended—

(A) by striking "fiscal year" the first place it appears and inserting in lieu thereof "biennium";

(B) by inserting "for such biennium" after "concurrent resolution on the budget"; and

(C) by striking "the fiscal year preceding such fiscal year" and inserting in lieu thereof "each fiscal year in the biennium preceding such biennium".

(3) Section 308(c) of such Act (2 U.S.C. 639(c)) is amended—

(A) by striking "Five" in the subsection heading and inserting in lieu thereof "Four";

(B) by striking "fiscal year" each place it appears in the matter preceding paragraph (1) and inserting in lieu thereof "biennium"; and

(C) by striking "5 fiscal years" and inserting in lieu thereof "4 fiscal years".

(j) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting "of any odd-numbered calendar year" after "July";

(2) by striking "annual" and inserting in lieu thereof "regular"; and

(3) by striking "fiscal year" and inserting in lieu thereof "biennium".

(k) RECONCILIATION PROCESS.—

(1) Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(A) by striking "any fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "any biennium";

(B) in paragraph (1) by striking "such fiscal year" each place it appears and inserting in lieu thereof "each fiscal year in such biennium"; and

(C) in paragraph (2) by inserting "for each fiscal year in such biennium" after "revenues".

(2) Section 310(e) of such Act (2 U.S.C. 641(e)) is amended—

(A) by striking "20 hours" in paragraph (2) and inserting in lieu thereof "100 hours"; and

(B) by adding at the end thereof the following new paragraph:

"(3) It shall not be in order in the Senate or the House of Representatives to consider any reconciliation bill or resolution or any amendment thereto or any conference report thereon which changes any provision of law other than provisions of law which—

"(A) provide new budget authority or spending authority described in section 401(c)(2);

"(B) relate to revenues; or

"(C) specify the amount of the statutory limit on the public debt.".

(3) Section 310(f) of such Act (2 U.S.C. 641(f)) is amended—

(A) in paragraph (1)—

(i) by inserting "for a biennium" after "subsection (b)", and

(ii) by striking "June 15 of each year" and inserting in lieu thereof "September 30 of the calendar year in which the biennium begins"; and

(B) in paragraph (2)—

(i) by inserting "of any odd-numbered calendar year" after "July",

(ii) by striking "fiscal year beginning on October 1 of the calendar year to which the adjournment resolution pertains" and inserting in lieu thereof "biennium beginning on October 1 of such calendar year", and

(iii) by striking "for such fiscal year" and inserting in lieu thereof "for such biennium".

(l) SECTION 311 POINT OF ORDER.—

(1) Section 311(a) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking "for a fiscal year" and inserting in lieu thereof "for a biennium";

(B) by striking "such fiscal year" the first, second, and third places it appears and inserting in lieu thereof "a fiscal year in such biennium";

(C) by inserting "for such fiscal year" after "outlays";

(D) by striking "concurrent resolution on the budget for such fiscal year" and inserting in lieu thereof "concurrent resolution on the budget for the biennium in which such fiscal year occurs";

(E) by inserting "for such fiscal year" after "revenues" the first place it appears; and

(F) by inserting "for such fiscal year" after "set forth" the second place it appears.

(2) Section 311(b) of such Act (2 U.S.C. 642(b)) is amended—

(A) by striking "such fiscal year" the first place it appears and inserting in lieu thereof "a biennium"; and

(B) by striking "such fiscal year" the second place it appears and inserting in lieu thereof "either fiscal year in such biennium".

(m) BILLS PROVIDING NEW SPENDING AUTHORITY.—Section 401(b)(2) of such Act (2 U.S.C. 651(b)(2)) is amended by striking "for such fiscal year" the second place it appears and inserting in lieu thereof "for the biennium in which such fiscal year occurs".

(n) ANALYSIS BY CBO.—Section 403(a) of the Congressional Budget Act of 1974 (2 U.S.C. 653(a)) is amended—

(1) by striking "the fiscal year" in paragraph (1) and inserting in lieu thereof "each fiscal year in the biennium";

(2) by striking "4 fiscal years following such year" in paragraph (1) and inserting in lieu thereof "each fiscal year in the succeeding biennium";

(3) by striking "the fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the biennium"; and

(4) by striking "four fiscal years following such fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the succeeding biennium".

SEC. 5. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11))".

(b) BUDGET AND APPROPRIATIONS AUTHORITY OF THE PRESIDENT.—Section 1104(c) of title 31, United States Code, is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the second sentence thereof; and

(3) by adding at the end thereof the following new paragraph:

"(2) The budget submitted pursuant to section 1105 for the biennium beginning on October 1, 1989, shall be set forth in the same accounts which are set forth in the table entitled 'The Federal Program by Agency and Account' contained in the budget submitted for fiscal year 1991 under section 1105. Any change in the table of accounts used in the budget submitted under section 1105 for the biennium beginning on October 1, 1991, from the table of accounts set forth in such table contained in the budget submitted under section 1105 for fiscal year 1991, and any change in the table of accounts used in the budget submitted under section 1105 for any succeeding biennium from the table used in the budget submitted for the previous biennium shall be made only in consultation with the Committees on Appropriations, the Committees on the Budget, and the committees having legislative jurisdiction over the programs or activities which will be affected by such changes. The provisions of this paragraph do not prohibit the inclusion of proposed new accounts in such table solely for purposes of presenting estimates for proposed new programs.".

(c) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) So much of section 1105(a) of title 31, United States Code, as precedes paragraph (1) thereof is amended to read as follows:

"(a) On or before the first Monday after January 3 of each odd-numbered year, beginning with the One-Hundred-and-Second Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget transmitted under this subsection shall include a budget message and summary and supporting information. The President shall include in each budget the following:".

(2) Section 1105(a)(5) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each fiscal year in the biennium for which the budget is submitted and in the succeeding biennium".

(3) Section 1105(a)(6) of title 31, United States Code, is amended by striking "the fiscal year for which the budget is submitted and the 4 fiscal years after that year" and inserting in lieu thereof "each fiscal year in the biennium for which the budget is submitted and in the succeeding biennium".

(4) Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking "the fiscal year" and inserting in lieu thereof "each fiscal year in the biennium".

(5) Section 1105(a)(12) of title 31, United States Code, is amended—

(A) by striking "the fiscal year" in subparagraph (A) and inserting in lieu thereof "each fiscal year in the biennium"; and

(B) by striking "4 fiscal years after that year" in subparagraph (B) and inserting in lieu thereof "2 fiscal years immediately following the second fiscal year in such biennium".

(6) Section 1105(a)(13) of title 31, United States Code, is amended by striking "the fiscal year" and inserting in lieu thereof "each fiscal year in the biennium".

(7) Section 1105(a)(14) of title 31, United States Code, is amended by striking "that year" and inserting in lieu thereof "each fiscal year in the biennium for which the budget is submitted".

(8) Section 1105(a)(16) of title 31, United States Code, is amended by striking "the fiscal year" and inserting in lieu thereof "each fiscal year in the biennium".

(9) Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking "the fiscal year following the fiscal year" and inserting in lieu thereof "each fiscal year in the biennium following the biennium";

(B) by striking "that following fiscal year" and inserting in lieu thereof "each such fiscal year"; and

(C) by striking "fiscal year before the fiscal year" and inserting in lieu thereof "biennium before the biennium".

(10) Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting in lieu thereof "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting in lieu thereof "with respect to that fiscal year"; and

(C) by striking "in that year" and inserting in lieu thereof "in that fiscal year".

(11) Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking "the prior fiscal year" and inserting in lieu thereof "each of the 2 most recently completed fiscal years";

(B) by striking "for that year" and inserting in lieu thereof "with respect to that fiscal year"; and

(C) by striking "in that year" each place it appears and inserting in lieu thereof "in that fiscal year".

(d) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking "each year" and inserting in lieu thereof "each even-numbered year".

(e) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking "fiscal year for" each place it appears and inserting in lieu thereof "biennium for";

(2) by inserting "or current biennium, as the case may be," after "current fiscal year"; and

(3) by striking "that year" and inserting in lieu thereof "that period".

(f) STATEMENT WITH RESPECT TO CERTAIN CHANGES.—Section 1105(d) of title 31, United States Code, is amended by striking "fiscal year" and inserting in lieu thereof "biennium".

(g) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e) of title 31, United States Code, is amended by striking "ensuing fiscal year" and inserting in lieu thereof "biennium to which such budget relates".

(h) COMPLIANCE WITH MAXIMUM DEFICIT AMOUNT.—Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "a fiscal year" and inserting in lieu thereof "a biennium", and

(B) by striking "such fiscal year" the first place it appears and inserting in lieu thereof "each fiscal year in such biennium";

(2) in paragraph (2) by striking "in the budget so transmitted for any fiscal year" and inserting in lieu thereof "for a fiscal year in a budget transmitted pursuant to subsection (a)"; and

(3) in paragraph (3)—

(A) by striking "a fiscal year" and inserting in lieu thereof "a biennium"; and

(B) by striking "such fiscal year" the first place it appears and inserting in lieu thereof "each fiscal year in such biennium".

(i) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1) by striking "fiscal year" and inserting in lieu thereof "biennium";

(B) in paragraph (1) by striking "that fiscal year" and inserting in lieu thereof "each fiscal year in such biennium";

(C) in paragraph (2) by striking "4 fiscal years following the fiscal year" and inserting in lieu thereof "2 fiscal years following the biennium";

(D) by striking "future fiscal years" in paragraph (3) and inserting in lieu thereof "the 2 fiscal years following the biennium for which the budget is submitted"; and

(E) by striking "fiscal year" in paragraph (3) and inserting in lieu thereof "biennium".

(2) Section 1106(b) of title 31, United States Code, is amended by striking "the fiscal year" and inserting in lieu thereof "each fiscal year in the biennium".

(j) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) Section 1109(a) of title 31, United States Code, is amended—

(A) by striking "On or before the first Monday after January 3 of each year (on or before February 5 in 1986)" and inserting in lieu thereof "At the same time the budget required by section 1105 is submitted for a biennium"; and

(B) by striking "the following fiscal year" and inserting in lieu thereof "each fiscal year of such period".

(2) Section 1109(b) of title 31, United States Code, is amended by striking "March 1 of each year" and inserting in lieu thereof "February 25 of each odd-numbered year".

(k) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended—

(1) by striking "fiscal year" and inserting in lieu thereof "biennium (beginning on or after October 1, 1991)", and

(2) by striking "year before the year in which the fiscal year begins" and inserting "second calendar year preceding the calendar year in which the biennium begins".

(l) BUDGET INFORMATION ON CONSULTING SERVICES.—Section 1114 of title 31, United States Code, is amended—

(1) by striking "The" each place it appears and inserting in lieu thereof "For each biennium beginning with the biennium beginning on October 1, 1991, the"; and

(2) by striking "each year" each place it appears.

SEC. 6. TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriation Acts

"(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for the biennium ending September 30 (here insert the odd-numbered calendar year).'.

"(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

"(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).".

SEC. 7. ASSISTANCE BY FEDERAL AGENCIES TO STANDING COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(a) INFORMATION REGARDING AGENCY APPROPRIATIONS REQUESTS.—To assist each standing committee of the Senate and the House of Representatives in carrying out its responsibilities, the head of each Federal agency which administers the laws or parts of laws under the jurisdiction of such committee shall provide to such committee such studies, information, analyses, reports, and assistance as may be requested by the chairman and ranking minority member of the committee.

(b) INFORMATION REGARDING AGENCY PROGRAM ADMINISTRATION.—

(1) FURNISHING INFORMATION.—To assist each standing committee of the Senate and the House of Representatives in carrying out its responsibilities, the head of any agency shall furnish without charge to such committee computer tapes or disks, together with explanatory documentation, containing information received, compiled, or maintained by the agency as part of the operation or administration of a program, or specifically compiled pursuant to a request in support of a review of a program, as may be requested by the chairman and ranking minority member of such committee.

(2) MINIMIZING REQUESTS.—The Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate shall prescribe rules and regulations for their respective Houses which will minimize duplication of requests under paragraph (1) of this subsection.

(c) SUMMARIES BY COMPTROLLER GENERAL.—Within 30 days after the receipt of a request from a chairman and ranking minority member of a standing committee having jurisdiction over a program being reviewed and studied by such committee under this section, the Comptroller General of the United States shall furnish to such committee summaries of any audits or reviews of such program which the Comptroller General has completed during the preceding 6 years.

(d) CONGRESSIONAL ASSISTANCE.—Consistent with their duties and functions under law, the Comptroller General of the United States, the Director of the Congressional Budget Office, the Director of the Office of Technology Assessment, and the Director of the Congressional Research Service shall furnish to each standing committee of the Senate or the House of Representatives such information, studies, analyses, and reports as the chairman and ranking minority member may request to assist the committee in conducting reviews and studies of programs under this section.

(e) SECRET AND CLASSIFIED INFORMATION PROTECTED.—This section does not require the public disclosure of matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order, or which are otherwise specifically protected by law. This section does not require any committee of the Senate to disclose publicly information the disclosure of which is governed by Senate Resolution 400, Ninety-fourth Congress, or any other rule of the Senate.

SEC. 8. AMENDMENTS TO RULES OF HOUSE OF REPRESENTATIVES.

(a) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(b) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking "such fiscal year" and inserting in lieu thereof "the biennium in which such fiscal year begins".

(c) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended by striking "first concurrent resolution on the budget for each fiscal year" and inserting in lieu thereof "concurrent resolution on the budget required under section 301(a) of the Congressional Budget Act of 1974 for each biennium".

(d) Clause 4(f) of rule X of the Rules of the House of Representatives is amended by striking "annually" each place it appears and inserting in lieu thereof "biennially".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by striking "March 15 of each year" and inserting in lieu thereof "March 15 of each odd- numbered year";

(2) by striking "fiscal year" the first place it appears and inserting in lieu thereof "biennium"; and

(3) by striking "that fiscal year" and inserting in lieu thereof "each fiscal year in such ensuing biennium".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting in lieu thereof "biennium".

(g) Subdivision (C) of clause 2(l)(1) of rule XI of the Rules of the House of Representatives is repealed.

(h) Clause 4(a) of rule XI of the Rules of the House of Representatives is amended by striking "fiscal year if reported after September 15 preceding the beginning of such fiscal year" and inserting in lieu thereof "biennium if reported after August 1 of the year in which such biennium begins".

(i) Clause 2 of rule XLIX of the Rules of the House of Representatives is amended by striking "fiscal year" and inserting in lieu thereof "biennium".

SEC. 9. EFFECTIVE DATE; APPLICATION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective January 1, 1990, and shall apply to bienniums beginning after September 30, 1991.

(b) FISCAL YEAR 1990 and Fiscal Year 1991.—Notwithstanding subsection (a), the provisions of—

(1) the Congressional Budget Act of 1974, and

(2) title 31, United States Code,

(as such provisions were in effect on the day before the effective date of this Act) shall apply to the fiscal year beginning on October 1, 1989, and on October 1, 1990.

(c) DEFINITION.—For purposes of this section, the term "biennium" shall have the meaning given to such term in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)), as added by section 3(b)(2) of this Act.●

Mr. ROTH. Mr. President, I rise today to introduce with my distinguished colleague from Kentucky, WENDELL FORD, legislation to establish a biennial budget process. There is growing support for a multiyear budget process and I am pleased that we are joined by more than 20 of our colleagues for introduction of this legislation today. With this type of support, I am optimistic that we can move a biennial budget bill during this session of Congress.

In 1981 Senator FORD and I introduced separate bills to establish a Federal biennial budget. In 1988 we joined forces and introduced a bipartisan approach. The bill we are introducing today is virtually identical to last year's bill and represents a continuation of our efforts to enact a 2-year budget process.

The Biennial Budget Act is designed to put the Federal budget on a 2-year basis. This legislation would create a 2-year budget resolution and appropriations cycle. The first session of each Congress would be devoted to the budget resolution and appropriations, culminating with a 2-year budget effective that October 1. The second session would be devoted to oversight and multiyear authorizations for the next 2-year period.

Recently, the Johns Hopkins Foreign Policy Institute and the Center for Strategic and International Studies released a joint project entitled "Making Defense Reform Work." Among the reports major recommendation is the establishment of a biennial budget. According to the report, "The substantive arguments for 2-year budgets are compelling. The longer term focus could help to force hard choices; it is too easy to defer difficult choices. * * * And the burden of annual budgets on both branches of Government is too great, for domestic programs as well as defense programs."

Before outlining what I believe the merits of this legislation, I would like to commend Senator FORD. His foresight, persistence, and conviction last year helped us to move this bill farther than we ever have. For the first time since 1981, the Committee on Governmental Affairs reported the legislation favorably, 13-0. Mr. President, the progress we made last session should be viewed as a step toward eventual passage in the 101st Congress.

I would like to briefly point to six reasons why we should move to a 2-year process on the Federal level.

First. The current process needs reform—deadlines are often missed and we end up with massive continuing resolutions.

Last year notwithstanding, only once since 1974, when the Budget Act was established, has the Congress passed all 13 regular appropriation bills by the beginning of the fiscal year. Between fiscal year 1980 and 1988, the Congress passed only 12 regular appropriation bills on time. In 8 years, the Congress passed less than the number we are suppose to pass each year. In fiscal year 1987 and 1988, the Congress passed all 13 in a continuing resolution. It is clear the process calls out for reform.

Because the Congress does not meet its deadlines and ends up voting in the late hours of the night, very few Members, if any, have a good understanding of the entire legislation contained in these massive continuing resolutions. This procedure is frustrating at best. Authorizing legislation is frequently attached without due consideration. It is my impression that the public does not have a good understanding of what is contained in these bills either. And with this lack of understanding, it makes it very difficult to hold Members accountable for their votes.

A 2-year budget will allow more time for consideration of underlying authorizations, which will promote a smoother appropriations process, and one which is more accountable to the American people.

Second. Budget summit agreement shows system can work.

The budget summit agreement reached in November 1987 set out spending and tax guidelines for a 2-year period. The overall totals helped the Congress move briskly on the budget. As I stated earlier, last year was the first time in more than a decade that the Congress completed action on all 13 regular appropriation bills before the beginning of the fiscal year.

The summit agreement laid the foundation for a 2-year period. The leadership did not let the so-called uncertainty of economic forecasts deter them in moving toward a multiyear plan. This legislation would make permanent the success we have had so far with the 2-year agreement.

Third. Reduce repetitive nature of the process.

A 2-year budget reduces the repetitive nature of the current budget process. Each year the Congress considers the budget resolution, annual authorizations, appropriations, and reconciliation. This does not include the extra layer of debate provided by the Gramm-Rudman sequestration or debt-limit deliberations.

For fiscal year 1988, the Congress debated the level of defense five different times—during consideration of the budget resolution, the Defense authorization bill, Defense appropriations, the revision in Gramm-Rudman, and the budget summit agreement.

This redundancy causes widespread frustration. Streamlining the process could reduce the repetitive nature of the process. This legislation does not eliminate any of the processes—they all play a significant role in our deliberations, but by making the decisions once every 2 years instead of twice, we reduce the burden. In addition, we avoid debating an issue which might have been decided earlier in the Congress.

Fourth. Recipients of Federal funds will be more secure.

By providing funds for a 2-year period, recipients of these funds will be able to plan better and administer their funds better. On June 7, 1988, the Committee on Governmental Affairs held a hearing on S. 2478, the Biennial Budget Act introduced in the previous Congress. The Comptroller of the Department of Defense, Mr. Robert Helm, made a very persuasive argument to this effect at the hearing.

As a result of the current process he said, "Defense budgets are plagued with uncertainty * * * program managers have little time to develop rational program execution plans based on available resources, when the available resources become known mere weeks before the next year's budget is transmitted to the Congress * * * ironically, in this period of concern over the deficit, the budget process lends itself to the least economical use of our Nation's resources by denying program managers the very tools they need—stability, predictability, and commitment."

These same arguments apply to procurement officers in every agency in the Government, as well as State and local governments and individual recipients of Federal funds.

Fifth. Might help reduce the deficit.

Two-year budgeting would allow authorizing committees a stronger ability to review entitlements and other Government functions.

It would help to reduce gimmickry such as the transfer of spending from one fiscal year to the next just to hide the effect on the deficit. Some have suggested that the Department of De-

fense not pay its bills the last 10 days of the fiscal year simply to appear to lower the deficit.

Multiyear budgeting could reduce the potential for pork-barrel spending in an election year, since appropriations are made in the first session of each Congress.

Two-year budgeting also provides a better means to consider the long-term savings in reconciliation bills. Currently, Congress concentrates on savings in the first year and sometimes ignores the out-year effects. This may convince us to consider more than the first-year effects.

By retaining the Gramm-Rudman enforcement mechanisms, the Congress can assure that it does not spend more in the second year of the cycle on supplementals. Supplementals will occur, but all decisions must be made within the parameters of the deficit targets.

Sixth. Broad, bipartisan support.

Mr. President, there is widespread support for the idea of biennial budgeting. OMB Director-designate Richard Darman expressed support for multiyear budgeting during his confirmation hearing before the Committee on Governmental Affairs last week.

In a 1988 survey by the Center for Responsive Politics, over 85 percent of Senate and House Members polled favored 2-year appropriations. This was the "overwhelming favorite" among the seven process reforms offered.

The bill we are introducing today has the bipartisan support of more than 20 Senators.

The chamber of commerce, former Director of the Congressional Budget Office Alice Rivlin, now at the Brookings Institution, and a host of other budget and policy analysts support the idea.

Again, I would like to extend my appreciation to my colleague from Kentucky, Senator FORD, for forging a bipartisan approach on this issue. I am confident that with our joint efforts, we can enact a Biennial Budget Act during the 101st Congress.

THE BIENNIAL BUDGET ACT—SECTION SUMMARY

Section 1 states the title of the legislation—the "Biennial Budget Act".

Section 2 sets forth the findings and purposes of the legislation.

The findings are that the Federal budget process allows insufficient time for (a) the fulfillment by the Congress of its legislative and oversight responsibilities; (b) the review and consideration of authorizing legislation, budget resolutions, and appropriations bills; (c) the evaluation of costly and complicated Federal programs, and thereby contributes to the unrestrained growth of the Federal budget; and (d) for agencies and State and local governments to plan for the implementation of programs.

The purposes are (a) to establish a biennial budget process; (b) to improve congressional control over the budget process; (c) to improve legislative and budget processes by providing additional time for oversight and other vital activities; and (d) to provide stability and coherence for recipients of Federal funds.

Section 3 revises the Congressional Budget and Impoundment Control Act of 1974 (Budget Act) to establish a timetable for the biennial budget cycle, as follows:

FIRST SESSION

First Monday after January 3: President submits budget recommendations.

February 15: Congressional Budget Office submits report to Budget Committees.

February 25: Committees submit views and estimates to Budget Committees.

March 31: Senate Budget Committee reports concurrent resolution on the biennial budget.

April 15: Congress completes action on concurrent resolution on the biennial budget.

May 15: Biennial appropriation bills may be considered in the House.

June 10: House Appropriations Committee reports last biennial appropriation bill.

September 30: Congress completes action on reconciliation legislation.

September 30: Congress completes action on biennial appropriation bills.

October 1: Biennium begins.

SECOND SESSION

On or before May 15: Congressional Budget Office submits report to Budget Committees.

The last day of the session: Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium period.

Section 4 amends the Budget Act by: (a) establishing the term "biennium" and defining it as the period of 2 consecutive fiscal years beginning October 1 of any odd numbered year; (b) creating a biennial concurrent resolution on the budget; and (c) conforming points of order to each fiscal year within the biennium.

Section 5 amends Title 31, United States Code by: (a) requiring that the President consult with the Budget, Appropriations, and Authorizing Committees before making changes in the table of accounts in the budget submission; (b) requiring the President to submit a two-fiscal-year budget on or before the first Monday after January 3 of each odd-numberd year; (c) requiring the President's two-fiscal-year period to comply with maximum deficit amounts in Gramm-Rudman for each year.

Section 6 amends Title 1, United States Code regarding the title and style of appropriation acts.

Section 7 provides increased authority for the chairmen and ranking members of standing committees to request information, analyses, studies, and other assistance from Federal agencies to assist in the budget formation, appropriations, authorization, and program overrsight processes.

Section 8 makes conforming changes in the Rules of the House of Representatives with regard to biennial budget timetable set forth in Section 3.

Section 9 sets out the effective dates of the Act. The provisions of the Act are effective January 1, 1990. The first biennial budget begins October 1, 1991, for fiscal years 1992 and 1993. The current authorizing, budget, and appropriations processes will continue to operate for the 101st Congress.

By Mr. WIRTH (for himself, Mr. JOHNSTON, and Mr. BUMPERS):

S. 30. A bill to provide for certain requirements relating to the conversion of oil shale mining claims located under the general mining law of 1872 to leases, and for other purposes; to the Committee on Energy and Natural Resources.

OIL SHALE MINING CLAIMS CONVERSION ACT

● Mr. WIRTH. Mr. President, today I am introducing a bill to settle nearly 70 years of controversy regarding oil shale claims made prior to the passage of the Mineral Leasing Act in 1920. This legislation would prevent the senseless giveaway of thousands of acres of public lands in the West, protect the public interest in those lands and their resources, and respect the purposes and aims of the 1872 law under which those claims were made.

Before the Mineral Leasing Act of 1920 was passed, oil shale mining claims were filed across parts of the West. Few of those claims have ever been developed. In many cases, annual assessment work required by the mining laws to maintain these claims was just not done, for years—in some cases, decades—at a time. Very real questions still exist about whether these claims will be economically viable in the foreseeable future.

Nevertheless, in 1986 the Department of the Interior established a very unwise precedent by settling such claims to 82,000 acres of public land in Colorado for the bargain basement price of $2.50 per acre. Outraged by this giveaway, the Congress passed a ban on further processing of oil shale claims in appropriations legislation. But the moratorium has expired and Congress has not yet acted to correct the situation. The Department of the Interior now states that it will once again begin to process these claims, and issue patents which transfer to claimants not only all the minerals, but the surface of these lands as well, all for a small fee. There remain 260,000 acres which may yet be subject to such action.

While the Department may want to move ahead, it should not have restarted this controversial program in Colorado without first meeting its commitment to have the public review new regulations. At a minimum, the new administration should be given a chance to review this entire issue in consultation with the appropriate committees of Congress before making irretrievable conveyances of public lands.

The lands given away in 1986 were prime habitat for the largest mule deer herd in North America. Every autumn, people from Colorado and across the country used these lands for hunting. Because these lands were part of the public domain, they were open to families who wanted to camp, hike or just picnic in our Nation's great outdoors.

Until 1986, these lands were open to every Coloradan, indeed every American. Today, they are no longer public lands. The Department of Interior's recent action threatens thousands of more acres of public lands with important recreation, wildlife, watershed, public access and other surface values by transferring land into private hands in a manner never contemplated in the 1872 law.

The purpose of that law was to encourage the prompt, efficient development of mineral resources in our country. The granting of patents to these oil shale claims does nothing to contribute to the development of America's oil shale resource—and may, in fact, do the opposite.

If the Department of Interior begins granting patents to these claims, it will, in fact, be agreeing to an even worse deal than that which outraged the Congress in 1986. In that settlement of litigation, the Department at least negotiated some small concessions to public access and use of the surface of these lands, and some restrictions on what mineral rights were conveyed. The new patents will carry none of those caveats. Public use and public resources will be given away, without getting any assurance of oil shale development in return.

The bill I am proposing provides a fair deal for those who say they want to develop oil shale. This legislation provides that no patents for oil shale claims shall be issued after January 25, 1989, unless a patent application had been filed and all requirements met by that date, consistent with the requirements of *Freese* v. *United States* 629 F.2d 754 (Ct. Cl. 1981) cert. denied, 454 U.S. 827 (1981). An oil shale claim holder would be required to elect either to hold the claim or to convert it to a mineral lease, subject to certain requirements. Either option would allow the claimant to develop the oil shale resources of these lands. These options will not, however, allow real estate speculation, blocking of public access, or untrammelled exploitation of nonmineral resources of the affected lands—things which are all too possible if the Department carries out the course of action it now intends to pursue.

The most important aspect of this bill is that it will keep these lands in public ownership. Ranchers won't lose their grazing permits, the public won't lose their access for hunting, camping or hiking and the public trust in these lands will be preserved.

This bill is a fair one and in keeping with our Nation's longstanding commitment to wise use of its natural resources. I urge my colleagues to join me in supporting this bill. It is time to take down the for sale signs that are hanging over hundreds of thousands of acres of public lands in Colorado and other Western States.

Mr. President, I ask unanimous consent that the bill, and a section-by-section analysis, be printed in their entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 30

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Oil Shale Mining Claims Conversion Act".

SEC. 2. Notwithstanding any other provision of law, with respect to any oil shale mining claim located prior to enactment of the Mineral Leasing Act of 1920 (30 U.S.C. Sec. 181, *et seq.;* 41 Stat. 437); no patent for such claim shall be issued after January 25, 1989, except for those claims for which a patent had been fully complied with by such date.

SEC. 3. (a) The owner of any valid oil shale mining claim located pursuant to the General Mining Law of 1872, as amended (30 U.S.C. Sec. 22, et. seq.; 17 Stat. 91) prior to enactment of the Mineral Leasing Act of 1920 shall make an election under subsection (b) or subsection (c) of this section. The election shall be made within 180 days after the enactment of this Act. Failure to make an election within such period shall be deemed conclusively to constitute an abandonment of the oil shale claim. Not later than thirty days after the enactment of this subsection, the Secretary shall notify the owner of each such claim of the election required under this subsection.

(b) The holder of a claim required to make an election under this section may elect to convert such claim to a lease. Such lease shall be issued within 60 days after any such election and administered in accordance with those provisions of the Mineral Leasing Act, as amended, applicable to leases for deposits of oil shale, except as follows:

(1) the term of the lease shall be for 20 years and for so long thereafter as shale oil is produced annually in commercial quantities from the lease;

(2) the acreage limitations contained in section 21(a) (30 U.S.C. Sec. 241(a)) shall not apply;

(3) the first and second provisos of section 21(a) shall not apply;

(4) the limitation on the number of leases to be granted to any one person, association, or corporation contained in section 21(a) shall not apply; and

(5) the royalty shall be not less than 12½ per centum in amount or value of production removed or sold from the lease.

(c) The holder of a claim required to make an election under this section may elect to maintain the claim by complying with the mining laws of the United States and with the provisions of this Act, including the following:

(1) notwithstanding any other provision of law, commencing with the date of enactment of this provision, on each claim $1000 worth of labor shall be performed or improvements made during each and every year. The failure to fulfil this requirement each and every year shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

(2) notwithstanding any other provision of law, in addition to the requirements set forth in Section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. Sec. 1744; 90 Stat. 2769), the owner of an unpatented oil shale mining claim shall file annually in the office of the Bureau of Land Management designated by the Secretary of the Interior an affidavit of assessment work performed thereon. The failure to file the affidavit shall be deemed conclusively to constitute an abandonment of the oil shale mining claim.

SEC. 4. The Mineral Leasing Act, as amended (30 U.S.C. 181 et seq.; 41 Stat. 437) is amended by inserting after section 44, the following new section:

"SEC. 45. Prohibition on Lease Issuance. "The Secretary shall not issue, or approve the assignment of, a lease or leases under the terms of this Act to any person, association, corporation, or any subsidiary, affiliate, or person controlled by or under common control with such person, association, or corporation, where any such entity holds an oil shale mining claim located under the General Mining Law of 1872 (30 U.S.C. 22, et seq.; 17 Stat. 91).".

SEC. 5. In addition to other applicable requirements, any person who holds a lease pursuant to subsection 3(b) of this Act or who maintains an oil shale mining claim pursuant to subsection 3(c) of this Act shall be required to reclaim the site subject to such lease or claim and to post a bond before disturbance of the site to guarantee such reclamation. Any person who holds a lease issued or readjusted pursuant to section 21 of the Mineral Lands Leasing Act of 1920 after the date of enactment of this Act shall also be subject to such requirements. The Secretary of the Interior shall promulgate such regulations as may be necessary to implement this section.

SUMMARY OF OIL SHALE MINING CLAIM LEGISLATION

Section 1 states the short title.

Section 2 of the bill provides that no patent for any oil shale mining claim located prior to enactment of the Mineral Leasing Act shall be issued after January 25, 1989, except for those claims for which a patent application had been filed and all requirements for a patent has been fully complied with by such date.

Subsection 3(a) requires that the owner of any such oil shale claim shall make an election under subsection (b) or subsection (c) of section 3 within 180 days after the enactment of this Act. Failure of the owner to make an election within such period shall be deemed conclusively to constitute an abandonment of the oil shale claim. Not later than thirty days after the enactment of subsection 3(a), the Secretary is required to notify the owner of each such claim of the election required under subsection 3(a).

Subsection 3(b) provides that the holder of a claim required to make an election may elect to convert such claim to a lease. Such lease is to be administered in accordance with the applicable provisions of the Mineral Leasing Act, with certain specified exceptions.

Subsection 3(c) of the bill provides that the holder of a claim required to make an election may elect to maintain the claim by complying with the mining laws of the United States and with specified provisions of this Act, including: (1) commencing with the date of enactment, on each claim $1000 worth of labor shall be performed or improvements made during each and every year; and (2) in addition to the requirements set forth in Section 314 of the Federal Land Policy and Management Act of 1976, the owner of an unpatented oil shale mining

claim shall file annually in the office of the Bureau of Land Management designated by the Secretary of the Interior an affidavit of assessment work performed thereon.

Section 4 amends the Mineral Leasing Act to provide that the Secretary shall not issue, or approve the assignment of, a lease or leases under the terms of the bill to any entity that holds an oil shale mining claim located under the General Mining Law of 1872.

Section 5 requires that any person who holds a lease or maintains an oil shale claim pursuant to this Act shall be required to reclaim the site subject to such lease or claim and to post a bond before disturbance of the site to guarantee such reclamation. Any person who holds a lease issued or readjusted pursuant to section 21 of the Mineral Lands Leasing Act of 1920 after the date of enactment of this Act shall also be subject to such requirements.●

By Mr. FORD:

S. 31. A bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments, and for other purposes; to the Committee on Rules and Administration.

IMPACT OF LEGISLATION ON STATE AND LOCAL GOVERNMENTS

● Mr. FORD. Mr. President, today I am pleased to be reintroducing legislation to create a procedural safeguard against federally mandated spending programs which impose major new costs on State and local governments. This bill is identical to legislation I introduced in the 100th Congress as S. 933.

As a former Governor of the Commonwealth of Kentucky, I am concerned that the Federal Government sometimes asks State and local governments to assume responsibilities and deliver services without any consideration of how such mandates will affect our constituents as State and local taxpayers. In these times of Federal budgetary restraint, the tendency to shift the costs of providing services from the Federal Government to State and local governments is creating unfunded mandates.

The legislation I introduce today does not prohibit Congress from imposing unfunded mandates upon State and local governments. It simply establishes a procedural red flag to ensure that we are fully aware of the true fiscal impact of the requirements Congress imposes upon these governments. This bill would create a point of order against legislation which imposes a net cost of $50 million or more on States and localities. However, action taken pursuant to a sequester order under Gramm-Rudman-Hollings would not be subject to such a point of order.

The bill would also expand existing provisions of the Congressional Budget Act of 1974 to provide that the House and Senate Budget Committees, in conjunction with the report on the budget resolution, conduct an analysis of the impact of budgetary decisions on State and local governments. This provision will ensure that we in Congress are aware of the fiscal impact of our actions on not just the Federal deficit but on our State and local governments as well.

I continue to be concerned about the abrupt termination of the General Revenue Sharing Program and the impact continuing Federal cuts in other programs have had on our State and local governments. Revenue sharing provided one of the most efficient and effective means of financial assistance to our States and localities in meeting the costs of unfunded Federal mandates such as environmental protection. This bill will not replace those dollars, nor will it guarantee that further cuts in Federal programs will not be made. But it will ensure that we in Congress do not act to terminate programs or mandate new services without knowing the costs we are imposing on State and local governments.

This legislation is a small gesture on the part of Congress in recognition of the important role our partners in State and local governments play in providing necessary services to our constituents. As we continue to reduce Federal assistance to State and local governments for responsibilites and services we demand from them, the very least we can do is to carefully understand and recognize the costs we impose upon them.

This bill was supported in the 100th Congress by the National Governors' Association, the National League of Cities, the National Conference of State Legislatures, the National Association of Counties, The United States Conference of Mayors, the National Association of Towns and Townships, and the Kentucky Municipal League. I urge my colleagues to join with me in cosponsoring this legislation and send a message to our constituents back home that we will carefully weigh our actions before we shift financial burdens on to State and local governments, and ultimately the taxpayers.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 31

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION AGAINST CONSIDERATION OF LEGISLATION IMPOSING LARGE UNFUNDED COSTS ON STATE AND LOCAL GOVERNMENTS.

Section 403 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

"(d) POINT OF ORDER.—

"(1) GENERAL RULE.—Except as provided by paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto or conference report thereon, which would impose any duty or requirement on State or local governments which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $50,000,000 or more with respect to any particular program, project, or activity.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any bill or resolution, including any amendment thereto or conference report thereon, which is in compliance with any order issued under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

SEC. 2. IDENTIFICATION IN COMMITTEE REPORTS ACCOMPANYING BUDGET RESOLUTIONS OF PROPOSED CHANGES IN FEDERAL AND PROGRAMS TO STATE AND LOCAL GOVERNMENTS.

Paragraph (7) of subsection (e) of section 301 of the Congressional Budget Act of 1974 is amended by inserting before the semicolon at the end thereof the following: ", including changes in federal aid programs respecting State and local governments on a program-by-program basis".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of enactment of this Act and shall apply with respect to fiscal years beginning after September 30, 1991.●

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. DOLE, Mr. HATCH, Mr. GRASSLEY, Mr. SIMPSON, Mr. D'AMATO, Mr. WILSON, Mr. GRAMM, Mr. RUDMAN, Mr. BOREN, Mr. PACKWOOD, Mr. REID, Mr. KASTEN, and Mr. LOTT);

S. 32. A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary

FEDERAL DEATH PENALTY ACT OF 1989

● Mr. THURMOND. Mr. President, as the 101st Congress convenes, I am introducing a bill that establishes constitutional procedures for the imposition of the death penalty and provides the death penalty for certain Federal offenses. The death penalty is not a new issue for the Senate. In the 100th Congress, as part of the Anti-Drug Abuse Act of 1988, legislation was enacted which provides constitutional procedures for the implementation of the death penalty in cases involving certain drug related murders and killing of law enforcement officers.

Regarding constitutional procedures, this bill provides procedures similar to those put in place by the death penalty included in the drug bill. Currently, numerous Federal statutes provide that a sentence of death may be imposed if a person is found guilty. However, the reality is that the death penalty cannot be imposed because constitutional procedures for imposing such a sentence have not existed. The 1972 Supreme Court decision of Furman

versus Georgia rendered the Federal dealth penalty procedures unconstitutional. Subsequently, in a series of landmark decisions handed down in 1976, the Supreme Court determined that the death penalty was constitutional when imposed under certain procedures specifically designed to guard against the jury using its unfettered discretion. The Supreme Court has subsequently handed down numerous decisions clarifying the circumstances and means by which the death penalty may be implemented.

In the past, I have undertaken numerous efforts in the Senate to establish procedures which satisfy the constitutional standards set by the Supreme Court. The bill I am offering today comports with the constitutional requirements outlined by the Supreme Court and establishes the procedures for the imposition of the death penalty for the numerous Federal crimes that currently authorize a sentence of death.

Briefly, I will discuss these procedures. The bill mandates a bifurcated process which the factfinder must follow when determining whether a sentence of death is justified. This process consists of a first hearing to determine the guilt or innocence of the defendant and a second hearing to determine whether the death penalty should be imposed if the defendant is found guilty.

Additionally, this bill requires that in order to seek a sentence of death, the Government must give notice to the defendant within a reasonable time before the trial is initiated. The Government must also identify in that notice the statutory aggravating factors it intends to prove. As well, the sentencing hearing would be held before the same jury which determined the guilt of the defendant, unless the defendant requests and the Government agrees to have the hearing before the trial judge alone.

The factfinder, whether the jury or judge, in its deliberation following the sentencing hearing, would have to make a series of determinations before a sentence of death could be imposed. First, depending upon the crime involved, the factfinder must determine that special threshold requirements exist, such as the defendant intentionally killed the victim or the defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person. If none are found to exist, a sentence other than death would have to be imposed. Second, if the required threshold factors are found to exist, the factfinder would have to make a special finding as to the existence of a statutory aggravating factor presented at the sentencing hearing. All members of the jury must find the existence of at least one aggravating factor, although they need not agree upon the same one, in order to move onto a final weighing process. If any one member of the jury fails to find the existence of an aggravating factor, a sentence other than death would have to be imposed. Only those aggravating factors found to exist by a majority of the jury may be considered in the final weighing process.

Finally, the deliberation moves to the third step, the final weighing process. Here the jury or judge will weigh all of the aggravating factors against all the mitigating factors to determine whether the aggravating factors sufficiently outweigh the mitigating factors. During this final process, any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of the final weighing as to whether the death penalty should be applied, regardless of the number of jurors who believe the factor has been established. If the jury or judge does in fact determine that the aggravating factors sufficiently outweigh the mitigating factors, a death sentence could then be appropriately imposed.

In addition, this bill also contains provisions which prohibit the imposition of a sentence of death on a person who was less than 18 years of age at the time of the offense.

As well as applying these constitutional procedures to crimes where the death penalty is already authorized, this bill authorizes the death penalty for the following offenses: First, certain attempts to assassinate the President; second, murder by a Federal prisoner serving a life term in a Federal correctional institution, third, hostage taking situations where death results to the hostage, or to a person attempting to rescue a hostage or apprehend the hostage takers; fourth, murder for hire and murder in aid of racketeering activity; and fifth, genocide where death results. With the exception of the genocide provision, these provisions were all contained in similar bills introduced in the 99th and 100th Congresses.

In closing, the death penalty is a familiar issue to the Senate. In the 98th Congress, the Senate approved a death penalty bill which is essentially the same as the bill I offer today. That bill passed by an overwhelming vote of 63 to 32. In the 99th Congress the Senate Judiciary Committee approved a bill virtually identical to this bill. Finally, in the 100th session, Congress considered and passed these much needed procedures as part of the drug bill. This action on the part of the 100th Congress was a valuable first step. However, we did not go far enough. The legislation enacted only permits imposition of the death penalty for those who murder law enforcement officers and for those who commit certain drug related murders. It is time for Congress to broaden the category of offenses for which the death penalty should be applied such as the killing or attempted killing of the President, certain acts of treason and espionage, and the crime of genocide. We should not hesitate any longer. The law abiding citizens and this Nation demand action and they demand it now. I urge my colleagues to take swift action on this vital legislation.

Mr. President, I ask that the full text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Death Penalty Reestablishment Act of 1989".

SEC. 2. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 18 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(2) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was partially vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant violated section 408(e) of the Controlled Substances Act to the extent that the conduct described in section 408(c) of such Act was a violation of section 405 of such Act; or

"(13) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confus-

ing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of an aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific or aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigating factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.

"3567. Repealed.".

SEC. 3. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1952A(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1952B(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(m) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death,".

SEC. 4. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 5. CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g) through (r).

SEC. 6. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 7. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".●

Mr. DECONCINI. Mr. President, I am pleased to cosponsor Senator THURMOND's bill which establishes rational procedures for the imposition of the sentence of death in specified limited circumstances. This bill is carefully and narrowly drafted to comport with U.S. Supreme Court decisions on capital punishment.

The death penalty issue is not new to Congress. Last term, Congress passed the Anti-Drug Abuse Act of 1988 which provides the death penalty for the murders of law enforcement officers and for certain drug-related murders. In the 98th Congress, Senator THURMOND sponsored a death penalty bill, very similar to the one proposed today, which passed the Senate. In the 96th and 97th Congresses, I introduced death penalty legislation, cosponsored by Senator THURMOND. Senator THURMOND's hard work and careful handling of the death penalty legislation has produced a much improved bill from the original introduced in 1973 after Furman versus Georgia.

The issue and arguments surrounding the use of the death penalty are among the most familiar in American debate. Polls consistently show that two-thirds of the American electorate favor the death penalty; and in my home State of Arizona, 81 percent of the people support a death penalty for certain offenses. A clear majority of the American people want a Federal death penalty statute. The courts and Congress have exhausted the debate on the death penalty and it is now time for action. The Federal death penalty bill is a significant step toward resolving the death penalty issue.

The primary function of a society is to protect its members from threats upon their safety, and there is no greater threat than those who intentionally murder others. But while our criminal justice system exists to protect people, it also must insure that a criminal's punishment is just. Accordingly, we must evaluate the death penalty by examining whether it advances the aims of punishment.

It is true that the rehabilitative function of punishment is not advanced by the death penalty. However, there are serious questions about the effectiveness of rehabilitation when dealing with the type of hardened, vicious criminals that typically receive the death penalty. A 1987 study by the U.S. Department of Justice reveals that 68 percent of death row inmates in the United States had prior felony convictions, and 11 percent had prior convictions for homicide at some point we must recognize that these repeated killers cannot be rehabilitated. The Federal Death Penalty Act requires that the sentencing party consider mitigating and aggravating factors which will help to insure that those with the potential for rehabilitation will not receive the death penalty.

The most convincing justification for punishment generally, and for capital punishment specifically, is deterrence. And capital punishment is the most effective specific deterrent possible. If we do not execute murderers, how are we to stop them from killing again? Without the death penalty the criminal justice system is faced with a dangerous dilemma. If the lock the criminals away for life, with no chance of parole, the criminals have nothing to lose by attacking prison guards or other inmates, or attempting escape. On the other hand, if they attempt to maintain prison security with parole programs, they insure that some murderers will eventually be unleashed on society. Few things outrage the public more than stories of paroled or escaped murderers that return to society only to terrorize it by killing again. Just this week Florida executed the notorious Ted Bundy, a man responsible for the deaths of between 30 and 100 people. Bundy escaped twice from jail, the last escape ending with the murder of three more people including a 12-year-old girl for whose killing he received the death penalty. It is only now that he is dead that we can say with assurance, Ted Bundy will never kill again.

In the absence of reliable statistical evidence, great weight should be placed on the experience of those who are most frequently called upon to deal with murderers and potential murderers and who are thus in the best position to judge the effectiveness of the remedy—our law enforcement officials. The vast majority of these officials continue to favor the retention of the death penalty as a deterrent to violent crime. As Sheriff Peter Pitchess of Los Angeles County testified before the California Senate Committee on the Judiciary:

I can tell you that the overwhelming majority of people in law enforcement—the ones who are dealing with these criminals, the ones who are seeing them not as statistics but real live human beings, and who are studying their human behavior—are overwhelmingly convinced that capital punishment is a deterrent.

The issue, for our purposes here, has been definitely resolved by the Supreme Court in Gregg versus Georgia where it concluded that it is appropriate for a legislature to consider deterrence as a justification for the imposition of the death penalty. As the court in Gregg states:

Although some of the studies suggest that the death penalty may not function as a significantly greater deterrent than lesser penalties, there is no convincing empirical evidence either supporting or refuting this view. We may nevertheless assume safely that there are murderers, such as those who act in passion, for whom the threat of death has little or no deterrent effect. But for many others, the death penalty undoubtedly is a significant deterrent.

Capital punishment also serves the legitimate function of retribution. It is through retribution that society expresses its outrage and sense of revulsion toward those who undermine the foundations of civilized society by disregarding its laws. Society has a right, indeed a duty, to the now silent victims to exact the fullest possible punishment.

Critics of capital punishment sometimes assert that the United States is the only modern, industrialized nation with the death penalty. But the United States also has the highest murder rate of any industrialized nation. A great nation recognizes its problems and fashions its own remedies. Nearly two-thirds of the States have the death penalty and the U.S. Supreme Court has upheld capital punishment. If the Federal Government needs a reminder of the violence in America it only needs to look in its own backyard, because this year the Nation's Capital has become the murder capital.

Mr. Chairman, the Federal Death Penalty Act is a necessary weapon in the war to rid the streets and sidewalks of America from violent crime. It is with these thoughts in mind that I lend my support to the death penalty bill introduced today by Senator THURMOND.

Mr. DOLE. Mr. President, I have always been an ardent supporter of the Federal death penalty. I firmly believe that the death penalty is a deterrent to crime as well as a legitimate expression of society's outrage at those individuals who commit capital offenses.

THE DRUG BILL

Last year, the Senate passed and the President signed into law the Anti-Drug Abuse Act of 1988. This bill has given us some needed firepower in our war on drugs by authorizing the death penalty for anyone who murders a law enforcement officer or who commits a murder while engaging in a drug-related felony. I believe that our neighborhoods and local communities are safer places to live as a result.

THE DEATH PENALTY ACT

The Federal Death Penalty Act of 1989—introduced today by Senator THURMOND—builds upon the 1988 drug bill by authorizing the death penalty for other crimes—crimes that, in my view, are so heinous that they deserve a punishment no less than death. These crimes include: First, certain assassination attempts on the President; second, murder by a Federal prisoner serving a life term; third, murder-for-hire and murder in aid of racketeering activity; fourth, hostage-taking resulting in death; and fifth, genocide. Similar bills imposing the death penalty for these offenses were introduced in the 99th and 100th Congresses.

The Federal Death Penalty Act also establishes certain sentencing procedures for the imposition of the death penalty—procedures that satisfy the often complicated constitutional standards developed by the Supreme Court over the past 15 years.

A clear enunciation of constitutionally sound sentencing procedures has been sorely needed ever since the Supreme Court's landmark decision in Furman versus Georgia. In this case, the Court struck down as unconstitutional the sentencing procedures for the imposition of the Federal death penalty.

Unfortunately, since the Court's decision in Furman, adequate sentencing procedures have not been adopted by Congress for most Federal capital crimes. As a result, many Federal statutes today authorize the death sentence, but these sentences cannot be carried out. The Federal Death Penalty Act will go a long way toward solving this problem.

CONCLUSION

Mr. President, we read about crime—violent crime—everyday in our newspapers. But as crime increases, so does the public outcry for an effective and fair Federal death penalty.

The Federal Death Penalty Act introduced today will help us win back our neighborhoods and help to ensure the safety of our citizens. They deserve no less. It will also help to ensure that the penalties proscribed for Federal capital crimes—penalties that have already been approved by Congress and signed into law by the President—will indeed be carried out.

I urge the Senate's speedy consideration and adoption of this very important legislation.

By Mr. HUMPHREY (for himself, Mr. LUGAR, Mr. THURMOND, Mr. HELMS, Mr. WALLOP, Mr. BOSCHWITZ, Mr. PRESSLER, Mr. NICKLES, Mr. SYMMS, and Mr. COATS):

S. 33. A bill to provide that each item of any appropriation measure that is agreed to by both Houses of the Congress in the same form be enrolled as a separate bill or joint resolution for presentation to the President; to the Committee on Rules and Administration.

LINE ITEM VETO

● Mr. HUMPHREY. Mr. President, on behalf of nine cosponsors and on my own behalf, I am introducing legislation to grant the President, for a trial period of 2 years, line-item veto authority in appropriation bills.

This legislation provides authority for all items in appropriation bills to be enrolled and presented to the President as separate bills. The President would be able to exercise authority to approve or disapprove each piece of legislation rather than as one omnibus package or bill.

There are two important points to be made in justification for this legislation. First, the Nation's fiscal affairs are in a bad way, while the so-called budget process, originally conceived to preserve the integrity of our finances, has become ineffective, unwieldy and in most recent years, irrelevant.

With regard to our finances, rhetoric and popular perception notwithstanding, Federal spending continues to increase and the Government continues to claim a larger and larger share of the gross national product. Indeed, sometime this summer, the President will be forced to request that Congress again increase the statutory debt ceiling. In constant dollars, Federal spending has climbed from $529 billion in fiscal year 1974 to $879 billion in fiscal year 1988. As a percentage of GNP, outlays have risen from 19 percent in 1974 to 22.3 percent in 1988. It took over 200 years for the total Federal debt to reach $1 trillion. But this coming fiscal year, in 1990, the debt is expected to exceed $3 trillion.

With the notable exception of last year, Congress' track record on the budget has been abysmal. Prior to enactment of the Congressional Budget and Impoundment Act of 1974—allegedly full of deadlines and discipline—it was unusual for all 12 months of a fiscal year to go by without Congress passing 13 appropriation bills. These days, of course, the appearance of a massive continuing resolution is a certain harbinger of autumn in Washington.

Until fiscal year 1975, continuing resolutions were both rare and relatively small. For instance, during the entire period between 1968 and 1974, only 2 of the 13 separate appropriations bills which Congress must pass each year were included in continuing resolutions. There is a sharp contrast in the post Budget Act era when CR's

began to get larger and larger. From 1975 to 1985, a total of 27 of the separate appropriations bills were included in continuing resolutions. Then, of course, there were the 2 years—1986 and 1987—when not a single separate appropriations bill was enacted. Consequently, the President is faced with a mammoth bill containing billions of dollars for programs he has not requested. A perfect case in point was the fiscal year 1987 CR which contained $604 billion for Federal programs and weighed 43 pounds. That presents the President and the country with an untenable situation. With the clock ticking, the President must either sign the bill or shut down much of the Government.

The perpetuation of this process has left the Nation poorer, in more ways than one. First, needless and unnecessary spending is enacted, wastefully draining the Treasury. Second, and more fundamentally, the accountability which our forefathers so carefully incorporated into our system of Government was badly undermined.

I believe the line-item veto is one part of the solution. It will provide a tool for the President in fighting unnecessary spending and it will ensure a greater degree of accountability on the part of the Congress and the President to the people. The idea is neither new, nor radical. Nor is it in any sense partisan. Interestingly, both Ulysses S. Grant and Jefferson Davis were among the earliest advocates for line-item veto. Moreover, at one level of our political institutions, the line-item veto is ubiquitous and effective. Democratic and Republican Governors in 43 States—from Massachusetts to California—have some form of item-veto authority.

One of the canards most often heard with regard to the line-item veto is that it will result in a wholesale shift in power from the Congress to the Executive. Even absent the backdrop of two decades of congressional encroachment—from the War Powers Resolution to the Budget Act itself—the assertion is ridiculous. The fundamental basis of this legislation is the restoration of accountability on the part of Congress.

Further, whatever relatively increased leverage the President will gain with line-item veto authority should be examined in the historical context. There can be no doubt that the enactment of the Congressional Budget and Impoundment Control Act of 1974, over the veto of a President whose public support at the time was greatly undermined by other matters, eroded the Executive's power. As the former chairman of the House Budget Committee, Representative Giaimo, was quoted by noted budget expert Louis Fischer:

The Budget Act of 1974 was basically a contract whereby Congress agreed to curb its undisciplined spending habits and the President gave up his impoundment powers.

That is, Congress would establish spending limits and stick to them. In exchange, the President gave up his long held authority to impound funds—a power first exercised by Thomas Jefferson. Presidents through Nixon frequently refused to spend funds which had been appropriated by Congress for specific items. The Budget Act, in effect, stripped the President of this power and replaced it with weak rescission authority. Rescissions are wholly contingent upon the approval of the Congress, and Congress has rarely approved. In other words the Congress' rescission authority is nearly worthless.

The Budget Act ushered in the present era of fiscal madness. An important check had been removed and the balance shifted to an increasingly free wheeling Congress. As Louis Fisher noted in "The Politics of Shared Power:"

The result of the 1974 Budget Act was an irresponsible process in which neither branch could be held politically accountable.

Mr. President, my legislation is not unique. The U.S. Senate considered a nearly identical bill, introduced by Senator MATTINGLY, in 1985. This bill had 46 cosponsors and was reported without amendment from the Rules Committee. It is a relatively modest proposal. Present circumstances, I believe, make its prompt consideration compelling.

I ask unanimous consent that a copy of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENROLLMENT OF APPROPRIATION MEASURES.

(a) IN GENERAL.—When any appropriation measure is agreed to by both Houses of Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such appropriation measure as a separate bill or joint resolution, as the case may be.

(b) ENROLLMENT PROCEDURES.—Each appropriation measure—

(1) shall be enrolled without substantive revision;

(2) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code; and

(3) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to this Act with respect to the same measure, it such measure.

SEC. 2. EFFECT OF SUCH ENROLLMENT.

A bill or joint resolution enrolled pursuant to this Act with respect to an item shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be submitted to the Speaker of the House and the President of the Senate for signature and presentation to the President for approval or disapproval in the manner provided for bills and joint resolutions generally.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "appropriation measure" means any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

(2) the term "item" means any numbered section and any unnumbered paragraph of any appropriation measure as determined by the committee of conference for such measure, if such measure is sent to conference.

SEC. 4. EFFECTIVE PERIOD.

The provisions of this Act shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this Act.●

By Mr. HUMPHREY (for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. SYMMS, and Mr. HELMS):

S. 34. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

REMEDIAL JURISDICTION OF INFERIOR FEDERAL COURTS

● Mr. HUMPHREY. Mr. President, I am introducing today, with my colleagues Senators GRASSLEY, THURMOND, SYMMS, and HELMS, the Judicial Taxation Prohibition Act.

The rallying cry of the American Revolution rings as true today as it did over 200 years ago: "taxation without representation is tyranny."

But it seems the lesson our Founding Fathers taught to George the Third has not gotten through to certain latter-day tyrants of the Federal judiciary.

A Federal judge recently took it upon himself to impose an income tax surcharge and substantial increase in the property tax upon the citizens of Missouri. Let those words sink in Mr. President: an unelected, totally unaccountable judge usurping the taxing power of the democratically elected legislatures.

This is a new and alarming spectre on the American scene. Taxation by the judiciary. If we in Congress allow it to continue, we will certainly betray the trust of the Founding Fathers.

The great Chief Justice John Marshall warned us: "The power to tax involves the power to destroy." That's why the Constitution, in article I, section 8, places the tax power squarely

and solely in the hands of an elected Congress. Abuse of the tax power can only be controlled when the power is in the hands of those who must stand for election.

But Federal judges are appointed for life, one member of the Supreme Court has been there since 1956, while no less than seven Presidents have come and gone. Short of impeachment, there is no way to hold Federal judges accountable for their decisions.

And when those decisions extend to the power to impose and increase taxes, the absence of accountability makes a mockery of our democracy and our Constitution. Unelected and unaccountable officials must never be allowed to wield the taxing power in America. It makes no difference whether those officials wear ermine robes or black robes.

The judge who imposed the taxes in the Missouri case felt he had leeway to devise a broad remedy because the case involved racial balancing in the public schools. But while judges may have extensive power to fashion integration remedies, they do not have the power to suspend the rest of the Constitution or to usurp the powers of the legislatures. As our distinguished colleague Senator DANFORTH wrote in an article criticizing the decision:

> If the courts have the power to tax, then is there any legislative power that can be deemed beyond the reach of the judiciary? . . . No power is more clearly legislative and popular in character than the power to tax. No power is more clearly denied to the executive and judicial branches.

The decision in Jenkins versus Missouri also demonstrates the practical consequences of this unrestrained judicial taxing power. Seeking to improve the attractiveness of magnet schools, the judge decided the new taxes were needed to fund a plan calling for lavish facilities having little to do with educational necessity: numerous olympic-sized swimming pools; a 1,875-square-foot model United Nations, with language translation facilities; a 50-acre farm with an apartment for a live-in groundskeeper; a log cabin for out-of-doors experiences; greenhouses; and a planetarium.

In these days of hard-pressed State budgets, few State legislatures would ask the taxpayers to subsidize such extravagance. If they did, the voters would soon have the opportunity to register their objections. But the voters are completely disenfranchised from the process when Federal judges seize the power to authorize, appropriate, and levy the taxes to foot the bill. And that is just what the court did in the Jenkins case.

Mr. President, Congress must act to make it clear that Federal courts do not have the power to impose or increase taxes. If we do not do so, there is no shortage of activist Federal judges who will eagerly follow the example of the Jenkins decision.

I am therefore introducing the Judicial Taxation Prohibition Act. The bill is simple, direct, and reasonable. It provides that no inferior court established by Congress shall have jurisdiction to issue orders requiring Federal, State, or local government to impose any new tax or increase existing taxes.

I doubt if any Member of this body is prepared to say that Federal courts should be able to impose taxes. And not so long ago the provisions of this bill would have seemed so self-evident that legislation would have been superfluous. But we now know that is not so. Legislation is necessary to preserve the principle that Federal judges do not have the power to tax.

This bill is narrowly drawn, and should not be confused with so-called court-stripping bills which remove court jurisdiction over particular classes of cases. It is a clearly constitutional exercise of congressional power to regulate the remedial authority of the lower Federal courts.

There is ample precedent for such legislation. A notable example is the Norris-Laguardia Act, which denies the Federal courts jurisdiction to issue injunctions in cases growing out of labor disputes. The constitutionality of the Norris-Laguardia Act and similar statutes is well-established. Far from raising any constitutional problems, this bill will correct the unconstitutional practice of judges imposing taxes.

I urge my colleagues to join in supporting this legislation to prevent the tyranny of unaccountable taxing power.

Finally, I ask unanimous consent to have printed in the RECORD with these remarks, copies of the following articles concerning the case of Jenkins versus Missouri: An editorial from the Richmond Times Dispatch of January 18, 1988, entitled "Usurper"; an article from the Wall Street Journal of January 5, 1988, entitled "Kansas City Judge Needs Lesson in Federalism"; and a commentary by Senator DANFORTH from the Kansas City Star of December 1, 1987, entitled "Courts Don't Have the Authority to Tax."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 34

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Taxation Prohibition Act".

SEC. 2. The Congress finds and declares that—

(1) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law, and that the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) The imposition or increase of taxes by judicial order constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States and is incompatible with traditional principles of American law and government and the basic American principle that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) the Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts which it has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. (a) Chapter 85 of title 28, United States Code, is amended by adding the following new section between sections 1341 and 1342, the following:

"§ 1341A. Prohibition of judicial imposition or increase of taxes.

"(a) Notwithstanding any other provision of law, no inferior court established by Congress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

"(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within their jurisdiction, which may require expenditures by Federal, State, or local government where such expenditures are necessary to effectuate such remedies.

"(c) For purposes of this section, the term "tax" includes, but is not limited to, personal income taxes; real and personal property taxes; sales and transfer taxes; estate and gift taxes; excise taxes; user taxes; corporate and business income taxes; and licensing fees or taxes.".

(b) The table of sections for chapter 85 is amended by inserting between the item relating to section 1341 and the item relating to section 142, the following new item:

"1341A. Prohibition of judicial imposition or increase of taxes.".

SEC. 4. This Act and the amendments made by this Act 10 shall take effect on the date of enactment.

[From the Richmond Times Dispatch, Jan. 18, 1988]

USURPER

When a federal judge slapped big tax increases on people living and working in Kansas City, Mo., he claimed to be acting in the interest of a worthy cause: education. The taxes, said Judge Russell Clark, were needed to finance a court-ordered—naturally—desegregation plan intended to attract whites to largely black inner-city schools in the Kansas City school district. The state has appealed his ruling.

Four times in a little more than a year, city residents had voted down tax proposals to cover the costs of construction and improvements associated with Judge Clark's plan. Apparently weary of all this democracy, he himself finally ordered an increase in

local property and state income taxes on the people for their own good—this despite the fact that the U.S. Constitution enshrines the principle, for which thousands of Americans died in the Revolutionary War, that taxation should be the exclusive function of elected legislators.

Additionally, his decision was a gross violation of the constitutional prohibition against federal usurpation of the rights of states. Federal intrusion in state and local matters is nothing new, to be sure, but Judge Clark's action was especially arrogant. Writing in The Wall Street Journal, an official for the U.S. Department of Education, Charles E. M. Kolb, calls the ruling "an almost unparalleled usurpation of state and local authority. Here, an unelected federal judge assumes the power to determine the allocation of scarce public money. Whether Kansas City's voters and elected lawmakes may have wanted to use the funds he has given to the schools for more police, a new prison or better sewers apparently is irrelevant to Judge Clark."

Judge Clark, a Carter appointee, may believe that such unsurpation is justified in the cause of education, but his view of what constitutes "education" would surprise many. If his ruling stands, Kansas City taxpayers will find themselves providing the school district with, among other things:

Numerous indoor Olympic-size swimming pools;

A log cabin, which is supposed to teach children about the out-of-doors;

A 50-acre farm on which 25 acres would be used for farming (along with animals, equipment repair facility and an apartment for the groundkeeper) and the remainder would be used to simulate wilderness;

Greenhouses, a planetarium, an amphitheater and track and soccer fields;

A 1,875-square-foot model United Nations chamber complete with language translation and an area for spectators.

Missouri Gov. John Ashcroft says Judge Clark's ruling forces taxpayers to pick up the tab for a "concoction of education frills." In view of the fact that the ruling—if it stands—would strip away constitutional safeguards against Big Government-types in the judiciary and the federal government, it would diminish citizens' liberty as well as their wallets.

[From the Kansas City Star, Dec. 1, 1987]

COURTS DON'T HAVE THE AUTHORITY TO TAX

On the other hand . . . is a guest editorial on a subject chosen by the writer. John Danforth is a Republican U.S. senator from Missouri.

Permit me to respond to your criticism of my discussion of the court order to increase taxes in Kansas City to finance a desegregation plan ("Unbecoming Oratory," Oct. 28).

In my speech, I addressed what I regarded as the fundamental issue before the Senate in the debate on Judge Bork's nomination: What kind of Supreme Court do we want? Do we want an activist court that makes public policy on its own, and does so by finding novel and strained theories of the Constitution? Or do we want a court that practices judicial restraint, and does so by interpreting faithfully the Constitution and laws enacted by elected representatives of the people? I agreed with the philosophy of judicial restraint, as did Judge Bork and the president.

Your editorial found my discussion of the Kansas City tax increase order "gratuitous." To the contrary. Not only is the tax increase order not gratuitous, it is the heart of the matter. If the courts have the power to tax, then is there any legislative power that can be deemed beyond the reach of the judicial branch?

Surely, it can be granted that the American Revolution was an event of overriding significance to the people who wrote the Constitution. The revolution was fought to establish the independence of the United States and the principle that people may not be taxed without their consent, given by elected representatives. The people who won independence found "taxation without representation" to be a "catchy" phrase, indeed.

Thus, one would expect the Constitution of the new nation to address representative taxation, and it does so. The Constitution bars taxation without representation, and it does so with absolute clarity.

No power is more clearly legislative and popular in character than the power to tax. No power is more clearly denied to the executive and judicial branches.

Courts have the power to enter orders and see that they are obeyed. But they do not have the authority to usurp fundamental powers of the other branches of government. There are things courts cannot do. Courts cannot appropriate funds or impose taxes. They cannot coin money. They cannot define their own jurisdictions. They cannot declare that a state of war exists. They cannot make treaties. They cannot raise an army and provide for a navy. These and other powers rest with other branches of government. It cannot be otherwise, if we are to respect the separation of powers established by the Constitution.

The order of the court in Kansas City with respect to taxes has been entered, and must be obeyed. I do not believe the tax order is within the proper bounds of judicial power. I believe it would be a breathtaking expansion of judicial power, were the order to be upheld on appeal.

I believe we need a sense of restraint in the federal judiciary, and that we have had enough expansion of judicial power to last us for many years. I believe the duty of the courts is to interpret the law, and not to make basis public policy in the guise of interpreting the Constitution. I believe one of the last things we need is assumption by the courts of the power to tax. The Kansas City tax order is a lesson from real life in what the debate in the Senate on Judge Bork's nomination was all about.

[From the Wall Street Journal, Jan. 5, 1988]

KANSAS CITY JUDGE NEEDS LESSON IN FEDERALISM

(By Charles E.M. Kolb)

When it comes to federalism—the proper relationship between state and federal governments—the judiciary is charged under the Constitution's 10th Amendment with ensuring that the federal government doesn't preempt the functions of state and local governments. But what happens when it is a court itself that overreaches? That's what happened in September, when a Carter-appointed federal judge in Kansas City, Mo., ordered an increase in the city's property tax and the state's income tax to finance a court-ordered desegregation plan. Judge Russell Clark's ruling declared that the court itself would "provide" the necessary money to ensure full implementation of the plan.

The court didn't stop there, however. It began micromanaging everything from the district's long-range capital-improvements plan to the quality of furniture in the schools.

In his opinion, Judge Clark explains that the court approved with only modest modifications the plans submitted by the school district. That's true. But in ratifying virtually everything the district requested, Judge Clark is forcing the state and city to pay for the district's wish list without allowing them to evaluate it.

When it came to mundane details concerning the maintenance of facilities, for example, Judge Clark substituted his own aesthetic values for those of the state, rejecting the state's plan and instead ordering adoption of the plan submitted by the school district. In his opinion, he writes: The " 'patch and repair' approach proposed by the State would not achieve suburban comparability or the visual attractiveness sought by the Court as it would result in floor coverings with unsightly sections of mismatched carpeting and title, and individual walls possessing different shades of paint."

Other items requested by the school district and adopted as part of the court's order are:

Numerous indoor Olympic-sized swimming pools;

A log cabin, supposedly to help teach about the out-of-doors;

A 50-acre farm on which 25 acres are to be farmed (complete with animals, barn, equipment-repair facility, and an apartment for the groundskeeper) while the other 25 acres are to remain fallow to simulate wilderness;

Greenhouses, a 2,000-square-foot planetarium (the existing one in Kansas City was apparently inadequate), track and soccer fields;

An amphitheater large enough for 104 children; and

A 1,875-square-foot model United Nations lab, complete with spectator area and wiring for language translation.

All this adds up to a procurement document, not a judicial opinion.

To pay for these items, the court ordered an increase in the state income tax through a 1.5% surcharge on residents and nonresidents of the school district, "including business associations, partnerships and corporations who earn salaries, wages, commissions and all other compensation and income subject to the Missouri State Income Tax for work done, services rendered and business or other activities conducted within the (school district)." The court justified the sweep of its ruling by citing its broad equity powers and noting that some former residents had left the district precisely to avoid the effects of school desegregation. Since they still worked in the surrounding area, the court concluded, it is only fair that they help defray the expenses of the plan.

Judge Clark's ruling constitutes an almost unparalleled usurpation of state and local authority. Here, an unelected federal judge assumes the power to determine the allocation of scarce public money. Whether Kansas City's voters and elected lawmakers may have wanted to use the funds he has given to the schools for more police, a new prison or better sewers apparently is irrelevant to Judge Clark.

Other federal courts in recent years have substituted their views for prevailing community standards and values, and this preemptive trend is a disturbing one. One federal court directed which of two football coaches should be hired at a local high school; another required a high school to permit a boy's homosexual lover to join him in attending the senior prom.

John Stuart Mill recognized man's disposition to impose his own opinions on others. But when federal judges behave in this fashion—in contradiction of the limits placed on their powers by the Constitution—the nation suffers.

The Constitution establishes boundaries that are sometimes overridden by activist judges eager to legislate their own public policy. Principled judicial decision making should not be a function of accident, of who is chosen to sit on a federal court.

Judge Clark's ruling only underscores the need for a reinvigorated sense of federalism and self-restraint in our judiciary.●

● Mr. GRASSLEY. Mr. President, 165 years ago, Chief Justice John Marshall—the father of judicial review—wrote for the Court that "judicial power, as contradistinguished from the power of the laws, has no existence. Courts are the mere instruments of the law, and can will nothing". *Osborne* v. *Bank of United States* (1824).

This would surely be news to the people of Kansas City, MO.

You see, in 1987, a Carter-appointed Federal judge, Russell Clark, ordered an increase in the city's property tax and the State's income tax to finance a court-ordered desegregation plan. Those who thought, as the doctrines of separation of powers and federalism require, that the power to tax is clearly limited to the legislature, would be amazed to read Judge Clark's opinion in Jenkins versus Missouri.

In this case, Judge Clark ordered an increase in the State income tax through a 1.5-percent surcharge on residents and nonresidents of the Kansas City school district. Worse, the judge decided for himself how scarce public resources would be spent: on numerous indoor Olympic-size swimming pools; on a log cabin (presumably to teach about the out-of-doors); on a 50-acre farm, complete with farm animals and equipment; on greenhouses, a planetarium, track and soccer fields; and on a 1,875-square-foot model United Nations, complete with translation equipment.

This has little to do with enforcing a desegregation order or quality education and more to do with the exercise of raw judicial activism.

The Judicial Tax Prohibition Act would end such judicial micromanaging into the domain of the people. It would end this arrogant abuse of power by the Federal judiciary. It would restore the taxing authority to the people through their elected representatives—as our Constitution commands.

It provides simply that Federal courts may not exercise their jurisdiction to impose new taxes or increase existing taxes. It restores some sense of restraint to the ever-growing usurpation of power by the Federal courts. Of course, it would be preferable if judges understood they have no license to act as a kind of "Platonic Guardian," dispensing law from a throne without any sensed limits of power except what was seen—in their eyes only—to be the good of society. This proposal will advance the understanding of the proper role of the courts in a democratic society.

There is no doubt that Congress has the constitutional power to limit the authority of the Federal courts to propose such an extreme judicial remedy as a tax increase on the people. Indeed, article III, section 2 of the Constitution permits the Congress to radically limit the court's power. An unbroken line of Supreme Court authority from the 19th century tell us so. As the Court said in *Cary* v. *Curtis*, 44 U.S. 236 (1845), "the judicial power of the U.S. * * * is dependent for its distribution * * * entirely upon the action of Congress, who possess the sole power * * * of investing [the inferior courts] with jurisdiction from them in the exact degree and character which to Congress may seem proper for the public good."

But this bill introduced today is no radical limitation on the power of the judiciary. Rather, it is a carefully measured response to the excessive power grab represented by the Jenkins case. I commend Senator HUMPHREY for authoring it, and I look forward to the Judiciary Committee's prompt consideration of it.●

By Mr. DANFORTH (for himself, Mr. PRYOR, Mr. BOND, Mr. DASCHLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. BURDICK, Mr. DOMENICI, Mr. GRASSLEY, Mr. PRESSLER, and Mr. COCHRAN):

S. 35. A bill to provide for the establishment of rural enterprise zones, and for other purposes; to the Committee on Finance.

RURAL ENTERPRISE ZONE ACT OF 1989

● Mr. DANFORTH. Mr. President, on behalf of myself, Senators PRYOR, BOND, DASCHLE, DURENBERGER, BOSCHWITZ, BURDICK, DOMENICI, GRASSLEY, PRESSLER, and COCHRAN, I am today introducing the Rural Enterprise Zone Act of 1989. Our bill would authorize the establishment of Federal enterprise zones in America's neediest rural communities, giving a much-needed boost to State and local development efforts.

Rural America today is experiencing an upheaval as severe as any since the Great Depression. Families are losing farms they have worked for generations. Those, who can still manage to keep their farms, are often forced to do so at extreme financial risk. Since 1980, about one-half of all farmers' income has come from sources other than the farm itself. This stunning statistic demonstrates that fewer and fewer farmers can make a living in their trade alone.

Many small rural towns can no longer hold out for better times. As tax revenues diminish, schools, libraries, and roads suffer, making economic decline even more difficult to reverse. Rural America's brightest young people are leaving their homes because they see no hope for the future. With businesses closing, there are fewer jobs available, yet more and more rural families need to find work to keep their farms and homes. Unless Congress acts to help rural communities help themselves, it may be too late to reverse the situation.

Too often, congressional efforts to aid rural America have been limited to the health of a particular industry, ignoring the fact that no single occupation drives the rural economy. In my State, for example, agriculture is the dominant rural industry. Still, over 90 percent of all rural Missourians rely on off-farm income. Clearly, the majority of rural residents need more than effective farm management policies to revive their districts. It is the time for us to create opportunities on many more fronts, including new job creation, capital investment, improved local services, and transportation. The Rural Enterprise Zone Act addresses these needs.

Drawing on legislation which I introduced in the 99th and 100th Congresses, and on the Enterprise Zone Program which has twice been approved by the Senate, our bill would authorize the Secretary of Housing and Urban Development to designate up to 45 depressed rural areas as Federal enterprise zones. Only severely distressed areas—as measured by urban development action grant criteria as well as unemployment and poverty levels—would qualify for Federal incentives under this program.

Rural enterprise zones would receive priority for Federal assistance, while businesses that locate or expand within the designated zones would be eligible for Federal tax and regulatory benefits, in addition to substantial commitments made by State and local governments. Taken as a whole, this assistance would give community leaders a powerful tool in their efforts to attract and keep jobs. Our bill is not a panacea, but it would help rural towns take a first step toward recovery, while testing enterprise zones on the national level. Obviously, this proposal is not set in concrete, and I look forward to working with my colleagues and the administration to explore any modifications which might be appropriate.

Thirty-seven States have initiated enterprise zone programs, and the concept is already an integral part of economic development in many areas. Missouri's Enterprise Zone Program has created over 4,000 new jobs since 1983. The program has also generated $200 million in new investment to Missouri's 33 zones. Nationally, State enterprise zone initiatives are credited

with creating over 113,000 new jobs and preserving more than 67,000 existing ones while simultaneously attracting nearly $9 billion in new investment to depressed areas.

The Rural Enterprise Zone Act of 1989 would build on this success in easing rural America's economic plight. The act would stress State and local initiatives and enhanced Federal assistance, allowing each community to pursue its own goals and development program. The enterprise zone concept is founded on the belief that local leaders and entrepreneurs—not Washington bureaucrats—hold the key to economic recovery. The success of State zone programs support this belief. Our bill would doubly promote recovery by fostering grass-roots economic development without introducing stifling new regulations.

Mr. President, Missouri sociologist Daryl Hobbs defines rural as "Where a dedicated person can make a great difference in a short time." I know from my own experience that rural America is home to many dedicated people, and I believe that our bill will give them the tools that they need to make a great difference.

Mr. President, I ask that the text of the bill and a summary of its provisions be printed in the RECORD. I ask that testimony from Dr. Richard McHugh, University of Missouri-Columbia, and Mr. Dennis Roedemeier, Cuba, MO, appearing before the Finance Committee on November 13, 1987, on enterprise zone development, also be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Rural Enterprise Zone Act of 1989".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. PURPOSES.

The purposes of this Act is to provide for the establishment of Rural Enterprise Zones (REZs) to stimulate the creation of new jobs, to promote revitalization of economically distressed rural areas, and to provide increased economic opportunity for residents thereof, primarily by providing or encouraging—

(1) tax relief at the Federal, State, and local levels,

(2) increased Federal and State assistance,

(3) regulatory relief at the Federal, State, and local levels, and

(4) improved local services, particularly through the increased involvement of private, local, and community organizations.

TITLE I—DESIGNATION OF RURAL ENTERPRISE ZONES

SEC. 101. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Rural Enterprise Zones

"Sec. 7891. Designation.

"SEC. 7891. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'rural enterprise zone' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a rural enterprise zone (hereinafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of Housing and Urban Development, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and the Treasury; the Director of the Office of Management and Budget; and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior,

designates as a rural enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as a rural enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary of Housing and Urban Development shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a rural enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary of Housing and Urban Development shall designate nominated areas as rural enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1990.

"(C) NUMBER OF DESIGNATIONS.—The Secretary of Housing and Urban Development may not designate—

"(i) more than 45 nominated areas as rural enterprise zones under this section, and

"(ii) more than 18 nominated areas as rural enterprise zones during the first 12-month period beginning on the date determined under subparagraph (B) and each subsequent 12-month period.

"(D) PROCEDURAL RULES.—The Secretary of Housing and Urban Development shall not make any designation of an area as a rural enterprise zone under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a rural enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary of Housing and Urban Development that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary of Housing and Urban Development shall by regulation prescribe,

"(iii) the Secretary of Housing and Urban Development determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of such area is already included in a rural enterprise zone or in an area otherwise nominated to be a rural enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a rural enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 12th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(D)(ii), or

"(C) the date the Secretary of Housing and Urban Development revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary of Housing and Urban Development, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary of Housing and Urban Development determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(3) DESIGNATION SHALL NOT TAKE EFFECT UNLESS INVENTORY OF HISTORIC PROPERTIES.—Notwithstanding paragraph (1)—

"(A) within 60 days after the date of the designation of an area as a rural enterprise zone (determined without regard to this paragraph), the State or local government of such area shall submit to the Secretary of Housing and Urban Development an inventory of historic properties within such area, and

"(B) the date of such designation shall not be earlier than the date on which such inventory is submitted.

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is—

"(i) within a local government jurisdiction or jurisdictions which are not central cities of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)) and which have a population of less than 50,000 (as determined by the most recent census data available),

"(ii) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(iii) determined by the Secretary of Housing and Urban Development, after consultation with the Secretary of Commerce, to be a rural area,

"(B) the boundary of the area is continuous, and

"(C) the area—

"(i) has a population, as determined by the most recent census data available, of at least 1,000, or

"(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary of Housing and Urban Development, after such review of supporting data as he deems appropriate, accepts such certification, that—

"(A) the area is one of pervasive poverty, unemployment, or distress, having met 1 of the following criteria:

"(i) the unemployment rate, as determined by the appropriate available data, was at least 1½ times the national unemployment rate for that period,

"(ii) the poverty rate (as determined by the most recent census data available) for each populous census tract (or where not tracted, the entire rural enterprise zone) within the area was at least 20 percent for the period to which such data relates, or

"(iii) at least 70 percent of the households living in the area have incomes below 80 percent of the median income of households within the jurisdiction of the local government (determined in the same manner as under section 119(b)(2) of the Housing and Community Development Act of 1974), and

"(B) the area is located wholly within the jurisdiction of a local government which is eligible for Federal assistance under section 119 of the Housing and Community Development Act of 1974, as in effect on the date of the enactment of this section.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as a rural enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a rural enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both such governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the rural enterprise zone,

"(B) an increase in the level or efficiency of local services within the rural enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements applying within the rural enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the rural enterprise zone.

"(3) SUBSEQUENT MODIFICATION OF COURSE OF ACTION.—The Secretary of Housing and Urban Development may by regulation prescribe procedures for modifying a course of action within a rural enterprise zone under paragraph (1) following designation of such zone.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary of Housing and Urban Development shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the rural enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as a rural enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary of Housing and Urban Development as are—

"(A) consistent with the intent of the rural enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(f) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a rural enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau; and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of rural enterprise zones.".

SEC. 102. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the third calendar year after the calendar year in which the Secretary of Housing and Urban Development first designates areas as rural enterprise zones under section 7891 of the Internal Revenue Code of 1986, and at the close of each third calendar year thereafter, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 103. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7891(d) of the Internal Revenue Code of 1986 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1986 shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of a rural enterprise zone under section 7891 of the Internal Revenue Code of 1986 shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other provisions of Federal law relating to the protection of the environment.

TITLE II—FEDERAL INCOME TAX INCENTIVES

Subtitle A—Credits for Employers

SEC. 201. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED RURAL ENTERPRISE ZONE EMPLOYMENT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the rural enterprise zone credit determined under this section for any taxable year shall be an amount equal to 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year.

"(b) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to

qualified employees with respect to all rural enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) DOLLAR AMOUNT LIMITATION AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed an amount which is equal to the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for the calendar year with or within which such taxable year ends.

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any rural enterprise zone, the amount of wages paid to employees during the 12-month period preceding the earlier of—

"(i) the date on which the rural enterprise zone was designated as such under section 7891, or

"(ii) the date on which the rural enterprise zone was designated as such under any State law enacted after January 1, 1981,

which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (d)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for the calendar year with or within which the taxable year for which the amount of the credit under subsection (a) is being computed ends.

"(C) ADJUSTMENTS FOR INFLATION.—

"(i) IN GENERAL.—In the case of any 12-month period beginning on the date which is 12 months (or any multiple of 12 months) after a period described in subparagraph (A) with respect to a rural enterprise zone, the base period wages for such zone shall be increased by an amount equal to—

"(I) such base period wages, multiplied by

"(II) the living standard adjustment for the calendar year in which such 12-month period begins.

"(ii) LIVING STANDARD ADJUSTMENT.—For purposes of clause (i), the living standard adjustment for any calendar year is the percentage (if any) by which—

"(I) the living standard for the preceding calendar year, exceeds

"(II) the living standard for the calendar year in which the period described in subparagraph (A) begins.

"(iii) LIVING STANDARD FOR ANY CALENDAR YEAR.—For purposes of clause (ii), the living standard for any calendar year is the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for such calendar year.

"(c) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(d) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in a rural enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in a rural enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS PREVIOUSLY EMPLOYED BY THE TAXPAYER OR RELATED TAXPAYERS.—The term 'qualified employee' shall not include an employee of the taxpayer in a rural enterprise zone who has previously been employed by the taxpayer (or by a related taxpayer as defined in section 267(b)) after the beginning of the 12-month period described in subsection (b)(3) at a location other than a rural enterprise zone unless the Secretary determines that the taxpayer's primary purpose for employing such an employee in the rural enterprise zone is not the evasion or avoidance of Federal income tax.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (f) and (i) of section 51, section 52, and section 41(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as a rural enterprise zone under section 7891 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a taxable year of less than 12 months—

"(A) the limitation specified in subsection (b)(2), and the base period wages determined under subsection (b)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (c)(2) and the 90 percent and 50 percent tests set forth in subsection (d)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as a rural enterprise zone is in effect.".

(b) RURAL ENTERPRISE ZONE EMPLOYMENT CREDIT TREATED AS OTHER BUSINESS CREDITS.—Section 38(b) (defining current year business credit) is amended by striking out "plus" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", plus", and by adding at the end thereof the following new paragraph:

"(6) the rural enterprise zone credit determined under section 43(a).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting at the end thereof the following new item:

"Sec. 43. Credit for rural enterprise zone employment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

Subtitle B—Deferrals of Gain or Loss With Respect to Investment in Tangible Property in Rural Enterprise Zones

SEC. 202. NONRECOGNITION OF GAIN ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. NONRECOGNITION OF GAIN ON THE SALE OF RURAL ENTERPRISE ZONE PROPERTY WHERE REINVESTMENT IN SUCH PROPERTY OCCURS WITHIN 1 YEAR.

"(a) IN GENERAL.—No gain shall be recognized on the sale or exchange of rural enterprise zone property of the taxpayer if the proceeds realized from such sale or exchange are used by the taxpayer to acquire rural enterprise zone property within the qualified period.

"(b) RURAL ENTERPRISE ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'rural enterprise zone property' means—

"(A) any tangible personal property which is acquired and placed in service by the taxpayer in a rural enterprise zone during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business within such zone, and

"(B) any real property located in a rural enterprise zone which is acquired by the taxpayer during the period the designation as a zone is in effect under section 7891 and which is used predominantly by the taxpayer in the active conduct of a trade or business.

"(2) RURAL ENTERPRISE ZONE BUSINESS.—The term 'rural enterprise zone business' means any person—

"(A) which is actively engaged in the conduct of a trade or business during the taxable year,

"(B) with respect to which at least 80 percent of such person's gross receipts for such taxable year are attributable to the active conduct of a trade or business which produces goods or provides services within a rural enterprise zone, and

"(C) with respect to which substantially all the tangible assets of such person are located within a rural enterprise zone.

"(3) PROPERTY REMAINS QUALIFIED AFTER RURAL ENTERPRISE ZONE DESIGNATION CEASES TO APPLY.—

"(A) IN GENERAL.—The treatment of property as rural enterprise zone property under paragraph (1) shall not terminate when the designation of the rural enterprise zone in which the property is located or used expires or is revoked.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply after the first sale or exchange of property occurring after the designation expires or is revoked.

"(c) QUALIFIED PERIOD.—For purposes of this section, the term 'qualified period' means the period which ends 12 months after the date of the sale or exchange of rural enterprise zone property.

"(d) BASIS OF ACQUIRED RURAL ENTERPRISE ZONE PROPERTY.—If the acquisition of rural enterprise zone property by a taxpayer results in nonrecognition of any gain or loss on the sale or exchange of other rural enterprise zone property of such taxpayer under subsection (a), the basis of such taxpayer in the acquired rural enterprise zone

property shall be the cost of such property—

"(1) decreased by the amount of gain which was not so recognized, or

"(2) increased by the amount of loss which was not so recognized.

If such acquired rural enterprise zone property consists of more than 1 item of property, the basis determined under the preceding sentence shall be allocated among such items in proportion to their respective costs.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during a taxable year sells or exchanges rural enterprise zone property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's intention not to acquire any rural enterprise zone property within the qualified period, or

"(B) a failure to make such purchase within the qualified period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by inserting at the end thereof the following new paragraph:

"(27) RURAL ENTERPRISE ZONE PROPERTY.—The acquiring corporation shall be treated as the distributor or transferor corporation after the date of distribution or transfer for purposes of applying section 1043.".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23), by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1043(d) in the case of the property the acquisition of which resulted in nonrecognition of gain or loss in other property under section 1043(a).".

(3) Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held property, the acquisition of which resulted under section 1043 in nonrecognition of the gain or loss on the sale or exchange of any other property, there shall be included the period during which such other property was held by such taxpayer prior to such sale or exchange.".

(4) Paragraph (4) of section 1245(b) (relating to limitations on gain from disposition of certain depreciable assets) is amended by striking out "or 1033" and inserting in lieu thereof ", 1033, or 1043".

(5) Paragraph (4) of section 1250(d) (relating to limitations on gain from disposition of certain depreciable realty) is amended—

(A) by striking out "or 1033" in subparagraphs (A) and (E) and inserting in lieu thereof ", 1033, or 1043", and

(B) by inserting "or 1043(a)" after "section 1033(a)(2)" in subparagraph (C)(ii).

(6) Paragraph (2) of section 6212(c) (relating to further deficiency letters restricted) is amended by inserting after subparagraph (E) the following new subparagraph:

"(F) Deficiency attributable to gain on sale of property, see section 1043(e).".

(7) Section 6504 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(13) Gain on the sale or exchange of property, see section 1043(e).".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 1 is amended by inserting after the item relating to section 1042 the following new item:

"Sec. 1043. Nonrecognition of gain or loss on the sale of rural enterprise zone property where reinvestment in such property occurs within 1 year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1988.

Subtitle C—Rules Relating to Private Activity Bonds

SEC. 203. PRIVATE ACTIVITY BOND RULES.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO RURAL ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(g)(5) (defining tax-exempt bond financed property) is amended—

(1) by inserting "or any rural enterprise zone property (within the meaning of section 1043(b))" after "section 142(a)(7))", and

(2) by striking out "QUALIFIED RESIDENTIAL RENTAL PROJECTS" in the heading and inserting in lieu thereof "CERTAIN PROJECTS".

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Paragraph (12) of section 144(a) (relating to termination of small issue exemption after December 31, 1986) is amended by adding at the end thereof the following new subparagraph:

"(D) RURAL ENTERPRISE ZONE FACILITIES.—This paragraph shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are used to finance facilities within a rural enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2)).".

(c) CERTAIN SMALL ISSUE VOLUME CAPS MODIFIED.—

(1) IN GENERAL.—Section 144(a) (relating to qualified small issues) is amended by adding at the end thereof the following new paragraph:

"(13) DOLLAR LIMITATIONS NOT TO APPLY FOR RURAL ENTERPRISE ZONE FACILITIES.—The dollar limitations described in paragraphs (1) and (4) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are used to finance facilities within a rural enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 7891 (without regard to the subsequent revocation of such designation under section 7891(b)(2)).".

(2) AGGREGATE LIMIT PER TAXPAYER WITH RESPECT TO RURAL ENTERPRISE ZONE FACILITIES.—Paragraph (10) of section 144(a) (relating to aggregate limit per taxpayer for qualified small issue bonds) is amended by adding at the end thereof the following new subparagraph:

"(F) RURAL ENTERPRISE ZONE FACILITIES.—For purposes of this paragraph, with respect to any issue used to finance facilities within a rural enterprise zone, subparagraph (B) shall be applied by inserting 'used for facilities within a rural enterprise zone' after 'tax-exempt bonds referred to in clause (ii)'.".

(d) PORTION OF STATE CEILING SET ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—Subsection (d) of section 146 (relating to State ceiling) is amended by adding at the end thereof the following new paragraph:

"(5) STATE CEILING SET-ASIDE FOR RURAL ENTERPRISE ZONE FACILITIES.—For any calendar year, 5 percent of the State ceiling applicable to any State with one or more rural enterprise zones shall be set aside for use only in such rural enterprise zones in such State.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1988, in taxable years ending after such date.

Subtitle D—Sense of the Congress With Respect to Tax Simplification

SEC. 204. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury and his delegates should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1986 added to, or amended by, this Act.

TITLE III—REGULATORY FLEXIBILITY

SEC. 301. DEFINITION OF SMALL ENTITIES IN RURAL ENTERPRISE ZONES FOR PURPOSES OF ANALYSIS OF REGULATORY FUNCTIONS.

Section 601 of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5); and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) the term 'small entity' means—

"(A) a small business, small organization, or small governmental jurisdiction within the meaning of paragraphs (3), (4), and (5) of this section, respectively; and

"(B) any qualified rural enterprise zone business; any governments which designated and approved an area which has been designated as a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1986) to the extent any rule pertains to the carrying out of projects, activities, or undertakings within such zone; and any not-for-profit enterprise carrying out a significant portion of its activities within such a zone; and

"(7) the term 'qualified rural enterprise zone business' means any person, corporation, or other entity—

"(A) which is engaged in the active conduct of a trade or business within a rural enterprise zone (within the meaning of section 7891 of the Internal Revenue Code of 1986); and

"(B) for whom at least 50 percent of its employees are qualified employees (within the meaning of section 43(d) of such Code).".

SEC. 302. WAIVER OR MODIFICATION OF AGENCY RULES IN RURAL ENTERPRISE ZONES.

(a) Chapter 6 of title 5, United States Code, is amended by redesignating sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new section immediately after section 610:

"§ 611. Waiver or modification of agency rules in rural enterprise zones

"(a) Upon the written request of the governments which designated and approved an area which has been designated as a rural enterprise zone under section 7891 of the Internal Revenue Code of 1986, an agency is authorized, in order to further the job creation, community development, or economic revitalization objectives of the zone, to

waive or modify all or part of any rule which it has authority to promulgate, as such rule pertains to the carrying out of projects, activities or undertakings within the zone.

"(b) Nothing in this section shall authorize an agency to waive or modify any rule adopted to carry out a statute or Executive order which prohibits, or the purpose of which is to protect persons against, discrimination on the basis of race, color, religion, sex, marital status, national origin, age, or handicap.

"(c) A request under subsection (a) shall specify the rule or rules to be waived or modified and the change proposed, and shall briefly describe why the change would promote the achievement of the job creation, community development, or economic revitalization objectives of the rural enterprise zone. If a request is made to an agency other than the Department of Housing and Urban Development, the requesting governments shall send a copy of the request to the Secretary of Housing and Urban Development at the time the request is made.

"(d) In considering a request, the agency shall weigh the extent to which the proposed change is likely to further job creation, community development, or economic revitalization within the rural enterprise zone against the effect the change is likely to have on the underlying purposes of applicable statutes in the geographic area which would be affected by the change. The agency shall approve the request whenever it finds, in its discretion, that the public interest which the proposed change would serve in furthering such job creation, community development, or economic revitalization outweighs the public interest which continuation of the rule unchanged would serve in furthering such underlying purposes. The agency shall not approve any request to waive or modify a rule if that waiver or modification would—

"(1) directly violate a statutory requirement (including any requirement of the Fair Labor Standards Act of 1938 (52 Stat. 1060; 29 U.S.C. 201 et seq.)); or

"(2) be likely to present a significant risk to the public health, including environmental health or safety, such as a rule with respect to occupational safety or health, or environmental pollution.

"(e) If a request is disapproved, the agency shall inform the requesting governments in writing of the reasons therefor and shall, to the maximum extent possible, work with such governments to develop an alternative, consistent with the standards contained in subsection (d).

"(f) Agencies shall discharge their responsibilities under this section in an expeditious manner, and shall make a determination on requests not later than 90 days after their receipt.

"(g) A waiver or modification of a rule under subsection (a) shall not be considered to be a rule, rulemaking, or regulation under chapter 5 of this title. To facilitate reaching its decision on any requested waiver or modification, the agency may seek the views of interested parties and, if the views are to be sought, determine how they should be obtained and to what extent, if any, they should be taken into account in considering the request. The agency shall publish a notice in the Federal Register stating any waiver or modification of a rule under this section.

"(h) In the event that an agency proposes to amend a rule for which a waiver or modification under this section is in effect, the agency shall not change the waiver or modification to impose additional requirements unless it determines, consistent with standards contained in subsection (d), that such action is necessary.

"(i) No waiver or modification of a rule under this section shall remain in effect for a longer period than the period for which the rural enterprise zone designation remains in effect for the area in which the waiver or modification applies.

"(j) For purposes of this section, the term 'rule' means (1) any rule as defined in section 551(4) of this title or (2) any rulemaking conducted on the record after opportunity for an agency hearing pursuant to sections 556 and 557 of this title.".

(b) The table of sections for such chapter is amended by redesignating the items relating to sections 611 and 612 as sections 612 and 613, respectively, and inserting the following new item immediately after the item relating to section 610:

"611. Waiver or modification of agency rules in rural enterprise zones.".

(c) Section 601(2) of such title is amended by inserting "(except for purposes of section 611)" immediately before "means.".

(d) Section 613 of such title, as redesignated by subsection (a) of this section, is amended by—

(1) inserting "(except section 611)" immediately after "chapter" in subsection (a); and

(2) inserting "as defined in section 601(2)" immediately before the period at the end of the first sentence of subsection (b).

SEC. 303. COORDINATION OF HOUSING AND URBAN DEVELOPMENT PROGRAMS IN ENTERPRISE ZONES.

Section 3 of the Department of Housing and Urban Development Act (42 U.S.C. 3532) is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Housing and Urban Development shall—

"(1) promote the coordination of all programs under his jurisdiction which are carried on within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1986;

"(2) expedite, to the greatest extent possible, the consideration of applications for programs referred to in paragraph (1) through the consolidation or forms or otherwise; and

"(3) provide, whenever possible, for the consolidation of periodic reports required under programs referred to in paragraph (1) into one summary report submitted at such intervals as may be designated by the Secretary.".

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN RURAL ENTERPRISE ZONES

SEC. 401. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within a rural enterprise zone designated pursuant to section 7891 of the Internal Revenue Code of 1986.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes", approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within a rural enterprise zone (as so designated).

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with rural enterprise zones (as so designated), the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE V—RESPONSIBILITIES OF FEDERAL AGENCIES IN RURAL ENTERPRISE ZONES

SEC. 501. RESPONSIBILITIES OF FEDERAL AGENCIES IN RURAL ENTERPRISE ZONES.

(a) IN GENERAL.—To the extent permitted by law and consistent with its primary mission, each Federal agency (as defined in section 551(1) of title 5, United States Code) shall seek to provide special assistance to rural enterprise zones designated pursuant to section 7891 of the Internal Revenue Code of 1986. Such assistance may include, but is not limited to—

(1) expedited processing,

(2) priority funding,

(3) program set-asides, and

(4) provision of technical assistance in furtherance of the purposes set forth in section 2 of this Act.

(b) REGULATIONS.—The head of each Federal agency, after consultation with the Secretary of Housing and Urban Development, shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

STATEMENT BY DR. RICHARD MCHUGH, DIRECTOR, OFFICE OF RESEARCH, REGIONAL ECONOMIC DEVELOPMENT, UNIVERSITY OF MISSOURI, COLUMBIA, MO

Dr. MCHUGH. First of all, thanks for the opportunity to testify here, and also thanks for the opportunity to get out in a hurry.

I will, naturally, be very quick. first of all, I do want to say that I would urge you to give serious consideration to the Rural Enterprise Zone Act of 1987. I don't think I need to amplify any more on the problems experienced in the rural areas. The question is not, is there a problem, but what if anything to do about it? This bill proposes a number of tax and financial incentives. The question is, will these tax and financial incentives work?

Earlier today we heard Senator Bond talk about the experience of Missouri when he was in office, and you will hear other evidence here about what has happened in Cuba and Macon, Missouri, and places like that. So there is plenty of anecdotal evidence. The problem is, as an economist, we are taught not to make decisions purely on anecdotal evidence and to look more carefully at the totality of the evidence.

The sort of inherited conventional wisdom in the last 10 or 15 years has been these

types of incentives, if they do work, have been weak.

The principal thing I wanted to say today was that there has been a lot of work done recently in the economics literature on the effects of these economic incentives, and all of the work recently shows that these incentives had worked in the past and are working very well right now, as the anecdotal evidence seems to indicate, and that the strength of these policy initiatives is growing over time.

Now, the question is: Is this increased sensitivity just another statistical fluke—again, the result of some shoddy statistical work by economists? Or is there really some reason to think that all of a sudden these incentives would be more important than they had been in the past?

I would like to say I think there is plenty of evidence to think that now, in the mid-1980s as opposed to the sixties and the seventies, these incentives would be very important. On the one hand, in 1982 we had a very deep recession. The incredible competition from foreign manufacturers really put the squeeze on manufacturers and made them look for evey cost advantage that they cold possibly get. So, on the "demand side," as we like to say, there was an increase in the degree to which manufacturers would look at tax, financial, and cost advantages as were offered by State and local governments.

On the "supply side," again, as we would say, we had State and local governments which suffered financially and economically from the recession of 1982 and from the cutbacks in grants-in-aid that made these governments offer increased incentives. So we had sort of a meeting of the demanders for these financial incentives and the suppliers of the financial incentives. The result was a matching of the needs of the financial incentives. The result was a matching of the needs of the businesses and the desires of the governments to provide these incentives. It is now a standard part of the location decision. Businesses need to be given those. They expect and they want to be given the incentives to locate in areas. If not offered those incentives, they are very likely to look negatively at an area.

So, there is reason to expect that there would be an increased incentive to locate. And, as I said, the evidence is increasingly showing that these incentives are necessary.

I think a bill such as the Rural Enterprise Zone Act of 1987 would put the more depressed, hard-up areas on a more equal footing in the bidding for these industries. As it now stands, their resource base is disappearing, and they need everything that they can do in order to attract industries.

There is plenty more in the testimony that I have submitted, but will just stop right now in the interest of time.

[The prepared statement of Dr. McHugh appears in the appendix.]

Senator BAUCUS. Thank you, Dr. McHugh.

Do any others of you have planes to catch?

[No response.]

Senator BAUCUS. Okay. Let us go down the list.

Senator DANFORTH. Dr. McHugh, I know you are on your way to the airport, but could I just ask one question?

Senator BAUCUS. He is your Senator; you had better stay.

Senator DANFORTH. No, no—quite the contrary.

You say that the evidence is that rural enterprise zones work. The evidence pertains only to the State enterprise zones, and you extrapolate from the experience with State enterprise zones that Federal enterprise zones would be an added incentive, or an equal incentive, or that it would have a multiplier effect?

Dr. MCHUGH. The evidence that I cited is more general. Incentives of any kind, in any area, now appear to be worthwhile. They do have an effect.

The evidence that I cite is not simply rural, State-run enterprise zones but any kind of tax incentives at all to influence the location of economic activity. It is shown to have a very strong effect.

Senator DANFORTH. And you have no doubt that if this legislation were passed it would be of very real assistance to those communities that became enterprise zones?

Dr. MCHUGH. There would definitely be some benefit, within a 95-percent confident interval, as we say—a strong probability that it would help.

Senator DANFORTH. One final question. Say there is a rural enterprise zone in say Cuba, Missouri. Does that mean that a community, that is not an enterprise zone is disadvantaged? In other words, say that there is a close-by community, say Union, Missouri. Would that be disadvantaged by Cuba having an enterprise zone?

Dr. MCHUGH. Well, you necessarily must pick one area over another. But I think this whole story of robbing Peter to pay Paul can be exaggerated; it is too simplistic a view of what goes on.

A lot of times—in fact, most of the time—growth in one area relative to the other isn't because of the decision of a plant to pick up and move to another area. I know instances in Missouri in which one particular company faced the decision to close one plant or another plant and chose to keep the plant open in the enterprise zone. So, it is not simply a matter of taking from one to give to another.

Senator DANFORTH. Well, it is also possible that businesses in other countries could locate in a Missouri community.

Dr. MCHUGH. That is certainly true.

Senator DANFORTH. Senator Bond just returned from Korea. A few years ago I was in Korea talking to businesses about the possibility of locating in smaller communities in our State. When we have a global economy, it makes it more likely that businesses that otherwise might be located in some other part of the world would locate in our country.

Dr. MCHUGH. Some foreign manufacturers would come into the country looking for a place to locate. And the rural enterprise zone designation is a flag right away that this is an area in which there is going to be a lot of attention paid and really wants to grow. So, if nothing else, it is a signal that this is a community where these places should look.

STATEMENT OF DENNIS D. ROEDEMEIER, PRESIDENT, CUBA INDUSTRIAL DEVELOPMENT AUTHORITY, CUBA, MO

Mr. ROEDEMEIER. Thank you.

I am from Cuba, Missouri. As a reference point, Cuba is a town of 2,100 people in Crawford County. Cuba's claim to fame, I guess, came in September of 1984 when three plants in Cuba shut their doors and put more than 100 unemployed people on the street. By November the unemployment rate in our city was 13 percent, and worse than that it was climbing. Two out of three that you would pass on our street every day were under the Missouri poverty level.

By Christmas day, if one more company would have closed their doors, our largest employer would have been the welfare agency at our county seat. We would have had more people supporting our unemployment than supporting our industry. And unfortunately, in a situation like that, one-half of the people who were injured from this unemployment weren't old enough to work.

In the story of Cuba, it had tremendous emotional impact, of course, on our people, but it is not unlike or too similar to all the stories that you hear across America every day. You have heard from people in this room that they have witnessed these same phenomena, and I guess the existence of economic distress is not new. But I think what disturbs all of us in the recurrence of it and that it is occurring in places that we never expected it to happen before.

When Cuba lost its small shoe industry of 60 people, I am sure that that was just a blip on the screen of an economic indicator somewhere. But yet, when St. Louis announced that General Motors was going to have a cutback of 2,500 people, that shook the very foundation of our State. And if you think about it, what is the difference between a small rural town—what is the difference in that foundation?

Unfortunately, 11 million Americans have found out since 1981 that there no longer is the manufacturing base. And these are 11 million people like you and I who have kids to feed and families to raise.

As we view these situations and these hardships on the evening news, or as we read about them in the periodicals, we feel like many of the government people have said, that we are victims, that the farmer or the small businessman in rural America is eventually, from the roll of the dice or fate, going to receive his fair shake of despair. We read about it, we talk about it, and we think about it, and I know everyone worries about that. Television perpetuates the idea of the economic victim.

Distressed communities are shown throughout the nation as this despair.

So, the question is: What do you do? The answer, "There is nothing we can do; there is no answer. We are only one. We are so small. What can be done?"

How does a community fight back? And what is the answer for this economic destitution that we have seen?

The existence of the programs to stimulate economic development are not new. The problem is that these programs often confront or deal with the symptoms of economic distress, and we have heard a lot about symptoms today. The major hurdle for a community to overcome is that excessive welfare programs, poor housing, these vacant storefronts you heard about with the boards on the front of them, poverty, and economic destitution these are only symptoms of a disease. They are not the disease.

The disease and the cancer that is ravaging so many of our communities is the lack of jobs. And if you take that, and if you believe that, then how can we accept the many budget situations where we see that 30 percent of State dollars are spent on welfare and social services, and 1 percent or less than 1 percent is spent on economic development? That one decision would get you fired in every board room across America. That one factor, the creation of jobs, is often the difference in the survival or extinction of many of our communities across America.

If we accept this basic premise, and if we choose to focus on job creation, then how do

we create the jobs? The Enterprise Zone Program.

This is what brought Cuba back. It was the catapult that shot us forward, and it was the weapon that we used to fight the demise of Cuba.

I am going to go through a few items that we have found worked and a few items that didn't work, with the hope that maybe this might clarify our theory.

The enterprise zone, number one, must be a marriage of State effort, county effort, and city effort, and we have heard that discussed already. There should be a specific number of zones established, which I see you set forth in your bill.

Enterprise zones should be awarded to eligible areas on the basis of severe competition. In order for an eligible zone to win a designation, they must present a written business plan. This is very important for a community's survival, their ability to write a plan.

There should be a limited number of zones. The enterprise zone benefits should be extended to companies which basically manufacture, process, distribute, or assemble. It may be best to avoid extending benefits to the retail or commercial enterprises in a zone area. That can be a hot issue, but it is true.

Each zone should have a transfer-of-technology center that places it with a local university.

Finally, one of the hottest issues that is talked about is the give-away programs, and what are the States and counties and cities and the Federal Government willing to do to create jobs?

I want to explain just what the City of Cuba did. We gave away the land in the industrial park. We abated the taxes for 10 years. We gave a 30-percent rebate on utilities the first year, 20 percent the second year, 10 percent the third year, 5 percent the fourth and fifth. County abatement of taxes. Free utilities. We even gave away the gravel in the county for the roads and the parking lots.

When that plan originally was directed, it received a severe amount of criticism. But let me give you the results as of today from the Enterprise Zone Program in our county:

Food stamps in our county have been reduced from $85,000 a month to $55,000 a month, a savings of $360,000 per year to the taxpayers.

Unemployment has dropped from 14 percent to 5 percent. Hardcore unemployment in our county has been cut in half.

Sales tax revenues—we talked about the revenue stream—are up 33 percent. City revenues are up over 50 percent.

Fifteen industries have located in this Enterprise Zone in the last two and a half years. They have created 850 jobs, with an infusion of $12 million into our city. And the storefronts which at one time were empty. Today, they are all filled.

A Midwest Governor one time said that it is a very strange phenomenon, it seems that they put to work the philosophy that the more they give the more they receive. How strange that a Christian philosophy such as this works so well in current economic theory.

Thank you.

Senator BAUCUS. Thank you very much, Mr. Roedemeier.

Gentlemen, I very much appreciate what you are doing here. In my State of Montana, which is probably not too dissimilar from a lot of States, particularly Western States, we have a lot of rural economic depression. It is severe. And as Senator Danforth pointed out and as other witnesses have testified, including Senator Bond, most income in rural America is not farm income. That is, the folks who live either on the farms or in the smaller communities have to supplement their income to survive. And not only must we try to maintain a very strong agricultural base, we must also find ways to encourage and stimulate businesses in smaller communities so that that supplemental income will be there.

This is a subject that a lot of people have wrestled with for some time, and I frankly think that rural enterprise zones are a good idea—that is, they are a part of the solution. They are not the total solution, by any stretch of the imagination; but like almost everything else, there is no panacea, there is no quick fix, there is no meted cure-all. Rather, the solution depends on a continued, dedicated series of step-by-step, incremental improvements over what we now have. That, in my judgment, is the only way we are going to develop. This is one way among many which will probably help rural America.

I strongly believe that, unless we as a country spend more time figuring out how to develop our country nationally, which includes all Americans, and that means rural America, we are going to find ourselves as a country, in the next 15 or 20 years in pretty poor shape. This is a national problem.

I can't say precisely how quickly these bills will become law, but I can say that I think they are a good idea. And I very much appreciate the contribution that you have all made.

Senator Danforth.

Senator DANFORTH. Let me first address the question of the budget.

We have heard testimony that 62 percent of the income of farm families comes from nonfarm sources. That is farm families.

Now, Mr. Roedemeier in Cuba, Missouri, where I would imagine there are a lot of people who are not farm families but who live in Cuba who would not be counted even in that figure. Isn't that right?

Mr. ROEDEMEIER. That is correct.

Senator DANFORTH. So, an overwhelming amount of the total income source that is available to smaller communities is from nonfarm sources. Isn't that right?

Mr. ROEDEMEIER. Yes.

Senator DANFORTH. We are spending $26 billion a year on farm subsidies, and we have heard testimony from the Treasury Department that the cost over three years of a much more expanded enterprise zone concept was $1.5 billion spread over three years, and that was for 75 enterprise zones. Some of them were urban. We are talking here about a much cheaper program than a half-billion dollars a year, as compared to $26 billion a year in farm programs, when the overwhelming percentage of the income sources for people who live in rural parts of our country are from nonfarm sources.

So I would say to those who have expressed concern about the budget—and I, too, am concerned about the budget—that I don't understand why Rural Enterprize Zones are not a priority, when the largest source of farm income is not from the sale of agricultural commodities but from nonfarm job opportunities within a rural community.

Let me also ask this to our experts. And Mr. Wolf, you haven't had your inning yet, but you might want to address this, too: My observation is that people who live in rural areas are very productive can-do people. They are people who are used to work, they know the work ethic, they know what it is to get up in the morning and get going, they know how to make equipment work. Am I correct in thinking that if we are concerned about productivity in this country, one way to increase our productivity is to increase the amount of manufacturing that goes on in rural areas? Is that a reasonable statement, or is that just my own observation.

Mr. WOLF. It certainly seems to be a fair statement. And the experience in Cuba is not necessarily atypical; there are other rural areas throughout the country that have used State and local enterprise zone types of incentives to generate increased employment and capital investment, places such as Kentucky, Mississippi, Minnesota, several other States.

Indeed, we would be foolish to label the program "urban enterprise zones," as it was originally. There are now urban, rural, and suburban zones, and the newest States that have passed enterprise zones, in the past year or two—Vermont, West Virginia, Colorado, Maine, Oregon, Hawaii, Arizona, even New York—have a heavy nonurban component to their zone program.

Senator DANFORTH. And it works, doesn't it?

Mr. WOLF. Yes.

Senator DANFORTH. It clearly works?

Mr. WOLF. Yes, Yes, it works, because it is the tool that brings together the public and private sectors, and also brings together State and local governments; and certainly, all appearances are that if there were Federal incentives it would do even more to stimulate that State and local public/private partnership.

Senator DANFORTH. What is the alternative? Is the alternative just to pull the plug on rural America? Is that the alternative, just to say, "Well, the dislocation that is now going on in rural America will continue to go on for an indefinite period of time," while we fiddle around with this budget?

Mr. WOLF. Well, the alternative is for those people who live in rural areas to commute to urban areas that are perhaps a hundred miles away, which is what happens in Missouri, for example.

Senator DANFORTH. That is absolutely correct, they travel tremendous distances. People go from Cuba into St. Louis, don't they, Mr. Roedemeier?

Mr. ROEDEMEIER. Yes, they do.

Senator ROEDEMEIER. That is right. And if you could imagine the hours they spend in their families, look at the impact that has on the family unit. These people would prefer to live and work at home with their families. I think we should give them that right.

Senator DANFORTH. Just to refresh my memory as to your testimony, when you were talking about the decline of Cuba, the dark days of Cuba, that was in 1984?

Mr. ROEDEMEIER. Yes.

Senator DANFORTH. In 1984 the unemployment rate was what?

Mr. ROEDEMEIER. The Economics Department of the University of Missouri just came out with a report that said it had reached 20 percent when were were at our low ebb.

Senator DANFORTH. And would you tell us how enterprise zones entered into this? What did you do? You were the person. One of the things we could do is clone you and spread you around the country. [Laughter.]

But what did you do with enterprise zones? How did you use enterprise zones, and what was the effect of it?

Mr. ROEDEMEIER. Well, my background is business, and we approached it simply as a business problem. We saw the enterprise zone as the best marketing tool available to create new industries.

A lot of people have the misconception that you run around and grab other industries and bring them in. Well, that is not the case, at all. What you do is, you create an environment where new industries will grow and where the small businessman can take advantage of it. You will find small business people grab the concept quicker on enterprise zones than major corporations, because major corporations are more docile, they are larger structured, and they are not as quick to grab an advantage as a small business, which is great because small businesses are the guys who create the jobs. It doesn't take them long to put together the list of advantages, and that is what they all do. They lay the list of advantages—be it Federal advantages for taxes, county advantages, banking advantages, which is another key to the program—and then they lay that across on their income statement.

One of the shoe companies which was about to close in Steelville, Missouri, decided not to close because we were able to get the enterprise zone package—not in to the president or the general manager, we got it into the tax department. And they made the recommendation that we should not close this plant. In fact, they made the recommendation that we should increase it by 80 jobs. That is what an enterprise zone can do for a small community, and that is basically how we did it.

Senator DANFORTH. Thank you.

Senator CHAFEE. Mr. Roedemeier, one question. It seems to me that your success in Cuba was based upon far more than just the enterprise zones. In other words, you did lots of other things. Now, who owned the land?

Mr. ROEDEMEIER. The city owned the land.

Senator CHAFEE. The city owned the land?

Mr. ROEDEMEIER. Yes.

Senator CHAFEE. You gave them gravel, you said?

Mr. ROEDEMEIER. Yes.

Senator CHAFEE. You put in the roads; you did all kinds of things. What kind of companies did you get out of it? I know there is a tremendous spinoff effect—if you get the companies, then J.C. Penney's store will stay, and all of that. But what were some of the companies? Were they major ones?

Mr. ROEDEMEIER. No, they weren't. The companies that we have in there are very diversified, and you know that was one track we wanted to never get into again, and I guess all municipalities in rural America do not want to get trapped to the single industry again, to get laid in with mining or with shoes.

We went into the four areas that we felt we were best at: we are good at automotive, we were good at wood products, we were good at chemicals, because of the University of Missouri Chemistry Department, and we were also, I think, very good at food processing, but I have been unable to accomplish that. So, those were the areas.

Now, the other thing, the marketing program that we put down was for companies of 25 to 35 people; that was our market niche, we felt. We have been able to secure a larger company than that recently. We were talking about international—we brought in a company from Toronto, Canada. They were moving to Mexico because of the labor rate. You know, we fight that. But they were not willing to give up the technology that was available.

And you asked another key as to what it was for this enterprise zone, it was the involvement of new technologies which we transferred to startup businesses and existing businesses. It is one thing to create the jobs, but you also have to have a competitive company.

Senator CHAFEE. Where did you get your money from to do these things, to pay for roads and so forth? Was it EDA grants?

Mr. ROEDEMEIER. Most of them were through block grants, where we actually had the customer or the business which was moving in, and we said, "We need this road." We used what is called a MODAG, which is Missouri's answer to UDAG.

Senator CHAFEE. State money?

Mr. ROEDEMEIER. State money, but I think it is interesting to know we also used a Federal program which is called a "revolving loan fund program." And I know the standard that we talk about so much is the creation of a job for $10,000, but the jobs that we have created we have created for under $1,000 per job. And it is only common sense. If it costs us $20,000 in this nation to keep a man out of work for two years, why shouldn't we put him to work for $2,000? It makes sense to me.

Senator CHAFEE. Well, if you can put him to work for $2,000, we ought to get you down here in Washington, but maybe that might kill you off.

Senator DANFORTH. No, let us leave him where he is. [Laughter.]

Senator CHAFEE. All right.

Any other questions?

[No response.]

Senator CHAFEE. Fine.

Mr. Stokvis, I appreciate the mention you made about the work that I have done on this in the past years. We gave it a full shot, and I am very interested in it, still. Thank you.

Thank you very much, gentlemen, for coming.

Our next witness will be Dr. Tom Lovejoy, Executive Vice President, and Ms. Katheryn Fuller, Vice President and General Counsel, the World Wildlife Fund. Would you please come forth? And Terrill Hyde, is she present with you?

Ms. HYDE. Yes.

Senator CHAFEE. Okay, Dr. Lovejoy, why don't you proceed. We have your statement, so you may proceed as you wish.●

● Mr. DURENBERGER. Mr. President, I am pleased to again join the distinguished Senator from Missouri [Senator DANFORTH] and the distinguished Senator from Arkansas [Senator PRYOR] in introducing the Rural Enterprise Zone Act of 1989. I hope that enactment of this legislation will be a top priority this year and I look forward to working with my colleagues in the Senate Finance Committee to finally make this legislation a reality.

Mr. President, while America's coastal States have been enjoying vigorous economic prosperity in the 1980's, the heartland of rural America has endured a prolonged and devastating economic decline. In 1986, the Subcommittee on Intergovernmental Relations, which I chaired, prepared a report cataloging the devastating economic plight of rural America.

The report found that net farm incomes had declined by 64 percent between 1979 and 1983 and farm land values had fallen by more than 30 percent since 1981. And as we all know, when farm incomes decline, Main Street spending falls, jobs in the local commercial sector disappear, and incomes in that sector decline as well.

That has been the reality of rural America in the 1980's, and it was only made worse by the drought of 1988. And that is why the Rural Enterprise Zone Act of 1987 is so important.

This legislation would establish 45 rural enterprise zones over a period of 3 years. These zones would cover areas of less than 50,000 people and would have to be areas with high unemployment. To attract businesses to locate in rural enterprise zones, the Federal Government would provide employers with a 10-percent tax credit for increased enterprise zone employment expenditures. In addition, gain on the sale or exchange of qualified zone property would be deferred as long as the proceeds are reinvested in a rural enterprise zone.

Commercial activities could be underwritten with small-issue industrial development bonds, and current law accelerated depreciated benefits would be allowed for activities financed by such bonds. Moreover, States would have to set aside 5 percent of their industrial development bond volume cap for rural enterprise zone issues.

Mr. President, the States will have to share some of the responsibility for making Federal rural enterprise zones a reality. This legislation requires that State and local governments make increased commitments, in the form of reduced taxes for zone businesses, increased services, and reduced regulations in these areas, in order for an area to qualify for designation as a Federal enterprise zone.

I am conviced that the State will do their part. Indeed, the States have led the way in developing the concept of enterprise zones. Already, there are 37 States that have initiated State enterprise zone programs. Now it is up to the Congress to do its part to help rebuild a vital and vibrant rural America.●

● Mr. DASCHLE. Mr. President, it is with pleasure that I join my colleague, Senator DANFORTH, in introducing legislation that will promote economic development in rural areas.

Rural economic development is a subject that is near and dear to me. For several years, I have worked extensively with industry and government representatives in the United States and abroad in an effort to attract new business to my State of South Dakota. While I have experienced a fair measure of success, I have learned the hard way how difficult it is to convince understandably wary businessmen that their investment in my State will be rewarded.

Rural areas experience a catch-22 where economic development is concerned. They find it difficult to attract businesses because they frequently lack the infrastructure, such as good roads and housing, that businesses depend upon for the stable production and transportation of goods. On the other hand, rural towns lack the revenues to improve their infrastructure because they cannot attract businesses that will generate revenues through economic activity.

Rural towns also face an uphill battle when competing for Federal funds. Programs benefiting rural areas have been cut by nearly 60 percent in the 1980's. This has had a severe impact on predominantly rural States. In South Dakota, well over two-thirds of the population is located in rural areas. We have only two areas in our State that qualify as standard metropolitan statistical areas.

At the same time, there is strong evidence that the need for economic development initiatives is as great, if not greater, in rural areas as it is in urban areas. For example, in the 1980's, we have seen 4 percent rural job growth, as compared to 13 percent job growth in metropolitan areas. An August 1988 issue of Newsweek reported that poverty in the countryside now exceeds that in the Nation's large cities. While I do not begrudge those who live in urban areas the assistance they now receive, I do think it is extremely important that we not forget about the vast numbers who live in economically depressed rural areas.

The budget deficit, and the targets we have set for reducing it, are going to make it very difficult to increase direct Federal funding of rural community development programs. The bill we are introducing today represents a more fiscally responsible means of approaching the problem. It says to people in rural areas, let's work as a team. If an area qualifies for designation as a rural enterprise zone, the Federal Government will provide incentives, in both the tax and regulatory areas, that will enable communities to help themselves.

Indian reservations will be able to qualify for rural enterprise zone designation under our bill, as well. Unofficial estimates show that unemployment on Indian reservations is well over 60 percent. Obviously, these areas cannot be ignored.

In the weeks and months ahead, I will be working with Senator DANFORTH to pass this important legislation. I welcome the support and input of my colleagues in this endeavor.●

Mr. WILSON (for himself Mr. MITCHELL, Mr. DOLE, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. DODD, Mr. ROTH, Mr. INOUYE, Mr. HATCH, Mr. HEINZ, Mr. MATSUNAGA, Mr. STEVENS, Mr. GRAHAM, Mr. D'AMATO, Mr. BRADLEY, Mr. COCHRAN, Mr. GRASSLEY, Mr. SANFORD, Mr. WARNER, Mr. SYMMS, Mr. COHEN, Mr. HATFIELD, Mr. BOND, Mr. RUDMAN, Mr. KASTEN, Mr. MCCAIN, Mr. DANFORTH, Mr. LUGAR, Mrs. KASSEBAUM, Mr. DOMENICI, Mr. ARMSTRONG, Mr. MACK, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. DECONCINI, and Mr. RIEGLE):

S. 38. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES LONG-TERM CARE INSURANCE

Mr. WILSON. Mr. President, I rise today to introduce a bill, The Federal Employees Long-Term Care Insurance Act of 1989. This bill will allow this new 101st Congress to take a first and very important step toward making affordable, high-quality long-term health care coverage available to all Americans.

This bill allows the Office of Personnel Management to offer optional nursing home and home health care coverage to Federal employees who want it. Under this proposal, Federal employees, regardless of their health status, who have reached the age of 50 and participated in the life insurance program [FEGLI] for 10 years, can convert their life insurance to long-term care insurance at no additional expense to the Federal Government.

Since long-term care insurance costs more than life insurance, the employee would have to pay a small additional premium—about $11.00 per pay period. But, the Federal Government would redirect the contribution it normally makes toward the employee's life insurance, to insurance for long-term care. These two sources plus the reserves in the employees life insurance fund would pay for the new benefit and keep premium costs down. OPM would also make coverage available to spouses, although the employee would have to pay the full costs of the premium. By allowing for this type of convertible benefit, life insurance to long-term care insurance, this amendment lets Federal employees change the type of insurance they need as their lives change.

In the last Congress, this bill won wide bi-partisan support, 31 Senators had signed on as cosponsors. This session, 31 Senators introduce this bill with me as original cosponsors. I am proud to have as original cosponsors of S. 38, Senators MITCHELL, INOUYE, GRAHAM, SANFORD, DODD, MOYNIHAN, BRADLEY, and MATSUNAGA, along with last session's original cosposnsors, Senators DOLE and DURENBERGER. I am also proud to have the support of the ranking members of the committee and subcommittee with jurisdiction over this bill, Senators ROTH and STEVENS and other distinguished members of committees specifically concerned with the issue of long-term care—the Finance Committee, the Special Committee on Aging, the Committee on Labor and Human Resources, and the Appropriations Committee. The insurance companies—Metropolitan, Aetna, and the American Council of Life Insurance—have expressed their support for this bill in letters of endorsement. I am also delighted to join as a member of the committee with jurisdiction over this bill, the Governmental Affairs Committee and I look forward to working with the distinguished members of that committee to move this bill through as quickly as possible.

Last Congress, over 90 long-term health care bills waited for congressional attention. Very few received serious consideration and even fewer show promise of winning any type of bipartisan support. Defeat of the Pepper bill confirmed that Congress still has grave reservations about committing substantial Federal funds to finance a further expansion of medicare. I believe that many Members remain uncommitted to these proposals and undecided about the best way to solve the problem of access to long-term health care protection because some fundamental questions remain unanswered. As Congress tries to define the appropriate role for the Federal Government to play in ensuring Americans access to long-term health care, we still need to know how far the private sector can go to fill this need for affordable and high-quality long-term care coverage. We must have reliable data on the types and prices of private individual and group policies, and the willingness of employers to offer a long-term care benefit, before we will know how many Americans will be able to count on the private sector to meet their long-term health care needs.

I believe that this bill, won broad, bipartisan support last Congress because Senators saw it as a way to use the Federal Government as a catalyst to challenge the private insurance companies to compete in the long-term care marketplace. This bill allows Congress to use the Office of Personnel Management to conduct a long-term care demonstration project.

A pool of 3.1 million active Federal workers offers a tempting incentive for insurance carriers to develop a competitive long-term care insurance program. To date, Americans have purchased only 5-700,000 private long-term care insurance policies. Currently, private long-term care insurance does not play a bigger role because most individuals and employers cannot afford the high cost of the premiums.

Ninety percent of Federal employees participate in OPM's life insurance program and 655,000 of those employees plus their spouses, immediately would gain eligibility for long-term care coverage if this amendment becomes law. This proposal alone could double the number of people in this country who currently hold long-term care insurance.

And, just as importantly, by taking the lead to create a market in this area, the Federal Government can create a long-term care domino effect. More insurance carriers will enter the market in order to compete for the OPM contract. In order to win this competition, insurers will have to offer greatly improved insurance packages, both in terms of price and quality. I believe that as the prices come down and the quality goes up, State and local governments and large employers like the University of California, General Motors, and AT&T will gain an incentive to provide a new or convertible long-term care benefit, similar to OPM's to their employees. And, as more large employers begin to supply this kind of coverage, the prices should drop once again, eventually letting smaller employers and individuals enjoy the benefits of this long-term care competition. Through this amendment Congress can begin the process of making long-term care insurance available to the middle class and taking it out of the realm of a benefit only available to the wealthy.

Of course, this approach will not reach everyone in need of long-term care coverage. However, while Congress labors over how to help those individuals suffering right now because they did not have the opportunity to plan ahead for their long-term care needs, we, with OPM as a demonstration project and a catalyst, can do a great deal to make sure today's workers and perhaps even today's retirees do not find themselves in that same awful situation as they grow older.

The bill which I am introducing now differs only slightly from the one I introduced in the last session. I have made a few technical corrections to the original bill, making the legal language more clear and specific. I have also included two changes which were important in the process of gaining labor union support for the bill. Last Congress, Congressmen SLAUGHTER, RINALDO, and BURTON, introduced a similar bill in the House, H.R. 5167. They will reintroduce that bill again in the 101st Congress.

Their bill differs from mine in that they had a chance to incorporate language requested by the Federal employees' unions. So, in this new draft, I have simply added the more comprehensive National Association of Insurance Commissioners definition of long-term care and a reinsurance requirement for carriers in order to guarantee protection to the Federal employees.

I think every Senator knows the urgency of finding ways to make affordable, quality long-term care coverage available to the many Americans who need it. Medicare pays only 2 percent of nursing home expenses and private insurance covers only 1 percent. That means that Medicaid and uninsured individuals now must struggle to cover the majority of the financial burden that long-term care makes necessary.

Every time I go home to California, I hear the stories of anxiety and fear. Working individuals worry that without affordable long-term care insurance they must save enough money to try to protect themselves against the eventual enormous costs of long-term care. Retired elderly who still live independent lives agonize that they will lose everything they have worked for because they cannot afford the high rates of private insurance. And many elderly now in nursing homes, live in anxiety and fear as they spend down their savings and risk becoming impoverished.

Both the public and private sector must accelerate their efforts to make this critical long-term care coverage available. I believe that by approving this amendment, the 101st Congress can do a great deal to make long-term care available to the significant number of currently uninsured individuals.

OPM has a very sound, simple, noncontroversial, and straightforward idea which will unquestionably help many Americans. I was proud to turn that idea into legislation. It's rare when Congress can give something to many people without having to take something away from others and without endangering future legislative options. This bill will provide a very important benefit to Federal employees, it will facilitate development of the private sector by creating a new market, and it will help Congress collect valuable data as we consider more comprehensive long-term care proposals to help those not served by this approach.

I hope Members will join me in a bipartisan effort to take a very important first step toward ensuring that all Americans have access to affordable and high quality long-term health care coverage.

I ask unanimous consent to have printed in the RECORD the text of this bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Long-term Care Insurance Act of 1989".

SECTION 1. LONG-TERM CARE INSURANCE.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701 by adding at the end thereof the following new subsection:

"(e) For the purpose of this chapter, 'long-term care insurance' means any policy purchased by the Office of Personnel Management under authority of section 8709 of this title for the purpose of providing coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, or prepaid basis for necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services to maintain activities of daily living or functional capacity, provided in a setting other than an acute care unit of a hospital. Such coverage may include not only institutional services but in-home and community-based services as well. The coverage under long-term care insurance is not intended to provide basic Medicare supplemental coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage.";

(2) in section 8704 by adding at the end thereof the following new subsection:

"(e)(1) The Office shall provide optional group long-term insurance coverage for civilian employees in accordance with the following terms and conditions:

"(A) Consistent with the conditions, directives, and terms specified in section 8701(e), 8709, and 8712 of this title, the Office shall arrange for each qualified employee, as defined in paragraph (4) of this subsection, to have an opportunity to irrevocably convert a portion of the employee's basic insurance amount and associated accrued projected claims reserve funds, as determined by the Office of Personnel Management, for purposes of group life insurance and accidental death and dismemberment insurance under this section to group long-term care insurance.

"(B) The long-term care insurance shall, as the Office determines appropriate, offer employees more than one reimbursement plan from more than one insurer.

"(C) The Office shall determine appropriate employee contributions which shall be payable for all periods during which long-term care insurance continues and shall be withheld from any salary, compensation, or retirement annuity due an insured individual. Each employee's contribution rate under this subsection shall be determined by the employee's age at the time an election is made for purposes of this subsection, relative to such age and rate categories as the Office determines will, with adjustments provided for under paragraph (3) of this subsection, fully cover estimated long-term care insurance policy costs in excess of the actuarial value of the life insurance conversion amount.

"(D) The Office shall establish appropriate age and rate categories for qualified employees who wish to avoid the basic insurance conversion requirement and pay the full cost of group long-term care coverage.

"(E) The Office shall also arrange for qualified employees who elect group long-term care insurance on themselves under this subsection to have, simultaneous with their election or upon subsequent marriage, the option of purchasing supplementary long-term care insurance coverage on a spouse, without evidence of such spouse's

insurability and at appropriate group rates added to the affected employee's individual contribution rate.

"(F) An active or retired employee may cease contributions under this subsection at any time, in which case the long-term care insurance shall terminate, with no restoration of converted group life insurance coverage.

"(2) Any employee who elects to convert basic life insurance to long-term care insurance as provided by paragraph (1) of this subsection shall retain a residual amount of the group life insurance and accidental death and dismemberment insurance authorized under this section which shall equal the greater of—

"(A) $2,000, or

"(B) an amount representing the basic insurance amount generally available based on the employee's current annual rate of basic pay decreased by the life insurance conversion requirement established pursuant to paragraph (3) of this subsection on the date the employee elected long-term care insurance.

"(3) For purposes of this subsection, the Office shall specify the initial dollar amounts for the life insurance conversion requirement and, in consultation with insurers, determine the reimbursement rates for benefits under each long-term care insurance plan (including reasonable waiting periods for benefit commencement) and periodic employee contributions for self and for spouse coverage based on age categories of qualified employees as the Office considers appropriate. All amounts determined in accordance with this paragraph shall be subsequently adjusted on the effective date, and in accordance with the average percent, of any change in pay rates for the General Schedule authorized under section 5305 of this title. Other adjustments of amounts under this paragraph may be made at such other times and in such amounts as the Office determines necessary and prescribes by regulation. The Office may, through negotiations with insurers, provide options that, by using other indexes, allow increases that exceed those of the General Schedule.

"(4) A qualified employee for purposes of this subsection is any employee who is subject to this chapter and who—

"(A) is in active service;

"(B) attains an age specified by regulations of the Office, which shall be no less than 50 years of age;

"(C) is insured under this chapter and has been insured for a total of 10 years, or elects to make contributions for long-term care insurance without the benefit of the basic insurance conversion authorized by paragraph (1) of this subsection; and

"(D) has not transferred ownership of life insurance to another person under subsection 8706(e) of this chapter.

"(5) Notwithstanding the provisions of paragraph (4)(B), after the 5-year period beginning on the effective date of this subsection, an employee may be less than 50 years of age and qualify under the provisions of paragraph (4) if determined to be eligible under regulations promulgated by the Director of the Office of Personnel Management.

"(6) Unless otherwise provided by regulations of the Office, all elections involving employee insurance under this subsection shall be made within a period which the Office shall specify that begins when each employee first becomes a qualified employee as described in paragraph (4) of this subsection.";

(3) in section 8706(a)—

(A) by inserting "life insurance" immediately before "policy purchase"; and

(B) by inserting after the first sentence the following: "An election of long-term care insurance under subsection 8704(e) shall be disregarded for purposes of determining an employee's basic insurance amount under this subsection. A long-term care insurance policy under this chapter may provide for conversion to an individual or group policy upon separation from service.";

(4) by amending section 8707(c) to read as follows:

"(c)(1) Except as otherwise provided by this subsection, the amount withheld from the pay, annuity, or compensation of each employee subject to insurance deductions under this section shall be at the rate, adjusted to the nearest half-cent, of 66⅔ percent of the level cost as determined by the Office for each $1,000 of the employee's basic insurance amount.

"(2) No employee withholding is required under this subsection, however, for any part of the basic insurance amount that is converted to long-term care insurance under subsection 8704(e) of this title.";

(5) by amending section 8708(a) to read as follows:

"(a) Except as otherwise provided by this section, for each period in which an employee is insured under a policy of insurance purchased by the Office of Personnel Management under section 8709 of this title and is subject to withholding under section 8707 of this title, a sum equal to one-half of the general employee withholding specified under section 8707(c)(1) of this title shall be contributed from the appropriation or fund used to pay the employee. Contributions under this section shall be apportioned between basic life insurance and long-term care insurance accounts in the Employees' Life Insurance Fund if an employee has elected the basic insurance conversion permitted under section 8704(e) of this title.";

(6) in section 8708 by adding at the end thereof the following new subsection:

"(d) The sum required by subsection (a) of this section in the case of each employee who retires on immediate annuity or commences receiving compensation under subchapter I of chapter 81 of this title after December 31, 1989, and who elects to retain insurance under section 8706(b)(3)(A) of this chapter, shall be paid by the Office from annual appropriations which are hereby authorized to be made for that purpose and which may be made available until expended.";

(7) by amending section 8709(a) to read as follows:

"(a) The Office of Personnel Management may, in its sole discretion and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) purchase from one or more duly licensed insurers a policy to provide benefits specified by this chapter, including group life insurance, accidental death and dismemberment insurance, and long-term care insurance. For long-term care insurance, purchase will be through a competitive process among insurers who agree to accept liability for the benefits offered. To be eligible for consideration as an insurer under this chapter, an entity shall meet the following requirements:

"(1) For purposes of group life and accidental death and dismemberment insurance, such insurer shall—

"(A) be licensed to transact such insurance in all the States; and

"(B) have in effect, on the most recent December 31 for which information is available to the Office, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

"(2) For purposes of group long-term care insurance, such insurer shall—

"(A) be licensed to transact group life or health insurance in each State in which the company proposes to offer long-term care benefits provided by this chapter; and

"(B) have, in the judgment of the Office, long-term care expertise, substantial experience with insuring very large groups, and financial soundness."; and

(8) in section 8710—

(A) in subsection (a)—

(i) by inserting "life and accidental death and dismemberment" immediately after "total amount of"; and

(ii) by adding at the end thereof the following new sentence: "This section shall not apply to long-term care insurance authorized under subsection 8704(e) of this chapter (except as provided in subsection (g) of this section).";

(B) by adding at the end thereof the following new subsection:

"(g) The Office shall arrange with a company issuing a policy for long-term care insurance for the reinsurance, under conditions approved by the Office, of portions of the total liability to be assumed with other insurance companies which elect to participate in the reinsurance,";

(9) in section 8712 in the fourth sentence by striking out "life"; and

(10) in section 8714(a) in the first sentence by inserting "8704(e) or" before "8707".

SEC. 502. EFFECTIVE DATE.

This title shall take effect on January 1 of the first year which begins at least 120 days after the date of enactment.

Mr. McCAIN. Mr. President, today I join my colleague from California, Senator WILSON, in offering the Federal Employees Long-term Care Insurance Act of 1989, legislation to make long-term care insurance available to Federal employees.

Mr. President, sooner or later, virtually every family in America will be confronted with a catastrophic illness. Whether it's a grandparent with Alzheimer's disease, a spouse hit by a stroke, a worker in the prime of life disabled by an accident, a relative stricken with cancer, or a child born with cerebral palsy—the expense for needed care could result in destroying, if not severely taxing, a family's financial security. Catastrophic illness seems to impact most dramatically on three groups: older Americans who face hospital bills which exceed their medicare coverage; those who need expensive, long-term care services; and working Americans who lack adequate health insurance. Such an illness can require treatment or care so costly that many families can only pay by impoverishing themselves.

Last year, this body adopted legislation addressing the first group—older Americans who face hospital bills which exceed their medicare coverage. The Medicare Catastrophic Illness

Coverage Act of 1988—which has now been signed into law. The legislation will provide for a cap in the out-of-pocket costs that a Medicare beneficiary can incur during a year for hospital and physician charges, and it provides coverage of out-of-pocket prescription drugs for the first time in Medicare's history. In addition, it allows elderly couples—faced with huge nursing home bills—to hang on to more of their resources before Medicaid kicks in, thus avoiding being reduced to poverty as a result of the magnitude of the expenses.

As I communicated with seniors in Arizona about the Medicare Catastrophic Illness Coverage Act I found that, by a 3-to-1 majority, seniors in my State felt that though some of the benefits in the bill would be nice, most of the benefits are not truly catastrophic related. What's more, most of the benefits are available through the private sector. In doing so, this legislation will significantly increase the premiums that many seniors are responsible for under the Medicare Program.

The resounding sentiment of Arizona's seniors seemed to be that they would have preferred that Congress address what they saw as the true catastrophic health need seniors face—protection from the financial ravages of long-term care expenses. They are willing to pay for the cost of a new program, but only if it provides coverage of those services which they feel they need. Needless to say, many seniors in my State are upset. They are deeply concerned that the Government has just established a new public program—which, for the most part, duplicates benefits that are currently available through the private sector. What they expected is that the Government would work to make sure that they were able to protect themselves from what is their true catastrophic concern—and not widely available through the private sector—protection from the enormous cost of long-term care services.

Due to a lack of affordable long-term care protection available in the private sector, most are unable to insure themselves and at the point that they need nursing-home services they have to pay for the services out of their pockets. That is, until they have exhausted their resources—at which time they become eligible for Medicaid benefits (or in Arizona's case, the counties—and soon to be AHCCCS). The result is that many end up impoverishing themselves and their spouses, prior to being eligible for public assistance. Included in the Medicare Catastrophic Illness Protection Act was a provision providing spouses with some measure of protection. This is, indeed, a true catastrophic benefit—and will be helpful to many Americans.

The numbers are alarming, and perhaps best tell the story.

Americans spend about $38 billion a year on nursing home care. Seventy percent of all single people admitted to a nursing home go broke within 3 months; close to 90 percent of single older Americans will be impoverished within a year; and 50 percent of all couples are impoverished within 6 months after one spouse is admitted.

Over 60 percent of American families have already had direct experience with the need for protection from long-term care expenses. Millions of Americans suffer from chronic conditions that limit their ability to function on their own. Some need help preparing meals. Others need assistance in feeding themselves, bathing, getting dressed, or just getting around. Most of the help they need is nonmedical—referred to as custodial care. It is little wonder that the need for protection from the cost of such care is such a concern—with the cost of a year's nursing home stay ranging from $20 to $35,000. Many of the needed services can also be provided at home. Delivery of such services at home is often the less costly, and is better for the family and individual in need of care. But, like services provided in the nursing home, there really is not much protection available from the cost of these services—unless the individual is eligible for Medicaid, or AHCCC as in Arizona's case.

It is my belief that Congress must work hard to tackle, this session, the need to provide older Americans with protection from the expenses of long-term care services. But, this task is not going to be easy.

Given the need to exercise fiscal restraint—in light of the Federal budget deficits, and the increased financial burden that will be placed on Medicare beneficiaries as a result of the Medicare Catastrophic Illness Coverage Age—I believe the most responsible approach would be the development of a public/private partnership. Addressing the long-term care coverage issue requires the involvement of all segments of our society. We must develop a partnership—if you will—among individuals, families, private organizations and all levels of government.

Based on my discussions with Arizonans, I believe a responsible public/private partnership approach to dealing with the need for enhanced long-term care coverage is what's needed. Certainly, any approach with regard to providing long-term care coverage must include both services provided in nursing homes and those provided at home.

While we probably will not get there overnight, I believe that forging a private/public partnership approach to meeting the long-term care coverage needs of older Americans will assure greatest success.

This legislation, which I am offering today with Senator WILSON, is one step in that direction. It would permit Federal employees, who have reached the age of 50 and particated in the life insurance program [FEGLI] for 10 years, to convert their life insurance to long-term care insurance. Eligibility for participation would not be affected at all by the health status of the individual. The process of determining which company would actually offer the policy would be handled through a competitive bidding process. And, because there is a cost difference between life insurance and long-term care insurance, employees would have to pay nominal premiums in addition to what they already pay for their life insurance benefit. This change will not result in new cost to the Federal Government, it will merely expand the insurance options available to Federal employees.

I believe this legislation, which was first offered at the end of last session, represents a responsible approach to providing access to long-term care protection for one group—Federal employees. For that, Senator WILSON and those at the Office of Personnel Management are to be commended.

But, Mr. President, we must not stop here. Building a comprehensive, responsible, approach to long-term care is like piecing together a puzzle. With a puzzle, each piece is an integral component—and without all the pieces, a puzzle is not complete. This legislation is one of the pieces to that puzzle.

Last year, I offered legislation designed to make it possible for workers to transfer their pension benefits from employer to employer as they change jobs. One of the important components of this legislation, S. 1349, the Pension Portability Act—and relevant to the attempt to develop a comprehensive long-term care policy—is a provision making it possible for individuals in the private sector to tap their pension benefits to help meet long-term care expenses. Mr. President, I believe this, too, is a piece to the puzzle, and I will be offering it again this session.

Providing our Nation's citizens with protection from the financial ravages of a long-term care needs in a responsible way will only be accomplished as a result of a lot of individuals working together to creatively craft the various pieces to the puzzle. While there are obstacles, such as our Nation's budget deficits, I believe we can be successful.

This legislation, which we are offering today, is evidence of the fact that we can be successful. If enacted, this legislation will assist Federal employees in obtaining long-term care coverage. And, due to the large pool of individuals that will be participating, the

cost to the individual will be lower under this approach than if they were to purchase the plan on the open market. The cost to the Federal Government will be negligible, because the Federal Government's role is not the funding of a new government program. It's role will merely be that of coordinating, and overseeing, a new program. In my opinion, this proposal is a responsible piece to the puzzle, I am pleased to join my distinguished colleague from California in offering this legislation.

I hope that my colleagues will take a hard look at this proposal. And, I look forward to timely consideration of this measure during the 101st Congress.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation to make long-term care insurance available to civilian Federal employees. This bill, introduced by my colleague, Senator WILSON, is similar to S. 1738, which enjoyed strong bipartisan support in the 100th Congress. I hope that we can pass this legislation in the 101st Congress, and in so doing, take an important first step toward addressing the long-term health needs of all Americans.

According to the Department of Health and Human Services, there are currently more than 6 million Americans over age 65 requiring long-term care. We can expect the demand for long-term care to increase dramatically as our population ages. Between 1989 and 2025, the number of Americans age 85 and over—and at greatest risk of spending time in a nursing home—will escalate from 6 to 26 million.

For those older Americans who do spend time in a nursing home, the costs are often astronomical. The cost of spending 1 year in a nursing home currently ranges between $20,000 and $50,000 per year. As a consequence, the income and assets of more than half of all elderly couples are depleted within 1 year of a nursing home admission.

At present, 41.5 percent of all long-term care expenses are financed through Medicaid, while only 2 percent are covered under Medicare. More than 51 percent of these expenses are paid for out of pocket by older persons and their families. While a number of companies currently offer private long-term health care policies, the premiums—which can exceed $4,000 per year—are beyond the reach of most older Americans.

Clearly, the present situation places too many older Americans in the untenable position of choosing between unmanageable premiums on one hand, and vulnerability to the devastating costs of long-term care on the other.

The bill we are introducing today begins to address this dilemma in a significant way. Based on a proposal developed by the Office of Personnel Management, this bill will allow Federal employees to convert equity from their group life insurance plan to long-term care insurance—at no cost to the Federal Government. Under this plan, coverage for either nursing home care or home health visits will be available immediately to more than 655,000 Federal employees and their spouses.

Equally important, this legislation will create a strong new incentive for private insurance carriers to develop competitive long-term care policies. It is expected that, as more carriers enter the market to compare for the OPM contract, the quality of these policies will improve as prices come down, inducing private companies to offer new long-term benefits to their employees. Thus, through a domino-effect, the benefit of this legislation can extend well beyond the sphere of those employed by the Federal Government.

While this bill does not address every facet of the long-term care crisis, I do believe that it represents a realistic approach that will provide immediate benefits to thousands of older Americans, while keeping the door open for future legislative actions. I am pleased to support Senator WILSON in this endeavor and I urge my colleagues in the Senate to join me in cosponsoring this legislation.

Mr. PACKWOOD. Mr. President, I am pleased to be an original cosponsor of the Federal Employees Long-Term Care Insurance Act of 1989 being introduced today. I believe with this proposal we are taking an important step in the direction of developing a national policy on long-term care.

This legislation was developed out of a proposal initially put together by the Federal Office of Personnel Management. Under this legislation Federal employees who have reached the age of 50 and participated in the Federal employees' life insurance program for 10 years, would be allowed to convert a portion of their life insurance to long-term care insurance. This long-term care insurance would offer optional nursing home and home health coverage to Federal employees who want it. My advocacy of in-home and community-based care options dates back to my first years in the Senate. These would be covered under this proposal for long-term care insurance. My own State of Oregon has been a pioneer in providing senior citizens alternatives to institution-based care and is one of the few States that has been allowed to use Medicaid money for low-income senior citizens to provide services outside of nursing homes. This program has been a great success.

Many people in this country today are concerned about the cost of long-term care for the elderly. However, despite considerable discussion about ways to solve the problem, this country seems unable to agree on a financing strategy that is both fair and affordable. While the debate rages, the cost of long-term care continues to rise. Many senior citizens do not have the financial resources to pay for long-term care and most individuals do not buy long-term care insurance until they are elderly and in high risk of going into a nursing home.

I believe that Government and the private sector must share the responsibility of paying for long-term care. Public spending on long-term care would be reduced if the private market is promoted. The bill being introduced today can serve as an incentive to private sector employers to provide their employees such coverage and will, additionally, provide useful data to help the private sector market determine the long-term care needs of the public.

Mr. President, in closing, I would like to emphasize the importance of continuing the dialog on long-term care. We cannot afford to stand idly by while millions of Americans become destitute under our present system of health care.

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. DURENBERGER, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. SIMON, Mr. HARKIN, Mr. METZENBAUM, Mr. KERRY, and Mr. LEAHY):

S. 39. A bill entitled the "Arctic Wildlife Refuge Administration Act"; to the Committee on Environment and Public Works.

ARCTIC WILDLIFE REFUGE ADMINISTRATION ACT

● Mr. ROTH. Mr. President, as this distinguished body addresses the issues and challenges of good government, we often find that the process is a challenge in and of itself. It's a challenge because often the lines of distinction between what is good, better, and best for the American people are blurred by deep convictions and strong emotions from all parties concerned.

Today I rise with Senators BRADLEY, CHAFEE, DURENBERGER, MOYNIHAN, LIEBERMAN, SIMON, HARKIN, METZENBAUM, KERRY, and LEAHY, to introduce legislation that abounds with such diverse convictions and emotions. It's a proposal to preserve and protect the Coastal Plain of the Arctic National Wildlife Refuge for our children and the future generations—a proposal that is as sound as it is important and valid as it is persuasive. It's a proposal that will force us to look back over our history and ask what we have done with our continent and realize that we cannot afford to ignore what happens.

The arguments for this bill will test the Congress and each Member in it. It will test our willingness to pay a small price to leave an invaluable, unique, and irreplaceable part of our natural heritage for the enjoyment of ourselves and for our children.

29-059 O-90-20 (Pt. 1)

Mr. President, there are few things of value that we can leave our posterity with the confidence that they will endure beyond our lifetime. Undisturbed land is one of these.

However, as time passes, we also receive greater pressure from those who feel we need to develop the precious resources on that land. Frightened by the energy crunch, or motivated by economic gain, either way their collective voices demand development.

Those advancing a position for the development of the area firmly believe that it is in the best interest of the American people to explore and to drill and to develop. Their argument is punctuated with the exclamation point of the past energy crises and those to come. They maintain that short-term energy resources are more important than long-term natural resources, and that development will not harm the Coastal Plain.

Frankly, Mr. President, I don't buy their argument. In a recently released Fish and Wildlife Service report, scientists concluded that fish and wildlife habitat losses resulting from construction and operation of the pipeline and Prudhoe Bay oilfield were greatly underestimated, and that the long-term and cumulative impacts have yet to be assessed.

Instead, I believed the vision of our Nation has to exceed our grasp. We have to look to the future well-being of our fragile environs. We have to understand that our responsibility to protect the environment for the health and well-being of generations to come—greatly outweighs the need for convenient short-term solutions to energy needs. We have to understand that the short-term gains are overshadowed by long-term consequences.

To illustrate how short-term these gains are, the mean recoverable estimates—if oil is found—would provide an average of 2 percent of the Nation's annual oil consumption over the life of the field. Would we want to dam the spectacular geological phenomenon of the Grand Canyon for electricity or drill Yellowstone for geothermal energy? The answer is "No." We want to save these natural resources and protect them for enjoyment by future generations. There is no difference with these decisions and the ones we have to make concerning the Coastal Plain, an area of such beauty and wildlife that it should remain pristine wilderness.

Mr. President, the abundance and diversity of wildlife on the Coastal Plain is among the richest in the world. It is the productive concentrated biology that makes it so important and unique.

As one of the world's most extraordinary natural frontiers we must take pride that the Coastal Plain is ours. If we take this duty seriously, we will in no way be able to justify the stripping and mining and drilling that have been proposed for a temporary supply of oil.

Mr. President, we can see the difficult decision faced by Congress. But we're expected to find the answer, and I believe we can. I believe that the 1-to-5 odds of finding oil at $40 per barrel does not outweigh the price future generations will pay because of irreparable damage to the wilderness area. I believe it is clear that we must leave the beauty and the natural resources of the frontier to the wildlife and to future generations. What price are we willing to pay for extracting the oil up there? If the refuge is lost now it is lost forever and the Nation as a whole will be shortchanged.

To meet our Nation's energy requirements, we must continue to proceed on two fronts. We must continue to reduce the demand for energy through conservation. As a matter of fact, 2 years ago the Department of Energy reported that conservation had done more than any other source to improve the U.S. energy situation. If the Congress mandates an increase in the corporate average fuel economy standards to 30 miles per gallon starting in the year 1994, we would save 11 billion barrels of oil by the year 2030. Thus, Mr. President, by simply raising the standard we could save three times more oil over the life of an oilfield in the Coastal Plain than the Interior Department predicts will be found there.

Second, we must increase domestic supplies of energy through alternate sources that will result in long-term solutions. But to opening a conservation area to oil development sends the wrong message. We are buying rain forests to stem the tide of deforestation, we are spending millions of dollars to restore swamps and protect wetlands and wildlife, and we now have a chance to save the only entire Arctic ecosystem that is left and that has not been exploited in one way or another. It is an opportunity of a lifetime that we must not let slip away.

Mr. President, this pristine untouched ecosystem spreads out over both the United States and Canada. It is one of the last unspoiled remnants of Arctic beauty and wealth that remains, and it provides us with a magnificent opportunity to work with the Canadians in legislatively designating this area as an international wilderness area. The Canadians have done much to protect their northern resources that are shared with the United States. This action will significantly strengthen the recognition of the international importance of these shared lands.

My message is clear. Congress must act responsibly as we consider the future of the Coastal Plain—we must reaffirm our decision to save this area and declare it a wilderness and I urge my colleagues to join us in sponsoring this legislation. I ask unanimous consent that statements by my colleagues be placed in the RECORD at the appropriate time and as if read, and I ask unanimous consent that a copy of this legislation be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 39

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the National Wildlife Refuge Administration Act, a portion of the Arctic National Wildlife Refuge in Alaska comprising approximately 1,556,793 acres, as generally depicted on a map entitled, "Arctic Coastal Plain Wilderness—Proposed", dated June, 1986, and available for inspection in the offices of the Secretary of the Interior, is hereby designated as a component of the National Wilderness Preservation System.●

Mr. DURENBERGER. Mr. President, I join Senators ROTH, Bradley, CHAFEE, MOYNIHAN, LIEBERMAN, KERRY, LEAHY, METZENBAUM, HARKIN, and SIMON as a cosponsor of S. 39, a bill to designate the coastal plain of the Arctic National Wildlife Refuge [ANWR] a wilderness area. Whether to open the coastal plain for oil development or preserve its pristine characteristics is the most controversial public land use question facing this Congress. And by cosponsoring this bill I state my position and send a message that the last pristine arctic ecosystem of North America should not be destroyed unless the United States does everything possible to promote alternative energies and energy conservation.

Let me briefly outline the history of this controversy. Alaska became a State on July 7, 1959. Two and a half years later, on December 8, 1960, the Arctic National Wildlife Range was created by Public Law Order 2214. The range consisted of 8.9 million acres of land in northeastern Alaska. Nearly 20 years later, in December 1980, the Alaska National Interest Lands Conservation Act [ANILCA] added 17.9 million acres of land to the 8.9 million acres of the range creating the 26.8 million acre Arctic National Wildlife Refuge [ANWR] (Public Law 96-487). In total, ANILCA preserved 104.3 million acres of Alaskan lands. I voted for its passage.

Like now, the lure of oil made management of the 1.5 million-acre coastal plain controversial. A compromise was worked out delaying a final decision. It called for a comprehensive study to be done by the Department of the Interior to determine the area's oil and gas potential and possible impact of development on fish and wildlife. Although drilling was not allowed, limited exploration was permitted. The Interior De-

partment presented the study, a Legislative Environmental Impact Statement [LEIS], to Congress in April, 1987.

The study recommended that the entire coastal plain be open for development concluding that there is a 19-percent probability that economically recoverable oil would be found. It found that there was a 95-percent chance of finding 600,000 million barrels of oil and a 5-percent chance of finding 9.2 billion barrels. Such a find is comparable to the Prudhoe Bay's 9.6 billion barrels—Prudhoe Bay produces nearly one-fifth of the U.S. total oil production. In sum, the study concluded that under the most likely economic case of $33 [1984 dollars] per barrel of oil in the year 2000 and 6 percent inflation, a 19-percent chance exists that there is economically recoverable oil somewhere in ANWR's coastal plain.

Although the study acknowledged that the area's pristine characteristics would be destroyed and fish and wildlife would be impacted upon, it concluded that the adverse impacts could be mitigated.

Mr. President, as one would expect proponents of oil development applauds the report's conclusion, while opponents argue they are flawed because the Interior Department failed to consider vital aspects of the issue.

Proponents argue that oil development of the coastal plain is essential to national security. They argue, and in many respects I agree, that the Nation is too dependent on imported oil. Currently, the country imports 43 percent of its annual oil use. By comparison, when the 1973 and 1978 OPEC embargoes occurred the United States imported 35 percent of its oil use. Compounding the current problem is the recent trend of increased domestic oil consumption, while domestic production declines. In addition, the long-term outlook for domestic production is not favorable. Prudhoe Bay, the source of one-fifth of the Nation's domestic oil production, is about to begin a long-term decline. Thus, proponents argue that exploration and subsequent development of the coastal plain is vital to fuel the country's thriving economy and protect it from foreign embargoes.

Those that support opening the coastal plain believe that development will not adversely affect the environment and even if it does, whatever adverse affects occur can be mitigated. They cite Prudhoe Bay as a model of environmental protection, while simultaneously arguing that they had learned from the mistakes made at Prudhoe Bay and therefore will not make them again. In addition, it is argued that oil development is inevitable and so it is sound environmental policy to begin development now when it can be done wisely, rather than waiting for another oil crisis to propel development that ignores environmental safeguards. A key argument is that developing the oil at the coastal plain makes sound economic sense since the expensive transportation infrastructure, the TransAlaska pipeline, is already in place. Finally, many proponents argue that the revenues from oil production from the coastal plain can be used for fish and wildlife enhancement efforts, therefore off-setting any damage done to the plain.

Naturally, Mr. President, the opponents, of which I am one, disagree. We see the coastal plain as land essentially the way God created it, and seek to keep it that way. The arctic tundra is so fragile that any step toward oil development will do irreversible, long lasting damage wrecking the area's pristine qualities. Not only would opening the area to oil exploration ruin its cherished wilderness qualities, but it would ruin the most biologically productive part of the Arctic refuge for wildlife. Such action has been compared to putting a dam below the Grand Canyon, effectively turning it into a reservoir.

While I have a deep desire to preserve the area's wilderness qualities, I have very strong policy objections to opening the coastal plain to oil development. There seems to be a presumption that where there is oil we should unthinkingly develop with the burden placed on those of us who seek a sound long-term energy policy. Geographically, this burden is placed not only on the coastal plain of Alaska, but also on the off-shore areas of California, Florida, and Massachusetts. Yet, as the Nation drifts without an energy policy and pristine lands shrink, the burden should be placed on the proponents of development. In my mind, when balancing the damage to coastal plain the proponents of development do not meet their burden.

I cannot support Interior's recommendation because it runs counter to the Nation's long-term energy needs. Already, we can see the demise of oil as a viable long-term energy source. Thus, the wise public policy is to develop alternative energy sources, as well as strong energy conservation programs. Ironically, just the opposite has occurred. Funding to R&D programs for alternative energy sources has been slashed. In constant dollars [1982], the total budget fell from $1.21 billion in fiscal year 1979 to $301 million in fiscal year 1988, a 75-percent drop. If this trend continues the Congressional Research Service predicts the programs will go extinct in 2 to 5 years. Clear evidence of the affect of this decline can be found in the corresponding decline in the U.S. position in the international market for alternative energy systems. Three years ago the United States dominated the international marketing of wind, photovoltaics, and solar thermal systems. Now, it accounts for less than a third. In fact, the United States is not a net importer of wind and solar systems.

According to the Government Accounting Office the cuts in Federal funding has eroded American leadership in photovoltaics technology. A constituent whose company makes photovoltaic systems told me the Japanese have taken up the slack and are now his primary competitor. In addition, the loss of the 40 percent Federal tax credit for residential solar installations caused the solar space and water heating market to decline sharply, domestic sales fell from $900 million in 1985 to $300 million in 1986.

While I know these alternative energy sources cannot replace oil now—nonrenewable energy supplies 8 percent of the national energy demand—but someday soon they have to. Yet the failure to support these alternative energy sources is not wise energy policy. Thus, I want to send a signal with my cosponsorship that we must look to alternative energies to meet the country's future energy needs. Currently, we are not doing this and until we do I will oppose opening up the coastal plain to oil development.

On a similar note, not only must we look for future energy sources to replace oil, we must do everything we can to conserve the oil that we have today. And the place to start is with automobiles. Transportation consumes nearly two-thirds of the Nation's oil, with highway vehicles accounting for 80 percent of that amount. In 1985, automobiles used 58 percent of the total fuel used by highway vehicles. Since the oil embargoes of the seventies, the United States has made great strides in energy efficiency. According to Worldwatch Institute, the U.S. energy economy has improved 24 percent since 1973, saving the United States 4 billion barrels in 1987 alone. This is much more than experts hope to find in the coastal plain.

Yet, Mr. President, much more can be done, particularly regarding the energy efficiency standards established by the Automobile Fuel Efficiency Act which created the corporate average fleet economy [CAFE] standards. The CAFE standard is the bulwark of the Nation's energy conservation measures. In 1974 the U.S. average fleet miles per gallon was 12.9 mile per gallons [mpg]. This average has increased significantly to 26.7 in 1987. But more can be done since the fleet average for imported automobiles is 31.0 mpg. And when U.S. fleet averages are compared to other countries' fleet averages, the United States does very poorly. Despite the success of the CAFE standard higher standards have not been set. When the target was supposed to be 27.5 mpg, the National

Highway Transportation Safety Administration set the standards at 26.0 for 1987 and 1988, despite the fact that Chryslar Motor Corp. could meet the higher standard.

From a conservation perspective setting high CAFE standards and enforcing them is very important. Each gallon of improvement in the U.S. automobile fleet would save 130 million barrels of oil each year. Thus, if the fleet average were 27.5 mpg the Nation would save 4.6 billion barrels of oil over the life of those cars. Similarly, a fleet average of 30 mpg would save 11 billion barrels. Both averages can be reached relatively easily and they would save many more barrels of oil than the coastal plain could ever hope to produce over its 30-year projected lifetime.

In addition to this policy view, I have other concerns. First, I have very serious reservations concerning the conclusion that if exploration and subsequent oil development was permitted the adverse environmental consequences would not be that great. It is universally acknowledged that opening the coastal plain would irrevocably destroy the area's wilderness qualities. But I think the adverse and cumulative impact would be much more severe. In a suppressed December 1987, draft U.S. Fish and Wildlife Service report comparing the actual and predicted impacts of the Trans-Alaska pipeline and Prudhoe Bay concluded that damages to the region's fish and wildlife were much greater than expected. It concluded that bird, bear, and wolf populations declined significantly. In addition, there have been countless oil spills, hazardous dumps created, and toxic air releases at Prudhoe Bay. It is estimated that strewn along the TransAlaskan pipeline are 500 abandoned vehicles, 3,000 corroding batteries, 10,000 old tires, 20,000 tons of rusting construction materials.

Oil proponents argue that this will not be repeated on the coastal plain because strict environmental regulations can be written to prevent it. I doubt this for two reasons. First, some pollution is bound to happen causing permanent damage—it is the nature of the oil business—and no safeguards can prevent it. And second, the agencies and offices at both the State and Federal levels, which are responsible for enforcing environmental regulations are underfunded and understaffed making adequate enforcement impossible.

A second concern I have deals with the numerical assumptions made by Interior that deal with the probability of finding oil. The report concludes that there is a 1-in-5 chance of finding economically recoverable oil. To be economical, they assume that a barrel of oil will be at least $33 per barrel in the year 2000—that is 12 years away. Current crude oil prices are hovering between $13 and $18 and according to the Cambridge Energy Research Associates there prices will persist into the next decade making Interior's $33 per barrel assumption unlikely. In addition, if Interior's assumptions do come true, it means that current prices for crude oil would have to more than double or triple. Such an increase, even if phased in, would result in significant stress to the U.S. economy, comparable to the stress created during the OPEC embargoes.

Using more realistic assumptions based on current data, I have been shown that the likelihood of discovering economically viable oil on the coastal plain is slight more than a 1-in-10 chance—12 percent. Thus, when I balance a 1-in-10 chance of success against the near certain destruction of North America's last untouched arctic ecosystem, I am compelled to oppose opining the coastal plain, at least until all other energy sources have been pursued to the utmost.

A third concern is the warming of the global climate, the greenhouse affect. It is commonly accepted that the increased carbon dioxide has led to a trapping of the sun's heat leading to a warming of the world's climate. The impact of such warming can be cataclysmic. Carbon dioxide is produced when fossil fuels like oil and coal are burned. U.S. fossil energy currently produces about one-fourth of the world's carbon dioxide emissions. According to energy use projections in Energy Information Agency's 1987 Annual Energy Outlook, the Nation's carbon dioxide emissions will grow from 1.4-million tons per year in 1986 to about 1.7-million tons per year in the year 2000. Oil use accounted for 48 percent of the total 1986 carbon dioxide emissions. When one looks at the greenhouse affect and its potential to destroy the world as we know it and look at its causes, one must step back and take a very close look at any expansion of current fossil fuels production before supporting the expansion. I have done so in this case and conclude that I cannot support opening the coastal plain. It is conceivable that if the coastal plain was opened and a large oil pool found that its use could warm the world's temperature enough to melt the polar ice caps.

To conclude, I am a cosponsor of this bill, a bill that will designate the coastal plain of the Arctic National Wildlife Refuge a wilderness area, for two reasons. First, I believe that the last pristine arctic ecosystem in North America should be preserved for future generations to enjoy and learn from. All other areas already have suffered the heavy and often destructive hand of man. My other reason is policy-oriented. It is essential to the Nation's long-term economic well-being that we begin to actively develop alternative energy sources as well as a strong program to conserve what oil we have. This is not occurring and until it does I will oppose the opening of the coastal plain.

By Mr. BOREN (for himself and Mr. BENTSEN):

S. 40. A bill to modify the wheat provision of the Agricultural Act of 1949 by eliminating the Secretary of Agriculture's authority to restrict haying and grazing on idled wheat acreage; to the Committee on Agriculture, Nutrition, and Forestry.

ELIMINATION OF RESTRICTIONS ON HAYING AND GRAZING ON IDLED WHEAT ACREAGE

● Mr. BOREN. Mr. President, on behalf of Senator BENTSEN and myself, I rise today to introduce legislation which would correct a technical error made in the Budget Reconciliation Act of 1987.

Specifically, this bill will remove a clause inadvertantly added to the haying and grazing provisions of the Wheat Program. The error strengthens the Secretary of Agriculture's discretion to allow haying and grazing on idled acres, the exact opposite of the intent of the agreement reached in the conference committee on reconciliation.

During consideration of the 1985 farm bill, a compromise was worked out on grazing. Under the 1985 farm bill, each year farmers are permitted to graze acreage idled as part of the Wheat Program for that year. However, haying was not completely resolved at that time and each year the Secretary was required to decide whether to allow haying of idled acreage. Because of the Secretary's discretion with respect to haying, farmers could not properly plan their crops since the Secretary's decision was usually made late in the crop year. This has resulted in an unnecessary hardship for our agricultural producers. In 1987 a compromise was reached that would remove the need for a secretarial decision each year.

This compromise was incorporated into the Senate's version of the omnibus reconciliation bill in the fall of 1987. Under the Senate's provision, haying and grazing would be permitted during a specified period, provided the producer was haying or grazing the crop for which the producer had a program base. This compromise eliminated secretarial discretion with regard to haying and eliminated the uncertainty of program provisions due to such discretion.

The conference committee also agreed to inclusion of the Senate's version in the conference report on reconciliation. Unfortunately, however, the specific statutory language included in the conference report did not remotely reflect the compromise that was reached. In fact, the language took us

a step backwards from where we were prior to the 1987 Reconciliation Act. As a result of the erroneous provisions in the 1987 Reconciliation Act, the Secretary now has the authority to prohibit grazing as well as haying each year.

Mr. President, Senator BENTSEN and I introduced this same legislation last year and it was reported out of the Senate Agriculture Committee. Unfortunately, differences with other commodity interests could not be worked out before adjournment. Consequently, wheat producers in my home State of Oklahoma were once again forced to make their planting decisions without knowing whether they would be allowed to graze or hay idled acreage. The secretarial decision was not made until weeks after Oklahoma producers planted their wheat crop.

The legislation we are introducing today will remove the Secretary's discretion to disallow haying and grazing of acreage idled under the Wheat Program. I urge my colleagues to continue working with us so that prompt consideration of this bill will be ensured.●

Mr. BRADLEY. Mr. President, I am pleased to sponsor once again this legislation to preserve the coastal plain of the Arctic National Wildlife Refuge as a wilderness. Last Congress, the Energy Committee discussed at length the issue of oil development in the Arctic National Wildlife Refuge. We had many witnesses testify before committee hearings. And, even though the committee endorsed legislation to allow oil development throughout the coastal region, I could not and cannot conclude that ANWR's future is best served by replicating the industrialization of Prudhoe Bay. ANWR should be preserved intact, as wilderness.

The Arctic Refuge is a unique area. The Interior Department report on the region describes the Arctic Refuge as "the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the various arctic ecosystems in North America." Its remote situation and forbidding climate have made it all but inaccessible to human visitors. This is appropriate, as ANWR exists foremost for its own inhabitants.

This refuge is of fantastic ecological importance; much more is at stake than the well-publicized porcupine caribou herd. The coastal plain is also vital to polar bears, grizzly bears, wolverines, and muskoxen, the survivors of the Ice Age. Millions of swans, snow geese, northern pintail, and other waterfowl spend their summers on this stretch of the Arctic coast.

Last Congress, the Energy Committee was told repeatedly that oil development and wildlife are compatible. The thriving caribou population at Prudhoe is an often-noted example of this compatibility. However, wilderness is a quality that transcends the particular habitat and statistics of any species of flora or fauna. Wilderness is the essence of ANWR and wilderness is incompatible with oilfield development. Here's what the Department of the Interior feels full development would bring to this roughly 100-mile-by-25-mile area: 100 miles of main pipeline and numerous collector lines; 380 miles of roads; seven large production facilities and four smaller ones; four airfields; two ports with salt water treatment facilities; 40 to 50 million cubic yards of gravel to be dug up and moved; reserve pits for toxic drilling muds, disposal wells, et cetera.

A single exploratory well would demand 15 million gallons of water—in an area properly described as desert. The question of land reclamation has yet to be addressed at the developed sites at Prudhoe Bay. Whether or not the land even can be reclaimed will probably be open to debate for the rest of our lifetime.

Much has been said about the vastness of the Arctic Refuge. Is this relevant? I think not: development will fundamentally and irreversibly alter the character of this unique region.

To what end do we pursue a goal of oil development in a now pristine environment? Advocates of development cite the need for development of the coastal plain to guarantee our energy security. But real energy security cannot be achieved by promoting good U.S. oil and rejecting bad foreign oil. Oil markets are worldwide. When we abandoned price controls on oil, we committed this Nation to function in that world market. Developing ANWR will only give us a 1-in-5 chance of producing enough oil to satisfy 200 days of our current U.S. oil consumption. That is neither the only way nor even best way to promote our national energy security.

Mr. President, ANWR is remote. It is unknown to most of us. Yet it is home to thousands of varieties of wildlife, as well as a native American population which depends on this wildlife for its subsistence. This area deserves to be treated with respect and protected.

Last Congress, the Energy Committee endorsed legislation to develop ANR. This legislation was replete with conditions and stipulations on future development. The committee tried to assure that only the best development efforts are made. But even with best efforts, we can't guarantee that there won't be a major reduction in wildlife in the area. We can't guarantee that there won't be toxic spills or surface degradation. We do know that with development, this wilderness area will no longer be the pristine host to so many of God's plants and creatures, big and small.

I urge my colleagues to consider carefully this legislation and join in our efforts. We all have a responsibility to protect and enhance our environment for ourselves and future generations. To destroy permanently a wild frontier for a temporary and improbable supply of oil is simply to shortchange our children and their children.

Mr. LIEBERMAN. Mr. President, I am pleased today to join as a cosponsor of S. 39, the Arctic National Wildlife Refuge bill.

Last December, National Geographic magazine described the Arctic National Wildlife Refuge, and that description is worth repeating here today:

> Somewhere north of Dawson and Fairbanks, east of Prudhoe Bay and west of the Mackenzie River, you will find neither an Alaska nor a Yukon Territory, no Canada or United States. Instead you enter a land of mountains and broad, lake-filled plains, where caribou have worn trails in rock and geese have traced paths in the sky over millennia of rhythmic wondering; where ice holds the sea and frost the land until a brief, glorious burst of flowering summer; and where men have hunted creatures hoofed and finned and feathered for longer than science can tell. It is a roadless land, a part of the North little touched by the 20th century, or the 19th, or the first. But it is a place where, as sure as a daybreak, the South is about to arrive.

The Arctic National Wildlife Refuge bill will assure that the south does not arrive on these coastal plains in the form of lasting devastation that could well be the result of new oil drilling on the Alaskan coastline.

This wildlife refuge is unlike any on this planet, and certainly has no equal within our borders—a refuge which is home to the porcupine caribou, the polar bear, the snow goose, and the muskox, to name a few. It is the future of this area and the future of its inhabitants that are at risk here. While I recognize our critical responsibility to provide sufficient energy resources at affordable prices, we have at least an equal responsibility to protect for the future one of our few remaining connections to the undisturbed past.

I followed the early debate that led to the Alaska National Interest Lands Act of 1980. Section 1002 of that legislation called for a 5-year study of the region's energy potential—a study intended to provide us with the necessary information to make an informed and rational decision on its fate. Now in the 101st Congress, with the results of that study from the Secretary of the Interior in hand, along with reports from other agencies representing both sides of the argument, I find it impossible to support new drilling in Alaska's wilderness.

The available data demonstrates great uncertainty. Predictions shows that the drilling of ANWR is, at best, a gamble, and not a good one. There is a 12- to 19-percent chance, depending upon the current market prices, of finding commercially producible oil in the refuge, and only a 1-percent

chance of finding a reserve matching that of Prudhoe Bay. At best, there is, according to most forecasters, a 6-month supply of oil at ANWR, but it is a resource that would come at a high ecological price: the permanent scaring of this great wilderness refuge and uncalculated damage to its wildlife.

The Prudhoe Bay oil fields and the Trans Alaska Pipeline have already altered the habitat and the ecosystem in much of the area opened for development. The U.S. Fish and Wildlife Service, in its December 1987 draft report, stated, "fish and wildlife habitat losses resulting from construction and operation of the pipeline and Prudhoe Bay oil fields were greatly underestimated." The damage includes inevitable oil spills, hazardous waste sites, unclean air, and polluted water.

At this time, even with the "1002" report, we are seriously uninformed about the potential environmental impact of ANWR drilling. In just one study, the Alaska Department of Environmental Conservation examined one lease tract on the North Slope and discovered that more than 14,000 55-gallon drums were disposed of improperly during a 10-month period alone. Another serious concern is the bioaccumulation of toxins found in reserve pits. The permeable nature of these pits allows contaminants to flow freely during the spring. Metals found in Prudhoe Bay reserve pits include: lead, copper, zinc, nickel, barium, chromium, and aluminum.

The coastal plain of ANWR provides a home for over 108 avian species, 12 species of fish, and several mammal species, including the 180,000 caribou that inhabit the region. All of these will be seriously endangered by the by-products of oil drilling.

Our Government will be struggling far into the future to pay for the cleanup of toxic waste sites, fouled air, and polluted water all over our Nation, yet we are still considering legislation that will produce more of the same in an area that is still virtually untouched. And for what? For the hopes of getting lucky and hitting a 1-in-100 chance of finding substantial reserves.

As lawmakers, we have a duty to make sound decisions based on real facts. The drilling of the Alaska coastline represents the opposite approach—a gamble against the odds for a few short months of oil while permanently scaring this area of global prominence.

Mr. President, people from Connecticut want to be able to visit a piece of this Earth which is as unspoiled today as the day God created it. Global warming and holes in the ozone show us that what happens in one portion of the Earth, necessarily effects people on all continents. This preservation is part of a mindest that also seeks to conserve lakes, parks, forests, beaches, and streams in Connecticut and all over America from short-term, shortsighted development.

Senator ROTH has today introduced S. 39, a bill which will make some 1,556,793 acres in the Arctic National Wildlife Refuge a permanent component of the National Wilderness Preservation System, thus protecting the area for generations to come, from development and destruction.

Mr. President, I am proud to cosponsor S. 39.

By Mr. DOLE (for Mr. NICKLES):

S. 41. A bill to promote the energy security of the United States by amending the Internal Revenue Code of 1986 to encourage the continued exploration for and production of domestic oil and natural gas resources; to the Committee on Finance.

DOMESTIC PETROLEUM SECURITY ACT OF 1989

● Mr. NICKLES. Mr. President, I am introducing today the Energy Security Tax Act of 1989. This bill is similar to a measure that I introduced early in the 100th Congress in response to the Department of Energy's March 1987 Energy Security Report. That report recommended a number of changes to the Internal Revenue Code that would focus incentives on domestic oil and gas exploration and production. The Department of Energy had concluded that the OPEC decision to flood the world markets with oil in early 1986 had increased oil imports and raised "serious concerns" about our national security.

It has now been 3 years since OPEC engineered that precipitous decline in world oil prices. In the past 3 years, domestic oil prices have average only about $13.60, compared to the $27.29 average for the 5 previous years. As a consequence, the lower 48 States are producing 1.1 million barrels per day less oil than during 1985—a 15-percent drop in production in just 3 years.

This drop in production is due not only to low prices, but also to the volatility of those prices. For example, the contract prices paid for the bulk of our west Texas intermediate crude oil has dropped from last Tuesday's 2-year high of $17.75 to $16.75 by Monday. By contrast, the contract price during late October and early November last fall was only $12.75. Back in July and August 1986, the average price of U.S. crude was below $10. This instability in oil prices, and the real possibility that they may again drop to very low levels, has scared away investors that independent producers need to continue to explore and develop new oil reserves.

Just yesterday, the Daily Oklahoman ran an article describing the continuing catastrophic drop in drilling rig activity resulting from low and uncertain oil prices. The article discusses data presented by the International Association of Drilling Contractors which indicate that drilling dropped to 789 rigs last Friday—compared to an average of over 1,054 last year at this time. The article raises the real specter that drilling activity in the United States could drop to a post-World War II low this year. Mr. President, I ask unanimous consent that this article be printed at the conclusion of my statement.

What many people do not realize is that even higher, stable prices cannot turn on the industry like a faucet—most of the 3,974 rigs that were in operation in 1981 are no longer in existence—they have been scrapped or need multimillion-dollar overhauls. We must keep our exploration and production industry healthy or we will face even more perilous degrees of import dependency in the near future.

The combined effects of this dramatic decrease in domestic oil production, and an increase in consumption, have required the United States to import about 45 percent more petroleum in 1988 than during 1985. This increase in dependency on foreign oil not only increases our trade deficit, it also jeopardizes our national security.

The DOE's March 1987 recommendations are more necessary than ever. The measure I introduce today, as did the bill I introduced 2 years ago, contains that Energy Security Report's recommendations that Congress repeal the transfer rule with respect to the percentage depletion deduction; reduce the net-income limitation on percentage depletion use by independents; provide percentage depletion of 27.5 percent for all new production; and provide for expensing of geological and geophysical costs.

In addition to these recommendations, this bill contains the other measures in my bill last year which will eliminate the alternative mimimum tax preference for intangible drilling costs; provide a 27.5-percent depletion rate for stripper production, and reduce the taxpayer income limitation on percentage depletion used by independents. Passage of these changes will lead to increased oil and gas production, and result in not only greater energy security, but also additional taxable income to offset the costs to the Treasury of these changes.

One of the biggest problems that independent producers have faced during the past 3 years comes from the combined effects of low income and the Internal Revenue Code's treatment of exploration and production expenses as preference items, so that they have faced large alternative minimum tax liabilities. Thus, the changes in this bill to the alternative minimum tax are especially important for independents, many of whom have not earned sufficient income over the last 3 years to take advantage of the changes to the individual income tax

provisions that are included in this bill.

Another provision that was in my tax bill last year is a provision dealing with the need for clarification of the statute of limitations for windfall profit tax payments. With the repeal of the windfall profit tax by the Congress last summer, I have revised this provision to provide a statute of limitations safe harbor rule with respect to good faith underpayments of the windfall profit tax.

During the existence of the windfall profit tax, most small independent producers and royalty owners did not actually withhold and remit windfall profit tax to the Treasury. Rather, they relied on the first purchaser of the crude oil, or "qualified disburser," to withhold and remit the tax. If a withholding error was made by the first purchaser or "qualified disburser," then such withholding agent was required to advise the producer of the error on form 6248. It was then the responsibility of the producer to either remit additional tax by filing form 720 or claim a refund on the appropriate return.

The IRS has ruled in its Revenue Ruling 85-37 that if a responsible withholding agent has overwithheld windfall profit tax and additionally fails to inform the producer of the error, then the producer is limited to a 3-year period to file a refund claim—even if the producer has no knowledge of the overwithholding. However, if the responsible withholding agent under withheld windfall profit tax and did not inform the producer of that fact on form 6248, there is no statute of limitations protection available to the producer. Hence, the producer or royalty owner who in good faith believed that his windfall profit tax liability was satisfied by withholding and consequently did not file form 720, to remit additional tax, is nevertheless subject to potentially perpetual liability for inadvertent errors made by the first purchaser or "qualified disburser."

My colleagues should note this inequitable absence of statute of limitations protection in view of the fact that the tens of thousands of independent producers and royalty owners do not have the capability to audit the accounts of the first purchaser or "qualified disburser." Accordingly, the provision I have included in this bill will simply create a new subparagraph to section 6501, dealing with limitations on assessment and collection. The new provision establishes a "safe harbor" for taxpayers who in good faith determined that no special windfall profit tax return was required. In such a case, the IRS would have to assess any deficiency within 3 years from the date the return was otherwise originally due.

Finally, the measure I introduce today would establish a crude oil and natural gas exploration and development credit to provide a meaningful incentive for exploration and production activities that also would apply against alternative minimum tax liability. President Bush advocated this type of credit during the Presidential campaign to stimulate domestic oil and gas production, and I believe it will be a significant incentive to bringing new reserves into production.

Fortunately, the measure I introduce today need not contain a provision to repeal the windfall profit tax, as the Congress finally eliminated that inequity last summer. However, that onerous tax would not be collecting any revenues even if last week's $19 plus spot prices were pervasive in the industry. If the Congress wants to increase oil production over the near term, it must take additional steps such as enacting the tax changes included in this bill.

The current spot prices are not stable—and are already back down to the $17 range—and there are no guarantees that prices will not again drop below $14 by summer. The tax changes contained in the Energy Security Tax Act of 1989 would provide specific incentives that could counter the reluctance to invest in domestic oil and gas production because of the generally low nature of oil prices the past 3 years, compounded by price instability.

I urge the Finance Committee to take prompt action on this bill to get to the serious business of trying to help the oil and gas industry rebuild itself.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Energy Security Tax Act of 1989."

(b) Table of Contents.—

Sec. 1. Short title; table of contents.
Sec. 2. Exclude intangible drilling costs from the alternative minimum tax.
Sec. 3. Intangible drilling costs include geological and geophysical costs.
Sec. 4. Percentage depletion for new, enhanced and stripper oil and gas production.
Sec. 5. Net income limitation on percentage depletion increased for oil and gas wells.
Sec. 6. Taxable income limitation on percentage depletion increased for oil and gas wells.
Sec. 7. Repeal of certain restrictions on tax benefits after transfer of property.
Sec. 8. Establish statute of limitations safe harbor rule with respect to underpayments of windfall profit tax.
Sec. 9. Establish crude oil and natural gas exploration and development credit.

SEC. 2. EXCLUDE INTANGIBLE DRILLING COSTS FROM THE ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by repealing paragarph 57(a)(2) and subsection 57(b).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all intangible drilling costs paid or incurred after the date of the enactment of this Act.

SEC. 3. INTANGIBLE DRILLING COSTS INCLUDE GEOLOGICAL AND GEOPHYSICAL COSTS.

(a) IN GENERAL.—Subsection (c) of section 263 of the Internal Revenue Code of 1986 (relating to intangible drilling and development costs in the case of oil and gas wells and geothermal wells) is amended by inserting before the last sentence the following new sentence: "In the case of oil and gas wells, the tax treatment which applies to the taxpayer's intangible drilling and development costs shall also apply to geological and geophysical costs for the purpose of ascertaining the existence, location, extent, or quality of any deposit of oil or gas within the United States (within the meaning of section 638(1)) or a possession of the United States (within the meaning of section 638(2)).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 4. PERCENTAGE DEPLETION FOR NEW, ENHANCED AND STRIPPER OIL AND GAS PRODUCTION.

(a) IN GENERAL.—The following new subsection is added at the end of section 613A:

"(e) EXEMPTION FOR NEW, ENHANCED AND STRIPPER PRODUCTION.—

"(1) GENERAL.—Except as provided in subsection (f), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to all of the taxpayers' new, enhanced or stripper production and 27.5 percent shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(2) NEW, ENHANCED OR STRIPPER PRODUCTION DEFINED.—For purposes of paragraph (1), the taxpayer's new, enhanced or stripper production shall be domestic oil and natural gas that is—

"(A) 'NEW'.—The taxpayer's production from any 'property' (as that term is used in Section 614) that commences production after March 31, 1987,

"(B) 'ENHANCED'.—

"(i) IN GENERAL.—For purposes of this paragraph, 'enhanced' production is—

"(I) the taxpayer's average daily production as that term is used in subparagraph (c)(2)(A) for a property (as defined in section 614) which is in excess of,

"(II) the taxpayer's average daily production from that property during the applicable base period,

"(III) for purposes of this subparagraph, the applicable base period shall be the period January 1, 1987 through March 31, 1987, or

"(ii) INCREMENTAL TERTIARY OIL.—As that term is used in subsection 4993(a); or

"(C) 'STRIPPER'.—The taxpayer's production from any 'stripper well property' within the meaning of the June 1979 energy regulations.

"(3) NOT LIMITED BY EXEMPTION FOR INDEPENDENT PRODUCERS AND ROYALTY OWNERS.—The deduction for the taxable year attributable to the application of this subsection may be taken without regard to the limitation imposed by subsection (c).

"(f) LIMITATION ON APPLICATION OF SUBSECTION (e).—

"(1) LIMITATION BASED ON TAXABLE INCOME.—The deduction for the taxable year attributable to the application of subsection (e) shall be determined according to the provisions of subsection (d)(1) except that for purposes of this paragraph subsection (d)(1) shall be deemed to be referring to subsection (e) wherever it refers to subsection (c).

"(2) PERCENTAGE DEPLETION NOT ALLOWED FOR LEASE BONUSES, ETC.—In the case of any oil or gas property to which subsection (e) applies, for purposes of section 613, the term 'gross income from the property' shall not include any lease bonus, advance royalty, or other amount payable without regard to production from property.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to production from the property during the taxpayer's first full taxable quarter following the date of the enactment of this Act.

SEC. 5. NET INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FOR OIL AND GAS WELLS.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by adding ", except that in the case of an oil or gas well the allowance shall not exceed 100 percent," after the words "50 percent".

(b) CONFORMING AMENDMENT.—Subparagraph (c)(7)(C) of section 613A of the Internal Revenue Code of 1986 (relating to limitations on percentage depletion) is amended by adding "or 100 percent in the case of an oil or gas well" after the words "50 percent".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 6. TAXABLE INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FOR OIL AND GAS.

(a) IN GENERAL.—Paragraph 613A(d)(1) is amended by deleting "65 percent" and inserting in lieu thereof "100 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the taxable years beginning after the date of enactment of this Act.

SEC. 7. REPEAL OF CERTAIN RESTRICTIONS ON TAX BENEFITS AFTER TRANSFER OF PROPERTY.

(a) PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTIES.—

(1) IN GENERAL.—Subsection (c) of section 613A of the Internal Revenue Code of 1986 (relating to limitations on percentage depletion in case of oil and gas wells) is amended by striking out paragraphs (9) and (10) and by redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(2) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c) of such Code, as redesignated by subsection (a), is amended by striking out subparagraphs (C) and (D).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers after the date of the enactment of this Act in taxable years ending after such date.

(b) EXEMPTION OF STRIPPER WELL OIL FROM WINDFALL PROFIT TAX TO APPLY AFTER TRANSFER.—

(1) IN GENERAL.—Subsection (f) of section 4994 of such Code (defining exempt stripper well oil) is amended to read as follows:

"(g) EXEMPT STRIPPER WELL OIL.—For purposes of this chapter, the term 'exempt stripper well oil' means any oil—

"(1) the producer of which is an independent producer (within the meaning of section 4992(b)(1)),

"(2) which is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(3) which is attributable to the independent producer's working interest in the stripper well property.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to production after the date of the enactment of this Act.

SEC. 8. ESTABLISHMENT OF STATUTE OF LIMITATIONS SAFE HARBOR RULE WITH RESPECT TO UNDERPAYMENTS OF WINDFALL PROFIT TAX.

(a) Section 6501 of the Internal Revenue Code of 1986 is amended by redesignating section 6501(p)(1)(B) as section 6501(p)(1)(C), and adding a new section 6501(b)(1)(B) as follows:

"(B) SAFE HARBOR RULE IN GOOD FAITH SITUATIONS.—If a taxpayer in good faith determined that no return for a removal year (as defined in section 6501(p)(1)(C)) was required, but it is subsequently determined that, in fact, a return was required, the period for assessing any deficiency for such removal year shall expire 3 years from the date the return was otherwise originally due."

SEC. 9. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

(a) IN GENERAL.—Section 38(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "plus" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", plus", and

(3) by adding at the end thereof the following new paragraph:

"(6) the crude oil and natural gas epxloration and development credit determined under section 43(a).".

(b) CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new section:

"SEC. 43. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the crude oil and natural gas exploration and development credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 10 percent of so much of the taxpayer's qualified investment for the taxable year as does not exceed $10,000,000, plus

"(2) 5 percent of so much of such qualified investment for the taxable year as exceeds $10,000,000.

"(b) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred—

"(1) for the purpose of ascertaining the existence, location, extent, or quality of any crude oil or natural gas deposit, including core testing and drilling test wells, or

"(2) for the purpose of developing a property on which there is a reservoir capable of commercial production and such amounts are paid or incurred in connection with activities which are intended to result in the recovery of crude oil or natural gas on such property.

"(c) TERMINATION OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no credit shall be allowed under this section with respect to expenditures made in any taxable year beginning after the date which is 3 years after the date of the enactment of the Energy Security Incentive Act of 1988.

"(2) BINDING COMMITMENTS.—Paragraph (1) shall not apply with respect to any qualified investment made pursuant to a binding contract entered into before the date determined under paragraph (1)."

(c) EXPLORATION CREDIT MAY OFFSET MINIMUM TAX.—Section 38(c) of such Code is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by inserting after paragraph (3) the following new paragraph:

"(4) EXPLORATION CREDIT MAY OFFSET MINIMUM TAX.—To the extent the credit under subsection (a) is attributable to the application of section 43, the limitation of paragraph (1) shall be the greater of—

"(A) the limitation as determined under paragraph (1), or

"(B) the taxpayer's tentative minimum tax for the taxable year.".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 43. Crude oil and natural gas exploration and development credit.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after the date of the enactment of this Act.

[From the American Petroleum Institute Monthly Statistical Report, December 1988]

SUMMARY

With the past year's developments, a pattern is becoming increasingly evident as, for the third year in a row, U.S. production fell and consumption and imports continued to rise:

Domestic production continued to decline in an environment of crude oil prices which had trended downward for much of the year. As a result of substantially lower drilling rates and reduced servicing of existing wells during the past three years, 1988's production by year-end had fallen to a level more than 1 million B/D lower than only three years ago.

Partly because of the unexpected strength in the economy, petroleum deliveries rose more than most analysts had predicted, reaching the highest level since 1979. Nevertheless, according to preliminary estimates, petroleum's share of total energy consumption declined slightly for the second year in a row. Total energy consumption is estimated to have risen to the highest level ever—though it would have been roughly 25 percent higher without the conservation and efficiency gains of the past ten years.

Rising usage and decreasing domestic supplies resulted in another increase in imports, also to the highest level since 1979. At 7.2 million B/D, 1988's imports have risen by more than 2 million B/D, or 45 percent, over the past three years.

All major products contributed to the year's 3.2 percent increase in deliveries, which exceeded many analysts' forecasts in part because of economic growth substantially stronger than the 2 to 3 percent originally anticipated for the year. Even though the year's deliveries reached a new recent-year high, fuel switching, particularly away from residentual fuel oil, has significantly reduced overall petroleum consumption over the last ten years. Total deliveries in 1988 would have matched 1978's historical peak of 18.9 million B/D without the 1.7 million B/D decline in residual fuel oil consumption since that year.

By product category, gasoline's increase for the past year, at 1.6 percent, was the smallest, continuing the trend of declining rates of growth for gasoline that has been evident over the past three years. In fact, only a third of the increase in total deliveries over the past three years and about one fifth of 1988's increase is attributable to gasoline, though this product accounts for about 43 percent of domestic deliveries. Winter weather colder than in 1987 helped to boost distillate deliveries' increase to nearly 4 percent, compared with rates of about 2 percent or less in recent previous years; residual fuel oil recovered from 1987's decline with a 5.2 percent increase.

Kerosine jet fuel's 5.2 percent growth, though continuing to slow from the 10 percent increase of two years ago, was still one of the largest increases among the major products. Deliveries of "other oils" continued to grow as well, though less rapidly than in the previous year.

The level of crude oil prices, which before the OPEC production agreement late in the year had fallen by about one third since mid-1987, continued to discourage drilling and other upstream activity. As a result, a 60 thousand B/D increase in Alaskan crude oil production was more than offset by an annual average decline of nearly 300 thousand B/D for the rest of the U.S. The decline trend in lower 48 production accelerated in 1988, and is now estimated to be running at about 400 thousand B/D per year, compared with a decline trend of approximately 240 thousand B/D per year in 1987.

In response to the year's increased deliveries, refineries operated at some of the highest levels since the 1970s, averaging 84.3 percent of operable capacity. If only capacity in actual operation is counted, the utilization rate for the year would have been nearly 90 percent, only slightly less than the high, 92 percent level set in 1977. After the inventory buildup earlier in the year and the destocking pattern during much of the second half, total stocks ended the year only slightly down from the prior December.

API ESTIMATES

	December		Year-to-date	
	Million B/D	Percent change	Million B/D	Percent change
Total domestic deliveries	18.5	6.0	17.2	3.2
Crude oil production	7.9	(4.9)	8.1	(2.9)
Total imports	8.0	18.2	7.2	8.9
Stocks (million bbl)	1,045	(2.0)	NA	NA●

By Mr. DOLE (for Mr. NICKLES):

S. 42. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil and refined petroleum products; to the Committee on Finance.

ENERGY SECURITY TAX ACT

● Mr. NICKLES. Mr. President, today I am introducing the Domestic Petroleum Security Act of 1989. This bill essentially establishes a price floor on imported crude of $18 per barrel in order to sheild the U.S. oil-producing industry from the predatory pricing policies of the OPEC oil cartel.

I know many of my colleagues oppose an oil import fee, especially those Senators who represent States heavily dependent on imported oil. However, the measure I introduce today is not a simple oil import fee. Rather, it would establish an $18 floor price on oil imports to encourage investment in oil exploration and production by removing the risk of another OPEC manipulated free fall of world oil prices.

It has now been 3 years since OPEC began to flood the world oil market in an intentional effort to lower world prices, increase consumption, decrease marginal production, and eventually regain OPEC's role as the world's oil price arbiters. OPEC's predatory actions have been devastating to the energy security of the United States.

Last year, our dependence on imported oil and petroleum products increased to about 42 percent of our petroleum consumption, while during 1985 it was a still serious 32 percent. In volumetric terms, this represents a 45-percent increase in the quantity of petroleum imported during 1988 as compared to 1985. This level of imports is the highest since 1979. It should concern us all that most of this increased dependency is on new imports coming from the Middle East.

In the past 3 years, domestic oil prices have averaged only about $13.60, compared to the $27.29 average for the 5 previous years. The average domestic prices for the months of July and August 1986 were driven into the $9 range. As a consequence, the lower 48 States are producing 1.1 million barrels per day less oil than during 1985—a 15-percent drop in production in just 3 years.

Perhaps my colleagues heard the news reports last week that covered the American Petroleum Institute's Monthly Statistical Report for December 1988. According to this report, U.S. crude oil production fell to "a range not experienced in a dozen years." That takes us back to the depths of the price-control era when the Federal Government was subsidizing oil imports by keeping price ceilings on domestic oil. In its report, API predicts that "if the December, 1988 level of 7,909,000 barrels-per-day [b/d] is maintained throughout this year, 1989 production will be the lowest in a quarter century."

Mr. President, I ask unanimous consent that the summary of the API Monthly Statistical Report be printed in the RECORD at the conclusion of my remarks.

This drop in domestic production since 1985 is now adding another $7.5 billion to our annual trade deficit for additional imported oil. In addition, the oil-producing States such as Oklahoma have suffered severe economic downturns during this 3-year period, especially in their petroleum and finance sectors.

This almost limitless potential for OPEC governments to drive our domestic oil prices down is catastrophic for investment in exploration for additional oil and for investment required to maintain marginally economic production. During the last 3 years, drilling rig activity—the indicator of the industry's ability to replace reserves now being produced—has generally stayed at below half the level of 1985, and less than a quarter of the level in 1981, the first year following the removal of price controls.

Some of my colleagues might comment that spot oil prices have recently been in the $19 range, and what good would this floor price bill be to the industry? To begin with, spot prices recently have been highly volatile, jumping between $17 and $19.75 in just this past week. It is this volatility—and the prospects that prices could again drop for a few months to the low teens—that has made investors reluctant to put steel in the ground to find and produce additional oil for this country. Even if oil prices rise to above $19 during this year and the bill I introduce today does not add a penny to the price of imported crude oil, it's passage would provide an enormous incentive to domestic exploration and production activities by providing a floor price that producers can take to the banks and other investors.

This bill will not eliminate the enormous geophysical risks associated with finding additional oil deposits in the United States, nor will it guarantee that the price of oil will not drop back to present levels should world prices climb to the midtwenties. What this bill will do is prevent the governments in OPEC from again driving our domestic prices below $18. If they try, they will simply be putting money into the U.S. Treasury, while the many private citizens and institutions investing in the U.S. oil industry will be able to rely on an $18 minimum price.

Specifically, this bill would impose a tariff on imported crude oil and products that is calculated by the Secretary of the Treasury to be the difference between $18 and the average international price of crude oil during the preceding 4 weeks. If the 4-week average international price of crude oil is $18 or more, then the tariff would be zero. The tariff would be adjusted each week to reflect changes in the av-

erage international price during the preceding 4 weeks.

For imported petroleum products, the bill adds an additional $3 per barrel to the tariff calculated by the Secretary. This surcharge to the crude oil tariff will ensure that the imposition of the tariff will not inadvertently encourage importation of petroleum products by making them proportionately less expensive than importing and refining crude oil. The bill also provides that the tariff would not apply to crude oil or refined products that are subsequently exported.

I first introduced this floor price tariff approach in September 1986. If the Congress had passed that measure we would have prevented much of the economic hardships and increases in petroleum imports that we have seen in the last 2 years. That first bill and the one I introduced at the beginning of the 100th Congress both set a floor price of $20 per barrel. However, I introduce today's measure with a floor price target of $18 per barrel to keep it below current spot prices, and thereby minimize its impact on the overall economy.

It has been 3 years since OPEC began this destruction of our exploration and production industry. We have been reluctant witnesses to the tragedies of people losing productive jobs, banks failing, expertise and capital equipment permanently disappearing, the trade deficit increasing, energy conservation decreasing, and marginal wells prematurely shut in and the remaining oil forever lost. I hope that now with spot prices above the floor price level in this bill, the Congress will have the courage to pass a measure that will contribute to the long-term vitality of our petroleum industry.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 42

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Petroleum Security Act of 1989".

SEC. 2. FEE ON IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1954 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 54—IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS

"Sec. 5881. Imposition of Tax.
"Sec. 5882. Definitions.
"Sec. 5883. Registration.
"Sec. 5884. Procedures; returns; penalties.

"SEC. 5881. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to any other tax imposed under this title, an excise tax is hereby imposed on—

"(1) the first sale within the United States of—
"(A) any crude oil, or
"(B) any refined petroleum product,
that has been imported into the United States, and
"(2) the use within the United States of—
"(A) any crude oil, or
"(B) any refined petroleum product, that has been imported into the United States if no tax has been imposed with respect to such crude oil or refined petroleum product prior to such use.

"(b) RATE OF TAX.—

"(1) CRUDE OIL.—For purposes of paragraphs (1)(A) and (2)(A) of subsection (a) the rate of tax shall be the excess, if any, of—

"(i) $18, over

"(ii) the energy policy price per barrel of crude oil.

"(2) REFINED PETROLEUM PRODUCT.—For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), the rate of tax shall be equal to—

"(i) $3.00, plus

"(ii) the tax determined under paragraph (1) of this subsection.

"(3) FRACTIONAL PARTS OF BARRELS.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be he same fraction of the amount of such tax imposed on the whole barrel.

"(c) DETERMINATION OF ENERGY POLICY PRICE.—

"(1) IN GENERAL.—For purposes of this section, the energy policy price with respect to any week during which the tax under subsection (a) is imposed shall be determined by the Secretary and published in the Federal Register on the first day of such week.

"(2) BASIS OF DETERMINATION.—For purposes of paragraph (1), the energy policy price for any week is the weighed average international price of a barrel of crude oil for the preceding 4 weeks as determined by the Secretary, after consultation with the Administrator of the Energy Information Administration of the Department of Energy, pursuant to the formula for determining such international price as used in publishing the Weekly Petroleum Status Report and as in effect on the date of the enactment of this section.

"(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The taxes imposed by subsection (a)(1) shall be paid by the first person who sells the crude oil or refined petroleum product within the United States.

"(2) USE.—The taxes imposed by subsection (a)(2) shall be paid by the person who uses the crude oil or refined petroleum product.

"(3) TAX-FREE EXPORTS.—

"(A) IN GENERAL.—Under regulations prescribed by the secretary, no tax shall be imposed under this chapter on the sale for export or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT.—Where any crude oil or refined petroleum product has been sold free of tax under subparagraph (A), such subparagraph shall cease to apply with respect to the sale of such crude oil or refined petroleum product, unless, within the 6-month period which begins on the date of the sale, the seller receives proof that the crude oil or refined petroleum product, has been exported.

"SEC. 5882. DEFINITIONS.

"FOR PURPOSES OF THIS CHAPTER.—

"(1) CRUDE OIL.—The term 'crude oil' means crude oil other than domestic crude oil (within the meaning of chapter 45).

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) REFINED PETROLEUM PRODUCT.—The term 'refined petroleum product" shall have the same meaning given to such term by section 3(5) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752(5)).

"(4) EXPORT.—The term 'export' includes shipment to a possession of the United States; and the term 'exported' includes shipment to a possession of the United States.

"SEC. 5883. REGISTRATION.

"Every person subject to tax under section 5881 shall, before incurring any liability for tax under such section, register with the Secretary.

"SEC. 5884. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title, any reference (other than in chapter 45 or section 6429) to the tax imposed by section 4986 shall be treated, except to the extent provided by the Secretary by regulation where such treatment would be inappropriate, as a reference to the tax imposed by section 5881.".

"(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"Chapter 54. Imported crude oil or refined petroleum products.".

"(c) DEDUCTIBILITY OF IMPORTED OIL TAX.—The first sentence of section 164(a) (relating to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The imported oil taxes imposed by section 5881.".

SEC. 3. EFFECTIVE DATE.—The amendments made by this section shall apply with respect to sales and use of imported crude oil or imported refined petroleum products on or after the date of enactment.

[From the Daily Oklahoman, Jan. 24, 1989]

DRILLING ACTIVITY NEARS POST-WORLD WAR II LOW

(By Bob Vandewater)

Oil and gas drilling activity across the United States has dropped to its most depressed level since mid-1987 and may be headed toward a post-World War II low, petroleum industry analysts said Monday.

The number of petroleum industry rigs drilling nationwide last Friday was 789, down 51 from a week earlier and the lowest total since June 1987, the International Association of Drilling Contractors reported.

The IADC, using rig figures supplied by oil-field equipment maker Baker Hughes Inc., said the latest active rig count includes 118 rigs working in Oklahoma. That is 12 less than the week before and down 25 from early January.

Among major oil producing states, only two saw increases in rig activity last week—Ohio with five more rigs working and Pennsylvania with four.

The nation's active rig count has now dropped by 151 since Christmas, despite an Organization of Petroleum Exporting Countries' agreement cutting the cartel's oil production, effective Jan. 1, to bolster world crude oil prices.

Winter usually is a depressed time for new oil and gas drilling. But the recent decline in activity is more severe than was expected, John Spears, with the Tulsa petroleum consulting firm of Spears & Associates, said Monday.

"We thought early this year it (the U.S. active rig total) might go down to about 700.

But now it clearly looks like we might see the count fall to the 600 to 650 range, which would put it below the previous postwar low," he said.

"That may present a real test of survivability all over again" for oil and gas well service firms, said Spears. He will speak on that subject Wednesday evening at the Beacon Club in Oklahoma City at a meeting of the state chapter of the International Association of Energy Economists.

Baker Hughes' count of 663 active domestic rigs in mid July 1986 was the nation's lowest active rig total since the Great Depression. The drop to that level followed a roughly six-month period during which high OPEC oil production caused world crude prices to skid from about $27 a barrel to about $10.

Hughes Tool Co., which merged with Baker International Corp. a couple years ago to form Baker Hughes, had kept track of U.S. working rig totals since 1940 and never found the active rig count below 663.

The lowest number of working rigs nationwide during 1988 was 880 last May. The 1987 low was 744. Last year's Oklahoma low was 107 in October while the state's 1988 high was 152 last March. Oklahoma's lowest active rig total this decade was 97 at one point in June 1987. Fifteen years earlier, in June 1972, Oklahoma's count fell to 63 working rigs.

"I'd say more than half of the recent decline in drilling activity is probably seasonal," IADC spokesman Alvaro Franco said Monday. He attributed the rest of the decline partly to a lack of oil and gas industry confidence in OPEC's ability to stick to its new oil production cutback agreement over the long term.

But Spears said, "I doubt the drop in the rig count reflects any projections at all about the OPEC agreement." He instead blames the latest steep declines on drilling budget cutbacks ordered by companies during the fourth quarter of 1988, when Oklahoma crude oil prices dropped to $13 a barrel or lower and before OPEC's agreement took effect. Oklahoma oil prices have since recovered to about $17.75 a barrel.

Although the winter slowdown in drilling also is a factor, "rig counts much more reflect last quarter's oil prices than this quarter's," Spears said.

"A sharp increase in exploration drilling is vital," said June brooks, an Ardmore-based oil and gas producer.

The petroleum industry "needs to engage in a joint-venture with the consuming public to stop the rapid decline in our oil and gas reserves and increased jeopardy to national security."

Brooks called for restoration of tax incentives for new drilling and more cooperation between producers and consumers.

PETROLEUM BUYERS CUT POSTED PRICES $1

(By Bob Vandewater)

Major petroleum buyers cut their posted prices for Oklahoma crude oil by $1 a barrel Monday as oil prices in futures contracts traded on the New York Mercantile Exchange took even a steeper dive.

Monday's falling prices erased some of the petroleum industry optimism generated last week when prices offered or "posted" by major buyers for Oklahoma Sweet crude had risen 50 cents to $17.75 a barrel, the highest level since December 1987.

Posted price cuts of $1 a barrel for Oklahoma crude were reported Monday by such buyers as Conoco Inc., Texaco Inc., Phillips 66 Co., Citgo Petroleum, Sun Refining and Marketing Co. and Koch Industries Inc.—the latter two being the state's largest crude buyers.

That reduced their price of Oklahoma Sweet, the state's most plentiful crude, to $16.75 a barrel. Posted prices for Oklahoma Sour, a less popular oil with a higher sulfur content, also fell $1, keeping that crude cheaper than Oklahoma Sweet by 50 cents to more than $1 per barrel.

Falling oil futures on the New York Mercantile Exchange on Monday also led to a cascade of selling by speculators.

The March crude oil contract closed down $1.06 at $17.33 a barrel, a loss of nearly 6 percent of its value in just one day.

"The crude oil market was overbought last week and people were looking for chances to take profits and sell," said one New York trader.

Contributing to the decline was unseasonably warm weather in the Northeast, reducing demand for heating oil. The February heating oil contract was down a steep 2.24 cents at 50.36 cents gallon in active trading Monday.

A January upswing in the market that boosted crude oil prices to their highest level since November 1967 was reversed Friday when February crude oil futures contracts expired and prices sank below $19.

Prices for Oklahoma crude and other domestic oils had risen from about $13 per barrel since late November when the Organization of Petroleum Exporting Countries announced a new agreement on output qutoas meant to reduce the world oil glut.

OPEC output has fallen from almost 23 million barrels daily in December to 19 million to 19.5 million now, industry sources say.

Talks this week between OPEC and non-OPEC producers on coordinated reductions in output are expected to lead to higher prices if agreements are reached.●

Mr. CRANSTON:

S. 44. A bill to provide assistance and coordination in the provision of child care services for children living in homes with working parents, and other services; to the Committee on Labor and Human Resources.

CHILD CARE ASSISTANCE ACT OF 1989

Mr. CRANSTON. Mr. President, I am today introducing the proposed Child Care Assistance Act of 1989. This is a measure which I first introduced in 1979 as S. 4. It has been designated as S. 4 each time it has been reintroduced prior to this Congress. I have continued to reintroduce this legislation at the beginning of a new Congress because I strongly believe that enactment of a major, comprehensive child care bill ought to be one of our highest priorities. In the decade that has passed since I first introduced this legislation, the need for adequate, affordable child care services in this country has grown enormously.

Today, I am also joining the distinguished Senator from Connecticut [Mr. DODD] and many others in introducing the proposed "Act for Better Child Care Services" [ABC]—a major comprehensive child care initiative which has been refined over the past year and has been endorsed by a broad array of organizations and individuals concerned with the need to address the child care crisis in this Nation. Many of the concepts first proposed in the legislation I introduced in 1979 have been incorporated into the ABC bill. I am proud to be a principal sponsor of that measure and to have contributed to its development. My remarks regarding the ABC bill upon its introduction will appear elsewhere in today's CONGRESSIONAL RECORD. I am very hopeful that the ABC bill will be enacted during the 101st Congress. In the meantime, until a comprehensive child care measure has been signed into law, I am committed to reintroducing the 1979 comprehensive bill.

I ask unanimous consent that the text of the proposed Child Care Assistance Act of 1989 be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 44

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Care Assistance Act of 1989".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the number of children living in homes where both parents work or where children are living with a single parent who works has increased dramatically over the last decade;

(2) the number of licensed or regulated child-care openings is far short of the number required for children in need of child-care services;

(3) existing child-care programs are frequently filled to capacity and often have long waiting lists for admission;

(4) the lack of available child-care services results in many children being left—some all day—without adequate supervision;

(5) the rise in school vandalism, juvenile alcoholism, and serious juvenile crimes has been accompanied by an increase in the number of school-age children with working parents and without resources for after-school supervision;

(6) many parents are unable to afford adequate child-care services and do not receive any financial assistance for such services through any established program;

(7) the years from birth to age six are especially important in the development of a child and the care children receive during this period is critical to the developmental process;

(8) making adequate child-care services and alternatives available for working parents and parents seeking employment or to develop employment skills promotes and strengthens the well-being of families and the national economy; and

(9) there is a lack of coordination among existing child-care programs receiving Federal and State assistance and among such programs and other programs providing services to children and their families, and an absence of a coordinated administration of child-care programs and services at the Federal level.

(b) Recognizing that the parent is and must continue to be the primary influence

in the life of the child and that the parent must have ultimate responsibility for decisions on how the child will be raised, it is the purpose of this Act—

(1) to provide assistance to States in improving the quality of and coordination among child-care programs and to provide additional resources for child-care services;

(2) to provide mechanisms for assessing the extent of the need for child-care services in the Nation;

(3) to promote coordination at all governmental levels of child-care programs and other services for children and their families;

(4) to promote the availability and diversity of quality child-care services for all children and families who need such services;

(5) to provide assistance to families whose financial resources are not sufficient for them to pay the full costs of necessary child-care services; and

(6) to strengthen the functioning of families by seeking to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe, unhealthy, or otherwise undesirable care facility or arrangement.

PROTECTION OF PARENTAL RIGHTS

SEC. 3. Nothing in this Act shall be construed to authorize any public agency or private organization or any individual associated therewith to interfere with, or to intervene in, any child-rearing decision of parents.

STATE ACTIVITIES

SEC. 4. (a) Any State desiring to participate in a program authorized by this Act shall submit to the Secretary a plan, not less often than biennially, in such detail and form as the Secretary deems necessary. Each such plan shall—

(1) specify an appropriate State agency (with the capacity to administer the programs and services authorized under this Act and to coordinate with other State and local agencies involved in the provision of services to children) to be designated or created as the State agency to act either directly or through arrangements with other State or local public agencies, as the State agency responsible for the administration and oversight of the plan submitted under this subsection (hereinafter in this Act referred to as the "State agency");

(2) provide that the specified State agency will—

(A) make an assessment of child-care needs in the State and an assessment of the effectiveness of programs and services funded under this Act and other provisions of law in meeting such needs;

(B) develop a plan designed to meet the need for child-care services within the State for preschool children and school-age children, with special attention to meeting the need for services of migrant children, disabled children, children with limited English-language proficiency, and other groups of children having special needs;

(C) coordinate, to the maximum extent feasible, the provision of services under this Act with other child-care programs and services funded under any State or other Federal law, and with other appropriate services, including social, health, mental health, and nutrition services, available to such children under other Federal and State programs; and

(D) prepare the reports required under subsection (d);

(3) provide that—

(A) funds under this Act will be distributed within the State in accordance with the plan submitted to the Secretary under this section and will be used for services provided only by child-care providers which—

(i) are licensed in the State or have applied for a renewal of such license and are determined by the State to be likely to be approved for renewal or, if not required to be licensed under applicable State law, have otherwise met the requirements of State law; and

(ii) meet the standards prescribed under section 5(c);

(B) funds will be distributed to eligible child-care providers by contract or grant either directly or, as provided in the State plan, through grants to or contracts with public or private nonprofit agencies for distribution to eligible child-care providers within a designated geographic area, or distributed through alternative payment demonstration projects under such terms as the Secretary prescribes for demonstration projects; and

(C) priority will be given to child-care providers in the State that provide assurances that—

(i) priority for services will be given to children on the basis of child and family need, taking into account such factors as family income, family size, and the special needs of children from households with a single parent, with particular emphasis on the provision of child-care services to families where lack of child care is or would be a barrier to the continuation or commencement of employment; and

(ii) each such child-care program will, to the maximum extent feasible, provide for an economic mix of children enrolled;

(4) provide that—

(A) funds will be distributed, to the maximum extent feasible, to a variety of child-care providers in each community, including but not limited to, child-care centers and family day-care providers; and

(B) priority will be given in the distribution of funds to community-based programs providing meaningful opportunities for parental involvement.

(5) provide for the establishment of sliding fee schedules based upon the services provided and family income adjusted for family size for children receiving services assisted under this Act;

(6) provide for the establishment of procedures for data collection and evaluation designed to show (in a manner not inconsistent with guidelines established by the Secretary)—

(A) how the child-care needs of the State are being met by programs funded under this Act including information as to the numbers of children being assisted, type of child care and child-care provider, numbers of programs and child-care providers, care givers, and support personnel utilized, and such other information as the Secretary considers necessary to explain how funds provided under this Act are being utilized;

(B) the degree to which child-care needs are not being met by programs funded under this Act or other programs;

(C) the extent to which the availability of child care has been increased, including but not limited to, numbers of licensed or regulated child-care openings, the extent to which existing child-care programs are filled, and the numbers and average time associated with waiting lists for admission to such programs; and

(D) how the purposes of the Act and the objectives of the State set forth in its State plan are being met;

(7) provide, by grants to or contracts with public or private nonprofit agencies, for the support or establishment of resource-and-referral services to assist in identifying existing child-care services, in providing information and referral to interested parents, and in providing information and technical assistance to existing and potential child-care providers and others concerned with the availability of child care;

(8) provide, by grant or contract, for the support of training programs for child-care personnel;

(9) establish procedures for the development and implementation of State licensing or regulating of child-care providers in accordance with the criteria prescribed pursuant to section 7(a);

(10) establish procedures for meaningful parental involvement in State and local planning, monitoring, and evaluation of child-care programs and services in the State;

(11) provide assurances that funds provided under this Act will be used to supplement, and not supplant, existing Federal funds used for the support of child-care services and related programs;

(12) provide, for each fiscal year, that the State will use for administration of the State plan for such fiscal year an amount not to exceed 10 percent of the funds distributed to such State, except that in the case of Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the State will use for administrative costs an amount not to exceed 5 percent of the funds distributed to such State;

(13) provide for the establishment of a State Advisory Panel in accordance with subsection (b) and specify the amount of funds to be allocated to such panel; and

(14) provide for the establishment of reasonable opportunities to be heard for any parent, child-care provider, or child-care program which has been adversely affected or aggrieved by a decision of the State agency or any program funded under this Act.

(b)(1) The State Advisory Panel on Child Care established by the State shall be composed of not less than fifteen members—

(A) of which not less than one-third shall be parents of children who are receiving or have recently received child-care services of the type funded under this Act; and

(B) of which not less than one-third shall be representatives of child-care providers and care givers within the State, including representatives of different types of child-care programs (such as public, private, private nonprofit, center-based, and family day-care programs) and individuals who are professionals in the field of child development.

(2) The State Advisory Panel shall—

(A) advise the State on the preparation, and policy matters arising in the administration, of the State plan submitted under subsection (a);

(B) review and submit comments to the State agency on the State plan; and

(C) review and evaluate child-care programs and services funded under this Act and other provisions of law in the State and the progress of such programs and services in meeting the objectives of the State plan and the purposes of this Act and make recommendations, as appropriate, on the development of State standards and policies relating to child-care programs and the provision of child-care services,

and may prepare and, through the State agency, submit to the Secretary such recom-

mendations and evaluations, together with such additional comments as that State agency considers appropriate.

(3) Each State Advisory Panel shall meet within thirty days after the beginning of each fiscal year and establish the time, place, and manner of its future meetings, except that such panel shall have not less than two public meetings each year at which the public is given an opportunity to express views concerning the administration and operation of the State plan.

(4) Each State Advisory Panel shall be authorized to obtain the services of such professional, technical, and clerical personnel and to contract for such other services as may be necessary to enable the panel to carry out its functions under this Act. Members of the State Advisory Panel, while serving on the business of the Panel, shall be reimbursed, in accordance with standards prescribed by the Secretary, for reasonable travel, subsistence, and other necessary expenses incurred by them in carrying out their duties as members of the State Advisory Panel. The Secretary shall ensure that funds sufficient for the purpose of this paragraph are made available to each panel from funds available for the administration of the State plan.

(c) The Secretary shall approve any State plan, and any modification thereof, if (after approval of the first such plan) the State agency has complied with the provisions of subsection (d) and if such plan complies with the provisions of subsections (a) and (b), and the Secretary shall not disapprove any State plan except after reasonable notice, an opportunity to correct deficiencies in the plan, and notice of an opportunity for a hearing.

(d) For the purpose of providing information to the Secretary and the Congress to aid in their understanding of the implementation and effectiveness of programs under this Act, the State agency, not later than December 1 of each year, shall prepare and submit to the Secretary, a concise report describing activities, results, and performance in the State in meeting the objectives of the State plan and the purposes of this Act. The report submitted under this subsection shall contain the results of the data collection, reviews, and evaluations carried out pursuant to subsections (a)(6) and (b)(2(C).

NATIONAL ADMINISTRATION

SEC. 5. (a)(1) The Secretary shall designate an identifiable administrative unit and an individual in charge of such unit within the Department of Health and Human Services to carry out the provisions of this Act, to coordinate all activities of the Department relating to child care, and to seek to coordinate such activities with the pertinent activities of other Federal agencies.

(2) The Secretary shall make available to such unit such staff and resources as are necessary to enable it to carry out effectively its functions under this Act.

(b)(1) Within six months after the date of the enactment of this Act, the Secretary shall establish within the Office of the Secretary a National Advisory Panel on Child Care Needs and Services which shall be composed of not less than fifteen members—

(A) of which not less than one-third shall be parents of children who are receiving or have recently received child-care services of the type funded under this Act, and

(B) of which not less than one-third shall be representatives of child-care providers, including representatives of different types of child-care programs (such as public, private, private nonprofit, center-based, and family day-care programs) and individuals who are professionals in the field of child development and related fields.

Not less than one-third of the members serving on the National Advisory Panel shall be individuals who are serving on, or have served on, a State Advisory Panel established by a State under section 4(b).

(2) The National Advisory Panel shall review Federal policies with respect to child-care services and make recommendations to and advise the Secretary with respect to the standards developed by the Secretary pursuant to subsection (c) and may submit to the President and to the Congress such comments as it considers appropriate with respect to the reports of the Secretary submitted under section 12.

(3) The Secretary shall make available to the National Advisory Panel such personnel and technical assistance as are necessary to carry out effectively its functions under this section.

(4) Members of the National Advisory Panel who are not regular full-time employees of the United States shall, while attending meetings and conferences of the National Advisory Panel or otherwise engaged in the business of the Panel (including travel-time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for GS-18 in section 5332 of title 5, United States Code; and, while so serving on the business of the Panel away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c)(1) After consultation with the National Advisory Panel, and not later than twelve months after the date of the enactment of this Act, the Secretary shall prepare and develop proposed standards to be applied to programs funded under this Act and such other child-care programs funded by the Department of Health and Human Services as the Secretary may specify. The standards developed pursuant to this subsection shall cover factors having a demonstrated impact on the quality of child care including, but not limited to—

(A) group size and composition in terms of the number of teachers and the number and age of children;

(B) the qualifications of the child-care provider;

(C) the physical environment;

(D) parental involvement; and

(E) necessary support services including but not limited to health, nutrition, and social services.

(2) After distribution for comment to each State agency and State Advisory Panel established under section 4(a)(13) and 4(b), the Secretary shall publish the proposed standards in the Federal Register.

(3) After taking into consideration any comments received by the Secretary with respect to the regulations proposed under paragraph (1) of subsection (c), but in no event later than one hundred and twenty days after the Secretary publishes proposed standards under paragraph (2), the Secretary shall publish in the Federal Register final standards to be applied to programs funded under this Act and such other child-care programs funded by the Department of Health and Human Services as the Secretary may specify.

(4) Until such time as the final standards have been adopted, programs funded under this Act shall comply with the requirements imposed upon child-care programs funded through payments made under title XX of the Social Security Act.

DEMONSTRATION PROJECTS

SEC. 6. (a) The Secretary is authorized to make grants to and enter into contracts with public agencies and private organizations to support innovative child-care demonstration projects, including projects providing nighttime care or care for sick children, migrant children, children with limited English-language proficiency, disabled children, or other special needs populations. No grant may be made under this section unless adequate funds are included in such grant to evaluate and report to the Secretary on the effectiveness of the approach of the program in meeting the child-care needs of the families being served.

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary. Not later than six months after the date of the enactment of this Act, the Secretary shall prescribe regulations to carry out the provisions of this section.

LICENSING IMPROVEMENT GRANTS

SEC. 7. (a) Each State receiving funds under this Act shall prepare a report to be submitted to the Secretary outlining the current status of child-care licensing or regulation within the State, deficiencies, if any, in the existing licensing or regulating program (including an assessment of the adequacy of staff to carry out effectively the State program), the plan of the State for expanding its licensing program to cover all types of child-care providers (except where children are being cared for in their own homes, by a relative, or on a less than full-time basis in a noncommercial, neighborhood setting, such as a cooperative play group or occasional child-care arrangements), and the types and amounts of assistance the State requires to make improvements in such licensing or regulating program. Each such State shall submit its report under this subsection not later than twelve months after it first receives a payment under section 10. The report submitted under this subsection shall include, separately, information with respect to center-based programs and family day-care programs.

(b) The Secretary is authorized to make grants to States submitting a report under subsection (a) for the purpose of developing, improving, or implementing its child-care licensing or regulating program. No grant may be made under this section unless the State submits an application to the Secretary therefor at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary.

(c) After consultation with the National Advisory Panel on Child Care Needs and Services and with the cooperation of the National Conference of Uniform Commissioners of State Laws, the Secretary shall develop a Model State Licensing or Regulating of Child Care Providers Act to be used by the States as a guide to improving licensing or regulating of child-care providers. Not later than eighteen months after the date of the enactment of this Act, the Secretary shall publish such Model Act in the Federal Register.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 8. (a)(1) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, State and local public agencies, and private organizations to provide preservice and inservice training to teachers, other care givers, and administrative personnel involved in child-care programs, to recruit and train low-income parents for child-care positions, to provide specialized training in early childhood education for certified elementary school teachers who are unemployed, to train child-care resource and referral workers, to train persons in the provision of services to disabled children, migrant children, and children with limited English-language proficiency, and to develop and improve teacher certification criteria for child-care programs.

(2) The Secretary is authorized to provide technical assistance to States in planning, developing, and coordinating child-care services, in developing, expanding, and implementing State licensing or regulating of child-care programs, and in developing and conducting teacher or child-care-provider training programs with special attention to the factors described in paragraph (1).

(b) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary.

ALLOTMENTS

SEC. 9. (a) From the sums appropriated pursuant to section 14(a) for each fiscal year, the Secretary shall allot not more than one percent among Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs.

(b) From the remainder of such sums, the Secretary shall allot—

(1) to each State the amount which bears the same ratio to 50 percent of such remainder as the number of children living in homes in which—

(A) both parents of such child are employed or seeking employment, or

(B) the child resides with only one parent and that parent is employed or seeking employment,

in such State bears to the number of such children in all States; and

(2) to each State an amount which bears the same ratio to 50 percent of such remainder as the number of children who reside in households having incomes which are equal to or less than one-half of the median income of the United States for families of the same size, as determined in accordance with criteria established by the Secretary, in such State bears to the number of such children in all States.

For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(c) The Secretary shall obtain from the appropriate departments and agencies of the United States the most recent satisfactory data available in order to determine the allocation provided for in subsection (b).

(d) That portion of any State's allotment under subsection (b) for a fiscal year that the Secretary determines will not be required for the period for which such allotment is available shall be available, from time to time on such date during such period as the Secretary may fix, for reallotment to other States in proportion to the original allotment of such States under subsection (b) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates will be needed in such State and will be used for such period for carrying out State plans approved under this Act, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

PAYMENTS

SEC. 10. (a) From the amounts allotted to each State under section 9, the Secretary shall make a grant to each State having a plan approved under section 4 in an amount equal to the total sums to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) Payments under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

WITHHOLDING OF GRANTS

SEC. 11. Whenever the Secretary, after reasonable notice and opportunity for a hearing to a State, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State approved under section 4, or

(2) that in the operation of any program or project funded under this Act there is a failure to comply substantially with any applicable provision of this Act,

the Secretary shall notify such State of the findings and that no further payments may be made to such State under this Act (or, in the case of noncompliance by a particular program or project, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by such noncompliance) until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

REVIEW AND EVALUATION

SEC. 12. (a) The Secretary shall make reviews and evaluations of the programs and activities funded under this Act (to be conducted by persons not directly or indirectly involved in administration of the programs or activities to be reviewed or evaluated), and conduct studies of child-care needs for the purpose of providing information aimed at—

(1) enabling the Congress and the executive branch to seek to reach agreement upon specific, realistic objectives and expectations of achievement for programs and activities funded under this Act;

(2) determining whether the programs and activities established and carried out under this Act at the Federal, State, and local levels will be likely to achieve progress toward such objectives and expectations;

(3) ensuring that sufficient data necessary to ascertain such progress is collected and made available to the Congress and the executive branch; and

(4) improving the capability of the Congress and the executive branch to understand child-care needs in the Nation and how best to meet such needs in a cost-effective fashion.

(b) In carrying out reviews, evaluations, and studies under this section, the Secretary shall—

(1) ascertain the specific objectives and expectations for achievement regarding programs and activities carried out under this Act of appropriate managers and policymakers in the executive branch and of appropriate committees of the Congress;

(2) examine a representative sample of the actual operation and results of such programs and activities at the Federal, State, and local levels;

(3) compare the objectives and expectations for achievement with the actual operation and results of such programs and activities, including comparisons of the objectives of State plans with the actual operation and results under such plans and an assessment of the effects of increased availability of child care (including changes in the incidence of child abuse, school vandalism, and juvenile delinquency, and other relevant effects such as changes in health status, school attendance, and school performance);

(4) identify or develop programs and activities, or parts of programs and activities, that are able, or are likely to be able, to achieve in a cost-effective fashion progress toward such objectives and expectations; and

(5) determine how the results of such reviews, evaluations, and studies can best be disseminated and utilized to achieve the purposes described in subsection (a).

The Secretary shall prepare and transmit to the President and the Congress on or before March 1, 1992, and every two years thereafter a concise report containing—

(1) a statement of specific, realistic objectives and expected progress toward such objectives over the next two years for the programs and activities funded under this Act, and a statement relating such objectives and expected progress to the purposes of this Act;

(2) the results of all comparisons made under subsection (b)(3), including comparisons necessary for judging the effectiveness with which State plans, and the objectives of such plans, are carried out at the State and local levels;

(3) the results of efforts under subsection (b)(4), including options or recommendations (or both) with respect to any legislative action that the Secretary considers necessary or desirable for achieving the purposes set forth in subsection (a); and

(4) plans for reviews, evaluations, and studies under this section for the ensuing year, including a statement detailing the programs and activities (or parts thereof) funded under this Act to be the subject of such reviews, evaluations, and studies.

(d) The Secretary shall prepare and transmit to the President and the Congress not later than four years after the date of the enactment of this Act a report on child-care needs in the Nation. Such report shall include, but not be limited to, a summary of the results of data collection under sections 4(a)(6)(A), 4(a)(6)(B), and 4(b)(2)(C) and any studies of child-care needs conducted by the Secretary under this section, a summary of other relevant research on child-care needs, and an analysis of options for more fully meeting such needs, including options for legislative action.

(e) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after the completion of a program, project, or activity

authorized or assisted under this Act, have access for the purpose of audit and examination to any books, documents, papers, and records of entities receiving grants or contracts under this Act that in the opinion of the Secretary or the Comptroller General may be related or pertinent to assistance provided under this Act.

DEFINITIONS

SEC. 13. As used in this Act—

(1) "child" means any individual who has not attained the age of fifteen except that with respect to eligibility for services, the definition of "child" may include a disabled individual who has not yet attained the age of eighteen;

(2) "parent" includes any natural parent, foster parent, or legal guardian with whom the child resides;

(3) "Secretary" means the Secretary of Health and Human Services; and

(4) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, America Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. (a) Except as provided in subsection (b), there are authorized to be appropriated $200,000,000 for fiscal year 1990 and such sums as may be necessary for each of the four succeeding fiscal years for carrying out the provisions of this Act. Of the sums so appropriated for any fiscal year, 75 percent shall be used for making grants under section 4, relating to grants for carrying out the State plan; 5 percent shall be used for making grants under section 6, relating to demonstration projects; 5 percent shall be used for making grants under section 7, relating to licensing assistance; 5 percent shall be used for making grants or contracts under section 8(a), relating to training programs; and 10 percent shall be used for carrying out the provisions of sections 5, 8(b), and 12, relating to national administration (including the reasonable expenses of the National Advisory Panel on Child Care Needs and Services) and training and technical assistance.

(b) No funds are authorized to be appropriated for any fiscal year unless funds appropriated for the preceding fiscal year to carry out part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, are at least equal to the funds appropriated for such part for fiscal year 1989.

By Mr. SYMMS:

S. 45. A bill to amend chapter 44, title 18, United States Code, to provide clarification of limitations on controls of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

CLARIFICATION OF LIMITATIONS ON FIREARMS

● Mr. SYMMS. Mr. President, my bill provides that municipalities which enact laws prohibiting or regulating the ownership or possession of firearms or ammunition shall, unless such laws have been enacted by Federal or State law, be ineligible to receive or use certain types of Federal law enforcement assistance.

The intent of my bill is to send a message of strong objection to those local governments which would make it illegal for their citizens to protect themselves from criminals, and which, at the same time, desire Federal funding for law enforcement activities.

I believe the Federal Government should not support law enforcement efforts in municipalities which disregard the Bill of Rights and strip their citizens of the best means of fighting crime and protecting themselves.

As always, criminals in these communities will be able to obtain firearms, regardless of antigun ownership laws. Today 60 million Americans own 200 million firearms, including approximately 60 million handguns. Yet, less than four-tenths of 1 percent of those handguns will be used to commit crimes. Over 99.6 percent of all the handguns in America are used legally, most of those for protection. Private handgun ownership, therefore, does not contribute significantly to crime.

The general uselessness of gun laws is perhaps best shown by the overall long-term trends. Violent crime in the United States has been falling during the decade of the eighties—particularly gun-related violent crime—even though handgun availability has been increasing over three times as fast as the population, and even though handguns constitute a greater and greater percentage of the firearms market. Not only is the violent crime rate falling, but so is the firearms accident rate and the overall suicide rate.

Despite these facts there are continued efforts in this Nation to thwart, or even nullify, the second amendment. I believe most of my colleagues know that the impetus behind this bill was the June 1981 action of the city council in Morton Grove, IL banning the civilian ownership of handguns. That action shook gun owners and civil libertarians across the Nation because of its blatant disregard for the second amendment to the Constitution in which the essential guarantee of liberty, the right to keep and bear arms, is incorporated.

Mr. President, in 1982 the Subcommittee on the Constitution, chaired by our distinguished colleague from Utah, Senator HATCH, issued an excellent and scholarly study of the second amendment entitled, "The Right to Keep and Bear Arms." That committee report cites clear proof, based on historical and legal evidence, that the Framers of the Constitution thought of the right to keep and bear arms as an individual right belonging to all Americans and a bulwark of liberty. I ask unanimous consent that a chapter of the report entitled, "History: Second Amendment Right to 'Keep and Bear Arms'" be included in the RECORD at the end of my statement.

Mr. President, I could discuss at length the legal and constitutional arguments that the second amendment guarantees the fundamental individual right of American citizens to keep and bear arms, though many legal scholars have performed amazing feats of semantic gymnastics to prove otherwise. I have been astounded at how the 27 words of the second amendment have been so misunderstood—especially when we know the clear and concise intentions of the Framers of the Constitution.

That is why I have offered this bill. We, in Congress, should take a stand in support of the rights of gun owners and all people who cherish freedom. We should refuse to participate, financially or otherwise, in the legal and moral folly of local elected officials whose actions exhibit contempt for the Constitution. We should rebuke the council members of Morton Grove and other cities prohibiting the private ownership of firearms because their actions threaten individual liberty and undermine the Constitution we are sworn to defend.

Mr. President, I ask unanimous consent that an article by Richard Cohen entitled "A Rude Awakening" be reprinted in the RECORD and that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 45

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 927 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "No provision"; and

(2) inserting at the end thereof the following:

"(b) Notwithstanding any other provision of law, any political subdivision of a State which enacts a law, regulation, or ordinance which prohibits the ownership or possession of firearms or ammunition or any specific type of firearm or ammunition, unless such law, regulation, or ordinance is specifically enacted by Federal law or the law of the State in which the political subdivision is located, shall be ineligible to—

"(1) use Federal detention facilities;

"(2) receive training from or enter into contracts with the Federal Bureau of Investigation;

"(3) receive assistance from or participate in programs of the Office of Justice Programs; or

"(4) have access to the Department of Treasury records or training programs.".

HISTORY: SECOND AMENDMENT RIGHT TO "KEEP AND BEAR ARMS"

The right to keep and bear arms as a part of English and American law antedates not only the Constitution, but also the discovery of firearms. Under the laws of Alfred the Great, whose reign began in 872 A.D., all English citizens from the nobility to the peasants were obliged to privately purchase weapons and be available for military duty.[1] This was in sharp contrast to the feudal system as it evolved in Europe, under

which armament and military duties were concentrated in the nobility. The body of armed citizens were known as the "fyrd".

While a great many of the Saxon rights were bridged following the Norman conquest, the right and duty of arms possession was retained. Under the Assize of Arms of 1181, "the whole community of freemen" between the ages of 15 and 40 were required by law to possess certain arms, which were arranged in proportion to their possessions.[2] They were required twice a year to demonstrate to Royal officials that they were appropriately armed. In 1253, another Assize of Arms expanded the duty of armament to include not only freemen, but also villeins, who were the English equivalent of serfs. Now all "citizens, burgesses, free tenants, villeins and others from 15 to 60 years of age" were obliged to be armed.[3] While on the Continent the villeins were regarded as little more than animals hungering for rebellion, the English legal system not only permitted, but affirmatively required them, to be armed.

The thirteenth century saw further definitions of this right as the long bow, a formidable armor-piercing weapon, became increasingly the mainstay of British national policy. In 1285, Edward I commanded that all persons comply with the earlier Assizes and added that "anyone else who can afford them shall keep bows and arrows".[4] The right of armament was subject only to narrow limitations. In 1279, it was ordered that those appearing in Parliament or other public assemblies "shall come without all force and armor, well and peaceably".[5] In 1328, the statute of Northampton ordered that no one use their arms in "affray of the peace, nor to go nor ride armed by day or by night in fairs, markets, nor in the presence of the justices or other ministers".[6] English courts construed this ban consistently with the general right of private armament as appyling only to wearing of arms "accompanied with such circumstances as are apt to terrify the people".[7] In 1369, the King ordered that the sheriffs of London require all citizens "at leisure time on holidays" to "use in their recreation bowes and arrows" and to stop all other games which might distract them from this practice.[8]

The Tudor kings experimented with limits upon specialized weapons—mainly crossbows and the then-new firearms. These measures were not intended to disarm the citizenry, but on the contrary, to prevent their being diverted from longbow practice by sport with other weapons which were considered less effective. Even these narrow measures were shortlived. In 1503, Henry VII limited shooting (but not possession) of crossbows to those with land worth 200 marks annual rental, but provided an exception for those who "shote owt of a howse for the lawefull defens of the same".[9] In 1511, Henry VIII increased the property requirement to 300 marks. He also expanded the requirement of longbow ownership, requiring all citizens to "use and exercyse shootyng in longbowes, and also have a bowe and arrowes contynually" in the house.[10] Fathers were required by law to purchase bows and arrows for their sons between the age of 7 and 14 and to train them in longbow use.

In 1514 the ban on crossbows was extended to include firearms.[11] But in 1533, Henry reduced the property qualification to 100 pounds per year; in 1541 he limited it to possession of small firearms ("of the length of one hole year" for some firearms and "thre quarters of a yarde" for others)[12] and eventually he repealed the entire statute by proclamation.[13] The later Tudor monarchs continued the system and Elizabeth added to it by creating what came to be known as "train bands", selected portions of the citizenry chosen for special training. These trained bands were distinguished from the "militia", which terms was first used during the Spanish Armada crisis to designate the entire of the armed citizenry.[14]

The militia continued to be a pivotal force in the English political system. The British historian Charles Oman considers the existence of the armed citizenry to be a major reason for the moderation of monarchial rule in Great Britain; "More than once he [Henry VIII] had to restrain himself, when he discovered that the general feeling of his subjects was against him. . . . His 'gentlemen pensioners' and his yeomen of the guard were but a handful, and bills or bows were in every farm and cottage".[15]

When civil war broke out in 1642, the critical issue was whether the King or Parliament had the right to control the militia.[16] The aftermath of the civil war saw England in temporary control of a military government, which repeatedly dissolved Parliament and authorized its officers to "search for, and seize all arms" owned by Catholics, opponents of the government, "or any other person whom the commissioners had judged dangerous to the peace of this Commonwealth".[17]

The military government ended with the restoration of Charles II. Charles in turn opened his reign with a variety of repressive legislation, expanding the definition of treason, establishig press censorship and ordering his supporters to form their own troops, "the officers to be numerous, disaffected persons watched and not allowed to assemble, and their arms seized".[18] In 1662, a Militia Act was enacted empowering officials "to search for and seize all arms in the custody or possession of any person or persons whom the said lieutenants or any two or more of their deputies shall judge dangerous to the peace of the kingdom".[19] Gunsmiths were ordered to deliver to the government lists of all purchasers.[20] These confiscations were continued under James II, who directed them particularly against the Irish population: "Although the country was infested by predatory bands, a Protestant gentleman could scarcely obtain permission to keep a brace of pistols." [21]

In 1668, the government of James was overturned in a peaceful uprising which came to be known as "The Glorious Revolution". Parliament resolved that James had abdicated and promulgated a Declaration of Rights, later enacted as the Bill of Rights. Before coronation, his successor, William of Orange, was required to swear to respect these rights. The debates in the House of Commons over this Declaration of Rights focused largely upon the disarmament under the 1662 Militia Act. One member complained that "an act of Parliament was made to disarm all Englishmen, who the lieutenant should suspect, by day or night, by day or night, by force or otherwise—this was done in Ireland for the sake of putting arms into Irish hands." The speech of another is summarized as "militia bill—power to disarm all England—now done in Ireland." A third complained "Abitrary power exercised by the ministry. . . . Militia—imprisoning without reason; disarming—himself disarmed." Yet another summarized his complaints "Militia Act—an abominable thing to disarm the nation. . . ." [22]

The Bill of Rights, as drafted in the House of Commons, simply provided that "the acts concerning the milita are grievous to the subject" and that "it is necessary for the public Safety that the Subjects, which are Protestants, should provide and keep arms for the common defense; And that the Arms which have been seized, and taken from them, be restored." [23] The House of Lords changed this to make it a more positive declaration of an individual right under English law: "That the subjects which are Protestant may have arms for their defense suitable to their conditions and as allowed by law." [24] The only limitation was on ownership by Catholics, who at that time composed only a few percent of the British population and were subject to a wide variety of punitive legislation. The Parliament subsequently made clear what it meant by "suitable to their conditions and as allowed by law". The poorer citizens had been restricted from owning firearms, as well as traps and other commodities useful for hunting, by the 1671 Game Act. Following the Bill of Rights, Parliament reenacted that statute, leaving its operative parts unchanged with one exception—which removed the word "guns" from the list of items forbidden to the poorer citizens.[25] The right to keep and bear arms would henceforth belong to all English subjects, rich and poor alike.

In the colonies, availability of hunting and need for defense led to armament statutes comparable to those of the early Saxon times. In 1623, Virginia forbade its colonists to travel unless they were "well armed"; in 1631 it required colonists to engage in target practice on Sunday and to "bring their peaces to church." [26] In 1658 it required every householder to have a functioning firearm within his house and in 1673 its laws provided that a citizen who claimed he was too poor to purchase a firearm would have one purchased for him by the government, which would then require him to pay a reasonable price when able to do so. [27] In Massachusetts, the first session of the legislature ordered that not only freemen, but also indentured servants own firearms and in 1644 it imposed a stern 6 shilling fine upon any citizen who was not armed. [28]

When the British government began to increase its military presence in the colonies in the mid-eighteenth century, Massachusetts responded by calling upon its citizens to arm themselves in defense. One colonial newspaper argued that it was impossible to complain that his act was illegal since they were "British subjects, to whom the privilege of possessing arms is expressly recognized by the Bill of Rights" while another argued that this "is a natural right which the people have reserved to themselves, confirmed by the Bill of Rights, to keep arms for their own defense".[29] The newspaper cited Blackstone's commentaries on the laws of England, which had listed the "having and using arms for self preservation and defense" among the "absolute rights of individuals." The colonists felt they had an absolute right at common law to own firearms.

Together with freedom of the press, the right to keep and bear arms became one of the individual rights most prized by the colonists. When British troops seized a militia arsenal in September, 1774, and incorrect rumors that colonists had been killed spread through Massachusetts, 60,000 citizens took up arms.[30] A few months later, when Patrick Henry delivered his famed "Give me liberty or give me death" speech, he spoke in support of a proposition "that a

well regulated militia, composed of gentlemen and freemen, is the natural strength and only security of a free government. . . ." Throughout the following revolution, formal and informal units of armed citizens obstructed British communication, cut off foraging parties, and harassed the thinly stretched regular forces. When seven states adopted state "bills of rights" following the Declaration of Independence, each of those bills of rights provided either for protection of the concept of a militia or for an express right to keep and bear arms.[31]

Following the revolution but previous to the adoption of the Constitution, debates over militia proposals occupied a large part of the political scene. A variety of plans were put forth by figures ranging from George Washington to Baron von Steuben.[32] All of the proposals called for a general duty of all citizens to be armed, although some proposals (most notably von Steuben's) also emphasized a "select militia" which would be paid for its services and given special training. In this respect, this "select militia" was the successor of the "trained bands" and the predecessor of what is today the "national guard". In the debates over the Constitution, von Steuben's proposals were criticized as undemocratic. In Connecticut one writer complained of a proposal that "this looks too much like Baron von Steuben's militia, by which a standing army was meant and intended." [33] In Pennsylvania, a delegate argued "Congress may give us a select militia which will, in fact, be a standing army—or Congress, afraid of a general militia, may say there will be no militia at all. When a select mulitia is formed, the people in general may be disarmed." [34] Richard Henry Lee, in his widely read pamphlet "Letters from the Federal Farmer to the Republican" worried that the people might be disarmed "by modeling the militia. Should one fifth or one eighth part of the people capable of bearing arms be made into a select militia, as has been proposed, and those the young and ardent parts of the community, possessed of little or no property, the former will answer all the purposes of an army, while the latter will be defenseless." He proposed that "the Constitution ought to secure a genuine, and guard against a select militia," adding that "to preserve liberty, it is essential that the whole body of the people always posses arms and be taught alike, especially when young, how to use them." [35]

The suspicion of select militia units expressed in these passages is a clear indication that the framers of the Constitution did not seek to gurantee a State right to maintain formed groups similar to the National Guard, but rather to protect the right of individual citizens to keep and bear arms. Lee, in particular, sat is the Senate which approved the Bill of Rights. He would hardly have meant the second amendment to apply only to the select militias he so feared and disliked.

Other figures of the period were of like mind. In the Virginia convention, George Mason, drafter of the Virginia Bill of Rights, accused the British of having plotted "to disarm the people—that was the best and most effective way to enslave them", while Patrick Henry observed that "The great object is that every man be armed" and "everyone who is able may have a gun".[36]

Nor were the antifederalist, to whom we owe credit for a Bill of Rights, alone on this account. Federalist arguments also provide a source of support for an individual rights view. Their arguments in favor of the proposed Constitution also relied heavily upon universal armament. The proposed Constitution had been heavily criticized for its failure to ban or even limit standing armies. Unable to deny this omission, the Constitution's supporters frequently argued to the people that the universal armament of Americans made such limitations unnecessary. A pamphlet written by Noah Webster, aimed at swaying Pennsylvania toward ratification observed

"Before a standing army can rule, the people must be disarmed; as they are in almost every kingdom in Europe. The supreme power in America cannot enforce unjust laws by the sword, because the whole body of the people are armed, and constitute a force superior to any band of regular troops that can be, on any pretense, raised in the United States".[37]

In the Massachusetts convention, Sedgwick echoed the same thought, rhetorically asking if an oppressive army could be formed or "if raised, whether they could subdue a Nation of freemen, who know how to prize liberty, and who have arms in their hands?" [38] In Federalist Paper 46, Madison, later author of the Second Amendment, mentioned "The advantage of being armed, which the Americans possess over the people of all other countries" and that "notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms."

A third and even more compelling case for an indivdiual rights perspective on the Second Amendment comes from the State demands for a bill of rights. Numerous state ratifications called for adoption of a Bill of Rights as a part of the Constitution. The first such call came from a group of Pennsylvania delegates. Their proposals, which were not adopted but had a critical effect on future debates, proposed among other rights that "the people have a right to bear arms for the defense of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or a real danger of public injury from individuals." [39] In Massachusetts, Sam Adams unsuccessfully pushed for a ratification conditioned on adoption of a Bill of Rights, beginning with a guarantee "That the said Constitution shall never be construed to authorize Congress to infringe the just liberty of the press or the rights of conscience; or to prevent the people of the United States who are peaceable citizens from keeping their own arms. . . ." [40] When New Hampshire gave the Constitution the ninth vote needed for its passing into effect, it called for adoption of a Bill of Rights which included the provision that "Congress shall never disarm any citizen unless such as are or have been in actual rebellion". [41] Virginia and North Carolina thereafter called for a provision "that the people have the right to keep and bear arms; that a well regulated militia composed of the body of the people trained to arms is the proper, natural and safe defense of a free state." [42]

When the first Congress convened for the purpose of drafting a Bill of Rights, it delegated the task to James Madison. Madison did not write upon a blank tablet. Instead, he obtained a pamphlet listing the State proposals for a Bill of Rights and sought to produce a briefer version incorporating all the vital proposals of these. His purpose was to incorporate, not distinguish by technical changes, proposals such as that of the Pennsylvania minority, Sam Adams, and the New Hampshire delegates. Madison proposed among other rights that:

"The right of the people to keep and bear arms shall not be infringed; a well armed and well regulated militia being the best security of a free country; but no person religiously scrupulous of bearing arms shall be compelled to render military service in person." [43]

In the House, this was initially modified so that the militia clause came before the proposal recognizing the right. The proposals for the Bill of Rights were then trimmed in the interests of brevity. The conscientious objector clause was removed following objections by Elbridge Gerry, who complained that future Congresses might abuse the exemption for the scrupulous to excuse everyone from militia service.

The proposal finally passed the House in its present form: "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed." In this form it was submitted into the Senate, which passed it the following day. The Senate in the process indicated its intent that the right be an individual one, for private purposes, by rejecting an amendment which would have limited the keeping and bearing of arms to bearing "for the common defense".

The earliest American constitutional commentators concurred in giving this broad reading to the amendment. When St. George Tucker, later Chief Justice of the Virginia Supreme Court, in 1803 published an edition of Blackstone annotated to American law, he followed Blackstone's citation of the right of the subject "of having arms suitable to their condition and degree, and such as are allowed by law" with a citation to the Second Amendment, "And this without any qualification as to their condition or degree, as is the case in the British government". [44] William Rawle's "View of the Constitution" published in Philadelphia in 1825 noted that under the Second Amendment

"The prohibition is general. No clause in the Constitution could by a rule of construction be conceived to give to Congress a power to disarm the people. Such a flagitious attempt could only be made under some general pretense by a state legislature. But if in blind pursuit of inordinate power, either should attempt it, this amendment may be appealed to as a restraint on both." [45]

The Jefferson papers in the Library of Congress show that both Tucker and Rawle were friends of, and corresponded with Thomas Jefferson. This suggests that their assessment, as contemporaries of the Constitution's drafters, should be afforded special consideration.

Later commentators agreed with Tucker and Rawle. For instance, Joseph Story in his "Commentaries on the Constitution" consider the right to keep and bear arms as "the palladium of the liberties of the republic", which deterred tyranny and enabled the citizenry at large to overthrow it should it come to pass. [46]

Subsequent legislation in the Second Congress likewise supports the interpretation of the second amendment that creates an individual right. In the Militia Act of 1792, the second Congress defined "militia of the United States" to include almost every free

adult male in the United States. These persons were obligated by law to possess a firearm and a minimum supply of ammunition and military equipment.[47] This statute, incidentally remained in effect into the early years of the present century as a legal requirement of gun ownership for most of the population of the United States. There can be little doubt from this that when the Congress and the people spoke of a "militia", they had reference to the traditional concept of the entire populace capable of bearing arms, and not to any formal group such as what is today called the National Guard. The purpose was to create an armed citizenry, such as the political theorists at the time considered essential to ward off tyranny. From this militia, appropriate measures might create a "well regulated militia" of individuals trained in their duties and responsibilities as citizens and owners of firearms.

The Second Amendment as such was rarely litigated prior to the passage of the Fourteenth Amendment. Prior to that time, most courts accepted that the commands of the federal Bill of Rights did not apply to the states. Since there was no federal firearms legislation at this time, there was no legislation which was directly subject to the Second Amendment, if the accepted interpretations were followed. However, a broad variety of state legislation was struck down under state guarantees of the right to keep and bear arms and even in a few cases, under the Second Amendment, when it came before courts which considered the federal protections applicable to the states. Kentucky in 1813 enacted the first carrying concealed weapon statute in the United States; in 1822, the Kentucky Court of Appeals struck down the law as a violation of the state constitutional protection of the right to keep and bear arms: "And can there be entertained a reasonable doubt but the provisions of that act import a restraint on the right of the citizen to bear arms? The court apprehends it not. The right existed at the adoption of the Constitution; it then had no limit short of the moral power of the citizens to exercise it, and in fact consisted of nothing else but the liberty of the citizen to bear arms."[48] On the other hand, a similar measure was sustained in Indiana, not upon the grounds that a right to keep and bear arms did not apply, but rather upon the notion that a statute banning only concealed carrying still permitted the carrying of arms and merely regulated one possible way of carrying them.[49] A few years later, the Supreme Court of Alabama upheld a similar statute but added "We do not desire to be understood as maintaining, that in regulating the manner of wearing arms, the legislature has not other limit than its own discretion. A statute which, under the pretense of regulation, amounts to a destruction of that right, or which requires arms to be so borne as to render them wholly useless for the purpose of defense, would be clearly unconstitutional."[50] When the Arkansas Supreme Court in 1842 upheld a carrying concealed weapons statute, the chief justice explained that the statute would not "detract anything from the power of the people to defend their free state and the established institutions of the country. It prohibits only the wearing of certain arms concealed. This is simply a regulation as to the manner of bearing such arms as are specified", while the dissenting justice proclaimed "I deny that any just or free government upon earth has the power to disarm its citizens".[51]

Sometimes courts went farther. When in 1837, Georgia totally banned the sale of pistols (excepting the larger pistols "known and used as horsemen's pistols") and other weapons, the Georgia Supreme Court in *Nunn* v. *State* held the statute unconstitutional under the Second Amendment to the federal Constitution. The court held that the Bill of Rights protected natural rights which were fully as capable of infringement by states as by the federal government and that the Second Amendment provided "the right of the whole people, old and young, men, women and boys, and not militia only, to keep and bear arms of every description, and not merely such as are used by the militia, shall not be infringed, curtailed, or broken in on, in the slightest degree; and all this for the important end to be attained: the rearing up and qualifying of a well regulated militia, so vitally necessary to the security of a free state."[52] Prior to the Civil War, the Supreme Court of the United States likewise indicated that the privileges of citizenship included the individual right to own and carry firearms. In the notorious *Dred Scott* case, the court held that black Americans were not citizens and could not be made such by any state. This decision, which by striking down the Missouri Compromise did so much to bring on the Civil War, listed what the Supreme Court considered the rights of American citizens by way of illustrating what rights would have to be given to black Americans if the Court were to recognize them as full fledged citizens:

"It would give to persons of the negro race, who are recognized as citizens in any one state of the Union, the right to enter every other state, whenever they pleased. . . . and it would give them full liberty of speech in public and in private upon all subjects upon which its own citizens might meet; to hold public meetings upon political affairs, and to keep and carry arms wherever they went."[53]

Following the Civil War, the legislative efforts which gave us three amendments to the Constitution and our earliest civil rights acts likewise recognized the right to keep and bear arms as an existing constitutional right of the individual citizen and as a right specifically singled out as one protected by the civil rights acts and by the Fourteenth Amendment to the Constitution, against infringement by state authorities. Much of the reconstruction effort in the South had been hinged upon the creation of "black militias" composed of armed and newly freed blacks, officered largely by black veterans of the Union Army. In the months after the Civil War, the existing southern governments struck at these units with the enactment of "black codes" which either outlawed gun ownership by blacks entirely, or imposed permit systems for them, and permitted the confiscation of firearms owned by blacks. When the Civil Rights Act of 1866 was debated members of both the Senate and the House referred to the disarmament of blacks as a major consideration.[54] Senator Trumbull cited provisions outlawing ownership of arms by blacks as among those which the Civil Rights Act would prevent;[55] Senator Sulsbury complained on the other hand that if the act were to be passed it would prevent his own state from enforcing a law banning gun ownership by individual free blacks.[56] Similar arguments were advanced during the debates over the anti-KKK act"; its sponsor at one point explained that a section making it a federal crime to deprive a person of "arms or weapons he may have in his house or possession for the defense of his person, family or property" was "intended to enforce the well-known constitutional provisions guaranteeing the right in the citizen to 'keep and bear arms'."[57] Likewise, the debate over the Fourteenth Amendment Congress frequently referred to the Second Amendment as one of the rights which it intended to guarantee against state action.[58]

Following adoption of the Fourteenth Amendment, however, the Supreme Court held that that Amendment's prohibition against states depriving any persons of their federal "privileges and immunities" was to be given a narrow construction. In particular, the "privileges and immunities" under the Constitution would refer only to those rights which were not felt to exist as a process of natural right, but which were created solely by the Constitution. These might refer to rights such as voting in federal elections and of interstate travel, which would clearly not exist except by virtue of the existence of a federal government and which could not be said to be "natural rights".[59] This paradoxically meant that the rights which most persons would accept as the most important—those flowing from concepts of natural justice—were devalued at the expense of more technical rights. Thus when individuals were charged with having deprived black citizens of their right to freedom of assembly and to keep and bear arms, by violently breaking up a peaceable assembly of black citizens, the Supreme Court in *United States* v. *Cruikshank*[60] held that no indictment could be properly brought since the right "of bearing arms for a lawful purpose" is "not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence." Nor, in the view of the Court, was the right to peacefully assemble a right protected by the Fourteenth Amendment: "The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is and has always been one of the attributes of citizenship under a free government. . . . It was not, therefore, a right granted to the people by the Constitution." Thus the very importance of the rights protected by the First and Second Amendment was used as the basis for the argument that they did not apply to the states under the Fourteenth Amendment. In later opinions, chiefly *Presser* v. *Illinois*[61] and *Miller* v. *Texas*,[62] the Supreme Court adhered to the view, *Cruikshank* has clearly been superseded by twentieth century opinions which hold that portions of the Bill of Rights—and in particular the right to assembly with which *Cruikshank* dealt in addition to the Second Amendment—are binding upon the state governments. Given the legislative history of the Civil Rights Acts and the Fourteenth Amendment, and the more expanded views of incorporation which have become accepted in our own century, it is clear that the right to keep and bear arms was meant to be and should be protected under the civil rights statutes and the Fourteenth Amendment against infringement by officials acting under color of state law.

Within our own century, the only occasion upon which the Second Amendment has reached the Supreme Court came in *United States* v. *Miller*.[63] There, a prosecution for carrying a sawed off shotgun was dismissed before trial on Second Amendment grounds. In doing so, the court took no evidence as to the nature of the firearm or indeed any

other factual matter. the Supreme Court reversed on procedural grounds, holding that the trial court could not take judicial notice of the relationship between a firearm and the Second Amendment, but must receive some manner of evidence. It did not formulate a test nor state precisely what relationship might be required. The court's statement that the amendment was adopted "to assure the continuation and render possible the effectiveness of such [militia] forces" and "must be interpreted and applied with that end in view", when combined with the court's statement that all constitutional sources "show plainly enough that the militia comprised all males physically capable of acting in concert for the common defense. . . . these men were expected to appear bearing arms supplied by themselves and of the kind in common use at the time,"[64] suggests that at the very least private ownership by a person capable of self defense and using an ordinary privately owned firearm must be protected by the Second Amendment. What the Court did not do in Miller is even more striking: It did not suggest that the lower court take evidence on whether Miller belonged to the National Guard or a similar group. The hearing was to be on the nature of the firearm, not on the nature of its use; nor is there a single suggestion that National Guard status is relevant to the case.

The Second Amendment right to keep and bear arms therefore, is a right of the individual citizen to privately possess and carry in a peaceful manner firearms and similar arms. Such an "individual rights" interpretation is in full accord with the history of the right to keep and bear arms, as previously discussed. It is moreover in accord with contemporaneous statements and formulations of the right by such founders of this nation as Thomas Jefferson and Samuel Adams, and accurately reflects the majority of the proposals which led up to the Bill of Rights itself. A number of state constitutions, adopted prior to or contemporaneously with the federal Constitution and Bill of Rights, similarly provided for a right of the people to keep and bear arms. If in fact this language creates a right protecting the states only, there might be a reason for it to be inserted in the federal Constitution but no reason for it to be inserted in state constitutions. State bills of rights necessarily protect only against action by the state, and by definition a state cannot infringe its own rights; to attempt to protect a right belonging to the state by inserting it in a limitation of the state's own powers would create an absurdity. The fact that the contemporaries of the framers did insert these words into several state constitutions would indicate clearly that they viewed the right as belonging to the individual citizen, thereby making it a right which could be infringed either by state or federal government and which must be protected against infringement by both.

Finally, the individual rights interpretation gives full meaning to the words chosen by the first Congress to reflect the right to keep and bear arms. The framers of the Bill of Rights consistently used the words "right of the people" to reflect individual rights—as when these words were used to recognize the "right of the people" to peaceably assemble, and the "right of the people" against unreasonable searches and seizures. They distinguished between the rights of the people and of the state in the Tenth Amendment. As discussed earlier, the "militia" itself referred to a concept of a universally armed people, not to any specifically organized unit. When the framers referred to the equivalent of our National Guard, they uniformly used the term "select militia" and distinguished this from "militia". Indeed, the debates over the Constitution constantly referred to organized militia units as a threat to freedom comparable to that of a standing army, and stressed that such organized units did not constitute, and indeed were philosophically opposed to, the concept of a militia.

That the National Guard is not the "Militia" referred to in the second amendment is even clearer today. Congress has organized the National Guard under its power to "raise and support armies" and not its power to "Provide for organizing, arming and disciplining the Militia".[65] This Congress chose to do in the interests of organizing reserve military units which were not limited in deployment by the strictures of our power over the constitutional militia, which can be called forth only "to execute the laws of the Union, suppress insurrections and repel invasions." The modern National Guard was specifically intended to avoid status as the constitutional militia, a distinction recognized by 10 U.S.C. § 311(a).

The conclusion is thus inescapable that the history, concept, and wording of the second amendment to the Constitution of the United States, as well as its interpretation by every major commentator and court in the half-century after its reatification, indicates that what is protected is an individual right of a private citizen to own and carry firearms in a peaceful manner.

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62. Miller v. Texas, 153 U.S. 535 (1894).

63. United States v. Miller, 307 U.S. 175 (1939).

64. Id. at 178, 179.

65. H.R. Report No. 141, 73d Cong., 1st sess. at 2-5 (1933).

[From the Washington Post magazine]

A RUDE AWAKENING

(By Richard Cohen)

Crash! It's 3:30 in the morning, a Saturday night/Sunday morning, and I am, as I should be at that hour, in bed. Crash Wrip! What's that? It sounds like the door, as if it's sticking because it's swollen with humidity, but the noise is sharper than that. Besides, I'm expecting no one. Crash! Wrip! Kapow! The door is open. Someone's in my apartment!

I leap out of bed and rush to the stairs. I have a triplex apartment with a narrow spiral staircase connecting the floors. The noise seems to have come from the second floor (my bedroom is on the third), but I can't be sure. "Who's there?" I yell. No response. But I hear something. At least I think I hear something. "Who's There?" I bellow. I hear a sound—running feet?—and then what sounds like the crashing of the door. Then nothing.

I rush to the phone. Thank God there's a dial tone. I call 911 and report an intruder. Then I leap into some pants and grap the only weapon I have—oversize scissors. I spread them to see if one blade alone makes a better weapon and then, deciding otherwise, close them and return to the head of the stairs. I listen. Nothing.

What did I hear before? I'm not sure. I've been living in this place for only a little while, and I'm not yet accustomed to the noises this particular house makes. All houses "talk" at night. The heating system talks to the air-conditioning system. The joists talk to the floorboards. It takes time to learn the language of a house. Also, mine is an apartment, and there are others in the building. The night creaks with footsteps, with the whoosh of water rushing through pipes and, sometimes with voices coming from outside. Some nights, this house babbles.

From time to time, the house would wake me. An intruder! I would creep to the stairs and listen. Nothing. Still, I heard something. I would comfort myself with reason: A burglar would not come at night, when someone might be home. Reason always worked for me as a child. After I had seen a horror film or a murder mystery, I would think it through: I did not live in the desert, where the space aliens had landed. I did not live in a Cape Cod house, where the woman had been murdered. I did not . . . There were enough differences to help me make it through the night. Sometimes I could actually fall asleep.

But now none of my reasoning was working. I had heard something. There was someone in the house. That was definite. Would he come upstairs? That was not definite. If he did, would he have a weapon? All I had was the scissors. That wouldn't do. I wanted what I didn't have. I wanted a gun.

Yes, yes, a gun. A lifetime of being a proponent of gun control, of being—truly—anti-gun suddenly meant nothing. I knew all the arguments. What if the noise was my son inexplicably coming in at 3:30 in the morning? (Well, I would see him as he came up the stairs.) What if the intruder had a gun? One or both of us could get killed. And what if the gun were to get stolen, adding to the millions of guns already out there? What was I, some sort of cliché, yet more proof that a liberal is someone who has not yet been mugged?

All my life I have been against guns. In the Army, when rifles were finally assigned to us, I seemed to be alone in greeting the weapon as nothing but a nuisance. Others in my barracks loved their weapons. Not I. When it came to Remingtons, I preferred the typewriters.

But now I wanted a gun. Understand: Even as I held the scissors overhead, I knew I would write about this (if I lived). I knew, too, it would be about guns, about my feelings at the time—not some detailed, dispassionate proposal. I still think it's crazy that a John Hinckley could easily buy a cheap gun and almost kill a president. I still think it's crazy that cheap guns are on the market. But at that moment, I wanted a gun.

Within minutes, the police arrived. They came from both the front and back of the house. The ones in the front rang the doorbell. Was it safe to run down to buzz them in? I decided to chance it. Scissors held high, I dashed down and lunged for the buzzer. Then I ran for the door and swung it open. Two policemen stood there. Loveliest sight I've ever seen.

From the ground floor came a voice. The cops were down there, too. How had they gotten in? It soon became clear. My back door had been forced open. The lock dangled. The door itself had been damaged. "Anything missing?" a policeman asked. I looked around. A laptop computer was gone.

The police stayed awhile to make out a report and dust for fingerprints. Their radio crackled—the static of the city night. Someone was trying to steal a mailbox. An officer reported missing had been found. I knew my incident was mere nothing. I was okay. The computer was no personal loss (it was owned by The Washington Post), although it had a column in it. Literary theft, I weakly joked to the cops. "Please put down those scissors, sir," one of them said.

Later, I took a board and nailed it across the door, and soon there would be a new lock and a repaired door. But I know there's no such thing as a burglar-proof house. I hate guns, and I had thought I would never want one. That night I had. They say there are no atheists in foxholes. Maybe. But there are no anti-gun advocates when the door goes Crash! Wrip! Kapow! in the night. The guy took more than a computer. He took an ideology, too.●

By Mr. HUMPHREY (for himself and Mr. RUDMAN):

S. 46. A bill to clarify standards governing bankruptcies and reorganizations of public utility companies under title 11 of the United States Code; to the Committee on the Judiciary.

ELECTRIC UTILITY BANKRUPTCY CLARIFICATION ACT

● Mr. HUMPHREY. Mr. President, on behalf of Senator RUDMAN and on my own behalf, I am introducing legislation which would prevent electric utilities from using the reorganization provisions of the bankruptcy code to circumvent State laws governing rates and other matters.

Bankruptcy reorganization proceedings involving the Public Service Co. of New Hampshire [PSNH]—my State's largest electric utility—have prompted this bill. Indeed, without this legislation, ratepayers in New Hampshire could be subjected to huge rate increases, while the shareholders and creditors might escape the losses which a bankruptcy proceeding ordinarily entails.

PSNH is the lead owner in the enormously expensive Seabrook Nuclear Powerplant, which has yet to operate. A New Hampshire law, enacted in 1979, provides that the costs to utilities for construction work-in-progress [CWIP] may not be included in the rate base until the facility is generating electricity. PSNH and its investors were well aware of this so-called CWIP law when they made the significant financial gambles which eventually led to the bankruptcy filing.

The utility's bankruptcy reorganization plan, filed in December, attempts an end run around New Hampshire's carefully structured regulatory system. The plan would circumvent State rate restrictions by converting PSNH to a holding company subject to the jurisdiction of the Federal Energy Regulatory Commission [FERC]. The plan proposes to use FERC regulations to supplant State laws. Under those regulations, utilities may include up to 50 percent of construction-work-in-progress in their rate base.

Inasmuch as PSNH has already spent more than $2 billion on the Seabrook project, this plan, if approved by the bankruptcy court, could send electricity rates skyrocketing. The investment bankers who took a gamble with high-interest, unsecured PSNH bonds would be rescued at the expense of PSNH customers. In effect, the costs of a bad business deal would be transferred to the ratepayers.

Mr. President, in crafting the Bankruptcy Code, Congress did not anticipate the unique problems arising from a public utility bankruptcy. As the

Congressional Research Service stated in a study on this subject:

The unique legal status of a highly regulated investor-owned utility, and the critical product it provides, may suggest that special legislative provisions should govern its reorganization under the Bankruptcy Code.

The current situation in New Hampshire bears this out.

This bill makes it clear that State regulatory bodies will retain their appropriate jurisdiction over electric utilities undergoing a chapter 11 reorganization. For example, an electric utility will not be able to convert to a federally regulated holding company, and thereby avoid State restrictions on rate hikes, unless the State agency approves the change.

This bill is narrowly tailored to clarify the rules governing electric utility reorganizations only. It has no effect on the Bankruptcy Code as it applies to all other forms of businesses.

Moreover, it merely clarifies existing law, rather than imposing any novel or drastic changes. The Bankruptcy Code already provides that governmental regulatory bodies which have jurisdiction over a company under the terms of a reorganization plan must approve any rate changes provided for in the plan before the court may approve it. In requiring the prior approval of the regulatory authority with existing jurisdiction over the company, this bill ensures that the terms of the reorganization plan will not be used to circumvent State laws.

Finally, there is sound precedent for tailoring the Bankruptcy Code to address the unique public interest issues raised by the bankruptcy of electric utility companies. The Railroad Reorganization Act adopted special provisions to govern the unique problems raised by railroad reorganization in the 1930's. Among other things, those provisions required the court and the trustee to consider the public interest in connection with actions taken in a railroad reorganization. The purpose of this legislation is to address specific public interest issues—notably, the protection of consumers against unwarranted rate increases—in the context of an electric utility reorganization.

This bill is necessary to prevent electric utilities from circumventing meaningful local regulation. If PSNH can get away with this manipulation of the regulatory system, other utilities are sure to follow at the expense of ratepayers across the country. I urge my colleagues to support this legislation.

I ask unanimous consent that a copy of the bill be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 46

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Electric Utility Bankruptcy Clarification Act".

SEC. 2. (a) Chapter 1 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 110. Electric utility debtors

"(a) In cases in which the debtor is an electric utility, the prior approval of any State regulatory authority vested with jurisdiction over the electric utility operations, transactions, properties or rates of the debtor shall be obtained before the court may confirm any plan of adjustment or reorganization or take any other action pertaining to the debtor which would terminate or restrict the existing jurisdiction of such State regulatory authority.

"(b) The pendency of any proceeding under this title shall not be construed to nullify the jurisdiction or authority of any State regulatory authority which would otherwise apply to the operations, transactions, properties, or rates of a debtor which is an electric utility.

"(c) For purposes of this section, the term 'electric utility' means any entity which owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale, other than sale to tenants or employees of the entity operating such facilities for their own use and not for resale.".

(b) The table of sections for chapter 1 of title 11, United States Code, is amended by adding at the end thereof the following:

"110. Electric utility debtors.".

(c) This Act and the amendments made by this Act shall become effective on the date of enactment and shall apply to any case pending on such date.

● Mr. RUDMAN. Mr. President, I rise today along with my colleague from New Hampshire, Senator HUMPHREY, to introduce legislation that would prevent the creation of a loophole for public electric utilities in bankruptcy proceedings.

The Federal Bankruptcy Code now requires approval by the State or Federal regulatory agency which oversees rates, of any rate increases provided for in a reorganization plan approved by the court. I believe the intent of Federal law is thus clear, and that provision ought to be dispositive of the issue.

Regrettably, the Bankruptcy Code has no explicit provision preventing a court from transferring regulation authority away from the State to the Federal Energy Regulatory Commission [FERC], thereby escaping the jurisdiction of a State regulatory agency for the principle purpose of setting rates. Some attorneys are now asserting that, in the absence of such a specific prohibition, the bankruptcy court has the authority to violate all our federalist principles. Our bill would clarify this. A transfer of regulatory authority should be acceptable if the State concurs with the utility on the regulatory transfer. Were the bankruptcy court to approve the transfer without the approval of the State regulatory agency, it would deprive captive consumers of the protection established by law and contemplated in our Federal system of government. The bankruptcy of a public electric utility, which is the sole provider of electricity in an area, is far different than the bankruptcy of a widget manufacturer. In the case of the electric utility, there is a clear public and federalism interest which must be protected. This legislation merely requires the bankruptcy court to condition its approval, at any point in the bankruptcy proceedings, on compliance by the debtor with State regulatory requirements over rates and other utility operations prior to terminating or restricting the existing jurisdiction of the State agency. Thus it would clarify existing statute as to the role of the State public utility commission.

Mr. President, this legislation is proconsumer. It assures consumers who would otherwise be held hostage by the bankruptcy court without any input from the State agency with jurisdiction over rates that their interests, along with the interests of investors and creators will be considered prior to the confirmation of a reorganization plan.

The beginning of a dangerous precedent is taking place in the State of New Hampshire where Public Service Co. of New Hampshire, the State's largest public electric utility, filed for bankruptcy on January 28, 1988, becoming the first major investor-owned utility to file bankruptcy since the Great Depression. As my colleague Senator HUMPHREY has already noted, because of the enormous cost overruns incurred by PSNH in constructing the Seabrook Nuclear Powerplant, combined with a State statute restricting construction-work-in-progress [CWIP] fees from being charged back to the ratepayer, PSNH sought protection under chapter 11. The recent reorganization plan submitted by PSNH is an attempt to run roughshod over ratepayers. If PSNH is regulated by FERC, it may be allowed to increase its rates drastically since FERC allows utilities to charge back the costs of plants not yet in operation. If PSNH is allowed to dramatically increase its rates, the injection of capital from the rate increase will be money in the pockets of investors. Let me make it clear, the beneficiaries of such a rate increase will not be average Americans who hold common stock in PSNH. Instead, it will be Wall Street investment bankers who purchased unsecured bonds at high interest rates or at 30 cents on the dollar, knowing full well the risk of investing in PSNH and who now want to remove that risk by manipulating Federal law to obtain a full dollar back in value.

While this measure, if enacted, would prevent the regulation transfer to take place in New Hampshire without the approval of the State public

utilities commission, it is not meant to be limited to just our State. Similar cases of this type may arise in other States around the country.

It is our intent to clarify the Bankruptcy Code as it relates to electric utilities. Our legislation would not impact other types of businesses in bankruptcy.

Mr. President, we must protect electricity consumers from a process which does not consider their interests but rather, favors those of the investor and the creditor. While I do not begrudge these investors their fair profit, I do object to various entities using the bankruptcy process to further their financial ends and stick it to the consumer. Congress intended for the public interest to be considered in the case of a bankrupt public electric utility. While the current Bankruptcy Code already contains provisions concerning electric rates, our legislation would further clarify these provisions to protect the public interest. I urge my colleagues to support this important legislation.●

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. KENNEDY, Mr. MOYNIHAN, Mr. INOUYE, Mr. ADAMS, Ms. MIKULSKI, and Mr. CHAFEE):

S. 47. A bill to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; to the Committee on the Judiciary.

CIVIL RIGHTS AMENDMENTS ACT

Mr. CRANSTON. Mr. President, I am today introducing legislation on behalf of myself, the Senators from Massachusetts [Mr. KERRY and Mr. KENNEDY], the Senator from New York, [Mr. MOYNIHAN], the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. ADAMS], and the Senator from Maryland [Ms. MIKULSKI], which would amend the Civil Rights Act of 1964, to prohibit discrimination in employment, housing, public accommodations, or federally assisted programs on the basis of affectional or sexual orientation.

Mr. President, it is time that our Nation's civil rights law be amended to make it clear that discrimination against individuals on the basis of their sexual orientation is wrong. I firmly believe that it is just as wrong to discriminate on the basis of an individual's sexual orientation as it is to discriminate on the bases of sex, religion, race, age, national origin, or disability. We have an obligation to fight against invidious discrimination whatever the form. Our laws must prevent unfair discrimination against all individuals.

Justice and fair play are deeply embedded concepts in our society. Discrimination on the basis of an individual's sexual orientation is simply unfair. It also violates the traditional American respect for privacy and individual freedoms.

Extending the civil rights laws of this Nation to protect gay men and lesbian women from invidious discrimination because of their sexual orientation has broad support from numerous religious and other organizations. In the past, the National Council of Churches, the Lutheran Church in America, the United Church of Christ, the Episcopal Church USA, the United Presbyterian Church, the Union of American Hebrew Congregations and the National Federation of Priests' Councils, among others, have endorsed the inclusion of the term "sexual orientation" in existing civil rights laws. Major labor organizations, including the AFL-CIO, the American Federal of State, County, and Municipal Employees, and the Service Employees International Union have supported the policy of nondiscrimination on the basis of sexual orientation in employment, as have many major corporations which have adopted nondiscrimination policies. Public opinion polls have also shown that the majority of Americans support basic civil rights for gay individuals.

Despite the general view that discrimination against individuals because of sexual orientation is wrong, there is little question that gay Americans repeatedly face discrimination, hostility, and prejudice in many communities throughout the Nation. This legislation is needed to bring an end to that discrimination, to provide a clear remedy to redress violations of individual rights, and to make it clear that this type of discrimination is wrong and unlawful.

Mr. President, this legislation would not establish any special treatment or rights. It would simply extend to gay men and lesbian women basic protections against invidious discrimination because of their sexual orientation.

Mr. President, the time is long past due for this fundamental concept of fairness to be embedded in our civil rights laws. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 47

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Amendments Act of 1989".

PUBLIC ACCOMMODATIONS

SEC. 2. (a) Section 201(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

(b) Section 202 of such Act (42 U.S.C. 200a-1) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

PUBLIC FACILITIES

SEC. 3. Section 301(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000b(a)) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

FEDERALLY ASSISTED OPPORTUNITIES

SEC. 4. Section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d) is amended by inserting after "color," the following: "affectional or sexual orientation,".

EQUAL EMPLOYMENT OPPORTUNITIES

SEC. 5. (a) Sections 703(a), 703(b), 703(c), 703(d), 703(e), 703(j), 704(b), 706(g), and 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2, 2000e-3, 2000e-5, 2000e-16) are amended by inserting after "sex," each place it appears the following: "affectional or sexual orientation,".

(b) Section 717(c) of such Act (42 U.S.C. 2000e-16) is amended by inserting ", affectional or sexual orientation," after "sex".

(c)(1) Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after "sex," the first place it appears the following: "affectional or sexual orientation,".

(2) Such section 703(h) is further amended by inserting ", affectional or sexual orientation," after "sex" the second place it appears.

INTERVENTION AND PROCEDURE

SEC. 6. Section 902 of the Civil Rights Act of 1964 (42 U.S.C. 2000h-2) is amended by inserting after "sex" the following: ", affectional or sexual orientation,".

HOUSING SALE, RENTAL, FINANCING, AND BROKERAGE SERVICES

SEC. 7. (a) Section 804 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (42 U.S.C. 3604), is amended by inserting after "religion," each place it appears the following: "affectional or sexual orientation,".

(b) Section 805 of such Act (42 U.S.C. 3605) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

(c) Section 806 of such Act (42 U.S.C. 3606) is amended by inserting after "religion," the following: "affectional or sexual orientation,".

PREVENTION OF INTIMIDATION

SEC. 8. Section 901 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes: (42 U.S.C. 3631), is amended by inserting after "religion," each place it appears the following: "affectional or sexual orientation,".

DEFINITION

SEC. 9. As used in the amendments made by this Act, the term "affectional or sexual orientation" means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.

RULE OF INTERPRETATION

SEC. 10. No amendment made by this Act shall be construed to permit or require—

(1) the determination that discrimination exists to be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to in the activity wherein such discrimination is alleged; or

(2) the fashioning of any remedy requiring any sort of quota for the activity wherein such discrimination is alleged for persons of any particular affectional or sexual orientation.

RIGHT OF PRIVACY PROTECTED

SEC. 11. Nothing in this Act or any amendment made by this Act shall be construed to require any person to disclose a personal sexual orientation.

By Mr. CRANSTON:

S. 48. A bill to amend the Federal Aviation Act of 1958 to provide protection for employees of the airlines and to promote air safety; to the Committee on Commerce, Science, and Transportation.

AVIATION SAFETY PROTECTION ACT OF 1989

Mr. CRANSTON. Mr. President, I rise today to introduce a bill entitled the Aviation Safety Protection Act of 1989. This bill protects any airline employee who is fired or reprimanded by his or her employer as a result of reporting to the FAA information relating to air safety. Similar legislation was introduced and passed by the House in the 100th Congress, however no action was taken on the measure in the Senate.

Under current law, an air carrier employee is not protected when he relays information to the FAA regarding the existence of a safety violation and finds himself fired by his employer as a result of that action. The only recourse that may be available to him is a grievance process provided by his union contract. However, the backlog of these cases can be substantial and moving a complaint through the process may take as long as 1 to 2 years; meanwhile the employee is out of work. Furthermore, since a significant sector of the aviation industry is nonunionized even this recourse is unavailable to many employees.

Federal employees currently enjoy whistleblower protection under the Civil Service Reform Act, and have since 1978. Whistleblower protection has been provided for employees in a number of other industries including nuclear powerplant workers, miners, truckers, and employees of defense contractors, to name a few. The same safety concerns that prompted us to take action in those industries also are present in the case of airline employees.

Mr. President, there is widespread concern that, in the deregulated market that exists today, competitive forces have eroded the level of safety at which the airlines operate. Airlines today are under tremendous pressure to keep their planes flying. This can lead to the overlooking of potential safety hazards or violations. In an effort to prevent that, the FAA has recently begun to crack down on such safety violators by imposing fines. For example, in 1986, Pan Am was fined a total of $1.95 million for safety infractions and Eastern was fined $49.5 million; in 1988, Continental was fined $1 million.

The FAA however, does not have the resources necessary to investigate and monitor today's tremendous volume of air traffic. The assistance and information provided by those who operate, service and maintain these aircraft on a daily basis is critical to ensuring that an adequate margin of safety is maintained.

The safety of the flying public may be jeopardized if aviation employees are discouraged from reporting safety violations due to a real or perceived threat of retaliation by their employer. Clearly, these employees must be encouraged to come forward and report safety violations if and where they exist. This legislation would do just that by providing protection for employees so that they do not have to place their jobs at risk when they report safety information.

I believe there is a definite need for this legislation. In hearings held last year by the House Subcommittee on Aviation, testimony was given by an array of witnesses who had personally been subjected to some form of retaliation or discipline as a result of speaking out about safety. For example, Capt. John Knudson, a pilot with Eastern Airlines for 22 years, testified that he was grounded for a period of 5 days as a result of refusing an aircraft that he felt was not safe to fly. Similarly, Ms. Star Hesse, a flight attendant with Pan Am for 21 years, testified before the subcommittee that she was suspended for 30 days as a result of contacting the FAA regarding a coworker who had been on duty for an excessively long period of time. Under FAA regulations a flight attendant has an obligation to remove herself from the flight status when she feels too fatigued to carry out her flight responsibilities. Although permission had been requested from the airline that this particular coworker be allowed to cancel, the airline had refused the request resulting in an on-duty period in excess of 19 hours. Ms. Hesse was notified by the carrier that similar action by her in the future could result in additional discipline, including termination.

Mr. President, I do not believe such retaliatory action by air carriers is either commonplace or conducted by all the airlines. But I do believe that a problem exists and the problem warrants our attention and response.

Under this bill, the Department of Labor would hear and decide all such complaints of employer retaliation. The Department of Labor already has jurisdiction over whistleblower cases in the nuclear industry, for truckers and for hazardous waste workers, and I believe it makes the most sense to have one agency responsible for all such cases. Furthermore, since a petition filed under a whistleblower statute is essentially a labor-management dispute, the Labor Department is the agency with the appropriate expertise.

Employees covered under this bill would include all employees of an airline. Since the purpose of the bill is to promote air safety, coverage provided by the legislation should be as broad as possible. Although certain employees such as pilots, mechanics, stewards, and stewardesses are most likely to have access to safety information, it is very possible that a baggage handler or ticket agent might be privy to certain safety information and they also, under the same rationale, should be protected.

In cases where a claim is brought to the Labor Department in bad faith by an employee for purposes of harrassing an employer, the bill provides that the employer may be awarded attorneys' fees for the cost of his defense, but the fees are not to exceed $5,000. I believe this provision will serve as a strong deterrent to anyone thinking of bringing a bad faith or frivolous claim.

Under the bill, an employee is not required to contact his employer first before he contacts the FAA regarding the existence of a safety violation. Although initial contact with the employer should be encouraged to allow the employer an opportunity to correct the situation, there may be situations where, for whatever reason, an employee is reluctant to do so. Accordingly, he may go directly to the FAA.

Finally, in instances where it is found that an employee has been wrongfully dismissed or punished, the Secretary of Labor can order the employee's reinstatement along with back pay, compensatory damages and expenses incurred.

Mr. President, I believe this is an issue whose time has come and if we are serious about doing everything we can to enhance the safety of our skies then our next logical step is to ensure that those with critical safety information do not hesitate to come forward.

I ask that a copy of the bill be printed in the RECORD.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 48

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Protection Act of 1989".

SEC. 2. PROTECTION OF EMPLOYEES.

(a) GENERAL RULE.—Title XI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501-1519) is amended by adding at the end thereof the following new section:

"SEC. 1119. PROTECTION OF EMPLOYEES.

"(a) DISCRIMINATION AGAINST AIRLINE EMPLOYEES.—No air carrier or contractor or subcontractor of an air carrier may discharge an employee or otherwise discrimi-

nate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the Federal Government information relating to air safety under this Act or any other law of the United States;

"(2) has filed, caused to be filed, or is about to file or cause to be filed a proceeding relating to air carrier safety under this Act or any other law of the United States;

"(3) testified or is about to testify in such a proceeding;

"(4) assisted or participated or is about to assist or participate in such a proceeding; or

"(5) refused to perform a task which, if performed, would allow immediate operation of an aircraft if such employee has a reasonable basis for believing that such operation would likely result in serious injury to himself or the public and if such employee promptly notifies the Federal Aviation Administration of such refusal and the reasons therefor.

"(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

"(1) FILING AND NOTIFICATION.—A person who believes that he has been discharged or otherwise discriminated against by a person in violation of subsection (a) may, within 180 days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint and the Administrator of the Federal Aviation Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities which will be afforded to such person under paragraph (2).

"(2) INVESTIGATION; PRELIMINARY ORDER.—Within 60 days of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint of an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is a reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Within 30 days after notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested within such 30-day period, the preliminary order shall be deemed a final order which is not subject to judicial review.

"(3) FINAL ORDER.—

"(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Within 120 days after conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

"(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to (i) take affirmative action to abate the violation, (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges associated with his employment, and (iii) provide compensatory damages to the complainant. If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $5,000.

"(4) REVIEW.—

"(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed within 60 days from the issuance of the order of the Secretary of Labor. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever a person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

"(6) ENFORCEMENT OF ORDER BY PARTIES.—

"(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) of this section shall not apply with respect to an employee of an air carrier who, acting without direction from such air carrier (or such air carrier's agent), deliberately causes a violation of any requirement relating to air carrier safety under this Act or any other law of the United States.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title XI of such Act is amended by adding at the end thereof the following:

"Sec. 1119. Protection of Employees.

"(a) Discrimination against employees.

"(b) Department of Labor complaint procedure.

"(c) Mandamus.

"(d) Nonapplicability to deliberate violations.".

SEC. 3. CIVIL PENALTY.

Section 901(a)(1)(A) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)(A)) is amended by inserting "or 1119(a)" after "or 1115(e)(2)(B)".

By Mr. CRANSTON:

S. 49. A bill to prohibit the exploration for and extraction of oil and gas in certain areas off the coast of California, and various other purposes; to the Committee on the Environment and Public Works.

THE CALIFORNIA OCEAN SANCTUARY ACT OF 1989

Mr. CRANSTON. Mr. President, today I am introducing the California Ocean Sanctuary Act of 1989 to give long-range protection to California's coastal environment. The bill, which is identical to S. 884 which I sponsored in the 100th Congress, will protect and preserve the environmentally sensitive areas off the coast of California from the risks of damage associated with oil and gas drilling and exploration, and the dumping or burning of hazardous waste.

The coast is one of California's most precious resources and one of the most scenic shorelines in the world. Its beaches attract millions of visitors each year. And its vital coastal waters host numerous and important commercial fisheries.

But this spectacular coastline is threatened by the Reagan administration's 5-year OCS lease plan which calls for oil and gas development off virtually the entire California coastline over the next 2½ years.

Lease sale 91 off northern California, originally scheduled for February 1989 but postponed by administrative action and congressional mandate,

could take place as early as October 1989.

Lease sale 95 off southern California is scheduled for January 1990.

And lease sale 119 off central California is scheduled for March 1991.

These sales could have devastating environmental and economic impacts on the coast—impacts acknowledged by the Department of the Interior itself. The U.S. Fish and Wildlife Service in its comments on lease sale 91 stated that "current technology cannot effectively clean up a spill" and that "offshore development in northern California and the proposed tanker traffic is a high risk operation in rough seas, in a geologically unstable area, with potentially devastating impacts on coastal resources."

Even in the absence of a major spill, fishing would be threatened by platforms and support equipment which compete for space and can damage nets and disperse schools of fish. Discharges of drilling muds and cuttings add heavy metals and other toxics to the food chain which bioaccumulate in fish. Visual and scenic resources would be destroyed by derricks and platforms and onshore facilities to support them. Air quality would be degraded by offshore emissions which blow pollutants to onshore areas already in violation of Federal standards.

In California, the State government—with the full support of county and local officials and the people who live in these areas, as well as the millions of tourists who come to enjoy the incredible beauty of the coast—has chosen to preserve portions of its coastal zone for purposes inconsistent with oil and gas leasing while other areas, both off and onshore, are used for energy production. This is a sensible, balanced, and rational way to allocate resources.

Congress required—in the Outer Continental Shelf Lands Act—a careful balance between the economic and environmental risks and the resource recovery benefits of offshore energy development, together with a process of accommodation and consistency between Federal activities and the State interests. But for the past 8 years, the administration in its zealous offshore activities has consistently overridden any attempt to preserve the irreplacable resources of the coastal environment.

While I am encouraged by the statement made by President Bush during the campaign that he would defer lease sale 91, that simply is not enough. It is imperative that all the proposed California lease sales be canceled or the 5-year plan withdrawn. We need permanent protection for California's scenically stunning and environmentally sensitive marine environment.

The California Ocean Sanctuary Act which I am introducing today will provide that protection. It will establish as an ocean sanctuary those California coastal areas that possess unique historical, ecological, educational, recreational, and research values.

Specifically, the bill will keep free from oil and gas exploration and development those environmentally sensitive areas previously covered by the congressional moratorium. It will protect the five geological basins north of Morro Bay and preserve the magnificent scenic vistas off the Mendocino headlands, the Point Reyes National Seashore, Bodego Bay, the Golden Gate National Recreational Area, Farallon Islands, Santa Cruz beach, Monterey Bay, Big Sur and San Simeon. It will protect the northern and central California waters which abut valuable wetland systems, provide important marine mammal breeding grounds, and contain the greatest diversity of seals and sea lions anywhere in the world.

The legislation will also give statutory protection to the Santa Barbara Channel Ecological Preserve and Buffer Zone, the Channel Islands National Marine Sanctuary, Santa Monica Bay, and waters offshore San Diego and Orange Counties. Southern California's waters contain 75 percent of the State's coastal recreation, massive bird populations and the migratory route of the entire California grey whale population.

The bill also will protect the entire California coastal area, from the Mexican border to the Oregon border and out to 200 miles off State waters in this region, from other potential sources of strain, including the dumping and incineration of toxic chemicals.

Recreational and commercial fishing, however, would be permitted in the areas covered by the legislation.

Mr. President, the coast of California is a place of rare beauty and a national treasure. We must not sacrifice it for limited and finite energy supplies.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 49

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE.

This Act may be cited as the California Ocean Sanctuary Act of 1989.

SEC. 2. FINDINGS.

The Congress finds that——

(a) the California coast possesses unique historical, ecological, educational, recreational, and research values which are appropriate for protection under Federal law; and

(b) there is an existing and mounting threat to this sensitive national treasure in the form of burning and dumping of toxic and hazardous wastes and the exploration for and extraction of fossil fuels, which could result in irreparable damage to this coastal resource.

SEC. 3. DESIGNATION.

The area in this Act described in section 6 is designated as the California Ocean Sanctuary (hereinafter in this Act referred to as the "Sanctuary").

SEC. 5. RESTRICTIONS.

(a) Notwithstanding any other provision of Federal law, no Federal agency shall issue a lease, permit, or license—

(1) for ocean incineration or dumping of toxic or hazardous waste within the Sanctuary; or

(2) for on onshore facility which exists to facilitate ocean incineration or ocean dumping of toxic or hazardous waste within the Sanctuary.

(b) Notwithstanding any other provision of Federal law, a vessel may not travel within the Sanctuary while en route to or from ocean incineration or ocean dumping of toxic or hazardous waste.

(c) Notwithstanding any other provision of Federal law, no Federal agency shall issue any lease, permit, or license for the exploration for or extraction of fossil fuels on or from submerged lands located in the following areas within the Sanctuary:

(1) an area within the Department of the Interior Central and Northern California Planning Area which lies north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System;

(2) an area of the Department of the Interior Southern California Planning Area bounded by the following line on the California (Lambert) Plane Coordinate System: From the point of intersection of the international boundary line between the United States and Mexico and the seaward boundary of the California State Tidelands west along said international boundary line to the point of intersection with the line between the row of blocks numbered 27 west; thence north to the northest corner of block 20 north, 28 west; thence northwest to the southwest corner of block 29 north, 35 west; thence north along the line between the row of blocks numbered 36 west and the row of blocks numbered 35 west to its intersection with the seaward boundary of the California State Tidelands; thence easterly along the seaward boundary of the California State Tidelands to the point of beginning;

(3) a portion of the Department of the Interior Southern California Planning Area which lies both: (a) east of the line between the row of blocks numbered 52 west, and (b) north of the line between the row of blocks numbered 34 north and the row of blocks numbered 35 north, on the California (Lambert) Plane Coordinate System;

(4) the boundaries of the Channel Island National Marine Sanctuary, as defined by title 15, part 935.3 of the Code of Federal Regulations; and

(5) the boundaries of the Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by the Department of the Interior, Bureau of Land Management Public Land Order numbered 4587 (vol. 34, page 5655 Federal Register March 26, 1969).

SEC. 5. PERMITTED ACTIVITIES

(a) This Act shall not prohibit commercial or recreational fishing or other harvesting of ocean life in the Sanctuary.

(b) This Act shall not prohibit exploration for or extraction of fossil fuels on or from submerged lands within the Sanctuary under the terms of a lease, permit, or license which permits such exploration or extraction.

(c)(1) This Act shall not prohibit oil and gas leasing within the Sanctuary, except in those areas identified in section 4(c) of this Act.

(2) Leasing and all postlease activities permitted under this section shall be carried out in accordance with the Outer Continental Shelf Lands Act and other applicable Federal, State and local law.

(3) Leasing and all postlease activities permitted under this section shall be carried out in a manner so as to minimize the environmental, economic, and social impacts of activities related to such leasing.

SEC. 6. DESCRIPTION OF AREA WITHIN SANCTUARY.

(a) The area referred to in section 3 is the area of the Outer Continental Shelf extending 200 miles seaward from the seaward boundary of California (as approved and confirmed by section 4 of the Submerged Lands Act (67 Stat. 31; 43 U.S.C. 1312)).

(b) For purposes of this Act, the term "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

By Mr. DECONCINI:

S. 50. A bill to amend the Sherman Act and the Clayton Act to modify the application of such Acts to international commerce; to the Committee on the Judiciary.

FOREIGN TRADE ANTITRUST IMPROVEMENTS

● Mr. DECONCINI. Mr. President, I am introducing today the Foreign Trade Antitrust Improvements Act of 1989 which calls for a codification of the jurisdictional principle of "reasonableness" for private antitrust suits.

This bill is long overdue and urgently needed. In the 99th Congress, the same bill was reported favorably by the Judiciary Committee. The action by the Judiciary Committee reflected the need for the legislation then. There is an even stronger need for it today.

The extraterritorial application of U.S. antitrust laws has had a significant adverse impact on the climate for international trade and investment by U.S. firms. U.S. companies are currently caught between a rock and a hard place. They face the demands of domestic antitrust laws and the opposing pressure of the international marketplace for cooperative agreements. In addition, they suffer the retaliation and discrimination arising from resentment at the extraterritorial application of our antitrust laws. U.S. firms have been regarded as less desirable partners in foreign ventures and foreign markets because of their antitrust baggage.

There is a growing consensus that something needs to be done, both to safeguard our foreign relations interests and to increase the competitiveness of U.S. business abroad. Thomas M. Jorde, professor of law at the University of California, Berkeley (Wall Street Journal article, Jan. 18, 1989), noting that Japan and the European community have taken steps to ensure that their antitrust laws do not stand in the way of cooperative arrangements designed to commercialize technological innovation, stated that "the U.S. has not yet taken such steps and as a result, U.S. firms are at a disadvantage." Professor Jorde believes that "the time has come for bipartisan, forward-looking action that will place American firms on an antitrust footing more equal to that experienced by their competitors". Now is the time for those of us in Congress to act.

The United States is now the world's largest debtor nation. We can ill afford to continue to hamper our own international competitiveness through unreasonable application of our antitrust laws. This bill will provide for more harmonious legal rules for international trade, and put U.S. business on more equal footing in international trade and commerce. We must seek to harmonize our policies and laws with those of our trading partners if we are to successfully compete for world markets. I urge my colleagues to expeditiously address this matter in this Congress.

Mr. President, I ask unanimous consent that the text of my bill along with a more detailed explanation of the need for this legislation and a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 50

FOREIGN TRADE ANTITRUST IMPROVEMENTS

SEC. 101. This title may be cited as the "Foreign Trade Antitrust Improvements Act of 1989".

SEC. 102. Section 7 of the Sherman Act (15 U.S.C. 61) is amended by—

(1) inserting "(a)" before "This Act"; and

(2) adding at the end thereof the following new subsection:

"(b) Whenever a motion to dismiss for lack of subject matter jurisdiction under this section is made, the court shall, except for good cause shown, hear and determine such motion, after such discovery or other proceedings directly related to the motion, as the court deems appropriate, before conducting or permitting the parties to conduct any further proceedings in the action.".

SEC. 103. The Clayton Act (15 U.S.C. 12 et seq.) is amended by adding after section 20 the following new section:

"SEC. 21. (a) Notwithstanding any other provision of the antitrust laws or any provision of any State laws similar to the antitrust laws, in any action brought by any person or State under the antitrust laws or similar State laws which involves trade or commerce with a foreign nation, the court shall enter a judgment dismissing the action as to all parties whenever it determines that the exercise of jurisdiction would be unreasonable primarily on the basis of the following factors—

"(1) the relative significance, to the violation alleged, of conduct within the United States as compared to conduct abroad;

"(2) the nationality of the persons involved in or affected by the conduct;

"(3) the presence or absence of a purpose to affect United States consumers or competitors;

"(4) the relative significance and foreseeability of the effects of the conduct on the United States as compared with the effects abroad;

"(5) the existence of reasonable expectations that would be furthered or defeated by the action; and

"(6) the degree of conflict with foreign law or articulated foreign economic policies;

except that nothing in this section shall be construed to authorize the court to consider the effect on the foreign political relations of the United States of any action sought to be dismissed.

"(b) Whenever a motion to dismiss on the ground that the exercise of jurisdiction would be unreasonable under this section is made, the court shall, except for good cause shown, hear and determine such motion after such discovery or other proceedings directly related to the motion, as the court deems appropriate, before conducting or permitting the parties to conduct any further proceedings in the action.".

SEC. 104. Section 12 of the Clayton Act (15 U.S.C. 22) is amended by—

(1) inserting "(a)" before "That any suit"; and

(2) adding at the end thereof the following new subsection:

"(d) The doctrine of forum non conveniens shall be applicable in any suit, action, or proceeding under the antitrust laws that involves trade or commerce with a foreign nation, and nothing contained in this section or any other venue provision applicable to such suits, actions, or proceedings shall be construed to prevent dismissal of such a suit, action, or proceeding on the grounds of forum non conveniens.".

S. 50—FOREIGN TRADE ANTITRUST IMPROVEMENTS ACT OF 1989

I. STATEMENT OF PURPOSE AND NEED FOR LEGISLATION

The application of United States antitrust law to conduct outside United States territory has been a continuing source of controversy in the international community. While there appears to be increasing international acceptance of the U.S. position that the effects within national territory of certain extraterritorial actions may warrant taking jurisdiction over them, the proper scope of such extraterritorial jurisdiction remains a sensitive and contentious issue. In an interdependent international economy where the economic well-being and national security of the United States require good relations with our allies and trading partners, any claim of extraterritorial jurisdiction thus must be asserted with care.

Private foreign commerce antitrust cases have been an especially troublesome area of extraterritorial jurisdiction. Many foreign nations differ with our attitude toward coordinated behavior among competitors, particularly in market sectors such as sea and air transportation. Foreign nations also view private enforcement of penal laws like the antitrust laws with great suspicion. This suspicion is exacerbated by the mandatory treble damages available under Clayton Act § 4 and by what is perceived abroad as virtu-

ally limitless and unduly burdensome discovery in U.S. antitrust cases.

The enactment of Section 7 of the Sherman Act in the 1982 Foreign Trade Improvements Act was a first step toward meeting international concerns about foreign commerce antitrust cases. By limiting U.S. jurisdictional claims to conduct which has a direct, substantial and reasonably foreseeable impact on our domestic commerce, import commerce or export opportunities, the Congress indicated that the United States was not attempting to impose an antitrust code of conduct on other nations but only to safeguard its own substantial interests.

The 1982 Act, however, did not seek to resolve the further jurisdictional question of how the U.S interest in regulating international conduct under the antitrust laws should be weighed against the legitimate interest of foreign sovereigns who might be affected by the same conduct but assess it under a different regulatory standard. (See H.R. Rep. No. 686, 97th Cong., 2d Sess. 13 (1982).) The courts, the Department of Justice in its prosecutorial capacity and legal scholars, however, have recognized the need to determine when the assertion of U.S. antitrust jurisdiction within the outer boundary established by the 1982 Act would be unreasonable in light of foreign interests. (See, e.g., *Timberlane Lumber Co.* v. *Bank of America*, 549 F.2d 597 (9th Cir. 1976); *Mannington Mills, Inc.* v. *Congoleum Corp.*, 395 F.2d 1287, 1297-98 (3d Cir. 1979); Restatement of Foreign Relations Law 2d § 40; Restatement of Foreign Relations Law (Revised) § 403); but see *Laker Airways, Ltd.* v. *Sabena*, 731 F.2d.909 (D.C. Cir. 1984). There appears to be an emerging consensus that foreign commerce antitrust jurisdiction should not be asserted when an assessment of all relevant competing interests shows a U.S. claim to jurisdiction to be unreasonable. The practice of other states supports this principle. See Reporters Note 1 to § 403 Restatement Foreign Relations Law (Revised). However, not all courts have been persuaded that this analysis should be made (See, *Laker Airways* v. *Sabena*) and there is substantial divergence in the relevant interest factors set out in various cases and publications.[1]

In these circumstances, testimony in the 99th Congress before the Judiciary Committee by Judge Sofaer, the State Department's Legal Adviser, demonstrated that the international controversy and friction over the extraterritorial application of U.S. antitrust law had not been eliminated. The Legal Adviser first noted that foreign nations believe that conduct within the boundaries of Sherman Act § 7 may in many instances affect their interests more substantially than our own and should be regulated under their laws and policies. In this connection, he also noted that while the Department of Justice has weighed foreign interests in its enforcement program, private plaintiffs have no reason to be sensitive to them. Second, he pointed out that foreign nations believe that the risk of U.S. antitrust liability may impede the willingness of businessmen to cooperate on matters of foreign local interest in the manner desired by foreign authorities. Third, he noted that foreign nations still view antitrust discovery as intrusive, burdensome and a weapon to coerce unwarranted settlements. Fourth, he pointed out that foreign governments consider treble damages to be penal and inappropriate in private actions involving conduct in which they have significant interests.

Other witnesses appearing before the Judiciary Committee, including representatives of the Department of Justice and the American Bar Association, confirmed that the 1982 Act had not fully resolved the extraterritorial jurisdiction issue. They pointed out that a number of foreign nations had enacted "blocking" statutes to restrict the production of documents and furnishing of evidence for use in U.S. antitrust investigations or litigated cases. Some countries, including the United Kingdom, have also enacted "clawback" legislation to permit their nationals to recover the trebled portion of any antitrust judgment. Such foreign actions reflect continuing international concern with private foreign commerce antitrust cases and threaten to undermine the effective and fair administration of the antitrust laws in cases where they properly should apply to foreign defendants. Foreign governments confronted by what they may consider a generally unyielding U.S. posture on recognizing their jurisdictional interests may invoke their blocking statutes to protect their nationals without even considering whether there is a predominant U.S. interest in the conduct at issue.

The Judiciary Committee also heard testimony from representatives of the American business community who added their own concerns to the foreign relations and antitrust enforcement concerns expressed by the government and professional association witnesses. Because extraterritorial conduct in the foreign commerce of the United States is inevitably in the commerce and jurisdictional reach of at least one other nation, extraterritorial antitrust jurisdiction poses difficult problems for American businessmen operating abroad and seeking to remain competitive in international markets. As I previously explained:

"The U.S. corporation doing business abroad must also have some reassurance that it will not become caught in between sometimes inconsistent regulatory responsibilities of governments. Even if a foreign government does not affirmatively require a U.S. corporation to do business in a way that could pose antitrust problems, the foreign government may well condone and encourage cooperative practices among competitors that the U.S. corporation ignores at its own business peril in the foreign market." (131 Cong. Rec. S1160 (daily ed. February 6, 1985).)

Representatives of the business community also pointed to three other problems arising from foreign hostility to extraterritorial antitrust actions. First, they noted that the availability of blocking statutes, "clawbacks" and diplomatic support to foreign defendants tends to throw a disproportionate burden on U.S. defendants in private antitrust litigation. U.S. defendants became the prime focus of discovery and the prime target for levies of judgment regardless of their importance to or depth of involvement in the conduct at issue.

Second, they testified that foreign hostility to U.S. antitrust jurisdiction may foster corresponding hostility to overseas affiliates of U.S. companies and adversely impact the general business climate which American firms encounter abroad. Foreign firms, for example, may simply not invite U.S. companies to participate in critical cooperative activities like standard setting for foreign markets for fear that the involvement of U.S. nationals will bring with it the risk of private antitrust litigation.

Third, the business community representatives pointed out that foreign regulatory entities increasingly were asserting extraterritorial jurisdiction over U.S. business conduct based on its effects in foreign nations. While such foreign actions could have a disruptive effect on conduct in the U.S. like new product introductions, foreign regulators were unlikely to exercise jurisdictional restraint unless they perceived reciprocal restraint on the U.S. side.

S. 50 is intended to meet these problems by codifying a jurisdictional rule of reason standard for foreign commerce antitrust cases. The centerpiece of the bill is its express declaration that private foreign commerce antitrust cases shall be dismissed as to all parties when the exercise of U.S. antitrust jurisdiction would be unreasonable. (Sec. 103). That declaration is supplemented by six carefully structured primary factors which, while not exclusive, provide an orderly and comprehensive framework for the weighing of U.S. and foreign interests in particular extraterritorial conduct. To avoid embroiling this jurisdictional rule of reason analysis in matters more appropriately determined by the Executive branch, consideration of the effect of jurisdiction on U.S. foreign political relations is not authorized in this analysis.

S. 50 recognizes that the legitimate regulatory interests of foreign governments in conduct outside the United States may sometimes outweigh our own interests despite the arguable existence of effects sufficient to meet the threshold standard of Sherman Act S. 7. This Congressional declaration should provide assurance to our allies and trading partners that the United States respects their sovereignty as we expect our own to be respected. I believe that foreign nations should and will respond to this action by carefully reviewing the use of their blocking statutes in cases where their interests have been fairly evaluated under the standards of S. 50.

The development of case law under the structured standards of the S. 50 jurisdictional rule of reason should increase the predictability of governing law in international transactions and help to resolve situations which could generate substantial international relations and business difficulties. Some examples of situations in which S. 50 would be particularly useful are:

[1] As set out in the Restatement of Foreign Relations Law Revised 403(2) the relevant factor analysis is:

(2) Whether the exercise of jurisdiction is reasonable or unreasonable is judged by evaluating all the relevant factors, including, where appropriate,

(a) the extent to which the activity (i) takes place within the regulating state, or (ii) has substantial, direct, and foreseeable effect upon or in regulating state;

(b) the connections, such as nationality, residence, or economic activity, between the regulating state and the persons principally responsible for the activity to be regulated, or between that state and those whom the law or regulation is designed to protect;

(c) the character of the activity to be regulated, the importance of regulation to the regulating state, the extent to which other states regulate such activities, and the degree to which the desirability of such regulation is generally accepted;

(d) the existence of justified expectations that might be protected or hurt by the regulation in question;

(e) the importance of the regulation in question to the international political, legal or economic system;

(f) the extent to which such regulation is consistent with the traditions of the international system;

(g) the extent to which another state may have an interest in regulating the activity; and

(h) the likelihood of conflict with regulation by other states.

A foreign government owned airport or port facility faced with congestion and environmental problems may wish them to be resolved by scheduling agreements among carriers and foreign carriers serving the United States. Service restrictions in the agreements may have substantial effects on movements to and from the U.S. and also may be claimed to affect the cost of U.S. international passenger service and cargo movement. Application of U.S. Antitrust law to prohibit such agreement, however, would clearly regulate: extraterritorial conduct; conduct largely involving and affecting foreign nationals; conduct designed to resolve a local problem with incidental worldwide effects; and conduct consistent with the articulated economic policy of the foreign government.

A foreign government may articulate to manufacturers including subsidiaries of U.S. companies and exporters from the U.S. its policy interest in voluntary standardization of goods to be sold in its local market. Product standards may affect the export potential of other U.S. companies with an interest in the foreign market. Application of U.S. antitrust law to prohibit such agreement, however, would regulate: extraterritorial conduct; conduct largely involving and affecting foreign nationals; conduct designed to regulate a foreign market with incidental effects on sellers into that market; and conduct consistent with foreign economic policy.

A foreign government which has accorded natural resource concessions to a number of companies, including U.S. subsidiaries, may articulate its policy interest in an agreement limiting production for conservation reasons and to further its own economic development plan. Production limitations may affect world prices for the resource, including U.S. import prices. Application of U.S. antitrust law to prohibit such agreement, however, would regulate: extraterritorial conduct; conduct largely involving and affecting foreign nationals; conduct designed to regulate the exploitation of resources in a foreign nation; and conduct conforming to an articulated foreign economic policy.

In all three of these cases, Section 103 of S. 50 would require a careful weighing of foreign and U.S. interests in the conduct at issue. Absent unusual circumstances, it is likely that the exercise of U.S. jurisdiction to regulate such matters as use of foreign airports or port facilities, standards for goods sold in foreign domestic markets or the exploitation of foreign natural resources would be found unreasonable. I believe that this result would serve the foreign relations interests of the United States and permit American business to take sensible steps to protect its competitive position in such matters as access to foreign facilities, foreign export markets and foreign resource concessions.

On the other hand, I want to make it very clear that not all extraterritorial conduct in which foreign governments claim an interest should be outside the reasonable exercise of United States antitrust jurisdiction. For example, if a group of foreign producers exporting to the United States agreed without foreign government objection to allocate U.S. distributors and to raise export prices, the predominant U.S. interest in protecting U.S. consumers and domestic business would, absent unusual circumstances, negate any claim that U.S. jurisdiction would be unreasonable. Foreign governments should understand that predominant U.S. interests will continue to be safeguarded under the antitrust laws, that foreign and U.S. businesses should conform their relevant extraterritorial conduct to U.S. antitrust standards, and that foreign governments should cooperate in U.S. antitrust enforcement where U.S. interests are predominant.

S. 50 also deals with the potential burdens of unnecessary discovery and motion practice in U.S. antitrust cases and the possibility that litigation cost may force unwarranted settlements. Section 102 of the bill requires priority consideration of jurisdictional motions to dismiss under Sherman Act § 7. Section 103(b) of the bill affords the same priority to motions under the new jurisdictional rule of reason. By foreclosing unrelated discovery and proceedings while these motions are pending, absent a judicial determination of good cause, S. 50 gives assurance that the necessary costs of merits discovery and proceedings will be borne only where jurisdiction properly lies in U.S. courts. In addition, Section 104 of S. 50 affirms the applicability of the doctrine of *forum non conveniens* to private foreign commerce antitrust cases thus limiting "forum shopping" by antitrust cases thus limiting "forum shopping" by antitrust plaintiffs and helping to minimize litigation burdens on parties and witnesses.

In summary, S. 50 makes no changes in substantive antitrust law. It is intended to reflect and harmonize what I believe are the better jurisdictional precedents and scholarly analyses on the application of United States antitrust law to predominately foreign conduct and the resolution of conflicting international regulatory interests. Enactment of S. 50 would help alleviate the legitimate concerns of our trading partners about jurisdictional overreach, enable U.S. businessmen to compete more fairly and vigorously in the international arena, and enhance antitrust enforcement in cases where U.S. jurisdiction is reasonable by helping dissuade foreign governments from blocking relevant discovery or frustrating enforcement of antitrust judgments against their nationals.

SECTION-BY-SECTION ANALYSIS

Title I

Section 101—Short title

The first section states the short title of the bill, the "Foreign Trade Antitrust Improvements Act of 1987." The title reflects the purpose of the legislation: to supplement the provisions of the 1982 Foreign Trade Antitrust Improvements Act (Pub. L. No. 97-290, §§ 401-3-03, 96 Stat. 1246) by harmonizing the international application of the United States antitrust laws with the legitimate interests of our trading partners.

Section 102—Threshold resolution of jurisdiction issues

Section 2 of the bill adds a new subsection (b) to Section 7 of the Sherman Act (15 U.S.C. § 6a). Existing Section 7 sets the outer boundary of United States foreign commerce which has a "direct, substantial and reasonably foreseeable effect" on domestic or import commerce or on the export opportunities of a domestic person. New Section 7(b) would require the court in a foreign commerce antitrust case to hear and determine jurisdictional motions under existing Section 7 prior to conducting, or permitting the parties to conduct, any other proceedings in the action. New Section 7(b) is intended to effect an expeditious resolution of jurisdictional issues and to avoid internationally controversial and potentially burdensome discovery and merits proceedings in cases which should not be heard in United States courts. It thus provides that all discovery prior to disposition of a Section 7 motion generally will be limited to the jurisdictionally relevant facts set forth in the complaint and such additional jurisdictional facts as the defendant may assert. Section 7(b) permits the court to modify these limitations for good cause shown such as an emergency situation where jurisdictional and merits discovery are so intertwined that it would be burdensome to separate them. However, in light of the peculiar international sensitivities of foreign commerce antitrust cases, it is anticipated that this discretion will be used sparingly.

Section 103—Principle of jurisdictional reasonableness

Section 3 of the bill adds a new Section 21 comprised of two subsections to the Clayton Act. Subsection (a) codifies a jurisdictional rule of reason in private antitrust cases involving trade or commerce with foreign nations and specifies the primary factors to be considered by the court in deciding whether a particular exercise of foreign commerce antitrust jurisdiction would be unreasonable. Subsection (b) generally requires the court to hear and determine the merits of a motion to dismiss an action under subsection (a) prior to conducting, or allowing the parties to conduct, any other proceeding in the action.

Codification of the Jurisdictional Rule of Reason: New Section 21(a) requires the court in a private foreign commerce antitrust case, or any similar case brought under state law, to dismiss the action as to all parties whenever it determines that the exercise of jurisdiction would be "unreasonable" under the criteria of the new section. New Section 21(a) relates exclusively to subject matter jurisdiction and is not intended to affect the disposition of other issues such as the act of state doctrine or claims of sovereign compulsion which are outside the scope of the bill. For purposes of new Section 31(a), the term action is equivalent to claim upon which the relief can be granted so that each claim for relief is to be reviewed independently under the criteria of the new section.

The requirement of dismissal as to all parties is intended to avoid any discrimination between domestic and foreign corporations. The purpose of Section 21(a) is to determine whether the conduct at issue is more appropriately regulated under United States law or the law of a foreign nation. If United States law should not reasonably apply to the conduct at issue, neither domestic nor foreign corporations should be held to United States antitrust standards. If, on the other hand, United States law reasonably should apply, both domestic and foreign corporations should be subject to its command. This nondiscriminatory standard is particularly appropriate in antitrust conspiracy cases, which constitute the bulk of foreign commerce antitrust cases, where each co-conspirator is deemed responsible for the conduct of all other co-conspirators.

Primary Factors in Determining Jurisdictional Reasonableness: New Section 21(a) enumerates six factors which the court is required to consider in determining whether the exercise of jurisdiction in a particular case would be unreasonable. The listed factors are to be given primacy in Section 21(a) analysis but are not to be considered exclusive since unusual fact situations may bring other relevant considerations into play. There is no special significance or scheme of

priorities in the order in which the factors are listed, and the weight to be given any factor in a specific action will vary with the particular circumstances. Taken together, however, the factors of Section 12(a) are intended to foster a comprehensive analysis of possible conflicts between U.S. interests in applying domestic antitrust laws to protect against harm from anticompetitive restraints and the legitimate interests of foreign governments in regulating their own economic affairs.

The first enumerated factor is "the relative significance, to the violation alleged, or conduct within the United States as compared to conduct abroad." The conduct that is relevant under this factor includes not only meetings and agreements, but also the whole range of economic activity that is involved in an alleged violation. This factor is not intended to give individuals or firms an opportunity to evade U.S. antitrust laws simply by moving some or all of their activities offshore. At the same time, this factor recognizes the sovereign interest in applying national legal standards to acts occurring within national territory.

The second enumerated factor is "the nationality of the persons involved or affected by the conduct." This factor recognizes the sovereign interest created by and the involvement of or the effect on citizens, whether or not they are resident. It would, for example, give added weight to foreign jurisdictional claims in a boycott case where the person allegedly boycotted, and many of the conspirators, were foreign nationals. Similarly, this factor would be significant in a merger case in which the merging parties and the relevant productive facilities are located abroad. This criterion is not intended, however, as a departure from the general principle that U.S. antitrust laws are applied in a nationality-blind way that neither favors nor dicriminates against parties of foreign nationality.

The third enumerated factor is "the presence or absence of a purpose to affect United States consumers or competitors." This factor expressly recognizes the legitimate U.S. interest in protecting U.S. consumers and competitors from intentional anticompetitive assaults and distinguishes such cases from incidental impacts on U.S. interests from predominately foreign conduct. In assessing this factor, the court should consider not only overt declarations of intention to affect U.S. markets, but also facts demonstrating that a substantial effect on U.S. markets were reasonably expected.

The fourth enumerated favor is "the relative significance and foreseeability of the effects of the conduct on the United States as compared with the effects abroad." This factor recognizes that both the anticipated and actual effects of the conduct at issue should be weighed in determining relative U.S. and foreign interests. Consideration by the courts of this factor will assist in identifying circumstances in which jurisdiction is appropriately asserted because of the significance of such effects on the U.S. economy. At the same time, it will weigh against the exercise of jurisdiction where actual or intended domestic effects are outweighed by those abroad and where regulation of the conduct at issue may be more appropriately exercised by other governments.

The fifth enumerated factor is "the existence of reasonable expectations that would be furthered or defeated by the action." This factor recognizes the significance of a reasonable prior determination by defendants and/or foreign governments that challenged conduct is compelled by or consistent with the public policies of a foreign sovereign with a strong interest in its effects. It also affirms the desirability of reasonable predictability regarding the rules applicable to international business transactions.

The sixth enumerated factor is "the degree of conflict with foreign law or articulated foreign economic policies." Under this criterion, the court is to consider the extent to which application of U.S. antitrust law to the challenged conduct would require action or inaction inconsistent with expressions of foreign government law or foreign economic policy as articulated to those involved. If the challenged conduct were also unlawful under foreign law, or if foreign law or articulated foreign economic policy were neutral with respect to the conduct, there likely would be little or no conflict of a kind that would weigh heavily against the assertion of U.S. antitrust jurisdiction. On the other hand, if the challenged conduct were affirmatively mandated or strongly encouraged by foreign law or expressed policy, or if application of U.S. antitrust laws would frustrate enforcement or implementation of such laws or policies, those facts would tend to militate against the exercise of U.S. jurisdiction.

Foreign Policy Considerations Precluded: The proviso to new Section 21(a) expressly excludes from this Act's provisions consideration by the court of "the effect on the foreign political relations of the United States of any action sought to be dismissed." This provision reflects fundamental constitutional principles of separation of powers and expressly confirms that such policy decisions are matters more appropriate for determination by the Executive Branch.

Procedural Primacy: New Section 21(b) generally requires the court to hear and determine the merits of a motion to dismiss under new section 21(a) prior to other proceedings in the action. This provision is intended to operate in the same manner as new Section 7(b) of the Sherman Act, as described above in the analysis of Section 2 of the bill.

Section 104—Forum non conveniens

Section 4 of the bill adds a new subsection (b) to Section 12 of the Clayton Act, which provides venue in antitrust cases in any district which a corporate defendant inhabits, or in which it may be found or transacts business. New Section 12(b) affirms the applicability of the doctrine of *forum non conveniens* in antitrust cases involving trade or commerce with foreign nations. This provision makes clear to the courts that they are not foreclosed from concluding, in appropriate cases, that a foreign court would be a preferable forum for litigating the claims asserted in a U.S. antitrust case. The applicable legal standards for such analysis are set out in the Supreme Court's 1981 decision in *Piper Aircraft Co.* v. *Reyno,* 454 U.S. 235.●

By Mr. CRANSTON (for himself, Mr. GLENN, Mr. METZENBAUM, and Mr. KERRY):

S. 51. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and ensure that each spouse will have Social Security protection in his or her own right; to the Committee on Finance.

SOCIAL SECURITY EQUITY ACT

Mr. CRANSTON. Mr. President, I am pleased to introduce S. 51, the proposed Social Security Equity Act of 1989, which is identical to legislation I introduced in the past four Congresses—S. 3 in the 98th, 99th and 100th Congresses, and S. 3034 in the 97th Congress. This measure would incorporate the concept of "earnings sharing" into the Social Security system. I am joined in sponsoring this legislation by the distinguished Senators form Ohio, Mr. GLENN and Mr. METZENBAUM and the Senator from Massachusetts, Mr. KERRY.

S. 51 is similar to earnings sharing legislation which has been introduced in the House in past Congresses by Representative MARY ROSE OAKAR, who has served as the Chair of that body's Select Committee on Aging's Task Force on Social Security and Women. Representative OAKAR has been a tremendous leader in the effort to reform the Social Security system in a manner that would adequately and equitably deal with the needs of older women. The provisions of the earnings sharing legislation which Representative OAKAR and I introduced in past Congresses have also been included in the Economic Equity Act—an omnibus measure introduced each Congress which includes a number of important measures relating to economic equity for women.

Mr. President, the supporters of this proposal fully recognize the complexities of making this kind of fundamental change in the way Social Security records are maintained and benefits are calculated and recognize the length of time that implementation of these changes would take. The size of the task means that we must start soon to meet the challenge ahead.

Mr. President, the basis concept underlying earnings sharing is relatively simple: marriage for Social Security purposes should be and would be regarded as a partnership. In order to compute benefits, all of the earnings of a married couple would be combined and divided equally between the spouses upon retirement or divorce. Each member of the couple would then have established for him or her an individual Social Security account. Earnings acquired before or after a marriage would go into this individual account along with whatever share each member acquired during marriage.

Mr. President, to understand the need for reform, it is necessary to understand the conditions of poverty and dependency which face millions of older women in our society and how the present system of determining

Social Security benefits contributes to these and other problems.

OLD AGE AND POVERTY

Poverty in this country among elderly individuals is principally a problem afflicting women. Although women constituted about 60 percent of the aged population in 1986, they accounted for more than 71 percent of the elderly poor. In 1986, more than 3.8 million older women had incomes below the poverty line. The poverty rate of elderly women was 20 percent in 1986, compared to the 11-percent rate for older men. For unmarried elderly women—the poverty rate was 32 percent.

ELDERLY WOMEN LIKELY TO BE DEPENDENT ON SOCIAL SECURITY

There are a number of factors which contribute to this disparity. First, Mr. President, women are far more likely than men to be almost totally dependent upon Social Security for income in their old age. Since Social Security was never intended to meet all of the financial needs of a retiree, Social Security alone seldom provides more than a marginal standard of income.

According to the Department of Health and Human Services, in 1986, only 26 percent of older women had any income from private pensions and/or annuities, and only 16 percent of the unmarried elderly women received private pensions in contrast to 38 percent of married couples and 28 percent of unmarried men. Typically, these private pension benefits were low, especially those received by women who retired after years of working at low paying jobs or by women who, as surviving spouses, received reduced benefits from their deceased husband's pension plans.

Interest from assets, such as savings, provide only a minor source of income for many elderly persons, particularly for unmarried elderly women. In 1986, for example, the median income received by elderly persons from all assets amounted to only $2,130.

The importance of Social Security to elderly women is demonstrated by the fact that, according to 1986 data, 70 percent of all unmarried women were dependent on Social Security for at least half of their total income. For 35 percent of them, it represented 90 percent or more of their total income. For 1.9 million of these women, Social Security represented 100 percent of their income. In contrast, only 14 percent of married couples and only 31 percent of unmarried men relied upon Social Security for 90 percent or more of their income.

As I will discuss in a moment, this dependence upon Social Security as the major source of their income by elderly women—especially elderly women living alone—when combined with the generally lower Social Security benefits received by these women is a key factor in the disproportionate representation of these women in the poverty population.

ELDERLY WOMEN LIKELY TO LIVE ALONE

Second, Mr. President, elderly women are far more likely than elderly men to be living alone in their old age. Only 40 percent of elderly women live with their husbands, about 20 percent live with other people—mostly family members—and more than 40 percent live alone. Among women over age 75, the percentage living with a husband drops to less than one fourth and the percentage living alone increases to nearly one half. These statistics and the likelihood that a woman will be alone in old age arise from higher male mortality rates coupled with the tendency of men to marry younger women. An elderly man is far more likely to be living with a wife; 7 of every 10 men aged 75 and older is living with a spouse while nearly 7 of every 10 women is a widow. Even at the younger ages, the difference in marital status is striking. Of those between the age of 65 and 74, almost 40 percent of the women are widowed compared to less than 10 percent of the men. Remarriage rates for these men are vastly higher than for women. As I indicated earlier, those elderly women living alone are far more likely to be poor than elderly women living with a spouse.

WOMEN'S SOCIAL SECURITY BENEFITS LIKELY TO BE LOWER

Third, although so many elderly women living alone depend upon Social Security as their principal and sometimes only source of income, their benefits are dramatically lower than the average benefits received by men. In 1988, 4.8 million women were receiving Social Security benefits as widows based upon age—rather than because of disability or the presence of dependent children. Their benefits averaged $445 per month which, if it were the only or primary source of income wasn't very much. Another 3 million beneficiaries were wives of retired workers receiving a dependent spouse average monthly benefit of $253. In the event that these wives become widows, their monthly benefit would double to $506. For retired workers, the average benefit for women in 1986 was $420; for men, $550. More recent data show little change in these disparities. In 1988, the average benefit for retired female workers was $443; for retired male workers, $580.

ELDERLY WOMEN PREDOMINATE IN NEAR-POVERTY STATUS

Finally, although the disproportionate poverty status of elderly women frequently has drawn the most attention because of its staggering nature, the situation is equally grim for millions of elderly women just above the poverty line—which was $5,255 for individuals 65 and over in 1986. As of 1986, older women had a median personal income of $8,079 compared to the median income of $9,211 for older men. When the median income figures are broken down to show income distributions, an even more grim picture emerges. Fifty-one percent of widowed women, or one in every two had income of less than $7,000 in 1986; less than one in five men fell into this category.

Mr. President, in every income category—whether it is private pensions, asset income, or Social Security—older women have dramatically fewer resources and less income in old age than do men. There are, of course, many factors which contribute to the economic hardships that face women in their retirement years. A lifetime of wage discrimination and pay inequities contribute enormously to these problems in old age—and there is a real need to do something further about eliminating those factors. But there is little question that a major contributing factor lies in the failure of the percent Social Security benefit structure to take into account the changing roles and needs of American women.

HISTORICAL PERSPECTIVE

Mr. President, much of the problem lies in the fact that the Social Security system was developed in an era when the role of women in our society was far different from what it is today. In the 1930's when the Social Security program was created, the typical American family consisted of a man who was a full-time worker and his wife who was a full-time, lifelong homemaker. The labor force participation of married women was less than 17 percent and fewer than 1 in 12 marriages ended in divorce. The Social Security benefit structure was thus established on the concept of a life-long couple with one wage earner and a dependent spouse.

The situation has dramatically changed over the past 50 years and the typical family of the 1930's and 1940's—even the 1950's and 1960's—is not the typical family of today. Women have become a major part of America's work force, enriching the world of work with their contributions and productivity, despite continuing wage discrimination and employment barriers. The percentage of married women in the work force exceeds 50 percent, and it has been estimated that 90 percent of all women spend some portion of their lives in the work force, many of them moving in and out of the roles of wage-earners and homemakers as the needs of their families change. It is no longer true that women are likely to be either lifelong homemakers or lifelong wage-earners; these roles are combined and interchanged throughout a lifetime.

Similarly, we must recognize, like it or not, that the status of marriage has changed dramatically over the past 50

years. Today, one of three marriages ends in divorce.

Mr. President, despite these massive changes in our society, the Social Security System has continued to operate on the basis of a philosophy designed for an era when most women did not work and when most women were part of a life-long marriage. Consequently, the current system works well only for that very small number of women whose family and work patterns have not changed from the 1930's and 1940's. For the vast majority of women and families that no longer fit into that pattern, the system fails to provide either adequately or equitably for their needs.

CURRENT BENEFIT STRUCTURE

Under the current system, a woman can receive benefits as a covered worker based upon her own earnings record or she can receive benefits as a dependent wife, widow, or ex-wife of a covered worker, but she cannot receive both benefits. If she is entitled to both a worker's benefit and a dependent spouse's benefit, she receives only the higher of the two benefits and loses the other.

DEPENDENT SPOUSE BENEFIT

A dependent spouse benefit is equal to 50 percent of the benefit of the working spouse. Because many women have gaps in their work history due to absences from the workplace for child-care responsibilities and generally have much lower earnings records, many find that their benefits as a dependent spouse are greater than the benefits they would be entitled to receive on the basis of their own work history. Thus, many married women who enter the work force and make contributions to the Social Security system find that their years of work and contributions make little or no difference in their benefit levels. They are no better off than if they had never worked and never paid into the Social Security system.

DIVORCED OR WIDOWED SPOUSE BENEFITS

Mr. President, the inequities of the current system can be even more acute for those women who have been full-time homemakers and are displaced from that role either by divorce or the death of a spouse. After years of work as a homemaker in a marriage, a divorced woman may find herself without any work record of her own and eligible for Social Security benefits only as a dependent spouse. Although she may be of retirement age, she cannot receive any Social Security benefits unless the marriage lasted 10 years. Until enactment of the 1983 Social Security Amendments, she could not receive benefits until her former spouse reached age 62 and if he elected to continue working, she would receive no benefits at all until he retired or died. Fortunately, that particular inequity was corrected in the 1983 legislation, allowing these women of retirement age with at least a 10-year marriage to receive benefits regardless of whether the former spouse continued working.

However, the benefits received by a divorced spouse are likely to be woefully inadequate. The level of the dependent spouse benefit—50 percent of the primary benefit—was geared toward the notion of women whose marriages do not end in divorce and who would be able to rely upon a combination of their husband's 100 percent benefits and the additional 50 percent spouse benefit—in other words, 150 percent of the primary benefit. The spouse benefit by itself may well be insufficient to live on alone.

A widow is equally vulnerable under the present system. Unless she has been able to establish a sufficient Social Security account in her own name, she will be dependent upon the work and earnings record of her deceased spouse. Unable to build up sufficient credits in her own account and unable to add his credits to her account to the extent of her earnings after his death, she is likely to be left with a benefit level that condemns her to entering retirement in poverty.

ONE WAGE-EARNER VERSUS TWO WAGE-EARNER FAMILIES

The current system also discriminates against intact families with two-wage earners as contrasted with one-wage earner families. Under the benefit calculation formula, a two-earner couple is likely to receive less benefits at retirement than a one-earner couple with exactly the same lifetime earnings. Thus, one family with average monthly earnings of $1,000 and one wage earner can ultimately receive higher benefits from Social Security than another family with the exact same average earnings but with two-wage earners contributing to the total family income. This occurs because of the dependent spouse benefit and because of the formula which is used to calculate benefits.

The 1979 HHS report, "Social Security and the Changing Roles of Men and Women" (page 32), described this problem as follows:

> Since spouse's benefits are not payable to two-earner couples [unless one spouse has low average indexed monthly earnings (AIME)], a two-earner couple generally receives lower total benefits than a one-earner couple with the same total AIME. Benefits for two-earner couples with the same AIME can also vary dependent on the proportion of the total AIME earned by each spouse within the couple.
>
> For example, a one-earner couple each age 62 in 1980 with AIME of $1,000 would have a benefit of $648 (a worker's benefit of $432 plus a spouse benefit of $216). If each spouse had one-half of the earnings, the benefit would be $544. (Each would receive a worker's benefit of $272).

The HHS report also observed that, as in the case of couples, the survivor of a two-earner couple generally gets a lower benefit than the survivor of a one-earner couple with the same total AIME. For example, the report noted, at AIME of $1,000 the aged survivor's benefit is $432 if only one spouse was a paid worker and only $272—$160 less—if each spouse had AIME of $500—the same total earnings of $1,000.

As I noted earlier, this results from the interplay of the dependent spouse benefit and the weighted benefit formula.

DISABILITY PROTECTION

Finally, a woman who spends years working in the home has no disability protection under Social Security for herself or her dependents even though her disability could cause grave economic hardships for her family. Even if she has recently returned to the work force and is currently earning Social Security credits, she may not yet have met the insured status requirements for disability benefits if she becomes disabled soon after she reenters the work force.

MARRIAGE ALSO AN ECONOMIC PARTNERSHIP

Mr. President, it is time that we begin the task of revising the Social Security system to recognize and reflect the changing roles and responsibilities of both men and women in our society and provide for a more equitable recognition of their contributions to a family unit.

Marriage, insofar as economics are concerned, should be viewed as an interdependent partnership in which each spouse makes a contribution—either in the paid workforce or as a homemaker or in some combination of roles—and both ought to accrue Social Security protection equally.

The view of female dependency which is a foundation of the present Social Security system belongs to a bygone era. Women today are achieving the status of equal partnership with men in every facet of our society. The Social Security system needs to be updated to reflect that partnership.

EARNINGS SHARING—A CONCEPT FOR TODAY'S MARRIAGE PARTNERSHIP

Mr. President, as I indicated at the outset, S. 51 would incorporate the concept of "earnings sharing" into the Social Security system. Marriage for Social Security purposes would be regarded as an economic partnership. In order to compute benefits, all of the earnings of a married couple would be combined and divided equally between the spouses upon retirement or divorce. Each partner would have established for him or her an individual Social Security account. Earnings acquired before or after a marriage would go into this individual account along with whatever share each partner acquired during marriage. The concept of dependency would be replaced by the concept of equality.

Although this is a major change from the current Social Security system of benefit accrual, it is a principle which is now applied in virtually every jurisdiction with respect to other assets acquired during a marriage. Upon the termination of a marriage, these other assets are generally divided equally between the husband and wife. It is similar to the concept of "community property" which has long existed in States like California. Interests in other pension programs are now generally considered part of the assets acquired during the marriage and are considered in the division of property between the couple upon the termination of the marriage. The same would be true if we incorporate the "earnings sharing" concept into the Social Security system. I think it is interesting to note, in this regard, that recently enacted Federal legislation has allowed these principles to be applied to military and civil service pensions.

There have, of course, been numerous proposals made to deal with the inequities and inadequacies of the current system. The "earnings sharing" concept, however, has numerous advantages. It would eliminate the current discrimination against two-wage earner families. It would no longer be possible for them to receive less benefits than one-earner families with identical earnings records. It would recognize the value of the contribution of a homemaker and accord her a Social Security account in her own right. If divorce or death of a spouse should occur—and for a woman age 65 or older, the chances are very high that she will confront one of these situations—a woman could build upon the separate account created for her during her years of marriage, rather than be forced to start from scratch in establishing a Social Security account. Likewise, credits from earnings she receives prior to marriage will be able to be added to her account accrued during marriage. The same, of course, would be true for the husband. Women who enter and leave the work force to meet necessary child-rearing responsibilities would no longer be unfairly penalized by gaps in their Social Security coverage.

Mr. President, earnings sharing has repeatedly been identified as the most direct and equitable approach to dealing with the variety of different problems facing women under the current system. Although various interim and single-purpose measures have been proposed, the attractiveness of the earnings-sharing approach is that it would help to resolve many of these problems.

Variations Within The Earnings-Sharing Concept: Obviously, however, a proposal such as earnings-sharing which calls for a major restructuring of the Social Security benefit system involves many complex and important questions. No one has seriously proposed a pure earnings-sharing model. Such a model would be far too harsh on many individuals. Thus, every earnings-sharing model which has been put forward has represented a "modified earnings sharing" concept. For example, the legislation that I have introduced provides for 100-percent inheritance of a couple's combined benefits—up to the ceiling for the applicable years—for the surviving spouse. Other proposals advanced—for example, the model contained in the 1979 report "Social Security and the Changing Roles of Men and Women"—have proposed variations such as an 80-percent inheritance provision. Virtually all models include provisions to address the need to provide adequate protection for dependent children of deceased workers and special provisions to deal with disabled workers.

Cost Implications: There is widespread agreement that the earnings-sharing concept itself would not entail any additional costs for the Social Security system. Indeed, a "pure" earnings-sharing model would probably result in substantial cost-savings. Most of the modified earnings-sharing proposals which have been developed would be cost-neutral. They would simply reallocate benefits on a more equitable basis. However, it is also generally recognized that a transition from the current system to a new system would entail certain transitional costs designed to protect various categories of beneficiaries from being unduly hurt during the transition period. What those costs would be depend in part upon how these transitional provisions are designed and the length of time for such a transition.

Transition Period: There are major decisions which must be made with respect to a transition period. Changes of this dimension and scope must be phased in over time so that individuals can make appropriate plans for their retirement years. The 1979 HHS report represented two models for a transition period. Representative OAKAR's legislation in past Congresses included the first model, which provides for a grandfathering of current benefits or benefits established under the earnings-sharing concept, whichever is greater until the year 2011. The other model proposed in the HHS report, providing for a lengthy delay in the effective date, is the one included in the legislation I am introducing today as S. 51.

The Social Security changes proposed in S. 51 would not take effect with respect to any one over the age of 50 in 1990. Those under 50 would begin having Social Security accounts established and computed under this proposal henceforth. Because no one under age 50 could reach the minimum retirement age of 62 before 2002, no one under age 50 in 1990 would actually begin receiving benefits under this system until 2002 at the earliest. Different transition provisions are provided for individuals who might become eligible for Social Security disability benefits during this phase-in. In no case, however, would a person who became disabled during this period ever receive less benefits as long as that disability continued than they would be entitled to under the old system.

Mr. President, each of the transition proposals presented in the HHS 1979 report are thus represented in the earnings-sharing measures which have been introduced in the Congress. I suspect, however, that a preferable approach lies somewhere in between the first option, the grandfathering of current benefits for a long period of time, and the second option, delaying the effective date of the new system. The complete grandfathering approach, although attractive from a beneficiaries perspective, would entail significant additional costs. Conversely, although the second option of delaying the effective date would not have any additional cost implications, it would mean that none of the benefits of the new system would be realized by those women over age 50 who are rapidly approaching retirement. The need to develop a satisfactory transition mechanism was a major motivating factor behind my offering an amendment to the 1983 Social Security legislation directing HHS to prepare and submit to Congress a report on implementation of various models of earnings sharing in Social Security, including appropriate transition mechanisms.

1983 REPORT AMENDMENT

Mr. President, because of the need for substantial in-depth analysis of the modifications that would be needed in any earnings-sharing proposal and the necessity of providing for an adequate transition process, when the 1983 Social Security legislation was before the Senate, I offered an amendment, which was enacted as section 344 of Public Law 98-21, to require the Department of Health and Human Services to submit to the Congress a report on implementation of earnings sharing. At the time that I offered this amendment, I explicitly stated that the mandated report should not be veiwed as a study of the problems facing women under the Social Security system, but rather it should be focused upon how an earnings-sharing concept could be implemented. At the time I offered the amendment (March 16, 1983, CONGRESSIONAL RECORD, daily ed. S3045), I stated:

I want to stress that this amendment does not call for another study. We did that in 1977. The 1977 social security amendments called for HHS to study the problems facing women under the social security system.

The report developed as a result of the 1977 amendments presented the earnings-sharing model as one of two possible comprehensive approaches for dealing with these problems. * * * What needs to be done now is to work out and test the details on how a specific earnings-sharing model can be implemented, and determine what type of transition provisions are needed and what modifications in the basic earnings-sharing concept are necessary in order to provide adequate protection for various categories of beneficiaries.

I should note also that the distinguished minority leader, the Senator from Kansas [Mr. DOLE], who was then chairman of the Senate Finance Committee and the floor manager of the Social Security bill, also made it clear in his statement accepting my amendment that he, too, recognized that the amendment was not—I stress not—calling for another study of the problems facing women in Social Security, but was focused upon advancing the concept of earnings sharing beyond the study stage. The amendment as enacted called for the Department to submit its report to Congress by July 1, 1984.

Unfortunately, Mr. President, the Department failed to submit the statutorily-mandated report on the date it was due. Moreover, the report which was finally submitted in January 1985 was disappointing in a number of respects.

Despite the clear legislative mandate to provide an implementation report and analysis, HHS insisted on conducting a survey of the views of interested organizations on the problems facing women under the Social Security system. Representative OAKAR and I, as well as a number of interested organizations, objected strenuously to this diversion of time and resources from the statutorily-mandated task given to HHS. This survey cost the Federal taxpayers some $157,000 and basically provided no new insights into the issue. Some 100 pages of the final report are devoted to reviewing the results of the survey.

More importantly, Mr. President, the HHS report was disappointing in that HHS failed to design an earnings-sharing model or implementation plan. Instead of developing proposals and recommendations as was called for by the legislation, much of the report was devoted to critiquing existing earnings-sharing proposals—including an analysis of a so-called generic or pure earnings-sharing model. Since no one has seriously proposed that a pure earnings-sharing model be adopted, this analysis did little to advance the discussion of the earnings-sharing concept.

Consistently, the HHS report stressed the problems associated with implementation of earnings-sharing concepts and minimized or ignored the positive outcomes. For example, where its own statistics showed that nearly 54 percent of the elderly divorced women would get increased benefits under a modified earnings-sharing model, HHS described the outcomes as resulting in some divorced women getting increased benefits under this plan. In short, the HHS report betrays a pervasive negative approach to earnings sharing with little effort to identify constructive methods of dealing with the problems that transition to such a model would require.

CONGRESSIONAL BUDGET OFFICE REPORT

Mr. President, the 1983 amendment also provided for the Congressional Budget Office [CBO] to submit to Congress a report on the methodology, recommendations, and analyses used in the HHS report. CBO was not asked to provide recommendations itself, but simply to examine the HHS report. Nevertheless, there is little question that the CBO report has contributed significantly more to the understanding of the earnings-sharing concept than the HHS report.

First, the CBO report, "Earnings Sharing Options for the Social Security System" (January 1986), provides a neutral, unbiased, and concise description of earnings sharing and the benefits and disadvantages of attempting to implement this concept. Second, the CBO report placed some of the "loss" and "win" results in a more realistic perspective. For example, whereas the HHS report appeared almost to strain to suggest that significant numbers of Social Security recipients would not be benefited by earnings sharing, the CBO report concluded that the measure used by HHS to define "winners" and "losers" under earnings sharing—a 1-percent increase or decrease in benefits—was too small a range to be meaningful in long-range projections. The CBO report pointed out that since there will be substantial real benefit growth regardless of whether or not an earnings-sharing model is adopted, even a 5-percent loss, relative to current law, would still result in substantial increases in basic benefits. In general, CBO noted that the earnings-sharing model would provide the greatest help to low-benefit recipients—those women most likely to be in the greatest need of assistance. This latter fact is buried deep inside the HHS report.

TECHNICAL COMMITTEE REPORT

Mr. President, in addition to the work done by HHS and CBO for the past several years, a number of organizations and individuals interested in the earnings-sharing concept have been developing an earnings-sharing proposal for Social Security. Supported by a variety of funding sources, this group, called the Technical Committee for Social Security Reform for Women, has painstakenly worked through and developed both a modified earnings-sharing model and transition plan. Microsimulations done by the Urban Institute, with support from the House Select Committee on Aging, have shown that the Technical Committee's model would not only provide greater equity, but would assure significantly higher benefits for those classes of women who receive the lowest benefits under current law.

Mr. President, it is my understanding that some time later this year the Technical Committee will publish its report and proposal for a Social Security earnings-sharing model. I am confident that once that report is released the debate around Social Security earnings-sharing will be significantly advanced.

CONCLUSION

Mr. President, as I indicated earlier, earnings sharing in Social Security would represent a major reform which obviously cannot be implemented overnight. But such an effort must begin now so that future generations of women will be adequately and equitably treated under the Social Security System. Social Security is vital to the security and well-being of millions of Americans—current retirees and disabled persons and future ones. This country has a major obligation to protect the system. But equally important is the obligation to make sure that the system remains responsive to the changing needs and roles within our population.

Over the years, the Social Security System has grown and responded to the changing needs in many ways, such as by the addition of disability coverage and the enactment of the Medicare program. Earnings sharing is a concept that is part of that process of growth and responsiveness.

Mr. President, I ask unanimous consent that the full text of S. 51 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Equity Act of 1989".

SEC. 2. SHARING OF EARNINGS BY MARRIED COUPLES.

(a) IN GENERAL.—Title II of the Social Security Act is amended by adding at the end the following new section:

"SHARING OF EARNINGS BY MARRIED COUPLES

"SEC. 234. (a)(1) For purposes of determining the eligibility of an individual and the spouse of such individual for old-age and disability benefits and the amount of such benefits to which each is or may become separately entitled, the combined earnings of such individual and such spouse shall, to the extent that such earnings are attributable to the marriage period of such individual and such spouse (as determined under paragraph (2)), be divided equally between them and shared in accordance with this section.

"(2)(A) Except as provided in subparagraph (B), for purposes of this section, the term 'marriage period' means the period—

"(i) beginning with the first day of the calendar year in which the marriage of an individual and the spouse of such individual occurs, and

"(ii) ending with the last day of the calendar year preceding the earliest calendar year in which such individual or such spouse dies, they are divorced, or one of them files application for old-age or disability insurance benefits.

"(B)(i) No marriage period shall begin for any individual and the spouse of such individual if their marriage occurs after such individual or such spouse has filed an application for old-age insurance benefits.

"(ii) No marriage period shall include a period for which such individual or such spouse is entitled to disability insurance benefits or the waiting period (as defined in section 223(c)(2)) with respect to such benefits.

"(iii) A marriage period shall include the 'earliest calendar year' referred to in clause (ii) of subparagraph (A) for purposes of recomputations for that year under section 215(f)(2), in any case where an individual or the spouse of such individual dies or they are divorced, unless the survivor (where one of them dies) or either of them (where they are divorced) is remarried later in the same year.

"(b)(1) Except to the extent otherwise provided in subsections (c), (d), and (e), an individual and the spouse of such individual shall each be credited for all of the purposes of this title with wages and self-employment income, for each calendar year for which either of them is credited with any wages and self-employment income without regard to this section during their marriage period, in an amount equal to—

"(A) 50 percent of the combined total of the wages and self-employment income otherwise credited to both of them for that year if (at the close of the month for which the benefit determinations involved are being made) they are both still living, or

"(B) 100 percent of such combined total, up to but not exceeding the maximum amount that may be counted for that year without exceeding the ceiling imposed for that year under section 215(e), if (at the close of such month) one of them has died.

"(2) Nothing in this section shall affect the crediting of wages and self-employment income to any individual for any calendar year not included in a marriage period of such individual; but to the extent that wages and self-employment income are credited pursuant to this section the other provisions of this title specifying the manner in which wages and self-employment income are to be credited shall (to the extent inconsistent with this section) not apply.

"(3) Except where the context requires otherwise, for purposes of this section, the term 'spouse' includes a divorced spouse, a surviving spouse, and a surviving divorced spouse.

"(c) Subsections (a) and (b) shall not apply with respect to the crediting of wages and self-employment income for any calendar year, in the case of any individual and the spouse of such individual, if—

"(1) as a result of the application of such subsections with respect to that year such individual or such spouse would cease to be a fully insured individual (as defined in section 214(a)); or

"(2) such individual or such spouse is applying for disability insurance benefits (or for the establishment of a period of disability) and as a result of the application of such subsections with respect to that year would cease to be insured for such benefits under section 223(c)(1) (or for such a period under section 216(i)(3)).

"(d) Subsections (a) and (b) shall not apply for purposes of determining the amount of the benefit payable to any individual for any month if—

"(1) the total amount of the wages and self-employment income credited to such individual for a marriage period, as determined without regard to this section, is higher than the total amount of the wages and self-employment income credited to such individual's spouse for that period, as so determined; and

"(2) such individual's spouse (taking subsections (a) and (b) into account) has not filed application for old-age or disability insurance benefits by the close of such month.

"(e) Notwithstanding any of the preceding provisions of this section—

"(1) benefits payable under subsection (d) or (h) of section 202 on the basis of the wages and self-employment income of any individual, and benefits payable under subsection (b), (c), (e), (f), or (g) of such section 202 (on the basis of such wages and self-employment income) to any person other than a spouse who has shared in or been credited with a part of such individual's earnings under subsections (a) and (b) of this section, shall be determined as though this section had not been enacted if—

"(A) the application of this section has changed such individual's primary insurance amount from what it would otherwise have been; and

"(B) the crediting of wages and self-employment income to such individual and the spouse of such individual without regard to this section would increase the amount of such benefits; and

"(2) in the application of section 203(a) (relating to maximum family benefits) with respect to benefits payable on the basis of the wages and self-employment income of any individual, where all or any part of the wages and self-employment income of such individual and the spouse of such individual was credited to them in accordance with this section, the primary insurance amount of such individual (and the crediting of such wages and self-employment income) shall be determined in accordance with this section but the benefits payable to any other person on the basis of the wages and self-employment income of such individual shall be determined without regard to this section.

"(f) Notwithstanding any other provision of this title, no wife's, husband's, widow's, or widower's insurance benefit shall be paid to any individual for any month under subsection (b), (c), (e), or (f) of section 202, and no individual shall be entitled to any such benefit, unless—

"(1) the period of such individual's marriage (to the spouse or former spouse on the basis of whose wages and self-employment income such benefit is payable) ended before the effective date of this section;

"(2) such individual is under the age of 62 (and is otherwise entitled to such benefit);

"(3) such benefit is payable without regard to age and solely by reason of such individual's having a child in his or her care; or

"(4) the application of this section to such individual is prevented by subsection (c) or (d) (or by clause (i) or (ii) of subsection (a)(2)(B)).

"(g) For purposes of subsections (a)(2) and (d), an individual's application for old-age or disability insurance benefits shall be deemed to have been filed on the first day of the first month for which (by reason of the operation of section 202(j) or 223(b)) such individual is entitled to such benefits.".

(b) CONFORMING AMENDMENTS.—

(1) Section 202(b)(1) of the Social Security Act is amended by striking out "The wife" and inserting in lieu thereof "To the extent permitted by section 234(g), the wife".

(2) Section 202(c)(1) of such Act is amended by striking out "The husband" and inserting in lieu thereof "To the extent permitted by section 234(g), the husband".

(3) Section 202(e)(1) of such Act is amended by striking out "The widow" and inserting in lieu thereof "To the extent permitted by section 234(g), the widow".

(4) Section 202(f)(1) of such Act is amended by striking out "The widower" and inserting in lieu thereof "To the extent permitted by section 234(g), the widower".

(5) Section 205(c)(5) of such Act is amended—

(A) by striking out "or" at the end of subclause (I);

(B) by striking out the period at the end of subclause (J) and inserting in lieu thereof a semicolon and "or"; and

(C) by adding at the end the following new subclause:

"(K) to reflect any changes in the crediting of wages and self-employment income which may be necessitated by section 234.".

(6) Section 215(b) of such Act is amended by adding at the end the following new paragraph:

"(5) The determination of the wages and self-employment income to be credited to an individual under this subsection shall in all cases be made after the application of section 234.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply only to wages and self-employment income payable after December 31, 1990, to an individual who has not attained age 50 on or before such date, and only if—

(1) the spouse of such individual has not attained age 50 on or before such date; and

(2)(A) in the case of a benefit based upon the attainment by the wage earner of age 62, such individual and such spouse attain age 62;

(B) in the case of a benefit based upon the death of the wage earner, such death occurs after December 31, 1990, and the individual claiming such benefit attains age 62; and

(C) in the case of a benefit described in subparagraph (A) or (B) with respect to a divorced individual and spouse, the divorce occurs after December 31, 2003.

(b) BENEFITS BASED ON DISABILITY.—In the case of a disability insurance benefit, and a widow's or widower's insurance benefit based upon disability—

(1) if an individual is entitled to such benefit before January 1, 1991, the provisions of this Act shall not apply—

(A) for the period for which such individual continues to be entitled to such benefit, and

(B) in the case of an individual who continues to be entitled to such benefit until age 62, for the period such individual is entitled to an old-age insurance benefit;

(2) if—

(A) an individual becomes entitled to such benefit after December 31, 1990, and before January 1, 2003; and

(B) the total benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based (determined without regard to the provisions of this Act) exceeds the total of benefits payable to all individuals on the basis of the wages and self-employment income of the individual upon whose disability such entitlement is based, and to the spouse of such individual, under the provisions of this Act,

the provisions of this Act shall not apply for the period during which the conditions of subparagraph (B) continue to be met and during which such individual (i) continues to be eligible for such benefit, or (ii) in the case of such an individual who continued to be eligible for such benefit until age 62, is entitled to an old-age insurance benefit.

By Mr. INOUYE:

S. 52. A bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes; to the Committee on the Armed Services.

CHAMPUS PROGRAM AS "SECOND PAYER" TO MEDICARE

● Mr. INOUYE. Mr. President, today, I am introducing legislation to amend title 10 of the United States Code in order to have the Department of Defense CHAMPUS Program serve as a second payer to Medicare for those services which CHAMPUS beneficiaries require and are not covered by the Medicare Act.

Mr. President, I feel that it is very important for our Nation that we continue our firm commitment to those individuals and their families who have served in the Armed Forces and made us the great Nation that we are today. As this population becomes older, they are unfortunately finding that they need a wide range of health services, some of which are simply not available under Medicare. The bill that I am recommending today, would ensure the highest possible quality care for these dedicated citizens and their families.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 52

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE CHAMPUS PROGRAM.

(a) REPEAL OF PROHIBITION ON CERTAIN PAYMENTS.—Section 1086(c) of title 10, United States Code, is amended by striking out the sentence following paragraph (2)(B)(ii).

(b) AUTHORIZATION FOR PAYMENT TO EXTENT BENEFITS NOT PAYABLE UNDER ANOTHER PROGRAM.—Section 1086(d) of such title is amended to read as follows:

"(d)(1) The provisions of section 1079(j) of this title shall apply to a plan covered by this section, except that a benefit may be paid under such plan for items and services for which payment is made under title XVIII of the Social Security Act.

"(2)(A) The amount payable under a plan covered by this section for items or services for which payment is made under title XVIII of the Social Security Act shall be reduced by the sum of—

"(i) the amount of the payment made for such items or services under such title XVIII; and

"(ii) the amount of any payment made under subsection (b).

"(B) A plan covered by this section shall not be considered a group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act.

"(C) A person claiming a benefit under a plan covered by this section by reason of the application of this subsection shall certify the cost charged for the items or services to which the claim relates and the amounts referred to in subparagraph (A)(i) that relate to such items or services. A certification made under this subparagraph may be accepted for the purposes of determining the benefit payable under this section.".

SEC. 2. CONFORMING AMENDMENT.

Section 613(d) of title 38, United States Code, is amended by striking out "the second sentence of section 1086(c) of title 10 or".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 53. A bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, KS, to provide for the amendment of water service and repayment contracts; to the Committee on Energy and Natural Resources.

REFORMULATION OF CEDAR BLUFF UNIT

Mr. DOLE. Mr. President, I rise today to introduce needed legislation that would authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri River Basin Program, KS, and provide for the amendment of water service and repayment contracts.

Identical legislation was introduced late last year, but was unable to receive favorable action due to time constraints and adjournment of the 100th Congress.

Studies show a significant flow depletion in the Smokey Hill River above Cedar Bluff Reservoir. There has been a consistent decline in water supply available for irrigation from Cedar Bluff during the past 23 years and no deliveries or irrigation water have been made since 1978.

In recent years, the Cedar Bluff Irrigation District has not been able to pay construction repayment installments, or operation, maintenance, and replacement obligations under the present contract with the Bureau of Reclamation.

In addition, the fish cultural station located below the dam, which was operated by the U.S. Fish and Wildlife Service, has been closed and is now operated by the Kansas Department of Wildlife and Parks as a Canadian goose rearing facility.

Currently, the Federal Government is holding a repayment contract with the irrigation district which they are unable to collect without adverse action to the district.

The district is also unable to pay their share of the annual OM&R costs associated with the dam and reservoir. The Federal Government is allowing, on a temporary basis, the State to utilize the fish cultural station and water right for rearing Canadian geese.

Mr. President, on December 17, 1987, the State of Kansas and the Bureau of Reclamation signed a memorandum of understanding that clears the way for this important legislation. A contract has been negotiated, contingent upon this Federal legislation, that is expected to be signed by the State and the Bureau after the required public comment period.

Congressman PAT ROBERTS is taking the lead in the House and will soon be introducing a companion bill. I am confident the Energy and Natural Resources Committee will move expeditiously with hearings on this undertaking.

Mr. President, I strongly urge my colleagues to support this necessary legislation. The Kansas Legislature has made a fiscal year 1989 appropriation of $364,000 that will be used for the use of the conservation storage obligation to the United States. At this time, I would request a copy of the memorandum of understanding be inserted into the RECORD.

Mr. President, this is needed legislation. The Federal Government, State of Kansas and the American taxpayer all come out ahead with these changes. I encourage my colleagues to support this important bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 53

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF REFORMULATION.

The Secretary of the Interior (hereafter in this Act referred to as the "Secretary"), pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal, industrial, and irrigation uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 2. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool.

SEC. 3. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of the reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract No. 0-07-70-W0064. After the reformulation of the Cedar Bluff Unit authorized by this Act, any revenues in excess of operating expenses received from the sale of water from the Cedar Bluff Unit shall be allocated to pay the United States for the cost of the project.

(b) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownershp of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes.

SEC. 4. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 5. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 1 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION AND FISH AND WILDLIFE SERVICE, THE STATE OF KANSAS AND THE CEDAR BLUFF IRRIGATION DISTRICT NO. 6 CONCERNING REFORMULATION AND OPERATION OF THE CEDAR BLUFF UNIT, DECEMBER 1987

1. PURPOSE

The purpose of this Memorandum of Understanding is to establish a cooperative partnership between the U.S. Department of the Interior—Bureau of Reclamation (Bureau) and Fish and Wildlife Service (Service), the State of Kansas (State), and the Cedar Bluff Irrigation District (District) to achieve the greatest possible level of multipurpose benefits from the Cedar Bluff Unit, built and operated by the Bureau on the Smoky Hill River, in Trego and Ellis counties, in west-central Kansas.

2. BACKGROUND

The Cedar Bluff Unit was authorized as a multipurpose unit of the Missouri Basin Project to provide flood control, irrigation, and other associated benefits. The major feature of the project, Cedar Bluff Dam and Reservoir, was completed in 1951. The dam was constructed in advance of the finalization of irrigation plans as a part of the Missouri River Basin Flood Control Program. Formation of the District was filed with the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, on January 3, 1958. After approval by the Chief Engineer, the three member District board of directors was elected September 9, 1958. The District has a total irrigable acreage of 6,800 acres. The delivery of irrigation water to project lands began in 1963.

The Cedar Bluff Unit includes the dam and reservoir, the irrigation distribution system, a fish cultural station built by the U.S. Fish and Wildlife Service below the dam, and the fish, wildlife, and recreation investment made by the State in land and water management and in State park facilities. The U.S. Fish and Wildlife Service holds a Kansas water right for water supply associated with the fish cultural station. The City of Russell holds a Kansas water right associated with storage space in Cedar Bluff Reservoir for municipal water supply by direct releases to the Smoky Hill River. The District holds the water right associated with the irrigation of its 6,800 acres of irrigable lands.

During flood stages, operation of the reservoir is in accordance with cooperative agreements with the Corps of Engineers for basinwide control. These agreements provide that the Corps of Engineers will direct operations when the water surface is within the flood control pool.

Studies show a significant flow depletion in the Smoky Hill River above Cedar Bluff Reservoir. There has been a consistent decline in water supply available for irrigation from Cedar Bluff Reservoir during the past 23 years. The following problems related to operating the Cedar Bluff Unit under these depleted inflow conditions have been identified:

a. No deliveries of irrigation water have been made to the District since 1978.

b. In recent years, the Dirtrict has not been able to pay construction repayment installments, or operation, maintenance, and replacement obligations under the present contract with the Bureau.

c. The fish cultural station located below the dam, which was operated by the U.S. Fish and Wildlife Service, has been closed and is now operated by the Kansas Department of Wildlife and Parks as a Canadian goose rearing facility.

d. Without (1) water deliveries to the District, (2) water releases to the river for the city of Russell, and (3) water utilized by the fish cultural station below the dam, the Smoky Hill River and alluvial ground-water system has not been recharged by stream flows, or return flows, that historically have been available. This has in part been responsible for critical depletions at city and rural water district alluvial groundwater supply facilities.

e. The Kansas Department of Wildlife and Parks is concerned about protecting and utilizing the State's investment in the fishery in Cedar Bluff Reservoir and wildlife management associated with the land area around the reservoir. It is also concerned about protecting and utilizing the State's investment in recreation facilities at the Cedar Bluff State park areas down to the reservoir water level.

3. OVERVIEW OF INITIATIVE

The Federal/State/District partnership established in this Memorandum of Understanding is designed to reformulate and operate the Cedar Bluff Unit in recognition of the issues in paragraph 2 above. In order to achieve this objective, the Bureau, the Service, the State, and the District intend to reformulate and operate the Cedar Bluff Unit so that:

a. The existing flood control aspects of the project would be unchanged, except for additional flood storage in the "joint-use pool" as described in f. below.

b. The lower 9.1 feet of the existing conservation pool (consisting of 29,739 acre-feet between elevation 2090.0 and elevation 2109.1) would be a "designated operating pool" (2,700 acre-feet) for the City of Russell's municipal water supply; (5,400 acre-feet) for artificial recharge (environmental, domestic, municipal, industrial, and irrigation); and (21,639 acre-feet) for fish, wildlife, and recreation.

c. The "designated operating pool" would be operated as a single pool with the three uses sharing proportionally the inflows and losses, so that a continuous accounting is maintained on the amount of water that is available for Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation. The State intends to operate the fish, wildlife, and recreation part of the "designated operating pool" for the benefit of recreation activities and fisheries management at Cedar Bluff Lake, and for minimal downstream releases for goose rearing activities and stream environment preservation.

d. The City of Russell's existing water storage right and contract with the Bureau would be unchanged, including the continuance of the existing accounting procedure for sharing of inflows and losses at Cedar Bluff Reservoir.

e. Subject to Congressional approval of the reformulated Cedar Bluff Unit, the District would be relieved of its contractual obligations under contract No. 0-07-70-W0064, formerly No. 14-06-700-2118, dated September 3, 1959, as amended. After this approval, the District would request the Chief Engineer, Division of Water Resources, State Board of Agriculture, for permission to disband the irrigation district as provided for under Kansas law.

f. The upper 34.9 feet of the existing conservation pool (consisting of 147,090 acre-feet between elevation 2109.1 and elevation

2144.0) would be a "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the operation, maintenance, and replacement (OM&R) cost would be assigned to flood control, and, if water should accumulate into the "joint-use pool", the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the proceeding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenues from the sale of water from the "joint-use pool" would be shared equally between the Bureau and the State.

g. The Kansas Department of Wildlife and Parks would continue to administer the reservoir lands and lake areas for fish and wildlife management purposes according to existing agreements, and to operate the Cedar Bluff State Park areas extended down to the water surface actually in the reservoir.

h. The Service would transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

i. The State would pursue its evaluation for the formulation of an Intensive Groundwater Use Control Area in the Smoky Hill River alluvium above Cedar Bluff Reservior.

j. The Bureau would conduct "Safety-of-Dams" (SOD) studies as it deems necessary concerning SOD issues. The contract for sale of the use of a portion of the conservation storage capacity to the State will acknowledge these SOD studies, and allow both parties to have the option to invalidate the sale contract, should that be determined to be the best solution to the SOD problems.

4. PROCEDURES

a. The Bureau intends to:

(1) Prepare a contract for the sale of storage capacity in the conservation pool of Cedar Bluff Reservoir to the State, based on the agreed upon criteria.

(2) Operate and maintain Cedar Bluff Dam and Reservoir for flood control in cooperation with the Corps of Engineers; for municipal water supply for the City of Russell; and for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and fish, wildlife, and recreation, in cooperation with the State.

(3) Designate a part of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2090.0 and elevation 2109.1) as a "designated operating pool", and the remaining portion of the existing conservation storage space in Cedar Bluff Reservoir (between elevation 2109.1 and elevation 2144.0) as a "joint-use pool".

(4) Operate the "designated operating pool" as a single pool with all three uses sharing proportionally in the inflows as well as the losses, so that a continuous accounting is maintained on how much water is available for the City of Russell's municipal water supply; for artificial recharge; and for fish, wildlife, and recreation.

(5) Operation "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint-use pool" is empty, the OM&R costs would be assigned to flood control, and, if water should accumulate into the "joint-use pool", the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein comtemplated. Any net revenues from sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Accept, subject to Congressional approval and in lieu of the District's repayment obligation to the United States, an upfront payment of $365,424 from the State for purchase of the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir. The payment will be made in two successive equal annual installments of $182,712.

(7)(a) Include in the proposed sale contract a provision for a payment by the State for its proportionate share of the OM&R costs for Cedar Bluff Dam and Reservoir. The State's share for the "designated operation pool" OM&R costs will be 7.33 percent of the total, or $15,000, whichever is greater. 27,039 A.F./368,689 A.F.=7.33%

(b) Should the water level ever rise into the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Continue unchanged the existing contract between the City of Russell and the Bureau, including continuance of the existing accounting procedure for sharing inflows and losses at Cedar Bluff Reservoir.

(9) Transfer to the District fee title to all real property and buildings at the District headquarters, along with all equipment and tools, for its agreement to abandon the distribution system at no further cost to the United States.

(10) Effect a declaration of abandonment of all easements for the District's distribution system. Filing of any formal rights-of-way abandonment documents will be each landowner's responsibility.

(11) Continue with Safety-of-Dams (SOD) studies on Cedar Bluff Dam and Reservoir to determine the most feasible corrective actions to be undertaken to resolve the SOD issues.

b. The Service intends to:

(1) Transfer to the State the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the State's operation for fish, wildlife, and related purposes.

(2) Transfer the water rights associated with the fish hatchery to the State for their use for fish, wildlife, and related purposes.

c. The State intends to:

(1) Enter into a contract of sale for the use of a portion of the conservation storage in Cedar Bluff Reservoir with the Bureau based on the agreed upon criteria.

(2) Promote the passage of the required legislation for the reformulated operation of the Cedar Bluff Unit through the United States Congress.

(3) Pursue its evaluation for the formulation of an Intensive Ground-water Use Control Area in the alluvium above Cedar Bluff Reservoir.

(4) Utilize the "designated operating pool" as a single pool for the City of Russell's municipal supply; for artificial recharge (environmental, domestic, municipal, industrial, and irrigation); and for fish, wildlife, and recreation purposes, with all three uses sharing proportionally inflows and losses, so that a continuous accounting is maintained on how much water is available for each of the three use categories.

(5) Utilize the "joint-use pool" for flood control; for water supply; and for fish, wildlife, and recreation. When the "joint use pool" is empty, the OM&R costs would be assigned to flood control, and when water accumulates into the "joint-use pool", the OM&R costs would be paid by the State based on the highest level of water in the "joint-use pool" during the preceding calendar year. "OM&R Costs" shall mean and shall be limited to those necessary expenditures directly incurred for operation, maintenance, and replacement for the facilities necessary to fulfill the intent and purposes for which Cedar Bluff Dam and Reservoir was authorized and constructed including the reformulation of those purposes as herein contemplated. Any net revenue from the sale of water from the "joint-use pool" will be shared equally between the Bureau and the State.

(6) Pay, in lieu of the repayment obligation between the Bureau and District, an upfront payment of $367,424 (payable in two successive equal payments of $182,712 per year) for the use of a portion of the conservation capacity in Cedar Bluff Reservoir.

(7) (a) Contract with the Bureau for payment of a share of the OM&R costs for Cedar Bluff Dam. The State's share of the "designated operating pool" OM&R costs will be 7.33 percent of the total, or $15,000, which is greater. 27,039 A.F./368,689 A.F.=7.33%

(b) Should the water level ever rise into the "joint-use pool", the maximum amount of storage in that pool will be divided by the total reservoir storage of 368,689 acre-feet to find a percent of OM&R costs for the next year's payment to be paid by the State. Any OM&R costs associated with this pool will be in addition to the 7.33 percent for the "designated operating pool" as stated above, or a total of $15,000, whichever is greater.

(8) Pursue a change in use application, and transfer the U.S. Fish and Wildlife Service water right and the District's water right associated with the conservation storage space in Cedar Bluff Reservoir to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and related purposes.

(9) Continue to operate the project lands and lake areas for fish, wildlife, and recreation purposes according to existing agreements.

(10) Extend the Cedar Bluff State Park areas down to the water level actually in the reservoir.

(11) Accept the ownership of all buildings, fixtures, and equipment associated with the fish hatchery for the state's operation for fish, wildlife, and related purposes.

d. The District intends to:

(1) Agree, subject to Congressional approval, to the State's payment of $365,424 to the Bureau for the use of a portion of the conservation storage capacity in Cedar Bluff Reservoir in lieu of its repayment obligation to the United States. In consideration of this debt relief, the District agrees to abandon the distribution system at its expense,

and to disband as an irrigation district under Kansas law.

(2) Agree to the submission of an application for a change in use, and to the transfer of that portion of its water right associated with the conservation storage space in Cedar Bluff Reservoir to the State for artificial recharge (environmental, domestic, municipal, industrial, and irrigation) and for fish, wildlife, and recreation purposes.

(3) Accept transfer of ownership of all real property and buildings at the District headquarters, along with all equipment and tools, and agree to abandon all of the distribution system at no additional cost to the United States.

(4) Utilize all of its existing funds and any revenue from the sale of its real property, tools, and equipment to assist the individual landowners in affecting the abandonment of the distribution system and related facilities, at no additional cost to the United States, by reimbursing landowners with the remaining funds to accomplish satisfactory abandonment in accordance with District recommendations.

(5) Agree on behalf of all individual landowners to the declaration of abandonment of all construction, operation, and maintenance easements for the distribution system. Agree that any formal rights-of-way filings desired by landowners will be their individual responsibility.

(6) Support the passage of the required legislation for the reformulated Cedar Bluff Unit through the United States Congress.

5. INTERIM OPERATIONS

Commencing with the execution of this agreement and continuing until the reformulated Cedar Bluff Unit is authorized by the Congress and all contracts and transfer documents are executed between the Bureau, the Service, the State, and the District, the reservoir will be operated in accordance with the purposes for which it was authorized and constructed pursuant to the authority of the Secretary of the Interior and in general accord with the provisions of this Memorandum of Understanding.

6. CONDITIONS

a. This Memorandum of Understanding shall be effective upon the date that all parties have signed.

b. This Memorandum of Understanding is predicated upon the pursuit of the reformulation and operation of the Cedar Bluff Unit on a comprehensive basis. Should the initiative not move forward in a judicious manner due to failure of the Bureau, the Service, the State, or the District to carry out those actions described in paragraph 4 above, then the understanding contained herein shall become null and void.

c. This Memorandum of Understanding may be modified or terminated upon mutual agreement of the parties hereto by giving thirty (30) days written notice to all the parties signatory to this agreement. The Bureau and the State will jointly pursue legislation to implement the provisions of this agreement. If Congress fails to enact legislation approving the provisions of this agreement, then this agreement shall become null and void.

Signed by:

BUREAU OF RECLAMATION,
B.E. MARTIN,
Regional Director, Missouri Basin Region.
FISH AND WILDLIFE SERVICE,
GALEN L. BUTERBAUGH,
Regional Director, Region 6.
STATE OF KANSAS,
ROBERT L. MEINEN,
Secretary, Department of Wildlife and Parks.
CEDAR BLUFF IRRIGATION DISTRICT,
MILLARD MOORE,
President.

Witnessed by:

MIKE HAYDEN,
Governor, State of Kansas.

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. PRYOR, Mr. KENNEDY, Ms. MIKULSKI, Mr. DECONCINI, Mr. SHELBY, Mr. HARKIN, Mr. KOHL, Mr. SIMON, Mr. MATSUNAGA, Mr. ADAMS, Mr. PELL, Mr. BURDICK, Mr. GLENN, and Mr. DODD):

S. 54. A bill to amend the Age Discrimination in Employment Act of 1967 with respect to the waiver of rights under such act without supervision, and for other purposes; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT WAIVER PROTECTION ACT

● Mr. METZENBAUM. Mr. President, I am pleased to introduce S. 54, the Age Discrimination in Employment Waiver Protection Act. Joining me as original cosponsors are the chairman of the Special Committee on Aging, Senator PRYOR, the ranking member of the Aging Committee, Senator HEINZ, as well as Senators KENNEDY, PELL, MATSUNAGA, SIMON, HARKIN, ADAMS, MIKULSKI, KOHL, DECONCINI, BURDICK, SHELBY, GLENN, and DODD. Representatives HAWKINS, PEPPER, and others are introducing identical legislation in the House of Representatives.

The Age Discrimination in Employment Waiver Protection Act addresses the technical but very important issue of the extent to which individual employees may waive their rights under the Age Discrimination in Employment Act [ADEA] without the supervision of a court or of the Equal Employment Opportunity Commission [EEOC]. The Waiver Protection Act will ensure that millions of older Americans are not coerced into waiving their rights to equal employment opportunity under Federal law.

When Congress passed the ADEA in 1967, it specifically incorporated enforcement procedures from the Fair Labor Standards Act [FLSA]. This fact was recognized by the Supreme Court in 1978 in the case of Lorillard versus Pons. The Department of Labor was responsible for enforcing the ADEA from 1967-79, and the Department did not permit individuals to waive their rights under the ADEA unless the waiver was supervised by the Department or by a Federal court. The Department still does not recognize as valid any waiver of FLSA rights that is not supervised either by the Department itself or by a Federal court.

However, the responsibility for enforcing ADEA was transferred from the Department of Labor to the EEOC in 1979. In 1985 the EEOC began work on a rule to permit employees to waive their rights under the ADEA without EEOC supervision. In 1987, a final rule was issued allowing unsupervised waivers, provided that they met certain general guidelines. In announcing the rule, the EEOC cited procedures used under title VII.

The EEOC's approach is wrong, both on legal grounds and as a matter of public policy. As I already mentioned, unsupervised waivers are prohibited under the FLSA, which Congress intended the ADEA to follow. On that basis alone, the EEOC's rule is improper. But the broader reason why unsupervised waivers should not be allowed under the ADEA can be seen by considering the context in which unsupervised waivers have been used.

Hearings before the Labor Subcommittee last year revealed that in increasing numbers, older workers are being asked to sign away their rights under the ADEA as part of an early retirement or exit incentive program. Some companies have opted to condition their offers on the signing of a waiver rather than taking the steps needed to ensure that the early retirement or exit incentive program is nondiscriminatory. This preemptive waiver of rights as a condition for receipt of benefits and before an employee may be aware of any pattern of discrimination is unfair and inconsistent with the intent of the ADEA. The employees have no reason to be on guard to protect their legal rights where no dispute has even arisen. Yet they are effectively coerced into signing away their statutory protections. It is this situation that the Waiver Protection Act seeks to correct.

The Waiver Protection Act addresses the existing problems by setting forth the following framework:

First, the bill provides that unsupervised waivers are valid under the ADEA only when they are obtained in certain precisely defined circumstances. Where an individual raises a bona fide claim—by filing a charge with the EEOC or a lawsuit in court, or by submitting a written allegation of age discrimination to the employer—then and only then may settlement of that claim include a valid waiver of ADEA rights notwithstanding the absence of supervision by a court or Federal agency. This change in current ADEA law is intended to recognize the analogous circumstance of an individual dispute under title VII. Once the two sides are truly in an

adversarial posture, we assume that the individuals alleging discriminatory conduct are capable of making informed judgments about their rights.

At the same time, given Congress' continuing concern to protect older workers, we have specified certain minimum conditions that must be met in order for an unsupervised waiver of ADEA rights to be valid, including a reasonable time period to consider the offer, encouragement to consult with an attorney, and similar protections.

The second principle of the Waiver Protection Act is that unsupervised waivers are not valid as a precondition to accepting an early retirement incentive or other employment termination program that features an offer of enhanced benefits to a group or class of employees. This is precisely the kind of circumstance that sharply distinguishes ADEA claims from those arising under title VII. Employees who are offered such enhanced benefits typically have not filed a charge, are not involved in any dispute with their employer, and have no reason to be on guard to protect their rights. These employees deserve the full protection of the ADEA, and we are reaffirming here the judgment made by an earlier Congress that a waiver of their rights is inappropriate without the supervison of the Federal agency charged with protecting those rights, namely the EEOC.

Our intention is to separate the issue of waivers from the issue of whether a particular enhanced benefit program violates the ADEA. At the Labor Subcommittee hearing last year, we were advised that many companies regularly offer their employees exit incentive programs that are not conditioned upon execution of a waiver. Indeed one top corporate official stated to subcommittee staff that waivers could undermine the atmosphere of good will that is essential to such a voluntary program. He explained that a waiver request could discourage participation by arousing needless suspicions among employees. But apart from arguments of sound business practice, we believe it is inappropriate as a matter of law to use waivers of rights to avoid the underlying issue of whether a given early retirement or other exit incentive program discriminates on the basis of age. The EEOC currently is conducting a rulemaking on the validity of early retirement incentive and other enhanced benefit programs under the ADEA in order to give employers guidance on these important issues.

When the EEOC first issued its rule permitting the use of unsupervised waivers, Congress immediately expressed grave concern that the rule was without legal foundation and was contrary to public policy. In both 1987 and 1988, the Congress unanimously adopted amendments to the EEOC appropriations legislation, ordering the EEOC to suspend the waiver rule. But the need for a permanent legislative solution to this problem is clear.

Senator HEINZ and I introduced similar legislation at the end of the 100th Congress, but the bill was lost in the rush of last-minute business. The legislation we are introducing today has the support of major senior citizen groups, including the American Association of Retired Persons; the Older Women's League; the Gray Panthers, represented by the National Senior Citizens Law Center; the National Council of Senior Citizens; the National Council on the Aging; and the Villers Foundation. I ask unanimous consent that a letter of support from these six organizations be included in the CONGRESSIONAL RECORD at the end of my statement.

The Age Discrimination in Employment Waiver Protection Act is compromise legislation. It is bipartisan legislation. It offers a responsible and equitable solution to a pressing problem. I urge my colleagues to join me in supporting the Waiver Protection Act, and I urge swift action on this much needed measure.

I ask unanimous consent that the text of the Age Discrimination in Employment Waiver Protection Act be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 54

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination in Employment Waiver Protection Act of 1989".

SEC. 2. WAIVER PROVISION.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end thereof the following new subsection:

"(f)(1) An individual may not waive any right under this Act without the supervision of the Equal Employment Opportunity Commission or a court, except in settlement of a bona fide claim alleging age discrimination of a kind prohibited under section 4 or section 15 of this Act.

"(2) A settlement of a bona fide claim pursuant to paragraph (1) may occur only if the waiver is knowing and voluntary and only if—

"(A) a settlement agreement applicable to the bona fide claim is in writing and specifically refers to rights or claims arising under this Act;

"(B) the agreement does not waive rights or claims that may arise after the date the agreement is entered into;

"(C) the rights or claims are waived in exchange for consideration in addition to anything of value—

"(i) to which the individual already is entitled; or

"(ii) that has been offered to a group or class of individuals under an early retirement incentive or other employment termination program;

"(D) the individual is given a reasonable period of time in which to consider the agreement; and

"(E) the individual is advised in writing to consult with an attorney prior to entering into the agreement.

"(3) For the purpose of this subsection, the term 'bona fide claim' means—

"(A) a charge of age discrimination filed with the Equal Employment Opportunity Commission;

"(B) an action alleging age discrimination filed in court by the individual or the individual's representative; or

"(C) a specific allegation of age discrimination communicated in good faith and in writing by the individual or the individual's representative directly to the employer (including, where applicable, a Federal agency), employment agency, or labor organization or their representatives.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29 of the Code of Federal Regulations shall have no force and effect.

JANUARY 25, 1989.

DEAR SENATOR METZENBAUM, SENATOR HEINZ AND SENATOR PRYOR: We the undersigned organizations, representing the interests of older Americans nationwide, wish to express our strong support for the legislation you introduced today, the Age Discrimination in Employment Waiver Protection Act of 1989. This bill provides important and necessary protection for the rights of millions of older workers under the Age Discrimination in Employment Act (ADEA).

The Waiver Protection Act establishes a process by which older workers may validly waive their ADEA rights without supervision by the EEOC or the courts. The bill makes clear that unsupervised ADEA waivers are valid only when obtained in settlement of a specific charge or claim of age discrimination. Therefore, employees could not be coerced into signing away their federal rights in order to participate in an early retirement or exit incentive program. Benefits are offered in these programs not in exchange for settlement of a claim of discrimination, but as an inducement to leave employment.

This legislation is necessary to counter the effects of a rule issued by the EEOC that would have validated ADEA waivers obtained even in circumstances where the employee was unable to know whether an ADEA claim existed. Although this rule was twice suspended by Congress, the EEOC's refusal to modify or rescind the rule provided many employers with a shield against ADEA lawsuits and, effectively, a license to discriminate against older workers.

We applaud your actions to preserve and enhance the rights of older workers to equal employment opportunity and look forward to working with you to insure passage of this important bill.

American Association of Retired Persons, Gray Panthers, represented by the National Senior Citizens' Law Center, Older Women's League, National Council on Aging, National Council of Senior Citizens, Villers Foundation.●

● Mr. HEINZ. Mr. President, I am pleased to join with my colleague from Ohio in introducing legislation to restrict the unsupervised waiver of the Age Discrimination in Employment Act [ADEA] rights by workers taking early retirement. As the dramatic demographic changes of the coming decades begin to have their impact on the American workforce, it is important that we maintain our commitment to one of this Nation's most valued resources—the older worker. Pressures in the labor force pushing older workers into retirement at earlier and earlier ages led over two decades ago to the enactment of legislation to prevent age discrimination and limit the use of mandatory retirement. Two years ago we extended these protections by both eliminating mandatory retirement and ensuring older workers the right to accrue pension benefits after age 65. These new laws provide important reaffirmations of the policy objectives launched with enactment of the Age Discrimination in Employment Act [ADEA] some 20 years ago.

While the Congress has been making it easier for older workers to remain in the workforce, many employers have been increasingly encouraging workers to take earlier retirements. Often these early retirements have been induced by offering financial incentives to older workers where companies have been reducing their workforces. In some cases, early retirement incentive programs have given early retirees attractive benefits and helped in humanely reducing the workforce. In other cases, early retirement incentive programs have accomplished the same discriminatory results that were barred under the ADEA. The structure of early retirement incentive programs is itself a age discrimination issue that must be resolved. In the context of this question, I have become increasingly concerned about the use of a pre-emptive waiver of a worker's ADEA rights as a condition for participation in an early retirement incentive program.

When Congress enacted the ADEA some 20 years ago, we patterned its enforcement provisions directly on those contained in the Fair Labor Standards Act [FLSA]. Under those FLSA provisions, employees may not waive their rights without the supervision of the Department of Labor. Regulations finalized by the Equal Employment Opportunity Commission in July 1987 would have allowed unsupervised waivers that were knowing and voluntary. The concerns I have about these regulations are exemplified in the case of one of my constituents, Mr. Ronald Hallas, who testified before the Aging Committee last year. When Mr. Hallas' employer was cutting back its workforce with an early retirement program, he was faced with a "Hobson's" choice: he could either sign a waiver and receive retirement benefits, or face permanent lay-off without pension or health benefits. Strictly speaking, this waiver was "knowing and voluntary"—it was written in plain English, and Mr. Hallas was given time to make his decision—however it was not without an element of coercion. A Federal District court used reasoning very similar to that of EEOC's to find that the waiver was "knowing and voluntary", and therefore a valid bar to enforcement of Mr. Hallas' rights under ADEA. Only after several additional years of litigation did a United States Court of Appeals overturn that decision. When Congress acted in October 1987 (and again last year in the fiscal year 1989 Commerce/Justice Appropriations bill) to suspend implementation of EEOC's regulations, we clearly chose to address this issue by developing clarifying legislation.

Unfortunately, while this moratorium is in effect, employers and their older employees have been left in limbo. Their uncertainties arise not only from not knowing how to interpret what force and effect waivers should be given, but also from a more important underlying confusion as to what types of early retirement programs are in compliance with the ADEA. The current situation forces both older workers and their employers to look to the courts for guidance on both these issues—a time-consuming and expensive proposition.

Therefore I am pleased to join with Senator METZENBAUM, and some of our other colleagues in introducing legislation designed to clear up confusion in both these areas. The Age Discrimination in Employment Waiver Protection Act of 1989 will clarify the validity of ADEA waivers in a number of situations. In instances where older workers has a bona fide claim pending with their employer, the individual may waive his or her ADEA rights as long as certain statutory safeguards are followed. For cases arising out of early retirement incentive programs, any waivers signed by individuals would have to be supervised by the EEOC or the courts. In my judgment, this new legislation will adequately protect the rights of older workers while at the same time provide their employers with both the guidance they need to design equitable early retirement incentive programs as well as the flexibility to negotiate with employees without undue Government interference.

I urge my colleagues to support us in this effort by giving this legislation full consideration as expeditiously as possible.●

● Mr. PRYOR. Mr. President, I am pleased to cosponsor the proposed Age Discrimination in Employment Waiver Protection Act of 1989. This legislation would prohibit unsupervised waivers of the rights provided to older workers under the Age Discrimination in Employment Act [ADEA] except in limited situations where certain safeguards were in place for those workers. In addition, the bill would nullify a ruling of the Equal Employment Opportunity Commission [EEOC] to permit unsupervised waivers.

More than two decades ago, the Congress established critically needed protections for older working Americans against age discrimination by enacting into law the ADEA. As a result of the law, age, in and of itself, became an unacceptable basis for laying off an older worker.

Under the ADEA, our Nation has made important strides in reducing age discrimination and in promoting employment opportunities for older Americans. Nevertheless, during this period of rapid economic change, where corporate downsizings have become commonplace, the ones who have given the most in the workplace—older workers—often are at the greatest risk of getting the least. Against this background, unsupervised waivers of older workers' rights under the ADEA, except under a very narrow set of carefully considered circumstances, represent a potentially dangerous blow to the very protections older workers most need at this time.

Although I share the view that the ADEA invalidates any waiver of an older worker's rights unless it is supervised by the EEOC or a court, a number of recent court decisions have clouded this issue. To make matters worse, the EEOC has taken the position that unsupervised waivers are permissible under the law. Not surprisingly, employers are uncertain about Federal policy in this area, while the rights of older workers under the ADEA are being placed at unnecessary risk.

This legislation would clarify congressional intent with respect to unsupervised waivers. First, to ensure that older workers are not coerced into signing away their rights, with the exception described below, this bill would prohibit waivers of ADEA rights unless supervised by the EEOC or a court. This provision would prevent efforts to secure a waiver from an older worker in exchange for benefits wrongly withheld or as part of a discriminatory early retirement package.

Second, in recognition that supervision by the EEOC or a court is not always needed, this legislation would establish an exception to the above prohibition against unsupervised waivers provided specified standards were met. The exception would apply to circumstances involving the settlement of a bona fide age discrimination claim where the claimant would presumably be in a position to make a fully informed decision.

Under this provision, the settlement of an age discrimination claim must be in writing, may not waive rights prospectively and cannot waive rights in exchange for benefits to which the claimant is already entitled. In addition, the older worker must be given a reasonable period of time to consider the terms of the settlement and be advised in writing to consult with an attorney.

Finally, this bill would nullify once and for all a rule that the EEOC issued in August 1987 to permit unsupervised waivers. Twice, already, due to very serious concerns about the damage this rule would have done to the protections of older workers against age discrimination, the Congress has moved to suspend the rule during fiscal year 1988 and fiscal year 1989.

Mr. President, it is clear that this measure is needed to settle the uncertainty that has arisen regarding the legal basis of unsupervised waivers. This bill would reaffirm the longstanding congressional prohibition against such waivers except in certain limited situations where supervision is not needed. This measure is supported by the American Association of Retired Persons and the National Senior Citizens Law Center. I urge my colleagues to support this legislation.●

● Mr. KENNEDY. The Age Discrimination in Employment Waiver Protection Act of 1989 is an essential piece of legislation for preserving the rights of America's older workers.

Often employers have reason to reduce their work forces through voluntary incentive plans. In most cases, an agreement can be reached that benefits both the employer and the older worker who can take advantage of an attractive early retirement package. In a few unfortunate cases, however, employers have forced unsuspecting employees to sign away their civil rights in exchange for early retirement benefits. The trusting employee may have no reason to think that he has been a victim of age discrimination, and yet, the implementation of the reduction in force may well have violated Federal discrimination law.

Last spring, the Senate Labor and Human Resources Subcommittee on Labor heard the tragic story of Nelson Marans, who, after almost 30 years of outstanding service to W.R. Grace & Co., was fired for refusing to sign away his rights in exchange for an enhanced early retirement package. Donald J. Graham, at age 55, accepted Pet, Inc.'s, offer of enhanced benefits when his job was eliminated; he signed away his rights after his attorney reminded him of the harsh reality that a lawsuit could take years and might cost more than the benefits he would receive. William Terrell did not consult an attorney when Xerox terminated him and other older workers during an involuntary reduction in force; he did not know his rights when he signed a paper waiving all his claims against the company. Mr. Terrell, at age 56, spent 8 months looking for a job at a lower wage in a different field. He later suffered a heart attack that may have resulted from stress relating to his employment situation.

It is in precisely these kinds of cases that the Equal Employment Opportunity Commission should step in to safeguard the rights of the employee. When the Age Discrimination in Employment Act was signed into law, Congress incorporated certain enforcement provisions of the Fair Labor Standards Act, including the requirement that a waiver of an employee's rights be supervised. Yet the EEOC has taken the opposite position—under a rule issued in 1987, the EEOC gave notice that it will turn its back on the rights of older employees by recognizing as valid waivers that are not supervised by the Federal Government or a court. In so doing, it issued an open invitation to employers to use manipulative tactics to persuade employees to waive their rights without advise of attorney.

Congress has stepped in twice to void the EEOC's rule and to protect the rights of older employees. This had been a bipartisan effort, as is this legislation, which will clearly define the limited instances in which employee waivers will be permitted in ADEA cases.

I urge the Senate to adopt this legislation.●

● Mr. DECONCINI. Mr. President, I rise in support of the Employment Waiver Protection Act of 1989. This important legislation simply reinforces the original intent of the Age Discrimination in Employment Act of 1967 [ADEA], which specifically prohibits employers from treating employees differently on the basis of age. The proposed legislation generally requires that waiver of employment rights must be supervised, or that the employee be given a reasonable time to seek legal advice. Federal law already requires supervision of employment right waivers in other areas. The Employment Waiver Protection Act would simply extend that rule to the waiver of employment rights of millions of older workers under the ADEA.

It is important to note that this issue is not new and has been addressed by prior legislative action. Unfortunately, Congress has only delayed making a permanent decision by annually suspending the 1987 ADEA unsupervised waiver rule promulgated by the Equal Employment Opportunity Commission [EEOC].

The unsupervised waiver rule suspensions passed by unanimous votes on the fiscal years 1988 and 1989 EEOC appropriations legislation. Delay has not satisfied either the proponents or opponents of this act. Immediate action is needed, and I applaud Senator METZENBAUM for his perseverance and leadership on this and other important older worker issues.

This principal issue is one of informed consent prior to waiver of statutory rights. Unless represented, the typical employee does not have full knowledge of facts necessary to make an intelligent decision, and could be coerced by the employer to relinquish his or her rights under the Age Discrimination in Employment Act. In all other similar instances, Congress and the courts have determined that either the burden of full disclosure will be upon the employer, or no waiver is valid unless approved by the responsible Federal agency. To do otherwise would undermine the very purpose of the ADEA; such a contrary holding would actually encourage employers to place their older employees in an inferior bargaining position. Hence, unsupervised waivers place older workers in jeopardy of unknowingly throwing away their statutorily guaranteed rights when negotiating early retirement incentives.

This bill provides that unsupervised waivers are valid under the ADEA only when an individual has expressly indicated that he or she knows he or she may have an age discrimination claim against his employer. For the purposes of this act, unsupervised waivers will only be allowed in cases in which the employee raises a bona fide claim of age discrimination—either by filing an ADEA charge with the EEOC or by submitting a written allegation of age discrimination to the employer. Waivers of ADEA rights in cases of bona fide claims of age discrimination need no supervision.

However, should an employer wish to obtain a legally binding waiver of ADEA rights in cases not involving a bona fide claim of age discrimination, that waiver must be supervised by the EEOC. As stated earlier by Senator METZENBAUM, an ever increasing number of companies condition their early retirement and exit incentives upon release of their rights under the ADEA.

Immediate congressional intervention is needed due to the recent inability of some Federal courts to correctly follow a higher court ruling which held that Congress specifically incorporated enforcement procedures from the Fair Labor Standards Act when it passed the ADEA in 1967. Instead of following the U.S. Supreme Court's holding in Lorillard versus Pons (1978), three Federal circuit courts have ignored the Supreme Court's holding or errantly limited it to the limited fact situations in which the ADEA enforcement procedure assert-

ed was the right to a jury trial. Lorillard more correctly stands for the proposition that all FLSA enforcement procedures were incorporated by Congress into the ADEA, including the requirement that employment rights waivers must be supervised.

Moreover, these inferior courts have also used the EEOC's interpretation of prior case law and the EEOC proposed rule itself as precedent. In so doing, these courts relied on an EEOC that has been often criticized for its controversial enforcement of the ADEA.

The EEOC argues that requiring supervision will increase ADEA enforcement costs and would deter employers from offering enhanced compensation and benefit packages to induce employees to leave voluntarily. The EEOC contends that if this legislation is enacted, it would have an affirmative obligation to actively supervise all waivers.

While their argument appears to have merit, the reality is that EEOC has never actively supervised waivers before the waiver is signed by an employee and, therefore, only hypothesizes that enforcement costs would increase should this bill become law. The EEOC's experience has actually occurred only when an employee had filed an EEOC charge of age discrimination or when the employee had notified an employer that he or she may have a claim against the employer for age discrimination. In the case of the title VII waiver EEOC supervision requirement, a requirement virtually identical to that proposed here, the cost of EEOC enforcement actually decreased. Furthermore, the congressional purpose behind the statutory employment rights waiver was to encourage employers to provide amicable settlements with their employees. Supervised waivers provide employers with greater certainty and protection from subsequent litigation.

In conclusion, I would again like to thank Senator METZENBAUM and Senator HEINZ for their vigilance in the protection of the rights of older workers. I assure them that I will maintain my active support for their efforts as I have every time the Senate has considered this critical issue involving the rights of older American workers. I strongly urge all my colleagues in the Senate and the House of Representatives to support the passage of the Employment Waiver Protection Act of 1989.●

● Mr. KOHL. Mr. President, I am delighted to join with Senator METZENBAUM and other colleagues in introducing the Age Discrimination in Employment Waiver Protection Act of 1989.

This legislation, Mr. President, is designed to prevent older workers from being pressured or fooled into waiving the rights that were guaranteed them under the Age Discrimination in Employment Act. It is both a reaffirmation of the protections provided by that act and a reassertion of the position taken by the Congress in 1987 and 1988. While I am proud to support this legislation I am, to be honest, disturbed by the fact that we need to pass it. Despite the clear intent of the law, the Equal Employment Opportunity Commission has decided that if a person says they want to waive their rights under the law, then there is no need to supervise the waiver, even though it may have been made under conditions conducive to coercion.

Mr. President, the purpose of this bill is to return the law to the status it enjoyed when the Congress passed the Age Discrimination in Employment Act. This bill imposes no new burden on business nor does it reduce or expand the rights of individual employees. It simply reaffirms the rights and protections which were contained in the original law and, once again, rebuffs the efforts of the EEOC to allow undue pressure to be placed on employees. It assures that when workers elect to waive their rights, they do so either in the context of an existing bona fide claim or under the supervision of the EEOC or a court.

Mr. President, this is a simple but necessary bill. I urge my colleagues to support it.●

By Mr. WILSON:

S. 55. A bill to increase the availability of quality affordable child care, and for other purposes; to the Committee on Finance.

KIDS IN DAY CARE SERVICES ACT

● Mr. WILSON. Mr. President, I rise to reintroduce comprehensive child care legislation which I sponsored last Congress. I am taking this action for several reasons.

In the final days of the 100th Congress, in the midst of what often times becamse quite a spirited debate, the Senate considered child care legislation offered by my colleague from Connecticut, Senator DODD. The "Act for Better Child Care," or its more familiar, publicized name, the ABC bill, became the focus of this body, if only for political reasons, for a brief period.

Frankly, the important issue of child care deserved much more time, much more careful thought. Nonetheless, in the few days that we were able to review the ABC bill, I believe it became increasingly apparent to Members on both sides of the aisle, that the bill's approach to child care was, notwithstanding the good intentions of its sponsors, misguided.

At some point this year we may be asked to consider similar legislation again. However, many of the concerns raised during the debate last Congress remain unaddressed.

I am hopeful that the door to a child care compromise has not been shut. No one would relish a repeat of the impasse which we encountered last fall.

I am confident that if given the opportunity, Congress can develop a bipartisan child care bill. As a point from which to begin the process toward consensus, I offer, once more, the "KIDS in Day-Care Services Act," or for the sake of an acronym, the kids bill.

If the Chair would indulge me, I would like to outline the major provisions of the kids bill.

Mr. President, the Dependent Care Planning and Development Program was originally developed to assist States for activities related to dependent care resource and referral systems and school-age child care services. The kids bill would build upon this program and reform it into a sizable State block grant program.

A total of $1.6 billion would be authorized over 4 years for State child care services. A variety of activities could be underwritten including afterschool programs, child care training for seniors, or programs for the temporary care of sick children.

Perhaps most important is that States, not a Federal bureaucrat, would make funding decisions.

That is not to say that the States would not be required to perform certain tasks. To the contrary, there are several conditions of funding which the States would have to meet. For example, a system for criminal and child abuse records checks for group-based and family-based child care must be established. Additionally, alleged child abuse cases would have to be investigated. Regular communications with child care providers and parents must be undertaken.

A further condition for funding is the development of standards for family-based and group-based child care-standards which dictate licensing requirements, inspection and certification procedures, staff to child ratios, and minimum competency requirements for group-based child care providers.

But let me be clear on this point. The States, not an ad hoc national commission, would set these standards. This is an important difference between the kids bill and the ABC bill.

Indeed, if we could resolve the very question of which entity should set standards, a Federal child care commission or a State, much of the road toward a child care bill would be paved. It is on this issue, however, where the most divergent views exist.

Frankly, I believe the one-size-fits-all approach adopted by the ABC bill is neither reasonable nor workable. If we adopt a solution which limits a State's ability to be responsive to its unique needs, I'm afraid that the result would be the disruption of present services and the creation of

yet another blockade to the establishment of new child care services.

Mr. President, another point of departure from the ABC bill is that the kids bill provides tax relief to those who, because of fiscal limitations, cannot afford child care. I speak of our Nation's low and modest income families.

Clearly, current tax laws with respect to child care does not benefit American working families of limited means. As a practical matter, the child and dependent care tax credit with its present limits is preconditioned upon a rather sizable child care outlay in order to be of maximum benefit. Therefore, for low income families, the dependent care tax credit is not useful.

That is why the kids bill would create a new refundable children's tax credit for low and modest income families. Families with incomes under $16,000 per year, rising gradually to $20,000 over 4 years, would be provided with a $750 per child credit, up to $1,500, for child care.

For those families who do not earn enough income to pay taxes, but for whom access to child care services is equally important, the kids bill would make the present child and dependent care tax credit refundable.

Under the kids bill, parents could select their child care provider without losing their eligibility for either tax credit. This contrasts sharply with the ABC bill which would force parents to use any public assistance they obtained only for those services rendered by child care providers who meet Federal standards.

Another difference between the ABC bill and the kids bill is that my legislation would encourage private sector involvement in the solution to shortage of child care. To place purchasing power in the hands of families via a tax credit becomes futile if there are no child care services to purchase.

Simply, if we are ever to truly increase the availability of child care, we must encourage business to support personnel practices and policies responsive to the needs of the changing work force. That means the establishment of more on-site or near-site child care facilities.

Unhappily, recent studies have shown that business has been slow to respond to this need. When child care services have been provided to employees, they have usually consisted solely of information and referral services.

Even though the number of employer-sponsored child care facilities continues to rise, supply has not kept pace with demand. I do not believe the reason for this problem can be attributed to any single factor. It is more likely a combination of many.

For example, after a review of the Internal Revenue Code, one finds few, if any, provisions which provide incentive to a corporation, let alone a small business with limited capital, to establish a child care center for its employees.

Consider that fact and examine the astronomical costs of liability insurance, I am sure anyone would be surprised to find employer-sponsored day care facilities at all.

To Fortune 500 companies, underwriting liability or establishing child care facilities for their employees comes much easier than to our Nation's small business men and women. For this reason, I believe we must offer child care incentives to the small business sector of our economy. It is here where tomorrow's jobs will be created. It is small business which will offer employment opportunity to the great influx of working mothers expected in the job market by the year 2000.

Accordingly, the kids bill would create a small business tax credit of up to 25 percent, up to $100,000, for expenses related to the establishment of on-site or near-site child care facilities.

Additionally, to help reduce the liability barrier which is oftentimes too great for most businesses to overcome, the kids bill would authorize $100 million in funding for the establishment of liability risk retention groups.

Briefly, Mr. President, other provisions of the kids bill include the establishment of $25 million revolving loan fund to improve day care facilities, a study on the feasibility of offering child care as a benefit to Federal employees, and a comprehensive examination of Federal day care efforts.

To recognize those employers who have been responsive to the needs of working parents under their employ, the kids bill would create a new President's Award for Excellence in Child Care.

And, to enlist the support of one of the Nation's most valuable resources, our senior citizens, the kids bill would exempt earnings received for the provision of child care under the Social Security earnings test for recipients age 62 through 69.

Mr. President, I have outlined most of the provisions of the kids bill. I would ask unanimous consent that a summary of the bill's content and its full text be included in the RECORD at the conclusion of my remarks.

One of the points on which I haven't elaborated is that of cost. I believe any child care bill which Congress considers should provide, for the lack of a better phrase, the biggest bang for the buck. Further, it must reflect the fiscal perimeters under which we must operate.

I believe the kids bill meets both criteria.

First, its approach is comprehensive in nature and therefore, provides for a wiser investment of Federal funds or the bigger bang, if you will. As I have stated, the kids bill authorizes funding for a block grant program to the States, tax incentives for small business, a liability risk pool, and tax credits for low and modest families.

By contrast, the ABC bill would authorize $2.5 billion annually primarily for the purchase of child care slots. No incentive is offered to the States to develop child care programs. No assistance is offered to business to establish child care facilities.

Above all, no guarantee of access to child care services is granted to low income families. Instead, the ABC bill would underwrite about 750,000 child care slots nationwide. To demonstrate the inadequacy of this approach, Mr. President, consider that the State of California alone requires nearly 1 million slots. What hope would that offer to families in the remaining 49 States?

The second test which any child care bill must meet is that of fiscal responsibility. The kids bill contains two important revenue provisions to help offset the costs associated with its enactment.

To ensure that Federal programs and tax incentives will be directed to those families with the greatest need, the kids bill would gradually reduce the dependent care tax credit for those taxpayers whose adjusted gross incomes exceed $50,000 per year, eliminating the credit completely for those families with adjusted gross incomes over $78,500 per year. According to the Congressional Budget Office, this provision will save the Treasury approximately $2.1 billion over 4 years and affect less than 20 percent of American taxpayers.

A second revenue provision which I have included in the kids bill is one which has received considerable attention in recent weeks. Similar to the proposals included in President Reagan's fiscal year 1990 budget and endorsed by a number of environmental organizations, the kids bill would place a $1 per pound fee, increasing to $4 in fiscal year 1993, on ozone depleting chemicals.

By way of background, under the Montreal protocol, the United States has agreed to restrict production and usage of chlorofluorocarbons [CFC's] and halons. The net result will be a safer environment for future generations to enjoy.

However, as a result of the Montreal protocol and the quota allocation system established thereunder, producers of CFC's and halons are likely to realize a substantial windfall, estimated as high as $6 billion.

Specifically, under the allocated quota system, the supply of CFC's and halons will be restricted. Since demand for these chemicals by user industries is expected to continue to increase, competition for the restricted CFC and halon supplies should result

in firms paying higher prices for these chemicals. Although some industries will be able to shift to alternative materials, many will have to use CFC's and halons while paying higher prices. The result is that chemical producers would realize substantial profits.

By reducing the size of the windfall gains to producers through the ozone fee, the kids bill would remove the incentive to delay the introduction of chemical substitutes. Further, in order to ensure continued research on substitutes, the kids bill would establish a $300 million alternative chemical research fund. Funding would support ongoing research efforts in six vital areas.

I am told by the Environmental protection Agency [EPA] that the total revenue raised from the ozone depleting chemical fee would exceed $2.6 billion over 4 years, and the impact of an ozone depleting chemicals fee upon consumers would be negligible.

When combined with the proposed elimination of the dependent care tax credit for upper income taxpayers, the total 4-year cost of the kids bill, excluding revenue lost from the small business tax credit, would be less than $2 billion.

That's $8 billion less than the most conservative cost estimates of the ABC bill.

Mr. President, throughout my remarks today, I have discussed my legislation, the kids bill, which I hope will have the support of many of my colleagues. But, I have also identified the differences which exist between the approach adopted by proponents of the ABC bill and that which I believe to be the better course.

I remain optimistic that at some point these two approaches will become one, and we will have developed a child care bill which can be supported at the other end of Pennsylvania Avenue. Certainly, as we consider this bill, we must be mindful that the President has expressed serious concerns about the ABC bill.

If this exercise in child care which we are about to undertake is truly born of desire to assist the American working family, we must be willing to make difficult choices. To succeed, we must check the interest groups and the demagoguery cloaked in emotion at the door, roll up our sleeves, and make every effort to resolve the contentious issues.

At a child care hearing which I attended yesterday, I believe there was an expressed willingness by members on both sides of the aisle to forge a solution. One which we can be proud of, one which the President can sign into law, and most importantly, one which will help, not hurt, millions of families across this country, who, by no fault of their own, must face the question daily, who will watch our children?

If the skeptics label this task too impossible, then I would ask my colleagues to remember what they said about a little idea called welfare reform when President Reagan arrived in Washington 8 years ago.

Today, I would urge all involved in this debate to prove the skeptics wrong once more and pass comprehensive child care legislation in the 101st Congress.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF THE WILSON KIDS BILL

DEPENDENT CARE PLANNING AND DEVELOPMENT PROGRAM

Reforms current Dependent Care Planning and Development Progam into $400 million grant program to the States for the development of child care services (requires 15 percent State funding match).

Requires States to make grants to eligible entities for at least two of the following child care projects:

Certificate/voucher program for low and modest income families;

Expansion of existing child care programs if such programs are consistent with the purposes of the KIDS Bill;

Establishment/operation of community or neighborhood child care centers;

After-school programs;

Programs to recruit/train seniors as child care providers;

Child care programs for migrant worker families;

Programs for the temporary care of sick children;

Training programs for child care providers; or

Any project consistent with the purposes of the KIDS bill.

STATE RESPONSIBILITIES

As a condition for receipt of program funds, States must:

Provide technical assistance to eligible entities;

Establish a system for criminal and child abuse records checks for group-based and family-based child care;

Investigate alleged child abuse in child care projects receiving assistance;

Coordinate projects receiving assistance under the KIDS Bill with existing programs;

Establish regular communications with registered, licensed, and accredited child care providers; and

Establish a consumer education program to inform parents and public about standards and programs.

STATE STANDARDS

A further condition for receipt of Dependent Care Program funding is that States must establish standards for child care in both family and group-based settings including:

Licensing/registration standards for family-based and group-based child care;

Inspection/certification of family-based and group-based child care;

Minimum competency requirements, including health and first aid training, for child care center directors/teachers/operators;

Staff/child ratios for child care centers; and

Thresholds for family/group-based child care (the point at which a family-based child care provider becomes a group-based provider, measured by the number of children).

LIABILITY

Authorizes $100 million for child care liability risk retention groups.

FAMILY-BASED COMPLIANCE WITH STATE STANDARDS

Authorizes $25 million revolving loan fund for capital improvements to family-based child care facilities.

SENIORS AS CHILD CARE PROVIDERS

Exempts from the Social Security earnings test for recipients age 62 through 69 income earned from the provision of child care.

TAX CREDITS

Makes current Dependent Care Tax Credit refundable;

Creates new refundable Children's Tax Credit providing families with incomes of $16,000 and under (rising to $20,000 over four years) a credit up to $750 per child under age five up to $1,500; and

Provides for a new small business tax credit of up to 25 percent of expenses up to $100,000 for the establishment of an on-site or near-site child care facility.

REPORTING REQUIREMENTS

Requires the Secretary of Health and Human Services to report to Congress regarding federal and state child care efforts;

Requires States to report to the Secretary of Health and Human Services regarding child care activities to ensure compliance with requirements of KIDS Bill; and

Requires Office of Personnel Management to conduct a feasibility study of offering child care as a benefit to federal workers.

PRESIDENT'S AWARD FOR EXCELLENCE IN CHILD CARE

Establishes Presidential Award to recognize employers who have successfully implemented personnel programs and policies responsive to the child care needs of their workers.

SENSE OF THE SENATE

Expresses the sense of the Senate that the most desirable child care legislation would maintain State flexibility in developing programs, remove barriers encountered by business in providing child care, and preserve parental choice in selecting child care services.

RESEARCH FUND FOR CHEMICAL ALTERNATIVES

Establishes $420 million research fund to assist user industries and chemical producers in developing alternatives to ozone depleting chemicals.

OFFSET

Phases out Dependent Care Tax Credit for families with adjusted gross incomes of $50,000, gradually eliminating the credit for those with adjusted gross incomes of $78,500 or more; and

Imposes $1 per pound excise tax on ozone depleting chemicals, increasing to $4 per pound in Fiscal Year 1990.

Cost

	Billion
Costs (over 4-years)	[1] ($6.625)
Children's tax credit	(3.000)
Dependent Care Program	(1.600)

	Billion
Liability risk pool	(.100)
Capital improvement loan fund	(.025)
Dependent care credit refundable	(1.600)
Research fund for chemical alt	(.300)
Offset (over 4 years)	4.760
Phase out of dependent care	2.100
Ozone depleting chemical tax	2.660
Total 4-year cost (excluding small business tax credit)	1.865
Total 4-year cost of ABC bill	[2] 10.000●

[1] Less.
[2] Plus.

By Mr. KERRY:

S. 57. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on the Environment and Public Works.

NATIONAL ACID RAIN CONTROL ACT OF 1989

● Mr. KERRY. Mr. President, I rise today to introduce my first bill of the 101st Congress. The legislation addresses a problem that has plagued our planet for far too long and needs immediate attention before it is too late. An issue that has concerned me for quite some time is air pollution; specifically, acid rain and greenhouse gases. In fact for that reason, Mr. President, the first legislation I introduced in the 100th Congress also dealt with the same subject.

Mr. President, the evidence is all too clear—acid rain and CO_2 emissions have and continue to wreak havoc on our environment and produce devastating health effects on our citizens. Although the United States has made some definitive efforts to improve the air we breathe, experts say that we still emit roughly 15 percent of the world's sulfur dioxide [SO_2], 25 percent of the globe's nitrogen oxide [NO_x], and 25 percent of the Earth's carbon dioxide [CO_2]. These three pollutants are the major sources of the greenhouse effect, ground level ozone, and acid rain. Of the greenhouse gases, carbon dioxide emitted when fossil fuels are burned, is the largest contributor to global warming. When CO_2 and other greenhouse gases are released into the air, they trap the heat in the atmosphere and produce a global warming. Predictions of the magnitude of the consequences from climate warming vary, but there is a general consensus that if the Earth's temperature continues to rise, we will witness major climatic changes such as shifting rainfall and hurricane patterns, sea level rise resulting in flooding of our coasts, and heatwaves and drought upsetting agriculture. NO_x which come primarily from auto emissions and powerplants is a contributor to tropospheric (ground level) ozone, a major public health problem which has been linked to long-term lung damage. Furthermore, NO_x is a key component of acid rain and threatens marine life and devastates forests. And SO_2 the major culprit of acid rain comes from the burning of fossil fuels primarily from powerplants and is known as the principal air pollutant killing rivers and lakes, devastating forests, and destroying buildings.

The United States cannot reduce air pollutants worldwide, but as the primary contributor we can act as a model and lead the world in addressing the Earth's environmental woes. The legislation I am introducing today begins on our own domestic front and if enacted will display our own commitment. By the year 2000 the legislation will reduce the emissions of SO_2 by 12 million tons per year nationally or by 50 percent; it will reduce NO_x by 3 million tons per year; cut CO_2 emissions by 90 million tons per year, while saving roughly 600,000 barrels of oil a day. The fuels that generate CO_2 also emit NO_x and SO_2 and this legislation seeks to reduce these pollutants in a cohesive manner.

For over a decade Congress has debated the issues associated with acid deposition. But today we are told that the winds are changing and they appear to be blowing in the direction of real action aimed at addressing this serious concern. For example, at the end of the 100th Congress we were close to passing compromise acid rain legislation; for the first time in history acid rain was a major issue in a Presidential campaign; we have a President who has suggested that the time for study is over and now is the time to end acid rain; we have a Chief of Staff in the White House with whom I have worked at the National Governor's Association, to develop a national acid rain policy, and who has testified before Congress on the need to end acid rain; and today citizens throughout the Nation are becoming more educated than ever before on the human and environmental dangers associated with air pollutants. Now is the time for action and on this the first day of our new legislative session I call upon my colleagues to help in achieving passage of necessary environmental legislation.

Mr. President, while the endless debate has been raging about acid rain, Massachusetts and other States—particularly Northeastern States, have been suffering damage. In fact just last month, frustrated by the absence of national clean air legislation, Massachusetts went ahead to propose tough new restrictions designed to reduce acid rain emission within the State. The regulations stem from a 1985 law, on which I had the pleasure to work as the Massachusetts Lieutenant Governor, which caps the amount of sulfur dioxide allowed to be emitted in the State. The new proposed regulations are expected to reduce SO_2 emissions by 26 percent by the mid-1990's. Some may ask why Massachusetts is willing to impose such tough standards on itself, when it only contributes 1.3 percent of the SO_2 nationwide, particularly when the majority of SO_2 that falls on the State comes from other States. The answer is simple—the State's rivers, lakes, and streams, forests, buildings, and now even marine life have suffered for far too long from the ill effects of acid rain. Therefore even the modest improvements that such a cap can produce is necessary. And furthermore, Mr. President, in Massachusetts we recognize that our emissions do flow downwind to neighboring States, and it is our responsibility to curb these emissions.

Since 1983, an ongoing study has been conducted in Massachusetts by the Massachusetts acid rain monitoring project, to put together a data base with which to study the magnitude of acid rain's effects on our surface waters. Last year, phase two of the study was released, and the findings are alarming. Of the 1,200 bodies of water tested 64 percent were found to be vulnerable to acid deposition, 20 percent were critically sensitive, and 5 percent were found to be acidified or basically dead. In essence, in the 5 years since the collection of this data began, the problem has gotten worse.

The devastating consequences of acid deposition are not solely felt by estuaries, rivers, and other bodies of water, aquatic life, forests, and soils. In Massachusetts for example, approximately $13 million is being spent each year to protect and restore statuaries and buildings eaten away by acidic moisture. In order to provide safe drinking water the State spends $1.2 million per year to ensure that tap water from the Quabbin Reservoir, the main water supply for the metropolitan Boston area, does not exceed safe levels of toxics such as lead from pipes corroded by the acidity of the water in the reservoir. Basically, if we take into account the health, ecological, and financial impact of this damage and project it on a national scale, the deterioration and its cost become enormous.

Although Massachusetts has responded to this information definitively by enacting one of the most comprehensive acid rain control bills in the country which mandates substantial reductions in both sulfur dioxide and nitrogen oxide emissions within the State, they cannot do it alone. State action should not serve as a substitute to fix America's problem of acid rain, it should act as a component of a larger national program. The Federal Government must lead the Nation as a whole on this issue.

But one can look beyond Massachusetts to witness the damage associated with acid rain. Close to home on Camels Hump in neighboring Vermont there has been a 40- to 70-percent decrease in the life expectancy of spruce trees over the past 20 years. In a 1983 survey, 10 to 30 percent of the standing red spruce in the Catskill, Adirondack, and Green and White Mountain forests were dead with greatest morality at the highest altitudes.

In the Chesapeake Bay nutrients from acid deposition are literally choking marine life. On Mount Mitchell in North Carolina where just 5 years ago a spruce forest covered the peak, one finds raspberry bushes, clumps of sedge, and a few young trees. According to an American Forestry Association official, conditions in southern Appalachia show the same damaging signs as forest damage in the German Black Forest. And let me tell you Mr. President, as a first hand observer of the Black Forest damage, that is a truly frightening prospect.

I visited the Black Forest 6 years ago and what I found was a nation's heritage being destroyed by acid rain. In fact, according to German forestry officials 80 percent of the Bavarian Alps is damaged, 97 percent of the trees, ages 100 to 120 years, are dying including evergreens, birches, and furs, and 41 percent of the young trees are already showing signs of sickness.

Swiss scientists with whom I have visited, report that alpine lakes are virtually dead and cannot support fish life. In Norway, scientists estimate that by the year 2000 salmon will no longer inhabit their coastal waters or rivers due to acid rain pollution. The Swedes tell us that a majority of their lakes are acidified. In Warsaw scientists claim that air pollution is "melting their buildings." And in Greece according to engineers the famous Parthenon is literally deteriorating because of air pollution. And in nearby Quebec, a 1986 study found that 82 percent of the sugar maples in one area were dead or dying, making maple sugar production the lowest in centuries.

For the past 8 years, the response by the Reagan administration has been one study after another, and in their view, studies addressed the problem adequately. Mr. President, as I have just illustrated, the data is in—globally, the questions have been answered, and now is the time for some tough action.

And let me add Mr. President, that while the data is in, let us not forget about our responsibility as a Nation to our good neighbors to the north in Canada. Canada has made it clear over the past few years that the goal to achieve acid rain reductions both from within its own country as well as across its borders is one of Canada's highest priorities. I quote Prime Minister Brian Mulroney, "We know the cause of acid rain, we know the consequences and we know the cure. The Government of Canada is firmly determined to end the blight of acid rain—and expects the same genuine resolve from the United States of America."

I am very hopeful that President Bush will recognize the political, environmental, and economical benefits in addressing this issue, and will use the opportunity to act upon his campaign promise and provide the necessary leadership to solve our acid rain problem.

The bill I am introducing today, the Acid Rain Control Act of 1989, stems from my previous experience as a member of the National Governor's Association Acid Rain Task Force, while I served as Lieutenant Governor of Massachusetts. It is also based on observations I made as chairman of the New England Governor's Acid Rain Working Group, during a fact finding tour in Europe in 1984, where I witnessed the devastating effects of acid deposition on Europe's forests and of course from hearings I chaired last Congress on the effects of acid rain on United States-Canadian relations and the effects of acid rain on marine life.

My legislation is based on the fundamental notion that: sulfur dioxide emissions need to be cut approximately in half; nitrogen oxide emissions must be reduced; reductions should be achieved by the year 2000; and States should be given flexibility in designing their own methods to reach mandated reductions.

However, the economic implications of a national control program and its impact on various regions of the country have unfortunately clouded the acid rain debate. A lesson that we learned through the NGA task force, is that in order to produce effective action, a national consensus is necessary. And, Mr. President, we developed a constructive, general approach which I have incorporated into my bill.

There is little doubt that in a perfect world an acid rain reduction bill would have the polluters pay all the costs associated with the damage. However, that approach is not a reality today, nor was it 6 years ago when I was Lieutenant Governor. Consequently, based on my experience my bill suggests that there should be a broad sharing of the financial burden among producers of acid rain and those who will benefit from its reduction, the Nation as a whole. Acid rain is a national dilemma; and we want to mitigate to the greatest extent possible, the cost for all parties involved. The plan proposed in my legislation, I believe, reflects the best of the "polluter pays" concept without bankrupting companies or displacing workers.

To do this my bill establishes a fund to subsidize the costs of capital equipment to reduce emissions based on a payment of approximately $147 per ton reduced. The payment formula would favor the installation of capital equipment to avoid coal miner job displacement while fixing the subsidy at a level which will permit the use of newer and less costly technologies. To pay for the fund the bill includes a cost sharing mechanism based on a graduated fee—a reward system so to speak in which States that emit the most pollution will pay the most money into a general acid rain cleanup fund. Yet, under this proposal, areas in the country with very large emissions and who reduce the most, will also receive the very large subsidies from the fund. The bill establishes a three-tiered graduated fee in electricity generation to collect the subsidy. I chose to use electricity rates to determine the fee, as it is clearly the most efficient passthrough mechanism available, since everyone nationwide uses electricity. Basically, the approach set forth in the legislation seeks to bring people into the process in a way that does not displace jobs, does not create inequities, yet still works toward a real solution.

In addition, the bill also establishes a fund to assist in research and development efforts which will help us in bringing new technologies on line. It is my belief that such technologies can be developed very quickly once we have a mandate, and will not be as costly as some predict.

Mr. President, the issues associated with acid rain are complex, but the results are quite simple. Acid deposition is wreaking havoc in America, Canada, and other parts of the globe. The time is upon us. And the initiatives set forth in my legislation offer this Nation a chance, through its balanced approach to put an end to acid rain. Mr. President, as Prime Minister Mulroney once said, "The day Congress joins the battle to purge acid rain from our common environment will be a day of celebration on both sides of the border." Why not give our allies to the north and throughout the world reason to celebrate.

Title 3 of the legislation, the Motor Vehicle Fuel Conservation Act of 1989, deals primarily with reducing CO_2 emissions by addressing the issue of automotive fuel economy. As I noted earlier, CO_2 is the primary greenhouse gas which contributes to global warming.

It is estimated that 18 billion tons of CO_2 is emitted annually into the air. The transportation sector accounts for one-third of this CO_2 buildup. Today, there are 120 million cars on our roads, 2.5 million more than in 1986. The transportation sector is known to use 63 percent of the oil used in the

United States. Furthermore, the United States is currently importing more oil than it produces. As oil prices have plummeted, there has been a decrease in conservation. In fact, last year the Department of Transportation rolled back the Corporate Fuel Economy [CAFE] standards for passenger cars from 27.5 to 26.5 miles per gallon. This action flies in the face of any efforts to reduce CO_2, and must be changed. Some experts estimate that by increasing fuel efficiency standards by 1 mile per gallon, 3.8 billion gallons of oil could be saved in 1 year. Furthermore in a 1982 Office of Technology Assessment report, it was estimated that technologies exist within the automotive industry that would permit manufacturers to reach 45 miles per gallon by the year 1995. In addition, according to a recent publication, prototype cars were built in Europe during the early 1980's which could achieve 60 miles per gallon in the city and 80 miles per gallon on the highway, while maintaining safety, and high performance standards.

Mr. President, increasing fuel efficiency is clearly one method of reducing CO_2 emissions. There is broad based support throughout Congress to reduce greenhouse gases. In fact, some of the CAFE recommendations in legislation introduced last year by Senators CHAFEE and WIRTH are consistent with the recommendations in the bill that I am introducing today. This legislation reinstitutes the 27.5 mpg requirement for automobiles and light trucks. It then gradually raises it to 45 mpg for automobiles and 35 mpg for light trucks by the year 2000. The legislation also requires that vehicles within the Federal Government's fleet come under new efficiency standards. It offers a tax rebate to consumers for purchasing more fuel efficient vehicles, and it raises the gas-guzzler tax on extremely inefficient vehicles. Finally the legislation imposes fines on manufacturers who do not comply, and places 50 percent of the fees raised through noncompliance into an energy conservation research and development fund to be used to develop new fuel efficient technologies. The other 50 percent will go back to the general fund to help reduce the deficit.

Mr. President, on August 31, 1988, at a speech in Michigan, President Bush told the American public that we can "do something" about the greenhouse effect. He made it crystal-clear that those who thought we could do nothing were wrong. Furthermore, last year the Toronto Conference on Global Atmosphere recommended that nations reduce the CO_2 emissions by 20 percent by the year 2005. It is my hope, Mr. President that President Bush will take this idea seriously and live up to the commitment he made to the American people. By directing the appropriate agencies to use the structure set forth in this bill to reduce CO_2, the main contributor to global warming, the United States will set an example for other nations to follow.

I urge my colleagues to join with me in cosponsoring this legislation and help me move it swiftly through Congress. An environmental emergency is upon us and it is my hope that we can put an end to acid rain and curb the warming of our globe before it is too late.

Mr. President, I ask unanimous consent that the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 57

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Except for title III, this Act may be cited as the "National Acid Rain Control Act of 1989".

SEC. 2. PURPOSE.

The purpose of this Act is to reduce emissions of sulfur dioxide by 12 million tons per year and to reduce emissions of oxides of nitrogen by 3 million tons per year, by the year 2000, in order to lessen the damage to public health and the environment from acid deposition attributable to those pollutants.

TITLE I—ACID DEPOSITION CONTROL AND ASSISTANCE PROGRAM

SEC. 101. AMENDMENT OF CLEAN AIR ACT.

Title I of the Clean Air Act is amended by adding at the end thereof the following new part:

"PART E—ACID DEPOSITION CONTROL

"Subpart 1—General Provisions

"PURPOSE OF PART

"SEC. 181. The purpose of this part is to reduce sulfur dioxide emissions in the 48 contiguous States and the District of Columbia by 12,000,000 tons by 2000. Such reduction shall be achieved through—

"(1) a program under subpart 2 consisting of direct federally mandated emission reductions;

"(2) a program under subpart 3 consisting of State plans to provide for reductions in emission rates as may be necessary to achieve the remaining portion of the reduction; and

"(3) a program under subpart 4 to mitigate any potential economic impacts and coal mining job dislocation by subsidizing the capital costs of control technology used for the purpose of the program under subpart 3 through a fee on the generation of electric energy by fossil fuel fired electric utility generating plants.

"DEFINITIONS

"SEC. 182. As used in this part—

"(1) The terms 'new' and 'modified' when used with respect to an electric utility unit or other source means an electric utility unit or other source which commenced construction (or modification) after December 31, 1980, and which is subject to new source performance standards for sulfur dioxide under section 111.

"(2) The term 'commenced' when used with respect to construction or modification has the same meaning as when used in section 111.

"(3) The term 'fossil fuel fired electric utility generating plant' means all of the fossil fuel fired electric utility steam generating units owned or operated by an electric utility which are located on one or more contiguous or adjacent properties.

"(4) The terms 'steam generating unit', 'electric utility', and 'fossil fuel' have the same meanings as provided in regulations under section 111 applicable to electric utility steam generating units for which construction is commenced after September 18, 1978.

"(5) The term 'Btu' means a British thermal unit.

"(6) The term 'technological system of continuous emission reduction' has the meaning provided by section 111(a)(7).

"(7) The term 'sulfur dioxide' when used with respect to emissions means total sulfur emissions expressed as sulfur dioxide emissions.

"(8) The term 'baseline year' means the calendar year 1980, except that the Administrator may designate a subsequent calendar year as the baseline year if he determines that reasonable and reliable data is available for that year with respect to the actual sulfur dioxide emission rates of the unit or source involved.

"(9) The term 'best available cleaning method' means the coal cleaning method which results in the highest reasonably obtainable level of sulfur removal, as determined by the Administrator.

"RELATIONSHIP TO OTHER REQUIREMENTS

"SEC. 183. Nothing in this part shall be construed to affect or impair the requirements of section 110 (or of any applicable implementation plan) or of any other section of this Act; except that any stationary source which is subject to any such requirement may also be subject to additional requirements under this part.

"Subpart 2—Federally Mandated Emission Reductions

"FEDERALLY MANDATED EMISSION REDUCTIONS

"SEC. 186. (a) COAL CLEANING.—Any fossil fuel fired electric utility generating plant which burns coal with an average sulfur content of more than 2 percent must provide that such coal is cleaned prior to combustion using the best available cleaning method by not later than December 31, 1990.

"(b) ADIPIC ACID TREATMENT.—Any fossil fuel fired electric utility generating plant which is equipped with flue gas desulfurization units must include adipic acid treatment with such units by not later than December 31, 1990.

"Subpart 3—State Plans for Additional Emission Reductions

"CALCULATION OF STATE SHARES

"SEC. 191. (a) SHARE OF 12,000,000 TON REDUCTION.—

"(1) EPA COMPUTATION.—For each of the 48 contiguous States and the District of Columbia, the Administrator shall compute a State share of the 12,000,000 ton reduction in annual emissions of sulfur dioxide referred to in section 181. The Administrator shall compute the State share for each such State as provided in subsection (b) not later than 18 months after the date of the enactment of the National Acid Rain Control Act.

"(2) DATA TO BE USED IN COMPUTATION.—In making computations under subsection (b), the Administrator shall use the best available data. To the extent that other better

data regarding the emissions of sulfur dioxide from any category of sources is not available on or before the date 18 months after the date of the enactment of the national Acid Rain Control Act of 1989, the Administrator shall utilize the inventory of emissions developed in the Anthropogenetic Emission Data for the 1985 NAPAP Inventory (prepared for the National Acid Precipitation Assessment Program).

"(b) STATE SHARE.—

"(1) GENERAL RULE.—The State share for each such State shall be the number of tons which is the sum of the amounts computed under subparagraphs (A), (B), and (C).

"(A) ELECTRIC UTILITY EXCESS EMISSIONS TONNAGE.—The tonnage computed under paragraph (2) for fossil fuel fired electric utility generating plants in the State.

"(B) NONUTILITY BOILER EXCESS EMISSIONS TONNAGE.—The tonnage computed under paragraph (3) for other fossil fuel fired steam generating units in the State.

"(C) PROCESS EMITTERS EXCESS EMISSIONS TONNAGE.—The tonnage computed under paragraph (4) for industrial process emitters of sulfur dioxide in the State.

"(2) ELECTRIC UTILITY EXCESS EMISSIONS TONNAGE.—

"(A) FRACTION OF 10,000,000 TONS.—The Administrator shall compute an excess emissions tonnage amount under this paragraph for fossil fuel fired electric utility generating plants in the State. The amount shall be determined by multiplying 10,000,000 tons by a fraction the numerator of which is determined under subparagraph (B) and the denominator of which is determined under subparagraph (C).

"(B) NUMERATOR OF ELECTRIC UTILITY FRACTION.—The numerator of the electric utility fraction under this paragraph shall be the tonnage of emissions of sulfur dioxide which the Administrator estimates to have been emitted during the baseline year at a rate in excess of 1.0 pounds per million Btu's of heat input from fossil fuel fired electric utility generating plants which are located in the State and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of 1.0 pounds per million Btu's of heat input.

"(C) DENOMINATOR OF ELECTRIC UTILITY FRACTION.—The denominator of the electric utility fraction under this paragraph shall be the tonnage of emissions of sulfur dioxide which the Administrator estimates to have been emitted during the baseline year at a rate in excess of 1.0 pounds per million Btu's of heat input from all fossil fuel fired electric utility generating plants which are located in the 48 contiguous States and the District of Columbia and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of 1.0 pounds per million Btu's of heat input.

"(3) NONUTILITY BOILER EXCESS EMISSIONS.—

"(A) FRACTION OF 1,000,000 TONS.—The Administrator shall compute an excess emissions tonnage amount under this paragraph for fossil fuel fired steam generating units located in the State, other than those which are part of a fossil fuel fired electric utility generating plant. The amount shall be determined by multiplying 1,000,000 tons by a fraction the numerator of which is determined under subparagraph (B) and the denominator of which is determined under subparagraph (C).

"(B) NUMERATOR OF NONUTILITY FRACTION.—The numerator of the nonutility fraction under this paragraph shall be the tonnage of emissions of sulfur dioxide which the Administrator estimates to have been emitted during the baseline year at a rate in excess of 1.0 pounds per million Btu's of heat input from fossil fuel fired steam generating units which are located in the State, other than units which are part of a fossil fuel fired electric utility generating plant, and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of 1.0 pounds per million Btu's of heat input.

"(C) DENOMINATOR OF NONUTILITY FRACTION.—The denominator of the nonutility fraction under this paragraph shall be the tonnage of emissions of sulfur dioxide emitted during the baseline year at a rate in excess of 1.0 pounds per million Btu's of heat input from all fossil fuel fired steam generating units which are located in the 48 contiguous States and the District of Columbia, other than units which are part of a fossil fuel fired electric utility generating plant, and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of 1.0 pounds per million Btu's of heat input.

"(4) PROCESS EMITTERS EXCESS EMISSIONS TONNAGE.—

"(A) FRACTION OF 1,000,000 TONS.—The Administrator shall compute an excess emissions amount under this paragraph for industrial process emitters (as defined by the Administrator) of sulfur dioxide in the State. The amount shall be determined by multiplying 1,000,000 tons by a fraction the numerator of which is determined under subparagraph (B) and the denominator of which is determined under subparagraph (C).

"(B) NUMERATOR OF PROCESS EMITTER FRACTION.—The numerator of the process emitter fraction under this paragraph shall be the tonnage of emissions of sulfur dioxide emitted during the baseline year at an annual average rate in excess of the limit determined under subparagraph (D) from emissions units of industrial process emitters of sulfur dioxide which are located in the State and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of the limit determined under subparagraph (D).

"(C) DENOMINATOR OF PROCESS EMITTER FRACTION.—The denominator of the process emitter fraction under this paragraph shall be the total tonnage of emissions of sulfur dioxide emitted during the baseline year at an annual average rate in excess of the applicable limit determined under subparagraph (D) from emissions units of industrial process emitters of sulfur dioxide which are located in the 48 contiguous States and the District of Columbia and which, during the baseline year, emitted sulfur dioxide at an annual average rate in excess of the limit determined under subparagraph (D).

"(D) EMISSIONS LIMIT.—

"(i) For purposes of this paragraph, the average annual limit determined under this subparagraph for any emissions unit of a stationary source of industrial process emissions shall be the rate which the Administrator determines to be the national average BACT emissions limit for sulfur dioxide for emissions units within the category of process emitters involved.

"(ii) Utilizing the BACT/LAER Clearinghouse data available at the Environmental Protection Agency, the Administrator shall review the emission limitations for industrial process emitters which were established as 'best available control technology' (BACT) under this Act during the period August 1977 through December 31, 1988. On the basis of such data, and not later than 1 year after the date of the enactment of the National Acid Rain Control Act, the Administrator shall establish a national average BACT emission limit for sulfur dioxide for emissions units within each category of process emitters of sulfur dioxide.

"(c) REALLOCATION AMONG STATES.—Under regulations promulgated by the Administrator, any two or more contiguous States may by agreement reallot among agreeing States the State share of two or more agreeing States if, under such reallotment, the total reduction in annual emissions of sulfur dioxide is equal to or greater than, and contemporaneous with, the total reduction in annual emissions of sulfur dioxide which would be required under this part in the absence of such reallotment.

"STATE CONTROL PLANS

"SEC. 192. (a) SUBMISSION OF PLAN.—(1) Each of the 48 contiguous States and the District of Columbia shall submit to the Administrator a plan for achieving such State's share of the reduction in sulfur dioxide emissions.

"(2) The plan must be submitted within 12 months after the date of the enactment of the National Acid Rain Control Act, and the Administrator shall approve or disapprove such plan within 6 months after its submission.

"(b) TIMETABLE FOR REDUCTIONS.—The State plan shall provide for a phased reduction such that 7/12 of the State's share of the reduction shall be achieved prior to December 31, 1995, and the entire share shall be achieved prior to December 31, 1999. The timetable for achieving such reductions shall provide for continuous reduction with identifiable incremental reductions.

"(c) STATE PREROGATIVES.—The plan shall provide for the reductions in accordance with subsection (b) by any means; except that the State must comply with the federally mandated emission reductions required by section 186.

"(d) INTERIM EMISSIONS LIMITS.—The State shall apply an annual interim limitation on statewide sulfur dioxide emissions equal to the amount of such emissions for calendar year 1985. The interim limitation shall apply to emissions for calendar years prior to 2000, or, if earlier, until the State has achieved its entire share of the reduction required by section 191.

"(e) RECOMMENDED INDIVIDUAL SOURCE REQUIREMENTS.—The State plan may require that each fossil fuel fired steam generating unit and each industrial process emitter in the State shall—

"(1) apply the best available control technology; or

"(2) limit sulfur dioxide emissions to an annual rate not in excess of 1.0 pounds per million Btu's of heat input.

"(f) SUBSTITUTION.—A State may allow the owner or operator of a source required to achieve emission reductions under this part to substitute a reduction in emissions of oxides of nitrogen for required reductions in emissions of sulfur dioxide, at a rate of two units by weight of oxides of nitrogen for each unit of sulfur dioxide.

"(g) ENFORCEMENT.—Each requirement of a State plan approved by the Administrator under this section shall be treated as a requirement of an applicable State implementation plan for purposes of sections 113, 114, 116, 120, and 304.

"REQUIREMENTS APPLICABLE TO STATES WHICH DO NOT HAVE AN APPROVED PLAN

"SEC. 193. (a) REQUIREMENTS FOR FACILITIES.—In any State in the 48 contiguous States and the District of Columbia which has not submitted a plan under section 192 within 12 months after the date of the enactment of the National Acid Rain Control Act, or which has not had a plan approved by the Administrator under section 192 within 6 months after the submission of such plan, or which fails to implement such plan after its approval—

"(1) the owner or operator of any fossil fuel fired facility which is a major stationary source which is not subject to section 111(a) shall comply with an emission limitation equivalent to an average annual rate of 1.0 pounds of sulfur dioxide per million Btu's of heat input on a rolling 30-day average; and

"(2) the owner or operator of any process emitter shall comply with the average BACT emissions limit established under section 191(b)(4)(D).

"(b) SUBMISSION OF PLAN.—The owner or operator of each source subject to the requirements of subsection (a) shall submit to the Administrator a plan and schedule of compliance for achieving such emission limitation not later than 3 years after the date of the enactment of the National Acid Rain Control Act, or, if later, 6 months after the date on which the Administrator determines that the State has failed to implement the State plan after its approval.

"(c) APPROVAL.—The Administrator shall approve the plan and schedule of compliance of the source if they—

"(1) contain enforceable requirements for continuous emission reduction;

"(2) contain requirements for monitoring by the source and enforcement agencies to assure that the emission limitations are being met; and

"(3)(A) in the case of a source which proposes to comply with the emission limitation through the use of fuel substitution, will achieve the emission reduction required by this section no later than 24 months after such plan is submitted; or

"(B) in the case of a source which proposes to comply with the emission limitation through the installation of a technological system of continuous emission reduction or replacement of existing facilities with new facilities with substantially lower emissions, or any other means except fuel switching, contains enforceable requirements that such source will, within 24 months after such plan is submitted, enter into binding contractual commitments to acquire, install, or construct such system or facilities.

"(d) PENALTIES.—Failure of such owner or operator to submit an approved plan and schedule within the time provided in this section, failure to comply with the plan and schedule of compliance, and failure to achieve the emission reduction required by the dates required by this section, shall be violations of emission limitations for the purposes of sections 113, 120, and 304.

"Subpart 4—Acid Deposition Control Fund

"ESTABLISHMENT OF FUND

"SEC. 196. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the 'Acid Deposition Control Fund' (hereafter in this subpart referred to as the 'Fund'), consisting of such amounts as may be deposited into such Fund as provided in this section.

"(b) DEPOSITS INTO THE FUND.—(1) The owner or operator of any fossil fuel fired electric utility generating plant located in the 48 contiguous States or the District of Columbia shall pay to the United States the fees established by section 197. The Secretary of the Treasury shall deposit the fees collected into the Fund.

"(2) Payments of fees under this subsection shall be made on a quarterly basis, based upon the electricity produced in the preceding quarter.

"(3) The Administrator, in consultation with the Secretary of the Treasury, shall promulgate such regulations as may be necessary to carry out this subsection.

"(c) PAYMENTS FROM THE FUND.—(1) The Administrator shall make payments from the Fund for the following purposes:

"(A) Payments shall be made to owners and operators of facilities for capital costs of sulfur dioxide reductions incurred by such owners or operators in meeting the requirements of this part, other than the federally mandated emission reductions required by section 186 or reductions which result from fuel switching or blending, at a rate of $147 per ton of sulfur dioxide emission reduction. Such payments shall be made for 15 years, commencing at the time the equipment comes into operation.

"(B) Payment of not more than $10,000,000 per year shall be made for accelerated research of cleaner burning industrial processes, in accordance with section 198.

"(C) Payment of not more than $25,000,000 per year shall be made for mitigation programs under title III of the National Acid Rain Control Act.

"(2) The Administrator, after consultation with the Secretary of the Treasury and the Secretary of Energy, shall promulgate regulations as may be necessary to implement this section, including regulations providing that—

"(A) no payment may be made under this section to a utility for any costs unless the Administrator determines that, under applicable rate schedules, the full amount of such payment will be used to reduce electric rate increases payable by customers of the utility which otherwise would result from the construction and installation concerned; and

"(B) such payments shall be made at such times as will minimize any electric rate increases for customers of the utility.

"FEES

"SEC. 197. (a) DETERMINATION OF EMISSION RATES.—Within 12 months after the date of the enactment of the National Acid Rain Control Act, the Administrator shall determine the average sulfur dioxide emission rate of each of the 48 contiguous States and the District of Columbia for the calendar year 1985 from all fossil fuel fired electric utility generating plants in such State.

"(b) FEE SCHEDULE.—The fee under this section shall apply to all electricity generated in such State by fossil fuel fired electric utility generating plants located in the State as follows:

"1982 State average sulfur dioxide emission rate:	Fee:
Less than or equal to 1.0 pounds per million Btu's of heat input.	0.50 mills per kilowatthour
Greater than 1.0 pounds per million Btu's of heat input, but less than 2.0 pounds per million Btu's of heat input.	1.0 mills per kilowatthour
Greater than 2.0 pounds per million Btu's of heat input.	1.6 mills per kilowatthour

"(c) YEARS TO WHICH FEE APPLIES.—The fees established by this section shall apply to calendar years beginning with the first calendar year that begins more than 12 months after the date of the enactment of the National Acid Rain Control Act, and ending with the calendar year fifteen years from the date of enactment.

"Subpart 5—Accelerated Research on Cleaner Burning Industrial Processes

"RESEARCH FUNDS

"SEC. 198. The Administrator shall make such grants and enter into such contracts and other arrangements as may be necessary to accelerate the research necessary to develop advanced industrial processes (including atmospheric fluidized bed combustion, magnetohydrodynamics (MHD), and lime-injected multistage burner technology (LIMB)) which may result in lower levels of sulfur dioxide and oxides of nitrogen. For each of the five fiscal years commencing with the fiscal year 1990, $10,000,000 are authorized to be appropriated from the fund established under subpart 4 for purposes of this section.".

SEC. 102. CONFORMING AMENDMENTS.

(a) ENFORCEMENT.—Section 113(a)(3) of the Clean Air Act is amended by inserting ", or is in violation of any requirement in effect pursuant to part E" after "inspections, etc.)".

(b) CIVIL ACTIONS.—Section 113(b) of the Clean Air Act is amended by inserting after and below paragraph (5) the following:

"Whenever any person violates any requirement in effect pursuant to part E, the Administrator may commence a civil action for permanent or temporary injunction or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both.".

(c) CRIMINAL PENALTIES.—Section 113(c)(1)(C) of the Clean Air Act is amended by inserting "or any requirement in effect pursuant to part E," before "or".

(d) JUDICIAL REVIEW.—Section 307(b)(1) of the Clean Air Act is amended by inserting ", any final action taken by the Administrator under part E of title I" after "120" in the first sentence thereof.

TITLE II—CONTROL OF EMISSIONS OF OXIDES OF NITROGEN

SEC. 201. REVISIONS OF NEW SOURCE PERFORMANCE STANDARD.

Section 111 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(k) STANDARDS OF PERFORMANCE RELATING TO OXIDES OF NITROGEN.—(1) The Administrator shall revise the standards of performance for emissions of oxides of nitrogen from electric utility steam generating units which burn bituminous or subbituminous coal. Such revised standards shall prohibit the emission of oxides of nitrogen from such units at a rate which exceeds—

"(A) 0.30 pounds per million Btu's of heat input, in the case of subbituminous coal; and

"(B) 0.40 pounds per million Btu's of heat input, in the case of bituminous coal, based on a 30-day rolling average. Such revised standard shall take effect with respect to units which commence construction after

the date of the enactment of the National Acid Rain Control Act.

"(2) As used in this subsection, the terms 'electric utility steam generating unit', 'bituminous coal', and 'subbituminous coal' have the same meanings as when used in 40 CFR part 60, subpart D, as in effect on January 1, 1983.

"(3) The Administrator shall promulgate standards of performance under this section for emissions of oxides of nitrogen and sulfur dioxide from all fossil fuel fired steam generating units which are new sources within the meaning of subsection (a)(2) and which are capable of combusting more than 50 million Btu's per hour heat input of fossil fuel (either alone or in combination with any other fuel). The standards under this section applicable to fossil fuel fired steam generating units which are capable of combusting more than 250 million Btu's per hour heat input may vary from the standards applicable to units which are not capable of such combustion.".

SEC. 202. EMISSIONS FROM MOBILE SOURCES.

(a) TRUCKS AND TRUCK ENGINES.—Section 202 of the Clean Air Act is amended by adding at the end thereof the following new subsection:

"(g) OXIDES OF NITROGEN EMISSIONS FROM LIGHT-DUTY TRUCKS AFTER 1990.—(1) Effective with respect to vehicles and engines manufactured during and after the model year 1990, the regulations under subsection (a) applicable to emissions of oxides of nitrogen from trucks and truck engines the gross vehicle weight of which does not exceed 8,500 pounds shall contain standards which provide that such emissions may not exceed—

"(A) 1.2 grams per vehicle mile for gross vehicle weight not in excess of 6,000 pounds; and

"(B) 1.7 grams per vehicle mile for gross vehicle weight in excess of 6,000 pounds.

"(2) Effective with respect to vehicles and engines manufactured during and after the model year 1990, the regulations under subsection (a) applicable to emissions of oxides of nitrogen from trucks and truck engines the gross vehicle weight of which exceeds 8,500 pounds shall contain standards which provide that such emissions may not exceed 4.0 grams per brake horsepower-hour.

"(3) Subparagraphs (B) and (E) of subsection (a)(3) shall not apply to any standard established under this subsection.".

(b) CONFORMING AMENDMENT.—Section 202(a)(3)(A)(ii) is amended by inserting ", and except as otherwise provided in subsection (g)" after "(E)".

TITLE III—MOTOR VEHICLE FUEL CONSERVATION ACT OF 1989

SHORT TITLE

SEC. 301. This title may be cited as the "Motor Vehicle Fuel Conservation Act of 1989".

FINDINGS

SEC. 302. The Congress finds that—

(1) motor vehicles are major consumers of oil and major emitters of greenhouse gases such as carbon dioxide and nitrogen oxides;

(2) the transportation sector emits one-third of the carbon dioxide emissions in the United States;

(3) the transportation sector emits two-thirds of the nitrogen oxide emissions in the United States;

(4) the United States is currently importing more oil than it produces;

(5) 3.8 billion gallons of oil will be saved in one year if the average fuel economy standard for passenger automobiles is increased by one mile per gallon; and

(6) improving overall fuel efficiency of motor vehicles will reduce greenhouse gases, cut U.S. dependency on foreign oil, and improve energy conservation.

AVERAGE FULL ECONOMY STANDARDS

SEC. 303. (a) Section 502(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)), relating to average fuel economy standards, is amended by striking

"1985 and thereafter	27.5."

and inserting in lieu thereof the following:

"1985 through 1991	27.5.
1992 and thereafter	As provided in accordance with section 514 of this Act.".

(b) Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)) is amended by striking "The Secretary" and inserting in lieu thereof "Except in the case of standards established by sections 514 and 515, the Secretary".

LIGHT TRUCKS

SEC. 304. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), relating to definitions, is amended—

(1) in paragraph (2), by inserting "or a light truck" immediately after "off-highway operations",

(2) by redesignating paragraphs (3) through (14) as paragraphs (4) through (15) and by inserting immediately after paragraph (2) the following:

"(3) The term 'light truck' shall have such meaning as the Secretary shall prescribe by rule.".

(b) Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(b)), relating to standards for other than passenger automobiles, is amended by inserting "or light trucks" immediately after "average fuel economy standards for automobiles which are not passenger automobiles".

EXEMPTIONS FOR LIMITED PRODUCTION

SEC. 305. Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)(1)) is amended—

(1) by inserting "or 10,000 light trucks" immediately after "10,000 passenger automobiles" each place it occurs;

(2) by inserting "or section 514 or 515" immediately before the period at the end of the first sentence;

(3) by inserting "or section 514 or 515" immediately before "is more stringent"; and

(4) by inserting "or light trucks" immediately before "manufactured by manufacturers".

EMERGENCY VEHICLES

SEC. 306. Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1)), relating to exemption of emergency vehicles, is amended by inserting "or section 514 or 515" immediately before the period at the end of the first sentence.

CONSULTATION

SEC. 307. Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)) is amended by inserting "or sections 514 and 515" immediately before the period in the first sentence.

NOTIFICATION

SEC. 308. Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j)) is amended by inserting "or sections 514 and 515" immediately before "or any modification".

CALCULATION OF AVERAGE FUEL ECONOMY

SEC. 309. Section 503(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)(1)) is amended by inserting "and light trucks" immediately after "passenger automobiles".

NEW STANDARDS

SEC. 310. (a) Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new sections:

"PASSENGER AUTOMOBILES

SEC. 514. Notwithstanding any other provision of this Act and except as provided in section 517, commencing with model year 1992 and each model year thereafter, the average fuel economy for passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1992 through 1995	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.
"1996 through 1999	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 45 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.
"Model year:	
"2000 and thereafter	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 65 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.

"LIGHT TRUCKS

SEC. 515. Notwithstanding any other provision of this Act and except as provided in section 518, commencing with model year 1992 and each model year thereafter, the average fuel economy for light trucks manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:	
"1992 through 1995	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.
"1996 through 1999	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 45 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.
"Model year:	
"2000 and thereafter	For each such manufacturer, the average fuel economy standard required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer in model year 1988, plus an amount equal to 65 percent (as measured in miles per gallon) of such average fuel eocnomy achieved for model year 1988.

"MODIFICATIONS

"SEC. 516. (a) Any manufacturer may apply to the Secretary for modification of an average fuel economy standard applicable under section 514 or 515 to such manufacturer for model year 1992, and any model year thereafter. Such application shall contain such information as the Secretary may require by rule and shall be submitted to the Secretary within 24 months before the beginning of the model year for which such modification is requested. No such average fuel economy standard shall be adjusted if such adjustment would result in an increase or decrease of such standard by an amount in excess of 0.5 miles per gallon.

"(b) The Secretary shall, on an annual basis, report each such adjustment made to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. In each such report, the Secretary shall justify clearly the reasons for the adjustments and shall address with respect to each such adjustment the following criteria:

"(1) technological feasibility,

"(2) economic practicability,

"(3) the effect of other Federal motor vehicle standards on fuel economy, and

"(4) the need for the Nation to reduce carbon-dioxide emissions, to reduce foreign oil imports, and to reduce annual trade deficits; and

"(5) the effect on long-term and short-term domestic employment.

"(c) Subsection (1) of section 502 shall not be applicable with respect to the average fuel economy standards established pursuant to section 514 or 515.

INCENTIVES FOR PASSENGER AUTOMOBILE MANUFACTURERS

"SEC. 517. Notwithstanding section 514, in the case of any manufacturer which achieved an average fuel economy for passenger automobiles of at least 27.5 miles per gallon for model year 1985, the average fuel economy for passenger automobiles manufactured by such manufacturer—

"(1) for model years 1992 and 1993 shall be 27.5;

"(2) for model years 1994, 1995, 1996, and 1997, shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988;

"(3) for model years 1998, 1999, 2000, and 2001, shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer for passenger automobiles in model year 1988, plus an amount equal to 45 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; and

"(4) for model year 2002, and each model year thereafter, shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer for passenger automobiles in model year 1988, plus an amount equal to 65 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.

INCENTIVES FOR LIGHT TRUCK MANUFACTURERS

"SEC. 518. Notwithstanding section 515, in the case of any manufacturer which achieved an average fuel economy for light trucks of at least 21 miles per gallon for model year 1985, the average fuel economy for light trucks manufactured by such manufacturer—

"(1) for model years 1992 and 1993 shall be 21;

"(2) for model years 1994, 1995, 1996, and 1997, shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1985;

"(3) for model years 1998, 1999, 2000, and 2001, shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer in model year 1988, plus an amount equal to 45 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988; and

"(4) for model year 2002, and each model year thereafter, an amount determined by the Secretary to be equal to the average fuel economy achieved by such manufacturer in model year 1988, plus an amount equal to 65 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988.".

(b) Section 505(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(a)(1)) is amended by striking "section 502" and inserting in lieu thereof "sections 502, 514, and 515".

VEHICLE FUEL CONSERVATION FEE

SEC. 311. (a)(1) Section 508(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(a)) is amended to read as follows:

"(a)(1) If any average fuel economy calculation reported under section 503(d) indicates that any manufacturer has failed to achieve average fuel economy equal to or exceeding the average fuel economy standard applicable for the model year (unless further measurements of fuel economy, further calculations of the average fuel economy, or other information indicates that the manufacturer did not fail to meet or exceed the standard), the Secretary shall commence a proceeding under paragraph (2) of this subsection. The Secretary shall publish in the Federal Register the results of such further measurements, calculations, and any other relevant information.

"(2) If, on the record after opportunity for agency hearing, the Secretary determines that such manufacturer failed to meet or exceed the applicable average fuel economy standard, the Secretary shall require the manufacturer to pay into the Vehicle Fuel Conservation Fund a Vehicle Fuel Conservation Fee in an amount calculated pursuant to the provisions of subsection (b) of this section. Any interested person may participate in any proceeding under this paragraph.".

(2) Section 508(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(b)) is amended—

(A) in paragraph (1)(A), by striking "liable to the United States for a civil penalty" and inserting in lieu thereof the following: "assessed a Vehicle Fuel Conservation Fee, 50 percent of which shall be payable into the Vehicle Fuel Conservation Fund and the remainder into the general fund of the Treasury,";

(B) in paragraph (1)(B), by striking "liable to the United States for a civil penalty" and inserting in lieu thereof the following: "assessed a Vehicle Fuel Conservation Fee, 50 percent of which shall be payable into the Vehicle Fuel Conservation Fund and the remainder into the general fund of the Treasury,";

(C) in paragraph (2), by striking "liable to the United States for a civil penalty" and inserting in lieu thereof the following: "assessed a Vehicle Fuel Conservation Fee, 50 percent of which shall be payable into the Vehicle Fuel Conservation Fund and the remainder into the general fund of the Treasury,";

(D) in paragraph (3)—

(i) by striking "such civil penalty" and inserting in lieu thereof "the Vehicle Fuel Conservation Fee";

(ii) by striking "any civil penalty" each place it appears and inserting in lieu thereof "any Vehicle Fuel Conservation Fee"; and

(iii) by striking "such penalty" each place it appears and inserting in lieu thereof "such Fee";

(E) in paragraph (4)—

(i) by striking "civil penalty" each place it apears and inserting in lieu thereof "Vehicle Fuel Conservation Fee";

(ii) by striking "such penalty" and inserting in lieu thereof "such Fee";

(iii) by striking "the penalty" and inserting in lieu thereof "the Fee"; and

(iv) by striking "it shall be paid" and inserting in lieu thereof "50 percent shall be paid into the Vehicle Fuel Conservation Fund and the remainder";

(F) in paragraph (5)—

(i) by striking "civil penalty" each place it appears and inserting in lieu thereof "Vehicle Fuel Conservation Fee"; and

(ii) by striking "such penalty" and inserting in lieu thereof "such Fee"; and

(H) in paragraph (6), by striking "a civil penalty" and inserting in lieu thereof "a Vehicle Fuel Conservation Fee".

(3) Section 508(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(c)) is amended—

(A) in paragraph (1), by striking "civil penalty" and inserting in lieu thereof "Vehicle Fuel Conservation Fee"; and

(B) in paragraph (2), by striking "civil penalty" each place it appears and inserting in lieu thereof "Vehicle Fuel Conservation Fee".

(4) Section 508(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(d)) is amended—

(A) by striking "civil penalty" each place it appears and inserting in lieu thereof "Vehicle Fuel Conservation Fee"; and

(B) by striking "higher penalty" and inserting in lieu thereof "higher Fee"."

(b) Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.), as amended by section 10 of this Act, is further amended by adding at the end the following new section:

"ENERGY CONSERVATION FUND

"SEC. 519. (a) Fifty percent of each Vehicle Fuel Conservation Fee assessed and collected pursuant to section 508 of this Act shall be deposited in a separate account within the Treasury of the United States. Such account shall be known as the 'Vehicle Fuel Conservation Fund' (hereinafter referred to as the 'Fund').

"(b) All funds in the account shall be available only to the extent provided in appropriation Acts, for carrying out the provisions of subsection (e) of this section.

"(c) The Secretary of the Treasury shall prescribe such rules and regulations as may be necessary to carry out the provisions of subsections (a) and (b) of this section.

"(d) The Fund shall consist of amounts deposited in the Fund derived from—

"(1) Vehicle Fuel Conservation Fees assessed under section 508; and

"(2) monies appropriated to the Fund.

"(e) Monies in the Fund may be used for grants to conduct vehicle fuel conservation research consistent with the purposes and policies of this Act.

"(f) The Secretary of Transportation, in consultation with Secretary of Energy and the EPA Administrator, may prescribe rules for purposes of carrying out the provisions of subsection (e) of this section.

"(g)(1) There are authorized to be appropriated to the Fund such sums as may be necessary to carry out the purposes of subsection (e).

(2) There are authorized to be appropriated from the Fund such amounts as may be necessary to carry out the provisions of subsection (e).

FEDERAL GOVERNMENT VEHICLE REQUIREMENTS

SEC. 312. (a) Section 510 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended by adding at the end the following new subsections:

"(c) Notwithstanding subsections (a) and (b), the fleet average fuel economy for all passenger automobiles and light trucks acquired by all executive agencies after model year 1991 shall not be less than the number of miles per gallon established pursuant to the following table:

"Passenger automobile model years:	Miles per gallon:
1992 through 1995	33.
1996 through 1999	39.
"Passenger automobile model years:	Miles per gallon:
2000 and thereafter	45.
"Light truck model years:	Miles per gallon:
1992 through 1995	25.
1996 through 1999	30.
2000 and thereafter	35.

"(d) In the annual purchase of passenger automobiles and light trucks by any executive agency, any manufacturer that offers for sale a fleet of such vehicles which as determined by the Secretary achieves at least 10 percent more fuel efficiency than a fleet of similarly sized vehicles that have fuel economies representative of the fuel economies measured for model types within their size class shall have its bid be considered as if the bid had been reduced by 2 percent.".

(b) Section 510(b) is of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010(b)) is amended by inserting ", except as provided in subsections (c) and (d)" immediately after "As used in this section".

FUEL ECONOMY TESTING

SEC. 313. (a) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended—

(1) in the first sentence of paragraph (1), by inserting immediately before the period the following: "after consultation with the Secretary of Energy";

(2) in the third sentence of paragraph (1) by striking "shall" and inserting in lieu thereof "may"; and

(3) by adding at the end the following new paragraph:

"(4)(A) For each model type and year, the EPA Administrator shall measure the fuel economy of a sampling of production passenger automobiles during the first month of manufacture for sale. The testing procedures for such measurement shall be the same as used under paragraph (1).

"(B)(i) If the fuel economy results under subparagraph (A) for any model type and year are different than the results under paragraph (1) for such type and year, the average fuel economy for purposes of section 502(a) and (c) shall be adjusted accordingly.

"(ii) If the fuel economy results under subparagraph (A) for any model type and year are more than 0.5 mile per gallon higher or lower than the fuel economy results under paragraph (1) for such type and year, labels described in section 506 which are affixed more than 90 days after the date that results are available under subparagraph (A) shall reflect such results.

"(C) For purposes of this paragraph, the term 'production passenger automobile' means a passenger automobile manufactured for sale.

"(D)(i) Measurements and calculations under paragraph (1) shall be repeated over a period of years for purposes of monitoring automobile performance in use to determine the extent, if any, of decline in fuel economy after such use.

"(ii) Such measurements and calculations shall be included in a report submitted by the Secretary biennially to the President, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Committee on Energy and Commerce of the House of Representatives.".

(b) Section 503 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003) is amended by adding at the end the following:

"(g)(1) To the maximum extent practicable, procedures under subsection (d) shall simulate average drivers and driving conditions in the United States.

"(2) The EPA Administrator shall, from time to time, review the procedures under subsection (d).

"(3) If the EPA Administrator finds, in conjunction with the review under paragraph (2), that the requirements of paragraph (1) are not met, the Administrator shall revise procedures under subsection (d) to comply with such paragraph.

"(4) The EPA Administrator may not make substantial revisions under paragraph (3) more frequently than once every 3 years.".

(c) The amendments made by this section shall apply to measurements of fuel economy for model years (as defined in title V of the Motor Vehicle Information and Cost Savings Act) beginning more than 18 months after the date of enactment of this Act.

EXPLANATORY BOOKLET DISTRIBUTED BY EPA ADMINISTRATOR

SEC. 314. (a) Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended—

(1) by inserting after the first sentence the following new sentence: "The EPA Administrator shall update such booklet at least twice a year."; and

(2) by adding at the end the following new sentence: "The Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to such 100 as are reasonably requested by dealers from time to time.".

(b) The amendments made by subsection (a) shall apply to the 12-month period beginning on the first day of the first month after the date of enactment of this Act and corresponding 12-month periods thereafter.

RECOMMENDATIONS FOR ADDITIONAL LEGISLATION

SEC. 315. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012), relating to reports to the Congress, is amended by adding at the end the following:

"(d) The Secretary shall, within 2 years after the date of enactment of the Motor Vehicle Fuel Conservation Act of 1989, submit to the Congress recommendations for such additional legislation as may be necessary to carry out the purposes of this Act.".

STUDY

SEC. 316. (a) The National Academy of Sciences, in consultation with vehicle manufacturers, representatives of environmental and consumer groups, appropriate State and local officials, and representatives of labor, shall undertake a review of the current state of research and development in light truck fuel economy and passenger automobile fuel economy and an assessment of the remaining potential for improving the fuel efficiency and reducing the energy consumption of passenger automobiles and light trucks. The assessment shall include all aspects of vehicle design, including engines, drive train, component parts, auto body, tires, and any other aspect contributing to the reduction of energy consumption. The National academy shall report the results of the review and assessment to Congress and in the report recommend research and development priorities that could result in bringing steady improvements into commercialization through the early years of the next century.

(b) As used in this section, "passenger automobile" and "light truck" have the meaning given those terms under section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001).

PROCEDURES FOR PRESCRIBING NEW OR AMENDED STANDARDS

SEC. 317. (a) Not later than the beginning of fiscal year 1994, the Secretary of Transportation shall initiate proceedings to develop and adopt post-2000 vehicle energy efficiency performance standards. The new vehicle energy efficiency performance standards shall be prescribed in accordance with the following procedure:

(1) The Secretary—

(A) shall publish an advance notice of proposed rulemaking which specifies the type (or class) of covered vehicles to which the rule may apply,

(B) shall invite interested persons to submit, within 60 days after the date of publication of such advance notice, written presentations of data, views, and arguments in response to such notice, and

(C) may identify proposed or amended standards that may be prescribed.

(2) A proposed rule which prescribes an amended or new vehicle energy efficiency performance standard or prescribes no amendment or no new standard for a type (or class) of covered products shall be published in the Federal Register. In prescribing any such proposed rule with respect to a standard, the Secretary shall determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for each type (or class) of covered vehicles. If such standard is not designed to achieve such efficiency or use, the Secretary shall state in the proposed rule the reasons therefor.

(3) After the publication of such proposed rulemaking, the Secretary shall afford interested persons an opportunity, during a period of not less than 60 days, to present oral and written comments (including an opportunity to question those who make such presentations) on matters relating to such proposed rules, including—

(A) whether the standard to be prescribed is economically justified (taking into account those factors which the Secretary shall evaluate under subsection (c)),

(B) whether the standard will achieve the maximum improvement in energy efficiency which is technologically feasible,

(C) if the standard will not achieve such improvement, whether the reasons for not achieving such improvement are adequate, and

(D) whether such rule should prescribe a level of energy use or efficiency which is higher or lower than that which would otherwise apply in the case of any group of products within the type (or class) that will be subject to such standard.

(4) A final rule prescribing an amended or new vehicle energy efficiency performance standard or prescribing no amended or new standard for a type (or class) of covered vehicles shall be published as soon as is practicable, but not less than 90 days, after publication of the proposed rule in the Federal Register.

(b)(1) The Secretary of Transportation may not prescribe any amended standard which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered vehicle.

(2) Any new or amended vehicle energy efficiency performance standard prescribed by the Secretary under this section for any type (or class) of covered vehicle shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and cost-effective to the consumer through savings in gas amortized over the life of the vehicle at a 3 percent real discount rate.

(b) The Secretary of Transportation shall evaluate the economic justification of the standard, considering—

(1) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard,

(2) the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard,

(3) the total projected amount of energy savings likely to result directly from the imposition of the standard,

(4) any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard,

(5) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard, or in a change in foreign trade,

(6) the need for reducing carbon dioxide emissions to mitigate the global greenhouse warming, as well as reducing other environmentally damaging energy-related pollutants,

(7) the need for national energy conservation, and

(8) other factors the Secretary considers relevant.

For purposes of paragraph (5), the Attorney General shall make a determination of the impact, if any, of any lessening of competition likely to result from such standard and shall transmit such determination, not later than 60 days after the publication of a proposed rule prescribing or amending a vehicle energy efficiency performance standard, in writing to the Secretary, together with an analysis of the nature and extent of such impact. Any such determination and analysis shall be published by the Secretary in the Federal Register.

INCREASES IN RATES APPLICABLE TO GAS GUZZLER TAX

SEC. 318. (a)(1) Subsection (a) of section 4064 of the Internal Revenue Code of 1986 is amended—

(A) by striking paragraphs (1) through (6);

(B) by redesignating paragraphs (7) as paragraph (1);

(C) in paragraph (1), as so redesignated, by striking "a 1986 or later model year automobile" and inserting in lieu thereof the following: "an automobile of any model year after 1988 and before 1991"; and

(D) by adding after paragraph (1), as so redesignated, the following new paragraphs:

"(2) In the case of a 1991 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 23.5	0
At least 22.5 but less than 23.5	$500
At least 21.5 but less than 22.5	650
At least 20.5 but less than 21.5	850
At least 19.5 but less than 20.5	1,100
At least 18.5 but less than 19.5	1,400
At least 17.5 but less than 18.5	1,750
At least 16.5 but less than 17.5	2,150
At least 15.5 but less than 16.5	2,600
At least 14.5 but less than 15.5	3,100
At least 13.5 but less than 14.5	3,600
At least 12.5 but less than 13.5	4,100
Less than 12.5	4,600

"(3) In the case of a 1992 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 24.5	0
At least 23.5 but less than 24.5	$500
At least 22.5 but less than 23.5	650
At least 21.5 but less than 22.5	850
At least 20.5 but less than 21.5	1,100
At least 19.5 but less than 20.5	1,400
At least 18.5 but less than 19.5	1,750
At least 17.5 but less than 18.5	2,150
At least 16.5 but less than 17.5	2,600
At least 15.5 but less than 16.5	3,100
At least 14.5 but less than 15.5	3,600
At least 13.5 but less than 14.5	4,100
At least 12.5 but less than 13.5	4,600
Less than 12.5	5,100

"(4) In the case of a 1993 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 25.5	0
At least 24.5 but less than 25.5	$500
At least 23.5 but less than 24.5	650
At least 22.5 but less than 23.5	850
At least 21.5 but less than 22.5	1,100
At least 20.5 but less than 21.5	1,400
At least 19.5 but less than 20.5	1,750
At least 18.5 but less than 19.5	2,150
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,100
At least 15.5 but less than 16.5	3,600
At least 14.5 but less than 15.5	4,100
At least 13.5 but less than 14.5	4,600
Less than 13.5	5,100

"(5) In the case of a 1994 model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 26.5	0
At least 25.5 but less than 26.5	$500
At least 24.5 but less than 25.5	650
At least 23.5 but less than 24.5	850
At least 22.5 but less than 23.5	1,100
At least 21.5 but less than 22.5	1,400
At least 20.5 but less than 21.5	1,750
At least 19.5 but less than 20.5	2,150
At least 18.5 but less than 19.5	2,600
At least 17.5 but less than 18.5	3,100
At least 16.5 but less than 17.5	3,600
At least 15.5 but less than 16.5	4,100
At least 14.5 but less than 15.5	4,600
At least 13.5 but less than 14.5	5,100
Less than 13.5	5,700

"(6) In the case of a 1995 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 27.5	0
At least 26.5 but less than 27.5	$500
At least 25.5 but less than 26.5	650
At least 24.5 but less than 25.5	850
At least 23.5 but less than 24.5	1,100
At least 22.5 but less than 23.5	1,400
At least 21.5 but less than 22.5	1,750
At least 20.5 but less than 21.5	2,150

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 19.5 but less than 20.5	2,600
At least 18.5 but less than 19.5	3,100
At least 17.5 but less than 18.5	3,600
At least 16.5 but less than 17.5	4,100
At least 15.5 but less than 16.5	4,600
At least 14.5 but less than 15.5	5,100
At least 13.5 but less than 14.5	5,700
Less than 13.5	6,200

"(7) In the case of a 1996 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 28.5	0
At least 27.5 but less than 28.5	$500
At least 26.5 but less than 27.5	650
At least 25.5 but less than 26.5	850
At least 24.5 but less than 25.5	1,100
At least 23.5 but less than 24.5	1,400
At least 22.5 but less than 23.5	1,750
At least 21.5 but less than 22.5	2,150
At least 20.5 but less than 21.5	2,600
At least 19.5 but less than 20.5	3,100
At least 18.5 but less than 19.5	3,600
At least 17.5 but less than 18.5	4,100
At least 16.5 but less than 17.5	4,600
At least 15.5 but less than 16.5	5,100
At least 14.5 but less than 15.5	5,700
At least 13.5 but less than 14.5	6,200
Less than 13.5	6,700

"(8) In the case of a 1997 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 29.5	0
At least 28.5 but less than 29.5	$500
At least 27.5 but less than 28.5	650
At least 26.5 but less than 27.5	850
At least 25.5 but less than 26.5	1,100
At least 24.5 but less than 25.5	1,400
At least 23.5 but less than 24.5	1,750
At least 22.5 but less than 23.5	2,150
At least 21.5 but less than 22.5	2,600
At least 20.5 but less than 21.5	3,100
At least 19.5 but less than 20.5	3,600
At least 18.5 but less than 19.5	4,100
At least 17.5 but less than 18.5	4,600
At least 16.5 but less than 17.5	5,100
At least 15.5 but less than 16.5	5,700
At least 14.5 but less than 15.5	6,200
At least 13.5 but less than 14.5	6,700
Less than 13.5	7,200

"(9) In the case of a 1998 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 30.5	0
At least 29.5 but less than 30.5	$500
At least 28.5 but less than 29.5	650
At least 27.5 but less than 28.5	850
At least 26.5 but less than 27.5	1,100
At least 25.5 but less than 26.5	1,400
At least 24.5 but less than 25.5	1,750
At least 23.5 but less than 25.5	2,150
At least 22.5 but less than 23.5	2,600
At least 21.5 but less than 22.5	3,100
At least 20.5 but less than 21.5	3,600
At least 19.5 but less than 20.5	4,100
At least 18.5 but less than 19.5	4,600
At least 17.5 but less than 18.5	5,100
At least 16.5 but less than 17.5	5,700
At least 15.5 but less than 16.5	6,200
At least 14.5 but less than 15.5	6,700
At least 13.5 but less than 14.5	7,200
Less than 13.5	7,700.

"(10) In the case of a 1999 or later model year automobile:

"If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 31.5	0
At least 30.5 but less than 31.5	$500
At least 29.5 but less than 30.5	650
At least 28.5 but less than 29.5	850
At least 27.5 but less than 28.5	1,100
At least 26.5 but less than 27.5	1,400
At least 25.5 but less than 26.5	1,750
At least 24.5 but less than 25.5	2,150
At least 23.5 but less than 24.5	2,600
At least 22.5 but less than 23.5	3,100
At least 21.5 but less than 22.5	3,600
At least 20.5 but less than 21.5	4,100
At least 19.5 but less than 20.5	4,600
At least 18.5 but less than 19.5	5,100
At least 17.5 but less than 18.5	5,700
At least 16.5 but less than 17.5	6,200
At least 15.5 but less than 16.5	6,700
At least 14.5 but less than 15.5	7,200
At least 13.5 but less than 14.5	7,700
Less than 13.5	8,200.".

(2) Paragraph (3) of section 4063(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) MODEL TYPE.—The term 'model type' means each vehicle configuration as defined in the rules which were prescribed by the EPA Administrator for the purposes of section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) and which were in effect on January 1, 1988.".

(b) The amendments made by subsection (a) shall apply with respect to 1989 and later model year automobiles (as defined in section 4064(b) of the Internal Revenue Code of 1986).

TAX INCENTIVES FOR PURCHASE OF FUEL EFFICIENT VEHICLES

SEC. 319. Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end of the following new section:

"SEC. 30. FUEL EFFICIENT PASSENGER VEHICLES.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year the amount determined under subsection (b) for each qualified passenger vehicle by the taxpayer during the taxable year.

"(b) AMOUNT OF CREDIT PER VEHICLE.—The amount determined under this subsection for any qualified passenger vehicle is the amount determined under the following tables:

"(1) MODEL YEARS 1992 AND 1993.—In the case of a vehicle of model year 1992 or 1993:

"If the perentage by which the fuel economy of the vehicle exceeds the fuel economy of the model type in which such vehicle falls is:		The amount of credit for the vehicle is:
At least	Less than	
	15	0
15	20	$250
20	25	400
25		750.

"(2) MODEL YEARS 1994 THROUGH 2000.—In the case of a vehicle of model year 1994, 1995, 1996, 1997, 1998, 1999, or 2000:

"If the percentage by which the fuel economy of the vehicle exceeds the fuel economy of the model type in which such vehicle falls is:		The amount of credit for the vehicle is:
At least	Less than	
	20	0
20	25	$400
25	30	750
30	50	1,000
50	75	1,500
75		2,000.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PASSENGER VEHICLE.—The term 'qualified passenger vehicle' means any passenger automobile (as defined in section 501 of the Motor Vehicle Information and Cost Savings Act) the original use of which begins with the taxpayer.

"(2) FUEL ECONOMY, MODEL TYPE, MODEL YEAR.—The terms 'fuel economy', 'model type', and 'model year' have the respective meanings given such terms by section 4064.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsecton (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, and

"(2) the tentative minimum tax for the taxable year.".

(b) The table of sections for such subpart B is amended by adding at the end the following new item:

"30. Fuel efficient passenger vehicles.".

(c) The amendments made by this section shall apply to taxable years ending after December 31, 1990.

TITLE IV—ACID DEPOSITION DAMAGE MITIGATION PROGRAM

SEC. 401. STATE PLANS AND FEDERAL ASSISTANCE.

(a) RESTORATION PROGRAM.—Any State may prepare, and submit to the Administrator of the Environmental Protection Agency for approval and to the Director of the United States Fish and Wildlife Service for comment—

(1) a survey of water quality deterioration in such State which has resulted from acid deposition;

(2) a proposal for research on mitigating the effects of acid deposition on terrestrial and acquatic ecosystems; and

(3) proposed methods and procedures to restore the quality of water in such State which has deteriorated as a result of acid deposition.

(b) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—From the fund established under section 196 of the Clean Air Act, the Administrator, after consultation with the Director of the United States Fish and Wildlife Service, shall provide financial assistance to States in order to carry out methods and procedures for restoration which have been approved by the Administrator under this section.

(2) 80 PERCENT LIMIT.—The amount granted under this section to any State for any fiscal year shall not exceed 80 percent of the funds expended by such State in such year for carrying out approved methods and procedures under this section.

(3) APPORTIONMENT AMONG STATES.—The Administrator shall provide for an equitable

distribution of sums appropriated under this section among States with approved methods and procedures. Such distribution shall be based on the relative need of each such State for the restoration of water quality which has deteriorated as a result of acid deposition. The amount of any grant to a State under this section shall be in addition to, and not in lieu of, any other Federal financial assistance.

THE NATIONAL ACID RAIN CONTROL ACT OF 1989 AND THE MOTOR VEHICLES FUEL CONSERVATION ACT OF 1989

PURPOSE

The National Acid Rain Control Act will amend the Clean Air Act to reduce sulfur dioxide emissions by 12 million tons per year and nitrogen oxide emissions by 3 million tons per year by 2000 in the 48 contiguous states and the District of Columbia. These reductions will lessen the damage to public health and the environment from acid deposition caused by these pollutants.

CONTROL OF SULFUR DIOXIDE EMISSIONS

Section 181

Sulfur dioxide reductions will be achieved through; (1) direct federally mandated reductions; (2) state plans which provide for additional reductions; and (3) implementation of a program which subsidizes the capital costs of control technologies to mitigate any potential economic impacts and loss of coal mining jobs.

Section 191

The EPA Administrator will compute each state's share of the reduction using the best available data or the inventory of remissions developed in the Memorandum of Intent on Transboundary Air Pollution signed by the U.S. The state's share depends on boiler emissions greater than 1.0 lbs. SO_2 MMBTU heat input and excess process emissions.

STATE CONTROL PLANS

Section 192

Each of the 48 contigious states and the District of Columbia must submit a plan to the EPA Administrator which describes how emissions reductions will be achieved. The state plan must call for a phased reduction so that 7/12 of the state's share of reductions will be achieved before 1995, and the entire share by 1999. The state may allow a source to substitute emissions of NO_x for SO_2 at a ratio of 2:1.

REQUIREMENTS FOR STATES WHICH DO NOT HAVE APPROVED REDUCTION PLANS

Section 193

In any state which does not submit, receive approval, or implement their plan, major stationary sources will have to comply with an emission limitation equal to 1.0 lbs. of SO_2 per million Btu's of heat input.

ACID DEPOSITION CONTROL FUND

Section 196

A trust fund will be established in the U.S. Treasury into which fees collected from owners or operators of fossil fuel fired electric utility generating plants within the 48 contiguous states will be deposited. Payments from the fund will be used for the following purposes: (1) payment for capital costs incurred by these facilities in meeting reduction requirements at a rate of $147 per ton of SO_2 emission reduced; (2) payment of $10 million per year for accelerated research on cleaner burning industrial processes; and (3) payment of $25 million per year for acid deposition mitigation programs. These payments will be used to reduce electric rate increases payable by customers of the utility.

Section 197

The Administrator will apply the following fee schedule: 1982 State average sulfur dioxide emission rate:

Fees:

Less than or equal to 1.0 pounds per million Btu's—0.50 mills per kilowatt hour.

Greater than 1.0 pounds per million Btu's of heat input but less than 2.0 pounds per million Btu's of heat input—1.0 mills per kilowatt hour.

Greater than 2.0 pounds per million Btu's of heat input—1.6 mills per kilowatt hour.

ACCELERATED RESEARCH ON CLEANER BURNING INDUSTRIAL PROCESSES

Section 198

Beginning in 1990, $10 million will be authorized for 5 fiscal years for research which develops industrial processes to lower levels of SO_2 and NO_x.

Section 201

Revises performance standards for emission of nitrogen oxides from electric utility steam generating as follows: prohibits emission of NO_x at a rate of more than 0.30 lbs/mill. Btu's of heat input using sub-bituminous coal; and 0.40 lbs/mil Btu's of heat input using bituminous coal.

Section 202

After 1987, emissions from light-duty trucks weighing less than 8,500 lbs cannot exceed 1.2 g/vehicle mile for gross vehicle weight not in excess of 6,000 pounds and 1.7 g./vehicle mile for gross vehicle weight in excess of 6,000 pounds. For trucks exceeding 8,500 lbs. NO_x emissions may not exceed 4.0 g/brake horsepower-hour.

ACID DEPOSITION DAMAGE MITIGATION PROGRAM

States will be reimbursed 80 percent of funds used for mitigation measures to restore aquatic and terrestrial resources.

TITLE III—MOTOR VEHICLE FUEL CONSERVATION ACT OF 1989

Establishes new national vehicle energy efficiency performance standards based on percentage improvements for each manufacturer's vehicle fleet-anticipated to increase new light car mileage to 45 mpg and new light trucks to 35 mpg by 1999.

Steadily raises federal vehicle fleet average fuel economy, requiring federal fleet to achieve 45 mpg for light cars and 37 mpg for light trucks by 1999.

Steadily raises gas-guzzler tax on inefficient light vehicles through 1999.

Provides tax rebates to consumers for purchase of fuel efficient vehicles-ranging from $250 if at least 15 percent more efficient than average model for each size class, to $2000 if more than 75 percent efficient.

Requires the manufacturer who exceeds the applicable average fuel economy standard, to pay a fine into the vehicle fuel conservation fund with 50 percent payable to the fund to develop new fuel efficiency technologies; and 50 percent payable to the general fund to reduce the deficit.●

By Mr. BOSCHWITZ (for himself and Mr. GORTON):

S. 58. A bill to amend the Housing and Community Development Act of 1987 to improve the Enterprise Zone Development Program, to amend the Internal Revenue Code of 1986 to provide tax incentives for investments in enterprise zones, and for other purposes; to the Committee on Finance.

ENTERPRISE ZONE IMPROVEMENT ACT

● Mr. BOSCHWITZ. Mr. President, today I am introducing the Enterprise Zone Improvements Act of 1989, to strengthen and improve the Enterprise Zone Program included in the Housing and Community Development Act of 1987.

My bill has a long history. I first introduced the enterprise zone concept here in the Senate over 8 years ago, during the 96th Congress. At that time, this country was facing a severe recession with high unemployment. Eight years later, our economy is in the midst of the longest continuous recovery in the postwar era—but there are still areas of the country which have not participated fully in this recovery.

Now, more than ever, we need to strengthen the enterprise zone concept to target economic development assistance to depressed areas—particularly those areas which are experiencing structural unemployment—where jobs have been lost to changing industries.

My Urban Jobs and Enterprise Zone Act of 1980, and the House companion bill introduced by my good friend Jack Kemp, then a Congressman from New York, where the seed from which the enterprise zone concept grew.

In 1981, my enterprise zone legislation was first debated on the Senate floor, and as a result, some important modifications were made. In 1982, my bill was cleared by the Finance Committee, but unfortunately there was not time to act on it before adjournment. The full Senate first passed my enterprise zone bill the following year, in 1983. It was passed again by the full Senate in 1984. Both times, it was included in conference committee negotiations, but was dropped from the legislation being considered. In 1984, however, the conferees came very close to accepting a compromise on enterprise zones.

Then, in 1987, the Housing and Community Development Act was enacted into law. Title VII of the act provides for the establishment of 100 enterprise zones, one-third of them in rural areas.

These enterprise zones are distinct areas—a rural county or an inner-city neighborhood, for example—which can receive special tax or financial advantages to encourage business development and job creation. Title VII of the 1987 Housing Act allows the Secretary of HUD to designate zones. It allows HUD to waive some regulatory restrictions, and lets local and State governments transfer money from other sources to these zones. But it does not provide any Federal incentives to complement local initiatives. We now need to provide these Federal incentives to ensure the program's success.

That is why today, Mr. President, I am introducing legislation to improve the enterprise zone provisions in title VII of the Housing and Community Development Act. My legislation will provide tax credits for employers and employees in a designated enterprise zone. It will create investment tax incentives for businesses which locate and develop in the zone. It will encourage Federal procurement and construction in the zones. And it will allow for greater regulatory flexibility.

Today, with the lowest unemployment figures in over 14 years, enterprise zones that target pockets of unemployment are more necessary than ever. As the economy has turned around in the last 8 years, more and more Americans are going back to work. But the need for enterprise zones has become increasingly evident in areas of structural unemployment—where jobs have been lost to difficult local problems rather than to a sagging national economy.

In simple terms, the problem of structural joblessness in our inner cities and rural areas can be viewed like this: There are not enough jobs in depressed areas because there is not enough economic opportunity. My legislation would encourage job creation and business development in designated zones by providing Federal tax and regulatory relief to supplement State and local initiatives.

I recently received a letter from a teenager in Madelia, a small town in southern Minnesota, which explains the problem well. It reads:

I am concerned about job opportunities for teenagers. There should be more variety of jobs in the rural areas. We are so limited in Madelia because of lack of industries and transportation. I am concerned about jobs in the future because of the lack of work experience.

The 1987 Housing and Community Development act establishes criteria for selecting Federal enterprise zones—but it does not provide any Federal tax or financial incentives. To qualify for designation as an enterprise zone, State or local governments must do things like reducing tax rates, increasing public services, simplifying regulatory requirements, and providing other specified incentives. These governments can divert money from other federally funded programs to finance incentives in the zone—but no funding is provided directly by the Federal Government.

In my judgement, it is essential that local incentives be combined with Federal ones. Local contributions already required by title VII of the Housing Act should be matched by Federal tax breaks—the reduction of capital gains taxes for business investment in the area, significant reductions in income taxes, and tax credits for wages paid to previously unemployed workers. By creating incentives for business development in depressed areas, enterprise zones can enlist the help of the private sector, local and State governments, and the Federal Government in a productive and cooperative venture.

State and local governments have already exhibited remarkable enthusiasm for the enterprise zone concept. At last count, 36 States and the District of Columbia have adopted enterprise zone programs. Additional States are considering implementing enterprise zone programs in the near future. State and local governments have displayed considerable creativity in their efforts to encourage business development in their depressed and disadvantaged areas.

My Enterprise Zone Improvements Act will strengthen these efforts. It not only provides an important and necessary complement to such State and local activities, but acts as a synergistic ingredient in the mix of activities that will make enterprise zones successful. This is an excellent opportunity to demonstrate both intergovernmental and public/private partnerships in action. This is a fresh, promising approach to dealing with problems of structural unemployment and revitalizing distressed areas in our Nation's cities and rural towns.

Mr. President, I ask that my bill be included in its entirety in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 58

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Enterprise Zone Improvements Act of 1989".

TITLE I—HOUSING AND COMMUNITY DEVELOPMENT PROVISIONS

SEC. 101. EVALUATION AND REPORTING REQUIREMENTS.

Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended—

(1) by inserting before "Not" the following: "(a) REPORTS BY HUD.—"; and

(2) by adding at the end the following new subsection:

"(b) REPORTS BY OTHER FEDERAL AGENCIES.—Not later than the close of the 4th calendar year after the year in which the Secretary of Housing and Urban Development first designates areas as enterprise zones, and at the close of each 4th calendar year thereafter, each Federal agency (as defined in section 551(1) of title 5, United States Code) that provides any special assistance pursuant to section 703(c), or any waiver or modification of a rule pursuant to section 704, shall prepare and submit to the Congress and the Secretary of Housing and Urban Development a report identifying the nature and extent of the assistance, waivers, and modifications provided.".

SEC. 102. ASSISTANCE BY FEDERAL AGENCIES.

(a) FUNDING OF COURSE OF ACTION.—Section 701(d)(2) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(d)(2)) is amended by striking "program" and all that follows through "1949" and inserting "Federal program".

(b) SPECIAL ASSISTANCE.—Section 703 of the Housing and Community Development Act of 1987 (42 U.S.C. 11503) is amended by adding at the end the following new subsection:

"(c) SPECIAL ASSISTANCE.—To the extent permitted by law and consistent with its primary mission, each Federal agency (as defined in section 551(1) of title 5, United States Code) shall seek to provide areas designated as enterprise zones under section 701 with special assistance, including expedited processing, priority funding, program set-asides, and technical assistance. The head of each Federal agency, after consultation with the Secretary of Housing and Urban Development, shall issue any regulations necessary to carry out this subsection.".

SEC. 103. WAIVER OR MODIFICATION OF FEDERAL AGENCY RULES IN ENTERPRISE ZONES.

(a) APPLICABILITY TO ALL FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 704(a) of the Housing and Community Development Act of 1987 (42 U.S.C. 11504(a)) is amended by striking "the Secretary" the first place it appears and all that follows through "Agriculture)" and inserting "each Federal agency".

(2) SUBMISSION OF REQUESTS.—Section 704(c) of the Housing and Community Development Act of 1987 (42 U.S.C. 11504(c)) is amended by striking "the Secretary of Agriculture" and inserting "a Federal agency other than the Department of Housing and Urban Development".

(3) DEFINITIONS.—Section 704(j) of the Housing and Community Development Act of 1987 (42 U.S.C. 11504(j)) is amended—

(A) by striking paragraph (2);

(B) by redesignating paragraph (1) as paragraph (2); and

(C) by inserting after "section:" the following new paragraph:

"(1) FEDERAL AGENCY.—The term 'Federal agency' has the meaning given the term in section 551(1) of title 5, United States Code.".

(4) CONFORMING AMENDMENTS.—Section 704 of the Housing and Community Development Act of 1987 (42 U.S.C. 11504) is amended by striking "Secretary" each place it appears (other than in subsection (c)) and inserting "Federal agency".

(b) ADDITIONAL OBJECTIVES.—

(1) IN GENERAL.—Subsections (a) and (c) of section 704 of the Housing and Community Development Act of 1987 (42 U.S.C. 11504) are each amended by inserting "affordable housing, law enforcement," after "community development,".

(2) CONSIDERATION OF REQUESTS.—Section 704(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 11504(d)) is amended by inserting "creation of affordable housing, law enforcement," after "community development," each place it appears.

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 704 of the Housing and Community Development Act of 1987 (42 U.S.C. 11504) is amended by striking "HOUSING AND COMMUNITY DEVELOPMENT" and inserting "FEDERAL AGENCY".

(2) TABLE OF CONTENTS.—The table of contents in section 1 of the Housing and Community Development Act of 1987 is amended by striking the item relating to section 704 and inserting the following:

"Sec. 704. Waiver or modification of Federal agency rules in enterprise zones.".

SEC. 104. APPLICABILITY.

The amendments made by this title shall apply with respect to any area designated as an enterprise zone under section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501), including any area designated before the date of the enactment of this Act.

TITLE II—FEDERAL INCOME TAX INCENTIVES

SEC. 200. AMENDMENT OF 1986 CODE.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Credits for Employers and Employees

SEC. 201. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) CREDIT FOR INCREASED ENTERPRISE ZONE EMPLOYMENT AND EMPLOYMENT OF DISADVANTAGED WORKERS.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year.

"(b) LIMITATIONS BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(2) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

"(A) ALLOWANCE OF CREDIT.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an enterprise zone employment credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(ii) an enterprise zone employment credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year beginning before January 1, 1989, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of clauses (i) and (ii)) such credit may be carried, and then to each of the other 17 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under this section for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) LIMITATIONS AS TO QUALIFIED WAGES TAKEN INTO ACCOUNT.—

"(A) DOLLAR AMOUNT.—The amount of any qualified wages taken into account under paragraph (1) for any taxable year with respect to any qualified employee may not exceed 2.5 times the dollar limitation in effect under section 3306 (b)(1) for the calendar year with or within which such taxable year ends.

"(B) APPLICATION WITH ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—Qualified wages shall not be taken into account under paragraph (1) if such wages are taken into account in determining the economically disadvantaged credit amount under subsection (d).

"(3) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any enterprise zone, the amount of wages paid to employees during the 12-month period preceding the date on which the enterprise zone was designated as such under section 701 of the Enterprise Zone Act, or the date on which the enterprise zone is designated under State law, enacted after January 1, 1981, if earlier, which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A)—

"(i) subsection (f)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears, and

"(ii) the dollar limitation taken into account under paragraph (2) in computing qualified wages shall be the amount in effect for taxable year for which the amount of the credit under subsection (a) is being computed.

"(d) ECONOMICALLY DISADVANTAGED CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'economically disadvantaged credit amount' means the sum of the applicable percentage of qualified wages paid to each qualified economically disadvantaged individual.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means, with respect to any qualified economically disadvantaged individual, the percentage determined in accordance with the following table:

If the qualified wages are paid for services performed during:	The applicable percentage is:
The first 3 years after starting date	50
The 4th year after the starting date	40
The 5th year after the starting date	30
The 6th year after the starting date	20
The 7th through 20th year after the starting date	10
The 21st year after the starting date or later	0

"(3) STARTING DATE; BREAKS IN SERVICE.—For purposes of this subsection—

"(A) STARTING DATE.—The term 'starting date' means the day which the qualified economically disadvantaged individual begins work for the employer within an enterprise zone.

"(B) BREAKS IN SERVICE.—The periods described in the table under paragraph (2) (other than the first such period) shall be extended by any period of time during which the individual is unemployed, and by any period of time during which the individual is employed by a taxpayer in an enterprise zone designated under State law enacted after January 1, 1981, if such designation occurs prior to the designation of the enterprise zone under section 701 of the Enterprise Zone Act.

"(e) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any Federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(f) QUALIFIED EMPLOYEE DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified employee' means an individual—

"(A) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in an enterprise zone, and

"(B) who performs at least 50 percent of his services for the employer during the taxable year in an enterprise zone.

"(2) EXCEPTION FOR INDIVIDUALS WITH RESPECT TO WHOM CREDIT IS DETERMINED UNDER SECTION 51(a).—The term 'qualified employee' shall not include an individual with respect to whom any credit for the employer is determined under section 51(a) for the taxable year (relating to targeted jobs credit).

"(g) QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUAL.—

"(1) For purposes of this section, the term 'qualified economically disadvantaged individual' means an individual—

"(A) who is a qualified employee,

"(B) who is hired by the employer during the period a designation under section 701 of the Enterprise Zone Act is in effect for the area in which the services which qualify such individual as a qualified employee are performed, and

"(C) who is certified as—

"(i) an economically disadvantaged individual,

"(ii) an eligible work incentive employee (within the meaning of section 51(d)(9)), or

"(iii) a general assistance recipient (within the meaning of section 51(d)(6)).

"(2) ECONOMICALLY DISADVANTAGED INDIVIDUAL.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'economically disadvantaged individual' means any individual who is certified by the designated local agency as being a member of a family that had a combined family income (including the cash value of food stamps) during the 6 months preceding the month in which such determination occurs that on an annual basis, was equal to or less than the sum of—

"(i) the highest amount which would ordinarily be paid to a family of the same size without any income or resources in the form of payments for aid to families with dependent children under the State plan approved under part A of title IV of the Social Security Act for the State in which such individual resides, plus,

"(ii) the highest cash value of the food stamps to which a family of the same size without any income or resources would be paid aid to families with dependent children under such State plan in the amount determined under clause (i).

Any such determination shall be valid for the 45-day period beginning on the date such determination is made.

"(B) SPECIAL RULE FOR FAMILIES WITH ONLY 1 INDIVIDUAL.—For purposes of clause (i) of subparagraph (A), in the case of a family consisting of only one individual, the 'highest amount which would ordinarily be paid' to such family under the State's plan approved under part A of title IV of the Social Security Act shall be an amount determined by the designated local agency on the basis of a reasonable relationship to the amounts payable under such plan to families consisting of two or more persons.

"(3) CERTIFICATION.—Certification of an individual as an individual described in paragraph (1)(C) shall be made in the same manner as certification under section 51.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) APPLICATION TO CERTAIN ENTITIES, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of section 52 (other than subsection (b) thereof) and section 41(f)(3) shall apply.

"(2) PERIODS OF LESS THAN A YEAR.—If designation of an area as an enterprise zone under section 701 of the Enterprise Zone Act occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year—

"(A) the limitation specified in subsection (c)(2)(A), and the base period wages determined under subsection (c)(3), shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (e)(2) and the 90 percent and 50 percent tests set forth in subsection (f)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as an enterprise zone is in effect.

"(i) PHASEOUT OF CREDIT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in determining the amount of the credit for a taxable year under subsection (a) with respect to qualified wages paid or incurred for services performed in an enterprise zone—

"(A) the following percentages shall be substituted for '10 percent' in subsection (a)(1):

"(i) 7.5 percent in the earlier of—

"(I) the taxable year which includes the date which is 21 years after the date on which such enterprise zone was designated under section 701 of the Enterprise Zone Act, or

"(II) the taxable year which includes the date which is 4 years before the date (if any) on which such enterprise zone ceases to be a zone under section 701(b)(1)(B) of the Enterprise Zone Act,

"(ii) 5 percent in the next succeeding taxable year,

"(iii) 2.5 percent in the second next succeeding taxable year, and

"(iv) zero thereafter, and

"(B) the amount determined under subsection (a)(2) shall be reduced by—

"(i) 25 percent in the case of the taxable year described in paragraph (1)(A),

"(ii) 50 percent in the next succeeding taxable year,

"(iii) 75 percent in the second next succeeding taxable year, and

"(iv) 100 percent thereafter.

"(2) REVOCATION OF DESIGNATION.—If the designation of an area as an enterprise zone is revoked under section 701(b)(2) of the Enterprise Zone Act, such area shall continue to be treated as an enterprise zone for the period of 3 taxable years beginning after the date of such revocation except that only the allowable percentage of the amount of the credit which would (but for this paragraph) be allowable under this section for such a year shall be allowed. For purposes of the preceding sentence, the term 'allowable percentage' means the amount determined in accordance with the following table:

"If the taxable year beginning after the revocation is:	The allowable percentage is:
The first such year....	75
The second such year.....	50
The third such year..	25.

"(j) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER IN CASE OF QUALIFIED ECONOMICALLY DISADVANTAGED INDIVIDUALS, ETC.—

"(1) GENERAL RULE.—Under the regulations prescribed by the Secretary, if the employment of any qualified economically disadvantaged individual with respect to whom qualified wages are taken into account under subsection (a) is terminated by the taxpayer at any time during a 270-day period beginning on the date such individual begins work for the employer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credit allowed under subsection (a) for such taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to such employee.

"(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the employer,

"(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the employer fails to offer reemployment to such individual,

"(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

"(iv) a termination of employment of an individual due to a substantial reduction in the trade or business operations of the employer.

"(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the employer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the employee continues to be employed in such trade or business and the employer retains a substantial interest in such trade or business.

"(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the abuse of such purposes by denying the credit allowable under this section to employers which relocate their businesses in an enterprise zone while displacing former employees or which otherwise conduct their businesses so as to take advantage of the credit allowable by this section without furthering such purposes."

(b) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(d) RULE FOR SECTION 30 CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 30 (relating to the employment credit for enterprise zone businesses). This subsection shall be applied under a rule similar to the rule under the last sentence of subsection (a)."

(c) TECHNICAL AMENDMENTS RELATED TO CARRYOVER AND CARRYBACK OF CREDITS.—

(1) CARRYOVER OF CREDIT.—

(A) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(26) CREDIT UNDER SECTION 30.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 30, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 30 in respect to the distributor or transferor corporation."

(B) Paragraph (2) of section 383(a) is amended by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) unused enterprise zone employment credit under section 30,".

(2) CARRYBACK OF CREDIT.—

(A) Subparagraph (C) of section 6511(d)(4) (defining credit carryback) is amended by inserting "and any enterprise zone employment credit under section 30(b)" before the period at the end thereof.

(B) Subsection (a) of section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by inserting "enterprise zone employment credit carryback," after "section 172(b)," in the first sentence, and

(ii) by striking so much of the second sentence as follows "the return for the taxable year" and inserting the following: "of the net operating loss, net capital loss, unused enterprise zone employment credit, or unused business credit from which the carryback results and within a period of 12 months after such taxable year (or, with respect to any portion of an enterprise zone employment credit carryback, or business credit carryback attributable to a net operating loss carryback or a net capital loss carryback from a subsequent taxable year, within a period of 12 months from the end of such subsequent taxable year or, with respect to any portion of a business credit carryback attributable to a research credit carryback or an enterprise zone employment credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year) in the manner and form required by regulations prescribed by the Secretary".

(C) Subsections (a)(1) and (b) of section 6411 are each amended by inserting "unused enterprise zone employment credit," after "net capital loss,".

(d) DEFINITIONS.—Subsection (a) of section 7701 is amended by adding at the end thereof the following new paragraph:

"(47) ENTERPRISE ZONES.—

"(A) IN GENERAL.—The term 'enterprise zone' means any area designated as an enterprise zone under section 701 of the Enterprise Zone Act.

"(B) ENTERPRISE ZONE ACT.—The term 'Enterprise Zone Act' means title VII of the Housing and Community Development Act of 1987 (as in effect on the day after the date of the enactment of the Enterprise Zone Improvements Act of 1989)."

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30A. Credit for enterprise zone employment."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

SEC. 202. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 201, is amended by adding after section 30 the following new section:

"SEC. 30A. CREDIT FOR ENTERPRISE ZONE EMPLOYEES.

"(a) IN GENERAL.—In the case of a qualified employee, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 5 percent of the qualified wages for the taxable year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EMPLOYEE.—The term 'qualified employee' means an individual—

"(A) who is described in section 30(f)(1), and

"(B) who is not the employee of the Federal Government or any State or subdivision of a State.

"(2) QUALIFIED WAGES.—

"(A) IN GENERAL.—The term 'qualified wages' has the meaning given to 'wages' under subsection (b) of section 3306, attributable to services performed for an employer with respect to whom the employee is a qualified employee, in an amount which does not exceed 1½ times the dollar limitation specified in such subsection.

"(B) EXCEPTION.—The term 'qualified wages' does not include any compensation received from the Federal Government or any State or subdivision of a State.

"(c) PHASEOUT OF CREDIT.—In determining the amount of the credit for the taxable year under subsection (a) with respect to qualified wages paid to qualified employees for services performed in an enterprise zone, the following percentages shall be substituted for '5 percent' in subsection (a):

"(1) 3¾ percent in the taxable year in which occurs the date which is—

"(A) 21 years after the date on which such enterprise zone was designated under section 701 of the Enterprise Zone Act, or

"(B) if earlier, the date 4 years before the date the zone designation is to expire;

"(2) 2½ percent in the next succeeding taxable year;

"(3) 1¼ percent in the second next succeeding taxable year; and

"(4) zero thereafter.

"(d) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the excess (if any) of—

"(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, 29, and 30, over

"(2) the tentative minimum tax for the taxable year."

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 30 the following new item:

"Sec. 30A. Credit for enterprise zone employees."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years after December 31, 1989.

Subtitle B—Credits for Investment in Tangible Property in Enterprise Zones

SEC. 211. INVESTMENT TAX CREDIT FOR NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.

(a) SECTION 38 PROPERTY.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; or", and by adding after subparagraph (G) the following new subparagraph:

"(H) new enterprise zone construction property (within the meaning of subsection (t)) which is not otherwise section 38 property."

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 46 (relating to amount of investment tax credit) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) in the case of new enterprise zone construction property, the enterprise zone percentage."

(2) ENTERPRISE ZONE PERCENTAGE DEFINED.—Subsection (b) of section 46 is amended by adding at the end thereof the following new paragraph:

"(5) ENTERPRISE ZONE PERCENTAGE.—

"(A) IN GENERAL.—The enterprise zone percentage is 10 percent.

"(B) PHASEOUT OF CREDIT AS ENTERPRISE ZONE ENDS.—Subparagraph (A) shall be applied by substituting the following percentages for 10 percent:

"(i) For the taxable year described in section 30(i)(1)(A)(i), 7.5.

"(ii) For the next succeeding taxable year, 5.

"(iii) For the second next succeeding taxable year, 2.5.

"(iv) For any subsequent taxable year, zero."

(3) CONFORMING AMENDMENT.—Section 48(o) (defining certain credits) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE CREDIT.—The term 'enterprise zone credit' means that portion of the credit allowed by section 38 which is attributable to the enterprise zone percentage."

(c) DEFINITIONS.—Section 48 (relating to definitions and special rules) is amended by redesignating the subsection relating to cross references as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.—

"(1) IN GENERAL.—The term 'new enterprise zone construction property' means any section 1250 property which is—

"(A) located in an enterprise zone,

"(B) used by the taxpayer predominantly in the active conduct of a trade or business within an enterprise zone, and

"(C) either—

"(i) the construction, reconstruction, rehabilitation, renovation, expansion, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 701 of the Enterprise Zone Act, or

"(ii) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

"(2) SPECIAL RULES.—

"(A)(i) The term 'new enterprise zone construction property' shall not include property acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (determined as of the time the property is acquired by the taxpayer).

"(ii) For purposes of clause (i), a person (hereinafter in this clause referred to as the 'related person') is related to any other person if—

"(I) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(II) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subclause (I), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 767(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.

"(B) In applying section 46(c)(1)(A) in the case of property described in paragraph (1)(C)(i), there shall be taken into account only that portion of the basis which is properly attributable to construction or erection during such period.

"(3) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone."

(d) LODGING TO QUALIFY.—Paragraph (3) of section 48(a) (relating to property used for lodging) is amended—

(1) by striking out "and" at the end of subparagraph (C),

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and," and

(3) by adding at the end thereof the following new subparagraph:

"(E) new enterprise zone construction property."

(e) RECAPTURE.—Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULES FOR NEW ENTERPRISE ZONE CONSTRUCTION PROPERTY.—

"(A) IN GENERAL.—If, during any taxable year, property with respect to which the taxpayer claimed an enterprise zone credit is disposed of the tax under this chapter for such taxable year shall be increased by the amount described in subparagraph (B).

"(B) AMOUNT OF INCREASE.—The increase in tax under subparagraph (A) shall equal the aggregate decrease in the credits allowed under section 38 by reason of section 46(a)(4) for all prior taxable years which would have resulted solely from reducing the expenditures taken into account with respect to the property by an amount which bears the same ratio to such expenditures as the number of taxable years that the property was held by the taxpayer bears to the applicable recovery period for earnings and profits under section 312(k)."

(f) BASIS ADJUSTMENT TO REFLECT INVESTMENT CREDIT.—Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended to read as follows:

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATION AND ENTERPRISE ZONE EXPENDITURES.—In the case of any credit determined under section 46(a) for—

"(A) any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, or

"(B) any expenditure in connection with new enterprise zone construction property (within the meaning of section 48(s)(1)),

paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d) shall be applied without regard to the phrase '50 percent of'."

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 1988, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986.

Subtitle C—Nonrecognition of Qualified Enterprise Zone Capital Gain Where Acquisition of Enterprise Zone Business Property

SEC. 221. NONRECOGNITION OF QUALIFIED ENTERPRISE ZONE CAPITAL GAIN WHERE ACQUISITION OF ENTERPRISE ZONE BUSINESS PROPERTY.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1043. NONRECOGNITION OF CAPITAL GAIN WHERE ACQUISITION OF ENTERPRISE ZONE BUSINESS PROPERTY.

"(a) NONRECOGNITION OF GAIN.—If—

"(1) any property is sold and there would (but for this section) be recognized gain with respect to such sale,

"(2) within the 1-year period beginning on the date of such sale qualified replacement property is acquired by the taxpayer, and

"(3) the taxpayer elects the application of this section with respect to such sale,

such gain from such sale shall be recognized only to the extent that the amount realized from such sale exceeds the cost to the taxpayer of such replacement property.

"(b) QUALIFIED REPLACEMENT PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified replacement property' means—

"(A) any tangible personal property used predominantly in an enterprise zone in the active conduct of a trade or business within such enterprise zone,

"(B) any real property located in an enterprise zone used predominantly in the active conduct of a trade or business within such enterprise zone, and

"(C) any interest in a corporation, partnership, or other entity if, for the 3 most recent taxable years of such entity ending before the date of the purchase of such interest, such entity, was a qualified business.

"(2) QUALIFIED BUSINESS.—The term 'qualified business' means any person—

"(A) which is actively engaged in the conduct of a trade or business within an enterprise zone during each of the 3 most recent taxable years of such entity ending before the date of sale of the interest,

"(B) with respect to which at least 80 percent of such person's gross receipts for the taxable year are attributable to the active conduct of a trade or business within an enterprise zone, and

"(C) with substantially all of its tangible assets located within an enterprise zone.

"(3) REAL ESTATE RENTAL.—Ownership of residential, commercial, or industrial real property within an enterprise zone for rental shall be treated as the active conduct of a trade or business in an enterprise zone.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) EXCHANGE TREATED AS SALE.—An exchange by the taxpayer of property for other property shall be treated as a sale of the first property, and the acquisition of any qualified replacement property on the exchange of property shall be treated as a purchase of such replacement property.

"(2) SECTION NOT TO APPLY TO ORDINARY INCOME.—Subsection (a) shall not apply to any gain to the extent such gain is treated as ordinary income under any provision of this chapter.

"(d) REDUCTION IN BASIS.—Where the purchase of any qualified replacement property results under subsection (a) in the nonrecognition of gain on the sale of any other property, the basis of such replacement property shall be reduced by an amount equal to the amount of gain not so recognized on the sale of such other property. Where the purchase of more than 1 qualified replacement property is taken into account in the nonrecognition under subsection (a) of gain on the sale of a property, the preceding sentence shall be applied to each such replacement property in the order in which such properties are purchased.

"(e) STATUTE OF LIMITATIONS.—If the taxpayer during any taxable year sells any property at a gain, then—

"(1) the statutory period for the assessment of any deficiency attributable to any part of such gain shall not expire before the expiration of the 3-year period beginning on the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified replacement property which the taxpayer claims results in nonrecognition of any part of such gain,

"(B) the taxpayer's intention not to purchase any such investment within the 1-year period described in subsection (a), or

"(C) the failure by the taxpayer to purchase any such replacement property within such period; and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment."

(b) HOLDING PERIOD.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (14) as paragraph (15) and by inserting after paragraph (13) the following new paragraph:

"(14) In determining the period for which the taxpayer has held any qualified replacement property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale or exchange of any other property, there shall be included the period for which the property sold or exchanged had been held as of the date of such sale or exchange."

(c) BASIS ADJUSTMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (24), by striking out the period at the end of paragraph (25) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(26) in the case of any qualified replacement property the acquisition of which resulted under section 1043 in the nonrecognition of gain on the sale or exchange of other property, to the extent provided by section 1043(d)."

(d) CLERICAL AMENDMENT.—The table of sections of part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1043. Nonrecognition of qualified enterprise zone capital gain where acquisition of enterprise zone business property."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1988, in taxable years ending after such date.

Subtitle D—Deduction for Purchase of Enterprise Stock

SEC. 231. DEDUCTION FOR PURCHASE OF ENTERPRISE STOCK.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. DEDUCTION FOR PURCHASE OF ENTERPRISE STOCK.

"(a) IN GENERAL.—At the election of the taxpayer, there shall be allowed as a deduction the aggregate amount paid during the taxable year for the purchase of enterprise stock on the original issue of such stock by a qualified issuer.

"(b) MAXIMUM DEDUCTION.—

"(1) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer for the taxable year shall not exceed $100,000.

"(2) CONTROLLED GROUPS.—For purposes of paragraph (1), the taxpayer and all persons who are related persons with respect to the taxpayer shall be treated as 1 person, and the $100,000 amount in paragraph (1) shall be allocated among the taxpayer and such persons in proportion to their respective purchases of stock during the taxable year for which credit is allowable by this section.

"(3) ALLOCATION OF DEDUCTION WHERE MORE THAN $100,000 OF STOCK PURCHASED.—If the amount of stock purchased by any person exceeds the limitation under this subsection with respect to such person, the deduction allowed under this section shall be allocated pro rata among the stock so purchased in accordance with the purchase price per share.

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—If any enterprise stock with respect to which a deduction was allowed under this section is disposed of by the taxpayer, then the lesser of—

"(A) the excess of—

"(i)(I) in the case of a sale or exchange, the amount realized, or

"(II) in the case of any other disposition, the fair market value of the stock, over

"(ii) the adjusted basis of such stock, or

"(B) the amount of the deduction allowed under this section with respect to such stock,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 3 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If any enterprise stock is disposed of before the end of the 3-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the enterprise stock recapture amount.

"(B) ENTERPRISE STOCK RECAPTURE AMOUNT.—For purposes of subparagraph (A), the term 'enterprise stock recapture amount' means an amount equal to the amount of interest (determined at the rate applicable under section 6621) which would accrue—

"(i) during the period beginning on the date such stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this section with respect to the stock so disposed of.

"(d) TREATMENT WHERE ISSUER CEASES TO BE QUALIFIED.—

"(1) IN GENERAL.—If—

"(A) any qualified issuer with respect to the stock of which any taxpayer has made an election under this section ceases to meet the requirements of subsection (e)(2)(A) (i), (iii), or (iv), and

"(B) such cessation occurs at any time before the close of the 5th taxable year ending after the date such stock was issued,

the tax treatment described in paragraph (2) shall apply to the taxable year of the taxpayer in which such cessation occurs.

"(2) TAX TREATMENT OF TAXPAYER.—The tax treatment described in this paragraph for any taxable year is—

"(A) the taxpayer shall include in income as ordinary income the amount of the deduction allowed under this section with respect to such stock,

"(B) the tax imposed by this chapter for such taxable year shall be increased by an amount equal to the amount of interest (determined at the rate applicable under section 6621) which would accrue—

"(i) during the period beginning on the date such stock was purchased by the taxpayer and ending on the disqualification date,

"(ii) on the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this section with respect to the stock.

"(3) DISQUALIFICATION DATE.—For purposes of paragraph (2), the term 'disqualification date' means the earlier of—

"(A) the date of the issuance by the qualified issuer (or any related person with respect to such issuer) of any regulated security, or

"(B) the last day of the taxable year of the qualified issuer in which the requirements of subsection (e)(2)(A) (i) or (iv) ceased to be met.

"(e) DEFINITIONS.—For purposes of this section—

"(1) ENTERPRISE STOCK.—The term 'enterprise stock' means common stock issued by a qualified issuer but only if the proceeds of such issue are used by such issuer in the conduct of a qualified business (as defined in section 1043(b)(3)(B)).

"(2) QUALIFIED ISSUER.—

"(A) IN GENERAL.—The term 'qualified issuer' means any C corporation which, at the time of issuance of the stock involved—

"(i) is conducting a qualified business described in section 1043(b)(3)(B),

"(ii) does not have a net worth (either before or immediately after the issuance of the stock involved) exceeding $2,000,000,

"(iii) has not had at any time during the 5-year testing period any outstanding regulated securities issued by such corporation, and

"(iv) has derived during the testing period more than 50 percent of its gross receipts during such period from sources other than royalties, rents (other than rents from real estate described in section 1043(b)(3)(C)), dividends, interest, annuities, and sales and exchanges of stock or securities.

"(B) RELATED PERSONS TAKEN INTO ACCOUNT IN CERTAIN CASES.—For purposes of clauses (ii) and (iii) of subparagraph (A), the issuer and all persons who are related persons with respect to such issuer shall be treated as 1 person.

"(C) TESTING PERIOD.—For purposes of subparagraph (A), the term 'testing period' means the period beginning on the first day of the 5th taxable year beginning before the issuance of the stock involved and ending on the date of such issuance.

"(3) REGULATED SECURITIES.—The term 'regulated securities' means any security—

"(A) registered on a national exchange under section 12(b) of the Securities Exchange Act of 1934, or

"(B) registered (or required to be registered) under section 12(g) of such Act (determined without regard to section 12(g)(2) of such Act).

"(4) RELATED PERSON.—A person is a related person to another person if—

"(A) such persons are treated as a single employer under subsections (a) and (b) of section 52, or

"(B) in the case of individuals, such persons are husband and wife.

"(f) SPECIAL RULES.—

"(1) AMOUNT PAID AFTER CLOSE OF TAXABLE YEAR.—An amount paid after the close of the taxable year for the purchase of enterprise stock shall be treated for purposes of subsection (a) as paid during such year if—

"(A) such amount is so paid not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof), and

"(B) the taxpayer was under a binding contract as of the close of such taxable year to purchase such stock.

"(2) LIMITATION ON AMOUNT OF DEDUCTION.—If—

"(A) any enterprise stock is issued in exchange for property,

"(B) the basis of such stock in the hands of the taxpayer is determined by reference to the basis of such property, and

"(C) the adjusted basis (for determining gain) of such property immediately before the exchange exceeded its fair market value at such time,

then the deduction under this section, and such adjusted basis, shall both be reduced by the excess described in subparagraph (C).

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a deduction is allowed under this section with respect to the purchase of any stock, the basis of such stock (without regard to this subsection) shall be reduced by the amount of the deduction allowed with respect to the purchase of such stock."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis), as amended by this Act, is amended by striking out "and" at the end of paragraph (25), by striking out the period at the end of paragraph (26) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(27) to the extent provided in section 197(g), in the case of stock with respect to which a deduction was allowed under section 197."

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Deduction for purchase of enterprise stock."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock purchased after December 31, 1988.

Subtitle E—Rules Relating to Private Activity Bonds

SEC. 241. PRIVATE ACTIVITY BONDS.

(a) LIMITATION ON ACCELERATED COST RECOVERY DEDUCTION NOT TO APPLY TO ENTERPRISE ZONE PROPERTY.—Subparagraph (C) of section 168(g)(5) (relating to limitations on

property financed with tax-exempt bonds) is amended to read as follows:

"(C) EXCEPTIONS.—Subparagraph (A) shall not apply to any which is placed in service—

"(i) in connection with any qualified residential rental project (within the meaning of section 142(a)(7)), or

"(ii) as new enterprise zone construction property (within the meaning of section 48(t))."

(b) TERMINATION OF SMALL ISSUE EXEMPTION NOT TO APPLY.—Paragraph 12 of section 142(a) (relating to termination of small issue exemption) is amended by adding at the end thereof the following new subparagraph:

"(D) ENTERPRISE ZONE FACILITIES.—This paragraph shall not apply to any obligation which is part of an issue substantially all of the proceeds of which are used to finance facilities within an enterprise zone if such facilities are placed in service while the designation as such a zone is in effect under section 701 of the Enterprise Zone Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 1988, in taxable years ending after such date.

Subtitle F—Ordinary Loss Deduction for Securities of Enterprise Zone Business Which Become Worthless

SEC. 251. ORDINARY LOSS DEDUCTION ALLOWED FOR SECURITIES OF ENTERPRISE ZONE BUSINESS WHICH BECOME WORTHLESS.

(a) GENERAL RULE.—Subsection (g) of section 165 (relating to losses) is amended by adding at the end thereof the following new paragraph:

"(4) SECURITIES OF ENTERPRISE ZONE BUSINESS.—If any security of a qualified business (as defined in section 1043(b)) which is a capital asset becomes worthless during the taxable year—

"(A) paragraph (1) shall not apply, and

"(B) the loss resulting therefrom shall, for purposes of this subtitle, be treated as a loss from the sale or exchange, on the last day of the taxable year, of property which is not a capital asset."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to losses sustained after December 31, 1988, in taxable years ending after such date.

Subtitle G—Increase in Research Credit for Research Conducted in Enterprise Zones

SEC. 261. INCREASE IN RESEARCH CREDIT FOR RESEARCH CONDUCTED IN ENTERPRISE ZONES.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(i) INCREASE IN CREDIT FOR RESEARCH CONDUCTED IN ENTERPRISE ZONE.—Subsection (a)(1) shall be applied by substituting '37½ percent' for '20 percent' with respect to the lesser of—

"(1) the excess described in subsection (a)(1), or

"(2) the excess which would be described in subsection (a) if only research conducted in enterprise zones were taken into account.

For purposes of paragraph (2), an area shall be treated as an enterprise zone for a base period with respect to a taxable year if such area is designated as an enterprise zone for such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988, and to base periods with respect to such taxable years.

Subtitle H—Sense of the Congress With Respect to Tax Simplification

SEC. 271. TAX SIMPLIFICATION.

It is the sense of the Congress that the Secretary of the Treasury should in every way possible simplify the administration and enforcement of any provision of the Internal Revenue Code of 1986 added to, or amended by, this Act.

Subtitle I—Regulations

SEC. 281. REGULATIONS.

The Secretary of the Treasury or his delegate shall issue such regulations as may be necessary to carry out the amendments made by this title not later than 6 months after the date of the enactment of this Act.

TITLE III—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 301. FOREIGN-TRADE ZONE PREFERENCES.

(a) PREFERENCE IN ESTABLISHMENT OF FOREIGN-TRADE ZONES IN REVITALIZATION AREAS.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 701 of the Housing and Community Development Act of 1987.

(b) APPLICATION PROCEDURE.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes," approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) APPLICATION EVALUATION.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of the Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities.

TITLE IV—FEDERAL CREDIT AND PROCUREMENT ASSISTANCE

SEC. 401. ENTERPRISE ZONE REVOLVING FUNDS.

Title VII of the Housing and Community Development Act of 1987 is amended by adding at the end the following new section:

"SEC. 707. GRANTS TO CAPITALIZE REVOLVING FUNDS.

"(a) IN GENERAL.—The Secretary is authorized to make grants to State and local governmental agencies and public-purpose nonprofit corporations, including agencies and corporations formed to serve consortia of local governments, to capitalize revolving loan funds to support private sector business development in an enterprise zone.

"(b) RECIPIENT CONTRIBUTION.—The Secretary shall require grant recipients to contribute to the capitalization of the revolving loan funds.

"(c) AMOUNT OF CONTRIBUTION.—Contributions shall be made in amounts directly proportional to the degree of economic distress in the zone, as determined by the Secretary.

"(d) LIMITATION.—The Secretary shall not require a contribution greater than the amount of the Federal grant.

"(e) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $50,000,000 in each of the fiscal years 1991 through 1993.".

SEC. 402. ENTERPRISE ZONE SET-ASIDES IN FEDERAL FORMULA FUNDING.

In the case of each program under which funds are allocated by an executive agency to States or political subdivisions of States, or both, under a formula established by Federal law or regulation, the head of the agency shall—

(1) require the agency to work with the Secretary to develop methods for assisting enterprise zones in participating in, and benefiting from, Federal procurement (civilian and defensive oriented), research projects, and federally funded construction projects;

(2) provide flexibility to States or political subdivisions of States, or both, in the administration of the program to provide the greatest possible benefits and assistance in such zones;

(3) in each fiscal year, identify the goods and services to be procured by such executive agency during such fiscal year that may be procured from one or more commercial sources located primarily in a zone; and

(4) in each fiscal year, identify the amount of Federal funds and grants that are to be expended on or awarded to colleges, universities, or research firms, for research and development activities during that fiscal year.

SEC. 403. PRIORITY FOR ENTERPRISE ZONES IN CERTAIN CONSTRUCTION PROJECTS.

The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new section:

"PRIORITY FOR ENTERPRISE ZONES IN CERTAIN CONSTRUCTION PROJECTS

"SEC. 26. (a) Under regulations prescribed by the Administrator, the head of each executive agency shall each fiscal year, in determining the location of new Federal buildings and activities related to their construction, give equal consideration to enterprise zones.

"(b) Subsection (a) shall apply without regard to any other provision of law.".●

● Mr. GORTON. Mr. President, today I join my colleague Senator BOSCHWITZ in introducing the Enterprise Zone Improvement Act of 1989 to strengthen the title VII enterprise zone section of the 1987 Housing Act. Senator BOSCHWITZ and I were original cosponsors of enterprise legislation in 1982 that was passed by the Senate in 1983, and again in 1984. This was a great concept then and still is. Our legislation will provide businesses with incentives to locate and expand in designated rural and urban enterprise zones. While my colleague has mentioned the 100 urban and rural enterprise zone designations, the importance of the 33 rural enterprise zones authorized by Congress under title VII cannot be emphasized enough.

In States such as mine—the State of Washington—the full set of incentives and support we are proposing are particularly needed to encourage regional revitalization and renewal. In my State and others similarly situated across this country, State constitutional restraints limit the fiscal incentives that the State may directly provide to stimulate the location and expansion of businesses. To alleviate this burden, this legislation targets Federal assistance to enterprise zones so that they can participate in and benefit from existing Federal programs, as well as Federal procurement contracts, research and construction projects.

Washington State is concerned about the Federal trade deficit, and already has done something about it—Tacoma, WA, has the largest free trade zone in the Nation. However, we can do more. The application process is slow, usually taking about 2 years, this discourages businesses who need the benefit of foreign trade zones in more timely fashion. I have proposed that the application be processed and completed within 180 days, and appeals processed in the subsequent 180 days. This will help attract businesses that are interested.

Two distressed areas in Washington State, Yakima and Ellensburg, have or will be applying soon, and many more desperately need enterprise zone designation. I will make every effort to stimulate economic prosperity through this vital program.

I must give my very special thanks to Senator BOSCHWITZ of Minnesota, who has been very receptive and concerned about provisions that will spread the benefits of enterprise zones to rural areas in the State of Washington and elsewhere throughout our vast Nation. I look forward to working with many of you to make economic prosperity a reality in all our communities.●

By Mr. INOUYE:

S. 59. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of lands subject to ground leases; to the Committee on Finance.

EXCLUSION OF CERTAIN LAND SALES FROM GROSS INCOME

● Mr. INOUYE. Mr. President, I rise to introduce a bill to amend the Internal Revenue Code of 1986 to exclude from gross income, profits on lease fee conversions of residential properties. This exemption, available until 1995, would provide an incentive for landowners to sell their fee simple interests to those persons currently leasing the land. It specifically addresses the situation involving condominium and co-op owners who are currently leasing the land on which their buildings or houses are situated.

This bill would increase the chances of residential and condominium-owners, who currently lease their land, to become homeowners in the true sense of the word by purchasing the land on which they live.

The impact of this bill would be tremendous. In Hawaii, an estimated 70,000 people would be affected by this legislation. Much of the land in Hawaii is owned by a few large estates. Allowing these estates to sell some of their fee simple interests would benefit the State and its residents by increasing the number of landowners and thereby redistributing the wealth.

The large landholding estates in Hawaii would welcome this legislation as an opportunity to dispose of some of their land. The current system addresses the goal of broadening the number of landowners by mandatory conversions. This is a costly procedure requiring government condemnation of the land as part of the transfer. This bill would create an incentive for voluntary lease fee conversions. This would effectively remove the need for the Government's involvement in this process.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the full text of my bill be placed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 59

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter I of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. GAIN ON CERTAIN SALES OF LAND SUBJECT TO GROUND LEASE.

(a) GENERAL RULE.—Gross income shall not include any gain on a qualified sale of land.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means any sale or exchange of land if—

"(1) such land was subject to a ground lease on the date of the enactment of this section and at all times thereafter before the date of such sale or exchange,

"(2) such sale or exchange is to the lessee under such ground lease,

"(3) the only buildings on such land are residential buildings (or appurtenant structures), and

"(4) such sale or exchange is on or before December 31, 1995.

"(c) RESIDENTIAL BUILDING.—For purposes of this section, the term 'residential building' means—

"(1) any single-family house, and

"(2) any building containing 2 or more dwelling units (as defined in section 167(k)(3)(C)) if 80 percent or more of such building (other than common areas) consists of dwelling units (as so defined)."

(b) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 135 and inserting the following:

"Sec. 135. Grain on certain sales of land subject to ground lease.

"Sec. 136. Cross references to other Acts."

(b) The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.●

By Mr. INOUYE (for himself and for Mr. ADAMS, Mr. BRADLEY, Mr. MATSUNAGA and Mr. WILSON):

S. 60. A bill concerning the naturalization of natives of the Philippines through active-duty service in the Armed Forces during World War II; to the Committee on the Judiciary.

NATURALIZATION OF PHILIPPINE NATIVES IN WORLD WAR II

● Mr. INOUYE. Mr. President, I rise to introduce a bill that would enable Filipino war veterans, who served in the United States Armed Forces during World War II, to be naturalized as United States citizens.

Congress previously recognized the contributions made by the Filipino veterans during World War II. In March 1942, Congress amended the Nationality Act of 1940 allowing the naturalization of Filipino noncitizens who served honorably in our armed services during World War II. The law expired on December 31, 1946. Many veterans, however, were precluded from taking advantage of the naturalization process for 9 months as a result of a decision made by the Attorney General to remove the naturalization examiner from the Philippines. This action was taken at the request of the Philippine Government, based on its concern over the large number of Filipinos emigrating to the United States.

This 9-month absence of a naturalization examiner during the filing period was the basis for numerous lawsuits by Filipino war veterans. The common claim raised in these cases was the naturalization eligibility under the terms of the 1942 act. After a prolonged 21 year legal battle, the Supreme Court, on June 17, 1988, ruled in INS versus Pangilinan, that the Filipino veterans has no statutory right to citizenship under the expired provisions of the Nationality Act of 1940. As a result of the Court's decision in Pangilinan, the Immigration and Naturalization Service denied all pending petitions and is rejecting any new applictions it receives from these veterans.

Approximately 1,000 Filipino veterans have been allowed to reside in the United States pending the disposition of their applications. I understand that some of these veterans were able to obtain permanent resident status under the amnesty provisions of the Immigration Reform and Control Act of 1986. However, there are others who were ineligible to apply for permanent status. While the Service will

continue to allow these veterans to remain, they are without an immigration status. Many are old and frail. It would be a tragedy if they passed on without becoming U.S. citizens.

Congress was generous in enacting legislation for illegal immigrants. It seems only fair that it extend the same privileges to the brave Filipino veterans who risked their lives to protect our Nation's principles of liberty and democracy. In an effort to fulfill an American promise to our Filipino allies, who served to protect our country, I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the full text of my bill be placed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 60

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding

Section 329 (8. U.S.C. 1440) is amended—

(1) in subsection (a), by striking "Any" and inserting "Except as provided in subsection (e), any"; and

(2) by adding at the end thereof the following new subsection:

"(e) Paragraphs (1) and (2) of subsection (a) shall not apply to the naturalization of any person—

"(1) who was born in the Philippines or who was otherwise a noncitizen national of the United States residing in the Philippines before the service described in paragraph (2);

"(2) who served honorably in an active-duty status in the military, air, or naval forces of the United States at any time during the period beginning September 1, 1939, and ending December 31, 1946;

"(3) who is otherwise eligible for naturalization under this section; and

"(4) who applies for naturalization not later than one year after the date of enactment of this Act.●

● Mr. WILSON. Mr. President, I rise today as an original cosponsor of this much needed and long overdue legislation to provide for the naturalization of a very heroic, but mostly forgotten group of veterans of the Second World War.

The first call upon a nation is that it honor its just obligations. And yet, Mr. President, the legislation we are introducing today calls upon this Nation to honor a commitment, making good on a 40-year-old promise to Filipino veterans who fought for the freedom of this Nation.

During the spring of 1942, when the United States faced one of its darkest hours in the Pacific, President Franklin Roosevelt sent out a call to arms to foreign nationals, offering the reward of U.S. citizenship to those who would take up arms and fight alongside our own forces. The Congress agreed with President Roosevelt and put that promise into law. Filipinos joined guerrilla units by the thousands, courageously fighting in that long campaign that ultimately led to an allied victory in the Pacific.

However, Mr. President, these same Filipinos veterans were denied that reward of U.S. citizenship because, by executive decision, the United States removed its only naturalization office from the Philippines in October 1945, allowing it to be reopened 9 months later in August 1946. The law insuring U.S. citizenship for these brave veterans expired at the end of 1946—their window of opportunity closed.

The war won and security secured, everyone suddenly turned their backs on the Filipino veteran. Since that time, they have fought for this lost right to citizenship. Ironically, and in light of their brave and selfless contributions to that victory in the Pacific so many years ago, this plight of the Filipino veterans has been overlooked.

Overlooked, that is until now, Mr. President, because along with the other sponsors of this legislation and, in particular, Senator INOUYE of Hawaii, who has been very eloquent advocate on behalf of the Filipino veteran, I am committed to insuring that that promise made by this Government over 40 years ago is not left unfulfilled. Our commitment to those whose defense and dedication to freedom of democracy can no longer be forgotten, and for this reason I urge timely action on this legislation.●

By Mr. INOUYE:

S. 61. A bill to amend the Public Health Service Act to permit schools offering degrees in social work to obtain grants for training projects in geriatrics; to the Committee on Labor and Human Services.

TRAINING PROJECTS IN GERIATRICS

● Mr. INOUYE. Mr. President, today, I am introducing legislation to authorize schools of social work to apply for grants under the title 7 U.S. Public Health Service geriatric training initiatives. Our Nation's clinical social workers have long been working closely with the elderly and in my judgment have been in the forefront in developing innovative home health care programs and day care services. Accordingly, I feel that we should facilitate their training institutions applying for these important Federal funds.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GERIATRICS TRAINING PROJECTS.

Section 788(d)(1) of the Public Health Service Act (42 U.S.C. 295g-8(d)(1)) by inserting a comma and "schools offering degrees in social work," after "701(8)".●

By Mr. INOUYE:

S. 62. A bill to amend the Public Health Service Act to give the Director of the National Center for Nursing Research certain authorities commensurate with those of the directors of the National Research Institutes; to the Committee on Labor and Human Resources.

DIRECTOR OF NATIONAL CENTER FOR NURSING RESEARCH

● Mr. INOUYE. Mr. President, I am introducing technical legislation in order to provide the Director of the National Center for Nursing Research certain authority commensurate with those of the other directors of the various national research institutes and to provide the Center with construction grant authority similar to that which several of the other institutes already possess.

It is my understanding that the Department has no objection to the first part of this legislation and that this will facilitate the ability of the National Institutes of Health to ensure that nursing expertise becomes truly incorporated into our Nation's behavioral and biomedical health endeavors.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 62

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DIRECTOR OF THE NATIONAL CENTER FOR NURSING RESEARCH.

Section 405(b) of the Public Health Service Act (42 U.S.C. 284(b)) is amended—

(1) in paragraph (1), by inserting "and agency of the National Institutes of Health" after "each national research institute"; and

(2) in paragraph (2), by inserting "and agency of the National Institutes of Health" after "each national research institute".

SEC. 2. CONSTRUCTION GRANT AUTHORITY.

Section 405(b) of the Public Health Service Act (42 U.S.C. 284(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Director of the National Center for Nursing Research may make grants and cooperative agreements under this subsection for the construction of new facilities or the improvement of existing facilities to enable such research, training, and demonstrations to be effectively carried out.".●

By Mr. INOUYE:

S. 63. A bill to amend title XVIII of the Social Security Act to provide independence to clinical social workers with respect to services furnished at a comprehensive outpatient rehabilitation facility; to the Committee on Finance.

CLINICAL SOCIAL WORKERS SERVICES

● Mr. INOUYE. Mr. President, today I am introducing legislation to authorize the autonomous functioning of clinical social workers within the Medicare

comprehensive outpatient rehabilitation facility program.

In my judgment, it is truly unfortunate that programs such as this currently require the clinical supervision of one element of our Nation's health delivery system and do not allow each of the various health professions to truly function to the extent of the various State practice acts. In my judgment, Mr. President, it is especially appropriate that those who need the services of outpatient rehabilitation facilities have access to a wide range of social and behavioral science expertise.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 63

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR CERTAIN CLINICAL SOCIAL WORKER SERVICES FURNISHED AT COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) IN GENERAL.—

(1) COVERAGE.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (L),

(ii) by adding "and" at the end of subparagraph (M), and

(iii) by adding at the end thereof the following new subparagraph:

"(N) clinical social worker services;".

(B) in subsection (cc)(1)—

(I) by striking "and" at the end of subparagraph (G);

(ii) by redesignating subparagraph (H) as subparagraph (I); and

(iii) by inserting at the end of subparagraph (G) the following new subparagraph:

"(H) clinical social worker services (other than services for which payment is made under this part by reason of section 1861(S)(2)(N)); and".

(2) PAYMENT.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by striking "; and" in clause (iv), as added by section 4073(b)(1)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma;

(C) by striking the semicolon in clause (iv), as added by section 4077(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma and redesignating such clause as clause (v); and

(D) by adding at the end the following new clause:

"(vi) clinical social worker services;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

SEC. 2. ELIMINATION OF FEDERAL PHYSICIAN CARE REQUIREMENT IN COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended to read as follows:

"(E) has a requirement that a patient be under the care of a physician to the extent required by State law;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.●

By Mr. INOUYE:

S. 64. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect to be conducted by a psychiatric nurse practitioner or a clinical nurse specialist; to the Committee on the Judiciary.

CONSIDERATION OF CERTAIN CASES BY PSYCHIATRIC NURSE PRACTITIONERS.

● Mr. INOUYE. Mr. President, today, I am introducing legislation to amend title 18 of the United States Code in order to allow our Nation's psychiatric nurse practitioners/clinical nurse specialist to provide their mental health expertise to the Federal judiciary.

Mr. President, I feel that the time has come to allow our Nation's judicial system to have access to a wide range of behavioral science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation's best interest.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 64

Be it enacted by the Senate and House of Reprsentatives of the United States of America in Congress assembled, That the first sentence of subsection (b) of section 4247 of title 18, United States Code, is amended by—

(1) striking out "or" after "certified psychiatrist" and inserting in lieu thereof a comma; and

(2) inserting after "clinical psychologist," the following: "psychiatric nurse practitioner, or clinical nurse specialist,"●

By Mr. SYMMS:

S. 65. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes; to the Committee on Environment and Public Works.

REPEAL OF SPEED LIMIT COMPLIANCE PROVISONS

Mr. SYMMS. Mr. President, I am pleased to reintroduce this bill to eliminate the highway funding sanctions and speed compliance requirements associated with the national maximum speed limit law. Approval of this measure will end a Federal compliance process which forces many States to choose between saving money and saving lives. I firmly believe enactment of this bill will save lives and reduce the number of injuries occurring annually on our Nation's highways.

Currently, States must report to the Secretary of Transportation speed monitoring data on highways posted at 55 mph, and they are considered in compliance if at least 50 percent of the vehicles on those highways are traveling at or below the speed limit. A State found to be out of compliance is subject to the loss of up to 10 percent of its primary, secondary, and urban highway funds. The compliance requirements and funding sanctions are supposed to enhance highway safety by ensuring that States are enforcing "55."

Unfortunately, the combination of compliance requirements and sanctions often detracts from highway safety, rather than enhancing it. Here's how: Although interstates are the safest highways in the country, most high-speed travel occurs on the Interstate System. States with speed data approaching the 50 percent noncompliance mark often choose to beef up traffic patrols on interstate highways in order to stay in compliance and avoid the loss of highway funds; putting more troopers on interstate speed control duty detracts from drunk driving enforcement, speed control, and other safety enforcement programs on the far more dangerous noninterstate highways. The result is more highway fatalities and injuries, not less. The cause is this federally imposed program of compliance requirements and funding sanctions.

My bill repeals only the compliance criteria and the sanction for noncompliance. It does not repeal the speed monitoring and reporting requirements. In fact, it extends those requirements to cover highways posted above 55. Congress and the administration will still have an opportunity to review speed data regularly and judge the effectiveness of State enforcement efforts.

Last year, Congress enacted a 1-year moratorium on sanctions against the three States—California, New York, and North Dakota—that were out of compliance for fiscal year 1987. I was pleased to participate in that effort to provide some temporary relief to those States. Clearly, however, Congress needs to review the compliance and sanctions program before the end of the current fiscal year.

The preliminary compliance statistics for fiscal year 1988 are being reviewed at the Federal Highway Administration. They indicate that two States—California and New Hampshire—are out of compliance for that year. If those numbers bear out, New York and North Dakota will no longer be subject to the loss of highway funds for noncompliance in 1987. However, California remains in trouble, New Hampshire is now at risk, and there is a string of States within 3 per-

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centage points of noncompliance for the last fiscal year.

It is time to enact a permanent correction. I believe this bill is the proper response to a program that does not reduce driving speed, does not encourage better traffic enforcement programs, but does produce more highway fatalities and injuries. I invite my colleagues' cosponsorship of the bill and will seek to move it forward as quickly as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 65

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 141 of title 23, United States Code, is amended—

(1) by striking out subsection (a),

(2) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively, and

(3) by striking out "subsection (b)" each place it appears in subsection (b), as redesignated by paragraph (2), and inserting in lieu thereof "subsection (a)".

SEC. 2. (a) Subsection (c) of section 154 of title 23, United States Code is amended to read as follows:

"(c) The Secretary shall not approve any project under section 106 in any State that fails to certify to the Secretary by January 1 of each calendar year (1) that any public highway within the State posted at a maximum speed limit of fifty-five miles per hour or higher and constructed with Federal-aid highway funds has been designed and constructed to standards applicable at the time of construction which are appropriate for the speed permitted on such highway, and (2) that the State has been enforcing, during the one-year period ending on September 30 of each calendar year, the speed limits on public roads within the State posted at fifty-five miles per hour or higher. Such certification shall include a statement certifying that the posted maximum speed limits on public highways in the State do not exceed the speed limits allowed under subsection(a).".

(b) Section 154 of title 23, United States Code, is amended by striking out subsections (e), (f), (g), and (h).

SEC. 3. Each State shall report to the Secretary speed monitoring data on any public highway with speed limits posted at fifty-five miles per hour or higher in the same manner and in the same form as such data on public highways with speed limits posted at fifty-five miles per hour was submitted to the Secretary for the fiscal year immediately preceding the enactment of this Act.

SEC. 4. Section 109 of title 23, United States Code, is amended by adding subsection (p) as follows:

"(p) The Secretary shall not approve plans and specifications for any proposed highway project on a Federal-aid system which is to be posted at a maximum speed limit of fifty-five miles per hour or higher if such plans and specifications fail to provide for a facility designed and constructed for a speed limit equal to or greater than that to be posted upon completion: *Provided*, That nothing in this subsection is intended to prohibit or restrict the use of advisory speed signs in accordance with accepted practices.".

By Mr. INOUYE:

S. 66. A bill to amend the Public Health Service Act to permit schools of nursing to obtain grants for training projects in geriatrics; to the Committee on Labor and Human Resources.

NURSE TRAINING IN GERIATRICS

● Mr. INOUYE. Mr. President, I am introducing legislation which would authorize our Nation's schools of nursing to apply for support under title VII of the Public Health Service Act's geriatric initiatives. I fully understand the concerns that some might have in crossing title VII and title VIII programs, however, given the truly pressing that we have in providing quality geriatric care at this time, I feel such an amendment would be appropriate.

I ask unanimous consent that the test of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 66

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GERIATRICS TRAINING PROJECTS.

Section 788(d)(1) of the Public Health Service Act (42 U.S.C. 295g-8(D)(1)) by inserting a comma and "schools of nursing (as such term is defined in section 853(2))," after "701(8)".●

By Mr. INOUYE:

S. 67. A bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer; to the Committee on Labor and Human Resources.

THE COMPASSIONATE PAIN RELIEF ACT

● Mr. INOUYE. Mr. President, today I am introducing legislation which is directed to relieving the suffering of a small but significant number of our citizens; patients who are terminally ill with cancer and whose pain has not been effectively mitigated with currently available medications.

For many years, the thought of cancer and its accompanying pain have sent chills of fear through all of us; likewise, the thought of heroin and its addictive qualities produces similar fears. In my judgment, we are in a position now where we can make a logical and thoughtful decision to legalize the therapeutic use of heroin for the terminally ill cancer patient suffering intractable pain while at the same time safeguarding against the diversion of the drug into illicit channels.

The legislation I am introducing today is supported by thousands of Americans and is identical to that which was sponsored by 13 of my colleagues during the 99th Congress. Furthermore, I am pleased to report that to a great extent, it reflects the evolution and thinking of our Nation's health care system as evidenced by the editorial in the January 14, 1982, issue of the prestigious New England Journal of Medicine, which urged more flexibility in the use of addictive drugs in the treatment of pain. This thinking is also present in an official statement made by the American Psychiatric Association which endorses the "principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about 'addiction' of the terminal cancer patient and should take priority over a concern about medication diversion to addicts." A later article in the New England Journal of Medicine of August 23, 1984, by Dr. Allen Mondzac, reviewed the unique characteristics of heroin and its valuable clinical role where it is available.

The need for this legislation is dramatic. Although over the past two decades a great deal of progress has been made in treating cancer, each year an estimated 800,000 Americans are diagnosed as having cancer, and over 400,000 die from the disease. Most of these individuals will have received competent and compassionate medical care, and many will receive adequate relief of pain. Unfortunately, the reality is also that a certain number of cancer patients do not obtain relief of pain from the current available analgesic medication—even the strongest narcotics. An NIH panel that convened in May 1986, heard testimony that 50 to 60 percent of patients with cancer pain lived the last part of their lives with unrelieved severe pain. As a minimal figure, it has elsewhere been estimated that about 20 percent of terminal cancer patients suffer significant pain.

Of this 20 percent, it has been estimated that 10 percent do not obtain relief with presently prescribed medications. In human terms, these percentages mean that as many as 8,000 Americans may die in agony this year because of the intractable pain associated with terminal cancer. I have been assured by my medical colleagues that in many cases this pain can be alleviated with the therapeutic use of heroin, making the last weeks, months, or days of these patients more bearable. These dying patients are not now given the option of dying with dignity because of our Nation's continued and overriding fear of the term heroin. In my judgment, this fear alone has prevented us, the lawmakers of our Nation, from making clear and rational decisions regarding the limited use of this long-proven and already available substance.

Heroin has been proven effective with a number of patients in relieving pain. Research completed at Georgetown University's Vincent T. Lombardi

Cancer Research Center has found heroin to be an effective analgesic for the control of cancer-related pain. In particular, it has been reported to be more potent than morphine in relieving cancer pain. Less than half of the dose of heroin produces the same pain relief as a dose of morphine. In the terminal phase of cancer, many patients cannot take medication by mouth, and may require injections. As the disease progesses, individuals may require higher doses at more frequent intervals, to provide relief. This is when it would be desirable to have the option of using heroin in treating pain, since heroin is more potent and more soluble than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, doctors have informed me that it is less painful to have such an injection—an important consideration in the emaciated patient with little tissue mass remaining.

Further, the onset of action of the heroin is also more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these patients has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why the heroin should not be readily available as a therapeutic medication for our Nation's physicians in very specific situations when we have dying cancer patients who are suffering extreme pain. William Buckley has described our irrational maintenance of the prohibition against such uses of heroin in very real terms. As he pointed out:

> The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

Our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill on September 4, 1980. At that time, a number of practicing physicians and others asked that the Federal controls on heroin be eased to permit the prescription of heroin for patients for whom more conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider heroin to be an indispensible potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

Since this information was made public in the House hearings the editorial writers of our country have taken up the issue, as reflected in supportive statements by, among a number of others, the New York Times, the Washington Post, the Washington Times, the Los Angeles Times, the San Francisco Chronicle, the San Francisco Examiner, the Honolulu Star-Bulletin, the Honolulu Advertiser, the Chicago Sun-Times, the Cleveland Plain Dealer, the Rocky Mounty News, and the Richmond Times-Dispatch. Both National Review and the New Republic have backed the proposal. The American Nurses' Association has come out strongly endorsing this merciful action. Within the past year, as a result of widespread support among physicians and the general public, heroin has become available in Canada for terminal cancer patients.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs which will permit the use of heroin by terminally ill cancer patients only, when suffering from pain which is not effectively treated with currently available analgesic medications.

My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must be made by the attending physician that his or her patient is ill with cancer and is suffering from pain which is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital which will dispense the heroin. The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the bill.

I strongly believe that this proposal will provide substantial benefits to those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

Mr. President, I request unanimous consent that the text of this bill and attached relevant articles be printed in the RECORD.

There being no objection, the bill and articles were ordered to be printed in the RECORD, as follows:

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compassionate Pain Relief Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) cancer is a progressive, degenerative, and often painful disease which afflicts one out of every four Americans and is the second leading cause of death;

(2) in the progression of terminal cancer, a significant number of patients will experience levels of intense and intractable pain which cannot be effectively treated by presently available medication;

(3) the effect of such pain often leads to a severe deterioration in the quality of life of the patient and heartbreak for the patient's family;

(4) the therapeutic use of parenteral diacetylmorphine is not permitted in the United States but extensive clinical research has demonstrated that it is a potent, highly soluble painkilling drug when properly formulated and administered under a physician's supervision;

(5) making parenteral diacetylmorphine available to patients through controlled channels as a drug for the relief of intractable pain due to terminal cancer is in the public interest;

(6) diacetylmorphine is successfully used in Great Britain and other countries for relief of pain due to cancer;

(7) the availability of parenteral diacetylmorphine for the limited purposes of controlling intractable pain due to terminal cancer will not adversely effect the abuse of illicit drugs or increase the incidence of pharmacy thefts;

(8) the availability of parenteral diacetylmorphine will enhance the ability of physicians to effectively treat and control intractable pain due to terminal cancer; and

(9) it is appropriate for the Federal Government to establish a temporary program to permit the use of pharmaceutical dosage forms of parenteral diacetylmorphine for the control of intractable pain due to terminal cancer.

SEC. 3. PARENTERAL DIACETYLMORPHINE PROGRAM.

(a) REGULATIONS.—

(1) ISSUANCE.—Not later than three months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereinafter in this Act referred to as the "Secretary") shall issue regulations establishing a program under which parenteral diacetylmorphine may be made available to hospital pharmacies and other such pharmacies as may be prescribed by the Secretary for dispensing pursuant to written prescriptions of physicians to individuals for the relief of intractable pain due to terminal cancer (hereinafter in this section referred to as "the program").

(2) TERMINAL CANCER.—For purposes of the program, an individual shall be considered to have terminal cancer if there is histologic evidence of a malignancy in the individual and the individual's cancer is generally recognized as a cancer with a high and predictable mortality.

(3) INTENT OF CONGRESS.—It is the intent of Congress that the Secretary primarily

utilize hospital pharmacies for the dispensing of parenteral diacetylmorphine under the program, but Congress recognizes that humanitarian concerns might necessitate the provision of parenteral diacetylmorphine through pharmacies other than hospital pharmacies in cases in which a significant need is shown for such provision and in which adequate protection is available against the diversion of parenteral diacetylmorphine.

(b) MANUFACTURING.—The Secretary shall provide for the manufacture of parenteral diacetylmorphine for dispensing under the program using adequate methods in, and adequate facilities and controls for, the manufacturing, processing, and packing of such drug to preserve its identity, strength, quality, and purity.

(c) AVAILABILITY TO PHARMACIES.—

(1) IN GENERAL.—Under the program parenteral diacetylmorphine may only be made available, upon application, to pharmacies registered under section 302 of the Controlled Substances Act that also meet such qualifications as the Secretary may by regulation prescribe.

(2) APPLICATION.—An application for parenteral diacetylmorphine shall—

(A) be in such form and submitted in such manner as the Secretary may prescribe; and

(B) contain assurances satisfactory to the Secretary that—

(i) the applicant meets such special requirements as the Secretary may prescribe respecting the storage and dispensing of parenteral diacetylmorphine; and

(ii) parenteral diacetylmorphine provided under the application will be dispensed through the applicant upon the written prescription of a physician registered under section 302 of the Controlled Substances Act to dispense controlled substances in schedule II of such Act.

(d) ILLICIT DIVERSION.—Requirements prescribed by the Secretary under subsections (b) and (c)(2)(A) shall be designed to protect against the diversion into illicit channels of parenteral diacetylmorphine distributed under the program.

(e) PRESCRIPTION BY PHYSICIANS.—A physician registered under section 302 of the Controlled Substances Act may prescribe parenteral diacetylmorphine for individuals for the relief of intractable pain due to terminal cancer. Any such prescription shall be in writing as prescribed by the Secretary by regulations.

(f) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—The Federal Food, Drug, and Cosmetic Act and titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall not apply with respect to—

(1) the importing of opium,

(2) the manufacture of parenteral diacetylmorphine, and

(3) the distribution and dispensing of parenteral diacetylmorphine,

in accordance with the program.

SEC. 4. REPORTS.

(a) BY THE SECRETARY.—

(1) IMPLMENTATION AND ACTIVITIES.—Not later than the second month beginning after the date of the enactment of this Act and every third month thereafter until the program is established under section 3, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the activities undertaken to implement the program. Each year after the program is established and while the program is in effect, the Secretary shall report to such committees on the activities under the program during the period for which the report is submitted.

(2) PAIN MANAGEMENT.—The Secretary shall transmit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than 6 months after the date of the enactment of this Act that—

(A) describes the extent of research activities on the management of pain which have received funds through the National Institutes of Health;

(B) describes the ways in which the Federal Government supports the training of health personnel in pain management, and

(C) contains recommendations for expanding and improving the training of health personnel in pain management.

(b) BY THE COMPTROLLER GENERAL.—On the expiration of 56 months after the date on which the program is established, the Comptroller General of the United States shall report to the committees referred to in subsection (a)(1) on the activities under the program during such 56-month period.

SEC. 5. MODIFICATION AND TERMINATION.

(a) IN GENERAL.—The Secretary may at any time 6 months after implementation of the program modify or terminate the program if in the judgment of the Secretary the program is no longer needed or if modifications or termination is needed to prevent substantial diversion of the diacetylmorphine.

(b) FINAL TERMINATION.—The program established under section 3 shall terminate on the expiration of 60 months after the date the program is established.

[From the Washington Post, Mar. 26, 1984]

AN ACT OF MERCY

Chances are that Congress won't accomplish much in this presidential election year, but there is one piece of business that it should not fail to complete. It should pass legislation—with an impressive and growing bipartisan list of sponsors in both houses—that would legalize the carefully controlled use of heroin in the treatment of cancer patients dying in intractable pain.

One of the curiosities of medical practice in this country is that hundreds of billions are spent to prolong life, but relatively little attention is paid to making sure that patients survive in a tolerable degree of comfort and alertness. Modern medicine keeps promising better painkillers, and new methods of administration may offer patients more continuous relief from currently available drugs. But—as experts testifying recently before Chairman Henry Waxman's health subcommittee strongly asserted—many patients now die in needless agony because they are denied access to heroin, the one drug that could relieve their pain.

Heroin has come into increasing use as a painkiller in Great Britain in recent years because of its demonstrated superiority in treating certain cancer patients. Heroin acts faster than morphine and other widely used painkillers, and it can also be administered in smaller doses—an important consideration in treating emaciated patients. Moreover, unlike other potent drugs, it does not make the patient comatose, depressed, nauseous or hallucinatory. As a result, patients are able to remain alert, communicate with other family members and, because anxiety and depression are relieved, may also live longer.

Heroin was banned from medical practice in this country in 1924 because of fears that it would be diverted to illegal street use—an unwarranted fear that still motivates opponents of the proposed legislation. Since only very small quantities of the drug would have to be kept by hospitals—most cancer patients do not suffer intractable pain—the same precautions used to guard other street-valuable drugs would be adequate to prevent misuse. To be on the safe side the proposed legislation adds still further controls.

Right now hundreds, perhaps thousands, of cancer patients are racked with pain while their families watch in despair. In testifying before the Waxman committee, Dr. Allen Mondzac, chairman of the D.C. Medical Society's Cancer Committee, noted that "right now, in America, we know of a drug which is the most potent, effective, soluble and rapidly active narcotic ever created. It is not available. I do not understand this." Neither do we.

[From the Los Angeles Times, Nov. 9, 1983]

RELIEF FOR THE TERMINALLY ILL

Abhorrence of heroin and the national commitment to eradicate its abuse have led to an unreasonable resistance to legislation that would permit the use of this drug in the one justifiable form—to relieve the agony of terminally ill cancer patients. There is now an opportunity to correct that and to open to hundreds of Americans a relief from the terrible pain that responds to no other analgesic.

Senator Daniel K. Inouye (D-Hawaii) has taken the lead with the support of 15 other senators, Republicans and Democrats, brought together by the overwhelming evidence that doctors require this added tool if they are to relieve the otherwise intractable pain of many cancer patients. One of the group, Sen. Dennis DeConcini (D-Ariz.), is now planning to offer the proposal as an amendment to the National Institutes of Health reauthorization act. It deserves the support of all members of Congress.

Under present regulations, doctors must rely on morphine in controlling pain. It has proved effective in most cases. Tests in the United States, reported last year in scientific journals, found the two drugs of equal effectiveness. But many patients develop a tolerance to morphine over a prolonged period, and the drug loses its effectiveness, Heroin has proved effective in these cases. In Great Britain, where doctors have the option of morphine or heroin, the use of heroin is increasing rapidly because of its demonstrated superiority in certain cases. Forty-seven nations now permit the medical use of heroin.

One advantage of heroin is its potency. "A small subgroup of patients requiring large, intramuscular injections could benefit from heroin because it is more water-soluble as well as more potent than morphine," it was reported in Medical News. In cases of this sort, more massive injections of morphine forced into the emaciated bodies of the dying patient can be a source of additional severe pain.

Nothing in the proposed legislation can address a fundamental problem in the United States. That problem is the failure of many physicians to comprehend pain control, now a highly developed specialization in the medical profession. Ignorance of new techniques and reliance on programs geared to timetables rather than to the comfort of patients have left many people unnecessarily in intractable pain, according to experts.

The proposed legislation would limit heroin to terminal cancer patients in licensed hospitals, with peer review required for any doctor's decision to use it. That may prove unreasonably restrictive, particularly because it would deny applications in the home-oriented hospice program how being funded by Medicare. But it is a start. And Inouye's staff is convinced that the understandable horror of heroin abuse precludes going farther at this time.

"We have to take whatever we can get," according to Judith H. Quattlebaum, president of the National Committee on the Treatment of Intractable Pain. To do less would be a cruel rejection of this additional tool for controlling acute suffering.

THE VALUE OF HEROIN

Heroin is a curse for otherwise healthy addicts. But it is also a potent analgesic, valued by many physicians in treating the pain of terminally ill cancer patients. That is why Representative Henry Waxman's bill authorizing strictly limited use in hospitals and hospices deserves support.

First synthesized in Britain in 1874, heroin replaced morphine as the most popular injectable painkiller. It was legally used—and abused—in the United States until 1924, when Congress outlawed its import and manufacture.

Since then, dozens of other powerful analgesics have been synthesized, most of them addicting. But in Britain, heroin remains the painkiller of choice whenever addiction risk is a secondary consideration, and for good reason.

According to Dr. Allen Mondzac, director of the Warwick Cancer Clinic at George Washington University, heroin's high potency combined with its solubility make it the most efficient drug for controlling pain in extremely ill patients. In addition, the euphoric effect that so attracts addicts counteracts the depression experienced by chronic users of other painkillers.

The Reagan Administration, fearing that the drug would be diverted to the illegal market, opposes Government manufacture of heroin and distribution through hospital and hospice pharmacies. There is undoubtedly some risk that a trickle of Government heroin would be added to the river of illegally imported narcotics. But as long as physicians believe that heroin is better than any other drug for easing the trauma of dying cancer patients, that risk ought to be worth taking.

[From the News American, Baltimore, Md., Mar. 25, 1982]

HEROIN FOR THE TERMINALLY ILL

(By William F. Buckley, Jr.)

Finally, somebody has got around to introducing an amendment to the Controlled Substances Act, designed to make it possible to administer heroin to some patients dying of cancer. The hero in the case is Sen. Daniel Inouye of Hawaii, and the word "hero" is not used flippantly, because inevitably there will be those who accuse the senator of adding to the drug problem. A little thought, and a little patience, will dispose of these charges, but not everyone is willing to give a little thought, or to show a little patience, in discussing the problem of heroin. What would be ideal is to bring together the critics of Mr. Inouye's bill and some human beings who, as I write, are screaming (I do not use a metaphor) with pain.

Here are some interesting figures brought out by Sen. Inouye in his speech introducing S. 2013. There are 400,000 Americans alive today who within the next 12 months will die of cancer. Eighty thousand of those condemned will suffer "significant" pain. And of these, 8,000 will experience agony that is not mitigated by such prescriptions as are currently allowed. After a while, morphine just doesn't work with some people.

Why it took so long to come through with a medically reliable experiment is something to wonder about, inasmuch as the use of heroin has been outlawed since 1924. Anyway, thanks to the Vince Lombardi Cancer Research Institute of Georgetown, an experiment was conducted. Forty-eight cancer patients suffering serious pain were injected, one-half with heroin, one-half with morphine, by nurses who did not know which substance they were administering. It transpired that the patients rated heroin as two and one-half times more effective than morphine in bringing relief.

This experiment, together with accumulated testimony from Great Britain and from 37 other countries that tolerate carefully supervised use of heroin brought an endorsement from the New England Journal of Medicine and subsequently from the American Psychiatric Association.

Senator Inouye's bill, backed now by 15 members of the Senate, an ideologically uncolored coalition ranging from left (Sen. Carl Levin, D-Mich.) to right (Sen. Steven Symms, R-Idaho), is cautious in several wholly understandable respects. The medical doctor in charge of a patient for whom the use of heroin might be appropriate must first himself recommend the drug's use and then submit his recommendation to a medical review board. If the recommendation is there sustained, the hospital will dispense the heroin from supplies made available by the Department of Health and Human Services from the abundant heroin now confiscated under current laws.

A strict accounting is envisioned, so that the amount of heroin released must correspond with the amount administered. Moreover, Senator Inouye's bill calls for reconsideration of the program after five years. It is difficult to think of anything he left out, save possibly a provision that anyone receiving the heroin and not dead within 90 days must be given an overdose.

It is difficult, Mr. Inouye having stepped forward and broken the taboo, to imagine Congress not acting favorably on this proposal. If it does so, although the legislative credit goes to Mr. Inouye, the moral credit goes to Mrs. Judith Quattlebaum, the president of the National Committee on the Treatment of Intractable Pain (9300 River Road, Potomac, Md. 20854).

She has fought for this bill for five years. During that period, 40,000 Americans have died in needlessly aggravated pain. She has dogged legislators, accumulated scientific evidence, written to newspapers (the bill has received a number of editorial endorsements, including a most vigorous one from the Detroit News and the Federal Times).

Almost every week, an additional senator steps forward to associate himself with the Inouye bill. So will it prove, I think, popular in the House.

It has been remarked that nothing is easier to get used to than other people's pain. This is unahappily correct, and perhaps necessarily so, because if one were as much involved in mankind as John Donne said we should be, there could be no happiness, ever. With Mrs. Quattlebaum we'll be entitled to such happiness as is due to those helpful in relieving the misery of others.

[From the New England Journal of Medicine]

IN DEFENSE OF THE REINTRODUCTION OF HEROIN INTO AMERICAN MEDICAL PRACTICE AND H.R. 5290—THE COMPASSIONATE PAIN RELIEF ACT

(By Allen M. Mondzac, M.D.)

Heroin has been in continuous use since its creation in England by Wright in 1874. The drug was synthesized by acetylating morphine and is therefore a semisynthetic narcotic. Its chemical name is diacetylmorphine, or diamorphine. It was named heroin by the Bayer Company of Germany, which first marketed it widely, in 1898. The drug met with great success and was used as a narcotic analgesic, antitussive, and antidyspnea agent. Heroin was widely prescribed, and many users became addicted. This result was inevitable since little was understood about narcotics and drug addiction.

In what can be described as a panic reaction of the federal government to curb the growing problem of opiate addiction in America, the manufacture and importation of heroin was banned in the United States by the Harrison Narcotics Act of 1924. The legislation was intended to supplant the 1914 Harrison Act, which restricted the use of cocaine and opiates to medical purposes and required a license physician's prescription to obtain the drugs. After passage of the 1924 law, although use was not prohibited, it dropped off considerably. In 1956 all hospitals and private physicians who had retained heroin had to relinquish it. Jefferson Hospital in Philadelphia obtained permission from the Bureau of Narcotics and Dangerous Drugs to keep its supply, which it had used judiciously since 1924, until it relinquished the remainder in 1960. Since that time there has been no legal heroin in the United States. It should be noted that in Britain the medical use of heroin continued despite the American legislation and has increased, especially for pain control. In 1970 Congress passed Public Law 91-513, which gave the Office of the Attorney General power to move heroin from schedule I to schedule II, if it so desired.

Since 1974 a grass-roots movement led by the National Committee for the Treatment of Intractable Pain, headed by its founder, Judith Quattlebaum, has been trying to make heroin available again in the United States for pain control. The Compassionate Pain Relief Act (H.R. 5290), introduced by the Honorable Henry Waxman in February 1984, is the culmination of 10 years of work by the committee. The bill provides a mechanism for the reintroduction of heroin into American medicine.

I would like to discuss the chemical and pharmacologic properties of heroin that makes it unique, and then the benefits of H.R. 5290 and how its passage into law will help American society.

Heroin has been studied very little, considering that it has been used for 100 years. Scientists have seemed afraid to tamper with this strong opiate. Most studies have compared it with morphine.[13] They have shown that diacetylmorphone has an earlier onset of action than morphine, causes less nausea and vomiting, and induces more sedation.[4] When heroin is given orally it is rapidly and completely absorbed and deacetylated promptly in the liver to morphine and 6-alpha-mono-acetylmorphine. It acts as a pro-drug for morphine.[3] Most researchers consider oral heroin to be the same as morphine, although the pharmacokinetics of an important metabolite of heroin, 6-acetyl-

morphine, have never been studied in human beings.[3] The absorption of oral heroin is 1.5 times greater than that of morphine, and the potency of heroin is 2.5 times greater. Increasing the dose of oral morphine can abolish this difference in potency, but it is assumed that the increased dose will be tolerated. These facts have not been addressed in the literature. Furthermore, in the most widely cited study comparing oral heroin and morphine and showing them to be equal, both treatment groups received other medications for pain (steroids, phenothizines, antidepressives, and benzodiazepines).[1] The author of this study [1] questioned his findings and suggested that other results might be obtained if the narcotics were used in a purely single-drug study. This observation has been ignored by workers who have used these data to demonstrate the similarity of heroin to morphine. Therefore, oral heroin, which has not been adequately studied, may be more than just pro-drug for morphine and may yet have an important role in pain relief.

When given perenterally, heroin is markedly different from morphine. Both heroin and acetylated morphine are detectable in the blood after injections.[3] The rapid organ clearance and uptake by the brain, limited only by blood flow, allow high levels of heroin to be reached in the brain, where the drug is hydrolyzed to 6-acetylmorphine and morphine and where these metabolites are retained. This phenomenon is undoubtedly due to the chemical structure of heroin and to plasma binding and lipid solubility.[5] These data irrefutably distinguish heroin from morphine kand account for the unique and superior properties of parenteral heroin: rapidly of onset, power to sedate, lack of nausea, increased potency (2.5 times greater than morphine),[4] and high potential for addiction.

Although trials comparing long-term oral heroin administration with long-term oral morphine administration have been carried out,[1] such studies have not been performed with parenteral heroin and morphine. Twycross, who reportedly showed the similarity of the two oral drugs in his self-admittedly flawed study,[1] denies the feasibility of a similar comparison of the parenteral drugs. He states "it has never been suggested that morphine is better than dismorphine (heroin) and . . . results would still leave diamorphine with the practical advantage of being more soluble." [4] This high solubility is one of heroin's other unique chemical properties; up to 120 mg can be given in an injection of 0.2 ml, and the average therapeutic dose can be dissolved in less than 0.1 ml. Because of the limited solubility of morphine, doses including equivalent analgesia would require a 20-ml injection—an unwieldy and painful procedure if the injection is given subcutaneously or intramuscularly. Twycross estimates that, excluding patients who receive heroin for less than 24 hours, 10 to 19 percent of cancer patients in a hospice setting may need the drug, when only solubility and injection size are used as criteria for need.[4] The solubility of heroin, combined with its rapid onset, short duration of effect, little or no induction of nausea, and high analgesic potency make it the drug of choice when parenteral narcotics are needed.

Unfortunately research in the United States that compares parenteral morphine with parenteral heroin has been limited to single-dose studies in postoperative patients [3] or patients with chronic pain.[3 0] These widely cited studies show no clinical difference between parenteral morphine and heroin. This conclusion is very misleading because these studies have no relation to the repeated use of heroin for chronic pain. There has been no study in cancer patients that has evaluated regular use of parenteral heroin for chronic pain.

Because of the unique properties that heroin possesses, one can easily agree with researchers in the field who state that even with the present, limited knowledge of narcotics actions, there is a group of patients who will require heroin because of its solubility [4] and unique properties [7] and becuase of the biovariability in response to narcotics that may exist among patients with cancer.[6 9]

Because of its solubility, Dilaudid (hydromorphone) has been proposed as a substitute for heroin.[7 10] A new ultrasoluble form of hydromorphone, called Dilaudid-HP, has been marketed by Knoll Pharmaceuticals. Although Dilaudid has been shown to be more potent than morphine, there are unfortunately no studies comparing Diludid or Dilaudid-HP with heroin in clinical situations. The one available study, which compares single-dose Dilaudid with heroin for preoperative patients, indicated that Dilaudid has more side effects and less analgesic efficacy than heroin.[11] Because of the well-recognized individual variations in drug tolerance and analgesic response, the place of Dilaudid-HP in the analgesic armamentarium is unclear. It is not acceptable as a substitute for heroin at present.

H.R. 5290—The Compassionate Pain Relief Act—provides a means to reintroduce heroin into American medicine. If this measure becomes law, American doctors will join with British colleagues in having a choice about the right analgesic for their patients. Physicians in this country will be given the freedom and responsibility to provide heroin to patients who need it—those who are not helped by the available drugs for pain.

The Waxman bill provides a comprehensive and intelligent system for distributing heroin. Since all evidence seems to point to the superiority of parenteral to oral heroin, the bill provides for the availability of the parenteral form only, H.R. 5290 also states specifically that heroin would be available only to patients with cancer in "situation where conventional analgesics are ineffective or contraindicated," which would limit the number of potential users and the amount of heroin that would be in circulation or in any pharmacy at a given time. Fear of criminal diversion of even this limited amount of heroin to addicts has clouded the thinking of the Department of Health and Human Services, the American Medical Association, and the American College of Physicians. All these institutions are opposed to reintroducing heroin into medical practice because of this fear. In the light of the pioneer work of Beaver [7] and Twycross,[12] the fear of addiction and dependency among patients should no longer be an issue. In fact, the widely accepted narcotics Dilaudid and morphine have a potential for addiction that is identical to that of heroin.

The Waxman bill as amended and approved in March 1984 by the Committee on Energy and Commerce would allow distribution of heroin by prescriptions written by physicians registered under Section 302 of the Controlled Substances Act, and then only through hospice or hospital pharmacies. This would drastically limit the number of pharmacies that would stock heroin, and should quiet the fears of those who say that there will be widespread thefts of legal heroin. Hospital pharmacies have always stocked morphine, Dilaudid, barbiturates, and amphetamines. Indeed, some now stock marijuana (delta-9-tetrahydrocannabinol) tablets for nausea, which are distributed through hospital pharmacies under a program of the National Cancer Institute and the Drug Enforcement Administration. Data from the Drug Enforcement Administration for 1982 show that robberies at retail pharmacies accounted for 96 percent of robberies for drugs, but that robberies of hospital pharmacies represented only 3 percent of robberies in the same period.[13] In the United Kingdom, where heroin consumption for pain is rising (from 51 kg in 1971 to 150 kg in 1982),[14] theft from pharmacies is not a problem. Chief Inspector H. B. Spear of the Home Office (Great Britain) submitted testimony to the Waxman committee, stating that "the lawful availability of heroin poses no greater security threat than for other similar drugs." He also noted that when thefts did occur, they involved the whole stock of drugs, not just heroin. In the Waxman bill, the rules for physicians writing prescriptions for heroin would be more stringent than those in effect in Britain, since British doctors can prescribe both oral and parenteral forms for the treatment of any medical condition except addiction (for which only specifically appointed doctors may prescribe).

Since one could argue that the crimeridden, lawless, frontier-style, gun-slinging amoral United States is not like well-behaved, decorous Great Britain, opponents of the bill believe that criminal diversion would occur here in spite of police surveillance of hospital and hospice pharmacies stocking heroin. Professor Arnold Trebach, a noted criminologist, has pointed out some interesting data in his testimony before the Waxman committee, on the projected impact of such criminal division. Taking the ratio of morphine use to heroin use in Britain (7:3) and applying it to the use of morphine in the United States in 1982, he estimated that the amount of heroin that might be used under the Waxman bill would be 228 kg per year. After quoting estimates by government agencies that 4 to 10 metric tons of illegal heroin come into the United States every year, he assumed that if through some disaster the 228 kg of legal heroin were diverted by criminals and added to the amount on the street, it would account for only 4 percent of the total amount of illegal heroin in the United States. This startling statistic indicates how unimportant the problem of criminal diversion is as compared with actual heroin use. Furthermore, it shows that under controlled distribution, the Waxman bill would not cause any major increase in existing addiction problems, pharmacy thefts, or criminal activities.

The bill wisely calls for a review of heroin use every three months by the Secretary of Health and Human Services and the House Health Subcommittee and also sets up a trial period of four years. These provisions would allow ongoing review to provide guidelines for the future.

Since I have stated what the bill would not do, I will not state its most important effects and why I am in favor of it. (1) It would give American doctors a wider choice of analgesics to use. (2) It would remove from American doctors the stigma and the terror laid on the profession by the 1924

Footnotes at end of article.

Harrison Narcotics Act, which held that doctors could not safely and prudently prescribe a potent narcotic like heroin. (3) It would end the antiquated posture of the drug-enforcement bureaucracy, which prevents cancer patients from receiving a narcotic that they may need medically. (4) It would allow creative researchers of pain relief to stop trying to prove that heroin is not good and to discover why it is good and to use that knowledge constructively. It would enable them to understand why during the largest evaluation of heroin in vivo—the British experience since 1874—doctors gave heroin to 30 percent of all cancer patients in hospices. (5) Finally, the bill shows that the government would accept addicting and potent narcotics and trust physicians and patients with them. In this atmosphere, new ideas, new drugs, and new approaches would develop.

The "heroin movement" created in 1974 by the National Committee for the Treatment of Intractable Pain has fostered the atmosphere that now exists in the United States, where pain research, terminal care, and studies on the comfort of patients are beginning. Now, pain control is discussed openly on rounds; nurses and doctors are starting to be concerned, not about addiction, but about giving enough of the right narcotic to the suffering patient. American medicine is ready to have heroin again.

FOOTNOTES

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[From the National Committee on the Treatment of Intractable Pain]

ROLLIN/SHAPIRO TO AID NCTIP

Betty Rollin is the author of Last Wish, a book about her mother—dying, slowly, in great pain, of cancer—and about Betty's wrenching emotions as she helped her mother have her last wish: to die with dignity, by suicide, before losing control of her life to the unrelenting pain.

Ms. Rollin responded to a NCTIP query about possible common goals and efforts enthusiastically, and met twice with Judy Quattlebaum, Barbara DeMarneffe, and Selma Shapiro, a New York public relations professional. The crucial point where their efforts overlapped was that the terrible decision about suicide might not face cancer patients if preventing terminal cancer pain were given a high enough priority and heroin were available.

A public relations plan has been fashioned, built around Betty's September nationwide tour to introduce the paperback edition of *Last Wish*. She will mention NCTIP's work when possible in her public and television appearances.

Selma Shapiro has devoted her professional career to public relations in the literary world. She now has established her own firm but was previously vice president of publicity and public relations at Random House.

NCTIP thanks these two compassionate and generous women for their encouragement and support.

MAJOR ARTICLE ON HEROIN APPEARS IN HEALTH LAW JOURNAL

Congress, rather than the courts, must act to legalize the medicinal use of heroin, according to a recent article in The Journal of Contemporary Health Law and Policy. "It is time for Congress to mitigate the law enforcement message of the past decades and offer a new perception of a compassionate, balanced, and hopeful drug policy for this nation," concludes author Suzanne Marcus Stoll.

Reprints of "Why Not Heroin? The Controversy Surrounding the Legalization of Heroin for Therapeutic Purposes" are available from NCTIP. Please send at least $3 to cover costs.

[From the Journal of Contemporary Health Law and Policy]

WHY NOT HEROIN? THE CONTROVERSY SURROUNDING THE LEGALIZATION OF HEROIN FOR THERAPEUTIC PURPOSES

(By Suzanne Marcus Stoll)

INTRODUCTION

"Right now, in America, we know of a drug which is the most potent effective, soluble, and rapidly active narcotic ever created, it is not available. I do not understand this." [1]

A noted oncologist testified before a House Subcommittee to encourage the legalization of heroin for the purpose of easing the pain experienced by many terminally ill cancer victims. [2] The issue is an emotionally charged one in which medical, legal, ethical, personal, and societal values collide. Proponents of limited legalization of heroin are led by the relatives of cancer victims and their legal and medical advocates. [3] Among them are many distinguished members of the medical and research communities who maintain that heroin is the most soluble and potent narcotic for pain relief, [4] that is clearly works for some patients for whom all else fails, [5] and that therapeutic use presents no appreciable risk to the community. [6]

Legal advocates of heroin's therapeutic use contend that the judicially recognized constitutional right of privacy extends to the relevant medical decision, [7] that the prohibition of heroin for therapeutic purposes represents a deprivation of due process for cancer victims, [8] and that, in some instances, the common law defense of necessity justifies the use of illicit drugs. [9]

Opponents are equally vocal. They include the institutional regulators of licit and illicit drugs: the Department of Health and Human Services (HHS) and its specialized arm, the Food and Drug Administration (FDA), and the Drug Enforcement Administration (DEA), which is responsible for categorizing drugs into one of five levels of abuse potential. [10] Upon recommendation from HHS, the DEA scheduled heroin into Schedule I. This is the most restrictive class, and prohibits all use except for closely controlled research.

Official government sources now maintain that heroin is not preferable to morphine for pain relief [11] and that the advent of new synthetic narcotics makes the heroin issue moot. [12] Representatives of the medical profession, including the American Medical Association, report that more efficacious drugs exist for the same purpose and that ineffective pain management techniques are the problem for cancer patients, rather than the prohibition of a pain-killing drug. [13] Finally, law enforcement officials as well as pharmacists and many citizens are fearful that heroin will be diverted from the pharmacy to the street. [14]

The American debate over the medicinal use of heroin has raged for over sixty years, but its current focus is more refined than ever before: Should heroin be available in hospital and hospice pharmacies to provide analygesic alternatives for patients experiencing severe pain from terminal cancer? [15] It is estimated that eight thousand to forty thousand Americans suffer every year from pain so profound that no currently available medication is effective. [16] For them, the modern link between cancer and heroin may be the avenue to relief. For others, the cancer-heroin association ironically pairs America's most feared disease with its most feared drug of abuse.

Because the heroin dilemma strikes a nerve in the American public, the legalization of heroin for therapeutic purposes has become a focal point in the lay press [17] as well as for legal and medical experts. Americans are acutely aware that one of every four people will be afflicted with some form of cancer during his lifetime and that nearly everyone will be affected by the impact of the disease on family members or friends. In this context, congressional initiatives to legalize heroin for specific therapeutic purposes have sparked greater public interest than similar bills in the past. The Compassionate Pain Relief Act was, however, defeated during the closing days of the 98th Congress. [18]

This note will demonstrate a two-pronged approach to the legalization of heroin for therapeutic purposes. The first approach requires a more favorable judicial interpretation of the right of privacy as inclusive of the medical choice to take unauthorized or illicit drugs to alleviate intractable pain in dying patients. Parallels to the laetrile controversy offer guidence as to how heroin will fare in the courts: the choice to elect heroin therapy as a function of the right of privacy is likely to fall victim to compelling state interests. Still, the right of privacy is the best judicial ground upon which to establish a basis and seek future inroads.

The second and more promising approach is through congressional action. Public policy demands that all available effective cancer treatments be part of the physician's armamentarium to fight the disease. Congress can bypass the administrative logjam

of the FDA's "new drug" procedures and provide for limited access for those patients whose conditions justify the use of heroin.

Furthermore, this note will trace the history of heroin's prohibition in this country and the medical issues at stake in the current controversy. It will proceed to explore the constitutional basis for legalizing heroin on a limited basis. Finally, it will focus on congressional efforts to provide a compassionate response to a profoundly human dilemma and conclude that the advocates of heroin's medical use still face major obstacles in their efforts to gain limited legal status for the controversial drug.

THE HISTORY

In 1914, the Harrison Narcotics Act banned the recreational use of heroin in the United States in conjunction with an international initiative to stem the growing number of opium addicts.[19] While the Act specifically prohibited the recreational use of the drug, it left the door open for the prescription of heroin by doctors "in good faith" and "in the legitimate practice of (the) profession."[20]

The physician's right to prescribe heroin, however, was soon proscribed by two significant Supreme Court decisions. In 1918, the Court held in *Webb* v. *United States*[21] that it was never appropriate for a doctor to prescribe heroin to addicts. In the *United States* v. *Behrman*,[22] four years later, doctors were held strictly liable for prescriptions which "could only result in the gratification of a diseased appetite for those pernicious drugs."[23] While the statute in question in *Behrman* specifically excluded physicians from its prohibition against drug dealing, the government charged "facts sufficient to show that the accused was not within the exception."[24] The Court concluded that the defendant physician was in violation of the Act because he indiscriminately prescribed the drug to a known addict.

In 1924, the House Ways and Means Committee held hearings to amend the Harrison Act, whose intent was to further restrict the importation of opium for exclusively medicinal purposes.[25] Public concern about growing addiction problems and criminal conduct associated with the drug fanned the furor in favor of the simply worded amendment: "Provided, that no crude opium may be imported for the purpose of manufacturing heroin."[26] Testimony from the American Medical Association (AMA) and the then United States Surgeon General illustrated the low regard into which heroin had fallen. The Surgeon General alleged that the drug erased all moral sense while the physicians speaking for the AMA indicated that codeine was a good substitute for heroin.[27] In short, the medical testimony was more sensational than it was substantive[28] and the ban on heroin reflected its growing disrepute in the medical community.

The diversion question was also confused by the emotion and tenor of the testimony. While evidence was introduced that, of ten thousand addicts in New York State, only two percent could trace their addiction to medical treatment, the momentum to outlaw all heroin use was underway. Testimony that seventy-six thousand ounces of heroin were sold on New York's black market, while only fifty-eight ounces were prescribed by all of the physicians in the state during the same period, was disregarded by those calling for the complete abolition of the drug.[29]

One commentator has suggested that the 1924 hearings were a miscarriage of justice resulting in a deprivation of due process for many Americans from that time until the present. In testimony before the House Subcommittee on Health and the Environment in 1984, Arnold Trebach, author of *The Heroin Solution*, said of the early hearings, "No original or empirical evidence was introduced to demonstrate that there was a connection between the creation of addicts and the presence of this drug in medical practice."[30]

In 1970, Congress passed the Comprehensive Drug Abuse Prevention and Control Act which repealed the Harrison Narcotics Act and provided a new framework of drug enforcement. Title II of the new Act mandated the establishment of five schedules of drugs based on degree of abuse potential, known effects, harmfulness, and level of accepted medical use.[31] Heroin was classified in Schedule I, the most restrictive category, and has remained there despite congressional attempts to reschedule it to allow more latitude in testing and medical use.[32]

Schedule I criteria are identified as follows:

1. The drug or other substance has a high potential for abuse.

2. The drug or other substance has no currently accepted medical use in treatment in the United States.

3. A lack of accepted safety precautions for use of the drug or other substance under medical supervision.[33]

During the 1980 hearings by the House Select Committee on Narcotics Abuse and Control, the scheduling dilemma of substances such as heroin and specifically marijuana (also Schedule I) was dramatized in a dialogue between Congressman Stephen Neal and a panel of cancer researchers:

Mr. NEAL. Well, just for the record, it's my understanding . . . that the assumption for a drug to be in Schedule I is that it has no medical use. And just for the record, I want to make it clear that you all, the three of you, are saying there are very definite medical uses for these substances.

Dr. SALLAN. Most definitely.

Dr. GARB. Sir, I would add there are a lot more than three of us. . . .

Mr. NEAL. Well, now, would you say this about THC only, or about THC and marijuana?

Dr. SALLAN. I would say it about both, but I have much less certainty about marijuana because it doesn't have the same scientific rigor in the study at this time.

Mr. NEAL. Well, then, we need more study, but to get the study, we need a substance available to you to study, but as long as it's under Schedule I, it will not be available, because the assumption will be that there is no medical use. It's a Catch-22 situation, it seems to me.[34]

While Congressman Neal fairly characterized the "no medical use" irony, the United States government did make accommodations for two testing situations to analyze the effectiveness of heroin in medical use. These two studies, the Memorial Sloane Kettering Study and the Georgetown Study, will be discussed in the following section.

The United States experience with heroin contrasts sharply with that of the United Kingdom. Over ninety-five percent of all licit heroin is prescribed in England where the drug has been widely used in hospices for pain control.[35] Currently, heroin is used in a 3:7 ratio with morphine. Its status as the medication of choice in severe pain situations has increased over the decades.[36]

In addition to England, twenty-six nations specifically allow for medical channeling of heroin by qualified physicians.[37] Eleven more apply the same restrictions to heroin use as other narcotics analgesics and ten more nations have given specific government approval to the use of heroin.[38] The United States, however, allows morphine a relatively favorable Schedule II classification in spite of its heroin-like narcotic properties while classifying marijuana as a Schedule I drug along with heroin. Clearly, the United States maintains a model of drug control more suited to law enforcement than to medical concerns. In spite of the positive experience of doctors and patients in twenty-seven other nations, many American lawmakers, doctors, and citizens still fear that the controlled introduction of heroin into medical practice would undermine the American system of drug enforcement and implicitly condone drug production and trafficking on an international scale.[39]

THE MEDICAL CONTROVERSY

Pain as a symptom involves at least fifty per cent of cancer victims and may become a serious management problem for at least fifteen to twenty per cent of those individuals.[40] It is this proportion of cancer patients for whom heroin would provide an essential pain-killing alternative. Dr. William Beaver, who conducted the most recent government-sponsored study of heroin's therapeutic value at Georgetown Medical Center, noted: "There will be individual patients who respond better to heroin for reasons we do not understand."[41] Since no two analgesics have properties that are identical, patients with different reactions may tolerate one analgesic and not another. "This fact alone justifies a variety of alternative drugs available."[42]

Comparisons between heroin, morphine, and other analgesics usually break down into several distinct categories:

1. Potency—Heroin is highly potent (2.7 times more potent than morphine) thus allowing smaller doses to be administered to produce equivalent pain relief. This consideration is extremely important when administering a drug to patients with wasted muscle mass.[43] Those who oppose heroin's use cite a new strong form of Dilaudid as being equally effective.[44]

2. Onset—Heroin's action is rapid and produces relief quicker than other drugs. Again, critics maintain that more effective pain management would offset this advantage.[45]

3. Attitude—Heroin produces euphoric feelings in most patients rather than the depression and anxiety that often follow morphine intake. Mood elevation differences, however, were not perceived as significant in the latest two studies of the drug.[44]

In the Beaver study, conducted at Georgetown University Vincent T. Lombardi Cancer Research Center, fifty-two patients with incurable cancer received one injection of heroin and another of morphine to combat pain. The results indicated heroin to be more potent, more soluble, and faster acting.[47]

The Sloane Kettering study, conducted by Dr. Raymong Houde, treated post-operative pain in cancer patients.[48] Results indicate that heroin was about twice as potent as morphine, that it provided a peak effect earlier than morphine, that doses with equal analgesic effects provided comparable improvements in various elements of mood, but that the peak arrived sooner with heroin. Furthermore, pain relief and mood improvement were less sustained after

heroin at equal doses and in the researcher's opinion, heroin had no unique advantage for the relief of pain in patients with cancer.[49]

It is clear that the medical controversy over heroin's therapeutic use would not exist but for the criminal aspects of heroin's identity. Even its detractors find that heroin is neither more advantageous nor disadvantageous than other legal alternatives for the relief of pain. Where the issue of addiction is moot, as in the case of terminally ill patients, unwillingness to include heroin as a therapeutic option is a reaction to its character as a potentially addicting drug.

According to oncologist Allen Mondzac, "With each patient, there is a potential for using up all of the existing drugs." [50] The availability of heroin would extend the physician's potential pain-killing remedies to one more effective therapy. Heroin's current outlaw status denies doctors and patients that alternative.

THE LEGAL ISSUES

The Right to Privacy—Griswold v. Connecticut

The decision to use heroin to mitigate the agony of cancer pain enjoys no explicit constitutional protection. The complicated interplay of personal autonomy, illicit drug use, human suffering, and medical necessity creates a legal paradox that is at once intensely intimate and starkly public in nature. The question is basic: whether a person's choice to use heroin should be fundamentally protected against coercion by law.[51] The answer lies in the developing right of privacy which has been held to encompass something beyond the issues of marital choice, procreation, conception, and child-rearing and to embrace "an interest in independence in making certain kinds of important decisions." [52] No decision can be more profound than that implicit in the heroin dilemma.

The right of privacy was first judicially recognized in *Griswold* v. *Connecticut* in 1965.[53] *Griswold* raised the question of whether a married couple living in Connecticut could be imprisoned for using birth control. Under the operative state statute, the use of any device to prevent conception was criminal. The Supreme Court struck down the statute, declaring that "marriage is . . . intimate to the degree of being sacred," [54] and is subject to constitutional protections under the privacy right "older than the Bill of Rights." [55] Justice Douglas, speaking for the majority, located substantive protection for marital intimacy in a "zone of privacy" created by several fundamental guarantees emanating from penumbras of the first, third, fourth, fifth, and ninth amendments.[56]

Justice Goldberg's *Griswold* concurrence identified the source of the privacy right in the ninth amendment and defined a test to determine whether a fundamental right worthy of constitutional protection exists. He directed judges to look to the "collective conscience of the people" to find whether a principle is so firmly rooted as to be ranked fundamental. The inquiry explored whether the right involved is of such a character that it cannot be denied without violating those "fundamental principles of liberty and justice which lie at the base of all of our civil and political institutions." [57] With the same breadth of philosophical conviction, Justice Harlan located the privacy right among those "basic values implicit in the concept of ordered liberty," [58] and suggested a fourteenth amendment due process analysis to determine whether such a right has been violated.

The *Griswold* Court concluded that a married couple's right to use contraceptives is fundamental and protected by the constitutional right of privacy, however abstract and circuitous the route to that protection. Seven years later, the same right was extended to unmarried persons in *Eisenstadt* v. *Baird.*[59]

As the court construes the right to privacy, its decisions rest on a recognition of values implicit in our way of life and philosophy as a nation, rather than on any strict construction of a concept. The celebrated Brandeis statement in *Olmstead* v. *United States* [60] conveyed the tone that would underlie so many future decisions.

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."[61]

The distance between the subjective recognition of collective and natural values and a concrete source for the protection of those values led the *Griswold* Court to explore several constitutional constructions. It is that same distance, still untraveled, that deprives the current heroin issue of a humane solution.

Development of the Right of Privacy

The evolution of the privacy right continued in the famous "abortion cases" of 1973: *Roe* v. *Wade*[62] and *Doe* v. *Bolton.*[63] In *Roe*, the Court concluded that the right to personal privacy includes the right to an abortion but that "this right is not unqualified and must be considered against important state interest in regulation."[64] The balancing test of a fundamental right versus a compelling state interest became the hallmark of personal health and privacy decisions in the courts. In his *Roe* concurrence, Justice Douglas explicitly includes within the term "liberty" in the Fourteenth Amendment "the freedom to care for one's own health and person . . . subject to regulation on a showing of 'compelling state interest'." [65] His observation is a forerunner of the complex health and enforcement questions that characterize the heroin dilemma today.

The balancing test of *Roe* v. *Wade* is operative in *Whalen* v. *Roe* [66] four years later. *Whalen* clearly establishes the state's right to regulate dangerous drugs in the face of individual privacy interests. The Court upheld a New York statute requiring the registration of all medical prescriptions for addictive drugs to control abuse. The Court distinguished the state's interest in recordkeeping from the individual's right to decide what drugs to take: "within dosage limits . . . the decision to prescribe, or to use, if left entirely to the physician and the patient." [67] Yet, while acknowledging the "individual interest in avoiding disclosure of personal matters," [68] the Court nonetheless upheld the right of the state to maintain the names of those selecting certain substances. In the view of the Court, the state's interest in recordkeeping, while compelling disclosure, was justified and fell short of invading an individual's liberty right.[69] Thus, the Court recognized relative levels of intrusion into personal decision-making, further emphasizing the less than absolute nature of the fundamental right of privacy.

Choice of Treatment

The choice of treatment as an element of the right of privacy may be considered in three separate contexts. The first is the right to choose from among approved methods of treatment, a well-established legal right which threatens no state interest and implies informed consent on the part of the patient.

The right to refuse treatment is the second and more complex issue. It was tested as early as 1904 when a man named Jacobsen refused a smallpox vaccination on the basis of every man's right to control the sanctity of his body.[70] The Court held that the state's interest in preventing the spread of disease overrode Jacobsen's personal right to refuse treatment. The Court implied that the right to refuse treatment would be upheld only when the individual's choice is informed, and society's interest would not be harmed.

In *In re Quinlan,*[71] the court's focus was limited to the right to decline life-prolonging treatment when the patient has no realistic hope of returning to "any semblance of cognitive or sapient life." [72] The issue was further complicated by the patient's comatose state and her subsequent inability to represent her own interests before the court. The court held that her father could decide to cease life-prolonging activity in order to safeguard her right to die with dignity.[73] The constitutional law commentator Laurence Tribe pointed out the inherent irony in the court's decision: that given the vegetative state that alone justified the court's holding, "attributing 'rights' to the patient at all was problematic." [74] The decision more realistically concerned the desires of parents and society to allow freedom of medical decision-making when individuals without consciousness linger only through extraordinary life-prolonging means.[75] The *Quinlan* case did not confer the right to terminate care to those who are conscious and for whom death is not imminent. In effect, the court recognized that a balancing of state and individual interests in the context of life-prolonging medical care is affected by the degree of illness suffered by the victim and the fading hope of a cure.[76]

The third choice of treatment situation—the right to choose a medical treatment that is not approved by the state—has led to a number of decisions surrounding the drug laetrile [77] and has loomed at the center of the marijuana controversy.[78] Judicial resolution of this third category of decisionmaking may well determine the future of heroin as a therapeutic agent. The leading case in the area is *Rutherford v. United States.*[79]

Rutherford v. United States

In *Rutherford,* several terminally-ill cancer patients sued to enjoin the United States from interfering with their access to laetrile. The United States District Court for the Western District of Oklahoma issued an injunction against the Food and Drug Administration (FDA) on the basis that patients were denied freedom of choice and were deprived of life, liberty, or property without due process of law.[80] The court held that the FDA's licensing requirements for new drugs made it virtually impossible for laetrile to become legally accessible.

On appeal, the United States Court of Appeals for the Tenth Circuit looked closely at FDA procedures and focused on the approval process for "new" drugs and the grandfa-

ther clause exemptions under the Food and Drug Act. Its inquiry raised the following questions: (1) Was laetriel marketed on October 9, 1962, as a cancer drug and was it then generally recognized as safe? (2) Was laetrile recognized or used as a cancer drug under the same conditions of present use during the period when the Food and Drug Act of 1906 was in effect from June of 1906 until June of 1938?[81] If either question could be answered affirmatively, laetrile would be exempt under the grandfather clause.[82]

The tenth circuit remanded the case to the Food and Drug Administration in order to produce an administrative record supporting its determination that laetrile was a "new" drug, though it did not explore the constitutionality of the "new" drug procedures. In 1977, in response to the court's order, the FDA released its findings that laetrile was not generally recognized as safe and effective or exempt under the 1962 grandfather clause.

On appeal, the district court ruled that the FDA's classification of laetrile as a "new" drug was "arbitrary, capricious, and an abuse of discretion, and, as a matter of law, unsupportable."[83] The judges note that laetrile had been used and sold commercially in the United States for over twenty-five years and had been generally recognized as safe.[84]

As to the constitutional aspects, the court looked to the "abortion cases"[85] for the premise that a right of privacy exists under the Constitution. As Douglas said in *Doe*, "that right has no more conspicuous place than in the physician-patient relationship."[86] The district determined that fundamental civil liberties were at issue in *Rutherford*, and that the choice to use laetrile, regardless of its correctness, should be the sole prerogative of the person whose body was being ravaged by disease.[87]

Again, the United States appealed the decision of the district court to the tenth circuit which sustained the district court's injunction, thus allowing the interstate sale and use of laetrile for terminally ill patients to continue.[88] The appeals court did not directly address the constitutional issue. On appeal to the Supreme Court, the tenth circuit was reversed and the case remanded for further proceedings on those issues.[89]

In its opinion, procedures and terminally ill patients. The Court held that the Congress could reasonably have intended to shield terminal patients from ineffectual or unsafe drugs, and that any other interpretation of the FDA regulations would substitute the opinion of the Court for that of Congress. "For the terminally ill, as for anyone else, a drug is unsafe if its potential for inflicting death or physical injury is not offset by the possibility of therapeutic benefit."[90] The Supreme Court did not address the privacy issue.

On remand, the Tenth Circuit revived the balancing test to weigh the "protected right" to select a medical treatment against the governmental interest in protecting public health. The court found that the state's interest outweighed such personal medical decisions. The constitutional conflict was thus temporarily resolved.[91]

Rutherford represents a weakening of the individual's privacy interest in choosing medical treatment. Unlike the early *Jacobsen* case,[92] no public danger existed in granting laetrile's commerce. Unlike the "abortion decisions," other lives would not be affected by an individual's choice of treatment. Only victims of cancer themselves would be affected by the prohibition on laetrile's use. The compelling state interest could be construed only as protecting terminally ill patients from their own informed choice. Thus, while it has been held that an individual can refuse treatment to sustain life, he is not yet free to select an unauthorized treatment in the face of death.

People v. Privatera

People v. Privatera,[93] a California Supreme Court decision, reaches the same conclusion. The California court determined that the right to use laetrile is not governed by the fundamental right of privacy because it is not among those decisions enumerated in the "privacy cases."[94] As such, the court had only to find a rational basis for the statute proscribing laetrile's use, which it fulfilled by citing a history of misleading representations about cancer cures.

In a dissent more remarkable than the decision, Chief Justice Rose Bird asserted that "choice of treatment is one of the most important decisions a person may ever make, touching intimately on his or her being."[95] Her opinion and that of the district court in Rutherford represent the eloquent dissent in a line of decisions that subordinate the individual's freedom of choice in medical decisions to the state's perceived goals.

Thus, the prevailing tone of judicial decisions leads to negative assumptions about the future of heroin therapy via the judiciary. Because heroin's status is not just unauthorized, but forbidden, the recognition of a fundamental right to use the drug for medical reasons would conflict with the state's interest in prohibiting its existence on nearly every occasion. Only a contention that the current prohibition is overbroad would prevent the state's interest from outweighing every personal consideration.

The Marijuana Connection

"It isn't absolutely necessary to be a masochist to do research on marijuana today, but it certainly helps."[96]

Marijuana, like heroin, is a Schedule I drug. Under federal law, it is deemed to have no medical usefulness while having high potential for abuse.[97] It is subject to the following restrictions:

The DEA has established quotas on lawful production of marijuana and its active ingredient THC.

The drug may be manufactured only by an individual or company registered with the DEA.

A researcher seeking to study the drug must obtain registration from the DEA.

The drug must be kept in a vault.

Record keeping is required.

Trafficking the drug is a felony.

The drug is available for research only and may not be prescribed.[98]

In addition, marijuana falls under FDA's "new drug" category and is subject to its regulatory provisions.

Marijuana and THC are currently being tested for their ability to relieve pain, insomnia, anxiety, asthma, epilepsy, glaucoma, and the side-effects of chemotherapy.[99] In addition, the National Cancer Institute's Division of Cancer Treatment now provides THC to physicians for use in controlled situations. As such, the Schedule I classification has become a contradiction in terms. The proven medical uses for marijuana are growing every day.

Hearings in Congress have focused on the subject of down-scheduling marijuana to conform with current knowledge about the drug's effectiveness.[100] Marijuana progress bears watching by advocates of heroin's legalization. While the public's response to marijuana continues to be volatile, public fear is less profound than with the use of heroin and the potential beneficiaries of therapeutic marijuana use are more numerous. Nevertheless, according to former FDA Chief Counsel Richard Cooper,

[t]he medical future of both THC and heroin is not entirely clear . . . A potential manufacturer will have to gather the relevant data and organize them into new drug applications that meet the FDA standards. It may turn out that the biggest obstacle to the therapeutic use of marijuana and heroin is the lack of interest in the drug on the part of drug companies.[101]

Medical Necessity Defense

Federal courts have consistently held that possession and sale of marijuana are not protected by the right to privacy.[102] However, the common law defense of necessity has been held to extend to medical necessity in the case of a Washington, D.C., man who used marijuana to treat his deteriorating glaucoma condition.[103]

In 1975, Bob Randall was arrrested and charged with unlawful possession of marijuana. He sought acquittal on the strength of a medical necessity defense. The District of Columbia Superior Court dismissed the charge, stating that a person whose use of marijuana is a matter of medical necessity is not criminally liable for its unlawful possession.[104] While the necessity defense historically depended on an immediate threat to life, a fear of deteriorating health was later considered to be a justifiable ground for the defense.[105]

The court stated that "necessity is the conscious, rational act of one who is not guided by his own free will. It arises from a determination by the individual that any reasonable man in his situation would find the personal consequences of violating the law less severe than the consequences of compliance."[106] The court noted that the defense is not available to one who has brought the circumstances upon himself.[107] Thus, a heroin addict who would argue the defense of necessity would be unlikely to prevail.[108] In addition, if there was a less stringent alternative, the defense would fall.[109] Finally, the harm avoided must be more serious than what it performed to escape it.[110]

The D.C. court's analysis focused on a balancing of interests between Randall's desire to preserve his sight and the government's interest in maintaining its regulations of marijuana. Noting "how far-reaching is the right of an individual to preserve his health and bodily integrity,"[111] the court concluded that blindness is a greater evil than breaking the prohibition on marijuana. In dismissing the case, the court also noted that no innocent party was injured and Randall had not brought his condition upon himself. The United States did not appeal.

The court's acceptance of Randall's defense is significant as a qualified affirmation of the right to protect one's health. Within the context of the case, an analogy between the use of marijuana and the use of heroin is a logical one. If the only means to combat intractable pain is heroin, then the medical necessity defense successfully employed by Randall might prevail for one who breaks the prohibition on heroin due to an advanced condition of cancer. However, the defense is limited to individuals caught in the medical-legal bind. It is no answer to the larger question of legalization that must

be confronted by lawmakers if any true progress is to take place.

CONGRESSIONAL ACTION

While the courts have only addressed the heroin conflict by implication, Congress has squarely dealt with the issue. The Compassionate Pain Relief Act, H.R. 5290, was designed to establish a temporary program under which "parental diacetylmorphine (heroin) would be made available through qualified pharmacies for the relief of intractable pain due to cancer." [112] The bill was introduced by Congressman Henry Waxman of California, Chairman of the Subcommittee on Health and the Environment of the Committee on Energy and Commerce. It was defeated by a vote of 355 to 55 on September 19, 1984, after several hours of passionate debate.[113] According to Congressman Waxman, the lopsided vote was a consequence of political timing:

"People were afraid to vote in any way, shape or form for anything that sounded like legalization of heroin. They were afraid they would be campaigned against on the issue.[114]

H.R. 5290 was not the first congressional attempt to deal with the availability of heroin for therapeutic purposes. In 1980, Congressman Waxman of California and Congressman Madigan of Illinois jointly and separately introduced legislation to make heroin available on a limited basis. Hearings were held before the Subcommittee on Health and the Environment of the Interstate and Foreign Commerce Committee.[115] Again in 1983, Waxman introduced legislation which was the subject of more hearings and was subsequently reintroduced as the clear bill which the House defeated in September, 1984. Its Senate companion, S. 209, was introduced by Senator Inouye of Hawaii and never reached a vote on the Senate floor.

The Waxman bill was a model of qualified legalization. H.R. 5290 would have required the Secretary of Health and Human Services to establish a temporary four-year research program during which heroin would be provided to terminally ill cancer patients through a limited number of pharmacies upon the written prescription of a licensed physician. The program would be monitored by the Government Accounting Office (GAO). An amendment by Congressman Hughes of New Jersey would have tightened the bill even further by requiring that the patient for whom heroin is prescribed would not respond to any other available drug, that a physician's decision to prescribe heroin be reviewed by a medical panel, and that the program be drawn into the system of regulation of the Controlled Substances Act. The Hughes Amendment was not passed.[116]

The politics of the Compassionate Pain Relief Act were unusual and embittered. The Reagan administration opposed the bill, stating that equally potent drugs were available and diversion was a real and present danger.[117] The American Medical Association opposed the bill while the American Nurses' Association favored its passage.[118] Rhetoric on the House floor volleyed between calls for compassion and warnings of dire consequences if the bill were to become law.[119] One opposing legislator even suggested that "we are going to have many pushers telling young kids, 'Look, this (heroin) cannot be that bad for you. After all, doctors and hospitals are using it all over the country.' " [120]

Opponents also decried the fact that H.R. 5290 bypassed the Food and Drug Administration's "new drug" approval process by providing for government manufacture and distribution of the drug. Advocates maintain that so few patients are potentially involved that no drug company is likely to undertake the major effort and expense to meet the FDA regulations, especially in light of heroin's unsavory reputation.[121]

It was the criminal identity of heroin and the threat of cross-over from pharmacy to "street" and from "street" back to the sick and dying that emerged as the focus of the debate in an election year. Chairman Rangel of the Select Committee on Narcotics Abuse and Control led the opposition suggesting that "a lot of people . . . would openly advocate that we just take the profits out of heroin and just start legalizing the entire illicit drug manufacturing and transactions in the United States." [122] A letter from Secretary of Health and Human Services Margaret Heckler was quoted, emphasizing the Reagan administration position that legalizing would pose serious public safety, enforcement, and security problems and that health care professionals would be placed in jeopardy by the direct link to criminal activity.[123]

Chairman Dingell of the Energy and Commerce Committee that reported favorably on the bill disposed of the Administration's major objection metaphorically.

"Let us take a little bit of a look at the question of diversion: 4.3 tons of illegal heroin come into this country. That is the equivalent of two elephants in weight, if you were to take the entire amount of heroin that is going to be coming into this country under carefully controlled conditions to meet the needs of the hopelessly dying cancer patients, you would probably have the equivalent of a pimple on the posterior of one of those elephants." [124]

The fact that the illicit heroin supply would not be significantly increased even in the worst case analysis did not prove persuasive to a majority of voting members. The debate had an evangelical tenor that had less to do with facts than with the emotional impact of heroin on the American psyche. According to one Waxman staffer, the "all-out-attack" waged by the administration not only helped to create a fervor among the bill's detractors, but also cost the proponents five months that proved strategically devastating.[125] Allegations that the administration used illegal lobbying techniques to defeat the bill are now under investigation by the Office of the Inspector General.[126]

The lay press rallied behind the Compassionate Pain Relief Act. *The Washington Post* headlined its September 22d editorial *Cruel Cowardice* and commented that "demagoguery carried the day." [127] *The New York Times* editorialized that Congress preferred symbolic action, "no matter how cruel the effect on the dying." [128] Papers from *The Fort Lauderdale News* to the *San Jose Mercury News* had endorsed the measure in weeks and months preceding the vote.[129] In an acerbic commentary on the subject, Editor Smith Hempstone of *The Washington Times* wrote, "[t]he absolute medical ban on heroin makes about as much sense as denying a man about to be electrocuted a cigarette on the grounds that the Surgeon General has determined smoking is injurious to the health." [130]

Proponents of the Compassionate Pain Relief Act are hopeful that more favorable timing, public support, and an off-election year will improve prospects for the bill's passage during the 99th Congress.[131]

CONCLUSION

The forty-thousand Americans who could benefit today from heroin's legalization cannot afford to wait for a broader judicial interpretation of the right to privacy. Even as the courts affirm the fundamental nature of decisions affecting one's health and well-being, they qualify the conditions and circumstances under which these decisions may be made. The strict scrutiny accorded to fundamental-right analyses seems more easily satisfied in the privacy context than where other fundamental rights are concerned: the balancing test is slanted toward compelling state interest. The persistent judicial perception that the state's interest in drug regulation overrides individual fundamental rights assures that courts will continue to defer to the authority of the FDA and DEA in the scheduling and control of heroin's use in this country.

Only a re-evaluation of the government's interest could alter this judicial posture. A closer look at the actual dangers of heroin's diversion from pharmacy to street use would reveal an exaggerated fear of expanded illicit trade. A recognition that the addictive potential of heroin is no issue for the dying would undermine the contention that its use is deleterious to the target population. But the courts will not re-define the nature of the government's interest in the sweeping prohibition on heroin. The judicial system will not substitute its judgment for the will of Congress so clearly demonstrated in 60 years of legislative history.

The only imminent hope for cancer victims lies with the Congress and not the courts. The dramatic defeat of the Compassionate Pain Relief Act of 1984 is a major setback which, according to Judith Quattlebaum of the National Committee on the Treatment of Intractable Pain, is "impossible to explain to cancer patients."[132] Congressional advocates have, however, reintroduced the measure in the 99th Congress with an eye toward more advantageous timing.[133]

It is time for Congress to mitigrate the law enforcement message of the past decades and offer a new perception of a compassionate, balanced, and hopeful drug policy for this nation. The quality of American lives depends on it.

FOOTNOTES

[1] *The Compassionate Pain Relief Act; Hearings on H.R. 4762, Before the Subcommittee on Health and the Environment of the House Comm. on Energy and Commerce*, 98th Cong., 2d Sess. 550 (1984) [hereinafter cited as *Hearings*].

[2] Dr. Mondzac has been an oncologist for fifteen years, chairs the Cancer Committee of the D.C. Medical Society, serves as Clinical Associate Professor of Medicine at George Washington University, and is a member of the board of Directors of the National Committee on the Treatment of Intractable Pain. *Hearings, supra* note 1, at 546.

[3] The National Committee on the Treatment of Intractable Pain (NCTIP) is an advocacy group formed in 1977 to lobby for congressional action to legalize heroin for limited therapeutic use. Its members and Board include medical and legal professionals as well as families of cancer victims. The organization has 6,000 members. National Committee on the Treatment of Intractable Pain, P.O. Box 9553, Friendship Station, Washington, D.C. 20016 (301) 983-1710. Judith H. Quattlebaum, President.

[4] *Hearings, supra* note 1, at 555. *See also* Mattingly & Conley, the *Medical Prescription of Heroin for Terminal Cancer Patients*, 9 LAW. MED. J. 337 (1981).

[5] Shapiro, *The Right of Privacy and Heroin Use for Painkilling Purposes by the Terminally Ill Cancer Patient*, 21 Ariz. L. Rev. 41, 42-48 (1979). See also Neal, Why Can't the Dying Have Heroin? New York, Oct. 2, 1978, at 76, 79.

[6] *Hearings, supra* note I, at 550.

[7] Shapiro, *supra* note 5, at 56.
[8] S. Trebach, The Heroin Solution 81 (1982).
[9] Note, *Medical Necessity as a Defense to Criminal Liability; United States v. Randall*, 46 Geo. Wash. L. Rev. 273 (1978).
[10] The Controlled Substances Act of 1970 establishes criteria for five separate schedules of controlled substances. Schedule I imposes the most severe controls; Schedule V, the least restrictive. Controlled Substances Act, Pub. L. No. 91-513, 21 U.S.C. § 801 *et seq.* (1982).
[11] *Hearings, supra* note 1, at 454. (statement of Edward N. Brandt, Jr., M.D.).
[12] *Hearings, supra* note 1, at 454. (statements of Edward N. Brandt, Jr., M.D., and Kathleen M. Foley, M.D.).
[13] *Hearings, supra* note 1, 560, 599. (statement of Kathleen Foley, M.D.).
[14] Letter from Joseph A. Oddis to Congress, (May 16, 1984 (voicing opposition to H.R. 5290, amended bill to legalize heroin for therapeutic purposes.) *See also* Neal, *supra* note 5, at 84-88.
[15] H.R. 5290 was amended to provide heroin only to terminally ill patients.
[16] J. Quattlebaum, Dying in Agony in America (March 25, 1983) (Paper presented at the College of Physicians and Surgeons, Columbia University, N.Y.C.).
[17] Editorials favoring legislation have appeared in newspapers across the country. *See, e.g.*, St. Paul Pioneer Press, May 13, 1984, at 2B, col. 1; Ft. Lauderdale News, May 4, 1984, at 18A, col. 1; San Jose Mercury News, Apr. 9, 1984, at 6B, col. 1; The Washington Post, Mar. 26, 1984, at 18, col. 1.
[18] The bill was defeated by a vote of 355 to 55 on September 19, 1984. 130 CONG. REC. 9791 (1984).
[19] NATIONAL COMMITTEE ON THE TREATMENT OF INTRACTABLE PAIN, *Authorizing the Medical Prescription of Heroin for Terminal Cancer Patients under Controlled Circumstances* 1-3 (1979).
[20] *Hearings, supra* note, at 3 (statement of Arnold Trebach, J.D., Ph.D.).
[21] Webb v. United States, 249 U.S. 96 (1918).
[22] United States v. Behrman, 258 U.S. 280 (1922).
[23] *Id.* at 289.
[24] *Id.* at 287.
[25] *Hearings Before the Committee on Ways and Means, House of Representatives, on H.R. 7079, A Bill Prohibiting the Importation of Crude Opium for the Purpose of Manufacturing Heroin, 68th Congress, 1st Sess. (1924).*
[26] *Id.* at 1.
[27] *Id.* at 32, 13.
[28] *Id. See also Hearings, supra* note 1, at 571 (statement of Arnold Trebach, J.D., Ph.D.).
[29] *Hearings, supra* note 1, at 571.
[30] *Hearings, supra* note 1, at 572 (statement of Arnold Trebach, J.D. Ph.D.). *See also A.* Trebach, the heroin solution (1982).
[31] 21 U.S.C. § 812(1982).
[32] Legislation in the 97th Congress (H.R. 2642) focused on re-scheduling heroin rather than establishing a governmental administered program such as proposed in the latest heroin legislation.
[33] Controlled Substances Act, 21 U.S.C. § 801 (1982).
[34] Report of the Select Commitee on Narcotics Abuse and Control, *Health Consequences of Marijuana Abuse: Recent Findings and the Therapeutic Uses of Marijuana and the Use of Heroin to Reduce Pain*, H.R. Rep. 96-2-5, 96th Cong., 2d Sess. 32 (1930).
[35] National Committee on the Treatment of Intractable Pain, *supra* note 19 at 7-9, *See also* Mondzac *In Defense of the Reintroduction of Heroin into American Medical Practice and H.R. 5290—The Compassionable Pain Relief Act*, 311 New Eng. J. Med. 535 (1944).
[36] *Hearings, supra* note 1, at 10 (statement of Arnold Trebach, J.D., Ph.D.).
[37] J. Quattlebaum. Information on Medical Uses of Heroin in Other Nations 4 (1983).
[38] *Id.*
[39] H.R. 9765, 98th Cong., 2d Sess. 130 Cong. Rec. 118 (1984).
[40] *Hearings, supra* note 1, at 1 (statement of William Regelson, M.D.).
[41] *Hearings, supra* note 1, at 4 (statement of Betsy Hague, R.N., M.S.N., quoting Dr. William Beaver, "Are Synthetic Narcotics Adequate Substitutes for Opium-Derived Alkaloids?").
[42] *Id.*
[43] Satchell, *When Heroin is the Right Drug*, Parade Magazine, May 16, 1982, at 12.
[44] *See supra* note 12.
[45] Am. Med. News, Mar. 23, 1984, at 20, col. 3.
[46] *Id.*
[47] Dr. Beaver commented, "[t]here's no point in doing more research. In fact, we knew pretty much before we started this study what we would find out." *Supra* note 43, at 12.
[48] There has been disagreement in the medical community over the validity of comparisons between post-operative patients, as in the Houde study, and those suffering chronic cancer pain, as in the Beaver study. It is the chronic and terminally ill sufferers for whom the legalization effort is being waged. *See Hearings, supra* note 1, at 2 (statement of William Regelson, M.D.).
[49] Kalko. *Analgesic and Mood Effects of Heroin and Morphine in Cancer Patients with Postoperative Pain*, 34 New Eng. J. Med. 1501 (1981).
[50] *Hearings, supra* note 1, at 547, (statement of Allen Mondzac, M.D.).
[51] L. Tribk, American Constitutional Law 893 (1977).
[52] *Id.* at 886.
[53] Griswold v. Connecticut, 381 U.S. 479 (1965).
[54] *Id.* at 486.
[55] *Id.*
[56] *Id.* at 485.
[57] *Id.* at 493.
[58] *Id.* at 500.
[59] Eisenstadt v. Barid, 405 U.S. 438 (1972).
[60] Olmstead v. United States, 277 U.S. 438 (1928)
[61] *Id.* at 478 (Brandeis, J. dissenting).
[62] Roe v. Wade, 410 U.S. 113 (1973).
[63] Doe v. Bolton, 410 U.S. 179. (1973).
[64] Roe, 410 U.S. at 154-55.
[65] Id.
[66] Whalen v. Roe, 429 U.S. 589 (1977).
[67] *Id.* at 603.
[68] *Id.* at 599.
[69] *Id.* at 598-608.
[70] Jacobsen v. Massachusetts, 197 U.S. 11 (1904).
[71] In Re Quinlan, 70 N.J. 10, 355 A. 2d 647, *cert. denied*, 429 U.S. 922 (1976).
[72] *Id.* at 39, 355 A. 2d at 663.
[73] *Id.* at 41-42, 355 A. 2d. at 664.
[74] *See supra* note 51, at 936.
[75] *Id.*
[76] Quinlan, 70 N.J. at 41, 355 A. 2d at 644.
[77] Several law review articles focus on the laetrile controversy and provide insight into choice of treatment questions. *See* Comment, *The Uncertain Application of the Right of Privacy in Personal Medical Decisions: The Laetrile Cases*, 42 Ohio St. L.J. 523 (1981); Note, *The Right of Privacy Does Not Include the Right to Laetrile*, 2 Whittier L. Rev. 599 (1980); Note, *Regulating Laetrile; Constitutional and Statutory Implications*, 5. U. Dayton L. Rev. 155 (1980); Leitner, *Laetrile and the Law: An Analysis of Rutherford v. United States*, 5 Okla. City L. Rev. 11 (1980).
[78] Cooper, *Therapeutic Use of Marihuana and Heroin: The Legal Framework* 35 Food Drug Cosm. L.J. 68 (1980).
[79] Rutherford v. United States has the following judicial history: Rutherford v. United States, 399 F. Supp. 1208 (W.D. Okla. 1975) (remanding to the FDA), *aff'd*, 542 F.2d 1137 (10th Cir. 1976) (affirming the district court's remand to the FDA), 424 F. Supp 105 (W.D. Okla. 1977) (remanding to the FDA), 429F. Supp 506 (W.D. Okla. 1977) (again remanding to the FDA and enjoining the FDA from interfering with importation and use of laetrile by plaintiffs), 438 F. Supp. 1287 (W.D. Okla. 1977) (again remanding to FDA and enjoining FDA from interference with plaintiff's use). *aff'd*, 582 F.2d 1234 (10th Cir. 1978) (affirming the district court's remand to and injunction of FDA), *rev'd*, 442 U.S. 544 (1979) (reversing and remanding to court of appeals), 616 F.2d 455 (10th Cir. 1980) (remanding to district court to reverse injunction against FDA), *cert. denied*, 494 U.S. 937 (1980).
[80] 399 F. Supp. 1208 (W.D. Okla. 1975), *aff'd and remanded*, 542 F.2d 1137 (10th Cir. 1976).
[81] 542 F.2d 1137, 1142 (10th Cir. 1976).
[82] 42 Fed. Reg. 39 (1977).
[83] 438 F. Supp. at 1295.
[84] *Id.*
[85] *See supra* notes 56-57.
[86] 410 U.S. 179, 208 (1973).
[87] 438 F. Supp. at 1300.
[88] 582 F.2d 1234 (10th Cir. 1976).
[89] 442 U.S. 544 (1979).
[90] *Id.* at 556.
[91] 616 F.2d 455, 457 (10th Cir. 1980).
[92] *See supra* note 70.
[93] People v. Privatera, 23 Cal. 3d 697, 591 P.2d 919, 153 Cal. Rptr. 431 (1979), *cert. denied* 444 U.S. 949 (1979).
[94] The court referred to marriage, procreation, contraception, family relationships, child rearing, and education. 23 Cal. 3d 702, 591 P.2d at 922, 153 Cal. Rptr. at 434.
[95] 23 Cal. 3d 711, 591 P.2d at 927, 153 Cal. Rptr. at 439 (Bird, C.J., dissenting).
[96] Cohen, *Marijuana as Medicine*, Psychology Today, Apr. 1978, at 60.
[97] Ironically, severe dependence liability is a criterion for Schedule II and not Schedule I.
[98] Cooper, *supra* note 78, at 70.
[99] Cohen, *supra note* 96, at 60.
[100] *Marijuana Therapy*, 21 Med. World News 39 (Apr. 28, 1980). *See also* Randall, *Medical Uses of Marijuana; Pending Legislation and Review of the Literature*, Congressional Research Service (1982).
[101] Cooper, *supra* note 78, at 82.
[102] For survey of federal court decision on the subject, *see* Leary v. United States, 544 F.2d 1266 (5th Cir. 1977); United States v. Horsley, 519 F.2d 1264 (5th Cir. 1975), *cert. denied*, 424 U.S. 944 (1976); United States v. Kiefer, 477 F.2d 349 (2d Cir.), *cert denied*, 414 U.S. 831 (1973).
[103] United States v. Randall, 104 Daily Wash. L. Rep. 2249 (D.C. Sup. Ct. Nov. 24, 1976). Randall's use of marijuana to threat glaucoma foreshadowed an important medical potential for the drug. Experiments to detemine the therapeutic value of marijuana in reducing the intraocular pressure in glaucoma have produced encouraging results. Council on Scientific Affairs, *Marijuana: Its Health Hazard and Therapeutic Potential*, 16 J.A.M.A 246 (1981).
[104] *Randall*, 104 Daily Wash., L. Rep. at 2254.
[105] For a discusison of the medical necessity defense, *see* Note, *Medical Necessity as a Defense to Criminal Liability: United States v. Randall*, 46 Geo. Wash. L. Rev. 273 (1978).
[106] 104 Daily Wash. L. Rep. at 2249-51.
[107] *Id. at 2252.*
[108] United States v. Moore, 486 F.2d 1139 (C.C. Cir. 1973).
[109] *104 Daily Wash. L. Rep. at 2252.*
[110] *Id.*
[111] *Id.* at 2263.
[112] H.R. 5290, 98th Cong., 2d Sess. 1 (1984). *See* H.R. Rep. No. 98-689, 98th Cong., 2d Sess. 1, 2 (1984).
[113] 130 Cong. Rec. 118, H. 9791 (daily ed. Sept. 19, 1984).
[114] The Washington Post, Sept. 20, 1984, at 3A, col. 4.
[115] *Hearings before the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce*, 96th Cong., 2d Sess. (1980).
[116] 130 Cong. Rec. 118, H.R. 9780-81 (daily ed. Sept. 19, 1984).
[117] *Hearings, supra* note 1, 462.
[118] *Hearings, supra* note 1, at 603.
[119] 130 Cong. Rec. 117-118, (daily ed, September 18, 19, 1984).
[120] *130 Cong. Rec. 118, H9774 (daily ed. Sept. 19, 1984) (statement of Congressman Walker).*
[121] Government manufacture of heroin might compete with the marketing of hydromorphone (trade name "Dilaudid"), a domestic drug. Dilaudid is currently the drug of choice for the treatment of severe, intractable pain. Although both Dilaudid and heroin are effective analgesics, the controversy centers on the availability of heroin for use in those cases where Dilaudid has proved ineffective.
[122] 130 Cong. Rec. 118, H9765 (daily ed. Sept. 19, 1984).
[123] *Id.* at H9764.
[124] *Id.* at H9771.
[125] Revealed in a conversation with Health subcommittee staffers after defeat of the bill.
[126] 130 Cong. Rec. 118, H9771-72 (daily ed. Sept. 19, 1984). Chairman Dingell placed in the record letters to regional Health and Human Resources directors explaining how to contribute to the defeat of H.R. 5290.
[127] The Washington Post, Sept. 22, 1984, at A-22, col. 1.
[128] The New York times, Sept. 27, 1984, at A-22, col. 1.
[129] San Jose Mercury News, Apr. 9, 1984, at 6B, col. 1; Ft. Lauderdale News May 4, 1984, at 198A. Col. 1.
[130] The Washington Times, March 28, 1984, at 1c, 2c, col. 1.
[131] Conversation with Health Subcommittee staffers following bill's defeat.
[132] Phone conversation with Judith Quattlebaum following defeat of H.R. 5290, October 1984.

[133] Senator Inouye of Hawaii has introduced the bill on the Senate side while Congressman Waxman of California will introduce a companion bill on the House side shortly. Cong. Rec. Jan. 3, 1985, Part II. Conversation with Joanne Leety, Administrative Assistant to Senator Inouye, March 1, 1985.●

By Mr. ROTH (for himself, Mr. SYMMS, and Mr. WARNER):

S. 68. A bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' OPTIONAL EARLY RETIREMENT ACT

● Mr. ROTH. Mr. President, I rise today to introduce legislation to establish an early retirement option for Federal employees. This is the third Congress that I have introduced legislation to establish an early retirement window, and I am optimistic that this bill will receive serious consideration during the 101st session of Congress. I would like to welcome my distinguished colleagues, Senators JOHN WARNER and STEVE SYMMS, as cosponsors of this year's bill.

As we move into the 1990's and the age of improved technology and better communications, the Federal Government is going to need a highly trained work force. This bill will help us make that transition. We must take advantage of advanced technology to improve productivity within the Government. The Federal work force of the future will require greater skills to work with computers, communication equipment, and new technology.

We must look toward the possibility of a smaller, more highly skilled work force to meet the missions of our agencies and the needs of the American people. By improving productivity, we will be in a better position to provide better compensation for our work force. This bill could help make that transition a less disruptive, more compassionate one.

The early retirement is an idea whose time has come. Utah, Alaska, and recently West Virginia initiated early retirement plans for their State employees. Last year the Committee on Governmental Affairs held a hearing on the early retirement proposal and received testimony from Dale Hatch, the director of the Office of Planning and Management for the State of Utah.

Mr. Hatch testified that the State of Utah has had a successful experience with their early retirement program and saved the State millions of dollars in personnel expenses. Finally, many corporations, including some of the largest in our country—General Motors and IBM, have instituted early retirement programs.

In fact, the catalyst for the early retirement legislation is the example set by many private companies that have offered such plans in order to prevent layoffs, provide promotion opportunities and job security for younger workers, and to cut costs in times of financial problems.

Under this proposal some 350,000 Federal employees would be newly eligible to retire, based on the same age and service rules that apply to involuntary retirement under current law in layoff situations, age 50 with 20 years of service or any age with 25 years of service. Another 100,000 would be eligible to retire under an expansion of the rules to include those age 55 with 15 years of service, or age 57 with 5 years of service. The retirement window will open for 60 days following a 30-day period after the start of a new fiscal year.

The proposal necessarily includes controls on replacement of those who retire, by reducing agency manpower ceilings. This method steers a middle course between imposing a total ban on hiring replacements, which could impair the Government's ability to carry out programs, and giving agencies free rein despite the need to act regarding the Federal deficit. We do not wish to micromanage the Government agencies, so the bill gives the executive branch limited authority to decide on the hiring of replacements.

The proposal has many advantages. First, it responds to the problem of the Federal deficit and the potentially devastating effects of layoffs or reductions in force under a Gramm-Rudman sequestration order. I cannot emphasize this point too strongly. With the current Federal deficit crisis, the ability of the Government to offer early retirement to its work force is a rational, voluntary, and humane method for reducing cost without harming the morale and efficiency of the Government. Unlike the re-active mechanism in current law for early retirements, this is an active plan to reduce the deficit.

Second, this proposal makes a voluntary offer of retirement that is far preferable to layoffs or reductions-in-force. It offers new opportunities to younger Federal employees—especially women and members of minority groups—who may be concerned about the shortage of career opportunities in the Federal Government. By providing older workers with the opportunity to retire, younger employees may now look forward to brighter and more secure Federal careers.

Third, this proposal takes advantage of a gap in Federal employee retirement rules to make eligible about 100,000 employees who lack the age and service needed under the early out requirements in current law, and who are within 5 years of current retirement. It provides these individuals with a degree of freedom they have never had before, to start a second career or coordinate their retirement plans with their spouse.

Fourth, this proposal could save the taxpayers huge sums of money. The hiring freeze will ensure that the Federal Government save money through less personnel expenses.

There has been a great deal of concern expressed that this bill would hurt the Government's ability to do its work—that we would lose the most skilled, experienced and productive members of our work force and that the hiring freeze would damage the ability of the Government to fulfill its mission. It is critical for the Government to retain certain occupations and efficiently continue projects that are critical to the missions of the agencies. In response to this concern, the President, or his designee, has the authority to exempt up to 25 percent of the agencies' eligible early retirees, by occupational category, project, or geographic location. Although every employee should be given the opportunity to retire early, certain activities are of extreme importance to ongoing Government functions.

To ensure a smooth transition of responsibilities, the legislation allows managers to hold over an employee who has elected early out, for up to 6 months, if the manager deems that the individual's skills are crucial to the job responsibilities or a work project. In addition, some positions will need to be refilled in order to permit the efficient working of the Federal Government. Therefore, the legislation permits the President to waive the freeze for positions that are determined to be vital to the performance of the agency's mission, or to allow rehiring where the costs of the program are borne by user fees.

While this optional early retirement window is brand new for the Government, it follows a trail blazed over the past 5 years by many of America's leading employers. In times of financial stress, this bill provides an efficient, yet compassionate way of reducing costs.

Some have hinted that the legislation will not pass. I am reminded of those who said the same thing about my proposal to reduce personal tax rates. I introduced the idea of personal tax rate reductions more than 5 years before it gained widespread support. It took hard work and persistence, but it paid off. And I will not give up this battle. I welcome the new year, the new administration, and a new environment for which to consider this bill.

I welcome the comments of my colleagues, administration officials, employee groups, and Federal workers with an interest in this idea, and I hope the Governmental Affairs Committee will meet soon on this legislation.

Mr. President, this legislation has a great deal to offer, both to Federal

employees and to the Government. I hope that it will be given timely consideration by the Senate.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the "Summary was ordered to be printed in the RECORD," as follows:

OPTIONAL EARLY RETIREMENT WINDOW

PURPOSE

To accommodate employees who are ready to retire but fall short of current age and service requirements.

To invite employees to accelerate their retirement to avoid possible adverse effects of budgetary decisions.

To provide job security and career opportunities for women, minorities, and younger workers.

To reduce civilian payrolls on a voluntary basis.

WINDOW PERIOD

Two month window beginning 30 days after the beginning of the fiscal year following enactment of the legislation.

ELIGIBILITY

Employees may qualify under any of the following 4 standards: Any age with 25 years of service; age 50 with 20 years of service; age 55 with 15 years of service; age 57 with 5 years of service.

Non-supervisory or administrative law enforcement agents, air traffic controllers, and firefighters, who currently have their own special early retirement rules, are excluded; also, Members of Congress and certain judges.

BENEFIT AMOUNTS

Employees retiring below age 55 take a benefit reduction of 2 percent for each year they are below age 55.

EXEMPTIONS

The President may exempt up to 25% of an agency's eligible early retirees. Exemptions shall be designated by occupational categories deemed to be critical to the mission of the agency. In addition, the President may exempt a particularly critical project or geographic location under the 25 percent rule.

HOLD-OVER AUTHORITY

Agency heads may hold over, for up to six months, an employee who has elected early retirement to ensure the continuous performance of a responsibility or project.

RESTRICTIONS ON RE-HIRING

No agency may replace a worker who retires during the 60 day window period for five years beginning at the start of the window period.

To assure the orderly continuation of government services, the President may waive hiring restrictions for occupations critical to an agency's missions or agencies whose services are financed through user fees. The Postal Service is exempt from the re-hiring restrictions. The agency cost of re-hiring may not exceed the cost savings resulting from the implementation of the legislation.

AUTHORITY

The President or his designee is in charge of the early out process for the executive branch.

SAVINGS

Savings from this legislation may not be used for other purposes. The Director of the Office of Management and Budget shall determine the amount equal to the savings resulting from the implementation of this act for each agency and shall notify the President. The President shall cancel an amount of the Budget Authority of each agency equal to the amount determined by the OMB Director. This will ensure that savings will result from enactment of this legislation.●

Mr. D'AMATO (for himself and Mr. DECONCINI):

S. 69. A bill entitled the "Posse Comitatus Improvement Act of 1989", to the Committee on Armed Services.

THE POSSE COMITATUS IMPROVEMENT ACT OF 1989

● Mr. D'AMATO. Mr. President, I rise today to introduce a bill to authorize more direct involvement by the Armed Forces of the United States in drug interdiction. This bill, cosponsored by my good friend, Senator DECONCINI, recognizes that we are losing the war on drugs. In fact, we should not even call what we are engaged in a war. Real wars involve total national commitment, a comprehensive strategy, and enough resources to have a chance of winning.

This bill fills in many of the gaps in our commitment, strategy, and resources.

The Posse Comitatus Improvement Act contains several changes in the law, including drug arrest authority for the military, that Senator DeConcini and I supported last year. Although these changes passed the Senate by vote of 83 to 6 on May 13, 1988, they were deleted from the final version of the National Defense Authorization Act that became Public Law 100-456.

The following deletions from the National Defense Authorization Act are restored by the Posse Comitatus Improvement Act:

First. A clear statement of mission. The bill provides that "The transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security" and that "a mission of the Armed Forces of the United States will be to assist Federal law enforcement agencies responsible for the interdiction of illicit drugs entering the United States";

Second. Arrest authority. Members of the Armed Forces assigned to duty on Navy vessels to which a member of the Coast Guard has been assigned may, outside the United States, arrest drug smugglers, and engage in searches and seizures to the same extent that members of the Coast Guard can;

Third. Increased radar coverage and pursuit aircraft for drug interdiction. The Defense Department is required to provide increased airborne radar surveillance support and pursuit aircraft for drug interdiction. This will mean at least 2,000 more flying hours for E-2C's and AWACS aircraft, dedicated to looking for drug smugglers. It will mean more flyng hours dedicated to drug interdiction along the southwest border until the aerostats now planned for installation are fully operational. It will also mean that more radar balloons and other surveillance assets will be provided by the Department of Defense to fill the gap that now exists from Texas all the way east to the Virgin Islands;

In addition to restoring language deleted from last year's defense authorization bill, the Posse Comitatus Improvement Act increases the involvement of the Defense Department in drug interdiction in the following ways:

Military Drug Interdiction Program established as part of the 5-year defense plan. The Secretary of Defense is required to create a new military drug interdiction program. The bill requires this new program's inclusion in the 5-year defense plan, the Department's principal programming and budgeting document.

Report on use of deadly force. The Secretary of Defense is directed to report to Congress on the current provisions of law and regulation which permit the use of deadly force during peactime by military personnel in the performance of their official duties. The report would also contain what changes, if any, would be necessary to these laws to permit the military to employ deadly force in specific drug interdiction circumstances.

Surveillance of Colombian drug air strips. The Chairman of the Joint Chiefs of Staff is directed to prepare a plan to provide additional E-3A and E-2C flight hours for operations off the coast of Colombia. It is essential that the gap in radar coverage off the coast of Colombia be closed.

Ensuring future funding. Within 90 days of the date of enactment of this bill, the President shall submit a request to Congress for the amount of funds needed to continue operation of the program through fiscal years 1989, 1990, and 1991.

Mr. President, we know that interdiction alone will not win this war. We know that we must reduce demand through effective deterrence, education, prevention, and rehabilitation. But we must have stronger interdiction as well. Despite record seizures of drugs, the price of cocaine on our streets has been dropping, because those seizures have failed to reduce the supply.

The program proposed in this legislation can be implemented. It will close very large gaps in our present interdiction program. It represents a meaningful commitment of our national will and resources. By involving the military directly in the war on drugs, it says the United States of America is prepared to defend itself

against the greatest threat to the health and well-being of its people that exists today.

I urge my colleagues to give this legislation their full support.

Mr. President, I ask unanimous consent that the Posse Comitatus Improvement Act be printed in its entirety at the conclusion of my remarks.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. (a) In this section—

(1) the term "Secretary" means the Secretary of Defense; and

(2) the term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(b) FINDINGS.—The Congress finds that—

(1) the transport of weapons, drugs, and other contraband, as well as terrorists, across the borders of the United States constitutes a threat to the national security;

(2) a mission of the armed forces of the United States shall be to assist Federal law enforcement agencies responsible for the interdiction of illicit drugs entering the United States by an aircraft or vessel;

(3) the additional resources and funds necessary to carry out this section should be made available to the Department of Defense; and

(4) activities under this section by members of the armed forces should be carried out in full consultation and cooperation with appropriate law enforcement agencies.

(c) DRUG INTERDICTION ASSISTANCE.—(1) Title 10, United States Code, section 379 is amended by inserting the following new subsections at the end thereof:

"(e) Under regulations jointly prescribed by the Secretary of Defense and the Secretary of Transportation in consultation with the Attorney General, members of the armed forces who—

"(1) are assigned to duty on vessels of the Navy to which a member of the Coast Guard has been assigned under this section;

"(2) have been provided with appropriate training in the drug law enforcement functions of the Coast Guard; and

"(3) have been designated by an authorized member of the Coast Guard to perform the drug law enforcement functions of the Coast Guard may, outside the United States, assist or perform any of the drug law enforcement functions of the Coast Guard under title 14, United States Code, section 89.

"(f) Upon motion by the Attorney General or his designees, any civil action, claim, or proceeding brought against any member of the armed forces arising from such member's performance of duties under this chapter shall be deemed an action exclusively against the United States, and the United States shall be substituted as a party defendant. The United States shall be entitled to all defenses otherwise available to an employee of the United States under state or federal law as well as defenses to which the United States is independently entitled.".

(d) RADAR COVERAGE.—(1) As soon as practicable after the date of the enactment of this Act, the President shall deploy additional radar surveillance aircraft in sufficient numbers to provide at least 2,000 more hours of military AWACS and E-2 flying time dedicated to drug interdiction for the year beginning on the date of the enactment of this Act than were provided in fiscal year 1987.

(2) An appropriate increase of flying hours shall be dedicated to such assistance along the Southwest border of the United States until such time as the aerostat radar surveillance systems that, as of the date of enactment of this Act, are planned for installation along such borders, are fully operational.

(3) The Department of Defense is directed to place specific radar surveillance and detection assets, including, but not limited to, aerostats, airships, E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft), to fill the radar surveillance gap that exists from Brownsville, Texas, east to the Virgin Islands.

(e) PURSUIT AIRCRAFT.—The Department of Defense shall make available to the Coast Guard and Customs Service such rotary wing and fixed wing aircraft of the armed forces as are needed to be used by such agencies in the pursuit of aircraft or vessels involved in illegal drug operations.

(f) EXPENSES.—The expenses of carrying out this Act shall be borne by the Department of Defense.

(g) REQUEST FOR FUNDING.—Within 90 days after the date of the enactment of this Act, the President shall submit to Congress a request for—

(1) the amount of funds spent in the first ninety days as a result of the drug interdiction program required by this Act; and

(2) the amount of funds needed to continue operation of the program through fiscal years 1989, 1990, and 1991.

(h) BUDGET REQUESTS AND FIVE YEAR DEFENSE PLAN.—(1) The Secretary of Defense shall create for the Military Drug Interdiction Program a major force program category for the Five Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Force Management and Personnel shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

(2) Program and Budget Execution. To the extent that there is authority to revise programs and budgets approved by Congress for the Military Drug Interdiction Program, such authority may be exercised only by the Secretary of Defense.

(3) The President shall submit in his budget for fiscal year 1991 for the Department of Defense a request for funds for the Military Drug Interdiction Program required by this act in the form of the major force program category established by subsection (h)(1) above.

(4) The Department of Defense is directed to include the Military Drug Interdiction Program in the Department of Defense Five Year Defense Plan (FYDP).

REPORT REQUIREMENTS

SEC. 2. (a) USE OF DEADLY FORCE.—The Secretary of Defense, after consultation with the Chairman of Joint Chiefs of Staff, the General Counsel of the Department of Defense, the General Counsels of the Army, Navy, and Air Force, respectively, and the commanders of the combatant commands established pursuant to 10 U.S.C. 161(a), shall report to the Committees on Armed Services and the Committees on the Judiciary of the Senate and House of Representatives, to the Senate International Narcotics Control Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives on—

(1) all current provisions of law and regulation permitting the use of deadly force during time of peace by United States military personnel in the performance of their official duties—

(A) within the territorial land, sea, and air of the United States, its territories and possessions; and

(B) outside the territorial land, sea, and air of the United States, its territories and possessions.

(2) changes, if any, that may be necessary to existing law and regulations to permit United States military personnel to employ deadly force under the following circumstances—

(A) to bring down a suspected drug smuggling aircraft which has refused or ignored instructions to land at a specified airfield for customs inspection after penetrating the territorial airspace of the United States;

(B) to halt a suspected drug smuggling vessel on the sea which has been ordered to heave to for inspection by a United States vessel or aircraft and has ignored or refused to obey the order;

(C) to halt a suspected drug smuggler who has crossed the land border of the United States illegally and who has refused to obey or ignored an order to stop for customs inspection; and

(3) deadline for submission of the report. The required report shall be submitted not later than ninety days after the enactment into law of this Act. The required report may be submitted in both classified and unclassified versions.

(b) AIR INTERDICTION DEFENSE-IN-DEPTH.—(1) The Chairman of the Joint Chiefs of Staff shall direct the preparation of a plan in consultation with the commanders of the combatant commands to provide sufficient additional E-3A and E-2C flight hours for operations off the coast of Colombia to successfully implement during the current fiscal year the defense-in-depth concept for air interdiction set forth in the National Air Interdiction Strategy section of Toward a Drug-Free America: The National Drug Strategy and Implementation Plans, 1988, issued by the National Drug Policy Board.

(2) The Secretary of Defense shall report to the Committee on Armed Services of the Senate and House of Representatives, to the Senate International Narcotics Caucus, and to the Select Committee on Narcotics Abuse and Control of the House of Representatives not later than ninety days after the enactment of this Act into law on the specific details of the plan required by subsection (b)(1) above.

RULE OF CONSTRUCTION

SEC. 3. Nothing in this section or in the amendments made by this section shall be construed to limit the authority of the Executive branch in the use of Department of Defense personnel or equipment for law enforcement purposes otherwise authorized by law.●

By Mr. HELMS:

S. 70. A bill to control the spread of AIDS; to the Committee on Labor and Human Resources.

AIDS CONTROL ACT

● Mr. HELMS. Mr. President, I am today introducing the AIDS Control Act of 1989 which is a comprehensive bill designed to treat AIDS as the public health issue it is, rather than the civil rights issue it has become. I have no doubt that if we take this vital step, we will curb the spread of this lethal disease.

Mr. President, the AIDS Control Act of 1989 is similar, but not identical to, a bill I introduced on June 10, 1987. Since that date, three sections of that bill have become law. In December 1986, the Public Health Service began testing immigrants for the AIDS virus along with a host of other dangerous contagious diseases. In the spring of 1988, Veterans' hospitals began offering an AIDS test to all veterans being treated for sexually transmitted diseases or drug abuse. Pursuant to a congressional mandate, the D.C. Council has repealed a law which gave special preference to individuals infected with the AIDS virus concerning insurance coverage. That law will become effective this spring and residents of the District will once again be able to purchase insurance.

Other strides have been made as well, Mr. President. In the fall of 1987, Congress placed content restrictions on AIDS materials to ensure that hard-earned tax dollars were being used to end the AIDS epidemic, rather than promote sodomy. Although that measure had a legislative life of only 1 year, it certainly has heightened public awareness of how hard-earned Federal tax-dollars are being wasted in the name of AIDS education.

I am glad to see, Mr. President, that the 100th Congress did not enact a Federal confidentiality law. As most Senators know, the House tried to ramrod through the Senate legislation which, in effect, would have repealed all State confidentiality and right to know laws and replaced those laws with a draconian Federal confidentiality law. State laws requiring that health care workers be notified if they have been exposed to the deadly AIDS virus would have been repealed. State laws requiring that funeral directors be automatically notified if they have been exposed to the AIDS virus would have been repealed. State laws requiring that sexual partners be notified about their partner's infection with the AIDS virus would have been restricted. State laws requiring notification to spouses would have been restricted. State laws authorizing the AIDS testing of a defendant charged with rape would have been repealed. State laws prohibiting the knowing transmission of the AIDS virus would have been unenforceable because the physician who tested the defendant for the AIDS virus would have been prohibited from testifying in court. And the ramifications go on and on, Mr. President. While I believe that confidentiality has an appropriate place in AIDS policy, I also believe that it should be handled by State law, not Federal law. Furthermore, I do not think that concerns about confidentiality should supersede concerns about public health.

I have no doubt, Mr. President, this issue will be addressed again this Congress. I hope the 101st Congress will have the courage to refuse to enact this ill-conceived idea, just as it did in October of this past year.

So, we have made some progress, Mr. President. But those steps, while significant, seem miniscule when compared to the task that lies before us.

Unfortunately, Mr. President, our efforts to treat AIDS as a public health concern have been thwarted by a vocal, militant minority which has used the AIDS issue to promote a political agenda it has failed to achieve in its own right. Of course, I am referring to the homosexual lobby. Members of this militant movement have masterfully manipulated the American public into believing that they, the homosexuals, are innocent victims of the AIDS epidemic rather than its perpetrators. By feeding on America's compassion, they have turned the AIDS epidemic to their political advantage by using it to promote something they have never achieved before—homosexual rights.

Mr. President, just listen to a quote from an article entitled, "The Overhauling of Straight America," which appeared in the November 1987 issue of Guide Magazine:

> In any campaign to win over the public, gays must be cast as victims in need of protection so that straights will be inclined by reflex to assume the role of protector. If gays are presented, instead, as a strong and prideful tribe promoting a rigidly nonconformist and deviant lifestyle, they are more likely to be seen as a public menace that justifies resistance and oppression. For that reason, we must forego the temptation to strut our "gay pride" publicly when it conflicts with the Gay Victim image.

Unfortunately, Mr. President, the AIDS issue has become the perfect tool to advance the political and social agenda of the homosexual lobby.

I commend some members of this movement for one thing, Mr. President. At least some admit they are using the AIDS issue to convert straight America. In an August 2, 1985 Washington Post article, Gary McDonald, executive director of the AIDS Action Council, summed it up this way:

> We have to wear down the old stereotypes, and it is a burning irony that it will take AIDS to do that . . . But after thousands of men like Rock Hudson, men you thought you knew, go on TV, it's going to get harder to tell those old faggot jokes about swishy limp-wristed men. I'm sorry it's going to take so many dead men to make that point.

Mr. President, any time one even suggests that traditional public health measures should be taken, such as testing and contact tracing, there are outcrys of homophobia. Even the Surgeon General's report has been attacked by the homosexual community as homophobic because it suggests abstinence from anal sex. How preposterous, Mr. President.

Mr. President, for the sake of the future of our children and grandchildren, we must begin treating AIDS as the public health concern it is. While some are using the AIDS issue to promote political and societal acceptance of an anti-Christian lifestyle, thousands of innocent Americans are dying. If current trends continue, it is estimated that by 1991 the total of those dead and dying from AIDS will exceed 270,000 Americans, which is more than all of the Americans who died in the Korean and Vietnam wars combined.

AIDS is no longer confined to the homosexual population. As of 1986, AIDS was the leading cause of death in New York City for women between the ages of 26 and 35. I recently read an article which reported one doctor's belief that by 1991, AIDS will be the leading cause of death for children under the age of 18. I can imagine no crueler punishment, Mr. President, than to discover that through no fault of your own, you have contracted a disease which could have been avoided but for the lustful endeavors of a vocal minority.

My bill, Mr. President, will move us in the right direction. It addresses five major areas: AIDS education and prevention, testing and contact tracing; recordkeeping on the prevalence of the HIV infection; protection of the organ, semen and blood supply; AIDS testing in the military, in prisons and federally operated hospitals.

Mr. President, let me now review in detail the provisions of my bill.

Section 2 would simply require the Centers for Disease Control [CDC] to keep records of those individuals infected with the human immunodeficiency virus. Currently the CDC records only individuals with AIDS.

The Public Health Service estimates that 30 percent of those individuals who are infected with the virus will develop AIDS. A few years ago, Dr. Roy Schwartz of the AMA reportedly stated, "As an immunologist, I do not see any reason not to see 100 percent" of those infected developing the disease.

Mr. President, by keeping records only of those individuals with AIDS and ignoring the numbers of those infected, we will never be able to grasp the magnitude of this epidemic. The Centers for Disease Control keeps track of all stages of syphilis. It should

certainly do so for all stages of AIDS as well.

Section 3 requires all blood banks to test individuals for the AIDS virus. Mr. President, although I am sure that most blood banks are testing for the AIDS virus, it is not a condition of licensing. This section will simply ensure the highest standard of safety in our blood supply.

Mr. President, section 4 changes the rules for blood banks. All collectors and distributors of blood must be federally licensed. Under this provision, in order to obtain a license, the entity must provide the patient with the option of using his or her own blood for elective surgery and also provide the patient with the option of using a designated donor's blood.

Despite assurances from experts that the public has nothing to fear, Mr. President, many medical professionals are skeptical about the safety of the blood supply. In a survey of 4,000 doctors, nearly half—45 percent—of the doctors in private practice who responded to the survey said that if a family member were about to have elective surgery, they would shun publicly donated blood and would make arrangements to have their own blood or that of other family members used instead.

Mr. President, some blood banks and blood suppliers are openly opposed to autologous and directed blood donations. However, in high risk areas, such as San Francisco and New York City, some blood suppliers have bowed to public pressure and are now allowing autologous and directed blood donations. In San Francisco, the rate of individuals wanting autologous blood donations reached 13.5 percent in 1985. In Chicago, 10 percent of the elective surgery patients in 1985 chose to reserve a supply of their own blood. In New York City, officials at Columbia Presbyterian Medical Center reported that the number of patients who asked to store their own blood jumped 50 percent in 1985.

In areas where the AIDS epidemic has not reached the proportions found in San Francisco or New York City, autologous or directed blood donations are much more difficult to obtain. According to an August 17, 1986, New York Times article, many blood banks discourage donations earmarked for specific patients and have refused to cooperate with clubs of blood donors. And some, especially in the South and Midwest, where AIDS cases are low, have discouraged autologous blood storing, alleging that it poses storage and bookkeeping problems.

The earlier opposition to autologous donations is now waning. The AMA and NIH have recently endorsed autologous blood donations. At a July 1986 symposium sponsored by NIH, an expert panel concluded that autologous blood is the safest form of transfusion therapy. Blood banks and blood centers should make this option available to all qualified healthy people. The panel did not take a position on directed blood donations.

The opposition to directed donations has deteriorated as well. In many institutions, however, directed donations are not encouraged and, in some cases, discouraged. Some State legislatures have legislatively counteracted this opposition. California, for instance, has enacted a bill mandating that all blood banks within California allow directed blood donations.

Unfortunately, Mr. President, it is my understanding that some blood banks still refuse to allow directed donations. I find it alarming that a person going into a hospital for elective surgery may not be able to take his wife's compatible blood, or his child's or his neighbor's. Individuals should have the freedom to choose whose blood they will receive and should not be held hostage by the blood banks.

Section 4, modeled after the California law, will allow patients to receive blood from a compatible donor of his or her choice.

Section 5 of the bill amends title X of the Public Health Service Act—the so-called family planning program—to require grantees of the title X program to notify clients about the risk of contacting AIDS and that contraceptives—including condoms—will not provide full protection against the AIDS Infection.

As of December 12, 1988, Mr. President, 1,291 children under the age of 13 had been reported as having AIDS and 1,616 under the age of 20 have been reported to have AIDS. Obviously, this is the tip of the iceberg since these figures represent children who have developed full-blown AIDS, not children who are infected with the AIDS virus.

It is a fact, Mr. President, over one-third of the title X clientele are sexually promiscuous teenagers. It is imperative that if the Federal Government is going to be involved in what some have called the safe sex business, we owe it to the recipients of these services to tell them the truth about how safe certain measures are.

Section 6 of the bill would require States who want to participate in the Federal venereal disease program or other programs for AIDS prevention, treatment, or counseling to take legislative or administrative action to require reporting of all cases of HIV infection to the State health officials.

Mr. President, in order to contain the spread of the HIV virus, it is imperative for States to treat HIV infection in the same manner that they treated the syphilis epidemic of the 1930's. At that time, because of public health concerns, States enacted laws to contain the spread of the disease including mandatory reporting of cases to the State public health departments and premarital testing.

The majority of States have mechanisms in place to require reporting of other venereal diseases and almost one half the states still require premarital testing for syphilis or rubella, both with adequate confidentiality laws. In light of the fatal nature and rapid spread of the AIDS virus, it is imperative that State take similar precautions with respect to AIDS.

The States can then send these figures to the Centers for Disease Control, giving the Federal Government better statistics on the growth of the epidemic.

Mr. President, section 7 would require that those states receiving moneys for AIDS education and prevention take legislative or administrative steps to ensure that spouses of individuals infected with the AIDS virus are promptly notified.

Mr. President, this section should sound familiar to most Senators. The language is similar to, but not identical, to language I proposed to be added to the fiscal year 1989 Labor/HHS Appropriations bill. As Senators will recall, that amendment failed by one vote.

Senators will recall the reason I proposed this amendment. During the summer of 1987 I received a call from a young woman whose mother wanted to come by and thank me for what I have done on the AIDS issue. As is the case with all Senators, I meet dozens of people each day, but the face to face meeting with that lovely lady and her daughter is something I will never forget as long as I live.

The meeting did not last long. After the usual amenities, the three of us began to discuss why this lady had come to see me. Tears began to well up in the woman's eyes as she began her painful story. She told me that she had AIDS and was dying. Her bisexual husband had infected her with the AIDS virus. He had not told her he was infected and State law prohibited his doctor from telling her.

Mr. President, we hear so much about protecting the confidentiality of the AIDS-infected patient. Yet, we hear nothing about the fatal consequences of ironclad confidentiality laws. We see the homosexuals march in Washington for their rights. Yet, we are blind to the rights of this woman and the thousands like her who through no fault of their own have become infected with the deadly AIDS virus.

As one Senator, I hear the cries of that woman and the thousands like her. She deserves to live. She has a right to know that she is exposing herself to the deadly AIDS virus.

Section 7 does not require States to initiate a spousal notification pro-

gram. It simply says that if a State wants hard-earned tax dollars to combat the AIDS virus, that State must make a serious effort to protect a spouse from exposing himself or herself to the AIDS virus.

Section 8 would simply require States receiving Federal moneys to combat AIDS to close all homosexual bathhouses.

Mr. President, traditionally, this country's Federal and State health authorities have taken action to eliminate sources of contagion. Public health authorities routinely inspect restaurants, hotels, public swimming pools, beauty salons, barbershops and other facilities to make sure they are safe for public use. If they are found to be spreading a disease or there is evidence that they pose a serious health threat to patrons, they are shut down.

Mr. President, I agree with this traditional health measure. The health and safety of our Nation is paramount. Facilities which pose a health threat to patrons should be closed.

Closing bathhouses makes good sense, Mr. President. As of December 12, there were 80,538 cases of AIDS in this country. Almost 70 percent of those cases are among homosexual or bisexual men.

Many communities have closed bathhouses because of the health threat, Mr. President, but other cities have failed to shut down these breeding grounds of death. According to the local health departments, there are 8 to 12 bathhouses in Los Angeles; 2 in the Houston area; 2 in Dallas; and 4 in New York City.

This section will turn off the spigot, so to speak, Mr. President. Just as public health officials are quick to close other facilities which pose a health threat to the American people, we should not provide an exception for homosexual bathhouses.

Mr. President, I am not alone in wanting to close bathhouses; 65 percent of the American public surveyed in November 1986 by USA Today want massage parlors and other "centers for casual sex" closed. I, as one American, agree with the American people.

Section 9 would prohibit Federal dollars from being used for so-called needle exchange programs. Mr. President, before the 100th Congress adjourned, we made an around-the-clock effort to enact a bill intended to combat the drug war. For fiscal year 1989 alone, we have appropriated $336 million of hard earned tax dollars for drug treatment, drug enforcement and drug interdiction. During passage of that bill, Senators made strong proclamations that drugs are crippling our Nation and that we must eradicate drugs from our streets, our schools, and our schools, and our communities.

Yet, Mr. President, when we talk about the AIDS epidemic, the mood seems to change. As we saw in the debate in April of last year, some in this Chamber believed—and still do—that distributing clean needles in exchange for dirty ones is a good thing, despite the hard facts that such programs have not significantly reduced the spread of the AIDS virus.

Mr. President, a good example is the Amsterdam study. Lauded as the success story of the ages, close examination shows that it has not significantly reduced the spread of AIDS. In 1985, a researcher reported to the Third International AIDS Conference:

> In December 1985 an epidemiological study among drug addicts in Amsterdam was initiated. As of 15th October 1986, 243 drug users had entered the study of whom 80 percent were IV users . . . At entry into the study 66/243 or 27 percent were anti-HIV seropositive; 64/66 were IV users . . . Significant changes in lifestyle were found among participants toward a less risk behavior . . . However, among 50 HIV-seronegatives followed up, 4 HIV-seroconversions have [converted], indicating that till now prevention measures taken in Amsterdam have had only a limited influence on the speed with which HIV spreads among drugs users.

Mr. President, this section would ensure that hard-earned tax dollars are not used to fund illegal and deadly behavior.

Section 10 would prohibit Federal dollars from being used to distribute condoms or pay for printed, visual, or audio advertising recommending condom use.

Mr. President, despite what the self-proclaimed experts want you to believe, not a single study shows that condom use will prevent AIDS transmission. While condom use may reduce your chances of contracting the virus, it certainly is not 100 percent effective.

Mr. President, the condom's dismal record as a contraceptive should give the American public some cause for alarm. According to most studies condoms fail to prevent pregnancy 10 percent of the time. A woman can conceive a child only a few days each month. In contrast, a person can contract the AIDS virus every minute of every day of the every month. This fact suggests that condom failure is even higher in preventing the spread of the AIDS virus.

Advocating condom use has accomplished one thing, Mr. President. It has put this Government's stamp of approval on the anti-Christian ideals of the sexual revolution, a revolution that can be credited with family breakups, rising abortions, rising out-of-wedlock births, rising VD rates, and rising school dropout rates.

This section would prevent further Federal funding of this misdirected approach to the AIDS problem.

Section 11 would prohibit any Federal monies from being used to promote homosexuality and would require that all AIDS education emphasize abstinence from sexual activity outside a monogamous marriage.

Mr. President, this section is identical to an amendment which was enacted in 1987. Unfortunately, since that amendment was attached to the fiscal year 1988 appropriations bill, it lived for only 1 year.

Mr. President, despite what the homosexual lobby wants you to believe, there is absolutely no credible evidence showing that explicit, pornographic AIDS education has reduced the spread of the AIDS virus. Just like the condom campaign, the AIDS education campaign has pointed this Nation down the improper path of discarding a moral ethic in public health policy. Until we return to that ethic, we will never solve the AIDS epidemic.

Section 12 would require states receiving Federal monies for AIDS education and treatment to take administrative or legislative action to require premarital testing.

Mr. President, despite all the hemming and hawing to the contrary, mandatory premarital testing for a contagious disease is a good idea. Traditionally, States have required premarital testing for syphilis, rubella, tuberculosis, and so forth, especially during epidemic periods. About one-half the States still require testing for these diseases despite the fact that these diseases are no longer epidemics and there are now known cures. If we can test for these diseases, I see no reason why we shouldn't test for AIDS, a disease which is far deadlier for parents and for unborn children than any disease in history.

I do not think I am alone on this position, Mr. President. The American people want this Government, this Congress to take some action. A poll taken in April 1987 found that at least 70 percent of the American public favors pre-marital testing for AIDS infection. A more recent Wall Street Journal/NBC News poll shows that at least 82 percent of the American public favors premarital testing.

Even the Centers for Disease Control supports premarital testing in some instances. In their August 14, 1987 guidelines, page 512, the CDC recommends:

> Premarital testing in an area with a prevalence of HIV infection as low as .1 percent may be justified if reaching an infected person through testing can prevent subsequent transmission to the spouse or prevent pregnancy in a woman who is infected.

I hope to see this section enacted this Congress.

Section 13 addresses the problem of AIDS transmission through tainted organs, semen and blood. It would codify a 1985 recommendation by the Public Health Service that individuals who have AIDS or who are at high risk of contracting it should refrain

from donating blood, semen or organs. My bill would simply insure compliance with this recommendation by imposing a fine of $10,000, a term of 10 years, or both for those at high risk or those with AIDS who donate or attempt to donate blood, semen, and organs.

Currently, Mr. President, blood banks and hospitals using the enzyme-linked immunosorbent assay [ELISA] test can identify most blood donations contaminated with human immunodeficiency virus. However, these tests, while accurate, detect only the antibody and not the virus. The National Academy of Sciences has warned that all infected donors are not detected by the current tests. It states in the report titled, Confronting AIDS:

> The small fraction of false-negative test results and the length of time between infection with the virus and the appearance of antibodies underscore the need for those who have engaged in high-risk behaviors to refrain from donations; even with available screening techniques, this is still of paramount importance.

Their warning has rung true, Mr. President. On February 26, 1988, the New England Journal of Medicine reported a number of cases of HIV transmission, despite AIDS virus testing of the blood units. In November 1985, a 31-year-old man donated blood which tested positive for HIV. Earlier in the year, he had donated blood in August 1985. When interviewed, he admitted to homosexual contacts. Two patients receiving this man's blood donation from August 1985 tested positive for the AIDS virus.

In 1986, a 20-year-old man donated blood after having been turned down by a plasma bank in 1984. The blood tested negatively for the AIDS virus. Two individuals, an infant and a 55-year-old man, received blood derivatives from this donation and subsequently tested positive for the AIDS virus. Upon investigation, it was learned that the donor had many anonymous homosexual partners 12 to 16 weeks before the donation and was dying of AIDS at the time of the interview.

Another man donated blood in July 1986. The blood tested negative. Six months later his blood tested positive. A woman receiving blood derivatives from the first donation tested positive in January 1987. Follow-up interviews indicated that he had had two- to five-male partners per year before the first donation and had donated to determine his HIV status.

Mr. President, the study further states that its worse case estimates that as many as 460 recipients of screened blood may become infected annually.

To make matters worse, Mr. President, researchers continue to find new viruses associated with AIDS, making the current testing procedures dismally inadequate to prevent future contamination of our Nation's blood supply. Dr. Essex of the Harvard School of Public Health, reportedly, has stated that the blood test used to detect antibodies against HTLV-III can only detect 60 to 92 percent of individuals with antibodies against LAV-II or HTLV-IV, in contrast to 99 percent of individuals with HTLV-III. Researchers at the Pasteur Institute in Paris believe that the rate of detection of LAV-II may be as low as 30 to 50 percent.

Until recently, experts believed that the HTLV-I virus, another virus affiliated with AIDS, had not reached American shores, but on July 1, 1987 Dr. Robert Gallo, one of the discoverers of the HTLV-III virus, told the International AIDS Conference that there are a "few million Americans" infected with the HTLV-I virus. The blood banks are not routinely testing for HTLV-I.

In May 1988, Prof. Ross Eckert, a professor at Claremont McKenna College, testified that HTLV-I has entered the U.S. blood supply. He stated:

> According to reports, the American Red Cross found HTLV-I in 10 out of more than 39,800 units of blood drawn from 8 cities. This is an alarming development. HTLV-II is the rare but lethal "hairy cell" leukemia virus that has also been found in the blood of drug addicts who have antibody to HIV-I.

A concern of blood transmission has prompted a National Institutes of Health panel to recommend to doctors that blood transfusions "be kept to a minimum."

The AIDS virus has also been transmitted through tissue donations. In February 1988, a bone transplant recipient was diagnosed with AIDS after being found positive for the AIDS virus. Investigators found that the recipient had no known risk of HIV infection other than the bone grafting procedure. Investigators also determined that the donor tested positive for the AIDS virus at the time of the interview and had not been tested prior to the donation. Furthermore, he admitted to IV drug use prior to the donation.

According to the Centers for Disease Control, other HIV transmissions have occurred through transplantation of kidney, liver, heart, pancreas, possibly by skin, and by artificial insemination.

Evidence of tissue transmission, Mr. President, has led the Public Health Service to recommend testing and screening for the AIDS virus of donors of all tissues and organs. Furthermore, the Public Health Service recommends that all donors be retested at least 90 days after tissue or organ donation.

In light of these facts, this country must do more to insure a safe blood, organ, tissue, breastmilk and semen supply. Imposing a criminal penalty on anyone who attempts to contribute to a blood, semen, breastmilk or organ bank when that individual knows he or she is infected with the human immunodeficiency virus or is at high risk of infection should deter such individuals from donating, and ultimately insure a safer blood, tissue, organ and semen supply.

Section 14 of my bill would impose mandatory testing in Federal prisons. Since 1981, there have been 67 reported cases of AIDS in Federal prisons.

Mr. President, there is reason to believe that these figures will continue to grow. Inmates in prisons include two populations which appear to be at the greatest risk of developing AIDS—intravenous drug users and homosexuals. Also, makeshift tattooing—a common practice in prisons from what I am told—raises additional risk of AIDS infection.

As more and more of these populations enter Federal penitentiaries, the virus will certainly spread. A 1984 study of homosexual activity and sexual assault in Federal prisons revealed that overall, 12 percent of those surveyed had engaged in homosexual activity while in prison. In penitentiaries, where more dangerous offenders have longer incarceration periods, 20 percent of the penitentiary inmates stated they had had a homosexual experience in their current Federal institution. In response to the question, "Have you had a homosexual experience in a prison as an adult?," 30 percent responded, "Yes."

The study also showed that some Federal inmates were victims of sexual assault. Nine percent responded positively when asked if anyone had forced or attempted to force the inmate to perform sex against his will while in a prison. Two percent of the Federal inmates were targets in a Federal institution; 0.6 percent of Federal inmates were forced to perform an undesired sex act in Federal prison; 0.3 percent of Federal inmates were sodomized in a Federal institution.

Currently, the Bureau of Prisons tests 10 percent of the incoming prisoners and all prisoners leaving prison. My bill would require testing upon entrance, annual testing thereafter, and at such other times as the Bureau of Prisons deems appropriate. Furthermore, my bill would prohibit those infected from being involved in prison blood services, dental services, medical services, or barber shops.

Section 15 of the bill would impose mandatory testing of members of the Armed Forces. Specifically, this provision would require testing prior to entrance and annual testing thereafter.

Mr. President, since I first proposed annual testing in the military two years ago, the Navy and the Marine Corps have begun yearly testing. The Army and the Air Force, unfortunately, test only every 2 years.

Mr. President, for the health and well-being of our Armed Forces, I believe it is imperative for all military personnel to be tested annually for infection with human immunodeficiency virus.

I am also concerned about blood transfusions in times of crises. In those situations, soldiers are assigned a blood partner and blood is not tested prior to transfusion. In cases where a member of the military is unaware that he is infected with the virus, he may be the recipient of blood tainted with the lethal AIDS virus.

Mr. President, we owe it to our soldiers, who risk their lives to protect our freedom, to protect them from the deadly AIDS virus.

Section 16 would require routine testing of all veterans under the age of 40 seeking inpatient treatment in VA hospitals.

Unfortunately, Mr. President, the numbers of AIDS patients in the VA system have skyrocketed. As of November 1988, 5,260 people have been diagnosed with AIDS and cared for in 128 of the 172 VA medical centers. Approximately 180 new cases are diagnosed each month. Of course, this probably represents only the tip of the iceberg since these are people with AIDS rather than people infected with the AIDS virus.

AIDS testing is necessary for a number of reasons. First, it will ensure an accurate diagnosis. It gives the veteran an opportunity to obtain the most up-to-date care in AIDS treatment, and it will provide a valuable opportunity to educate the veteran about AIDS, whether or not he decides to be tested for the disease.

Mr. President, when certain AIDS-related infections attack the human body, they leave visible signs of their presence. These infections provide identifiable signs of the presence of AIDS, but other side effects are now being discovered which do not provide visible signs of their presence and could result in a missed or inaccurate diagnosis.

Mr. President, current research is showing alarming signs that AIDS patients and even asymptomatic patients are experiencing brain dysfunctions. In a study published in the Annals of Internal Medicine in December 1987, researchers found that about half of patients with AIDS who were studied were diagnosed as having severe inflammation of the brain. The researchers noted that of particular interest was the fact that upon examination, these patients had not aroused clinical suspicion of an underlying neurologic disease. Researchers further concluded that about one half the patients with AIDS-related complex have some sort of neurological impairment. The researchers found:

> Seven of the thirteen patients with AIDS-related complex had some evidence of cognitive impairment, and 5 of the 10 patients with AIDS-related complex who underwent MR imaging also had abnormal findings.

The most shocking information, in my opinion, Mr. President, concerned brain dysfunction among individuals simply infected with the AIDS virus. They stated:

> Perhaps most significantly, our data suggest that persons with asymptomatic HIV infections may have incipient central nervous system impairment.

Mr. President, dementia can strike in the early or late course of the disease. It can manifest itself in the form of a slight memory lapse, or an impulsive action, or slowness in thought, or a quickness to anger. Or the mind can be dissolved into what one writer has described as "a massive incapacitating dementia that from outward appearances looked very much like Alzheimer's disease."

Without knowing the presence of the AIDS virus, misdiagnosis can occur, Mr. President. And that is what led me to this amendment. The possibility of dementia alone warrants routinely testing veterans under the age of 40 seeking inpatient care.

Mr. President, I have also mentioned that the AIDS test will ensure optimum care for the veteran infected with the AIDS virus. Research suggests that early detection and treatment of individuals infected with the AIDS virus or those with AIDS-related complex [ARC] reap more favorable results than treatment of patients with full-blown AIDS. In a July 23, 1987 article appearing in the New England Journal of Medicine entitled "The Efficacy of * * * [AZT] in the Treatment of Patients With AIDS-Related Complex," researchers found that ARC patients on AZT for 12 months had a 94-percent survival rate compared with an 86-percent survival rate for AIDS patients taking AZT.

Furthermore, Mr. President, researchers have found that patients in the earlier stages of AIDS who are treated with AZT are less likely to experience certain adverse reactions to the drug than patients with full-blown AIDS. In a study reported in the July 23, 1987 edition of the New England Journal of Medicine entitled "The Toxicity of AZT and the Treatment of Patients with AIDS-Related Complex," Dr. Douglas Richman, the principal researcher reached this conclusion:

> Patients with more advanced disease (AIDS rather than AIDS-related complex) were more likely to have hematologic toxic effects, possibly because of reduced reserves of bone marrow. Patients who have had AIDS longer or who are more debilitated may be more susceptible to the toxic effects of AZT.

Routinely testing during an epidemic is nothing new, Mr. President. We did it during the syphilis epidemic and we should do it today with a disease which is far more lethal and spreading far more rapidly than the syphilis epidemic of the 1930's.

Furthermore, this bill would also require officials of the Veterans' Administration to notify all spouses and sexual partners discovered during counseling about their potential AIDS infection.

Section 17 would require routine testing of individuals seeking treatment for tuberculosis at federally funded tuberculosis centers.

Tuberculosis, Mr. President, is the latest of the known diseases associated with the AIDS epidemic. Unlike other opportunistic infections, however, it is an airborne virus and, as far as current research shows, is far more easily contracted than the other opportunistic infections associated with AIDS.

Make no mistake about it, Mr. President. Cases of TB have increased at alarming rates. In New York City tuberculosis incidence rates have increased 60 percent since 1980.

According to some research AIDS is largely to blame for the rise in TB. According to an April 1987 study by Dr. Arthur E. Pitchenik:

> Tuberculosis-infected patients who develop T-cell immunodeficiency are at increased risk of contracting tuberculosis, and this disease appears to occur with increased frequency among patients with acquired immunodeficiency syndrome.

Numerous other studies have found a direct correlation between AIDS and tuberculosis.

AIDS testing of patients suspected of having TB is wise health policy, Mr. President. It will guarantee an accurate diagnosis. A number of doctors, including the Public Health Service, have recommended dual testing because immunosuppression can result in a false negative test result.

An HIV positive test result can also change the recommended treatment for TB. The Public Health Service has stated:

> Testing for HTLV-III/LAV antibody is especially important for persons over 35 with asymptomatic tuberculosis infection because INH [a drug used in the treatment of tuberculosis-infected patients] would not be usually indicated for persons of this age group unless they are also HTLV-III/LAV seropositive.

Mr. President, routine AIDS testing for those infected with the tuberculin virus will ensure an accurate diagnosis and proper treatment for an individual infected with the tuberculin virus.

Section 18 requires routine testing in federally funded drug treatment centers.

Mr. President, intravenous drug use is the primary transporter of the AIDS virus into the heterosexual community. A 1986 U.S. News and World Report article estimated that at least 225,000 Americans were infected through intravenous drug use.

Intravenous drugs, Mr. President, are now being blamed for growing

numbers of AIDS-related deaths. According to an October 22, 1987 New York Times article, AIDS-related deaths among intravenous drug users accounted for 53 percent of all AIDS-related deaths in New York City since the beginning of the epidemic.

The story is not much different in other areas, Mr. President, 20 percent of the AIDS cases in Massachusetts in 1987 were attributable to intravenous drug use.

The figures of intravenous drug users infected with the AIDS virus is much higher, Mr. President. For example, in New York City, some estimate that 50 percent of the drug users are infected with the AIDS virus. In San Francisco, the Department of Health estimates that 12.7 percent of the IV drug users are HIV positive.

Mr. President, I don't think there is any doubt that the AIDS virus has infiltrated the drug population. Section 18 would simply ensure that those receiving federally funded drug treatment will be given the most accurate information about their AIDS status so that they can begin to seek early treatment for their AIDS infection.

Section 19 would require that federally funded sexually transmitted disease centers to routinely test incoming patients for the AIDS virus.

Mr. President, it is no secret in public health circles that an alarming percentage of men and women attending STD clinics are also infected with the AIDS virus.

In a January 1988 article which appeared in the New England Journal of Medicine, researchers concluded:

> In particular, we are concerned by the equal rates of HIV infection in young heterosexual men and women, and the close association of HIV infection with sexually transmitted diseases such as syphilis, genital herpes, and genital warts.

Researchers are also finding that clinic attendees who are infected with the virus are not at high risk of contracting AIDS. In a report released by the National Institute for Allergies and Infectious Diseases, researchers stated:

> Among the most significant of the study's finding was that one-third of the infected men and one half of all the infected women were either unaware of or did not acknowledge behavior considered to be at high-risk for HIV exposure.

Realizing the strong correlation between an STD infection and infection with the AIDS virus, the Centers for Disease Control have recommended AIDS testing in STD centers. This section would require AIDS testing in all those centers receiving Federal dollars.

Section 20 would require annual AIDS testing of all pilots who fly for a commercial airline licensed by the Federal Government.

Mr. President, undoubtedly, the best kept secret in the public health research today is the mounting evidence showing the large percentage of AIDS patients who are afflicted with AIDS-related brain disorders. In the 1986 report of the Institute of Medicine and the National Academy of Sciences entitled, "Confronting AIDS," as many as 90 percent of the patients dying of AIDS-related conditions have tissue abnormalities of the nervous system at death and a majority of them had some manifestation of neurological disease sometime during their lifetime. Furthermore, according to the report, neurologic complaints are the first symptoms in about 10 percent of the patients infected with the AIDS virus.

Other studies corroborate the National Academy of Sciences' conclusion that dementia may be the first sign of AIDS. However, some researchers have found that AIDS dementia may be the only symptom of AIDS infection. A study in the January 1987 publication of the Archives of Neurology found the following:

> AIDS dementia complex may be the earliest, and at times, the only evidence of human immunodeficiency infection, and that its development in this context may present a diagnostic challenge, particularly in individuals in whom risk of infection by the AIDS virus is cryptic.

Later studies suggest that AIDS dementia is not confined to individuals who have full-blown AIDS but afflicts individuals merely infected with the virus.

In a study which appeared in the December 1987 Annals of Internal Medicine researchers commented:

> Perhaps most significantly, our data suggest that persons with asymptomatic HIV infections may have incipient central nervous system impairment. . . . Whatever the underlying pathogenesis might be, our data suggest a progression of brain involvement occurs in persons with HIV infection that can begin with rather subtle cognitive changes early in the natural history of this viral disease and end with gross dementia in some patients with AIDS.

Mr. President, concern about AIDS-related dementia has prompted the U.S. Air Force to ground pilots infected with the AIDS virus. It has also prompted some foreign airlines to test pilot applicants for the AIDS virus. It is my belief that growing evidence concerning AIDS-related dementia in AIDS patients, including those merely infected with the virus, warrants annual AIDS testing of domestic pilots.

As I stated at the outset of my remarks, Mr. President, I believe the AIDS issue should be addressed as a public health problem not as a civil rights one. Strides have been made in the right direction but a long journey lies ahead. Research to discover more about the virus and how it spreads is mandatory if we are ever going to discover a vaccine. Education and counseling are laudable efforts but more needs to be done. The government, State and Federal, should not be afraid to take steps to contain the AIDS virus. This bill serves as a vital first step.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Control Act of 1989".

SEC. 2. RECORDKEEPING.

Part B of title III of the Public Health Service Act is amended by inserting after section 318 (42 U.S.C. 247c) the following new section:

"SEC. 318A. RECORDKEEPING OF CASES OF ACQUIRED IMMUNE DEFICIENCY SYNDROME, ACQUIRED IMMUNE DEFICIENCY RELATED COMPLEX, AND HUMAN IMMUNODEFICIENCY VIRUS INFECTIONS.

"The Director of the Centers for Disease Control shall keep records of cases of individuals who are infected with the human immunodeficiency virus.".

SEC. 3. TESTING OF BLOOD.

Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended by adding at the end thereof the following new paragraph:

"(3) Not later than 180 days after the date of enactment of the AIDS Control Act of 1989, the Secretary shall promulgate regulations to require that, as a condition of receiving a license under this section, any entity that collects or distributes blood or blood components or derivatives shall test all donors of such blood for the presence of the human immunodeficiency virus prior to accepting a contribution of such blood.".

SEC. 4. PERMITTING DIRECTED AND AUTOLOGOUS BLOOD DONATIONS.

Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) (as amended by section 3) is further amended by adding at the end thereof the following new paragraphs:

"(4) Not later than 180 days after the date of enactment of the AIDS Control Act of 1989, the Secretary shall promulgate regulations to require that, as a condition of receiving a license under this section, any entity that collects or distributes blood or blood components or derivatives—

"(A) permit blood donations made by a donor to be used directly for blood transfusions for such donor or for an individual designated by the donor;

"(B) permit a donor of blood to direct that any blood donated by such donor be used in a blood transfusion for such donor or for an individual designated by such donor if the blood type of such donated blood is compatible with the blood type of such donor or the blood type of the designated individual, as the case may be, and the use of such donated blood is not contraindicated, as determined by the physician of such donor or such designated individual, as the case may be; and

"(C) permit blood donated in accordance with subparagraphs (A) or (B) to be used for an individual other than the donor or an in-

dividual designated by a donor, as the case may be, if—

"(i) the physician of such donor or such designated individual determines that there is a more immediate need for such blood; or

"(ii) the donor consents to the use of such blood for an individual other than the donor or such designated individual.

"(5) Regulations promulgated by the Secretary to carry out paragraph (4) shall provide that any entity to which such paragraph applies is only required to permit the donations of blood described in such paragraph during the normal business hours of such entity.".

SEC. 5. REQUIREMENTS FOR RECIPIENT OF SERVICES AUTHORIZED UNDER TITLE X OF THE PUBLIC HEALTH SERVICE ACT.

Section 1006 of the Public Health Service Act (42 U.S.C. 300a-4) is amended by adding at the end thereof the following new subsection:

"(e) A grant may be made or a contract entered into under this title only after the intended recipient provides assurances satisfactory to the Secretary that such recipient of the grant or contract will, prior to providing to any individual any services with amounts appropriated under this title, inform the individual—

"(1) of the effectiveness of the particular contraceptive method provided to the individual by the recipient as a method to prevent infection with the human immunodeficiency virus and a comparison of such effectiveness with the effectiveness of sexual abstinence;

"(2) that many individuals who are infected with the human immunodeficiency virus will develop acquired immunodeficiency syndrome, which is a fatal disease; and

"(3) that the most effective way to avoid becoming infected with the human immunodeficiency virus is to abstain from homosexual relations, from heterosexual relations outside of a monogamous marriage, and from the sharing of needles used to administer intravenous drugs.".

SEC. 6. CONDITIONS ON GRANTS FOR THE PREVENTION, TREATMENT, AND CONTROL OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Title XXV of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART C—PROHIBITION ON AWARDING OF GRANTS

"SEC. 2531. PROHIBITION ON AWARDING OF GRANTS.

"The Secretary may not make a grant under this title to any State or political subdivision of any State to support a project for education, testing, or counseling concerning acquired immune deficiency syndrome unless the State has taken administrative or legislative action to require that—

"(1) any physician practicing in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is treated by such physician and known by such physician to be infected with the human immunodeficiency virus;

"(2) any physician or medical technician who analyzes the results of clinical tests performed in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is determined as a result of an analysis conducted by such physician or medical technician to be infected with the human immunodeficiency virus; and

"(3) reporting under the laws described in paragraphs (1) and (2) to be carried out in accordance with State laws regulating the confidentiality of records maintained by the State or individuals with sexually transmitted diseases.".

SEC. 7. SPOUSAL NOTIFICATION.

Part C of title XXV of the Public Health Service Act (as added by section 6) is amended by adding at the end thereof the following new section:

"SEC. 2532. SPOUSAL NOTIFICATION.

"(a) PROHIBITION ON USE OF FUNDS.—The Secretary may not make a grant under this title to any State or political subdivision of any State, nor shall any other funds made available under this Act, be obligated or expended in any State unless such State takes administrative or legislative action to require that, within 30 days of diagnosis, a good faith effort shall be made to notify a spouse of an AIDS-infected patient that such AIDS-infected patient is infected with the human immunodeficiency virus.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to a State on January 1 of the calendar year following the first regular session of the legislative body of such State that is convened following the date of enactment of this section.

"(c) DEFINITIONS.—As used in this section—

"(1) AIDS-INFECTED PATIENT.—The term 'AIDS-infected patient' means any person who has been diagnosed by a physician or surgeon practicing medicine in such State to be infected with the human immunodeficiency virus.

"(2) STATE.—The term 'State' means a State, the District of Columbia, or any territory of the United States.

"(3) SPOUSE.—The term "spouse" means a person who is or at any time since December 31, 1976, has been the marriage partner of a person diagnosed as an AIDS-infected patient.".

SEC. 8. BATHHOUSES.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by section 7) is further amended by adding at the end thereof the following new section:

"SEC. 2533. BATHHOUSES.

"(a) PROHIBITION.—None of the funds made available under this title or under any other provision of this Act, shall be obligated or expended in any State if such State does not close all bathhouses where a pattern of continuous homosexual sexual activity or continuous illegal intravenous drug use occurs.

"(b) HOMOSEXUAL ACTIVITY.—The homosexual activity described in subsection (a) means any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

"(c) ILLEGAL DRUGS.—The illegal drug use described in subsection (a) means and includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

"(d) BATHHOUSE.—the term 'bathhouse' means any business that charges a fee for admission and for that fee offers the use of one or more of the following—

"(1) a swimming pool;

"(2) a spa or whirlpool; or

"(3) a communal bath.

"(e) STATE.—The term 'State' means any State, the District of Columbia, or territory of the United States.

"(f) FAILURE TO ACT.—If on January 1 of the calendar year following the first regular session that is convened following the date of enactment of this Act, such State fails to take the action as described in subsection (a), it shall refund to the Federal Government by that date such sums as it received in accordance with this section.".

SEC. 9. PROHIBITION ON USE OF FUNDS FOR NEEDLES AND SYRINGES.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7 and 8) is further amended by adding at the end thereof the following new section:

"SEC. 2534. PROHIBITION ON USE OF FUNDS FOR NEEDLES AND SYRINGES.

"None of the funds made available under this title shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, or to distribute bleach for the purpose of cleansing needles for such use.".

SEC. 10. PROHIBITION ON USE OF FUNDS FOR CONDOMS.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, and 9), is further amended by adding at the end thereof the following new section:

"SEC. 2535. PROHIBITION ON USE OF FUNDS FOR CONDOMS.

"None of the funds made available under this title shall be used in any manner to provide persons with condoms. Furthermore, none of the funds made available under this Title shall be used to promote condoms as a method to prevent the spread of AIDS.".

SEC. 11. PROHIBITION ON PROMOTION OF HOMOSEXUAL ACTIVITY.

Part C of Title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, 9, and 10) is further amended by adding at the end thereof the following new section:

"SEC. 2536. PROHIBITION ON PROMOTION OF HOMOSEXUAL ACTIVITY.

"(A) IN GENERAL.—None of the funds made available under this Title shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

"(b) REQUIREMENT.—Education information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

"(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities); and

"(2) abstinence from the use of illegal intravenous drugs.

"(c) HOMOSEXUAL ACTIVITY.—The homosexual activity referred to in subsection (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

"(d) ILLEGAL SUBSTANCES.—The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

"(e) FAILURE TO COMPLY.—If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

"(1) no further funds shall be provided to the recipient;

"(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

"(3) further payment shall be limited to those recipients not participating in such noncompliance; and

"(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.".

SEC. 12. HIV TEST AND NOTIFICATION AS A CONDITION OF MARRIAGE LICENSES.

Part C of Title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, 9, and 10) is further amended by adding at the end thereof the following new section:

"SEC. 2535. HIV TESTING AND NOTIFICATION AS A CONDITION OF MARRIAGE LICENSES.

"(a) IN GENERAL.—None of the funds made available under this Title shall be available for use in any State, the District of Columbia, or any territory of the United States unless such State, District or territory requires, as a condition for the granting of a marriage license, a test to determine whether the individuals applying for such a license are infected with the human immunodeficiency virus and that both individuals seeking such license shall be notified of each test result.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to a State, District, or territory on January 1 of the calendar year following the first regular session of the legislative body of the State, District, or territory that is convened following the date of enactment of this Act.

SEC. 13. PROTECTING THE NATION'S BLOOD AND TISSUE SUPPLY.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 89 the following new chapter:

"CHAPTER 90—PUBLIC HEALTH PRESERVATION

"Sec.
"1831. Contamination of blood and tissue supply.

"§ 1831. Contamination of blood and tissue supply

"(a) It shall be unlawful for any individual to knowingly donate, or to knowingly attempt to donate blood, semen, or organs, if such individual—

"(1) knows, on the basis of clinical or laboratory evidence, that such individual is infected with the human immunodeficiency virus;

"(2) is a male individual who has had sexual intercourse with another male individual at any time on or after January 1, 1977;

"(3) is an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug the sale, distribution, or use of which is prohibited under Federal or State law at the time the individual injected the drug;

"(4) is an individual who has emigrated to the United States from Haiti, the Central African Republic, Zaire, Rwanda, Burundi, the Congo, Chad, or Uganda on or after January 1, 1977;

"(5) is an individual who has hemophillia and has received a clotting factor concentrate on or after January 1, 1977;

"(6) is an individual who has engaged in prostitution on or after January 1, 1977;

"(7) is an individual who has had sexual intercourse with an individual described in paragraph (1), (2), (3), (4), (5), (6), (8), or (9);

"(8) is an individual who has used a needle for an intravenous drug injection that the individual knows has previously been used for an intravenous drug injection by an individual described in paragraph (1), (2), (3), (4), (5), (6), (7), or (9);

"(9) knows such individual is at high risk of contracting acquired immune deficiency syndrome (as defined by the Director of the Centers for Disease Control); or

"(10) is an individual who has engaged in an activity that such individual knows places such individual at a high risk of contracting such syndrome (as defined by such Director).

"(b) Any person who violates the provisions of subsection (a) shall be subject to a fine of $10,000 or imprisonment for not more than 10 years, or both.

"(c) For purposes of this section, the term 'sexual intercourse' includes the acts described in section 2255(2)(A) of this title.".

(b) CHAPTER ANALYSIS.—The chapter analysis at the beginning of part I of title 18 is amended by inserting after the item for chapter 89 the following:

"90. Public Health Preservation ..... 1831".

SEC. 14. TESTING OF FEDERAL PRISONERS.

(a) IN GENERAL.—Chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4087. AIDS testing

"(a) The Director of the Bureau of Prisons shall test each person incarcerated in a Federal penal or correctional institution for infection with the human immunodeficiency virus—

"(1) on the date such person enters a Federal penal or correctional institution;

"(2) every 12 months after the date described in paragraph (1); and

"(3) at such other times as the Director determines are appropriate.

"(b) The Director of the Bureau of Prisons shall report to the Director of Centers for Disease Control the incidence of each individual who tests positively for infection with the human immunodeficiency virus.

"(c) Not later than 180 days after the date of enactment of the AIDS Control Act of 1989, the Director of the Bureau of Prisons shall promulgate regulations requiring that each individual tested under this section who tests positively for infection with the human immunodeficiency virus—

"(1) be placed in separate residential facilities in a penal or correctional institution, if possible; and

"(2) be restricted from holding any employment in a penal or correctional institution which involves duties that may increase the transmission of the human immunodeficiency virus, such as assignments in blood services, the barber shop, or medical and dental services in any capacity.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following:

"4087. AIDS testing.".

SEC. 15. DISQUALIFICATION OF PERSONS FOR INDUCTION OR RETENTION IN THE ARMED FORCES ON THE BASIS OF INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 983. Disqualification of persons for induction or retention on the basis of infection with the human immunodeficiency virus

"(a) Except as provided in subsection (d)(2), no person may be inducted into or retained in the armed forces (other than in a retired status) if it is determined, on the basis of a test or tests administered to such person under subsection (b), that such person is infected with the human immunodeficiency virus.

"(b) Under regulations prescribed by the Secretary concerned—

"(1) each person examined for induction and re-enlistment into the armed forces shall be tested for infection with the human immunodeficiency virus before induction;

"(2) each member of the armed forces shall be tested for infection with the human immunodeficiency virus at least once each year;

"(3) each time a member of the armed forces is admitted to any medical facility of the uniformed services or of the Veterans' Administration in order to receive in-patient care in such facility, such member shall be tested for infection with the human immunodeficiency virus; and

"(4) each member of the armed forces shall be tested for infection with the human immunodeficiency virus at such times (other than the times specified in paragraphs (2) and (3) of this subsection) as the Secretary concerned considers appropriate.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 49 of such title is amended by adding at the end thereof of the following:

"9830. Disqualification of persons for induction or retention on the basis of infection with the human immunodeficiency virus.".

SEC. 16. VETERANS' ADMINISTRATION.

(a) TESTING.—Section 124(b) of Veterans' Benefits and Services Act of 1988 (38 U.S.C. 4133 note) is amended to read as follows:

"(b) TESTING.—(1) The Administrator shall provide for a program under which the Veterans' Administration routinely tests each patient to whom the Veterans' Administration is furnishing health care or services, as described in paragraph (2), for the human immunodeficiency virus to determine whether such patient is infected with the virus.

"(2) Patients referred to in paragraph (1) are—

"(A) patients who are receiving treatment for intravenous drug abuse;

"(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus;

"(C) patients who are receiving treatment for a sexually transmitted disease;

"(D) patients who are otherwise at high risk for infection with such virus; and

"(E) patients seeking in-patient treatment who are 40 and under.

"(3) The Administration shall provide pre- and post-test counseling to each patient described in paragraph (2).".

(b) DISCLOSURE TO SPOUSE OR SEXUAL PARTNERS.—Section 4132 of title 38, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a), and subject to paragraph (2) of this subsection, a physician or a professional counselor shall disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to—

"(A) the current spouse of the patient;

"(B) any other person who at any time since December 31, 1976 has been the marriage partner of the patient; or

"(C) to any individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2) A disclosure under paragraph (1) may be made by a physician or counselor other than the physician or counselor referred to in paragraph (1)(A) if such physician or counselor is unavailable to make the disclosure by reason of absence or termination of employment.".

SEC. 17. USE OF PREVENTIVE HEALTH SERVICES APPROPRIATIONS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations requiring the recipient of moneys appropriated under section 317 of the Public Health Service Act (42 U.S.C. 247b) to—

(1) routinely test each person receiving treatment for tuberculosis to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such person.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested under such regulations in accordance with Sec. 552(a) of Title 5 of the United States Code.

SEC. 18. REQUIREMENT OF TESTING BY BLOCK GRANT RECIPIENTS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations requiring the recipient of grant moneys under subpart 1 of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to—

(1) routinely test each person receiving treatment for substance abuse through funds provided under such subpart for substance abuse to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such patient.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested in accordance with section 552(a) of Title 5 of the United States Code.

SEC. 19. PROGRAMS FOR THE PREVENTION OF THE SPREAD OF AIDS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations requiring the recipient of grant moneys appropriated under section 318 of the Public Health Service Act (42 U.S.C. 247c) to—

(1) routinely test each person receiving treatment for a sexually transmitted disease from the recipient to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such person.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall be provided to those tested under such regulations in accordance with section 552(a) of Title 5 of the United States Code.

SEC. 20. COMMERCIAL AIRPLANE AIRMEN.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations requiring all airmen applying for certification to operate a commercial airplane to undergo annual testing for the human immunodeficiency virus. Any airmen who test positive for the human immunodeficiency virus shall be denied certification.

By Mr. THURMOND:

S. 82. A bill to recognize the organization known as the 82d Airborne Division Association, Incorporated; to the Committee on the Judiciary.

82D AIRBORNE, INCORPORATED

● Mr. THURMOND. Mr. President, I rise today to reintroduce a bill to grant a Federal charter to the 82d Airborne Division Association. Identical legislation which I introduced last Congress passed the Senate with 55 cosponsors and went on to the House Judiciary Committee where no action was taken.

The 82d Airborne Division was activated initially as an infantry division which participated in three of the major campaigns of World War I: Lorraine, St. Michiel, Meuse-Argonne. On May 27, 1919, the 82d Airborne was inactivated. The division was reactivated on March 25, 1942, under the command of Maj. Gen. Omar Bradley and became the Army's first airborne division under the command of Maj. Gen. Matthew B. Ridgway. Deployed to North Africa in 1943, the 82d made parachute and glider assaults on Sicily and Salerno. In a 2-year period during World War II, the regiments of the 82d saw action in Italy at Anzio, in France at Normandy, where I landed with them, and at the Battle of the Bulge.

Following the end of the war, the sky soldiers of the 82d were ordered to Berlin to serve as "America's Guard of Honor" for 5 months of 1945. Due to logistical problems associated with the servicing of an airborne division overseas, it was returned to the United States where it was greeted with a New York City tickertape reception as it marched triumphantly on Fifth Avenue on January 12, 1946.

The division was assigned to Fort Bragg, NC, to become a leading element of the Nation's military reaction force as well as to participate in a number of peacekeeping missions. Elements of the division have valiantly served in Korea, the Dominican Republic, Vietnam, and Grenada. Peacekeeping units have served in Sinai.

Designed to move quickly to any part of the world and to be prepared to fight immediately upon arrival, the members of the 82d Airborne have served with distinction for over 45 years. They have demonstrated a tireless commitment to our Nation's defense and ideals. Therefore, I can think of no other military association more deserving of the recognition given by Congress in the granting of a Federal charter. I urge my colleagues to join me in cosponsoring this measure to grant such a charter to the 82d Airborne Division Association.

I ask unanimous consent that a copy of the measure be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

POWERS

SEC. 2. The 82nd Airborne Division Association, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for our Nation,

(2) furthering the common bond between retired and active members of the 82nd Airborne Division,

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members,

(4) promoting civic and patriotic activities, and

(5) promoting the indispensable role of airborne defense in our national security.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. (a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

OFFICES OF CORPORATION

SEC. 7. The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation

and shall be in conformity with the laws of the State or States in which it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964, (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964, (36 U.S.C. 1101). The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

SEC. 13. The right to amend, alter, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF STATE

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

TERMINATION

SEC. 16. If the corporation fails to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

By Mr. FORD (for himself and Mr. JOHNSTON):

S. 83. A bill to establish the amount of costs of the Department of Energy's uranium enrichment program that have not previously been recovered from enrichment customers in the charges of the Department of Energy to its customers; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY COSTS FOR URANIUM ENRICHMENT

● Mr. FORD. Mr. President, today I am introducing legislation to fix the amount of prior unrecovered Government cost of providing uranium enrichment services to its customers. The issue of this cost and how it should be recovered is highly controversial.

Hearings during the 100th Congress demonstrated that the Federal uranium enrichment enterprise is in deep trouble and in continued danger of losing its customers—America's utilities—to government-backed foreign providers of enrichment services. One of the major uncertainties that burdens the U.S. program is the allegation that its enrichment customers may have to assume a large obligation to recoup the unrecovered cost of providing enrichment services. The uranium enrichment legislation reported out of the Energy and Natural Resources Committee and that passed the Senate not once, but twice during the last Congress, set the record straight on this issue. This bill adopts that same approach that the Senate agreed to last year regarding the unrecovered cost of the enrichment program.

This legislation sets the Government's cost of providing uranium enrichment services under section 161(v) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(v)) that have been incurred and not recovered prior to fiscal year 1987 of the United States to be $364 million. A table and an explanation of the derivation of this figure follow these remarks. Mr. President, I ask unanimous consent that the table and explanation be printed in the RECORD at the conclusion of my statement.

Some have referred to this $364 million level of unrecovered cost as a bailout. This is hardly the case. The $364 million is not an arbitrary declaration of program debt; it represents the total cash cost of outlays from the U.S. Treasury to the enrichment program since the establishment of the program in 1969.

The idea that this so-called debt may be $3 billion, or as high as $9 billion is nonsense. First, the unrecovered costs merely constitute the present basis for the pricing of enrichment services. They do not constitute an actual debt that can be recovered from enrichment customers under present law. The enrichment program has never taken a loan which needs to be repaid. Neither the accounts of the Federal budget, nor those of the U.S. Treasury carry any debt for the uranium enrichment program.

Second, over half of the $9 billion asserted by others to be the unrecovered cost represents imputed interest. Accrual of this interest is inconsistent with operation as a business in a competitive world market. Furthermore, it does not represent actual borrowing by the enrichment program.

Finally, the amount of unrecovered government investment in the enrichment program, represented by the book value of existing productive assets, is not being lost. Rather this value for unrecovered investment will be carried forward on the books of the program. As the book value is depreciated, there will be a return of the investment.

As a practical matter, it is impossible for the enrichment program to recover any higher estimate of unrecovered cost than $364 million, and still remain competitive in the world market. If the enterprise does not become competitive and our customers leave us, then the value of the enterprise to its owners, the taxpayers, is severely diminished. The Congress can not support any legislation which sets the unrecovered cost of the enrichment program at any level greater than the $364 million and thereby reduces the value of the taxpayer investment in these assets.

Uncertainty surrounding the level of the debt for the Department of Energy uranium enrichment program is perhaps the main reason why domestic utilities are considering switching their business to foreign providers. I hope that this bill will lay the controversy to rest.●

● Mr. JOHNSTON. Mr. President, I support and am pleased to cosponsor the legislation that Senator FORD is introducing today to address one of the most difficult problems facing the uranium enrichment program of the Department of Energy. That problem is one largely created by policy analysts and accountants at the General Ac-

counting Office, and it is a problem of perception. But problems of perception can become real problems if we are foolish enough to permit it. In this case the problem of the so-called debt of the uranium enrichment program has become real to the electric utilities. These utilities have been threatened by the prospect that the Federal Government will impose this debt on the ratepayers of the utilities.

Senator FORD's legislation removes any such threat completely, and it is far past the time that Congress should have acted to do so. The uranium enrichment program has no debt, because it has never taken any loans. It is ridiculous to be suggesting that the ratepayers of nuclear utilities are somehow obligated to pay the Federal Government billions of dollars through their electricity bills because of some accounting theory dreamed up by the GAO and the antinuclear community. But this is what the GAO would have happen.

This legislation puts an end to such nonsense and will hopefully permit us to address the real issues in the uranium enrichment program. The principal such issue is the commitment of the Federal Government to remain in the business of providing uranium enrichment services. I see no near-term alternative to continuation of the Federal role in this enterprise. We have the facilities. They are capable of providing services at lower cost than any competitor if we will just let that happen. We can make money for the Federal Government while offering the most competitive prices available in the world. It is hard for me to understand why anyone could argue against adoption of this kind of plan of action.

We need to broaden the legislation being introduced today to reform the Federal uranium enrichment enterprise. The program must be able to compete effectively in the international enrichment market. It cannot do that under current law.

In the last Congress the Senate twice passed legislation establishing a uranium enrichment corporation to accomplish this, but the House failed to address the issue. This year we simply must complete the task of organizing this program so that it can function effectively. Only then can the program begin making money for the taxpayer while providing enrichment services to utility ratepayers at reasonable and competitive prices. The fundamental reform of the Federal uranium enrichment program along the lines of the legislation of the last Congress will be my aim, and I know it is Senator FORD's intent as well. Resolving the problems of the uranium enrichment program is very high on the priority list of the Committee on Energy and Natural Resources.●

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. GRASSLEY, Mr. LAUTENBERG, Mr. D'AMATO, Mr. COCHRAN, Mr. HELMS, Mr. WILSON, Mr. MCCAIN, and Mr. PRESSLER);

S. 84. A bill to amend title 28, United States Code, to provide Federal debt collection procedures; to the Committee on the Judiciary.

FEDERAL DEBT COLLECTION PROCEDURES ACT OF 1989

Mr. BIDEN. Today I join with the ranking member of the Judiciary Committee, Senator THURMOND, and other Senators to introduce the Debt Collection Procedures Act of 1989. This legislation was drafted by a committee of U.S. attorneys and is intended to facilitate the collection of all debts owed to the United States.

The bill is virtually the same as the one that I introduced last year and that passed the Senate in the 100th Congress. I am hopeful that we will be able to act quickly on it this year in order to ensure its passage in the House.

The Justice Department is responsible for collecting debts owed to the United States by filing civil suits in Federal court. These debts include criminal fines and tax assessments, but mostly involve strictly civil matters, such as student loans and overpayments to veterans. In fiscal 1988, there were $32 billion in delinquent nontax debts, including 84,340 cases valued at $7.6 billion that had been referred to Justice for collection.

The Government Accounting Office has reported that the Justice Department has done a generally poor job of collecting these debts. The reasons: Justice must follow State enforcement procedures, which vary from State to State and may be inadequate to permit collection by the Government; and U.S. attorneys and the litigating sections of the department have no incentive to make debt collection a high priority.

The proposed bill addresses both problems. First, it would create a uniform, nationwide system of Federal debt collection procedures. Under the act, the Government would be able to collect civil, criminal and tax judgments through such means as attachments, garnishments, judgment liens and sales, confessed judgments, and restraining orders in all judicial districts.

Second, the bill would create an incentive to give debt collection a higher priority by creating a Debt Collection Fund. Five percent of the moneys collected by Justice and the U.S. attorneys would be placed in the fund for later collection-related expenses. This would make it possible for the Department to devote attention to debt collection without diverting resources from other functions.

I would also like to point out that this legislation would be cost-effective. The Department of Justice expects that the costs of implementing this proposal will be more than offset by the increased collections of money owed to the United States. In this time of tight budgets, we must take advantage of every opportunity to further reduce the deficit. Moreover, some of the collected money would be earmarked under existing law for certain priority items. For example, collection of unpaid criminal fines would not only contribute to reduction of the deficit, but would put more money into the Victims Fund, which is financed, in part, from such collections.

This bill was drafted by U.S. attorneys who, as the officials responsible for litigating debt collection cases in the Federal courts, have experienced firsthand the difficulties the Government has in collecting debts. This is the first time the U.S. attorneys have pooled their efforts to draft such an ambitious legislative product, and I applaud their efforts.

I hope my colleagues will join me in supporting this important legislation.

Mr. THURMOND. Mr. President, today, I am introducing, along with Senator BIDEN and Senator GRASSLEY, legislation which will enhance the remedies available to the United States for the collection of debts owed to the Federal Government. This bill represents the first major Department of Justice legislative proposal conceived, drafted, and advanced by U.S. attorneys who perform the vast majority of debt collection work on behalf of the Federal Government.

The Federal Debt Collection Procedures Act of 1989 was drafted in order to improve the manner in which the Department of Justice handles litigation and other collection efforts necessary to recover moneys owed to the United States. Incredibly, it has been estimated by the Office of Management and Budget that the Federal Government has approximately $32 billion of outstanding, nontax, delinquent debt.

Mr. President, currently the debts owed to the Federal Government must be collected in accordance with the laws of the State where the debtor is found. These laws vary greatly from State to State, making enforcement of debt collection extremely difficult and expensive. For example, in some States, debtors can exempt vast amounts of property from the reach of creditors, whereas similarly situated debtors in other States are granted no such exemption at all. It is unfair that Federal debtors who reside in States with strong collection laws are made to pay their Federal debts, while others in so-called debtors haven States use weak State collection laws

to escape repayment of their debt to the Federal Government.

This legislation will correct the inequities that exist under the current system by creating a firm, but fair, comprehensive statutory scheme for the collection of Federal debt. Under this proposal, State remedies are unaffected in cases where the Federal Government is not a party. This statute is meant to be used by Federal litigators in Federal courts to collect debts owed to the United States.

Mr. President, the Department of Justice estimates that this act could generate a $54 million increase in debt collection in its first year of implementation. This is an estimate which allows for a 6-month startup period. A $109 million increase is projected for the following year. During these times of fiscal restraint, the increased revenue collected under this act would be very useful and could perhaps be targeted to help finance our war on drugs.

The Federal Debt Collection Procedures Act of 1989 represents a collaborative effort of the 93 U.S. attorneys across the country who perform the vast majority of debt collection litigation on behalf of the Federal Government. Such legislation reflects their broad legal expertise and practical experience. We must not ignore their collective wisdom.

A similar bill was introduced in the 100th Congress. A hearing was held in which no one testified in opposition to this important legislation. Soon after the hearing, a thorough examination of the bill was undertaken by representatives of the commercial law bar and the bankruptcy bar resulting in technical modifications to the legislation which made it more equitable. The Senate Judiciary Committee unanimously agreed to report the bill out of committee on October 5, 1988. On October 14, 1988, the U.S. Senate passed the Federal Debt Collection Procedures Act of 1988, without opposition. The House failed to act on this necessary legislation.

Mr. President, we must provide for a consistent and practical procedure for the collection of debts owed to the Federal Governmemt. A comprehensive Federal collection statute will allow for the creation of standard forms, policies, and procedures for the efficient processing of Federal debt collection and litigation.

Finally, those who owe the Federal Government must not be allowed to ignore their financial responsibility because of ineffective collection procedures. This legislation is most appropriate and will correct the inequities that currently exist in the collection of Federal debt.

I urge my colleagues to support this important legislation and ask unanimous consent that the bill be printed in the RECORD following my remarks.

Mr. D'AMATO. Mr. President, I rise today to join Senator THURMOND as an original cosponsor of the Federal Debt Collection Procedures Act.

This measure would establish uniform procedures for the collection of delinquent debt owed to the Government of the United States. Currently, the Federal Government's debt collection efforts must proceed under 50 different statutory regimes. The regimes often differ significantly from one another, and thus hamper effective collection efforts.

Over the years, the problem of outstanding debt and the difficulty of its collection has continually perplexed Congress. I have personally been involved in seeking out various solutions. In 1986, for example, Congress passed a measure I sponsored which provided for the use of private attorneys to assist in collection efforts. Also in 1986, we enacted the Program Fraud Civil Remedies Act, which authorized agencies to administratively handle small fraud cases before an agency hearing examiner. These prior efforts, while helpful, have not eliminated the debt collection problem.

The most recent estimate by the Office of Management and Budget [OMB] of the total amount of delinquent debt is $68 billion. The legislation we offer today is a major step forward in the advancement of our efforts to mop up has truly become an ocean of outstanding debt. Given our current budget woes, vigorous collection efforts must continue. Thus, this measure will give the necessary tools to those officials, and private attorneys, engaged in Federal debt collection.

This bill is the culmination of the efforts of all 94 U.S. attorneys, working in tandem to identify problem areas and to develop statutory remedies. It is, thus, the work product of experts who daily face the difficulties this measure will remedy.

As many of my colleagues know, during the 100th Congress this measure was reported unanimously from the Judiciary Committee and passed the Senate without opposition.

Mr. President, this is a significant piece of legislation that deserves swift passage. I urge my colleagues to join us in passing this bill.

Thank you, Mr. President.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 85. A bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, West Virginia; to the Committee on the Environment and Natural Resources.

HARPERS FERRY NATIONAL HISTORICAL PARK, WEST VIRGINIA

Mr. BYRD. Mr. President, Today, I am introducing legislation that would allow the donation of certain land in Harpers Ferry, WV, to the Harpers Ferry National Historical Park.

The land is owned by former Harpers Ferry Mayor Bradley Nash and his wife Ruth. The acquisition of this land is of historical significance to the Harpers Ferry National Historical Park.

During the Civil War, Confederate forces under the command of Col. Thomas J. "Stonewall" Jackson, were encamped on the property. The Confederates used the land as a practice field in 1861, enabling them to prepare for the Battle of First Manassas, or Bull Run. The land was also vital for defensive purposes. It is situated on a high bluff at the north end of Bolivar Heights, overlooking the Potomac River. From this location the Southern Army monitored the activity along the Potomac River, the Baltimore & Ohio Railroad, the Chesapeake & Ohio Canal, and the Harpers Ferry-Sharpsburg Road—all major transportation routes into the Shenandoah Valley.

In the summer of 1861, Colonel Jackson withdrew his troops from Harpers Ferry to concentrate on strategic advancements in the Shenandoah Valley. Union forces then regained access to the Harpers Ferry area and camped on the acreage that is now the Nash property.

On September 4, 1862, Gen. Robert E. Lee's Army of Northern Virginia began its invasion of the North. In the overall plans of the Confederate invasion, essential was the capture of Harpers Ferry. An occupation of Harpers Ferry would allow the invading Southern Army a line of communication and supply to the lower end of the Shenandoah Valley.

Special orders were issued from the Lee headquarters, selecting Maj. Gen. Stonewall Jackson to take Harpers Ferry. Lee believed that this feat could be done in 3 days. Jackson began his march on September 10, 1862.

The Harpers Ferry detachment was under the command of Col. Dixon Miles. Miles was a seasoned Army veteran of many assignments, including action during the Mexican War. The forces stationed at Harpers Ferry and Martinsburg were primarily concerned with protecting the Chesapeake & Ohio Canal, and the Baltimore & Ohio Railroad. The rail lines consisted of 380 miles—half located in the Confederacy.

Stonewall Jackson's forces arrived at Harpers Ferry on September 13, 1862. Jackson divided his force into three parts. One division was ordered to strike at Loudoun Heights, and a second division to strike at Maryland Heights, while the third division, with Jackson in overall command, would strike from Bolivar Heights. The Confederate special order stipulated this

arrangement with the objective: surround and swallow up Harpers Ferry.

By now, Lee's plan was off-schedule by 1 day. The Confederates did not take into consideration the rough terrain of the area. Also, the 12,500 Federal troops, even though raw recruits of just 3 days service in the Army, fought stubbornly against the 14,000 Southern troops.

The Federals were forced to surrender at 8 a.m. on Monday the 15th. The Union's ammunition supply had been exhausted. Stonewall finally had possession of Harpers Ferry. The Federal commander Colonel Miles, wounded in the last Rebel push, died the following day. The forces under his command were mustered out of Harpers Ferry and, through a prisoner exchange program, were released in Illinois.

The Southern force occupied the town of Harpers Ferry until September 19, 1862, when all troops of the Confederacy were summoned to help fight at Antietam. As the Confederate divisions moved on, Union troops were able to regain control of the town. Harpers Ferry, for the remaining 2½ years of the War between the States, was occupied by the North. The only exception was for 10 days, when the Federals pulled all their support toward Gettysburg, PA.

Mr. President, the battle for Harpers Ferry was one of the most significant Civil War battles in West Virginia and involved one of our State's most famous native sons, Stonewall Jackson.

Mayor Nash has told me on many occasions of his discovery of Civil War artifacts, including buttons, buckles, and bullets that date back 125 years.

It is also important to note that, located on this property, is an earthworks barrier, ordered constructed by Union Gen. Philip Sheridan in 1864.

Mr. President, I commend Bradley and Ruth Nash for their contributions not only to Jefferson County, VW, but also to our Nation. This land will be valued by future generations.

I would also like to express my appreciation to Mr. Dennis Frye, the historian for the Harpers Ferry National Park, for his contributions toward the historical background for this legislation.

Mr. President, I hope the Senate will act favorably on this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled "An Act to provide for the establishment of the Harpers Ferry National Monument", approved June 30, 1944 (58 Stat. 645; 16 U.S.C. 450bb), is amended by—

(1) striking "two thousand four hundred and seventy-five acres" in the first sentence and inserting "two thousand five hundred and forty acres"; and

(2) inserting after the first sentence the following: "The Secretary may accept donations of not to exceed 65 acres of lands and interests in lands outside the boundary depicted on the map referred to in the first sentence of this section, and when so acquired such lands and interests shall become a part of the park, subject to the laws and regulations applicable thereto.".

By Mr. CRANSTON (on behalf of Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. GRAHAM):

S. 86. A bill to amend title 38, United States Code, to improve the capability of Department of Veterans' Affairs healthcare facilities to provide the most effective and appropriate services possible to veterans suffering from mental illness, especially conditions which are service related, through the designation of up to five of its facilities as centers of mental illness research, education, and clinical activities and for other purposes; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS' AFFAIRS HEALTH-CARE FACILITIES

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am pleased to introduce today, along with ranking minority member, FRANK MURKOWSKI, and committee members, Senator MATSUNAGA, Senator DECONCINI, Senator ROCKEFELLER, and Senator GRAHAM, legislation to authorize the Department of Veterans' Affairs to establish five mental illness research, education, and clinical centers [MIRECC's]. These centers would improve and expand the capability of VA health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans who often do not receive their fair share of resources—those suffering from mental illness, especially from those conditions which are service related. MIRECC's would also advance scientific knowledge regarding how to evaluate and treat mental illness by coordinating research, the training of health personnel, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

BACKGROUND

In the 100th Congress, on May 27, 1988, I introduced, along with Senators MURKOWSKI, MATSUNAGA, DECONCINI, ROCKEFELLER, and GRAHAM, a bill, S. 2463, that is nearly identical to the one being introduced today. Testimony received at the committee's June 16 hearing was very supportive of this measure, and S. 2463, as slightly modified, was reported by the committee on August 1, 1988, as section 604 of S. 2011 (Rept. No. 100-439, pp. 129-132). The text of S. 2011 was passed upon a voice vote by the Senate on October 18, 1988, as a substitute amendment for the text of the House-passed H.R. 4741. This provision, however, was not accepted by our colleagues on the House committee, and was not enacted into law.

Despite the reluctance of the other body to embrace this program, it is clear that future VA resources must be devoted to the treatment of veterans with mental illness. About 40 percent of all VA beds are occupied by veterans who suffer from mental disorders. As discussed in detail in my statement on May 27, 1988 (S7103), an October 20, 1985, report of the Special Purpose Committee to Evaluate the Mental Health and Behavioral Sciences Research Program of the VA, which was set up by the VA's Assistant Chief Medical Director for Research and Development and chaired by Dr. Seymour Kety—hereinafter the Kety Committee—found that research on mental illness and training for pyschiatrists and other mental health specialists at VA facilities was totally inadequate, given the tremendous mental-health needs of veterans.

KETY COMMITTEE REPORT

The report found that less than 10 percent of VA research resources are directed toward mental illness; in contrast, about 40 percent of all VA bed-days are provided to veterans who suffer from mental disorders, including posttraumatic stress disorder, Alzheimer's disease, alcoholism and substance abuse, depression, and other dementias. In 1983, one-third of all VA patients had a primary psychiatric diagnosis, and a great number of the rest also had significant psychiatric disorders, such as alcoholism or depression.

The report further concluded that educational funds, training stipends, research space, and staff positions for psychiatry were disproportionately low in the VA, resulting in high caseloads and diminished opportunities for research. It stated that the VA's failure to develop appropriate quality and quantity of psychiatric research is most significant in the area of research training. Although 42 percent of all applicants for VA career development awards are funded, only 26 percent of the psychiatrists who apply are funded. The report concluded that many VA mental-illness researchers are discouraged from applying for funding. Additionally, the VA is increasingly unable to attract young, research-oriented psychiatrists and mental health professionals, and is therefore less able to offer the same opportunities for innovative treatments to veterans with mental illness as do other psychiatric facilities.

The Kety Committee recommended, among other things, that centers of

excellence be established as a cost-effective and rapid way to develop psychiatric research in the VA system. The report noted that the centers would produce new knowledge, provide researchers, and eventually would generate well-trained clinical investigators who could then initiate research projects at other VA hospitals.

MIRECC'S

Mr. President, the legislation we are proposing today would specifically authorize the establishment of five MIRECC's in order to implement the recommendation of the Kety report. The MIRECC's would be modeled after the VA's very successful geriatric research, education, and clinical centers [GRECC's] program that has been carried out for the last decade or so under section 4101(f) of title 38. There are currently 10 GRECC's and the VA is in the process of establishing 2 more.

I would anticipate that each MIRREC would congregate a critical mass of investigators with a clear and focused clinical research mission concentrating on one or more of the major categories of illness for which veterans suffer, such as schizophrenia, PTSD, addictive disorders, depressive neurosis, or dementia. The measure would require that research projects undertaken in conjunction with the MIRECC mission emphasize the psychosocial and clinical aspects of mental illness, as well as models of providing services.

MIRECC's would be required to maintain arrangements with an accredited medical school, graduate school of psychology, nursing, social work, or other allied health personnel school under which residents or students would regularly rotate through the VA medical center so as to provide hands-on training in the diagnosis and treatment of mental illness. MIRECC's would also be required to maintain research programs that would attract scientists and physicians capable of ingenuity and creativity in mental health research efforts. Researchers would be eligible and, indeed, given priority for funding for VA research grants.

Finally, our legislation would require the Secretary of Veterans' Affairs to report to the Congress periodically on the research, educational, and new clinical-care activities at each MIRECC and on efforts to disseminate the information throughout the VA system.

This bill would require at least one MIRECC to be designated by July 1, 1990, and would authorize the appropriation of $3.125 million in fiscal year 1990 and $6.25 million each for the next 3 years. As with the GRECC Program, I would expect that funding for the MIRECC Program would not be subject to the resource allocation methodology.

Mr. President, the proposed centers would provide state-of-the-art treatment, increase innovative basic and clinical research opportunities, and enhance continuing education and training in mental illness. I urge all of my colleagues to join with us in support of this measure.

As I noted earlier, testimony received at the committee's June 16, 1988, hearing was very supportive of S. 2463. The National Association of VA Chiefs of Psychiatry, the American Psychiatric Association, and the American Psychological Association stressed that the establishment of MIRECC's would improve the VA's ability to attract top-notch psychiatrists and psychologists and thus enhance its ability to provide high quality mental health services to veterans.

Dr. Ming Tsuang, Chief of Psychiatry at the West Roxbury (MA) VA Medical Center, testified that, although a high percentage of VA bed days were devoted to veterans with psychiatric problems, psychiatric services within the VA have been "traditionally understaffed and underfunded * * * and that recruiting (VA psychiatrists) is getting more difficult." Dr. Tsuang also stated that MIRECC's would "have a positive influence far beyond their proportionate cost, in view of their high visibility and their potential for attracting 'critical masses' of scientists and clinicians to work intensively on the mental health care issues confronting the VA."

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 86

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL CENTERS.

Section 4101 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The purposes of this subsection are (A) to improve and expand the capability of the Department of Veterans' Affairs health-care facilities to respond with the most effective and appropriate services possible to the needs of veterans suffering from mental illness, especially from service-related conditions, and (B) to advance scientific knowledge regarding mental illness, especially service-related conditions, and regarding such needs and the methods of meeting them by facilitating higher quality care for eligible veterans suffering from mental illness, especially from service-related conditions, through research, the education and training of health personnel in the provision of health care to such veterans, and the development of improved models of clinical services for eligible veterans suffering from mental illness.

"(2)(A) In order to carry out the purposes of this subsection, the Secretary, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than five health-care facilities of the Department of Veterans' Affairs (at least one of which shall be designated before July 1, 1990) as the locations for centers of mental illness research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating facilities as the locations for centers under subparagraph (A) of this paragraph, the Secretary, upon the recommendation of the Chief Medical Director, shall ensure appropriate geographic distribution of such facilities.

"(C) The Secretary may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Secretary, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) with an accredited medical school which provides education and training in psychiatry and with which such facility is affiliated, an arrangement under which residents receive education and training in psychiatry through regular rotation through such center so as to provide such residents with training in the diagnosis and treatment of mental illness;

"(ii) with an accredited graduate school of psychology which provides education and training in clinical or counseling psychology or both and with which the facility is affiliated, an arrangement under which students receive education and training in clinical or counseling psychology or both through regular rotation through such center so as to provide such students with training in the diagnosis and treatment of mental illness;

"(iii) an arrangement under which nursing, social work or other allied health personnel receive training and education in mental health care through regular rotation through such facility;

"(iv) the ability to attract the participation of scientists who are capable of ingenuity and creativity in research into the causes, treatment, and prevention of mental illness and into models for furnishing care and treatment to veterans suffering from mental illness;

"(v) a policymaking advisory committee composed of appropriate mental health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(vi) the capability to conduct effectively evaluations of the activities of such center.

"(3) There are authorized to be appropriated for the basic support of the research and education and training activities of the centers established pursuant to paragraph (1) of this subsection $3,125,000 for fiscal year 1990 and $6,250,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Department of Veterans' Affairs medical care account and medical and prosthetics research account such amounts as the Chief Medical Director determines appropriate.

"(4) Activities of clinical and scientific investigation at each center shall be eligible to compete for the award of funding from funds appropriated for the Department of Veterans Affairs' medical and prosthetics research account and shall receive priority in the award of funding from such account

insofar as funds are awarded to projects for mental illness.

"(5) The Chief Medical Director shall ensure that research activities carried out through such centers include an appropriate emphasis on the psychosocial dimension of mental illness and on models for furnishing care and treatment to veterans suffering from mental illness.

"(6) The Chief Medical Director shall ensure that useful information produced by the research, education, and training, and clinical activities of such centers is disseminated throughout the Veterans Health Services and Research Administration through the development of programs of continuing medical and related education provided through regional medical education centers under subchapter II of Chapter 73 and other means.

"(7) The official within the Central Office of the Veterans Health Services and Research Administration responsible for mental health and behavioral sciences matters shall be responsible for the supervision of the operation of the centers established pursuant to paragraph (1) of this subsection.".

SEC. 2. REPORTS.

Not later than February 1 of each of 1991, 1992, and 1993, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience during the prior fiscal year under the centers established pursuant to the amendment made by subsection (a). Each such report shall contain—

(1) descriptions of (A) activities carried out at each center and the funding provided for such activities, (B) the advances made at each center in research, education and training, and clinical activities, and (C) the efforts to disseminate throughout the Veterans Health Services and Research Administration useful information produced by such activities; and

(2) the Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of subsection (g) of section 4101 of title 38, United States Code, as added by subsection (a).

Mr. MURKOWSKI. Mr. President, I am most pleased to be an original cosponsor of Senator CRANSTON's bill which would require the Administrator of Veterans's Affairs, upon the recommendation of the Chief Medical Director, to designate not more than 5 VA medical centers as the locations for mental illness research, education, and clinical activities centers [MIRECC's]. These facilities would serve as "centers of excellence" for mental illness treatment, research, and education.

I also joined with Senator CRANSTON as a cosponsor of similar legislation last year. On August 1, 1988, the Committee on Veterans' Affairs favorably reported S. 2011 to the Senate which contained the aforementioned legislation. (Information on this provision can be found in S. Rept. 100-439, p. 129-132.) The Senate passed S. 2011 as an amendment in the nature of a substitute to H.R. 4741 on October 18, 1988. Unfortunately, the House did not accept this provision and, therefore, it was not enacted into law last year.

Mr. President, I applaud Senator CRANSTON for his continued interest in improving the VA's ability to address the needs of veterans with mental illnesses. I support this effort to ensure that the VA serve as a leader in mental illness research and treatment. I urge my colleagues in the Senate to join as cosponsors of this important legislation.

I thank the Chair.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. HELMS, Mr. WILSON, Mr. DOMENICI, Mr. GRASSLEY, Mr. D'AMATO, and Mr. GRAMM):

S. 87. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

EXCLUSIONARY RULE LIMITATION ACT OF 1989

● Mr. THURMOND. Mr. President, today, I rise to introduce a bill which would codify the good faith exception to the exclusionary rule that has been recognized by the Supreme Court.

The legislation that I am offering today is similar to a measure that overwhelmingly passed the Senate by a vote of 63 to 24 in the 98th Congress. I reintroduced that bill in the 99th and 100th Congresses. Although the House passed similar legislation during the 100th Congress by a vote of 259 to 134, no action was taken in the Senate.

The exclusionary rule is a judicially created remedy for violations by law enforcement officers of the fourth amendment prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment then that evidence will be excluded in a criminal trial. The exclusionary rule is an important principle since it helps to insure that law enforcement officers should not be allowed to randomly enter our homes or private places and search without just cause.

However, since the creation of the exclusionary rule remedy in 1914, in Weeks versus California, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure addresses one of those exceptions. This legislation codifies the Court's holding in United States versus Leon to provide that evidence obtained pursuant to a warrant which is later found to be defective will not be excluded if the law enforcement officer acted in objective good faith. Objective good faith would be established if the circumstances surrounding the search justify an objectively reasonable belief that it was in conformity with the fourth amendment. This bill also extends this exception to warrantless searches.

Mr. President, the bill that I am introducing today neither authorizes nor encourages law enforcement officers to disregard the fourth amendment and randomly search a person's home. What it does is address the legal loophole that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed. The goal of the exclusionary rule is to deter law enforcement conduct that violates the fourth amendment. Therefore, if a law enforcement officer's conduct in executing a search is in conformance with the fourth amendment, applying the exclusionary rule does not serve as a deterrent. It should be noted that the determination as to whether the officer conducted the search in objective good faith would be made by the Court based on the circumstances surrounding the search. Of course if the officer's conduct did not exhibit objective good faith, the evidence would not be allowed. This amendment is a reasonable extension of the exception currently recognized by the Supreme Court.

We are well aware of the fact that the exclusion of evidence most often results in the release of the accused. This is a high price to pay for nonconstitutional violations. Therefore, I think it wise to preclude the use of the exclusionary rule in these situations unless Congress so provides. This legislation will aid in the apprehension and prosecution of criminals without sacrificing the principles of the fourth amendment. I strongly urge my colleagues to support this vital measure and hope that we will act without delay.

I ask unanimous consent that the full text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 87

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Exclusionary Rule Limitation Act of 1989".

SEC. 2. (a) Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was undertaken in an objectively reasonable belief that it was in conformity with the fourth amendment. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless the warrant was obtained through intentional and material misrepresentation.

"§ 3509. General limitation of the exclusionary rule

"Except as specifically provided by statute or rule of procedure, evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule of procedure, or of a regulation issued pursuant thereto.".

(b) The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end thereof:

"3508. Limitation of the fourth amendment exclusionary rule.
"3509. General limitation of the exclusionary rule.".●

Mr. D'AMATO. Mr. President, I am pleased to join my distinguished colleague from South Carolina, Senator THURMOND, as an original cosponsor of a bill to codify the good faith exception to the exclusionary rule.

In the 1984 case United States versus Leon the Supreme Court articulated what has become known as the good faith exception to the exclusionary rule. Simply stated, the exception vitiates the exclusionary rule's impact in situations where facially valid searches turn out not to accord with fourth amendment probable cause requirements. This measure would codify the Leon standard and its progeny.

The purpose of the exclusionary rule is to deter law enforcement officers from violating the fourth amendment rights of crime suspects. By suppressing from trial illegally obtained evidence, law enforcement authorities are precluded from profiting from their illegal conduct. The rule does not seek to reward the accused at whose trial evidence is suppressed, rather it is to demonstrate the uselessness of illegal searches and seizures and deter such conduct in the future.

Given the Supreme Court's rationale for the exclusionary rule, it is plain why a good faith exception is necessary, as well as logically consistent. Since deterrence is effective primarily against international conduct, and to a lesser extent reckless conduct, the exclusionary rule must be limited to such situations. For instance, if an officer believes, with objective good faith, that the search or seizure he is conducting comports with fourth amendment requirements, if in fact it does not, no amount of deterrence will affect his conduct. Thus the exclusionary rule cannot rationally control in such situations.

If it would be allowed to control, the rule will engender contempt for the law and cynicism for the criminal justice system. Law enforcement officers would be much less inclined to fastidiously observe fourth amendment commands and criminals would further flout the law.

As the Leon court made clear, however, the good faith exception must not be allowed to swallow the exclusionary rule. Codification of the Leon standard would in no way diminish our concern for the rights of the accused. It would be simply a recognition of the need to balance the rights of the accused with the demands of the criminal justice system. For too long, prior to Leon, palpably guilty defendants have been set free to prey on our communities despite the good faith compliance by police officers with fourth amendment precepts. This must end.

I ask my colleagues to join us as a cosponsor and to help enact this needed initiative.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. D'AMATO, Mr. HELMS, Mr. WILSON, Mr. GRASSLEY, Mr. DECONCINI, Mr. SIMPSON, and Mr. DOMENICI):

S. 88. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

REFORM OF FEDERAL INTERVENTION ON STATE PROCEEDINGS ACT OF 1989

Mr. THURMOND. Mr. President, the bill I am introducing today would reform Federal habeas corpus and collateral attack procedures. This legislation will minimize Federal judicial interference with State criminal convictions, and deal with common abuses typical of habeas prisoner petitions. In the 97th Congress, the Senate passed a bill identical to the one I am introducing today by a vote of 67 to 9. I introduced that bill in the 98th, 99th and 100th Congresses and no action was taken on these bills. However, as a part of the Anti-Drug Abuse Act of 1988, the Senate did adopt procedures for the expedited consideration of habeas corpus reform legislation. After Congress receives the report and recommendations of the Special Committee on Habeas Corpus Review of Capital Sentences, which is chaired by Justice Lewis Powell, the Senate will consider habeas reform legislation. The House agreed to give fair and expeditious consideration to the report and legislation.

This bill proposes amendments to various sections of chapter 153 of title 28 of the United States Code, and a related rule of appellate procedure. Its objectives are to establish a more appropriate scope and function for Federal habeas corpus for State prisoners, accord more appropriate weight to State procedures in criminal adjudication, improve the efficiency of habeas corpus litigation and appellate review of such litigation, and effect certain corresponding improvements in the operation of collateral remedies for Federal prisoners. The proposed amendments would change the operation of Federal collateral remedies in several respects.

First, the proposed amendments would preclude granting relief with respect to matters that have been full and fairly adjudicated in State proceedings. This important change would enhance the finality of State criminal adjudications and avoid duplicative litigation of claims that have already been adequately considered and decided.

Second, the proposed amendments would generally bar the consideration of claims that have not been properly raised in State proceedings, provided the State has afforded the petitioner an opportunity, consistent with the requirements of Federal law, to raise his claims in the State proceedings.

Third, the proposed amendments would establish a 1-year limitation period for the filing of habeas corpus petitions by State's prisoners, which would generally run from the time the prisoner exhausts his State remedies. This limitation period would bar petitions in cases in which the passage of time has made reliable adjudication of the petitioner's claim, or retrial of the petitioner, difficult or impossible. The limitation period would also advance the policies supporting the finality and repose in criminal adjudication.

Fourth, the proposed legislation would clearly state that a Federal habeas court can deny a petition on the merits without requiring prior exhaustion of State remedies. This would avoid the waste of judicial resources that result when a person presenting a frivolous petition is sent back to the State system to exhaust State remedies.

Fifth, the proposed amendments would vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. This would entrust the decision concerning the propriety of an appeal to the judges who are in the best position to determine if there is a realistic likelihood for reversal. It would also avoid duplicative consideration of the suitability of a case for appeal, first by a district judge and then by a circuit judge.

Finally, the proposed amendments would make similar changes in the law governing applications for collateral relief by Federal prisoners pursuant to 28 U.S.C. 2255 in the areas of appeal, procedural, default, and time limitation.

Federal habeas corpus and collateral attack procedures are in dire need of reform. This is evidenced by the glut of habeas petitions in the Federal system and by the Supreme Court's creation of the Special Committee. The Senate should consider legislation to resolve this problem.

I ask unanimous consent that the full text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 88

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1989".

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22.

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.";

(b) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(c) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully anf fairly adjudicated in State proceedings.".

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

By Mr. SYMMS (for himself, Mr. BOSCHWITZ, Mr. GRASSLEY, Mr. HELMS, Mr. KASTEN, Mr. GARN, Mrs. KASSEBAUM, Mr. DOLE, Mr. PRESSLER, Mr. ARMSTRONG, and Mr. COCHRAN):

S. 89. A bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986; to the Committee on Finance.

DELAY IN EFFECTIVE DATE OF CERTAIN TAX PROVISIONS

Mr. SYMMS. Mr. President, I am introducing a bill to delay for 1 year the implementation of a provision of the Tax Reform Act of 1986 that must, upon further consideration, be considered as perhaps the greatest misconception of how to achieve an otherwise praiseworthy objective that this Congress has attempted.

Section 89 of the Internal Revenue Code, which directs employers with nondiscrimination rules for welfare plans and overhauls the rules, has missed sorely the intent and desire of this body to provide equal benefits for all employees. The Department of Treasury report, due last November, on the administration of these new changes has failed to be completed as of today. I ask my colleagues, how can we proceed with this program when no ground rules have been created?

Under section 89, employers would be required to demonstrate through a group of complicated tests, that their benefit programs do not discriminate against "nonhighly compensated" employees. Employers also must ensure

equal use of the program by all employees. Section 89 is just another step in the direction of federally mandated, employer-provided benefits.

In addition to the overindulgence of Federal regulations, we must remember that increased Government interference costs businesses thousands of dollars to administer in order to comply with section 89. The end result is that the cost-conscious business will take a position that will lead it to either dropping plans or accepting penalties.

Most employers wish to provide certain benefits to all employees. It would be a tragedy if section 89, designed to help certain employers, turns around and bites them. I am introducing legislation that will postpone this ruling for 1 year, allowing us to study it further and decide if we are on the right track with this legislation. We must postpone it, if for no other reason than to send a message to the business community not to drop their benefit programs and wait until a broader understanding of the implications of section 89 are understood.

Mr. President, in conclusion I want to add that there is a spurious revenue estimate that has come to be associated with this section 89 provision. It is being argued by opponents of this reasonable 1-year delay that something like $300 million in revenue will be lost if we postpone it.

This estimate is complete and utter nonsense, Mr. President, because the law won't cost one cent of tax money that was paid last year! The only reason the estimators can claim that it will cost money this year is because it was enacted in 1986, and therefore the current services baseline includes a spurious and unsubstantiated number that will disappear if section 89 is postponed until 1990—or eliminated altogether as some other Senators would like.

I claim that the regulatory burden of section 89 will cost the gross national product of the United States at least $900 million. The compliance burden is at least that great! At a marginal tax rate of 34 percent, which is the marginal tax rate of U.S. corporate employers, the loss of $900 million in GNP will cost the Treasury $306 million. I claim that the revenue effects of postponing section 89 for 1 year are zero, and repealing it altogether would be zero as well.

Finally, Mr. President, I would ask unanimous consent to have reprinted in the RECORD an article from the current issue of Nation's Business magazine. The article is "Government Gone Crazy" by Roger Thompson.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT GONE CRAZY

(By Roger Thompson)

It was the end of another long day for Steven Ferruggia, whose mastery of a new, perversely complex federal benefits law has generated more consulting business than he can comfortably handle. His students—42 business owners, benefits managers, lawyers, and consultants—had paid $195 apiece for an all-day workshop at Boston's Logan Airport Hilton. Participants had flown in from across New England and from as far away as Houston.

Ferruggia and two colleagues from New York-based Buck Consultants performed feats of verbal alchemy, laying out in clear English what Congress had cloaked in turgid prose. But no amount of explaining would relieve the sense of quiet desperation that pervaded the room. Puzzled looks and furrowed brows revealed by expression what went unspoken: This time, Congress had gone too far.

"I think this law will cause a lot of small employers to dump their benefit plans," Ferruggia said in a private moment after the workshop. "It's big government gone crazy," said Edward Maguire, a consultant with Sapers & Wallack in Cambridge, Mass.

The law in question is Section 89 of the federal tax code, one of several provisions that affect employee benefits and were added by the 1986 Tax Reform Act but were not effective until Jan. 1, 1989. Section 89 sets stiff tax penalties for employer-paid health insurance, life insurance, and other nonpension employee benefit plans that favor higher-paid workers.

Businesses that discriminate in favor of higher-paid workers have two choices: broaden and/or extend coverage to lower-paid workers or report the "discriminatory" portion of the higher-paid workers' benefits as taxable income.

Also effective Jan. 1 was another tax-law change that, while it has not drawn as much criticism as Section 89, could prove no less burdensome to some employers. The change requires employer-provided retirement plans—including pension, profit-sharing, and so-called 401(k) savings plans—to meet rigid tests for fairness to workers who are not in the "highly paid" category defined in the law. Failure to comply with minimum coverage and participation requirements could result in loss of tax-favored status for both the plan sponsor and the plan participants.

Taken together, the new requirements imposed by Section 89 and the new pension-plan rules represent Congress' deepest penetration yet in to the employer-provided benefits system. Experts say the two provisions encompass more changes and affect more plans than even the sweeping 1974 Employee Retirement Income Security Act (ERISA). That law placing intricate controls on employer-provided pension plans marked Congress' first concentrated attempt to regulate private-sector employee benefits. Since then, the lawmakers have amended and expanded employee-benefits laws almost annually, often to the confusion and dismay of employers.

In enacting Section 89, Congress said its goal was the extension of benefits, especially health insurance, to millions of lower-income workers who are inadequately covered or not covered at all. Under the law, part-time employees who work as few as 17.5 hours a week must be included in calculations to determine whether plans are discriminatory.

The congressional Joint Committee on Taxation explained its intent this way: "The [Section 89] non-discrimination rules should require employers to cover non-highly compensated employees to an extent comparable to the coverage of highly compensated employees."

But those who are familiar with Section 89 contend that it will have the opposite effect. "It will tend to decrease flexibility and increase administrative costs," says Frederick J. Krebs, manager of business and government policy for the U.S. Chamber of Commerce. "The effect will be fewer benefits and fewer businesses offering benefits."

"When you look at the cost of compliance, it's just not worth it," says Garry Jerome, a consultant with Mercer Meidinger Hansen Inc., in Philadelphia.

Many major industrial companies expect to spend more than $1 million on compliance costs. An employer with 500 workers can expect to pay upwards of $25,000 for a consultant. A firm with 200 workers could pay $10,000 or more. Small companies may have trouble finding advice for less than $1,000.

The high price of compliance is driven by the law's complexity. Section 89 is an administrative nightmare because it takes what appears to be a simple health plan—like those offered by many small companies—and multiplies it into several plans for testing purposes. Take a medical plan that offers coverage for single workers, workers with children, and workers with spouses, with each option offering two different deductibles. Under Section 89, that plan becomes six plans, and each must meet the non-discrimination tests. Some major corporations with multiple plans and various benefit packages will have hundreds of plans to test.

Because the chances of failure to comply increase with the number of options available to employees, many employers will feel pressure to cut back on choices now available and steer clear of providing new ones.

The enormous complexity of Section 89 has prompted its critics to speculate that Congress was more interested in raising revenue than expanding benefits. "It's really a revenue statute dressed up to look like a do-gooder statute," says Howard C. Weizmann, executive director for the Association of Private Pension and Welfare Plans.

The joint tax committee estimates that Section 89 will net about $300 million a year in revenue derived largely from treating a portion of higher-paid employees' benefits as taxable income. But Congress may have greatly underestimated the law's impact for two reasons.

First, lawmakers may have been too optimistic about the law's ability to persuade employers to extend benefits to lower-paid employees. Kent A. Mason, the law's chief architect, told a health-care seminar in December that in most cases, employers will count any discriminatory excess benefits as income to highly paid workers and will "gross up" those employees' salaries—that is, increase their salaries to cover the newly taxable portion of benefits. "This option is much cheaper than extending benefits to low-paid workers," said Mason, who was counsel to the joint tax committee and now works for the Washington law firm of Caplin & Drysdale.

Second, widespread non-compliance would produce huge amounts in unanticipated tax penalties, warns Mary Hevener, a benefits attorney with the Washington law firm of Lee, Toomey & Kent. Employers who fail to

comply with the non-discrimination rules will pay a tax penalty, calculated at the highest individual tax rate, on the benefits received by the highly compensated.

In addition, employees will be taxed on any benefits they receive if the employer fails to maintain a so-called qualified plan, which entails compliance with another set of rules similar to those already applied to pension plans.

Ferruggia and other consultants should be delighted about Section 89. Washington insiders regard it as a consultants' full-employment act. But consultants find themselves in the uncomfortable position of serving as shock troops for advancing a law that almost nobody can believe Congress actually passed.

Paty Haines, senior consultant in the Philadelphia office of the Coopers & Lybrand accounting and consulting firm, says the general reaction she gets from business audiences is, "I can't believe this is happening."

"I think if we are going to cause another American Revolution. Section 89 is it," says Thomas Veal, senior tax manager with Touche Ross and Co. in Washington. "If King George and Parliament had come up with anything like Section 89, it wouldn't have taken seven years to win the Revolutionary War."

In fact, section 89 slipped through the tax-reform process with little notice. "No one focused on benefits changes" in the 1986 tax-reform legislation, said a Senate aide. "They just sort of happened."

Now, many employers are dragging their feet on compliance, waiting for it to collapse under its own weight. "We are hearing from employers who are predicting that Congress will repeal Section 89 sometime in [1989] after the outcry [over its complexity] begins," says Ken Feltman, executive director of the Employee Council on Flexible Compensation. He estimates that 60 percent of all businesses, primarily small companies, have not yet heard about Section 89, making ignorance of the law a major obstacle to compliance.

While large and midsized firms typically are staffed to keep abreast of changes in benefits laws, many small firms don't have the facilities to do so.

Observers Donald Utter, owner of Medical Personnel Pool, in Madison, Wis.: "It's the one secret that the government has been able to keep. Almost every small-business person I mention it to doesn't know what I'm talking about."

But small-business owners shouldn't assume that Congress will come to the rescue. Section 89 has powerful friends on Capitol Hill, including the two key figures behind the 1986 Tax Reform Act—Rep. Dan Rostenkowski, D-Ill., chairman of the House Ways and Means Committee, and Sen. Bob Packwood, R-Ore., ranking minority member of the Senate Finance Committee.

The law reflects a longstanding concern among many lawmakers that the federal government doesn't have enough control over who gets tax-exempt, employer-paid benefits, according to staffers on the tax-writing committees. The joint tax committee estimates that employer-provided health-care plans alone cost the government $32 billion a year in "lost" revenue.

That kind of money, Congress decided, should produce better social-policy results, namely health insurance for lower-paid workers. Section 89 was driven by the perception that many employers were giving their highest-paid employees generous benefits while giving their lower-paid employees less or nothing at all. Supporters of this view note that 52 percent of the 37 million Americans who have no health insurance either work full time or are members of families headed by full-time workers. Accordingly, Congress cracked its tax-policy whip, forcing employers to fall into line or risk losing a tax subsidy for highly paid workers. Said one congressional staff member who worked on the legislation: "Why should the government be satisfied that blue-collar workers are getting less than white-collar workers?"

Business owners generally have no quarrel with Congress' intent. It's the execution that has benefits managers throwing up their hands in frustration.

Most large and midsized companies have turned to outside consultants for assistance. Small firms may find they have no other choice, says Feltman, of the Employee Council on Flexible Compensation. "In the end, what we have is a technician's dream and a layman's nightmare," he adds, explaining that Congress made Section 89 "so complex that the traditional expert that the small-business owner has relied on, his insurance broker, is no longer an expert. Now he'll have to go to higher-priced talent: lawyers, accountants, and consultants."

Reed Creaser, secretary/treasurer for General Crane and Hoist Inc., in Richmond Hill, Ga., already knows what it's like to ask questions and get no answers. "I've asked several insurance companies to send me what they have on Section 89, but nobody has sent me anything yet. The individual agents seem to be as much in the dark as we are," he says.

Whether individual employers discriminate or not, the law puts the burden of proof on them. Collecting and analyzing the data needed on each employee frequently may cost more than correcting any discrimination that is found. In fact, an employer may sink thousands of dollars into data collection and analysis just to show that no discrimination exists.

Among the law's data requirements are those that compel employers to:

Identify the highly compensated and the non-highly compensated.

Determine who may be excluded from the tests.

Identify each benefit that must be tested.

Sort out the family status of employees for separate family coverage testing.

Determine the number of former employees subject to testing.

Determine whether parts of an organization can be tested as a separate line of business.

Once the information is assembled, it isn't enough to show that coverage was offered. Benefit plans will be judged by the percentage of employees who actually participate.

The Section 89 Coalition, a group of 190 associations and businesses, lobbied unsuccessfully last year for one-year delay in Section 89. The coalition's efforts were motivated in part by the Treasury Department's failure to produce regulations to implement the law. But Congress was in no mood to start chipping away at tax reform, especially when delay would add $300 million to the federal budget deficit.

The coalition met very heavy resistance from Rostenkowski," said Christine Hartoft, a legislative assistant with the Association of Private Pension and Welfare Plans. "He wasn't interested in anything that would make it look like tax reform was unraveling."

Nonetheless, the Technical and Miscellaneous Revenue Act of 1988, signed into law Nov. 11, did contain some of the coalition's recommendations for simplifying the law. Among them:

Employers may test their benefit plans for compliance with non-discrimination rules on one day of the year; they do not have to track each benefit choice by each employee for each day of the year.

Benefit plans will not fail the nondiscrimination tests simply because too many employees choose to be covered by their spouses's plans.

Companies with nine or fewer workers may phase in coverage for part-time employees, those who work at least 17.5 hours a week, over three years.

The latter two changes are major concessions to the concerns of small companies, says Ron Danilson, assistant director of group operations with the Principal Financial Group of Des Moines, Iowa. A 1988 company survey of 100 employers with fewer than 10 workers found that up to 70 percent would fail, primarily because of the initial participation requirements for parttimers and workers covered by a spouse's insurance plan.

But even with the changes, the law and the monumental problems it poses for employers remain basically intact. "To expect small business to understand Section 89 is absolutely ludicrous," says Danilson. Others who have studied the revisions still don't like what they see.

"It seems to me that if a company is considering putting in a health-care plan, and they run into this, they will just forget it," says Frank L. Mason, president of the Mason Corp., a Birmingham, Ala., manufacturer of metal building products.

"It's just too much of a burden to keep up with all the detail and still run a business," he adds. "Yor can just load a small-business wagon so full, and when you get beyond that, something has to give."

By Mr. THURMOND:

S. 90. A bill to provide for comprehensive reforms and to achieve greater equity in the compensation of attorneys pursuant to Federal statute in civil and administrative proceedings in which the United States, or a State or local government, is a party; to the Committee on the Judiciary.

THE LEGAL FEES EQUITY ACT OF 1989

Mr. THURMOND. Mr. President, I rise today to introduce the Legal Fees Equity Act of 1989. This bill will modify the federally mandated attorney compensation schemes applicable in Federal administrative and judicial proceedings in which the United States, State, or local governments are parties. The purpose of the legislation is to provide a statutory framework for a more equitable balance in compensation for legal services rendered in litigation involving the government.

To accomplish this goal, the bill would set a $75 per hour maximum attorney fee and eliminate the use of bonuses and multipliers which escalate fee awards. This rate will provide a reasonable incentive sufficient to attract competent counsel in actions

against the Government while limiting large fee awards.

Additionally, the bill allows recovery of attorney's fees only when the litigant has either prevailed on the merits or secured a favorable settlement agreement. This legislation limits the recovery of fees to work performed on issues in which the litigant prevailed. The court may reduce or deny the fee where the attorney has unreasonably protracted the litigation or performed services which were excessive with regard to the nature of the controversy.

Mr. President, I believe that this bill strikes a careful balance between the need to control escalating legal fees in suits against the Government and the need to attract competent counsel to represent litigants in these suits.

I urge my colleagues to join me in supporting this important legislation and ask unanimous consent that it be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Legal Fees Equity Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(A) Congress hereby finds and declares that—

(1) many Federal statutes authorize awards of attorneys' fees to be made to parties who prevail against the United States, or against State or local governments, in judicial and administrative proceedings;

(2) the failure to provide standards to guide courts and administrative bodies in awarding such fees has led to inconsistent interpretations of these Federal civil fee-shifting statutes, and in many instances to excessive awards of attorneys' fees under them;

(3) it is inappropriate for the Federal Government to impose on State and local governments the statutory requirement to pay awards of attorneys' fees without providing standards by which to make such awards;

(4) the limitation of $75 per hour prescribed by Congress for civil judicial and administrative proceedings under the Equal Access to Justice Act provides a reasonable and appropriate maximum hourly rate for the award of attorneys' fees against the United States, or against State or local governments, in judicial or administrative proceedings;

(5) it is inappropriate for awards of attorneys' fees to be made to parties who have prevailed on the merits of their complaint against the United States, or against State or local governments, in judicial or administrative proceedings;

(6) it is appropriate that parties in judicial or administrative proceedings against the United States, or against State or local governments, pay a reasonable portion of their attorneys's fees when monetary awards are recovered;

(7) statutory provisions are necessary to control the circumstances and conditions under which awards of attorneys' fees and related expenses or costs may be made against the United States, or against State or local governments, in judicial or administrative proceedings; and

(8) statutory amendments are also appropriate to limit the circumstances in which Federal agencies hire outside private counsel from litigation and the amounts at which such outside counsel can be paid.

(b) It is the purpose of this Act—

(1) to establish a uniform hourly rate that shall be the maximum compensation authorized to be awarded against the United States, or against State or local governments, in judicial or administrative proceedings to which any Federal fee-shifting statute applies;

(2) to require that awards of attorneys' fees against the United States, or against State or local governments, in judicial or administrative proceedings to which any Federal fee-shifting statute applies be made only to parties who have prevailed in the proceedings;

(3) to prescribe standards for the awarding of attorneys' fees and related expenses or costs against the United States, or against State or local governments, in judicial or administrative proceedings to which any Federal fee-shifting statute applies; and

(4) to authorize the Attorney General to promulgate regulations governing the circumstances in which Federal agencies can retain outside private counsel for litigation and to impose a uniform limit on the rates such counsel can be paid from appropriated funds.

SEC. 3. DEFINITIONS.

For the purpose of this Act—

(1) "attorneys' fees" means fees attributable to professional legal services performed by a person, or persons, licensed to practice law (but shall not include services by pro se claimants), or to services by enrolled tax practitioners with respect to proceedings before the United States Tax Court, including overhead expenses, as defined in this Act, but not including related expenses;

(2) "fee-shifting statute" means any Federal statute that provides for recovery by a party of attorneys' fees or related expenses against the United States, or against a State or local government;

(3) "overhead expenses", except in extraordinary circumstances, shall include, but not be limited to, rent or mortgage payments, maintenance (including heating and cooling costs), furniture and supplies, reporters, treatises, and other books, secretarial and other clerical and librarian time (including computer word processing expenses), telephone services and calls, and mailing expenses;

(4) "related expenses" means those expenses that may be awarded pursuant to a Federal law, and which are actually incurred by the attorney in connection with judicial or administrative proceedings, but does not include attorneys' fees or overhead expenses, as defined in this Act, or costs enumerated in section 1920 of title 28, United States Code;

(5) "party" means, for purposes of judicial proceedings, a party as defined by rule 17 of the Federal Rules of Civil Procedure, or, for purposes of administrative proceedings, a party as defined in section 551(3) of title 5, United States Code;

(6) "judicial proceeding" means a civil proceeding in any court or under the jurisdiction of a judicial officer, in which a party may by law be awarded attorneys' fees or related expenses;

(7) "administrative proceeding" means any proceeding, other than a judicial proceeding, in which a party may by law be awarded attorneys' fees or related expenses;

(8) "administrative officer" means the official(s) or person(s) authorized by statute or regulation to decide the substantive issues being considered in an administrative proceeding, or the official(s) or person(s) designated by the head of the agency as the administrative officer(s) for the purpose of this Act;

(9) "prevailed on the merits" means having obtained a final decision in which the party has succeeded on a significant issue or issues in the controversy and obtained significant relief in connection with that issue or issues, and may include, where the party is a defendant in a suit by the Government, obtaining the dismissal of the complaint;

(10) "final decision" means a final judgment by the court, or a final order by an agency, in which a party establishes entitlement to relief on the merits of the claim or claims brought in the proceeding, and includes a judgment or order obtained by a party dismissing the proceeding with prejudice or pursuant to a settlement agreement;

(11) "United States" means the United States, or any agency of the United States, or any official of the United States acting in his or her official capacity;

(12) "State" means any State government, or any agency of the State government, or any official of the State government acting in his or her official capacity, and includes the territories and the District of Columbia; and

(13) "local government" means any county, city, town, municipality, municipal corporation, school board, special governmental district, or other political subdivision created by a State, or any agency of such entity, or any official of such entity acting in his or her official capacity.

SEC. 4. SCOPE AND APPLICATION; RELATIONSHIP TO OTHER LAWS.

(a) The provisions of this Act—

(1) apply to any judicial or administrative proceeding in which an award of attorneys' fees and related expenses is authorized, pursuant to any Federal fee-shifting statute, to be made against the United States, or a State or local government, and

(2) establish minimum criteria and requirements for the award of attorneys' fees and related expenses to which this Act applies.

(b) Notwithstanding any other provision of law, no award of attorneys' fees or related expenses shall be made against the United States, or against State or local governments, in any judicial or administrative proceeding, except as expressly authorized by law (other than this Act), and in accordance with the provisions of this Act. No such award shall exceed the amount determined under the provisions of this Act.

(c)(1) The provisions of any applicable Federal fee-shifting statute that establish criteria or requirements in addition to those provided in this Act for the award of attorneys' fees and related expenses in such proceedings, or that otherwise limit awards of attorneys' fees in such proceedings, shall apply in addition to the provisions of this Act.

(2) Nothing in this Act shall be interpreted to create any right to, or provide any authority for, an award of attorneys' fees or related expenses in any judicial or administrative proceeding.

(d) No awards of attorneys' fees or related expenses shall be made under a Federal fee-

shifting statute against a party who has intervened to defend the validity of a law or action of the United States, or a State or local government, and who has not been found to have violated a constitutional or statutory right of the party seeking the award.

(e) Awards of attorneys' fees and related expenses otherwise authorized under section 504 of title 5 of the United States Code or section 2412(d) of title 28 of the United States Code (the Equal Access to Justice Act) shall be made in accordance with the provisions of this Act, except that subsections (a)(1), (b)(1)(C), (b)(2)(A), and (c) of section 6 of this Act shall not apply.

(f) The provisions of this Act shall not apply to compensation of attorneys in proceedings under section 3006A of title 18, United States Code.

SEC. 5. ALLOWANCE OF ATTORNEYS' FEES.

A party otherwise eligible to receive attorneys' fees and related expenses to which this Act applies must establish that—

(1) the party has prevailed on the merits against the United States, or against a State or local government;

(2) the work for which the award of attorneys' fees and related expenses is sought—

(A) was performed in the judicial or administrative proceeding in connection with issues upon which the party prevailed against the United States or against a State or local government, and

(B) was not excessive, redundant, or otherwise unnecessary to resolve the controversy; and

(3) the application for attorneys' fees and related expenses is made in accordance with sections 6(a) and 7 of this Act.

SEC. 6. AMOUNT OF ATTORNEYS' FEES

(a)(1) No award of attorneys' fees against the United States, or against a State or local government, to which this Act applies shall exceed $75 per hour.

(2) Bonuses or multipliers shall not be used in calculating awards of attorneys' fees.

(b)(1) The court or administrative officer shall reduce or deny accordingly the amount of attorneys' fees and related expenses otherwise allowable if it is found that—

(A) the prevailing party, during the course of the proceeding, engaged in conduct that unreasonably protracted that final resolution of the controversy,

(B) the amount of attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly salary of the attorney representing the party, or

(C) the time spent and legal services provided were excessive with regard to the nature of the controversy.

(2) The court or administrative officer, in the exercise of discretion, may reduce or deny an award where—

(A) the amount of attorneys' fees otherwise authorized to be awarded unreasonably exceeds the monetary result or value of injunctive relief achieved in the proceeding, or

(B) a reduction or denial of the amount of attorneys' fees would otherwise be appropriate under the applicable fee-shifting statute.

(c) Whenever a monetary judgment is awarded in any judicial or administrative proceeding to which a Federal fee-shifting statute applies, a portion of the judgment (but not more than 25 per centum thereof) shall be applied to satisfy the amount of attorneys' fees authorized to be awarded against the United States, or against a State or local Government. If the authorized award of attorneys' fees exceeds 25 per centum of the judgment, the excess shall be paid by the United States, or the State or local government. This subsection shall not apply to awards of attorneys' fees pursuant to section 7430 of the Internal Revenue Code.

(d) Section 593(g) of title 28, United States Code, relating to independent counsel investigations, is amended by adding at the end thereof the following new sentence: "Such award shall not exceed $75 per hour.".

SEC. 7. TIMELY APPLICATIONS AND PROCEDURES.

(a) In any judicial or administrative proceeding to which this Act applies, a party may seek an award of attorneys' fees and related expenses only within thirty days after a final decision by the court or agency from which no appeal is taken. The party seeking an award of attorneys' fees shall submit to the court or agency such information as may be required by the court or agency.

(b) Courts and agencies shall develop procedures, not inconsistent with this Act, for filing of applications for awards of attorneys' fees, which shall provide guidance as to what information should be required to be submitted pursuant to subsection (a) of this section, when such information should be submitted, and when determinations should be made concerning awards of attorneys' fees and related expenses. In no event shall an award of attorneys' fees and related expenses be made prior to entry of a final decision by the court or agency.

SEC. 8. MOOTNESS AND SETTLEMENT DEFENSES.

No award of attorneys' fees and related expenses subject to the provisions of this Act may be made—

(1) where the Government demonstrates that—

(A) the claims have become moot due to a change in Government policy, and

(B) the pendency of the judicial or administrative proceeding was not a material factor in such change in policy; or

(2) for services performed subsequent to the time a written offer of settlement is made to a party, if the offer is not accepted and a court or administrative officer finds that the relief finally obtained by the party is not more favorable to the party than the offer of settlement.

SEC. 9. COMPTROLLER GENERAL REPORT.

The Comptroller General of the United States shall submit on April 1 of each year a report to the President and the Congress on the amount of attorneys' fees and related expenses awarded during the preceding fiscal year against the United States, or against State or local governments, in judicial and administrative proceedings to which this Act applies. The courts and each agency shall provide the Comptroller General with such information as is necessary to comply with the requirements of this section.

SEC. 10. LIMITATION ON EMPLOYMENT AND COMPENSATION OF OUTSIDE, PRIVATE COUNSEL.

Section 3106 of title 5, United States Code, is amended to read as follows:

"§ 3106. Employment of attorneys; restrictions

"(a) Except as otherwise authorized by law, the head of an executive department, military department, or other agency, including an independent agency, board, or commission, may not employ an attorney or counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice.

"(b) Notwithstanding any other provision of law—

"(1) an executive department, military department, or other agency, including an independent agency, board, or commission, shall not retain outside, private counsel for the conduct of judicial or administrative litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, except upon a certification of need by the Attorney General and in accordance with regulations promulgated by the Attorney General; and

"(2) no payment from appropriated funds to such outside, private counsel retained pursuant to subsection (b)(1) shall exceed $75 an hour.

"(c) The Attorney General, after consultation with the Office of Management and Budget, the Office of Personnel Management, and other interested agencies, and upon public notice and comment pursuant to section 553 of this title, shall promulgate regulations implementing this section, including—

"(1) the circumstances, terms, and conditions under which executive departments, military departments, and other agencies, including independent agencies, boards, and commissions, are authorized to employ outside, private counsel to be paid from appropriated funds;

"(2) procedures for the receipt and prompt resolution of applications from any agency for a certification of need by the Attorney General, in a particular case or class of cases, authorizing the retention of outside, private counsel for litigation in circumstances not otherwise permitted under this section; and

"(3) the coordination of the use and availability of the expertise of attorneys within the executive branch of Government for litigation.

The regulations authorized by this subsection and the determinations of the Attorney General pursuant to such regulations shall not be subject to judicial review.

"(d) For the purposes of this section, the term 'outside, private counsel' means an attorney, firm, legal services organization, or association engaged in the practice of law other than as an employee of the United States.

"(e) This section does not apply to the employment and payment of counsel under section 1037 of title 10.".

SEC. 11. EFFECTIVE DATE.

The provisions of this Act shall apply to any award of attorneys' fees and related expenses incurred subsequent to the enactment of this Act, including those incurred after such date in actions commenced prior to such enactment.

By Mr. THURMOND (for himself and Mr. LEVIN):

S. 91. A bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

CONTINGENCY FEES IN FEDERAL GOVERNMENT LOBBYING

Mr. THURMOND. Mr. President, today, I am introducing a bill which

would prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis. This bill is virtually identical to a bill I introduced during the final months of the 100th Congress. This legislation takes an important step toward ensuring integrity in the administration of the Federal Government.

Congress has a great responsibility to ensure integrity in the administration of the Federal Government in all its departments. This has become even more important now that we have entered the era of the $1 trillion Federal budget. Vast sums of money are appropriated by Congress for various projects and studies. Contracts worth millions of dollars are regularly entered into by Federal agencies. The competition for these funds and contracts is intense.

It is not realistic to assume that Congress can legislate integrity. However, we can, through legislation, make efforts to remove certain incentives to use undue influence and to enter into contracts which are contrary to the fiscal and ethical interests of our Nation. Accordingly, I have introduced this legislation which will prohibit payment for lobbying on a contingency fee basis.

Mr. President, I have heard reports of certain lobbying activities which greatly disturb me. Specifically, I was informed that one lobbyist approached an institution and inquired as to how much Federal money was needed to fund a particular project. When the response was $12 million, the lobbyist responded that he would ask Congress for $14 million. If successful, he would be paid $2 million. If he was unsuccessful, only a base fee would be charged. When our Nation is bridled with such a huge debt, we certainly cannot afford to borrow more money to provide such suspect incentive payments which work to further increase the deficit.

Many lobbying firms do not operate on a contingency fee basis. Yet, other firms follow this practice. The president of the American League of Lobbyists does not oppose charging a contingency fee for lobbying efforts. Hearings on these issues would be very helpful as this legislation moves through Congress. However, even if it it determined that such arrangements are rare—I take the view that even one is too much. Such arrangements are clearly wrong, and should not be tolerated.

I firmly believe that lobbying on a contingency fee basis is wrong and should not be allowed. Congress should follow the lead of most States by enacting this legislation which would prohibit such arrangements.

Mr. President, the question of the propriety of contingency fees in lobbying activities is not a new one. Common law has held such contracts unenforceable for decades. In fact, in 1916, the Supreme Court ruled on the character of such financial arrangements in the case of Crocker versus United States. The Court, quoting from a prior case, stated:

> All contracts . . . should be made with those . . . who will execute them most faithfully, and at the least expense to the Government. [Contingency fee arrangements] . . . tend to introduce personal solicitation, and personal influence, as elements in the procurement of contracts; and thus directly lead to inefficiency in the public service, and to unnecessary expenditures of the public funds.

Mr. President, recognizing the improper incentives contingency fees for lobbyists have injected into Government, 35 States have laws on the books which prohibit payment for lobbying on a contingent fee basis. My home State of South Carolina has prohibited this type of lobbying since 1935.

At the Federal level, contingency fee arrangements are addressed to some extent in the executive branch. Two laws covering contracts awarded by the executive departments—41 U.S.C. 254(a) and 10 U.S.C. 2306(b)—restrict the use of "commission, percentage, brokerage or contingent fee" arrangements to secure these contracts. However, the scope of these statutes is deficient in two respects. First, the violation of these provisions carries little penalty. The Government can only annul the contract secured by a contingency fee arrangement, or deduct from the contract the full amount of the contingency fee. They carry no criminal penalties. Second, these statutes only apply to the executive branch and not to activities involving Congress.

Mr. President, the legislation I am introducing would make contingency fee arrangements to influence Government action a crime under Federal law. Any person who violated the provisions of this section shall be fined up to $100,000, or imprisoned not more than 5 years, or both.

Moreover, the Attorney General is empowered to bring a civil action to recover twice the proceeds obtained by that person due to such conduct. This act is prospective in nature and would only apply to contracts entered into after enactment.

Lobbyists often provide expertise and helpful information not otherwise available. I want to be clear on this point. This is an important role for lobbyists, but I am opposed to contractual arrangements which impugn the integrity and efficiency of our system. Clearly, a person should be entitled to reasonable fees for legitimate services in presenting officials of the Government with information as may apprise them of the character and value of the project or service offered, and thus enable those officers to act for the best interest of the Nation. However, the law has long recognized that contingency fees are not appropriate in some areas while appropriate in others. For instance, contingency fees in tort actions provide the poor with access to the courts and are viewed favorably. In other areas, such as criminal and domestic law, such fees are inappropriate because they introduce improper incentives into the system. Similar principles should apply to contingency fees for lobbying.

Mr. President, I urge my colleagues to support this legislation and I look forward to hearings on this important issue. The public deserves action on the part of Congress.

I ask unanimous consent that this bill be printed in its entirety following these remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 11 of title 18, United States Code, is amended by—

(1) inserting between sections 219 and 223, the following new section:

"§ 220. Contingency fees in lobbying

"(a)(1) It shall be unlawful for any person to be employed as an agent or attorney for or otherwise represent any person other than the United States, or with intent to influence, to be employed to make any oral or written communication on behalf of any other person other than the United States to any department, agency, court, or commission of the United States, or any officer or employee for compensation if such compensation is dependent in any way—

"(A) upon any action of Congress, including but not limited to actions of either the House of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any proposed legislation,

"(B) upon the securing of an award, or upon the denial of an award, of a contract or grant by establishment of the Federal Government, or

"(C) upon the securing, or upon the denial, of any Federal financial assistance or any other Federal contract or grant.

"(2) The provisions of paragraph (1) shall not apply in any case involving the collection of any amount owed on a debt or on a contract claim owed to a person by the Federal Government.

"(b) Any person who violates the provisions of this section shall be fined not more than $100,000 or imprisoned not more than 5 years, or both.

"(c) The Attorney General may bring a civil action in any United States district court, on behalf of the United States, against any person who engages in conduct prohibited by this section in lieu of or in addition to an action taken pursuant to subsection (b), and, upon proof of such conduct by the preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within 6 years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date

on which the United States became or reasonably should have become aware that the prohibited conduct has occurred."; and

(2) amending the table of sections by striking out the item between the item relating to section 219 and the item relating to section 224 and inserting in lieu thereof the following:

"220. Contingency fees in lobbying.".

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract entered into on or after such date of enactment.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. SIMPSON, Mr. SYMMS, Mr. ARMSTRONG, and Mr. WILSON):

S. 92. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

HOBBS ACT EXTORTION

Mr. THURMOND. Mr. President, today, I am introducing legislation to amend the Hobbs Anti-Racketeering Act to reverse the Supreme Court's decision in United States versus Enmons, and to address a serious, long term, festering problem under our Nation's labor laws. The United States regulates labor relations on a national basis and our labor management policies are national policies. These policies and regulations are enforced by laws such as the National Labor Relations Act that Congress designed to preempt comparable State laws.

Although labor violence is a widespread problem in labor management relations today, our Government appears unwilling to deal with it. What might be the most obvious example of this Government's reluctance is what the Supreme Court did when it rendered its decision in the case of United States versus Enmons in 1973. It is this decision's unfortunate result which this bill is intended to rectify.

The Enmons decision involved the Hobbs Anti-Racketeering Act which is intended to prohibit extortion by labor unions. It provides that: "Whoever in any way * * * obstructs, delays, or affects commerce in the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to do so or commits or threatens physical violence to any person or property * * *" commits a criminal act. This language is very clear. It outlaws extortion by labor unions. It outlaws violence by labor unions.

Although this language is very clear, the Supreme Court in Enmons created an exemption to the law which says that as long as a labor union commits extortion and violence in furtherance of legitimate collective-bargaining objectives, no violation of the act will be found. Simply put, the Court held that if the ends are correct, the means to that end, no matter how horrible or reprehensible, will not result in a violation of the act.

The Enmons decision is wrong. This bill will make it clear that the Hobbs Act is intended to punish the actual or threatened use of force or violence to obtain property irrespective of the legitimacy of the extortionist's claim to such property and irrespective of the existence of a labor-management dispute.

Let me discuss the Enmons case.

In that case, the defendants were indicted for firing high-powered rifles at property, causing extensive damage to the property, owned by a utility company—all done in an effort to obtain higher wages and other benefits from the company for striking employees. The indictment was, however, dismissed by the district court on the theory that the Hobbs Act did not prohibit the use of violence in obtaining legitimate union objectives. On appeal, the Supreme Court affirmed.

The Supreme Court held that the Hobbs Act does not proscribe violence committed during a lawful strike for the purpose of achieving legitimate collective-bargaining objectives, like higher wages. By its focus upon the motives and objectives of the property claimant, who uses violence or force to achieve his goals, the Enmons decision has had several unfortunate results. It has deprived the Federal Government of the ability to punish significant acts of extortionate violence when they occur in a labor management context. Although other Federal statutes prohibit the use of specific devices or the use of channels of commerce in accomplishing the underlying act of extortionate violence, only the Hobbs Act proscribes a localized act of extortionate violence whose economic effect is to disrupt the channels of commerce. Other Federal statutes are not adequate to address the full effect of the Enmons decision.

The Enmons decision affords parties to labor-management disputes an exemption from the statute's broad proscription against violence which is not available to any other group in society. This bill would make it clear that the Hobbs Act punishes the actual or threatened use of force and violence which is calculated to obtain property without regard to whether the extortionist has a colorable claim to such property, and without regard to his status as a labor representative, businessman, or private citizen.

Mr. President, attempts to rectify the injustice of the Enmons decision have been before the Senate on several occasions. Shortly after the decision was handed down, a bill was introduced which was intended to repudiate the decision. Over the next several years, attempts were made to come up with language which was acceptable to organized labor and at the same time restored the original intent of the Hobbs Act.

In 1978, S. 1437, a bill which was substantially the same as the bill I am introducing today, passed the Senate; however the bill died in the House. In the 100th Congress, I introduced S. 2036, a bill which is identical to this legislation, yet no substantial action was taken on the bill. It is time for the Senate to reexamine this issue and to restate its opposition to violence in labor disputes. Encouraged by their special exemption from prosecution for acts of violence committed in pursuit of legitimate union objectives, union officials who are corrupt routinely use terror tactics to achieve their goals.

Between 1975 and 1988 there were over 5,900 newspaper documented incidents of compulsory unionism violence. This chilling statistic gives clear testimony to the existence of a pervasive national problem.

Mr. President, violence has no place in our society, regardless of the setting. Our national labor policy has always been directed toward the peaceful resolution of labor disputes. It is ironic that the Hobbs Act, which was enacted in large part to accomplish this worthy goal, has been virtually emasculated. The time has come to change that. I think that my colleagues on both sides of the aisle share a common concern that violence in labor disputes, whatever the source, should be eliminated. Government has been unwilling to deal with this problem for too long. It is time for this Congress to act.

I ask unanimous consent that the full text of this bill be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 92

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF EXTORTION UNDER HOBBS ACT.

Paragraph (2) of section 1951(b) of title 18, United States Code, (commonly known as the "Hobbs Act") is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(B) In a prosecution under subparagraph (A)(i) in which the threat or fear is based on conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendence, at the time of such conduct, of a labor dispute (as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9))) the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct.".

By Mr. THURMOND:

S. 93. A bill to establish an Intercircuit Panel, and for other purposes; to the Committee on the Judiciary.

INTERCIRCUIT PANEL OF THE U.S. ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to establish an Intercircuit Panel of the U.S. Court of Appeals. This legislation is very similar to S. 239 which I introduced in the 100th Congress and which was approved by the Senate Judiciary Committee in the 99th Congress.

Over the past several decades, the workload of the Federal judiciary has increased dramatically. This increase has occurred as our society has become a far more litigious one, and as the laws of our Nation have become far more numerous and complex.

Since 1950, Congress has acted to meet the growing demands upon the judiciary by increasing the number of Federal district court judges from 212 to 575 and the number of circuit court of appeals judges from 65 to 168. While these increases have helped to ease the burden in the Federal appeals and Federal district courts, little has been done to ease the burden that has been placed on the Supreme Court which today continues to operate at its original nine-member size.

Mr. President, each year the burden on the Supreme Court seems to become more acute. In 1953, there were 1,463 cases on the docket of the Court. In 1986, the Supreme Court had more than 5,000 cases on its docket. Over the same period, the number of signed opinions increased from 65 to 164.

In the last dozen years, several major independent commissions have studied the problem of a severely overcrowded Supreme Court docket and have concluded that a new tribunal is desperately needed.

This legislation would establish, for a 5-year trial period, such a tribunal to be known as the Intercircuit Panel of the United States. The panel would be composed of nine U.S. circuit court judges to be selected by the Supreme Court. Members of the panel could be active or senior status judges.

Meeting in Washington, DC, the panel would serve as a court of limited jurisdiction, reviewing only those cases referred to it by the Supreme Court. The Supreme Court would only be authorized to refer to the panel those cases in which a conflict exists between the circuits.

The Supreme Court would have discretion in selecting the cases for resolution by the panel, and would retain authority after the panel decides a case in order to grant further review of the case when it deems such review appropriate. The panel would operate under the same rules and procedures, and parties would enjoy the same rights, that apply in cases under review by the Supreme Court.

Mr. President, this proposal was enthusiastically endorsed by Chief Justice Warren Burger during his tenure as Chief Justice. At his confirmation hearings, current Chief Justice William Rehnquist expressed strong support for an intercircuit tribunal.

Creation of this panel appears to be the most effective solution to the problem. If enacted, the panel would be utilized, to the extent desired by the Supreme Court, for a period of 5 years. Congress would, of course, have the option to reauthorize the panel, with or without changes, after a careful assessment of its impact on the Supreme Court and the entire judicial system. Should the Supreme Court become dissatisfied with the effectiveness of the panel at any point in the 5-year period, it could terminate the panel simply by deciding not to send it any additional cases.

I urge my colleagues to join me in supporting this necessary reform and ask unanimous consent that this bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 93

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intercircuit Panel of the United States Act".

ESTABLISHMENT OF PANEL

SEC. 2. (a) Part I of title 28, United States Code, is amended by inserting after chapter 3 the following new chapter.

"CHAPTER 4—INTERCIRCUIT PANEL OF THE UNITED STATES COURTS OF APPEALS

"Sec.
"61. Establishment and composition of Intercircuit Panel.
"62. Principal office and sessions.
"63. Seal

"§ 61. Establishment and composition of Intercircuit Panel

"(a)(1) There will be an Intercircuit Panel of the United States Courts of Appeals that shall be composed of nine judges and four alternate judges designated by the Supreme Court of the United States. Such nine judges shall constitute the Panel. All judges designated to serve on the Panel shall be circuit judges who are in regular active service or who are senior judges.

"(2) For the original designations, the Supreme Court shall designate four judges to serve on the Panel for a period terminating two years after the date of the first referral made pursuant to section 1260(a) of this title, four judges to serve for a period terminating three years after such date, and five judges to serve for a period terminating five years after such date. Thereafter the Supreme Court shall designate judges to serve on the Panel for terms of three years. All terms shall commence on the date of such designation.

"(3) The Chief Justice shall designate the presiding judge of the Panel from among members of the Panel.

"(b) Cases and controversies shall be heard and determined by the Panel.

"(c) No judge shall hear or participate in the determination of any case referred to the Panel in which such judge previously participated. In the event of a vacancy on the Panel caused by a judge disqualifying himself under this subsection, or under section 455 of this title, or caused by the absence of any judge designated to sit on the Panel, a judge shall be designated from among the alternate judges to sit on the Panel in accordance with the rules prescribed by the Panel.

"(d) Rules of procedure shall be promulgated by vote of a majority of the full membership of the Intercircuit Panel and such procedures shall be published before any cases are heard by such Panel.

"(e) In the event of the death, resignation, or disability of any judge designated under subsection (a), the Supreme Court shall fill the vacancy in accordance with the provisions of subsection (a). A judge designated to fill such a vacancy shall be designated to serve for the remainder of the period of his predecessor's term.

"§ 62. Principal office and sessions.

"The principal office of the Intercircuit Panel of the United States Courts of Appeals shall be in the District of Columbia, but the Panel may hold court at such times and places within the United States as the Panel may fix by rule.

"§ 63. Seal

"The Intercircuit Panel of the United States Courts of Appeals shall have a seal which shall be judicially noticed.".

(b) The analysis of part I of title 28, United States Code, is amended by inserting after the item relating to chapter 3 the following new item:

"4. Intercircuit Panel of the United States Courts of Appeals . . . 61.".

OFFICERS AND EMPLOYEES

SEC. 3. (a) Part III of title 28, United States Code, is amended by inserting after chapter 47 the following new chapter:

"CHAPTER 48—INTERCIRCUIT PANEL OF THE UNITED STATES COURTS OF APPEALS

"Sec.
"731. Clerk, employees and facilities.
"732. Marshal and bailiffs.

"§ 731. Clerk, employees and facilities

"The clerk of the Court of Appeals for the Federal Circuit shall perform the duties of clerk of the Intercircuit Panel of the United States Courts of Appeals. Clerical assistance and facilities shall be provided to the Intercircuit Panel by the Court of Appeals for the Federal Circuit and by the Supreme Court in a manner which is mutually agreeable to the Chief Justice of the United States Supreme Court, the presiding judge of the Intercircuit Panel and the Chief Judge of the Court of Appeals for the Federal Circuit.

"§ 732. Marshal and bailiffs

"The Intercircuit Panel of the United States Courts of Appeals may request the services of the marshal of the court of appeals for the judicial district in which the Panel is sitting. The marshal shall attend the Panel at its sessions, take charge of all property of the United States used by the Panel, and perform such other duties as the Panel may direct. The marshal, with the approval of the Panel, may request necessary bailiffs from the court of appeals which such marshal serves. Such bailiffs shall attend the Panel, preserve order, and per-

form such other necessary duties as the Panel or the marshal may direct.".

(b) The analysis of part III of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 47 of such title the following new item:

"48. Intercircuit Panel of the Untied States Courts of Appeals. . 731.".

JURISDICTION AND REVIEW

SEC. 4. (a)(1) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1260. Referral to Intercircuit Panel of the United States Courts of Appeals

"(a) The Supreme Court may refer any case in which it has found to exist a conflict with the determination of another circuit of the United States Courts of Appeals to the Intercircuit Panel of the United States Courts of Appeals, before or after granting or denying certiorari, or before or after noting probable jurisdiction of an appeal. The Supreme Court shall direct the Intercircuit Panel of the United States Courts of Appeals to decide any case so referred which is subject to review by appeal, and the Supreme Court may direct the Panel to decide any other case so referred.

"(b) Cases in the Panel may be reviewed by the Supreme Court in the same manner as provided in section 1254(1) of this title for cases in the courts of appeals generally.".

(2) The analysis of chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1260. Referral to Intercircuit Panel of the United States Courts of Appeals.".

(b)(1) Part IV of title 28, United States Code, is amended by adding immediately after chapter 81 of such title the following new chapter:

"CHAPTER 82—INTERCIRCUIT PANEL OF THE UNITED STATES COURTS OF APPEALS

"§ 1271. Jurisdiction

"The Intercircuit Panel of the United States Courts of Appeals shall have jurisdiction of cases referred to the Panel by the Supreme Court.

"§ 1272. Finality of decisions

"(a) The Intercircuit Panel of the United States Courts of Appeals may deny review in any case referred to the Panel by the Supreme Court which is subject by writ of certiorari, unless the Panel is directed by the Supreme Court to decide such case.

"(b) Unless modified or overruled by the Supreme Court, decisions of the Intercircuit Panel of the United States Court of Appeals (other than decisions denying review under subsection (a)) shall be final decisions and shall be binding on all courts of the United States and, with respect to questions arising under the Constitution, laws, or treaties of the United States, on all other courts.".

(2) The analysis of part IV of title 28, United States Code, is amended by inserting immediately after the item relating to chapter 81 of such title the following new item:

"82. Intercircuit Panel of the United States Courts of Appeals. 1271."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 5. (a) Section 1913 of title 28, United States Code, is amended to read as follows:

"§ 1913. Courts of appeals; Intercircuit Panel of the United States Courts of Appeals

"The fees and costs to be charged and collected in each court of appeals and in the Intercircuit Panel of the United States Courts of Appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and, in the case of the courts of appeals, shall be uniform for all such courts.".

(b) The item relating to section 1913 of title 28, United States Code, in the analysis of chapter 123 of such title, is amended to read as follows:

"1913. Courts of appeals; Intercircuit Panel of the United States Courts of Appeals.".

(c) The first paragraph of section 2072 of title 28, United States Code, is amended by inserting after "courts of appeals of the United States" the following; "and of the Intercircuit Panel of the United States Courts of Appeals".

(d) Section 2106 of title 28, United States Code, is amended by inserting immediately after "Supreme Court" the following: ", the Intercircuit Panel of the United States Courts of Appeals,".

REPORTS

SEC. 6. (a) Section 604(d) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

"(5) lay before Congress annually statistical tables and other information which will accurately reflect the business which has come before the Intercircuit Panel of the United States Courts of Appeals.".

(b) The Intercircuit Panel of the United States Courts of Appeals, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Supreme Court, the Judicial Conference of the United States, the President and Congress, not later than four years after the date of the first referral made pursuant to section 1260(a) of title 28, United States Code, as added by this Act, a comprehensive report on the activities of such Panel since the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated $100,000 for each fiscal year beginning with the fiscal year 1989 to carry out the provisions of this Act.

EFFECTIVE DATE; TERMINATION OF INTERCIRCUIT PANEL

SEC. 8. (a) This Act and the amendments made by this Act shall become effective upon the date of enactment.

(b) Except as provided in subsection (c), this Act and the amendments made by this Act shall cease to be effective upon the final disposition of all cases pending in the Intercircuit Panel on the date five years after the date of the first referral made pursuant to section 1206(a) of title 28, United States Code, as added by this Act.

(c) Section 1260(a) of title 28, United States Code, as added by section 4, shall cease to be effective on the date five years after the date of the first referral made pursuant to section 1260(a) of title 28, United States Code, as added by this Act.

By Mr. THURMOND:

S. 94. A bill to promote and improve efficient and effective enforcement of the antitrust laws; to the Committee on the Judiciary.

ANTITRUST REMEDIES IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, this act provides for reform of the treble damage rule in antitrust cases by limiting treble damage recovery to those situations in which persons, including the United States, have been overcharged or underpaid by reason of an antitrust violation. In all other instances, persons who sue and prove an antitrust violation will still be fully compensated, but they will no longer recover treble damages. Their recovery will be limited to actual damages.

The treble damage rule is the dominant feature of the current system of private antitrust remedies. Its purpose is to provide a strong deterrent to clearly anticompetitive practices, and to offer incentives to plaintiffs to detect and challenge such practices. However, the antitrust laws can be used to challenge some types of practices that may be procompetitive or anticompetitive, depending upon the particular circumstances. In these instances, when a court finds such conduct to be anticompetitive, the responsible parties should be held liable, but punitive damages, such as treble damages, are inappropriate. The treble damage remedy in these cases promote abuse of the antitrust laws by inefficient firms that threaten treble damage lawsuits to stifle their more efficient competitors.

The act which I have proposed today will continue strongly to deter patently anticompetitive conduct. Victims of clearly harmful behavior, often consumers or small businesses, will have strong incentives to discover and challenge this conduct. Competitors, or would-be competitors, whose alleged antitrust injuries are due to lost profits rather than overcharges, will recover only their actual damages, plus costs and reasonable attorney's fees. To insure a fully compensatory remedy, automatic prejudgment interest on actual damages will be awarded whenever damages are not trebled.

Mr. President, the issue of detrebling damages, that is, awarding only actual damages for antitrust violations, is not a new one. Within the last 6 years, the Congress has enacted three statutes that detrebled, and in one instance eliminated, antitrust damage recoveries. The Export Trading Company Act of 1982 provides only for actual damages in certain circumstances if export activities are found to be anticompetitive. The National Cooperative Research Act of 1984 also provides only for actual damages if joint research and development activities are found to be anticompetitive. Finally, the Local Government Antitrust Act of 1984 eliminated damage recovery altogether in antitrust suits challenging activity by local government entities.

The particular provisions of this act were introduced in the 99th Congress as S. 2162, and were the subject of extensive hearings in that Congress. In

the 100th Congress, legislation was again introduced and additional hearings were held. At one of these hearings, we had the benefit of receiving testimony from Charles Rule, the Assistant Attorney General for Antitrust at the Justice Department. I would like to read from his testimony because I believe it is instructive on this issue:

[This] proposal maintains a strong incentive for plaintiffs to detect and challenge unambiguously anticompetitive behavior but minimizes the incentive to bring suits intended to thwart competition. Persons claiming antitrust injury due to overcharges typically are consumers who are hurt by anticompetitive practices such as price fixing, bid rigging, divisions of markets, and allocation of customers. Such plaintiffs are motivated by a desire to promote competition from which they, as customers, will benefit. Rivals seeking lost profits, however, may be suffering from an inability to compete effectively in the marketplace rather than from any unlawful practice. The law should not provide them with an enhanced ability or incentive to challenge healthy, aggressive competition that is usually unconcealed; by taking the punitive elements out of suits by rivals, [this] proposal accomplishes this result.

At the same time, [this] proposal recognizes that some of the practices challenged by competitors will, in certain instances, prove to be actually anticompetitive. For these instances it preserves a fully sufficient incentive to competitors who have actually been harmed by an antitrust violation to seek redress: a fully compensatory remedy, which means actual damages and interest thereon from the time they are injured to the time they collect their damages plus attorneys' fees, nothing less. The proposal provides for prejudgment interest because actual damages alone do not compensate for the lost use of money from the time of injury to the time of judgment.

In addition, this proposed legislation also provides for the award of defendants' attorneys' fees to a "substantially prevailing defendant" if the "plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith." Like the detrebling provisions, this proposal will act to deter frivolous antitrust lawsuits that serve more to impede competition than to encourage it. The concept of defendants' attorneys' fees in antitrust cases is not a new one; the National Cooperative Research Act contains a similar provision.

Mr. President, I believe the changes proposed by this act are long overdue. As we approach the centennial anniversary of our antitrust laws, it is necessary to reflect on the experience that we have accumulated over the years, to re-examine the effect of our antitrust laws, and to refine and reform them where appropriate. In this instance, I believe it is appropriate to reform the treble damage remedy, and I urge my colleagues to strongly support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Antitrust Remedies Improvements Act of 1989."

SEC. 2. Subsection (a) of section 4 of the Clayton Act (15 U.S.C. 15(a)) is amended to read as follows:

"(a) Any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by him sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate such person for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit, including a reasonable attorney's fee: *Provided*, That except as provided in subsection (b), damages sustained by reason of such person having been overcharged or underpaid by any person subject to liability under the antitrust laws for such damages shall be trebled: *And provided further*, That prejudgment interest under this section on actual damages that are trebled shall be recovered only if, pursuant to a motion by the injured person promptly made, the court finds that the award of all or part of such interest is just in the circumstances, taking into consideration only—

"(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

SEC. 3. Section 4A of the Clayton Act (15 U.S.C. 15a) is amended to read as follows:

"SEC. 4A. Whenever the United States is injured in its business or property by reason of anything forbidden in the antitrust laws it may sue therefor in the United States district court for the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover actual damages by it sustained, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to fully compensate the United States for the injury sustained, on such actual damages for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances, and the cost of suit: *Provided*, That damages sustained by reason of the United States having been overcharged or underpaid by any person subject to liability under the antitrust laws for such damages shall be trebled: *And provided further*, That prejudgment interest under this section on actual damages that are trebled shall be recovered only if, pursuant to a motion by the United States promptly made, the court finds that the award of all or part of such interest is just in the circumstances, taking into consideration only—

"(1) whether the United States or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the United States or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether the United States or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

SEC. 4. Paragraph (a)(2) of section 4C of the Clayton Act (15 U.S.C. 15e(a)(2)) is amended by striking the second sentence and inserting in lieu thereof the following: "The court may award under this paragraph, pursuant to a motion by such State promptly made, interest calculated at the rate specified in section 1961 of title 28, United States Code, or at such other rate as the court finds to be fair to compensate natural persons in such State for the injury sustained, on such total damage for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, if the court finds that the award of all or part of such interest is just in the circumstances.".

DEFENDANTS' ATTORNEYS' FEES

SEC. 5. Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding after subsection (c) the following new subsection:

"(d) In any action under this section, the court shall award the cost of suit, including a reasonable attorney's fee, to a substantially prevailing defendant upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

SEC. 6. Section 16 of the Clayton Act (15 U.S.C. 26) is amended by adding at the end thereof the following: "In any action under this section in which the defendant substantially prevails, the court shall award to such defendant the cost of suit, including a reasonable attorney's fee, upon a finding that the plaintiff's conduct was frivolous, unreasonable, without foundation, or in bad faith.".

EFFECTIVE DATE

SEC. 7. The provisions of this Act shall apply to all actions commenced after the date of enactment of this Act.

By Mr. INOUYE:

S. 95. A bill to amend title VIII of the Public Health Service Act to require the Secretary of Health and Human Services to establish a scholarship program to enable professional

nurses to obtain advanced degrees in professions related to the practice of nursing; to the Committee on Labor and Human Resources.

ADVANCED NURSE EDUCATION ACT OF 1989

● Mr. INOUYE: Mr. President, today, I am reintroducing legislation this year which would provide special scholarships for those professional nurses who wish to obtain advanced degrees in related fields such as law, public health, business administration, and psychology.

During the closing hours of the 100th Congress, this legislation passed the U.S. Senate as a provision of the Health Manpower Reauthorization Act, but unfortunately, was not agreed to by the House conferees.

Mr. President, it is quite evident that our Nation faces a major nursing crisis and we must develop creative approaches in order to ensure that our citizenry has access to the highest quality health care possible. This bill as drafted would allow nurses to expand their horizons and I am confident will result in an increasing number of professional nurses being appointed to high level health policy positions.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered printed in the RECORD, as follows:

S. 95

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advanced Nurse Education Act of 1989".

SEC. 2. ESTABLISHMENT OF SCHOLARSHIP PROGRAM.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart V—Advanced Education in Related Professions

"SEC. 848. SCHOLARSHIP PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a scholarship program to enable professional nurses (hereinafter in this subpart referred to as the 'scholarship program') to pursue masters and doctoral degrees in fields related to the practice of nursing (including fields such as law, public health, and psychology).

"(b) ELIGIBILITY.—To be eligible to participate in the scholarship program, an individual shall—

"(1) be accepted for enrollment, or be enrolled, as a full-time student—

"(A) in an accredited (as determined by the Secretary) educational institution in a State; and

"(B) in a course of study or program, offered by an institution referred to in subparagraph (A) and approved by the Secretary, leading to a masters degree or a doctoral degree in a field related to nursing (as determined by the Secretary);

"(2) submit an application to participate in the scholarship program; and

"(3) sign and submit to the Secretary, at the time of submittal of the application referred to in paragraph (2), a written contract (described in subsection (e)) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service.

"(c) APPLICATION FORMS.—

"(1) CONTENTS.—In disseminating application forms and contract forms to individuals desiring to participate in the scholarship program, the Secretary shall include with such forms—

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 848B in the case of the individual's breach of the contract; and

"(B) such other information as may be necessary for the individual to understand the individual's prospective participation in the scholarship program.

"(2) COMPREHENSIBILITY.—The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the scholarship program.

"(3) AVAILABILITY.—The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the scholarship program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d) APPROVAL.—

"(1) IN GENERAL.—An individual becomes a participant in the scholarship program only on the approval by the Secretary of the application submitted by the individual under subsection (b)(2) and the acceptance by the Secretary of the contract submitted by the individual under subsection (b)(3).

"(2) NOTICE.—The Secretary shall provide written notice to an individual promptly on the approval by the Secretary, under paragraph (1), of the participation by the individual in the scholarship program.

"(e) CONTRACT.—The written contract submitted by an individual under subsection (b)(3) shall contain—

"(1) an agreement in which—

"(A) subject to paragraph (2), the Secretary agrees to provide the individual with a scholarship (described in subsection (f)) in each such school year or years for a period of years (not to exceed 4 school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B); and

"(B) subject to paragraph (2), the individual agrees—

"(i) to accept the provision of such a scholarship to the individual;

"(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) until the individual completes the course of study;

"(iii) that while enrolled in the course of study, the individual will maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study); and

"(iv) to serve for a time period (hereinafter in the subpart referred to as the 'period of obligated service') equal to 1 year for each school year for which the individual was provided a scholarship under the scholarship program, in a public or nonprofit private health care facility or, if approved by the Secretary, in a private health care facility in a medically underserved area (as designated by the Secretary);

"(2) a provision that states that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent on funds being appropriated for scholarships under this subpart;

"(3) a statement of the damages to which the United States is entitled, under section 848B for the breach of the contract by the individual; and

"(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

"(f) SCHOLARSHIP.—

"(1) IN GENERAL.—A scholarship provided to a student for a school year under a written contract under the scholarship program shall consist of—

"(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student in an amount equal to—

"(i) the tuition of the student in such school year; and

"(ii) the amount of all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

"(B) payment to the student of a stipend of $400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) CONTRACTS WITH INSTITUTIONS.—The Secretary may contract with an educational institution in which a participant in the scholarship program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3324 of title 31, United States Code.

"(3) STIPEND.—The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1989, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5, United States Code) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

"SEC. 848A. OBLIGATED SERVICE.

"(a) IN GENERAL.—Each individual who has entered into a written contract with the Secretary under section 848 shall provide service in the full-time clinical practice of such individual's profession in a facility described in section 848(e)(1)(B)(iv) for the period of obligated service provided in such contract.

"(b) APPROVAL OF SERVICE.—

"(1) IN GENERAL.—If an individual is required under subsection (a) to provide service as specified in section 845(e)(1)(B)(iv) (hereafter in this subsection referred to as 'obligated service'), the Secretary shall, not later than 90 days prior to the date on which the individual is scheduled to com-

plete the course of study for which the individual received a scholarship under the scholarship program, approve or disapprove the position in which the individual proposes to provide such obligated service.

"(2) DISAPPROVAL.—If the Secretary disapproves such position, such individual shall, in accordance with procedures established by the Secretary, arrange the provision of such service in another position approved by the Secretary.

"SEC. 848B. BREACH OF SCHOLARSHIP CONTRACT.

"(a) IN GENERAL.—An individual who has entered into a written contract with the Secretary under section 848 and who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(2) is dismissed from such educational institution for disciplinary reasons,

"(3) voluntarily terminates the training in such an educational institution for which the individual is provided a scholarship under such contract, before the completion of such training, or

"(4) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to the individual, or on behalf of the individual, under the contract.

"(b) AMOUNT OF DAMAGES.—Except as provided in subsection (c)(2), if (for any reason not specified in subsection (a)) an individual breaches a written contract entered into this subpart by failing either to begin such individual's service obligation in accordance with section 848A or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A = 3\varphi(t - s/t)$$

in which 'A' is the amount the United States is entitled to recover, 'φ' is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the individual's period of obligated service; and 's' is the number of months of such period served by the individual in accordance with section 846. Any amount of damages which the United States is entitled to recover under this subsection shall, within the one-year period beginning on the date of the breach of the written contract, (or such longer period beginning on such date as specified by the Secretary for good cause shown) be paid to the United States.

"(c) CANCELING, WAIVER, OR RELEASE.—

"(1) CANCELING.—Any obligation of an individual under the scholarship program (or a contract thereunder) for service or payment of damages shall be canceled on the death of the individual.

"(2) WAIVER.—The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the scholarship program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

"(3) RELEASE.—Any obligation of an individual under the scholarship program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment of such damages is required.

"SEC. 848C. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this subpart, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and each of the succeeding fiscal years.".●

By Mr. INOUYE (for himself and Mr. HATCH):

S. 96. A bill to amend the Public Health Service Act to establish an Office of the Associate Director for Special Populations to place emphasis on needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems; to the Committee on Labor and Human Resources.

OFFICE OF ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS

● Mr. INOUYE. Mr. President, I am introducing legislation on behalf of myself and Senator HATCH in order to establish an Office of the Associate Director for Special Populations both within the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, as is currently in effect for the National Institutes of Mental Health.

Mr. President, this legislation passed the Senate during the closing hours of the 100th, but unfortunately, was not acceptable to the House of Representatives. In my judgment, given the continual reports that we meet the unique needs of our Nation's women and various ethnic minorities, it would be a very good public policy to specifically identify an individual in each of these institutes to ensure that they are given appropriate policy attention. Those of us who served on the Appropriations Subcommittee which has jurisdiction over the Department of Health and Human Services have been most impressed by the reports we have received from the individual who fulfills this responsibility for the National Institutes of Mental Health.

We ask unanimous consent that the text of our bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 96

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF THE OFFICE OF ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS.

(a) NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.—Section 502 of the Public Health Service Act (42 U.S.C. 290aa-1) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of alcoholism and alcohol abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to alcoholism and alcohol abuse;

"(E) study the effects of discrimination by institutions against alcoholics and alcohol abusers;

"(F) develop systems to assist women and minority individuals who are alcoholics or alcohol abusers in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against alcoholics and alcohol abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".

(b) NATIONAL INSTITUTE ON DRUG ABUSE.—Section 503 of such Act (42 U.S.C. 290aa-2) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director shall designate an Associate Director for Special Populations.

"(2) The Secretary, acting through the Associate Director for Special Populations, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the needs of women and minorities for the prevention and treatment of drug abuse and related problems;

"(B) support programs and projects relating to the delivery of services to women and minorities for the prevention and treatment of drug abuse and related problems, including demonstration programs and projects;

"(C) develop a plan to increase the representation of women and minorities in service delivery and manpower programs for the prevention and treatment of drug abuse and related problems;

"(D) support programs of basic and applied social and behavioral research on the problems of women and minorities relating to drug abuse;

"(E) study the effects of discrimination by institutions against drug abusers;

"(F) develop systems to assist women and minority individuals who are drug abusers

in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination against drug abusers; and

"(H) provide increased emphasis on the concerns of women and minorities in training programs, service delivery programs, and research activities of the Institute.".●

By Mr. INOUYE:

S. 97. A bill to amend the Public Health Service Act to provide that a student enrolled in a graduate program in psychology shall be eligible for student loans under the health professions student loan program; to the Committee on Labor and Human Resources.

STUDENT LOANS FOR PSYCHOLOGY STUDENTS

● Mr. INOUYE. Mr. President, I am introducing legislation today to modify title VII of the U.S. Public Health Service Act in order to provide that a student enrolled in a graduate program in psychology will be eligible for a student loan under the Health Profession Student Loan Program.

Mr. President, during the closing hours of the 100th Congress, this legislation passed the U.S. Senate, but unfortunately, was not acceptable by the House of Representatives. In my judgment, given the growing awareness and the importance of behavioral science expertise through our Nation's health care system, the time has come to allow these graduate students to apply for support under this initiative.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 97

To be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDENT LOANS FOR PSYCHOLOGY STUDENTS.

(a) ENTERING INTO LOAN AGREEMENTS.—Section 740(a) of the Public Health Service Act (42 U.S.C. 294m(a) is amended by inserting before the period at the end thereof the following: ", or with any public or non-profit private institution which has a graduate program in clinical psychology and which is located in a State".

(b) REQUIREMENTS OF AGREEMENTS.—Section 740(b)(4) of such Act is amended by striking out "or" before "doctor of veterinary medicine", and by inserting before the semicolon at the end thereof the following: ", or a doctoral degree in clinical psychology".

(c) FAILURE TO COLLECT LOANS.—

(1) STANDARDS.—Section 740(c)(1) of such Act is amended by inserting ", or by graduate programs in clinical psychology," after "veterinary medicine".

(2) DEFINITION.—Section 740(c)(3)(C) of such Act is amended by inserting before the semicolon a comma and "or at a graduate program in clinical psychology".

(d) TERMS AND CONDITIONS OF LOANS.—Section 741(b)(1) of such Act is amended by striking out "or" before "doctor of veterinary medicine", and by inserting before the comma at the end thereof the following: ", or a doctoral degree in clinical psychology".

(e) REPAYMENT.—Section 741(c) of such Act is amended by inserting after "veterinary medicine," the following: "or at a graduate program in clinical psychology,".

(f) TYPE OF DEGREE.—Section 741(f)(1)(A) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or a doctoral degree in clinical psychology".

(g) TYPE OF SCHOOL.—Section 741(f)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: ", or at a graduate program in clinical psychology".

(h) REPAYMENT BY SECRETARY.—Section 741(1) of such Act is amended by striking out "or podiatry" each place it appears and inserting in lieu thereof "podiatry, or clinical psychology".

(i) EFFECTIVE DATE.—The amendments made by this Act shall be effective with respect to loans made on or after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 98. A bill to amend the Public Health Service Act to ensure that social work students are eligible for support under the Health Careers Opportunity Program in title VII; to the Committee on Labor and Human Resources.

S. 99. A bill to amend the Public Health Service Act to specify that health maintenance organizations may provide the services of clinical social workers; to the Committee on Labor and Human Resources.

SOCIAL WORK LEGISLATION

● Mr. INOUYE. Mr. President, today, I am introducing several bills on behalf of our Nation's clinical social workers.

The first bill would ensure that social workers are a recognized profession under the Public Health Service Health Maintenance Organization Act [HMO] and as such, merely codifies current practice and reflects the modification in the Medicare HMO legislation that the Congress has already enacted into public law.

The second bill would modify the U.S. Public Health Service Act to ensure that clinical social work students are eligible for scholarships under the Health Careers Opportunity Program—title VII.

Mr. President, our Nation's clinical social workers have a truly outstanding track record in serving those segments of our society that are in need and in particular, our Nation's minorities. Accordingly, I feel that it is only appropriate to ensure that every effort is made to allow these individuals to obtain advanced degrees in social work if they so desire.

I ask unanimous consent that the text of my bills be printed in the RECORD.

There being no objection, the bills are ordered to be printed in the RECORD, as follows:

S. 98

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SOCIAL WORK STUDENTS.

Section 787 of the Public Health Service Act (42 U.S.C. 295g-7) is amended—

(1) in subsection (a)(1), by inserting "public and nonprofit private schools which offer programs in social work," before "and other public or private";

(2) in subsection (a)(2)(A), by inserting ", including education and training of social work students" before the comma at the end thereof; and

(3) in subsection (b)(1), by inserting "or that offer programs in social work" before "that receive a grant".

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLINICAL SOCIAL WORKER SERVICES.

Section 1302 of the Public Health Service Act (42 U.S.C. 300e-1) is amended—

(1) in paragraphs (1) and (2), by inserting "clinical social worker," after "psychologist," each place it appears;

(2) in paragraph (4)(A), by striking out "and psychologists" and inserting in lieu thereof "psychologists, and clinical social workers"; and

(3) in paragraph (5), by inserting "clinical social work," after "psychology,".●

By Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BURDICK, Mr. CONRAD, Mr. SHELBY and Mr. DASCHLE).

S. 100. A bill to amend title XVIII of the Social Security Act with respect to coverage of, and payment for, services of psychologists under part B of the Medicare Program; to the Committee on Finance.

PSYCHOLOGICAL SERVICES UNDER MEDICARE

● Mr. ROCKEFELLER. Mr. President, I am extremely pleased to be introducing a bill today that builds on the important work of Senator INOUYE. Senator INOUYE has been a true leader in the fight to improve the availability of psychological services over his many years in the Senate. I am honored to be joining him in the effort to ensure that the elderly, no matter where they live, have access to mental health services.

The bill I am introducing would authorize psychologists to be reimbursed by Medicare for providing vital mental health services that they are trained and licensed to provide. This proposal is a necessary and appropriate step to provide our Nation's elderly with increased access to mental health care under Medicare. This is especially important in those parts of the country, like many parts of West Virginia, that lack a sufficient number of psychiatrists.

Two years ago, during deliberations on the Omnibus Budget Reconciliation Act, a very important and encouraging first step was made. For the first time since the inception of the Medicare

Program, Congress modified the mental health benefit to authorize reimbursement for services provided by psychologists who see patients without physician supervision in community mental health centers or rural health clinics. Though important, it does not go far enough. I was especially pleased to learn, however, that the desire to improve the Medicare mental health benefit received bipartisan support. The bill I am introducing today builds on the work we were able to accomplish in the Omnibus Reconciliation Act of 1987.

I first became aware of this critical problem when several psychologists from my own State pointed out to me the lack of authorized Medicare mental health providers in many West Virginia counties. Psychiatrists do not practice in 60 percent of West Virginia's counties. Almost 20 percent of West Virginia senior citizens live in counties that have psychologists, but not psychiatrists.

Nationwide, the percentage is similar—psychiatrists are not found in 62 percent of all counties in the United States. Most of these counties are rural and have a greater proportion of residents over 65 years of age than the Nation as a whole. Lack of Medicare coverage creates a very real financial barrier for many elderly who need mental health care but can't afford to pay out-of-pocket for these services. These elderly are forced to do without an important health care service—a service that other elderly have available to them because of where they live.

In the long run, psychologists can reduce program costs because they charge less than the current eligible physician mental health providers. Evidence indicates that a significant number of patients will choose to be treated by psychologists rather than psychiatrists. This could reduce the costs to Medicare per recipient of mental health services. Moreover, research shows that when psychologists compete in the mental health care market, psychiatrists' fees average 9 to 12 percent less than where there is no competition.

My bill would require psychologists to accept assignment. Mr. President, what that means is that a psychologist could not charge an elderly person more than what the Medicare program determines is a reasonable charge. This is extremely important from the beneficiary's point of view.

The National Association of Area Agencies on Aging, along with other seniors advocacy groups, have voiced their support for this bill. In a recent letter, NAAAA wrote,

> There are many reasons why the elderly do not receive adequate mental health care, with one of the primary reasons being poor access to services.

Mr. President, expanding coverage gives seniors the right to choose the mental health caregiver that is right for him or her—it gives them freedom of choice. Evidence shows that some older Americans prefer psychologists to physicians for mental health care. Claims data from other Federal health plans and private insurance plans show that a greater proportion of patients select psychologists rather than psychiatrists as their mental health care provider. I think it is high time we allow senior citizens to make this decision themselves.

My bill outlines exactly who will be reimbursed. Only highly trained and experienced psychologists will be able to receive Federal reimbursement for the care they provide. Doctoral-level psychologists are licensed by all States for independent practice of psychotherapy and other psychological services. This explains why psychologists are authorized in all other Federal programs as providers of direct services. In fact, laws in 42 States require that insurance programs give patients the freedom of choice to select a psychologist rather than a physician for mental health care treatment.

Mr. President, Congress has been trying to figure out ways to attract health care providers to underserved areas for a long time. I believe we have failed to recognize the huge unmet need that exists for mental health services. In fact, a recent study found that 3 to 5 million rural elderly were in need of mental health services, yet less than 1 percent of the rural elderly were able to get treatment. Psychologists have already demonstrated a willingness to set up practices in underserved areas. We need to foster this commitment. I believe it is important and timely to include doctoral-level psychologists as eligible providers under Medicare. It is a compassionate and long overdue response to the needs of many elderly.

Mr. President, I ask unanimous consent that the text of the bill and a description of S. 100 be included following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE COVERAGE OF, AND PAYMENT FOR, PSYCHOLOGISTS' SERVICES

(a) ELIMINATING LIMITATION TO SERVICES FURNISHED AT COMMUNITY MENTAL HEALTH CENTERS.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)), is amended by striking "at a community mental health center (as such term is used in the Public Health Service Act)".

(b) PROVIDING FOR PAYMENT ON A REASONABLE CHARGE BASIS.—Section 1833(a)(1) of such Act (42 U.S.C. 13951(a)(1)) is amended by striking "(L) with respect to qualified psychologist services under section 1861(s)(2)(M),".

(c) PSYCHOLOGIST DEFINED.—For purposes of this section the term "psychologist" or "qualified psychologist services" means an individual who or services delivered by an individual who—

(1) is licensed or certified at the independent practice level of psychology by the State in which such individual so practices,

(2) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology approved by the Secretary, and

(3) possesses at least two years of supervised experience in health service, at least one year of which is postdegree.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after January 1, 1990.

SUMMARY OF S. 100

CURRENT LAW

The Deficit Reduction Act of 1984 recognized services furnished pursuant to a risk-sharing contract by a psychologist.

The Omnibus Reconciliation Act of 1987 included clinical psychologists' services in the definition of covered rural health clinic services under Medicare Part B.

The Omnibus Reconciliation Act of 1987 authorized coverage of and payments for "qualified psychologist services" furnished at a community mental health center and such services that are necessarily furnished off-site as part of a treatment plan because of the inability of the individual to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances. Payment may only be made on an assignment-related basis.

PROPOSAL

To provide that psychologist services are covered under Part B of Medicare. Requires psychologists to accept *assignment.*

Psychologist is defined as an individual who:

Is licensed or certified at the independent practice level of psychology by the State in which the individual practices,

Possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual licenses or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health services providers in psychology approved by the Secretary, and

Possesses at least two years of supervised experience in health service, at least one year of which is postdegree.

Mr. INOUYE. Mr. President, I am pleased to join with my colleague, Senator ROCKEFELLER, to introduce legislation which would amend the Medicare law to provide for the direct reimbursement for the services of our Nation's psychologists.

To date, we have made considerable progress in modifying the Medicare statute to recognize a wide range of nonphysician health care providers and thereby allow these individuals to be reimbursed for a comprehensive range of services within the scope of

their various State's practice acts. Currently, psychologists functioning within health maintenance organizations, rural health clinics, and community mental health centers, are deemed autonomous providers under this Federal program, and the legislation we are introducing today would expand coverage to other settings and thereby bring Medicare in line with our other Federal health initiatives such as the Department of Defense CHAMPUS Program and the Federal Employees' Workers Compensation Act.

I am especially pleased that today this bill is being introduced by my colleague, Senator ROCKEFELLER who is a member of the Senate Finance Committee. During his tenure in the U.S. Senate, he has truly become a champion of our Nation's mental health programs.

Mr. SANFORD:

S. 101. A bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting and for other purposes; to the Committees on Governmental Affairs and the Budget, jointly, pursuant to order of April 4, 1977.

BALANCED BUDGET AND DEBT REDUCTION ACT OF 1989

● Mr. SANFORD. Mr. President, there is not a more pressing problem before the 101st Congress than our unacceptably large Federal debt, created by years of deficit spending. Nothing we have done, including implementation of Gramm-Rudman-Hollings, has reduced our real deficit one dime. Under Gramm-Rudman-Hollings we are merely dabbing at a nosebleed while blood is gushing from the jugular, threatening the strength of our great Nation. We cannot any longer afford to continue this charade.

Gramm-Rudman-Hollings claims to reach a balanced budget by 1993. This is a sham. The most recent CBO baseline projections show a real deficit for that year to be roughly $300 billion. If we completely eliminate the Gramm-Rudman-Hollings deficit estimate for this year of $155 billion by 1993, we will still be faced with a deficit in the $150 billion range. And we will then have a Federal debt, not approaching $3 trillion as is now the case, but rather a Federal debt approaching $4 trillion.

I am introducing legislation today that proposes to lay out the budget in a straightforward, clear and honest way, to facilitate a real effort on the part of the Bush administration and Congress to eliminate the deficit and get at our rapidly rising debt—a debt we are now spending about 20 cents of every Federal dollar to service.

It is time that we stop suggesting that, under Gramm-Rudman-Hollings we are reducing the deficit when in reality, each year our true deficit and the increase in our Federal debt continue to rise.

Mr. President, I ask unanimous consent that the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 101

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget and Debt Reduction Act of 1989".

TITLE I—OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET

SEC. 101. OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET IN THE PRESIDENT'S BUDGET.

(a) UNIFIED BUDGET.—Chapter 11 of title 31, United States Code, is amended by inserting after section 1105 the following new section:

"§ 1105a. Operating budget, retirement funds budget, and debt and interest budget

"(a) The budget of the United States Government submitted by the President under section 1105 of this title shall be a unified budget composed of—

"(1) an operating budget;

"(2) a retirement funds budget; and

"(3) a debt and interest budget.

The President's budget submission shall present these three budgets separately.

"(b) For the purposes of this section—

"(1) the unified budget shall include all receipts and expenditures for Federal funds and trust funds consolidated to display totals for the Federal Government as a whole;

"(2) the operating budget shall include all receipts and expenditures of all Federal entities, other than those in the retirement funds budget and the debt and interest budget;

"(3) the retirement funds budget shall include receipts and expenditures for—

"(A) the Federal Old-Age and Survivors Insurance Trust Fund;

"(B) the Federal Hospital Insurance Trust Fund;

"(C) the Civil Service Retirement and Disability Fund;

"(D) the Military Retirement Fund;

"(E) the Federal Supplementary Medical Insurance Trust Fund;

"(F) the Federal Disability Insurance Trust Fund;

"(G) the Railroad Retirement Fund; and

"(H) such other funds or accounts that the Director of Management and Budget (in cooperation with the Comptroller General, the Director of the Congressional Budget Office, and the Chairmen and the Ranking Minority Members of the Committees on the Budget of the Senate and the House of Representatives) determines should be classified as retirement trust funds in order to fulfill the purposes of this section; and

"(4) the debt and interest budget shall include receipts and expenditures for—

"(A) reductions or increases in the public debt;

"(B) interest on the public debt; and

"(C) in times of declared war or declared recession pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, inter-fund transfers to the operating budget.".

(b) AMENDMENT TO THE CHAPTER ANALYSIS.—The chapter analysis for chapter 11 of title 31, United States Code, is amended by adding after the item for section 1105 the following:

"1105a. Operating budget, retirement funds budget, and debt and interest budget.".

SEC. 102. REPORTING OF TRANSFERS AMONG BUDGETS.

Section 1105(a) of title 31, United States Code, is amended by inserting at the end thereof:

"(26) inter-fund transfers between the operating budget and the debt and interest budget.".

SEC. 103. OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET IN THE CONGRESSIONAL BUDGET.

Section 301(a) of the Congressional Budget Act of 1974 is amended by inserting after "ensuing fiscal years," the following: "for the operating budget, the retirement funds budget, and the debt and interest budget (as defined in 31 U.S.C. section 1105a), respectively,".

SEC. 104. CONFORMING CHANGE.

Section 710(a) of the Social Security Act is amended by inserting "operating" after "the totals of the".

TITLE II—BALANCED OPERATING BUDGETS

SEC. 201. POINT OF ORDER AGAINST UNBALANCED OPERATING BUDGETS.

Section 301(i) of the Congressional Budget Act of 1974 is amended by striking paragraph (2) and inserting in lieu thereof:

"(2)(A) Except as provided in paragraph (3), it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under this section, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of operating budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report exceeds the recommended level of operating revenues set forth for that year, or if the adoption of such amendment would result in a level of operating budget outlays for that fiscal year that exceeds the recommended level of operating revenues for that fiscal year.

"(B) In the House of Representatives the point of order established under subparagraph (A) with respect to the consideration of a conference report or with respect to the consideration of a motion to concur, with or without an amendment or amendments, in a Senate amendment, the stage of disagreement having been reached, may be waived only by a vote of three-fifths of the Members present and voting, a quorum being present.

"(3) This subsection shall not apply if a declaration of war by the Congress is in effect.

"(j) BUDGET LEVELS DETERMINED BY THE BUDGET COMMITTEE.—For the purposes of this section, the levels of new budget authority, spending authority as described in section 401(c)(2), outlays, and new credit authority for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.".

SEC. 202. POINT OF ORDER AGAINST LEGISLATION THAT WOULD CAUSE AN OPERATING DEFICIT.

Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) in the matter after paragraph (3) by inserting before "or, in the Senate" the following: "or would cause operating budget outlays to exceed operating budget revenues"; and

(2) in the matter following subparagraph (B) by striking "paragraph (2) of such section" and inserting "paragraph (3) of such section".

SEC. 203. PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

(a) ELIMINATING EXCEPTIONS.—Section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 is amended by—

(1) striking "(a) IN GENERAL.—Except as otherwise provided in this section, any" and inserting "Any";

(2) striking "altering" and inserting "reducing"; and

(3) striking subsection (b).

(b) CONFORMING AMENDMENT.—Section 251(a)(6)(K) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "except to the extent provided in such section".

SEC. 204. PRESIDENT'S OPERATING BUDGET MUST BE BALANCED.

Section 1105(f) of title 31, United States Code, is amended—

(1) in paragraph (1), by inserting before the period "using a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in paragraph (2), by inserting before the comma "using a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985";

(3) by striking paragraph (3) and inserting in lieu thereof the following:

"(3) In the operating budget in the budget so transmitted for any fiscal year, revenues shall equal outlays, with revenues and outlays at such levels as the President may consider most desirable and feasible. To the extent that gross revenues exceed gross outlays, the President shall indicate such surplus as an inter-fund transfer to the debt and interest budget."; and

(4) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

SEC. 205. EFFECTIVE DATE.

This title shall take effect on the date of enactment of this title with respect to fiscal year 1991 and all subsequent fiscal years.

TITLE III—TRUST FUND FOR THE REDUCTION OF THE PUBLIC DEBT

SEC. 301. PUBLIC DEBT REDUCTION POLICY.

It is the policy of the United States that—

(1) not later than September 30, 1989, the Congress shall amend the Internal Revenue Code to establish a special debt retirement tax or taxes dedicated to the reduction of the public debt, or earmark an existing tax or taxes for that purpose;

(2) the revenues collected from the debt retirement tax shall be especially titled so that citizens may be aware of their purpose;

(3) the revenues collected under the debt retirement tax shall be deposited to a separate trust fund account;

(4) the trust fund shall be used only for the retirement of the public debt;

(5) the Secretary of the Treasury shall administer the account with the advice of a bipartisan board consisting of the Secretary of the Treasury, as chairman, the Chairman and Ranking Minority Members of the Committee on Finance, the Committee on Ways and Means, and the Committees on the Budget of the Senate and the House of Representatives, and the Chairman of the Federal Reserve Board;

(6) any debt retirement tax enacted shall expire upon the reduction of the public debt to a target level of not more than 20 percent of the average Gross National Product over the previous 3 years; and

(7) in determining what type of tax is appropriate, the Congress shall take into account ability to pay.

TITLE IV—MANDATED REDUCTION OF THE PUBLIC DEBT

SEC. 401. DEFINITION OF "DEFICIT".

Section 3 of the Congressional Budget Act of 1974 is amended by striking paragraph (6) and inserting in lieu thereof:

"(6) The term 'deficit' means, with respect to any fiscal year, the amount by which combined budget outlays for the operating and debt and interest budgets for such fiscal year exceed combined revenues for the operating and debt and interest budgets for such fiscal year. Amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by any department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.".

SEC. 402. REDUCTION OF DEFICITS.

Section 3 of the Congressional Budget Act of 1974 is amended by striking paragraph (7) and inserting in lieu thereof:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1989, $256,000,000,000;

"(B) with respect to fiscal year 1990, $224,000,000,000;

"(C) with respect to fiscal year 1991, $193,000,000,000;

"(D) with respect to fiscal year 1992, $162,000,000,000;

"(E) with respect to fiscal year 1993, $131,000,000,000;

"(F) with respect to fiscal year 1994, $100,000,000,000;

"(G) with respect to fiscal year 1995, $69,000,000,000;

"(H) with respect to fiscal year 1996, $38,000,000,000;

"(I) with respect to fiscal year 1997, $7,000,000,000;

"(J) with respect to fiscal year 1998, $24,000,000,000 (surplus);

"(K) with respect to fiscal year 1999, $55,000,000,000 (surplus);

"(L) with respect to fiscal year 2000, $86,000,000,000 (surplus);

"(M) with respect to fiscal year 2001, $117,000,000,000 (surplus);

"(N) with respect to fiscal year 2002, $148,000,000,000 (surplus); and

"(O) with respect to fiscal year 2003 and all subsequent fiscal years until the public debt has been reduced to less than 20% of the Gross National Product, $150,000,000,000 (surplus).".

SEC. 403. REVENUE REQUIREMENTS.

Section 252(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting at the end thereof the following new paragraph:

"(8) REVENUE REQUIREMENTS.—(A) No later than 7 days after the issuance of a report pursuant to section 251(a)(2)(B) indicating that the deficit excess for a fiscal year exceeds $10,000,000,000, the Committees on the Budget of the House of Representatives and the Senate shall report to their respective Houses a concurrent resolution directing the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate to report within 60 days changes in law within their jurisdictions sufficient to increase revenues by an amount equal to one-half of the deficit excess reported in such report.

"(B) The provisions relating to the consideration of a joint resolution under section 254(a)(4) shall apply to the consideration of a concurrent resolution reported pursuant to this subsection in the House of Representatives or the Senate.

"(C) The provisions relating to the consideration of reconciliation legislation under sections 310 of the Congressional Budget Act of 1974 shall apply to the consideration of legislation reported pursuant to a concurrent resolution under this section.".

SEC. 404. CONFORMING CHANGES.

(a) Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking "of fiscal years 1988 through 1992 and zero with respect to fiscal year 1993" and inserting in lieu thereof "fiscal year".

(b) Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (1), by striking "1993" and inserting in lieu thereof "2004"; and

(2) in paragraph (2), by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

TITLE V—INVESTMENT OF EXCESS SOCIAL SECURITY TRUST FUNDS IN LOAN PROGRAMS

SEC. 501. INVESTMENT OF EXCESS SOCIAL SECURITY TRUST FUNDS IN LOAN PROGRAMS

The General Accounting Office shall study and report to the Committee on Finance, the Committee on Ways and Means, and the Committees on the Budget of the Senate and the House of Representatives on the efficacy of amending title II of the Social Security Act to preserve and protect the excess funds in the Trust Funds under that title by providing that they be invested in sound, interest-bearing loans to help rebuild the national facilities and to improve the national resources, specifically, in United States interest-bearing loan programs for education, economic development, housing, and such public works as water and sewer, highway and bridge construction.

TITLE VI—ALTERNATE-YEAR RECONCILIATION

SEC. 601. TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 is amended to read as follows:

"SEC. 300. The timetable for the Congressional budget process is as follows:

"On or before:	Action to be completed:
First Monday after January 3.	President submits budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 15	Initial OMB/CBO snapshot.
March 20	CBO issues its initial report to OMB and Congress.
March 25	OMB issues its initial report to the President and Congress.

"On or before:	Action to be completed:
March 25	President issues initial order.
April 9	President transmits to Congress a detailed message regarding the initial order.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Appropriations bills may be considered in the House.
June 10	House Appropriations Committee reports last appropriations bill.
September 30	Congress completes action on reconciliation legislation in odd-numbered years.
September 30	Congress completes action on appropriations legislation.
October 1	Fiscal year begins and any initial order becomes effective.
October 10	CBO issues its revised report to OMB and Congress.
October 15	OMB issues its revised report to the President and Congress.
October 15	President issues final order (which becomes effective immediately).
October 30	President transmits to Congress a detailed message regarding the initial order.
November 15	Comptroller General issues compliance report.".

SEC. 602. ALTERNATE-YEAR RECONCILIATION.

Section 310(a) of the Congressional Budget Act of 1974 is amended by—

(1) inserting after "any" the following: "even-numbered"; and

(2) inserting after "fiscal year" the first time it appears the following: "(or any odd-numbered fiscal year in which the Director of the Office of Management determines in his initial report pursuant to section 251(a)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 that a deficit excess exists)".

SEC. 603. EARLY INITIAL OMB REPORT.

The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 251(a)(1)(A), by striking "August 15" and inserting in lieu thereof "March 15";

(2) in section 251(a)(2)(A), by striking "August 20" and inserting in lieu thereof "March 20";

(3) in section 251(a)(2)(B), by striking "August 25" and inserting in lieu thereof "March 25";

(4) in section 251(a)(2)(C), by striking clauses (iii) and (iv);

(5) in section 251(a)(3)(A)(ii)(II), by striking "August 15" and inserting in lieu thereof "March 15";

(6) in section 251(c)(1)(A), by striking "August 15" and inserting in lieu thereof "March 15";

(7) in section 252(a)(1), by striking "August 25" and inserting in lieu thereof "March 25"; and

(8) in section 252(b)(2), by striking "August 15" and inserting in lieu thereof "March 15".

BALANCED BUDGET AND DEBT REDUCTION ACT OF 1989 SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 gives the title of the act: the "Balanced Budget and Debt Reduction Act of 1989".

TITLE I—OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET

Title I takes the retirement trust funds and interest payments out of the operating budget. The resulting operating budget focuses attention on the real change in the deficit that current actions cause. This budget no longer masks deficits with the surpluses of the retirement trust funds—surpluses that we need to build up to pay for the retirement of baby boomers in the next century. This budget also does not inflate the deficit by the debt service that the payment of interest of the public debt reflects.

The result is three budgets focused on three different timeframes: one for retiring the debt built up in the past, one for current operating expenditures, and one for the retirement programs of the future.

As explained in more detail below, removing the retirement fund surpluses and the net interest payments from the operating budget allows the Government to balance the operating budget in fiscal year 1991 with little more deficit reduction than already required by Gramm-Rudman-Hollings.

SECTION 101. OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET IN THE PRESIDENT'S BUDGET

Section 101 divides the unified budget of the government among three component parts:

(1) an operating budget;

(2) a retirement funds budget; and

(3) a debt and interest budget.

Section 101(a) adds a new section to title 31 of the United States Code requiring that the President present these three budgets separately when he submits his annual budget submission.

Section 101 also defines the unified budget and the three component parts.

The unified budget includes all receipts and expenditures for all Federal Government entities.

The operating budget includes all receipts and expenditures of Federal entities other than those in the two other component budgets.

The retirement funds budget includes receipts and expenditures for Social Security and the other retirement trust funds that accumulate for the future. The Director of the Office of Management and Budget (in cooperation with the Comptroller General, the Director of the Congressional Budget Office, and the Chairmen and the Ranking Minority Members of the Committees on the Budget of the Senate and the House of Representatives) may classify funds as retirement trust funds in order to fulfill the purposes of this section.

The debt and interest budget includes changes in the public debt, interest on the public debt, and (in emergencies) interfund transfers to the operating budget. The interest on the national debt displayed here includes payments to the retirement trust funds, and is thus larger than the often-cited net interest number.

Subsection (b) makes a conforming amendment to the chapter analysis to add the title of the new section.

SECTION 102. REPORTING OF TRANSFERS AMONG BUDGETS

Section 102 makes a conforming amendment to the existing section 1105(a) of title 31, United States Code, to require the reporting of inter-fund transfers between the new operating budget and the debt and interest budget. Transfers from the operating budget to the retirement funds budget appear as interest paid and interest received. No other transfers would be permissible.

SECTION 103. OPERATING BUDGET, RETIREMENT FUNDS BUDGET, AND DEBT AND INTEREST BUDGET IN THE CONGRESSIONAL BUDGET

Section 103 requires the congressional budget to reflect the same division among three component budgets.

SECTION 104. CONFORMING CHANGE

Section 104 makes a conforming change in section 710(a) of the Social Security Act so that the Social Security budget may appear in the retirement funds budget.

TITLE II—BALANCED OPERATING BUDGETS

Title I changes the operating budget so that it reflects only the current demands on the Government. Title II requires that the President and the Congress balance that operating budget. In other words, the Government must spend no more on current needs than it raises in current revenues. This requirement is not only a moral one, but (as explained below) an achievable one.

SECTION 201. POINT OF ORDER AGAINST UNBALANCED OPERATING BUDGETS

Section 201 creates a point of order that would prohibit any budget resolution (and any amendment or conference report on it) that would result in a deficit in the operating budget (except during declared war or recession). Under existing law, a three-fifths vote would be required to waive or suspend the point of order (except during a declared recession) in the Senate (and, in certain circumstances, in the House).

Section 201 repeals obsolete provisions relating to fiscal years 1988 and 1989 and restates (to avoid the negative implication of repeal) the authority of the Budget Committees to make scorekeeping decisions necessary for section 301 of the Congressional Budget Act.

SECTION 202. POINT OF ORDER AGAINST LEGISLATION THAT WOULD CAUSE AN OPERATING DEFICIT

Section 202 augments the existing point of order under section 311 of the Congressional Budget Act to prohibit any bill, resolution, amendment, or conference report increasing the deficit if its enactment would cause operating budget outlays to exceed operating budget revenues (except during declared war or recession). A three-fifths vote would be required to waive or suspend the section (except during a declared recession) in the Senate (and, in certain circumstances, in the House).

Section 202 also repeals an obsolete paragraph of section 311 of the Congressional Budget Act and renumbers a paragraph reference to conform to the new paragraph numbering changed by section 201 of this Act.

SECTION 203. PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER

Section 203 eliminates exceptions to section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 that have been abused. Section 203 also makes clear the original intent of section 202 that the section cannot be used to free up additional spending money, but applies only to prohibit the creation of spending room by artificial transfers. Section 203 also makes a conforming amendment to section 251 (a)(6)(K) of Gramm-Rudman-Hol-

lings to make clear that the exceptions no longer exist.

SECTION 204. PRESIDENT'S OPERATING BUDGET MUST BE BALANCED

Section 204 requires the President's budget to use a budget baseline made in accordance with section 251(a)(6) of Gramm-Rudman-Hollings—the same baseline that the Office of Management and Budget must use at the end of the Gramm-Rudman-Hollings cycle to determine whether that law requires across-the-board cuts. The President is thus not able to use asset sales, among other things, to meet the Gramm-Rudman-Hollings targets.

Section 204 requires that the President submit a balanced operating budget. To the extent that gross operating revenues exceed gross operating outlays, the President must transfer that surplus to the debt and interest budget.

Section 204 also repeals obsolete provisions of section 1105(f).

SECTION 205. EFFECTIVE DATE

Section 205 provides that this title take effect immediately on enactment with respect to fiscal year 1991 and all subsequent fiscal years. According to Congressional Budget Office estimates, in fiscal year 1991, the retirement trust funds will be in surplus by about $132 billion. Under this Act, this reduction in the deficit is taken out of the operating budget. In fiscal year 1991, the net interest payments will be about $188 billion. Under this Act, this increase in the deficit is also taken out of the operating budget. The 1991 operating budget will thus be about $56 billion closer to balance than the unified budget without any Government action merely by means of the reclassification made by this Act. The Congressional Budget Office projects that the unified budget deficit for 1991 will be $131 billion. Less the $56 billion, the reclassified operating budget will be in deficit by $75 billion absent any intervening action to reduce the deficit. The requirement of this new section will thus be that over the period of fiscal years 1990 and 1991, this $75 billion deficit must be eliminated. Thus, to have a balanced operating budget would require a real deficit reduction of only $37.5 billion in each of the next two fiscal years (using the more pessimistic CBO numbers), a goal compatible with existing Gramm-Rudman-Hollings targets, which require a $36 billion deficit reduction in each of these years (as measured by the more pessimistic Office of Management and Budget estimates).

TITLE III—TRUST FUND FOR THE REDUCTION OF THE PUBLIC DEBT

Title III states the policy of the United States that the Government should reduce the public debt. Funds raised for that purpose should not be available for current needs, but must be devoted to the retirement of the debt that drags on the economy.

SECTION 301. PUBLIC DEBT REDUCTION POLICY

Section 301 states the policy of the United States that the Congress should establish a special debt retirement tax dedicated to the reduction of the public debt or earmark an existing tax for that purpose. Any revenues collected would be deposited to a separate trust fund account used only for the retirement of the public debt. The Secretary of the Treasury would administer the account with the advice of a bipartisan board. The tax would expire upon the reduction of the public debt to a target level of not more than 20 percent of the average Gross National Product over the previous 3 years. In determining what type of tax is appropriate, the Congress would take into account ability to pay.

TITLE IV—MANDATED REDUCTION OF THE PUBLIC DEBT

Title IV expands on the existing Gramm-Rudman-Hollings process to apply that deficit reduction program to require reduction of the public debt as well. Title IV defines the term "deficit" to exclude the retirement funds. The surpluses from those budgets would not be available to mask the true deficit. For purposes of the Congressional Budget Act and Gramm-Rudman-Hollings, Title IV would define "deficit" to include both past and current obligations, to make clear that Gramm-Rudman-Hollings requires the payment of interest on the public debt as well as all operating expenditures. Title IV also sets Gramm-Rudman-Hollings on a more ambitious deficit reduction path—one that acknowledges our obligation to pay off some of the public debt to reduce it to more manageable levels.

SECTION 401. DEFINITION OF "DEFICIT"

Section 401 revises the definition of the term "deficit" to mean the amount by which combined budget outlays for the operating and debt and interest budgets exceed combined revenues for the operating and debt and interest budgets for that fiscal year. Thus, the deficit for the purposes of the Congressional Budget Act and Gramm-Rudman-Hollings is the same as under prior law except that surpluses in the retirement trust funds are not counted to artificially reduce the deficit.

(The definition reaffirms the prior law statement that amounts paid by the Federal Financing Bank for the purchase of loans made or guaranteed by any department, agency, or instrumentality of the Government of the United States shall be treated as outlays of such department, agency, or instrumentality.)

SECTION 402. REDUCTION OF DEFICITS

Section 402 revises the deficit reduction schedule of Gramm-Rudman-Hollings on a more ambitious course, as follows:

Fiscal Year	Target
1989	$256,000,000,000
1990	224,000,000,000
1991	193,000,000,000
1992	162,000,000,000
1993	131,000,000,000
1994	100,000,000,000
1995	69,000,000,000
1996	38,000,000,000
1997	7,000,000,000
1998	[1] −24,000,000,000
1999	−55,000,000,000
2000	−86,000,000,000
2001	−117,000,000,000
2002	−148,000,000,000
2003 [2]	−150,000,000,000

[1] Surplus.
[2] And all subsequent fiscal years until the public debt has been reduced to less than 20% of the Gross National Product.

This schedule reflects the existing requirements of Gramm-Rudman-Hollings for fiscal years 1989 and 1990, after adjustment for the removal of the surplus in the retirement funds accounts. For fiscal years 1991 and after, the schedule calls for real deficit reduction of $40 billion each year. As the CBO baseline deficit without trust fund surpluses is rising by about $9 billion a year, the target thus declines by $31 billion a year. This amount reflects the consensus among many respected economists that a reduction in the deficit of less than one percent of the Gross National Product per year would avoid any recessionary impact. The schedule calls for reducing the deficit steadily until it goes into surplus in order to actually reduce the public debt. The ultimate rate of debt reduction—$150 billion a year in fiscal year 2003 (assuming no interrupting war or recession)—is appropriately five percent of the outstanding debt of $3 trillion each year.

SECTION 403. REVENUE REQUIREMENTS.

Section 403 amends Gramm-Rudman-Hollings to require the creation of a special resolution—like a budget resolution, but with extremely limited purposes—whenever the Office of Management and Budget issues a report indicating that, absent further action, Gramm-Rudman-Hollings would require across-the-board cuts. Whenever that happened, the Budget Committees would report to their respective Houses a concurrent resolution with one simple reconciliation instruction: directing the tax-writing Committees to report within 60 days changes in law within their jurisdictions sufficient to increase revenues by an amount equal to one-half of the deficit excess reported in the Office of Management and Budget report. The special concurrent resolution would not be amendable and debate would be limited. If the tax writing committees complied with the reconciliation instruction, the procedural provisions relating to reconciliation legislation under the Congressional Budget Act would apply to the legislation reported pursuant to the instructions.

This new process would not mandate tax increases. Taxes could still only be raised by act of Congress signed by the President. It would, however, require a discussion—in the context of this simple concurrent resolution—of whether new revenues are needed. Each House of Congress would be afforded the opportunity for a simple up-or-down vote on whether revenue should be raised to eliminate one half of the excess. There would be no recrimination over who first suggested the tax increase, the issue would be raised automatically. Those who oppose tax increases of any kind would still have the opportunity to vote against them.

SECTION 404. CONFORMING CHANGES.

Section 404 amends Gramm-Rudman-Hollings to extend the expiration date of Gramm-Rudman-Hollings to 2004, when the revised timetable above reaches its stable rate. Section 404 also repeals language that refers to a sentence in the definition of the term deficit that has been stricken by section 401 of this Act.

TITLE V—INVESTMENT OF EXCESS SOCIAL SECURITY TRUST FUNDS IN LOAN PROGRAMS

SECTION 501. INVESTMENT OF EXCESS SOCIAL SECURITY TRUST FUNDS IN LOAN PROGRAMS.

Section 501 requires the General Accounting Office to study on the efficacy of amending the Social Security Act to preserve and protect the excess funds in the Trust Funds by providing that they be invested in sound, interest-bearing loans to help rebuild the national facilities and to improve the national resources—specifically, in United States interest-bearing loan programs for education, economic development, housing, and such public

works as water and sewer, highway and bridge construction.

TITLE VI—ALTERNATE-YEAR RECONCILIATION

A variety of two-year budgeting proposals have been put forth in recent years. Title VI presents a compromise alternative that embodies the practical experience under the budget summit agreement reached in November of 1987. Under this title, reconciliation—the most onerous portion of the budget process—would take place only in non-election years. An exception is provided to allow for reconciliation in an election year only if the deficit would exceed the Gramm-Rudman-Hollings target for that year. Budget resolutions to implement the two-year schedule would continue—just as they did under the summit agreement. The resolution in the second year, however, would be less controversial and would divert far less attention from other business than under current law.

SECTION 601. TIMETABLE.

Section 601 revises the timetable of the Congressional Budget Act as follows:

On or before:	Action to be completed:
First Monday after January 3.	President submits budget.
February 15	Congressional Budget Office submits report to Budget Committees.
February 25	Committees submit views and estimates to Budget Committees.
March 15	Initial OMB/CBO snapshot.
March 20	CBO issues its initial report to OMB and Congress.
March 25	OMB issues its initial rport to the President and Congress.
March 25	President issues initial order.
April 9	President transmits to Congress a detailed message regarding the initial order.
April 15	Congress completes action on concurrent resolution on the budget.
May 15	Appropriations bills may be considered in the House.
June 10	House Appropriations Committee reports last appropriations bill.
September 30	Congress completes action on reconciliation legislation in odd-numbered years.
September 30	Congress completes action on appropriations legislation.
October 1	Fiscal year begins and any initial order becomes effective.
October 10	CBO issues its revised report to OMB and Congress.
October 15	OMB issues its revised report to the President and Congress.
October 15	President issues final order (which becomes effective immediately).
October 30	President transmits to Congress a detailed message regarding the initial order.
November 15	Comptroller General issues compliance report.

This now timetable explicitly incorporates Gramm-Rudman-Hollings into the budget timetable, reflecting the reality that Gramm-Rudman-Hollings is part of the budget process. The timetable also incorporates the additional changes made by the next two sections.

SECTION 602. ALTERNATE-YEAR RECONCILIATION.

Section 602 amends the Congressional Budget Act to provide for reconciliation only in even-numbered years, or in odd-numbered fiscal years in which the Office of Management and Budget determines in its initial report under Gramm-Rudman-Hollings that the deficit will exceed the Gramm-Rudman-Hollings target for that year.

SECTION 603. EARLY INITIAL OMB REPORT.

Section 603 moves up the date of the initial snapshot date, the Congressional Budget Office report, and the Office of Management and Budget report from August to March. Section 603 also strikes a provision that requires the Office of Management and Budget report to use the same economics as the President's mid-session report in July, as the initial report will precede the mid-session report.

Moving up the initial snapshot date sets the rules of the game early. It gets the Gramm-Rudman-Hollings reports out of the way of the appropriations process. It also requires the reports early enough to plan a budget resolution based on them.

An earlier initial report tailors the requirement for deficit reduction more closely to the economic situation. When the economy is getting better between March and August and the economy is more able to handle deficit reduction, the earlier Office of Management and Budget report requires more deficit reduction than the prior law. When the economy is getting worse between March and August, the earlier report requires less deficit reduction than the prior law and thus helps to stimulate the economy.

By Mr. HUMPHREY:

S. 103. A bill to amend the Tennessee Valley Authority Act; to the Committee on the Environment and Public Works.

TENNESSEE VALLEY AUTHORITY FISCAL RESPONSIBILITY AND ACCOUNTABILITY ACT OF 1989

● Mr. HUMPHREY. Mr. President, today I am introducing legislation that proposes a number of long-overdue and sorely needed reforms at the Tennessee Valley Authority [TVA].

During the 98th and 99th Congresses, it was my privilege to serve as chairman of the Subcommittee on Regional and Community Development which had oversight responsibilities for TVA. During that time, I became familiar with the agency, its history, its mission and the challenges which it now faces.

During this Congress, I will again be serving on the Committee on Environment and Public Works. I look forward to working with my colleagues there on issues involving TVA.

When the original Tennessee Valley Authority Act was signed into law in 1933, the intent was to lift the seven State Tennessee Valley region out of economic depression. More than 50 years later, TVA remains, operating the Nation's largest electric utility as well as regional and community development programs.

Mr. President, whatever successes lie in TVA's past, they are greatly overshadowed by an enormous failure: TVA's Nuclear Program. This multibillion dollar program, financed through the Federal Government, has been shaken by economic and safety-related concerns. Of the 17 reactors included in TVA's original plan, 8 have been canceled, 4 are stalled while under construction, and all five completed plants were shut down due to what the Nuclear Regulatory Commission characterized as "a sustained and consistent history of poor performance." After 2 years of effort by a high-paid outside consultant, and an expenditure totaling hundreds of millions, two plants are operating and one is loading fuel.

Concern over problems at TVA led Governor Baliles of Virginia to initiate a Southern States Energy Board of Review of TVA's vitality. The resultant 1987 report, "TVA: A Path to Recovery," attributes TVA's basic problem to an "indemic [sic] lack" of a workable structure and management accountability.

It has long been my view that what lies at the root of the present crisis facing the Tennessee Valley Authority is a systemic problem arising from very serious flaws in the enacting legislation. Indeed, as testimony before the subcommittee suggested, the agency has frequently found itself in trouble over the years and, I believe, those troubles can be traced to these same fundamental problems.

Due to a variety of odd institutional arrangements incorporated into the act, TVA is effectively shielded from direct accountability to the Congress, to the Executive, to the marketplace and, least of all, to the 7 million people it is supposed to serve. For example, because of TVA's access to the Federal Financing Bank [FFB]—an entity of the U.S. Treasury—it is able to borrow virtually as much money as it needs, whenever it needs it, without any oversight from the Executive or the Congress. Needless to say, a tidy arrangement—unless of course, you are a ratepayer who may be stuck holding the bag for a $1 billion investment that should never have been made.

A May, 1988 article in Barron's explains:

> In a private utility, bankruptcy would only be a matter of time. But TVA has something that other troubled utilities do not have—a nearly endless money hose hooked up to the U.S. Treasury.

Under this blank check policy, a term applied by an OMB witness, TVA has little incentive to pay the Federal Government back. TVA is more likely to keep costs down by rolling over its debts until the $30 billion borrowing ceiling is reached. Such action shields TVA from taking account for its investments and, ultimately, serves to increase the Federal deficit.

My bill proposes eight reforms that would open small, but very important, windows of accountability at TVA:

First, reduce terms of members of TVA Board of Directors:

At present, the three members of the Board of Directors serve for a year of 9 years. This bill proposes to reduce the term of Directors to 3 years. Reducing the length of the terms of members of the Board will significantly increase accountability at TVA. Under this plan, a new Board member would have to be nominated by the President, and confirmed by the Senate every year. Because the nomination process offers the Congress one of the few opportunities to effect policy at TVA, this change will increase Congress' ability to speak to problems at TVA on a regular basis.

Second, limit number of terms a Board member can serve to two:

At present, members of the Board of Directors can serve an unlimited number of 9-year terms. Obviously, this has the potential to erode accountability. With the reduction of length of terms to 3 years, it will be particularly important that no member would be able to serve more than two terms, or 6 years.

Third, reduce TVA's bond ceiling to $18 billion:

Under current law, the TVA bond ceiling is $30 billion. To date, the agency has borrowed over $17 billion from the Federal Government. The agency has made plans to repay only a small portion of that amount. A $30 billion debt ceiling will enable the agency to continue borrowing heavily, and thus accumulating even more debt, for many years to come. Reducing the bond ceiling to $18 billion would prevent a debt rollover and require TVA to come before Congress to request an increase before it could embark on any major new construction program.

Fourth, restrict TVA's access to the Federal Financing Bank:

By forcing TVA to borrow exclusively from the private sector, the agency will be subjected to the same scrutiny by the investment community as other utilities in the Nation. TVA's unrestrained access to FFB funds may have contributed to unwise investment decisions which may not have withstood careful analysis by outside investors.

Fifth, require TVA to repay outstanding debt owed to the Federal Government:

At present, TVA owes close to $18 billion in obligations to the U.S. Treasury. By requiring TVA to repay the debt, the American taxpayer will be guaranteed that the investment in TVA will be recouped.

Sixth, establish a Presidentially-appointed Inspector General:

In January 1986, the TVA Board wisely established an Office of Inspector General. Under Public Law 100-54, TVA's Office of Inspector General is granted authority to carry out the functions, powers and duties of an Inspector General under the terms of the Inspector General Act of 1978. However, under the 1978 Act, the Inspector General at most large Federal agencies is appointed by the President.

In contrast, the TVA inspector general is appointed by, reports to, and may be removed by the TVA Board. At my request, the chairman of the Committee on Governmental Affairs, Senators Glenn, directed the General Accounting Office to study the existing Office of Inspector General at TVA and assess whether a Presidentially-appointed inspector general would better fulfill the mandate to fight waste, fraud, and mismanagement. In order to ensure the absolute independence of the Inspector General at TVA, I believe it essential that the authority to appoint and remove the inspector general reside with the President rather than the TVA Board.

Seventh, mandate that TVA power decisions be subject to regulatory review: State utility board would have the power to review all utility related decisions made by the TVA Board of Directors.

Eighth, remove TVA's self-authorizing powers:

By removing TVA's present exemption from the authorization process, TVA programs will be subject to the same scrutiny by the authorizing committees of the Congress as other agencies of the Federal Government. Such review will help prevent exorbitant expenditures on unlikely projects.

Mr. President, I believe strongly that until TVA grapples with its fundamental problems through reforms such as these, the difficult times will continue. No agency of the Government should be above basic principles of accountability.

I am encouraged that the new Chairman of the TVA, Marvin Runyon, has identified problems, established new efficiency and productivity goals, and approved cost reduction measures including extensive layoffs and a consolidation of this corporate structure. However, there is a limit to this strategy. Someday, notwithstanding the line of credit at the FFB, the bill will come due.

Until these reforms are enacted, the citizens of the Tennessee Valley may legitimately ask who may be held accountable for the costly mistakes which have been made. Today, unfortunately, the answer is no one. They had no direct voice in the selection of the Board of Directors, the individuals who made the key decisions, and there is no formal means for the public to seek their removal. They had no voice in any regulatory proceeding, because there were none. They had no direct means to affect the decisions of the Board members. Even their directly elected Members of Congress can have no voice in the decisions which the agency makes since it is exempt from the congressional authorization process. And, through the relationship with the Federal Financing Bank, TVA is effectively removed from the discipline of the private marketplace.

It is this wall of unaccountability which my bill seeks to begin to break down. Each of the provisions which I have described will create a new window of citizen, congressional and marketplace accountability for the agency.

Mr. President, I believe that had these reforms been enacted years ago, the Tennessee Valley Authority would be far healthier than it is today. Interestingly, however, TVA's strongest supporters, both inside the Congress and out, are loathe to opening the TVA Act for any reason. Indeed, the senior Senator from Tennessee has described those who seek reforms at TVA as hostile forces who "look at the opening of the TVA Act, perhaps, in a way that a fox would look at the unguarded door of a henhouse * * *." The fact is, the TVA Act is flawed, and, ironically, the Tennessee Valley members' reluctance to critically examine TVA may result in the devastation of the very thing they are trying to save.

I ask unanimous consent that a copy of my bill be reprinted in the RECORD at this point.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tennessee Valley Authority Fiscal Responsibility and Accountability Act of 1989".

SEC. 2. BOARD OF DIRECTOR ACCOUNTABILITY.

(a) LENGTH OF TERMS.—Subsection (b) of section 2 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831a(b) is amended by—

(1) inserting "(1)" after "(b)"; and

(2) striking out the second sentence and inserting in lieu thereof the following:

"(2) Members of the board appointed after the date of enactment of the Tennessee Valley Authority Fiscal Responsibility and Accountability Act of 1989 shall be appointed as follows:

"(A) the successor to the first member whose term expires after such date shall be appointed for one year;

"(B) the successor to the second member whose term expires after such date shall be appointed for two years; and

"(C) the successor to the third member whose term expires after such date shall be appointed for three years.

Any member of the board appointed after the member appointed under the provisions of clause (C) shall serve for a term of three years.".

(b) LIMIT OF TERMS.—Subsection (b) of section 2 of the Tennessee Valley Authority Act of 1933 (as amended by subsection (a) of this section) is further amended by adding at the end thereof the following:

"(3) Any member of the board appointed after the date of enactment of the Tennes-

see Valley Authority Fiscal Responsibility and Accountability Act of 1989 shall serve no more than two terms.".

SEC. 3. REDUCTION OF BOND CEILING.

The first sentence of subsection (a) of section 15d of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(a)) is amended by striking out "$30,000,000,000" and inserting in lieu thereof "$18,000,000,000".

SEC. 4. TENNESSEE VALLEY AUTHORITY BORROWING FROM PRIVATE MARKETPLACE ONLY.

Section 15d. of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this Act, obligations issued or guaranteed by the Corporation may not after the date of enactment of the Tennessee Valley Authority Fiscal Responsibility and Accountability Act of 1989 be purchased by the Federal Financing Bank.".

SEC. 5. PAYMENT OF BONDS ON A TIMELY BASIS.

The first sentence of the fourth undesignated paragraph of subsection (a) of section 15d. of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n-4(a)) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and shall be paid on a timely basis.".

SEC. 6. PERMANENT INSPECTOR GENERAL FOR TENNESSEE VALLEY AUTHORITY.

(a) AMENDMENTS TO THE INSPECTOR GENERAL ACT OF 1978.—(1) Section 8E(a)(2) of the Inspector General Act of 1978 is amended by striking out "the Tennessee Valley Authority,".

(2) Section 9(a)(1) of the Inspector General Act of 1978 is amended—

(A) in subparagraph (T) by striking out "and" at the end thereof; and

(B) by adding at the end thereof the following new subparagraph:

"(V) of the Tennessee Valley authority, the office of that agency referred to as the 'Office of the Inspector General'; and"

(3) Section 11 of the Inspector General Act of 1978 is amended—

(A) in clause (1) by inserting after "the Chairman of the Nuclear Regulatory Commission" the following: ", the Board of Directors of the Tennessee Valley Authority,"; and

(B) in clause (2) by inserting after "the United States Information Agency," the following: "the Tennessee Valley Authority,".

(b) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code is amended by adding at the end thereof the following:

"Inspector General, Tennessee Valley Authority.".

SEC. 7. TENNESSEE VALLEY AUTHORITY SUBJECT TO STATE REGULATION.

The Tennessee Valley Authority Act of 1933 is amended by inserting at the end thereof the following new section:

"SEC. 32. The Corporation shall be subject to regulation by a State as if the Corporation is a private utility subject to regulation by such State except that no State may interfere with the obligations of the Corporation imposed by this Act or any other provision of Federal law.".

SEC. 8. REPEAL OF EXEMPTION FROM AUTHORIZATION PROCESS.

Section 27 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831z) is repealed.

Mr. INOUYE:

S. 108. A bill to amend the Public Health Service Act to permit the Secretary of Health and Human Services to make certain grants to Native Hawaiian health centers; to the Committee on Indian Affairs.

GRANTS FOR NATIVE HAWAIIAN HEALTH CENTERS

● Mr. INOUYE. Mr. President, today, I am introducing legislation which would modify the U.S. Public Health Service Act in order to authorize the Secretary of the Department of Health and Human Services to make various grants to Native Hawaiian health centers.

During the closing hours of the 100th Congress, the Congress enacted legislation which ultimately became Public Law 100-579, the Native Hawaiian Health Care Act 1988, which addresses the truly pressing health care needs of our Nation's Native Hawaiians. The legislation which I am introducing today would ensure that the Secretary has the flexibility under a number of the Department's preventive initiatives to appropriately reference these new centers in developing areas of regulations.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROJECT GRANTS FOR PREVENTATIVE HEALTH SERVICES.

Section 317(a) of the Public Health Service Act (42 U.S.C. 247b) is amended by inserting ", to Native Hawaiian health centers (as defined in section 2308(4))," before "and to other public entities".

SEC. 2. PROGRAMS TO PREVENT AND CONTROL THE SPREAD OF SEXUALLY TRANSMITTED DISEASES.

(a) TECHNICAL ASSISTANCE.—Section 318(a) of the Public Health Service Act (42 U.S.C. 247c(a) is amended by inserting ", to Native Hawaiian health centers (as defined in section 2308(4))," before "and to scientific".

(b) GRANTS.—Section 318(b) of such Act is amended by inserting "Native Hawaiian health centers (as defined in section 2308(4))," before "and any other public".

SEC. 3. HEALTH MANPOWER SHORTAGE AREAS.

Section 332(a)(2)(A) of the Public Health Service Act (42 U.S.C. 254e(a)(2)(A)) is amended by inserting "Native Hawaiian health centers (as defined in section 2308(4))," before "and community health".

SEC. 4. FAMILY PLANNING SERVICES.

Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended by inserting "Native Hawaiian health centers (as defined in section 2308(4))," before "to assist in the establishment".

SEC. 5. HEALTH INFORMATION PROGRAMS.

Section 1703(a)(1) of the Public Health Service Act (42 U.S.C. 300u-2(a)(1)) is amended by inserting "Native Hawaiian health centers (as defined in section 2308(4))," before "and other appropriate".●

Mr. INOUYE:

S. 109. A bill to amend title 38, United States Code, to provide for the payment of incentive special pay to Department of Veterans Affairs psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS AFFAIRS PSYCHOLOGISTS INCENTIVES

● Mr. INOUYE. Mr. President, I am introducing legislation today to make mandatory the incentive special pay bonus to the Department of Veterans Affairs psychologists, who obtained their board certification.

Mr. President, this legislation would essentially treat professional psychologists in the same manner that their VA physicians colleagues are treated and would require the Veterans' Administration to implement the bonus, which was made discretionary back in 1984 as a provision of the Veterans' Health Care Amendments of 1984 (Public Law 98-528).

Mr. President, given the aging nature of the Veterans' Administration beneficiary population, I would sincerely hope that in this congressional session we will be able to ensure that the highest quality behavioral science expertise will become available to them.

I request unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCENTIVE SPECIAL PAY FOR DEPARTMENT OF VETERANS AFFAIRS PSYCHOLOGISTS.

(a) IN GENERAL.—Subchapter I of chapter 73 of title 38, United States Code, is amended by inserting after section 4118 the following new section:

"§ 4118A. Incentive special pay for psychologists

"(a) The Secretary shall pay incentive special pay to any psychologist appointed under this chapter who—

"(1) executes an agreement with the Secretary to complete a specified period of service in the Veterans Health Services and Research Administration; and

"(2)(A) is awarded a diploma as a Diplomate in Clinical Psychology or as a Diplomate in Counseling Psychology by the American Board of Professional Psychology; or

"(B) obtains an additional advanced academic degree, such as a masters degree in public health, which the Secretary determines is in the best interest of the Department of Veterans Affairs.

"(b)(1) The amount of incentive special pay which the Secretary pays to any psychologist under this section may not exceed—

"(A) $2,500 per annum in the case of any full-time psychologist; and

"(B) a proportional amount of $1,500 per annum in the case of any part-time psychologist, as provided under paragraph (2) of this subsection.

"(2) The proportional amount of the incentive special pay payable under paragraph (1)(B) of this subsection shall be calculated on the basis of the ratio which the part-time employment of such psychologist in the Veterans Health Services and Research Administration bears to full-time employment.

"(c)(1) Any agreement entered into by a psychologist under subsection (a)(1) of this section shall specify a period of one year of service in the Veterans Health Services and Research Administration or such longer period of service, not exceeding four years, as the psychologist requests. Any psychologist who has entered into an agreement under this section and has not failed to refund any amount which such psychologist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section.

"(2)(A) Any agreement entered into by a psychologist under subsection (a)(1) of this section shall provide that the psychologist, in the event that such psychologist voluntarily, or because of misconduct, fails to complete at least one year of service, or such longer period of service as is provided for in the first sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (f) of this section, that such failure is necessitated by circumstances beyond the control of the psychologist.

"(B) Any such agreement shall specify the terms under which the Department of Veterans Affairs and the psychologist may elect to terminate such agreement.

"(3) Any psychologist who enters into an agreement under this section is eligible to receive incentive special pay beginning on the date on which the agreement is entered into, or the date on which the psychologist becomes employed, whichever date is later.

"(d) Any amount of incentive special pay payable under this section shall be paid in biweekly installments.

"(e)(1) Except as provided in paragraphs (2) and (3) of this subsection, any additional compensation provided as incentive special pay under this section shall not be considered as basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, and 84 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(2) Additional compensation paid as incentive special pay under this section to any full-time employee shall be included in basic pay for the purposes of chapters 83 and 84 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee shall be included in average pay (as defined in section 8331(4) or 8401(3), as the case may be, of such title) for the purposes of computing the amount of any benefit under either such chapter only if—

"(A) the benefit is paid under section 8337 of such title, subsection (d) or (e) of section 8341 of such title, subchapter V of chapter 84 of such title, or section 8442(b), 8443(a), or 8445 of such title; or

"(B) the employee has completed not less than 15 years of full-time service in the Veterans Health Services and Research Administration (except that, regardless of the length of such employee's service, no incentive special pay may be included by reason of this clause in average pay in computing an annuity that commences (or any lump-sum payment that is payable) before October 1, 1990, and only one-half of any incentive special pay paid under this section may be included by reason of this clause in average pay in computing an annuity that commences (or any lump-sum payment that is payable) on or after October 1, 1990, but before October 1, 1995).

"(3) Any additional compensation provided as incentive special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

"(f) The Secretary shall prescribe regulations to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 4118 the following:

"4118A. Incentive special pay for psychologists.".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on October 1, 1989.●

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. CHAFEE, Mr. COHEN, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. HEINZ, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. SIMON, Mr. WILSON, and Mr. WIRTH):

S. 110. A bill to revise and extend the programs of assistance under title X of the Public Health Service Act; to the Committee on Labor and Human Resources.

FAMILY PLANNING AMENDMENTS OF 1989

● Mr. KENNEDY. Mr. President, today I am introducing the Family Planning Amendments of 1989, to reauthorize title X of the Public Health Service Act. The primary purpose of title X is the provision of contraceptive services and information to help reduce the incidence of unintended pregnancy, to improve maternal health, and reduce abortion.

This legislation was reported by the Committee on Labor and Human Resources during the last Congress, but no further action was taken. However, this body demonstrated its strong support for title X during consideration of the fiscal year 1989 Labor-HHS appropriations bill last July. At that time, the Senate overwhelmingly rejected an attempt to discontinue funding the title X program.

Since the enactment of title X in 1970, a nationwide system of over 4,500 local clinics provides nearly 5 million low-income women—including 1½ million adolescents—with access to comprehensive family planning, basic health screening, and preventive health services and information. In addition to contraceptive services, specific services financed by title X funds include infertility diagnosis, and either treatment or referral for anemia, hypertension, cervical and breast cancer, sexually transmitted diseases, kidney dysfunction, and diabetes. By statute, abortion has never been funded by the title X funds. The family planning clinic network also has been recognized as a valuable resource in addressing other closely related health problems, such as this country's distressing infant mortality and teen pregnancy rates, and most recently, the AIDS epidemic.

State and local health departments serve over 40 percent of title X clients, local Planned Parenthood organizations serve 27 percent, hospitals serve 13 percent, and a variety of other nonprofit agencies such as HMO's, neighborhood health centers, and free clinics serve the remaining 20 percent. Health centers financed through title X are often the primary place where low-income women and many teenagers receive formal medical care. Participation in title X programs is completely voluntary, and a full range of currently available, safe and effective contraceptive methods are offered, including natural family planning methods.

The title X program has proven itself time and time again. Yet, because funding levels have not kept pace with the need, millions of women continue to go underserved. According to a new report released by the Alan Guttmacher Institute, 31.8 million women aged 13 to 44 were at risk of unintended pregnancy in 1987. Of these, 7.9 million had family incomes of less than 150 percent of the Federal poverty standard, 3 million were at 150 to 199 percent of the poverty standard, and 3.2 million were at 200 to 249 percent of the poverty standard; 4 million were teenagers. Yet, according to the most recent data, only about 5 million eligible women are served each year under title X. This figure is probably an overestimate, because the Department of Health and Human Services stopped all collection of data on family planning service needs in 1981, and funding levels have been substantially cut since then. Our lack of current information is a serious problem which is addressed by new data collection requirements in this reauthorizing legislation.

The United States has a tragically high infant mortality rate. In fact, we rank 19th among industrialized nations in infant mortality, behind Singapore and Hong Kong. Testifying on behalf of the American Academy of Pediatrics 2 years ago, then-president Dr. Richard Narkewicz told the Labor and Human Resources Committee that "a strong family planning effort is one important component in the solution to the infant mortality problem." He warned that "family planning directly affects access to prenatal

care, low birthweight babies, the infant mortality rate, children who are born with disabilities, children who are neglected, (and) children who incur catastrophic health care costs * * *."

The Institute of Medicine in its report, "Preventing Low Birthweight," (1985) concluded that "family planning services should be an integral part of overall strategies to reduce the incidence of low birthweight in infants." A 1988 institute report on prenatal care urges that "a deeper national commitment to family planning services and education should accompany major revisions in the maternity care system."

Adolescent pregnancy has been recognized as a major contributing factor to the high infant mortality rate. The National Academy of Sciences' landmark report on adolescent pregnancy, entitled, "Risking the Future: Adolescent Sexuality, Pregnancy, and Childbearing," (1987) concluded that "the most effective intervention for reducing early unintended pregnancy in sexually active teenagers is diligent contraceptive use." The report recommended continued public support of the provision of contraceptive services to adolescents and cited title X as one important example of such a program.

The Center for Population Options, a Washington-based group, recently reported that taxpayers spent nearly $19.27 billion in 1987 on food stamps, medical care, and cash assistance for families begun as a result of teenagers giving birth. The report also said that babies born to teenagers in 1987 will cost the Nation a total of $5.7 billion over the next 20 years. Continued Federal investment in the title X program is one of the most cost-effective investments we can make.

Title X family planning clinics also have a critically important role to play in confronting the AIDS epidemic in this country. Surgeon General Everett Koop and other public health officials have recommended that clinics help provide voluntary AIDS testing and counseling services, in addition to their existing services. The provision of family planning services to HIV-positive women and to other women at risk for HIV infection is one of the most efficient and cost-effective steps that we can take to prevent the tragedy of babies born with AIDS.

As of January 9, 1,355 cases of pediatric AIDS had been reported. Approximately 80 percent of all reported pediatric AIDS cases can be traced to HIV-infected parents. The CDC estimates that by 1991, there will be some 10,000 to 20,000 HIV-infected children younger than 13 in the United States. Yet, it costs less than $80 a year to provide comprehensive family planning services to an individual woman, a tiny fraction of the cost for caring for an HIV-infected child.

Similarly, many experts believe that adolescents represent a particularly vulnerable risk group. Although there have been few actual cases of AIDS reported among adolescents, more than 15,000 cases have been reported among individuals aged 20 to 29. Given the length of time between infection and the onset of symptoms, a significant number of these adults probably became infected as teens. Clearly, continued Federal investment in the title X program is wise and prudent, particularly at a time when the existing network of family planning clinics may be called upon to assist in halting the deadly AIDS epidemic.

Family planning has enjoyed broad, bipartisan support in Congress and throughout the Nation for over 19 years, since title X was first authorized. Indeed, one of the original sponsors of this important legislation was then Congressman George Bush of Texas. Recently, however the program has been subject to a series of unfair and ill-considered attacks.

The first and most damaging assault on the family planning program has been significant funding cuts for title X over the past 8 years. Funding for most discretionary health programs was cut by 25 percent in 1981. Although most other health programs have had their funding restored, title X funding levels remain more than 15 percent below the 1981 appropriations level adjusted for inflation. Funding for family planning services have been cut over $7 million in the last 2 years alone.

In a second series of attacks, President Reagan proposed the elimination of title X as a categorical Federal health program each year since 1981. For the past 2 years, the administration proposal would have turned all Federal title X dollars over to the States, abandoning national standards for counseling and services.

Finally, the program has been under attack by those who oppose family planning and seek to deny funds to any organization which provides full information to women regarding their options for dealing with an unintended pregnancy, or which uses private funds to provide abortion services. Ironically, these efforts to dismantle or destroy the National Family Planning Program, if successful, certainly would lead to more unintended pregnancies and more abortions.

Since its enactment in 1970, section 1008 of the title X statute has prohibited the use of program funds for abortion. Allegations of noncompliance by opponents of the program in the early 1980's led to a congressionally requested investigation by GAO, as well as parallel examinations by the DHHS Office of the Inspector General. Both reported in September 1983 that all title X clinics were operating in full compliance with the law. This was reaffirmed in 1984 and 1985 when former Secretary of Health and Human Services Margaret Heckler testified before the House Subcommittee on Health and the Environment. And once again in 1987, DHHS Secretary Dr. Otis Bowen confirmed that these clinics were still in compliance with the statute.

Federal regulations require physicians and health personnel in title X clinics to provide appropriate referrals for necessary medical or social services. Moreover, pregnancy diagnosis and counseling is a mandated title X service. Women seeking information about the management of an unintended pregnancy must be given nondirective information about all of their legal options to be in accordance not only with Federal regulations, but also with accepted medical standards promulgated by the American Medical Association and the American College of Obstetricians and Gynecologists.

In February 1988, the DHHS issued new regulations which would overturn the 19-year-old policy of fully informing clients and deny title X funds to any organization which provides abortion counseling and referral. The regulations are currently in litigation; 36 State governments, 78 national organizations and the deans of all 25 schools of public health in the country commented in opposition to the regulations.

The legislation I am introducing today provides for a 3-year reauthorization of the title X program, with modest increases in funding for basic services. The legislation also includes two new initiatives designed to address problems of growing public concern.

The first initiative would create a special contraceptive development initiative within the National Institute of Child Health and Human Development [NICHD]. This special fund will increase applied research leading to the development, marketing, and evaluation of safe, new contraceptive devices, drugs, and methods. Of 36 million American women who are seeking to avoid pregnancy, 3 million are using no contraception, and another 3 million are using relatively ineffective methods. Scientific attention must be focused on their family planning needs.

The second new initiative would expand the existing authorization for information and education services under title X. More community-based information and education programs are needed to assist individuals—especially teenagers and their parents—in making responsible decisions concerning sexuality, pregnancy, and parenthood, and to help prevent unintended pregnancy and sexually transmitted diseases. A 1985 Planned Parenthood poll conducted by Louis Harris and Associates found that 85 percent of U.S.

parents now support the provision of sex education in the schools. The title X program offers an appropriate vehicle for providing additional assistance to enhance the efforts already underway by many State and local governments, school systems, churches, and community organizations which serve young people. Public recognition of the need for such education has increased greatly since Surgeon General Koop recommended that it should begin at an early age.

More than ever, Congress must focus on preventive, cost-effective health programs. Title X has established a proven track record in helping women plan their pregnancies and prevent the need for abortion. It has also improved overall maternal and child health. I urge this Senate to support this important piece of legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Family Planning Amendments of 1989".

SEC. 2. FINDINGS.

Congress finds that—

(1) comprehensive voluntary family planning services still are not readily available to all individuals in the United States desiring such services;

(2) new and improved contraceptive devices, drugs, and methods are needed in order to ensure optimum safety and choice for each individual desiring to use such devices, drugs, and methods;

(3) the high incidence of teenage pregnancies and sexually transmitted diseases has made it essential that the public receive information to prevent such pregnancies and diseases, as recommended by the Surgeon General of the United States; and

(4) sound medical practices require that all individuals be fully informed of their options in making decisions about their health care, and such practices should be promoted in the Nation's family planning program.

SEC. 3. REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201n et seq.).

SEC. 4. PROJECT GRANTS AND CONTRACTS.

Section 1001 (42 U.S.C. 300) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) For the purpose of making grants and contracts under this section, there are authorized to be appropriated $163,000,000 for fiscal year 1990, $171,000,000 for fiscal year 1991, and $179,500,000 for fiscal year 1992.".

SEC. 5. REPEAL OF FORMULA GRANTS.

(a) REPEAL.—Section 1002 (42 U.S.C. 300a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1006(c) (42 U.S.C. 300a-4(c)) is amended by striking out "or 1002".

SEC. 6. TRAINING AND TECHNICAL ASSISTANCE GRANTS AND CONTRACTS.

Section 1003 (24 U.S.C. 300a-1) is amended to read as follows:

"SEC. 1003. TRAINING GRANTS AND CONTRACTS.

"(a) AUTHORIZATION.—The Secretary may make grants to public or nonprofit private entities and may enter into contracts with public or private entities and individuals to provide technical assistance, clinical training for personnel (including obstetric-gynecologic nurse practitioners), training for educators and counselors, and training of other personnel, to carry out the family planning service programs described in section 1001 and the information and education programs described in section 1005.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $4,515,000 for fiscal year 1990, $4,741,000 for fiscal year 1991, and $4,978,000 for fiscal year 1992.".

SEC. 7. CONDUCT OF RESEARCH ACTIVITIES.

Section 1004 (42 U.S.C. 300a-2) is amended—

(1) by inserting "(a)" before "The";

(2) in paragraph (2)—

(A) by inserting "and evaluation" after "development"; and

(B) by inserting before the period the following: "and research to improve the clinical management and direct delivery of family planning services"; and

(3) by adding at the end thereof the following new subsections:

"(b) To enhance the ongoing work of the National Institutes of Health under section 301 and under subsection (a) in applied contraceptive research and evaluation, and specifically to promote the development, evaluation, and bringing to the marketplace, of new and improved contraceptive devices, drugs, and methods, the Secretary may conduct, and make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of—

"(1) applied research into the development of new or improved contraceptive devices, drugs, and methods; and

"(2) evaluations of the acceptance, convenience, safety, efficacy, and cost of contraceptive devices, drugs, and methods.

"(c) For the purpose of making grants and entering into contracts under subsection (b), there are authorized to be appropriated $10,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, and 1992. Amounts appropriated under this subsection shall be in addition to amounts allocated under section 301(a) for the National Institute of Child Health and Human Development.".

SEC. 8. INFORMATION AND EDUCATION.

Section 1005 (42 U.S.C. 300a-3) is amended to read as follows:

"SEC. 1005. COMMUNITY-BASED INFORMATIONAL AND EDUCATIONAL PROGRAMS.

"(a) AUTHORIZATION.—The Secretary may make grants to or enter into contracts with public and nonprofit private entities to establish community-based information and education programs to assist individuals in making responsible choices concerning human sexuality, pregnancy, and parenthood, and to enable individuals to prevent unintended pregnancies and sexually transmitted diseases. Programs supported under this section shall place special emphasis on the provision of information and education to parents and adolescents, and shall include information about the availability of a broad range of acceptable and effective family planning methods and services.

"(b) AWARDING OF GRANTS, CONTRACTS, ETC.—The Secretary shall—

"(1) conduct, or make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the conduct of, training and technical assistance activities to assist in carrying out subsection (a); and

"(2) make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the development, evaluation, and dissemination of educational and informational materials that are consistent with the objectives specified in subsection (a) for information and education programs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For grants and contracts under this section, there are authorized to be appropriated $10,000,000 for fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991 and 1992. Not more than 10 percent of the amounts appropriated under this preceding sentence for a fiscal year shall be available to carry out subsection (b).".

SEC. 9. DATA COLLECTION.

(a) IN GENERAL.—Title X (42 U.S.C. 300 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1010. DATA COLLECTION.

"(a) COLLECTION OF DATA.—The Secretary shall collect on an annual basis data concerning—

"(1) the number of low-income and marginal-income individuals, and the number of adolescents, at risk of unintended pregnancies;

"(2) the sources of funding available for family planning services in the United States;

"(3) the number of individuals who receive family planning services from entities that receive grants and contracts under section 1001 and the age, gender, race, and family income of such individuals; and

"(4) the types of family planning services chosen by individuals who receive services from entities which receive grants and contracts under section 1001.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants to public and nonprofit private entities and enter into contracts with public and private entities and individuals for the collection of data under this section. The Secretary shall make available to the public data and information collected under this section.".

(b) TECHNICAL AMENDMENT.—Section 1009 is amended by adding at the end thereof the following new subsection:

"(d) Each plan prepared under this section shall be based upon data collected under section 1010.".

SEC. 10. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of enactment of this Act.●

Mr. COHEN. Mr. President, I am very pleased, once again, to join Senator KENNEDY in introducing legislation to reauthorize title X of the Public Health Service Act, the Nation's principal family planning program.

For over two decades, the Federal Government has been committed to family planning programs out of a concern for the fundamental health of all people and the pressing growth of

the world's population. Government dollars spent on family planning programs over the years have been an investment in the very best sense of the word. They have improved lives, enhanced personal responsibility, strengthened families, reduced government dependency, and have been a major factor in significantly improving maternal and child health.

Since its enactment in 1970, the title X program has shown results and great progress has been made. Today, more than 15 million individuals, including 1.5 million adolescents, in the United States have access to safe and effective family planning services, along with basic preventive health care, which would not be available without government support. These services have helped women and men plan for the children they want and avoid recourse to abortion, and have reduced unintended childbearing and the often wrenching consequences imposed on the individuals involved and their families.

The primary beneficiaries of this program, of course, are the women who avoided the tragedy of an unintended pregnancy and their families. However, society also reaps benefits. According to a Federal study, each government dollar invested in family planning this year saves 2 government dollars next year in direct health and welfare costs associated with unintended childbearing.

Much more remains to be done, however. The title X program has not been authorized since 1985, and millions of low and marginal income women in this country still do not have access to family planning services. Fortunately, despite the controversy, past and present, surrounding the family planning program, the national commitment to making family planning services available to low-income women and teenagers remains strong, and title X has a broad bipartisan base of support in Congress. It is time for Congress to reauthorize this very important and cost-effective health program and to ensure that it does not fall victim to the rise and fall of political tides.

By Mr. INOUYE:

S. 111. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating offenders with mental disease or defect to be conducted by a clinical social worker; to the Committee on the Judiciary.

PSYCHIATRIC EXAMINATIONS CONDUCTED BY A CLINICAL SOCIAL WORKER

● Mr. INOUYE. Mr. President, today, I am introducing legislation to amend title 18 of the United States Code in order to allow our Nation's clinical social workers to provide their mental health expertise to the Federal judiciary.

Mr. President, I feel that the time has come to allow our Nation's judicial system to have access to a wide range of behaviorial science and mental health expertise. I am confident that the enactment of this legislation would be very much in our Nation's best interest.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 111

Be it enacted by the Seante and House of Representatives of the United States of America in Congress assembled, That the first sentence of subsection (b) of section 4247 of title 18, United States Code, is amended by—

(1) striking out "or" after "certified psychiatrist" and inserting in lieu thereof a comma; and

(2) inserting after "clinical psychologist," the following: "or clinical social worker,".

By Mr. INOUYE:

S. 112. A bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to nurse midwives and nurse practitioners, to clarify certain provisions of such chapter with respect to coordination with State and local law, and for other purposes; to the Committee on Governmental Affairs.

AUTHORITY TO PAY OR REIMBURSE CERTAIN ADDITIONAL HEALTH CARE PROFESSIONALS

● Mr. INOUYE. Mr. President, today I am introducing legislation to amend the Federal Employees Health Benefit Act in order to ensure that Federal employees and their families will have ready access to the services of our Nation's certified nurse midwives and nurse practitioners.

Mr. President, this legislation would modify the current freedom of choice provision of this statute to include nursing professionals, and thus, provide Federal beneficiaries with the right to select the practitioner of their choice.

I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

s. 112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORITY TO PAY OR REIMBURSE CERTAIN ADDITIONAL HEALTH CARE PROFESSIONALS

SECTION 1. (a) Section 8902(k) of title 5, United States Code, is amended—

(1) in paragraph (1), by inserting "(except if, or to the extent that, any such supervision or referral is required under State or local law, or regulations issued thereunder, as described in subsection (m)(1)(B))" after "practitioner";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (5), respectively;

(3) by inserting after paragraph (1) the following:

"(2)(A) When a contract under this chapter requires payment or reimbursement for services which may be performed by a health practitioner referred to in subparagraph (B), an employee, annuitant, family member, or former spouse covered by the contract shall be—

"(i) free to select, and shall have direct access to, such a health practitioner without supervision or referral by another health practitioner (whether of a type referred to in subparagraph (B) or otherwise), except if, or to the extent that, any such supervision or referral is required under State or local law, or regulations issued thereunder, as described in subsection (m)(1)(B); and

"(ii) entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed.

"(B) This paragraph applies with respect to a nurse midwife, and nurse practitioner, who is licensed or certified as such under Federal or State law, as applicable.";

(4) in paragraph (3) (as so redesignated by paragraph (2)) by striking "As" and inserting "Subject to subsection (m)(1)(B), as";

(5) by inserting after paragraph (3) (as so redesignated by paragraph (2)) the following:

"(4) When a contract under this chapter requires payment or reimbursement for services of a health practitioner covered by paragraph (2) or (3), the terms and conditions governing such payments or reimbursements shall (except to the extent otherwise permitted under paragraph (3)(A)) be the same as the terms and conditions applicable under contracts under this chapter requiring payments or reimbursements for services of health practitioners covered by paragraph (1)."; and

(6) by amending paragraph (5) (as so redesignated by paragraph (2)) to read as follows:

"(5) The provisions of this subsection shall not apply to prepayment plans described in section 8903(4) of this title.".

(b) It is the intent of Congress that—

(1) nothing in the amendment made by subsection (a) shall interfere with applicable institutional anesthesia practice rules, or State or local law, governing supervision of a certified registered nurse anesthetist by another health practitioner; and

(2) such amendment, as it relates to a certified registered nurse anesthetist, shall apply only with respect to a certified registered nurse anesthetist who is self-employed and licensed or certified under Federal or State law, as applicable.

(c) Regulations or instructions issued to carry out the amendments made by subsection (a) shall reflect the statement of congressional intent set forth in subsection (b).

COORDINATION WITH STATE AND LOCAL LAW

SEC. 2. Section 8902(m) of title 5, United States Code, is amended—

(1) by redesignating paragraph (1) as paragraph (1)(A); and

(2) by adding at the end of paragraph (1)(A) (as so redesignated by paragraph (1)) the following:

"(B) Nothing in this chapter nor in the provisions of any contract under this chapter shall be considered to supersede or preempt any State or local law, or any regulation issued thereunder, which relates to licensing or certification to practice medicine, nursing, or any other health profession.".

EFFECTIVE DATE

SEC. 3. The amendments made by this Act shall be effective with respect to contracts entered into or renewed for calendar years beginning after the date of the enactment of this Act.

By Mr. INOUYE:

S. 113. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

INCREASE CERTAIN ROLES OF THE SECRETARY OF TRANSPORTATION

● Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize authority in the Secretary of Transportation for administering our cargo reservation laws. The background of these laws, the need for them, and the problems which, in my view, necessitate the legislation are succinctly stated in a Journal of Commerce article dated November 18, 1988. I ask unanimous consent that it be inserted at the conclusion of my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)), is amended to read as follows:

"(2) The Secretary of Transportation shall have the sole responsibility for determining and designating those programs which are subject to the requirements of this subsection. Every department or agency having responsibility for the programs so designated by the Secretary of Transportation shall administer such programs with respect to this subsection under regulations issued by the Secretary of Transportation. The Secretary of Transportation shall review such administration and shall annually report to the Congress with respect thereto.".

CARGO PREFERENCE

What it is.—A series of statutes, going back to 1904, intended to assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. It is the oldest U.S. maritime promotional program and while subsidies and financing aids have shrunk over the years, preference has survived.

Backgrounds.—The preference laws began by tracking this country's extension of its military and naval power, starting with the Spanish-American War. More recently, they have come to reflect the expansion of government programs extending U.S. economic power and interest abroad.

The Military Transportation Act of 1904 was the first of the preference statutes and its requirement for U.S.-flag vessel use, 100 percent, is the highest.

In 1934 Congress adopted Public Resolution 17 to require that half of the exports financed by the Reconstruction Finance Corp. were to move in U.S.-flag vessels. Later that resolution was made to apply to financing of the Export-Import Bank established originally to facilitate trade with the Soviet Union.

In the early postwar period, Congress acted each year to apply the resolution's 50 percent U.S.-flag share to foreign aid shipments. It permanently inserted the requirement into the 1954 Agricultural Trade Development and Assistance Act, better known as "Food for Peace" and PL-480.

Public Law 664 in 1961 made clear that preference should benefit and protect all U.S.-flag vessels, not just liners, and that all U.S. programs, including those where nonmilitary agencies procured equipment, materials or commodities for themselves or foreign governments, had to use U.S. flags to the extent of 50 percent.

Importance to carriers.—In the last year for which statistics are available, calendar 1986, U.S.-flag carriers hauled more than 33 million metric tons of preference cargo, somewhat more than the 28.5 million tons of commercial shipments carried that year. As an industry, the revenue amounted to about $502 million.

Necessity for preference.—Preference statutes are formally predicated on the need for assured cargoes to encourage the existence of a U.S.-flag merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial cargoes have failed, reflecting U.S. governmental sensitivity to objections by this country's trading partners as well as stern opposition from U.S. exporters, importers and agricultural interests. The availability of perference cargoes has unquestionably kept some U.S. carriers in business but critics argue that preference has encouraged keeping obsolete vessels in operation long after they should have been scrapped.

Extent of program.—The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 98 percent rate of U.S.-flag vessel use. It brought participating carriers some $14.5 million in revenue.

Problems.—The Maritime Administration is responsible for monitoring other government agencies to try to make sure they live up to preference requirements. In fiscal year 1987, those agencies met the cargo share minimums for the most part. Among the exceptions were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite Reagan administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of "giveaway" relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargosharing agreement with Iceland for military shipments there. Iceland threatened the future of U.S. bases in that country if the United States didn't agree to a departure from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their supporters in Congress generally have managed to forestall them.

Comment.—Budgetary austerity and the Defense Department's strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy's Military Sealift Command.

Efforts already are under way to change the competitive procurement system the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed Commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuccessfully to have existing preference removed from government programs in the belief that they inhibit U.S. farm exports.●

By Mr. INOUYE:

S. 114. A bill to declare certain activities of manufacturers of soft drinks to be unfair acts for purposes of the Federal Trade Commission Act; to the Committee on the Judiciary.

THE SOFT DRINK BILL

● Mr. INOUYE. Mr. President, the bill I am introducing declares certain activities of soft drink manufacturers to be unfair for the purposes of section 5 of the Federal Trade Commission Act (codified at 15 U.S.C. 45 (1987)). My bill prohibits acts of any person engaged in the business of manufacturing, selling or distributing postmixed soft drink dispensing equipment, or engaged in the business of manufacturing, selling, bottling, or otherwise distributing soft drink syrup. These acts promote monopolization, hinder fair competition and will ultimately hurt the consumer.

Over the years independent soft drink distributors have served smaller outlets that large manufacturers did not serve. These distributors supplied the equipment and syrup necessary to dispense soft drinks at bars, restaurants, and fast-food outlets.

However, in their efforts to further monopolize the soft drink market, large soft drink manufacturers have started to provide, at little or no cost, beverage dispensing equipment to potentially large retail customers in order to lure them away from their current independent distributors. This creates an unspoken obligation on the part of the retail customer to purchase the soft drink syrup from the large soft drink manufacturer who is providing the equipment. Furthermore, when these large syrup manufacturers install the beverage dispensing equipment at no charge, it is usually equipped to dispense only the syrup flavors that the manufacturer produces. This leaves no room for the restaurant or tavern owner to dispense the soft drinks of a competitor.

The damaging impact on the beverage dispensing equipment industry is twofold. First and most dramatically, it undermines the survival of those companies whose very existence is dependent upon the sale or lease of beverage dispensing equipment. When a large seller of soft drinks, such as a fast food chain, is faced with a choice of buying or renting the beverage dispensing equipment or receiving it free of charge, there is little difficulty in making a decision. The result is always the same—a member of the beverage dispensing equipment industry loses another customer. Second, once the equipment is installed, the customer invariably purchases its syrup directly and exclusively from the big soft drink manufacturer. Thus, the beverage dispensing equipment industry is not the only victim of this anticompetitive practice. Consumers and other distributors suffer as well.

Mr. President, in the waning days of the 100th Congress, I had the privilege of chairing a hearing on this legislation in the Consumer Subcommittee of the Senate Commerce, Science, and Transportation Committee. I heard a great deal of testimony from individuals who have been in the dispensing business for 20 or 30 years. Many now stand at the brink of losing their businesses. The large manufacturers gave no indication of compromising or coming up with a viable solution, saying only that this is common practice. They say this flexibility allows them to sell the soft drinks at a cheaper price. In all candor, it is monopolistic and anticompetitive, if other distributors and equipment dealers cannot compete.

Unless action is taken to preserve what little competition remains in the fountain soft drink industry, these large manufacturers will totally eliminate competition and will decimate the beverage dispensing equipment industry. Currently, large manufacturers control 85 percent of the fountain syrup market, leaving 15 percent to all other manufacturers, including the other national brands. Less competition will inevitably be detrimental to the consumer in the long run.

I firmly believe that Congress must take a closer look into this matter. With both the Senate Judiciary and the Commerce, Science, and Transportation Committees studying this issue, I believe a fair assessment of the situation can be made. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the bill and a letter from Senators THURMOND and BIDEN be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is an unfair act or practice, for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45), for any person engaged in the business of manufacturing, selling, or distributing postmixed soft drink dispensing equipment or engaged in the business of manufacturing, selling, bottling, or otherwise distributing soft drink syrup, to induce (directly or indirectly or through an affiliate), using any of the means described in subsection (b), any retailer engaged in the sale of postmixed soft drinks to purchase any soft drink syrup from such person to the exclusion in whole or in part of soft drink syrup sold or offered for sale by other persons in interstate or foreign commerce, if—

(1) such inducement is made in the course of interstate or foreign commerce;

(2) such person engages in the practice of using any such means to such an extent as substantially to restrain or prevent transactions in any soft drink syrup in interstate or foreign commerce;

(3) a direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from selling or offering for sale any soft drink syrup to such retailer in interstate or foreign commerce; or

(4) a direct effect of such inducement is to prevent, deter, hinder, or restrict other persons from furnishing, leasing, selling, or servicing any postmixed soft drink dispensing equipment or postmixed soft drink dispensing equipment systems to such retailer in interstate or foreign commerce.

(b) The means of inducement referred to in subsection (a), with respect to a retailer, are—

(1) furnishing without consideration, giving, or lending any postmixed soft drink dispensing equipment, postmixed soft drink dispensing equipment systems, fixtures, signs, supplies, money, services, or other things of more than nominal value to the retailer;

(2) leasing or selling at below fair market value, any postmixed soft drink dispensing equipment, postmixed soft drink dispensing equipment systems, fixtures, signs, supplies, money, credit, services, or other things of more than nominal value to the retailer; or

(3) extending credit to the retailer for a period in excess of the credit period that is usual and customary in the soft drink distribution industry for the particular class of transactions.

(c) As used in this Act, the term "postmixed soft drink dispensing equipment" means all of the components used to produce carbonated water and to mix soft drink syrup with carbonated water as the soft drink is dispensed from a faucet.

(d) Subsections (a), (b), and (c) shall take effect on the date which is 60 days after the date of enactment of this Act.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, January 24, 1989.

Hon. GEORGE J. MITCHELL,
U.S. Senate, the Capitol, Washington, DC.

DEAR MR. MAJORITY LEADER: Senator Inouye will soon introduce a bill dealing with the soft drink industry. We are writing to indicate that we have no objection to joint referral of the bill to both the Judiciary Committee and the Committee on Commerce, Science and Transportation.

Sincerely,

STROM THURMOND.
JOSEPH R. BIDEN, JR.●

By Mr. INOUYE:

S. 115. A bill to amend titles XVIII and XIX of the Social Security Act to provide that nurse practitioner or clinical nurse specialist services are covered under part B of Medicare and are a mandatory benefit under Medicaid; to the Committee on Finance.

COVERAGE OF NURSE PRACTITIONER SERVICES UNDER MEDICARE

● Mr. INOUYE. Mr. President, I am introducing legislation to provide for the direct reimbursement under Medicare and Medicaid for our Nation's nurse practitioners and clinical nurse specialists. My proposal would also make these services a mandated benefit under every State's Medicaid plan, in a manner similar to that currently in public law for services of nurse midwives.

Mr. President, for a number of years Department of Defense CHAMPUS Program has recognized these practitioners as autonomous providers and we have been most pleased by both the cost effectiveness of their care as well as the quality of the services that they render.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES UNDER PART B OF MEDICARE.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) nurse practitioner or clinical nurse specialist services;".

(b) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES

"(ff)(1) The term 'nurse practitioner or clinical nurse specialist services' means services performed by a nurse practitioner or clinical nurse specialist (as defined in paragraph (2)) which the nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not the nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'nurse practitioner or clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the

nurse practitioner or clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in nursing or a related field from an accredited educational institution, or

"(ii) is certified as a nurse practitioner or clinical nurse specialist by the duly recognized professional nurses association.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

SEC. 2. COVERAGE OF NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST SERVICES AS A MANDATORY MEDICAID BENEFIT.

(a) COVERAGE OF SERVICES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) by striking out "and" at the end of paragraph (20);

(B) by redesignating paragraph (21) as paragraph (22); and

(C) by inserting after paragraph (20) the following new paragraph:

"(21) nurse practitioner or clinical nurse specialist services (as defined in section 1861(ff)(1)); and".

(b) CONFORMING CHANGES.—

(1) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (10)(A), by striking out "paragraphs (1) through (5) and (17)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21)"; and

(B) in paragraph (10)(C)(iv), by striking out "paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (20)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (21)".

(2) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting in lieu thereof "(22)".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 116. A bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at a comprehensive outpatient rehabilitation facility; to the Committee on Finance.

PAYMENT FOR CERTAIN PSYCHOLOGICAL SERVICES AT OUTPATIENT FACILITIES

● Mr. INOUYE. Mr. President, the legislation which I am introducing today would modify the Medicare statute in order to provide for the autonomous functioning of psychologists in comprehensive outpatient rehabilitation facilities.

Mr. President, prior to this benefit being established under the Medicare law, those psychologists who were working in these facilities were functioning up to the scope of their State practice act and reimbursed under other Federal and private insurance programs for their services.

I believe that it is especially inappropriate for the Medicare physician management approach to be applied to outpatient rehabilitation services as this is an area in which a wide range of health professionals have significant contributions that they can make. I would further note that in rehabilitation programs, our Nation's psychologists have been in the forefront in developing creative and innovative behavioral science approaches to the care, which these individuals need.

I ask unanimous consent that the text of my statement and the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT FOR CERTAIN PSYCHOLOGICAL SERVICES FURNISHED AT COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) IN GENERAL.—

(1) COVERAGE.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (s)(2)—

(i) by striking "and" at the end of subparagraph (L),

(ii) by adding "and" at the end of subparagraph (M), and

(iii) by adding at the end the following new subparagraph:

"(N) rehabilitative psychological services;"; and

(B) in subsection (cc)(1)(D), by inserting "(other than services for which payment is made under this part by reason of section 1861(s)(2)(N))" before the semicolon.

(2) PAYMENT.—Section 1832(a)(2)(B) of such Act (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) by striking "and" at the end of clause (iii);

(B) by striking "; and" in clause (iv), as added by section 4073(b)(1)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma;

(C) by striking the semicolon in clause (iv), as added by section 4077(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987, and inserting a comma and redesignating such clause as clause (v); and

(D) by adding at the end the following new clause:

"(vi) rehabilitative psychological services;".

(3) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"REHABILITATIVE PSYCHOLOGICAL SERVICES

"(jj)(1) The term 'rehabilitative psychological services' means the services described in paragraph (2) furnished by a psychologist (as defined in regulations by the Secretary) to an individual who is an outpatient of a comprehensive outpatient rehabilitation facility (as defined in section 1861(cc)(2)) under the plan described in section 1861(cc)(1).

"(2) The services described in this paragraph are—

"(A) assessment, diagnosis and treatment of an individual's mental and emotional functioning as it relates to the individual's rehabilitation,

"(B) psychological evaluations of the individual's response to and rate of progress under such plan,

"(C) assessment of those aspects of an individual's family and home situation that affect the individual's rehabilitation treatment, and

"(D) such other services as the Secretary may by regulation provide;

excluding, however, any service if it would not be included under subsection (b) if furnished to an inpatient of a hospital.".

(b) CONFORMING AMENDMENTS.—Section 1861 of such Act is further amended—

(1) by redesignating subsection (ff), as added by section 4073(c) of the Omnibus Budget Reconciliation Act of 1987, as subsection (gg);

(2) in subsection (s)(2)(H)(ii), as amended by section 4074(a)(1) of the Omnibus Budget Reconciliation Act of 1987, by striking "subsection (ff)" and inserting "subsection (hh)";

(3) by redesignating subsection (ff), as added by section 4074(b) of the Omnibus Budget Reconciliation Act of 1987, as subsection (hh); and

(4) by redesignating subsection (gg), as added by section 4077(b)(5) of the Omnibus Budget Reconciliation Act of 1987, as subsection (ii).

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall apply with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.

SEC. 2. ELIMINATION OF FEDERAL PHYSICIAN CARE REQUIREMENT IN COMPREHENSIVE OUTPATIENT REHABILITATION FACILITIES.

(a) IN GENERAL.—Section 1861(cc)(2)(E) of the Social Security Act (42 U.S.C. 1395x(cc)(2)(E)) is amended to read as follows:

"(E) has a requirement that a patient be under the care of a physician to the extent required by State law;".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.●

By Mr. INOUYE:

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

TAX CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS

● Mr. INOUYE. Mr. President, today, I am introducing legislation to provide for a tax credit for those families who

purchase a child restraint system for their automobiles.

Mr. President, accidents and injuries continue to cause almost half of the deaths of children between the ages of 1 to 4, more than half of the deaths of children between 5 to 15, and continue to be the leading cause of death among children and young adults. Further, it is my understanding that although the Department of Transportation has made injury prevention among children a top priority, a significant number of parents, perhaps even more than half of us, when we have installed seat belts, do not have them installed properly.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 117

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 25A. PURCHASE OF CHILD RESTRAINT SYSTEM.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the costs incurred by the taxpayer during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD RESTRAINT SYSTEM.—The term 'qualified child restraint system' means any child restraint system which meets the requirements of section 571.213 of title 49 of the Code of Federal Regulations.

"(2) CHILD RESTRAINT SYSTEM.—The term 'child restraint system' has the meaning given to such term by section 571.213 of title 49 of the Code of Federal Regulations.

"(3) CHILD.—The term 'child' has the meaning given to such term by section 151(c)(3).".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Purchase of child restraint system.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988. ●

By Mr. INOUYE:

S. 118. A bill to amend title XVIII of the Social Security Act to provide coverage of clinical social workers services when provided on-site or a community mental health center or off-site as part of a treatment plan; to the Committee on Finance.

COVERAGE OF ON- OR OFF-SITE CLINICAL SOCIAL WORKERS SERVICES

● Mr. INOUYE. Mr. President, I am introducing legislation today to modify the Social Security Act in order to treat the clinical services of our Nation's professional social workers, who are working in community mental health centers in the same manner that their psychological colleagues are treated.

During the 100th Congress, we enacted a new psychology community mental health center Medicare benefit in order to ensure that the services of those practitioners were more readily available to our Nation's senior citizens. The legislation, which I am introducing today would simply treat clinical social workers in the same manner.

Mr. President, particularly in our Nation's community mental health center movement, clinical social workers have shown outstanding dedication, leadership and professional competence, in fact, more than any other profession, clinical social workers administer these important centers.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF CLINICAL SOCIAL WORKERS SERVICES WHEN PROVIDED ON-SITE AT A COMMUNITY MENTAL HEALTH CENTER OR OFF-SITE AS PART OF A TREATMENT PLAN.

(a) IN GENERAL.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)) as amended by the Technical and Miscellaneous Revenue Act of 1988 is further amended—

(1) by inserting "or a clinical social worker (as defined in subsection (hh)" before "on site at a community mental health center",

(2) by stiking "(other than at an off-site office of such psychologist)" and inserting in lieu thereof "(other than at an off-site office of such psychologist or clinical social workers)", and

(3) by inserting or "clinical social worker" before "is legally authorized to perform under State law".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to services furnished on or after January 1, 1989.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 119. A bill to amend titles XVIII and XIX of the Social Security Act to provide that pediatric nurse practitioner or pediatric clinical nurse specialist services are covered under part B of medicare and are a mandatory benefit under Medicaid; to the Committee on Finance.

COVERAGE OF PEDIATRIC NURSE SERVICES UNDER MEDICARE

● Mr. INOUYE. Mr. President, the legislation which I am introducing today would modify the Medicare and Medicaid Act in order to provide for the direct reimbursement of pediatric nurse practitioners or pediatric clinical nurse specialist under both of these initiatives.

Mr. President, there can be no question that many nurse practitioners provide quality and highly cost-effective health services and further, that the pediatric population in particular, is in need of this care. The report submitted to the Congress last session by the National Commission to Prevent Infant Mortality stated, "it is a shocking fact that, in saving the lives of babies, America ranks 15th among the nations of the world". The Commission pointed out that these words were stated by former President Lyndon Johnson 20 years ago. Today, we are 19 in the world.

Mr. President, I am confident that this initiative is very much in our Nation's best interest and will be a significant step forward in ensuring that all Americans have access to quality health care in an affordable manner. I request unanimous consent that the text of my bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF PEDIATRIC NURSE PRACTITIONER OR PEDIATRIC CLINICAL NURSE SPECIALIST SERVICES UNDER PART B OF MEDICARE.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) pediatric nurse practitioner or pediatric clinical nurse specialist services;".

(b) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"PEDIATRIC NURSE PRACTITIONER OR PEDIATRIC CLINICAL NURSE SPECIALIST SERVICES

"(ff)(1) The term 'pediatric nurse practitioner or pediatric clinical nurse specialist services' means services performed by a pediatric nurse practitioner or pediatric clinical nurse specialist (as defined in paragraph (2)) which the pediatric nurse practitioner or pediatric clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not the pediatric nurse practitioner or pediatric clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'pediatric nurse practitioner or pediatric clinical nurse specialist' means an individual who—

"(A) is a registered nurse and is licensed to practice nursing in the State in which the pediatric nurse practitioner or pediatric clinical nurse specialist services are performed; and

"(B)(i) holds a master's degree in pediatric nursing or a related field from an accredited educational institution, or

"(ii) is certified as a pediatric nurse practitioner or pediatric clinical nurse specialist by the duly recognized professional nurses association.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

SEC. 2. COVERAGE OF PEDIATRIC NURSE PRACTITIONER OR PEDIATRIC CLINICAL NURSE SPECIALIST SERVICES AS A MANDATORY MEDICAID BENEFIT.

(a) COVERAGE OF SERVICES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) by striking out "and" at the end of paragraph (20);

(B) by redesignating paragraph (21) as paragraph (22); and

(C) by inserting after paragraph (20) the following new paragraph:

"(21) pediatric nurse practitioner or pediatric clinical nurse specialist services (as defined in section 1861(ff)(1)); and";

(b) CONFORMING CHANGES.—

(1) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (10)(A), by striking out "paragraphs (1) through (5) and (17)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21)"; and

(B) in paragraph (10)(C)(iv), by striking out "paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (20)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (21)".

(2) Section 1920(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting in lieu thereof "(22)".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. KENNEDY:

S. 120. A bill to amend the Public Health Services Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Labor and Human Resources.

ADOLESCENT PREGNANCY PREVENTION, CARE, AND RESEARCH GRANTS ACT OF 1989

● Mr. KENNEDY. Mr. President, today I am introducing the Adolescent Pregnancy Prevention, Care and Research Grants Act of 1989 which would amend and reauthorize title XX of the Public Health Service Act. Formerly entitled the "Adolescent Family Life Demonstration Projects," this legislation strengthens title XX, and represents a renewed commitment by Congress to address the problem of adolescent pregnancy.

Adolescent pregnancy has reached epidemic proportions. In its recent landmark report entitled "Risking the Future," the National Research Council of the National Academy of Sciences estimated that more than 1 million teenage girls in the United States become pregnant each year, more than 400,000 have abortions, and almost 470,000 give birth. There are significantly increased health and financial risks for teenage mothers and their infants, and continuing developmental and adjustment risks for the children of teen parents as they grow up.

Most adolescent mothers are unmarried, financially dependent, and at risk of dropping out of school. Disrupted educational preparation also frequently characterizes the teen marriages that do occur, and these young families are often poor and unstable. Compounding their problems, adolescent mothers are more likely than their peers to experience a second pregnancy during adolescence.

Society spends billions of dollars each year sustaining these families. Although the loss of economic potential is difficult to gauge, other costs to society are measurable. An estimate limited to AFDC, food stamps and Medicaid, indicates that costs attributable to adolescent childbearing totaled $18 billion in 1986.

Rates of adolescent pregnancy, abortion, and childbearing in this country are considerably higher than in most other developed countries in the world. This fact is particularly significant at a time when we are concerned about the potential competitiveness of our work force. This disparity is especially striking in the youngest teenagers; American girls under age 15 are at least five times more likely to give birth than girls at comparable ages in any other developed country for which we have data.

Since 1981, when the 2-year-old Title VI Adolescent Pregnancy Program was folded into the maternal and child health block grant, the title XX demonstration projects have been the only Federal program exclusively designed to deal with adolescent sexuality, pregnancy and family issues. Through title XX, the Federal Government has supported a variety of efforts to test innovative approaches to the problems of teen pregnancy and childbearing. With a relatively small authorization of $10 million annually, title XX, the Adolescent Family Life Act, has helped support educational services relating to sexuality and family life for nonpregnant teens and their parents, as well as services for teen parents and their families including prenatal and postnatal care, referral for employment, educational and vocational services, and adoption counseling services. In 1988, 68 community-based demonstration service projects and 15 research projects received title XX support. Since the beginning of the title XX program, 51 research projects have received support, greatly contributing to our existing body of knowledge about this multifaceted problem.

After 8 years of Federal activity on a demonstration basis, the time has come to transform title XX into an ongoing service program that rewards effectiveness with enduring fiscal support. To signal this commitment to an ongoing Federal initiative, the current "adolescent family life demonstration projects [AFLA]" will be renamed "adolescent pregnancy prevention, care and research grants." In addition, the bill removes the current 5-year limit on a grantee's receipt of funds.

Other substantive revisions are necessary for three reasons. First, adolescent pregnancy prevention services must be accessible to teenagers if they are to be effective. Experience has shown that, in some families, requiring parental consent for an adolescent's participation in a title XX program creates a major barrier to service. The Federal Government should not require parental consent. The involvement of an adolescent's parents is still encouraged in the bill, however. Several studies have shown that meaningful family involvement can be helpful in avoiding both adolescent pregnancy itself and its most negative consequences.

Second, it is imperative to avoid illegal overlap between religious and Federal programming, and to comply with medical and counseling ethics in regard to fully informed client consent in service delivery. Certain provisions of the current title XX authority fail to take these principles into account, and have been contested in the courts. The new legislation clarifies that religious organizations will be eligible to receive funds under title XX, but may not use funds primarily to advance religious beliefs. Such organizations must provide prevention, care and referral services similar to those provided by nonsecular organizations.

Finally, while abstinence promotion programs are potentially promising approaches to adolescent pregnancy prevention, it is the conclusion of the

National Research Council that the effectiveness of these programs has yet to be scientifically demonstrated. AFLA assumes that abstinence programs are the most effective prevention strategies. Programs that encourage the delay of initiation of sexual activity in young teenagers constitute only one example of the variety of integrated services that are obviously needed to address the extremely complex problems of adolescent pregnancy and childbearing. The educational service emphasis of AFLA has been retained, and contraception services can only be funded by title XX when there is no other source of funding for such services in a given community. The current requirement that no title XX funds may be used to pay for abortion services is retained in the bill.

These changes will not disqualify any programs currently receiving title XX funding from continued support, a fitting acknowledgment of the many successes with which title XX demonstration projects have met. One program that received title XX support was the teenage pregnancy and parenting project in San Francisco. The program used case managers to provide counseling and referral services to pregnant adolescents for up to 3 years. It offered health and parenting classes and a single site for the several agencies that provided services in order to enhance continuity of care and coordination. Clients received obstetrical care, public health information, nutritional care, teen well-baby clinic, and infant day care, as well as counseling. A special program component targeted adolescent males, who could also be assigned case management services. Over a 4-year period, infants whose parents were associated with this program had significantly higher birth weights than a comparison group, a higher percentage of adolescent mothers and fathers who stayed in school—67 percent were still enrolled 1 year after birth—and a lower rate of subsequent births—2 percent and 10 percent 1 and 2 years post partum.

The bill contains a renewed emphasis on providing services to adolescent males as well as adolescent females. In order to reach this population, prevention services should be made available through a wide array of public and nonprofit organizations, including schools. The decision for a school system to apply for a grant is one that should be made by the local school board with input from parents and other community members. If a local community believes the best way to meet the needs of adolescents is through school-based prevention programs, it should not find itself hindered by Federal policy.

The bill emphasizes the importance of high quality program evaluation conducted by all grantees so that we can determine which components of the service delivery system are most effective in reducing adolescent pregnancy. The need for high quality evaluations of successful interventions to reduce adolescent pregnancy is strong. Under the current title XX authority, the administration has failed to conduct any comprehensive evaluation of programs supported by title XX funds. The bill contains specific requirements for grantees to make comprehensive evaluations of their programs. In addition, the Secretary of Health and Human Services will be required to collect standardized data on all programs funded.

Another indication of congressional awareness of the need to increase knowledge in this area is the moderately funded research grants that have been retained as a part of the title XX package. Scientific studies conducted outside the context of ongoing programming are still needed; despite significant advances in the last decade, we need greater understanding of the social causes and multiple consequences of adolescent pregnancy, and methods of increasing positive outcomes of adolescent childbearing and rearing.

Legislation identical to this measure was reported by the Committee on Labor and Human Resources during the 100th Congress, but no further action was taken. I hope we will see prompt consideration of the title XX bill this year. It is time to reauthorize title XX at higher levels, commensurate with the growing problem of teen pregnancy, and to employ the lessons of the last 8 years in making the Adolescent Pregnancy Prevention, Care and Research Grants Act of 1989 as effective as possible. We cannot afford to risk the future. The critical problem of teen pregnancy requires prompt action, and this legislation deserves the endorsement and support of this Senate.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 120

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Adolescent Pregnancy Prevention, Care, and Research Grants Act of 1989".

SEC. 2. ADOLESCENT PREGNANCY PREVENTION, CARE, AND RESEARCH GRANTS.

Title XX of the Public Health Service Act (42 U.S.C. 300z et seq.) is amended to read as follows:

"TITLE XX—ADOLESCENT PREGNANCY PREVENTION, CARE, AND RESEARCH GRANTS

"SEC. 2001. FINDINGS AND PURPOSES.

"(a) FINDINGS.—Congress finds that—

"(1) adolescents are at a high risk of unwanted pregnancy;

"(2) in 1986, more than 1,000,000 teenagers became pregnant, and nearly 500,000 teenagers carried their pregnancies to term, of which 6 out of 10 births were out of wedlock;

"(3) adolescents aged 17 and younger accounted for 46 percent of the out of wedlock births to teenagers;

"(4) in a high proportion of cases, the pregnant adolescent is herself the product of an unmarried parenthood during adolescence and is continuing the pattern in her own lifestyle;

"(5) pregnancy and childbirth among unmarried adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including—

"(A) higher percentage of pregnancy and childbirth complications;

"(B) higher incidence of low birth weight babies;

"(C) higher infant mortality and morbidity;

"(D) greater likelihood that an adolescent marriage will end in divorce;

"(E) decreased likelihood of completing schooling; and

"(F) higher risks of unemployment and welfare dependency; and

therefore, education, training, and job research services are important for adolescent parents; and

"(6) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

"(7) research has shown that in cases in which there is a family involvement in comprehensive values-based projects and services—

"(A) low birth weight is significantly reduced;

"(B) delays in initiating sexual activity occur;

"(C) there are significant reductions in repeat pregnancy, welfare costs, and child abuse; and

"(D) teens are more likely to return and complete their high school education; and

therefore, the family should become a partner in the development of curriculum and programs that reflect the values of the community;

"(8) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services, particularly those that allow the pregnant adolescent and adolescent parent to stay in school;

"(9) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

"(10) Federal policy therefore should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

"(b) PURPOSES.—It is the purpose of this title—

"(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed com-

prehensive community services that assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

"(2) to expand the availability of such services that are essential to that objective;

"(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services;

"(4) to encourage and support research programs concerning the societal causes and consequences of pregnancy, childbearing, and child rearing for adolescent females and males;

"(5) to support evaluative research to identify effective services that reduce adolescent pregnancy rates and that improve the outcome of adolescent childbearing for the parents, the child, and their families; and

"(6) to encourage and provide for the dissemination of results, findings, and information from programs and research projects relating to adolescent pregnancy and parenthood.

"SEC. 2002. DEFINITIONS.

"For the purposes of this title:

"(1) ADOLESCENT.—The term 'adolescent' means an individual under the age of 21.

"(2) CARE SERVICES.—The term 'care services' means all services for the provision of care to pregnant adolescents and adolescent parents. Such term shall include all core services and may include supplementary services, in accordance with regulations prescribed by the Secretary.

"(3) CORE SERVICES.—The term 'core services' means those services that shall be provided by a grantee, as determined by the Secretary by regulation, which shall include—

"(A) pregnancy testing and maternity counseling, or referral for such services;

"(B) family planning services, except that such services for adolescents who are not already parents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

"(C) primary and preventive health services, including prenatal and postnatal care for mother and children and arrangements for delivery;

"(D) nutrition information and counseling;

"(E) referral for screening and treatment of sexually transmitted diseases, including acquired immunodeficiency syndrome;

"(F) referral to appropriate pediatric care;

"(G) educational services relating to sexuality and family life, including—

"(i) education on responsible decisionmaking regarding sexual activity;

"(ii) education on the responsibilities of parenting;

"(iii) education on a full range of means for delaying becoming pregnant, including contraception, natural family planning, and abstinence; and

"(iv) assistance to parents, schools, youth agencies, and health care providers to educate adolescents and pre-adolescents concerning self-discipline and responsibility in human sexuality;

"(H) referral to appropriate educational, employment, and vocational services;

"(I) adoption counseling services, that present adoption as an option for pregnant adolescents, or referral to a licensed adoption agency for adoption counseling;

"(J) mental health services and referral to mental health services and to other appropriate physical health services; and

"(K) encouragement of parent and family involvement in each of the core services described in subparagraphs (A) through (J).

"(4) ELIGIBLE GRANT RECIPIENT.—The term 'eligible grant recipient' means a public or nonprofit private organization or agency that demonstrates, to the satisfaction of the Secretary—

"(A) in the case of an organization that will provide care services, the capability of providing all care services in a single setting or the capability of creating a network through which all care services would be provided; or

"(B) in the case of an organization that will provide prevention services, the capability of providing such services.

"(5) ELIGIBLE PERSON.—The term 'eligible person' means—

"(A) with regard to the provision of care services, a pregnant adolescent or an adolescent parent; or

"(B) with regard to the provision of prevention services and referral to such other services that may be appropriate, an adolescent who is not already a parent.

"(6) PREVENTION SERVICES.—The term 'prevention services' means services described in subparagraphs (B) and (G) of paragraph (3) and referrals to such other services that may be appropriate for adolescents who are not already parents and includes services to be offered in schools at local discretion.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(8) SUPPLEMENTAL SERVICES.—The term 'supplemental services' means those services that may be provided by a grantee, as determined by the Secretary by regulation, which may include—

"(A) child care sufficient to enable the adolescent parent to continue education or to enter into employment, including services to be provided within secondary schools at local discretion;

"(B) consumer education and homemaking;

"(C) counseling for the immediate and extended family members of the eligible person;

"(D) transportation;

"(E) referral to licensed residential care or maternity home services;

"(F) referral to licensed adoption agencies for adoption placement services;

"(G) employability training and counseling; and

"(H) such other services as are consistent with this title as the Secretary may approve in accordance with regulations promulgated by the Secretary.

"SEC. 2003. AUTHORITY TO MAKE GRANTS FOR SERVICES.

"The Secretary may make grants to provide care services to pregnant adolescents and adolescent parents and prevention services to nonpregnant adolescents. Grants shall be used to provide, supplement, or improve the quality of such services.

"SEC. 2004. USE OF GRANTS FOR SERVICES.

"(a) USES.—A grant made under this title may be used to—

"(1) provide eligible persons—

"(A) care services;

"(B) prevention services; or

"(C) any combination of care and prevention services;

"(2) coordinate, integrate, and provide linkages among providers of care, prevention, and other services for eligible persons in furtherance of the purposes of this title;

"(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and that are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

"(4) plan, for a period of not more than 1 year, for the administration and coordination of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents that will further the objectives of this title; and

"(5) fulfill assurances required for grant approval by section 2006.

"(b) FEES.—Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 2006, that bases fees charged by the grantee on the income of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services.

"SEC. 2005. PRIORITIES, AMOUNTS, AND DURATION OF GRANTS FOR SERVICES.

"(a) PRIORITIES.—In approving applications for grants for services under this title, the Secretary shall give priority to applicants who—

"(1) serve an area where there is a high incidence of adolescent pregnancy;

"(2) serve an area with a high proportion of low-income families and where the availability of programs of care for pregnant adolescents and adolescent parents is low;

"(3) show evidence—

"(A) in the case of an applicant who will provide care services, of having the ability to bring together a wide range of needed core services and, as appropriate, supplemental services in comprehensive single-site programs, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for pregnant adolescents or adolescent parents; or

"(B) in the case of an applicant who will provide prevention services, of having the ability to provide prevention services for adolescents and their families that are appropriate for the target population and the geographic area to be served, including the special needs of rural areas;

"(4) will utilize to the maximum extent feasible existing available programs and facilities such as community health centers, child welfare agencies, children and youth centers, maternal and infant health centers, regional rural health facilities, licensed adoption agencies, maternity homes, school and other educational programs, family planning clinics, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

"(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

"(6) can demonstrate a community commitment to the program by making available to the program non-Federal funds, personnel, and facilities;

"(7) have involved the community to be served, including public and nonprofit pri-

vate agencies, adolescents, and families, in the planning and implementation of the program; and

"(8) will demonstrate innovative and effective approaches in addressing the problems of adolescent pregnancy or parenthood, including approaches to provide pregnant adolescents with adequate information about adoption.

"(b) AMOUNTS.—

"(1) IN GENERAL.—The amount of a grant for a program for services under this title shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents in such area.

"(2) RURAL AREAS.—In making grants for services under this title, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds taking into consideration the relative number of adolescents in such areas in need of such services.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to paragraph (3), a grant for services under this title may not exceed 75 percent of the costs of the program for any year.

"(2) FORM OF NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions required by paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) WAIVER.—The Secretary may waive the limitation specified in paragraph (1) for any year in accordance with criteria established by regulation.

"SEC. 2006. REQUIREMENTS FOR APPLICATIONS FOR GRANTS FOR SERVICES.

"(a) IN GENERAL.—An application for a grant for services under this title shall be in such form and contain such information as the Secretary may require, and shall include—

"(1) an identification of the incidence of adolescent pregnancy and related problems;

"(2) a description of the economic conditions and income levels in the geographic area to be served;

"(3) a description of existing pregnancy prevention services and programs of care for pregnant adolescents and adolescent parents (including adoption services), and including where, how, by whom, and to which population groups such services are provided, and the extent to which they are coordinated in the geographic area to be served;

"(4) a description of the major unmet needs for services for adolescents at risk of initial or recurrent pregnancies and an estimate of the number of adolescents not being served in the area;

"(5)(A) in the case of an applicant who will provide care services, a description of how all care services will be provided in the program using funds under this title or will otherwise be provided by the grantee in the area to be served, the population to which such services will be provided, how such services will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such care services in the public and private sectors; or

"(B) in the case of an applicant who will provide prevention services, a description of the necessary services to be provided and how the applicant will provide such services;

"(6) a description of the manner in which adolescents needing services other than the services provided directly by the applicant will be identified and how access and appropriate referral to such other services (such as medicaid; licensed adoption agencies; maternity home services; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided, including a description of a plan to coordinate such other services with the services supported under this title;

"(7) a description of the results expected from the provision of services, and the procedures to be used for evaluating those results;

"(8) assurances that the applicant will have an ongoing quality assurance program;

"(9) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations prescribed by the Secretary;

"(10) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

"(11) assurances that the applicant will make maximum use of other sources of Federal and State funding;

"(12)(A) a description of—

"(i) the schedule of fees to be used in the provision of services, which shall comply with section 2004(c); and

"(ii) a corresponding schedule of discounts to be applied to the payment of such fees, which shall comply with section 2004(b) and which shall be adjusted on the basis of the ability of the eligible person to pay;

"(B) assurances that the applicant has made and will continue to make every reasonable effort—

"(i) to secure from eligible persons payment for services in accordance with such schedules;

"(ii) to collect reimbursement for health or other services provided to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program; and

"(iii) to seek such reimbursement on the basis of the full amount of fees for services without application of any discount; and

"(C) assurances that the applicant has submitted or will submit to the Secretary such reports as the Secretary may require to determine compliance with this paragraph;

"(13) assurances that the applicant will make maximum use of funds available under title X;

"(14) assurances that the acceptance by any individual of family planning services or family planning information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

"(15) assurances that fees collected by the applicant for services rendered in accordance with this title shall be used by the applicant to further the purposes of this title;

"(16) assurances that the applicant, if providing both prevention and care services, will not exclude or discriminate against any adolescent who receives prevention services and subsequently requires care services as a pregnant adolescent;

"(17) a description of how the applicant will ascertain whether services for which adolescents have been referred have actually been obtained and develop a plan to ensure that needed services actually are received;

"(18) assurances that unemancipated minors requesting services from the applicant will be encouraged to consult with their parents with respect to such services and that services shall not be denied to unemancipated minors who decide not to consult their parents;

"(19) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity that provides such counseling) on all options, regarding the pregnancy;

"(20) assurances that primary emphasis for services supported under this title shall be given to adolescents 17 and under who are not able to obtain needed assistance through other means;

"(21) assurances that funds received under this title shall not supplant funds received from any other Federal, State, or local program or any private sources of funds; and

"(22) a plan for the conduct of, and assurances that the applicant will conduct, evaluations of the effectiveness of the services supported under this title in accordance with subsection (b).

"(b) EVALUATIONS.—

"(1) IN GENERAL.—Each grantee that receives funds for a grant for services under this title shall expend at least 3 percent but not in excess of 10 percent of the amounts received under this title for the conduct of evaluations of the services supported under this title. The Secretary may, for a particular grantee on good cause shown, waive the preceding sentence with respect to the amounts to be expended on evaluations, but may not waive the requirement that such evaluations be conducted.

"(2) INDEPENDENT EVALUATION.—Evaluations required by paragraph (1) shall be conducted by an organization or entity that is independent of the grantee providing services supported under this title.

"(c) REPORTS.—

"(1) IN GENERAL—Each grantee that participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require, including reports on prevention programs and care programs.

"(2) CONTENTS OF REPORTS ON PREVENTION PROGRAMS.—Reports on prevention programs shall be in a standard format as prescribed by the Secretary and shall include a description of—

"(A) the characteristics, educational attainments, and economic status of clients;

"(B) the clients' previous exposure in home, school, or other locations to educational efforts regarding sexuality and family life;

"(C) the types of interventions employed in the prevention program;

"(D) the before and after outcome measurements on variables appropriate to the intervention;

"(E) to the extent possible and where appropriate to program goals, the pregnancy and sexually transmitted disease rates subsequent to intervention; and

"(F) the extent of parent or family involvement in the program.

"(3) CONTENTS OF REPORTS ON CARE PROGRAMS.—Reports on care programs shall be in standard format as prescribed by the Secretary and shall include a description of—

"(A) the characteristics, health history, educational attainments, and economic status of clients at the time of entry;

"(B) the client prenatal care and pregnancy outcome, complications of pregnancy and delivery, and infant birth outcomes;

"(C) the characteristics, educational attainments, and economic status of clients at time of follow-up and infant follow-up information;

"(D) the types of services provided to clients; and

"(E) the extent of parent or family involvement in the services provided.

"(4) COMPARISON DATA.—Reports on prevention programs and care programs shall include control group data or other appropriate comparison data to provide comparisons with project data and to indicate program impact or effectiveness.

"(5) FOLLOW-UP DATA.—Reports on prevention programs and care programs shall include, to the extent possible, follow-up data on a random sample of program graduates and dropouts.

"(d) TIMING OF SERVICES.—No application submitted for a grant for a program for care services under this title may be approved unless the Secretary is satisfied that core services shall be available through the applicant within a reasonable time after such grant is received.

"SEC. 2007. COORDINATION OF FEDERAL AND STATE PROGRAMS.

"(a) FEDERAL PROGRAMS.—The Secretary shall coordinate Federal policies and programs providing services relating to the prevention of initial and recurrent adolescent pregnancies and providing care services for pregnant adolescents and adolescent parents. In achieving such coordination, the Secretary shall—

"(1) require grantees who receive grants for services under this title to report periodically to the Secretary concerning Federal, State, and local policies and programs that interfere with the delivery of and coordination of pregnancy prevention services and other programs of care for pregnant adolescents and adolescent parents;

"(2) provide technical assistance to facilitate coordination by State and local recipients of Federal assistance;

"(3) give priority in the provision of funds, where appropriate, to applicants using single or coordinated grant applications for multiple programs; and

"(4) give priority, where appropriate, to the provision of funds under Federal programs administered by the Secretary (other than the program established by this title) to programs providing comprehensive prevention services and comprehensive programs of care for pregnant adolescents and adolescent parents.

"(b) OTHER RECIPIENTS.—Any recipient of a grant for services under this title shall coordinate its activities with any other recipient of such a grant that is located in the same locality.

"SEC. 2008. GRANTS FOR RESEARCH.

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—The Secretary may make grants to public agencies or nonprofit private organizations or institutions of higher education to support the research and dissemination activities described in paragraphs (4), (5), and (6) of section 2001(b).

"(2) DURATION.—The Secretary may make grants or enter into contracts under this section for a period of 1 year. A grant or contract under this section for a program may be renewed for 4 additional 1-year periods, which need not be consecutive.

"(3) AMOUNT LIMITATION.—A grant or contract for any 1-year period under this section may not exceed $100,000 for the direct costs of conducting research or dissemination activities under this section and may include such additional amounts for the indirect costs of conducting such activities as the Secretary determines appropriate. The Secretary may waive the preceding sentence with respect to a specific program if the Secretary determines that—

"(A) exceptional circumstances warrant such waiver and that the program will have national impact; or

"(B) additional amounts are necessary for the direct costs of conducting limited programs for the provision of necessary services in order to provide data for research carried out under this title.

"(4) CARRYOVER FOR REPORT.—The amount of any grant or contract made under this section may remain available for obligation or expenditure after the close of the 1-year period for which such grant or contract is made in order to assist the recipient in preparing the report required by subsection (f)(1).

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—Funds provided for research under this section may be used for descriptive or explanatory surveys, evaluation studies, longitudinal studies, or limited programs for services that are for the purpose of increasing knowledge and understanding of the matters described in paragraphs (4) and (5) of section 2001(b).

"(2) LIMITATIONS.—Funds provided under this section may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

"(c) PREREQUISITES.—The Secretary may not make any grant or enter into any contract to support research or dissemination activities under this section unless—

"(1) the Secretary has received an application for such grant or contract that is in such form and that contains such information as the Secretary may by regulation require;

"(2) the applicant has demonstrated that the applicant is capable of conducting one or more of the types of research or dissemination activities described in paragraph (4), (5), or (6) of section 2001(b); and

"(3) in the case of an application for a research program, the panel established by subsection (e)(2) has determined that the program is of scientific merit.

"(d) COORDINATION.—The Secretary shall coordinate research and dissemination activities carried out under this section with research and dissemination activities carried out by the National Institutes of Health.

"(e) REVIEW OF APPLICATIONS.—

"(1) SYSTEM.—The Secretary shall establish a system for the review of applications for grants and contracts under this section. Such system shall be substantially similar to the system for scientific peer review of the National Institutes of Health and shall meet the requirements of paragraphs (2) and (3).

"(2) PANEL.—

"(A) ESTABLISHMENT.—In establishing the system required by paragraph (1), the Secretary shall establish a panel to review applications under this section.

"(B) EXPERTISE.—Panel members should have expertise in research and evaluation and should represent disciplines relevant to the study of adolescent pregnancy and parenting.

"(C) LIMIT ON PHYSICIANS.—Not more than 25 percent of the members of the panel shall be physicians.

"(D) MEETINGS.—The panel shall meet as often as may be necessary to facilitate the expeditious review of applications under this section, but not less than once each year.

"(E) REVIEW.—The panel shall review each program for which an application is made under this section, evaluate the scientific merit of the program, determine whether the program is of scientific merit, and make recommendations to the Secretary concerning whether the application for the program should be approved.

"(3) GRANT DETERMINATION.—The Secretary shall make grants under this section from among the programs that the panel established by paragraph (2) has determined to be of scientific merit and may only approve an application for a program if the panel has made such determination with respect to such a program. The Secretary shall make a determination with respect to an application within 1 month after receiving the determinations and recommendations of such panel with respect to the application.

"(f) REPORTS.—

"(1) RESEARCH REPORTS.—

"(A) IN GENERAL.—The recipient of a grant or contract for a research program under this section shall prepare and transmit to the Secretary a report describing the results and conclusions of such research. Except as provided in subparagraph (B), such report shall be transmitted to the Secretary not later than 12 months after the end of the year for which funds are provided under this section. The recipient may utilize reprints of articles published or accepted for publication in professional journals to supplement or replace such report if the research contained in such articles was supported under this section during the year for which the report is required.

"(B) MULTIYEAR PROGRAMS.—In the case of any research program for which assistance is provided under this section for 2 or more consecutive 1-year periods, the recipient of such assistance shall prepare and transmit the report required by subparagraph (A) to the Secretary not later than 12 months after the end of each 1-year period for which such funding is provided.

"(2) OTHER REPORTS.—Recipients of grants and contracts for dissemination under this section shall submit to the Secretary such reports as the Secretary determines appropriate.

"SEC. 2009. EVALUATION.

"Of the funds appropriated under this title, the Secretary shall reserve not less than 1 percent and not more than 3 percent for the evaluation of activities carried out under this title. The Secretary shall submit to the appropriate committees of Congress a summary of each evaluation conducted under this section and a summary of the data reported by grantees under section 2006(c).

"SEC. 2010. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $60,000,000 for each of the fiscal years 1990 through 1992.

"(b) GRANTS FOR SERVICES.—At least two-thirds of the amounts appropriated to carry out this title shall be used to make grants for services.

"(c) PREVENTION SERVICES.—Not more than one-third of the amounts specified under subsection (b) for use for grants for services shall be used for grants for prevention services.

"SEC. 2011. FUND RESTRICTION.

"No funds for grants made under this title may be used for payment for the performance of an abortion.".

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 121. A bill to amend title XVIII of the Social Security Act to provide that psychologist services furnished by, or under arrangements made by, a hospice program are covered under Medicare; to the Committee on Finance.

COVERAGE OF CERTAIN SERVICES PROVIDED THROUGH A HOSPICE PROGRAM

● Mr. INOUYE. Mr. President, legislation which I am introducing today would modify the Medicare hospice benefit in order to allow for the recognition of psychological services.

Mr. President, one considers why we have enacted a hospice benefit I think it is fairly obvious that the services of our Nation's psychologists should be readily recognized. Individuals who enter a hospice do so because in the considered judgment of their physicians, it is no longer possible to cure the disease with which they are afflicted. What is necessary is comfort, compassion, and appropriate counseling.

This legislation will ensure that these individuals have access to the services of qualified mental health professionals in the final days of their life, if they so desire. I request unanimous consent that the text of my statement be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF CERTAIN SERVICES PROVIDED THROUGH A HOSPICE PROGRAM.

(a) COVERAGE OF SERVICES.—Section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (G);

(2) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) psychologist services (as defined in subsection (ff)(1))".

(b) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is further amended by adding at the end thereof the following new subsection:

"Psychologist Services

"(ff)(1) The term 'psychologist services' means services performed by an individual who is a psychologist (as defined in paragraph (2)) that such individual is legally authorized to perform under the law (or the regulatory mechanism provided by law) of the State in which such services are performed, whether or not such individual is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'psychologist' means an individual who—

"(A) is licensed or certified at the independent practice level of psychology by the State in which such individual so practices,

"(B) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology which the Secretary deems appropriate, and

"(C) possesses two years of supervised experience in health service, at least one year of which is postdegree.".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after the first day of the first month which begins more than sixty days after the date of the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 122. A bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics; to the Committee on Finance.

COVERAGE OF SOCIAL WORKER SERVICES IN RURAL HEALTH CLINICS

● Mr. INOUYE. Mr. President, today I am introducing legislation to modify the rural health clinic provision of Medicare and Medicaid in order to ensure that those social workers providing services in rural America will be given recognition under this statute.

Under the current law, social workers who are employed by rural health clinics are not recognized under the appropriate Medicare provision and as a result, must function under a physician's supervision even when they are not available. In my judgment, it is only appropriate to modify the rural health clinic provision to allow our Nation's social workers to be treated in the same manner as professional nurses and psychologists.

Mr. President, I ask unanimous consent that the text of my bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF SOCIAL WORKER SERVICES IN RURAL HEALTH CLINICS.

(a) IN GENERAL.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking "Secretary)," and inserting "Secretary) or clinical social worker (as defined in subsection (hh)),".

(b) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(1) by redesignating subsection (ff), as added by section 4073(c) of the Omnibus Budget Reconciliation Act of 1987, as subsection (gg);

(2) in subsection (s)(2)(H)(ii), as amended by section 4074(a)(1) of the Omnibus Budget Reconciliation Act of 1987, by striking "subsection (ff)" and inserting "subsecton (hh)";

(3) by redesignating subsection (ff), as added by section 4074(b) of the Omnibus Budget Reconciliation Act of 1987, as subsection (hh); and

(4) by redesignating subsection (gg), as added by section 4077(b)(5) of the Omnibus Budget Reconciliation Act of 1987, as subsection (ii).

(c) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall apply with respect to services furnished on or after the date of enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on the date of enactment of this Act.●

Mr. KENNEDY (for himself, Mr. SIMON, Mr. DODD, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. INOUYE, Mr. BRADLEY, Mr. BINGAMAN, Mr. KERRY, Mr. ADAMS, Mr. BURDICK, Mr. WIRTH, Mr. SHELBY, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 123. A bill to provide financial assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other purposes; to the Committee on Labor and Human Resources.

SMART START: THE COMMUNITY COLLABORATIVE FOR EARLY CHILDHOOD DEVELOPMENT ACT OF 1989

● Mr. KENNEDY. Mr. President, today I am pleased to introduce legislation on behalf of myself, and Senators SIMON, DODD, MOYNIHAN, MATSUNAGA, INOUYE, BRADLEY, BINGAMAN, KERRY, ADAMS, BURDICK, WIRTH, SHELBY, LIEBERMAN, and RIEGLE, to make high quality full day early childhood development programs universally available to America's prekindergarten children. This proposal is called Smart Start, and it is my top education priority for the 101st Congress.

In 1962, the High/Scope Educational Research Foundation in Michigan began a great experiment that may change the shape of American education. These researchers set out to test what today seems like a commonsense idea: that school failure begins at an early age. They recognized that some children live in such deprivation that they are already below their grade level on the day they enter kindergarten. And their chance of ever catching up ranges from slim to nonexistent.

The Michigan researchers believed that early education could completely change the lives of children who are most at risk of failure—in school, and into adulthood. To prove this theory, they provided a high quality early childhood program to a group of inner-city 4-year-olds from low-income families in Ypsilanti. At the Perry preschool, the classes were small, the teachers were good, and the curriculum emphasized the individual development of each child.

The researchers have tracked these children throughout their school careers, and now have data on their

progress through age 19. The results are truly remarkable. When compared to a group of students from similar backgrounds who had not participated in early education programs, the Perry preschool students were twice as likely to go on to college, twice as likely to be literate, and twice as likely to have a job. They were a third less likely to be school dropouts, half as likely to have a teenage pregnancy, half as likely to be on welfare, and much less likely to have had a run-in with the law.

These results translate into a sound financial investment, as well. An expenditure of $4,800 per child saved $29,000 in later welfare, social services, crime and other costs—or $6 saved for every dollar spent.

Other studies have confirmed the tremendous benefits of early education for the children who receive it, and for society. Work done by the Syracuse University Family Development Research Program, the Consortium for Longitudinal Studies, the Frank Porter Graham Center, and the Brookline Early Education project in my own State of Massachusetts are but a few.

Last year, Congress enacted several important demonstration programs that will provide early education, including Even Start and the Comprehensive Child Development Centers Act. But we need to do more. We know early education works. The Federal Government must encourage more States and localities to become involved. Smart Start provides strong incentives—dollar for dollar matching funds—for States to invest in full-day child development programs so that every preschool-aged child has access to high quality early childhood education.

Smart Start creates a mechanism for local coordination among varied service providers. Each community, through a policy group composed of parents, teachers, schools, Head Start, and social services, would determine how best to meet the service needs of the community by expanding and upgrading programs in Head Start, public schools, and other nonsectarian, nonprofit organizations.

Smart Start ensures high quality: each classroom receiving funds would have a low child-teacher ratio, small groups, staff trained in early childhood development, and active parental involvement. Programs would run for the full day, in order to meet the child care needs of working parents as well, although families would have the option of part-time attendance. And while low-income children would receive priority for services, all children would be eligible, with fees charged on a sliding scale.

Smart Start standards would ensure an environment in which children can exercise their innate ability to learn, at a pace appropriate to their age and level of development. That is the kind of "developmentally appropriate curriculum" that the Michigan researchers and many others have found to be so effective.

The potential of Smart Start is high, especially in combating one of America's most urgent problems—the high rate of dropouts. One out of eight students today does not finish high school. The numbers are higher for blacks and still higher for Hispanics, and the consequences are devastating. Dropouts are less likely to be employed, and those who work earn lower wages. Society pays for dropouts too—through lost tax revenues, and increased welfare costs, drug abuse, and crime.

Experts estimate that each year's class of dropouts costs society $240 billion in lost earnings and lost taxes over their lifetimes. And that does not include losses resulting from the educational disadvantages passed on to the next generation. If Smart Start can cut the dropout rate by a third—at a cost of less than $1 billion a year—it is an investment we cannot afford to pass up.

Since Smart Start was introduced last year, we have made several important changes in the legislation to respond to suggestions made by early childhood experts. First, we have increased the role of the Department of Health and Human Services, in order to better utilize its expertise. Now, while the Department of Education remains responsible for administrative aspects of the program, the HHS and Ed will jointly develop policy and regulations.

Second, while parents have always had a major role in the program, we have strengthened all aspects of parent involvement. In addition, we have guaranteed parents one-third representation on the local policy group, and required parenting education and family support services.

Third, we have streamlined the local policy group, which is now composed of a representative of the local Head Start agency, the school superintendent, a representative of the school board, the head of the social services agency, an early childhood teacher, and three parents, two of whom must be low income.

Finally, we have strengthened the bill's targeting on low-income children. Fifty percent of slots are reserved for children from families earning less than 115 percent of the poverty line, and two-thirds of funds must be used to serve these children.

We have received strong support from educators, civil rights groups, Governors, child development advocates, and the business community—which recognizes the importance of building a work force for the future. Indeed, Brad Butler, the president of the Committee for Economic Development—an organization of leading business executives—told the Labor Committee that "absolutely nothing this country can do is more important to our future than the issues which are addressed in this legislation." Last fall, the National Association of State Boards of Education [NASBE], issued a thoughtful and ground-breaking report, "Right From the Start." It urged the formation of cooperative partnerships between schools, Head Start, and other early childhood programs to address the increasing need for high quality programs. NASBE calls for programs that are comprehensive, include parent involvement, increase training and salaries of staff, meet the needs of working parents, and provide a sliding fee scale equalize access to programs. Most importantly, the report acknowledges that the need for services exceeds the resources that any single service provider has available, and thus a coalition of providers must work together to ensure that all children are served.

Those are precisely the principles that Smart Start is built upon. But we must act soon. One of the most distressing legacies of the past 8 years will be the children we might have helped, but who are no longer children and may now be beyond help. The impressionable 4-year-old girl of 1980 has become the 13-year-old teenage mother of 1989, perpetuating a senseless cycle of dependency.

Smart Start offers hope for the future. It is an education program, a day care program, a job program, a literacy program, a health care program, a nutrition program, a dropout program, a teenage-pregnancy program, and an anticrime and drug abuse program. Most important, it can be a genuinely new program that will be a significant investment in a better America. The potential returns are enormous. I urge my colleagues to support a truly Smart Start for our Nation's children.

I ask unanimous consent that the full text of the bill be printed in the RECORD, as well as a sample of letters of support we have received for the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—This Act may be cited as the "Smart Start: The Community Collaborative for Early Childhood Development Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Statement of findings and purpose.
Sec. 3. Definitions.
Sec. 4. Program authorized.

Sec. 5. Eligibility for Federal assistance.
Sec. 6. Allotments to States.
Sec. 7. Locality and within State allocation.
Sec. 8. Planning grants.
Sec. 9. State Advisory Task Force.
Sec. 10. Lead State Agency.
Sec. 11. State application and State Plan.
Sec. 12. Local Policy Group.
Sec. 13. Local plan and application.
Sec. 14. Eligible children and families.
Sec. 15. Use of funds.
Sec. 16. Minimum standards.
Sec. 17. Administrative provisions.
Sec. 18. Evaluation.
Sec. 19. Nondiscrimination.
Sec. 20. Payments; Non-Federal share; Supplementation of Funding.
Sec. 21. Records and audits.

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) FINDINGS.—Congress finds that—

(1) high quality early childhood development programs can increase the literacy rate, the graduation rate, the employment rate, and the rate of enrollment in higher education for those children who receive such programs;

(2) high quality early childhood development programs can also decrease the incidence of cognitive, learning, and emotional handicaps, teenage pregnancy, welfare dependency, and incidence of arrest and juvenile delinquency for those children who receive such programs;

(3) high quality early childhood development programs are cost effective, saving taxpayers $6 for every $1 invested;

(4) despite these well-documented, long-term advantages, only one-third of the children who live in poverty are enrolled in early childhood development programs;

(5) the less income and education parents have, the less likely their children are to be enrolled in early childhood development programs;

(6) many working families cannot afford high quality early childhood development programs for their children;

(7) half of all preschool children have two parents in the workforce or live in single parent families, and the number is growing;

(8) because of the growing number of such children, there is a great need for affordable high quality full day, full calendar year early childhood development programs;

(9) existing programs of early childhood development that run only half-day or only during the school-day and school-year should be extended to meet the full child care needs of parents;

(10) existing children's programs that do not meet the educational, physical, emotional, social, cognitive and communication developmental needs that high quality programs provide should be upgraded to provide these services to preschool children;

(11) the low salaries paid to professional staff in early childhood development programs, the lack of a professional career progression for such staff, and the lack of child development specialists makes it difficult to maintain high quality in programs for young children;

(12) many States and localities have established early childhood development programs to help meet the needs of young children and their families, particularly low-income families; and

(13) there remains a great need for high quality full day, full calendar year programs, which could be met both by expanding and upgrading existing early childhood programs and by creating new childhood development programs.

(b) PURPOSE.—It is therefore the purpose of this Act—

(1) to make widely available to prekindergarten children, especially to low-income children, a high-quality, child-centered, developmentally appropriate early childhood development program;

(2) to make widely available to parents who wish such services a full day, full calendar year program in which they can enroll their prekindergarten children;

(3) to make efficient use of Federal, State, and local resources for early childhood development by promoting collaboration and coordination at the Federal, State, and local levels;

(4) to assist State and local governments in providing comprehensive developmentally appropriate early childhood programs as well as health, nutrition, mental health, and other social services to all prekindergarten students, including students whose native language is other than English, and especially to needy prekindergarten students in poor urban and rural areas;

(5) to assist State and local governments in expanding, improving, or establishing early childhood development programs using existing facilities that meet State and local safety code requirements;

(6) to assist State and local governments in making available family support and parenting education to parents of children in early childhood development programs who request such services;

(7) to provide incentives for community collaboration, including public-private partnerships, in the delivery of comprehensive early childhood services through schools, Head Start agencies, and other community-based organizations;

(8) to provide resources to ensure a smooth transition for students from prekindergarten into the elementary school grades when they reach the appropriate age; and

(9) to assist State and local governments in—

(A) providing training for teachers and staff of early childhood development programs, and

(B) promoting the use of salary scales that take into account training and experience.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "early childhood development program" means a program that is appropriate for the child's age and all areas of the individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) The term "full calendar year" means all days of operation of businesses in the locality, excluding—

(A) legal public holidays, as defined in section 6103 of title 5, United States Code; and

(B) a single period of 14 consecutive days during the summer.

(3) The term "full day" means the hours of operation of businesses in the locality.

(4) The term "locality" means a city, county, township, or other general purpose unit of local government, or an Indian reservation. For purposes of this Act, a consortium of more than one locality acting together may be considered a locality.

(5) The term "poverty line" has the same meaning given that term in section 673(2) of the Community Services Block Grant Act.

(6) The term "prekindergarten" means 2 years before a child is eligible under State law to enter first grade.

(7) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

(8) The term "parent" includes a legal guardian or other person standing in loco parentis.

(9) The term "service provider" means any public or nonsectarian nonprofit deliverer of early childhood development services, including a local educational agency, Head Start center, and community-based organization receiving funds under this Act.

(10) The term "Secretary" unless otherwise specified, means the Secretaries of Education and Health and Human Services, acting jointly, except that "Secretary" means the Secretary of Education for purposes of sections 4, 6, 7, 8, 17, 20, and 21 of this Act.

(11) The term "training" means that instruction in early childhood development that is required for certification by existing State and local laws, regulations, and policies, or, in a State with no certification procedures, a nationally recognized credential such as the Child Development Associate credential, or postsecondary education with significant coursework in early childhood education or early childhood development.

(12) The term "child development specialists" shall include but not be limited to school counselors, school social workers, school psychologists, speech-language pathologists, and other qualified professional personnel involved in providing developmental assessment, counseling, therapeutic, and other necessary services as part of a comprehensive child development services program.

PROGRAM AUTHORIZED

SEC. 4. (a) GENERAL AUTHORITY.—The Secretary shall, in accordance with this Act, make grants to States and localities having applications submitted under sections 11 and 13 of this Act to assist States and localities to expand or establish full day, full calendar year early childhood development services for prekindergarten children. Such grants may be for up to 3 years, subject to annual review, and are renewable.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out the provisions of this Act $500,000,000 for fiscal year 1990; $750,000,000 for fiscal year 1991; $1,000,000,000 for fiscal year 1992; $1,000,000,000 for fiscal year 1993; and $1,000,000,000 for fiscal year 1994.

ELIGIBILITY FOR FEDERAL ASSISTANCE

SEC. 5. (a) STATE ELIGIBILITY.—A State shall be eligible to receive its allotment under section 6(b) of this Act if the State—

(1) provides assurances that the State has established or designated a State Advisory Task Force in accordance with section 9 of this Act; and

(2) submits an application and a State plan to the Secretary as described under section 11 of this Act.

(b) LOCALITY ELIGIBILITY.—If a State does not participate in the program under this Act, a locality in that State is eligible for a grant as provided in section 7 of this Act, if the locality—

(1) provides assurances that the locality has established or designated a Local Policy Group, as provided in section 12 of this Act; and

(2) makes an application as provided in section 13 of this Act.

ALLOTMENTS TO STATES

SEC. 6. (a) RESERVATIONS.—The Secretary shall reserve 1 per centum of the amount appropriated under section 4(b) in each fiscal year for payments to Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau, to be allotted in accordance with their respective needs.

(b) STATE ALLOTMENT.—(1) From the remainder of the sums appropriated under section 4(b) for each fiscal year, the Secretary shall allot to each State an amount determined in accordance with this subsection.

(2) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of—

(A) the number of children in the State under age 5 in families with income below the poverty line; and

(B) the tax capacity index of the State

bears to the sum of the corresponding products for all States.

(3) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of—

(A) the number of children in the State under age 5 in families with income below the poverty line; and

(B) the tax effort index of the State

bears to the sum of the corresponding products for all States.

(4) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of—

(A) the number of children in the State under age 5; and

(B) the tax capacity index of the State

bears to the sum of the corresponding products for all States.

(5) The Secretary shall allot an amount which bears the same ratio to 25 percent of such remainder as the product of—

(A) the number of children in the State under age 5; and

(B) the tax effort index of the State

bears to the sum of the corresponding products for all States.

(6) For purposes of this subsection, the number of children shall be determined by the Bureau of the Census in compiling the most recent decennial census.

(7) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

(c) TAX CAPACITY INDEX.—The tax capacity index is equal to 100 divided by the most recent standard tax capacity figure for the State, based on the Representative Tax System, developed annually by the Advisory Commission on Intergovernmental Relations.

(d) TAX EFFORT INDEX.—The tax effort index is equal to the most recent measure of tax effort for the State that is based on the standard tax effort measures, as developed annually by the Advisory Commission on Intergovernmental Relations, divided by 100.

(e) REALLOTMENT.—After satisfying the needs of localities under section 7(a), the amount of any State's allotment under subsection (b) for any fiscal year to carry out this Act which the Secretary determines will not be required for such fiscal year to carry out this Act shall be available for reallotment from time to time, on such dates during such fiscal year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (b) for such fiscal year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for such fiscal year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (b) for that year.

LOCALITY AND WITHIN STATE ALLOCATION

SEC. 7. (a) FEDERAL ALLOCATION TO LOCALITIES.—From amounts that would be allotted to a State under section 6(b) but will not be so allotted because the State elects not to participate in programs assisted under this Act, the Secretary shall allocate amounts to localities in accordance with this section. The grant which a locality is eligible to receive under section 5(b) is equal to the amount to which the locality is entitled under subsection (c) of this section.

(b) WITHIN STATE RESERVATION AND ALLOCATION.—(1) The Governor shall, from the allotment of the State under section 6(b), reserve 25 percent in each fiscal year for the activities described in paragraph (2).

(2) From the amount reserved in each fiscal year—

(A) not to exceed 5 percent may be used for administrative costs, of which at least 20 percent shall be allotted to the State Advisory Task Force;

(B) at least 5 percent shall be used for grants to localities in nonmetropolitan areas, and to localities for the purpose of serving migrant and Indian children or if no such localities apply for funds, funds under this subparagraph may be used for purposes stated in subparagraph (C) of this paragraph;

(C) at least 10 percent shall be used for discretionary grants to localities for purposes set forth in this Act; and

(D) at least 5 percent shall be used to develop and implement statewide training programs, and to provide technical assistance to localities for training.

(3) The Governor shall, from the allotment of the State in each fiscal year, allocate the remaining 75 percent to localities that have applications approved under section 9 of this Act, on the basis of the criteria listed in subsection (c) of this section.

(c) ALLOCATION RULES.—(1) From amounts available under section 7(b)(3), the Governor shall allocate—

(A) Sixty-seven percent of funds to localities on the basis of the number of children in the locality under age 5 in families below the poverty line, divided by the number of all children under age 5 in families below the poverty line, in the State.

(B) Sixteen and one-half percent of funds to localities on the basis of the number of children under age 5 in the locality, divided by the number of all children under age 5 in the State.

(C) Sixteen and one-half percent of funds to localities on the basis of the quality of the locality's application and plan, as judged by the State Advisory Task Force, in the areas of—

(i) the success of collaboration and coordination among local policy group members and service providers;

(ii) the quality of the needs and resources assessment required in section 12(c)(2) of this Act; and

(iii) the plan of the locality for ongoing coordination of services over and above those services necessary to meet minimum standards required for submission of an application pursuant to this Act.

The amount of a locality's allocation under this subparagraph shall vary with the degree of success on the various criteria described, except that, no locality shall receive more under this subparagraph than 150 percent of what it would receive if these funds were distributed on the basis of subparagraphs (A) and (B) of this paragraph.

(2) For purposes of this subsection, the number of children shall be determined by the Bureau of the Census in compiling the most recent decennial census.

(3)(A) Funds which remain available after allocation to localities under paragraph (1)(C) shall be reallocated to localities which receive funds under such subparagraph, subject to the maximum therein.

(B) Funds which remain after reallocation under subparagraph (A) of this paragraph shall be reallocated to localities under subparagraphs (A) and (B) of paragraph (1) of this subsection.

(5) Where localities submitting applications claim overlapping boundaries, the State, or in the case of localities in nonparticipating States, the Secretary, shall determine which locality will have jurisdiction over the overlapping area.

(6) Each locality receiving funds under this subsection may allocate up to 5 percent of such funds for administrative costs, provided that the local policy group receives at least 60 percent of such allocation.

(7) A locality shall be ineligible to receive an allocation under paragraph (1) in a fiscal year if the aggregate amount of Federal and State funds that would be received by such locality under this Act is less than $25,000.

PLANNING GRANTS

SEC. 8. (a) IN GENERAL.—Any locality may apply for a 6-month planning grant to the State or, if the State does not participate in the program authorized by this Act, to the Secretary. Funds received by localities for planning grants shall be deducted from the funds the locality would otherwise be eligible for in the first year of the program.

(b) APPLICATION REQUIRED.—Each application for a planning grant shall—

(1) identify the members of the local policy group established under section 12;

(2) describe the needs and resources assessment to be conducted, as provided in section 12(c) of this Act; and

(3) describe the proposed planning activities of the local policy group.

STATE ADVISORY TASK FORCE

SEC. 9. (a) ESTABLISHMENT.—Any State which desires to receive financial assistance under this Act shall establish a State Advisory Task Force.

(b) COMPOSITION.—(1) The Task Force shall be composed of a group of representatives of agencies, institutions, and other entities interested in or currently participating in the provision of early childhood development programs and child care in the State.

(2) The Governor shall select representatives from among—

(A) the office of the Governor;

(B) the State education agency;

(C) the State social services agency (or State child development or child advocacy agency);

(D) the State Head Start association; and

(E) organizations representing parents within the State.

The State Advisory Task Force shall include at least one representative from each cate-

gory of agencies or other entities listed in subparagraphs (A) through (F) of the preceding sentence, except in the case of a category in which no agency or entity elects to participate, or in which no such agency or entity exists within the State.

(3) In addition to those agencies and entities listed in paragraph (2), the Governor may select additional representatives of the Task Force from among—

(A) resource and referral agencies within the State; and

(B) the State Board of Education;

(C) the State health agency;

(D) the State labor or employment agency;

(E) the State housing agency;

(F) organizations representing local governments;

(G) organizations representing service providers;

(H) local educational agencies and school boards;

(I) each house of the State legislature;

(J) organizations representing teachers;

(K) organizations representing business; and

(L) organizations representing labor.

(4) To the extent practicable, the Task Force shall be balanced according to the race, ethnicity, and gender of its members.

(c) FUNCTIONS OF THE TASK FORCE.—The State Advisory Task Force shall—

(1) recommend to the Governor a Lead State Agency to administer programs to be assisted under this Act in the State based on that agency's experience in the administration of early childhood development programs, and recommend the assignment of financial responsibility to the appropriate State agencies;

(2) advise and assist the Lead State Agency designated by the Governor in the performance of its responsibilities set out in section 10 of this Act by conducting a needs and resources assessment—

(A) to determine where early childhood development programs are lacking or are inadequate within the State, with particular attention to poor urban and rural areas, and what special services are needed within the State, such as services for children whose native language is other than English;

(B) to identify all existing State-funded, and, to the extent practical, other programs serving prekindergarten children (other than profitmaking or sectarian) in the State, and to specify which programs might be expanded or upgraded with the use of funds provided by section 15 of this Act to meet criteria required in section 16 of this Act; and

(C) where appropriate, to identify other sources of fiscal and other support services for early childhood development programs;

(3) develop and submit the State application and the State plan required in section 11 of this Act;

(4) identify and review State policies, regulations, and laws that may restrict the use of facilities for the delivery of early childhood development services in school buildings or community agencies;

(5) evaluate and approve applications submitted by localities, as provided under sections 7 and 13 of this Act;

(6) prepare and submit an annual report to the Governor and the Secretary on the status of early childhood development programs operating within the State in accordance with subsection (d);

(7) conduct evaluations of programs as required in section 18; and

(8) arrange joint planning for provision of services under this Act with the provision of services required or authorized under other Federal laws.

(d) ANNUAL REPORT CONTENTS.—The report required by subsection (c)(6) shall include such information as the Secretary may reasonably require.

(e) CONFLICT OF INTEREST.—No member of the State Advisory Task Force shall cast a vote on any matter which would provide direct personal financial benefit to that member or otherwise give an appearance of a conflict of interest under State law.

(f) USE OF EXISTING TASK FORCES.—To the extent that a State has established a task force before the date of enactment of this Act which is comparable to the task force described in this section, the State shall be considered to be in compliance with subsections (a) and (b) of this section.

LEAD STATE AGENCY

SEC. 10. (a) DESIGNATION.—(1) The Governor shall designate a Lead State Agency to administer the early childhood development programs assisted under this Act in the State. The Lead State Agency shall be selected from—

(A) the State educational agency;

(B) the State department of social services; or

(C) the State agency for child development or child advocacy.

The criteria used to select the Lead State Agency shall include experience of the agency in carrying out early childhood development programs in the State. In order to be designated a Lead State Agency, such agency must have the authority under its charter or applicable law to receive and administer Federal funds for use in support of early childhood development programs, and to transfer funds so received, and to act as a grantee, contractor, or sponsor of programs authorized under this Act.

(2) The Governor shall assign financial responsibility for services provided to the appropriate State agencies.

(b) FUNCTIONS.—The Lead State Agency shall, with the assistance of the State Advisory Task Force, be responsible for carrying out—

(1) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 7 of this Act to ensure compliance with this Act;

(2) contracting with other State and local service providers as necessary;

(3) the resolution of intra- and interagency disputes; and

(4) the provision of, directly, or by way of grant or contract or other arrangements, technical assistance to localities in developing, conducting, and administering programs under this Act.

STATE APPLICATION AND STATE PLAN

SEC. 11. (a) STATE APPLICATION.—Any State desiring to receive a grant under this Act for any fiscal year shall submit an application, developed by the State Advisory Task Force, as required in section 9 of this Act, to the Secretary, at such time and in such manner as the Secretary may reasonably require. Each such application shall contain—

(1) a description and list of members of the State Advisory Task Force established or designated by the Governor as required in section 9 of this Act;

(2) the designation of a Lead State Agency that will be responsible for the administration of funds provided under section 6 of this Act, as required by section 10 of this Act;

(3) a State plan as required by subsections (b) and (c) of this section; and

(4) such other information and assurances as the Secretary may reasonably require.

(b) STATE PLAN.—Any State desiring to receive a grant under this Act shall file with the Secretary a State Plan, developed by the State Advisory Task Force. The Plan shall be submitted to the Secretary at such time and in such manner as the Secretary may reasonably require.

(c) CONTENTS OF PLAN.—Such plan shall—

(1) describe the results of the needs and resources assessment, carried out by the State Advisory Task Force, as provided in section 9 of this Act;

(2) describe how the State will upgrade where necessary, expand, and coordinate with existing Head Start programs;

(3) describe how the State will employ multiple service providers;

(4) describe how the State will ensure compliance with minimum standards required in section 16;

(5) describe how the State will ensure compliance with the uses of funds set forth in section 15(c) and (d) of this Act;

(6) describe how the State will meet the requirement of the non-Federal share required in section 20 of this Act;

(7) describe the certification procedures and training required by the State;

(8) assure that funds paid to the State under this Act will be expended in accordance with this Act;

(9) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this Act, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this Act;

(10) provide satisfactory assurance that Federal funds made available under this Act, and the non-Federal funds which are required to be paid as part of the non-Federal share under section 20 of this Act shall be used to supplement and increase the level of State and local funds expended for services, as provided in section 20 of this Act;

(11) provide satisfactory assurance, in accordance with section 21 of this Act, that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds made available under this Act and non-Federal funds which are required to be paid as part of the non-Federal share under section 20 of this Act; and

(12) such other information and assurances as the Secretary may reasonably require.

LOCAL POLICY GROUP

SEC. 12. (a) ESTABLISHMENT.—Any locality desiring to receive a grant under this Act shall form a Local Policy Group.

(b) COMPOSITION.—(1) The Local Policy Group shall be composed of a group of representatives of Government agencies, service providers, institutions, and organizations interested in or currently participating in the provision of early childhood development services in the geographic area covered by the locality. The local policy group shall contain no more than 8 members, except as provided in paragraph (2)(C) of this subsection.

(2)(A) The chief elected official of the locality shall select the membership of the Local Policy Group. The Local Policy Group shall be selected from among—

(i) the local Head Start agency;

(ii) the local board of education;
(iii) the local superintendent of schools;
(iv) the local social services agency (or, if applicable, local child development or child advocacy agency); and
(v) early childhood teachers.

The Local Policy Group shall include one representative from each agency or entity listed in clauses (i) through (v) of the preceding sentence, except where the agency or entity elects not to participate, or does not exist within the locality.

(B) In addition to the entities listed in subparagraph (A) of this paragraph, three parents of prekindergarten or elementary school-aged children shall be included in the membership of the local policy group. Two of such parents shall be parents whose child is receiving or has received Head Start services.

(C) Where a locality includes a consortium of more than one locality, as provided in section 3(4), the chief elected officials may select two representatives from each agency or entity listed in clauses (i) through (v) of subparagraph (A), and six parents as described in subparagraph (B) of this section.

(3) To the extent practicable, the Local Policy Group shall be balanced according to the race, ethnicity, and gender of its members.

(4) The Local Policy Group may consult with members of the community with expertise or an interest in child development programs, including—

(A) local resource and referral agencies,
(B) organizations representing labor,
(C) employers,
(D) local public health and nutrition agencies,
(E) child development experts, and
(F) organizations representing child care providers

to assist in the development and implementation of early childhood development programs.

(c) FUNCTIONS.—The Local Policy Group shall—

(1) develop a collaborative voluntary application to the State from the participating agencies;

(2) develop a needs and resources assessment, every 3 years, for the geographic area included within the locality, stating—

(A) where services are most needed based on numbers of prekindergarten children with particular attention to such children from families who have low income;

(B) the existence of early childhood development programs and the degree to which they meet the demand for such services in the locality;

(C) the existence of programs serving prekindergarten children which can be expanded or upgraded to meet the requirements of this Act;

(D) the need for bilingual programs and services for children whose native language is not English, and programs and services for handicapped, migrant, Indian, and homeless children; and

(E) a description of early childhood development training programs in the locality funded by this Act, and the need for additional training programs in the locality;

(3) demonstrate how the locality will work to employ multiple service providers;

(4) identify and review local laws, regulations, or policies that may restrict the use of facilities for the delivery of early childhood development programs in school buildings or community agencies;

(5) identify salary scales for staff of existing providers of early childhood development services and child care services;

(6) identify job training, literacy, and adult education programs that can be coordinated with family support services offered by child development programs; and

(7) prepare and submit an annual report as required in subsection (e) of this section to the State Advisory Task Force on the status of early childhood development programs within the locality; and

(8) arrange for evaluations required in section 18.

(d) LIMITATION ON FUNCTIONS OF LOCAL POLICY GROUP.—The Local Policy Group shall not supercede the internal operations or administrative practices of agencies or entities operating existing early childhood development programs, beyond evaluations required by section 18, except to institute minimum standards required by section 16 or to enforce the uses of funds set forth in sections 14 and 15.

(e) CONTENTS OF REPORT.—Each report required by subsection (c)(7) shall include—

(1) the number and socioeconomic background of children being served with funds provided under this Act, listed by age if available;

(2) the number of children whose parents have requested services but who are not being served;

(3) a description of the uses for which funds were expended in accordance with section 15 of this Act;

(4) a description of programs expanded, upgraded, or created under this Act;

(5) a description of salary scales used in programs receiving funds under this Act;

(6) a description of how programs receiving funds under this Act are coordinated with other existing programs of early childhood development for prekindergarten children in the locality; and

(7) assurances that the programs funded under this Act meet the requirements of sections 14, 15, and 16 of this Act.

(f) CONFLICT OF INTEREST.—A member of the Local Policy Group shall not cast a vote on any matter which would provide direct personal financial benefit to that member or otherwise give an appearance of a conflict of interest under State or local law.

(g) USE OF EXISTING LOCAL POLICY GROUP.—To the extent that a locality has established a broadly representative Local Policy Group before enactment of this legislation that is comparable to the Local Policy Group described in this section, such locality shall be considered to be in compliance with subsections (a) and (b) of this section.

LOCAL PLAN AND APPLICATION

SEC. 13. (a) APPLICATION REQUIRED.—Any locality desiring to receive a grant from the State to carry out services assisted under this Act shall—

(1) form or designate a Local Policy Group, in accordance with section 12 of this Act; and

(2) submit to the State an application prepared by the Local Policy Group.

Such application may be for up to 3 years, subject to annual review, and is renewable.

(b) CONTENTS OF APPLICATION.—Each application prepared pursuant to subsection (a) shall contain—

(1) a service delivery plan from all participating service providers, that includes—

(A) the name and location of all planned sites and a description of services which will be provided at each site under such plan;

(B) a description of how the locality will employ multiple service providers, such as Head Start and Local Educational Agencies, except as provided in section 16(b)(1);

(C) a plan for ongoing coordination of early childhood development services at each site between (i) Head Start providers and local educational agencies, whether or not such providers or agencies are receiving funds under this Act, and (ii) between entities in clause (i) and any other recipients of funds under this Act;

(D) a description of how priority for the use of funds made available under this Act is being given to the expansion and upgrading of existing programs, as required by section 15(c) of this Act;

(E) the number of children receiving services free of charge, the number of children receiving services for payment of fees, the level of such fees paid at each site, and the distribution of such children among service providers;

(F) the results of the local needs and resources assessment conducted by the Local Policy Group, as provided in section 12(c)(2) of this Act, a description of what needs for services have been identified by such assessment, and a description of how the plan for coordination of services address the indicated needs;

(G) a description of certification and other qualifications of staff, a plan for training of professional staff and employees, the turnover or mobility rate of professional staff and employees, if available, and a description of salary schedules, and how such schedules reflect level of training, expertise, and experience of employees;

(H) a description of how the locality will provide the non-Federal share required under section 20 of this Act if any portion thereof is not paid by the State;

(I) a description of how the locality will ensure compliance with the uses of funds set forth in section 15 of this Act;

(J) assurances that Federal minimum standards in section 16 of this Act will be adhered to;

(K) a plan for evaluations required in section 18; and

(L) such additional assurances or information as the Secretary may reasonably require; and

(2) evidence demonstrating effective use of existing Federal and State funds received by the locality for services for prekindergarten children.

(c) LOCAL ADMINISTERING AGENCY.—(1) In each locality the chief elected official (or officials, in the case of consortium of more than one locality) shall select a local administering agency for the locality from the local education agencies, local social services agencies, and the local child development agencies within the locality.

(2) The selection of the local administering agency shall be based on the experience of such agency in administering early childhood development programs. To be eligible to be designated a local administering agency, such agency shall have the authority under its charter or applicable law to receive, redistribute, and monitor grants to provide early childhood development services under this Act.

(3) The local administering agency of each locality shall be designated as the coordinator of all programs assisted under this Act for the locality for the purpose of administration and fiscal control.

(4) Each local administering agency shall work with existing local resource and referral agencies.

(5) Each administering agency shall follow the plan developed by the Local Policy

Group for the provision of services assisted by this Act.

(d) SUBMISSION OF LOCAL APPLICATION.—(1) Any locality desiring to receive financial assistance under this Act, that is located in a State receiving funds under this Act, shall submit an application to the State Advisory Task Force for the State in which such locality is located.

(2) Any locality desiring to receive financial assistance under this Act, that is located in a State that has chosen not to receive funds under this Act, shall—

(A) submit an application to the Secretary for a grant at such time and in such manner as the Secretary may reasonably require; and

(B) comply with the requirements under section 12 and subsections (a) and (b) of section 13 of this Act.

The service delivery plan required by section 13(b) shall also include the information required under sections 11(b) and 11(c) to the extent the information required therein pertains to the area to be served by the locality.

ELIGIBLE CHILDREN AND FAMILIES

SEC. 14. (a) AGE REQUIREMENT.—Any child is eligible to participate in programs assisted under this Act in the school year 2 years prior to the school year in which the child would be eligible, under State law, to enter first grade. Any State or locality which has served all children of the eligible age group requesting services may use funds under this Act to serve children in the school year 3 years prior to the school year in which they would be eligible, under State law, to enter first grade. A State or locality may use funds under this Act to upgrade and expand existing programs serving children aged 3 years through 5 years, provided the supplementation of funding requirements of section 20 are met.

(b) FAMILY CONTRIBUTION.—(1) Eligible children in families with annual incomes under 115 percent of the poverty line are eligible to receive services provided under this Act without charge.

(2)(A) Eligible children in families with annual incomes at or above 115 percent of the poverty line are eligible to receive services provided by this Act with payment of fees on a sliding scale up to the full cost of such service except that, pursuant to part B of the Education of the Handicapped Act, services included in a handicapped child's individualized education program shall be furnished to such child without charge. The sliding scale shall be developed by the State, or locality if the State is not participating, based on income level, family size, and relative cost of living. Such sliding scale shall ensure that families that can afford to pay the full cost of services do pay such cost. The maximum fee per child shall not exceed the cost per child of the services provided. Total fees for all eligible children in a family receiving services under this Act shall not exceed 10 percent of a family's gross income.

(B) Nothing in subparagraph (A) shall be construed to prevent any State or locality from paying part or all of the cost of fees paid by families under subparagraph (A) with non-Federal funds.

USE OF FUNDS

SEC. 15. (a) IN GENERAL.—Localities may use funds furnished under this Act.—

(1) to expand or upgrade, through grant or contract, existing public or nonsectarian nonprofit programs for prekindergarten children to operate them during the full day and full calendar year and in compliance with the requirements of section 16 of this Act, or

(2) to create, through grant or contract to public or nonsectarian nonprofit entities, full day, full calendar year early childhood development programs that comply with the provisions of this Act.

(b) AUTHORIZED ACTIVITIES.—Grants under this Act may be used for—

(1) development of and training in the use of developmentally appropriate early childhood curricula, including curricula that take into account the communication skills of children, including those whose native language is not English, and which are culturally sensitive and avoid race-based and gender-based stereotyping;

(2) provide directly, or by grant or contract, services to enable an early childhood development program to operate during the full day, and full calendar year;

(3) health screening and diagnosis of children;

(4) provision of health, mental health, and social services to children described in section 14(b)(1);

(5) nutrition services and nutrition education;

(6) parent outreach and involvement, including family home visits;

(7) family support and parenting education;

(8) referral and assistance in procuring education, nutrition, health, mental health, and other social services for families of children receiving early childhood development services;

(9) prenatal health and education services for parents of children receiving early childhood development services;

(10) distribution of information about available services, establishing connections to resource and referral agencies, and locality outreach;

(11) staff and personnel training in early childhood development including training conducted in conjunction with other service providers with particular attention to avoidance of race-based and gender-based stereotyping;

(12) upgrading the salaries of early childhood development professional staff, and the development of salary schedules for staff with varying levels of experience, expertise, and training;

(13) activities designed to ensure that groups of children participating in early childhood development programs are mixed according to gender, race, ethnicity, handicapping condition, and socioeconomic status;

(14) acquisition or development of materials and equipment;

(15) rental of space for provision of services, and minor building renovation or remodeling of schools, community-based agencies or business facilities to accommodate programs for young children;

(16) transportation of children;

(17) recruiting or subsidizing senior citizens to work with children; and

(18) evaluation of services.

(c) PRIORITY.—Where early childhood development programs serving eligible children exist within localities receiving funds under this Act, priority for the use of such funds shall be given to expanding such programs to serve more children and upgrading such programs to meet minimum standards required in section 16 of this Act. Funds may be used to establish new programs only if the needs of the locality may not be met by expanding or upgrading existing programs.

(d) LIMITATION.—(1) At least 50 percent of spaces created by funds available under this Act shall be filled by children whose families earn annually less than 115 percent of the poverty level.

(2) At least 67 percent of the funds made available under this Act shall be used by service providers to serve children from families who earn annually less then 115 percent of the poverty level, or shall be allocated to programs which serve primarily children from families who earn annually less than 115 percent of the poverty level.

MINIMUM STANDARDS

SEC. 16. (a) SERVICE PROVIDERS.—A service provider serving children with funds under this Act shall meet the following minimum standards or use funds to bring programs in compliance with the following minimum standards:

(1) The child to adult ratio shall not exceed 10 to 1 at any time. For the purpose of calculating child to adult ratio, the term "adult" includes only individuals in direct contact with, and with primary responsibility for, supervising children.

(2) The maximum group size shall be 20 children.

(3) Services shall be available for the full day and full calendar year, although families shall be given the option of enrolling their children part time.

(4)(A) At least one staff member supervising each group of children shall have training and experience in early childhood education or child development. The staff member shall be certified in early childhood education or child development, if the State has a certification procedure in these areas, or, if the State does not have a certification procedure, the staff member shall have a nationally recognized child development credential or postsecondary education with significant coursework in early childhood development.

(B) Additional staff members who do not have the qualifications described in subparagraph (A) shall receive a minimum of 40 hours of preservice training.

(C) All staff members shall receive 24 hours a year of inservice training during the duration of their employment; and where practical, an on-site curriculum specialist with training and experience in early childhood development shall be responsible for training all staff to apply the curricula selected by the program.

(5) Service deliverers shall use developmentally appropriate curricula that are appropriate for the child's age and all areas of the individual child's development including educational, cognitive, physical, emotional, social and communication skills of children, including skills of children whose native language is other than English. Standardized tests shall not be used to determine assignment to a group or admission to a program.

(6) Service providers shall provide adequate and nutritious meals and snacks, including breakfast at parent request.

(7) Service providers shall provide health screening and screening for handicapping conditions and shall ensure that appropriate follow-up services are provided. Service providers shall make referrals to health, mental health, and social services for which the enrolled child and her family are eligible at the Federal, State, and local levels, and shall ensure that such services are provided to families that request them.

(8) Service providers shall provide parenting education and family support services.

(9) Service providers shall coordinate with the local public school system to facilitate sharing of resources and expertise where practical, including diagnostic and remedial services and staff training, and to provide for the enrolled child's transition to elementary school. Local educational agencies shall make arrangements for a representative of such agency to facilitate such coordination.

(10) Service providers shall coordinate early childhood development programs funded under this Act with programs serving infants and toddlers, in order to provide continuity of care.

(11) Service providers shall ensure active parental involvement, which—

(A) involves parental outreach;

(B) ensures parents unlimited access to observe the program in which their children are enrolled;

(C) involves parents in the program curricula;

(D) provides access to all evaluations of the program to parents;

(E) arranges regular opportunities for parents to meet with professional staff including individuals such as child development specialists;

(F) permits parents (other than full-time staff) the opportunity to volunteer their services within the classroom setting; and

(G) ensures parents a role in policymaking. Participation by parents within the classroom shall not be considered for the purpose of satisfying any of the requirements imposed by this section regarding staff.

(12) Service providers shall ensure the physical safety of children served and comply with—

(A) any applicable State and local law or policy for licensing, health, environmental, sanitation, building, and fire safety; and

(B) Federal and State child care standards applicable to programs for children of the age group served.

(b) LOCALITIES.—A locality serving children with funds under this Act shall meet the following minimum standards or use funds to bring programs in compliance with the following minimum standards:

(1) A locality shall employ multiple service providers to ensure that one agency or organization does not become the sole provider of early childhood development services funded under this Act, unless such locality certifies to the State (or in the case of a locality applying directly to the Secretary, certifies to the Secretary), as part of the application required by section 13, that there exists only one service provider in the locality. Furthermore, localities shall give high priority to the expansion and upgrading of existing programs with funds provided under this Act.

(2) A locality shall ensure that no child receiving services in programs assisted by this Act shall be denied continued services as a result of changes in family income.

(c) HEAD START AGENCY.—Each Head Start agency receiving funds under this Act shall be deemed in compliance with minimum standards set forth in paragraphs (5), (6), (7), and (11), of subsection (a) of this section, if it is in compliance with the Head Start Performance Objectives.

FEDERAL ADMINISTRATIVE PROVISIONS

SEC. 17. (a) ROLE OF SECRETARY.—Consistent with the provisions of this Act, the Secretary of Education and the Secretary of Health and Human Services shall jointly develop and issue policy regulations for carrying out the provisions of this Act. Subject to the previous sentence, the Secretary has the responsibility to carry out the provisions of this Act. The Secretary shall use the expertise of early education experts at the Department of Education, particularly regarding developmentally appropriate curriculum, and early childhood experts in the Department of Health and Human Services, particularly regarding health and social services.

(b) WITHHOLDING OF PAYMENTS.—(1) Whenever the Secretary, after reasonable notice to the Lead State Agency (or, in the case of a grant provided under section 5(b) of this Act, to the locality) and an opportunity for a hearing, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this Act, the Secretary shall notify such agency (or locality) of the findings and that beginning 60 days after the date of such notification, further payments will not be made to the State (or locality) under this Act (or, in the Secretary's discretion, that the Lead State Agency shall reduce or terminate further payments under this Act to any locality or service provider) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied—

(A) payments to the State (or locality) under this Act shall be reduced or terminated, or

(B) payments by the Lead State Agency under this Act shall be limited to localities and service providers not affected by the failure.

A transcript or recording shall be made of any hearing conducted under this section and shall be available for inspection by any person.

(2) Upon submission to a State (or locality) of a notice under paragraph (1) of this subsection that the Secretary is withholding payments, the State (or locality) shall take such action as may be necessary to bring its actions into compliance with the provisions of this Act.

(c) JUDICIAL REVIEW.—(1) If any State (or locality) is dissatisfied with the Secretary's action under subsection (a) of this section, such State (or locality) may, within 60 days after notice of such action, file with the United States Court of Appeals for the circuit in which such State (or locality) is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which he or she based the action which is the subject of the appeal.

(2) A Lead State Agency (or locality) shall be presumed to have complied with this Act, but the findings of fact by the Secretary, if supported by the weight of the evidence, may overcome such presumption. The court may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his or her previous action, and shall file in the court the record of the further proceedings.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(d) CONTINUING ACTIVITIES PROTECTED.—No Head Start agency receiving funds under this Act which, prior to the date of enactment of this Act, was located in any facility owned or operated by a local educational agency shall—

(1) by reason of being selected to administer a program with funds under this Act, or

(2) by reason of the selection of the local educational agency to administer a program with funds under this Act,

be denied the continued use of such facilities in accordance with the arrangements with respect to such facilities so in effect.

EVALUATION

SEC. 18. (a) LOCAL POLICY GROUP EVALUATION.—The Local Policy Group shall arrange for the periodic on-site evaluation of the local programs by reviewers including community members and early childhood development experts who are not directly involved in the administration of the program. The results of such evaluations shall be made available to the service providers, parents of eligible children, interested members of the locality, and the State Advisory Task Force.

(b) STATE EVALUATION.—The Lead State Agency shall arrange for periodic on-site monitoring and inspection of programs assisted under this Act for compliance with the minimum standards set forth in section 16. The State Advisory Task Force shall evaluate programs assisted under this Act for success in achieving stated goals of the program and for impact on related programs. Evaluations shall be conducted by reviewers who are not directly involved in the administration of the program. The results of the evaluations shall be made available to service providers, parents of eligible children, interested members of the locality, and the Secretary.

(c) ANNUAL REPORT.—(1) The Secretary shall ensure that programs are inspected and monitored for compliance with the minimum standards set forth in section 16 of this Act.

(2) The Secretary shall prepare and submit to appropriate Committees of the Congress an annual report. The report shall include a summary of the information contained in reports submitted by States.

(d) GENERAL EVALUATIONS.—(1) The Secretary shall provide, directly or by way of grant or contract, for the continuing evaluation of programs assisted under this Act, including evaluations that measure and evaluate the impact of programs authorized by this Act, in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not directly involved in the administration of the program being evaluated.

(2) The Secretary shall publish the results of evaluative research and summaries of evaluations of programs and projected impact and effectiveness not later than 90 days after the completion thereof. The Secretary shall submit to the appropriate Committees of the Congress a copy of all such research studies and evaluation summaries.

(3) The Secretary shall take the necessary action to ensure that all studies, evaluations, proposals, and data produced or devel-

oped with assistance under this section shall become the property of the United States.

NONDISCRIMINATION

SEC. 19. The Secretary shall not award financial assistance for any program, project, or activity under this Act unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, religion, color, national origin, sex, political affiliation, handicap or age.

PAYMENTS; NON-FEDERAL SHARE; SUPPLEMENTATION OF FUNDING

SEC. 20. (a) PAYMENTS.—(1) The Secretary shall pay to each State, or locality in the case of a nonparticipating State, having an application approved under section 11, or 13, as the case may be, the Federal share of the cost of the activities described in the application.

(2) The Federal share—

(A) for the first year in which the State receives funds under this Act shall be 70 percent;

(B) for the second such year shall be 60 percent; and

(C) for the third such year and each year thereafter shall be 50 percent.

(3) The Federal share—

(A) for the first year for which a locality, located in a nonparticipating State, receives assistance under this Act shall be 80 percent;

(B) for the second such year shall be 75 percent; and

(C) for the third such year and each succeeding year shall be 70 percent.

(b) NON-FEDERAL SHARE.—(1) The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including plant, equipment, or services, subject to the limitations in subparagraph (2).

(2) A State receiving funds under this Act shall pay at least 75 percent of the non-Federal share. Such payment shall be in cash from non-Federal sources. States shall not require localities to contribute more than 25 percent of the non-Federal share or to contribute to the cash portion of the non-Federal share.

(c) SUPPLEMENTATION OF FUNDING—(1) All Federal funds and funds paid as a part of the non-Federal share under this Act shall be used to supplement the level of State and local public funds expended for services assisted under this Act in the previous fiscal year.

(2) The supplementation requirement of this subsection shall be satisfied with respect to a particular program if the aggregate expenditure in such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure in such program in the previous year, excluding Federal and non-Federal funds provided under this Act.

(d) WAIVER.—If the Secretary determines that a State, or in a nonparticipating State, a locality, would suffer substantial hardship as a result of paying the non-Federal share of payments because of the State's or locality's economic condition or substantial prior commitment of funds for early childhood development programs, the Secretary may waive such non-Federal share in part or in whole for such period of time as the Secretary deems necessary.

RECORDS AND AUDITS

SEC. 21. (a) RECORDS.—Each recipient of financial assistance under this Act shall keep records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of such financial assistance, the total cost of the program supplied by other sources, and such other records as will facilitate an effective audit.

(b) AUDITS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this Act.

JANUARY 24, 1989.

Hon. EDWARD KENNEDY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR KENNEDY: The National Education Association and its 1.9 million members strongly support your bill, S. 123, "Smart Start: the Community Collaborative for Early Childhood Development Act of 1989." As you know, NEA testified in support of this important education bill during the 100th Congress.

NEA supports the bill's goal of establishing or expanding quality preschool education programs for children, particularly those at risk of school failure. NEA believes that there is an inextricable link between quality early childhood development programs and educational excellence. Your bill makes a significant commitment to help educate, not just care for, preschool children.

Thank you for your strong leadership in advancing a program that would help educate our nation's children to their fullest potential.

NEA will urge members of the Senate to co-sponsor S. 123, and we look forward to working with you and your staff on this and other important issues in the 101st Congress.

Sincerely,

KENNETH MELLEY,
Director of Government Relations.

THE COUNCIL OF THE GREAT CITY SCHOOLS,
Washington, DC, January 24, 1989.

Hon. EDWARD M. KENNEDY,
Chair, Committee on Labor and Human Resources, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the Council of the Great City Schools, a coalition of the nation's largest urban public school systems, I would like to thank you for introducing S. 123, "Smart Start: The Community Collaborative for Early Childhood Development Act of 1989". The Council enthusiastically supports this critical piece of legislation and appreciates the leadership you have shown in the area of early childhood education.

The need for this legislation is enormous. Too many urban children enter our school doors in the first grade many steps behind their more advantaged peers. A recent study by our organization found that the average urban school system could provide pre-K services to only 23% of its kindergarten enrollments and that 70% of these programs operated only 2 or 3 hours a day. We estimated that a poor child in an inner-city is only half as likely to have access to preschool eduction as a child in wealthier circumstances.

Yet the positive effects of these programs are dramatic in terms of high school graduation, postsecondary education, literacy, employment, welfare dependence, criminal involvement, self-confidence and school success. Our own individual city evaluations of pre-K programs show enormous benefits for children. More than ever the federal government needs to invest early in the lives of our young people, and S. 123 promises to do that.

"Smart Start" has all the ingredients of success as far as the Council is concerned. It requires community-wide cooperation in the delivery of services to 3 and 4 year olds, it gives school authorities a central role in planning and service delivery, it sets minimum standards for current and new programs funded under the Act, it would upgrade existing efforts, it would work in tandem with and enhance the Head Start program, it targets funds on areas with greatest poverty, and it provides comprehensive and flexible programming on an all-day full year basis.

Again, the Council applauds your leadership in this area and enthusiastically endorses S. 123. Please be assured that the Council will be working vigorously to assist you in passing this landmark bill. If there is anything we can do to help you, please do not hesitate to call on us.

Sincerely,

MICHAEL CASSERLY,
Associate Director.

NATIONAL ASSOCIATION FOR THE EDUCATION OF YOUNG CHILDREN,
Washington, DC, September 14, 1988.

Senator EDWARD KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for your recent correspondence concerning your plans for considering the testimony of myself of myself and others prior to the reintroduction of Smart Start in the next session of Congress. As I mentioned in my testimony in July, the NAEYC Governing Board had not yet reviewed your legislation for possible endorsement. I am pleased to inform you that our Board has now had that opportunity and had not yet reviewed your legislation for possible endorsement. I am pleased to inform you that our Board has now had that opportunity and has endorsed S. 2270. In making the endorsement, the Board praised the attention you have given to assuring high quality programs, particularly with regard to staff qualifications, recruitment and retention, group size and ratios.

The Governing Board also stress that this bill must not be viewed as an alternative to comprehensive legislation that addresses the needs for care and education of all young children (birth through age 8). We recognize that you have repeatedly stressed this point and commend your continued support of this principle. We also are committed to supporting your continued efforts to assure that Smart Start supplement and expand existing opportunities for children and not be viewed as a competitor to existing programs.

We look forward to continuing to work with you and your committee to assure good services for children and their families.

Sincerely,

BARBARA A. WILLER, Ph.D.,
NAEYC Public Policy Director.

JANUARY 24, 1989.

Hon. EDWARD M. KENNEDY,
Senate Committee on Labor and Human Resources, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN KENNEDY: The National Association of State Boards of Education

(NASBE) is a private, nonprofit organization representing over 600 state board members from 45 states, three territories and the District of Columbia. Our principal objectives are to strengthen state leadership in education policymaking; promote excellence in the education of all students; advocate equality of access to educational opportunity; and to assure responsible lay governance of public education.

On behalf of NASBE, I wish to express our strong support for S. 123, "Smart Start: The Community Collaborative for Early Childhood Development Act."

As we are all aware, dramatic increases in the number of women in the work force, single parent households, and teenage parents have created a critical need for comprehensive quality early childhood programs. Appropriately, Smart Start is designed to make high quality developmentally appropriate early childhood education programs widely available, especially for low-income four- and five-year-old preschoolers and the preschoolers of working parents to ensure the likelihood of their later school success.

NASBE believes that Smart Start represents a superior investment in America's future. By helping to ensure later academic success for "at-risk" young children, early childhood programs like Smart Start assist in increasing their future productivity and in lessening the likelihood of their dependence on other social programs. Significantly, by lowering the costs of special education, welfare and crime, and by increasing worker productivity, Smart Start would return $6 for every $1 spent.

Another key aspect of Smart Start is its effort to make more efficient use of federal, state and local early childhood resources by promoting collaboration and coordination at those levels. It is our view that one of the most important and well-designed aspects of Smart Start is that it offers exceptionally strong incentives for state and local collaboration in the delivery of services to preshool children. Smart Start recognizes that most communities participate in federally-funded Head Start, child-care and preschool programs for children with special needs, as well as state early childhood initiatives. Each of these programs has different standards, funding criteria and delivery mechanisms. Smart Start would provide badly needed forums for joint planning and coordination among these programs. Moreover, Smart Start would virtually force collaboration by ensuring enough new funding to make working together truly worthwhile for public schools, Head Start, child-care providers and the private sector.

In addition, Smart Start wisely provides funds to expand existing preschool programs to full-day schedules to meet the needs of working parents. Many state programs and Head Start centers have limited their services to part-day in order to serve as many children as possible with limited funds. However, with the combination of increasing trends toward working parents and recent welfare reform legislation mandating training and employment participation for recipients of public assistance, the majority of preschool children need a high quality developmental program that is available all day.

Smart Start also draws on research and program experience from the past two decades to outline high quality standards for new programs. We have learned from hard work and careful study of such initiatives as Project Head Start and the Perry Preschool Program that successful programs must involve parents, employ staff who are well-trained in a developmental approach to curriculum and teaching, and complement the educational program for children with health, nutrition and social services for students and their families. Smart Start would ensure that new programs include these essential high quality standards.

As state education policymakers, we are particularly pleased that rather than attempting to impose a new uniform federal program on states and localities, Smart Start would complement and enhance the active efforts of states that have begun new state early childhood develop programs. Specifically, Smart Start would complement state initiatives by allowing states to provide and expand many aspects of their own services under this legislation. Hence, by building on the efforts of states and many localities, Smart Start would improve the quality of services, allow more children to participate, expand part-day programs to meet the needs of working parents, and also promote the connections between preschool programs and kindergarten and the public schools.

NASBE commends you for your strong leadership in the crucial area of early childhood education, and we look forward to working with you in the months ahead on this innovative and well-designed initiative.

Sincerely,

GENE WILHOIT
Executive Director.

THE NATIONAL PTA,
OFFICE OF GOVERNMENTAL RELATIONS,
Washington, DC, January 23, 1989.

Hon. EDWARD KENNEDY,
Chair, Labor and Human Resources Committee, Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the National PTA, an organization of 6.5 million parents, teachers and citizens concerned with the health and welfare of all children, I would like to express our support for S. 123, Smart Start: The Community Collaborative for Early Childhood Development Act.

Over the years, child welfare experts have testified how education enrichment programs for four-year olds have positive scholastic advantages for the child as well as long-term societal benefits. By introducing Smart Start, the National PTA feels you have seized the bottom-line message of these advocates—that access to high quality early childhood development programs should be an option for all prekindergarten children and their parents.

Smart Start emphasizes that programs be developmentally appropriate for the child and not rigidly academic, yet determines early childhood education opportunities as a component of the learning continuum. S. 123 distinguishes enrichment programs for four-year olds as an educational function, while providing safeguards to protect young children from the risk of, what some researchers have dubbed, miseducation.

S. 123 recognizes that parents are not merely consumers, but managers and executor of their child's pre-school education program. Parents will play an active role in planning, administration and evaluation of these enrichment programs.

Smart Start also recognizes that quality education is tied to a host of health, nutrition and support services for children and their families. The well-being of the whole child is enhanced through S. 123, an opportunity that must be available to every four-year old in our nation.

Sincerely,

MILLIE WATERMAN,
Vice-President for Legislative Activity.

NATIONAL ASSOCIATION OF
ELEMENTARY SCHOOL PRINCIPALS,
Alexandria, VA, January 24, 1989.

Hon. Senator EDWARD F. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: The National Association of Elementary School Principals is again pleased to offer you its support for Smart Start. This measure offers much in establishing a federal commitment to a quality pre-kindergarten education program.

Smart Start contains many important provisions, important to children, parents, and practitioners. Establishing minimum standards, insisting on a developmentally appropriate curriculum, including a wrap-around full day, full year child care component, creating advisory groups at the state and local levels, and targeting those most in need—all these are essential in helping ensure the quality program we all desire.

The need for Smart Start is well-documented. NAESP has added to that documentation with the theme of its May issues of the "Principal" magazine being early childhood. The Association has recently joined with High/Scope Foundation in conducting a series of workshops on "How to Administer a Quality Early Childhood Program." A committee will have completed "Guidelines for Quality Early Childhood Programs" by Fall, 1989.

Smart Start is a bill whose time has certainly come. We look forward to working with you toward its enactment.

Sincerely,

EDWARD P. KELLER,
Deputy Executive Director.

KIDS PROJECT,
Washington, DC, January 25, 1989.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Smart Start is smart! With its introduction, you have provided the answer to one of our nation's greatest challenges: how to prepare our four and five year old children to succeed in school, and at the same time, how to provide quality care for them. By combining early childhood education and child care, with health, nutrition and other social services in one program you have recognized that in order to make a difference, we must respond to many needs simultaneously. Until now, we have tended to treat children in an "atomized" way—a piece here, a piece there. Your program provides us with the opportunity to offer needed, comprehensive and continuous services for the "whole" child.

Smart Start promises to improve the chances of many poor young children to succeed in school and in their lives. By reserving a minimum of 50 percent of the places in any program and two-thirds of the funds for low-income children who will receive fully subsidized services, you have gone a long way towards reducing the incidence of school failure and adult dependency.

Requiring that the programs operate all day long and year 'round acknowledges the true needs of the many configurations of modern American families.

We have long recognized the importance of education. More recently, we have come to understand the critical need to provide early educational opportunities to children, and especially to those who are at highest risk of dropping out.

Smart Start is an excellent investment in our nation's future. As we approach the twenty-first century, finding the means to provide for the education and to strengthen the lives of our children and families should be among our nation's highest priorities.

I enthusiastically support your initiative, and I look forward to working with you as you continue to lead us in this critical area.

With best wishes,

WILLIAM W. HARRIS.

COUNCIL OF CHIEF
STATE SCHOOL OFFICERS,
Washington, DC, January 24, 1989.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: We applaud your initiative in introducing Smart Start and in directing the attention of the nation to the necessity for increased federal investment in early childhood education. We pledge our continued efforts to work with you and members of your staff on this legislation.

Our Council supports Smart Start as introduced in the beginning of the 101st Session of Congress, with the one condition that the provisions of governance and administration for the federal funds at the local and state levels be revised in Committee deliberations. We support your objective of creating a new federal funding stream to be combined with increased state and local funds to expand early childhood education. We believe your objective will be realized if the creation of this federal funding stream connects directly with the mainstream of local and state education funding. To assure accomplishment of that objective, we have placed a condition on our support with respect to the bill's provisions for governance of the program.

Smart Start should support services through both public and nonpublic providers. To attract new, continuing resources for this purpose, Smart Start must be administered through state and local education agencies. Only in this way can there be an efficiency of governmental administration; an assurance of a minimum of expenditure for administration; and the long-term growth of local and state resources for service to young children which has never been realized through the Head Start program.

We urge the further development of Smart Start be closely related to and supplemental to the reauthorization of Head Start. We urge the further development of Smart Start be closely related to and supplemental to the expansion of federal support for child care and related services (as in the ABC bill). Through such comprehensive consideration of the separate parts and a very specific focus of Smart Start as education legislation an important national advance will be made through Smart Start. Our Council is pleased to endorse the bill with the condition stated above.

Sincerely,

GORDON M. AMBACH.

NATIONAL ALLIANCE OF BUSINESS,
August 17, 1988.

Hon. EDWARD KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for providing my office with a summary of your proposed Smart Start bill. We have studied the research and agree with you conclusions that an increased investment in early childhood education is critical for the future economic well-being of our nation and for the future well-being of the children who would be served.

We fully support the bill's emphasis on using federal funds to leverage state and local funds, its commitment of raising the standards of early childhood education while allowing some degree of state and local flexibility, and its priority on serving children from low-income families.

We also agree that it is important to ensure a racial, ethnic, and socio-economic mix of children within the programs, but we are concerned about subsidizing the programs for all families. While the summary you provided suggests that families my be charged on a sliding scale basis, there does not seem to be a requirement for such a charge. In this time of severe budget limitations, government programs should only fully subsidize those with severely limited financial means. Others should pay on a sliding scale basis, while families with sufficient economic means should pay the full costs.

We look forward to working with you as Smart Start is considered in the Senate.

Sincerely,

WILLIAM H. KOLBERG,
President.

CONTEL CORP.,
Atlanta, GA, August 22, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for your letter of July 29, 1988 concerning the "Smart Start" legislation, S. 2270, that you have proposed.

I share with you the conviction that our children are our most valuable national resource and that we have an abiding obligation to ensure that this resource is nurtured and not wasted. In particular, I agree with you that the pre-school years are critical in a child's development and that there is a legitimate and important federal interest in assisting the states and our local communities to meet the need for high quality prekindgergarten child development programs. S. 2270 seems to me to be an excellent vehicle for recognizing and advancing these concerns.

As you move this legislation forward, I do hope you will continue to emphasize the importance of parental involvement in the preschool educational process. My sense is that this involvement will be crucial to the success of any program in this field.

I recognize that the authorization levels proposed in support of this legislation are substantially in keeping with the goals of the program. Congress, of course, has the responsibility to determine budget priorities and corresponding fiscal obligations. I would only observe that if S. 2270 is enacted, the program should be carefully monitored in its first years to ensure its effectiveness in meeting its obligations.

Again, I think that the developmental needs of our children would be well served by the "Smart Start" legislation you have introduced, and that the nation as a whole would also benefit from such a program. I appreciate your interest in writing and hope this is responsive to you request for comments.

Sincerely yours,

DONALD W. WEBER.

NORTON CO.,
Worchester, MA, August 25, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate, 315 Russell Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for sharing with me your proposal for "Smart Start." I think it is an imaginative and much needed approach to solving one of this country's most pressing problems.

Finding an educated and motivated workforce in the 21st century is clearly going to be one of American industry's major problems. Even today, we are having difficulty in finding adequately educated and trained people for our plants and offices. Programs that prevent children from falling into the school drop out cycle and then becoming the lost souls of our society must be encouraged.

My one concern about this clearly imaginative plan is, of course, the potential cost and whether we can find a way to fund such a program with a federal budget already severely in deficit and without placing the burden on the business community with new taxes. But, because we at Norton Company believe that working together, business and government can find ways to solve important national problems, we'd certainly like to be of help on this.

Please don't hestitate to contact me if you feel we can help. And thanks again for sharing this very imaginative idea with me.

Sincerely yours,

JOHN M. NELSON.

AUTOMATIC DATA PROCESSING, INC.,
Roseland, NJ, August 1, 1988.

Senator EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

Re: S2270 (Smart Start) and your letter of 7/29/88.

DEAR SENATOR KENNEDY: I received your letter, and thoroughly endorse the following principles:

1. Enhanced educational effectiveness is the most significant long-term issue for our nation (because only an intelligent, involved citizenry can effectively handle all the other important long-term issues).

2. Education is very much influenced in a child's earliest years.

3. It is appropriate and important for the Federal government to financially assist states and localities, where needed, to offer a smarter, earlier start to each pre-kindergarten student.

So, I'm for the "Smart Start": I do urge you to try to assure that the good idea does not get burdened, diluted, or misdirected by a Federal bureaucracy or excessive regulatory process.

Best wishes,

JOSH S. WESTON.

WANG LABORATORIES, INC.,
Lowell, MA, August 16, 1988.

Hon. EDWARD M. KENNEDY,
315 Russell Building,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Dr. Wang has asked me to review the summary of your proposed "Smart Start" legislation (S. 2230), and to thank you for sharing it with us.

We share your concern not only with the availability of year-round full workday child care services, but also with the importance of early childhood education to the development of our future workforce and the well-being of our population. Your proposed legislation appears to be a very thoughtful and constructive effort. By working with existing institutions and following the philosophy of supplanting rather than supplementing existing services, it should ensure that the quality as well as the number of educational services is increased. Combining high standards with a large degree of state and local autonomy should result in flexible, effective programs.

We appreciate your keeping us informed, and wish you every success.

Sincerely,

PAUL GUZZI.

AUGUST 9, 1988.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Thank you for your recent letter relating to "Smart Start" (S. 2270). I sincerely share your concern about the future of America's work force. America's ability to compete in tomorrow's world will be greatly challenged if we fail to support appropriate programs to build for the future of our children.

It is clear that properly structured and focused programs to deliver high quality early education programs are an important investment for America's future. As with any investment, the effort must be directed to programs where the return will likely be most significant. "Smart Start" appears to focus support for early age child care to those who need it most. Nevertheless, a concern which I am sure you share is that we not create a segregated child care system, that is, one kind of care for income eligible families, another for everyone else.

I particularly would encourage the recognition of parents as the first teachers of children, particularly of the very young. Programs should be encouraged to enfranchise and support the parental participation outside of the four walls of any "Smart Start" program to foster the learning/developmental process. This would help assure that any seed that is planted by a "Smart Start" program would more likely fall on fertile ground in which it can build on America's rich family fabric.

I particularly support those parts of the proposal that provide for recognition of the local nature of the need and appropriate response in this area. State and local agencies and organizations should be given as much room as possible.

In closing, while we continue to have a great deal of concern over the many economic challenges that our country faces, we do believe that the opportunity which "Smart Start" seeks to address is worthy of our attention and effort. Please advise me if you believe that we can be of assistance in this matter.

Very truly yours,

W.R. HOWELL.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 124. A bill to amend title XVIII and XIX of the Social Security Act to provide that clinical social worker services are covered under part B of Medicare and are a mandatory benefit under Medicaid, and for other purposes; to the Committee on Finance.

COVERAGE OF CLINICAL SOCIAL WORKER SERVICES UNDER PART B OF MEDICARE

● Mr. INOUYE. Mr. President, today, I am introducing legislation to amend the Medicare Act to provide for the direct reimbursement for the services of clinical social workers under part B of the law. This legislation would also modify the Medicaid statute in order to make the coverage of their services a mandatory benefit as physician services currently are.

Mr. President, our Nation's clinical social workers have a long and honorable tradition of providing the highest quality care to many Americans in need. Under the Department of Defense CHAMPUS program, their profession has been deemed truly autonomous, and I've heard nothing but the highest praise for their services.

Mr. President, I request unanimous consent that the text of my bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF CLINICAL SOCIAL WORKER SERVICES UNDER PART B OF MEDICARE.

(a) COVERAGE OF SERVICES.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by adding "and" at the end of subparagraph (K); and

(3) by adding at the end thereof the following new subparagraph:

"(L) clinical social worker services;".

(b) DEFINITION.—Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new subsection:

"CLINICAL SOCIAL WORKER SERVICES

"(ff)(1) The term 'clinical social worker services' means services performed by a clinical social worker (as defined in paragraph (2)) which the clinical social worker is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, whether or not the clinical social worker is under the supervision of, or associated with, a physician or other health care provider.

"(2) The term 'clinical social worker' means an individual who—

"(A) possesses a master's or doctor's degree in social work,

"(B) after obtaining such degree has performed at least two years of supervised clinical social work, and

"(C) is licensed or certified as a clinical social worker in the State in which the clinical social worker services are performed, or in those States which do not provide for licensure or certification, is listed in a national register of social workers who, by education and experience, qualify as health care providers in clinical social work.".

(c) LIMIT ON PAYMENT OF BENEFITS.—Section 1833(c) of such Act (42 U.S.C. 1395l(c)) is amended by striking out all that follows "purposes of subsections (a) and (b)" and inserting in lieu thereof "no more than $1,000.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to services performed on or after the first day of the first month which begins more than 60 days after the date of the enactment of this Act.

SEC. 2. COVERAGE OF CLINICAL SOCIAL WORKER SERVICES AS A MANDATORY MEDICAID BENEFIT.

(a) COVERAGE OF SERVICES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(A) by striking out "and" at the end of paragraph (20);

(B) by redesignating paragraph (21) as paragraph (22); and

(C) by inserting after paragraph (20) the following new paragraph:

"(21) clinical social worker services (as defined in section 1861(ff)(1)); and".

(b) CONFORMING CHANGES.—

(1) Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (10)(A), by striking out "paragraphs (1) through (5) and (17)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21)"; and

(B) in paragraph (10)(C)(iv), by striking out "paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (20)" and inserting in lieu thereof "paragraphs (1) through (5), (17), and (21) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (21)".

(2) Section 1902(j) of such Act (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting in lieu thereof "(22)".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than 60 days after the date of the enactment of this Act.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 125. A bill to provide direct payment for services of registered nurses as assistants at surgery; to the Committee on Finance.

PAYMENT TO NURSES ASSISTING IN SURGERY

● My. INOUYE. Mr. President, the bill that I am introducing would provide for the reimbursement of registered nurses [RN's] serving as assistants at surgery in a hospital. This would correct the current disparity between RN's and physician assistants [PA's], who also serve as assistants at surgery.

The Sixth Omnibus Budget Reconciliation Act, Public Law 99-509, pro-

vided direct Medicare reimbursement to the employer of a PA who serves as an assistant at surgery in a hospital under physician supervision. The payment is set at a rate not to exceed 65 percent of what a physician serving as an assistant at surgery would have received. The PA reimbursement provision provides hospital and physician employers with the option to bill Medicare part B directly for the services of a PA who serves as an assistant at surgery. If a hospital or physician chooses to bill Medicare part B for PA services, then a reduction in the surgical payment by an equivalent amount would occur. However, if hospitals and physicians want to avoid the administrative burden of billing for the PA services under Medicare part B, they can simply choose not to do so.

Unfortunately, the PA reimbursement provision has subsequently created a financial incentive for hospitals and physicians to utilize the services of PA's, rather than operating room nurses, as assistants at surgery. This economic bias toward the utilization of PAs has jeopardized the employment of RN's as assistants at surgery. It is this bias that must be corrected.

There are numerous examples where nurses were denied employment as assistants at surgery because there is no Medicare payment for their services. Unless a provision similar to the PA reimbursement provision is enacted for RN's who serve as assistants at surgery, RN's will remain at a competitive disadvantage.

I was successful in having a similar provision included in the Senate Finance Committee's technical tax legislation in the 100th Congress, but it was unfortunately deleted in conference. The proposed RN reimbursement provision had recieved a budget-neutral CBO fiscal estimate, as did the PA provision.

This is not a substantial change in Federal reimbursement policy, but it is an important step for achieving a fair and equitable payment system for registered nurses.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) SERVICES COVERED.—Section 1861(s)(2)(K)(i) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)(i) is amended by striking "as an assistant at surgery and which the physician assistant" and inserting "or by a physician assistant or registered nurse as an assistant at surgery and which the physician assistant or registered nurse."

(b) PAYMENT AMOUNT.—Section 1842(b)(12)(A) of such Act (42 U.S.C. 1395u(b)(12)(A) is amended by inserting "or registered nurse" after "physician assistant."

(c) PAYMENT OF EMPLOYER.—Section 1842(b)(6)(C) of such Act 42 U.S.C. 1395u(b)(6)(C) of such Act (42 U.S.C. 1395u(b)(6)(C) is amended by inserting "or registered nurse" after "physician assistant."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after date of enactment.

(e) The Secretary shall issue such rules and regulations which will ensure that this provision is implemented in a budget neutral manner.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 126. A bill to amend title XVIII of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes; to the Committee on Finance.

CERTIFICATION AND RECERTIFICATION FOR CERTAIN SERVICES

● Mr. INOUYE. Mr. President, today, I am introducing legislation following upon on congressional action last Congress in order to ensure that those needing our Nation's skilled nursing facilities and immediate care facilities will have the services of nurse practitioners/clinical nurse specialists as appropriate under the Medicare Act.

Mr. President, under the current law, our Nation's nurse practitioners and clinical nurse specialists are authorized to certify and recertify the "medical necessity" of care under the Medicaid Act for individuals residing in these two facilities. This proposal would expand that provision to include Medicare law as I had originally intended during the 100th Congress.

I would further point out that this expansion is one of the specific recommendations that was recently submitted to the Congress by the Secretary's Commission on Nursing.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTIFICATION AND RECERTIFICATION OF THE NEED FOR CERTAIN SERVICES.

(a) MEDICARE CERTIFICATIONS AND RECERTIFICATIONS FOR CERTAIN SERVICES.—Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(1) in paragraph (2) by striking "(2) a physician" and inserting in lieu thereof "(2) a physician, or, in the case of services described in subparagraph (B), a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in the matter following paragraph (7) by striking "a physician makes" and inserting in lieu thereof "a physician, nurse practitioner, or clinical nurse specialist (as the case may be) makes".

(b) SUPERVISION OF HEALTH CARE FURNISHED IN SKILLED NURSING FACILITIES.—Section 1861(j)(4) of such Act (42 U.S.C. 1395x(j)(4)) is amended—

(1) in subparagraph (A) by striking "a physician," and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,", and

(2) in subparagraph (B) by striking "a physician" and inserting in lieu thereof "a physician or a nurse practitioner or clinical nurse specialist working in collaboration with a physician,".

(c) DEFINITION.—

(1) Section 1861 of such Act (42 U.S.C. 1395x) is amended by adding at the end thereof the following new paragraph:

"Nurse Practitioner and Clinical Nurse Specialist

"(ff)(1) An individual shall be treated as a nurse practitioner or clinical nurse specialist if the individual—

"(A) is licensed to practice professional nursing;

"(B) performs such services as such individual is legally authorized to perform (in the State in which the individual performs such services) in accordance with State law (or the State regulatory mechanism provided by State law); and

"(C)(i) holds a masters degree in nursing and is certified or eligible for certification by a national professional nursing organization,

"(ii) holds a masters degree in a related field and is certified by a national professional organization, or

"(iii) has completed a nurse practitioner continuing education program and is certified by a national professional nursing organization.

"(2) A nurse practitioner or clinical nurse specialist works in collaboration with a physician where the nurse and physician act pursuant to an agreement that allocates responsibility for decisions and actions, but allows each professional to retain responsibility for their respective actions and engage in such actions independently.".

(2) Section 1861(aa) of such Act (42 U.S.C. 1395x(aa)) is amended in paragraph (3)—

(A) by striking "and the term 'nurse practitioner'" and "or nurse practitioner", and

(B) by striking "mean" and inserting in lieu thereof "means".

(3) Section 1861(s)(2)(H) of such Act (42 U.S.C. 1395x(s)(2)(H)) is amended in clause (i) by striking "physician assistant or by a nurse practitioner (as defined in subsection (aa)(3))" and inserting in lieu thereof "physician assistant (as defined in subsection (aa)(3)) or by a nurse practitioner".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.

SEC. 2. COVERAGE OF CERTAIN ITEMS AND SERVICES FURNISHED BY A NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.

(a) PAYMENT OF BENEFITS.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(1) in subparagraph (B) by striking "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)",

(2) in subparagraph (C) by striking "and",

(3) in subparagraph (D) by inserting "and" after "tests;", and

(4) by adding at the end thereof the following new subparagraph:

"(E) with respect to items and services described in section 1861(s)(2)(L), the amount paid shall be equal to 100 percent of the amount determined as the reasonable charge for such items and services under section 1842(b)(10).".

(b) CONTRACTS WITH CARRIERS.—Section 1842(b) of such Act (42 U.S.C. 1395u(b)) is amended by adding at the end thereof the following new paragraph:

"(13) In providing payment for the items and services described in section 1861(s)(2)(L), each carrier shall require that payment be made in the manner described in paragraph (3)(B)(ii), except that the reasonable charge shall be determined as 75 percent of the prevailing charge paid for similar items and services in the same locality.".

(c) DEFINITION.—Section 1861(s)(2) of such Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (J),

(2) by adding "and" at the end of subparagraph (K), and

(3) by adding at the end thereof the following new subparagraph:

"(L) services furnished by a nurse practitioner or clinical nurse specialist in a skilled nursing facility and services and supplies furnished as an incident to such services;".

(d) CONFORMING CHANGE.—Section 1861(h) of such Act (42 U.S.C. 1395x(h)) is amended by inserting ", and excluding any item or service described in subsection (s)(2)(L)" before the period.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after the date of enactment of this Act.●

By Mr. INOUYE:

S. 127. A bill to amend title 10, United States Code, to authorize the retention of Army, Naval, and Air Force Reserve psychologists in an active status after attainment of an age that would otherwise require separation; to the Committee on the Armed Services.

RETENTION OF CERTAIN PSYCHOLOGISTS IN ACTIVE STATUS

● Mr. INOUYE. Mr. President, today, I am introducing legislation to provide the Department of Defense with the authority to retain military psychologists in active duty status, in the same manner as military physicians.

Mr. President, I ask unanimous consent that the text of my bill be printed int the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 127

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETENTION OF CERTAIN RESERVE PSYCHOLOGISTS IN ACTIVE STATUS.

(a) ARMY.—Section 3855(a) of title 10, United States Code, is amended by striking out "or the Army Medical Specialists Corps" and inserting in lieu thereof "the Army Medical Specialists Corps, or any reserve officer in the Army Medical Department designated as psychologist".

(c) NAVY.—Section 6392(a) of such title is amended by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences officer, or psychologist".

(c) AIR FORCE.—Sction 8855(a) of such title is amended by striking out "or biomedical sciences officer' and inserting in lieu thereof "biomedical sciences officer, or psychologist".●

By Mr. INOUYE:

S. 128. A bill to amend title 37, United States Code, to authorize special pay for certain officers of the Armed Forces who obtain certain professional board certifications as psychologists; to the Committee on the Armed Services.

ARMED SERVICE OFFICERS SPECIAL PAY

● Mr. INOUYE. Mr. President, I am introducing legislation today to modify title 37 of the U.S. Code in order to authorize special pay incentives for those psychologists within the Department of Defense who have obtained their board certifications.

Mr. President, during the last session of Congress, we enacted legislation to make such pay bonuses available to those psychologists who are currently serving within the U.S. Public Health regular corps and I feel that the time has come to expand this recognition to military psychologists. Similar legislation was passed several years ago by the U.S. Senate but deleted in conference. Hopefully, this session we will be able to have it enacted into public law, and thus, treat military psychologists in the same manner that their physician colleagues are currently treated. I request unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARMED SERVICE OFFICERS SPECIAL PAY.

(a) SPECIAL PAY, PSYCHOLOGISTS—(1) Section 302c(a) of title 37, United States Code, is amended to read as follows:

"(a) An officer who—

"(1) is an officer in the Regular or Reserve Corps of the Public Health Service, an officer in the Army Medical Department, an officer in the Bureau of Medicine and Surgery of the Navy, or an officer of the Air Force;

"(2) is designated as a psychologist; and

"(3) has been awarded a diploma as a Diplomat in Psychology by the American Board of Professional Psychology,

is entitled to special pay, as provided in subsection (b).".

(2) The section heading of such section is amended by striking out "in the Public Health Service Corps".

(b) TECHNICAL AMENDMENT.—The item relating to section 302c in the table of sections at the beginning of chapter 5 of such title is amended by striking out "in the Public Health Service Corps".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect with repect to pay periods beginning after September 30, 1989.●

By Mr. INOUYE:

S. 129. A bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Army, the Surgeon of the Navy, and the Surgeon General of the Air Force; to the Committee on Armed Services.

MILITARY APPOINTMENT AUTHORIZATIONS

● Mr. INOUYE. Mr. President, I am introducing legislation today to authorize the appointment for wide-range health care professionals the various positions within the Department of Defense that are of a policy nature. Specifically, my legislation would provide that the positions of the three Surgeon Generals could be filled by qualified individuals from a range of health professions including medicine, dentistry, osteopathy, nursing, and psychology, for example.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill way ordered to be printed in the RECORD, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SURGEON GENERAL OF THE ARMY.

Section 3036 of title, 10, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end of the third sentence the following: "and shall be appointed as prescribed in subsection (f)"; and

(2) by adding at the end the following new subsection (f):

"(f) The President shall appoint the Surgeon General from among commissioned officers in any corps of the Army Medical Department who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists.".

SEC. 2. SURGEON GENERAL OF THE NAVY.

Section 5137 of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking out "in the Medical Corps" and inserting in lieu thereof "who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists"; and

(2) in subsection (b), by striking out "in the Medical Corps" and inserting in lieu thereof "who is qualified to be the Chief of the Bureau of Medicine and Surgery".

SEC. 3. SURGEON GENERAL OF THE AIR FORCE.

The first sentence of section 8036 of title 10, United States Code, is amended by striking out "designated as medical officers under section 8067(a) of this title" and inserting in lieu thereof "educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists".●

By Mr. INOUYE:

S. 130. A bill to amend title 37, United States Code, to authorize the payment of incentive special pay for nurses in the Armed Forces; to the Committee of the Armed Services.

INCENTIVE SPECIAL PAY FOR NURSES

● Mr. INOUYE. Mr. President, I am introducing legislation today to authorize the payment of incentive special pay for military nurses in those specialities, which the Secretary deems to be in critical shortage.

Last year during our Appropriations Committee deliberations on the fiscal year 1989 appropriations bill for the Department of Defense, we included $2 million in order to provide military nurse anesthetists with the same type of pay bonus which their colleagues within the Veterans' Administration are currently receiving. At that time, it also came to our attention that a physician providing essentially the same service receives approximately $46,000 annually in pay bonuses, whereas nursing professionals receive absolutely nothing.

The legislation, which I am introducing today, would have the effect upon enactment of releasing the $2 million which we have already appropriated for military nurse anesthetists and provide the Department with the flexibility to target other critical specialty shortage areas. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCENTIVE SPECIAL PAY FOR NURSES

(a) IN GENERAL.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 302c the following:

"§ 302d. Incentive special pay: nurses

"(a)(1) Subject to paragraph (2) of this subsection and subsection (b) of this section, an officer who—

"(A) is an officer of the Nurses Corps of the Army or the Navy or an officer of the Air Force designated as a nurse; and

"(B) is on active duty under a call or order to active duty for a period of not less than one year,

may be paid incentive special pay, in an amount determined by the Secretary concerned, for any twelve-month period.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified as a nurse.

"(b)(1) An officer may not be paid incentive special pay under subsection (a) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the incentive special pay authorized by subsection (a) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such incentive special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(c) Special pay payable to an officer under subsection (a) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(d) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(e) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under subsection (b)(2) or (d) of this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302c the following:

"302d. Incentive special pay: nurses.".

(b) CONFORMING AMENDMENTS.—Section 303a of title 37, United States Code, is amended by inserting "302d," after "302c," each place it appears.●

By Mr. INOUYE:

S. 131. A bill to amend title 10, United States Code, to exclude nurse officers from the computation of authorized grade strength; to the Committee on Armed Services.

EXCLUSION OF NURSE OFFICERS FROM CERTAIN COMPUTATIONS

● Mr. INOUYE. Mr. President, today I am introducing legislation on behalf of our Nation's military nurse officers.

This bill would allow for the restructuring of the nurse officer communities to facilitate the recruitment and retention of highly skilled nurses, and meet the needs of the Department of Defense. This legislation will permit the nurse officer grade structure to be shaped to generate a variable career path with reasonable upward mobility and allow military medicine to recruit and retain the nurses it needs to function effectively.

Mr. President, the nationwide shortage of nurses places the Department of Defense in the critical position of proactively addressing the increased competition for nurses with specialized skills. Accordingly, I feel that it is only appropriate to allow the Department of Defense a competitive posture in recruiting critical nurse specialists.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 131

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That section 523(b) of title 10 of United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) Officers in the Army Nurse Corps, officers in the Nurse Corps in the Navy and officers in the Air Force designated as nurse.".●

By Mr. PRESSLER:

S. 132. A bill to reform the tort law doctrine of joint and several liability; to the Committee on the Judiciary.

JOINT AND SEVERAL LIABILITY REFORM ACT OF 1989

Mr. PRESSLER. Mr. President, I am pleased to introduce the Joint and Several Liability Reform Act of 1989. The doctrine of joint and several liability, as currently applied, is in immediate need of reform.

Originally, the doctrine was applied when two or more defendants had conspired together in a manner that resulted in an injury to the plaintiff. They were, in effect, equally at fault and equally to blame for the harm inflicted. Later, however, the doctrine was expanded to hold responsible all parties involved in causing the harm, regardless of whether they acted in concert or independently of each other. Today the doctrine has been taken to its extreme, so that a party who is determined only 1 percent at fault can be and often is held liable for 100 percent of the damage award. The parties causing the harm often get off scot-free. We no longer punish the wrongdoers. We punish parties for having the deepest pockets.

This illogical system not only affects the pockets of wealthy corporations. It also affects the pockets of you and me. Let me explain some of the real problems caused by this doctrine:

First, local governments are becoming the most popular targets for plaintiffs. The average citizen ends up paying the claim through increased taxes or loss of service. Similarly, when a business is hit, the consumer pays through higher product prices.

Second, the current system discourages safety. Not only does it allow the real culprits to escape liability, it encourages them to act irresponsibly. Meanwhile, a small business that is responsible enough to carry insurance is penalized.

Third, the doctrine is a leading cause of skyrocketing insurance premiums. Companies and local governments with even the most glowing safety records must pay insurance rates as though they were high-risk customers,

because they have to insure against not only their own actions, but the actions of everyone with whom they come in contact or who happen to cross their border.

Fourth, those who the ordinary person would consider free of fault are being sued for the sole reason that they have money or have access to money. This is unfair by any measure.

My legislation simply requires parties to pay in proportion to their degree of fault. Some will argue that this approach can leave the plaintiff unprotected when the party most at fault has no means to pay and does not carry adequate insurance. This may happen in some cases. But to use the present doctrine of joint and several liability in an attempt to compensate the plaintiff makes little more sense than to send the witness of a robbery to jail because we cannot find the robber.

Mr. President, this doctrine has long outlived its usefulness and desirability. It makes no sense. It penalizes governments and businesses without any regard to their degree of fault. Let's reform the doctrine of joint and several liability and restore some justice to the system.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint and Several Liability Reform Act of 1989".

SEVERABLE LIABILITY FOR DAMAGES

SEC. 2. (a)(1) Except as provided in paragraph (2) of this subsection, in any civil action alleging injury to a person, damage to property, or death of a person, the liability of each defendant for damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (b) of this section. A separate judgment shall be rendered against such defendant for that amount.

(2) In any case where the parties are found to have engaged in concerted action, the liability of each defendant shall be joint and several.

(b) For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(c)(1) If a claimant has released any defendant or potential defendant from liability for the claimant's harm, or if a defendant is unable (despite exercising all practicable means) to join any other person as a defendant in such action the trier of fact shall, in determining the proportion of responsibility under subsection (b) of this section, consider the liability of any person not a party to the action if the defendant is able to prove that any such person caused the claimant's harm.

(2) If a claimant has released any defendant or potential defendant from liability for the claimant's harm, the total amount of responsibility for the claimant's harm shall be reduced by the proportion of responsibility of any such released defendant or potential defendant.

(d) As used in this section, the term "concerted action" means any action consciously and intentionally taken by two or more defendants which resulted in the harm alleged in such civil action. Such term does not mean consciously parallel action.

By Mr. PRESSLER:

S. 133. A bill to amend the Higher Education Act, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1989, and for other purposes; to the Committee on Labor and Human Resources.

STUDENT FINANCIAL ASSISTANCE AMENDMENTS ACT OF 1989

Mr. PRESSLER. Mr. President, today I am introducing the Student Financial Assistance Amendments Act of 1989 to make important adjustments in our student financial aid programs. Since coming to Congress, I have been a strong supporter of student financial aid. Unfortuantely, I believe students in need of financial assistance are being denied student aid because of our present financial aid formulas.

Specifically, the Student Financial Assistance Amendments Act of 1989 would:

First, change the student contribution rate from 70 to 50 percent;

Second, reinstate administrative discretionary authority to financial aid officers who administer the Pell Grant Program; and

Third, set up guidelines for the reallocation of discretionary supplemental educational opportunity grant funds.

Over the last year, I received hundreds of letters from concerned South Dakotans who believe it is unfair to require dependent students to contribute seventy percent of their earnings toward their college education. I agree. One provision of the Student Financial Assistance Amendments Act would lower the required contribution rate to 50 percent.

Students should contribute to their education. However the 70-percent requirement is unrealistic. This requirement is a disincentive for students to work.

Another provision would restore administrative discretionary authority to financial aid officers who administer the Pell Grant Program at colleges and universities. Financial aid officers care deeply about their students and realize that unless they have some flexibility in assessing students' financial situations, financially deserving students may not be able to attend college. Cases are often encountered where a student's financial condition may look good on paper, when in reality he or she truly needs grant assistance. This provision would give college financial aid officers the necessary discretion to adjust grant awards to clearly reflect a student's financial need.

The last provision is identical to my amendment on excess supplemental educational opportunity grants [SEOG] to the Stafford Student Loan Default Prevention and Management Act of 1988. Under this provision, extra grants could be made available to students attending institutions in areas stricken by a natural disaster. The SEOG Program provides institutions a set amount of funds for student grants. A small amount of SEOG funds are reallocated at the Secretary's discretion. This provision would provide the Secretary with a guideline for the reallocation of discretionary funds. Specifically, the Secretary would be required to give special consideration to institutions whose students were financially harmed by a natural disaster, such as last year's drought. With limited funds available for student financial aid, it is imperative that any extra funds go to those most in need.

No student of ability who wants to pursue an education should be denied that opportunity because of inadequate personal financial resources. As we have heard many times, the future of our country rests with our young people. We need their intellectual talents and technical skills to compete in this increasingly competitive and technologically sophisticated world.

Mr. President, these three provisions of the bill I am now introducing were included in the Stafford Student Loan Default Prevention and Management Act which passed the Senate on September 15, 1988. Unfortunately, no action was taken in the House on the Stafford Act prior to the adjournment of the 100th Congress. I hope this body will act swiftly on these important provisions and continue to make adjustments to student financial aid formulas whenever necessary.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Student Financial Assistance Amendments Act of 1989".

SECTION 1. STUDENT CONTRIBUTION RATE.

Section 475(g)(1)(C) of title IV of the Higher Education Act of 1965 is amended by striking out "70 percent" and inserting in lieu thereof "not less than 50 percent".

SEC. 2. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

The second proviso under the heading "Student Financial Assistance" in title III of the Departments of Labor, Health and Human Services, and Education, and Relat-

ed Agencies Appropriation Act, 1989, is repealed.

SEC. 3. REALLOCATION OF RETURNED SEOG FUNDS TO INSTITUTIONS LOCATED IN NATURAL DISASTERS.

Section 413D(e) of the Higher Education Act of 1965 is amended by adding at the end thereof the following: "In making such reallocation, the Secretary shall give special consideration to institutions located in areas which are designated to receive assistance because of the occurrence of a major natural disaster.".

By Mr. GLENN:

S. 134. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering Act, and for other purposes; to the Committee on Labor and Human Resources.

CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING ACT

● Mr. GLENN. Mr. President, last session, I introduced S. 2916, a bill whose purpose was to raise the prestige and standing of the sciences and engineering in the eyes of our Nation's high school students. I rise today to introduce the Congressional Scholarships for Science, Mathematics, and Engineering Act of 1989 in the 101st Congress.

This bill will enable the Congress of the United States to send a message to the Nation's youth that America's scientists and engineers are critical to our economic well-being and quality of life. It will be a recognition of both the Nation's debt to the scientific community as well as the Nation's need for a vibrant, expanding scientific community.

To be sure, this bill is partly a symbolic act, but one that I believe will encourage more high school students to pursue careers in science, mathematics, and engineering. These future scientists will play a vital part in determining whether the American economy will be a winner or loser in an increasingly technology-driven global economy. Looking at it on a more practical level, whether we have enough good jobs for all of our citizens in the years ahead will depend largely on the scientific minds working in America's university labs, manufacturing plants, and corporate research and development centers.

This proposal, first advanced last year by Congressman DOUG WALGREN, is remarkably simple. The bill would direct the National Science Foundation to award college scholarships of up to $5,000 to one female and one male high school senior from each congressional district to study science, mathematics, and engineering at the college of their choice. Modeled in part on congressional appointments to our military academies, these 4-year scholarships represent the Federal Government's parallel interest in assuring that the Nation's science base is well staffed.

Americans still find it difficult to accept that the United States competes in a global economy. Our unchallenged leadership position after the Second World War and our vast natural resources allowed us the luxury of easily won gains in our standard of living. For many American businesses, postwar prosperity was achieved without much challenge from our trading partners, many of which were rebuilding their war-damaged economies. Today, however, imports and exports represent twice as large a portion of our gross national product as they did two decades ago. More than 70 percent of the goods manufactured right here in the United States now compete with merchandise made somewhere overseas. Moreover, our trade deficits are another sorry reminder that there is no longer a truly domestic U.S. economy.

Perhaps most important to America's future economic prosperity is technology. Consider the conclusion of the President's Commission on Industrial Competitiveness—which is often called the Young Commission:

> Technology propels our economy forward. . . . Innovation has created whole new industries and the renewal of existing ones. State-of-the-art products have commanded premium prices in world markets, and technological advances have spurred productivity gains. Thus America owes much of its standard of living to U.S. preeminence in technology.

There exists, however, on the horizon a demographic development that poses a direct threat to American preeminence in technology, and necessarily, a threat to our economic prosperity. This country simply does not produce enough scientists, mathematicians, and engineers.

Of the 4 million high school seniors who graduated in 1979, only 15 percent of them were considering a career in the natural sciences or engineering. By the time this senior class graduated from college 4 years later, only 1.5 percent of them earned bachelor degrees in the natural sciences, Worse yet, only 9,700 members of the high school class of 1979 earned Ph.D.'s, a meager 0.2 percent of the class.

The figures for engineering are no better. The United States and Japan, the two greatest trading nations in the world, both produce about 70,000 engineers every year. But Japan's labor force is half the size of ours. And the Soviet Union turns out more than 300,000 engineers a year.

The scholarships will be awarded on the basis of merit and through a competitive selection process administered by a committee of local educators, scientists, mathematicians, and engineers. The National Science Foundation would be entirely responsible for its implementation.

The initial cost of the program would be about $5.5 million, growing to about $18 million when the program is fully operational. The bill authorizes 870 4-year scholarships worth as much as $5,000 per year. Given the importance of technology to our future prosperity, the cost of this program is well within our means.

It is my intent that these scholarships not collect dust on some guidance counselor's book shelf. I envision the National Science Foundation, in cooperation with the schools, making a strong effort to bring this scholarship to the attention of the Nation's schoolchildren, using, for example, slick marketing devices such as posters and public service radio and television announcements. The announcement of winners will come with great fanfare and publicity, designed to heighten the community's awareness of the awards themselves and the purpose behind them: The scholars will be role models in the same way that service academy appointees are.

This bill will not close the scientist gap, but it is a good start. These awards will have a special aura for three reasons: First, they will have been created and awarded by the U.S. Congress; second, they will be given to our Nation's very best students, and finally, they would be the only direct Federal support for science education at the undergraduate education in existence. And this aura will elevate the prestige of a science or engineering career as well as the esteem of those students who are considering such a career path.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Scholarships for Science, Mathematics, and Engineering Act".

SEC. 2. PURPOSES.

It is the purpose of this Act—

(1) to strengthen the United States science, mathematics, and engineering base by offering opportunities to pursue postsecondary education in science, mathematics, and engineering;

(2) to encourage role models in scientific, mathematics, and engineering fields for young people; and

(3) to strengthen the United States scientific, mathematics, and engineering potential by encouraging equal participation of women with men in scientific, mathematics, and engineering fields.

SEC. 3. CONGRESSIONAL SCHOLARSHIPS FOR SCIENCE, MATHEMATICS, AND ENGINEERING.

(a) ESTABLISHMENT OF PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall establish and implement a competitive, merit-based program for select-

ing one male and one female from each congressional district of the United States each year to receive a four-year Congressional Scholarship for Science, Mathematics, and Engineering.

(b) NOTIFICATION OF SECONDARY SCHOOLS.—The Director shall notify all public and private secondary schools and all institutions of higher education in the United States annually of the availability of scholarships under this Act.

(c) NOMINATING COMMITTEES.—The Director shall establish for each congressional district, or, to the extent a contiguous group of congressional districts reflects a geographic region similar in demographics, geography, and economic status and activity, for each such group of congressional districts, a broad-based committee of educators, scientists, mathematicians, and engineers who shall submit to the Director nominations of one male and one female from each congressional district for scholarships under this Act. The membership of each committee shall reflect geographic distribution within its area.

(d) ELIGIBILITY.—Only individuals who—

(1)(A) are citizens or nationals of the United States, or

(B) are aliens lawfully admitted to the United States for permanent residence; and

(2) have either applied or been accepted for admission to an institution of higher education in the United States that is accredited by a nationally recognized accrediting Agency or association,

shall be eligible for scholarships under this Act.

(e) CRITERIA FOR NOMINATION AND SELECTION.—Individuals shall be nominated and selected for scholarships under this Act on the basis of potential to successfully complete a postsecondary program in science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. The Director shall determine the criteria for measuring the potential and motivation of nominees.

(f) NATURE AND AMOUNT OF SCHOLARSHIPS.—Scholarships awarded under this Act may be used only for tuition, fees, and room and board expenses. Such scholarships shall be limited to a maximum of $5,000 per year, except as necessary to accommodate a recipient completing a four-year academic program in less than four years.

(g) MAINTAINING ELIGIBILITY.—(1) In order to maintain eligibility to receive funds pursuant to a scholarship awarded under this Act, a student must—

(A) be enrolled at an institution of higher education in the United States that is currently accredited by a nationally recognized accrediting agency or association;

(B) major in any field of science, mathematics, or engineering;

(C) maintain academic performance in good standing, as determined by such institution; and

(D) except as provided in paragraph (2), carry a full-time academic work load, as determined by the institution in which the student is enrolled under standards applicable to all students enrolled in that student's program.

(2) The Director shall make exceptions to the requirement under paragraph (1)(D) in the case of—

(A) active duty as a member of the armed services;

(B) disability certified by a qualified physician; or

(C) exceptional personal circumstances or emergencies, as determined by the Director.

(h) MONITORING IMPLEMENTATION AND COMPLIANCE.—The Director shall monitor the implementation of and compliance of the nominating committees with this Act.

SEC. 4. NONDISCRIMINATION.

(a) SOLICITATION, NOMINATION, AND SELECTION OF STUDENTS.—The Director shall ensure that the solicitation, nomination, and selection of students for the program established by this Act shall be carried out without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, marital status, parental status, or sexual preference.

(b) SELECTION OF NOMINATING COMMITTEES.—The Director shall ensure that the selection of nominating committees under section 3(a) shall be carried out without discrimination on the basis of race, age, handicap, religion, ethnic background, economic status, sex, marital status, parental status, or sexual preference.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the National Science Foundation for the purpose of carrying out this Act $5,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.●

By Mr. GLENN (for himself, Mr. DECONCINI, Mr. PRYOR, and Mr. STEVENS):

S. 135. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protected such employees from improper political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

HATCH ACT REFORM AMENDMENTS OF 1989

● Mr. GLENN. Mr. President, the legislation I am introducing today would amend the Hatch Act—the 1939 statute that prohibits most Federal civilian and postal employees from being politically active. The bill is identical to legislation, H.R. 3400, reported out of the Governmental Affairs Committee last year.

The committee held 2 days of hearings on the Hatch Act in the 100th Congress. At those hearings it became evident that under current law, Federal and postal workers must comply with some 3,000 rulings about what kinds of political activity are permitted and what kinds are illegal.

This set of rulings has become confusing and illogical over the years. For example:

Presently, a Federal or postal worker may wear a campaign button on the job. He or she may write a $1,000 check to a candidate. But, that same employee cannot carry a poster at a political rally or stuff envelopes for a candidate at night.

Presently, a Federal worker can put a political poster on the family car if it's no larger than 15 by 30 inches. However, if the employee wishes to post it in the yard, it can be no larger then 14 by 22 inches.

One of my other favorite rulings was the one about letters to the editors on partisan political issues. As a Federal employee: You cannot write one letter to five newspapers or five to one newspaper. Many people were chuckling last year when the committee's hearings explored just how nonsensical some of the current Hatch Act regulations are. Yet, this is not a humorous matter. The right of American citizens in good standing to participate in our politicial system is a very serious and important constitutional right—a right that if restricted at all should be restricted only to the extent necessary to prevent more profound violations from occurring.

When the Hatch Act was enacted into law almost 50 years ago, civil service jobs were patronage jobs. Political cronyism and coercion were the grease that kept the bureaucratic machine running. Despite its curtailment of first amendment rights, the Hatch Act passed quickly, without congressional hearings, following disclosure that appointees in the Public Works Administration had coerced relief workers into making political contributions in return for their jobs. It was enacted "to protect" Federal workers.

Today, we have a dramatically different kind of system—a merit system—a professional civil service whose needs and requirements have drastically changed. I believe a compelling case can be made for revamping restrictions on the political liberties of this work force. At the same time, I am acutely aware of public concern that too dramatic a change in the Hatch Act might serve to politicize the civil service system and expose Federal workers to coercion. I recognize that these worries are legitimate and real.

What we face in proposing reform of the Hatch Act is a balancing act. We must balance the need to protect the integrity of the civil service with our duty to protect the constitutional right of all citizens to participate in the political process.

The legislation, which I am introducing today is the same proposal that Governmental Affairs Committee members developed last year on a bipartisan basis. It is a modest proposal. It would eliminate many of the complicated and restrictive rulings presently governing the political actions of Federal civilian and postal employees.

Under this bill, Federal workers would enjoy more freedoms "after hours" by being allowed to participate voluntarily, as private citizens, in the political processes of the country. A Federal worker could wave a poster at a political rally, participate in a voter registration drive or host a meet-the-candidate coffee hour in his or her

home. These are basic rights that other Americans take for granted.

Some restrictions on off-the-job activity provided for in current law would remain. First, current law prohibitions against Federal and postal employees soliciting campaign contributions from the general public would remain. Second, this bill would keep current law prohibitions against Federal workers running for partisan political office. However, the bill would allow Federal employees to run for office within party organizations or affiliated groups. For example, an employee would be free to participate in a Presidential caucus meeting or a convention delegate.

All political activity on the job, including the wearing of political buttons which is presently allowed, would be prohibited under this legislation. The bill would also keep all current law prohibitions and penalties against the use of one's official position to influence other employees.

It is my hope that the Senate will act on this reform legislation in the 101st Congress. I would like to extend a special word of credit to two of my colleagues on the Governmental Affairs Committee for their contributions to the development of this bill. Senator PRYOR—chairman of the Subcommittee on Federal Services, Post Office, and Civil Service—and Senator STEVENS—Ranking minority member of that subcommittee—both worked many hours on the proposal.

Mr. President, I ask unanimous consent that a section-by-section analysis of the legislation and a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hatch Act Reform Amendments of 1989".

SEC. 2. POLITICAL ACTIVITIES.

(a) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"§ 7321. Political participation

"It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency other than the General Accounting Office; or

"(B) a position within the competitive service which is not in an Executive agency; but does not include a member of the uniformed services;

"(2) 'partisan political office' means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

"(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose.

"§ 7323. Political activity authorized; prohibitions

"An employee may take an active part in political management or in political campaigns, except an employee may not—

"(1) use his official authority or influence for the purpose of interferring with or affecting the result of an election;

"(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is—

"(A) a member of the same Federal employee organization; and

"(B) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal employee organization; or

"(3) run for the nomination or as a candidate for election to a partisan political office.

"§ 7324. Political activities on duty; prohibition

"(a) An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

"(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

"(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

"(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

"(2) Paragraph (1) applies to an employee—

"(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

"(B) who is—

"(i) an employee paid from an appropriation for the Executive Office of the President; or

"(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7203, 7321, and 7322" and inserting in lieu thereof "and 7203".

(2) The table of sections for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER III—POLITICAL ACTIVITIES

"7321. Political participation.
"7322. Definitions.
"7323. Political activity authorized; prohibitions.
"7324. Political activities on duty; prohibition.".

SEC. 3. AMENDMENTS TO TITLE 18.

(a) Section 602 of title 18, United States Code, relating to solicitation of political contributions, is amended—

(1) by inserting "(a)" before "It";

(2) in paragraph (4) by striking out all that follows "Treasury of the United States" and inserting in lieu thereof a semicolon and "to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Any person who violates this section shall be fined under this title or imprisoned not more than 3 years, or both."; and

(3) by adding at the end thereof the following new subsection:

"(b) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

(b) Section 603 of title 18, United States Code, relating to making political contributions, is amended by adding at the end thereof the following new subsection:

"(c) The prohibition in subsection (a) shall not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.".

SEC. 4. AMENDMENTS TO THE VOTING RIGHTS ACT OF 1965.

Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities".

SEC. 5. AMENDMENTS RELATING TO APPLICATION OF CHAPTER 15 OF TITLE 5, UNITED STATES CODE.

(a) Section 1501(1) of title 5, United States Code, is amended by inserting ", the District of Columbia," after "State".

(b) Section 675(e) of the Community Services Block Grant Act (42 U.S.C. 9904(e)) is repealed.

SEC. 6. APPLICABILITY TO POSTAL EMPLOYEES.

The amendments made by this Act, and any regulations thereunder, shall apply with respect to employees of the United

States Postal Service and the Postal Rate Commission, pursuant to sections 410(b) and 3604(e) of title 39, United States Code.

SEC. 7. EFFECTIVE DATE.

(a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7327 of title 5, United States Code (as added by section 2 of this Act), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty, forfeiture, or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

SECTION-BY-SECTION ANALYSIS

Section 1 designates the act as the "Hatch Act Reform Amendments of 1989.

Section 2(a) amends Subchapter III of Chapter 73 of title 5, United States Code, which concerns political activities of Federal employees.

Section 7321 states that it is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

Section 7322 defines certain terms used in subchapter III of chapter 73.

The term "employee" means any individual employed or holding office in an Executive agency other than the General Accounting Office or in a competitive service position which is not in an Executive agency. The President and Vice President are excluded from the definition of "employee." The term "employee" does not include members of the uniformed services.

[The Department of Defense has written its own restrictions on military political activities which are specified in DOD Directive 1344.10 entitled Political Activities by Members of the Armed Forces. Under section 3(b)(1)(C) of Public Law 96-191, the political activites which are prohibited under Title 5, Chapter 73, subchapter III are prohibited for General Accounting Office employees.]

The Term "partisan political office" means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidental electors were selected, but excludes any office or position within a political party or affiliated organization.

The term "political contribution" means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose; any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose; any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and the provision of personal services for any political purpose.

["Personal services" includes paid and unpaid services.]

Section 7323 permits employees to take an active part in political management or in political campaigns, except as prohibited. The section prohibits employees from using their official authority or influence to interfere with or affect the result of an election. It also prohibits employees from knowingly soliciting, accepting, or receiving a political contribution from any person unless that person is a member of the same Federal employee organization and the solicitation is for a contribution to the multicandidate political committee of the Federal employee organization. Additionally, the section prohibits employees from running for the nomination or as a candidate for election to a partisan political office.

[The prohibition against coercion includes pressuring employees to attend political functions. Employee groups can solicit contributions from their members for a political action committee (PAC) in accordance with Federal election laws. Such groups are currently allowed to operate PAC's. The prohibition on running for partisan political office is continued except that Federal employees could run for office within party organizations and affiliated groups such as convention delegate.]

Section 7324 prohibits political activities while on duty. Subsection (a) provides that an employee may not engage in political activity while on duty, in any room or building occupied in the discharge of official duties by an employee or office holder of the Government or any agency or instrumentality thereof, while wearing a uniform or official insignia which identifies his office or position, or using any vehicle owned or leased by the Government or any agency or instrumentality, thereof.

[Politics on the job, including the wearing of political buttons, is prohibited. Involvement in politics after work hours is allowed except that the general solicitation of contributions is prohibited.]

Subsection (b) provides that certain high level political appointees may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States. Employees covered by this section must be in positions in which the duties and responsibilities continue outside normal duty hours and while away from the normal duty post. Additionally, these employees must be paid from the Executive Office of the President appropriation or be appointed by the President, by and with the advice and consent of the Senate, be in a position which is located within the United States, and be determining policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

Section 2(b) makes certain technical and conforming amendments to other provisions of title 5, United States Code. Subsection (b)(1) amends section 3302(2) by deleting references to sections in subchapter III of chapter 73 which have been deleted by this bill.

Subsection (b)(2) conforms the section analysis for subchapter III of chapter 73 of title 5, United States Code, to the amendments made in section 2(a) of the bill.

Section 3 makes certain conforming amendments to title 18, United States Code. Subsection 3(a) amends section 602 of title 18, relating to solicitation of political contributions. Paragraph (a)(3) adds a new subsection (b) to section 602 which provides that the criminal prohibition of solicitation of political contributions applies only to the activity of employees covered under H.R. 3400 to the extent that the activities violate sections 7323 or 7324. Subsection 3(b) makes a similar conforming amendment to section 603 of title 18, concerning making political contributions. A new subsection (c) is added to section 603 which states that the criminal restriction on political contributions applies only to activities of employees covered under H.R. 3400 to the extent that the activities violate section 7323 or 7324.

Section 4 makes a conforming amendment to the provisions of the Voting Rights Act of 1965 (Public Law 89-110) relating to restrictions on examiners appointed to administer the Voting Rights Act.

Section 5 amends chapter 15 of title 5, United States Code. Subsection 5(a) includes District of Columbia employees under coverage of the chapter. Subsection 5(b) repeals section 675(e) of the Community Services Block Grant Act.

Section 6 provides that employees of the United States Postal Service and of the Postal Rate Commission are covered by the amendments made by section 2 of H.R. 3400.

Section 7 provides that the amendments made by the Act shall take effect 120 days after the date of enactment. Subsection 7(b) provides that the amendments made by the Act shall not affect any penalty imposed or any action to enforce a penalty under the preceding provisions of law. Subsection 7(c) provides that no provision of the Act shall affect any proceedings filed on or before the effective date of the act. Ordered under those proceedings and appeals from such proceedings shall be conducted as if the Act has not been enacted.●

Mr. DECONCINI, Mr. President, today I am pleased to join with Senator GLENN, PRYOR, and STEVENS, in introducing what I believe to be one of the principle pieces of equal rights legislation to be addressed by the U.S. Senate during the 101st Congress. I am speaking of legislation to reform the outdated Hatch Act.

The legislation which we are introducing is the same legislation which was reported out of the Senate Governmental Affairs Committee on May 19, 1988. It is a modification of the legislation which overwhelmingly passed the House of Representatives by a vote of 305 to 112 on November 17, 1987.

It is the same legislation that I offered as an amendment to the fiscal year 1989 District of Columbia appropriations bill on September 30, 1988. This amendment had the tacit support of many senators. Unfortunately, because there were concerns about completing action on all appropriations bills before the end of the fiscal year, it was never debated in this body.

As many of my colleagues are aware, the Hatch Act was originally intended to protect the Government worker from undue coercion from his or her

supervisor. Unfortunately, it has become a convenient tool to gag and handcuff this Nation's nearly 2 million civilian employees. I believe that any law which is so misunderstood, indeed so feared, as to cause Americans to opt out of the election process and avoid casting a vote for a candidate in a general election or primary, is in reality a constraint on these Americans' constitutional rights. I have no doubts that the fact that this Nation experienced the lowest voter turnout—50.16 percent—in 64 years is due in part to the fears of many Federal employees that voting falls under the Hatch Act.

Mr. President, for too long, this Nation's Federal workers have been "second class" citizens in the eyes of the American people, the courts, the executive branch and, yes, even the Congress of the United States. Many Americans talk, in general, about the lazy government bureaucrat. The Supreme Court has ruled that, for some strange reason, the first amendment does not apply to government employees when it comes to political rights. I have lost count of the number of times recent administrations have run for office by campaigning against Washington and this Nation's Federal workforce. Fortunately, the Bush campaign, and hopefully the Bush administration, understands the importance of the Federal workforce.

Most regrettably, Congress has treated the Government and postal workers as convenient whipping boys who, primarily because they are "hatched," are denied a voice in determining who will represent them and how they will be represented. When we need to find dollar savings to meet some emergency, it has been all too easy to cut 1 or 2 percent from the Federal employees' proposed pay increase, to tax their retirement benefits yet another time, or to freeze their COLA's. Because we have denied them a full opportunity to participate politically, they continue to be used as a scapegoat by many in Congress and elsewhere.

Undoubtedly, there are Government employees who take advantage of the system. They exist and this country does not benefit by their actions. But, on the whole, the Federal worker and the postal service employee work hard. They work hard because they love their country and want to contribute to making this Nation as strong and effective as it can possibly be.

Last year, a visitor to my office from Arizona offered the challenge to other Americans when she said, "We work hard in land acquisition and I would love to show those people all the details that are involved and how hard it really is."

As you know, Mr. President, previous attempts to reform the Hatch Act were vetoed by President Ford and derailed by President Carter. President Reagan, through his spokespersons at OMB and OPM, voiced strong opposition to any legislation, even modest reforms such as those contained in this legislation, and threatened yet another veto.

While I do not like to oppose the President, I strongly felt that he was being unwisely counseled on this issue. When time for consideration of Hatch Act reform appeared to be slipping away at the end of the 100th Congress, I offered this legislation as an amendment in order to get the Senate to begin debate of this important legislation. While I was not successful, at least the issue was raised on the Senate floor.

When it was passed in 1939, the Hatch Act had a specific and, on the whole, positive purpose—protecting Federal employees from coercion by overzealous supporters of President Franklin Roosevelt.

Over the years, however, the Hatch Act's interpretation by the various agencies charged with regulation of the law have convoluted and twisted its initial premise. Instead of protecting the Federal employees from coercion by their supervisors, it has been used as a barrier to the exercise of free speech.

During the 1988 primary campaign, the Hatch Act became an issue capturing national media attention during the Washington State caucuses. Both parties' candidates ultimately lost support because of a strict application of the Hatch Act regulations regarding party caucuses by Federal officials. In the end, a Washington State campaign official was quoted as saying that the Reagan administration is "interpreting something rigidly that has always been on the books but never enforced." Obviously, this law needs to be revised if it is selectively enforced in some instances and totally ignored in others.

The law as it is interpreted today permits a Federal employee wear a campaign button for a candidate, but does not allow that employee to pass out buttons to his coworkers. The regulations allow a postal worker to sign a nominating petition, but they prohibit that same worker from organizing a petition drive. The regulations even say that the Federal employee can place a campaign sign on his or her car that is 15 inches by 30 inches, but that campaign yard signs can only be 14 inches by 22 inches. Essentially, under the interpretations, a bumper sticker can be larger than a yard sign. As I stated in testimony before the Governmental Affairs Committee last year, these trivial regulations render the Hatch Act ludicrous.

As these examples of selective enforcement and confusing interpretations demonstrate, there is a compelling need to revise and streamline this law. The bill which we are introducing today accomplishes these goals.

MAJOR PROVISIONS OF THE BILL

As the committee report accompanying the last year's modified Governmental Affairs Committee bill states, the legislation is designed to "provide for Federal civilian employees to participate voluntarily, as private citizens, in the political processes of the Nation and to protect such employees and the General citizenry from improper political solicitations."

Briefly, the bill we introduce today retains and strengthens the current prohibitions against political activity on the job and allows Federal civilian and postal employees to participate voluntarily in these on their own time. The bill maintains two current prohibitions against running for partisan elective office and against solicitation of political contributions from the general public.

This legislation clarifies the hundreds of regulations and streamlines the prohibitions regarding what an employee can do and when he or she can do it.

The bill defines the term "political contribution" to include personal services provided for any political purpose. This indicates that restrictions on coercion and use of official influence should be interpreted broadly to prevent any activity that hints of impropriety.

The bill also prohibits the use of official information obtained in connection with Government employment for political purposes unless such information were available to the general public.

The bill allows employees to place bumper stickers on their private automobiles and to continue parking them in government parking lots. Political bumper stickers, however, are expressly forbidden on any government-owned or leased vehicle. Additionally, the bill prohibits Federal employees from wearing political buttons in Government buildings or while performing Government business. This provision is more strict than current law, which allows Federal employees to wear such buttons.

The bill continues the prohibition on the use of Government buildings for political activities.

Finally, the penalties included in this bill for violations are stronger than those in current law. Just as the law has been selectively applied, so have the penalties varied in their severity and utility. According to some, the current minimum penalty of 30 days' suspension for any violation has probably deterred prosecution for minor Hatch Act violations. Under the bill which we introduce today, the punishment would truly "fit the crime." For example, violators of the section concerning solicitations shall

be fined or imprisoned for up to 3 years.

I also want to reassure some people on a few of the things that this bill does not do. It does not allow an IRS agent to collect political contributions from people he or she may be auditing. It does not allow a letter carrier to deliver mail wearing a political candidate's campaign button. It does not allow Federal workers to circulate political petitions around the office.

CONCLUSIONS

This bill is a modest step at reforming an outdated law and expanding the right of political free speech to a large group of Americans. It does not unleash the Federal employees to work their political will on the Nation. The bill must be taken for what it is, not for what some people would make it out to be.

The Governmental Affairs Committee performed yeomen's labor last year in holding hearings on the House passed bill, H.R. 3400. Their amendment, the basis for this legislation, was a wise and thoughtful one. Particularly, Senators GLENN, PRYOR, and STEVENS are to be congratulated for their hard work and vision. I appreciated their providing me with the opportunity to testify before the committee in support of Hatch Act reform on the first day of hearings last February.

I look forward to continuing to work with these gentlemen and other Senate colleagues in an attempt to bring Hatch Act reform legislation to the Senate floor at the earliest date. Last year, time ran out and the leadership decided against bringing up the legislation. That is why I offered my amendment last year and that is why I am joining in introducing this legislation today, the first real day of Senate legislative business in the 101st Congress.

My belief is that this legislation will serve as a catalyst, a focus for Senate consideration and debate of Hatch Act reform. The Governmental Affairs Committee will have a full platter of issues this session. They will consider pay reform, health benefits reform, and other legislation important to Federal and postal employees. I want to get this issue—reform of the Hatch Act—on the Senate agenda early, so that we can then focus on other issues. I offer my willingness and my time to work with the Committee and others to see that this law is reformed on the 50th anniversary of its enactment.

I believe that the bill that being introduced is a good one. I am hopeful that the Senate will consider the merits of the legislation and what it does—not what some think it may do. I am hopeful that the new Bush administration will work with this Senator and others to reach an agreeable compromise.

I urge my colleagues to support this legislation. The time to revise the Hatch Act is now. Let us not lose this precious opportunity.

By Mr. ADAMS (for himself, Mr. RIEGLE, Mr. STEVENS, and Mr. DECONCINI):

S. 136. A bill to amend title 3, United States Code, to establish a single poll closing time in the continental United States for Presidential general elections; to the Committee on Rules and Administration.

UNIFORM POLL CLOSING ACT OF 1989

● Mr. ADAMS. Mr. President, today Senator RIEGLE, my distinguished colleague from Michigan, and I are happy to introduce a bill to establish a uniform poll closing time for Presidential elections.

As you know, early media projections of Presidential elections and their effect on voter turnout and outcome has become of increasing concern to many of our constituents. In 1980 President Carter conceded at 6:50 p.m. Pacific standard time, more than 1½ hours after NBC began flashing "Reagan wins" on television screens across the Nation. In 1984, President Reagan and Walter Mondale agreed not to make a statement, either claiming victory or conceding defeat, until the polls had closed in the West. Unfortunately, by 5:30 p.m. Pacific standard time, all three of the networks had declared President Reagan's reelection. Polls in 26 States across the Nation were still open. Thus, despite the candidates' agreement, many voters went to the polls already knowing the winner of the election while many others may have simply decided not to exercise one of their most fundamental constitutional rights: suffrage.

I know that many of you recieved angry letters from your constituents as I did, decrying the fact that voters were informed, almost 2 hours before the polls closed on the west coast, that once again, a new President had been elected. They are concerned—some are outraged—and they have a right to be. The issue here is whether or not every American voter has a right to go to the polls and feel that he or she is making a difference. I believe that they do have that right. I also believe that early projections before the pools close threaten that right and have an adverse effect on voter turnout.

Voter turnout has been declining over a long period of time in this country. If we allow the perception to grow that our votes don't count then we are adding to that problem. I believe we have a responsibility to encourage every citizen to exercise his or her right to vote. Early announcements undermine the American people's belief in the role they have to play in our democratic process.

Uniform poll closing is the least disruptive, least drastic answer to a complex problem. Other suggestions have been offered but I believe uniform poll closing is the most reasonable solution.

My friend and colleague from Washington State, Representative AL SWIFT, has held extensive hearings on this subject before the House Subcommittee on Elections. AL and Congressman BILL THOMAS deserve much of the credit for the progress that has been made in bringing this issue to the attention of the Congress. Uniform poll closing has passed the House of Representatives twice. The bill I introduce today was reported from the Rules Committee last session—I hope that this is the year that the full Senate passes this much needed legislation.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniform Poll Closing Act of 1989".

SINGLE POLL CLOSING TIME FOR PRESIDENTIAL GENERAL ELECTIONS IN THE CONTINENTAL UNITED STATES

SEC. 2. Chapter 1 of title 3, United States Code, is amended by—

(1) redesignating section 21, and all references to such section, as section 22; and

(2) inserting after section 20 the following new section:

"§ 21. Single poll closing time in continental United States

"(a) Each polling place in the continental United States shall close, with respect to a Presidential general election, at 10:00 o'clock post meridiem, eastern standard time. Any person who, as determined under the law of the State involved, arrives at a polling place after that time shall not be permitted to vote in the Presidential general election.

"(b) With respect to a Presidential general election, in the case of a polling place at which each person who is eligible to vote has voted, such polling place may close, as provided by the law of the State involved, notwithstanding the provisions of subsection (a).

"(c) As used in this section, the term—

"(1) 'continental United States' means the States of the United States (other than Alaska and Hawaii) and the District of Columbia; and

"(2) 'Presidential general election' means the election for electors of President and Vice President.

TECHNICAL AMENDMENTS TO TITLE 3, UNITED STATES CODE

SEC. 3. The table of sections for chapter 1 of title 3, United States Code, is amended by striking out the item relating to section 21 and inserting in lieu thereof the following:

"21. Single poll closing time in continental United States.

"22. Definitions.".

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. BYRD, Mr.

BINGAMAN, Mr. MOYNIHAN, Mr. DODD, and Mr. REID):

S. 137. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

SENATORIAL ELECTION CAMPAIGN ACT OF 1989

● Mr. BOREN. Mr. President, for the past few years, this legislative body has deliberated the need to reform the system of congressional campaign financing as well as how to accomplish it. As this past election cycle again shows, the system is in critical need of fundamental reform to reestablish the emphasis of running for public office on issues, ideas, and qualifications—not on the amount of special interest money one candidate can raise more than the other.

As the 101st Congress convenes, we must bring a renewed focus on the perceptions and realities that excessive money in politics plays.

Previous debate has centered on some very basic questions. Should the financial influence of political action committees be brought into closer balance with grass-roots involvement? Should Members of Congress spend increasingly amounts of time raising millions of dollars for their campaigns? Should potential challengers be foreclosed from running for office because they do not have or cannot raise $3 million to run an average campaign? Should overall campaign spending be limited by a voluntary means? And finally, is the national interest best served when congressional campaigns are being more and more financed by special, narrow interests.

It is due to my continued and growing concern over this serious problem facing representative democracy that I have redrafted last year's debated extensively campagin finance reform proposal.

Mr. President, campaign finance reform is not an easy issue with simple answers. There is the ever present danger of partisan maneuvering for advantage. There is the danger of changing one area of the system which in turn will only open up loopholes and abuses somewhere else in the system. Finally, there is the danger of giving lengthy lip service to the concept of reform, demanding the perfect solution, and as a result, never acting to make substantial change.

The legitimacy of our democratic political system rests on the integrity of the election process. We have a clear duty to act now to protect that integrity.

There is only one way in which to practically limit campaign spending while staying within the confines of a 1976 Supreme Court decision—Buckley versus Valeo—that is through the implementation of a system calling for voluntary spending limits, coupled with provisions to encourage candidates to accept those limits.

That is why I now introduce this bill to set voluntary spending limits, mandate aggregate PAC limits for every candidate, and address some of the more egregious forms of loopholes that have developed in our campaign financing system. A summary of the bill will follow my statement.

The bill also includes the same aggregate limit on the amount of PAC contributions that a candidate can receive. Additionally, there is included a provision calling for an aggregate limit on the amount of PAC contributions that a national or State party can receive as well.

A feature of this legislation deals with the soft money loophole which has gone unchecked by the slow ineffective regulatory attitude of the Federal Election Commission nor by legislation. In addition to full disclosure requirements on State and national party committees, three new provisions would be added by this bill:

First. A 4-cent per voting age population cap would be placed on State party committees on funds they use for "mixed activities," where efforts have an impact on State and Federal elections; for example, get-out-the-vote and voter registration projects.

Second. State party committee would not be allowed to allocate contributions for these mixed activities as is currently the practice.

Third. Each Presidential general election candidate, before being eligible to receive public funds, must certify that their campaign will not authorize or retain an agent of the campaign to raise any such soft money funds which could influence the election.

Another feature of the bill would repeal the current grandfather clause in the statutes that would allow retiring Members, who were in Congress prior to January 8, 1980, to keep for personal use any excess campaign funds.

Finally, the bill would also restructure the Federal Election Commission to be a seven-member board. After the bill's enactment, an additional commissioner would be added. While no more than four commissioners could be of the same political party, the partisan makeup of the commission would change annually. While this is not meant to be a perfect nor permanent solution to the persistent problem of partisan stalemate, this would be a way to show our growing concern over the FEC's inability to enforce the campaign laws with quick, decisive actions.

Mr. President, at a time when the need for national leadership and consensus is so great—with looming budget deficits, a frightening trade imbalance, and grave concerns over foreign policy, we in the Congress must promote integrity within this body and unity among our citizens, rather than falling into the trap of division promoted by our system of having special economic interests or single-issue groups finance our campaigns.

Even former President Reagan in a departing speech last month discussed the role of an "iron triangle" which paralyzes the Government's ability to work effectively. The corner of that triangle that can be most easily dealt with is the influence of special interest money in Congress. It was the first time in his 8 years, that the President touched on a key element of stalemate in Congress: special interests.

If we allow our democratic system of elections to continually be placed on the auction block, we cannot hope to fairly address the national needs or our country. Instead, our energies will be expended in raising money and responding to the constant pressures of narrow, special interests.

How can any institution effectively serve the needs of its people when its central concern centers around raising millions of dollars for reelection campaigns? How can it survive when challenging candidates cannot overcome the PAC-advantage of incumbents? And, finally, how can it safeguard the world's most admired system of democratic representation when political competition is increasingly based on money instead of issues, ideas, and qualifications. I fear that if this 101st Congress does not address and eventually enact comprehensive reforms of election financing, it's hope of ever being brought into proper balance may not occur until it is too late.

Mr. President, I ask unanimous consent that a summary of the bill and the text of the legislation be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF SENATOR BOREN'S "SENATORIAL ELECTION CAMPAIGN ACT"

VOLUNTARY SYSTEM OF SENATE CAMPAIGN SPENDING LIMITS

It would establish a voluntary system for campaign spending limits set by a formula based on voting age population of each state, ranging from $950,000 to $5,500,000 for general elections.

I. Requirements for Benefits:

A. Be nominated for the general election ballot.

B. Spent no more than 67 percent of the general election limit during the primary.

C. Spend no more than $20,000 of personal funds in the general election.

D. Raise a threshold requirement of small contributions—totalling between $150,000 and $650,000; of $250 or less; 75 percent of which come from in-state contributors.

E. Agree in writing to comply with the state's spending limit, based on formula which reflects voting age population. (Between $950,000 and $5.5 million.)

II. Benefits for Participants:

A. Broadcast rates: Only candidates who voluntarily comply with spending limits will be eligible for the "lowest unit rate" for broadcast advertising.

B. Reduced Mail Rate: Complying candidates will be eligible for a 5.5 cents per piece 1st class mail rate OR 2 cents below current 3d class rate. (This will be off-set by removing the bulk mail rate for political party committees.) This will be capped at 5 percent of the General Election Limit.

C. Compensation for "Independent Expenditures":

(1) Primary candidate's spending limit can be raised to the extent of the independent expenditure.

(2) General candidate's qualify for matching funds above a $10,000 threshold from the voluntary tax check-off fund.

D. Non-participating candidate's ads must carry a disclaimer that "this candidate does not comply with voluntary spending limits."

E. "Insurance Policy" Against Outspending Opponents.

(1) At the point a non-participating candidate comes within 75 percent of the limit, that candidate must report to FEC in 5 percent increments of limits.

(2) At the point a non-participating candidate exceeds the general election spending limit, the complying candidate is eligible for a grant equal to ⅔ of the general election limit.

(3) At the point a non-participating candidate spends ⅓ over the limit, the complying candidate is entitled to an additional grant equal to ⅓ of the general election limit.

AGGREGATE PAC LIMITS

(1) Aggregate Limit for Candidates: All candidates would be subject to an overall limit on PAC contributions varying with the population of their state—with a low of $190,950 in small states and a cap of $825,000 in large states. This provision would be applicable to ALL candidates, regardless of whether they opt to participate in the spending limits system. Also, a $100,000 limit is placed on House candidates.

(2) Aggregate Limit for Parties: A 30 percent aggregate limit per tow-year election cycle on "hard money" would be established for the national political parties and for each of the congressional party campaign committees.

"SOFT MONEY" DISCLOSURE AND REFORM

This provision requires disclosure for national and state political party building funds and for political committees active in non-federal elections but engaging in activities that influence federal elections.

It would also impose a 4 cent per VAP cap (similar to that which exists for national party committees) for state party committees on "coordinated expenditure" funds spent on federal elections. Further, state committees would not be allowed to "allocate" contributions for "mixed activities" (e.g. Get-Out-The-Vote, Voter Registration) as these activities have an impact on federal elections. Finally, each general election nominee under the Presidential system would have to certify that (s)he would not authorize or retain an agent of the campaign to raise any funds that would be used in whole or in part to influence the election.

BUNDLING

This provision would close the bundling loophole in current law by requiring that contributions bundled or otherwise arranged by a PAC, Party Committee, registered lobbyist or other intermediary would count toward the intermediary's contribution limit, as well as the original contributor's limit.

INDEPENDENT EXPENDITURES

This provision would further define when an independent expenditure has been coordinated with a candidate's campaign and is therefore required to be treated as a contribution and subject to the contribution limits of the Act.

In addition, televised advertisements financed by independent expenditures would be required to continuously display throughout the length of the advertisement the name of the individual, political committee, or organization that paid for it, as well as its presentation is "not subject to any campaign contribution limits". Direct mailings would also have to clearly disclose who paid for them.

EXCESS CAMPAIGN FUNDS

It would repeal the "grandfather clause" which allows Members serving before January 8, 1980 to convert excess campaign funds for personal use.

FEDERAL ELECTION COMMISSION REFORM

It would provide that the first Commissioner to step down after enactment not be replaced, thus creating a 7-member Commission, giving a rotating ⅔ partisan split.

S. 137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senatorial Election Campaign Act of 1989."

SEC. 2. The Federal Election Campaign Act of 1971 (hereinafter referred to as "the Act") is amended by adding at the end the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE GENERAL ELECTION CAMPAIGNS

"DEFINITIONS

"SEC. 501. For purposes of this title—

"(1) unless otherwise provided in this title the definitions set forth in section 301 of this Act apply to this title;

"(2) the term 'authorized committee' means, with respect to any candidate for election to the office of United States Senator, any political committee which is authorized in writing by such candidate to accept contributions or make expenditures on behalf of such candidate to further the election of such candidate;

"(3) the term 'candidate' means an individual who is seeking nomination for election, or election to the office of United States Senator and such individual shall be deemed to seek nomination for election, or election, if such individual meets the requirements of subparagraph (A) or (B) of section 301(2);

"(4) the term 'election cycle' means—

"(A) in the case of a candidate or the authorized committee of a candidate, the term beginning on the day after the date of the last previous general election for such office or seat which such candidate seeks and ending on the date of the next election; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next election;

"(5) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(6) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(7) the term 'general election period' means the period beginning on the day after the date of the primary or runoff election, whichever is later, and ending on the date of such general election or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first;

"(8) the term 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and the spouse of any such person.

"(9) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, the Presidential Election Campaign Fund Act, provided that a candidate in a general election held by a State to elect a Senator subsequent to an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, shall be treated as a candidate of a major party for purposes of this title;

"(10) the term 'primary election' means any election which may result in the selection of a candidate for the ballot of the general election;

"(11) the term 'primary election period' means the period beginning on the day following the date of the last Senate election for the same Senate office and ending on the date of the first primary election for such office following such last Senate election for such office, or the date on which the candidate withdraws from the election or otherwise ceases actively to seek election, whichever occurs first;

"(12) the term 'runoff election' means the election held after a primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as nominee(s) for the Federal office sought;

"(13) the term 'runoff election period' means the period beginning on the day following the date of the last primary election for such office and ending on the date of the runoff election for such office;

"(14) the term 'Senate Fund' means the Senate Election Campaign Fund maintained pursuant to section 506 by the Secretary of the Treasury in the Presidential Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1986; and

"(15) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"ELIGIBILITY TO RECEIVE BENEFITS

"SEC. 502. (a) To be eligible to receive benefits under this title, in addition to the requirements of subsection (d), a candidate shall, within 7 days after qualifying for the general election ballot under the law of the State involved or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first—

"(1) certify to the Commission under penalty of perjury that during the period beginning on January 1 of the calendar year preceding the year of the general election in-

volved, or in the case of a special election for the office of United States Senator, during the period beginning on the day on which the vacancy occurs in that office, and ending on the day of such certification, such candidate and the authorized committees of such candidate have received contributions in an amount at least equal to 10 cents multiplied by the voting age population of such State or $150,000, whichever is greater, up to an amount that does not exceed $650,000;

"(2) certify to the Commission under penalty of perjury that all contributions received for purposes of paragraph (1) have come from individuals and that no contribution from such individual, when added to all contributions to or for the benefit of such candidate from such individual, was taken into account to the extent such amount exceeds $250;

"(3) certify to the Commission under penalty of perjury that such candidate and the authorized committees of such candidate have not expended for the primary election, more than the amount equal to 67 percent of the general election spending limit applicable to such candidate pursuant to section 503(b), or more than $2,750,000, whichever amount is less;

"(4) certify to the Commission under penalty of perjury that such candidate and the authorized committees of such candidate have not expended for any runoff election, more than an amount equal to 20 percent of the general election spending limit applicable to such candidate pursuant to section 503(b);

"(5) certify to the Commission under penalty of perjury that 75 per centum of the aggregate amount of contributions received for purposes of paragraph (1) have come from individuals residing in such candidate's State;

"(6) certify to the Commission under penalty of perjury that at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(7) agree in writing that such candidate and the authorized committees of such candidate—

"(A) have not made and will not make expenditures which exceed the limitations established in section 503, except as otherwise provided in this title;

"(B) will not accept any contributions in violation of section 315;

"(C) will not accept any contribution for the general election involved except to the extent that such contribution is necessary to defray expenditures for such election that in the aggregate do not exceed the amount of the limitation on expenditures established in section 503(b), unless otherwise provided in this Act;

"(D) will deposit all payments received under this section in an account insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(E) will furnish campaign records, evidence of contributions and other appropriate information to the Commission; and

"(F) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(8) notify the Commission of their intention to make use of the benefits provided for in section 504.

"(b) For the purposes of subsection (a)(1) and paragraph (2)(B) of section 504(a), in determining the amount of contributions received by a candidate and the candidate's authorized committees—

"(1) no contribution other than a gift of money made by a written instrument which identifies the person making the contribution shall be taken into account;

"(2) no contribution made through an intermediary or conduit referred to in section 315(a)(8) shall be taken into account;

"(3) no contribution received from any person other than an individual shall be taken into account, and no contribution received from an individual shall be taken into account to the extent such contribution exceeds $250 when added to the total amount of all other contributions made by such individual to or for the benefit of such candidate beginning on the applicable date specified in paragraph (4) of this subsection; and

"(4) no contribution received prior to January 1 of the calendar year preceding the year in which the general election involved or received after the date on which the general election involved is held shall be taken into account, and in the case of a special election, no contribution received prior to the date on which the vacancy occurs in that office or received after the date on which the general election involved is held shall be taken into account.

"(c) The threshold amounts in subsection (a)(1) shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in such section shall mean the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987.

"(d) In addition to the requirements of subsection (a), to be eligible to receive benefits under this title a candidate shall, on the day such candidate files as a candidate for the primary election—

"(1) file with the Commission a declaration of whether or not—

"(1) such candidate and the authorized committees of such candidate intend to make expenditures, for the primary election, more than an amount equal to 67 percent of the general election spending limit applicable to such candidate pursuant to section 503(b), or more than $2,750,000, whichever amount is less;

"(2) such candidate and the authorized committees of such candidate intend to make expenditures, for any runoff election, more than an amount equal to 20 percent of the general election spending limit applicable to such candidate pursuant to section 503(b); and

"(3) such candidate and the authorized committees of such candidate intend to make expenditures, for the general election, more than an amount equal to the general election spending limit applicable to such candidate pursuant to section 503(b).

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (a) No candidate who is entitled to a benefit in a general election under this title shall make expenditures from the personal funds of such candidate, or the funds of any member of the immediate family of such candidate, or incur personal loans in connection with such candidate's campaign for the Senate, aggregating in excess of $20,000, during the election cycle.

"(b)(1) Except as otherwise provided in this Act, no candidate who is entitled to a benefit for use in a general election under this title shall make expenditures for such general election which in the aggregate exceed $400,000, plus—

"(A) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or

"(B) in States having a voting age population over 4 million, 30 cents multiplied by 4 million, plus 25 cents multiplied by the voting age population over 4 million;

except that the amount of the limitation under this subsection, in the case of any candidate, shall not be less than $950,000, nor more than $5,500,000.

"(2) Notwithstanding the provisions of paragraph (1), in any State with no more than one transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, no candidate in such State who receives a benefit for use in a general election under this title shall make expenditures for such general election which in the aggregate exceed the higher of—

"(A) $950,000; or

"(B) $400,000 plus 45 cents multiplied by the voting age population of 4 million or less, plus 40 cents multiplied by the voting age population over 4 million, up to an amount not exceeding $5,500,000.

"(c) The limitations on expenditures in subsections (b), (d), and (e) shall be subject to the provisions of subsections (b) and (c) of section 504.

"(d) No candidate who is otherwise eligible to receive benefits for a general election under this title may receive any such benefits if such candidate spends for the primary election, more than the amount equal to 67 percent of the limitation on expenditures for the general election as determined under subsection (b), or more than $2,750,000, whichever amount is less.

"(e) No candidate who is otherwise eligible to receive benefits for a general election under this title may receive any such benefits if such candidate spends for a runoff election, if any, more than an amount which in the aggregate exceeds 20 percent of the maximum amount of the limitation applicable to such candidate as determined under subsection (b).

"(f)(1) For purposes of this section, the amounts set forth in subsections (b), (d), and (e) of this section shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in section 315(c), means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1989.

"(2) The limitation set forth in subsection (b) shall not apply to expenditures by a candidate or a candidate's authorized committees from a compliance fund established to defray the costs of legal and accounting services provided solely to insure compliance with this Act; provided however that—

"(A) such fund contains only contributions (including contributions received in excess of any amount necessary to defray qualified campaign expenditures pursuant to section 313) received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate total amount of contributions to, and expenditures from, such fund do not exceed 10 percent of the limitation on expenditures for the general election as determined under subsection (b); and

"(C) no transfers may be made from such fund to any other accounts of the candidate's authorized committees, except that the fund may receive transfers from such other accounts at any time.

In the event that, subsequent to any general election, a candidate determines that the costs of necessary and continuing legal and accounting services require contributions to and expenditures from the fund in excess of the limitations of this paragraph, the candidate may petition the Commission for a waiver of such limitations up to any additional amounts as the Commission may authorize in connection with such waiver. Any waiver, or denial of a waiver, by the Commission under this paragraph shall be subject to judicial review under section 508. Any money remaining in such fund when the candidate decides to terminate or dissolve such fund, shall be—

"(i) contributed to the United States Treasury to reduce the budget deficit, or

"(ii) transferred to a fund of a subsequent campaign of that candidate.

"(g) If, during the primary and runoff period portion of the two-year election cycle preceding the candidate's general election, independent expenditures by any person or persons aggregating an amount in excess of $10,000 are made, or are obligated to be made, in opposition to a candidate or for the opponent of such candidate, the limitations provided in subsections (d) and (e), as they apply to such candidate, shall be increased for that primary or runoff election in an amount equal to the amount of such expenditures made during the period covered by such election.

"ENTITLEMENT OF ELIGIBLE CANDIDATES TO BENEFITS

"SEC. 504. (a) Except as otherwise provided in section 506(c)—

"(1) all eligible candidates shall be entitled to—

"(A) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(B) mailing rates provided in section 3629 of title 39 of the United States Code; and

"(C) payments under section 506 equal to the aggregate total amount of independent expenditures made or obligated to be made, in the general election involved, by any person in opposition to, or on behalf of an opponent of such eligible candidate, as such expenditures are reported by such person or determined by the Commission under subsection (f) of section 304;

"(2) if any candidate in the same general election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed the amount of the limitation determined under section 503(b) for such election—

"(A) an eligible candidate who is a major party candidate shall be entitled to receive a payment under section 506 in an amount equal to—

"(i) two-thirds of the amount of the limitation determined under section 503(b) with regard to such candidate when a candidate in the same election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 100 percent of such limitation determined under section 503(b); and

"(ii) one-third of the amount of the limitation determined under section 503(b) with regard to such candidate when a candidate in the same election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 133⅓ percent of such limitation determined under section 503(b); or

"(B) an eligible candidate who is not a major party candidate shall be entitled to matching payments under section 506, equal to the amount of each contribution received by such eligible candidate and the candidate's authorized committees, provided that in determining the amount of each such contribution—

"(i) the provisions of section 502(b) shall apply; and

"(ii) contributions required to be raised under section 502(a)(1) shall not be eligible to be matched; and

the total amount of payments to which a candidate is entitled under this subparagraph shall not exceed 50 percent of the amount of the limitation determined under section 503(b) applicable to such candidate.

"(b) A candidate who receives payments under paragraph (1)(C) or (2) of subsection (a) may spend such funds to defray expenditures in the general election without regard to the provisions of section 503(b).

"(c)(1) A candidate who receives benefits under this section may make expenditures for the general election without regard to the provisions of subparagraph (A) of section 502(a)(7) or subsection (a) or (b) of section 503 if and when any candidate in the same general election not eligible to receive payments under this section either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed the amount of 133⅓ percent of the expenditure limit applicable to such candidate under section 503(b) for such election.

"(2) A candidate who receives benefits under this section may receive contributions for the general election without regard to the provisions of subparagraph (C) of section 502(a)(7) if any major party candidate in the same general election is not eligible to receive benefits under this section, or if and when any other candidate in the same general election who is not eligible to receive benefits under this section raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 75 percent of the amount of the expenditure limit applicable to such candidate under section 503(b) for such election.

"(d) Benefits received by a candidate under this section shall be used to defray expenditures incurred with respect to the general election period for such candidate. Such benefits shall not be used (1) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate, (2) to make any expenditure other than expenditures to further the general election of such candidate, (3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made, or (4) to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506 the Commission shall certify such eligibility to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled, unless the provisions of section 506(c) apply. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures, as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) Certifications by the Commission under subsection (a) and all determinations made by the Commission under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 508.

"ESTABLISHMENT OF FUND; PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a)(1) The Secretary shall maintain in the Presidential Election Campaign Fund (hereafter referred to as the 'Fund') established by section 9006(a) of the Internal Revenue Code of 1986, in addition to any other accounts maintained under such section, a separate account to be known as the 'Senate Fund'. The Secretary shall deposit into the Senate Fund, for use by candidates eligible to receive payments under this title, the amounts available after the Secretary determines that the amounts in the Fund, plus the amounts of revenue the Secretary projects will accrue to the Fund during the remainder of the period ending on December 31 of the year of the next Presidential election, equal 110 percent of the amount the Secretary projects will be necessary for payments under subtitle H of the Internal Revenue Code of 1986 during such remainder of such period. The monies designated for the Senate Fund shall remain available without fiscal year limitation.

"(2) On May 15 of each year following the year during which a regularly scheduled biennial Senate election has occurred, the Secretary shall determine the total amount in the Senate Fund, and evaluate if such amount, plus the amount of revenue it projects will accrue to the Senate Fund (based on the computation made by the Secretary with respect to the Fund, as provided in paragraph (1)) during the period beginning on such date and ending on December 31 of the year of the next regularly scheduled biennial election, exceeds 110 percent of the total estimated expenditures of the Senate Fund during such period. If the Secretary determines that an excess amount exists, the Secretary shall transfer such excess to the general fund of the Treasury of the United States.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate involved in the certification, out of the Senate Fund, the amount certified by the Commission.

"(c)(1) If at the time of a certification by the Commission under section 505 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Fund are not, or may not be, sufficient to satisfy the full entitlement of all such eligible candidates, the Secretary shall withhold from such payment such amount as he determines to be necessary to assure that an eligible candidate will receive a pro rata share of such candidate's full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient monies in the Senate Fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient monies in the Senate Fund to satisfy

the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such manner that each eligible candidate receives his or her pro rata share of his or her full entitlement. The Secretary shall notify the Commission and each eligible candidate by registered mail of the reduction in the amount to which that candidate is entitled under section 505.

"(2) If the provisions of this subsection result in a reduction in the amount to which an eligible candidate is entitled under section 505 and payments have been made under this section in excess of the amount to which such candidate is entitled, such candidate is liable for repayment to the Fund of the excess under procedures the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a)(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 per centum of the eligible candidates of each major party and 10 per centum of all other eligible candidates, as designated by the Commission through the use of an appropriate statistical method of random selection to determine, among other things, whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements of this title.

"(2) After each special election, the Commission shall conduct an examination and audit of the campaign accounts of each eligible candidate in such election to determine whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements under this title.

"(3) The Commission may conduct an examination and audit of the campaign accounts of any eligible candidate in a general election if the Commission, by an affirmative vote of four members, determines that there exists reason to believe that such candidate has violated any provision of this title.

"(b) If the Commission determines that any portion of the payments made to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(c) If the Commission determines that any amount of any benefit made to a candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to 200 per centum of the amount of such benefit.

"(d) If the Commission determines that any candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 per centum or less the limitation set forth in section 503(b), the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditure.

"(e) If the Commission determines that any candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 per centum the limitation set forth in section 503(b), the Commission shall so notify such candidate and such candidate shall pay the Secretary an amount equal to three times the amount of the excess expenditure.

"(f) Any amount received by an eligible candidate under this title may be retained for a period not exceeding sixty days after the date of the general election for the liquidation of all obligations to pay general election campaign expenses incurred during this general election period. At the end of such sixty-day period any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) All payments received under this section shall be deposited in the Senate Fund.

"CRIMINAL PENALTIES

"SEC. 507A. (a) No candidate shall knowingly or willfully accept benefits under this title in excess of the aggregate benefits to which such candidate is entitled or knowingly or willfully use such benefits for any purpose not provided for in this title or knowingly or willfully make expenditures from his personal funds, or the personal funds of his immediate family, in excess of the limitation provided in this title.

"(b) Any person who violates the provisions of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to any expenditure in violation of the provisions of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(c)(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or authorize the use of, such benefit or such portion except as provided in section 504(d).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d)(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report), to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title, or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(e)(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any benefits received by any candidate, or the authorized committees of such candidate, who receives benefits under this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary for deposit in the Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 508. (a) Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 509. (a) The Commission is authorized to appear in and defend against any action instituted under this section and under section 508 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under section 507 to be payable to the Secretary.

"(c) The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears, pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 510. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 for payment to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507, and the reasons for each payment required; and

"(4) the balance in the Presidential Election Campaign Fund, and the balance in the Senate Fund and any other account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to prescribe such rules and regulations in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the

functions and duties imposed on it by this title.

"(c) Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated to the Commission for the purpose of carrying out functions under this title, such sums as may be necessary.".

SENATE FUND

SEC. 3. Section 6096(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking out "$1" each place it appears in that subsection and inserting in lieu thereof "$2"; and

(2) by striking out "$2" each place it appears in that subsection and inserting in lieu thereof "$4".

BROADCAST RATES

SEC. 4. Section 315(b)(1) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)) is amended by striking the semicolon and inserting in lieu thereof the following: ": *Provided*, That in the case of candidates for United States Senator in a general election, as such term is defined in section 501(6) of the Federal Election Campaign Act of 1971, this provision shall apply only if such candidate has been certified by the Federal Election Commission as eligible to receive benefits under title V of such Act and such candidate is identified or identifiable during 50 percent of the time of any broadcast of a political announcement or advertisement by such candidate;".

REPORTING REQUIREMENTS

SEC. 5. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsections:

"(d)(1) Not later than the day after the date on which a candidate for the United States Senate qualifies for the ballot for a general election, as such term is defined in section 501(6), or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first, each such candidate in such election shall file with the Commission a declaration of whether or not such candidate intends to make expenditures in excess of the amount of the limitation on expenditures for such election, as determined under section 503(b).

"(2) Any declaration filed pursuant to paragraph (1) may be amended or changed at any time within 7 days after the filing of such declaration. Such amended declaration may not be amended or changed further.

"(e)(1) Any candidate for the United States Senate who qualifies for the ballot for a general election, as such term is defined in section 501(6)—

"(A) who is not eligible to receive benefits under section 502, and

"(B) who either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 75 percent of the amount of the limitation determined under section 503(b) for such Senate election,

shall file a report with the Commission within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made, or within 24 hours after the date of qualification for the general election ballot, whichever is later, setting forth the candidate's total contributions and total expenditures for such election, and thereafter shall file additional reports with the Commission within 24 hours after each time additional contributions are raised or expenditures are made, or are obligated to be made which aggregate an additional 5 percent of such limit. Such reports shall continue to be filed pursuant to the provisions of this section until such candidate has raised aggregate contributions or made or has obligated to make aggregate expenditures equal to 133⅓ percent of the limit provided for such State pursuant to section 503(b).

"(2) The Commission, within 24 hours after each such report has been filed, shall notify each candidate in the election involved who is eligible to receive benefits pursuant to the provisions of this title under section 504, about such report, and after an opposing candidate has raised aggregate contributions or made or has obligated to make aggregate expenditures in excess of the limit provided for such State pursuant to section 503(b), the Commission shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled.

"(3) Notwithstanding the reporting requirement established in this subsection, the Commission may make its own determination that a candidate in a general election, as such term is defined in section 501(6), who is not eligible to receive benefits under section 504, has raised aggregate contributions or made or has obligated to make aggregate expenditures for such election which exceed the amount of the limitation determined under section 503(b) for such election. The Commission, within 24 hours after making such determination, shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about such determination, and shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such candidate is entitled.

"(f)(1) All independent expenditures, if any, (including those described in subsection (b)(6)(B)(iii)) made by any person after the date of the last Federal election with regard to a general election, as such term is defined in section 501(6), and all obligations to make such expenditures incurred by any person during such period, if any, shall be reported by such person to the Commission as provided in paragraph (2), if such expenditure or obligation is described in such paragraph.

"(2) Independent expenditures by any person as referred to in paragraph (1) shall be reported within 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, independent expenditures referred to in such paragraph, made by the same person in the same election, shall be reported within 24 hours after each time the aggregate amount of such expenditures incurred or obligated, not yet reported under this subparagraph, exceeds $5,000.

"(3) Each report under this subsection shall be filed with the Commission and the Secretary of State for the State of the election involved and shall contain (A) the information required by subsection (b)(6)(B)(iii) of this section, and (B) a statement filed under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat. The Commission shall, within 24 hours after such report is made, notify each candidate in the election involved who is eligible to receive benefits pursuant to section 504(a)(1)(C) of this Act, about each such report, and shall certify such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

"(4)(A) Notwithstanding the reporting requirements established in this subsection, the Commission may make its own determination that a person has made independent expenditures, or has incurred an obligation to make such expenditures, as the case may be, with regard to a general election, as defined in section 501(6), that in the aggregate total more than the applicable amount specified in paragraph (2).

"(B) The Commission shall, within 24 hours after such determination is made, notify each candidate in the election involved who is eligible to receive benefits under section 504(a)(1)(C) about each determination under subparagraph (A), and shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

"(g)(1) When two or more persons make an expenditure or expenditures in coordination, consultation, or concert (as described in paragraph (2) or otherwise) for the purpose of promoting the election or defeat of a clearly identified candidate, each such person shall report to the Commission, under subsection (f), the amount of such expenditure or expenditures made by such person in coordination, consultation, or concert with such other person or persons when the total amount of all expenditures made by such persons in coordination, consultation, or concert with each other exceeds the applicable amount provided in such subsection.

"(2) An expenditure by one person shall constitute an expenditure in coordination, consultation, or concert with another person where—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between such persons making the expenditures, including any officer, director, employee or agent of such person;

"(B) in the same two-year election cycle, one of the persons making the expenditures (including any officer, director, employee or agent of such person) is or has been, with respect to such expenditures—

"(i) authorized by such other person to raise or expend funds on behalf of such other person; or

"(ii) receiving any form of compensation or reimbursement from such other person or an agent of such other person;

"(C) one of the persons making expenditures (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled such other person in connection with such expenditure; or

"(D) one of the persons making expenditures and such other person making expenditures each retain the professional services of the same individual or person in connection with such expenditures.

"(h)(1) Every political committee, as defined in section 301(4), active in non-Federal

elections and maintaining separate accounts for this purpose shall file with the Commission reports of funds received into and disbursements made from such accounts for activities which may influence an election to any Federal office. For purposes of this section, activities which may influence an election to any Federal office include, but are not limited to—

"(A) voter registration and get-out-the-vote drives directed to the general public in connection with any election in which Federal candidates appear on the ballot;

"(B) general public political advertising which includes references, however incidental, to clearly identified Federal as well as non-Federal candidates for public office; or which does not clearly identify Federal candidates but urges support for or opposition to all the candidates of a political party or other candidates in a classification or context which includes Federal candidates; and

"(C) any other activities which require an allocation of costs between a political committee's Federal and non-Federal accounts reflecting the impact on Federal elections in accordance with regulations prescribed or Advisory Opinions rendered by the Commission.

"(2) Reports required to be filed by this subsection shall be filed for the same time-periods required for political committees under section 304(a), and shall include:

"(A) a separate statement, for each of the activities in connection with which a report is required under paragraph (1), of the aggregate total of disbursements from the non-Federal accounts; and

"(B) supporting schedules, providing an identification of each donor together with the amount and date of each donation with regard to those receipts of the non-Federal account which comprise disbursements reported under subparagraph (A), provided, however, that such schedules are required only for donations from any one source aggregating in excess of $200 in any calendar year.

"(3) Reports required to be filed by this subsection need not include donations made to or on behalf of non-Federal candidates or political organizations in accordance with the financing and reporting requirements of State laws, or other disbursements from the non-Federal accounts in support of exclusively non-Federal election activities, provided that such donations or disbursements are governed solely by such State laws and not subject to paragraph (1) of this subsection.

"(i) The certification required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination, notwithstanding the provisions of section 505(a).

"(j) Within 15 days after a candidate for the Senate qualifies for the primary ballot under applicable State law, such candidate shall file with the Commission, a declaration stating whether or not such candidate intends to expend from his personal funds, and the funds of his immediate family, and incur personal loans, in connection with his campaign for such office, in the aggregate of $250,000 or more, for the election cycle.

"(k)(1) Any candidate for the United States Senate who expends from his personal funds and the funds of his immediate family, and incurs personal loans, in connection with his campaign for such office, in the aggregate of $250,000 or more, for the election cycle, shall file a report with the Commission within 24 hours after such expenditures have been made or loans incurred. Thereafter the expenditures referred to in this paragraph shall be reported within 24 hours after each time the aggregate of such expenditures or loans exceeds $10,000.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each candidate in the election involved who is eligible to receive payments pursuant to the provisions of this title under section 504 about each such report.

"(3) Notwithstanding the reporting requirements in this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures from the personal funds of such candidate or the funds of any member of the immediate family of such candidate or incurred personal loans in connection with his campaign aggregating in excess of $250,000, or thereafter in increments of $10,000 during the election cycle. The Commission within 24 hours after making such determination shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about each such determination.".

(b) Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended by—

(1) inserting "except for purposes of reporting and disclosing, pursuant to section 304, such amounts in excess of $200," at the beginning of subparagraphs (v), (viii), (x), and (xii); and

(2) inserting at the end thereof the following:

"(C) The exclusions provided in subparagraphs (v), (viii), (x), and (xii) of paragraph (B) shall not be exclusions from the definition of contributions for purposes of reporting contributions as required by section 304, and all such contributions shall be reported.".

(c) Section 301(4) of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following:

"For purposes of this section, the receipt of contributions or the making of, or obligating to make expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office, as defined in paragraph (2) of this section, or of any political party, in general public political advertising; and the proximity to any primary, run-off, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(d) Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended by—

(1) inserting "except for purposes of reporting and disclosing, pursuant to section 304, such amounts in excess of $200," at the beginning of subparagraphs (iv), (vi), (viii), and (ix); and

(2) inserting at the end thereof the following:

"(C) The exclusions provided in subparagraphs (iv), (vi), (viii), and (ix) of paragraph (B) shall not be exclusions from the definition of expenditures for purposes of reporting expenditures as required by this Act, and all such expenditures shall be reported.".

(e) Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the last previous general election for such office or seat which such candidate seeks and ending on the date of the next election; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next election.".

(f) Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(g)(1) Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,".

(2) Section 304(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)) is amended—

(A) in subparagraph (A), by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,";

(B) in subparagraph (F), by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,"; and

(C) in subparagraph (G), by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,".

(3) Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "calendar year," the following: "in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,".

(4) Section 304(b)(6)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(6)(A)) is amended by striking out "calendar year" and inserting in lieu thereof "election cycle".

(h) Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

(i) Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing per-

sonal or consulting services and is in turn making expenditures to other persons who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

LIMITS ON CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES AND SEPARATE SEGREGATED FUNDS

SEC. 6. (a) Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new subparagraphs:

"(D) to any candidate for the office of Member of, or Delegate or Resident Commissioner to, the House of Representatives and the authorized political committees of such candidate with respect to—

"(i) a general or special election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress (including any primary election, convention, or caucus relating to such general or special election) which exceed $100,000 ($125,000 if at least two candidates qualify for the ballot in the general or special election involved and at least two candidates qualify for the ballot in a primary election relating to such general or special election), when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election); or

"(ii) a runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which exceed $25,000 when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such runoff election;

"(E) to any candidate for the office of Senator and the authorized political committees of such candidate with respect to—

"(i) a general or special election for such office (including any primary election, convention, or caucus relating to such general or special election) which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election) exceeds an amount equal to 30 percent of the amount provided in section 315(i); or

"(ii) a runoff election for the office of United States Senator which exceeds, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such runoff election, an amount equal to 30 percent of the limitation on expenditures provided in section 315(j), for runoff elections; or

"(F) to any State committee of a political party, including any subordinate committee of a State committee, which, when added to the total of contributions previously made by multi-candidate political committees and separate segregated funds, other than multi-candidate committees of a political party, to such State committee exceeds an amount equal to—

"(i) 2 cents multiplied by the voting age population of the State of such State committee, or

"(ii) $25,000,

whichever is greater. The limitation of this subparagraph shall apply separately with respect to each two-year Federal election cycle, covering a period from the day following the date of the last Federal general election held in that State through the date of the next regularly scheduled Federal general election.".

(b)(1) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i) For purposes of subsection (a)(2)(E)(i), such limitation shall be an amount equal to 67 percent of the aggregate of $400,000, plus—

"(1) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or

"(2) in States having a voting age population over 4 million, 30 cents multiplied by 4 million plus 25 cents multiplied by the voting age population over 4 million;

except that such amount shall not be less than $950,000, nor more than $5,500,000.

"(j) For purposes of subsection (a)(2)(E)(ii), such limitation shall be an amount equal to 20 percent of the aggregate of $400,000, plus—

"(1) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or

"(2) in States having a voting age population over 4 million, 30 cents multiplied by 4 million plus 25 cents multiplied by the voting age population over 4 million;

except that such amount shall not be less than $950,000, nor more than $5,500,000.".

(2) Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended by—

(A) striking out "subsection (b) and subsection (d)" in paragraph (1) and inserting in lieu thereof "subsections (b), (d), (i), and (j)"; and

(B) inserting "for subsections (b) and (d) and the term 'base period' means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1987, for subsections (i) and (j)" before the period at the end of paragraph (2)(B).

(c) Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking out "(2) and (3)" and inserting in lieu thereof "(2), (3), (4), and (5)";

(2) by adding at the end thereof the following:

"(4) No congressional campaign committee may accept, during any two-year election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which may be made during such election cycle by that campaign committee on behalf of candidates for Senator, Representative, Delegate, or Resident Commissioner pursuant to the provisions of paragraph (3).

"(5) No national committee of a political party may accept contributions from multicandidate political committees and separate segregated funds, during any two-year election cycle, which, in the aggregate, equal an amount in excess of an amount equal to 2 cents multiplied by the voting age population of the United States.

"(6) The limitations contained in paragraphs (2) and (3) shall apply to any expenditure through general public political advertising, whenever made, which clearly identifies by name an individual who is, or is seeking nomination to be, a candidate in the general election for Federal office of President, Senator or Representative; provided that this paragraph shall not apply to direct mail communications designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.".

INTERMEDIARY OR CONDUIT

SEC. 7. (a) Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate;

"(B) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is a political committee, other than an authorized committee of a candidate, within the meaning of section 301(4), or an officer, employee or other agent of such a political committee, or an officer, employee or other agent of a connected organization, within the meaning of section 301(7), acting in its behalf; or

"(iii) the conduit or intermediary is required to register as a lobbyist or lobby organization as defined under 2 U.S.C. § 266, or an officer, employee or other agent of such an organization."

"(C) the limitations imposed by this paragraph shall not apply to—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other event in accordance with rules and regulations prescribed by the Commission by (I) two or more candidates, (II) two or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf, or (III) a special committee formed by (a) two or more candidates or (b) one or more candidates and one or more national, State, or local committees of a political party acting on their own behalf;

"(ii) fundraising efforts for the benefit of a candidate which are conducted by another candidate within the meaning of section 301(2).

In all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.".

INDEPENDENT EXPENDITURES

SEC. 8. (a) Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by adding at the end thereof the following: "An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate and shall not constitute an 'independent expenditure' where—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees,

"(ii) serving as an officer of the candidate's authorized committees, or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

INDEPENDENT EXPENDITURE BROADCAST DISCLOSURE

SEC. 9. Section 318(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d(a)(3)) is amended by deleting the period at the end thereof and inserting in lieu thereof the following: ", except that whenever any person makes an independent expenditure through (A) a broadcast communication on any television station, the broadcast communication shall include a statement clearly readable to the viewer that appears continuously during the entire length of such communication setting forth the name of such person and in the case of a political committee, the name of any connected or affiliated organization, or (B) a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection, the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.', and a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.".

PERSONAL LOANS

SEC. 10. Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as amended by section 7 of this Act, is further amended by adding at the end thereof the following paragraph:

"(9) For purposes of the limitations imposed by this section, no contributions may be received by a candidate or the candidate's authorized committees for the purpose of repaying any loan by the candidate to the candidate or to the candidate's authorized committees.".

REFERRAL TO THE DEPARTMENT OF JUSTICE

SEC. 11. Section 309(a)(5)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(5)(C)) is amended by striking out "may refer" and inserting in lieu thereof "shall refer".

EXTENSION OF CREDIT

SEC. 12. Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended by—

(1) striking out "or" at the end of clause (i);

(2) striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(iii) with respect to a candidate for the office of United States Senator and his authorized political committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, by direct mail (including direct mail fund solicitations) or other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period of more than 60 days after the date on which such goods or services are furnished, which date in the case of advertising by direct mail (including a direct mail solicitation) shall be the date of the mailing.".

PREFERENTIAL RATES FOR MAIL

SEC. 13. (a) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for certain Senate candidates

"The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501 of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1),

provided that the total paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) shall not exceed 5 percent of the amount which is applicable to such candidate pursuant to section 503(b) of the Federal Election Campaign Act of 1971.".

(b) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

DISCLOSURE

SEC. 14 Section 318(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by—

(1) striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(2) adding at the end thereof the following:

"(4) if paid for or authorized by a general election candidate for the Senate, or the authorized committee of such candidate who has not agreed to abide by the expenditure limits in section 503, such advertisement or announcement shall contain the following sentence: 'This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'.".

EXCESS CAMPAIGN FUNDS

SEC. 15. Section 313 of the Federal Elections Campaign Act of 1971 (2 U.S.C. 439A) is amended by striking out "political party;" through the end of the paragraph and inserting in lieu thereof "political party.".

POLITICAL COMMITTEE POSTAL RATES

SEC. 16. Subsection (e) of section 3626 of title 39, United States Code, is hereby repealed.

CERTIFICATION BY PRESIDENTIAL CANDIDATES ACCEPTING PUBLIC FUNDS CONCERNING COMPLIANCE WITH FUNDRAISING AND EXPENDITURE LIMITATIONS

SEC. 17. Title 26 U.S.C., Section 9006 is amended by adding at the end of that section the following subsection:

"(d) In order to be eligible to receive any payments under this section, a candidate described in sections (b) and (c) above shall certify to the Commission, under penalty of perjury, that during the Presidential primary and the general election period, the candidate, and his or her authorized committees and agents, has not and will not solicit, receive or spend, directly or indirectly, any funds in connection with a federal, state or local election, including funds for get out the vote, voter registration and generic campaign activities unless such funds

are subject to the provisions of this Act, including its limitations and prohibitions. For purpose of this subsection, the term "agent" includes but is not limited to any person who is, or has been authorized to raise funds; who is, or has been, an officer of any authorized committee; who is, or has been, receiving any form of compensation or reimbursement from the candidate or his authorized committees; who has, or has had, actual oral or written authority, either express, or implied, to make or authorize the making or expenditures on behalf of a candidate or to authorize the receipt of contributions on behalf of a candidate.

"SOFT MONEY"

SEC. 18. (a) Insert after 2 U.S.C. § 441(a)(d)(2) the following new section:

(3) A State committee of a political party, including any subordinate committee of a political party, may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 4 cents multiplied by the voting age population of that State (as certified under subsection (g) of this section).

(b) Title 2, U.S.C., Section 431 is amended by repealing the following clauses: clause (x) and clause (xii) of subsection 431(8)(B) and clause (viii) and clause (ix) of subsection 431(9)(B).

(c) At the appropriate place in the Act, insert the following new section.

Any amount solicited, received or spent by a national, state or local committee of a political party, directly or indirectly, shall be subject to the provisions of this Act, if such amount is solicited, received or spent in connection with a federal election. No part of such amount may be allocated to a non-Federal account or otherwise maintained in, or paid from, an account that is not subject to this Act. This section shall not apply to amounts described in section 431(b)(B)(viii) or Title 2.

For purposes of this section, the term "in connection with a federal election" includes any activity that may affect a federal election including but not limited to the following:

(1) voter registration and get out the vote activities;

(2) generic activities, including but not limited to any broadcasting, newspaper, magazine, billboard, mail, or similar type of communication or public advertising;

(3) campaign materials which identify a federal candidate, regardless of any other candidate who may also be identified.

FEDERAL ELECTION COMMISSION REFORM

SEC. 19. Section 306(a)(1) of the Federal Election Campaign Act 1971 (2 U.S.C. 437e(a)(1)) is amended by—

(1) striking out "6 members" and inserting in lieu thereof "7 members"; and

(2) amending the last sentence to read as follows: "No more than 4 members of the Commission appointed under this paragraph may be affiliated with the same political party, and such appointments shall be made in a manner to assure that the same political party shall not have 4 or more members affiliated with such party on such Commission for two succeeding years.".

(b) Section 306(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437c(a)(2)) is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 7 years, except that of the members appointed after April 30, 1989—

"(i) one of the two members appointed for the term beginning May 1, 1991, shall be appointed for a term of 6 years;

"(ii) one of the two members appointed for the term beginning May 1, 1993, shall be appointed for a term of 6 years; and

"(iii) one of the two members appointed for the term beginning May 1, 1995, shall be appointed for a term of 6 years.

"(B) One additional member of the Commission shall be appointed for a term beginning May 1, 1989, and shall be appointed for a term of 5 years.".

SEVERABILITY

SEC. 20. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 21. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective for any election held in 1990 or thereafter.

(b) The amendments made by section 3, section 7, section 8, and section 9 shall become effective on the date of enactment of this Act.

Mr. MITCHELL. Mr. President, I am joining Senator BOREN today in the introduction of campaign finance reform legislation. This bill is based upon legislation considered on the Senate floor in the last Congress that would have imposed overall spending limits on Senate election campaigns. The bill this year also includes new provisions that would reestablish spending limits in the Presidential campaign system and deal with the problem of soft money.

It has been 14 years since enactment of the current system of campaign finance. The ensuing years have witnessed continual increases in campaign spending that have substantially altered the political process by placing paramount importance in fundraising.

I believe the time has now arrived where a consensus exists among Members of Congress that the current campaign finance system is in need of change. Republicans and Democrats in the House and Republicans and Democrats in the Senate agree that the system of financing Federal election campaigns no longer serves the best interests of our Nation. Money has overtaken the election process. It has created a system which is demeaning to Congress as the elected representatives of the people, demeaning to our constituents who elect us to office, and demeaning to the Nation and its great democratic traditions.

I am pleased that the Democratic and Republican leadership in the House have given a priority to campaign finance reform legislation this year. As majority leader in the Senate I, too, will give a priority to this effort. I believe the Republican leader, Senator DOLE, will also.

Campaign finance reform was much debated in the last Congress and although considerable progress was made in defining our interests, I recognize that Republicans and Democrats remain far apart on this issue. While we may agree that the present system does not serve this Nation's interest, we remain far apart on just what "reform" means.

Unfortunately, some would define the problem as that fundraising technique which the other political party is most able to utilize. Not surprisingly then, the solution they propose is to impose greater limits on the means by which the other party raises campaign funds.

That should not be the standard that guides this legislative process. It is my hope that we can avoid the partisan polarization of this issue which occurred in the last Congress. I would like for representatives of the two parties in the Senate to get together, discuss what each sees as the problem and find areas where we can agree that change is in order.

The legislation that Senator BOREN and I are introducing today is a starting point. We seek no partisan advantage but instead propose a system that is fair to Republicans and Democrats, incumbents and challengers alike. The bill includes several provisions which I believe must be a part of true reform. That includes an overall limit on campaign spending, restrictions that reduce the role of political action committees, limits on the receipt and expenditure of so-called soft money outside Federal limitations, and rules governing independent expenditures. In addition, we must also address the problems which have recently developed in the Presidential campaign finance system.

As Members of Congress, we are caught up in a tread mill of campaign spending that moves faster with each election cycle. Every year, we must devote more and more time to the financing of campaigns, both for ourselves and our colleagues. There is not a Member of Congress today who can be pleased with the current system; with the demands the pursuit of money places on our time to be effective legislators; or with the attitudes the current system engenders in the American people.

Final figures have not yet been compiled for the 1988 elections so we don't know to what extent campaign spending growth continued to escalate in the last election. However, it would not be surprising if spending continued to escalate as it did in each previous election cycle. In the 1986 elections, total spending for House and Senate candidates was more than $420 million, a 20-percent increase over the previous election and a 400-percent increase over the amount of money spent by House and Senate candidates in 1976; the first election after enact-

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ment of the Federal Election Campaign Act of 1974. That suggests a rapidly changing campaign finance system not contemplated when the current rules were written.

In many races, campaigns have degenerated into a nonstop fundraising effort to finance unlimited television commercials, without time for candidates to communicate directly to the electorate.

The effect of this continuing rise in campaign spending has been to make the political process increasingly dependent on money. Candidates for Federal office must start fundraising earlier and devote more and more of their energies and time to the effort. Based on the average cost of a Senate campaign, a Senator must raise approximately $10,000 a week over a 6-year term to run for office. Senators must spend too great a proportion of their available time on fundraising at the expense of developing policy to guide our Nation.

There are many ways to improve the current campaign finance system but only an overall limit on campaign spending will address the central problem with the current system. As a result of the Supreme Court decision in Buckley versus Valeo, candidates for Federal office cannot be compelled to limit their spending. Instead, such limits must be voluntarily agreed to.

In the past, I have proposed legislation establishing a matching system of public finance which would be available to candidates who agree to voluntary spending limits. I believe that is a good approach because it limits fundraising demands and because it strikes an appropriate balance between the requirement that a candidate show that he is a serious candidate with a base of voter support and the granting of substantial public funds. I would again prefer this approach but out of deference to the concerns of those who oppose public funding of elections, this legislation only proposes public funds where an opposing candidate has exceeded the voluntary spending limits.

A commonly expressed criticism of spending limits is that they inherently benefit incumbents. I agree that can be the case if the spending limits are set so low that a challenger does not have the financial resources to reach the voting public. On the other hand, if spending limits are set sufficiently high that a challenger can communicate effectively with the voters, any system of limits will be of prime benefit to challengers because it is incumbents who now have the greatest access to money and will thus be most effected by spending limitations.

This legislation would establish generous limits on general election campaign spending ranging from $950,000 in the smallest States to $5.5 million in the largest States. That should be enough funds to get their message across without distorting the election process.

Under the current system, incumbents have an overwhelming advantage raising campaign funds over their challengers. Every PAC in Washington can attest to that. They simply will not give contributions to challengers to run against an incumbent who votes almost every day on legislation affecting the PAC.

The numbers bear this out. In the 1986 Senate election, the last one for which final numbers are available, incumbents raised almost twice as much as challengers in total campaign receipts. Of the 68 candidates for the Senate in the 1986 election, 42 were incumbent Members of either the House or Senate. Of those 42 incumbents, 31 spent more than would be permitted by this legislation. In other words, 74 percent of the incumbents in that election would have been limited by this legislation. In contrast, only 6 of the 26 nonincumbent challengers—23 percent—would have been limited by this bill.

Although political action committees have been around for decades, their growth really began with the enactment of the 1974 campaign finance legislation. There are about seven times as many PAC's today as there were in 1974 and the role they play in the election process has been completely transformed. Particularly in the House, but also in the Senate, candidates have become increasingly reliant on these interest group committees to fund federal election campaigns.

While I believe changes are necessary to reduce the importance of PAC's in congressional elections, I recognize that political action committees, representing the interests of millions of voters, have a valid role to play. That role is valid only so long as it is in perspective. This legislation attempts to reduce candidate reliance on PAC's by limiting to 30 percent their share of total campaign receipts.

This restriction will also be of substantial benefit to challengers because they now have such an overwhelming disadvantage in raising PAC funds. In the 1986 election, incumbent Senators raised almost 2½ times as much from PAC's as did challengers. And, most of that PAC money that was raised by challengers was raised by those who were Members of the House of Representatives and thus more able to depend on PAC's than challengers from outside of Washington.

Thirty-nine of those forty-two incumbents raised more contributions from PAC's than would be permitted under this legislation. In contrast, of the 26 challengers running for the Senate who were not Members of Congress, only 10 raised enough contributions from PAC's to be effected by the limits in this bill. This bill would have reduced the PAC contributions received by 93 percent of the incumbents running in the last election while it would have limited the PAC contributions of only 38 percent of the challengers.

As Federal law has imposed restrictions on the amount of money spent and raised in connection with Federal elections, increasing use has been made of so-called soft money used outside the limits of the law. These money funds are spent for State, local, and national party activities which theoretically, do not directly benefit a candidate for Federal office and are therefore, not covered by the limits of the Federal law.

In reality, however, soft money is often used to circumvent Federal election law limitations. These unregulated funds from corporations, unions, and wealthy individuals are spent for voter registration drives, get out the vote efforts, party building activities and generic advertising often designed specifically to benefit Federal candidates.

If permitted to continue, soft money will severely undermine Federal election law limitations, particularly if spending limits are imposed on congressional races. This legislation attempts to address this problem by bringing under Federal limits all spending which is in connection with a Federal election, including voter registration, get out the vote, party building, and generic advertising activities which may affect a Federal election.

This is a tough new provision designed to deal comprehensively with the soft money problem. I recognize that some concern will be expressed that these restrictions may interfere with party committee activities which are not intended to benefit Federal candidates. If that is the case, I am certainly willing to consider alternatives but I join Senator BOREN in a belief that this issue must be addressed.

The last Presidential election witnessed a return to the pre-Watergate era when wealthy individuals bankrolled campaigns for the Presidency. Both political parties raised more than $60 million outside the limits of the law effectively ending the Presidential spending limits. We believe it is time to restore those limits to the law.

Under the Presidential public funding system, the national parties were permitted to spend about $8.3 million in 1988 to supplement the $46 million of public funds provided to the Presidential candidate. In addition, State party committees were permitted to spend unlimited amounts of money for "exempt activities," such as voter registration and get out the vote activities and volunteer materials distributed on behalf of the candidate.

In the last election, this "exempt activities" provision was used to channel funds through the State parties to be spent on behalf of the Presidential candidate. Although this has typically been described as a soft money problem, it actually goes further than that. There are no firm figures on this but it has been estimated that of the approximately $60 million raised on behalf of the Presidential candidates perhaps half of the money met the contribution limitations of the law. This so-called hard money was allocated to "exempt activity" expenditures by the State committees. The other half was soft money contributions received from prohibited sources such as corporations and labor unions, and in prohibited amounts, from wealthy individuals giving large sums in excess of the contribution limits.

Although not required by the law, both the Republican National Committee and the Democratic National Committee have partially disclosed their list of large contributors. The RNC for example released a list on Monday of 249 individuals who gave at least $100,000 to the Bush election. The money raised from these individuals was spent at the State level, theoretically, on generic party activities, but in reality on behalf of the Presidential candidate. Both parties are equally at fault. Both campaigns engaged in aggressive fundraising efforts that were clearly in contravention of the spending limits established in the law.

The bill that Senator BOREN and I are introducing today would address this problem in two ways. First, as described above, by specifying that funds spent in connection with a Federal campaign, although not directly on behalf of a Federal campaign, are, in fact, hard money subject to the contribution and expenditure limits of the law. This will remove corporate and individual soft money from the Federal election process. It will not, however, prevent substantial expenditures in the Presidential race through the "exempt activity" provision. We propose to address this problem by repealing the "exempt activities" provision and replacing it with general authority for the State party committees to spend 4 cents per voter on behalf of a Presidential candidate. This will restore independence to the State committees and give them greater latitude in their spending decisions.

This is a substantial departure from current law but it is essential that we take these steps to preserve the presidential public financing system. The State party limits are based on the general 441(d) authority provided in the law to the State and national parties to be spent on behalf of Federal candidates. We have decided, however, to double the spending authority that would go to the State parties for Presidential races. Like the soft money limits included in this legislation, we recognize there will be differences of opinion about this approach to State party activities. We welcome comment and will be receptive to other approaches to save the presidential election finance system.

Except for election years, calls for campaign reform do not galvanize public attention. But there are instances when it is our duty to act even in the absence of public demand. Election campaign reform is precisely such an instance, because it is, by its nature, an issue that does not evoke public demand until there is a scandal. Instead, the current campaign finance system has the much more subtle effect on the public of breeding a growing cynicism in our system of government. While it may not now be reflected in strong support for public financing today, we cannot afford further decline of public confidence in our election system.

As Members of Congress who participate in the campaign funding process, we are all well acquainted with the current system. I don't know of one Member of Congress who is pleased with that system. It is awkward to try to change the system while we must operate within it. To do so opens us up to charges of inconsistency and hypocracy. Yet we must be prepared to move forward, even in the face of such criticisms, because the only realistic alternative is to do nothing. And that is unacceptable.

Many proposals have been offered in the past to make improvement in the campaign finance laws no legislation has been acted upon in the last 10 years. We have been stalemated in our desire to improve the system. This is due in large part because we perceive the issue through the prism of what is in our own personal interest or what we believe to be the interest of the political party of which we are a member. Because the stakes are so great, there is a reluctance to change.

But this issue demands more. We must put aside our self interest and act for the common good. I intend to work to bring all sides together this year to reach an agreement that will restore public confidence in the Federal election campaign finance system.

Mr. BYRD. Mr. President, I congratulate the distinguished Senator from Oklahoma for again bringing this critical matter to the floor of the Senate. The introduction of S. 137 on this day marks a continuation of the effort to stop the ever-spiraling cost of congressional campaigns in this country.

Democratic government is built upon the foundation of public trust. Nothing poisons the public trust faster and more completely than the taint of big money. Mr. President, the congressional campaign financing system has become toxic with money. Those of us who serve here in the Congress often bemoan the lack of public confidence in this institution. We bristle when we have our integrity questioned. We chafe over the burden of having to take our time to go, tin cup in hand, begging to PAC's for the money to run for public office. Yet, we have it in our power to stop the madness—begin to restore the people's confidence in our branch of Government, and rid ourselves of this onerous and demeaning fundraising burden if we will but act to take congressional seats off the auction block.

In the last Congress, I attempted 8 times to get cloture on S. 2 and have a vote in this Senate on the critical matter of campaign finance reform. Progress on S. 2 was stopped 8 times by misguided partisanship.

We have begun a new Congress. We have inaugurated a new President. For the moment there seems to be a sense that we can begin afresh in a bipartisan spirit. I hope that spirit will extend to campaign finance reform. I hope any and all interested Senators will join with me and with Senator MITCHELL and Senator BOREN to try to enact spending limits in this Congress. This is not a partisan issue. Anyone who continues to believe that this bill represents a search for partisan advantage is mistaken. That view is yet another reflection of the growing cynicism about public office in this country. We in this body feed that cynicism every day that we delay action on this critical issue.

Meanwhile, we are doing fundamental violence to our system of government. America's stories of accomplishments reflect America's morals. We teach our children about achievement—about national heroes, about great men who have risen from humble beginnings because of their hard work, honesty, character, and intelligence. The lesson is, anyone can make it. The moral is shoot high, work hard, you can get there, you can be a member of the House or the Senate. But increasingly reality bears little resemblance to those time-honored lessons we teach our young people. Today, to be able to serve in the U.S. House or Senate the size of one's pocketbook often outweights the size of one's intellect, or the quality of one's character. And stamina for fundraisers and receptions has given a new meaning to the traditional concept of hard work.

By example, we in public office are exploding the old myths. By example, we are teaching new lessons and what we are teaching is that public office is for sale, that the end justifies the means, that the little guy is increasingly shut out of politics and out of the process, that the big money and the big spender are what counts. Mr.

President, that is a long way from the American dream and a far cry from front-porch American values.

The ultimate result of the unchecked current system of congressional campaign financing will be to rot this democracy from within. Special interest money is addicting, and we in public office have gotten hooked. Breaking that dependence has to start with the will in this Congress to do so. Hope that that will exists. I hope that we are strong enough. Cleaning up the system must not wait another year. The public is disgusted, and it is past time to take a step toward real reform.

The Boren, Mitchell, Byrd bill sets up voluntary spending limits for Senate candidates and mandatory aggregate limits for PAC's. It has other provisions to deal with "bundling," "soft money," and disclosure. The bill is not perfect, but it is a start. The issue is not going to go away. We will have to deal with it. The only question is when. I hope the answer is soon, and I hope the decision is a positive vote for change.

I don't want to see reform thrust upon us from the outside because of a scandal. I want us to clean up our own act. We have lessened the influence of the special interests by enacting spending limits in Presidential campaigns. Should we not rid the people's branch of the undue influence of special interest money? In the 100th Congress, I put hundreds of editorials in support of cleaning up the congressional campaign financing system in the CONGRESSIONAL RECORD. These editorials were from newspapers big and small all across this Nation.

The editorial support for reform was evident, still the Senate did not act. We hear much about the power of the press, but the power of the press was not enough to beat the power of the special interests in this body.

And what do the American people get for all of this big money. Enlightening, uplifting campaigns? Hardly. We are seeing new lows and excesses in campaigning with each election cycle.

Left to itself, the problem will only worsen, the sums become more enormous, the public more cynical. But if we have the courage to act, we can turn the corner on the erosion of public trust in the people's branch. We can also do something else that is fundamentally important. We can regain a measure of our own self respect.

This year on March 4, the Congress will celebrate its bicentennial year. There will be celebrations and tributes and speeches marking that momentous occasion. But to this Senator, one who loves this institution for what it has been and could be again, there is nothing that would be more fitting than to enact this legislation in this bicentennial year. It is the right thing to do. I intend to work with my colleagues toward that end.

Mr. MOYNIHAN. Mr. President, I rise today to lend my strong support to the Senate Election Campaign Act of 1989, and to commend my colleague, Senator BOREN, for his dogged efforts to improve the electoral process.

Mr. President, our elected form of government is beseiged by a crisis, a crisis which will erode the process for selecting leaders first established by our founders if an immediate and lasting solution is not found. I speak of the shameful cost of elections in America. Leadership positions are rapidly becoming bastions of the wealthy, because the process by which we elect our representatives has become reduced to one common denominator: money. Rather than red, white and blue, it is the color green which more appropriately symbolizes our elections. It is no coincidence that about one-third of the U.S. Senators are millionaires. Few others can afford the undertaking.

A few numbers will tell the tale of the growing influence of money in American campaigns.

It is no longer uncommon for Senate candidates to spend between $5–$10 million, and even beyond. For my recent successful reelection bid, my campaign spent about $5 million, almost double what it spent in 1982. While my campaigns were expensive, consider the North Carolina Senate race of 1984 in which $26 million was spent, and the nearly $25 million spent in the 1986 Senate race in California. In the 1986 South Dakota Senate race, $22.91 was spent for every vote cast.

In 1974, the average amount spent by Senate candidates was $437,482. Twelve years later, this average was $2.7 million, with winning candidates spending over $3 million.

Although the final numbers are not calculated for the 1988 races, it is estimated that the combined cost of Senate races in 1988 was $464 million; up nearly $40 million from 1986, and a staggering increase from the $88.2 million spent in 1974.

The role of independent expenditures has increased dramatically over the years. In 1978, $168,000 was spent in independent expenditures in Senate races; by 1986, that figure exceeded $5.3 million. For all Federal races combined in 1984, including Presidential, independent expenditures passed the $23 million mark.

The influence of political action committees also continues to rise. The FEC reports PAC contributions accounted for 24 percent of receipts in Senate general elections; up from 13.7 percent in 1972. PACs contributed $132.7 million to congressional candidates in the 1986 election; a significant increase from the $8.5 million contributed in 1972.

Fat cat political spending on Federal races unreported to the FEC has increased dramatically in the form of soft money. Soft money is those funds which are used in Federal elections as well as State and local elections for various grass-roots and party building activities (such as registration efforts and election day "get-out-the-vote" drives), but which are not subject to FEC regulations. In recent years, national parties have raised vast sums from corporate, labor union and individual contributors for State and local parties to spend on such activities on behalf of Presidential and other Federal candidates. It is estimated that each party raised and spent about $20 million for such party building activities during the 1988 Presidential contest, most of it completely unreported at the State or Federal level. This represents a tripling of such spending from 1984.

Although the influence of money in campaigns has grown exponentially, there is hope. The reform process begun in the aftermath of Watergate 14 years ago can be revitalized. Public financing of Federal elections is an idea whose time may have come, albeit a bit late for some like President Teddy Roosevelt who first proposed the concept. The new Congress presents us with new opportunities to reverse the trend toward greater reliance on money as the vehicle to elected office. The Senatorial Election Campaign Act of 1989, introduced today by Senators BOREN, BYRD, MITCHELL, and myself, is one part of that effort.

The reforms embodied in the Senatorial Election Campaign Act combine a number of approaches to what I consider the four dangers which threaten our democratic process: excessive influence of political action committees in relation to that of individuals; prohibitive cost of running for office; uncontrolled independent expenditures; and the increased influence of so-called soft money.

To curtail the influence of PAC's, the act places an aggregate limit on the total amount of PAC funds that may be received by any candidate for House or Senate.

The amounts spent on campaigning can be kept down by limiting total expenditures and providing public financing. The Senatorial Election Campaign Act provides breaks on the costs of mailing and broadcast advertising for those candidates who spend within maximums based on a State population formula for eligible candidates. In order to be eligible for these benefits, candidates must raise a threshold amount of funds from small contributors, three-quarters of whom are from the candidate's State. The bill includes a built-in incentive to participate: participating candidates can receive addi-

tional public funds over the limit to the extent that their non-participating opponent spends over that amount.

In addition, the benefits of independent expenditures will be significantly diminished under this proposal. If independent expenditures in excess of $10,000 are made to oppose a candidate receiving public financing, or on behalf of a candidate who is not, the candidate receiving public funding is entitled to receive additional funds in the amount of the independent expenditures.

Finally, the Senatorial Election Campaign Act contains provisions which will require greater limits and some disclosure on party building funds—soft money. The provisions require disclosure for national and State party building funds and for political committees active in local, non-Federal elections, but engaging in activities that do have some influence on Federal elections. The bill would also place a cap for State party committees for funds for activities which could are not targeted to Federal elections but which do influence them, such as voter registration drives and election day get-out-the-vote efforts. These changes will make it more difficult for large contributors, subject to few if any reporting requirements, to have a large impact on Federal elections.

It is a start, and I believe a good one. The integrity of our electoral process is at stake; we are compelled to act. Let not our candidates be judged by their money, but by their qualifications, convictions, and ability.

In the 100th Congress, the Senate was seven votes short of closing debate on a comprehensive campaign finance reform measure offered by my distinguished colleagues Senator BYRD of West Virginia, and Senator BOREN of Oklahoma. Sadly, debate was characterized by partisan acrimony, and the bill was not brought to a vote. The recent election, however, seems to have convinced some skeptics in the minority party that a reform effort is needed to protect the election process from becoming little more than an auction, with Senate seats going to the highest bidder. I look forward to working with all Members in order to reform this tainted system.

By Mr. DURENBERGER:

S. 138. A bill to amend the Internal Revenue Code of 1986 to provide a uniform Federal tax treatment for employer-provided health care benefits for retired employees; to the Committee on Finance.

S. 139. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts withdrawn from individual retirement plans for payment of long-term health care insurance premiums; to the Committee on Finance.

S. 140. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of, and a credit for contributions to, long-term health care savings accounts; to the Committee on Finance.

S. 141. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of a credit for the cost of long-term health care insurance, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. COHEN, Mr. MCCAIN, Mr. BRADLEY, and Mrs. KASSEBAUM):

S. 142. A bill to amend title XVIII of the Social Security Act to establish a program of voluntary certification of long-term care insurance policies and to protect Medicare beneficiaries from marketing practices related to such policies, and for other purposes; to the Committee on Finance.

● Mr. DURENBERGER. Mr. President, few issues are both as long-range and immediate in their impact on American families as the issue broadly known as long-term care.

That is why I am pleased to introduce today a series of bills dealing with tax and employee benefits policies affecting long-term care insurance. Four of these bills act in various ways to encourage the purchase of long-term care insurance by working and retired Americans and the provision—by employers—of long-term care insurance as a fringe benefit. And, a fifth bill is designed to protect consumers from both poor quality long-term care insurance products and deceptive marketing practices used in selling long-term care insurance.

I should emphasize that fact that these five bills are not intended to provide all the answers to concerns Americans have about long-term care. In fact, they are intended to provide only part of what will have to be a comprehensive national strategy involving housing policy, tax policy, health care policy, and strong support for private initiatives and the family.

In addition to these five bills I am introducing today, I intend to introduce a second major contribution to this debate—in the form of a comprehensive proposal to expand the role of Medicare in financing long-term care—within the next several weeks. And, I look forward to working closely with my colleagues on the Finance Committee as we begin to shape what I trust will be a truly bipartisan solution to this growing national problem.

A UNIQUELY INTER-GOVERNMENTAL ISSUE

Mr. President, long-term care is uniquely inter-generational in nature. It's an issue that can both divide and unite families. It's an issue as important to my parents as it is to me as it is to my own four sons.

In fact, the demographic trends that are partly driving the current debate over long-term care are easier to understand if they're thought of in the context of the generations that make up a typical America family.

The largest of these demographic trends is the growing numbers of elderly in this country that will be needing long-term care in the future.

When my father was born—in the first decade of the 20th century—there were just over 3 million Americans over age 65. Today, there are almost 30 million. And, in 2040—when the youngest of my four sons is as old as his grandfather is today—there will be an estimated 66.6 million Americans past age 65.

Longer life expectancy is an equally important demographic factor in the growing need for long-term care, particularly the need for nursing home care for the most frail elderly.

As an example, in 1900, average life expectancy in this country was about 47.7 years. By 1990, it will be over 75.

Again, in 1900, there were only 100,000 Americans over age 85. Today, there are about 3 million. And, in 2040, there will be an estimated 12.9 million.

It's no wonder that more and more Americans—of all ages—are forcing long-term care to the top of the Nation's health care policy agenda.

In fact, a recent survey done for the American Association of Retired Persons [AARP] found that four out of five Americans have had—or expect to have—some experience with long-term care.

Almost half—47 percent—said they or a family member have needed long-term care. Another 14 percent have a close friend or relative who has needed care. And, another 20 percent anticipate needing some type of long-term care in the next 5 years. Only 19 percent had no present or anticipated experience with long-term care.

So, this is clearly not an issue just for my parents' generation—although they both worry every day about what happens if one or the other of them have to go into a nursing home. At $20,000 to $30,000 per year, nursing home care would eat up their life savings in very short order.

And, it's not an issue just for my generation either—although the children of today's elderly are among those most immediately affected by long-term care decisions made by and for their parents.

And, long-term care is also not just an issue for my sons' generation—although they have the most to gain or lose from decisions we start making now about how long-term care will be provided and financed in the future.

LTC "DOWN PAYMENT" IN CATASTROPHIC LAW

I would be remiss, Mr. President, if I did not at least make note of the down payment which we and our colleagues

in the House made last year in addressing the problems associated with long-term care. That down payment came in the form of several important provisions of the new catastrophic law which began taking effect on January 1.

The most important of those provisions deals with the painful issue of spousal impoverishment. Under the new law, spouses of nursing home residents who are on Medicaid will be able to keep a larger share of their income and assets.

Under a second provision in the catastrophic law, many families of frail elderly will be able to place their loved ones in a respite care facility at Medicare expense. I was proud to offer the amendment adding that new benefit in response to testimony I heard at several of the 12 long-term care forums I held throughout Minnesota last year.

STRATEGIC MIX OF PUBLIC AND PRIVATE

Mr. President, as I noted earlier, long-term care is such a huge and complex issue that no one solution will suffice. Both public sector financing and incentives to produce private sector initiatives will be required.

But, as we approach what I would prefer to call the long-term care opportunity, I am hopeful that we will keep in mind several important principles.

First, we must remember that long-term care is not just nursing home care. In fact, a recent survey in Minnesota found that—even for the State's 100,000 most frail elderly—most long-term care is provided in noninstitutional settings. Yet this same survey found that the 60 percent of those most severely impaired elderly cared for in noninstitutional settings receive only 12 percent of the public funds devoted to long-term care in the State.

One primary goal of our efforts, therefore, must be to protect the income and assets needed by individuals to remain independent, regardless of whether these individuals are patients receiving care in the community, nursing home patients who will likely return to the community, or nursing home residents who may need care indefinitely.

One might argue, in fact, that both society and the individuals and families involved would be best served by early enough intervention through relatively low cost long-term care services that prolong independence and postpone or even cancel the need for more expensive institutional care.

This reality would argue for providing access to a continuum of care that respects most people's desire to remain at home for as long as possible, using a range of services to support independent living.

A second principle we must consider is that—for most people—the need for some type of long-term care is predictable and therefore insurable. Because of advancing life expectancy, long-term care is a more expected cost of retirement. Therefore, it is an expense that can and should be planned for by many of us during our working years.

This is especially important to consider in light of our changing demographics and the ability of future generations of workers to support their parents in retirement. Not only are today's younger workers poorer than their parents were at a comparable age, but their generation is also smaller.

At the same time, however, it's important to remember a third principle—that long-term care is not an issue only for the elderly. Americans of all ages—children as well as nonelderly adults—may be disabled to the point where they must depend on human assistance to perform very basic activities of daily living.

It is estimated that between 5 and 8 million Americans under age 65 are in need of such services. They include individuals with illnesses such as cerebral palsy, muscular dystrophy, renal failure, respiratory dysfunction and multiple sclerosis; developmental disabilities such as mental retardation; and injuries such as those to the brain and spinal cord. This reality means that any truly comprehensive national strategy to deal with long-term care must not be limited to only those who have reached the age of retirement.

Mr. President, these and other underlying principles help make the case for a comprehensive approach to long-term care which includes components to assist both today's and tomorrow's elderly; which includes support for both public and private sector initiatives; which includes a broad continuum of care aimed at prolonging independence; and which is available to all Americans, regardless of age.

As the first step in building such a comprehensive approach, I am today introducing five separate pieces of legislation. Four deal primarily with tax incentives to purchase long-term care insurance and save for the anticipate costs of long-term care. A fifth provides consumer protection in the purchase and marketing of long-term care insurance. Following is a brief summary of each of these five bills:

EMPLOYER CONTRIBUTION INCENTIVES

Mr. President, the first of these five bills is S. 138. "The Retiree Health Protection and Long-term Care Insurance Act of 1989." This bill would greatly expand incentives for employers to offer long-term care insurance as a fringe benefit.

Briefly, this legislation clarifies the tax code to permit employers to pay into qualified plans on behalf of their employees for the purchases of long-term care insurance which could be used after the employee has retired. When enacted, employers would be free to contribute without tax liability to the individual's health accounts to prefund long-term health care. Eligible services would include nursing homes, hospices, adult day care programs, rehabilitative centers, retirement homes, or qualified home care programs.

USE OF IRAS FOR LTC INSURANCE

Mr. President, my second proposal being introduced today is S. 139, "The Long-term Care Insurance Premium Tax Protection Act of 1989." This bill would allow retired individuals to use a portion of their tax deferred savings to pay for long-term care insurance without suffering any tax penalty.

Under the proposal, a citizen over age 59½ would be permitted to withdraw up to $2,000 per year from his or her individual retirement account [IRA] to purchase long-term care insurance. Such withdrawals would not be subject to federal income tax.

LONG-TERM CARE TAX-FREE SAVINGS ACCOUNTS

Mr. President, I am also introducing today my "Long-term Care Savings Accounts Act of 1989," S.140. This legislation would allow individuals to set up to $2,000 per year in tax-exempt savings accounts, the proceeds of which could be used for long-term health care.

Under this legislation, an individual would be permitted to establish a long-term care savings account, the interest on which would be exempt from taxation. In addition, taxpayers would qualify for a 10-percent Federal income tax credit for contributions for such accounts, with a maximum credit of $200 per year. The tax credit mechanism would equalize the tax benefit available to all taxpayers, and, unlike a tax deduction, would not discriminate in favor of upper income taxpayers.

EMPLOYEE INCENTIVES FOR LTC INSURANCE

Mr. President, my fourth proposal is the "Tax Credit for Cost of Long-term Health Care Insurance Act of 1989," S. 141. This bill would encourage individuals to purchase long-term care insurance for themselves and for their parents. This important piece of legislation recognizes the intergenerational implications of long-term care by assisting families who are facing the prospect that a spouse or parent may eventually have to enter to a long-term care facility.

This bill provides a 15-percent tax credit for purchasing a long-term care insurance policy that covers the taxpayer, or the taxpayer's spouse or parents. The maximum annual credit that could be claimed would be $300—or $600 if the policy covers two elderly individuals. The credit would phase out a income of the individual purchasing the insurance policy increases.

Under this legislation, if a person purchases long-term care insurance for his or her parents, a credit could be claimed even if the parents are not

considered dependents as defined by the Federal Tax Code. And, if the costs of insurance for parents are shared by brothers and sisters, the credit could be allocated among the purchasers of the policy.

LTC CONSUMER PROTECTION ACT

Mr. President, Federal tax policies which encourage purchase of long-term care insurance would be incomplete without assurances that quality insurance products will be offered.

That's why my final proposal being introduced today is the "Long-term Care Consumer Protection Act of 1989," S. 142. This bill would provide Federal leadership to protect older Americans from both poor quality insurance products and deceptive marketing practices to sell them. It should also help boost consumer confidence in legitimate long-term care insurance products and hopefully help stimulate our Nation's long-term care insurance market.

In designing this bill, I worked very hard to achieve a balance between Federal leadership and State authority; and between the consumer's need for protection and the insurer's need for flexibility to develop innovative and experimental products.

Briefly, this bill would establish a nine-member long-term care insurance panel that would be chaired by the Secretary of Health and Human Services and would include representatives of State insurance officials, Medicare beneficiaries, employers, labor, and the insurance industry. This panel would be charged with determining whether each State's laws and regulations meet or exceed certain standards and also certifying policies issued in States that meet these standards. In States whose regulatory programs fail to meet the criteria for certification, insurers could apply directly to the Secretary for certification.

Under my proposal, once a policy is certified, the insurer could display an emblem denoting the Secretary's certification in the policy's marketing materials. Consumers could rely on the emblem as evidence that the policy meets the Secretary's criteria for certification.

A policy would earn the Secretary's certification if it meets or exceeds standards in the National Association of Insurance Commission's Long-Term Care Insurance Model Act. The certified policies would also be required to allow purchasers a minimum 30-day free look period, guarantee that the policy would be renewable, inform consumers of the availability and limitations of long-term care benefits under Medicare, and meet or exceed other requirements set by the Secretary in consultation with State insurance officials.

In addition, this proposal requires the long-term care insurance panel to report to Congress within 1 year from the date of enactment on whether certified policies should meet minimum loss ratios or other value measures, and whether they should be required to disclose loss ratios or other important financial information.

And, finally, this bill establishes penalties for fraudulent marketing practices and use of the U.S. Postal Service to set a policy in a State where such a policy has not been approved by the State's insurance officials.

Let me emphasize, again, Mr. President, the need for a comprehensive and multifaceted approach to dealing with what is one of the most challenging problems we as a nation must face together. The legislation I am introducing today addresses important aspects of this issue. I intend to add a comprehensive proposal establishing a new and much expanded role for Medicare in financing long-term care in the next several weeks. And, I look forward to working closely on this issue with my colleagues in both Houses—and with what I trust will be strong leadership from President Bush and his administration—in the weeks and months ahead.

I ask unanimous consent that copies of the five bills I am introducing today appear at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Health Protection and Long-Term Care Insurance Act of 1989".

SEC. 2. TREATMENT OF EMPLOYER-PROVIDED HEALTH CARE BENEFITS FOR RETIRED EMPLOYEES.

(a) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end thereof the following new part:

"PART III—VOLUNTARY RETIREE HEALTH PLANS

"Sec. 431. Deduction for employer contributions.
"Sec. 432. Benefits excluded from gross income, etc.
"Sec. 433. Plan qualification requirements.
"Sec. 434. Qualified retiree health care trust.
"Sec. 435. Voluntary retiree health accounts.
"Sec. 436. Preemption; special rules.

"SEC. 431. DEDUCTION FOR EMPLOYER CONTRIBUTIONS.

"(a) GENERAL RULE.—Amounts paid by an employer under a qualified voluntary retiree health plan—

"(1) shall not be allowable as a deduction under this chapter, but

"(2) if they would otherwise be deductible, shall be allowed as a deduction under this section for the taxable year in which paid.

"(b) LIMITATION.—The amount allowed as a deduction under subsection (a) for the taxable year shall not exceed the limitation under section 433(e) for plan years ending with or within such taxable year.

"(c) AMOUNTS MUST BE PAID TO QUALIFIED TRUST.—A payment may be taken into account under subsection (a) for any taxable year only if it is made to a qualified retiree health care trust which is exempt from tax under section 501(a) for the taxable year of such trust in which or with which the taxable year of the employer ends.

"(d) PAYMENTS AFTER CLOSE OF TAXABLE YEAR.—For purposes of subsection (a), a payment made after the close of a taxable year shall be treated as made on the last day of such year if the payment is made—

"(1) on account of such year, and

"(2) not later than the time prescribed by law for filing the return for such year (including extensions thereof).

"SEC. 432. BENEFITS EXCLUDED FROM GROSS INCOME, ETC.

"(a) IN GENERAL.—Except as otherwise provided in this section, no amount shall be included in the gross income of an individual or his spouse by reason of—

"(1) any employer contribution under a qualified voluntary retiree health plan, or

"(2) the receipt of any post-retirement long-term health care benefit under such a plan.

"(b) INCLUSION IN INCOME WHERE MORE THAN 1 ACCOUNT.—

"(1) IN GENERAL.—If—

"(A) an individual is a participant or beneficiary under 2 or more qualified voluntary retiree health plans or voluntary retiree health accounts, and

"(B) such individual does not (within a reasonable period) consolidate the present value of the individual's nonforfeitable accrued benefit in all such plans and the assets of all such voluntary retiree health accounts into 1 such plan or into 1 voluntary retiree health account,

then an amount equal to the sum of the present value of such benefits and the fair market value of such assets shall be treated as distributed in cash to such individual at the close of the plan year for the plan or account involved and such distribution shall be included in gross income.

"(2) SPECIAL RULES.—

"(A) EMPLOYEE MUST CONSOLIDATE INTO PLAN OF CURRENT EMPLOYER.—In the case of an employee who is employed by an employer maintaining a qualified voluntary retiree health plan, a consolidation satisfies paragraph (1) only if such consolidation is into a qualified voluntary retiree health plan maintained by such employer.

"(B) MORE THAN 1 CURRENT EMPLOYER.—If an individual is a participant in more than 1 qualified voluntary retiree health plan by reason of being currently employed by more than 1 employer, such plans shall be treated as 1 plan for purposes of paragraph (1).

"(C) EMPLOYEE WITH NO CURRENT EMPLOYER MAINTAINING PLAN.—In the case of an employee who is currently not employed by an employer maintaining a qualified voluntary retiree health plan, a consolidation satisfies paragraph (1) only if such consolidation is into—

"(i) a qualified voluntary retiree health plan maintained by his most recent employer maintaining such a plan, or

"(ii) a voluntary retiree health account of the individual.

"(3) AMOUNT TRANSFERRED NOT INCLUDIBLE IN INCOME.—No amount shall be includible in gross income by reason of any transfer which is part of a consolidation required under this subsection.

"(c) INCLUSION IN INCOME WHERE PLAN CEASES TO BE QUALIFIED.—If a retiree health care trust is not exempt from tax under section 501(a) for any taxable year of such trust, the present value of the nonforfeitable accrued benefit of any beneficiary under the plan of which such trust is a part shall be treated as distributed (at the close of such taxable year) in cash to the beneficiary and such distribution shall be included in gross income.

"(d) INCLUSION IN INCOME WHERE INTEREST IN PLAN ASSIGNED, ETC.—If during any taxable year an individual assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified voluntary retiree health plan, such portion shall be treated as having been received by such individual as a distribution in cash and such distribution shall be included in gross income.

"(e) EXCESS BENEFITS PENALTY.—

"(1) IN GENERAL.—If—

"(A) the benefits with respect to a participant, when expressed as an annual benefit, exceed

"(B) the maximum amount which may be provided under section 433(h)(2) for a taxable year,

such excess shall be included in gross income for the taxable year and the participant's tax under this chapter for such taxable year shall be increased by the applicable percentage of such excess.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable percentage' means 20 percent.

"(B) INDIVIDUALS OTHER THAN EMPLOYEES AND SPOUSES.—In the case of an individual other than an employee or spouse of the employee, the applicable percentage is 100 percent.

"(3) ANNUAL BENEFIT.—For purposes of this subsection, the annual benefit shall be determined in such manner as the Secretary may prescribe.

"(f) SPECIAL RULES.—

"(1) AMOUNTS TAXED ONLY ONCE.—An amount shall not be includible in gross income under this section for any taxable year if such amount was includible in gross income under this section for a prior taxable year.

"(2) CERTAIN RULES TO APPLY.—For purposes of subsection (c), rules similar to the rules of the last 2 sentences of section 402(b)(1) and the rules of section 402(b)(2)(A) shall apply.

"SEC. 433. PLAN QUALIFICATION REQUIREMENTS.

"(a) IN GENERAL.—For purposes of this part, the term 'qualified voluntary retiree health plan' means any defined benefit plan (as defined in section 414(j))—

"(1) which meets the requirements of paragraph (1) of section 89(k), and

"(2) which meets the requirements of each of the following subsections of this section.

"(b) PLAN MUST PROVIDE ONLY HEALTH BENEFITS TO RETIRED EMPLOYEES.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the only benefits provided by the plan are post-retirement long-term health care benefits, and

"(B) such benefits are provided only through 1 or more of the following:

"(i) insurance acquired by the plan,

"(ii) self-insurance by the employer or the plan, or

"(iii) reimbursement of expenses paid by a former employee or his spouse for insurance providing long-term health care benefits for such employee or spouse.

"(2) POST-RETIREMENT LONG-TERM HEALTH CARE BENEFITS.—

"(A) IN GENERAL.—For purposes of this part, the term 'post-retirement long-term health care benefits' means long-term health care benefits provided to a former employee (or the spouse of such employee) after the former employee has attained age 70 or is disabled (within the meaning of section 72(m)(7)).

"(B) BENEFITS PROVIDED TO SPOUSE OF DECEASED EMPLOYEE.—For purposes of subparagraph (A), the spouse of a deceased employee shall be treated—

"(i) as a former employee, and

"(ii) as satisfying the requirements of subparagraph (A) if such spouse was receiving benefits under the plan immediately before the death of the employee.

"(C) QUALIFIED DOMESTIC RELATIONS ORDERS.—In the case of benefits payable under a qualified domestic relations order (as defined under rules similar to the rules of section 414(p)) to a former spouse of an employee, except as provided in regulations, such former spouse shall be treated as a former employee for purposes of subparagraph (A).

"(D) LONG-TERM CARE BENEFITS.—For purposes of this section, the term 'long-term health care' means providing necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by a chronically ill individual in a facility by a qualified provider.

"(E) OTHER DEFINITIONS.—For purposes of subparagraph (D)—

"(i) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, licensed under State law, or

"(II) an individual's home if a physician, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who has been certified by a physician, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any service the primary purpose of which is to provide needed assistance with any of the activities of daily living described in clause (ii).

"(iv) QUALIFIED PROVIDER.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid employed by a licensed home health agency, or trained home health aid licensed under State law, but does not include a relative or other person who ordinarily resides in the home.

"(v) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 213(d)(4).

"(F) FORMER EMPLOYEE.—For purposes of this paragraph, an individual shall not be treated as a former employee of the employer if such individual is a current employee of such employer.

"(3) BENEFITS PROVIDED THROUGH INSURANCE OR SELF-INSURANCE MUST BE UNDER GUARANTEED RENEWABLE CONTRACTS, ETC.—A plan shall not be treated as meeting the requirements of this subsection unless—

"(A) the renewal of the insurance contract (if any) through which the long-term health care benefits are provided (including any contract for which a reimbursement described in paragraph (1)(B)(iii) is made) is guaranteed,

"(B) the renewal of coverage by covered individuals is guaranteed,

"(C) the cost to covered individuals on renewal of the insurance will not vary by reason of the medical condition of the covered individuals, and

"(D) the annual cost of coverage for each covered individual is the same.

"(c) NO EMPLOYEE CONTRIBUTIONS.—A plan meets the requirements of this subsection if the only contributions permitted under the plan are—

"(1) nonelective employer contributions, and

"(2) transfers which are part of a consolidation referred to in section 432(b).

"(d) CONTRIBUTIONS AND BENEFITS MAY NOT DISCRIMINATE IN FAVOR OF HIGHLY COMPENSATED EMPLOYEES.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the contributions and benefits provided under the plan do not discriminate in favor of highly compensated employees, and

"(B) no participant in the plan is a participant in any other qualified voluntary retiree health plan maintained by the employer.

"(2) UNIFORM RATE OF ACCRUAL OF BENEFITS.—

"(A) IN GENERAL.—Except as provided in this paragraph, a plan shall not be treated as meeting the requirements of this subsection unless the rate at which benefits accrue during a plan year is the same for all participants.

"(B) SPECIAL RULES FOR CERTAIN INDIVIDUALS AGE 55 AND OVER.—A plan shall not be treated as failing to meet the requirements of this subsection if the plan provides that an employee who as of the close of the plan year in which he attains age 55 has accrued less than 30 percent of the maximum amount of benefits which may be accrued under the plan, may accrue benefits during succeeding plan years at a greater rate than the rate for other employees (but not in excess of 125 percent of such other rate).

"(C) MINIMUM HOURS OF SERVICE.—For purposes of subparagraph (A), an employee shall not be treated as a participant for any plan year unless such individual completes more than 500 hours of service during such year.

"(3) INTEGRATION WITH BENEFITS CREATED UNDER OTHER LAWS NOT PERMITTED.—A plan shall not meet the requirements of this subsection unless such plan meets such requirements without regard to contributions or benefits under chapter 2 or 21, the Social Security Act or other Federal law, or any State or foreign law or under any other plan.

"(e) FUNDING LIMITATIONS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan meets—

"(A) the minimum funding requirement of paragraph (2), and

"(B) the maximum funding limitation of paragraph (3).

"(2) MINIMUM FUNDING STANDARD.—A plan meets the requirements of this paragraph if the value of the plan assets as of the close of the plan year are not less than the termination liability as of such time.

"(3) MAXIMUM FUNDING LIMITATION.—A plan meets the requirements of this paragraph if the employer contributions to the plan for the plan year do not exceed the excess (if any) of—

"(A) 110 percent of the termination liability of the plan as of the close of the plan year, over

"(B) the value of the plan assets as of such time (without regard to employer contributions for such year).

"(4) CORRECTIONS MAY BE MADE WITHIN 2½ MONTHS.—A plan shall not be treated as failing to meet the requirements if within 2½ months following the close of the plan year—

"(A) in the case of a failure under paragraph (2), employer contributions are made to the plan as are necessary to meet the requirements of such paragraph, or

"(B) in the case of a failure under paragraph (3)—

"(i) the plan distributes to the employer the excess contributions (and any earnings thereon), and

"(ii) no deduction was allowed with respect to such contributions.

Any amount distributed under subparagraph (B) shall be includible in income in the taxable year for which the contribution was made.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TERMINATION LIABILITY.—The term 'termination liability' means the present value of the benefits of the plan determined on the basis of actuarial assumptions each of which is reasonable.

"(B) CONTINGENT BENEFITS.—In computing termination liability, there shall not be taken into account any benefit which is contingent on an event other than completion of years of service.

"(C) VALUE OF PLAN ASSETS.—The value of the plan assets means the actuarial value (within the meaning of section 412(c)(2)) of such assets, except that such valuation shall not be based on a range of other than market value.

"(f) MINIMUM PARTICIPATION STANDARDS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan meets the requirements of—

"(A) subparagraphs (A) and (B) of paragraph (2) (relating to participation requirements), and

"(B) subparagraphs (A) and (B) of paragraph (3) (relating to minimum coverage requirements).

"(2) PARTICIPATION REQUIREMENTS.—

"(A) MINIMUM AGE AND SERVICE CONDITIONS.—A plan meets the requirements of this subparagraph if the plan does not require, as a condition of participation in the plan, that an employee complete a period of service with the employer maintaining the plan extending beyond the later of:

"(i) the date on which the employee attains age 21, or

"(ii) the date on which the employee completes 1 year of service.

For purposes of the preceding sentence, a rule similar to the rule of section 410(a)(1)(B)(i) shall apply.

"(B) MAXIMUM AGE CONDITIONS.—A plan meets the requirements of this subparagraph only if the plan does not exclude from participation (on the basis of age) employees who have attained a specified age.

"(C) CERTAIN RULES TO APPLY.—For purposes of subparagraphs (A) and (B), rules similar to the rules of paragraphs (3), (4), and (5) of section 410(a) shall apply.

"(3) MINIMUM COVERAGE REQUIREMENTS.—

"(A) 70 PERCENT TESTS.—A plan meets the requirements of this subparagraph if on each day of the plan year—

"(i) the plan benefits at least 70 percent of employees who are not highly compensated employees, or

"(ii) the plan benefits—

"(I) a percentage of employees who are not highly compensated employees which is at least 70 percent of

"(II) the percentage of highly compensated employees benefiting under the plan.

"(B) 40 PERCENT TEST.—A plan meets the requirements of this subparagraph if on each day of the plan year the plan benefits the lesser of—

"(i) 50 employees of the employer, or

"(ii) 40 percent or more of all employees of the employer.

"(C) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this paragraph, there shall be excluded from consideration employees described in paragraphs (3)(A) and (3)(C) of section 410(b).

"(D) CERTAIN RULES TO APPLY.—

"(i) For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (6)(C) of section 410(b) shall apply.

"(ii) For purposes of subparagraph (A), rules similar to the rules of section 410(b)(5) shall apply.

"(4) SPECIAL RULES.—

"(A) APPLICATION OF PARTICIPATION STANDARDS TO CERTAIN PLANS.—A plan described in a subparagraph of section 410(c)(1) shall be treated as meeting the requirements of this subsection if such plan meets requirements similar to the requirements such plan is required to meet under section 410(c)(2); except that no other plan or trust may be taken into account in determining whether the requirements of this subparagraph are met.

"(B) ELECTION BY CHURCH TO HAVE CERTAIN RULES APPLY.—An election similar to the election under section 410(d) shall apply for purposes of this section.

"(g) MINIMUM VESTING STANDARDS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the plan satisfies the requirements of—

"(A) paragraph (2) (relating to accrued benefit), and

"(B) paragraph (3) (relating to special rules).

"(2) ACCRUED BENEFIT.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if an employee has a nonforfeitable right to 100 percent of the employee's accrued benefit.

"(B) FORFEITURE ON ACCOUNT OF DEATH.—A right to an accrued benefit shall not be treated as forfeitable solely because the plan provides that it is not payable—

"(i) with respect to the participant if the participant dies and has no spouse, or

"(ii) with respect to the spouse of the participant if such spouse dies.

"(C) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of—

"(i) subparagraphs (A), (C), and (D) of section 411(a)(4), and

"(ii) paragraphs (3)(B), (3)(C), (5), (6), (7)(A)(i), and (10) of section 411(a),

shall apply for purposes of this paragraph.

"(3) SPECIAL RULES.—

"(A) IN GENERAL.—For purposes of this subsection, rules similar to the rules of section 411(b)(1) shall apply.

"(B) CERTAIN FORFEITURES.—This subsection shall not be applied to preclude forfeitures described in paragraph (2)(B) or forfeitures of benefits which, under the provisions of the plan adopted pursuant to rules prescribed by the Secretary to preclude the discrimination prohibited by subsection (d), may be used for designated employees in the event of early termination of the plan.

"(C) CERTAIN OTHER RULES TO APPLY.—For purposes of this paragraph, rules similar to the rules of paragraphs (1), (2), and (6) of section 411(d) shall apply.

"(4) APPLICATION OF VESTING STANDARDS TO CERTAIN PLANS.—A plan described in a subparagraph of section 411(e)(1) shall be treated as meeting the requirements of this subsection if such plan meets requirements similar to the requirements such plan is required to meet under section 411(e)(2).

"(h) DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan meets the requirements of paragraphs (2) and (3) with respect to each former employee under the plan, or

"(B) the plan provides that as of any date specified by the employee (after attaining age 70 or becoming disabled) the present value of the employee's nonforfeitable accrued benefit as of such date will be used to acquire paid-up insurance which—

"(i) will provide long-term health care benefits for such employee (or in the case of an employee who is married and who elects to provide coverage for his spouse, for such employee and his spouse) for each year such employee could (but for this subparagraph) receive a distribution from such plan, and

"(ii) does not provide benefits for any year in excess of the maximum amount for such year under paragraph (2).

"(2) MAXIMUM ANNUAL BENEFIT.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if the plan provides that the amount of benefits accrued under the plan on behalf of any employee during any plan year may not exceed the lesser of—

"(i) $2,000, or

"(ii) the earned income of the employee derived from the trade or business with respect to which such plan is established.

"(B) ACTUARIAL ADJUSTMENTS.—The benefit provided to any participant under the plan shall be actuarially adjusted to reflect—

"(i) any commencement of benefits before or after age 70, or

"(ii) the providing of benefits to the spouse of a participant.

"(C) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the dollar amount in subparagraph (A) for increases in the medical component of the Consumer Price Index (as defined in section 1(f)(5)), using as a base period the calendar quarter beginning October 1, 1989.

"(3) MINIMUM ANNUAL DISTRIBUTION.—

"(A) IN GENERAL.—A plan meets the requirements of this paragraph if the plan provides that the amount distributed with respect to a former employee during any plan year does not exceed the amount which would be distributed each year if the former employee's accrued benefit were distributed in substantially equal periodic payments (not less frequently than annually)—

"(i) over the life (or life expectancy) of the former employee, or

"(ii) over the joint lives (or joint life expectancies) of the former employee or his spouse.

"(B) COST-OF-LIVING ADJUSTMENT.—The amount determined under subparagraph (A) shall be adjusted each year at the same time and in the same manner as under paragraph (2)(C).

"(i) PLAN MAY NOT PERMIT LOANS.—A plan meets the requirements of this subsection if the plan does not permit any participant or beneficiary to receive (directly or indirectly) any amount as a loan from such plan.

"(j) PLAN MAY NOT PERMIT SELF-DIRECTED ASSETS.—A plan meets the requirements of this subsection if the plan does not permit any participant or beneficiary to exercise control over the assets under the plan.

"(k) PLAN MUST PERMIT TRANSFERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan meets the requirements of this subsection if, in accordance with procedures determined by the Secretary, at the request of an individual who is a participant or former participant under the plan—

"(A) the plan transfers the present value of the nonforfeitable accrued benefit of the individual under the plan to another qualified voluntary retiree health plan or to a voluntary retiree health account, and

"(B) the plan accepts transfers under subparagraph (A) from any other qualified voluntary retiree health plan or from any voluntary retiree health account.

"(2) SPECIAL RULES.—

"(A) NO TRANSFERS FROM PLAN OF CURRENT EMPLOYER EXCEPT ON PLAN TERMINATION.—A plan maintained by an employee's employer shall be treated as not meeting the requirements of this subsection if such plan permits any transfer under the plan except in the case of a termination of such plan.

"(B) TRANSFERS MUST BE TO PLAN MAINTAINED BY EMPLOYER OR FORMER EMPLOYER OR TO VOLUNTARY RETIREE HEALTH ACCOUNT.—

"(i) IN GENERAL.—A plan shall not be treated as meeting the requirements of this subsection if such plan permits any transfer under the plan to any plan or account not described in clause (ii) if there is a plan or account described in clause (ii) with respect to such individual.

"(ii) PLANS AND ACCOUNTS DESCRIBED.—For purposes of clause (i), a plan or account is described in this clause with respect to an individual if such plan is—

"(I) a qualified voluntary retiree health plan maintained by an employer of such individual, or

"(II) if the employer of such individual does not maintain such a plan, a qualified voluntary retiree health plan maintained by a former employer of such individual, or except as provided in subparagraph (E), a voluntary retiree health account of such individual.

"(C) TRANSFERS PERMITTED AMONG MEMBERS OF CONTROLLED GROUP, ETC.—Section 414 shall not apply for purposes of determining under this subsection from which plan and to which plan a transfer may be made.

"(D) SPOUSE OF DECEASED EMPLOYEE TREATED AS FORMER PARTICIPANT.—For purposes of paragraph (1) and this paragraph, the spouse of a deceased employee shall be treated as a former participant.

"(E) NO TRANSFERS TO HEALTH ACCOUNTS AFTER AGE 55.—A plan shall not meet the requirements of this subsection if it permits the transfer of any benefit to a voluntary retiree health account of an individual after such individual attains age 55.

"(l) PLAN YEAR AND TRUST YEAR MUST BE THE SAME.—A plan meets the requirements of this subsection if the plan year of such plan and the taxable year of the trust of which such plan forms a part are the same.

"(m) LIMITATION ON HOLDINGS OF EMPLOYER SECURITIES AND EMPLOYER REAL PROPERTY.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan does not hold any employer security which is not a readily tradable employer security,

"(B) the plan does not hold any employer real property which is not qualifying employer real property, and

"(C) the plan does not acquire any readily tradable employer security or qualifying employer real property if, immediately after such acquisition, the aggregate fair market value of readily tradable employer securities and qualifying employer real property held by the plan exceeds 10 percent of the fair market value of the assets of the plan.

"(2) READILY TRADABLE EMPLOYER SECURITY.—For purposes of this subsection, the term 'readily tradable employer security' means any employer security which is readily tradable on an established securities market.

"(3) EMPLOYER SECURITY.—For purposes of this subsection, the term 'employer security' means—

"(A) any stock or other equity interest in the employer, and

"(B) any bond, debenture, note, or certificate, or other evidence of indebtedness issued by the employer.

"(4) EMPLOYER REAL PROPERTY; QUALIFYING EMPLOYER REAL PROPERTY.—For purposes of this subsection, the term 'employer real property' and 'qualifying employer real property' have the respective meanings given such terms by section 407 of the Employee Retirement Income Security Act of 1974.

"(n) ACTUARIAL ASSUMPTIONS.—A plan meets the requirements of this subsection if each actuarial assumption used by the plan is reasonable.

"(o) CERTAIN OTHER RULES TO APPLY.—A plan meets the requirements of this subsection if the plan meets—

"(1) requirements similar to the requirements of—

"(A) paragraph (12) of section 401(a), and

"(B) paragraph (13) of section 401(a) (other than the material following the 1st sentence in subparagraph (A)), and

"(2) requirements prescribed by the Secretary with respect to the duties of any fiduciary with respect to the plan.

"SEC. 434. QUALIFIED RETIREE HEALTH CARE TRUST.

"(a) IN GENERAL.—For purposes of this part, the term 'qualified retiree health care trust' means any trust created or organized in the United States and forming part of a qualified voluntary retiree health plan of an employer for the exclusive benefit of his employees or their spouses if—

"(1) contributions are made to the trust by such employer for the purposes of distributing to such employees or their spouses the corpus and income of the fund accumulated by the trust in accordance with such plan, and

"(2) under the trust instrument it is impossible, at any time before the satisfaction of all liabilities with respect to employees and their spouses under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees or their spouses.

"(b) CERTAIN REVERSIONS PERMITTED.—A trust instrument shall not be treated as failing to satisfy the requirements of subsection (a)(2) solely by reason of the fact that the trust instrument permits distributions described in section 4976A(c)(2).

"SEC. 435. VOLUNTARY RETIREE HEALTH ACCOUNTS.

"(a) VOLUNTARY RETIREE HEALTH ACCOUNT.—For purposes of this part, the term 'voluntary retiree health account' means a trust created or organized in the United States for the exclusive benefit of an individual or of an individual and his spouse, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contributions to the trust will be accepted other than transfers under this part from a qualified voluntary retiree health plan or from another voluntary retiree health account.

"(2) The trustee is a bank (as defined in section 408(n)) or such other person who demonstrates to the satisfaction of the Secretary that the manner in which such other person will administer the trust will be consistent with the requirements of this section.

"(3) No part of the trust funds will be invested in life insurance contracts.

"(4) The interest of an individual in the balance of his account is nonforfeitable.

"(5) The assets of the trust will not be commingled except in a common investment fund.

"(b) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, if any amount is paid or distributed out of a voluntary retiree health account, such amount shall be included in the gross income of the payee or distributee for the taxable year in which the payment or distribution is made.

"(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to any payment or distribution which—

"(A) is used exclusively to pay post-retirement long-term health care benefits of the individual for whose benefit the account is established, or

"(B) is part of a transfer required under section 432(b).

"(c) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—A voluntary retiree health account is exempt from taxation under this subtitle unless such account has ceased to be such an account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a voluntary retiree health account, paragraph (1) of subsection (b) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—If during any taxable year an individual for whom a voluntary retiree health account is established engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a voluntary retiree health account as of the first day of that taxable year.

"(4) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a voluntary retiree health account is established uses the account or any portion thereof as security for

a loan, the portion so used shall be treated as distributed to that individual.

"(d) EXCESS BENEFITS PENALTY.—

"(1) IN GENERAL.—If—

"(A) the benefits with respect to a participant, when expressed as an annual benefit, exceed

"(B) the maximum amount which may be provided under section 433(h)(2) for a taxable year,

such excess shall be included in gross income for the taxable year and the participant's tax under this chapter for such taxable year shall be increased by the applicable percentage of such excess.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable percentage' means 20 percent.

"(B) INDIVIDUALS OTHER THAN EMPLOYEES AND SPOUSES.—In the case of an individual other than an employee or spouse of the employee, the applicable percentage is 100 percent.

"(3) ANNUAL BENEFIT.—For purposes of this subsection, the annual benefit shall be determined in such manner as the Secretary may prescribe.

"(e) MINIMUM DISTRIBUTION REQUIREMENTS.—

"(1) IN GENERAL.—An account shall not be treated as a voluntary retiree health account unless the plan provides that the amount which is distributed with respect to an individual during any taxable year—

"(A) may not be less than 100 percent of the pro rata amount with respect to such individual, or

"(B) if a lesser amount is specified by the individual, shall be the amount specified by the individual.

The Secretary shall prescribe regulations which specify the circumstances under which the failure of an individual to specify an amount under subparagraph (B) shall be treated as a specification of a zero amount.

"(2) PRO RATA AMOUNT.—For purposes of this subsection, the pro rata amount with respect to any individual for any taxable year is the amount (determined as of the beginning of each taxable year during which a distribution from such account to the employee is permitted) equal to—

"(A) the individual's account balance at such time, divided by

"(B) the life expectancy of such individual at such time.

The life expectancy of each individual shall be redetermined annually.

"(f) CERTAIN REQUIREMENTS FOR HEALTH PLANS MADE APPLICABLE.—An account shall not be treated as a voluntary retiree health account unless, under regulations, the requirements of subsections (b), (h), (i), (j), and (k) of section 433 are met.

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) REPORTS.—The trustee of a voluntary retiree health account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.

"SEC. 436. PREEMPTION; SPECIAL RULES.

"(a) PREEMPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this part shall supersede all State laws insofar as they may now or hereafter relate to any health plan for former employees and their spouses.

"(2) EXCEPTIONS.—

"(A) BANKING AND SECURITIES LAWS.—

"(i) Except as provided in clause (ii), nothing in this part shall be construed to exempt or relieve any person from any law of any State which regulates banking or securities.

"(ii) Any qualified voluntary retiree health plan qualified retiree health care trust, or voluntary retiree health account shall not be deemed to be a bank, trust company, or investment company or to be engaged in the business of banking for purposes of any law of any State purporting to regulate banks, trust companies, or investment companies.

"(B) GENERALLY APPLICABLE CRIMINAL LAWS.—Paragraph (1) shall not apply to any generally applicable criminal law of a State.

"(C) QUALIFIED DOMESTIC RELATIONS ORDERS.—Paragraph (1) shall not apply to qualified domestic relations orders (as defined in section 414(p)).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) STATE LAW.—The term 'State law' includes all laws, decisions, rules, or regulations (or other State action having the effect of law) of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

"(B) STATE.—The term 'State' means a State, any political subdivision of a State, the District of Columbia, any possession of the United States, and any agency or instrumentality of any of the foregoing.

"(4) LAWS OF THE UNITED STATES.—Nothing in this part shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States or any rule or regulation issued under any such law.

"(b) HIGHLY COMPENSATED EMPLOYEE DEFINED.—For purposes of this part, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) CERTAIN RETROACTIVE CHANGES IN PLAN.—Rules similar to the rules of section 401(b) shall apply for purposes of this part.

"(d) RULES RELATING TO SELF-EMPLOYED INDIVIDUALS.—Rules similar to the rules of subsections (c) and (d) of section 401 (other than subsection (c)(6)) shall apply for purposes of this part.

"(e) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of section 414 (other than subsections (f), (h), (i), (k), and (s)) shall apply for purposes of this part.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this part, including regulations requiring reports from individuals having accounts in qualified voluntary retiree health plans to employers and the Secretary."

(b) TAX ON DISTRIBUTIONS OTHER THAN POST-RETIREMENT MEDICAL BENEFITS.—

(1) IN GENERAL.—Chapter 43 of such Code (relating to qualified pension, etc., plans) is amended by inserting after section 4976 the following new section:

"SEC. 4976A. TAXES WITH RESPECT TO QUALIFIED VOLUNTARY RETIREE HEALTH PLANS AND VOLUNTARY RETIREE HEALTH ACCOUNTS.

"(a) GENERAL RULE.—If—

"(1) an employer maintains a qualified voluntary retiree health plan or an individual maintains a voluntary retiree health account, and

"(2) there is a disqualified benefit provided during any taxable year,

there is hereby imposed on such employer or individual, as the case may be, a tax equal to 50 percent of such disqualified benefit.

"(b) QUALIFIED VOLUNTARY RETIREE HEALTH PLAN; VOLUNTARY RETIREE HEALTH ACCOUNT.—For purposes of subsection (a)—

"(1) QUALIFIED VOLUNTARY RETIREE HEALTH PLAN.—The term 'qualified voluntary retiree health plan' has the meaning given such term by section 433. Such term includes any plan which, at any time, has been determined by the Secretary to be a qualified voluntary retiree health plan.

"(2) VOLUNTARY RETIREE HEALTH ACCOUNT.—The term 'voluntary retiree health account' has the meaning given such term by section 435.

"(c) DISQUALIFIED BENEFIT.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'disqualified benefit' means any distribution or deemed distribution (other than a transfer required under section 432(b)) which is not a post-retirement long-term health care benefit (as defined in section 433(b)).

"(2) EXCEPTIONS.—The term 'disqualified benefit' shall not include any distribution to the employer—

"(A) by reason of mistake of fact, the failure of the plan to initially qualify, or the failure of contributions to be deductible, or

"(B) after such employer ceases to have employees.

"(d) EMPLOYER.—In the case of a plan which provides contributions or benefits for employees some or all of whom are self-employed within the meaning of section 401(c)(1), the term 'employer' means the person treated as the employer under section 401(c)(4)."

(2) CLERICAL AMENDMENT.—The table of sections for such chapter 43 is amended by inserting after the item relating to section 4976 the following new item:

"Sec. 4976A. Taxes with respect to qualified voluntary retiree health plans and voluntary retiree health accounts."

(c) QUALIFIED RETIREE HEALTH CARE TRUST EXEMPT FROM TAX.—Subsection (a) of section 501 of such Code (relating to exemption from tax on corporation, certain trust, etc.) is amended by inserting "or a qualified retiree health care trust under section 434" after "or section 401(a)".

(d) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR VOLUNTARY RETIREE HEALTH ACCOUNTS.—An individual for whose benefit a voluntary retiree health account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a voluntary retiree health account by reason of the application of section 435(c)(3) to such account.", and

(2) by inserting "or a voluntary retiree health account described in section 435" in subsection (e)(1) after "described in section 408(a)".

(e) FAILURE TO PROVIDE REPORTS ON VOLUNTARY RETIREE HEALTH ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR A VOLUNTARY RETIREE HEALTH ACCOUNT" after "AN-

NUITIES" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 435(h) to file a report regarding a voluntary retiree health account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(f) CLERICAL AMENDMENT.—The table of parts for subchapter D of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part III. Voluntary Retiree Health Plans.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to plan years beginning after December 31, 1989.

S. 139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS FOR LONG-TERM HEALTH CARE INSURANCE PREMIUMS.

(a) IN GENERAL.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to tax treatment of distributions from individual retirement plans) is amended by adding at the end thereof the following new paragraph:

"(7) DISTRIBUTIONS FOR QUALIFIED LONG-TERM HEALTH CARE INSURANCE PREMIUMS.—

"(A) IN GENERAL.—No amount (which but for this paragraph would be includible in the gross income of the payee or distributee under paragraph (1)) shall be included in gross income during the taxable year if—

"(i) the payee or distributee has attained age 59½ on or before the date of the distribution, and

"(ii) the distribution is used during such year to pay premiums for any qualified long-term health care insurance policy for the benefit of the payee or distributee or the spouse of the payee or distributee if such spouse has attained age 59½ on or before the date of the distribution.

"(B) DOLLAR LIMITATION.—

"(i) IN GENERAL.—The amount excluded from gross income under subparagraph (A) shall not exceed $2,000 ($1,000 in the case of a separate return by a married individual).

"(ii) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the dollar amounts under clause (i) for taxable years beginning in calendar years after 1989 in the same manner as under section 1(f), except that only increases in the medical component of the Consumer Price Index shall be taken into account.

"(C) DEFINITION OF LONG-TERM HEALTH CARE INSURANCE.—For purposes of this paragraph, the term 'long-term health care insurance' means an insurance contract through which long-term health care benefits are provided and the renewal of such contract is guaranteed.

"(D) LONG-TERM HEALTH CARE.—For purposes of this paragraph, the term 'long-term health care' means providing necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance, or personal care services, required by a chronically ill individual in a facility by a qualified provider.

"(E) OTHER DEFINITIONS.—For purposes of subparagraph (D)—

"(i) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, licensed under State law, or

"(II) an individual's home if a physician, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who has been certified by a physician, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any service the primary purpose of which is to provide needed assistance with any of the activities of daily living described in clause (ii).

"(iv) QUALIFIED PROVIDER.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid employed by a licensed home health agency, or trained home health aid licensed under State law, but does not include a relative or other person who ordinarily resides in the home.

"(v) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 213(d)(4).".

(b) EFFECTIVE DATE.—The amendment made by this Act shall apply to taxable years beginning after December 31, 1989.

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25, the following new section:

"SEC. 25A. LONG-TERM HEALTH CARE SAVINGS ACCOUNT.

"(a) CREDIT ALLOWED.—In the case of an individual who makes a contribution to a qualified long-term health care savings account, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the lesser of—

"(1) 10 percent of such contribution for the taxable year, or

"(2) $200.

"(b) LIMITATIONS.—

"(1) ACCOUNT MAY NOT BE ESTABLISHED FOR BENEFIT OF MORE THAN 1 INDIVIDUAL.—A long-term health care savings account may not be established for the benefit of more than 1 individual.

"(2) AMOUNT OF CONTRIBUTION.—With respect to any individual, no contribution under subsection (a) shall be allowed for the taxable year in excess of $2,000.

"(3) NO OTHER LONG-TERM HEALTH CARE PLAN AVAILABLE.—No credit shall be allowed under subsection (a) in the case of an individual for whom an employer provides a long-term health care plan during the taxable year if such plan provides substantially the same benefits as defined in paragraphs (5) and (6) of subsection (c).

"(4) INDIVIDUAL MAY NOT BE BENEFICIARY OF MORE THAN 1 ACCOUNT.—If an individual is the beneficiary of more than 1 long-term health care savings account during any calendar year, no credit shall be allowed under subsection (a) for any amount paid or transferred for such calendar year to any account established for the benefit of such individual.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) LONG-TERM HEALTH CARE SAVINGS ACCOUNT.—For purposes of this section, the term 'long-term health care savings account' means a trust created or organized in the United States exclusively for the purpose of paying only 1 individual's long-term health care expenses, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, stocks, bonds, or other securities which are readily tradeable on an established securities market.

"(B) No contribution will be accepted unless it is from the individual for whose benefit the trust is established.

"(C) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(D) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(E) The assets of the account may be invested in accordance with the direction of the individual contributing to the account.

"(F) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (not including extensions thereof) with or within which the calendar year ends.

"(3) STOCK, ETC., TO BE VALUED AS OF TRANSFER DATE.—The fair market value of stocks, bonds, and other securities shall be determined as of the date on which they are transferred to the account. If the date of transfer falls on a Saturday, Sunday, or public legal holiday, then the fair market value shall be determined by reference to the last preceding day on which they could have been traded on an established securities market.

"(4) LONG-TERM HEALTH CARE EXPENSES.—The term 'long-term health care expenses' means—

"(A) the cost of insurance that provides long-term health care benefits, or

"(B) the cost of long-term health care benefits.

"(5) DEFINITION OF LONG-TERM HEALTH CARE INSURANCE.—For purposes of this section the term 'long-term health care insurance' means an insurance contract through which long-term health care benefits are provided

and the renewal of such contract is guaranteed.

"(6) LONG-TERM HEALTH CARE.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term health care' means providing necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by a chronically ill individual in a facility by a qualified provider.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, licensed under State law, or

"(II) an individual's home if a physician, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who has been certified by a physician, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any service the primary purposes of which is to provide needed assistance with any of the activities of daily living described in clause (ii).

"(iv) QUALIFIED PROVIDER.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid employed by a licensed home health agency, or trained home health aid licensed under State law, but does not include a relative or other person who ordinarily resides in the home.

"(7) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 213(d)(4).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any amount received from a long-term health care savings account shall be included in gross income of the recipient for the taxable year in which the amount is received, except to the extent that paragraph (2) or (3) applies to such amount.

"(2) EXCEPTION FOR DISTRIBUTIONS FOR LONG-TERM HEALTH CARE EXPENSES.—Paragraph (1) shall not apply to any payment or distribution which is used exclusively to pay for long-term health care expenses incurred by the individual for whose benefit the account is established.

"(3) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to long-term health care savings account to the extent that such contribution exceeds the amount allowable under subsection (b)(2) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(e) TAX TREATMENT OF LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Each long-term health care savings account shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations).

"(2) EFFECT OF ENGAGING IN PROHIBITED TRANSACTION.—

"(A) DISQUALIFICATION OF TRUST.—If the individual for whose benefit a long-term health care savings account is established or any individual who contributes to such account engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a long-term health care savings account as of the first day of the taxable year of such individual during which such prohibited transaction begins.

"(B) ASSETS TREATED AS DISTRIBUTED.—In any case in which any account ceases to be a long-term health care savings account by reason of subparagraph (A) on the first day of any taxable year, subsection (d)(1) shall apply as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a long-term health care savings account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to that individual.

"(f) ADDITIONAL TAX ON CERTAIN AMOUNTS INCLUDED IN GROSS INCOME.—

"(1) DISTRIBUTION NOT USED FOR LONG-TERM HEALTH CARE EXPENSES.—Except as provided in paragraph (2), if a distribution—

"(A) is made from a long-term health care savings account, and

"(B) is not used in connection with the payment of long-term health care expenses of the individual for whose benefit the account was established,

the tax liability (for the taxable year in which such distribution is received) of the individual who contributed to the account shall be increased by an amount equal to—

"(A) 25 percent of the amount of the distribution which is includible in the gross income of such individual for such taxable year if such individual has not attained age 59 before the close of such individual's taxable year, or

"(B) 20 percent of the amount of such distribution if such individual has attained age 59 before the close of such individual's taxable year.

"(2) DISQUALIFICATION CASES.—If an amount is includible in the gross income of an individual for a taxable year under subsection (e), the tax liability of such individual under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) DEATH OF INDIVIDUAL FOR WHOM ACCOUNT ESTABLISHED.—Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the long-term health care savings account dies.

"(g) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

"(h) REPORTS.—The trustee of a long-term health care savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individual at such time and in such manner as may be required by those regulations.".

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "long-term health care savings accounts," after "accounts," in the heading of such section,

(2) by striking out "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a long-term health care savings account (within the meaning of section 25A(c)), or", and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—For purposes of this section, in the case of a long-term health care savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the long-term health care savings account in a distribution to which section 25A(d)(3) applies shall be treated as an amount not contributed.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—An individual for whose benefit a long-term health care savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a long-term health care savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting ", a long-term health care savings account described in section 25A(c)," in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON LONG-TERM HEALTH CARE SAVINGS ACCOUNTS.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR ON LONG-TERM HEALTH CARE SAVINGS ACCOUNT" after "ANNUITIES" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a long-term health care account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless

it is shown that such failure is due to reasonable cause."

(e) EXCLUSION FROM GROSS INCOME.—

(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. LONG-TERM HEALTH CARE SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, gross income does not include distributions from a long-term health care savings account used exclusively for the payment of long-term health care expenses of that individual (within the meaning of section 25A(c)(4)).".

(2) The table of sections for such part III is amended by striking out the item relating to section 135 and inserting in lieu thereof the following new items:

"Sec. 136. Long-term health care savings account distributions.

"Sec. 137. Cross references to other Acts.".

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Long-term health care savings accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, long-term health care savings accounts, certain 403(b) contracts, and certain individual retirement annuities.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on long-term health care savings accounts" after "annuities" in the item relating to section 6693.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

S. 141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LONG-TERM HEALTH CARE INSURANCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25, the following new section:

"SEC. 25A. LONG-TERM HEALTH CARE INSURANCE.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage of the long-term health insurance costs paid by such individual during such taxable year for a qualifying individual.

"(2) APPLICABLE PERCENTAGE DEFINED.—

"(A) GENERAL RULE.—For purposes of paragraph (1), the term 'applicable percentage' means 15 percent of the cost of long-term health care insurance incurred by a taxpayer during any taxable year which does not exceed—

"(i) $300 if such insurance covers 1 qualifying individual, or

"(ii) $600 if such insurance covers 2 or more qualifying individuals.

"(B) PHASE OUT OF 15 PERCENT CREDIT.—In accordance with tables developed by the Secretary, the applicable percentage shall be reduced ratably in the same manner and over the same amount as the 15-percent rate is phased out for taxable income in excess of the applicable dollar amount under section 1(g).

"(b) QUALIFYING INDIVIDUAL.—

"(1) DEFINITION.—The term 'qualifying individual' means the beneficiary of long-term health care insurance if such individual is—

"(A) the taxpayer,

"(B) the spouse of the taxpayer, or

"(C) the parent of the taxpayer or of the taxpayer's spouse (in the case of a joint return under section 6013).

"(2) PARENT NEED NOT BE DEPENDENT.—For purposes of paragraph (1), a parent of the taxpayer or of the taxpayer's spouse need not qualify as a dependent under section 152.

"(3) INSURANCE COSTS PAID BY MORE THAN 1 PERSON.—If more than 1 individual contributes to the long-term health care insurance costs for a parent, the amount of such costs shall be allocated proportionately among all individuals contributing to such costs during that year on the basis of the amounts contributed by such individual.

"(c) DEFINITIONS OF LONG-TERM HEALTH CARE INSURANCE AND LONG-TERM HEALTH CARE.—For purposes of this section—

"(1) LONG-TERM HEALTH CARE INSURANCE.—The term 'long-term health care insurance' means an insurance contract through which long-term health care benefits are provided and the renewal of such contract is guaranteed.

"(2) LONG-TERM HEALTH CARE.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term health care' means providing necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by a chronically ill individual in a qualified facility by a qualified provider.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, licensed under State law, or

"(II) an individual's home if a physician, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is not greater than the cost of similar services provided in a facility described in subclause (I).

"(ii) CHRONICALLY ILL INDIVIDUAL.—The term 'chronically ill individual' means an individual who has been certified by a physician, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iii) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any service the primary purpose of which is to provide needed assistance with any of the activities of daily living described in clause (ii).

"(iv) QUALIFIED PROVIDER.—The term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid employed by a licensed home health agency, or trained home health aid licensed under State law, but does not include a relative or other person who ordinarily resides in the home.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 213(d)(4).".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after the item relating to section 25 the following new item:

"Sec. 25A. Long-Term Health Care Insurance.".

SEC. 2. DEDUCTION FOR NON-DEPENDENT PARENT LONG-TERM HEALTH CARE EXPENSES.

(a) IN GENERAL.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR NON-DEPENDENT PARENT.—A taxpayer may treat as a deductible expense for purposes of subsection (a), any expense incurred by a taxpayer during the taxable year for long-term health care (as defined by section 25A(c)(2)) if such expense is incurred for a non-dependent parent of the taxpayer or the taxpayer's spouse (in the case of joint return under section 6013).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Long-Term Care Insurance Consumer Protection Act of 1989".

SEC. 2. ESTABLISHMENT OF PROGRAM OF VOLUNTARY CERTIFICATION OF LONG-TERM CARE INSURANCE POLICIES.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended by inserting immediately after section 1882 the following new section:

"VOLUNTARY CERTIFICATION OF LONG-TERM CARE INSURANCE POLICIES

"SEC. 1882A. (a) The Secretary shall establish a procedure whereby long-term care insurance policies (as defined in subsection (f)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to verify independently the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements

and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

"(b)(1) Any long-term care insurance policy issued in any State that the Long-Term Care Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

"(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Act Standards (as defined in subsection (f)(2)(A)),

"(B) includes requirements equal to or more stringent than the requirements described in subsection (c)(2), and

"(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all long-term care insurance policies (as defined in subsection (f)(1)) issued in such State;

shall be deemed (for so long as the Long-Term Care Insurance Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

"(2)(A) There is hereby established a panel to be known as the Long-Term Care Insurance Panel (hereinafter in this section referred to as the 'Panel'). The Panel shall consist of the Secretary, who shall serve as the Chairman, three State commissioners or superintendents of insurance, one representative of the insurance industry, and four individuals chosen from among medicare beneficiaries and representatives of employers and labor. Such commissioners or superintendents and individuals shall be appointed by the President and serve at his pleasure, with the first such appointments made not later than December 31, 1989.

"(B) The provisions of subparagraphs (B) through (E) of section 1882(b)(2) shall apply to the Panel to the same extent as they apply to the Supplemental Health Insurance Panel under such section.

"(c) The Secretary shall certify under this section any long-term care insurance policy, or continue certification of such a policy, only if he finds that such policy—

"(1) meets or exceeds (either in a single policy, or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another) the NAIC Model Act Standards; and

"(2)(A) is guaranteed to be renewable on the basis of the same premium rate (or, if a different rate, a rate that is adjusted on a class basis),

"(B) allows an individual a period of at not less than 30 days to rescind the purchase of a policy,

"(C) contains a statement of the availability of (and limitation upon) long-term care benefits under the insurance programs established under this title (to the same extent as is provided to beneficiaries under this title by the Secretary under section 4 of the Long-Term Care Insurance Consumer Protection Act of 1988), and

"(D) meets or exceeds such other requirements as the Secretary (in consultation with State commissioners or superintendents of insurance) shall by regulation prescribe.

"(d)(1) Whoever knowingly and willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(2)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(B)(i) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a long-term care insurance policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance.

"(ii) For purposes of clause (i), a long-term care insurance policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(I) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (f)(2)(B));

"(II) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 percent of such policies are sold; or

"(III) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a long-term care insurance policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a long-term care insurance policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of long-term care insurance policies to them and the relationship of any such policies to benefits provided under this title.

"(f)(1)(A) Subject to the last sentence of this subparagraph, for purposes of this section, a long-term care insurance policy is any insurance policy offered by a private entity that provides coverage—

"(i) for not less than 12 consecutive months for each covered person,

"(ii) on an expense incurred, indemnity, prepaid or other basis, and

"(iii) for one or more long-term health care services.

No insurance policy that is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage shall be considered a long-term care insurance policy under this section.

"(B)(i) For purposes of subparagraph (A)(iii), the term 'long-term health care services' includes any service that—

"(I) consists of the providing of necessary diagnostic, preventive, therapeutic, and rehabilitative services, or maintenance or personal care services, required by an individual who is chronically ill or disabled, and

"(II) is provided in a qualified facility by a qualified provider.

"(ii) For purposes of this subparagraph, the term 'qualified facility' means—

"(I) a nursing, rehabilitative, hospice, or adult day care facility, including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution, or

"(II) an individual's home if a medical practitioner, licensed under State law, certifies that without home care the individual would have to be cared for in a facility described in subclause (I), except that such home shall be treated as a qualified facility only to the extent the cost of such services is greater than the cost of similar services provided in a facility described in subclause (I).

"(iii) For purposes of this subparagraph, the term 'chronically ill individual' means an individual who has been certified by a medical practitioner, licensed under State law, as requiring assistance with eating, toileting, mobility, bathing, or dressing.

"(iv) For purposes of this subparagraph, the term 'maintenance and personal care services' means any service the primary purpose of which is—

"(I) to provide needed assistance with any of the activities of daily living described in clause (iii), or

"(II) to provide needed assistance with any of the following instrumental activities of daily living: housekeeping, shopping, errands, food preparation, laundry, and chores.

"(v) For purposes of this subparagraph, the term 'qualified provider' means a medical practitioner licensed under State law, registered nurse, licensed registered nurse, qualified therapist, trained home health aid, or homemaker, but does not include a relative or other person who ordinarily resides in the home.

"(2) For purposes of this section—

"(A) the term 'NAIC Model Act Standards' means the standards set forth in the Long-Term Care Insurance Model Act (as revised), adopted by the National Association of Insurance Commissioners in January, 1988;

"(B) the term 'State with an approved regulatory program' means a State for which the Panel has made a determination under subsection (b)(1); and

"(C) the State in which a policy is issued means—

"(i) in the case of an individual policy, the State in which the policyholder resides, and

"(ii) in the case of a group policy, the State in which the holder of the master policy resides.

"(g)(1) No long-term care insurance policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1990. On and after such date, policies certified by the Secretary may bear such emblem, including policies that were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified policies prior to such date using such emblem in the notification.

"(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1990, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall implement such program under subsection (a) with respect to long-term care insurance policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).

"(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1990, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph.

"(h) Nothing in this section shall be construed so as to affect the right of any State to regulate long-term care insurance policies that, under the provisions of this section, are considered to be issued in another State.".

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Long-Term Care Insurance Panel established under section 1882A(b)(2)(A) of the Social Security Act (as added by the amendment made by subsection (a)) shall report to the Congress its recommendations on whether the standards and requirements set forth in section 1882A(c) of such Act (as so added) should include with respect to any long-term care insurance policy either of the following requirements:

(1) Any such policy must meet a minimum loss ratio (or other value measure).

(2) Any such policy must disclose minimum loss ratios or other key financial information.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 3. CLARIFICATION OF CRIMINAL SANCTION FOR SALE OF HEALTH INSURANCE POLICIES THAT DUPLICATE MEDICARE BENEFITS.

(a) IN GENERAL.—Section 1882(d)(3) of the Social Security Act (42 U.S.C. 1395ss(d)(3)) is amended by striking "entitled," and inserting "entitled (including benefits furnished by a skilled nursing facility or home health agency),".

SEC. 4. NOTICE TO MEDICARE BENEFICIARIES REGARDING AVAILABILITY OF LONG-TERM CARE BENEFITS UNDER MEDICARE PROGRAM.

(a) NOTICE REQUIRED.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall notify each individual who is entitled to benefits under title XVIII of the Social Security Act of the availability of (and limitation upon) long-term care benefits (as defined by the Secretary) under the insurance programs that are established under title XVIII of the Social Security Act.

(b) TIMING.—The Secretary shall provide the notice described in subsection (a)—

(1) when an individual applies for benefits under part A or enrolls under part B of such title on or after January 1, 1990, and

(2) in November of 1989 and annually thereafter.

By Mr. INOUYE:

S. 143. A bill to establish the Indian Development Finance Corporation; to the Select Committee on Indian Affairs.

INDIAN DEVELOPMENT FINANCE CORPORATION ACT

● Mr. INOUYE. Mr. President, during the last Congress both the House and Senate passed legislation to create an Indian Development Finance Corporation. This bill was sent to the White House in the final days of the 100th Congress and was pocket vetoed. Today I am reintroducing this bill.

The cycle of poverty and unemployment on Indian reservations has remained unbroken for over 100 years. Although the Federal Government has spent millions of dollars over the past 20 years to stimulate economic development on reservations, the only result has been an even stronger dependency on the Federal Government for income and support. The reasons for this failure have been documented in many reports and they include inadequate levels of funding, lack of coordination between programs, and a lack of private business experience on the part of the program administrators.

The Indian Development Finance Corporation Act is a proposal which would depart from the failed policies of the past by emulating the successful experiences of the World Bank. The IDFC would stimulate economic development by furnishing long-term capital, providing project development and business venture assistance through a combination of equity investments, direct loans and loan guarantees. The proposal that passed last year was the result of years of discussion among economic experts, tribal leaders, and Members of Congress, and represented the first truly innovative and significant step toward addressing the economic problems plaguing Indian reservations.

I believe that President Reagan was advised to veto this bill primarily because the administration was not involved in the development of the legislation. However, I am convinced that this proposal has merit and that the hearing I have scheduled for March 3, 1989, will provide an opportunity for the new administration to present views that will be constructive and germane.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Development Finance Corporation Act".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) a special relationship has existed between the United States and the Indian tribes which is recognized in clause 3, section 8, article I of the United States Constitution,

(2) Congress, through statutes, treaties and the exercise of administrative authorities, has implemented the Federal Government's responsibility for the protection and preservation of Indian tribes and their resources,

(3) despite the availability of abundant, natural resources on Indian lands and a rich, cultural legacy which places great value on self-determination, self-reliance and independence, American Indians and Alaskan Natives experience poverty and unemployment along with the associated incidences of social pathology, to an extent unequaled by any other group in America,

(4) the reasons for such unparalleled poverty and unemployment have been widely studied and documented by the Congress, the General Accounting Office, the United States Department of the Interior, private academic institutions and the Indian tribes themselves and that such studies have consistently identified as fundamental obstacles to balanced economic growth and progress—

(A) the very limited availability of long term development capital and sources of financial credit necessary to support the development of a private sector economy in Indian country comprised of Indian owned business enterprises,

(B) the lack of effective control by the Indians over their own lands and resources, and

(C) the scarcity of experienced Indian managers and technicians,

(5) previous efforts of the Federal Government directed at stimulating Indian economic development through the provision of grants, direct loans, loan guarantees, and interest subsidies have fallen far short of their objectives due to—

(A) inadequate funds,

(B) lack of coordination,

(C) arbitrary project selection criteria,

(D) politicalization of the delivery system, and

(E) other inefficiencies characteristic of a system of publicly administered financial intermediation, and

(6) the experience acquired by multilateral lending institutions among the so-called lesser developed countries has demonstrated the value and necessity of development financing institutions in achieving economic

growth in underdeveloped economies and societies which are strikingly similar to Indian and Alaskan Native communities in relation to such matters as control over natural resource management and the absence of experienced, indigenous managers and technicians, as well as the availability of long term development capital and private sources of financial credit.

(b) It is hereby declared to be the policy of Congress that, in fulfillment of its special and longstanding responsibility to the Indian tribes, the Federal Government should provide assistance to the Indian people in their efforts to break free from the devastating effects of extreme poverty and unemployment and achieve lasting economic self-sufficiency through the development of the private sector of tribal economies by establishing a federally chartered, mixed ownership development financing institution which shall provide a broad range of financial intermediary services including working capital, direct loans, loan guarantees and project development assistance utilizing the proven efficiencies of the private market mode of operation.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Indian" means any person who is a member of any Indian tribe.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, which is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians including any Alaska Native village or regional or village corporation as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) The term "reservation" means any Indian reservation, public domain Indian allotment, or former Indian reservation in Oklahoma.

(4) The term "tribal organization" means the governing body of any Indian tribe or any entity established, controlled, or owned by such governing body.

(5) The term "Indian business enterprise" means any commercial, industrial or business entity—

(A) at least 51 percent of which is owned by one or more Indian tribes or Indians who are members of Indian tribes which are shareholders of the Corporation,

(B) which produces or furnishes goods, services, or facilities, which is operated, or organized on a for-profit basis, and

(C) whose—

(i) principal place of business is located within, or adjacent to, the boundaries of an Indian reservation or land held by any Alaska Native village or regional or village corporation (as defined in, or established under, the provisions of the Alaska Native Claims Settlement Act), or

(ii) principal business activities in addition to the production of a stream of income are determined by the Corporation to be directly beneficial to an Indian tribe, to contribute to the economy of such Indian tribe, and to have a significant impact on the entrepreneurial and employment opportunities and levels within an Indian reservation or within Indian lands.

Such term includes any subsidiary entity which is owned and controlled by any commercial, industrial or business activity described in the preceding sentence.

(6) The term "Corporation" means the Indian Development Finance Corporation established under section 101(a).

(7) The term "Secretary" means the Secretary of the Interior.

CONSTRUCTION OF THIS ACT

SEC. 4. Except as may be specifically provided in this Act, nothing in this Act may be construed to—

(1) affect the sovereign immunity of any Indian tribe,

(2) authorize the Corporation to acquire any trust assets of an Indian tribe, or

(3) diminish the trust obligation of the United States to any Indian tribe or any member of an Indian tribe.

TITLE I—ESTABLISHMENT OF CORPORATION

CREATION

SEC. 101. (a) There is hereby established the Indian Development Finance Corporation.

(b) The Corporation shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of the Corporation.

FUNCTIONS

SEC. 102. (a) It shall be the duty of the Corporation to—

(1) assist in strengthening Indian tribal economies through the development of Indian business enterprises whose activities are directed at contributing to such economies by having a significant positive impact on the employment opportunities within Indian reservations or Indian lands of tribal members;

(2) provide development capital through the financial services that the Corporation is authorized to provide under subsections (b), (c), and (d);

(3) encourage the development of new and existing Indian business enterprises eligible for its assistance by providing and coordinating the availability of—

(A) long term capital and working capital,

(B) loans, loan guarantees and other forms of specialized credit, and

(C) technical and managerial assistance and training;

(4) maintain broad based control of the Corporation in its voting stockholders; and

(5) encourage active participation in the Corporation by Indian tribes by ownership of its equity securities.

(b)(1) The Corporation may—

(A) make loans or commitments for loans to any Indian business enterprise, or

(B) purchase, insure or discount any obligations of an Indian business enterprise, if such enterprise meets the requirements of paragraph (2).

(2) An Indian business enterprise meets the requirements of this paragraph if the Corporation makes an independent determination that—

(A) such enterprise has or will have—

(i) a sound organizational and financial structure,

(ii) income in excess of its operating costs,

(iii) assets in excess of its obligations, and

(iv) a reasonable expectation of a continuing demand for—

(I) its production, goods, commodities, or services, or

(II) its facilities, and

(B) the loan or obligation of such enterprise will be fully repayable in accordance with the terms and conditions of such loan or obligation.

(3)(A) In setting the terms, rates, and charges for loans made under this subsection the objective of the Corporation shall be to provide the type of credit needed by Indian business enterprises at the lowest reasonable cost and on a sound business basis, taking into account—

(i) the cost of money to the Corporation,

(ii) the necessary reserve and expenses of the Corporation, and

(iii) the technical and other assistance attributable to loans made available by the Corporation under this subsection.

(B) The terms of any loan made under this subsection may provide for interest rates which vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Corporation for new loans at such times.

(4) The proceeds of a loan made under this subsection may be advanced or reloaned by the borrower to its members or stockholders for the development of individually owned businesses on or adjacent reservations, or land held by any Alaska Native village or regional or village corporation (as defined in, or established under, the provisions of the Alaska Native Claims Settlement Act), under circumstances permitted under the bylaws or rules of the Corporation.

(c)(1) The Corporation may guarantee up to, but not exceeding, 90 percent of the principal and interest of any loan made by any State or federally chartered lending institution to any Indian business enterprise if—

(A) such loan is to an Indian business enterprise that meets the requirements of subsection (b)(2), and

(B) such loan was made on terms and conditions (including the rate of interest) which would be permissible terms and conditions if such loan were a direct loan made by the Corporation.

(2) The Corporation may impose a charge for any loan guarantee made under this subsection.

(3) No loan may be guaranteed by the Corporation under this subsection if the income from such to the lender is excludable from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1986.

(4) Any loan guarantee made under this subsection shall be assignable to the extent provided in the contract of guarantee entered into by the Corporation.

(5) Any guarantee made under this subsection shall be uncontestable, except in the case of fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan.

(6) The Corporation, in lieu of requiring the original lender to service a loan guaranteed under this subsection until final maturity or liquidation, may purchase such guaranteed loan for an amount equal to the balance of the principal and the amount of interest accrued thereon without penalty if the Corporation determines that the purchase would not be detrimental to the interests of the Corporation and—

(A) the liquidation of such guaranteed loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation,

(B) such guaranteed loan will be repayable with revision of the loan rates, terms, payment periods, or other conditions consistent with loans made by the Corporation under subsection (b), and

(C) the lender or other holder of such guaranteed loan is unwilling to make such revision.

(d)(1) For purposes of providing long-term capital and working capital to Indian business enterprises, the Corporation is authorized to purchase, or make commitments to

purchase, no more than 30 percent of the equity or ownership interest in any Indian business enterprise if the Corporation determines, after a full and complete appraisal of all project and business plans associated with the investment taking into account the criteria set forth in subsection (b)(2) that such an investment does not expose the Corporation to any unreasonable business risks considering the applicable standards prevailing in the field of development finance as applied to Indian economic development (or, in light of the socio-economic, political and legal conditions unique to Indian reservations).

(2) The Corporation is also authorized to supervise or participate in the management of Indian business enterprises in which an investment has been made under paragraph (1) according to such terms and conditions as are agreed to by the Corporation and the principals of the enterprise, including the assumption of a directorship in the corporate body of such Indian business enterprise by an officer of the Corporation.

GENERAL POWERS

SEC. 103. In carrying out the provisions of this Act, the Corporation shall have the power, consistent with the provisions of this Act—

(1) to adopt and alter a corporate seal, which shall be judicially noticed,

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code, except that the Corporation shall provide financial assistance only in accordance with this Act,

(3) to—

(A) lease, purchase, accept gifts or donations of, or otherwise to acquire,

(B) own, hold, improve, use, or otherwise deal in or with, and

(C) sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of,

any property, real, personal, or mixed, or any interest therein,

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction,

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings,

(6) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable,

(7) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this Act and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense),

(8) to use the United States mails on the same terms and conditions as the executive departments of the United States Government,

(9) to obtain insurance or make other provisions against losses,

(10) to participate with one or more other financial institutions, agencies, instrumentalities, trusts, or foundations in loans or guarantees made under this Act on terms as may be agreed upon,

(11) to accept guarantees from other agencies for which loans made by the Corporation may be eligible,

(12) to establish, as soon as practicable, regional offices in order to more efficiently serve the widely disbursed Indian population,

(13) to buy and sell—

(A) obligations of, or instruments insured by, the United States or any agency or instrumentalities thereof, or

(B) securities backed by the full faith and credit of any such agency or instrumentality,

(14) to make such investments as may be authorized by the Board of Directors of the Corporation,

(15) to establish such offices within the Corporation as may be necessary including offices for—

(A) Project Development,

(B) Project Evaluation and Auditing,

(C) Fiscal Management,

(D) Research and Development, and

(E) any other offices as may from time to time be authorized by the Board of Directors, and

(16) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation in order to carry out the provisions of this Act and the exercise of its powers, purposes, functions, duties, and authorized activities.

BOARD OF DIRECTORS

SEC. 104. (a) The powers of the Corporation shall be vested in the Board of Directors.

(b)(1) The Board of Directors shall consist of the following 15 members:

(A) 1 officer of the United States Government designated by the Secretary of the Interior,

(B) 13 individuals appointed by the President by and with the advice and consent of the Senate, and

(C) the President of the Corporation.

(2)(A) Of the members of the Board of Directors described in paragraph (1)(B)—

(i) at least 7 members shall be Indians, and

(ii) no more than 7 members may be members of the same political party.

(B) In making appointments under paragraph (1)(B) and paragraph (4), the President shall take into account the experience of the individual in private business enterprises and in development or commercial finance and shall consult with, and receive recommendations from Indian tribes.

(3)(A) Of the initial members of the Board of Directors appointed by the President under paragraph (1)(B)—

(i) 3 members shall have a term of office of 1 year,

(ii) 3 members shall have a term of office of 2 years,

(iii) 3 members shall have a term of office of 3 years, and

(iv) 4 members shall have a term of office of 4 years.

The term of office assigned to each of these initial members of the Board of Directors shall be determined by the President at the time of appointment.

(B) Except as otherwise provided in this paragraph, the term of office for any members of the Board of Directors described in paragraph (1)(B) shall be 4 years.

(4) If a vacancy occurs on the Board of Directors prior to the expiration of the term of office to which a member described in paragraph (1)(B) was appointed, the President shall appoint an individual, by and with the consent of the Senate, to fill such vacancy until the expiration of such term of office.

(5) A member of the Board of Directors may be removed from office by the President only for neglect of duty or malfeasance in office.

(c)(1) The Board of Directors shall establish the policies of the Corporation and shall supervise the management of the Corporation.

(2)(A) A majority of the Board of Directors shall constitute a quorum.

(B) Except as provided in subparagraph (C), any action of the Board of Directors shall be effected by majority vote of the members of the Board of Directors.

(C) The Board of Directors may take an action which is contrary to a policy adopted, or decision made, by the shareholders of the Corporation in an election held under the bylaws of the Corporation only if two-thirds of the members of the Board of Directors vote to take such contrary action.

(3) The Board of Directors shall annually elect from among the members described in subsection (b)(1)(B) a Chairman and Vice Chairman.

(4) The Board of Directors shall adopt, and may amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(5)(A) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly.

(B) Subject to such rules adopted by the Board of Directors as are necessary for the orderly conduct of business, all meetings of the Board of Directors shall be open to representatives of Indian tribes, Indian business enterprises, and Indian organizations and any individual who has an identifiable interest in the affairs of the Corporation. The Board of Directors may meet in private executive session if the matter under discussion in such session involves any matter which may impinge on the right of privacy of any individual.

(d) Each member of the Board of Directors not otherwise employed by the Federal Government or a State government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveling time, the member is engaged in the actual performance of duties as a member of the Board of Directors. A member of the Board of Directors who is an officer or employee of the United States Government or of a State government shall serve without additional compensation. All members of the Board of Directors shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

OFFICERS; EMPLOYEES

SEC. 105. (a) The Board of Directors shall appoint a President of the Corporation. The President of the Corporation may be removed from office by the Board of Directors in accordance with the bylaws of the Corporation.

(b) The President of the Corporation shall serve as the chief executive officer of the Corporation. Subject to the direction of the Board of Directors and the general supervision of the Chairman, the President of the Corporation shall have the responsibility for carrying out the policies and functions of the Corporation, and shall have authority over all personnel and activities of the Corporation.

(c) The President of the Corporation, with the approval of the Board of Directors, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Corporation. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 106. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the members of the Board of Directors, the officers of the Corporation and to employees of the Corporation whose position is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

(b)(1) Except as permitted by paragraph (3), no member of the Board of Directors shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his knowledge—

(A) such member,

(B) his spouse, child, or partner,

(C) an organization (other than the Corporation) in which he is serving as officer, director, trustee, partner, or employee, or

(D) any person or organization with whom he is negotiating, or has any arrangement concerning, prospective employment,

has a financial interest.

(2) Action by any member of the Board of Directors contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to section 104(b)(5), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which such member participated.

(3) The prohibition contained in paragraph (1) shall not apply if the member first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such member's services for the Corporation in that matter. The member involved shall not participate in such determination.

(c) Subsection (a) of section 207 of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former members of the Board of Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

ANNUAL MEETINGS

SEC. 107. (a) The Corporation shall hold an annual meeting of its shareholders which shall be open to the public. At such meeting, the Corporation shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to shareholders and Indian business enterprises eligible for services from the Corporation.

(b) Shareholders and representatives of Indian business enterprises may present motions or resolutions at the annual meeting of shareholders relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda of such meeting.

(c) At least 30 days notice of the time and place of the annual meeting required under subsection (a) shall be given to all shareholders.

(d) Each member tribe shall be entitled to vote their common stock on all matters before the annual shareholders meeting.

REPORTS TO CONGRESS

SEC. 108. (a) The Board of Directors of the Corporation shall report annually to the appropriate committees of the Congress on the Corporation's capital, operations, and financial condition. Such report shall include recommendations for legislation needed to improve the services of the Corporation.

(b) At the close of the first calendar year beginning after enactment of this Act, the Corporation shall submit to the Congress a comprehensive, 5-year organizational development plan which includes:

(1) financial projections,

(2) a description of a corporate structure and locations, and

(3) operational guidelines, particularly the coordinating relationship the Corporation has, or will have, with Federal domestic assistance programs which allocate financial resources and services to Indian tribes and reservations for economic and business development purposes.

(c) By no later than the date that is 3 years after the date of enactment of this Act, the Secretary shall submit to the Congress a report on an evaluation of the activities of the Corporation that the Secretary shall conduct for purposes of determining whether there is excessive duplication of services between the activities of the Corporation and the credit and financial activities of the Secretary, conducted through the Bureau of Indian Affairs, under the authority of the Indian Financing Act of 1974 (25 U.S.C. 1451, et seqq.). The report shall include recommendations on—

(1) appropriate actions that the Congress should take, and

(2) the advisability of transferring the administration of such credit and financial activities of the Secretary to the Corporation.

ADVISORY COUNCIL

SEC. 109. (a) There is hereby established the Advisory Council to the Indian Development Finance Corporation (hereafter in this section referred to as the "Council"), which shall provide advice on the policies and operations of the Corporation.

(b) The Council shall consist of—

(1) the Comptroller of the Currency,

(2) the Secretary of Interior, and

(3) the Chairman of the Board of Governors of the Federal Reserve System.

(c) The Council shall—

(1) recommend to the Board of Directors of the Corporation general policy directives,

(2) be available to provide financial and technical assistance upon request of the Board of Directors,

(3) transmit to the Board of Directors and the Congress an annual report with respect to the policies of the Corporation that contains data on the operations and policies of the Corporation, recommendations concerning the Corporation, and such other data and material as the Council may deem appropriate, and

(4) make reports and recommendations to the Board of Directors as it may from time to time request or as the Council may consider necessary to more effectively or efficiently accomplish the purposes of this section or the purposes for which the Council is created.

(d) The Board of Directors of the Corporation shall keep the Council fully informed of its activities and shall provide the Council with such further information or data in its possession as the Council may deem necessary to the appropriate discharge of the responsibilities of the Council under this section.

CONFORMING AMENDMENTS

SEC. 120. (a) Paragraph (2) of section 9101 of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) the Indian Development Finance Corporation."

(b) Paragraph (3) of section 9107(c) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(c) Paragraph (2) of section 9108(d) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"President, Indian Development Finance Corporation.".

TITLE II—CAPITALIZATION

ISSUANCE OF STOCK

SEC. 201. (a)(1) The Corporation is authorized to issue shares of stock in the Corporation in an amount and of such class as may be determined by the Board of Directors subject to the provisions of this section.

(2) Shares of stock in the Corporation may only be issued to and may only be held by Indian tribes and the United States.

(3) The Corporation is authorized to redeem or repurchase any share of stock issued by the Corporation at a price determined by the Board of Directors.

(b)(1) The Corporation shall make an initial offering of a total of 2,100,000 shares of common stock of the Corporation for sale at $50 per share to Indian tribes.

(2) The number of such shares of stock required to be purchased by each Indian tribe in order to become a member of the Corporation shall be determined on the basis of an equitable formula established by the Board of Directors taking into account indicators of the economic condition of each tribe applying for membership such economic indicators to be developed by the Board and thereafter applied on a uniform basis.

(3)(A) Twenty percent of the value of the stock to be purchased by each tribe as a condition of membership shall be paid into the Corporation in the form of cash or cash equivalent securities and 80 percent shall be in the form of a legally binding commitment available for call by the Board to meet the obligations of the Corporation but not for use of the Corporation in lending activities or for administrative expenses.

(B) For the purposes of this paragraph, the term "legally binding commitment" shall not include any trust assets except that contingent upon the approval of the Secretary, it may include callable assignments of income from specified trust sources.

(C) For the purpose of entering into such legally binding commitment, Indian tribes may enter into contracts providing for a limited waiver of sovereign immunity, except that such waivers of sovereign immunity shall be limited as specifically provided in such contracts and shall not extend beyond the terms of such contracts.

(c)(1) The Secretary is authorized to subscribe to 2,000,000 shares of capital stock in the Corporation.

(2) The Secretary—

(A) shall, subject to availability of appropriations made in advance for this purpose, pay $20,000,000, representing 20 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), to the Corporation within a 2-year period beginning on the date of enactment of this Act, and

(B) beginning in fiscal year 1991, is authorized to agree on behalf of the United States to pay up to $80,000,000, representing 80 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), or any portion thereof, to the Corporation upon call of the Board of Directors of the Corporation. The amount of this request for funds to establish a reserve for loss, will be determined by the Secretary of Interior and the Board of Directors based upon an assessment of need, taking into account a risk analysis of the investment and credit policies and practices of the Corporation. Any commitment to make such contributions shall be made subject to obtaining the necessary appropriations, and shall be made when funds are required to meet obligations of the Corporation for funds borrowed by the Corporation or for loans guaranteed by the Corporation, but not for use of the Corporation in lending activities of the Corporation or for administrative expenses of the Corporation.

(3) The capital stock subscribed by the Secretary on behalf of the United States under paragraph (1)—

(A) shall be valued at $50 per share,

(B) shall be nonvoting stock,

(C) shall not accrue dividends, and

(D) may not be transferred to any person or entity other than the Corporation.

(d) The board shall establish policies for payment of dividends to the Corporation's shareholders to be based on sound business practices and fiscal management principles and which shall give a priority to providing a return on investment based on each shareholders pro-rata interest in income generated from the capital contribution of common stock shareholders as compared to income attributable to capital contributed by the United States.

(e) The stock or other securities or instruments issued by the Corporation shall, to the same extent as securities which are the direct obligations of the United States, be exempted securities, within the meaning of the laws administered by the Securities and Exchange Commission.

BORROWING AUTHORITY

SEC. 202. (a) The Corporation is authorized, subject, in any fiscal year, to appropriations made in advance, to issue bonds, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board of Directors shall determine after consultation with the Secretary of the Treasury.

(b) The aggregate amount of obligations issued under subsection (a) shall not exceed an amount equal to—

(1) the product of ten multiplied by the sum of—

(A) the paid-in capital of the Corporation, plus

(B) retained earnings and profits of the Corporation, and

(2) the book value of callable capital represented by the total commitments of tribal shareholders and the $80 million subscribed to by the United States as provided for in section 201(c)(2)(B).

(c) An obligation issued under subsection (a) may be sold through an agent by negotiation, offer, bid, syndicate sale or otherwise and such transaction completed by book entry, wire transfer, or such other means as may be appropriate.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

GENERAL OPERATIONAL EXPENSES

SEC. 301. In addition to amounts authorized to be appropriated under section 302, there are authorized to be appropriated—

(1) $2,000,000 for fiscal year 1990 for the purpose of carrying out the provisions of this Act,

(2) $2,500,000 for each of the fiscal years 1990, 1991, 1992, 1993 and 1994 for the purpose of project development activities under this Act, and

(3) such sums as may be necessary to carry out the provisions of this Act for each of the fiscal years 1991 and 1992.

AUTHORIZATIONS FOR PAID-IN CAPITAL STOCK

SEC. 302. There are authorized to be appropriated for each of the fiscal years 1990 and 1991, $10,000,000 for the purpose of carrying out the provisions of section 201(c)(2)(A). Such sums shall remain available until expended. Beginning in fiscal year 1992, such amounts, not to exceed a total of $80,000,000, are authorized to be appropriated for the purpose of carrying out the provisions of section 201(c)(2)(B).●

By Mr. METZENBAUM:

S. 146. A bill to provide comprehensive Federal assistance for day care; to the Committee on Labor and Human Resources.

FEDERAL ASSISTANCE FOR DAY CARE

● Mr. METZENBAUM. Mr. President, I am today introducing the Day Care for Working Families Act of 1989, legislation which will expand the availability of quality, affordable day care in this country.

Day care is not a luxury—it's a necessity. The majority of young couples today must both work to put food on the table and a roof over their heads. But increasingly, quality day care is hard to find at any price.

A national survey done 2 years ago, found that 42 percent of the parents with children under 6 said the child care they need is not available, and 28 percent said the quality of their child's care was not as good as it should be.

In 1981, I introduced legislation to expand the day care tax credit. At that time, I noted in the RECORD how fare we had fallen behind in providing essential day care services. I am sad to say that the situation has not improved very much over the last 7 years.

Mr. President, we have a challenge on our hands. The American labor force has been transformed over the past two decades, and the Federal Government has been asleep at the switch.

The result is long waiting lists for day care, complex arrangements with family members and babysitters, and a lot of anxiety.

There is nothing more important to a parent than knowing their child is being cared for in a safe and loving environment. If you don't have that, you don't have peace of mind.

America needs quality day care and what we've got is a shortage—a shortage of crisis proportions for infants, for handicapped children and for kids after school.

The legislation which I am introducing today will help us to come to grips with that shortage.

First, the bill provides for a separate line item for title XX day care services. A reserve fund is created and States must spend these funds for day-care services.

According to CBO, the title XX block grant currently includes $500 million for day care. My bill increases that amount by $200 million and does not reduce the funding for any other program within the title XX block grant. It is important that these services be held harmless since they are vital to the welfare of so many people in need in our society.

I believe that this increase for day care services is long overdue. A study completed in Ohio by the children's defense fund has shown that $1 spent on day care saves $3 in welfare costs.

With all the attention currently being devoted to the reform of our welfare system, there is every reason to invest in day care for low-income families. It is the key to successful reform of the system.

The bill which I am introducing today will also provide demonstration grants for the establishment of employer-community day care councils. These councils will be made up of employers from the private and public sectors, as well as day care providers, parents, and other local community officials.

The demonstration grants, which will be administered by the Secretary of Labor, will be a 50-50 split between Federal funds and funds from State and local communities.

These grants can be used to provide startup and operating costs for day care resource and referral programs in local communities. Such programs have proven to be of enormous help in directing parents to the day care serv-

ices which are best suited to their needs. In addition, they have helped expand the availability of day care by recruiting, training, and licensing family day care homes.

The grants can also be used to fund the start up, renovations, and expansion of day care facilities, and to support day care services for handicapped children.

There is a severe shortage of day care options for special needs children. Oftentimes the only option available is very costly in home care.

Finally the grants under this section of the bill can also be used to provide financial assistance to low-income families who do not qualify for title XX day care services.

I believe that the employer-community day care councils will allow the maximum flexibility at the local level and provide businesses with incentives to get more involved in providing their employees with support in their search for quality and affordable day care services.

Mr. President, we need more day care centers in this country. Toward this end, the legislation establishes a special SBA loan guarantee program for day care centers. The SBA will conduct and outreach program to provide advice and assistance to prospective providers of day care services.

Although day care providers can currently request SBA loans, they often encounters barriers since their loan amounts are typically much smaller than SBA is used to handling.

In addition to establishing a $30 million loan fund exclusively for day care, the bill requires the SBA to report to Congress within 4 months on how the needs of day care providers are being addressed.

Finally, Mr. President, the Day Care for Working Families Act includes a minimum set of standards for day care which States must enforce if they are to avail of funds under that act.

States can and should go much further than these provision to ensure that children are cared for in a clean and safe environment. However, these provisions establish some basic safeguards like regular and unannounced inspections; and open visiting policy for parents; training for day care center staff in child abuse prevention and identification; and a posting of a toll-free number to the State licensing authority.

Mr. President, as I said at the outset, the time has come to make day care a national priority.

I am hopeful that the legislation I am introducing today will be a significant contribution to that effort.

Mr. President, I ask unanimous consent that the full text of the Day Care for Working Families Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Day Care for Working Families Act of 1989".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) One of the most significant changes in the labor force in the last 20 years has been the increase in the number of mothers in the workforce.

(2) Half of American mothers return to work before their baby's first birthday.

(3) In 65 percent of married-couple families with children, both the husband and wife are in the labor force.

(4) In less than 10 years time, 3 out of every 4 school-age children and 2 out of 3 preschool children will have mothers in the labor force.

(5) Over 62 percent of all new jobs created since the mid-1970's were filled by women. One in every 5 American workers is a mother. By 1990, two-thirds of all new workers will be women.

(6) Working women have helped to maintain the standard of living for many American families.

(7) There is a serious shortage of quality day care services.

(8) A majority of working parents report difficulty in finding the kind of child care they need at a price they can afford.

(9) A recent national survey of working parents has revealed that 42 percent of those parents with children under 6 found that the child care they need is not available, and 28 percent said the quality of their child's care is not as good as it should be.

(10) The provision of day care services can be the key to returning many of those on public assistance to productive jobs in the labor force.

(11) Therefore, the expansion of affordable, quality day care services is a national priority given the current and projected needs of the American workforce.

SEC. 3 EMPLOYER-COMMUNITY DAY CARE COUNCILS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Labor shall establish a demonstration program under which matching grants are provided to employer-community day care councils to expand the availbility of affordable, high quality day care services to individuals, particularly low-income families.

(2) FEDERAL SHARE.—The Federal share of a grant provided under this section shall be 50 percent.

(b) COUNCILS.—To be eligible to obtain a grant under this section, a employer-community day care council must be established that may consist of representatives of private employers, child care programs, parents, local governments, and other local community institutions.

(c) PURPOSES.—A council may use a grant obtained under this section to provide funds for—

(1) affordable, high quality day care services for individuals, particularly low-income families;

(2) the start-up and operation of day care resource and referral programs in local communities;

(3) the support of day care services for handicapped children;

(4) day care services required by low-income families that do not qualify for assistance under title XX of Social Security Act (42 U.S.C. 1397 et seq.); and

(5) the establishment, renovation, and expansion of day care facilities, with priority given to facilities in which a significant portion of children cared for are low-income children.

(d) AUTHORIZATION.—To carry out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1988.

SEC. 4. INCREASE IN TITLE XX AUTHORIZATION; RESERVATION FOR CHILD DAY CARE SERVICES.

(a) INCREASED AUTHORIZATION.—Section 2003(c) of the Social Security Act (42 U.S.C. 1397b(c)) is amended—

(1) by striking "and" at the end of paragraph (2); and

(2) by striking paragraph (3) and inserting in lieu thereof the following:

"(3) $2,700,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987; and

"(4) $2,900,000,000 for the fiscal year 1988 and each succeeding fiscal year.".

(b) RESERVATION FOR CHILD DAY CARE SERVICES.—

(1) Section 2003 of such Act is further amended by striking subsection (d) and inserting in lieu thereof the following new subsections:

"(d)(1) Of the amounts made available under subsection (c) for each fiscal year (beginning with fiscal year 1986), $700,000,000 shall be reserved by the Secretary for allotment under paragraph (2).

"(2) The amount reserved by the Secretary under paragraph (1) in any fiscal year shall be allotted among the States in the same proportions as their regular allotments determined under subsections (a) and (b) for such fiscal year.

"(e) The funds allotted to a State under subsection (d)—

"(1) shall be expended by the State only for the provision of child day care services;

"(2) shall be expended only to supplement the level of any funds that would, in the absence of such allotment, be available from other sources (including any amounts available under this title without regard to such subsection) for provision of child day care services, and shall in no case supplant such funds from other sources or reduce the level thereof;

"(3) shall be separately accounted for in the reports and audits provided for in section 2006; and

"(4) shall not be subject to the provisions of section 2002(d) (permitting a State to transfer up to 10 percent of its title XX funds for purposes authorized under other Federal block grant programs).".

(2) Section 2003(b) of such Act is amended—

(A) by adding "and further reduced by" after the comma at the end of paragraph (2); and

(B) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the amounts reserved by the Secretary for that fiscal year under subsection (d).".

SEC. 5. SBA CHILD CARE LOAN PROGRAM.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following:

"(m)(1) The Administration is also authorized to make loans (either directly or in cooperation with banks or other lending insti-

tutions through agreements to participate on an immediate or deferred basis) as the Administration determines to be necessary or appropriate to assist child care providers in constructing and renovating space to be used for child care. In providing assistance under this subsection, the Administration shall give a priority to proposed projects in areas with the greatest need and to organizations which serve or will serve significant numbers of children of low-income families.

"(2) The amount of loans under this subsection in any fiscal year shall not exceed $30,000,000.

"(3) The Administration shall establish and carry out under this subsection an outreach program to provide advice and assistance to prospective providers of day care services.

"(4) Not later than 4 months after the date of enactment of this subsection, the Administration shall transmit to the Congress a report on the structure of the program under this subsection as it affects day care providers and particularly with respect to the means by which the Administration is addressing the needs of those providers for loan amounts which are smaller than those typically made by the Administration.".

(b) CONFORMING AMENDMENT.—Section 4(c)(1) of such Act (15 U.S.C. 633(c)(1)) is amended by inserting "7(m)," after "7(l)".

SEC. 6. MINIMUM REQUIREMENTS FOR DAY CARE CENTERS.

(a) Effective after October 1, 1989, no State may receive financial assistance—

(1) under title XX of the Social Security Act with respect to the portion of the allotment of the State under such title XX available for day care;

(2) or under this Act;

unless the Secretary of Health and Human Services determines that the State has established the minimum requirements for day care centers described in subsection (b).

(b) The minimum requirements described in subsection (a) are—

(1) open visiting policy for parents;

(2) posting of a toll-free number to State licensing authority;

(3) a State plan for inspections, which provides for the posting at the day care center of the last date of inspection, and includes provision for unannounced inspections of day care centers;

(4) training for day care center staff in child abuse prevention and identification; and

(5) a State plan for meeting day care needs.

SEC. 7. DAY CARE SERVICES FOR SCHOOL AGED CHILDREN REPORT.

(a) The Secretary of Health and Human Services shall carry out a thorough study on the availability of and the need for day care services for school aged children in each State.

(b) The Secretary of Health and Human Services shall, within one year after the date of enactment of this Act prepare and submit a report on the study required by subsection (a) of this section, together with such recommendations, including recommendations for legislation as the Secretary deems appropriate.●

By Mr. INOUYE:

S. 147. A bill to amend title 10, United States Code to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on Armed Services.

CRIMINAL OFFENSES COMMITTED OUITSIDE THE UNITED STATES

● Mr. INOUYE. Mr. President, the purpose of this bill is to fill certain jurisdictional voids involving offenses committed by U.S. nationals abroad. The Supreme Court has held that, at least in peacetime, civilians may not be tried by courts martial for offenses against military law that they may have committed abroad when they were members of the U.S. Armed Forces or when they were serving with, employed by, or accompanying the Armed Forces. Further, under existing statutes, acts committed by U.S. nationals abroad generally do not constitute offenses against any U.S. law even though they would constitute such offenses if they had been committed in this country. Thus, civilian nationals of the United States are generally not accountable to U.S. courts for their conduct abroad.

This bill would remedy this situation for conduct abroad by civilians who, at the time of the acts in question, were members of the Armed Forces or were serving with, employed by, or accompanying the Armed Forces. The bill would generally provide that such conduct would be subject to the same civilian criminal proscriptions that apply in areas under Federal jurisdication.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 147

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

(a) IN GENERAL.—Subtitle A of title 10 of the United States Code is amended by inserting after chapter 49 the following new chapter:

"CHAPTER 50—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

"Sec.
"991. Definitions.
"992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States.
"993. Delivery to authorities of foreign countries.

"§ 991. Definitions

"In this chapter:

"(1) The term 'United States' includes the special maritime and territorial jurisdiction of the United States.

"(2) The term 'special maritime and territorial jurisdiction of the United States' has the same meaning as is provided in section 7 of title 18.

"(3) The term 'criminal offense' means an offense classified in section 1 of title 18 as a felony or a misdemeanor (not including a petty offense).

"§ 992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States

"(a) Except as otherwise provided in this section, any person who, while serving as a member of the armed forces outside the United States, or while serving with, employed by, or accompanying the armed forces outside the United States, engages in conduct which would constitute a criminal offense if the conduct were engaged in within the special maritime and territorial jurisdiction of the United States shall be guilty of a like offense against the United States and shall be subject to the same punishment as is provided under the provisions of title 18 for such like offense.

"(b) A member of the armed forces may not be tried pursuant to an indictment or information charging an offense described under subsection (a) while such member is subject to trial by court-martial for the conduct charged in such indictment or information.

"(c) A person employed by the armed forces outside the United States is not punishable under subsection (a) of this section for conduct described in such subsection if such person is not a national of the United States and was appointed to his position of employment in the country in which such person engaged in such conduct.

"(d)(1) Except in the case of a prosecution approved as provided in paragraph (2), prosecution of a person may not be commenced under this section for an offense described in subsection (a) if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted such person for the conduct constituting such offense.

"(2) The Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, or an Assistant Attorney General of the United States may approve a prosecution which, except for this paragraph, is prohibited under paragraph (1). An approval of prosecution under this paragraph must be in writing. The authority to approve a prosecution under this paragraph may not be delegated below the level of Assistant Attorney General.

"(e)(1) The Secretary of Defense may designate and authorize any member of the armed forces serving in law enforcement position in a criminal investigative agency of the Department of Defense to apprehend and detain, outside the United States, any person described in subsection (a) who is reasonably believed to have engaged in conduct which constitutes a criminal offense under such subsection.

"(2) A person apprehended and detained under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation to conduct referred to in such paragraph unless (A) such person is delivered to authorities of a foreign country under section 993 of this title, or (B) such person is pending court-martial under chapter 47 of this title for such conduct.

"§ 993. Delivery to authorities of foreign countries

"(a) Any member of the armed forces designated and authorized under subsection (e) of section 992 of this title may deliver any person described in subsection (a) of such

section to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) if—

"(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

"(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

"(b) The Secretary of Defense may confine or otherwise restrain a person whose delivery is requested under subsection (a) until the completion of the trial of such person by the foreign country making such request.

"(c) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purposes of this section.".

(b) TECHNICAL AMENDMENT.—The tables of chapters at the beginning of such title and such subtitle are each amended by inserting after the item relating to chapter 49 the following:

"50. Criminal Offenses Outside the United States .....991.".●

By Mr. PRESSLER:

S. 148. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Housing, and Urban Affairs.

1991 MOUNT RUSHMORE COMMEMORATIVE COIN ACT

Mr. PRESSLER. Mr. President, our Nation has just inaugurated its 41st President. This event offers an opportunity for us to reflect on the men who have served in the highest office in the land.

Four such men, George Washington, Thomas Jefferson, Abraham Lincoln, and Theodore Roosevelt, had a particular impact on the formation of our country. George Washington, the father of our country. Thomas Jefferson, the author of the Declaration of Independence. Abraham Lincoln, the Great Emancipator. And Theodore Roosevelt, the champion of "the little and forgotten people."

For time immemorial, these Presidents will be remembered and their contributions recognized because of Mount Rushmore. The faces carved in granite rise out of the Black Hills as a remainder to us all—not just of these great Presidents—but of humanity's determination to complete gigantic tasks.

When he began the colossal art project in 1927, sculptor Gutzon Borglum said:

We are not here trying to carve an epic, portray a moonlight scene, or write a sonnet; neither are we dealing with mystery or tragedy, but rather the constructive and dramatic moments or crises in our amazing history. We are cool-headedly, clear-mindedly setting down a few crucial, epochal facts regarding the accomplishments of the old World radicals who shook the shackles of oppression from their light feet and fled despotism to people a continent; who built an empire and rewrote the philosophy of freedom and compelled the world to accept a wiser, happier form of government. Therefore, we believe a nation's memorial should, like Washington, Jefferson, Lincoln and Roosevelt, have a serenity, a nobility, a power that reflects the gods who inspired them and suggest the gods they have become. Hence, let us place there, carved high, as close to heaven as we can, the words of our leaders, their faces, to show posterity what manner of men they were. Then breathe a prayer that these records will endure until the wind and the rain alone shall wear them away.

Today, Mount Rushmore is one of the most recognizable symbols of freedom and democracy in the world. Over 2 million people walk the winding path to view this shrine of democracy every year.

We will soon be reaching a milestone in the life of Mount Rushmore, an event that gives each of us an opportunity to reflect on the message on the mountain. In 1991, Mount Rushmore will be 50 years old. Gutzon Borglum died in 1941 when our country was becoming involved in World War II. Work on the project ground to a halt that year and Mount Rushmore remains in the same condition today.

I am introducing legislation today calling for the minting of a commemorative coin by the U.S. Mint to recognize Mount Rushmore on its Golden Anniversary in 1991. A series of commemorative coins would be an appropriate way to recognize the important role of Mount Rushmore in our Nation's identity.

Mr. President, you will recall the massive fundraising effort leading up to the centennial celebration for the Statue of Liberty. We are all touched by the sentiment and message of that statue. To help raise the money for improvements to Lady Liberty, the U.S. Mint issued commemorative coins. A portion of the surcharge on the sale of each coin was directed to the Statue of Liberty Foundation for upgrading and improving the statue.

I suggest we commit ourselves to the same kind of program for Mount Rushmore, which is also badly in need of improvements. There have been no substantial improvements to the present Mount Rushmore facilities [parking lot, restrooms, dining areas] since 1964. Since that time, annual visitation has doubled from one million to 2 million.

My legislation earmarks 50 percent of the proceeds from the coins to be directed to the Mount Rushmore Memorial Society, a nonprofit organization that has had an active part in the support and operation of the Memorial for nearly 58 years. The Society is working with the National Park Service to bring about necessary changes and improvements to the Mount Rushmore facilities. The remaining 50 percent of the proceeds would be designated to the Federal Treasury specifically for the reduction of the national debt.

In my view, the fundraising prospects from the coin are merely an added benefit. The primary purpose, of course, is to provide suitable and well-deserved recognition to Mount Rushmore.

I urge my colleagues to reflect on the importance of the four Presidents depicted in South Dakota granite. Take time to also reflect on the importance of Mount Rushmore as a national symbol. I am sure that kind of introspection will lead to support of the Mount Rushmore Commemorative Coin Act.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

S. 148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "1991 Mount Rushmore Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of such half dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Mount Rushmore: Shrine of Democracy", "Golden Anniversary 1941-1991", "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 3. SOURCES OF BULLION.

(a) The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

(b) The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Mount Rushmore National Memorial Society of Black Hills (hereafter in this Act referred to as the "Society").

SEC. 5. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

SEC. 6. ISSUANCE OF THE COINS.

(a) TIME FOR ISSUANCE.—The coins authorized under this Act shall be issued beginning on January 1, 1991.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at no more than one facility of the United States Mint.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

Of the total surcharges received by the Secretary from the sale of the coins issued under this Act—

(1) 50 percent shall be returned to the Federal Treasury for purposes of reducing the national debt; and

(2) 50 percent shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial.

SEC. 9. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Society as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Mount Rushmore National Memorial Society of Black Hills; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or the National Credit Union Administration.

By Mr. BINGAMAN:

S. 149. A bill to establish the Economic Policy Council; to the Committee on Governmental Affairs.

ECONOMIC POLICY COUNCIL ACT OF 1989

● Mr. BINGAMAN. Mr. President, today I rise to introduce the Economic Policy Council Act of 1989. The purpose of this bill is to create in statute the Economic Policy Council [EPC] and to clarify its responsibilities.

The proposal is aimed at strengthening the policymaking and coordination process in the Federal Government. Lack of coordinated policymaking lies at the heart of our trade and competitiveness problem. Without an adequate process for making and implementing an overall strategy to improve our ability to compete in the world market, all our efforts may simply result in greater confusion.

The legislation I introduce today is the same as that which passed the Governmental Affairs Committee in the last Congress, as part of the Omnibus Trade and Competitiveness Act. Unfortunately, it was dropped from the trade bill on the floor when the proposed reorganization of the Commerce Department was struck.

It is unfortunate that this provision was dropped from the trade bill because the hearing record of the Governmental Affairs Committee clearly shows a need for Cabinet-level coordination of trade and economic policy. During the previous administration, the EPC was an effective mechanism for coordinating policy on economic issues across departments and agencies. Because of the broad focus of the EPC, it also served as a mechanism for coordinating the various aspects of economic policy, such as trade, macroeconomics, investment, exchange rates, and international debt.

It is my understanding that President Bush intends to retain the EPC as his chief economic policy coordination tool. I commend the President for his decision. However, the foundations upon which the EPC is built rest on shifting sands. There is no statutory mandate for coordinated economic policymaking. The history of international economic policymaking in the Federal Government illustrates the problem. The EPC itself is a creation of the second Reagan administration after a less successful attempt at Cabinet Councils. The earlier organizational structure consisted of the Senior Interagency Group on International Economic Policy and seven Cabinet Councils, including a Cabinet Council on Commerce and Trade and a Cabinet Council on Economic Affairs. Earlier versions of international economic policy coordination efforts include the Cabinet-level Council on Foreign Economic Policy in the Eisenhower administration, the Council on International Economic Policy and the Council on Economic Policy under the Nixon administration, the Economic Policy Board in the Ford administration and the Economic Policy Group in the Carter administration.

Many of these councils, however, were narrow bodies, concentrating solely on international economics. At the same time, we had the Trade Agreements Committee, chaired by the Secretary of State, until 1975 when it was replaced by the Trade Policy Committee, now chaired by the USTR. As the recent history of the interrelationship between exchange rates, interest rates, the Federal budget deficit and the U.S. trade deficit has shown, international economic policy, fiscal policy and trade policy are all related. We need a coordination mechanism that goes beyond a single policy area.

Some would suggest that the history of economic policymaking bodies shows that each President has his own style of decisionmaking. They would argue, as did the previous administration, that a statutory body would limit a President's flexibility in organizing the Cabinet. I would argue that this history shows not the importance of flexibility but the lack of continuity. It is a history of reinventing the wheel. Each President has found the need to coordinate economic policy and each has had to start from scratch to create a mechanism for that purpose. I believe we need to stop this history of rearranging the deck chairs. We must codify the EPC in statute in order to give it the status and powers it needs to better coordinate policy within the Federal Government, as well as to provide historical continuity from one administration to the next.

As proposed, the members of the Economic Policy Council would be the

President, the Vice President, the Secretary of State, the Secretary of Treasury, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the U.S. Trade Representative, and any other Federal official whom the President may designate. The President shall be the presiding officer, just as he chairs the National Security Council. In his absence, the President may designate a member as presiding officer. However, when the Council considers trade matters or when it acts as the trade council designated in section 242 of the Trade Expansion Act of 1962, the USTR shall preside in the President's absence. This one limitation on the President's authority is intended to preserve the preeminent position of the USTR as the top U.S. trade official.

The function of the Economic Policy Council is to advise the President with respect to national and international economic policies and their integration so as to enable the President and the department and agencies of the Federal Government to make and coordinate more effectively economic policy. The EPC's mandate includes oversight for trade policy, monetary policy, fiscal policy, international financial and investment policy, national security economics policy, and foreign aid policy. To preserve administrative flexibility, the EPC may also perform such other functions as the President may direct.

The bill specifically authorizes a broad charter for the EPC in economic affairs. In addition to the duties of the Council described in section 242 of the Trade Expansion Act of 1962, the EPC shall assess and appraise the international trade policies—including commodity and direct investment matters—and international trade objectives of the United States, consider policies on matters of common interest to the departments and agencies of the Federal Government concerned with international trade, consider the relationship between the standard of living in the United States and the international trade policies of the United States, and evaluate the effects of international trade policies and objectives of the United States on the national security.

Mr. President, it is clear that areas such as international economic policy, fiscal policy, and trade policy need to be better integrated into broader economic policy. But we also need to pay more attention to the relationship between economic policy and national security policy. National security depends on our economic strength as well as our military power. While economic security issues have received much rhetorical attention, we have no mechanisms for giving them the attention they need within the decisionmaking process. For example, as constituted under the previous administration, the EPC did not even include the Secretary of Defense as a standing member. DOD was simply invited to participate when others felt the situation warranted.

To remedy this situation, some have even gone so far as to call for the creation of a Cabinet-level National Economic Security Council. Others have suggested that the National Security Council be given additional economic policy responsibilities. While I share the concern behind these ideas, I believe national economic security and other economic policy matters cannot and should not be separated. Nor should we simply transfer our economic responsibility to the regime of national security. National economic security matters should be coordinated between those concerned with national security and those concerned with economic policy, not made separate areas.

This is the approach taken in my bill. The Secretaries of State and Defense are made statutory members of the EPC and the EPC is given specific authority for national security economics policy.

Mr. President, coordination of economic policy is crucial. I believe we have a workable mechanism for economic policymaking and coordination. I believe the Economic Policy Council should be made permanent and given the mandate it requires. I hope my colleagues will support this legislation. I urge the administration to seriously consider this proposal and look forward to working with it to improve economic policymaking for this country.

By Mr. INOUYE:

S. 150. A bill to authorize the transportation of motor vehicles owned by Federal employees on Johnston Island to their families in Hawaii; to the Committee on Governmental Affairs.

TRANSPORTATION OF CERTAIN MOTOR VEHICLES

● Mr. INOUYE. Mr. President, my bill would allow married employees on Johnston Island who elect to relocate their families to Hawaii to ship one vehicle to Hawaii. Current travel regulations allow employees to move their families and household goods at government expense to Hawaii; however, no authority exists for shipment of the family vehicle. The annual cost of this program would be approximately $4,800.●

By Mr. INOUYE:

S. 151. A bill to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnston Island; to the Committee on Governmental Affairs.

REMOTE MAINTENANCE ALLOWANCE FOR ASSIGNMENT TO JOHNSTON ISLAND

● Mr. INOUYE. Mr. President. This bill provides for a remote maintenance allowance for civilians who must maintain two separate households since they are not allowed to bring families to Johnston Island. An allowance is currently available for Federal employees working in foreign areas who are separated from their families. However, employees on Johnston Island are ineligible to draw this allowance since Johnston Island is classified as a U.S. possession. This bill would correct that inequity. The remote maintenance allowance would range from $2,800 to $9,000 per employee, depending on family size. The total cost of this program for Johnston Island would be approximately $89,000 per year.●

By Mr. COATS:

S. 153. A bill to defer congressional pay adjustments until the first March 1 following the beginning of the Congress next following the Congress during which certain actions with respect to pay rates are taken, to provide that appropriations of funds for congressional pay be considered separately from appropriations for other purposes, to require a recorded vote in each House on such appropriations, and for other purposes; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY

Mr. COATS. Mr. President, I am pleased to introduce today the Congressional Pay Reform Act of 1989.

On December 15, 1989, the President's Commission on Executive, Legislative and Judicial Salaries issued its quadrennial report recommending major adjustments in Federal salaries, including a pay increase to $135,000 for Members of Congress, a boost of over 50 percent above the current level of $89,500 a year. These recommendations will go into effect automatically within 30 days, that is, on February 8, unless both House vote it down in separate resolutions of disapproval.

The Senate leadership has promised that the issue will come to a vote in the Senate. When it does, I shall vote against the pay raise. In my opinion, it would be inappropriate for me, as an appointed Senator, to accept any raise. Therefore, if the increase goes into effect, I shall find a way to distribute the funds to charity.

Congressional salary adjustments are a perpetual source of controversy and embarrassment. There should be a better, more effective way of dealing openly and equitably with this issue. I believe that the Congressional Pay Reform Act will provide the kind of reforms we need to avoid future public condemnation of the way in which we handle Federal salary questions gener-

ally and congressional pay increases in particular.

The Congressional Pay Reform Act, which was first introduced in the House in 1979 by Congressman TOM TAUKE of Iowa and has been reintroduced by him this year as H.R. 401, would institute the following reforms in the way salary increases are considered:

First, congressional pay adjustments would be deferred until an election has intervened and the next Congress is seated, thereby preventing Members from voting for a pay raise which would go into effect during their current term of office. This reform was first recommended by our Founding Fathers in the First Session of Congress 200 years ago and was included in one of the proposed first 12 amendments to the Constitution.

Second, recorded votes would be required in both Houses of Congress. It is outrageous that the Commission's recommended pay raises may go into effect without a rollcall vote in the House of Representatives. This reform would enable the public to know how their elected Representatives stood on the issue and would dispel the popular perception that pay raises are pushed through by anonymous voice vote or obtained through artifice and deception.

Finally, under this legislation congressional pay adjustments would be considered independently of other appropriation measures. This would end the practice of combining congressional salary increase with adjustments for federal Judges and other federal employees and with agency appropriations, holding them hostage to the pay raises. Moreover, automatic cost-of-living increases would not accrue to Members, and future increases for other Government officials would not be linked to congressional raises.

I hope you will join me in supporting these reforms. If enacted, they will go a long way to restoring public trust and confidence in the Congress and faith in the process by which we address controversial issues.

Mr. President, I ask unanimous consent that the full text of the Congressional Pay Reform Act, together with several editorials and columns from Indiana newspapers, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Congressional Pay Reform Act of 1989".

SEC. 2. (a)(1) Paragraph (2) of section 601 (a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to congressional salary adjustment, is amended by striking out "Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule,", and inserting in lieu thereof "Effective on the first March 1 following the beginning of the Congress next following any Congress during which an adjustment takes effect under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule,".

(2) Such section 601(a) is further amended by adding at the end thereof the following new paragraph:

"(3) The rates of pay for positions referred to in paragraph (1) of this subsection recommended by the President under subsection (h) of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 358) in any year shall take effect on the later of (A) the first March 1 following the beginning of the Congress next following the Congress during which the recommendations for such rates of pay were transmitted by the President under such subsection or (B) the date prescribed by the President under subsection (i)(2) of such section (2 U.S.C. 359(2)).".

(b)(1) Subsection (h) of section 225 of the Federal Salary Act of 1967 (2 U.S.C. 358) is amended—

(A) by striking out "include, in the budget" and all that follows through "Commission" in the first sentence and inserting in lieu thereof the following: "transmit to the Congress, within the period of fifteen calendar days beginning on the date on which the Congress convenes for the first session which begins after the date on which the report and recommendations of the Commission are required to be submitted", and

(B) by striking out the second sentence.

(2) Paragraph (1) of subsection (i) of such section (2 U.S.C. 359(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence—

(i) by inserting "the office of Vice President of the United States and" before "the offices and positions"; and

(ii) by striking out "(A),";

(C) in the second sentence—

(i) by striking out "described in any such subparagraph" and inserting in lieu thereof "referred to in the preceding sentence"; and

(ii) by striking out "the offices and positions covered by such subparagraph" and inserting in lieu thereof "such offices and positions"; and

(D) by adding at the end thereof the following new subparagraph:

"(B) The rates of pay for offices and positions within the purview of subsection (f)(A) of this section (other than the office of Vice President of the United States) recommended by the President under subsection (h) of this section in any year shall take effect as provided in section 601(a)(3) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(3)).".

(3) Subsection (j) of such section (2 U.S.C. 360) is amended—

(A) by striking out "if approved by the Congress as provided in subsection (i)" and inserting in lieu thereof "upon taking effect as provided in subsection (i)"; and

(B) by striking out "(other than any provision of law enacted in the period specified in paragraph (1) of subsection (i) of this section with respect to such recommendations)" in clause (A) and inserting in lieu thereof "(other than any provision of law which, in the case of any recommendation to which subsection (i)(1)(A) of this section applies, is enacted in the period specified in such subsection (i)(1)(A) with respect to such recommendation or which, in the case of any recommendation to which subsection (i)(1)(B) of this section applies, is enacted with respect to such recommendation after the date on which the President transmitted such recommendation to the Congress)".

SEC. 3. (a) For purposes of this section, the term "Member of the Congress" means any person who holds the office of Senator, Member of the House of Representatives, Delegate to the House of Representatives, Resident Commissioner from Puerto Rico, President pro tempore of the Senate, majority or minority leader of the Senate or the House of Representatives, or the Speaker of the House of Representatives.

(b)(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or joint resolution which includes an appropriation, or a limitation on the use of appropriated funds, for the compensation of Members of the Congress for any fiscal year or part of a fiscal year if such bill or joint resolution also includes an appropriation, or a limitation on appropriations, for any other purpose.

(2) Paragraph (1) of this subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change such rules (so far as relating to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(c) The vote of each House on each bill or joint resolution which includes an appropriation, or a limitation on the use of appropriated funds, for the compensation of Members of the Congress for any fiscal year or part of a fiscal year shall be recorded so as to reflect the vote of each Member of the Congress thereon.

[From the Indianapolis Star, Jan. 5, 1989]

SAY NO TO SNEAKING

Pay raises are supposed to be given for good performance on the job.

In this case, the performance smells.

In the familiar cute, roundabout way to which Washington observers have grown accustomed, a pay raise of 50 percent has been proposed for 2,500 high-level federal officials, including members of Congress.

It was proposed by the Quandrennial Commission on Executive, Legislative and Judicial Salaries, which makes pay recommendations at intervals to take the heat off Congress.

It would be better to handle this matter openly. Let Congress make the proposals for increases which could not be granted until the following term. Let the voting go on the record. End this sneak-play game.

The recommendation of a congressional salary increase from the current $89,500 to $135,000 is now before the president for his approval or revision. Whatever he proposes takes effect automatically unless Congress votes to reject it.

As Sen. Ted Stevens, R-Alaska, pointed out, "the costs of housing, food, education, transportation and the other necessities of life rise for all Americans."

Yes. Senator, Americans who are making $8,000 a year and $12,000 a year and $20,000 a year know that. A lot of taxpayers would like to try scraping by on half or a third of what a member of Congress makes.

As for Congress' job performance, it has not been all that great.

The gargantuan national debt is not getting any smaller.

The deficits are still big enough to choke a head of dinosaurs.

Let Congress balance the budget. Then it will be time to talk pay raise.

Until then—No!

[From the Fort Wayne (IN) Journal Gazette, Dec. 17, 1988]

THE PAY RAISE HOAX

A 50 percent pay increase for members of Congress?

Phooey.

A boost from $89,500 to $135,000?

Double phooey.

But this is precisely what the pay commission proposes, as members of the commission were completely oblivious that the average American didn't gain one inflation-adjusted red cent in take-home pay throughout the entire Reagan era.

No wonder people are mad.

No wonder angry letters to the editor are already pouring in to newspaper offices.

And Congress won't even vote up or down on the proposal. It will vote if the House and Senate don't like the raise that's in the president's final recommendation.

The thing is rigged to keep members of Congress from having to go back to their districts and explain why they deserve a fat raise but their constituents don't.

There is some good in the commission's plan. A big increase for federal judges—that's good. We're losing good judges because able people can earn so much more in the private sector. It's foolhardy to let this continue.

An increase for Cabinet officers—that's probably justified, too. Again, capable people, on the average, are leaving the government after only 18 months.

There's one more good thing in the commission's plan. It's the best. That's the ban on outside honoraria for members of Congress. Members of Congress allow themselves to earn up to $2,000 for each speech or appearance.

Last month, members collected $10 million for such services rendered. And the special interest groups line up to invite representatives and senators to a banquet or even a vacation weekend to "say a few words."

Do you suppose these groups just like the congressman's company? Be serious. They want his ear and his vote. Even when the congressman gives the $1,500 fee to charity—which is common practice—he surely finds it harder to vote against the interests of a group that had just applauded him the night before.

Accepting such fees and other perks is a blatant conflict-of-interest. The practice is inherently corrupting. The ban should be clear and absolute.

As for a pay raise for members of Congress, let them make the case. If they've suffered a real loss in income because of inflation, let them build in reasonable, automatic cost-of-living increases.

If the main problem is that they can't afford to keep up two homes, one in the Washington area, and one back home in their district, let them create a housing allowance for members who need it.

But it's yet to be demonstrated that we can't get dedicated, capable people to serve in Congress because a $89,500 salary is not enough to live on. Most Americans would be only too happy to sit through a few boring committee hearings and give a speech or two for such a salary.

[From The Indianapolis Star, Jan. 19, 1989]

IMPERIAL ROT

Congress, the imperial Congress, is on a collision course with the American public.

Nearly nine out of 10 Americans oppose the 50 percent pay increase for Congress. Congressional leaders, and presumably a majority of members, want to "allow" themselves the increase under a devious, cowardly and probably unconstitutional scheme which reaches fruition Feb. 8 unless public pressure forces floor votes.

The overwhelming public disapproval is shown in a new poll sponsored by the Washington Post.

Congress normally responds to such public opinion.

Consider: When the president, with a constitutional duty to defend the national interest, told Congress military aid should be given to the Contras fighting the Moscow-sponsored Nicaraguan regime. Congress repeatedly balked. Its supposed trump card argument was that polls showed the American public did not want to aid the Contras militarily.

Now a poll shows the American public does not want Congress to get a 50 percent pay hike, overwhelmingly the public opposes it. And this is not a complex issue of American security, but a housekeeping question of whether Congress would be overpaid. The public says it would, at $135,000 a year.

Congress knows better: that is the prevailing attitude in Washington. It is an attitude fed assidously by the coteric of well-paid lobbyists and other Washington insiders who make up the window dressing commission that recommended the egregious pay grab.

Some supporters say a raise would be money well spent, since Congress would then forgo the disreputable honoraria members collect for speeches and public appearances.

What's wrong with passing up the pay grab and barring the side deals? What's wrong with members of Congress living within the pay that was specified when they were elected? They can't live on $89,000 a year? Then they should not be handling the public business.

They have staff members hauling their suitcases, free medical care, bargain and free lunches, housing allowances, trip "home" allowances, taxpayer-financed reelection gimmicks by the score, huge pensions and something resembling job security.

In return they give us monster deficits and a "fail safe" pay like plan for themselves.

When Congress reopened, Speaker Jim Wright, spoke about the glories of the House. Seemingly for the benefit of new members, who might have qualms about an automatic pay raise, he quoted approvingly from a half-century old speech of one of his mentors, the late Speaker Sam Rayburn.

Speaker Sam Wright intoned, told House members that he was vowing eternal vigilance, untiring effort, to a sacred cause. The cause? The rights and privileges of the House of Representatives.

That attitude is problem No. 1 in Washington, and the pay hike would worsen it, not better it.

The people should make Congress vote on the raise. They should tell members now they want this outrageous grab defeated.

[From the Herald-Argus]

RAISE PROPOSAL FOR CONGRESS IS RIDICULOUS

It mystifies us, although it's probably explainable under human greediness, that the first order of this year's congressional business should be a 50-percent pay increase for members of Congress.

A jump from $89,500 a year to $135,000 base pay. How about that? The increase is ridiculous. Unfortunately, the proposal must be taken seriously.

The federal commission making this thoughtless recommendation reported that inflation has cut the purchasing power of congressional salaries by 35 percent since 1969. It was conveniently ignored that members of Congress gave themselves a 40-percent pay hike in that very year of 1969.

But what baffles us about this incredible proposal is that it arrives while Congress is discussing spending restraint and how to deal with a $150 billion federal budget deficit, the trade deficit, and the dismal job Congress had done with the nation's fiscal matters, we might add.

Actually, figures quoted here only pertain to congressional base pay. Members are awarded office expenses in addition to their pay. The pension perks among their fringe benefits are mind-boggling.

The other day U.S. House Speaker James Wright, Democrat, and House Minority Leader Robert Michel, Republican, mentioned their support of a joint review of standards of conduct within the U.S. House.

Now there's a congressional topic that should be the first order of business. We advocate a delay in salary increases until new conduct rules are adopted and a balanced federal budget is in place, which under law is mandatory by 1993. Thus, pay increases would be based on congressional performance.

Under standards of conduct, Congress should investigate member incomes from speaking fees, which reportedly grossed close to $10 million last year for all members of the House and Senate.

How about congressional campaign financing reform? What's happening to accumulated excess campaign contributions? Is that money converted to taxable income? Not now it isn't.

What about placing limits on campaign spending? On political action committee (PAC) donations?

And what about the congressional pension plan? Are we making millionaires out of long-time members of Congress through a faulty, out-of-date pension system?

Those are ethical issues and should be dealt with before members of Congress are given another dime increase in salary.

[From the Lafayette (IN) Journal & Courier, Jan. 3, 1989]

HERE'S A GOLDEN OPPORTUNITY FOR CONGRESS

A government commission has proposed that Congresmen boost their salaries by 50 percent, from $89,500 to $135,000 a year.

The commission makes compelling arguments about comparative government and private-sector compensation for comparable responsibility. But of course it does not take

into account that Congress depends on biennial approval and election by the people while the private sector does not.

A one-shot 50 percent pay raise is politically asinine, as all members of Congress well know. Few Americans will sympathize with that big a pay raise unless they also get one, nor will they elect a person who voted it for himself.

It makes sense to spread the raise over, say, a five-year period with sufficient increments to reach $135,000 by 1994.

In fact, from a political standpoint, Congress would be wise to forgo most if not all of the 50 percent. It would be inspiring, for a change, for Congress to show a new resolve, a signal of responsibility, a proclamation by action rather than words that it is seeking to save very dollar possible in a quest to get the national debt under control.

This is a golden opportunity for our representatives and senators to show responsibility and leadership in the war against our national debt. It would send a businesslike signal to the nation, instead of just the opposite.

[From the Fort Wayne News-Sentinel]

FAIRNESS DEMANDS FEDERAL PAY HIKE

(By James Kilpatrick)

On this matter of salary levels in the federal government, could we just knock off the demagoguery? Probably not. A few members of Congress see political advantage in opposing fair pay. We are in for a noisy time.

This is the situation. On Dec. 15, the Commission on Executive, Legislative and Judicial Salaries made its quadrennial report to the president. The commission recommended substantial increases for senators, representatives, top executives and federal judges. President Reagan may endorse the proposals exactly as recommended. More likely, he will discreetly reduce them. Once the president's figures go to Capitol Hill, Congress will have 30 days in which to adopt a resolution of disapproval. If no such resolution is passed, the new salary levels will go into effect.

The commission's report was titled "Fairness for Our Public Servants," and "fairness" is the operative word. No one expects the taxpayers to be generous. But in good conscience, the American people ought to be fair. Present salary levels for executives and judges simply are not fair levels.

Federal executives now are paid at five levels, ranging from $75,500 to $99,500 a year. These are the Cabinet secretaries, deputy and assistant secretaries, and of greatest importance, the Senior Executive Service. The commission recommends new levels ranging from $115,000 to $155,000. In the demagogic view, such increases are scandalous. In fact, they are not. The proposed increases would not even restore the purchasing power such executives enjoyed 20 years ago.

The federal judiciary includes 799 district judges and 234 judges on the circuit courts of appeals. The district judges now earn $89,500, the circuit judges $95,000. Compared to the salaries paid to talented lawyers in the private sector, the present federal salaries are ridiculous. The commission's recommendation of $135,000 and $140,000 would accord the judges something close to respectability among their peers.

Most of the hullabaloo involves salaries for members of Congress. Here the commission proposes a deal. If members will renounce their acceptance of "honoraria," their present salaries of $89,500 a year would be raised to $135,000. The figure is a tad to high. Members enjoy all kinds of perquisites and subsidies that are not acknowledged in the commission's report, but the deal itself has a sound basis in public policy.

If one is looking for scandal, abundant scandal may be found in the direction of "honoraria." Members of the House and Senate—especially high-ranking members who are subcomittee chairmen—accept invitations to speak to a trade association or other special-interest group. The member makes a little talk, and picks up a check for $2,000 plus travel expenses. Even the little talk may be waived. The practice smells to high heaven.

Many members themselves are uncomfortable with the system. They defend it only as a matter of survival. Living costs in Washington, especially housing costs, are among the highest in the nation.

These are men and women who bear tremendous responsibilities. For the most part they work hard; they take public service seriously. Yes, among the 538 members who could identify a fair share of incompetents and nincompoops, but the answer to that problem is to turn the dullards out of office. We ought not to penalize the good ones.

We ought to seek uncommon talent for Congress, the courts and the executive agencies. To get above-average talent, we ought to offer above-average salaries. We ought, in brief, to be fair.

By Mr. ARMSTRONG:

S. 155. A bill to amend the Impoundment Control Act of 1974 to provide for enhanced rescission procedures; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

ENHANCED RESCISSION PROCEDURES

● Mr. ARMSTRONG. Mr. President, there's a rule around here that a bad idea can get enacted into law very quickly, but it often takes years for a very worthwhile law to gain favor. So, it was with a mixture of pride and relief that I saw a call for enhanced rescission in the final budget of former President Reagan. In this "valedictory address," he strongly urged Congress to support enhanced rescission authority as a key budget process reform, a measure I have long advocated. He called for:

Enhanced Rescission Authority—To enhance the President's ability to control Government spending, I recommend that line-item veto authority by complemented by a change in law that would require the Congress to vote "yea" or "nay" on any rescission proposed by the President. Current law allows the Congress to duck responsibility by simply ignoring proposed rescissions for 45 days.

Today, I am introducing legislation to strengthen the executive power of the President to control Federal spending. Specifically, this legislation would enhance the President's ability to rescind appropriated funds. This proposal would accomplish many, if not all, of the goals of a line-item veto, but would do so in a much simpler fashion by enhancing an existing authority rather than creating new powers and complicated procedures.

Under current law, the President may propose to Congress that previously appropriated budget authority be rescinded. A proposed rescission does not take effect unless Congress specifically approves it by joint resolution within 45 calendar days of submission. Congress can simply ignore rescissions and kill these proposed savings by inaction. In contrast, a proposal by the President to defer spending for a period of time takes effect unless specifically rejected by Congress.

This legislation would amend the Budget and Impoundment Act of 1974 to provide that proposed rescissions take effect unless specifically disapproved by Congress by joint resolution. The current veto by inaction would be replaced by a requirement that Congress step up to the plate and openly reject proposed savings, if that is its determination.

The President of the United States presides over the largest budget in the world and yet has less executive control over that budget than the chief executive of a business or most State Governors. The rescission power as currently drawn has more often than not been ineffective in allowing the President executive control over appropriated funds. Since 1975, Congress has rejected more than $32 billion in proposed savings that three Presidents determined were necessary. In most years since the power has existed, only a fraction of proposed Presidential rescissions have been granted.

Mr. President, the Budget and Impoundment Act of 1974 severely restricted Presidential authority over appropriated funds while establishing what most believed would be a budget process creating incentives for Congress to control fiscal policy. After a decade's experience, it is clear that spending money is still the main incentive in Congress. The time has come to reestablish a greater role for the President in the budget process. Under this legislation Congress would still have the opportunity to reject a Presidential rescission if it believes appropriated funds should be spent. What it could not do is simply ignore the proposal and allow billions to be spent that our Nation's Chief Executive believes should be saved.

Using enhanced recession authority, the President can reduce or eliminate spending for low-priority programs. The American people were justifiably dismayed last year when the media revealed examples of unnecessary and wasteful spending packed into the continuing resolution. Just a slight sample would include: $43 million for the Asian Development Bank, using tax dollars to subsidize overseas competitiors, $82 million for congressional mailing expenses, $750,000 for "fishing-gear entanglement studies," and $540,000 for the International Coffee

Organization. It would not be difficult to improve upon this record.

Mr. President, I ask unanimous consent that a table detailing the historical data on proposed Presidential rescissions be printed at this point in the RECORD. I also ask unanimous consent that this proposed legislation be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL DATA ON PROPOSED PRESIDENTIAL RESCISSIONS

[Dollar amounts in millions]

	Proposed		Accepted		Percent amount accepted
	Number	Amount	Number	Amount	
Ford:					
1975	87	$2,722	39	$391	14
1976	50	3,582	7	138	4
1977	13	1,100	0	0	0
Total	150	7,404	46	529	7
1977	17	1,787	6	712	40
1978	12	1,290	6	594	46
1979	11	909	9	724	80
1980	59	1,618	33	551	34
1981	33	1,142	0	0	0
Total	132	6,746	54	2,581	38
Reagan:					
1981	133	15,362	105	11,715	76
1982	32	7,907	5	4,365	55
1983	21	1,569	0	0	0
1984	9	636	3	55	9
1985	244	1,843	96	166	9
1986	84	10,127	3	143	1
Total	523	37,444	212	16,445	44
Grand total	805	51,594	312	19,554	38

Amount rejected $32,040. Percent rejected 62 percent.

S. 155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1011(3) of the Impoundment Control Act of 1974 is amended to read as follows:

"(3) 'rescission resolution' means joint resolution of the Congress that—

"(A) disapprives, in whole or in part, the rescission of budget authority proposed in a special message transmitted by the President under section 1012; and

"(B) is adopted by the Congress and becomes law before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress;".

(b) Section 1012(b) of such Act is amended to read as follows:

"(b) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION—Any amount of budget authority or any part thereof proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation if, within the prescribed 45-day period, a rescission resolution disapproving the rescission or reservation of such amount or part thereof is adopted by the Congress and becomes law.".

(c)(1) Section 1017 of such Act is amended—

(A) by striking out "rescission bill" each place it appears and inserting in lieu thereof "rescission resolution"; and

(B) by striking out "bill or" each place it appears.

(2) Section 1017(c)(5) of such Act is amended by striking out "bills and",

(3) Section 1017(d)(2) of such Act is amended—

(A) by striking out "the bill" in the first sentence and inserting in lieu thereof "the resolution";

(B) by striking out "such a bill" the first place it appears in the second sentence and inserting in lieu thereof "such a resolution"; and

(C) by striking out "such a bill" the second place it appears in the second sentence and inserting in lieu thereof "a rescission resolution".●

By Mr. DECONCINI:

S. 157. A bill to remove the study and recommendation of pay increases for Members of Congress from the jurisdiction of the Commisison on Executive, Legislative, and Judicial Salaries, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself and Mr. BRYAN):

S. 158. A bill to prohibit the receipt of honoraria by Senators; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself, Mr. SIMON, and Mr. BRYAN):

S.J. Res. 4. Joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the executive and legislative branches of the Federal Government; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY RAISE

● Mr. DECONCINI. Mr. President, as we are all aware, President Reagan left office with the highest approval ratings of any President since Franklin Roosevelt. He survived many difficult moments and did so with grace. This Senator supported the President when he felt the President was correct. And this Senator opposed the President when he felt the President was incorrect. Although President Reagan has now left office, I must disagree with one of his final acts as President.

In his final budget proposal for fiscal year 1990, President Reagan proposed increasing the pay levels for Federal judges, Cabinet members, senior executives, and Members of Congress. He proposed raises of 50 percent and more to make up for what he termed the "substantial erosion in the real level of Federal executive pay which has occurred since 1969."

The buying power of the dollar has eroded since 1969. It has eroded for Members of Congress and agency heads. But it has also eroded for teachers and nurses and plumbers and architects and other working Americans. These individuals are able to make ends meet. They balance their family budgets and do not spend money that they do not have. They do this on salaries that are substantially less than those of Members of Congress.

As you know, Mr. President, we receive annual salaries of $89,500. According to the Census Bureau, the median family income for a family of four in 1986 was $34,716. In my State of Arizona, the median family income for the same year was $33,477.

Granted, the Washington, DC area is an expensive one. Many in Congress maintain two residences—one in Washington and one back home. Also, many of us have children who are in college or one day will be.

The American people face the same fiscal and family responsibilities as Members of Congress. After all, we are "of the people." The American people are able to provide for their families on incomes substantially lower than those of Senators and Representatives. Why should we get a 50-percent pay raise—increasing our salaries to $135,000—when the median income of the American people is less than $35,000? Are we somehow better than they are because we are elected to Congress? I do not think so.

I feel so strongly about this issue that today I am introducing three bills to correct the whole issue of congressional pay. They are simple bills which, if enacted, would go a long way toward resolving this emotional issue. They might even restore some of Congress' tarnished image.

The three bills are: One, a joint resolution of disapproval of the pay raise for Members of Congress, two, a bill to ban honoraria for Senators, and three a bill to remove the consideration of pay raises for Members of Congress from the deliberation of the Quadrennial Commission and to require affirmative vote on future pay raises before they can take effect.

These bills are simple and direct as they should be. The current method by which Congress considers its pay raises was devised by Congress so that it would not have to actually consider raises. It established a commission to report to the President who then makes recommendations to Congress. These recommendations go into effect unless both Houses of Congress vote against accepting the raise. This is confusing and was expressly intended to be that way.

This system must be changed. We must ensure that if Congress feels it deserves a pay raise then each and every Member must step forward and be counted. We must say "Aye" or "Nay," not hide behind the findings of a Commission and say that the raise was forced on us.

Unfortunately, we are under the gun because of the 30-day time period in which Congress must deny the raise or have it go into effect. Therefore, we must first deny this raise before we attempt to change the system for future raises.

Two of my bills go straight to the issue at hand. One is a joint resolution of disapproval called for in the Federal Salary Act of 1967. I am extremely pleased that my friend and colleague on the Judiciary Committee, Senator SIMON, as well as Senator BRYAN, have joined me as original cosponsors.

This resolution will deny the pay raises for Members of Congress and other legislative branch officials only. It does not deny the increase for executive branch officials and members of the Federal Judiciary.

There are many people who support the congressional pay increase. Current and former Government officials have gone on record in support of the raise. Even some Members of Congress have stated that they believe they have earned this exorbitant salary boost. Common Cause has sent a great deal of information in support of the recommendations and has included copies of editorials from around the country justifying and supporting the raise.

Many papers in Arizona, however, are of a different opinion. I would like to share with my colleagues what some of the papers in Arizona are saying about these raises. I ask unanimous consent that these editorials be entered into the RECORD at the end of my statement.

I have also received literally thousands of letters from my constituents on this issue. Rarely has an issue generated such strong and heated opinions. Of the mail I have received, hundreds with tea bags enclosed, only three support the raise. The rest of the letters suggest, request, and demand that the raise be stopped, that it be subjected to a roll call vote, and that it be returned if it goes into effect.

As the people of Arizona know, I returned the last raise I received to the Treasury for deficit reduction. If this raise goes into effect, I will return that as well. I do not do this to cast my colleagues in a negative light. I was a wealthy man before I came to the Senate. I do not need the extra money as do some of my colleagues. But, in this time of budget crisis—and I believe it is a crisis—we must send a signal to the American people that the business as usual attitude in Congress is over. The proposed raises would cost an estimated $59 million for the current fiscal year and a whopping $127.8 million in fiscal year 1990. With a current Federal budget deficit of more than $155 billion, I cannot justify adding nearly $200 million to the deficit because I might like a pay raise.

If we are asking the American people to take hits in programs that directly affect their lives, they have the right to ask us to take a hit in something important to us in return. If the widow in Chandler, AZ, is able to get by on $375 a month, then we certainly can do the same on our current salaries. We are "of the people" and should share the burden with our constituents. It is blatantly unfair that we ask the American people to make sacrifices while we line our own pockets.

That is why I am also introducing another bill to ban Senate honoraria. I am pleased that the junior Senator from Nevada, Mr. BRYAN has joined me in this effort. This is the one recommendation made by President Reagan and echoed by Common Cause and others with which I am in full agreement. Honoraria, payments made to Members of Congress by corporations and special interests for speeches given on any number of topics, have become a major supplement of congressional salaries. Under Senate rules, Senators may earn an additional 40 percent of their salaries through honoraria. Similarly, Representatives can supplement their salaries by an additional 30 percent through honoraria.

That means that Senators are allowed to earn $38,500 a year beyond the $89,500 salary. This supplemental income is greater than the national median family income. Members of Congress earned a record $9.8 million in this outside income in 1987. There's a lot of potential for conflict of interest when the corporations and special interests shell out big bucks to hear Senators and Congressmen talk.

The influence of this supplementary income has reached unacceptable levels. I do not understand why we, as public officials, should be paid for speaking to a group about issues before Congress. One of our duties as public officials is to educate and inform the electorate. When I go back to Apache Junction, AZ, and talk about legislation I do not charge the listeners a fee. The people who are listening have already paid to hear me speak because they pay my salary; because they pay taxes. Why then should I be paid a speaking fee for addressing a group of patent lawyers in Chicago? They too are taxpayers. The fact that I am chairman of the Patents Subcommittee should make no difference. I am a public official. I should not charge others to hear me speak. I may not be able to get votes from the patent lawyers in Chicago but I am a U.S. Senator and I feel an obligation to speak to national groups who request my views on issues of concern to them and over which I have legislative jurisdiction.

As the Washington Post stated, "Public officials should surely be publicly paid. A system that gives just Congress more money through the back door of honoraria while freezing the pay of others is doubly wrong. It's time for a little truth in compensation."

The final issue I address with my legislation is the method for determining congressional pay. By eliminating legislative branch pay from the deliberations of the Quadrennial Commission, I am returning the discussion of the issue to Congress where it belongs. We can no longer hide behind the recommendations of a commission and legislative subterfuges. Instead, under my legislation, Congress will have to determine whether or not it deserves a raise and how much that raise will be. And, every Member will have to go on record on their position on future raises by voting on the issue.

We in Congress are adults who must shoulder many responsibilities. In the Senate, we pass laws; we consent to nominations; we ratify treaties involving war and peace; we even act as a jury at times. Certainly we can shoulder the responsibility of determining our rate of pay and then voting on it.

In conclusion, Mr. President, the bills I am introducing are simple and direct. The bills would deny the proposed 50-percent pay raise to Members of Congress, ban Senators from receiving honoraria, and clarify the way Congress addresses future pay raises. I ask unanimous consent that the bills be printed in the RECORD following my remarks and I urge my colleagues to join me in congressional house cleaning by cosponsoring these measures.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING THE COMMISSION.

Section 225(a) of the Federal Salary Act of 1967 (2 U.S.C. 351) is amended by striking out ", Legislative,".

SEC. 2. FUNCTIONS OF COMMISSION.

Section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356) is amended to read as follows:

"(f) FUNCTIONS OF COMMISSION.—(1) The Commission shall conduct, in each of the respective fiscal years referred to in subsection (b)(3), a review of the rates of pay of—

"(A) justices, judges, and other personnel in the judicial branch referred to in section 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426) and magistrates and the judges of the United States Claims Court;

"(B) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code; and

"(C) the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of title 39, United States Code.

"(2) Such review by the Commission shall be made for the purpose of determining and providing—

"(A) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review; and

"(B) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions

of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

"(3) In reviewing the rates of pay of the offices or positions referred to in paragraph (1)(B) of this subsection, the Commission shall determine and consider the appropriateness of the executive levels of such offices and positions.".

SEC. 3. CONFORMING AMENDMENTS.

(a) REPORT TO PRESIDENT.—Section 225(g) of the Federal Salary Act of 1967 (2 U.S.C. 357) is amended in the first sentence by striking out "subparagraphs (A), (B), (C), and (D)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(b) RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS.—Section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358) is amended by striking out "subparagraphs (A), (B), (C), and (D)" and inserting in lieu thereof subparagraphs (A) and (B)".

SEC. 4. CONGRESSIONAL VOTE ON ANY INCREASE IN THE RATES OF PAY OF MEMBERS OF CONGRESS.

(a) JOINT RESOLUTION.—Notwithstanding any other provision of law, any increase in the rates of pay of Members of Congress shall become effective only after the enactment of a joint resolution as provided in subsection (b).

(b) FORM OF JOINT RESOLUTION.—The joint resolution described under subsection (a) shall—

(1) relate only to the issue of the increase in the rates of pay of Members of Congress; and

(2) be recorded to reflect the vote of each Member of Congress thereon.

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, on and after the date of enactment of this Act, a Member of the Senate shall not accept honoraria for or on account of any service performed on or after such date.

(b) For the purposes of this Act—

(1) "honorarium" means a payment of money or anything of value to a Member for an appearance, speech, or article, by the Member; but there shall not be taken into account for the purposes of this section any actual and necessary travel expenses, incurred by the Member, and spouse or an aide to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed; and

(2) "travel expenses" means with respect to a Member, and spouse or an aide, the cost of transportation, and the cost of lodging and meals while away from his or her residence or the metropolitan area of Washington, District of Columbia.

(c) Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

S.J. RES. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the recommendations of the President relating to rates of pay for offices and positions within the purview of subparagraphs (A), (B), (D), and (E) of section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356 (A), (B), (D), and (E)), as included (pursuant to section 225(h) of such Act) in the budget transmitted to the Congress for fiscal year 1990, are disapproved.

[From the Avondale Westsider, December 21, 1988]

ARIZONA'S SENATORS OPPOSE PAY RAISES

A proposed 50 percent pay raise for 2,500 high-level federal officials, including the members of Congress, not only appears to be quite unpopular among local residents, but both Arizona senators firmly oppose the measure. If enacted, the annual salaries of Senators Dennis DeConcini and John McCain would go up from $89,500 to $135,000.

The pay raises were recommended by the Commission on Executive, Legislative and Judicial Salaries, a presidential advisory commission. Their proposal contained a new twist this time: End the profitable practice of senators and representatives who collect speaking fees (honorariums). These fees amounted to $9.8 million last year.

DeConcini, the state's senior senator, not only opposes the wage increase—he has not pocketed the last one, said aide Jamie Ridge on Friday. Monthly for the past nine months, DeConcini has mailed the U.S. Treasury a check for $1,008.83, the size of a pay increase given to members of Congress last March.

"An outrageous proposal" is how McCain described the raises during a phone interview with the Westsider Friday. The freshman senator pledged "to do everything" he can to oppose the pay raises. McCain said he does welcome the proposed ban on honorariums, which he knocked as "a clear conflict of interest."

During 1987, McCain collected $30,250, monies he gave charity in $500 donations. The Make-A-Wish Foundation, which treats terminally-ill youngsters to special occasions, was one of the organizations to which he contributed.

DeConcini, doesn't accept honorariums to start with. If one is offered by a sponsoring group, the Democrat from Tucson suggests that they send the money to an Arizona non-profit organization. The Arizona Museum for Youth was one of more than 20 organizations that benefited from DeConcini's recommendations.

Speaking for this boss, Ridge said, "He'd like to see the pay stay the way it is as well as end the honorariums.

The two senators—and their staffers—have received a much negative comment on the pay raises from their constituents as they prepare to go back into session next month. Ridge reported that many DeConcini callers were "miffed" about the manner in which the last increase was given—senators and representatives had to essentially veto the raise or it became law, which it barely did.

The proposal, which also will raise the President's salary $150,000 (to $350,000) and that of appellate judges from $95,000 to $140,000, will probably come before the House of Representatives in early February.—Michael Higgins.

[From the Mesa Tribune, Dec. 20, 1988]

JUST SAY NO TO PAY RAISE

It was only natural that after the news got out about members of Congress being in line for a 50-percent pay increase reporters would want to know what our own senators and representatives thought about it. Quite frankly, the response from those contacted was less than reassuring.

A presidential commission has recommended that the salaries of a bunch of top federal officials be increased by 50 percent. Because of federal law, the members of Congress must get the same increase. If the president accepts the recommendations and passes them on to Congress, the members of Congress will automatically get the pay raise unless they call for a special vote to reject it.

Fat chance they'll vote to cut themselves out of a fat pay raise, right?

It must first be noted that Sen. Dennis DeConcini, D-Arizona, refused to accept the last pay raise Congress let itself have.

That said, DeConcini now says he is uncertain what he'd do if this next pay raise comes up for a vote. For DeConcini, it may wll depend on whether the pay raise would come with the elimination of the tradition of honoraria for members of Congress.

Sen. John McCain. R-Arizona, said, "It would be wrong to vote for a pay raise when the people of the state are telling me to vote against it." Does the senator mean to suggest that he would vote for it if the people didn't mind?

Rep. Morris Udall, D-Arizona, said he might accept the pay raise if it ended honoraria.

Rep. Jay Rhodes, R-Arizona, said he's waiting to see what President Reagan will do with the recommendations.

Rep. Jim Kolbe and Jon Kyl, both Republicans, were described as unavailable for comment.

Here's what we think.

Each and every member of the Arizona delegation had darn well better make himself available to declare loudly and clearly that there is no way on this green Earth that Congress deserves any raise, let alone this one, and vow to fight said raise tooth and nail.

[From the Tempe Tribune, Dec. 25, 1988]

CONGRESSIONAL RAISES: TELL REAGAN IT'S TIME TO "JUST SAY NO"

(By Sandy Schwartz)

You probably have seen those books that give you advice on how to handle your boss. They tell you what you should and shouldn't say to your boss, and they tell you how to complain about a fellow worker.

What I like best is the section that tells you how and when to ask for a raise. I don't know about you, but some of that advice wouldn't cut it around our place.

The first of the year is just about here and many people are up for pay raise consideration. As you sit at home today trying to figure out how you are going to pay for all of those Christmas gifts, I am going to give you sound advice on how to get a healthy salary increase.

You won't find this in any of those books. Here's what you do: Get a presidential commission appointed at your place of employment and have it propose annual salary increases.

Then, have a system that almost automatically puts those recommended increases into place.

That is roughly how raises are considered for about 2,500 of the top federal officials in our land. Included are the president, vice president, senators, congressmen and presidential cabinet members.

Every four years the commission meets and makes blanket recommendations on pay raises, which are then passed along to the president. The president can accept or modify the raise recommendations, before

including them in his budget. In 1989, the president will send his budget to Congress on Jan. 9.

Here's the real catch in this deal. The increases automatically take effect 30 days later unless both the House and Senate vote to reject the recommendations. Incidentally, the House will be out of session more than half of those 30 days.

Oh yeah, this time around there is even more reason to be upset about the process. The commission has come back and suggested the 2,500 employees be given a 50 percent pay raise. In exchange for the pay raise, the commission also is suggesting honoraria for congressmen be abolished.

The issue of honoraria should not be tied to the salary increase issue. A 50 percent salary increase is the main issue. Yes, honoraria should be abolished, but ethical standards should dictate that, not one's salary.

I don't know too many people who are getting 50 percent pay raises this year. In fact, it probably will take most people 10 years to get accumulative raises of 50 percent.

For the record, Arizona Sens. Dennis DeConcini and John McCain and Rep. Jay Rhodes have taken strong stands in opposition to the raises. In a Tribune editorial earlier this week, the stands of Rhodes and McCain were not accurately portrayed.

I appeared on a radio talk show with Rhodes, during which he clearly stated his position. "I feel strongly that the commission's proposal is totally inappropriate," Rhodes said. "Congress received, over my objections, a substantial salary increase in the 100th Congress.

"Another increase for members of Congress in light of our nation's budgetary deficits is unthinkable. Clearly, Congress is dodging its responsibilities."

McCain didn't mince words, either. In a conversation this week, he told me, "The American people are totally offended by this, and so am I. I think this is an act of arrogance and insensitivity."

The last time a pay raise like this was ramrodded through, DeConcini, who bitterly opposed it then too, refused to accept it. He said he writes a personal sheck monthly to the Treasury Department for the amount of the raise.

The solution sounds simple. All our elected officials have to do is vote against the raise and all of this will be solved. Unfortunately, it isn't that easy. Most Washington insiders figure this won't come before Congress because of the way the process works. Thus, annual salaries for members of Congress will go from $89,500 to $135,000. You should know this same group of people received a 47 percent raise in 1979, which brought them to $89,500.

For now, the ball is in the president's court. He has pared the commission's proposed increases in the past before sending them to Congress. If he does this time, he will have a lot of cutting to do. And, keep in mind this is a president who is on his way out and who has been on record as saying we must pay public officials more if we are to attract good people into those positions.

Rhodes said he will introduce a four-point plan of legislation right after the first of the year to short-circuit this type of action.

You, too, can do something. If you are a person of immediate action, call 202-456-7639. That will get you to President Reagan's office, or at least to someone in his office with whom you can lodge a complaint.

If you want to write, direct your letter to the president at the White House, Washington, D.C., 20500. You also should direct complaints to the Speaker of the House, Jim Wright, Washington, D.C., 20515.

Somehow, I just don't believe this is the way the American system is supposed to work.

[From the Green Valley News]

PAY RAISES EXCESSIVE

Pardon us, but are we hearing this correctly? If so, something doesn't add up.

It seems like only yesterday newly elected President George Bush and members of Congress were calling the nation's ballooning budget deficit the No. 1 priority for the federal government to resolve.

Congress even voted to freeze the minimum wage.

They did do that, didn't they,

As far as we know, the deficit hasn't disappeared and the minimum wage remains at $3.35 per hour, which adds up to a yearly income of $6,968 (before taxes).

So how come a federal panel is now recommending 50 percent pay raises for members of Congress, the president, cabinet secretaries, Supreme Court judges and others who already earn more money than 98 percent of Americans?

The panel, the Commission on Executive, Legislative and Judicial Salaries, this week recommended that the president's salary be upped to at least $350,000 a year from $200,000 and that the pay of representatives and senators rise from $89,500 to $135,000.

Party leaders in both houses, of course, would get more. The panel wants both the vice president and Speaker of House to get a $60,000 raise.

There is a catch, but a minor one.

The raise for congressmen is contingent upon them accepting a ban on travel and speaking fees, which the panel believes often pose a conflict of interest.

But the ban amounts to an obvious smoke screen to blur the public outcry that should greet this pay raise proposal.

Sure, congressmen and federal officials need to keep up a more expensive lifestyle than most Americans.

Yes, they do get paid much less than many in private industry or professional life. But the point is that congressmen and federal officials are supposed to live and act as public servants, not robber barons or industry tycoons.

No one is forcing any senator or congressmen to run for office or stay in office if they want to earn more money elsewhere.

A reasonable raise proposal for federal officials would undoubtedly win support, but this one goes too far.

It will also be hard to stop because of the ingenious way it's been presented.

The proposal will probably be included in the president's final budget.

If so, it will become law unless Congress votes against it within 30 days of the time the budget is presented.

That way, lawmakers will be spared the embarrassment of voting for this calculated rape of the American taxpayer.

The pay raise proposal is excessive, outrageous, and inappropriate in these times of tight money and mounting federal debt.

If you write only one letter this year to your congressmen, write this one. Tell them Green Valley area residents won't support this ripoff and gross betrayal of public trust.

[From the Eastern Arizona Courier, Dec. 20, 1988]

NO EXAMPLE PROVIDED

It seems that one of the best and easiest ways to teach something to someone else is through example. If you want to teach someone the value of honesty, one would be truthful in all dealings with that person. It just makes sense.

What does not make sense is the federal government continually preaching the importance of reducing the national deficit and having Congress turn around and seek a 50 percent pay increase for themselves. They are the ones that should provide that example. Right now, it is just an example of greed and hypocracy.

If accepted by Presidnet Reagan and not voted down by both houses of the Congress, the recommendations of the Commission on Executive, Legislative and Judicial Salaries automatically become law. The proposal includes, among other things, a 50 percent raise for members of Congress and other top-level government officials.

The Commission recommends that the salaries of congressmen and federal district judges be raised from $89,500 to $135,000 annually. Other hefty hikes are proposed for the President, Vice President, Cabinet members and Supreme Court justices.

Increasing the compensation for some public jobs is justified, but it hardly seems such a large and sweeping salary hike is based on job performance or economic conditions.

Public officials are to serve in their positions for the good of the public, not the money. With this recent increase, if approved, it means more and more of the offices of federal government will be held by professional politicians. Not public servants, not people interested in doing the best for their district, but professional politicians. Raising the salaries this much in one swoop makes politics even more appealing for those looking more for money than service to others.

Arizona residents recently turned down a proposal which would increase salaries for state legislators to $25,000 annually from the current $15,000. These state legislators play an important role on what really happens to the citizens of this state and do impact on federal issues.

If people feel these legislators are being paid enough at $15,000 for a six-month session, what makes federal legislators feel they are worth almost 10 times that

Times are tough with the large deficit. Which programs will have to scrifice in service if the federal officers receive such a large pay increase. We are talking about more than a $45,000 increase for every member of the House and Senate as well as federal district judges.

Why should any program or citizen have to suffer because of what appears to be a case of severe greed. It is time for the Congress to be that example instead of part of the problem.

[From the Sierra Vista Herald and Bisbee Review, Dec. 14, 1988]

CONGRESS CAN DO WITHOUT RAISE

With the Christmas season and all, don't be surprised if the guys and gals on Capitol Hill don't make some impassioned speeches in the coming weeks on behalf of the less-fortunate: Themselves.

The always-laughable ritual of Congressional hand-wringing over pay rates for lawmakers is beginning.

This year, there's a new twist. An executive department report prepared by the Commission on Executive, Legislative and Judicial Salaries recommended Tuesday that salaries for member of Congress, Cabinet members and federal judges be raised 50 percent.

Even through Congress has rejected every annual budget sent over by the Reagan White House, we imagine the numbers in this report will be embraced.

If the report's suggestions are adopted, pay for members of Congress would increase from the current $89,500 annually to $135,000. Supreme Court justices are paid $115,000 now and their pay would increase by a similar percentage.

The report, in a nutshell, says things are darn tight on nearly 90 grand a year. Members of Congress are forced to accept speech honoraria at up to $2,000 a pop to supplement their incomes.

The panel preparing the report has heard testimony in the past few weeks tht low pay levels are keeping the good people away from public offices in all three branches of the government.

Tell that to the working poor of Cochise County or any other location in the country. Tell it to people making minimum wage and trying to decide whether to buy a coat or shoes for their children. Tell it to working mothers who must find affordable day care and hope that their children are safe. Tell it to those who live with no health insurance, prenatal care or dental visits. Or to those who risk malnourishment and disease because they eat high-fat food because it's all they can afford.

The report's rationale is that pay for House and Senate members, about 1,100 federal judges and some 3,000 top executive positions should be raised so the spending power equals 1969 levels.

Many Congressional incumbents have held their offices since 1969, so they can attest to the dwindling purchasing power of the dollar. If the low pay is keeping people from public office, why do we wind up with so few freshmen lawmakers every year?

The men and women of Congress could have done something to prevent their dollars from becoming so valueless: They could have balanced budgets, been more careful with credit, and attacked the crippling federal deficit before it got out of hand.

Congress has done a horrible job of managing the nation's economy. They don't deserve any higher salary. Nor should they be allowed to grovel for speeches in front of special interest groups. The provision allowing for honoraria for speeches should be abolished. And those zany Congresspeople should be forced to tough it out on $90,000 a year.

[From the Mesa Tribune]

PAY RAISE FOR WHOM?

What's your opinion of the job Congress had done? If you were a manager and all the members of Congress worked for you and it was time to have them in for a salary review, how would you rate their performance? More importantly, would you put them in for a pay raise?

Would you put them in for a 50 percent pay raise?

Yeah, that's what we thought.

Believe it or not, a presidential commission has recommended a 50 percent pay raise for such top federal officials as Supreme Court judges, federal judges, the vice president and president and Cabinet members.

The Quadrennial Commission on Executive, Legislative and Judicial Salaries has recommended to President Reagan that salaries for some 2,500 top federal jobs be increased by 50 percent.

Because of federal law—drafted by guess who—congressional salaries go along for the ride when federal salaries are increased.

Now, Reagan must first review the commission's recommendation. He can increase or decrease the recommended pay boosts. He also has the option of rejecting them altogether. The president has, in the past, strongly supported the notion that the nation needs to pay higher salaries to compete with the private sector and to keep the top people in public service. On the other hand, Reagan has usually cut such proposals before turning them over to Congress.

Once Reagan turns the recommendations over to Congress, its members are in the fascinating position of being able to give themselves a pay raise by doing absolutely nothing.

That's right. The law is set up so that the pay raises take effect automatically unless both the House and Senate vote to reject the recommendations.

It's not difficult to imagine the pitch to the folks back home "Hey, I didn't vote for any pay raise . . . check the Congressional Record,"

Getting a vote on the pay raise is going to be tough. After Reagan hands the recommendations over on Jan. 9, Congress has 30 days in which to vote on the measure. If it does not vote, the pay raise go through. Congress will be out of session at least 19 of those 30 days.

Keep in mind, the commission's recommendations may be completely sensible. It may well be that we need to pay our top federal officials more money or face losing them to the private sector. The chief justice of the Supreme Court makes $115,000 a year. A lawyer of such an obviously high caliber would be able to make many times that in a prestigious private law firm. Maybe these salaries should be 50 percent higher than they are now but to retify the situation in one full swoop is illogical.

And no matter what the increase, Congress hitchhikes to more money for its members. Members now make $89,500 a year. That's 47 percent more than they made in 1979. Is there a congressman anywhere worth $135,000 a year?

And don't forget the little matter of honoraria, the tons of money members of Congress make for speaking engagements, often with special interest groups who use the speaking fee as a way to make a political contribution right at the source. Last year, the members of Congress raked in $9.8 million in honoraria, more than $18,300 each—and they did not share equally in the wealth.

Sure, the commission recommended that Congress swap honoraria for the pay raise, but it takes an act of Congress (literally) to do away with the honoraria, while the pay increase—whatever is is—will come automatically.

Watch your congressman and senator closely on this one. Insist that they come to a vote on the pay raise and make sure they are held accountable for whatever action they take.●

By Mr. DOMENICI (for himself, Mr. GRASSLEY, Mr. LOTT, and Mr. COATS):

S. 159. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 5, that earned income credit shall not apply to families having such a dependent, and that the dependent care credit shall not apply with respect to such dependents; to the Committee on Finance.

FAMILY CHOICE TAX CREDIT ACT OF 1988

● Mr. DOMENICI. Mr. President, today I am pleased to introduce the Family Choice Tax Credit Act of 1989. This legislation makes a clear policy statement that the Federal Government has a very important role in helping families meet their child care needs. At the same time it recognizes that mother and father know what is best for their children. This bill is very similar to S. 2620 that I introduced during the 100th Congress. Unfortunately, the Senate lacked the time to address my earlier proposal.

This is legislation that calls for a major investment in America's young children and their families. I am convinced that this legislation is essential and will go far to address the child care needs facing America's families.

Mr. President, the U.S. Senate may be interested, and I am sure the American people will be interested, in the fact that for most of our history as a Nation, our National Government has provided significant assistance to families who are raising children. This was done in the form of personal exemptions. That assistance has eroded due to inflation and because our Tax Code has been changed dramatically, all of which works against raising a family.

I ask unanimous consent to have printed in the RECORD a chart showing the total worth of personal exemptions for a family of four and illustrating this erosion from 1912 to today.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

OUR ANTI-FAMILY TAX SYSTEM

(Personal exemption for family of four)

	Current dollars	1987 Dollars [1]
1912	$4,000	$45,977
1920	2,400	13,636
1931	4,300	32,090
1940	2,800	22,764
1945	2,000	12,658
1948	2,400	11,321
1969	2,400	7,430
1972	3,000	8,152
1984	4,000	4,376
1987	7,600	7,600

[1] 1987 dollars, using CPI: Source: "Federal Tax Policy," Joseph Pechman-Brookings Institution.

Mr. President, if one wants a more recent comparison it would be as follows. An American family of four paid 24 percent of their annual income in Federal income taxes while in 1948 a family of four paid 2 percent of their annual income in Federal taxes. That is an average figure. That is because they received rather significant family oriented exemptions.

Even with the increase in the exemptions that occurred during tax reform, we all still substantially behind what we used to be; and we ask why families cannot afford child care, why families with two or three children cannot carry out the essentials for those children.

Implicitly, we compare it with past history, and we even say that maybe it was easier to raise children on a given standard 20 years ago. I believe that the income tax incentives of those days are at the heart of this.

So my bill, which I introduced last year in a slightly different form—and in his campaign, President Bush included some of the essentials—clearly moves us in a direction of letting mothers and fathers, even if one of them chooses not to work, to receive a significant tax credit if they have children under 5 years of age. They can choose how and where and when to spend the money on child care. It would also make it a family choice. It would provide an incentive even if one or the other chooses to stay home and take care of the children. They do not deserve to be penalized, if that is their choice. So this incentive will be available whether or not both parents are working.

THE BILL'S PROVISIONS

Title 1 of this legislation creates two special tax credits for families with young children. Eligibility for the credits is based upon family income. For families earning less than $30,000 a year, this bill provides a direct, $700 per year tax credit for each child under age 5. That tax credit reduces, dollar for dollar, the amount of taxes owed, or would increase the amount of a taxpayer's refund, by $700. The result is that eligible families will get $700 more each year for each eligible child

My bill provides that once future deficit reduction goals are met with $700 credit will be increased and extended to all families.

The second tax credit I am proposing, called a Young Child Tax Credit [YCTC], will enables us to channel greater assistance to families with greater needs. Expanding upon the current Earned Income Tax Credit [EITC] Program, which already assists many low income families, my YCTC would provide a new, refundable tax credit to families whose income receive earning supplements of as much as 15 percent for their one child under age 5, and a 10-percent supplement for each additional child under that age.

This second credit will enable many low income families to receive even more than $700 per child, with the amount determined by each family's earnings and the number of young children they have. In addition, because the benefits increase with family earnings, it rewards families for working.

Title 2 of this legislation limits liability that many child care providers now face. It provides that licensed providers found liable for a nonintentional tort owes only those damages directly attributable to the provider's proportional share of fault.

Double payment of damages would be eliminated so that damages awarded against a licensed child care provider are reduced by any past or future payment that has already been received. Additionally, assessments of punitive damages would be limited to cases when their justification is proved through clear and convincing evidence.

Also under this title, $75 million is authorized to assist States in establishing liability insurance pools for accredited child care providers.

Title 3 authorizes $25 million to help States establish a revolving loan fund to help family based child care providers. These funds would help such providers make the capital improvements needed to meet accreditation or licensing standards.

Both Titles 2 and 3 in this bill were suggested by my good friend, the distinguished ranking member of the Committee on Labor and Human Resources [Mr. HATCH]. These concepts were included originally in a bill he introduced last year, the Child Care Services Improvement Act. And I was proud to include them in the legislation I offered both then and now.

These are very important provisions, I believe, in helping assure the supply of quality child care options continues to grow.

MEETING THE NEEDS OF AMERICA'S YOUNG FAMILIES

In recent decades, substantial changes have occurred in America's work force and family structure, changes that have focused greater attention on the need for child care. In fairness, as well as for the sake of our economy, we simply must help families in need afford the high costs of caring for their children.

The percentage of working women with children under age 6 has grown since 1950 from 12 percent to 57 percent. And this figure is likely to grow since 60 percent of those who will join the labor force between now and the year 2000 will be women.

For many working parents, quality day care services will be critical. And the availability of high quality day care certainly has dominated public debate over child care.

Yet, from observations, Mr. President, we must broaden our perspective to the child care needs that all families face. In reality, large day care facilities are just one of many ways that a family might select as the way to care for its children. Most children are cared for either by one of their parents, a relative, or a neighbor.

I am convinced that we ought to give our principle attention to the more profound burdens faced by many American families, the tremendous cost of rearing a child. Regardless of how families choose to care for their young children, they all face very high costs. We must help all families, whether parents seek quality group day care, neighborhood family care, or whether a parent stays at home with a child.

I believe that the tax credits I am proposing are the most fair and effective way to accomplish that goal.

First, the tax credits I am proposing are very substantial and will go far to help families in need meet the high costs of child care. While any such plan must be considered within the context of overall budget restraints, this proposal would help reverse a trend of recent decades in which the tax code has recognized less and less the high costs of raising children.

The value of the personal tax exemption has eroded considerably over the past 30 to 40 years. During the 1950's, each personal exemption had a value equal to 42 percent of the average personal, per capita income. Today that percentage is a mere 17 percent.

Second, the tax credit approach is truly a superior way to provide needy families child care assistance. It allows parents maximum freedom to choose how their children should be cared for, and is fair to all families. It does not discriminate against mothers who make the economic sacrifice to stay at home with their child, or who choose one particular form of child care over another.

With the tax credit, the cash assistance is put directly into the hands of parents and not filtered through a huge bureaucracy which will spend money for them. Additionally, the tax credits I am proposing allow us the best method for getting assistance directly to those most in need.

This approach, of course, is very similar to the "Children's Tax Credit" proposal that President Bush recommended last year. I may wish to modify this bill, or propose alternatives, as we learn more about its costs and the details of the President's proposal. I certainly look forward to working with the administration in this area. I urge my colleagues to support the approach taken in this proposal.

Mr. President, I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Choice Tax Credit Act of 1988".

TITLE I—TAX CREDITS FOR FAMILIES WITH YOUNG CHILDREN

SEC. 101. FAMILIES WITH YOUNG CHILDREN TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. FAMILIES WITH YOUNG CHILDREN TAX CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the young child tax credit amount for the taxable year.

"(b) YOUNG CHILD TAX CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), the young child tax credit amount for the taxable year is an amount equal to the sum of the applicable credit percentages of so much of the taxpayer's earned income (as defined in section 32(c)(2)) for such year as does not exceed $8,000.

"(2) APPLICABLE CREDIT PERCENTAGES.—For purposes of paragraph (1), the applicable credit percentage is—

"(A) 15 percent for any 1 qualified dependent of the taxpayer, and

"(B) 10 percent for each qualified dependent of the taxpayer other than the qualified dependent taken into account under subparagraph (A).

"(3) PHASEOUT OF CREDIT.—

"(A) IN GENERAL.—In the case of a taxpayer whose earned income for the taxable year exceeds $8,000, the amount determined under paragraph (1) shall be reduced by an amount equal to the sum of the applicable phaseout percentages of such excess.

"(B) APPLICABLE PHASEOUT PERCENTAGES.—For purposes of subparagraph (A), the applicable phaseout percentage is—

"(i) 9 percent for any 1 qualified dependent of the taxpayer, and

"(ii) 1 percent for each qualified dependent of the taxpayer taken into account under paragraph (2)(B).

"(C) MINIMUM CREDIT PER QUALIFIED DEPENDENT.—Notwithstanding subparagraph (A), the amount determined under paragraph (1) with respect to each qualified dependent taken into account under paragraph (1) shall not be reduced by reason of this paragraph to less than $700 for each such dependent.

"(D) NO CREDIT FOR TAXPAYERS WITH EARNED INCOME EXCEEDING $30,000.—No credit shall be allowed under subsection (a) for any qualified dependent of a taxpayer whose earned income for the taxable year exceeds $30,000.

"(c) QUALIFIED DEPENDENT.—For purposes of this section, the term 'qualified dependent' means any individual—

"(1) who is a dependent (as defined in section 152) of the taxpayer,

"(2) who is a child (as defined in section 151(c)(3)) of the taxpayer, and

"(3) who has not attained age 5 at the close of the calendar year in which the taxable year of the taxpayer begins.

Such term does not include any dependent of an individual receiving aid or assistance under part A or part E of title IV of the Social Security Act.

"(d) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 7703), this section shall apply only if a joint return is filed for the taxable year.

"(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each for earned income between $0 and the amount of earned income at which the credit is phased down to the amount applicable under subsection (b)(3)(C).

"(g) COORDINATION WITH ADVANCE PAYMENTS OF YOUNG CHILD TAX CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made to the individual by an employer under section 3507A during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.

"(h) PHASE-IN OF HIGHER CREDIT.—

"(1) TAXABLE YEARS BEGINNING AFTER FIRST TRIGGER YEAR.—In the case of any taxable year beginning on or after the first trigger year—

"(A) '$1,000 for each such dependent ($750 in the case of any taxpayer whose earned income for the taxable year exceeds $30,000)' shall be substituted for '$700 for each such dependent' in subsection (b)(3)(C), and

"(B) '$50,000' shall be substituted for '$30,000' each place it appears in subsection (b)(3)(D).

"(2) TAXABLE YEARS BEGINNING AFTER SECOND TRIGGER YEAR.—In the case of any taxable year beginning on or after the second trigger year—

"(A) '$35,000' shall be substituted for '$30,000' in subsection (b)(3)(C), and

"(B) subsection (b)(3)(D) shall not apply.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) FIRST TRIGGER YEAR.—The term 'first trigger year' means the first fiscal year beginning after September 30, 1993, in which the level of total budget outlays does not exceed the recommended level of Federal revenues set forth for such year (as determined under section 301(i) of the Congressional Budget Act of 1974).

"(B) SECOND TRIGGER YEAR.—The term 'second trigger year' means the first fiscal year beginning—

"(i) on October 1, and

"(ii) after the end of the first trigger year, in which the level of total budget outlays does not exceed the recommended level of Federal revenues set forth for such year (as determined under section 301(i) of the Congressional Budget Act of 1974).".

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of such Code is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF YOUNG CHILD TAX CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom a young child tax credit eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's young child tax credit advance amount.

"(b) YOUNG CHILD TAX CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this title, a young child tax credit eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 35 for the taxable year,

"(2) certifies that the employee does not have a young child tax credit eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

"(3) states whether or not the employee's spouse has a young child tax credit eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnished the statement in question.

"(c) YOUNG CHILD TAX CREDIT ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'young child tax credit advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

"(B) if the employee is not married, or if no young child tax credit eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 35 as if it were a credit—

"(i) of not more than the sum of the applicable credit percentages under section 35(b) of earned income not in excess of the amount of earned income which may be taken into account under section 35(b), which

"(ii) phases down between the amount of earned income at which the phaseout begins under subsection (b) of section 35 and the amount of earned income at which the credit under section 35 is phased down to the amount applicable under section 35(b)(3)(C), and which

"(iii) phases out at the amount of earned income described in section 35(b)(3)(D), and

"(C) if a young child tax credit eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 35 as if it were a credit—

"(i) of not more than the sum of the applicable credit percentages under subsection (b) of section 35 of earned income not in excess of ½ of the amount of earned income which may be taken into account under such subsection, which

"(ii) phases down between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii), and which

"(iii) phases out at ½ of the amount of earned income described in subparagraph (B)(iii).

"(d) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (d) and (e) of section 3507 shall apply for purposes of this section. Proper adjustments shall be made in the application of such rules under this section to take into account payments under section 3507.".

(2) INFORMATION SHOWN ON W-2.—Subsection (a) of section 6051 of such Code (relating to receipts to employees) is amended by striking the period at the end of paragraph (8) and inserting ", and" and by inserting after paragraph (8) the following new paragraph:

"(9) the total amount paid to the employee under section 3507A (relating to advance payment of young child tax credit).".

(3) REQUIREMENT OF RETURN.—Subsection (a) of section 6012 of such Code (relating to persons required to make returns of income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507A (relating to advance payment of young child tax credit).".

(4) CROSS REFERENCE.—Subsection (e) of section 6302 of such Code (relating to mode or time of collection) is amended by adding at the end thereof the following new paragraph:

"(3) For treatment of young child tax credit advance amount as payment of withholding and FICA taxes, see section 3507A(d).".

(c) CLERICAL AMENDMENTS.—

(1) The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Young child tax credit.
"Sec. 36. Overpayments of tax.".

(2) The table sections for chapter 25 of such Code is amended by inserting after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of young child tax credit.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1989.

(2) The amendments made by paragraphs (1) and (2) of subsection (b) shall apply to remuneration paid after December 31, 1989.

SEC. 102. CHANGES IN EARNED INCOME CREDIT AND DEPENDENT CARE CREDIT.

(a) TAXPAYERS WITH DEPENDENTS UNDER AGE 5 INELIGIBLE FOR EARNED INCOME CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 32(c) of the Internal Revenue Code of 1986 (defining eligible individual) is amended by adding at the end thereof the following new subparagraph:

"(D) TAXPAYERS ELIGIBLE FOR YOUNG CHILD TAX CREDIT INELIGIBLE FOR EARNED INCOME CREDIT.—No credit shall be allowed under this section to a taxpayer for the taxable year if a credit is allowable to the taxpayer under section 35 for such taxable year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

(b) NO DEPENDENT CARE CREDIT FOR EXPENSES WITH RESPECT TO DEPENDENTS UNDER AGE 5.—

(1) IN GENERAL.—Paragraph (1) of section 21(b) of such Code (defining qualifying individual) is amended by adding at the end thereof the following new sentence:

"The term 'qualifying dependent' shall not include any qualified dependent (as defined in section 35(c)).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

TITLE II—CHILD CARE LIABILITY

PART A—CHILD CARE LIABILITY REFORM

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) the term "family based child care" means child care located in or on the site of the principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person who is self-employed as a child care provider, and the children cared for in such facility shall include children who are not the children of such provider;

(2) the term "group child care center" means a child care provider which is a private profit or nonprofit corporation, not located in the principal residence of the provider, and includes on-site child care;

(3) the term "in-home child care" means child care which is provided in a principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1986) of a person and to which an outside individual child care provider comes, either for specified hours of the day or on a live-in basis, to provide care for the children of such residence;

(4) the term "on-site child care center" means a child care facility—

(A) operated by an employer for the care of children, at least 30 percent of whom are dependents of employees of such employer; and

(B) located on or near the business premises of such employer;

(5) the term "person" means an individual, corporation, company, association, firm, partnership, society, or any other entity;

(6) the term "Secretary" means the Secretary of Commerce; and

(7) the term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 202. APPLICABILITY.

(a) IN GENERAL.—This part shall apply to any civil action in any State or Federal court against any child care provider who is in compliance with the licensing or accreditation requirements of the State in which he is located.

(b) EXCEPTION FOR INTENTIONAL TORTS.—This part shall not apply to any civil action for an intentional tort.

(c) PREEMPTION.—This part shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this part. Any issue arising under this part that is not governed by this part shall be governed by applicable State or Federal law.

(d) DEFENSES NOT AFFECTED.—Nothing in this part shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code, known as the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

SEC. 203. JOINT AND SEVERAL LIABILITY.

(a) IN GENERAL.—Except as provided in subsection (b), joint and several liability may not be applied to any action subject to this part. A person found liable for damages in any such action may be found liable, if at all, only for those damages directly attributable to the person's pro rata share of fault or responsibility for the injury, and may not be found liable for damages attributable to the pro rata share of fault or responsibility of any other person (without regard to whether such person is a party to the action) for the injury, including any person bringing the action.

(b) CONCERTED ACTION.—

(1) EXCEPTION FROM APPLICATION.—Subsection (a) shall not apply as between persons acting in concert where the concerted action proximately caused the injury for which one or more persons are found liable for damages.

(2) CONCERTED ACTION DEFINED.—As used in this section, "concerted action" or "acting in concert" means the conscious acting together in a common scheme or plan of two or more persons resulting in a tortious act.

SEC. 204. COLLATERAL SOURCE OF COMPENSATION.

(a) REDUCTION OF AWARD.—Any award of damages to a person in a civil action to which this part applies shall be reduced by the court by an amount of any past or future payment or benefit covered by this section which the person has received or for which the person is eligible on account of the same personal injury or death for which such damages are awarded.

(b) PAYMENT OR BENEFITS DEFINED.—As used in this section, "payment or benefit covered by this section" means—

(1) any payment or benefit by or paid for in whole or in part by any agency or instrumentality of the United States, a State, or a local government, or

(2) any payment or benefit by a health insurance program funded in whole or in part by an employer;

but does not include any such payment or benefit that is (or by law is required to be) the subject of a reasonably founded claim of subrogation, reimbursement, or lien.

SEC. 205. STANDARDS AND PROCEDURES FOR AWARD FOR PUNITIVE DAMAGES.

(a) STANDARDS.—Punitive or exemplary damages may, if otherwise permitted by applicable law, be awarded in any civil action to which this part applies only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting intentional or conscious disregard for the health or safety of those persons who might be harmed.

(b) PROCEDURES.—In any civil action to which this part applies, at the request of the defendant, the trier of fact shall consider in a separate proceeding whether punitive or exemplary damages are to be award-

ed and, if so, the amount of such award. If a separate proceeding is requested, no evidence which is relevant only to the claim of punitive or exemplary damages, as determined by applicable law, shall be admissible in any proceeding to determine whether compensatory damages are to be awarded.

SEC. 206. LIABILITY OF NONPROFIT ORGANIZATIONS AND PUBLIC SCHOOLS.

(a) LIABILITY OF SEPARATE CORPORATION.—Any eligible nonprofit organization or local educational agency which is the parent or majority owner of any entity incorporated or otherwise organized under applicable State law as a separate business organization providing child care shall not be liable for damages in any civil action to which this part applies brought against that separate corporation or organization.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "eligible nonprofit organization" means an organization described in section 501(c) or 501(d) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code.

(2) The term "local educational agency" has the meaning given to it under section 1001(f) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381(f)).

(c) SENSE OF CONGRESS REGARDING EXPEDITED INCORPORATION.—The Congress recognizes that the entities described in subsection (a) are making a significant contribution to society and encourages the States to establish expedited and simplified procedures under which nonprofit organizations and local education agencies may inexpensively and quickly incorporate or otherwise organize such entities as a separate child care provider.

PART B—CHILD CARE LIABILITY RISK RETENTION GROUP

SEC. 210. PURPOSE.

It is the purpose of this part—

(1) to increase the availability of child care by alleviating the serious difficulty faced by child care providers in obtaining affordable liability insurance; and

(2) to provide States with a sufficient capital base for liability insurance purposes that may be increased or maintained through mechanisms developed by the State.

SEC. 211. FORMATION OF CHILD CARE LIABILITY RISK RETENTION GROUP.

(a) ASSISTANCE IN FORMATION AND OPERATION OF GROUP.—Any State may assist in the establishment and operation of a child care liability risk retention group in the manner provided under this part.

(b) CHILD CARE LIABILITY RISK RETENTION GROUP DEFINED.—For purposes of this part, the "child care liability risk retention group" means any corporation (or other limited liability association)—

(1) whose members are child care providers licensed or accredited pursuant to State or local law or standards; and

(2) which otherwise satisfies the criteria for a risk retention group under section 2(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(4)).

SEC. 212. STATE APPLICATIONS.

(a) APPLICATIONS.—To qualify for assistance under this part, a State shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require, including a State plan which meets the requirements of subsection (b) of this section.

(b) STATE PLANS.—

(1) LEAD AGENCY.—The plan shall identify the lead agency which has been designated and which is to be responsible for the administration of funds provided under this part.

(2) PARTICIPANTS IN RISK RETENTION GROUP.—The plan shall provide that all participants in the child care liability risk retention group are child care providers who are licensed or accredited pursuant to State or local law or standards. In addition, the plan shall provide for maximum membership of family-based child care providers in the group.

(3) USE OF FUNDS.—The plan shall provide that the State shall use at least the amount allotted to the State in any fiscal year to establish or operate a child care liability risk retention group.

(4) CONTINUATION OF RISK RETENTION GROUP.—The plan shall set forth provisions which specify how the child care liability risk retention group will continue to be financed after fiscal year 1992, including financing through contributions by the State or by members of such group.

SEC. 213. FEDERAL ENFORCEMENT.

(a) REVIEW OF PLANS.—The Secretary of Health and Human Services shall review and approve State plans submitted in accordance with this part and shall monitor State compliance with the provisions of this part.

(b) FINDING OF NONCOMPLIANCE.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds—

(1) that there has been a failure to comply substantially with any provision or any requirements set forth in the State plan of that State; or

(2) that there is a failure to comply substantially with any applicable provision of this part,

the Secretary shall notify such State of the findings and of the fact that no further payments may be made to such State under this part until the Secretary is satisfied that there is no longer any such failure to comply, or that the noncompliance will be promptly corrected.

SEC. 214. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this part, there are authorized to be appropriated $75,000,000 for fiscal year 1990.

(b) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 215. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this part for each fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this part.

SEC. 216. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make an allotment to each State not referred to in section 215 for each fiscal year from the sums appropriated to carry out the provisions of this part for such fiscal year.

(b) ALLOTMENT FORMULA.—

(1) IN GENERAL.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this part for each fiscal year minus the amount reserved pursuant to section 215 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the number of children under 12 years of age living in the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.

SEC. 217. PAYMENTS.

(a) ENTITLEMENT.—Each State having a plan approved by the Secretary under this part shall be entitled to payments under this section for each fiscal year in an amount not to exceed its allotment under section 216, to be expended by the State under the plan for the fiscal year for which the grant is to be made.

(b) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or, subject to the requirement of section 214, by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(c) STATE SPENDING OF PAYMENTS.—Payments to a State from the allotment under section 216 for any fiscal year must be expended by the State in that fiscal year or in the succeeding fiscal year.

TITLE III—REVOLVING LOAN FUND

SEC. 301. PURPOSE; DEFINITIONS.

(a) PURPOSE.—It is the purpose of this title to—

(1) increase the availability of family-based child care by enabling family-based child care providers to meet accreditation or licensing standards; and

(2) provide States with a sufficient capital base to make loans that may be increased or maintained through mechanisms developed by the State.

(b) DEFINITIONS.—For purposes of this title, the following definitions shall apply:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

SEC. 302. STATE APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—

(1) FORM OF APPLICATION.—To qualify for assistance under this title, a State shall submit an application to the Secretary, at such time, in such manner, and providing such information as the Secretary may require, including a plan which meets the requirements of paragraph (2).

(2) QUALIFYING FOR LOAN.—The State shall submit a plan which sets forth procedures and requirements whereby any person desir-

ing to make capital improvements to the principal residence of such person (within the meaning of section 1034 of the Internal Revenue Code of 1986) in order to become a licensed or accredited family-based child care facility, pursuant to State or local law or standards, may obtain a loan from the State revolving loan fund (hereinafter called the "fund"). Such fund shall be administered by the State and shall provide loans to qualified applicants, pursuant to the terms and conditions established by such State, in an amount, determined by such State, which is not in excess of $1,500.

(b) STATE PLAN.—

(1) ESTABLISHMENT OF FUND.—The State shall provide in its plan, that such State has established a revolving loan fund, and has provided procedures whereby—

(A) moneys are transferred to such fund to provide capital for making loans;

(B) interest and principal payments on loans and any other moneys, property, or assets derived from any action concerning such fund are deposited into such fund;

(C) all loans, expenses, and payments pursuant to the operation of this title are paid from such fund;

(D) loans made from such fund are made to qualified applicants for capital improvements to be made so that such applicant may obtain a State or local accreditation or a license for a family-based child care facility; and

(E) the plan shall set forth provisions which specify how any such revolving loan fund will continue to be financed after fiscal year 1991, such as through contributions by the State or by some other entity.

(2) QUALIFICATIONS.—Such plan shall also set forth procedures and guidelines to carry out the purposes of this title, including provisions which will assure that only applicants who obtain a license or accreditation for a child care facility in accordance with the provisions of State or local law or standards, benefit from loans made available pursuant to the provisions of this title.

SEC. 303. AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—To carry out the provisions of this title, there are authorized to be appropriated $25,000,000 for fiscal year 1990.

(b) AMOUNTS TO REMAIN AVAILABLE.—The amounts appropriated pursuant to subsection (a) shall remain available for assistance to States for fiscal years 1990, 1991, and 1992 without limitation.

SEC. 304. RESERVATIONS FOR TERRITORIES AND ADMINISTRATIVE COSTS.

From the sums appropriated to carry out the provisions of this title in each fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; and

(2) 3 percent for the administrative costs of carrying out the provisions of this title.

SEC. 305. ALLOTMENTS TO STATES.

(a) IN GENERAL.—The Secretary shall make an allotment to each State not referred to in section 304 for each fiscal year from the sums appropriated to carry out the provisions of this title for such fiscal year.

(b) ALLOTMENT FORMULA.—

(1) IN GENERAL.—The amount of each State's allotment under subsection (a) shall be equal to the product of—

(A) an amount equal to the sums appropriated to carry out the provisions of this title for each fiscal year minus the amounts reserved pursuant to section 304 for such fiscal year; and

(B) the percentage described in paragraph (2).

(2) PERCENTAGE.—The percentage referred to in paragraph (1)(B) is a percentage equal to the quotient of—

(A) an amount equal to the number of children under 12 years of age living in the State involved, as indicated by the most recent data collected by the Bureau of the Census; divided by

(B) an amount equal to the number of children under 12 years of age living in the United States, as indicated by the most recent data collected by the Bureau of the Census.

(c) STATE ADMINISTRATIVE COSTS.—Of the amount allotted to a State pursuant to subsection (a), an amount not to exceed 10 percent shall be used by such State to provide for the administrative costs of carrying out such program.●

By Mr. THURMOND:

S. 160. A bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate U.S. participation in that conflict; to the Committee on Energy and Natural Resources.

WORLD WAR II VETERANS MEMORIAL

Mr. THURMOND. Mr. President, as a veteran of World War II, it is a pleasure to rise today to reintroduce legislation which would establish a memorial to our World War II veterans. This bill is identical to S. 2734, which I introduced on August 11, 1988 during the 100th Congress. Though it has been over 40 year since the end of this year, it is never too late to honor those who have given their lives for freedom.

World War II was one of the most significant wars in our history as a nation. Involving more than 16 million Americans, it was the war which preserved freedom for the Western world. Yet, it was not without a heavy toll. The damage and the human suffering were extreme. More than 670,000 Americans were wounded and over 400,000 made the utimate sacrifice by giving their lives. A tribute to these Americans is richly deserved.

World War II memorials are located all over the world. However, there is no single monument that honors the American veterans of World War II as a group. Our Nation's Capital would be an especially fitting location for such a monument, and the legislation I am proposing would provide for such a location.

In addition, Mr. President, this monument would be constructed solely with private contributions. I want to emphasize this point—no Federal tax dollars would be used for construction of the memorial. The only cost to the taxpayer would be for the maintenance and care of the memorial, once it is constructed.

Mr. President, I would now like to briefly explain the provisions of this bill.

Section 1 of this legislation authorizes the American Battle Monuments Commission to build a World War II Memorial on Federal land in the District of Columbia.

Section 2 provides for the establishment of a World War II Memorial Advisory Board. This board will consist of 12 members including World War II veterans, historians, representatives of veterans organizations, and other historical associations knowledgeable on the subject. their responsibilities will include encouraging the donation of private funds for construction, recommending a site for the memorial, and assisting the Battle Monuments Commission in selecting a design for the memorial.

Section 3 of the bill specifies the responsibilities of the Commission. As distinguished from the board, the Commission will be the actual entity which solicits and accepts the private contributions for construction of the memorial.

Section 4 of the bill authorizes other Federal entities to offer their administrative services and support to the Commission in carrying out its functions.

Section 5 specifies that the maintenance and care of the memorial be the responsibility of the Secretary of the Interior.

Section 6 makes the bill subject to Public Law 99-652, which specifies the procedures for approving commemorative works such as this monument.

Finally, section 7 provides a reasonable timetable for the commencement of construction.

Mr. President, this monument pays tribute to the men and women who have given of themselves to make our lives, and the lives of all Americans, better today. It is fitting that there be a memorial in Washington to which they can bring their children and their grandchildren and say "This is why we fought and how we honor those who served." This memorial is long overdue.

Mr. President, we have constructed a Vietnam Veterans Memorial, and have enacted legislation approving the construction of the Korean Veterans Memorial and the Women's Vietnam Memorial. The veterans of World War II deserve no less. I urge my colleagues to join me in support of this bill.

I ask unanimous consent that a copy of this legislation appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 160

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) The American Battle Monuments Commission (hereinafter referred to as the "Commission") shall construct a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

(b) The Commission shall plan, design, and oversee the construction of the memorial.

SEC. 2. (a) There is established a World War II Memorial Advisory Board (hereinafter referred to as the "Board").

(b)(1) The Board shall consist of 12 members appointed by the President.

(2) The members of the Board shall include representatives of veterans organizations, World War II veterans, World War II historians, and representatives of American historical associations and other organizations knowledgeable about World War II.

(3) All appointments under this subsection shall be made within 120 calendar days after the date of the enactment of this Act.

(c)(1) Members of the Board appointed by the President shall serve for a term of five years.

(2) Any vacancy in the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy resulting from the departure of a member before the expiration of his term shall serve for the remainder of the unexpired term of such departing member.

(d) The President shall designate the Chairperson and Vice Chairperson of the Board from among the members of the Board.

(e) The Board shall—

(1) promote and encourage donation of private funds for the construction of the memorial required in section 1; and

(2) recommend the site for and assist the Commission in selecting the design of the memorial.

(f) Members of the Board shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of the responsibilities of the Board.

(g) The Board established by this section shall terminate on the earlier of—

(1) the date 30 days after the completion of the memorial authorized by this Act; or

(2) the date on which the authority provided in this Act lapses under section 4.

SEC. 3. The Commission may solicit and accept private contributions for the construction of the memorial required by section 1. The Commission shall maintain documentation of such contributions received by the Commission.

SEC. 4. (a) The Secretary of the Smithsonian Institution, the Librarian of Congress, and the head of each department, agency, or other establishment of the Executive branch may assist the Commission in the performance of its functions.

(b) The Administrator of Veterans' Affairs may provide administrative services and support to the Commission. The Commission shall reimburse the Administrator for the cost of services and support provided under this subsection.

(c) For the purpose of establishing the memorial required under section 1—

(1) the head of any department, agency, or establishment of the United States may transfer to the administrative jurisdiction of the Commission any real property in the District of Columbia or its environs which is under the administrative jurisdiction of such department, agency, or establishment; and

(2) the Commission may purchase any real property within the District of Columbia or its environs, subject to the consent of the owner of such property.

(d) The United States shall not be liable for any expense incurred for the construction of the memorial required by section 1.

SEC. 5. The maintenance and care of the memorial constructed under this Act and the grounds associated with the memorial shall be the responsibility of the Secretary of the Interior.

SEC. 6. The authority provided in this Act is subject to the requirements of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia", approved November 14, 1986 (100 Stat. 3650; 40 U.S.C. 1001 et seq.).

SEC. 7. The requirements and authority provided in this Act shall lapse unless—

(1) the construction of the memorial required by section 1 is commenced within five years after the date of enactment of this Act; and

(2) prior to the construction of the memorial, funds are certified available in an amount sufficient in the judgment of the Secretary of the Interior to insure completion of the memorial.

By Mr. BOREN (for himself and Mrs. KASSEBAUM):

S. 161. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

EXCISE TAX ON IMPORTATION OF CRUDE OIL AND REFINED PETROLEUM PRODUCTS

● Mr. BOREN. Mr. President, on the first legislative day of the 100th Congress I stood before my colleagues and introduced legislation that would repeal the so-called windfall profit tax, establish an oil import fee and provide small incentives for marginal oil and gas production.

At that time I recounted how in July 1985, the price of oil was around $31 per barrel and we had over 2,000 rigs looking for oil and natural gas in the United States. As a nation in July 1985, we were importing approximately 24 percent of our energy needs from foreign sources, with only 45,000 barrels per day from Saudi Arabia. I then unfortunately had to relate to my colleagues what had happened between July 1985 and January 1987. The price of crude oil had fallen to a low of $9.75 per barrel in August 1986 and had risen only slightly by the following January. Imports had risen to 40 percent of our energy needs, including over 650,000 barrels per day from Saudi Arabia.

Mr. President, on the first legislative day of the 101st Congress we must face the fact that little has been done over the past 2 years to address the problems confronting our domestic energy industry.

The United States is now importing on average over 43 percent of our energy needs from foreign sources. That means that every day over 7.3 million barrels of foreign crude oil and refined petroleum products cross our borders, including over 1 million barrels per day from Saudi Arabia alone—a staggering 2,120-percent increase since July 1985. The United States today produces less oil and natural gas on a daily basis than we did in 1977. Mr. President, let me remind you that 1977 was 2 years before the Iranian crisis and the resulting long lines at gas stations. But perhaps the most telling statistic is our domestic rig count. From a high of over 4,500 a little more than 6 years ago, the U.S. rig count fell to an all time low of 663 on July 14, 1986. Today the rig count stands at 920.

What then does our future hold? Our ability to produce over the next 3 or 4 years has already been determined. If we could barely replace reserves with 4,500 drilling rigs operating, it should be obvious what will happen to our future production with only 920 rigs actively looking for oil and natural gas. Our ability to produce beyond the short term must be questioned. Five years ago there were over 7,000 students pursuing degrees in geology, petroleum engineering and geophysics. This spring that number has dropped below 2,800. Where will the next generation of oil men and women come from?

Mr. President, our domestic production has fallen to levels less than in 1977, consumption of petroleum products is rising, imports of crude oil and refined products are rising and the number of qualified geologists and petroleum engineers is falling. The parallels to the mid 1970's are disturbingly clear and yet we have done nothing to address this growing problem.

For more than 3 years I have called for the consideration of an excise tax on foreign oil. Today I will introduce for the third consecutive Congress legislation that will impose an excise tax on all foreign oil brought into the United States that is priced below $18 per barrel. This will serve to act as a floor price for crude oil in the United States. No longer will domestic producers have to worry whether Saudi Arabia or Iran or some other foreign producer wants to flood the world with cheap oil. This floor mechanism will bring much needed stability to our domestic industry. An industry that needs stability if it is to survive and continue to contribute toward our national security.

Recently Mr. President it was reported that our imports of foreign oil have reached a post-crisis high. For

the month of December the United States imported 50.3 percent of our crude oil needs. What however, is truly alarming is the fact that the price of crude oil has risen approximately $6 per barrel since Thanksgiving. So much for the theory that we have broken the grip of OPEC. If they can move the price of oil while utilizing less than 50 percent of their production capacity, think what OPEC will do when they regain the operating efficiencies they enjoyed during the 1970's.

With the price of crude oil now above the $18 per barrel trigger price in my proposed legislation, we have the unique opportunity to establish a safety net for our domestic producers without causing any dislocation to the rest of our economy. We as a nation must act quickly in the short term to preserve existing production to the greatest extent possible. It is vitally important that we keep the stripper well in Kansas, the heavy oil well in California, and the natural gas well in Michigan operational and flowing. Every barrel of oil that continues to flow from marginal and stripper wells is one less barrel that we will have to import; one less barrel we will have to replace should a supply disruption occur; one less barrel subject to the whim of foreign leaders who do not play by the same economic rules as our independent domestic producers must.

Mr. President, as I mentioned previously, the price of crude oil has recently risen above $18 per barrel. While that is certainly good news for our domestic producers, there is no guarantee OPEC will restrain production to maintain this price level. Thus the threat of falling prices remain and the future for stripper well production in the United States is not bright. An analysis of our Nation's energy security done by the RAM group estimates that if the price of crude oil fell to a level of $10 per barrel fully 40 percent of all of our stripper wells will be abandoned resulting in a loss of more than 630,000 barrels per day in domestic production. At the price range, for the most recent quarterly period, of $14 to $15 per barrel 22 percent of all stripper wells will be abandoned. That means at a minimum over 100,000 producing oil wells will be shut down and lost forever. In Oklahoma alone more than 148 million barrels of proven oil reserves will be lost. In fact since 1986 the oil price decline has taken the jobs of 175,000 workers in oil and gas extraction alone, not including related service industries, and has reduced severance tax revenues to states by more than $1.5 billion per year. In addition there is a pressing need for price stability with an assured minimum in order for banks and financial institutions in hard pressed areas of the country to be able to make loans and provide desperately needed capital.

As a result today I will also introduce several revisions in our tax code that will increase domestic production. My legislation will: First, allow for expensing of geological, geophysical, and surface casing costs; second, repeal the 50 percent net income limitation for percentage depletion; third, create a variable percentage depletion rate that is tied to the price of crude oil; fourth, repeal the proven property transfer rule; fifth, repeal the recapture provisions dealing with the disposition of proven properties; sixth, remove intangible drilling costs as a preference item for the alternative minimum tax; seventh, repeal the 65 percent taxable income limitation for percentage depletion; eighth, establish a 10-percent tax credit for marginal production which is fully creditable against the minimum tax; ninth, establish an exploration and development tax credit, 20 percent for the first $1 million in expenditures and 10 percent thereafter, which is fully creditable against the minimum tax; tenth, extend the nonconventional fuels production credit placed-in-service rule by 5 years; and eleventh, provide a taxpayer election to forego the deduction of excess depletion and carryforward the amount.

Mr. President, we are fast approaching the point of no return. Either we act now to mitigate the damage visited upon our domestic energy industry over the past 24 months or we will condemn ourselves to repeat the policy failures of the not to distant past.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCISE TAX ON IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 55—IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS

"Sec. 5891. Imposition of tax.
"Sec. 5892. Average international price.
"Sec. 5893. Definitions and special rules.
"Sec. 5894. Registration.
"Sec. 5895. Procedures; returns; penalties.

"SEC. 5891. IMPOSITION OF TAX.

"(a) GENERAL RULE.—If the average international price of crude oil for any 4-week period is less than $18, then there is hereby imposed an excise tax on any petroleum product entered into the United States for use, consumption, or warehousing during the week following such 4-week period.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) with respect to any barrel shall be equal to the excess of—

"(A) $18, over

"(B) the average international price of crude oil for the preceding 4-week period.

"(2) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(c) TIME TAX IS IMPOSED.—

"(1) IN GENERAL.—The tax imposed by subsection (a) shall be on the first sale within the United States of the petroleum product.

"(2) TAX ON CERTAIN USES.—If—

"(A) any petroleum product entered into the United States is used within the United States, and

"(B) before such use, no tax was imposed under subsection (a),

then the tax imposed by subsection (a) shall be on such use.

"(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The tax imposed on the first sale described in subsection (c)(1) shall be paid by the seller thereof.

"(2) USE.—The tax imposed on any use described in subsection (c)(2) shall be paid by the person using the petroleum product.

"SEC. 5892. AVERAGE INTERNATIONAL PRICE.

"(a) IN GENERAL.—For purposes of this chapter, the average international price of crude oil for any 4-week period shall be the average of the weighted average price per barrel of crude oil for each week in such period, as estimated and published in the Weekly Petroleum Status Report prepared by the Secretary of Energy or his delegate.

"(b) PUBLICATION.—The Secretary shall publish for each week the average international price determined under subsection (a) for the preceding 4-week period.

"SEC. 5893. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline but does not include domestic crude oil (within the meaning of section 4612(a)(2)).

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) EXPORT.—The term 'export' includes shipment to a possession of the United States.

"(4) PETROLEUM PRODUCT.—The term 'petroleum product' includes—

"(A) crude oil, and

"(B) refined oil, fuels, and chemical feedstocks which are refined or derived from crude oil.

"(b) TAX-FREE EXPORTS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter on the sale of any petroleum product for export or for resale by the purchaser to a second purchaser for export.

"(2) PROOF OF EXPORT.—Where any petroleum product has been sold free of tax under paragraph (1), such paragraph shall cease to apply with respect to the sale of such petroleum product unless, within the 6-month period which begins on the date of the sale, the seller receives proof that the petroleum product has been exported.

"SEC. 5894. REGISTRATION.

"Every person subject to tax under section 5891 shall register with the Secretary at such time and in such manner as the Secretary may prescribe.

"SEC. 5885. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title (other than chapter 45 or section 6429 thereof), except as provided in regulations, the tax imposed by section 5891 shall be treated in the same manner as the tax imposed by section 4986 (as in effect before the amendments made by the Omnibus Trade and Competitiveness Act of 1988).".

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"Chapter 55. Imported crude oil and refined petroleum products.".

(c) DEDUCTIBILITY OF IMPORTED CRUDE OIL TAX.—The first sentence of section 164(a) (relating to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The tax on imported petroleum products imposed by section 5891.".

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to sales of imported crude oil and imported refined petroleum products in calendar quarters beginning more than 30 days after the date of enactment of this Act.●

By Mr. HELMS:

S. 162. A bill to amend the Internal Revenue Code of 1986 to disallow a personal exemption for a child born alive after an induced abortion; to the Committee on Finance.

DEDUCTION FOR EXEMPTION DENIED FOR CHILD WHO DIES AFTER AN ABORTION

● Mr. HELMS. Mr. President, I read an observation the other day to the effect that people joke that only two things in life are certain—death and taxes—however, the Internal Revenue Service will let you avoid some of your taxes if you use the proper method to inflict death on your child.

It's true, Mr. President. Under current IRS rulings, Mr. President, taxpayers can receive a dependency exemption in the case of a baby who lives momentarily after an induced abortion and then dies. If parents seek to destroy their own child through abortion, and the abortion momentarily produces a live instead of a dead baby, I do not believe that parents should be rewarded with a tax break.

Mr. President, the bill I am introducing today, the Benefit From Harm Denial Act of 1989, is designed to remove this flagrant anti-child loophole in our tax code.

Mr. President, this issue has a long and arduous history. In 1984, a constituent brought to my attention a revenue ruling which allowed a parent to claim a tax exemption for a live birth abortion where the child ultimately dies as a result of that abortion. After looking into the matter, I was surprised to discover that my constituent was exactly right. Revenue Ruling 73-156 would allow a parent to treat medical expenses incurred from an abortion as the requisite support for the child needed to claim the exemption.

So, Mr. President, on December 31, 1984, I wrote Roscoe L. Egger, Jr., who was the IRS Commissioner at that time, and asked for an explanation. After 7 months of delay, I received a response from the Commissioner in which he stated that the revenue ruling had been modified. Medical expenses incurred from an abortion could no longer be considered support for exemption purposes. However, if additional medical expenses were incurred after the child was born, a parent could claim a tax exempton for the child who lived after an abortion.

In 1986, the Commissioner clarified this position further and stated that if only de minimus expenses are incurred after the child is born alive, the parent cannot claim the exemption. If the medical expenses climb beyond that threshold, the parent can claim the exemption. That was the IRS position in 1986 and that is its position today.

Despite requests to further clarify the definition of de minimus expenses, the IRS refused to do so.

So, Mr. President, by way of example, this is the situation we now have: A parent pays $1,000 for a late-term abortion. A child was born alive, lived momentarily, and then died. While the child was born alive $10 in medical expenses were incurred for the child's benefit, and the parent later paid that small bill. Nothing in the Commissioner's letter would prevent the parent from taking the full dependency deduction for the tax year of the live birth. The $10 of support gets the parent a $1,950 exemption for 1988 or if the abortion occurred in 1989, a $2,000 personal exemption.

Mr. President, this Nation claims to be pro-family. This pro-life, pro-family position has been incorporated into our tax code with dependency exemptions. If you have one child, you get one exemption. If you have five children, you get five exemptions. If you have 10 children, you get 10 exemptions. That has been the law of the land for many years and will probably remain the law for many years to come. The tax code reflects our belief in the sanctity of human life and that life's value to society. Consequently, a parent should not be able to set out to deliberately destroy the life of her child and then get a pat on the back by the IRS with a tax break.

The bill I am introducing today would remove this obvious inequity in the tax code by prohibiting any parent from claiming a child as a tax exemption if that child lives temporarily after an induced abortion. If ever an inequity needs to be corrected in the tax bill, this is it.

I ask unanimous consent that the full text of the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEDUCTION FOR PERSONAL EXEMPTION DENIED FOR CHILD WHO DIES AFTER AN ABORTION.

(a) IN GENERAL.—Section 151 of the Internal Revenue Code of 1986 (allowing deduction for personal exemptions) is amended by adding at the end thereof the following new subsection:

"(e) DEDUCTION DENIED FOR CHILD WHO DIES AFTER ABORTION.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) for any child who—

"(A) is born alive after an induced abortion or an attempt to perform an abortion, and

"(B) dies as a result thereof (or of complications resulting therefrom).

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

By Mr. THURMOND (for himself, Mr. SYMMS, Mr. HATFIELD, Mr. GRASSLEY, Mr. HELMS, and Mr. ARMSTRONG):

S. 163. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

RELIGIOUS SERVICES PERFORMED FOR ELEMENTARY AND SECONDARY SCHOOLS ARE EXEMPT FROM TAXES

Mr. THURMOND. Mr. President, I rise today to introduce legislation which would remove an inequity in the current Federal Unemployment Tax Act [FUTA] and in the State unemployment acts which are directly patterned after this act. I am pleased that Senators SYMMS, HATFIELD, GRASSLEY, and HELMS have joined me as original cosponsors.

In enacting FUTA, Congress exempted from coverage of the act employees of churches, and religious organizations operated by churches. The Supreme Court in St. Martin Evangelical Lutheran Church versus South Dakota held that this exemption extends to schools which are operated by churches.

However, no exemption exists in current law for those elementary or secondary schools which are operated primarily for religious purposes, but which are not operated by or otherwise controlled by a church or association of churches. These nonchurch schools are as pervasively religious as the church-operated schools and would not exist except for their religious mission. They are, in every way except church affiliation, religiously, indistinguishable from the exempt schools. Technically, the non-church

religious schools are not exempt under the terms of the statute. Further, the Secretary of Labor has notified state unemployment compensation offices that they may not treat this class of schools as exempt.

These non-church-affiliated religious schools are not numerous in the United States. However, they do constitute about 20 percent of the membership of the Protestant evangelical schools in the country. There are some Catholic and Jewish schools, as well as other Protestant schools, which are not operated by churches but are governed by religious lay boards.

The tax plight of these schools is very threatening to them. In 1979, a group of religious schools attempted to litigate the issue of nonexemption of these schools on constitutional grounds, and won a favorable decision from the U.S. District Court in Los Angeles. The Supreme Court refused to review the case on jurisdictional grounds and did not reach the merits. This left the schools to pursue litigation in state courts. These schools simply do not have the major financial resources necessary to pursue new litigation in hopes of eventually getting the case before the Supreme Court. Such litigation could take years, with no certainty that the Supreme Court would hear the case. Therefore, it is imperative that they get exemptive legislation.

This measure is similar to S. 1797 which I introduced in the 100th Congress and is identical to an amendment which was unanimously adopted by the Senate during consideration of the tax technical corrections bill. Unfortunately, this provision was dropped in conference.

This legislation will enable nonchurch operated religious schools, now badly threatened by unemployment compensation tax debt, to continue their fine service to the country in producing good young citizens. Passage of this bill will be welcomed by friends of religious liberty.

In closing, I strongly urge my colleagues to give careful consideration to this important measure. I ask unanimous consent that the text of the legislation appear in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3309(b)(1) of the Internal Revenue Code of 1986 (relating to exemption from unemployment tax) is amended by inserting before the semicolon at the end thereof the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) The amendment made by subsection (a) shall apply to services performed after December 31, 1988.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 164. A bill to transfer certain lands to the South Carolina Commission of Forestry, an agency of the State of South Carolina; to the Committee on Environment and Public Works.

REMOVAL FROM NATIONAL WILDLIFE REFUGE SYSTEM

Mr. THURMOND. Mr. President, it gives me great pleasure to rise today, along with my distinguished colleague, Senator HOLLINGS, to reintroduce legislation authorizing the transfer of certain Federal lands known as the Carolina Sandhills Wildlife Management Area to the South Carolina State Commission of Forestry. This bill is identical to S. 2895 which I introduced on October 14, 1988, during the 100th Congress.

For the past few years, the Department of Interior and the State of South Carolina have been working on various proposals to improve the management and administration of the Carolina Sandhills Wildlife Management area, known as the Sand Hills State Forest. The Interior Department and the State of South Carolina have concluded that the transfer of the property to the State is in the Government's best interest. Although all the details have not been completely finalized, the respective Federal and State entities—the U.S. Fish and Wildlife Service and the South Carolina State Commission of Forestry—have reached a tentative agreement for such a transfer.

Located in Chesterfield and Darlington Counties, the land proposed to be transferred is owned by the United States, and under the control of the U.S. Fish and Wildlife Service. However, it is presently managed under a cooperative agreement by the South Carolina State Forestry Commission.

By way of background, in the early 1930's, the U.S. Department of Agriculture acquired some 92,000 acres, largely in Chesterfield County, as a land utilization project.

In April 1939, this land was leased to the South Carolina State Commission of Forestry for use as a demonstration conservation area for planned multiple land use for forestry, wildlife, and recreation. Under the terms of this lease, the State Commission of Forestry became responsible for administration of one-half of the area, approximately 44,550 acres, as the Sand Hills State Forest. The other half of the area was administered by the Department of Agriculture, and later the Department of the Interior as a national wildlife refuge, and as a game management demonstration and research area.

Later, in August 1940, President Franklin D. Roosevelt signed Executive Order No. 8510, which provided that lands within the Carolina Sandhills Wildlife Management Area were to remain available to the State, but would remain under the custody of the Fish and Wildlife Service and would remain a part of the National Wildlife Refuge System. This arrangement has continued for over 48 years, with both the State of South Carolina and the U.S. Fish and Wildlife Service providing technical services and assistance on lands of the other.

This present setup has provided for somewhat cumbersome management of the Sandhills Area. Accordingly, the legislation I am introducing today would rectify this situation by removing the 44,550-acre Carolina Sandhills Wildlife Management Area, also known as the Sand Hills State Forest, from the National Wildlife Refuge System. Title to this land would be transferred to the State of South Carolina. The State of South Carolina would, in turn, become the owner of this land and would be solely responsible for the management and administration of this specific acreage.

Mr. President, this legislation also contains certain conditions governing the transfer which include the protection of certain endangered species, the provision of forest fire protection services, and the provision of certain reforestation services.

In closing, Mr. President, I would like to include, for the RECORD, copies of letters of support from the Secretary of the Interior, the Governor of South Carolina, and the South Carolina Chapter of the Wildlife Society.

I ask unanimous consent that these letters, as well as the text of this legislation, appear in the RECORD immediately following my remarks.

There being no objection, the material ordered to be printed in the RECORD, as follows:

STATE OF SOUTH CAROLINA,
Columbia, SC, September 16, 1988.

Hon. J. STROM THURMOND,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR STROM: It is my understanding negotiations have concluded between the South Carolina Forestry Commission and the Fish and Wildlife Service over the transfer of the Sandhills State Forest to the State of South Carolina.

The South Carolina Forestry Commission has agreed to endangered species protection and compensation in the form of forest fire protection, reforestation, and prescribed burning on the adjacent refuge. With this agreement legislation can now be drafted to implement the transfer of the property.

I appreciate your efforts on the transfer of Sandhills to the State of South Carolina and look forward to working with you and other Members of the Congressional Delegation to achieve this goal.

With best personal regards, I am
Sincerely,
CARROLL A. CAMPBELL, Jr.,
Governor.

THE SECRETARY OF THE INTERIOR,
Washington, DC, February 10, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: This further responds to your letter of June 9, 1987, concerning the possibility of transferring to the State of South Carolina approximately 46,000 acres located in Chesterfield and Darlington Counties.

The Carolina Sandhills Project was established in 1939, under the authority of the National Industrial Recovery Act and the Emergency Relief Appropriation Act. Part of the area became the Carolina Sandhills National Wildlife Refuge and the remainder the Carolina Sandhills Wildlife Management Area (Management Area). A more detailed explanation of the legislative history is enclosed.

The Fish and Wildlife Service (Service) and the State agree the management of the Sandhills area is cumbersome. The Management Area, for all practical purposes, is administered by the State. Provided Service wildlife responsibilities are protected (e.g., proper endangered species protection), and some compensation is provided, possibly in the form of continued fire protection on the adjacent refuge, the Service is in favor of the transfer.

I agree with the position of the Service and will have someone from their staff contact your office to explore transfer by Federal legislation. I look forward to bringing this matter to a successful conclusion.

Sincerely,
DONALD PAUL HODEL.

Enclosure.

LEGISLATIVE HISTORY OF THE CAROLINA SANDHILLS PROJECT

On April 20, 1939, the United States entered into a Cooperative and License Agreement with the State on the remaining lands in the Sandhills Project, now known as the Carolina Sandhills Wildlife Management Area (Management Area). Under the agreement, the lands made available to the State were to be used as a demonstration multiple land use conservation area providing supplementary work to aid in the stabilization of the agricultural community.

On April 29, 1939, the United States and the State entered into a Cooperative Agreement covering the entire Sandhills Project. The lands under license agreement would be managed as a State forest, public shooting ground, and research area, and the remainder as a Federal wildlife refuge and as a game management demonstration and research area.

On August 8, 1940, President Franklin D. Roosevelt signed Executive Order No. 8510, which states that lands within the Management Area are to remain available to the State, under the custody of the Fish and Wildlife Service (Service), as long as the agreement for such use and management is in effect. The cooperative program between the State and Service has been in existence for over 48 years. Each provides technical services and assistance on lands of the other.

DECEMBER 5, 1988.

Mr. LEONARD A. KILIAN, Jr.,
State Forester, South Carolina Forestry Commission, Columbia, SC.

DEAR MR. KILIAN: The Executive Committee of the South Carolina Chapter of The Wildlife Society supports the transfer of title for the Sand Hills State Forest to the state of South Carolina. The Sand Hills State Forest is managed for multiple use and the agreement with the USDI Fish and Wildlife Service guarantees continued multi-resource management.

We commend the S.C. Forestry Commission for past accomplishments in management of the Sand Hills State Forest, and we encourage future management that emphasizes wildlife and recreation.

The South Carolina Chapter of The Wildlife Society supports the transfer of title for the Sand Hills State Forest to the state of South Carolina as agreed to by the USDI Fish and Wildlife Service.

Sincerely,
ROBERT H. FOLK III,
President, SC Chapter TWS.

THE SOUTH CAROLINA WILDLIFE FEDERATION,
Columbia, SC, December 14, 1988.

Mr. LEONARD A. KILIAN, Jr.,
State Forester, South Carolina Commission of Forestry, Columbia, SC.

DEAR MR. KILIAN: The Board of Directors of the South Carolina Wildlife Federation supports the transfer of title for the Sand Hills State Forest to the state of South Carolina. The Sand Hills State Forest is managed for multiple use and the agreement with the USDI Fish and Wildlife Servce guarantees continued multi-resource management.

We commend the S.C. Forestry Commission for past accomplishments in management of the Sand Hills State Forest, and we encourage future management that emphasizes wildlife, recreation, and the protection of endangered species.

The South Carolina Wildlife Federation supports the transfer of title for the Sand Hills State Forest to the state of South Carolina as agreed to by the USDI Fish and Wildlife Service.

Sincerely,
BETTY SPENCE,
Executive Director.

SOUTHEASTERN SECTION,
THE WILDLIFE SOCIETY,
January 9, 1989.

Mr. LEONARD A. KILIAN, Jr.,
State Forester, South Carolina Forestry Commission, Columbia, SC.

DEAR MR. KILIAN: The Southeastern Section of The Wildlife Society supports the proposed transfer of title for the Sand Hills State Forest to the State of South Carolina in cooperation with the USDI Fish and Wildlife Service. It is our understanding that the South Carolina Wildlife and Marine Resources Department does not oppose this transfer and that the property in question will continue to be managed for a variety of resources, including wildlife related recreation.

We appreciate the past working relationship between the Forestry Commission and the state wildlife agency, however, we do support the proposed transfer of the Sand Hills State Forest to the South Carolina Commission of Forestry for future management of the area.

Thank you for the opportunity to comment.

Sincerely,
BOB DUNCAN,
President, Southeastern Section, T.W.S.

S. 164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF LANDS.

(a) REMOVAL FROM NATIONAL WILDLIFE REFUGE SYSTEM.—Pursuant to the requirements of section 4(a)(3) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(3)), the approximately 44,550 acres of land designated the Carolina Sandhills Wildlife Management Area and known as the Sand Hills State Forest, as described in Executive Order No. 8510, dated August 8, 1940, are hereby removed from the National Wildlife Refuge System.

(b) TRANSFER OF LANDS.—Subject to the terms and conditions set forth in section 2, the Secretary of the Interior is authorized and directed to transfer the title, rights, and interest to the lands identified in subsection (a) to the South Carolina Commission of Forestry, an agency of the State of South Carolina, for use for public purposes as a multiple use State forest providing sustained yield production of forest products, public recreation, wildlife benefits, and demonstration and education projects by the South Carolina Commission of Forestry.

(c) RIGHT OF REVERSION.—If—

(1) the Secretary determines that the South Carolina Commission of Forestry is not in compliance with any of such terms and conditions of transfer;

(2) at any time the land ceases to be used for public purposes (except as provided in subsection (d) of this section); or

(3) the South Carolina Commission of Forestry no longer desires to own or operate the Sand Hills State Forest,

the land transferred pursuant to subsection (b) shall revert to the United States, to be managed as part of the National Wildlife Refuge System.

(d) ACQUISITION OF ADDITIONAL LANDS.—(1) Subject to the provisions of paragraph (2), the South Carolina Commission of Forestry may acquire tracts of land within or adjacent to the boundaries of the transferred land by exchange or sale of parcels of transferred land, with the proceeds of any such sale being designated for such acquisition.

(2) The acquisition authorized by paragraph (1) shall be subject to the following conditions:

(A) The South Carolina Commission of Forestry shall provide notification to the United States Fish and Wildlife Service prior to any such acquisition.

(B) The South Carolina Commission of Forestry has determined prior to such acquisition that such acquisition is in the best interest of the public purposes of the State of South Carolina and is necessary in order to facilitate efficient management and administration of the Sand Hills State Forest area.

(e) REPEAL OF EXECUTIVE ORDER.—Executive Order No. 8510, dated August 8, 1940, is repealed as of the date the lands identified in subsection (a) are transferred to the South Carolina Commission of Forestry.

SEC. 2. TERMS AND CONDITIONS.

The transfer of lands authorized in section 1 shall be conditioned upon the South Carolina Commission of Forestry—

(1) managing the transferred lands for the benefit of such endangered and threatened species of plants or animals which may be present there, and particularly in accordance with the objectives of the Recovery Plan for the Red Cockaded Woodpecker, and any amendments to such plan;

(2) consulting with the United States Fish and Wildlife Service regarding the impacts of its management practices upon endangered and threatened species in the transferred lands;

(3) entering into and abiding by an agreement with the United States Fish and Wildlife Service to provide to the Carolina Sandhills National Wildlife Refuge at no cost—

(A) basic forest fire protection services (including presuppression, detection, and initial attack of wildfires) for a period of 50 years from the date of transfer subject to the condition that the United States shall pay the South Carolina Commission of Forestry the actual costs of any wildfire suppression activities after a 12-hour period from the initial attack on the fire;

(B) prescribed burning services as requested, up to a maximum of 5,000 acres annually, for a period of 5 years from the date of transfer, subject to smoke management and other related regulations in effect at the time of the request, and contingent upon the South Carolina Commission of Forestry retaining the legal and physical capability to perform the service; and

(C) reforestation services for converting approximately 2,300 acres of slash pine plantation to more desirable species, as determined by the Refuge, in approximately equal installments over a period not to exceed 10 years from the date of transfer.

By Mr. THURMOND:

S. 165. A bill to require the Administrator of Veterans' Affairs to construct a medical research center for the Veterans' Administration and the Medical University of South Carolina in Charleston, SC; to the Committee on Veterans' Affairs.

CONSTRUCTION OF MEDICAL RESEARCH CENTER IN SOUTH CAROLINA

Mr. THURMOND. Mr. President, I am pleased to reintroduce legislation authorizing the construction of a joint Veterans' Administration—Medical University of South Carolina Research Center in Charleston, SC. This legislation is identical to S. 2899 which I introduced on October 14, 1988, during the 100th Congress.

Our country places a high priority on the well-being of our veterans—and rightly so. After all, veterans have kept our country free. Since 1930, the Veterans' Administration [VA] has provided numerous benefits and health care services to the men and women who have worn the uniform. The bill I am introducing today will further VA health care by authorizing a partnership providing for the joint construction, ownership, management, and use of a medical research center by the Veterans' Administration and the Medical University of South Carolina. This joint research center will provide state-of-the-art medical research into the causes and treatment of diseases that claim the lives of thousands of veterans annually, including, but not limited to, hypertension, chronic heart disease, alzheimers' disease, diabetes, and crippling arthritis. The combined talent and resources of the existing Charleston VA Medical Center and the Medical University of South Carolina will provide the momentum necessary to make great strides foward in medical research, not only for the veterans of this country, but for all Americans.

Under this legislation, the Medical University of South Carolina will be an equal partner with the VA in this project. They will provide one half of the costs of constructing and equiping the center, and one half of the operations and maintenance expenses. In addition, the Medical Univeristy will provide the land for construction of this facility.

This new Medical Research Center will maximize the strengths of the Medical University and the existing VA Medical Center by combining the basic science labs of the university with the disease-oriented research expertise of the VA. The Medical Research Center will consist of laboratories for VA research in geriatrics, diabetes, heart disease, arthritis, and connective tissue disorders; laboratories for molecular and cellular biology; laboratories for epidemiology, neuroscience, neonatal, prenatal and childhood development programs; and shared meeting room facilities.

This facility will free up space in the already crowded VA Medical Center facility. Accordingly, it will increase by approximately 10 percent the number of critical care beds available for the use of South Carolina veterans.

Mr. President, both the Medical University and the Veterans' Administration bring demonstrated records of achievement into the partnership. The Medical University was founded in 1824 as the College of Medicine, and is the oldest medical school in the South. For over 160 years, it has been educating and training doctors, nurses, and other health care professionals. It is comprised of six colleges, and a major teaching hospital. The university also maintains numerous clinical affiliations throughout South Carolina. Similarly, the VA Medical Center in Charleston has developed a rapidly expanding Disease Research Program, with a specific focus on heart disease, neurological disorders, diabetes, and arthritis. With the addition of the center, research can be expanded into the area of geriatrics as well.

Finally, Mr. President, the State of South Carolina strongly supports the development of this joint research center. The Governor of South Carolina, Carroll Campbell, endorses this legislation, and the State of South Carolina, in conjunction with the Medical University, is committed to providing up to $12 million for construction and equipment. In addition, I have received a letter of support from Dr. Thomas Rowland, Jr., the president of the South Carolina Medical Association. This project provides an excellent opportunity for the Federal and State government to work hand-in-hand on a very worthwhile endeavor. I commend this joint partnership to my colleagues.

Mr. President, I ask unanimous consent that copies of the aforementioned letters, as well as the text of this legislation, and other letters of support appear in the RECORD immediately following my remarks.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSTRUCTION OF MEDICAL RESEARCH CENTER FOR THE VETERANS ADMINISTRATION AND THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, CHARLESTON, SOUTH CAROLINA.

(a) CONSTRUCTION REQUIRED.—Subject to subsection (b), the Administrator of Veterans Affairs shall construct, at the Veterans Administration medical Center and the Medical University of South Carolina in Charleston, South Carolina, a building to be used as a medical research center and shall appropriately equip such building for such use. The Administrator shall construct such building only on land provided by the Medical University of South Carolina.

(b) COST-SHARING ARRANGEMENT.—(1) The construction and equipping of a medical research center pursuant to subsection (a) may be carried out only if the Administrator of Veterans Affairs, the President of the Medical University of South Carolina, and the Governor of South Carolina enter into a funding agreement described in paragraph (2).

(2) Any funding agreement referred to in paragraph (1) shall provide for—

(A) the Administrator to pay one-half of the cost of constructing and equipping the medical research center authorized by subsection (a); and

(B) the State of South Carolina and the Medical University of South Carolina to pay one-half of such cost.

(3) The Administrator may include in any such funding agreement such terms and conditions as the Administrator considers necessary to protect the interests of the United States.

(4) The Administrator may accept payments from the State of South Carolina and the Medical University of South Carolina pursuant to the funding agreement and apply the amounts so paid to defray the cost of constructing and equipping the medical research center pursuant to subsection (a).

SEC. 2. PURPOSE OF THE MEDICAL RESEARCH CENTER.

Any medical research center constructed pursuant to section 1 shall be used for medical research activities, including medical research regarding geriatrics, diabetes, heart disease, arthritis, and connective tissue disorders.

SEC. 3. JOINT OWNERSHIP, MANAGEMENT, AND USE OF MEDICAL RESEARCH CENTER.

The Administrator may enter an agreement with the President of the Medical Uni-

versity of South Carolina that provides for joint ownership, management, and use of the medical research center by the Veterans Administration and the Medical University of South Carolina. The Administrator may include in any such agreement such terms and conditions as the Administrator considers necessary to protect the interests of the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT AUTHORIZED.—There is hereby authorized to be appropriated $12,000,000 for the Veterans Administration share of the cost of carrying out section 1.

(b) AVAILABILITY.—Funds appropriated pursuant to subsection (a) shall remain available until expended.

STATE OF SOUTH CAROLINA,
Columbia, SC, October 11, 1988.

Hon. STROM THURMOND,
United States Senate, Senate Office Building, Washington, DC.

DEAR SENATOR THURMOND: I have recently reviewed your proposed bill to construct a medical research center for the Veterans' Administration and the Medical University of South Carolina in Charleston. I enthusiastically support this legislation.

As you are aware, my top priority for South Carolina is economic development. Without this development we cannot expect our per capita income to rise and to approach the national average. The universities of our State have been assisting in our economic strategies by working to increase their research base and encourage economic activity related to specific research areas of strength in their respective institution.

Senator, no one knows better than you the needs of the veterans and of the need for improving the health of our citizens. The Veterans' Administration Medical Center in Charleston is conducting excellent research and they have requested and demonstrated a need for additional space for at least a decade. In addition, the Medical University has as its first priority a research facility, and in our state's recent Bond Bill we approved funding for the Medical University to begin architectural planning. External research at the University has grown dramatically the past several years and they now have grants of over $18 million annually. By constructing a joint facility, the Veterans and South Carolinans receive more "bang for the buck". I fully support the legislation for the following reasons:

The Veterans' Administration Medical Center in Charleston and the Medical University of South Carolina can demonstrate the need for valuable research space.

The Veterans' Administration Medical and the Medical University of South Carolina have excellent investigators and are conducting medical research of importance to our state and nation.

The Veterans' Administration Medical Center and the Medical University of South Carolina have a long relationship of cooperation which strengthens the services provided by both organizations.

South Carolina and our nation need to continue to diversify the economic mix and basic research in an area with high pay off potential to keep us competitive and productive.

South Carolina has a large veteran and retirement population and much of the research to be conducted at this facility will relate directly to the health of these groups.

It makes "good sense" to share and utilize expensive research equipment and space when possible and this facility will provide for this partnership.

Senator, again you have my full support in this endeavor and please do not hesitate to call if I can be of assistance.

Sincerely,

CARROLL A. CAMPBELL, Jr.,
Governor.

MEDICAL UNIVERSITY OF SOUTH CAROLINA
Charleston, SC, October 7, 1988.

Hon. STROM THURMOND,
Senate Office Building, Washington, DC

DEAR SENATOR: It is my pleasure to serve as vice chairman of the Medical University of South Carolina's Board of Trustees, as well as this year's President of the South Carolina Medical Association. On behalf of these two organizations, I wish to thank you for the many efforts you and other members of the South Carolina delegation do to assist us in improving the health care of South Carolinians.

I have had the opportunity to review the legislation that will authorize the construction of a research facility to the utilized by the Charleston Veterans' Hospital and the Medical University of South Carolina. I fully support the legislation.

Through cooperation of this nature, the Federal Government and State government can maximize their investment and encourage scientific collaboration and discovery while better serving the veterans and other citizens of our State and Nation. Senator, I do not need ro remind you of the need for medical research in our State and Nation and the need to provide better health care to the veterans of this Nation. As the veteran population grows in South Carolina, as the clinic in Savannah, Georgia refers a larger number of veterans to the Charleston facilities, demand for clinical space will rise. By constructing a joint research facility, valuable space in the present hospital which is occupied with research laboratories, will be freed for clinical service. The persent VA research will also be enhanced by a closer working relationship with medical university physicians and scientists.

Again, thank you for your interest in improving the health care of all our citizens and for initiating this joint program. This joint facility should prove to be an asset for our State and Nation.

Sincerely,

THOMAS C. ROWLAND, Jr., M.D.

WEST COLUMBIA, SC.

Senator STROM THURMOND,
Capitol One, DC.

DEAR SENATOR, As commander of the Department of South Carolina Disabled American Veterans representing 11,000 members I recomnend and endorse the legislation which you are going to introduce on the building of the medical research center for the Veterans Administration and Medical University of SC in Charleston.

Respectfully

FREDERICK G STROHM Jr.,
Commander SC DAV.

BURTON, SC.

Hon. STROM THURMOND,
Senate Building, Washington DC.

DEAR SENATOR, on behalf of the Commander and all AMVETS members of our great State I am writing to you in regard to the pending legislation concerning the construction of a research center for the Veterans Administration and the Medical University of South Carolina in Charleston SC. Needless to say we support this effort 100 percent.

It is hoped that Senate will give positive consideration to this project prior to their adjournment the end of this week.

I have always been an admirer of you and will continue to be a supporter of men of high quality, such as yourself, former Governor James B. Edwards, and Charleston Veterans Hospital Director Micheal Linder. With kindest regards, I remain.

Sincerely,

ALBERT F. HYMAN, SR.
Executive Director.

WELLFORD, SC.

Senator STROM THURMOND,
Capitol One, DC.

17,000 South Carolina Ex POW's backing joint venture research building in Charleston.

PATRICK HAWKINS,
Wellford, SC.

AMVETS,
P.O. BOX 4206,
Burton, SC, October 18, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I am writing this letter in reference to the research facility, building which will be shared by the Charleston Veterans' Administration Medical Center and the Medical University of South Carolina.

On Behalf of the AMVETS Auxiliary, I would like to take this opportunity to let you know we fully endorse this project and commend you for your stand on this issue.

We believe that a research facility of this nature will benefit the veterans of this area as well as the general population of the State of South Carolina.

As always, thank you for your consideration on behalf of our veterans.

Sincerely,

MARY E. MADDOX,
AMVETS Auxiliary Department President.

LADIES AUXILIARY TO THE VFW OF THE UNITED STATES, DEPARTMENT OF SOUTH CAROLINA,
October 18, 1988.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC 20510

DEAR SENATOR THURMOND I understand you have introduced a bill in support of the $24 million dollar building to be built in Charleston, SC to house a research facility for the Veterans Administration Medical Center and Medical University.

On behalf of the 5500 members of the Veterans of Foreign Wars Auxiliary in the State of South Carolina, I fully endorse this project and commend you for taking this initiative.

We realize that the research that will be accomplished in this building is of prime importance to health care, not only to the veterans in the lowcountry, but also in the entire state of South Carolina and the nation as well.

Once again, thank you for your efforts on behalf of our veterans and if there is any way we can be of assistance to you in this matter, please do not hesitate to contact me.

Sincerely,

JOYCE KING,
Department President, VFW Auxiliary.

By Mr. PRYOR:

S. 166. A bill to improve contracting procedures for procurements of advi-

sory and assistance services by the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

CONSULTANT REGISTRATION AND REFORM ACT OF 1989

Mr. PRYOR. Mr. President, today I am introducing a bill which my colleagues might recognize; the Consultant Registration and Reform Act of 1989. I introduced a very similar piece of legislation last Congress. That bill did not reach the Senate floor. However, I believe that it is important for us to continue to examine this issue and look very carefully at the Government's use of consultants and the lack of control over their use.

The Federal Services Subcommittee held three hearings last year on Government consultants. At the first hearing, the Office of Management and Budget [OMB] testified that they do not know exactly how much money the Government spends on consulting services or what services consultants are providing the Government.

At the second hearing, we looked at the consultants used by the Department of Defense [DOD]. We heard testimony from witnesses who had participated in the DOD procurement system and provided valuable insights into the problems and strengths of the system. We heard from the DOD deputy inspector general and the Director of the Defense Contract Audit Agency [DCAA] who described their efforts to monitor the use and costs of consultants.

The third hearing concentrated on a special DCAA audit report on the use of consultants by DOD prime contractors. DCAA audited 12 of the 20 largest defense contractors and found that $43 million worth of consulting costs charged to the Government were questionable out of $237 million worth of consulting costs charged to the Government.

These hearings have painted a vivid picture of the way consultants operate. As was demonstrated by last summer's defense scandal, consultants work not just directly for agencies, but for prime Government contractors as well. In addition, they often work concurrently for foreign nations and companies.

This is not true just of the Defense Department. In 1980, in the course of an investigation into consultants used by the Department of Energy, we discovered a consultant who was helping the Department plan their long-term oil reserve strategy. At the very same time, this consultant was working on the other side of the street for OPEC, the group which brought us the energy crisis. The most disturbing aspect of that discovery was that the Department of Energy was not aware of this dual role until we informed them. The Subcommittee on Federal Services will be holding a hearing next week on the use of consultants by the Environmental Protection Agency, and I wouldn't be surprised if we found many of the same problems.

My hearings have shown that nothing has changed since then. These concerns have led me to draft the legislation I am introducing today. This bill tries to let a little sunlight shine on the often hidden world of Government consultants. Its purpose is not to stop agencies' use of consultants where their work is necessary and appropriate but to ensure that agencies are not surprised by a cousultant's other clients and to protect the Government from possible conflicts of interest.

The bill relies on OMB's Circular A-120 which regulates the Government's use of consultants. Consulting services are defined as "advisory and assistance services" which includes management and professional services; and the conduct and preparation of studies, analyses, and evaluation.

The bill would:

Create a monitoring requirement for consulting contracts. For example, before the award of a consulting contract worth more than $25,000 which is based on an unsolicited proposal, the contracting officer must transmit a written notice of the proposed contract and the justification for that contract to the agency's inspector general. An unsolicited proposal is an idea for a contract which comes directly from the consultant. The agency has not requested it, but the consultant thinks that it is such a good idea that he sends it right to the agency. If an agency decides to take the consultant up on his idea, I think it is imperative the agency justify that contract, since it didn't seem important enough to the agency to put out a request for proposals.

Require that each report submitted to an agency by a consultant, and each agency report which is substantially based on a consultant report, be labeled as a consultant report. I believe that it is very important for this information to be readily available and for people to realize when an agency report is actually a consultant report. This point was driven home during our second consultant hearing. The DOD directive which regulates agency use of consultants is in large part lifted verbatim from a report written by a consultant for the Navy. Now, I think that the DOD directive is well written, however, if it were not for some investigating on my subcommittee's part, we would not have known that a consultant was responsible for writing a large part of the directive which governs DOD consultant use.

Require the agency to prepare an evaluation of the contractor's performance which would include: An assessment of the performance judged against the terms of the contract, a description of any differences between the actual cost and time for completion of the contract and the estimated cost and time for completion of the contract, and the purposes for which the consultant service was procured. The contractor will have an opportunity to respond to the agency evaluation.

Require that both agency budget submissions and the President's budget contain itemized statements regarding the amounts that each agency is requesting for consulting services. It also amends section 1114, title 31, to require that agency heads provide the Federal procurement data system with information on consulting contract costs which are embedded in larger procurement contracts. This will allow us to get a complete picture of the Government's consultant spending.

Create a registration requirement for any consultant doing work directly for the Government or doing work for a contractor who is working for the Government. A consultant would be ineligible for a consultant contract unless the consultant complies with the registration requirement and the appropriate contracting officer determines that the consultant does not have a conflict of interest that could be prejudicial to the interests of the United States. A consultant would be required to provide the following information: Name and business address; a description of the services provided by the consultant; a description of the nature of the consultant's clients; a list of all clients to whom, within 3 years, the consultant has provided services directly related to the contract in question; a statement as to whether the consultant has even been convicted of a felony or whether the consultant is under indictment; and a statement as to whether the consultant is currently suspended or debarred by the Government; a certification that the consultant is not in violation of the revolving door statute contained in title 10, United States Code; and a certification that the consultant does not have a conflict of interest.

Last year, I successfully offered an amendment to the defense appropriations bill which would have required consultant registration. That amendment was rewritten in conference to require the Office of Federal Procurement Policy [OFPP] to study the question and advise the President as to whether registration would provide beneficial information. OFPP is the very office which has had responsibility for issuing policy in this very area. While I am more than willing to work with OFPP as it continues to look at this issue, I have introduced this legislation as an example of the type of scrutiny which I believe is imperative.

This legislation will ensure that the Office of Management and Budget will no longer have to come before a

Senate committee and tell Congress that they do not know how much is being spent on consultants. The bill will also guarantee that the deputy inspector general of DOD will not have to come before Congress and say that a convicted felon could be working on a defense contract and the IG would have no way of knowing.

As I said before, this bill is not intended to be burdensome or eliminate the use of consultants. The Federal Government should be able to use the best and the brightest talent available in performing its duties. However, when that talent is also working for people who may have competing interests, we should know about it. This bill is intended to shed some sunshine on the all too often shadowy world of consultants.

I urge that my colleagues join me in cosponsoring this legislation. I ask unanimous consent that the text of the bill and a bill summary be printed with my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Consultant Registration and Reform Act of 1989".

SEC. 2. FINDINGS

Congress makes the following findings:

(1) Federal procurement officials have not consistently complied with procurement laws, regulations, and management guidelines in awarding contracts for the procurement of advisory and assistance services.

(2) Procurement practices relating to the procurement of advisory and assistance services do not (A) adequately provide for full and open competition, or (B) adequately prevent conflicts of interest.

(3) Information regarding the Federal Government's use of advisory and assistance services is not maintained in a manner that results in helpful or meaningful information being available to Congress, the executive branch, or the public.

(4) Federal Government agencies have not consistently complied with the requirement in section 1114 of title 31, United States Code, to include in budget justifications submitted to Congress the amounts requested for consulting services, and the Inspector General (and comparable officials) of such agencies have not consistently complied with the requirement in such section to submit to Congress certain evaluations relating to contracts for consulting services.

(5) Full and open competition in the Federal procurement process is consistent with the basis of the free enterprise system and enables the Federal Government to obtain maximum value for Federal procurement expenditures.

(6) The costs of performing governmental functions are borne by the taxpayer regardless of whether the functions are performed in the private or public sector.

(7) The integrity of the governmental process, especially when advisory and assistance services are used in the performance of governmental functions, requires disclosure of the use and role of contractors who perform such functions.

(8) Legislation and oversight is necessary in order to establish and implement consistent policies and practices needed for procurement of advisory and assistance services.

SEC. 3. POLICY

It is the policy of the United States that—

(1) Federal Government policymaking and decisionmaking functions should be performed by accountable Federal Government officials;

(2) the procurement of advisory and assistance services should be carried out in compliance with applicable procurement laws and regulations; and

(3) Federal Government functions should be performed using the most economical means available while recognizing the inherently governmental nature of certain activities.

SEC. 4. DEFINITIONS

In this Act:

(1) The term "agency" has the same meaning as is provided in section 552(f) of title 5, United States Code.

(2) The term "contract" means (A) any agreement, including any amendment to or modification of an agreement, entered into by the Federal Government for the procurement of property or services, and (B) any letter authorizing the provision of property or services to the United States prior to a specification of the compensation for the provision of such property or services.

(3) The term "contractor" means any person, including, in the case of a business organization, any affiliate of such organization and including any consultant and any organization of consultants, which is a party to a contract with the Federal Government.

(4) The term "report" means a written study, plan, evaluation, analysis, manual, or similar document, in draft or final form, which is prepared by a contractor pursuant to a contract with an agency and which is submitted to such agency or is submitted on behalf of such agency to any other agency. Such term does not include a billing document, invoice, or other routine business transmittal made with respect to the contract.

(5)(A) The term "advisory and assistance services" means services described in subparagraph (B) that an agency acquires by contract from a nongovernmental source for the support or improvement of agency policy development, decisionmaking, management, and administration, or the support or improvement of the operation of management systems.

(B) The services referred to in subparagraph (A)—

(i) are management and professional services, the conduct and preparation of studies, analyses, and evaluations, and engineering and technical services; and

(ii) are furnished in the form of information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance.

SEC. 5. MONITORING PROCUREMENTS OF ADVISORY AND ASSISTANCE SERVICES

(a) CONTRACT AWARDS.—Before an employee of an agency awards a contract for advisory and assistance services for an amount of $25,000 or more on the basis of an unsolicited proposal, such employee shall transmit to the Inspector General of such agency or a comparable official, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the proposed contract award. The notice shall include a description of the contract and the justification for the contract.

(b) CONTRACT MODIFICATIONS.—Whenever an employee of an agency modifies a contract for advisory and assistance services and the modification of such contract increases the amount of the contract by at least $100,000, such employee shall transmit to the Inspector General of such agency or a comparable official of the agency, or in the case of an agency which does not have an Inspector General or a comparable official, the head of the agency or his designee, a written notice of the modification. The notice shall include—

(1) a description of the original contract;

(2) a description of the modification; and

(3) the justification for the modification.

SEC. 6. IDENTIFICATION OF REPORTS PREPARED BY CONTRACTORS

Each report submitted to an agency by a contractor, and each agency report which is substantially derived from or includes substantial portions of any such contractor report, shall include the following information:

(1) The name and business address of the contractor.

(2) The total amount of the contract.

(3) In any case in which a contractor uses a subcontractor to prepare any portion of the report submitted by the contractor, the name and business address of the subcontractor and the amount paid to the subcontractor for preparation of the report.

SEC. 7. EVALUATION OF CONTRACTOR PERFORMANCE

(a) EVALUATION.—Within 90 days after the completion of the performance of a contract for advisory and assistance services, the head of the agency that awarded the contract shall prepare a written evaluation of the contractor's performance. An evaluation is not required under this subsection in the case of a contract that does not exceed $25,000.

(b) CONTENT OF EVALUATION.—An evaluation of contractor performance under subsection (a) shall include the following information:

(1) A summary description of the performance of the contractor.

(2) An assessment of the performance of the contractor based on the terms and specifications of the contract performed.

(3) Any differences between the cost of the contract and the time for completion of the contract as provided in or estimated for such contract at the time of contract award and the actual cost of the contract and the actual time for completion of the contract, respectively, and a statement of the reasons for such differences.

(4) The purposes for which and the manner in which the services procured and any reports received under such contract are used by the agency.

(c) RECORD OF EVALUATION.—The head of an agency shall include each evaluation required by subsection (a) in the records maintained by the agency in connection with the contract to which the evaluation relates, and shall maintain copies of all such evaluations in one location.

(d) CONTRACTOR'S RIGHTS.—After preparing an evaluation of contractor performance under this section, the head of an agency shall promptly transmit to the contractor a copy of the evaluation together with a notice stating that the contractor may, within 10 days after receiving such copy, transmit comments to the agency concern-

ing such evaluation. Any such comments shall be made a part of the evaluation as a supplement.

SEC. 8. BUDGET INFORMATION

(a) AGENCY SUBMISSIONS.—The head of each agency shall include with the request for regular appropriations for each fiscal year submitted to the President pursuant to section 1108 of title 31, United States Code, an itemized statement of the amounts requested by the agency for procurement of advisory and assistance services in such fiscal year. The statement shall identify such amounts according to the same subfunctional categories to be used by the President in the submission of the budget for such fiscal year pursuant to section 1105 of such title and, within each such category, shall identify such amounts according to classifications for procurement of—

(1) management and professional services;

(2) studies, analyses, and evaluations; and

(3) engineering and technical services.

(b) BUDGET SUBMISSIONS.—The budget submitted by the President to Congress for each fiscal year under section 1105 of title 31, United States Code—

(1) shall set forth separately, within each subfunctional category used in such budget, requests for new budget authority for, and estimates of outlays by, each agency for procurement of advisory and assistance services; and

(2) within each such category, shall identify such requests and estimates according to classifications for procurement of—

(A) management and professional services;

(B) studies, analyses, and evaluations; and

(C) engineering and technical services.

(c) JUSTIFICATIONS FOR REVISIONS OF BUDGET REQUESTS.—Within 60 days after the President transmits to Congress a revision of any request for new budget authority or of any estimate of outlays included in the budget for any fiscal year pursuant to subsection (b), the head of the agency affected by such revision shall prepare and transmit to Congress an analysis of such revised request or of such revised estimate, as the case may be, and a statement justifying the need for such revised request or such revised estimate.

SEC. 9. FEDERAL PROCUREMENT DATA SYSTEM

Section 1114 of title 31, United States Code, is amended by adding at the end the following:

"(c)(1) The head of each agency shall provide the Federal Procurement Data System timely, complete, and accurate information on (A) contracts awarded by such agency primarily for the procurement of consulting services, and (B) all procurements of consulting services under contracts awarded by such agency not primarily for the procurement of consulting services.

"(2) The information provided under paragraph (1) shall include the amounts expended for the procurement of consulting services specified separately for contracts described in clause (A) of such paragraph and for procurements described in clause (B) of such paragraph.

"(3) This subsection shall not apply to a contract for consulting services, or any data, reports, or other material pertaining to such services, if the contract—

"(A) involves sensitive foreign intelligence or foreign counterintelligence activities;

"(B) involves sensitive law enforcement investigations; or

"(C) is classified under the national security classification system.

"(d) In this section:

"(1) The term 'consulting services' includes advisory and assistance services.

"(2)(A) The term 'advisory and assistance services' means services described in subparagraph (B) that an agency acquires by contract from a nongovernmental source for the support or improvement of agency policy development, decisionmaking, management, and administration, or the support or improvement of the operation of management systems.

"(B) The services referred to in subparagraph (A)—

"(i) are management and professional services, the conduct and preparation of studies, analyses, and evaluations, and engineering and technical services; and

"(ii) are furnished in the form of information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance.".

SEC. 10. ELIGIBILITY FOR AWARD OF CONSULTING CONTRACTS

(a) CONSULTANT REGISTRATION.—(1) A consultant shall be ineligible to be awarded a contract for the procurement of advisory and assistance services by an agency unless—

(A) such consultant has registered with the office designated by the head of such agency under subsection (i) and has complied with the other requirements of this section applicable to such consultant; and

(B) such consultant has provided a copy of the consultant's registration to the contracting officer responsible for the award of such contract.

(2) The head of an agency shall prescribe with respect to each contract to be awarded by the agency the deadline for consultants to register under this section. The deadline shall be prescribed by regulation and shall be a date on or after the date on which the consultant submits a bid or proposal for the contract and before the date on which the contract is awarded.

(b) SUBMISSION OF INFORMATION ON OFFERORS' CONSULTANTS.—(1) A person who submits a bid or proposal for a contract to be awarded by an agency shall be ineligible to be awarded such contract unless such person—

(A) submits with the bid or proposal the name and principal business address of each consultant that has furnished advice, information, direction, or assistance to such person in support of the preparation or submission of the bid or proposal; and

(B) certifies, to the best of such person's knowledge and belief, that each consultant has registered the information required in section (e).

(2) The head of an agency shall prescribe with respect to each contract to be awarded by such agency—

(A) the deadline for any person referred to in paragraph (1) to make a certification referred to in such paragraph; and

(B) the deadline for any consultant furnishing services described in such paragraph to such person to register with respect to such contract.

(3) The deadlines referred to in paragraph (2) shall be prescribed by regulation and shall be a date on or after the date on which the person submits a bid or proposal for the contract and before the date on which the contract is awarded.

(c) CONTRACTING OFFICER'S REVIEW OF REGISTERED INFORMATION.—(1) A contracting officer of an agency may not award a contract referred to in subsection (a)(1) to a consultant unless—

(A) the contracting officer has reviewed the information contained in the registration file of the consultant and all other relevant information available to the contract officer; and

(B) has determined, in accordance with regulations prescribed by the head of an agency and on the basis of the relevant information available to the contracting officer, that the consultant does not have a conflict of interest with respect to such contract that is prejudicial to the interests of the United States.

(2) A contracting officer may not award a contract referred to in subsection (b)(1) to any person who submits a bid or proposal for such contract unless the contracting officer has reviewed the information contained in the registration file of each consultant who furnishes services described in such subsection to such person in connection with the preparation of the bid or proposal and all other relevant information available to the contracting officer to determine whether there is a conflict of interest that is prejudicial to the interests of the United States.

(d) UPDATING REGISTERED INFORMATION.—A consultant or other person shall be considered to have met the registration requirements of this section with respect to a contract to be awarded by an agency or a bid or proposal for such a contract if such consultant or other person has previously registered in accordance with this section with respect to another contract awarded or to be awarded by such agency or a bid or proposal for such a contract and the consultant or other person timely registers (in accordance with regulations prescribed by the head of the agency) any changes in the information provided in connection with the previous registration that have occurred since the previous registration. The head of such agency shall determine whether a registration is timely for the purpose of this subsection.

(e) INFORMATION REQUIRED TO BE REGISTERED.—A person registering under this section with respect to a contract awarded or to be awarded by an agency shall include in such person's registration the following information:

(1) The name and principal business address of such person.

(2) A description of the nature of the services furnished by such person in the normal course of the business of such person and a description of the nature of the public, private, foreign, and domestic clients for which the person has furnished such services.

(3) A list of all clients (including agencies) to whom, within 3 years before the date of the registration, such person has furnished services directly related to the services that are required by the bid or proposal under or in connection with the contract or under or in connection with a subcontract awarded or to be awarded in connection with such contract and a description of the services furnished each such client by the person.

(4) A statement of whether such person has ever been convicted of a felony and whether, at the time of the registration, there is pending any indictment or criminal information that alleges the commission of a felony by such person.

(5) A statement of whether, at the time of the registration, such person is ineligible for any reason to be awarded a contract by the Federal Government.

(6) A certification, to the best of such person's knowledge and belief at the time of the registration, that such person is not in

violation of any applicable requirement set out in sections 2397, 2397a, 2397b, and 2397c of title 10, United States Code, or any contract term required by such section 2397c.

(7) A certification, to the best of such person's knowledge and belief at the time of the registration, that such person does not have a conflict of interest or potential conflict of interest described in the person's certification.

(8) The name of each officer or employee of such person who is also an officer or employee of any other person furnishing services under or in connection with—

(A) the contract; or

(B) a subcontract or prospective subcontract awarded or to be awarded in connection with such contract, and a description of the services furnished each such other person by the employee.

(f) REGISTERED INFORMATION TO BE CONSIDERED AS "COMMERCIAL INFORMATION".—Information described in subsection (e) shall be considered commercial information for the purposes of section 552(b)(4) of title 5, United States Code.

(g) ADMINISTRATIVE SANCTIONS FOR FAILURE TO SATISFY REGISTRATION REQUIREMENTS.—Each person who knowingly fails to comply with the registration requirements of this section with respect to a contract awarded to such person by an agency (except with respect to requirements waived under subsection (h)) shall be subject to such administrative action as the head of such agency may prescribe.

(h) WAIVER AUTHORITY.—(1) The head of an agency may waive the application of subsections (a) through (c) in the case of any contract awarded or to be awarded by such agency if the head of the agency determines that such action is necessary in the interest of national security. In any case in which a waiver is made under this subsection, the information that a person is otherwise required to register under this section before award of the contract in order to be eligible for the award shall be registered with the agency within such time as the head of the agency specifies in the waiver.

(2) The head of an agency may not delegate the waiver authority under paragraph (1) to any person below the level of Assistant Secretary or the equivalent.

(i) AGENCY REPOSITORY OF REGISTERED INFORMATION.—The head of an agency shall designate a single office in the agency to be the central repository of information registered under this subsection.

(j) INAPPLICABILITY OF REGISTRATION PROVISIONS.—Subsections (a) through (c) shall not apply in the case of a contract for advisory and assistance services awarded or to be awarded by an agency if the head of such agency determines that the contract—

(1) involves—

(A) sensitive foreign intelligence or foreign counterintelligence activities;

(B) sensitive law enforcement investigations; or

(C) a special access program (within the meaning of section 119 of title 10, United States Code); and

(2) is subject to procedures prescribed by the head of such agency (other than those provided for in this section) for the identification and evaluation of any conflicts of interest that consultants may have with respect to such contract.

(k) COMPLIANCE ASSESSMENT TO BE INCLUDED IN BUDGET INFORMATION ON CONSULTING SERVICES.—The Inspector General or comparable official of each agency shall include an assessment of the compliance with the requirement of this section in each annual report required by section 1114(b) of title 31, United States Code.

(l) DEFINITIONS.—In this section, the term "consultant" means any person (including, in the case of a business organization, any affiliate of such organization) that—

(1) furnishes or offers to furnish advisory and assistance services; or

(2) pursuant to a contract, furnishes advice, information, direction, or assistance to any other person in connection with the preparation or submission of a bid or proposal for an agency contract by such other person.

SEC. 11. EXCEPTIONS

Sections 6, 7, and 8 shall not apply to a contract for advisory and assistance services, or any data, reports, or other material pertaining to such services, if the contract—

(1) involves sensitive foreign intelligence or foreign counterintelligence activities;

(2) involves sensitive law enforcement investigations; or

(3) is classified under the national security classification system.

SEC. 12. EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

CONSULTANT REGISTRATION AND REFORM ACT OF 1989 SUMMARY

Section 1 entitles the bill "The Consultant Registration and Reform Act of 1989."

Section 2 sets out Congressional findings regarding the government's use of consultants; the lack of compliance by the Inspectors General with current law and the need for stricter Congressional oversight in this area.

Section 3 states that it is the policy of the United States to have Federal government policy and decisions made by accountable Federal officials; that procurement of advisory and assistance services should be carried out in compliance with applicable procurement laws and regulations; and that Federal government functions should be performed in the most economical fashion while recognizing the inherently governmental nature of certain activities.

Section 4 defines the terms used in the Act.

Section 5 institutes monitoring requirements on advisory and assistance services contracts. Before the award of a contract worth more than $25,000 which is based on an unsolicited proposal, the responsible employee must transmit a written notice of the proposed contract and the justification for the contract to the Inspector General. Whenever an advisory and assistance services contract is modified by at least $100,000, the responsible employee shall transmit to the Inspector General a written notice of the modification which shall include a description of the original contract, a description of the modification and the justification for the modification.

Section 6 requires that each report submitted to an agency by a consultant and each agency report which is substantially derived from such a report include the following information: the name and business address of the contractor; the total amount of the contract; and, in a case in which a subcontractor is used to prepare a portion of the contractor's report, the name and address of the subcontractor and the amount paid to the subcontractor.

Section 7 requires an evaluation of the contractor's performance. Within 90 days after the completion of a consultant contract worth more than $25,000, the agency must prepare a written evaluation of the consultant's performance. The evaluation shall include a summary description of the contractor's performance; an assessment of the performance; a report of the difference between the actual and estimated time and cost of completion; and a description of the purposes for which the services were procured. The contractor will be given a copy of the evaluation and will have 10 days to return any comments to the agency regarding the evaluation.

Section 8 requires that both the agency and President's budget contain itemized statements regarding the amounts requested for consultant services.

Section 9 amends Section 1114, Title 31 to require agency heads to provide information regarding advisory and assistance services costs which are embedded in larger contracts.

Section 10 creates a consultant registration requirement for all consultants working for the government directly or for prime contractors who has been awarded a government contract. A consultant is required to provide the following information: name and address; a description of the services provided by the consultant; a description of the nature of the consultant's clients; a list of all clients to whom, within 3 years the consultant has provided services directly related to the contract in question; a statement as to whether the consultant has ever been conficted of a felony or whether the consultant is under indictment; a statement as to whether the consultant is currently suspended or debarred by the government; a certification that the consultant is not in violation of the revolving door statute contained in Title 10; and a certification that the consultant does not have a conflict of interest. Any consultant failing to comply with this section shall be subject to administration action as prescribed by the head of the agency.

Section 11 provides an exception for sensitive foreign intelligence or counterintelligence activities, sensitive law enforcement investigations or contracts classified under the national security classification system for sections 6, 7, and 8.

Section 12 provides for an effective date of 180 days after the date of enactment of the bill.

By Mr. HARKIN:

S. 167. A bill to amend the Fair Labor Standards Act of 1938 to increase the tip credit, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENT TO INCREASE TIP CREDIT

● Mr. HARKIN. Mr. President, I am introducing today a bill to restore the tip credit to 50-percent of the minimum wage. Until 1977, the tip credit stood at 50 percent. But amendments to the Fair Labor Standards Act reduced it in two steps to 40 percent, where it stands today. My bill would return the tip credit to its original 50-percent level in two annual steps. Under my proposal, the credit would move to 45 percent in 1989, and to 50 percent in 1990.

To refresh everyone's memory, the tip credit is that part of the FLSA that allows an employer to apply a

portion of an employee's tip income against the obligation to pay the minimum wage. Existing law allows the employer to take a tip credit of up to 40 percent of the minimum wage. This means that restaurant employers, for example, may pay their tipped employees $2.01 an hour in cash wages and take a tip credit of $1.34 an hour—40 percent of $3.35.

Mr. President, there are several reasons for offering my amendment. First, the tax treatment of tip income has changed significantly since we last visited this issue 12 years ago. Until enactment of the Deficit Reduction Act of 1984, tips had never been considered wages for employer payroll tax purposes. But in 1984, tips were defined as "wages" for FUTA—unemployment compensation—tax purposes, thus subjecting employers for the first time, to FUTA liability on income their employees had received not from them, but from customers.

The Omnibus Budget Reconciliation Act of 1987 extended this same rationale—that tips should be considered wages for payroll purposes—to FICA—Social Security—taxes. As of January 1, 1988, employers were required to pay FICA taxes on all reported tips; before then employers paid FICA only on tips counted toward the tip credit.

As a result of these changes, the Internal Revenue Code now treats all tips as if they were wages paid by the employer, while tips are only partially counted as wages under the Fair Labor Standards Act. My bill addresses this inconsistency between the Tax Code and the FLSA. I believe that if tips are "wages" for tax purposes, they ought to be counted as "wages" for FLSA purposes.

My bill does not go so far as to call for a 100-percent tip credit, although a case could be made that all tips should count as wages under the FLSA. My bill would not reduce the cash wages of tipped employees. Actually, if the bill increasing the minimum wage rate is adopted this year—as I strongly believe and hope it will be—cash wages for tipped employees would increase under my proposal.

A second reason for raising the tip credit is that most tipped employees now have income well above the minimum wage. When waiters and waitresses may be earning $6, $8, or even $10 an hour in tips, it doesn't make sense to force their employers to pay them a higher cash wage.

Third, a 50-percent tip credit correctly recognizes that tips are the joint efforts of the employer and his tipped employees. The original amendments that brought restauranteurs under FLSA gave employers "credit" for their contribution to the production of tip income. Tips are earned on the premises of the employer, using the employer's equipment and serving food bought and prepared under his supervision. The employer determines the general atmosphere, price of meals and the quality and presentation of food-factors that contribute directly to the level of tip income received by employees.

I would like to also remind the Members of this Chamber that under my proposal, as is the case under current law, a tip credit cannot reduce an employee's wages below the minnimum wage. In other words, that tip credit can never exceed tips actually received by an employee, and no employee would ever earn less than the minimum wage.

Mr. President, the restaurant industry is an important economic force in this country. With over 8 million employees, the food service industry is the Nation's largest retail employer. Its sales total 5 percent of the GNP. Yet, it is an industry made up primarily of small businesses.

There are almost 600,000 eating establishments in the United States. But one-half of those are sole proprietors or partnerships.

The average restaurants employs fewer than 20 people and grosses $400,000 a year in sales. Eighty-three percent of all restaurants have sales under $500,000 per year. And 94 percent have sales under $1 million.

Mr. President, my bill is a small business bill. We all know the crucial role that small business plays in our economy. Millions of people owe their jobs to the economic strength and well-being of small employers, such as restauranteurs. And this bill will help keep that vital sector of our economy in good health.●

By Mr. PRESSLER:

S. 168. A bill to promote competition in the distribution and sale to consumers of satellite-distributed television programming; to the Committee on Commerce, Science, and Transportation.

CABLE TELEVISION PROGRAMMING COMPETITION AND CONSUMER PROTECTION ACT OF 1989

● Mr. PRESSLER. Mr. President, I am pleased to introduce the Cable Television Programming Competition and Consumer Protection Act of 1989.

The most popular cable television programming currently is unavailable to millions of Americans, despite the fact that the technology to deliver and receive it is in place. Americans do not receive this programming because of price discrimination and exclusive distributorships. This legislation would prohibit those practices as a tool for denying programming to competing retailers.

We often hear the argument that increased competition is good because it results in a better quality product at a lower price to the consumer. The word "competition" is in the title of this bill, and, indeed, one of the purposes of this legislation is to help some of the smaller and newer competitors in this marketplace. But nobody should think that the reason for this legislation is to give a consumer in Peoria the choice of receiving a particular movie channel from three or four competing technologies. That might be nice. That might even be desirable. But that is not what I am trying to do.

What we want to accomplish is to allow the rancher from Draper, SD, who cannot get cable but owns a satellite dish, to be able to purchase the programming he wants at a reasonable price. I want to protect the small cable operators in the small towns of rural America from being priced out of the market for HBO. I want the farmer living outside of Aberdeen, SD, to be able to receive ESPN from the local wireless cable operator. These are the real problems. These people either cannot get certain cable programming at all, or it is prohibitively priced. As I said, the technology is available and in place. But access to it is denied because of the discriminatory pricing and distribution policies of many of the large national programmers.

This problem has been debated before in the Senate, most recently during the last-minute consideration of S. 889, the Satellite Television Fair Marketing Act, last year. The examples of anticompetitive behavior are too numerous to cite here. But they all stem from the nature of the industry. There is a significant horizontal concentration of power among the largest multisystem operators, with four companies controlling over 40 percent of the market. More important, there is a very significant vertical integration in the industry. Most of the premium programmers actually are owned by cable companies or conglomerates with large cable interests.

The legislation being introduced today is technology-neutral. It requires programmers to deal fairly with smaller cable operators and cable competitors, such as satellite dish distributors and wireless cable. It specifically prohibits price discrimination and exclusive distributorships, when either is intended solely for the purpose of denying competing retailers access to the kind of programming preferred by consumers.

It relies for enforcement on traditional antitrust remedies. Private parties with standing as plaintiffs would include consumers, competitors and potential competitors of retail distributors, and customers or potential customers of programmers engaging in price discrimination.

This bill would not force programmers to sell to anyone asking for their product. But any refusal to sell would have to be based on a rational, independent business decision, not because the buyer is a competitor or potential competitor of the programmer's

parent cable company. Discriminatory pricing would no longer be allowed.

Big cable is powerful, but must not be allowed to continue monopolizing programming in this coutnry. Consumers are crying out for relief. It's time we listened to them.●

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. GORE, Mr. DANFORTH, Mr. INOUYE, Mr. BUMPERS, Mr. RIEGLE, Mr. PRESSLER, Mr. WILSON, Mr. MCCAIN, Mr. CRANSTON, Mr. BENTSEN, Mr. BRYAN, Mr. WIRTH, and Mrs. KASSEBAUM):

S. 169. A bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being; to the Committee on Commerce, Science, and Transportation.

NATIONAL GLOBAL CHANGE RESEARCH ACT OF 1989

● Mr. HOLLINGS. Mr. President, the long, hot summer has come and gone. Yet, our concerns and unanswered questions about the threat of global climate change remain. Are we witnessing the onset of global warming caused by the release into the atmosphere of millions of tons of carbon dioxide each year? Was this summer's drought a portent of future weather patterns? Are we committing our children to a legacy of climatic uncertainty, cycles of drought and flooding, and the continued deterioration of our oceans and atmosphere?

These concerns are not new. For decades, scientists and environmentalists have questioned the long-term impacts of fossil fuel burning, deforestation, and the use of chlorofluorocarbons [CFC's] on the global environment. What is new, is the heightened public attention to these threats and widespread recognition that they must be addressed.

That recognition has not been confined to the United States. A few months ago, the World Meteorological Organization and the U.N. Environment Program brought together delegates from 30 nations to initiate an Intergovernmental Panel on Climate Change. The panel has been supported by several nations in the U.N. General Assembly and may eventually be responsible for developing an international agreement on climate.

At their first meeting in Geneva, the Panel established three working groups to address the climate problem. The first group, chaired by Great Britain, will be responsible for the assessment of available scientific information on climate change. The second group will be chaired by the Soviet Union to evaluate potential environmental and socioeconomic impacts. The United States has agreed to chair the third group, which will begin to formulate response strategies for mitigating or adapting to climate change. This comprehensive approach promises substantial multilateral progress in addressing the pervasive threat of global climate change. I am pleased to see that establishment of the Panel has enjoyed the strong support of the United States.

In addition to providing an international forum for discussing world climate issues, the Intergovernmental Panel provides an excellent approach for establishing U.S. domestic policies on climate change. The first step, both domestically and internationally, must be to assess our scientific understanding of our fragile planet and the impact of human activities upon it. The assessment also must identify priorities for scientific research and monitoring efforts which will improve that understanding and allow us to predict the consequences of our actions.

This is widely considered one of the greatest challenges ever to face the scientific community. The questions that must be addressed are fundamental and difficult because they require an understanding of the whole Earth as a system. Collaboration among scientists in fields as diverse as atmospheric chemistry, terrestial ecology, physical oceanography, and supercomputing will be essential. A high degree of international cooperation will be necessary to collect the global observations needed. Research will require the use of the most recent technology, including satellites, supercomputers, and highly advanced sensing instruments. Data management systems must be in place to process and distribute the enormous flow of information collected.

In the United States, the Federal Government has spent tens of millions of dollars in recent years studying global change. Because of the breadth of the problem and its widespread effects on our society, a number of different Federal agencies are involved in global change research. NASA, the National Science Foundation, the National Oceanic and Atmospheric Administration, EPA, the Agriculture Department, the Department of Defense, the U.S. Geological Survey, and the Energy Department all have roles to play. As the challenges become better defined, the amount of money that Federal agencies spend on global change research will grow. It is essential that the money be spent effectively. Our national effort must be well-planned and well-coordinated.

Today I am introducing a bill to provide that planning and coordination. This legislation would amend the National Science and Technology Policy, Organization, and Priorities Act of 1976. The Science Act was passed 12 years ago because it was clear that science and technology were playing an increasingly important role in our society and that there was a need for a national science and technology policy. Since 1976, we have had to face problems like acid rain, nuclear waste disposal, depletion of the ozone layer, the decline of American competitiveness in the world marketplace, and other technological challenges. We have learned that many of these complex problems are multidisciplinary and can only be solved by a comprehensive, long-term effort involving several Federal agencies.

This bill will provide a mechanism for planning such long-term efforts. It provides authority to the Federal Coordinating Council for Science, Engineering, and Technology, also known as FCCSET, for developing long-range plans for research efforts involving more than two Federal agencies. FCCSET was established by the National Science and Technology Policy, Organization, and Priorities Act of 1976. It is located in the Executive Office of the President and consists of representatives of a dozen Federal agencies involved in scientific research, with the President's Science Adviser serving as Chairman. This bill reinforces FCCSET's existing responsibilities for coordinating the various agencies' research efforts in areas of national concern.

In addition, the legislation goes on to give FCCSET specific responsibility for coordinating the Federal research on global change. The bill would require FCCSET to develop a 10-year national global change research plan. In carrying out that responsibility, FCCSET would:

First, establish national goals and priorities for global change research, working with the National Research Council and other research groups;

Second, define the roles of each agency and department in implementing the plan by building on their existing missions and responsibilities;

Third, review each agency budget estimate in the context of national goals, using budget information provided by the agencies and by OMB; and

Fourth, submit an annual report to Congress, regarding progress in implementing the national research plan.

The bill is identical in substance to legislation which I introduced in the 100th Congress, and I am pleased that a number of my colleagues have agreed to cosponsor its reintroduction today. I hope that others will join us in supporting the passage of the National Global Change Research Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Global Change Research Act of 1989".

SEC. 2. Section 102(a)(6) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6602(a)(6)) is amended to read as follows:

"(6) The development and implementation of long-range, interagency research plans to support policy decisions regarding identified national and international concerns, and for which a sustained and coordinated commitment to improving scientific understanding will be required.".

SEC. 3.(a) Section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) is amended to read as follows:

"FUNCTIONS OF COUNCIL

SEC. 401. (a) The Federal Coordinating Council for Science, Engineering, and Technology (hereinafter referred to as the 'Council') shall consider problems and developments in the fields of science, engineeirng, and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures designed to—

"(1) provide more effective plannign and administration of Federal scientific, engineering, and technological programs;

"(2) identify research needs, including areas requiring additional emphasis;

"(3) achieve more effective utilization of the scientific, engineering, and technological resources and facilities of Federal agencies, including the elimination of unwarranted duplication; and

"(4) further international cooperation in science, engineering, and technology.

"(b) The Council may be assigned responsibility for developing long-range and coordianted plans for scientific and technical research which involve the participation of more than two Federal agencies. Such plans shall—

"(1) identify research approaches and priorities which most effectively advance scientific understanding and provide a basis for policy decisions;

"(2) provide for effective cooperation and coordination of research among Federal agencies; and

"(3) encourage domestic and, as appropriate, international cooperation among government, industry, and university scientists.

"(c) The Council shall perform such other related advisory duties as shall be assigned by the President or by the Chairman of the Council.

"(d) For the purpose of carrying out the provisiosns of this section, each Federal agency represented on the Council shall furnish necessary assistance to the Council. Such assistance may include—

"(1) detailing employees to the Council to perform such functions, consistent with the purposes of this section, as the Chairman of the Council may assign to them; and

"(2) undertaking, upon request of the Chairman, such special studies for the Council as come within the scope of authority of the Council.

"(e) For the purpose of developing interagency plans, conducting studies, and making reports as directed by the Chairman, standing committees and working groups of the Council may be established.".

(b) Section 207(a)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(a)(1)) is amended by striking "established under Title IV".

SEC. 4. The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end thereof the following new title:

"FINDINGS AND PURPOSE

"SEC. 601. (a) Congress finds and declares the following:

"(1) Industrial, agricultural, and other human activities, coupled with an expanding world population, are contributing to processes of global change that may significantly alter our habitat within a few human generations.

"(2) Such human-induced changes may lead to significant global warming and the depletion of stratospheric ozone, and thus have the potential to alter world climate patterns, increase global sea levels, and reduce the ability of the atmosphere to screen out harmful ultraviolet radiation. Over the next century, the consequences could seriously and adversely affect world agricultural and marine production, coastal habitability, regional economic well-being, human health, and biological diversity;

"(3) Development of effective policies to mitigate and cope with human-induced global changes will rely on greatly improved scientific understanding of global environmental processes and on our ability to distinguish between the effects of human activities on one hand and the results of natural change on the other.

"(4) New developments in interdisciplinary Earth sciences, global observing systems, and computing technology make possible significant advances in the scientific understanding and prediction of these global changes and their effects.

"(5) Efforts are ongoing in several Federal agencies which could contribute to a well-defined and coordinated national program of research, monitoring, assessment, information management, and prediction.

"(6) The United States, as a world leader in Earth system science, should continue to provide leadership in developing and implementing an international global change research program.

"(b) It is the purpose of Congress in this title to provide for a national global change research plan which when implemented will assist the Nation and the world to understand, assess, predict, and respond to human-induced and natural processes of global change.

"NATIONAL GLOBAL CHANGE RESEARCH PLAN

"SEC. 602. (a)(1) The President, through the Council, shall develop a National Global Change Research Plan (hereafter in this title referred to as the 'Plan') in accordance with section 401(b) of this Act and the provisions, findings, and purpose of this title. Consistent with the responsibilities set forth under subsection (d) of this section, the Plan shall contain recommendations for a 10-year national research effort, to be submitted to Congress within one year after the date of enactment of this title and to be revised at least once every three years thereafter.

"(2) The Plan shall—

"(A) establish the goals and priorities for Federal global change research for the 10-year period beginning in the year the Plan (or revised Plan) is submitted;

"(B) set forth the role of each Federal agency and department in implementing the Plan;

"(C) describe the levels of Federal funding and specific activities, including research activities, data collection and analysis requirements, predictive modeling, participation in international research efforts, and information management, required to achieve such goals and priorities; and

"(D) consider and utilize, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities.

"(3) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(A) the Department of Commerce, particularly the National Oceanic and Atmospheric Administration;

"(B) the National Science Foundation;

"(C) the National Aeronautics and Space Administration;

"(D) the Department of the Interior, particularly the United States Geological Survey;

"(E) the Department of Energy;

"(F) the Department of Agriculture;

"(G) the Environmental Protection Agency;

"(H) the Department of Defense, particularly the Department of the Navy; and

"(I) such other research agencies and departments as the President, or the Chairman of the Council, considers appropriate.

"(b) The Council shall—

"(1) serve as lead entity responsible for oversight of the implementation of the Plan;

"(2) coordinate the global change research activities of Federal agencies and departments and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

"(3) prior to the President's submission to Congress of the annual budget estimate, review each agency budget estimate in the context of the Plan and make the results of that review available to each agency and to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget;

"(4) work with Federal agencies, with the National Research Council, and with academic, State, and other groups conducting research and assessments of global changes and their effects;

"(5) coordinate Federal interagency participation in international activities related to global change research and assessment; and

"(6) consult with actual and potential users of such research and assessments.

"(C) The Plan shall provide for, but not be limited to, the following research elements:

"(1) Global measurements, establishing worldwide observations necessary to understand the physical, chemical, and biological processes responsible for changes in the Earth system on all timescales.

"(2) Documentaion of global change, including the development of mechanisms for recording changes that will actually occur in the Earth system over the coming decades.

"(3) Studies of earlier changes in the Earth system, using evidence from the geological and fossil record.

"(4) Predictions, using quantitative models of the Earth system to identify and simulate global trends.

"(5) Development of an information base, the assembly of the information essential for effective decision-making to respond to the consequences of global change.

"(6) Basic research directed toward improving scientific understanding of specific aspects of the Earth system.

"(d)(1) The Plan shall take into consideration, but not be limited to, the following existing agency missions and responsibilities:

"(A) The National Science Foundation shall continue to be responsible for basic research in all areas of Earth, atmospheric, and ocean science, including the relevant biological sciences. Such basic research may include ground-based measurements for regional and global studies; polar studies; large-scale field programs; interpretation and use of space-based data; theoretical and laboratory studies; research facilities support; and development of numerical models, information and communication systems, and data bases.

"(B) The National Aeronautics and Space Administration shall have primary responsibility for Earth science research missions from space, including those of broad scientific scope, to study the Earth as an integrated whole. Associated efforts may include related ground studies; remote-sensing and advanced instrument development; and improvement of techniques for the transmission, processing, archiving, retrieval, and use of data and related models; and other reserach activities.

"(C) The National Oceanic and Atmospheric Administration shall continue to be responsible for operational environmental satellite programs and reserach programs on ocean and atmospheric processes. Additional responsibilities shall include climate diagnostics and prediction; development of predictive models and techniques for detecting natural and human-made changes; acquisition, maintenance, and distribution of long-term data bases; calibration and validation of environmental observations; processing and archiving of space-based and ground-based data; and development and support of ground-based oceanic and atmospheric monitoring systems.

"(D) The United States Geological Survey shall have primary responsibility for geological studies and mapping. Additional areas of responsibility shall include paleoclimate, hydrologic cycles, geographical information systems, and management of land remote-sensing data, including acquisition, maintenance, and distribution of long-term data bases for these areas.

"(E) The Environmental Protection Agency shall have primary responsibility for research to assess and evaluate the ecological and environmental consequences of global change, including the interaction of plant and animal communities and ecosystems. Additional areas of responsibility shall include evaluations of the impact of global atmospheric change on regional air and water quality, development of emission factors, and inventories for important trace gases other than carbon dioxide.

"(F) The Department of Energy shall have primary responsibility for research on atmospheric carbon dioxide emission measurement and research to establish a comprehensive national energy policy for reducing carbon dioxide and other trace gas emissions. Associated efforts may include assessment and application of predictive models, evaluation of the climatic effects of various energy policy options, and research on industrial sources of trace gases.

"(2) The Plan shall reflect the need for collaboration among agencies with respect to—

"(A) the establishment and development of an information system for Earth system science; and

"(B) basic research into the development of new conceptual and numerical models of the Earth system.

"(e) The Chairman of the Council and the Secretary of State shall cooperate in—

"(1) providing representation at international governmental meetings and conferences on global change in which the United States participates; and

"(2) coordinating the Federal activities of the United States with the global change research and assessment programs of other nations and international agencies and organizations, including the World Meteorological Organization and the United Nations Environmental Program.

"(f) Each Federal agency and department involved in global change research shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report identifying each element of its proposed global change activities, which—

"(1) specifies whether each such element (A) contributes primarily to the implementation of the Plan or (B) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

"(2) states the portion of its request for appropriations that is allocated to each such element.

The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each agency or department's annual budget estimate that is allocated to each element of such agency or department's global change activities. The Office of Management and Budget shall ensure that a copy of the President's annual budget estimate is transmitted to the Chairman of the Council at the same time as such budget estimate is submitted to Congress.

"RELATION TO OTHER LAWS

"SEC. 603. (a) The President, the Chairman of the Council, and the Secretary of Commerce shall ensure that relevant research activities of the National Climate Program, established by the National Climate Program Act (15 U.S.C. 2901 et seq.), are considered in developing national global change research efforts.

"(b) The President, the Chairman of the Council, and the heads of the agencies represented on the Council shall ensure that the research findings of the Council and of Federal agencies and departments are available to the Environmental Protection Agency for use in the formulation of a coordinated national policy on global climate change pursuant to section 1103 of the Global Climate Protection Act of 1987 (15 U.S.C. 2901, note).

"ANNUAL REPORT

"SEC. 604. The Chairman of the Council shall prepare and submit to the President and Congress, not later than January 31 of each year, an annual report on the activities conducted pursuant to this title during the preceding fiscal year, including—

"(1) a summary of the achievements of Federal global change research efforts during that preceding fiscal year;

"(2) an analysis of the progress made toward achieving the goals and objectives of the Plan;

"(3) a copy or summary of the Plan and any changes made in such Plan;

"(4) a summary of agency budgets for global change activities for that preceding fiscal year; and

"(5) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.".

Mr. DANFORTH. Mr. President, I am pleased to support S. 169, the National Science and Technology Policy Amendments of 1989. The problems of global warming and ozone depletion pose a major international challenge.

Last summer's devastating heatwave triggered new concern about the environment. In Missouri, the Army Corps of Engineers worked diligently to keep the Mississippi River open to traffic. The scorching heat reduced the water levels to historic lows. Missouri farmers lost crops that withered away. There simply was no water.

We cannot escape the effects of global warming. We have experienced some of the warmest weather ever in recent years. Although experts may disagree on the magnitude of the problem, I believe it is serious and must be addressed effectively. The first step is to diagnose the problem. Understanding the causes and effects of global warming will enable us to make informed decisions about possible solutions. To take action without such knowledge would not be productive.

This legislation will put the finest scientific minds to work. The bill requires the Federal Coordinating Council on Science, Engineering, and Technology [FCCSET] to develop a ten year research plan. The President's Science Adviser would chair the Council and coordinate the effort. I am confident that this research plan will be effective and will provide the knowledge we need to formulate an effective policy for addressing the detrimental effects of global warming.

Mr. President, I urge my colleagues to support this important legislation.●

By Mr. GRAMM:

S. 170. A bill to permit the Federal Communications Commission to utilize value based assignments in awarding licenses for the use of the electromagnetic spectrum; to the Committee on Commerce, Science, and Transportation.

SPECTRUM ASSIGNMENT IMPROVEMENTS ACT OF 1989

Mr. GRAMM. Mr. President, I rise today to propose legislation that will introduce fair market principles into the system whereby portions of the audio spectrum are distributed, which will give the Federal Government the opportunity to realize the full value of these assets.

This legislation will permit the Federal Communications Commission to assign six specific bands on the radio spectrum on the basis of competitive bidding. Today, the FCC does not have this option and must assign licenses either by a lengthy hearing process or through a lottery. These approaches are both time-consuming and costly to the public.

By permitting competitive bids, Congress will finally be providing the means to recapture some of the revenue loss that we have seen in the assignment of spectrum licenses in recent years. American taxpayers should be the beneficiaries of the sale of spectrum licenses, and setting the market price of that license through a competitive bidding process can assure that they are.

Most importantly, the Spectrum Assignment Improvements Act represents an opportunity for the American taxpayer to receive actual market value for the licensing of an important public resource. Revenue estimates vary, but some have placed the figure as high at $2.3 billion in fiscal year 1990 and $1.1 billion in fiscal year 1991. I urge the Senate to consider and enact this timely and responsibly crafted legislation.

Mr. President, I ask unanimous consent that the full text of the bill appear in the CONGRESSIONAL RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Spectrum Assignment Improvements Act of 1989".

AMENDMENT

SEC. 2. Section 309 of the Communications Act (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection.

"(j) The Commission may use competitive bidding for awarding licenses or construction permits for unassigned spectrum as described in this subsection. Such value based assignments may be used when there are mutually exclusive applicants for an authorization or when the Commission determines that there will likely be mutually exclusive applicants for a frequency allotment prior to the filing of applications:

"(1)(A) If the Commission determines, prior to opening a frequency allotment for the filing of applications, that there are likely to be mutually exclusive applicants, it may require the filing of statements of intent to participate in the competitive bidding process, containing such information as it finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit an application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to paragraph (3), the Commission shall have authority to grant a permit or license.

"(B) If the Commission does not utilize the procedure set forth in subparagraph (A) prior to receiving applications, it may, upon receiving mutually exclusive applications, require the submission of statements of intent to participate in the competitive bidding process, containing such additional information as it finds necessary. After conducting the bidding, the Commission, after determining that the winning bidder's application is acceptable for filing and that the applicant is qualified pursuant to paragraph (3), shall have authority to grant a permit or license.

"(2)(A) All bids submitted for the assignment of a license or construction permit under the authority of this Act must contain a bid consisting of an amount to be paid in a series of four equal annual payments to begin prior to the issuance of the license or construction permit. Upon determination that the applicant is qualified to receive a license or construction permit, in accordance with paragraph (3), the applicant must make initial payment of its bid before being granted the license or construction permit.

"(B) The applicant may satisfy its financial obligation under this subsection by payment of a lump sum prior to the issuance of the license or construction permit. In calculating the amount of the lump sum, the Commission shall use the present value of such bid. The present value shall be determined by using a discount rate equal to the rate for the underpayment of income taxes, as determined by the Secretary of the Treasury pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986.

"(3) No license or constuction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to section 308(b) and section 309(a). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by section 309(a) with respect to any application other than the one selected pursuant to paragraph (1).

"(4) The Commission may use the authority in this subsection to award license or construction permits only in the 849-851, 894-896, 901-902, and 940-941 MHz frequency bands.

"(5) This authority is expressly limited to unassigned spectrum and shall not apply to any spectrum that has been allocated to any media or mass communications, nor shall it apply to public safety or amateur radio services. For the purposes of this subsection, the term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee. The term 'unassigned spectrum' means channels which are unassigned at the time of the competitive bidding process.

"(6)(A) The Commission, not later than one year after the date of the enactment of the Spectrum Assignment Improvements Act of 1989, shall, after public notice and comment, adopt rules establishing competitive bidding under this subsection in any instance in which the Commission, in its discretion, determines

that such use is appropriate for the granting of any license or permit in accordance with paragraph (1).

"(B) The Commission shall have authority to amend such rules from time to time to the extent necessary to carry out the provisions of this subsection, Any substantive amendments shall be made after public notice and comment.

"(C) The Commission shall report annually to the Congress on the utilization and effectiveness of such authority.

"(D) The authority granted in this subsection shall expire five years from the date of enactment of the Sepctrum Assignment Improvements Act of 1989.

"(7) Moneys received from value based assignments conducted pursuant to this subsection shall be deposited in the general fund of the United States Treasury as miscellaneous receipts.

"(8) Each participant in the competitive bidding process is subject to the schedule of charges contained in section 8 of the Communications Act of 1934.

"(9) The selection of a licensee under this subsection shall not be subject to judicial review.".

By Mr. KASTEN (for himself, Mr. BOSCHWITZ, Mr. MCCLURE, and Mr. SYMMS):

S. 171. A bill to amend the Internal Revenue Code of 1986 to provide a variable capital gains tax differential for certain capital assets, to index the basis of capital assets, and for other purposes; to the Committee on Finance.

ENTREPRENEURSHIP AND PRODUCTIVITY GROWTH ACT OF 1989

● Mr. KASTEN. Mr. President, today I am introducing the Entrepreneurship and Productivity Growth Act of 1989. This bill would reduce the capital gains tax rate to encourage entrepreneurship, capital formation, productivity growth, and job creation; target the tax incentive solely to equity investments; and index capital gains to help eliminate unfair taxation on purely inflationary gains.

Congress ought to be paying a lot more attention to the things we can do to promote productivity growth. Enhancing the Nation's productivity—the output per-man hour—is the major challenge we face in the 1990's. It's the key to higher living standards, international competitiveness, job opportunities—and even deficit reduction. One of the most effective ways that Congress can boost our Nation's productivity is by reducing the tax rate on capital gains. Lower capital gains rates are the spark of business innovation, technological advancement, job creation and GNP growth.

Mr. President, the Entrepreneurship and Productivity Growth Act of 1989 contains three major elements: First, it reduces the capital gains tax rate.

Assets held for more than 12 months would be eligible under this act for a 50-percent exclusion from ordinary income tax rates. The effective top tax rate on capital gains would thus be reduced to 14 percent for assets sold after being held for 1 year or more. For taxpayers in the 15-percent income tax bracket, the capital gains tax would be reduced to 7.5 percent.

Second, it targets the tax incentive to equity investment. The capital gains differential would only apply to investment in equities—direct investments in stock and purchases of stock sold by other investors. The differential would not apply to nonequity investment like real property and collectibles.

This concept of targeting the capital gains differential to equity investments was pioneered by my good friend and colleague from Arkansas, Senator DALE BUMPERS. I have taken account of these concerns to fashion a more effective and efficient alternative to my 1987 capital gains bill, which would have cut the capital gains rate to 15 percent.

Third, it indexes capital gains for inflation. In years for which the annual inflation rate exceeds 4 percent, capital gains would be indexed by adjusting—using the GNP deflator—the basis of all assets sold or exchanged. Inflation would be measured from the time assets are purchases until the time they are sold.

These capital gains reforms would be available to both individual and corporate investors. In the case of corporate capital gains, an alternative tax of 17 percent would apply for equity investments held for more than 1 year. The minimum tax would not apply.

In seeking to limit the capital gains differential solely to corporate stock, this approach encourages business innovation, technological advancement, job creation, and GNP growth. There is no compelling economic need to encourage investment in real property and collectibles.

The advantages for economic growth of this approach are threefold. First, the lower capital gains rate will increase the availability of start-up capital for high-risk, growth-oriented small businesses. Second, a lower capital gains rate will refocus financial markets toward long-term equity investing and away from maximizing either interest income—junk bonds—or short-term gains—commodity options. Third, it would enhance the mobility—and therefore the efficiency—of capital. Capital would flow from existing investments to stock of new companies and growing businesses, resulting in higher productivity and economic growth. Finally, many of our chief trading partners realize how helpful it is to keep capital gains taxes low—most of them actually have a zero percent capital gains tax rate.

Taxing purely inflationary gains is inherently unfair. To help make sure that only the real economic gain is taxed, capital assets should be partially indexed to offset inflationary gains. It's fundamentally unjust to tax holders of capital assets—like homes, land, and family farms—on purely inflationary gains. Many liberal economists, including Joseph Pechman and Alan Blinder, support indexing of capital gains.

The indexation of capital gains for inflation above 4 percent will result in no revenue loss whatsoever—even using the Joint Committee on Taxation's static revenue-estimating methodology. This is because the Congressional Budget Office's proejected inflation rates for the next 5 years, as measured by the GNP deflator, are no higher than 4 percent.

It might be asked, What is the point of indexing above 4 percent when inflation doesn't reach that high? The answer is investment. To the extent that this provision protects investors from the value-eroding effects of high inflation in the future, they will have more incentive to save and invest in capital assets today, instead of channeling their income into consumption.

We want to start off with a 4-percent trigger to address concerns about potential static revenue loss from full indexing. Then, as the economy booms thanks to the new capital gains differential, we hope to reduce and eventualy eliminate the inflation trigger.

History and experience show that lower tax rates on capital gains will raise tax revenue for the Federal Government. I ask unanimous consent that a table of capital gains rates and their associated revenue be entered at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CAPITAL GAINS RATES AND THE ASSOCIATED REVENUE

[In billions of dollars]

	Revenue	Tax rate (percent)
Year:		
1968	$5.9	26.9
1969	5.3	27.5
1970	3.2	32.2
1971	4.4	34.4
1972	5.7	45.5
1973	5.4	45.5
1974	4.3	45.5
1975	4.5	45.5
1976	6.6	49.125
1977	8.1	49.125
1978	9.1	49.125
1979	11.7	28
1980	12.5	28
1981	12.7	28
1982	12.9	20
1983	18.5	20
1984	21.5	20
1985	24.5	20
1986	46.4	20

Source: Research Paper No. 8801, U.S. Treasury Department.

Mr. KASTEN. There will be three distinct sources for this revenue windfall. First, because the tax cost of selling equities will be cut in half, lower capital gains rates will lead to greater capital gains realizations by stockholders. These greater realizations will in turn lead to higher receipts from the capital gains tax. Harvard professor Lawrence Lindsey estimates that a 15-percent capital gains rate would increase tax revenues by $31 billion over 3 years.

Second, a lower capital gains rate increases the value of stocks. Taxing capital gains at a high rate reduces the potential return on the investment—and this reduced future return translates into a lower price for the stock today. Conversely, a lower capital gains rate will increase stock prices, giving the Government more gains to tax.

Third, and most important, a lower capital gains rate will raise GNP. Even the Congressional Budget Office admits that "lower tax rates on gains could increase savings and capital formation and channel more resources into venture capital". What CBO failed to recognize, however, is that this increased capital formation means that the entire tax base will grow even faster—resulting in even an increase in overall revenues to the Federal Government. The Treasury Department's recent study on capital gains confirms this view. The Treasury study estimated that the combined effect of the capital gains rate reductions in 1978 and 1981 directly increased tax revenues by $4.692 billion.

Mr. President, there is a compelling economic need for the administration and Congress to take immediate action on capital gains. Since the "Black Monday" stock market crash in 1987, risky start-up companies have found it difficult to sell initial public stock offerings. According to a recent study by national accounting firm Grant Thorton, small and medium-sized companies going public lost $1.6 billion in capital when the market crashed. Many of these companies turned to alternative sources of funding such as commercial banks. But 50 percent of the respondents to the Thorton survey said they were forced to abandon expansion plans. Only 10 percent found private financing through venture capital funds and individual financiers. The 1986 Tax Reform Act's elimination of the capital gains differential has exacerbated this problem. Since the tax rate on capital gains is the same as that on ordinary income, individuals have no incentive to assume the extra risk associated with investment in growth stocks. This shortage of start-up capital today threatens to rob our economy of innovations, productivity gains and job opportunities in the future.

Mr. President, capital gains reform should be a bipartisan issue. Many of my distinguished colleagues on both sides of the aisle—including Senators

ALAN CRANSTON, RUDY BOSCHWITZ, DALE BUMPERS, DENNIS DECONCINI, BILL ARMSTRONG, and DAVID BOREN—support some type of capital gains reform to spur productivity growth. I believe that my bill addresses a number of concerns that have been raised about certain aspects of the across-the-board capital gains cut. This approach serves as a solution to the partisan impasse forming over President Bush's proposal to cut the tax rate on capital gains—and I hope this bill will help bring the issue of capital gains to the forefront of the economic debate, where it belongs.

I ask unanimous consent that the text of the bill and a table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Entrepreneurship and Productivity Growth Act of 1989".

TITLE I—CAPITAL GAINS RATES

SEC. 101. CAPITAL GAINS EXCLUSION FOR CERTAIN STOCK.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 1201 the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAIN FROM CERTAIN ASSETS.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, then there shall be allowed as a deduction from gross income an amount equal to 50 percent of qualified net capital gain.

"(b) QUALIFIED NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year determined by taking into account only gain or loss from the sale or exchange of—

"(i) stock in a corporation, or

"(ii) tangible property (or any interest therein) which is a capital asset used in the trade or business (as defined in section 1231(b)) of the taxpayer, or

"(B) the net capital gain for the taxable year.

"(2) CERTAIN PROPERTY EXCLUDED.—No gain or loss from property described in section 1022(b)(2) (relating to property which is not indexed) shall be taken into account under paragraph (1).

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) MAXIMUM RATE.—Section 1(j) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WHERE TAXPAYER HAS QUALIFIED NET CAPITAL GAIN.—

"(A) IN GENERAL.—If a taxpayer has qualified net capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified net capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 14 percent of the qualified net capital gain.

"(B) QUALIFIED NET CAPITAL GAIN.—For purposes of this paragraph, the term 'qualified net capital gain' has the meaning given such term by section 1202(b)."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 1(j)(3) of such Code, as redesignated by paragraph (1), is amended by inserting "paragraph (2) applies for such taxable year or if" after "if".

(c) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by adding after paragraph (12) the following new paragraph:

"(13) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by adding at the end thereof the following new sentence': "In the case of property taken into account in computing qualified net capital gain under section 1202(b), the first sentence shall be applied by inserting '50 percent of' before 'the amount of gain'."

(3) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed."

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraphs (1)".

(5)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account."

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(j), 1201, and 1211" and inserting in lieu thereof "1(j), 1201, 1202, and 1211, ".

(9) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and" after "except that".

(10) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(11) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gain from certain assets."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1988, in taxable years ending after such date.

SEC. 102. CORPORATIONS.

(a) IN GENERAL.—Section 1201(a) of the Internal Revenue Code of 1986 is amended to read as follows:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then in lieu of the tax imposed by section 11, 511, 821 (a) or (c) and 831(a), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) in an amount equal to the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain at the rates and in the manner as if this subsection had not been enacted, plus

"(2) 17 percent of the qualified net capital gain for the taxable year, plus

"(3) 34 percent of the net capital gain reduced by the amount taken into account under paragraph (2).

For purposes of this subsection, the term 'qualified capital gain' has the same meaning given such term be section 1202(b)."

(b) CONFORMING AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) of the Internal Revenue Code of 1986 is amended by inserting "(85 percent in the case of long-term capital gains taken into account under section 1201(a)(2))" after "66 percent".

(2) Section 1445(e)(2) of such Code is amended by inserting "(17 percent in the case of amounts described in section 1201(a)(2))" after "34 percent".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

(2) TRANSITION RULE.—In the case of a taxable year beginning before January 1, 1989, and ending after December 31, 1988, section 1201(a)(2) of such Code shall apply as if it read as follows:

"(2) 17 percent of the qualified net capital gain determined by taking into account only gain or loss which is properly taken into account for the portion of the taxable year before January 1, 1989, plus".

TITLE II—INDEXING OF BASIS OF CAPITAL ASSETS

SEC. 201. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means any capital asset.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) a personal holding company (as defined in section 542), and

"(ii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, plus

"(B) an amount equal to the product of—

"(i) the adjusted basis of the asset, multiplied by

"(ii) the sum of the applicable inflation percentages for each of the calendar years beginning after December 31, 1988, in which the holding period of the asset occurs.

"(2) APPLICABLE INFLATION PERCENTAGE.—

"(A) IN GENERAL.—The applicable inflation percentage for any calendar year is the excess (if any) of—

"(i) the percentage by which—

"(I) the gross national product deflator for the last calendar quarter in such year, exceeds

"(II) the gross national product deflator for the last calendar quarter of the preceding year, over

"(ii) 4 percent.

The applicable inflation percentage for any year shall be rounded to the nearest one-tenth of 1 percent.

"(B) SPECIAL RULES FOR YEARS OF ACQUISITION AND DISPOSITION.—In the case of any calendar year in which an indexed asset was acquired or disposed of, subparagraph (A) shall be applied—

"(i) in the case of the year of acquisition, by substituting the calendar quarter in which the asset was acquired for the calendar quarter in clause (i)(II),

"(ii) in the case of the year of disposition, by substituting the calendar quarter in which the disposition occurs for the calendar quarter in clause (i)(I), and

"(iii) in the case of both such years, by substituting for '4 percent' in clause (ii) the percentage bearing the same ratio to 4 as the number of months the asset was held in the year bears to 12.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1987, see section 1022(a)(1)."

(d) The amendments made by this section shall apply to dispositions after December 31, 1988, in taxable years ending after such date.●

By Mr. PRESSLER:

S. 172. A bill to amend the Soil Conservation and Domestic Allotment Act to extend the date for entering into contracts under the Great Plains Conservation Program; to the Committee on Agriculture, Nutrition, and Forestry.

DATE EXTENSION FOR SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation to authorize extension of the Great Plains Conservation Program [GPCP] to September 30, 2001. Although this program does not formally expire until September 30, 1991, I feel that its value is such that early consideration of the 10-year extension is very well-deserved.

The Great Plains Conservation Program is a voluntary conservation program that provides long-term technical assistance and cost-sharing through the U.S. Department of Agriculture Soil Conservation Service [SCS]. Landowners sign 3 to 10 year conservation contracts with the SCS and agree to implement conservation methods that specifically suit the individual condition of their land. The CPCP is a highly effective, cost-efficient program because it views a farm or ranch as a unit and attacks erosion problems in totality—not in a piecemeal fashion.

The economic soundness of the GPCP is apparent in SCS statistics which show that each Federal dollar used in this program has yielded approximately $4 in increased agricultural income. Many South Dakotans firmly believe that the GPCP has been the most effective cost-share program ever administered by the Department of Agriculture to help mitigate soil and water conservation problems.

Congress authorized the first Great Plains Conservation Program in 1956, prompted by bad memories of the Dust Bowl days of the 1930's and more years of severe drought in the 1950's. Since then, reauthorizations of the program have resulted in over 60,000 CPCP contracts. Not only has serious soil erosion been abated but fish and wildlife habitats, water quality, and recreational facilities in 10 States have been significantly improved. Five hundred and nineteen counties, located from the tip of Texas to the Canadian border of North Dakota and Montana, are eligible to participate in this worthwhile program.

It is my hope that the Senate would recognize the great worth of this program and act to extend it for an additional 10 years. Especially in light of the drought of 1988 and predictions that more dry years might follow, it is only sensible to renew a conservation program that has clearly demonstrated its capacity to save the priceless resources of soil and water.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 172

Be it enacted by the Senate and House of Representatives of the United States of America in Cngress assembled,

SECTION 1. EXTENSION OF DATE FOR ENTERING GREAT PLAINS CONSERVATION CONTRACTS.

The third sentence of section 16(b)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)(1)) is amended by striking out "1991" and inserting in lieu thereof "2001".

By Mr. PRESSLER:

S. 173. A bill to establish a Rural Mobility Task Force in the Urban Mass Transportation Administration; to the Committee on Banking, Housing, and Urban Affairs.

RURAL MOBILITY TASK FORCE

Mr. PRESSLER. Mr. President, the Urban Mass Transportation Administration [UMTA] was created in 1964 with a threefold mission.

UMTA is charged with assisting the development and improvement of mass transportation facilities. This is to be done in cooperation with both public and private mass transportation concerns.

Second, UMTA is responsible for encouraging the development of urban mass transportation systems. This encouragement is helpful in the effort to create economic and urban development.

Finally, UMTA provides assistance to State and local governments through financing both public and private mass transportation. The level of need is considered in determining levels of assistance.

UMTA also participates in cooperative efforts with colleges and universities that research emerging trends and problems in mass transportation.

UMTA has played a vital role in improving mass transportation alternatives for major urban areas. Washington, DC's Metro system has been the recipient of UMTA assistance and today serves thousands daily. The success of the Metro system means better transportation for Washington area residents who would otherwise be stranded in ever-increasing traffic on the beltway.

Urban areas like Washington, DC need UMTA assistance, but rural regions of the country like South Dakota, equally deserving of assistance for their unique transportation problems, receive little help.

A recent study by the National Association for Transportation Alternatives [NASTA] paints an ugly picture. Though rural and small urban areas—less than 200,000 people—make up almost one-half of the American population, these areas receive less than 10 percent of UMTA Transit Assistance. Rural areas alone—under 50,000 people—make up almost 40 percent of the population but receive less than 4 percent of these funds.

On a per capita basis, the NASTA study states that residents of large urban areas receive $31.20 in Federal transit assistance. Rural area residents, on the other hand, receive $1.27.

The UMTA mass transit funds are derived from Federal taxes on motor fuels. Rural motorists pay over 40 percent of all Federal gasoline taxes but benefit from less than 4 percent of the mass transit account funds.

Yes; the transportation needs in urban and rural areas are as different as night and day. But many of the people who need mass transportation for basic mobility reside in rural areas. They are called transportation disadvantaged and they are often poor, elderly, and disabled. Over 40 percent of these needy people live in rural areas.

The legislation I am introducing today takes a step toward better understanding of these inequities. My bill establishes a Rural Mobility Task Force within UMTA. This task force would be comprised of UMTA's Deputy Administrator and Associate Administrators, and a representative from the Office of the General Counsel of UMTA.

My legislation institutionalizes a practice that is already carried on informally at UMTA. The task force would be responsible for coordinating UMTA programs affecting rural America, considering program impacts on nonurbanized areas, and providing a clearinghouse for information on rural transportation activities.

These responsibilities would be carried out through quarterly meetings of the task force. The most useful product of this effort would be an annual report to Congress from UMTA comparing funding levels and other assistance to rural areas with urbanized areas.

The Rural Mobility Task Force eventually could be a major voice for areas which may not be high in population but have a strong need. These people deserve equal access to affordable transportation alternatives. Mobility should be enjoyed by everyone, regardless of geographic location.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 18 of the Urban Mass Transportation Act of 1964 is amended by adding at the end the following:

"(i) RURAL MOBILITY TASK FORCE.—

"(1) ESTABLISHMENT.—There is established within the Urban Mass Transportation Administration a Rural Mobility Task Force. The Task Force shall be chaired by the Deputy Administrator and shall include representatives from the office of each Associate Administrator of the Administration and from the office of the General Counsel of the Administration.

"(2) RESPONSIBILITIES.—The Rural Mobility Task Force shall assist the Secretary in carrying out this section and the other provisions of this Act in nonurbanized areas. Specifically, the Task Force shall—

"(A) assure coordination of all activities under this Act that have an impact on rural and specialized transportation,

"(B) assure consideration of the unique needs and special requirements of operators in nonurbanized areas in the development of Administration policies, and

"(C) provide a single clearinghouse for information on rural program activities under this Act for the public and for Administration officials.

"(3) ROUNDTABLES.—The Rural Mobility Task Force shall hold quarterly roundtables and invite the participation of rural and specialized transportation operators for the purpose of advising the Task Force on training and technical assistance needs and priorities, research needs and priorities, coordination issues, and other program management problems or issues.

"(4) REPORT.—The Secretary shall transmit an annual report to the Congress containing data comparing the level of funding and other assistance (including allocations for research, training, technical assistance, and safety programs, as well as capital and operating funds) that is available to rural and specialized transportation operations with the level of funding and other assistance that is available to urbanized areas under each major program carried out under this Act.".

By Mr. BUMPERS (for himself, Mr. INOUYE and Mr. CONRAD):

S. 174. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund, and for other purposes; to the Committee on Finance.

COOPERATIVE ORGAN TRANSPLANT CONTRIBUTIONS ACT OF 1989

● Mr. BUMPERS. Mr. President, I am introducing legislation today that taps the generosity of Americans who are willing to help patients in need of organ transplant surgery. The bill I am introducing would allow Americans to contribute to the Organ Transplant Trust Fund, which would be used to finance organ transplants for needy patients. I have championed this legislation in past sessions of Congress, and I am still convinced it represents a responsible way to help citizens who need transplants but can't afford them.

On September 20, 1988, Senator Baucus chaired a hearing of the Subcommittee to consider this bill. At that hearing an impressive group of transplant surgeons, including Dr. Thomas E. Starzl of the University of Pittsburgh and Dr. Goran Klintmalm of Baylor University Medical Center, and the wife of a transplant recipient testified eloquently about the need for new sources of funding for transplants. The record of that hearing provides a strong argument for the tax checkoff I propose, and I believe it will be of great benefit in my efforts to get this measure enacted in the 101st Congress.

Mrs. Sherry Clifton, whose husband Hardie had a heart transplant in September 1984, described at that hearing her tireless efforts to raise funds for her husband's transplants. Mrs. Clifton worked tirelessly to guarantee that her husband would get his organ transplant, and she was finally successful. Some transplant candidates are not fortunate enough to have an advocate like Mrs. Clifton and die before they even get on a waiting list at a transplant center. Mrs. Clifton's testimony about the need for an organ transplant fund was moving:

I just did not want to believe that my beloved country was going to allow my husband to die because "there were no funds available" to save his life. All during my ordeal, I was praying that no one else's loved one would have to go through what I had to go through.

And as Dr. Starzl testified,

Part of the spirit of this bill . . . is that it gives a very powerful signal that, as far as the Government is concerned, . . . we do recognize that there is a moral imperative to treat all of our patients and not to exclude that 60 million people who do not have means of payment for this technology.

It is time that we take action to see that families and patients don't have to go through what Hardie and Sherry Clifton went through. It is time we quit ignoring the plight of our fellow citizens who desperately need help in financing organ transplants. After my bill is enacted, a citizen need never again feel helpless when he hears about a patient who cannot finance a transplant.

My bill would set up a checkoff on the 1040 personal income tax form, whereby individuals could donate part or all of their tax refunds, or make other contributions, to a trust fund for organ transplant assistance. Individuals would be making donations out of their own pockets; they would not be diminishing Federal revenues. The trust fund would return to each State the funds contributed by its citizens. Each State would be permitted to run its assistance program for transplant patients according to its own regulations and would have flexibility in determining eligibility for these funds. States could not use these funds as their match for medicaid. The funds are intended to supplement, not supplant, state medicaid efforts.

I know that some have misgivings about the use of checkoffs on the Federal income tax form. I believe these misgivings are of little significance, however, compared to the need that the checkoff would address. I would prefer that Congress establish an assistance program for transplant patients and fund it with Federal revenues or on a Federal State matching basis. But that simply isn't going to happen in this age of staggering budget deficits. I believe this mechanism for channeling contributions from American citizens is a realistic way to help needy transplant candidates.

Organ transplant procedures are simply miraculous, and we can be proud that American physicians and scientists have been pioneers in developing life-saving transplant procedures for livers, hearts, and kidneys—as well as other organs and tissues. Each day these operations save the lives of dozens who would otherwise die.

There are two big conditions that must be met before organ transplant surgery can go forward: A suitable

organ donor must be found and resources must be available to pay for the procedure. Organ availability is still a formidable problem when an individual needs transplantation surgery, and transplant patients sometimes die while waiting for a suitable organ. Fortunately, we are making some progress in developing a system to obtain and distribute organs for transplantation. Congress has helped by enacting legislation requiring hospitals to request that families of deceased patients donate the organs of their loved ones. This law and the hard work of many people in organ procurement agencies are having a positive effect on the supply of organs. We must continue Federal efforts to coordinate and improve organ procurement if the supply of organs is to meet demand.

If an organ is available, the patient still has to solve the problem of how to pay for his transplant. A transplant candidate must prove he has the resources to finance his transplant before he can even be put on an institution's waiting list for surgery. That is easy enough if a patient has good health insurance but is a nightmare for those with inadequate or no health insurance. Costs for organ transplants vary, but a liver transplant can cost as much as $265,000; a heart transplant, $125,000; and bone marrow transplant, $95,000. And transplant patients require expensive immunosuppressive drugs the rest of their lives.

The financing of transplants is a crazy quilt of insurance coverage. Medicare finances as many as 90 percent of the kidney transplants in this country through the end stage renal disease program and also covers heart transplants in approved transplant centers. Medicare also covers liver transplants in those under age 18, which effectively means that Medicare does not cover liver transplants. Medicaid coverage for transplantation varies greatly from State to State. Most States provide coverage for some transplants, but some States provide no coverage and others are eliminating the coverage they previously had. As a matter of fact, Medicaid coverage changes in one state or another very often.

Finally, private insurance coverage varies from carrier to carrier. In some cases, private insurance coverage is adequate for the procedure and all follow-up care. In other cases, coverage is adequate for the transplant procedure but nonexistent for the immunosuppressive drugs a patient needs.

So the patients who need help financing transplants are either among the 37 million who lack health insurance coverage, whose health insurance policies have inadequate coverage for transplants, who are unfortunate enough to live in a State with limited Medicaid coverage, or who fall through the cracks in other ways.

Those unfortunate patients must go begging for the money to stay alive, or to keep their children alive. They must appeal to their neighbors, their churches, to the media, and to public officials for help in raising the funds to pay for their operations. Communities have often responded in multiple and creative ways to raise money—proof that Americans stand ready to help those who need transplants.

But a patient's family should not have to hustle dollars for a heart or liver transplant. And fundraising attempts, even if acceptable, don't always work. It's much easier to raise money if the patient is a young and photogenic child, and much harder if the patient is not. Patients and their families find themselves in the unenviable position of running bake sales to live because they do not enjoy public or private health insurance coverage for transplants.

Former HEW Secretary Joseph Califano, commenting recently on the high cost of medical and the spiraling health care inflation rate, said, "By the year 2000 the only person in the United States who can afford to get sick will be Donald Trump." A transplant candidate who has little or no insurance, or whose insurance will not pay for transplant, certainly might wish he had Donald Trump's millions.

I have been asked why I single out organ transplantation for coverage over other basic health services. It is simply because transplants are usually a matter of life or death, and their financing should be treated as a matter of life and death. I also believe that organ transplants will increasingly be seen by health insurers as cost-effective treatment for many patients. Until that time, however, it is important that all possible sources of funding for transplants be tapped.

The Organ Transplant Contributions Act is not a total solution, but it is a viable, voluntary approach that will offer hope to many individuals who would otherwise die for lack of an organ transplant. I urge my colleagues to join me in cosponsoring this important legislation.

I ask unanimous consent that a brief section-by-section analysis and the complete text of the bill be printed after my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIEF SECTION-BY-SECTION ANALYSIS OF SENATOR BUMPERS' COOPERATIVE ORGAN TRANSPLANT CONTRIBUTIONS ACT

Section 1. This act my be cited as the "Cooperative Organ Transplant Contributions Act of 1989."

Section 2(a). Congressional findings that many organ transplant candidates are in need of assistance to pay for transplants.

2(b). Statement of the purpose of the act, which is to establish a National Organ Transplant Fund whose funds will be distributed to states in order to assist needy organ transplant candidates.

Section 3(a). Taxpayers may designate any portion of any tax overpayment or any cash contribution to be paid to the National Transplant Trust Fund.

(b). The Internal Revenue Code is amended to account for the establishment of the National Organ Transplant Trust Fund.

(c). This act applies to taxable years ending after the date of enactment.

Section 4(a). A National Organ Transplant Trust Fund will be established in the Treasury of the United States and shall receive all amounts contributed by individual taxpayers. Funds in the Trust Fund shall be available for payment to the chief health officer of each state and to pay administrative expenses of modifying the individual income tax return forms and carrying out the operation of the Trust Fund.

Section 5(a). Each state shall establish an Organ Transplant Program in order to receive payments from the National Organ Transplant Trust Fund.

(b). States must use the funds to pay the costs of organ transplantation procedures and immunosuppressive drugs for eligible individuals. States may use not more than 5% of the funds to publicize the availability of the trust fund and to solicit contributions.

(c). States will receive an amount proportionate to the contributions of their citizens to the Trust Fund. The Secretary of Health and Human Services shall certify a State as eligible for payments.

(d). The States shall determine the eligibility of individuals and shall also detemine the medical expenses eligible for coverage.

(e). A state may not use money from the National Organ Transplant Fund to supplant funds normally made available by the State for organ transplantation assistance.

(f). A State may not use the money from the Trust Fund to satisfy a requirement for nonfederal contributions for participation in a program established under any other provision of law.

(g). Each state shall annually submit reports about its Organ Transplant Program to the Secretary of Health and Human Services.

(h). Definitions of "organ," "transplant procedure," and "State."

Section 6. Makes clear that this Act does not create any private right to sue by or on behalf of any eligible individual, and does not create an entitlement on behalf of any individual.

S. 174

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Organ Transplant Contributions Act of 1989".

SEC. 2. STATEMENT OF CONGRESSIONAL FINDINGS AND INTENT.

(a) FINDINGS.—Congress finds that—

(1) there exists an urgent national health problem in the area of human organ transplantation, and that organ transplant procedures and immunosuppressive therapy can mean the difference between life and death for some patients;

(2) advances in medical science have made organ transplantation an accepted medical treatment in an increasing number of cases, but that the costs associated with such

treatment remain beyond the reach of many Americans;

(3) needy patients should neither be allowed to die or forced into poverty due to lack of adequate funds to pay for an organ transplant, and that the Federal Government should assist those citizens who are in need of organ transplant surgery and immunosuppressive therapy;

(4) as of this year, all persons in the United States are asked to join the national pool of organ donors and therefore should have an equal opportunity to benefit from expanded availability of organs for transplantation;

(5) certain organ transplant procedures are becoming commonly accepted forms of treatment, but that other procedures remain experimental and that further research in these and other methods should be encouraged with a view towards expanding the horizons of medical knowledge and improving the quality of health care; and

(6) a number of States have established programs to assist citizens in obtaining needed transplant procedures, and that a number of charitable organizations are available to assist such persons, but there remains a substantial unmet need in this area.

(b) CONGRESSIONAL INTENT.—It is the intent of Congress that—

(1) it is necessary, as a result of the findings in subsection (a), to establish a National Organ Transplant Trust Fund in the Treasury of the United States which shall dispense money to the States to assist those Americans who are in need of transplant surgery and immunosuppressive therapy and who have insufficient means of paying for such treatment;

(2) the Secretary of the Treasury shall transfer money from the National Organ Transplant Trust Fund to the chief health officer of a State for the assistance program described in paragraph (1) after the Secretary of the Department of Health and Human Services has certified that the State is carrying out the program in accordance with the law and has fully accounted for the funds provided for the previous year;

(3) the National Organ Transplant Trust Fund be funded solely by voluntary contributions under the system established by this Act; and

(4) each State be allowed, within the general guidelines provided herein, to develop its own specific regulations to govern the operation of this assistance program.

SEC. 3. DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR NATIONAL ORGAN TRANSPLANT TRUST FUND.

(a) GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR NATIONAL ORGAN TRANSPLANT TRUST FUND

"SEC. 6097. AMOUNTS FOR NATIONAL ORGAN TRANSPLANT TRUST FUND.

"(a) IN GENERAL.—With respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such taxpayer may designate that—

"(1) any portion of any overpayment of such tax for such taxable year, and

"(2) any cash contribution that the taxpayer includes with such return,

be paid over to the National Organ Transplant Trust Fund.

"(b) JOINT RETURNS.—In the case of a joint return showing an overpayment, each spouse may designate any portion of such overpayment under subsection (a)(1).

"(c) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made on the first page of the return and shall be irrevocable.

"(d) OVERPAYMENTS TREATED AS REFUNDED.—For purposes of this title, any overpayment of tax designated under subsection (a) shall be treated as being refunded to the taxpayer as of the last date prescribed for filing the retun of tax imposed by chapter 1 (determined without regard to extensions) or, if later, the date the return is filed.".

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

"PART IX—DESIGNATION OF OVERPAYMENTS AND CONTRIBUTIONS FOR NATIONAL ORGAN TRANSPLANT TRUST FUND.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act.

SEC. 4. ESTABLISHMENT OF NATIONAL ORGAN TRANSPLANT TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL ORGAN TRANSPLANT TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Organ Transplant Trust Fund' consisting of such amounts as may be appropriated or credited to the National Organ Transplant Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO NATIONAL ORGAN TRANSPLANT TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the National Organ Transplant Trust Fund amounts equivalent to the amounts designated under section 6097 and received in the Treasury, and any other cash contributions made by any person to such fund.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—The Secretary shall pay, from the National Organ Transplant Funds to the chief health officer of a State for use in assisting eligible individuals with organ transplants, the amounts determined under section 5 of the Organ Transplant Contributions Act of 1988.

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the National Organ Transplant Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to such Fund.".

(b) CLERICAL AMENDMENTS.—The table of sections for such subchapter A is amended by adding at the end thereof the following new item:

"Sec. 9511. National Organ Transplant Trust Fund.".

SEC. 5. ORGAN TRANSPLANTATION PAYMENTS PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Each State shall establish an Organ Transplantation Program to receive payments from the National Organ Transplant Trust Fund and to provide financial assistance to eligible individuals.

(b) USE OF PAYMENTS.—Payments to each State under subsection (2) shall be available—

(1) to pay the costs of the program established under subsection (a), including the costs of organ transplantation procedures and immunosuppressive drugs for eligible individuals; and

(2) to pay the costs incurred by the State's chief health officer to publicize the availability of the Trust Fund and to solicit contributions to the Trust Fund, except that payments under this subparagraph for any fiscal year shall not exceed 5 percent of the total payments received by the State from the Trust Fund for such fiscal year.

(c) PAYMENT OF FUNDS FROM TRUST FUND TO STATES.—

(1) IN GENERAL.—Subject to paragraph (2), not later than September 1 of each year, the Secretary of the Treasury shall pay to each State from the Trust Fund an amount equal to the amount of funds received in the form of cash contributions, or contributed by residents of the State to the Trust Fund pursuant to section 6097 of the Internal Revenue Code of 1986, less a proportionate share of the costs incurred by the Secretary in administering the Fund.

(2) CERTIFICATION.—

(A) ELIGIBILITY.—The Secretary of Health and Human Services shall certifty a State as eligible for payments under this section if the Secretary determines that the State is carrying out its program in accordance with this Act and has fully accounted for the money provided for the previous year.

(B) REPORT.—The Secretary of Health and Human Services shall report to the Secretary of the Treasury the name of each State that had been certified under subparagraph (A).

(C) PREREQUISITE.—The Secretary of Treasury shall distribute money to a State only if the Secretary receives a certification of the State under subparagraph (A).

(d) PAYMENT OF FUNDS FROM STATES TO INDIVIDUALS.—

(1) IN GENERAL.—The chief health officer of a State shall place the funds received under subsection (c) into a separate interest-bearing account and may dispense such funds only to individuals who meet the criteria prescribed in paragraph (2).

(2) ELIGIBILITY.—To be eligible to receive funds under paragraph (1), an individual must—

(A) have a medical condition for which an organ transplant procedure is reasonably medically necessary;

(B) have no sufficient source of payment for the organ transplant, including sources of payment such as Medicaid, Medicare, and any insurance coverage applicable to such individuals; and

(C) meet other requirements such as those concerning State residency and income level that the State or its chief health officer may impose in regulations.

(3) EXPENSES COVERED.—The chief health officer of each State shall prescribe by regulation the medical expenses that may be elibible for coverage, the maximum expense, and the terms and conditions under which payment will be made to eligible individuals.

(e) ADDITIONAL FUNDING.—A State may not use money from the National Organ Transplant Fund to supplant funds normally made available by the State for organ transplantation assistance.

(f) STATE USE OF FUNDS RECEIVED FROM THE NATIONAL ORGAN TRANSPLANT TRUST FUND.—A State may not use money from the National Organ Transplant Trust Fund to satisfy a requirement for nonfederal contributions for participation in a program established under any other provision of law.

(g) Each State shall annually submit to the Secretary of Health and Human Services such reports concerning its Organ Transplant Program as the Secretary shall require.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "organ" means the eye, kidney, liver, pancreas, heart, lung, bone marrow, or any other organ or tissue included by the chief health officer of a State by regulation.

(2) The term "transplant procedure" means the surgical procedures necessary to accomplish the organ transplant, as well as appropriate preoperative and postoperative treatments, including immunosuppressive drugs, approved under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq).

(3) The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this Act.

SEC. 6. RIGHTS TO SUE OR BENEFIT ENTITLEMENT NOT CREATED BY ACT.

This Act shall not be construed to create any private right to sue by or on behalf of any eligible individual, and shall not be construed to create an entitlement on behalf of any individual.●

By Mr. HEINZ:

S. 176. A bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act; to the Committee on Foreign Relations.

STRENGTHENING THE FOREIGN AGENTS REGISTRATION ACT OF 1938

● Mr. HEINZ. Mr. President, the debate we have had over the past 2 years on the Omnibus Trade Act raised an unexpected issue that many might find somewhat amusing, but which, on reflection, also should cause us a great deal of concern.

I am referring to the large amount of foreign lobbying on the bill, most notable with respect to the so-called Toshiba provisions. These sections of the bill, in case there is anyone left in the Senate who has not been paying attention the past year, create a strong program of prospective sanctions for foreign companies that violate Cocom export control rules and divert critical technology to the Soviet Union.

It is fair to say this part of the bill stemmed directly from the case that became public in 1987 of just such a diversion. It involved Toshiba Machine Corp. and Kongsberg Trading Co. selling advanced milling machinery to the Soviet Union which has significantly enhanced that nation's ability to manufacture quiet submarines.

The foreign lobbying, however, concentrated not on the prospective sanction regime but on the retroactive sanctions on Toshiba Machine, Kongsberg Trading, and their parent corporations that the bill also imposed. These sanctions, which were substantially narrowed by the conferees, have stirred up a lot of people, both here and abroad for reasons of both high policy and narrow self interest. One indicator of that is the amount of foreign money spent trying to limit the penalties.

When I first heard in the summer of 1987 that Toshiba Corp. had paid the law firm of Mudge, Rose, Guthrie, Alexander & Ferdon $1.3 million to represent it for 6 months in 1987, my reaction was at that rate Toshiba's legal fees may end up the biggest sanction they have to endure. It appears now that that figure was only small change. In its February, 1988, filing, Mudge Rose reported an additional $4.2 million from Toshiba for the next 6-month period, which, along with approximately $1.7 million for the February-August 1988 period, makes a grand total of $7.2 million for 18 months of work on a number of issues.

And that's not all. Kelly, Drye & Warren, which represents Tokyo Electric, a Toshiba subsidiary, reported nearly $57,000 for the 6 months ending November 23, 1987, and an additional $106,000 for the following 12 months. Dickstein, Shapiro, & Moran reported $111,000 through December 7, 1987—an appropriate day to report—and an additional $41,000 for the next 6 months. This is not a complete list by any means, and the process of compiling it has made evident some major flaws in the statute that requires the reporting, the Foreign Agents Registration Act.

That act was written in the 1930's primarily to deal with propaganda spread by Nazi agents operating in the United States. Its purpose was to help make the public aware of the source and financial backing behind information being given to the Government, Congress and the public in order to influence their opinions.

Since that time, the political environment has changed—obviously—and the kinds of issues where foreign persons want to influence American opinion have changed. I would like to think that our political process and our media, perhaps aided by technological advances in communications and dissemination of information, have become more sophisticated over the years and can more easily recognize political propaganda when they see it.

The challenges we face now are primarily economic. Our open markets and open investment policy, as well as the huge trade deficit we have been running, have produced a huge increase in the foreign stake in our economy in the form of sales and profits dependent on imports into the United States and in the form of investment in our country. The actions our Government takes with respect to trade and economic regulation are of tremendous importance to foreign interests who maintain an active presence here.

Two articles that appeared last year, one in Business Week and one by Pat Choate in the Washington Post, spell out these developments in much greater detail, particularly with respect to Japan. I ask that the two articles be printed in the RECORD at the conclusion of my remarks.

One of the phenomena I noticed during debate over the trade bill is the growing blurring of the line between us and them as U.S. companies are increasingly owned by foreign corporations, and U.S. corporations increasingly recalculate their public policy positions based on their assessment of their interests overseas.

Some farmers and agriculture industries, for example, have regularly opposed any U.S. retaliatory action abroad, regardless of its justification or merit, because of concerns that the foreign response might be counter-retaliation against U.S. agriculture exports. The effect of that position is to inhibit our Government in the legitimate use of its leverage and to make us hostage to other nations' threats; neither of which contributes to increasing market discipline and GATT discipline in the trading system.

As a further example, I would note in passing that the figures I mentioned above as reported lobbying expenditures do not include expenditures by American companies who have business relationships with Toshiba or Kongsberg, perceived those relationships as being threatened, and lobbied accordingly. Including those expenditures would probably more than double the amount.

In any event, Mr. President, all these trends suggest a variation on the well-known quotation from Pogo, "We have met the enemy, and he is us." Now it appears we have met the enemy, and he sounds like one of us, but we have no idea who he really is.

And that is where the Foreign Agents Registration Act comes in. It is supposed to tell us who is us and who is them, not because one is worse than the other, but simply so the Government and the public can tell the difference and judge accordingly.

Foreign interests in this country do many good things. They have kept companies and jobs in existence that would otherwise have disappeared. They have brought technological improvements and capital infusions that have helped restore numerous industries to competitiveness. The Foreign Agents Registration Act has neither the intent nor the effect of discouraging those efforts. Rather it seeks simply to identify them.

The act is handicapped in that effort, however, by its failure to keep up with modern trends and economic complexities. In particular, I have identified four areas where improvements in the act would both improve compliance with the reporting requirements and make the reporting more accurate and reflective of current realities. Those improvements are embodied in legislation I am introducing today.

First. Controlled subsidiaries: We should expand the requirement to file beyond agents of a foreign principal. The act defines foreign principal as including:

(1) A government of a foreign country and a foreign political party;

(2) A person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) A partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

This definition appears to exclude agents of entities controlled by foreign principals that are organized, incorporated, created, et cetera under the laws of the United States. This in turn relates to the question of what constitutes foreign control of an entity.

In discussions with the Justice Department and various private parties who operate under this statute, it appears that this is a murky area of the law. A number of agents of U.S. foreign-controlled entities do file and in fact are advised by the Justice Department that they are required to file. Others do not; some on their own initiative, others based on Justice Department advice.

It appears that Justice advice is based roughly on whether or not the U.S. entity is real and functioning as opposed to existing primarily or exclusively to represent the foreign entity. I understand Toyota U.S.A., for example, has been advised it does not have to file because it has substantial offices and employees in the United States, is engaged in real activities here, and arguably represents itself and its own interests more than those of its Japanese parent. This kind of test does not appear in the law or in regulations, and there does not appear to be a single firm set of criteria that are uniformly and universally applied.

Further, since the Justice Department has limited resources in this area, it generally focuses its enforcement of the act on responses to complaints it receives, a limitation which makes an ambiguous definition like this one effectively self-enforcing.

In my judgment, this is a standard that is too lax and which has the effect of exempting from the reach of the act many companies which are effectively controlled by and represent the interests of foreign corporations. Moreover, since this is essentially a reporting requirement, if we err, it ought to be on the side of more complete coverage.

That can best be accomplished by more clearly defining the term control to both eliminate the ambiguity of the current standard and to broaden the reach of the law. The bill I am introducing today does that by defining over 50 percent foreign ownership of a U.S. entity as control; between 20 percent and 50 percent as control subject to rebuttal evidence; and less than 20 percent as presumptively not controlling. In considering the middle category, the Justice Department would likely employ some of the criteria they presently use, if an alleged foreign principal chose to contest the classification. This represents a minor change from S. 2866 introduced last year, which placed joint ventures where each party owns 50 percent in the first category. This year's bill places such cases in the second category.

Second. Lawyers' exemption: Presently, the act exempts lawyers from the reporting requirements in certain circumstances:

Any person qualified to practice law, insofar as he engages or agrees to engage in the legal representation of a disclosed foreign principal before any court of law or any agency of the Government of the United States: *Provided*, That for the purposes of this subsection legal representation does not include attempts to influence or persuade agency personnel or officials other than in the course of established agency proceedings, whether formal or informal.

What has evolved over the last 40 years, Mr. President, is that, particularly in the trade area, much of the work of representation is carried on in the context of formal proceedings such as antidumping or countervailing duty investigations, section 301, 201, or 337 cases, and other procedures which are formalized in the trade laws. To exclude this kind of activity from reporting is a loophole of some significance, and in some cases is so broad as to swallow the rule.

The original exemption probably had judicial proceedings in mind, where the parties' counsel is a matter of public record, but that would not, in any event, include any disclosure of the sums being expended on behalf of the foreign principal, as registration under the Foreign Agents Registration Act would. In any event, the wording of exemption implies a construction far broader than simply judicial proceedings.

Third. Standardized filing dates: The act presently requires an agent to file when he takes on the foreign client and begins performing reportable actions, and then requires him to file at regular 6-month intervals dating from the original filing. This leads to a different filing date for virtually every agent, with the result that the compilation of data has become very difficult. No matter when ones examines the filings, there are always additional ones due imminently; and thus any data developed is immediately out of date. My bill retains the conditions for an initial filing but then requires everyone to fit into a January 30 and July 30 filing framework, thus maintaining the twice-a-year format but standardizing it to permit more timely and thorough review of the data. This also differs from last year's bill in that it provides a 30-day period to file rather than a 15-day period. This is consistent with current law and more accurately reflects the time actually needed to file a complete report.

Fourth. Penalties and enforcement: While the act contains criminal penalties for wilful violations, they are rarely used, in large part because intent is difficult to prove and the penalties, which include imprisonment, are severe. Adding a schedule of civil fines provides a more reasonable option that should encourage compliance. It would also help compliance with the act to give the Justice Department authority to summon individuals to appear, testify or produce records, common authority for agencies charged with enforcing laws that have a substantial disclosure component. Both of these proposals are discussed in a General Accounting Office study of the act that was completed in 1980. Unfortunately, no remedial action was taken at that time, but I believe the recommendations are as relevant now as they were then, and much more important. Mr. President, I ask that the text of that report also be printed in the RECORD following my remarks.

I do not expect that either of these latter provisions would be frequently used. I do think, however, that we need to do more to convince the business community that this is an important statute taken seriously by Congress and the Government—one which we intend to be enforced. Giving the Justice Department this additional authority should help in that regard.

Mr. President, I suspect that the changes in our economy that I mentioned earlier mean, among other things, that we are heading into a period of greater friction with those of our trading partners seeking to maintain a high level of activity in this country. I do not object to that higher level of activity, and I have not generally been sympathetic to efforts to regulate it for its own sake. Disclosure, however, is another matter.

While I do not object to companies and their agents acting in their own

self interest and enriching our lawyers, consultants and public relations experts in the process, I do have some concerns that the public interest may be less extensively represented.

That was clearly the case in the fight over Toshiba sanctions. Estimates of the cost to the United States of repairing the damage caused by that diversion range from $8 billion to over $100 billion. While the truth is no doubt somewhere in between, it is certain that the cost is many times greater than all the fees being collected on this issue, and that it is the American taxpayers who will bear that burden for a long period of time. The public interest demands a strong program of sanctions to make sure this does not happen again, but that interest was over-matched by a collection of private interests, both foreign and domestic, who were determined that their short term business interests not be inconvenienced.

At one level, the message of the Toshiba sanctions fight is that up to a point, crime does pay. It pays U.S. lobbyists, and it pays the violators who made about $40 million of total illegal sales and probably spent less than $9 million to get away with it—so far. When all is said and done, I hope the sanctions will more than offset the profits and thereby send an important signal to future diverters. The lawyers and lobbyists, as always, will come away unscathed and with their pockets bulging.

The bill I am introducing today will not empty those pockets, but it will help us count how much is in them and what nation's currency they contain. By doing so, we will bring transparency to the governing and legislative processes, and we will be performing the important service of helping the Government, the Congress and the public determine who is us and who is them, a critical first step in determining whether or not Pogo was right.

Mr. president, I ask that the text of the bill also be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1(c) of the Foreign Agents Registration Act of 1938 is amended by adding at the end thereof the following new sentence: "For purposes of clause (1), a foreign principal shall be considered to control a person in major part if the foreign principal holds more than 50 percent equitable ownership in such person or, subject to rebuttal evidence, if the foreign principal holds at least 20 percent but not more than 50 percent equitable ownership in such person.".

(b) Section 2(b) of such Act is amended in the first sentence by striking out ", within thirty days" and all that follows through "preceding six months' period" and inserting in lieu thereof "on January 31 and July 31 of each year file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth regarding the six-month periods ending the previous December 31, and June 30, respectively, or, if a lesser period, the period since the initial filing,.".

(c) Subsection (g) of section 3 of such Act is repealed.

(d) Section 8 of such Act is amended by adding at the end thereof the following:

"(i)(1) Any person who is determined, after notice and opportunity for an administrative hearing—

"(A) to have failed to file a registration statement under section 2(a) or a supplement thereto under section 2(b),

"(B) to have omitted a material fact required to be stated therein, or

"(C) to have made a false statement with respect to such a material fact,

shall be required to pay a civil penalty in an amount not less than $2,000 or more than $5,000 for each violation committed. In determining the amount of the penalty, the Attorney General shall give due consideration to the nature and duration of the violation.

"(2)(A) In conducting investigations and hearings under paragraph (1), administrative law judges may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

"(B) In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and, upon application by the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as contempt thereof.".●

By Mr. DECONCINI (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. PRESSLER):

S. 177. A bill entitled the Cable Compulsory License Non-Discrimination Act of 1989; to the Committee on the Judiciary.

CABLE COMPULSORY LICENSE NON-DISCRIMINATION ACT OF 1989

● Mr. DECONCINI. Mr. President, together with my distinguished colleagues from the Judiciary Committee, Senator METZENBAM and Senator SIMON, along with Senator PRESSLER, I am introducing the Cable Compulsory License Non-Discrimination Act of 1989.

By introducing this legislation, I intend to reestablish a more reasonable and balanced relationship between local television broadcasters and cable operators. My objective is to insure that cable subscribers are not denied convenient access to local TV stations in their communities. The legislation would amend Section 111 of the Copyright Act to condition the availability of cable television's compulsory license by a reasonable local station carriage requirement. Additionally, the legislation proposes a halt to the practice of some cable systems whereby some local stations are moved from long held cable channels and assigned different and undesirable channel numbers. This practice, known as channel shifting, is damaging to Independent and public stations and gives an unfair advantage to the network stations which maintain their prime dial positions.

This legislation is necessary because the U.S. Court of Appeals for the D.C. Circuit has twice struck down the FCC's must-carry rules. These rules, the most recent of which reflected an industrywide compromise, provided that cable operators may not discriminate in the carriage of local stations by carrying some and not others when certain minimum conditions were met. I am confident that virtually every Member of Congress supports the idea of must-carry, and I urge my colleagues to join with Senators METZENBAUM, SIMON, and myself in implementing these basic rules of fair play in a constitutionally sound manner.

In 1976, Congress enacted the compulsory license which grants to a cable operator the right to take the signal of an television station and resell that signal to cable subscribers. For local TV stations the cable operator pays nothing for this compulsory license; for distant signals there is a fee set by the Copyright Royalty Tribunal paid into a general fund and is then distributed to the copyright owners.

At the time Congress enacted the compulsory license, no thought was given to the idea of must-carry because the cable industry was in its infancy and struggling to gain a foothold in the market. Today, however, 50 percent of American homes receive cable, and the question of whether or not a particular local broadcast station is carried by the local cable system may be a matter of economic life and death. It is imperative that Congress address this issue to ensure that equity and balance are restored both to the law and to the overall economic relationship between the two industries.

This legislation is not punitive toward the cable industry nor is it in any respect anticable. In fact, the cable industry as represented by its national organization, the National Cable Television Association, has been extremely cooperative on the question of must-carry. NCTA was part of the interindustry compromise on must-carry which was embodied in the most recent FCC rules on the subject that were, unfortunately, struck down by the courts. Currently negotiations are taking place between NCTA and the National Association of Broadcasters in an effort to reach a compromise on must-carry that will satisfy both cable operators and local stations. I hope they successfully reach a compromise which renders this legislation unnecessary, however, until this occurs I must

continue to urge the adoption of this Act.

In order to ensure the constitutional soundness of the must-carry rules, our legislation makes them part of the congressionally created compulsory license. The compulsory license would no longer be automatically available to cable operators. To qualify for the compulsory license, cable operators would have to comply with the must-carry rules which the NCTA had agreed to and which were adopted by the FCC in 1987. Cable systems could choose not to comply with the rules, thus remaining free from any must-carry obligations. The operator could then negotiate individually with the local stations for the right to retransmit their signals. Inasmuch as a majority of program services already carried on cable involve a negotiated copyright license and the fact that distant signal compulsory license is unaffected by this legislation, this would be a realistic option.

Our legislation contains two provisions in addition to the FCC must-carry rules incorporated by reference. First, we deal with channel shifting by cable operators, a problem that has resulted from the court's initial elimination of must-carry in 1985. Under the legislation, cable operators would have to carry local stations on specified channel numbers acceptable to the station. For older stations, this would mean using the broadcast number or the cable number in use before the elimination of must-carry. For newer stations, the parties would have to reach a mutually acceptable number. In all instances, however, the must-carry local stations would have to be placed on the cable line-up in such a manner as to ensure that all televisions hooked up to the cable system could receive them.

The second addition to the 1987 FCC must carry regulations made by this legislation involves the creation of what might be termed a "may carry" area to the benefit of viewers, broadcasters, and cable operators. Currently in the definition of local and distant signals, some stations that are clearly local to a community fall within the "distant" category. This means that the cable operator must pay a fee to carry those signals, usually a sufficient disincentive not to do so. The legislation eliminates these anomalies without adding any new burden on the cable operators. It provides that no station would be deemed "distant" for any cable system located in the station's television market or within the 50-mile must-carry zone. However, this new "may carry" provision only gives the cable operator the option of carrying the signal without payment of any fee; it does not add any new stations to the must-carry obligation.

It might be possible to draft constitutionally sound must-carry rules in some other manner, although the FCC has twice failed. This approach is both novel and constitutional because it links must-carry to the compulsory license. Since the compulsory license is a congressionally enacted system, Congress has the authority to set prerequisites for participation in that system. Since Congress enacted the compulsory license to facilitate the carriage of broadcast television signals on cable systems, it is perfectly proper for Congress to enact requirements for such carriage.

I believe that the legislation embodies in its scope and its approach an appropriate response to the problems associated not only with must-carry but with a constitutionally sound vehicle. We look forward during the hearing process to working with all the affected groups, including cable operators, public television and foreign language stations so that we might improve the legislation by fine tuning each provision to insure that it strikes the proper balance between the legitimate interest of all parties.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Compulsory License Non-Discrimination Act of 1989".

SEC. 2. AMENDMENTS.

(2) COMPLIANCE WITH MUST-CARRY RULES REQUIRED FOR COMPULSORY LICENSE PRIVILEGES WITH RESPECT TO LOCAL BROADCASTS.—Section 111(c) of title 17, United States Code is amendment in clause (1) by striking out "where the carriage of the signals" and all that follows through the end of such clause and inserting the following: "where—

"(A)(i) such secondary transmission takes place entirely within the local service area of such primary transmitter; (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of such Commission; and (iii) the cable system complies with section 640 of the Communications Act of 1934; or

"(B)(i) such secondary transmission takes place in whole or in part beyond the local service area of such primary transmitter; and (ii) the carriage of the signals is permissible under the rules, regulations, or authorizations of the Federal Communications Commission."

(b) FEDERAL COMMUNICATIONS COMMISSION CERTIFICATION OF CARRIAGE.—Title VI of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"COMPLIANCE WITH MUST-CARRY REQUIREMENTS

"SEC. 640. (a) A cable system complies with the requirements of this section if Federal Communications Commission certifies that the cable system——

"(1) carries, as part of the basic tier of cable service regularly provided to all subscribers at the minimum charge and to each television receiver on which subscribers receive cable service, in full and in their entirety, the signals of television broadcast stations in accordance with sections 76.5 and 76.51 through 76.62 of title 47 of the Code of Federal Regulations as in effect on December 10, 1987; and

"(2) carries each such station on the cable channel on which it was carried on July 19, 1985, or on the channel number assigned to such station by the Commission, at the election of the television broadcast station, or on such other channel as may be acceptable to the television broadcast station.

"(b) The requirements of this section shall not be subject to an expiration date.".

(c) DEFINITION OF LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended by striking out the fourth paragraph (containing the definition of local service area of a primary transmitter) and inserting the following:

"The 'local service area of a primary transmitter,' in the case of a television broadcast station, comprises: (1) the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or (2) the area extending 50 air miles from the reference point (as defined in 76.53 of title 47 Code of Federal Regulations) of the station's community of license, if the cable system's principal headend is located within such area, or (3) the area of dominant-influence in which the station is located, as demarcated in the ARB Television Market Analysis for the most recent year (or, if the ARB Television Market Analysis ceased to be published, such equivalent area as shall be determined by the Register of Copyrights); or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations. The 'local service area of a primary transmitter', in the case of a radio broadcast station comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall be effective on the date of the enactment of this Act.●

By Mr. HEINZ:

S. 182. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Finance.

INDEXING OF CERTAIN ASPECTS OF INTERNAL REVENUE CODE

● Mr. HEINZ. Mr. President, one of the greatest flaws in our tax system today is that we discourage longer term investments by taxing inflation.

Under the U.S. Tax Code, we legitimately tax real gains on the sale of capital assets but we also tax the false gains caused by inflation.

Nearly every economist agrees that people should not pay capital gains taxes on that portion of profits that simply arises from inflation. The bill I am introducing today would correct

this injustice, by providing for the indexing of certain capital assets, including principal residences.

Mr. President, let me elaborate on the reasons for this bill. Many so-called capital gains are overtaxed because they are illusory. If an asset's worth grows only because of inflation, the owner of the property really doesn't gain anything. Only real gains, that is, gains in excess of inflation, should be taxed. The indexing bill I am introducing today will protect long-term investors from confiscatory taxation.

Today there is no incentive in the Tax Code for investors to hold their investments. Instead, investors are taxed the same if they hold the property 6 months or 6 years. We are in fact encouraging the short term view of take the money and run. This is a dangerous practice. Instead we should be encouraging people to invest for their and America's future, not to speculate on today's races or hot tips.

My bill provides for indexing of certain property that has been held for a year. Property which qualifies for indexing includes stock in a corporation, tangible property which is a capital asset held for trade or business, and principal residences.

Indexing is used for purposes of determing gain or loss on the sale of property. The deduction for depreciation, depletion, and amortization shall be made without regards to the indexing provision. The inflation adjustment factor would be based on the gross national product deflator.

My bill would not alter the basic realization and nonrecognition rules of current law. A taxpayer would take inflation adjusted gains and losses into account only when realized upon a sale, exchange or other disposition of property. Nonrecognition provisions of current law, which require realized gains or losses to be deferred, would be retained. In particular, homeowners would be permitted, subject to existing rules, to roll over gain on the sale of a principal residence, if a new principal residence is acquired within 2 years of sale of the prior principal residence.

Mr. President, I urge my colleagues to co-sponsor this legislation. It is time that we changed the Tax Code to reflect the fact that we are taxing inflation, and not real gain. I ask unanimous consent that a copy of the bill be included in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation,

"(B) tangible property (or any interest therein) which is a capital asset used in a trade or business (as defined in section 1231(b)), or

"(C) property which is the principal residence (within the meaning of section 1034) of the taxpayer.

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1988).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this

subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after date of enactment see section 1022(a)(1)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after date of enactment, in taxable years ending after such date.●

By Mr. HELMS:

S. 183. A bill to facilitate the compensation of American victims of terrorist acts committed by the Palestine Liberation Organization or any of its factions; to the Committee on Foreign Relations.

COMPENSATION FOR AMERICAN VICTIMS OF PLO TERRORISM ACT

● Mr. HELMS. Mr. President, on December 14, 1988, Secretary of State George Shultz agreed to accept at face value Yasser Arafat's statement that the PLO has recognized Israel's right to exist, renounced terrorism and accepted U.N. Resolutions 242 and 338. While well intentioned, I fear the Secretary's decision risks reversing gains made by the Reagan administration in the war against terrorism and threatens the cause of peace in the Middle East.

Mr. President, I retain grave doubts about the wisdom of negotiating with the PLO. Yasser Arafat has specifically targeted Americans in terrorist attacks, provide active support to radical anti-American regimes in Cuba, Nicaragua, and North Korea, as well as to other terrorists such as the FMLN in El Salvador, and has totally failed to live up to past pledges to refrain from terrorism. Arafat is a big part of the problem in the Middle East, not part of the solution.

Completely missing fom the entire debate over negotiations with Arafat has been a discussion of America's interest—and the fact that the primary mission of the State Department is to promote the interest of America, and Americans abroad.

Mr. President, when Secretary Shultz made his decision to negotiate with the PLO, I instructed my staff to determine just how many Americans have lost their lives to PLO terrorism. From press and other reports, they compiled a list of 40 Americans killed and 59 Americans otherwise victimized by PLO and its factions. The PLO has never agreed to compensate these Americans, let alone apologize.

Mr. President, I ask unanimous consent that this compilation of Americans either killed, wounded, raped, or held hostage by the PLO, be printed in the RECORD at the end of my remarks.

Mr. President, in spite of these murderous acts—the State Department has begun negotiations with PLO. The cost of these negotiations to the PLO has been only to make a pronouncement prepared by the State Department. And within days, top PLO operatives rushed to issue contradictory statements.

The cost to the United States, Mr. President, has been to demonstrate that terrorism—sustained campaigns of violence against innocent men, women and children—does pay.

Mr. President, I recall a proposal made by Senator Talmadge to establish an American desk at the Department of State. If there were such a desk, I'm sure its officer would have asked the same question as did I when the decision to negotiate with the PLO was made: What about the American victims of PLO terrorism—shouldn't they be our top priority? Mr. President, they should.

Mr. President, since we are now holding formal talks with the PLO, I am introducing a bill which will require that compensation of American victims by the PLO will be placed at the top of the State Department's agenda.

This seems to be the least we can do for our fellow Americans.

Mr. President, I ask unanimous consent that the text of this bill and the list of victims be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 183

Be it enacted by the Senate and House of the Representatives of United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compensation for American Victims of PLO Terrorism Act."

SEC. 2. REPORT.

No later than July 1, 1989, the President shall submit to Congress a report on PLO terrorism against Americans to include—

(1) a list of all American citizens killed, wounded, raped, physically or mentally tortured, held hostage, or otherwise victimized by terrorist acts committed by the Palestine Liberation Organization or any of its factions since 1964; and

(2) an account of each terrorist act resulting in the victimization of Americans listed under paragraph (1) to include the time, place, and a specific and detailed chronology of events of each such act.

SEC. 3. COMPENSATION.

Section 530 of the Foreign Operations, Export Financing, and Related Programs

Appropriations Act, 1988, as contained in Public Law 100-202, is amended by adding before the period, the following: "; *Provided*, That any such negotiations or recognition of the PLO shall terminate on January 1, 1990 unless and until the President certifies that the Palestine Liberation Organization has provided to the United States an acceptable plan to provide appropriate compensation to all American victims of terrorism carried out by the Palestine Liberation Organization or any of its factions.".

AMERICANS VICTIMIZED BY PLO TERRORIST ATTACKS

American victim, date, type of attack

1. George Shultz; March 1988; car bomb attempt foiled near his hotel in Jerusalem.
2. Gail Klein; wounded; October 1986; bomb attack in Jerusalem.
3. Alberto Ospina; killed; April 1986; killed in bombing of TWA flight 840.
4. Maria Klug; killed.
5. Demetra Klug; killed.
6. Demetra Stylianopoulos; killed.
7. Leon Klinghoffer; killed; October 1985; *Achille Lauro* ocean liner hijacked. Klinghoffer was shot and thrown overboard.
8. Ahron Gross; killed; July 1983; Gross, an American seminary student, was stabbed to death by three terrorists.
9. One American; wounded; September 1981; grenade attack against tourists in the old city of Jerusalem.
10. Stephen Hilmes; killed; September 1978; bomb attack in Jerusalem.
11. Richard Fishman; killed; June 1978; University of Maryland student killed in a bomb attack on a bus in Jerusalem.
12. Gail Rubin; killed; March 1978; killed in bomb attack on tour bus in northern Israel.
13. Harold Rosenthal; killed; August 1976; casualities of grenade and submachine gun attack at the Istanbul airport.
14. Nona Shearer; wounded.
15. Lucille Washburn; wounded.
16 through 24. Nine Americans; hostage; June 1976; Air France Flight 139 hijacked from Tel Aviv to Paris.
25. Francis Meloy; killed; June 1976; U.S. diplomats shot to death in Lebanon.
26. Robert Waring; killed.
27. Zohair Moghrabi; killed.
28 and 29. Two Americans; wounded; March 1976; casualities of arson attack on Part Hotel in Netanya, Israel.
30. One American; killed; November 1975; killed in bomb attack in Jerusalem.
31. Herman Huddleston; kidnapped; October 1975; kidnapped by armed Palestinians in his Beirut home.
32. Charles Gallagher; kidnapped; October 1975; kidnapped in East Beirut.
33. William Dykes; kidnapped; October 1975; kidnapped in East Beirut.
34 through 36. Three Americans; kidnapped; August 1975; occupied and held hostages at U.S. embassy in Malaysia.
37. Mark Katz; wounded; July 1975; bomb attack in Jerusalem.
38. Deborah Levine; wounded; July 1975; bomb attack in Jerusalem.
39. Col. Ernest Morgan; kidnapped; June 1975; kidnapped in taxi in Beirut.
40. Dejean Replogle; wounded; December 1974; casuality of bomb attack on bus in Jerusalem.
41. Cleo Noel; killed; March 1973; Noel, U.S. Ambassador to the Sudan and Moore, the Deputy Chief of Mission were assassinated.
42. George Moore; killed; March 1973; Noel, U.S. Ambassador to the Sudan and Moore, the Deputy Chief of Mission were assassinated.
43 through 58. 16 Americans; killed; May 1972; terrorists open fired at passengers at Lod Airport, Tel Aviv.
59. Joseph Kennedy; hostage; February 1972; Lufthansa flight 649 from New Delhi to Athens was hijacked.
60. One American; killed January 1972; killed in machine gun attack on car in Gaza strip.
61. One American; hostage; August 1971; detained dependent of U.S. Dept. of Defense officer in Beirut.
62 through 66. Five Americans; wounded; September 1971; wounded in grenade attack in Jerusalem.
67. John Stewart; kidnapped; September 1970; kidnapped in Amman.
68. Sgt. Ervin Graham; hostage; September 1970; hijacked TWA flight to Jordan.
69 through 71. Three Americans; hostage; September 1970; hijacked Pan Am flight to Jordan.
72 through 74. Three Americans; hostage; September 1970; hijacked Swissair flight to Jordan.
75. One American; hostage; July 1970; Olympic Airways flight from Beirut to Athens hijacked over Rhodes.
76. Maj. Robert Perry; killed; June 1970; shot to death in Amman.
77 and 78. Two American women; raped; June 1970; broke into and looted the homes of U.S. officials in Amman, Jordan. Raped officials' wives.
79 through 86. Eight Americans; hostage; June 1970; armed takeover of two hotels in Jordan.
87. Morris Draper; kidnapped; June 1970; held hostage for two days in Amman, Jordan.
88. Cpt. Robert Potts; wounded; June 1970; shot and wounded at roadblock in Amman, Jordan.
89. Mrs. Robert Potts; wounded; June 1970; shot and wounded at roadblock in Amman, Jordan.
90 through 95. Six Americans; killed; February 1970; bombed Swissair flight.
96 and 97. Two Americans; wounded; June 1969; street bombing in Jerusalem.
98 and 99. Two Americans; wounded; August 1968; grenade attack in Jerusalem's Jewish section.●

By Mr. D'AMATO:

S. 184. A bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity (resulting from changes made in 1977 in the benefit computation formula) between those levels and the benefit levels of persons who became eligible before 1979; to the Committee on Finance.

NOTCH AFFECT REFORM

● Mr. D'AMATO. Mr. President, I rise today in an attempt to rectify an enormous injustice in our Social Security Program. I appeal to my colleagues' sense of fairness and compassion to undo a serious inequity in payments to a select group of our senior citizens.

In the 100th Congress, I introduced S. 225, a bill designed to provide equitable Social Security payments for those individuals born between 1917 and 1921. To my dismay, the promise of security to our Nation's senior citizens did not receive the priority attention it deserved. The needs of our parents and grandparents did not, cannot, and will not fade silently away. Thus, I am again introducing legislation that will give hope to those members of our society born in the "notch" years.

The notch was an ill-conceived solution to what was an already poorly designed Social Security formula. In 1973, the board of trustees of the Social Security trust funds revealed that recent computations of forthcoming benefits were grossly incorrect. In the simplest of terms, future adjustments for benefits had been doubled indexed for inflation. This double indexing was largely responsible for a 1977 projection of a long-range deficit equal to approximately 40 percent of the projected cost of the program. Obviously, something had to be done. The result, however, was cruel and unfair.

In 1977, Social Security legislation was passed that would deny future security to thousands of senior citizens. After realizing that the previously incorrect formula would both bankrupt the system and pay disproportionately high benefits to some recipients, there was a tremendous movement backward. A new formula was calculated for the payment of benefits to individuals becoming eligible after 1978. Less than 2 full years after this change there was a further downward adjustment of benefits. This was not a great deal of time for those who were about to retire to change plans. The effect was devastating.

When the dust had settled, it was clear that if you reached 62 years of age after January 1, 1979, your hopes of a secure retirement had been dashed. Although attempts were made to lessen the impact for those immediately facing retirement—those born between 1917 and 1921—the ball had already started to roll downhill. If you were born January 1, 1917, and your neighbor was born December 31, 1916, you could be certain that even if all other factors were the same, you would receive lower benefits based on your date of birth alone.

This arbitrary inequity sealed the fate of many unsuspecting senior citizens who would now spend their so-called years of leisure short of good housing, proper medical attention, and even decent meals. A society certainly falters when, for the sole purpose of balancing budgets, it neglects the needs of those who have given of themselves in times of war and times of peace. This type of action is not the mark of a great nation.

As great a damage as has been done, however, it is not too late to rectify this situation and to send the message that we still care. My legislation would compensate for some of this lost income by incorporating 3 more years

of employment after age 62 for computation in Social Security benefits. This would be made available for those who reached 62 in 1979 or later. It also would establish an income ceiling of $29,700 for those 3 years after eligibility starts, and allow for a lump-sum retroactive payment for those who have forgone their rightful benefits since 1979. The $29,700 income ceiling allows for a justifiable benefit increase now. Moreover, since this figure remains constant, it prevents mammoth escalations in the future with ample time for these future retirees to plan for their retirement years.

Every day we delay in our efforts to correct the notch we risk missing the chance to return these benefits to those who deserve them. Will this Government abandon those who fought so hard to survive the Great Depression and to save our country in World War II? Does a free and strong nation respond to its elderly with inequitable rewards? I urge may colleagues to join me in this struggle, and I ask unanimous consent that my bill be printed in the RECORD in its entirety at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 184

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 215(a)(4) of the Social Security Act is amended—

(1) by striking out "who had wages or self-employment income credited for one or more years prior to 1979" in subparagraph (B) and inserting in lieu thereof "who has 27 or more quarters of coverage based on wages and self-employment income credited for years prior to 1979".

(2) by striking out "prior to 1984" in clause (i) of subparagraph (B) and inserting in lieu thereof "after December 1978";

(3) by inserting "as in effect in December 1984" after "section 215(d)" in clause (ii) of subparagraph (B); and

(4) by striking out the last sentence.

(b) The first sentence of section 215(a)(5) of such Act is amended—

(1) by striking out "(other than an individual described in paragraph (4)(B))";

(2) by striking out "except that," and inserting in lieu thereof "except that (A)"; and

(3) by inserting before the period at the end thereof the following: ", and (B) in the case of an individual described in paragraph (4)(B), such individual's average monthly wage shall be computed as provided by subsection (b)(4)".

SEC. 2. The first sentence of section 215(b)(4) of the Social Security Act is amended by striking out "except that" and all that follows and inserting in lieu thereof the following: "except that—

"(A) paragraph (2)(A) (as then in effect) shall be deemed to provide that the number of an individual's 'benefit computation years' may not exceed 25;

"(B) paragraph (2)(C) (as then in effect) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and prior to 1979, plus the 3 calendar years after 1978 for which the total of such individual's wages and self-employment income is the largest; and

"(C) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

SEC. 3. Section 215(f)(7) of the Social Security Act is amended by striking out "For purposes of recomputing a primary insurance amount determined under subsection (a) or (d) (as so in effect) in the case of an individual to whom those subsections apply by reason of subsection (a)(4)(B)" and inserting in lieu thereof the following: "For purposes of recomputing a primary insurance amount determined under subsection (a) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(i) as in effect after December 1978, the average monthly wage shall be determined as provided by subsection (b)(4). For purposes of recomputing a primary insurance amount determined under subsection (d) (as so in effect) in the case of an individual to whom that subsection applies by reason of subsection (a)(4)(B)(ii)".

SEC. 4. Section 215(i)(4) of the Social Security Act is amended by striking out "(but the application" and all that follows down through "paragraph (4) of that subsection)".

SEC. 5. (a) Section 215(a)(7)(A) of the Social Security Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection" in the matter preceding clause (i).

(b)(1) Section 215(a)(7)(B)(i) of such Act is amended by striking out the first sentence and inserting in lieu thereof the following: "In applying subparagraph (A) in the determination of an individual's primary insurance amount, there shall first be computed (I) in the case of an individual whose primary insurance amount would be computed under paragraph (1) of this subsection, an amount which is equal to the individual's primary insurance amount under that paragraph, reduced by substituting (for purposes of this computation) the applicable percent specified in clause (ii) of this subparagraph for the percentage of the individual's average indexed monthly earnings established by subparagraph (A)(i) of paragraph (1), or (II) in the case of an individual whose primary insurance amount would be computed under section 215(a) as in effect in December 1978 by reason of paragraph (4)(B)(i) of this subsection, an amount which is equal to the individual's primary insurance amount under that section, reduced by a percentage equivalent to the percentage reduction which (as determined under regulations prescribed by the Secretary) would occur under subclause (I) if such primary insurance amount were a primary insurance amount under paragraph (1) of this subsection.".

(2) The second sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting "or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978" after "under paragraph (1) of this subsection".

(3) The third sentence of section 215(a)(7)(B)(i) of such Act is amended by inserting ", or (by reason of paragraph (4)(B)(i)) under section 215(a) as in effect in December 1978," after "under paragraph (1) of this subsection".

SEC. 6. (a) The amendments made by this Act shall be effective as though they had been included or reflected in section 201 of the Social Security Amendments of 1977.

(b) In any case where an individual is entitled on the date of the enactment of this Act to old-age insurance benefits under title II of the Social Security Act which were computed—

(1) under section 215 of that Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(2) under section 215 of that Act as in effect prior to January 1979 by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1) of the Social Security Act) shall recompute such individual's primary insurance amount so as to take into account the amendments made by this Act, and shall pay to such individual in a lump sum any additional amount to which such individual is entitled (for the period beginning with the first month for which such individual was entitled to such benefits and ending with the month preceding the first month with respect to which such recomputation is effective) by reason of such amendments. No recomputation of an individual's primary insurance amount under the preceding sentence shall have the effect of reducing or otherwise affecting any monthly insurance benefit which is payable under title II of the Social Security Act to any other person on the basis of such individual's wages and self-employment income for any month before January 1985.●

By Mr. DIXON:

S. 185. A bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction; to the Committee on the Judiciary.

INTERNATIONAL PARENTAL CHILD ABDUCTION AS A FEDERAL CRIMINAL OFFENSE

● Mr. DIXON. Mr. President, I rise to introduce legislation designed to fill the vacuum in current Federal law which allows the unabated international parental abduction of more than 400 children each year. The victims are children from every State of this country, who have been kidnaped and are being held hostage in countries around the world. International parental child abduction is a crime, and it should be recognized as such. This bill makes it a Federal felony.

The magnitude of this problem is shocking. The State Department has recorded over 2,700 of these cases since 1975, but many experts believe this number is low. We simply do not know how many cases have not been reported. Some people believe the total is closer to 10,000. The rate at which this crime is increasing is disturbing. Since May 1983, the number of cases known to the State Department has jumped 84 percent. In my home State of Illinois alone, the number shot up 60 percent in 1987. Ten more cases were documented in Il-

linois in 1988. There were nearly 400 new cases nationwide last year.

Who is hurt by international abduction? First, the child. Child psychologists from the Illinois State Police assert that the trauma associated with an abduction of this kind, and the subsequent deprivation of one parent's love, is one of the most horrendous forms of child abuse. After they are kidnaped, the children are frequently told that their other parent has abandoned them, hates them, and never wants to see them again.

Second, the left-behind parent suffers as well. They are left with an empty life, deprived of the children they loved and that gave them reason to live. Certainly, this experience is one of the most tragic any parent can suffer.

Yet, while the majority of the States recognize this crime as a felonious offense, the Federal Government still does not. The absence of Federal legislation denies the victim parent Federal assistance and allows the abductor to escape Federal prosecution.

There are at least four reasons this legislation is so urgently needed. First, it will provide a necessary deterrent to parents contemplating an abduction. Currently, the abducting parent can flee to safe havens around the world knowing that the U.S. Government will not pursue them. While this law will obviously not prevent every abduction, each abduction deterred is extremely significant for both the young child and their American parent.

Second, without Federal criminal charges, extradition of these abductors is not possible. This legislation will enable the United States to extradite parental child abductors in many cases where extradition treaties currently exist.

Third, the criminalization of international parental child abduction will strengthen the hand of the State Department when negotiating for the return of these children. This legislation will put an important new tool into the hands of State Department officials. If this bill passes, a U.S. Ambassador will be armed with a Federal warrant when asking a foreign government to intervene and assist in the return of an American child. This will greatly strengthen our negotiating position.

Finally, by passing this measure, we will send a strong message to the international community that the United States views international parental child abduction as a serious crime, and will not tolerate the kidnaping of its young citizens.

Let me offer some background on where we have come on this issue.

In 1987, I met with Joan Clark, the Assistant Secretary of State for Consular Affairs, to impress upon her my deep concerns about the lack of assistance this Government provided parents whose children had been abducted. At that time the State Department had been little more than a legal referral service. They only conducted a "whereabouts and welfare search," and provided a list of attorneys working in the country to which the children were taken. That is all they did. They were simply a source of information. Nothing was done to help the custodial parent bring their child home.

Mr. President, the problem of international parental child abduction was such a low priority at the State Department there was not one person in any U.S. Embassy, anywhere in the world, specifically assigned the job of trying to resolve these cases and recover these young American citizens. Furthermore, the State Department did not even have a central desk in Washington to assist in handling these cases. Instead, victim parents faced an endless line of new faces. Again and again they had to fully explain their problem and ask for help getting their children. Almost every time they heard the same answer, "There is nothing we can do."

Mr. President, through my office I heard the same story from hundreds of frustrated and distraught parents. "There is nothing we can do" is just not good enough, not from a country as great, and with as much influence in the world, as our own. So I met with Assistant Secretary Clark to see what could be done.

Since then, the State Department has implemented a number of significant improvements in the way it handles international parental child abduction cases. First, the Department established a unit within the Consular Affairs Office to coordinate and direct action on these cases. Nereida Vasquez and Consuela Pachon staff the unit and are to be commended for the work they have done since the unit was established. Second, the Department assigned one person in each U.S. mission around the world to be responsible for actively working on behalf of American parents to get these children back. At last the State Department has introduced some accountability into the system. There is someone in Washington, and someone in each country of the world, that is responsible. Someone that you can call, or I can call, or any constituent can call to ask how a particular case is progressing. If nothing is happening, someone must now say why.

Further, Ms. Clark has written every U.S. Ambassador to emphasize the importance of international abduction cases. The Ambassadors have been instructed to use every avenue, including legal and diplomatic, to pursue the return of these children. Finally, each post has received a list of the cases in that country.

Mr. President, I am pleased that the State Department has made these important changes, and I credit Assistant Secretary Clark for personally directing this restructuring. However, the proof is in the pudding. These structural changes underscore a commitment within the Department to aggressively pursue these cases. I hope each person charged with that responsibility will do so with all the resourcefulness and vigor they possess. I will continue to watch carefully, and hopefully.

The State Department cannot do this job alone. Congress must do its part as well.

Last year, Congress passed implementing legislation for the Hague Convention on International Parental Child Abduction. I am proud to have been the leader in the effort to pass that legislation. As a signator to the convention, the United States joins other ratifying nations in the effort to return abducted children to the parent who has legal custody. In effect, the countries who have signed the convention will recognize each others custody decrees, thereby facilitating the return of abducted children.

The Hague convention is a great tool for positive resolution of these cases, but most countries are not signatories to the convention which means other means of resolving these cases must be pursued. My Federal felony bill is such a means.

Mr. President, every month, 30 to 40 more young Americans are kidnaped and held hostage in countries around the world. In 1987, the Senate responded to this tragic problem by passing, without opposition, language identical to this bill as an amendment to the Foreign Relations Authorization Act. Unfortunately, this measure was dropped in conference. Our colleagues on the House Judiciary Committee insisted on holding hearings before agreeing to this legislation, and I respect their desire to carefully examine such a significant change in the law. Now, I urge both the House and the Senate to act swiftly to honor the commitments made at that time to consider this legislation expeditiously. It is time for Congress to act. Each week, eight more children are abducted. How many of those could be prevented by this bill?

Let me just take a moment to call your attention to one of the grim realities of this problem. Three years ago to the day, a constituent of mine, Patricia Roush, saw her two daughters, Alia and Aisha, off for an overnight stay with their father, a Saudi national, who at that time was legally divorced from Pat, but had gained limited visitation rights. Pat had legal custody of the children. That cold January night was the last time Pat Roush saw her children. Her ex-hus-

band stole the children out of the country on a plane to Saudi Arabia. He had obtained passports for the children from the Saudi Government. Pat Roush's case is heartbreaking.

She has not seen her children since January 25, 1986. In 3 years, she has talked to her children just once. After 3 years, she still does not know where her children live, if they attend school, what they are told about their mother, of if she will ever see them again.

Hers, Mr. President, is one of thousands of cases that are continuous nightmares for such parents, and enduring tragedies for the abducted children.

Just as Pat never gives up hope that she will get her children back, where they rightfully belong, so must we, as a government, never cease fighting for the return of abducted children. I urge my colleagues to join me in this fight for the children of Pat Roush, and the children of American custodial parents across the country. They are counting on us.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFENSE.

(a) Chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1204. International Parental Child Abduction

"(a) For purposes of this section—

"(1) the term 'child' means a person under the age of 18 at the time the offense occurred;

"(2) the term 'detains' means taking or retaining physical custody of a child, whether or not the child resists or objects; and

"(3) the term 'lawful custodian' means—

"(A) a person or persons granted legal custody of a child or entitled to physical possessions of a child pursuant to a court order; or

"(B) the mother of the child when the parents have not been married, the father's paternity has not been established by a court of law, and no other person has been granted custody of the child by a court of law.

"(b) Whoever—

"(1) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the person who has been granted sole or joint custody, care, or possession of the child;

"(2) intentionally removes a child from the jurisdiction of the United States in violation of a valid court order which prohibits the removal of the child from a local jurisdiction, State or the United States;

"(3) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the mother or lawful custodian of the child if the person is a putative father who has not established paternity of the child;

"(4) being a parent of a child born out of wedlock if the paternity of the father has been established by a court of law but there has been no order of custody, removes a child from, or conceals or detains a child outside the jurisdiction of the United States without the consent of the child's other parent;

"(5) intentionally removes a child from, or conceals or detains a child outside the jurisdiction of the United States after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody;

"(6) being a parent of the child, and if the parents of such child are or have been married and there has been no court order of custody, conceals the child for 30 days outside the jurisdiction of the United States, and fails to make reasonable attempts within the 30-day period to notify the other parent to the whereabouts of the child or to arrange reasonable visitation or contact with the child;

"(7) being a parent of the child, and where the parents of the child are or have been married and there has been no court order of custody, conceals or detains a child outside of the jurisdiction of the United States when the child was taken with physical force or the threat of physical force;

"(8) at the expiration of visitation rights outside of the jurisdiction of the United States, intentionally fails or refuses to return or impedes the return of the child to the jurisdiction of the United States;

"(9) conceals, detains, or removes the child outside the jurisdiction of the United States for payment or promise of payment at the instruction of a person who has not been granted custody of the child by a court of law;

"(10) being a parent of the child, instructs another person to conceal, detain or remove a child when that act when committed by the parent would be a violation of this Act; or

"(11) aids or abets any person violating paragraphs (1) through (10),

shall be guilty of child abduction and shall be fined in accordance with this title or imprisoned not more than 3 years, or both.

"(c) It shall be an affirmative defense under this section that—

"(1) the defendant acted within the provisions of a valid court order granting the defendant legal custody or visitation rights and that order was in effect at the time of the offense;

"(2) no court within the United States could exercise jurisdiction to determine custody of the child pursuant to the provisions of the Uniform Child Custody Jurisdiction Act;

"(3) the defendant has physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant's control, and the defendant notified or made a reasonable attempt to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible; or

"(4) the defendant was fleeing an incidence or pattern of domestic violence.

"(d) If, upon sentencing, the court finds evidence of any of the following aggravating factors:

"(1) that the defendant abused or neglected the child during the concealment, detention, or removal of the child or placed or caused the child to be placed in the care of another person who abused or neglected the child;

"(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause such parent or lawful custodian to discontinue criminal prosecution of the defendant under this section;

"(3) that the defendant demanded payment in exchange for return of the child or demanded that the defendant be relieved of the financial or legal obligation to support the child in exchange for return of the child;

"(4) that the defendant has previously been convicted of a State or Federal child abduction offense; or

"(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another,

the sentence imposed by the court in accordance with this title shall be more severe than in the absence of such factors.

"(e) There is criminal jurisdiction over conduct prohibited by this Act if the court has jurisdiction to determine custody of the child subject to the prohibited conduct pursuant to the provisions of the Uniform Child Custody Jurisdiction Act.".

(b) The table of sections for chapter 55 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1204. International parental child abduction".

SEC. 2. EFFECT OF PRIOR REMOVAL.

If a child was removed from the jurisdiction of the United States prior to the date of enactment of this Act, charges under section 1204 of title 18, United States Code, as added by this Act, may be approved only in cases involving the concealing or detaining of the child in violation of a court order that existed at the time of the child's removal from the jurisdiction of the United States.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days from the date of enactment of this Act.●

By Mr. DIXON (for himself and Mr. LEVIN):

S. 186. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio reallocating the distribution of Federal spending, and for other purposes; to the Committee on Government Affairs.

STATE MINIMUM RETURN ACT OF 1989

● Mr. DIXON. Mr. President, I rise today to reintroduce the State Minimum Return Act along with my colleagues Senators GRASSLEY, LEVIN, and RIEGLE. This act will correct imbalances in the amount of Federal spending that certain States receive in return for the tax dollar they send to Washington.

Although this bill contains complex language and provisions, I want to assure my colleagues and the taxpayers of the United States, at the outset, that the bill does not require any increases in spending. Rather, the bill reallocates funds among States within

existing spending limits, so as not to increase the deficit.

This bill addresses a very important issue which has caused real hardship in my State of Illinois, and in many other States, principally in the Midwest and Northeast. In 1987, for example, Illinois received only 70 cents in Federal spending for each tax dollar it sent to the Federal Government. For the past 30 years, this ratio has been well below $1. The unfortunate truth is that Illinois and other disadvantaged States are sending billions of dollars to Washington every year that they never see again.

Many of these disadvantaged States were among those that suffered most during the recession of 1982. They are the States whose economies are growing more slowly than the national average. They can ill afford the ongoing drain of billions of dollars to Washington.

Federal fiscal policy must be changed. It should not be designed to make a bad situation worse. Rather, it should lend a hand to States whose economies have needed the most help in the recent past.

The bill I am introducing will adjust Federal spending in the categories of Government contracts and grant programs. Contracts and grants accounted for $275 billion of the Federal budget in fiscal 1984, and are the chief sources of imbalances among States. These spending categories help stimulate economic growth, creating jobs and spurring private investment. Grants and contracts cause a ripple effect in the economy of a community. The award of a Government contract not only creates jobs in the company in which the work is performed. It also increases business and creates jobs in local companies supplying goods to the contractor.

Grant programs that will be eligible for this 10 percent adjustment include those administered by the Departments of Interior, Transportation, Agriculture—except farm income supports—the Environmental Protection Agency, Housing and Urban Development, and the U.S. Army Corps of Engineers. These are the grants that create jobs and economic growth in States and communities.

For grant programs that require an income test to determine eligibility for assistance, such as Aid to Families With Dependent Children, this bill will require an increase of 1 percent per year in the share of each eligible State. This increase will ease the fiscal burdens on the State governments of eligible States, which share the cost of these programs; let me add that the bill requires that benefit levels for needy individuals in all States may not be reduced as a result of a shift in the Federal share of these program funds among States.

Disadvantaged States will also receive additional moneys in the area of Federal contracts. With respect to competitive procurements and noncompetitive procurements, the head of each Federal Agency will be required to award a contract to a firm that will do the work in a disadvantaged State if it submits a bid that is lower or equivalent to a bid from a firm that would do the work elsewhere. This means that if a metal cabinet for a Government office or a rubber fuel line for an Air Force plane can be made in illinois more cheaply, or at the same price, than it can be made in a State that gets more than its fair share of spending from the Federal Government, that cabinet or fuel line is going to be made in Illinois by workers and businesses in Illinois.

What is being suggested here is a reallocation of Federal moneys among the States, rather than the creation of a new Government spending program. In addition, in order not to penalize the needy and other citizens who currently receive direct Government benefits in all States, the bill will not affect payments to individuals by the Federal Government. Such programs as Social Security, Food Stamps, Supplemental Security Income, Pell grants, lower income housing assistance, veterans assistance, black lung disability, guaranteed student loan interest subsidies, retirement payments for railroad workers, and Federal workers' compensation, retirement and disability, and employee life and health insurance will not be affected by the bill.

The State Minimum Return Act is an attempt to develop the comprehensive approach we need to end what amounts to a multibillion dollar penalty being paid each year by Illinois and many other States. By any measure, there is every reason that these States should be getting back their fair share of the Federal budget.

I urge my colleagues to join me in this effort to help these disadvantaged States get back a fair share of their tax dollars.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Minimum Return Act of 1989".

STATEMENT OF POLICY

SEC. 2. It is the purpose of this Act to provide, within existing budgetary limits, authority to reallocate the distribution of certain Federal spending to various States in order to ensure by the end of fiscal year 1994 that each State receive in each fiscal year an amount of Federal expenditures equal to a minimum of 90 percent of the Federal tax burden attributable to such State for such fiscal year.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "Federal agency" means any agency defined in section 551(1) of title 5, United States Code.

(3) The term "State" means each of the several States and the District of Columbia.

(4) The term "historic share" means the average percentage share of Federal expenditures received by any State during the most recent three fiscal years.

(5) The term "Federal expenditures" means all outlays by the Federal Government as defined in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(1)).

(6) The term "Federal tax revenues" means all revenues collected pursuant to the Internal Revenue Code of 1986.

(7) The term "need-based program" means any program which results in direct payment to individuals and which involves an income test to help determine the eligibility of an individual for assistance under such program.

DESIGNATION OF ELIGIBLE STATES

SEC. 4. (a) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 90 percent.

(b) Any State shall be eligible for a positive reallocation of Federal expenditures described in section 5 and received by such State under paragraph (1) of section 7(a), if such State, for any fiscal year, has a Federal expenditure to Federal tax ratio which is less than 100 percent but greater than or equal to 90 percent.

(c) During each fiscal year, the Director after consultation with the Secretary of the Treasury and the Director of the Census Bureau, shall determine the eligibility of any State under this section using the most recent fiscal year data and estimated data available concerning Federal tax revenues and Federal expenditures attributable to such State. The Secretary of the Treasury shall determine the attribution of Federal tax revenues to each State after consultation with the Comptroller General of the United States.

(d) For purposes of determining the eligibility of any State under subsection (c), any water or power program in which the Federal Government, through Government corporations, provides water or power to any State at less than market price shall be taken into account in computing such State's Federal expenditure to Federal tax ratio by characterizing as an imputed Federal expenditure the difference between the market price and the program's actual price of providing such water or power to such State.

DESIGNATION OF REALLOCABLE FEDERAL EXPENDITURES

SEC. 5. All Federal expenditures in any fiscal year shall be subject to reallocation to ensure the objective described in section 2 with respect to eligible States designated under section 4, except for such expenditures with respect to the following:

(1) Water and power programs which are described in section 4(d).

(2) Compensation and allowances of officers and employees of the Federal Government.

(3) Maintenance of Federal Government buildings and installations.

(4) Offsetting receipts.

(5) Programs for which the Federal Government assumes the total cost and in which a direct payment is made to a recipient other than a governmental unit. Such programs include:

(A) Social Security, including disability, retirement, survivors insurance, unemployment compensation, and Medicare, including hospital and supplementary medical insurance;

(B) Supplemental Security Income;

(C) Food Stamps;

(D) Black Lung Disability;

(E) National Guaranteed Student Loan interest subsidies;

(F) Pell grants;

(G) lower income housing assistance;

(H) social insurance payments for railroad workers;

(I) railroad retirement;

(J) excess earned income tax credits;

(K) veterans assistance, including pensions, service connected disability, nonservice connected disability, educational assistance, dependency payments, and pensions for spouses and surviving dependents;

(L) Federal workers' compensation;

(M) Federal retirement and disability;

(N) Federal employee life and health insurance; and

(O) farm income support programs.

REALLOCATION AUTHORITY

SEC. 6. (a) Notwithstanding any other provision of law, during any fiscal year the head of each Federal agency shall, after consultation with the Director, make such reallocations of expenditures described in section 5 to eligible States designated under section 4 as are necessary to ensure the objective described in section 2.

(b) Notwithstanding any other provision of law and to the extent necessary in the administration of this Act, the head of each Federal agency shall waive any administrative provision with respect to allocation, allotments, reservations, priorities, or planning and application requirements (other than audit requirements) for the expenditures reallocated under this Act.

(c) The head of each Federal agency having responsibilities under this Act is authorized and directed to cooperate with the Director in the administration of the provisions of this Act.

REALLOCATION MECHANISMS

SEC. 7. (a) Notwithstanding any other provision of law, for purposes of this Act, during any fiscal year reallocations of expenditures required by section 6 shall be accomplished in the following manner:

(1)(A) With respect to procurement contracts, and beginning in fiscal year 1992 subcontracts in excess of $25,000, the head of each Federal agency shall—

(i) identify qualified firms in eligible States designated under section 4 and disseminate any information to such firms necessary to increase participation by such firms in the bidding for such contracts and subcontracts,

(ii) in order to ensure the objective described in section 2, increase the national share of such contracts and subcontracts for each eligible State designated under section 4(a) by 10 percent each fiscal year, and

(iii) thirty days after the end of each fiscal year, report to the Director regarding progress made during such fiscal year to increase the share of such contracts and subcontracts for such eligible States, including the percentage increase achieved under clause (ii) and if the goal described in clause (ii) is not attained, the reasons therefor.

Within ninety days after the end of each fiscal year, the Director shall review, evaluate, and report to the Congress as to the progress made during such fiscal year to increase the share of procurement contracts and subcontracts the preponderance of the value of which has been performed in such eligible States.

(B) With respect to each fiscal year, if any Federal agency does not attain the goal described in subparagraph (A)(ii), then during the subsequent fiscal year such agency shall report to the Director prior to the awarding of any contract or subcontract described in subparagraph (A) to any firm in an ineligible State the reasons such contract or subcontract was not awarded to any firm in an eligible State.

(C) In the case of any competitive procurement contract or subcontract, the head of the contracting Federal agency shall award such contract or subcontract to the lowest bid from a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 if the bid for such contract or subcontract is lower or equivalent to any bid from any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(D) In the case of any noncompetitive procurement contract or subcontract, the head of each Federal agency shall identify and award such contract or subcontract to a qualified firm that will perform the preponderance of the value of the work in an eligible State designated under section 4 and that complete such contract or subcontract at a lower or equivalent price as any qualified firm that will perform the preponderance of the value of the work in an ineligible State.

(E) For purposes of this paragraph, in the case of any procurement contract or subcontract, any firm shall be qualified if—

(i) such firm has met the elements of responsibility provided for in section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) as determined by the head of the contracting Federal agency to be necessary to complete the contract or subcontract in a timely and satisfactory manner, and

(ii) with respect to any prequalification requirement, such firm has been notified in writing of all standards which a prospective contractor must satisfy in order to become qualified, and upon request, is provided a prompt opportunity to demonstrate the ability of such firm to meet such specified standards.

(F) In order to reallocate expenditures with respect to subcontracts as required by subparagraph (A), each Federal agency shall collect necessary data to identify such subcontracts beginning in fiscal year 1991.

(2)(A) With respect to need-based programs, any eligible State designated under section 4(a) shall receive 101 percent of such State's historic share with respect to such programs.

(B) With respect to all other expenditures described in section 5, including all grants administered by the Department of Transportation, the Department of the Interior, the Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers, and funds provided under general revenue sharing, any eligible State designated under section 4(a) shall receive 110 percent of such State's historic share with respect to such expenditures.

(b)(1) Except as provided in paragraph (2), no reallocation shall be made under this section with respect to expenditures for any program to any State in any fiscal year which results in a reduction of 10 percent or more of the amount of such expenditures to such State.

(2) No reallocation shall be made under subsection (a)(2)(A) with respect to expenditures for any need-based program to any State in any fiscal year which results in a reduction of 1 percent or more of the amount of expenditures to such State for any such program.

(c) No reallocation shall be made under the provisions of this Act which will result in any Federal expenditure to Federal tax ratio of any State being reduced below 90 percent.

(d) With respect to any need-based program eligible for reallocation under subsection (a)(2)(A), notwithstanding any reallocation of such program funds that may be mandated under this section, no State or eligible governmental unit may reduce program benefits to the ultimate beneficiaries of such program or change such program's eligibility requirements because of such reallocation of funds.

AMENDMENTS

SEC. 8. No provision of law shall explicitly or implicitly amend the provisions of this Act unless such provision specifically refers to this Act.

EXTENSION OF CONSOLIDATED FEDERAL FUNDS REPORT

SEC. 9. Subsection (a) of section 6202 of title 31, United States Code, is amended by striking out "and 1990" and inserting in lieu thereof "1990, 1991, 1992, 1993, and 1994".

STUDY

SEC. 10. (a) The Secretary of the Treasury or a delegate of the Secretary shall conduct a study on the impact of Federal spending, tax policy, and fiscal policy on State economies and the economic growth rate of States and regions of the United States.

(b) The report of the study required by subsection (a) shall be submitted to Congress not later than December 31, 1989.

EFFECTIVE DATE

SEC. 11. The provisions of this Act shall take effect for fiscal years beginning after the date of the enactment of this Act.●

By Mr. HEINZ:

S. 187. A bill to amend the Social Security Act to provide for the improvement of child care, to amend the Internal Revenue Code of 1986 to improve the child care tax credit, and for other purposes; to the Committee on Finance.

PARTNERSHIPS IN CHILD CARE ACT

Mr. HEINZ. Mr. President, we are a Nation revolutionized by the emergence of the working woman and the two-worker family. The traditional "Leave It to Beaver" household of the 1950's, where dad works and mom stays home with the kids, applies to approximately 1 in 10 families today. What once was a given—the family as child caregiver—now is an exception. Child care ranks with rent, food, and

utilities as an unavoidable cost of living for the vast majority of American families.

Last fall we left off debate on how best to help meet these changing family needs with several proposals before us. Among the legislative solutions was one introduced by my colleague from Oregon, Senator PACKWOOD. I look forward to working with him on this issue in the Finance Committee again in this Congress. Toward that end, Mr. President, I rise today with what I believe is a reasonable compromise to the dilemma of day care costs—the Partnerships in Child Care Act of 1989.

The Partnerships Act is consistent with the established principle of job-related tax breaks for working parents. Congress has acknowledged the now ordinary need for child care as a potentially extraordinary job-related expense. The Child and Dependent Care Tax Credit and the Social Services Grant Program—Title XX—of the Social Security Act currently channel financial relief to millions of working parents. But to extend this principle of child care support to its logical conclusion, we need to widen the pool and increase the flow to help millions more. Two undisputed trends fuel this need.

First, the reality of the 1980's is the working mother. Six in ten women with young children work outside their homes today, compared to 1 in 10 in 1950. Many of these women head single-parent households, with average incomes just over $10,000. Studies show most mothers who seek employment do so out of sheer economic necessity—to make ends meet for their families.

Second, child care is expensive. With average annual per child costs topping $3,000, it is easy to understand how options become limited and sacrifices made. A constitutent from Harrisburg summarized the problem when she wrote,

> For most families, finding affordable, quality day care is difficult, if not impossible. Out of desperation, too many parents are forced to leave their children in situations they realize are far less than satisfactory.

The Partnerships in Child Care Act builds on existing programs and further clarifies the Federal Government's proper role as a facilitator of affordable, quality day care for America's working parents.

In my own State of Pennsylvania, there are several million working families who need access to quality day care. The Partnerships in Child Care Act will guarantee that more of those working parents will receive the help they need. And while it acknowledges a Federal role in setting standards for quality, the act gives parents the freedom they deserve in choosing day care for their children.

The Partnerships Act does not give up on the American working family, Mr. President, but shores it up. It recognizes that a pluralistic society needs pluralistic child care settings.

Mr. President, last fall I was able to visit six centers in my State. At an employer-based center in downtown Pittsburg, offering both full day and after school care—in a nondenominational preschool facility in suburban Reading—I saw the benefits of a flexible, community oriented policy of shared responsibility. The Partnerships Act would help each of these centers and hundreds more like them throughout America. The act represents an investment in this Nation's most precious resource—our children—and a commitment to their safe and productive future.

Mr. President, I believe the Partnership Act addresses the major flaws in both the ABC bill introduced by my colleague from Connecticut, Senator DODD, and the family tax credit proposals which spread resources too thin.

Senator DODD's proposal essentially federalizes child care by funneling dollars to a prescribed range of institutional settings. These settings are defined by a bureaucracy's assumption of what constitutes appropriate care.

Family tax credits have merit as a Federal policy to help low-income families with children. But this tax credit for homemakers does not target those facing the real crisis: Families paying the additional costs of child care outside the home.

Mr. President, to briefly highlight the major provisions of the Partnerships Act, it first addresses the issue of day care costs by increasing the child and dependent care tax credit from 30 to 40 percent for low-income families and the credit will be made refundable. A refundable credit is paid even when there is no tax liability, as would be the case for many working poor families. Costs up to $4,800 for two or more children could be counted toward the credit.

Under this proposal, parents may elect to receive the refundable credit throughout the year to meet the costs of care each month. The IRS will be required to notify workers of this option. Current law will be retained for families with incomes above $32,000 per year.

An additional $300 million each year in title XX funds will be targeted for use in recruiting and training day care workers, establishing informational and referral networks, promoting public/private partnerships, and establishing loan programs to help child care providers meet State quality standards.

The act addresses the issue of access through as many as 10 HHS demonstration programs to create a continuum of services for infancy through adolescence.

Mr. President, it is not enough to target resources at child care. We should examine the quality of care provided, as well.

For this reason, the Partnerships Act creates a coordinator of child care within HHS, to collect and publish State child care standards and implement a national child care data collection system.

In addition, the Secretary will establish a National Commission on Child Care to conduct a nationwide quality assessment of day care and make recommendations for model child care standards. The Commission will further report on the impact of these model standards on the costs and availability of day care and seek out a strategy for recruiting, training, and retaining quality child care personnel.

A third critical task for the Commission will be a report on alternatives for Federal, State, and local governments and the private sector to expand day care initiatives in the workplace. Addressing the needs of children and families makes good business sense, yet only 3,000 U.S. employers provide some child care support for their employees—less than one-half of 1 percent of our Nation's 6 million employers.

Mr. President, overall, this bill is a modest investment in a sound Federal partnership with the American family and the American business community. The estimated $2.4 billion price tag would help upward of 7 million additional families. The ABC bill, in contrast, would help less than 1 million additional children for the same cost. The Partnerships Act is an investment in this Nation's most precious resource—our children—and a commitment to their safe and productive future.

Mr. President, I ask unanimous consent that a summary of the Partnerships in Child Care Act and the text of the bill be printed in the RECORD.

There being no objection, the materal was ordered to be printed in the RECORD, as follows:

SUMMARY—PARTNERSHIPS IN CHILD CARE ACT

AFFORDABLE CHILD CARE FOR WORKING FAMILIES

To expand federal assistance to working families and preserve a families freedom of choice the Partnerships Act would:

Make the Child and Dependent Care Tax Credit refundable for families with no tax liability under $32,000 in adjusted gross income. Seventy-five percent of the Credit would be refunded. Families could elect to receive the credit in each paycheck through advance payments, or "negative withholding". The IRS is instructed to notify filers of this option.

Increase the maximum Credit from 30 to 40 percent for families with incomes of $12,000 AGI and below. The Credit would be reduced, on a sliding scale basis, to a minimum of 20 percent for families with in-

comes $32,000 AGI and above. Currently the 20 percent credit applies to incomes above $28,000 AGI. (The credit would be reduced 2 percent for each $2,000 of AGI above $12,000.)

The new maximum credit at the 40 percent rate would be $960 for one child and $1,920 for two or more children. Seventy-five percent, or a maximum of $1,440 could be received in cash.

The Partnerships Act would help 7 million families with the costs of day care at a cost of $2.1 billion at full implementation.

PARTNERSHIPS TO EXPAND AND IMPROVE CHILD CARE SERVICES

To build a strong federal partnership with all levels of government and the private sector to expand and improve child care the Partnerships Act would:

Establish the Child Care Grant Program to set-aside $300 million each year in new matching funds through Title XX of the Social Security Act. States would have the flexibility to form innovative programs to: train day care workers; create resource and referral agencies; grant loans to day care providers to improve facilities; and other alternatives; encourage employer sponsored programs;

Grants could be made to schools, community based organiztions, groups of private employers, hospitals, local governments and other entities to expand day care options to all families;

Appoint a Child Care Coordinator in the Department of Health and Human Services;

Produce a report to Congress by a National Commission on Child Care making recommendations on three critical matters—Model Child Care Standards; Training, Recruitment, and Retaining Day Care Workers; and the Role of the private sector;

Encourage cooperation and leadership among Federal agencies on worker policy.

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partnerships in Child Care Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) dramatic changes in the American workforce have profoundly affected children and families;

(2) women have entered the workforce because of economic necessity, and now provide the sole support or critical economic support for a great number of families;

(3) over one-half of all women in the labor force have children under the age of 6, and nearly two-thirds of women with children under the age of 14 work either full or part-time;

(4) American families require a range of child care options to meet individual needs, and the availability of such child care options often falls short of such need;

(5) low salaries paid to child care workers contribute to high staff turnover, limit the availability of day care providers, and affect the quality of care; and

(6) although there is great concern among parents and within Congress about the quality of care provided through various day care arrangements, there is no national system for monitoring the quality of day care provided, and there is no Federal informational base on which to build such a system.

(b) PURPOSE.—It is the purpose of this Act to—

(1) enhance the availability and accessibility of child day care;

(2) assist American families in meeting the high costs of child day care; and

(3) assess and improve the quality of day care in the United States.

SEC. 3. CHILD CARE GRANT PROGRAM.

Title XX of the Social Security Act is amended—

(1) by inserting before the heading of section 2001 (42 U.S.C. 1397) the following:

"Subtitle A—Social Services Grant Program";

(2) in sections 2001 and 2002 (42 U.S.C. 1397 and 1397a), by striking out "title" each place it appears and inserting in lieu thereof "subtitle";

(3) in section 2004 (42 U.S.C. 1397c), by inserting "or 2014" after "section 2002";

(4) by adding at the end thereof the following new subtitle:

"Subtitle B—Child Care Grant Program

"SEC. 2011. DEFINITIONS.

"As used in this subtitle:

"(1) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(A) is licensed or regulated under State law;

"(B) satisfies—

"(i) the Federal requirements, except as provided in subparagraph (C); and

"(ii) the State and local requirements;

applicable to the child care services it provides; and

"(C) complies with any standards that are applicable to the child care services it provides.

"(2) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means 1 individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in the private residence of such individual.

"(3) GROUP CHILD CARE PROVIDER.—The term "group child care provider" means 2 or more individuals who jointly provide child care services for fewer than 24 hours per day and in a private residence.

"(4) LEAD AGENCY.—The term "lead agency" means the agency designated under section 2014(a).

"(5) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

"(6) POVERTY LINE.—The term "poverty line" has the meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and includes any revision required by such section.

"(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

"(8) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing between the State and a family based on income and size of the family with the very low income families having to pay no cost.

"(9) STATE.—The term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, or Palau.

"SEC. 2012. AUTHORIZATION OF APPROPRIATIONS.

"To carry out this subtitle, there are authorized to be appropriated $300,000,000 for each of the fiscal years 1990 through 1992.

"SEC. 2013. ALLOTMENTS.

"(a) IN GENERAL.—The Secretary shall allot to each State an amount equal to the sum of the amount that bears the same ratio to the amount appropriated under section 2012 as the number of children under the age of 15 residing with families residing in the State bears to the total number of children below the age of 15 residing with families in all States.

"(b) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (a).

"(c) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (a) made to a State that is not used in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—

"(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State.

"(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subtitle, any amount reallotted to a State under this subsection shall be deemed to be part of the allotment made under subsection (a) to the State.

"SEC. 2014. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State desiring to participate in the program authorized by this subtitle shall designate, in an application submitted to the Secretary under section 2015(a), an appropriate State agency that meets the requirements of subsection (b) to act as the lead agency.

"(b) REQUIREMENTS.—

"(1) ADMINISTRATION OF FUNDS.—The lead agency shall have the capacity to administer the funds provided under this subtitle to support programs and services authorized under this subtitle.

"(2) COORDINATION.—The lead agency shall have the capacity to coordinate the services for which assistance is provided under this subtitle with the services of other State and local agencies involved in providing services to children.

"(3) ESTABLISHMENT OF POLICIES.—The lead agency shall have the authority to establish policies and procedures for developing and implementing interagency agreements with other agencies of the State to carry out the purposes of this subtitle.

"SEC. 2015. APPLICATION.

"(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary that complies with the requirements of subsection (b).

"(b) REQUIREMENTS.—The application submitted under subsection (a) shall—

"(1) identify the lead agency designated in accordance with section 2014(a);

"(2) describe the activities that the State will carry out with funds received under this subtitle;

"(3) provide assurances that the State will offer technical assistance to eligible child care providers;

"(4) provide assurances that funds provided under this subtitle will be used to supplement, not supplant resources applied to child care activities by the State during fiscal year 1989;

"(5) provide assurances that the State will not expend more than 10 percent of its allocation under this subtitle each year for administrative expenses;

"(6) establish procedures that the State will use to enable eligible child care providers to submit applications to the State for assistance under this subtitle, including appropriate procedures to assure the State agency will not disapprove an application without providing the provider with notice and an opportunity for a hearing;

"(7) provide assurances that the State will adopt standards of accreditation or licensing for family-based and group child care, and methods of inspection and certification based on such standards;

"(8) provide assurances that the State will establish procedures to ensure that the purposes of this subtitle are carried out within the State and to ensure that all eligible child care providers are registered or licensed in conformance with State and local regulatory standards;

"(9) provide assurances that the lead agency will coordinate the use of funds provided under this subtitle with other Federal or State child care and preschool programs operated within the State, including the program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), the programs authorized under section 619 and part H of the Education of the Handicapped Act (20 U.S.C. 1419 and 1471 et seq.), and the programs authorized under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.);

"(10) provide for the establishment of fiscal control and accountability procedures as may be necessary to—

"(A) insure a proper accounting of Federal funds received by the State under this subtitle; and

"(B) ensure the proper verification of reports submitted by the State under paragraph (13);

"(11) provide assurances that the State will report annually to the Secretary on the number, type, and distribution of services and programs made available with funds provided under this subtitle;

"(12) provide assurances that the State will give priority to programs that serve low-income areas; and

"(13) provide any additional assurances that the Secretary may require.

"SEC. 2016. USE OF ALLOTMENTS.

"(a) IN GENERAL.—States receiving an allotment under this subtitle shall use the funds received under such allotment to carry out programs and activities, directly or through grants or contracts with public or private entities, that will result in the creation of new child care services programs and the expansion and improvement of existing child care services, including programs addressing high priority areas, as described in subsection (b).

"(b) SPECIFIC USES.—Amounts expended under subsection (a) may be used to promote public partnerships with private entities for the purpose of enabling such entities to provide child care services, including the establishment of—

"(1) programs for the recruitment and training of day care workers;

"(2) after-school programs for the children of working parents;

"(3) day care services for infants and handicapped and special needs children;

"(4) grant and loan programs to enable child care providers to meet licensing standards prescribed by the State;

"(5) programs that involve the use of older Americans as child care workers;

"(6) programs serving low-income areas;

"(7) child care informational, resource, and referral; and

"(8) other programs that are consistent with the purpose of this subtitle.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive assistance under this section shall include—

"(1) units of local governments;

"(2) local educational agencies;

"(3) nonprofit organizations under subsections (c) and (d) of section 501 of the Internal Revenue Code of 1986;

"(4) professional or employee associations;

"(5) consortia's of small businesses;

"(6) institutions of higher education;

"(7) hospitals or health care facilities;

"(8) family care providers;

"(9) community based organizations; and

"(10) any other entities that the State determines appropriate.

"(d) PLANNING AND IMPLEMENTATION.—States receiving funds under this subtitle shall, to the extent practicable, involve child care providers, parents, experts in the field of child development, and members of the child advocacy community in the planning and implementation of programs receiving funds under this subtitle.

"SEC. 2017. PAYMENTS.

"(a) IN GENERAL.—

"(1) AMOUNT OF PAYMENT.—Each State that—

"(A) has an application approved by the Secretary under section 2015; and

"(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 2013 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State.

"(2) FEDERAL SHARE.—Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

"(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

"(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this subtitle to contribute in cash or in kind to the State contribution required by this subsection.

"(b) METHOD OF PAYMENT.—The Secretary may make payments to a State, in cash or in-kind, in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 2013 for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year."

SEC. 4. MODIFICATIONS OF CHILD CARE TAX CREDIT.

(a) INCREASE IN CREDIT.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (defining applicable percentage) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 40 percent reduced (but not below 20 percent) by 2 percentage points for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $12,000."

(b) PORTION OF CREDIT MADE REFUNDABLE.—Section 21 of the Internal Revenue Code of 1986 (relating to credit for household and dependent care services necessary for gainful employment) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PORTION OF CREDIT TO BE REFUNDABLE.—

"(1) IN GENERAL.—For purposes of this chapter, in the case of an applicable taxpayer, 75 percent of the amount of the credit allowable under this section for the taxable year shall be treated as a credit allowable under subpart C of this part (relating to refundable credits) for such taxable year.

"(2) APPLICABLE TAXPAYER.—For purposes of paragraph (1), the term 'applicable taxpayer' means a taxpayer with an adjusted gross income for the taxable year not greater than $32,000.

"(3) CREDIT TO BE REFUNDABLE IN ADVANCE.—

"(A) IN GENERAL.—Advance payments of the credit made refundable under paragraph (1) shall be made in the same manner as under section 3507.

"(B) SPECIAL RULES.— For purposes of section 3507—

"(i) if any portion of the credit allowable under this section is treated as a refundable credit by reason of this subsection, the taxpayer shall certify on the eligibility certificate that the taxpayer is so eligible for such credit, the amount of estimated employment-related expenses, and the amount of estimated tax liability, and

"(ii) the advanced amount with respect to such portion of the credit allowable under this subsection for any payroll period shall be equal to—

"(I) the estimated amount of the credit which is refundable under this subsection (based on the estimated amounts under clause (i)) for the calendar year in which such payroll period occurs, divided by

"(II) the number of payroll periods in such calendar year."

(c) STATE AND LOCAL REQUIREMENTS MUST BE MET.—Paragraph (2) of section 21(b) of the Internal Revenue Code of 1986 is amended by striking out subparagraphs (C) and (D) and inserting in lieu thereof:

"(C) STATE AND LOCAL REQUIREMENTS.—Employment-related expenses described in subparagraph (A) which are incurred for services provided outside the taxpayer's household shall be taken into account only if the provider of the services complies with all applicable laws and regulations of a State or local government."

(d) NO CREDIT FOR CERTAIN SUBSIDIZED EXPENSES.—Section 21(b)(2) of the Internal Revenue Code of 1986, as amended by subsection (c), is amended by adding at the end thereof the following new subparagraph:

"(D) EXCEPTION FOR CERTAIN SUBSIDIZED EXPENSES.—Employment-related expenses described in subparagraph (A) shall not be

taken into account if such expenses (or services to which such expenses relate) are paid, reimbursed, or subsidized by the Federal Government."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 5. FEDERAL COORDINATION OF CHILD CARE.

(a) COORDINATOR OF CHILD CARE.—There is hereby established in the Department of Health and Human Services the position of Coordinator of Child Care (hereinafter in this section referred to as the "Coordinator"). The Secretary of Health and Human Services shall appoint an individual to serve as the Coordinator at the pleasure of the Secretary.

(b) DUTIES.—The Coordinator shall—

(1) coordinate all activities of the Department by Health and Human Services relating to child care, and coordinate such activities with similar activities of other Federal entities;

(2) collect and publish State child care standards, including periodic modifications to such standards;

(3) evaluate activities carried out with funds provided under this Act, or an amendment made by this Act;

(4) act as a national resource for the provision of public information on child care;

(5) design and implement a national child care date collection system that shall collect and disseminate materials that relate to—

(A) various State child care programs implemented with funds provided under this Act, or an amendment made by this Act;

(B) the quality and safety of the programs referred to in subparagraph (A);

(C) State child care standards; and

(D) any other areas that the Secretary considers important; and

(6) have the authority to conduct studies on special issues of concern in the area of child care, including the training and education of child care providers, the requirements and limitations of various child care arrangements, and any other issues that the Coordinator considers important; and

(7) provide technical assistance to assist States to carry out this Act, and the amendments made by this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. NATIONAL COMMISSION ON CHILD CARE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—To improve the quality of child care services, the Secretary of Health and Human Services shall establish, not later than 90 days after the date of the enactment of this Act, a National Commission on Child Care (hereinafter in this section referred to as the "Commission"), the members of which shall be appointed from among representatives of—

(A) persons who carry out different types of child care programs;

(B) child care and early childhood development specialists;

(C) early childhood education specialists;

(D) individuals who have expertise in pediatric health care and related fields;

(E) organizations representing child care employees;

(F) religious institutions;

(G) individuals who have experience in the regulation of child care services;

(H) the business community;

(I) State and local governments; and

(J) parents involved in community child care programs.

(2) APPOINTMENT OF MEMBERS.—The Commission shall be composed of 15 members of which—

(A) 5 members shall be appointed by the President;

(B) 2 members shall be appointed by the majority leader of the Senate;

(C) 2 members shall be appointed by the minority leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives;

(E) 2 members shall be appointed by the minority leader of the House of Representatives; and

(F) 2 members shall be appointed by the Chairman of the National Governor's Association.

(3) CHAIRMAN.—The Commission shall appoint a chairman from among the members of the Commission.

(4) VACANCIES.—A vacancy occurring on the Commission shall be filled in the same manner as that in which the original appointment was made.

(b) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary of Health and Human Services shall make available to the Commission office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Commission to carry out its functions effectively.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Commission who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Commission or otherwise engaged in the business of the Commission (including travel time), be entitled to receive compensation at a rate fixed by the Secretary of Health and Human Services, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary of Health and Human Services shall ensure that the Commission is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(c) FUNCTIONS.—The Committee shall—

(1) conduct a national assessment of the quality of day care provided in a range of settings including day care centers and family day care homes; and

(2) not later than 3 years after that date of enactment of this Act, prepare and submit, after a review by the Secretary of Health and Human Services, to the appropriate Committees of Congress, a report containing the information described in subsection (d).

(d) CONTENTS OF REPORT.—

(1) MODEL CHILD CARE STANDARDS.—The report submitted under subsection (c)(2) shall include specific recommendations on the establishment of model child care standards that shall include—

(A) recommendations on—

(i) the proper group size and ages of children in group child care settings;

(ii) the maximum appropriate staff-child ratios in group child care settings;

(iii) the appropriate qualifications and amounts of training needed by child care personnel, including requirements for meeting the continuing educational needs of child care providers;

(iv) the necessary health and safety requirements for children and personnel in child care setting; and

(v) parental involvement in programs funded and assisted under this Act; and

(B) an assessment of the impact that such model standards will have on the costs and availability of day care to families.

(2) RECRUITMENT, RETENTION, AND TRAINING STRATEGY.—The report submitted under subsection (c)(2) shall include a strategy for the recruitment, retention, and training of qualified child care personnel, and shall include appropriate studies of salaries and qualifications among such workers.

(3) EXPANDING AVAILABILITY.—The report submitted under subsection (c)(2) shall include recommendations for expanding child care availability through the private sector, including the establishment of public and private partnerships, and examples of various innovative local and State programs that have been successful in increasing the availability and affordability of child care to working parents.

SEC. 7. CONTINUOUS CARE DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a program under which the Secretary shall enter into agreements with not less than 5, and not more than 10 States, in order to establish models for a continuum of child care services for children of ages of infancy through adolescence.

(b) APPLICATION.—States desiring to receive assistance under this section shall submit an application to the Secretary of Health and Human Services in such form, and containing such information as the Secretary shall require.

(c) PRIORITY.—The Secretary of Health and Human Services shall give priority to State applications that contain child care proposals that utilize and coordinate existing State resources and facilities through public partnerships with the private sector and the business community.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section, $25,000,000 in each of the fiscal years 1990 through 1991.

(e) REPORT.—Not later than December 31, 1993, the Secretary of Health and Human Services shall prepare and submit, to the appropriate Committees of Congress, a report describing the results of the programs and activities conducted under this section by the States.

SEC. 8. STUDIES AND REPORTS.

(a) NATIONAL INVENTORY OF CHILD CARE SERVICES STUDY.—Not later than 18 months after the date of enactment of this Act, the Coordinator of Child Care appointed under section 4 shall prepare and submit, to the appropriate Committees of Congress, a report that contains the results of a study conducted by the Secretary of Health and Human Services of the availability, accessibility, and quality of child care services available to American families, and shall include an inventory of State child care standards.

(b) FEDERAL POLICY STUDY.—The Secretary of Health and Human Services, in cooperation with the Secretary of Labor, shall review Federal policies regarding leave, alternative work schedules, and other pro-

grams and policies that assist working parents, and prepare and submit, to the appropriate Committees of Congress and the President, a report on the results of such study.

SEC. 9. SENSE OF THE SENATE REGARDING CHILD CARE MODELS.

It is the sense of the Senate that—

(1) Federal, State, and local governments, as employers of a substantial portion of the population of the United States, should serve as models for private businesses in providing child care benefits to employees; and

(2) State and local governments should review their child care policies regarding leave, alternative work schedules, and other programs and policies that assist working parents.

By Mr. SYMMS:

S. 188. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians fees; to the Committee on Finance.

ELIMINATING MANDATED CAPS ON PHYSICIANS FEES

● Mr. SYMMS. Mr. President, I am introducing legislation today that will remove mandated caps on physician's fees under Medicare.

Currently, Medicare sets the rate at which all participating physicians must charge their patients for different procedures. Medicare then reimburses the doctors for 80 percent of this charge. Depending on the type of service, geographical location, and other factors, these physicians have different expenses and the reimbursement is insufficient. In view of this, many doctors have decided against participation.

The removal of such caps will help ensure access to care for Medicare patients while continuing to allow physicians to reduce their fees as necessary to accommodate the financial circumstances of elderly patients. This will also assist in removing unnecessary Government intervention in the health care profession.

Many physicians are not adequately reimbursed by Medicare for their services, and therefore do not participate in the Medicare Program. This creates a hardship for those individuals living in areas where there are only a few doctors. A simple checkup often requires traveling unreasonable distances because the physician nearest to their home is not a Medicare participant.

The legislation I am introducing today will eliminate these mandatory fee caps and allow physicians to use their own discretion, depending on the circumstances of their area. This will enable more physicians to participate in the Medicare Program, as well as allow Medicare patients more options in seeking affordable health care.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF LIMITATIONS ON PHYSICIAN CHARGES.

(a) ELIMINATION OF REASONABLE CHARGE LIMIT FOR PARTICIPATING PHYSICIANS.—

(1) IN GENERAL.—Section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii) is amended by striking "(I) the reasonable charge is the full charge for the service and (II)".

(2) TERMINATION OF PARTICIPATION AGREEMENTS.—Section 1842(h)(1) of such Act (42 U.S.C. 1395u(h)(1)) is amended by inserting "and ending before 1990" after "1984".

(b) ELIMINATION OF ACTUAL CHARGE LIMITS.—

(1) IN GENERAL.—Section 1842 of such Act (42 U.S.C. 1395u) is amended—

(A) by repealing subsections (j)(1), (l), and (m), and

(B) by striking paragraph (4) of subsection (j).

(2) CONFORMING AMENDMENTS.—

(A) Section 1842(b)(3)(G) of such Act (42 U.S.C. 1395u(b)(3)(G)) is amended by inserting "ending before 1989" after "each year".

(B) Section 1842(b)(11) of such Act (42 U.S.C. 1395u(b)(11)) is amended by striking subparagraph (C).

(c) DETERMINATION OF REASONABLE CHARGE FOR PAYMENT TO PHYSICIANS.—Section 1842(b)(4) of such Act (42 U.S.C. 1395u(b)(4)) is amended by adding at the end the following new subparagraph:

"(G) Notwithstanding any other provision of this part, in determining the reasonable charge under paragraph (3) for physicians' services furnished on or after January 1, 1990, the Secretary shall determine such charge without regard to whether the physician was a participating or nonparticipating physician in any previous year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective with physician's services delivered on or after January 1, 1990.●

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 189. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide funeral transportation, remains transportation, and living expenses benefits to deceased medal of honor recipients and their families; to the Committee on Veterans' Affairs.

FUNERAL AND REMAINS TRANSPORTATION AND LIVING EXPENSE BENEFITS ACT OF 1989

● Mr. MATSUNAGA. Mr. President, for myself and Senator INOUYE, I am today introducing legislation to provide certain mortuary benefits for Congressional Medal of Honor recipients and their families. Specifically, my bill will authorize the Secretary of Veterans' Affairs to provide funeral transportation expenses and certain survivors' expenses in connection with the recovery, care, and disposition of the remains of deceased Medal of Honor winners.

Under a law enacted by the 93d Congress, similar mortuary benefits were provided to the families of another group of highly deserving veterans—prisoners of war who died in captivity during the Vietnam war. It is clear that the Nation should recognize similarly the unsurpassed courage of those who have won our highest award for bravery in combat.

Because of the nature of their heroic actions, the number of Congressional Medal of Honor winners is necessarily quite small. At last count, there were only 227 living Medal of Honor recipients, including two from the first world war, two from between World War I and II, 113 from World War II, 30 from Korea, and 80 from Vietnam. I ask unanimous consent that a list of these individuals, published by the Congressional Medal of Honor Society, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATSUNAGA. Mr. President, the estimated total cost of extending special mortuary benefits to all of them is less than $1.5 million. Assuming a normal attrition rate, we can expect annual outlays to be a fraction of that amount.

But, Mr. President, the point here is not one of dollars, but of recognition. Congressional Medal of Honor winners stand apart from the rest of us by the selfless acts of courage they performed under the most stressful conditions known to man. To correct an egregious oversight, to ensure that Medal of Honor recipients are buried with full and appropriate honors and attended by their loved ones, I call upon the members of this Chamber to support this bill.

EXHIBIT 1

AMERICA'S LIVING MEDAL OF HONOR RECIPIENTS AS COMPILED BY CONGRESSIONAL MEDAL OF HONOR SOCIETY, UNITED STATES OF AMERICA, (CHARTERED BY THE CONGRESS), OCTOBER 14, 1988

FPO NY: (AD) Lt. Michael E. Thornton, USN FPO NY 09568-3217.

APO NY: MG Charles C. Rogers, USA (Ret), APO NY 09407.

APO SF: Col. Robert L. Howard, USA, APO San Francisco 96301.

Alabama: Henry E. Erwin, Leeds, AL 35094.

Alabama: Col. William R. Lawley. Jr., USAF (Ret), Montgomery, AL 36109.

Alabama: Col. Ola L. Mize, USA (Ret), Gadsden, AL 35901.

Alabama: CW4 Michael J. Novosel, USA (Ret), Enterprise, AL 36330.

Alabama: Col. Edward Schowalter, Jr., USA (Ret), Auburn, AL 36830.

Alabama: (AD) Col. James P. Fleming, USAF, Maxwell AFB, AL 36112-5001.

Alabama: (AD) LTC James M. Sprayberry, USA, Montgomery, AL 36109.

Alaska: Maj. Drew D. Dix, USA (Ret), Manley Hot Spgs, AK 99756.

Arizona: 1st Sgt. Nicky D. Bacon, USA (Ret), Glendale, AZ 85308.

Arizona: Frederick E. Ferguson, Chandler, AZ 85226.

Arizona: B. Gen. Joseph Foss, USMC (Ret), Scottsdale, AZ 85252.
Arizona: LTC Raymond Harvey, USA (Ret), Scottsdale, AZ 85257.
Arizona: Sgt. Silvestre Herrera, USA (Ret), Glendale, AZ 85303.
Arkansas: Capt. Maurice L. Britt, USA (Ret), Little Rock, AR 72207.
Arkansas: Clarence B. Craft, Fayetteville, AR 72701.
Arkansas: Nathan G. Gordon, Morrilton, AR 72110.
Arkansas: Col. John R. Kane, USAF (Ret), Barber, AR 72922.
Arkansas: Wilson D. Watson, Lamar, AR 72846.
California: 1st Lt. Beauford T. Anderson, USA (Ret), Jolon, CA 93928.
California: Col. William E. Barber, USMC Irvine, CA 92714.
California: Col. Charles W. Davis USA (Ret), San Francisco, CA 94116.
California: Gen. James L. Doolittle, USAF (Ret), Carmel CA 93923-9557.
California: Walter D. Ehlers, Buena Park, CA 90620.
California: Lt. John W. Finn, USN (Ret), Pine Valley, CA 92062.
California: 1st Sgt. Jimmie E. Howard, USMC (Ret), San Diego, CA 92107.
California: Robert S. Kennemore, Oxnard, CA 93030.
California: Charlie Liteky, San Francisco, CA 94117.
California: Capt. John J. McGinty III, USMC (Ret), Chula Vista, CA 92010.
California: Capt. William L. McGonagle, USN (Ret), Palm Springs, CA 92262.
California: Lt. Col. Edward S. Michael, USAF (Ret), Fairfield, CA 94533.
California: Col. Lewis L. Millett, USA (Ret), Idyllwild, CA 92349.
California: Lt. Col. John C. Morgan, USAFR (Ret), Marina Del Rey, CA 90292.
California: RAdm. Richard H. O'Kane, USN (Ret), Sebastopol, CA 95472.
California: Maj. Carlos Ogden, Sr., USA (Ret), San Jose, CA 95124.
California: Col. Mitchell Paige, USMC (Ret), Palm Desert, CA 92261.
California: Richard A. Penry, Petaluma, CA 94952.
California: Thomas A. Pope, Woodland Hills, CA 91367.
California: Alejandro R. Ruiz, Visalia, CA 93279.
California: VAdm James B. Stockdale, USN (Ret), Stanford, CA 94305.
California: Col. James E. Swett, USMC (Ret), Trinity Center, CA 96091.
California: Maj. James A. Taylor, USA (Ret), Livermore, CA 94550.
California: Col. John J. Tominac, USA (Ret), Carmel, CA 93923.
California: Lt. Col. Kenneth A. Walsh, USMC (Ret), Santa Ana, CA 92706.
California: (AD) LTC (P) Kern W. Dunagan, USA, Daly City, CA 94015.
California: (AD) Col. Robert F. Foley, USA, Fort Ord, CA 93941.
California: (AD) Col. Robert J. Modrzejewski USMC San Diego, CA 92124.
California: (AD) MSgt. Richard A. Pittman, USMC, Camp Pendleton, CA 92055.
California: (AD) Col. Jay R. Vargas, USMC, San Diego, CA 92131.
Colorado: MSG William J. Crawford, USA (Ret), Palmer Lake, CO 80133.
Colorado: Peter C. Lemon, Colorado Springs, CO 80917.
Connecticut: Michael J. Daly, Fairfield, CT 06430.
Connecticut: William J. Johnston, Colchester, CT 06415.
Connecticut: John L. Levitow, South Windsor, CT 06074.
DC (AD): BGen. James E. Livingston, USMC, Washington, DC 20318-3000.
Delaware: James P. Connor, Bear, DE 19701.
Florida: William R. Charette, Lake Wales, FL 33853.
Florida: Col. George E. Day, USAF (Ret), Shalimar, FL 32579.
Florida: MSG James R. Hendrix, USA (Ret), Davenport, FL 33837.
Florida: Brig. Gen. James H. Howard, USAFR (Ret), Belleair Bluffs, FL 33540.
Florida: Maj. Douglas T. Jacobson, USMC (Ret), Punta Gorda, FL 33950.
Florida: Leonard B. Keller, Milton, FL 32570-6414.
Florida: CDR Clyde E. Lassen, USN, Pensacola, FL 32504.
Florida: Gary L. Littrell, St Peterburg Beach, FL 33706.
Florida: Capt. David McCampbell, USN (Ret), Lake Worth, FL 33461.
Florida: Col. Joseph J. McCarthy, USMC (Ret), Delray Beach, FL 33445.
Florida: LCDR John Mihalowski, USN (Ret), Largo, FL 33544.
Florida: Ronald E. Ray, Winter Haven, FL 33883.
Georgia: Gen. Raymond G. Davis, USMC (Ret), Stockbridge, GA 30281.
Georgia: Desmond T. Doss, Rising Fawn, GA 30738.
Georgia: Maj. Freeman V. Horner, USA (Ret), Columbus, GA 31907.
Georgia: John R. McKinney, Sylvania, GA 30467.
Georgia: Col. Robert B. Nett, USA (Ret), Columbus, GA 31907.
Hawaii: (AD) Sgt.Maj. Allan Jay Kellogg, Jr., USMC, Kailua, HI 96734.
Hawaii: (AD) 11G Franklin D. Miller, USA, Honolulu, HI 96818.
Hawaii: (AD) CSM Robert M. Patterson, USA, Wahiawa, HI 96786.
Idaho: David B. Bleak, Moore, ID 83255.
Idaho: Col. Bernard F. Fisher, USAF (Ret), Kuna, ID 83634.
Illinois: Richard E. Bush, Waukegan, IL 60085.
Illinois: Clyde L. Choate, Anna, IL 62906.
Illinois: Sammy L. Davis, Flat Rock, IL 62427.
Illinois: Russell E. Dunham, Alton, IL 62002.
Illinois: Maj. Robert H. Dunlap, USMC (Ret), Monmouth, IL 61462.
Illinois: Harold A. Garman, Albion, IL 62806.
Illinois: Kenneth M. Kays, Fairfield, IL 62837.
Illinois: Allen J. Lynch, Gurnee, IL 60031.
Illinois: (AD) LTC Harold A. Fritz, USA, Fort Sheridan, IL 60037.
Illinois: (AD) SMA Kenneth E. Stumpf, USA, Vernon Hills, IL 60061.
Indiana: Melvin E. Biddle, Anderson, IN 46013.
Iowa: Herschel F. Briles, Mitchellville, IA 50169.
Kansas: (AD) LTC Charles C. Hagemeister, USA, Leavenworth, KS 66048.
Kansas: (AD) Col. Roger H.C. Donlon, USA, Leavenworth, KS 66048.
Kentucky: Maj. Carl H. Dodd, USA (Ret), Corbin, KY 40701.
Kentucky: SSG Don J. Jenkins, USA (Ret), Morgantown, KY 42261.
Kentucky: MSG Ernest R. Kouma, USA (Ret), Hardinsburg, KY 40143.
Kentucky: Ernest E. West, Wurtland, KY 41144.
Louisiana: Raymond Mike Clausen, Jr., Ponchatoula, LA 70454.
Louisiana: Col. Jefferson J. DeBlanc, USMC (Ret), St Martinville, LA 70582.
Maine: Edward C. Dahlgren, Mars Hill, ME 04758.
Maine: Everett P. Pope, Brunswick, ME 04011.
Maine: Lt. Col. Jay Zeamer, Jr., USAF (Ret), Boothbay Harbor, ME 04538.
Maryland: John Baca, Ridgely, MD 21660.
Maryland: RAdm. Raymond D. Bulkeley, USN (Ret), Silver Spring, MD 20901.
Maryland: RAdm. Eugene B. Fluckey, USN (Ret), Annapolis, MD 21403.
Maryland: Jack H. Lucas, Bowie, MD 20715.
Maryland: Lt. Thomas R. Norris, USN (Ret), Silver Spring, MD 20901.
Maryland: VAdm. Lawson P. Ramage, USN (Ret), Bethesda, MD 20816.
Maryland: Brian M. Thacker, Wheaton, MD 20902.
Maryland: MSG Paul J. Wiedorfer, USA (Ret), Baltimore, MD 21234.
Maryland: (AD)SGM Jon R. Cavaiani, USA, Upper Marlboro, MD 20772.
Maryland: (AD) Capt. Thomas G. Kelley, USN, Forrestville, MD 20746.
Massachusetts: Capt. Thomas J. Hudner, Jr., USN (Ret), Concord, MA 01742.
Massachusetts: Charles A. MacGillivary, Braintree, MA 02184.
Massachusetts: Capt. George L. Street III, USN (Ret), Andover, MA 01810.
Michigan: Duane E. Dewey, Irons, MI 49644.
Michigan: CW4 Oscar G. Johnson, USA (Ret), DeWitt, MI 48820.
Michigan: Robert E. Simanek, Farmington Hills, MI 48018.
Michigan: LTC Matt Urban, USA (Ret), Holland, MI 49423.
Michigan: Dirk J. Vlug, Grand Rapids, MI 49504.
Minnesota: Mike Colalillo, Duluth, MN 55803.
Minnesota: MSG Donald E. Rudolph, USA (Ret), Bovey, MN 55709.
Mississippi: John A. Pittman, Greenwood, MS 38930.
Mississippi: Gen. Louis H. Wilson, Jr., USMC (Ret), Jackson, MS 39206-6142
Missouri: Donald E. Ballard, N. Kansas City, MO 64116.
Missouri: SSG Herbert H. Burr, USA (Ret), Kansas City, MO 64123.
Montana: Arthur J. Jackson, Bigfork, MT 59911.
Nebraska: Joseph R. Kerrey, Lincoln, NE 68508.
Neveda: Richard K. Sorenson, Reno, NV 89509.
New Jersey: Hector A. Cafferata, Jr., Alpha, NJ 08865.
New Jersey: Stephen R. Gregg, Bayonne, NJ 07002.
New Jersey: Col. Jack H. Jacobs, USA (Ret), Warren, NJ 07060.
New Jersey: John W. Meagher, Toms River, NJ 08757.
New Jersey: Nicholas Oresko, Tenafly, NJ 07670.
New Jersey: Franklin E. Sigler, Newton, NJ 07860.
New Mexico: Hiroshi H. Miyamura, Gallup, NM 87301.
New Mexico: Capt. Raymond G. Murphy, USMC (Ret), Albuquerque, NM 87114.
New Mexico: CW2 Louis R. Rocco, USA (Ret), Santa Fe, NM 87505.
New Mexico: Col. Robert S. Scott, USA (Ret), Santa Fe, NM 87501.
New York: Gary B. Beikirch, Rochester, NY 14612.

New York: Paul W. Bucha, Katonah, NY 10536.
New York: Peter J. Dalessandro, Latham, NY 12110.
New York: George C. Lang, Seaford, NY 11783.
New York: LTC Charles W. Shea, USA (Ret), Plainview, NY 11803.
New York: Forrest L. Vosler, Memphis, NY 13112.
New York: Raymond R. Wright, Mineville, NY 12956.
North Carolina: Cpl. Rodolfo P. Hernandez, USA (Ret), Fayetteville, NC 28301.
North Carolina: LCDR Rufus G. Herring, USNR (Ret), Roseboro, NC 28382.
North Carolina: SGM Charles B. Morris, USA (Ret), Spring Lake, NC 28390.
North Carolina: Max Thompson, Canton, NC 28716.
North Carolina: MSG Fred W. Zabitosky, USA (Ret), Winston-Salem, NC 27127.
Ohio: Frank A. Herda, Cleveland, OH 44130.
Ohio: Melvin Mayfield, St. Louisville, OH 43071.
Ohio: Gordon R. Roberts, Oregonia, OH 45054.
Ohio: Ronald E. Rosser, Roseville, OH 43777.
Oklahoma: Col. Ernest Childers, USA (Ret), Coweta, OK 74429.
Oklahoma: John R. Crews, Oklahoma City, OK 73119.
Oklahoma: LCDR William E. Hall, USNR (Ret), Muskogee, OK 74403.
Oklahoma: Jack C. Montgomery, Gore, OK 74435.
Oregon: LTC Stanley T. Adams, USA (Ret), Bend, OR 97702.
Oregon: Robert D. Maxwell, Eugene, OR 97401.
Oregon: Henry Schauer, Salem, OR 97302.
Pennsylvania: (AD) Col. Walter J. Marm, Jr., USA, Hatboro, PA 19040.
Pennsylvania: Cpt. James M. Burt, USA (Ret), Wyomissing, PA 19610.
Pennsylvania: David C. Dolby, Oaks, PA 19456.
Pennsylvania: Leonard A Funk, Jr., McKeesport, PA 15132.
Pennsylvania: Alton W. Knappenberger, Schwenksville, PA 19437.
Pennsylvania: Robert E. Laws, Altoona, PA 16601.
Pennsylvania: Gino J. Merli, Peckville, PA 18452.
Pennsylvania: Col. William A. Shomo, USAF (Ret), Pittsburgh, PA 15228.
South Carolina: Webster Anderson, Winnsboro, SC 29180.
South Carolina: Thomas E. Atkins, Inman, SC 29349.
South Carolina: Francis S. Currey, Bonneau, SC 29431.
South Carolina: MG George L. Mabry, Jr., USA (Ret), Columbia, SC 29204.
South Carolina: Col. Charles P. Murray, USA (Ret), Columbia, SC 29206.
South Carolina: CW2 Donald L. Truesdell, USMC (Ret), Lugoff, SC 29078.
South Carolina: BMC J. Elliott Williams, USN (Ret), Murrells Inlet, SC 29576.
South Carolina: CWO Harold E. Wilson, USMC (Ret), Lexington, SC 29072.
South Dakota: Michael J. Fitzmaurice, Hartford, SD 57033.
Tennessee: Charles H. Coolidge, Signal Mountain, TN 37377.
Tennessee: CSM Paul B. Huff, USA (Ret), Clarksville, TN 37042.
Tennessee: Vernon McGarity, Memphis, TN 38117.
Texas: Lucian Adams, San Antonio, TX 78222.
Texas: MSG Roy P. Benavidez, USA (Ret), El Campo, TX 77437.
Texas: B. Gen. Robert E. Galer, USMC (Ret), Dallas, TX 75201.
Texas: James M. Logan, Kilgore, TX 75662.
Texas: SFC Jose M. Lopez, USA (Ret), San Antonio, TX 78237.
Texas: Finnis D. McCleery, San Angelo, TX 76901.
Texas: David H. McNerney, Crosby, TX 77532.
Texas: Lt. Col. George H. O'Brien, Jr., USMC (Ret), Midland, TX 79701.
Texas: Robert E. O'Malley, Goldthwaite, TX 76844.
Texas: Col. Joseph C. Rodriguez, USA (Ret), El Paso, TX 79936.
Texas: MSG Cleto L. Rodriguez, USA (Ret), San Antonio, TX 78207.
Texas: Clarence E. Sasser, Rosharon, TX 77583.
Texas: Col. James L. Stone, USA (Ret), Arlington, TX 76011.
Texas: (AD) MSG John F. Baker, Jr., USA, San Antonio, TX 78216.
Utah: Maj. George E. Wahlen, USA (Ret), Roy, UT 84067.
Virginia: Col. Van T. Barfoot, USA (Ret), Ford, VA 23850.
Virginia: Col. Lloyd L. Burke, USA (Ret), Burke, VA 22015.
Virginia: CDR Edouard Victor Izac, USN (Ret), Fairfax, VA 22031.
Virginia: Gen. Leon W. Johnson, USAF (Ret), McLean, VA 22101.
Virginia: Lt. Col. Howard V. Lee, USMC (Ret), Virginia Beach, VA 23464.
Virginia: Col. Reginald R. Myers, USMC (Ret), Annandale, VA 22003.
Virginia: CPT Beryl R. Newman, USA, (Ret), Remlik, VA 23175.
Virginia: Col. Carl L. Sitter, USMC (Ret), Midlothian, VA 23113.
Virginia: (AD) Col. Harvey C. Barnum, Jr., USMC, Alexandria, VA 22304.
Virginia: (AD) BG Patrick H. Brady, USA, Fort Belvoir, VA 22060.
Virginia: (AD) Col. Wesley L. Fox, USMC, Virginia Beach, VA 23454.
Washington: Robert E. Bush, Olympia, WA 98502.
Washington: CPT Jose Calugas, USA (Ret), Tacoma, WA 98407.
Washington: SSG Jesse R. Drowley, USA (Ret), Spokane, WA 99207.
Washington: John D. Hawk, Bremerton, WA 98310.
Washington: Col. Joe M. Jackson, USAF (Ret), Kent, WA 98032.
Washington: CSM Delbert O. Jennings, USA (Ret), Tacoma, WA 98499.
Washington: Thomas J. Kinsman, Winlock, WA 98596.
Washington: Capt. Richard M. McCool, Jr., USN (Ret), Bainbridge Is, WA 98110.
Washington: MSG Wilburn K. Ross, USA (Ret), Dupont, WA 98327.
Washington: Capt. Donald K. Ross, USN (Ret), Bremerton, WA 98310.
Washington: Col. Leo K. Thorsness, USAF (Ret), Seattle, WA 98110.
Washington: Lt. Col. Gerald O. Young, USAF (Ret), Anacortes, WA 98221.
West Virginia: Stanley Bender, Fayetteville, WV 25840.
West Virginia: Hershel W. Williams, Ona, WV 25545.
Wisconsin: Einar H. Ingman, Jr., Irma, WI 54442.
Wisconsin: Gary G. Wetzel, Oak Creek, WI 53154.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Funeral and Remains Transportation and Living Expense Benefits Act of 1989".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States owes special gratitude to members or former members of the Armed Forces of the United States who, because of their gallantry and selfless devotion to duty, have been awarded a Medal of Honor.

(2) The Funeral Transportation and Living Expense Benefits Act of 1974 (Public Law 93-257; 88 Stat. 53) authorized the Secretary of Defense to pay funeral transportation expenses and certain survivors' expenses in connection with the recovery, care, and disposition of the remains of any deceased member of the Armed Forces who died while classified as a prisoner of war or as missing in action during the Vietnam conflict.

(3) The United States owes no lesser expression of respect, honor, or solicitude to the memory of those members or former members of the Armed Forces who have been awarded a Medal of Honor.

SEC. 3. PAYMENT OF CERTAIN EXPENSES RELATING TO THE RECOVERY, CARE, AND DISPOSITION OF THE REMAINS OF VETERANS AWARDED A MEDAL OF HONOR.

(a) AUTHORITY TO PAY CERTAIN EXPENSES.—Chapter 23 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 909. Veterans awarded medal of honor

"(a) The Secretary may provide for the recovery, care, and disposition of the remains of any veteran who was awarded a medal of honor under the provisions of section 3741, 6241, or 8741 of title 10, or any prior provision of law.

"(b) In connection with the recovery, care, and disposition of the remains of any veteran referred to in subsection (a), the Secretary may pay the necessary expenses for the following:

"(1) Recovery and identification of the remains.

"(2) Notification of the next of kin or other appropriate person that the remains have been recovered.

"(3) Preparation of the remains for burial, including cremation if requested by the person designated by the Secretary to direct disposition of the remains.

"(4) Furnishing of a uniform or other clothing.

"(5) Furnishing of a casket or urn, or both, with outside box.

"(6) Hearse service.

"(7) Funeral director's services.

"(8) Transportation of the remains.

"(9) Roundtrip transportation between the places of residence and the place of the veteran's burial for the following persons:

"(A) The widow, children, stepchildren, mother, father, stepfather, and stepmother of the veteran.

"(B) If none of the persons referred to in subparagraph (A) of this paragraph desire such transportation, the brothers, sisters, halfbrothers, halfsisters, adoptive brothers, and adoptive sisters of the veteran.

"(10) Travel and subsistence, to the extent prescribed by the Secretary, for person's transported under clause (9).

"(11) Interment of the remains.

"(12) Presentation of a United States flag to the person designated by the Secretary to direct disposition of the remains.

"(13) Presentation of a United States flag (equal in size to the flag presented at the expense of the United States under paragraph (12) of this subsection) to the following person or persons if such person or persons are not presented a flag at the expense of the United States under such paragraph and are not presented a flag under section 901 of this title:

"(A) The natural parent or parents of the veteran.

"(B) The stepparent or stepparents of the veteran.

"(C) The parent or parents of the veteran by adoption.

"(D) A person who for a period of not less than one year before the veteran's death was in loco parentis to veteran.

A preference under this paragraph shall be given to the person or persons who exercised a parental relationship at or closest to the date of the veteran's death.

"(c) If any person pays any expense that the Secretary is authorized to pay under this section, the Secretary shall reimburse such person or the person's representative in an amount not greater than that normally incurred by the Secretary in furnishing the supply or service concerned. If reimbursement by the United States is also authorized under any other provision of law, the person may elect reimbursement under such other provision instead of reimbursement under this section.

"(d) For the purpose of this section, only the following persons may be designated to direct the disposition of the remains of a veteran referred to in subsection (a) of this section:

"(1) The veteran's surviving spouse.

"(2) Blood relatives of the veteran.

"(3) Adoptive relatives of the veteran.

"(4) If no person referred to in paragraphs (1)–(3) of this subsection can be found, a person in loco parentis to the veteran.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"909. Veterans awarded medal of honor.".●

By Mr. MATSUNAGA (for himself, Mr. BURDICK, and Mr. HEFLIN):

S. 191. A bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. HEFLIN, and Mr. MOYNIHAN):

S. 191. A bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay after a reduction in either the amount of compensation or retired pay; to the Committee on Veterans' Affairs.

PROHIBITING VETERANS FROM RECEIVING BOTH RETIREMENT AND VETERANS DISABILITY COMPENSATION

● Mr. MATSUNAGA. Mr. President, I am today introducing two bills that would modify a 97-year old law prohibiting career disabled veterans from receiving both retirement pay and veterans disability compensation. Because of an outdated, unjust 19th century statute, hundreds of thousands of disabled career soldiers must offset their hard-earned retirement pay by an amount equal to any veterans disability compensation they elect to receive. The first bill, cosponsored by Senators BURDICK and HEFLIN, would entirely eliminate the offset. The second measure, cosponsored by Senators BURDICK, HEFLIN, and MOYNIHAN, would make the size of the offset contingent on a veteran's rated level of disability.

As my colleagues may be aware, an obscure 1891 law requires a career soldier who is disabled during service to offset his retirement pay with any Veterans' Administration [VA] disability compensation he receives. Because the career soldier receives no separate payment for his service-connected disabilities, this law has the effect of requiring career military retirees to fund their own benefits—a situation that has no parallel. This is in contrast to a non-career soldier, who is allowed to collect VA disability compensation as well as any retirement annuity he may collect from civil service or private sector employment. In fact, no other Federal annuitant is subject to the offset imposed on career disabled veterans.

Aside from this inequity, it is clear that disabled military retirees are the victims of the Federal Government's inability to make a proper distinction between military retirement annuities and disability compensation. Retirement pay reflects the Nation's recognition that a soldier has devoted 20 or more of his most productive years to military service. Because military life is often characterized by personal hardship and danger, the promise of an adequate, if not munificent, pension is often a prime consideration in a soldier's decision to enter and remain in the Armed Forces. The attraction of retirement pay is thus a powerful tool for the uniformed services to use in attracting and retaining quality personnel, particularly during this era of the All-Volunteer Force.

In contrast, veterans disability compensation is awarded for pain, suffering, and loss of future earning capacity incurred in the line of duty. As such, it is an expression of our gratitude to those who sacrificed health of mind and body in defense of the Republic. Therefore, because retirement pay and disability compensation serve two entirely separate purposes, receipt of one should not be conditioned on receipt of the other.

Mr. President, the first bill I am offering is identical to legislation that Congressman MIKE BILIRAKIS and I introduced in the last Congress. The House measure, H.R. 303, was cosponsored by 246 members of the other body; my bill, S. 2120, although it was introduced late in the second session of the 100th Congress, eventually garnered the cosponsorship of 11 Senators. If enacted, this measure will entirely do away with the offset. The estimated pricetag of the legislation is relatively high, but the gain to our sense of justice would be immeasurable.

The second bill that I am introducing is an altogether new initiative. Last year, many of my colleagues expressed support for the rationale behind S. 2120, the legislation to eliminate the offset entirely, but declined to cosponsor the measure because of overriding concerns about the Federal deficit. While I believe that careful prioritizing of the fiscal agenda would mitigate the bill's budgetary impact, I am sensitive to their concerns. Therefore, I am offering a second bill which simply requires that the size of the offset be inversely related to the level of disability. For example, a retired career soldier whose disability is rated by the VA at 90 percent would be required to forego only 10 percent of his military retirement; conversely, a 30 percent disabled career soldier would be required to give up 70 percent of his military pension income in order to be eligible for disability compensation. The Congressional Budget Office, using highly conservative assumptions, estimates the cost of the legislation to be about a fifth of the cost of the legislation to eliminate the offset entirely.

Mr. President, I urge my colleagues to support both or either of these bills. While my choice would be for the total elimination of the offset, I recognize that a temporary, less costly action may be preferable to some of us at this time of fiscal austerity. Either bill offers a fair alternative to the present, untenable situation. I call on the Members of this Chamber to provide legislative relief to the more than 400,000 retired disabled career soldiers who have been deprived of full compensation for services rendered and sacrifices made in behalf of the Nation's security.

Mr. President, I ask unanimous consent that the texts of the bills be printed in the RECORD.

There being no objection, the text of the bills were ordered to be printed in the RECORD, as follows:

S. 190

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION.

(a) CONCURRENT PAYMENT AUTHORIZED.—Section 3104(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting "as provided in paragraph (3) and" after "Except"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (C) of this paragraph, a person may be paid emergency officer's, regular, or reserve retirement pay concurrently with the payment of compensation for any service-connected disability.

"(B) In the case of a person permitted to be paid retirement pay concurrently with the payment of compensation under subparagraph (A) of this paragraph—

"(i) the amount of the retirement pay may not be reduced on the basis of such person's receipt of the compensation; and

"(ii) the amount of the compensation may not be reduced on the basis of such person's receipt of the retirement pay.

"(C) Retirement pay and compensation may not be paid to person concurrently if payment of the retirement pay and payment of the compensation are each based upon the same disability.".

(b) TECHNICAL AMENDMENTS.—(1) Section 3104 of such title is further amended by striking out the section heading and inserting in lieu thereof the following:

"§ 3104. Limitation on duplication of payments".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 3104 and inserting in lieu thereof the following:

"3104. Limitation on duplication of payments.".

SEC. 2. EFFECTIVE DATE AND PROHIBITION OF RETROACTIVE BENEFITS.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the first day of the second calendar month following the date of the enactment of this Act.

(b) RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of this Act for any period before the effective date of this Act.

S. 191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONCURRENT PAYMENT OF RETIRED PAY AND COMPENSATION.

(a) LIMITATION ON DUPLICATION OF BENEFITS.—Section 3104(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by inserting "as provided in paragraph (3) and" after "Except"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, a person may be paid emergency officers', regular, or reserve retirement pay concurrently with the payment of compensation for any service-connected disability, except that no amount of retirement pay and compensation may be paid to a person concurrently if the payment is based upon the same disability.

"(B) In the case of a person receiving disability compensation, the amount of emergency officers', regular, or reserve retirement pay or, at the election of such person, the amount of compensation shall be reduced by the reduction percentage.

"(C) For the purpose of subparagraph (B) of this paragraph, the term 'reduction percentage', with respect to a person, means the percent equal to the excess, if any, of 100 percent over the percent of such person's disability, as rated by the Secretary.".

(b) TECHNICAL AMENDMENTS.—(1) Section 3104 of such title is further amended by striking out the section heading and inserting in lieu thereof the following:

"§ 3104. Limitation on duplication of payments".

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 3104 and inserting in lieu thereof the following:

"3104. Limitation on duplication of payments.".

SEC. 2. EFFECTIVE DATE AND PROHIBITION ON RETROACTIVE BENEFITS.

(a) IN GENERAL.—The amendments made by this Act shall take effect on the first day of the second calendar month following the date of the enactment of this Act.

(b) RETROACTIVE BENEFITS.—No benefits shall be paid to any person by virtue of this Act for any period before the effective date of this Act.●

By Mr. MATSUNAGA (for himself, Mr. INOUYE, and Mr. CRANSTON):

S. 192. A bill to require the Secretary of Veterans' Affairs to provide for the conduct of a comprehensive study of the psychological problems of native Americans who are Vietnam veterans; to the Committee on Veterans' Affairs.

PSYCHOLOGICAL STUDY OF AMERICAN VIETNAM VETERANS

● Mr. MATSUNAGA. Mr. President, for myself and Senators CRANSTON and INOUYE, I am today introducing a bill which would require the Veterans' Administration [VA]—or the Department of Veterans' Affairs as it will soon be designated—to conduct a comprehensive study of the prevalence and effect of posttraumatic stress disorder [PTSD] and other psychological problems suffered by Vietnam veterans of Asian, Pacific Islander, native American, and Native Alaskan descent. This study would parallel and supplement the national Vietnam veterans readjustment [NVVR] study of PTSD an other postwar psychological problems required by section 102(a)(1) of Public Law 98-160, the "Veterans' Health Care Amendments of 1983."

My distinguished colleagues are aware that the section 102 study was completed late last year. According to VA officials, the study is "the most rigorous and comprehensive study to date" on PTSD and other psychological problems suffered by Vietnam veterans. The 4-year study involved more than 3,000 fact-to-face interviews with Vietnam theater veterans as well as their Vietnam era and nonveteran or civilian counterparts. Its findings shed new light on our understanding of the effect of the Vietnam experience on our soldiers. For example, the study discovered that over 15 percent of male Vietnam theater veterans currently have PTSD, and that an additional 11 percent have partial PTSD. Further, the report indicated that a shocking 30 percent have had PTSD at some point in their lives, and over half have had at least one psychiatric disorder at some point in their lives, especially alcohol abuse or dependence. The study also discovered that substantial portions of Vietnam veterans with readjustment problems have never used the VA or any other source for their mental health problems.

The framers of the NVVR study took care to ensure that women, blacks, and Hispanics were included in disproportionate numbers in order that large enough groups of veterans might be obtained to derive meaningful conclusions about the psychological requirements of these particular subgroups. Thus, much is now known about the incidence of PTSD among these large minorities. For instance, the study revealed that PTSD prevalence for the 7,200 Vietnam theater women veterans is approximately 8.5 percent, about half of the male rate. On the other hand, it was shown that PTSD is more prevalent among Hispanic and black veterans by a considerable amount. For Hispanic veterans of Vietnam, the current prevalence rate is 27.9 percent, and for black veterans 20.6 percent—far higher than the 13.7 percent for white/other veterans.

It is an unfortunate fact, however, that no one thought to ensure that Asians, Pacific Islanders, native Americans, and Native Alaskans also would be oversampled in order that meaningful statements might be made about their problems and needs—despite evidence from the NVVR study demonstrating that PTSD among certain ethnic groups is much higher than among whites.

In my own State of Hawaii, the needs and problems of Asian-Americans and Pacific Islander-Americans, who constitute 60 percent of the States population, are of immediate consequence. It is a worrisome fact, for example that veterans of Asian and Pacific Islander ancestry are significantly underrepresented among those presenting themselves for treatment at VA facilities in comparison to veterans of other ethnic groups. Preliminary research indicates that veterans from these particular groups may have wartime experiences and reactions that are qualitatively different from those of white or black Vietnam veterans. If this is borne out by the proposed study, an entirely different outreach and treatment regime may have to be developed to meet their needs. It is considered likely that native Americans and native Alaskans also had

qualitatively different experiences of the Vietnam war that warrant scientific examination; it is distressing that we simply do not have the broad-based scientific data to know for certain. The purpose of this legislation is to ensure that we have the proper data to justify whether, in fact, these neglected minority groups have special psychological needs that require unique approaches to treatment.

Mr. President, this bill is based on legislation I introduced in the 100th Congress which was approved by the Senate Veterans' Affairs Committee and expanded to include native American and native Alaskan Vietnam veterans. Without dissent, the committee agreed to include the substance of my legislation in S. 2011, the Veterans' Benefits and Programs Improvement Act of 1988. Unfortunately, section 603, as it was designated, for reasons unrelated to the merits of the provision, was left out of the final House-Senate compromise on the omnibus legislation. The legislation I am introducing today is based on section 603, and the improvements made to my original bill by the Senate Veterans' Affairs Committee.

Mr. President, support for this small bill will improve our understanding and treatment of thousands of Vietnam veterans whose special psychological problems are overlooked or simply misunderstood because they happen to belong to a racial or ethnic minority. I hope that the distinguished Members of this body will support this bill, for by doing so they will reaffirm the Nation's commitment to all of its citizens, not merely to those who happen to belong to majority populations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF PSYCHOLOGICAL PROBLEMS AMONG ASIAN-AMERICAN, AMERICAN-INDIAN, NATIVE-HAWAIIAN, OTHER NATIVE-AMERICAN PACIFIC ISLANDER (INCLUDING AMERICAN SAMOAN NATIVE), AND ALASKA NATIVE VIETNAM VETERANS.

(a) STUDY REQUIREMENT.—The Secretary of Veterans Affairs shall provide for the conduct of a comprehensive study of the following matters:

(1) The prevalence and incidence of the following psychological problems in the populations of Asian-American, American-Indian, Native-Hawaiian, other Native-Amerinan Pacific Islander (including American Samoan Native), and Alaska Native Vietnam veterans:

(A) Post-traumatic stress disorder.

(B) Other psychological problems experienced by such veterans in readjusting to civilian life.

(2) The effects of such disorder and such problems on such veterans.

The Secretary shall provide for particular attention to be devoted in the conduct of the study to veterans who have service-connected disabilities and to women veterans.

(b) REPORT.—Not later than October 1, 1991, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the results of the study required by subsection (a).

(c) DEFINITIONS.—In this section:

(1) The terms "veteran", "service-connected", and "Vietnam veteran" shall have the same meanings given such terms in section 102(c) of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 38 U.S.C. 612A note).

(2) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 193. A bill to amend title 37, United States Code, to treat service of members of the uniformed services of the United States at a permanent duty station in Alaska and Hawaii as overseas service for the purpose of determining the eligibility of such members to receive certain educational travel and transportation benefits for their dependent children; to the Committee on Armed Services.

SERVICE IN HAWAII AND ALASKA TO BE TREATED AS OVERSEAS SERVICE

● Mr. MATSUNAGA. Mr. President, for myself and Senator INOUYE, I am today introducing legislation that would extend the Funded Student Travel Program to Hawaii and Alaska.

As my colleagues know, the Fiscal Year 1984 Defense Authorization Act (P.L. 98-94) authorized annual funded round-trip travel for a dependent student of service members assigned overseas. Unfortunately, although travel to the continental United States is often as much of a financial hardship for families living in Hawaii and Alaska as it is for those residing overseas, they are not entitled to similar travel benefits.

Mr. President, this unfair exclusion adversely affects service families in Hawaii and Alaska. In order to see their children who attend mainland colleagues and unversities during Christmas and summer breaks, these families are often forced to pay for prohibitively expensive round-trip airfares to these distant localities. Of course, parents have another option—they can have their children transferred to local unversities and colleges—but the cost of transferring, in terms of lost credits, interrupted study, and loss of scholarships or financial aid, is high.

Those who do choose to matriculate their children at local educational institutions find that the selection may be limited in their particular areas of interest. This is not a criticism of higher education in Hawaii or Alaska—let me be very clear about this—but rather recognition of a simple fact. Hawaii and Alaska are small States whose colleges and universities, while enjoying national reputations cannot and should not fulfill every potential need. If this were so, the high standards they currently enjoy in many disciplines would probably drop. This is why families in Iowa send students to Illinois, those in Massachusetts to Virginia, and those in California to Oregon. Diversity in higher education is one of the Nation's greater strengths; unfortunately, current law prevents the children of many military families stationed in Hawaii and Alaska from taking advantage of the plethora of great educational facilities located around the country.

Mr. President, we owe it to the men and women of the armed services and their families to make the military profession as profamily as we are able. It is incumbent upon us to ensure that they and their children are afforded the same opportunities for family unity and educational growth as the civilians who they protect. In short, we are obliged to give the members of the armed forces as close to a normal family life as possible. By extending the student travel program to military personnel in Hawaii and Alaska, we make membership in the All-Volunteer Force that much more attractive and professional.

Mr. President, the cost of this legislation is small. A survey conducted in January 1987 by the Western Army Command indicated that only 700 personnel of all services would take advantage of a Hawaii/Alaska travel provision at a cost of only $452,000 a year. It is my understanding that the Department of Defense would support passage of this legislation. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SERVICE IN HAWAII AND ALASKA TO BE TREATED AS OVERSEAS SERVICE

Section 430 of title 37, United States Code, is amended—

(1) in subsection (a), by inserting "or in Alaska or Hawaii" before the comma at the end of clause (1); and

(2) in subsection (b)—

(A) by striking out "(b) A" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), a";

(B) by designating the third sentence as paragraph (2) and by striking out "However, the" in such sentence and inserting in lieu thereof "The"; and

(C) by adding at the end the following:

"(B) The transportation authorized by this section may not be paid a member assigned to a permanent duty station in Alaska or Hawaii for a child attending a school in the State of such permanent duty station.".

SEC. 2. EFFECTIVE DATE

The amendments made by section 1 shall take effect on the date of the enactment of this Act and shall apply with respect to travel and transportation commenced on or after such date.●

By Mr. MATSUNAGA (for himself, Mr. INOUYE, Mr. STEVENS, Mr. MURKOWSKI and Mr. BINGAMAN):

S. 194. A bill to upgrade the ground segment of the Search and Rescue Satellite Aided Tracking system, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SARSAT UPGRADE

● Mr. MATSUNAGA. Mr. President, for myself, Mr. INOUYE, Mr. STEVENS, Mr. MURKOWSKI, and Mr. BINGAMAN I am introducing legislation today that authorizes the establishment of five new ground stations for the Search and Rescue Satellite Aided Tracking [SARSAT] system. My bill also authorizes sufficient funding for the operation and maintenance of the system.

Mr. President, many may not be aware of the existence of the small but important SARSAT program. The program was created as an experiment in the mid-1970's to see if emergency radio beacons used by aviators and mariners in distress situations could be detected by satellites. Up until that time, distress beacons were detected only by overflying aircraft and fixed radio stations; consequently, most of the signals went undetected resulting in many unnecessary deaths. With the introduction of polar orbiting satellites which view the entire Earth twice each day, the National Aeronautics and Space Administration (NASA) undertook an experiment to determine the feasibility of emergency beacon detection from space. Joined by Canada, France, and the Soviet Union, NASA developed the program which is today known in full as COSPAS-SARSAT.

The first satellite was launched by the USSR in June 1982, followed soon after by a U.S. launch in March 1983. Because of its immediate success, the SARSAT program was soon declared quasi-operational and a memorandum of understanding [MOU] was signed in 1984 by the four partners. This MOU was recently superseded by a 15-year International COSPAS-SARSAT Program Agreement, signed last summer on July 1, 1988. Currently, two Soviet and two American satellites service the program. To date, the SARSAT program has been credited with saving 1,200 lives, half of them American.

Unfortunately, the United States has not been able to fulfill completely its commitments under the 1988 agreement. Vast areas of the Pacific, Atlantic, and Caribbean for which we have responsibility remain without coverage. Although we have the ability to detect most distress signals with satellites in our zones of responsibility, many of these signals go unreported simply because we lack the ground stations for receiving the signals the satellites pick up and relay. This untenable situation exists because the U.S. currently possesses only three ground stations, or local user terminals [LUT's]. These particular stations, because they were first established on an experimental basis, are inefficient to operate and, more important, are poorly located. As a result, large "holes" in coverage exist.

In practical terms, what this means is that the Coast Guard or other agencies involved in search and rescue operations are not able to pinpoint the location of sailors or pilots who happen upon misfortune to be in these large blind spots. Indeed, the Coast Guard would have no idea that an emergency situation existed unless it was reported by other means. Without a beacon alert, the Coast Guard has to search for the vessel or aircraft over a wide geographic area, an operation typically requiring 75 hours of search time and the involvement of many costly resources. Search and rescue aircraft alone cost $2,000 an hour to operate. In 1987, in the Southwest Atlantic area, over 16 percent of Coast Guard search and rescue cases took place in the areas uncovered by SARSAT ground stations. In the Northwest Pacific area, 10 percent of the Coast Guard's search time was used on operations undertaken in areas without LUT coverage, even though less than 2 percent of their cases were involved.

Mr. President, the establishment of five new ground stations would cost only $5 million. This is a small financial outlay when one considers the number of lives an updated SARSAT system would save. Also, it is my guess that the ground stations would pay for themselves in a matter of months, if not weeks, from the savings associated with more efficient use of limited resources. Some searches have cost hundreds of thousands, even millions of dollars—expenditures that could have been avoided if an efficient SARSAT system had been in place.

In addition, one must ask whether the cost to commercial and private boaters and pilots to install new SARSAT-compatible beacons are worth the expense if they are only effective in limited geographic areas. At present, there are about 80,000 121.5 Megahertz [MHz] Emergency Position-indicating Radio Beacons [EPIRB's] in operation. Because these are early-generation beacons, many are being updated at considerable cost to be satellite-compatible. Moreover, as a result of recent laws passed by Congress, about 45,000 commercial fishing and towing vessels operating more than 3 nautical miles offshore will be required to install more advanced 406 MHz EPIRB's at an average of $1,000 apiece. This number does not include the thousands of beacons that are likely to be installed on a voluntary basis on private pleasure craft. Nor does it include the beacons that are installed on aircraft, or on foreign vessels and planes. Can we justify the millions of dollars spent on these satellite beacons if a significant possibility exists that they will be broadcasting not to potential rescuers, but to the cold ether?

Mr. President, besides the human and financial benefits associated with SARSAT, I should point out that the program is an example of the kind of international undertaking that generates unambiguous, international goodwill. Last year we were treated to the spectacle of Soviets and Americans working together to save two trapped whales. How much more gratifying would be the sight of Soviets and Americans using the SARSAT program to save the lives of humans in distress.

Mr. President, I urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEARCH AND RESCUE

SECTION 1. The Secretary of Transportation shall take such action as may be necessary to upgrade the ground segment of the Search and Rescue Satellite Aided Tracking system (hereinafter referred to as "SARSAT").

(b) In carrying out this Act, the Secretary of Transportation shall establish not less than 56 SARSAT ground stations for the purpose of providing adequate coverage of the United States area of search and rescue for which it has responsibility under the program known as "COSPASSARSAT". In establishing such stations, the Secretary, after consultation with the satellite search and rescue offices of the United States Coast Guard, National Oceanic and Atmospheric Administration, United States Air Force, National Aeronautics and Space Administration, and the SARSAT Program Steering Group, shall locate the stations in the most optimum sites to assure complete coverage of the search and rescue areas for which the United States is responsible.

ADMINISTRATION

SEC. 2. The Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration, shall administer the SARSAT ground stations. Such administra-

tion shall be carried out in consultation with the Secretary of Transportation and the Secretary of Defense.

AUTHORIZATIONS

SEC. 3. (a) For the purpose of carrying out the provisions of the first section of this Act, there is authorized to be appropriated $5,300,000. Moneys appropriated pursuant to this subsection shall remain available until expended.

(b) For the purpose of carrying out the provisions of section 2 of the Act for the fiscal year ending September 30, 1990, and each fiscal year thereafter, there is authorized to be appropriated $2,300,000.●

By Mr. PELL (for himself, Mr. HELMS, Mr. KERRY, Mr. MCCAIN, Mr. GORE, Mr. SIMON, Mr. BOSCHWITZ, Mr. DODD, Mrs. KASSEBAUM, Mr. BURDICK, Mr. HUMPHREY, Mr. SANFORD, Mr. BIDEN, Mr. COHEN, Mr. HARKIN, Mr. DOLE, Mr. STEVENS, Mr. MURKOWSKI, and Mr. LUGAR):

S. 195. A bill entitled the "Chemical and Biological Weapons Control Act of 1989"; to the Committee on Foreign Relations.

CHEMICAL AND BIOLOGICAL WEAPONS CONTROL ACT OF 1989

Mr. PELL. Mr. President, today, I am introducing for myself and 18 colleagues the Chemical Weapons Control Act of 1989. This comprehensive legislative initiative would place the United States assuredly in the forefront of nations desiring to stop the spread of chemical and biological weapons and to establish strong penalties for the illegal use of such weapons by any nation.

I am joined in this legislative initiative by the Senators from North Carolina [Mr. HELMS], Massachusetts [Mr. KERRY], Arizona [Mr. MCCAIN], Tennessee [Mr. GORE], Illinois [Mr. SIMON], Minnesota [Mr. BOSCHWITZ], Connecticut [Mr. DODD], Kansas [Mrs. KASSEBAUM], North Dakota [Mr. BURDICK], New Hampshire [Mr. HUMPHREY], North Carolina [Mr. SANFORD], Delaware [Mr. BIDEN], Maine [Mr. COHEN], Iowa [Mr. HARKIN], Kansas [Mr. DOLE], Alaska [Mr. STEVENS and Mr. MURKOWSKI], and Indiana [Mr. LUGAR].

These are the key purposes of the legislation:

To mandate U.S. sanctions against nations that use chemical or biological weapons in violation of international law;

To encourage international sanctions against such nations;

To require semiannual Presidential reports on efforts by Iran, Iraq, Libya, and Syria and other developing nations to acquire the materials and technology to produce and deliver chemical and biological weapons;

To urge cooperation with other supplier nations to devise effective controls on the transfer of materials, equipment, and technology applicable to chemical or biological weapons production;

To promote agreements banning the transfer of missiles suitable for armament with chemical or biological warheads;

To encourage an early agreement banning the production and stockpiling of lethal and incapacitating chemical or biological weapons; and

To seek effective international means of monitoring and reporting regularly on commerce in equipment, materials, and technology applicable to the attainment of a chemical or biological weapons capability.

Mr. President, it is clear that, in order to deal effectively with the chemical and biological weapons problem, every effort must be made to stop the flow of equipment, materials, and technology applicable to the attainment of a chemical and biological weapons capability to nations that may seek such arsenals. This legislation strongly encourages Presidential leadership in bringing about much more extensive cooperation with suppliers, in achieving agreements to prevent the transfer of missiles suitable for carrying chemical or biological warheads, and in seeking the early conclusion of an agreement instituting a chemical weapons ban. In addition, the President is urged to work closely with the United Nations on the development of sanctions against use of chemical or biological weapons and to seek the creation of effective monitoring and reporting means.

The bill would place the United States firmly in the lead of nations which will not tolerate the use of illegal chemical and biological weapons. This is completely consistent with our own position, adhered to for decades, under which we have foresworn the first use of chemical and biological weapons. Should any nation illegally use chemical or biological weapons, these sanctions would apply:

First, the U.S. Government shall not sell the sanctioned country any item on the U.S. Munitions List;

Second, licenses shall not be issued for the export to the sanctioned country of any item on the U.S. Munitions List;

Third, the authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit the export to the sanctioned country of any goods or technology on the control list established pursuant to section 5(c)(1) of that act;

Fourth, the United States shall oppose any loan or financial or technical assistance to the sanctioned country by international financial institutions in accordance with section 701 of the International Financial Institutions Act;

Fifth, the United States shall not provide any military or economic assistance (except for urgent humanitarian assistance) to the sanctioned country;

Sixth, the United States shall not import any good, commodity, or service from the sanctioned country;

Seventh, the United States shall not provide the sanctioned country any credit or credit guarantees through the Export-Import Bank of the United States;

Eighth, regulations shall be issued to prohibit any United States bank from making any loan or providing any credit to the sanctioned country; and

Ninth, landing rights in the United States shall be denied to any airline owned by the government of the sanctioned country.

The bill would allow the President to waive some or all of the sanctions, if he determines such a step is in the national interest and so reports to Congress. This waiver would be allowed for a period of up to 9 months, in order to afford the Congress and the executive branch the opportunity to determine together how best to proceed in dealing with a nation which has illegally used chemical or biological weapons. The bill also specifies the conditions under which sanctions may be removed.

Mr. President, two distinguished colleagues, the Senator from North Carolina [Mr. HELMS] and the Senator from Kansas [Mr. DOLE] are also introducing legislation today which take different approaches to the chemical weapons problems. Whereas the legislation I am introducing would apply sanctions in instances of illegal use, their legislation would apply sanctions when companies transfer items applicable to the attainment of a chemical weapons capability, I have discussed our approaches with Senator HELMS, and I am pleased to be an original cosponsor of his proposal, as well as that of Senator DOLE. I do so without reaching any final judgment on the particular merits of their legislation, but with the view that these legislative initiatives represent serious efforts to address the problem. I expect that these proposals will be thoroughly explored and assessed in the course of hearings by the Committee on Foreign Relations beginning early next month.

Mr. President, the recent Paris Conference on the Prohibition of Chemical Weapons moved to focus attention on the dire threat posed by chemical and biological weapons. On the basis of a report yesterday to the Committee on Foreign Relations by the Honorable William F. Burns, Director of the Arms Control and Disarmament Agency, I am encouraged that worldwide interest and concern is at a very high level. With strong, effective United States leadership, I believe that the expressed desires of the conference to achieve a ban on chemical

weapons can be brought to an early fruition.

Groundwork for a new agreement was laid in earlier international accords. The 1925 Geneva Protocol, which was ratified by the United States in 1975, bans the use in war of chemical and biological weapons, but not production or stockpiling. The 1972 Biological Weapons Convention, ratified by the United States in 1975, bans the development, production, stockpiling, acquisition, transfer, or possession of biological agents or toxins, as well as weapons and means of delivery.

The treaty being negotiated in Geneva at the Conference on Disarmament would apply the same restrictions as in the Biological Weapons Convention to chemical weapons.

Substantial progress has been made on a number of key issues, and there is agreement in principle on the basic approach a ban would take. Beyond the basic ban, all chemical weapons production facilities and stockpiles would be declared and then destroyed within 10 years. There would be international on-site inspection teams within 6 months of entry into force. Relevant chemical industries would be monitored, and challenge inspections would be provided for.

Mr. President, who among us could read of the use of chemical weapons in the Iran-Iraq war or see the horrifying photographs of the victims of Iraq's use of poisonous gas against its Kurdish minority without a sense of terrible, frustrating loss? Iraq and Iran are not alone among nations able to deliver these death-dealing weapons. Libya, with the help of avaricious firms in other nations, is developing a chemical weapons capability. In all, it is estimated, perhaps 20 nations are seeking a chemical weapons capability.

When gas was used upon the trenches of World War I, the nations of the world were wise enough to say, "Never again." Despite those post-war efforts, poison gas has been used again and again, especially in the past several years.

We must put a stop to this dreadful business. It is clearly in our national interest, as it is in the interest of simple humanity. As leaders of this Nation, we must put the United States in the lead of nations willing to address the chemical and biological weapons problem frontally, and to press on until we have banished chemical and biological weapons from the face of the Earth.●

Mr. DODD. Mr. President, during the past year the dangers of the proliferation of chemical weapons have been brought home repeatedly to the world community by Iraq's senseless chemical attack on its own Kurdish minority and by the discovery of the imminent acquisition of the capability to produce chemical weapons by Libya's unstable dictator, Qadhafi.

In spite of the tremendous dangers of nuclear weaponry, so far we avoided a conflict waged by nuclear weapons through responsible behavior by nuclear powers and probably also by sheer luck. This is not the case with chemical weapons. Beyond the confirmed atrocity committed by Iraq, in recent years there were charges of chemical weapons use in Yemen, Afghanistan, Laos, Cambodia, Angola, Chad and Iran. The fact that not all of these charges were reliably confirmed is not one that can give us much solace.

Indeed, with some cynicism, chemical weapons are referred to as "the poor man's nuclear bomb." The capability to produce them is relatively easy to acquire and conceal, they are cheap, and chemical weapon stockpiles can be hidden. Their use, especially en masse, can compare to the devastation of a small nuclear charge, but even their actual use can sometimes be covered up and denied.

It is clear, Mr. President, that to stop the proliferation of chemical weapons, to penalize their use, and ultimately to destroy existing stockpiles is in our national interest, in the interest of the whole mankind and must be a prominent objective of our foreign policy. I should add that the same attitude should guide use with respect to biological weapons and agents. Their prospective production, stockpile, and use raises exactly the same problems as those of chemical weapons.

It is also clear, that this problem cannot be solved by domestic U.S. legislation, it will require international cooperation and negotiation and an all-out effort by the major powers of the world, especially the advanced industrial powers. The United States, however, rightly regarding herself as a leader of the international community, can start such a process by domestic legislation, to prepare the ground for the necessary international efforts.

Today I join with my colleagues in introducing two such legislative efforts to curb and preferably to eliminate this scourge over the future of mankind. I am an original sponsor of the bill being introduced by the distinguished chairman of the Foreign Relations Committee, Senator PELL, the "Chemical and Biological Weapons Control Act of 1989." His bill seeks to penalize the actual use of chemical and biological weapons by denying the governments guilty of such use U.S. military sales, U.S. military and economic assistance, imposing an import ban on them, denying landing rights to their airlines, and seeking to deny them any loans or financial assistance over which the United States has control.

I am also pleased to be a principal sponsor of the "Chemical and Biological Weapons Control Act" introduced by the distinguished Republican leader, Senator DOLE. This bill uses the tool of export controls to prevent the export of materials, equipment, and know-how which would contribute to the proliferation of chemical and biological weapons capability. It would also penalize foreign companies by excluding them from the U.S. market in case they contribute to such proliferation.

These two bills are complementary, not competing, and attack two different facets of the problem. I found it important to be a part of both efforts as I am a member of both committees that have jurisdiction in this area. In the Foreign Relations Committee, as well as in the Banking Committee I will work diligently for the speedy approval of these important bills. In closing, I call my colleagues' attention to these bills and ask for their support.

By Mr. BURDICK (for himself, Mr DURENBERGER, and Mr. MOYNIHAN):

S. 196. A bill to control emissions of air pollutants from municipal waste incineration units, to provide for the safe disposal of ash produced by such units and for other purposes; to the Committee on Environment and Public Works.

MUNICIPAL WASTE COMBUSTION CONTROL ACT OF 1989

● Mr. BURDICK. Mr. President, together with my colleagues Mr. DURENBERGER from Minnesota, and Mr. MOYNIHAN of New York, I introduce today a bill to regulate the air emissions and the ash from municipal solid waste incinerators.

Recent technological advances have made municipal waste incinerators a valid and vital component of this Nation's solid waste management. At the present time there are approximately 115 municipal waste incinerators in operation, and hundreds more are in planning or construction phases. As with every other method for waste reduction or disposal, we must take care to ensure that incineration is an environmentally sound waste management alternative, and that it will not add to existing or future pollution of our ambient air or ground water.

Each person in the United States produces about 1 ton of solid waste every year. The Environmental Protection Agency estimates this figure could increase to a national total of 290 million tons within the next 11 years by the turn of the century. Landfills have been the most popular method of solid waste disposal, and more than 90 percent of the solid waste is currently landfilled. But landfills often leak, and they are rapidly being filled to capacity. Geographic and health reasons, as well as active citizen concern, are making it increas-

ingly difficult to find appropriate sites and to permit new landfill facilities.

Solid waste incineration has become an attractive waste management option because it can reduce the volume of waste to be landfilled by 60-70 percent. Incineration can extend the useful life of existing landfills and reduce the need for additional new landfill space. While recent EPA estimates suggest that only 4 percent of the Nation's solid waste is currently being incinerated, it is estimated that the number of operational incinerators will double or triple within the next decade.

Municipal waste incinerators are an important piece of waste management, but unless we enact legislation to establish a regulatory program for incinerators to ensure that air emissions from incinerators are not toxic, and that the noncombustibles and particulates recovered in incinerator ash are treated or properly disposed of, we will be trading one pollution problem for another.

It is the responsibility of Congress and the new administration to respond to the growing public concern over the Nation's garbage crisis and develop a regulatory program to ensure that incinerators pose no threat to human health or the environment. If we want incineration to be a viable piece of solid waste management, we cannot afford to let these citizen concerns go unmet. When communities choose municipal waste incineration, it must be with the public's confidence that Federal legislation and regulation ensure it is a safe waste disposal option.

Thanks to the dedicated efforts of Senator DURENBERGER and others the bill we offer today will establish the needed regulatory program to make municipal waste incineration an environmentally sound part of our Nation's waste management. Senator DURENBERGER has done much to focus the attention of our committee and the Senate on this vitally important problem. His efforts are in large measure reflected in the bill we introduce today. A similar version of this bill was considered by the Senate Committee on Environment and Public Works during the 100th Congress, and was reported out of committee as part of S. 1894, the Clean Air Standards Attainment Act in November 1987. As chairman of the Environment and Public Works Committee, it is my hope that we can complete work on badly needed amendments to the Clean Air Act during this Congress.

This legislation is being introduced today as a "stand-alone" bill because the issue is of some degree of urgency with hundreds of new incineration units being planned or under construction. This legislation is in many ways a consensus bill. During the last Congress Senator DURENBERGER and I worked long and hard with representatives of local governments, the waste management industry environmental groups and interested citizens to reach general agreement regarding a regulatory structure for municipal waste incinerators. The Municipal Waste Combustion Control Act of 1989 is a product of those efforts. While some may disagree with specific provisions, no one can claim they were excluded from the process.

The legislation would amend both the Clean Air Act to cover regulation of incinerator emissions into the ambient air, and the Resource Conservation and Recovery Act to regulate the transportation, handling, storage, management, reuse, recycling, and disposal of incinerator ash.

Air pollutants of concern emitted by municipal waste incineration units include dioxin, lead and other heavy metals, sulfur dioxide, acid gases, carbon monoxide, and particulate matter. The legislation would direct the Administrator of EPA to promulgate standards within 18 months to control emissions of these and other air pollutants from new incineration units. The standards are to be based on best available control technologies and practices. Similar standards would be promulgated for existing incineration units, and existing units would have up to 6 years to come into compliance.

It would be both impractical and irresponsible to consider regulations for air emissions from incineration units without simultaneously regulating incinerator ash. This is true because the best available control technology, such as scrubbers, filters, and baghouses, which prevent pollutants from being emitted into the ambient air, trap the pollutants which then become part of the incinerator fly ash. Recent EPA tests have shown that fly ash often has hazardous characteristics. In addition to fly ash, incinerators produce bottom ash which consists of metals and other noncombustibles.

This bill would establish a special category for handling, treatment, storage, management, and disposal of incinerator ash (including fly ash, bottom ash, or combined bottom ash and fly ash) under subtitile D of the Solid Waste Disposal Act [RCRA]. The Administrator of EPA is directed to develop interim regulations to require disposal of incinerator ash in landfills with at least one liner, leachate collection, and a ground water monitoring system until such time as, but not later thatn 48 months from enactment, double-lined landfills or single-lined monofills, also with leachate collection and ground water monitoring systems, are available for the disposal of ash from municipal solid waste incineration units.

During the past months our Nation has been confronted with the unseemly aspects of the growing garbage crisis—garbage washing up on ocean beaches, a garbage barge sailing the Caribbean for weeks in search of a disposal facility. Given the ever-escalating garbage crisis communities in this country face, and the growing public concern and outcry over existing waste practices, it is my hope that this bill will be placed on the Senate Calendar for early consideration in the 101st Congress.

I ask unanimous consent that the bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 196

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Municipal Waste Combustion Control Act of 1989".

AIR EMISSIONS

SEC. 2. (a) Part A of Title I of the Clean Air Act is amended by adding the following new section:

"MUNICIPAL WASTE COMBUSTION

"SEC. 129. (a)(1)(A) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate standards of performance to control emissions of air pollutants into the ambient air from each—

"(i) new or modified municipal waste incineration unit; and

"(ii) municipal waste incineration unit which begins operation after July 1, 1989 except units which are substantially completed before such date.

"(B) The standards promulgated under this subsection shall reflect the greatest degree of emission limitation achievable through application of the best available control technologies and practices which the Administrator determines at the time of promulgation (or revision, in the case of a revision of a standard)—

"(i) has been achieved in practice by a municipal waste incineration unit, excluding periods of malfunction or misoperation, or

"(ii) is contained in a State or local regulation or any permit for municipal waste incineration units, and will be implemented at such units,

whichever is more stringent, unless the Administrator determines that such degree of emission limitation will not be achievable by units to which the standards apply or was adopted for reasons that are unique to the unit or jurisdiction in which the unit is located and are not applicable to other units or jurisdictions. In determining the emissions limitation to be required under this subsection, the Administrator shall take into account the performance of all units which achieve, in whole or in part, emissions limitations more stringent than current standards and may subsequently exclude units from consideration only to the extent provided in this subparagraph. In establishing standards under this section the Administrator may distinguish between types and classes of municipal waste incineration units based on combustion technology or pollution control systems.

"(C) In no event shall the standards promulgated under this subsection permit such municipal waste incineration units to emit any pollutant in excess of the amount allowable under any applicable new source standards of performance.

"(D) Standards under this subsection shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate siting requirements that minimize, on a site specific basis, to the maximum extent practicable, any potential risk to human health or the environment. The following practices and control technologies, used individually, in combination with one another, or in combination with other available practices or control technologies not identified in this paragraph, shall be deemed available for purposes of this paragraph: electrostatic precipitators, fabric filtration, flue gas scrubbers, spray dry scrubbers, negative air flow, and good combustion practices, including availability of auxiliary fuel to maintain specific temperatures.

"(E) In adopting standards of performance, the Administrator may take into consideration other technologies and practices that, either by themselves or in combination with other technologies or practices, may achieve a greater degree of emission reduction for the pollutants specified in paragraph (2)(A), including the use of selective or non-selective catalytic reduction, wet flue gas denitrification, selective non-catalytic reduction, wet scrubbing, or catalytic oxidation. The Administrator may require new facilities to be constructed according to designs which allow for addition of selective catalytic reduction, and other technologies, as they become available, except that selective catalytic reduction may not be required by the Administrator at municipal waste incineration units which have installed flue gas treatment for control of emissions of oxides of nitrogen prior to the date of enactment of this section.

"(2)(A) The standards promulgated under this subsection shall specify numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, halogenated organic compounds, dioxins, and dibenzofurans. In establishing such standards of performance under this subsection, the Administrator shall take into account the use of numerical standards or other methods to reduce the presence in air emissions or ash from a municipal waste incineration unit of each of the following additional substances: volatile organic compounds, beryllium, hydrogen fluoride, antimony, arsenic, barium, chromium, cobalt, copper, nickel, selenium, zinc, polychlorinated biphenyls, chlorobenzenes, chlorophenols, and polynuclear aromatic hydrocarbons.

"(B) In no event shall any such standard allow—

"(i) an outlet gas carbon monoxide concentration greater than 50 parts per million corrected to 7 percent oxygen on a 4-hour average except that the Administrator is authorized to establish a standard for refuse-derived fuel units allowing carbon monoxide concentrations not to exceed 100 parts per million corrected to 7 percent oxygen on a 4-hour average provided that such units commencing construction or modification after the date of enactment of this section control emissions with dry scrubbers and fabric filtration;

"(ii) an outlet gas particulate concentration greater than 0.015 grains per dry standard cubic foot corrected to 7 percent oxygen;

"(iii) an outlet gas concentration of sulfur dioxide greater than 40 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by not less than 70 percent;

"(iv) an outlet gas concentration of hydrogen chloride greater than 30 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled hydrogen chloride emissions are reduced by not less than 90 percent; or

"(v) a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent), except that the Administrator may establish standards for combustion parameters (including temperature) other than those stated in this paragraph for units employing atmospheric-fluidized bed boilers for the control of oxides of nitrogen, provided that such standards achieve a combustion efficiency equivalent to that required of other units.

"(3) Standards promulgated under this subsection shall be effective no later than six months after the date of promulgation. To the extent that installation of an acid gas scrubber at a municipal waste incineration unit is required to comply with a standard or standards under this subsection, such standard shall be effective for units at which a scrubber is to be installed not later than twenty-four months after the date of promulgation. Not later than five years following the initial promulgation of such standards and at five-year intervals thereafter, the Administrator shall review and, in accordance with this subsection, revise such standards. Such revised standards shall be effective as of the date of six months after the date of promulgation with respect to facilities which begin construction or modification on or after the date on which such standards are first proposed.

"(4) After the effective date of any standard promulgated under this section, it shall be unlawful for any owner or operator of any municipal waste incineration unit to operate such unit in violation of such standard applicable to such unit.

"(5) When promulgating standards (or revised standards) under this subsection the Administrator shall consider the applicability of such standards (as the result of subsection (k)(2)(B)) to municipal waste incineration units already in operation and shall publish with such standards a schedule for compliance for each such unit providing adequate time for retrofit of necessary pollution control equipment, but in no event longer than four years after the date such standards are promulgated.

"(b)(1) In addition to any other applicable requirements, after the date twenty-four months after the enactment of this section, no permit may be issued under a State program approved under part C or part D of this Act for any new or modified municipal waste incineration unit unless (A) the applicant has fully complied with the application requirements for the permit (pursuant to 40 CFR 52.21) and any applicable State requirements before such date, or (B) each of the jurisdictions served by the municipal waste incineration unit (as designated by the State in accordance with section 4006 of the Solid Waste Disposal Act) has prepared, after notice and opportunity for public comment and public hearing, and submitted to the appropriate State official an enforceable solid waste management plan, in accordance with sections 4003 and 4011 of the Solid Waste Disposal Act.

"(2)(A) Beginning twenty-four months after the date of enactment of this section, no permit may be issued under this Act to a municipal waste incineration unit unless an ash management plan has been submitted for the ash from such unit. The application for each permit to be issued to a new or modified municipal waste incineration unit or renewal or issuance of a permit for an existing unit, shall include a reasonable demonstration of adequate capacity to treat, manage, or dispose of the ash produced by the unit for a period of not less than five years in compliance with the requirements of section 4011 of the Solid Waste Disposal Act. Demonstrations required by this paragraph shall be updated every five years as required by subsection (f).

"(B) The Administrator may promulgate regulations or issue guidelines for the implementation of this paragraph which shall provide that, to the extent practicable, demonstrations are based on the characteristics of ash from the municipal waste incineration unit as determined by testing methods prescribed pursuant to section 4011 of the Solid Waste Disposal Act. The initial demonstration required for new or modified municipal waste incineration units under this paragraph shall be based on the characteristics of the ash from units of comparable design (including pollution control equipment and ash treatment systems) combusting similar waste streams.

"(C) Notwithstanding any other provision of this Act or the Solid Waste Disposal Act, no person may operate a municipal waste incineration unit unless adequate capacity is available to treat, manage or dispose of the ash produced by the unit in compliance with section 4011 of the Solid Waste Disposal Act.

"(c) If the Administrator fails to promulgate standards under subsection (a) of this section, beginning eighteen months after the date of enactment of this section and extending until such time as standards are promulgated no permit may be granted to the owner or operator of any municipal waste incineration unit which begins operation after July 1, 1989 and which is required to obtain a permit under a State program approved under part C or part D of this Act unless such permit requires compliance with emission standards that comply with subsection (a)(2)(B). Compliance with standards promulgated under subsection (a) shall be required six months after the date such standards are promulgated for all municipal waste incineration units subject to the provisions of this subsection, unless a unit is required to install an acid gas scrubber to comply with a standards in which case the standard shall be effective for such unit no later than twenty-four months after promulgation.

"(d) Not later than eighteen months after the enactment of this section, the Administrator shall promulgate regulations and standards of performance to control emissions of air pollutants into the ambient air from each municipal waste incineration unit which is in operation or which is substantially completed prior to January 1, 1989. Such standards of performance shall be established on the basis of the degree of emission limitation achievable through application of available control technologies and practices as determined under subsection (a)(1), and shall specify emission limitations for the substances required under subsection (a)(2). In establishing standards under

this subsection the Administrator may distinguish between types and classes of municipal waste incineration units based on combustion technology or pollution control systems. In no event shall any such standard allow—

"(1) an outlet gas carbon monoxide concentration greater than 100 parts per million corrected to 7 percent oxygen on a 8-hour average except that the Administrator is authorized to establish a standard for units allowing carbon monoxide concentrations not to exceed 200 parts per million corrected to 7 percent oxygen on a 8-hour average provided that such units control emissions with acid gas scrubbers and fabric filtration;

"(2) an outlet gas particulate concentration greater than 0.020 grains per dry standard cubic foot corrected to 7 percent oxygen;

"(3) an outlet gas concentration of sulfur dioxide greater than 60 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled emissions of sulfur dioxide are reduced by 70 percent;

"(4) an outlet gas concentration of hydrogen chloride of 45 parts per million corrected to 7 percent oxygen on an 8-hour average, unless uncontrolled emissions of hydrogen chloride are reduced by 90 percent; or

"(5) a retention temperature and time of less than 1800 degrees Fahrenheit or less than 1 second at fully mixed height (or the equivalent).

The Administrator shall promulgate a schedule for compliance with these standards. In no event shall such schedule provide for compliance with such standards later than the date six years after the enactment of this section, except that facilities which will be required to meet standards established under subsection (a) (as a result of subsection (k)(2)(B)) within three additional years of such date may be allowed a variance from the compliance schedule of this section during such three-year (or shorter) period provided that the owner or operator of any unit seeking a variance certifies that compliance with standards established under subsection (a) will be achieved on and after the date applicable under subsection (a).

"(e)(1) The Administrator shall promulgate regulations requiring the owner or operator of each municipal waste incineration unit—

"(A) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect human health and the environment;

"(B) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and

(C) to report the results of such monitoring. Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures validated on municipal incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating exceedance of standards under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.

"(2) The Administrator shall promulgate the regulations required under this subsection within eighteen months after the enactment of this section. Such regulations may be revised from time to time in accordance with paragraph (1). Except as provided in paragraph (3), the requirements of this subsection shall take effect—

"(A) upon commencement of operation of any new or modified unit' and

"(B) Twenty-four months after the enactment of this part in the case of any existing municipal waste incineration unit.

"(3)(A) The regulations promulgated under this subsection shall, at a minimum, require continuous monitoring for the following: opacity, hydrogen chloride (if such monitoring device or method is available), sulfur dioxide, oxides of nitrogen, carbon monoxide, carbon dioxide, oxygen, stack temperature, furnace temperature (or secondary combustion zone temperature, as appropriate) and stack gas temperature at the inlet to the particulate control device.

"(B) For all emissions subject to standards under this section that are not subject to continuous monitoring under subparagraph (A), the regulations promulgated under this subsection shall require periodic monitoring of such emissions at each municipal waste incineration unit not less frequently than—

"(i) every six months, or

"(ii) six months after commencement of operations, and every eighteen months thereafter if the owner or operator of such unit demonstrates that such unit has complied with all applicable emissions standards as of the commencement of operations and during the previous periods of monitoring and maintains standards during each interval between monitoring.

Regulations promulgated under this section shall provide for prompt monitoring of emissions and parameters which are not monitored continuously whenever there is a violation of a related emission standard or parameter which is continuously monitored.

"(C) The initial monitoring under this subsection shall commence at the later of the following—

"(i) The date six months after the promulgation of regulations under this subsection; or

"(ii) the commencement of operation of the unit concerned.

"(4) Notwithstanding the provisions of paragraph (3), regulations promulgated under this subsection and applicable to municipal waste incineration units which are not major emitting facilities as defined in part C may provide for monitoring with other than EPA-certifiable monitoring methods and shall at a minimum require continuous monitoring of: oxygen, opacity; furnace temperature (or secondary combustion zone temperature, as appropriate); carbon monoxide; pH; and such other parameters as the Administrator shall require.

"(5)(A) The regulations required by this subsection may require the owner or operator of each municipal waste incineration unit to establish and operate, or to pay the costs of establishing and operating, a program to detect impacts of the unit, or any associated releases, on the environment or human health. Such program shall require periodic testing for and public reporting of the presence of waste constituents or contaminants (or indicators thereof) at statistically significant levels.

"(B) In any case in which exposure to municipal waste incineration unit emissions or ash may pose a potential risk to human health, the Administrator or the State may request the Administrator of the Agency for Toxic Substances and Disease Registry to conduct a health assessment in connection with the unit and such other health studies or surveillance as may be warranted, as authorized under section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980. Such studies may include programs to detect changes in the body burden of various pollutants including but not limited to lead, mercury, cadmium, halogenated hydrocarbons, and dioxins in any area affected by incineration unit emissions or ash.

"(f) Notwithstanding any other provision of this Act, each permit for a municipal waste incineration unit issued under this Act may be issued for a period of up to twenty years and shall be reviewed every five years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines—

"(1) that the unit is not in compliance with all standards and conditions contained in the permit;

"(2) that compliance with additional conditions will impose minimal costs on the owner or operator of the unit and such conditions will reduce air emissions below levels specified in the permit, or

"(3) capacity to treat or dispose of the ash from such unit in compliance with section 4011 of the Solid Waste Disposal Act for a five-year period after such determination has not been demonstrated.

Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed five years, and only after public comment and public hearing. For purposes of this subsection, the term "minimal costs" shall not exceed five percent of the actual capital costs of the unit. No permit for a municipal waste incineration unit may be issued under this Act by an agency, instrumentality or person (other than a Governor) that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or State may require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment.

"(g)(1) Nothing in this section shall diminish or otherwise affect any authority to establish and enforce standards under section 111 or 112 or under any other authority of law for emissions from municipal waste incineration units of any air pollutant not referred to in subsection (a). With respect to emissions from municipal waste incineration units of any air pollutant referred to in subsection (a)—

"(A) nothing in this section shall diminish the authority of the Administrator to promulgate more stringent standards under section 112 or any other provision of this Act;

"(B) nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements under any other authority of law, including the authority to establish for any such air pollutant a national ambient air quality standard;

"(C) no requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1) (D) or (E)) or under section 172(b)(6) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section; and

"(D) nothing in this section shall be interpreted, construed or applied to limit the authority of the Administrator to impose more stringent requirements for the incineration of hospital or other infectious wastes under this Act or other authority including subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921, et seq.).

"(2) Nothing in this Act shall be construed, interpreted, or applied to preempt, supplant, or displace other State or Federal law, whether statutory or common.

"(h) Any State may submit to the Administrator a proposed State program for implementation and concurrent enforcement of the requirements of this section. After ninety days after submission to the Administrator, the State shall be treated as authorized to enforce the requirements of this section in such State unless the Administrator determines that the State program does not provide enforcement equivalent to Federal enforcement under this Act. Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization for such State. Each State program approved under this subsection shall, at a minimum, include permitting requirements for each new and existing municipal waste incineration unit located in the State. Any permit issued by a State may be reviewed and withdrawn by the Administrator on the Administrator's own motion or upon a showing by any person that the conditions contained in such permit are not in compliance with the requirements of this Act.

"(i) Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard relating to municipal waste incineration units that is more stringent than a regulation, requirement, or standard in effect under this section or under any other provision of this Act.

"(j) For purposes of sections 111(e), 113, 114, 116, 120, 304, and 307 each standard and other requirement promulgated under this section shall be treated in the same manner as a standard of performance under section 111 which is an emission limitation and each requirement of a State plan authorized under this section shall be treated as a requirement of an applicable implementation plan. Any civil penalties imposed by a court against a unit of local government under this Act for violations of this section shall be paid into a trust fund or comparable mechanism established by a court or the State and shall be applied in support of public programs or activities, as authorized by the court (or a fund administrator appointed by the court), that serve to enhance the protection of human health and the environment of the residents of such unit of local government but shall not be used to come into compliance with requirements established under this section or section 4011 of the Solid Waste Disposal Act.

"(k) As used in this section—

"(1) The term 'municipal waste incineration unit' means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The Administrator may promulgate standards for hospital incineration units (or other units operated principally to handle infectious wastes) under other provisions of this Act or section 3005 of the Solid Waste Disposl Act in lieu of standards under this section, provided that such standards are no less stringent than the standards under this section which are applicable to muncipal waste incineration units of a comparable class or type. Until such regulations are promulgated, hospital incinertion units (or other units operated principally to handle infectious wastes) shall be subject to the requirements of this section.

"(2) The term 'new municipal waste incineration unit' means a municipal waste incineration unit—

"(A) the construction or modification of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit, or

"(B) effective January 1, 1992, which had commenced operation twenty years or more previously.

"(3) The term "substantially completed unit" means a unit not in operation before July 1, 1989 for which the addition of required pollution control equipment will cost more than twice what such equipment would have cost had it been constructed as part of the permitted design or for which 90 percent of all construction has been completed before such date.

"(4) The term 'modified municipal waste incineration unit' means a municipal waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) or (d) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation), or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section.

"(5) The term 'existing municipal waste incineration unit' means a municipal waste unit which is not a new or modified municipal waste incineration unit.

"(1)(1) Not later than eighteen months after the enactment of this section, the Administrator shall publish guidelines identifying items or materials that should be removed from municipal waste prior to incineration, either through separation by the generator of such waste or a central facility from the general waste stream or through limitations on the composition (including inks and pigments) of products or on the disposal of such items or materials in municipal waste.

"(2) Regulations under this section shall require the operator of any municipal waste incineration unit to establish contractual requirements or other appropriate notification and inspection procedures sufficient to assure that the unit does not receive any waste required to be placed in a facility permitted under section 3005 of the Solid Waste Disposal Act.

"(m) If the Administrator finds that there is a reasonable basis to conclude that any product or article distributed in commerce presents, or may (to a reasonable degree of certainty) present, a threat to human health or the environment as the result of incineration of such product or article at municipal waste incineration units which are in compliance with standards promulgated under this section or as the result of the handling or disposal of ash from such units, the Administrator shall by rule apply one or more of the following requirements to the composition of such product or article, its distribution in commerce or methods of disposal as may be necessary to protect human health and the environment—

"(1) requirements prohibiting or limiting the manufacture, processing or distribution in commerce of such product or article;

"(2) requirements with respect to the concentration of any substances in the composition of the product or article including a prohibition on the presence of such substances in the product, article or its residue;

"(3) requirements for the marketing or labeling of such product or article including instructions for the proper disposal of such product or article or its residues;

"(4) requirements for recovering or recycling such products or articles including the imposition of reimbursable fees on the sale of such product or article;

"(5) requirements that solid waste management plans for areas served by municipal waste incineration units as required by subsection (b) of this section provide for the separation, recovery or recycling of such products or articles or residues to prevent, to the maximum extent practicable, any threat to human health or the environment which may result from the incineration of such products, articles or their residues or the handling or disposal of ash from units which have incinerated such products, articles or their residues; or

"(6) requirements for the disposal of such product or article or its residues.

The Administrator shall make a determination under this section with respect to lead, cadmium and other metals in plastics, inks, paints and other products not later than twenty-four months after the date of enactment of this Act.

"(n) Not later than eighteen months after the enactment of this section, the Administrator shall develop and promote a model State program for the training and certification of municipal waste incinerator operators. The program shall include a requirement that all operators achieve a passing grade on an examination on (and participate in continuing education to stay informed about) current technology for the control of pollution from municipal waste incineration units. The Administrator may authorize any State to implement a State program for the training and certification of municipal waste incinerator operators if the State has adopted a program which is at least as stringent as the model program developed by the Administrator. Beginning on the date thirty months after the date of enactment of this section it shall be unlawful to operate a municipal waste incineration unit unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training and certification program meeting the requirements established by the Administrator under this subsection.

(b) Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than".

(c) Section 113 of the Clean Air Act is amended by adding ", 133" after "112(c)" wherever it occurs.

ASH MANAGEMENT AND DISPOSAL

SEC. 3. (a) Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section:

"MUNICIPAL WASTE COMBUSTION ASH

"SEC. 4011.(a)(1) Not later than eighteen months after the date of enactment of this section, the Administrator shall promulgate regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units, as may be necessary to protect human health and the environment. Notwithstanding other provisions of this Act, the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units shall be subject to this section and subtitle and not subject to the provisions of subtitle C except that the Administrator may issue regulations under subtitle C in lieu of regulations under this section applicable to ash from units operated primarily to incinerate hospital or other infectious wastes. Until such time as regulations are promulgated for such units, ash from units operated primarily to incinerate hospital or other infectious wastes shall be subject to the requirements of this section. The provisions of section 3007 and 3008 shall apply to ash from municipal waste incineration units and the requirements of this section to the same extent that such sections apply to hazardous wastes and the requirements of subtitle C.

"(2) For the purposes of this section, the term—

"(A) 'municipal waste incineration unit' shall have the meaning given in section 131(k)(1) of the Clean Air Act; and

"(B) 'treatment' means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any ash so as to remove or permanently fix in place any constituent of the ash which, in the event of mismanagement during transportation, storage, reuse or disposal, would pose a threat to human health or the environment and includes testing of such ash to assure that criteria promulgated under subsection (e) are satisfied.

"(3) Regulations promulgated under this section may establish requirements that apply to fly ash separately, to bottom ash separately, or to the combination of fly ash and bottom ash.

"(b)(1) Regulations promulgated under subsection (a) for the disposal of ash from municipal waste incineration units in landfills shall require—

"(A) the installation of two or more composite liners and a leachate collection system above and between such liners, in accordance with paragraph (2); and

"(B) groundwater monitoring.

"(2) The requirement of paragraph (1)(A) may be satisfied by the installation of liners designed, operated, and constructed of materials to prevent the migration of any constituent into such liners during the period such facility remains in operation (including any post-closure monitoring period). For the purposes of this section the term 'composite liner' means a liner which consists of a flexible membrane liner and at least a 3-foot thick layer of recompacted clay or other natural material with a hydraulic conductivity of no more than 1×10^{-7} centimeter per second. The provisions of this paragraph apply prior to and after the promulgation of regulations under paragraph (1).

"(3)(A) Notwithstanding the requirement of paragraph (1)(A), regulations promulgated under subsection (a) may provide for the placement of ash from municipal waste incineration units in a monofill (containing only ash from such units) with a composite liner designed, operated and constructed of materials to prevent the migration of any constituent into and through such liner during the period the monofill remains in operation (including any post-closure monitoring period), ground water monitoring and leachate collection.

"(B) If fly ash is to be disposed in a monofill containing solely or substantially fly ash, such ash shall be treated pursuant to treatment standards established under this section before disposal or such monofill shall be constructed with an additional liner and a leachate detection and collection system between the liners.

"(C) Requirements under this paragraph are minimum requirements and the Administrator shall promulgate more stringent requirements applicable where necessary to assure that releases from a monofill will not contaminate ground water or surface water or otherwise pose a threat of adverse effects on human health or the environment.

"(4) The design requirements of paragraphs (1) and (3) shall not apply if the owner or operator of a solid waste management unit utilizing an alternative design demonstrates to the State, and the State finds, that the alternative design and operating practices will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as the design requirements of paragraph (1) or (3) of this subsection. The State shall not solely or substantially rely upon location characteristics to make any determination under this paragraph. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any determination made by a State under this subsection. The Administrator shall make a decision on any appeal within one hundred and eighty days.

"(5) Liner requirements imposed under paragraph (2) or (3) of this subsection or subsection (c) shall include provisions for quality control and quality assurance with respect to the design and installation of the liners.

"(6) Nothing in this section shall be interpreted, construed or applied to require the routine testing of ash which is disposed in a landfill or monofill meeting the requirements of this subsection.

"(c) Regulations promulgated under subsection (a) may allow disposal of ash from municipal waste incineration units in sanitary landfills with at a minimum one liner, leachate collection and groud water monitoring and otherwise meeting the requirements of revised criteria promulgated under section 4010(c), if (1) such ash is routinely tested and does not fail any criteria under subsection (e); and (2) any fly ash so disposed (including any fly ash combined with bottom ash) has undergone treatment (as defined in subsection (a)) in accordance with regulations for treatment promulgated under this section and such treated fly ash is separately tested and does not fail any criteria established under subsection (e). For the purposes of this section, the mixing of fly ash and bottom ash, or the mixing of such ash with other solid waste, without the introduction of chemical stabilization agents, does not constitute treatment. Ash may not be disposed of in units that are created as a result of vertical expansion of an existing waste disposal facility unless the owner or operator of such facility demonstrates, and the State finds, that there will be no settling (that would impair the integrity of any required liner) of the waste upon which the proposed unit is to be built.

"(d)(1) The regulations under this section shall include such requirements applicable to the reuse and recycling of the ash from municipal waste incineration units, including criteria and routine testing procedures, as may be necessary to protect human health and the environment. In developing such regulations, the Administrator shall consider, to the extent feasible and appropriate, all potential pathways of human and environmental exposure, including both short-term and long-term, to hazardous constituents of such ash from such recycling and reuse. The pathways to be considered shall include, but not be limited to, inhalation, ingestion as a consequence of incorporation of the ash or any hazardous constituents into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its hazardous constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash. At a minimum the Administrator shall consider with respect to such recycling and reuse, appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity.

"(2) Such regulations shall require treatment of ash from municipal waste incineration units before any such ash is recycled or reused to protect human health and the environment. Such regulations shall specify those levels or methods of treatment that, taking into account the potential pathways of exposure identified in paragraph (1)—

"(A) substantially reduce the likelihood of migration of ash or its hazardous constituents so that short-term and long-term threats to human health and the environment are minimized;

"(B) satisfy any criteria and routine testing procedures included in the regulations under paragraph (1); and

"(C) assure that the recycling or reuse of such ash is protective of human health and the environment.

"(3) If the Administrator fails to promulgate regulations under this subsection, no person may reuse or recycle ash from a municipal waste incineration unit after the date thirty-six months after the date of enactment of this section unless such ash is treated and leachate from an extraction procedure toxicity test applied to such ash does not exceed standards established pursuant to section 1412 of the Safe Drinking Water Act for any pollutant or contaminant.

"(e)(1) For the purposes of developing regulations for the management, handling, storage, treatment, transportation, reuse, recycling, and disposal of ash from municipal waste incineration units under this section, the Administrator shall promulgate criteria and testing procedures for identifying the characteristics of ash from municipal waste incineration units that may pose a hazard to human health or the environment. In considering potential hazards to

human health and the environment, the Administrator shall consider, to the extent appropriate and feasible, all potential pathways of human or environmental exposure to constituents of such ash, including, but not limited to, inhalation, ingestion as a consequence of incorporation of the ash or any constituent into the food chain, ingestion of potable water or aquatic organisms contaminated by surface runoff, leaching or percolation of such ash or its constituents into ground water or surface water, ingestion or inhalation of soil particles contaminated with such ash, and dermal contact with such ash (including, for all such pathways, situations of disposal or reuse). At a minimum, the Administrator shall consider appropriate methods to determine leaching, total chemical analysis, respirability, and toxicity. The criteria and accompanying testing procedures promulgated by the Administrator under this subsection shall reflect the heterogeneous characteristics of municipal solid waste and municipal incinerator ash, including seasonal variations in the constituents of such solid waste and ash. Leaching procedures established under this subsection shall include testing under acidic and native conditions. Test leachate from any ash containing a substance in concentrations exceeding the maximum contaminant level for such substance established pursuant to section 1412 of the Safe Drinking Water Act by a factor of one hundred or more shall, unless the Administrator establishes a more stringent requirement, constitute a failure of the test required by this section.

"(2) The Administrator shall require the owner or operator of any municipal waste incineration unit or any facility handling, transporting, storing, treating, reusing, recycling, or disposing pursuant to subsection (c) or (d) of ash from such unit to test such ash in accordance with the criteria and testing procedures promulgated under this subsection. If fly ash and bottom ash are combined, such combined ash must also be tested in accordance with such criteria and testing procedures, including, as the Administrator determines necessary, the separate testing of bottom ash and fly ash.

"(3) Any ash which fails in any characteristic under the criteria and testing procedures promulgated by the Administrator under this subsection shall be disposed of in a facility in compliance with subsection (b)(1) or (3), or shall be treated (as defined in subsection (a)) in accordance with regulations promulgated under subsection (a) and shall be demonstrated to satisfy all applicable criteria promulgated under this subsection before disposal (pursuant to subsection (c)) or reuse (pursuant to subsection (d)).

"(4) The Administrator shall seek to validate the criteria and testing procedures established pursuant to this subsection by conducting a program of continuing analysis of leachate produced at facilities disposing or reusing ash from municipal waste incineration units.

"(f)(1) Beginning 30 months after the date of enactment of this section any facility receiving ash from municipal waste incineration units from the purpose of treatment, storage, reuse, recycling, or disposal shall be subject to a permit program or other system or prior approval and conditions comparable to those required by section 4005(c).

"(2) Before the issuance of a permit or other prior approval to any person with respect to any facility for treatment, storage, reuse, recycling or disposal of incinerator ash, the Administrator or the State shall provide for public notice and the opportunity for an informal public hearing, in accordance with the provisions of section 7004(b)(2) of this Act.

"(g)(1) Whenever on the basis of any information the Administrator determines that there is or has been a release of any hazardous constituent from a facility regulated under this section, the Administrator may issue an order requiring corrective action or such other response measure as the Administrator deems necessary to protect human health or the environment or the Administrator may commence a civil action in the United States district court in the district in which the facility is located for appropriate relief, including a temporary or permanent injunction.

"(2) Any order issued under this subsection may include a suspension or revocation of authorization to operate, shall state with reasonable specificity the nature of the required corrective action or other response measure, and shall specify a time for compliance. If any person named in an order fails to comply with the order, the Administrator may assess, and such person shall be liable to the United States for, a civil penalty in an amount not to exceed $25,000 for each day of noncompliance with the order.

"(3) Regulations promulgated under subsection (a) shall require corrective action for all releases of hazardous constituents from any solid waste management unit at a facility seeking a permit under this section, regardless of the time at which waste was placed in such unit. Permits issued under this section shall contain schedules of compliance for such corrective action and assurances of financial responsibility for completing such corrective action.

"(h) Regulations promulgated under subsection (a) shall establish requirements for the proper closure of facilities treating, storing, or disposing of ash from municipal waste incineration units, for the post-closure monitoring and care of such facilities for a period of not less than thirty years, and for assurances of financial responsibility for closure, post-closure care and corrective action.

"(i)(1) Beginning eighteen months after the date of enactment of this section, any State may submit to the Administrator a proposed program for implementation and concurrent enforcement of the requirements of this section which may be considered and approved by the Administrator in accordance with the procedures established in section 4007. State programs approved under this subsection shall contain provisions assuring that each facility receiving ash from a municipal incineration unit obtains a permit or other form of prior approval as provided in subsection (f). Whenever the Administrator determines that a State is not enforcing the requirements of this section in a manner equivalent to Federal enforcement, the Administrator shall withdraw the authorization of such State program under this subsection.

"(2) Nothing in this section shall prohibit any State or political subdivision thereof from imposing any requirement with respect to the management, handling, storage, treatment, transportation, reuse, recycling or disposal of ash from municipal waste incineration units which is more stringent than any requirement established under this section.

"(j)(1) To the extent that a solid waste management plan is required under section 113(b) of the Clean Air Act and effective twenty-four months after the date of enactment of this section, each jurisdiction served by a municipal incineration unit applying for a permit under a State program approved pursuant to part C or part D of the Clean Air Act shall prepare, after notice and opportunity for public comment, and submit an enforceable solid waste management plan which is based on an analysis of all solid waste handling alternatives and which, to the maximum extent practicable, (A) minimizes the threat to human health and the environment from solid waste, (B) achieves the conservation of material resources and protection of human health and the environment through solid waste reduction, source separation or control, and recycling of not less than 25 per centum of the waste stream by weight as expeditiously as practicable, but in no event later than three years after the adoption of such plan, unless the State finds that such per centum is not economically achievable and establishes an alternative per centum consistent with the provisions of this subsection.

"(2) For purposes of this section the term 'enforceable solid waste management plan' means a plan adopted by the State or a local government containing provisions with the force and effect of law or to which the appropriate unit of government is contractually committed, which require, to the extent practicable—

"(A) the elimination or reduction of specific wastes or waste constituents (including limitations on the composition of locally produced products, such as products using inks or pigments or prohibitions on disposal of certain items in municipal waste) from municipal waste prior to land disposal or incineration, to (i) reduce the risk to human health or the environment posed by any such waste or constituent or its byproducts (whether combustion or otherwise) when present in land disposal, incineration emissions, or incinerator ask, or (ii) facilitate the utilization of safer treatment, storage or disposal alternatives;

"(B) the separation of wastes at their source or prior to incineration or land disposal to allow the separate treatment and disposal of such wastes, including lead-acid automobile batteries, cathode ray tubes and other concentrated or specialized sources of pollutants including lead, cadmium, chlorine, mercury, fluorine, dioxins and furans and substances containing them; and

"(C) the return to, and acceptance by, retail merchants or their agents, for purposes of pickup and delivery, of waste items the treatment, storage or disposal of which can be more effectively or safely effected through such means.

"(3) A solid waste management plan required by this section and section 133(b) of the Clean Air Act shall be prepared by the agency designated by applicable State laws as responsible for the solid waste management planning for the jurisdiction or jurisdictions served or to be served by the municipal waste incineration unit or, in the absence of such designation, by such jurisdiction of jurisdictions. The agency designated in an enforceable solid waste management plan as the agency responsible for carrying out the plan, or in the absence of such designation, the jurisdiction or jurisdictions shall carry out the plan in accordance with its terms at all times that such plan is in effect.

"(4) Solid waste management plans developed pursuant to the requirements of this subsection shall be reviewed and promptly approved or disapproved by the State official with responsibility for administering

solid waste management programs. In the event that jurisdictions located in more than one State are served by a municipal waste incineration unit, the Governors of such States may delegate authority to review and approve solid waste management plans as required under this subsection to an interstate planning or regional solid waste entity with the capability to assess and oversee the implementation of such plans.

"(5) After approval by the appropriate State official of solid waste management plans for all jurisdictions served or to be served by a municipal waste incineration unit as provided in paragraph (4), an application for a permit under a State program approved pursuant to part C or part D of the Clean Air Act for a new or modified municipal waste incineration unit shall not be delayed or denied by a court or any other agency or person having jurisdiction on the basis of the alleged inadequacy of the enforceable solid waste management plan in effect for the jurisdiction or jurisdictions served or to be served by such unit, or the alleged or proven failure of the responsible agencies to carry out the plan. Such a permit issued while an enforceable solid waste management plan is in effect shall not be suspended, modified or revoked on the basis that, after the permit is issued, the plan is alleged or proven to be inadequate or the agencies responsible to carry out the plan are alleged or proven to have failed to do so. No permit for a municipal waste incineration unit authorized for issuance under the Clean Air Act may be denied, delayed or withdrawn by a court solely on the basis of the inadequacy of a plan or the implementation of a plan required by this subsection after such plan has been approved by the appropriate State official. Nothing in this paragraph shall be interpreted to preclude the imposition of penalties or the commencement of a suit under section 7002 or enforcement provisions of a State program approved under subsection (i) against a local jurisdiction for any failure to adopt or carry out a solid waste management plan in accordance with this section.

"(6) Any civil penalties imposed by a court against a local unit of government for a violation of this section (including any violation of section 4005(a)) shall be paid into a trust fund or comparable mechanism established by the court or the State and shall be applied in support of public programs or activities, as authorized by the court (or fund administrator appointed by the court), that serve to enhance the protection of human health and the environment of the residents of such local unit of government except that such funds may not be used to come into compliance with the requirements of this section or section 133 of the Clear Air Act.

"(7) Not later than twelve months after the date of enactment of this section, the Administrator shall publish guidance which would be useful to States, solid waste planning authorities and jurisdictions served or to be served by municipal waste incineration units in the development and implementation of solid waste management plans as required by this subsection.

"(k)(1) Export of ash from a municipal waste incineration unit to locations outside of the United States shall be unlawful except as provided in an international agreement between the United States and the country receiving the ash. Any such international agreement shall include at a minimun—

"(A) a provision for obtaining the consent of the receiving country prior to shipment of the ash;

"(B) a provision that requires tracking of the ash shipment from the site of generation to the receiving country;

"(C) a provision for cooperation betweeen the United States and the receiving country on compliance and enforcement of the agreement.

"(2) No person shall export ash from a municipal waste incineration unit to locations outside of the United States without a permit or other prior approval from the Administrator to do so. Permits granted for export under this section shall have a term not to exceed five years, shall be accompanied by fees sufficient to offset the cost experienced by the Administrator in monitoring compliance with the conditions of the permit and shall contain such other requirements as the Administrator may deem appropriate.

"(l)(1) Regulations promulgated under this section shall be effective upon promulgation, except that requirements promulgated pursuant to subsection (b) or (c) with respect to the disposal of ash from municipal waste incineration units shall be effective on and after the date forty-eight months after the date of enactment of this section.

"(2) Beginning eighteen months after the date of enactment of this section and until the effective date of disposal requirements promulgated pursuant to subsection (b) or (c), ash from municipal waste incineration units shall not be disposed in landfills unless such landfills have, at a minimum, one liner, leachate collection and ground water monitoring and otherwise meet the criteria for sanitary landfills issued under this subtitle.

"(3) Notwithstanding the provisions of paragraph (2), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from each municipal waste incineration unit be disposed in a facility with a liner, leachate collection and ground water monitoring beginnign eighteen months after enactment of this section, on a showing by the owner or operator of any such unit that sufficient capacity to dispose of ash in compliance with such requirements is not available for the unit taking cost into consideration. No variance granted under this paragraph shall extend for a period longer than thirty months after the date of enactment of this section.

"(4) Notwithstanding the provisions of paragraph (1), the Administrator or a State may grant on a case-by-case basis a variance from the requirement that ash from municipal waste incineration units be disposed only in landfills meeting the requirements of subsections (b) or (c) beginning forty-eight months after the date of enactment of this section, on a showing by the owner or operator of any such unit that good faith efforts were made to satisfy such requirement but the unit will fail to do so for reasons not in control of the owner or operator of such unit. No variance granted under this paragraph shall extend for a period longer than seventy-two months after the date of enactment of this section.

"(5) If the Administrator fails to promulgate regulations under subsection (a) for the disposal of ash from municipal incineration units, no person may dispose of ash in a landfill after forty-eight months after the date of enactment of this section unless such landfill satisfies the requirements of subsections (b)(1) or (b)(3).

"(m)(1) Beginning on the effective date of any regulation or requirement under this section if shall be unlawful to manage, handle, store, treat, transport, reuse, recycle, or dispose of ash from a municipal waste incineration unit otherwise than in accordance with such regulation or requirement or a State program approved pursuant to subsection (i).

"(2) Prior to and after the effective date of regulations under this section, the Administrator may use the authorities of section 3008 to enforce the requirements of this section. In the case of a violation in a State which is authorized to implement and enforce a program under subsection (i), the Administrator shall give notice to the State in which a violation has occurred prior to issuing an order or commencing civil action under section 3008.".

(b) The table of contents for subtitle D of the Solid Waste Disposal Act is amended by adding the following new item at the end thereof:

"Sec. 4011. Municipal waste combustion ash.".

(c) Subsection (i) of section 3001 of the Solid Waste Disposal Act is repealed.

CONSULTATION

SEC. 4. Notwithstanding the provisions of the Federal Advisory Committee Act, prior to promulgation of any regulations, requirements, or guidelines pursuant to this section, the Administrator shall consult with elected officials of State and local governments, or their representatives or representatives of their organizations which may develop plans, administer programs, issue permits, promulgate regulations or take corrective action under this section to receive their advice and recommendations on such regulations, requirements and guidelines.●

Mr. DURENBERGER. Mr. President, I am pleased to join with my distinguished colleagues the chairman of the Committee on Environment and Public Works, Mr. BURDICK, and the senior Senator from New York, Mr. MOYNIHAN, to introduce the Municipal Waste Combustion Control Act of 1989. This bill reflects a great deal of work by our chairman and by other members of our Environment Committee.

The environmental problems associated with municipal waste combustion first came to the attention of the Senate in the fall of 1987 when Senator BURDICK introduced an amendment to the comprehensive clean air reauthorization bill which the committee was then considering. Since that time there have been dozens of meetings and countless hours spent in the effort to perfect this legislation.

The approach that was taken at the direction of our chairman, a completely open discussion involving all parties with an interest, has served us well. This bill is an excellent product. We are no longer at the beginning of discussion and debate. We are very near consensus on these questions, I believe, and have only reached that point as the result of the willingness of Mr. BURDICK and his excellent staff to engage the issues and respond in

good faith to concerns which were expressed.

I would be remiss, Mr. President, if I did not mention the role that our House colleagues played in preparing this bill. Much of it is owed to their efforts. Congressman FLORIO took the lead on the municipal waste combustion in that body. Congressman LUKEN and members of this subcommittee working with EPA also played a major role in shaping the ash disposal provisions in this bill. We commend all of our colleagues in the House which have taken part in the legislative effort on these questions.

As we introduce this bill today, I would share with our colleagues in the Senate some observations on the perspective which the Environment Committee brought to the process. I have organized these observations as six propositions which served as a foundation for this bill.

First, the Nation is experiencing a solid waste disposal crisis. If not in every community, a substantial number of our towns, cities and counties are struggling with the problems of waste disposal and facing hurdles never before seen. The crisis is principally a landfill capacity crisis. It is reflected in the cost of new landfill capacity and the distance that solid waste is now hauled to reach an operating dump. It is driven by an increasing concern for the environmental risks associated with landfills and the local opposition to siting new—even if more safely designed—landfill units.

The crisis is causing a revolution in the way we handle our solid waste. One part of that revolution is the commitment to garbage incineration and resource recovery. The other part is a new effort to make recycling, composting, and waste reduction work for whole communities.

A second proposition is a theme the committee heard again and again in our hearings on the solid waste disposal crisis which were chaired by Senator BAUCUS during the 100th Congress. There is a four-part heirarchy for managing solid waste. It begins with waste reduction. Waste that is not generated at all is the best kind of waste. It goes on to recycling and treatment, which includes incineration and resource recovery, as the second and third parts. And the heirarchy concludes with disposal of residual materials in a secure landfill. This legislation recognizes that heirarchy and recognizes that municipal waste combustion is not just a free-standing source of air pollution, but part of the solution to another pressing environmental problem—our land disposal crisis.

The third proposition recognizes the commitment that has already been made by cities and counties across the country to respond to the crisis. A report by the Environmental Protection Agency issued in 1987 indicates that 110 municipal waste combustion units were already operating; 210 more were in the planning, permitting, or construction phases. Those facilities involve a commitment of nearly $17 billion by local government to the incinerator option.

In my home State of Minnesota, nearly one-half of the municipal solid waste stream is signed up for a garbage burner. If all of the planned facilities are completed we will have 14 units in Minnesota including one which will be the largest capital project ever undertaken by our largest county. So it's a substantial commitment and one the Congress must respect and understand as it prepares to legislate in this area. Local government already has a substantial financial commitment at risk.

The fourth proposition is that Federal air emissions and ash disposal standards for municipal waste combustion units are necessary. Generally, the massburn and RDF units that are being built are major sources of air pollution subject to permits by State or local air pollution control agencies. But the permitting requirement only applies to the so-called criteria pollutants like carbon monoxide, particulates, nitrogen oxides, and sulfur dioxide. There are currently no Federal guidelines for the toxic pollutants—that is, heavy metals and unburned organics—which are certainly the more important air pollution problem associated with waste combustion.

And Federal law is confused on the subject of ash. Is it a hazardous waste or not? Under the current policy—a policy which is not enforced because of the uncertain character of the existing ash testing protocol—ash from an incinerator may be hazardous on one day and safe on the next. That uncertainty needs to be fixed legislatively.

EPA has made progress in addressing the air emissions issue. In 1987 it announced that two control technologies—acid gas scrubbers and particulate controls—would be a minimum requirement in State permits for new facilities which are major sources of criteria pollutants. And in 1991 the Agency will promulgate a new source performance standard for municipal incinerators which may include standards defining good combustion.

Although the EPA action is to be commended, it is unfortunately too slow to deal with the air pollution questions raised by the large generation of new units. By the time the new source performance standards are issued, most of the 210 units in the construction pipeline will be beyond the regualtory reach of the Clean Air Act and could only be dealt with on a retrofit basis. As a fifth proposition, we believe it is essential that the Congress state as clearly and quickly as possible the standards which we expect these units to meet. Finding a national consensus on these questions in legislation this year will avoid unnecessary expense and further confusion as the result of regulatory schedule which will produce results too late.

As a sixth and final proposition, we determined that technology-based standards may be the best foundation for air emissions regulations. Technology-based standards are an alternative to the health-based regulations which are more typical under other sections of the Clean Air Act. For instance, section 112 of the law requires EPA to regulate toxic air pollutants to "provide an ample margin of safety to protect public health." In the 18-year history of the Clean Air Act, EPA has listed only eight pollutants for regulation under section 112. By way of comparison, in that same period a handful of States with active air toxics programs have set standards for 708 toxic air pollutants.

There are a large number of air toxic emitted by municipal waste combustion units. They include metals, like lead and cadmium; acid gases, like hydrochloric acid and sulfuric acid; and organics with special concern for dioxins and furans, but including perhaps hundreds of other substances. Setting a health-based standard for each of these pollutants taken one at a time would doubtless take EPA years and years. We can't afford to wait.

Fortunately, it appears that a strategy combining three basic technologies, acid gas scrubbers, good combustion—that is, adequate temperature, time and turbulence—and particulate emissions control can do an effective job in removing the whole range of pollutants of concern. This technology is available; It's affordable; and it's effective in reducing risks to human health and the environment. The fundamental purpose of the air emissions provisions in the legislation we introduce today is to assure that these control technologies will be applied at all facilities—new and existing—and will be operated near their maximum control efficiency.

This bill includes five major provisions. First, it requires that EPA set emissions standards for a series of pollutants based on the level of control that can be achieved by best available technology and declares that three technologies which I have already mentioned—acid gas scrubbers, particulate control and good combustion practices—are available, that is proven in practice, and must be assumed in standard setting.

Second, the bill incorporates a series of emissions limits and other indicators which define the efficient operation of the pollution control system. These parameters include limits for carbon monoxide, particulates, sulfur dioxide, hydrogen chloride, and com-

bustion temperature. These numerical standards are intended to press the management and operation of each facility to assure that the pollution control measures installed are operated to achieve the maximum benefit economically affordable.

Third, this bill includes a requirement that areas served by waste combustion units develop solid waste management plans that maximize source reduction, source separation and recycling. The plan must also include a demonstration that adequate disposal capacity is available for ash which is produced by any operating unit.

Fourth, the bill contains a series of monitoring requirements; monitoring for some parameters is to to be conducted continuously—again, as indicators of effective pollution control—and for some only periodically.

Finally, the ash disposal provisions in the bill allow three options for the facility operator. First, ash may be disposed in a facility with two liners, leachate collection and ground water monitoring. This is similar to the disposal regime for hazardous waste under subtitle C of the Solid Waste Disposal Act. Second, ash may be monofilled in a facility with a single liner, leachate collection and ground water monitoring. And as a third option, ash which is both treated and which passes a test to detect toxic leachate may be disposed in a sanitary landfill meeting all other criteria under the Solid Waste Disposal Act

There are many other important provisions in this legislation which I would encourage my colleagues to review and consider. Municipal waste combustion is a rapidly growing industry and element in the budgets of city and county governments across the Nation. These facilities have great promise as one part of the response to the solid waste disposal crisis. But they also present substantial environmental challenges. We are prepared to address these issues.

Mr. MOYNIHAN. Mr. President, I rise today as an original cosponsor of the Municipal Waste Combustion Control Act of 1989. This bill will require the Environmental Protection Agency to set strict standards for the operation of municipal solid waste incinerators. It is clearly possible to control the toxic emissions from these plants—not easy perhaps, but nowhere near impossible—and we must make every effort to ensure that this happens. The EPA has not been doing an adequate job to date, and legislation is needed.

The particulars of the bill I am cosponsoring today are somewhat new to the Senate. Previous versions of this legislation have been seen before, as part of legislation reported by the Committee on Environment and Public Works in 1987 to amend and reauthorize the Federal Clean Air Act and also in the form of a bill I introduced in the 100th Congress, the Safe Incinerator Act of 1988 (S. 2458). I am ranking majority member of that committee, and was a vocal supporter of adding these incinerator provisions to the clean air bill in committee on October 22, 1987. However, for reasons unrelated to these incinerator provisions, consideration of the clean air bill could not be orchestrated before the close of the 100th Congress.

The Environmental Protection Agency tells us there are 111 municipal waste incinerators operating in the United States, capable of processing about 45,000 tons of waste per day. Many would say this has been mostly for the good, and to a certain point, this is true. However, many of these plants were build without much in the way of pollution control equipment, and are emitting unacceptable levels of dioxins, heavy metals, acid gases, and suchlike to the atmosphere. This pollution must be controlled.

But the volume of garbage incinerated today is small when compared to what will be happening in just a few years. Incineration is becoming a popular alternative in many areas suffering from rapidly dwindling landfill capacity. The EPA estimates that in as little as 12 years, the amount of solid waste we incinerate could be five times what it is today. By just 1993. 115 plants are scheduled for start-up across the country, and many of these are in New York—for New York City and Long Island alone, 13 are being planned. Why?

Many small municipalities, and most of our major cities, are facing the imminent closure of most of their landfill capacity in the very near term. The predicament of New York State if perhaps worse than that of any other area. Of the approximately 280 major landfills now operating in the State, all but 76 will be full by the year 1996—by 2006, all but 13. The search for alternative methods of disposal is becoming frantic, and many are looking to incineration. However, in this context, it is inaccurate to call incineration a method of disposal. It is, more precisely, a method of volume reduction. And if properly done, of energy extraction. But what incineration does not do is dispose of one's garbage. As incinerator is a complicated device that can turn 100 truckloads of garbage into exhaust gases, electricity, and somewhere between 10 and 30 truckloads of ash.

Such an equation outlines the two principles environmental problems with incinerators, which are what it puts into the air, and what it puts back on land in the form of ash. This bill deals with both of these issues, and will help these plants become part of the solution to the garbage crisis and not just another part of the problem.

Air pollutants can be controlled through a variety of technologies and operating procedures, many of which are spelled out in the bill. In general, these substances fall into two categories: substances found in the material to be incinerated, such as lead and other heavy metals, and chemicals created during the combustion process—the worst of which are the dioxins, among the most poisonous substances known to man. The first we need to trap before they leave the stack, and the second we must prevent from forming.

The other major threat of incinertion is perhaps less obvious, but is no less serious. It is disposal of the sometimes toxic ash that is the inevitable byproduct of the combustion process. It is curious, but certainly logical, that better control of air pollution at these plants can lead to greater complications for ash disposal. For example, heavy metals in trash entering the combustor, such as cadmium and nickel, are not destroyed by the combustion process. By necessity they must end up either in the air or in the ash, and so a well run air pollution system gives you ash of greater toxicity. This bill sets a host of standards to determine how and where incinerator ash can be landfilled, based largely on its measured toxicity.

Mr. President, we simply must take action. Now. These problems need to be addressed, and there is little time to spare. In a few short years, the number of these facilities will have doubled, and we will suddenly be looking at this problem from the wrong end. The question then will not be one of how to proceed, but rather, what to do about mistakes already made—how should we have proceeded? Hardly a way to govern.

I applaud the efforts of my colleagues and gladly lend my support to this legislation, in hope that the Senate will act on it as soon as possible.

By Mr. SASSER (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. GRAHAM, Mr. PRYOR, Mr. WIRTH, Mr. PELL, Mr. KERRY, Mr. INOUYE, Mr. BINGAMAN, Mr. REID, Mr. SANFORD, Mr. GORE, and Mr. BUMPERS):

S. 197. A bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

HOMEOWNERSHIP ASSISTANCE ACT OF 1989

● Mr. SASSER. Mr. President, I rise today with my colleague on the Housing Subcommittee, Senator HEINZ of Pennsylvania, to introduce major housing legislation. Our Homeownership Assistance Act of 1989 will greatly expand the opportunities of young Americans to own their own homes.

We are introducting it as part of the Housing Subcommittee's effort to comprehensively reform the Nation's housing laws.

Mr. President, this is not a new initiative. Indeed, Senator HEINZ and I introduced this bill last year and it made significant progress. I am pleased that most of its provisions have been included in the working draft for the omnibus bill being considered by the Subcommittee on Housing.

Mr. President, the Nation is facing a housing crisis that is worsening every day. Homeownership—a fundamental American ideal—is a dream that is fading fast for millions of young families.

Young people that are unable to buy homes are remaining renters. This bids up the price of rental housing. In turn, higher rents are having a devastating impact on poor families, and exacerbating the homeless problem.

The legislation that my colleague and I are introducing is directed straight at the problem of declining homeownership. In the 1980s, for the first time in history, homeownership has decreased. In particular, homeownership for persons between the ages of 25 and 30 has dropped 20 percent.

The decline means that 2 million fewer families own homes today that would have had the prior rate been sustained.

Importantly, Mr. President, the Homeownership Assistance Act will provide millions of Americans new opportunities to buy homes without increasing Federal spending.

We propose an expansion of several existing credit programs of the Federal Housing Administration [FHA]—a proven program, with a proven track record. Over the last 50 years FHA has helped millions and millions of families buy homes. And at the same time it has made money for the Federal Government.

Mr. President, this expansion of FHA is fully consistent with the recommendations of the blue ribbon national housing task force. This recent exhaustive study was headed by two extremely distinguished gentlemen—Jim Rouse of the Enterprise Foundation and David Maxwell of the Federal National Mortgage Association.

The task force thoroughly researched the capability of the FHA to embark on the course we propose today. It found that the FHA could and should initiate these new programs.

Mr. President, there is increasing evidence that the greatest impediment to owning a new home is accumulating the downpayment. Many young families are paying too large a portion of their income in rent—often over 50 percent.

Under these circumstances, it is nearly impossible to save the necessary downpayment. But the high rent being paid does indicate an ability to support mortgage payments.

Thus, the Homeownership Assistance Act initiates, among other things, a new lower downpayment FHA program. FHA will be able to insure 97 percent of the first $50,000 of a home's value, and 95 percent of the balance. This compares to 97 percent of the first $25,000, and 95 percent of the balance, under existing law.

For first-time homebuyers the bill permits FHA to insure 97 percent of the entire home valuation amount—an even lower downpayment.

Assuming an $80,000 home, this would mean a downpayment of $24,000 for first-time buyers, or an $1,100—30 percent—reduction from current law. For all others, it would mean a downpayment of $3,000, or a $500—15 percent—reduction from current law.

In addition to lowering downpayments, the Homeownership Assistance Act will make significant changes to the FHA Adjustable Rate Mortgage [ARM] Program. Under existing law, FHA is limited to offering an ARM that can adjust by 1 percent per year. Under this bill, FHA will offer an ARM that adjusts by 2 percent per year.

A 2-percent ARM will mean much lower interest rates than under a 1-percent ARM, or a standard fixed rate mortgage. Therefore, monthly payments for homebuyers will be less burdensome. Moreover, the bill removes the ceiling on the number of ARMS that FHA can insure in any year.

Another important provision is the elimination of the mortgage cap in high cost areas. Currently, FHA can insure a mortgage of no more than $101,250. This means that in 57 metropolitan areas in 15 States FHA is incapable of insuring a mortgage on anything near the average priced house. This bill will give all homebuyers everywhere the opportunity to purchase a home that is 95 percent of the median sales price in the area.

Moreover, the bill would establish two innovative demonstration programs. These carefully monitored experimental programs would attempt to assist low income and other first-time buyers in new ways.

Lastly, I have included in the legislation a section on manufactured housing. Mr. President, manufactured homes offer a low cost yet safe and sound housing alternative to young potential homebuyers. This is particularly true in rural areas.

This provision would instruct the Secretary of HUD to modify by regulation FHA's Manufactured Housing Program so that its provisions are generally consistent with those offered homebuyers under the traditional FHA Program. This is my own initiative. I haven't had a chance to discuss it yet with my distinguished colleagues; but I will, and I will work hard for its incorporation into the OMNIBUS housing bill soon to be considered by the Subcommittee on Housing.

Mr. President, Senator HEINZ and I are looking forward to working with our colleagues on the Housing Subcommittee toward the enactment of this extremely important bill.

Mr. President, I ask unanimous consent that statements by Senators HEINZ, PRYOR, and GRAHAM as well as a copy of the bill and a section-by-section summary be printed in the RECORD at the conclusion of my remarks. Thank you. I yield the floor.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Homeownership Assistance Act of 1989".

(b) FINDINGS.—The Congress finds that—

(1) since 1980, the rate of homeownership in America has declined, after rising steadily for 35 years, and the greatest decline has been among young Americans, 25 to 34 years old;

(2) homeownership among 25- to 29-year-olds has dropped from a peak of 44 percent in 1979 to 36.9 percent in the third quarter of 1987, while homeownership has dipped from 62.4 percent (in 1976) to 54.5 percent for 30- to 34-year olds;

(3) homeownership has long been considered the bedrock of American society and is credited with building stable neighborhoods, providing a better environment to raise children, as well as being the primary means for most people to accumulate wealth;

(4) the declining rate of homeownership among young adults could portend serious socioeconomic problems for the United States in the years ahead;

(5) there is increasing evidence that the greatest obstacle facing young potential homebuyers is not meeting monthly payments, but accumulating the necessary downpayment, and yet there is currently no effective program to provide downpayment assistance; and

(6) a homeownership program should not draw on limited Federal revenues, but rather should utilize the existing proven Federal housing-credit infrastructure thereby maximizing efficiencies, and preserving Federal funds for the needs of low-income renters and the homeless.

SEC. 2. INSURANCE FOR FIRST-TIME HOMEBUYERS.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new paragraph:

"In addition, the Secretary is authorized to insure a mortgage which involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount equal to 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance (subject to the applicable maximum dollar amount limitation), if the mortgagor is a first-time homebuyer (as that term is defined in sec-

tion 2(a)), the mortgagor receives financial counseling, as defined by the Secretary, and if the property to be acquired with a mortgage insured under this section is a principal residence for such first-time homebuyer.".

SEC. 3. REDUCTION OF DOWNPAYMENT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "$25,000" the first and second place it appears and inserting "$50,000".

SEC. 4. HIGH COST AREAS.

Section 203(b)(2) of the National Housing Act is amended by striking "the lesser of (A) 150 per centum of the dollar amount so specified, or (B)".

SEC. 5. ADJUSTABLE RATE MORTGAGES.

Section 251 of the National Housing Act (12 U.S.C. 1715z-16) is amended—

(1) by striking "1 percent" and inserting "2 percent" in subsection (a)(2), and

(2) by striking subsection (c).

SEC. 6. DEFINITION OF FIRST-TIME HOMEBUYERS.

Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking "and" at the end of paragraph (2),

(2) by striking the period at the end of paragraph (3) and inserting a semicolon and "and", and

(3) by adding at the end the following new paragraph:

"(4) the term 'first-time homebuyer' means an individual who or whose spouse has had no present ownership in a principal residence during the 18-month period ending on the date of purchase of the principal residence.".

SEC. 7. DOWNPAYMENT MORTGAGES.

(a) DOWNPAYMENTS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended by inserting after the first paragraph the following new paragraph:

"In addition, the Secretary is authorized, upon such terms and conditions as he may prescribe and without regard to any other provision of this section, to insure, on a demonstration basis, loans made for the purpose of financing the downpayment of a principal residence (including a manufactured home) of a first-time homebuyer where the purchase is financed or assisted by tax-exempt financing or another government program for first-time homebuyers, and the mortgagor receives financial counseling, as defined by the Secretary.".

(b) LIMITATION ON AMOUNT OF DOWNPAYMENT LOANS.—Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (F),

(2) by striking the period at the end of subparagraph (G), and inserting a semicolon and "and", and

(3) by adding at the end the following new subparagraph:

"(H) $7,500 if made for the purpose of financing the downpayment on a principal residence.".

(c) TERM TO MATURITY.—Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon and "and", and

(3) by adding at the end the following new subparagraph:

"(I) ten years and thirty-two days if made for the purpose of financing the downpayment of a principal residence of a first-time homebuyer.".

SEC. 8. SECONDARY MARKET FOR DOWNPAYMENT MORTGAGE LOANS.

Section 302(b)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(1)) is amended by inserting before the penultimate sentence the following new sentence: "In addition, the Association may purchase a loan insured under section 2 of the National Housing Act with respect to a downpayment for a first-time homebuyer if the principal obligation thereof does not exceed the limitations applicable under section 2(b)(1)(H) of such Act.".

SEC. 9. ACCUMULATING DOWNPAYMENT MORTGAGE.

(a) IN GENERAL.—Section 203 of the National Housing Act is amended by adding at the end the following:

"(s) The Secretary may insure under this subsection, on a demonstration basis, a mortgage which meets the requirements of subsection (b), except that—

"(1) the mortgage obligation may be 100 per centum of the sum of appraised value (or purchase price, if less) of the property, and the mortgagor's closing costs (as defined by the Secretary);

"(2) the difference between the amount of the mortgage determined under paragraph (1) and the amount which would be determined under subsection (b) shall be fully amortized and repaid (with interest) during the 3-year period following execution of the mortgage, and such repayment shall be in addition to the payment required under section 203(b)(3); and

"(3) the mortgagor shall be a first-time homebuyer within the meaning of section 2(a)(4) and shall receive financial counseling.".

SEC. 10. ADMINISTRATIVE OFFSET DEBT COLLECTION WITH RESPECT TO DOWNPAYMENT MORTGAGES FOR FIRST-TIME HOMEBUYERS.

Section 2653(c) of the Deficit Reduction Act of 1984 (26 U.S.C. 6402 note) is amended by adding at the end the following new sentence: "The January 10, 1994 date shall not apply with respect to past due amounts relating to loans made or insured for the purpose of financing downpayments of first-time homebuyers under section 2 or section 203(s) of the National Housing Act.".

SEC. 11. MANUFACTURED HOUSING.

The Secretary may, by regulation, extend the programs authorized by this Act with respect to section 203 of the National Housing Act to loans, advances of credit, or purchases of obligations representing loans and advances of credit, eligible for insurance under title I of the National Housing Act, for the purpose of financing the purchase of a manufactured home used by the owner as a principal residence or a lot on which to place such home.

SEC. 12. REPORT AND EVALUATION BY SECRETARY.

Not later than one year after the date of enactment of this Act and annually thereafter, the Secretary of Housing and Urban Development shall submit to Congress an evaluation of the programs authorized by the amendments made by this Act. Such evaluation shall include—

(1) a profile of the first-time homebuyers for whom financing has been provided under the amendments made by this Act, including the income level of such homebuyers, the price of homes, and the regional distribution,

(2) a description of the programs, including any special problems encountered, and

(3) any recommendations the Secretary may deem appropriate regarding continuation or modification of the programs authorized by this Act.

THE HOMEOWNERSHIP ASSISTANCE ACT OF 1988

I—LOWER DOWNPAYMENT FINANCING

1. The FHA would be authorized to create a new mortgage insurance program specifically for first-time homebuyers. Under the new program, mortgages could be insured with loan to value ratios of up to 97% (3.0% down). Assuming an $80,000 house, this is a 30% drop in the downpayment required.

2. In general, FHA would be permitted to insure loans of up to 97% of the first $50,000 of a home's value and 95% of the value in excess of $50,000, versus 97% for the first $25,000 of loan amount, and 95% for the balance, under existing law. Assuming an $80,000 house, this is a 15% drop in the downpayment required.

II—AMENDMENTS TO EXISTING FHA PROGRAMS

1. Adjustable Rate Mortgage (ARMs):

a. FHA would be authorized to insure ARMs under which interest rates may rise 2 percentage points a year, provided that over the life of a loan, the total increase may not exceed 5 percentage points. Under existing law, FHA can only insure ARMs whose rates rise no more than 1 percentage point per year. Under current market conditions, a 2 percent ARM could achieve an initial interest rate of 1 percentage or more below the 1 percent ARM, and three percentage points below a standard fixed rate mortgage. Thus, a 2 percent ARM would be of great assistance to homebuyers in decreasing mortgage costs in the early years of the mortgage, and in enabling buyers to qualify for the loan.

b. The statutory limit on the aggregate number of ARM loans that FHA may insure in a year would be eliminated. This would give FHA purchasers the same freedom in selecting mortgage forms as conventional home buyers.

2. Elimination of the Mortgage Limit Cap in High Cost Areas: The present law mortgage limit cap for high cost areas would be eliminated. In 57 metropolitan areas in 15 states, the FHA program has been rendered largely or partially inoperable because of the mortgage limit cap. Under the legislation, FHA mortgage limits would be established at 95% of the median home sales price in the country or the local MSA whichever is higher.

III—DEMONSTRATION PROGRAMS

FHA would be authorized to begin two innovative downpayment financing programs on a demonstration basis under the Section 203(b) program.

1. Accumulating Downpayment Mortgages: FHA would be authorized to insure a loan for a qualified first-time homebuyer to finance the entire purchase price and closing costs on a home. However, the standard FHA downpayment would still be required and would be repaid within three years with interest by requiring an additional payment along with the regular monthly mortgage payment over the three year period. Thus, under the program a homebuyer would have equity in his home within a relatively short period of time. Moreover, the mortgage would be underwritten, and the buyer qualified, at a higher initial combined monthly payment level, thereby reducing risk.

2. Downpayment Second Mortgages: To assist lower income first-time homebuyers receiving tax-exempt or other governmental

financing (such as under the Housing Opportunity Program recommended by the National Housing Task Force), FHA would be permitted to insure second mortgages to finance part or all of downpayments, and the Government National Mortgage Association (GNMA) would be given authority to create a secondary market for both FHA and privately-insured second (downpayment) mortgages. In no case could the second mortgage be in excess of $7,500. It would amortize quickly over either a 5 or 10 year period thereby reducing risk.

Under both demonstration programs, there will be a requirement that homebuyers participate in financial counseling and the IRS will be empowered to confiscate tax refunds of homebuyers that are in default, further reducing risk.

IV. MANUFACTURED HOUSING

Recognizing that manufactured homes offer a relatively low cost yet safe and sound housing alternative for young, potential homebuyers, the bill contains a provision permitting the Secretary of Housing and Urban Development, by regulation, to accord the same treatment to manufactured homebuyers under the FHA Title I Manufactured Home Loan Program as would be provided under the Section 203(b) as a result of the amendments contained in this bill.●

Mr. GRAHAM. Mr. President, I rise in support of the Homeownership Assistance Act, and praise my distinguished colleagues, Senators SASSER and HEINZ, who have brought this important legislation to assist first-time homeowners before us.

The shortage of affordable housing in Florida is a rapidly growing problem. In fact, if we do not take immediate action to solve this many-sided issue, we will soon be in a crisis situation. At a rate four times that of the Nation as a whole, population growth in Florida has a serious impact on housing, affecting both availability and affordability.

As rents continue to rise, moderate income first-time homebuyers find it increasingly difficult to save for the downpayment that enables the jump from tenant to homeowner. Studies by the Florida Housing Finance Agency and the Florida Affordable Housing Commission have shown that it is not the monthly mortgage payments that keep first-time buyers out of the market—it is the additional cash requirements involved in buying a house, the down payment, insurance premium, and other closing costs. Additionally, although interest rates have declined, the benefits of these lower rates are mitigated by stricter underwriting standards and rising costs of private mortgage insurance.

The Florida Affordable Housing Commission also found that housing costs have risen at a higher rate than real income. Their final report, published in December 1987 found that:

In effect, five years ago a typical first-time homebuyer with an annual income of $20,000 could afford a $44,000 mortgage (13 percent mortgage rate.) Using today's insurance underwriting guidelines, and a 10 percent mortgage rate, that same family could still only afford a $44,000 mortgage, with a likely downpayment of 10 percent, as opposed to a 5 percent downpayment.

In Florida, as well as other high-growth States, we also see other significant cost factors contributing to rising housing costs. Factors such as the rising costs of land, construction and financing, the sharp drop in Federal funding for rental housing, and added land use restrictions coupled with phenomenal growth all combine to provide substantial financial discouragement to the first-time homebuyer. The thwarted homebuyer ends up staying in a rental unit, thus precluding the turn over of that rental unit to another Floridian seeking housing, and we see the affordable housing shortage exacerbated further yet.

I think this bill represents an important first step in addressing these problems. Through making the Federal Housing Administration programs more accessible and usable to the first-time homebuyer, particularly in addressing the down payment issues we will help remove the major obstacles for first-time buyers in Florida. This initiative is consistent with the recommendations from the Rouse-Maxwell task force outlined in the final report, "A Decent Place to Live," and with other recommendations from the final report of the Florida Affordable Commission. For Florida, and the Nation, affordable housing is not a luxury, it is essential to the health of an expanding economy, the cycle of the housing market and to the dream of homeownership for millions of Americans.

I look forward to working with my Senate colleagues in this important endeavor.

Mr. HEINZ. Mr. President, owning a home is part of the American dream. But for too many families, the dream has been deferred. They cannot afford even the foundation, let alone the house.

The National Housing Task Force's report has reminded us that we have a housing crisis in this country.

Today, I join Senator SASSER and others in introducing legislation that takes the first step in addressing that crisis. Our bill will make it easier for moderate-income Americans to buy a home. Because after increasing steadily since the Second World War, the percentage of Americans owning their own home has declined since 1980.

Hardest hit by this trend have been young, moderate-income families. For those in the 25 to 29 age range, the rate of homeownership has dropped 16 percent since 1979. For families with children, the rate has dropped more than 9 percent since 1980.

These are our Nation's first time homebuyers—between the ages of 25 and 29, families with children. To reverse the precipitous decline, the Sasser-Heinz bill aims directly at and helps large numbers of first-time homebuyers.

If you're a first-time homebuyer, chances are you will have to borrow with FHA insurance. Although the FHA insures only one-seventh of all mortgages issued each year, it insures 44 percent of mortgages taken out by first-time homebuyers. It is the insurance of first resort for first-time homebuyers.

The Sasser-Heinz bill does two important things for first-time homebuyers. First, it will reduce the required downpayment.

Why do Senator SASSER and I believe this is so important? The median income for a family of four in this country is $27,000, before taxes. Taxes take a very large chunk of that sum. If both parents are working, in addition to their food costs, utility bills, and other living expenses, they will need to pay for child care. Families with two children pay an average of $6,000 a year for child care. And in an increasing number of young families, both parents work. After they pay all those bills, let alone set aside anything for retirement or for their children's college educations, there is virtually nothing left to put aside for the downpayment on their first home.

So it is little wonder that young families with children are simply finding it impossible—unaffordable—to buy their own homes. Here is an example from my home State of Pennsylvania, where the average price of a house is $88,000: A Pennsylvania family buys their first home at the average price of $88,000. With an FHA-insured loan under the Sasser-Heinz bill, they will have to put down one-third less than they do today—that is $1,260 less, the difference between $3,900 and $2,640. And for a moderate-income family with children, that pays for child care plus all those other expenses, that savings can mean the difference between buying their first home and staying on the rent treadmill.

Second, the bill will also remove the 30-percent limit on the number of adjustable rate mortgages the FHA is permitted to insure. ARMs have proven to be an effective tool in lowering debt service costs that raise monthly payments for homebuyers. In 1988, 58 percent of all mortgages issued by conventional lenders were ARMs—almost double the percentage the FHA currently is allowed to insure.

The legislation will encourage homeownership at no cost to the Federal Government, as FHA premiums generate far more revenue for the U.S. Treasury than the fund incurs expenses.

The bill not only makes adjustments in the existing FHA program, but in

developing two demonstration projects, prepares the way for the future. If we just make improvements for this year or next year, that will help. But we need to recognize that the cost of housing remains a tremendous stumbling block for our first time homeowners, and we need to look for and find better ways to address that in the future as well.

I urge my colleagues to support our legislation, which will help bring the costs of owning a home within reach of those families who need it most, young, moderate-income working families, so that they, too, can enjoy the American dream.

Mr. PRYOR. Mr. President, since 1980, there has been a 20-percent decrease in home ownership among persons between 25 and 34 years of age. Many young potential first-time home buyers can afford a mortgage, and indeed may be paying monthly rent at a level similar to a mortgage payment, but cannot put together the necessary down payment.

Home ownership is a part of the American dream, and I believe strongly that this dream should be within the reach of every American. In keeping with this belief, I am pleased to be an original cosponsor of the Homeownership Assistance Act, a bill that amends the National Housing Act to create a special mortgage insurance program for first-time home buyers.

The bill would empower the Federal Housing Authority to insure home mortgages with downpayments significantly below what is now required by law. The FHA's ability to insure adjustable rate mortgages would also be expanded so that first-time home buyers could enjoy lower monthly payments in the first years of the mortgage. Other provisions would set up demonstration programs and help low income home buyers and home buyers in high cost areas.

Mr. President, the housing problem in this country has many facets, and I intend to be actively involved in all housing issues including the need for low income housing and shelter for the homeless. But we are quickly becoming a Nation of renters, and I believe that this is also a serious housing problem. I feel strongly that the Homeownership Assistance Act addresses the problem in a practical manner, and I am pleased to be associated with it.

By Mr. HATCH:

S. 198. A bill to amend title 17, United States Code, the Copyright Act to protect certain computer programs; to the Committee on the Judiciary.

COMPUTER SOFTWARE RENTAL AMENDMENTS ACT OF 1989

● Mr. HATCH. Mr. President, I rise today to introduce the Computer Software Rental Amendment Act of 1989.

A copyright has been defined as "a legal monopoly, of limited scope and duration, under whose terms authors are permitted to control the exploitation of their creations." Under the Constitution, Congress is empowered to create this monopoly and to set the parameters of its exlcusivity. In determining where the proper limitations should be drawn Congress must carefully weigh the copyright owner's rights against the progress of science and the useful arts.

In the past, Congress has created general, and in some cases specific, limitations on exclusivity which promote a balance between these policy interests. In fact, the operation of these limitations on exclusivity has, in some part, contributed to the rise in U.S. technology.

As that technology changes, and as society changes, there is a need to maintain flexibility in our copyright laws. I believe this flexibility is essential to ensure a constant balance between an author's exclusive rights and the constitutional interest in promoting societal needs. This bill is necessary to restore that balance.

In 1984, it became apparent that the nearly universal access to the technology necessary to produce cheap, high-quality copies of phonorecords was threatening to spawn a new business of renting sound recordings for the primary purpose of copying original works without compensation to the copyright owner. Congress responded to this threat to the copyright law by enacting the Record Rental Amendments of 1984.

Because Congress acted before the rental of records became a widespread business practice, the U.S. record industry was able to continue in its position of world leadership. The industry reinvested substantial sums in a new generation of sound recordings—compact discs—without fear of losing the market to unauthorized copying. The interests of the creative community, the American public, and the U.S. economy all were advanced by Congress' decision to act before reliance on the previous inadequate law produced an economic dislocation which would have been very difficult to eliminate. At the end of the 100th Congress, we extended for another 8 years this proscription against phonorecord rentals for profitmaking purposes.

The computer software industry, a dynamic and blossoming source of growth for our Nation's economy, was only in its infancy when the record rental amendments were being considered by Congress in 1984. Yet today, only 5 years later, this industry is confronted by a nearly identical situation. Rarely does history repeat itself so quickly.

The rationale underlying the 1984 Record Rental Amendments was that the primary purpose of rental of sound recordings would be to displace sales of authorized copies of copyrighted works. This rationale applies with equal force to the computer software business and the threat of software rental.

In the recording industry, a typical compact disc sells for $16.95 and costs hundreds of thousands of dollars in developmental costs to bring to the marketplace. A typical mass market computer software package costs several hundred dollars at retail and requires millions of dollars to develop. The potential for lost sales and the subsequent collapse of software companies if their products can be rented and copied at a mere fraction of retail cost is a serious problem that must be addressed. This practice, if it is allowed to continue, will be devastating, and one of the brightest stars of the modern U.S. economy will be extinguished in its infancy.

As in the case of sound recordings, the overwhelming rationale for renting a computer program is to make an unauthorized copy. Computer software cannot be enjoyed for an evening's entertainment and then returned. To have meaning to a user, the software packages require mastery of complex user manuals, often running hundreds of pages in length. Even after a user has mastered the use of a program, it has little value until he or she adds his or her own data base to the program. The functions of learning how to use a program and utilizing it in connection with one's own data base cannot be accomplished in the few hours or days available under a rental arrangement without copying the program and displacing a legitimate sale of the program.

For example, in his statement before the Patents, Copyrights and Trademarks Subcommittee, last August, Dr. Alan C. Ashton, president of the WordPerfect Crop., reported that one WordPerfect program, which retails at $495, has been available through a rental outlet for only $35. The most obvious rationale for such a practice is to facilitate the unauthorized copying of this program.

Of course, there may be situations in which the owner of copyrighted software may wish to authorize a vendor to make the software available to a potential purchaser in order that the product might be examined prior to making a purchasing decision. Nothing in this legislation prohibits such arrangements. In fact, nothing in the legislation prevents any copyright owner from waiving any or all of the exclusive rights granted under this legislation. Thus, as is currently the case with the exclusive rights granted in section 106 of the Copyright Act, nothing prevents a creator form dedi-

cating his or her work to public domain at any time.

Just as in the case of the record industry in 1984, there is now in existence the embryo of a business of rental of software for the purpose of copying. Unless Congress acts quickly, the embryonic rental industry could soon grow out of control, becoming a cancer which would kill off the legitimate software development industry by which it was created. This is particularly true in view of the fact that technological methods of limiting unauthorized copying, commonly called copy protection, are proving impractical in an industry in which there is often a need for legitimate use of backup copies by purchasers of authorized copies of computer programs.

The potential loss to the U.S. economy should rental of software become widespread can be seen clearly when one looks to the losses suffered by U.S. software developers by virtue of their inability to restrict commercial copying of their products in many foreign markets. The Office of the U.S. Trade Representative has estimated losses to U.S. software developers due to inadequate copyright protection to be approximately $4.1 billion a year.

The bill which I am introducing today provides software protection by amending section 109(b) of title 17 of the United States Code, the Copyright Act. Paragraphs 1 and 3 of that section are amended to include the owners of copyright in a computer program. Thus, unless authorized by the copyright owner, no person in possession of a particular copy of a computer program may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that computer program by rental, lease, or lending, or by any other act or practice in the nature of a rental, lease, or lending. Any person who so distributes a copy of a computer program in violation of this restriction is subject to the remedies provided in the Copyright Act. For purposes of the act, computer program is defined to include any tape, disk, or other medium embodying such a program.

I would also note for my colleagues that this bill differs from the version I introduced last year in only one respect. This version does not include licensees as those who may authorize the rental of a program for commercial advantage. This change, made at the request of several colleagues and analysts in the industry, has been made to avoid the confusion that might result if a rental store owner were deemed to be a licensee, thereby voiding the purpose of the bill. Other than that change, the bill remains the same.

Mr. President, in 1984, and again in 1988, Congress determined that the sound recording industry was deserving of the protections that were provided in the 1984 act. The threat of unlimited rental of computer software poses just as grave a threat to the computer software industry today. I would urge my colleagues to carefully consider this measure and support this bill. I ask unanimous consent that the text of the bill be placed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Computer Software Rental Admendments Act of 1989".

SEC. 2. Section 109(b) of title 17, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution."; and

(2) amending paragraph (3) to read as follows:

"(3) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".●

By Mr. RIEGLE (for himself and Mr. CRANSTON):

S. 200. A bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY DISABILITY BENEFICIARY REHABILITATION ACT

Mr. RIEGLE. Mr. President, today I am again reintroducing legislation—first introduced in the 98th Congress and again in the 99th Congress and 100th Congress to reform the Social Security Disability Insurance [SSDI] Program. This legislation is almost identical to S. 1721 which I introduced on October 1, 1985, together with my colleague from California [Mr. CRANSTON]. That legislation was an improved version of S. 2369, which I introduced on February 29, 1984, during the 98th Congress. Unfortunately, S. 1721 did not receive any action during the 99th Congress.

During a period extending over a year and a half, my staff and I worked with representatives from a coalition of national organizations representing disabled persons in an effort to improve the first version of this legislation. Working closely with members of my staff, and after months of meetings and review, this coalition has played a vital part in helping to design significant and needed improvement in the SSDI Program. The groups that were part of this coalition that helped design and endorse this approach are as follows:

American Psychological Association.
American Rehabilitation Counseling Association.
American Association for Counseling and Development.
American Mental Health Counselors Association.
Association for Retarded Citizens—U.S.
Epilepsy Foundation of America.
International Association of Psychosocial Rehabilitation Services.
National Alliance for the Mentally Ill.
National Association of Private Residential Facilities for the Mentally Retarded.
National Association of Social Workers.
National Association of State Mental Retardation Program Directors.
National Association of Rehabilitation Facilities.
National Council of Community Mental Health Centers.
National Easter Seal Society.
National Mental Health Association.
National Rehabilitation Counseling Association.
United Cerebral Palsy Association, Inc.

The legislation we are introducing today is designed to improve the Social Security Disability Insurance determination process in a way that better meets the needs of disabled persons while saving Federal dollars. Rarely do we have the opportunity to improve the working of a Federal program, better meet the needs of its beneficiaries, and save Federal funds. I believe the legislation we are introducing today accomplishes all of those objectives.

RETIREMENT VERSUS DISABILITY

The origins of the Social Security Disability Program demonstrate that the program was not designed to meet the unique needs of disabled persons. The legislative history shows that the first benefits for disabled persons—enacted in 1954 in Public Law 761, 83d Congress—were not disability benefits.

Rather, provisions were enacted to protect retirement benefits for totally disabled persons who were forced to leave the work force prematurely. This was the so-called disability freeze provision.

To overcome the opposition to creating a new program specifically for disabled persons, the proponents of disability insurance initially presented their proposal as a modification of the retirement program in the form of a reduction in the retirement age of disabled persons. In fact, the first cash benefits for disabled persons—enacted in 1955 in Public Law 880, 84th Congress—was part of a package to reduce the age that individuals become eligible for retirement benefits; disabled persons at age 50 and women at age 62.

In 1960—enacted as Public Law 83-778—the age limitation for cash disability benefits was eliminated. Nevertheless, the underlying basis of the program, that is, a cash benefit program providing for the early retirement of disabled persons, has never been modified. Although over the years amendments were added to the Social Security Act attempting to reorient the early retirement basis of the SSDI Program, the underlying philosophical basis remains unchanged.

CURRENT SITUATION

Mr. President, it is unfortunate that the SSDI Program is seen by many as an early retirement program for people too disabled to continue working. In June 1980, Congress enacted Public Law 96-265 which included a provision, section 221(i), requiring the ongoing review of disability beneficiaries, the CDI's. In part, many of the difficulties that resulted from the CDI's stem from the incompatibility of an ongoing review and the underlying early retirement orientation of the SSDI Program.

Mr. President, because the modern SSDI Program has evolved from an early retirement program for disabled workers, the concept and application of the CDI's is incompatible with the underlying originating principles of the program. Most individuals perceive retirement as a permanent condition not subject to external review. Before the statutory enactment of the CDI's Social Security reviewed only those disabled beneficiaries to whom they told upon initial allowance that a reexamination would be scheduled. Those were mostly individuals who had conditions that were likely to improve.

For the vast majority of beneficiaries, a review of their disability status was not envisioned. Before enactment of the CDI provisions, beneficiaries not scheduled or diaried for review were treated in the same manner as retired beneficiaries. The only procedural check utilized to determine the continued eligibility for benefits was the voluntary self-reporting on the part of the beneficiaries. Again, for the nondiaried SSDI beneficiaries, both within the mind of the beneficiary and within the minds of the administrators of the program, entitlement was seen as lasting until death or until the beneficiary voluntarily reported a change in his or her condition, such as returning to work.

Mr. President, the political pressures that necessitated the early retirement orientation of the SSDI Program have passed, and I believe it is time to reshape the program to provide benefits for disabled persons, as opposed to early retirees. This objective can be most easily accomplished by modifying the underlying orientation away from early retirement toward benefits and services for disabled persons. This can be done largely by modifying the determination process and without expanding the universe of individuals eligible for cash benefits.

In addition, a program truly geared to the needs of disabled persons, providing them with rehabilitation services—in addition to cash benefits—will result in many disabled beneficiaries leaving the disability rolls. The result should be the savings of significant funds while directly meeting the needs of disabled persons.

A reoriented program should be designed along similar lines for disabled recipients of SSI benefits, and the bill I am introducing today accomplishes both of these objectives.

PROVISIONS OF S. 200

Mr. President, as I have mentioned, the objective of this legislation is to redirect the SSDI Program away from the retirement model and toward a program specifically designed to meet the needs of disabled workers. In doing this, we will more adequately address the needs of newly disabled Americans and reduce cash outlays, thereby helping to secure the financial integrity of the Disability Insurance Trust Fund.

The bill I am proposing does not entail a radical reworking of the existing program because Congress has in fact been moving in this direction through piecemeal reforms over the last three decades. I am simply proposing to integrate many of the previous reforms—which were just tacked on to existing procedures—into a unified system by altering the methods used for evaluating eligibility for benefits.

Under the current system, an individual applying for disability benefits is only evaluated from the narrow perspective of establishing the existence of a medical disability. An applicant has an incentive to heighten the severity of the disabling conditions while the administrators have an incentive to minimize existing maladies. Under current practice, a very complex determination is made with regard to the severity and duration of the disabling condition, and then a decision is made regarding whether a benefit is either awarded or denied. At no point in the process is the Social Security Administration providing—nor is it expected to provide—assistance to these disability applicants beyond, of course, the cash benefit for those who are eligible.

Mr. President, the provisions of S. 200 would alter the incentives contained in the current program by integrating a vocational rehabilitation evaluation into the initial and ongoing determination process. Even though such a determination is currently required under section 222 of the Social Security Act, it is ignored in practice. Since the Beneficiary Rehabilitation Program [BRP] was essentially repealed in 1981, the State disability examiners have no incentives for evaluating the rehabilitation potential of SSDI applicants.

Hence, all of the cost savings which the Social Security Administration has determined result from beneficiary rehabilitation are lost under the present evaluation procedures. It was in 1981 that the Social Security Administration found that savings to the Disability Insurance Trust Fund ranged between $1.39 and $2.72 for every $1 spent on vocational rehabilitation services for DI beneficiaries. Social Security Bulletin, February 1981/Vol. 44, No. 2, pp. 1-8.

The legislation I am proposing today does not resurrect the Beneficiary Rehabilitation Program, which was cost effective in spite of the lack of precision the program had in providing rehabilitation funds for beneficiaries most likely to benefit from such services. What I'm proposing in this legislation is to require an initial evaluation of rehabilitation potential along with the medical determination of a disability.

Prospect beneficiaries would be divided into the following groups based upon the extent and duration of their disabling condition:

First, those with long-term or permanent disabilities—that is, those not subject to the mandatory CDI review under 221(i); or

Second, those with disabilities that are anticipated to last more than 12 months, but where it is reasonable to anticipate improvement or change in the disabling condition at some point after the 12-month period—that is, those subject to the mandatory CDI review under 221(i); or

Third, to those individuals under a disability albeit not sufficiently severe nor anticipated to last more than 12 months that is, those individuals who would be denied cash benefits under the law.

This is similar to the procedure used under current law and is basically the method used for determining for cash benefits. However, during the same

period of evaluation for cash benefits, the prospective beneficiary would be assessed for rehabilitation potential, and one of the three following determinations would be made:

First, the prospective beneficiary cannot benefit from rehabilitation services; or

Second, rehabilitation services would be of benefit to the prospective beneficiary, albeit it is extremely unlikely to result in an effort to return to work and eventually in the cessation of cash disability benefits; or

Third, there is the possibility that rehabilitation services will result in an effort to return to work and thereby in the eventual cessation of cash benefits.

Mr. President, under S. 200 all individuals would be required to go through both the disability determination and rehabilitation evaluation before they would be notified of the results of either exam. The universe of individuals who would be eligible for cash benefits would include only those individuals who would be eligible under current law.

The major difference with the current program is that for the first time there would be a workable requirement that applicants be evaluated for rehabilitation potential and, where appropriate, referred to rehabilitation provides. Those for whom it was determined that rehabilitation would provide some benefit but not lead to an attempt to return to work would be directed to the State agency or Rehabilitation Services.

For those individuals the State would provide—as required under current law—services with funds available through the State Grant Program—the section 101 program of the Rehabilitation Act. For those individuals where there is a possibility that rehabilitation services will result in successful return to work effort and therefore in the eventual cessation of benefits, Social Security will refer that individual to a rehabilitation provider, whether public or private, who can best meet the rehabilitation needs of the SSDI beneficiary.

Because a judgment has been made that these individuals have the best chance of returning to work and dropping off of the disability rolls, the cost of rehabilitating these individuals would be financed out of the Social Security Disability Trust Fund. Under this program and with the careful selection of rehabiliation candidates—as previous experience has demonstrated—the trust funds should experience a net surplus of dollars.

Mr. President, it is important to note that the scope of rehabilitation services envisioned under this legislation follows section 103 of the Rehabilitation Act, and is extremely broad. Therefore, this legislation envisions Social Security providing a wide range of rehabilitation services for individuals where the possibility of a return to work effort exists. For example, section 103(a)(4) of the Rehabilitation Act includes within the scope of rehabilitation services, among other items:

Physical and mental restorative services, including, but not limited to, (A) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitues a substantial handicap to employment * * *.

Therefore, it would be possible, under this bill, for the Social Security Administration to provide certain health services not ordinarily provided for under the Medicare or Medicaid Programs, assuming that such services would result in the removal of barriers to employment.

All of the cash beneficiaries in receipt of rehabilitation benefits would be exempt from the current CDI reviews and would be monitored by SSA through rehabilitation reports that all providers of rehabilitation services would be required by statute to provide. These reports would be required at a minimum of once every 3 years for all beneficiaries who were not permanently disabled. The rehabilitation report would include an assessment of the beneficiaries' progress in the rehabilitation program including any improvement that might affect the disability status of the beneficiary, including, but not limit to a return to work effort.

The Social Security Administration would evaluate the rehabilitation report to determine whether a review of the disability status of the beneficiary would be appropriate. All of the beneficiaries not in a rehabilitation program are reviewed within the same intervals as under current law and regulations.

In an effort to remain consistent with the SSI Program, and since similar principles apply to SSI disabled recipients, who in many cases are also in need of rehabilitation services, the bill we are introducing today also extends the modifications in the eligibility determination process to the SSI Program.

Mr. President, what I am proposing today represents a significant improvement in the Social Security Disability Program with only relatively minor modifications in the current program. S. 200 takes the final step in completing a series of reforms which Congress initiated soon after the enactment of the original program. With the modifications I am proposing today, we can, for the first time, say we have a national disability program that is designed to address the unique needs of disabled Americans.

Mr. President, I ask unanimous concent that the full text of S. 200 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Disability Beneficiary Rehabilitation Act of 1989".

SEC. 2. (a)(1) Section 221(a)(1) of the Social Security Act is amended—

(A) by striking out "and of" and inserting in lieu thereof ", the disability category that best describes the condition of such individual, and";

(B) by striking out "(A)" each place it appears and inserting in lieu thereof "(i)";

(C) by striking out "(B)" each place it appears and inserting in lieu thereof "(ii)";

(D) by inserting "(A)" after the paragraph designation; and

(E) by adding at the end thereof the following new subparagraphs:

"(B) In making a determination with respect to whether an individual is under a disability (as defined in section 223(d)), the State agency making such determination or the Secretary, as the case may be, shall at the same time determine which of the following disability categories best describes the condition of such individual at the time such determination is made:

"(i) The individual is under a disability (as defined in section 223(d)) that is permanent and can not benefit from vocational rehabilitation services (as described in section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723)) or from comprehensive services for independent living (as described in title VII of such Act (29 U.S.C. 796 et seq.)).

"(ii) The individual is under a disability that is permanent, is unlikely to engage in substantial gainful activity (in the case of an individual making application for benefits under section 202(d) or 223) or any gainful activity (in the case of an individual making application for benefits under subsection (e) or (f) of section 202) in the future, but can benefit from vocational rehabilitation services or comprehensive services for independent living.

"(iii) The individual is under a disability that is permanent, can benefit from vocational rehabilitation services, and, if provided with such services, would possibly engage in substantial gainful activity or any gainful activity, as the case may be, as the result of having been provided with such services.

"(iv) The individual is under a disability that is not permanent and can not benefit from vocational rehabilitation services.

"(v) The individual is under a disability that is not permanent, is unlikely to engage in substantial gainful activity or any gainful activity, as the case may be, in the future, but can benefit from vocational rehabilitation services or comprehensive services for independent living.

"(vi) The individual is under a disability that is not permanent, can benefit from vocational rehabilitation services, and, if provided with such services, would possibly engage in substantial gainful activity or any gainful activity, as the case may be, as the result of having been provided with such services.

"(vii) The individual is under a medically determinable physical or mental impairment that is not a disability (as defined in section 223(d)), and could possibly benefit from vocational rehabilitation services pro-

vided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(viii) The individual is under a medically determinable physical or mental impairment that is not a disability, and could not benefit from vocational rehabilitation services.

"(ix) The individual is not under a disability or any other medically determinable physical or mental impairment.

Determinations under this subparagraph shall be made in accordance with standards promulgated by the Secretary in consultation with the Commissioner of the Rehabilitation Services Administration of the Department of Education.

"(C) Notice to an individual of a decision by the Secretary with respect to whether an individual is under a disability (as defined in section 223(d)) shall include, in addition to the matters required to be included in the notice of such decision under section 205(b)(1)—

"(i) an explanation, in understandable language, of the reasons why the State agency or the Secretary, as the case may be, has determined that a particular disability category set forth in subparagraph (B) best describes the condition of such individual; and

"(ii) in the case of an individual with respect to whom it is determined that vocational rehabilitation services or comprehensive services for independent living would be beneficial—

"(I) a statement that such individual is eligible for such services;

"(II) a brief explanation of the disability review provisions of subsection (i) and the application of such provisions to such individual; and

"(III) information with respect to how to apply for such services.

"(D) The Secretary shall take such steps as may be necessary to ensure that—

"(i) all determinations required by this paragraph are made in a timely manner, and

"(ii) the payment of benefits to disabled individuals under this title is not delayed by reason of such determinations.".

(2) Section 221(c)(1) of such Act is amended by inserting ", that a different disability category set forth in subsection (a)(1)(B) best describes the condition of such individual," after "(as so defined)".

(3) Section 221(d) of such Act is amended by striking out "subsection (a)," and inserting in lieu thereof "subsection (a) (including a determination of the disability category set forth in subsection (a)(1)(B) that best describes the condition of an individual), or under subsection".

(4) Section 221(g) of such Act is amended by striking out "(a) shall" and inserting in lieu thereof "(a) (including determinations with respect to which of the disability categories set forth in paragraph (1)(B) of such subsection best describes the condition of an individual) shall".

(b) Section 221(i) of such Act is amended—

(1) in paragraph (1)—

(A) by inserting "and such individual is not eligible for or is not (for any reason) receiving vocational rehabilitation services or comprehensive services for independent living provided in accordance with section 222," after "disability,"; and

(B) by striking out all beginning with "years" through "administration of this title." and inserting in lieu thereof "years in the case of an individual determined under subsection (a)(1)(B) to be under a disability that is not permanent, and at least once every 7 years in the case of an individual determined under such subsection to be under a disability that is permanent."; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) In any case in which an individual is or has been determined to be under a disability and such individual is receiving vocational rehabilitation services or comprehensive services for independent living provided in accordance with section 222, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, whenever such agency or the Secretary concludes, on the basis of a report made in accordance with section 222(b)(2) that such a review is warranted.

"(3) Reviews of cases under paragraphs (1) and (2) shall be in addition to, and shall not be considered as a substitute for, any other reviews that are required or provided for under or in the administration of this title.".

(c)(1) Subsections (a) and (b) of section 222(a) of such Act are amended to read as follows:

"REFERRAL FOR SERVICES

"(a)(1) Except in the case of an individual referred to a facility pursuant to paragraph (2), the State agency making determinations of whether an individual is under a disability (as defined in section 223(d)) or the Secretary, as the case may be, shall promptly refer any individual determined to fall within a disability category set forth in clause (ii), (iii), (v), (vi), or (vii) of section 221(a)(1)(B), to (A) the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) for necessary vocational rehabilitation services, or (B) the State unit (if any) designated under section 705 of such Act (29 U.S.C. 796d) to administer a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.) for such services, as may be appropriate.

"(2)(A) If an individual is determined in accordance with paragraph (1) of section 221(a) to be under a disability and to fall within a disability category set forth in clause (iii) or (vi) of subparagraph (B) of such paragraph, the State agency or the Secretary, as the case may be, may refer such individual directly to a facility that has been certified by the Secretary as qualified to be a provider of vocational rehabilitation services and shall make payments directly to such facility for vocational rehabilitation services furnished to such individual.".

"(B)(i) Any individual who—

"(I) is referred under this paragraph to a provider of vocational rehabilitation services, and

"(II) is dissatisfied for any reason with the services of the provider,

may request that the State agency or the Secretary, as the case may be, refer him or her to another provider of such services.

"(ii) The State agency or the Secretary, as the case may be, shall promptly make a determination with respect to such request and notify the individual of the determination. If the request is denied, the notice required by this clause shall contain a statement, in understandable language, of the reason or reasons for the denial of the request.

"(iii) Any individual making a request under this subparagraph shall be entitled to a hearing on the determination made under clause (ii) with respect to the request to the same extent as provided in section 205(b) for decisions of the Secretary, and to judicial review of the final decision made after the hearing, as is provided in section 205(g).

"ELIGIBILITY FOR SERVICES; REPORTING BY REHABILITATION FACILITIES, INDEPENDENT LIVING FACILITIES, AND CERTIFIED PROVIDERS

"(b)(1) An individual determined in accordance with paragraph (1) of section 221(a) to be under a disability or other medically determinable physical or mental impairment and to fall within a disability category set forth in clause (iii), (vi), or (vii) of subparagraph (B) of such paragraph (other than an individual referred to (and receiving vocational rehabilitation services from) a provider in accordance with the provisions of paragraph (2) of subsection (a) of this section) shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(2) An individual determined in accordance with paragraph (1) of section 221(a) to be under a disability and to fall within a disability category described in clause (ii) or (v) of subparagraph (B) of such paragraph shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or comprehensive services for independent living provided under title VII of such Act (29 U.S.C. 796 et seq.).

"(3)(A) A facility that—

"(i) is a rehabilitation facility and provides vocational rehabilitation services to an individual described in paragraph (1) or (2) of this subsection (other than an individual determined in accordance with paragraph (1) of section 221(a) to fall within the disability category set forth in subparagraph (B) (vii) of such paragraph) under a State plan approved under title I of the Rehabilitation Act of 1973, or

"(ii) provides comprehensive services for independent living to an individual described in paragraph (2) of this subsection under a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.),

shall report promptly to the agency of such State that determines whether an individual is under a disability (as defined in section 223(d)) or the Secretary, as the case may be—

"(I) the termination of the provision of such services to such individual (and the reason or reasons for such termination); and

"(II) any significant change in the impairment of such individual and any change in the employment status of such individual that might warrant a review with respect to the disability of such individual in accordance with section 221(i).

"(B) A rehabilitation facility that provides vocational rehabilitation services under a plan approved under title I of the Rehabilitation Act of 1973 to an individual determined in accordance with paragraph (1) of section 221(a) to be under a disability and to fall within the disability category set forth in clause (v) or (vi) of subparagraph (B) of such paragraph shall, in addition to submitting any reports required under subparagraph (A) with respect to such individual, submit a report once every 3 years that evaluates—

"(i) the progress of such individual toward the achievement of the goals established with respect to such individual and included in the individualized written plan of vocational rehabilitation developed for such individual pursuant to paragraph (1) of subsection (e);

"(ii) the likelihood that such individual will engage in substantial gainful activity or any gainful activity, as the case may be, in the future as the result of such services; and

"(iii) any other matters that are relevant to determination or redetermination of the disability status of such individual.

"(C) Failure by a facility described in subparagraph (A) (i) or (ii) to report a change in the condition of an individual described in paragraph (1) or (2) (other than an individual determined to fall within the disability category set forth in clause (vii) of section 221(a)(1)(B)), that such facility knows or has reason to know would result in a determination that such individual is no longer under a disability, shall be a misdemeanor and, upon conviction thereof, shall be punishable by a fine of up to $10,000.

"(D) Any provision of this paragraph that is applicable to a rehabilitation facility shall also apply to a provider of vocational rehabilitation services to which individuals are referred in accordance with paragraph (2) of subsection (a).".

(2) Section 222 of such Act is further amended by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"COSTS OF SERVICES FROM TRUST FUNDS

"(d)(1) For purposes of making vocational rehabilitation services and comprehensive services for independent living more readily available to disabled individuals who are—

"(A) entitled to disability insurance benefits under section 223,

"(B) entitled to child's insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

"(C) entitled to widow's insurance benefits under section 202(e) prior to attaining age 60, or

"(D) entitled to widower's insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals, the Managing Trustee shall transfer funds from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in the manner prescribed in paragraphs (2) and (3).

"(2) The Managing Trustee shall, from time to time during each fiscal year, transfer from the Trust Funds such sums as may be necessary to enable the Secretary to make payments to State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) and to facilities certified under subsection (a)(2) as providers of vocational rehabilitation services for the reasonable and necessary costs of furnishing vocational rehabilitation services to individuals determined to be under a disability in accordance with paragraph (1) of section 221(a) and to fall within a disability category set forth in clause (iii) or (vi) of subparagraph (B) of such paragraph (including services during the waiting periods of such individuals). Payments made under this paragraph shall be made in advance and shall be subject to adjustment on account of underpayments and overpayments.

"(3) The Managing Trustee shall transfer from such Trust Funds each fiscal year such sums as may be necessary to enable the Secretary to reimburse State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 and State units designated under section 705 of such Act (29 U.S.C. 796d) to administer plans approved under title VII of such Act for the reasonable and necessary costs of furnishing vocational rehabilitation services or comprehensive services for independent living (including services furnished during waiting periods) under such a plan to individuals determined to be under a disability in accordance with paragraph (1) of section 221(a) of this Act, to fall within a disability category described in clause (ii) or (v) of subparagraph (B) of such paragraph, and to have engaged in substantial gainful activity or any gainful activity, as the case may be, for a continuous period of nine months as a result of such services. The determination that such services contributed to the return of an individual to substantial gainful activity, or any gainful activity, as the case may be, and the determination of the costs to be reimbursed under this paragraph, shall be made by the Commissioner of Social Security in accordance with criteria formulated by the Commissioner. Payments made under this paragraph shall be subject to adjustment on account of underpayments and overpayments.

"(4) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during the waiting periods of such individuals), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as the Secretary may deem appropriate—

"(A) the total amount to be transferred for the cost of services under this subsection, and

"(B) subject to the provisions of the preceding sentence, the amount that should be charged to each of the Trust Funds.

"INDIVIDUALIZED WRITTEN PLANS OF VOCATIONAL REHABILITATION; STANDARDS FOR PROVIDERS

"(e)(1)(A) A facility that provides vocational rehabilitation services or comprehensive services for independent living to an individual eligible under this section for such services shall do so in accordance with an individualized written plan of vocational rehabilitation for such individual.

"(B) Notwithstanding section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722), the individualized written plan of vocational rehabilitation required by subparagraph (A) shall be developed, implemented, and reviewed in a manner that is, to the greatest extent practicable and consistent with the provisions of this title, the same as the manner in which plans required by section 1507 of title 38, United States Code, are developed, implemented, and reviewed.

"(2)(A) A facility that provides vocational rehabilitation services or comprehensive services for independent living to an individual eligible under this section for such services shall meet such standards as the Secretary may by regulation prescribe.

"(B) In promulgating regulations under subparagraph (A), the Secretary shall consult with the Commissioner of the Rehabilitation Services Administration of the Department of Education and, to the greatest extent practicable and consistent with the purposes of this section, shall incorporate the standards applicable to facilities and providers of such services under titles I and VII of the Rehabilitation Act of 1973 on the day before the date of the enactment of this subsection.

"DEFINITIONS

"(f)(1) For purposes of this section—

"(A) except as provided in paragraph (2), the term 'rehabilitation facility' shall have the meaning given to such term in section 7(11) of the Rehabilitation Act of 1973 (29 U.S.C. 706(11));

"(B) the term 'vocational rehabilitation services' shall have the meaning given to such term in section 103 of such Act (29 U.S.C. 723); and

"(C) the term 'comprehensive services for independent living' shall have the meaning given to such term in title VII of such Act (29 U.S.C. 796 et seq.).

"(2) Vocational rehabilitation services and comprehensive services for independent living provided pursuant to this section may be limited in type, scope, or amount in accordance with regulations promulgated by the Secretary in order to ensure that such services are consistent with the purposes of subsection (d).".

(d)(1) Section 222(c)(4)(A) of such Act is amended to read as follows:

"(A) the ninth month in which the individual renders services (whether or not such nine months are consecutive) of any fifteen-month period beginning on or after the first day of such period of trial work; or".

(2) Section 222(c) of such Act is amended—

(A) by striking out "(3) and (4)" in paragraph (1) and inserting in lieu thereof "(3), (4), and (6)"; and

(B) by adding at the end thereof the following new paragraph:

"(6) In the case of an individual determined in accordance with paragraph (1) of section 221(a) to be under a disability (as defined in section 223(d)) and to fall within a disability category set forth in clause (iii) or (vi) of subparagraph (B) of such paragraph, subparagraph (A) of paragraph (4) of this subsection shall be applied—

"(A) by substituting 'twelfth' for 'ninth'; and

"(B) by substituting 'twelve' for 'nine'.".

(e) Section 223(d)(4) of such Act is amended by adding at the end thereof the following new sentence: "In determining whether earnings derived from services performed by an individual demonstrate the individual's ability to engage in substantial gainful activity, earnings derived from transitional work, supported work, and services performed in a sheltered workshop shall not be taken into account unless such earnings equal or exceed an amount equal to twice the amount of earnings that (but for this sentence) would result in a determination that such individual is able to engage in substantial gainful activity.".

(f)(1) This section and the amendments made by this section shall become effective on the day that is 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (a) of this section shall apply to any determination made under subsection (a), (b), or (g) of section 221 of the Social Security Act (including a determination made for purposes of a continuing eligibility review required by subsection (i) of such section) on or after the date on which such amendments become effective.

(B) The amendments made by subsections (b), (c), and (d) of this section shall apply to any individual with respect to whom a de-

termination is made under subsection (a), (c), or (g) of section 221 of the Social Security Act on or after the date on which such amendments become effective.

(3)(A) Subsections (c) and (d) of section 222 of the Social Security Act, as in effect on the day before the date on which the amendments made by this section become effective, shall continue to apply to any individual—

(i) who on such day is entitled to benefits under subsection (d), (e), or (f) of section 202 of such Act by reason of disability or to disability insurance benefits under section 223 of such Act, and

(ii) with respect to whom a determination has not been made under subsection (a), (c), or (g) of section 221 of such Act (as amended by subsection (a) of this section) after such day.

(B)(i) Any individual described in subparagraph (A) who desires to have his or her case reviewed in accordance with the procedures established by the amendments made by subsection (a) of this section may request that a determination be made under the applicable subsection of section 221 of the Social Security Act (as so amended).

(ii) The Secretary of Health and Human Services shall take such steps as may be necessary to ensure that (I) any individual described in subparagraph (A) is informed of the right of such individual to request a review under clause (i) and (II) a prompt determination is made with respect to any individual requesting such a review.

(4) The amendments made by subsection (e) shall apply with respect to months beginning on or after the date on which this section becomes effective.

SEC. 3. (a)(1) Section 1614 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In making a determination under paragraph (2) or (3) of subsection (a) with respect to whether an individual is a blind or disabled individual, the State agency making such determination or the Secretary, as the case may be, shall at the same time determine which of the following disability categories best describes the condition of such individual at the time such determination is made:

"(A) The individual is a blind or disabled individual whose impairment is permanent and who can not benefit from vocational rehabilitation services (as described in section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723)) or from comprehensive services for independent living (as described in title VII of such Act (29 U.S.C. 796 et seq.)).

"(B) The individual is a blind or disabled individual whose impairment is permanent, who is unlikely to engage in substantial gainful activity in the future, but who can benefit from vocational rehabilitation services or comprehensive services for independent living.

"(C) The individual is a blind or disabled individual whose impairment is permanent, who can benefit from vocational rehabilitation services, and who, if provided with such services, would possibly engage in substantial gainful activity as the result of having been provided with such services.

"(D) The individual is a blind or disabled individual whose impairment is not permanent and who can not benefit from vocational rehabilitation services.

"(E) The individual is a blind or disabled individual whose impairment is not permanent, who is unlikely to engage in substantial gainful activity in the future as the result of such services, but who can benefit from vocational rehabilitation services or comprehensive services for independent living.

"(F) The individual is a blind or disabled individual whose impairment is not permanent, who can benefit from vocational rehabilitation services, and who, if provided with such services, would possibly engage in substantial gainful activity as the result of having been provided with such services.

"(G) The individual is not a blind or disabled individual but is under a medically determinable physical or mental impairment, and could possibly benefit from vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(H) The individual is under a medically determinable physical or mental impairment, but is not a blind or disabled individual and could not benefit from vocational rehabilitation services.

"(I) The individual is not a blind or disabled individual and is not under any other medically determinable physical or mental impairment.

Determinations under this paragraph shall be made in accordance with standards promulgated by the Secretary in consultation with the Commissioner of the Rehabilitation Services Administration of the Department of Education.

"(2) Notice to an individual of a decision under paragraph (2) or (3) of subsection (a) with respect to whether such individual is a blind or disabled individual shall include, in addition to the matters required to be included in the notice of such decision under section 1631(c)(1)—

"(A) an explanation, in understandable language, of the reasons why the State agency or the Secretary, as the case may be, has determined that a particular disability category set forth in paragraph (1) best describes the condition of such individual; and

"(B) in the case of an individual with respect to whom it is determined that vocational rehabilitation services or comprehensive services for independent living would be beneficial—

"(i) a statement that such individual is eligible for such services; and

"(ii) information with respect to how to apply for such services.

"(3) The Secretary shall take such steps as may be necessary to ensure that—

"(A) all determinations under this subsection and paragraphs (2) and (3) of subsection (a) are made in a timely manner, and

"(B) the payment of benefits to blind and disabled individuals under this title is not delayed by reason of such determinations.".

(2) Section 1631(c)(1) of such Act is amended—

(A) by inserting after the second sentence the following: "Each decision by the Secretary with respect to whether an individual is disabled for purposes of receiving benefits under this title shall also contain a statement, in understandable language, of the reasons the individual has been determined to fall within a particular disability category set forth in section 1614(g)(1)."; and

(B) by striking out "or the amount of such individual's benefits" and inserting in lieu thereof "the amount of such individual's benefits, or the disability category set forth in section 1614(g)(1) that best describes the condition of such individual".

(b) Section 1615 of such Act is amended to read as follows:

"SERVICES FOR BLIND AND DISABLED INDIVIDUALS

"SEC. 1615. (a)(1) Except in the case of an individual referred to a facility pursuant to paragraph (2), the State agency making determinations under paragraphs (2) and (3) of section 1614(a) with respect to whether an individual is a blind or disabled individual or the Secretary, as the case may be, shall promptly refer any individual determined to fall within a disability category set forth in subparagraph (B), (C), (E), (F), or (G) of section 1614(g)(1) to (A) the State agency or agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) for necessary vocational rehabilitation services, or (B) the State unit (if any) designated under section 705 of such Act (29 U.S.C. 796d) to administer a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.) for such services, as may be appropriate.

"(2)(A) If an individual is determined in accordance with paragraph (2) or (3) of subsection (a) of section 1614 to be a blind or disabled individual and to fall within a disability category described in subparagraph (C) or (F) of subsection (g)(1) of such section, the State agency or the Secretary, as the case may be, may refer such individual directly to a facility that has been certified by the Secretary as qualified to be a provider of vocational rehabilitation services and shall make payments directly to such facility for vocational rehabilitation services furnished to such individual.

"(B)(i) Any individual who—

"(I) is referred under this paragraph to a provider of vocational rehabilitation services, and

"(II) is dissatisfied for any reason with the services of the provider,

may request that the State agency or the Secretary, as the case may be, refer him or her to another provider of such services.

"(ii) The State agency or the Secretary, as the case may be, shall promptly make a determination with respect to such request and notify the individual of the determination. If the request is denied, the notice required by this clause shall contain a statement, in understandable language, of the reason or reasons for the denial of the request.

"(iii) Any individual making a request under this subparagraph shall be entitled to a hearing on the determination made under clause (ii) with respect to the request to the same extent as provided in section 205(b) for decisions of the Secretary, and to judicial review of the final decision made after the hearing, as is provided in section 205(g).

"(b)(1) An individual determined in accordance with paragraph (2) or (3) of subsection (a) of section 1614 to be a blind or disabled individual or to have some other medically determinable physical or mental impairment, and to fall within a disability category described in subparagraph (C), (F), or (H) of subsection (g)(1) of such section (other than an individual receiving vocational rehabilitation services in accordance with the provisions of paragraph (2) of subsection (a) of this section) shall be eligible for vocational rehabilitation services provided under title 1 of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

"(2) An individual determined in accordance with paragraph (2) or (3) of subsection (a) of section 1614 to be a blind or disabled individual and to fall within a disability category set forth in subparagraph (B) or (E)

of subsection (g)(1) of such section shall be eligible for vocational rehabilitation services provided under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) or comprehensive services for independent living provided under title VII of such Act (29 U.S.C. 796 et seq.).

"(3)(A) A facility that—

"(i) is a rehabilitation facility and provides vocational rehabilitation services to an individual described in paragraph (1) or (2) of this subsection (other than an individual determined to fall within the disability category described in section 1614(g)(1)(G)), under a State plan approved under title I of the Rehabilitation Act of 1973, or

"(ii) provides comprehensive services for independent living to an individual described in paragraph (2) of this subsection under a State plan approved under title VII of such Act (29 U.S.C. 796 et seq.),

shall report promptly to the agency of such State that determines whether an individual is a blind or disabled individual or to the Secretary, as the case may be—

"(I) the termination of the provision of such services to such individual (and the reason or reasons for such termination); and

"(II) the return to work of such individual.

"(B) Any provision of this paragraph that is applicable to a rehabilitation facility shall also apply to a provider of vocational rehabilitation services to which individuals are referred in accordance with paragraph (2) of subsection (a).

"(c)(1) The Secretary is authorized to make payments to State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) and to facilities certified under subsection (a)(2) as providers of vocational rehabilitation services for the reasonable and necessary costs of furnishing vocational rehabilitation services to individuals determined to be blind or disabled individuals under paragraph (2) or (3) of subsection (a) of section 1614 and to fall within a disability category set forth in subparagraph (C) or (F) of subsection (g)(1) of such section (including services during the waiting periods of such individuals). Payments made under this paragraph shall be made in advance and shall be subject to adjustment on account of underpayments and overpayments.

"(2) The Secretary is authorized to reimburse State agencies administering or supervising the administration of a State plan approved under title I of the Rehabilitation Act of 1973 and State units designated under section 705 of such Act (29 U.S.C. 796d) to administer plans approved under title VII of such Act for the reasonable and necessary costs of furnishing vocational rehabilitation services or comprehensive services for independent living (including services furnished during waiting periods) under such a plan to individuals determined to be blind or disabled individuals under paragraph (2) or (3) of subsection (a) of section 1614, to fall within a disability category described in subparagraph (B) or (E) of subsection (g)(1) of such section, and to have engaged in substantial gainful activity for a continuous period of nine months as a result of such services. The determination that such services contributed to the return of an individual to substantial gainful activity, and the determination of the costs to be reimbursed under this paragraph shall be made by the Commissioner of Social Security in accordance with criteria determined by the Commissioner in the same manner as under section 222(d)(3). Payments made under this section shall be subject to adjustment on account of underpayments and overpayments.

"(d)(1)(A) A facility that provides vocational rehabilitation services or comprehensive services for independent living to an individual eligible under this section for such services shall do so in accordance with an individualized written plan of vocational rehabilitation for such individual.

"(B) Notwithstanding section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722), the individualized written plan of vocational rehabilitation required by subparagraph (A) shall be developed, implemented, and reviewed in a manner that is, to the greatest extent practicable and consistent with the provisions of this title, the same as the manner in which plans required by section 1507 of title 38, United States Code, are developed, implemented, and reviewed.

"(2)(A) A facility that provides vocational rehabilitation services or comprehensive services for independent living to an individual eligible under this section for such services shall meet such standards as the Secretary may by regulation prescribe.

"(B) In promulgating regulations under subparagraph (A), the Secretary shall consult with the Commissioner of the Rehabilitation Services Administration of the Department of Education and, to the greatest extent practicable and consistent with the purposes of this section, shall incorporate the standards applicable to facilities and providers of such services under titles I and VII of the Rehabilitation Act of 1973 on the day before the date of the enactment of this subsection.

"(e)(1) For purposes of this section—

"(A) except as provided in paragraph (2), the term 'rehabilitation facility' shall have the meaning given to such term in section 7(11) of the Rehabilitation Act of 1973 (29 U.S.C. 706(11));

"(B) the term 'vocational rehabilitation services' shall have the meaning given to such term in section 103 of such Act (29 U.S.C. 723); and

"(C) the term 'comprehensive services for independent living' shall have the meaning given to such term in title VII of such Act (29 U.S.C. 796 et seq.).

"(2) Vocational rehabilitation services and comprehensive services for independent living provided pursuant to this section may be limited by the Secretary to the same extent as services of such type are limited under section 222(f)(2).".

(c) Section 1614(a)(3)(D) of such Act is amended by adding at the end thereof the following new sentence: "In determining whether earnings derived from services performed by an individual demonstrate the individual's ability to engage in substantial gainful activity, earnings derived from transitional work, supported work, and services performed in a sheltered workshop shall not be taken into account unless such earnings equal or exceed an amount equal to twice the amount of earnings that (but for this sentence) would result in a determination that such individual is able to engage in substantial gainful activity.".

(d)(1) This section and the amendments made by this section shall become effective on the day that is 180 days after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (a) of this section shall apply to any determination made under paragraph (2) or (3) of subsection (a) of section 1614 of the Social Security Act and any determination made for purposes of a continuing eligibility review required by section 416.989 of title 20, Code of Federal Regulations, on or after the date on which such amendments become effective.

(B) The amendments made by subsection (b) of this section shall apply to any individual with respect to whom a determination is made under paragraph (2) or (3) of subsection (a) of section 1614 of the Social Security Act or pursuant to section 416.989 of title 20, Code of Federal Regulations, on or after the date on which such amendments become effective.

(3)(A) Section 1615 of the Social Security Act, as in effect on the day before the date on which the amendments made by this section become effective, shall continue to apply to any individual—

(i) who on such day is entitled to benefits under section 1611(a) of such Act by reason of blindness or disability, and

(ii) with respect to whom a determination has not yet been made pursuant to section 416.989 of title 20, Code of Federal Regulations, after such day.

(B)(i) Any individual described in subparagraph (A) who desires to have his or her case reviewed in accordance with the procedures established by the amendments made by subsection (a) of this section may request that a determination be made pursuant to section 416.989 of title 20, Code of Federal Regulations.

(ii) The Secretary of Health and Human Services shall take such steps as may be necessary to ensure that (I) any individual described in subparagraph (A) is informed of the right of such individual to request a review under clause (i) and (II) a prompt determination is made with respect to any individual requesting such a review.

(4) The amendments made by subsection (c) shall apply with respect to months beginning on or after the date on which this section becomes effective.

By Mr. GORE (for himself, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. HOLLINGS, Mr. WIRTH, Mr. SIMON, Mr. KERRY, Mr. REID, Mr. BRYAN, and Mr. SASSER):

S. 201. A bill to respond to the global environmental degradation brought on by human activities by reversing the trends that are presently altering or destroying vast portions of the biosphere, and to ensure that U.S. policies provide for the protection of the world environment from future degradation, and for other purposes; to the Committee on Environment and Public Works.

WORLD ENVIRONMENTAL POLICY ACT

Mr. GORE. Mr. President, on this first working day on the 101st Congress I am introducing the World Environment Policy Act of 1989 with provisions to establish a Council on World Environmental Policy to take the place of the present Council on Environmental Quality, and to focus on developing policy responses to problems related to the greenhouse effect, the destruction of the ozone layer, the loss of biodiversity, and other degradations of our world environment. The bill includes provisions to stem growing CO_2 levels in the atmosphere, including

measures aimed at the vehicle mileage standards which are dealt with by the Senate Commerce Committee, measures to ban the production of chlorofluorocarbons which are primarily responsible for destruction of the stratosphere ozone layer, as well as for causing almost 20 percent of the greenhouse effect, measures to reduce the emissions of methane, the fastest growing single source of the greenhouse effect, measures to reduce the emissions of trace gases which also contribute to this problem, a title dealing with reforestation—and I listened to the Senator from Nevada earlier in his very eloquent remarks on the subject—a comprehensive measure in another title to promote recycling and to actually ban after 5 years any packing materials put into commerce that can neither be recycled nor absorbed by the environment—that is, be biodegradable.

Also, another title promotes and protects biodiversity—we are seeing the largest loss of species that the world has experienced, scientists tell us, in at least 65 million years. Measures are also included to deal with the population crisis in the world, and to promote international cooperation and coordination in addressing environmental problems.

Mr. President, as we set the agenda this winter and sort out our priorities for the 101st Congress, as we look ahead, I am reminded of some of the scenes that are all to familiar from our recent past—of last summer's drought and heat, for example; of the signs warning bathers away from polluted beaches; of needles washing up with the waves; of streams destroyed by hazardous wastes; of recordbreaking air pollution levels that left our cities covered in a brown—and dangerous—haze.

This summer's news was heavy with our pollution problems, thought-provoking stories that put familiar problems in a far more urgent context. The greenhouse effect became the subject of everyday conversations. The hole in the Earth's protective ozone shield became a well-known fact. All the while, there remained in the background the steady ticking of an overpopulation bomb.

Eight years ago, I chaired the first congressional hearings on this issue, and in a long series of hearings since, I have watched it become by far the most serious environmental problem we have ever faced.

Now, Mr. President, as we look to the future, we must make the memories of last summer a call to action. We must make these issues our highest priorities and reserve for them not only a place on our agenda but a spot at the top of our agenda here on this first day of the new Congress.

These challenges are not ours alone—though they present us with real-life problems we and our families face daily, though they pose real-life threats to our future and our children's future. These are problems we must face not only as parents and as neighbors who share communities, but also as Americans who are neighbors to those in all nations with whom we share a global environment.

During this congressional recess, I had the opportunity to visit some of the front lines of our world's environmental conflicts: The icy wilderness of Antarctica on a trip that was led by Senator HOLLINGS, the Senator from South Carolina, who chairs the Senate Commerce Committee; and then to the rain forests of Brazil, on a trip that was led by the Senator from Colorado, Senator WIRTH—a trip which Senator HEINZ, from Pennsylvania, and Senator SHELBY, from Alabama, also helped to lead. In Antarctica, there are the earliest and most dramatic signs of the destruction of the ozone shield, as well as evidence of global warming. In Brazil, tropical rain forests are scientific and economic treasures in the process of being looted—destroyed and burned at the rate of a football field's worth every second, 24 hours a day.

During the recess, I also had the honor of participating in a unique environmental conference initiated and organized by Time magazine at the National Center for Atmospheric Research in Colorado. There, journalists and elected officials and environmental experts from around the world gathered for an extraordinary and productive exchange of ideas and concerns about the state of our world environment.

These problems must be faced by every nation around the world. We are all responsible for the future, for the quality of life we will enjoy—or endure—in every country, in every State, in every neighborhood. That is why, Mr. President, today I am introducing the World Environment Policy Act of 1989.

We need an international alliance for environmental progress to take its place alongside other alliances that exist in the name of security, as traditionally defined, recognizing that the threats we face transcend national boundaries and ideologies. We can no longer afford to shift the burden onto others or pretend we can meet the challenge by ourselves. This bill sets ambitious new targets for a cleaner, safer world. There proposals have a dual purpose, to protect our environment and to employ economic common sense in that task.

Briefly, Mr. President, I hope this bill will help us develop national and international policy responses to world environmental problems. It will provide meaningful controls on the chemicals and gases destroying the ozone shield. It will present a comprehensive plan to promote recycling and dramatically reduce the wastes now crowding and closing landfills in every State in our Nation. And, it will provide new, innovative efforts to promote reforestation, preserve the biological diversity of our world, and confront the very real problems of overpopulation.

Many of my colleagues here in the Senate and others in the House have contributed greatly to the debate on these issues. I applaud their commitment and am grateful for their expertise and insight. I have joined with them in their efforts and will continue to support their work. The chairman of the Commerce Committee, Senator HOLLINGS, who has agreed to cosponsor this bill, I am told, is going to, on this very day, reintroduce legislation that deals primarily with specific items on the research agenda that will assist our Nation's efforts to reduce the remaining areas of uncertainty where the world's environmental crisis is concerned.

My colleague from Colorado, Senator WIRTH, who is also a cosponsor, plans soon to reintroduce legislation that he had in the 100th Congress which deals with this issue. Indeed, in the legislation I am introducing today, I have not included items related to alternative energy research and development in order not to overlap those portions of that legislation.

I wish to acknowledge a debt to our former Senate colleague, Senator Stafford, who was a pioneer in these efforts. I was one of the four original cosponsors of his groundbreaking legislation last Congress on several of these issues and I wish to acknowledge my debt to him.

I also especially want to acknowledge Senator BOSCHWITZ, Senator LIEBERMAN, Senator SASSER, Senator SIMON, Senator KERRY, Senator REID, and Senator BRYAN, who have joined Senator HOLLINGS and Senator WIRTH as original cosponsors of this bill. Their interest and expertise has been critical to the development of this legislation.

Many of our other colleagues—Senator BAUCUS, who has been a leader in this area; Senator MITCHELL in his former capacity; Senator LAUTENBERG, Senator KASTEN, Senator BIDEN, Senator BUMPER, Senator CHAFEE, Senator HEINZ, and others—have all been very active on these issues. I look forward to working with them on these subjects.

Several of our colleagues in the other body—Congressman HOCHBRUECKNER, Congressman SCHEUER, Congressman BROWN, and Congresswoman SCHNEIDER, and others—have contributed greatly to the efforts that are underway to deal with these crises.

This bill is intended to complement the work of those individuals that I

have mentioned. It is designed to address all of the major causes of the greenhouse effect and the global ecological crisis.

There are 10 titles in this bill. Let me summarize some of them now.

First, I am proposing a new Council on World Environmental Policy to replace the Council on Environmental Quality with a body better able to link the scientists' research with the policymakers' plans and, to introduce to that process a global perspective that recognizes the full reach of these issues.

Second, this bill proposes the complete phaseout of the production of the chloroflourocarbons which are rapidly destroying the stratospheric ozone layer and contributing to the greenhouse effect.

It mandates improvements in fuel economy standards for passenger cars and light trucks to reduce the carbon dioxide emissions that contribute to the greenhouse effect.

This bill instructs the EPA, NASA, and NOAA to identify methane emission sources, analyze methane's role in global change processes, and recommend methods for controlling emissions and, it amends the Solid Waste Disposal Act to minimize emissions of methane from landfills.

In addition, Mr. President, this bill addresses the complex and difficult issue of recycling and the reduction of solid wastes. This bill is designed to reduce the mountains of garbage our throwaway society will soon be unable, literally, to throw away. Three thousand landfills have been closed in the past 5 years and, by 1993, one-third of those that remain will be closed as well.

This bill creates a research program to examine alternatives for recycling, a clearinghouse for information on existing, successful recycling programs, and a national recycling education program. It presents a program for the complete phaseout of nonrecyclable packaging within 5 years. Simply put, 5 years after enactment, this bill would prohibit the production of any packaging that cannot be recycled unless it is biodegradable, photodegradable, or naturally degradable. Items could be excluded only where the EPA Administrator determines that recycling is not feasible or threatens national security. The standards would be Federal, the authority to implement them would be with the States.

This bill would establish a national policy for the conservation of biological diversity. It would require assessments of the effects on biological diversity in all evaluations of the environmental impacts of major Federal actions and it would establish a Federal strategy for preserving biological diversity, coordinating that effort among Federal, State, and private initiatives. It calls for a study of our Nation's biological diversity and, it supports basic research.

Finally, Mr. President, this bill will help sustain and protect our world's forests by specifically addressing tropical wood products, deforestation, and protection of the Amazon basin.

I am proposing a phased-in ban on the importation of tropical wood products not obtained from regimes of sustained yield management. The uncontrolled logging of such woods is a major threat to the rain forests. The United States, the European Communities, and Japan are the major markets for such woods. This bill proposes that the principle consuming nations support a lending facility to help the producers of tropical woods develop substained yield management systems.

To stop global deforestation, this bill would instruct the Director of AID to assess the potential gains and costs of a program to help small landholders with the capital needed to make improvements—in may cases, minor doses of capital could produce major improvements. The intent is to expand the use of the Micro-Enterprises Act as a channel to bring such aid directly to small landholders.

And, because we know that a substantial increase in reforested areas would not only help alleviate regional environmental and economic problems, but also ameliorate the greenhouse effect, this bill would provide a report identifying the potential for expanded areas of reforestation around the world, an estimate of costs, and a plan for allocating those costs internationally.

I am also proposing that our Secretary of State propose to the Government of Brazil that the Brazilians take the lead in protecting the Amazon basin by convening a conference focused on identifying programs to conserve the basin's resources. There is a finding that the major industrial nations, recognizing the need for this action on global environmental grounds, should be prepared to consider substantial material contributions toward that end. At the same time, the Congress directs the U.S. directors of multilateral development banks to urge reconsideration of and restraint in lending that would exacerbate the problem.

Mr. President, this bill is intentionally comprehensive and far reaching. Just as the environmental fate and future of our Nation is tied to those of every other nation, so too are these issues tied to each other and to the resolution of the problems we face here and around the glode.

These are priority issues for me and, I believe for many of my colleagues and many of our constituents. In Tennessee, there is grave concern about hazardous wastes, about the quality of the air we breathe and the water we drink, about the protection of our parks and wilderness. That concern stretches across our country and beyond our borders. There is a vital and important connection between the rainforests of Brazil, the frozen wilderness of Antarctica, and the natural resources we enjoy in our home States. That connection is our future, our quality of life today and our children's quality of life tomorrow. We must recognize that connection and act now.

I appreciate the courtesy, Mr. President. Let me just say in closing that I believe very deeply that this issue and the complexity of problems which make up the global ecological crisis pose the most serious environmental challenge we have ever faced, bar none. It will tax our ability to design policies capable of confronting that problem.

I look forward to making this my own top priority and working with others who are deeply involved in addressing these problems.

I ask unanimous consent that a summary of the bill be printed at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

S. 201—THE WORLD ENVIRONMENT POLICY ACT OF 1989, SUMMARY

TITLE I.—COUNCIL ON WORLD ENVIRONMENTAL POLICY

To replace the Council on Environmental Quality with a new Council on World Environmental Policy better able to coordinate research and policy making and, to introduce a global perspective to research and policy-making activities.

TITLE II.—SCIENTIFIC RESEARCH AND PUBLIC AWARENESS

U.S. support of the International Geosphere-Biosphere Program, an international scientific effort that will provide new insights into the processes of global change;

Support of IGBP effort to study Antarctica's role in global change and for corresponding research on the Arctic and tropical forests;

Support of NASA's Mission to Planet Earth initiative;

Designates 1990 the "International Year of the Greenhouse Effect" to focus and promote attention on the issue, and on research and policy findings.

TITLE III.—REGULATION AND PHASE OUT OF ANTHROPOGENIC EMISSIONS THAT DEGRADE THE ENVIRONMENT

Provides for a freeze, effective Jan. 1, 1990, on the production of ozone-depleting chemicals at 1986 production levels. A gradual phase-out follows until all production is banned in the year 2000, with exceptions for medical and national security reasons.

Instructs the EPA, NASA, and NOAA to identify methane emission sources, analyze methane's role in global change processes, and recommend methods for controlling emissions;

Amends the Solid Waste Disposal Act to minimize emissions of methane from landfills.

Provides for the control of other trace greenhouse gases, such as ground level ozone.

TITLE IV.—VEHICLE FUEL EFFICIENCY IMPROVEMENTS

Mandates improvements in fuel economy standards for passenger cars and light trucks.

TITLE V.—WASTE MINIMIZATION AND RECYCLING

Creates research program to examine alternatives for recycling;

Establishes clearinghouse for information on existing, successful recycling programs;

Establishes national education program on waste minimization and recycling.

Program for complete phase-out of non-recyclable products within five years (prohibits, five years after enactment, production of any goods that cannot be recycled, exceptions for biodegradable, photodegradable or naturally degradable goods, and where the EPA administrator determines recycling is not feasible or threatens national security), federal standards, implementing authority with the states.

TITLE VI.—THE WORLD BANK AND SUSTAINABLE ECONOMIC DEVELOPMENT

Directs Secretary of the Treasury to work with major contributors to the World Bank, and with Bank leadership, to develop a method to assess, for major donor governments, the environmental soundness of lending projects prior to final approval by the Bank.

TITLE VII.—ASSISTANCE TO INTERNATIONAL FAMILY PLANNING ORGANIZATIONS

Return U.S. policy to pre-1984, to provide support for family planning efforts.

TITLE VIII.—BIODIVERSITY

Establishes national policy for the conservation of biological diversity;

Requires assessments of the effects on biological diversity in all evaluations of the environmental impacts of all federal actions;

Establishes a federal strategy for preserving biological diversity and coordinates that effort among federal, state, and private initiatives;

Undertakes study of nation's biological diversity and supports basic research.

TITLE IX.—REPLANTING AND CONSERVING THE WORLD'S FORESTS

Phased-in import ban of tropical wood products other than those obtained from regimes of sustained yield management, principle consuming nations support lending facility to help producers of tropical woods establish sustained yield management systems;

Instructs AID Director to assess potentual gains and costs of a program to help small land holders with the capital needed to make improvements that could stop global deforestation, intent is to expand the use of the Micro Enterprises Act as a channel to bring such aid directly to small landholders;

Provide report identifying the potential for expanded areas of reforestation around the world, an estimate of costs and a plan for allocating those costs internationally;

Directs the Secretary of State to propose to the government of Brazil that the Brazilians take the lead in protecting the Amazon Basin by convening a conference focused on identifying programs to conserve the Basin's resources;

Includes finding that the major industrial nations should be prepared to consider substantial material contributions toward that end;

Congress directs the U.S. directors of multilateral development banks to urge reconsideration of and restraint in lending that would exacerbate deforestation.

TITLE X.—INTERNATIONAL COOPERATION

Promotes U.S. participation in international initiatives and global environmental problems such as those initiated under the auspices of the United Nations.

Mr. BOSCHWITZ. Mr. President, as we begin the 101st Congress, environmental issues have gained a new and needed prominence. The new President has made clear that he is firmly committed to progress in this area, and he has appointed a respected environmentalist to head the Environmental Protection Agency.

In this Chamber, Mr. President, we have a new majority leader who is second to none in his leadership on the environment. I look forward to working with him as he shapes the environmental agenda for this Congress.

Mr. President, I am especially concerned about the global dimensions of our environmental problems. In recent years, we have gained more compelling evidence that we may be on the verge of a substantial global warming, caused by the emission of heat trapping gases like carbon dioxide and methane. The results of such a warming could be devastating and irreversible for much of the world. The problem demands our attention.

Last year, as a special delegate to the United Nations, I called on the United Nations to push for greater international cooperation on research on global warming and the development of response options. We in the Congress can do much to facilitate that cooperation, and I intend to introduce my own legislation in that area soon.

Today I am happy to join Senator GORE as an original cosponsor of the World Environmental Policy Act of 1989. This bill is a broad, visionary statement, and it will provoke needed debate on this issue.

The bill calls for U.S. support of international scientific efforts to better understand global warming. It calls for a more aggressive program to eliminate CFC's, which threaten the ozone layer.

This legislation also stresses sound environmental policies in our aid to developing countries. It directs the Secretary of the Treasury to work with the World Bank in developing ways to assess the environmental soundness of projects prior to their final approval by the Bank. It also includes efforts to stop the rapid deforestration going on in many parts of the world.

In a bill of this magnitude, it is natural that I would not agree with every provision. I have consistently supported the administration's Mexico City policy, for instance, and I do not support the change in that policy called for in this bill.

But the basic outlines of this legislation are both bold and needed. It is my hope that this bill and any subsequent legislation in this area will begin a debate that will lead to thoughtful and effective action.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 202. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota; to the Committee on Energy and Natural Resources.

CONSTRUCTION AND OPERATION OF CERTAIN SOUTH DAKOTA WATER PROJECTS

● Mr. DASCHLE. Mr. President, today I am introducing, along with my colleague from South Dakota, Senator LARRY PRESSLER, a bill to authorize the Secretary of the Interior to construct the Lake Andes-Wagner-Marty II irrigation project as a unit of the Pick-Sloan Missouri River Basin. Extensive hearings on this bill were held in the 100th Congress, and I hope that authorization can be considered quickly by the Congress.

Nineteen-eighty-nine marks the 20th year since the planning for this project first began. During that period, the project has been refined and improved. Today, it is generally recognized that the Lake Andes-Wagner-Marty II project is the best reclamation project being considered in the country. It combines environmental sensitivity, cost effectiveness, and overwhelming local need and support.

The Lake Andes-Wagner-Marty II project is to be authorized as partial compensation for the prime farmland lost from flooding by the main stem dams on the Missouri River, as mandated by the Pick-Sloan Missouri River Basin Program of 1944. To remind my colleagues, Pick-Sloan provided flood control, power and navigation benefits for downstream States. The States which lost their most productive land—more than 500,000 acres were lost in South Dakota alone—were promised irrigation development. This promise remains largely unrealized.

Most of my colleagues have heard the stark facts of lost income, lost jobs, and lost business activity that have resulted from Pick-Sloan in South Dakota. The people of South Dakota have not forgotten about securing our end of Pick-Sloan, despite Federal inactivity. I believe that it is time to end this inactivity, and Lake Andes-Wagner-Marty II should become a reality.

The Lake Andes-Wagner-Marty II project will bring needed water to approximately 51,000 acres, less than one-tenth that lost under Pick-Sloan. The area to be served includes Charles Mix County in southeastern South Dakota, and about 3,000 acres in the Yankton Sioux Indian Reservation.

These are areas desperately in need of the project. The population of the project area has declined by 58 percent since 1950. Where there were 100 school districts, now there are 4. Unemployment in the Marty II area of the project hovers around 85 percent.

Several concerns about the project have been raised in the past 20 years, and, I believe, all have been addressed. First, is the question of the environment. The project sponsors have undertaken rigorous environmental assessments, and tailored the project to avoid environmental harm. Furthermore, thousands of acres will be set aside to compensate for the loss of wildlife habitat. Some 1,320 acres of wetlands, 175 acres of woodlands, and 2,180 acres of grasslands will be enhanced as a result of the project. In addition, a fish-stocking impoundment will be constructed under the project. From an environmental aspect, this project must be considered a model for responsible water development.

Concerns have been raised that the State of South Dakota will not bear enough of the financial burden of the project. The total cost of the project is $157 million for the Lake Andes-Wagner portion, and $15 for the Marty II portion. During the last session of Congress, negotiations resulted in a broad cost-sharing plan for the project. Under this agreement, which is reflected in the bill I am introducing, the State will pay more than $45 million, or 29 percent of the Lake Andes-Wagner project. This reduces the Federal burden to $126 million. I believe that this shows the State's commitment to the project, and the importance of the project to the people of South Dakota.

Many sincere individuals have expressed concern over the so-called double subsidy afforded to irrigated crops by Federal projects. The imagined double subsidy comes from the fact that water users of reclamation projects pay only those irrigation costs which are within their repayment ability, with the balance being repaid from other project revenues, such as project power revenues. The other subsidy referred to is the payment paid to the farmer under the farm program. I wish to make two brief points on this subject.

First, many of the surplus crops produced in the project do not reach the marketplace, and thus do not add to existing Federal crop surpluses. A typical Charles Mix County farm is an integrated livestock and feed grain operation, meaning that much of the increased production from irrigation will be consumed onsite.

Second, the legislation I introduce makes sure that there can be no inclusion of increases in crop yield in Federal subsidy payments by requiring that the feed grain program be based upon dryland production and acreage. Irrigation will not add to Federal subsidies. In fact, I contend that irrigation will reduce Federal subsidies.

Today, the types of crops grown in the project area are determined largely by the availability of water. There can be no diversification of the crop base if irrigation is not available. The production of subsidized crops will continue, as it does today, absent a dependable water supply. I would not feel so strongly about this project if it were not for the diversification and opportunity it presents the people and State of South Dakota. South Dakota, and much of the Midwest, suffered badly in 1988 due to drought. Early indications show that 1989 may be just as bad, if not worse. The headlines will again discuss the plight of the farmer, and as lawmakers, we will grasp for temporary remedies. I suggest that Lake Andes-Wagner-Marty II represents a partial solution—the availability of easily accessible water in times of localized drought. The reduction in subsequent drought payments is another part of the cost equation that should be considered in conjunction with the Lake Andes-Wagner-Marty II project.

Mr. President, from an economic and environmental standpoint, there is simply no project being proposed today which can surpass this small, manageable, riverside irrigation project. From an equity standpoint, the people of Charles Mix County, many of whom watched helplessly as their family farm was engulfed forever by the Fort Randall Dam reservoir, also have compelling arguments to make.

If there is a future in irrigation development in America—and I think most Senators agree that there should be—the Lake Andes-Wagner-Marty II project constitutes the type of undertaking that should serve as a guide on how the Federal Government can deliver responsible irrigation development to family-sized farms without draining the Treasury or compromising the environment.

At this time I ask unanimous consent that the text of the bill, along with the attached list of environmental commitments made by the project, be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

(a) AUTHORIZATION.—In partial recognition of the inundation of lands in South Dakota, including lands in the Yankton Sioux Indian reservation, by mainstem Missouri River reservoirs constructed and operated by the United States under the comprehensive plans approved and authorized by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891) (hereafter in this Act referred to as the "Pick-Sloan Missouri Basin Program"), the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as Units of the South Dakota Pumping Division, Pick-Sloan Missouri Basin Program.

(b) LAKE ANDES-WAGNER UNIT.—The Lake Andes-Wagner Unit shall be constructed, operated, and maintained to serve approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report and Final Environmental Impact Statement filed September 17, 1985.

(c) MARTY II UNIT.—(1) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to serve approximately 3,000 acres of Indian-owned land in the Yankton Sioux Indian Reservation.

(2) Construction of the Marty II Unit shall not begin until—

(A) the Secretary certifies the irrigability of the lands; and

(B) the completion of an environmental impact statement or a finding of no significant impact and, if required, the completion of a mitigation plan for any adverse effects which may be caused by the Marty II Unit.

SEC. 2. CONDITIONS AND RESTRICTIONS.

(a) IN GENERAL.—The Lake Andes-Wagner Unit and the Marty II Unit shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

(b) LAKE ANDES-WAGNER UNIT.—The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of approximately 1,700 acres of Indian-owned lands. The use of electric power and energy required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(c) CONSTRUCTION COSTS.—The construction costs for the Lake Andes-Wagner Unit and the Marty II Unit allocated to irrigation (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repayed for each unit no later than 40 years following the development period, except that repayment of such costs allocated to irrigation of Indian-owned lands shall be governed by the Act of July 1, 1932 (47 Stat. 564 Chapter 369; 25 U.S.C. 386a).

(d) INDIAN-OWNED LANDS.—Indian-owned lands, or interests therein, required for the Lake Andes-Wagner or Marty II Units may, as an alternative to their acquisition under authority available to the Secretary under existing law, be acquired by exchange for lands or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) AGRICULTURE PROGRAMS.—For purposes of participation of lands in the Lake Andes-Wagner and Marty II Units in programs covered by title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the crop acreage base determined under section 504 of such Act (7 U.S.C. 1464) and the program payment yield determined under section 506 of

such Act (7 U.S.C. 1466) shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1990, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of such Units.

SEC. 3. FEDERAL RECLAMATION LAWS GOVERN.

This Act is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto). The Federal reclamation laws shall govern the construction, operation, and maintenance of the works authorized by this Act, except as otherwise provided in this Act.

SEC. 4. COST SHARING.

(a) IN GENERAL.—The Proposal dated September 29, 1987, supplemented October 30, 1987 (on file with the Committee on Interior and Insular Affairs of the House of Representatives and with the Committee on Energy and Natural Resources of the Senate), pursuant to which the State of South Dakota (hereafter in this Act referred to as the "State") and the Lake Andes-Wagner Irrigation District (hereafter in this Act referred to as the "District") would provide funding for certain costs of the Lake Andes-Wagner Unit, and the District would also assume certain responsibilities with respect thereto, is approved. The Secretary shall promptly enter into negotiations with the State and the District to conclude an agreement between the United States, the State, and the District implementing the proposal.

(b) TERMS AND CONDITIONS.—The agreement shall include provisions for—

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike, not exceeding $3,500,000, the construction cost, if any, of such dike in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that construction of the ring dike shall not commence earlier than the sixth year of full operation; and

(4) financing, from moneys in the fund referred to in paragraph (1) the construction cost of the Unit's closed drainage system, not exceeding $36,000,000, the construction cost, if any, of the closed drainage system in excess of that amount being the responsibility of the United States but any such excess cost remains reimbursable, subject to the condition that—

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessments as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after construction of the Unit (other than drainage facilities) has been completed, levee assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance not to exceed $36,000,000 of the construction costs of the closed drainage system.

(c) ANNUAL BUDGET REPORTS.—(1) Subject to the provisions of paragraph (2), the Secretary of the Interior shall request that there be included in the annual budget documents submitted by the President to Congress funds permitting completion of construction of the Lake Andes-Wagner Unit (other than the ring dike and closed drainage features) over a period of six years beginning no later than the fiscal year that commences in the second calendar year following the calendar year in which this Act becomes law.

(2) In the event of a delay in construction occasioned by an act of God, or of the public enemy, or any major catastrophe or other unforseen and unavoidable cause of a similar nature, appropriate extensions of time shall be afforded the District in the making of assessments to finance construction of the closed drainage system as specified in subsection (b)(4).

SEC. 5. AUTHORIZATION.

(a) LAKE ANDES-WAGNER UNIT.—(1) There are authorized to be appropriated—

(1) $150,000,000 (October 1984 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in section 2(b)); and

(2) $1,200,000 (October 1984 price levels) for construction of the facilities described in section 2(b), which amounts include costs of the Lake Andes-Wagner Irrigation district in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $15,000,000 (October 1984 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) ENGINEERING COSTS ADJUSTMENTS.—The amounts authorized to be appropriated by subsections (a) and (b) shall be plus or minus such amounts, if any, as may be required by engineering cost indexes applicable to such construction.

(d) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of each Unit.

LIST OF ENVIRONMENTAL COMMITMENTS

1. Pumping Plant: a. ¼-mesh fish screens will be installed on each pumping bay; b. intake velocity at .5 foot per second; and c. top lip of intakes will be maintained at a depth of 20 feet during spawning and rearing periods.

2. To mitigate for wetland losses, up to 4,500 acre-feet of water (Lake Francis Case quality) will be provided to Owens Bay and Red Lake via turnouts and 365 acres of existing wetlands will be purchased and provided a controlled water supply. When practical, operational wastes wil be used. In addition, a wetland easement will be acquired for 4 acres.

3. Approximately, 2,185 acres will be purchased and seeded to native grasses. Canal and lateral rights-of-way would be seeded to native grasses. All seeded areas will be protected from grazing and other disturbances until the grasses have been established (generally 3 years). Habitat values on acquired tracts will be estimated using habitat evaluation procedures, and purchases will continue until lost habitat values are replaced.

4. Approximately 175 acres of land will be purchased in concert with grassland acres for the planting of woody vegetation.

5. To the extent possible, lands purchased for mitigation of grasslands and woodlands would be adjacent to existing Federal and State wildlife areas or existing wetlands to provide wildlife complexes. If lands in these areas cannot be purchased from willing sellers, other parcels will be sought, with a minimum size of 40 acres. These units would be managed by the U.S. Fish and Wildlife Service or South Dakota Department of Game, Fish and Parks.

6. The mitigation plan will be implemented concurrently with the construction of the rest of the project.

7. Uneconomical land remnants retained in Federal ownership will be managed to offset grassland habitat losses.

8. New project powerlines will be buried except for the 0.5-mile 115-kV line to the main pumping plant. Installation of powerlines will be in accordance with Suggested Practices for Raptor Protection in Powerlines, the State of the Art in 1981, Raptor Research Report No. 4. Raptor Research Foundation, Inc., 1981.

9. Water quality sampling and analysis of Choteau Creek and Lake Andes will continue for TDA, nutrient levels, dissolved oxygen, trace elements, and pesticides and herbicides. After construction, the cost of this program will be part of the project OM&R. A ring dike will be constructed to dilute project return flows into Choteau Creek to meet State water quality standards of 2.50 mg/1 TDS. Water will also be added to Lake Andes to meet the State water quality standard.

10. Ring dike construction may require habitat mitigation. Upon final site selection a habitat evaluation team will be assembled and recommend appropriate mitigation measures. After the appropriate review the recommendations will be incorporated into the construction plan.

11. Known sites will be avoided where possible. If any cultural resource sites cannot be avoided, determinations of their significance/eligibility for the National Register of Historic Places will be made. If any sites are determined to be significant, appropriate mitigation measures will be developed in consultation with the State Historic Preservation Officer and Advisory Council on Historic Preservation.

12. The South Dakota Department of Game, Fish and Parks will be consulted regarding appropriate measures to be taken during the spawning season during construction of the main pumping plant.

13. The project may require modification of 15 miles of existing drainageways. When these sites are identified, South Dakota Department of Game, Fish and Parks and U.S. Fish and Wildlife Service will be contacted and appropriate mitigation measures will be established.

14. Proposed 50-acre fish rearing pond is included as a project feature.

15. Topsoil will be stripped to a predetermined depth, stockpiled, protected from ero-

sion and compaction, and replaced in all disturbed areas.

16. The following permits will be obtained:

1. Section 10 permit required by the River and Harbor Act,

2. Sections 402 and 404 permits required by the Clean Water Act,

3. Soil and water compatability permit from the State of South Dakota,

4. Water right from the State of South Dakota.

17. It is recognized that certain agricultural chemicals can pose hazards to wildlife and water supplies. As part of the Irrigation Management System, chemical types used on the project will be updated every 5 years and usage of less hazardous chemicals will be encouraged.●

By Mr. BURDICK (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. SYMMS, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BAUCUS, Mr. CHAFEE, and Mr. MITCHELL):

S. 203. A bill to authorize research into ground water contamination and remediation, and for other purposes; to the Committee on Environment and Public Works.

GROUND WATER RESEARCH, MANAGEMENT, AND EDUCATION ACT

● Mr. BURDICK. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Mr. President, today I am pleased to introduce the Ground Water Research, Management and Education Act of 1989 with my colleagues Senator MOYNIHAN of New York, Senator DAVID DURENBERGER of Minnesota, and Senator SYMMS of Idaho. A bill identical to this one actually passed the Senate during the 100th Congress but we were unable to meet in conference with our colleagues in the House prior to adjournment last October.

This bill is the product of extensive work on the part of Senators MOYNIHAN, DURENBERGER, SYMMS, and MITCHELL over the course of the past 2 years. The bill builds three ground water proposals which we introduced during the last Congress. I introduced S. 1105. Senator MOYNIHAN'S proposals was embodied in S. 20 and Senator DURENBERGER was the principle architect of a comprehensive ground water proposal, S. 2091. The bill which we introduce today is an amalgamation of those three bills.

Ground water is a resource of great value and importance. One in two Americans and almost everyone living in rural areas rely on ground water for drinking water. In North Dakota, over half the population relies on ground water for domestic supply. Increasingly ground water is being used to irrigate crops and grassland during periods of low rainfall.

Ground water is being threatened with contamination on a wide scale. The Environmental Protection Agency and other entities have documented ground water contamination problems in virtually every State. The threat of ground water contamination is real and it is worthy of our attention and corrective action. The sources of ground water contamination include hazardous waste disposal sites, solid waste landfill sites, leaking underground storage tanks, and the application of fertilizers and pesticides. Contaminants from these sources are known to cause serious adverse health and environmental effects. Ground water contamination impose significant costs in treatment and remediation.

We have taken our ground water resources for granted. There is sufficient information readily available to raise concerns that pervasive problems exist. We can no longer ignore these problems. Each of us has a duty to act before this problem becomes unmanageable.

This bill expands the national ground water research program and attempts to clarify and better coordinate the efforts of the Federal agencies involved in ground water research. Under the bill EPA is authorized to perform a number of special studies and demonstration programs including those on health and environmental effects of ground water contaminants, risk assessments on those contaminants, and various control technologies.

The bill authorizes the Department of Interior to develop a national ground water quality inventory based on available information from across the United States. In addition, the bill would augment the ongoing effort of the U.S. Geological Survey to map and describe ground water resources nationally.

The bill establishes an Agricultural Nitrogen Best Management Task Force. This task force will research the use of agricultural nitrogen in crop production and develop educational and training materials for farmers. This provision was part of my original bill and it has the broad support of the agricultural community.

Finally the bill authorizes the Federal Government to provide 50 percent matching grants to States for planning and implementation of State strategies for sound ground water management. The bill also reauthorizes the State Water Research Institutes which have in the past received about $100,000 a year to perform water research under the auspices of the Department of Interior. This would create eight new ground water institutes under the Interior Department, which will focus on health and environmental effects research.

As I mentioned earlier, this bill is a composite of several other ground water bills. Many members of the Committee on Environment and Public Works have devoted a great deal of time and effort in developing this ground water research proposal. I am grateful for their efforts. Because an identical bill passed the Senate last session, it will be my intention to press for expeditious consideration by the Senate, so that we can conference with our colleagues in the other House this year. Coordinated, comprehensive, and accurate research concerning our ground water resources is the first major step toward our goal of protecting this precious resource. This bill takes that first step. Now is the time to act.

I ask unanimous consent that the bill be printed in the RECORD in its entirety.

S. 203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

This Act may be cited as the "Ground Water Research, Management, and Education Act of 1988".

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SEC. 2. FINDINGS.

(a) The Congress finds that—

(1) ground water in the United States is a vast and complex resource comprising 96 per centum of the freshwater available for use;

(2) approximately one-half of the population of the United States and 95 per centum of those living in rural areas rely on ground water for drinking water supplies;

(3) recent surveys of the Environmental Protection Agency and by other agencies and organizations have identified ground water contamination problems in each of the several States including thousands of incidents which have forced abandonment of water supply wells or contaminated public water supply systems;

(4) sources of ground water contamination are diverse, including waste and nonwaste products and activities, point and nonpoint sources, and hazardous and nonhazardous substances;

(5) ground water contaminants are known to cause adverse health and environmental effects and to impose large costs in treatment and remediation;

(6) ground water and surface water are interconnected as related parts of the hydrologic cycle;

(7) ground water resources, uses and sources of contamination are of such diversity across the Nation that ground water protection and management must rely upon the States and local government institutions to identify priorities and implement programs to prevent, detect, and correct contamination;

(8) the Federal Government is making a substantial effort to control and clean up hazardous wastes and hazardous substances which may adversely impact ground water quality and consistent with that role has an interest in programs, developed in coordination with the States, which have a goal of preventing ground water contamination;

(9) most States already have ground water protection and management programs or are developing such programs;

(10) although considerable scientific progress has been made in knowledge about ground water resources and ground water contamination, including the transport, transformation, and fate of ground water contaminants and the effects of ground water contamination on human health and the environment, there remain significant gaps in developing and making available needed scientific knowledge;

(11) there is not an adequate effort by the Federal Government or by the States to collect and disseminate data and information concerning the location and characteristics of ground water;

(12) additional Federal research efforts in ground water are necessary to provide the States with adequate technical information and guidance upon which they can develop and implement ground water management programs and can better evaluate the effects of the contamination on human health and environmental resources, and so that States can develop ground water standards where appropriate;

(13) presently available technologies to detect, monitor, and mitigate ground water contamination are expensive and highly limited in utility;

(14) there is not an adequate effort by the Federal Government or by the States to investigate, develop, and demonstrate methods, practices and techniques that may be effective in preventing, detecting, and correcting the contamination of ground water resources;

(15) there should be a continuing national investment in ground water and related research and technology commensurate with growing national needs;

(16) there is a shortage of qualified individuals schooled in the fields related to ground water hydrology, toxicology, geochemistry, and other pertinent disciplines, and a need to strengthen research and associated undergraduate and graduate education to provide qualified scientists and engineers, and technicians trained in fields related to ground water resources so that Federal and State agencies will have the personnel necessary to detect, assess, prevent, and remediate contaminated ground water resources;

(17) current Federal programs of research and development with respect to ground water require improved coordination; and

(18) the Federal Government lacks a clear and comprehensive statutory mandate to conduct ground water research.

(b) It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "assessment" when used with respect to ground water or ground water resources, means the description of the extent and hydrogeologic properties of aquifers; recharge and discharge areas, and flow paths; and the status of and trends in the quantity and quality of ground water at national, regional, and local levels;

(4) "assistance" means any assistance provided by any agency pursuant to provisions of this Act in the form of grants, loans, loan guarantees, property, contracts (except those for the procurement of goods and service of the Government of the United States), cooperative agreements or technical assistance, whether the recipient is a State or local government, a nonprofit organization or other person;

(5) "contaminant" means any solid, liquid, semi-solid, dissolved solid, or gaseous material naturally occurring or anthropogenic chemical, or parameter for measurement of water quality, or biological organism which in its original form or as a metabolite or degradation or waste product may impair the quality of ground water or may have an adverse effect on human health, welfare, or the environment as a constituent of ground water;

(6) "contract" means any contract, grant, agreement, understanding or other arrangement, which includes research, development, or demonstration work, and includes any assignment, substitution of parties, or subcontract executed or entered into thereunder;

(7) "contractor" means any person having a contract with or on behalf of the Administrator;

(8) "demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes, or practices, for the purpose of proving technological feasibility and cost effectiveness;

(9) "develop" includes activities which assist in the transfer of technology to users of practices, methods, or techniques which may be effective in preventing, detecting or correcting ground water contamination;

(10) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government, any Government corporation, and the Tennessee Valley Authority;

(11) "ground water" means water below the land surface in the zone of saturation;

(12) "invention" means inventions or discoveries, whether patented or unpatented;

(13) "local government" means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

(14) "made" when used in relation to any invention, means the conception or first actual reduction to practice of such invention;

(15) "nonprofit organization" means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(16) "person" means an individual, trust, firm, joint stock company, corporation (including any government corporation), part-

nership, association, consortium, joint venture, State, local government, commission, regional agency, interstate agency, or Federal agency;

(17) "source" or "source or potential source of contaminants" includes, but is not limited to—

(A) any facility, building structure, installation, equipment, pipe, pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, tank, or activity which causes contaminants to migrate to ground water, or

(B) any site or area where a contaminant has been deposited, stored, disposed of, or placed, or otherwise come to be located so as to allow the discharge of such contaminant to ground water;

(18) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and federally recognized Indian tribes; and

(19) "vadose zone" or "unsaturated zone" means the zone between the land surface and the zone of saturation.

TITLE I—COORDINATION OF FEDERAL GROUND WATER RESEARCH AND EDUCATION PROGRAMS

SEC. 101. DUTIES OF THE PRESIDENT.

(a) The President shall provide for coordination of activities conducted by agencies of the United States Government related to ground water research, assessment, and monitoring, including technology development and transfer, information dissemination, training, and education.

(b) The President shall establish, within 90 days from the date of enactment of this title, an Interagency Ground Water Research Task Force to provide for the coordination of research, development, demonstration, technology transfer, training, and information dissemination activities authorized in this title.

SEC. 102. ESTABLISHMENT OF INTERAGENCY GROUND WATER RESEARCH TASK FORCE.

(a) The President shall appoint the members of the Interagency Ground Water Research Task Force from each Federal agency involved in ground water related activities, including the Environmental Protection Agency, the Department of the Interior, the Department of Agriculture, the Department of Energy, the Department of Defense, the National Science Foundation, and the Department of Health and Human Services. The Task Force shall be chaired by the Administrator of the Environmental Protection Agency. The Secretary of the Interior and the Secretary of Agriculture shall each serve as vice chairmen. The Task Force shall meet no less often than 4 times per year.

(b) The Interagency Ground Water Research Task Force shall—

(1) identify major research data needs and scientific uncertainties regarding ground water assessment, monitoring, protection, management, and remediation;

(2) recommend overall priorities and a coordinated research plan and where appropriate, disseminate such information to the President and Congress and other Federal agencies for addressing the data needs and scientific uncertainties identified;

(3) facilitate information collection, data management, and storage;

(4) review the academic and related institutional capabilities for education and training of scientists, geologists, hydrologists, and other ground water research related professions and identify opportunities for improving and strengthening education and training programs;

(5) otherwise facilitate, through joint funding and other means, interagency cooperation and coordination on ground water research, development and demonstration programs;

(6) consult with State and local governments, environmental organizations, scientific and professional organizations, industry, academia, and other appropriate institutions to determine the ground water research and information needs of State and local governments and other persons who have responsibilities for protecting or managing ground water resources; and

(7) recommend priorities for the assessment of ground water resources based on the threat to human health or the environment posed by contamination or likely contamination of those resources.

(c)(1) The Task Force shall submit an annual report to the President and Congress describing the results of the preceding year's research, progress and schedule updates, complete and incomplete programs, new problems to be addressed, revisions of priorities for the program as a whole and for each agency or institution.

(2) The annual report shall serve as the management plan for the National ground water research program of the Federal Government and shall provide for coordination of all research, development and demonstration activities relating to the protection, maintenance, restoration, and management of ground water resources.

(3) The annual report of this section shall reflect an itemized list and discussion of major policy decisions as determined by individual agencies affecting all aspects of protection, maintenance, and restoration of ground water resources which are pending before the Federal Government or which will arise in the foreseeable future and shall specify in a comprehensive manner the type of research relevant to such policy decisions, and define the research and studies necessary to address the deficiencies in the available information.

(4) Every 2 years, the Task Force shall submit an analytical report which summarizes research findings and results of research, education, technical assistance, and demonstration programs.

(d)(1) Coordination shall recognize the principal roles of the participating agencies:

(A) The United States Department of Interior, acting through the Geological Survey, for research in the hydrologic sciences appraising the Nation's water resources, and providing hydrology and geochemical information;

(B) The Environmental Protection Agency for research relating to health and environmental effects of contaminants, the fate and transport of contamination in ground water, risk assessment, source control, and mitigation methods; and

(C) The United States Department of Agriculture, for research on pesticide and nutrient impacts on ground water, plant and animal health effects, and development of farming and forestry practices designed to reduce or prevent contamination.

(2) Nothing in this title shall be construed to diminish or alter the statutory mandates assigned to these agencies, nor their budgetary authorities or appropriations as determined by Congress.

(3) Each participating agency in the Interagency Ground Water Research Task Force shall submit an annual research plan which shall be made available to Congress and which shall be reviewed by the Task Force within 60 days of submission to ensure that—

(A) programs are not unnecessarily duplicative;

(B) memoranda of understanding are in place where necessary;

(C) high priority research topics are given appropriate attention; and

(D) information exchanges among Federal agencies and between Federal agencies and States are facilitated.

(e)(1) Not later than 3 years after enactment of this Act, the Task Force shall organize a national conference on ground water research, to review the national ground water research programs. The Task Force will invite participation by academia, State and local government, and the public.

(2) A proceedings shall be published from the conference presentations.

SEC. 103. ADVISORY COMMITTEE.

(a) There is established an Advisory Committee on Ground Water Research (hereinafter referred to in this subsection as the "Advisory Committee").

(b) The Advisory Committee shall be established within 180 days of the date of enactment of this Act, and shall be exempt from section 14 of the Federal Advisory Committee Act.

(c) The Advisory Committee shall be composed of not more than 15 individuals to be appointed by the President in consultation with the majority and minority leaders of the Senate and the Speaker and minority leader of the House of Representatives, no less than 5 of whom shall be elected or appointed State or local officials or their representatives.

(d) Members shall serve terms of not to exceed 3 years. Members shall be selected from State and local government officials, environmental organizations, scientific and professional organizations, industry, representative of the Water Research Institutes, and the general public. Members should possess a knowledge of ground water and should represent various regions of the country.

(e) A chairman of the Advisory Committee shall be elected by its members on an annual basis.

(f) The Advisory Committee shall advise the President on matters related to ground water research and shall represent to the Interagency Ground Water Research Task Force the views of State and local governments and other interested parties concerning the ground water research programs and policies carried out by participating agencies of the Task Force.

(g) The Advisory Committee shall review and comment on the annual report by the Interagency Ground Water Research Task Force required by subsection (c)(1) of section 102.

(h) The Advisory Committee shall meet on a regular basis and shall meet jointly with the Interagency Task Force at least semiannually.

(i) Such clerical and technical assistance as may be necessary to discharge the duties of the Advisory Committee shall be provided by personnel of the Environmental Protection Agency and the other agencies of the Interagency Ground Water Research Task Force.

(j) Members of the Advisory Committee shall, while attending meetings or conferences of the Committee or otherwise en-

gaged in the business of the Committee, be compensated at a rate to be fixed by the Chairman of the Interagency Task Force, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5 of the United States Code, for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee. While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 104. ESTABLISHMENT OF CLEARINGHOUSE COMMITTEE AND AGENCY INFORMATION CENTERS.

(a) The Interagency Ground Water Research Task Force shall appoint a Clearinghouse Committee within 180 days following the date of the enactment of this Act.

(b) The Clearinghouse Committee shall consist of no more than five individuals, who are not Task Force members, who are knowledgeable in the field of data management and retrieval systems, and who are familiar with the existing data systems at the United States Geological Survey, the Environmental Protection Agency, the United States Department of Agriculture and the Water Research Institutes.

(c) The Clearinghouse Committee shall facilitate coordination of information systems among participating agencies by improving compatibility among systems, including data input and output; bibliographic searches, and other means.

(d)(1) Each participating agency of the Interagency Ground Water Research Task Force shall establish a technical transfer and information center that is responsible as a repository of reliable ground water information relevant to their authorities and related information, and each such agency technical transfer center shall be coordinated through the efforts of the Clearinghouse Committee.

(2) At a minimum the information center at each agency shall establish and make available reports, programs, and materials developed pursuant to this Act.

(3) Each center shall facilitate ready access to data and information gained under the program to Federal, State, and local agencies and other interested persons and shall facilitate requests for data and information from all interested persons by coordinating and communicating with other agencies' systems.

(4) The Clearinghouse Committee shall include in its first annual report recommendations for a National Ground Water Hotline and identification of a Federal public information officer to respond to public inquiries.

(e) The Clearinghouse Committee shall submit a report to the Interagency Ground Water Research Task Force 1 year after the date of enactment of this Act, evaluating the current capabilities of each agency, abilities to exchange information and data between different information systems; recommendations for improving communication links, requests for necessary monies and equipment, procedures, and personnel to fully implement the necessary changes for a fully cross-linked computerized system for information retrieval.

SEC. 105. ESTABLISHMENT OF EDUCATION COMMITTEE.

(a) The Task Force shall appoint an Education Committee within 180 days following the date of enactment of this Act.

(b) The Education Committee shall be chaired by the Task Force representative from the National Science Foundation and shall consist of no more than 14 individuals who are not Task Force members and who have scientific or educational expertise relevant to ground water research and management. The remaining 13 members shall include the President's Science Advisor, a representative from the Water Research Institutes, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Agriculture, a representative of the States, two representatives from private academic institutions active in ground water, two representatives from industry, and two representatives from nonprofit environmental organizations.

(c) The Education Committee shall evaluate existing academic training programs at the university and postgraduate levels to identify weaknesses in existing programs, and to recommend a plan to strengthen such programs through Federal grants and fellowships and improved curricula.

(d) The Education Committee shall prepare a report describing its findings and making such recommendations as it deems necessary and appropriate not less than 2 years from the date of enactment of this Act. Such report shall be included in full in the report provided for in section 102(c)(1).

(e) Such clerical and technical assistance as may be necessary to discharge the duties of the Advisory Committee shall be provided by personnel of the United States Geological Survey and the other agencies of the Interagency Task Force.

(f) Members of the Task Force, other than Federal employees, shall, while attending meetings or conferences of the Committee or otherwise engaged in the business of the Committee, be compensated at a rate to be fixed by the Chairman of the Interagency Task Force, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5 of the United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 106. AUTHORIZATIONS.

For the purposes of carrying out the activities authorized in sections 102 through 105 of this title, there are authorized to be appropriated $3,000,000 for each fiscal year to the Administrator commencing with fiscal year 1989 and ending with fiscal year 1993.

SEC. 107. WATER RESOURCES RESEARCH ACT OF 1984.

(a) Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10302(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent research that fosters (A) the entry of new research scientists into the water resources fields, (B) the training and education of future water scientists, engineers, and technicians, (C) the preliminary exploration of new ideas that address water problems or expand understanding of water and water-related phenomena, and (D) the dissemination of research results to water managers and the public, and.".

(b) Section 104(c) of such Act (42 U.S.C. 10302(c)) is amended to read as follows:

"(c) From the sums appropriated pursuant to subsection (f) of this section, the Secretary shall make grants to each institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal year ending September 30, 1989, and each of the next four following fiscal years, such sums to be used only for the reimbursement of the direct cost expenditures incurred for the conduct of the water resources research program.".

(c) Section 104(e) of such Act (42 U.S.C. 10303(e)) is amended to read as follows:

"(e) The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting, and arranging for research warrants its continued support under this section. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualifications are reestablished to the satisfaction of the Secretary.".

(d) Section 104(f)(1) of such Act (42 U.S.C. 10303(f)(1)) is amended by deleting "September 30, 1985, through September 30, 1989" and inserting in lieu thereof "September 30, 1989, through September 30, 1993,".

(e) Section 104(f)(2) of such Act (42 U.S.C. 10303(f)(2)) is amended by deleting "section 106 of this Act" and inserting in lieu thereof "section 105 of this Act".

(f) Section 105(a)(1) of such Act (42 U.S.C. 10304(a)(1)) is amended by deleting the following: ", on a dollar-for-dollar matching basis,".

(g) Section 105(a)(3) of such Act (42 U.S.C. 10304(a)(3)) is repealed.

(h) For the purposes of carrying out the activities authorized by section 105(c) of the Water Resources Research Act of 1984, there are authorized to be appropriated $10,000,000 for each fiscal year commencing with 1989 and ending with 1993.

(i) Section 108(6) of such Act (42 U.S.C. 10307(6)) is amended by inserting immediately after "depletion" a comma and the word "contamination".

(j) Section 108(8) of such Act (42 U.S.C. 10307(8)) is amended by inserting immediately after "water" the words "quality and quantity".

(k) Section 104 of such Act is amended by adding the following:

"(l)(1) There is further authorized to be appropriated to the Secretary of the Interior the sum of $5,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, only for reimbursement of the direct cost expenses of additional research or synthesis of the results of research by institutes which focuses on water problems and issues of a regional or interstate nature beyond those of concern only to a single State and which related to specific program priorities identified jointly by the Secretary and the institutes. Such funds when appropriated shall be matched on a not less than dollar-for-dollar basis by funds made available to institutes or groups of institutes, by States or other non-Federal sources. Funds made

available under this subsection shall remain available until expended.

"(2) Research funds made available under this subsection shall be made on a competitive basis subject to the merit of the proposal, the need for the information to be produced, and the opportunity such funds will provide for training of water resources scientists or professionals.".

TITLE II—GROUND WATER RESEARCH PROGRAMS OF THE FEDERAL GOVERNMENT

PART A—PROGRAMS OF THE ENVIRONMENTAL PROTECTION AGENCY

SEC. 201. AUTHORITY.

(a) The Administrator shall, in consultation and coordination with the Interagency Ground Water Research Task Force established under title I, establish a research, development, and demonstration program to support the protection, maintenance, and restoration of the ground water resources of the United States, and as part of such program shall conduct and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, sources, effects, extent, prevention, detection, and correction of ground water contamination. In carrying out the provisions of this Act, the Administrator is authorized to—

(1) collect and make available through publications and other appropriate means, information from research, development, and demonstration activities (including pertinent recommendations by the Administrator) conducted pursuant to this section;

(2) cooperate with other Federal agencies, States, local governmental entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions and organizations, and other persons, in the preparation and conduct of such research, development, and demonstration activities;

(3) make grants to the States and to local governmental entities, to other public agencies and authorities, nonprofit institutions and organizations and to other persons;

(4) conduct investigations and research and make surveys concerning any specific problem of ground water contamination in cooperation with any State or local governmental entity with a view to recommending a solution to such problem;

(5) enter into contracts (including contracts for construction) or cooperative agreements with public agencies and authorities, nonprofit institutions and organizations, and other persons without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

(6) conduct, in cooperation with the Secretary of the Department of Health and Human Services, studies, including epidemiological studies of the effects of ground water contaminants or potential contaminants on mortality and morbidity and clinical and laboratory studies on the immunologic, biochemical, physiological, and the toxicological effects including the carcinogenic, teratogenic, mutagenic, and neurotoxic effects of ground water contaminants or potential contaminants;

(7) develop and disseminate informational documents on ground water contaminants describing the nature and characteristics of such contaminants at various concentrations;

(8) collect and disseminate, in cooperation with other agencies of the United States, and with other public agencies and authorities, nonprofit institutions and organizations having related responsibilities, basic data on the chemical, physical, and biological contaminants that may affect ground water quality and other information pertaining to ground water contamination and the prevention, detection, and correction thereof;

(9) develop effective and practical processes, methods, and techniques for the prevention, detection, and correction of ground water contamination;

(10) construct such facilities and staff and equip them as may be necessary to carry out the provisions of this section;

(11) call conferences concerning the potential or actual contamination of ground water resources giving opportunity for interested persons to be heard and to present papers at such conferences;

(12) establish and maintain research fellowships in the Environmental Protection Agency and at public or nonprofit private educational institutions or research organizations;

(13) utilize, on a reimbursable basis, facilities and personnel of existing Federal scientific laboratories and research centers; and

(14) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, equipment and facilities, and other property or rights, by purchase, license, lease, or donation.

(b) In carrying out the provisions of this section, the Administrator (and the Agency Ground Water Research Committee established by section 202 of this Act) shall give priority to research, development, and demonstrations projects which—

(1) assess the fate and transport characteristics of contaminants or potential contaminants in ground water;

(2) develop practices, methods, techniques, or processes effective in controlling sources or potential sources of ground water contaminants with emphasis on sources which discharge or release nonhazardous waste or contaminants not considered to be waste which shall be in addition to similar development activities already conducted pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601, et seq.) with respect to sources of hazardous waste;

(3) determine the effects on human health and the environment of the contaminants which are or may be present in ground water;

(4) develop field, laboratory, and other analytical procedures for monitoring and evaluating ground water quality and the flow characteristics of aquifer systems;

(5) develop methods or techniques to restore ground water resources that have been damaged by contamination; and

(6) develop practices, methods, or techniques effective in reducing the quantity or toxicity of waste materials from the processes or activities which have a potential to contaminate ground water resources.

(c) For purposes of this title, the term "develop" shall include research projects, demonstration projects, or activities which assist in the transfer of technology to users of the practices, methods, or techniques identified.

(d) The Administrator shall conduct or assist research, investigations, studies, surveys, or demonstrations with respect to (but not limited to) the following—

(1) the effects on human health of contaminants or combinations of contaminants whether natural or anthropogenic that are found in or that are likely to be found in the ground waters of the United States;

(2) the exposure of persons to contaminants that are found in ground water, including exposure to such substances from sources other than ground water contamination including air, diet, and workplace exposures;

(3) the effects on the environment including aquatic life, wildlife, and other environmental resources of contaminants that may be found in ground water discharged to the surface;

(4) the hydrologic relationship between surface water and ground water and the likely impact of contamination in one medium on the quality and uses of the other;

(5) methods and techniques for characterizing and modeling subsurface hydrogeology in both the saturated and unsaturated zones;

(6) the transport and dispersion of particular contaminants in the saturated and unsaturated zones;

(7) the fate, including the degradation and transformation, of particular contaminants in the saturated and unsaturated zone including the native ability of the ground water system to modify the nature and threat of human induced or generated contaminants;

(8) methods and techniques to characterize the vulnerability of locations to contamination based on factors including climate, vegetation, topography, soil characteristics, and subsurface hydrology;

(9) methods and techniques to characterize and model zones of influence and wellhead protection areas which contribute recharge to water production wells;

(10) methods and techniques for sampling ground water including well construction, sample collection, and the storage of samples before analysis;

(11) methods for detecting and quantifying contaminants in ground water samples including screening methods to improve the efficiency and reduce the cost of analysis;

(12) methods and techniques for monitoring, sampling, and analyzing the discharge from sources or potential sources of contaminants in various categories and subcategories;

(13) methods and techniques for monitoring, sampling, and analyzing contaminants in the unsaturated zone and correlating the results of such methods and techniques with likely future impacts of ground water quality;

(14) methods and techniques of water conservation in household, agricultural, commercial, and industrial uses;

(15) conduct economic, legal, institutional, engineering, social, biological, geographic, ecological, and other studies related to the protection of ground water quality.

(16) processes and technologies to assure the more efficient use of toxic chemicals and other substances which are potential ground water contaminants including pesticide and fertilizer products;

(17) methods or techniques for controlling discharges, whether intentional, or accidental, from sources or potential sources of contaminants in various categories and subcategories;

(18) the design and operation of waste treatment systems including septic systems, land treatment systems, and containment systems that minimize the potential for contaminants to reach ground water;

(19) methods and techniques for the closure and post-closure care of sources or po-

tential sources of contaminants to minimize the potential for further discharge of contaminants to ground water;

(20) methods and techniques for the remediation and restoration of contaminated ground water resources;

(21) methods and techniques for the treatment of contaminated water supplies to render such supplies potable; and

(22) methods and techniques for remediation, restoration, and treatment of contaminated water resources in the saturated or unsaturated zones utilizing in situ biological, chemical, or physical treatment.

(e) Nothing in this title shall be construed, interpreted, or applied to limit or diminish in any way the authority or responsibility of any Federal agency to conduct monitoring of the quality or quantity of the Nation's ground or surface water resources or any other activity which is necessary or appropriate to carry out the duties assigned to such Agency by this Act or other Federal statutes.

SEC. 202. RESEARCH COMMITTEE AND MANAGEMENT PLAN.

(a) In carrying out the functions pursuant to this part, the Administrator shall establish a media-specific research committee for ground water resources (in addition to the media-specific research committees already established) to be cochaired by the Assistant Administrator for Water and by the Assistant Administrator for the Office of Research and Development. The membership of the committee established by this subsection shall be broadly representative of the program and research concerns within the Agency related to the protection, maintenance, and restoration of ground water resources.

(b)(1) The research committee shall make an annual report, which shall cover a period of at least 5 fiscal years, summarizing the major research issues concerning the protection, maintenance and restoration of ground water resources as identified by the committee, describing the research accomplishments of the preceding fiscal year, identifying the status of ongoing research, and outlining the ground water research program for the Agency for the 3 succeeding fiscal years.

(2) The annual report of the committee shall serve as the management plan for the ground water research program of the Agency and shall assure the coordination of all research, development and demonstration activities relating to the protection, maintenance, and restoration of ground water resources conducted by the Agency and shall facilitate and accelerate the development of control technologies as authorized by this Act. The annual report shall constitute the basis upon which requests for appropriations to carry out this title are to be made for the succeeding fiscal year.

(3) The annual report required by this section shall include an itemized list of all major policy decisions affecting all aspects of the protection, maintenance, and restoration of ground water resources which are pending before the Agency or which will arise in the forseeable future and shall specify in a comprehensive manner the type of information relevant to such policy decisions, evaluate the adequacy of available information in each category, and define the research and studies necessary to address the deficiencies in the available information.

(4) The annual report required by this section shall include a description and assessment of each project conducted pursuant to section 203 of this Act.

(5) The annual report required by this section shall include a description of the status of health effects and related research for each contaminant listed pursuant to this part. The report shall identify any additions to the list and summarize any proposals, including applications, recommendations, petitions, for listing pursuant to section 204 and indicate the disposition of such proposals. The report shall identify the status of all research in progress pursuant to this part.

(6) The annual report required by this section shall include a description of the status of environmental effects and related research for each contaminant listed pursuant to section 204 of this Act.

(7) The annual report required by this section shall be released in draft form for review including review by the Science Advisory Board, and shall be available for public comment for a period of 60 days after its submission in draft form. The annual report shall be released to the Congress in final form, not later than April 15 of each year, and shall incorporate such needed revisions as arise from comments received during the review period.

(8) This annual report shall also serve as the annual report to the Interagency Ground Water Research Task Force as required in section 102(d)(3).

(c)(1) The Administrator shall appoint a Ground Water Research Manager in the Office of Research and Development who shall be charged with carrying out the management plan, as incorporated in the annual report required by subsection (b) of this section, and who shall provide central direction for ground water research within the Office of Research and Development.

(2) The Research Manager shall serve as liaison with Clearinghouse Committee and shall ensure that results of all appropriate research and demonstration projects be available through the information centers established by this Act.

SEC. 203. CONTROL TECHNOLOGIES.

(a) The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of ground water contaminants and preventing the occurrence of ground water contamination. In addition to research, development, and demonstration activities conducted by the Administrator pursuant to section 201 and by the ground water research institutes established by section 210 of this Act, the Administrator may enter into contracts or cooperative agreements, or provide financial assistance in the form of grants, to public agencies and authorities, nonprofit institutions and organizations or other persons, to demonstrate such practices, methods, technologies, or processes only if the Administrator finds that—

(1) such contract, cooperative agreement or grant will serve to demonstrate a new or significantly improved practice, method, technology or process or the feasibility and cost effectiveness of an existing, but unproven, practice, method, technology, or process, and will not duplicate other Federal, State, local, or commercial efforts to demonstrate such practice, method, technology, or process;

(2) such contract, cooperative agreement or grant meets the requirements of this section and serves the purposes of this Act; and

(3) the demonstration of such practice, method, technology, or process will comply with all other laws and regulations for the protection of human health, welfare, and the environment.

(b) The demonstration program established by this section shall include solicitations for demonstration projects; selection of suitable demonstration projects from among those proposed; supervision of such demonstration projects, evaluation of the results of the demonstration projects which are conducted; dissemination of information on the effectiveness and feasibility of the practices, methods, technologies, and processes which are proven effective in controlling sources or potential sources of contaminants through demonstration under this section. The Administrator shall issue regulations to assure satisfactory implementation of each element of the demonstration program authorized by this section.

(c) Within 365 days after the date of enactment of this Act, and no less often than every 24 months thereafter, the Administrator shall publish a solicitation for proposals to demonstrate, prototype or at full-scale, practices, methods, technologies, and processes which are (or may be) effective in controlling sources or potential sources of contaminants. The solicitation notice shall prescribe the information to be included in the proposal, including technical and economic information derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the potential effectiveness and feasibility of the practice, method, technology, or process proposed to be demonstrated.

(d) Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitations required by subsection (c) of this section. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

(e) In selecting practices, methods, technologies or processes to be demonstrated, the Administrator shall fully review the applications submitted and shall evaluate each project according to the following criteria—

(1) the potential for the proposed practice, method, technology, or process to effectively control sources or potential sources of contaminants (including control through improved use, management, storage, handling, transfer, or disposal of contaminants) which present the greatest risk to human health or the environment or present the greatest likelihood of ground water contamination and which are not effectively controlled by existing practices, methods, and technologies;

(2) the capability of the person or persons proposing the project to successfully complete the demonstration as described in the application;

(3) the likelihood that the demonstrated practice, method, technique or process could be applied in other locations and circumstances to control sources or potential sources of contaminants, including considerations of cost effectiveness, and feasibility;

(4) the extent of financial support from other persons to accomplish the demonstration as described in the application; and

(5) the capability of the person or persons proposing the project to disseminate the results of the demonstration or otherwise make the benefits of the practice, method,

or technology widely available to the public in a timely manner.

(f) The Administrator shall select or refuse to select a project for demonstration under this section within 120 days of receiving the complete application for such project. In the case of a refusal to select a project, the Administrator shall notify the applicant within such 120-day period of the reasons for the refusal. In each 12-month period the administrator shall select at least ten qualified demonstration projects for support according to the provisions of this section.

(g) Each demonstration project under this section shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of a demonstration project, including the use of innovative or alternative waste treatment technologies, and the limitations established by subsection (i) of this section shall not apply to such costs.

(h) The Administrator shall enter into arrangements, wherever practicable and desirable, to provide for monitoring, testing procedures, quality control, and such other measurements necessary to evaluate the results of demonstration projects or facilities intended to control sources or potential sources of contaminants, including hazardous waste treated in situ, whether or not such projects or facilities are constructed and operated under the provisions of this section, for the purpose of obtaining information concerning the performance, and other aspects of such facilities, methods, practices, technologies, or processes. Where the Administrator provides only monitoring and evaluation of personnel and provides no other financial assistance to a facility or project, title to any invention made or conceived of in the course of developing, constructing, or operating such facility or demonstrating such practice, method, technology, or process, notwithstanding the provisions of title IV of this Act, shall not be required to rest in the United States and patents respecting such invention shall not be required to be issued to the United States.

(i) Each demonstration project under this section shall be completed within such time as is established in the demonstration plan. The Administrator may extend any deadline established under this subsection by mutual agreement with the applicant concerned.

(j) In providing financial assistance under this section to a demonstration project, the Administrator shall endeavor to enter into agreements and make other arrangements for maximum practicable cost sharing with other Federal, State, and local agencies, private persons or any combination thereof. Total Federal funds for any full-scale demonstration project under this section shall not exceed 50 per centum of the total cost of such project estimated at the time of the award of such assistance. In cases where the Administrator determines, in accordance with criteria established by regulation, that research under this section is of a basic nature which would not otherwise be undertaken, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(k) In carrying out the demonstration program under this section, the Administrator shall conduct a technology transfer program including the collection and dissemination of information, data and recommendations relating to the practices, methods, technologies, and processes for controlling sources or potential sources of contaminants demonstrated under the provisions of this section. In consultation with the Clearinghouse Committee the Administrator shall make available such information through a technical transfer and information center as required in section 104 of this Act. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other government agencies in a manner that will facilitate its dissemination; except that upon a satisfactory showing to the Administrator by any person that records, reports, or information, or a particular part thereof (except data on discharges), to which the Administrator has access under this section if made public, would divulge methods or processes entitled to protection as trade secrets of such person, the Administrator shall consider such records, report or information or particular portion thereof confidential in accordance with the provisions of section 1905 of title 18, United States Code, except that such record, report, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Notwithstanding any provision contained in this section or any other provision of law, all information reported to, otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act shall be made available upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Environmental Protection Agency).

SEC. 204. HEALTH AND ENVIRONMENTAL EFFECTS OF CONTAMINANTS.

(a)(1) Within 6 months after the date of enactment of this Act, the Administrator shall prepare and publish in the Federal Register a list of the contaminants which are known to occur (or which may be expected to occur) in the ground waters of the United States. The Administrator shall, from time to time and as necessary to carry out the provisions of this section but not less often than annually, review and revise such list adding other contaminants pursuant to the requirements of this section. The listing of a contaminant under this subsection is not an agency rulemaking and is not subject to the requirements of section 553 of title 5, United States Code.

(2) The initial list of contaminants shall include, but is not limited to, the following—

(A) contaminants for which the Administrator is required to promulgate a national primary drinking water regulation pursuant to the provisions of the Safe Drinking Water Act (42 U.S.C. 300f, et seq.);

(B) other contaminants for which a health advisory has been prepared by the Office of Drinking Water at the Environmental Protection Agency;

(C) contaminants listed according to the provisions of section 104(i)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act and which are known to occur in ground water;

(D) contaminants listed pursuant to section 307(a) of the Clean Water Act; and

(E) pesticides which the Administrator determines have the potential to leach to ground water.

(3)(A) The Administrator shall promptly revise the list of contaminants established by paragraph (1) of this subsection to include any contaminant which is found in ground water samples at three or more locations or which is listed pursuant to section 104(i)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act.

(B) Upon application of the Governor of a State, showing that a contaminant or potential contaminant of ground water which is not on the list established by paragraph (1) of this subsection may be reasonably anticipated to endanger public health, public welfare or the environment as a result of its presence or potential for presence in ground water, the Administrator shall, within 90 days, revise the list established by paragraph (1) of this subsection to include such contaminant or publish in the Federal Register a statement of the reasons for not making such revision.

(C) Within 90 days of receiving a recommendation from the Director of the National Toxicology Program, the National Institute of Environmental Health Sciences, and the Administrator of the Agency for Toxic Substances and Disease Registry that a particular contaminant be added to the list established by paragraph (1) of this subsection, the Administrator shall revise the list to include such contaminant or publish in the Federal Register a statement of the reasons for not making such revision.

(D) Any person may petition the Administrator requesting that a contaminant or potential contaminant be added to the list established by paragraph (1) of this subsection. The Administrator shall, within 90 days, either grant or deny the petition based on a showing by the petitioner that the contaminant may have an adverse effect on human health, welfare or the environment due to its presence or potential for presence in ground water. If the petition is granted the Administrator shall revise the list established under paragraph (1) of this subsection to include such contaminant.

(E) The Administrator may remove from the list any contaminant not known to occur in ground waters of the United States.

(b) For each contaminant listed according to the provisions of subsection (a) of this section, the Director of the National Toxicology Program in consultation with the Director of the Agency for Toxic Substances and Disease Registry shall, within 120 days of the listing of that contaminant, develop and transmit to the Administrator a proposed research program for that contaminant including a description of a program of toxicological testing which in the judgment of the Director is necessary to supplement information needed to prepare a risk assessment document described in section 205 for such contaminant. The Director shall consider data, criteria, and analyses developed pursuant to other Federal environmental laws in developing the research programs. In the case of a contaminant listed pursuant to subsections (a)(1) and (a)(2) a research program shall be developed within 120 days of the listing or as soon thereafter as practicable but not later than 3 years after the date of listing. Upon receipt, the Adminis-

trator shall publish the proposed research program in the Federal Register and seek comment thereon. Within 60 days after receipt of a proposed research program, the Administrator shall approve such program or make such amendments as the Administrator deems necessary to fulfill the purposes of this title. The research program shall, in combination with available data and information, assure complete and adequate information necessary to prepare a risk assessment pursuant to section 205, including—

(1) studies of the chemical and physical properties and characteristics of the contaminant;

(2) studies of the dispersion, persistence, and fate (including the degradation products and metabolites) of the contaminant when released into the environment;

(3) studies of human exposure to the contaminant as a result of its presence in ground water and through other pathways of contact with human populations;

(4) studies (including, but not limited to, laboratory and epidemiological studies) of the health effects of the contaminant (and its degradation products and metabolites) including studies to determine acute toxicity, subacute toxicity, chronic toxicity, and the potential for the contaminant to cause cancer, gene mutations, or birth defects; and

(5) studies of the ecological effects (including the propensity of the contaminant to bioaccumulate when discharged to surface waters) of the contaminant as a result of its presence in ground water.

The Administrator may use the authorities of section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act to conduct research programs outlined under this section, and shall coordinate with the development of contaminant profiles under section 104(i)(3) and research under section 104(i)(5) of such Act. To the extent practicable the research program developed pursuant to this subsection shall be completed within a 2-year period. Approved research programs shall be transmitted to the States and other interested persons. Nothing in this section shall limit the authority of the Administrator to conduct any study with respect to a contaminant in addition to the studies included in the research program.

(c)(1) The Administrator shall implement research programs developed pursuant to subsection (b). The Administrator shall consult with the Director of the National Toxicology Program and the Administrator of the Agency for Toxic Substances and Disease Registry and may delegate implementation of the research program to the Administrator of the Agency for Toxic Substances and Disease Registry.

(2) It is the sense of Congress that the costs of implementing research programs under this section be borne by the manufacturers and processors of the hazardous substance in question as required in programs of toxicological testing under the Toxic Substances Control Act and Federal Insecticide, Fungicide and Rodenticide Act.

(d) Funds authorized under section 111(m) of the Superfund Amendments and Reauthorization Act may be used to develop and implement research programs pursuant to this part to the extent that the Administrator, in consultation with the Administrator of the Agency for Toxic Substances and Disease Registry, determines that such use will not in any way limit or constrain the full and effective implementation of the activities otherwise authorized to be funded under section 111(m) of the Superfund Amendments and Reauthorization Act.

SEC. 205. GROUND WATER CONTAMINANT RISK ASSESSMENT.

(a) The President shall designate the Administrator as the lead official for the purposes of carrying out the activities authorized in this section. The Administrator shall carry out such activities in consultation and coordination with the members of the Interagency Ground Water Research Task Force and such other agencies as the President may designate.

(b) The Administrator shall conduct and publish a risk assessment for ground water contaminants as identified in section 204. Such risk assessment shall use scientifically sound methodologies to assess the risk to human health and the environment associated with a range of concentrations of the ground water contaminant.

(c) Each risk assessment shall include—

(1) the most recent scientific knowledge on the physical, chemical, biological, and radiological properties of the contaminant and its effects on human health and the environment;

(2) an assessment of factors, including contaminant sources, variable aquifer conditions, and ground water uses, which may influence the effect of the contaminant on human health and the environment;

(3) an assessment of the assumptions, scientific uncertainties, ranges of risk, and data gaps contained in the risk assessments;

(4) the association of the contaminant with various human activities which have the potential to be sources of the contaminant in ground water; and

(5) a comparison of the risks posed by such contaminants to risks posed by other ground water contaminants.

(d) The Administrator shall establish and use a standard format for the presentation of risk assessments to facilitate the use of such analyses by State and local officials in setting ground water standards or in monitoring ground water quality and by the public.

(e) In carrying out this section, the Administrator shall use, to the fullest extent practicable, existing data or analyses developed by other agencies, including the Department of Health and Human Services. The Administrator shall also consider data and analyses developed pursuant to the Federal Water Pollution Control Act, title XIV of the Public Health Service Act (relating to safe drinking water), the Toxic Substances Control Act, the Comprehensive Environmental Responses, Compensation and Liability Act of 1980, and the Federal Insecticide, Fungicide, and Rodenticide Act. The Administrator may conduct such additional studies under the authorities of such Acts to gather data necessary to reduce scientific uncertainties in the risk assessments. Such additional studies may be conducted in consultation with the National Institute of Environmental Health Sciences and the Agency for Toxic Substances and Disease Registry.

(f) The Administrator shall publish, with an opportunity for public notice and comment, risk assessment analyses for not less than 30 contaminants within 24 months after the date of enactment of this title, and not less than 30 additional contaminants within 36 months after the date of enactment of this title. The Administrator shall distribute copies. The Administrator shall continue to publish such assessments for additional contaminants at a rate which is consistent with the needs of the State and local governments in developing ground water quality standards.

(g) The Administrator shall publish risk assessments giving priority to contaminants posing the most significant potential threat to human health due to their known or suspected toxicity to humans and the potential for human exposure to such substances.

SEC. 206. CONTAMINANT SOURCE SURVEYS.

(a) The Administrator, in consultation with other appropriate Federal agencies and officials of the several States, shall conduct nationwide ground water quality surveys to identify the frequency and concentration of contaminants in ground water associated with various categories of current or potential sources of contaminants. The surveys authorized by this section shall include monitoring as feasible and practicable at wells which supply public water systems and at wells which supply private households to determine effects or potential effects of such sources on public health and at other ground water sampling points to determine effects of such sources on the general quality of the Nation's ground water resources.

(b) The surveys conducted pursuant to the authority of subsection (a) shall include, but need not be limited to, surveys with respect to the categories and subcategories of sources or potential sources of contaminants hereafter listed in clauses (1) through (9). Nothing in this section shall preclude the use of coordinated collection and field efforts. Each survey shall be completed and a report of the survey transmitted to the President and to the Congress not later than the date indicated in the following schedule for each category or subcategory—

(1) pesticide applications, January 1, 1991;

(2) septic tanks and cesspools, January 1, 1992;

(3) landfills, surface impoundments and wastepiles, July 1, 1992;

(4) class V injection wells including agricultural drainage wells, January 1, 1993;

(5) fertilizer applications, January 1, 1993;

(6) irrigation return flows, July 1, 1993;

(7) publicly owned treatment works, July 1, 1993;

(8) light industry, January 1, 1994; and

(9) transportation corridors, January 1, 1994.

(c) The Governor of any State may petition the Administrator to initiate a nationwide survey of a category or subcategory of sources in addition to those listed in subsection (b). The Administrator shall respond to the petition within 90 days and shall include a copy of the petition and any response in the annual plan required by subsection (j).

(d) In conducting the surveys authorized by subsection (a) the Administrator is directed to complete the following preliminary phases for each survey—

(1) in cooperation with the several States, the Administrator shall conduct an analysis to determine the number, type, and geographic distribution of sources in each category or subcategory;

(2) in cooperation with the directors of the national laboratories, the Administrator shall develop the analytical techniques necessary to test for the major contaminants of national concern which may be associated with any category or subcategory of sources;

(3) the Administrator, acting through the Office of Drinking Water, shall prepare health advisories for each of the contaminants which are likely to be associated with any particular category or subcategory of sources;

(4) the Administrator shall publish general guidance on the design of such survey including sampling and analytical protocols, based on the human health and environmental threat of such sources and shall take comment, including comment from the Science Advisory Board, on the elements of the survey; and

(5) the Administrator shall conduct pilot studies as appropriate for each survey the results of which shall be reviewed by the Science Advisory Board before the followup analyses are begun.

(e) The ground water quality surveys conducted pursuant to this section shall be adequate to provide the Administrator with a clear understanding of the need for instituting contaminant source control strategies on a local, state, or national basis. Such surveys may provide data to—

(1) determine the interaction between various characteristics of the saturated and unsaturated zone related to ground water vulnerability and the likelihood that particular source within the category or subcategory will have adverse effects on ground water quality; and

(2) determine the effectiveness of various control strategies and technologies that are practiced or employed in association with particular sources in the category or subcategory to reduce or prevent ground water contamination.

(f) Subject to the provisions of section 104, the data from these and ongoing ground water surveys shall be stored in an electronic data base for use by the States and the public.

(g)(1) To the extent that a contaminant is found in any well supplying a public water system as the result of a survey authorized by this section, the Administrator shall notify the public water system of the presence of such contaminant and the public water system shall in response take all steps required by the Safe Drinking Water Act (42 U.S.C. 300f, et seq.) including notification of the persons served by such system as provided in sections 1414(c) and 1445(a) of such Act.

(2) To the extent that contaminants are found in any well supplying a private household as the result of a survey authorized by this section, the Administrator shall notify the owner of the well (and any other person residing on the property who depends on the well for a potable water supply) and include with the notification a copy of the health advisories for the contaminants detected and shall provide counseling to the owner of the well on the appropriate steps to take in response to the contaminant, but shall assure that information released to the public does not divulge information with respect to water quality in any specific well but is only of a general nature.

(3) To the extent a contaminant is found at any drinking water well or ground water sampling point as the result of a survey authorized by this section and it is possible to identify a particular source of contaminants, the Administrator shall notify appropriate officials of the local, State, or Federal Government for response, including action to abate or correct the contamination as provided in other law.

(h) In conducting the surveys authorized by this section, the Administrator shall to the maximum extent possible, involve appropriate officials of the States in each phase of the survey including: survey of existing sources; conduct of the pilot study; selection of the wells to be sampled; interviews and sampling done as part of the survey; notification of owners of wells where contaminants are found; and actions taken to abate or correct sources of contamination.

(i) In seeking and incorporating the views of the Science Advisory Board in the conduct of the surveys authorized by this section, the Administrator shall provide members of the Board (or the appropriate subcommittee) with all necessary materials in a timely fashion so as to assure prompt completion of each survey. In no event shall the report required by subsection (k) be delayed by the process of consultation with the Science Advisory Board, but such report shall include comments from the Board to the extent that the Board is in full accord with the findings as reported.

(j) To the maximum extent possible (consistent with the need for confidentiality of the results as provided in subsection (e)(2)), the Administrator shall involve the public in the design and conduct of the survey authorized by this section and the Advisory Committee established under section 103 for the purpose of providing the Administrator with technical assistance in the design and conduct of each survey and notice and opportunity for public comment on each report before it is submitted.

(k) The Administrator shall provide to Congress within 2 years following the date of enactment of this Act and annually thereafter, a plan for implementing this section including a report on the status of each survey required by subsection (b) and any plans to initiate surveys for categories or subcategories not listed in that section.

(l) The Administrator shall prepare a report on the findings of each survey together with any recommendations for Federal, State or local regulatory or legislative modifications which the Administrator determines to be appropriate in light of such findings. The Administrator shall complete draft reports for each survey not later than 90 days before the schedule of completion dates listed in subsection (b). The draft reports shall then be made available for public comment for a period of at least 45 days. The final report shall be submitted to the President and to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Environment and Public Works of the Senate, to the several States and to the public.

SEC. 207. HEALTH EFFECTS OF NITRATES AND NITROSAMINES.

(a) The Administrator, in consultation with the Director of the National Institute of Environmental Health Sciences, shall conduct a study of the effects on public health (including carcinogenic endpoints) of nitrates, nitrosamines and other metabolites of nutrients and nitrogen compounds in public and private drinking water supplies, the sources of such contaminants, current and projected levels of exposure to such contaminants under various conditions, technologies or measures to reduce exposure including modification in agricultural and domestic practices and treatment techniques for water supplies (including private water supplies), and the costs of such technologies, measures or treatment techniques. Such report shall include an evaluation of current standards for such contaminants promulgated pursuant to the Safe Drinking Water Act and whether additional steps are necessary to protect public health (including the health of persons relying on private water supplies) from exposure to such contaminants.

(b) In furtherance of this study, the Administrator may review studies and research conducted by other Federal agencies and State agencies with respect to such contaminants and may invite participation by other concerned persons including other Federal agencies, State and local governments and nonprofit institutions in the conduct of the study.

(c) The Administrator shall publish a report on such study not later than 18 months after the date of enactment of this Act, unless a longer period is necessary to conduct laboratory research, in which case, a preliminary report shall be published on such date and the final report shall be published no later than 48 months after the date of enactment of this Act.

SEC. 208. STUDY OF ABANDONED WELLS.

(a) Not later than September 1, 1989, the Administrator of the Environmental Protection Agency shall report to the Committee on Environment and Public Works in the Senate and the Committee on Energy and Commerce in the House of Representatives information summarizing the available data on abandoned production and injection wells and the impacts that such wells may have on ground water quality. The Administrator's report shall include data and recommendations with respect to—

(1) the number of abandoned wells and their regional distribution including identification of areas where underground sources of drinking water do not exist;

(2) impacts of abandoned wells on ground water quality including information on actual damage cases which have resulted from migration of contaminants through abandoned wells including an indication as to the likelihood that current regulatory requirements would have prevented the damage;

(3) practices and technologies which are available for locating and capping or closing abandoned wells;

(4) the cost of locating and capping or closing abandoned wells including an estimate of the probability of successfully locating, reentering, remediating, and closing abandoned wells;

(5) programs developed by the States or other nations to address the abandoned well problem;

(6) assistance which may currently be available under Federal or State programs to land owners to share the cost of locating and closing or capping abandoned wells; and

(7) programs or requirements which may be adopted by the Federal Government or by the States to assure that ground water quality will not be impaired by abandoned wells, including recommendations with respect to closure requirements at the time the well is abandoned, title to the property on which the well is located is transferred or other schedule.

(b) For purposes of this section—

(1) the term "abandoned well" means an injection or production well including, but not limited to, drinking water wells, industrial supply water wells, mining, storage, oil and gas wells, and wells defined as injection wells under the Safe Drinking Water Act the use or construction of which has been permanently discontinued or which is in such disrepair that its continued use or existence may cause or allow a threat to human health or ground water contamination; and

(2) the term "closing" means the act or process of stopping or preventing the flow of water or other fluids into or out of an un-

derground zone through a borehole or well penetrating that zone.

SEC. 209. ADDITIONAL PROVISIONS.

(a) Nothing in this Act shall be interpreted, construed or applied to limit or diminish the authorities granted to the Administrator, the Secretary of the Interior, or any other head of any Federal agency under any other statute or Executive order or to preclude the collection of information or the conduct of any research, development, or demonstration activities for other purposes including the development of regulatory or remediation measures.

(b) All studies and results of studies conducted under this Act shall be reported or adopted only after appropriate peer review. Such peer review shall be completed, to the extent practicable within 60 days, and shall be conducted by panels of no less than three and no more than seven members, who shall be disinterested scientific experts selected for such purposes by the Administrator or the head of the agency conducting the study in consultation with the National Science Foundation on the basis of their reputation for scientific objectivity and the lack of institutional ties with any person involved in the conduct of the study or research under review. Not later than 12 months after the date of enactment of this Act, the Administrator shall issue guidelines for the implementation of this subsection at the agency including criteria to be used in determining which persons qualify as "disinterested" scientific experts.

(c)(1) A contract or cooperative agreement of the Agency for research, development or demonstration, may provide for the acquisition or construction by, or furnishing to, the contractor, of research, developmental, demonstration, or test facilities and equipment that the Administrator determines to be necessary for the performance of the contract or cooperative agreement. The facilities and equipment may be acquired or constructed at the expense of the United States, and may be lent or leased to the contractor with or without reimbursement, or may be sold to the contractor at a fair value. This subsection does not authorize new construction or improvements having general utility.

(2) Facilities or equipment that would not be readily removable or separable without unreasonable expense or unreasonable loss of value may not be installed or constructed under this section on property not owned by the United States, unless the contract or cooperative agreement contains—

(A) a provision for reimbursing the United States for the fair value of the facilities at the completion or termination of the contract or within a reasonable time thereafter;

(B) an option in the United States to acquire the underlying land; or

(C) an alternative provision that the Administrator considers to be adequate to protect the interests of the United States in the facilities or equipment.

(3) Proceeds of sales or reimbursements under this subsection shall be paid into the Treasury as miscellaneous receipts, except to the extent otherwise authorized by law with respect to property acquired by the contractor.

SEC. 210. GROUND WATER RESEARCH INSTITUTES.

(a) The Administrator shall make grants to institutions of higher learning or other research institutions (or consortia of such institutions) which are nonprofit organizations to establish and operate 8 ground water research institutes in the United States.

(b) The responsibility of each Ground Water Research Institute established under this section shall include, but not be limited to, the conduct of research and training relating to the protection, maintenance, and restoration of ground water resources and the publication and dissemination of the results of such research.

(c) Any institution of higher learning or other research institution (or consortium of such institutions) which is a nonprofit organization and which is interested in receiving a grant under this section shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

(d) The Administrator, acting jointly with the Secretary of the Interior shall select recipients of grants under this section on the basis of the following criteria—

(1) each Ground Water Research Institute shall be located in a region which makes significant use of ground water to meet drinking water, agricultural or other needs and is representative of a given region of the Nation;

(2) each Ground Water Research Institute shall, to the extent practicable, be located in an area which has experienced significant ground water contamination or depletion problems;

(3) each Ground Water Research Institute shall have available for carrying out this section demonstrated research capability;

(4) each Ground Water Research Institute shall have the capability to provide leadership in making national and regional contributions to the solution of both long-range and immediate ground water contamination or depletion problems;

(5) each Ground Water Research Institute shall make a commitment to support ongoing ground water research programs with budgeted institutional funds; and

(6) each Ground Water Research Institute shall have an interdisciplinary staff with demonstrated expertise in ground water management and research.

(e) The Federal share of a grant under this section shall not exceed 50 percent of the costs of establishing and operating each ground water research institute and related activities carried out by the grant recipients.

(f) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(g) Not less than 20 percent of the funds made available to carry out this section for any fiscal year shall be available to carry out technology transfer activities.

(h) Prior to, and as a condition of receipt each year of funds appropriated to carry out this section, each research institute shall submit to the Administrator for approval a ground water research program that includes assurances, satisfactory to the Administrator, that such program was developed in consultation with the States, local governmental entities, and other agencies and institutions within the region having ground water protection or management responsibilities and interested members of the public. Such program shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the region and the Nation, and shall encourage regional cooperation among institutions in research into areas of ground water protection, maintenance, and restoration that have a regional or national character. The Agency Ground Water Research Committee established under section 202 shall review proposed research programs and advise the Administrator concerning approval of proposed programs.

(i)(1) The Administrator shall establish procedures for a careful and detailed evaluation of each Ground Water Research Institute to determine whether the quality and relevance of its ground water resources research and its effectiveness as an institution for planning, conducting and arranging for research warrants its continued support under this section in the national interest. The evaluation of each Ground Water Research Institute shall be made by a team of knowledgeable individuals including research personnel of the Environmental Protection Agency, other agencies of the United States including the Geological Survey, university faculty or administrators, personnel from State and local governmental entities with ground water management or protection responsibilities, and private citizens selected for this purpose. The Administrator may also secure the cooperation of the National Research Council and the National Academy of Sciences for the purpose of this evaluation. The evaluation team shall visit each Ground Water Research Institute and shall assess the scientific quality of its research program, the potential effectiveness of its research in meeting ground water protection and management needs, and the demonstrated performance in making research results available to users in the region and elsewhere in the Nation. Criteria for making the determination that a Ground Water Research Institute is an effective instrument for ground water resources research shall include the following: accreditation in sufficient disciplines to successfully mount a multidisciplinary research program; sufficient resources, including laboratory, library, computer and support facilities; a sufficiently close proximity to a university to provide an effective working relationship with other researchers, faculty and students in a wide range of disciplines; and an institutional commitment to the support and continuation of an effective ground water resources research and education program.

(2) The Administrator, acting jointly with the Secretary of the Interior shall arrange for each of the Ground Water Research Institutes supported under this section to be evaluated within 2 years after its establishment and to be reevaluated at intervals not to exceed 5 years. If, as a result of any such evaluation, the Administrator and the Secretary of the Interior determine that a Ground Water Research Institute does not qualify for further support under this section, then no further grants to the Ground Water Research Institute may be made until the Ground Water Research Institute's qualification is reestablished to the satisfaction of the Administrator and the Secretary.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purpose of carrying out the activities authorized by section 201 and 202 of this Act, there are authorized to be appropriated $40,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(b) For the purpose of carrying out the activities authorized by section 203 of this Act, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(c) For the purpose of carrying out the activities authorized by sections 204 and 205

of this Act, there are authorized to be appropriated $20,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(d) For the purpose of carrying out the activities authorized by section 206 of this Act, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(e) For the purpose of carrying out the activities authorized by section 207 of this Act, there is authorized to be appropriated $2,000,000 without fiscal year limitation.

(f) For the purpose of carrying out the activities authorized by section 208 of this Act, there are authorized to be appropriated such sums as necessary for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(g) For the purpose of carrying out the activities authorized by section 210 of this Act, there are authorized to be appropriated $16,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

PART B—PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

SEC. 221. GEOLOGICAL SURVEY.

(a)(1) The United States Department of the Interior, acting through the Geological Survey, has the principal Federal responsibility for research in the hydrologic sciences, for appraising the Nation's water resources, and for providing hydrologic information.

(2) The Secretary of the Interior, acting through the Geological Survey in consultation and cooperation with the Interagency Ground Water Research Task Force, is authorized to undertake basic and applied research; collect hydrologic and related data on surface and ground water quantity and quality; conduct national, regional, and local investigations, resource assessments, and surveys; and undertake other activities related to maintaining a continuing assessment of the state of the Nation's water resources. The Secretary is authorized to undertake such activities in cooperation with other Federal, State, and local governments and agencies, and academic institutions. The Secretary of the Interior is further authorized to disseminate the results of such activities by means of publication, data dissemination, cataloging and referral services, training and education, and technical assistance to Federal, State, and local governments, and to private persons.

(b)(1) The Secretary shall appoint a Ground Water Research Manager in the Department of the Interior who shall be charged with carrying out the research and education plan, as incorporated in the annual report required by section 102(c)(1) of this Act, and who shall provide central direction for ground water research within the appropriate bureau.

(2) The Research Manager shall serve as a liaison with the Clearinghouse Committee and ensure that results of all appropriate research and demonstration projects be available through the Technical Transfer and Information Center established in section 104 of this Act.

(c)(1) The Secretary may undertake the activities authorized by subsection (a) of this section on a reimbursable or cooperative basis with other Federal agencies, State and local governments, and Federal permittees or licensees but only after execution of a written agreement which outlines for whom such reimbursable or cooperative activities are being undertaken, and the purpose, cost and duration of the activities.

(2) The activities authorized by subsection (a) of this section shall include, but are not limited to, a Federal-State cooperative program to determine the quantity and quality of surface water and ground water of the United States and the uses of the Nation's water resources through a series of projects jointly funded on an equal matching basis by the Geological Survey and the States or their political subdivisions and interstate compacts.

(3) In the case of cooperative program activities for mapping of ground water resources, the Secretary shall provide 60 percent of project costs.

(4) The activities authorized by subsection (a) of this section shall include, but are not limited to, a program to investigate ground water quality and flow characteristics in various hydrologic regions of the United States to—

(A) determine the availability and chemical quality of water stored in each aquifer system;

(B) determine the discharge and recharge characteristics of each aquifer system;

(C) determine the hydrogeologic and chemical controls that govern the response of each aquifer system to stress;

(D) develop models to improve understanding of the affects of human activities on each system; and

(E) develop maps at a consistent scale to be determined in consultation with the States delineating ground water resources, aquifer systems and the recharge areas of such systems.

(5) The activities authorized by subsection (a) of this section shall include, but are not limited to, a program to improve understanding of the processes which control the movement, fate, and alteration of toxic and hazardous substances and other contaminants in ground water.

SEC. 222. NATIONAL GROUND WATER QUALITY INVENTORY.

(a)(1) The Secretary of the Interior, acting through Geological Survey and in consultation with the Interagency Ground Water Research Task Force, and the several States, shall prepare a report which shall include, but need not be limited to, the following:

(A) an assessment of the Nation's ground water quantity and quality based on existing and readily available data and information, including a description of areas where insufficient quantity and quality information is available;

(B) an evaluation of the adequacy of existing ground water data collection and monitoring programs conducted by Federal, State, and local governments and private industry including an assessment of monitoring protocols and recommendations for improvement to such protocols;

(C) a description of changes and trends in the quantity and quality of the Nation's ground water resources to the extent that existing data and information are available; and

(D) an assessment of the water supply needs of the Nation including water supply for public, agricultural, industrial, and other uses and the impact of water supply needs in the future on available ground water quality and quantity.

(2) The Secretary shall complete a draft of the report authorized by paragraph (1) no later than 12 months following the date of enactment of this Act. Such report shall then be made available for public comment for a period of at least 45 days. The final report shall be submitted to the House Committee on Interior and Insular Affairs and the Senate Committee on Environment and Public Works, the several States, and to the public no later than 30 months after the date of enactment of this Act.

SEC. 223. NATIONAL GROUND WATER QUALITY ASSESSMENT.

(a) The Secretary of the Interior, acting through the Geological Survey, is authorized and directed, based on information contained in the report prepared pursuant to section 102(d)(3) and after consultation with the Interagency Ground Water Research Task Force and the several States, to establish and conduct a National Ground Water Quantity and Quality Assessment Program to—

(1) identify, assess, and monitor the quantity and quality of the Nation's ground water resources; and

(2) describe changes and trends in the quantity and quality of the Nation's ground water.

(b) In conducting the program authorized by subsection (a) of this section, the Secretary shall ensure that the program—

(1) includes agreements or memorandum of understanding, where appropriate, with the Environmental Protection Agency, other Federal agencies, the several States, local governments, private organizations and individuals detailing the ground water monitoring and assessment responsibilities of each entity in order to assure consistency and avoid duplication of effort;

(2) recommends and seeks to achieve, to the extent possible considering other statutory mandates, uniform data collection protocols for Federal agencies, State and local governments, and private organizations and individuals to use in the collection of reliable ground water data and information;

(3) provides guidance on the use of existing ground water quantity and quality data and information including means to integrate and analyze data collected under varying protocols and various monitoring and assessment programs;

(4) assists Federal agencies in meeting their responsibilities under this Act and the Safe Drinking Water Act (42 U.S.C. 300f, et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1151, et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), the Hazardous Liquid Pipeline Safety Act (49 U.S.C. App. 2001, et seq.), the Surface Mining Control and Reclamation Act (49 U.S.C. 1201, et seq.), the Federal Land Policy and Management Act (43 U.S.C. 1701, et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. 7901, et seq.), and other Federal statutes with respect to the protection and management of ground water resources;

(5) improves the generic knowledge and understanding of the nature, extent, causes and effects of ground water contamination;

(6) assists State and local governments in the protection and management of ground water resources and the design of ground water monitoring programs; and

(7) is specifically designed to obtain complementary surface water quality data to provide an integrated knowledge of water quality conditions within specific hydrologic regions and subregions.

(c) The Secretary shall report every 3 years to the Congress on the results of the assessment program established by this subsection.

SEC. 224. AUTHORITIES OF THE ADMINISTRATOR AND ANY OTHER FEDERAL AGENCIES.

Nothing in this part shall be construed, interpreted or applied to limit or diminish in any way the authority or responsibility of the Administrator of the Environmental Protection Agency or any other Federal agency to conduct monitoring of the quality or quantity of the Nation's ground water or surface water resources or any other activity which is necessary or appropriate to carry out the duties assigned to the Administrator and the Agency by this Act or other Federal statutes.

SEC. 225. GROUND WATER RESEARCH PROGRAM FOR THE BUREAU OF RECLAMATION.

(a) The scope of research involving the Bureau of Reclamation shall include the effect of existing and proposed dams, reservoirs, and other water diversion projects on the local and regional ground water recharge and the effects of such projects on quality and quantity of ground water aquifers and surface streams, rivers, and lakes.

(b) The Secretary of the Interior, acting through the Bureau of Reclamation, and in consultation with the Interagency Ground Water Research Task Force and with the several States, shall conduct an investigation and analysis and prepare a Ground Water Reclamation Study for Congress, which shall include—

(1) an assessment of the impacts of existing and proposed Bureau of Reclamation projects on the quality and quantity of ground water resources;

(2) analyses of regional water budgets and the impact of the water projects on these budgets under varying annual weather conditions;

(3) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on ground water, if any;

(4) an analysis of the potential for ground water recharge facilities and the need to demonstrate artificial recharge technologies under a variety of hydrogeologic conditions taking into account the activities and information generated by Public Law 98-434;

(5) an analysis of how the Federal government could assist State and local governments in using artificial recharge facilities and technologies; and

(6) a description of the Federal technical assistance available to State and local agencies on economic engineering and other factors relating to the design and construction of ground water management facilities.

(c) The Secretary of the Interior shall submit his recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a Ground Water Management and Technical Assistance Program in the Bureau of Reclamation in order to minimize adverse impacts of projects on ground water through development and implementation of management plans and activities.

(d) The report shall be delivered to Congress prior to the expiration of the 24-month period following the date on which funds are first appropriated pursuant to an authorization contained in this Act.

SEC. 226. INVESTIGATION OF MINING IMPACT ON GROUND WATER.

(a) The Secretary of the Interior acting through the Bureau of Mines and in consultation with the Interagency Ground Water Research Task Force and the several States, shall conduct an investigation and analysis and prepare a report on Ground Water and Mining, which shall include—

(1) a summary of the national mining activities; including a discussion of the methods and impact of these activities on the ground water resulting from tailings ponds, leach pads, tailing pads, and mine water leachates;

(2) an evaluation of procedures or practices that may be adopted that would reduce the amount of waste or mitigate leaching of contaminants into the ground water systems; and

(3) an evaluation of the mine reclamation procedures for open pit and drift mines to determine if reclamation methods are adequately mitigating the potential for ground water contamination.

(b) The report shall be delivered to Congress prior to the expiration of the 24-month period following the date on which funds are first appropriated pursuant to an authorization contained in this Act.

SEC. 227. AUTHORIZATIONS.

(a) For the purpose of carrying out the provisions of sections 221 and 222 of this Act, there are authorized to be appropriated to the Geological Survey $160,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(b) For the purposes of carrying out the activities authorized in section 223 there are appropriated $10,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(c) For the purposes of carrying out section 225 of this Act, there are authorized to be appropriated $500,000 to the Bureau of Reclamation for each of the fiscal years 1989 and 1990.

(d) For the purposes of carrying out provisions of section 226 of this Act, there are authorized to be appropriated $1,000,000 to the Bureau of Mines for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

PART C—GROUND WATER RESEARCH PROGRAM OF THE DEPARTMENT OF AGRICULTURE

SEC. 231. DEPARTMENT OF AGRICULTURE.

(a) The Secretary of Agriculture, in consultation and cooperation with the Interagency Ground Water Research Task Force, shall be responsible for planning and coordinating the ground water research program within the divisions of the Department.

(b) The Secretary shall oversee the activities of the various divisions to ensure proper cooperation, and timely execution, of all ground water activities within the Department.

(c) In the conduct of such research, development, and demonstration, the Secretary of Agriculture shall give highest priority to projects and activities which improve the efficiencies of agricultural chemicals including nutrients and pesticides in use; reduce water requirements for irrigation; demonstrate integrated pest management techniques; reduce the number of agricultural chemicals in use through the demonstration of effective alternatives; and improve chemical disposal practices.

(d) Participation in the Department of Agriculture ground water research program shall include the Agricultural Research Service Division, the Cooperative State Research Service, the Extension Service, the Soil Conservation Service, the Economic Research Service, the Forest Service, Land Grant Colleges and Universities, the State Agricultural Experiment Stations, and the Cooperative Extensions Services.

(e)(1) The Secretary shall appoint a Ground Water Research Manager who shall be charged with carrying out the management plan, as incorporated in the annual report required by section 102(c)(1) of this Act, and who shall provide central direction for ground water research among the Department's Divisions.

(2) The Research Manager shall serve as liaison with the Interagency Clearinghouse Committee and ensure that results of all appropriate research and demonstration projects be available through the information center established in this Act.

SEC. 232. EVALUATION.

(a) The Secretary of Agriculture shall conduct in consultation and coordination with the Interagency Ground Water Research Task Force, an investigation and analysis and prepare reports to the Congress on the relationship between agricultural practices, policies, and ground water use that shall include—

(1) the current status and level of effort of programs at the Department of Agriculture to evaluate, prevent, and mitigate ground water quality problems; evaluate present water use and predict future use for agricultural and rural residents based upon geohydrological conditions and current and predicted levels of use and withdrawal;

(2) procedures for disseminating data and information and reports both to the public, farming communities, and other researchers, and computerization of data and information based systems;

(3) a detailed description of how ground water quality issues are included in management plans for lands of the Department of Agriculture;

(4) a listing of major policy decisions relating to agricultural impacts on ground water quality which are likely to be pending before the Department of Agriculture within the succeeding 3 fiscal years, and the types of scientific information needed for such policy decisions;

(5) a national overview of the impacts of agricultural operations, including the effect of size and different practices on the quality of ground water, and including identification of specific organic and inorganic sources of pollution, to the extent that current scientific knowledge and data coverage permit;

(6) a review of the roles of the various divisions and services of the Department and recommendations for eliminating duplication in research efforts; and

(7) specific recommendations for changes in existing programs and new initiatives in monitoring research, extension, and technical assistance efforts to address present and potential water quality and quantity problems.

(b) The Agriculture Research Service (ARS) shall fund basic and applied research in ground water, including, but not limited to, control and monitoring technologies as they pertain to agricultural practices and uses of ground water in rural areas as follows:

(1) The Agriculture Research Service shall direct its research toward improving understanding of basic physical processes that govern the movement and fate of agricultural chemicals, including the role of different soil types, and agricultural practices.

(2) The Agriculture Research Service shall direct research efforts into non-chemical alternatives and agricultural practices for controlling insects, pests, weed control, and plant nutrients.

(c) The Cooperative State Research Service shall fund and coordinate the agricultural research program in the Land Grant University system.

(d) The Cooperative State Research Service is directed to coordinate the research program efforts around the State and local data and information needs regarding the identification of contaminants, contaminant sources and prevention; fate and transport research and as established through the Cooperative Extension System.

(e) The Cooperative State Research Service, acting through the State Agricultural Experiment Stations, shall be responsible for research in the effects of various soil types, tillage, and conservation practices have on pesticide and fertilizer contamination in local ground waters. Such effort shall be coordinated with the Agricultural Research Service and with the regional Water Research Institutes to determine the effect of different soil types and climatic conditions.

(f) There is authorized to be appropriated to the Soil Conservation Service such sums as may be necessary to carry out a study of the impact of conservation tillage and other soil and water conservation practices on ground water quality, including the effect of this practice on the use and leach potential of agrichemicals.

SEC. 233. RESEARCH PROGRAM.

(a) The Secretary of Agriculture acting through the Agricultural Research Service and the Cooperative State Research Service, and in consultation and cooperation with the Interagency Ground Water Research Task Force, shall establish a national research, development and demonstration program with respect to the impact of agricultural practices on ground water quality. For purposes of this section agricultural practices shall include, but not be limited to, the application of pesticides and nutrients, irrigation practices and the operation of animal feedlots. In carrying out such program the Secretary may—

(1) conduct, and promote the coordination and acceleration of research, investigations, experiments, demonstrations, surveys and studies relating to the causes, effects, extent, prevention, detection, and correction of ground water contamination which results, or may result, from agricultural practices, including storage, preparation, application and disposal practices (including back-siphoning and the rinsing and disposal of containers);

(2) encourage, cooperate with, and render technical assistance to the States and to local governmental entities, other appropriate public agencies and authorities, nonprofit institutions and organizations, and other persons in the conduct of such activities;

(3) establish technical advisory committees and interagency working groups composed of recognized experts in various aspects of ground water protection and the agricultural sciences to assist in the examination and evaluation of research progress and proposals and to avoid duplication of research;

(4) exercise in the same manner and to the same extent those authorities granted to the Administrator in section 201 of this Act.

(b) The Secretary shall conduct or assist research, investigations, studies, surveys, or demonstrations with respect to (but not limited to) the following—

(1) chemical and biological interactions and processes including—

(A) the fate and transport of organic and inorganic substances released by agricultural practices from the point of release through the soil, vadose and saturated zones (and including releases and transport through air and surface waters),

(B) the biological, chemical and physical factors that govern nutrient transformation and mediate pesticide efficacy, stability, fate and transport in the soil, vadose and saturated zones,

(C) the source, extent and occurrence of agricultural chemicals and their metabolites and degradation products including pesticides, nutrients and salts resulting from irrigation in the soil, vadose and saturated zones;

(2) analytical models and testing methodology including—

(A) physical process models to describe the movement of water and agricultural chemicals through the soil, vadose and saturated zones,

(B) methods of measuring, sampling and characterizing the spatial and temporal variability, flux rate, and other features of the physical environment in the soil, vadose and saturated zones,

(C) predictive models to manage the impact of alternative agricultural chemical applications, water management programs, and production systems on ground or surface water quality,

(D) management systems to enable users to determine optimal nutrient and pesticide applications while minimizing effects on ground water quality for various soils, geomorphology and cultural conditions, and

(E) data bases and data base management systems for model testing and validation; and

management and control including—

(i) the effects of changing application technology, irrigation and agricultural production systems on chemical and water flux in the soil, vadose and saturated zones,

(ii) the effectiveness of water management and tillage practices in controlling the movement of water and its constituents through the interacting soil medium,

(iii) the effect of various water management and agricultural production systems on soil microbiota which may effect the efficacy, persistence and breakdown of agricultural chemicals, and

(iv) new agricultural chemical products including controlled release pesticides and nutrients which may improve the efficacy, reduce application variability, and minimize the possibility of soil and ground water contamination.

SEC. 234. AGRICULTURAL NITROGEN BEST MANAGEMENT COMMITTEE.

(a) The purpose of this section is to protect public health and the environment through development of education programs on agricultural best management practices to minimize nitrogen losses from all potential agricultural sources and practices. The Extension Service, through the Cooperative Extension System, shall be responsible for the development and delivery of these programs.

(b) The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall establish and cochair an Agricultural Nitrogen Best Management Practices Committee consisting of—

(1) the Administrator of the Agriculture Research Service;

(2) the Administrator of the Extension Service;

(3) the Chief of the Soil Conservation Service;

(4) the Administrator of the Agriculture Stabilization and Conservation Service;

(5) the Administrator of the Cooperative State Research Service;

(6) the Manager of the National Fertilizer Development Center, Tennessee Valley Authority;

(7) the Director of the Office of Water Regulations and Standards, Environmental Protection Agency;

(8) the Director of the Office of Ground Water Protection, Environmental Protection Agency;

(9) a representative of the United States Geological Survey;

(10) an individual selected by the Board of Agriculture of the National Research Council of the National Academy of Science;

(11) a representative of National Association of Conservation Districts;

(12) a representative of farmers nationwide, to be selected by the Secretary of Agriculture;

(13) a representative of State government officials with knowledge of ground water selected by the Administrator of the Environmental Protection Agency;

(14) a representative of national environmental organizations selected by the Administrator of the Environmental Protection Agency;

(15) a representative of the State Agricultural Experiment Stations selected by the Secretary of Agriculture; and

(16) a representative of the State Extension Services selected by the Secretary of Agriculture.

(c) The Committee shall—

(1) develop agricultural best management practices for agricultural nitrogen utilization in crop production and protection of public health and surface and ground water quality;

(2) develop educational and training materials including slide presentations, brochures, and video tapes; and

(3) disseminate the educational materials to American farmers and other information users through appropriate means, including—

(A) county Agricultural Soil Conservation Services offices, and county soil water conservation district offices; and

(B) extension agents.

(d) The Committee shall report back to Congress 1 year after the date of enactment of this Act on the progress of its efforts. The report shall include a description of—

(1) the agricultural best management practices developed, with particular emphasis on practices to minimize the impact of agricultural nitrogen on ground water and surface water quality;

(2) material developed to promote agricultural best management practices;

(3) the strategy for dissemination;

(4) the number of farmers exposed to the information; and

(5) the number of farmers adopting agricultural best management practices.

(e) For the purpose of this section—

(1) the term "agricultural nitrogen" means nitrogen in all forms which may be present and available for crop production (whether natural, physical, manmade, chemical, or biological) including nitrogen supplied by leguminous plants (such as soybeans and alfalfa), animal manure, decaying leaves and other vegetation, commercial fertilizers, human and industrial sewage, precipitation, dustfall, soil and soil bacteria; and

(2) the term "agricultural best management practices" means management practices designed to protect public health and to reduce and prevent contamination of ground water and surface water and erosion and runoff from cropland, including, but

not limited to, use of conversion tillage, no till, ridge planting, strip tillage, contour farming, strip cropping, irrigation water management, judicious fertilizer application, slow-release fertilizers, soil and tissue testing, and vegetative buffer strips.

(f) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the first 5 fiscal years beginning after the date of the enactment of this Act.

(g)(1) Section 319(c) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(3) Any approved management program and report required by subsection (b) shall be made available to the Interagency Ground Water Research Task Force established in section 102 of the Ground Water Research, Management, and Education Act of 1988.".

(2) Section 319(m)(2) of such Act is amended by adding at the end thereof the following new paragraph:

"In preparing reports under this paragraph, the Administrator shall consider the report of the Agricultural Nitrogen Best Management Practices Committee required under section 234 of the Ground Water Research, Management, and Education Act of 1988.".

SEC. 235. EFFICIENT USE OF NUTRIENTS.

(a)(1) The Secretary of Agriculture, in cooperation with the Administrator and the Director of the National Fertilizer Development Center, shall conduct research and investigations on practices, methods and techniques for improving the efficiency of fertilizer uses in agriculture including practices which would change the timing, rate or methods of fertilizer application to reduce the potential for nitrates and other fertilizer constituents or degradation products to leach to ground water, and soil management practices and animal waste management.

(2) The Secretary of Agriculture shall report the preliminary results of such research and investigations to the Congress within 24 months after the date of enactment of this Act. Such report shall include recommendations as to the policies and programs that may be implemented by Federal agencies or the States to encourage the use of practices that are more efficient. The report shall also include an estimate of the benefits to be derived from the adoption of such practices, methods and techniques and an estimate of any increase in costs associated with such practices, methods and techniques.

(3) There are authorized to be appropriated for purposes of carrying out this subsection not to exceed $3,500,000 in each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

(b)(1) The Administrator, after consultation with the Secretary of the Department of Agriculture and the Director of the National Fertilizer Development Center, shall conduct a study of commercial fertilizer products sold for use in the United States to determine the chemical constituents including the presence of trace elements in such products and the potential for such constituents to leach and to contaminate ground water resources. The study shall include a survey of fertilizer products used in agriculture and sold in commerce for use on lawns, gardens and golf courses.

(2) The Administrator shall report to the Congress the results of the study not later than 18 months after the date of enactment of this Act including any steps which the Administrator will take or will recommend to other Federal agencies to protect human health or the environment from any adverse effect which may result from the use of such products.

(3) There are authorized to be appropriated without fiscal year limitation $1,000,000 to carry out the study and issue the report required by this subsection.

(4) The Administrator shall take such actions as are necessary and appropriate pursuant to the authorities granted the Administrator in the Toxic Substances Control Act (15 U.S.C. 2601, et seq.) to prevent any adverse effect on the human health or the environment which may result from the presence of hazardous constituents in fertilizer products distributed in commerce within the United States.

SEC. 236. STUDY.

(a) The Administrator and the Secretary of Agriculture shall conduct a study of agricultural drainage wells including the impact of such wells on ground water quality, the alternatives to wells for drainage purposes and the costs of plugging or otherwise closing existing wells.

(b) The Administrator shall report the results of such study to the Congress within 24 months after the date of enactment of this Act. Such report shall include an inventory of agricultural drainage wells in each State and a description of Federal or State programs that may be available to assist the owners of such wells with the cost of closure and the installation of alternative practices.

(c) There are authorized to be appropriated for purposes of carrying out this section not to exceed $750,000 without fiscal year limitation.

(d) For the purposes of carrying out the activities authorized by sections 232 and 233 there are authorized to be appropriated $16,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

SEC. 237. EDUCATION.

(a) The Secretary of Agriculture, acting through the Extension Service and the Soil Conservation Service, shall establish a training program for staffs of both agencies. The Cooperative Extension System shall establish an education program for the public to ensure that information on farming practices, alternatives to pest control, soil management practices, leach potential of agrichemicals, and other pertinent information regarding the protection of ground water, resulting from the research programs authorized in this part, is available to the farming communities and individuals.

(b) For the purposes of carrying out the activities authorized in this section, there are authorized to be appropriated $12,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

PART D—ADDITIONAL PROVISIONS

SEC. 261. LAKE OKEECHOBEE ECOSYSTEM, FLORIDA.

(a)(1) The Administrator, in cooperation with the Secretary of the Army, shall conduct a program of research of the Lake Okeechobee ecosystem on the relationship between surface and ground water quality and the management and control of aquatic plants. The Secretary of the Army shall provide such resources and services as may be necessary to assist the Administrator in conducting such program.

(2) The program conducted under this subsection shall—

(A) examine, interpret, and summarize existing data relating to surface and ground water quality and the management and control of aquatic plants, and identify the location of major collections of such data;

(B) examine the impact of existing methods for the management and control of aquatic plants on the Lake Okeechobee ecosystem;

(C) conduct any research which the Administrator determines is necessary for the development of effective methods of management and control of aquatic plants and surface and ground water quality; and

(D) be conducted in coordination with similar programs conducted by other Federal agencies and State, regional, and local authorities engaged in research involved in Lake Okeechobee.

(3) Methods developed under this subsection shall—

(A) be capable of application in a variety of combinations as separate components of systems for such management and control;

(B) be adaptable for application, without a significant loss of accuracy and utility, to a wide variety of surface and ground water ecosystems and regions of the United States; and

(C) be compatible with all aspects of each ecosystem to which they may be applied.

(4) Subject to the availability of appropriations, the Administrator and the Secretary of the Army may each enter into contracts for the performance of research required for the development of methods under this subsection.

(5) The Administrator shall provide information about methods developed under this subsection to any official of State, regional, or local government upon receipt by the Administrator of a request submitted by the official.

(b) The Administrator shall conduct a project demonstrating methods developed under subsection (a) at the Lake Okeechobee ecosystem. Such project shall—

(1) assess the utility of methods developed under subsection (a) as components of a variety of comprehensive systems for the management and control of aquatic plants and surface and ground water quality; and

(2) identify any further research required to allow development of effective methods for the management and control of aquatic plants and surface and ground water quality.

(c) The Administrator shall solicit recommendations regarding activities under subsections (a) and (b) from—

(1) scientists other than those participating directly in activities under such subsections, including scientists representative of the Federal, State, regional, and local scientific communities, universities, and private industry; and

(2) management and operational personnel involved in the management and control of aquatic plants,

and shall utilize such recommendations in the development of methods under subsection (a).

(d) The Administrator shall complete the research program under subsection (a) and demonstration project under subsection (b) not later than 3 years after the date of the enactment of this title.

(e) Not later than 180 days after the date of the enactment of this title, the Administrator and the Secretary of the Army shall each transmit to the Congress a report outlining a plan for carrying out the functions of the Administrator or Secretary of the Army, as the case may be, with respect to the research program and demonstration project to be conducted under this section.

Such reports shall each include a description of the cooperative measures to be undertaken by the Administrator or the Secretary of the Army, as the case may be.

(f) Any department or agency of the United States may utilize any recommendation contained in a report on the results of the research program and demonstration projects conducted under this section—

(1) if the recommendation may be utilized without interfering with any management or demonstration project already in progress; or

(2) after consultation with each person conducting such a management or demonstration project.

(g) For the purposes of this section, the term "Lake Okeechobee ecosystem" means Lake Okeechobee, Florida, all rivers and streams entering into and carrying water away from such lake, the surrounding marsh area, the associated 100-year flood plain, and associated ground water resources.

(h) There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1989, 1990, and 1991. Upon request of the Secretary of the Army, the Administrator may transfer to the Secretary of the Army such funds as may be necessary for the Secretary of the Army to comply with the provisions of this section applicable to the Secretary of the Army.

SEC. 262. ANNUAL REPORT.

Not later than January 15, 1989, and each January 15 thereafter, the President shall prepare and submit to Congress an annual report on the activities carried out by the Administrator, the Secretary, the Interagency Ground Water Research Task Force, other Federal agencies as appropriate, and State and local governments regarding ground water assessment, protection, management, and remediation activities under this title for Lake Okeechobee. The annual report shall contain a discussion of the ground water assessment and research findings to date, needs of the Federal Government and State and local governments, and an evaluation of the extent to which the programs authorized by this title are addressing those needs.

SEC. 263. WESTERN CENTER FOR NUCLEAR AND GROUND WATER RESEARCH.

(a) DEFINITIONS.—As used in this part, the term—

(1) "Center" means the Western Center for Nuclear and Ground Water Research established by this section;

(2) "Board" means the Board of Directors as established by this section; and

(3) "Administrator" means the Administrator of the Environmental Protection Agency.

(b) FINDINGS.—The Congress finds that—

(1) the protection of ground water from nuclear and hazardous wastes requires further research in the containment of those wastes and in the monitoring of the environment;

(2) growing demands for ground water in arid regions require further research to protect and monitor existing aquifers and locate future aquifers;

(3) a variety of Federal agencies are conducting research in ground water, with a variety of research centers throughout the Nation being utilized;

(4) the Nevada Test Site and surrounding area has been selected as an area where nuclear weapons are tested, nuclear wastes may be stored, and hazardous materials and activities may be evaluated;

(5) unique research capabilities exist within Nevada because of the Nevada Test Site; and

(6) utilization and enhancement of research at universities can be economical, lead to high-quality research, and further lead to the training of additional scientists and professionals to address critical environmental issues.

(c) PURPOSE.—The purposes of this section are to—

(1) establish a Western Center for Nuclear and Ground Water Research within Nevada to evaluate the suitability of man made and natural materials for the isolation of hazardous and nuclear wastes from the environment;

(2) increase research in monitoring the movement and concentration of contaminants in ground water and to coordinate the research with other Federal departments and agencies, and State and private agencies, institutions, and entities;

(3) utilize the resources of the Center to independently review methods for the containment of nuclear or hazardous wastes, and the use of man made or geologic materials for such containment; and

(4) promote and coordinate research in the availability, usage, management, and monitoring of ground water.

(d) ESTABLISHMENT OF CENTER.—(1) The Administrator of the Environmental Protection Agency, in consultation with the Governor of the State of Nevada, is authorized to take such action as may be necessary to establish, in the State of Nevada, the Western Center for Nuclear and Ground Water Research.

(2) The Center shall be under the control, jurisdiction, and direction of the Board.

(3) The Center shall be located at such place or places as the Administrator, after consultation with the Governor and the Board, shall designate.

(4) The Administrator of General Services is authorized, subject to the availability of funds, to assist the Administrator in providing necessary facilities for the purposes of this part. In providing such facilities, the Administrator of General Services shall consult with the Governor of Nevada and the Board.

(5) The Administrator is authorized to enter into such agreements or other arrangements with the State of Nevada and other public and private agencies, institutions, or entities, as may be necessary to enable the Administrator to carry out the purposes of this part.

(e) BOARD OF DIRECTORS.—(1) There is established the Western Center for Nuclear and Ground Water Research Board of Directors.

(2) The Board shall be composed of 9 members, selected by the Administrator as follows:

(A) one member designated by the Governor of the State of Nevada;

(B) one member designated by the Administrator;

(C) one member designated by the United States Geological Survey;

(D) one member designated by the Bureau of Reclamation;

(E) one member designated by the Environmental Research Center;

(F) one member designated by the University of Nevada, Las Vegas;

(G) one member designated by the University of Nevada, Reno;

(H) one member designated by the Department of Energy; and

(I) one member designated by the Desert Research Institute.

(3) The member designated by the Governor of Nevada shall be Chairman.

(4) Members of the Board shall be appointed for a term of 4 years.

(5) Five members of the Board shall constitute a quorum, but a lesser number may conduct meetings.

(6) The first meeting of the Board shall be called by the Administrator and shall be held within 60 days after the date of the enactment of this Act.

(7) A vacancy on the Board resulting from death or resignation by a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(f) DUTIES OF THE CENTER.—The Center shall—

(1) study and evaluate, on a continuing basis, the suitability of man made and natural materials for the isolation of hazardous and nuclear wastes from the environment;

(2) study and evaluate, on a continuing basis, ways and means of increasing research in monitoring the movement and concentration of contaminants in ground water and to assist the Center in coordinating such research with other Federal departments and agencies, and State and private agencies, institutions, and entities;

(3) study and evaluate the availability, usage, and management of ground water in arid regions;

(4) take such action as may be necessary to promote and coordinate research, governmental and private, in the areas of nuclear and hazardous waste containment and disposal, including methods and materials used or to be used in connection therewith;

(5) review and study existing and proposed Federal, State, and local public and private programs and projects, including research relating to the suitability of the methods for the containment of nuclear or hazardous wastes, and the use of man made or geologic materials for such containment;

(6) make recommendations to the Congress on the creation of interstate compacts and other forms of interstate or interregional cooperation to help further the purposes of this part;

(7) provide a forum for consideration of problems involving the protection of ground water from nuclear and hazardous substances, and, as appropriate, utilize citizens, and special advisory councils; and

(8) make the Center accessible to the public by holding scheduled, well publicized public meetings throughout the State of Nevada.

(g) COMPENSATION.—Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-15 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day he or she is engaged in the actual performance of his or her duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) POWERS AND ADMINISTRATIVE PROVISIONS.—(1) The Board is authorized to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

(2) The Board is authorized to enter into agreements with the General Services Ad-

ministration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Board in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

(3) The Board is authorized to procure supplies, services, and property, and make contracts in any fiscal year, only to such extent or in such amounts as are provided in appropriation Acts.

(4) The Board is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(5) The Board or, on the authorization of the Board, a member thereof, may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of books, records, memoranda, papers, and documents as the Board or such member deems advisable.

(6) The Board, or on the authorization of the Board, any member thereof, may, for the purpose of carrying out the provisions of this part, have such printing and binding done, enter into contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and make such expenditures as the Board or such member deems advisable.

(7) The Board may acquire directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this Act. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Board, upon request by the Chairman.

(8) The Chairman of the Board is authorized to appoint, terminate, and fix the compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, of an Executive Director and such additional personnel as the Chairman finds necessary to enable the Board to carry out its duties. The annual rate of compensation of the Executive Director may not exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of such title and the annual rate of compensation of all other personnel may not exceed a rate equal to the maximum rate for GS-15 of the General Schedule under section 5332 of such title.

(9) Upon request of the Board, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Board or to detail any of the personnel of such agency to the Board, on a reimbursable basis, to assist the Board in carrying out its duties under this part, unless the head of such agency determines that overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Board and so notifies the Chairman in writing.

(10) The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(11) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board or before such member.

(12) The Board may expend funds made available for purposes of this part for printing and binding, notwithstanding any other provision of law.

(13) No sums appropriated for this part may be used to lease, construct, or purchase physical facilities.

(i) REPORTS.—Not later than 1 year after the date of enactment of this Act, and thereafter upon the request of the Congress, the Board shall prepare and transmit to the Congress, the President, and the governor of the State of Nevada a report describing the findings and activities of the Board, together with any recommendations regarding specific actions necessary to be taken to enable the Center to carry out its mission under this part.

TITLE III—STATE GROUND WATER STRATEGIES

SEC. 301. STATE GROUND WATER STRATEGIES.

(a)(1) The Administrator is authorized to make grants to the States to support the development and implementation of State strategies designed to detect, prevent, and correct ground water contamination which have as an objective the protection of human health and the environment and which are designed to control sources or potential sources of ground water contaminants in that State.

(2) Subject to the requirements of this section, activities assisted may include, but are not limited to—

(A) planning;

(B) identification and mapping of ground water resources within the State, done in consultation with the United States Geological Survey;

(C) identification, control, and regulation of sources or potential sources of ground water contaminants within the State;

(D) research, development, and demonstration of practices, methods, and techniques effective in preventing, detecting, and correcting ground water contamination;

(E) monitoring, including ambient monitoring and monitoring to identify the nature and frequency of ground water contamination problems;

(F) data collection and management including management programs that assure the compatibility of data systems maintained by the State with data systems of other States and agencies of the United States;

(G) assessment of the legal authorities of the State or its political subdivisions for the protection and management of ground water resources and recommendations for new authorities;

(H) enforcement of permits, standards, regulations, conditions, requirements, prohibitions, or orders with respect to the detection, prevention, or correction of ground water contamination;

(I) public education and awareness programs;

(J) programs to increase the expertise and capabilities of the personnel employed by the State or by local governments within the State in ground water protection and management activities; and

(K) program administration.

(3) The strategy of each State should—

(A) identify a lead agency and provide an institutional framework for protection of ground water quality;

(B) identify legal authorities for the protection of ground water;

(C) identify major sources of ground water contamination and the contaminants associated with each source;

(D) assure coordination among Federal, State, and local agencies involved in ground water protection; and

(E) assure coordination of ground water protection programs with surface water protection programs and with the activities of public water supply systems.

(4) From such sums as are appropriated to carry out the purposes of this section in any fiscal year, the Administrator shall make allotments to the several States in accordance with regulations promulgated for that purpose which determine the amount of the allotment for each State on the basis of the extent of ground water contamination in that State or of factors (including the number and nature of the sources of contamination in that State) which contribute to or are likely to contribute to ground water contamination in that State, the geographic area of the State, and the number of persons relying on ground water for drinking water supplies. No eligible State shall receive less than $75,000 or one-half of 1 percent whichever is greater or more than 10 percent of the total allotment or allotments made under this section except that such minimum shall not apply in the case of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, or the Trust Territories, or federally recognized Indian tribes.

(5) The grant to any State under this subsection shall not exceed 50 percent of the cost of carrying out, during a 1-year period, a State program eligible under this subsection.

(6) The Administrator shall include no maintenance of effort requirement in the regulations for any grant program authorized under this section.

(7) Grants authorized by this section, but not obligated by a State during the fiscal year for which they were first authorized, or during the fiscal year immediately following, shall revert to the Administrator, and shall be added to the funds available for grants under this section.

(8) Grants to the State for the purpose of developing ground water protection strategies shall be made under the authority of this section and not section 106 of the Federal Water Pollution Control Act or other statute.

(9) Federal funds received by a State from other sources shall not be used to pay the State's share of the cost of a program which receives a grant under this section nor shall any funds authorized by this Act be used as a State share to match Federal funds from other sources.

(10) Of the funds received by any State under the authority of this section, not less than 30 percent shall be used to carry out the provisions of sections 1427 and 1428 of the Safe Drinking Water Act.

(b) Each State, which receives any grant according to the provisions of subsection (a), shall submit an application for such grant at least 90 days prior to the beginning of the fiscal year for each fiscal year for which funds are to be received by the State. The manner and form of the application shall be prescribed by the Administrator. The application required by this subsection shall include a statement of the State's plan for use of the funds, information on the types of activities to be supported, and assurances that all requirements of this Act will be met by the State. Applications prepared by the States shall be made available

to the public in such State before submission to the Administrator.

(c) The Administrator shall approve or disapprove any application submitted according to the provisions of subsection (b) of this section and if disapproved, the Administrator shall state the reasons for disapproval in writing. The State may modify and resubmit an application that has been disapproved. If the application (or resubmitted application) is approved, the Administrator shall distribute the funds authorized by this Act to the State.

(d) Each State receiving assistance under this Act shall, to the maximum extent practicable, establish procedures including, but not limited to, public hearings and the establishment of technical and citizens advisory committees, to encourage public participation in developing the ground water strategy assisted under this section.

(e) With the approval of the Administrator, a State may allocate to a local government, to a regional planning agency, to an interstate agency, to a public water system, or to a resource management district organization any portion of a grant made under this section to accomplish the purposes of this Act. A State may use funds from grants made pursuant to this section for financial assistance to persons only to the extent that such assistance is related to the costs of demonstration projects.

(f) No funds provided to a State under the authority of this section may be used to assist any person or governmental entity in complying with any requirement of the Safe Drinking Water Act (42 U.S.C. 300f, et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, et seq.), the Clean Water Act (33 U.S.C. 1251, et seq.), the Toxic Substances Control Act (15 U.S.C. 2601, et seq.), or other Federal statutes involving the construction, operation, or maintenance of facilities (or connections thereto) or requirements for monitoring of particular sources of contamination for the presence of pollutants or contaminants or releases of contaminants; or used to clean up any source of contamination or bring any source or potential source of contamination into compliance with Federal, State, or local statutes.

(g) The Administrator or the Comptroller General of the United States may request such information, data, and reports as deemed necessary to carry out their responsibilities to assure that funds made available pursuant to this section are properly used and that only eligible activities are assisted.

(h) No grant shall be made to a State under this section unless the Administrator determines, on the basis of information provided by the State and from other relevant sources, that the State is implementing the provisions of this Act satisfactorily.

(i) Each State receiving funds under this section in any fiscal year shall make a report, not later than 60 days after the close of the fiscal year, to the Administrator on the use of such funds, which report shall be sent to the Interagency Ground Water Research Task Force.

(j) Upon request of a State, the Administrator, or another Federal agency, shall, to the extent resources and statutory limitations allow, provide technical assistance to such State in development or implementation of programs addressing ground water protection, management, and restoration. Such assistance may include but shall not be limited to—

(1) design and implementation of surveys of the location and occurrence of ground water contaminants in the State;

(2) design and implementation of public information and education programs;

(3) design and implementation of State or local programs to control sources of ground water contamination;

(4) delineation of wellhead protection areas, and other areas of recharge that are vulnerable to ground water contamination; and

(5) design and implementation of ground water monitoring programs.

(k) There are authorized to be appropriated for grants under this section $50,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.

SEC. 302. ASSISTANCE FOR SMALL COMMUNITIES WITH GROUND WATER RADIUM CONTAMINATION.

(a) The Administrator of the Environmental Protection Agency, in cooperation with State public authorities, may assist local governments in demonstrating mitigation of radium contamination in ground water. Upon application of any State public authority, the Administrator may make a grant to that authority for such purposes. Assistance provided pursuant to this subsection shall be used for financing the acquisition and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities under the jurisdiction of such local governments.

(b) A grant may only be made under subsection (a) for removal of radium from ground water if the level of contamination from such radium exceeds the maximum contaminant level for radium established under title XIV of the Public Health Service Act (relating to safe drinking water).

(c) Funds made available through grants under subsection (a) may only be used by the grant recipient for one or both of the following purposes:

(1) Providing insurance or prepaying interest for local debt obligations issued by a local government to finance the acquisition and installation of treatment technologies described in subsection (a).

(2) Paying for the costs of administration for establishment and operation by such authority of a program to provide financing for such acquisition and installation.

(d) For purposes of this section—

(1) The term "small community" means a political subdivision of a State the population of which does not exceed 20,000 individuals.

(2) The term "State public authority" means an agency or instrumentality of a State which is established for the purpose of assisting local governments in financing capital improvements on a statewide or regional basis.

(e) For the purpose of carrying out the activities authorized by this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989 and $5,000,000 for each of the fiscal years 1990 and 1991.

SEC. 303. EXTENSION FOR WELLHEAD PROTECTION AREA PLANS.

(a) Section 1428(a) of the Safe Drinking Water Act is amended by striking "3 years of the date of enactment" and inserting in lieu thereof "5 years of the date of enactment".

(b) Section 1428(d) of such Act is amended by striking "3 years after the enactment of this section" and inserting in lieu thereof "5 years after the enactment of this section".

SEC. 304. EXTENSION OF SOLE SOURCE AQUIFER DESIGNATIONS.

Section 1427(b) of the Safe Drinking Water Act is amended by striking "24 months after the enactment" and inserting in lieu thereof "48 months after the enactment of".

TITLE IV—PATENT POLICY

SEC. 401. PATENT POLICY.

It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development arising out of any contract or other agreement with the Environmental Protection Agency; to ensure that such inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of such inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in such federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of such inventions; and to minimize the costs of administering policies in this area.

SEC. 402. DEFINITIONS.

As used in this title—

(1) The term "Agency" means the Environmental Protection Agency.

(2) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between the Agency and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(3) The term "contractor" means any person, small business firm, or nonprofit organization that is a party to a funding agreement.

(4) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under this title or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(5) The term "subject invention" means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement: *Provided*, That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d)) must also occur during the period of contract performance.

(6) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

(7) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(8) The term "small business firm" means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Admin-

istrator of the Small Business Administration.

(9) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

SEC. 403. DISPOSITION OF RIGHTS.

(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of this section, elect to retain title to any subject invention: *Provided, however,* That a funding agreement may provide otherwise (i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government, (ii) in exceptional circumstances when it is determined by the Agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter, (iii) when it is determined by a Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities, or (iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter.

(b)(1) The rights of the Government under subsection (a) shall not be exercised by the Agency unless it first determines that at least one of the conditions identified in clauses (i) through (iii) of subsection (a) exists. Except in the case of subsection (a)(iii), the Agency shall file with the Secretary of Commerce, within 30 days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this title or otherwise not in conformance with this title, the Secretary shall so advise the head of the Agency and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that the Agency is utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this title the Administrator is authorized to issue regulations describing classes of situations in which the Agency may not exercise the authorities of those clauses.

(3) At least once each year, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this title is being implemented by the Agency and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

(4) If the contractor believes that a determination is contrary to the policies and objectives of this title or constitutes an abuse of discretion by the agency, the determination shall be subject to section 404(b).

(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following:

(1) That the contractor disclose each subject invention to the Agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters and that the Federal Government may receive title to any subject invention not disclosed to it within such time.

(2) That the contractor make a written election within 2 years after disclosure to the Agency (or such additional time as may be approved by the Agency) whether the contractor will retain title to a subject invention: *Provided,* That in any case where publication, on sale, or public use, has initiated the 1-year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Agency to a date that is not more than 60 days prior to the end of the statutory period: *And provided further,* That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

(4) With respect to any invention in which the contractor elects rights, the Agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided,* That the funding agreement may provide for such additional rights; including the right to assign or have assigned foreign patent rights in the subject invention, as are determined by the Agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreements relating to weapons development and production.

(5) The right of the Agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided,* That any such information, as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 404 of this title shall be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

(7) In the case of a nonprofit organization, (A) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions (provided that such assignee shall be subject to the same provisions as the contractor); (B) a requirement that the contractor share royalties with the inventor; (C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research, or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year, up to an amount equal to 5 percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility provided that if said balance exceeds 5 percent of the annual budget of the facility, that 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D), and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility.

(8) The requirements of sections 404 and 405 of this title.

(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this title and regulations promulgated hereunder.

(e) In any case when an employee of the Agency is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Agency is authorized to transfer or

assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this title.

(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing the Agency to require the licensing to third parties of inventions owned by the contractor that are not subject to inventions unless such provision has been approved by the head of the Agency and a written justification has been signed by the Administrator of the Agency. Any such provision shall clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The Administrator of the Agency may not delegate the authority to approve provisions or sign justifications required by this paragraph.

(2) The Agency shall not require the licensing of third parties under any such provision unless the Administrator of the Agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for a hearing by the Agency. Any action commenced for judicial review of such determination shall be brought within 60 days after notification of such determination.

SEC. 404. MARCH-IN RIGHTS.

(a) With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this title, the Agency shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder, to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to grant such a license itself, if the Agency determines that such—

(1) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

(2) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

(3) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

(4) action is necessary because the agreement required by section 405 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is a breach of its agreement obtained pursuant to section 405.

(b) A determination pursuant to this section or section 403(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 407. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within 60 days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand or modify, as appropriate, the determination of the Agency. In cases described in paragraphs (1) and (2), the Agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence.

SEC. 405. PREFERENCE FOR UNITED STATES INDUSTRY.

Notwithstanding any other provision of this title, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Agency upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

SEC. 406. CONFIDENTIALITY.

The Agency is authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, the Agency shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

SEC. 407. UNIFORM CLAUSES AND REGULATIONS.

The Secretary of Commerce may issue regulations which may be made applicable to the Agency implementing the provisions of sections 403, 404, and 405 of this title and shall establish standard funding agreement provisions required under this title. The regulations and the standard funding agreement shall be subject to public comment before their issuance.

SEC. 408. DOMESTIC AND FOREIGN PROTECTION OF FEDERALLY OWNED INVENTIONS.

(a) The Agency is authorized to—

(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of title 35 of the United States Code as determined appropriate in the public interest.

(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

(b) For purposes of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to—

(1) assist the Agency's efforts to promote the licensing and utilization of Government-owned inventions;

(2) assist the Agency in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

(3) consult with and advise the Agency as to areas of science and technology research and development with potential for commercial utilization.

SEC. 409. REGULATIONS GOVERNING FEDERAL LICENSING.

The Secretary of Commerce is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention under this title may be licensed on a nonexclusive, partially exclusive, or exclusive basis.

SEC. 410. RESTRICTIONS ON LICENSING OF FEDERALLY OWNED INVENTIONS.

(a) The Agency shall not grant any license under a patent or patent application on a federally owned invention unless the person requesting the license has supplied the Agency with a plan for development and/or marketing of the invention, except that any such plan may be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

(b) The Agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

(c)(1) The Agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

(2) The Agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or

result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws.

(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the Agency to be within the capabilities of the firms and equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms.

(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, the Agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that the Agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws.

(e) The Agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses.

(f) Any grant of a license shall contain such terms and conditions as the Agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following:

(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided*, That any such information may be treated by the Agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code;

(2) the right of the Agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

(3) the right of the Agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of this section; and

(4) the right of the Agency to terminate the license in whole or in part if the Agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee.

SEC. 411. PRECEDENCE OF CHAPTER.

(a) Except to the extent provided in section 203 of this Act, this title shall take precedence over chapter 38 of title 35 of the United States Code, and any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this title, including but not necessarily limited to the following:

(1) section 10(a) of the Act of June 29, 1935, as added by title I of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085);

(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

(3) section 501(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951(c); 83 Stat. 742);

(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721);

(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

(8) section 6 of the Coal Research and Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5;

(12) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

(13) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 86 Stat. 1211);

(14) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

(15) section 8001(c)(3) of the Solid Waste Disposal Act (42 U.S.C. 6981(c); 90 Stat. 2829);

(16) section 219 of the Foreign Assistance Act of 1961 (22 U.S.C. 2179; 83 Stat. 806);

(17) section 427(b) of the Federal Mine Health and Safety Act of 1977 (30 U.S.C. 937(b); 86 Stat. 155);

(18) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

(19) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

(20) section 6(b) of the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (42 U.S.C. 5585(b); 92 Stat. 2516);

(21) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat. 2533); and

(22) section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360).

This title shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

(b) Nothing in this title is intended to alter the effect of the laws cited in subsection (a) of this section or any other laws with respect to the disposition of rights in inventions made in the performance of funding agreements with persons other than nonprofit organizations or small business firms.

(c) Nothing in this title is intended to limit the authority of the Agency to agree to the disposition of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued on February 18, 1983, agency regulations, or other applicable regulations or to otherwise limit the authority of the Agency to allow such persons to retain ownership of inventions, except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall include the requirements established in sections 403(c)(4) and 404 of this title. Any disposition of rights in inventions made in accordance with the Statement or implementing regulations, including any disposition occurring before enactment of this section, are hereby authorized.

(d) Nothing in this title shall be construed to require the disclosure of intelligence sources or methods or to otherwise affect the authority granted to the Director of Central Intelligence by statute or Executive order for the protection of intelligence sources or methods.

SEC. 412. RELATIONSHIP TO ANTITRUST LAWS.

Nothing in this title shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.

SEC. 413. DISPOSITION OF RIGHTS IN EDUCATIONAL AWARDS.

No scholarship, fellowship, training grant, or other funding agreement made by the Agency primarily to an awardee for educational purposes will contain any provision giving the Agency any rights to inventions made by the awardee.

SEC. 414. TITLE 35, UNITED STATES CODE.

The provisions of chapter 38 of title 35, United States Code, shall not be applicable to any patent or invention within the purview of this title.●

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

● Mr. MOYNIHAN. Mr. President, today I am pleased to join my chairman, Senator BURDICK and colleagues, Senators DURENBERGER, SYMMS, REID, GRAHAM, LIEBERMAN, BAUCUS, CHAFEE, and MITCHELL in reintroducing the Ground Water Research, Management and Education Act. This is the same bill that was reported unanimously by the Environment and Public Works Committee on September 30, 1988, as a substitute bill for H.R. 791, and which passed the Senate unanimously on October 7, 1988.

Unfortunately, despite the cooperation of the Senate Energy and Natural Resources Committee and Senate Agriculture Committee, as well as the five House committees which reported H.R. 791, we were not able to conference before the end of the 100th Congress. However, we made important progress by passing for the first time a ground water law in the Senate, and by reaching agreement among five committees and passage of a ground water bill in the House. It is my hope that we can build on this foundation and pass a similar bill early in the 101st Congress, so that we can complete a conference and have this bill enacted.

OBJECTIVES OF THIS LEGISLATION

This legislation does not create any new regulations or bureaucracies to govern ground water. It does not interfere with States' prerogatives or water

rights. Instead, it coordinates Federal agencies' existing research and attempts to transfer that research and technology to the States. The bill accomplishes this goal in three main ways:

First, it establishes an Interagency Ground Water Task Force in the Office of the President to coordinate the Federal agencies' research, to identify gaps in research, and to consult with State and local governments regarding information which States require to manage ground water programs;

Second, it authorizes research programs and studies at EPA, the USGS, and the Department of Agriculture which we believe are essential to advance our understanding of ground water contamination and of control technologies for ground water pollution;

Third, it provides for a 50 percent Federal-State matching grant program to assist States in their ground water management efforts. The money may be used by the States for planning, mapping, identification, and control of sources, research, monitoring, enforcement, and education. The States have the widest latitude to use these moneys to suit their own varied and individual needs.

NEED FOR LEGISLATION

Ground water is the source of drinking water for more than 50 percent of the total population in the United States, and for 97 percent of rural residents. According to the General Accounting Office [GAO], the use of ground water is increasing at a faster rate than the use of surface water. The United States used 34 billion gallons of ground water per day in 1950. In 1980 that figure almost tripled to 89 billion gallons of ground water each day. Ground water supplies 40 percent of America's agricultural irrigation and 26 percent of its industrial withdrawal—excluding electric powerplants.

Most ground water supplies in the United States are of sufficient quality that most of the water can be used without treatment. However, in many localities, contamination of ground water has caused well closures, public health problems and economic losses. In 1984 the Environmental Protection Agency reported that water in 8,000 private, public and industrial wells was unuseable or degraded from contamination.

Sources of ground water contamination may be grouped into three main categories: (1) natural sources, (2) waste-disposal practices—intentional discharges by man—and (3) nondisposal sources due to human activities. In 1984 the Office of Technology Assessment [OTA] assembled a list of known ground water contaminants. OTA's research found over 200 substances present in ground water, including 175 organic chemicals and 50 inorganic chemicals, organisms, and radionuclides.

Natural sources of ground water contaminants include leaching and evaporation of ground water which concentrate the dissolved salts present in all ground water. This is a particular problem in the West and Southwest where irrigation practices may further exacerbate salinity problems. Salt water intrusion is a natural source of ground water contamination in coastal areas, which is accelerated by high rates of ground water withdrawal, such as in Florida. Naturally occurring radioactive materials such as radium and uranium may be present in ground water which percolates through formations containing high concentrations of these elements.

Waste disposal practices which may contaminate ground water include use of septic tanks and cesspools, injection wells which pump hazardous and nonhazardous wastes into the ground, land application of wastewater, and sludge disposal. Facilities designed to contain wastes or other products may discharge them through leaks or accidents. These include landfills which handle industrial wastes, municipal sanitary landfills, pipelines and vehicles that transport industrial byproducts and domestic wastes, and radioactive disposal sites.

Nondisposal sources resulting from human activities encompass such practices as irrigation, pesticide and fertilizer use, animal feedlots, deicing salts, nonpoint source runoff from urban and rural areas, mining operations and associated tailings piles, and underground storage tanks.

GROUND WATER RESEARCH

Ground water research is divided among various Federal, State, and private agencies—including the U.S. and State Geological Surveys, Environmental Protection Agency [EPA], the National Institutes of Health, the U.S. Department of Agriculture, the National Water Research Institutes, various land grant colleges, and other universities.

Although at present there is no comprehensive Federal statute regulating ground water, the Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, Federal Insecticide, Fungicide and Rodenticide Act, the Comprehensive Environmental Response, Compensation, and Liability Act, and other Federal statutes all address ground water.

At the request of the Senate Committee on Environment and Public Works, in March of 1988, GAO completed a study on management of ground water by the States. In its survey of 57 States and territories, GAO found that no State lacked a statute enabling it to protect ground water quality, but that many States used general environmental or water statutes to protect ground water, rather than a specific ground water statute. GAO found 15 States with specific ground water statutes, and 22 States with written ground water plans. GAO listed 41 States with either numeric standards—which specify contaminant levels which should not be exceeded—or narrative standards—which prohibit certain discharges that might contaminate ground water. The number of contaminants which States regulate range from 14 to 160—in New York. Over half the States relied on EPA's 22 primary drinking water standards for their own ground water standards. GAO concluded that States usually do not perform original research on toxicology or on health risks of ground water contaminants; instead they rely upon the Federal Government.

In responding to GAO, States reported that, in general, information from the Federal Government concerning ground water contaminants is inadequate. Some States indicated that lack of data has deterred them from implementing standards. For example, although over 260 contaminants have been identified in ground water, information remains incomplete for even the 83 contaminants regulated by the Safe Drinking Water Act, passed in 1974.

According to States' responses to GAO, 12 categories of information are needed by States: human health effects, existing guidelines and standards, analytical chemistry, environmental fate of contaminants, presence in ground water, amount and location of production and disposal, monitoring methods, technological feasibility control, references for additional information, and descriptions of how to use the information for setting standards. What information is available is often scattered among numerous documents. About one third of the States also report a lack of technical expertise among staff to initiate and implement a ground water protection program.

Mr. President, I ask that a table of contents and a section-by-section summary of the bill be printed in the RECORD at the appropriate point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE BILL . GROUND WATER RESEARCH, MANAGEMENT, AND EDUCATION ACT OF 1989

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The Findings contain a statement that nothing in this act shall be construed to change existing state water rights.

TITLE I—COORDINATION OF FEDERAL GROUND WATER RESEARCH AND EDUCATION PROGRAMS

SEC. 101: DUTIES OF THE PRESIDENT.—This Section provides that the President shall assure coordination of ground water research and directs the President to establish an Interagency Ground Water Research Task Force.

SEC. 102. INTERAGENCY GROUND WATER RESEARCH TASK FORCE.—This section outlines general authority for the Interagency Ground Water Research Task Force. The Task Force is to be made up of key Federal agencies involved in ground water research and is to be chaired by the Administrator of the EPA. The Task Force is to identify research data needs, recommend research priorities, facilitate interagency coordination, and consult with State and local governments concerning ground water research needs.

The Task Force is to submit an annual report which is to serve as a management plan for Federal government research of ground water and is to identify ground water policy issues on which research is needed. Each participating agency is to submit a research plan to the Task Force on an annual basis.

Section 103. Advisory Committee.—This section establishes an Advisory Committee on Ground Water Research to advise the President and the Interagency Task Force on ground water research issues and needs. The Advisory Committee is to be made up of not more than 15 individuals representing States and local government, environmental organizations, industry, and other groups.

Section 104. Clearinghouse Committee.—This section provides for establishment of a Clearinghouse Committee. The Committee is to assure coordination of data and information systems relating to ground water.

This section also provides that each participating agency of the Interagency Task Force is to establish a technology and information center to make available reports and related material concerning ground water research.

Section 105. Education Committee.—This section provides for establishment of an Education Committee to be chaired by the National Science Foundation and made up of individuals with scientific and educational expertise related to ground water research. The Committee is to evaluate ground water related programs for public education and training of professionals and technicians and to make recommendations to strengthen such programs.

Section 106. Authorizations.—There is authorized to be appropriated $3 million for implementation of sections 101, 102, 103, 104, and 105 for fiscal years 1989 through 1993.

Section 107. Water Research Institutes.—This section amends P.L. 98-242 which reauthorizes a broad research program in water resources, including quantity and quality issues, at Water Research Institutions established in each State and territory. The research programs are to be evaluated every 5 years by the Secretary of the Interior. Grants to each institution are used as seed money for research programs. The authorization for these research programs is $20 million for fiscal years 1989 through 1993.

TITLE II—GROUND WATER RESEARCH PROGRAMS OF THE FEDERAL GOVERNMENT

PART A—PROGRAMS OF THE ENVIRONMENTAL PROTECTION AGENCY

Section 201. Authority.—This section establishes a general ground water research program at the Environmental Protection Agency. The Administrator is given general authorities to conduct research, cooperate with others doing research, make grants, enter into contracts, acquire patents and so on.

Six priorities are established for the research program: (1) fate and transport of contaminants; (2) control technologies for sources; (3) health and environmental effects of ground water contaminants; (4) analytical procedures for ground water monitoring; (5) remediation and treatment of contaminated ground water; and (6) waste minimization.

Twenty-two specific areas of investigation are listed including: health and environmental effects of contaminants; exposure assessment; hydrogeologic studies; transport and fate of contaminants; analytical methods; control of discharges; and remediation and treatment.

The program is to include development of techniques for detection, prevention and correction of ground water contamination and is to go beyond basic research to demonstration projects that aid in technology transfer.

Section 202. Research Committee and Management Plan.—Research programs at EPA are generally monitored and guided by media-specific research committees. There are currently five such committees (air, waste, water, energy and toxics). This section adds a sixth group for ground water research. The group is to be jointly chaired by the Office of Water and the Office of Research and Development. Members of the committee are drawn from offices within EPA.

The research committee is to issue a report annually which is to be a five-year (the preceding fiscal year, the current fiscal year, and three succeeding fiscal years) plan and which is to serve as the management tool for the ground water research program. The report is to include a list of upcoming ground water policy decisions and the research needs of the policymakers with respect to those decisions. The report is to be published in draft form for comment and the final report is to be transmitted to Congress each April 15.

This section provides for the appointment of a ground water research manager in ORD who is to provide central direction for the ground water research program.

Section 203. Control Technologies.—This section requires EPA to establish a program to develop control technologies for sources of ground water contaminants in various categories. In general, EPA will be assisting persons who have "invented" control technologies with the "demonstration" and "dissemination" of those techniques.

EPA is to make a biennial solicitation for proposals. The legislation includes criteria for project selection including: 1) potential for the technology to effectively control sources of ground water contaminants; 2) the capability of the person proposing the demonstration to complete the project; 3) the applicability of the technology under a wide range of circumstances; 4) financial support from other sources; and 5) the capability of the developer to disseminate the technology to the public.

EPA is to provide assistance for at least 10 proposals each year. Assistance is generally limited to 59% of the project cost, but the Administrator is authorized to provide full Federal funding for basic and essential research projects. EPA is required to make every effort to disseminate the control technologies proven effective. The patent policy of Title IV of this bill applies to technologies developed.

Section 204. List of Contaminants.—This section requires EPA to prepare and update a list of ground water contaminants.

The initial list of contaminants is to include: each substance for which a primary drinking water regulation is required under the Safe Drinking Water Act; contaminants for which a health advisory has been issued; contaminants listed pursuant to section 104(i) of CERCLA; contaminants listed pursuant to section 307 of the Clean Water Act; and pesticides with a potential to leach to ground water. There is considerable overlap among these lists.

EPA will work with other Federal agencies to determine whether adequate health and environmental effects information is available for each contaminant on the list. If not, a research program to fill the data gaps will be prepared and conducted by the Agency using existing research authorities of CERCLA.

The Director of the National Toxicology Program is to propose a research program for each of the contaminants listed which describes the research necessary to adequately characterize the risk to human health and the environment as the result of the presence of the contaminant in ground water. After public comment on the research program, the Administrator is to make needed changes and publish the program. The Administrator is to assure that the research program is implemented and shall assure coordination with CERCLA, TSCA and FIFRA authorities. The Administrator may also use funds authorized under section 111(m) of CERCLA to conduct such research.

Section 205. Ground Water Contaminant Risk Assessment.—This section requires the Administrator to prepare risk assessment documents on 30 contaminants within 24 months and an additional 30 contaminants within an additional 36 months. The risk assessments are to serve a role comparable to criteria documents now published under authority of the Clean Water Act.

The risk assessments are to include: 1) a summary of recent scientific information about the contaminant; 2) factors which contribute to the effects of the contaminant on human health and the environment; 3) clarification of the assumptions and uncertainties in the science related to the contaminant; 4) a comparison with risks posed by other contaminants.

Section 206. Contaminant Source Survey.—This section requires the Administrator to conduct a series of surveys of major sources of ground water contamination similar to the National Pesticide Survey which the Agency is now conducting. The purpose of the surveys is to determine whether additional controls on sources in the category are necessary to adequately protect ground water supplies. The other source categories to be covered by the surveys include septic tanks and cesspools; landfills, surface impoundments and wastepiles; class V injection wells; fertilizer applications; irrigation return flows; POTWs; light industry; and transportation corridors. Governors may petition EPA to add categories to this list.

Prior to conducting any survey, EPA is to complete (or update) a health advisory for each contaminant which the Agency expects to find in drinking water wells as part of the survey. This information is to be made available to the owners of wells when contamination is found. In addition, referrals for corrective action or compliance action under the Safe Drinking Water Act is to be taken where contamination is found.

Section 207. Study of Health Effects of Nitrates and Nitrosamines.—This section authorizes a study of the health effects of nitrates (a widespread ground water contaminant) and nitrosamines (a metabolite of nitrates thought to be carcinogenic).

Section 208. Study of Abandoned Wells.—This section authorizes a study, to be completed by September 1, 1989, of abandoned production and injection wells, including former drinking water wells, and the impact of abandoned wells on ground water quality. The study is to include recommendations on the most cost effective steps which can be taken to assure that further damage to ground water by abandonded wells is prevented.

Section 210. Ground Water Research Institutes.—This section authorizes EPA to establish and provide grant assistance to eight regional ground water research institutes at universities across the country.

The legislation provides criteria for selecting the locations of the institutes. Federal funding is limited to 50% of the research program. The institutes must submit an annual proposal and report. The bill provides for an explicit, on-site review of the institutes every five years. The institutes are to be selected and evaluated by the Administrator acting jointly with the Secretary of the Interior, but are to be funded and managed on a regular basis by EPA.

PART B—PROGRAMS OF THE DEPARTMENT OF THE INTERIOR

Section 221. Amendment Authority.—This section amends the original act establishing the Geological Survey to define the role of the Survey in ground water research. This builds on an existing research program at the Geological Survey that includes studies of both surface water and ground water. The current authorization are increased by $10 million in this section to $160 million total.

Section 222. Ground Water Inventory Report.—This section directs the United States Geological Survey to prepare an inventory of the ground water resources based on existing data, and an evaluation of the adequacy of existing ground water data collection and monitoring programs conducted by the Federal, State and local governments. The report for this section is required within 12 months.

Section 223. National Assessment of Ground Water Quality.—This section authorizes the United States Geological Survey to develop, based on the information and recommendations of the Inventory in Section 222, an assessment of the ground water quality. The assessment is to be based on a nationwide sampling and monitoring program and to identify changes and trends in the nation's ground water quantity and quality.

Section 224. Authorities of the Administrator.—This section states that nothing in this part shall limit the authorities of the Administrator or other head of any Federal agency.

Section 225. Research Program of the Bureau of Reclamation.—This section directs the Department of Interior, acting through the Bureau of Reclamation, to research the effects of existing and proposed water projects on the quantity and quality of ground water and surface waters. $500,000 is authorized for FY 1989 and 1990.

Section 226. Research Program of the Bureau of Mines.—This section authorizes the Bureau of Mines to study the impact of mining on ground water quality with an authorization of $1 million per fiscal year.

PART C—GROUND WATER RESEARCH PROGRAM OF THE DEPARTMENT OF AGRICULTURE

Section 231. Department of Agriculture.—This section authorizes the Secretary of Agriculture to develop a research program with the participation of the Agricultural Research Service and the Cooperative State Research Service. The plan to be submitted to the Interagency Ground Water Research Task Force and include an evaluation of the current level of effort, a listing of major policy decisions and practices that may impact the quality of ground water.

Section 233. Agricultural Nitrogen Best Management Practices.—This section provides for the establishment of a Nitrogen Best Practices Committee to develop a study and education program on best management practices to minimize the impact of agricultural nitrogen on ground water quality.

Section 234. Efficient Use of Nutrients.—This section directs the Secretary of Agriculture to conduct research on practices, methods, and techniques for improving the efficiency of fertilizer uses in agriculture.

Section 235. Agricultural Drainage Well Study.—This section authorizes a study of agricultural draining wells and their impact on ground water quality, and includes a provision for the study of alternative drainage methods.

Section 236. Education.—This section directs the Secretary of Agriculture to establish a public education program for the dissemination of information to farmers and rural residents, and a training program for professionals and technicians in issues related to agricultural practices, methods, alternatives and the ground water quality.

PART D—ADDITIONAL PROVISIONS

Section 241. Lake Okeechobee Ecosystem Research System.—This section directs the Administrator in cooperation with the Secretary of the Army to study the relationship between the quality and quantity of surface and ground waters and the control of aquatic plants. Authorizations are incremental over 3 years, starting at $5 million and increasing a million each year to $7 million.

Section 242. Western Center and Research Program.—This section establishes a Western Center for Nuclear and Ground Water Research within Nevada to evaluate the potential for leaching of radionuclides and the migration of these contaminants in ground water in an arid climate. The Center shall review existing and proposed programs and projects relating to containment of radioactive waste.

TITLE III—STATE GROUND WATER STRATEGIES

Section 301. State Ground Water Strategies.—This provision authorizes the Federal government to provide 50% matching grants to states for planning and implementation of state strategies for ground water management. The states may use the grants for planning, mapping, identification and control of sources, research, monitoring, enforcement of permits or standards of education. There is no requirement that any State program contain any specific element(s).

Grants monies are allotted based on the amount and severity of contamination in the state, the geographic area, and the number of person relying on ground water for drinking water. Each state is to receive a minimum of not less than $75,000 under this.

Section 302. Assistance to Small Communities for Radium Contamination in Ground

Water.—This section directs the Administrator to assist local governments in demonstrating mitigation technologies for radium contamination in ground water. Assistance is used to finance acquisition and installation of technologies that would remove radium from drinking water.

Section 303. Extension of Wellhead Protection Area Plans.—This provision extends by 2 years the time for states to designate wellhead protection areas.

Section 304. Extension of Sole Source Aquifer Protection Areas.—This provision extends by 2 years the time for states to designate areas for sole source aquifer protection under the Safe Drinking Water Act, passed by the 99th Congress.

TITLE VI—PATENT POLICY

This title assures that the Environmental Protection Agency will have a consistent patent policy for developing new technologies for the source controls, monitoring, or other applications related to ground water protection, maintenance, and restoration.

This title is based on the existing statute (Chapter 38 of Title 35 of the U.S. Code) and has been changed only to make it specifically apply to EPA.●

● Mr. DURENBERGER. Mr. President, I am pleased to join with the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, and our good friend the senior Senator from New York, Mr. MOYNIHAN, to introduce ground water research legislation on the first day of the 101st Congress.

Ground water legislation has proven to be a controversial subject here in the Senate. That is understandable. First, it is an important resource. Fifty percent of our people depend upon ground water for their drinking water supplies. And it plays a major role in agricultural production.

Second, the resource is under a growing threat of contamination from literally millions of sources of discharge. From spills of hazardous waste to underground storage tanks to agricultural practices to contamination through overdrafting and saltwater intrusion, there is a wide range of human activities that threaten our ground water quality. And, of course, there are interests organized around those activities that are determined to protect the status quo.

And third, there is a great deal of diversity in the nature of the ground water resource and in the way it is managed across the country. This diversity spawns concern at the State and local level about any Federal program for ground water protection or management.

Several Federal agencies have been assigned ground water responsibilities by statute. In a 1984 study the Office of Technology Assessment reported that 22 different agencies had some ground water protection or management responsibility. The principal agencies assigned research responsibilities under this bill are the Environmental Protection Agency, the Geological Survey, and the Department of Agriculture. We want those agencies to coordinate their efforts and to avoid unnecessary duplication. And so we have established a coordinating task force in the first title of this bill.

But coordination can be overdone. It can stifle important research. If all of the jobs are divided upon into mutually exclusive boxes on some organization chart, it can become impossible to move forward as the priorities of agencies conflict and gaps in the knowledge base necessary to get from one point to the next remain unfilled. So there can be too much coordination—to much central direction—in a huge research undertaking like this.

In my view the task force is to be an honest broker—a point where agencies can come to share their resources and make arrangements of mutual advantage on a voluntary basis—and not a central committee with dictatorial powers. No agency should be denied the authority to conduct the research that is necessary to carry out its basic mission.

For instance, EPA is charged by law with protecting human health and the environment from the adverse effects of manmade pollutants. Fulfilling this responsibility requires knowledge over a broad range of physical and biological phenomena. Although we hope that the work of the Geological Survey on basic hydrologic questions will be of the greatest benefit to EPA in meeting its responsibilities—we don't wish to deny to EPA the authority to conduct the necessary basic research in the event that the Geological Survey has other priorities. Thus, this bill gives EPA a very broad and general grant of authority for ground water research.

In the same vein, it is not expected that EPA would in any way interfere with the mission of the Geological Survey either by excluding it from research in particular areas—the fate and transport of contaminants in soil and ground water—or supporting extramural research that would be more appropriately conducted through the Survey. We have given each agency a broad mission statement to provide direction and a sense of priorities to ground water research at the agency, but these mission statements are not intended to preclude similar work by other agencies when it is essential to complete an assigned task.

Mr. President, I have emphasized this issue of coordination and the division of responsibility among agencies because it is quite important. We must enter this area carefully because the authority to coordinate or assign research responsibilities between agencies is an authority that can be used and abused for policy ends that might not be supported here in the Senate.

We have too often seen decisions from the Office of Management and Budget which shift research and study responsibilities from one agency to another with the intent of preventing the development of a new program or new regulation which doesn't match the policy predisposition of the Budget Office and its anonymous analysts. I hope we won't see that kind of policy manipulation practiced by any majority of the interagency task force established by this bill. This is a research bill. And the coordinating mechanism is included in the hope that we can maximize the value of the resources that we invest in ground water research. This is not a tool to control policy outputs across the Federal Government.

Another theme that I would touch upon is the role of the Federal Government in ground water protection in relation to the role of the States. Mr. President, I began working on the subject of ground water protection in 1983 as chairman of the Toxic Substances and Environmental Oversight Subcommittee. In November of that year I chaired a hearing of the subcommittee on the general problem of ground water contamination. It was really my first exposure to the ground water issues, although other members of the committee had been working on solving ground water problems for a long time.

The witnesses at that hearing included three assistant administrators from EPA. I asked the simple question—what is the major threat to ground water quality in the Nation today? In response we heard for the first time, I believe, that leaking underground storage tanks and leaching pesticides are a significant threat to our ground water supplies. The headline maker that day was a witness from Maine who said that 11,000,000 gallons of gasoline were being lost from underground tanks to soil and ground water in that State every year.

I am pleased to say that since the 1983 hearings the Congress has tried to respond to the LUST and pesticide issues. In 1984 we passed a regulatory program for tanks. In 1986 we passed a tank cleanup program. And in 1986 both the House and Senate unanimously adopted ground water protection amendments on the bill to reauthorize FIFRA.

I recount that history to make a simple point. Those were ground water protection programs, but nobody ever claimed that either one of those bills threatened the right of any State to control its ground water resources. Early on the service station owners were concerned that leak-proof tanks would be too expensive. On the pesticide bill, the chemical manufacturers will tell you that the standards of the drinking water program are too stringent for their products to meet.

But nobody has claimed that the tank program threatened the fundamental and traditional role of the

State of Idaho or New York or Maine or Minnesota to regulate its ground water. Nobody from Nebraska or Kansas or Colorado has ever said that the pesticide bill threatened their water rights established under State law.

My point is this, Mr. President. Those of us who support comprehensive ground water protection legislation have no interest in regulating ground water or water rights. We do want to protect ground water quality. Some regulation may be necessary to accomplish that. But there is no State tradition for preventing ground water contamination from pesticides. There aren't many good State programs for sanitary landfills or surface impoundments or the long list of other threats. Maybe the Federal Government can provide a little leadership in these areas. Maybe even some regulations.

But we don't need to regulate ground water. The underground storage tank program hardly even mentions ground water. There is no water quality standard. There isn't any elaborate aquifer classification scheme. The tank program just says, "Build a better tank. Do a better job installing the tank. Monitor your tank for leaks." It's a technology program. It requires that better technology and better practices be applied to a major source of ground water contamination. And it does so without threatening the water law or traditional authorities of any State. In fact, practically all of the States have duplicated our Federal legislation with new underground storage tank laws of their own, because they had no traditional program in this area.

I could have made just exactly the same case using the 1984 RCRA amendments which include a comprehensive, technology-based program for the disposal of hazardous waste in a wide variety of settings.

The bill we are introducing today is not a regulatory bill. It is just a research bill. It won't of itself protect ground water from contamination. It will simply provide for us the information that we need to undertake that task. Furthermore, it does not assign responsibilities as between the Federal Government and the States. This bill doesn't say that the States shall today and forever have primacy with respect to ground water protection. And it doesn't presume a stronger Federal role in the future either. It puts off that difficult question for another day.

I have outlined the existing Federal ground water protection responsibilities simply to demonstrate that the Federal Government already does a great deal in this area and has done so without in any way threatening the traditional responsibilities of the States. In fact, we have undertaken these programs in close cooperation with the States. They are the foundation for these Federal efforts and the States support their continuation.

Mr. President, this bill has eight major elements.

GENERAL RESEARCH AUTHORITY

The Environmental Protection Agency is given broad authority to conduct research and investigations with respect to the prevention, detection, and correction of ground water contamination. Priorities for this research include methods to predict the fate and movement of contaminants in ground water, the development of analytical methods for detecting contaminants, efforts to reduce the generation and discharge of waste, and research on the health and environmental effects of contaminants when present in ground water. The bill provides $40 million per year for this EPA research program and establishes a ground water research committee at EPA to manage the effort.

EPA currently conducts ground water related research principally under authority of the Solid Waste Disposal Act and the Superfund program. In 1985 EPA spent approximately $18 million on ground water research. As one might expect, most of this research was focused on remediation and correction efforts. It is our intent in this legislation to broaden that focus and to put added emphasis on research efforts that will improve our ability to prevent ground water contamination.

CONTROL TECHNOLOGIES

EPA is directed to assist in the development and demonstration of methods and technologies which would be effective in reducing or preventing ground water contamination. Research under this authority might include the development of leak detection systems for underground storage tanks, the development of new pesticide products which are less likely to leach or pest management practices which do not rely on chemicals, the demonstration of best management practices for fertilizer applications, and the development of new caps and liners for waste disposal facilities. This section of the bill authorizes applied research. EPA is to solicit proposals for the demonstration of new methods and technologies and can provide grants for up to 50 percent of the development cost for 10 projects each year. The legislation emphasizes rapid transfer of the new technologies to other users and wide commercial distribution.

HEALTH EFFECTS RESEARCH

EPA in cooperation with the National Toxicology Program and the Agency for Toxic Substances and Disease Registry is to conduct a series of studies to determine the health and environmental effects of contaminants which are found in ground water. A recent study by the Office of Technology Assessment indicated that as many as 200 different chemical and biological contaminants have been found in ground water supplies across the country. For most of these contaminants the toxicological and environmental data is incomplete. Under the authority provided in this bill the NTP will propose a battery of tests for each known contaminant which would be adequate to determine the full range of possible health and environmental effects. The proposed research program is to be reviewed and approved by EPA.

RESEARCH INSTITUTES

EPA is authorized to establish and provide assistance to eight ground water research institutes which are to be located at universities in different regions of the United States. The institutes will conduct basic research using multidisciplinary scientific teams and will provide advanced education in the ground water sciences. In addition, the institutes are to play a strong role in disseminating the information and practices which are developed under the research programs authorized in this bill. The work of the institutes will be reviewed periodically by EPA and representatives of the National Academy of Sciences. The bill provides $16 million per year to assist the institutes.

CONTAMINATION ASSESSMENTS

The bill requires EPA to conduct seven nationwide surveys of potential ground water problems associated with specific sources of contamination: pesticide applications, septic tanks, fertilizer applications, injection wells, irrigation return flows, landfills and solid waste disposal facilities, light industry, transportation corridors, and publicly owned sewage treatment facilities. These assessments would identify the population of such sources nationwide, the types of contamination that might be associated with each source, the likely health effects of the possible contaminants, and the degree of contamination that has already been experienced. EPA has already begun the pilot stages on one such assessment for pesticides.

USGS PROGRAMS

The bill authorizes various ground water quality and quantity research programs at the U.S. Geological Survey. Many of these programs are already in place, but have not received a congressional authorization. These programs include the basic water resources research effort of USGS; the Federal-State cooperative program which makes national resources and expertise available to solve problems identified by State officials; the Regional Aquifer System Analysis Program which is studying the flow characteristics of 28 major aquifer systems in the United States; and a national

ground water quality inventory which USGS has begun on a pilot basis.

Mr. President, this portion of the bill owes much to the efforts of our colleagues in the House of Representatives and in particular Congressman SAM GEJDENSON who has over several years worked in this effort in that body. We are indebted to the sponsors of the House counterpart to this title of our bill for the leadership they have shown on these issues.

WATER RESOURCES RESEARCH INSTITUTES

This bill reauthorizes the Interior Department program which supports water resources institutes at land-grant universities in each of the 50 States. This program was begun in 1984 and has proved highly successful. In the past each institute has received a grant of about $100,000 per year. Under this new legislation we would also make available a pool of funds for competitive grants that go beyond the basic program to support special projects that maximize the strengths of the university receiving a competitive award.

AGRICULTURAL RESEARCH

The bill also authorizes a small program of research at USDA which is to focus on the use of agricultural chemicals—pesticides and fertilizer—the impact of such chemicals on ground water quality and steps that can be taken to reduce the negative effects including nonchemical solutions to pest problems. In particular we are concerned about technology transfers and getting the results of all this research out into the hands of those who can and will use it to protect ground water resources.

COORDINATION

The bill requires the President to establish an interagency program to coordinate the ground water research of the various Federal agencies. In addition, the separate agencies are required to consult and cooperate in the conduct of those programs which are assigned to each agency.

Mr. President, that is a brief summary of the major provisions of the bill.

Before concluding, Mr. President, I would make just a few brief comments with respect to other aspects of this legislative effort.

This bill results from the work of many. I have mentioned the chairman and members of our committee and the Members of the House who have been working on the various provisions of this bill. But we also need to offer our thanks to the members of the Ground Water Research Review Committee of EPA's Science Advisory Board. This committee was chaired by John Quarles, a former deputy administrator of the agency. The committee made its report in July 1985. The members of the committee bear no responsibility for the mistakes we have made, but their report did serve as a point of departure for our work on this bill and I hope each member of the committee can see fruit for some part of their commitment in this legislation.

We need also to mention the report of the Office of Technology Assessment, the report of the Environmental and Energy Study Institute, and the work of the National Ground Water Forum which was directed by the staff of the Conservation Foundation including Toby Clark which have played such a large part in shaping our thinking on the ground water protection issues.

Mr. President, let me just conclude by once again thanking the distinguished chairmen of our committee, Senator BURDICK, and the subcommittee, Senator MOYNIHAN, for taking the lead on this issue. That the Senator from North Dakota and the Senator from New York have been able to make time for this issue among all the other pressing priorities is most gratifying and speaks well of their commitment to protect the environmental resources of our Nation.●

Mr. SYMMS. Mr. President, in terms of volume, Idaho ranks in the top five ground water-using States in the Nation, pumping over 6.3 billion gallons of ground water every day. Naturally, therefore, the quality of that ground water is of vital interest to my state.

That is why I have asked the Senator from New York [Mr. MOYNIHAN] to be added as a cosponsor of the Ground Water Research Management and Education Act of 1989, which he is introducing today. This bill is identical to the Senate version of H.R. 791 which passed in this body by unanimous consent in the last Congress.

I would like to commend the sponsor of the bill for realizing the importance of good science in addressing the problems facing the Nation's ground water supply. The research program being advanced in this legislation would greatly enhance interagency communication, clarify research responsibilities, and establish specific end goals—all of which should improve the body of scientific knowledge available.

This is a research bill, and I am especially relieved to see that it contains no directive or requirement for ground water regulation. The two hearings held by the Environment and Public Works Committee early last year contained significant testimony to the effect that regulation legislation would be inappropriate at this time, and that when appropriate, it should be a responsibility of the State, not Federal Government. The idea that we should proceed with a research initiative now, allowing future regulatory decisions to be made from a more enlightened perspective, seems to me to be very prudent. It is for this reason that I have asked to be a cosponsor of the legislation.

That said, the bill is not what I myself would have drafted. For example, I believe the issue of State preeminence in ground water is not strongly enough expressed in the bill's findings or in the tone of later sections.

According to a February 5 U.S. Geological Survey report on Idaho's ground water quality, "the chemical characteristics and suitability for use of Idaho's ground water differ throughout the State. Its chemical quality is generally suitable for most uses and meets national drinking water standards."

I find it significant that the USGS notes how ground water characteristics differ dramatically even with a single State like Idaho. The differences are even greater from State to State. Heavily water-dependent Western States, in particular, face ground water conditions dramatically different from those in the Midwest and Eastern portions of the country. For this reason, the importance of State supremacy in ground water priority decisions cannot be overemphasized.

I also have concerns about the seemingly mechanistic creation of a list of "groundwater contaminants" upon which the bill requires significant research programs to be based. In working with the Senator from New York last year, we made significant progress to improve this process. Still, I would hope this year that additional consideration will be given to making this part of the bill more flexible, allowing for greater discretion in directing research priorities and goals.

There has also been a great deal of debate over the role to be played by the U.S. Geological Survey in the research effort. I for one, am very impressed with the USGS program, and would favor giving that agency an upper hand in groundwater research efforts governmentwide. Language in the bill introduced today may too narrowly define the scope of USGS efforts, and I believe it should be reviewed again this year.

The Environmental Protection Agency is, by definition, an "independent regulatory agency." As such, it is, in my opinion, much more oriented toward regulation than is an agency such as the USGS for example. I am not comfortable with the role played by EPA in this legislation and, again, hope that this section of the bill will be scrutinized a little closer this year.

In spite of these few remaining concerns, however, the bill on the whole is a good one, and I am not insensitive to the fact that not all members of this body may share my views—so some compromise is necessary. As long as this legislation is directed toward ground water research, Mr. President, I am committed to working toward a balanced compromise in good faith. I must forewarn my colleagues, howev-

er, that any attempt to transform this research bill into a regulatory proposal will be very detrimental to such good faith negotiations.

There is general consensus on the need for a groundwater research bill, and one can be achieved early in this Congress in a productive bipartisan manner. On the other hand, there is no consensus on the imposition of Federal groundwater regulations, and any such proposal will immediately result in an adversarial battle which would be, in my opinion, very unproductive. I believe the sponsor of the bill, the good Senator from New York, is aware of this situation, and I commit to him my support in maintaining the integrity of the bill as a research initiative.

● Mr. LAUTENBERG. Mr. President, today I am joining Senators BURDICK, MOYNIHAN, DURENBERGER, and others in introducing the Ground Water Research, Management, and Education Act. This bill authorizes a comprehensive research, management, and education program for preventing, controlling, and correcting ground water pollution.

According to the Office of Technology Assessment, ground water contamination has occurred in every State and is being detected with increasing frequency. This contamination has adverse health, social, environmental, and economic impacts, which are likely to increase if we fail to act. Although a number of statutes address aspects of the ground water problem, there is an urgent need to fill the gaps and weaknesses left by these laws. The time has come to establish a program to protect the quality of the Nation's ground water.

Ground water is of special significance in my State. Over 50 percent of the people in New Jersey get their drinking water from ground water supplies. EPA has designated six ground water sources in New Jersey covering 90 percent of the State and serving over 4 million people as sole source aquifers.

Fortunately, New Jersey has a sufficient supply of good quality ground water for most users throughout the State. There are, however, some serious local problems. Since 1970, nearly 1,200 wells have been closed because of contamination from organic compounds and another 200 wells have been closed because of other contaminants. And a 1985 State survey found that 18 percent of New Jersey's public water supplies had detectable concentrations of one or more organic contaminants. These figures should provide sufficient warning to us of the need to take strong action to prevent ground water contamination.

The Ground Water Research, Management, and Education Act establishes a comprehensive program to deal with ground water pollution. It has three main objectives:

First, it establishes a ground water research task force in the Office of the President to coordinate the Federal agencies' research, to identify gaps in research and to consult with State and local governments regarding information States require to manage ground water programs.

Second, it authorizes research programs and studies at EPA, the U.S. Geological Survey and the Department of Agriculture which will advance our understanding of ground water contamination and of control technologies for ground water.

Third, it authorizes $50 million for a 50-percent Federal matching grant program for States to use for such activities as planning, mapping, identification, and control of sources, research, monitoring, enforcement, and education.

This bill is exactly the same as one which passed the Senate last September. Unfortunately, there was not enough time to resolve differences between the House and Senate bills before Congress adjourned.

Mr. President, enactment of this legislation should be one of the highest priorities for environmental legislation during this Congress. I urge my colleagues to join us in supporting this legislation.●

Mr. REID. Mr. President, I am pleased to join my distinguished colleagues on the Senate Environment and Public Works Committee, Senator MOYNIHAN, Senator BURDICK, and Senator DURENBERGER, in introducing the Ground Water Research, Management, and Education Act. This bill was unanimously approved by the Environment and Public Works Committee during the 100th Congress.

Ground water is an important national resource, providing about half of the population's drinking water, 80 percent of rural and livestock needs and 40 percent of irrigation needs. As in many States, ground water availability is an issue of major concern in Nevada—the most arid State in the Union. According to the U.S. Geological Survey, ground water provides about 24 percent of the total water withdrawn and supplies about 40 percent of the State's population—more than 400,000 people. In many areas, ground water provides the entire supply. Further development must rely on ground water sources or the reallocation of surface water supplies; supplies which have been fully appropriated.

Concern over the quality of our Nation's ground water is also increasing. A 1984 Office of Technology Assessment study notes that ground water contamination has been detected in every State with increasing frequency. Various activities in Nevada, including waste disposal, mining, nuclear bomb testing, and other defense related activities, threaten the quality of the ground water. Arsenic, radon, and uranium are trace elements that are present naturally in ground water; and these elements are potentially hazardous to water users.

Certainly the need to protect this precious resource is apparent. There is no question that considerable attention has focused on the Nation's ground water supply. There are more than two dozen agencies or offices involved in ground water related activities; efforts that many believe are duplicative and disorganized. The Ground Water Research, Management, and Education Act seeks to coordinate our national ground water research program and to clarify the roles of the Federal agencies involved.

A plethora of valuable research about ground water is underway in Nevada. To address concerns about coordinating activities at the local level, the bill authorizes the establishment of a western center for nuclear and ground water research in Nevada. This center will consolidate existing environmental research in the State and permit our Federal agencies and university system to focus on the isolation of hazardous and nuclear wastes from our environment and the protection of ground water from contamination and overuse.

Mr. President, the Senate adopted this worthwhile proposal during the last Congress; although time constraints precluded negotiations with the House on the measure. By introducing the Ground Water Research, Management, and Education Act today, we demonstrate our commitment to developing a balanced proposal that will expand and strengthen research of ground water and ground water pollution problems. Thank you.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 204. A bill to provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the United States Constitution; to the Committee on the Judiciary.

CONSTITUTIONAL CONVENTION IMPLEMENTATION ACT

Mr. HATCH. Mr. President, I am pleased to introduce today the Constitutional Convention Implementation Act of 1989. This important proposal was approved by the full Judiciary Committee in both the 98th and 99th Congresses.

Article V of the U.S. Constitution provides that constitutional amendments may be proposed in either of two ways. The first—the means by which every successful amendment to the Constitution has been proposed—requires the agreement of two-thirds of each House of Congress. The second requires the agreement of a convention called by Congress in response to

the applications of two-thirds of the State legislatures. Ratification of amendments proposed through either method is to be done either by the legislatures, or by conventions, in three-fourths of the States, depending upon the determination of Congress.

Largely as a result of the fact that the convention method of constitutional revision has never been successfully employed, there are substantial questions that relate to it:

What constitutes a valid application to the Congress?

What procedures must a State follow in submitting an application?

Must the precise language of the proposed amendment be included within the application?

How similar must the language be in applications of various States in order to allow them to be aggregated?

How long does an application remain valid? May such applications be rescinded by the States?

What is the extent of congressional power to review applications? What is the extent of congressional power to restrict the deliberations of the convention?

What is the extent of State power to restrict the deliberations of the convention?

How is the convention to be organized? How are the States to be represented at the convention?

May Congress refuse to submit the product of a convention to the States for ratification?

How are constitutional convention-proposed amendments to be ratified by the States?

With respect to most of these questions, there is very little constitutional guidance. The relevant language of article V states simply:

> The Congress "on the application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments."

Nor are there useful precedents in view of the fact that there has never been a constitutional convention under article V. Each of the questions involved in this, the alternative means of amending the Constitution, is therefore a threshold question.

OBJECTIVES OF ACT

Article I, section 8, clause 18 of the Constitution invests authority in Congress to:

> Make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States.

This provision clearly authorizes the Congress to pass legislation that would give effect to the convention method of constitutional alteration. This would be a direct function of its article V authority to call a convention pursuant to applications of two-thirds of the States.

I am introducing legislation, the Constitutional Convention Implementation Act, which would fill in the interstices of article V. It is similar to legislation which I have introduced during the previous four Congresses, and which was unanimously approved by the Subcommittee on the Constitution during the 97th Congress. It is particularly important that this body act on this, or similar legislation, in view of the fact that numerous State legislatures have already purported to submit applications to Congress for the convening of a constitution convention on the subject of a balanced budget amendment. I would only hope that this act, however, could be considered separately from the merits of this or any other specific amendment effort.

The Constitutional Convention Implementation Act is designed to establish what are basically neutral procedures to guide the conduct of constitutional conventions generally. While the imminence of a convention on the matter of a balanced budget has clearly created the urgency for this legislation, the act is designed neither to facilitate nor obstruct the eventual achievement of a balanced budget amendment, or any other constitutional amendment. The purpose of this legislation is primarily to insure that Congress has clear standards and criteria by which to judge convention applications before it, and that any convention that takes place under article V is conducted in an orderly and nonchaotic manner.

One must look to the policy underlying the establishment of the convention form of amendment in order to construct an appropriate procedures bill. Even a cursory analysis of the original Constitutional Convention—convened under the auspices of the Articles of Confederation—makes clear that the final provisions of article V resulted from a compromise between those delegates who sought to invest proposal authority solely in Congress and those who sought to invest it solely in the State legislature. The two modes of initiating amendments were viewed as essentially equivalent alternatives, each of which was to serve as a check upon the intransigence of either the national legislature or the State legislature in the matter of proposing constitutional revision.

In view of this fundamental purpose, I believe that legislation giving effect to the convention method of amendment should be such that resort to its use will not render the Constitution too mutable—the Federalist No. 43—while at the same time insuring that it will not be rendered null and void because it remains too cumbersome a method. The amendment process should never be one that can be successfully employed with great ease, yet neither should it be a process totally incapable of being used to alter the Constitution. The requirement that State convention applications relate to the same general subject or subjects serves to ensure the existence of some real consensus among the States with respect to the need for constitutional revision in some relatively circumscribed area.

PROVISIONS OF ACT

I would like to briefly discuss the provisions of this act and explain their justification. I should add at the outset my debt to the efforts of our former colleague, Senator Sam Ervin. While my bill differs in a number of respects from legislation that Senator Ervin successfully shepherded through the Senate in 1971 and 1973, its basic structure is closely related to that measure. That legislation was approved unanimously on one occasion by this body, and by a voice vote on the other occasion.

Section I of my bill states that its short title is the "Constitutional Convention Implementation Act of 1989."

CONVENTION APPLICATIONS

Section 2 specifies the manner in which States are to make applications for a constitutional convention. It states simply that the legislature shall specify within its application for a convention, the general subject of the amendment or amendments to be proposed. The objective of this standard is to ensure that two-thirds of the States have a sufficiently similar purpose to warrant the aggregation of their applications.

The purpose of the application process is to determine that there exists some form of consensus among the States on the matter of a relatively well-defined area of amendment. This consensus cannot fairly be said to be in evidence if aggregation is to be permitted of applications that are, at best, only incidentally related.

On the other hand, it cannot be reasonably expected that identical, or even nearly identical, language be employed in petitions that ought to be aggregated. Such a requirement is highly unrealistic with respect to 50 diverse State legislative bodies; the imposition of such a rigid rule would effectively render the alternative method of amendment provided in article V useless. Further, to the extent that a petition was required to be precise, either with respect to the specific amendment sought, or the specific language sought, there would be little use for the convention itself. To limit the convention to the consideration of a single, meticulously worded amendment is to make the convention a farce. In order for the convention to be a meaningful part of the article V process, it must have some leeway within which to exercise its legitimate discretion.

LIMITED CONVENTIONS

That this discretion, however, is not without its limits is the subject of section 2(b), and, indeed, is the basic theme of the Constitutional Convention Implementation Act. This section states that the procedures provided in the act are to be followed only in the case applications for what are commonly referred to as "limited" conventions. Such conventions are defined for the purposes of this act as conventions designed to consider one or more specific predefined areas of amendment to the Constitution of the United States. Implicit in this section is the recognition that the States may call for the convening of either limited or general conventions; it is, however, simply with respect to the former that the terms of this act apply.

A general convention would be one in which the States petitioned for a convention, not with any specific or limited purposes in mind, but for the purpose of making whatever revisions were deemed necessary or desirable by the convention itself. It is this sort of convention that poses such great concerns to most observers, including myself. I am far from confident that a contemporary general convention could do much to improve upon the work of Madison, Hamilton, and Wilson. While there is no way that Congress, through passage of a simple statute, could preclude the States from requesting a general convention—this is their right under article V—neither is Congress precluded from clarifying that the States are fully within their rights in seeking a limited convention.

There is academic dispute as to the possibilities of a limited constitutional convention. Prof. Charles Black of the Yale Law School, for example, believes that the constitutional convention is a free agent, sovereign and without limitations. According to this theory, the convention represents the premier assembly of the people, and is therefore supreme to all other Government branches and agencies. It cannot be limited in the scope of its deliberations, whatever the limited nature of the grievances that brought the convention into being.

I would disagree with this interpretation. The constitutional convention, while clearly a unique and separate element of the Government—a temporary new branch of the Government—a new branch of the Government, so to speak—is subject to the same limitations and checks and balances as the other, permanent branches of the Government. A constitutional conventions, as its name clearly implies, is a constitutional entity; it is appointed under the terms of the Constitution and subject to all of the express and implied limitations imposed by that document. As observed by Professor Jameson in his classic work on constitutional conventions:

> The convention's principal features is that it is subaltern—it is evoked by the side and at the call of a Government preexisting and intended to survive it, for the purpose of administering to its special needs. It never supplants the existing organization. It never governs. Though called to look into and recommend improvement in the fundamental laws, it enacts neither them nor the statute laws; and it performs no act of administration.

The Federal constitutional convention is an instrument of the Government, and acts properly only when it acts in comformity to its authorized powers.

There is nothing in the language of article V to suggest that the convention method of amendment cannot be limited to a single area of amendment. The symmetry between the competing processes of constitutional amendment is emphasized by Madison in the Federalist No. 43 in discussing the objectives of article V:

> That useful alteration will be suggested by experience, could not be foreseen. It was requisite therefore that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the State governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other.

It was clearly contemplated that the article V primarily anticipated specific amendment or amendments, rather than general revisions, and that no distinction was to be drawn between the competing methods of amendment in this respect.

To enable Congress to propose specific constitutional amendments while allowing the States only to propose general constitutional revision is to confer markedly unequal powers of amendment upon these governments, an intention contradicted by the unanimous weight of documentary evidence. If the States are to have no ability to control the actions of a convention in the form of their convention applications, then there will be strong disincentives for them to seek such conventions. In the absence of broad-based dissatisfaction with the existing constitutional system, why should they want to risk the possibility of a convention acting beyond the scope of their application? Why, in seeking to originate the "amendment of errors" described by Madison should the State have to risk total revision of the constitutional system?

It is anomalous that in seeking to correct what might be a narrow defect in the system that the States should have to place the entire system in jeopardy. What better means could there be to perpetuate the discovered faults of the system? What better means could there be to place the convention system of amendment in an unequivalent position to the congressional system of amendment? What better means could there be to completely discourage any and all resort to the convention means of constitutional amendment?

As Prof. William Van Alstyne has remarked:.

> I find it perfectly remarkable that some have argued for a construction of article V which not only limits the power of State legislatures to have a convention, but would limit that power to its least expected, least appropriate, most difficult (and yet most dangerous) use.

It is the States, not Congress, that ought to properly have the ability to limit the scope of the convention, through their convention applications. While Congress, under section 6 of the Constitutional Implementation Act, is empowered to specify in its call for the convention the scope of permissible deliberations, it is performing basically an administrative, nondiscretionary function in doing so; it is simply translating the State applications into formal convention call.

APPLICATION PROCEDURES

Section 3(a) of the act specified that the procedures to be followed in making a convention application are those adopted by the States themselves. Although a State is free to adopt procedures uniquely applicable to the convention application process—as the State of Illinois, for example, has done with respect to the amendment ratification process—it is anticipated that most States will follow procedures that govern the adoption of simple statutes or resolutions.

Section 3(b) provides further that questions concerning the extent to which States have acted in compliance with their own rules of procedure are also to be determined by the State legislatures themselves. While recognizing that, in pursuit of their authority under article V, the States are acting in quasi-Federal capacity rather than in a purely State role, *Leser* v. *Garnett* (258 U.S. 130, 137 (1922)), it would nevertheless be incongrous for anybody to determine whether or not there has been procedural regularity in a State legislative action other than the legislature itself.

In *Field* v. *Clark* (143 U.S. 649 (1882)), the Supreme Court held that the procedural requirements of the legislative process were presumed to have been satisfied when legislation was formally certified by the appropriate legislative officer. Rather than intruding Congress or the courts into these matters, there is no reason why this traditional rule ought not continue to apply with respect to convention

application actions. There is no compelling reason why article V should require sacrifice by State legislatures of their inherent right to regulate their own proceedings.

Whatever the procedures in the State legislatures, such actions are to be considered valid without the assent of the Governor of the State. Thus, the term "legislatures" in article V is treated in the same manner, for the purposes of convention applications, as it has traditionally been treated for the purposes of amendment ratification, *Hollingworth* v. *Virginia* (3 Dall. 376 (1878)); *Hawke* v. *Smith* (253 U.S. 221 (1920)).

TRANSMISSION OF APPLICATIONS

Section 4 of the act specifies the means by which the States are to transmit their applications for a convention to Congress. Section 4(a) states that, within 30 days of the adoption by a State of an application, the appropriate official is to transmit copies to the President of the Senate and the Speaker of the House of Representatives.

Section 4(b) directs the States to include within their applications: The title of the resolution, the date of adoption, and an official certification. In addition, States are encouraged, but not required, to list in the application other pending State applications which are felt to relate to substantially the same subject. While such a listing is not to be considered conclusive with respect to Congress, it is nevertheless considered that such a listing will be useful to Congress in carrying out it responsibilities in aggregating applications.

Section 4(c) requires each House to establish a public record of each State application, and to notify each State legislature of the fact of each application. Through internal procedures to be determined by each House, Congress would be charged with making an initial decision on whether or not to aggregate applications within the 10-day period following each new application. The criteria would be whether or not the applications referenced the same "general subject or subjects."

These initial decisions, however, would not be binding. Under article V, Congress would not be compelled to make its final decision on aggregation of applications until that point at which it was required to make a decision with respect to an actual convention call. The requirement of an ongoing effort at determining the aggregation question is designed primarily to limit opportunities for political manipulation at this point of the application process, as well as to allow States which are not aggregated in what they consider the proper manner to amend their convention applications.

As observed earlier, it is the objective of the "same general subject or subjects" standard to ensure the existence of some real consensus among the States with respect to the need for constitutional revision in some relatively circumscribed area. At the same time, in order not to interfere with the legitimate freedom of action of a convention, there ought not to be the requirement of extreme precision, either in the text or the subject-matter. The language contained in the bill is designed to draw some rough balance between these considerations.

In order to ensure that the consensus for a constitutional amendment remains a relatively contemporaneous one, *Dillion* v. *Gloss* (256 U.S. 368 (1921)), section 5(a) states that an application shall be effective for no longer than a 7-year period, with shorter effective periods contained within the body of an application to be respected. The court in Dillion stated that:

> Proposal and ratification are not related as unrelated acts but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time . . . We do not find anything in article V which suggests that an amendment once proposed is to be open for ratification for all time, or that ratification in some of the states may be separated from that in others by many years and yet be effective.

Similarly, State convention applications and the calling of a constitutional convention are not unrelated acts, but necessary, succeeding steps in a single endeavor. There should be a reasonable relationship in time, between these actions, *Coleman.* v. *Miller,* (307 U.S. 433 (1938)). There is the same need to avoid staleness of applications to Congress as there is to avoid staleness of amendment proposals to the States.

In view of the fact that every amendment proposed by Congress, except one, since the 18th amendment, has contained a 7-year time limitation, either in the body or in the enacting clause, it has been decided to use this same period for determining effectiveness applications.

Language has also been included in this section which maintains the effectiveness, for a minimum of 2 years, of those applications which have been submitted to Congress within the previous 16-year period, notwithstanding the expiration of the regular 7-year period. This provision is designed to ensure that those applications, submitted in recent years which have not had the statutory guidance of procedures legislation, are kept temporarily effective for a short transitional period.

Section 5(b) authorizes States to withdraw their applications at any time prior to the time that there are a sufficient number of valid applications before Congress to enable it to call a convention. There would seem to be no valid policy reason for denying them this right. Indeed, in order to ensure that the amendment process reflects the notion of contemporaneous consensus, it is vital that the States should not be dragooned unwillingly into an artificial consensus because of an inability to rethink earlier application decisions.

CALLING OF THE CONVENTION

Section 6 of the Constitutional Convention Implementation Act relates to the actual calling by Congress of the convention. It provides that, upon receipt in each House of the application putting two-thirds of the States in agreement on the need for some particular amendment or amendments, it is the duty of that House to call for convening of a Federal constitutional convention on the general subject or subjects. Congress is to designate the time and place of the meeting of the convention, and set forth the general subject of the amendment or amendments for consideration. The convention is to be convened not later than 8 months following the adoption by Congress of its resolutions.

Despite some misconceptions on this point, it is obligatory that Congress call a convention upon the receipt of valid applications by two-thirds of the States. Alexander Hamilton observed in the Federalist No. 85 that—

> The national rulers, whenever nine states concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged "on the application of the legislatures of two-thirds of the states to call a convention for proposing amendments" . . . the words of this article are peremptory. The Congress "shall call a convention." Nothing in this particular is left to the discretion of that body.

James Madison, in a 1789 letter, remarked further—

> It is to be observed however that the question concerning a general convention will not belong to the Federal legislature. If two-thirds of the States apply for one, Congress cannot refuse to call it.

CONVENTION DELEGATES

Section 7 relates to the selection of delegates to the constitutional convention. The language is taken nearly verbatim from article II, section 1, paragraph 2 of the Constitution concerning the selection of Presidential electors. The great compromise between the larger and the smaller States is carried over into the selection of convention delegates with each State being entitled to that number of delegates equal to the combined number of its Senators and Representatives in Congress. The States are given a free hand in selecting their delegates in whatever—constitutional—manner they deem appropriate.

If the experience of the electoral college is at all relevent—and I believe that it is—each of the States will no doubt introduce some means of popular election for the delegate positions. I would be personally opposed to any other manner of selection, although I do not believe that it is the business of

this body to specify particular procedures for the States.

While there are those who would prefer to see a delegate selection system more precisely based upon population. I see no reason not to extend smaller States that slight disproportionate influence in the proposal of amendments through the convention system that they currently enjoy in the proposal of amendments through the congressional system. The apportionment procedures in section 7 is the method of delegate selection that most closely conforms to the basis for congressional representation and which would most closely aline the alternative systems of proposing amendments.

Section 7 also excludes Members of Congress, the very embodiment of the national influence, from serving as convention delegates and confers the same immunity from arrest upon convention delegates, for the duration of the convention, that article I, section 6 of the Constitution confers upon Members of Congress.

CONVENING OF CONVENTION

Section 8 directs each delegate to the convention to subscribe to an oath by which he commits himself, during the conduct of the convention, to comply with the Constitution of the United States.

Administering the oath of office to the delegates would be the senior chief judge of the highest courts of the States. Rather than having the Vice President or Chief Justice of the United States, fill this function, it is my belief that what is basically a State convention should remain that and not run any unnecessary risks, however remote, of being influenced by national officials. I emphasize again the basic purpose of including the convention method of amendment in article V—the need for the States to be able to amend the Constitution in the face of an intransigent National Government.

CONVENTION PROCEDURES

Section 8 states that the convention itself is to have responsibility for drawing up its own rules of procedures, rather than Congress, except that there is to be no unit-rule voting procedures. No Federal funds may be appropriated specifically for the payment of the expenses of the convention, except that the Administrator of the General Services Administration is authorized to provide facilities for the convention, and incur whatever incidental expenses are necessary related to this provision of facilities. At the request of the convention, the Federal Government is also permitted to provide sundry technical information and assistance to the convention.

Section 9 provides that the convention is to maintain a daily verbatim record of the proceedings, analogous to the CONGRESSIONAL RECORD. All records of official proceedings are to be transmitted by the convention to the National Archives within 30 days following termination of the proceedings of the convention. This section also requires the termination of the convention within 6 months of its convening unless Congress agrees to extend it at the convention's request.

Section 10 again underscores that premise of this act that a limited convention may properly be called. It restates what is already implicit in the act that the convention called under its terms may not propose amendments of a general subject different from that stated in the convention's charter—the resolution approved by Congress. The convention exercises no legitimate governmental authority beyond that granted by the States through Congress. The convention thus is morally obliged to limit its considerations to the subjects set forth in the State applications; I believe further that it is appropriate for Congress to establish a legal obligation to this same effect.

SUBMISSION OF AMENDMENTS TO STATES

Section 11 concerns the procedures through which the convention product is submitted to the States for ratification. Within 30 days after the completion of the convention, its presiding offficer is to transmit the exact text of any proposed amendments to Congress. The officers to each House, within 30 more days of continuous session, are to transmit the amendments to the General Services Administration who, in turn, is to submit the amendments to the States. The amendments are to be accompanied by a congressional resolution specifying, pursuant to article V, the model of ratification—whether it is to be ratified by the State legislatures or by special ratifying conventions within each of the States.

Congress may refuse to transmit an amendment and resolution to the States only if it makes the determination that the amendment relates to or includes a general subject which differs from, or was not included as one of the general subjects within the scope of the convention's authority. The objective is to provide some remedy for a failure by the convention to honor the limitations on its authority to propose amendments to the Constitution. Congress has no power whatsoever to refuse to submit an amendment because of disagreement with its substantive merits. Nor is it empowered to refuse to submit an amendment because of what it perceives as procedural irregularities in the proceedings of the convention. Convention procedure is not within the ambit of congressional concern; checks upon procedural abuse must come from the States themselves in the form of the ratification process. Because this check also exists with respect to conventions acting in an ultra vires manner, it is hoped that Congress will resolve any doubts as to whether or not the convention acted within the scope of its authority in favor of an affirmative finding.

RATIFICATION OF AMENDMENTS

Section 12 of the act, borrowing language directly from article V, states simply that amendments proposed by "limited" constitutional conventions are to become part of the Constitution when ratified in accordance with the terms of article V—by three-forths of the States in a timely and proper manner. Certified copies of the ratification documents are to be forwarded by the States to the General Services Administration, although the ratification itself becomes effective once action is completed within the State legislature, *Dillion* v. *Gloss* (256 U.S. 368, 376 D(1921)).

Section 13 expressly holds that the States are free to reconsider and reverse their ratification decisions, at least until that point at which an amendment has been ratified by three-fourths of the States. Thus, any State may ratify a proposd amendment after having previously rejected it, or may rescind an earlier ratification of a proposed amendment. It is again my view that the most reliable determination of the existence—or lack thereof—of a contemporaneous consensus can be made if the States are free to reconsider and rethink their ratification decisions until that point at which three-fourths of the States are in agreement in support of amendment, or until that point that a reasonable period of time has passed for ratification. My views on the matter of rescission of ratifications are discussed at far greater length in the CONGRESSIONAL RECORD of October 4, 1978, at pages S17043-S17045.

Section 14 imposes upon the General Services Administration the duty to proclaim the final ratification of an amendment once it is in receipt of certifications of ratification from three-fourths of the States. As section 16 clarifies, however, this is an administrative duty of a symbolic nature, not one with an impact upon the actual effectiveness of an amendment. Under article V—and section 16—the amendment becomes part of the Constitution at the moment the final State has ratified, or on any date specified in the body of the amendment itself.

JUDICIAL REVIEW

Finally, section 15 relates to the role of the judicial branch in the constitutional convention process. It establishes two express situations in which an allegedly aggrieved State may bring a direct action in the Supreme Court, pursuant to article III, section 2 of the Constitution. The first involves cases in which a State disputes any determination or finding by Congress, or the

failure of Congress to make a determination or finding, with respect to its section 6 responsibilities. Section 6 requires Congress to "call" a convention upon determining the existence of valid applications for such a convention from two-thirds of the States.

The second situation involves cases in which Congress' actions, with respect to its section 11 responsibilities, are questioned. Section 11 requires Congress to submit amendments proposed by the convention to the States unless it determines that the convention acted on subject matter outside the purview of its authority.

Section 15(c) expressly states that these two actions may not be inclusive with respect to the right to a Supreme Court hearing, and that nothing in the act limits the right to judicial review of any other decision made under the act or such review as is otherwise provided by the Constitution or any other law of the United States. Section 15 further requires suit to be brought within 60 days of a claim against the Secretary of the Senate, the Clerk of the House, the General Services Administrator, or any other party as may be necessary to afford the relief sought.

Thus, the act would reject that version of the so-called political questions doctrine that suggests that all interpretative matters deriving from article V are to be resolved by Congress soley at its discretion. I find it ironic that so many individuals who have been so sympathetic to the advance of judicial activism in recent years are also those who would deny the Federal courts, particularly the Supreme Court, their constitutional obligation to interpret the plain language of that document. My views on the political questions doctrine are explained more throughly in the CONGRESSIONAL RECORD of October 4, 1978, at pages S17044-5.

CONCLUSION

Mr. President, the convention method of constitutional amendment has been defended and described as an essential component of our Constitution by such statesmen as James Madison, Alexander Hamilton, George Washington, Benjamin Franklin, and Abraham Lincoln. While no amendment has ever been ratified that has been proposed through this method, it has nevertheless exerted its influence in indirect ways. The 17th amendment to the Constitution, for example—providing for the direct election of U.S. Senators—was proposed by Congress in 1912 in response to an effort in the States to call a convention on this subject. Other convention efforts on such matters as Federal tax limitation and State legislative apportionment have also evoked a significant congressional response. It is clear, too, that the present balanced budget movement is having an impact upon national public policy.

It is necessary in order to insure some measure of symmetry in the alternative amendment processes under article V to establish clearcut procedures for resort to the convention method. While the absence of legislation such as the Constitutional Convention Implementation Act will not preclude the States from exercising their right to call a convention, it will insure that the amendment process will become bogged down in constant litigation, partisan political decisions, and constitutional uncertainty. The effect on this can only be to undermine the integrity of our constitutional system. In the process, also, we will erode one of the basic institutions for preserving some semblance of balance between the national and the State governments. As observed by Alexander Hamilton:

> The most powerful obstacle to the members of Congress betraying the interest of their constituents is the State legislatures themselves, who will be standing bodies of observation, possessing the confidence of the people, jealous of Federal encroachments and armed with every power to check the first essarys at treachery.

While there is not one who respects more than I do the achievement of the Founding Fathers, nor anyone who would place a greater burden of proof upon those who propose to alter the Constitution, I would nevertheless agree with Prof. Malcolm Eiselen who stated:

> To assume, as many apparently do, that a second convention could alter the Constitution only for the worse . . . is an unwarrantable libel upon the creative statesmanship and political sagacity of the American people.

The purpose of the Constitutional Convention Implementation Act is to prevent both Congress and the constitutional convention from acting outside the scope of each of their proper authority. It is designed to insure that the States, in the event that Congress remains intransigent with respect to some issue of constitutional controversy, are able to circumvent Congress and act on their own to remedy such a situation. It is designed also to insure that the States—and Congress—are not forced to surrender totally their sovereignty to the convention. It is designed to insure that the same matrix of constitutional checks and balances is applicable to the constitutional convention as to the other permanent institutions within our governmental system.

There can be no runaway convention unless, ultimately, the dissatisfaction of the people are so broad and pervasive that it is a runaway convention that they expressly desire. The best way that Congress can work to insure that this never becomes the case is to allow the people and the States to work their will under established procedures when their grievances are more narrow and more limited, rather than allowing them to fester as a result of contrived procedural irregularities. It is occasionally sobering to some of my colleagues, yet it is true, that ultimately it is the citizenry, not Congress, that is the responsible party in our political system.

By Mr. SYMMS (for himself, Mr. MCCLURE, and Mr. SHELBY):

S. 205. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

ELIMINATION OF HOSPITAL REIMBURSEMENT DIFFERENTIAL

Mr. SYMMS. Mr. President, today, I am pleased to join my colleagues, the senior Senator from Idaho [Mr. MCCLURE] and the distinguished Senator from Alabama [Mr. SHELBY] in introducing a bill designed to correct the gross inequity of the Medicare reimbursement rates for rural hospitals and referral centers.

Our rural hospitals are in dire straits. Over the past 8 years, 161 rural hospitals have closed their doors and approximately 600 additional rural hospitals are on the brink of bankruptcy.

The closing of these hospitals is endangering the health and well-being of millions of Americans. Following such closures, residents of communities in many parts of Idaho and other Western States must often travel in excess of 150 miles to seek even simple checkups.

The present Medicare payment system doesn't adequately account for the fact that small rural hospitals compete for the same doctors and nurses, buy from the same suppliers, and have other costs comparable to those paid by hospitals in metropolitan areas. In fact the rural-urban differential is entirely capricious, penalizing a hospital if it happens to be located in an area which is certainly in need of health care providers, but is termed rural, when just across some imaginary line is a hospital with the same underlying costs, but receiving higher payments.

Medicare payments have a particularly large impact on rural hospitals. Because most rural hospitals are small, they cannot adjust easily to fluctuations in inpatient admissions or case mix, whereas larger hospitals can average the fluctuations from year to year and over many cases. For small rural hospitals which tend to operate closer to the margins of their costs, and cannot take advantage of spreading Medicare losses across large numbers of patients, as done by large metropolitan hospitals, these fluctuations can be devastating financially. Because a large proportion of rural hospital patients are Medicare patients, rural health providers are doubly at

risk when the prospective payment system fails to compensate them adequately for their special circumstances or when inequitities in payment policies exist.

If this differential is not adjusted, my State of Idaho will likely lose at least 5 hospitals in the near future, not to mention numerous facilities around the country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF SEPARATE AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

"(i)(1)(A) On or before April 1, 1990, the Secretary and the Prospective Payment Assessment Commission established under subsection (e) (in this subsection referred to as the 'Commission') shall each submit to the Congress a report recommending a methodology that provides for the elimination of the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in subsection (d)(1)(B)) located in large urban, other urban, or rural areas. The methodologies set forth in such reports shall provide for a graduated reduction of the differences in the average standardized amounts applicable to large urban, other urban, or rural area hospitals during the 36-month period beginning October 1, 1990 and shall provide for the complete elimination of such differences for discharges occurring on or after October 1, 1992. Such methodologies may provide for such changes to any of the adjustments, reductions, and special payments otherwise authorized or required by this section as the Secretary or the Commission determines to be necessary and appropriate to carry out the purposes of this subsection.

"(B) Not later than May 1, 1990, the Congressional Budget Office (in this subsection referred to as 'CBO') shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1990, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A) (including any recommended changes in the adjustments, reductions, and special payments otherwise authorized or required by this section).

"(D) Not later than August 30, 1990, the Secretary shall promulgate final regulations to implement the recommendations and changes described in subparagraph (C).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1990, with respect to the average standardized amounts applicable to large urban, other urban, or rural area hospitals, then, notwithstanding any other provision of this section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1990, shall be determined in accordance with the final regulations promulgated under subparagraph (D).

"(2)(A) On or before April 1, 1991, the Secretary and the Commission shall each submit to the Congress a report specifying the manner in which the average standardized amounts determined under the regulations becoming effective in accordance with paragraph (1)(E) should be adjusted appropriately to reflect legitimate differences in the operating costs of inpatient hospital services (as defined in subsection (a)(4)) for different categories of subsection (d) hospitals.

"(B) Not later than May 1, 1991, CBO shall submit to the Congress an analysis of each of the reports submitted under subparagraph (A).

"(C) Not later than June 1, 1992, the Secretary shall promulgate proposed regulations to implement the recommendations of the Secretary under subparagraph (A).

"(D) Not later than August 30, 1992, the Secretary shall promulgate final regulations to implement the Secretary's recommendations under subparagraph (A).

"(E) If the Congress does not enact legislation after the date of the enactment of this subsection and before October 1, 1992, with respect to adjustments to the average standardized amounts applicable to large urban, other urban and rural area hospitals, then, notwithstanding any other provision of the section, the average standardized amounts for such hospitals for discharges occurring on or after October 1, 1992, shall be determined in accordance with the final regulations promulgated under paragraph (1)(D) and subparagraph (D) of this paragraph".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

By Mr. SYMMS:

S. 206. A bill to amend the 1986 Tax Act to provide that certain loans between a domestic international sales corporation and a member of the same controlled group of corporations be treated as qualified export assets; to the Committee on Finance.

CLASSIFICATION OF EXPORT ASSETS

Mr. SYMMS. Mr. President, today I am introducing a bill intended to correct an inequity under the tax law prior to 1986 for agricultural exporters—a problem that has come to light only in the past few years, during the period of the strong dollar.

The Treasury Department Office of Tax Policy was consulted when I introduced an amendment substantially the same as this bill last year to address this problem. Their position, I understand, was one of "no opposition" because the problem is narrow, technical, and affects only a few agricultural exporters today.

The Domestic International Sales Corporation [DISC] provision of the Tax Code prior to 1984 and the Foreign International Sales Corporation [FISC] of present law were designed specifically to promote the sale of American products and to put exporters on the same financial and tax basis as their foreign competitors.

The DISC and FISC programs, while important to major manufacturing industries of the country, have been shown to be of great significance to the agricultural industry. Due to the unique factors of agriculture, it is composed mostly of small businesses, both the farms themselves and export organizations. It is my opinion that a number of agricultural exporters were unfairly disadvantaged when the fairly technical definitions of "qualified export assets" were drafted by the Treasury Department in the late 1970's. This amendment corrects that inequity.

The export market is essential to agriculture both in terms of moving surplus products and developing price levels that are satisfactory to the farmer. The ability to export U.S. agricultural produce in the world marketplace requires at a minimum that U.S. products be competitive in price and competitive in sales terms and conditions with foreign sellers. In all instances we are competing with extensive direct and indirect subsidies given to foreign producers by their governments.

To compete effectively in this environment requires substantial investments of time, energy, and money. It also requires a great deal of work, traveling, financing, and planning to develop these markets.

During the years of 1980 through 1984, the international pulse trade—that is, beans and related crops—was an extremely important method of providing the lowest cost convertible protein to the people of the lesser developed nations of Latin America and Africa. This source of protein was crucial to the citizens of countries whose meat supply, or their ability to pay for imported meat, made that source of protein difficult or impossible to obtain.

Pulse sales from the United States during these years were substantial due to aggressive export programs. The States of California, Colorado, Idaho, Michigan, Minnesota, Nebraska, North Dakota, Oregon, Texas, Washington, and Wyoming benefited economically from the growing and exporting of pulse produce. These exports were successful despite the difficult environment of a strong U.S. dollar and difficult competitors from foreign subsidized producers. American exports reached record volume and price levels. This favorable balance of trade returned to the American farmers prices and per-acre profits substantially higher than in subsequent years. In addition, U.S. growers received this income during times when their alternative coarse grain crops were at record low levels.

I view this amendment as an important one because I view the growing, sale, and export of pulses as an important industry; because I view the agricultural business in general as an im-

portant part of America's economic strength; because I think we need to support the export of American products as a whole; and because I think we should not play "bait and switch" with exporters who did expand their foreign trade on the basis of the tax perferences specifically meant to encourage such expansion.

Therefore we need legislation now and in the future to encourage participation in exporting and to show the U.S. Government is prepared to help meet the intense foreign competition we face.

Such provisions of the law should not have operated as a series of obstacles and traps, which only work to destroy the benefits Congress intended to provide, but in a number of cases, this was what in fact occurred. This was especially true when the exporters relied upon those benefits in establishing prices and financing programs. A loss of faith in the assistance of the Government to stimulate exports would be a serious blow to agriculture, the American farmer, and our trade balance.

It was a mistake to restrict and complicate what existing assistance the U.S. Government is giving the American farmer in the form of the DISC program by overcomplicating its operations and the interpretation of regulations, to the detriment of those trying to work within the program.

I should note that some DISC's, namely the so-called commission DISC's, were very superficial entities. The sponsoring corporation of such a DISC would sell its products overseas and record a transaction on its books to create a commission in favor of the DISC. On the other hand, there were genuine exporting DISC entities—so-called buy-sell DISC's—and these are the kind I believe the Congress needs to direct some attention to, in the form of this legislation. This kind of DISC made specific sales, assumed risks, and conducted its business in its own name. The legislation here proposed provides relief to these buy-sell DISC's and not to "Commission DISC's."

I would ask unanimous consent for the text of the bill to be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 933(b) of the Internal Revenue Code of 1986 (defining qualified export assets) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(10) obligations issued to the corporations which includes such corporation, but only to the extent of $7,500,000 of such obligations outstanding at each taxable year end.".

(b) The amendment made by this section shall apply to any corporation which derived over 80 percent of its gross income from sales of non-program agricultural products, as principal and not as a commission agent, in all of its taxable years ending before December 31, 1984, and the amendment shall apply to such corporation's taxable years beginning after December 31, 1979 and ending December 31, 1984.

By Mr. DIXON:

S. 207. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority of the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

By Mr. DIXON (for himself and Mr. SIMON):

S.J. Res. 23. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

LINE ITEM VETO AND LINE ITEM RESCISSIONS

● Mr. DIXON. Mr. President, I rise today to reintroduce a joint resolution proposing a constitutional amendment authorizing the President to disapprove or reduce individual items or appropriations, subject to a majority vote override. I am joined in this effort by my warm friend and distinguished colleague, Senator PAUL SIMON.

I am also reintroducing legislation to expand the President's rescission authority, because action on the constitutional amendment will necessarily take a substantial period of time, and we need the benefits to be garnered from the item veto now.

I do not propose this constitutional amendment and expand rescission authority lightly, but I am convinced we need fundamental changes in our budgeting procedures if we are ever to restore fiscal discipline to the Federal Government. Our looming deficit cuts into our ability to deal with the many other problems facing the Nation. Until we significantly reduce the deficit, we will not be able to fully fund many other vital domestic programs. The budget deficit was $220 billion in fiscal 1986, $150 billion in fiscal year 1987. Unfortunately, the reduction is not due to fundamental budget reform, however, but rather to budgetary "blue smoke and mirrors." Further, a $150 billion deficit is still $6 billion over the fiscal year 1987 Gramm-Rudman-Hollings target of $144 billion, and the prospects for meeting future Gramm-Rudman-Hollings targets, despite their upward adjustments, and balancing the budget by 1991 are questionable at best. Let us not forget a number of costly initiatives have been discussed by President Bush. Where does the money come for those initiatives when the deficit continues to eat away at our ability to meet the needs of the country. Budgetary legerdemain will not solve our ongoing fiscal crisis; fundamental reform of our budget processes is required if Federal deficits are to be controlled over the long run.

Solving our budget problems will require strong action in a number of areas. I am convinced that adding an item veto provision to our Constitution is probably the single most important action we could take if we really want to end the deficit nightmare.

The item veto has a long and distinguished history. It first appeared in the Confederate Constitution. In the years since the Civil War it has been included in the Constitutions of 43 of the 50 States. The States gave their Governors this authority because it was needed, because it strengthens their budget processes, and because it works. No State that has adopted the item veto has ever repealed it.

While the idea has demonstrated its merit at the State level, however, it has never seriously been considered at the Federal level. Numerous item veto proposals have been introduced in Congress since the first one in 1876. At least seven different Presidents have requested item veto authority. But none of these proposals or requests has ever been sent to the States or been acted on by either the House or the Senate.

Mr. President, it is long past time to change that situation and act on an item veto provision that helps restore the President's veto power. I say restore, because the truth is that the Presidential veto is now a much weaker weapon than it once was.

Under our Constitution, a President can only veto an entire bill. He or she cannot veto individual items of spending within the bill—the veto is an all-or-nothing proposition. When our Constitution was written, that was a reasonable and workable balance of powers between the legislative and executive branches. Government was smaller and simpler. Over the past two centuries, though, Congress has tipped the balance in its favor and substantially eroded the President's veto power. The growth in Government, together with the increasing use of omnibus legislation, now make it significantly more difficult for a President to play the role envisioned by the Nation's founders.

At times, a President has the choice of either shutting down the Government, or signing into law billions of dollars of spending which he or she does not support. In 1987, you will recall, all Government spending was included in a single omnibus bill instead of the 13 annual appropriation bills that Congress usually acts on to exercise its control over Government spending.

Congress did pass each appropriation bill on its own in 1988, rather than in one lump sum, but the practice of attaching controversial items to "must" bills in an effort to make it more difficult for a President to use his veto power was just as evident. Logrolling, and packaging good and bad programs into a single appropriations bill, have become a way of life.

These practices are near and dear to the hearts of many legislators, but they work to undermine our ability to budget in a fiscally sound and responsible manner. They are clearly wasteful, extravagant, and destructive.

Congress will never resolve the deficit problems, Mr. President, if it continues this "business as usual" approach. Congress must surrender some of the prerogatives it has accumulated over the years, and allow at least a partial restoration of the President's veto power.

Many Members, as well as those who benefit from the current way of doing things, may not want to surrender all the power they have gained. To ensure that the proper balance of powers between the legislative and executive branches of Government is maintained—to ensure no possibility of the creation of an imperial presidency—I am proposing only a partial restoration, giving the President item veto authority, but allowing Congress to override it by a simple constitutional majority.

Under my proposal, a President would have to choose: Either veto an entire bill, forcing Congress to attempt to override by two-thirds vote, or use the item veto, recognizing that it would be easier for Congress to override.

Stated another way, it simply allows a President to put the Congress on record, to see whether there is, in fact, majority support for certain individual items of spending in an omnibus bill. As we all know too well, most Members of Congress have never seen and do not know about many of the literally thousands of individual items in the hundreds of pages of appropriations bills enacted every year. We rely on staff, and the knowledge, character, and ability of the Senators and Representatives that are the subcommittee chairmen and ranking members that handle the bills. Yet all these items are presumed to have majority support, because they were included in a major bill that majorities in both the House and the Senate supported.

If a President opposes an item, why shouldn't he or she have the right to ask the Congress to go on record, and to determine whether the majority that is presumed to exist actually exists? In the early days of our Republic, Presidents often effectively had that right, because bills were narrower and did not deal with more than one subject. We have now reached the point, however, where a single appropriations bill contains over $558 billion in spending authority, a practice which I believe usurps the President's constitutionally mandated role in the legislative process.

Majority override means that a President could not overturn strong congressional support for a single item through use of the item veto and the support of "one-third plus one" in either the House or the Senate. Only the veto of an entire bill would take a two-thirds vote to override. An item veto would be sustained if the President commanded majority support, and would be overturned if the item had majority backing.

Mr. President, the Line-Item Rescission Act is based on similar principles. I am introducing this proposal reluctantly, because I believe a constitutional amendment is the better way to proceed. Further, some of the past rescission proposals would have given the President unilateral rescission authority, thus effectively giving a President two bites at the same apple. Under these proposals a President could sign a bill and rescind various items of spending. Congress would have to effectively act on a new bill repassing the items to overturn the rescission, and this action would be subject to Presidential veto, requiring a two-thirds vote to override.

My proposal is merely a small expansion of authority already available to Presidents under the Budget Act. It does not give a President unilateral rescission authority. It is designed to make the rescission mechanism as close to a majority override line item veto constitutional provision as is possible through statutory means while not violating constitutional principles. It can be put into effect far more quickly than a constitutional change, and would provide at least part of the benefits of the constitutional amendment.

The legislation permits a President to defer items of spending contained in an appropriations bill for 60 days while Congress considers rescission resolutions under expedited procedures. Each rescission resolution would cover a single item and would have to be voted on separately, as the veto of an individual item would be.

Both Houses of Congress would have to vote on the resolution or resolutions within 60 days of their transmittal to Congress by a President. If the President had majority support, the resolution would pass, and the item would be rescinded. If the item had majority support, the spending would go forward without being subject to further Presidential veto.

The rescission resolutions would not be amendable since veto messages are not amendable, and the expedited procedures would guarantee a vote on the resolutions. This provision, of course, is different from the way a veto message is considered. There is no guarantee that a veto message will be voted on at all. However, a veto is effective unless overturned by both houses of Congress, while a rescission is effective only when approved in both houses. The combination of the limited deferral authority, and the expedited procedures guaranteeing a vote, is necessary to ensure that Congress faces the issues raised by a President's opposition to particular items.

Neither the item veto constitutional amendment nor the Line-Item Veto Rescission Act is a cure-all for the budget problems we are facing, Mr. President. Dealing with the deficit will require action in every area of the budget, action that will be difficult and distasteful. However, either proposal can and will make a real difference. If a Federal item veto with majority override works as well at the Federal level as it does in my own State of Illinois, it could save $27 billion a year or more.

I urge the Senate to consider these proposals very carefully. I am convinced that the result of this fair and reasonable examination will be enactment of a Line-Item Veto Rescission Act and early submission of the constitutional amendment to the States for ratification. I look forward to working with my colleagues toward these objectives. Mr. President, I ask unanimous consent that a copy of the bill and the joint resolution be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line-Item Rescission Act of 1989".

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS.

(a) IN GENERAL.—Part B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by redesignating sections 1013 through 1017 as sections 1014 through 1018, respectively, and inserting after section 1012 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—The President may, on the same

calendar day the President approves any appropriation bill, transmit to both Houses of the Congress, for consideration in accordance with this section, one or more special messages proposing to rescind all or part of any item of budget authority provided in the appropriation bill.

"(b) CONTENTS OF SPECIAL MESSAGE.—

"(1) No special message may be considered in accordance with this section if the special message proposes to rescind more than one item of budget authority.

"(2) Each special message transmitted under subsection (a) shall specify, with respect to the item of budget authority (or part thereof) proposed by the message to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a).

"(3) Each special message transmitted under subsection (a) shall be accompanied by a draft bill or joint resolution that would, if enacted, rescind the budget authority proposed to be rescinded.

"(c) PROCEDURES.—

"(1)(A) On the day on which a special message proposing to rescind an item of budget authority is transmitted to the House of Representatives and the Senate under subsection (a), the draft bill or joint resolution accompanying such special message shall be introduced (by request) by the majority leader of the House of the Congress in which the appropriation Act providing the budget authority originated. If such House is not in session on the day on which a special message is transmitted, the draft bill or joint resolution shall be introduced in such House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

"(B) A draft bill or joint resolution introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill or joint resolution without substantive revision (and with or without recommendation) not later than 20 calendar days of continuous session of the Congress after the date on which the bill or joint resolution is introduced. A committee failing to report a bill or joint resolution within the 20-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

"(C) A vote on final passage of a bill or joint resolution introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 30th calendar day of continuous session of the Congress after the date of the introduction of the bill or joint resolution in such House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill or joint resolution is agreed to.

"(2)(A) A bill or joint resolution transmitted to the House of Representatives or the Senate pursuant to subparagraph (C) of paragraph (1) shall be referred to the Committee on Appropriations of such House. The committee shall report the bill or joint resolution without substantive revision (and with or without recommendation) not later than 20 calendar days of continuous session of the Congress after the bill or joint resolution is transmitted to such House. A committee failing to report the bill or joint resolution within the 20-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed upon the appropriate calendar.

"(B) A vote on final passage of a bill or joint resolution transmitted to a House of the Congress pursuant to subparagraph (C) of paragraph (1) shall be taken on or before the close of the 30th calendar day of continuous session of the Congress after the date on which the bill or joint resolution is transmitted to such House. If the bill or joint resolution is agreed to in such House, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the engrossed bill or joint resolution to be returned to the House in which the bill or joint resolution originated, together with a statement of the action taken by the House acting under this paragraph.

"(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill or joint resolution under this section shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

"(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a bill or joint resolution under this section, and motions to proceed to the consideration of other business, shall be decided without debate.

"(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

"(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives applicable to other bills and joint resolutions in similar circumstances.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to recommit a bill or joint resolution under this section is not in order.

"(d) AMENDMENTS PROHIBITED.—No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this paragraph shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this paragraph by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—Any item of budget authority proposed to be rescinded in a special message transmitted to the Congress in accordance with subsection (a) shall be made available for obligation unless, not more than 60 days after the transmittal of the special message, both Houses of the Congress have agreed to the bill or joint resolution accompanying such special message.

"(f) DEFINITIONS.—For purposes of this section—

"(1) 'item' means any numerically expressed amount of budget authority set forth in an appropriation bill;

"(2) 'appropriation bill' means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations; and

"(3) 'appropriation Act' means any appropriation bill that has been approved by the President and become law.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1011(5) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(A) by striking out "1012, and" and inserting in lieu thereof "1012, the 20-day periods referred to in paragraphs (1)(B) and (2)(A) of section 1013(c), the 60-day period referred to in section 1013(e) and";

(B) by striking out "1012 during" and inserting in lieu thereof "1012 or 1013 during";

(C) by striking out "of 45" and inserting in lieu thereof "of the applicable number of"; and

(D) by striking out "45-day period referred to in paragraph (3) of this section and in section 1012" and inserting in lieu thereof "period or periods of time applicable under such section".

(2)(A) Section 1011 of such Act is further amended—

(i) in paragraph (4) by striking out "1013" and inserting in lieu thereof "1014"; and

(ii) in paragraph (5)—

(I) by striking out "1016" and inserting in lieu thereof "1017"; and

(II) by striking out "1017(b)(1)" and inserting in lieu thereof "1018(b)(1)".

(B) Section 1012 of such Act is amended—

(i) by striking out "1012 or 1013" each place it appears and inserting in lieu thereof "1012, 1013, or 1014";

(ii) in subsection (b)(1) by striking out "1012" and inserting in lieu thereof "1012 or 1013";

(iii) in subsection (b)(2) by striking out "1013" and inserting in lieu thereof "1014"; and

(iv) in subsection (e)(2)—

(I) by striking out "and" at the end of subparagraph (A),

(II) by redesignating subparagraph (B) as subparagraph (C),

(III) by striking out "1013" in subparagraph (C) (as so redesignated), and

(IV) by inserting after subparagraph (A) the following new subparagraph:

"(B) he has transmitted a special message under section 1013 with respect to a proposed rescission; and".

(C) Section 1015 of such Act is amended by striking out "1012 or 1013" each place it appears and inserting in lieu thereof "1012, 1013, or 1014".

(D) Section 1016 of such Act is amended by striking out "or 1013(b)" and inserting in lieu thereof ", 1013(e), or 1014(b)".

(E) Section 1012(b) of such Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any item of budget authority proposed by the President to be rescinded under this section that the President has also proposed to rescind under section 1013 and with respect to which the 60-day period referred to in subsection (e) of such section has not expired.".

(3) The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(A) by redesignating the items relating to sections 1013 through 1017 as items relating to sections 1014 through 1018; and

(B) by inserting after the item relating to section 1012 the following new item:

"Sec. 1013. Expedited consideration of certain proposed rescissions.".

SEC. 3. APPLICATION.

The amendments made by this section shall apply to items of budget authority (as defined in subsection (f)(1) of section 1013 of the Congressional Budget and Impoundment Control Act of 1974, as added by section 2 of this Act) provided by appropriation Acts (as defined in subsection (f)(3) of such section) that become law after the date of the enactment of this Act.

S.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

The President may reduce or disapprove any item of appropriation in any Act or joint resolution, except any item of appropriation for the legislative branch of the Government. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall return with his objections any item of appropriation reduced or disapproved to the House in which the Act or joint resolution containing such time originated. The Congress may, in the manner prescribed under section 7 of article I for Acts disapproved by the President, reconsider any item disapproved or reduced under this article, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the Act or joint resolution.".●

● Mr. SIMON. Mr. President, I wish to join my senior Senator ALAN DIXON in sponsorship of this constitutional amendment to provide for a line-item veto. Every available weapon must be put in place to fight our growing national deficit. It takes a President who will present to Congress a balanced budget, it takes a Congress with the institutional fortitude to pass one, and it also takes the line-item veto.

The line-item veto plan my colleague Senator DIXON and I propose today takes from the very successful history of our State of Illinois. According to some studies, the Illinois State government is able to reduce its annual budget by about 3 percent because of the line-item veto. Similar success on a Federal basis will bring us that much closer to reducing the national debt.

Our bill is relatively simple. It is a constitutional amendment to permit the President to reduce or disapprove any item of appropriations. If he does not reduce or disapprove it, the item becomes law. If he does reduce or disapprove it, then Congress is empowered to override that veto by a simple majority vote of each house. There are those who are concerned that the line-item veto takes away power from the legislative branch and puts it into the hands of the executive. That might be so if this veto were like all others and required a two-thirds override. But our legislation is faithful to the principle of majority rule in passage of legislation. It threatens only those appropriations which do not have majority support and it is those appropriations items which often are the least credible in the eyes of the American people and most difficult to justify.

Forty-three States now have the line-item veto. As chairman of the Constitution Subcommittee, I will be calling on members of the executive branch, constitutional scholars, and those most involved with the line-item veto at the State level for their guidance on this most important matter. The line-item veto is by no means a panacea. It is, however, a big step in the right direction for any serious attempt to put our fiscal affairs in order.●

By Mr. HELMS:

S. 208. A bill to inhibit the proliferation of ballastic and cruise missiles in the Middle East; to the Committee on Foreign Relations.

PREVENTION OF MISSILE TRANSFERS IN THE MIDDLE EAST

● Mr. HELMS. Mr. President, this legislation poses a very simple and clear cut question. Is Congress going to sit back and watch the United States assist the Chinese missile program at a time when the Chinese are supplying—or are preparing to supply—missiles to Iran, Iraq, Libya, Syria, and Saudi Arabia?

Over the past year, the People's Republic of China has engaged in blatantly reckless behavior in the Middle East, the effect of which has been to threaten America's interests in a stable Middle East and a secure Israel.

Communist China fueled the Iran-Iraq war with its arms-for-profit business. The Communist Chinese have provided Silkworm missiles to the Ayatollah. They have posed new and deadly threats to the safety of Israel by providing Saudi Arabia with the CSS-2 missile. And, as news reports suggest, they might well be preparing to provide missiles to such radical anti-American, rabidly anti-Israel regimes as Syria, and Libya.

Mr. President, it is now apparent that missile sales to Iran, Iraq, Syria and Libya are an even graver threat than was recognized last year, as the involvement of all of these countries in developing chemical weapons has come to light.

As incredible as it might seem, our Government is actively supporting the aerospace programs of Communist China at the same time the Chinese are peddling missiles to the Middle East. Specifically, the State Department has sanctioned the export of satellites utilizing United States technology for launch by the Chinese Long-March missile, and has promoted the transfer to China of high-technology avionics.

Exporting satellites for launch by the Chinese would provide the Chinese missile program with valuable new technology, additional funds and new-found credibility. The transfer of high-technology avionics increases China's military capabilities, and gives its fighter aircraft a certain prestige which carries over to sales on the world market.

Assisting China's aerospace programs in this manner sends the wrong signal to the Chinese about their missile sales. It will help the Chinese build better, more advanced, more accurate, and more deadly missiles for sale to the Ayatollah, or to Qadhafi, or to Iraq, Syria, or Saudi Arabia, so that these countries will have better missiles to fire at Israel.

Last year, Americans watched with horror as the Chinese single-handedly ignited a missile race in the tinderbox of the Middle East. Senators came to the Senate floor to denounce the Chinese for this practice. The Senate

passed resolutions condemning the Chinese. And the Senate passed my amendment to 1989 Foreign Operations appropriation bill prohibiting assistance to the Chinese missile program until the President certifies that China is not selling missiles to Libya, Syria, Iran, Iraq, and Saudi Arabia. Unfortunately, the House rejected this amendment.

Now that we are aware of the chemical weapons programs of some of the countries reported to be in line to receive Chinese missiles, it is even more urgent that Congress take action not just to deter these sales, but also to assure that our Government is not inadvertently assisting these sales.

The legislation I am introducing today aims to do just that. Specifically, it would require an annual report on missile transfers to Libya, Iran, Iraq, Syria, and Saudi Arabia by Communist China and other countries. In addition, 1 year from date of enactment, all United States assistance to Chinese aerospace programs would be terminated unless the President certifies that during the preceding year, China has not supplied any ballistic or cruise missiles, directly or through third parties, to Iran, Iraq, Syria, Libya, or Saudi Arabia, and has provided reliable assurances that no future sale or transfer of any ballistic or cruise missiles to such country is planned.

I ask unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prevention of Missile Transfers to the Middle East Act".

SEC. 2. REPORT.

On April 1, 1989, and January 1 of each year thereafter, the President shall submit to Congress a report, in classified and unclassified form if necessary, describing—

(1) efforts undertaken by the People's Republic of China during the previous year to sell, directly or through third parties, any ballistic or cruise missile to Iraq, Iran, Syria, Libya, or Saudi Arabia;

(2) the receipt by or transfer to Iraq, Iran, Syria, Libya, or Saudi Arabia during the previous year of any ballistic or cruise missile, and the source of such missile;

(3) the provision of any ballistic or cruise missile by the People's Republic of China, directly or through third parties, to Iraq, Iran, Syria, Libya, or Saudi Arabia during the previous year;

(4) the transfer to or receipt by Iraq, Iran, Syria, Libya, or Saudi Arabia during the previous year of any ballistic or cruise missile component technology; and

(5) the transfer to or receipt by Iraq, Iran, Syria, Libya, or Saudi Arabia during the previous year of any nuclear technology, whether civilian or military, or any chemical or biological weapons technology.

SEC. 3. SANCTIONS.

(a) SANCTION.—No later than one year from the date of enactment of this Act, the United States shall terminate all assistance to the aerospace programs of the People's Republic of China.

(b) Termination of assistance under this section shall include prohibition on the transfer of avionics for military aircraft and the revocation of licenses for the export of satellites employing United States technology for launch by Chinese missiles.

(c) WAIVER.—The President is not required to implement the sanctions provided for in this section for any year in which he certifies to the Congress that China has not—

(1) during the preceding year, supplied any ballistic or cruise missile, directly or through third parties, to Iran, Iraq, Syria, Libya, or Saudi Arabia and

(2) has provided reliable assurances that no future sale or transfer of any ballistic or cruise missile to such country is planned.

By Mr. GORE (for himself, Mr. SASSER, Mr. BOREN, and Mr. NICKLES):

S. 209. A bill to amend section 547 of title 11, United States Code, to provide that certain withdrawal transactions made by depositors from certain financial institutions not be avoided as preferential transfers; to the Committee on Banking, Housing, and Urban Affairs.

TREATMENT OF CERTAIN WITHDRAWAL TRANSACTIONS

Mr. GORE. Mr. President, today I am reintroducing legislation that I developed during the last Congress in order to maintain the fairness and the spirit of our Bankruptcy Code. I am pleased that Senators SASSER, BOREN, and NICKLES are again joining me in sponsoring this important legislation.

A tragic application of a little-known provision of the Federal Bankruptcy Code has victimized some 800 former depositors of the Southern Industrial Banking Corp. [SIBC] in Tennessee. These good faith depositors accepted the risk of losing their money because the institution in which they kept it was not a federally insured bank. However, they never imagined that by withdrawing their money at the wrong time they could be sued as preferred creditors. These individuals did not realize that the SIBC was going to declare bankruptcy within the next 90 days. The SIBC's catastrophe has brought to light a grave unfairness in the preference language of the Bankruptcy Code—a loophole that allows the possibility of depositors being sued as the equivalent of preferred trade or business creditors in the event that an uninsured financial institution declares bankruptcy.

At first, bankruptcy experts and laymen alike thought that SIBC, an industrial loan and thrift company, was a unique hybrid institution that was not covered by Federal or State bankruptcy or banking laws. Time is proving that assessment wrong. Two years ago, two trust companies in Oklahoma declared bankruptcy. Now many depositors of Oklahoma Trust and Oklahoma Finance are on the brink of SIBC's preference depositors' 6-year-old nightmare, and it has become apparent that the problem is much broader than originally envisioned. Approximately 800 and possibly hundreds of thousands of their depositors may be at risk of a similar preference tragedy. While only bankruptcy courts decide whether or not a particular depository institution can file for bankruptcy, the threat of a bank filing bankruptcy and its depositors facing a subsequent preference suit has been demonstrated to be very real.

Under U.S. bankruptcy law, a preferred payment is one made to a creditor by a debtor during the 90 days before the debtor files for bankruptcy. Preferred payments are subject to repayment to the general pool of recovered funds which are then used to pay creditors on a percentage basis in a bankruptcy case. Congress drafted section 547 of the Bankruptcy Code with a view toward preventing a debtor from unjustly favoring certain of its creditors prior to bankruptcy.

But Congress also has the foresight to carve out certain exceptions to these preference laws. Among these, Congress exempted one class of businesses able to file for bankruptcy. This special group is comprised of banks, savings and loans, and virtually all depository institutions. Congress exempted these institutions for good reason: A person's relationship with a depository institution is not a debtor/creditor relationship but rather a fiduciary relationship.

The goal of our bill is to close an unintended and unjust loophole in the bankruptcy law by clarifying the concept of preferred creditors. The legislation would exempt from this preference language withdrawals from an entity that is in the business of accepting deposits but is a debtor eligible to file bankruptcy. Such withdrawals must have been made without insider knowledge of the financial condition of the business or its impending bankruptcy.

These former SIBC depositors were not insiders. They withdrew their money during the ordinary course of business and during the ordinary course of day-to-day life. They withdrew their money to pay hospital bills, put a down payment on a house, and to send their children to college. After 5 years of court battles, many of these hardworking people and retirees face losing their life savings, their homes, or their children's opportunity to attend college. Congress never intended the preferred creditor provisions in its bankruptcy laws to apply to the type of uninsured financial institu-

tions that are now subject to its harsh effects.

I ask my colleagues to help restore the spirit and the credibility of our bankruptcy laws by joining me in support of this legislation.

I ask unanimous consent to insert the text of the bill:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 547(c) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (6);

(2) striking out the period at the end of paragraph (7) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(8) to the extent that such transfer was made—

"(A) to or for the benefit of a depositor, investor or other person who was not an insider and who owned or held any deposit, passbook, savings, time, checking or similar account, savings obligation, thrift or investment certificate, thrift note, certificate of indebtedness or other evidence of indebtedness representing the unpaid balance received or held by an industrial loan and thrift company, finance company, trust company, investment company or other financial institution whose usual course of business includes the acceptance and repayment of such accounts or similar evidences of indebtedness; and

"(B) in connection with the withdrawal by such depositor, investor, or other person, of all or any part of any such funds, including interest thereon, from such account or with respect to such evidence of indebtedness.".

SEC. 2. The amendments made by this Act shall apply to cases under title 11, United States Code, filed on or after March 9, 1983, and to all proceedings, actions or controversies arising out of, or in or related to such cases.

By Mr. MOYNIHAN:

S. 210. A bill to extend compulsory OASDI and Medicare coverage to State and local government employees hired after December 31, 1989, or performing service after such date not subject to any public retirement system; to the Committee on Finance.

OASDI AND MEDICARE COVERAGE OF CERTAIN EMPLOYEES

Mr. MOYNIHAN. Mr. President, I am today introducing legislation to extend compulsory Old-Age, Survivors, and Disability Insurance [OASDI] coverage to all State and local government workers hired after December 31, 1989. The bill would also extend compulsory OASDI and Medicare coverage to State and local government workers already hired but not already covered by a State or local government retirement plan, with respect to services performed after the same date. I note that President Reagan's final budget, submitted to the Congress on January 9, includes a provision similar to that part of my bill dealing with the expansion of Medicare coverage for State and local government workers.

Under current law, State and local government workers are covered under the OASDI program only by means of voluntary agreements entered into by States and the Secretary of Health and Human Services. Prior to 1983 legislation, States could terminate their agreements and withdraw coverage for their workers. The termination, once in effect, was irrevocable and the same group could not be covered again. The Social Security Amendments of 1983 provided that States can no longer terminate coverage and may now reinstate it for those workers whose coverage had been previously terminated.

All States now have coverage agreements with the Secretary for at least some categories of State and local government workers. Approximately 10 million, or 69 percent, of the 14.5 million State and local government employees in 1984 were covered by the OASDI program. In 19 States those covered represented at least 90 percent of the State and local employees, and in only 8 States were coverage rates lower than 50 percent in 1984. In New York, 88 percent of State and local government workers were covered in that year.

Coverage under the Social Security Act of 1935 was limited to industrial and commercial employment—about 6 of every 10 jobs at that time. However, universal coverage was always a goal of the program, and coverage was expanded significantly in the early 1950's, to most self-employed, farm and household workers, members of the Armed Forces, and State and local government workers at the option of the State. Today about 95 percent of the jobs in paid employment and self-employment are covered under the OASDI program.

A national, compulsory social insurance system is most effective when coverage is as wide as possible. State and local government workers were originally excluded, then included only at State option, out of a concern about the constitutionality of the Federal Government laying taxes on the States. But more recent Supreme Court decisions, particularly Garcia versus San Antonio Metropolitan Transit Authority (1985), indicate that the doctrine of State immunity from Federal taxation would not bar the imposition of compulsory Social Security taxes on the States. With the constitutional impediment removed, there is no longer any rationale for excluding State and local government workers from Social Security protection.

For this reason, 1985 legislation extended compulsory Medicare coverage to State and local government employees hired after March 1986. Prior to April 1986, Medicare coverage for State and local government workers was also at State option. This bill would expand the Medicare coverage for those employees by including all State and local workers already hired but not covered by a State or local government retirement plan. As I noted earlier, President Reagan included a similar proposal in his final budget.

Aside from achieving the policy goals of wider national participation and improved protection for State and local government workers, the bill would also enhance the financial position of the Social Security and Medicare trust funds. According to Social Security Administration estimates, the bill would raise about $16 billion over the period 1990–1994.

Mr. President, I ask for the support of my colleagues in enacting this important policy initiative, and I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OASDI AND MEDICARE COVERAGE OF CERTAIN STATE AND LOCAL GOVERNMENT EMPLOYEES.

(a) SOCIAL SECURITY AMENDMENTS.—

(1) OASDI COVERAGE.—Section 210(a)(7) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(A) by striking out "or" at the end of subparagraph (D),

(B) by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof a comma, and

(C) by inserting after subparagraph (E) the following new subparagraphs:

"(F) service performed by an individual hired after December 31, 1989, or

"(G) service performed after December 31, 1989, by an individual whose service is not subject to a retirement system established by a State or local law;".

(2) MEDICARE COVERAGE.—Section 210(p)(3) of such Act (42 U.S.C. 410(3)) is amended—

(A) by striking out "and" at the end of subparagraph (B)(iii),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new subparagraph:

"(D) such service performed after December 31, 1989, is subject to a retirement system established by a State or local law.".

(b) TAX AMENDMENTS.—

(1) OASDI COVERAGE.—Section 3121(b)(7) of the Internal Revenue Code of 1986 (defining employment) is amended—

(A) by striking out "or" at the end of subparagraph (D),

(B) by striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof a comma, and

(C) by inserting after subparagraph (E) the following new subparagraphs:

"(F) service performed by an individual hired after December 31, 1989, or

"(G) service performed after December 31, 1989, by an individual whose service is not subject to a retirement system established by a State or local law;".

(2) MEDICARE COVERAGE.—Section 3121(u)(2)(C) of such Code (relating to application of hospital insurance tax to Federal, State, and local employment) is amended—

(A) by striking out "and" at the end of clause (ii)(III),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new clause:

"(iv) such service performed after December 31, 1989, is subject to a retirement system established by a State or local law.".

By Mr. MOYNIHAN:

S. 211. A bill to amend the Social Security Act to increase the allocation of employment taxes to the Federal Disability Insurance Trust Fund; to the Committee on Finance.

ALLOCATION OF EMPLOYMENT TAXES

Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to make a small but necessary change in the allocation of Social Security tax revenues. Without affecting the overall Social Security tax rate, the bill would shift a portion of the tax revenue from the Old-Age and Survivors Insurance [OASI] Program to the Disability Insurance [DI] Program. The financial soundness of the DI Program would be strengthened for the long term, and the OASI program would remain in close actuarial balance.

Simply put, Mr. President, the combined programs are actuarially sound for the next 75 years, but taken separately, the DI Program is underfunded and the OASI Program is overfunded. This was noted in the 1988 report of the Social Security Board of Trustees. The report also indicated that the situation could be rectified by shifting a small portion of the revenues allocated to the OASI Program to the DI Program. At a hearing last year of the Senate Finance Subcommittee on Social Security and Family Policy, which I chair, we heard testimony from the distinguished former Social Security Chief Actuary Robert J. Myers, who recommended that we make such a reallocation. Based, then, on the 1988 trustees report and the testimony of Mr. Myers, I offer this legislation to make the needed change.

Mr. President, as you know, the current tax rate for the Old-Age, Survivors, and Disability Insurance Program is 6.06 percent of covered wages for employees and employers, each. Of this, 5.53 percent is allocated to the OASI trust fund and 0.53 percent to the DI trust fund. The bill would change the mix to 5.35 percent and 0.71 percent, respectively, thus leaving the overall tax rate the same. As I indicated, this would bring the DI Program into close actuarial balance over the long-range, 75-year projection period of the actuaries, while leaving the OASI program financially sound over the same period.

I urge the Senate's favorable consideration of this technical but important matter. Mr. President, I ask unanimous consent that the text of the rule be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASED ALLOCATION OF EMPLOYMENT TAXES TO FEDERAL DISABILITY INSURANCE TRUST FUND.

Section 201(b) of the Social Security Act (42 U.S.C. 401(b)) is amended—

(1) by striking out "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 2000, and so reported, and (P) 1.42 per centum of the wages (as so defined) paid after December 31, 1999, and so reported" in clause (1) and inserting in lieu thereof " and (O) 1.42 per centum of the wages (as so defined) paid after December 31, 1989, and so reported", and

(2) by striking out "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 2000, and (P) 1.42 per centum of the self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999" in clause (2) and inserting in lieu thereof "and (O) 1.42 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989".

By Mr. MOYNIHAN:

S. 212. A bill to amend title II of the Social Security Act to require the Secretary of Health and Human Services to provide personal earnings and benefits statements to individuals covered by Social Security, and for other purposes; to the Committee on Finance.

PROVISION OF EARNINGS AND BENEFIT STATEMENTS TO SOCIAL SECURITY EMPLOYEES

Mr. MOYNIHAN. Mr. President, I rise today to introduce a very simple bill. This bill will require the Secretary of Health and Human Services to periodically inform workers covered by Social Security about their personal earnings records, about their Social Security tax contributions, and about their future Social Security benefits.

This is an idea whose time has come. I have described before for my colleagues the apocalyptic pronouncement made about the Social Security trust funds, not 8 years ago, by the then newly appointed Director of Management and Budget in the newly elected Reagan administration. Mr. Stockman told us then that the world's most devastating bankruptcy was but months away.

Today we contemplate trust fund reserves of unprecedented amounts. The reason? Because in 12 days in January 1983, a small group of us, spearheaded by the distinguished Republican leader and myself, reached agreement on changes in the Social Security system that assure its robust health far into the next century. Even as I speak, the reserves are building up at the rate of $109 million per day.

Notwithstanding this good news, many Americans have serious doubts. As recently as 1985, the public opinion survey firm of Yankelovich, Skelly & White conducted a survey on Social Security. I ask my colleagues to take note that fully two-thirds—66 percent—of nonretired adults thought it almost certain that they would not receive their Social Security benefits when they reached retirement age. Although recent data compiled by the American Council of Life Insurance indicate some improvement in 1988, lack of public confidence remains the biggest problem facing Social Security. Our fellow citizens do not trust their Social Security system.

And I think I may understand why. First there was the "World's Biggest Bankruptcy" scare, courtesy of David Stockman. That silliness is now behind us. But there is another reason, Mr. President. All of us pay into Social Security but rarely, until we become beneficiaries, do we ever hear from Social Security. We pay our taxes to Federal, State, and local governments and we hear back from them every year—reminding us to tote up how much we've paid in and how much we still owe or are due back. We receive monthly statements from our banks and credit card companies. Yet every month, in every paycheck, we see money withheld for Social Security, but we hear nary a word from the Social Security Administration.

And so, Mr. President, I propose that we rectify this situation. My bill, which I also introduced in the 100th Congress, would simply require that the Social Security Administration [SSA] provide us with statements on a regular basis. This is a large administrative undertaking and we must proceed carefully. Consequently, the bill phases in the new requirement over time.

To begin with, SSA must provide the new earnings record and benefit estimate statements to those who write in and request the information. On August 4, 1988, the day I introduced this legislation in the 100th Congress, SSA voluntarily inaugurated this component of the bill.

The second phase of my bill would require SSA to automatically send such statements to all individuals as they attain the age of 60 and near retirement. This requirement would become effective October 1, 1993.

The third phase of the bill requires the Secretary, by 2000, to provide annual statements to all workers cov-

ered by Social Security aged 25 or older. The Secretary must submit a plan to the Congress, not later than October 1, 1993, indicating how the Social Security Administration will accomplish this.

Finally, my bill will require the General Accounting Office to conduct a study of wage-reporting systems now in use by SSA, the Internal Revenue Service, and the States. This study will review options for avoiding unnecessary duplication of effort and for improving the accuracy of wage reporting.

Mr. President, I urge my colleagues to join me in this effort. Let us take this simple step to reassure Americans that Social Security will be there for them.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 MANDATORY PROVISION OF PERSONAL EARNINGS AND BENEFITS STATEMENT.

(a) IN GENERAL.—Title II of the Social Security Act (42 U.S.C. 401-433) is amended by adding at the end thereof the following new section:

"PERSONAL EARNINGS AND BENEFITS STATEMENTS

"Provision Upon Request

"SEC. 234. (a)(1) Beginning on October 1, 1990, the Secretary shall provide upon the request of an eligible individual a personal earnings and benefits statement (hereinafter referred to as the 'statement').

"(2) Each statement shall contain—

"(A) the amount of wages paid to and self-employment income derived by the eligible individual as shown by the records of the Secretary at the date of the request;

"(B) the old age, survivors, and disability insurance contributions, and the hospital insurance contributions of the eligible individual as shown by the records of the Secretary at the date of the request;

"(C) an estimate of the individual's future benefits upon retirement; and

"(D) a statement describing the basic benefits provided under medicare.

"(3) For purposes of this section, the term 'eligible individual' means an individual who—

"(A) has a social security number,

"(B) has attained age 25, and

"(C) has wages or net earnings from self-employment.

"Notice to Eligible Individual

"(b) The Secretary shall to the maximum extent practicable take such steps as are necessary to assure that eligible individuals are informed of the availability of the Statement described in subsection (a).

"Mandatory Provision of Statements

"(c)(1) Beginning not later than October 1, 1993, the Secretary shall provide a statement to each eligible individual who has attained age 60 and for whom a mailing address can be determined through such methods as the Secretary deems appropriate. The Secretary shall provide with each statement to an eligible individual notice that such statement is updated annually and is available upon request.

"(2) Beginning on October 1, 2000, the Secretary shall provide a statement annually to each eligible individual for whom a mailing address can be determined through such methods as the Secretary deems appropriate.".

(b) REPORT TO CONGRESS AND STUDY.—

(1) Not later than October 1, 1993, the Secretary shall submit to Congress a report describing the methods by which the Secretary plans to provide statements annually to all eligible individuals by the year 2000.

(2) The Comptroller General of the United States shall conduct a study of the wage-reporting systems now in use by the Social Security Administration, the Internal Revenue Service, and the States. Such study shall review options for avoiding unnecessary duplication of efforts between the different systems and improving accuracy in wage reporting. A copy of such study shall be provided to the Secretary not later than October 1, 1992.

(c) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end thereof the following new paragraph :

"(6) PERSONAL EARNINGS AND BENEFITS STATEMENTS FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a personal earnings and benefits statement pursuant to section 234(c) of the Social Security Act, for use only by officers, employees, or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—The last sentence of section 6103(p)(4) of such Code (relating to safeguards) is amended by striking out "Subsection (m)(2) or (4)" and inserting in lieu thereof "paragraphs (2), (4), or (6) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking out "(m)(2) or (4)" and inserting in lieu thereof "(m) (2), (4), or (6)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 213. A bill to amend the Social Security Act to reduce the effect of the disability benefits offset; to the Committee on Finance.

REDUCTION OF EFFECT OF DISABILITY BENEFITS OFFSET

Mr. MOYNIHAN. Mr. President, today I offer legislation to remedy an inequity in the Social Security Program that involves the disability benefit offset. Presently, the offset applies differently to two groups of disabled individuals—those whose earnings were all from employment covered by the Social Security Program, and those whose earnings were partially from covered employment and partially from noncovered public employment—to the unfair disadvantage of the latter group. This bill would provide for more uniform application of the disability offset.

Under the disability offset, if an individual receives both a Social Security disability benefit and a workmen's compensation benefit based on the same injury, the disability benefit is offset to the extent that the combined benefits exceed 80 percent of predisability earnings. The rule was designed to prevent people from getting too much in benefits, compared to what they had previously earned, and this of course is reasonable. But for an individual who has both covered earnings and noncovered earnings from public employment, the offset works in a way that curtails Social Security disability benefits much more sharply, and more than can be justified. For an individual who has both covered earnings and noncovered earnings from public employment and who receives both a Social Security disability benefit and a benefit based on his public employment, the Social Security disability benefit is offset to the extent that combined benefits exceed 80 percent of only the Social Security covered earnings.

For those with noncovered earnings from public work, the offset works in an arbitrary fashion that goes beyond the rationale of the provision. To achieve parallel treatment to those whose earnings are all from covered employment, the Social Security disability benefit should be offset to the extent that combined benefits exceed 80 percent of the combined covered and noncovered earnings. This is the legislative correction that would be accomplished by this bill, a correction that would end an anomolous and unfair treatment of disabled public servants.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECT ON DISABILITY BENEFITS OFFSET REDUCED.

(1) IN GENERAL.—Section 224(a) of the Social Security Act (42 U.S.C. 424a(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, an individual's wages and self-employment income shall include wages and self-employment income not subject to the provisions of this title for service performed in the employ of the United States, a State, or any political subdivision of a State, or any instrumentality of any one or more of the foregoing, if evidence of such wages and self-employment income is provided by such individual to the

Security in such form and manner as the Secretary prescribes.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to applications for disability insurance benefits filed on or after the date of the enactment of this Act.

By Mr. MOYNIHAN:

S. 214. A bill to direct the Secretary of Health and Human Services to develop a prototype of a counterfeit-resistant Social Security card, and to provide for a study and report on the development of such card; to the Committee on Finance.

DEVELOPMENT OF COUNTERFEIT-PROOF SOCIAL SECURITY CARD

Mr. MOYNIHAN. Mr. President, it was 12 years ago that I first proposed we produce a new tamper-resistant Social Security card to reduce fraud and enhance public confidence in our Social Security system. This has been an ongoing battle, and I rise yet again to continue the effort.

The bill I offer today is very simple, really. It would require two things. First, it would require the Secretary of Health and Human Services to develop a prototype of a counterfeit-proof Social Security card. The prototype card would be designed with the security features necessary so that it could be used more reliably than the present card to verify eligibility for employment under the Immigration Reform and Control Act of 1986, and could also be used as a voter registration card.

Second, it would require the Secretary to study and report to Congress on ways to improve the Social Security card application process so as to reduce the processes' vulnerability to fraud.

When the Social Security amendments were before us in 1983, we approved a provision to require the production of a new tamper-resistant Social Security card. The law, section 345 of Public Law 98-21, stated:

> The social security card shall be made of banknote paper, and (to the maximum extent practicable) shall be a card which cannot be counterfeited.

What a disappointment when late that year, the Social Security Administration began to issue the new card, and it became clear that the agency simply had not understood what Congress intended. The new card looks much like the old, a pasteboard card really much like the first ones produced by Social Security in 1936. It has the same design framing the name and nearly the same colors. It feels the same. An expert examining a card with a magnifying glass can certainly detect whether or not one of the new ones is genuine, but the average employer cannot distinguish a counterfeit card from the real article.

By so doing—or not so doing—the Social Security Administration did not succeed in protecting the integrity of the Social Security system, or American taxpayers from the massive amounts of fraud perpetrated with the help of counterfeit cards. Nor did they help the young Hispanic worker who needs a document that can quickly establish his legal status to an employer's satisfaction.

There is a history here. The Social Security Administration, from its earlier years, has resisted any use of the Social Security card for identification purposes. At one time, the card actually said it could not be so used.

It 1977, when I first proposed that we produce a new card, the Social Security Administration objected and the proposal was not adopted. I tried again and again, and succeeded only on the fifth try.

Or so I thought.

The use of counterfeit Social Security cards is costly. According to estimates by the Department of Health and Human Services and the Department of Transportation, crimes based on false identification, which frequently include counterfeit and fraudulently obtained Social Security cards, cost Americans more than $15 billion annually.

A new Social Security card—one very difficult to counterfeit and easily verified as genuine—could be manufactured at a very small cost. Today, the average high-technology credit card with a magnetic stripe costs 8 cents to produce. A Social Security card could be designed along just these lines. The card could be highly tamper-resistant, and its authenticity could be readily discerned by the untrained eye. It must be seen as a special document; one which would be visually and tactilely more difficult to counterfeit than the current paper card.

The magnetic stripe would contain the Social Security number, encoded with an algorithm known only to the Social Security Administration. A so-called watermark stripe could be placed over it, making it nearly impossible to counterfeit without technology that currently costs $10 million. The decoding algorithm could be integrated with the Social Security Administration computers.

Any employer could verify that the card was genuine with the simple hardware now used for credit cards at just about every airline and grocery checkout counter, magnetic card readers. The information is transmitted from the card to the reader, to verify if the card contains a valid coded number to be interpreted by the algorithm, and then, if necessary, the validity of that Social Security number could be verified by phone link with a central Social Security file.

Let me repeat. According to Malco, the largest manufacturer of credit cards with magnetic stripes, these cards cost 8 cents apiece, when purchased in quantities of 1 million or more. For a bit more, each card could include a hologram, which is also very difficult for counterfeiters to reproduce.

The new cards will not eliminate all fraudulent use of Social Security cards. But it will close down the shopfront operations that flood America with false Social Security cards. And once implemented, a young worker could bring an employer a document which could be authenticated on the spot, and declare without trepidation, I am legal; I am eligible to work for you in the United States.

That is what the Congress intended in the 1983 legislation. Not a card to be authenticated solely by Immigration and Naturalization Service technicians, but a card to be sized up by employers with relative ease and certainty.

Let us try again.

In March 1988, the General Accounting Office released a report on ways to improve the integrity of the Social Security card, particularly for employment eligibility verification purposes under the Immigration Reform and Control Act of 1986. The report was required by an amendment to the immigration bill, which I offered in the Senate. The report points out the present card's vulnerability to fraud and identifies a number of counterfeit-resistant technologies that could be used to enhance the card's integrity, such as holograms and magnetic stripes. It notes, however, that even with a tamper-resistant card there is still potential for fraud due to weaknesses in the card application process.

Based on this report, I offer the present bill, which, as I said earlier, would require only the development of a prototype counterfeit-resistant card and a study on ways to reduce the vulnerability of the card application process to fraud. The bill further specifies that the prototype card should be one that could also be used as a voter registration card. The Attorney General would assist the Secretary of Health and Human Services with determining what is needed here. This, obviously, is an attempt to see if there isn't something we can do about our depressingly low rates of voter turnout.

I ask for the support of my colleagues on this important matter once again—this time for a simple phototype card and a study. And I ask unanimous consent that the text of the bill be included in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD REQUIRED.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") shall in accordance with the provision of this section develop a prototype of a counterfeit-resistant Social Security card. Such prototype card shall—

(A) be made of a durable, tamper-resistant material such as plastic or polyester,

(B) employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits,

(C) be developed to provide a more reliable means of verifying eligibility for employment under the Immigration Reform and Control Act of 1986, and

(D) contain features allowing it to be utilized as a voter registration card.

(2) The Attorney General of the United States shall provide such information and assistance as the Secretary deems necessary to achieve the purposes of this Act.

(b) STUDY AND REPORT.—(1) The Secretary shall conduct a study and issue a report to Congress which examines different methods of improving the current Social Security card application process.

(2) Copies of the report described in this subsection along with a facsimile of the prototype card as described in subsection (a) of this section shall be submitted to the House Ways and Means and Judiciary Committees and the Senate Finance and Judiciary Committees within 1 year of the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund such sums as may be necessary to carry out the purposes of this section.

(d) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 215. A bill entitled the "Social Security Trust Funds Management Act"; to the Committee on Finance.

SOCIAL SECURITY TRUST FUNDS MANAGEMENT ACT

Mr. MOYNIHAN. Mr. President, on this first day of legislation in the 101st Congress, I rise to offer the Social Security Trust Funds Management Act of 1989, legislation to reform current investment practices governing the Social Security trust funds. During the 99th and 100th Congresses, the Senate thrice accepted identical language, but, due to House opposition, the provisions of this act have never been enacted into law. Upon reintroduction, I am happy to have the support of my distinguished colleague from Michigan, Senator RIEGLE.

The intent of this bill is to prevent from happening again what never should have happened at all: The disinvestment in 1984 and 1985 of Social Security trust fund assets in order to keep the Federal Government running. The Government resorted to this practice during those times when its ability to borrow additional funds to pay for the budget deficit had temporarily expired.

This legislation clarifies that the invested assets of the Social Security—old age, survivors, and disability insurance—trust funds may be redeemed and used only to pay Social Security benefits and never to fund, or temporarily float, other Government expenses.

Mr. President, it became clear in 1985 and 1986 that the Department of the Treasury manipulated Social Security trust fund moneys, in the fall of 1985 and 1984, in order to avoid the debt ceiling. I am afraid this is a problem which, unless addressed by corrective legislation, threatens public confidence in the security of the trust funds.

Most members of the Senate are acquainted with what occurred. But as a matter of record, those events bear restating. During 1985, the Secretary of the Treasury, as managing trustee of the Social Security trust funds, disinvested, or prematurely redeemed $6.9 billion of Social Security's long-term securities in September, another $4.8 billion in October and $13.7 billion in November, drawing down these trust funds from $37 billion at the end of August to about $11 billion by November 12—a level not sufficient to pay 1 month's worth of benefits. The interest that the trust funds could have lost by such premature redemptions was estimated by the Social Security Office of the Actuary to be some $875 million. Moreover, the Treasury Department took a similar step the previous year, during the September-October 1984 debt limit impasse. At that time, $5.1 billion of Social Security's long-term bonds were prematurely cashed in, which could have resulted in a $382 million loss of interest to the trust funds.

Disinvestment of this magnitude was unprecedented. So, equally, was the concealment. Neither the congressional committees with jurisdiction over the program nor the public trustees of the system received any notification of these extraordinary steps. In late 1985, Treasury officials defended themselves by citing an October 22, 1985, letter from Secretary Baker to the conferees on the debt limit bill. That letter warned that Treasury was prepared to take the extraordinary step of disinvesting trust fund assets if the debt limit impasse had not been resolved by October 31. But what of the large-scale—indeed extraordinary—disinvestment of over $11 billion in bonds that had already taken place in early September and again in early October? We were not told of these.

On September 10, 1985, John J. Niehenke, then Acting Assistant Secretary of the Treasury, testified before the Senate Finance Subcommittee on Taxation and Debt Management. In his testimony—given just after $6.9 billion in Social Security bonds had been redeemed—Mr. Niehenke stated:

Our current cash and debt projections indicate that the present debt limit of $1,823.8 billion should be adequate to meet the Treasury's needs until September 30.

Such was adequate to meet the Treasury's needs only after raiding the Social Security trust funds for nearly $7 billion. Yet, Mr. Niehenke made no mention of that.

On November 7, after much difficulty, I was able to have the Finance Committee's Subcommittee of Social Security and Public Assistance hold a hearing on this matter. We were allowed only one witness: former Treasury Deputy Assistant Secretary John J. Niehenke.

I believe the exchange I had with Mr. Niehenke reflects an extraordinary lack of candor. The transcript of that hearing will reveal an episode wherein I attempted to secure from Mr. Niehenke one basic, but important piece of information: The long-term investments held by the trust funds as of November 7—the day of the hearing. Such information would have revealed the disinvestments of early November. I had to drag this basic information out of him. Nor was he forthright about admitting to the September-October, 1984 disinvestment, let alone suggesting that the resultant loss of interest to the trust funds be restored.

In the wake of these hearings, Congress did act to make the trust funds whole. On November 12, 1985, the Senate adopted an amendment I offered along with Senator RIEGLE to fully correct the situation. The long-term bonds cashed in during the fall of 1985 were consequently restored to the trust funds, as was the interest lost as a result of the 1984 disinvestment.

Both the General Accounting Office and the Congressional Research Service have since looked into Treasury's practices. The GAO found that the Secretary's actions were "in violation of the Social Security Act," but that "we cannot say that the Secretary acted unreasonably given the extraordinary situation in which he was operating." More interesting, the CRS report on Social Security disinvestment speaks to the fiduciary responsibility of the Secretary of the Treasury, stating, "[t]he conclusion seems inescapable that in enacting the Social Security Act Congress to a greater or lesser extent had certain features of private trust law in mind." Comparing the Secretary's fiduciary responsibilities to those of private fiduciaries, CRS reasons that public officers who are responsible for holding, depositing, and investing public funds are properly held to an even higher standard than are private fiduciaries.

Mr. President, I am deeply disturbed by what has happened. Why weren't we informed in a timely manner of

these disinvestments? Why were we left to our own devices to find out just what was being done with such large amounts of public money? Why weren't the other trustees, particularly the two public trustees, informed? Those of us who helped frame the 1983 Social Security Amendments, which established the two public trustees, intended that they would act as public guardians of the funds. If recent events are any indication, these trustees may be completely ignored, unless we change the law.

In the wake of our revelations about past disinvestment practices, the Department of Treasury tried to assure us that such covert disinvestment would cease. In a letter to me, Assistant Treasury Secretary Bruce Thompson stated:

> . . . as a matter of policy, the Secretary has directed that both Congress and the trustees be kept informed on significant matters affecting the trust funds.

Well and good. Since that time, the Department has made a real effort to keep us better apprised of anticipated problems. Yet the systemic weakness which precipitated massive disinvestment in the first place has yet to be addressed. Characteristic of a pattern we know all too well, we were unable to pass a timely debt limit increase again in 1986, and again in 1987, endangering a number of Federal trust funds, including the civil service retirement and disability fund, the defense military retirement fund, and the Social Security trust funds. Indeed, the first two did lose interest payments as a result.

Mr. President, past experience suggests to me that it is time, past time, to change the law. Put simply, Treasury should not be allowed to engage in creative financing schemes that are tantamount to using Social Security money to float the rest of Government.

For this reason, I am reintroducing the Social Security Trust Funds Management Act. This legislation would first prohibit disinvestment of OASDI trust fund assets during a debt ceiling crisis for anything other than the timely payment of Social Security benefits and administrative expenses.

Second, the proposal would mandate that uninvested Social Security tax receipts be invested in interest-bearing Government obligations as soon as the debt ceiling is increased. This provision would prohibit the Government from using such balances as a loan to pay for any other operating expenses.

Third, the Social Security Trust Funds Management Act also would make a permanent appropriation to restore to the trust funds any amounts that may be lost in future debt limit crises.

Fourth, the managing trustee would be required to notify the Social Security Board of Trustees and the Congress 15 days in advance of an anticipated disinvestment; he would also be required to carry out his Social Security investment duties, notwithstanding any other of his duties arising by reason of the debt limit.

Mr. President, the earlier disinvestment actions of the Treasury Department would not have withstood the scrutiny to which private fiduciaries are subject. Our proposal would require the managing trustee to exercise the same degree of care in managing the trust funds as would be required of a private fiduciary.

And finally, with respect to reporting requirements, our legislation would require the managing trustee to report monthly to the trustees on the operation and status of the trust funds. The Secretary ought to be required specifically to keep his fellow trustees informed so that they may all be held accountable for such actions. More frequent meetings of the trustees would also help. In the past, they have met only once a year to sign the annual trustee report. The Board of Trustees would be required to meet semiannually to review trust fund operations and report to Congress on that review. And finally, to avoid the temptation to manipulate trust fund moneys, the proposal would eliminate normalized tax transfers after June 30, 1990. All other provisions of the bill would be effective upon enactment.

In closing, Mr. President, I would like to point out that extremely large surpluses will be building up in the trust funds in the near future. The 1983 Social Security Amendments are working to restore the system to financial health. In fact, the funds are in better shape than we had anticipated—so much better that in January 1986, 2 years ahead of schedule, OASDI was able to fully repay the moneys it had previously borrowed from the HI fund.

Recent estimates by the Social Security Office of the Actuary indicate that by the end of calendar year 1992, OASDI will have accumulated a surplus of over a quarter of a trillion dollars—$283 billion. The cumulative surpluses are indicated in a table which I ask unanimous consent be printed in the RECORD following my remarks.

Longer-term projections indicate that the OASDI trust funds will reach over one-half trillion dollars by 1995 and well over $1 trillion by the year 2000.

If past, relatively small trust fund assets have proved tempting targets for the Treasury Department, just think how tempting a trillion dollars of such assets would be. The building of trust fund assets makes it even more important that we approve the legislation I propose in order to preclude any future manipulation of those funds.

My colleagues in the Senate recognized the need for more careful oversight of investment practices when they accepted the language of this bill in the 99th Congress—first, as a provision of the debt limit increase (H.J. Res. 668), and again on September 19, 1986, as an amendment to the Sixth Omnibus Budget Reconciliation Act (S. 2706).

The House, however, insisted on its proposal (H.R. 5050) to prohibit disinvestment for any purpose, even if this resulted in Social Security checks not being mailed during a debt limit impasse. By the end of the 99th Congress, no legislation to prevent further disinvestment had been enacted.

The Senate again accepted this language in the 100th Congress, passing it by unanimous consent as an amendment to the Public Debt Limit Increase (H.J. Res. 324) on July 31, 1987. The language was again dropped in conference, however, due to House opposition.

On May 8, 1987, then Under Secretary of the Treasury George D. Gould spoke to this issue in testimony before the Committee on Finance Subcommittee on Taxation and Debt Management. In his testimony, Mr. Gould stated an unequivocal preference for the approach taken by this legislation over similar House versions:

> There has been a great deal of controversy in recent years regarding noninvestment or disinvestment of trust funds . . . Two approaches to resolving the issue were advanced . . . Under the first option, legislation would be enacted to require the Secretary to disinvest the trust funds in amounts sufficient to assure that cash could be raised through market borrowing to pay benefits in a timely fashion, and subsequently to restore any interest losses. The second option would be an outright statutory prohibition against disinvestments under any circumstances. We believe it is important to have this issue be resolved one way or the other so as to clarify responsibilities. We prefer the first option, with its greater reassurance to trust fund beneficiaries.

Mr. President, I urge my colleagues to again support this important legislation, and I ask unanimous consent that the text of the bill and a table showing an increase in the fund be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Social Security Trust Funds Management Act of 1989".

SEC. 2. INVESTMENT AND RESTORATION OF TRUST FUNDS.

(a) Subsection (d) of section 201 of the Social Security Act (42 U.S.C. 401(d)) is amended—

(1) by striking out "(1) on original issue" and inserting in lieu thereof "(A) on original issue",

(2) by striking out "(2) by purchase" and inserting in lieu thereof "(B) by purchase";

(3) by striking out "It shall be" and inserting in lieu thereof "(1) It shall be", and

(4) by adding at the end thereof the following new paragraphs:

(2) If—

"(A) any amounts in the Trust Funds have not been invested solely by reason of the public debt limit, and

"(B) the taxes described in clause (3) or (4) of subsection (a) with respect to which such amounts were appropriated to the Trust Funds have actually been received into the general fund of the Treasury of the United States,

such amounts shall be invested by the Managing Trustee as soon as such investments can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title.

"(3)(A) Upon expiration of any debt limit impact period, the Managing Trustee shall immediately—

"(i) reissue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations held by such Trust Fund that—

"(I) were redeemed during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of standard investment procedures for such Trust Fund in effect on the day before the date on which the debt limit impact period began would not have been redeemed if the debt limit impact period had not occurred, and

"(ii) issue to each of the Trust Funds obligations under chapter 31 of title 31, United States Code, that are identical, with respect to interest rate and maturity, to public debt obligations which—

"(I) were not issued during the debt limit impact period, and

"(II) as determined by the Managing Trustee on the basis of such standard investment procedures, would have been issued if the debt limit impact period had not occurred.

"(B) Obligations issued or reissued under subparagraph (A) shall be substituted for obligations that are held by the Trust Fund, and for amounts in the Trust Fund that have not been invested, on the date on which the debt limit impact period ends in a manner that will ensure that, after such substitution, the holdings of the Trust Fund will replicate to the maximum extent practicable the obligations that would be held by such Trust Fund if the debt limit impact period had not occurred.

"(C) In determining, for purposes of this paragraph, the obligations that would be held by a Trust Fund if the debt limit impact period had not occurred, any amounts in the Trust Fund which have not been invested, and any amounts required to be invested under paragraph (2), shall be treated as amounts which were required to be invested upon transfer to the Trust Fund.

"(4) The Managing Trustee shall pay, on the first normal interest payment date that occurs on or after the date on which any debt limit impact period ends, to each of the Trust Funds, from amounts in the general fund of the Treasury of the United States not otherwise appropriated, an amount determined by the Managing Trustee to be equal to the excess of—

"(A) the net amount of interest that would have been earned by such Trust Fund during such debt limit impact period if—

"(i) amounts in such Trust Fund that were not invested during such debt limit impact period solely by reason of the public debt limit had been invested, and

"(ii) redemptions and disinvestments with respect to such Trust Fund which occurred during such debt limit impact period solely by reason of the public debt limit had not occurred, over

"(B) the sum of—

"(i) the net amount of interest actually earned by such Trust Fund during such debt limit impact period, plus

"(ii) the total amount of the principal of all obligations issued or reissued under paragraph (3)(A) at the end of such debt limit impact period that is attributable to interest that would have been earned by such Trust Fund during such debt limit impact period but for the public debt limit.

"(5) For purposes of this section—

"(A) The term 'public debt limit' means the limitation imposed by subsection (b) of section 3101 of title 31, United States Code.

"(B) The term 'debt limit impact period' means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to orderly conduct the financial operations of the United States may not be made without exceeding the public debt limit.".

(b) Subsection (a) of section 201 of the Social Security Act is amended by adding at the end thereof the following new sentence: "All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under any other provisions of law directly related to the programs established by this title.".

SEC. 3. REPEAL OF NORMALIZED TAX TRANSFER.

(a) Subsection (a) of section 201 of the Social Security Act is amended by striking out the matter following clause (4) and inserting in lieu thereof the following: "The amounts appropriated by clauses (3) and (4) shall be transferred from the general fund of the Treasury of the United States to the Federal Old-Age and Survivors Insurance Trust Fund, and the amounts appropriated by clauses (1) and (2) of subsection (b) shall be transferred from the general fund of the Treasury to the Federal Disability Insurance Trust Fund, upon receipt by the general fund of taxes specified in clauses (3) and (4) of this subsection (as estimated by the Secretary). Proper adjustments shall be made in amounts subsequently transferred to the extent amounts previously transferred were in excess of, or were less than, the taxes specified in such clauses (3) and (4). All amounts so transferred shall be immediately available exclusively for the purpose for which amounts in the Trust Fund are specifically made available under this title or under other provisions of law directly related to the programs established by this title.".

(b) The amendment made by subsection (a) shall take effect on July 1, 1990.

SEC. 4. FAITHFUL EXECUTION OF DUTIES BY MEMBERS OF BOARD OF TRUSTEES OF TRUST FUNDS.

Section 201(c) of the Social Security Act is amended by striking the last sentence and inserting the following: "A person serving on the Board of Trustees (including the Managing Trustee) shall not be considered to be a fiduciary, but each such person shall faithfully execute the duties imposed on such person by this section. A person serving on the Board of Trustees (including the Managing Trustee) shall not be personally liable for actions taken in such capacity with respect to the Trust Funds.".

SEC. 5. REPORTS REGARDING THE OPERATION AND STATUS OF THE TRUST FUNDS.

Subsection (c) of section 201 of the Social Security Act is amended—

(1) by striking "once" in the fourth sentence and inserting "twice",

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(3) by redesignating paragraphs (3), (4), and (5) as subparagraphs (D), (E), and (F), respectively,

(4) by inserting after subparagraph (B) (as redesignated by paragraph (2) of this section) the following:

"(C) Report to the Congress as soon as possible, but not later than the date that is 30 days after the first normal interest payment date occurring on or after the date on which any debt limit impact period for which the Managing Trustee is required to take action under paragraph (3) or (4) of subsection (d) ends, on—

"(i) the operation and status of the Trust Funds during such debt limit impact period, and

"(ii) the actions taken under paragraphs (3) and (4) of subsection (d) with respect to such debt limit impact period;",

(5) by striking out "in paragraph (2) above" and inserting in lieu thereof "in subparagraph (B) above",

(6) by inserting "(1)" after "(c)", and

(7) by adding at the end thereof the following:

"(2) The Managing Trustee shall report monthly to the Board of Trustees concerning the operation and status of the Trust Funds and shall report to Congress and to the Board of Trustees not less than 15 days prior to the date on which by reason of the public debt limit, the Managing Trustee expects to be unable to fully comply with the provisions of subsection (a) or (d)(1), and shall include in such report an estimate of the expected consequences to the Trust Funds of such inability.".

SEC. 6. ELIMINATION OF UNDUE DISCRETION IN THE INVESTMENT OF TRUST FUNDS.

(a) Section 201(d) of the Social Security Act is amended, in the first sentence—

(1) by inserting "immediately" after "to invest"; and

(2) by striking ", in his judgment,".

(b)(1) Paragraph (2) of section 201(d) of the Social Security Act, as added by section 2 of this Act, is amended to read as follows:

"(2) If any amount in either of the Trust Funds is not invested solely by reason of the public debt limit, such amount shall be invested as soon as such investment can be made without exceeding the public debt limit and without jeopardizing the timely payment of benefits under this title or under any other provision of law directly related to the programs established by this title."

(2) The amendment made by paragraph (1) shall take effect on July 1, 1990.

SEC. 7. SALES AND REDEMPTIONS BY TRUST FUNDS.

Section 201(e) of the Social Security Act is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following:

"(2)(A) The Managing Trustee may effect any such sale or redemption with respect to either Trust Fund only for the purpose of enabling such Trust Fund to make payments authorized by this title or under any other provisions of law directly related to the programs established by this title. If either of the Trust Funds holds any amounts which are not invested by reason of the public debt limit, the Managing Trustee is nevertheless directed to make such sales and redemptions if, and only to the extent, necessary to assure timely payment of benefits and other payments authorized by this title or by any other provisions of law directly related to the programs established by this title, but the principal amount of obligations sold or redeemed pursuant to this sentence shall not exceed the principal amount of obligations that would have been sold or redeemed under normal operating procedures in order to make such payments.".

SEC. 8. EFFECTIVE DATE.

Except as otherwise provided by this title, the amendments made by this title shall take effect on the date of enactment of this Act.

PROJECTED INCREASE IN TRUST FUNDS [1]

[In billions of dollars]

Year	Net increase			Cumulative net increase		
	Total	Interest	Principal	Total	Interest	Principal
1988	40	8	32	40	8	32
1989	45	12	34	86	20	66
1990	57	16	41	143	36	107
1991	65	21	44	208	57	151
1992	75	27	48	283	84	199
1993	86	33	54	369	117	253
1994	98	38	59	467	155	312
1995	110	45	65	577	200	377
1996	123	52	71	700	252	448
1997	137	59	78	836	310	526
1998	152	67	85	988	377	611
1999	168	75	93	1,156	452	704
2000	185	84	101	1,341	536	805
2001	202	92	110	1,543	628	915
2002	220	101	119	1,763	730	1,034
2003	243	115	128	2,006	844	1,162
2004	267	130	137	2,273	974	1,298
2005	291	146	145	2,564	1,121	1,443
2006	317	164	152	2,880	1,285	1,595
2007	342	184	159	3,223	1,469	1,754
2008	367	205	162	3,589	1,673	1,916
2009	390	227	163	3,980	1,900	2,080
2010	412	250	162	4,392	2,151	2,241
2011	432	275	156	4,823	2,426	2,398
2012	449	301	147	5,272	2,727	2,545
2013	464	328	136	5,736	3,055	2,681
2014	475	356	120	6,212	3,411	2,801
2015	483	384	99	6,694	3,794	2,900
2016	485	412	73	7,179	4,207	2,973
2017	483	441	42	7,662	4,647	3,015
2018	477	469	8	8,139	5,116	3,023

[1] Projected Net Increase in the Combined Old-Age and Survivors Insurance [OASI] and Disability Insurance (DI) Trust Funds, based on alternative II–B of the 1988 Trustees Report, calendar years 1988–32.

Alternative II–B of the 1988 Trustees Report refers to one of four sets of economic assumptions. Assumptions I and III refer to "optimistic" and "pessimistic" assumptions, respectively. Assumptions II–A and II–B are intermediate assumptions: II–B is the less optimistic of the two.

Source: Office of the Actuary, Social Security Administration, Baltimore, MD.

By Mr. MOYNIHAN:

S. 216. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act; to the Committee on Finance.

SOCIAL SECURITY ADMINISTRATIVE REFORM ACT OF 1989

Mr. MOYNIHAN. Mr. President, at the outset of this 101st Congress, I rise to introduce legislation to reorganize the Social Security Administration as an independent agency, governed by a three-member, bipartisan board.

This bill would establish an independent agency to administer the Old-Age, Survivors, and Disability Insurance [OASDI] programs and the Supplemental Security Income [SSI] program. These programs comprise the core of America's social safety net. OASDI and SSI provide essential income support to families who have lost a bread winner, to aged and disabled individuals and their dependents, and to indigent aged and disabled adults, respectively.

Why should the Social Security Administration, which administers these vital programs, be made an independent agency?

The reason is simple: The operations of the Social Security Administration would be improved, and public confidence in the system strengthened, by establishing Social Security as an independent agency.

This is not a new idea—just one lately forgotten. The original Social Security Act of 1935 established an independent Social Security Board to administer the Old-Age Insurance program. In 1939, the Social Security program was made a part of the independent Federal Security Agency, where it remained until 1953. Only at that time, nearly 20 years after passage of the Social Security Act, was the Social Security Administration made part of the newly formed Department of Health, Education and Welfare. There it has remained.

Almost 30 year later in 1981, the National Commission on Social Security urged the President and Congress to create an independent agency to administer the OASDI and SSI programs. In 1983, the National Commission on Social Security Reform, on which I served, stated its support for the concept of an independent Social Security Administration. The time has come to act on these recommendations.

The size of these programs, and their importance to nearly every American, recommend an independent agency. Simply put, the Social Security Administration has outgrown the Department of Health and Human Services. The benefits paid through the Social Security and SSI programs today account for over 60 percent of the Department's entire budget. In 1953, 6 million Americans received monthly Social Security checks; 36 years later, that number has increased over sixfold. More than 38 million Americans receive monthly Social Security checks today. Another 4.5 million of our most needy blind, aged, and disabled citizens receive SSI assistance. Approximately one of every six Americans receives an OASDI and/or SSI benefit.

The independent agency established under this legislation would be governed by a bipartisan, three-member Board of Directors, appointed by the President for staggered 6-year terms. The appointment of the Directors would be subject to the advice and consent of the Senate. The Board would be responsible for developing Administration policy, and annual budget and legislative recommendations, as well as providing the President and Congress with research, policy, and actuarial analysis. A Board-appointed Executive Director would be responsible for overseeing day-to-day administrative operations and carrying out other duties prescribed by the Board.

A Board whose members served 6-year terms would likely be more stable than the current administrative structure of Social Security. Because the 6-year terms would overlap presidential administrations, the Board would help deter policy changes designed to further the short-term objective of any single administration, rather than to serve the long-term best interests of our Nation's Social Security system.

By assuring millions of Americans a dependable retirement income and protection in the event of disability, our social insurance programs have won widespread public support. The system has also earned a well deserved reputation for administrative efficiency, fairness and public responsiveness. In recent years, I'm sorry to say, this reputation has been somewhat tarnished. During the Reagan watch, for example, hundreds of thousands of disability beneficiaries had their benefits terminated. On appeal, over half had their benefits reinstated. Even more troubling, only 2 months ago, the New York Times reported the outgoing administration was considering changes in the appeals process which would severely limit an elderly or disabled citizen's ability to contest benefit denials. Why? Because the administration knew it was losing half of the appeals and that there is a growing backlog of cases on appeal. I do not dispute that there is a backlog of cases on appeal, nor even that some changes in procedures may be warranted. But as chairman of the Subcommittee on Social Security and Family Policy, I shall insist, Mr. President, that any proposed changes justly serve the beneficiaries who are entitled under the law to OASDI and SSI benefits, rather than promote—under the guise of efficiency—shortsighted budget-cutting goals. This is not one example of the politicization of the Social Securi-

ty Administration, a trend that must be reversed.

By establishing the Social Security Administration as an independent agency governed by a bipartisan Board, we can help restore the high levels of efficiency and fairness for which SSA is deservedly famous, as well as insulate its vital programs from partisan politics.

I urge my colleagues to join me in support of this important initiative, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Social Security Administrative Reform Act of 1989".

TABLE OF CONTENTS

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SEC. 2. DECLARATION OF PURPOSE.

The purposes of this Act are as follows:

(1) to establish the Social Security Administration as an independent agency, separate from the Department of Health and Human Services;

(2) to charge the Social Security Administration with administration of the old-age, survivors, and disability insurance program and supplemental security income program;

(3) to establish a Social Security Board as head of the Social Security Administration and define the powers and duties of such Board;

(4) to establish an Executive Director of the Administration and define the powers and duties of the Executive Director; and

(5) to provide for delegating major management authorities to the Board and the Executive Director.

TITLE I—ESTABLISHMENT OF THE SOCIAL SECURITY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF SOCIAL SECURITY ADMINISTRATION AS A SEPARATE, INDEPENDENT AGENCY; RESPONSIBILITIES OF THE AGENCY.

Section 701 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY ADMINISTRATION

"SEC. 701. There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration. It shall be the duty of the Administration to administer the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI.".

SEC. 102. SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; DEPUTY DIRECTOR; BENEFICIARY OMBUDSMAN; OTHER OFFICERS.

(a) IN GENERAL.—Section 702 of the Social Security Act is amended to read as follows:

"SOCIAL SECURITY BOARD; EXECUTIVE DIRECTOR; OTHER OFFICERS

"Social Security Board

"SEC. 702. (a)(1)(A) The Administration shall be governed by a Social Security Board. The Board shall be composed of three members appointed by the President, by and with the advice and consent of the Senate. The members shall be chosen, on the basis of their integrity, impartiality, and good judgment, from among individuals who, by reason of their education, experience, and attainments, are exceptionally qualified to perform the duties of members of the Board.

"(B)(i) Except as provided in clauses (ii) and (iii), members of the Board shall be appointed for terms of six years. A member of the Board may be removed only pursuant to a finding by the President of neglect of duty or malfeasance in office. The President shall transmit any such finding to the Speaker of the House of Representatives and the Majority Leader of the Senate not later than five days after the date on which such finding is made.

"(ii) Of the members first appointed—

"(I) one shall be appointed for a term ending January 31, 1992,

"(II) one shall be appointed for a term ending January 31, 1994, and

"(III) one shall be appointed for a term ending January 31, 1996,

as designated by the President at the time of appointment. Such members shall be appointed after active consideration of recommendations made by the chairman of the Committee on Ways and Means of the House of Representatives and of recommendations made by the chairman of the Committee on Finance of the Senate.

"(iii) The President may not nominate an individual for appointment to a term of office as member of the Board before the commencement of the President's term of office in which the member's term of office commences. Any member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term. A member may, at the request of the President, serve for not more than one year after the expiration of his or her term until his or her successor has taken office. A member of the Board may be appointed for additional terms.

"(C) Not more than two members of the Board shall be of the same political party.

"(D) A member of the Board may not, during his or her term as member, engage in any other business, vocation, profession, or employment. A member of the Board may continue as a member of the Board for not longer than the 30-day period beginning on the date such member first fails to meet the requirements of the preceding sentence.

"(E) Two members of the Board shall constitute a quorum, except that one member may hold hearings.

"(F) A member of the Board shall be designated by the President to serve as Chairperson of the Board for a term of 4 years.

"(G) The Board shall meet at the call of the Chairperson or two members of the Board.

"(2) Each member of the Board shall be compensated at the rate provided for level II of the Executive Schedule.

"(3) The Board shall—

"(A) govern by regulation the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) establish and oversee efficient and effective operations in the Administration,

"(C) devise long-term plans to promote and maintain the effective implementation of programs referred to in subparagraph (A),

"(D) appoint an Executive Director of the Administration, as described in subsection (b), to act as the chief operating officer of the Administration responsible for administering the programs referred to in subparagraph (A),

"(E) constitute three of the members the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, with the Chairperson of the Social Security Board serving as Chairperson of such Board of Trustees,

"(F) make annual budgetary recommendations relating to the Administration, including program costs of the supplemental security income program under title XVI, and defend such recommendations before the appropriate committees of each House of the Congress,

"(G) study and make recommendations to the Congress and the President as to the most effective methods of providing economic security through social insurance and supplemental security income and as to legislation and matters of administrative policy concerning the programs referred to in subparagraph (A),

"(H) provide the Congress and the President with the ongoing actuarial and other analysis undertaken by the Administration with respect to the programs referred to in subparagraph (A) and any other information relating to such programs, and

"(I) conduct policy analysis and research relating to the programs referred to in subparagraph (A).

"(4)(A) The Board may prescribe such rules and regulations as the Board determines necessary or appropriate to carry out the functions of the Administration. The regulations prescribed by the Board shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.

"(B) The Board may establish, alter, consolidate, or discontinue such organizational units or components within the Administration as the Board considers necessary or appropriate to carry out its functions, except that this subparagraph shall not apply with respect to any unit, component, or position provided for by this Act.

"(C) The Board may, with respect to the administration of the old-age, survivors, and

disability insurance program under title II and the supplemental security income program under title XVI, assign duties, and delegate, or authorize successive redelegations of, authority to act and to render decisions, to such officers and employees as the Board may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Board.

"Executive Director

"(b)(1) There shall be in the Administration an Executive Director who shall be appointed by the Social Security Board.

"(2)(A) The Executive Director shall be appointed for a term of four years, except that the individual first appointed to the office of Executive Director shall be appointed for a term ending September 30, 1995. An individual appointed to a term of office as Executive Director after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Executive Director after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Executive Director for additional terms.

"(B) An individual may be removed from the office of Executive Director before completion of his or her term only for cause found by the Board.

"(3) The Executive Director shall be compensated at the rate provided for level II of the Executive Schedule.

"(4) The Executive Director shall—

"(A) constitute the chief operating officer of the Administration, responsible for administering, in accordance with applicable statutes and regulations, the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI,

"(B) maintain an efficient and effective operational structure for the Administration,

"(C) implement the long-term plans of the Board to promote and maintain the effective implementation of such programs,

"(D) make annual budgetary recommendations of the Administration for the ongoing administrative costs of the Administration and the program costs of the supplemental security income program under title XVI and defend such recommendations before the Board,

"(E) advise the Board and the Congress on the effect on the administration of such programs of proposed legislative changes in such programs,

"(F) serve as Secretary of the Board of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund,

"(G) report in December of each year to the Board for transmittal to the Congress concerning the administrative endeavors and accomplishments of the Administration, and

"(H) carry out such additional duties as are assigned by the Board from time to time.

Any reference to the Board in this Act or any other provision of law in connection with the exercise of a function of the Board which is delegated to the Executive Director pursuant to this section shall be considered a reference to the Executive Director.

"Deputy Director of Social Security

"(c)(1) There shall be in the Office of the Executive Director a Deputy Director, who shall be appointed by the Board. The Deputy Director shall be appointed for a term coextensive with the term of the Executive Director. An individual may be removed from the office of Deputy Director before completion of his or her term only for cause found by the Board.

"(2) The Deputy Director shall be compensated at the rate provided for level III of the Executive Schedule.

"(3) The Deputy Director shall perform such duties and exercise such powers as the Executive Director shall from time to time assign or delegate. The Deputy Director shall be Acting Executive Director of the Administration during the absence or disability of the Executive Director and, unless the Board designates another officer of the Government as Acting Executive Director, in the event of a vacancy in the office of the Executive Director.

"General Counsel

"(d)(1) There shall be in the Administration a General Counsel, who shall be appointed by and serve at the pleasure of the Board. The General Counsel shall be the principal legal officer in the Administration.

"(2) The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule.

"Inspector General

"(e)(1) There shall be in the Administration an Office of the Inspector General. Such Office shall be headed by an Inspector General appointed in accordance with the Inspector General Act of 1978.

"(2) The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule.

"Beneficiary Ombudsman

"(f)(1) There shall be in the Administration an Office of the Beneficiary Ombudsman, to be headed by a Beneficiary Ombudsman appointed by the Board.

"(2)(A) The Beneficiary Ombudsman shall be appointed for a term of five years, except that the individual first appointed to the office of Beneficiary Ombudsman shall be appointed for a term ending September 30, 1995. An individual appointed to a term of office as Beneficiary Ombudsman after the commencement of such term may serve under such appointment only for the remainder of such term. An individual may, at the request of the Chairperson of the Board, serve as Beneficiary Ombudsman after the expiration of his or her term for not more than one year until his or her successor has taken office. An individual may be appointed as Beneficiary Ombudsman for additional terms.

"(B) An individual may be removed from the office of Beneficiary Ombudsman before completion of his or her term only for cause found by the Board.

"(3) The Beneficiary Ombudsman shall be compensated at the rate provided for level V of the Executive Schedule.

"(4) The duties of the Beneficiary Ombudsman are as follows:

"(A) to represent within the Administration's decisionmaking process the interests and concerns of beneficiaries under the old-age, survivors, and disability insurance program under title II and the supplemental security income program under title XVI;

"(B) to review the Administration's policies and procedures for possible adverse effects on such beneficiaries;

"(C) to recommend within the Administration's decisionmaking process changes in policies which have caused problems for such beneficiaries;

"(D) to help resolve the problems under such programs of individual beneficiaries in unusual or difficult circumstances as determined by the Executive Director; and

"(E) to represent within the Administration's decisionmaking process the views of beneficiaries in the design of forms and the issuance of instructions.

"(5) The Board shall assure that the Office of the Beneficiary Ombudsman has staff sufficient to enable the Beneficiary Ombudsman to efficiently carry out his or her duties. Such staff shall be located in the regional offices, program centers, and central office of the Administration.

"(6) The annual report of the Board under section 704 shall include a description of the activities of the Beneficiary Ombudsman.".

(b) INTERIM AUTHORITY OF THE COMMISSIONER.—The President shall nominate for appointment the initial members of the Social Security Board not later than April 1, 1990. In the event that, as of July 1, 1990, all members of the Social Security Board have not been appointed, until all members of the Board have been appointed, the officer serving on July 1, 1990, as Commissioner of Social Security in the Department of Health and Human Services (or Acting Commissioner, if applicable), or such officer's successor, shall, while continuing to serve as Commissioner of Social Security (or Acting Commissioner) in such Department, serve as head of the Social Security Administration established under section 701 of the Social Security Act (as amended by this Act) and shall assume the powers and duties of such Board and of the Executive Director under such Act (as amended by this Act).

SEC. 103. PERSONNEL; BUDGETARY MATTERS; FACILITIES AND PROCUREMENT; SEAL OF OFFICE.

(a) IN GENERAL.—Section 703 of the Social Security Act is amended to read as follows:

"ADMINISTRATIVE DUTIES OF THE SOCIAL SECURITY BOARD

"Personnel

"SEC. 703. (a)(1) The Social Security Board shall appoint such additional officers and employees as it considers necessary to carry out its functions. Except as otherwise provided in any other provision of law, such officers and employees shall be appointed, and their compensation shall be fixed, in accordance with title 5, United States Code.

"(2) The Board may procure the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code.

"(3) Notwithstanding any requirements of section 3133 of title 5, United States Code, the Director of the Office of Personnel Management shall authorize for the Administration a total number of Senior Executive Service positions which is greater than the number of such positions authorized in the Social Security Administration in the Department of Health and Human Services as of immediately before the date of the enactment of the Social Security Administrative and Investment Reform Act of 1989, to the extent that the greater number of such authorized positions is specified in the comprehensive work force plan as established and revised by the Board under subsection (b)(1). The total number of such positions authorized for the Administration pursuant to such section 3133 shall not at any time be

less than the number of such authorized positions as of immediately before such date.

"(4) In addition to the positions of the Administration in the Executive Schedule specified in section 702, the Administration is authorized six additional positions at level IV of the Executive Schedule and six additional positions at level V of the Executive Schedule.

"(5) All authority and functions of the Office of Personnel Management under section 4703 of title 5, United States Code (relating to demonstration projects), to the extent such section relates to personnel or positions in the Administration, shall be exercised exclusively by the Board. The Board shall report annually to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the demonstration projects undertaken by the Board pursuant to this paragraph.

"Budgetary Matters

"(b)(1) Appropriations requests for staffing and personnel of the Administration shall be based upon a comprehensive work force plan, which shall be established and revised from time to time by the Board. The entire amount of appropriations provided for the administrative costs of the Administration shall be apportioned in the time period provided in title 31, United States Code, for apportionment and shall be apportioned for the entire period of availability without restriction or deduction by the apportioning officer or employee of the Office of Management and Budget or any other entity within the executive branch of the Federal Government, except as otherwise provided in this subsection.

"(2) The report submitted pursuant to section 704 shall include a section reflecting the use of budget authority provided to the Administration by quarters.

"(3)(A) Authority of the Administration for automated data processing procurement and facilities construction shall be provided in the form of contract authority covering the total costs of such acquisitions, to be available until expended.

"(B) Amounts necessary for the liquidation of contract authority provided pursuant to this paragraph are hereby made available from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to the extent that the Board, with the concurrence of the Secretary of the Treasury, determines that such amounts are not necessary to meet the current obligations for benefit payments from the Trust Funds.

"(C) Funds appropriated for the Administration to be available on a contingency basis shall be apportioned only upon the occurrence of the stipulated contingency, as determined by the Board and reported to each House of the Congress.

"Seal of Office

"(c) The Board shall cause a seal of office to be made for the Administration of such design as the Board shall approve. Judicial notice shall be taken of such seal.".

(b) DEMONSTRATION PROJECTS RELATING TO PERSONNEL MATTERS.—As soon as practicable after June 30, 1990, the Social Security Board and the Director of the Office of Personnel Management shall, in consultation with the Comptroller General, jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration—

(1) the Board may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, such technical and professional employees as the Board considers appropriate whose compensation may be fixed by the Board without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that such employees may not be paid at a rate in excess of the rate payable for level IV of the Executive Schedule, and

(2) the Director shall delegate to the Board (pursuant to section 1104 of title 5, United States Code, and subject to applicable limitations under such title relating to delegations under such section) functions relating to—

(A) recruitment and examination programs for entry level employees, and

(B) classification and standards development systems and pay ranges for those job categories identified by the Board in assuming such delegation.

The Comptroller General shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than December 31, 1991. Such report shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1) and (2).

(c) DEMONSTRATION PROJECTS RELATING TO DELEGATIONS FROM ADMINISTRATOR OF GENERAL SERVICES.—As soon as practicable after June 30, 1990, the Social Security Board and the Administrator of General Services shall, in consultation with the Comptroller General, jointly implement one or more demonstration projects under this subsection. Under each such project, for the period of its duration, the Board shall have—

(1) all authorities permitted to be delegated under the provisions of Federal law codified under title 40 of the United States Code, relating to the acquisition, operation, and maintenance of the facilities needed for the administration of programs for which the Board is given responsibility under the Social Security Act,

(2) all authorities permitted to be delegated under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), relating to the lease, purchase, or maintenance of automated data processing equipment, and

(3) the authority to contract for any automated data processing equipment or services which the Board considers necessary for the efficient and effective operation of such programs.

The Comptroller General shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than December 31, 1991. Such report shall include an evaluation of the readiness of the Board to assume permanent and full authority over the functions described in paragraphs (1), (2), and (3).

SEC. 104. TRANSFERS TO THE NEW SOCIAL SECURITY ADMINISTRATION.

(a) FUNCTIONS.—There are transferred to the Social Security Administration all functions carried out by the Secretary of Health and Human Services with respect to the programs and activities the administration of which is vested in the Social Security Administration by reason of this Act and the amendments made thereby. The Social Security Board shall allocate such functions in accordance with sections 701, 702, and 703 of the Social Security Act (as amended by this Act).

(b) PERSONNEL, ASSETS, ETC.—(1) There are transferred from the Department of Health and Human Services to the Social Security Administration, for appropriate allocation by the Social Security Board in the Social Security Administration—

(A) the personnel employed in connection with the functions transferred by this Act and the amendments made thereby, as considered appropriate by the Board in consultation with the Secretary of Health and Human Services, and

(B) the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, or used in connection with such functions, arising from such functions, or available, or to be made available, in connection with such functions.

(2) Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(3) The Secretary of Health and Human Services shall terminate—

(A) six positions in the Department of Health and Human Services placed in level IV of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5315 of title 5, United States Code, or any other provision of law, and

(B) six positions in such Department placed in level V of the Executive Schedule (or equivalent positions) other than positions specifically required under section 5316 of such title or any other provision of law.

(c) ABOLISHMENT OF OFFICE OF COMMISSIONER IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Effective upon the appointment of all initial members of the Social Security Board pursuant to section 702 of the Social Security Act (as amended by this Act)—

(1) the position of Commissioner of Social Security in the Department of Health and Human Services is abolished; and

(2) section 5315 of title 5, United States Code, is amended by striking the following:

"Commissioner of Social Security, Department of Health and Human Services.".

SEC. 105. TRANSITIONAL RULES.

(a) INTERIM AUTHORITY FOR APPOINTMENT AND COMPENSATION.—At any time on or after October 1, 1989—

(1) any of the officers provided for in section 702 of the Social Security Act (as amended by this Act) may be nominated and appointed, as provided in such section, and

(2) the Social Security Board, upon nomination and appointment of all of the members thereof, may prescribe regulations providing for the orderly transfer of proceedings before the Secretary of Health and Human Services to the Social Security Board.

Funds available to any official or component of the Department of Health and Human Services, functions of which are transferred to the Social Security Board or the Social Security Administration by this Act, may with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to

this section until such time as funds for that purpose are otherwise available.

(b) CONTINUATION OF ORDERS, DETERMINATIONS, RULES, REGULATIONS, ETC.—All orders, determinations, rules, regulations, permits, contracts, collective bargaining agreements, recognitions of labor organizations, certificates, licenses, and privileges—

(1) which have been issued, made, promulgated, granted, or allowed to become effective, in the exercise of functions (A) which were exercised by the Secretary of Health and Human Services (or his delegate), and (B) which relate to functions which, by reason of this Act, the amendments made thereby, and regulations prescribed thereunder, are vested in the Social Security Board, and

(2) which are in effect immediately before July 1, 1990,

shall (to the extent that they relate to functions described in paragraph (1)(B)) continue in effect according to their terms until modified, terminated, suspended, set aside, or repealed by such Board.

(c) CONTINUATION OF PROCEEDINGS.—The provisions of this Act (including the amendments made thereby) shall not affect any proceeding pending before the Secretary of Health and Human Services immediately before July 1, 1990, with respect to functions vested (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) in the Social Security Board, except that such proceedings, to the extent that they relate to such functions, shall continue before such Board. Orders shall be issued under any such proceeding, appeals taken therefrom, and payments shall be made pursuant to such orders, in like manner as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or repealed by such Board, by a court of competent jurisdiction, or by operation of law.

(d) CONTINUATION OF SUITS.—Except as provided in this subsection—

(1) the provisions of this Act shall not affect suits commenced prior to July 1, 1990; and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No cause of action, and no suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services, shall abate by reason of the enactment of this Act. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States and the Social Security Administration, or such official of such Administration as may be appropriate, and, in any litigation pending immediately before July 1, 1990, the court may at any time, on its own motion or that of a party, enter an order which will give effect to the provisions of this subsection (including, where appropriate, an order for substitution of parties).

(e) CONTINUATION OF PENALTIES.—This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function which (by reason of this Act, the amendments made thereby, and regulations prescribed thereunder) is vested in the Social Security Board.

(f) JUDICIAL REVIEW.—Orders and actions of the Social Security Board in the exercise of functions vested in such Board under this Act (and the amendments made thereby) shall be subject to judicial review to the same extent and in the same manner as if such orders had been made and such actions had been taken by the Secretary of Health and Human Services in the exercise of such functions immediately before July 1, 1990. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function so vested in such Board shall continue to apply to the exercise of such function by such Board.

(g) EXERCISE OF FUNCTIONS.—In the exercise of the functions vested in the Social Security Board under this Act, the amendments made thereby, and regulations prescribed thereunder, such Board shall have the same authority as that vested in the Secretary of Health and Human Services with respect to the exercise of such functions immediately preceding the vesting of such functions in such Board, and actions of such Board shall have the same force and effect as when exercised by such Secretary.

(h) OPERATION OF TRANSITIONAL RULES IN THE EVENT OF INTERIM AUTHORITY IN THE COMMISSIONER.—For purposes of this section, in any case in which the powers and duties to be transferred to the Social Security Board are transferred to the Commissioner of Social Security (or acting Commissioner) in the Department of Health and Human Services for an interim period pursuant to section 102(b), the preceding provisions of this section shall apply with respect to the transfer of such powers and duties to and from such Commissioner (or acting Commissioner) pursuant to such section in the same manner and to the same extent as they would have applied to a direct transfer from the Secretary of Health and Human Services to the Social Security Board if all initial appointments to such Board had been made.

SEC. 106. EFFECTIVE DATES.

(a) IN GENERAL.—Sections 101, 102(a), 103, and 104 of this Act shall take effect July 1, 1990.

(b) EXCEPTIONS.—Sections 102(b) and 105 of this Act shall take effect October 1, 1989.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—CONFORMING AMENDMENTS AND RULES OF CONSTRUCTION

SEC. 201. AMENDMENTS TO TITLES II AND XVI OF THE SOCIAL SECURITY ACT.

(a) IN GENERAL.—Title II (other than section 201, section 218(d), section 231(c), section 226, and section 226A) and title XVI of the Social Security Act are each amended—

(1) by striking, wherever it appears therein, "Secretary of Health and Human Services" and inserting "Social Security Board";

(2) by striking, wherever it appears therein, "Department of Health and Human Services" and inserting "Social Security Administration";

(3) by striking, wherever it appears therein, "Department" (but only if it is not immediately succeeded by the words "of Health and Human Services", and only if it is used in reference to the Department of Health and Human Services) and inserting "Administration";

(4) by striking, wherever it appears therein, each of the following words (but, in the case of any such word only if such word refers to the Secretary of Health and Human Services): "Secretary", "Secretary's", "his", "him", and "he", and inserting (in the case of the word "Secretary") "Social Security Board", (in the case of the word "Secretary's") "Board's", (in the case of the word "his") "the Board's", (in the case of the word "him") "the Board", and (in the case of the word "he") "the Board"; and

(5) by striking, wherever it appears therein, "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO SECTION 201.—

(1) Section 201(a)(3) of such Act is amended by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(2) Section 201(c) of such Act is amended—

(A) in the first sentence, by striking "shall be composed of" and all that follows down through "ex officio" and inserting the following: "shall be composed of the members of the Social Security Board, the Secretary of the Treasury, and the Secretary of Health and Human Services, all ex officio";

(B) by inserting after the first sentence the following new sentence: "The Chairperson of the Social Security Board shall be the Chairperson of the Board of Trustees."; and

(C) by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(3) Section 201(g)(1)(A) of such Act is amended—

(A) in clause (i), by striking "by him and the Secretary of Health and Human Services" and inserting "by him, the Social Security Board, and the Secretary of Health and Human Services", and by striking "by the Department of Health and Human Services and the Treasury Department" and inserting "by the Social Security Administration, the Department of Health and Human Services, and the Department of the Treasury";

(B) in clause (ii), by striking "method prescribed by the Board of Trustees under paragraph (4)" and inserting "applicable method prescribed under paragraph (4)", by striking "the Secretary of Health and Human Services" and inserting "the Social Security Board and the Secretary of Health and Human Services", and by striking "the Department of Health and Human Services" and inserting "the Social Security Administration and the Department of Health and Human Services"; and

(C) by striking the last sentence and inserting the following: "There are hereby authorized to be made available for expenditure, out of any or all of the Trust Funds, such amounts as the Congress may deem appropriate to pay the costs of the part of the administration of this title and title XVI for which the Social Security Board is responsible, the costs of title XVIII for which the Secretary of Health and Human Services is responsible, and the costs of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 other than those referred to in clause (i) of the first sentence of this subparagraph.".

(4) Section 201(g)(1) of such Act is further amended by striking subparagraph (B) and inserting the following new subparagraphs:

"(B) After the close of each fiscal year—

"(i) the Social Security Board shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of this title and title XVI and of carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of

the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)), which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Old-Age and Survivors Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Disability Insurance Trust Fund, and

"(ii) the Secretary of Health and Human Services shall determine (I) the portion of the costs, incurred during such fiscal year, of administration of title XVIII which should have been borne by the general fund in the Treasury, (II) the portion of such costs which should have been borne by the Federal Hospital Insurance Trust Fund, and (III) the portion of such costs which should have been borne by the Federal Supplementary Medical Insurance Trust Fund,

except that the determination of the amounts to be borne by the general fund in the Treasury with respect to expenditures incurred in carrying out such functions specified in section 232 shall be made pursuant to the applicable method prescribed under paragraph (4) of this subsection.

"(C) After the determinations under subparagraph (B) have been made for any fiscal year, the Social Security Board and the Secretary of Health and Human Services shall each certify to the Managing Trustee the amounts which should be transferred from each of the Trust Funds to the general fund in the Treasury and from the general fund in the Treasury to each of the Trust Funds, in order to ensure that each of the Trust Funds and the general fund in the Treasury have borne their proper share of the costs, incurred during such fiscal year, for (i) the part of the administration of this title and title XVI for which the Social Security Board is responsible, (ii) the part of the administration of this title and title XVIII for which the Secretary of Health and Human Services is responsible, and (iii) carrying out the functions of the Social Security Administration, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of subparagraph (A)). The Managing Trustee shall transfer any such amounts in accordance with any certification so made.".

(5) Section 201(g)(2) of such Act is amended, in the second sentence, by striking "established and maintained by the Secretary of Health and Human Services" and inserting "maintained by the Social Security Board", and by striking "Secretary shall furnish" and inserting "Social Security Board shall furnish".

(6) Section 201(g)(4) of such Act is amended to read as follows:

"(4) The Social Security Board shall utilize the method prescribed pursuant to this paragraph, as of immediately before the date of the enactment of the Social Security Administrative and Investment Reform Act of 1987, for determining the costs which should be borne by the general fund in the Treasury of carrying out the functions of the Board, specified in section 232, which relate to the administration of provisions of the Internal Revenue Code of 1986 (other than those referred to in clause (i) of the first sentence of paragraph (1)(A)). If at any time or times thereafter the Board considers such action advisable, it may modify the method of determining such costs.".

(7) Section 201(i)(1) of such Act is amended to read as follows:

"(i)(1) The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, or the Federal Supplementary Medical Insurance Trust Fund or to the Social Security Administration, the Department of Health and Human Services, or any part or officer thereof, for the benefit of any of such Funds or any activity financed through such Funds.".

(8) Subsections (j) and (k) of section 201 of such Act are each amended by striking "Secretary" each place it appears and inserting "Social Security Board".

(9) Section 201(l)(3)(B)(iii)(II) of such Act is amended by striking "Secretary" and inserting "Social Security Board".

(10) Section 201(m)(3) of such Act is amended by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(11) Section 201 of such Act is amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO SECTION 218.—Section 218(d) of such Act is amended by striking "Secretary" each place it appears in paragraphs (3) and (7) and inserting "Social Security Board".

(d) AMENDMENTS TO SECTION 222.—Section 222(d) of such Act is amended—

(1) in the last sentence of paragraph (1), by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration"; and

(2) in the first sentence of paragraph (2), by striking "Commissioner of Social Security" and inserting "Executive Director".

(e) AMENDMENTS TO SECTION 225.—Section 225(b)(2) of such Act is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration".

(f) AMENDMENT TO SECTION 231.—Section 231(c) of such Act is amended by striking "Secretary determines" and inserting "Social Security Board and the Secretary jointly determine".

(g) AMENDMENT TO SECTION 1615.—Section 1615(d) of such Act is amended by striking "Commissioner of Social Security" and inserting "Executive Director of the Social Security Administration.

SEC. 202. OTHER AMENDMENTS.

(a) AMENDMENTS TO TITLE VII.—

(1) Section 704 of the Social Security Act is amended to read as follows:

"REPORTS

"SEC. 704. The Secretary and the Social Security Board shall make full reports to Congress, within 120 days after the beginning of each regular session, of the administration of the functions with which they are charged under this Act. In addition to the number of copies of such reports authorized by other law to be printed, there is hereby authorized to be printed not more than 5,000 copies of each such report for use by the Secretary and Social Security Board for distribution to Members of Congress and to State and other public or private agencies or organizations participating in or concerned with the programs provided for in this Act.".

(2) Section 709(b)(2) of such Act is amended by striking "(as estimated by the Secretary)" and inserting ", as estimated by the Social Security Board or the Secretary (whichever administers the program involved),".

(3) Title VII of such Act is further amended by adding at the end thereof the following new section:

"DUTIES AND AUTHORITY OF SECRETARY

"SEC. 712. (a) The Secretary shall perform the duties imposed upon him by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security and as to legislation and matters of administrative policy concerning the programs administered by the Secretary and related subjects; except that nothing in this section shall be construed to require the Secretary to make studies or recommendations with respect to programs administered by the Social Security Administration.

"(b) The Secretary is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out the Secretary's functions under this Act. Appointments of attorneys and experts may be made without regard to the civil service laws.".

(4)(A) Title VII of such Act (as amended by paragraph (3)) is further amended by adding at the end thereof the following new section:

"ADVISORY COUNCIL ON THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

"SEC. 713. (a) During 1993 and every fourth year thereafter (but not before February 1 of such fourth year), the Social Security Board shall appoint an Advisory Council on the Old-Age, Survivors, and Disability Insurance Program for the purpose of reviewing the status of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund in relation to the long-term commitments of the old-age, survivors, and disability insurance program, and of reviewing the scope of coverage and the adequacy of benefits under, and all other aspects of, such program, including its impact on the public assistance programs under this Act.

"(b) Each such Council shall consist of a Chairman and 12 other persons, appointed by the Board without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall, to the extent possible, represent organizations of employers and employees in equal numbers and represent self-employed persons and the public.

"(c)(1) Any Council appointed hereunder is authorized to engage such technical assistance, including actuarial services, as may be required to carry out its functions, and the Board shall, in addition, make available to such Council such secretarial, clerical, and other assistance and such actuarial and other pertinent data prepared by the Administration as it may require to carry out such functions.

"(2) Appointed members of any such Council, while serving on business of the Council (inclusive of travel time) shall receive compensation at rates fixed by the Board, but not exceeding $100 per day, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

"(d) Each such Council shall submit reports (including any interim reports such

Council may have issued) of its findings and recommendations to the Board not later than January 1 of the second year after the year in which it is appointed, and such reports and recommendations shall thereupon be transmitted to the Congress and to the Board of Trustees of each of the Trust Funds. The reports required by this subsection shall include a report with respect to the old-age, survivors, and disability insurance program under title II, of the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and of the taxes imposed under section 86 of such Code on social security benefits (within the meaning of section 86(d)(1)(A) of such Code). After the date of the transmittal to the Congress of the reports required by this subsection, the Council shall cease to exist.".

(B) Section 706 of such Act is amended—

(i) by striking the heading and inserting "ADVISORY COUNCIL ON HOSPITAL AND SUPPLEMENTARY MEDICAL INSURANCE";

(ii) in subsection (a), by striking "1969" each place it appears and inserting "1993", by striking "Social Security" and inserting "Hospital and Supplementary Medical Insurance", by striking "the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund,", by striking "Fund, and" and inserting "Fund and", and by striking "the old-age, survivors, and disability insurance program and"; and

(iii) in subsection (d), by striking paragraph (1), and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(5) Sections 706, 709, and 710 of such Act are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(b) AMENDMENTS TO TITLE XI.—

(1) Section 1101(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(10) The term 'Administration' means the Social Security Administration.".

(2) Section 1106(a) of such Act is amended—

(A) by inserting "(1)" after "(a)";

(B) by striking "Department of Health and Human Services" and inserting "applicable agency";

(C) by striking "Secretary" and inserting "head of the applicable agency"; and

(D) by adding at the end thereof the following new paragraph:

"(2) For purposes of this subsection and subsection (b), the term 'applicable agency' means—

"(A) the Social Security Administration, with respect to matter transmitted to or obtained by such Administration or matter disclosed by such Administration, or

"(B) the Department of Health and Human Services, with respect to matter transmitted to or obtained by such Department or matter disclosed by such Department.".

(3) Section 1106(b) of such Act is amended—

(A) by striking "Secretary" and inserting "head of the applicable agency"; and

(B) by striking "Department of Health and Human Services" and inserting "applicable agency".

(4) Section 1106(c) of such Act is amended—

(A) by striking "the Secretary" the first place it appears and inserting "the Social Security Board or the Secretary"; and

(B) by striking "the Secretary" each subsequent place it appears and inserting "such Board or Secretary".

(5) Section 1107(b) of such Act is amended by striking "the Secretary of Health and Human Services" and inserting "the Social Security Board or the Secretary".

(6) Section 1110 of such Act is amended—

(A) by striking "Secretary" each place it appears and inserting "Social Security Board"; and

(B) by striking "he", "his", "him", and "himself" each place they appear (except in subsection (b)(2)(A)) and inserting "the Board", "the Board's", "the Board", and "itself", respectively.

(7) Subsections (b) and (c) of section 1127 of such Act are each amended by striking "Secretary" and inserting "Social Security Board".

(8) Section 1128(f) of such Act is amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(9) Section 1131 of such Act is amended—

(A) by striking "Secretary" each place it appears and inserting "Social Security Board";

(B) in subsection (a)(1)(A), by adding "or" at the end thereof;

(C) in subsection (a)(1)(B), by striking "or" at the end thereof;

(D) by striking subsection (a)(1)(C);

(E) by redesignating subsection (a)(2) as subsection (a)(3);

(F) by inserting after subsection (a)(1) the following new paragraph:

"(2) the Secretary makes a finding of fact and a decision as to the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII, or"; and

(G) by striking "he" in the matter in subsection (a) following paragraph (3) (as so redesignated) and inserting "the Social Security Board".

(10) Section 1155 of such Act is amended by striking "(to the same extent as is provided in section 205(b))." and inserting "(to the same extent as beneficiaries under title II are entitled to a hearing by the Social Security Board under section 205(b)). For purposes of the preceding sentence, subsection (l) of section 205 shall apply, except that any reference in such subsection to the Social Security Board or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively.".

(11) Sections 1101, 1106, 1107, and 1137 of such Act are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(c) AMENDMENTS TO TITLE XVIII.—

(1) Subsections (a) and (f) of section 1817 of such Act are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(2) Section 1840(a) of such Act is amended—

(A) in paragraph (1), by striking "Secretary" and inserting "Social Security Board", and by adding at the end thereof the following new sentence: "Such regulations shall be prescribed only after consultation with the Secretary."; and

(B) in paragraph (2), by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(3) Section 1872 of such Act is amended by inserting after "title II" the following: ", except that, in applying such provisions with respect to this title, any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(4) Sections 1869(b)(1) and 1869(c) of such Act and the last sentence of section 1876(c)(5)(B) of such Act are amended by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(5) Sections 1817, 1862, and 1886 of such Act are amended by striking "Internal Revenue Code of 1954" each place it appears and inserting "Internal Revenue Code of 1986".

(d) AMENDMENT TO TITLE XIX.—Section 1910(b)(2) of such Act is amended, in the first sentence, by inserting after "section 205(g)" the following: ", except that, in so applying such sections and section 205(l), any reference therein to the Social Security Board or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively".

(e) AMENDMENT TO TITLE XX.—Section 2002(a)(2)(B) of such Act is amended by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

(f) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(1) by adding at the end of section 5313 the following new items:

"Members, Social Security Board (3).

"Executive Director, Social Security Administration.";

(2) by adding at the end of section 5314 the following new item:

"Deputy Director, Social Security Administration.";

(3) by adding at the end of section 5315 the following new items:

"General Counsel, Social Security Administration.

"Inspector General, Social Security Administration.

"Additional officers, Social Security Administration (6).";

(4) by adding at the end of section 5316 the following new items:

"Beneficiary Ombudsman, Social Security Administration.

"Additional officers, Social Security Administration (6)."; and

(5) by striking "Secretary of Health Education, and Welfare" each place it appears in section 8141 and inserting "Social Security Board".

(g) AMENDMENT TO FOOD STAMP ACT OF 1977.—Section 6(c)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(3)) is amended by inserting "the Social Security Board and" before "the Secretary of Health and Human Services".

(h) AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 707 of title 14, United States Code, is amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(i) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) Subsections (c)(1), (c)(2)(E), (g)(1), (g)(2)(A), and (g)(2)(B) of section 1402 of the Internal Revenue Code of 1986 are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(2) Section 3121(b)(10)(B) of such Code is amended by striking each place it appears "Secretary of Health and Human Services" and inserting "Social Security Board".

(3) Subsections (d) and (f) of section 6057 of such Code are amended by striking "Secretary of Health and Human Services" each place it appears and inserting "Social Security Board".

(4) Section 6103(l)(5) of such Code is amended—

(A) by striking "Department of Health and Human Services" and inserting "Social Security Administration"; and

(B) by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(5) Section 6511(d)(5) of such Code is amended by striking "Secretary of Health and Human Services" and inserting "Social Security Board".

(j) AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Section 3005 of title 38, United States Code, is amended by striking "Secretary of Health and Human Services" and "Secretary" each place they appear and inserting "Social Security Board".

(k) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 9(a)(1), by striking "and" at the end of subparagraph (U), and by adding at the end thereof the following new subparagraph:

"(V) of the Social Security Administration (to the extent provided in the Social Security Administrative and Investment Reform Act of 1989), the functions of the Inspector General of the Department of Health and Human Services relating to the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and of the supplemental security income program under title XVI of such Act; and";

(2) in section 11(1), by striking "or" after "Commission" and inserting a semicolon, and by inserting after "Board;" the following: "or the Social Security Board;"; and

(3) in section 11(2), by striking "or" after "Information Agency,", and by inserting after "Veterans' Administration" the following: ", or the Social Security Administration;".

SEC. 203. RULES OF CONSTRUCTION.

(a) REFERENCES TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to the Department of Health and Human Services with respect such Department's functions under the old-age, survivors, and disability insurance program under title II of the Social Security Act or the supplemental security income program under title XVI of such Act, such reference shall be considered a reference to the Social Security Administration.

(b) REFERENCES TO THE SECRETARY OF HEALTH AND HUMAN SERVICES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to the Secretary of Health and Human Services with respect to such Secretary's functions under such programs, such reference shall be considered a reference to the Social Security Board.

(c) REFERENCES TO OTHER OFFICERS AND EMPLOYEES.—Whenever any reference is made in any provision of law (other than this title or title I or a provision of law amended by either such title), regulation, rule, record, or document to any other officer or employee of the Department of Health and Human Services with respect to such officer or employee's functions under such programs, such reference shall be considered a reference to the appropriate officer or employee of the Social Security Administration.

SEC. 204. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the preceding provisions of this title shall take effect July 1, 1990.

(b) EXCEPTIONS.—Subsections (f)(1), (f)(2), (f)(3), (f)(4), and (k) of section 202 shall take effect October 1, 1989, and section 202(a)(4) shall take effect January 1, 1993.

(c) NEW SPENDING AUTHORITY.—Any new spending authority provided by this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

By Mr. MOYNIHAN:

S. 217. A bill to amend part A of title IV of the Social Security Act to reduce the need for emergency assistance payments to provide temporary housing for destitute families eligible for AFDC, and the expense of such payments, by authorizing grants to States for the construction or rehabilitation of permanent housing that such families can afford with their regular AFDC, payments; to the Committee on Finance.

PERMANENT HOUSING FOR HOMELESS FAMILIES ACT

Mr. MOYNIHAN. Mr. President, why does the city of New York pay $37,000 a year to house a homeless family in a "welfare hotel?" No doubt many Americans will recall President Reagan wondering aloud during a 1986 press conference, "Why doesn't somebody build them a house for $37,000?"

At that time, nobody seemed to know the answer. In fact, it is very simple. "Somebody" cannot now use the Federal funds paid to welfare hotel slumlords to build permanent homes for the homeless. Current law prohibits it.

Astonishingly, the city of New York has spent up to $37,000 annually on temporary housing for homeless families. Such temporary housing generally consists of a tiny living space in one of some 40 private "welfare hotels" scattered about the city. The hotels are more often than not located in neighborhoods unfit for the young children who live there. Indeed, these hotels are typically filthy, crime and drug infested firetraps. Children die in them.

Is there anyone who disagrees that it would be both more cost-effective and more humane to house these families in permanent residences? But, under current law, funds received under the emergency assistance section of the Federal Welfare Program may be used only to provide temporary shelter for the homeless. That may have made sense in 1967 when the Emergency Assistance Program was first enacted into law. But things change.

In recent years, the homeless population has changed profoundly. First, the population has grown enormously. Nationwide, estimates of the homeless population range from a low of 200,000 to a high of 2 to 3 million. In 1983, the number of families receiving emergency shelter in New York City averaged 1,500 families monthly. By October of 1988, that number had increased to some 5,000 families, an increase of over 200 percent. Requests for emergency shelter continue to climb, albeit at a somewhat slower rate. On January 17, 1989, the U.S. Conference of Mayors released their latest 27-city survey. In 1988, requests for emergency shelter grew by 13 percent, down from 21 percent in 1987. Precious little to cheer about.

Second, the new homeless are not the skid row derelicts of yesteryear. A quarter of the homeless have jobs, but earn too little to afford housing. The fastest growing group of homeless are young women with children. The mayors find that families with children make up more than half the homeless population of Detroit, Norfolk, Portland, Trenton, and my own city, New York. Indeed. in New York City, where over 10,000 children are housed in emergency shelters, families with children make up nearly two-thirds of the homeless. In other cities, on average, families with children constitute one-third of the homeless population.

Third, the new homelessness is primarily due to a severe shortage of affordable housing. Put plainly, there are too many people with too little money fighting for too little housing that costs too much. Add to this the rapid increase in poor female-headed families and the steep decline in Federal support for low-income housing (between fiscal year 1981 and fiscal year 1988 Federal budget authority was slashed by 72 percent) and you have a recipe for disaster.

The mayors cannot solve this tragedy alone. They decry Federal indifference. They are right. There is blame enough to go around. But rather than point fingers, let us begin to put the situation right. Toward this end, at the outset of this 101st Congress, I am reintroducing the Permanent Housing for Homeless Families Act. This bill will allow States and cities to spend a portion of their AFDC-Emergency Assistance funds on grants for the con-

struction of permanent housing for homeless AFDC families.

Since the Emergency Assistance [EA] program is operated on an entitlement basis, States may continue to receive EA funds to provide temporary shelter for homeless families while the construction of permanent housing is under way. Instead of continuing to subsidize welfare hotel slumlords, the Federal Government can help State and local governments make a permanent dent in homelessness.

This legislation is also being introduced in the House by my colleague from New York, Representative CHARLES SCHUMER. It is similar to legislation he and I first offered in the 99th Congress, and again in the 100th Congress.

Our bill will amend title IV (aid to families with dependent children) of the Social Security Act, to allow Federal matching funds under the existing Emergency Assistance Program to be used for the construction or renovation of permanent homes for poor families with children. Federal funds will only be made available to State and local governments meeting specified requirements.

Among these requirements: First, all units constructed or rehabilitated must be rented to AFDC-eligible families that have been unable to obtain affordable, permanent housing, and would otherwise be left without shelter. Second, before receiving Federal funds, the city and State would have to demonstrate that the permanent housing will reduce their total AFDC costs for the homeless over a 5-year period.

I want to stress this latter point. The Permanent Housing for Homeless Families Act is designed to ensure that the Federal Government actually saves money under the Emergency Assistance Program after 5 years. Participating States and localities will be required to contribute substantial resources of their own to any federally assisted construction. In brief, the State and local government combined share of costs under this program must be 10 percentage points higher than their current share of AFDC payments. For example, a State with a 50-percent share of AFDC costs would have to shoulder a 60-percent share of EA money used for the construction of permanent housing.

Last year, Mr. President, as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628), Congress authorized a small demonstration project to permit States to use Federal funds to provide "transitional" housing for homeless AFDC families. Anything is better than the hellholes we politely refer to as welfare hotels. However, transitional housing is merely a temporary solution. We need permanent, affordable housing.

I might point out to my colleagues that last year the Senate adopted, as part of the Family Security Act of 1988 (S. 1511), a demonstration project similar to the legislation I offer today. Unfortunately, this provision was dropped in conference prior to the bill's enactment into law (Public Law 100-485).

I urge my colleagues, therefore, to once again lend their support to this modest initiative. It will not, by itself, solve the tragedy of homelessness, but it moves us a step in the right direction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Permanent Housing for Homeless Families Act."

AUTHORIZATION OF GRANTS

SECTION 1. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT OTHERWISE WOULD REQUIRE EMERGENCY ASSISTANCE

"SEC. 416. (a) The Secretary may make a grant to any State for the construction or rehabilitation of permanent housing to serve individuals and families who would otherwise require emergency assistance in the form of temporary housing, if the State makes application for such a grant in the manner and form prescribed by the Secretary, furnishes the assurances required by subsection (b), and satisfies such other terms and conditions as the Secretary may prescribe to assure that the purposes of this section are effectively carried out.

"(b) A grant may be made to a State under subsection (a) only if such State (along with or as a part of its application) furnishes the Secretary with satisfactory assurances that—

"(1) the proceeds of the grant will be used exclusively for the construction or rehabilitation of permanent housing to be owned by the State, a political subdivision of the State, an agency or instrumentality of the State, or of a political subdivision of the State, or a nonprofit organization;

"(2) all units assisted with funds from the proceeds of the grant will be used exclusively for rental to families which—

"(A) are eligible (at the time of the rental) for aid under the State's plan approved under section 402, provided that a family with some members who meet this requirement shall not be deemed ineligible because one or more other family members receive aid under title XVI of the Social Security Act.

"(B) have been unable to obtain decent housing at rents that can be paid with the portion of such aid allocated for shelter, and

"(C) if such housing were not available to them, would be compelled to live in a shelter for the homeless or in a hotel, motel, or other temporary accommodations paid for with emergency assistance or would be homeless;

"(3) the local jurisdiction in which such housing will be located is experiencing a critical shortage of housing units that are available to families eligible for aid under the State plan at rents that can be paid with the portion of such aid allocated for shelter; and

"(4) whenever units assisted under this section become available for occupancy, the State will discontinue the use of an equivalent number of units of the most costly accommodations it has been using as temporary housing paid for with emergency assistance, except to the extent that such accommodations are demonstrably needed—

"(A) in addition to the units so assisted, to take account of increases in the caseload under that program; or

"(B) because, due to the condition or location of such accommodations, or other factors, discontinuing the use of such units would not be in the best interests of needy families, provided that the State discontinues the use of an equivalent number of other units it has been using as temporary housing paid for with emergency assistance;

and only if the State, along with or as a part of its application, includes provisions (to be added to the State plan) for carrying out the requirements of paragraph (4).

"(c)(1) The average cost to the Federal Government per unit of housing constructed or rehabilitated with a grant under this section shall be an amount no greater than the standard yearly payment (as defined in subsection (d)(2)) of emergency assistance that would be required to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters for one year.

"(2) The total of Federal payments to the State under this part over the 5-year period beginning at the time construction or rehabilitation commences, with respect to families who will live in housing assisted by a grant provided under this section (the "total grant cost" as calculated according to the definition in subsection (d)(3)) must be lower as a result of the construction or rehabilitation of permanent housing with the grant than the total amount of Federal payments under this part that would have been made if the State made emergency assistance payments with respect to the families involved at the level of the standard yearly payment (as defined in subsection (d)(2)) during such 5-year period. If the "total grant cost" is not lower than such total amount of Federal payments, the State shall be responsible for paying the difference between such cost and such total amount. The Secretary may extend this 5-year period for calculating cost savings to any period of no more than 7 years if he determines that unusual circumstances have delayed completion of housing to be constructed or rehabilitated pursuant to this section and that it would be inequitable to measure costs savings over a 5 year period.

"(3) Any grant to a State under subsection (a) shall be made only on condition that such State (and the local jurisdiction in which the housing is to be located) pay a percentage of the total cost of the construction or rehabilitation of such housing equal at least to the percentage of the current non-Federal share of aid to families with dependent children under the State plan which is applicable to that State (as determined under section 403(a) or 1118), increased by 10 percentage points and that

such State not require its political subdivisions to pay a higher percentage of the total costs of the construction or rehabilitation of such housing that these political subdivisions pay for aid given pursuant to the State plan approved under section 402.

"(d) For the purposes of this section—

"(1) the term 'emergency assistance' means emergency assistance to needy families with children as described in section 406(e) or regular payments for costs of temporary housing authorized as special items under the State plan;

"(2) the term 'standard yearly payment' with respect to emergency assistance used to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters for 1 year during any year in any jurisdiction, means an amount equal to the total amount of such assistance which was needed to provide all housing in temporary accommodations in that jurisdiction (with emergency assistance), in the most recently completed calendar year at the 75th percentile in the range of all payments of emergency assistance for temporary accommodations, based on the State's actual experience with emergency assistance in such jurisdictions;

"(3) the term 'total grant cost' with respect to housing constructed or rehabilitated under this section, means the sum of—

"(A) the Federal share of payments attributable to the construction or rehabilitation of such housing during the 5-year period beginning on the date on which construction or rehabilitation begins,

"(B) the Federal share of payments of emergency assistance for temporary housing to the families involved during the 5-year period in which such housing is undergoing construction or rehabilitation (at a level equal to the standard yearly payment), and

"(C) the Federal share of regular payments of aid under the State plan to such families during the remainder of such 5-year period (or any longer period established by the Secretary pursuant to subsection (c), subparagraph 2 of this section).

"(e) Whenever a grant is made to a State under this section, the assurances required of the State under paragraphs (1) through (5) of subsection (b) and any other requirements imposed by the Secretary as a condition of such grant shall be considered, for purposes of section 404, as requirements imposed by or in the administration of the State's plan under section 402.".

EFFECTIVE DATE

SEC. 2. The amendment made by section 1 shall become effective upon the date of enactment of this Act.

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 218. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

NATIONAL ACADEMY OF SOCIAL INSURANCE

Mr. MOYNIHAN. Mr. President, on this the first day of legislation in the 101st Congress, I wish to introduce a bill to grant a Federal charter to the National Academy of Social Insurance.

The Academy was established in May 1986 by a distinguished group of individuals from business, labor, government, and the academic community. Although their professional backgrounds are diverse, each has achieved distinction in the field of social insurance. I am honored to serve as a member of the Academy's Board of Advisers, together with my colleague, and the cosponsor of this bill, Senator HEINZ.

The National Academy of Social Insurance has come just when needed. The remarkable group who produced and nurtured Social Security are now collecting it. An institutional memory is vitally needed to guide us through the issues confronting our most important domestic program. The time has come to open up what has been a very closely held public trust and to improve the public discussion and understanding of Social Security. The National Academy of Social Insurance will do this.

The Washington Post recently referred to the Social Security Program as "one of the greatest governmental success stories of this century," which, as we all know, is true. And yet people don't believe it. They have no confidence in the system. Attempts by the Reagan administration to cut benefits naturally contributed to this lack of confidence. As early as 1981 the then newly appointed Director of the Office of Management and Budget was declaring with respect to the trust funds that the "most devastating bankruptcy in history" was months away. This, of course, was never true—at worst checks woud have gone out a couple of days late—but it served to justify the administration's 1981 proposals for massive Social Security cuts. And then in 1985 we saw then Vice President George Bush cast the tie-breaking vote in the Senate to cut the COLA.

But the truth is, this lack of confidence actually was evident before all that. In 1979, Peter D. Hart Research Associates conducted a nationwide survey for the National Commission on Social Security. The survey was designed to determine the public's attitude toward Social Security and found that 61 percent of the nonretired had little confidence that funds would be available to pay their retirement benefits. Sadly, the public's confidence had sunk even lower by 1985 when a survey by Yankelovich, Skelly & White showed that 66 percent, two-thirds, of nonretired adults thought it unlikely that they would ever see their benefits—two-thirds! Last month the American Council of Life Insurance published some data that indicate an improvement in 1988. I welcome the news, but I put it to you that the lack of public confidence remains the biggest problem facing Social Security. The system is, after all, a compact across generations. The willingness of young workers to fund the program rests on the confidence that it will be there for them when they need it.

That is why, Mr. President, the National Academy of Social Insurance is so needed, and a Federal charter warranted. Until now, there has been no organization of independent and nonpartisan scholars and experts to plan and carry out a long-term education and research agenda, to promote an exchange of ideas, or to develop informed policy proposals.

I close with a note of thanks to the Academy for its thorough and careful study on the Social Security "notch" issue, released on November 16, 1988. The distinguished minority leader, Senator DOLE, and I requested this study to help educate Finance Committee members on this extremely complex and often misunderstood subject, and the Social Security Subcommittee, which I chair, held a hearing on this report on January 23. We are much indebted to the Academy for this excellent and lucid report which will do much to inform the public discussion and debate on this often controversial issue.

I hope that my colleagues will join with me in this effort to secure a Federal charter for the National Academy of Social Insurance. We got this measure through the Senate last year as part of the Technical and Miscellaneous Revenue Act of 1988, but the conference ran into a jurisdictional problem on the House side. I am confident we can work this out, though, with the help of Congressman JACOBS, chairman of the House Social Security Subcommittee, who has assured me that he will sponsor this measure in the House.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The National Academy of Social Insurance, organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a charter.

SEC. 2. POWERS.

The National Academy of Social Insurnace (in this Act referred to as the "Academy") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes for which the Academy is organized shall be those provided in its articles of incorporation and shall include—

(1) promoting an informed and nonpartisan study of, and education with respect to, social insurance,

(2) bringing together experts with diverse backgrounds to consider social insurance issues in an interdisciplinary way,

(3) assisting in the development of social insurance scholars and administrators,

(4) encouraging research and studies on topics of relevance to social insurance, and

(5) sponsoring seminars and other public meetings.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the Academy shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the Academy and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The board of directors of the Academy and the responsibilities thereof shall be as provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

The officers of the Academy, and the election of such officers, shall be as is provided in the articles of incorporation of the Academy and in conformity with the laws of the State or States wherein it is incorporated.

SEC. 8. RESTRICTIONS.

(a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the Academy or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers and members of the Academy or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The Academy shall not make any loan to any officer, director, or employee of the corporation.

(c) The Academy and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The Academy shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The Academy shall not claim congressional approval or Federal Government authority for any of its activities, other than by mutual agreement.

(f) The Academy shall retain and maintain its status as a corporation organized and incorporated under the laws of the District of Columbia.

SEC. 9. LIABILITY.

The Academy shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. BOOKS AND RECORDS; INSPECTION.

The Academy shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the Academy involving any of its members, the board of directors, or any committee having authority under the board of directors. The Academy shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal laws", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(71) National Academy of Social Insurance.".

SEC. 12. ANNUAL REPORT.

The Academy shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

SEC. 16. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Mr. HEINZ. Mr. President, it is with great pleasure that I join with my colleague from New York in introducing legislation to grant a national charter to the National Academy of Social Insurance [NASI]. The National Academy of Social Insurance is an important organization, formed only 3 years ago, to provide a forum for an elite group of experts from diverse backgrounds in business, labor, Government, and the academic community to discuss the problems that confront social insurance programs and offer options for the future.

Members of the Academy represent the institutional memory of the Social Security program; they represent persons committed to social insurance. This exemplary organization has as its mission—the challenge to investigate, evaluate, and educate Members of the Congress and those people who elect us on the current state of the Social Security program. This, as we all well know, is no small task.

Mr. President, today, the Social Security program touches practically every American family. But despite the importance of social insurance in the United States, few people know the programs well. As public opinion polls consistently show, social insurance programs are immensely popular, but there is often little indepth understanding. Confusion is widespread, not only among the public, but among academicians and policymakers—about the history, purposes, structure, scope, and future viability of the social insurance.

For some time, we have needed an independent nongovernmental organization to promote informed discussion and debate about the issues which face the Congress—problems associated with an aging population and the burden this will place on our social insurance program, problems such as the relationship of the Social Security trust fund to the budget, concerns over the Social Security notch and so forth. We have needed an independent organization to develop an education and research agenda. And, we have needed to stimulate fresh thinking with regards to Social Security. Until the establishment of the National Academy, however, no such organization has existed to satisfy these needs.

The National Academy, in its 3-year history, has already contributed to our understanding of issues of concern to the Congress. On December 15, 1988, I was priviledged to have the opportunity to speak at the first annual meeting of the National Academy. The focus of this meeting was to discuss the relationship of the Social Security trust fund to the budget. In addition, the academy has just recently investigated the Social Security notch issue at the request of two Members of the Congress. We can expect that these two contributions are just the first of many.

Past recipients of national charters have been recognized as organizations which are of special significance to our country, either because of the people they represent or by the unique services they provide. The National Academy of Social Insurance is of such a caliber that, it too, should receive national recognition for its service and commitment to this country and its social insurance program.

By granting a national charter to this prestigious national academy, the Congress can give recognition to the importance of quality research and policy regarding this country's social insurance programs. The signal this charter will send to the experts in the area of social insurance is that we, in the Congress, are dedicated to serious and ongoing investigation to produce concerned and thoughtful policy to insulate the aged and disabled from loss of income after employment.

Mr. President, I am proud of this organization and am proud to be a member, along with my colleague from New York, of its advisory board. They are committed to preserving and enhancing a quality, effective social insurance program. I urge my fellow colleagues to join with Senator MOYNIHAN and myself in recognizing this organization and our social insurance programs by granting a Federal charter.

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 219. A bill to exclude the Social Security trust funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997; to the Committees on the Budget and Governmental Affairs jointly persuant to order of 8-4-77.

SOCIAL SECURITY TRUST FUND SANCTITY ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that will provide a very important safeguard for the Social Security System.

The legislation, titled the Social Security Trust Fund Sanctity Act, would accomplish a simple but extremely important goal. It would remove the Social Security trust funds from budget calculations under the Gramm-Rudman-Hollings deficit reduction scheme. The Gramm-Rudman-Hollings targets and timetable would be revised to take account of this, and to produce a balanced non-Social Security budget by 1997.

Mr. President, since the bipartisan National Commission on Social Security Reform agreed in 1983 on a plan to safeguard the financial stability of the Social Security System, we have been able to restore a measure of confidence in the System.

Let us not forget that the Reagan administration began with discussions of "privatizing" Social Security, followed by David Stockman's threats of a "bankrupt" Social Security System. "A scare campaign of vicious proportions," as stated by Sylvia Porter, was launched by the administration in the early 1980's.

Fortunately, the national commission, on which I served with the distinguished minority leader, Senator DOLE, was able to reach a consensus on restoring the financial stability of Social Security. We have done that. Social Security revenues are now running ahead of outlays by over $109 million per day. The System is actuarially sound well into the next century.

Nevertheless, skeptics continue to criticize the System. Consider the scurrilous article by John Makin of the American Enterprise Institute in The New York Times which likened Social Security to a "ponzi scheme." The scare campaign continues.

That is why I feel it necessary to introduce the Social Security Trust Fund Sanctity Act. We must make it clear that the Federal deficit remains a great challenge to the Nation. We must also make it clear that the Social Security System is in excellent, indeed robust, financial condition.

Using the Social Security trust funds to offset the budget deficit simply disguises the true magnitude of our budget deficit problem. Surely this is counterproductive. If we agree that the deficit is truly a national problem, then we shouldn't be covering it up with accounting tricks.

But worse, we are squandering an opportunity to increase our national savings. Currently our Social Security surpluses are being borrowed to help finance current Government consumption. We must take the trust funds out of the deficit calculations and deal with the real budget deficit problem. Only then can the trust fund surpluses be used to increase our savings, investment, and economic growth.

But consider the comments of then-Secretary of the Treasury James Baker in response to a question from George Will about how the Social Security surpluses should be accounted.

. . . I think it is quite appropriate to . . . treat the Social Security trust fund as a part of the unified budget. After all, every dollar that we tax the American taxpayer to pay into the Social Security trust fund hurts him just as much as every dollar that he pays in income taxes. And we need a process whereby we look at our government expenditures as a financial condition of the United States government as a whole. So people who suggest that we ought to take the Social Security trust fund off budget I think are to some extent politically motivated.

Politically motivated? Was the bipartisan national commission politically motivated when it made such a recommendation in 1983? Indeed, Social Security is already treated off-budget, except for the Gramm-Rudman deficit calculation. Unfortunately, it was others, including those in the Reagan administration, who were politically motivated when they arranged to credit the surpluses to the reduction of an operating budget deficit that remains, as David Stockman recognized, "$200 billion as far as the eye can see."

Indeed, the deficit in the operating budget for the current fiscal year will be $199 billion, according to Congressional Budget Office estimates of August 1988. But this will be offset for Gramm-Rudman purposes by an "off-budget" Social Security trust fund surplus of $52 billion this year, bringing us closer to the Gramm-Rudman deficit target of $136 billion for this fiscal year. Mr. President, this information is shown in a table published by CBO, and I ask that it be included in the RECORD at the end of my remarks. This table also shows that, contrary to popular belief, the operating budget deficit is growing bigger, not coming down. The CBO baseline projection is that by 1994 the on-budget deficit will grow to $234 billion. Under the current practice, this would be masked by a Social Security trust fund surplus of $113 billion in that year. One can easily see the madness. Increasingly large budget deficits eating up increasingly large Social Security surpluses—surpluses we put in place back in 1983 to provide for the retirement of the baby boom in the next century.

Mr. President, I urge my colleagues, this must stop. This bill would focus our attention and efforts on the real problem, which is the growing deficit in the non-Social Security budget. It would take the Social Security trust funds out of Gramm-Rudman calculations and get us on the track to eliminating the deficit in the operating budget by 1997. I ask for the support of the Senate to pass this measure, and I ask unanimous consent that the bill and table be printed in the RECORD at the end of my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Social Security Trust Fund Sanctity Act".

SEC. 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SEC. 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $163,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $138,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $114,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $99,000,000,000;

"(I) with respect to the fiscal year beginning October 1, 1993, $75,000,000,000;

"(J) with respect to the fiscal year beginning October 1, 1994, $50,000,000,000;

"(K) with respect to the fiscal year beginning October 1, 1995, $25,000,000,000; and

"(L) with respect to the fiscal year beginning October 1, 1996, $0.".

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1996"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1997".

(b) EFFECTIVE DATE.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (1), by striking "1993" and inserting "1997"; and

(2) in paragraph (2), by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

SUMMARY TABLE 1.—BASELINE DEFICIT PROJECTIONS AND TARGETS

[By fiscal year]

	Actual 1987	Estimate 1988	Projections 1989	1990	1991	1992	1993	1994
	In billions of dollars							
Baseline projections:								
On-budget deficit	170	194	199	199	206	212	220	234
Off-budget surplus[1]	20	39	52	63	74	86	99	113
Total deficit	150	155	148	136	131	126	121	121
Deficit targets	(2)	144	136	100	64	28	0	(2)
	As a percentage of GNP							
Baseline projections:								
On-budget deficit	3.8	4.1	3.9	3.7	3.6	3.4	3.3	3.3
Off-budget surplus[1]	0.4	0.8	1.0	1.2	1.3	1.4	1.5	1.6
Total deficit	3.4	3.2	2.9	2.5	2.3	2.0	1.8	1.7
Deficit targets	(2)	3.0	2.7	1.8	1.1	0.5	0	(2)

[1] Social Security (Old-Age and Survivors Insurance and Disability Insurance Trust Funds).
[2] The Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 established targets for 1988 through 1993.

Source: Congressional Budget Office.

By Mr. MOYNIHAN:

S. 220. A bill to provide for flexibility in the use of Federal highway program grants authorized under title 23, United States Code, and other Federal infrastructure grants to establish a National Infrastructure Corporation, to provide additional financing for a variety of public works improvements, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL INFRASTRUCTURE ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce "The National Infrastructure Act of 1989." The purpose of this legislation is to establish new mechanisms for financing the much needed work that must be done to rehabilitate and expand the Nation's public works infrastructure, the basic underpinnings of its well-being and economic growth.

OUR DECLINING INFRASTRUCTURE

The National Council on Public Works Improvement stated in its report released in February 1988, Fragile Foundations, that there is "* * * convincing evidence that the quality of America's infrastructure is barely adequate to fulfill current requirements, and insufficient to meet the demands of future economic growth and development."

For example, while total real public works spending is increasing in absolute terms, from $60.4 billion per year in 1960 to $97.7 billion in 1985, it is declining as a Government spending priority. Federal, State, and local governments together devoted 6.8 percent—out of a $1.428 trillion total expenditures—of their budgets to public works in 1985, as compared to 19 percent—of $239 billion—in 1950.

In New York City, half the bridges are rated in poor or fair condition, some with visible cracks in their grating. Three of the city's East River bridges, the Williamsburg Bridge, the Manhattan Bridge, and the Queensboro Bridge, require substantial reconstruction. The only reason the Brooklyn Bridge does not is that such a major reworking was just completed. In the case of one bridge last year, as reported by the New York Times, a hole "the size of a Buick" was found in the pavement.

There has been no major airport built in the United States since 1974 at Dallas-Fort Worth, although over this same period commercial air traffic has doubled.

In April 1987 outside the small community of Amsterdam, NY, the Schoharie Creek bridge on New York State's Thomas E. Dewey Thruway collapsed killing 10 people and causing untold economic loss.

According to the Los Angeles County Transportation Commission, the cost of congestion in Los Angeles County is about 485,000 hours per day of wasted time by drivers. That is about 72 million gallons of gas per year—just in one county.

Three studies that have received a great deal of attention presented their findings in terms of annual capital investment shortfalls for major categories of public works infrastructure. These reports, by the Congressional Budget Office, the Congressional Joint Economic Committee, and the Associated General Contractors, found a shortfall ranging from $17.4 to $71.4 billion per annum. The National Council on Public Works Improvement recommended that we double current spending on public works.

OUR WORK IN THE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

We are now at an important turning point in the history of the Federal Government's role in infrastructure. In the last 2 years the Congress has enacted legislation to bring to an end its two largest infrastructure programs. The Interstate Highway Program, which has spent over $230 billion on our Nation's roads since its inception in 1956, is close to completion. In 1991 the interstates will be finished, or as near as makes no matter. The Clean Water Act program for grants to the States for the construction of waste-water treatment plants, which has distributed over $52 billion since passage of the Clean Water Act in 1972, will also be coming to an end. This was assured by passage of amendments to the Clean Water Act in 1987. All of this makes evident the need for a new direction, and new ideas.

At the beginning of the 100th Congress, we established the Water Resources, Transportation, and Infrastructure Subcommittee of the Committee on Environment and Public Works. In effect, we reconstituted the old Senate Committee on Public Works as a subcommittee. I suspect that arrangement will be carried forward into the 101st Congress, although the subcommittee may go by a different, hopefully shorter name. Our intent was to examine the Nation's infrastructure, reevaluate our requirements, and develop policies to meet them.

We held five hearings, the first of which featured the historic appearance of the Speaker of the House, JIM WRIGHT, as a witness. We have learned much through this hearing process.

We have also had the benefit of the work of the National Council on Public Works Improvement, which was commissioned by the Public Works Improvement Act of 1984 to survey our Nation's infrastructure and report to the President and the Congress.

THE NATIONAL INFRASTRUCTURE ACT OF 1989

The bill I am presenting today, the National Infrastructure Act of 1989, has one major purpose: to reinforce the traditional and time-honored Federal role in providing financial assistance for large, capital intensive projects. The bill also recognizes that we must spend our money wisely by conducting research and development activities and stimulating technological innovation.

This year's bill is a modified version of S. 2088, legislation I introduced into the 100th Congress of February 24, 1988.

NATIONAL INFRASTRUCTURE CORPORATION

This legislation would establish a National Infrastructure Corporation to provide financial help to projects of regional and national importance. Such might include new beltways around major cities, new major airports, or middle distance magnetic levitation systems between large cities. The corporation would be limited to providing loans for at most a 33-percent share of the cost of any project. This would force each and every undertaking to undergo the test of finding a majority of its financing in other markets. This market test is a sound public policy principle, which our committee used in the Water Resources Development Act of 1986 to make Corps of Engineers work more responsive to local circumstances. By requiring local cost sharing, we have seen a dramatic downsizing of corps projects. The Federal Government is no longer paying 100 percent of project costs, and people are much more mindful of asking for only what they need, and no more. The work of highest priority is the work that is being done.

MONETARY RETURN ON INFRASTRUCTURE INVESTMENT

The capitalization of this corporation does not require us to raise taxes. The corporation would be funded from interest earned on the over $25 billion of unexpended balance in the Federal transportation trust funds. Principal would not be touched. This interest will equal approximately $2.3 billion per year.

I would stress that the specifics mentioned here are ideas only. I hope this bill will stimulate discussion and thinking, and that good ideas will breed more good ideas. Future additions may include modifications to the Federal Tax Code to allow States and localities greater access to capital markets, or refinements to the basic structures outlined here.

Providing for the integrity and well-being of the basic structures and services required by a modern society will be one of the most problematic and challenging matters we will face in the coming decades. We had best start doing something about it now.

Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Infrastructure Act of 1989".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Nation as a whole has ceased investing in its public works infrastructure;

(2) since 1980, real economic growth has averaged 2.3 percent per year, but during this same period total capital stocks of public works infrastructure have shown no appreciable growth;

(3) the National Council on Public Works Improvement has reported that, after accounting for physical depreciation, public spending on infrastructure has decreased from 3.6 percent of GNP in 1960 to 2.6 percent in 1985;

(4) shortfalls in public investment for infrastructure have been estimated to equal between $17 billion and $70 billion per year;

(5) local governments have become increasingly burdened with financing the construction and maintenance of public works infrastructure and the Federal share of public investment has dropped from 31 percent in 1960 to 27 percent in 1985, while the local share has risen from 41 percent to 49 percent during the same period;

(6) the National Council on Public Works Improvement has recommended that total capital spending on public works infrastructure at all levels of government be doubled;

(7) adequate infrastructure investment is necessary for an efficient and growing domestic economy, international economic competitiveness, and a sustainable standard of living and quality of life in the United States;

(8) the Congress has enacted legislation that will bring to an end both the Federal Clean Water Act construction grants program and the Interstate Highway construction program, which have been the two major Federal commitments to the infrastructure of the last several decades; and

(9) the Nation is at a unique crossroads and must both reevaluate its spending priorities and create new financing mechanisms to address the needs of the future.

(b) The National Infrastructure Corporation created by this Act shall not be considered to be a provider of infrastructure services, but rather a technical and financial resource for the benefit of existing infrastructure providers at all levels. The purpose of this Act is to reaffirm the Federal commitment to investment in the Nation's public works infrastructure, in a manner that will stimulate greater investment by other levels of government and the private sector, by—

(1) creating a National Infrastructure Corporation to finance large, capital-intensive infrastructure projects;

(2) allowing for greater funding of small scale infrastructure projects by freeing capital from existing funding streams that heretofore went to finance these large infrastructure projects;

(3) providing for the leveraging of new and existing infrastructure spending;

(4) developing and promoting the use of innovative technology for public works;

(5) encouraging investment in all different types of public works projects in all parts of the country; and

(6) providing technical, legal, and financial assistance to infrastructure providers of all sizes to allow for the more efficient use of their resources.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the eight other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "Corporation" means the National Infrastructure Corporation.

(4) The term "Director" means a member of the Board of Directors, including the Chairman.

(5) The term "financial assistance" means loans or loan guarantees, except as otherwise provided in sections 13, 14, and 15.

(6) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in section 3 of the Alaska Native Claims Settlement Act.

(7) The term "infrastructure" includes the following:

(A) Highways;

(B) Roads;

(C) Streets;

(D) Bridges;

(E) Appurtenances to the items named in subparagraphs (A) through (D);

(F) Shoreline erosion protection facilities;

(G) Flood control facilities;

(H) Storm sewer and drainage facilities;

(I) Ports and harbors;

(J) Navigation channels and inland navigation facilities;

(K) Water impoundment facilities;

(L) Water collection, treatment, and distribution facilities;

(M) Irrigation facilities;

(N) Sewerage;

(O) Solid waste disposal facilities;

(P) Tunnels;

(Q) Public buildings;

(R) Airports and airport facilities;

(S) Mass transportation; and

(T) High speed surface transportation systems.

(8) The term "loan" means a loan or commitment to loan.

(9) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness.

(10) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

ESTABLISHMENT

SEC. 4. (a) There is hereby established the National Infrastructure Corporation.

(b) The principal office of the Corporation shall be within the District of Columbia, and the Corporation is deemed to be a resident of the District of Columbia.

(c) The Corporation shall be made up of—

(1) a Board of Directors as described in section 5;

(2) an Office of Financial Assistance to administer activities conducted pursuant to section 13;

(3) an Office of Research and Development to administer activities conducted pursuant to section 15;

(4) an Office of Technical Assistance to administer activities conducted pursuant to section 14; and

(5) such other offices, divisions, or departments as are deemed by the Board as necessary to carry out the purposes of this Act.

BOARD OF DIRECTORS

SEC. 5. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this Act.

(2) The Board of Directors shall consist of a Chairman and eight Directors, selected as follows:

(A) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate.

(B) Three Directors shall be appointed by the President as follows:

(i) one Director shall be a governor of a State or the designee thereof,

(ii) one Director shall be a city mayor or the designee thereof, and

(iii) one Director shall be an elected official from local governments or the designee thereof.

(C) Three Directors shall be appointed by the President and shall be individuals who have broad experience in public works and public works finance.

(D) Two Directors shall be the Secretary of Transportation and the Administrator of the Environmental Protection Agency or their designees.

(3) The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

(4) No more than five of these Directors shall be affiliated with the same major political party.

(b)(1) Of the Directors first appointed pursuant to subparagraphs (A), (B), and (C), the Chairman and two Directors shall serve for a term of four years, two Directors shall serve for a term of three years, and two shall serve for a term of two years.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of four years. Whenever a vacancy shall occur on the Board of Directors among the Directors appointed by the President, the President shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director appointed by the President may be removed from office by the President only for neglect of duty or for malfeasance in office.

(c) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States.

(d) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(e)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose—

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, utilities, or land; or

(ii) impede—

(I) the ability of the Corporation to establish infrastructure project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(f) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board and with concurrence of the President.

OFFICERS AND EMPLOYEES

SEC. 6. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish offices and appoint the officers of the Corporation, which shall include—

(A) a Treasurer,

(B) a Director of the Office of Financial Assistance,

(C) a Director of the Office of Research and Development,

(D) a Director of the Office of Technical Assistance, and

(E) other officers the Board deems appropriate;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code, for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided in this Act, Directors, officers, and employees of the Corporation shall not be considered to be Federal employees for purposes of any law of the United States.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 5(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 7. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation and to employees of the Corporation whose compensation is established by the Board of Directors pursuant to section 6 at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as a Federal agency.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his knowledge, the Director or his spouse, minor child, partner, or an organization (other than the Corporation) in which the Director is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the Director is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 5(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integri-

ty of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section, to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 8. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this Act other than those expressly vested in the Board of Directors pursuant to sections 5 and 6. The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this Act to such other full-time Directors, officers, or employees of the Corporation as the Chairman determines appropriate.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the Corporation of any power, function, or authority not expressly authorized by the provisions of this Act, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the provisions of chapter 9 of title 5, United States Code, shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

GENERAL POWERS

SEC. 9. In carrying out the provisions of this Act, the Corporation shall have the power, consistent with the provisions of this Act—

(1)(A) to adopt, alter, and rescind bylaws, rules, and regulations; and

(B) to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities, except that the Corporation shall not provide any financial assistance except as otherwise specifically authorized by this Act;

(3) to lease, purchase, accept gifts or donations of, or otherwise acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and to be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act, in which actions the Corporation will be represented by the Attorney General;

(6) to make provision for and designate such committees, and the functions thereof, as the Board may determine necessary or desirable;

(7) to indemnify such Directors, officers, employees, and agents of the Corporation, as the Board may determine necessary or desirable;

(8) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this Act and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(9) to procure insurance against any loss in connection with the Corporation's property and operations in such amounts and from such insurers as the Corporation determines proper;

(10) to receive capital contributions and to issue capital securities as provided in this Act;

(11) to create, organize, and manage divisions and departments;

(12) to deposit moneys or funds of the Corporation in accounts insured by the Federal Government;

(13) subject to the provisions of this section, any moneys of the Corporation, including the proceeds of the sale of obligations, not required for immediate use by the Corporation, shall be invested in obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or in secured time deposit or other interest-bearing accounts secured by such obligations;

(14) to divest itself at any time of the obligations or equity securities of any applicant—

(A) by refinancing such obligations or equity securities;

(B) by offering such obligations or equity securities for public sale; or

(C) by any other method the Board may provide;

(15) to perform or authorize studies, or prepare or cause the preparation of reports and to convene meetings and conferences, and defray the costs and expenses of the foregoing; and

(16) to exercise all other lawful powers necessarily or reasonably related to—

(A) the establishment of the Corporation;

(B) carrying out the provisions of this Act; or

(C) the exercise of the Corporation's powers, purposes, functions, duties, and authorized activities.

PUBLIC ACCESS TO INFORMATION

SEC. 10. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities, except that the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 5(e) as it pertains to minutes of meetings of the Board of Directors.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as a Federal agency.

AUDITS; RECORDS

SEC. 11. (a) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

(b) The Corporation shall maintain adequate books and records to support its financial transactions. The books shall be maintained in accordance with recommended accounting practices.

ANNUAL REPORTS

SEC. 12. The Corporation shall submit to the President and the Congress, within 2 months after the end of each of the Corporation's fiscal years, a complete and detailed report with respect to such fiscal year, setting forth—

(1) a summary of the Corporation's operations for such fiscal year;

(2) the Corporation's revenues and expenditures for such fiscal year and the Corporation's balance sheet as of the end of such fiscal year, each in accordance with the categories and classifications established by the Corporation;

(3) a schedule of the Corporation's obligations and capital securities outstanding at the end of such fiscal year, with a statement of the amounts issued and redeemed or paid during such fiscal year;

(4) the status of projects receiving funding; and

(5) an updated national priority list, as required by section 13.

FINANCIAL ASSISTANCE FOR NATIONAL OR REGIONAL INFRASTRUCTURE PROJECTS

SEC. 13. (a) The Corporation shall establish a National Infrastructure Revolving Fund (hereafter in this Act referred to as the "Fund") for the purpose of providing low-cost financing to major infrastructure projects. The Fund shall be capitalized in an amount equal to the amount of the capital stock of the Corporation.

(b) The Corporation, through the Fund, is authorized—

(1) to make loans on the condition that—

(A) such loans should be made at or below market interest rates, including interest-free loans,

(B) annual principal and interest payments will commence no later than 1 year after completion of the project,

(C) the recipient of financial assistance demonstrates access to sufficient continuing financial resources to allow for timely repayment of all loans, and to allow for proper short- and long-term maintenance of the facilities to be constructed, including through dedicated revenues and the imposition of user fees, and

(D) the Fund will be credited with all payments of principal and interest on all loans;

(2) to earn interest on fund accounts; and

(3) to deduct a fee for the reasonable costs of administering the Fund and conducting activities under this Act, except that such

amounts shall not exceed 2 percent of Fund receipts in that year.

(c) Financial assistance provided under this section to any major infrastructure project shall not exceed 33 percent of the total project costs necessary to carry out the project.

(d) Applicants for financial assistance must demonstrate that such projects meet the requirements set forth by the Board and meet the rate of return criteria required by the Board in this section.

(e) The Board of Directors shall establish criteria for determining what projects shall be eligible to receive financing, which shall include—

(1) a lower limit on the size of eligible projects, not to be less than $100 million;

(2) what costs shall be eligible for consideration in calculating the total cost of a project for the purposes of this section;

(3) compliance with the definition of infrastructure contained in section 3;

(4) criteria for projects made up of noncontiguous elements, such as regional road improvement plans, where the different elements of such project are well coordinated with one another and are directed toward a common goal;

(5) criteria describing what persons or organizations shall be eligible for financial assistance, such that any portion of any project that will operate on a for-profit basis shall not be eligible for financing by the Corporation or for use in calculating the total cost of a project as required in this section; and

(6) other criteria the Board deems to be appropriate.

(f) The Corporation shall solicit and accept project proposals from public works infrastructure providers as defined by the Corporation, shall place projects approved by the Corporation for financing on a National Priority List, and shall only fund projects on such list.

(g) The Corporation shall develop criteria to rank all approved projects on the National Priority List. In determining the relative priority of a project, the Corporation shall take into account whether the project is eligible for funding from other sources and the likelihood that it will receive such other funding in an amount sufficient to allow the project to proceed.

TECHNICAL ASSISTANCE

SEC. 14. (a) The Corporation shall design and implement a program to provide technical, legal, and financial consulting services to infrastructure providers requesting such services. This program shall include widespread publicity of the services the Corporation can provide within the public works community.

(b) The Corporation is authorized to provide such services and assistance to—

(1) any State;

(2) any political subdivision or governmental entity thereof, including any municipality of any State;

(3) any multistate entity that possesses legal powers necessary to carry out activities under this Act;

(4) any Indian tribe or tribal organization; and

(5) any person, if such services relate directly to the planning and implementation of projects to provide public works infrastructure facilities or services for the general public on a not-for-profit basis.

(c) Such services and assistance shall take the form of—

(1) assistance in obtaining financing for infrastructure projects, either from the Corporation or from other sources;

(2) education and training programs for infrastructure managers;

(3) long-range planning and needs assessments for infrastructure systems; and

(4) technical consulting and decision support services to assist infrastructure providers in designing and infrastructure construction and maintenance programs.

(d) The Corporation shall solicit requests for assistance from individuals and organizations described in subsection (b) through an outreach program.

(e) The Corporation is authorized to expend from the Fund such sums as are necessary to administer such program.

TECHNICAL INNOVATION, RESEARCH, AND DEVELOPMENT

SEC. 15. (a) The Corporation is authorized to design and implement a comprehensive program for research and development and technology transfer of public works infrastructure.

(b) The Corporation is authorized to convene a Research and Development Advisory Committee (hereinafter referred to as the "Committee") to make recommendations to the Board regarding the scope, content, design, and funding of such program. The Committee shall be made up of representatives of—

(1) the National Academy of Engineering;

(2) existing university research programs active in public works infrastructure;

(3) private institutions with active public works infrastructure research and development programs;

(4) major public works providers that would be the potential users of new technologies produced by a research and development program; and

(5) others that the Board deems to be appropriate.

(c) Three percent of annual capitalization shall be available for carrying out the purposes of this section.

CAPITAL STOCK

SEC. 16. (a) The Corporation shall have capital stock subscribed by the Secretary of the Treasury equal to the amount of funds derived from interest earned annually on the balances maintained in the funds described in section 9602(b)(3) of the Internal Revenue Code of 1986, as amended by section 17 of this Act.

(b) The Secretary of the Treasury may subscribe to additional capital stock at any time so authorized by the Congress through the imposition of additional taxes or appropriations of additional funds by Congress.

(c) Five percent of annual capitalization shall be available for research and development, innovation, and technical assistance.

TRUST FUND INTEREST

SEC. 17. Paragraph (3) of section 9602(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) INTEREST ON CERTAIN PROCEEDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the interest on, and the proceeds from the sale or redemption of, any obligations held in a Trust Fund established by subchapter A shall be credited to and form a part of the Trust Fund.

"(B) CERTAIN INTEREST USED FOR NATIONAL INFRASTRUCTURE CORPORATION STOCK SUBSCRIPTION.—The interest on any obligations held in a Trust Fund described in section 9502(a) or 9503(a) shall be available to carry out the capital stock subscription described in section 16(a) of the National Infrastructure Act of 1989.".

By Mr. MOYNIHAN:

S. 221. A bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system; to the Committee on Environment and Public Works.

CONSTRUCTION OF FEDERAL TRANSPORTATION SYSTEMS ON FEDERAL RIGHT-OF WAYS

Mr. MOYNIHAN. Mr. President, I rise to introduce a bill to direct the Secretary of Transportation to issue regulations permitting the construction of magnetic levitation transportation systems along the interstate rights-of-way. Magnetic levitation, or maglev, is a frontier transportation technology. Based on the principles of magnetic attraction and repulsion, vehicles can be propelled in a guideway at speeds approaching 300 miles per hour. Maglev designs may also incorporate the latest in superconductivity technology.

Maglev prototypes have been built and tested. Japanese firms have built a variety of prototypes, spending $1 billion on development over the past 20 years. A German consortium has spent a similar amount. Both the Japanese and Germans are on track to commercialize this technology by the end of the century.

Although the most advanced maglev applications are the work of Japanese and German companies, maglev is an American invention. Scientists at the Brookhaven National Laboratory in Upton, NY, actually invented maglev in the mid-1960's. But in 1975, the Office of Management and Budget and the Department of Transportation considered all non-safety research and development superfluous and ended further maglev research. A shortsighted judgement, indeed! Meanwhile, the maglev industry in Japan and Germany has continued to develop.

There are several advantages to maglev systems that have attracted the attention of the Japanese and Germans. High speeds can be achieved at lower energy levels and with less pollution than airplanes or automobiles. In a report to the U.S. Department of Energy, the Center for Transportation Research at Argonne National Laboratory estimated that maglev trains would use one-fourth the energy of intercity aircraft or automobiles. In addition, noise pollution from maglev would be minimal compared to conventional rail and air transport, since maglev is propelled without engines or friction.

The frictionless propulsion of maglev vehicles has other advantages as well. No mechanical parts means no wear on the vehicle or the guideway.

This suggests operating costs for maglev would be relatively low. In addition, snow, sleet, and ice would not delay operations of maglev lines, since inclement weather would have little impact on the magnetic field propelling maglev. Higher speeds, better reliability and lower operating costs will likely made maglev the defining mode of transportation in the 21st century.

In the United States, serious consideration of maglev has begun on the State level. Nevada, California, Pennsylvania, and Florida have considered maglev systems, and the Coalition of Northeast Governors has investigated a proposal to apply maglev technology to the Boston—New York—Washington, DC, corridor. Other States considering high speed rail systems include Michigan, Ohio, Illinois, Texas, Missouri, New Mexico, Washington, and Georgia. The Federal Government should build on the work the States have begun, and sponsor a national effort to make maglev a part of the interstate transportation network.

If maglev is to be built in the United States, it will require Federal leadership. Maglev is 21st century technology. Because it has not been proven through actual use, the private sector in the United States has not assumed the risk of maglev development. The construction of an interstate maglev network must include the use of the highway rights-of-way. These rights-of-way will be the cornerstone of any new transportation system.

Innovation in our transportation system has been sponsored by the Federal Government since the beginning of the 19th century. The Federal Government supported the construction of 3,200 miles of canals through 1840. Federal land grants provided the key element to railroad companies pioneering the next great wave of transportation history. Recall that railroads were a great boon to American industrialization by providing fast, cheap movement of passengers and cargo. Once again in 1956, the Government undertook the greatest public works project in the history of the United States: building the Interstate Highway System. The latest revolution in transportation, air travel, has been assisted by Government support of airport construction and Government oversight of safety and air traffic.

However, our air routes are clearly overburdened and our highways choked with traffic. The United States has not built a major airport in more than a decade. Maglev provides an answer to our current transportation needs. But a strong Federal Government role will once again be necessary to develop a national maglev system.

The investigation into the feasibility of contructing maglev systems in the United States is underway. The Subcommittee on Water Resources, Transportation and Infrastructure, which I chair, held three hearings during the 100th Congress. In September 1988, the subcommittee announced the establishment of an advisory group—a magnificent group of distinguished scientists, economists, and businessmen which will report to me soon on the application of maglev to the Interstate Highway System. I intend to submit this report to the new administration. I also expect to introduce more detailed legislation when I have had the opportunity to review their report.

In the meantime, we should make sure that the new Secretary of Transportation gives high priority to maglev development. And I believe the introduction of maglev legislation on the first day of the 101st Congress will achieve this goal. The bill I introduce today would require the Secretary of Transportation to issue regulations to permit the use of the interstate highway rights-of-way for maglev. Guideways for maglev vehicles can be built alongside existing highways. The interstate rights-of-way are already in place and paid for. Use of this public land for maglev development should be part of a public-private partnership launching the next transportation revolution.

Only the Federal highway system contains the rights-of-way that are the critical foundation for a national maglev transportation system. The promulgation of regulations by the Secretary of Transportation to permit the use of the interstate rights-of-way for maglev development would be an important first step in our national effort.

I look forward to early action on this legislation, and to working with President Bush and his administration on this important national objective.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds that—

(1) congestion of the Nation's highway system poses serious maintenance problems;

(2) the petroleum-based transportation modes that use the highways pose serious environmental problems, including air and noise pollution;

(3) the additional construction of magnetic levitation systems as part of the highways would relieve existing maintenance problems caused by automotive vehicle use and would relieve environmental hazards such as air and noise pollution; and

(4) the construction of magnetic levitation systems as part of the highways would provide significant opportunities for economic growth and development in various regions throughout the country.

RIGHTS-OF-WAY FOR MAGNETIC LEVITATION SYSTEMS

SEC. 2. Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Rights-of-way for magnetic levitation systems

"The Secretary shall prescribe regulations under which the States will be allowed to use rights-of-way along Federal-aid highways for the construction of magnetic levitation systems as part of the Federal-aid highway system, with particular emphasis in the extent to which such systems affect all aspects of building and maintaining such highways.".

By Mr. MOYNIHAN:

S. 222. A bill to encourage the development of energy plants at the mouth of coal mines, with a specific focus on the economically depressed Appalachian region, by improving the technologies for coal separation and power transmitting using superconductivity; to the Committee on Environment and Public Works.

COAL MINE MOUTH PLANT TECHNOLOGY IMPROVEMENT ACT

Mr. MOYNIHAN. Mr. President, today I am introducing the Coal Mine Mouth Plant Technology Improvement Act of 1989.

This is a bill to promote a new and promising technology for the clean use of coal. And, as we are all aware, by reducing emissions of sulfur dioxide, we can reduce the levels of acid precipitation that are plaguing our country's lakes, streams, and forests, as well as those of our neighbor to the north.

To accomplish these ends, this bill embraces two principles: First, the separation of coal from the impurities it contains in nature prior to combustion using powerful, superconducting magnets, and second, the use of these same superconductors for power transmission cables. This will allow us to locate our power generation plants where coal is mined and distribute power over these new transmission cables to where it is needed.

A system of mine mouth powerplants, as we call them, would have many advantages. It would reduce material handling and transportation costs associated with moving thousands of tons of coal per day across long distances—instead we would move electricity through underground transmission lines. The air emissions associated with these powerplants would be moved away from the urban centers where the power is used—this would reduce the cumulative effects of the many different sources of air pollution near our major urban areas. It is these areas that are not in compliance with Clean Air Act standards and are in need of relief. And even more important, such powerplants would provide good jobs in depressed coal mining areas.

Although this is a new bill, mine mouth power generation is by no means a new idea. In 1961 when I was an Assistant Secretary of Labor, my task was to create jobs in the economically depressed region of Appalachia. One logical approach was the development of mine mouth power generation. Jobs would be created in construction, operation, and maintenance of these plants and supporting infrastructure, and in the mines as well. Urban air pollution would be reduced by relocating emissions away from the cities.

Back then, transmission of electric power over long distances was not economically feasible on this scale. Substantial energy losses during transmission were simply unavoidable. This has changed with the recent advances in superconductivity, and mine mouth power generation is now within our grasp. New discoveries of high-temperature superconductors have opened up new opportunities. Each day new advances are made. Ideas for new applications include power storage and transmission, computer systems, supermagnets, magnetic levitation and propulsion systems, new medical analytical techniques, and even new toys for our children.

Superconductivity will allow power to be generated and stored during off-peak hours then transmitted to urban centers far from the point of generation with only minimal losses. Low-temperature superconductors have been used to develop prototype systems for coal separation and for power transmission. These systems can serve as the foundation for further development and application of high-temperature superconductivity to make this technology a commercially viable alternative for power generation and distribution.

To make this work for us, we need to invest in research and development of this technology. Such is the purpose of this bill. It would authorize funding for research and development of superconductivity in support of coal mine mouth power generation.

ACID RAIN

Prime Minister Mulroney's visit to the United States last spring focused our attention once again on the obstacles to acid rain legislation. We discussed possible solutions to the acid rain problem affecting both of our countries. One solution may be in newly emerging technologies and applications of superconductivity.

In 1979, I introduced the first and to date the only Federal legislation on acid rain to be enacted. This bill, the Acid Precipitation Act of 1980, set in motion a comprehensive 10-year research program that has now firmly established that emissions from coal-fired powerplants are a major contributor to acid rain. Last fall the Environment and Public Works Committee—of which I am ranking majority member—approved legislation to reduce acid rain as a part of comprehensive amendments to the Clean Air Act. We did not succeed in passing a bill in the 100th Congress, but in the 101st we will. Control of acid rain will be a top priority. But we should not lay all our hopes on one piece of legislation.

Acid rain is a complex and only partially understood phenomenon, and is open to many solutions. Among these, any approach that does not unduly threaten both coal and electric generation industries should be seriously considered.

Technology may come to our rescue. To reduce acid rain, we must reduce emission of sulfur into the atmosphere—sulfur dioxide and nitrous oxides are all too quickly converted to acid rain in our atmosphere. Most coal contains significant amounts of sulfur—mostly in the form of magnetically reactive iron pyrite. The idea behind coal separation is to remove sulfur before the coal enters the furnace. In addition, magnetic separation technology offers potential for gas emissions control using molecular gas separation techniques. In this application, gases are differentiated by molecular spins of individual molecules. Powerful superconducting magnets would be used to remove gases such as nitrous oxides from the emissions plume within the stack. By reducing sulfur and eliminating the nitrous oxide emissions, we can significantly reduce acid rain.

SUPERCONDUCTING COAL SEPARATION

The question arises: Why should we pursue development of a new precombustion clean coal technology when conventional coal cleaning techniques are available? The reasons are several.

First and foremost, our most commonly used pollution control technology for sulfur emissions, the flue gas scrubber, is extremely expensive. On a cost per ton of sulfur removed basis, scrubbers run between $350 and $500—at least twice the price of switching to low-sulfur fuels. If we clean coal before we burn it in a cost-effective manner, we can use any coal, not just low-sulfur coal. If we rely on the scrubber as our sole means of controlling sulfur emissions, then coal, our most abundant domestic energy resource, will be replaced by cheaper alternatives, such as natural gas. Scrubbers are very expensive and should be avoided if possible.

This brings us to coal separation. Conventional coal separation uses a wet process that requires supplemental energy to dry the coal before it can be fed into a boiler. The excess moisture resulting from the process also results in energy penalties during combustion.

Superconducting magnetic coal purification avoids these drawbacks. Coal is ground into a fine dry powder that is run through very powerful superconducting magnets. Magnetically reactive sulfur impurities are pulled to one side and separated from the cleaner fractions. The final product is a clean, dry coal power, ready for immediate introduction into the furnace. Dry processing saves valuable time during preparation, separation, and handling. Greater purity may also be achieved through rapid recycling through the magnetic field. Time required for a single cleaning cycle for a prototype unit has been a matter of minutes. As a consequence, multiple cleaning cycles can be run in much less time than necessary for a one-step conventional wet separation process. Estimates for operational costs are about 25 percent of those associated with conventional coal cleaning operations. And cleaner coal means lower plant cleaning and maintenance costs.

NEW SUPERCONDUCTING MATERIALS

This idea has been around for some time, but has not been aggressively pursued. This is due in large part to the large amounts of electricity required for generating such powerful magnetic fields. The new ceramic superconductors that filled our newspapers' headlines much of last year have changed this.

Magnets made with the new, high-temperature superconductors are much stronger than conventional magnets of comparable size, and require only a fraction of the power. Estimates of energy savings are around 75 percent.

Conventional superconductors require liquid helium to adequately cool the superconducting material. This requirement for extremely low temperatures has restricted these materials to application in a few specialized fields. The newer high-temperature materials can be adequately cooled using liquid nitrogen, at a fraction of the cost of liquid helium. In short, this new process holds the promise of being more efficient than conventional coal separation and cheaper than flue gas scrubbers. Quite a bargain.

The bill I am proposing today will allow us to bring this idea to fruition. So far the only existing prototype, located at Argonne National Laboratories, uses preexisting low-temperature superconducting magnets. Such a prototype will be needed to produce data on both operating costs and cleaning efficiencies—information vitally necessary for the commercialization of any new technology of this sort.

Only sustained research and development will allow us to take advantage of this new superconducting technology, overcome technical and safety problems, and ensure the timely availability of this much-needed technology. The bill I am introducing today would authorize $4 million per year

for research and development of magnetic coal separation and magnetic emissions controls, with the ultimate aim of seeing it used at coal-fired mine-mouth powerplants across the country.

The Congress will enact acid rain legislation. It may happen this year, or perhaps next year, but it will happen. We must strive to see that the legislation we do enact deals with all facets of the problem. I hope my colleagues will see the wisdom of using this promising technology to reduce, or more optimistically, eliminate acid rain at its source, and will support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 222

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coal Mine Mouth Plant Technology Improvement Act of 1989".

SEC. 2. STUDY BY THE APPALACHIAN REGION COMMISSION.

(a) STUDY.—The Appalachian Region Commission shall conduct a study of the economic and environmental impacts of locating coal fired power plants utilizing technologies developed pursuant to this Act near coal mines in the Appalachian region. The study shall include criteria for selecting appropriate mines and a list of appropriate mines.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Appalachian Region Commission shall report to Congress the findings and conclusions of the study conducted pursuant to subsection (a).

SEC. 3. RESEARCH OF TECHNOLOGIES TO IMPROVE COAL MINE MOUTH PLANT FEASIBILITY AND MAGNETIC SEPARATION TECHNIQUES USING SUPERCONDUCTIVITY.

(a) AUTHORIZATION TO CONDUCT RESEARCH.—The Secretary of Energy shall—

(1) conduct research and development through the Department of Energy; and

(2) enter into cooperative research and development agreements with public and private researchers, to promote the development of high temperature superconductivity technologies to be utilized for the production of power at coal mine mouth plants and the development of clean coal technologies as provided in subsection (b).

(b) TECHNOLOGIES—The research and development authorized by subsection (a) shall focus on 2 specific technologies as follows:

(1) High temperature superconductivity transmission cables to be used to conduct reserve or active power to cities, and

(2) Magnetic Coal separation techniques to be utilized to develop and improve magnetic coal separation and magnetic emissions control technology.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) APPALACHIAN REGION COMMISSION STUDY.—There are hereby authorized to be appropriated such sums as are necessary to carry out the study authorized in section 2.

(b) RESEARCH OF TECHNOLOGIES.—There are hereby authorized to be appropriated—

(1) for research described in section 3(b)(1), $2,000,000 for each fiscal year 1991 through 1995.

(2) for research described in section 3(b)(2), $2,000,000 for each fiscal year 1991 through 1995.●

Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. DODD, and Mr. KASTEN);

S. 223. A bill to establish a grant program for research, treatment and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

COMPREHENSIVE LYME DISEASE ACT OF 1989

Mr. MOYNIHAN. Mr. President, I rise today at the outset of the 101st Congress, to introduce the Comprehensive Lyme Disease Act of 1989, designed to control the spread of Lyme disease. My colleague from New York, Congressman HOCHBRUECKER, has sponsored this measure in the House of Representatives. Allow me to provide Senators with some background on the disease, and why I believe this measure is worthy of their full support. Although Lyme disease was first officially reported just 14 years ago in Lyme, CT thus, its curious appellation—it has fast become the most common tick-borne disease in the United States. If treated early, the disease can be cured by antibiotic therapy; however, early diagnosis is often thwarted by Lyme disease's pernicious resemblance to the flu and other much less dangerous ailments. Indeed, without early treatment, a victim of Lyme disease can expect meningitis, heart disease, encephalitis, paralysis or even, albeit in rare cases, death.

The Centers for Disease Control [CDC] report 6,000 cases of Lyme disease through 1986; however, the CDC indicates that because the existence of the disease is not widely known, there have been many more cases which have gone unreported, undiagnosed, and worse, untreated. Further, although the CDC has no hard data on the number of cases of Lyme disease in 1987 and 1988, the CDC does report a precipitous rise in the number of cases in the last 2 years.

My own State of New York, which has been the hardest hit, tells the tale. The number of cases reported to the New York State Department of Health in 1988 increased threefold over the number reported in 1987. In 1987, 877 cases were reported in NYS. As of December 16, 1988, 2,678 cases had been reported in 1988 alone—well over one-third of all cases reported to the CDC through 1986 in 1 year, indeed, in one State. Yet, Mr. President, this is not an epidemic confined to my home State—far from it. Lyme disease has now been reported in over 30 States. Clearly, action must be taken to prevent this menace from spreading even further.

The measure I introduce today expands upon a measure I introduced in the 100th Congress. Specifically, the Comprehensive Lyme Disease Act of 1989 will provide $2.5 million per year over 3 years in grants to public and nonprofit private entities for Lyme disease research and treatment programs. Further, this legislation will provide $1 million per year in grants to public and nonprofit private entities to assist in providing information on the diagnosis, prevention, and control of Lyme disease.

Last year, Congress passed, and the President signed, a resolution I sponsored designating July 24-30, 1988 "Lyme Disease Awareness Week." I was pleased that my colleagues joined with me in support of that measure; however, it will take more than merely a week of awareness to stem the growth of Lyme disease and halt the suffering it brings. Therefore, I urge my colleagues to join with Senator D'AMATO, DODD, and KASTEN in support of this measure, which will provide real help.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this time.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Lyme Disease Act of 1989".

SEC. 2. ESTABLISHMENT OF GRANT PROGRAM FOR RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding at the end the following new section:

"RESEARCH, TREATMENT, AND PUBLIC EDUCATION WITH RESPECT TO LYME DISEASE

"SEC. 320A. (a) The Secretary may make grants to public and nonprofit private entities to assist such entities in carrying out programs of research, treatment, and public education with respect to Lyme disease.

"(b)(1) With respect to programs of research and treatment, subsection (a) shall be carried out by the Secretary, acting through the Director of the National Institutes of Health.

"(2) With respect to programs of public education, subsection (a) shall be carried out by the Secretary, acting through the Director of the Centers for Disease Control.

"(c) The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(d)(1) For the purpose of carrying out programs of research and treatment under subsection (a), there is authorized to be appropriated $2,500,000 for each of the fiscal years 1990 through 1992.

"(2) For the purpose of carrying out programs of public education under subsection (a), there is authorized to be appropriated $1,000,000 for each of the fiscal years 1990 through 1992.".

Mr. D'AMATO. Mr. President, I rise today to reaffirm my support for combating Lyme disease as an original cosponsor of legislation introduced by my colleague, Senator MOYNIHAN. This legislation is similar to a bill that was introduced last year, S. 2466. While that bill died upon adjournment, I remain hopeful that Congress will pass this bill in the 101st Congress, making funds available to fight this disease.

The bill we are introducing today will establish a program of grants for the research, treatment, and public education with respect to Lyme disease. I feel that the passage of this bill will facilitate a greater recognition of the symptoms of Lyme disease among the general public, and hopefully, will lead to a cure.

This debilitating disease was first diagnosed 14 years ago in Lyme, CT. A tick-borne disease, Lyme disease has spread to 34 States from coast to coast and has already reached epidemic proportions in some States. In my home State of New York, 877 cases were reported to the department of health in 1987. For 1988, the number of new cases is expected to climb past 2,600. Through 1987, more than 8,500 cases of Lyme disease had been reported to the Centers for Disease Control nationwide. Preliminary estimates from the CDC put the number of new cases for 1988 at 5,700 nationwide.

The symptoms of Lyme disease are often hard to place due to their close resemblance to a host of other ailments. The early symptoms of Lyme disease often include a rash at the site of the tick bite accompanied by a fever, headaches, stiff neck, and muscle aches. Often, these relatively common physical symptoms are ignored by persons who feel that nothing is seriously wrong. However, if left untreated, Lyme disease can cause meningitis, heart disease, paralysis, encephalitis, arthritis, and in extremely rare cases, it may cause death. The real tragedy is that treated early, Lyme disease is easily cured. It is obvious that something must be done to stem the spread of this public health threat.

I believe that this new legislation will help greatly to curtail Lyme disease. Our bill will provide $2.5 million in grants each year through fiscal year 1992 to assist in the diagnosis, prevention, and control of Lyme disease. This will help doctors and other health care professionals to recognize and treat the symptoms of this disease. Also, $1 million each year through fiscal year 1992 will be made available to inform the public about the threat of Lyme disease, and the means to prevent it. Mr. President, I support this bill wholeheartedly, and I urge my colleagues to join me in cosponsoring it.

By Mr. MOYNIHAN:

S. 224. A bill to amend title II of the Social Security Act to waive, for 5 years, the 24-month waiting period for Medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome [AIDS], and for other purposes; to the Committee on Finance.

WAIVER OF MEDICARE BENEFITS WAITING PERIOD FOR AIDS

Mr. MOYINHAN. Mr. President, I rise at the outset of the 101st Congress to introduce legislation to ease the suffering of those battling the acquired immune deficiency syndrome, more commonly known as AIDS.

Despite recent actions taken at the Federal level, it is regrettably clear that the fight against AIDS is only beginning. AIDS poses a threat to all sectors of our society: men and women, homosexuals and heterosexuals, adults and children. For each of these groups, the number of AIDS-related deaths is growing at an astounding rate. Two years ago, when I first introduced this legislation, I cited the following figures:

According to the Centers for Disease Control [CDC], as of December 31, 1986, there have been 29,003 cases of full-blown AIDS reported in this country and of those 29,003, 16,301 have died.

Well, Mr. President, I have a sobering fact to report: in the first 11 months of 1988 alone, there were more new AIDS cases reported to the CDC as in all years through 1986 combined. Further, the death toll has risen 270 percent in just 2 years. To wit, as of December 1988, more than 80,000 cases of AIDS were reported to the CDC, over 30,000 of them in 1988 alone. Of those 80,000 people, some 45,000 died due to the ravages of opportunistic diseases such as pneumonia and Kaposi's sarcoma, which prey upon immune systems weakened by the AIDS virus. The city of New York has been hardest hit. One in five of all people who have tested HIV-positive call the New York City area home.

We responded to this crisis in a variety of ways last year. President Reagan's Commission on AIDS issued its final report, replete with recommendations for constructive action. We passed the Health Omnibus Extension of 1988 (Public Law 100-607), title II of which provided increased funding for AIDS research, education, and prevention. We also established a National Commission on Acquired Immune Deficiency Syndrome, charged with "promoting a national consensus on policy concerning acquired immune deficiency syndrome and of studying and making recommendations for a consistent national policy concerning AIDS."

Despite these actions, we have yet to solve a fundamental problem confronting those with the syndrome; namely, the lack of adequate health insurance coverage for disabled AIDS patients.

AIDS patients face two barriers when trying to obtain health coverage. First, they face discrimination. More and more, health insurance companies deny benefits to those who have tested HIV-positive. This fact should not surprise, for it has been well documented. Senators may recall that several months ago, on the CBS program "60 Minutes," Harry Reasoner chronicled the difficulties AIDS patients face in obtaining, and, in many cases, retaining health care coverage. Many who have tested HIV-positive have been socked with enormous premium increases, forcing them to give up health insurance coverage entirely.

Second, AIDS patients who have become disabled, like other disabled citizens, must wait 29 months after the onset of a disabling condition before becoming eligible for Medicare coverage. Under the Social Security Disability Insurance [DI] Program, a disabled individual may begin to receive cash benefits 5 months after the onset of a disabling condition. Two years—24 months—after the 5-month waiting period for cash benefits expires, if the disability continues, the individual becomes eligible for Medicare. The Medicare waiting period was established primarily to ensure that Medicare does not overlap with the disabled individual's private health insurance coverage.

Unlike most other DI beneficiaries, however, the AIDS patient simply cannot wait 29 months—almost 2½ years—for health insurance coverage after the onset of opportunistic diseases like Kaposi's sarcoma or pneumonia. The average life expectancy of an AIDS patient, from the date of diagnosis, is between 11.2 and 13 months. In short, Mr. President, the chances of an AIDS patient surviving the waiting period are slim. Given that AIDS patients are increasingly denied private health insurance coverage, we offer them little choice but to impoverish themselves by spending down to the level of Medicaid eligibility in order to obtain the coverage they need.

The legislation I introduce today would waive the 24-month Medicare waiting period for DI beneficiaries with AIDS. Justice and compassion demand that we do this. Justice because these individuals have worked and paid Social Security taxes, thus insuring themselves, indeed, entitling themselves to Medicare benefits before they die. Compassion because

there is to date no cure for this disease. AIDS patients are condemned to death with little hope. The least we can do is care for those so cruelly stricken, without requiring them to become paupers in their final days.

I urge my colleagues to join with me in sponsoring this important legislation. Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 5-YEAR WAIVER OF 24-MONTH WAITING PERIOD FOR MEDICARE ELIGIBILITY FOR INDIVIDUALS WITH AIDS.

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h)(1) Subject to paragraph (2), in the case of an individual who is medically determined to have acquired immune deficiency syndrome (AIDS) and who files an application for hospital insurance benefits under part A of title XVIII pursuant to this subsection, subsection (b) shall be applied as if—

"(A) in paragraph (2)(A), ', and has for 24 calendar months been entitled to,' were deleted;

"(B) in paragraph (2)(B), ', and has been for not less than 24 months,' were deleted;

"(C) in paragraph (2)(C)(ii), ', including the requirement that he has been entitled to the specified benefits for 24 months,' were deleted;

"(D) in the matter in the first sentence following subparagraph (C), 'first month' were substituted for 'twenty-fifth month'; and

"(E) in the second sentence, 'twenty-fourth' were deleted.

"(2) Paragraph (1) shall not result in an individual becoming entitled to hospital insurance benefits under part A of title XVIII for any month before the first month in which the individual both—

"(A) is medically determined to have acquired immune deficiency syndrome, and

"(B) has filed an application under paragraph (1).

"(3) For purposes of this subsection, an individual will be presumed to have acquired immune deficiency syndrome (AIDS) if the individual has been diagnosed, in accordance with standards established by the Secretary after consultation with the Director of the Centers for Disease Control, as having such disease.".

(b) EFFECTIVE DATE AND 5-YEAR SUNSET.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins more than 45 days after the date of the enactment of this Act and shall apply to services furnished during the five-year period beginning on that first day.

By Mr. MOYNIHAN:

S. 225. A bill to amend title XIX of the Public Health Service Act to provide for the construction of community health centers, and for other purposes; to the Committee on Finance.

S. 226. A bill to amend title XVI and title XIX of the Social Security Act to provide for improved mental health care for the chronically mentally ill and the homeless mentally ill, to prevent homelessness among the chronically mentally ill, and for other purposes.

COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION ACT

Mr. MOYNIHAN. Mr. President, framed on the wall on my Third Avenue street office in New York City is a pen President Kennedy presented to me when he signed the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. The pen is a reminder of our start back then to move the mentally ill out of large State hospitals and into the community. We made a promise in 1963 to do this.

But the homeless mentally ill, 25 to 50 percent of the homeless population living on our city streets, are living proof that promise was not kept. For this reason, as we begin the 101st Congress, I am introducing today the Community Mental Health Centers Construction Act of 1989 and the Community Mental Health Services and Homelessness Prevention Act of 1989. These measures will fulfill the promise we made 25 years ago to treat the mentally ill within the community and not in large, impersonal hospitals.

The idea of moving mentally ill patients out of hospitals and into the community — deinstitutionalization — has long had wide support, going back to the late 1950's and early 1960's. Pressure to reform our treatment of the mentally ill began to build after the establishment of the Joint Commission on Mental Illness and Health under President Eisenhower in 1955. At the time the Joint Commission began its work three out of every four persons treated for mental illness were inpatients, and there were approximately 559,000 residents in State mental hospitals. In New York alone, the resident population of the State's mental hospitals had reached an all-time high of 93,600 persons, double that of a generation earlier.

In 1961, the Joint Commission published its report, "Action for Mental Health." Recommendations included a change in policy—take the mentally ill out of psychiatric hospitals and care for them in their communities, and provide Federal financial assistance to the States to see this change through.

Political support for these changes was already developing. The year before, in 1960, the Democratic Party endorsed the Joint Commission's preliminary findings in its platform:

> Mental patients fill more than half the hospital beds in the country today. We will provide greatly increased federal support for psychiatric research and training, and community mental health programs to bring back thousands of hospitalized mentally ill to full and useful lives in the community.

President Kennedy made good on his party's commitment. He called for the development of a Federal program to improve care for the mentally ill, and in 1962 established an Interagency Task Force on Mental Health to respond to the Joint Commission's recommendations. As a young special assistant to Secretary of Labor Goldberg in President Kennedy's administration, it fell to me to draft the report of the President's Interagency Task Force on Mental Health.

We produced recommendations in 1962. We said we needed a system of community mental health centers to care for the mentally ill—500 such centers by 1970—and that Federal funding was needed to get the centers going. The Federal Government would shoulder part of the responsibility of funding construction of the new centers, initial staffing, research in the field of mental illness and education of mental health professionals. These recommendations became the basis for President Kennedy's February 5, 1963, special message to Congress on mental health in which he called for the "inauguration of a wholly new emphasis and approach to the care of the mentally ill," the centerpiece of which was to be "comprehensive community care." The President further noted that:

> Merely pouring Federal funds into a continuation of the outmoded type of institutional care which now prevails would make little difference. We need a new type of health facility, one which will return mental health care to the main stream of American medicine, and at the same time upgrade mental health services.

Congress responded to the President's message, and on October 31, 1963, a little over 3 weeks before his death, President Kennedy signed the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 into law. Title II of the act authorized $150 million for grants to the States for the construction of community mental health centers. At this time, the number of residents in public mental hospitals had declined from 559,000 in 1955 to 504,000.

Why were we so hopeful? In part, the discovery of psychotropic drugs to control mental illness could enable many patients to lead their lives outside the hospitals where they had been warehoused.

However, drugs alone would not suffice: Proper care had to be provided to the mentally ill in the community. What patients received under one roof in the State hospitals—housing, food, showers, laundry, medications, and personal safety—needed to be provided by a variety of community organizations. Drugs could enable a mentally ill person to leave the hospital but

only so long as that medication was taken regularly. Someone had to keep track of these patients to ensure they took their medication, paid their rent and if they were employed, showed up at work. Community mental health center staff could perform this function and provide medical and psychological counseling. The presence of so many homeless mentally ill on our streets may be traced directly to our failure to fully provide these services.

For example, in 1962, I said we needed to build 2,000 community mental health centers by 1980 to provide services all over the Nation—that meant one center for every 100,000 citizens. Yet fewer than half the required number of centers were built. Between 1965 and 1977, 4.7 million patients were released from the Nation's mental hospitals. At least 25 percent of those discharged were eventually readmitted, either in that same year or a subsequent one. The other 75 percent were released into the community and many comprise our homeless population today.

Why? Because the necessary counseling and services were not available in the community. Hence, many who might have led a life outside an institution returned in search of help they could not find in their communities; many others are found wandering our city streets.

For all those released during those years, approximately 800 mental health centers were built around the country. Not even half the amount we thought necessary in 1962.

A prime example is New York City. In New York State alone, from 1965–77, 126,000 patients were discharged from State mental hospitals to the New York City area. To accommodate these patients, New York City should have 73 community mental health centers, instead we only have 14. New York State should have 170 centers, but we only have 43.

I also said we needed to train three times the existing number of doctors, nurses, social workers, and psychologists and psychiatrists by 1980 to staff the new centers. We didn't meet that goal, either. The number of psychiatrists—needed to prescribe and monitor medication for the severely mentally ill—did not even double. And over the years, psychiatrists as a percentage of center staffs declined.

Clearly, we never gave the community mental health centers the stable Federal funding necessary to match our expectations. Indeed, in 1981 the Mental Health Systems Act, the successor to the Community Mental Health Center Program, was repealed, and replaced by the Alcohol, Drug Abuse, and Mental Health Block Grant, which specifically prohibited the use of these funds for the construction of community mental health centers. Nor did the States step in to fill this funding void. Consequently, many necessary services were never funded. Now the homeless mentally ill have become a national shame, pointed to by the Soviets as an example of how our system has failed. It is time we turned to this issue once again and complete the project we began 25 years ago. That is what the bills I introduce today are all about.

COMMUNITY MENTAL HEALTH CENTER CONSTRUCTION GRANTS

First, the Community Mental Health Centers Construction Act reestablishes community mental health center construction grants. Such a program will enable us to build or renovate the facilities that provide the mentally ill with the services necessary to enable them to function in their communities. Federal support for the staffing and maintenance of these community mental health centers is also provided. Because much of our homeless problem was caused by our failure to build community centers sufficient to care for those released from our mental hospitals, the legislation also requires that at least half the services to be provided through these centers target the homeless mentally ill population.

MEDICAID COVERAGE OF HOME AND COMMUNITY-BASED SERVICE

Second, unless a specific waiver is granted, Medicaid pays only for hospital or inpatient care for the mentally ill, not outpatient and rehabilitative services offered in a community setting. This is both needlessly expensive and inefficient, and creates an improper bias in favor of large institutional care over community based services. If we are to provide effective mental health services within the community, especially to the poor and homeless, it is absolutely critical that Medicaid coverage be expanded on a universal basis to cover a wide range of home and community based mental health and social and rehabilitative services. The Community Mental Health Services and Homelessness Prevention Act would do just that.

INCOME SUPPORT FOR THE CHRONICALLY MENTALLY ILL

Mental illness is often episodic. Consequently, the mentally ill may be temporarily hospitalized for varying periods of time. Unfortunately, if one is hospitalized for more than 30 days, a not unusual occurrence for the chronically mentally ill, one loses his SSI benefits. Then, when the patient is released to the community, he has no income, may lose his home and become homeless. Current law must be changed to eliminate these artificial restrictions that deny benefits to the mentally ill. The Community Mental Health Services and Homelessness Prevention Act does so by extending SSI coverage for the first 6 months of hospitalization.

It is also necessary to eliminate delays in determining disability for purposes of SSI payments. This legislation establishes a presumption of disability for the chronically mentally ill, including those about to be discharged from an institution, thus eliminating delays that can destroy their prospects for survival in the community.

Because the mentally ill need not—indeed, should not—be relegated to institutions that cut them off from their home communities, we are dutybound to give them the care and resources they need to live in their communities. The tragedy of many of today's mentally ill homeless is that we know how to make their lives better—and we began in 1963 to do just that. But we failed.

Now we have recognized our responsibility to begin again—so that this senseless situation will not be repeated.

I ask unanimous consent that my statement and the full texts of the two bills be entered in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Mental Health Centers Construction Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in 1955 Congress established a Joint Commission on Mental Illness and Health to provide an "objective, thorough, and nationwide analysis and reevaluation of the human and economic problems of mental illness and at that time three out of every four individuals treated for mental illness were institutionalized with a total of some 559,000 individuals in public mental hospitals;

(2) in 1960, the Joint Commission report, "Action for Mental Health" recommended that the mentally ill be cared for in the community, and that Federal financial assistance be provided to the States to accomplish this;

(3) in 1962, President Kennedy established the Interagency Task Force on Mental Health, and the Task Force recommended that Federal aid should be provided to assist States in constructing a nationwide network of such centers;

(4) in 1963 the Kennedy Administration recommended before Congress that a goal, by 1980, of one community mental health center per 100,000 individuals, or 2,000 such centers nationwide, be established, and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 began the Federal commitment to build this nationwide network of community mental health centers;

(5) in 1967 Congress specifically reaffirmed the goal of having a nationwide network consisting of 2,000 community mental health centers in place by 1980;

(6) the mentally ill were to receive treatment, not from large institutions, but from community mental health centers to be built with the assistance provided as a result of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 and subsequent legislation;

(7) however, the total number of community mental health centers, which could provide mental health services in the community, that have been built with the help of the Federal government up to the present time is only 768;

(8) even so, from 1963 to 1980 the number of residents in public mental hospitals declined from 505,000 in 1963 to 150,000 in 1980; and

(9) even so, as a result of the Federal government's failure to meet its commitment to build 2,000 community mental health centers by 1980, many of the nation's mentally ill individuals cannot be adequately cared for in the community, and today such individuals comprise at least ⅓ of the homeless population of the United States.

(b) PURPOSE.—It is the purpose of this Act to—

(1) restate the commitment began by the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 to build one community mental health center for every 100,000 individuals;

(2) provide the funding necessary to meet the commitment to build a community mental health center for every 100,000 Americans; and

(3) provide mental health services to homeless mentally ill and chronically mentally ill individuals.

SEC. 3. MENTAL HEALTH CONSTRUCTION BLOCK GRANTS.

Title XIX of the Public Health Services Act (42 U.S.C. 201n et seq.) is amended by adding at the end thereof the following new part:

"PART D—MENTAL HEALTH CONSTRUCTION BLOCK GRANTS

"SEC. 1930. DEFINITIONS.

"As used in this part:

"(1) COMMUNITY MENTAL HEALTH CENTER.—The term 'community mental health center' means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, including homeless mentally ill and chronically mentally ill patients, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community or communities in or near which the facility is situated.

"(2) CONSTRUCTION.—The term 'construction' includes construction of new buildings, expansion, remodeling, and alteration of existing buildings and the initial equipment of any such buildings (including medical transportation facilities, and architect's fees), but excludes the cost of off-site improvements and the cost of the acquisition of land.

"(3) STATE.—The term 'State' includes the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"SEC. 1931. COMMUNITY MENTAL HEALTH CENTER CONSTRUCTION GRANTS.

"(a) IN GENERAL.—For each of the fiscal years 1990 through 1994, the Secretary, in consultation with the National Institute of Mental Health, shall make allotments to States from the sums appropriated under subsection (f), to assist such States in constructing community mental health facilities.

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—The Secretary shall allot to each State an amount that bears the same ratio to the total amount available as the number of individuals residing in a State, bears to the total number of individuals residing in all States.

"(2) MINIMUM AMOUNT.—No State shall receive an allotment of less than $250,000.

"(3) USE OF AMOUNT.—Funds allotted to a State under this subsection shall be used for the purpose of—

"(A) building or renovating structures that shall be used as community mental health centers; and

"(B) providing for the adequate staffing and maintenance of community mental health centers that have been constructed or renovated using funds provided under this section.

"(4) LIMITATION.—At least 75 percent of the funds allotted to a State under this subsection shall be used to provide services for the homeless mentally ill and chronically mentally ill.

"(5) MATCHING FUNDS.—In order to be eligible for an allotment under this subsection the State must certify that it will provide matching funds in an amount equal to such amount.

"(6) DATA.—The Secretary shall obtain from the Bureau of the Census and any other appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in this subsection.

"(c) APPLICATION.—

"(1) IN GENERAL.—In order to receive an allotment for a fiscal year under this section each State shall submit an application to the Secretary.

"(2) FORM.—An application submitted under this subsection shall be in such form, contain such information, and be submitted by such date as the Secretary shall require.

"(d) REALLOTMENTS.—Any portion of the allotment to a State under subsection (b) that the Secretary determines is not used by a State in the period that the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotment to such States.

"(e) DISTRIBUTION OF FUNDS.—The Secretary shall make the State allotment available to the Governor of such State who shall distribute such funds.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary in each of the fiscal years 1990 through 1994.

"(g) ADMINISTRATION.—A State shall not use more than 10 percent of the funds allotted to such State under this section for administrative expenses."

S. 226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Mental Health Services and Homelessness Prevention Act of 1989".

SEC. 2. SUPPLEMENTAL SECURITY INCOME PROVISIONS.

(a) EXTENDED ELIGIBILITY PERIOD FOR INSTITUTIONALIZED INDIVIDUAL WHO MAY RETURN HOME.—

(1) Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended by adding at the end thereof the following new subparagraph:

"(G) Notwithstanding subparagraph (B), the amount of the benefit payable under this title which is necessary to maintain a residence shall be payable to an eligible individual or eligible spouse (if any) described in such subparagraph (B) for the first 6 months in which such individual or spouse is in such facility if such individual—

"(i) is a chronically mentally ill individual (as defined by the Secretary in regulations);

"(ii) is reasonably expected to be a patient at such a facility for a period of 6 months or less, as certified by a physician; and

"(iii) has a residence to which he is expected to return upon discharge from such facility.".

(2) Section 1611(e)(1)(A) of such Act (42 U.S.C. 1382(e)(1)(A)) is amended by striking "and (E)" and inserting "(E), and (G)".

(3) Section 1611(e)(1)(B) of such Act (42 U.S.C. 1382(e)(1)(B)) is amended by striking "In any case" and inserting "Except as provided in subparagraph (G), in any case".

(b) PRESUMPTIVE DISABILITY.—Section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end thereof the following new subparagraph:

"(H) Any individual shall be presumed to be disabled for purposes of this title if such individual does not have earnings which exceed the level established pursuant to subparagraph (D), and is certified by a State mental health agency as being—

"(i) a chronically mentally ill individual (as defined by the Secretary in regulations);

"(ii) about to be discharged from an institution, at imminent risk of being institutionalized, or homeless; and

"(iii) willing to participate in a plan of care pursuant to regulations of the Secretary.".

SEC. 3. MANDATORY COVERAGE OF HOME AND COMMUNITY-BASED SERVICES UNDER MEDICAID.

(a) IN GENERAL.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(1) by striking "services, and" and inserting "services,"; and

(2) by inserting before the semicolon the following: ", and (C) qualified home and community-based services".

(b) DEFINITION.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'qualified home and community-based services' means the following items and services furnished in the home of an individual or in an appropriate community setting (as defined by the Secretary) under a written plan of care developed for the individual:

"(1) Psychiatric and psychological counseling and referral services.

"(2) Day treatment activities.

"(3) Habilitation and rehabilitation services.

"(4) Supervised living arrangements (but not including the cost of room and board).

"(5) Foster care.

"(6) Vocational and prevocational services.

"(7) Respite care.

"(8) Day care and day hospitalization.

"(9) Mental health clinic services.

"(10) Crisis intervention services.

"(11) Outpatient medical mental health services (including psychotherapy and drugs for treatment of mental illness).

"(12) Such other items and services prescribed by the Secretary in regulations as

are necessary to achieve comprehensive home and community-based care.".

(c) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall apply with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the date of enactment of this Act without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) STATE LEGISLATION.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 227. A bill to amend title XVIII of the Social Security Act to exempt certain small rural hospitals from the prospective payment system; to the Committee on Finance.

EXEMPTION OF SMALL RURAL HOSPITALS FROM PROSPECTIVE PAYMENT SYSTEM

Mr. MOYNIHAN. Mr. President, last year I sponsored legislation to encourage physician training in rural hospital settings. Although manpower concerns are of particular interest to these institutions, the current reimbursement system has created a far greater danger to their survivability. Rural hospitals are under stress for a number of reasons.

First, rural hospitals are generally smaller than their urban and suburban counterparts and have fewer patients within each diagnosis-related group [DRG]. One or two exceptionally costly cases can quickly skew a facility's average cost. As a consequence, there is often very little relationship between the cost of providing care in a rural hospital and the Medicare DRG payments.

Second, rural hospitals generally experience both lower occupancy rates and more variation in occupancy than urban and suburban facilities. Discharging or admitting two or three patients can dramatically affect the occupancy rate of a rural hospital. In contrast, the occupancy rates of urban and suburban hospitals remain relatively constant. Moreover, rural hospitals do not have the flexibility to adjust staffing and other expenses to reflect sudden or radical changes in occupancy. The PPS does not reflect these types of variations.

The demographic trends show a population in continued decline with a high proportion of elderly persons, and a dwindling tax base that is a direct result of declining industries such as farming. The rural hospital must care for this aging population through medical assistance programs—Medicare and Medicaid—and limited support from local government. Meanwhile pressures continue to mount—while overall utilization and declining services for the elderly are increasing. The rural elderly like their urban counterparts are living longer, experiencing acute illnesses that require longer hospital stays. Unfortunately, reimbursement under Medicare for these longer stays is insufficient. Indeed, many hospitals are closing their doors and communities are being left without health care services. This is becoming an intolerable situation.

Our current system for reimbursing hospitals is predicated on the average cost of treating different types of patients; however, PPS is unable to adequately reflect the actual costs incurred by rural hospitals. Therefore, I am proposing the following:

First. Rural hospitals with less than 150 beds can be exempt from PPS. However, once a hospital chooses to be exempt from PPS, it cannot return to PPS.

Second. In computing payments to those rural hospitals exempt from the PPS, the Secretary will compute the hospital's target amount utilizing the first complete cost reporting period beginning on or after June 1, 1986.

Third. The target amount will be increased by the applicable percentage increase specified by law for hospitals exempt from the PPS.

This legislation is intended to provide rural institutions with a reimbursement methodology that will reflect more accurately their individual circumstances.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FROM THE PROSPECTIVE PAYMENT SYSTEM FOR CERTAIN SMALL RURAL HOSPITALS.

(a) IN GENERAL—Section 1886(d)(1)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) by striking "or" in clause (iii);

(2) by redesignating clause (iv) as clause (v); and

(3) by inserting after clause (iii) the following new clause:

"(iv) a hospital that has less than 150 beds and is located in a rural area (as defined in section 1886(d)(2)(D), or".

(b) TARGET AMOUNT.—In determining the initial target amount under section 1886(b)(3)(A)(i) for hospitals that have less than 150 beds and that are located in a rural area (as defined in section 1886(d)(2)(D) the Secretary of Health and Human Services shall compute the target amount for such hospitals utilizing the first complete cost reporting beginning on or after June 1, 1986.

(c) Effective Date.—The provisions of this section shall become effective with respect to payments made on or after January 1, 1990.

By Mr. MOYNIHAN:

S. 228. A bill entitled the "Intravenous Substance Abuse and AIDS Prevention Act of 1989"; to the Committee on Labor and Human Resources.

INTRAVENOUS SUBSTANCE ABUSE AND AIDS PREVENTION ACT

Mr. MOYNIHAN. Mr. President, I rise today, at the outset of the 101st Congress, to introduce the Intravenous Substance Abuse and AIDS Prevention Act of 1989.

Since June 1981, over 45,000 people have died of AIDS. More than 80,000 cases of AIDS have been reported to the Centers for Disease Control [CDC], and of these, 20 percent have resulted from intravenous drug use. According to the CDC, over half of all intravenous drug users are infected with the AIDS virus.

It is not only the intravenous drug users themselves that are contracting AIDS. They are spreading AIDS to their sexual partners and children. All these people will die. More than half of all AIDS-related deaths in New York City occur among intravenous drug users, of whom New York has a population of 250,000. Nationwide, over 1,000 children have contracted the AIDS virus from their mother, and the number born with the disease is growing daily. Two percent of children born in the Kings County Hospital in Brooklyn, NY, test positive for HIV. Half will die.

The epidemic of AIDS has been in part fueled by a second, equally virulent epidemic: drug abuse. Together, both epidemics have placed a shadow over our future. Young people everywhere are endangered, and dying, but, most viciously, the young people of the inner cities. The violence associated with drug use and the deaths associated with AIDS could reshape American society. Single parent families could become no-parent families: a devastating prospect already taking shape.

Though the threat of AIDS may be frightening some users away from heroin, there has been no measurable decline in use. According to the New York State Division of Substance Abuse Services the high produced by the stimulant drug crack leads to such feelings of paranoia and irritability that crack addicts take heroin to reduce the sensation. One drug is being used to kill the pain caused by another drug, leading inevitably to more pain.

And in shooting galleries in our Nation's cities, young addicts, male and

female alike, trade sex for drugs, passing the diseases of addiction and AIDS from victim to victim in a deadly cycle. In Covenant House, a New York City home for homeless youth, 10 percent of 19- and 20-year-olds test positive for AIDS, the result of this tragic intersection of drug use, prostitution, and homelessness.

It is an essential fact that most users of the hardest drugs, like heroin and crack, are not easily frightened. They do not do what they do for pleasure. Lawyers do not shoot heroin at parties. David Musto, an expert on drug abuse at the Yale Medical School, argues that we now have a two-tier system of drug abuse. The middle and upper classes are being frightened away from the use of hard drugs, which is becoming concentrated among the urban poor. In 1987, over 50 percent of all callers to the National Cocaine Helpline were unemployed. And if inner-city addicts are willing to risk AIDS and the death of their children, they will risk jail. They will certainly risk losing a student loan. What they need instead is help.

Just last October, in an effort to provide that help, Congress enacted the Anti-Drug Abuse Act of 1988. Senator NUNN and I led the Democratic effort in the Senate to produce that bill: The first major Federal drug law that emphasized reducing the demand for drugs through treatment and education. For the first time, it committed the Federal Government, in principle, to providing substance abuse treatment on request, so that addicts who want help get help. It authorized over $1 billion in new funds for treatment in fiscal year 1989 and sets aside half for intravenous drug users, thus targeting those drug users most at risk of contracting AIDS. Unfortunately, Congress was only able to appropriate a fraction of the funds the drug bill authorized. Much more needs to be done.

The Intravenous Drug Abuse and AIDS Prevention Act of 1989 will complement the drug bill by focusing on the population most cruelly hit by the AIDS and drug epidemics. It is similar to legislation I introduced in the last session along with Congressman RANGEL in the House of Representatives. As chairman of the House Select Committee on Narcotics, Congressman RANGEL has led the long and difficult battle against drug abuse. I have been privileged to work with him in the past and look forward to doing so again as we try to see this bill through.

This bill attacks the problem in three ways. First, it will authorize $200 million in grants to nonprofit organizations for treatment services for intravenous drug users. Seventy-five percent of these funds will go to areas with a high incidence of drug use and AIDS. The remaining 25 percent will go to areas which have a low incidence of AIDS but a high incidence of drug use and, thus, the potential for widespread AIDS infection.

Second, this bill will authorize $100 million for demonstration projects to reduce the incidence of AIDS in infants and to care for infants infected with AIDS. In 1987, we included in the Omnibus Budget Reconciliation Act (Public Law 100-203) a provision I sponsored requiring the Department of Health and Human Services to conduct a study of foster care children who have AIDS. This study will be completed any day. When we have the facts, we will need the funds to act upon them, to help these children and the foster parents who have opened their homes to them. This bill provides them. The funds provided by this legislation could be used to provide prenatal care for women who are intravenous drug users; services to parents of infected children; foster care for children with AIDS; counseling, education, and testing services for women at risk of contracting AIDS—by virtue of drug use or sexual contact with drug users—and pregnant women already infected with the AIDS virus.

Third, it will authorize $100 million for grants for outreach and counseling programs to prevent intravenous drug use among minority groups. We have appropriated some funds for this purpose but not nearly enough. More than 80 percent of AIDS cases attributable to intravenous substance abuse, heterosexual, and perinatal transmission have occurred among blacks and Hispanics.

Our responsibility is clear: If we don't inform our citizens of the dangers of drug use in and of itself and its direct link to the spread of AIDS, we fail in our duty as public officials and fellow human beings. I urge my colleagues to support this bill and ask unanimous consent that the text be printed in the RECORD in full.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 228

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intravenous Substance Abuse and AIDS Prevention Act of 1989".

SEC. 2. FINDINGS.

Congress finds that:

(1) More than 80,000 cases of acquired immune deficiency syndrome (AIDS) have been reported to the Centers for Disease Control, and more than 365,000 such cases are expected to be reported by 1992;

(2) intravenous substance abusers are the second largest group in the United States that has AIDS. Of the cases of AIDS reported to the Centers for Disease Control, 20 percent are attributable to intravenous substance abuse and such abuse was a risk factor in an additional 7 percent;

(3) HIV (the virus causing AIDS) is transmitted among intravenous substance abusers through the use and sharing of needles, syringes, swabs, or other drug-related implements that are contaminated with blood infected with HIV;

(4) HIV can be transmitted rapidly among intravenous substance abusers in a given geographic area;

(5) once a group of intravenous substance abusers becomes exposed to HIV, such abusers become the primary source for heterosexual transmission and perinatal transmission of HIV;

(6) a disproportionate number of cases of AIDS has occurred among members of minority groups;

(7) more than 80 percent of those infected with AIDS because of intravenous substance abuse are Black or Hispanic and more than 80 percent of heterosexual and perinatal transmission AIDS cases related to such drug abuse have occurred among Blacks and Hispanics;

(8) more than 50 percent of women in the United States who have AIDS developed the disease as a result of intravenous substance abuse;

(9) the second largest group of women who are at risk with respect to infection with HIV are women who are the sexual partners of intravenous substance abusers;

(10) most women with AIDS are in their child-bearing years, and women infected with HIV may transmit HIV to any of their children born subsequent to the mother's infection;

(11) as of December 26, 1988, the Centers for Disease Control reported a cumulative total of 1,105 cases of AIDS among children under 5 years of age at the time of diagnosis;

(12) approximately 80 percent of children with AIDS who were infected through perinatal transmission were children of intravenous substance abusers;

(13) preventing or reducing the transmission of HIV among intravenous substance abusers is essential with respect to preventing or reducing the heterosexual and perinatal transmission of HIV in the United States; and

(14) to reduce and prevent the spread of AIDS related to intravenous substance abuse, additional Federal leadership and support is urgently needed to expand treatment for intravenous substance abusers, to promote efforts to prevent pediatric AIDS and provide better care for infants with AIDS, and to establish effective school and community-based AIDS prevention programs.

SEC. 3. ESTABLISHMENT OF ACQUIRED IMMUNE DEFICIENCY SYNDROME GRANT PROGRAMS.

Title XXV of the Public Health Service Act relating to the prevention of the acquired immune deficiency syndrome is amended by adding at the end thereof the following new part:

"PART C—MISCELLANEOUS PROGRAMS

"SEC. 2530. ESTABLISHMENT OF GRANT PROGRAM FOR TREATMENT SERVICES WITH RESPECT TO INTRAVENOUS SUBSTANCE ABUSE.

"(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of enabling grantees to provide, in accordance with subsection (b), treatment services to intravenous substance abusers.

"(b) REQUIREMENTS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that, in providing pursuant to subsection (a) treatment services to intravenous substance abusers, the applicant will—

"(1) make available to such abusers, and to the sexual partners of such abusers, counseling and education services with respect to preventing the transmission of the etiologic agent for acquired immune deficiency syndrome, and

"(2) make available to such abusers testing for the purpose of determining whether such abusers are infected with such etiologic agent.

"(c) CONSENT TO TESTING.—The Secretary may not make a grant under subsection (a) to an applicant unless—

"(1) the applicant agrees that the applicant will not, as a condition of the receipt of substance abuse treatment services, require that an individual undergo testing described in subsection (b)(2), and

"(2) the applicant agrees that the applicant will not carry out any testing described in subsection (b)(2) unless such testing is accompanied by appropriate pre-test counseling and appropriate post-test counseling.

"(d) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN GEOGRAPHIC AREAS.—The Secretary may make grants under subsection (a) only to applicants that will provide services under the grant in a geographic area in which, in the determination of the Secretary—1

"(1) the incidence of intravenous substance abuse is substantial relative to such incidence in other geographic areas; and

"(2) the incidence, among intravenous substance abusers of infections with the etiologic agent for acquired immune deficiency syndrome—

"(A) is substantial relative to such incidence in other geographic areas; or

"(B)(i) is insubstantial relative to such incidence in other geographic areas; and

"(ii) may be prevented from becoming substantial if sufficient treatment, counseling, and education services are provided to intravenous substance abusers.

"(e) ALLOCATION OF AMOUNTS AVAILABLE FOR GRANT PROGRAM.—Of amounts available pursuant to subsection (f), the Secretary shall—

"(1) reserve 75 percent for grants under subsection (a) to applicants that will provide services under the grant in geographic areas described in paragraphs (1) and (2)(A) of subsection (d); and

"(2) reserve 25 percent for grants under subsection (a) to applicants that will provide services under the grant in geographic areas described in paragraphs (1) and (2)(B) of such subsection.

"(f) FUNDING OF GRANT PROGRAM.—Of the amounts appropriated pursuant to section 2534, the Secretary shall reserve 50 percent for the purpose of carrying out this section.

"SEC. 2531. ESTABLISHMENT OF GRANT PROGRAM FOR SERVICES AND ASSISTANCE FOR REDUCTION AND PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME AMONG INFANTS.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of enabling grantees to carry out demonstration projects for reducing or preventing the incidence in infants of infections with the etiologic agent for acquired immune deficiency syndrome and for providing support to infants who have such infections.

"(b) PREFERENCES IN MAKING GRANTS.—The Secretary shall, in making grants under subsection (a)—

"(1) give first priority to qualified applicants that will provide services under the grant in any geographic area in which, in the determination of the Secretary—

"(A) the incidence in infants of infections with the etiologic agent for acquired immune deficiency syndrome is substantial relative to such incidence in other geographic areas; and

"(B) the incidence, among intravenous substance abusers, of infections with the etiologic agent for acquired immune deficiency syndrome is substantial relative to such incidence in other geographic areas; and

"(2) give second priority to qualified applicants that will provide services under the grant in any geographic area described in paragraph (1)(B).

"(c) PROVISION OF CERTAIN SERVICES.—Grantees under subsection (a) may expend grant funds—

"(1) to provide for prenatal care for women who are intravenous substances abusers;

"(2) to provide for prenatal care for women who are the sexual partners of intravenous substance abusers;

"(3) with respect to the parents of infants infected with the etiologic agent for acquired immune deficiency syndrome, to provide services and financial assistance to parents for the purpose of aiding parents in caring for, and providing support to, such infants;

"(4) to provide services and financial assistance with respect to encouraging foster care for such infants and other means by which such infants can receive care and support in settings other than hospitals;

"(5) with respect to women who are intravenous substance abusers and who are pregnant or at risk of becoming pregnant, to make available to such women—

"(A) counseling and education services with respect to preventing the transmission of the etiologic agent for acquired immune deficiency syndrome;

"(B) testing for the purpose of determining whether such women are infected with such etiologic agent; and

"(C) to make such services and such testing available to women who are pregnant, or at risk of becoming pregnant, and who are the sexual partners of intravenous substance abusers with appropriate pre-test and post-test counseling with respect to such testing.

"(d) FUNDING OF GRANT PROGRAM.—Of the amounts appropriated pursuant to section 2534, the Secretary shall reserve 25 percent for the purpose of carrying out this section.

"SEC. 2532. ESTABLISHMENT OF GRANT PROGRAM FOR PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME RELATING TO INTRAVENOUS SUBSTANCE ABUSE.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of enabling grantees to provide counseling and education services with respect to preventing the transmission of the etiologic agent for acquired immune deficiency syndrome directly or indirectly through intravenous substance abuse.

"(b) PREFERENCES IN MAKING GRANTS.—The Secretary shall, in making grants under subsection (a), give preference to qualified applicants that will provide services under the grant to minority populations in any geographic area in which, in the determination of the Secretary, the incidence of intravenous substance abuse is substantial relative to such incidence in other geographic areas.

"(c) PROVISION OF CERTAIN SERVICES.—Grantees under subsection (a) may expend grant funds—

"(1) to provide counseling and education services described in such subsection through outreach services to intravenous substance abusers; and

"(2) to provide education services described in such subsection through the dissemination of information throughout the geographic area involved, including dissemination in school systems and through means of mass communication.

"(d) FUNDING OF PROGRAM.—Of the amounts appropriated pursuant to section 2534, the Secretary shall reserve 25 percent for the purpose of carrying out this section.

"SEC. 2533. GENERAL PROVISIONS.

"(a) REQUIREMENT WITH RESPECT TO INCREASE IN SERVICES.—The Secretary may not make a grant under any of sections 2530 through 2532 to an applicant unless the applicant agrees that the applicant will not expend amounts received under the grant involved to supplant any fund otherwise available to the applicant for the purpose for which such grant is to be made to the applicant.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under any of sections 2530 through 2532 to an applicant unless the applicant has submitted to the Secretary an application for the grant involved. The application shall, with respect to carrying out the purpose for which the grant is to be made, provide assurances of compliance satisfactory to the Secretary and shall otherwise be in such form, be made in such manner, and contain such information and agreements as the Secretary determines to be necessary to carry out such purpose.

"(c) REVIEW OF APPLICATION BY APPROPRIATE STATE AGENCY.—

"(1) The Secretary may not make a grant under any of sections 2530 through 2532 unless the applicant for the grant agrees, with respect to any State in which the applicant will provide services under the grant—

"(A) to submit the grant application to the State agency responsible for administering programs for the treatment of substance abuse; and

"(B) to inform the State agency that the purpose of submitting the application is to permit the agency a 30-day period to review the application and provide to the Secretary any comments with respect to whether the Secretary should approve the application.

"(2) The Secretary may not make a grant under any of sections 2530 through 2532, or disapprove an application for such a grant, unless the Secretary has provided the State agency involved a 30-day period to submit to the Secretary comments pursuant to paragraph (1).

"SEC. 2534. AUTHORIZATIONS OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $400,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1992.

"SEC. 2535. DEFINITIONS.

"For purposes of this part the term 'intravenous substance abuse' includes substance abuse through subcutaneous injection and intramuscular injection."

By Mr. MOYNIHAN:

S. 229. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

VIOLENT CRIME PREVENTION ACT

Mr. MOYNIHAN. Mr. President, I rise to introduce the Violent Crime Protection Act of 1989 to ban the manufacture, importation, and sale of .25 and .32 caliber handgun ammunition. I do so because handgun control has not worked. The Gun Control Act of 1968 has been evaded by foreign imports. On top of that, the Firearms Owners Protection Act of 1986 repealed provisions of the Gun Control Act restricting the sale of guns. At the same time, on average one citizen of Washington, DC, was murdered for each day of 1988. Most were victims of handguns.

In 1986, Congress passed the first legislation in history forbidding the manufacture, import, and sale of a particuar type of handgun ammunition—the so-called cop-killer bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, has been demonstrated to penetrate no less than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and Representative BIAGGI and asked us to do something about this. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association the measure passed the Congress and was signed by President Reagan as Public Law 99-408 on August 28, 1986.

Two years ago, in the aftermath of our legislation banning armor piercing bullets, I introduced this measure as S. 25. I had realized that there were other kinds of cop-killer bullets. Of handguns discharged at New York City police officers between 1975 and 1985, one quarter were .25 or .32 caliber. Last Friday morning, as President Bush was preparing to be sworn in, two New York City police officers, William Gunn and Louis Rango, were shot by a murder suspect. Officer Gunn is now clinging to life with a .25 caliber bullet wound in his head.

The .25 and .32 caliber weapons are overwhelmingly the choice of criminals. They have no sporting purpose. They are just used to kill people. They are easy to conceal. So easy, in fact, even a child can do it. The day before yesterday in Fairfax County, VA, an 8-year-old boy shot his 6-year-old sister to death. Deliberately, with a .32 caliber handgun, after she chided him for playing with the gun in a family bedroom. And in New York City, on January 11, a 5-year-old brought a .25 caliber pistol to kindergarten. "Pistol Packin' Peewee," the New York Post called him.

When S. 25 was introduced in the last Congress, it was referred to the Judiciary Committee. It received little support in this body, and not enough from police and gun-control advocates. It did not even get a hearing. If we do not do something like this in the 101st Congress, children will go on killing children.

We will never get a handle on handguns until we can do something about bullets. Today there are over 60 million handguns in this country, a number which is likely to climb to 100 million by the turn of this century. A handgun is a simple machine, fully developed before the Civil War with clip-loading the only basic variation since. The average "Saturday Night Special" has some 40 parts. The Model T, on the other hand, had 5,000 parts and the antiques still operate today. Unless it wears out, which is surely rare, or seizes up with rust, which is easily prevented, a handgun has a near infinite lifetime. Let us say the United States has something like a two-century supply of firearms.

On the other hand we have about a 7-year supply of handgun ammunition. Each year 4 billion rounds of ammunition are manufactured and approximately 2 billion rounds are consumed. If ammunition has a shelf life of 5 to 10 years this gives us around a 7-year supply of ammunition. But mind you, my statistics are somewhat sketchy. Recordkeeping has always been restricted and following passage of the Firearms Owners Protection Act it is now nonexistent for ammunition sale. With only 7 years of ammunition out there at any one time, and 60 million handguns, is it not a more realistic hypothesis to control ammunition as a means of controlling violent crime than it is to control handguns?

If we ban the manufacture and importation of the ammunition for these weapons, and here I speak specifically of .25 and .32 caliber ammunition, in 5 or 7 or 10 years anywhere from 10 to 20 percent of the crime guns in the United States will be out of commission. Will there be others? Of course. But President Reagan survived a .22 caliber wound. President Ford very likely would not have survived the .32 round that was fired at him. President McKinley, Huey Long, and George Moscone did not. The .22 is too small to be automatically deadly, the .45 too large to conceal—and Alaskan guides need them for bear attacks. In between we could just save a couple of thousand lives a year.

Would this end the problem, the awful problem of handgun killings? No. It might just reduce it. And it might just save the lives of a few children. If there is a tradeoff to be made here, I will veer to the side of life. That is a tradeoff I am willing to make. I urge my colleagues to support this bill and ask unanimous consent that the text be printed in the RECORD in full.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Violent Crime Prevention Act".

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (7);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(9) for any person to manufacture, transfer, or import .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber ammunition, a fee of $1,000 per year;".

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber ammunition for any firearm, a fee of $10 per year.".

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber ammunition for any firearm, a fee of $50 per year.".

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(l) Licensed importers and licensed manufacturers shall mark all .25 or .32 caliber ammunition and packages containing such

ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber ammunition" after "possession of armor piercing ammunition"; and

(2) inserting ", or .25 or .32 caliber ammunition," after "armor-piercing handgun ammunition".

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.

By Mr. MOYNIHAN:

S. 230. A bill to establish a remedial education treatment program as an alternative to criminal incarceration for first-time youthful defendants who are determined to be learning disabled as a means of reducing recidivism rates among such defendants; to the Committee on Labor and Human Resources.

LEARNING DISABLED YOUTHFUL OFFENDER REHABILITATION ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce the Learning Disabled Youthful Offender Act of 1989. The purpose of this bill is to provide remedial education and treatment as an alternative to imprisonment for first-time youthful offenders who have a learning disability. Such treatment can be anticipated to reduce the presently high recidivism rates among these individuals.

Little attention has been paid to this subject at the Federal level. But this just may start to change. Last year I introduced a bill in the Senate, S. 1332, which would provide funds to local district attorneys to offer alternatives to juveniles with learning disabilities who find themselves in trouble with the law. We did not succeed in enacting this legislation in the 100th Congress, but with the introduction of this bill in the 101st we begin the effort again.

The problem of juvenile delinquency is not a new one to American society. As early as the mid-19th century, street gangs plagued our urban areas. For most of that century, we treated young offenders rather harshly, trying them in the same courts as their adult counterparts. That changed in the late 19th century when States began to establish separate courts and procedures for juveniles in an effort to rehabilitate rather then merely punish them. In 1872, Massachusetts became the first State to establish separate court sessions for children and by 1925, all but two States had such juvenile courts.

The standard practice in these courts was much less formal than in adult courts. Often, the judge would hear testimony regarding the circumstances of the crime and the child's background and family life in private and make a decision based on this information.

New York State began its own separate system for dealing with juveniles in 1903 when it began to try children in a separate chamber, commonly known as the children's court. In 1922, the State legislature established a separate judicial system for children less than 16 years of age. This court's primary goal was to keep children out of jail, not to punish them but to rehabilitate them.

In 1962, New York State created the family court system, which was devoted to deciding the fate of children who had to be taken from abusive environments, as well as children over whom their parents had lost control. Just as the State can use the family court system to protect children from their environment, parents can also use the system to ensure that the State provides their children with the services to which they are entitled. For example, handicapped children in need of State services.

Juvenile delinquency has long been considered a problem for the States and not the Federal Government. It was not until 1961 that the Federal Government even addressed this issue when it passed the Juvenile Delinquency and Youth Offenses Control Act, which authorized $10 million for demonstration projects to reduce juvenile delinquency. This was the first major Federal legislation specifically addressing the problem. Over the next decade, Congress extended the program several times, and, in 1971, increased the funding level to $75 million.

In 1974, we created the Office of Juvenile Justice and Delinquency Prevention and expanded the functions of this office to include identifying, treating, and rehabilitating juvenile delinquents. Still, for the most part, its efforts are concentrated on dealing with those juveniles already in our court system. Relatively few resources are devoted to prevention or rehabilitation. And we fund little if any research in prevention and rehabilitation of juveniles.

We have made scant progress in the treatment and prevention of juvenile delinquency. And no wonder. In 1972 the Federal Government spent $75 million to fund its juvenile delinquency program. Today, in fiscal year 1989, the Federal Government spends less than $65 million. With funding as low as this, major advances in the treatment and prevention of juvenile delinquency have been virtually impossible to achieve.

Since the inception of this office and programs directed at juvenile delinquency, the very nature of the problem has drastically changed. We have seen the average crime committed by most juveniles shift from arson, burglary, and larceny to armed assault and outright murder. All too many juveniles are now involved in violent crime—often gang-related activities associated with the drug trade.

For example, the Administrator of the Drug Enforcement Agency, John Lawn, reports that one-half of all juveniles in detention in the country are there as a result of drug-related crimes. Furthermore, 39 percent of juveniles in detention are there as a result of violent crime.

We are making some effort in Congress to address this problem as evidenced in the just passed Omnibus Anti-Substance Abuse Act of 1988. In this bill, we provide $15 million to target what we commonly refer to as high-risk youth. These are the very same young people about whom the statistics tell such a sorry tale. The money provided in this bill will enable school officials, law enforcement personnel, and community organizations to provide alternatives to those tempted—or worse—forced to join gangs. However, this legislation only seeks to dissuade, to prevent them from joining gangs. Learning what puts these young people at risk will take much research and time.

This is not to say that we know nothing of what makes individuals get into trouble with their parents, school administrators, and law enforcement officials. There is more than passing evidence to suggest that learning disabilities cause many juveniles to get in trouble. Often they become frustrated with their inability to succeed in school and unfortunately all too often, there are not the trained personnel on hand to aid them.

The most recent comprehensive study on juvenile delinquency and learning disability was conducted in the late 1970's by the National Center for State Courts. It showed that 36 percent of incarcerated juveniles were found to have a learning disability. It has also been estimated that within a typical jail population, at least 40 percent of the inmates suffer from learning disabilities. Since only 15 percent of the overall U.S. population is considered to be learning disabled, it is apparent that a disproportionate number of learning disabled individuals commit delinquent acts.

While there seems to be a significant relationship between learning disabilities and criminal behavior, the criminal justice system fails to recognize this correlation or provide for the treatment of such individuals. This must change.

Dr. Norman Brier, associate clinical professor of pediatrics and psychiatry at Albert Einstein College of Medicine, has been a pioneer in researching this relationship. Dr. Brier has developed what is known as the differential treatment hypothesis. This theory sets forth the claims that the juvenile justice system treats learning disabled individuals more harshly than those

without learning disabilities. This occurs primarily because those with learning disabilities show more tendencies toward antisocial, aggressive behavior and poor school records than those without.

If we are to effectively address this problem, we must educate law enforcement officials and the courts about how to deal with and recognize learning disability. The legislation which I am introducing today gets more directly at this specific problem. This bill, which has been endorsed by the New York State District Attorneys' Association and the National Learning Disabilities Association, is based on an existing program begun last year by the late Bronx district attorney, Mario Merola. That program has successfully treated over 100 learning disabled young people.

And let that not go unnoticed. It is no small task to take a young man from the South Bronx and keep him off the streets and out of trouble. Our problem lies in that there are literally thousands of young men just like him who are not granted this opportunity. This bill is designed to change that—simply to allow district attorneys around the country to emulate the same close coordination between district attorneys and local universities and/or treatment facilities which exist in the Bronx program.

The Bronx district attorney's program operates in conjunction with the Rose F. Kennedy Center of the Albert Einstein College of Medicine in New York. The Bronx program enjoys widespread support from numerous associations, universities, businesses and public officials, ranging from the mayor of New York, the National Association for Children and Adults with Learning Disabilities, the New York State Commission of Corrections, the New York University College of Dentistry, Fred the Furrier, and BIC Pens, Inc.

Specifically, this legislation that I am introducing today establishes a remedial education treatment program as an alternative to imprisonment for juveniles who are recognized as learning disabled. The purpose of this program is to reduce recidivism rates among first-time offenders; $15 million would be provided to the Attorney General who, in turn, would distribute this funding to local district attorneys who submit acceptable applications.

My legislation would also provide much needed funds to hire additional personnel to identify, evaluate, and treat those learning disabled juveniles who are regarded as suitable candidates for the program. The district attorney would make the final determination as to whether an individual candidate would be accepted into the program.

Defendants who meet the following criteria would be eligible for the program: a first-time offender under the age of 21 who has committed a misdemeanor where there is no serious injury to the victim; one who has been diagnosed as having a learning disability which the district attorney, in consultation with those trained in this field, regards as treatable; and finally, the defendants' participation in the program is determined by the district attorney to be in the best interests of society.

In order to receive credit for the program the defendant must comply with a number of conditions as set forth in a contract prepared by the district attorney. Among these is the requirement that the defendant spend over 100 hours in educational and vocational training. In this way, the juvenile improves his chances for successful rehabilitation, treats his learning disability, and reduces the chances that he will again come before a juvenile court. If these conditions are not met, the defendant would have to appear before the court for traditional sentencing.

In summary, the purpose of this legislation is to provide the resources to a district attorney to identify and treat a juvenile with learning disabilities. The frustration that often accompanies a learning disability can show up in the form of delinquent behavior and may be avoided if the disability is recognized and treated. Though there is no definitive proof that this one approach will break the connections associated with learning disability, it is a productive start.

It would be a tragedy for our criminal justice system to continue to ignore the problems of these young people. This bill, based on a highly successful program in New York, will give them a second chance. With my bill, which has the endorsement of a number of individuals and organizations, including the New York District Attorneys Association and the National Learning Disabilities Association, these learning disabled individuals will be redirected away from a life of crime and toward a more productive role in our society. The Learning Disabled Youthful Offender Rehabilitation Act will also reduce the prison population, thereby alleviating the overcrowding which has reached crisis proportions in many areas of the country.

Therefore, I urge my colleagues to support this important proposal. I ask that articles about the Bronx program which appeared in the Christian Science Monitor and in the New York Times be printed at this point in the RECORD. I also ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 230

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Learning Disabled Youthful Offender Rehabilitation Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) A significant correlation exists between learning disabled individuals and incidences of criminal behavior. Although only 15 percent of the United States population is considered to be learning disabled, 36 percent of juvenile delinquency cases involve individuals with learning disabilities.

(2) It is estimated that within a typical jail population, at least 40 percent of the inmates suffer from learning disabilities.

(3) Learning disabled individuals are more prone to a life of delinquency than non-learning disabled individuals.

(4) While a learning disability is clearly a significant contributor to delinquent and criminal behavior, the criminal justice system fails to recognize or attempt to treat individuals with learning disabilities.

(5) As long as the learning disability of an individual remains unaddressed, the delinquent behavior of the individual will continue upon release from imprisonment as evidenced by the high rates of recidivism among such individuals.

(6) Research has found that the neurological deficiencies resulting in problems of self-image, self-control and interpersonal activities contribute to academic failure of learning disabled individuals and are key elements in related criminal tendencies.

(7) Studies have found that diagnostically-based treatment programs for learning-disabled individuals can reduce recidivism and delinquent behavior among juveniles.

(b) PURPOSE.—The purpose of this Act is to establish a comprehensive educational and psychosocial prevention and intervention program in order to reduce the rate of recidivism among learning disabled first-time defendants. To accomplish this goal, the specific learning disability which accounts for the criminal behavior involved will be treated.

SEC. 3. DEFINITIONS.

For purposes of this Act, the term "local district attorney" means the chief criminal attorney for a general purpose unit of local government.

SEC. 4. GRANTS TO THE LOCAL DISTRICT ATTORNEYS.

The Attorney General is authorized to award grants to local district attorneys to develop educational programs offering an alternative to learning disabled defendants meeting the eligibility criteria as described in section 5.

SEC. 5. APPLICATIONS TO RECEIVE GRANTS.

(a) APPLICATION.—To request a grant under section 4, a local district attorney shall submit an application at such time and in such form as the Attorney General may require.

(b) PROGRAM PROPOSAL AND ELIGIBILITY CRITERIA.—Each application submitted pursuant to this section shall include a program proposal. The program proposal shall include the following guidelines and eligibility criteria:

(1) In order to be accepted into the program the defendant must—

(A) be under the age of 21 who has committed a misdemeanor in which there was not serious injury to the victim;

(B) have been diagnosed as having a learning disability which the local district attorney regards as treatable; and

(C) be subject to a determination by the local district attorney that it is in the best interests of society to allow the defendant into the rehabilitation program rather than incarceration.

(2) The following procedure shall be utilized by the local district attorney in determining which defendants are suitable as candidates for the program:

(A) Each defendant shall be recommended to the local district attorney's evaluatory staff by the defendant's defense attorney.

(B) Upon referral, the defendant shall complete a questionnaire which shall then be reviewed by a select evaluation committee.

(C) The select evaluation committee, in conjunction with the local district attorney's staff, shall make the final determination as to whether the program will be offered to the defendant.

(D) If the defendant is approved and chooses to participate in the program, such defendant shall comply with the conditions provided in paragraph (3) in order to receive credit for the program and avoid imprisonment.

(3) In order to receive credit for participation in the program the defendant shall be subject to the following conditions:

(A) The defendant shall be granted a conditional deferred prosecution and plead guilty to a crime or violation. The local district attorney shall have discretion to recommend sentencing on a case-by-case basis.

(B) The sentence or condition shall be a minimum of 100 hours in the educational and vocational program tailored to the needs of the individual defendant. The defendant shall specifically agree to the requirements and procedures of this program.

(C) When a finding of default has been filed against a defendant, the case shall be restored to the court calendar for execution of sentence or further proceedings.

(D) If the defendant has absconded, a bench warrant shall be issued for the defendant.

(c) APPLICANT CERTIFICATION.—Each applicant for funds under this Act shall certify that the applicant's program meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this Act and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Attorney General.

SEC. 6. USE OF FUNDS.

Funds authorized by this Act shall be used for devising a system for—

(1) identifying learning disabled individuals; and

(2) hiring evaluatory and remedial agents in order to identify and treat eligible learning disabled defendants.

SEC. 7. REPORT.

Each applicant receiving funds under this Act shall prepare and transmit to the Attorney General a report setting forth with respect to the program of the applicant during the preceding 12-month period—

(1) a complete accounting of the expenditure of funds;

(2) the number of learning disabled individuals eligible for the program and the number that completed the program;

(3) the estimated cost of treatment for each such learning disabled individual in the program;

(4) the estimated cost savings which resulted from carrying out the program in lieu of prosecuting and incarcerating each learning disabled individual in the program;

(5) an evaluation of the change in academic ability and employment success of each learning disabled individual resulting from participation in the program;

(6) the change in recidivism rates for learning disabled individuals in the program using such individuals as a standard against which the national average shall be measured in order to test the effectiveness of the program; and

(7) recommendations regarding whether the program should be instituted on a wider basis.

The information required by clause (5) shall be supplemented by a second report, to be issued 12 months later, again evaluating each individual's academic and employment status in order to gauge the longer-term effectiveness of the program.

SEC 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out this Act.

[From the Christian Science Monitor, Mar. 23, 1987]

THROWING THE BOOKS AT YOUNG OFFENDERS

(By Victoria Irwin)

Tito Merced listens quietly while the Bronx assistant district attorney discusses his future. "You're young and you have your whole life ahead of you," says Thomas Olin. "We don't want you to have a record. If you shape up, we'll give you a clean slate. The rest is up to you."

A 17-year-old high school dropout, Tito was arrested on assault charges stemming from a fight with some other youths. But instead of being cycled into a justice system that sometimes seems to offer only a "diploma in crime," Tito has been given a chance to finish high school through General Educational Development (GED).

The education outreach program that Mr. Olin directs for the Bronx County District Attorney's Office targets first-time offenders who are learning disabled, illiterate, or high school dropouts.

Pointing out that there is a link between learning disabilities and criminal behavior, Bronx District Attorney Mario Merola says he hopes the program can help defendants get back on the right road. Criminal-justice experts say the program is innovative and on target.

"What we're trying to do is put total emphasis on education," says Olin. "And we use the long arm of the law to do this."

"I want my GED," Tito tells Olin. With that a deal is sealed; Tito is given an ACD—adjournment and contemplation of dismissal. In return, the slight, handsome teenager pledges to attend evening GED courses twice a week for six months. He will also report to the Bronx criminal courthouse once a week. And if he fails to live up to the terms of the bargain, his case will become active again.

More than simply an alternative sentencing program that frees needed jail space through work programs, the Bronx effort is community based, and does intensive screening, careful matching of defendants with educational programs, counseling, and regular contact. Followup and job placement efforts are being considered.

The need has always been there, says Mr. Merola.

The defendants are often unemployed, and have few marketable skills. Reading level is often very low—around third- or fourth-grade level. And not a small number have learning disabilities that have gone unattended for years. Some studies estimate that as many as 40 percent of the criminal population have learning disabilities.

While Merola admits he likes the program because it helps relieve the need for jail space, he also says these kinds of defendants are often entitled to a better deal than jail.

"[Olin] says we should be guilty for not providing them with services, and there is a certain truth to that," says Merola. The outreach program helps divert defendants from the system, which he says is a revolving door.

Why should a district attorney's office be offering this program?

"The education system is not doing its job," says Merola. "We take it for granted, but they can't read or write. Don't we owe them at least this much?"

Offenders have been charged with car theft, drug selling, possession of crack. But Denise O'Daly, a junior high school teacher by day who teaches a GED course at night, says she very much enjoys teaching the program members.

"[The defendants] are just like the other students," Ms. O'Daly says. "They are extremely motivated."

Olin points out that the district attorney's first duty is to the community—to improve the quality of life and keep a lid on crime.

He sees this program as working in tandem with that goal.

"He's off the street, rubbing shoulders with people who are learning," says Merola. "You can't minimize that. We try to make them part of the mainstream, and not something to be discarded."

He tells what often happens to kids like Tito Merced—they come before a judge who looks at the case, tells them to be good or they'll go to jail next time, and then sends them out on the street.

"That's discarding him," says Merola. "We're not going to solve it all. We're not running a Hollywood gimmick. . . . Life is a game of inches.

[From the New York Times, Nov. 16, 1986]

HELP OF COURTS SOUGHT FOR LEARNING DISABLED

(By Kirk Johnson]

The world of the learning-disabled child—clouded by frustration and failure in school—often descends into an orbit of crime, courtrooms and prison, according to law-enforcement studies. Society's efforts to help usually stop at the schoolyard gate.

In New York, a group of officials in education and criminal justice—including a judge and prosecutor who themselves have learning disabilities—are taking the first steps toward changing that pattern, by changing the attitude of the courts.

Their message is that learning-disabled children can be helped by the court system through education and training when they first get into trouble.

"What I'm obsessed with is how much more we could be doing," said Thomas Olin, an assistant district attorney in the Bronx. Mr. Olin, a 28-year-old native of Rockland County, has dyslexia—a disorder that makes printed letters and words appear in reverse or jumbled. He joined the prosecutor's

office last year after graduating from Fordham University Law School entirely by oral examination.

Learning disabilities—which affect the mind's ability to gain, retain or express certain information but do not affect intelligence—were first recognized around the turn of the century. But the link to crime is a recent one: law-enforcement experts say the idea began to gain acceptance in 1983, when the American Bar Association passed a resolution recognizing it.

The connection is borne out by statistics: though 15 percent of the population have learning disabilities, more than 36 percent of juvenile-delinquency cases involved such people, according to Federal and private studies. But, the experts say, the reasons remain unclear.

Last month, at Mr. Olin's suggestion, the prosecutor's office established what it calls the Education Outreach Program, with the goal of identifying learning-disabled defendants, and in certain instances, putting them into training or educational programs instead of jail. So far, three such defendants have been admitted to the program, of which Mr. Olin is the director. Seven others, who are not considered learning-disabled but have severe problems in school, have been enrolled in other types of training.

Law enforcement officials say there have been several other recent developments in New York. But progress, they say, remains tentative. Money for large programs has not yet been found.

ESTIMATES ON INMATES

At the state Commission of Correction, for example, several programs have been started this year to determine how disabled persons become enmeshed in the justice system. Preliminary estimates from the studies show that from 10 percent to 40 percent of the inmates in the state's county-jail system may have some learning or other developmental disability. About 60 percent do not have high-school diplomas.

In the city's Family Court system, a manual for judges—the first of its kind, according to law-enforcement experts—has been distributed on how to deal with and recognize learning-disabled defendants. A similar manual for attorneys representing learning-disabled defendants, prepared by the American Bar Association, was distributed nationally last year, and recently updated.

The manuals were financed by the New York-based Foundation for Children with Learning Disabilities, a 10-year-old organization that began financing research into the disability-crime link two years ago and has worked with Mr. Olin.

Judge Jeffry H. Gallet, a 43-year-old Queens native, overcame several learning disabilities, including dyslexia, dyscalculia (difficulty in making mathematical calculations) and dysgraphia (difficulty in writing) sufficiently enough to graduate from law school and write five books on civil-law procedure. But he said he still had to look at his watch to tell his right hand from his left.

"I'd love to say there's an up side, a good program," the Judge said. "But I can't. It's just all too slow."

"It's mostly been just a change of awareness," said Dr. Julie Gilligan, a spokesman for the foundation.

But judges and correction officials said that though the efforts of people such as Mr. Olin, Judge Gallet and the foundation's officials have increased recognition of the problems of learning-disabled people in the courts, the lack of money for large-scale testing or education programs means that, in effect, little has changed.

Education researchers said that 20 different types of learning disabilities have been identified, from dyslexia—the most well-known—to dysacusis (a hearing impairment that causes a distortion of pitch) to dysnomia (the inability to recall certain words).

The reasons for the connection between these disabilities and crime, however, are much less clear, they said. According to Judge Thomas McGee, a juvenile court judge in Louisiana—and one of the pioneers in treating the learning disabled on the court level—there are several current theories. The first is that frustration in school and at home leads to crime. The second is the learning-disabled people get convicted more in the courts, often because they don't understand their legal rights, and are less able to "talk their way out of situations" or explain their behavior to the police and judges.

For the moment, Judge Gallet said he is relying on the personal touch. When he thinks a defendant might be learning-disabled, the judge calls him or her into chambers and talks about himself and his disabilities, and how he "beat it."

"Sometimes you can teach a kid that way," he said.

By Mr. MOYNIHAN:

S. 231. A bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families with Dependent Children Program, and for other purposes; to the Committee on Finance.

AFDC QUALITY CONTROL IMPROVEMENT ACT

Mr. MOYNIHAN. Mr. President, I rise today at the outset of the 101st Congress to introduce the AFDC Quality Control Improvement Act of 1989.

As I do so, I should like to pay tribute to a friend and colleague, the distinguished former senior Senator and Governor of the State of Washington, Daniel J. Evans. This legislation is a product of his diligent efforts to improve the administration of our Nation's welfare system. On June 16, 1988, when Senator Evans first introduced this legislation, I pledged that I would do my utmost as chairman of the Senate Finance Subcommittee on Social Security and Family Policy to carry forward his excellent work on the AFDC quality control system. Early in the 101st Congress I mean to make good on that promise.

THE TIME FOR AFDC QUALITY CONTROL REFORM IS HERE

There is little disagreement that the AFDC quality control program needs remodeling. Indeed, Congress has recognized this on several occasions by imposing moratoria on the collection of fiscal sanctions for quality control errors. First, in the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), Congress imposed a 24-month moratorium on the collection of quality control sanctions and directed the Secretary of the Department of Health and Human Services to contract with the National Academy of Sciences [NAS] to conduct an independent study of the AFDC quality control system. While waiting for that NAS study to be completed, Congress twice extended the moratorium: once in the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) and again in the Family Support Act of 1988 (Public Law 100-485). The moratorium currently in place will expire on July 1, 1989.

If we act quickly, however, we may not need another stopgap moratorium. We now have the NAS study and recommendations. The bill Senator Evans introduced in the 100th Congress, and that I reintroduce today, follows the academy's lead.

So you see, Mr. President, there is already congressional agreement that the current AFDC quality control system needs to be overhauled. And thanks to the NAS, we have a good idea of what ought to be done. Before explaining the key provisions of the bill, it might be helpful to review how we came to be in this fix.

EVOLUTION OF AFDC QUALITY CONTROL

Since its inception half a century ago, AFDC has been a State-administered, federally subsidized program. When errors are made—both State and Federal dollars are involved. There are numerous sources of error, but they can be generally categorized as follows: "Overpayments" include, first, payments to households that later prove to be ineligible for benefits and, second, benefit payments that exceed what should have been paid. "Underpayments" include, first, payments that provide eligible families with less than what the law requires and, second, erroneous terminations and denials—administrative actions that result in failure to pay benefits to eligible families. Finally, there are technical errors—procedural errors that do not actually result in misexpenditures of any kind.

When States make errors—whether some sort of overpayment or underpayment—there are fiscal and human consequences. Overpayments waste both State and Federal money. It is worth noting that State officials are no less keen than we are when it comes to guarding against wasteful spending. Wrongly denying benefits to eligible families hurts poor children. Clearly, it is the intent of Congress that families eligible for AFDC receive the benefits to which the law entitles them—neither more nor less.

Yet, congressional oversight of AFDC administration did not begin in earnest until the early 1960's. In 1962, the distinguished Senator from West Virginia, Senator BYRD, then chairman of the Senate Subcommittee for the District of Columbia, commissioned a study of the District's AFDC eligibility determination process. The study's re-

sults were shocking—it was found that over half of all AFDC recipients in the District of Columbia were in fact not eligible for benefits.

As a result, the General Accounting Office and the Department of Health, Education and Welfare [HEW] conducted a nationwide eligibility review the following year. This study found a much lower error rate, of between 2 and 15 percent. Better, certainly than 50 percent, but the results clearly indicated a need for improved management.

In 1964, HEW issued nationwide "quality control" regulations to address the ineligibility problem. Follow-up research showed that these initial regulations were largely ineffective. HEW revised the regulations in 1970 and again in 1973. It was in 1973 that the Department proposed fiscal penalties for States whose error rates for overpayments exceeded federally established "tolerance levels." The final regulations, published in 1975, imposed fiscal penalties or disallowances for the Federal share of overpayments in excess of error rate tolerance levels of 3 percent for payments to ineligible households and 5 percent for other overpayments.

It is important to note that these so-called tolerance levels were not based on a single shred of empirical evidence. Simply put, there were numbers that were made up. Worse, HEW did not seem much interested in helping States to cope with the administrative complexities of the AFDC Program. Indeed, from the States' lookout, the Federal Government seemed fixated on only one thing: penalizing States for overpayments—but no underpayments—in a most arbitrary way. Without regard to their unique situations, States were told to meet a federally dictated tolerance level—plucked from thin air—"or else * * *."

Thirteen States immediately filed suit against HEW, challenging the validity of the error-rate tolerance levels. On May 14, 1976, the U.S. District Court for the District of Columbia ruled in Maryland versus Mathews that the tolerance levels were "arbitrary and capricious" and "inconsistent with the purpose of the [Social Security] Act." Specifically, Judge June L. Green stated:

> The tolerance level set must be reasonable and supported by a factual basis and not established in an arbitrary or capricious manner. To establish a level under any lesser standard would be to fashion a tool which is inconsistent with the Act in that it does not promote any further efficiency and it prevents the state from furnishing assistance as far as practicable given the conditions in the state * * *. Consequently, in view of the fact that the tolerance levels were arbitrarily established at 3 percent and 5 percent without the benefit of an empirical study, the Court holds that the regulation as it concerns the 3 percent and 5 percent levels was framed in an arbitrary and capricious manner and as an abuse of discretion. It is thereby inconsistent with the purpose of the Act by preventing the states from furnishing assistance as far as practicable given the conditions of the state, and is therefore invalid.

In the wake of the Federal court's ruling, HEW went back to the drawing board. In the late 1970's, just as the Department was putting new regulations together, Congress stepped in. I fear, Mr. President, that Congress rushed in where angels fear to tread. On June 8, 1978, the 95th Congress adopted the Michel amendment—as part of the Labor and HEW appropriations bill for fiscal year 1979, Public Law 95-480—establishing statutory overpayment performance standards of 4 percent for Medicaid and AFDC.

Unfortunately, like the earlier regulations declared invalid by the court, the Michel amendment did not base its performance standards on empirical evidence. Rather, the Michel amendment merely reconciled the Social Security Act and HEW's "capricious" regulations by writing equally arbitrary performance standards into the act itself.

Not content with our original—albeit well-intentioned—mistake, Congress came back, in the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), and lowered the error-rate tolerance level for AFDC to 3 percent, beginning in fiscal year 1984. This tolerance level is still in the statute.

Have the States met this exacting standard? No. Has the Federal Government collected fiscal sanctions? No. Why not? Because we bought ourselves a pig in a poke: State-initiated litigation and congressionally imposed moratoria on collecting sanctions prohibit HHS from enforcing the statutory monster we created.

Enough. Let us try to put this mess to rights.

CURRENT LAW IS STILL "ARBITRARY AND CAPRICIOUS"

Mr. President, I have no brief with the Federal Government's desire to improve administrative accuracy and to root out waste in the AFDC Program. As a matter of fact, I applaud the impulse. Whether or not to have quality control is not at issue. Who among us does not want the AFDC Program to operate fairly and efficiently? The question, rather, is how best to structure an AFDC quality control system.

I don't think anyone will disagree with me when I say our current system of quality control is deeply flawed. How else can one explain the fact that 49 States, the District of Columbia, and Puerto Rico are subject to AFDC fiscal sanctions totalling $1.2 billion for fiscal years 1981-86? If only one State—the great State of Nevada—with 0.2 percent of the Nation's AFDC caseload—can meet the current-law overpayment tolerance level for AFDC, something is very wrong.

On October 14, 1987, in testimony before the Senate Committee on Finance, Senator Evans put it this way:

> Anytime you have a program where 49 out of the 50 States are under sanction * * * because of excessive error rates, that indicates clearly to me not that 49 out of 50 States are incompetent in their administration but that the system itself is giving us the wrong answers.

In short, Mr. President, the current-law error rate tolerance levels and fiscal sanctions are still, in the words of Judge Green, "arbitrary and capricious." The States have long recognized this sad fact. They have gone to court before and stand ready to litigate again. Congress also knows there is a big problem: We've imposed moratoria on sanctions collections while awaiting the National Academy of Sciences study. The exhaustive Academy study and recommendations were published in March 1988. Now, then, is the time to act.

RESTRUCTURING AFDC QUALITY CONTROL

The legislation I introduce today would fundamentally restructure the AFDC quality control system and correct a number of its present problems.

First, we would base error rate tolerance levels on experience rather than caprice. For instance, rather than requiring that all States meet an arbitrary 3 percent error rate tolerance level, this legislation would set the tolerance level at the national average error rate for AFDC overpayments for the preceding fiscal year, minus 1 percentage point—but not less than 3 percent or more than 7.15 percent. In this way, the tolerance level is derived from actual error rates, yet still requires incremental improvement over the national average error rate for the previous year.

Second, the error rate tolerance level would be adjusted to account for varying State conditions which hamper administration of the AFDC Program. For example, a State's tolerance level would be increased by, (a) 0.5 percentage points if it is currently operating the AFDC-UP Program; (b) 0.1 percentage points if its AFDC caseload includes an unusually high proportion of families with earned income; (c) 0.1 percentage points for each metropolitan area in the State classified as 1 of the 30 most populous metropolitan areas in the country; (d) 0.1 percentage points if the rate of increase in its AFDC caseload in a given year is unusually high; and (e) 0.1 percentage points if its AFDC caseload includes an unusually high proportion of families with greater than five members receiving AFDC.

Third, purely technical errors and errors due to recent Federal legislative changes in eligibility criteria or methods of administration would be disre-

garded for the purpose of determining overpayment error rates.

Fourth, each State would be required to submit and—upon approval by the Secretary—implement a quality control improvement plan, outlining the ways in which the State intends to decrease its error rate. If a State's plan increases spending to improve AFDC administration by a sum equal to or exceeding one-half of the fiscal sanction it owes for a given fiscal year, the Secretary would be required to waive that fiscal sanction.

Fifth, this legislation would provide incentive payments to States whose error rates fall below 3 percent in a given fiscal year.

I believe that these provisions, along with others which closely follow the recommendations of the National Academy of Sciences report, will greatly improve the AFDC quality control system in the future.

ADDRESSING THE SANCTION BACKLOG

But what of the $1.2 billion in accumulated fiscal sanctions owed by all States but one under the current system?

This legislation would require the Secretary of Health and Human Services to combine, for each fiscal year—fiscal years 1981–86—the error rates for all States liable for sanctions into a single error-rate distribution. Sanctions would only be imposed on those States with very bad error rates in any given year. In statistical parlance, only the outliers, or States whose error rates are abnormally high, would be subject to sanctions for past years. In this way, States with egregiously high error rates—relative to other States' error rates, not a capricious standard—will be held accountable for past errors.

TIME TO ACT

Last year, Congress took steps to improve the Food Stamp quality control system by passing the Emergency Hunger Relief Act of 1988 (Public Law 100–435). It is now time to act on AFDC quality control.

In the 100th Congress we radically redefined our Nation's welfare system with enactment into law of the Family Support Act. Yet the future success of that act depends, in large part, on our ability to correct the flaws of the AFDC quality control system. Once again, our former colleague, Dan Evans, hit the nail on the head:

We are now in a position to initiate substantive reform. * * * If we wait, the amount anticipated in collection begins to climb again. Thus, the longer we delay, the more difficult the task becomes. The number of States subject to fiscal penalties inevitably will reach 50, the amount of money pending in penalties will climb, States will not be able to improve their management efficiency with a continued drain on their dwindling resources. If they are forced to pay sanctions by our inability to act, they will be paid out of state program budgets. And in the end, we will end up hurting the program beneficiaries—the very people we are trying to help.

What Senator Evans understood so well, is that this flawed AFDC quality control system threatens the Governors' ability to improve AFDC Program administration. If the Federal Government sanctions the States and the States can't make up the loss of these Federal AFDC dollars, there will be budget cuts. Who will suffer? Very likely the harm will come to those who are most vulnerable—poor children.

The potential harm does not end there. The flawed AFDC quality control system also jeopardizes the successful implementation of the Family Support Act, including the centerpiece of that act, the new JOBS Program. Why? Because the money States will forfeit in fiscal sanctions will not be invested in expanded education, training, and work programs for poor parents.

The figures bear repeating, Mr. President: Together, 49 States, the District of Columbia, and Puerto Rico owe $1.2 billion in AFDC sanctions for fiscal years 1981–86. My own State of New York owes $227 million—nearly a quarter of a billion dollars. Would not this money be better spent on trying to break the cycle of dependency?

I urge my colleagues to join with me in support of this important effort to overhaul the AFDC quality control system.

Mr. President, I ask unanimous consent that illustrative tables and the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "AFDC Quality Control Improvement Act of 1989".

SEC. 2. IMPROVEMENTS IN AID TO FAMILIES WITH DEPENDENT CHILDREN QUALITY CONTROL STANDARDS AND PROCEDURES.

(a) IN GENERAL.—Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) In order to establish and maintain improved quality control standards and procedures in the operation and administration of State plans approved under this part—

"(i) each State shall collect and submit to the Secretary, in accordance with a timetable which shall be established by the Secretary in regulations, statistically reliable samples of the cases under its plan approved under this part during each fiscal year;

"(ii) the Secretary shall review and analyze the samples so submitted and shall notify the State of its error rates for the period involved, for overpayments and underpayments, within 6 months after the close of the fiscal year or within 6 months after the date on which the samples are submitted, whichever is later; and

"(iii) the State shall develop and submit to the Secretary (except as provided by subparagraph (C)) a quality improvement plan for eliminating or reducing errors identified as a result of the Secretary's review and analysis under clause (ii) (whether or not such errors are subject to inclusion for purposes of sanctions under this subsection), including a timetable for implementation; and, after such plan has been reviewed and approved by the Secretary in accordance with subparagraph (D), the Secretary shall continuously monitor the State's quality improvement process under such plan.

"(B) The Secretary shall establish procedures for quality control review of cases receiving payments under approved State plans which shall be adequate to assure that State error rates are validly determined. Such procedures shall include a field investigation of each case selected for quality control review.

"(C) The requirement (in subparagraph (A)(iii)) that States submit quality improvement plans for eliminating or reducing errors may be waived by the Secretary in the case of any State which consistently has had error rates below the applicable error rate tolerance level (as determined by the Secretary, upon the request of the State, in the manner provided in subparagraphs (B) and (C) of paragraph (2)).

"(D) The Secretary shall establish criteria for quality improvement plans submitted by States under subparagraph (A)(iii), and shall approve any plan so submitted upon determining that it meets such criteria. If a plan so submitted is disapproved, the Secretary shall specify (in notifying the State of such disapproval) the respect or respects in which the plan fails to meet the criteria so established, and shall provide appropriate advice and assistance to the State in eliminating such failure with the objective of facilitating the resubmission and approval of the plan at the earliest possible time.

"(2)(A)(i) Notwithstanding subsection (a)(1) (but subject to subparagraph (C) and paragraph (3)), if a State's error rate for overpayments for any fiscal year (as defined in paragraph (5)(A)(i)) exceeds the error rate tolerance level for overpayments determined for the State (for that year) under subparagraph (B), then the Secretary shall make no payment for such fiscal year with respect to the State's overpayments (as so defined) to the extent that the inclusion of such overpayments in determining the State's error rate caused such rate to exceed the tolerance level so determined.

"(ii) The Secretary shall promptly notify the State of any decision to withhold payments (with respect to the State's overpayments) under clause (i). If the State files a timely appeal of such decision the Secretary shall not withhold any payments under clause (i), and no interest on the amounts proposed to be withheld shall accrue for any period, until (I) the appeal has been finally determined (and then only in accordance with such final determination), or (II) the appeal is no longer being actively pursued.

"(B) A State's error rate tolerance level for overpayments for any fiscal year shall be equal to the national average error rate for overpayments for the preceding fiscal year minus 1 percentage point, but not less than 3 percent or more than 7.15 percent, increased by—

"(i) 0.5 percentage points if the plan of such State approved under this part provides (throughout such fiscal year) for the payment of aid with respect to dependent

children of unemployed parents as provided in section 407;

"(ii) 0.1 percentage points for each full 20-percent increment (up to a maximum of 5 such increments) by which (I) the ratio of the number of families with earned income who are receiving aid under such State's approved plan to the total number of families receiving such aid exceeds (II) the average ratio, per State, of the number of families with earned income who are receiving aid under all of the State plans approved under this part to the total number of families receiving such aid;

"(iii) 0.1 percentage points for each Standard Metropolitan Statistical Area in the State which is one of the 30 most populous Standard Metropolitan Statistical Areas in all of the States having plans approved under this part;

"(iv) 0.1 percentage points for each full 20-percent increment (up to a maximum of 5 such increments) by which (I) the rate of increase in the caseload under such State's plan approved under this part exceeds (II) the national average rate of increase in the caseload under all of the State plans approved under this part; and

"(v) 0.1 percentage points for each full 20-percent increment (up to a maximum of 5 such increments) by which (I) the ratio of the number of families with 5 or more persons who are receiving aid under such State's approved plan to the total number of families receiving aid under such plans exceeds (II) the average ratio, per State, of the number of families with 5 or more persons who are receiving aid under all of the plans approved under this part to the total number of families who are receiving aid under such plans.

"(C) In determining the error rate for overpayments in any State for purposes of this paragraph—

"(i) an error rate determination plan, representing an agreement between the Secretary and the State and providing for the measurement of errors against State practice as outlined in State regulations and policy clarifications, shall be negotiated with the Secretary to establish the criteria by which the State will be held accountable for errors;

"(ii) each such rate shall be fixed at the lower bound of the standard 95-percent interval for errors within which the State's applicable true error rate falls (as determined without regard to this clause on the basis of the samples collected and submitted by the State under paragraph (1));

"(iii) errors which are technical in nature or have no fiscal impact, including but not limited to omissions (from the State's files) of social security account numbers, applications for social security account numbers, assignments of support rights, declarations of cooperation in obtaining support, monthly reporting errors, and WIN or other work program registrations, shall be disregarded;

"(iv) errors resulting from major Federal legislative changes in eligibility criteria or methods of administration, occurring within the 1-year period beginning on the effective date of such changes, shall be disregarded; and

"(v) errors resulting from changes in Federal administrative policy or practice affecting error rates for overpayments, occurring within the 90-day period beginning on the effective date of such changes, shall be disregarded.

"(D) The total amount of the sanctions that would otherwise be imposed upon a State under subparagraph (A) on account of an error rate for overpayments in excess of the applicable error rate tolerance level for any fiscal year shall be reduced by the Federal share of any overpayments collected by such State during that fiscal year.

"(E) The total amount of the sanctions that would otherwise be imposed upon a State under subparagraph (A) on account of an error rate tolerance level for any fiscal year shall be reduced by the amounts collected as support by such State under section 651 et seq. of the Social Security Act during that fiscal year.

"(3)(A) The Secretary, in accordance with this paragraph, may waive all or any part of any sanction that would otherwise be imposed upon a State under paragraph (2)(A) if such State is unable to reach the applicable error rate tolerance level for the fiscal year involved despite a good-faith effort by such State.

"(B) Any State may request a waiver of all or part of any sanction that would otherwise be imposed for any fiscal year under paragraph (2)(A), basing such request upon a showing—

"(i) that the State made (and is continuing to make) a good faith effort to reduce or eliminate the overpayments involved but was unable to reach the applicable error rate tolerance level for such fiscal year despite that effort; or

"(ii) that (I) the Secretary's determination of the State's error rate for overpayments for such fiscal year was made incorrectly or in a manner inconsistent with the provisions of this subsection, and (II) such error rate, if determined correctly and in a proper manner, would be lower than the rate so determined by the Secretary.

The Secretary shall consider and review such request, and either approve it or disapprove it in whole or in part, in accordance with a timetable which shall be specified in regulations. If the Secretary disapproves the request, the State may appeal the Secretary's decision to the Great Appeals Board in the Department of Health and Human Services for such further action as may be provided for by law or regulations (including judicial review of the Secretary's decision or the Board's determination).

"(C) In considering and reviewing any request for a waiver submitted by a State under this paragraph, the Secretary shall take into account—

"(i) factors beyond the State's control (including disasters, strikes by State or other staff personnel engaged in determining eligibility or processing cases, and State actions resulting from incorrect policy interpretations by Federal officials);

"(ii) factors relating to agency commitment, including demonstrated commitment by upper level State officials to the error reduction program under this subsection, the sufficiency and quality of programs designed to reduce errors, and effective management of the quality improvement process;

"(iii) the State's past performance with respect to overpayments, including past error rate levels and past error rate reduction efforts;

"(iv) the cost effectiveness of error rate reduction, both in general and in the particular circumstances existing within the State; and

"(v) such other factors as the Secretary may determine to be appropriate, as specified in regulations or as detailed by the State in its waiver request.

The Secretary's regulations shall specify the factors to be considered and the criteria to be used in assessing waiver requests under this paragraph, and shall indicate the relative weight or importance of each of such factors and criteria in order to assist States in determining the appropriateness of proposed requests.

"(D) Notwithstanding the preceding provisions of this paragraph, the Secretary shall in any case grant a waiver requested by a State under subparagraph (B) for any fiscal year if the State's quality improvement plan submitted under paragraph (1)(C), or a separate plan for the reduction of errors submitted by the State along with its waiver request, provides in detail for the expenditure of additional State and local funds for the reduction of errors in such fiscal year and in a total amount (over and above the amount of State and local funds that would otherwise be expended in such fiscal year for the administration of the State plan approved under this part) equal to or exceeding one-half of the net amount of the sanctions that would otherwise be imposed upon the State under paragraph (2)(A) for such fiscal year. Expenditures of additional State and local funds for the reduction of errors as provided for in the corrective action plan or separate plan described in the preceding sentence shall be considered (for purposes of subsection (a)) to be expenditures for the proper and efficient administration of the State plan approved under this part.

"(4)(A) Each State agency administering a plan approved under this part shall, at such times and in such form as the Secretary may specify, provide additional information on overpayments made in connection with its administration of such plan, together with any other data which the Secretary may request that are reasonably necessary for the Secretary to carry out the provisions of this subsection.

"(B) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary directly or through such contractual or other arrangements as the Secretary may find appropriate, shall establish the error rate or rates involved for that State on the basis of the best data reasonably available and in accordance with such techniques for sampling and estimating as the Secretary may find appropriate.

"(5) For purposes of this subsection—

"(A) the term 'error rate' for any State for any fiscal year means—

"(i) with respect to such State's overpayments for such year (as defined in subparagraph (B)), the ratio of such overpayments to its total payments under the State plan for such year (in this section referred to as the 'error rate for overpayments'), and

"(ii) with respect to such State's underpayments for such year (as defined in subparagraph (C)), the ratio of such underpayments to its total payments under the State plan for such year (in this section referred to as the 'error rate for underpayments'),

determined (in each case) subject to the adjustments provided for in paragraph (2)(C);

"(B) the term 'overpayments' means (i) overpayments to eligible families receiving assistance, and (ii) payments to ineligible families receiving assistance; and

"(C) the term 'underpayments' means underpayments to eligible families receiving assistance.

"(6) This subsection shall not apply with respect to Puerto Rico, Guam or the Virgin Islands.".

(b) EFFECTIVE DATE; TREATMENT OF QUALITY CONTROL SANCTIONS BACKLOG FROM

PRIOR LAW.—(1) The amendment made by subsection (a) shall be effective only with respect to the fiscal year 1987 and subsequent fiscal years.

(2)(A) In order to eliminate as quickly as possible the backlog of sanctions remaining to be applied, with respect to the fiscal years 1981 through 1986, under section 403(i) of the Social Security Act as in effect prior to the enactment of this Act, the Secretary of Health and Human Services shall combine the error rate for each State liable for sanctions under section 403(i) for each such fiscal year into a single distribution of error rates for that year, and identify for sanctions under section 403(i) as so in effect only those States whose error rates for the year involved are extremely large in relation to, or significantly outside the range of, that distribution.

(B) Before taking the action described in subparagraph (A), the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, in consultation with the Secretary of Health and Human Services, shall establish the threshold to be used in identifying the States whose error rates for any of the fiscal years involved are to be considered extremely large, or significantly outside the range of, the distribution of rates required by that subparagraph.

(C)(i) Sanctions under section 403(i) of the Social Security Act as in effect prior to the enactment of this Act shall be imposed only on States identified for such sanctions under subparagraph (A); and for purposes of such sanctions (subject to clause (ii) of this subparagraph) section 403(i) of such Act as so in effect shall continue in effect notwithstanding the amendment made by subsection (a) of this section.

(ii) Paragraphs (2)(A)(ii), (2)(C)(ii), (2)(C)(iii), and (3) of section 403(i) of the Social Security Act (as amended by subsection (a) of this section) shall apply for purposes of this paragraph with respect to any State which has been identified for sanctions under subparagraph (a), as though they were included in section 403(i) of such Act as in effect prior to the enactment of this Act.

(c) REVIEW OF ERROR RATE TOLERANCE LEVELS.—Upon the expiration of 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall review in detail the actual performance of the various States under section 403(i) of the Social Security Act as amended by subsection (a) of this section, with particular reference to the appropriateness of the error rate tolerance levels established by paragraph (2)(B) of such section 403(i) as so amended and the effectiveness of such levels in achieving the quality control objectives of that section. The Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, for further legislative action, a full and complete statement of the results of such review together with any recommendations which may appear appropriate for modifications in the error rate tolerance levels so established.

SEC. 3. EXTENSION OF QUALITY CONTROL PROGRAM TO INCLUDE CASES INVOLVING UNDERPAYMENTS.

(a) SANCTIONS.—Section 403(i)(2)(A) of the Social Security Act (as amended by section 1(a) of this Act) is further amended to read as follows:

"(A) Notwithstanding subsection (a)(1) (but subject to subparagraph (C) and paragraph (3))—

"(i) if a State's error rate for overpayments for any fiscal year (as defined in paragraph (5)(A)(i)) exceeds the error rate tolerance level for overpayments determined for the State (for that year) under subparagraph (B), then the Secretary shall make no payment for such fiscal year with respect to the State's overpayments (as defined in paragraph (5)(B)) to the extent that the inclusion of such payments in determining such error rate cause such rate to exceed the tolerance level so determined; and

"(ii) if a State's error rate for underpayments for any fiscal year (as defined in paragraph (5)(A)(ii)) exceeds the error rate tolerance level for underpayments determined for the State (for that year) under subparagraph (B), then the State shall be required in accordance with regulations of the Secretary to set aside an amount equal to the total amount by which the State's underpayments for that year (as defined in paragraph (5)(C)) exceeded the State's error rate tolerance level for underpayments (for that year), and to use the amount so set aside for the exclusive purpose of increasing the payment level under its approved State plan or of improving the administration of such plan, or both.".

(b) ERROR RATE TOLERANCE LEVELS.—Section 403(i)(2)(B) of such Act (as so amended) is further amended by adding at the end (after and below clause (v)) the following new sentence: "A State's error rate tolerance level for underpayments for any fiscal year shall be the level that would be determined with respect to such underpayments (if there were overpayments) under the preceding provisions of this paragraph, except that for this purpose the figure "0.5" in clause (i) and the figure "0.1" in each of the succeeding clauses shall be deemed to be "0.05" and "0.01", respectively.".

(c) CONFORMING AMENDMENTS.—Section 403(i) of such Act (as so amended) is further amended—

(1) by striking "error rate for overpayments" in the matter preceding clause (i) in paragraph (2)(C) and inserting "error rates";

(2) by striking "overpayments" in paragraph (2)(C)(v) and inserting "overpayments or underpayments";

(3) by inserting "or underpayments" after "overpayments" in paragraph (3)(B)(i);

(4) by inserting "or underpayments" after "overpayments" in paragraph (3)(B)(ii);

(5) by inserting "and underpayments" after "overpayments" in subparagraph (C)(iii);

(6) by striking "overpayments made" in paragraph (4)(A) and inserting in lieu thereof "overpayments and underpayments made"; and

(7) by striking "error rate" in paragraph (4)(C) in inserting "error rate or rates".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective only with respect to quarters in the fiscal year 1991 and in subsequent fiscal years.

SEC. 4. INCENTIVE PAYMENTS TO STATES.

Section 403(i) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new paragraph:

"(7)(A) If a State's ratio of erroneous excess payments to its total payments (as determined under paragraph (1)) is less than 0.03 for any fiscal year, the Secretary shall pay to such State as an incentive payment an amount equal to 50 percent of the net amount by which Federal payments to such State for such fiscal year are reduced by reason of such ratio being less than 0.03.".

SEC. 5. INAPPROPRIATE DENIALS AND TERMINATIONS.

(a) INCLUSION OF INAPPROPRIATE DENIALS AND TERMINATIONS FOR PURPOSES OF DATA COLLECTION AND REVIEW.—Effective as provided in section 1(b)(1), section 403(i) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended as follows:

(1) paragraph (1)(A)(i) is amended by inserting "and negative case actions" after "cases";

(2) paragraph (1)(A)(ii) is amended by striking "and underpayments" and inserting, "underpayments, and erroneous negative case action";

(3) paragraph (1)(B) is amended—

(A) by inserting "(i)" after "(B)".

(B) by inserting "comparable" after "establish",

(C) by inserting "and negative case actions taken" after "payments", and

(D) by adding at the end the following new clause:

"(ii) The Secretary shall require a further investigation of those negative case actions selected for quality control review that are determined pursuant to such review to be correct for the reason given by the State, for the purpose of—

"(I) determining whether at the time of any such negative case action the family subject to such action included a child or children who met the definition of a 'dependent child' in section 406(a) or 407(a) and was not ineligible for aid under section 407 or under any provision of section 402 other than subsection (a)(14) thereof,

"(II) including such determinations in the data collection and review process under subparagraph (A), and in the development of the improved methodology for measuring the State's performance with respect to inappropriate denials and terminations of aid (as described in section 3(b) of the Act which amended this section in 1988), and

"(III) bringing to the attention of the State agency in appropriate cases the need for changes in policy and practice to ensure that children described in subdivision (I) will not be denied aid, for which they are or should be eligible under the State plan, because of the strict application and enforcement of the quality control program under this subsection or for any other reason which is technical in nature."; and

(4) paragraph (5)(A) is amended—

(A) by striking "and" after the comma at the end of clause (i),

(B) by adding "and" after the comma at the end of clause (ii),

(C) by inserting immediately after clause (ii) the following new clause:

"(iii) with respect to such State's erroneous negative case actions for such year (as defined in subparagraph (E)), the ratio of such erroneous case actions to its total number of negative case actions (as defined in subparagraph (D)) under the State plan for such year,";

(5) paragraph (5)(B) is amended by striking "and" after the semicolon;

(6) paragraph (5)(C) is amended by striking the period and inserting "; and"; and

(7) paragraph (5) is further amended by adding after subparagraph (C) the following new subparagraphs:

"(D) the term 'negative case actions' means actions to terminate assistance or actions to deny an application for assistance

or to otherwise dispose of an application without a determination of eligibility; and

"(E) the term 'erroneous negative case actions' means negative case actions in which the reason given by the State for the action was not correct or in which the State did not comply with applicable advance notice and hearing requirements.".

(b) DEVELOPMENT OF METHODOLOGY.—No later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the States, shall develop and report to the Congress an improved methodology for measuring a State's performance with respect to inappropriate denials and terminations of aid under the State plan approved under part A of title IV of the Social Security Act. Such methodology shall include recommendations for establishing the error rate tolerance level against which a State's performance on inappropriate denials and terminations should be measured, and for the sanctions that should be applied if a State's error rate for inappropriate denials and terminations exceeds that level.

(c) EXTENSION OF QUALITY CONTROL PROGRAM TO INCLUDE INAPPROPRIATE DENIALS AND TERMINATIONS.—Effective on the first day of the first calendar quarter which begins 1 year or more after the submission of the Secretary's report to the Congress under subsection (b) (unless the Congress has theretofore provided otherwise by law), paragraph (5)(C) of section 403(i) of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by striking "underpayments to eligible families receiving assistance" and inserting "(i) underpayment to eligible families receiving assistance, and (ii) nonpayments to eligible families not receiving assistance due to erroneous negative case actions".

TABLE 1.—AFDC DISALLOWANCES (Fiscal Year 1981 Through Fiscal Year 1986)

[Dollars in thousands]

State	1981	1982	1983	1984	1985	1986	Total
Alabama	$47/A	$0	$0	$717/A	$481	$610	$1,091
Alaska	0	0	1,746	704/A	1,578	584	3,908
Arizona	209/A	1,091	2,366	2,846	2,625	4,013	12,940
Arkansas	0	323	193	231	0	286	1,033
California	35,067	27,155	12,631	32,344	48,900	91,762	247,859
Colorado	1,898	1,130	1,151	868	1,245	185	6,477
Connecticut	313	854	436	440/A	1,915	1,118	4,636
Delaware	0	553	731	660	652	433	3,030
District of Columbia	0	3,014	3,663	3,066	2,642	2,682	15,067
Florida	3,467	1,783	726	3,412	3,963	8,761	22,112
Georgia	0	0	2,201	4,253	6,460	6,530	19,444
Hawaii	1,212	1,084	1,254	1,513	1,316	437	6,816
Idaho	691	169	0	900	117	128	2,005
Illinois	0	0	11,598	14,750	18,603	26,485	71,436
Indiana	113	0	704	879	1,546	2,262	5,504
Iowa	0	0	0	581	1,653	3,111	5,346
Kansas	1,903	0	531	1,094	964	613	5,105
Kentucky	0	0	0	1,090	136	0	1,226
Louisiana	0	0	1,491	2,606	4,158	1,818	10,073
Maine	168	0	245	559	1,477	811	3,260
Maryland	1325/A	1,094	1,426	3,052/A	4,920	7,734	15,174
Massachusetts	0	0	16,577	9,674	1,284	782	28,316
Michigan	0	13,306	29,177	30,831	21,760	25,899	120,974
Minnesota	571	0	0	0	70	144	785
Mississippi	0	0	0	0	0	426	426
Missouri	0	0	0	850	1,088	1,578	3,516
Montana	0	0	0	682	930	666	2,279
Nebraska	280	1,521	213	1,253	1,700	1,587	6,554
Nevada	0	0	0	0	0	0	0
New Hampshire	0	0	48	583	265	215	1,111
New Jersey	1280/A	4,020	5,884	5,228	8,366	11,408	34,906
New Mexico	2,554	1,930	614	1,113	989	1,012	8,212
New York	6,270	19,812	47,550	39,382	44,931	68,556	226,501
North Carolina	0	0	0	500	0	0	500
North Dakota	0	0	0	164	0	0	164
Ohio	3,930	5,895	5,787	13,602	15,285	30,180	74,678
Oklahoma	1,508	0	26	10	0	546	2,090
Oregon	0	0	773	932	529	823	3,057
Pennsylvania	0	1,797	21,219	24,588	15,119	11,382	76,106
Rhode Island	0	0	857	289	704	1,879	3,730
South Carolina	1004/A	2,072	1,656	2,625	2,603	3,661	12,617
South Dakota	13	0	0	0	0	0	13
Tennessee	1,754	0	255	747	284	1,637	4,677
Texas	1,112	2,139	2,119	2,754	1,601	6,720	16,445
Utah	300/A	325	614	993	540	660	3,132
Vermont	225/A	94	971	784	722	1,167	3,737
Virginia	0	0	0	424	531	407	1,362
Washington	4,162	1,827	983	1,652	5,595	2,952	17,171
West Virginia	0	691	0	957	1,684	2,396	5,728
Wisconsin	0	295	2,966	10,670	17,829	11,207	42,967
Wyoming	413	33	206	155	2	82	892
Puerto Rico	1,714	1,750	2,210	1,789	1,104	554	9,121
National	69,113	95,755	183,798	224,886	251,219	349,044	1,173,308

A/Full Disallowance waived; amounts waived are not included in totals.

TABLE 2.—AFDC PAYMENT ERROR RATES (1981–1986)

[In percent]

State	1981	1982	1983	1984	1985	1986
Alabama	7.7	5.4	3.2	4.4	3.8	4.2
Alaska	18.2	12.1	15.6	6.8	10.5	5.5
Arizona	8.3	11.6	10.0	9.7	8.9	11.2
Arkansas	6.8	7.0	4.8	3.8	3.0	3.8
California	6.8	6.0	4.8	5.0	5.9	8.1
Colorado	8.2	6.6	6.2	4.6	5.5	3.4
Connecticut	7.4	6.4	4.4	3.4	4.7	4.0
Delaware	11.3	11.9	9.4	7.8	7.9	6.5
District of Columbia	13.6	17.1	13.1	11.2	9.9	10.0
Florida	7.9	6.0	4.5	5.4	5.7	9.0
Georgia	6.5	5.1	5.8	6.2	7.6	7.4
Hawaii	10.1	8.2	6.9	6.7	6.3	4.2
Idaho	9.1	5.4	3.0	9.5	3.9	4.0
Illinois	8.3	8.2	6.8	6.5	7.3	9.0
Indiana	4.1	3.9	4.9	4.0	4.7	5.4
Iowa	4.3	4.5	3.4	3.7	4.9	6.1
Kansas	8.1	2.8	5.1	5.5	5.1	4.3

TABLE 2.—AFDC PAYMENT ERROR RATES (1981–1986)—Continued

[In percent]

State	1981	1982	1983	1984	1985	1986
Kentucky	5.0	3.6	3.4	4.1	3.2	3.0
Louisiana	6.7	6.2	5.7	5.8	7.2	4.8
Maine	7.9	4.1	4.5	4.1	5.7	4.4
Maryland	11.6	8.2	5.3	5.7	7.1	9.2
Massachusetts	9.3	7.4	11.4	7.8	3.6	3.3
Michigan	7.3	8.2	9.1	8.0	6.6	6.7
Minnesota	4.4	3.0	2.6	2.0	2.8	3.1
Mississippi	6.9	4.7	3.5	2.0	2.8	3.7
Missouri	7.1	4.8	3.4	3.7	3.9	4.3
Montana	4.9	2.5	2.5	6.9	7.5	5.7
Nebraska	5.5	9.6	4.7	6.9	7.9	7.5
Nevada	2.3	1.3	2.7	2.1	2.6	2.2
New Hampshire	6.6	5.9	4.3	7.5	5.2	5.0
New Jersey	8.0	7.3	6.4	5.1	6.3	7.5
New Mexico	12.4	10.5	6.1	6.2	5.7	5.9
New York	8.0	8.0	9.4	7.1	7.5	9.5
North Carolina	5.4	3.3	2.7	3.5	2.2	2.5
North Dakota	3.1	1.9	2.1	4.7	1.3	1.9
Ohio	8.9	7.6	5.6	6.4	6.6	9.4
Oklahoma	6.6	3.8	4.1	3.0	2.8	4.0
Oregon	6.8	6.4	5.5	4.6	3.8	4.1
Pennsylvania	9.0	8.5	9.1	9.1	6.6	5.6
Rhode Island	6.3	5.7	6.2	3.7	4.7	7.2
South Carolina	7.8	8.9	7.1	7.8	7.0	7.9
South Dakota	4.6	3.7	2.1	2.9	1.5	2.5
Tennessee	8.9	4.9	4.3	4.3	3.5	5.3
Texas	7.5	8.4	7.0	5.7	4.3	7.5
Utah	4.9	5.0	5.7	5.8	4.5	4.7
Vermont	5.2	4.5	7.9	5.8	5.7	7.4
Virginia	3.6	4.1	3.8	3.5	3.5	3.4
Washington	9.3	6.4	4.8	4.1	5.1	4.6
West Virginia	7.4	8.2	3.0	4.8	5.8	6.1
Wisconsin	8.2	6.5	5.1	6.6	8.6	6.3
Wyoming	13.7	4.8	7.7	5.6	3.0	4.0
Puerto Rico	8.9	8.9	8.6	7.7	6.3	5.7
National	7.6	6.9	6.5	6.0	6.1	7.1

By Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. DODD, Mr. BURDICK, Mr. REID, and Mr. LEAHY):

S. 232. A bill to establish the American Conservation Corps, and for other purposes; to the Committee on Energy and Natural Resources.

AMERICAN CONSERVATION CORPS ACT

Mr. MOYNIHAN. Mr. President, today I rise—for the fifth time in 8 years—to introduce legislation to create an American Conservation Corps [ACC]. I have pledged to keep at this until we get it right, and there are encouraging signs that we will do just that in the very near future.

The ACC is a program that will employ thousands of youth to perform much needed conservation and rehabilitation work on Federal, State, local, and Indian lands. Patterned after the highly successful Civilian Conservation Corps [CCC] of the New Deal era, the ACC would provide year-round and summer employment opportunities for disadvantaged youths between ages 16 and 25.

As we are all painfully aware, two elements of the Great Depression still linger: youth employment and deterioriation of our natural resources. In my own State of New York, more than 54,000 youths aged 16 to 19 were unemployed in the first 9 months of 1988. Teens were almost three times as likely to be unemployed as all New Yorkers. One in six unemployed New Yorkers are teenagers. And this reflects a pattern of youth unemployment that plagues the country. Nationwide, in December 1988, 15 percent of Americans 16 to 19 were unemployed; 29.6 percent of black teenagers were unemployed; 1.2 million teens wanted but could not find work last month.

The legislation I introduce today is the same as passed the Senate during the final week of the 99th Congress as part of a bill to establish the Cuyahoga Valley National Recreation Area (H.R. 4645). The bill authorizes $75 million annually for fiscal years 1990–92; 80 percent of the funds are administered by the Department of Interior—Park Service lands 25 percent, Indian lands 5 percent, and State grants 50 percent—and 20 percent by the Department of Agriculture—Forest Service lands 15 percent, and other Federal agencies 5 percent. Fifty percent of the funds would be awarded to States and localities in the form of competitive grants. Awards would be based on: the size of the State's unemployed youth population; the conservation, rehabilitation, and improvement needs of the State's public lands; and local support for the program. States would be required to match the Federal funds, dollar for dollar.

State and local governments already have established some three dozen year-round or summertime conservation corps programs. The California Conservation Corps—the Nation's largest—employs 2,200 young men and women per year. The State of New York established its conservation corps last year with a modest budget of $1 million. The 1988 summer pilot program provided work opportunities for more than 500 New Yorkers between the ages of 14 and 18 at dozens of sites across the State. These programs prove that conservation programs are productive and beneficial to youth and the areas they serve.

Mr. President, I earlier referred to the ACC's tortuous legislative history. Permit me to explain. The measure was first introduced as the Public Lands Rehabilitation, Conservation and Improvement Act of 1981 (H.R. 4861). This bill was passed by the House on June 9, 1982, by a vote of 291 to 102. The House voted again, in December 1982, to approve the ACC, but the Senate did not act. Nor did the Senate act on S. 2061, a companion bill that Senator Mathias and I had introduced on February 3, 1982.

Thereafter, on the first day of the 98th Congress, Senator Mathias and I reintrodcued the ACC legislation as S. 27. Our measure attracted bipartisan support from 22 cosponsors. The House overwhelmingly approved a companion bill on March 1, 1983, by a vote of 301 to 87. On May 13, 1983, the Senate Energy and Natural Resources Committee voted 18 to 1 to report H.R. 999 as a shell authorization bill, and Senator Mathias and I set about working with committee members to craft a compromise agreement to be offered as a substitute. Negotiations on the amendment, which was to delineate program details, required more than 1 year.

On October 3, 1984, the amendment was agreed to in the Senate by unani-

mous consent; 6 days later the Senate amendment was concurred to, and H.R. 99, as amended, was passed by the House by vote of 296 to 75. Yet despite such persistent support, President Reagan pocket vetoed the measure.

On January 3, 1985, this bill was again introduced in the House (H.R. 99), and was passed by a vote of 193-191 on July 11, 1985. On October 17, an amended version of S. 27 was offered as part of a floor amendment to H.R. 4645, a bill to establish the Cuyahoga Valley National Recreation Area. The amendment, and the bill as amended, were passed by unanimous consent. Unfortunately, Senator MCCLURE's amendment also included the provisions of a controversial bill to provide for competitive oil and gas leasing, provisions which the House found unacceptable. And so, Mr. President, the ACC once again failed to be enacted, despite the support of both Houses of Congress.

The bill I introduce today is the same text which passed the Senate during those waning hours of the 99th Congress. This time, I hope, we can finally do it right.

And that is not an unreasonable hope. A renewed interest in public service is permeating the national landscape. In May 1988, Representative MATT MARTINEZ, Representative LEON PANETTA, and Representative Mo UDALL began work on a new bill that combines elements of the American Conservation Corps with a National Youth Service Corps to assist youth in providing human services assistance to communities. Their bill contains a strong emphasis on educating disadvantaged program participants. Mr. DODD of Connecticut is now at work on a similar bill. The Democratic Leadership Council chaired by Mr. NUNN of Georgia issued a report calling for the creation of a citizens corps, describing it as a voluntary system of national service designed to create new opportunities to serve each other and their country. President Bush has also proposed a voluntary service program. Clearly a consensus is building that the nation's youth has something to give and something to gain from establishing programs like the American Conservation Corps.

We have estimated that the ACC would provide jobs for approximately 28,000 youths annually. The legislation specifically directs the Secretaries of Interior and Agriculture to make special efforts in recruiting and employing economically, socially, educationally, and physically disadvantaged youths at an hourly salary just below minimum wage.

The array of available work includes wildlife habitat and conservation, rehabilitation, and improvement; urban revitalization; recreational area development and maintenance; road and trail maintenance and improvement; erosion, flood, drought, and storm damage control; insect, disease, rodent, and fire prevention and control; and improvement of abandoned railroad beds and rights of way; and energy conservation projects.

Mr. President, it is not often we have the ability to enact legislation that will unequivocally produce successful results. The Young Adult Conservation Corps returned $1.20 in appraised conservation work for each $1 expended. The YCC returned $1.04. State programs have done even better. The budget deficit looms, but so does the future of the youth of this country.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Conservation Corps Act of 1989".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) conserving or developing natural and cultural resources and enhancing and maintaining environmentally important lands and waters through the use of the Nation's young men and women is beneficial not only to the youth of the Nation by providing them with education and work opportunities but also for the Nation's economy and its environment; and

(2) through this work experience opportunity, the Nation's youth will further their understanding and appreciation of the natural and cultural resources in addition to learning basic and fundamental work ethics including discipiine, cooperation, understanding to live and work with others, and learning the value of a day's work for a day's wages.

(b) PURPOSES.—It is the purpose of this Act to—

(1)(A) enhance and maintain conservation, rehabilitation, and improvement work on public lands and Indian lands,

(B) improve and restore public lands and Indian lands, resources, and facilities,

(C) conserve energy, and

(D) restore and maintain community lands, resources, and facilities,

(2) establish an American Conservation Corps to carry out a program to improve, restore, maintain, and conserve these lands and resources in the most cost-effective manner;

(3) assist State and local governments and Indian tribes in carrying out need public lands and resource conservation, rehabilitation, and improvement projects;

(4) provide for implementation of the program in such manner as will foster conservation and the wise use of natural and cultural resources through the establishment of working relationships among the Federal, State, and local governments, Indian tribes, and other public and private organizations; and

(5) increase (by training and other means) employment opportunities for young men and women including, but not limited to, those who are economically, socially, physically, or educationally disadvantaged and who may not otherwise be productivity employed.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "public lands" means any lands or waters (or interest therein) owned or administered by the United States or by any agency or instrumentality of a State or local government.

(2) The term "program" means all activities carried out under the American Conservation Corps established by this Act.

(3) The term "program agency" means any agency designated by the Governor to manage the program in that State, and the governing body of any Indian tribe.

(4) The term "Indian tribe" means any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior. Such term also includes any Native village corporation, regional corporation, and Native group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.).

(5) The term "Indian" means a person who is a member of an Indian tribe.

(6) The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes which is subject to restrictions on alienation imposed by the United States.

(7) The term "employment security service" means the agency in each of the several States with responsibility for the administration of unemployment and employment programs, and the oversight of local labor conditions.

(8) The term "chief administrator" means the head of any program agency as that term is defined in paragraph (3).

(9) The term "enrollee" means any individual enrolled in the American Conservation Corps in accordance with section 5.

(10) The term "crew leader" means an enrollee appointed under authority of this Act for the purpose of supervising other enrollees engaged in work projects pursuant to this Act.

(11) The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(12) The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act.

SEC. 4. AMERICAN CONSERVATION CORPS PROGRAM.

(a) ESTABLISHMENT OF AMERICAN CONSERVATION CORPS.—There is hereby established an American Conservation Corps.

(b) REGULATIONS AND ASSISTANCE.—Not later than 120 days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture, after consultation with the Secretary of Labor, shall jointly promulgate the regulations necessary to implement the American Conservation Corps established by this Act. Within 30 days after the enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall establish procedures to give program agencies and other interested parties, including the public, adequate notice and opportunity to comment upon and participate in the formulation of such regulations. The regulations shall include

provisions to assure uniform reporting on the activities and accomplishments of American Conservation Corps programs, demographic characteristics of enrollees in the American Conservation Corps, and such other information as may be necessary to prepare the annual report under section 10.

(c) PROJECTS INCLUDED.—The American Conservation Corps established under this section may carry out such projects as—

(1) conservation, rehabilitation, and improvement of wildlife habitat, rangelands, parks, and recreational areas;

(2) urban revitalization and historical and cultural site preservation;

(3) fish culture and habitat maintenance and improvement and other fishery assistance;

(4) road and trail maintenance and improvement;

(5)(A) erosion, flood, drought, and storm damage assistance and controls,

(B) stream, lake, and waterfront harbor and port improvement, and

(C) wetlands protection and pollution control;

(6) insect, disease, rodent, and fire prevention and control;

(7) improvement of abandoned railroad bed and right-of-way;

(8) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(9) reclamation and improvement of strip-mined land; and

(10) forestry, nursery, and silvicultural operations.

(d) PREFERENCE FOR CERTAIN PROJECTS.—The program shall provide a preference for those projects which—

(1) will provide long-term benefits to the public;

(2) will instill in the enrollee involved a work ethic and a sense of public service;

(3) will be labor intensive; and

(4) can be planned and initiated promptly.

(e) LIMITATION TO PUBLIC LANDS.—Projects to be carried out by the American Conservation Corps shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit as determined by the Secretary of the Interior or the Secretary of Agriculture. The regulations promulgated under subsection (b) shall establish the criteria necessary to make such determinations.

(f) CONSISTENCY.—All projects carried out under this Act for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with the provisions of law and policies relating to the management and administration of such lands, with all other applicable provisions of law, and with all management, operational, and other plans and documents which govern the administration of the area.

(g) APPLICATION PROCEDURES.—(1) Each program agency may apply for approval to participate in the American Conservation Corps under this Act.

(2) Applications for participation in the American Conservation Corps on Federal public lands shall be submitted to the Secretary of the Interior or the Secretary of Agriculture in such manner as is provided for by the regulations promulgated under subsection (b). Applications for participation in the American Conservation Corps on non-Federal public lands or Indian lands shall be submitted to the Secretary of the Interior. Applications for participation in the American Conservation Corps on projects on lands described in subsection (e) shall be submitted to the Secretary of Agriculture or the Secretary of the Interior as the case may be. No application may be submitted to the Secretary of the Interior or the Secretary of Agriculture before the 30-day period for review and comment by the appropriate State Job Training Coordinating Council (established under the Job Training Partnership Act), if any, which shall consult with the appropriate Private Industry Council, or Councils, in the area in which a project is carried out. Comments of the State Job Training Coordinating Council and Private Industry Council shall be forwarded to the Secretary at the time the grant application is submitted.

(3) Each application under this section must be approved by the Secretary of the Interior or the Secretary of Agriculture, as the case may be, and shall contain—

(A) a comprehensive description of the objectives and performance goals for the program, a plan for managing and funding the program, and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided;

(B) a plan to make arrangements for certification of the training skills acquired by enrollees and award of academic credit to enrollees for competencies developed from training programs or work experience obtained under this Act;

(C) an estimate of the number of enrollees and crew leaders necessary for the proposed projects, the length of time for which the services of such personnel will be required, and the services which will be required for their support;

(D) a description of the location and types of facilities and equipment to be used in carrying out the programs; and

(E) such other information as the Secretary of the Interior and the Secretary of Agriculture shall prescribe.

(4) In approving the location and type of any facility to be used in carrying out the program, the Secretary of the Interior and the Secretary of Agriculture shall give the consideration to—

(A) the proximity of any such facility to the work to be done;

(B) the cost and means of transportation available between any such facility and the homes of the enrollees who may be assigned to that facility;

(C) the participation of economically, socially, physically, or educationally disadvantaged youths; and

(D) the cost of establishing, maintaining, and staffing the facility.

Every effort shall be made to assign youths to facilities as near to their homes as practicable.

(5)(A) Every program shall have sufficient supervisory staff appointed by the chief administrator which may include enrollees who have displayed exceptional leadership qualities.

(B) No project shall be undertaken without the on-site presence of knowledgeable and competent supervision, and all projects undertaken shall be documented in advance in an approved written project plan.

(h) LOCAL PARTICIPATION.—Any State carrying out a program under this Act shall provide a mechanism under which local governments and nonprofit organizations within the State may be approved by the State to participate in the American Conservation Corps.

(i) AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(j) JOINT PROJECTS.—

(1) DEPARTMENT OF LABOR.—The Secretary of the Interior and the Secretary of Agriculture are authorized to develop jointly with the Secretary of Labor regulations designed to allow, where appropriate, joint projects in which activities supported by funds authorized under this Act are coordinated with activities supported by funds authorized under employment and training statutes administered by the Department of Labor (including the Job Training Partnership Act). Such regulations shall provide standards for approval of joint projects which meet both the purposes of this Act and the purposes of such employment and training statutes under which funds are available to support the activities proposed for approval. Such regulations shall also establish a single mechanism for approval of joint projects developed at the State or local level.

(2) DEPARTMENT OF DEFENSE.—The Secretary of the Interior, the Secretary of Agriculture, and program agencies may enter into agreements, jointly or separately, with the Secretary of Defense to assist the military by carrying out projects under this Act. Such projects may be carried out on a reimbursable basis or otherwise.

SEC. 5. ENROLLMENT, FUNDING, AND MANAGEMENT.

(a) ENROLLMENT IN PROGRAM.—(1)(A) Enrollment in the American Conservation Corps shall be limited to individuals who, at the time of enrollment, are—

(i) unemployed;

(ii) not less than 16 years or more than 25 years of age (except that programs limited to the months of June, July, and August may include individuals not less than 15 years and not more than 21 years of age at the time of their enrollment); and

(iii) citizens or nationals of the United States (including those citizens of the Northern Mariana Islands as defined in Public Law 98-213 (97 Stat. 1459)) or lawful permanent residents of the United States.

(B) Special efforts shall be made to recruit and enroll individuals who, at the time of enrollment, are economically disadvantaged.

(C) In addition to recruitment enrollment efforts required in subparagraph (B), the Secretary of the Interior and the Secretary of Agriculture shall make special efforts to recruit enrollees who are socially, physically, and educationally disadvantaged youths.

(D) Notwithstanding subparagraph (A), a limited number of special corps members may be enrolled without regard to their age so that the corps may draw upon their special skills which may contribute to the attainment of their purposes of the Act.

(2) Except in the case of a program limited to the months of June, July, and August, individuals who at the time of applying for enrollment have attained 16 years of age but not attained 19 years of age, and who are no longer enrolled in any secondary school shall not be enrolled unless they give adequate written assurances, under criteria to be established by the Secretary of the Interior and the Secretary of Agriculture, that they did not leave school for the express purpose of enrolling. The regulations promulgated under section 4(b) shall provide such criteria.

(3) The selection of enrollees to serve in the American Conservation Corps shall be

the responsibility of the chief administrator of the program agency. Enrollees shall be selected from those qualified persons who have applied to, or been recruited by, the program agency, a State employment security service, a local school district with an employment referral service, an administrative entity under the Job Training Partnership Act, a community or community-based nonprofit organization, the sponsor of an Indian program, or the sponsor of a migrant or seasonal farmworker program.

(4)(A) Except for a program limited to the months of June, July, and August, any qualified individual selected for enrollment may be enrolled for a period not to exceed 24 months. When the term of enrollment does not consist of one continuous 24-month term, the total of shorter terms may not exceed 24 months.

(B) No individual may remain enrolled in the American Conservation Corps after that individual has attained the age of 26 years, except as provided in subsection (a)(1)(D) of this section.

(5) Within the American Conservation Corps the directors of programs shall establish and stringently enforce standards of conduct to promote proper moral and disciplinary conditions. Enrollees who violate these standards shall be transferred to other locations, or dismissed, if it is determined that their retention in that particular program, or in the Corps, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees. Such disciplinary measures will be subject to expeditious appeal to the appropriate Secretary.

(b) SERVICES, FACILITIES, SUPPLIES.—The program agency shall provide facilities, quarters, and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, and other appropriate services, supplies, and equipment. The Secretary of the Interior and the Secretary of Agriculture may provide services, facilities, supplies, and equipment to any program agency carrying out projects under this Act. Whenever possible, the Secretary of the Interior and the Secretary of Agriculture shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment. Basic standards of work requirements, health, nutrition, sanitation, and safety for all projects shall be established and enforced.

(c) REQUIREMENT OF PAYMENT FOR CERTAIN SERVICES.—Enrollees shall be required to pay a reasonable portion of the cost of room and board provided at residential facilities into rollover funds administered by the appropriate program agency. Such payments and rates are to be established after evaluation of costs of providing the services. The rollover funds established pursuant to this section shall be used solely to defray the costs of room and board for enrollees. The Secretary of the Interior and the Secretary of Agriculture and the Secretary of Defense are authorized to make available to program agencies surplus food and equipment as may be available from Federal programs.

SEC. 6. FEDERAL AND STATE EMPLOYEE STATUS.

Enrollees, crew leaders, and volunteers are deemed as being responsible to, or the responsibility of, the program agency administering the project on which they work. Except as otherwise specifically provided in the following paragraphs, enrollees and crew leaders in projects for which funds have been authorized pursuant to section 13 shall not be deemed Federal employees and should not be subject to the provisions of law relating to Federal employment:

(1) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, enrollees and crew leaders serving American Conservation Corps program agencies shall be deemed employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provision of that subchapter shall apply, except—

(A) the term "performance of duty" shall not include any act of an enrollee or crew leader while absent from his or her assigned post of duty, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee's or crew leader's employment is terminated.

(2) For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, enrollees and crew leaders on American Conservation Corps projects shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in section 2671 of title 28, United States Code.

(3) For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, enrollees and crew leaders shall be deemed employees of the United States within the meaning of the term "employee" as defined in that section.

SEC. 7. USE OF VOLUNTEERS.

Where any program agency has authority to use volunteer services in carrying out functions of the agency, such agency may use volunteer services for purposes of assisting projects carried out under this Act and may expend funds made available for those purposes to the agency, including funds made available under this Act, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision. The use of volunteer services permitted by this section shall be subject to the condition that such use does not result in the displacement of any enrollee.

SEC. 8. TENNESSEE VALLEY AUTHORITY.

The Board of Directors of the Tennessee Valley Authority may accept the services of volunteers and provide for their incidental expenses to carry out any activity of the Tennessee Valley Authority except policymaking or law or regulatory enforcement. Such volunteers shall not be deemed employees of the United States Government except for the purposes of chapter 81 of title 5 of the United States Code, relating to compensation for work injuries, and shall not be deemed employees of the Tennessee Valley Authority except for the purposes of tort claims of the same extent as a regular employee of the Tennessee Valley Authority would be under identical circumstances.

SEC. 9. SPECIAL RESPONSIBILITIES.

(a) PAY.—(1) The rate of pay for enrollees shall be the equivalent of 95 percent of the pay rate for members of the Armed Forces in the enlisted grade E-1 who have served for four months or more on active duty, from which a reasonable charge for enrollee room and board shall be deducted by the program agency.

(2) Enrollees shall receive $50 cash incentive stipends for every three months of enrollment in the program.

(3) The rate of pay for crew leaders shall be at a wage comparable to the compensation in effect for grades GS-3 to GS-7.

(b) COORDINATION.—The Secretary of the Interior and the Secretary of Agriculture and the chief administrators of program agencies carrying out programs under this Act shall coordinate the programs with related Federal, State, local, and private activities.

(c) CERTIFICATION AND ACADEMIC CREDIT.—Pursuant to the provisions of subparagraphs (B) and (C) of section 4(g)(3), the Secretary of the Interior and the Secretary of Agriculture shall provide guidance and assistance to program agencies in securing certification of training skills or academic credit for competencies developed under this Act.

(d) RESEARCH AND EVALUATION.—The Secretary of the Interior shall provide for research and evaluation to—

(1) determine costs and benefits, tangible and otherwise, of work performed under this Act and of training and employable skills and other benefits gained by enrollees, and

(2) identify options for improving program productivity and youth benefits, which may include alternatives for—

(A) organization, subjects, sponsorship, and funding of work projects;

(B) recruitment and personnel policies;

(C) siting and functions of facilities;

(D) work and training regimes for youth of various origins and needs; and

(E) cooperative arrangements with programs, persons, and institutions not covered under this Act.

(e) CCC SITES.—The Secretary of the Interior, after consultation with the Secretary of Agriculture, shall study sites at which Civilian Conservation Corps activities were undertaken for purposes of determining a suitable location and means to commemorate the Civilian Conservation Corps. Not later than one year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress containing the results of the study carried out under this section. The report shall include cost estimates and recommendations for any legislative action.

(f) STUDY.—(1) Program agencies shall not use more than 10 percent of the funds available to them to provide training and educational materials and services for enrollees and may enter into arrangements with academic institutions or education providers, including local education agencies, community colleges, 4-year colleges, area vocational-technical schools and community based organizations, for academic study by enrollees during nonworking hours to upgrade literacy skills, obtain a high school diploma or its equivalency, or college degrees, or enhance employable skills. Enrollees who have not obtained a high school diploma or its equivalency shall have priority to receive services under this subsection. Whenever possible, an enrollee seeking study or training not provided at his or her assigned facility shall be offered assignment to a facility providing such study or training.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under paragraph (1) shall be con-

sistent with the requirement of applicable State and local law and regulations.

(g) GUIDANCE AND PLACEMENT.—Program agencies shall provide such job guidance and placement information and assistance for enrollees as may be necessary. Such assistance shall be provided in coordination with appropriate State, local, and private agencies and organizations.

SEC. 10. ANNUAL REPORT.

The Secretary of the Interior and the Secretary of Agriculture shall prepare and submit to the President and to the Congress at least once each year a report detailing the activities carried out under this Act in the preceding fiscal year. Such report shall be submitted not later than December 31 of each year following the date of enactment of this Act.

SEC. 11. LABOR MARKET INFORMATION.

The Secretary of Labor shall make available to the Secretary of the Interior and the Secretary of Agriculture and to any program agency under this Act such labor market information as is appropriate for use in carrying out the purposes of this Act.

SEC. 12. EMPLOYEE APPEAL RIGHTS.

(a) FEDERAL EMPLOYEES.—In the case of—

(1) the displacement of a Federal employee (including any partial displacement through reduction of nonovertime hours, wages, or employment benefits) or the failure to reemploy an employee in a layoff status, contrary to a certification under section 13(c) (1) or (2), or

(2) the displacement of such a Federal employee by reason of the use of one or more volunteers under section 7 of this Act,

such employee is entitled to appeal such action to the Merit Systems Protection Board under section 7701 of title 5, United States Code.

(b) OTHER INDIVIDUALS.—In the case of—

(1) the displacement of any other individual employed (either directly or under contract with any private contractor) by a program agency or grantee, or the failure to reemploy an employee in layoff status, contrary to a certification under section 13(c) (1) or (2), or

(2) the displacement of such individual by reason of the use of one or more volunteers under section 7 of this Act,

the requirements contained in section 144 of the Job Training Partnership Act (Public Law 97-300) shall apply, and such individual shall be deemed an interested person for purposes of the application of such requirements.

(c) DEFINITION.—For purposes of this section, the term "displacement" includes, but is not limited to, any partial displacement through reduction of nonovertime hours, wages, or employment benefits.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) DISTRIBUTION OF FUNDS.—Of the sums appropriated pursuant to subsection (g) to carry out this Act for any fiscal year—

(1) not less than 50 percent shall be made available to the Secretary of the Interior for expenditure by State program agencies which have been approved by the Secretary of the Interior for participation in the American Conservation Corps;

(2) not less than 15 percent shall be made available to the Secretary of Agriculture for expenditure by agencies within the Department of Agriculture, subject to the provisions of subsection (e);

(3) not less than 5 percent shall be made available to the Secretary of Agriculture, under such terms as are provided for in regulations promulgated under section 4(b), for expenditure by other Federal agencies;

(4) not less than 25 percent shall be made available to the Secretary of the Interior for expenditure by agencies within the Department of the Interior, subject to the provisions of subsection (e), and for demonstration projects or projects of special merit carried out by any program agency or by any nonprofit organization or local government which is undertaking or proposing to undertake projects consistent with the purposes of this Act; and

(5) not less than 5 percent shall be made available to the Secretary of the Interior for expenditure by the governing bodies of participating Indian tribes.

(b) AWARD OF GRANTS.—Within 60 days after enactment of appropriations legislation pursuant to subsection (g), any program agency may apply to the Secretary of the Interior for funds under this Act. In determining the allocation of funds among the program agencies, the Secretary shall consider each of the following factors:

(1) The proportion of the unemployed youth population of the State.

(2) The conservation, rehabilitation, and improvement needs on public lands within the State.

(3) The amount of other support for the program and the extent to which the size and effectiveness of a program will be enhanced by the use of the Federal funds.

Any State receiving funds for the operation of any program under this Act shall be required to provide not less than 50 percent of the cost of such program.

(c) NON-DISPLACEMENT.—The Secretary of the Interior and the Secretary of Agriculture shall not fund any program or enter into any agreement with any program agency for the funding of any program under this Act unless the Secretary concerned or such agency certifies that projects carried out by the program will not—

(1) result in the displacement of individuals currently employed (either directly or under contract with any private contractor) by the program agency concerned (including partial displacement through reduction of nonovertime hours, wages, or employment benefits);

(2) result in the employment of any individual when any other person is in a layoff status from the same or substantially equivalent job within the jurisdiction of the program agency concerned;

(3) impair existing contracts for services; or

(4) result in the inability of persons who normally contract with the agency for carrying out projects involving forestry, nursery, or silvicultural operations on commercial forest land to continue to obtain contracts to carry out such projects.

For purposes of paragraph (4), the term "commercial forest land" means land in the National Forest System or land administered by the Secretary of the Interior through the Bureau of Land Management which is producing, or is capable of producing, 50 cubic feet per acre per year of industrial wood and which is not withdrawn from timber utilization by statute or administrative decision.

(d) STATE SHARE TO LOCAL GOVERNMENTS.—If, at the commencement of any fiscal year, any State does not have a program agency designated by the Governor to manage the program in that State, then during such fiscal year any local government within such State may establish a program agency to carry out the program within the political subdivision which is under the jurisdiction of such local government. Such local government program agency shall be in all respects subject to the same requirements as a State program agency. Where more than one local government within a State has established a program agency under this subsection, the Secretary of the Interior shall allocate funds between such agencies in such manner as he deems equitable.

(e) PROGRAMS ON FEDERAL LANDS.—Funds provided under this section to any Federal agency shall be used to carry out projects on Federal lands and to provide for the Federal administrative costs of implementing this Act. In utilizing such funds, the Federal agencies may enter into contracts or other agreements with program agencies and with local governments and nonprofit organizations approved under section 4(h).

(f) PAYMENT TERMS.—Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary of the Interior or the Secretary of Agriculture, as appropriate, finds necessary.

(g) USE OF FUNDS.—Contract authority under this Act shall be subject to the availability of appropriations. Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be carried out in the area in the absence of such funds. Not more than 10 percent of the funds made available to any program agency for projects during each fiscal year may be used for the purchase of major capital equipment.

(h) ADMINISTRATIVE EXPENSES.—The regulations under section 4(b) shall establish appropriate limitations on the administrative expenses of Federal agencies and program agencies carrying out programs under this Act. Such limitations shall insure that administrative expenses of such programs shall be minimized to the extent practicable taking into consideration the purposes of this Act and the nature of the programs carried out under this Act.

(i) APPROPRIATION LEVELS.—There is authorized to be appropriated for the purposes of carrying out this Act $75,000,000 for each of the fiscal years 1990 through 1992. Funds appropriated under this Act shall remain available until expended.

By Mr. MOYNIHAN:

S. 233. A bill entitled the "Hazardous Wastes and Human Health Survey Act"; to the Committee on Environment and Public Works.

HAZARDOUS WASTES AND HUMAN HEALTH SURVEY ACT

Mr. MOYNIHAN. Mr. President, today I introduce the Hazardous Wastes and Human Health Survey Act of 1989. This legislation directs the National Academy of Sciences, through its National Research Council, to undertake a survey of Love Canal in New York, the Stringfellow Acid Pits in California, Times Beach in Missouri, and other representative examples of hazardous wastes sites in this country to determine what we know and do not know about these sites' and their effect on human health.

Now, although it has been almost two decades since the passage of our major environmental statutes such as

the National Environmental Policy Act, Safe Drinking Water Act, Clean Water Act, Superfund, and others, environmental epidemiology remains a nascent scientific specialty. Environmental epidemiology can be defined as the study of defined populations or communities exposed to different ambient environments so as to clarify the relationships between such environmental factors and human health. This is a challenging area of investigation, because it is exceedingly difficult to isolate causes and effects with human populations. For example, is lung cancer in an individual caused by exposure to airborne carcinogens in the workplace, or residence near an industrial plant emitting toxic fumes, or by the individual's habit of smoking? Scientists must struggle to draw inferences despite problems such as exposure to multiple agents, small population sample sizes, "confounders" which skew statistical results, and long latency periods for certain diseases and effects, all arrayed against humans' complex genetic makeups and their changing physical environments.

In a report first published in 1983 by the National Academy of Sciences, it was noted that fewer than 30 agents are definitely linked with cancer in humans—while some 1,500 substances are reportedly carcinogenic in animal tests (although some of these testing methods are questionable). Only about 7,000 of the over 5,000,000 known substances have ever been tested for carcinogenicity. The report goes on to say that we know even less about other human health effects which stem from environmental hazards such as dangers to neurological, immunological and reproductive systems in humans.

Now there are obvious ethical reasons that dictate why we must rely on animal studies for much of out data. But the Government has a responsibility to the public who lived, played and worked in places like Love Canal and Times Beach to provide the best information possible on the health effects from these sites. On December 9, 1988, an editorial in the New York Times discussed the pollution problems stemming from the Department of Defense lax policies at its energy facilities such as Fernald, OH. I quote:

Residents near some plants blame release of radioactive materials for their illnesses. These compliants merit concern. But no one can know if the illnesses have any connection with the plant operations, or are just fortuitious, until the completion of epidemiological studies by the Centers for Disease Control.

A good beginning at informing the public has been made with the new community right-to-know provisions in the Superfund amendments passed by the 99th Congress. These amendments will help to ensure that from now on, companies will have to report to the communities around their facilities what types of environmental hazards are stored or released. But the bill which I am offering today concentrates on improving the science of epidemiology and its application by the Federal Government.

It is not enough to have fragmented, anecdotal information about health effects on citizens living near hazardous waste sites. After 8 years and $1.5 billion spent under Superfund, there is still disagreement about the effectiveness of our cleanups. At sites such as Love Canal, valuable opportunities to gather and analyze data were lost due to poorly designed studies and lack of coordination among Government agencies. Are we doing enough? Are our priorities correct in terms of protecting public health and the environment? We have been unable to find even one comprehensive epidemiological study at a Superfund site which most scientists would regard as authoritative.

This bill orders the National Academy of Sciences to survey these hazardous sites and report to Congress on the state of our knowledge about epidemiology, and recommend what Federal programs, methods, and protocols should be put in place to guarantee that Federal, State, and local government officials and the public they are responsible to have the information they need to make informed choices. We cannot afford to do less.

Mr. President, I ask that the bill introduced be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Hazardous Wastes and Human Health Survey Act of 1989."

SEC. 2. (a) The Congress finds that—

(1) The Nation's environmental statutes such as the Clean Water Act, Clean Air Act, Safe Drinking Water Act, Toxic Substances Control Act, Superfund, and the Resource Conservation and Recovery Act were enacted in order to prevent and to remedy damage from pollution and to protect public health and the environment;

(2) Although it has been nearly two decades since the passage of major environmental statutes, and despite measurable improvements in environmental quality, environmental epidemiology remains a nascent scientific specialty;

(3) In order to establish priorities for environmental regulation, Federal, State and Local Government officials need better information about the health effects of environmental contaminants;

(4) So as to fulfill their obligation to protect the health and welfare of their citizens, Federal, State and Local Governments need information about the long and short term effects on human health of exposure to environmental hazards;

(5) Although apparently serious environmental degradation and releases have occurred at such sites as Love Canal in New York, Stringfellow Acid Pits in California, Times Beach in Missouri, and others, too little is known about the short and long term effects of these occurrences on people who were exposed or who continue to be exposed;

(6) Opportunities for informed scientific analysis were lost at many of these sites because government direction was lacking, and because protocols were not in place for sustained research and follow up studies with the result that information on health impacts is fragmented and anecdotal;

(7) As part of assessing the human health risks associated with hazardous wastes sites, more study is needed of the risks such sites pose when compared with other environmental hazards, such as the misuse of pesticides and contamination of ground water, and with other types of risk both voluntary and involuntary which humans encounter in everyday life;

(b) In accordance with subsection (a) the Congress declares that the National Academy of Sciences, National Research Council (hereinafter referred to as the "Academy" and "Council" respectively) undertake a study and make a report to Congress within eighteen months of enactment of this statute, with an interim report within twelve months of enactment of this statute. The Academy's report shall:

(1) review the three sites listed in subsection (a)(5) as well as any other representative sites chosen by NAS as case studies and determine whether any epidemiologic studies were begun or continued, what the quality and reliability of data and analysis gathered and from such studies is and what gaps remain in information necessary to make informed policy choices about human health effects (including carcinogenic, neurologic, immunologic, reproductive and other relevant risks) at these sites;

(2) describe in the interim report to Congress required by subsection (b) in accurate terms nevertheless comprehensible to informed laypersons, the general problems inherent in epidemiologic studies including but not limited to problems of defining and identifying markers of exposure, assessing changing environments in which humans live and work, determining the full consequence of exposure on human health, dealing with exposure to multiple agents, drawing inferences from small populations, following populations for adequate time periods, expressing results in terms of reliability, costs of data collection and analysis, and other associated technical and ethical problems;

(3) provide in the final report to Congress required by subsection (b) a critical survey of what has been learned through environmental epidemiology about the effects of hazardous waste sites on human health, an evaluation of the need to develop data bases and one or more national clearinghouses at federal agencies of information in the field, a description of research gaps, needs and priorities, and recommendations on programs, methods or protocols which federal agencies should undertake or employ at hazardous waste sites to ensure that useful data is collected and analyzed and that accurate information is disseminated to the public.

(c) In preparing the report ordered by subsection (b) the Academy shall consult with the Agency for Toxic Substances and Disease Registry of the Center for Disease Control, the Environmental Protection

Agency, and any other Federal agencies which the Academy determines have useful expertise to contribute to this report. The Academy shall make use of its own or other Federal agencies' pertinent past or ongoing studies and programs, such as the Environmental Protection Agency's "Community Right-to-Know" program under Superfund in developing the report. Moreover, the Academy shall consult with State and local officials, public representatives and citizen groups at the sites studied for the report, in order to gain an understadning of their experiences with epidemiologic studies and need for information.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. For the purposes of this Act, there is authorized to be appropriated to the Natinal Academy of Sciences the sum of $2,000,000 to remain available until expended.

By Mr. GLENN (for himself, Mr. SIMON, and Mr. INOUYE):

S. 235. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

NATIONAL GUARDIANSHIP RIGHTS ACT

● Mr. GLENN. Mr. President, today, along with my colleagues, Senators SIMON and INOUYE, I am introducing S. 235, the National Guardianship Rights Act of 1989. This legislation is being introduced in the House of Representatives by the Honorable CLAUDE PEPPER, chairman of the House Select Committee on Aging's Subcommittee on Health and Long-Term Care. Our legislation would provide greater protection against abuse for the nearly 500,000 elderly and disabled Americans who are under guardianship.

Being under guardianship means that a persons legal rights, possessions and decisionmaking power have been transferred to another person because a court has determined the person is unable to handle his or her own affairs. While guardianships are handled by the States, usually through the probate courts, recent reports by the Subcommittee on Health and Long-Term Care and the Associated Press suggest that there is an important role for the Federal Government to play by ensuring minimum standards in all guardianship systems.

According to these reports, action is needed to reform the process by which guardians are appointed and to monitor the activities of guardians on behalf of their wards. The National Guardianship Rights Act of 1989 addresses many of the problems that have been documented, including the following:

Lack of notification to an individual that someone is petitioning the court to have a guardian appointed for that individual;

Use of advanced age as significant criteria for a finding of incapacity and issuance of a guardianship order;

Lack of consideration of medical evidence in determining incapacity;

No requirement that an alleged incapacitated individual be present when a guardianship proceeding takes place;

No standards for becoming a guardian; and

Lack of oversight of the actions taken by guardians.

The National Guardianship Rights Act of 1989 establishes Federal requirements so that all States must provide due process protections in guardianship proceedings, in accordance with the 14th amendment to the U.S. Constitution; and it establishes rights regarding the appointment of competent and trained guardians and regarding reconsiderations of determinations of incapacity. Specific requirements include the following:

Providing notice to the potential ward that a court hearing on guardianship is being held;

Informing that person he or she must be present and represented by legal counsel;

That there be minimum standards of character and training for those who serve as guardians;

The elderly persons be given a clear and concise explanation of their rights under guardianship;

Continued supervision by the court of the conduct of guardians; and

The right to appeal the guardianship by the person deemed incapacitated.

States would be required to demonstrate compliance with this act by submitting a State implementation plan to the Attorney General not less than once every 2 years. Failure to comply substantially with any provision of this act would result in a withholding of Federal payments to the State.

Guardianship is an important issue—one that is tied to our concern about long-term care for our growing elderly population, particularly the very old. Many of these people may need some assistance, not because they are old but because they are in very poor physical or mental health. However, their civil liberties should not be taken from them without very good justification and without due process. And when a guardian is appointed, there should be an assurance that this person is highly qualified and that their actions will be monitored to ensure that they are in the best interests of the person they have been appointed to protect. The National Guardianship Rights Act of 1989, legislation which sets Federal standards for the States to follow, addresses these important issues, and I look forward to its passage by the Congress.

Mr. President, I ask that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Guardianship Rights Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) DENIAL OF CONSTITUTIONAL PROTECTIONS.—Thousands of individuals in the United States are being denied, through the imposition of guardianship orders, due process of law and equal protection of the laws as guaranteed under the 14th amendment to the Constitution of the United States.

(2) REMOVAL OF RIGHTS.—Individuals in the United States subject to guardianship orders typically retain fewer rights than are retained by convicted felons, since most guardianship orders remove from the individual basic rights such as the rights to vote, own property, marry, consent to medical treatment, and contract.

(3) SEVERITY OF ACTION AGAINST INDIVIDUAL.—A guardianship order is one of the most severe legal actions that can be taken against an individual in the United States and involves restricting or removing the rights of an individual, often without the individual being present or having the benefit of legal representation.

(4) DIFFICULTY OF DISSOLUTION.—While a guardianship order can be secured with relative ease, the dissolution of a guardianship order is often very difficult, leaving protected persons vulnerable to abuse and with little means of recourse to address their grievances.

(5) LACK OF PROTECTION UNDER STATE LAW.—State laws generally have failed to provide adequate protections against unwarranted and overly restrictive guardianship orders, appointment of unfit guardians, and abusive practices by guardians, as illustrated by the following:

(A) NOTICE OF GUARDIANSHIP PROCEEDING.—Several States lack a requirement that an alleged incapacitated individual be notified that someone is petitioning the court to have a guardian appointed for the individual, and many other States routinely allow waiver of the notice requirements.

(B) ADVANCED AGE AS BASIS FOR INCAPACITY.—In 33 States, the advanced age of an individual is sufficient cause for a finding of incapacity and issuance of a guardianship order.

(C) MEDICAL EVIDENCE OF INCAPACITY.—Only 12 States require consideration of medical evidence of the incapacity of an individual before the individual may be determined to be legally incapacitated and subject to a guardianship order.

(D) PRESENCE AT PROCEEDING.—Only 16 States require that an alleged incapacitated individual be present when a guardianship proceeding takes place.

(E) STANDARDS FOR GUARDIANS.—No State has minimum standards of experience, education, or intelligence for becoming a guardian.

(F) PROHIBITION ON FELONS AS GUARDIANS.—Only 5 States prohibit convicted felons from being appointed as guardians.

(G) OVERSIGHT OF GUARDIANSHIP ORDERS.—Courts that issue guardianship orders rarely conduct any followup check regarding the orders.

(H) REPORT BY GUARDIANS.—Only half of the States require the filing of an annual

report regarding the well-being of the protected person.

(I) ACCOUNTING BY GUARDIANS.—6 States lack a requirement that the guardian provide an accounting of the assets of the protected person.

(6) NECESSITY OF CONGRESSIONAL ACTION.—Because many States have violated the prohibition of the 14th amendment to the Constitution against deprivation of the life, liberty, or property of any person without due process of law by allowing the deprivation of personal liberty and lack of control of the property of an individual resulting from a finding of incapacity, it is necessary for the Congress to establish national standards for the protection of the rights of alleged incapacitated individuals.

(b) PURPOSE.—The purpose of this Act is to enforce the guarantee of the 14th amendment that no State shall deprive any person of life, liberty, or property, without due process of law, as relates to alleged incapacitated individuals, by establishing national standards for the protection of alleged incapacitated individuals and guardianship proceedings involving alleged incapacitated individuals.

SEC. 3. BASIC RIGHTS OF ALLEGED INCAPACITATED INDIVIDUALS.

(a) RIGHT TO NOTICE.—An alleged incapacitated individual and the family of an alleged incapacitated individual shall have the right to be promptly notified that a guardianship petition commencing a guardianship action has been filed and to be fully informed of the potential legal consequences of the filing, as follows:

(1) SERVICE.—

(A) ALLEGED INCAPACITATED INDIVIDUAL.—Notice of a guardianship proceeding shall be personally served on the alleged incapacitated individual not less than 30 working days before the proceeding.

(B) FAMILY OF ALLEGED INCAPACITATED INDIVIDUAL.—Notice of a guardianship proceeding shall be personally served or served by mail, not less than 30 working days before the proceeding, on any spouse, custodian, proposed guardian, adult son or daughter, and parent of the alleged incapacitated individual (if their locations are known or readily determinable).

(2) CONTENTS.—Notice under this subsection shall include the following:

(A) DATE, TIME, AND PLACE OF PROCEEDING.—A statement of the date, time, and place of the guardianship proceeding.

(B) DEFENSE RIGHTS OF ALLEGED INCAPACITATED INDIVIDUAL.—A clear and easily readable statement explaining each of the rights of the alleged incapacitated individual that are established in sections 3 and 4.

(C) TRANSFER OF LEGAL RIGHTS.—A detailed explanation of the potential legal effects on the alleged incapacitated of a guardianship order and a listing and explanation of each of the legal rights of the alleged incapacitated individual that could be restricted or transferred to a guardian by a guardianship order, including, if applicable, the rights to—

(i) marry or divorce;

(ii) vote or hold elected office;

(iii) enter into a contract or make or revoke a will;

(iv) sue and be sued, other than through the guardian;

(v) appoint an agent;

(vi) personally apply for government benefits;

(vii) possess a license to drive;

(viii) own, buy, sell, mortgage, or lease property;

(ix) determine where to reside;

(x) consent to or refuse medical treatment;

(xi) determine who shall provide personal care or assistance;

(xii) travel; and

(xiii) make decisions regarding social environment and other social aspects in the life of the individual.

(3) PROHIBITION OF WAIVER.—An alleged incapacitated individual may not waive the right to notice under this subsection.

(b) RIGHT TO CONVENIENT FORUM.—An alleged incapacitated individual shall have the right to have a guardianship action brought in the county in which the alleged incapacitated individual resides unless the court orders the action to be brought in another specified county. The court may enter an order under this subsection only upon a finding that extreme hardship or prejudice will result to the alleged incapacitated individual unless the action is brought in another specified county, pursuant to a motion by the party alleging incapacity or the alleged incapacitated individual.

(c) RIGHT TO PRESENCE AT PROCEEDING.—

(1) PRESENCE UNLESS INABILITY TO ATTEND.—An alleged incapacitated individual shall have the right to be present at all guardianship proceedings relating to the alleged incapacitated individual unless both of the following occur:

(A) DISABILITY.—The alleged incapacitated individual is unable by disability to attend.

(B) DISABILITY ESTABLISHED.—The inability of the alleged incapacitated individual to attend is established by the independent professional guardianship evaluation team appointed by the court under subsection (e), if the alleged incapacitated individual requested an evaluation team under subsection (e); or

(2) LOCATION OF HEARING.—The court may, in the case of an alleged incapacitated individual whose inability to attend a guardianship proceeding has been established under paragraph (1)(B), conduct the guardianship proceeding at the location of the alleged incapacitated individual.

(d) RIGHT TO COUNSEL.—

(1) IN GENERAL.—An alleged incapacitated individual shall have the right to be represented by counsel in a guardianship proceeding. A guardianship proceeding may not be held without counsel for the alleged incapacitated individual unless the alleged incapacitated individual waives the right to counsel under paragraph (4).

(2) COURT-PROVIDED COUNSEL.—An alleged incapacitated individual shall have the right to have the court provide counsel to represent the alleged incapacitated individual when the alleged incapacitated individual is unable to obtain representation by other means. Counsel shall be provided not less than 20 working days before the guardianship proceeding.

(3) ROLE OF COUNSEL.—Counsel for the alleged incapacitated individual shall act as an advocate for the individual, and shall advise the alleged incapacitated individual in a manner likely to be understood by the individual of all legal options available in a guardianship action and the consequences of such options. Counsel shall zealously advocate the option selected by the alleged incapacitated individual. Counsel shall not act in the role of guardian ad litem of the alleged incapacitated individual.

(4) WAIVER.—The alleged incapacitated individual may waive the right to be represented by counsel only if the alleged incapacitated individual is present at the guardianship proceeding and the waiver is knowing and voluntary.

(e) RIGHT TO INDEPENDENT PROFESSIONAL GUARDIANSHIP EVALUATION TEAM.—

(1) IN GENERAL.—An alleged incapacitated individual shall have the right, upon the request of the alleged incapacitated individual or counsel for the individual (not less than 20 working days before the guardianship proceeding), to have the court appoint an independent professional guardianship evaluation team to examine the alleged incapacitated individual named in the petition and report to the court regarding the alleged incapacitated individual. If requested, the court shall appoint the evaluation team not less than 15 working days before the guardianship proceeding.

(2) PROHIBITION OF INTERESTED INDIVIDUALS.—The court may not appoint to the evaluation team an individual who is related to or involved in a business relationship with any party to the guardianship action.

(3) MEMBERSHIP.—An evaluation team shall consist of the following:

(A) PSYCHIATRIST OR PHYSICIAN.—Not less than 1 licensed psychiatrist or other physician who is skilled in evaluating the particular area of incapacity alleged of the alleged incapacitated individual.

(B) SOCIAL WORKER.—Not less than 1 licensed professional social worker.

(C) OTHER PROFESSIONALS.—Any other professional individuals that the court may consider appropriate, including, but not limited to geriatricians, gerontologists, nurses, community health workers, disability workers, and habilitators.

(4) EXAMINATION.—

(A) IN GENERAL.—If an evaluation team is requested under paragraph (1), each member of the evaluation team shall conduct, not later than 10 working days before the guardianship proceeding and in person, an examination of the alleged incapacitated individual. The counsel for the alleged incapacitated individual, upon request to the court, shall be entitled to notification of and presence at the examination.

(B) LOCATION.—The examination shall take place, whenever possible, at the location or usual environment of the alleged incapacitated individual.

(C) MANNER.—The examination shall be conducted, whenever possible, in a manner designed not to offend the privacy or dignity of the alleged incapacitated individual.

(5) REPORT.—If an evaluation team is requested under paragraph (1), the evaluation team shall submit (not less than 5 working days before the guardianship proceeding) to the court, the alleged incapacitated individual, and the counsel for the alleged incapacitated individual, if any, a written report explaining in detail the results of the examination. The report shall include a statement of capacity and functional limitations and capabilities of the alleged incapacitated individual and the specific behavioral manifestations that form the basis for the determination regarding the capacity.

(6) EFFECT OF FINDING ON GUARDIANSHIP ACTION.—

(A) DISMISSAL.—If the evaluation team determines, based on the evaluation under paragraph (4), that the alleged incapacitated individual is not incapacitated in any area, the court shall dismiss the guardianship action without delay.

(B) REQUIRED AMENDMENT.—If the evaluation team determines that the alleged incapacitated individual is incapacitated in any area other than the areas specified in the

guardianship petition, the court shall instruct the petitioner to amend the petition accordingly. If the petition is not so amended, the court shall dismiss the guardianship action.

(7) AVAILABILITY FOR CROSS EXAMINATION.—The evaluation team shall be available at the guardianship proceeding for which the report under paragraph (5) is submitted for cross examination regarding the report if either of the following occurs:

(A) REQUEST BY INCAPACITATED INDIVIDUAL.—The alleged incapacitated individual or the attorney for the alleged incapacitated individual requests of the court that the evaluation team be available.

(B) COURT DETERMINATION.—The court, upon a determination that the availability of the evaluation team for cross examination is necessary to ensure fairness in the guardianship proceeding, calls for the availability of the evaluation team.

SEC. 4. RIGHTS AND PROTECTIONS AT PROCEEDING.

(a) RIGHT TO JURY PROCEEDING.—An alleged incapacitated individual shall have the right, upon demand of the alleged incapacitated individual or counsel for the alleged incapacitated individual, to a jury in a guardianship proceeding.

(b) GENERAL PROCEDURAL RIGHTS.—The alleged incapacitated individual shall have the right in a guardianship proceeding to the following:

(1) PRESENTING EVIDENCE.—To present evidence.

(2) CALLING WITNESSES.—To call witnesses (including expert witnesses) on the behalf of the alleged incapacitated individual.

(3) CROSS-EXAMINATION.—To cross-examine witnesses who appear at the guardianship proceeding, including witnesses called by the court.

(c) STANDARDS IN ISSUANCE OF GUARDIANSHIP ORDER.—

(1) CLEAR AND CONVINCING EVIDENCE.—An alleged incapacitated individual shall have the right not to be placed under a guardianship order, except upon a finding by clear and convincing evidence in a guardianship proceeding that—

(A) the alleged incapacitated individual is incapacitated; and

(B) no less restrictive form of intervention than the intervention ordered in the guardianship order is available to protect the incapacitated individual.

(2) INSUFFICIENT BASIS FOR DETERMINATION OF INCAPACITY.—A finding of incapacitation of an alleged incapacitated individual may not be based on the age of the alleged incapacitated individual.

(3) CONSIDERATION OF FAMILY AND FRIENDS.—In determining the need for a guardianship order, the court shall consider the existence, availability, and capabilities of social services in the community and family and friends of the alleged incapacitated individual who may provide care for the individual.

(d) LIMITED TRANSFER OF RIGHTS BY GUARDIANSHIP ORDER.—

(1) TRANSFER OF RIGHTS.—If an alleged incapacitated individual is found to be incapacitated and a guardianship order is issued, the incapacitated individual shall have the right to have the transfer of the responsibility for the care and protection of the person or the management of the estate of the incapacitated individual limited to the greatest extent possible, as follows:

(A) SCOPE.—Transfer to a guardian of the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual shall be limited to matters within the areas of the incapacities of the incapacitated individual as established in the guardianship proceedings.

(B) DURATION.—Transfer of any authority to a guardian shall not be made for a longer period of time than is necessary to protect the welfare, safety, and interests of the incapacitated individual. In determining the duration for which any authority is transferred to the guardian, the court shall consider the facts of the specific case, including whether the particular incapacity involved is of a temporary or permanent nature. If at any time the purpose for which the guardianship order was issued, as stated in the guardianship order, ceases to exist, the order shall be considered to be dissolved and of no further effect.

(2) RETENTION OF RIGHTS.—An incapacitated individual shall retain the right to manage the affairs of the individual commensurate with the ability of the individual. An incapacitated individual shall retain all rights not specifically transferred by the court in the guardianship order.

SEC. 5. RIGHTS REGARDING APPOINTMENT OF GUARDIANS.

(a) RIGHT TO COMPETENT AND TRAINED GUARDIAN.—

(1) IN GENERAL.—An incapacitated person shall have the right to have a guardian who is found by the court to be of sufficient competence to perform the duties necessary to protect the interests of the incapacitated individual and of suitable character for the disposition of the duties of a guardian.

(2) TRAINING.—An individual appointed by a court to serve as guardian shall receive thorough instructions and training, prior to and during the guardianship, necessary to enable the individual to carry out the responsibilities as guardian. Instructions and training shall relate, to the greatest extent possible, to the following:

(A) FIDUCIARY DUTIES.—The fiduciary duties of the guardian.

(B) AGING PROCESS.—The process of human aging.

(C) SERVICES.—The availability of social and health services in the locality in which the incapacitated individual resides.

(D) LEAST RESTRICTIVE ALTERNATIVE DOCTRINE.—The technique of fulfilling the responsibilities as guardian in a manner that involves using the least restrictive means possible with regard to the exercise of the rights of the protected person while protecting welfare, safety, and interests of the protected person as specified in a guardianship order.

(E) ACCOUNTING AND REPORTING.—Financial accounting and the responsibilities of reporting to the court.

(b) PROHIBITION ON FELONS.—A person who has been convicted of a felony under State law or the law of the United States may not be appointed to serve as the guardian of an incapacitated individual.

SEC. 6. POSTPROCEEDING RIGHTS AND PROTECTIONS.

(a) APPEALS.—

(1) IN GENERAL.—An incapacitated individual or protected person shall have the right to appeal any determination of incapacitation or guardianship order to a State court of competent jurisdiction.

(2) INDIGENT APPELLANTS.—In any appeal under this subsection, an incapacitated individual who is unable to afford any of the following shall be provided with the following:

(A) TRANSCRIPT.—A transcript of the guardianship proceeding or of any other proceeding that may be required for the appeal to be heard.

(B) COUNSEL.—Counsel appointed by the court.

(b) RIGHT OF AUTOMATIC RECONSIDERATION.—

(1) DETERMINATION OF INCAPACITATION OR GUARDIANSHIP ORDER.—An incapacitated individual or protected person or counsel for such shall have the right at any time after the determination of incapacitation to have a prompt reconsideration by the court of the determination of incapacitation or guardianship order for the purpose of modification or dissolution upon a significant change in the status of the incapacitated individual or protected person relating to any of the areas of incapacity that were a basis for the finding of incapacitation.

(2) SELECTION OF GUARDIAN.—An incapacitated individual or protected person shall have the right at any time after the selection of a guardian to have the court reconsider its selection of the guardian and to have a guardian removed upon a showing that the guardian is not performing the duties of the guardian as required under the guardianship order or State law.

(3) EFFECT ON OTHER RECONSIDERATION RIGHTS.—The rights to reconsideration under this subsection shall not affect any other right to reconsideration provided under any Federal, State, or local law or practice.

(c) COURT SUPERVISION OF GUARDIANS.—

(1) REPORT OF GUARDIAN.—The guardian of an incapacitated individual shall report to the court that issued the guardianship order, unless supervision of the guardianship order has been transferred under subparagraph (B)(ii) or (C)(i) of paragraph (5), not less than annually regarding the financial, mental, physical, and personal status of the incapacitated individual.

(2) INITIAL ACCOUNTING OF ESTATE.—A guardian of the estate of a protected person shall file with the supervising court a full accounting of the income and assets of the protected person not later than 90 days after the issuance of the guardianship order establishing the responsibility of the guardian for the estate.

(3) REVIEW OF REPORTS.—The supervising court shall review the reports submitted by a guardian under paragraph (2) and shall take action sufficient to substantiate the reports and to correct any deficiency found. The court shall consider the removal of any guardian who fails to file reports or fails to correct, within a reasonable time, any deficiency found.

(4) INVESTIGATIONS.—The supervising court shall, not less than annually, conduct investigations of protected persons for whom the court supervises guardianship orders to determine the well-being of the persons and to evaluate compliance of the guardian with the guardianship order.

(5) ABSENCE OF PROTECTED PERSON FROM JURISDICTION OF COURT.—

(A) 30-DAY ABSENCE.—If, at any time, a protected person is or is expected to be absent from the jurisdiction of the supervising court for a period of more than 30 days, the guardian shall file a written absence report with the supervising court that includes the expected duration of the absence from the jurisdiction of the supervising court of the protected person, the address and phone number where the protected person may be contacted during the absence, and the purpose for the absence.

(B) 6-MONTH ABSENCE.—If, at any time, a protected person is or is expected to be

absent from the jurisdiction of the supervising court for more than 6 months of any 12-month period, the following shall occur:

(i) ABSENCE REPORT.—The guardian shall file an absence report as described in subparagraph (A) with the supervising court.

(ii) TRANSFER OF SUPERVISION.—The court shall request that another court, in the jurisdiction in which the protected person will reside during the absence, supervise the guardianship order during the absence.

(iii) REPORT TO SUPERVISING AND NEW COURT.—The guardian shall file a report of the status of the protected person and the activities of the guardian and the protected person during the period of the guardianship order with the supervising court and the court in the jurisdiction in which the protected person will reside.

(C) 12-MONTH ABSENCE.—If, at any time, a protected person is or is expected to be absent from the jurisdiction of the supervising court for a period of more than 12 months or guardian proposes to permanently remove the protected person from the jurisdiction, the following shall occur:

(i) TRANSFER OF SUPERVISION.—The guardian shall petition the supervising court to have the supervision of the guardianship order transferred to a court in the jurisdiction in which the protected person will reside.

(ii) REPORT TO NEW COURT.—The guardian shall report to the court provided for in clause (i) under the terms of the guardianship order.

SEC. 7. DEMONSTRATION OF STATE COMPLIANCE.

(a) STATE IMPLEMENTATION PLANS.—

(1) IN GENERAL.—Each State shall demonstrate compliance with this Act by submitting to the Attorney General, not less than once every 2 years, a State implementation plan.

(2) INITIAL STATE IMPLEMENTATION PLAN.—Each State shall submit to the Attorney General, not later than 1 year after the date of the enactment of this Act, a State implementation plan.

(3) REQUIREMENTS OF PLAN.—The Attorney General shall determine by regulation the contents of the State implementation plan, which shall include the following:

(A) CERTIFICATION OF COMPLIANCE.—Certification that the State has taken action sufficient to ensure that the State complies with this Act.

(B) DESCRIPTION OF COMPLIANCE.—A detailed description of the actions of the State taken to comply with each provision of the Act.

(C) STATE GUARDIANSHIP LAWS.—A statement of the State laws regarding guardianship proceedings.

(D) COURT INVESTIGATIONS.—A summary of the results of court investigations within the State under section 6(c)(4), including the number and type of deficiencies reported and the anticipated schedule for reducing the number of deficiencies in the State.

(b) ENFORCEMENT.—

(1) WITHHOLDING OF FEDERAL FUNDING.—

(A) IN GENERAL.—Whenever the Attorney General finds that there has been a failure to comply substantially with any provision of this Act, the Attorney General shall, after notifying the State, withhold any payments or portions of payments to be made to the State under Federal law for administrative costs relating to the provision of services or amounts to be paid to elderly and disabled persons. Until the Attorney General is satisfied that there is no longer any failure to comply with the provisions of this Act, no further such payments or portions of payments may be made.

(B) NONWITHHOLDING OF DIRECT FUNDS.—Payments or portions of payments to States withheld under paragraph (1) may not include amounts to be paid to elderly and disabled persons or amounts for direct services provided to elderly and disabled persons.

(C) EFFECT OF WITHHOLDING.—Withholding of payments or portions of payments for administrative costs relating to the provision of services or amounts to be paid to elderly and disabled persons under paragraph (1) shall not effect the availability and delivery of such services or amounts.

(D) DEFICIENCIES AS FAILURE TO COMPLY.—Failure to reduce the number of deficiencies found under section 6(c)(3) within a reasonable time may be considered a failure to comply substantially with the provisions of this Act.

(E) APPEAL OF FINDING OF NONCOMPLIANCE.—The Attorney General shall establish by regulation a process for a State that has been found under subparagraph (A) to have failed to comply substantially with any provision of this Act to appeal the finding of noncompliance.

(2) FEDERAL COURT ENFORCEMENT.—If the Attorney General or United States Attorney for the appropriate judicial district finds a consistent pattern of noncompliance with the terms of this Act by a State, the Attorney General or United States Attorney may bring suit in an appropriate district court of the United States to require the State to comply with the provisions of this Act.

SEC. 8. GRANTS TO STATES FOR COMPLIANCE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Attorney General may make grants under this section to States for the purpose of enabling compliance by States with the provisions of this Act. Grants under this section may be used for the following:

(1) PROVIDING COUNSEL AND EVALUATION TEAMS.—To provide counsel and evaluation teams for alleged incapacitated individuals.

(2) TRAINING GUARDIANS.—To provide training for guardians of alleged incapacitated individuals as required by this Act.

(3) TRAINING COUNSEL AND JUDGES.—To provide training for counsel for alleged incapacitated individuals and judges in guardianship proceedings regarding this Act.

(4) MODEL GUARDIANSHIP MATERIALS.—To develop model materials for orientation and training of guardians.

(b) INELIGIBILITY FOR GRANTS.—A State may not receive a grant under this section if the Attorney General finds a consistent pattern of noncompliance with the terms of this Act by the State.

(c) APPLICATION AND SELECTION OF GRANT RECIPIENTS.—

(1) APPLICATION.—To receive a grant under this section, a State shall submit an application to the Attorney General in accordance with the requirements established by the Attorney General.

(2) SELECTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the Attorney General shall establish criteria for the selection of States to receive grants under this section.

(B) PREFERENCE FOR INNOVATIVE PROGRAMS.—In selecting States to receive grants under this section, the Attorney General shall give preference to States that will use the grants for innovative programs designed to maximize the use of State and local resources to comply with the provisions of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) ALLEGED INCAPACITATED INDIVIDUAL.—The term "alleged incapacitated individual" means an individual who is subject to a guardianship action under State law.

(2) EVALUATION TEAM.—The term "evaluation team" means the independent professional guardianship evaluation team appointed under section 3(e).

(3) GUARDIAN.—The term "guardian" means a person who has been appointed by a court to have responsibility for the care and protection of the person or the management of the estate of the incapacitated individual, as specified in a guardianship order.

(4) GUARDIANSHIP ACTION.—The term "guardianship action" means an action to declare an individual incapacitated or to transfer the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual to a guardian. The term does not include an action to transfer the exercise by a separate individual of the responsibility for the care and protection of the person or the management of the estate of a minor.

(5) GUARDIANSHIP ORDER.—The term "guardianship order" means any order by a court in a guardianship action to transfer the responsibility for the care and protection of the person or the management of the estate of an incapacitated individual to a guardian. The term does not include any order by a court in a proceeding related to the exercise by a separate individual of the responsibility for the care and protection of the person or the management of the estate of a minor.

(6) GUARDIANSHIP PETITION.—The term "guardianship petition" means the pleading that is necessary under the applicable State law to commence a guardianship action.

(7) GUARDIANSHIP PROCEEDING.—The term "guardianship proceeding" means any court proceeding in a guardianship action related to the determination of incapacitation of an alleged incapacitated individual or to the entering of a guardianship order. The term does not include a proceeding related to the exercise by a separate individual of the right to manage the person or estate of a minor.

(8) INCAPACITATED.—The term "incapacitated" means an inability of an individual to effectively manage the person or estate of the individual because the individual lacks the mental or physical capacity to do so due to illness, disability, or other incapacitation.

(9) INCAPACITATED INDIVIDUAL.—The term "incapacitated individual" means an alleged incapacitated individual who has been determined in a guardianship proceeding to be incapacitated.

(10) PROTECTED PERSON.—The term "protected person" means an incapacitated individual for whom a guardianship order has been entered.

(11) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

(12) SUPERVISING COURT.—The term "supervising court" means a court that is supervising the guardianship order relating to a protected person and to which the guardian reports under section 6(c)(1).

(13) WORKING DAY.—The term "working day" means any day that is not a Saturday, Sunday, or legal public holiday (as defined in section 6103(a) of title 5, United States Code).

SEC. 10. LIMITATION ON FEDERAL COURT JURISDICTION.

This Act may not be construed to grant to any court of the United States (as defined in section 451 of title 28, United States Code) any jurisdiction in any guardianship action that is not provided or allowed under Federal law on the date of the enactment of this Act.

SEC. 11. PERMISSIBILITY OF ADDITIONAL STATE LAW PROTECTIONS.

This Act may not be construed to preclude or supersede any Federal, State, or local law that imposes requirements of additional or more extensive protections for incapacitated or alleged incapacitated individuals that do not conflict with the requirements of this Act.

SEC. 12. TIME OF COMPLIANCE.

Each State shall comply with the provisions of this Act before the expiration of the 1-year period beginning on the date of the enactment of this Act.●

By Mr. DASCHLE:

S. 236. A bill to regulate above ground storage tanks used to store regulated substances; to the Committee on Environment and Public Works.

REGULATION OF ABOVE GROUND STORAGE TANKS

Mr. DASCHLE. Mr. President, I rise today to introduce legislation to close a large and dangerous loophole in Federal hazardous waste law. At issue is the regulation of above ground tanks used in the storage of petroleum and other hazardous liquids. Current law regulates only underground petroleum facilities. My legislation will amend the Solid Waste Disposal Act to provide the Environmental Protection Agency with the authority to oversee and enforce the maintenance of above ground storage tanks as well.

This correction in environmental law is long overdue. Congress has mandated the regulation of underground storage facilities since 1984 with the passage of the Resources Conservation and Recovery Act [RCRA]. This authority was expanded by the Superfund authorization in 1986, but still the problem of above ground tank regulation remains.

This is a significant problem with serious human and environmental ramifications. I will remind my colleagues of two prominent consequences of this regulatory oversight.

On January 2, 1988, a collapsed storage tank in Floreffe, PA, dumped approximately 750,000 gallons of No. 2 diesel fuel into the Monongahela River. The fuel, which entered the river quickly by rushing over protective berms and through storm sewer drains, required more than 150 people, 11 vacuum trucks, 3 cranes and more than 20,000 feet of river boom to attempt to stem the spread of the toxic fuel. Dozens of communities were without drinking water for days, and the long-term ecological and groundwater effects of the spill are yet to be determined.

Less than 2 years before the Ashland spill made national headlines, a similar mishap occurred in my home State of South Dakota. In September of 1986, it was discovered in Sioux Falls that at least 20,000 gallons of gasoline had slowly leaked from an aboveground storage tank owned by the Williams Pipeline Co. The spill was not discovered until the Skunk Creek acquifer—a secondary water source for the community—had been contaminated. Moreover, gasoline fumes had infiltrated a neighborhood elementary school to the point where the school had to be evacuated. The building has since been condemned.

A second petroleum spill, this one of 8,000 gallons, was reported at the Williams site in Sioux Falls on March 11, 1987. This spill immediately soaked into the ground and was floating on the acquifer within hours. Since these 2 spills were discovered, it has since been determined that there had been 11 leaks and spills, totaling thousands of gallons, at the Sioux Falls tank farm alone.

The EPA is currently reviewing a portion of the Williams site for possible inclusion on the Superfund national priorities list. The padlocks of the condemned Hayward Elementary School and dozens of orange flags marking petroleum test wells in the back yards of area residents are a poignant reminder of one company's negligence, and glaringly deficient Federal laws.

The Williams site in Sioux Falls, and the Ashland spill in Pennsylvania, are not isolated incidents. In South Dakota alone, there were 127 petroleum spills last year, many coming from unregulated above-ground storage tanks. I suspect this problem exists in every State in the Nation. Built in the 1950's—with an estimated life span of 30 to 40 years—tank farms all across America have turned into ticking environmental time bombs.

We must ask ourselves, how much longer can we afford to wait? How many more millions of clean-up dollars must we spend before we take preventative action?

State and local officials do not have the resources or the expertise to monitor all above-ground tanks suspected of possible leaks, or to oversee complex cleanup efforts. The one agency that does have the resources and expertise—the EPA—lacks statutory authority to provide any assistance to threatened communities, unless the contamination qualifies for Superfund cleanup. Had EPA had the authority to monitor above ground petroleum storage tanks 2 years ago as they do under RCRA with underground storage tanks, then the mishaps in Pennsylvania, South Dakota and elsewhere very well might have been averted.

The legislation I am introducing today would establish a comprehensive approach to deal with this serious problem. The emphasis of the legislation is on the prevention of future petroleum spills through the establishment of vigorous design and performance standards for above ground storage tanks. In addition, it would require the industry to develop methods for the early detection of hazardous liquid releases and to keep records of their detection methods in an effort to discover discharges before they reach the crisis stage. It would also require the storage industry to report all releases and take immediate corrective actions when releases do occur. In these instances, the legislation would require that the responsible party pay for the entire cleanup and for any population relocation that may be necessary. Furthermore, the legislation would require EPA or the qualified State agencies to ensure that the spill is recovered swiftly and completely.

My legislation would apply to aboveground storage tanks larger than 1,100 gallons, with certain specific exceptions as stated in the bill. I want to stress that even relatively small tanks of a few thousand gallons can cause extreme damage. The experience in Sioux Falls is a dramatic example. Often, smaller tanks are used to store materials such as J-4 jet fuel, fertilizers, and various other types of hazardous materials that actually pose a greater health threat than many of the petroleum products stored in large tanks. At the Williams tank farm in Sioux Falls, 72 percent of the tanks have a capacity of less than 1 million gallons.

I introduce this legislation with the understanding that technical changes in the legislation may be necessary. For instance, I have included pipeline facilities under the authority of this bill. It may be necessary to sort out whether these facilities should be regulated under this bill or under exisiting pipeline safety legislation. I will consult with my colleagues and relevant governmental and nongovernmental bodies to come up with the best language possible, but I want to reiterate my commitment to having the problem of aboveground storage tanks solved.

Mr. President, if any of my colleagues doubt the need for regulation of aboveground storage tanks parallel to our regulation of underground tanks, I invite them to come with me to Sioux Falls, S.D. There, you can stand with me outside the 8-foot barbed wire fence that surrounds the Hayward Elementary School that now sits empty as an eerie memorial to the spills that the city has experienced. I will introduce you to landowners who have been turned down for bank loans because the value of their homes has

plummeted to the point that the banks will no longer accept them as collateral for even modest loans. I will show you the place where pumps run 24 hours a day, 7 days a week, extracting gasoline from the water table while only a few feet away lie drinking water wells contaminated for generations to come.

To the people of Sioux Falls, SD, or Floreffe, PA, or countless other locations across America that could experience an aboveground storage tank spill tomorrow, there is no question that this legislation is important and long-overdue. It is time we recognize that a petroleum or hazardous liquid spill from an aboveground tank is equally dangerous to those from underground tanks. As they are equal in danger, we must control each in an equally effective and conscientious manner. I urge my colleagues to join me in preventing the degradation of our environment and the endangerment of our people from future above-ground storage tank spills.

Mr. President, I ask unanimous consent that a summary of the legislation and the full text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Solid Waste Disposal Act is amended by adding the following new subtitle after subtitle I:

"SUBTITLE J—REGULATION OF ABOVE GROUND STORAGE TANKS

"DEFINITIONS AND EXEMPTIONS

"SEC. 9020. For purposes of this subtitle—

"(1) The term 'above ground storage tank' means any one or combination of tanks located above ground (but including underground pipes connected thereto) which is used to contain an accumulation of regulated substances. Such term does not include any—

"(A) farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes.

"(B) tank used for storing heating oil for consumptive use on the premises where stored,

"(C) septic tank,

"(D) surface impoundment, pit, pond, or lagoon,

"(E) storm water or waste water collection system,

"(F) flow-through process tank,

"(G) liquid trap or associated gathering lines directly related to oil or gas production and gathering operations, or

"(H) storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term 'above ground storage tank' shall not include any pipes connected to any tank which is described in subparagraphs (A) through (I).

"(2) The term 'regulated substance' means—

"(A) any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under subtitle C), and

"(B) petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).".

"(3) The term 'owner' means—

"(A) in the case of an above ground storage tank in use on the date of enactment of this section, or brought into use after that date, any person who owns an above ground storage tank used for the storage, use, or dispensing of regulated substances, and

"(B) in the case of any above ground storage tank in use before the date of enactment of this section, but no longer in use after such date of enactment, any person who owned such tank immediately before the discontinuation of its use.

"(4) The term 'operator' means any person in control of, or having responsibility for, the daily operation of the above ground storage tank.

"(5) The term 'release' means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an above ground storage tank into ground water, surface water, or subsurface soils.

"(6) The term 'person' has the same meaning as provided in section 1004(15), except that such term includes a consortium, a joint venture, and a commercial entity, and the United States Government.

"(7) The term 'nonoperational storage tank' means any above ground storage tank in which regulated substances will not be deposited or from which regulated substances will not be dispensed after the date of the enactment of this section.

"(8) The term 'petroleum' means petroleum including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 per square inch absolute).".

"NOTIFICATION

"SEC. 9021. (a) ABOVE GROUND STORAGE TANKS.—(1) Within 18 months after the date of enactment of this section, each owner of an above ground storage tank shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of such tank, specifying the age, size, type, location, and uses of such tank.

"(2)(A) For each above ground storage tank taken out of operation after January 1, 1977, the owner of such tank shall, within 18 months after the date of enactment of this section, notify the State or local agency, or department designated pursuant to subsection (b)(1) of the existence of such tanks. The owner of a tank taken out of operation on or before January 1, 1977, shall not be required to notify the State or local agency under this subsection.

"(B) Notice under subparagraph (A) shall specify, to the extent known to the owner—

"(i) the date the tank was taken out of operation,

"(ii) the age of the tank on the date taken out of operation,

"(iii) the size, type, and location of the tank, and

"(iv) the type and quantity of substances left stored in such tank on the date taken out of operation.

"(3) Any owner which brings into use an above ground storage tank after the initial notification period specified under paragraph (1), shall notify the designated State or local agency or department within 30 days of the existence of such tank, specifying the age, size, type, location, and uses of such tank.

"(4) Paragraphs (1) through (3) of this subsection shall not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(5) Beginning 30 days after the Administrator prescribes the form of notice pursuant to subsection (b)(2) and for 18 months thereafter, any person who deposits regulated substances in an above ground storage tank shall reasonably notify the owner or operator of such tank of the owner's notification requirements pursuant to this subsection.

"(6) Beginning 30 days after the Administrator issues new tank performance standards pursuant to section 9022 of this subtitle, any person who sells a tank intended to be used as an above ground storage tank shall notify the purchaser of such tank of the owner's notification requirements pursuant to this subsection.

"(b) AGENCY DESIGNATION.—(1) Within 180 days after the enactment of this section, the Governors of each State shall designate the appropriate State agency or department or local agencies or departments to receive the notifications under subsection (a) (1), (2), or (3).

"(2) Within 12 months after the date of enactment of this section, the Administrator, in consultation with State and local officials designated pursuant to subsection (b)(1), and after notice and opportunity for public comment, shall prescribe the form of the notice and the information to be included in the notifications under subsection (a) (1), (2), or (3). In prescribing the form of such notice, the Administrator shall take into account the effect on small businesses and other owners and operators.

"(c) STATE INVENTORIES.—Each State shall make two separate inventories of all above ground storage tanks in such State containing regulated substances. One inventory shall be made with respect to petroleum and one with respect to other regulated substances. In making such inventories, the State shall utilize and aggregate the data in the notification forms submitted pursuant to subsections (a) and (b) of this section. Each State shall submit such aggregated data to the Administrator not later than 270 days after the date of enactment of this subsection.

"RELEASE DETECTION, PREVENTION, AND CORRECTION REGULATIONS

"SEC. 9022. (a) REGULATIONS.—The Administrator, after notice and opportunity for public comment, and at least 3 months before the effective dates specified in subsection (f), shall promulgate release detection, prevention, and correction regulations applicable to all owners and operators of above ground storage tanks, as may be necessary to protect human health and the environment.

"(b) DISTINCTIONS IN REGULATIONS.—In promulgating regulations under this section, the Administrator may distinguish between types, classes, and ages of above ground storage tanks. In making such distinctions, the Administrator may take into consideration factors, including, but not limited to: location of the tanks, soil and climate conditions, uses of the tanks, history of mainte-

nance, age of the tanks, current industry recommended practices, national consensus codes, hydrogeology, water table, size of the tanks, quantity of regulated substances periodically deposited in or dispensed from the tank, the technical capability of the owners and operators, and the compatibility of the regulated substance and the materials of which the tank is fabricated.

"(c) REQUIREMENTS.—The regulations promulgated pursuant to this section shall include, but need not be limited to, the following requirements respecting all above ground storage tanks—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing or comparable system;

"(3) requirements for reporting of releases and corrective action taken in response to a release from an above ground storage tank;

"(4) requirements for taking corrective action in response to a release from an above ground storage tank;

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment; and

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an above ground storage tank.

"(d) FINANCIAL RESPONSIBILITY.—(1) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer, or any other method satisfactory to the Administrator. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, conditions, or defenses, which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(2) in any case where the owner or operator is in bankruptcy, reorganization, or arrangement, pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(3) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

"(4) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(5)(A) The Administrator, in promulgating financial responsibility regulations under this section, may establish an amount of coverage for particular classes or categories of above ground storage tanks containing petroleum which shall satisfy such regulations and which shall not be less than $1,000,000 for each occurrence with an appropriate aggregate requirement.

"(B) The Administrator may set amounts lower than the amounts required by subparagraph (A) of this paragraph for above ground storage tanks containing petroleum which are at facilities not engaged in petroleum production, refining, or marketing and which are not used to handle substantial quantities of petroleum.

"(C) In establishing classes and categories for purposes of this paragraph, the Administrator may consider the following factors:

"(i) The size, type, location, storage, and handling capacity of above ground storage tanks in the class or category and the volume of petroleum handled by such tanks.

"(ii) The likelihood of release and the potential extent of damage from any release from above ground storage tanks in the class or category.

"(iii) The economic impact of the limits on the owners and operators of each such class or category, particularly relating to the small business segment of the petroleum marketing industry.

"(iv) The availability of methods of financial responsibility in amounts greater than the amount established by this paragraph.

"(v) Such other factors as the Administrator deems pertinent.

"(D) The Administrator may suspend enforcement of the financial responsibility requirements for a particular class or category of above ground storage tanks or in a particular State, if the Administrator makes a determination that methods of financial responsibility satisfying the requirements of this subsection are not generally available for above ground storage tanks in that class or category, and—

"(i) steps are being taken to form a risk retention group for such class of tanks; or

"(ii) such State is taking steps to establish a fund pursuant to section 9023(c)(1) of this Act to be submitted as evidence of financial responsibility.

A suspension by the Administrator pursuant to this paragraph shall extend for a period not to exceed 180 days. A determination to suspend may be made with respect to the same class or category or for the same State at the end of such period, but only if substantial progress has been made in establishing a risk retention group, or the owners or operators in the class or category demonstrate, and the Administrator finds, that the formation of such a group is not possible and that the State is unable or unwilling to establish such a fund pursuant to clause (ii).

"(e) NEW TANK PERFORMANCE STANDARDS.—The Administrator shall, not later than 3 months prior to the effective date specified in subsection (f), issue performance standards for above ground storage tanks brought into use on or after the effective date of such standards. The performance standards for new above ground storage tanks shall include, but need not be limited to, design, construction, installation, release detection, and compatibility standards.

"(f) EFFECTIVE DATES.—(1) Regulations issued pursuant to subsections (c) and (d) of this section, and standards issued pursuant to subsection (e) of this section, for above ground storage tanks containing regulated substances defined in section 9020(2)(B) (petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure) shall be effective not later than 30 months after the date of enactment of this subsection.

"(2) Standards issued pursuant to subsection (e) of this section (entitled 'New Tank Performance Standards') for above ground storage tanks containing regulated substances defined in section 9020(2)(A) shall be effective not later than 36 months after the date of enactment of this subsection.

"(3) Regulations issued pursuant to subsection (c) of this section (entitled 'Requirements') and standards issued pursuant to subsection (d) of this section (entitled 'Financial Responsibility') for above ground storage tanks containing regulated substances defined in section 9020(2)(A) shall be effective not later than 48 months after the date of enactment of this subsection.

"(g) INTERIM PROHIBITION.—Until the effective date of the standards promulgated by the Administrator under subsection (e) and after 180 days after the date of the enactment of this subsection, no person may install an above ground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double wall construction)—

"(A) will prevent releases due to corrosion or structural failure for the operational life of the tank;

"(B) is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, or designed in a manner to prevent the release or threatened release of any store substance; and

"(C) the material used in the construction or lining of the tank is compatible with the substance to be stored.

"(h) EPA RESPONSE PROGRAM FOR PETROLEUM.—

"(1) BEFORE REGULATIONS.—Before the effective date of regulations under subsection (c), the Administrator (or a State pursuant to paragraph (7)) is authorized to—

"(A) require the owner or operator of an above ground storage tank to undertake corrective action with respect to any release of petroleum when the Administrator (or the State) determines that such corrective action will be done properly and promptly by the owner or operator of the above ground storage tank from which the release occurs; or

"(B) undertake corrective action with respect to any release of petroleum into the environment from an above ground storage tank if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment.

The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment. Subject to the priority requirements of paragraph (3), the Administrator (or the State) shall give priority in undertaking such actions under subparagraph (B) to cases where the Administrator (or the State) cannot identify a solvent owner or operator of the tank who will undertake action properly.

"(2) AFTER REGULATIONS.—Following the effective date of regulations under subsection (c), all actions or orders of the Administrator (or a State pursuant to paragraph (7)) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Administrator (or the State) may undertake corrective action with respect to any release of petroleum into the environment from an above ground storage tank only if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment and one or more of the following situations exists:

"(A) No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—

"(i) an owner or operator of the tank, concerned,

"(ii) subject to such corrective action regulations, and

"(iii) capable of carrying out such corrective action properly.

"(B) A situation exists which requires prompt action by the Administrator (or the State) under this paragraph to protect human health and the environment.

"(C) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under this subsection or section 9025 or with the order of a State under this subsection to comply with the corrective action regulations.

"(3) PRIORITY OF CORRECTIVE ACTIONS.—The Administrator (or a State pursuant to paragraph (7)) shall give priority in undertaking corrective actions under this subsection, and in issuing orders requiring owners or operators to undertake such actions, to releases of petroleum from above ground storage tanks which pose the greatest threat to human health and the environment.

"(4) CORRECTIVE ACTION ORDERS.—The Administrator is authorized to issue orders to the owner or operator of an above ground storage tank to carry out subparagraph (A) of paragraph (1) or to carry out regulations issued under subsection (c)(4). A State acting pursuant to paragraph (7) of this subsection is authorized to carry out subparagraph (A) of paragraph (1) only until the State's program is approved by the Administrator under section 9023 of this subtitle. Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under section 9025.

"(5) ALLOWABLE CORRECTIVE ACTIONS.—The corrective actions undertaken by the Administrator (or a State pursuant to paragraph (7)) under paragraph (1) or (2) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (2), the Administrator may undertake and exposure assessment as defined in paragraph (10) of this subsection or provide for such an assessment in a cooperative agreement with a State pursuant to paragraph (7) of this subsection. The costs of any such assessment may be treated as corrective action for purposes of paragraph (6), relating to cost recovery.

"(6) RECOVERY OF COSTS.—

"(A) IN GENERAL.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (7), for undertaking corrective action or enforcement action with respect to the release of petroleum from an above ground storage tank, the owner or operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act.

"(B) RECOVERY.—In determining the equities for seeking the recovery of costs under subparagraph (A), the Administrator (or a State pursuant to paragraph (7) of this subsection) may consider the amount of financial responsibility required to be maintained under subsections (c) and (d)(5) of this section and the factors considered in establishing such amount under subsection (d)(5).

"(C) EFFECT ON LIABILITY.—

"(i) NO TRANSFERS OF LIABILITY.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any above ground storage tank or from any person who may be liable for a release or threat of release under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) NO BAR TO CAUSE OF ACTION.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(D) FACILITY.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all above ground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(7) STATE AUTHORITIES.—

"(A) GENERAL.—A State may exercise the authorities in paragraphs (1) and (2) of this subsection, subject to the terms and conditions of paragraphs (3), (5), (9), (10), and (11), and including the authorities of paragraphs (4), (6), and (8) of this subsection if—

"(i) the Administrator determines that the State has the capabilities to carry out effective corrective actions and enforcement activities; and

"(ii) the Administrator enters into a cooperative agreement with the State setting out the actions to be undertaken by the State.

"(B) COST SHARE.—Following the effective date of the regulations under subsection (c) of this section, the State shall pay 10 per centum of the cost of corrective actions undertaken either by the Administrator or by the State under a cooperative agreement, except that the Administrator may take corrective action at a facility where immediate action is necessary to respond to an imminent and substantial endangerment to human health or the environment if the State fails to pay the cost share.

"(8) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary.

"(9) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an above ground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the owner's security interest in the tank.

"(10) DEFINITION OF EXPOSURE ASSESSMENT.—As used in this subsection, the term 'exposure assessment' means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum from a release from an above ground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure.

"(11) FACILITIES WITHOUT FINANCIAL RESPONSIBILITY.—At any facility where the owner or operator has failed to maintain evidence of financial responsibility in amounts at least equal to the amounts established by subsection (d)(5)(A) of this section (or a lesser amount if such amount is applicable to such facility as a result of subsection (d)(5)(B) of this section) for whatever reason the Administrator shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection and section 9025 of this subtitle to order corrective action to clean up such releases. States acting pursuant to paragraph (7) of this subsection shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection to order corrective action to clean up such releases. Notwithstanding the provisions of this paragraph, the Administrator may use moneys from the fund to take the corrective actions authorized by paragraph (5) of this subsection to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of paragraph (6)(A) of this subsection and without consideration of the factors in paragraph (6)(B) of this subsection. Nothing in this paragraph shall prevent the Administrator (or a State pursuant to paragraph (7) of this subsection) from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.

"APPROVAL OF STATE PROGRAMS

"SEC. 9023. (a) ELEMENTS OF STATE PROGRAM.—Beginning 30 months after the date of enactment of this section, any State may, submit an above ground storage tank release detection, prevention, and correction program for review and approval by the Administrator. The program may cover tanks used to store regulated substances referred to in 9020(2) (A) or (B) or both. A State program may be approved by the Administrator under this section only if the State demonstrates that the State program includes the following requirements and standards and

provides for adequate enforcement of compliance with such requirements and standards—

"(1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment;

"(2) requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing system;

"(3) requirements for reporting of any releases and corrective action taken in response to a release from an above ground storage tank;

"(4) requirements for taking corrective action in response to a release from an above ground storage tank;

"(5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment;

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an above ground storage tank;

"(7) standards of performance for new above ground storage tanks; and

"(8) requirements—

"(A) for notifying the appropriate State agency or department (or local agency or department) designated according to section 9021(b)(1) of the existence of any operational or nonoperational storage tank; and

"(B) for providing the information required on the form issued pursuant to section 9021(b)(2).

"(b) FEDERAL STANDARDS.—(1) A State program submitted under this section may be approved only if the requirements under paragraphs (1) through (7) of subsection (a) are no less stringent that the corresponding requirements standards promulgated by the Administrator pursuant to section 9022(a).

"(2)(A) A State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9003(a) during the 1-year period commencing on the date of promulgation of regulations under section 9022(a) if State regulatory action but no State legislative action is required in order to adopt a State program.

"(B) If such State legislative action is required, the State program may be approved without regard to whether or not the requirements referred to in paragraphs (1), (2), (3), and (5) of subsection (a) are less stringent than the corresponding standards under section 9022(a) during the 2-year period commencing on the date of promulgation of regulations under section 9022(a) (and during an additional 1-year period after such legislative action is regulations are required to be promulgated by the State pursuant to such legislative action).

"(c) FINANCIAL RESPONSIBILITY.—(1) Corrective action and compensation programs administered by State or local agencies or departments may be submitted for approval under subsection (a)(6) as evidence of financial responsibility.

"(2) Financial responsibility required by this subsection may be established in accordance with regulations promulgated by the Administrator by any one, or any combination, of the following: insurance, guarantee, surety bond, letter of credit, qualification as a self-insurer or any other method satisfactory to the Administrator. In promulgating requirements under this subsection, the Administrator is authorized to specify policy or other contractual terms, including the amount of coverage required for various classes and categories of above ground storage tanks pursuant to paragraph (5) of this subsection, conditions, or defenses which are necessary or are unacceptable in establishing such evidence of financial responsibility in order to effectuate the purposes of this subtitle.

"(3) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement, pursuant to the Federal Bankruptcy Code or where with reasonable diligence jurisdiction in any State court of the Federal courts cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this subsection may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this paragraph such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

"(4) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other State or Federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

"(5) For the purpose of this subsection, the term 'guarantor' means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this subsection.

"(d) EPA DETERMINATION.—(1) Within 180 days of the date of receipt of a proposed State program, the Administrator shall, after notice and opportunity for public comment, make a determination whether the State's program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section.

"(2) If the Administrator determines that a State program complies with the provisions of this section and provides for adequate enforcement of compliance with the requirements and standards adopted pursuant to this section, he shall approve the State program in lieu of the Federal program and the State shall have primary enforcement responsibility with respect to requirements of its program.

"(e) WITHDRAWAL OF AUTHORIZATION.—Whenever the Administrator determines after a public hearing that a State is not administering and enforcing a program authorized under this subtitle in accordance with the provisions of this section, he shall so notify the State. If appropriate action is not taken within a reasonable time, not to exceed 120 days after such notification, the Administrator shall withdraw approval of such program and reestablish the Federal program pursuant to this subtitle.

"INSPECTIONS, MONITORING, TESTING, AND CORRECTIVE ACTION

"SEC. 9024. (a) FURNISHING INFORMATION.—For the purposes of developing or assisting in the development of any regulation, conducting any study, taking any corrective action, or enforcing the provisions of this subtitle, any owner or operator of an above ground storage tank (or any tank subject to study under section 9028 that is used for storing regulated substances) shall, upon request of any officer, employee, or representative of the Environmental Protection Agency, duly designated by the Administrator, or upon request of any duly designated officer, employee, or representative of a State acting pursuant to subsection (h)(7) of section 9022, with an approved program, furnish information relating to such tanks, their associated equipment, their contents, conduct monitoring or testing, permit such officer at all reasonable times to have access to, and to copy, all records relating to such tanks, and to have access for corrective action. For the purposes of developing or assisting in the development of any regulation, conducting any study, taking corrective action, or enforcing the provisions of this subtitle, such officers, employees, or representatives are authorized—

"(1) to enter at reasonable times any establishment or other place where an above ground storage tank is located;

"(2) to inspect and obtain samples from any person of any regulated substances contained in such tank;

"(3) to conduct monitoring or testing of the tanks, associated equipment, contents, or surrounding soils, air, surface water or ground water; and

"(4) to take corrective action.

Each such inspection shall be commenced and completed with reasonable promptness.

"(b) CONFIDENTIALITY.—(1) Any records, reports, or information obtained from any persons under this section shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or a particular part thereof, to which the Administrator (or the State, as the case may be) or any officer, employee, or representative thereof has access under this section if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed 1 year, or both.

"(3) In submitting data under this subtitle, a person required to provide such data may—

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this subtitle.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained, by the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee (including records, reports, or information obtained by representatives of the Environmental Protection Agency).

"FEDERAL ENFORCEMENT

"SEC. 9025. (a) COMPLIANCE ORDERS.—(1) Except as provided in paragraph (2), whenever on the basis of any information, the Administrator determines that any person is in violation of any requirement of this subtitle, the Administrator may issue an order requiring compliance within a reasonable specified time period or the Administrator may commence a civil action in the United States district court in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

"(2) In the case of a violation of any requirement of this subtitle where such violation occurs in a State with a program approved under section 9023, the Administrator shall give notice to the State in which such violation has occurred prior to issuing an order or commencing a civil action under this section.

"(3) If a violator fails to comply with an order under this subsection within the time specified in the order, he shall be liable for a civil penalty of not more than $25,000 for each day of continued noncompliance.

"(b) PROCEDURE.—Any order issued under this section shall become final unless, no later than 30 days after the order is served, the person or persons named therein request a public hearing. Upon such request the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section the Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(c) CONTENTS OF ORDER.—Any order issued under this section shall state with reasonable specificity the nature of the violation, specify a reasonable time for compliance, and assess a penalty, if any, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with the applicable requirements.

"(d) CIVIL PENALTIES.—(1) Any owner who knowingly fails to notify or submits false information pursuant to section 9021(a) shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or false information is submitted.

"(2) Any owner or operator of an above ground storage tank who fails to comply with—

"(A) any requirement or standard promulgated by the Administrator under section 9022;

"(B) any requirement or standard of a State program approved pursuant to section 9023; or

"(C) the provisions of section 9022(g) (entitled 'Interim Prohibition');

shall be subject to a civil penalty not to exceed $10,000 for each tank for each day of violation.

"FEDERAL FACILITIES

"SEC. 9026. (a) APPLICATION OF SUBTITLE.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government having jurisdiction over any above ground storage tank shall be subject to and comply with all Federal, State, interstate, and local requirements, applicable to such tank, both substantive and procedural, in the same manner, and to the same extent, as any other person is subject to such requirements, including payment of reasonable service charges. Neither the United States, nor any agent, employee, or officer thereof shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such injunctive relief.

"(b) PRESIDENTIAL EXEMPTION.—The President may exempt any above ground storage tanks of any department, agency, or instrumentality in the Executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriations. Any exemption shall be for a period not in excess of 1 year, but additional exemptions may be granted for periods not to exceed 1 year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

"STATE AUTHORITY

"SEC. 9027. Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard of performance respecting above ground storage tanks that is more stringent than a regulation requirement, or standard of performance in effect under this subtitle or to impose any additional liability with respect to the release of regulated substances within such State or political subdivision.

"STUDY OF ABOVE GROUND STORAGE TANKS

"SEC. 9028. (a) PETROLEUM TANKS.—Not later than 12 months after the date of enactment of this section, the Administrator shall complete a study of above ground storage tanks used for the storage of regulated substances defined in section 9020(2)(B).

"(b) OTHER TANKS.—Not later than 36 months after the date of enactment of this section, the Administrator shall complete a study of all other above ground storage tanks.

"(c) ELEMENTS OF STUDIES.—The studies under subsections (a) and (b) shall include an assessment of the ages, types (including methods of manufacture, coatings, protection systems, the compatibility of the construction materials and the installation methods) and locations (including the climate of the locations) of such tanks; soil conditions, water tables, and the hydrogeology of tank locations; the relationship between the foregoing factors and the likelihood of releases from above ground storage tanks; the effectiveness and costs of inventory systems, tank testing, and leak detection systems; and such other factors as the Administrator deems appropriate.

"(d) FARM AND HEATING OIL TANKS.—Not later than 36 months after the date of enactment of this section, the Administrator shall conduct a study regarding the tanks referred to in section 9020(1) (A) and (B). Such study shall include estimates of the number and location of such tanks and an analysis of the extent to which there may be releases or threatened releases from such tanks into the environment.

"(e) REPORTS.—Upon completion of the studies authorized by this section, the Administrator shall submit reports to the President and to the Congress containing the results of the studies and recommendations respecting whether or not such tanks should be subject to the preceding provisions of this subtitle.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 9029. For fiscal year 1988, and each of the next following 4 fiscal years, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle.".

SEC. 2. The table of contents of the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle I:

"Subtitle J—Regulation of Above Ground Storage Tanks

"Sec. 9020. "Definitions and exemptions.
"Sec. 9021. "Notification.
"Sec. 9022. "Release detection, prevention, and correction regulations.
"Sec. 9023. "Approval of State programs.
"Sec. 9024. "Inspections, monitoring, testing, and corrective action.
"Sec. 9025. "Federal enforcement.
"Sec. 9026. "Federal facilities.
"Sec. 9027. "State authority.
"Sec. 9028. "Study of above ground storage tanks.
"Sec. 9029. "Authorization of appropriations.".

STORAGE TANK SAFETY ACT OF 1987

The emphasis of Senator Daschle's legislation is on the prevention, detection, and control of discharges of regulated substances stored in above-ground storage tanks.

While underground storage tanks are regulated under the Hazardous and Solid Waste Amendments of 1984 and the Superfund Reauthorization Act of 1986, aboveground storage tanks remain largely unregulated by the Environmental Protection Agency (EPA) or other agencies of the federal government.

Senator Daschle's bill proposes to amend the Hazardous and Solid Waste Act to require the EPA or a qualified state agency to establish mechanisms to prevent future leaks of above-ground storage tanks through the establishment of performance and design standards for new storage tanks and maintenance schedules for aging tanks. The bill also requires tank owners to equip tanks with monitoring devices to detect tank leaks before they reach the crisis stage. When spills do occur as a result of an above-ground tank failure, Senator Daschle's bill requires the Administrator of the EPA to require the responsible party to

pay for a thorough clean-up of the discharged material and the relocation of the threatened population.

FACILITIES COVERED UNDER THE ACT

The Legislation covers all above-ground storage tanks except:

(1) Tanks holding a hazardous waste regulated under the RCRA hazardous waste program (Subtitle C);

(2) Farm and residential tanks holding less than 1,100 gallons of fuel and used for non-commercial purposes;

(3) Tanks storing heating oil for burning on the premises where stored;

(4) Septic tanks;

* * * * *

(6) Systems for collecting storm water and wastewater;

(7) Flow-through process tanks; and

(8) Liquid traps or associated gathering lines related to operations in the oil and natural gas industry.

NOTIFICATION

The notification program requires actions by distributors of regulated substances, sellers of tanks, and owners of tanks taken out of operation within the past ten years as well as owners of operational tanks.

These entities must report to the EPA as to the age, size, type, location, and uses of tanks.

NEW TANKS

The EPA will be required to develop and promulgate performance standards for new tanks, including but not limited to design, construction, installation, release detection, and compatibility.

REGULATORY PROGRAM

All tank owners will be required to have methods for detecting releases, keep records of their methods, report releases, take corrective action in response to releases and cooperate fully with EPA efforts to determine financial responsibility for a discharge.

INSPECTION AND ENFORCEMENT

Federal officials are authorized to request pertinent information from tank owners, inspect and sample tanks, and monitor and test tanks and surrounding soils, air, surface water, and ground water for contamination.

Federal officials are authorized to enforce the provisions of this legislation. The EPA may issue compliance orders for any violations of this legislation or regulations promulgated pursuant to this legislation. Offenders are subject to civil penalties of up to $10,000 per tank for each day of violation.

DISCHARGE RECOVERY

The Administrator of the EPA may take, or subcontract for, whatever immediate actions are necessary to protect human health in the event of a discharge of regulated materials from an above-ground storage tank. The owner or operator of a tank releasing regulated materials is responsible for the clean-up of the discharge under the oversight of the EPA. If the EPA is forced to conduct the clean-up themselves, it must do everything it can to determine the financially responsible party and recover the cost of the clean-up from those responsible parties.

STATE PROGRAMS

Senator Daschle's bill is designed to avoid duplicating the efforts of states that have established, or plan to establish, their own state regulatory programs for above-ground tanks. A state program, to be eligible, must be approved by the Administrator of the EPA. The Administrator must judge the program to be at least as stringent as the provisions of this legislation.

PRELIMINARY STUDY

Not later than one year after enactment, the Administrator is to recommend to Congress what types of tanks (taking into account such factors as age, type of use, type of construction, location, soil conditions, and hydrogeology) should be regulated and the extent of the regulation required for each class of tank.●

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 237. A bill to reform the Tongass Timber Supply Fund; to the Committee on Energy and Natural Resources.

TONGASS TIMBER REFORM ACT

Mr. MURKOWSKI. Mr. President, I rise today with the senior Senator from Alaska to introduce a bill to reform the timber program for the Tongass National Forest. Our bill repeals the direct appropriation contained in section 705(a) of ANILCA of at least $40 million annually for the Tongass Timber Program. This measure makes the timber program for the Tongass National Forest subject to the annual appropriations process as are all other national forests in the Nation.

In addition, Mr. President, our bill makes it clear that there is no statutorially mandated timber harvest level for the Tongass Forest. Each year the Forest Service may only prepare enough timber for sale to meet the demand of the local pulp and saw mills and the Forest Service may never provide for timber harvests which exceed the sustained yield capacity of the forest.

At the same time, Mr. President, our bill preserves the balance crafted in the Alaska National Interest Lands Conservation Act of designated wilderness and lands available for multiple use timber management. The creation of large wilderness areas in 1980, 5.5 million acres in the Tongass Forest, required intensive forest management, consisting of special siluicultural practices and Forest Service assistance in accessing more remote timber stands, to maintain the economic timber base at a level which would sustain jobs in southeast Alaska. Just as wilderness must be designated by Congress, this intensive management program is provided by statute.

A secure source of funds to carry out the intensive forest management program on the Tongass was viewed by Congress as a critical component of the wilderness compromise in 1980. This is why the $40 million direct appropriation was created. But 9 years of experience with the administration of the Tongass Timber Program and the current need to eliminate direct spending measures in an effort to meet our budget responsibilities necessitates the elimination of this budget appropriation.

During the national and international timber market depression of 1982 to 1986 the timber industry in Alaska suffered along with the timber industry nationally. But while less timber was demanded from the Tongass National Forest during this period, the amount of money expended on the Tongass Timber Program did not substantially decrease.

As we keep our eye on the deficit, we can not afford to proceed without annual congressional oversight of all Federal spending. Annual oversight is necessary to insure the most efficient use of taxpayer dollars by our Federal agencies. It is with these overriding concerns in mind that the senior Senator from Alaska and I propose to repeal the direct appropriation for the Tongass Timber Program.

Southeast Alaska is of a size equal to New England, or the New York to Washington corridor. Even today it is populated only by 70,000 people. In the 1950's, when pulp mill construction began in southeast Alaska, employment was based upon fishing which was seasonal. I know, because I grew up in that environment. For the communities, the coming of the pulp mills meant year-round employment, not only for those who worked at the pulp mills, but for those who worked in the woods.

The Forest Service, acting in effect as an economic development administration, solicited industry operators from the lower 48 to come to Alaska and purchase timber sales and build the pulp mills.

The long-term sales were competitively bid sales with companies all over the lower 48 offered the opportunity to bid. There was only one bidder for each of three sales because the risk of establishing an industry in Alaska was so great. One American firm agreed in 1951 to build the mill in Ketchikan. Another American firm agreed in 1956 to build a pulp mill in Wrangell. However, that sale was converted into a saw mill sale of 25 years duration after the company failed to build the required mill.

A Japanese firm obtained the Sitka sale. That agreement was put together through General MacArthur's headquarters, along with the Departments of State, Agriculture and Interior after the Forest Service first made sure that no American company wanted to purchase it. This was the very first Japanese industrial venture in the United States after the war.

Interestingly, in the case of this pulp mill, the Japanese are doing what we asked them to do. They employed their capital to build a plant in the United States and hired American workers who produce a value-added product for sale around the world. The two pulp mills have exported more that $3 billion in products since they were constructed.

In 1988 the total forest products exports from Alaska were valued at $475

million. This is up from $327 million in 1987 and $249 million in 1986. And our forest products do not only go to Japan, Alaska is making significant progress in tapping other markets in China, Korea, Taiwan, Thailand and Indonesia, Mexico, and India.

It is important to note that an integrated timber industry has been built in southeast Alaska. The saw mills are able to sell their pulp logs from the timber sales which they purchase as well as the chips which are byproducts of their manufacturing process. Similarly, the pulp mills have an outlet for their saw logs. An over mature forest like the Tongass contains timber 50 percent of which is suitable only for pulp, while the remaining 50 percent is suitable for sawing. Without the pulp mills the saw mills would have to leave on the ground or in the woods half of the wood they harvest.

The point of this history is to emphasize that the Forest Service plan was to exchange the timber for manufacturing facilities which would provide year-round employment in the two pulp mills; Ketchikan and Sitka are the only 2 year-round manufacturing plants in Alaska.

In 1988 the harvest increased from the 1986 level of 291 million board feet to 396 million board feet. And in 1988 over 4,300 people are employed in the timber industry in the Tongass Forest. The two pulp mills have been working three shifts 24 hours a day producing a product that is exported to 37 countries. The industry anticipates that in 1989, 450 million board feet will be harvested in the National Forest alone.

Make no mistake, Mr. President, no other industry in southeast Alaska can really replace the money and jobs brought into southeast Alaska by the timber industry.

In 1980 the Alaska national interest lands conservation act designated 5.5 million acres of the Tongass National Forest as wilderness. These wilderness areas include 1.7 million acres of commercial forest land. So much wilderness was set aside by ANILCA that the land base which remained open to logging was insufficient to provide the timber necessary to maintain the then existing 4,000 industry jobs in southeast Alaska.

In an effort to balance the desire for maximum wilderness and the need to maintain timber industry jobs, Congress included section 705 in ANILCA. Section 705 established an intensive management fund which was designed to ensure that the timber harvest from the Tongass would be sufficient to support 4,000 timber industry jobs.

Mr. President, I am aware that legislative proposals to designate additional wilderness lands in the Tongass National Forest and to terminate the contracts between the United States and the pulp mills are being circulated by the national preservation groups. These are simply attempts to shut down the timber industry in my State. They would destroy the 1980 compromise and would devastate the dependent communities in southeast Alaska.

Administration of the Tongass National Forest has been far from perfect. Problems have been identified with excesses in the expenditure of funds and the preparation of timber beyond what was demanded in the down market period. I believe that subjecting the timber program to the annual appropriations process will answer these problems without disturbing the delicate land use balance of multiple use and wilderness in the Tongass National Forest.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 237

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is amended by striking Section 705(a) and inserting in lieu thereof the following subsection:

SEC. 705. (a) Subject to available appropriations, the Secretary of Agriculture is authorized and directed to carry out a program of intensive management of the commercial forest land of the Tongass National Forest in order to assure the availability of a sufficient supply of timber to achieve an allowable sale quantity of 4.5 billion board feet per decade. For each fiscal year the Secretary of Agriculture shall prepare and offer for sale or release timber volumes on the Tongass National Forest based upon his estimate of the annual demand of the dependent industry and the sustained yield capacity of the forest. The Secretary of Agriculture shall base his annual estimate upon projections of future timber demand.

Mr. STEVENS. Mr. President, I rise today to cosponsor a bill with my colleague from Alaska which we hope will put to rest a dispute which threatens the economy of a region of our State.

Management of Alaska's Tongass National Forest has repeatedly been a bone of contention during my career in the Senate. During the mid-seventies it was injected into the Alaska lands debate. The issue then was how much of the Tongass should be set aside in wilderness.

Alaskans saw the problem as how we were to overcome the economic costs of wilderness withdrawals. Timber harvesting was and is a mainstay of southeast Alaska's economy. We recognized that as the wilderness proposals increased in size, the amount of the forest remaining for multiple use—including timber harvesting—would shrink.

The wilderness proponents came forward with a compromise which was incorporated into the Alaska Lands Act in 1980. A third of the forest went into wilderness, and to make up for the lost timber base a permanent appropriation was established to guarantee funding for intensive management of the remainder of the forest. That settled the issue for little more than 5 years. But in that compromise was the source of the current dispute, which has been brewing now for nearly 4 years.

Timber markets slumped in the early eighties. Nationwide, the timber industry went through a devastating recession. Looking only at Alaska, this led to several related problems. Stumpage rates—the amount companies pay for logs harvested from the National Forests—dropped to a few dollars per thousand board feet. This happened because stumpage is calculated backward from the market value of the wood products, subtracting harvesting costs. As the value of wood products dropped, so did stumpage. Higher stumpage rates would have forced companies to either operate at a loss, or set their prices above the market rate—with a resulting loss of sales.

Even with low stumpage rates, the market became so poor that harvest rates in Alaska dropped to less than half their previous levels. The system did not respond to lower demand for timber in Alaska. The Forest Service was required to prepare timber for several years as if harvests had continued at their higher level.

By 1985, these combined factors put Alaska's timber industry at the bottom of a deep hole. Several mills were shut down, Federal timber receipts were low, and there was a large backlog of timber prepared but unsold, or sold but unharvested. Over the next few years, the seriousness of the problem became clear as statistics for this period were finalized.

The same groups which had called for wilderness in the Tongass in the 1970's seized on this snapshot of Alaska's timber industry and spent the last few years trying to convince us that it no longer made sense to harvest timber from the Tongass. Fortunately for the people of southeast Alaska, they were and are wrong.

After hitting rock bottom, the demand for Alaska timber began to improve after 1985. When the value of the yen began to climb, the markets shot up, and harvest rates began to improve. After several years of renewed growth, Alaska's timber industry has climbed out of the hole and appears headed for steady ground.

Now, what about that grim picture painted in 1985? Mills have reopened and industry employment has climbed steadily for the last few years. Stumpage rates have increased, and will continue to do so as the market price for

Alaskan wood products improves. This means Federal receipts are increasing.

As for the backlog of timber prepared by the Forest Service, it has been effectively eliminated. Based on projected harvest levels, most of Alaska's mills have less than 2 years supply under contract and available for harvest. This is right on target—the Forest Service tries to maintain 2 to 3 years supply under contract. And on the Tongass the volume prepared but unsold is now minimal.

The timber supply on the Tongass was brought back in line through work done by the Appropriations Committee. Each of the last 2 years, we determined the amount of new timber volume which should be prepared after a careful review of the volume outstanding and of the projected harvest. This has not been a pleasant process, primarily because we have had to parry rhetorical attacks on the timber program itself at the same time.

There remains strong sentiment—particularly in the House—that something should be done to change the Tongass Timber Program. At the heart of the complaints I have heard has been a dissatisfaction with the existing permanent appropriation. Some believe that it is a subsidy for Alaska's timber industry which is not justified in these austere economic times. They are wrong to characterize it in this way. If anything is subsidized by the fund it is the 1980 wilderness withdrawals.

However, I recognize that this fund may have outlived its usefulness. It has been used by those who object to timber harvesting to twist perceptions of the Tongass Timber Program. It has become the focus of controversy, and it does not provide enough benefits to offset these negatives. And finally, returning the Tongass to annual appropriations will remove a barrier to oversight needed to assure that the Forest Service's timber preparation does not again lose sight of timber demand.

By Mr. HELMS (for himself, Mr. PELL, Mr. DOLE, and Mr. BOSCHWITZ):

S. 238. A bill to amend the Arms Export Control Act to impose sanctions against firms involved in the transfer of chemical and biological agents or their related production equipment or technical assistance to Iran, Iraq, Syria, and Libya, and for other purposes; to the Committee on Foreign Relations.

CHEMICAL AND BIOLOGICAL WARFARE PREVENTION ACT

● Mr. HELMS. Mr. President, today I am introducing the Chemical and Biological Warfare Prevention Act of 1989. The aim of the bill is aptly described by the title: with the passage of this legislation, I hope to prevent the mass murders which take place on an unprecedented scale when poison gas and biological weapons are used.

The chairman of the Senate Foreign Relations, Mr. PELL, first brought this issue of chemical weapons proliferation to the attention of the Senate last summer. At that time, I was proud to cosponsor his legislation placing sanctions on Iraq for its use of chemical weapons against its own citizens. Although our legislation passed the Senate three times, difficulties with the House of Representatives and the State Department prevented its enactment.

The problem posed by the proliferation of chemical and biological weapons is grave and the situation grim. With the critical assistance of Western industrial firms, four of the most radical regimes in the world are acquiring weapons of mass destruction and the means to deliver them.

The world's press has discovered an international conspiracy of supposedly legitimate industrial concerns that has been profiting handsomely by providing the capability to produce chemical and biological weapons to some of the most irrational, unstable, and anti-Western regimes in the world: Libya, Syria, Iran, and Iraq.

According to newspaper articles and TV reports, the conspiracy involves chemical companies, major electrical firms, construction and engineering firms, major banks, transportation agents, and various suppliers—all of them foreign.

Some of the names that are rolling out of the press reports are small- and medium-sized firms, but others are well-known foreign multinationals including Siemans, the German electrical giant, and Deutsche Bank, one of the biggest banks in the world. If the rumors flooding Washington are any indication, other large firms may well have serious exposure.

The most serious implications of this scandal are the allegations of involvement by government officials of one of our closest allies, the Federal Republic of Germany. According to today's issue of Der Stern, Colonel Qadhafi's poison gas plant was actually designed by a German state-owned engineering firm and the purpose of this plant was an "open secret." Just this morning, the German Press Agency reported that the German Foreign Affairs Committee had been informed of the involvement of a second German Government-owned firm.

Further, the involvement of German firms in poison gas production in the Middle East was revealed in a front page New York Times story on March 30, 1984, almost 5 years ago. For 10 years, Foreign Minister Genscher's party has controlled the West German Economics and Foreign Ministries. If he now says that he did not know what was going on, it is because he did not want to know.

Mr. President, my legislation would amend the Arms Export Control Act to place sanctions on suppliers of materials and technology for the production of chemical and biological warfare agents by Third World nations. Sanctions would also be placed on those who provide the means to deliver such weapons.

The bill directs the President to prepare a list of controlled materials and technology. Sanctions are triggered on firms which export from this list to Iran, Iraq, Syria, Libya, or any other country which has used chemical or biological weapons in the past 5 years. There is clinical data to suggest that Cuban forces in Angola have used chemical weapons during this period as well as evidence that chemical weapons are being stockpiled in Angola for use against Jonas Savimbi's UNITA forces.

I am also pleased to join as a cosponsor of the Chemical and Biological Weapons Control Act of 1989 which is being introduced today by Mr. PELL. This bill would place sanctions on countries which violate international law and use these weapons on their neighbors or even their own citizens.

Up to now, there has been no international penalty for countries to violate the 1925 Geneval Protocol on Chemical and Biological Weapons. With the passage of Senator PELL's legislation there will be such a penalty.

Mr. President, I believe that both approaches, sanctions on suppliers and sanctions on users, are not in conflict. Rather, they are complementary. The Congress will examine both proposals and will see that both are needed if we are to control the proliferation and use of these weapons of mass destruction.

Mr. President, I ask unanimous consent that a list of firms named by the press as participating in the chemical weapons trade be printed in the RECORD at the conclusion of my remarks, along with the text of the legislation I am introducing today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHEMICAL WEAPONS TRADE

Siemans, W. Germany [Libya—telecommunications equipment, der Spiegel, Jan. 23, 1989].

Deutsche Bank, W. Germany [Libya—banking services, Stern, Jan. 12, 1989].

Imhausen-Chemie, W. Germany [Libya—chemical warfare plant, N.Y. Times, Jan. 1, 1989].

E. Merck, W. Germany [Libya—precursor chemicals, Wall Street Journal, Jan. 18, 1989].

Alfred Teves GmbH, W. Germany [Libya—industrial cooling equipment, Wall Street Journal, Jan. 18, 1989].

Pawling and Harnishchfeger, W. Germany [Libya—mobile cranes, Washington Times, Jan. 16, 1989].

Kone, W. Germany [Libya—overhead cranes, Washington Times, Jan. 16, 1989].

Linde, W. Germany [Libya—oxygen unit, Washington Times, Jan. 16. 1989].

Karl Kolb, W. Germany [Iraq—chemical warfare plant, Christian Science Monitor, Dec. 13, 1988].

Pilot Plant, W. Germany [Iraq—chemical warfare plant, Christian Science Monitor, Dec. 13, 1988].

Preussag, W. Germany [Libya—water purification system, Stern, Jan. 12, 1989].

Hebenger Bau, W. Germany [Libya—The Times, London, Jan. 7, 1989].

Krauss Kopf, W. Germany [Iraq—International Herald Tribune, Jan. 7-8, 1989].

Ludwig Hammer, W. Germany [Iraq—International Herald Tribune, Jan. 7-8, 1989].

Quast, W. Germany [Iraq—corrosion-resistant alloy parts, Christian Science Monitor, Dec. 13, 1988].

Salzgitter Industriebau GmbH, W. Germany [Libya—industrial planning, Washington Post, Jan. 17, 1989].

OSTRAG, W. Germany [Libya—ballistic missiles, Stern, Jan. 12, 1989].

Zink, W. Germany [Libya—gas burning equipment, Stern, Jan. 12, 1989].

Gesellschaft fur Automation, W. Germany [Libya—computers, Stern, Jan. 12, 1989].

Krebs und Kiefer, W. Germany [Libya—stress engineering, Stern, Jan. 12, 1989].

J. Sartorius, W. Germany [Libya—construction materials, Stern, Jan. 12, 1989].

Bischoff, W. Germany [Libya—tools and machinery, Stern, Jan. 12, 1989].

Hunnebeck, W. Germany [Libya—building materials, Stern, Jan. 12, 1989].

INTEC Technical Treading Logistik, W. Germany [Libya—air-to-air refueling, Stern, Jan. 12, 1989].

Raab Karcher, W. Germany [Libya—building materials, Der Speigel, Jan. 15, 1989].

Schott Glasswerke, W. Germany [Syria—corrosion-resistant glass pipes, Wall Street Journal, Sept. 16, 1988].

Rhema-Labortechnik, W. Germany [Libya—laboratory equipment, der Spiegel, Jan. 23, 1989].

Stietzel and Diedrich, W. Germany [Libya—flight technology, CBSN, Bonn, W. Germany, Jan. 23, 1989].

Joseph Mulbauer Machine, W. Germany [Libya—prevision technology, CBSN, Bonn, W. Germany, Jan. 23, 1989].

Becker Kabel und Lamper, W. Germany [Libya—surveillance cameras, Stern, Jan. 19, 1989].

Rhenus [Libya—transport firm, Stern, Jan. 19, 1989].

VEB Stahlbau, E. Germany [Libya—steel fabrication, Stern, Jan. 12, 1989].

Schweizerischen Kreditanstalt zu eroffnen, Switzerland [Libya—banking services in Zurich, der Spiegel, Jan. 23, 1989].

Japan Steel Works, Japan [Libya—bombs, Mainichi, Sept. 15, 1988].

Marubeni, Japan [Libya—Christian Science Monitor, Dec. 13, 1988].

Melchemie, Holland [Iraq—chemical precursors, Christian Science Monitor, Dec. 13, 1988].

De Dietrich, France [Libya—supplied glass-lined caldrons, N.Y. Times, Jan. 1, 1989].

Flaekt, Belgium [Libya—cooling tower, Washington Times, Jan. 16, 1989].

Cross Link, Belgium [Libya—freight forwarding, Stern, Jan. 12, 1989].

J.G. Trading, Britain [Libya—freight forwarding, Stern, Jan. 12, 1989].

Ihsan Barbouti International, Britain [Libya—general contractor, Washington Times, Jan. 16, 1989].

DISA, Denmark [Libya—foundry equipment, Washington Times, Jan. 16, 1989].

Energoinvest, Yugoslavia [Libya—power substation, Washington Times, Jan. 16, 1989].

Pen Tsao, Hong Kong [Libya—document handling, Stern, Jan. 12, 1989].

Please Note: This list is nothing more than a compilation of newspaper stories. There is no assertion of validity attached to it.

S. 238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical and Biological Warfare Prevention Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the General Agreement on Tariffs and Trade recognizes that national security concerns may serve as a legitimate basis for constricting free and open trade; title XXI of the General Agreement on Tariffs and Trade states that "nothing in this Agreement shall be construed . . . to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests . . .";

(2) the essential security interests of the United States require an immediate end to all trade in chemical and biological weapons, and transfers of technology and delivery systems for chemical and biological weapons, to certain destinations;

(3) four countries of the Middle East, Iran, Iraq, Libya, and Syria, either support terrorism as a national policy or have done so in the recent past;

(4) Iran, Iraq, Syria, and Libya are either producing chemical weapons or on the verge of doing so;

(5) chemical weapons have been used by Iraq against its own citizens;

(6) chemical weapons represent a grave new threat to friendly countries of the Middle East and ultimately the United States itself;

(7) Free World industrial firms have been instrumental in the development of chemical weapons in these and other countries;

(8) any efforts by Communist-bloc countries to aid and abet the production or use of chemical or biological weapons, or to develop and deploy delivery systems for such weapons, by Iraq, Libya, or any other nation of the Middle East/Persian Gulf region are deplorable;

(9) international cooperation has so far been unable to stem the trade in chemical and biological weapons and their industrial inputs; and

(10) in order to inhibit the trade in chemical and biological weapons and their industrial inputs, severe sanctions must be applied to individuals and firms which export prohibited items and technology to proscribed destinations.

SEC. 3. POLICY.

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation of the material and technology necessary and intended to produce or deliver chemical weapons;

(2) to discourage all states from acquiring such material and technology;

(3) to discourage Communist-bloc countries from aiding and abetting other countries from acquiring such material and technology; and

(4) to discourage private companies in non-Communist countries from aiding and abetting other nations from acquiring such material and technology.

SEC. 4. AMENDMENT TO THE ARMS EXPORT CONTROL ACT.

The Arms Export Control Act is amended by adding at the end thereof the following new chapter:

"CHAPTER 7—SANCTIONS AGAINST FIRMS TRANSFERRING CHEMICAL WEAPONS TO TERRORIST COUNTRIES

SEC. 71. PROHIBITION ON CERTAIN EXPORTS.

"(a) PROHIBITION.—(1)(A) No item on the list prepared by the President under paragraph (2) which is subject to the jurisdiction of the United States or which is exported by a person subject to the jurisdiction of the United States may be exported to a country described in subsection (b).

"(B) Subparagraph (A) does not apply to any export pursuant to a contract entered into before the date of enactment of this section.

"(2) The President shall prepare a list of chemical and biological agents, production equipment, and technical assistance the export of which would materially assist a country in attaining a chemical or biological warfare capability or systems for the delivery of chemical or biological weapons.

"(b) DESTINATIONS OF EXPORTS.—The countries referred to in subsection (a) and section 73(a)(1) are Iran, Iraq, Libya, Syria or any country which has used chemical or biological weapons in the past five years or use such weapons after date of enactment of this Act, except that any of these countries shall be excluded, for purposes of applying such provisions, beginning 30 days after the President requests such exclusion by submitting the name of such country to the Congress.

"SEC. 72. REPORT.

"(a) Not later than 90 days after the date of enactment of this section, and every 90 days thereafter, the President shall submit to the Chairman of the Senate Committee on Foreign Relations and the Speaker of the House of Representatives, a report on efforts by Iran, Iraq, Libya, Syria, and any country which has, during the five years prior to the report used chemical or biological weapons, to acquire the material and technology to produce and deliver chemical weapons, together with an assessment of such countries' present and future capability to produce and deliver such weapons.

"(b) Such report shall also include an assessment of whether and to what degree Communist-bloc countries have aided and abetted the government any country reported upon pursuant to subsection (a) in its effort to acquire the material and technology described in subsection (a).

"(c) Such report shall further list—

"(1) those companies in non-Communist countries which in the past have aided and abetted the government of any country reported on pursuant to subsection (a) in that effort; and

"(2) those companies in non-Communist countries which continue to aid and abet the government of any country reported on pursuant to subsection (a), in that effort, as of the date of the report.

"(d) Such report shall provide any confirmed or credible intelligence or other information that any non-Communist country has aided and abetted the government of any country reported on pursuant to subsection (a) in that effort, either directly or by facilitating the activities of the companies listed in paragraph (1) or (2) of subsection (c) or had knowledge of the activities of the companies listed in paragraph (1) or (2) of subsection (c), but took no action to halt or discourage such activities.

"(e) Nothing in the section requires the disclosure of information in violation of Senate Resolution 400 of the Ninety-fourth Congress or otherwise alters, modifies or supersedes any of the authorities contained therein.

"SEC. 73. MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.

"(a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of 3 years, if the President determines that, on or after the date of enactment of this section, a United States or foreign person has exported any item in violation of section 71(a).

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to any person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the person, and, except as provided in subsection (c), are as follows:

"(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government,

"(2) a prohibition on importation into the United States of all products produced by a sanctioned person, and

"(3) a suspension of partent rights, as described in section 75.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States opereational military requirements;

"(B) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

"(2) to—

"(A) products or services provided under contracts entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

"(B) spare parts;

"(C) component parts, but not finished products, essential to United States products or production;

"(D) routine servicing and maintenance of products; or

"(E) information and technology.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(2) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(3) the term 'sanctioned person' means a person, and any parent, affiliate, subsidiary, or successor entity of the person, upon whom sanctions have been imposed under this section.

"SEC. 74. PENALTIES.

"(a) IN GENERAL.—Whoever knowingly violates or conspires to or attempts to violate section 71(a) shall be fined nor more than five times the value of the exports involved or $50,000 whichever is greater, or imprisoned not more than 5 years, or both.

"(b) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—(1) The Secretary of Commerce (and officers and employees of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $10,000 for each violation of section 71(a), either in addition to or in lieu of any other liability or penalty which may be imposed.

"(2)(A) The authority under law to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of section 71(a).

"(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under section 71(a) may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.]

"SEC. 75. SUSPENSION OF PATENT RIGHTS.

"(a) The term of a patent granted pursuant to title 35, United States Code, for any chemical agent or production equipment, produced by a sanctioned person, including any subsidiary of such person, under section 73(a) of the Arms Export Control Act, shall be suspended for a period of 3 years.

"(b)(1) No rights under title 35, United States Code, shall be derived from any patent described in subsection (a) during the period of any such suspension.

"(2) Any suspension of patent rights imposed pursuant to the provisions of this section shall not extend the term of any such patent.

"(c)(1) Within 30 days after the date of enactment of this Act, the Commissioner of Patents, after a determination has been made regarding which companies have violated the provisions of this Act, shall recommend the suspension of the appropriate patents.

"(2) The Commissioner shall notify the holder of such patent within 30 days after the date of such determination and shall publish in the Federal Register a notice of such determination, together with the factual and legal basis for such determination. Any interested person may request, within the 60-day period beginning on the date of publication of a determination, that the Commissioner making the determination hold a hearing on such determination. Such a hearing shall be an informal hearing which is not subject to section 554, 556, or 557 of title 5, United States Code. If such a request is made within such period, the Commissioner shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Commissioner who is holding the hearing shall provide notice of the hearing to the company involved and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within 30 days after the completion of the hearing, such Commissioner shall affirm or revise the determination which was the subject of the hearing and shall publish such affirmation or revision in the Federal Register.

"(d) The Commissioner may establish such fees as are appropriate to cover the costs of carrying out his duties and functions under this section.

"(e) The Commissioner shall make the determination that a patent is suspended and that the requirements of subsection (c) have been complied with. If the Commissioner determines that the patent is suspended, he shall issue to the owner of record of the patent a certificate of suspension, under seal, stating the length of the suspension, and identifying the product and the statute under which regulatory review occurred. Such certificate shall be recorded in the official file of the patent and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such suspension.".

By Mr. RIEGLE:

S. 239. A bill to amend title XVIII of the Social Security Act to waive the late enrollment penalty under Medicare part B for any disabled individual who was covered under his own or his spouse's private employment-related health insurance; to the Committee on Finance.

WAIVER OF ENROLLMENT PENALTY FOR DISABLED SPOUSES

Mr. RIEGLE. Mr. President, today I am introducing, a bill which will eliminate an inequity which exists in the Medicare Program for Social Security disability insurance [SSDI] beneficiaries. I first introduced a similar bill in the 99th Congress, S. 1604, as well as S. 176 in the 100th Congress, designed to accomplish the same objective. There is a small number of SSDI beneficiaries who are eligible for Medicare but who have failed to enroll because they have health coverage through the extension of their work related health insurance or a spouse's employment related health care plan. If these individuals ever need to enroll in the Medicare part B program, they will be subjected to a 10-percent annual penalty for their delayed enrollment. This bill will address this persistent inequity.

Mr. President, as you know Medicare is a program first enacted in 1965 as title VIII of the Social Security Act to provide financial access to vital health care services to our elderly population. In 1973, Medicare coverage was extended to disabled individuals entitled to Social Security disability insurance for 24 months or more. Since its inception, the program has experienced an

enormous growth. In 1987, it is estimated that 28 million elderly and 3 million disabled individuals will receive benefits in the Medicare Program. It is estimated that Medicare expenditures will reach $83.9 billion. It is clear that this program is serving a vital source of access for our seniors and disabled individuals.

When Medicare was first enacted in 1965, a 10-percent annual surcharge was assessed against those who delayed their enrollment in the voluntary part B—supplemental medical insurance—of Medicare. This provision was enacted to create a disincentive for individuals who were planning to delay enrollment until they became ill and in need of health care services. This was a provision based on sound actuarial accounting and was designed to assure a sufficient amount of premiums to assist in the funding of the program. At that time, there was a maximum of a 30-percent penalty because the enrollment period for the part B of Medicare was limited to 3 years. In 1972, the limited enrollment period was abolished. However, Congress failed to repeal or cap the part B surcharge. We now have a small population of individuals who have incurred a substantial penalty for their late enrollment.

According to the Health Care Financing Administration [HCFA], in 1983, 169 seniors were paying a 150-percent penalty and 18 seniors were paying a 160-percent penalty. This penalty is an add-on to their monthly premium payment. There are situations where this surcharge is not only unfair and inequitable but is penalizing American citizens who are actually saving the Federal Government significant Medicare outlays.

Congress recently addressed this problem and rectified a similar circumstance where old age and survivors beneficiaries were being inappropriately penalized. Included in Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982 [TEFRA] was the "Working Aged" provisions which made Medicare the "Secondary Payer" for certain elderly workers. The provisions amended the Federal Age Discrimination Employment Act [ADEA] to require employers to offer their employees aged 65 to 69 and their dependents the equivalent health care coverage as their younger employees. It became clear that it would be inappropriate to penalize these individuals and subject them to the part B premium surcharge if enrollment in the part B program would simply duplicate their work-based health care coverage. This inequity was rectified with the passage of Public Law 98-369, the Deficit Reduction Act of 1984 [DEFRA] which exempted these individuals from the surcharge.

The bill I am introducing today would address another circumstance where individuals are being inappropriately penalized. A small number of disabled individuals who are qualified for Medicare as a result of their eligibility for SSDI, receive their health care coverage through a spouse's employment related health care plan or through the continuation of their own work-related health plan. They are saving the Federal Government health care dollars by their utilization of an employment related plan to cover the expenses of their disability and health care needs and they should not be penalized for their efforts. This bill will eliminate the part B premium penalty for the disabled person and/or disabled spouse who are enrolled in a group health care plan provided by the beneficiary's former employment or a spouse's current or former employment.

I urge all my colleagues to support this piece of legislation and help to eliminate this inequitable and unfair situation. We must persist in our efforts of making Medicare affordable, accessible and fair in its design and implementation.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF LATE ENROLLMENT PENALTY UNDER PART B OF MEDICARE FOR CERTAIN DISABLED INDIVIDUALS.

(a) IN GENERAL.—The second sentence of section 1839(b) of the Social Security Act is amended by striking the period at the end thereof and inserting in lieu thereof the following: ", and months in which the individual was entitled to a disability insurance benefit under section 223 or to a benefit under subsection (d), (e), or (f) of section 202 by reason of a disability (as defined in section 223(d)), and can demonstrate that the individual was enrolled in such a plan by reason of the individual's (or the individual's spouse's) current or former employment".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to premiums for months beginning after the date of enactment of this Act.

By Mr. HEINZ (for himself and Mr. MOYNIHAN):

S. 240. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to modify the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985 and to modify the maximum deficit amounts set by the Balanced Budget and Emergency Deficit Control Act of 1985; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

CALCULATION OF FEDERAL DEFICIT

Mr. HEINZ. Mr. President, today I am introducing a bill which I first proposed late in the 100th Congress which would remove by increments the Social Security trust fund surpluses used in our calculations of the yearly deficit. I am pleased that the distinguished senior Senator from New York [Senator MOYNIHAN] is joining me in this effort.

Mr. President, we are introducing this legislation because of our concern about the ever-growing mountain of national debt. Our current practice of hiding behind the Social Security surpluses when calculating the yearly deficits is allowing those deficits to add up, year by year, to be an enormous national debt that threatens the economic future of our country. The alternative that we propose today will not only end the practice of lending and spending—spending today in the hope of paying it back tomorrow—but will allow us over the next 15 years or so to actually eliminate all—all—I repeat, all—of the Federal Government's publicly held debt that is outstanding today. This is, I realize, a remarkable and, to some, a perhaps fanciful assertion yet, I believe I can demonstrate to the most profound skeptics that what I say is accurate but that it is also politically achievable.

Mr. President let me begin with some brief history. Since 1983, when we changed the Social Security Program to make sure that reserves would be put aside for future retirees, Social Security surpluses have been steadily accumulating—at first very slowly, and now in quite significant amounts. In fact, they are now accumulating in the Social Security trust fund at the rate of over $109 million per day.

As we know, these surpluses are not real cash; they represent nothing more than the Social Security Administration's authority to pay out retirement benefits. Nevertheless, since 1983 these surpluses have been used in our budget deficit calculations from year to year—deficits which in turn have contributed to a ballooning national debt. It shouldn't take a wizard of economics to tell us that this simply does not bode well for today's workers who will be tomorrow's retirees.

It is not terribly useful to argue over how much of the Social Security surpluses are simply notes indicating interest owed to the fund and how much of the surpluses are really cash surpluses. Rather we must concentrate on how the numbers themselves have allowed us to ignore the Nation's true deficit year after year—and ignore those deficits' contribution to the Nation's debt.

At the present time, the Social Security trust fund [SSTF] masks the country's real deficit, an additional $39 billion in fiscal year 1988 alone for

an actual deficit total of $194 billion. In fiscal year 1989, the G-R-H maximum deficit target is $136, but the [CBO] project SSTF surplus of $56 billion will hide the actual deficit of $192 billion. This distortion will grow more and more pronounced with each passing year.

By the end of 1993, I believe there will be a massive and entrenched structural deficit that will have far-reaching implications for our national economy for the rest of this century and well into the next.

At the end of 1993, when Gramm-Rudman-Hollings finally runs its course, the deficit is supposed to be zero. What we will find, however, is that the real deficit will be a startling $103 billion, an amount, of course, that is identical to that year's projected surplus in the Social Security trust fund. Those will be tough dollars to cut out of Government programs all at one time.

If Congress continues to count Social Security surpluses as deficit reduction and continues to borrow and expend excess Social Security revenues on non-Social Security programs, we will simply add that additional and growing debt which will be owed by the U.S. Treasury to the Social Security system and the retirees which depend upon it, on top of the existing national debt.

Mr. President, we are talking about some very big numbers. The United States' national debt currently stands at about $2.6 trillion. In this decade alone, with 1 year yet to go, we have added over $1.5 trillion in new Federal debt, from $794 billion at the end of fiscal year 1981 to the current $2.6 trillion, a jump of some 156 percent in 7 years—and we did it without war or another great depression. And we had to borrow so much from overseas that we're now in danger of losing our economic independence.

Moreover, we should not forget the interest that we have to pay on that national debt every year. For example, the interest the Treasury paid on the $2.6 trillion national debt in fiscal year 1988 was almost the exact amount of the deficit that year—$152 billion—representing an incredible 28 percent of all the general and other non-Social Security reserves collected by the U.S. Treasury that year.

If we continue to permit the national debt to accumulate by the process I have just described, our annual interest payments will more than double—from $152 to $375 billion—in just a decade. By the year 2000, depending on economic assumptions, as much as 60 percent of all non-Social Security revenues would be required to make interest payments alone.

Mr. President, perhaps some comparisons will be enlightening. That $152 billion that we paid in interest in fiscal year 1988 was more than double the total of all Federal spending on programs for the poor—welfare, Medicaid, housing, food stamps. In fact, that $152 billion spent in interest on the national debt in 1988 alone was more than the Federal Government spent for farm aid, housing, education, unemployment compensation, veterans' benefits, the post office, and highways—combined. That $152 billion was, in fact, more than seven times greater than all the Federal subsidies for education.

The last time interest payments took such a large part of the budget was in 1948, when the Government was paying the debt service incurred to fight and win World War II.

Taking this discussion one step further, we should note that the $152 billion spent just to remain current on the interest on the national debt in 1988 was money that had to be paid to investors, 10 to 15 percent of it to investors abroad, and therefore could not be used for anything else. Those dollars used to pay out interest debt do not go to poor people, to struggling students, or to research cancer or Alzheimer's disease. Rather, the individuals who get the interest payments are the most affluent—investors, bankers, financiers. Failure to change our ways can only mean that government will become the agent to tax the many to make huge interest payments to the few—clearly, we must not allow this to happen.

I ask you, my colleagues, to weigh the consequences of again doubling the national debt and its interest in the next decade. If we have even a small surge in inflation, it could go much, much higher. Obviously, the way we are going ensures that people who need help will get less help, and those who are already well off will get a guaranteed income.

On the other hand, as we buy in the publicly held portion of the national debt, which is currently most of it, interest rates will surely go down. This means that every American will have reduced housing costs, more small businesses have a chance to get off the ground, and more people will be employed. As we eliminate the national debt and the interest owed on that debt, as we indeed bite the economic bullet sooner rather than later, we have to give ourselves the chance to rebuild the Nation's economic engine that drives the American dream. All of this is an opportunity we can seize today. We should and must.

Mr. President, the only way to do it is to get Social Security out of the budget and look at the deficit for what it really is, without the shadows and mirrors now provided by the Social Security surpluses. We need the will to be responsible and make responsible choices now—not 3 or 4 years from now when the problem may be too big and too daunting.

Every day we postpone removing the trust fund off budget simply compounds the pain. As the surplus spirals, the task will become more intimidating.

For that reason I am introducing legislation to take the last step in removing Social Security from the Federal budget and to disclose early on the true state of the Federal budget. The measure I am proposing attempts to do four things: First, leave the Gramm-Rudman-Hollings' targets in place; second, freeze the Social Security surplus at its projected level in fiscal year 1989—$56 billion—which can be counted against the deficit through fiscal year 1993; third, remove the Social Security trust fund from the "deficit counting game" by revealing the $56 billion additional deficit at the end of fiscal year 1993; and fourth, extend the Gramm-Rudman-Hollings' law 2 years to eliminate the $56 billion actual deficit altogether.

Mr. President, let us agree that in future years, we will not use more Social Security surpluses than the projected $56 billion Social Security surplus in fiscal year 1989 to calculate the national deficit. Freezing the use of Social Security surpluses to offset the deficit will force us to look at a more accurate representation of that year's deficit—and take appropriate action by either cutting Government spending or raising additional revenues. If we take such action in increments, the pain of taking such action later should be reduced, and we will not risk future Congresses succumbing to the temptation of using the Social Security surpluses to finance a continuing spending spree.

In 1983 we revised the Social Security Program to make sure that there would be a surplus reserve. Today's workers—euphemistically called the baby boomers—will be retiring at a time when there will be fewer workers to support them. We must make sure that the revenues that have been building up for these future retirees are protected for their use. They will not be there if they have been loaned out to a government that is already hopelessly overextended.

We cannot pretend that the money in the Social Security trust fund is reducing the deficit today while also pretending that it is available, with interest, to fund baby boomers' retirements in the next century. Huge tax increases or benefit reductions will be needed when it is time to take the money out of this alleged trust fund.

What I am suggesting today makes fiscal sense. I urge my colleagues to join me in meeting these realistic budgetary goals during the next few years to ensure prosperity down the road. I urge my colleagues' support for a proposal which will reduce public spending in a planned, thoughtful

manner over the next few years rather than risk either an entrenched structural deficit or abrupt cuts which promise to be even more difficult to make. I urge my colleagues' support for a plan that would ensure future retiree benefits as well as a reduction in the national debt, thus assuring our country's overall economic strength. It won't be easy, but it must be done.

The legislation I am proposing, along with Senator MOYNIHAN, the senior Senator from New York, will allow this country to buy in all U.S. Treasury obligations held by corporations, institutions, and increasingly foreign investors—in other words, eliminate the entire publicly held national debt.

Mr. President, that is an extraordinary claim. Obviously, if we can achieve it, it is well worth achieving, because we would drive down interest rates, we would make capital more available, and housing would become more affordable. There is only one simple thing we have to do to realize what to many must seem a visionary fiscal miracle, and that is to stop as soon as we possibly can the current practice of spending the annual Social Security surpluses as if somehow they really reduced the deficit.

Mr. President, I am deeply concerned that we are on a lending and spending binge, where those annual surpluses now running at $50 billion a year, will go up to hundreds of billions of dollars a year by the end of this next decade. I am concerned that that money, as we are now doing with it, is going to be spent as if it was revenues to the general fund when in fact it is revenues that are supposed to be put aside to secure that retirement of the people who are now working, many of them in the baby-boom generation.

My legislation will put a halt to that practice, and then eliminate what we are now doing over a few years. I think it is in our interests to do so, not only so that we can keep the promises we have made to the retirees of the future, but unless we do take this course and go down this road, we are going to see a sorry spectacle. We are going to see the Congress and the White House report that our deficit, by the year 1993, has shrunk to zero. And yet we will continue to see our national debt grow exponentially. By the year 2000 it will not be $2.5 trillion, which is what it is today; it will be $5 trillion.

With that debt burden will come an increasing debt service burden, in the form of interest payments on the national debt. They will run this coming fiscal year, fiscal 1990, around $182 billion. About 28 cents of every tax dollar that the Treasury will receive from all sources save Social Security will go to pay in fiscal 1990 only interest on the national debt.

If we double our national debt from $2.5 trillion to $5 trillion, I think we all realize that far more than 28 cents out of every dollar to the general fund will go to pay interest on our debt.

Mr. President, the only way to keep the American job machine running is to get Social Security out of the budget. That is our opportunity today with this legislation. I urge my colleagues to give it careful study and consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF INCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

Section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 is amended—

(1) by inserting "(A)" after "(6)";

(2) by striking "for any fiscal year" in the second sentence, and inserting in lieu thereof "for fiscal years preceding 1990"; and

(3) by inserting at the end thereof the following:

"(B) In calculating the deficit for purposes of comparison with the maximum deficit amount and in calculating the excess deficit, for fiscal years 1990 through 1993—

"(i) an amount of the sum of receipts of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Trust Fund for such fiscal year and taxes payable under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986 during such fiscal year shall be included in total revenues for such fiscal year equal to—

"(I) the sum of the disbursements of each such trust fund during that period; plus

"(II) the excess of receipts and taxes over disbursements of the trust funds for fiscal year 1989; and

"(ii) the disbursements of each such trust fund shall be included in total budget outlays for such fiscal year.".

SEC. 2. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;

"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1992, $0;

"(I) with respect to the fiscal year beginning October 1, 1993, $24,000,000,000; and

"(J) with respect to the fiscal year beginning October 1, 1994, $0.".

SEC. 3. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1994"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1995".

(b) EFFECTIVE DATE.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (1), by striking "1993" and inserting "1996"; and

(2) in paragraph (2), by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

By Mr. HELMS:

S. 241. A bill to restore the right of voluntary prayer in public schools and to promote the separation of powers; to the Committee on the Judiciary.

VOLUNTARY SCHOOL PRAYER ACT

● Mr. HELMS. Mr. President, I am today reintroducing a bill to restore to our children their fundamental right to pray in school if and when they desire without interference or prohibition by school officials and the Federal courts. The language of this bill is identical to bills I introduced during the 98th, 99th, and 100th Congresses. It is my interest to continue to press this matter until the foolish decision by the Supreme Court is reversed.

Mr. President, during the Presidential campaign we heard a great deal from all the candidates—liberals and conservatives, Democrats and Republicans—about the importance of traditional values. Obviously, it has finally dawned on the politicians what the American people have been saying for quite some time: Regardless of how many Federal programs you create, you can never solve a fundamentally moral problem by ignoring morality.

Consider, Mr. President, the havoc wrought as a result of abortion, pornography, incest, illegitimacy, poverty, teenage suicide, or AIDS—to name just a few. All have a common thread: A massive breakdown of America's moral fiber.

The vast majority of Americans understand that this collapse is a predictable result of discarding moral principles that deserve to survive—which, indeed, must survive if our Nation is to survive. The American people also understand that the abandonment of principles and values was in large part due to a series of decisions by unelected, elitist liberals on the Supreme Court who, in 1962, outlawed prayer in public schools.

Mr. President, their decisions not only deny America's spiritual heritage, they forsake the Constitution itself, supplanting in its stead constitutional interpretations solely supported by the Supreme Court's selective revision

of American history. Instead of engendering an official attitude of neutrality toward religion in the schools as the public was led to believe they would, those decisions have in fact fueled the flames of Government intolerance of Christianity in the public schools.

How far have these decisions have taken us? Just let me cite a few examples. In the State of Florida, a school principal felt personally compelled by the Supreme Court's decisions to remove pictures of the Bible club from the high school annual with his scissors.

A teacher in North Carolina was similarly prohibited from reading her Bible during her lunch hour.

Students have been prohibited from praying in their cars and even from carrying their personal Bibles on school premises.

Three separate studies, Mr. President, have noted that textbooks in the public schools systematically shun the role of religion in molding the Nation and motivating our leaders because publishers believe Supreme Court decisions require such censorship.

Mr. President, such incidents contradict Supreme Court assurances in 1962 when it outlawed school prayer, in Abington School District against Schemp, that:

> The state may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to a religion, thus preferring those who believe in no religion over those who do.

However, Mr. President, Justice Stewart correctly foresaw that such intolerance of religion would—on the contrary—be the natural and precise effect of the Court's decision to ban school prayer. Dissenting from the majority, he declared that:

> A compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism.

Mr. President, barring God from our classrooms was not the intent of our Founding Fathers who wrote the U.S. Constitution. Their sole intent was to prohibit the establishment of a national church; all remaining issues concerning church-state relations were left strictly with the States.

A mere 15 years before banning school prayer, Mr. President, the Nation's highest Court itself stated that:

> A manifestation of (governmental) hostility to (religion or religious teachings) would be at war with our national tradition as embodied in the First Amendment's guaranty of the free exercise of religion.

Mr. President, the problem in the matter of school prayer, as in so many areas of constitutional law, is that in the last two and a half decades activist Federal judges, with lifetime appointments and no accountability, elitists posing as egalitarians, have overstepped their bounds under the Constitution and usurped the power of Congress and the States, imposing their own personal views of good public policy on the American public, irrespective of the Constitution. Congress and the States no longer make the Nation's policy decisions. They do not do it on abortion, on busing, on prayer, on a whole host of other things.

Mr. President, we as a people are willing to trust the deliberative legislative process to set fundamental national policies. We do not want elitists doing it from behind the Federal bench with no accountability to the people.

Mr. President, potential encroachment by the Supreme Court is precisely why the Constitution's drafters enabled Congress to limit the Supreme Court's appellate jurisdiction in article III, which states in section 2 that:

> In all cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Our Founding Fathers would not have granted Congress such authority, Mr. President, unless they intended Congress to exercise it when necessary.

Mr. President, I believe most Americans agree that the time is long overdue for Congress to use it constitutional authority to restore voluntary prayer to the public schools of America. My bill would do that by exercising Congress' clear prerogative under article III of the Constitution to remove from the Federal courts the jurisdiction over cases involving voluntary school prayer, Bible reading, or religious meetings in schools.

Under my bill, Mr. President, State courts would be free to continue strict adherence to the Supreme Court's restraints on the free exercise of religion. Indeed, the State courts could even choose to extend the Supreme Court's rationale and thus prohibit public school students from praying outside as well as inside the classroom. However, I believe many States' courts, instead, will uphold the constitutionality of prayer in schools.

Would that result be such a terrible thing, Mr. President? We are talking about Supreme Court decisions which would be—in the judgment of the elected representatives of the people and the President—so erroneous as to constitute usurpations of power from the other two branches of Government by the Supreme Court. As constitutional scholar Charles Black observes, "the rock on which rests the legitimacy of the judicial work in our democracy" is Congress' power over the jurisdiction of Federal courts, including the Supreme Court.

Mr. President, it would be a healthy corrective of the Supreme Court's erroneous religion decisions for the people to trust for a time in the State courts once again—the courts in which the Constitution's framers primarily placed their trust—and thus protect ourselves from further excesses in this area by the Supreme Court. In the process, the Supreme Court might learn a salutary lesson that it should avoid future excursions beyond its proper constitutional bounds—and cease rewriting the Constitution under the guise of interpreting it.

Finally, Mr. President, because a statute rather than a constitutional amendment is involved, the jurisdiction of the Supreme Court and the lower Federal courts could be readily restored should the need for it become apparent. My legislation would simply ensure that for as long as necessary, the Supreme Court would receive no opportunity to further extend its errors on the subject of school prayer.

Mr. President, this legislation would effectively replace the nonsense of Federal judges on school prayer over the past two decades with the common sense and practical experience of the American people over the past 170 years. George Washington's final counsel to the Nation warned us that:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

We, in Congress, have tolerated the usurpation of constitutional powers and the subversion of religion and morality by an elitist Federal judiciary long enough, especially in the area of school prayer. It is time to put a stop to it, Mr. President. I hope that in this Congress, we will have the courage to take action.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voluntary School Prayer Act".

SEC. 2. (a) Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1260. Appellate jurisdiction: limitations

"(a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter and in accordance with section 2 of Article III of the Constitution, the Supreme Court shall not have jurisdiction to review, by

appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, practice, or any part thereof, or arising out of any act interpreting, applying, enforcing, or effecting any State statute, ordinance, rule, regulation, or practice, which relates to voluntary prayer, Bible reading, or religious meetings in public schools or public buildings.

"(b) For purposes of this section, the term 'voluntary' means an activity in which a student is not required to participate by school authorities.".

(b) The section analysis of chapter 81 of title 28 is amended by adding at the end thereof the following new item:

"1260. Appellate jurisdiction; limitations.".

SEC. 3. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1365. Limitations on jurisdiction

"Notwithstanding any other provision of law and in accordance with section 2 of Article III of the Constitution, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1260 of this title.".

(b) The section analysis at the beginning of chapter 85 of title 28 is amended by adding at the end thereof the following new item:

"1365. Limitations on jurisdiction.".

SEC. 4. The amendments made by this Act shall take effect on the date of enactment, except that such amendments shall not apply to any case which, on such date of enactment, was pending in any court of the United States.

By Mr. HELMS (for himself, Mr. THURMOND, Mr. WILSON, Mr. MCCLURE, Mr. SYMMS, Mr. D'AMATO, Mr. ARMSTRONG, and Mr. WALLOP):

S. 242. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

RELATIVE TO THE USE OF COMPULSORY UNION DUES

● Mr. HELMS. Mr. President, there is much talk about making major changes in our Federal election laws to remedy perceived problems in the way political campaigns are financed. I've heard no proposal, however, that has focused on what is without question one of the most blatant violations of political freedom—the use of compulsory union dues for political purposes.

Thomas Jefferson, who is my personal hero in the history of this Nation, said, "To compel a man to furnish contributions for the propagation of opinions which he disbelieves is sinful and tyrannical." Yet a loophole in the Federal election laws grants organized labor a special privilege enjoyed by no other organization—the power to take money from American workers as a condition of employment and against their will and to contribute that money to political causes and candidates whom the workers themselves do not necessarily support.

The Federal Election Campaign Act, as amended in 1976, has only the appearance of restricting the use of compulsory union dues for political purposes. While the law does prohibit the use of compulsory dues for direct cash contributions to political candidates, it does not—I say again, does not—prohibit the use of forced union dues for a number of other indirect means of supporting union-backed political candidates and causes.

Mr. President, the Department of Justice has recognized the existence of this loophole in our election laws and has endorsed this legislation. Let me read briefly from a letter I received last year from the Department of Justice:

While the Federal Election Campaign Act, as amended in 1976, prohibits the use of compulsory dues for direct contributions to political causes and/or candidates, it does not preclude indirect contributions. In our judgment, this omission constitutes an enormous loophole in the law, and one which would be eliminated with the adoption of your bill.

Mr. President, I ask unanimous consent that the entire text of the letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. There is absolutely no justification, legal or otherwise, for this distinction. The Supreme Court has clearly stated that nonunion employees have a constitutional right to prevent unions from spending compulsory dues to express political views unrelated to its duties as exclusive bargaining representatives. The Court has also made it clear that "[t]he amount at stake for each individual dissenter does not diminish this concern. For, whatever the amount, the quality of respondents' interest in not being compelled to subsidize the propagation of political or ideological views that they oppose is clear." [Chicago Teachers Union versus Hudson (1985)].

Mr. President, despite the clear enunciation of constitutional rights by the Supreme Court, our Federal election laws continue to give organized labor a special privilege enjoyed by no other private association—the right to take money from American workers as a condition of employment and to contribute that money to political causes and candidates whom the workers themselves may not necessarily support.

In light of this legal dichotomy, union officials have divided their political expenditures into two categories. The first is commonly referred to as union hard money. It consists of money given directly to candidates in the form of cash or in-kind contributions taken from funds given voluntarily by union members. This legislation is not intended to affect those contributions.

The second category is referred to as union soft money, spent by union officials on behalf of—but not contributed directly to—political candidates. This soft money comes directly from compulsory union dues. Forced dues finance the operations of union PAC's; it provides extensive in-kind political services; and, in fact, it represents the overwhelming bulk of union political expenditures. Nevertheless, Mr. President, because it is not contributed directly to a candidate, it is neither documented nor reported to the Federal Election Commission. This overwhelming amount of political expenditure remains hidden from the American public.

But, Mr. President, even voluntary PAC contributions from union members originate with compulsory dues soft money. Compulsory dues bankroll the administrative overhead costs of union partisan political fundraisers. Compulsory dues soft money that is used for financing union PAC's runs into many millions of dollars each election cycle. For example, in July 1976, AFL-CIO public relations director, Bernard Albert, admitted that the annual budget of the national COPE alone ran to approximately $2 million.

In spite of the vast sums of compulsory union dues that finance the operating costs of union PAC's, the bulk of compulsory dues soft money goes for unreported, unlimited in-kind political expenditures. Mr. Paul Jensen, Walter Mondale's campaign liaison to organized labor, estimated that the unions' soft money contributions to Mr. Mondale's Presidential campaign was worth about $20 million.

The July 1979 issue of Steelabor, the official newspaper of the United Steelworkers of America, offered its readers a surprisingly candid and straightforward explanation of in-kind political spending. "Union Dues money," reported the union paper, "can't go for direct political contributions—but it can do a lot; mailings supporting or opposing political candidates, phone banks, precinct visits, voter registration, and get-out-the-vote drives."

In spite of these admissions, the account in Steelabor only tells half of the story. To fill out the picture, several key expenditures need to be added to the list: thousands of union employees devoted almost solely to partisan political election day workers paid overtime rates from compulsory dues; millions of political pamphlets and flyers; and paid election-day carpools and babysitters, to name a few.

In the most recent elections, union activity was significantly greater than in any of the prior presidential elections. According to the October 11, 1988, edition of The Washington Post, labor unions went to work for gover-

nor Dukakis with "nearly $40 million in cash" and "an army of volunteers * * *." The article reported that the United Auto Workers [UAW] Union planned to mail "more than 1 million personalized, "anti-Bush material at plant gates in the hopes that members will use the material to argue against Bush * * *."

The article also quotes Loretta Bowen, political director of the Communications Workers of America [CWA] as saying:

Many union people have been 'searching desperately for a spark' to help ignite rank-and-file enthusiasm about Dukakis. The CWA * * * has ordered everyone of its 200-member field staff not actively involved in contract negotiations to spend full time on the election.

Mr. President, it is ironic that we would see this admission from an official of the CWA in light of the most recent case decided by the United States Supreme Court regarding the use of union dues for political purposes: Communications Workers of America versus Beck.

In deciding that case, the Court stated that:

Taken as a whole, section 8(a)(3) [of the National Labor Relations Act] permits an employer and a union to enter into an agreement requiring all employees to become union members as a condition of continued employment, but the membership that may be so required has been 'whittled down to its financial core' [citations omitted]. The statutory question presented in this case, then, is whether this 'financial core' includes the obligation to support union activities beyond those germane to collective bargaining, contract administration, and grievance adjustment. We think it does not.

Mr. President, these indirect in-kind political expenditures cited in the Post article are not subject to any limitations nor any reporting requirements under the FECA. They are paid for with dues money taken from workers as a condition of employment. Without question they represent the overwhelming bulk of union political expenditures—hidden from the American public.

Mr. President, some opponents of this legislation use convoluted logic in arguing that the use of compulsory union dues for political purposes is somehow analogous to the use of corporate funds to establish political action committees with which stockholders may disagree. They say this legislation would unfairly tip the political balance of power in favor of business interests by restricting only union politics.

This is nonsense, and those who might be confused by this smokescreen argument should read the decision of the U.S. Court of Appeals in Federal Election Commission versus International Association of Machinists. The language of that decision shatters this bogus analogy once and for all.

In that case, Mr. President, attorneys for the International Association of Machinists Union charged that 11 corporations had violated the Federal Elections Campaign Act by soliciting contributions to their political action committees from administrative personnel under what they termed inherently coercive conditions. Although the district court ruled that no such violation had occurred, it did allow several constitutional issues raised by the plaintiffs to be heard by the U.S. Court of Appeals for the District of Columbia.

Union attorneys asked the appeals court to decide, among other constitutional issues, whether the use of general corporate assets to establish and support corporate political action committees violates the first amendment rights of dissenting shareholders. Union attorneys attempted to base their claim on the landmark Supreme Court decision in Abood versus Detroit Board of Education.

In Abood, the Supreme Court held that the first amendment prohibits unions from forcing employees to support political causes against their will through the use of complusory union dues. The union attorneys attempted to draw a parallel between the situation in Abood and the use of treasury funds by corporations to establish and administer PAC's. The court of appeals was not convinced.

The Court of Appeals noted that "in Abood the Supreme Court had held that the first amendment prohibited a public employee union from requiring any employee to contribute to the support of an ideological cause he may oppose as a condition of holding a job." The Court went on to rule that there was no valid analogy between the union position in FEC versus IAM and the fact situation in Abood because a corporate shareholder is under no compulsion to support a political cause against his will.

Citing another Supreme Court decision, First National Bank of Boston versus Bellotti, the Court of Appeals said "the shareholder invests in a coprorate of his own volition and is free to withdraw his investment at any time and for any reason."

Mr. President, let me reiterate that any campaign reform effort must deal with the abusive use of compulsory union dues. The time has come to return to individual workers the right to choose for themselves which political candidates and causes their dollars will be used to support.

Enactment of this important legislation will guarantee the voluntary nature of each person's participation in the political process by prohibiting the use of compulsory union dues for political purposes. This bill will insure that in matters of political conscience, Federal election laws will be neutral while voluntary participation will continue to be protected.

I respectfully urge my colleagues to give this legislation expeditious consideration.

EXHIBIT 1

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, May 12, 1988.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: Thank you for your letter of February 16, 1988, requesting the views of the Department of Justice on S. 615, your bill to prohibit the use of compulsory union dues for political purposes. I regret the delay in responding.

The Department of Justice has carefully examined the issue addressed in S. 615. We believe the bill executes an appropriate and long-overdue clarification of legislative policy. Unions are currently using mandatory fees for a multitude of different purposes, including activities on behalf of various political causes and candidates. We believe that working men and women should not be forced, as a condition of employment, to contribute to political causes and candidates whom they do not themselves support. It seems clear that a practice which requires them to do so is offensive.

Furthermore, while the Federal Election Campaign Act, as amended in 1976, prohibits the use of compulsory dues for direct contributions to political causes and/or candidates, it does not preclude indirect contributions. In our judgment, this omission constitutes an enormous loophole in the law, and one which would be eliminated with the adoption of your bill. A direct and an indirect political expenditure have the same effect: funds contributed by an employee may be used to promote an issue or a candidate which he or she opposes. Thus, a bank only on direct political expenditures does not fully protect the rights of union members or the rights of non-union employees who are obliged to pay agency fees. If unions are able effectively to tap huge reservoirs of money collected pursuant to the conditions of collective bargaining agreements, then they will be able to interject themselves and their institutional preferences into the political arena in a manner inconsistent with the wishes of many of the affected workers. Such a situation plainly has a deleterious effect on political freedom in this country and is highly undesirable and inappropriate.

By promoting pluralism and diversity of opinion, S. 615 would further the Act's original purpose by limiting the economic power of private organizations, such as unions, to purchase political influence through indirect contributions. Moreover, the duty of fair representation embodied in the National Labor Relations Act (NLRA) would also be strengthened since a union's use of its economic clout to advance the views of some of its members to the disadvantage of others is inconsistent with notions of equity and fair play.

As your letter noted, the Department took the position, in our amicus brief before the Supreme Court in *Communications Workers of America et al. v. Beck* (S.Ct. No. 86-73), that a petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit should be granted. We took that view because we believed that the Fourth Circuit's judgement was in conflict

with other circuits and that, on the merits, it had erred in interpreting the NLRA and the Constitution. Specifically, we believe that the NLRA embodies a compromise which generally allows employers and unions to demand that all employees pay uniform fees to the union without regard to the subjects on which those fees will be expended.

Our view of the unions existing duty of fair representation flows from our interpretation of statutory rights created by provisions of the NLRA. Moreover, on the constitutional issue, we believe that all conduct relating to the expenditure of agency fees is a product of purely private action and not the "state action" that, of course, is a condition precedent to any successful First Amendment claim. As is proper, the brief does not state the Department's views on the policy issues involved, and does not in any way conflict with our strong support for your bill.

Though we remain convinced that our interpretations of existing law as embodied in the NLRA as well as the applicability of the Constitution are correct, we as a matter of policy believe your bill should be enacted into law. As interpreted by the Supreme Court, both the Railway Labor Act and the Constitution prohibit an employer and union from conditioning an employee's right to work on that employee's contribution to noncollective bargaining causes with which the Employee does not agree. These prohibitions reflect fundamental expressive and associational values of our society; men and women should not be forced into ideological and political associations, especially associations that are fundamentally inconsistent with their own consciences and thoughts. But requiring an individual, on pain of discharge, to contribute over his objection to noncollective bargaining causes does exactly that. Your bill, which is aimed at narrowing existing law, would prevent such ideological and associational compulsion and vindicate these important expressive and associational rights.

In closing, permit me to point out that, while Congress is wise to consider amendments that would institute federal election reform, true reform can only come if defects in existing law are fully exposed and addressed. These include issues such as those raised by S. 615.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of these views to Congress.

Sincerely,

THOMAS M. BOYD,
Acting Assistant Attorney General.●

● Mr. D'AMATO. Mr. President, I am pleased to join Senator HELMS in sponsoring S. 242, a bill that would prohibit the use of compulsory union dues for any political expenditures. I share his concern that workers' compulsory union dues may be used to promote political candidates and causes they may not endorse. It is imperative that we return to individual workers the right to choose which candidates and causes to support.

The Federal Election Campaign Act prohibits direct labor union contributions to Federal elections. However, a provision in the act exempts certain political activities. These include communications by a labor organization to its members and their families, get-out-the-vote activities, and the establishment of a separate fund for soliciting contributions to Federal candidates from its members and their families.

This provision creates a gaping loophole in our Federal election laws. In reality, such indirect contributions have as much impact on the political process as direct ones.

In addition, this provision gives labor organizations the power to collect dues from workers as a condition of their employment and then use the money for political purposes. While labor organizations certainly have the right to participate fully in the political process, using forced dues for political purposes is unfair to dissenting union members.

I commend my colleague, Senator HELMS, for introducing legislation that would bring about a needed change in our Federal campaign laws. It is an important step toward protecting the constitutional rights of working men and women.●

By Mr. McCLURE (for himself, Mr. SYMMS, Mr. STEVENS, Mr. ADAMS, Mr. BOREN, Mr. BURNS, Mr. GRASSLEY, Mr. DASCHLE, and Mr. DURENBERGER):

S. 243. A bill to provide for the extension of regional referral center classification of certain hospitals under the Medicare Program and to continue the payment rates for such hospitals; to the Committee on Finance.

RURAL REFERENCE CENTER EXTENSION

● Mr. McCLURE. Mr. President, today I am introducing, along with Senators SYMMS, STEVENS, BOREN, ADAMS, BURNS, GRASSLEY, DASCHLE, and DURENBERGER, legislation to permit hospitals designated as rural referral centers to continue their designation for 5 additional years. Current law provides that certain rural hospitals that are classified as referral centers on October 21, 1986, would retain that status through cost reporting periods beginning before October 1, 1989. Our bill would simply extend that status for 5 years, until 1994, for the 226 rural referral centers now designated.

When Congress established the Medicare Prospective Payment System [PPS] in 1983, it recognized the need for special adjustments and exceptions to the amount paid to hospitals that act as regional or national centers for patients transferred from other hospitals. Consequently, payments to all hospitals that qualify as rural referral centers are based on the rate of small urban, rather than rural, areas as adjusted by the hospital's area wage index. In fiscal year 1989, the small urban rate is 11 percent higher than the rate for rural areas.

The rationale for this higher rate of payment is that generally these hospitals offer a variety of services, employ many advanced trained personnel, and have a medical staff composed of many different types of specialists. In these factors and in the services they furnish, they are similar to urban acute care centers, and pay salaries and have costs comparable to those hospitals.

In addition, the criterion for qualification as rural referral center establishes a measure of those hospitals that treat the sickest patients. As a result, rural referral centers treat more severely ill patients and receive cases that tend to be more complex than those in the average rural hospital. The higher costs associated with treatment of these more severe and complex cases are generally not experienced in the average rural hospital. For example, repair and servicing of high-technology equipment not used in other rural hospitals, and the demand for a broader range of drugs and supplies contribute to the higher costs of operating a rural referral center.

Rural referral centers also are expected to have higher labor costs than other rural hospitals because of the need for more specialized care. For example, if a community had two hospitals, one of which was a rural referral center, the average hourly wage in the rural referral center would likely be higher because of the need for more specialized personnel. Specifically, specialized personnel are needed to operate the sophisticated high-technology equipment such as magnetic resonance imaging [MRI] devices, extracorporeal shock wave lithotripters, and cardiac catheterization units commonly found in rural referral centers.

It is important that Congress continue to make available higher payments for rural referral centers. In the State of Idaho, and in 42 other States, rural referral centers are the linchpin of the rural health care network.

Small, isolated rural communities depend on the greater resources of referral centers to supplement the care available at their own local hospitals. Indeed, rural communities are more than ever coming to depend on referral centers for access to health care as other rural hospitals go out of business.

The situation in Idaho is illustrative and, we believe, typical of the important role of referral centers in maintaining access to health care in rural America. Of the 50 hospitals in Idaho, 7 are rural referral centers, but those 7 hospitals account for nearly 50 percent of all hospital admissions in the State.

Paying rural referral centers an adequate price becomes increasingly important as the financial condition of rural hospitals deteriorates. For each year of PPS, rural hospitals have had

consistently lower PPS operating margins than urban hospitals.

Mr. President, I would like to submit for the record the current requirements for rural referral center status and the most recently available listing of rural referral centers. For discharges occurring on or after April 1, 1988, rural hospitals with at least 275 beds are classified as rural referral centers. Other rural facilities may qualify if they meet criteria regarding referral patterns and distance traveled by Medicare inpatients.

Under the criteria, rural hospitals must:

First, have a casemix index at least equal to the lesser of the median casemix index value for hospitals under the prospective payment system [PPS] located in urban areas—the national median—or the median index for all nonteaching hospitals located in urban areas in the same region—the regional median; and

Second, have total annual inpatient discharges equal to the greater of 5,000 or the median number of discharges for all urban hospitals located in the same region; and

Third, meet at least one of three additional criteria regarding the specialty status of the medical staff, travel distances for Medicare patients, or volume of referrals.

Rural osteopathic hospitals must meet the same criteria except that the minimum number of annual discharges must be at least 3,000.

Mr. President, I cannot impress upon my colleagues how important retaining rural referral center status is to these hospitals. I ask unanimous consent that the list of hospitals be printed in the RECORD at this point and I urge my fellow Senators to examine this list to see which hospitals will be affected in their States. I also ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

RURAL REFERRAL CENTERS

Hospital name	City	State	Rec. No.
East Alabama Med Ctr	Opelika	AL	1
Selma Med Center Hosp	Selma	Al	2
Fairbanks Mem'l Hosp	Fairbanks	AK	3
Yuma Regional Med Ctr	Yuma	AZ	4
Flagstaff Medical Ctr	Flagstaff	AZ	5
Central Arkansas Gen'l	Searcy	AR	6
North Ark Med Ctr	Harrison	AR	7
St. Bernards Regional Med	Jonesboro	AR	8
St. Joseph's Reg Hlth Ctr	Hot Springs	AR	9
Baxter Co Reg Hosp	Mountain Home	AR	10
St. Marys Hosp	Russellville	AR	11
Chickasawba Hosp	Blytheville	AR	12
National Park Med Ctr	Hot Springs	AR	13
So Ark Med Systems	El Dorado	AR	14
White River Med Ctr	Batesville	AR	15
Sierra Nevada Mem'l Hosp	Grass Valley	CA	16
Sierra Vista Hosp	San Luis Obisp	CA	17
St. Mary's Hosp & Med Ctr	Grand Junction	CO	18
Day Kimball Hosp	Putnam	CT	19
Windham Comm Hosp	Willimantic	CT	20
Kent Gen'l Hosp	Dover	DE	21
Citrus Mem'l Hosp	Inverness	FL	22
Medical Center Hosp	Punta Gorda	FL	23
St. Joseph Hosp	Port Charlotte	FL	24
Indian River Mem'l Hosp	Vero Beach	FL	25
Fawcett Mem'l Hosp	Port Charotte	FL	26
Hamilton Med Ctr	Dalton	GA	27
Upson Co Hosp	Marietta	GA	28
West Georgia Med Ctr	La Grange	GA	29
Glynn Brunswick Mem'l	Brunswick	GA	30
Northeast GA Med Ctr	Gainseville	GA	31
John D. Archbold Mem'l	Thomasville	GA	32
Floyd Medical Ctr	Rome	GA	33
Tift General Hosp	Tifton	GA	34
South Georgia Med Ctr	Valdosta	GA	35
Redmond Park Hosp	Rome	GA	36
Magic Valley Reg Med Ctr	Twin Falls	ID	37
St. Joseph's Hosp	Lewiston	ID	38
Mercy Med Ctr	Nampa	ID	39
Caldwell Mem'l Hosp	Caldwell	ID	40
Idaho Falls Consolidated	Idaho Falls	ID	41
Bannock Mem'l Hosp	Pocatello	ID	42
Kobenai Med Ctr	Couer D'Alene	ID	43
Blessing Hosp	Quincy	IL	44
Community Hosp	Sterling	IL	45
St. Mary's Hosp	Galesburg	IL	46
Freeport Mem'l Hosp	Freeport	IL	47
Mem'l Hosp	Carbondale	IL	48
La Porte Hosp	La Porte	IN	49
Marion General Hosp	Marion	IN	50
St. Anthony Hosp	Michigan City	IN	51
Good Samaritan Hosp	Vincennes	IN	52
Reid Mem'l Hosp	Richmond	IN	53
The King's Daughters Hosp	Madison	IN	54
Caylor-Nickel Hosp Inc	Bluffton	IN	55
Bartholomew Co Hosp	Columbus	IN	56
Marshalltown Area Comm Ho	Marshaltown	IA	57
Trinity Reg Hosp	Fort Dodge	IA	58
Greeley Mary Med Ctr	Ames	IA	59
Burlington Med Ctr	Burlington	IA	60
St. Joseph's Mercy	Mason City	IA	61
Ottumwa Hosp	Ottumwa	IA	62
Asbury Hosp	Salina	KS	63
Hadley Reg Med Ctr	Hays	KS	64
Hutchinson Hosp Corp	Hutchinson	KS	65
Central Kansas Med Ctr	Great Bend	KS	66
Halstead Hosp	Halstead	KS	67
Highlands Region Med Ctr	Prestonsburg	KY	68
The Med Ctr at Bow	Bowling Green	KY	69
T.J. Samson Comm. Hosp	Glasgow	KY	70
Murray-Calloway Co Hosp	Murray	KY	71
Ephrain McDowell Mem'l	Danville	KY	72
Pattie A Clay Hosp	Richmond	KY	73
Williamson ARH	Williamson	KY	74
Regional Med Ctr	Madisonville	KY	75
Lourdes Hosp	Paducah	KY	76
Western Baptist Hosp	Paducah	KY	77
King's Daughters Mem'l	Frankfort	KY	78
Humana Hosp Lake Cumb	Somerset	KY	79
Opelousas Gen'l Hosp	Opelousas	LA	80
Lincoln Gen Hosp	Ruston	LA	81
Kennebec Valley Med Ctr	Augusta	ME	82
Mid-Maine Med Ctr	Waterville	ME	83
Cape Cod Hosp	Hyannis	MA	84
Falmouth Hosp	Falmouth	MA	85
Community Health Ctr	Coldwater	MI	86
Gratiot Comm Hosp	Alma	MI	87
Alpena Gen'l Hosp	Alpena	MI	88
Marquette General Hosp	Marquette	MI	89
Munson Med Ctr	Traverse City	MI	90
Northern Michigan Hosp	Petoskey	MI	91
Traverse City Osteopathic	Traverse City	MI	92
St. Joseph's Med Ctr	Brainerd	MN	93
Rice Mem'l Hosp	Willmar	MN	94
Immanuel St. Josephs Hosp	Mankato	MN	95
North Mississippi Med	Tupelo	MS	96
Magnolia Hosp	Corinth	MS	97
Oxford Lafayette Med Ctr	Oxford	MS	98
Rush Fountain Hosp	Meridian	MS	99
Forrest General Hosp	Hattiesburg	MS	100
F G Riley Mem'l Hosp	Meridan	MS	101
Delta Medical Ctr	Greenville	MS	102
Methodist Hosp	Hattiesburg	MS	103
Golden Triangle Reg	Columbus	MS	104
Jeff Anderson Regional M	Meridian	MS	105
St Marys Health Ctr	Jefferson City	MO	106
Phelps Co Reg Med Ctr	Rolla	MO	107
Kirskville Osteo Med Ctr	Kirksville	MO	108
Charles E Still Hosp	Jefferson City	MO	109
Audrain Medical Center	Mexico	MO	110
Southeast Missouri Hosp	Gape Girardeau	MO	111
Mineral Area Osteo Hosp	Farmington	MO	112
St. Francis Med Ctr	Cape Girardeau	MO	113
St Patricks Hosp	Missoula	MT	114
St James Comm Hosp	Butte	MT	115
Missoula Comm Hosp	Missoula	MT	116
Kalispell Reg Hosp	Kalispell	MT	117
Good Samaritan Hosp	Kearney	NE	118
St Francis Med Ctr	Grand Island	NE	119
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West Nebraska Gen Hosp	Scottsbluff	NE	121
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Wayne Mem'l Hosp	Goldsboro	NC	134
Rutherford Hosp Inc	Rutherfordton	NC	135
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Lenoir Mem Hosp	Kingston	NC	137
Pitt County Hosp	Greenville	NC	138
Southeastern General Hos	Lumberton	NC	139
Columbus County Hosp	Whiteville	NC	140
Johnston Mem'l Hosp	Smithfield	NC	141
Albemarle Hosp	Elizabeth City	NC	142
Moore Mem'l Hosp	Pinehurst	NC	143
Wilson Mem'l Hosp	Wilson	NC	144
Craven Co Hosp	New Bern	NC	145
Carteret Gen Hosp	Morehead City	NC	146
Nash General Hosp	Rocky Mount	NC	147
St Joseph Hosp	Minot	ND	148
Trinity Med Ctr	Minot	ND	149
U.S. Health Corp of SO OH	Portsmouth	OH	150
Union Hosp	Dover	OH	151
Marion General Hosp	Marion	OH	152
Providence Hosp	Sandusky	OH	153
Comm Med Ctr Hosp	Marion	OH	154
Good Samaritan Med Ctr	Zanesville	OH	155
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Jackson Co Mem'l Hosp	Altus	OK	166
Muskogee Gen Hosp	Muskogee	OK	167
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Grady Mem Hosp	Chickasha	OK	171
Good Samaritan Hosp	Corvallis	OR	172
St Charles Med Ctr	Bend	OR	173
Merle West Medical Cte	Klamath Falls	OR	174
Bay Area Hosp	Coos Bay	OR	175
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Evangelical Comm Hosp	Lewisburg	PA	177
Jameson Mem'l Hosp	New Castle	PA	178
Lewiston Hosp	Lewiston	PA	179
Robert Packer Hosp	Sayre	PA	180
Franklin Reg Med Ctr	Franklin	PA	181
Meadville Med Ctr	Meadville	PA	182
Chambersburg Hosp	Chambersburg	PA	183
Armstrong Co Mem'l	Kittanning	PA	184
Butler Mem'l Hosp	Butler	PA	185
Oil City Area Health Ctr	Oil City	PA	186
Orangeburg Reg Hosp	Orangeburg	SC	187
Tuomey Hosp	Sumter	SC	188
Self Memorial Hosp	Greenwood	SC	189
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St Lukes Hosp	Aberdeen	SD	191
Maury County Hosp	Columbia	TN	192
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Mem Med Ctr/East Texas	Lufkin	TX	197
Citizens Gen'l Hosp	Greenville	TX	198
Navarro Reg Hosp	Corsicana	TX	199
Woodland Hts Med Ctr	Lufkin	TX	200
Memorial Hosp	Nacogdoches	TX	201
Nacogdoches Med Ctr	Nacogdoches	TX	202
Central Vt Med Ctr	Barre	VT	203
Rutland Hosp	Rutland	VT	204
Southwestern Vt Med Ctr	Bennington	VT	205
Rockingham Mem'l Ctr	Harrisonburg	VA	206
Winchester Mem'l Hosp	Winchester	VA	207
Halifax Community Hosp	South Boston	VA	208
Mary Washington Hosp	Fredericksburg	VA	209
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St Mary's Med Ctr	Walla Walla	WA	211
Skagit Valley Hosp	Mount Vernon	WA	212
Central Wash Hosp	Wenatchee	WA	213
St John's Hosp	Longview	WA	214
Olympic Mem'l Hosp	Port Angeles	WA	215
West Virginia Univ Hosp	Morgantown	WV	216
United Hosp Ctr Inc.	Clarksburg	WV	217
Monongalia Co General Ho	Morgantown	WV	218
Princeton Comm Hosp	Princeton	WV	219
Fairmont General Hosp	Fairmont	WV	220
Bluefield Comm Hosp	Bluefield	WV	221
St Michaels Hosp	Stevens Point	WI	222
St Clare Hosp	Monroe	WI	223
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St Agnes Hosp	Fon Du Lac	WI	225
Holy Family Med Ctr	Manitowoc	WI	226

S. 243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF REGIONAL REFERRAL CENTERS.

(a) EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICAITON.—Any hospital that is classified as a regional referral center under section 1886(d)(5)(C)(i) of the Social Security Act as of September 30, 1989, including a hospital so classified as a result of section 9302(d)(2) of the Omnibus Budget Reconciliation Act of 1986, shall continue to be classified as a regional referral center for cost reporting periods beginning on or after October 1, 1989, and before October 1, 1994.

(b) CONTINUATION OF PAYMENT RATE.—In determining the amount that is payable under section 1886(d) of the Social Security Act for a discharge on or after October 1, 1989, from a hospital that is classified as a regional referral center for purposes of payment under such section, the Secretary of Health and Human Services shall use the average standardized amount that is applicable to discharges from a hospital that is located in an urban area (other than a large urban area) in the region in which the hospital so classified is located (as such terms are used in such section).

● Mr. SYMMS. Mr. President, I join my colleague today, the senior Senator from Idaho, in introducing legislation to extend the period for rural referral center classification for another 5 years.

This designation, which will be discontinued at the end of this year, currently provides additional funding to certain hospitals which meet the criteria under the Medicare Prospective Payment System. Congress established this system, recognizing that regional hospitals serving a large area, need an adjustment to the amount paid to other hospitals. These facilities have been designated as Rural Referral Centers, providing services to small urban areas as opposed to rural.

There are currently 226 such centers, receiving reimbursement payments for individual services at a rate which is only 11 percent higher than that provided for rural hospitals.

I would like to emphasize what my colleague, Senator MCCLURE has already stated, we have 50 hospitals in Idaho and only 7 of those are rural referral centers. Yet, these seven facilities account for half of all the admissions in the State. It is clear to me the importance of the rural referral center designation.

Rural referral centers treat those patients who are most in need, or rather those who are severely ill or have very complex conditions. These patients require a broad range of treatment and supplies. Therefore, the equipment used is more complex and the cost of use and maintenance is much higher than in a rural hospital.

Because these facilities provide services for such a large area, they must be equipped much the same as an urban hospital, offering specialized services and employing several different types of specialists. Essentially, we have a rural hospital serving a large number of people with costs comparable to those of an urban hospital. Therefore, they must be reimbursed accordingly.

Without the rural referral center designation, many hospitals in Idaho, as well as several other States, would have to shut their doors. This would leave thousands of individuals without any health care facility in a reasonable proximity to their homes, requiring them to travel hundreds of miles for treatment and even regular checkups.●

By Mr. GLENN:

S. 244. A bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and for other purposes.

AGRICULTURAL COMMODITY-BASED PLASTICS DEVELOPMENT

● Mr. GLENN. Mr. President, it is with great pleasure that I come before the Senate today to reintroduce the Agricultural Commodity-Based Plastics Development Act of 1989. I am pleased that Senators DIXON, HARKIN, CONRAD, and BURDICK are original cosponsors of this legislation and Congressman DURBIN is introducing identical legislation in the House of Representatives.

Mr. President, the legislation that I am introducing today addresses two important issues; namely, the return to health and prosperity of our Nation's agriculture, and the serious environmental problem we face regarding the disposal of plastic waste.

Farm prosperity occurs when demand for commodities is in balance with the available supply. This was true during the 1970's, when an expanding export market readily consumed the increasing supply of commodities produced by American agriculture.

During the 1980's increased competition abroad has led to zero growth in U.S. agricultural exports. Foreign competitors have increased their agricultural production resulting in an erosion of our international agricultural market share, and excess capacity in U.S. crop production. Unfortunately, there are many indications that these trends will continue.

Clearly, Mr. President, a key step in restoring prosperity to American agriculture is through the development of new nonfood uses for agricultural commodities. It is unlikely that our export market will grow as in the 1970's and consume our excess capacity. Rather, we must harness our own inventiveness to create new opportunities for American agriculture both here and abroad.

The technology exists today to produce agricultural commodity-based plastic products which degrade when disposed of in the environment. These are made by combining starch with conventional plastic resins. The starch used in this process is made from a natural resource that is in great abundance in this country, corn and other grains. A wide variety of items can be produced using these techniques, including plastic packaging, plastic bags, agricultural mulch, milk jugs, dairy tubs, meat trays, diaper liners, fast food containers, industrial containers, and pharmaceutical packaging. Using durable injection molding techniques, such diverse products as children's toys, office supplies, and automobile components are also feasible. When disposed of in an ecologically active environment, such as a landfill, microbes consume the starch, permitting the item to degrade. It has been estimated that corn starch-based plastics could replace 30 to 45 percent of the low-density polyethelyne plastics used each year, producing an additional market for approximately 112 million bushels of corn per year.

Mr. President, the widespread introduction of this technology would benefit the American farmer, whose agricultural commodities are used to produce it. Agricultural commodity-based degradable plastics also address another problem which faces our Nation, that of solid waste disposal.

More than one-half of the cities in the United States will exhaust their current landfill capacity by 1990. The management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials. Plastics comprise 7 percent of the 150 million tons of solid waste produced in this country each year. By the year 2000, this is expected to rise to 10 percent. Clearly, there is no single answer to the problems of our rapidly filling landfills. Indeed, a solution must involve a number of initiatives, including recycling, new incineration technologies, and modifying our use and disposal of solid waste. An important component of this will be the increased use of degradable plastic products.

Mr. President, this legislation will provide incentives for further private sector market development of this technology through the preferential procurement of degradable plastics products by the Federal Government. Special emphasis will be placed on agricultural commodity-based technologies. It directs the General Services Administration to identify, and make available to its Government customers, degradable plastics products. Twenty million dollars is authorized for each of 3 years to cover the additional cost of procuring these items. It also establishes an interagency working group to develop and coordinate the implementation of the act.

New nonfood uses for our agricultural commodities are not futuristic fantasies requiring years to develop. Today corn starch is used in the manufacture of paper products, building materials, textiles, and adhesives. Three to five billion pounds of U.S.-produced fats and oils are used in nonfood products each year. But this is not enough. We must continue to aggressively pursue new markets and to develop new uses for our farm products.

I want to emphasize that the problems facing American agriculture and the disposal of municipal waste are complex. They will not be solved quickly, rather they require a forward-looking strategy to help return our agricultural communities to prosperity and to address this very serious environmental concern facing our Nation's cities. I believe that the legislation that I am proposing today is a part of that solution.

Mr. President, some of my colleagues are also concerned with these problems and will be introducing similar initiatives which recognize the benefits of developing new nonfood uses for agricultural commodities. I look forward to their support and urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Commodity-Based Plastics Development Act of 1989".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the achievement of long-term health for the agriculture sector of the United States is essential to the vitality of the national economy, the well-being of our citizens and rural communities, and the maintenance of national security;

(2) the development of new non-food uses for agricultural commodities will reduce crop surpluses, raise farm income, and lower the cost of agricultural subsidies provided by the Federal government;

(3) the economic security of the United States requires that the Federal government should promote the development and use of products derived from agricultural commodities through the preferential procurement of such products to reach a threshold level of commercial application at which such products can successfully compete;

(4) more than one-half of the cities in the United States will exhaust their current landfill capacity by 1990, and the management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials;

(5) plastic products comprise a significant amount of the 150,000,000 tons of solid waste produced in the United States and the use of degradable plastics products made from agricultural commodities can provide a positive impact in solving the problem of solid waste disposal;

(6) the technology exists to develop and market degradable agricultural commodity-based plastics for use in packaging, agricultural mulching, and in other applications;

(7) the widespread introduction of the technology referred to in paragraph (6) into the commercial marketplace will provide a new outlet for United States agricultural products;

(8) the use of domestically produced agricultural commodity-based degradable plastics products will reduce the reliance of the United States on imported oil and result in an improved trade balance for the United States and increased employment opportunities for our citizens; and

(9) the Federal government should assist in bringing agricultural commodity-based degradable plastics to a level of commercial application comparable to other alternative products and should provide incentives for the development and adoption of such products.

(b) PURPOSE.—It is the purpose of this Act to provide—

(1) that the Federal Government shall—

(A) promote the continued development of degradable plastics technology by increasing the purchases of degradable plastics products, with special emphasis on agricultural commodity-based products;

(B) assist State and local entities in purchasing degradable plastics products;

(C) provide incentives for further technology development through the preferential procurement of degradable plastics products, with special emphasis on agricultural commodity-based technologies;

(D) promote the manufacture and purchase of degradable plastics products by assisting producers in demonstrating the capability of this technology;

(E) increase the commercial availability of agricultural commodity-based degradable plastics products;

(F) support existing Federal, State, local, and privately sponsored degradable plastics programs; and

(G) be provided with advice concerning the status of research in new non-food uses for agricultural commodities; and

(2) for the establishment of an interagency working group to develop and coordinate the implementation of this Act.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGRICULTURAL COMMODITY-BASED PLASTICS.—The term "agricultural commodity-based plastics" means plastic products that use agricultural commodity products as a constituent component.

(2) DEGRADABLE.—The term "degradable" means the biologically or light induced loss of utilitarian or physical characteristics of a plastic or hybrid material containing plastics as a major component.

(3) GOVERNMENT PURCHASING CATALOGUE.—The term "government purchasing catalogue" means any approved list of items supplied by the General Services Administration to agencies of the Federal government.

(4) NON-FOOD USES FOR AGRICULTURAL COMMODITIES.—The term "non-food uses for agricultural commodities" means uses for agricultural commodities that do not involve the consumption of the commodities as food.

(5) PREFERENTIAL PROCUREMENT.—The term "preferential procurement" means any procurement practice employed by the Federal government that gives preference to the selection of an item or service based on any criteria in addition to cost and performance.

(6) SLIDING SCALE RATING METHOD.—The term "sliding scale rating method" means an evaluation method used in Federal procurement procedures that reduces the cost bid for an item according to an established criteria for purposes of determining the effective low bid.

(7) SOLID WASTE.—The term "solid waste" means non-sewage waste which must be disposed of by Federal, State, or local officials through landfills, incineration, or other approved methods.

SEC. 4. ENCOURAGEMENT OF DEVELOPMENT AND USE OF COMMODITY-BASED PLASTICS.

(a) GENERAL SERVICES ADMINISTRATION.—The Administrator of the General Services Administration (hereinafter referred to in this Act as the "Administrator") shall—

(1) identify products in the General Services Administration government purchasing catalogue or in the inventory of the General Services Administration that can be made from degradable plastics technology, and that are environmentally safe, with particular emphasis on agricultural commodity-based products; and

(2) make available in the standard General Services Administration government purchasing catalogue the products identified above through competitive bidding process as prescribed in subsection (c).

(b) REQUESTS.—On the request of the head of any agency of the Federal government, the Administrator shall ensure that such Federal agency be provided with products acquired under this section to the maximum extent practicable.

(c) COMPETITIVE BIDDING.—

(1) SLIDING SCALE.—In awarding competitive bids for the provision of products, the Administrator shall develop and implement a sliding scale rating method for awarding contracts based on such competitive bids for the acquisition of products under subsection (a).

(2) FACTORS.—The sliding scale developed under paragraph (1) shall consider, in addition to price and performance of the offered products, other factors that make the use of degradable plastics technology advantageous, including—

(A) the increased market for agricultural products;

(B) the benefits to the environment; and

(C) the benefits to the long-term energy independence of the United States.

(d) COST OF PRODUCT.—

(1) IN GENERAL.—Funds appropriated under this section for the acquisition by Federal agencies of products under subsection (a) shall be applicable only to that portion of the cost of the product acquired under such subsection that exceeds the cost of comparable conventional products.

(2) COST TO AGENCY.—The Administrator shall ensure that the cost to any Federal agency receiving products under this section shall not exceed the cost to such agency of a comparable conventional product.

(e) INELIGIBILITY.—Federal agencies are ineligible to receive funds under this section for reimbursement of costs to buy products that such agency is required by law to purchase.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 1990 through 1992 to pay for

the difference in costs between conventional products and degradable plastic products.

SEC. 5. INTERAGENCY WORKING GROUP.

(a) ESTABLISHMENT.—The Administrator shall establish an interagency working group to coordinate activities under this Act and to encourage the use and development of agricultural commodity-based plastics.

(b) MEMBERS.—The group established under subsection (a) shall include—

(1) the Administrator of the General Services Administration;

(2) the Secretary of Agriculture;

(3) the Secretary of the Navy;

(4) the Secretary of Defense;

(5) the Administrator of the Environmental Protection Agency;

(6) the Secretary of Health and Human Services;

(7) the Administrator of the Food and Drug Administration;

(8) the Administrator of the Veterans' Administration;

(9) the Director of the Fish and Wildlife Service;

(10) the Commandant of the Coast Guard; and

(11) the heads of all other Federal departments and agencies engaged in research, investigation, or studies involved with plastics pollution and the need to develop biodegradable plastics.

(c) PERSONNEL.—The detailing of personnel from any Federal agency to the interagency group shall be permitted.

(d) MEETINGS.—The interagency group shall meet within 90 days of the date of enactment of this Act, and shall meet a minimum of one time a year.

(e) REPORT.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, and annually each year thereafter, the interagency group shall prepare and submit, to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate, a report that contains the information required in paragraph (2).

(2) CONTENTS.—The reports submitted under paragraph (1) shall contain—

(A) requests by the Administrator for appropriations and staff resources dedicated to implementing this Act;

(B) products identified in section 3 for inclusion in the inventory of the General Services Administration;

(C) numbers and types of products provided to government agencies under this Act; and

(D) statistics on the level of commercial involvement and development of such reports.●

● Mr. DIXON. Mr. President, in addition to our traditional uses, research in alternative uses of agricultural commodities has demonstrated that there are vast new industrial markets for agricultural products. Alternative users—such as soybean ink, road deicers, and degradable plastics—offer new opportunities for reliable domestic markets.

Degradable plastics enable us to utilize our Nation's renewable agricultural resources in an effort to combat many of the serious environmental problems looming over us. Although not the only or final solution, cornstarch plastics offer an important response to the pressing environmental problem of solid waste disposal. Plastics comprise 7 percent of the 150 million tons of solid waste produced in this country each year. By the year 2000, this is expected to rise to 10 percent. By 1990, more than half of the cities in the United States will exhaust their current landfills.

At the same time, the commercialization of degradable cornstarch plastics will provide an important step in restoring prosperity to farmers. It has been estimated that the use of agricultural commodity-based plastics could create a new market for approximately 150 million bushels of corn each year.

Mr. President, today, we possess technologies to produce degradable plastic products at costs competitive to, or cheaper than, nondegradable plastics. Cornstarch, combined with conventional plastic resins, can be utilized to produce a whole host of products. We currently see these uses in plastic packaging, plastic bags, milk jugs, food trays, foam cups, and oil bottles.

I am pleased to be an original cosponsor of Senator GLENN's bill, "the Agricultural Commodity-Based Plastics Development Act of 1989." This bill will play an important role in promoting the development and use of degradable plastics markets. There are 20 to 30 degradable cornstarch plastic items that are currently available for utilization. By including these products in the General Services Administration's inventory, we are affirming that our Federal Government is committed to the development of these new agricultural products in practice, as well as in theory.

Degradable cornstarch plastics, and other alternative uses of our agricultural products, will greatly contribute to the restoration of a viable agricultural economy. They will enable us to meet the many environmental challenges threatening us today, while at the same time offering new economic opportunities for our rural communities.

I urge my colleagues to support this important legislation.●

By Mr. PRYOR:

S. 245. A bill to prohibit the Federal Asset Disposition Association from paying severance pay in excess of certain civil service amounts; to the Committee on Banking, Housing, and Urban Affairs.

RELATIVE TO SEVERANCE PAY PAID BY FADA

● Mr. PRYOR. Mr. President, on September 24, 1988, I read an article in the Washington Post that made my blood boil. Because of efforts during the 100th Congress to abolish the agency, the Federal Asset Disposition Association had apparently adopted a "golden parachute" plan for its employees that would give each person 4 months pay and other benefits as a severance payment.

FADA's press release, dated June 22, 1988, did not put a dollar figure on the severance plan, but the Washington Post article estimated the cost at $8 million in Federal Home Loan Bank Board funds.

At that time I made a statement on the Senate floor regarding this issue and I introduced a bill that would have prevented any severance payment to any FADA employee beyond the normal civil service severance pay.

Mr. President, I want to once again emphasize that at a time when total savings and loan red ink has been estimated at over $105 billion and the FHLBB does not have sufficient funds to do its job, I feel the people at FADA have sent a clear message to Congress and the American people about their dedication to saving the failing thrift industry. They have elected to place their own financial security above the financial security of millions of savings and loan depositors across this country.

FADA was under fire for most of the 100th Congress, and reports of incompetence, greed and cronyism within the agency were common. As a result, numerous efforts were made in the House and Senate to abolish FADA.

Shortly after the 100th Congress adjourned, rumors began to circulate that the FHLBB was in the process of trying to sell FADA to a group of investors headed by FADA's controversial chief, Gerald Carmen. I expressed my view to FHLBB Chairman Danny Wall that any such decision should not be made until the 101st Congress convened, and I am pleased that FADA has not yet been sold.

I believe that Congress should have the right to abolish FADA, which overlaps in duties with the Federal Savings and Loan Insurance Corporation, and I am not at all certain that the FHLBB would have the power to sell FADA if it wanted to.

The General Accounting Office reported to me last year that FADA was improperly established by the FHLBB, that it is an agency of the Federal Government, and that its employees are subject to Federal pay limitations and other restrictions. FADA and the FHLBB have rejected this conclusion, and FADA still regards itself as an independent federally chartered entity.

If FADA would admit that its employees are Federal employees, they would be entitled to severance pay based on their time of service. Instead, FADA has chosen to continue to show its arrogance and incompetence to Congress and the American people by adopting a severance plan that will be paid by the drastically underfunded FHLBB. Given the possibility of a taxpayer bailout of the FHLBB, the American taxpayer may ultimately pay for FADA's golden parachute plan.

29-059 O-90-32 (Pt. 1)

Today, I am again introducing a bill that orders the FHLBB to issue a regulation prohibiting FADA from making payments under its severance plan greater than the applicable civil service severance pay. I cannot, and Congress should not, stand by and allow FADA to rob a fund that is intended to be for the protection of our Nation's savings and loan depositors.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 245

Be it enacted in the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON SEVERANCE PAY IN EXCESS OF CIVIL SERVICE AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Federal Home Loan Bank Board shall issue a regulation to be effective on and after ————, 198- prohibiting the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the Federal Asset Disposition Association from taking any action on after such date which would result in the payment of an amount to any officer, employee, or agent of the Federal Asset Disposition Association, as severance pay in excess of the amount described in subsection (b).

(b) LIMITATION ON AMOUNT OF SEVERANCE PAY.—The amount described in this subsection is the amount of severance pay to which an employee would be entitled pursuant to section 5595 of title 5, United States Code, if the salary of the employee, on an annual basis, were equal to the annual rate of basic pay payable for grade GS-18 of the General Schedule at the time such payment is made.●

By Mr. METZENBAUM:

S. 246. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

S. 247. A bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes; to the Committee on Energy and Natural Resources.

STATE ENERGY CONSERVATION PROGRAMS IMPROVEMENT ACT

● Mr. METZENBAUM. Mr. President, today I am introducing a bill that will reduce the number of American jobs being exported overseas, while at the same time strengthen the United States' role in Third World development.

The Overseas Private Investment Corporation Improvement Act of 1989 will address problems that, in my view, have pervaded OPIC's operations for a number of years.

OPIC insures certain capital investments made by U.S. multinational companies and banks in less developed countries against the risks of war, expropriation, currency inconvertibility, and civil strife.

By doing so, OPIC has often encouraged the export of U.S. jobs, technology, and capital overseas.

The original intent of OPIC was to facilitate U.S. private sector initiatives in less-developed countries. I believe that OPIC does fulfill this important function.

What better way to promote Third World social and economic progress during a time of tight domestic budgets than to encourage private investment overseas? Unfortunately, OPIC has gone beyond its original congressional mandate.

All too often, OPIC insurance is used by U.S. companies to take advantage of cheap foreign labor, costing thousands of jobs here at home. U.S. corporations are entitled to make their own business decisions, but the U.S. Government should not be providing them with the economic incentive to move factories and payrolls out of the country.

Let's look at recent statistics. According to the AFL-CIO, the Nation suffered a net loss of 1.6 million manufacturing jobs since 1979. In 1987, only one in seven jobs in the United States was in manufacturing.

Twelve out of twenty-nine OPIC-sponsored projects—or more than 40 percent of all new projects in 1986—were in manufacturing.

According to OPIC's own fiscal year 1987 annual report, OPIC supported projects to produce catalytic converters, automobile radiators, and tooling systems in Korea; air-conditioning components in the People's Republic of China; computer components in Thailand; spark plugs in India; and garment assembly in Haiti.

OPIC insured the building of a Hilton Hotel in China, backed numerous banking projects for Citibank, and helped with an oil drilling project in Yemen.

Our domestic oil producers are suffering; oil industry workers have lost their jobs. Why should the Federal Government—through OPIC be involved in helping to drill for oil in the Mid-East?

OPIC, when screening overseas investments, is supposed to ensure that there won't be any significant adverse impact on U.S. employment.

OPIC has not been doing its job on that score for many years.

Mr. President, this is not the first time that I have endeavored to address the problems at OPIC. Four years ago I offered an amendment to OPIC's reauthorization, which called on the GAO to study the impact of OPIC activities on employment here in the United States.

GAO came back with some disturbing findings. GAO found that 20 of the 33 OPIC projects it examined were expected to have negative consequences on U.S. employment. GAO also criticized OPIC's method for assessing this impact. Let me quote from the GAO report, issued in May of 1987:

> It is prudent for OPIC, in its analyses of proposed overseas projects, to make certain assumptions concerning the possible effects of a project. However, when OPIC uses these assumptions to mathematically compute the effects on U.S. trade and employment of a proposed projects, it obscures the direct adverse effects of a project * * *. The Congress and other interested parties *may be misled* concerning the magnitude of U.S. economic benefits from OPIC-assisted projects. (Emphasis added.)

A central point in the bill I am introducing today requires OPIC to adopt all of the GAO's recommendations, in the hope that misleading economic analyses can become a thing of the past.

Last year, when OPIC again came before the Congress for reauthorization, I tried once again to put a stop to the inappropriate aspects of its operations. The amendment I offered then is the basis for the bills I am offering today.

In addition to requiring the adoption of the GAO recommendations, my bill will stop OPIC from insuring manufacturing projects overseas when they move U.S. jobs abroad. Under my bill, OPIC can't insure, reinsure or guarantee a project, if it believes that imports into the United States from that project will exceed 10 percent of the total output of the project. Also, should a project be financed by OPIC and then wind up shipping more than 10 percent of its products to the United States, OPIC would have to terminate its support.

And, finally, my bill would stop OPIC from insuring, reinsuring, or guaranteeing banking, oil drilling, and hotel projects.

There's no reason why OPIC should provide the economic incentive necessary for such well-heeled businesses as Hilton Hotels and Citibank to do business abroad. Neither should OPIC be involved in oil projects overseas when wellheads in Oklahoma and Texas are being capped and the domestic energy industry overall is in a slump.

The amendment I offered last year was defeated, in my view, because its intent was misunderstood. That amendment, and this bill, are not protectionist, do not leave existing OPIC projects high and dry, and most of all, this legislation does not destroy OPIC's legitimate role in Third World development.

Mr. President, I am confident that in the absence of last year's end-of-session pressures, this bill will win broad support. Constraints on time may have contributed to misunderstandings during the debate last year. I believe that with the latitude now available to us, we can work together with OPIC to

correct problems of job export while strengthening private sector involvement in Third World development.

After consideration of my OPIC amendment last year, I was impressed by the responsible and serious tone of a letter I received from the then president and C.E.O. of OPIC, Craig A. Nalen.

He said "Let me assure you that we are not unaware of your concerns with regard to the GAO report and the matter of creating U.S. jobs. I pledge to you that my staff will work with you and the committee in an attempt to satisfy your concerns in this critical area."

President Bush has nominated former Ambassador Fred M. Zeder II to replace Mr. Nalen. I am hopeful that the new leader of OPIC will retain the positive, progressive outlook of his predecessor, as indicated in this letter.

I believe that the provisions of my bill address real problems—systemic problems—at OPIC.

I am not unaware, however, that solutions to problems of this magnitude require cooperation and bipartisan support.

Mr. President, it is with this spirit in mind that I introduce the Overseas Private Investment Corporation Improvement Act of 1989.

Answers to tough problems are found when people look for them together, cooperatively. However, let no one underestimate my view of the gravity of this situation, and my commitment to making changes in the way OPIC does business.

STATE ENERGY CONSERVATION PROGRAMS IMPROVEMENTS

Mr. President, I rise to introduce the State Energy Conservation Programs Improvement Act of 1989.

I believe that this bill will make an important contribution toward solving a number of serious energy and environmental problems facing our Nation.

Almost everyone agrees that we must develop policies to curb rising oil imports, air pollution, the greenhouse effect, and high energy costs which hurt businesses and consumers. Luckily, there is a single solution which will address all of these problems in a cost-effective and environmentally sound manner-increased energy conservation.

In response to the 1970's energy crisis, Congress enacted the Energy Policy and Conservation Act [EPCA] in 1974. Among other things, that law authorized several programs which provide Federal grants to State and local governments for specified energy conservation activities.

Clearly, Congress recognized the essential role of State and local governments in promoting energy conservation and reducing the Nation's rising level of energy consumption. With this assistance, the States have made significant strides in conserving energy, despite repeated attempts by the Reagan administration to eliminate all funding.

The Weatherization Program has provided money and assistance to low-income families, who spend an inordinate share of their income on heating and cooling bills. The State Energy Conservation Program has allowed States to develop energy conservation goals and plans for meeting their targets.

The Institutional Conservation Program has provided much needed matching grants to schools and hospitals for conservation investments that help reduce their costs in providing education and health services.

Nevertheless, a lot has changed since EPCA was enacted.

The States and the Federal Government have learned a great deal about energy conservation programs and technologies. Individual States have developed new and innovative approaches to energy conservation. We now need to update the State and local assistance programs to incorporate these successful programs.

This bill which I am introducing today authorizes a number of new programs which States may implement with their Federal dollars. The bill also establishes a system to better coordinate the energy conservation efforts of the various State governments and the Federal Government.

Finally, the bill gives States more flexibility to implement programs which are best suited to their particular conditions and needs.

In recent years, as energy supplies have been abundant and prices have dropped, energy conservation has been put out to pasture.

For the last 8 years, we have consumed energy without a thought for tomorrow. The Reagan administration relaxed standards for automobile efficiency, fought energy efficiency standards for household appliances, and sought access for oil and gas drilling in national wildlife refuges and sensitive offshore areas.

These shortsighted policies pollute the environment, hurt consumers, and speed global warming.

Furthermore, these policies put U.S. industries at a competitive disadvantage in international markets. For example, the United States spends about 10 percent of its GNP on energy, while Japan spends only 5 percent.

Moreover, the trend toward greater energy consumption has caused oil imports to grow at an alarming rate, threatening national security and increasing the national trade deficit. In fact, the Department of Commerce just recently made a finding that oil imports pose a threat to our national security.

The bill I am introducing today may seem minor in scope, but I believe that its significance will become apparent in the coming years. Although the Reagan administration was content to leave energy policy to the marketplace, and Congress is unable to agree on the components of a Federal energy policy, we must give the States the authority to pursue successful programs which meet their needs.

This bill represents a small step toward a more energy efficient America. I hope that we will begin to recognize the importance of energy conservation before another energy crisis requires drastic measures.

This bill is good public policy, and I look forward to working with my colleagues in the Senate toward its enactment.●

By Mr. METZENBAUM:

S. 248. A bill to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States; to the Committee on the Judiciary.

MAJOR FRAUD ACT AMENDMENTS

● Mr. METZENBAUM. Mr. President, last year, I joined with my colleagues joined together to pass the Major Fraud Act of 1988. This legislation was an important step in curbing the losses which our taxpayers suffer as a result of major fraud in connection with multimillion-dollar Government contracts.

Today, I am introducing a bill which will amend the Major Fraud Act of 1988 to provide a financial incentive to individuals who furnish information leading to the conviction of contractors for major fraud against the United States. This bill will permit a court, upon application by the Attorney General, to pay up to $250,000 to a qualified individual who has disclosed the existence of fraud against the Government. This provision does not give windfalls to informants. The award provision may only be invoked when the information furnished leads to a criminal conviction and the individual receiving the award did not participate in the criminal violation.

The need for whistleblower incentives in evident. Just last year, information provided by an informant led to the indictment of two major defense contractors. The Hazeltine Corp. pled guilty to fraud in connection with a $150 million contract. The Teledyne Corp. was indicated for fraud in connection with a $100 million contract. These actions may never have been brought had someone not blown the whistle. I ask unanimous consent to have printed in the RECORD the Washington Post and New York Times articles on the Hazeltine and Teledyne cases.

There being no objection, the articles were ordered to be printed in the RECORD, as follow:

[From the Washington Post, Jan. 7, 1989]

MAJOR DEFENSE FIRM ADMITS CONSPIRACY; SECOND CONTRACTOR CHARGED WITH BRIBERY

(By Caryle Murphy and Ruth Marcus)

A major defense firm pleaded guilty yesterday to conspiracy charges and a second company was charged with bribing a Navy contracting official in the first major court action of the long-running federal probe into military procurement corruption.

The Navy official, Stuart E. Berlin, is accused of engaging in a racketeering scheme with two defense consultants to sell them inside information and steer Navy contracts to their clients.

Hazeltine Corp., a Long Island, N.Y., electronics firm, agreed to pay nearly $2 million in criminal fines, civil penalties and court costs. It pleaded guilty to conspiracy to defraud the U.S. government, conversion of federal property and making a false statement in efforts to obtain a $150 million contract for aircraft radar testing devices.

In addition, two former Hazeltine officials, Joseph R. Colarusso, 58, and Charles A. Furciniti, 54, pleaded guilty to conspiracy to defraud the federal government and to commit wire fraud. The men admitted obtaining inside information about competitor's bids and Pentagon buying plans through two defense consultants, William L. Parkin and Fred H. Lackner. The consultants allegedly got the information by bribing Berlin.

In a 27-count indictment returned by a federal grand jury in Alexandria, another defense contractor, Teledyne Industries Inc., and three of its officials were charged along with the consultants and Berlin in a bribery-conspiracy scheme. The indictment alleged they used Berlin's position at the Naval Air Systems Command to influence the June 1987 award of a $24 million contract for aircraft radar test sets to Teledyne Electronics, a subsidiary of Teledyne Industries.

Berlin, Parkin and Lackner were also charged with theft of government property, mainly confidential contracting information, as well as with racketeering and a racketeering conspiracy count. The indictment accuses Lackner, Parkin, Teledyne and its subsidiary's vice president for contracts, George H. Kaub, of making false statements in order to hide the consultants' help in getting the contract.

In what Justice Department sources described as an important development in the case, former Teledyne marketing representative Michael J. Savaides, 41, pleaded guilty to conspiring with the consultants to bribe Berlin. Under the terms of his plea agreement, Savaides is required to cooperate with the government.

The indictment and guilty pleas, entered before U.S. District Court Judge Claude M. Hilton, represent the first fruits of a Justice Department investigation that began September 1986 into alleged bribery and fraud in the Pentagon's $150 billion-a-year procurement system.

The probe, codenamed Ill Wind, used extensive wiretaps and erupted into public last June when Federal Bureau of Investigation agents searched offices and homes of dozens of defense firms and private consultants nationwide who advise defense firms on what weapons the Pentagon may want. Disclosure of suspected procurement frauds has fueled debate in Congress and elsewhere over ways to tighten Pentagon management and costs.

The charges disclosed yesterday relate to only one facet of the many-sided probe. Although Ill Wind was once touted as one of the most massive military corruption scandals in history, some law enforcement officials now assert that it was exaggerated by the news media.

U.S. Attorney Henry E. Hudson of Alexandria, whose office is coordinating the probe, said yesterday's action "represents just a small percentage of" the investigation. "Over the next few months, perhaps the next year, you'll see a great deal of additional activity," Hudson said.

"The citizens of the United States have an absolute right to the honest services of public officials, and when individuals are receiving money for violating rules and regulations and passing confidential information, I think it strikes at the very heart of the procurement process, and that's what makes this a serious case," Hudson said.

He said yesterday's pleas and future prosecution actions will deter future defense procurement wrongdoing and ensure "that there is integrity in the process."

Assistant Attorney General Edward S.G. Dennis Jr. called it "a very significant indictment. The charges here are very significant."

The indictment alleges that Parkin and his consulting company were to receive $160,000 from Teledyne and $100,000 to $150,000 from Hazeltine for helping them win the contracts. Parkin allegedly split the money with Lackner, a close friend of Berlin's.

In turn, Berlin, a supervisory electronics engineer, allegedly received at least $2,500 from Lackner and Parkin for his help on the Hazeltine contract and an unspecified sum for his work on the Teledyne contract, which the company eventually won.

The court papers filed yesterday allege that Berlin, described by the two consultants as a "silent partner" helping Teledyne, was to receive $25,000 over two years, beginning last spring. However, the court papers offer little direct evidence that Berlin received the money.

Berlin's lawyer declined to comment yesterday. If convicted of all counts, Berlin could get 185 years in prison and $5.5 million in fines.

A Navy spokesman, Lt. Brian Cullin, said yesterday that Navy officials are reviewing the allegations against Berlin, who continues to work for the Navy but was removed from procurement duties in June after the probe became public. "They've got to review how serious the indictment is" before deciding what further action to take, if any, Cullin said.

Hazeltine's agreement to pay a $1 million criminal fine, $500,000 in civil penalties and $410,000 in court costs is far less than some of the huge fines defense firms have paid in recent years for contracting fraud. If convicted of all counts, Teledyne could be fined up to $6.5 million.

In contrast, Sundstrand Corp. in October agreed to pay $115 million to settle charges that it concealed or falsely billed millions of dollars in cost overruns, and paid more than $100,000 in illegal gratuities to Defense Department employees.

Asked if the Hazeltine fines might be a paltry sum to a defense contractor seeking a $150 million contract, Hudson said, "We thought they were appropriate and that's why we recommended them."

Sources familiar with the investigation said Hazeltine is not expected to be disbarred from receiving military contracts, a possible sanction for companies convicted of procurement fraud. In a statement, Hazeltine, which was not charged with any knowledge that its consultants were obtaining the inside information through bribes, emphasized it had "cooperated fully" with prosecutors. Assistant U.S. Attorney Joseph J. Aronica repeated this point yesterday before Hilton.

Defense Department spokesmen said they were reviewing Hazeltine's plea and the allegations against Teledyne.

Navy and Air Force spokesmen said the assistant secretaries in charge of acquisition must approve future purchases under the Teledyne contract, which remains in effect. The Navy plans to buy 43 more of the handheld radar beacon test sets this year. Teledyne said the contract has been worth $12 million to date.

In a statement, Hazeltine said its plea was "acknowledgement of responsibility for the unauthorized actions of two former Hazeltine officers . . . which were clearly against specific company policies."

The actions of Colarusso and Furciniti, the statement said, "began prior to the December 1986 acquisition of Hazeltine by Emerson [Electric Co.] and continued thereafter without the knowledge of Hazeltine or Emerson."

Colarusson and Furciniti, who face a maximum penalty of five years in jail and a $250,000 fine, will be sentenced March 17, Hilton set April 28 for the sentencing of Savaides, who faces similar maximum punishment. All three must cooperate with investigators and testify, if called, at upcoming trials as part of their plea agreements.

A spokesman for Teledyne, Berkley Baker, said, "We expect to be acquitted and we will defend ourselves against charges." He added that the firm also expects its three employees, placed on administrative leave with pay yesterday, will be acquitted.

Ill Wind received little response from lawmakers yesterday.

A 12:30 p.m. briefing for senators by Dennis and Assistant Attorney General Thomas Boyd was postponed when the indictment was delayed because a grand juror, slowed by the snow, had to be retrieved by a four-wheel-drive vehicle, Justice Department officials offered to reschedule the briefing for yesterday afternoon, but Senate leaders reportedly said, "Never mind."

[From the Washington Post, Jan. 7, 1989]

OPERATION ILL WIND: NEW CHARGES AND PLEAS

A federal grand jury yesterday returned the first indictment in the Pentagon procurement investigation. Accused of crimes including conspiracy, racketeering, bribery, and theft of government property are:

INDICTED

Teledyne Electronics, a Newbury Park, Calif., defense contractor, Teledyne is accused of agreeing to pay William L. Parkin's firm $160,000 to secure inside information to get a Navy contract.

Stuart E. Berlin, a Navy procurement specialist. Berlin is the only government employee indicted in the case so far. He headed the ship systems engineering branch of the Naval Air Systems Command from October 1986 to June 1988. Berlin "corruptly" accepted "a sum of U.S. currency, for himself from [Fred H.] Lackner and [William L.] Parkin," the indictment says. Berlin is accused of violating laws against using inside information for private gain and against not

disclosing procurement documents; court documents say he provided information to Teledyne and Hazeltine Corp. An affidavit released this week said that Berlin received about $1,000 every few months from Parkin and Lackner in exchange for classified documents.

William L. Parkin, an Alexandria consultant who worked in the Navy's Joint Cruise Missile Project from 1977 to 1983. The indictment alleges the conspiracy included Parkin's agreement to bribe Stuart E. Berlin for information. Affidavits call Parkin "a middleman who paid government employees for inside information and sold it to contractors."

Fred H. Lackner, a Woodland Hills, Calif., consultant who has worked for several aerospace firms. The indictment said the alleged conspiracy included Berlin's agreement with Lackner to help Teledyne win a contract in return for money.

Also named in the indictment were Teledyne employees George H. Kaub, Eugene R. Sullivan, and Dale Schnittjer. The indictment charges all the defendants with conspiring to defraud the Navy and the Air Force, bribe a public official, make false statements and commit wire fraud. Berlin, Parkin and Lackner face up to 185 years in prison and $5.5 million in fines each, if convicted on all charges.

Also yesterday, three men and a defense contractor entered the first guilty pleas in the probe:

PLEADED GUILTY

Hazeltine Corp. of Greenlawn, N.Y., a division of Emerson Electric Co., agreed to plead guilty to conspiracy to defraud the United States, conversion of government property, and making false statements to the government.

Joseph Colarusso, former senior vice president of Hazeltine and a 29-year employee before his resignation last month, pleaded guilty to one count of conspiracy to defraud the government and commit wire fraud.

Charles Furciniti, a former Hazeltine marketing vice president, pleaded guilty to one count of conspiracy to defraud the government and commit wire fraud. He and Colarusso could each face up to five years in prison and a $250,000 fine.

Michael Savaides, a Washington lobbyist for Teledyne, pleaded guilty to conspiracy to commit bribery and could get up to five years in prison and a $250,000 fine.

[From the New York Times, Jan. 7, 1989]

FIRST INDICTMENTS RETURNED BY JURY IN PENTAGON FRAUD

(By Philip Shenon)

WASHINGTON, Januanry 6.—A Federal grand jury returned its first indictments today against a military contractor, a former Pentagon official and five other individuals in the two-year investigation of fraud and bribery in military weapons procurement. Another contractor and two of its former executives pleaded guilty in a Federal court to similar charges growing out of the investigation.

Teledyne Industries, a unit of Teledyne Inc., based in Los Angeles, was indicted along with a Navy procurement specialist and five other individuals on charges of conspiracy, bribery, racketeering and theft of Government property.

The indictment was announced only hours after another military contractor, the Hazeltine Corporation of Greenlawn, L.I., pleaded guilty in the District Court in Alexandria, Va., to related charges involving Pentagon contracts for electronic equipment.

AN EDGE IN BIDDING

The Justice Department's inquiry has focused on charges that private consultants and some of the nation's largest military contractors bribed Pentagon officials for secret information that gave the companies an edge in bidding for lucrative contracts.

Hazeltine, a division of the Emerson Electric Company of St. Louis, agreed to pay a $1 million fine and $900,000 in other costs. Emerson had sales last year of $6.7 billion.

At a news conference, the prosecutor overseeing the investigation, Henry E. Hudson, the United States Attorney in Alexandria, was pressed repeatedly to explain why the Justice Department had agreed to a fine that represented only a small portion of Emerson's revenues. "We think it was appropriate," he said without elaboration.

OTHER COMPANIES SCRUTINIZED

Mr. Hudson indicated that other indictments and guilty pleas were likely in the investigation. "In the next few months, you'll see a great deal of additional activity," he said. The Justice Department has identified more than 20 companies that are under scrutiny.

Pentagon officials said the criminal case against Hazeltine had already been referred to a Defense Department panel that has the power to suspend future contracts with the company.

Teledyne is almost certain to face suspension since it, unlike Hazeltine, has refused to plead guilty and cooperate with prosecutors. In the past, military contractors charged with crimes have been suspended from bidding for Government work.

At the center of the cases against both Teledyne and Hazeltine are three men named today as defendants in the 27-count indictment: Stuart E. Berlin, a mid-level procurement official with the Navy's Space and Naval Warfare Systems Command; William L. Parkin, a former Navy employee who is now a private military consultant, and another private consultant, Fred H. Lackner.

The indictment accused the consultants of conspiring to bribe Mr. Berlin, a close friend of Mr. Lackner, to obtain information sought by Teledyne and Hazeltine for contracts.

In court papers made public earlier this week, the Justice Department said that Mr. Berlin received a $1,000 payment every few months.

INFORMATION FROM WIRETAPS

The indictment made it clear that much of the prosecution's case against the defendants resulted from court-authorized wiretaps. In several instances, the 80-page indictment quotes liberally from phone conversations between Mr. Parkin, who was a private consultant to both Teledyne and Hazeltine, and Mr. Lackner.

During a phone conversation in May 1987, the indictment said, Mr. Parkin told Mr. Lackner that he had just received a $4,000 check from Hazeltine and that, "I'll have to give you a little green to do what we have to do."

During a separate phone conversation in November 1987, it added, Mr. Parkin advised an executive of Teledyne that he would need money for his information because "it takes a lot of spaghetti and meatballs to grease the skids on some of these things." The indictment said that in other conversations Mr. Parkin and Mr. Lackner discussed their payments to Mr. Berlin.

Through their lawyers, the defendants denied wrongdoing.

In its agreement with prosecutors, Hazeltine pleaded guilty to conspiracy to defraud the United States, conversion of Government property and making false statements to the Government.

Two former company employees, Joseph Colarusso, who was an executive vice president, and Charles Furciniti, a marketing representative, pleaded guilty to one count of defrauding the Government and wire fraud. They each face a maximum penalty of five years in prison and a $250,000 fine.

The charges focused on Hazeltine's efforts to secure a $150 million contract for electronic testing equipment. Because of the criminal investigation, the contract has not yet been awarded.

The Hazletine employees worked at the company under two different heads. Robert H. Clark Jr. was the chairman until he was succeeded in 1986 by Salvatore J. Nuzzo.

TIES TO BOTH CONSULTANTS

Also pleading guilty today was a former marketing director for Teledyne Industries Mechael Savaides, who had ties to both Mr. Parkin and Mr. Lackner, the private consultants.

The indictment depicts Mr. Savaides as something of an industrial spy—working for Teledyne but actually feeding company secrets to Mr. Parkin. If the charges in the indictment are true, Mr. Parkin was receiving secret information from both the Pentagon through Mr. Berlin and Mr. Lackner, and from within the corporate offices of Teledyne through Mr. Savaides.

Mr. Savaides pleaded guilty to conspiring to commit bribery and could face up to five years in prison and a $250,000 fine. His testimony is expected to be critical in the prosecution of his former employer, Teledyne.

Prosecutors said the indictment against Teledyne involved the company's successful bid for a $100 million contract to build equipment related to aircraft identification for the military. The contract may now be in jeopardy. In a statement, the Pentagon said the Navy would review all documents released by the Justice Department today to determine whether it should suspend or debar Teledyne and any of the individuals named as defendants.

SMALL PART OF REVENUES

If convicted on all charges. Teledyne Industries could face a maximum fine of $6.5 million. The fine would represent only a tiny portion of the parent's company's revenues, which totaled more than $4 billion in 1987.

Others named as defendants in the Teledyne indictment were: George Kaub, a vice president in charge of contracts at Teledyne Electronics, a division of Teldyne; Eugene R. Sullivan, a former vice president for finance at Teledyne Electronics, and David Schnittjer, who succeeded Mr. Sullivan.

Mr. Kaub, Mr. Sullivan and Mr. Schnittjer were all charged with conspiracy, bribery and wire fraud. If convicted, Mr. Kaub would face a maximum penalty of 85 years in prison and a $2.5 million fine. Mr. Sullivan and Mr. Schnittjer could each face up to 50 years in prison and a $1.5 million fine.

At the time that Teledyne and its executives are accused to the wrongdoing, the company was headed by Henry E. Singleton, its chairman and chief executive officer. He was not named in the indictments.

Mr. Berlin and the two private consultants, Mr. Parkin and Mr. Lackner, were also indicted on racketeering charges and con-

spiring to engage in racketeering activities. They could each be sentenced to 185 years in prison and ordered to pay fines up to $5.5 million.

ACCUSED OF PROVIDING DATA

Mr. Berlin was accused of providing the consultants with secret information about Navy bidding procedures. He was also charged in the indictment with accepting payment "for his assistance in manipulating the procurement process to insure that" Teledyne and Hazeltine were awarded military contracts.

Prosecutors said, for example, that Mr. Berlin encouraged other Navy officials in 1987 to limit bidding on a Navy contract to just two companies, one of them Hazeltine.

In private conversations between Mr. Parkin and Mr. Lackner, the indictment said, the consultants referred to Mr. Berlin as their "silent partner."

Prosecutors said the indictment and guilty pleas announced today were only the first of what they said would be waves of criminal charges resulting from the investigation, which is known at the Justice Department as Operations III Wind.

The investigation into the Pentagon's $150 billion-a-year procurement system began in 1986 following a tip that a private consultant was peddling classified Pentagon information to military contractors. The Naval Investigation Service used the information to trap the consultant, who agreed to become an informant on Pentagon insiders.

PENTAGON FRAUD: INDICTMENTS AND GUILTY PLEAS

The companies and some of those involved in the Government's investigation of fraud in weapons procurement.

Hazeltine Corporation: A Greenlawn, L.I., manufacturer of military electronics systems. In 1986, the company, which also has plants in Massachusetts, was bought by the Emerson Electric Company of St. Louis. In 1988, Hazeltine had sales of about $158 million, 2.4 percent of Emerson's $6.7 billion in revenues.

Teledyne Industries: A subsidiary of Teledyne Inc. of Los Angeles, is a major manufacturer of airplane engines, making half the general aviation piston engines in the United States. The company also makes airframe structures, robot and remote control aircrafts, spacecraft and drone systems. Its sales for the nine months ended Sept. 30 were $2.56 billion, up from $2.41 billion for the 1987 period. Net income amounted to $293.6 million compared to $218.4 million the year before.

Stuart E. Berlin: The only Government employee indicted, he headed the ship systems engineering branch of the Naval Air Systems Command from October 1986 until he was reassigned by the Pentagon last June. A Navy procurement specialist, he faces charges of accepting bribes in exchange for providing classified information. Court documents say Berlin provided information to Teledyne and Hazeltine.

William L. Parkin: An Alexandria, Va., consultant, he worked in the Navy's Joint Cruise Missile Project from 1977 to 1983. According to court papers released earlier, he was hired by Hazeltine to get inside information from the Pentagon that would allow the company to compete for a $15.9 million contract for battlefield equipment. The indictments said Teledyne agreed to pay the Parkin firm $160,000 to obtain information.

Fred H. Lackner: A Woodland Hills, Calif., consultant, he worked for several aerospace companies, including a Northrop Corporation electronic unit in Hawthorne Calif., the Stromberg Carlson Corporation in Winter Park, Fla., then a unit of the General Dynamics Corporation and later a division of the United Technologies Corporation, and the systems development unit of the Unisys Corporation. The indictment said Mr. Lackner and Mr. Berlin struck an agreement that Mr. Berlin would help Teledyne win a contract in exchange for money.

Joseph Colarusso: A former senior vice president of Hazeltine who worked at the Greenlawn office, he joined the company in 1959 and was appointed senior vice president in 1984. He resigned last month. He pleaded guilty to one count of conspiracy to defraud the Government and commit wire fraud.

Charles Furciniti: A former marketing representative of Hazeltine who held the title of vice president, he worked for the company for 20 years, resigning last May to take a post with another company. Like Mr. Colarusso, he pleased guilty to conspiracy to defraud the Government and commit wire fraud.

Michael Savaides: A Washington-based lobbyist for Teledyne, the Government said he had a financial relationship with Mr. Parkin. Affadavits showed that Mr. Parkin, Mr. Berlin and Mr. Savaides had planned at one time to divide $150,000 from Teledyne.

Mr. METZENBAUM. Mr. President, there is precedent for this approach to combating defense fraud. Since 1981, inspector generals of agencies have been authorized to pay rewards to Government employees who save the taxpayers money by disclosing fraud, waste, or mismanagement. We recognized the importance of these rewards when we reauthorized this law during the 100th Congress.

We must encourage individuals with knowledge of fraudulent criminal conduct to step forward. This program, financed from the fines and penalties lawbreakers pay, will make it more likely that people will step forward and facilitate convictions in multimillion dollar fraud cases. The whistleblower incentive provision is necessary to ferret out corruption and insure a clean system of governmental procurement.

Last year this provision was included in the Major Fraud Act of 1988 reported by the Judiciary Committee. When it appeared that the provision would make timely consideration of the Major Fraud Act impossible, unfortunately this provisions was deleted. This year I look forward to it becoming law.

This bill also contains a technical amendment which is necessary due to an oversight last year. While considering the Major Fraud Act provision on allowable costs to contractors, we inadvertently retained a section of H.R. 3911 which was replaced by a later amendment. Though the Senate later passed a concurrent resolution to correct this mistake, the House did not act and the correction must still be made.

I urge my colleagues to join me in passing this legislation. It will measurably aid our effort to detect, punish, and deter major fraud schemes against the United States and the American taxpayers.

I am glad to inform my colleagues that Senator GRASSLEY is an original cosponsor of this bill. With his help, I hope to persuade the Congress to act promptly on the Major Fraud Act Amendments of 1989.●

By Mr. HELMS (for himself, Mr. SYMMS, Mr. THURMOND, and Mr. PRESSLER):

S. 249. A bill to modify the provisions of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules and Administration.

CONGRESSIONAL PAY FOR PERFORMANCE ACT

● Mr. HELMS. Mr. President, September 30, 1988, marked a significant achievement for Congress—for the first time in 11 years Congress that day completed all 13 general appropriations bills before the end of the fiscal year. The last time Congress accomplished that was for fiscal year 1977.

Mr. President, when I talk with people back home, they simply do not understand why it is so difficult for us to do the job we were sent here to do. The record of Congress with respect to completing work on appropriation bills borders on being a disgrace. In the past 10 years, massive continuing resolutions have been the rule rather than the exception. That is one reason I have opposed increases in pay for Members of Congress.

Mr. President, now that Congress has demonstrated that our work can be completed on appropriations bills in a timely manner, I have decided that a little extra incentive is needed. That is why I am introducing the Congressional Pay for Performance Act. It is identical to the bill I introduced last year in the Senate [S. 2155] and that my good friend, Congressman Dan Lungren, introduced in the House [H.R. 1038].

Mr. President, the idea behind the bill is simple: If the Congress can't do its job of sending all major appropriations bills to the President before the end of the fiscal year, we should not be paid our salaries for that year through an automatic appropriation.

I suspect that few are aware that congressional salaries are not dependent on appropriations bills from year to year. In 1981, Congress passed a permanent appropriation for "Compensation of Members." That provisions is contained in Public Law 97-51. I ask unanimous consent that a copy of the relevant section of that law be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, my bill has two parts. The first part amends the permanent appropriation for congressional salaries to provide that if Congress does not complete all major appropriation bills and send them to the President before the fiscal year begins, the automatic appropriation will not occur for that fiscal year.

The second part of the bill makes it out of order for the House or Senate to consider the legislative appropriations bill until all other general appropriations bills have been presented to the President for signature.

This bill is simply an effort to place on all of us in Congress the same realities that our constituents face in their jobs. The average Americans who fail to do their jobs year after year don't get paid—in fact they would probably be fired. On the other hand, when Members of Congress fail to complete their required work year after year, not only do they not get fired, in many instances they get automatic pay increases.

Mr. President, this bill is not aimed at pay raises. It does not cut anything, and it is not intended to make light of Members of Congress for feeling they should have reasonable salaries. It is merely an attempt to create a real incentive for Congress to do the business of passing appropriation bills on time.

I urge my colleagues to join me in sponsoring this legislation to demonstrate to the American people that we are serious about what is described in political oratory back home as "doing the people's business."

EXHIBIT 1

PUBLIC LAW 97-51—OCT. 1, 1981

(b)(1) The Secretary of the Senate is authorized and directed to procure and furnish each fiscal year (commencing with the fiscal year ending September 30, 1982) to the Chaplain of the Senate, upon the request of the Chaplain of the Senate, United States postage stamps in such amounts as may be necessary for the mailing of postal matters arising in connection with his official business.

(2) That paragraph of the Second Supplemental Appropriations Act, 1976, with the caption "POSTAGE STAMPS" and relating to postage allowance for the Office of the Chaplain of the Senate, appearing under the heading "SENATE", in the matter preceding section 115 of such Act (2 U.S.C. 61d-2), is hereby repealed.

SEC. 128. In the event of the death, resignation, or disability of the Sergeant at Arms and Doorkeeper of the Senate, the Deputy Sergeant at Arms and Doorkeeper shall act as Sergeant at Arms and Doorkeeper of the Senate in carrying out the duties and responsibilities of that office in all matters until such time as a new Sergeant at Arms and Doorkeeper of the Senate shall have been elected and qualified or such disability shall have been ended. For purposes of this section, the Sergeant at Arms and Doorkeeper of the Senate shall be considered as disabled only during such period of time as the Majority and Minority Leaders and the President Pro Tempore of the Senate certify jointly to the Senate that the Sergeant at Arms and Doorkeeper of the Senate is unable to perform his duties. In the event that the Sergeant at Arms and Doorkeeper of the Senate is absent, the Deputy Sergeant at Arms and Doorkeeper shall act during such absence as the Sergeant at Arms and Doorkeeper of the Senate in carrying out the duties and responsibilities of the office in all matters.

SEC. 129. Of the unexpended balance of the funds appropriated for the Senate under the appropriation account heading "Salaries, Officers and Employees" for the fiscal year ending September 30, 1980. $1,505,000 is rescinded.

SEC. 130. (a) In section 323(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a))—

(1) strike out all after "shall accept" down to and including "(1) any" and insert "shall accept any"; and

(2) strike out all after the word "speech," down to and including "year." and insert "or article.".

(b) In section 102(a)(1)(A) of the Ethics in Government Act of 1978 (2 U.S.C. 702(a)(1)(A)), after the word "source" where it appears the last time in the paragraph insert "including speeches, appearances, articles, or other publications".

(c) Effective beginning with fiscal year 1983, and continuing each year thereafter, such sums as hereafter may be necessary for "Compensation of Members" (and administrative expenses related thereto), as authorized by law and at such level recommended by the President for Federal employees for that fiscal year are hereby appropriated from money in the Treasury not otherwise appropriated. Such sums when paid shall be in lieu of any sums accrued in prior years but not paid. For purposes of this subsection, the term "Member" means each Member of the Senate and the House of Representatives, the Resident Commissioner from Puerto Rico, the Delegates from the District of Columbia, Guam, Virgin Islands, and American Samoa, and the Vice President.

SEC. 131. Sections 111 through 130 and sections 139 through 141 of this joint resolution shall be effective without regard to the provisions of sections 102 and 106 of this joint resolution.●

By Mr. HELMS:

S. 250. A bill to direct the Federal Communications Commission to proscribe all obscene and indecent material transmitted by means of intrastate telephone communications by amending section 223 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

INTRASTATE DIAL-A-PORN ACT

● Mr. HELMS. Mr. President, today I'm pleased to introduce legislation which will put the final nail in the coffin of the dial-a-porn industry. Specifically, this bill would subject the purveyors of intrastate dial-a-porn to the same penalties now imposed on those who send pornographic telephone messages in the District of Columbia, in foreign communications, and across State lines.

Mr. President, as we showed with earlier dial-a-porn legislation, the Federal Government has been given clear responsibility for regulating the airwaves of our Nation. For 50 years our Government has had the power to eliminate all obscene material transmitted by television and radio. It is apparent from the history of the law that Congress created the statute to protect the people of this country from those who would expose them to the horrors of pornography.

Mr. President, I agree with the principles which clearly inspired the original antipornography legislation back in 1934. I am referring to the Communications Act. This body has been given the responsibility of protecting the moral and intellectual bedrock upon which this country was founded. The Senate reaffirmed those moral precepts in December 1987 by applying the same laws which govern radio and television to interstate telephone calls.

Mr. President, until last April, the dial-a-porn industry ran wild. Some experts predicted that the phone company profits generated by this pornographic "service" reached $54 million annually, a little less than one-third of the revenues generated by the dial-it services. But, Mr. President, while the dial-a-porn operations and the telephone companies were raking in the profits, countless lives were being destroyed.

Mr. President, I wish every Member of this body could witness the human tragedies I have seen through the testimonials of those ravaged by dial-a-porn. Unfortunately, the litany of wrecked lives goes on. In Alaska recently, a 12-year-old boy, babysitting two 3-year-old infants, made one dial-a-porn call. After hearing that one repulsive message, he walked up the stairs and began recreating what he had heard. The victims were those same 3-year-old babies.

In December 1988, we responded to the pleas of families like those in Alaska. By a vote of 98 to 0, the Senate voted to ban all interstate dial-a-porn. After much delay, the House passed the same restriction on interstate dial-a-porn. President Reagan signed the bill eliminating this practice on April 28.

Despite our victory, Mr. President, we didn't finish the job. Under current law, pornographic phone services operate without fear of Federal penalties, as long as their calls don't go beyond the State line. If the pornographers use the instrumentalities of interstate commerce, they should be stopped, whether they send their despicable messages across State borders or not. As long as the pornographers have access to the public phone lines, our children will continue to fall prey to this garbage.

The bill would end this travesty. It must, Mr. President. It is estimated

that between 300 and 400 dial-a-porn "services" continue to exist because they operate solely within State borders.

Let's take a closer look at examples of what intrastate dial-a-porn has done, Mr. President.

In Arizona, the dial-it operation is called, "scoopline." This outfit offers a range of special phone lines. Most are the average weather or sports information services. But "scoopline" also has another feature, sexually oriented conversations. As a result of this type of entertainment, one 12-year-old boy was charged with two felonies.

Mr. President, this particular youngster, a junior high student, ran up more than $700 in "scoopline" charges. Most of his calls went to the line known as "Dial Cindy." "Cindy" offered the young man live conversation, with special instructions on how to show off to the girls at his school. He followed Cindy's advice. He wrote a girl in his school a pornographic message and attached a classmate's name to it. The young lady turned the message over to the school authorities and the boy was charged with forgery and providing obscene material to a minor.

Mr. President, according to the Arizona Republic, the boy's father told an investigating commission, "my son is a victim, my family is a victim." His son simply became one face in the sea of children who have acted out the words of the pornographic telephone message. We cannot begin to count the human cost.

Mr. President, in Plainsville, OH, a couple came home to find a 15-year-old neighbor running from their home. This boy had actually broken into their home just to use the local dial-a-porn service.

Mr. President, in Cleveland, a city councilwoman came home to find that she had a 40-page telephone bill with $3,200 in calls charged to her phone. She had used the phone for precinct business. Instead of business, the phone had become the vehicle for a community "sex hot line."

Mr. President, another nameless child tapped into a local dial-a-porn service. He was 16. Upon hearing the message, he proceeded to sexually abuse a 3-year-old little girl. Again Mr. President, we see the tragedy of intrastate dial-a-porn. How many families have to be torn apart by this filth?

When we tackled dial-a-porn during the last Congress, we encountered some loud opposition. We heard the siren cries of the ACLU gang. You know them, Mr. President. They are the ones who tell us that Mr. Jefferson and Mr. Madison intended our first amendment to protect these smut merchants and despoilers of youth. I may not be a lawyer, but I know enough law to realize that we have decades of Supreme Court decisions which give us the power to keep the dial-a-porn trash off our phone lines.

Mr. President, what kind of country is this? We allow the Government to regulate mud guards on trucks which travel on intrastate roads on the pretense that if affects interstate commerce. Yet we remain conspicuously silent about telephone calls which are made within one State.

Mr. President, we heard so much during the election year about the importance of the family. Everyone has a handout or a program to enhance the strength of America's families. Mr. President, I support efforts to strengthen the family. However, I don't believe that this strength can be resolved with some slick program or some catchy slogan. The viability of America's families and ultimately her greatness can be restored only by rebuilding the moral foundation upon which this country was founded. Without that foundation, we are no different from ancient Rome, and I believe we will face the same destruction.

Mr. President, removing pornography—in this instance dial-a-porn—from our society, particularly from our children—will help to rebuild our moral foundation, our families, and our country.

As I said at the outset, this legislation closes the last loophole in the telephone obscenity coffin. I urge my colleagues to act expeditiously on this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended in paragraphs (1)(A)(i) and (2)(A)(i) by inserting after "interstate" the following: ", intrastate,".

By Mr. MOYNIHAN:

S. 251. A bill to make a comprehensive investigation into potential changes to the global environment and climate, and for other purposes; to the Committee on Commerce, Science, and Transportation.

GLOBAL ENVIRONMENT AND CLIMATE CHANGE ASSESSMENT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Global Climate Change Assessment Act of 1989. This bill addresses a situation of potentially staggering proportion—possible changes to the worldwide climate as a direct result of human activity. It has been called the largest uncontrolled scientific experiment in the history of mankind.

One of the many difficulties we will have in dealing with this possibility, or rather probability, for indeed it is that, is its long-term nature. We must look far into the future, both for manifestations of the problem, and solutions to it.

Fortunately, we have some experience with this type of question, and in an area of substantial similarity. I speak of acid rain. In 1980 the Congress adopted the text of my bill, S. 1794, the Acid Precipitation Act of 1980, as part of Public Law 96-294, the Energy Security Act of 1980. At that time this legislation was, as it still is today, the only acid rain legislation ever enacted at the Federal level.

This bill established the National Acid Precipitation Assessment Program, or NAPAP as we have come to call it, which was assigned to undertake an exhaustive 10-year investigation into the causes and effects of acid rain. We are now in the ninth year of this program. Although NAPAP has not been without its problems, of effectiveness in the early years, and later of credibility, most all will agree that it has produced an abundance of respected research. In 1988 alone, more than 400 research papers were published under NAPAP auspices. We know a great deal more than we did in 1980.

The poorly understood phenomenon that was acidic deposition in 1979 and 1980 has much in common with today's looming environmental quandary of global climate change. Both are geographically extensive and cross international boundaries. Both occur over long periods of time and involve responses of natural systems with a reaction time measured in decades. Both involve interactions between numerous scientific disciplines. To come up with an effective response to either, we must understand the processes governing a highly complicated set of natural systems. And a coordinated national investigation of either must by necessity involve a number of existing Federal agencies, from NASA to the State Department.

The model we have in NAPAP is a valid one, and would be well applied to understanding global climate change. Clearly improvements are warranted, and many are incorporated into this bill. First and foremost, for research to be useful, it must be credible. This has been my primary concern. The criticism that NAPA received for its flawed interim assessment in 1987 was in large part justified, and we must prevent a similar fate from befalling this new effort. NAPAP's failure was of a political nature, and this can be prevented.

In late 1988, the Chairmen of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine sent a report to President-elect Bush, entitled "Global Environmental Change," that recommended a course of action. In

the letter accompanying this report, these respected scientists stated that:

* * * a focal point for the deployment of national resources to address the issue [of global climate change] needs to be established to coordinate the diverse activities related to the problem. Such activities underway in the government are often poorly coordinated and insufficiently focussed on the necessary linkages between scientific understanding and policy options.

Improved predictions of the future course of the global environment require new and innovative approaches to studying the earth and its environment. A substantial investment in research and ground- and space-based monitoring activities is needed.

Mr. President, I ask that this letter be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MOYNIHAN. The bill I am introducing today would do much of what these experts have said we should do. My approach follows the model of NAPAP, and creates an interagency task force to coordinate all ongoing work—exactly such a "focal point for the deployment of national resources." By making this an interagency effort, we gain the expertise of all member agencies, and, if things work well, the bias of none. Were such a coordinating function given to any one agency, the findings of such an effort will bear the indelible mark of that agency, and will be open to greater dispute from other agencies, industry, and the public.

I must stress also what this bill is not. It is not a complete response to the threat of global warming. This task force will address only matters of investigation and interpretation of research results. It will tell us what is happening, and what the outcome of some response strategies might be. Although such information is elementally necessary, it is not the whole story. Far from it.

There is much information already available, and there are things to be done now to keep a bad situation from becoming far worse. My bill is not intended to discourage such action. Many Members of this body, most notably our beloved former colleague, Senator Stafford, as well as Senators CHAFEE, WIRTH, PELL, GORE, HOLLINGS, and others have proposed to do something about global warming now. I do not wish in any way to compete with or prejudice these efforts. Rather, this bill would add another dimension to them, that of a coordinated and sustained effort by the scientific community to help us make the decisions we will have to make.

No matter what our response is, we need knowledge. And reliable data. I quote Sir Joseph Stamp, the first Baron of Stamp and onetime Director of the Bank of England, who clearly understood the importance of good data collection:

Public agencies are very keen on amassing statistics—they collect them, add them, raise them to the nth power, take their cube root and prepare wonderful diagrams. But what you must never forget is that every one of those figures comes in the first instance from the village watchman, who just puts down what he damn pleases.

Some may use my proposal as an argument for postponement of action. Senators should know that this is not my view. Knowledge should help us respond, not prevent response.

EXHIBIT 1

NATIONAL ACADEMY OF SCIENCES,
NATIONAL ACADEMY OF ENGINEERING, INSTITUTE OF MEDICINE,
Washington, DC.

The Honorable GEORGE BUSH,
The President-Elect of the United States, Old Executive Office Building, Washington, DC.

DEAR MR. PRESIDENT-ELECT: The problem of global environmental change is now widely recognized as one of growing urgency that will require responses by your Administration. Our views on the problem and possible responses are attached.

Embedded in the diverse manifestations of this problem—global warming, ozone depletion, tropical deforestation, and acid deposition—are enormous challenges to science and engineering, to your Administration, and to the world community of nations. In many instances, data and analyses are incomplete and long-term effects remain indeterminate; in addition, there are costs to the economy embedded in any decisions made to address the problem. Yet, even with a continuing background of uncertainty, it is important to recognize that human activities are indeed changing the global environment. Prudent courses of action need to be initiated now to try to understand and predict these changes, and to move toward suitable policy responses.

As outlined in the paper that follows, we suggest three principal actions that your Administration can take against the possibility that we may be conducting an irreversible experiment with our planet.

First, the issue of global environmental change must be made more prominent in the scientific, political, and foreign policy agendas of the United States. While the issue has been given more emphasis in the past several months, the need now is for sustained and systematic attention to economic and environmental policies bearing on global change.

Second, a focal point for the deployment of national resources to address the issue needs to be established to coordinate the diverse activities related to the problem. Such activities under way within the government are often poorly coordinated and insufficiently focused on the necessary linkages between scientific understanding and policy options. Further, policies must be such that they enchance the resiliency, robustness, and range of options of the affected sectors, from energy production to agriculture to coastal development.

Third, specific actions should be taken by your Administration to address those aspects of the problem that are reasonably well understood. Thus, we suggest that you consider the following findings and responses:

Both global warming and acid deposition are linked to heavy reliance on fossil fuels. Therefore, efforts to enhance both energy efficiency and conservation should be strengthened; means for increasing the use of the "cleanest" fossil fuels, such as natural gas, should be considered, but in the context of appraising their finite availability; and alternative non-fossil fuel energy sources, such as nuclear reactors and solar energy, need to be reappraised with more emphasis put on their use in a safe and publicly acceptable manner.

The Montreal Protocol is an important first step toward controlling stratospheric ozone depletion. However, provisions in the Protocol should be called upon to encourage deeper reductions in emissions of ozone-destroying chemicals with a total phaseout of chlorofluorocarbon products on a reasonable time scale.

Global warming will effect sea levels, agricultural systems, forestry, and water resources. It is not too soon to assess possible impacts and responses.

Tropical forests are being cut down at an alarming rate. Mitigating strategies that consider the economic and other forces driving this destruction need to be implemented in collaboration with the affected nations.

Improved predictions of the future course of the global environment require new and innovative approaches to studying the earth and its environment. A substantial investment in research and ground- and space-based monitoring activities is needed.

This is a broad agenda, and a challenging one. However, we believe that it offers a sensible approach to problems that urgently require presidential leadership and whose consequences, if realized, could be severe for all nations. Leadership by the United States could be a powerful force for uniting the nations of the world in a common endeavor vitally important to all.

Yours sincerely,

FRANK PRESS,
President, National Academy of Sciences.
ROBERT M. WHITE,
President, National Academy of Engineering.
SAMUEL O. THIER,
President, Institute of Medicine.

Mr. MOYNIHAN. Mr. President, I ask that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 251

Be it enacted in the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Global Environment and Climate Change Assessment Act of 1989".

FINDINGS

SEC. 2. (a) The Congress finds that—

(1) mounting evidence gained from scientific observation indicates that significant changes in climatic and other environmental conditions may be occurring, and are likely to increase in the future;

(2) many of these predicted changes would profoundly affect regional and global ecosystems, and disrupt current patterns of human habitation, agriculture, energy use, transportation and public health, as well as international economic relationships;

(3) human activities, including the use of non-renewable energy sources and other natural resources, waste disposal practices, and the use of manufactured chemicals in agriculture, industry, transportation and consumer products appear to be significant contributors to the observed and predicted changes in climate and other environmental conditions;

(4) modifications in energy use, agriculture, industry, transportation and habitation patterns may be needed to prevent or mitigate the causes of global environmental and climate changes, and to accommodate the effects of such changes that are not prevented;

(5) as the world's leading consumer of energy and manufactured goods, the United States has a special responsibility to adopt a leadership position on the research and assessment required to understand the causes and effect of global environmental change, and the potential for preventing or mitigating such change;

(6) substantial progress has been made in the identification of some particular changes to the global environment, and these findings have helped to initiate international action to combat such changes;

(7) existing federal research programs into global environmental and climate change are too small and unsufficiently coordinated given the magnitude of possible consequences of predicted changes in the global climate;

(8) a long term global climate and environment research and assessment program is needed to achieve an understanding of the possible causes and effects of global environmental change, and to evaluate the mitigation measures available to reduce both the causes and effect of such change;

(9) the National Acid Precipitation Assessment Program established in 1980 by Public Law 96-294 provides an instructive example for the establishment and functioning of such an interagency effort;

(10) NAPAP has been largely successful in commissioning research into the phenomenon of acid precipitation, although its efforts at assessing the significance of such findings were poorly handled at times resulting in reduced credibility; and

(11) a strict mandate from the Congress on how such an interagency task force on global environmental change should operate can do much to avoid the assessment-related problems that previously hampered the ability of NAPAP to provide credible evaluations of the acid precipitation phenomenon.

(b) In accordance with subsection (a), the Congress declares that such a global environment and climate change research and assessment program should be created, and that this program should have the following characteristics:

(1) a long term commitment to data gathering, research and assessment;

(2) close coordination among those federal agencies having a direct research and assessment role as well as those agencies whose programs will be affected indirectly;

(3) scientific, technological and economic components;

(4) committed funding of exploratory research and alternative studies of data available to supplement the mission-oriented research elements of the program;

(5) frequent peer review of both research and assessment efforts;

(6) participation of all institutions with an interest in the program, including universities, research institutes, other governments and non-governmental organizations;

(7) a comprehensive plan for research and assessment developed at the outset of the program and updated periodically;

(8) frequent reporting of research results to the Congress, the President, the scientific community and the public;

(9) creation of a data archiving system to assure broad access to information being developed in the program; and

(10) the formation of an interagency task force to oversee program management and coordinate activities undertaken by each cooperating agency.

INTERAGENCY TASK FORCE

SEC. 3. (a) There is hereby established the Task Force for Research and Assessment of the Changing Environment (hereinafter referred to as the "task force") that is directed to carry out a comprehensive ten-year research and assessment program in accordance with the provisions of this Act, which shall have the following joint chairmen—

(1) the Administrator of the Environmental Protection Agency;

(2) the Administrator of the National Oceanic and Atmospheric Administration;

(3) the Secretary of Energy;

(4) the Chairman of the National Science Foundation;

(5) the Secretary of Interior;

(6) the Administrator of the National Aeronautics and Space Administration;

(7) the Chairman of the Council on Environmental Quality; and

(8) the Secretary of Agriculture.

(b) The remaining membership of the task force shall consist of one representative each of—

(1) the Department of State;

(2) the Department of Health and Human Services;

(3) the Department of Housing and Urban Development;

(4) the Department of Commerce; and

(5) the President's Office of Science and Technology Policy.

(c) The joint chairs shall choose from among themselves a Chairman of the joint chairs, who shall serve in this capacity for two years, at which time a new chairman of the joint chairs, who shall serve in this capacity for two years, at which time a new chairman of the joint chairs shall be chosen.

(d) All programs undertaken by the task force shall be administered by a Director who shall be responsible to the joint chairs and shall be appointed by the President with the advice and consent of the Senate. The position of Director shall be maintained in the National Oceanic and Atmospheric Administration.

(e) The National Oceanic and Atmospheric Administration shall provide support for the task force by providing office space and funds to the Director for personnel and other functions the Director determines to be necessary to administer programs undertaken by the task force. The Director shall—

(1) make an annual budget request to the joint chairs;

(2) administer the task force budget;

(3) coordinate the preparation of the research plan pursuant to section 4 and the various reports pursuant to section 5; and

(4) arrange for peer and public review of program elements.

The task force shall make arrangements for the interagency transfer of funds to the National Oceanic and Atmospheric Administration for the purpose of providing the Director with such funds.

(f) The Task Force shall convene as necessary, but no less than three times during each fiscal year of the ten-year period covered by this Act.

(g) Nothing in this Act other than subsections 7(b) and 7(c) shall be construed as modifying, or as authorizing the task force or the research plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies—

(1) the department or agency to which funds are appropriated;

(2) the obligations of such department or agency with respect to the use of such funds;

(3) procurement practices for the selection, award, or management of contracts or grants by such department or agency; or

(4) program activities, limitations, obligations, or responsibilities of such department or agency.

THE COMPREHENSIVE RESEARCH AND ASSESSMENT PLAN

SEC. 4. (a) The Task Force shall prepare a comprehensive research and assessment plan (hereafter in this title referred to as the "research plan") that shall serve as the guide for the task force's ten-year program.

(b) In preparing the research plan, the task force shall consider the following as its primary purpose: the research and assessment program to be undertaken in accordance with this Act shall provide the Congress, the President, and the public with the most accurate possible understanding of the causes and effects of global environmental and climate change, the probability that such change will occur, and to what extent, and information necessary to make the best informed judgments about how to respond to such changes, including specific evaluations of the probable effects on the global environment and climate of various response strategies.

(c) The research plan shall—

(1) be submitted in draft form to the Congress, and for public review, within 240 days of the date of the enactment of this Act;

(2) be available for public comment for a period of sixty days after its submission in draft form;

(3) be submitted in final form, incorporating such needed revisions as arise from comments received during the review period and additional work undertaken by the task force during and after the comment period, to the President and the Congress within sixty days of the close of the period allowed for public comment; and

(4) constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the research plan is submitted in final form.

(d) The research plan shall, at a minimum, include programs to—

(1) assure the establishment and operation of a widespread long-term monitoring network to measure parameters of the atmosphere, geosphere and biosphere;

(2) research atmospheric physics and chemistry to facilitate understanding of the processes by which the atmosphere interacts with emissions that may cause global climate change;

(3) develop and apply atmospheric models to enable prediction of long-range transport and fate of substances affecting the earth's atmosphere, oceans and biosphere, and predict future behavior of the atmosphere;

(4) research the role that the biosphere and the oceans have in the processes affecting the global climate;

(5) research and analyze all possible causes, both natural and anthropogenic, for any observed or predicted changes in global climate;

(6) make predictions based on available data regarding the degree to which global change may occur, and what the effects of such change may be on industry, agriculture, transportation and patterns of human behavior and habitation;

(7) identify the regions of the world likely to be affected by changes in the global environment and climate;

(8) assess the economic impact of changes in global climate on biota in general, crops, forests, fisheries, industry, transportation, consumer products, world economic relationships and recreational and aesthetic resources and structures;

(9) investigate the feasibility and economic costs of technologies that can be used to prevent changes in the global climate, or remedy or otherwise ameliorate the harmful effects on humans and the environment that may result from such changes;

(10) cooperate with research on changes in global climate being conducted in other sovereign nations having a commonality of interest, and by international organizations engaged in study of changes to the global climate;

(11) assess the probable outcome of various strategies that may be used to prevent or reduce changes in global climate, or ameliorate the effect of changes that do occur;

(13) analyze the information available regarding changes in global climate in order to formulate and present periodic assessments to the Congress, the President and the public about actions to be taken to alleviate changes in global climate and its effects.

(e) The Director shall—

(1) obtain from each agency that is a member of the task force a comprehensive description of all programs being undertaken or planned by such agency relating to research into global climate change, including detailed funding and personnel breakdowns and a detailed statement of the goals of such research as it relates to the goals of this Act;

(2) in the case of an agency program that forms a logical and necessary part of the coordinated research and assessment to be undertaken by the task force, certify such program as part of the task force's interagency global climate change research and assessment effort; and

(3) in the case of an agency program found to be duplicative of other research, inefficient, or poorly coordinated with the research plan, certify that such program is not part of the task force's interagency global climate change research and assessment effort.

(f) The research plan shall describe the form in which the task force will present its findings to the Congress, the President and the public in the various reports issued during the ten-year program, with special emphasis being given to—

(1) findings presented in a manner to be of maximum utility for making decisions on how society in general, and government in particular should respond to changes in global climate; and

(2) appraisals of the confidence the scientific community as a whole has in any particular finding or prediction, and the degree to which there is disagreement on the validity or meaning of such findings or predictions.

(g) In the case where research or assessment deemed necessary to carry out the purposes of this Act is not being undertaken, the task force shall commission and fund such research, or assure that such research is commissioned or funded by others, including the members of the task force.

(h) The research plan shall include specific provisions to provide for the National Science Foundation to have organizational, management and oversight authority over a program to conduct small scale exploratory and interpretive research into changes into the process, effects and consequences of global climate change, including explorations of possible alternative interpretation of data gathered through other parts of the task force's research program.

(i) The task force shall update the research plan as necessary to reflect the changing understanding of changes to the global climate and the consequences thereof.

IMPLEMENTATION OF THE TEN-YEAR PROGRAM

SEC. 5. (a) The research plan shall be carried out by the task force in accordance with the provisions of this Act in the nine fiscal years following the year in which the research plan is issued in final form.

(b) The task force shall publish various research reports, which shall not attempt to make final or conclusive assessments regarding the significance of task force findings, but rather shall be a means for the task force to provide a description of activities and findings of the program, as follows:

(1) no later than 2 years after the date of enactment of this Act, and each year thereafter for the next seven years, the task force shall submit to the Congress a report describing the research activities and findings of the previous year; and

(2) no later than 9 years after the date of enactment of this Act, the task force shall publish a comprehensive research report that compiles all of the research findings of the task force for the life of the program.

(c) The task force shall publish three major assessment documents that shall integrate and assess the importance of the research findings available at the time of publication of such reports in accordance with section 4, as follows:

(1) the First Comprehensive Assessment shall be published no later than two years after the date of enactment of this Act, and shall be based in large part on research findings that pre-date the establishment of this program;

(2) the Second Comprehensive Assessment shall be published no later than five years after the date of enactment of this Act, and shall update the assessments made in the First Comprehensive Assessment, and make new assessments not contained in the First Comprehensive Assessment as warranted by new or altered understanding of the causes, nature or consequences of changes to the global climate; and

(3) the Final Comprehensive Assessment shall be published no later than ten years after the date of enactment of this Act, and shall update the assessments contained in the previous Comprehensive Assessments and make new assessments as necessary.

(d) Each of the Comprehensive Assessments issued under subsection (c) shall—

(1) be a complete reporting of all conclusions reached by the task force up to the point of publication regarding the causes, nature and consequences of changes to the global climate; and

(2) assess the probable outcome of various strategies that may be used to prevent or reduce changes in global climate, or ameliorate the effect of changes that do occur.

(e) To the degree that such are compatible with the existing international structure of investigation into changes in the global climate, the task force shall convene or sponsor an international conference to study and discuss the findings contained in each of the Comprehensive Assessments no later than 18 months after the date of publication of such Comprehensive Assessment.

OTHER PROVISIONS

SEC. 6. (a) Nothing in this Act shall be deemed to grant any new regulatory authority or to limit, expand, or modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

(b) The National Academy of Sciences is requested to convene a Scientific Advisory Committee to oversee the work of the task force. In particular, the Academy should—

(1) evaluate the overall structure of the task force's research plan, with particular emphasis given to whether the task force will address the key uncertainties that must be resolved for the President and the Congress to have an adequate understanding of changes to the global climate to make the best decisions in response to such changes in climate;

(2) evaluate the system adopted by the task force to assure that research undertaken by the task force or its member agencies undergoes proper peer review, and the implementation of such system; and

(3) make recommendations to the task force based on the evaluations it had made pursuant to paragraphs (1) and (2) as it deems necessary.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) For the purpose of establishing the task force and its offices and personnel, and developing the research plan, there are authorized to be appropriated to the National Oceanic and Atmospheric Administration the sum of $7,000,000, to remain available until expended.

(b) For the purposes of carrying out the other provisions of this Act, there are authorized to be appropriated to the National Oceanographic and Atmospheric Administration the sum of $100 million for the nine fiscal years beginning in the fiscal year in which the research plan is published in final form such that, notwithstanding subsection 3(f) of this Act, or any other provision of law, the expenditure of funds appropriated pursuant to this subsection shall be upon approval of the joint chairs of the task force.

(c) Appropriations made pursuant to subsection (b) shall not be available for expenditure by a member of the task force to carry out any program not certified to be consistent with the research plan pursuant to subsection 4(d) of this Act, and such appropriations shall not be available for expenditure on any program certified to be consistent with the research plan under subsection 4(d) without the approval of the joint chairs.●

By Mr. METZENBAUM:

S. 252. A bill to discourage employers from closing sites on employment in the United States and relocating overseas, and for other purposes; to the Committee on Governmental Affairs.

SAVE AMERICAN JOBS ACT

● Mr. METZENBAUM. Mr. President, I rise to introduce S. 252, a bill to help save American jobs. The legislation will cut off Federal grants and loans to companies that move their operations—and American jobs—out of the country, companies that stay put—and keep Americans working—will be given preference when Federal contracts are awarded.

Each year the Federal Government hands out billions of dollars in guaranteed loans, grants, and contracts to businesses. But I say the Federal Government has no business giving our tax dollars to companies that turn their backs on American workers.

Last year Congress recognized that action was needed to assist workers and communities who were left in the lurch when employers closed their businesses with little or no advance notice. Congress overwhelmingly approved the Worker Adjustment and Retraining Notification Act so that now workers and communities will receive 2 months' advance notice of plant closings and mass layoffs.

We have all seen the devastating impact of plant closings on workers and communities. But it is a slap in the face to American workers when companies close their doors to take advantage of workers overseas who are willing to work, or are forced to work, for a fraction of the wages paid here. Mr. President, American companies that desert this country should not be rewarded with Federal tax dollars.

But that is precisely what has been happening in recent years. American firms have invested $2 billion in the last decade on assembly plants in Mexico alone. American companies are deserting American workers and moving not only to Mexico, but to Taiwan, to Korea, to Singapore, and elsewhere.

Some of the companies most guilty of exporting American jobs are among the top recipients of Federal contract dollars. While we may not be able to prevent companies from engaging in these disgraceful business practices, we certainly don't need to encourage them. We don't have to give companies millions of dollars in lucrative defense contracts, low-cost Export-Import Bank loans, or research and development grants. These companies must understand that when they shut the door on American workers, Uncle Sam is going to close his wallet to them.

The Save American Jobs Act requires companies to notify the Secretary of Labor at least 120 days before relocating a facility or an operating unit to a foreign country. The Secretary will compile a list of such companies every 6 months, and distribute the list to all Federal agencies.

Companies that appear on the list will be ineligible for any direct or indirect Federal grant or guaranteed loan for 5 years after the list is published. Exceptions may be made if failure to provide the grant or loan would threaten national security, cause a substantial job loss in the United States, or harm the environment.

Finally, the bill directs Federal agencies to give preference when awarding Federal contracts to those U.S. employers that retain operations in this country. American companies that employ American workers should be the companies that reap the benefits of American tax dollars.

Mr. President, the save American jobs bill is fair and equitable legislation. It provides a sensible solution to a pressing problem. I urge my colleagues to support it.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Save American Jobs Act of 1989".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) EMPLOYER.—The term "employer" means any business enterprise that employs—

(A) 50 or more employees, excluding part-time employees; or

(B) 50 or more employees who in the aggregate work at least 2,000 hours per week (exclusive of hours of overtime).

(2) FEDERAL AGENCY.—The term "Federal agency" means an executive agency (as defined in section 105 of title 5, United States Code) and a military department (as defined in section 102 of title 5, United States Code).

(3) PART-TIME EMPLOYEE.—The term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(4) SECRETARY.—The term "Secretary" means the Secretary of Labor.

SEC. 3. LIST OF EMPLOYERS THAT MOVE OVERSEAS.

(a) NOTICE REQUIREMENT.—

(1) IN GENERAL.—An employer that intends to relocate a single site of employment, or one or more facilities or operating units within a single site of employment, from the United States to a foreign country shall notify the Secretary at least 120 days before such relocation.

(2) PENALTY.—An employer that violates paragraph (1) shall be subject to a civil penalty not to exceed an amount of $10,000 for each day of such violation, except that the Secretary may reduce such amount for just cause shown.

(b) LIST.—

(1) COMPILATION.—The Secretary shall compile a semiannual list of all employers that relocate a single site of employment, or one or more facilities or operating units within a single site of employment, from the United States to a foreign country.

(2) DISTRIBUTION.—The Secretary shall distribute the list required in paragraph (1) to all Federal agencies.

SEC. 4. FEDERAL GRANTS OR GUARANTEED LOANS.

(a) INELIGIBILITY.—Except as provided in subsection (b) and notwithstanding any other provision of law, an employer that appears on the list described in section 3(b)(1) shall be ineligible for any direct or indirect Federal grant or Federal guaranteed loan for 5 years after the date such list is published.

(b) EXCEPTIONS.—The Secretary, in consultation with the appropriate Federal agency providing a loan or grant, may waive the ineligibility requirement provided under subsection (a) if the employer applying for such loan or grant demonstrates that a lack of such loan or grant would—

(1) threaten national security;

(2) result in a substantial job loss in the United States; or

(3) harm the environment.

SEC. 5. PROCUREMENT PREFERENCE FOR EMPLOYERS REMAINING IN THE UNITED STATES.

The head of a Federal agency, when awarding a civilian or defense-related contract, shall give preference to a United States employer that does not appear on the list described in section 3(b)(1).

SEC. 6. FEDERAL BENEFITS FOR WORKERS.

No provision of this Act shall be construed to permit withholding or denial of payments, compensation, or benefits under any other Federal law (including Federal unemployment compensation, disability payments, or worker retraining or readjustment funds) to workers employed by employers that relocate in a foreign country.

SEC. 7. EFFECTIVE DATE.

This Act shall become effective 180 days after the date of enactment of this Act.

By Mr. BINGAMAN (for himself, Mr. LEAHY, Mr. SIMON, Mr. KERRY, Mr. HARKIN, Mr. CONRAD, Mr. BOSCHWITZ, Mr. COHEN, Mr. PELL, Mr. MOYNIHAN, Mr. HEINZ, Mr. BURDICK, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. CRANSTON, and Mr. BRADLEY):

S. 253. A bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH

● Mr. BINGAMAN. Mr. President, as I have done in the past three Congresses, I rise to introduce legislation that would greatly enhance the Federal Government's ability to collect and disseminate information concerning the nutritional quality of the food we eat. I believe this legislation, the National Nutrition Monitoring and Related Research Act, is crucial to the health and well-being of all Americans.

Joining me as original cosponsors of this important bill are Senators LEAHY, BOSCHWITZ, SIMON, KERRY, HARKIN, CONRAD, COHEN, PELL, MOYNIHAN, HEINZ, BURDICK, ROCKEFELLER, CHAFEE, CRANSTON, and BRADLEY. Identical legislation will be introduced later this week in the House by Representatives BROWN and WALGREN.

With the support of these distinguished colleagues and others, both the House and the Senate overwhelmingly passed legislation identical to this bill last year. Unfortunately, that measure was vetoed by President Reagan on election day, 1988.

The President's veto, which is contrary to Surgeon General C. Everett Koop's recent recommendation that a national nutrition surveillance system be created, does a serious disservice to the American people. I believe firmly that a national system capable of providing up-to-date information is essential to the formulation of sound public policies and the development of effective nutrition education, nutrition research, and nutrition intervention programs.

With his veto, Mr. Reagan sent a message that he disagrees. Instead, he said that the creation of a coordinated Federal nutrition monitoring system would hinder Federal nutrition-related functions. Such a statement is difficult to support, however, in light of extensive House and Senate testimony which revealed that current national efforts to collect, analyze, interpret, and disseminate dietary and nutritional status data are often uncoordinated and untimely. Further testimony revealed that while improvements in coordination of nutrition monitoring efforts have been made in recent years, many Federal efforts lack adequate accountability, use imprecise or nonstandardized assessment methodologies, fail to give adequate attention to high-risk groups and geographic areas, and fail to use available resources effectively. Because of these deficiencies, we know little about the current nutritional and dietary needs of the people of this country.

The legislation I am introducing today recognizes that we must streamline the administrative functions of Federal nutrition monitoring programs if we are to better understand the relationship between diet, nutrition, and health.

Title I of the act establishes a 10-year coordinated nutrition monitoring and research program that is to be the joint responsibility of the Secretaries of the Departments of Agriculture and Health and Human Services. An interagency board will help the Secretaries to develop a comprehensive plan for nutrition monitoring and to implement the program. The bill also stipulates that an administrator may be appointed to serve as a coordinator for the plan and program activities.

The 10-year comprehensive plan will serve both as a focal point for nutrition monitoring activities and as a means to identify national nutrition monitoring priorities. The coordinated program will build upon the 1981 Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and will include, among other components:

A grants program to encourage and assist State and local monitoring initiatives;

An annual interagency budget for each fiscal year of the program;

A means to stimulate academic-industry-government partnerships to accomplish national nutrition monitoring needs and foster productive interaction; and

A biennial report, through contract with a nationally known scientific body, on the dietary, nutritional, and health-related status of the American people and the nutritional quality of our food supply.

Title II establishes an Advisory Council, to be appointed by the President and the Congress, that will provide scientific and technical advice on the development and implementation of the national nutrition monitoring program established under title I. The Council will also evaluate the effectiveness of the program.

Members of the Council will represent various geographic areas, the private sector, academia, scientific, and professional societies, agriculture, minority organizations, and public interest groups.

Title III stipulates that by January 1, 1991, the Secretaries are to publish a report, based on current scientific and medical knowledge, containing nutritional and dietary information and guidelines for the general public. Entitled "Dietary Guidelines for Americans," the report is to be updated at least every 5 years.

Title III also requires a public comment period before a Federal agency may issue certain dietary guidance if either Secretary finds the guidance inconsistent with the "Dietary Guidelines for Americans." Briefly, after a 60-day period during which the Secretaries are to review internally the proposed regulations, if either Secretary—or both Secretaries—objects to the proposal, the proposing agency must publish a notice of comment in the Federal Register. After the expiration of a 30-day comment period, either Secretary may approve the guidance for dissemination to the public. The guidance must be accompanied by an explanation of its basis and purpose which addresses any substantive comments received.

Mr. President, the bill I am introducing today is the result of long and intensive negotiations spanning a number of years, and I am pleased to note that it is supported by a strong bipartisan coalition in the Congress and by a coalition of more than 70 organizations representing health, diet, agriculture, and commodity interests. These organizations include the American Heart Association, the American Dietetic Association, the National Grange, the National Cattlemen's Association, and the United Egg Producers. I request that a more complete list of supporters be included in the RECORD following my statement.

I will close by saying that the restructuring mandated in this legislation will ensure the effective use of Federal and State funds. It will help develop State and local initiatives to improve monitoring methods and standards. It will stimulate academic, industrial, and governmental partnerships.

And, most importantly, it will help ensure that the American public receives the most up to date and comprehensive dietary guidance possible so that healthful dietary decisions may be made. I urge my colleagues to support this important legislation.●

● Mr. LEAHY. Mr. President, I rise today, at the beginning of the 101st Congress, to support the National Nutrition Monitoring and Related Research Act just introduced by my distinguished colleague from New Mexico, JEFF BINGAMAN.

As chairman of the Committee on Agriculture, Nutrition and Forestry, I share Senator BINGAMAN's concern that our present nutrition monitoring system does not adequately address the nutrition and health needs of Americans. I am very pleased to be an original sponsor of this important legislation.

Only 4 months ago, the Surgeon General of the United States released a major report to the President demonstrating the crucial interrelationships between diet and health. Included among the public policy recommendations proposed by the Surgeon General was the creation of a national nutrition surveillance system. This bill meets that important goal.

The Surgeon General's report carefully points out that the roots of many potentially fatal and debilitating diseases begin in childhood. Coronary heart disease, hardening of the arteries, high blood pressure, cancer, dental and skeletal diseases, anemia, and a host of other diseases have roots in childhood malnutrition. Some of this is related to poverty. However, much of it is caused by improper diet. The Nutrition Monitoring Act will provide Congress, and the public, with important information on the nutritional health of Americans—especially regarding vulnerable groups such as the elderly, pregnant women, infants, young children, and the homeless.

This bill was approved without objection by the Senate last year, and

overwhelmingly approved by the House. It was supported by more than 100 organizations of all political persuasions, representing agricultural commodity groups, the food industry, farm organizations, health advocates, religious groups, and consumers.

It was vetoed by President Reagan on election day. Because Congress was out of session until the new Congress convened, there was no opportunity to override his election day veto.

It is astonishing that the previous administration chose to reject such a broad-based effort to improve and enhance the activities of the Department of Agriculture and the Department of Health and Human Services. This bill requires essential coordination and accountability within the nutrition monitoring and dietary guidance programs of these Departments.

The National Nutritional Monitoring and Related Research Act calls for a 10-year scientific assessment to report on the health and well-being of Americans. These studies could provide a gold mine of information on the health and diets of Americans and on the quality of the American food supply.

Many questions are raised about the foods we eat and how to target assistance to those most at risk. Coordination of this information is not only essential for health assessment purposes, but makes good sense for program management purposes.

The bill will also make our Federal health and nutrition guidance consistent and understandable. All too often, conflicting or confusing information on the healthfulness of foods is provided by the Federal Government to consumers.

Title III is the result of a unique coalition of support from commodity and health organizations. This section requires that both the Secretary of Agriculture and the Secretary of Health and Human Services review dietary guidance to be listed by various Federal agencies to ensure that inaccurate and misleading information is not provided to consumers.

These provisions make it easier for American consumers to obtain reliable information from their Government on the nutritional values of foods they eat, and encourages the Federal Government to speak with one voice in issuing dietary guidance to Americans by coordinating efforts of all Federal agencies in releasing dietary information.

I am a strong believer in the American farmer's ability to provide high quality food at reasonable prices. Dietary guidance issued by the Federal Government should be fair to the agriculture community and accurate for the American public.

I am pleased to support this excellent piece of legislation, Mr. President. I hope that the kinder and gentler nature of our new administration will recognize the need to support these measures without further delay.

A PARTIAL LIST OF ORGANIZATIONS SUPPORTING S. 1081

The American Academy of Pediatrics.
The American Association of Retired Persons.
The American Baptist Churches USA.
The American College of Preventative Medicine.
The American Dietetic Association.
The American Farm Bureau Federation.
The American Heart Association.
The American Home Economics Association.
The American Institute of Nutrition.
The American Meat Institute.
The American Medical Students Association.
The American Nurses Association.
The American Public Health Association.
The American School Food Service Association.
The American Society for Clinical Nutrition.
The Association of State and Territorial Health Officers.
The Association of Schools of Public Health.
The Association of Teachers of Preventive Medicine.
Bread for the World.
Center on Budget and Policy Priorities.
Coalition on Block Grants and Human Needs.
Food Research and Action Center.
Lutheran Office for Government Affairs.
Mennonite Central Committee.
National Association for WIC Directors.
National Broiler Council.
National Cattlemen's Association.
National Consumer League.
National Council of La Raza.
National Farmer's Union.
National Grange.
National Milk Producers Federation.
National Osteoporosis Foundation.
National PTA.
National Perinatal Association.
National Pork Producers Council.
National Student Campaign Against Hunger.
Public Voice for Food and Health Policy.
Service Employees International Union.
Society for Nutrition Education.
United Egg Producers.
United Fresh Fruit and Vegetable Association.
United States Conference of Local Health Officers.
World Hunger Education Service.
World Hunger Year.●

● Mr. HARKIN. Mr. President, I am pleased to have this opportunity to cosponsor and speak in favor of the National Nutrition Monitoring and Related Research Act of 1989. This bill will establish for the first time a coordinated and comprehensive program designed to collect and distribute information about the dietary and nutritional status of U.S. citizens and about the nutritional quality of food consumed in the United States.

The same nutrition monitoring bill that we are introducing today enjoyed broad public and industry support when it was considered and passed overwhelmingly by both Houses of Congress last year. The bill was supported by many of the most widely recognized nutrition, health, education, religious, and agricultural organizations in the country. The following groups were among the many supporting this bill: the American Farm Bureau Federation, the National Cattlemen's Association, the National Pork Producers Council, the American Meat Institute, the American Dietetic Association, the American Heart Association, the American Association of Retired Persons, the American College of Preventive Medicine, the Food Research and Action Center, and Bread for the World. Regrettably, President Reagan waited until election day of last year and then vetoed the bill. I sincerely hope that the bill will move quickly through Congress and be promptly signed into law this year.

The bill establishes a coordinated 10-year National Nutrition Monitoring and Related Research Program to be implemented under the joint direction of the Secretary of Agriculture and the Secretary of Health and Human Services. Nutrition monitoring and related research includes measuring, first, dietary, nutritional, and health status, second, food consumption, third, food composition, fourth, dietary knowledge and attitudes, and fifth, food supply and demand. To assist in implementing the coordinated program, the bill establishes an interagency board to be jointly chaired by representatives of the Departments of Agriculture and Health and Human Services. By coordinating the nutrition monitoring activities of Federal agencies in this way, the legislation streamlines agency functions and promotes efficiency in government operations.

This program holds great promise for improving the health of our citizens and reducing private and public health care costs through better diet and nutrition. The recent Surgeon General's report on nutrition and health concluded: "Impressive evidence already links nutrition to chronic disease. However, much more information is needed to continue to identify changes in the national diet that will lead to better health for the Nation. Gaps in our knowledge of nutrition suggest future research and surveillance needs."

One of the most important steps we can take to improve health through better nutrition is to learn more about what the American people are eating. The most current information about the nutritional status of Americans is found in a 1977 USDA food consumption survey. We all know that eating habits and nutrition have changed since that time, but we do not have accurate information on how they have changed.

The Secretaries are directed under the bill to contract with a scientific body to prepare and publish every 2

years, or more frequently if appropriate, a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality of food consumed in the United States. The bill requires special attention to studying and monitoring the status of those who are most likely to be at nutritional risk, such as the elderly, homeless, poor, and children.

The bill also, first, provides for developing uniform and cost-effective standards and indicators for assessing and monitoring nutritional and dietary status and relating food consumption patterns to health; second, establishes a grants program to encourage and assist State and local governments in developing nutrition monitoring programs; and third, directs cooperation among State, local, and Federal governments, the private sector, scientific communities, health professionals, and the public.

I am also very pleased that the bill is specifically crafted to promote consistency and soundness in dietary guidance and advice issued by Federal agencies. On too many occasions in the past the Federal Government has put out vague and contradictory guidelines on diet and nutrition causing unwarranted confusion and fear. As a result, the reputations of some of our most nutritious foods have been unnecessarily sullied. This bill reflects a welcome balance between the views of consumer and nutrition groups and those of agriculture and commodity groups.

The Secretaries of Agriculture and Health and Human Services are required to publish a report by January 1, 1990, and at least as often as every 5 years thereafter, a report containing dietary guidelines for Americans. Each of these reports is to contain nutritional and dietary information and guidelines for the general public. In addition, any dietary guidelines to be issued by any Federal agency must be submitted to both Secretaries for review before release. If both Secretaries disapprove of the proposed dietary guidelines, they will not be released. If only one of the Secretaries approves the proposed guidelines, they may be released, but only after allowing the public to submit comments on the proposed dietary guidelines.

The bill also establishes a National Nutrition Monitoring Advisory Council to be appointed by the President and Congress. The council is required to have members representing various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations.

Mr. President, this is a modest measure that will address serious issues involving the nutrition and health of our Nation's population. I urge that it be quickly considered and passed.●

By Mr. HELMS:

S. 254. A bill to amend title 18 of the United States Code to establish fair competition between the private sector and Federal Prison Industries; to the Committee on the Judiciary.

FEDERAL PRISON INDUSTRIES REFORM ACT

● Mr. HELMS. Mr. President, I am offering legislation to reform the Federal Prison Industries, also known as UNICOR, by amending the statute which allows prisons to borrow money from the U.S. Treasury and receive a preference when selling prison-made products to the Federal Government.

Mr. President, Federal Prison Industries is a very large corporation. It is engaged in the business of making chairs, tables, desks, and other office products. It uses Federal prisoners to manufacture these items. It borrows money from the Government to finance its activities then sells the products to the Federal Government.

John Sloan, the president of the National Federation of Independent Business, points out in an statement on this subject, that what had originally started out as a teaching program for prisoners has now become a corporate giant. I ask unanimous consent that a copy of Mr. Sloan's statement be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what we have created is a Government-operated company which has a clear competitive edge over private companies. As Mr. Sloan observes, because of the preference given to it by the Congress, Prison Industries can even keep the Government from giving contracts to private manufacturers.

If that weren't enough, Mr. President, prison products need not even meet the same quality standards which are required of the private sector. This is a multimillion dollar industry making furniture that the Government must buy without adherence to the high-quality expected of products purchased from the private producers.

Mr. President, Prison Industries legislation had a strange history during the last Congress. The bill giving Prison Industries authority to borrow money was defeated in the House when it was brought up on the Suspension Calendar on September 14, 1988. Yet, Mr. President, when this legislation was introduced last year, the House had a half day of limited hearings and the Senate had none.

Mr. President, let us get rid of the preference which Prison Industries receive in securing Government contracts. In other words, Federal Prison Industries get a special Government benefit at the expense of a lot of hard-working people across the country. That does not make sense.

When borrowing authority is extended, small businesses across the country could be destroyed. Prisons hold a clear advantage over any business they care to compete with because they receive preference on all Government contracts they choose to bid on. That is to say prisons are given a right of first refusal.

Mr. President, as I said earlier this is not a small corporation. We are talking about an industry which claims sales of $316 million with a net worth of over $160 million. That was in fiscal year 1988. The Bureau of Prisons continues to add factories to its already enormous industrial plant. How many corporations can boast of a capacity like that?

I am not condemning prisoner training. But this corporation goes well beyond the intent of the original training program. My State produces one-quarter of the furniture in this country. Prison Industries are out there competing with North Carolina furniture and textile companies already under assault from foreign competition. Think about it, men and women in North Carolina and Michigan and South Carolina are being put out of work by an agency of their Government, the Federal Bureau of Prisons. This Senator will not sit by and let this happen.

This legislation institutes four simple reforms designed to bring some fairness to our domestic industries:

It sunsets the borrowing authority in 3 years which will allow us to study the effect this measure has had on business competing with Prison Industries.

It does away with the Prison Industries contract preference so that all of our businesses may compete for Federal contracts on an equal footing.

It requires Prison Industries to comply with GSA standards. The public should know that its tax dollars buy only the best products.

It requires the President to appoint a representative of the effected industries, the people who speak for the furniture and textile companies, to sit on the Board of Directors. We need to make sure that Prison Industries do not undercut the private sector.

Mr. President, I cannot emphasize how important these reforms are. This legislation has received the support of the U.S. Chamber of Commerce, the American Furniture Manufacturers Association, and the National Federation of Independent Business. They understand the illogic of having the Federal Prison System get special treatment in the marketplace. We cannot continue to penalize the hard-working, law-abiding people of our country. I urge Senators to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

EXHIBIT 1

SMALL BUSINESS ANGLE

(By John Sloan)

MINORITY RULES, SMALL FIRMS SUFFER

Last month, in cleaning out tie closets, lawmakers swept some dirt onto the drug bill, increasing unfair government competition against private-sector companies.

Big, popular bills have always been targets for pet provisions, but this action is particularly maddening because the House defeated a similar measure, considered on its own merits, just a month earlier—by nearly 100 votes!

Undeterred by that margin, supporters inserted the same language into the drug bill, the final piece of legislation hustled through the 100th Congress. The measure allows Federal Prison Industries Inc., known as UNICOR, to borrow money from the federal treasury to expand. UNICOR uses federal prisoners to manufacture chairs, desks, parachutes, paint brushes. Then, it sells the goods to federal, state and local governments.

The original intent of the corporation was to teach prisoners marketable skills, but with $250 million in sales in 1986, members of the House realized that UNICOR had changed from teacher to business executive.

The amendment that allows UNICOR to bank with the federal treasury, tightens the grip that this government-supported company has over federal procurement. Prison Industries' built-in advantages, such as the use of government buildings and cheap labor, give it a hefty competitive edge. The bidding process further stacks the deck.

UNICOR has the first shot at federal contracts. Its bids do not have to be the lowest, and it is exempt from the government standards that private firms must follow. The clincher, Prison Industries even can keep the government from offering contracts to private companies!

Continuing budget resolutions, the usual magnet for these dust balls, didn't surface this year, because Congress passed separate appropriations bills. Omnibus bills like the drug bill are the next best thing to a continuing resolution. Safety tucked away in a bill better measured in pounds than pages, no one discovers the mischief until it becomes law.

The National Federation of Independent Business, the nation's largest advocacy organization for small business, opposes this expansion of unfair government competition, which favors government-run industries over taxpaying small businesses.

Legislators let their guard down and let down their small-business constituents. But it is difficult for even the most vigilant legislator to review these gigantic bills before a vote.

The 100th Congress proved that it could kick the continuing resolution habit. Let us hope the 101st Congress pares omnibus bills to manageable pieces and cleans them up in the process.

Let us also hope that undoing the damage of UNICOR will be high on the priority list for the next Congress.

(John Sloan is President of the National Federation of Independent Business, representing more than half a million small-business men and women.)

EXHIBIT 2

S. 254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Prison Industries Reform Act of 1989".

SEC. 2. FEDERAL PROCUREMENT STANDARDS.

The first undesignated paragraph of section 4124 of title 18, United States Code, is amended by—

(1) striking "shall" and inserting "may"; and

(2) inserting at the end thereof the following: "In no event shall such a purchase involve a product which does not otherwise meet the same or equivalent quality standards which would be applied by the General Services Administrator or a comparable product if purchased from a private sector source or vendor".

SEC. 3. BOARD OF DIRECTORS COMPOSITION.

Section 4121 of title 18, United States Code, is amended by adding at the end thereof the following:

"Not later than 120 days after the date of enactment of the Federal Prison Industries Reform Act of 1989, the President shall appoint 1 additional member of the Board of Directors of Federal Prison Industries from a list of no more than 5 persons provided by the following organizations: the Chamber of Commerce of the United States, the National Federation of Independent Business, the American Furniture Manufacturers Association, the Printing Industries of America, and the National Association of Wholesale Distributors.".

SEC. 4. EXPIRATION OF BORROWING AUTHORITY.

Section 4129 of title 18, United States Code, is amended by inserting after "authorized" in the first sentence the following: ", for not more than 3 years after the date of enactment of this section,".

By Mr. HARKIN (for himself, Mr. EXON, Mr. PRESSLER, Mr. BURDICK, Mr. COCHRAN, Mr. ROCKEFELLER, Mr. SIMON, Mr. BUMPERS, Mr. GRASSLEY, and Mr. D'AMATO):

S. 255. A bill to authorize appropriations for the Local Rail Service Assistance Program; to the Committee on Commerce, Science, and Transportation.

LOCAL RAIL SERVICE ASSISTANCE REAUTHORIZATION

● Mr. HARKIN. Mr. President, on behalf of myself, Senators EXON, PRESSLER, BURDICK, COCHRAN, ROCKEFELLER, SIMON, BUMPERS, GRASSLEY, and D'AMATO, I am introducing a bill to reauthorize the Local Rail Service Assistance Act which expired on September 30.

The Local Rail Service Assistance Program has played a very important role in the rehabilitation of many of our Nation's branch lines since its creation in 1973.

Without railroad branch lines, farmers would have to move their grain by truck, a much more costly mode of shipment. The Iowa Grain and Feed Association estimates that it costs farmers 3 to 12 cents per bushel more when grain is shipped by truck instead of by rail. Small coal companies and many small manufacturers face the same problem. For many of them, the loss of rail service can mean the loss of their ability to operate economically.

In addition to the higher costs business would have to pay if branch lines are lost, Government would also pay higher costs, due to greater use of the highway system by trucks. For every 100 railroad cars filled with corn that we take out of commission, our deteriorating roads and highways will have to endure 387 more trucks.

Some say that railroads are not a Federal responsibility. They say that if a rail line is not profitable it will be abandoned and if it is profitable, it will be maintained. That simply is not true. The real world is more complex. A railroad may make money on a line. But, it may not be making as much of a profit as it could make elsewhere. Or, a railroad may be in such poor financial shape that it cannot maintain its lines, allowing them to fall into disrepair and become more costly to use. Or, poor railroad management can leave shippers without cars, forcing them to use trucks which means there is less revenue earned on the branch line.

Economic systems are not perfect. The value of a branch line to local shippers may be so great that the shippers themselves may want to purchase the line if a railroad chooses to abandon it. But the shippers may not have the resources to put the deal together. The value of a line to grain elevators and farmers may be far more than the salvage value of the track and the land. But it is often difficult to get enough people together who recognize their long term interest who can afford to buy the line.

In addition to the interests of the parties directly involved, it is important to remember that the overall efficiency of our transportation system has a direct effect on our national competitiveness. The more it costs us to move our goods, the less competitive we are.

America's strong transportation system has been one of its greatest strengths. But, today, we see evidence all around us of highways and railroads that are poorly maintained or simply inadequate to meet the needs of commerce.

I believe that one of the most important steps our Nation has taken to stimulate the economy has been the establishment of first-class transportation systems. The Federal Government provided the incentives, mainly through grants of land, for the building of our major railroads in the last century. That investment has had a tremendous positive impact on our Nation's productivity.

But, in the last few decades, our railroads have been deteriorating. We

have borne this cost as a nation. Debate about who is at fault for this development is not productive. The fact is, we do not have the Federal resources to create a massive program to restore all of the lines that should be saved. And this bill we are introducing today does not contemplate such an effort. But, I do believe that we can provide for a modest sum to be used to help preserve useful branch lines with significant traffic loads that would not remain viable without assistance. We can provide enough funds to help avoid the worst tragedies in this area.

The bill which we are introducing provides a modest $10 million in fiscal year 1989 and $25 million for the coming two fiscal years for the Local Rail Assistance Program. President Reagan's budget did contain a request for $10 million in a supplemental request for this program for fiscal year 1989. I am told that the American Association of State Highway and Transportation Officials have identified a need for over $1 billion in almost every State. And recent events in the rail industry are likely to increase that need considerably. The funds being authorized by this legislation will find many worthy projects. With proper administration, these funds can be used to make the difference on a number of very significant lines where the loss of service would be most damaging.

This program is designed to give maximum flexibility to the States in the selection of the lines to be benefited and the structure of the assistance to be provided. Normally, the State applies to the Federal Railroad Administration with its most viable proposals and the FRA allocates the available funds to be administered by the State authorities.

In some cases, grants are provided. In others, low-interest loans are used. In my home State of Iowa, our State rail division has developed a program which provides for a considerable leveraging of the Federal funds with the State matching the Federal contribution and often acquiring a 60-percent match of the Government funds from the railroad or the shippers. In some cases, that is not feasible. When loans are issued, the repaid funds go back to the States to be used for new railroad assistance.

This is a program that really works. Lines are saved and our entire economy benefits. It deserves to be continued.●

By Mr. HARKIN (for himself, Mr. DIXON, Mr. COCHRAN, and Mr. GRASSLEY):

S. 256. A bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

RECLASSIFICATION OF ANHYDROUS AMMONIA

● Mr. HARKIN. Mr. President, anhydrous ammonia is the major and most practical form of fertilizer for distributing nitrogen to crops. Farmers prefer to apply anhydrous ammonia directly to the soil because it is the most available and most cost-effective, nitrogen-content fertilizer. Anhydrous ammonia accounts for over half of the U.S. fertilizer supply and has been safely used by farmers for decades.

The Department of Transportation is considering the reclassification of anhydrous ammonia as a poisonous gas as part of an extensive proposed rulemaking to amend hazardous materials regulations. But such a reclassification is not, in our view, based on the evidence and suggests a lack of understanding of the impact that anhydrous ammonia has on American agriculture.

Last year, Secretary of Agriculture Lyng expressed his concern about the potential negative impact of this proposed rule on U.S. farmers and many other segments of the agricultural community. Secretary Lyng urged the Department to retain the present classification of this important plant nutrient. The National Association of Wheat Growers, the National Corn Growers Association, and other farm organizations are also opposed to the proposed reclassification.

If the proposed rule were to be finalized in its present form, it could generate excessively higher insurance rates, severely affect insurance availability, and cause transportation difficulties because of local restrictions. This would be particularly unfortunate given the fact that anhydrous ammonia simply does not qualify as a poisonous gas under the DOT or EPA proposed inhalation toxicity criteria.

Senators DIXON, COCHRAN, GRASSLEY, and I are introducing legislation today which requires the Department of Agriculture to study the effect that the proposed classification change would have on farmers and farm-related businesses. Congress would be given 180 days to consider the findings before the DOT could issue regulations reclassifying anhydrous ammonia as a poisonous gas.

Mr. President, I have been in touch with Senator EXON, who chairs the authorizing subcommittee with jurisdiction over the Hazardous Materials Transportation Act. He is well aware of this issue and is working to assure that farmers and farm-related businesses are not adversely affected by the Department's proposed rulemaking in this area. I believe that passage of this measure can be an important step toward reaching that goal.●

● Mr. DIXON. Mr. President, the Department of Transportation's proposal to reclassify anhydrous ammonia has generated numerous concerns and problems for American farmers. Months have gone by, and these concerns and problems remain unanswered and unsolved. The reclassification question needs to be resolved—and it needs to be resolved with full knowledge and understanding of the ramifications it poses for American agriculture.

To that end, I join my good friend, Senator HARKIN, in introducing legislation designed to provide vital information regarding the impact of the reclassification of anhydrous ammonia. Our bill directs the Secretary of Agriculture to conduct a study examining the effect of this reclassification on farm income, crop production, insurance rates, export competitiveness, import costs, and our domestic markets.

Mr. President, anhydrous ammonia is an essential chemical for agriculture. The uncertainty surrounding the actual hazard presented by anhydrous ammonia is important in light of its economic importance to our struggling agriculture industry. Approximately 45 percent of all nitrogen fertilizer used by American farmers is applied as anhydrous ammonia. It is used widely because it is inexpensive. Spreading nitrogen with anhydrous ammonia is 50-percent cheaper than performing the same activity with other compounds.

The Department of Transportation's proposal to reclassify this compound as a poison is misguided and reckless, and disregards the consequences that it would inflict on American agriculture. Such a reclassification will drastically increase the cost of nitrogen fertilizer for the American farmer. Insurance costs for transporting the chemical would be prohibitive and it is also conceivable that, in some cases, insurance would become unavailable.

In addition, there is some question as to how anhydrous ammonia, if classified as a poison, could be transported to American farms. Furthermore, many foreign markets, which our farmers are already struggling to recapture, would be closed because of legal restrictions on foods treated with poisonous chemicals.

The reasoning behind the reclassification of anhydrous ammonia is to alert its users of the possible dangers inherent in the use of this product. That being the case, a more appropriate reclassification would be that of a corrosive product, rather than a poison.

Mr. President, our largest trading partner in anhydrous ammonia—Canada—identifies it in this manner. This type of classification serves to alert users of potential dangers while avoiding the negative economic impact that would result on our American farmers.

The Department of Transportation has been unable to resolve the reclassi-

fication issue. The legislation we are introducing today will provide essential information that will enable the Department to reach a sound and reasonable solution. I urge my colleagues to support this important bill.●

Mr. DOLE. Mr. President, I rise today to reaffirm my support of this important legislation that will address an issue of major concern to America's agricultural community. Early last year, the Department of Transportation proposed rules that would reclassify anhydrous ammonia as a poisonous gas.

It is well known that anhydrous ammonia is used for fertilizer all over America. It is a common substance that is handled by farmers everyday. At the time, Dick Lyng, the Secretary of Agriculture, expressed his opposition to this proposal.

Several of my Republican colleagues, including, Senators HELMS, BOSCHWITZ, BOND, MCCONNELL, KASSEBAUM, MCCLURE, PRESSLER, GRAMM, and I have previously expressed our opposition to this provision. Over 1,000 individuals and farm organizations concerned about the impact on agriculture and their individual operations have expressed opposition.

Mr. President, I believe there needs to be more investigation as to the effects that reclassifying anhydrous ammonia would have on agriculture. Several important areas need further study, including, the effects on farm income levels, crop production, insurance rates, export competitiveness, import costs, and domestic markets.

Mr. President, I believe that it is prudent to study these potential, disastrous effects on American agriculture before DOT pushes ahead with regulations. Farmers deserve more. Anhydrous ammonia is a necessary element in producing food for America.

As I understand it, this bill will provide a necessary window for study of these potential harmful affects. The Department of Agriculture should be heard from and the Nation's farmers should be heard from.

Mr. President, at this time, I ask a copy of a letter I sent to Secretary of Transportation Jim Burnley be printed in the RECORD.

Mr. President, we would be irresponsible to rush forward with regulations without this study. I urge my colleagues to support this action and participate in this needed investigation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
September 9, 1988.

HON. JAMES BURNLEY,
Secretary, Department of Transportation, Washington, DC.

DEAR JIM: Several of my Republican colleagues including Senators Karnes, Helms, Boschwitz, Bond, Cochran, Nickles, McConnell, Kassebaum, McClure, Pressler and Gramm and I, have written you regarding the Department's proposal to reclassify anhydrous ammonia. This is an important issue for all farm state legislators. Senator Karnes recently raised the issue with Governor Kerry in their first debate last Monday and I am concerned you may visit his state in the near future without having resolved this question.

The DOT proposal to reclassify anhydrous ammonia as a poisonous gas will have a major economic impact on people whose livelihoods depend on agriculture including wheat, corn and poultry producers and food processors. Major farm groups and representatives of agri-business interests are all opposed to this idea. In addition, both Houses of Congress have adopted report language urging DOT to drop the proposal. Although some have presented this as a purely technical transportation issue, it is clearly a matter of broad concern.

Secretary Lyng is on record opposing the DOT proposal and it is my understanding that over 1,000 public comments have been sent to DOT in opposition. It appears the proposal was intended to make the classification of this important fertilizer conform to United Nations standards, but it is certain such a proposal will have far reaching effects that are not in our best interests.

I am sure that my colleagues mentioned above would greatly appreciate and publicly support the Department dropping this proposal. Your personal attention to this matter would be welcomed and I would urge favorable action on behalf of American agriculture as soon as possible. Thank you for your assistance.

Sincerely,

BOB DOLE,
U.S. Senate.

By Mr. RIEGLE:

S. 257. A bill to amend the Internal Revenue Code of 1986 to permit individuals to receive tax-free distributions from an individual retirement account or annuity to purchase their first home, and for other purposes; to the Committee on Finance.

FIRST-TIME HOMEBUYER OPPORTUNITY ACT

● Mr. RIEGLE. Mr. President, I rise today to introduce the First-Time Homebuyers Opportunity Act, which I believe will bring homeownership within the reach of thousands of additional American families. The legislation I am introducing today will permit individuals to use funds in their individual retirement accounts [IRA's] for purchasing their first home.

The dream of owning a home has been a primary motivation for generations of American families. For most Americans, home ownership has been the only realistic way to build family assets and to provide a nest egg for their retirement years. I believe home ownership contributes enormously to the quality of our community life and the stability of our society.

Mr. President, I believe that it is in the national interest to ensure that home ownership is within the reach of all American families who want it and are willing to work for it.

Unfortunately, the country's recent performance on home ownership is not as good as it should be, or even as good as it has been in the past. Recent statistics tell us that our Nation's home ownership rate has been declining since 1980; that families are waiting longer and longer before they can purchase a home; and that more and more families buying their first homes are having to rely more heavily on a second income to make home ownership possible.

Mr. President, enactment of the First-Time Homebuyers Opportunity Act would provide important assistance to thousands of Americans who are still trying to buy their first home. The bill would permit individuals to withdraw funds from their individual retirement accounts or annuities without penalty if the funds are used to buy a principal residence within 90 days of the withdrawal.

The bill is designed to increase savings for home ownership and to provide the kind of assistance that is most important to first time home buyers. An individual could not withdraw funds under the bill unless they had invested in the IRA for at least 12 months. The total amount of home ownership withdrawals for each individual could not exceed $10,000 in the aggregate across all taxable years. For reasons of administrative feasibility, those who have not had an ownership interest in a principal residence for 3 years would be considered first time home buyers.

The bill places no new burden on the U.S. Treasury. Its effects would be to make investment in a first home a permitted form of IRA investment. Individuals already have wide latitude investing their IRA funds: stocks, bonds, real estate investment trusts, certificates of deposit, and other forms of financial assets. It is ironic that investment in a person's own home is not already a permitted form of investment since home ownership has long proven to be one of the best ways for Americans to build up assets for their retirement years.

In addition, the bill uses a proven incentive to save for home investment. It would give American first time home buyers help that has for many years been available to people in Germany, Canada, Japan, France, the United Kingdom, and other industrial nations.

Mr. President, I believe the bill I am introducing today provides a straightforward efficient way to enable many more Americans to share in the dream of home ownership. I believe the bill deserves prompt consideration in the Senate, and I invite my colleagues to cosponsor it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "First-Time Homebuyer Opportunity Act of 1989".

SEC. 2. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY USED FOR FIRST-TIME HOME PURCHASE.

(a) IN GENERAL.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(8) Distributions used to purchase a home by first-time homebuyer.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any payment or distribution received by a first-time homebuyer from an individual retirement account or from an individual retirement annuity to the extent such payment or distribution—

"(i) is used by the individual before the close of the 90th day after the day on which such payment or distribution is received in connection with the acquisition during such 90-day period of a principal residence for such individual, and

"(ii) is attributable to amounts paid into such account or annuity at least 12 months before the date of the acquisition of the principal residence described in clause (1).

For purposes of clause (ii), any payment or distribution shall be treated as made first from amounts described in clause (ii).

"(B) $10,000 AGGREGATE MAXIMUM.—The aggregate amount of payments and distributions to which subparagraph (A) applies for all taxable years with respect to any individual shall not exceed $10,000.

"(C) BASIS REDUCTION.—The basis of any principal residence described in subparagraph (A) shall be reduced by any amount excluded from gross income of such first-time homebuyer by reason of subparagraph (A).

"(D) RECOGNITION OF GAIN AS ORDINARY INCOME.—

"(i) IN GENERAL.—Notwithstanding any other provision of this subtitle, gain (if any) on the sale or exchange of a principal residence to which subparagraph (A) applies shall, to the extent of the amount excluded from gross income under subparagraph (A)—

"(I) be treated as ordinary income by such individual, and

"(II) included in gross income ratably over the 5-taxable year period beginning with the taxable year in which such sale or exchange occurs.

"(ii) DEATH OF FIRST-TIME HOMEBUYER.—Except as provided in clause (iii), in the case of the death of any individual to which clause (i) applies, any amount not included in gross income for any taxable year ending before the taxable year of such decedent's final return shall be included in gross income on such final return.

"(iii) SPECIAL RULE FOR SURVIVING SPOUSE.—If a decedent's interest in the proceeds from a sale or exchange of a principal residence passes to the decedent's surviving spouse, such surviving spouse shall include in gross income that portion of the gain required to be included in gross income under clause (i) which was not included in the gross income of such decedent. Such amount shall be included ratably in gross income by such surviving spouse over the unexpired portion of the 5-taxable year period referred to in clause (i).

"(iv) COORDINATION WITH OTHER PROVISIONS.—In the event all or part of the gain referred to in clause (i) is treated as ordinary income under any other provision of this subtitle, such provision shall be applied before clause (i).

"(E) DEFINITIONS.—

"(i) FIRST-TIME HOMEBUYER.—For purposes of this paragraph, the term 'first-time homebuyer' means any individual who (or whose spouse) has had no present ownership interest in a principal residence during the 3-year period ending on the date of purchase of the principal residence described in subparagraph (A).

"(ii) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' shall have the same meaning as when used in section 1034.

"(iii) DATE OF ACQUISITION.—For purposes of this paragraph, the term 'date of acquisition' means the date on which a binding contract to buy the principal residence described in subparagraph (A) is entered into.".

(b) CONFORMING AMENDMENTS.—Subsection (a) of section 1016 of the Internal Revenue Code of 1986 (relating to adjustments to basis) is further amended—

(1) by striking out "and" at the end of the next to the last paragraph,

(2) by striking out the period at the end of the last paragraph and inserting in lieu thereof "; and ", and

(3) by inserting after the last paragraph the following new paragraph:

"(25) to the extent provided in section 408(d)(8)(B).".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to payments or distributions made after the date of enactment of this Act in taxable years ending after such date.●

By Mr. RIEGLE (for himself, Mr. D'AMATO, and Mr. KERRY):

S. 258. A bill to amend the National Flood Insurance Act of 1968 to extend the program of flood insurance for structures on land subject to imminent collapse or subsidence; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL FLOOD INSURANCE

● Mr. RIEGLE. Mr. President, I rise today to introduce legislation to amend the National Flood Insurance Act of 1968. This bill provides for a 3-year extension of section 1306(c) of the act. Identical legislation has been introduced in the House by Congressman WALTER B. JONES.

This provision was originally enacted in 1987 and authorizes advanced payments under a valid insurance contract for relocation or demolition of an erosion threatened structure.

This provision currently addresses a problem of continuing concern to those who live near numerous coastal areas which are subject to erosion and flooding. The area of particular concern in my State is the Great Lakes coastline. The lakes' short, choppy waves continuously erode the coastal areas, causing many parts of the shoreline to lose an average of 2 to 3 feet a year. Clearly this trend is a serious concern to homeowners who have built upon these erosion prone areas. Some residents on the lakes have had their homes completely washed out by storms.

If section 1306 expires homeowners on these coastal areas will be put in a difficult position. Many cannot independently afford to relocate their houses. They must wait helplessly for the homes to be destroyed at which point they will be eligible to collect insurance for damages. This bill provides an alternative. Homeowners who qualify for the Federal Flood Insurance Program [FFIP] will be allowed to make an advanced insurance claim for up to 40 percent of the value of their home provided they relocate it behind a 30- or 60-year erosion line.

This relocation program has numerous benefits for all parties involved. It offers homowners the opportunity to act positively rather than to resign themselves to the inevitable loss of their homes and property. Families save their homes and eliminate a potential hazardous structure from the community. The environment benefits when development activities are moved back from threatened shores, and when beaches are not littered with the debris from washed out structures.

The Government also benefits from the implementation of this program. Scientists believe shoreline erosion directly contributes to flood related damages. Since the Federal Government, through the Flood Insurance Program, is the principal insurer of high-hazard coastal structures, unchecked shoreline erosion is quietly increasing the American taxpayer's financial exposure.

Section 1306 allows us to reduce Government liability and long-term cost while maintaining Government responsibility. It reduces the amount of the claim by more than half since the cost of relocation is substantially below the cost of paying the full claim on a totally destroyed structure. Additionally, erosion setbacks will help to prevent repetitive claims. These two changes will reduce the long-term costs of the Flood Insurance Program.

This bill makes good environmental, consumer, and budgetary sense. It provides a reasonable solution to a serious erosion and flooding problem that is plaguing many States. Before the original implementation of this measure, the Federal Emergency Management Agency [FEMA] expressed concerns that implementation of this provision would result in a raid on the national flood insurance funds. They also worried that it would be difficult to technically administer this program. However, in the 18 months since implementation, there has been no

raid on the funds. In fact only about 100 claims have been filed. The program's administration has not proven problematic either. Neither of the two potential problems of the measure has materialized and the program is progressing. A 3-year extension of this measure will allow for complete study and documentation of the benefits of this program, perhaps leading to a permanent addition to the National Flood Insurance Act.

Mr. President, I urge my colleagues to support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1306(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by sriking "claim" and inserting "certification";

(2) in paragraph (4)(D), by inserting before the period at the end the following: ", or within an area 200 yards east of such area"; and

(3) in paragraph (7), by striking "September 30, 1989" and inserting "September 30, 1992".

Mr. D'AMATO. Mr. President, I rise today in support of the reauthorization of flood insurance reforms initiated in the Housing and Community Development Act of 1987. My friend and colleague, Senator RIEGLE, was instrumental in the passage of these reforms in 1987. I am pleased to join him as we reauthorize these changes for an additional 3 years.

The Housing and Community Development Act of 1987 contained a provision to adjust the Federal Flood Insurance Program to assist homebuyers whose homes are threatened by flooding. Specifically, the program was altered to encourage homeowners, whose home faced destruction as a result of flooding, to move or destroy their homes before total collapse. Without this change, a homeowner was forced to sit by and watch flooding tear down a family home. A family was not allowed to take any preventative measures to avoid home destruction. If a family wanted to move its home after a vicious storm in hopes of avoiding the next, the option was not available. Needless to say, homeowners living in coastal areas were frustrated by policy before the 1987 act passed.

Not only was the old policy frustrating to homeowners, but it was also frustrating to local governments which had to pay heavy environmental clean-up costs when a house was destroyed by flooding. The 1987 act policy attempts to avoid destruction of a home or destroy a home in a manageable, less expensive manner.

As a Senator whose home area, Long Island, has been affected by flooding, I have been particularly interested in the flood insurance program changes. Ironically, these legislative changes may have an adverse impact on one unique community on Long Island, Westhampton Beach. Consequently, in the 1987 Housing and Community Development Act I included a provision to exempt part of this community from the programatic changes. I have continued to exempt this community from the 3-year reauthorization and I have further defined the exemption to include all affected homeowners in the Westhampton Beach area.

I am pleased to be a part of a bipartisan effort to protect homeowners in New York State and around the Nation from catastrophies associated with flooding. I thank my colleague, Senator RIEGLE, for his support and dedication to this worthy cause.

Thank you, Mr. President.

By Mr. MOYNIHAN (for himself, Mr. ROTH, and Mr. DODD):

S. 259. A bill to provide a White House Conference on International Trade in Services; to the Committee on Finance.

WHITE HOUSE CONFERENCE ON INTERNATIONAL TRADE IN SERVICES ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce, together with my colleagues Senators ROTH and DODD, legislation to authorize a White House Conference on International Trade in Services.

The purpose of this bill is to provide the forum and prestige of a White House conference to address the critical issue of international negotiations on trade in services. At a time when the merchandise trade account is in deficit—$160 billion in 1987—the services account continues to generate a surplus. Services are vitally important to the American economy, generating an estimated 76 percent of employment in 1988 and 70 percent of our gross national product. Expansion of our services exports should be a major element of our national effort to bring our trade accounts back into equilibrium.

To set priorities and to generate information for this effort, my bill would convene a White House conference no more than 6 months after the passage of this legislation. A report, to be submitted to the President, would outline an agenda for negotiations and would create a statistical base to be used by our trade negotiators. The report would detail recommendations to our negotiators, and would generate a more accurate profile of the services sector of the U.S. economy.

The importance of the services sector has been highlighted by recent free trade agreements with Canada and Israel. The Canadian Free Trade Agreement is the first to set binding rules for international trade in services. Canada and the United States have agreed to provide national treatment, or equal treatment of foreign and domestic firms, for services trade in 150 industries. The free trade agreement with Israel signed in 1984 lays out basic trade principles for services.

These bilateral agreements are an important foundation for multilateral negotiations on services trade. At present, the General Agreement on Tariffs and Trade does not include services. Since the end of the Tokyo round of GATT negotiations in 1979, the United States has pressed to expand the scope of the GATT to include services trade. Ultimately, the United States succeeded in this effort, despite the opposition of a number of developing countries. Services were included on the GATT agenda at Punta del Este, Uruguay, in 1986.

At the December Montreal mid-term review of the current Uruguay round of GATT negotiations, important progress was made. Negotiators defined guiding principles for services trade and set a timeframe for completing an agreement. If a final agreement is reached, principles such as national treatment, nondiscrimination, and progressive liberalization will be applied to services trade, and regulations and guidelines for services trade will be made more transparent. In addition, at Montreal GATT ministers agreed to schedule sector-by-sector talks on specific services industries.

As the services sector has generated growth in the American economy, the United States has pressed for significant liberalization in services trade. Nevertheless, in this country the impact of services on the economy is not well documented. Government statistical methods focus on merchandise accounts, and inadequately represent trade in services. Better measurements should be devised to establish an adequate understanding of the services sectors. Hopefully, the services sector data provisions included in the 1988 trade bill will help to remedy this problem over the next several years. However, it is crucial that the U.S. delegation to the GATT have sufficient information to negotiate an agreement for services trade that is of maximum benefit to the U.S. economy. Thus, in the short term a White House conference could help generate an improved base of information to assist U.S. negotiators.

More accurate information would better enable the United States to clarify its priorities during the final 2 years of the Uruguay round. The White House conference could play a key role in highlighting the services industries which are most crucial to American commercial interests, and creating a strategy for each sector.

Information generated by the White House conference could assist U.S. negotiators in other ways as well. When investigating foreign trade barriers to specific industries under the procedures outlined by section 301 of the Trade Act of 1974, the U.S. Trade Representative could take advantage of the base of information generated by the conference. As we all are aware, section 301 was amended last year by the trade bill to make Presidential action mandatory when the U.S. Trade Representative recommends retaliatory action against foreign trade barriers to American goods and services. It is almost certain to be used in future negotiations to open foreign markets, and the conference could clarify priorities to better reflect American commercial interests.

As services trade grows in importance to the U.S. economy, we must have a clear negotiating strategy and adequate statistical coverage of services industries. A White House conference would generate information and priorities for negotiating free trade in services. I urge the swift passage of this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White House Conference on International Trade in Services Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) the service sector is a critical element of our Nation's trade policy;

(2) services trade now accounts for one third of all world trade;

(3) the United States is the largest single-nation trader of services with over 21 percent of the world receipts;

(4) the establishment of international rules for services trade is a major United States objective for the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade; and

(5) trade in services is an important element of bilateral negotiations, including the free trade agreement with Israel and the free trade agreement with Canada.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Conference" means the White House Conference on International Trade in Services.

(2) The term "services" includes, but is not limited to, accounting, advertising, banking and other finance, data processing, education, employment, engineering and construction, franchising, health care, insurance, leasing, lodging, motion pictures, telecommunications, tourism, transportation, management, consulting, public relations, law, and other business, professional, marketing, and technical services.

(3) The term "Director" means the Director of the White House Conference on International Trade in Services.

ESTABLISHMENT OF THE WHITE HOUSE CONFERENCE ON INTERNATIONAL TRADE IN SERVICES

SEC. 4. (a) The President shall call and conduct a White House Conference on International Trade in Services by no later than the date that is six months after the date of enactment of this Act in order to provide for an aggregation of effort by academics, professionals, government and congressional representatives for the purpose of assisting the United States Trade Representative and the Secretary of the Treasury in formulating United States priorities for international negotiations on trade in services.

(b) The Conference shall provide for an exchange of information and views on the following international negotiations concerning trade in services:

(1) proposed international rules on trade in services;

(2) the services trade negotiating agenda of the United States for the Uruguay Round of negotiations;

(3) bilateral negotiations on trade in services, including free trade agreement negotiations; and

(4) negotiating priorities of the United States for trade in services in other international forums.

(c) The President, in consultation with the United States Trade Representative and the Secretary of the Treasury, shall select participants for the Conference from the private sector of the economy, private sector advisory bodies, trade associations, the Congress, the Federal Government, independent agencies of the Federal Government, and councils, commissions and Congressionally chartered private organizations with a mandate to study services trade negotiations.

(d) Members of international organizations with a concern in international negotiations on trade in services may attend the Conference as observers.

REPORT OF THE CONFERENCE

SEC. 5. (a) A final report of the Conference shall be submitted to the President by the Director by no later than the date that is 120 days after the close of the Conference. The report shall include a review of international negotiations on trade in services, the position of the United States in such negotiations, the positions of other nations in such negotiations, and recommendations for improving the position of the United States in current and future negotiations.

(b) The Director is authorized to publish and distribute for the Conference the report submitted to the President under subsection (a). Copies of such report shall be provided by the Director to the Federal depository libraries.

ADMINISTRATION

SEC. 6. (a) The President shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of a Director and of such additional personnel as the President considers advisable to assist in carrying out the provisions of this Act, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title.

(b) The Director is authorized to procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for the heads of agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of such title.

(c) The Director shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out the provisions of this Act, and

(2) prepare and make available background materials for the use of participants in the Conference and prepare and distribute report of the Conference.

(d) Each Federal department and agency shall cooperate with, and provide assistance to, the Director upon request made by the Director under subsection (c)(1). For that purpose, each Federal department and agency is authorized to detail personnel to the Director.

FUNDING

SEC. 7. (a) Notwithstanding any other provision of law, the Director is authorized to solicit and accept, on behalf of the Conference, contributions to pay the expenses incurred in connection with the Conference.

(b) All contributions received by the Director under subsection (a) shall be deposited into a separate account in the Treasury of the United States. The Secretary of the Treasury is authorized and directed to pay out of such account such amounts as may be necessary to pay any expenses incurred in carrying out the provisions of this Act, including the salaries of any individuals appointed or detailed under section 6.

(c) There are authorized to be appropriated for each of the fiscal years 1990 and 1991, such sums as may be necessary to carry out the provisions of this Act, but only to the extent the amount of funds in the special account described in subsection (b) are insufficient to pay all expenses incurred in carrying out the provisions of this Act.

By Mr. MOYNIHAN (for himself, Mr. HEINZ, Mr. DANFORTH, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SYMMS, Mr. DURENBERGER, and Mr. MATSUNAGA):

S. 260. A bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent; to the Committee on Finance.

EMPLOYEE EDUCATIONAL ASSISTANCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 260, the Employee Educational Assistance Act of 1989, that will make permanent section 127 of the Internal Revenue Code. This legislation will permit employees to receive educational benefits such as tuition reimbursement or outside training from their employers on a tax-free basis. I am pleased to be joined in introducing S. 260 by my distinguished colleagues, Senators HEINZ, DANFORTH, KERRY, PRYOR, REID,

RIEGLE, SYMMS, DURENBERGER, and MATSUNAGA.

First enacted in 1978, section 127 has enabled over 7 million working men and women to advance their education and improve their job skills without incurring additional income tax liabilities. It permits an employee to exclude from income up to $5,250 in educational assistance provided by his or her employer. Without this exclusion, the employee would owe taxes on the value of an education assistance that does not directly relate to the current job held. Since section 127 effectively removes the requirement that educational benefits directly relate to any employee's job, it is also particularly important for lower skilled workers who want to upgrade their skills and vocational opportunities, and for retraining employees whose current skills have become technologically obsolete. For employees beginning their careers in secretarial, clerical, or industrial positions, section 127 may represent their only opportunity for retraining and advancement.

Section 127 expired at the end of last year, and the legislation that I introduce today would extend that section on a permanent basis. My bill would restore coverage of graduate-level courses—which was eliminated last year—as well as maintain the limit on the annual amount that can be excluded at $5,250.

It would also make an important contribution to simplicity in the Tax Code. Unless it is restored, employers and the IRS will have to determine on a case-by-case basis which educational benefits are sufficiently related to the job to avoid being treated as taxable income.

Allowing employees to receive educational assistance on a tax-free basis is also a time-tested and cost-effective way to upgrade the skills of American workers. It acts as an incentive for workers to increase their productivity as well as a way to enhance job satisfaction and improve career prospects.

Section 127 is not some extravagant fringe benefit for highly paid executives. Rather, it is low- and moderate-income employees who have benefited most from the section, and it is they who will be most severely affected if it is not restored. A recent survey undertaken by the American Society for Training and Development indicated that 72 percent of recipients of section 127 educational assistance earn less than $30,000 annually. In fact, lower income employees are even more likely to participate in educational assistance programs than those on the higher end of the income scale. Employees earning less than $30,000 participate at a much greater rate than those above that income, and participation rates decline as salary levels increase. Moreover, employees making less than $15,000 participate at almost twice the rate of those who earn over $50,000.

By removing the tax burden on employees seeking retraining, section 127 will also enable American workers to learn new skills, including those industrial workers whose jobs have been threatened by rapidly emerging technologies.

The American Electronics Association has noted that the United States is experiencing an acute shortage of engineers—some 20,000 engineers between 1981 and 1985. It has also emphasized the troubling fact that the United States produces fewer engineers per capita than many of our trading partners and has relatively smaller numbers of workers in research and development. To counter this trend, almost half of America's largest electronic firms have initiated educational assistance programs under section 127 to encourage employees to pursue advanced degrees in electronics. Without section 127, employees participating in this important effort to maintain our competitive position in the global economy will incur a penalty of additional taxes.

Mr. President, section 127 is of great value to the American economy and to the American economy and to the competitiveness of American industry in world markets. It removes a record-keeping burden on industry initiatives to provide education and retraining for employees. Retraining will take on an increasing importance in the next decade, given that approximately 85 percent of those who will make up the work force in the year 2000 are already working today. Work force growth in the next decade is expected to barely match that during the Great Depression.

Section 127 has also helped improve the quality of America's public educational system, at a fraction of the cost of direct-aid programs. It has enabled thousands of public school teachers to receive advanced degrees, augmenting the quality of instruction in our schools. A survey conducted by the National Education Association a few years ago found that almost half of all American public school systems provide tuition assistance to teachers seeking advanced training and degrees.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assemled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Educational Assistance Act of 1989".

SEC. 2. EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS MADE PERMAMENT.

(a) IN GENERAL.—Section 127 of the Internal Revenue Code of 1986 (relating to educational assistance programs) is amended by striking out subection (d).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988.

By Mr. MOYNIHAN.

S. 261. A bill to amend the Trade Act of 1974 to treat acts and practices of foreign countries that diminish the effectiveness of international agreements protecting endangered or threatened species as unreasonable for purposes of applying chapter 1 of title III of the Trade Act of 1974; to the Committee on Finance.

TREATMENT OF CERTAIN ACTS RELATIVE TO ENDANGERED SPECIES

Mr. MOYNIHAN. Mr. President, I rise to introduce legislation that would stengthen the hand of the President to enforce international agreements to protect endangered and threatened species by making actions that undermine such agreements unfair trade practices under section 301 of the Trade Act of 1974. This bill would provide new hope to all those individuals and governments that have struggled to protect and conserve species that have been subjected to irresponsible commercial exploitation.

The General Accounting Office reported in December 1988 that the threat to endangered species is more severe now than in any age since the dinosaurs, and that threat is likely to become more acute in the near future. The GAO reports the existence of serious problems of information on declining species and a serious lack of resources devoted to wildlife protection.

Consequently, it is increasingly clear that preventing the irresponsible exploitation of wildlife can and should be a high priority of U.S. trade policy. In July 1988, I recommended to U.S. Trade Representative Yeutter that the United States urge the Uruguay Round of GATT negotiations to address the issue of illegal wildlife trade. After all, the most important international treaty protecting endangered species from commercial exploitation is the 1973 Convention on International Trade in Endangered Species of Wild Fauna and Flora, known as "CITES." The operative words in CITES are "international trade." Clearly, illegal trade in wildlife diminishes the effectiveness of international agreements and should be curbed in the same way the United States addresses other unfair trade practices by our trade partners.

My recommendation to Ambassador Yeutter was to amend the GATT rules to include a framework for enforcing international controls on wildlife trade. Article XX (g) of the GATT already recognizes the legality of con-

serving wildlife through trade law measures. A code to enforce international trade in endangered or threatened species should be in place before the completion of the Uruguay round.

In the absence of stronger trade enforcement measures, many wildlife species are being taken in violation of existing agreements such as CITES. Let us take the example of whales. CITES regulates trade in 11 species of whales. The United States has taken a leadership role in the protection of whaling, and the International Convention for the Regulation of Whaling was signed in Washington in 1946.

We are all aware that on February 10, 1988, Secretary of Commerce Verity certified to the President, pursuant to the Packwood-Magnuson amendment to the Fishery Conservation and Management Act of 1976, that Japan was killing minke whales in the waters of the Antarctic in violation of the Whaling Convention.

Despite a moratorium on commercial whaling approved by the international community in 1985, and finally accepted by Japan in 1987, Japanese fishermen reportedly killed 300 minke whales.

Why? Japan claims that the recent whale killings are for scientific research. Reputable cetacean scientists outside of Japan disagree. The member governments of the International Whaling Commission voted 19 to 6 that the Japanese scientific hunt violated the moratorium. The reality is that Japan insists on maintaining its whale hunting—whatever the impact on international whale conservation efforts.

We must remember that the whale moratorium does not necessarily mean a complete future ban on whale hunting. The U.S. position is not motivated by a bias against cultural values that continue to accept the consumption of whale meat. Rather, what we are clearly saying is that the decimation of the Earth's whale population now requires the moratorium. We will not passively tolerate further extinctions.

And not just Japan is at fault. In July 1988 the State Department reportedly sent a letter to the Norwegian Foreign Ministry expressing concern about the planned harvest of 30 minke whales. Again, the rationale given for the hunt was "scientific research." However, the International Whaling Commission issued a resolution urging Norway not to take any minke whales until the Commission had more complete information about the scientific nature of the proposed hunt.

Nevertheless, the Norwegians proceeded with the harvest of minke whales. And they have not yet made the results of their scientific inquiry available. Norway's current view is ironic since it was Norway that first warned of the dangers of possible whale extinction in 1910. Iceland has also sought to evade the moratorium with scientific proposals.

We need time to do proper scientific research to adequately count the remaining stocks of whale species. Too much remains unknown. We do know many species are near extinction. Let us do the science together in compliance with the moratorium—the slaughter of additional whales need not be part of the effort.

The United States is now confronted with how to convince Japan, Norway, and Iceland to comply with the moratorium. Unfortunately, the International Whaling Commission has no power to enforce its regulations and findings. We can hope that a conservation movement will grow in Japan. But we cannot wait.

The U.S. Government has invoked sanctions before. But our legal armory in this regard is weak. On April 6, 1988, in response to Secretary Verity's certification, the President directed Secretary of State Shultz to terminate all Japanese fishing privileges in the 200-mile exclusive economic zone. However, since Japan currently has no fishing quota allocations within the U.S. zone, the measure was purely symbolic and had no effect. The Japanese Ministry of Fisheries announced that Japan began the harvest an additional 300 minke whales from the Antarctic this January, and the slaughter of these whales may be occurring even as I offer this legislation today.

The only remaining action at the President's discretion is to embargo Japan's fishery imports pursuant to the Pelly amendment to the Fisherman's Protective Act of 1967. Since we have a significant fishery products trade surplus with Japan, many fear that sanctions imposed in this sector may leave our fishery exports open to counterretaliation. Similar arguments have been invoked on prior occasions to avoid using the Pelly sanction. Although the Endangered Species Act Amendments passed by the Congress in 1988 broadened the definition of fishery products subject to retaliation to include pearl and coral jewelry, the scope of the sanction is still very limited.

The whale is not unique as a victim of commercial exploitation. The South American caiman, a species of crocodile, is illegally killed and its skin traded from South America to Asia. Brazil, Paraguay, and Uruguay are the major sources of caiman skins, which are smuggled to Japan, South Korea, Taiwan, Singapore, and Thailand. Despite protection under CITES, trade in caiman skins increased dramatically. For example, Thailand exported over 120,000 skins to Japan in 1988, at a quantity greater than all the shipments from Thailand to Japan in the previous 25 years combined.

African elephants provide another example of a species protected under CITES which is threatened with extinction from illegal poaching operations. Elephant tusks provide raw ivory, which is carved in other countries. In the past few years, merchants exploited a loophole in Hong Kong's customs laws in order to import illegally obtained ivory from Burundi. In April 1988 the U.S. State Department informed Hong Kong that the United States would ban ivory products from Hong Kong unless action was taken to stop the illegal trade in Burundi ivory. By August 1988 Hong Kong had tightened its regulations restricting the trade in ivory and other endangered species protected by CITES. This shows that strong trade action can yield results. Since regulations in Hong Kong were tightened last summer, however, carving operations using illegally traded ivory have been relocated to at least four other countries, including South Korea, Taiwan, Singapore, and Thailand.

To capture the attention of the governments of countries where illegal trade in endangered species is known to occur, the United States should have the ability to selectively retaliate against all categories of imports. The governments involved would then be more likely to tighten restrictions on illegal trade in endangered species. If countries such as Japan and Hong Kong fail to comply with laws protecting endangered species such as the minke whale, the caiman or the African elephant, retaliatory action should, for example, could fall on sophisticated electronics or automotive producers imports from these nations.

Hence, my amendment. I would make foreign government practices that diminish the effectiveness of international agreements that protect endangered or threatened species actionable under section 301 of the Trade Act of 1974. Such a change would greatly broaden the armory of retaliatory options available to the President. And the President could craft the proper response. Our ability to enforce conservation agreements would be improved and the security of many species enhanced.

In addition, private parties would also have the right to petition the U.S. Trade Representative under section 301 for relief against any burden caused by the failure of foreign governments to enforce agreements.

I hope that the Congress can move expeditiously to enact this legislation. The survival of important species around the globe may depend upon it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (B) of section 301(d)(3) of the Trade Act of 1974 (19 U.S.C. 2411(d)(3)(B)) is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new clause:

"(iv) diminishes the effectiveness of any international agreement that protects endangered or threatened species.".

By Mr. MOYNIHAN (for himself, Mr. DANFORTH, Mr. BAUCUS, Mr. PELL, Mr. SYMMS, and Mr. KENNEDY):

S. 262. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

NATIONAL HERITAGE RESOURCE ACT

Mr. MOYNIHAN. Mr. President, I rise today to introduce S. 262, the National Heritage Resource Act of 1989, which will restore the ability of museums, public libraries, and research institutions in the United States to acquire collections of original works and papers of artists, writers, composers, and scientists.The National Heritage Resource Act of 1989 will ensure that America's cultural heritage will be preserved and made available in our institutions for public enjoyment and scholarly research. My distinguished colleagues, Senators DANFORTH, BAUCUS, PELL, and KENNEDY join me in introducing this legislation.

The National Heritage Resource Act of 1989 will repeal a change made to the Internal Revenue Code 20 years ago, which his adversely affected the efforts of public nonprofit and governmental institutions to preserve our cultural heritage. The 1969 change specifically denied to living painters, poets, scientists, composers, authors, and other creative artists a tax deduction for the fair market value of self-created works or papers that they personally donate to a charitable or educational institution. Individuals making such donations may deduct only the cost of materials used to produce the property—the paint and canvas, paper and ink, or the like. As a result, creators of artistic or literary property have a significant disincentive against donating their works to museums, libraries, or research institutions. By contrast, a purchaser of a painting or manuscript who subsequently donates the property receives a full fair market value deduction for the gift.

The impact of the 1969 change on the preservation of our cultural heritage for public enjoyment has been quite adverse. The tax bias against donations by original producers has meant that creative works and manuscripts now almost invariably go into the commercial market, either here or abroad. According to Dr. Daniel J. Boorstin, Librarian of Congress Emeritus, the Library of Congress was receiving manuscript collections totaling nearly 200,000 manuscripts each year prior to 1969. Since that time, the Library has received virtually no major gifts of self-created material from a living author. The Library of Congress' Music Division has been similarly affected: *It* received 1,200 manuscripts between 1963 and 1970, and only a relative handful of manuscripts in the decade after that.

The loss of the Igor Stravinsky manuscripts illustrates the problem in painful detail. In 1962, the great composer began to donate his manuscripts to the Library of Congress on a systematic basis. Two were given in that year, two in 1963, nine in 1964, four in 1965, and so on. By 1969, Dr. Boorstin has written, Stravinsky, then in his late eighties, initiated discussions with the chief of the Library's Music Division concerning the disposition of the entire body of his works. But the tax changes of that year brought the process to a halt, and the Stravinskly manuscript collection is now in the hands of a private foundation in Switzerland.

The experience of libraries and museums around the country has been similar. Hard hit by the change in the tax law have been institutions in California, Kansas, New Jersey, Iowa, Texas, Pennsylvania, and New York, to name just a few States. In New York State, New York University has reported a decline in donations by authors and artists of between 80 and 90 percent since 1969; the New York State Library has estimated a similar reduction in gifts of manuscripts. The Museum of Modern Art in New York City received donations of 52 works from creators in the 3 years before the provision went into effect, but less than a third of that in the last 16 years.

The long-term effects of the 1969 amendment have been a concern for some time. In 1981 a Presidential Task Force on the Arts and Humanities recommended repealing the 1969 provision, and the Senate Finance Committee approved a measure to do so in 1982, though the provision was not enacted into law. The decline in donations by the creators of cultural artifacts, and the toll on our cultural heritage, continues. The need for remedial action remains urgent.

The legislation I introduce today would restore the full fair market value deduction for creators of literary, musical, and artistic properties, giving them the same tax treatment as that given a purchaser or collector who donates such property. This will help to restore the past practice of direct donations to institutions by creators themselves, increasing the odds that their works and papers will be widely available for the enjoyment and edification of the many—not privately held for the more fortunate few. This change will also foster the ability of the individual artist, author, or composer to determine which institution would most benefit from receiving a work—an important factor in insuring the quality and integrity of collections, as noted by the Presidential Task Force on the Arts and Humanities.

The legislation I introduce today contains specific safeguards against abuse by donors. The bill requires that works for which a deduction are taken be in existence for at least 1 year before the work is donated to discourage tax-motivated transactions. Also, donors must obtain a written appraisal of the fair market value of the donated work, and file it with their return. The appraisal must include evidence of the extent to which the works of the donor are owned, maintained, or displayed by museums, libraries, research facilities, or similar institutions. Finally, the receiving institution must use the donated property in a manner related to its tax-exempt purpose.

The legislation also addresses a key concern that motivated the 1969 legislation: tax write-offs for the donation of papers by public officials. The bill flatly prohibits the use of the deduction for the donation of any letter, memorandum, or similar property written by or for an individual in furtherance of official duties while such individual was an officer or employee of the United States or any State or locality.

In this regard, it seems to me time that we be open about the origins of the 1969 legislation. You will imagine that it was not written into the Tax Code for the purpose of depriving the Library of Congress of the Stravinsky manuscripts. It was inserted in the Tax Reform Act of 1969 with the specific intent of denying a tax deduction to former President Lyndon B. Johnson and former Vice President Hubert H. Humphrey. Each was then retired—or so it was thought. Senator Humphrey of course gloriously returned to our ranks. One Senator sought to punish, in their political eclipse, two great public men who had been unassailable at the apogee of their influence and strength. But the legislation went far beyond its original narrow intent, catching in its net the entire creative community. A matter of indifference to its sponsor, perhaps, but hardly to us. A full political generation later, it is time for a remedy.

Mr. President, this legislation will provide that remedy. It will remove a tax disincentive presently discouraging

our Nation's artists, poets, authors, composers, and scientists from favoring public institutions over the commercial market when it comes to the disposition of their works and papers. The public good is the ultimate beneficiary. This legislation helps to preserve the record of American civilization—our national heritage—by encouraging its deposit in the institutions most competent to preserve it and insure access to all. The need is great, and I urge my colleagues to join me in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER.

Subsection (e) of section 170 of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN CONTRIBUTIONS OF LITERARY, MUSICAL, OR ARTISTIC COMPOSITIONS.—

"(A) IN GENERAL.—In the case of a qualified artistic charitable contribution—

"(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

"(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) QUALIFIED ARTISTIC CHARITABLE CONTRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, music, artistic or scholarly composition, any letter or memorandum, or similar property, but only if—

"(i) such property was created by the personal efforts of the taxpayer making such contribution no less than 1 year prior to such contribution,

"(ii) the taxpayer—

"(I) has received a written appraisal of the fair market value of such property by a person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)) which is made within 1 year of the date of such contribution,

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such appraisal, and

"(III) the appraisal takes into account but is not limited to the factors described in clause (vi),

"(iii) the donee is an organization described in subparagraph (A) of subsection (b)(1),

"(iv) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)),

"(v) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iv), and

"(vi) the written appraisal referred to in clause (ii) includes evidence of the extent to which property created by the personal efforts of the taxpayer is or has been—

"(I) owned, maintained, or displayed by organizations described in subparagraph (A) of subsection (b)(1), and

"(II) sold to or exchanged by persons other than the taxpayer, donee, or any related person (within the meaning of section 465(b)(3)(C)).

"(C) MAXIMUM DOLLAR LIMITATION.—The aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed the artistic adjusted gross income of the taxpayer for such taxable year.

"(D) ARTISTIC ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to—

"(i) income with respect to the type of property described in subparagraph (B) that is created by the taxpayer, and

"(ii) income from teaching, lecturing, performing, or similar activity with respect to such property or to similar property created by individuals other than the taxpayer.

"(E) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee."

SEC. 2. TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.

Paragraph (1) of section 56(b) of the Internal Revenue Code of 1986 (relating to adjustments applicable to individuals) is amended by adding at the end thereof the following new subparagraph:

"(F) DEDUCTION FOR CHARITABLE CONTRIBUTION OF ART, ETC. CREATED BY TAXPAYER NOT ALLOWED.—In determining the amount allowable as a deduction under section 170, subsection (e)(6) shall not apply."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to contributions made after December 31, 1988, in taxable years ending after such date.

By Mr. MOYNIHAN:

S. 263. A bill to exclude agent orange settlement payments from countable income and resources under Federal means-tested programs; to the Committee on Veterans Affairs.

PROTECT BENEFITS FOR AGENT ORANGE VICTIMS

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to prevent disabled veterans and their survivors from losing Federal public assistance benefits if they are recipients of settlement payments in the litigation against the manufacturers of agent orange.

As announced by a Federal district court in Brooklyn last July, totally disabled Vietnam veterans who were exposed to the highly toxic herbicide agent orange will begin receiving payments early this year from the settlement of a suit against the chemical's makers.

Under this agreement, the chemical companies agreed to pay $180 million to settle all claims while admitting no liability for any injuries or deaths caused by the use of agent orange. To receive payments, a veteran must be totally disabled, must show exposure to agent orange in Vietnam, and show that the disability was not caused by another injury. Payments will also be made to the families of veterans whose deaths are linked to agent Orange.

Mr. President, based on court estimates, an eligible veteran will receive an average disability settlement of about $5,700. An eligible survivor will receive an average death payment of about $1,800. Of the 250,000 veterans who have filed preliminary claims, about 40,000 to 60,000 may be eligible for payments.

Without a change in the law, these settlement payments will be counted as income for purposes of determining eligibility for and benefit amounts under Federal programs such as supplemental security income, AFDC, and food stamps. My bill would change the law so that disabled veterans and their family members who receive Federal assistance benefits would not lose their benefits or have them reduced by reason of receiving these very modest agent orange settlement payments.

Mr. President, it seems to me but a small gesture for the Nation to make on behalf of the most vulnerable among our honorable Vietnam veterans. The Senate agreed to this provision last year as part of S. 2011, but it did not ultimately become law. This year we must see that it does.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 263

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGENT ORANGE SETTLEMENT PAYMENTS EXCLUDED FROM COUNTABLE INCOME AND RESOURCES UNDER FEDERAL MEANS—TESTED PROGRAMS.

(a) IN GENERAL. —That none of the payments made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.), shall be considered income or resources in determining eligibility for or the amount of benefits under any Federal or Federally assisted program.

(b) EFFECTIVE DATE.—The provision in subsection (a) shall become effective upon the date of enactment of this Act.

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, Mr. CRANSTON, Mr. DIXON, Mr. RIEGLE, Mr. D'AMATO, Mr. LEVIN, Mr. BENTSEN, Mr. SARBANES, and Mr. SIMON):

S. 264. A bill to amend title 13, United States Code, to remedy the historic undercount on the poor and minorities in the decennial census of the population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes; to the Committee on Governmental Affairs.

DECENNIAL CENSUS IMPROVEMENT ACT OF 1989

Mr. MOYNIHAN. Mr. President, today I am introducing the Decennial Census Improvement Act of 1989. This legislation will ensure the "fair representation of the people," [1] Edmund Randolph's words, in the House of Representatives, and the equitable distribution of Federal funds based on population.

EQUAL REPRESENTATION AND THE CENSUS

Article I, section 2, clause 3 of the Constitution requires the Federal Government to conduct a decennial census. A national census was and is necessary to implement the terms of the Great Compromise, which, for all practical purposes, based the allocation of Congressmen in the House of Representatives solely on population. Indeed, only an accurate and honest census could accomplish this goal. As the Supreme Court stated in Wesberry versus Sanders (1964):

> While it may not be possible to draw congressional districts with mathematical precision, that is no excuse for ignoring our Constitution's plain objective of making equal representation for equal numbers of people the fundamental goal for the House of Representatives.[2]

Otherwise, the weight of each citizen's vote is diluted just as effectively as if one is prohibited from voting at all.

THE UNDERCOUNT

A census is never exact. Invariably, some persons are missed. An undercount is, to some degree or other, inevitable. Nonetheless, the Census Bureau has made considerable progress in reducing it over the years. In 1940, for example, the undercount for the population as a whole was 5.6 percent; by 1980, the total undercount had been reduced to between 1.4 and 1.6 percent. Despite this improvement, the Bureau of the Census continues to miss a significant portion of the population, particularly the nonwhite population, and those living in central cities across the country. The wide discrepancy that exists in the enumeration of whites versus nonwhites, as a proportion of the population, is referred to as the differential undercount.

In 1955 the demographer Ansley J. Coale established that the 1950 census missed a substantial proportion of the black population.[3] Subsequently, Jacob Siegel, senior demographic statistician at the Census Bureau, estimated the minority undercount for the 1950 census at 11.5 percent. Though the 1960 census did somewhat better, Siegel has concluded that 9.5 percent of blacks were missed and that the differential between whites and blacks remained pronounced.[4]

In 1966 when I became director of the Joint Center for Urban Studies at MIT and Harvard, I asked Prof. David Heer of the Harvard School of Public Health to work with me in planning a conference to publicize the nonwhite undercount in the 1960 census and to foster concern about the problem of obtaining a full enumeration, especially of the urban poor. It was our hope that the public airing of this issue would lead to greater public support for the Census Bureau to obtain the resources to deal with this problem in the 1970 census.

In his introduction to the published report of the conference, "Social Statistics and the City (1968)." Professor Heer described our planning:

> Daniel P. Moynihan, then Assistant Secretary of Labor, became aware of the findings concerning the underenumeration of nonwhites in the census while preparing his now famous report "The Negro Family: The Case for National Action," which was published in 1965.[5] In the fall of 1965 Moynihan became director of the Joint Center for Urban Studies of the Massachusetts Institute of Technology and Harvard University. In December of that year he asked me if I would plan a conference that would (1) publicize the fact that many Negroes had not been counted in the 1960 Census and (2) attempt to arouse national concern about the matter. In further discussion we decided that the proposed conference should be broadened to include not only census underenumeration of Negroes but the adequacy of all official social statistics for Negroes, Puerto Ricans and Mexicans in the United States. In January 1967 the Carnegie Corporation of New York informed us that it was willing to provide financial support for the conference.
>
> A prime aim of the conference was to stimulate public interest in the importance of social statistics for Negroes, Puerto Ricans and Mexicans so that the chief agencies concerned with gathering such statistics—the U.S. Bureau of the Census and the National Center for Health Statistics—might obtain a more adequate budget from Congress to improve the quality and quantity of data for these groups. With this goal in mind we decided that the conference would have to be held before the fall of 1967, since the Bureau of the Budget was to decide upon the recommended appropriations for the 1970 Decennial Census at that time. The final dates established were June 22 and 23, 1967, and the conference was to be held in Washington, D.C.
>
> Among those providing invaluable assistance in planning the conference were Dr. A. Ross Eckler, Director of the U.S. Bureau of the Census; Dr. Conrad Taeuber, Assistant Director for Demographic Fields, U.S. Bureau of the Census; and Dr. Anders Lunde, Assistant Director of the Division of Vital Statistics, National Center for Health Statistics, U.S. Public Health Service. It was decided that six papers should be presented on the first day of the conference. On the morning of the second day, the participants would divide into three workshops to discuss recommendations with respect to each of the following topics: (1) ways of improving coverage of Negroes, Puerto Ricans, and Mexicans in the census, (2) ways of improving vital statistics for these groups, and (3) needed additions in available social statistics for the three groups. On the afternoon of the second day, the rapporteurs from each of the morning sessions would report the recommendations of their respective panels, and the conference as a whole would then adopt a general series of recommendations.[6]

Since the report was published, the decline in the undercount of minorities has continued. Still, in 1980 it remained disproportionately high. While the undercount for whites and nonblacks in 1980 was an estimated 0.7 percent, a much higher 5.9 percent of all blacks were not counted. Other estimates of the black undercount are even higher. In the last census, the Bureau estimates it missed some 1.5 million whites, and 1.67 million blacks. Thus, in 1980, blacks constituted 53 percent of all people missed in the census, even though they made up less than 12 percent of the total population—the official population. Moreover, 1980 was the first time in the history of the census that more blacks than whites were missed.

Some estimates also indicate that perhaps 5.9 percent of all Hispanics are not being counted. And the undercount rates among our central city population are estimated to be the highest. Possibly 6 percent of all central city inhabitants were missed in the 1980 count; 11.3 percent of black central city residents, and 10.3 percent of such Hispanic residents.

Merely increasing the resources available to the Census Bureau is not likely to remedy this differential undercount. During the 1980 census, the Bureau hired almost 300,000 temporary employees, but as Prof. Eugene Ericksen, of Temple University, testified before the Senate Governmental Affairs Committee on September 4, 1986, finding people qualified to go into some urban areas remains a difficult problem. In addition, there is little time or money available to train this veritable army of enumerators.[7]

Indeed, the costs of doing so could be prohibitive. The 1980 census was the most expensive ever. According to the General Accounting Office, in constant dollars the cost of counting one person in 1980—$4.72—was more than double the 1960 cost—$2.30. And the National Academy of Sciences has de-

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Footnotes at end of article.

termined that further coverage improvement programs are likely to be extremely expensive, costing as much as $75 per capita.

Prof. Everett S. Lee of the University of Massachusetts forecast this situation when he wrote in our 1968 conference report, "Social Statistics and the City" that:

[M]ore money will not in itself greatly improve the situation. Traditional census procedures, while highly effective, cannot be expected to provide the additional or better data needed in our effort to deal with the numerous problems posed by the disadvantaged. The Census Bureau has gone about as far as it can go with traditional procedures.[8]

Some analysts even suggest that increasing resources can actually worsen the differential undercount. For example, in 1980, additional resources helped to increase the count of whites more than the count of minorities, thus exacerbating the differential. At a conference held on the 1980 census post enumeration program in October 1980, Bureau Director Vincent Barabba admitted "[Y]ou could reduce the 1970 undercoverage level [by augmenting resources], but perhaps increase the differential." [9] At the same conference, Professor Nathan Keyfitz of Harvard University also stated:

[A]s the census pushes harder and reduces the undercount it is almost certain to increase the differential of the undercount.[10]

Finally, Jacob Siegel, who also participated in our 1967 conference, remarked:

Don't be surprised if you get something like an overcount of Whites and an undercount of Blacks with therefore an impossible-to-compute differential except in absolute terms or something that might go far beyond the 4 to 1 of 1970.[11]

IMPACT OF THE UNDERCOUNT

Estimates vary as to the impact of past undercounts on various communities, and there are divergent views about how an adjustment of the undercount would benefit different areas. But scholars agree that those groups which tend to be undercounted; namely, minorities, the poor, and the homeless—generally reside in the largest cities, and in poor or remote rural areas.

New York State officials estimate that the 1980 census left between 500,000 and 860,000 New Yorkers uncounted; others estimate that a large undercount in New York City was mitigated by a substantial overcount in other parts of the State, leaving a net undercount of some 250,000 people. Double counting of students, individuals with two homes, residential mobility, et cetera, all contribute to the overcount, which is most likely to occur in rural and more affluent areas.

There is a general agreement, however, that New York City suffered a substantial undercount—of at least a half million people—and lost one congressional seat as a result.

City officials, extrapolating from 1980 Census Bureau data, estimate the total city undercount at 7.4 percent, with the worst discrepancies in the black and hispanic counts. 15.2 percent of black New Yorkers were missed, and 12.4 percent of hispanics in the city may have been missed.

After the 1980 census the city and State of New York obtained a court order requiring the Census Bureau to accept "Were you Counted?" forms, distributed by the Census Bureau but not received within the Bureau's deadline. City officials claim that as a result of this action somewhere between 12,000 and 20,000 additional individuals were included in the final count. This balance, said city officials, saved a congressional seat for New York. Correction of the undercount does matter.

In addition to almost losing a second seat in Congress, city officials believe New York loses annually between $26 and $52 million in Federal and State dollars distributed on the basis of population. Among other cities, Chicago, Detroit, Kansas City, and Los Angeles have each alleged substantial undercounts in the 1980 census, with resulting loss of Federal aid and representation in Congress.

FEASIBILITY OF ADJUSTMENT

Statistical adjustments to remedy this situation are quite feasible. For example, in 1970, the Bureau of the Census imputed almost 5 million additional people to the count. Yet, the Department of Commerce—with jurisdiction over the Census Bureau—has decided not to adjust the 1990 census for the undercount. Announcing the Department's decision, Dr. Robert Ortner, Under Secretary for Economic Affairs, stated on October 30, 1987:

Adjustment would be controversial, even among statisticians. Techniques are available to adjust, but there are questions about the validity of their results * * *. Different statisticians would employ different models and get different results.[12]

Notwithstanding the Department's official position, the Census Bureau's former Associate Director for Statistical Standards and Methodology, Barbara Bailar, in her capacity as president of the American Statistical Association, stated that:

[T]he consensus of the statisticians—statisticians from government, industries, and academia, statisticians who have carefully reviewed all the work in this area—is that an adjustment will provide more accurate data on the size, location, and demography of the minority population in this country. It's time to get on with the job.[13]

Since making that statement, Ms. Bailar resigned her post in protest over Mr. Ortner's decision. While she opposed adjusting the 1980 census because suitable methodology did not exist, she is now convinced that it does and that the adjustment should be made.

Moreover, a panel of five Census statisticians—Dan Childers, Gregg Diffendal, Howard Hogan, Nathanial Schenker and Kirk Wolter—recently published a monograph titled, "The Technical Feasibility of Correcting the 1990 Census," substantiating Bailar's view that adjustment is feasible. Expressing their collective views, and not those of the Census Bureau per se, they concluded:

[A coverage measurement program exists] in which some weaknesses remain and must be addressed * * *. However, none of the weaknesses or errors are so large as to invalidate the adjustment * * *. On this basis, we conclude that it is technically feasible to correct the 1990 census for differential coverage.[14]

A CONSTITUTIONAL OBLIGATION

Since the feasibility of adjustment is widely admitted, the Bureau really does not have a choice about whether to undertake it. In 1967, I wrote in the foreward to "Social Statistics and the City" that:

[T]he full enumeration of the American population is not simply an optional public service provided by the government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration.[15]

After the 1980 census some 50 lawsuits were filed challenging its validity, primarily on the basis of the undercount. The Bureau argued that the words "actual enumeration" restricted it to a literal headcount. Though the Supreme Court has not yet had the opportunity to address the issue, these lower court cases clearly establish, assuming technical feasibility, the constitutional permissibility, if not requirement, of utilizing statistical adjustments to improve the accuracy of census figures used for both apportionment and funding purposes. As the Federal district court in Michigan stated in Young versus Klutznick (1980):

With the modern knowledge and the scientific techniques available to adjust for the known undercount differentials, and to bring about official population counts that are closer to the truth than those derived from the raw, unadjusted headcount, surely the framers of the Constitution would have intended that such an adjustment be made.[16]

The district court in Young further noted that if an adjustment is necessary in order to obtain a figure that more accurately reflects the actual population, article I of the Constitution and the 14th amendment would mandate such an adjustment. Thus, in

response to the question of whether a headcount unadjusted for an acknowledged undercount could be used for apportionment and distribution of Federal funds, the district court stated, "The answer is clearly no" and ordered the 1990 census figures to be adjusted.

In 1981, the Sixth Circuit Court of Appeals reversed this decision for unrelated procedural reasons. However, as Judge Keith of the sixth circuit emphasized in his dissent, the district court's "formulation of the law governing this controversy is unassailable." He futher noted that:

Since the sole constitutional function of the decennial census is to provide a population base for reapportionment of congressional districts, the Census Bureau is bound by the Constitution to count people as accurately as possible.[17]

In Carey versus Klutznick (1980), the Federal District Court for the Southern District of New York held that statistical adjustments to improve the accuracy of the count were:

[R]equired to prevent an unwarranted dilution of the votes of New York City and New York State residents. *The Constitution requires no less.* (emphasis supplied).[18]

The second circuit reversed the district court on procedural grounds, but in so doing stated:

We also agree with the district court that the appellees [the City and State of New York] have demonstrated a likelihood of success on the merits." [19]

Specifically, the second circuit affirmed that the Constitution required the Bureau to determine the population as accurately as possible and that statistical adjustments were not prohibited. In so doing, the court restated a principle laid down in 1832 by Daniel Webster in discussing the subject of apportionment:

That which cannot be done perfectly, must be done in a manner as near perfection as can be. If exactness cannot, from the nature of things, be attained, then the greatest practicable approach to exactness ought to be made.[20]

The Constitution provides that the census shall be made "in such manner as [Congress] shall by law direct." If Congress does not exercise its constitutional responsibility, the courts will be forced to resolve the undercount problem. However, the prospect of another 50-plus lawsuits challenging the 1990 census is not likely to satisfy either the Bureau or its critics. As the Federal District Court in city of Philadelphia versus Klutznick (1980) observed, allowing the courts to address this issue on an ad hoc basis "sacrifice[s] the national [census] program to the exact dangers of local manipulation and bias, no matter how well intentioned, the framers sought to avoid."[21]

In December 1987 Judge John E. Sprizzo ruled against the city and State of New York in *Carey* v. *Klutznick,* sub. nom, *Cuomo* v. *Baldridge,* 80 Civ. 4550 (S.D.N.Y.), which the court of appeals had remanded to the district court for further factual inquiry regarding the technical feasibility of adjustment. Based on the facts as they existed at the time of the law suit in 1980, Judge Sprizzo agreed with the Bureau's contention that it could not be sure of making an accurate adjustment for the whole country. He ruled simply on the facts, not the law. And as the testimony of many statisticians and demographers, including the Census Bureau's former top statistician, Barbara Bailar, reveals, the facts have since changed.

THE NEED FOR LEGISLATION

We in Congress and city and State officials concerned about the national undercount were hoping this problem could be resolved without Federal legislation. Once the 1980 undercount levels were determined, the Census Bureau agreed to study the possibility of undertaking an automatic adjustment of the 1990 Census to correct for the inevitable undercount.

In congressional testimony, the Bureau has committed to undertake a post enumeration survey, used to estimate the size of the undercount. However, it would not agree to actually adjust the count, based on the survey findings. Finally, in his statement on October 31, 1987, Dr. Ortner announced officially that Census will not adjust the 1990 census for any undercount.

Thus, I see no alternative but to mandate a correction through statute. The purpose of the legislation I offer today is most straightforward: To improve the overall accuracy of the population data collected in the decennial census. It would require the Secretary of Commerce to adjust all subsequent decennial censuses to correct for any undercounts or overcounts, using "the most accurate methods available." This corrected data will be the only set of census data, and will be used for all purposes for which such data are needed. As such, this data will be the basis for apportionment of seats in Congress, as well as distribution of Federal aid based on population. The Secretary would be required to notify Congress of his or her plans to adjust at least 6 months prior to each decennial census.

It is up to Congress. A constitutional obligation exists, and the methodology is sufficiently understood. Will we meet this challenge and ensure that each and every citizen receives equal representation and a fair share of Federal funds, or will we allow the courts to do this for us?

I urge the support of my colleagues in this important matter of fairness and equity as provided by our Constitution.

FOOTNOTES

[1] Vol. I, *The Records of the Federal convention of 1787,* (Farrand, Ed. 1911 at p. 580. (Cited in *Wesberry* v. *Sanders,* 376 U.S. 1, 13 (1964).

[2] *Wesberry* v. *Sanders* 376 U.S. at 18.

[3] Ansley J. Coale, "The Population of the U.S. in 1950 Classified by Age, Sex, and Color—A Revision of Census Figures," *Journal of the American Statistical Association,* (March, 1955), pp. 16–54.

[4] Jacob S. Siegel, "Completeness of Coverage of the Nonwhite Population in the 1960 Census and Current Estimates," in David M. Heer, Ed., *Social Statistics and the City, (1968), p. 23.*

[5] Daniel Patrick Moynihan, Washington, D.C.: Government Printing Office, 1965.

[6] Heer, (Ed.), *Social Statistics and the City,* at 2–3.

[7] Eugene P. Ericksen, in testimony before the Senate Committee on Governmental Affairs, Subcommittee on Energy, Nuclear Proliferation and Government Processes, (September 4, 1986.)

[8] Everett S. Lee, "Needed Improvements in Census Data Collection Procedures with Special Reference to the Disadvantaged," in Heer (Ed.) at 99.

[9] See Ericksen testimony, p. 12.

[10] Id.

[11] Id.

[12] Statement by Dr. Robert Ortner, Under Secretary for Economic Affairs, on the 1990 Census, October 30, 1987.

[13] Dr. Barbara Bailar, President, American Statistical Association, in speech to the Association's 1987 Meeting: "Statistical Practice and Research: The Essential Interactions," August, 1987.

[14] D. Childers; G. Diffendal; H. Hogan; N. Schenker and K. Wolter, Bureau of the Census, *The Technical Feasibility of Correcting the 1990 Census,* (1987).

[15] *Heer,* (Ed.), *Social Statistics and the City, at v.*

[16] 497 F. Supp. 1318, 1334 (E.D. Mich. 1980).

[17] *Young* v. *Klutznick,* 652 F.2d 617, 636 (6th Cir. 1981).

[18] *Carey* v. *Klutznick, 508 F. Supp. 420, 432–433 (S.D. NY.* 1980).

[19] *Carey* v. *Klutznick,* 637 F.2d 834, 839 (2d Cir. 1980).

[20] Senate Report, 22nd Congress, 1st Session, Doc. No. 119, pp. 4,7 (1832).

[21] 503 F. Supp. 663, 674 (E.D. Pa. 1980).

Mr. President, I ask that the text of the bill, and a copy of my foreword to "Social Statistics and the City" be inserted in the RECORD following my remarks. I thank the chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 264

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Decennial Census Improvement Act of 1989".

SEC. 2. AMENDMENTS RELATING TO THE DECENNIAL CENSUS OF POPULATION.

(a) IN GENERAL.—Section 141(a) of title 13, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "1980" and inserting in lieu thereof "1990";

(3) by striking out "date'," and all that follows thereafter through "surveys." and inserting in lieu thereof "date'. Subject to paragraph (2) of this subsection, each such census shall be taken in such form and content as the Secretary may determine, including the use of sampling procedures and special surveys."; and

(4) by adding at the end the following:

"(2) In taking any census under this subsection, the Secretary shall adjust the population data to correct for any undercounts or overcounts, using the most accurate methods available. The adjusted population data shall constitute the official census data

for all purposes for which decennial census data are used, whether under this title or any other provision of law.".

(b) REPORTING REQUIREMENT.—Section 141(f) of title 13, United States Code, is amended—

(1) by inserting "(1)" after "(f)";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking out "paragraph (1) or (2) of this subsection" in subparagraph (C) (as so redesignated by paragraph (2) of this subsection) and inserting in lieu thereof "subparagraph (A) or (B) of this paragraph"; and

(4) by adding at the end the following:

"(2) With respect to each decennial census conducted under subsection (a) of this section, the Secretary shall submit to the committees of Congress having legislative jurisdiction over the census—

"(A) not later than June 30 of the year preceding the appropriate decennial census date, a report containing the Secretary's proposed plan for adjusting population data to correct for any undercounts or overcounts, as required by subsection (a)(2) of this section, including a description of any surveys, sampling, or other statistical procedures proposed to be used, as well as the projected timetable for carrying out any such procedures; and

"(B) after submission of a report under subparagraph (A) of this paragraph, if the Secretary finds new circumstances exist which necessitate that any matter contained in such report be modified, a report containing the proposed modifications, including a detailed statement of justification therefor.".

SEC. 3. CLARIFYING AMENDMENT RELATING TO THE USE OF SAMPLING.

Section 195 of title 13, United States Code, is amended to read as follows:

"§ 195. Use of sampling

"The Secretary shall, if he considers it feasible, authorize the use of the statistical method known as 'sampling' in carrying out this title. In taking a decennial census of population, the use of sampling shall be governed by applicable provisions of section 141 of this title.".

SOCIAL STATISTICS AND THE CITY

FOREWORD

At one point in the course of the 1950's John Kenneth Galbraith observed that it is the statisticians, as much as any single group, who shape public policy, for the simple reason that societies never really become effectively concerned with social problems until they learn to measure them. An unassuming truth, perhaps, but a mighty one, and one that did more than he may know to sustain morale in a number of Washington bureaucracies (hateful word!) during a period when the relevant cabinet officers had on their own reached very much the same conclusion—and distrusted their charges all the more in consequence. For it is one of the ironies of American government that individuals and groups that have been most resistant to liberal social change have quite accurately perceived that social statistics are all too readily transformed into political dynamite, whilst in a curious way the reform temperament has tended to view the whole statistical process as plodding, overcautious, and somehow a brake on progress. (Why must every statistic be accompanied by detailed notes about the size of the "standard error"?)

The answer, of course, is that this is what must be done if the fact is to be accurately stated, and ultimately accepted. But, given this atmosphere of suspicion on the one hand and impatience on the other, it is something of a wonder that the statistical officers of the federal government have with such fortitude and fairness remained faithful to a high intellectual calling, and an even more demanding public trust.

There is no agency of which this is more true than the Bureau of the Census, the first, and still the most important, information-gathering agency of the federal government. For getting on, now, for two centuries, the Census has collected and compiled the essential facts of the American experience. Of late the ten-year cycle has begun to modulate somewhat, and as more and more current reports have been forthcoming, the Census has been quietly transforming itself into a continuously flowing source of information about the American people. In turn, American society has become more and more dependent on it. It would be difficult to find an aspect of public or private life not touched and somehow shaped by Census information. And yet for all this, it is somehow ignored. To declare that the Census is without friends would be absurd. But partisans? When Census appropriations are cut, who bleeds on Capitol Hill or in the Executive Office of the President? The answer is almost everyone in general, and therefore no one in particular. But the result, too often, is the neglect, even the abuse, of an indispensable public institution, which often of late has served better than it has been served.

The papers in this collection, as Professor Heer's introduction explains, were presented at a conference held in June 1967 with the avowed purpose of arousing a measure of public concern about the difficulties encountered by the Census in obtaining a full count of the urban poor, especially perhaps the Negro poor. It became apparent, for example, that in 1960 one-fifth of nonwhite males aged 25–29 had in effect disappeared and had been left out of the Census count altogether. Invisible men. Altogether, one-tenth of the nonwhite population had been "missed." The ramifications of this fact were considerable, and its implications will suggest themselves immediately. It was hoped that a public airing of the issue might lead to greater public support to ensure that the Census would have the resources in 1970 to do what is, after all, its fundamental job, that of counting all the American people. As the reader will see, the scholarly case for providing this support was made with considerable energy and candor. But perhaps the most compelling argument arose from a chance remark by a conference participant to the effect that if the decennial census were not required by the Constitution, the Bureau would doubtless never have survived the economy drives of the nineteenth century. The thought flashed: The full enumeration of the American population is not simply an optional public service provided by government for the use of sales managers, sociologists, and regional planners. It is, rather, the constitutionally mandated process whereby political representation in the Congress is distributed as between different areas of the nation. It is a matter not of convenience but of the highest seriousness, affecting the very foundations of sovereignty. That being the case, there is no lawful course but to provide the Bureau with whatever resources are necessary to obtain a full enumeration. Inasmuch as Negroes and other "minorities" are concentrated in specific urban locations, to undercount significantly the population in those areas is to deny residents their rights under Article I, Section 3 of the Constitution, as well, no doubt, as under Section 1 of the Fourteenth Amendment. Given the further, more recent practice of distributing federal, state, and local categorical aid on the basis not only of the number but also social and economic characteristics of local populations, the constitutional case for full enumeration would seem to be further strengthened.

A sound legal case? Others will judge; and possibly one day the courts will decide. But of one thing the conference had no doubt: the common-sense case is irrefutable. America needs to count all its people. (And reciprocally, all its people need to make themselves available to be counted.) But if the legal case adds any strength to the commonsense argument, it remains only to add that should either of the arguments bring some improvement in the future, it will be but another instance of the generosity of the Carnegie Corporation, which provided funds for the conference and for this publication.

DANIEL P. MOYNIHAN,
Director, Joint Center for Urban Studies.
CAMBRIDGE, MA, *February 1968.*

Mr. D'AMATO. Mr. President, I rise today to join my colleague from New York, Senator MOYNIHAN, in introducing the Decennial Census Improvement Act of 1989.

This measure is substantially the same bill we offered during the 100th Congress. The general thrust of the bill is simply to assure that the decennial census is as accurate as is feasible. The bill requires the Census Bureau to employ the most accurate statistical methods available and to adjust that data based on count improvement program data.

Every census since 1950 has resulted in undercount to one degree or another. Undercount has been particularly acute in densely populated urban areas throughout the country.

Undercount results for several reasons. First, for a variety of reasons, many people simply don't return the questionnaire. Second, the questionnaires are not always answered accurately. It is believed that some households consisting of a large number of individuals, concerned that they may be in violation of the law; that is, housing codes, immigration laws, do not report the true size of the household. And finally, individuals who do not have a fixed residence often go uncounted.

The magnitude of past undercounts gives cause for concern. In 1980, for example, the undercount for the country as a whole was 1.4 percent. The national undercount for blacks was 5.9 percent and over 4 percent for Hispanics. What is truly alarming, however, is that undercount in central cities for blacks was 11.3 percent and 10.3 percent for Hispanics. Moreover, of all persons not counted in 1980, 53 percent were black.

These statistics point up the fact that undercount is a serious problem, especially as it relates to urban areas and minorities.

What does the Census Bureau presently plan to do about this problem? The short answer is, not much. The Bureau does plan to conduct numerous "coverage improvement programs" in order to evaluate the extent of overcount and undercount. Surprisingly, though, it was announced in October 1987 that the Bureau was no longer planning to adjust the 1990 census results to make up for the undercount.

This decision was a mistake. The measure we propose today will vitiate that decision and require the Census Bureau to use the most accurate statistical methods available to determine the extent of undercount, and then to adjust the original census numbers to correct for undercount.

An accurate census is vital to effectuate numerous public policies. Perhaps most importantly, it is used to carry out the constitutional mandate of equal representation through the proper distribution of congressional seats. In New York State, for example, experts estimate that one additional congressional seat was lost due directly to undercount.

Census data is used to assure compliance with the Voting Rights Act, as well as to allocate millions of Federal and State funds. On this point, experts estimate that New York City, as a result of undercount, loses annually $26 to $52 million in Federal and State moneys distributed on the basis of population count.

And finally, census figures serve as the basis for calculating Federal statistics throughout the subsequent decade. Thus, if the base is incorrect all statistics flowing therefrom will likewise be wrong.

The importance of this measure is crystal clear. With 1990 in sight, swift enactment of this bill is critical to assure ample time for Census Bureau planning. I urge my colleagues to join us in promptly moving this legislation.

Thank you, Mr. President.

By Mr. RIEGLE:

S. 265. A bill to provide Federal grants to States for programs to identify and aid individuals who have been exposed to the drug diethylstilbestrol [DES]; to the Committee on Labor and Human Resources.

EXPOSURE TO DES

Mr. RIEGLE. Mr. President, today I am introducing legislation, similar to legislation I introduced in the 99th Congress and the 100th Congress, that will hopefully bring to the forefront the plight of those women and their children who have been exposed to the hormone diethylstilbestrol [DES] in our recent past.

The hormone DES was first synthesized in 1938. During the time period from 1941 to 1971, this hormone to help reduce the risk of miscarriages. Despite studies in the early 1950's demonstrating that the drug was ineffective, the distribution and use continued for another 20 years. It was not until 1971, with the establishment of the definitive link between the development of a rare form of cancer of the cervix and vagina in young women and their exposure to DES of their mothers during pregnancy, that its use was finally discontinued. It is estimated that during this 30-year span of time 4 million sons and daughters were exposed in utero. Since 1971, a stream of reports related to the medical side effects of DES exposure have become known. For the record, I will briefly summarize these findings and will describe them as they relate to DES mothers, daughters, and sons, respectively.

Mr. President, with regard to DES mothers, a study by the Dartmouth Medical School has demonstrated an increased risk of breast cancer in women exposed during pregnancy. A significant aspect of this discovery was the finding that this increased risk did not become clinically evident until 20 years after the actual exposure. As these women age, this risk may become even more pronounced.

With regard to DES daughters, an association between DES exposure during pregnancy and the rare clear-cell adenocarcinoma of the cervix and vagina has been well documented and studied. Over 400 cases have been reported and approximately 1 out of every 1,000 DES daughters will develop this rare cancer before age 32. Twenty-five percent of these cancer victims may die as a result of their exposure. Because of their cancer risk, DES daughters must have special screening examinations by doctors trained in the techniques needed to detect this rare form of cancer. DES daughters also have twice the rate of dysplasia as nonexposed women: in some women, dysplasia is a precancerous condition. For this reason, DES daughters should be especially careful to have regular examinations.

Pregnancy problems are affecting the greatest number of DES daughters. Up to half of all DES daughters will have some kind of problem, including ectopic—tubal—pregnancy, miscarriage, and premature labor and delivery. Because of their pregnancy risks, DES daughters must be seen more frequently during pregnancy.

The health risks for DES sons have been less well studied. However, some studies have shown an increased risk of genital problems and infertility among DES sons. Current research is investigating risks associated with testicular cancer.

This legislation would provide support to States for efforts to identify individuals who were exposed to DES and to help these individuals lessen the serious health risks resulting from exposure to DES. Grants to States would be used to identify women who took DES during pregnancy and the children of these women and to educate the public about the importance of medical care to detect and treat conditions resulting from DES exposure. The establishment of a voluntary State registry would be used for the dissemination of information about DES. The bill also provides for the creation of State programs to help in the development of screening and diagnostic services and the dissemination of information to health care providers.

It is clear that individuals exposed to DES will require regular and periodic evaluation for the rest of their lives. This bill will greatly increase available support for educational activities and the delivery of adequate health services to those in need. With this increase in support we begin to reduce the serious health risks to DES mothers and their children.

DES Action is a national organization devoted to helping those exposed to DES. This volunteer group should be commended for their efforts as a national educational, advocacy, and referral center on behalf of individuals who have been exposed to DES. DES is currently authorized for use to treat certain types of cancer, and as "estrogen replacement therapy" for menopausal women. It is not authorized for use to suppress lactation in women who choose not to breast feed, as a postcoital contraceptive, or in animal feed. Nevertheless, these uses sometimes continue, without evidence of safety. It is only through a greater public awareness of the DES problem will we be able to ascertain the extent and scope of the problem and implement the appropriate care.

Mr. President, I ask unanimous consent that the bill be printed in full in the RECORD at this point.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter in this Act referred to as the "Secretary") shall establish a program of grants to States to assist States in establishing programs—

(1) to identify women who took diethylstilbestrol while pregnant;

(2) to identify the children of such women who were exposed to diethylstilbestrol in utero;

(3) to establish a voluntary registry of such individuals to facilitate informing them of new developments related to diethylstilbestrol;

(4) to provide public education regarding the health effects associated with diethyl-

stilbestrol and the importance of medical care to detect and treat such effects;

(5) to provide information to health professions personnel on the necessity of identifying exposed individuals, the health effects associated with diethylstilbestrol, and the provisions of medical care of the detection and treatment for such health effects; and

(6) to provide screening and diagnostic services for exposed individuals for the health effects associated with diethylstilbestrol.

(b) SUBSEQUENT GRANTS.—Any State receiving a grant to operate programs under subsection (a) may operate such programs directly or make grants to public or private organizations within such State to operate such programs.

SEC. 2. APPLICATION.

(a) IN GENERAL.—No grant may be made under section 1 unless an application therefor has been submitted to and approved by the Secretary. Such an application shall—

(1) contain such information and be submitted in such form and manner as the Secretary shall prescribe; and

(2) demonstrate to the satisfaction of the Secretary that in each year of participation in the grant program the applicant will obtain the following percentages of its projected budget from non-Federal sources of funding:

(A) At least 25 percent in the first and second years.

(B) At least 50 percent in the third year.

(C) At least 65 percent in the fourth and fifth years.

(b) ELIGIBILITY.—No State shall be eligible for more than 5 years of funding under this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

For each fiscal year there is authorized to be appropriated $6,000,000 to carry out this Act. Amounts appropriated under this Act shall remain available until expended.

SEC. 4. EFFECTIVE DATE.

This Act shall become effective on October 1, 1989.

By Mr. D'AMATO:

S. 266. A bill to promote international fairness on the underwriting and distribution of Government securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

GOVERNMENT SECURITIES FAIR COMPETITION ACT OF 1989

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation intended to further the clear purpose of an important provision of the 1988 Trade Act and to rectify a situation that is contrary to that congressional intent. As part of the Trade Act, we recognized that the opportunities for American securities dealers to underwrite and distribute the debt instruments of foreign governments are impaired by barriers imposed by foreign governments. On the other hand the U.S. subsidiaries of foreign securities firms have a full opportunity to compete with U.S. firms for the business of underwriting and distributing the debt instruments of the U.S. Government.

The Trade Act dealt with both existing primary dealers which are the subsidiaries of foreign firms and with applications of foreign affiliated firms to become primary dealers. In preserving the Federal Reserve Board's authority to designate primary dealers, the Trade Act allowed the Fed to continue current primary dealer designations and to grant new primary dealer designations without regard to the "National treatment" requirements of the trade bill for a period of 1 year after enactment of the legislation. The bill did this by an effective date which applied to the entire provision. A better approach would have been to delay effectiveness, if at all, only for application of "national treatment" requirements to existing primary dealers. I can only hope that such was the intent of those who crafted the legislation. In my view it clearly should have been their intent. I am most certain of the wisdom of this approach in light of recent events since it is apparent that the spirit of this Trade Act provisions has not been heeded by the Federal Reserve Board.

The New York Fed has granted primary dealer status to the subsidiary of Yamaichi Securities at a time when the Japanese are taking only minor steps toward opening their market for Government securities underwriting. Furthermore, the Fed has taken this action in light of the fact that there are already many Japanese-affiliated primary dealers. While the goal of the Trade Act—opening Japanese Government securities underwriting to United States firms—remains unaccomplished, it is highly counterproductive for the Fed to further broaden Japanese access to domestic business.

I have written to the Chairman of the Federal Reserve Board expressing my concern over this action and Chairman Greenspan has responded in his usual prompt and thorough manner. However, I still differ with the position that the Fed has taken and take issue with the Chairman's response to my letter. While he states that at the end of a year the Fed can withdraw the Yamaichi designation, I find this a small comfort. I differ particularly on the apparent judgment of the Fed that granting the Yamaichi designation will not send the wrong signal to officials in Japan and other countries. However, I do appreciate the Chairman's response; furthermore, I respect his opinion and his belief that the Fed action on Yamaichi was within the letter of the law. I continue to differ with his interpretation of the spirit of the law and whether granting additional primary dealer designations to Japanese dealers at this time promotes the purpose of the Trade Act.

I hasten to emphasize that I do not intend to express any protectionist sentiment. This bill is intended to promote fair and open competition for Government securities underwriting. Indeed I believe it is unfortunate that such retaliatory measures, however mild, are necessary to provide fair access for U.S. dealers. However, it is beyond dispute that fair access to the Japanese market did not exist at the time the trade bill was enacted and does not exist now. Furthermore, the Fed's recent action only prolongs the time before such fair and competitive access will be possible.

Therefore, I introduce this legislation for a simple purpose—to hasten fair and competitive access to Government securities dealerships. This is done in two ways. First, it takes the exact language of the Trade Act which expressed the will of Congress on this subject and amends the effective date to eliminate the 1-year delay in effectiveness. This would prevent any additional designations of Japanese-owned primary dealers until such time as the goal of national treatment has actually been realized. It would also prompt the Fed to withdraw current primary dealer designation from Japanese firms unless national treatment is obtained immediately. Of course, the same provision would apply to any other firm whose home country does not accord national treatment to U.S. dealers. As 1992 rapidly approaches, a bill such as this sends a message to the European Economic Community that "Fortress Europe," should it prove more than a fearful spectre, would run afoul of a strong United States policy.

Second, this bill includes an amendment to the securities law that passed the Senate in the 100th Congress as section 910 of S. 1886, the Proxmire Financial Modernization Act. This provision further promotes the goal of fair competition for U.S. securities dealers in foreign markets by prohibiting the acquisitions of a U.S. broker or dealer by a foreign firm of a country that does not provide national treatment to U.S. firms.

In conclusion, I introduce this legislation for the purpose of promoting the specific purpose embodied in the Trade Act and to the control the discretion of the Federal Reserve Board so that it will take no further actions in contradiction to this purpose.●

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 267. A bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID; to the Committee on Energy and Natural Resources.

CERTAIN IDAHO LANDS TO MR. AND MRS. KENNETH BLEVINS

● Mr. SYMMS. Mr. President, Mr. and Mrs. Kenneth D. Blevins presently occupy an 800-acre tract of land near Kuna, ID, described as the east half, southeast quarter, section 33, township 2 north, range 1 east, Boise Meridian, ID, they believed they own. This tract is the remaining part of a

160-acre Reclamation Homestead entry filed in 1904 in connection with the Boise Valley Reclamation Project. Eighty of the original 160 acres were patented in 1919; however, the 80-acre tract occupied currently by the Blevins was never patented and is still under Bureau of Reclamation withdrawal.

The Ada County Recorder shows this 80-acre tract was quitclaim deeded to W.D. Bales in November 1929, by the Ada County probate judge. This may have been the point at which the tract's status as a reclamation homestead entry was overlooked and the assumption made that it had been in private ownership. The land north of the High Lateral in the northern part of the tract was sold to Martin Blevins in August 1941, by the Boise-Kuna Irrigation District. The district had acquired that part of the 80-acre tract for delinquent taxes.

The larger portion of the tract was originally purchased by Martin and Mary Blevins, Kenneth's parents, in 1961 from a Mrs. Clark. Martin Blevins received a bargain and sale deed for the property at the time of conveyance. In 1973, he conveyed title to his son, Kenneth, and issued him a warranty deed. The Blevins family has occupied this property continuously since 1961 under the assumption that they own the land, and have been paying property taxes during this entire time.

The Bureau of Reclamation has examined the possibility of conveying the land to the Blevins under the Reclamation Homestead Act. To qualify, one-half of the land must have been irrigated prior to the act of October 21, 1976 [FLPMA], which repealed the laws relating to homesteading. Only a few acres of this tract appear to have been irrigated with project water. It is presently utilized for dry sagebrush-grass grazing and has a carrying capacity of about one animal unit per month per 10 acres. About 75 percent of the tract was above the project's old High Lateral and could not qualify for patent under the requirements for reclamation homestead entry. Part of the tract had been irrigated for a few years by natural flow from Indian Creek which flows through the northeastern part of the tract.

Homesteading under the Bureau of Land Management [BLM] authorities was also considered. The laws relating to homesteading were repealed by the act of October 21, 1976, [FLPMA] act. The BLM no longer has authority to issue patents for homestead land. At present BLM has no way of disposing of this tract due to the Bureau of Reclamation first form withdrawal.

It appears that the only means by which this parcel can be conveyed to the Blevins is through the legislation the senior Senator from Idaho and I are introducing today, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of the Interior shall convey to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as the East half, Southeast Quarter (E1/2SE¼) of Section 33, Township 2 North, Range 1 East, of the Boise Meridian in Ada County, Idaho.●

By Mr. RIEGLE:

S. 268. A bill to amend the State Dependent Care Development Grants Act to strengthen the program for grants to States for dependent care programs, and for other purposes; to the Committee on Labor and Human Resources.

STATE DEPENDENT CARE GRANTS AMENDMENTS ACT OF 1989

● Mr. RIEGLE. Mr. President, today I am introducing legislation to enhance the Dependent Care State Grant Program which I first proposed in the 97th Congress. The bill I am introducing today, similar to S. 222 which I introduced in the 100th Congress, would remove the prohibition, in certain circumstances, against using funds under this grant program for operating expenses. This will aid communities in their efforts to provide before and after school child care and assistance to parents and guardians who are searching for quality dependent care services. The first type of child care program that is funded by the Dependent Care State Grant Program is before the after school care for children in schools or community facilities for all children who are by State law provided free public education. A second type of program is a resource and referral service to assist parents and guardians in finding quality care for children and dependents of all ages, including elderly and disabled persons. This bill would permit States to use grant funds to cover the operating costs of both types of programs that were established or improved with dependent care State grants.

This legislation permits the use of funds for the operating costs of before and after school programs for the purpose of enabling children whose families are unable to meet the expense of program fees to participate in the program. A recent survey revealed that before or after school programs have not been established in many communities due to a concern that ongoing operating costs could not be covered by parents' payment of program fees. Both predominantly low-income communities and ones that have a mix of low and middle income families are likely to encounter difficulties in maintaining before and after school child care programs. In the absence of operating funds for programs in such communities, the provision of startup funds fails to meet the need for school age child care.

The availability of affordable, high quality school age child care is of vital importance to all children, and especially important to low-income children. Research suggests that low-income children are more likely to suffer negative effects of caring for themselves on a regular basis without adult supervision. These negative consequences include serious behavior and academic problems that can severely jeopardize a child's health development. For all children, even a relatively low risk of serious problems associated with self-care is unacceptable. It has been estimated that at least 5 million school age children are in self-care: If only 1 percent experience physical harm in fires, accidents, or assaults, the net effect would be at least 50,000 physical casualties. If only 10 percent of these children experience serious fear, that means potential psychological harm to 500,000 children.

Mr. President, this bill would help ensure that more children whose parents have limited resources for child care would be able to benefit from before and after school child care programs. This legislation would also permit the use of dependent care State grants to fund the operation of resource and referral systems. Like direct service child care programs, resource and referral systems require funds for ongoing operating expenses. The services these systems provide are extremely valuable to parents and guardians who are seeking high quality care for dependent persons. Resource and referral services educate consumers about the characteristics of quality care, increasing the likelihood that all forms of dependent care in a community will adhere to high standards in meeting the needs of different age groups and individuals with special needs. Resource and referral services may also provide technical assistance to providers of dependent care and offer other means of enhancing the quality of care. For most families in need of dependent care, a resource and referral service means the difference between guessing at what might be an adequate care arrangement and making an informed choice about a dependent care service that best meets the needs of the individual in care and the family.

The use of dependent care State grants to fund the operation of before and after school child care programs and resource and referral systems will

extend both the availability and quality of dependent care for children, elderly, and disabled persons. In order to carefully assess the use of dependent care State grants for future planning, this bill also specifies important information that States will provide to the Secretary of Health and Human Services about the children and other dependents that are served by the program. This legislation is an important step encouraging the planning of future efforts to ensure that excellent dependent care is available to families.

Mr. President, I ask unanimous consent that this bill be printed in full in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Dependent Care Grants Amendments Act of 1989".

SEC. 2. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a) USE OF ALLOTMENTS.—

(1) OPERATION.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) (hereafter in this Act referred to as the "Act") is amended by inserting after "establishment" a comma and the following: "operation".

(2) PARTICIPATION OF CERTAIN CHILDREN.—Section 670D(b)(1) of the Act is further amended by adding at the end thereof the following new sentence: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(3) RESOURCE AND REFERRAL SYSTEM.—Section 670D(f) of the Act is amended by inserting after "expand" a comma and the following: "operate".

(b) LIMITATIONS.—Section 670D(d) of the Act (42 U.S.C. 9874(d)) is amended—

(1) by striking out paragraph (1);

(2) redesignating paragraph (2) of such section as paragraph (1);

(3) striking out paragraph (3);

(4) redesignating paragraph (4) as paragraph (2); and

(5) redesignating paragraph (5) as paragraph (3).

SEC. 3. REPORT BY GRANT RECIPIENTS.

(a) IN GENERAL.—Section 670E(c) of the Act (42 U.S.C. 9875(c)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The chief executive officer of each State shall include in such report—

"(A) the number of children served in before and after school child care programs assisted under the subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs;

"(D) the number of clients served in resource and referral systems assisted under this subchapter;

"(E) the characteristics of clients served in resource and referral systems assisted under this subchapter, including age categories (including children and the elderly) and disability categories; and

"(F) the income level of families served by the resource and referral systems assisted under this subchapter.".

(b) DATE OF REVISION.—Section 670E(c)(1) of the Act (as redesignated by subsection (a) of this section) is amended by striking out "September 30, 1987" and inserting in lieu thereof "September 30, 1991".

By Mr. RIEGLE:

S. 269. A bill to prohibit the disposal of solid waste in any State other than the State in which the waste was generated; to the Committee on the Environment and Public Works.

PROHIBITION OF INTERSTATE DISPOSAL

Mr. RIEGLE. Mr. President, today I am reintroducing a bill to amend the Solid Waste Disposal Act to involving the issue of interstate transport of solid waste. This bill would prohibit the disposal of solid waste in any State other than the State in which the waste was generated without the consent of the recipient State.

As landfills fill up around the country and the cost of disposal increases, finding suitable disposal sites for solid waste has become more difficult. Some States have been sending their wastes across State lines for disposal. This may be fine when the receiving State is able to accommodate the waste, when concerns about the health and safety of local residents are addressed, and when a State feels that compensation is adequate. But there are times when a community is unwilling or unable to accept trash from another area. When this involves interstate movement of waste, concerned officials have little recourse to act in their community's interest.

This situation recently arose in Michigan. A Pennsylvania company purchased a landfill in Port Huron, MI, with the intention of bringing in a large volume of waste from another State which would have significantly increased the total volume of waste being disposed of in Michigan.

The huge volume of solid waste we produce every day has become a major environmental problem in this country. In 1988, communities in the United States generated some 160 million tons of solid waste. This amount is expected to grow over 190 million tons in the year 2000.

While the amount of solid waste we generate is increasing, the capacity for acceptable disposal is rapidly decreasing. The Environmental Protection Agency expects half of all existing landfills to close within 5 years. Additionally, the incease in disposal costs has resulted in communities transporting their wastes greater distances. For example, the cost of landfills in States such as New Jersey is $102 to $137 per ton of garbage, while landfills in Michigan charge on the average $20 per ton. This is why we are seeing more States look outside their own boundaries for disposal.

Although some States have their own solid waste management programs which prohibit interstate disposal, the constitutionality of these programs has been challenged. We must, therefore, address this issue at the national level.

Each State and its citizens should be responsible for the disposal of its own trash. Prohibiting States from shipping wastes across their borders will help stop the "out-of-sight, out-of-mind" syndrome and create incentives for increased recycling, reuse, and waste minimization.

This Congress will be looking into issues relating to solid waste disposal as it works to reauthorize the Resource Conservation and Recovery Act. I would like to alert my colleagues, especially those on the Senate Environment Committee, to this particular problem. I believe we need to take steps to address the solid waste problem at the national level, and take action to prevent States from dumping unwanted wastes in other States.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON INTERSTATE DISPOSAL.

(a) AMENDMENT OF SUBTITLE D.—Subtitle D of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"SEC. 4011. INTERSTATE DISPOSAL PROHIBITION.

"It shall be unlawful for any person to transport any quantity of solid waste in excess of 100 pounds from one State to another State, or political subdivision thereof, for disposal or to dispose of any quantity of solid waste in excess of 100 pounds in any State, or political subdivision thereof, other than the State in which the waste was generated, unless the State or political subdivision in which such waste is to be disposed of or deposited has given its consent thereto. Any person who knowingly violates the prohibition contained in this section shall, upon conviction, be subject to a fine or not more than $25,000 (or in the case of a second or subsequent conviction for the same offense, a fine of not more than $50,000 and imprisonment for not more than 5 years).".

(b) TABLE OF CONTENTS.—The table of contents for such Act is amended by inserting the following after the item relating to section 4010:

"Sec. 4011. Interstate disposal prohibition.".

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect on May 1, 1989.

By Mr. LEAHY (for himself, Mr. HATCH, Mr. BIDEN, Mr. THURMOND, Mr. DECONCINI, Mr. HUMPHREY, Mr. SIMON, Mr. KENNEDY, and Mr. KOHL):

S. 270. A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1989

● Mr. LEAHY. Mr. President, I am pleased to introduce the Intellectual Property Antitrust Protection Act of 1989. I have worked hard on this legislation with my colleagues on the Judiciary Committee for the past 2 years. This bill (title I of S. 438 from the 100th Congress) has been broadly supported by a bipartisan effort in the Senate and is widely endorsed by technology companies and experts in intellectual property and antitrust law. Senators HATCH, BIDEN, THURMOND, DECONCINI, HUMPHREY, SIMON, KENNEDY and KOHL, all cosponsor this bill. We will be working together on this legislation over the next few months, and we will work closely with Congressman FISH who sponsors the House legislation.

The purpose of the Intellectual Property Antitrust Protection Act is to promote competition in the international market of ideas—a market which becomes increasingly important as technology takes us into the 21st century. It does so by harmonizing our intellectual property and antitrust laws.

The Intellectual Property Antitrust Protection Act of 1989 is designed to strengthen the ability of U.S. companies to compete in international high technology markets by providing greater flexibility in the dissemination of intellectual property and innovative products. It does so by clarifying the treatment of intellectual property rights under the antitrust laws by prohibiting courts from presuming the market power necessary for antitrust liability from the existence of an intellectual property right. Importantly, it will allow small inventors and entrepreneurs who are vital to continued innovation in high technology to produce, distribute and market their ideas in a way which allows them to recover their tremendous investment in research and development. At the same time, it preserves antitrust remedies for those agreements which actually harm competition.

Mr. President, strong antitrust enforcement is necessary to promote competition. To maintain strong antitrust enforcement, we must recognize when our antitrust laws begin to operate against competition and modify them to produce good economic and social results.

Let me explain how basic intellectual property principles can get stymied in antitrust suits. Courts often presume the requisite market power for antitrust liability from the mere existence of a patent or copyright. See *Digidyne Corp. v. Data General Corp.*, 734 F. 2d 1336 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1985). This presumption evolved because courts mistakenly characterized intellectual property rights as economic monopolies and thus treated patents and copyrights unnecessarily harshly in antitrust cases.

As a result, American businesses may be forced to avoid agreements that would permit them, for example, to cut costs by developing efficient distribution schemes for functionally related products. In some cases, the threat of antitrust liability even deters American companies and particularly small businesses and individual inventors from developing new technology. For example, if an inventor's ability to license his product, or the intellectual property rights to that product, is seriously threatened by the fear of treble damages being imposed in an antitrust suit, he likely will decide at the outset not to invest the time and money to research and develop that idea. This is especially true in our high technology industries whose products have short shelf lives.

Commentators writing on the subject and witnesses before our joint hearing in the Antitrust and Technology and the Law Subcommittees denounced the market power presumption. They have demonstrated that the uniqueness of a product protected by an intellectual property right has no bearing on whether the product wields market power—it may face lively competition from equally unique products.

The elimination of the presumption of market power is intended to reduce the likelihood that antitrust claims will be brought against intellectual property owners who should not be subject to antitrust liability. This bill clarifies that although patents and copyrights constitute legally enforceable property rights, they do not necessarily constitute economic monopolies. Similarly, the bill clarifies that although the uniqueness or distinctiveness of a particular product may be essential to the award of a patent or copyright, the patent or copyright does not necessarily result in economic power when evaluated under standard antitrust principles.

As stated in the Judiciary Committee's report on this legislation, Report 100-492, the elimination of the presumption will simply require plaintiffs to assume their proper burden of proof in antitrust cases involving patents, copyrights, or semiconductor chip designs. It will require that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices involving other forms of property.

This legislation is also intended to preclude a plaintiff from establishing that a defendant has the requisite market share for antitrust liability by asserting that an intellectual property right constitutes its own market. Without proof of the absence of substitutes for the patented or copyrighted product, an intellectual property right does not itself constitute a market.

Mr. President, the Senate passed this legislation three times in the last Congress. See 134 CONGRESSIONAL RECORD S14438 (October 4, 1988), S15948 and S16321 (October 14, 1988). I look forward to getting this important piece of legislation to the House for consideration by our colleagues there, early in this session.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intellectual Property Antitrust Protection Act of 1989".

PROHIBITION OF MARKET POWER PRESUMPTION

SEC. 2. In any action in which the conduct of an owner, licensor, licensee, or other holder of an intellectual property right is alleged to be in violation of the antitrust laws in connection with the marketing or distribution of a product or service protected by such a right, such right shall not be presumed to define a market or to establish market power, including economic power and product uniqueness or distinctiveness, or monopoly power.

SEC. 3. For purposes of this Act—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)); and

(2) the term "intellectual property right" means a right, title, or interest—

(A) in subject matter patented under title 35 of the United States Code, or

(B) in a work, including a mask work, protected under title 17 of the United States Code.●

Mr. HATCH. Mr. President, I am pleased to once again join with Senator LEAHY in introducing legislation which will improve U.S. competitiveness and benefit U.S. consumers by promoting technological innovation. The Intellectual Property Antitrust Protection Act of 1989 is a necessary element of our efforts to provide U.S. companies the environment they need to stay competitive in world markets, an endeavor of increasing importance as we approach the 21st century. This act strengthens the ability of American companies to compete in the international high technology market. It will encourage innovation by permitting small inventors and entrepreneurs

to recover their tremendous investment in research and development.

This act was introduced in response to judicial decisions which created uncertainty in the high technology community by invalidating licensing practices which had no anticompetitive effects. These decisions failed to consider all competitive effects of agreements involving intellectual property rights. Such decisions subject American companies to possible treble damage liability for normal competitive practices which have not adverse effects upon the consumer. Needless to say, that discourages technological innovation at the very time we critically need to encourage it. This act will send a reliable signal to inventors and entrepreneurs that courts will no longer needlessly discourage technological innovation in this manner.

The judicial decisions to which I refer reflected a tension between the antitrust laws and the intellectual property laws. By recognizing intellectual innovations as property, the intellectual property laws provide inventors, authors, artists, and other creators, with exclusive rights to the use of their inventions and creations for a limited time. These rights enable innovators to capture some of the economic rewards of their efforts. The antitrust laws, on the other hand, protect consumers and businesses by ensuring open and competitive markets. They prevent combinations in restraint of trade and accumulation of monopoly power. Their goal is to preserve for the benefit of consumers a truly free market.

The intellectual property laws appropriately concentrate economic power, in very limited spheres, in the hands of one individual to reward him for his efforts. The antitrust laws are intended to keep economic power dispersed.

Many courts have presumed the requisite market power for antitrust liability from the mere existence of a patent or copyright. However, mere possession of a patent or copyright hardly constitutes an automatic grant of monopoly power. In fact, quite the opposite is often the case: The recipient of a new patent may be intending to challenge existing participants in an established market. The mistaken characterization of intellectual property rights as automatically granting power over a particular market has led to unnecessarily harsh treatment of patents and copyrights in some antitrust cases.

Mr. President, we must not let the antitrust laws and intellectual property laws work at cross purposes. This legislation would lessen the tension between them by continuing to ban practices shown to be anticompetitive under an analysis of all competitive conditions. But importantly, this legislation would prevent courts from invalidating practices which do not have anticompetitive consequences—and which, in fact, are procompetitive because they encourage the development of intellectual property. Specifically, this act provides that when the holder of an intellectual property right is alleged to violate antitrust laws, the intellectual property right itself shall not be presumed to define a market or establish market power.

This legislation requires that agreements to convey intellectual property rights be evaluated for antitrust purposes upon consideration of all relevant economic factors, including their procompetitive benefits, rather than upon unwarranted presumptions of market power. This is an eminently reasonable step. The threat of antitrust liability acts as a disincentive to the creation and distribution of new technology. Even after new technology has been created and distributed, the threat of antitrust liability diverts resources away from further innovation. The status quo is clearly harmful to innovation without being beneficial to consumers. The elimination of the presumption will require only that courts evaluate practices involving intellectual property rights under the same antitrust principles that are applied to practices involving other forms of property.

Mr. President, this clarification of our antitrust laws will help American high-technology companies to compete effectively in the highly competitive international marketplace. I am therefore pleased to be offering this important piece of legislation with Senator LEAHY today and hope that its introduction will lead to its early consideration in the 101st Congress.

Mr. BIDEN. Mr. President, I am pleased to join my colleagues today in introducing the Intellectual Property Antitrust Protection Act of 1989. This legislation, which passed the Senate last year, is an important step in clarifying the treatment of intellectual property rights under the antitrust laws. I commend Senator LEAHY, Senator HATCH, and my other colleagues on the Judiciary Committee for their hard work on this legislation.

Under current law, courts have presumed that holders of a patent, copyright, or semiconductor chip design have the market power necessary for antitrust liability. The decisions by these courts have, according to several witnesses who testified at the October 20, 1987, hearing, created uncertainty in the intellectual property community and have gone so far as to even deter American inventors—large and small, corporate and individual—from developing and marketing new technologies. I believe that by eliminating the market power presumption, the bill will serve to encourage this development and marketing, which is so important in our ever-expanding technological world.

It is important to emphasize that this bill does not create any kind of exemption from liability under the antitrust laws. Rather, it would simply require the courts to review intellectual property rights pursuant to the same antitrust principles that the courts apply to other kinds of property rights.

I urge my colleagues to support the bill.

Mr. THURMOND. Mr. President, I am pleased to cosponsor the Intellectual Property Antitrust Protection Act of 1989 with my distinguished colleague, Senator LEAHY. This important legislation was overwhelmingly supported by the Senate in the 100th Congress, and I hope will receive similar support in this Congress.

Very simply, this bill clarifies the treatment of intellectual property rights under the antitrust laws. It provides that an intellectual property right will not be presumed to define a market or to establish market power whenever the conduct of a owner, licensor, licensee, or other holder is alleged to have violated the antitrust laws in connection with the marketing or distribution of a product or service protected by such a right.

This clarification is long overdue. The denial of certiorari by the Supreme Court in *Digidyne Corp.* v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984), *cert. denied*, 473 U.S. 908 (1985), and the Court's earlier decision in *Jefferson Parish Hospital Dist. No. 2* v. *Hyde*, 466 U.S. 2 (1984), compel us to address the treatment of intellectual property rights under the antitrust laws. As was noted by Justice White in his dissent in Data General, by denying certiorari, the Court refused to address, and thus left unclear, what effect should be given to a copyright or other legal monopoly in determining market power. Justice White continued:

> At stake is more than the resolution of this single controversy or even the clarification of what may seem to be a collection of arcane legal distinctions. In the highly competitive, multibillion-dollar-a-year computer industry, bundling of software and hardware, or of operating systems and central processing units, is somewhat common, and any differentiated product is especially attractive to some buyers. The reach of the decision in this case is potentially enormous * * *.

Mr. President, many commentators have felt that it is inaccurate and unduly harsh to presume the holder of a patent or other intellectual property right automatically possesses market power. I agree. This bill, in clarifying the treatment of intellectual property in antitrust cases, strikes a healthy balance between the policies of antitrust enforcement and the policies underlying intellectual property rights.

It does not prevent a finding of market power where appropriate, but merely prohibits courts from presuming market power without proof that it exists.

In this time, Mr. President, when there is so much attention focused on the competitiveness of U.S. products, I believe that enactment of this legislation and removal of unwarranted antitrust concerns will also greatly encourage the marketing of new products, and will ultimately enhance our worldwide competitiveness. I would encourage all my colleagues to support this bill.

Mr. HUMPHREY. Mr. President, I am pleased to join Senator LEAHY and my other colleagues in cosponsoring the Intellectual Property Antitrust Protection Act.

This legislation can play an important role in our efforts to encourage innovation and competitiveness in critical areas of business dependent upon intellectual property rights. It will provide an important clarification to our antitrust laws which will allow the courts to respond to economic realities and genuine principles of competition in applying the antitrust laws. This bill is especially important to American businesses which make substantial investments in research and development to produce innovative applications in such fields as computer software technology.

Although the reforms incorporated in this bill are limited in scope, they are of significant importance. The bill eliminates the presumption of market power which has been applied in cases where an antitrust claim is alleged against the holder of an intellectual property right. This presumption of market power in cases involving patented or copyrighted products amounts to a judicial shortcut for imposing antitrust liability. It has resulted in unreasonably harsh treatment of companies exercising such intellectual property rights in connection with their marketing, distribution, and licensing of their products or services.

This erroneous presumption of market power derives from the confusion of the exclusive legal rights granted by law to copyright and patent owners with the economic monopolies addressed by the antitrust laws. But the simple fact is that mere ownership of a patent or copyright does not convey market power. The presumption wholly fails to account for such factors as the relative demand for the protected product or the substitutability of competing products.

This legislation will do much to encourage innovation in the critical "high tech" fields which are such a major part of our economy. It was the subject of thorough hearings during the 100th Congress and favorably reported out by the Senate Judiciary Committee. This bill has been carefully crafted and revised and represents a thoughtful legislative product. I am especially pleased to note that it enjoys broad bipartisan support from members of both parties on the Senate Judiciary Committee.

I look forward to prompt action on this bill by the Judiciary Committee, and I urge my colleagues to support this useful legislation.

By Mr. LEAHY:

S. 272. A bill to eliminate the exemption from Congress from the application of certain provisions of Federal law relating to employment, and for other purposes; to the Committee on Governmental Affairs.

EQUAL OPPORTUNITY IN CONGRESS

● Mr. LEAHY. Mr. President, last year we all heard the news stories about Dickensian working conditions suffered by some of our employees. We all heard, for example, that some House folding room workers were putting in 70-hour weeks without receiving overtime pay. The blame for this outrage lays right here with ourselves. By exempting itself from important civil rights and labor laws, Congress has denied to the men and women who serve us every day here on Capitol Hill the rights and protections of other American workers.

This embarrassing situation has to change. It is time for Congress to reform the double standard we have applied to our workers. It is to this end that I am today introducing for the sixth time the Fair Employment in Congress Act.

The bill's purpose is simple. It removes the congressional exemption from each of the following laws: the Civil Rights Act of 1964 and the Equal Employment Opportunity Act, the Civil Service Reform Act, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, and the Rehabilitation Act of 1973.

Removing congressional exemptions from these laws would make Congress subject to the same restrictions upon employment and discrimination which apply to the rest of the country.

While the House has already amended its rules to make accommodations on these points, and the Senate will probably consider a similar proposal this year, there would be no need for rule changes if we in Congress made this the year of real reform. I know that other Members of Congress have ideas and proposals for "cleaning house"—and I am open to suggestions on ways to improve my bill. I have instructed my staff to study the options available to us. They will work with other interested staff members to come up with alternative routes for action. But we must not allow the double standard to continue.

I realize that in previous years, Congress has not acted upon this legislation. While I would like to see adoption of the principles outlined in my bill, I am most concerned that this effort provides a constructive vehicle for debate and discussion. I am hopeful that we can hold hearings on my bill. I would like us to work together to end the disparity and to bring fairness and equity to the people who serve us faithfully every day.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill is ordered to be printed in the RECORD, as follows:

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the purpose of this Act to eliminate the exemption for the Congress or for the Federal Government, as the case may be, in the provisions of Federal law described in this Act.

EQUAL EMPLOYMENT OPPORTUNITY

SEC. 2. Section 717(a) of the Civil Rights Act of 1964 is amended by striking out "in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service" and inserting in lieu thereof "in all units of the legislative branch of the Federal Government, and in those units of the judicial branch of the Federal Government having positions in the competitive service".

LABOR-MANAGEMENT RELATIONS

SEC. 3. Paragraph (3) of section 7103(a) of title 5, United States Code, is amended by inserting ", any unit of the legislative branch" before ", the Library of Congress".

FAIR LABOR STANDARDS; EQUAL PAY

SEC. 4. Section 3(e)(2)(A)(iii) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(iii) in any unit of the legislative branch of the Government, or in any unit of the judicial branch of the Government which has positions in the competitive service,".

AGE DISCRIMINATION IN EMPLOYMENT

SEC. 5. The second sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 is amended by inserting before the period a comma and the following: "except the term 'employer' does include the United States for each unit of the legislative branch of the Federal Government".

QUALIFIED HANDICAPPED INDIVIDUALS

SEC. 6. The first sentence of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) is amended by inserting before the period the following ", or any program or activity conducted by any unit of the legislative branch of the Federal Government."

OCCUPATIONAL SAFETY AND HEALTH

SEC. 7. (a) Section 3(5) of the Occupational Safety and Health Act of 1970 is amended by inserting after "United States" the following: "(except the term 'employer' does include the United States for each unit of the legislative branch of the Federal Government)".

(b) Section 3(b) of such Act is amended by inserting before the period the following: ", and the employees of any unit of the legislative branch of the Federal Government

shall be deemed to be employed in the business affecting commerce for the purpose of this Act".

EFFECTIVE DATE

SEC. 8. The amendments made by this Act shall become effective thirty days after the date of enactment of this Act.

SHORT TITLE

SEC. 9. This Act may be cited as the "Fair Employment in Congress Act". ●

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. WILSON, Mr. MATSUNAGA, Mr. LEVIN, Mr. WALLOP, Mr. BOND, Mr. RIEGLE, Mr. COHEN, Mr. LUGAR, Mr. BURDICK, and Mrs. KASSEBAUM):

S. 273. A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which should reasonably be misconstrued as a bill, invoice, or statement of account due, solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes; to the Committee on Governmental Affairs.

DECEPTIVE MAILINGS PREVENTION ACT OF 1989

● Mr. HEINZ. Mr. President, I rise on behalf of myself, Senator PRYOR, and 10 other cosponsors to introduce a bill to end deceptive mailing practices that have confused and preyed upon millions of older Americans and others by posing as official Government mailings.

This bill is similar to legislation that passed the House last year, but fell victim to our crowded year-end calendar in the Senate. It is a draft that reflects months of negotiations and compromise that took place last year among the various congressional committees of jurisdiction and a number of other interested parties. It is not, however, the final version. There are a few provisions that were important to some of the participants in that negotiation that we have left out for purposes of introducing the bill. It is my hope that this legislation can be the subject of hearings in the Government Affairs Committee early in the year, and that in a committee markup soon thereafter we will be able to resolve the remaining concerns.

Mr. President, this legislation addresses concerns that have been growing in the Congress in recent years about a few unscrupulous mass mail operators who have targeted elderly Americans with solicitations carefully designed to make money by implying Federal Government involvement with their product or service. These deceptive mailings use a combination of official-sounding organization names, symbols such as American eagles, envelopes similar in size and color to official Government mailings, frightening language, and the lack of information that many Americans have about Federal programs in order to cheat the recipients out of money. Many sell a service that is already available free of charge from the Federal Government, such as providing the forms that allow beneficiaries to check that all earnings have been properly posted to their Social Security account.

Complaints about this type of mail have been coming in to the Postal Service—and to congressional offices—with growing frequency. A senior citizen from Arizona was confused by an offer she received to participate in a "Social Security sweepstakes." She asks, "Since when has Social Security been in the 'gambling business'?" A minister from Iowa writes of one elderly parishioner, living on $385 per month, who often sent money in response to what seemed to be bills from various Government agencies, "Because she has sent $5, $10, or $25 in response to some of these requests, she seems to be on a myriad of mailing lists. She is easily confused, and responds out of fear of losing what little she has. While she is less able to sort out the source and the necessity for responding than some, I believe there are thousands of older people like her who are being victimized." After being inundated with constant requests for money to save the Social Security system, one of my own constituents from Pennsylvania complained, "You might as well shoot old people as worry them to death."

The bill that I am introducing today will put an end to these deceptive practices by expanding the post office's authority to stop delivery of certain materials (39 U.S.C. 3001, et. al.). This statutory authority protects consumers by designating certain items—such as solicitations for the sale of goods or services which are designed to look like bills or invoices—as "nonmailable." When the post office discovers such nonmailable items, it is empowered to stop delivery of consumer replies to the advertising, cutting off profits from the venture immediately. Additionally, this law gives the post office the authority to forbid payment of any postal notes or money orders to the organization of the scheme, and require that the individual or organization cease and desist from engaging in such schemes in the future. Violations of cease-and-desist orders carry stiff monetary penalties. My amendment would add several catagories of "nonmailable" materials to those which the post office already has the authority to stop.

First, the amendment would prohibit look-alike Federal mailings which are actually solicitations for the sale of goods or services. Those organizations which try to make a sale by giving the false impression that they are somehow affiliated with the Federal Government—through contrivances such as official-sounding names, seals and insignias similar to those used by Federal agencies, or even the words "Buy and Hold U.S. Savings Bonds" on the back of tan envelopes that look very much like those containing U.S. Treasury checks—will now be required to place conspicuous disclaimers on their solicitations and envelopes. I note here that this provision covers solicitations for any products or services—not just those which may be available from the Government—which deceive consumers into believing that the offeror has some special relationship with the Federal Government. Our intent in drafting the measure in this manner is twofold: First, we intend to require disclaimers on deceptive mailings which sell products or services that may not be available from the Government, yet seem to have some connection; for example, Social Security "lotteries," Medicare supplemental insurance, and so forth, as well as those that are available from the Government; for example, the forms to file a name change with SSA. Second, we do not intend to restrict the sale of products or services which may be available from the Government, but which are being sold by a nongovernment entity without any deception as to the identity of the seller; for example, copies of Federal statutes or regulations, informational reports on the activities of Federal agencies, and so forth). Only those solicitations which use deceptive tactics and fail to display the proper disclaimers will be deemed "nonmailable" under this legislation.

Similarly, solicitations for contributions or membership fees which employ Federal Government look-alike deceptive practices will be deemed "nonmailable." Because deceptive solicitations for donations are often slick scams which use scare tactics targeted at vulnerable consumers who depend on programs such as Social Security and Medicare to meet their daily needs, this bill makes "nonmailable" those solicitations which mention specific programs or agencies in such a manner as to imply that the organization is somehow affiliated with the Federal Government where no such connection, approval or endorsement actually exists. Solicitations which request a monetary donation to ensure the solvency of the Social Security system would be covered by this provision, but it would not apply to those solicitations which mention Federal programs or agencies but do not do so in a way which improperly implies an affiliation with the Federal Government.

This legislation recognizes that there are independent publications such as magazines or newspapers which may contain advertisements by

third parties which are deceptive in nature. While Congress in no way wishes to discourage these publishers from checking into the legitimacy of advertisements which they accept, we recognize that publishers do not always have direct control over the content of independent advertisements. Consequently, this bill does not require discloses on publications such as magazines or newspapers which contain deceptive advertising. However, advertisments made by these publishers in their own publications do not fall under this exemption. I note that the publishers exception does not apply to publishers which have any commercial interest in a deceptive advertisement, including any commercial interest in the entity placing the ad.

In closing, I look forward to working with Senator PRYOR, who is joining with me in introducing this bill and is the chairman of the Subcommittee on Federal Services, Post Office and Civil Service where this bill will be considered. Mr. President, those organizations which use deceptive mailings to prey upon the elderly are slick operators, and we need to make sure that we use every avenue available to us to stop them. I hope we will be able to move quickly to wrap up our considerable work from last year and enact these important protections for older Americans.

I ask unanimous consent that the section-by-section analysis and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section 1: Short Title—Deceptive Mailings Prevention Act of 1989.

Section 2: Amendments to Title 39, United States Code.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—creates two new catagories of "nonmailable" matter:

SOLICITATIONS MISREPRESENTING A FEDERAL GOVERNMENT AFFILIATION

Funds for Products or Services: The first—new section "(f)"—Postal carriers have the authority to hold any piece of mail used to solicit funds for a product or service that uses seals, symbols or other means to imply some connection or endorsement of the Federal Government (where no such relationship exists). This type of solicitation is "nonmailable" unless it has a notice on its face which says "This product or service has not been approved or endorsed by the Federal Government, and this offer is not being made by an agency of the Federal Government." (or a similar disclaimer), and a notice on the envelope which says "This is not a Government document".

Contributions for Membership Fees: The second—new section "(g)"—requires similar disclaimers on solicitation of contributions or membership fees whose advertising uses seals symbols or other means or mention of a federal program or agency to imply some connection or endorsement of the Federal Government (where no such relationship exists). This type of mail is "nonmailable" unless it has a conspicuous notice on its face, as well.

Note: Under both the new sections "(f)" and "(g)", publishers of newspapers and magazines are not responsible for placing disclaimers on the front of their publications regarding the advertisements in their publication unless the solicitation is on the behalf of that publication.

(b) ENFORCEMENT PROVISION.—Amends Section 3005 of the code, the enforcement section, to include violations of these new "nonmailable" catagories. When it finds these violations, the Postal Service is authorized to stop delivery of any of the responses (including payments) from consumers to the fraudulent scheme and begin an investigation to determine if the misleading mail is illegal or fraudulent.

Section 3: Effective Date. This law will apply to all mail deposited 180 days after enactment.

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1989".

SEC. 2. AMENDMENTS TO TITLE 39.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code is amended by redesignating subsections (f) and (g) as subsections (i) and (j); respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term, symbol, design, or device which resembles a seal, insignia, trade or brand name, or any other term, symbol, design, or device that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement in such a manner that may cause confusion, mistake, or deception (unless such nongovernmental entity has such expressed connection, approval or endorsement) is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(2) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the contribution of funds or membership fees and;

"(1) contains a seal, insignia, trade or brand name, or any other term, symbol, design, or device which resembles a seal, insignia, trade or brand name, or any other term, symbol, design, or device that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement in such manner that may cause confusion, mistake, or deception (unless such nongovernmental entity has such expressed connection, approval or endorsement) or

"(2) mentions by name or implication any department, agency, bureau, board, office, administration, service, system, program or other division or subdivision of the Federal Government in such a manner which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement in such a manner that may cause confusion, mistake, or deception (unless such nongovernmental entity has such expressed connection, approval or endorsement);

is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(3)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: 'THIS IS NOT A GOVERNMENT DOCUMENT.', or a notice to the same effect in words which the Postal Service may prescribe; or

"(4) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended by striking out "section 3001(d)" each place that it appears and inserting in lieu thereof "section 3001 (d), (f), or (g)".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to matter deposited for mailing and delivery on or after the 180th day after the date of the enactment of this Act.●

By Mr. SASSER (for himself, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. KERRY, Mr. DECONCINI, Mr. KENNEDY, Mr. CHAFEE, Mr. SANFORD, Mr. DASCHLE, Mr. BURDICK, Mr. INOUYE, and Mr. PELL):

S. 274. A bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime; to the Committee on the Judiciary.

MILITARY MEDICAL MALPRACTICE

● Mr. SASSER. Mr. President, some time ago, I learned about several cases of medical malpractice involving active duty military personnel from my State. While investigating these cases, I discovered serious flaws in the military medical system.

I found that the Feres doctrine—a 1950 Supreme Court decision—bars active-duty personnel from filing medical malpractice suits against the Government. In other words, a person serving on active-duty in peacetime can be subject to grossly negligent medical malpractice by those hired by the Government to maintain his physical health and well-being—yet he cannot seek redress in the courts of this land or in the courts of the military. While the prohibition against active duty military personnel suing the Government has been upheld by the courts, they have permitted nonactive duty personnel, military retirees, and the dependents of military personnel to sue for damages incurred in medical malpractice cases. This struck me as singularly unfair. In effect, this doctrine relegates our active duty military personnel to the status of second class citizens.

In order to remedy this inequity, I introduced legislation in both the 99th Congress and the 100th Congress that gives active-duty personnel the right to file medical malpractice suits against the Government in peacetime.

For these reasons, I am again introducing this legislation. An identical bill has passed the House by overwhelming margins during the last two Congresses, and I expect it to do so again. I hope that the Senate will also act quickly on the bill. It is time we in Congress restored our military personnel to the status they properly deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 171 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2681. Certain claims by members of the Armed Forces of the United States

"(a) Claims may be brought under this chapter for damages against the United States for the personal injury or death of a member of the Armed Forces of the United States arising out of the noncombatant activities of the Armed Forces while such member is serving on active duty if the claim arises out of the negligence of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the Armed Forces acting within the scope of their office or employment in a hospital or other medical facility of the Armed Forces.

"(b) Actions brought pursuant to this section shall be brought in the appropriate court of the United States.

"(c) The remedy against the United States provided by this section shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or the estate of the employee whose act or omission gave rise to the claim.".

(b) The table of sections for chapter 171 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2681. Certain claims by members of the Armed Forces of the United States.".

SEC. 2. Section 2681 of title 28, United States Code, as added by the first section of this Act, shall apply only with respect to claims arising on or after the date of enactment of this Act.●

By Mr. SYMMS:

S. 275. A bill to provide that the only pay increase to Members of Congress shall be as pay bonuses if a budget surplus exists at the end of each fiscal year, and for other purposes; to the Committee on Governmental Affairs.

BALANCED BUDGET BONUS ACT FOR 1989

● Mr. SYMMS. Mr. President, today I am introducing a bill that I believe is an equitable resolution of the contentious issue of congressional pay. My bill, the Balanced Budget Bonus Act of 1989, would remove congressional pay from the purview of the National Commission on Salaries and provide an increase in Members' compensation only in a fiscal year when the Office of Management and Budget reports a budget surplus.

Under this bill, Members' base pay rate would remain at $89,500 unless an increase is approved by a majority vote of both Houses of Congress. However, if the Director of OMB determines that a budget surplus exists at the end of a fiscal year, Members would receive a bonus of 25 percent of their base pay. In any subsequent fiscal year that a budget surplus exists, Members would receive a 50-percent bonus. The bill limits the total compensation of annual pay plus bonuses to $135,000.

This issue arises, as all of us know, because of National Salary Commission's recent recommendation of substantial salary increases for Members of Congress, and top level executive and judicial branch officers. In late December, I wrote the President, urging him not to propose the Commission's recommended $45,000 pay raise for Members of Congress. A Congress that allows the national debt to grow from $914 billion in 1980 to almost $3 trillion in 1988 should not be rewarded with substantial pay increase that will only add to that burgeoning deficit.

Notwithstanding my advice, President Reagan adopted in full the recommendations of the Salary Commission, and if Congress fails to disapprove his proposal by February 8, the pay increase will take effect automatically. I believe that would be a public policy mistake and a political disaster for many Members of Congress. The Balanced Budget Bonus Act is an alternative approach that would allow Members to be rewarded for a job well done on the key issue of our time—eliminating the budget deficit.

The people of Idaho—and, I believe, the vast majority of Americans—are saying, "Read our lips: no pay raise." I hope my colleagues will read those lips and join me in supporting this bill.

I ask unanimous consent that a copy of the bill and my letter to the President be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Balanced Budget Bonus Act of 1989".

SEC. 2. REMOVING PAY INCREASE RECOMMENDATIONS FOR MEMBERS OF CONGRESS FROM THE JURISDICTION OF THE COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES.

(a) RENAMING THE COMMISSION.—Section 225(a) of the Federal Salary Act of 1967 (2 U.S.C. 351) is amended by striking out ", Legislative,".

(b) FUNCTIONS OF COMMISSION.—Section 225(f) of the Federal Salary Act of 1967 (2 U.S.C. 356) is amended to read as follows:

"(f) FUNCTIONS OF COMMISSION.—(1) The Commission shall conduct, in each of the respective fiscal years referred to in subsection (b)(3), a review of the rates of pay of—

"(A) justices, judges, and other personnel in the judicial branch referred to in section 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426) and magistrates and the judges of the United States Claims Court;

"(B) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code; and

"(C) the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of title 39, United States Code.

"(2) Such review by the Commission shall be made for the purpose of determining and providing—

"(A) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review; and

"(B) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter

53 of title 5, United States Code, relating to classification and General Schedule pay rates.

"(3) In reviewing the rates of pay of the offices or positions referred to in paragraph (1)(B) of this subsection, the Commission shall determine and consider the appropriateness of the executive levels of such offices and positions.".

(c) CONFORMING AMENDMENTS.—(1) Section 225(g) of the Federal Salary Act of 1967 (2 U.S.C. 357) is amended in the first sentence by striking out "subparagraphs (A), (B), (C), and (D)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(2) Section 225(h) of the Federal Salary Act of 1967 (2 U.S.C. 358) is amended by striking out "subparagraphs (A), (B), (C), and (D)" and inserting in lieu thereof subparagraphs (A) and (B)".

SEC. 3. REPEAL OF AUTOMATIC CONGRESSIONAL PAY INCREASE BASED ON INCREASE IN THE GENERAL SCHEDULE.

Section 601(a) of the Legislative Reorganization Act of 1946 is repealed.

SEC. 4. PAY RATES OF MEMBERS OF CONGRESS.

(a) PAY RATES.—Notwithstanding any other provision of law (except subsection (b) of this section) the rates of pay for all offices and positions described under section 225(f)(A) of the Federal Salary Act of 1967 (2 U.S.C. 356(a)), except the Vice President of the United States, shall be the rate of pay in effect for each such office and position on February 7, 1989.

(b) INCREASE OF PAY RATES BY MAJORITY VOTE.—Notwithstanding the provisions of subsection (a), any increase in the rate of pay for any office or position described under subsection (a) which is enacted by a majority vote of both Houses of the Congress shall be effective.

SEC. 5. PAY BONUSES.

(a) REPORT BY OFFICE OF MANAGEMENT AND BUDGET.—At the end of each fiscal year, the Director of the Office of Management and Budget shall—

(1) determine whether there is a Federal budget surplus for such fiscal year;

(2) determine the amount of such surplus; and

(3) submit a report to the Congress of such determinations.

(b) PAY BONUSES.—(1) Subject to the provisions of paragraph (2), each Member of Congress shall receive a pay bonus—

(A) in the first fiscal year, after the date of the enactment of this Act, in which a budget surplus is reported under subsection (a) equal to 25 percent of the annual pay of each Member of Congress;

(B) in each fiscal year following the fiscal year described in subparagraph (A), in which a budget surplus is reported under subsection (a) equal to 50 percent of the annual pay of each Member of Congress.

(2) No Member of Congress may receive any part of a pay bonus under the provisions of this Act which would make the total pay compensation of such Member's annual pay and pay bonuses in any fiscal year greater than $135,000.

U.S. SENATE,
Washington, DC, December 27, 1988.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I understand you are reviewing the Federal Salary Commission recommendation to increase the salaries of top federal officials and will send your pay proposal to the Hill in early January.

While the recommended $45,000 pay raise for Members of Congress sounds attractive to most on Capitol Hill, I have conducted an un-scientific, but quite reliable, poll of voters in Idaho and they are saying, "Read our lips: no pay raise!" I think it's a mandate, backed by some sound reasoning.

Three times in this decade, the American people have voted in Presidential elections for less government and a strong commitment to freedom at home and abroad, two powerful principles of the Reagan Revolution. How many taxpayers would say that Congress has demonstrated its commitment to those same principles and is, therefore, deserving of monetary reward?

We ended fiscal year 1980 with a national debt of $914.3 billion and eight years later, fiscal year 1988 came to a close with a national debt edging toward $3 trillion. How many financial managers in corporate America would be looking for a bonus in their Christmas stocking after showing results like that at the annual Board meeting? As President, you often get blamed for the high deficits, but we both know which end of Pennsylvania Avenue holds the purse strings.

What has Congress done to demonstrate its commitment to freedom? Thank God it didn't require a consensus in Congress to decide whether we ought to send troops to Grenada to protect the American students there. How much hope can we offer the people of Nicaragua that they will one day be freed from the yoke of Ortega's Marxist dictatorship? How many Nicaraguan freedom fighters would say this Congress deserves overtime pay for its resolute support of freedom in our own backyard?

Mr. President, if you propose merit pay increases, rather than cost-of-living adjustments, I believe you'll propose *no* pay raise for the liberal controlled Congress.

That's a message the American people would applaud and even the "gutless, no good" Congress would understand.

How about a fair compromise. Tell the Congress any pay raise will come only from a budget surplus.

Respectfully,

STEVE SYMMS,
U.S. Senator.●

By Mr. DURENBERGER (for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. BURDICK, Mr. HEINZ, Mr. MOYNIHAN, Mr. LUGAR, Mr. REID, Mr. BOSCHWITZ, Mr. JEFFORDS, Mr. DODD, Mr. PELL, Mr. KERRY, Mr. GORE, Mr. D'AMATO, Mr. KASTEN, Mr. WILSON, and Mr. GRASSLEY):

S. 276. A bill to establish a Department of Environmental Protection; to the Committee on Governmental Affairs.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

● Mr. DURENBERGER. Mr. President, today I am joining with several of our colleagues to introduce a bill to elevate the Environmental Protection Agency to the President's Cabinet.

This is a simple bill. It takes what is now an executive branch agency created by President Nixon in 1970 and makes it a cabinet department headed by a Secretary of Environmental Protection.

The central issue here is the relationship between the President of the United States and the head of our Federal agency for environmental protection. Under the existing structure that is not a close relationship. The President is not directly involved in making environmental policy. The Administrator of EPA does not have direct and frequent access to the President. And EPA is not involved in the Cabinet decisions which set the broad policies for our Nation. That needs to be changed.

A second concern is the relationship between the environmental agency and the other Cabinet departments. Some of our worst polluters—unfortunately—are agencies and departments of the U.S. Government. We have big problems with hazardous waste sites at Defense and Energy facilities. And we have just learned that it will cost the Department of Energy $5 to $9 billion and several years of effort to come into compliance with current environmental regulations. EPA needs to be on an equal footing with those departments as the cleanup efforts at Federal facilities are designed and carried out.

And a third issue is the growing environmental aspect of international relations. We will increasingly see agreements like that recently signed to protect the ozone layer which reflect an international commitment to solve global environmental problems. Many of our most difficult environmental problems—air pollution, global warming, and marine protection—can only be dealt with in the international context. We are encouraged by the strong role that the United States took in developing the ozone protocol and believe that American leadership can be enhanced, if our environmental agency has Cabinet rank.

The bill does not change the basic structure, policy, or duties of EPA. It just elevates the function to Cabinet rank. Each of the current officers would have a counterpart in the new Department. We are not proposing to transfer any functions from other agencies over to this new entity.

There is one modest departure from current arrangements suggested in this bill. There are now nine Assistant Administrators at EPA which have duties ranging from the regulation of air pollution to the administration of external affairs. There would be nine Assistant Secretaries, if this bill were adopted, with much the same distribution of assignments. But the bill does suggest that the international environmental affairs function be given more priority and assigned one of the Assistant Secretary slots—a status not available to that office currently. This is in keeping with the increasing role that international activities will play in the Department's agenda.

Mr. President, there is broad support for this legislation. I believe all of the former EPA Administrators, both Democrat and Republican, support

elevation to the Cabinet. This move was one of the principal recommendations in "Blueprint for the Environment" an agenda for the new Bush administration put forward by the Nation's major environmental groups. A companion bill has already been introduced on the House side by Congressman FLORIO. And the bill we introduce today has broad bipartisan support here in the Senate. The distinguished chairman and ranking member of the Environment and Public Works Committee, Mr. BURDICK and Mr. CHAFEE, are cosponsors. The distinguished ranking member of the Agriculture Committee, Mr. LUGAR, is a cosponsor. His committee has jurisdiction over the pesticide programs at EPA. The Senator from Pennsylvania [Mr. HEINZ] and the Senator from Tennessee [Mr. GORE], both of whom have been active on the global warming issue, are cosponsors. So there is broad, bipartisan support for this proposal.

Mr. President, I ask that the text of the bill be printed in the RECORD along with my comments today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "Department of Environmental Protection Act".

SEC. 2. ESTABLISHMENT OF THE ENVIRONMENTAL PROTECTION AGENCY AS AN EXECUTIVE DEPARTMENT.

(a) REDESIGNATION.—The Environmental Protection Agency is hereby redesignated as the Department of Environmental Protection and shall be an executive department in the executive branch of the Government.

(b) SECRETARY OF ENVIRONMENTAL PROTECTION.—(1) There shall be at the head of the Department a Secretary of Environmental Protection who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

(2) The Secretary may not assign duties for or delegate authority for the supervision of the Assistant Secretaries, the General Counsel, or the Inspector General of the Department of any officer of the Department other than the Deputy Secretary.

(c) DEPUTY SECRETARY.—There shall be in the Department of Environmental Protection a Deputy Secretary of Environmental Protection, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe and shall act as the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the Office of Secretary.

(d) OFFICE OF THE SECRETARY.—The Office of the Secretary shall consist of a Secretary and a Deputy Secretary and may include an Executive Secretary.

SEC. 3. ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Environmental Protection such number of Assistant Secretaries, not to exceed nine, as the Secretary shall determine, each of whom—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; and

(2) shall perform such functions as the Secretary shall prescribe.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such functions as the Secretary considers appropriate, including, but not limited to: administration and resources management; enforcement and compliance monitoring; research and development; regulation of air and water pollution; regulation of pesticides, toxic substances, radiation and solid wastes; international environmental affairs; and administration ot toxic chemical and other liability and emergency response programs.

(c) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(d) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed as an Assistant Secretary of the Department under this Act.

SEC. 4. DEPUTY ASSISTANT SECRETARIES.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Environmental Protection such number of Deputy Assistant Secretaries as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARY POSITIONS IN THE COMPETITIVE SERVICE.—At least one-half of the number of positions established under subsection (a) and filled under subsection (b) shall be in the competitive service.

(d) FUNCTIONS.—(1) Subject to paragraph (2), functions assigned to an Assistant Secretary under section 3(b) may be performed by one or more Deputy Assistant Secretaries appointed to assist such Assistant Secretary.

(2) The following functions may be performed by a Deputy Assistant Secretary only if such Deputy Assistant Secretary is in a competitive service position:

(A) Personnel management and labor relations functions.

(B) Equal opportunity functions.

SEC. 5. OFFICE OF THE GENERAL COUNSEL.

There shall be in the Department of Environmental Protection the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

SEC. 6. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Environmental Protection Agency, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Environmental Protection.

SEC. 7. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Environmental Protection which are filled by noncareer appointees in any fiscal year may not exceed 12 percent of the total number of senior executives employed in Senior Executive Service positions in the Department at the end of the preceding fiscal year.

(b) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—Except as otherwise provided in this Act, political affiliation or political qualification may not be taken into account in connection with the appointment of any person to any position in or to perform any services for the Department of Environmental Protection or in the assignment or advancement of any employee in the Department.

SEC. 8. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining—

(1) to the Administrator of the Environmental Protection Agency shall be deemed to refer to the Secretary of Environmental Protection;

(2) to the Environmental Protection Agency shall be deemed to refer to the Department of Environmental Protection;

(3) to the Deputy Administrator of the Environmental Protection Agency shall be deemed to refer to the Deputy Secretary of Environmental Protection; or

(4) to any Assistant Administrator of the Environmental Protection Agency shall be deemed to refer to an Assistant Secretary of the Department of Environmental Protection.

SEC. 9. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) Which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Environmental Protection Agency, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Environmental Protection Agency, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending before the Environmental Protection Agency at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded-

ed, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the date this Act takes effect, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Environmental Protection Agency, or by or against any individual in the official capacity of such individual as an officer of the Environmental Protection Agency, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Environmental Protection Agency shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Environmental Protection.

SEC. 10. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Environmental Protection".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Environmental Protection".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Environmental Protection.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Environmental Protection Agency" and inserting in lieu thereof "Deputy Secretary of Environmental Protection".

(e) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Environmental Protection Agency" and inserting in lieu thereof "Inspector General, Department of Environmental Protection"; and

(2) by striking each reference to an Assistant Administrator of the Environmental Protection Agency and by adding at the end thereof the following:

"Assistant Secretaries, Department of Environmental Protection (9).

"General Counsel, Department of Environmental Protection.".

(g) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)—

(A) by inserting "the Department of Environmental Protection,": after "Veterans Affairs,";

(B) by striking out "The Environmental Protection Agency,";

(2) in section 11(1)—

(A) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or Environmental Protection,"; and

(3) in section 11(2)—

(A) by striking out "or Veterans Affairs" and inserting "Veterans Affairs, or Environmental Protection,"; and

SEC. 11. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the Committee on Environment and Public Works of the United States Senate and the appropriate committees of the House of Representatives, the Secretary of Environmental Protection shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to the United States Code, and to other provisions of law, to reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the effective date of this Act.

SEC. 12. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on such date during the 6-month period beginning on the date of enactment, as the President may direct in an Executive order. If the President fails to issue an Executive order for the purpose of this section, this Act and such amendments shall take effect on July 1, 1989.●

Mr. BURDICK. Mr. President, I am happy to join my colleagues as an original cosponsor of legislation which will add the Environmental Protection Agency to the President's Cabinet. Cabinet level status for EPA is long overdue and it is imperative if this country is to meet a growing list of environmental challenges in the 1990's and beyond.

In the two decades since the creation of the Environmental Protection Agency there has been bipartisan and consistent public support for a broad array of programs designed to protect our environment and public health. We have made great strides in improving the quality of our environment since EPA was created under an executive branch reorganization in 1970. In many respects, we have completed the easy initial tasks concerning environmental protection. However, our emerging environmental concerns are more complex, interrelated and increasingly, global in nature. The greenhouse effect, toxic contamination of our water, air and ground water, stratospheric ozone depletion, and disposal of our solid and hazardous waste are all major issues looming on the horizon.

Paradoxically, the eventual solutions to these problems are vastly more dependent upon decisions made by each of us individually. Unlike simpler times, we now know that the collective actions of individuals have a direct and significant bearing on our global environment. Over the past two decades we have learned that our environmental problems will not be solved simply by enacting legislation. The environmental problems confronting us today are much more pervasive, insidious and less conducive to unilateral action.

The President has observed on more than one occasion that the Cabinet room in the White House is getting full. I tend to agree with that assessment but there is ample room at the table to permit a full discussion of domestic and international environmental issues and the environmental consequences of executive branch decisions. As the need for greater international cooperation on environmental issues becomes more urgent, Cabinet status should be accorded the agency. It simply makes good sense to have this Nation's chief environmental officer sit at the table, on an equal footing, with other Cabinet members as national and international policies and strategies are developed. Certainly concern for the global environment will enable us to project a kinder and gentler image to a world increasingly concerned about these vital issues. Other countries have for years given their environmental executive ministerial status. We should do no less.

Under this bill the new Department of Environmental Protection would have the same structure of the existing agency. Nothing in the bill would change the vital mission or significant work of the Council on Environmental Quality.

Departmental status for EPA is worthy of Senate action. I am pleased to lend my support to this legislation. I hope that it will become law during the 101st Congress.

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation which will elevate the Environmental Protection Agency to a Cabinet-level position and create a new Department of the Environment.

The year 1988 will be remembered as a year that the public expressed a renewed interest in the environment. Major magazines such as Time and Newsweek carried cover stories on the state of planet Earth and the environmental problems that plague us. News reports were filled with stories of medical waste washing ashore on our beaches, sludge being dumped in our oceans, landfills filling to capacity, smog polluting our cities and acid rain destroying our lakes and forests. Protecting the environment must become a top priority in the new administration of George Bush. Giving the EPA equal clout with other Cabinet-level posts will demonstrate this Nation's commitment to cleaning up our environment.

The EPA is currently responsible for administrating some of this Nation's most comprehensive and costly laws and programs—Superfund, Clean Air Act, Clean Water Act, and the Resource Conservation and Recovery Act.

The drought of this past summer turned this Nation's attention to the phenomenon of the greenhouse effect and global warming. The degradation of the Earth's ozone layer also received a great deal of attention last

year. Problems such as these do not only affect us here in the United States—they are global in scope. A Cabinet-level environmental official will have better standing among his colleagues from other nations when negotiating various environmental treaties.

It is imperative that the environment be on the national agenda. We have made great strides since 1970 when the EPA was first created by President Nixon. Creation of a Department of the Environment will give the environment the attention it deserves. I urge my colleagues to act on this legislation.

Thank you, Mr. President.●

● Mr. MOYNIHAN. Mr. President, I rise today as an original cosponsor of the Department of Environmental Protection Act of 1989. This bill redesignates the Environment Protection Agency as an executive department in the executive branch of the U.S. Government. The present Administrator-designate, William Reilly, may well have the distinction of being the first Cabinet level Secretary of Environmental Protection.

Mr. President, my distinguished colleagues and I can be persuasive concerning issues held close to our hearts. I suppose the argument could be made that the only factor limiting the size of the Cabinet is the size of the Cabinet table. At present there are 14 executive departments with Cabinet status and EPA is one of more than 20 independent agencies, albeit the largest, that conceivably could be considered for the Cabinet.

Mr. President, the Cabinet, its function and history are unique. The question of whether a President should have a Cabinet was a leading issue at the Constitutional Convention. After great deliberation, Congress, under the Articles of Confederation, established four executive offices: a Department of War, a Department of Foreign Affairs, a Department of Finance, and a Department of Marine. Later, during the drafting of the Constitution, George Mason, Benjamin Franklin, and others attempted to establish provisions within the Constitution for advisers to the President. In the end, the Constitution was signed with sparse prescriptions pertinent to the question.

How fitting that 200 years ago, in 1789, Congress created the first three executive departments under our present Constitution: the Departments of State, War, and Treasury. It was President George Washington who gave credence to the parameters of a Cabinet. The Constitution was meager in its direction on the matter of a Cabinet, and allowed Washington to do as he saw fit. In doing so, President Washington chose his Cabinet members on the basis of talent, without regard to political predisposition. Disastrous. And I may add, not attempted again. And so, every President on down has placed in his Cabinet individuals whose counsel is in line with his own general thinking. If a counter position is needed, why, of course, the President can always turn to Congress where such opinions abound.

Little surprise that the Cabinet, whose very existence is largely based on custom, has assumed many distinct roles under different Presidents. And so, the question as to why we are attempting to elevate the Environmental Protection Agency to one of Cabinet status must be based on the notion that Government's commitment to an issue is in certain part reflected in the status given to the institution responsible for that issue. Mr. President, clearly this bill does not attempt any major reorganization, nor does it widen the scope of activity allotted to protection of our environment.

What it will do is place the protection of our environment on the same footing as matters under the jurisdiction of the Secretaries of State, Treasury, Interior, Agriculture, Justice, Commerce, Labor, Defense, Housing and Urban Development, Transportation, Energy, Education, Health and Human Services, and Veterans Affairs. And why not? Hopefully, this measure will give our new Secretary the influence needed to obtain an adequate budget for the quiet but constant battle he faces. Yes, Mr. President, to a certain extent I believe it is a battle, or perhaps a war of attrition, and one I fear we may be losing. In 1988 EPA's workload was twice that of 1981, yet its purchasing power was the same as in 1975. Inadequate, to say the least. A record we can improve on.

And so, Mr. President, I hope this can be a signal of our priorities. This should help to make it clear that protection of the environment is not a minor matter. The Cabinet periodically has been altered as events have warranted. The situation we face concerning the environment is one such event.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join Senator DURENBERGER in introducing legislation to make the Environmental Protection Agency a Cabinent-level department. The Department of Environmental Protection is an idea whose time has come. It will help us to address the critical environmental problems we face.

Mr. President, the start of a new administration is a time of hope, enthusiasm, optimism, and renewal of commitment. And a time to meet the challenges of the future. We face no greater challenge over the next few years than in restoring the integrity of our environment.

We have seen the results of 8 years of neglect: oceans too dirty to swim in and too polluted for fish to live in; water too toxic to drink; air too dirty to breath; rain too acidic for trees to grow, and land too contaminated to ensure the health of our citizens.

And these problems are becoming global in nature. Destruction of rain forests in South America, air pollution in Europe, use of CFC's in Japan, extinction of species in Africa, and wasteful energy practices in the United States affect citizens in other parts of the globe.

Elevation of EPA to Cabinet-level status would serve two important functions.

First, it would be symbolic of a new commitment to protect the environment. It would demonstrate to the people in the United States and to other nations that the United States puts a high priority on preserving the environment and enhancing the public health and welfare.

After all, as Jay Hair of the National Wildlife Federation recently wrote, "The Nation's quality of life is determined more directly by EPA than by any other Cabinet-level Department."

Second, and more importantly, it will enhance the ability of EPA to do its job.

It will give EPA increased clout in: obtaining necessary funding; working with other Departments whose actions affect the environment; making national policy decisions, and dealing with other nations who send Cabinet-level ministers to meetings to discuss environmental issues.

I believe that we can meet the environmental challenges we face. Making EPA a Cabinet-level department in and of itself is not enough. We need more funding, tougher enforcement, and stronger leadership. Over the last 8 years, we've had a kinder and gentler EPA. Now we need a tougher, tenacious EPA.

But as we begin the new administration and renew our efforts to meet the environmental challenges of the future, I believe that creation of a Department of Environmental Protection is one action we must take.

I urge my colleagues to join Senator DURENBERGER and me in supporting this legislation.●

● Mr. CHAFEE. Mr. President, I am pleased to join with my colleagues today to introduce this bill to elevate EPA to the President's Cabinet. We have a bipartisan group from both Houses introducing this legislation at the start of a new Congress and a new administration. It leads me to think that the prospects for this bill are good.

It is a time for reconsidering priorities. We can no longer afford to treat environmental protection as a second-class issue. It deserves the President's direct attention and will benefit greatly from his involvement through the Cabinet function.

I think President Bush has good instincts on the environment. It would be good for him to set an environmental agenda and play a bigger role than past Presidents.

All too often we have suffered long delays in responding to pressing environmental questions—in part because of political deadlock here in the Congress. Implementation of our environmental programs have sometimes been handicapped by inadequate funding, even after the Congress has enacted them. The President can make a difference in these areas. Putting EPA at the Cabinet table is one way to make sure that the President is fully informed on the problems and the opportunities.

EPA is already expected to deal with other Cabinet departments on an equal footing. For example, in the area of hazardous waste, Congress has charged EPA with the responsibility for ultimate oversight on the cleanup effort at Federal facilities. There are literally hundreds of these sites. It may cost billions over a long period to correct problems that the Federal Government has created. Assuring that EPA is an equal partner in fact, as well as in expectation, will assure that the cleanup job is thorough and timely.

The other reason I am committed to this bill is the growing role of environmental issues on the international agenda. Lee Thomas has done an excellent job leading the executive branch and the international community to agreements that will protect the ozone layer. But that job isn't completed altogether, and there are a host of other problems equally pressing that only the world community can effectively address.

The Administrator of EPA could be even more effective on these questions as the Secretary of the Environment. This function has ministerial rank in most of the rest of the developed world—and in most American States, for that matter—and it's time to take that step in our Federal Establishment, too.

Mr. President, I have every expectation that this legislation will be enacted in this Congress. It is a step that we can take quickly to signal a new priority for the environment. I am pleased with the bipartisan start that we are making and look forward to working with our colleagues on this and other environmental legislation in the new Congress.

Thank you, Mr. President.●

By Mr. HUMPHREY:

S. 277. A bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government Employees; to the Committee on Governmental Affairs.

S. 278. A bill to make permanent the authority of the Secretary of Defense to reimburse members of the Armed Forces for certain expenses incurred in the adoption of children; to the Committee on Armed Services.

S. 279. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee adoption assistance provided by the employer; to the Committee on Finance.

PROMOTION OF ADOPTION

● Mr. HUMPHREY. Mr. President, I am introducing a package of three bills which seek to advance the leadership of the Federal Government in the promotion of adoption. One bill in this package will make permanent a highly successful adoption benefits program for members of the armed services. The second will extend similar benefits to Federal civilian employees. The third bill seeks to increase incentives for the private sector to offer adoption benefits.

Since 1985, I have been working through the congressional coalition on adoption to remove barriers to adoption. One of the cruelest barriers to adoption is its considerable cost. Employers assist biological parents to meet the costs associated with childbirth by providing health insurance coverage for prenatal care and the expense of labor and delivery of the child. In the past, however, no assistance has been available through such employee benefit plans for adoptive parents.

Yet the costs of adoption are similar to those incurred by biological parents. In addition to paying agency fees—which typically include the costs of prenatal care for the birth mother, delivery, and the baby's care in the hospital—adoptive parents are often required to pay the cost of the baby's foster care from the time it is released from the hospital nursery until they take custody, as well as the expenses for preadoption and postadoption counseling, and legal fees.

The average total cost in 1985 for those who adopted through a nonprofit agency was $6,000. When transportation or other special fees are required, as in international adoptions, the cost may be even higher.

Fortunately, in recent years the public and private sector have begun to recognize the inequity of providing benefits for biological parents but not for adoptive parents. A growing number of corporations are establishing adoption benefit plans for their employees. State and local governments are also beginning to develop employee adoption assistance programs. The Congress too has begun to recognize this inequity.

Two years ago, Congress approved legislation I sponsored establishing a 2-year test program for reimbursement of adoption expenses incurred by members of the Armed Forces. The response from military families to this new program has been overwhelming. According to a survey conducted by the Department of Defense, 97 percent of those participating in the test said the adoption benefits program has improved their morale. Seventy-five percent of those surveyed said the existence of this program will be a determining factor in their reenlistment.

These preliminary results are very encouraging and point to the fact that we are now moving in the right direction. One of the bills I am proposing today will make the Armed Forces Adoption Benefits Program permanent. The legislation will provide limited reimbursement of up to $2,000 for adoption expenses incurred in an unrelated adoption. Qualifying adoption expenses include agency and placement fees, legal fees, medical expenses, expenses relating to pregnancy and childbirth for the biological mother, temporary foster care charges, and transportation expenses. The estimated cost is $2.8 million per year.

The second bill I am introducing mandates similar benefits for Federal employees. As the Nation's largest employer, the Federal Government should lead the way in encouraging profamily efforts such as adoption. Yet, we are lagging far behind many States and private employers who have made adoption benefit plans available to their employees.

The legislation I am proposing to establish a Federal employees adoption benefit plan is virtually identical to the military adoption program we are currently operating. Employees of the Federal Government would be provided a limited reimbursement of up to $2,000 for their adoption expenses. It is estimated that for the 2.7 million Federal civilian employees, 1,800 will adopt. Assuming all receive the maximum reimbursement, the estimated maximum cost of this program would only be $3.6 million annually.

This modest proposal will go a long way in bringing the Federal Government's employee benefits plans up to date with respect to adoption.

Throughout the United States, many public and private adoption agencies are reaching out to the corporate world to help increase public awareness of adoption as a wonderful way to build a family.

A growing number of corporations are responding by providing adoption leave and adoption benefits for their employees. An adoption benefits plan is a company-sponsored program that financially assists or reimburses employees for expenses related to adoption. Companies which offer such a benefit plan typically make it available for all kinds of adoptions—infants, special needs children, or children who are adopted from other countries.

Coverage varies widely, with benefits ranging from a few hundred dollars to up to $2,000.

Two factors, however, inhibit the availability and effectiveness of employer provided adoption benefits. First, the payments made to employees are taxable as income, thus reducing the effect of the benefit. Second, companies currently may not treat their contributions to adoption benefit plans as ordinary and necessary business expenses. This discourages many companies which would otherwise offer these benefits from doing so.

The third bill I am introducing today addresses these issues. It excludes from an employee's income adoption expenses paid by an employer and treats the employer's contribution to an adoption benefits plan as an ordinary and necessary business expense thus allowing the employer to deduct his contributions in the same way he deducts contributions to an employer-provided health insurance or retirement plan.

Mr. President, let me be clear. This legislation seeks to provide the same treatment under the Tax Code for adoptive births as is provided for biological births. That is its purpose. I am not asking that adoption benefits be given a special break, only that they be treated equally. Employees with a biological birth receive pregnancy benefits, adoptive parents receive no such benefits and often their expenses are larger. It is estimated that this bill will cost $13 million over 3 years.

Although the States have primary jurisdiction over adoption, the Federal Government does relate to adoption in a number of programs. Chief among these are the Adoption Opportunities Program established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978—Public Law 95-266)—the Adoption Assistance Program established by the Adoption Assistance and Child Welfare Act of 1980—Public Law 96-272—and funding for adoption services under the Adolescent Family Life Act of 1981.

I personally believe that every employer should offer adoption benefits. Legislation providing limited reimbursement for adoption expenses to adoptive parents who are Federal employees and members of the Armed Forces will complement the Federal policy on adoption and further enhance the role of the Federal Government as a family-oriented employer.

I ask unanimous consent that the three bills be printed in the RECORD as follows:

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Adoption Benefits Act of 1989".

SEC. 2. REIMBURSEMENT FOR ADOPTION EXPENSES OF FEDERAL GOVERNMENT EMPLOYEES.

(a) IN GENERAL.—Subpart G of part III of title 5, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 90—MISCELLANEOUS EMPLOYEE BENEFITS

"Sec.
"9001. Child Adoption Benefits.

"§ 9001. Child Adoption Benefits

"(a) An employee of the Federal Government shall be reimbursed, as provided in this section, for the qualifying adoption expenses incurred by the employee in the adoption of a child under 18 years of age.

"(b) Adoptions for which expenses may be reimbursed under this section include an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)), but do not include an adoption in which one of the adopting parents is the biological parent of the adopted child.

"(c) Benefits may be paid under this section in the case of an adoption only after the adoption is final.

"(d) A benefit may not be paid under this section for any expense paid from any funds received by an employee under any other Federal government or State or local government adoption benefits program.

"(e)(1) Not more than $2,000 may be paid to an employee under this section for expenses incurred in the adoption of any child.

"(2) Not more than $5,000 may be paid to an employee under this section for all adoptions by such employee in any calendar year.

"(f)(1) Except as provided in paragraphs (2) and (3), the Director of the Office of Personnel Management shall prescribe regulations to carry out this section.

"(2) The Speaker of the House of Representatives and the President pro tempore of the Senate shall prescribe regulations to carry out this section with respect to Congressional employees.

"(3) The Director of the Administrative Office of the United States Courts shall prescribe regulations to carry out this section with respect to employees of the judicial branch.

"(g) As used in this section:

"(1) The term 'Employee' includes—

"(A) an individual paid as described in section 2105(c); and

"(B) an employee described in section 2105(e).

"(2) The term 'qualifying adoption expenses'—

"(A) means reasonable and necessary expenses that are directly related to the legal adoption of a child and are not incurred in violation of Federal, State, or local law, but only if such adoption is arranged—

"(i) by a State or local government agency that has responsibility under State or local law for child placement through adoption;

"(ii) by a nonprofit, voluntary adoption agency that is authorized by State or local law to place children for adoption; or

"(iii) through a private placement;

"(B) includes—

"(i) public and private agency fees, including adoption fees charged by an agency in a foreign country;

"(ii) placement fees, including fees charged adoptive parents for counseling;

"(iii) legal fees, including court costs;

"(iv) medical expenses, including hospital expenses of a newborn infant, medical care furnished the adopted child before the adoption, and physical examinations for the adopting parents;

"(v) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(vi) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(vii) except as provided in subparagraph (C), transportation expenses relating to the adoption; and

"(C) does not include expenses incurred for any adopting parent's travel outside the United States, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting employee is stationed.".

(b) CONFORMING AMENDMENTS.—

(1) SUBPART HEADING.—The heading of such subpart is amended to read as follows:

"SUBPART G—ANNUITIES, INSURANCE AND MISCELLANEOUS BENEFITS"

(3) SECTIONS.—The analysis at the beginning of such part is further amended by inserting after the item relating to chapter 89 the following:

"90. Miscellaneous Employee Benefits..... 9201".

S. 278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF DEFENSE TO REIMBURSE MEMBERS FOR CERTAIN EXPENSES INCURRED IN THE ADOPTION OF CHILDREN.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section as follows:

"§ 1056. Reimbursement for adoption expenses

"(a) IN GENERAL.—The Secretary of Defense may reimburse, as provided in this section, any member of the armed forces serving on active duty for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

"(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c)).

"(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

"(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such pro-

gram administered by a State or local government.

"(e) LIMITATIONS.—(1) Not more than $2,000 may be paid to a member of the armed forces under this section for expenses incurred in the adoption of a child.

"(2) Not more than $5,000 may be paid to a member of the armed forces under this section for adoptions by such member in any calendar year.

"(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

"(g) DEFINITIONS.—In this section:

"(1) The term 'qualifying adoption expenses' means reasonable and necessary expenses that are directly related to the legal adoption of a child, but only if such adoption is arranged—

"(A) by a State or local government agency which has responsibility under State or local law for child placement through adoption;

"(B) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption; or

"(C) through a private placement.

"(2) The term 'qualifying adoption expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law.

"(3) The term 'reasonable and necessary expenses' includes—

"(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

"(B) placement fees, including fees charged adoptive parents for counseling;

"(C) legal fees, including court costs;

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2)(A), transportation expenses relating to the adoption.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1056. Reimbursement for adoption expenses.".

SEC. 2. REPEAL.

Section 638 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 10 U.S.C. 113 note) is repealed.

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. ADOPTION ASSISTANCE PROGRAMS.

"(a) EXCLUSION FROM GROSS INCOME.—

"(1) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for adoption assistance provided to the employee if the assistance is furnished pursuant to an adoption assistance program.

"(2) $2,000 MAXIMUM EXCLUSION.—The aggregate amount which may be excluded from gross income under this section for adoption assistance furnished to an individual during a taxable year shall not exceed $2,000.

"(b) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets—

"(A) the requirements of section 89(k), and

"(B) requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

The requirements of paragraph (2) shall not apply in the case of any governmental plan (within the meaning of section 414 (d)).

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) ADOPTION ASSISTANCE.—The term 'adoption assistance' means the payment by an employer of reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses incurred by an employee which—

"(A) are directly related to the legal adoption of a child by the employee but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement, and

"(B) are not incurred in violation of State or Federal law.

"(2) CHILD.—The term 'child' shall include any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.

"(3) EMPLOYEE.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(4) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (3).

"(5) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the employee under any other section of this chapter for any amount excluded from income by reason of this section.

"(d) CROSS REFERENCE.—

"For reporting and recordkeeping requirements, see section 6039D.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 89(l) of such Code (defining statutory employee benefit plan) is amended by adding at the end thereof the following new subparagraph:

"(D) An adoption assistance program (within the meaning of section 135(c)).".

(2) Subsection (d)(1) of section 6039D of such Code (relating to returns and records with respect to certain fringe benefit plans) is amended by striking out "or 129" and inserting in lieu thereof "129, or 135".

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 135. Adoption assistance programs.

"Sec. 136. Cross reference to other Acts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.●

By Mr. KENNEDY (for himself, Mr. PACKWOOD, Mr. ADAMS, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DURENBERGER, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 1. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, I am pleased to join with Senator PACKWOOD today, on behalf of myself and 49 other Senators, to reintroduce the equal rights amendment, and to reaffirm my strong commitment to making ERA part of the Constitution of the United States.

Earlier this month we began a new legislative session marked by the continuing commemoration of the Bicentennial of the Constitution, the creation of our Government and the adoption of our Bill of Rights.

It is an appropriate time to advance the noble values embodied in our founding document and make them a reality for all Americans. Although we can be proud of the strides we have made toward realizing these goals in the past 200 years, it is a national dis-

grace that equality for women is not yet enshrined in the Constitution.

Enactment and ratification of ERA is essential to ensure equality for women in both the law and the life of this land. The need for a constitutional guarantee of equal rights for all citizens remains compelling. Existing statutory prohibitions against sex discrimination have failed to give women basic educational and employment opportunities equal to men in our society. An unconscionable wage gap between the earnings of men and women persists in our work force. In 1987 women earned only 70 cents for every dollar earned by men. Women with college degrees continue to earn less than males who have not completed high school, and most working women are clustered in 20 occupations at the lower end of the pay scale.

Sex discrimination permeates many areas of the economy. For example, in 1960, 52 percent of all employed women were clerical workers, saleswomen, waitresses, and hairdressers; today, 46 percent of all working women can still be found in those same four occupations. In 1960, 5 percent of working women held managerial positions and 1 percent were in skilled craft jobs; today, 10 percent are managers and only 2 percent are skilled craft workers. The number of female professional and technical workers has increased from 12 percent in 1960 to 17.5 percent today, but more than half of these are still nurses and teachers.

Female-headed households continue to dominate the bottom rungs of the economic ladder. More women than ever before are in poverty. Of the more than 7 million families below the federally defined poverty threshold for a family of four—$11,611 in 1987—52 percent were headed by women. Nearly 60 percent of all minority female-headed households live below the poverty level, and 54 percent of all children who are poor live in such households. This dismal record of progress of equal justice for women reveals that much remains to be done.

Experience in past Congresses shows that the road to ratification will not be easy. But the extraordinary importance of the effort gives us the strength to persevere. With hard work, we can act in this Congress to approve the equal rights amendment, so that, as we commemorate the 200th anniversary of the Bill of Rights 2 years from now, ERA will at last have its rightful place in our Nation's founding document.

Mr. President, I ask unanimous consent that the text of the resolution may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article in proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourth of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

SECTION 3. This amendment shall take effect two years after the date of ratification."

Mr. PACKWOOD. Mr. President, I am pleased to join today with Senator KENNEDY to reintroduce the equal rights amendment in the 101st Congress.

For the last 200 years, the U.S. Constitution has been a respected symbol of freedom throughout the world. This noble experiment in freedom and liberty for all is unique in the history of the world. The principles embodied in the Constitution are revered by all Americans.

Despite the enormous contributions women have made to the development of this country; despite the tremendous progress women have made to achieve equal rights with men, women still do not receive equal protection under the Constitution. Even now, the legal rights of women in this country are not secured by our Nation's most important document. The inclusion of women in the U.S. Constitution through the equal rights amendment will provide women with a sound legal basis for remedying the inequities that exist between the treatment of men and women.

Right now, movement toward equal rights for women is dependent upon individual pieces of legislation, which means that such progress is dependent on the Congress. And we are all aware that gains granted through legislation can be taken away in the same manner. The absolute guarantee of equal treatment under the law that women deserve and seek can only be granted through a constitutional amendment.

Senator KENNEDY and I have been joined by 49 of our colleagues in the Senate who understand the importance of the equal rights amendment to ensuring equal treatment of women under the law. I hope that this year, as we celebrate 200 years of the Constitution's guarantee of freedom and equal opportunity, we will also be able to celebrate the inclusion of over half of our population in the protections provided by that historic document.

Let us make the equal rights amendment a priority for the 101st Congress. The time for writing the Nation's women into the Constitution is now.

Mr. COHEN. Mr. President, over 65 years ago, in 1923, the first equal rights amendment was introduced in the Congress. The amendment stipulated that "Men and women shall have equal rights throughout the United States and every place subject to its jurisdiction."

Today, history will record another introduction of the same idea, that "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." Once again, we will repeat the words of Elizabeth Cady Stanton and Susan B. Anthony, that "Men, their rights and nothing more; women, their rights and nothing less."

Lord Macauley once described our Constitution as "all sail and no anchor." I disagree with him, but I fear that we may find his description applicable to the fight for equal opportunities and equal rights for women. I believe that the Constitution is the anchor to the laws of the land. Perhaps more than that, it is the Constitution that charts where our laws should point. Without the ERA, whatever laws are passed to further the equality of women will be all sail and no anchor.

Since 1972, when Congress first approved the ERA, there have been many changes in the laws of the land, passed by Congress and State legislatures, or mandated by the courts. Yet, there is nothing in the Constitution to secure these laws. A persistent argument against the ERA has been that the amendment is unnecessary, that the rights which it would grant have been or are being granted by judicial decision or statute. Others have argued that expanded interpretations of the 14th amendment would guarantee the rights of women which the ERA would guarantee.

Perhaps the perception of legal necessity for ratification of the ERA has diminished since 1972. Yet what if we discover that the changes made over the last 15 years are like Lord Macauley's sails? Where will they take us when the tack changes? We must remember that despite changes in the law, what we seek through ratification of the ERA is the guarantee of fundamental rights, and the anchor for those laws.

This year marks the continuing commemoration of the Bicentennial of the Constitution. In May 1787, the delegates to the Constitutional Convention assembled in Philadelphia and began drafting the Constitution. In one of Abigail Adams' letters to her husband John, she encouraged him to modify the British laws and customs that dictated the near total subordina-

tion of a woman's status and identity to that of the man. She asked him to "remember the ladies."

Something happened on the way to the Convention. Neither Adams nor Jefferson nor Madison nor Hamilton seemed to remember the ladies; they were not included in the Constitution, and since then, for the past 200 years, American women have been struggling to secure the basic constitutional rights that are guaranteed to men, ones that we accept as self-evident.

It is written in the Declaration of Independence that "We hold these truths to be self-evident, that all men are created equal." Regrettably, we have learned through the painful experiences of history, including a bloody Civil War, that not all men were created equal in the eyes of the law and it took the 13th and 14th amendments to declare that the color of one's skin was not a rational or fair determination of one's rights.

I submit that the equal rights amendment will be no more redundant for women than the 13th and 14th amendments were for ethnic or racial minorities. The ERA is much more than a symbolic gesture, but if it were only symbolic it would be no less important. Our lives, our values, our social conscience are strongly influenced by symbols.

The heart of the matter is that not just for years, not just for generations, but for centuries, women have been regarded as being less deserving of full and equal rights and responsibilities. Because of their sex, a majority of the citizens in our society, regardless of their physical or intellectual ability, regardless of their potential for social contributions, are granted different rights, are stereotyped and suffer greater prejudices.

Centuries of discriminatory policies have denied women the right to equal participation and responsibility in our society. Without passage of a constitutional amendment, these inequalities will continue. Women will not achieve equality under the law.

The need for the ERA is no less urgent today than it was over 65 years ago when the first equal rights amendment was introduced in Congress. Women are entitled to nothing less than full equality of rights in the Constitution. It is my fervent hope that we will see the equal rights amendment in place as the 27th amendment to the Constitution in the very near future.

Mr. PELL. Mr. President, on this first day of this 101st Congress, I am proud to join the senior Senator from Massachusetts in introducing this joint resolution to amend the Constitution to ensure for the women of this Nation equality under the law. The words of the equal rights amendment could not be more simple, and the message could not be more clear: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."

Some will argue that statutes passed by the Congress, or laws passed by the various States, accomplish the objectives we seek here. While statutes do exist to protect women from discrimination in employment and education, they do not go far enough. These statutes contain exemptions and have been interpreted narrowly by some courts. Moreover, even the best intended and most effective statute cannot substitute for the basic, fundamental, and explicit inclusion of language in our Constitution ensuring the equality of women.

Mr. President, while women compose 45 percent of the work force today, economic equality and equal employment opportunity for women still have not been achieved. According to 1987 U.S. Census Bureau statistics, women who were employed full time earned less than 70 percent of the wages made by men. In addition, recent statistics collected by the National Commission on Working Women of Wider Opportunities for Women show that approximately 77 percent of all women were employed in so-called traditionally female jobs.

Something must be done to change this situation, and to better the economic and employment condition of women. Whether working outside the home or as homemakers, women need economic fairness in Social Security, credit, and retirement and pension plans.

For the last 33 Congresses, Mr. President, since 1923, a joint resolution to ensure equal rights for women has been introduced into the Congress, and brought before the Nation. We can no longer tell our wives, daughters, granddaughters, and friends that the Constitution has no room for them. We can no longer raise our sons or grandsons to tolerate anything less than the total equality of men and women under the law.

Mr. President, while the ERA will not affect the delightful differences between men and women, it will enable women to participate fully in all walks of life, and will teach any among us who doubt their abilities to doubt no more. We have waited too long, and on this day renew our commitment to the women of our Nation that we shall not abandon our goal.

Mr. HOLLINGS. Mr. President, I rise today to join as a cosponsor of the equal rights amendment. The reintroduction of the ERA in the 101st Congress marks the beginning of a new campaign to secure the basic rights for all citizens of our Nation—a new campaign to pass and to ratify this imperative amendment to our Constitution.

Though ratification by the requisite 38 States fell just 3 States short in 1982, we are proud of our commitment and of our efforts in obtaining for women what is necessary and just. We must remind ourselves, however, of the difficulty the women of this Nation had in obtaining the right to vote and we must not give up the fight. When the 15th amendment was ratified and the institution of slavery was abolished, women, who were some of the most vigorous supporters of abolition, were left behind. They had to carry the fight for another 50 years before they, too, gained the right to vote. Women at that time and now do not seek special treatment; they seek basic justice and freedom. They seek equal rights as individuals and citizens under the law of our land.

As a father I have watched with great pleasure as my children, sons and daughters, have grown to their majority. As any parent in this body, I have taken great pride in them and have done my best to love, nurture, educate, and in general prepare them for what the future holds. But, I did not raise my daughters to accept the mantle of limited citizenship. I want for my daughters the same as I want for my sons—the opportunity to rise to the highest level that their ability will take them.

Unfortunately, this opportunity does not now exist. Women in this country suffer inequality in economic opportunities. Today, nearly 60 percent of America's women work outside the home. Yet, it is a fact that women are paid less and promoted less. In my State alone, women are paid about ⅝ to ⅔ what men make. And, we must recognize that the families of these working women also suffer when the mother receives unfair pay. Forty percent of working women have children under age 18, and the number of single-parent working women is steadily on the rise. With more and more women working outside the home, startling and blatant discrimination will only become worse unless we do something to bring about change.

The vehicle for change is the equal rights amendment. It is the most powerful tool to obtain equal pay and equal opportunity for the women of this Nation. Admittedly, much progress has been made since the equal rights amendment passed Congress in 1972 and was sent to the States for ratification. Much of this significant progress came in anticipation of the passage of the amendment. And, these are accomplishments in which the whole Nation should be proud. But the truth remains that there is much to be accomplished.

As we embark on a new session of Congress, we should reflect on the freedom that makes us a strong, productive country. We need the equal rights amendment to make the word freedom whole and meaningful for

every citizen. It is time to make the equal rights amendment a part of the U.S. Constitution, and I pledge my continuing support in gaining its passage and ratification.

Mr. METZENBAUM. Mr. President, once again I am pleased to join as a cosponsor of the equal rights amendments to the U.S. Constitution.

There is no question that an era ought to be a part of the Constitution already. Over 50 percent of our population is female. Surely, as a nation committed to equal justice under law, we should include in our Constitution a guarantee against sex discrimination.

The era I am cosponsoring is a simple, straightforward assertion of basic human rights. It states:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

We cannot, with a clear conscience, continue to deny to over half our citizens this basic legal protection. This time we must be sure that the era is not only approved by the 100th Congress, but also ratified by the State legislatures.

We need an era. Those who say we don't haven't looked at the evidence.

There are still State and Federal laws which contain gender-based distinctions. Some of these laws have been held constitutional, and others remain on in our laws books. An era is necessary to completely eliminate the effect of these laws. An era would also require—and encourage legislative reform.

An era would give women clear—and permanent protection against discrimination in public employment. Historically, both Federal and State governments maintained explicit, gender-based discrimination in public employment. Though most explicit barriers have been stricken, these historical distinctions are perpetuated in informal and subtle ways. Patterns and practices of gender discrimination continue, reinforced and legitimized by past traditions and the stereotyping which has resulted from these traditions. In addition, most State and Federal employment discrimination laws do permit gender distinctions.

The result is that women are not only excluded from certain occupations but their income is diminished as well. Women have achieved some protection against employment discrimination through Federal and State laws, but some gender-based distinctions are permitted by employment discrimination laws. An era would outlaw all discrimination in public employment. Women would enjoy more employment opportunities and State and Federal governments would more fully receive the benefit of their services and talents.

An era would also outlaw gender-based discrimination in public education. Historically, Federal, State, and local government required and/or approved explicit, gender-based distinctions in public education. Though few explicit barriers remain, patterns and practices of gender discrimination continue to exist.

Discrimination in education has adversely affected women. It has limited, and continues to limit, the intellectual and developmental possibilities of women. Discrimination in education has limited, and continues to limit, the employment and income opportunities of women and their families. The effects of past and present discrimination in education are manifested in the dramatic sex segregation of many occupations [1] and the substantially lower wages women receive.[2]

An era would make gender-based discrimination in education unlawful. An era would also empower Congress to eliminate the present and past effects of discrimination in education.

State laws have also restricted the economic and social opportunities of women through the maintenance of gender-based, stereotypical distinctions which have been traditionally embodied in family and martial law. An era would outlaw these distinctions as well.

A recent Carnegie Foundation report rejects the view that occupational segregation and income disparities have resulted solely from the free choices women make in an open market. On the contrary, says the report, the evidence "suggests * * * that women face discrimination and institutional barriers in their education, training, and employment. Often the opportunities some encounter * * * constrain their choices to a narrow set of alternatives." [3]

The status of women in our society is due in part to the historical inequality which governments have sponsored and condoned for many years.

An ERA would add to the Constitution a mandate to end sex discrimination, the roots of which reach deeply into every part of our society. A constitutional amendment will provide additional and needed power to eliminate root and branch, past and present sex discrimination from our society.

Some say that we can leave this business of sex equality to the courts. This we cannot do. I would be the first to say that the courts, especially the Supreme Court, have done a great deal to guarantee sex equality under our Constitution. But when I look closely at these decisions I see a great deal of division over the role of the Judiciary in guaranteeing sex equality. The judges are divided over the amount of scrutiny they ought to give gender classifications. As a result, the scope of constitutional protection against sex inequality seems to vary with the circumstances and with the composition of our courts. The passage of an ERA is necessary to clarify our Constitution and to give guidance to the judges. The passage of an ERA is necessary to make it clear that sex inequality is unconstitutional inequality.

The passage of the ERA would not eliminate the role of the courts in guaranteeing sex equality. The courts would be called upon to interpret the ERA, and to decide upon the constitutionality of statutes passed pursuant to the ERA. The courts would be an important partner in the flight to guarantee sex equality. But Congress and the American people must take the lead and enact a clear constitutionally required standard of sex equality.

Others say we ought to let Congress and the States guarantee sex equality by statute. But a statutory approach is simply not adequate.

For a variety of reasons, statutes which include gender-based distinctions remain on the books. And States do continue to pass laws which permit gender-based distinctions. Perhaps these phenomena occur because women are not well represented in this legislature. In 1971, women were 2.8 percent of the Members of Congress; in 1986 they are still less than 5 percent. In 1971, women made up only 4.7 percent of the State legislatures, in 1985 they were merely 14.8 percent. But whatever the reason for the persistence of these statutes, an ERA would have a nullifying effect.

We cannot wait for legislatures to eliminate discriminatory statutes or to outlaw discriminatory State policies. Statutes alone are inadequate because the legislative process is affected by the perception that some gender-based distinctions are acceptable under the 14th amendment. As a result, legislators who support gender distinctions as a matter of policy draw comfort and solace from the state of constitutional uncertainty. An ERA would eliminate the perception that sex inequality is constitutionally acceptable. An ERA would require that legislatures set aside their personal feelings and enforce a clear constitutional mandate.

An ERA is also necessary because statutory guarantees currently in effect may be repealed by Congress and State legislatures. The viability of this legislation depends upon shifting legislative majorities while an ERA would embody in our Constitution a permanent guarantee of sex equality.

Surely we all agree that women deserve to be equal partners in this constitutional enterprise. We have waited too long to take this giant step toward meaningful equal justice under law. Only a constitutional amendment will suffice.

The bicentennial year of our Constitution has come and gone, and we

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Footnotes at end of article.

have celebrated our enduring Constitution. We heard many speeches about the giant strides we have made in constitutional governance and the progress we have made toward equal justice under the law. But the women of this country celebrated a half century of uncertain constitutional status.

We have waited long enough. It is time that we included women as equal partners in this constitutional enterprise.

Thank you, Mr. President.

FOOTNOTES

[1] A 1985 Carnegie report funded by the Department of Education and Department of Labor shows that about 50 percent of all men and women work in jobs which are essentially segregated. Women are still 98.8 percent of the secretaries, 75.4 percent of the elementary school teachers, 89.7 percent of the bookkeepers, 83.5 percent of the cashiers, 88 percent of the waiters, 72.7 percent of the sales workers, 95.9 percent of the registered nurses, and 87.8 percent of the nursing aides. Overall, among the 503 occupations listed in the 1980 census, 275 were greater than 80 percent male or female. N.Y. Times, Dec. 12, 1985, at A20, COL. 1.

[2] Thirteen percent of all families in this country live below the poverty level; 36 percent of all female headed households have income below the poverty level. U.S. Department of Commerce, Bureau of the Census statistical abstract of the United States 1985 455 [1984].

The 1986 Carnegie report also states that women still earn about 60 cents to every dollar earned by men. The report noted that in 1981, the median salary for women who worked fulltime throughout the year was $12,001, compared to a median male salary of $20,260. White women over 18 earned about 60 percent of the salary of white men, while black women earned about 54 percent of the salary of white men. The report states that sex segregation in occupations accounts for much of this disparity.

A Stanford study released 2 years ago found that the income of women doubled in the last quarter century, but their average hourly pay was still 50 percent less than that of men. Washington Post, April 18, 1986, at C11, COL. 1. This Stanford University researcher concluded that women's gains have been offset by other factors which contribute to economic well-being. "* * * The net result is certainly no improvement over the last 25 years * * * everything that I said goes double for Blacks." Id; 232 Science 459 [April 25, 1986].

[3] See footnote 1, supra.

Mr. LIEBERMAN. Mr. President, as a member of the Connecticut State Senate, I was fond to support passage of the equal rights amendment to our State constitution in 1974.

Fifteen years later, the U.S. Constitution still has no such amendment of its own. And so, I am pleased to join with Senator EDWARD M. KENNEDY as a cosponsor of his reintroduction of the equal rights amendment.

The equal rights amendment is an important affirmation of the right of women to be treated equally under the U.S. Constitution. It is a simple proposition with which few should disagree. Yet passage of the ERA has proven elusive. Similarly, the realization of truly equal rights in this country has not been achieved.

Our laws, expressed in their highest form in our Constitution, encode our sense of values. We value equal rights for women, so let us include the equal rights amendment in our Constitution. Its presence in that document would go a long way toward eradicating the discriminating practices that still keep women from enjoying the full fruits of our freedom as Americans.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. COCHRAN, Mr. HATCH, Mr. HELMS, Mr. KASTEN, Mr. MCCAIN, Mr. MCCONNELL, Mr. ROTH, Mr. STEVENS, Mr. SYMMS, Mr. WILSON, Mr. DANFORTH, Mr. DURENBERGER, Mr. GARN, Mr. GRAMM, Mr. WALLOP, Mr. WARNER, Mr. LOTT, and Mr. MURKOWSKI):

S.J. Res. 2. Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET AND TAX LIMITATION

Mr. DOLE. Mr. President, at the beginning of a new administration, it is important to focus on issues that really matter. That's why for this Senator, it is extremely gratifying to have the opportunity to state the case for a balanced budget amendment. I know my colleagues are aware of my conviction that this constitutional change is essential to the long-term fiscal health of this Nation. I hope at least two-thirds of them will share my conviction.

Mr. President, as I have in previous Congresses, I am today introducing the balanced budget amendment in the form I prefer: Putting limits on both deficit spending and the tax burden. Nevertheless, I am open to other formulations, and this language certainly is not written in stone. What is important here is the principle.

At the outset, let me acknowledge the extraordinary efforts of those who have kept this issue on the front burner over the years. The list is led by my good friend STROM THURMOND, who has worked tirelessly for this kind of fundamental fiscal reform for decades. He led the good fight for this amendment in the last Congress, as a true believer on this issue.

The leadership of the distinguished ranking member of the Constitution Subcommittee, ORRIN HATCH, has also been critical to this struggle. Senator HATCH has been in the trenches constantly on behalf of the balanced budget amendment and has not wavered for one moment from his devotion to this cause.

A SIMPLE PRINCIPLE

Mr. President, the amendment I am introducing embodies a simple principle: That except under extraordinary situations, outlays of the Federal Government should not exceed receipts. For a deficit to occur, this amendment requires that Congress must specifically authorize an excess of outlays over receipts by a three-fifths vote. And to preserve a bias in favor of controlling spending, we have included a requirement that increases in the level of taxation cannot be passed except by a majority of all Members of the House and Senate, not just those present and voting.

This amendment presents the Congress with an historic opportunity to restore a proper balance to the way we conduct the fiscal affairs of the Government. It is not a quick fix, a response to a sudden shift in public opinion, or an attempt to evade our assigned duties under the Constitution to make spending and taxing decisions. This idea has been around for some time, but in recent years it has gained momentum because of the growing realization that there is something fundamentally wrong with the way we conduct fiscal policy.

Fundamental problems demand fundamental solutions. Those of us who have worked to develop a responsible constitutional amendment over the years have not taken lightly our duty to respect the form and the spirit of the basic law of the land. The language of this amendment is appropriate to the Constitution. It is not premised on any particular economic philosophy, but rather on the belief that Congress ought to make specific decisions on fiscal policy and be held accountable for those decisions. The amendment requires that we follow consistent procedures in setting fiscal policy, and establishes firm parameters to govern those procedures. Although these constraints are quite simple, they are something, which based on recent experience, Congress obviously need.

A POPULAR MANDATE

The American people clearly are convinced that our fiscal house is not in order. Popular concern over runaway budgets is the reason why the drive for a Constitutional Convention to draft a fiscal restraint amendment is only a few States short of its goal. Polls consistently show that 70 to 80 percent of the American people support a balanced budget amendment. Although no one should maintain that we ought to take certain steps just because they are popular, in this case it seems that people are ahead of the politicians. Americans understand that Congressional spending habits have to be put under a firm limitation, and that only new procedures, externally imposed, can do the job. Mr. President, I urge my colleagues to listen to the voters and support this amendment.

I would also suggest that this amendment, if approved by Congress, is not the end of the story. It is the beginning. Legislative implementation and compliance will be a complex and difficult matter—we should not deceive ourselves on that point. We have learned from the experience of the Gramm-Rudman-Hollings, law that

enforcement is not a simple matter, but enforcement can and will be achieved once we have a clear constitutional obligation to fulfill.

CONCLUSION

We can demonstrate our willingness and ability to balance the Federal budget by moving swiftly to meet the Gramm-Rudman targets for fiscal year 1990. Serious action on the deficit will convince the American people that we are serious about the budget problem and that this Constitutional amendment will be given full force and effect. Our actions on each of these matters will have a major impact now and for years to come. Let us be sure that we make the right choices in the 101st Congress. Let us be sure that we make the right choices in the 101st Congress.

I ask for unanimous consent that the entire joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 2

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement for that year in which total outlays are not greater than total receipts. The Congress may amend such statement provided amended outlays are not greater than amended receipts. With the approval of three-fifths of the whole number of both Houses, the Congress, in such statement, may provide for a specific excess of outlays over receipts. Actual outlays shall not exceed the outlays set forth in such statement.

"SEC. 2. Total receipts in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the previous fiscal year, unless a majority of the whole number of both Houses shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SEC. 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SEC. 4. This article shall take effect for the second fiscal year beginning after its ratification.".

By Mr. GARN (for himself, Mr. DANFORTH, Mr. DECONCINI, Mr. FORD, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HUMPHREY, Mr. KASTEN, Mr. LUGAR, Mr. MCCLURE, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SYMMS, and Mr. HATFIELD):

S.J. Res. 3. Joint resolution proposing an amendment to the Constitution of the United States for protection of unborn children and other persons; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT ON THE RIGHTS OF UNBORN CHILDREN

Mr. GARN. Mr. President, this past Sunday, January 22, marked the 16th anniversary of the Supreme Court's decision legalizing abortion. Since 1973 many of my colleagues have sponsored legislation which would amend the Constitution to protect the right to live of the most helpless in our society, the unborn child. I have sponsored this legislation in the previous six Congresses and am pleased to have Senator MCCLURE join me as an original cosponsor to this amendment, known as the human life amendment, in the 101st Congress.

The amendment states that:

With respect to the right to life, the word 'person' as used * * * in the Fifth and Fourteenth amendments to the Constitution * * * applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every state of their biological development.

It goes on to specify that measures necessary to prevent the death of the mother should not be prohibited.

This amendment would overturn the infamous Roe versus Wade decision. We believe that the Court's decision is fundamentally in conflict with the basic values and beliefs that bind our very nation together; that the Court is unjustly mandating a wholesale violation of human rights in the abortion of millions of unborn children; that it stepped beyond the expressed intent and spirit of our Constitution.

Unfortunately, this is not the first time that Court has made an error on the matter of human rights. Sadly, our Nation's history is filled with examples where human rights have been denied to a large segment of our society. The most obvious example of such a court error can be seen in the case of Dred Scott. The Court ruled that Dred Scott did not have any human rights because his life was not considered to be of value in and of itself in the eyes of the law. He was considered to be merely the property of his owner. The Supreme Court was wrong in the Dred Scott case, The Supreme Court is wrong in Roe versus Wade for the same fundamental reason. It dictates who is human, and thus protected by the law, and who is not human, and thus has no protection.

Thomas Jefferson wrote in the Declaration of Independence:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness.

Specific attention must be paid to the phrase "all men are created equal." Obviously, human life begins from the very moment of creation—at conception—as evidenced by the teachings of medical and scientific research, not at birth. At this creation these rights are self-evidently equal, and should be treated as such. Any other line is merely arbitrary.

Advocates of abortion often speak as though they have some kind of corner on rights, justice, equality, and humanitarianism. They are free to believe that, if they wish, but I don't think there can be much justice or humaneness in a philosophy which espouses abortion on demand.

In the Sunday, January 22, issue of the Washington Post, an article entitled "The Abortion Papers" focused on the arbitrary line drawn by the Court in Roe versus Wade. I quote from the Post:

The opinion's author [for Roe v. Wade] Justice Harry A. Blackmun, said in one internal memo that he was drawing 'arbitrary' lines about the time during a pregnancy when a women could legally receive an abortion.

The article goes on to state that the internal memos of Justice William O. Douglas indicate that the Justices knew they were acting in a legislative capacity, which we know is not the proper role for the Court.

Aside from the fact that the court has overstepped its bounds, the real core of this issue—as it was in the Dred Scott case—is the moral value we place on human life. Is there really any difference in the essential reasoning behind advocates of slavery and advocates of abortion? I know this is a harsh statement—some would say an unfair analogy. At the same time, I do not want to minimize the size, the cost and personal impact of problems resulting from unwanted pregnancies or potential birth defects. I think President Bush eloquently and accurately portrayed the role that must be played when he stated, in his inaugural address, that there are young women throughout this Nation who are about to become mothers of children they cannot care for and perhaps will not love. They need our care, our guidance, and education; though we bless them for choosing life. But most important, we must protect the inalienable right to life and liberty. Rights which are being prohibited to millions of innocent lives each year.

In the same spirit which the 14th amendment was offered to this Congress, we now bring before you this amendment. We will not simply go away. This issue will not disappear until the Constitution is returned to a document which protects the rights of all human life.

I thank Senator MCCLURE for joining me in cosponsoring this effort and also those in this body who may now wish to support my efforts by cosponsoring this amendment. I commend, as well, the individual efforts of several of my colleagues in their fight to pro-

tect the unborn. I also thank the thousands who came to this city and those throughout the country who on Monday gathered to peacefully protest the Supreme Court's decisions, as well as mourn the violent deaths of the unborn that continue to take place even now. I lend my voice to the protest and call upon you in this Congress to join with me.

Mr. President, I ask that the full text of my amendment immediately follow this statement in the CONGRESSIONAL RECORD. There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 3

Resolved by the Senate and House of Representatives of the United States of America in Congress assumbled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person', as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States, applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

"SECTION 2. No unborn person shall be deprived of life by any person: *Provided, however,* That nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"SECTION 3. Congress and the several States shall have the power to enforce this article by appropriate legislation within their respective jurisdictions.".

By Mr. CRANSTON:

S.J. Res. 5. Joint resolution to establish a national policy for the taking of predatory or scavenging mammals and birds on public lands, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL POLICY ON PREDATORS

Mr. CRANSTON. Mr. President, I introduce for appropriate reference a bill to establish a national policy for the taking of scavenging mammals and birds on public lands, and for other purposes.

Mr. President, as we end the decade of the eighties, there is some cause for optimism in the course of human affairs, from a relaxation of the cold war to subtle advances in our search for an answer to AIDS. In the environment, there are fewer positive portents. For we are trailed by the shadow, ever larger with time, of a planet fighting back—fighting our plunder, our colossal waste, our mindless exploitation of the Earth's resources.

The harbingers of this conflict between the Earth and mankind's use of the Earth are increasingly obvious, from global warming to polluted beaches. And while the historical process that brought us to this point is complex, the origins of the conflict are fairly simple: We have seriously misread our relationship with the Earth and with the Earth's other species. It is a misreading that is proving costly to life itself.

Among the many areas where our desires for dominion have exceeded nature's bounds is in wildlife management. When I first introduced a bill to require Federal policy to take seriously the relationship between predator and prey species, the issue seemed arcane to many. But I believe this bill will be taken more seriously now. For we are discovering, however painfully, that this is more than a mechanistic world that we can shape to our own ends. We are learning that costs are paid when human hands tip the scales of ecological balance.

The bill I introduce today—as in previous Congresses—addresses three critical issues in national wildlife management, especially management policies as they relate to predators and prey. One is the need to establish, within the broad parameters of wildlife management policies, a clear understanding and recognition of the interdependency of predator and prey; a second is the need to establish a national policy for the taking of predators or scavengers—mammals or birds—on public lands, a policy that reflects a through understanding of these interdependent relationships; and a third is the need to set forth a series of clear, statutory procedures for the taking of predators on public lands. These procedures must be responsive to the right of all Americans to know how wildlife management policies relevant to predators are being carried out on lands that are owned by the public and managed in the national interest.

Predators and scavengers in the environment are indispensable. Every ecosystem has predatory forms of life. Few animal species, except larger predators themselves, are completely free from predation.

We are beginning, through studies in ecology and evolutionary biology, to understand just how important predators are in the ecosystem. We are learning to see predators not just as obstacles to the flourishing of life, but as vital components in the chain of life that includes man. In fact, in this chain, predators have a niche every bit as important to the survival of the Earth's species as any other part of that chain.

Just as the introduction of exotic species can adversely affect the balance of an ecosystem, so can the removal of predators. Predators are known to be vital to keeping plant-eating animal populations from overgrazing and consequently disrupting the food chain within an ecosystem. Without predators, prey populations tend to expand beyond the ability of an ecosystem to sustain that population. Predator populations themselves are kept in check by a system of natural controls, including the size of the prey population.

Predators, too, are powerful evolutionary forces on their prey. In fact, as naturalist Stephen Jay Gould points out, natural history to a large extent is a tale of different adaptations to avoid predation.

It's not unusual, for example, to see a squirrel dart almost purposefully in front of a car, often with fatal results for the animal. In its moment of panic, the squirrel holds its bushy tail over its back and zigzags wildly on the road. Actually, the animal is responding the same way it does when fleeing a predator, and while the technique is faulty for escaping cars, a pursuing hawk is likely to either miss the squirrel entirely or grasp only the tail instead of the animal.

The morning dove is one of the commonest bird species in North America. The dove also knows the value of dodging when attempting an escape, and doves play tricks with their tails, too. The morning dove is quite drab in coloration, except that each tail feather is tipped in white. As the bird flees, its outspread tail presents a vibrant semicircle of white spots—a target, in effect, to catch a predator's eye. But to grasp a dove's tail is to receive a loose bunch of feathers instead of a struggling dove.

But escape is not the only way species deal with predation. Another ploy is the phenomenon of predator satiation, where a species will flourish with such speed and in such numbers that the predators' ability to deplete an entire species is simply overwhelmed. Such species expansions occur in relatively short bursts, and then subside, and the theme of nature—balance—reigns once more.

The point is, if predators were suddenly taken from the environment, one very powerful factor would be removed from the ecological balance which nurtures animal and plant life on Earth. Animal species became adapted to survival through all kinds of environmental factors, including natural populations of predators which themselves are continually refining their own adaptations through this same process of evolution. This system accounts for what we see and revere as life on Earth. It is a system that is remarkably effective, and with which we tamper at our peril.

This is not to say that individual predators cannot be removed from the environment. They can be, and sometimes they must be. But the wholesale slaughter of predator species carries with it the long-range threat of impeding the survival-by-adaptation of sig-

nificant animal species. By implication, we impede human progress. Animal species, of which man is one, are interdependent.

Wildlife managers often attempt to duplicate the quantitative impact of predation through establishing hunting seasons geared to remove the "harvestable surplus" of an animal population. However, wildlife managers cannot duplicate the qualitative impact of predation in any practical sense. For example, a tiger may attempt 30 kills before finally succeeding. Likewise, a falcon may pursue two dozen quarry before making a kill. Each unsuccessful attempt means the adaptations of the prey were sufficient to keep it alive. Each successful kill represents a prey individual that was carrying some fatal disadvantage—physical incapability, age, injury, disease, or some unknown quality which might be generalized as "bad luck." Thus, predators exert consistent pressures on the prey that are beneficial to the health of the prey population. Wildlife professionals are increasingly sensitive to the indispensable presence of natural predator populations.

Mythology about predators still persist. Some people still swear that wolves, cougars, or other predators are capable of obliterating, for example, the deer population in a given region or State. Such assertions are simply not supported by the facts. Predator-prey systems have persisted throughout the millenia, and both predators and prey species have evolved mechanisms which tend to keep the whole system operating as long as favorable environmental conditions persists.

Fluctuations in prey populations can actually be reduced by the presence of predators. As a case in point, the moose population on Isle Royale National Park, an island ecosystem in Lake Superior, persisted, unevenly, for many years in the absence of wolves. The population was observed to rise steeply for a time and then crash abruptly when available browse was exhausted. This cycle was observed at least twice in the early 20th century. Wolves eventually colonized the island by crossing the winter ice. What researchers later observed was that both predator and prey populations steadied themselves through their interactions: The Moose population neither rose as high nor fell as low in the presence of the wolves, and the wolf population itself held relatively steady year after year.

For the wolf, pack structure is the key to balance between predator and environment. If prey species decline, the wolf pack feels the stress of limited food supplies. Stress is reflected in increased friction between pack members. Eventually, some pack members may be ejected from the pact to face uncertain survival odds on their own. Even in the best of conditions, the social order of the pact permits only the dominant male and dominant female to mate; each pack produces only one litter of pups in a season. In times of stress, however, the pups are the first to die, thus maximizing the chances for survival of the adult pack unit upon which the wolves depend so heavily. The pack structure is best interpreted as an adaptation which enables the wolf to take prey larger and stronger than a single wolf, which maximizes the survivability of each pack member, and which keeps the wolf from out-eating the available prey.

Many other predators and scavengers show adaptations as sophisticated as those of the wolf. There are predators capable of exploiting almost every form of life. Ospreys dive after fish; black-footed ferrets—now critically endangered—prey on burrowing prairie dogs beneath the earth; the pine martin races after squirrels in the trees. In every case, the predator is an important component of the ecosystem, and every effort should be made to understand and protect this natural order.

The policies of the Federal Governemnt regarding predators must be viewed in this context.

The Federal Government is charged with stewardship over our 450 million acre public domain heritage. The land is held in trust for all Americans, and is properly administered under multiple-use guidelines.

The traditional framework for wildlife management involving "resident" species, or most wildlife other than migratory birds, involves State fish and wildlife agencies operating under cooperative agreements with the Bureau of Land Management. Eagles and other raptors, wild horses and burros, and marine mammals are administered under Federal law on both State and Federal land.

The State-Federal cooperative agreements have created an acceptable and proper basis for wildlife management activities. The States have done a good job of organizing their wildlife departments and administering wildlife restoration projects, hunting seasons, and research programs.

Where public lands are involved, the Federal Government has the responsibility to respect and uphold the public interest. Public land managers and wildlife managers operating on public land must not lose sight of this fundamental tenet. Further, decisions involving major public land programs must be evaluated in light of the impact on public values. Such an evaluation must involve both the Federal Government and the public.

The bill I introduce today provides an adequate system for review and decision on national predator policies and action. I believe it will provide a comprehensive examination of Federal policy with regard to predators, and that such an examination will help us avoid costly, nonproductive management mistakes—mistakes that derive substantially from a continuing failure to comprehend the essential relationship between predator and prey.

Mr. President, I ask unanimous consent that the text of my resolution and a section-by-section analysis be printed at this point in the RECORD.

There being no objection, the materiel was ordered to be printed in the RECORD, as follows:

S.J. RES. 5

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas article IV, section 3, clause 2 of the Constitution vests authority in the Federal Government to "make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States," and

Whereas predators and scavengers are indispensable to the health and stability of natural ecosystems and to prey species in particular, and

Whereas the extermination of predators has resulted in dramatic instability of prey populations and attendant habitat deterioration, and

Whereas there is no evidence that nonhuman predation alone is a cause of extinction of prey; and

Whereas organisms tend to be closely adapted to their environment by evolution, whereby their survival ability is greatest, and

Whereas evolution occurs in response to changing environmental parameters, including the living and nonliving components of the ecosystem, and

Whereas a thorough understanding of the interdependent relationship between predator and prey is essential to sound wildlife and land use planning at all levels of government, and furthermore,

Whereas the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as ratified by the United States Senate, stipulates that native species of wildlife should be maintained throughout their range at a level consistent with their role in the ecosystems in which they occur: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That all taking of predators or scavengers naturally occurring on public lands for all or part of their life cycles is hereby prohibited unless such taking is approved according to the requirements of sections 3 or 4 of this joint resolution.

SEC. 2. For the purposes of this Act, the following definitions apply:

"Predators" include individuals of any species of bird or mammal that regularly capture or consume other vertebrate species.

"Wildlife" includes all species of the animal kingdom (persisting for all or part of their life cycles on ecosystems of the United States, its coastal waters, or adjacent islands) which are covered by the provisions of this Act.

"Public lands" means any lands belonging to the United States of America on which regulations regarding taking of wildlife cov-

ered by this Act are or may become less restrictive than those herein provided.

"Species" includes any subspecies of wildlife covered by this Act and any other group of wildlife covered by this Act of the same species or smaller taxa in common special arrangement that interbreed when mature.

"Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

"Take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct, for any purpose, any wolf, predator, or other form of wildlife covered by this Act, excluding taking for subsistence purposes.

"Scavengers" include individuals of any species of bird or mammal that naturally feed upon the remains of dead vertebrate species.

An "ecosystem" is the basic ecological unit including the living organisms, the nonliving environment, and the interactions between individual organisms, between species, and between organisms and the environment.

A "secretary" is the head of a Federal agency having land management responsibilities, including the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the head of the Tennessee Valley Authority, and others.

SEC. 3. Proposed actions by any person involving the taking of predators or scavengers naturally occurring on public lands of the United States may be carried out (unless prohibited by other statute or regulation) even though the taking can be reasonably expected to have significant impacts on the specific wildlife covered by this Act, other species of wildlife covered by this Act, or the ecosystems of which the wildlife is a part, if proposals for such actions—

(a) are submitted to the Secretary having primary jurisdiction over the public land on which the taking will occur at least one hundred and twenty days prior to the date such taking is to commence; and

(b) are described by notice in the Federal Register, allowing as least sixty days for public comment; and

(c) will, if carried out, maintain that species at a level consistent with its role in the ecosystem in which taking is to occur, protecting and maintaining the indispensable relationship between predator and prey species and the ecosystem, and be in overall public interest; and

(d) are approved in writing by the Secretary after consideration of public comment and consultation with the President's Council on Environmental Quality and with the Director of the United States Fish and Wildlife Service before any taking is carried out.

SEC. 4. The Secretary shall enforce the provisions of this Act and shall, in consultation with the President's Council on Environmental Quality, promulgate such regulations as he deems necessary and appropriate to carry out the provisions, including enforcement, of this Act: *Provided*, That all mammals or birds shot or captured contrary to the provisions of this section, or of any regulation issued hereunder, and all guns, aircraft, and other equipment used to aid in the shooting, attempting to shoot, capturing, or harassing of any mammal or bird in violation of this section or of any regulation issued hereunder shall be subject to forfeiture to the United States: *And provided further*, That the Secretary or head of any Federal agency who has issued a lease, license, permit, or other agreement to any person who is convicted of a violation of this Act or of any regulation issued hereunder may immediately cancel each such lease, license, permit, or other agreement. The United States shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the cancellation of any lease, license, permit, or other agreement pursuant to this section.

SEC. 5. Nothing herein shall be construed in any way to amend or otherwise alter the requirements of the National Environmental Policy Act of 1969, the Marine Mammal Protection Act of 1972, or the Endangered Species Act of 1973, as amended.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. PREAMBLE

Section 1 of the bill states the intent of the resolution is to establish a national policy for the taking of predatory or scavenging mammals and birds on public lands; set forth findings; and prohibits the taking of predators or scavengers unless pursuant to specified requirements.

SECTION 2. DEFINITIONS

Section 2 of the bill defines the terms used in the Act, including Predators, Scavengers, and Take.

SECTION 3. REQUIREMENTS FOR PERMISSIBLE TAKINGS

Section 3 of the bill sets forth procedures under which the taking of predators or scavengers may be carried out.

SECTION 4. ENFORCEMENT AND REGULATORS

Section 4 calls upon the Secretary of the appropriate Department to promulgate regulations and enforce requirements. Sets forth penalties for violations of the Act.

SECTION 5. RELATION OF THE ACT TO EXISTING LAW

Section 5 of the Act is specified not to amend or alter the National Environmental Policy Act of 1969, the Marine Mammal Protection Act of 1969, the Marine Mammal Protection Act of 1972, or the Endangered Species Act of 1973, as amended.

SECTION 6. AUTHORIZATION

Section 6 provides such sums as may be necessary to carry out the provisions of the Act.

By Mr. DeCONCINI (for himself, Mr. HATCH, Mr. SIMON, Mr. THURMOND, Mr. GRASSLEY, and Mr. DANFORTH):

S.J. Res. 9. Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO BALANCED BUDGET

● Mr. DeCONCINI. Mr. President, I rise today to introduce a constitutional amendment to balance the Federal budget. This amendment is identical to the compromise balanced budget amendment reported by the Constitution Subcommittee last Congress.

For a dozen years now, I have made this annual pilgrimage to the Senate floor. Twelve times I have asked for the support of my colleagues in producing a balanced budget amendment which would garner the votes necessary for enactment into law. For over a decade, I have attended hearing after hearing to be told repeatedly by expert witnesses that unless something is done, and done soon, our generation will be responsible for lowering the quality of life for future generations. Year after year, I have met with and worked with groups such as the National Taxpayers Union in an effort to develop legislation acceptable to those doubting the need for a balanced budget. The road has been very long and filled with many obstacles.

Just last Congress, the Constitution Subcommittee reached a bipartisan compromise on what many considered to be a workable piece of legislation calling for a balanced budget. Nevertheless, the compromise legislation never received consideration by the full committee. I understand the need for control over the agenda of a committee. On more than one occasion I have relied on the rules of the Senate, committees, and subcommittees. Yet, I am of the mind that for certain issues of great importance to the country, such as balancing the budget, steps must be taken to insure full debate and consideration by the Senate. The stakes are too high to put aside the matter for another day.

The deficit resulting from the continued failure to balance the Federal budget is one of the most, if not the most, pressing problems the new administration faces as we begin the 101st Congress. A recently published GAO report on the budget deficit states that "[a]mong the most urgent issues facing [the] new administration and the new Congress is the budget deficit. Unless this problem is solved * * * it will make it very difficult to begin addressing the Nation's unmet needs, and it could sap our long-run economic vitality."

Under the resolution I introduce today, total outlays of the United States for a given fiscal year cannot exceed total receipts unless three-fifths of the Members of both Houses of Congress provide for a specific excess of outlays over receipts. In this way Members of Congress will be held accountable for voting to increase the deficit.

In addition to being held accountable for increasing the deficit, accountability will result by requiring a roll-call vote of both Houses of Congress on any bill for raising taxes. Furthermore, such a bill shall become law only if approved by a majority of the whole number of both Houses. At some point we here in Congress must be willing to stand up and be counted. We must be responsible for our action to our constituents back home. If tax

legislation is required to tackle the deficit problem, we should answer to those who have elected us to office. This provision, along with the previously mentioned section, provides that accountability.

Congress is not the only branch of Government which should be scrutinized. The executive branch and the President have a duty to the American people as well. Each year the President initiates the budget process by sending a budget request to Congress. Yet, for the last 8 years, President Reagan has failed to forward a balanced budget to Congress. Right from the start, Congress has been working with figures, which if, adopted would increase the deficit. And as we all know, that has too often been the outcome.

Section 3 of the resolution requires the President, prior to each fiscal year, to transmit to Congress a proposed Federal budget for that fiscal year in which total outlays do not exceed total receipts. To overcome the deficit hurdle created by many years of loose spending, all parties to the budget process must become active participants. A balanced budget proposal would assist Congress with producing a final balanced budget. Without cooperation from the President, the budget process will likely continue to be a long drawn-out battle resulting in excessive spending. Future generations can ill-afford this economic extravagance on our part.

The short-term socio-economic byproducts of budget deficit spending are easily seen. The already massive trade deficit grows larger each reporting period. Foreign investments crowd domestic investment markets. Manufacturing declines as our economy depends more and more on service-oriented businesses. But as we focus on the immediate effects of budget irresponsibility, the most disheartening and severe result of our frivolous expenditures is often overlooked. It is the future generations which will suffer great pains because of our shortsightedness.

Our children and generations which follow will be faced with addressing problems for which our generation has thus far neglected to take responsibility. A slow but definite erosion of economic power is currently taking place and it is those generations yet to come who will be burdened by present trends. "Downward mobility," once thought to be nothing more than doomsayer rhetoric, could become a reality for many. If for no other reason than for the dreams of tomorrows held by our youth, we must break from habit today.

I am heartened to hear the newly sworn President speak of a new commitment, a new dedication, a new "breeze blowing." President Bush has indicated his support for a balanced budget amendment on repeated occasions. Now that he has taken up the reins of the country, his leadership on this issue could indeed be helpful. The battle has been long fought and reinforcements will not be turned away.

This is no time for politics. The stakes are much too high for gamesmanship. We must face our responsibility and Act for the good of future generations. I urge my colleagues to join with me and lend their support to the effort to swiftly pass a balanced budget amendment.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 9

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that year, unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

"SECTION 2. Any bill for raising taxes shall become law only if approved by a majority of the whole number of both Houses of Congress by rollcall vote.●

Mr. HATCH. Mr. President, today I rise to address perhaps the most important issue facing our Nation—the national debt.

As Thomas Jefferson said:

The public debt is the greatest of dangers to be feared by a republican government.

Andrew Jackson remarked:

Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens and will find additional means for the display of individual enterprise.

The two quotes from early American Presidents illustrate an important truth: no concept is more a part of traditional American fiscal policy than that of the balanced budget. Throughout most of the Nation's history, the requirement of budget balancing under normal economic circumstances was considered to be a sound and fundamental policy.

Influenced by individuals such as Adam Smith, David Hume, and David Ricardo, the drafters of the Constitution and their immediate successors at the helm of the new government strongly feared the effects of public debt. Even Alexander Hamilton and Thomas Jefferson, who had widely diverse perspectives on the role of the Federal Government, were in agreement that, whatever debt happened to be accrued by a nation, it ought to be repaid within some prescribed period of time.

Early American Presidents were in virtually unanimous agreement on the dangers of excessive public debt. Consequently, for approximately 150 years of our history—from 1798 to 1932—balanced budgets or surplus budget were the norm. While budget procedures had little of their present organization, the concept of a balanced budget was accepted widely as the hallmark of fiscal responsibility. Those dificits that did occur—during wartime or during the most severe recessions—normally were compensated for by subsequent surpluses.

Between 1932 and 1960 the rigid rule of annual balanced budgets gave way to a fiscal policy in which balanced budgets remained an overall objective but in which deficit spending nevertheless was viewed as a tool occasionally useful to effect appropriate economic results. New economic theories had emerged that placed great weight upon the ability of the Federal Government to manage fiscal policy through deficits and surpluses.

However, a real turning point in the history of U.S. fiscal policies occurred during the 1960's. Even the Keynesian objective of balancing surplus years with deficit years succumbed to the idea of regular, annual uncompensated-for deficits.

During the past two decades, the Federal Government has run deficits in all but a single year. The deficits have come during good economic times, and they have come during bad economic times. They have come from Presidents who have pledged themselves to balanced budgets, and they have come from Presidents whose fiscal priorities were elsewhere. They have come from Presidents of both parties.

Even more alarming, the magnitude of these deficits has increased enormously. for the 7 fiscal years ending in 1967, the total deficit was approximately $91 billion. For the 7 fiscal years ending in 1981, the total deficit was approximately $450 billion. The total national debt stands just over $2.6 trillion, with nearly two-thirds of that total incurred during the past decade alone.

MAGNITUDE OF FEDERAL DEBT

The number $2.6 trillion is too clean and simple sounding to communicate the implications of our staggering debt. In 1975, before this recent borrowing spree, the Federal debt amounted to approximately $2,500 per person and the annual interest charges cost roughly $250 per taxpayer. Only 1 year ago, the Federal debt amounted to over $10,000 per person. By 1992, according to 1988 Congressional budget Office projections, the

debt could reach $13,500 per person. Even if the Government adheres to Gramm-Rudman-Hollings deficit ceilings, tens of billions of dollars will be added to the national debt. These last figures—which must be considered optimistic—would mean a fourfold increase in per-capita debt. This gives a better picture of the actual magnitude of the debt. It still does not describe, however, the human implications. The human implications are that our children are being shackled with an insurmountable burden as a result of our largess. Over time, the disproportionate burdens imposed on today's children and their children by a continuing pattern of deficits will include some combination of the following:

First, increased taxes; second, reduced public welfare benefits; third, reduced public pensions; fourth, reduced expenditures on infrastructure and other public investments; fifth, diminished capital formation, job creation, productivity enhancement, and real wage growth in the private economy; sixth, higher interest rates; seventh, higher inflation; eighth, increased indebtedness to and economic dependence on foreign creditors; and ninth, increased risk or default on the Federal debt.

Perhaps the most significant effect of today's unrestrained borrowing, however, will be a reduction in the political choices available to future governments of this Nation. From 1952 through 1975, the interest cost on the Federal debt consumed between 6.7 percent and 8.3 percent of annual revenues. Since then, that percentage has risen steadily. By 1988, interest costs consumed 16.7 percent of annual revenues.

In fiscal year 1988, 85.4 percent of Federal Government expenditures were financed by tax revenues, and the remaining 22 percent by borrowing. Of this situation, one could say that the American people were getting a dollar's worth of Government for every 78 cents' worth of taxes. But at what cost? Future taxpayers—including today's children—face the sad prospect of receiving 78 cents' worth of Government for every dollar's worth of taxes.

Efforts to secure a constitutional rule to require a balanced Federal budget and to limit the growth of Federal spending have intensified as the Federal Government's persistent failure to balance its budget has produced debt of over $2.6 trillion and as the Federal share of the economy has continued to increase.

In a large measure, the Nation's economic problems are attributable to these facts. Unacceptable levels of inflation and unemployment, as well as enormous foreign trade imbalances, can be traced directly or indirectly to the fiscal policies and practices of the National Government.

This balanced budget amendment will reestablish constitutional limitations upon Federal spending and deficit practices that existed in earlier years through an array of formal and informal principles and understandings and which have been eroded over the course of recent years. The abandonment of the fundamental policy requirement of balanced budgets, the passage of the 16th amendment, and the development of new judicial doctrines concerning the Federal spending authority are some of the features that have contributed to the present situation in which there is insufficient external constraint upon the ability of Congress to spend.

Specifically, the proposed amendment addresses a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather than having to cast such politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending.

Members of Congress, thus, have been free to respond to the concentrated pressures of spending interest groups—and reap the political advantages of doing so—without having to reap concomitant political disadvantages by reducing spending programs favored by some other spending interests or by expressly raising taxes.

The result is that spending continues inexorably to rise regardless of the genuine will of the people. This result is an essentially undemocratic and unresponsive process that enables Members of Congress to avoid ultimate accountability for their spending and taxing decisions. This institutional bias requires a constitutional solution.

The text of the balanced budget amendment follows:

TEXT OF THE BALANCED BUDGET AMENDMENT WITH CONSENSUS TAX AMENDMENT

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

ARTICLE —

SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that year, unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

SEC. 2. Any bill for raising taxes shall become law only if approved by a majority of the whole number of both Houses of Congress by rollcall vote.

SEC. 3 Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States government for the fiscal year in which total outlays do not exceed total receipts.

SEC. 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

SEC. 5. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

SEC. 6. This article shall take effect beginning with fiscal year 1992 or with the second fiscal year beginning after its ratification, whichever is later.

CONCEPTS OF THE BALANCED BUDGET AMENDMENT

The balanced budget amendment proposes to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution and it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of the Government. It merely proposes to create a fiscal environment in which the competition between the tax-spenders and the taxpayers is a more equal one—one in which spending decisions will once more be constrained by available revenues.

Section 1 of the amendment would establish a balanced budget as a form of Federal fiscal policy. It could be overcome, however, by three-fifths votes in both Houses of Congress. Section 2 of the amendment would prohibit Congress from raising taxes and increasing the Federal Government's share of the national economy unless Members of Congress were willing to go on record.

This amendment is not a panacea for the economic problems of the Nation. The amendment is, however, a necessary step toward securing an environment more conducive to honest and accountable fiscal decisionmaking.

The balanced budget amendment represents both responsible economic policy and responsible constitutional policy. Passage of this resolution would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the States for a Constitutional Convention on this issue.

NEED FOR BALANCED BUDGET CONSTITUTIONAL AMENDMENT

The primary purpose of this amendment is to correct a bias in the present political process in behalf of ever-increasing levels of Federal Government spending. Whether such spending is financed by higher taxes or new debt, it has woeful economic consequences. High interest rates, and the resulting decline in investment and productivity, as well as unacceptable levels of unemployment, all follow when the Government uses an excessive share of the Nation's resources, leaving too little for productive use by the private

sector. If the Federal Reserve Board attempts to reduce these economic problems by increasing the money supply faster than increases in the supply of goods and services, inflation results.

While it is true that much of the enormous growth in Federal Government spending over the past two decades may be a response to evolving notions of the role of the public sector on the part of the American citizenry—that is, a genuine shift in the will and desire of the people—it is my contention that a substantial part of this growth stems from far less benign factors.

In short, the American political process is defective insofar as it is skewed toward artificially high levels of spending; that is, levels of spending that do not result from a genuine will and desire of the people. It is skewed in this direction because of the characteristics of the fiscal order that have developed in this country in recent decades. It is a fiscal order in which Members of Congress have every political incentive to spend money and almost no incentive to forego such spending. It is a fiscal order in which spending decisions have become increasingly divorced from the availability of revenues.

GRAMM-RUDMAN AND A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

The enactment of Gramm-Rudman does not diminish the need for a constitutional amendment requiring a balanced budget. Gramm-Rudman does not purport to correct the structural bias in favor of deficit spending that would be offset by a constitutional amendment.

The proposed constitutional amendments to balance the Federal budget correct the inherent structural bias within our political system causing chronic deficit spending. Gramm-Rudman implements that fundamental principle over the next few years, but it neither corrects the systemic biases in our political system nor purports to make that policy permanent. Accordingly, even if Congress and the President successfully meet the worthy objectives of the Gramm-Rudman statute over the next few years, the symptoms may have been temporarily relieved, but the cancer will linger to flare up later.

The spending bias in our fiscal processes is caused by the absence of linkage between taxing and spending decisions. Members of Congress, however well-intentioned, simply do not have to cast votes in behalf of new taxes to order to accommodate new spending. Rather than casting politically disadvantageous votes, they can resort to increased levels of deficit spending funded by borrowing. Over the next few years, Gramm-Rudman effectively addresses the deficits caused by these systemic flaws, but a constitutional amendment is necessary to correct permanently the flaws.

In a democracy, a constitution establishes the structure of government by imposing restraints on the behavior of those who represent the people. For years, the body politic has suffered from the removal of constraints upon Congress imposed explicitly or assumed implicitly by the framers of the Constitution. Consequently the Federal Government has run a deficit in 27 of the past 28 years. Since 1970, the United States has incurred the 11 largest peacetime deficits in the history of the Nation with nine deficits over the past decade in excess of $50 billion. Consequently, Congress had to take the unprecedented steps prescribed by Gramm-Rudman. In this sense, Gramm-Rudman is itself a testament to the need for constitutional restraint. Thus, an amendment to the Constitution would reimpose, explicitly, those constraints as only a constitutional amendment can.

Although Gramm-Rudman statutorily mandates a balanced budget, a constitutional amendment is required for the following reasons:

Gramm-Rudman does not purport to correct the structural bias in favor of deficit spending that would be offset by a constitutional amendment.

Gramm-Rudman is intended only to deal with a temporary crisis, whereas a constitutional amendment corrects a bias that has caused deficits in 51 of the past 58 budget cycles. The deficit spending bias is not a problem that has lasted, nor will last, only a few years. In other words, the system is broke and will not be finally fixed in a few years. It demands a permanent constitutional solution.

Ultimately, no Congress can bind a succeeding Congress by simple statute. Spending and taxing pressures could cause Gramm-Rudman to be circumvented or changed. The success of deficit reduction efforts in the next few years and beyond may depend on stronger medicine than a statute can supply. Put another way, no statutory measure can contain provisions requiring a greater or more onerous voting rule for its repeal than for its adoption. Any balanced budget statute can be repealed, in whole or in part, by the simple expedient of adopting a new statute. Statutory limitations remain effective only as long as no majority coalition forms to overcome such statutory constraints. The virtue of a constitutional amendment is that it can invoke a stronger rule to overcome the spending bias.

Gramm-Rudman has put the Nation on the road to recovery. In the absence of constitutional underpinnings, however, Gramm-Rudman or any other statutory prescription faces challenges that may compromise enforcement.

By analogy: Several Senators could propose legislation to change statutory law relating to ratifying treaties, expelling Member of either House of Congress, or proposing constitutional amendments—all of which are current constitutional provisions requiring supermajority votes. This hypothetical legislation could set up elaborate mechanisms to ensure that treaties or constitutional amendment proposals get careful congressional scrutiny or that accused Members of Congress get due process. Even if such legislation were enacted, the new bill would not eliminate the need for the constitutional supermajority requirements in each of these areas. Similarly the current constitutional amendment proposals are intended to endow the voting of an unbalanced budget with the same solemn consideration now required for treaties. Because disconnecting outlays from revenues has consequences at least as sweeping as most treaties, a constitutional supermajority requirement is warranted regardless of current statutory attempts to balance the budget.

CONCENTRATED BENEFITS—DISPERSED COSTS

It is important to understand what some economists and political scientiest have described as the "concentrated benefit-dispersed cost" phenomenon. This describes the fact that the benefits of any given spending program normally are concentrated within a relatively small class of beneficiaries, while the costs of such a program are dispersed throughout a relatively large class of persons; that is, the taxpayers. Thus, those parties who benefit from a particular spending measure stand to benefit greatly while those who bear the costs are affected insignificantly. Arthur Burns, former Chairman of the Federal Reserve Board, described it in these terms:

> The proximate causes of this governmental bias are quite clear. In general, spending programs are more popular with people than higher taxes. The potential beneficiaries of a spending program are often a numerical minority, but they have a stronger incentive to keep informed, to organize, and to lobby for their favorite program than those who bear the cost have to oppose it. The rising cost of political campaigns and the concurrent proliferation of fundraising committees put intense pressure on legislators to vote for spending programs favored by such groups. We may, in fact, be entering an era in which governmental processes are overwhelmed by the naked demands of increasingly well-organized and effective interest groups. It is this concern that has led me to look with favor on even preemptory devices for offsetting the existing bias toward larger Federal spending and borrowing. (AEI Economist, April 1979.)

The competition, then, between the tax-spenders and the taxpayers is a highly unequal one; it is not at all surprising that the former should prevail so frequently. It is simply not worth

the while of the individual taxpayer to spend as much time and effort to save himself a few cents or a few dollars on some program as it is for spending interests to secure millions or even billions of dollars for themselves. The spending interests tend to be intense and passionate in focusing upon individual spending measures likely to accrue to their benefit, while whose who logically would be most concerned about such spending, the taxpayers, tend to be diffuse and unorganized. Spending interests are politically visible and articulate and able to reward or punish legislators with their organized electoral support or nonsupport. Meanwhile, taxpayers are politically inarticulate, only barely able to perceive their self-interest in the context of isolated pieces of legislation. It is only when the spending programs are aggregated that the taxpayer begins to feel the full impact of such spending. Thus, it is only natural that legislators, however sincerely committed to fiscally responsible public policies, should be sensitive and responsible to the concerns of those who lobby for new or expanded spending initiatives. As Prof. Charles Baird of the University of California at Hayward has observed:

Whenever Government programs are considered one by one, there is a bias toward Government growth. Each program has a well-defined constituency that receives positive benefits therefrom. In many cases, the benefits from a particular program to a particular person represent a large part of that person's total income, while the tax cost to the beneficiary of that program is miniscule. Such direct beneficiaries of program A therefore are strongly motivated to organize work and lobby for the adoption and growth of the program. There is not countervailing incentive for taxpayers in general to organize, work, and lobby against program A in isolation because any individual taxpayer's share of program A is miniscule. Since elected representatives inevitably respond to lobbying efforts, there is a high probability that program A will be adopted even if the sum of the benefits therefrom are less than the sum of the costs.

The purpose of the balanced budget amendment is to create a more equal competition between spending interests and taxpayer interests by reducing the structural bias toward higher spending within the Federal fiscal system that contributes to the current imparity. By reducing the bias, and creating a more neutral environment within which this competition can take place, the representative processes will be more responsible and accountable to the genuine desires and interests of the public at large with respect to levels of public expenditures. As Prof. Allan Meltzer of Carnegie-Mellon University has observed:

Only by changing the ground rules under which spending decisions are made can we expect to obtain the outcome which people desire.

The proposed amendment addresses an important element of the spending bias: The access Members of Congress have to deficit spending. This enables Members of Congress to avoid having to vote new taxes in order to finance new spending.

A principal cause of the spending bias involves the virtually unlimited access that Members of Congress have to deficit spending. As the fundamental policy of budget balance has been disregarded in recent years, Members of Congress no longer are constrained in their ability to increase spending by the concomitant need to increase ordinary revenues. Permissible levels of spending no longer are defined as they traditionally have been, by levels of revenue available. In consequence, Members of Congress are free to obtain the resulting political advantages, without having either to: First, reduce spending for some other spending interest and incur the resulting political disadvantages, or second, increase tax revenues and incur the resulting political disadvantages.

Members of Congress do not have to reduce levels of spending for one program in order to accomplish increases in other programs because there is no effective limit as to how much Congress may spend in its budget. Once the traditional linkage has been severed between spending and revenues, there is not need for Members to establish priorities as between alternative spending proposals; each can be satisfied simply by increasing the level of the deficit. The availability of deficit spending enables Members to avoid the hard political decision of having to choose among spending proposals and thereby ensure for themselves some element of political disadvantage as well as political advantage.

Members of Congress do not have to increase revenues in order to accommodate increased spending because levels of spending no longer are related in any meaningful way to levels of revenue. Thus, not only is there no need for Congress to antagonize any other spending interest in the process of supporting a given spending measure, but there is no need to antagonize taxpayers generally by appearing to raise their tax burdens. Again, there is no element of political disadvantage Members of Congress are required to incur in order to reap the political disadvantages of responding to the spending interests.

In this respect, the availability of unlimited deficit spending allows the political costs of spending measures to be deferred in time, while enabling the political benefits to be enjoyed immediately. While the benefits of the measure usually will be understood immediately by its beneficiaries, the costs—in the form of higher future taxes, higher future inflation, and higher future interest rates—usually will be evident only at some remote time. Indeed, there may be no political costs whatsoever unless those who suffer from these economic ills are sophisticated enough to understand the cause-effect relationship between the earlier spending and the later symptoms.

APPROACH OF THE BALANCED BUDGET AMENDMENT

In seeking to reduce the spending bias in our present system—the unlimited availability of deficit spending—the major purpose of the balanced budget amendment is to ensure that, under normal circumstances, votes by Congress for increased spending will be accompanied either by votes: First, to reduce other spending programs or second, to increase taxes to pay for such programs. For the first time since the abandonment of the traditional balance budget principle, Congress will be required to cast some politically difficult vote as a precondition for a politically attractive vote to increase spending.

Section 1 of the proposed amendment would address the spending bias—unlimited access by Members of Congress to deficit spending—by requiring a three-fifths vote of each House of Congress before the Federal Government could engage in such spending. Such a procedure would not prohibit deficit spending, but would simply reestablish, as a norm, a budget in balance rather than one in deficit. A consensus greater than a normal majority would be required to violate this norm. Unless such a consensus existed, Congress would be bound in its spending by its available revenues and would be forced to account for new spending in one program area by either reducing spending in another program area or by increased taxes. The political advantages resulting from support for new spending then would be matched, at least to some degree, by countervailing political disadvantages.

Section 2 of the proposed amendment would reinforce section 1 and further link tax spending and tax raising by requiring both Houses of Congress to approve any bill to increase revenues by a constitutional majority. In the absence clear constitutional majority and Presidential consent, a tax increase could not cause the public sector to grow at the expense of the private. Though while section 1 would ensure, as a norm, that Federal spending is matched by Federal revenues, section 2 would ensure that as such revenues are not raised without political accountability for Members of Congress. It would also make it less likely that the budget would be regularly balanced at increasingly high levels of taxation. Before Congress could make available to itself greater amounts of revenue for new spending

initiatives, it would have to stand up in view of the public and place itself on record in behalf of such increased revenues. Section 3 requires the President to send a proposed budget to Congress which is in balance.

As a result, the amendment effects a subtle, but important, change in the psychology of the budget process. Under the present system, each spending interest, in effect, competes with the taxpayers to raise the total ante in the Federal Treasury. Under a system, however, in which some form of spending ceiling is in effect, these same interests suddenly will be competing with one another in order to ensure themselves a certain proportion of a fixed ante in the Federal Treasury. Not only will spending interests have to convince Congress that their favored programs merit funding at a certain level, but they will, in addition, have to establish the priority of their programs. A spending ceiling comprised of something beyond mere congressional self-restraint will force Members of Congress to view spending requests in terms of relative desirability, not simply in terms of whether or not a program is desirable at all. An element of competition among the spending interests will be introduced into the budget process, undoubtedly to the long-term interests of those who finance the spending programs favored by these interests.

Thus, the proposed amendment would make it easier for well-meaning, but beleaguered, Members of Congress to exercise fiscal responsibility in making their policy decision. There would be an external constraint something beyond their own ability to resist the importunities of the spending interest, upon which they could rely. As Prof. Roger Freeman of the Hoover Institution has noted:

It is not that Members of Congress do not wish to produce a balanced budget but that under the circumstances they can only do so at a grave political risk to their survival. They need a defense against excessive demands which allows them to say "no" to a multitude of pressure groups. Such a defense cannot be built by statute because any act of Congress can be amended or repealed by this Congress or the next. Only a constitutional amendment can impose credible and effective spending restraints.

Prof. James Buchanan goes on to elaborate:

The fault lies not in the bad intentions of elected politicians. The basic causes for the dramatic, and readily observable, shift in U.S. fiscal habits after World War II and notably after 1960 are not hard to identify. Keynesian teachings had succeeded in effectively repealing an important element of the unwritten fiscal Constitution within which American politics had been carried out throughout almost two centuries of its history.

In summary, the purpose of the balanced budget amendment is to eliminate the political process which allows Members to avoid having to vote for higher taxes in order to pay for higher spending and to establish a more genuinely neutral environment within which the budget competition occurs. The proposed amendment does not define what constitutes or what does not constitute a responsible budget, but only defines the institutional framework within which such budgets can be put together. Rather than Federal Government spending increasing inexorably, whatever the desires of the citizenry, the amendment would ensure that such spending is set at levels more reflective of their genuine desires.

By Mr. THURMOND:

S.J. RES. 10. Joint resolution to designate the month of May 1989, as "National Foster Care Month"; to the Committee on the Judiciary.

NATIONAL FOSTER CARE MONTH

Mr. THURMOND. Mr. President, I am pleased to introduce today a joint resolution which would designate May 1989 as "National Foster Care Month."

It is acknowledged that a family environment with loving and caring parents is the ideal situation for children. However, in the United States there are hundreds of thousands of foster children who through no fault of their own have been deprived of this normal home relationship involving love, shelter, and other needs that are the basic necessities of all children. Foster parents volunteer their time, energy, and material resources 24 hours a day, 7 days a week, to help enable these children to develop into mature, responsible, and productive adults.

Our Nation's foster parents have a long and proud tradition of reaching out to those children who need them most. We need to publicly recognize these efforts and call attention to the vital needs of all foster children in the United States. Acknowledgement of the valuable contributions of foster care parents will provide for greater public awareness of and community support for these Americans.

Mr. President, I urge my colleagues to join me in cosponsoring this resolution.

I ask unanimous consent that the full text of this joint resolution be printed in the CONGRESSIONAL RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas there are more than 250,000 licensed foster families in the United States who temporarily provide guidance, emotional support, food, shelter, and nurture to children who cannot remain in their own home;

Whereas foster parents devotedly and unselfishly open their home and family life to children in need;

Whereas foster parents are a vital part in permanency planning to protect the best interests of a foster child;

Whereas foster parents work cooperatively with human service agencies and biological parents to strengthen family life;

Whereas foster parents must have the commitment of the national, State and local communities in terms of funding, support, and training; and

Whereas the National Foster Parent Association holds its annual training conference during the month of May, 1989: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1989, is designated as "National Foster Care Month". The President is requested to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

By Mr. THURMOND:

S.J. Res. 11. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO FELONY CONVICTIONS OF OFFICIALS

Mr. THURMOND. Mr. President, today, I am introducing a proposed amendment to the Constitution which would require forfeiture of office for Federal judges and certain other officers of the United States upon conviction of a felony.

Mr. President, I believe that the citizens of our country will agree that those who have been convicted of felonies should not occupy positions of trust and responsibility in our Government. Under current constitutional law, however, it is possible for certain officers of the United States who are appointed by the President with the advice and consent of the Senate to continue to receive a salary after such a felony conviction. This is unconscionable. In order to remove officers from the Federal payroll who are unwilling to resign, it is necessary that they be impeached, a process which can occupy valuable time and resources of the Congress.

Congress currently has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when the courts of this Nation find an official guilty of a serious crime, it should not be necessary for Congress to retry the officer prior to his or her removal from the Federal payroll.

The constitutional amendment which I am introducing will provide that any officer of the United States who is appointed by the President and confirmed by the Senate, upon conviction of a felony, shall be removed from office and shall lose all salary and benefits arising from service in such office.

Mr. President, I urge my colleagues to support this proposal and ask that

it be printed in the RECORD at the conclusion of my remarks:

S.J. RES. 11

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"Any officer of the United States appointed by the President with the advice and consent of the Senate, upon conviction of a felony, shall forfeit office and all prerogatives, benefits, or compensation thereof.".

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. STEVENS, Mr. GARN, Mr. MCCONNELL, Mr. KASTEN, Mr. SIMPSON, Mr. COCHRAN, Mr. HELMS, Mr. GRAMM, Mr. LUGAR, Mr. DECONCINI, Mr. HUMPHREY, Mr. ROTH, Mr. SYMMS, Mr. PRESSLER, Mr. WALLOP, Mr. JOHNSTON, and Mr. D'AMATO):

S.J. Res. 12. Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

Mr. THURMOND. Mr. President, today, I am introducing legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget.

This legislation is essentially similar to Senate Joint Resolution 11 which I introduced in the 100th Congress as well as an earlier bill which in March 1986 received 66 of 67 votes needed for Senate approval. Simply stated, this legislation calls for a constitutional amendment which requires that outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending. Further, Congress could waive the amendment during time of war. The amendment would additionally require that any bill to increase taxes be approved by a majority of the whole number of both Houses.

It is clear from the recent Presidential campaign that the budget deficit is a top priority with the American people and with the incoming Bush administration. The interest and involvement by our colleagues, the American citizens, and President-elect Bush speaks volumes as to the necessity of addressing our Nation's runaway fiscal policy.

Our Constitution has been amended only 26 times in 200 years. Amendment of our supreme law is a serious endeavor and should be reserved to protect the fundamental rights of our citizens or to ensure the survival or effectiveness of our system of government.

Mr. President, I believe that the effectiveness, indeed, the very survival of our system of government has become jeopardized by an irrational and irresponsible pattern that has developed and become entrenched in Federal fiscal policy over the last half-century. Because of this fiscal policy, the liberties and opportunities of our present and future citizens, which we have come to regard as sacred, are seriously threatened.

For many years, I have believed, as have many other Members of Congress, that the way to reverse this misguided direction of the fiscal Government is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. We need this addition to our Constitution which establishes balanced budgets as a fiscal norm, rather than a fiscal abnormality.

In the past, we have been told by the opponents of the balanced budget constitutional amendment that self-imposed congressional restraint is what is needed to solve our fiscal woes—not a constitutional amendment. The fact, is, however, that in the face of large deficits, Congress has not proven that it is capable of such restraint. Congress has balanced the Federal budget only once in the last 28 years.

The level of annual budget deficits has grown enormously over this period of time. Since 1970, the United States incurred the largest peacetime deficits in the history of the Nation. Continued deficit spending by the Federal Government will undoubtedly lead the Nation into new periods of economic stagnation and decline. The tax burdens which today's deficits will place on future generations of American workers is staggering. We must reverse the fiscal course of the Federal Government, and I believe that a constitutional amendment is the best way to do it.

Mr. President, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds widely varying political views. Its supporters share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

I urge my colleagues to support this proposal so we may submit this important constitutional amendment to the States for ratification.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 12

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each Hosue concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that year, unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

"SECTION 2. Any bill for raising taxes shall become law only if approved by a majority of the whole number of both Houses of Congress by rollcall vote.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SECTION 5. This article shall take effect beginning with fiscal year 1992 or with the second fiscal year beginning after the ratification, whichever is later.".

Mr. HATCH. Mr. President, throughout most of the Nation's history, the requirement of budget balancing under normal economic circumstances was considered to be a sound and fundamental policy. Consequently, for approximately 150 years of our history—from 1789 to 1932—balanced budgets or surplus budgets were the norm. While budget procedures had little of their present organization, the concept of a balanced budget was accepted widely as the hallmark of fiscal responsibility. Those deficits that did occur—during wartime or during the most severe recessions—normally were compensated for by subsequent surpluses.

Between 1932 and 1960 the rigid rule of annual balanced budgets gave way to a fiscal policy in which balanced budgets remained an overall objective but in which deficit spending nevertheless was viewed as a tool occasionally useful to effect appropriate economic results. New economic theories had emerged that placed great weight upon the ability of the Federal Government to manage fiscal policy through deficits and surpluses.

However, a real turning point in the history of U.S. fiscal policies occurred during the 1960's. Even the Keynesian objective of balancing surplus years with deficit years succumbed to the idea of regular, annual uncompensated for deficits.

During the past two decades, the Federal Government has run deficits in all but a single year. The deficits

have come during good economic times, and they have come during bad economic times. They have come from Presidents who have pledged themselves to balanced budgets, and they have come from Presidents whose fiscal priorities were elsewhere. They have come from Presidents of both parties.

Even more alarming, the magnitude of these deficits has increased enormously. For the 7 fiscal years ending in 1967, the total deficit was approximately $91 billion. For the 7 fiscal years ending in 1981, the total deficit was approximately $450 billion. The total national debt stands just over $2.6 trillion, with nearly two-thirds of that total incurred during the past decade alone.

MAGNITUDE OF FEDERAL DEBT

The number $2.6 trillion is to clean and simple sounding to communicate the implications of our staggering debt. In 1975, before this recent borrowing spree, the Federal debt amounted to approximately $2,500 per person and the annual interest charges cost roughly $250 per taxpayer. Only 1 year ago, the Federal debt amounted to over $10,000 per person. By 1992, according to 1988 Congressional Budget Office projections, the debt could reach $13,500 per person. Even if the Government adheres to Gramm-Rudman-Hollings deficit ceilings, tens of billions of dollars will be added to the national debt. These last figures—which must be considered optimistic—would mean a fourfold increase in per-capita debt. This gives a better picture of the actual magnitude of the debt. It still does not describe, however, the human implications. The human implications are that our children are being shackled with an insurmountable burden as a result of our largess. Over time, the disproportionate burdens imposed on today's children and their children by a continuing pattern of deficits will include some combination of the following:

First, increased taxes; second, reduced public welfare benefits; third, reduced public pensions; fourth, reduced expenditures on infrastructure and other public investments; fifth, diminished capital formation, job creation, productivity enhancement, and real wage growth in the private economy; sixth, higher interest rates; seventh, higher inflation; eighth, increased indebtedness to and economic dependence on foreign creditors; and ninth, increased risk or default on the Federal debt.

Perhaps the most significant effect of today's unrestrained borrowing, however, will be a reduction in the political choices available to future governments of this Nation. From 1952 through 1975, the interest cost on the Federal debt consumed between 6.7 and 8.3 percent of annual revenues. Since then, that percentage has risen steadily. By 1988, interest costs consumed 16.7 percent of annual revenues.

In fiscal year 1988, 85.4 percent of Federal Government expenditures were financed by tax revenues, and the remaining 22 percent by borrowing. Of this situation, one could say that the American people were getting a dollar's worth of government for every 78 cents' worth of taxes. But at what cost? Future taxpayers—including today's children—face the sad prospect of receiving 78 cent's worth of government for every dollar's worth of taxes.

Efforts to secure a constitutional rule to require a balanced Federal budget and to limit the growth of Federal spending have intensified as the Federal Government's persistent failure to balance its budget has produced debt of over $2.6 trillion and as the Federal share of the economy has continued to increase.

In a large measure, the Nation's economic problems are attributable to these facts. Unacceptable levels of inflation and unemployment, as well as enormous foreign trade imbalances, can be traced directly or indirectly to the fiscal policies and practices of the National Government.

This balanced budget amendment I am introducing today will reestablish constitutional limitations upon Federal spending and deficit practices that existed in earlier years through an array of formal and informal principles and understandings and which have been eroded over the course of recent years. The abandonment of the fundamental policy requirement of balanced budgets, the passage of the 16th amendment, and the development of new judicial doctrines concerning the Federal spending authority are some of the features that have contributed to the present situation in which there is insufficient external constraint upon the ability of Congress to spend.

Specifically, the proposed amendment addresses a serious spending bias in the present fiscal process arising from the fact that Members of Congress do not have to cast votes in behalf of new taxes in order to accommodate new spending programs. Rather than having to cast such politically disadvantageous votes, Congress has been able to resort to increased levels of deficit spending.

Members of Congress, thus, have been free to respond to the concentrated pressures of spending interest groups—and reap the political advantages of doing so—without having to reap concomitant political disadvantages by reducing spending programs favored by some other spending interests or by expressly raising taxes.

The result is that spending continues inexorably to rise regardless of the genuine will of the people. This result is an essentially undemocratic and unresponsive process that enables Members of Congress to avoid ultimate accountability for their spending and taxing decisions. This institutional bias requires a constitutional solution.

CONCEPTS OF THE BALANCED BUDGET AMENDMENT

The balanced budget amendment proposes to overcome this spending bias by restoring the linkage between Federal spending and taxing decisions. It does not propose to read any specific level of spending or taxing forever into the Constitution and it does not propose to intrude the Constitution into the day-to-day spending and taxing decisions of the representative branch of the Government. It merely proposes to create a fiscal environment in which the competition between the tax spenders and the taxpayers is a more equal one—one in which spending decisions will once more be constrained by available revenues.

Section 1 of the amendment would establish a balanced budget as a form of Federal fiscal policy. It could be overcome, however, by three-fifths votes in both Houses of Congress. Section 2 of the amendment would prohibit Congress from raising taxes and increasing the Federal Government's share of the national economy unless Members of Congress were willing to go on record.

This amendment is not a panacea for the economic problems of the Nation. The amendment is, however, a necessary step toward securing an environment more conducive to honest and accountable fiscal decision making.

The balanced budget amendment represents both responsible economic policy and responsible constitutional policy. Passage of this resolution would constitute an appropriate response by Congress to the pending applications by nearly two-thirds of the states for a constitutional convention on this issue.

GRAMM-RUDMAN AND A CONSTITUTIONAL AMENDMENT TO BALANCE THE BUDGET

The enactment of Gramm-Rudman does not diminish the need for a constitutional amendment requiring a balanced budget. Gramm-Rudman does not purport to correct the structural bias in favor of deficit spending that would be offset by a constitutional amendment.

The proposed constitutional amendments to balance the Federal budget correct the inherent structural bias within our political system causing chronic deficit spending. Gramm-Rudman implements that fundamental principle over the next few years, but it neither corrects the systemic biases in our political system nor purports to make that policy permanent. Accordingly, even if Congress and the

President successfully meet the worthy objectives of the Gramm-Rudman statute over the next few years, the symptoms may have been temporarily relieved, but the cancer will linger to flare up later.

The spending bias in our fiscal processes is caused by the absence of linkage between taxing and spending decisions. Members of Congress, however well-intentioned, simply do not have to cast votes in behalf of new taxes in order to accommodate new spending. Rather than casting politically disadvantageous votes, they can resort to increased levels of deficit spending funded by borrowing. Over the next few years, Gramm-Rudman effectively addresses the deficits caused by these systemic flaws, but a constitutional amendment is necessary to correct permanently the flaws.

In a democracy, a constitution establishes the structure of government by imposing restraints on the behavior of those who represent the people. For years, the body politic has suffered from the removal of constraints upon Congress imposed explicitly or assumed implicitly by the framers of the Constitution. Consequently the Federal Government has run a deficit in 27 of the past 28 years. Since 1970, the United States has incurred the 11 largest peacetime deficits in the history of the Nation with nine deficits over the past decade in excess of $50 billion. Consequently, Congress had to take the unprecedented steps prescribed by Gramm-Rudman. In this sense, Gramm-Rudman is itself a testament to the need for constitutional restraint. Thus, an amendment to the Constitution would reimpose, explicitly, those constraints as only a constitutional amendment can.

Although Gramm-Rudman statutorily mandates a balanced budget, a constitutional amendment is required for the following reasons:

Gramm-Rudman does not purport to correct the structural bias in favor of deficit spending that would be offset by a constitutional amendment.

Gramm-Rudman is intended only to deal with a temporary crisis, whereas a constitutional amendment corrects a bias that has caused deficits in 51 of the past 58 budget cycles. The deficit spending bias is not a problem that has lasted, nor will last, only a few years. In other words, the system is broke and will not be finally fixed in a few years. It demands a permanently constitutional solution.

Ultimately, no Congress can bind a succeeding Congress by simple statute. Spending and taxing pressures could cause Gramm-Rudman to be circumvented or changed. The success of deficit reduction efforts in the next few years and beyond may depend on stronger medicine than a statute can supply. Put another way, no statutory measure can contain provisions requiring a greater or more onerous voting rule for its repeal than for its adoption. Any balanced budget statute can be repealed, in whole or in part, by the single expedient of adoptng a new statute. Statutory limitations remain effective only as long as no majority coalition forms to overcome such statutory constraints. The virtue of a constitutional amendment is that it can invoke a stronger rule to overcome the spending bias.

Gramm-Rudman has put the Nation on the road to recovery. In the absence of constitutional underpinnings, however, Gramm-Rudman or any other statutory prescription faces challenges that may compromise enforcement.

By analogy: Several Senators could propose legislation to change statutory law relating to ratifying treaties, expelling Members of either House of Congress, or proposing constitutional amendments—all of which are current constitutional provisions requiring supermajority votes. This hypothethical legislation could set up elaborate mechanisms to ensure that treaties or constitutional amendment proposals get careful congressional scrutiny or that accused Members of Congress get due process. Even if such legislation were enacted, the new bill would not eliminate the need for the constitutional supermajority requirements in each of these areas. Similarly the current constitutional amendment proposals are intended to endow the voting of an unbalanced budget with the same solemn consideration now required for treaties. Because disconnecting outlays from revenues has consequences at least as sweeping as most treaties, a constitutional supermajority requirement is warranted regardless of current statutory attempts to balance the budget.

Mr. D'AMATO. Mr. President, I am pleased to join my distinguished colleague from South Carolina, Senator THURMOND, as an original cosponsor of a proposed amendment to the Constitution mandating a balanced Federal budget.

As Congress once again turns its attention to the budget, no time is more apt to redouble our efforts to bring about a constitutional amendment requiring a balanced budget. If there exists a consensus on any matter it is on the need to put our fiscal house in order. No budget solution will be complete, however, unless and until we take action to remove deficit spending as a public policy option.

The language of the amendment offered today is simple and straightforward—it requires merely that outlays shall not exceed receipts. Also, the amendment provides important safeguards in case of exigency by allowing deficit spending during time of declared war and when Congress consents by a three-fifths vote of both Houses.

This amendment is a responsible and necessary course to bring fiscal responsibility to a nation in need. I urge my colleagues to help us start the amendment process by supporting this proposal.

By Mr. THURMOND (for himself, Mr. MCCONNELL, Mr. GARN, Mr. HELMS, and Mr. HEFLIN):

S.J. Res. 13. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO SCHOOL PRAYER

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to Senate Joint Resolution 73 which I introduced in the 98th Congress at the request of the President and reintroduced in the 99th and 100th Congress.

This proposal has received strong support from our colleagues on both sides of the aisle and, as President REAGAN and President-Elect BUSH have emphasized, is of vital importance to our Nation. It would restore the right to pray voluntarily in the public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide "a period of silence * * * for mediation or voluntary prayer" at the beginning of each school day. As I stated when that opinion was issued and repeat again—the Supreme Court has too broadly interpreted the establishment clause of the first amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engle and Abington School District decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what had originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without Government interference or restraint. In their wisdom, they recognized that true religious lib-

erty precludes the Government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a Nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a Nation "under God". Our currency is inscribed with the motto, "In God We Trust". In this body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers—such a practice has been recently upheld as constitutional by the Supreme Court. It is absurd that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public schools and other public institutions. It emphatically states that no person may be required to participate in any prayer. The Government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans. During the 98th Congress, we were only 11 votes short of the 67 necessary for approval in the Senate.

I strongly urge my colleagues to support prompt consideration and approval of this bill during the 101st Congress and ask unanimous consent that it be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 13

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the State by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.".

By Mr. THURMOND:

S.J. Res. 14. Joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriations; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT RELATING TO A LINE-ITEM VETO

Mr. THURMOND. Mr. President, I rise today to introduce a constitutional amendment which would give authority to the President to disapprove specific items of appropriation in any budget bill submitted to him. This idea has been commonly known by the Congress as "line item veto."

The fiscal policy of our Nation is much like a house of cards—there is little foundation. According to the Congressional Budget Office, the United States is over $2 trillion in debt. Our Nation's deficit for 1988 was a staggering $155 billion. We are mortgaging the future for generations to come.

Time and again, the Congress passes appropriation measures totaling billions and billions of dollars. Tucked away in many of these bills are items representing billions of dollars of expenditures which would have very little chance of passing in their own right. Yet the President has no discretion to weed out these unnecessary expenditures and must approve the bill in its entirety or the meritorious appropriation items will die.

Presidential authority for line item veto is a badly needed fiscal tool which would go a long way in reducing and restraining excessive appropriations.

Mr. President, 43 Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriations bills. My State of South Carolina provides this authority and I found it most useful during my service as Governor in the late 1940's. I firmly believe that the President should be given the same authority that 43 Governors now have to check unbridled spending.

Along with this constitutional amendment, legislation will be introduced to statutorily give line item veto authority to the President. Scholars have debated the constitutionality of the statutory approach granting line item veto.

In any event, our colleagues have a choice. Supporting this resolution proposing a constitutional amendment or the statutory approach will send a clear message to the American public that we are making a serious effort to get our fiscal house in order.

During the recent Presidential campaigns, President Bush spoke many times of his strong belief that line item veto authority was needed for the President to curtail runaway Federal spending. He is absolutely right and the American people deserve no less than our support and swift passage of a constitutional amendment granting the President line item veto authority.

I urge my colleagues to join as cosponsors and ask unanimous consent that this resolution be printed at the end of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 14

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"The President may disapprove any item of appropriation in any Act or joint resolution. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not disapproved shall become law. The President shall return with his objections any item of appropriation disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for Acts disapproved by the President, reconsider any item of appropriation disapproved under this article.".

By Mr. PRESSLER (for himself, Mr. CONRAD, Mr. STEVENS, Mr. WILSON, Mr. HOLLINGS, and Mr. PELL):

S.J. Res. 15. Joint Resolution to designate the second Sunday in October of 1989 as "National Children's Day"; to the Committee on the Judiciary.

NATIONAL CHILDREN'S DAY

● Mr. PRESSLER. Mr. President, we often refer to children as our greatest resource, yet we do not honor them with a special day of the year. Today I am introducing a resoultion declaring the second Sunday in October as "National Children's Day."

Unfortunately, the pressures of modern society and unfavorable economic circumstances often pull families apart. Our Nation is experiencing many social problems—such as illiteracy, teenage pregnancy, and drug abuse. Peer influence and other pressures often confront young people with many difficult decisions. It is important for parents to spend time listening to their children and teaching them to make responsible decisions.

A National Children's Day would give our Nation the opportunity to recognize our children's achievements and their contributions to our world. It also would be a time for parents, teachers, and religious and community leaders to emphasize to children the importance of family life, education, and spiritual values.

Children play a very special role in this complex world. They are the hope

and future of our country. It is important for them to know they are loved and appreciated. However, while we celebrate Mother's Day and Father's Day, we do not have a day to honor children. For this reason, Mr. President, I hope our colleagues will join me in sponsoring this resolution to declare the second Sunday in October as National Children's Day.

I ask unanimous consent that the resolution be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. Res. 15

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crisis of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern society and economic needs often pull the family apart;

Whereas each family is encouraged to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that such adults may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laugher, and tears are important to the existence of the United States: Now therefore be it:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1989 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.●

By Mr. DECONCINI:

S.J. Res. 17. Joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

● Mr. DECONCINI. Mr. President, today I rise to introduce a joint resolution proposing a constitutional amendment to limit the number of congressional terms. I believe that this amendment is necessary to restore faith in and assure the sound operation of our representative system of Government.

This issue has been considered and reconsidered by this body since the beginning of its history. The question was first brought before the Congress as early as 1777. I myself have introduced such an amendment in every Congress since the 95th. I am once again introducing this amendment because I believe that the justifications for limiting the number of congressional terms are more compelling today than they have ever been.

At the time of its evolution, the seniority system served a useful purpose as the organizational mechanism for the two Chambers, with responsibilities within the committee and subcommittee structure allocated on the basis of tenure in office. Undoubtedly, this system has facilitated Congress for many years. Today, however, the seniority system hinders, rather than helps, the ideal of equal representation of individuals and States which lies at the heart of our democracy.

The current seniority system, with unlimited numbers of possible congressional terms, by its very nature makes us as Senators unequal. Senators, merely by virtue of tenure in office, are able to gain powerful positions as chairs of standing committees. As zealous advocates of the States they represent, Senators in such positions are able to secure benefits for their home States out of proportion to a rational allocation of Federal resources. Junior Senators, on the other hand, are at a competitive disadvantage from the first day on the job and may be unable to shepherd worthy legislation through the complex legislative process. Because we as Senators are not equals, our constituents are also not on an equal footing. This state of affairs goes against the ideal of equal representation embedded in the roots of our democracy.

My personal involvement with this issue is well known to this body. I have just been elected to my third term in office, after having worked to limit the number of congressional terms to two since my first days as a Senator. At the end of my second term, I was faced with a Hobson's choice: set an example by stepping down after two terms as I originally intended, without having achieved the goal of passing through the amendment I reintroduce today; or appear to deviate from my own ideals and run for a third term. The first alternative would have put my State of Arizona at an extreme disadvantage. My leaving, on the heels of the retirement of my distinguished former colleague the Honorable Barry Goldwater, would have left my State with 2 years of Senatorial seniority. To me, the choice was difficult, but clear. The very seniority system which I have been fighting to curtail forced me to stay in the game for the good of the State I represent.

The passage of this amendment to limit the number of congressional terms remains my determined goal, and is even more pressing of an issue today than it ever has been. We must put an end to a system which makes our Government less, rather than more, democratic. We must do all we can to ensure that our Government is as representative as possible. This goal can only be reached by passage of the amendment I propose today. I ask unanimous consent that a copy of the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 17

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission for ratification:

"ARTICLE —

"SECTION 1. No person shall be elected to the Senate for more than two full terms. No person shall be elected to the House of Representatives for more than seven full terms.

"SECTION 2. Notwithstanding the provisions of section 1 of this article, any person may serve not more than fourteen years as a Senator or not more than fifteen years as a Representative.

SECTION 3. For purposes of determining eligibility for election under section 1 of this article, no election occuring before the date of this article is ratified shall be taken into account. For purposes of determining years of service under section 2 of this article, no service of any part of a term of office by a Senator or Representative elected to such term before the date this article is ratified shall be taken into account."●

By Mr. THURMOND:

S.J. Res. 18. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, DC, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on Rules and Administration.

MEMORIAL HONORING GENERAL DRAZA MIHAILOVICH

Mr. THURMOND. Mr. President, today, I am introducing a bill which will authorize the National Committee

of American Airmen Rescued by General Draza Mihailovich to erect a monument in Washington.

The reason for having such a monument stems back to World War II. During that war the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia which was led by General Draza Mihailovich. Due to a tragic combination of errors and mistaken information, the Allies withdrew their support for Mihailovich at the end of 1943 and backed the Communist resistance movement of Marshal Tito.

Despite his abandoment by the Allies and despite the merciless war waged against him by both the Communists and the Nazis during 1944, General Draza Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were safely evacuated from Nazi-occupied Yugoslavia to Italy.

In 1948, President Harry S. Truman awarded posthumously the Legion of Merit to General Mihailovich for his heroics in rescuing American airmen and for his larger services to the Allied cause. Unfortunately, the American public was unaware of this award since the State Department, fearful of offending the sensitivities of the Yugoslovian Communist Government, made the award to Mihailovich secret for almost 20 years.

Since that time, a group of American airmen have organized themselves into a National Committee composed of American airmen rescued by General Mihailovich. This fine organization has launched a movement to build a memorial in Washington, DC, dedicated to the man who saved their lives: This effort has been ongoing for some time now, with the support of many Members of Congress. I can think of no better way to discharge this debt than to authorize these airmen to erect the monument they have in mind.

Mr. President, in voicing my support for this effort, I want to emphasize the fact that this project is to be financed, not by the American taxpayers, but through the fundraising efforts of the airmen's group. All costs for the construction and maintenance of this memorial will be borne by the private sector.

This legislation is virtually identical to previous measures that have been approved overwhelmingly in the Senate.

Mr. President, the airmen who seek authority to have this monument erected do not wish to make political noises that would offend the present Government of Yugoslavia. They seek only to acknowledge their deep sense of gratitude to a man who was instrumental in rescuing nearly 500 downed American flyers during World War II. They merely want the simple recognition that would be imparted by the erection of a General Mihailovich monument.

Mr. President, I ask unanimous consent that the text of the resolution appear in the RECORD immediately following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 18

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to authorization by the Secretary of the Interior pursuant to section 2 and the provisions of Public Law 99-652, the National Committee of American Airmen Rescued by General Mihailovich is authorized to establish a monument on public grounds in the District of Columbia or its environs, to honor General Draza Mihailovich for the role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II.

SEC. 2. (a) The Secretary of the Interior, in consultation with the National Committee of American Airmen Rescued by General Mihailovich, shall select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site on grounds owned by the Federal Government in the District of Columbia or its environs for erection of the monument referred to in the first section of this joint resolution.

(b) The National Committee of American Airmen Rescued by General Mihailovich shall be responsible for the development of the design and plans of such monument, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. If the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to approve or make specific objection to such design and plans within ninety days after submission, such approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall bear any expense in the erection of the monument other than expenses incurred in the process of site selection and approval of design and plans.

SEC. 3. The Secretary of the Interior shall permit ground breaking for construction of the monument only after he determines that sufficient funds are available to complete the monument in accordance with the approved design and plans.

SEC. 4. The authority conferred by this joint resolution shall lapse unless the construction of the monument begins within two years after the date of the approval of this joint resolution.

SEC. 5. The maintenance and care of the monument erected under this joint resolution shall be the responsibility of the National Committee of American Airmen Rescued by General Mihailovich.

By Mr. BURNS (for himself and Mr. BAUCUS):

S.J. Res. 19. Joint resolution to designate November 8, 1989, as "Montana Centennial Day"; to the Committee on the Judiciary.

MONTANA CENTENNIAL DAY

Mr. BURNS. Mr. President, I rise today to introduce legislation to designate November 8, 1989, as "Montana Centennial Day." This is a special day for me as I look forward to working with such a distinguished body of men and women who have dedicated their lives, their talent, and their well-being to our Nation.

As this is a special day for me, 1989 is a special year for my home State of Montana. One hundred years ago, Montana was admitted to the Union.

Montana was the 41st State admitted on November 8, 1889, by President Harrison. Montana State delegates produced a constitution and approved it by popular vote, 24,676 for to 2,274 against on October 1, 1889.

The State was first known as the Treasure State, alluding to the deposits of gold and silver and other precious metals.

But the real treasures were discovered by the great herds of cattle that noved northward from Kansas, Colorado, Oklahoma, and Texas toward a sea of grass and water.

Still known as the Treasure State but more familiar now as the "Big Sky Country," it's the 4th largest State after Alaska, Texas, and California encompassing about 146,000 square miles.

Roughly 800,000 call Montana home—miners, loggers, farming, ranching, tourism—life in Montana represents a personal freedom. The free spirit of the cowboy still lives in the spectacular scenery.

From the eastern prairies to the rugged beauty of the Rockies in the West, Montana is truly the land of the Big Sky.

I urge all Senators to join me in cosponsoring Montana Centennial Day, November 8, 1989. Thank you, Mr. President.

I ask unanimous consent to have the joint resolution printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 19

Whereas for a century the people of Montana have made substantial contributions to the economic and social well-being of the United States of America;

Whereas the State of Montana, known as "Big Sky Country", with wide vistas and scenic mountains, is a State of incomparable beauty; and

Whereas the history of Montana is forever intertwined with the history of westward expansion in the United States of America;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 8, 1989, is designated as "Montana Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of Montana to the United States of America over the past century.

Mr. BAUCUS. Mr. President, I would like to thank the new Senator from

Montana, and welcome him to the Senate and the 101st Congress. I would also like to wish him a Happy Birthday today.

Mr. President, 1989 marks the 100th year of Statehood for Montana and designating November 8—the day the territorial Governor received a telegran confirming President Harrison's proclamation creating Montana as the 41st State and Joseph K. Toole became its first Governor. To designate November 8, 1989, as Montana Centennial Day is only fitting considering the colorful history and the rich contributions Montana has given to the rest of the Nation—from its people to its wealth of natural resources.

Montana, Big Sky Country. As Montana historian K. Ross Toole referred to home, "Montana: High, Wide and Handsome."

French trappers may have visited the Montana area as early as the 1740's. The United States obtained most of what is now Montana as part of the Louisiana Purchase in 1803. The northwest part was gained by treaty with Great Britain in 1846. At various times, part of Montana was in the territories of Louisiana, Missouri, Nebraska, Dakota, Oregon, Washington, and Idaho.

In 1841, Jesuit missionaries established St. Mary Mission, the first attempt at a permanent settlement, near what is now Stevensville. In 1847, the American Fur Co. built Fort Benton on the Missouri River. The town that developed there is Montana's oldest. Montana is a land of immigrants from Europe and the Orient and a land where native Americans are a proud part of our heritage.

It is a land of great people—pioneering, enduring people with a sense of optimism and community, people who helped define the American character, people such as Mike Mansfield and Jeanette Rankin, copper kings W.A. Clark and Marcus Daly, Chief Joseph, and artist Charlie Russell.

Montana, though sparsely populated, represents a great portion of the resource base of our country: metals and minerals, oil, timber, water, and power.

This is a land where the Plains meet the Rockies. It's a land of sturdy people, a part of America's past and part of her future.

Montana is a land of extreme beauty and extreme hardship, a land of hope and a land of tragedy, from the bitter winters of the Northern Plains to the strange, unearthly beauty of Yellowstone National Park; from the cradle of women's suffrage to Custer's blunder at the Little Big Horn.

Mr. President, this resolution is only the kickoff of what will be a yearlong celebration of events such as a centennial celebration on the Mall, Montana art and film festivals, and the Centennial Minute, a weekly speech on Montana history that I will give here on the Senate floor.

Mr. President, there is a long history of commemorative coins being issued for the centennial of the States of Alabama, Arkansas, Illinois, Iowa, Maine, Missouri, Texas, the centennial of the Wisconsin Territory, the 75th anniversary of California, and the 150th anniversary of Vermont.

However, not a single commemorative honors a city or State in the Intermountain West. That is why I will introduce in just a few days legislation that will call for the U.S. Mint to strike a $5 commemorative coin in recognition of the centennials of Montana, Idaho, North and South Dakota, Washington, and Wyoming.

The Northwest centennial commemorative coin thus would be an important reminder and recognition of the youth of our Nation, of its western heritage and of continued vitality.

Mr. President, I urge my colleagues to support this joint resolution and invite them to come to Montana and join us as we celebrate our 100th birthday.

By Mr. GRASSLEY:

S.J. Res. 21. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT ON THE RIGHT TO LIFE

Mr. GRASSLEY. Mr. President, today I rise to introduce an amendment to the Constitution regarding the controversial issue of abortion.

Mr. President, in the history of human rights there has never been such an important document as the Constitution of the United States, created and placed into practice by our forefathers. The rights that it ensures are essential for the present as well as the future. Limiting government power is an objective that must be maintained to insure that no single branch of government exceeds its autorized power. The Constitution should not be amended, in the words of the framers, for "light and transient causes." But innocent human life is a precious right that needs special protection. Barring any new high court decision, this can only be accomplished by initiating an amendment to the Constitution.

Sixteen years ago, the Supreme Court of the United States cast a decision that I believe was incorrect in its substance and legal justification.

Sixteen years ago, the Court ruled unconstitutional State laws prohibiting the extermination of unborn innocent human life. Today more than 20 million futures were decided before they had a chance to take part in the American dream.

Mr. President, the technology in this age has advanced so much since 1973 that the scientific basis for the court case of Roe versus Wade has been undermined. We can now examine a future life not fully developed within the womb. We should, therefore, reexamine the 1973 Court decision in light of these new advances. With this new knowledge, we have a chance to stop the needless slaying of innocent American unborn life. Child abuse has risen to an all time high. The courts thought that with legalized abortion, the abuse would decrease since unwanted pregnancies could be "taken care of." The courts were wrong. What chance does a nation have to advance when it doesn't know how to value the life that its future is depending on? Can you picture the future of a country whose own people cannot distinguish between respect and responsibility?

In 1973 the right of privacy was declared as a liberty protected by the 14th amendment. The Court created a broad general right to privacy by reading the 1st, 3d, 4th, 5th, 9th, and 14th amendments together. Doing so, they overturned a State law basing their decision not on the Constitution nor the bill of rights, which the Court is to interpret and protect, but upon the authority of the Court's 1965 decision in the Griswold case. It stated that "privacy" was a fundamental right, secured against all but the most "compelling" of State interests, and then concluded that the State did not have a sufficient interest in protecting human beings that were not yet born. Why wouldn't a State be interested in its future proteges? Without unborn life there certainly would not be the life which the State is bound to protect.

The 5th and 14th amendments specifically prohibit Federal and State governments from depriving "any person of life—without due process of law." Have we forgotten the statement in the Declaration of Independence "that all men are created equal? That they are endowed by their Creator with inalienable rights. That among these are life—" and that "to secure these rights, Governments are instituted among men—"?

Mr. President, in our constitutional Republic we have democratic institutions to which we elect Americans to make laws to secure the rights promised in the Declaration of Independence and our Constitution. The unelected courts have a duty to not create law, but to interpret the laws made by elected representatives. Congress never legalized abortion. Nevertheless, the Court usurped congressional power and created an abortion right.

Mr. President, we must now correct the mistake made by the judicial system. We cannot ignore the medical proof that an unborn child is in fact a

real human being. He/she has the same rights that you and I have. We must defend these rights of the defenseless, helpless, and unborn.

Mr. President, we must face this issue now and we can no longer wait. We must secure the constitutional rights for all persons, whether born or unborn. I therefore propose this resolution and ask unanimous consent that it be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 21

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person' as used in this article and in the Fifth and Fourteen Amendments applies to all human beings regardless of age, health, function, or condition of dependency, and includes the unborn offspring of any such human, at every stage of the biological development of such offspring.

"SECTION 2. No unborn person shall be deprived of life by any person, except that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"SECTION 3. The Congress and the several States shall have power to enforce this article by appropriate legislation.".

By Mr. EXON:

S.J. Res. 22. Joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO FEDERAL BUDGET PROCEDURES

● Mr. EXON. Mr. President, I rise to introduce my first piece of legislation in the 101st Congress. This legislation is a proposed constitutional amendment to require the President to submit and the Congress to enact a balanced Federal budget. I chose this legislation as my first bill of the new Congress because deficit reduction must be the first priority of this new Congress and the new administration.

On the day that President Reagan entered office in 1981, the accumulated national debt was $931.3 billion. As President Reagan leaves office the accumulated national debt exceeds $2.68 trillion. Thanks to the misguided economic policies of borrow and borrow, spend and spend, President Bush inherits an accumulated national debt nearly three times larger than the debt left for President Reagan.

Fifteen cents of every tax dollar now goes to pay interest on the national debt. This year, the cost of interest on the national debt will exceed the size of the budget deficit. Put another way, if it were not for our past deficit spending, the Federal budget would be balanced.

Mr. President, many will ask, "Why worry about the deficit?" Well, without the rose colored glasses of the last 8 years, concern about Federal deficits comes clearly into focus. Too often overlooked is that the slow growth economy of the last 6 years was preceded by the deepest recession since the Great Depression. The recovery which followed was very uneven. The 1982 recession was followed by what one journalist aptly described as a series of "rolling recessions." Economic hardship rolled through the Rust Belt, the Farm Belt, Silicon Valley, and the Oil Patch.

The national balance of trade figures has been unacceptably high and continues to threaten American jobs and productivity. Our economy is operating at near capacity and still running a trade deficit, in part, because of the steady deindustrialization of the last 8 years.

In 8 years, our Nation has also become dangerously addicted to foreign capital. In 1987, 20 percent of the bonds sold by the U.S. Government were purchased by foreigners. The Federal Reserve must now choose between growth for our economy and an acceptable return for our foreign investors. American land and productive industrial assets are for sale on the cheap to foreign investors.

Unless we turn around our reckless economic policies, Americans will be tenants in their own land, working for foreign bosses. Foreign nations may soon dictate policy to the U.S. Government in exchange for the continued purchase of Government bonds to finance our budget and trade deficits.

Simply put, Mr. President, deficits put America's economic future and her economic independence at risk. In addition, rising interest expenses are dollars which could be spent on better schools, roads, bridges, or better left in Americans' pockets.

I do not pretend that a constitutional amendment to require a balanced Federal budget will magically solve our problems. It will not. What is needed is political leadership willing to be square with the American people, leadership which will ask the American people for their patriotic support for a fiscal plan of shared sacrifice.

As Governor of the State of Nebraska, I had to balance eight budgets in a row. It was tough. There were many negotiations and political compromises. Balancing a budget is hard work. Fortunately, I had the benefit of a State constitutional provision which required a balanced budget. Nebraskans knew then and know now the benefits of fiscal discipline and by and large supported the tough decisions I had to make as Governor of the great State of Nebraska.

Mr. President, it is time that the Federal Government follow Nebraska's good example.

Over the years I have authored and supported comprehensive budget proposals which would have balanced the Federal budget. Yes, these proposals were tough and certain groups may have been upset with individual provisions of these budget proposals; however, these alternative budget proposals illustrated that a fair program of shared sacrifice can be crafted and that deficits can be reduced. Rather than avoid the problem of a rising tide of red ink, as the Congress and the President have done for the last 8 years, it is time to face this very real "red" threat, and conquer it.

With the start of a new administration and a new Congress, there is the promise of a new emphasis on deficit reduction. The balanced budget constitutional amendment is one tool that can assist our efforts and restore fiscal discipline to the Federal budget. It will give the President and the Congress the backbone to make those tough decisions.

Mr. President, I ask unanimous consent that the text of the constitutional amendment which I propose be printed in the RECORD as if read.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 22

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the President shall submit to the Congress a proposed statement of revenues and appropriations for the coming fiscal year and shall recommend to the consideration of Congress such measures as the President shall judge necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 2. Prior to each fiscal year, the Congress shall approve a proposed statement of revenues and appropriations for the coming fiscal year and shall adopt measures necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 3. No bill which causes appropriations to exceed revenues for a fiscal year shall become law unless passed by two-thirds of the Senate and House of Representatives.

"SECTION 4. The Congress may waive the provisions of this Article for any fiscal year in which a declaration of national emergency is in effect.

"SECTION 5. The Congress shall have the power to enforce this Article by appropriate legislation.

"SECTION 6. This Article shall become effective beginning with the later of—

"(1) the second fiscal year to begin after its ratification, or

"(2) fiscal year 1993.".●

By Mr. DECONCINI:

S.J. Res. 24. Joint resolution to designate the period commencing on May 1, 1989, and ending on May 7, 1989, as "National Older Americans Abuse Prevention Week"; to the Committee on the Judiciary.

NATIONAL OLDER AMERICANS ABUSE PREVENTION WEEK

● Mr. DECONCINI. Mr. President, today I am introducing a joint resolution declaring May 1 to 7, 1989, as "National Older American Abuse Prevention Week." This is the third year I have introduced such legislation and I hope that my distinguished colleagues will join me once again in this important effort.

Mr. President, although many agencies and organizations serving our older Americans have made notable contributions in improving the lives of our senior population over the past few years—by revamping rules and regulations, pinpointing issues, disseminating information and increasing public awareness—abuse of the elderly is still on the increase and greatly misunderstood. Further, recognition of elder abuse as a social problem and the identification of abuse victims has been a difficult task.

Data generated to date clearly show that the public is just beginning to understand the problem. According to a 1987 report published by the American Medical Association, 1 in every 25 Americans age 65 or older—approximately 1.1 million—suffer from moderate or severe abuse. This represents an increase of 100,000 cases a year since 1981.

Mr. President, it is unfortunate that despite the increasing incidence of elder abuse, many people still do not believe that such abuse occurs. Further, the term "elder abuse" implies several descriptions ranging from a wide variety of behaviors, conditions, and circumstances. Because a formal definition has not been developed, elder abuse is potentially more dangerous than child abuse and requires immediate public attention. The most conservative estimate is that over 500,000 older Americans are victims of physical abuse. The American Public Welfare Association argues that the number of elder abuse cases should include psychological abuse and a variety of neglectful treatments. If we utilize what I agree is a more proper definition of the problem, the number of abused elder Americans approaches 2.5 million, or nearly 1 out of every 10 older Americans.

Mr. President, it is, indeed, appropriate that this national week of recognition of the elder abuse problem falls within the month of May as that month has traditionally been designaged "Older Americans Month." It is also important that the first week of May be designated "National Older Americans Abuse Prevention Week" in order to underscore the magnitude of this tragedy to those who have already contributed so much, and without which we would not enjoy the many blessings we now enjoy.

As I have previously stated, Members of Congress have an opportunity to assist the many individuals, organizations, and agencies that are striving to rid this great nation of our epidemic elder abuse problem and to assist the victims as well. We can help focus public attention on the goals and objectives of these agencies and improve the general welfare of our elders.

The declaration of May 1 to 7, 1989, as "National Older Americans Abuse Prevention Week" is one way in which we in Congress can help increase public awareness of this national problem. There is help available in communities throughout the Nation, but we need to get that message out to the abused as well as the abuser. Therefore, I urge my colleagues to join me in this effort to have the first week in May 1989, designated as "National Older Americans Abuse Prevention Week."

Mr. President, I ask unanimous consent that a copy of this resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 24

Whereas each year an estimated 550,000 to 2.5 million elders are the victims of physical and emotional abuse, neglect, and denial of fundamental civil rights;

Whereas these elders represent every racial, religious and socio-economic class;

Whereas the suffering of these elders poses a threat to our families and to our society as a whole:

Whereas in most instances this neglect and abuse stems from the lack of information on intervention and prevention;

Whereas the health and well-being of our elders is, and must be, one of our Nation's highest priorities;

Whereas May, 1988, has traditionally been designated as "Older Americans Month", and provides the ideal opportunity for the people of the United States to become educated and aware of the welfare of the elderly; and

Whereas it is appropriate to focus the attention of the Nation upon the problem elderly abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 1, 1989, and ending on May 7, 1989, is designated as "National Older Americans Abuse Prevention Week", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such period with appropriate programs, ceremonies, and activities.●

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. LEVIN, and Mr. METZENBAUM):

S.J. Res. 25. Joint resolution to designate the week of May 7, 1989, through May 14, 1989, as "Jewish Heritage Week"; to the Committee on the Judicary.

JEWISH HERITAGE WEEK

● Mr. D'AMATO. Mr. President, I rise to introduce a joint resolution, designating the week of May 7 through May 14, 1989 as "Jewish Heritage Week". This resolution was introduced in the other body by the Honorable BENJAMIN GILMAN.

In our "melting pot" nation, each separate ethnic and religious group adds diversity and strength to the fabric of American culture. The American-Jewish population is certainly no exception—the Jewish contribution to American society is tremendous. Jews have been pioneers in industry, business, education, science, and in the entertainment field. It is important to commemorate the contributions to our American culture of those of Jewish heritage.

Jewish Heritage Week commemorates several events occurring on the Jewish calendar during the months of April, May, and June. One of these is Israel's Independence Day, celebrated on May 10, 1989—this year marks Israel's 41st anniversary. Since 1948, the United States and Israel have developed strong bonds of friendship and cooperation. The United States was the first nation to recognize the State of Israel and has consistently supported that nation. Israel, the only democracy in the Middle East, is vital to our national security, it being our only reliable ally in the region.

The Holocaust Memorial Day, observed on May 2, marks another significant day on the calendar. On this day Jews and nonJews alike mourn the senseless and brutal murder of over 6 million innocent men, women, and children. It is important that we remember and try to understand this horrible occurrence, and vow never to let it happen again.

Equally important is the anniversary of the Warsaw Ghetto Uprising, remembered on April 19. Though unsuccessful, this was an attempt to strike back at the Nazis. The men, women, and children who participated will always be remembered for their courage and bravery.

The holiday of Passover, beginning on the night of April 19 this year, celebrate Moses leading the Hebrew people out of bondage in Egypt to freedom in the Promised Land. Jerusalem Day, celebrated on June 2, marks the anniversary of the unification of Jerusalem after the 6-Day War.

Jewish Heritage Week will designate the week of May 7 as a special time to

celebrate and observe the special events of these 3 months. These days will be marked throughout the United States with prayers, special services, discussions, seminars, and other programs. I urge my colleagues to join me in cosponsoring this joint resolution.

I ask unanimous consent that the text of this resolution be printed in the RECORD immediately following my statement. Thank you, Mr. President.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 25

Whereas May 10, 1989 marks the forty-first anniversary of the founding of the State of Israel;

Whereas the months of April, May and June contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Holocaust Memorial Day, and Jerusalem Day.

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history and traditions of the Jewish community and the contributions of Jews to our country and society; Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 7, 1989 through May 14, 1989, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities and programs.●

By Mr. HEFLIN:

S.J. Res. 27. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

PROPOSED CONSTITUTION AMENDMENT TO ALTER FEDERAL BUDGET PROCEDURES

Mr. HEFLIN. Mr. President, as one steps out of the Capital building, goes down the mall past the Smithsonian buildings, past the Washington Monument, to the Lincoln Memorial, and then follows the Potomac River downstream, one will come to the Jefferson Memorial. This building, containing the standing figure of Jefferson gazing over the Tidal Basin and overlooking the city of Washington, stands as a tribute to this remarkable man. At the age of 33, this man was called to draft our Declaration of Independence to assert our autonomy from England. His stature among our Founding Fathers is immense, and his role as an architect for our Nation's form of government is unsurpassed.

As one stands inside Jefferson Memorial, some of his most famous words are etched into the white Georgia marble. These words ring out with truth and knowledge, and are as appropriate today as when they were first uttered. Echoing within that domed chamber are these words:

I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

These words speak of change—now is the time for change.

Every Congress since I have been elected as a U.S. Senator, I have introduced legislation proposing a constitutional amendment to balance the Federal budget. Today I rise to introduce a Senate Joint Resolution, which is a measure to require the Federal Government to achieve and maintain a balanced budget. In the past, I have dedicated myself to work with my colleagues to curb Federal spending. That dedication has not changed, and I recognize that in the coming months and years we must work with President Bush to make hard decisions concerning the Federal budget. However, the fiscal irresponsibility demonstrated in the past 25 years has convinced me that the only way to achieve and maintain a balanced Federal budget is by an amendment to the Constitution.

Allow me to illustrate, with a harsh taste of reality, some of our critical problems. Today, we are not only a debtor nation, we are world's largest debtor nation. The Office of Management and Budget has noted that the gross Federal debt is expected to reach $2,818.2 billion by the end of the fiscal year 1989. For fiscal year 1988 the gross interest on the debt was $214.2 billion and the net interest for the same year was $151.7 billion. This gross interest is the total interest obligation of the United States, while the net interest is the figure that represents the interest owed on the publically held debt. Further, the Congressional Budget Office expects the net interest to make up approximately 14.5 percent of the total spending for fiscal year 1989.

Facts and figures can be confusing, so let me try to peel off some of the rhetoric and reveal what this interest spending means. We are forced to spend billions of dollars just to maintain the deficit that we have now. Further, the deeper our Nation goes into debt, the more we will have to spend every year to maintain that debt. To put all these payments in perspective, the net interest payments are currently larger than any outlay in the Federal budget except for defense spending and health and human services spending. Net interest payment outlays are aproximately three times the anticipated spending for the Department of Agriculture; approximately five to seven times the expected spending for the Departments of Education, Housing and Urban Development, Labor, Transportation, and the Veterans' Administration. Further, this amount is almost 15 times more than NASA will spend in fiscal year 1989, and is 25 to 30 times more than either the Justice Department or the Interior Department will spend in fiscal year 1989. These figures are not only astonishing—they are deplorable.

For much of our Nation's history, a balanced Federal budget was the status quo and part of our "unwritten constitution." For our first 100 years, this Republic carried a surplus budget, but in the last 25 years this Nation's spending has gone out of control.

We have made efforts to bring the budget under control. During my tenure in office I have supported an advocated efforts which have come close to moving a balanced budget amendment through Congress. During the 97th Congress this measure was passed in the Senate, but failed to gain passage in the House. In the 99th Congress, after extensive debate, passage of a balanced budget amendment by the Senate failed by one vote. However, today we begin a new Congress, the 101st Congress, and again I call on my colleagues to support this crucial initiative and support a balanced budget amendment.

I cannot promise that the amendment I am offering today is a panacea for all the economic troubles of our Nation. However, it will help to cure many of these problems. The amendment that I am offering is not perfect. There will and should be changes in the language, but every discussion must have a starting point. I believe that my amendment is a good beginning to the final passage of a balanced budget amendment.

This amendment contains five brief but critical provisions. Section 1 of the amendment requires a three-fifths vote of each House of Congress before the Federal Government can engage in deficit spending. This requirement establishes the norm that spending will not exceed receipts in any fiscal year. If the Government is going to spend money, it should have the money on hand to pay its bills. Under this section, Congress would be required to adopt an initial statement in each fiscal year in which outlays do not exceed receipts.

Section 2 of the amendment addresses the enforcement issue. It provides that there will be no increases in the public debt to fund any excess of outlays over receipts, unless Congress shall by law and by vote of three-fifths of the whole number of each House of Congress provide for such an increase.

Section 3 requires a majority vote of the whole number of each House of Congress any time Congress votes to increase revenues. This holds public officials responsible, and puts elected officials on record for any tax increase which may be necessary to support Federal spending.

Section 4 provides for the submission by the President of a balanced budget to Congress; or if the President cannot submit a balanced budget, this section requires that the President submit a statement explaining why the budget is unbalanced.

My greatest concern with past constitutional amendments to balance the budget has been the restrictive nature of the provisions allowing for waiver of the requirements of a balanced budget if a declared war is in effect. Although this exception is necessary, I believe that it does not go far enough. The United States has engaged in only five declared wars, yet the United States has engaged in hostilities abroad which required no less commitment of human lives or American resources than declared wars. In fact, our Nation has been involved in approximately 200 instances in which the United States has used military forces abroad in situations of conflict. Not all of these would move Congress to seek a waiver of the requirement of a balanced budget, but Congress should have the constitutional flexibility to provide for our Nation's security.

Section 5 automatically waives the provisions for any fiscal year in which a declaration of war is in effect. My amendment further allows Congress to waive the requirement of a balanced budget if the United States is engaged in military conflict which causes an imminent and serious threat to national security, which is declared by a joint resolution adopted by a majority of the whole number of each House of Congress and such joint resolution must be signed by the President and become law.

Mr. President, the future of our Nation's economy is not a partisan issue. Further, the problem of deficit spending cannot be blamed on one branch of government or one political party. Similarly, just as everyone must share part of the blame for our economic ills, everyone must be united in acting to attack the growing problem of deficit spending. I recognize that a balanced budget amendment will not cure our economic problems overnight, but it will act to change the course of our future and lead to responsible fiscal management by our national government. This issue is not new and this issue is not flashy, but it is critically important to the future economic strength of this Nation.

In bringing my remarks to a conclusion, I am again reminded of a statement by Thomas Jefferson. In 1789, when the Constitution was adopted, Jefferson warned, "the public debt is the greatest of dangers to be feared by a republican government." Somewhere we have lost sight of our forefathers' admonitions.

Leadership and fiscal responsibility are the duties that we carry as elected Members of Congress. Our forefathers who addressed this Chamber had the integrity and wisdom to protect our future. Our duty to future generations should be no less. By passage of a balanced budget amendment we can look to our children and grandchildren and say that in at least some small way we made the effort to protect their dreams of a brighter tomorrow.

Mr. President, I ask unanimous consent that a copy of the amendment be printed in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 27

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are not greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of each House of the Congress shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. The public debt of the United States shall not be increased to fund any excess of outlays over receipts for any fiscal year, unless three-fifths of the whole number of each House of Congress shall provide, by law, for such an increase.

"SECTION 3. Any bill to increase revenue shall become law only if approved by a majority of the whole number of each House of Congress by rollcall vote.

"SECTION 4. Prior to each fiscal year, the President shall submit a proposed budget to Congress for that fiscal year in which total outlays are no greater than total receipts. The President may also recommend an alternative budget in which total outlays exceed total receipts, which shall be accompanied by a detailed explanation of the need for such excess."

"SECTION 5. The provisions of this article are automatically waived for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, which becomes law. Afterwards any waiver adopted shall be by a joint resolution of like requirements.

"SECTION 6. This article shall take effect for the fiscal year 1992 or for the third fiscal year beginning after its ratification, whichever is later.".

By Mr. ROTH (for himself, Mr. THURMOND, and Mr. PELL):

S.J. Res. 28. Joint resolution proposing an amendment to the Constitution of the United States limiting Federal taxation of State and local obligations; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO STATE BONDS

● Mr. ROTH. Mr. President, today I am once again introducing a proposed constitutional amendment to overturn last year's unfortunate Supreme Court decision in South Carolina versus Baker. In that decision the Supreme Court said that there was nothing in the Constitution that protected State and local bonds from Federal taxation. My fear is that our current budget problems will tempt Congress to reach for State bond revenues now declared vulnerable by the Supreme Court.

Caught in the exigencies of decreasing the Federal budget deficit, Congress may well overlook the value of States in our own Federal system. In my view, States are so important to the American people that if they did not today exist, their creation would be my top priority. The function of States is to be responsible and accountable for a part of government so that the electorate can better control its political fate. If the work of government is allocated to multiple and distinct responsible parties—National, State, and local, the people have greater power. They have more control over their own lives. They have more choice. They have more freedom.

Likewise, as more and more functions of government become federalized, people become disempowered. And after decade of federalizing State and local functions, the people's freedom is declining and their apathy is growing.

But, make no mistake about my proposal. It does not seek to roll back our long history of federalizing State and local functions. It is designed, as best as could be, to freeze the status quo, to stop the Federal drain on State and local revenues, to halt the trend.

In our Federal system, States cannot be sovereign, States cannot be States unless they have their own protected source of revenue. In the marketplace any tax placed on State or local obligations by the Federal Government is not borne by the bondholder but is passed back to the issuer.

Recognizing this fact, I introduced Senate Joint Resolution 377 in the 100th Congress. The proposed constitutional amendment consisted of one

simple sentence: The United States shall not have the power to lay and collect taxes on incomes derived from the obligations of the several States issued for a public purpose.

Since that introduction on September 14, 1988, I have had the good fortune to receive the advice and counsel of various State officials and bond lawyers. Consequently, today I am introducing a revised and expanded version of my proposal. It contains two sections: The first declares what obligation may not be taxed; the second makes absolutely clear that Congress may exempt from taxation any "other obligations" on any basis available under the constitution today.

The first section is expanded in order to clarify certain points. Let me state them as succinctly as possible. First, while it is still necessary that an obligation, to qualify for constitutional protection, be issued for a public purpose, it is additionally required that the State or local revenues be raised either: First, for governmental undertakings and operations; or second, to finance property owned and operated by governmental entities. This "operations" or "property" test is intended to reduce ambiguity and to underscore that it is essential governmental functions that are protected.

Second, when I introduced Senate Joint Resolution 377 last year, I said on this floor that what is protected is "the income interest of the bondholder * * * and not * * * any capital gain the bondholder may realize upon the sale to another bondholder." This construction is now made explicit; the proposal protects only "income representing interest * * *." Thus capital gain income is not protected.

Third, the language now makes explicit that local government bonds may qualify for protection, a fact that was constitutionally implicit in my earlier draft. As I then said on the floor, "While the language of my amendment includes no reference to any political subdivisions of the States, this is only customary constitutional drafting. The protection accorded to a State would flow to any of the State's subdivisions acting under State law." However, in view of the fact that political subdivisions of the States issue so many bonds and since the guidelines on constitutional drafting are not always not always that clear, it was thought advisable to expressly refer to political subdivisions in the text. No change in meaning is intended. Nor is there any intention to create any Federal source of authority for the issuance of tax-exempt bonds by local governments. There is no intention to alter in any way the relationship between a State and its political subdivisions.

Fourth, the phrase, "obligations issued by" is expanded to "obligations issued by or on behalf of" to overcome any questions that the Treasury Department might raise concerning whether an entity created under State or local law which issues bonds is actually obligating the State or local government.

Mr. President, I believe these changes enhance my proposal. It is important that we get to work soon on preserving this modicum of federalism.

I am very pleased to have join me as original cosponsors the Senator from South Carolina, Mr. THURMOND, the Senator, from Rhode Island, Mr. PELL, and the Senator from Idaho, Mr. SYMMS. The Senator from South Carolina represents the State that lost the Supreme Court decision we seek to overturn. As the former chairman and now ranking Republican member of the Judiciary Committee, which has jurisdiction over constitutional amendments, it is particularly fortunate to have his support in this important cause.

Finally, I would like to thank the many State and local officials who have taken their time to discuss this issue with me. Also I would like to thank the many State and local organizations who have expressed great interest in this cause. Particularly, I am pleased to have received the advice and wise counsel of the National Association of State Treasurers. We are all pleased to have their support for the proposed constitutional amendment introduced today.

Thank you, Mr. President, I ask unanimous consent that my joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 28

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within the seven-year period following the date of submission to the State for ratification:

"ARTICLE —

"SECTION 1. The Congress shall not have the power to lay and collect taxes on income representing interest on obligations issued by or on behalf of the several states and their political subdivisions to raise revenues for governmental undertakings and operations for a public purpose or to finance property owned and operated by governmental entities for a public purpose.

"SECTION 2. This article shall not restrict the power of the Congress to exclude from taxation income or other amounts derived from other obligations issued by or on behalf of the several states or their political subdivisions."●

By Mr. SHELBY:

S.J. Res. 29. Joint resolution proposing an amendment to the Constitution of the United States which requires—except during time of war and subject to suspension by the Congress—that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO A BALANCED BUDGET

Mr. SHELBY. Mr. President, I am pleased to introduce, Senate Joint Resolution 29, a resolution which proposed an amendment to the Constitution of the United States to require—except during time of war and subject to suspension by the Congress—that the total amount of money expended by the United States during any fiscal year not exceed the amount of revenues received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar years. This measure is identical to legislation that I introduced while serving four terms as a Member of the U.S. House of Representatives.

This resolution is unique in that it combines the need for a constitutional amendment to balance the budget with a cap on overall spending. By making sure that congressional budget outlays do not exceed 20 percent of the previous calendar year's gross national product, we restrain ourselves from raising spending levels just because the country did well economically.

I take this action because I believe that until our still outrageously high deficits are reduced, long-term economic growth will be at the mercy of deficit-induced high interest rates and the subsequent onset of rising inflation. Therefore, it is imperative that Congress devise a more palatable budget, one which clamps down on wasteful spending while smoothing the way for the restoration of fiscal sanity to our financial system.

It is time for Congress to stop looking at the short-term benefits of particular programs and start looking at the long-term effects our policies will have on our children and our children's children down the road.

In order to accomplish this task we will need the assistance of all segments of society: the President; Congress; business, both large and small; our Federal agencies, State legislatures; and the whole spectrum of special interests. However, it must be Congress that takes the leadership role.

I supported the Balanced Budget and Emergency Deficit Control Act of 1985, otherwise known as the Gramm-

Rudman-Hollings amendment, which required Congress to balance the budget by 1991. Subsequently, the Balanced Budget and Emergency Control Reaffirmation Act of 1987 amended the Gramm-Rudman-Hollings legislation extending the original 1991 target date for balancing the budget to 1993.

The deficit goal for fiscal 1988 was changed from $131 billion to $144 billion. Subsequent deficit goals are $136 billion in fiscal 1989, $100 billion in fiscal 1990, $64 billion in fiscal 1991, $28 billion in fiscal 1992 and zero in fiscal 1993.

The revised Gramm-Rudman-Hollings legislation also raised the Federal debt ceiling from $2.1 trillion to $2.8 trillion. I objected to the raising of the debt ceiling. The sky is not the limit. At some point, Congress must say no. We cannot continue to raise the debt limit and delay indefinitely making the difficult but necessary choices on how to balance the Federal budget.

I believe that the magnitude of the problem warrants stronger action. Congress is finding it more and more difficult to reach the Gramm-Rudman-Hollings targets. We also risk the danger of falling back into the trap of projecting deficits far short of actual amounts and then trying to figure out ways to pay for them.

For example, in fiscal year 1986, the Office of Management and Budget [OMB] projected a deficit of $172 billion. The actual deficit turned out to be $221 billion. In fiscal year 1987, the projection was $143 billion, the actual figure was $150 billion. This has continued through fiscal year 1988 when the administration projected a deficit of $107 billion whereas we really spent $155 billion. Therefore, a responsible Federal policy demands that a cap be placed on spending and a constitutional requirement is the only mechanism that will work.

During the past 8 years, the Federal debt has almost tripled from $1 trillion in 1981 to $2.8 trillion in 1989. If we continue at the present rate, we could be looking at a Federal debt of $4 trillion by 1994. Until we realistically come to grips with this issue, the budget deficit will surely continue to grow.

There are those who believe that our $2.8 trillion national debt is a nonissue, that the American people are not concerned about its effect on the economy or in their everyday lives.

There are those who might argue that reducing the deficit or eliminating it all together would bring on a recession. I believe the effect would be just the opposite. These huge deficits, piled up year after year, have brought about much of this country's economic problems, particularly the trade deficit, which reached $155 billion last year, and have also brought about low capital investment. Eliminating deficits would certainly aid in the reversal of our trade problems and free up capital for productive private investment.

Mr. President, for too long we have operated under a tax-and-spend philosophy—steadily increasing the role of Government in our lives while assessing increasingly onerous taxes on our taxpayers. Therefore, it is important that Congress eliminate wasteful spending across the board.

With a definite ceiling on how much money the Federal Government can spend, the President and Congress will be forced to look more carefully at each expenditure and at each revenue-raising attempt. This will be a painful process, but one that I feel is mandated by the crucial nature of the problem and something that is far preferable to placing the burden of debt on future generations of Americans.

Mr. President, I yield back the balance of my time.

By Mr. GRAMM:

S.J. Res. 30. Joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. GRAMM. Mr. President, with the introduction of this resolution, I again offer this great body the opportunity to vote on the No. 1 problem in America, and that problem is deficit spending. I am introducing a bill that is essentially the balanced budget constitutional amendment adopted by the Senate in 1982. It has been modified slightly but only to reflect the course we have laid out in the Balanced Budget and Emergency Deficit Control Act of 1985, along with the Reaffirmation Act of 1987. It would require the President to submit a balanced budget to Congress as well as forcing Congress to enact balanced budgets. Also, it would make the balanced budget requirement take effect in 1993 in accordance with our stated deficit reduction goals.

This is an important constitutional issue and worthy of our immediate attention. This amendment would correct a flaw in our Constitution first identified by Thomas Jefferson. When Jefferson returned from Paris where he had been minister to France during the writing of the Constitution, he studied the document and concluded: "If I could change one thing about it, I would change the ability or limit the ability of the Federal Government to borrow money."

Today we still wrestle with a flaw recognized more than two centuries ago. The balanced budget amendment would correct this dangerous flaw by limiting the power of the Federal Government to spend money it doesn't have. A few years ago, I co-authored a bill with the distinguished Senator from South Carolina, Senator HOLLINGS, and the distinguished Senator from New Hampshire, Senator RUDMAN, to force deficit reductions. I believe it has helped us progress toward a balanced budget.

But the problem with it is this: What Congress can make, Congress can unmake. Only by making the balanced budget a constitutional requirement can we force Congress to live up to its promise. With adoption of this resolution, I believe we can permanently change the Federal Government's fiscal policy for the better.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 30

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may amend such statement provided revised outlays are not greater than revised receipts. Congress may provide in such statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adapted pursuant to the first section of this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months before such fiscal year, unless a majority of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this article.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

By Mr. DIXON:

S.J. Res. 31. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

● Mr. DIXON. Mr. President, I rise today to reintroduce a joint resolution proposing a constitutional amendment authorizing the President to disapprove or reduce individual items of ap-

propriations, subject to a majority vote override. I am joined in this effort by my warm friend and distinguished colleague, Senator PAUL SIMON.

I am also reintroducing legislation to expand the President's rescission authority because action on the constitutional amendment will necessarily take a substantial period of time, and we need the benefits to be garnered from the item veto now.

I do not propose this constitutional amendment and expanded rescission authority lightly, but I am convinced we need fundamental changes in our budgeting procedures if we are ever to restore fiscal discipline to the Federal Government. Our looming deficit cuts into our ability to deal with the many other problems facing the Nation. Until we significantly reduce the deficit, we will not be able to fully fund many other vital domestic programs. The budget deficit was $220 billion in fiscal 1986, $150 billion in fiscal year 1987. Unfortunately, the reduction is not due to fundamental budget reform, however, but rather to budgetary "blue smoke and mirrors." Further, a $150 billion deficit is still $6 billion over the fiscal year 1987 Gramm-Rudman-Hollings target of $144 billion, and the prospects for meeting future Gramm-Rudman-Hollings targets, despite their upward adjustments, and balancing the budget by 1991 are questionable at best. Let us not forget a number of costly initiatives have been discussed by President Bush. Where does the money come for those initiatives when the deficit continues to eat away at our ability to meet the needs of the country. Budgetary legerdemain will not solve our ongoing fiscal crisis; fundamental reform of our budget processes is required if Federal deficits are to be controlled over the long run.

Solving our budget problems will require strong action in a number of areas. I am convinced that adding an item veto provision to our Constitution is probably the single most important action we could take if we really want to end the deficit nightmare.

The item veto has a long and distinguished history. It first appeared in the Confederate Constitution. In the years since the Civil War it has been included in the constitutions of 43 of the 50 States. The States gave their Governors this authority because it was needed, because it strengthens their budget processes, and because it works. No State that has adopted the item veto has ever repealed it.

While the idea has demonstrated its merit at the State level, however, it has never seriously been considered at the Federal level. Numerous item veto proposals have been introduced in Congress since the first one in 1876. At least seven different Presidents have requested item veto authority. But none of these proposals or requests has ever been sent to the States or been acted on by either the House or the Senate.

Mr. President, it is long past time to change that situation, and act on an item veto provision that helps restore the President's veto power. I say restore because the truth is that the Presidential veto is now a much weaker weapon than it once was.

Under our Constitution, a President can only veto an entire bill. He or she cannot veto individual items of spending within the bill—the veto is an all or nothing proposition. When our Constitution was written, that was a reasonable and workable balance of powers between the legislative and executive branches. Government was smaller and simpler. Over the past two centuries, though, Congress has tipped the balance in its favor and substantially eroded the President's veto power. The growth in Government, together with the increasing use of omnibus legislation, now make it significantly more difficult for a President to play the role envisioned by the Nation's founders.

At times, a President has the choice of either shutting down the Government, or signing into law billions of dollars of spending which he or she does not support. In 1987, you will recall, all Government spending was included in a single omnibus bill instead of the 13 annual appropriation bills that Congress usually acts on to exercise its control over Government spending.

Congress did pass each appropriation bill on its own in 1988, rather than in one lump sum, but the practice of attaching controversial items to "must" bills in an effort to make it more difficult for a President to use his veto power was just as evident. Logrolling, and packaging good and bad programs into a single appropriations bill, have become a way of life.

These practices are near and dear to the hearts of many legislators, but they work to undermine our ability to budget in a fiscally sound and responsible manner. They are clearly wasteful, extravagant, and destructive.

Congress will never resolve the deficit problems, Mr. President, if it continues this "business as usual" approach. Congress must surrender some of the prerogatives it has accumulated over the years, and allow at least a partial restoration of the President's veto power.

Many Members, as well as those who benefit from the current way of doing things, may not want to surrender all the power they have gained. To ensure that the proper balance of powers between the legislative and executive branches of Government is maintained—to ensure no possibility of the creation of an imperial Presidency—I am proposing only a partial restoration, giving the President item veto authority, but allowing Congress to override it by a simple constitutional majority.

Under my proposal, a President would have to choose: either veto an entire bill, forcing Congress to attempt to override by two-thirds vote, or use the item veto, recognizing that it would be easier for Congress to override.

Stated another way, it simply allows a President to put the Congress on record, to see whether there is in fact majority support for certain individual items of spending in an omnibus bill. As we all know too well, most Members of Congress have never seen and do not know about many of the literally thousands of individual items in the hundreds of pages of appropriations bills enacted every year. We rely on staff, and the knowledge, character, and ability of the Senators and Representatives that are the subcommittee chairmen and ranking members that handle the bills. Yet all these items are presumed to have majority support because they were included in a major bill that majorities in both the House and the Senate supported.

If a President opposes an item, why shouldn't he or she have the right to ask the Congress to go on record, and to determine whether the majority that is presumed to exist actually exists? In the early days of our Republic, Presidents often effectively had that right because bills were narrower and did not deal with more than one subject. We have now reached the point, however, where a single appropriations bill contains over $558 billion in spending authority, a practice which I believe usurps the President's constitutionally mandated role in the legislative process.

Majority override means that a President could not overturn strong congressional support for a single item through use of the item veto and the support of "one-third plus one" in either the House or the Senate. Only the veto of an entire bill would take a two-thirds vote to override. An item veto would be sustained if the President commanded majority support, and would be overturned if the item had majority backing.

Mr. President, the Line-Item Recission Act is based on similar principles. I am introducing this proposal reluctantly because I believe a constitutional amendment is the better way to proceed. Further, some of the past rescission proposals would have given the President unilateral rescission authority, thus effectively giving a President two bites at the same apple. Under these proposals a President could sign a bill and rescind various items of spending. Congress would have to effectively act on a new bill repassing the items to overturn the rescission,

and this action would be subject to Presidential veto, requiring a two-thirds vote to override.

My proposal is merely a small expansion of authority already available to Presidents under the Budget Act. It does not give a President unilateral rescission authority. It is designed to make the rescission mechanism as close to a majority override line-item veto constitutional provision as is possible through statutory means while not violating constitutional principles. It can be put into effect far more quickly than a constitutional change, and would provide at least part of the benefits of the constitutional amendment.

The legislation permits a President to defer items of spending contained in an appropriations bill for 60 days while Congress considers rescission resolutions under expedited procedures. Each rescission resolution would cover a single item and would have to be voted on separately, as the veto of an individual item would be.

Both Houses of Congress would have to vote on the resolution or resolutions within 60 days of their transmittal to Congress by a President. If the President had majority support the resolution would pass and the item would be rescinded. If the item had majority support, the spending would go forward without being subject to further Presidental veto.

The rescission resolutions would not be amendable since veto messages are not amendable, and the expedited procedures would guarantee a vote on the resolutions. This provision, of course, is different from the way a veto message is considered. There is no guarantee that a veto message will be voted on at all. However, a veto is effective unless overturned by both Houses of Congress while a rescission is effective only when approved in both Houses. The combination of the limited deferral authority, and the expedited procedures guaranteeing a vote, is necessary to ensure that Congress faces the issues raised by a President's opposition to particular items.

The item veto constitutional amendment is not a cure-all for the budget problems we are facing, Mr. President. Dealing with the deficit will require action in every area of the budget, action that will be difficult and distasteful. However, this proposal can and will make a real difference. If a Federal item veto with majority override works as well at the Federal level as it does in my own State of Illinois, it could save $27 billion a year or more.

I urge the Senate to consider this proposal very carefully. I am convinced that the result of this fair and reasonable examination will be early submission of the constitutional amendment to the States for ratification. I look forward to working with my colleagues toward these objectives. Mr. President, I ask unanimous consent that a copy of the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 31

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"The President may reduce or disapprove any item of appropriation in any Act or joint resolution, except any item of appropriation for the legislative branch of the Government. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall return with his objections any item of appropriation reduced or disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of the article I for Acts disapproved by the President, reconsider any item disapproved or reduced under the article, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the Act or joint resolution.".

By Mr. PACKWOOD (for himself, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. DECONCINI, Mr. DODD, Mr. GORE, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. MURKOWSKI, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 32. Joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, I rise today in order to introduce a joint resolution designating February 2, 1989, as "National Women and Girls in Sports Day."

While the history of women in sports is rich and long, too often we have ignored the contributions female athletes have made to our society.

Organized physical activity for young women has been shown to contribute to their healthy development. A girl who regularly participates in an organized sporting activity is more likely to develop a strong sense of self-esteem and a better physical self-image than one who misses this important opportunity.

In last year's Olympic games, the performances of such female athletes as Jackie-Joyner Kersee, Florence Griffith-Joyner, Bonnie Blair, Janet Evans, and the entire U.S. Women's Basketball Team demonstrated just how high a standard women can achieve when they are given the proper access to sporting equipment and top level coaching. The goals which they set and achieved for themselves are an example for us all.

Despite recent advances, however, athletic opportunities for male students at the collegiate and high school levels still far exceed those for female students. It is time to recognize that these inequities exist, while highlighting how far women have come in their athletic achievements.

I would like to thank those Senators who have joined as original cosponsors of this year's effort, and I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 32

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the performances of such female athletes as Jackie Joyner-Kersee, Florence Griffith Joyner, Bonnie Blair, Janet Evans, the U.S. Women's Basketball Team and many others in the 1988 Olympic Games were a source of inspiration and pride to all of us;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 2, 1989, is hereby designated as "National Women and Girls in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.●

By Mr. BENTSEN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRASSLEY, Mr. HEINZ, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JEFFORDS, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. MACK, Mr. MCCLURE, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. THURMOND, and Mr. WILSON):

S.J. Res. 34. Joint resolution designating the week of April 16, 1989, through April 22, 1989, as "National Minority Cancer Awareness Week"; to the Committee on the Judiciary.

NATIONAL MINORITY CANCER AWARENESS WEEK

● Mr. BENTSEN. Mr. President, we all know about the devastating toll that the deadly disease of cancer annually takes from our Nation. But many are not aware of the fact that cancer has a disproportionately higher impact on minorities and the economically disadvantaged.

To increase public awareness of this, today I am introducing a joint reoslution that will designate the third week in April as "National Minority Cancer Awareness Week." I urge my colleagues to support this resolution.

Studies have shown that the overall incidence of cancer among blacks and Hispanics is significantly higher as compared to the population in general. Statistics cited in a recent edition of the Cancer Bulletin published by the M.D. Anderson Cancer Center of the University of Texas reveal that more black American males have died from lung cancer over the past 2 years than were killed during the Vietnam War. Cervical cancer is found in Hispanic women twice as often as it is found in white women. And while the cancer survival rate for the Nation as a whole is improving steadily, it has actually dropped among blacks and Hispanics.

These facts demonstrate the need for our heatlh professionals and medical research community to study the characteristics of our minority and economically disadvantaged populations and develop new approaches to dealing with their unique cancer problems.

One way that Congress can help the medical community in dealing with the minority cancer problem is by promoting public awareness of the cancer crisis in the minority and economically disadvantaged community. In the 100th Congress, Congressman DYMALLY and I were successful in securing passage of a joint resolution designating the third week in April, 1987 as "National Minority Cancer Awareness Week." We did this in connection with the First Biennial Symposium on Minorities, the Economically Disadvantaged and Cancer held at the M.D. Anderson Cancer Center.

The medical community strongly believes that passage of our resolution in the 100th Congress contributed greatly to a public awareness campaign that successfully highlighted the problems cancer poses for the minority community. As the Second Biennial Symposium approaches, I am again working in coordination with Congressman DYMALLY to designate the third week in April as "National Minority Cancer Awareness Week."

Improving public awareness of the problems relating to cancer among the minority community in our Nation is a worthy endeavor. If we can mount a successful effort against cancer in the minority community, one of cancer's strongholds, a crucial battle in our overall war against cancer will be won. Passage of this joint resolution will represent a small but important step in that effort.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 34

Whereas the month of April each year is designated as National Cancer Month for the purpose of promoting increased awareness of the causes, types, and treatments of cancer;

Whereas the National Cancer Institute has recognized that significant differences exist in the incidence of cancer and survival rates for cancer patients between minority and economically disadvantaged communities in the United States and the population in general;

Whereas increased awareness of the causes of cancer and available treatments will help reduce cancer rates among minorities and the economically disadvantaged through preventive measures and will improve survival rates for cancer patients through early diagnosis;

Whereas a comprehensive national approach is needed to increase awareness about cancer among minorities and economically disadvantaged persons, and to encourage health care professionals, researchers, and policy makers to develop solutions to the cancer-related problems unique to these communities; and

Whereas focusing public attention on cancer in minority and economically disadvantaged communities during one week so designated will have a positive impact on preventive health care and treatment in these communities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 16, 1989, through April 22, 1989, is designated as "National Minority Cancer Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe the week with appropriate programs and activities.●

SENATE CONCURRENT RESOLUTION 5—AUTHORIZING USE OF THE CAPITOL ROTUNDA FOR INAUGURATION OF DISPLAY OF THE POW/MIA FLAG

Mr. DOLE (for himself, Mr. STEVENS, and Mr. MITCHELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 5

Whereas America can never forget the sacrifices of our brave servicemen still missing in action, nor the heroic suffering of our prisoners of war;

Whereas the families of Americans missing in Southeast Asia, having suffered greatly themselves, joined together in 1970 as the National League of Families to facilitate and promote the fullest possible accounting for POW/MIA's;

Whereas the official National League of Families POW/MIA flag symbolizes the nationwide recognition that is justly deserved by the missing and unaccounted for servicemen of all armed conflicts; and

Whereas the POW/MIA flag is an effective means of further raising public consciousness on this key American issue: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the Capitol may be used on Thursday, March 9, 1989, at 3 p.m., for ceremonies to observe the unveiling of the National League of Families POW/MIA flag which shall be displayed in the Capitol Rotunda until a satisfactory accounting of all America's POW/MIA's has taken place. the POW/MIA flag so displayed shall be in such size and at such place as the Architect of the Capitol, the Speaker and the Minority Leader of the United States House of Representatives, and the Majority and Minority Leaders of the United States Senate shall designate.

SEC. 2. The Architect of the Capitol may prescribe conditions for physical preparations with respect to the use of the rotunda authorized by the first section.

SENATE CONCURRENT RESOLUTION 6—RELATIVE TO THE ESSENTIAL AIR SERVICE PROGRAM

Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. CONRAD, Mr. BURDICK, Mr. SIMON, Mr. PRESSLER, Mr. DASCHLE, Mr. BURNS, Mr. DURENBERGER, Mr. LEVIN, Mr. KERRY, Mr. METZENBAUM, Mr. EXON, Mr. RIEGLE, Mr. PRYOR, Mr. REID, Mr. BUMPERS, Mr. BENTSEN, Mr. ROBB, Mr. BRYAN,

Mr. ADAMS, Mr. BOREN, Mr. BAUCUS, Mr. KERREY, Mr. MCCONNELL, Mr. GRASSLEY, Mr. LEAHY, Mr. HEFLIN, Mr. BINGAMAN, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WIRTH, Mr. SHELBY, Mr. GARN, Mr. COHEN, and Mr. MURKOWSKI) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 6

Whereas in 1978, in response to airline deregulation, Congress enacted the Essential Air Service program for the purpose of ensuring air service to rural communities for a ten-year period;

Whereas about 150 small and rural communities have received subsidies under the Essential Air Service program at a cost to the Federal Government of less than $30,000,000;

Whereas for these 150 rural communities, air service is their lifeline to the rest of the country, both economically and socially;

Whereas in 1987 Congress reaffirmed its strong commitment to guaranteeing air service to rural communities by enacting a ten-year extension and expansion of the Essential Air Service program;

Whereas the fiscal year 1989 appropriations for the Essential Air Service program are $6,600,000 less than the projected amount needed to support 1988 services and about $19,000,000 less than the full annual amount needed to support the program at levels authorized by the Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Secretary of Transportation should refrain from adopting regulations to implement Essential Air Service reductions for 1989 and from taking any other action that would result in a reduction in Essential Air Service subsidies, until Congress has had the opportunity to appropriate supplemental funding for the Essential Air Service program for fiscal year 1989.

Mr. ROCKEFELLER. Mr. President, today is the first working legislative day and I am very pleased to introduce, along with 34 of my distinguished colleagues, including my very distinguished senior colleague, Senator BYRD, a resolution that seeks to ensure that the life of the Essential Air Service program will continue.

A lot of my colleagues are going to be speaking on this subject this afternoon because they feel very strongly about it.

In December, while most of us were at home for the holiday, the Department of Transportation decided to surprise us with an early Christmas present. DOT quietly issued a Notice of Proposed Rulemaking which presented four alternative ways to cut air service subsidies to dozens of communities, setting January 30 as the fast track date for final rulemaking. DOT said in its rulemaking that the proposed cuts were in response to a $6.6 million shortfall in the EAS appropriations for fiscal year 1989.

Last week the Department of Transportation wrote a letter to the senior Senator from my State, Senator BYRD, saying that DOT would delay action on this rule due to the public outcry which it has provoked all across this country. In the letter DOT indicates that they will postpone issuing the final rule for no more than 60 days, which takes us only to mid-March.

I welcome DOT's delay in issuing this rule. However, DOT did not withdraw the rule. It was merely delayed. And Congress is not left with much time to act.

My resolution simply urges the Secretary of Transportation—and I am referring to Secretary Burnley and Secretary-designate Skinner—to give Congress the necessary time to find a way to correct this problem. Congress should be given the chance to work out a solution with the Department of Transportation.

Mr. President, in 1978, Congress deregulated the airline industry. Had I been there at that time, I would not have voted for that bill. However, it passed. For many Americans, I have to say, deregulation has been terrific. Americans, particularly those who live in our large cities like New York, Houston, Atlanta who could not afford to fly in the past, can now afford to fly everywhere. The number of Americans who fly, in fact, has multiplied substantially since the time of deregulation, and I am happy about that.

However, in 1978, when Congress was debating the impact of airline deregulation, they recognized that the airlines who were no longer compelled to serve smaller communities would, in fact, not do so. Congress realized that they would pull out and that they would head for the bigger cities, which is precisely what has happened.

I can remember in Charleston, WV, at the time, we had American, Eastern, and United Airlines. Within a month or two of the passage of that airline deregulation, they were gone from our State. Consequently, the Congress, understanding that this might happen, created something called an Essential Air Service Program. The purpose of this program was to ensure that rural America continued to receive air service.

Last year, Mr. President, the Congress strongly reaffirmed our support for the Essential Air Service Program by enacting a 10-year extension of this program. Air deregulation, however, even with the cushion provided by the Essential Air Service Program, has been very painful to rural America. Make no mistake about that. For my State of West Virginia, and I am sure for most of rural America, deregulation has meant fewer flights, skyrocketing costs, greater inconvenience and, frankly, lower quality air service.

For example, since 1978, all seven essential air service points in the State of West Virginia have changed ownership hands at least once. These changeovers cause uncertainty among the business community and send discouraging signals to potential investors in our State of West Virginia.

So, Mr. President, you may ask why am I willing to stand up on the Senate floor the first day of this session to fight for this program.

Those of us from rural States know that over the last decade, air service to our communities would have been worse and, in many cases, nonexistent were it not for the Essential-Air Service Program. We strongly believe that the less than $32 million, the cost of the entire EAS Program nationwide, is a very reasonable and a very worthwhile expenditure. For less than $32 million, we are connecting rural America with the rest of the country so that people can go to colleges, can meet with their families, and can obtain better health care services.

From my point of view, most importantly, the Essential Air Service Program provides rural America a chance at an economic future. Without a reliable source of air transportation linking up rural America with the rest of the country, the chance at an economy recovery is bleak. That is true in my rural State. That is true in a lot of rural States.

One of the first questions that industry asks when they come to a State is, "Where is your airport?" If you do not have an answer, if you do not have air service, their interest diminishes rapidly.

Mr. President, I learned this lesson first-hand in 1987. I have been very active in trying to attract research and development to our leading research university, West Virginia University. I worked extremely hard to get the president of the National Science Foundation, Erich Bloch, to come to West Virginia University with his staff to look at the research that we are doing there. Never before had a director of the National Science Foundation come to West Virginia University, our leading research university. So, obviously, this was important.

I am afraid, however, that Mr. Bloch and his staff may be reluctant to come back because Mr. Bloch could not get there using regular air service. He had to charter a private plane to return to Washington. There were no return flights so he had to charter a flight. His staff had to stay overnight because the plane was not big enough. The next morning when they arrived at Morgantown Airport to get on their commuter service, it was canceled, as they so often are. As a result, they had to drive back to Washington, DC. What if it had been a flight from Nebraska? What if it had been from North Dakota?

Recently, we tried to encourage the airlines to include West Virginia in their tour packages. I brought executives from an international airline to my State. I took them to the most

beautiful parts of our State because tourism is one of the ways that we have to bring jobs to West Virginia.

These people came. They had to use commuter airline service, and I was glad that we had that air service. But, on the other hand, they said they could not fit their skis, they could not fit their golf clubs into those commuter airlines. I do not play golf. I do not ski, but a lot of people do. If you do not have decent air transportation, you get cut off in lots of ways that folks who live in big cities do not know anything about.

For communities like Elkins, Morgantown, Beckley, the home county of my esteemed senior colleague, Senator BYRD, Clarksburg/Fairmont, Princeton/Bluefield, the Essential Air Service Program is basic to their economic life.

I urge the Members of this body, Mr. President, to join me in my plea to the Secretary of Transportation and to the Secretary-designate to refrain from going forward with their plans for shutting off Essential Air Service subsidies before they give us a chance to find a way to fund the program.

Mr. PRESSLER. Will my colleague yield? I want to compliment my colleague, and I will be brief. His words are music to my ears. I can merely substitute the names of South Dakota cities that have the same problems. I am proud to be a cosponsor. It is a matter we worked together on. I look forward to working with him.

I want to compliment the Senator for his leadership.

Mr. ROCKEFELLER. I thank the distinguished Senator. I thank the Chair and yield the floor.

ESSENTIAL AIR SERVICE

Mr. BYRD. Mr. President, I am pleased to have the opportunity to cosponsor this Senate concurrent resolution on the Essential Air Service Program that has been introduced by my very distinguished colleague from West Virginia [Mr. ROCKEFELLER]. A good transportation system is a keystone to building a more prosperous future for West Virginia and other rural States.

One element of a modern transportation system, is reliable and reasonable air transportation.

This is why I supported the passage of legislation to enact the Essential Air Service Program over 10 years ago, and why last year I joined in cosponsoring legislation to extend the EAS Program for an additional 10 years.

This program has enabled five West Virginia airports—Morgantown, Clarksburg/Fairmont, Elkins, Beckley, and Bluefield/Princeton—to provide regularly scheduled air service.

Recently, due to a $6.6 million shortfall, the Department of Transportation proposed eliminating essential air service to a number of communities nationwide—including most of those in West Virginia—beginning March 1, in an effort to compensate for that shortfall.

Because of the importance of the EAS Program to West Virginia's economic development efforts, I urged DOT to delay any action on its proposal until Congress could address this issue.

I am pleased that DOT has agreed to my request.

Subsequently I have met with the Secretary of Transportation designee, Samuel Skinner, to urge that he delay any action that would terminate EAS service.

I am encouraged that Mr. Skinner has assured me that, if he is confirmed in his nomination, he will work with Congress on this matter, and will place the dilemma confronting the EAS Program at the top of his agenda.

This is an important issue, and I certainly will work to consider every available opportunity, including additional appropriations, to ensure that essential air service continues to be provided to West Virginia communities, and the nearly 150 other communities nationwide that participate in the program.

Today's resolution, offered by my colleague, Mr. ROCKEFELLER, provides the opportunity for the entire Senate to be on record on this issue. I commend my colleague for introducing the resolution; and I join with him in urging my colleagues to join as cosponsors.

ESSENTIAL AIR SERVICE

Mr. PRESSLER. Mr. President, I thank my colleague from West Virginia for giving the Senate the opportunity to go on record in support of the Essential Air Service [EAS] Program. I strongly support this effort as a way of sending a signal to the Department of Transportation that congressional support for EAS is alive and well.

I also thank the Secretary of Transportation for delaying action on the proposed EAS cutbacks for 60 days. Although this is a minimal amount of time in which to expect Senate action, it is better than the January 30 deadline we faced at one point.

Speeches about saving EAS have become an annual tradition. The last administration was never interested in continuation of EAS and wished to eliminate it. With a new President now in office and a new Secretary of Transportation in the confirmation process, I hope administration attitudes toward EAS will change.

The possibility of losing air service because of a cut in EAS payments has sent shock waves throughout rural and small urban America. The Department of Transportation has proposed four options for cutting EAS payments in order to make up for a $6.6 million shortfall. In South Dakota, there are five EAS cities receiving subsidized air service. Under any of the four cost-cutting options, at least one city would be affected.

Why is there such concern? Once a city loses air service, it immediately loses a vital link to the rest of the world. Economic development is sent on a downward spiral. The ability to attract or even retain businesses that operate in the modern world is hampered because of this lack of a vital connection to the national economy.

One of the cities facing a possible reduction in EAS payments is Pierre, SD, the State capital. Pierre is about 200 miles from another larger city. Even with a population of 12,000, Pierre is not on an interstate or four-lane highway, has no passenger train service, and only one scheduled bus stop per day. The only viable form of transportation is by air. Many business people, State government officials, and other travelers depend heavily on a carrier relying on EAS payments. In other words, an end to EAS means cutting off cities like Pierre from accessible transportation.

There are many similar examples across the country. Congress has understood the importance of EAS by reauthorizing the program for 10 years. The resolution introduced today reaffirms our commitment and sends another message to the Department of Transportation and to the new administration that EAS must be preserved.

Mr. BAUCUS. Mr. President, I join the senior Senator from West Virginia—the President pro tempore of the Senate—and the junior Senator from West Virginia, Senator ROCKFELLER, in support of the resolution expressing the sense of the Congress that the Department of Transportation refrain from cutting back essential air service until the Congress has sufficient time to pass a supplemental appropriation.

Mr. President, when Congress voted to deregulate the airlines in 1978, I was concerned about the effect it would have on rural communities and therefore voted against deregulation. I take little satisfaction in knowing that my predictions of rural economic havoc have come true.

Compared to some of the other issues that come before this body, air service to rural communities may seem like small potatoes. But I assure you, it is extraordinarily important. Access to adequate air service often determines whether a community lives or dies.

Last month, the Department of Transportation proposed eliminating air service to many rural communities across the country. Cutbacks were deemed necessary to make up for a $6.6 million funding shortfall in the Essential Air Service Program which Congress appropriated last fall. This is a very small amount of money for such a critical program.

One of the alternatives for cutting back on service would have eliminated service to seven Montana communities: Glasgow, Glendive, Havre, Lewistown, Miles City, Sidney, and Wolf Point. Such a proposal is irresponsible and unacceptable.

The effect would have been to virtually cut off half of the State of Montana from the rest of the world. Residents in Glasgow would have had to drive 282 miles to catch a plane. That's further than driving from here to Raleigh, NC. People living in Glendive and Wolf Point would have to drive the distance between here and New York City.

One business in Wolf Point, which employs 58 people, Wood's Powr Grip, would be forced to leave that community if air service were eliminated. That company needs to be able to get supplies to and from its customers on a timely basis. Without air service, such business dealings are impossible. There are many more businesses like Wood's Powr Grip in the same situation.

Rural America is already suffering an economic crisis. There is growth in urban areas, especially on the coasts, but there are gaping holes in between. Farmers, ranchers, miners and other rural businesses are struggling to survive.

Had DOT's proposal been implemented, affected rural economies would have been dealt a devastating blow.

That is why I wrote to then President-elect Bush and told him I intended to hold up every nomination he made to the Department of Transportation until I was satisfied that no cuts would be made in the Essential Air Service Program.

I also invited DOT Secretary-designate Samuel Skinner to meet with myself and 21 other Senators, Republicans and Democrats, to discuss his position on the Essential Air Service Program prior to his confirmation vote by the Senate.

In addition, I scheduled a hearing in the Rural Economy Subcommittee of the Small Business Committee, which I chair, to discuss the effects elimination of air service would have had on communities involved.

I am pleased, Mr. President, that because DOT has delayed implementing a final rule until Congress has a chance to pass a supplemental appropriation, neither the filibuster, nor the meeting, nor the hearing will have to be held.

In an effort to ensure that this battle does not happen again and again, year after year, I will soon be introducing legislation to fund the Essential Air Services Program through the aviation trust fund. I think this action is critical so that rural communities can plan for the future and attract business investment without fear that air service may one day be eliminated.

In addition, barely a year ago, Congress passed legislation introduced by Senator EXON and myself to enhance and strengthen the EAS Program. Because I believe such enhancements are critical for business development and job creation in rural communities, I will push hard for full funding of the program this year.

Finally, last week I invited Mr. Skinner to visit the Montana cities served by the Essential Air Service Program. This trip will demonstrate to Mr. Skinner how important the EAS Program is and why I am so opposed to cutting it back.

Mr. President, I commend my colleague, Senator ROCKEFELLER, today for introducing this resolution to express the sense of Congress that the DOT should not implement a final rule on EAS until Congress has a chance to vote for a supplemental appropriation.

I urge my other colleagues to join our efforts to preserve this vital program for rural communities.

I ask unanimous consent that copies of the letters I sent to then President-elect Bush and Mr. Skinner appear in the RECORD immediately following my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 23, 1988.

HON. GEORGE BUSH,
President-Elect, Office of the President-Elect, 1825 Connecticut Avenue, NW., Washington, DC.

DEAR PRESIDENT-ELECT BUSH: I have recently been informed that the Department of Transportation has released a Notice of Proposed Rulemaking (NPRM 88-18) that could eliminate seven of Montana's eight essential air service points. This proposal is irresponsible and unacceptable.

According to the Department of Transportation, the reason they are proposing such cutbacks is because of a $6.6 million funding shortfall in the program which Congress appropriated earlier this fall. The Department has decided to make cutbacks administratively instead of allowing Congress time to pass a supplemental appropriation. I assure you that I will do everything within my power to be sure this does not happen.

Few issues are more important to me than ensuring that Montanans receive adequate air transportation. The availability and affordability of quality air service is an essential ingredient to the economic vitality of every state in the Union. Without adequate air transportation, Montana's economy, which is already suffering from depressed conditions, would be dealt a severe blow. I am appalled that an agency of the federal government would see fit to decide that the more urban states should prosper at the expense of rural states.

The purpose of this letter is to inform you that I intend to hold up every nomination you make to the Department of Transportation until I am satisfied that no cuts will be made in the Essential Air Service program. I have nothing against your nominees personally, but I assure you that I can garner enough support for my position in the Senate to block every DOT nomination until this issue is resolved to my satisfaction.

It seems to me that this is a ridiculous way to start out a new Administration. This program is critical to rural communities of this country and would require a very small supplemental appropriation of $6.6 million to take care of the problem. Congress should be allowed time to approve such legislation.

Surely, you would agree that a major battle over this small, but extremely important, program in the opening days of the 101st Congress would be unfortunate. I urge you to resolve this issue before Congress convenes in January. Thank you for your prompt consideration of my request.

With best personal regards, I am,

Sincerely,

MAX BAUCUS.

U.S. SENATE,
Washington, DC, January 6, 1989.

SAMUEL SKINNER,
Secretary-designate, Department of Transportation, Washington, DC.

DEAR MR. SECRETARY-DESIGNATE: Congratulations on your recent nomination to be Secretary of Transportation during the Bush Administration. As Secretary, you would be responsible for air service policy to the rural communities of our country.

As Senators representing states with many rural and small communities, we are extremely concerned about the recent Notice of Proposed Rule Making, NPRM 88-18, addressing possible cutbacks in service to rural communities served by the Essential Air Service program. Under the proposal, 94 rural communities across the country could lose essential air service. This result is irresponsible and unacceptable.

Rural communities expect and deserve a high quality air transportation system. The availability and affordability of quality air service is an essential ingredient to the economic vitality of every state in the Union. It is a crucial factor in a state's ability to enhance it's economy. Quality air service provides growth potential for existing businesses and industries, and provides an important incentive for attracting new businesses and industries.

Because we feel strongly that rural communities must continue to receive adequate air service, we would like to meet with you at your earliest convenience to discuss actions you plan to take as Secretary of Transportation with regard to rural air service. We request that such a meeting occur before the Senate votes on your confirmation.

Thank you for your time and consideration of our concerns. If you have any questions about this request, please feel free to call me or have your staff call Tamara McCann of my staff at 224-2651. We look forward to meeting with you at your earliest convenience.

With best personal regards, I am

Sincerely,

Max Baucus, Herb Kohl, Jeff Bingaman, ——— ———, David Pryor, Carl Levin, Malcolm Wallop, Jake Garn, Don Riegle, Kent Conrad, Tom Daschle, Harry Reid, Spark Matsunaga, Jim McClure, Conrad Burns, John F. Kerry, Larry Pressler, Rudy Boschwitz, Patrick Leahy, Dale Bumpers, Richard H. Bryan, Pete V. Domenici.

ESSENTIAL AIR SERVICE

Mr. LEVIN. Mr. President, I would like to voice my support for Senator ROCKEFELLER's resolution to postpone the implementation of the Department of Transportation's proposal to curtail essential air service subsidies until Congress has had the opportunity to provide the necessary additional funding.

Air service plays a vital role in helping communities stimulate their economic growth and development. Since 1978, the Essential Air Service Program has successfully protected many smaller communities from being cut off from air travel. In 1987, Congress demonstrated its strong support for this program by expanding it and reauthorizing it for another 10 years. Over 150 communities nationwide, including 8 in Michigan, benefited from this program during 1988.

The Department of Transportation's proposal takes the wrong approach in addressing the $6.6 million shortfall in the essential air service budget. Instead of compensating for the shortfall by cutting communities out of the program, we should be searching for additional funds to maintain service to all these communities.

Furthermore, the timing of Transportation's proposal could not have been worse. The public comment period on their proposal, which was initially scheduled to run from December 14 through January 3 and was later unofficially extended through January 17, made it impossible for Congress to consider alternative solutions to the funding shortfall.

I have been encouraged, however, by the more accommodating stance taken by the Transportation Department in the last week. Their decision to put off implementing any such regulations for 60 days and Transportation Secretary-designate Skinner's recent talks with Senator BYRD, in his capacity as chairman of the Senate Appropriations Committee, have demonstrated a willingness to work with Congress on this situation. I hope that this willingness will continue and that they will continue to cooperate with Congress in areas of mutual concern.

But it is the Congress which must act and act quickly if air service to these communities is to be maintained. In preventing the Secretary of Transportation from reducing essential air service subsidies until Congress has a chance to appropriate supplemental funding, this resolution would be the first step toward ensuring that air service to our Nation's rural communities is maintained. I urge its immediate passage and urge that the Senate promptly begin searching for the necessary additional funding for the Essential Air Service Program.

ESSENTIAL AIR SERVICE

Mr. DASCHLE. Mr. President, in 1987 Congress reaffirmed its commitment to the survival of rural communities by extending the Essential Air Service Program for 10 years. The resolution before us today makes clear that the commitment has not waivered by expressing the sense of the Senate that the Secretary of Transportation refrain from reducing EAS subsidies to rural communities until Congress has had an opportunity to address the funding shortfall.

Last month, the Department of Transportation announced its plan to meet a shortfall in EAS funding through the elimination of subsidies to specific communities nationwide. That plan offered four alternatives, each of which would allocate EAS spending cuts differently throughout the country, with some States being hit harder than others. This divide and conquer approach, which appears designed to pit winners against losers among the States, is, in my view, an unacceptable response to the problem of EAS funding shortall.

Many small cities and towns across this country are dependent on access to commercial air service for their economic vitality. When hearings were held on extending EAS during the 100th Congress, A recurrent theme in the expert testimony was that, without commercial air service, the economic stability of small communities nationwide would be in jeopardy, and that, without EAS, there would likely be no commercial air service in those areas.

When Congress reauthorized this program, its intent was clear—EAS, which constitutes an irreplaceable lifeline to participating localities, should be continued. The Department of Transportation, in preparing proposals to cut that lifeline, is undervaluing the crucial nature of this program and subverting the overwhelming support of the Congress for its ongoing operation.

In South Dakota, five communities are currently receiving EAS subsidies. Officials from each of those cities have articulated the devastating impact the DOT proposals would have on their communities. Existing firms need air transportation to maintain current levels of operation, and new businesses will not locate in areas which do not have commercial air service.

Nationwide, 150 locations benefit from EAS. Any member of this body with an isolated EAS community in his or her State can verify that removing EAS designation is nothing less than an attack on the vitality of rural America as a whole.

Last week, DOT announced a 60-day delay in their plans to eliminate EAS subsidies. That de facto extension does not decrease the severity of the threat to EAS or the importance of the resolution being introduced in the Senate today. Before leaving office, President Reagan again listed EAS for termination in his fiscal year 1989 budget. That objective is clearly reflected in DOT's proposal.

The resolution being introduced today sends a clear message to DOT; any plan to address shortfalls in EAS funding by stripping isolated cities and towns of their sole source of commercial air service is way of the mark. It is the intention of a majority of the Members of Congress that EAS continue to provide its vital service to rural communities in this Nation, and that any future efforts by the Department to promulgate rules on this program should be guided by that intent. I hope that the new administration will consider that position and work with the Congress to maintain a viable EAS program.

ON THE ESSENTIAL AIR SERVICE PROGRAM

Mr. EXON. Mr. President, I am pleased to be a cosponsor of this Senate resolution which calls upon the Secretary of Transportation to refrain from making cuts in the Essential Air Service Program until Congress has the opportunity to address the issues.

I was pleased by the good faith shown in the recent action by the Department of Transportation to delay by 60 days the implementation of air service reductions earlier proposed by the Reagan administration. However, we only won a small battle. We still need to win the war.

This is not just an issue for current fiscal year 1989 rural air service. It is also for fiscal year 1990 and future years. It is whether there will be any EAS program at all. I was very disappointed that the fiscal year 1990 budget submitted to Congress by President Reagan shortly before he left office once again cut all funds for EAS and proposed terminating EAS completely.

In my home State of Nebraska, that would mean total loss of passenger air service to the communities of Alliance, Chadron, Columbus, Hastings, Kearney, McCook, Norfolk, and Sidney.

In addition, Grand Island, North Platte, and Scottsbluff would lose some or most of their air passenger service. I call on our new President to take a kinder and gentler approach to these Nebraska communities and reverse this proposal to terminate their air service.

Hopefully, Congress and our new President can address the long term funding issue of the EAS program, so that these EAS communities know where they stand. Unfortunately, saving EAS from termination has become an annual battle.

How can these communities effectively undertake economic development efforts, which are so badly needed in rural Nebraska, when Washington puts their air service in a continual on-again off-again on-again

state? Questions about air service are among the first asked by businesses making location decisions.

We badly need some stability and certainty in the EAS program. I will work hard to try to bring that about and look forward to working with my colleagues on the issue.

Mr. BURDICK. Mr. President, I am very pleased to join the Senator from West Virginia in supporting this resolution to put a stop to the DOT's rulemaking reducing rural air service subisidies. Last year this body overwhelmingly approved a 10-year extension of the Essential Air Service Program. Now it is time for us to stick by that action. While we may not be prepared to reregulate the airlines, we must realize that there are 40 million or more people in rural areas who require basic levels of air service. Airline deregulation in an imperfect world has meant the loss of service to rural areas. That is not to say that there has not been an overall improvement in the system and occasional bargains on air fares for some. But if you take a look at my State of North Dakota, you see that what goes for residents of most capital cities does not go for a resident of Bismarck.

In fact, air fares from Bismarck to the nearest hub at Minneapolis are higher than fares from Minneapolis to Miami. It is the small local business traveler who pays. I am most concerned that the loss of subsidized air service will have a significant negative impact on the economy of our rural areas. In my opinion, the Department of Transportation proposals in this rulemaking do not begin to address these economic concerns. I think we can all agree that the continual attacks on this program have been tedious. Our local general aviation airports have spent a lot of time and money fighting these cuts. I hope that in the spirit of cooperation we are able to convey to the new administration the importance to rural America of Essential Air Service and other transportation programs.

I ask unanimous consent that certain comments submitted by the North Dakota State Aeronautics Commission be included with my statement in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSE TO THE DEPARTMENT OF TRANSPORTATION'S PROPOSED RULEMAKING RELATING TO ESSENTIAL AIR SERVICE; REDUCTION ALTERNATIVES AND REQUEST FOR EXTENSION OF TIME FOR REPLY FROM JANUARY 3, 1989 TO MARCH 1, 1989

CONCLUSION

Due to the length of this document in response to the NPRM and the explicit nature of the reply, the following conclusion summarizes this communication as:

Commission recommends the DOT implement with Congress a supplemental appropriation, based on *accurate* forecasts of financial assistance to maintain basic levels of service as to not interupt service. With our six months knowledge of the appropriation amount, this drastic action was uncalled for and demands immediate DOT staff management action as the 101st Congress convenes.

The economic impact of this action is substantial over $100 million under the Executive Order 12291 and also under Regulatory Flexibility Act, numerous small N.D. businesses are impacted, both directly and indirectly overlooked by the DOT NPRM.

Air Service benefits not only local residents, but in North Dakota, a majority of traffic is the business related traveler from all points across the nation.

Carriers respond that subsidy cutbacks would eliminate or substantially reduce service at all three North Dakota cities.

Support only Alternative No. 1, if forced, to make a choice if Congressional supplemental funding fails.

Petition for extension of time to reply to March 1, 1989 so Congressional representatives can respond to the EAS funding deficiency.

In final thought, the Aeronautics Commission feels that the DOT has failed to understand conceptually the impact EAS benefits to North Dakota communities in preparing the NPRM and Congressional budget request in June, 1988. Without the cooperation by the DOT in reacting to Congressional intent, the EAS program will continually be a "battle ground" due to the DOT's lack of knowledge of the program benefits. The State and communities as users of the EAS service, strongly convey the program benefits as not a measure to cut the benefit and prove a point, but rather a program that all citizens from all parts of the USA benefit from and well worth the investment made by the taxpayers.

NORTH DAKOTA
AERONAUTICS COMMISSION,
By Gary R. Ness, Director.

Mr. BRYAN. Mr. President, I rise in support of the resolution offered by the distinguished Senator from West Virginia [Mr. ROCKEFELLER]. I am pleased to be an original cosponsor of this measure to ensure that rural communities in this country are not cutoff from commercial air service.

Under the recent Department of Transportation's Notice of Proposed Rulemaking, up to 94 rural communities could lose air service now made possible by the Essential Air Service Program. This program was established after the Airline Deregulation Act of 1978 to ensure that, after deregulation, these rural communities would continue to maintain commercial air service. Congress renewed its support for the program, last year, by extending it for at least another 10 years.

One community in my State—Ely, NV—would be affected by the cuts proposed by the Department of Transportation. As the name of the program indicates, the air service it provides is essential to these rural communities. As noted by the chairman of the White Pine Board of County Commissioners, where Ely is located, "The loss of our air service would be devastating and would undermine the years of local and State effort to revive Ely's economy."

Let me briefly illustrate the importance of air service to this small Nevada community. Ely is 346 miles from Reno—about a 6 hour drive. The nearest nonsubsidized airport is 188 miles away in Elko, NV—about a 4 hour drive—if the weather is good.

Ely has no rail service and bus transportation is available only on Mondays and Fridays.

The loss of commercial air service would leave the 8,040 residents of White Pine County without any regularly scheduled public transportation and would be devastating to the area's economy.

A new $36 million State prison is nearing completion and one of the criteria for siting the prison in Ely was the availability of air service. Congress recently designated the Great Basin as a National Park which is now a growing tourist area. The only airport serving visitors to the Nation's newest park is the Ely airport. In short, the availability of air service is vital to the revival of the economy of this Nevada community.

I hope my colleagues will support this resolution urging the Secretary of Transportation to refrain from making any cuts in the Essential Air Service Program—and maintain air service to our rural communities—until Congress has had an opportunity to provide for the necessary supplementary appropriation.

Mr. PRYOR. Mr. President, I am pleased to join with my good friend from West Virginia, Senator ROCKEFELLER, in attempting to maintain the Essential Air Service Program [EAS] at the level necessary to serve our rural communities.

The Department of Transportation recently announced proposals to reduce subsidies to this program by $6.6 million due to a funding shortfall. DOT has recently responded favorably to a request by a number of Senators, myself included, to delay implementing these reductions for 60 days. Our request for a delay was made with the intention of allowing Congress the opportunity to enact a supplemental appropriation, and I am very hopeful that this action will be taken soon.

For the citizens of Jonesboro, Hot Springs, Camden, El Dorado, and Harrison, AR, the Essential Air Services Program provides the only air service available to such major business centers as Dallas, Memphis, and St. Louis. This service is not a luxury, but a necessity for these primarily small, rural, Arkansas communities who have come to rely a great deal on the EAS program in order to maintain their economic vitality.

There can be little doubt that eliminating quick and ready access to these large trade centers—as is currently

provided by the EAS—will mean slow or negative economic growth for rural economies.

I can not speak for other States, but for Arkansas the Essential Air Services is precisely that—essential. I look forward to working with my colleagues in the next few weeks to formulate a plan which will preserve this much needed program.

ESSENTIAL AIR SERVICE

Mr. SIMON. Mr. President, I rise to join others who are talking about the importance of the essential air service.

My colleague Senator DIXON from Illinois and I sent a letter to the new Secretary of Transportation. I discussed this service with him as I am sure my colleague has. I think we are making headway.

Let me just say it is extemely important to small communities. Mount Vernon IL, is expanding its business base but it needs that air service. Sterling Rock Falls, IL, expanding its industrial base, moves from 25 percent unemployment down to 75 percent. Let's not turn that around. It is going to hurt us in unemployment figures and as I heard Senator BAUCUS mention before, it is going to hurt urban areas not only simply through the reason he mentioned that they need to get supplies from these smaller communities. When you cannot get a job in Mount Vernon, IL, or Sterling Rock Falls, IL, you end up going to Chicago, you go to St. Louis, you go to Indianapolis. You compound the problems of urban America.

My hope is that we can act and act quickly to save this essential air service for these rural communities. It is really important for these communities. I would point out that out of 550 designated essential air service communities, only 150 require subsidies. And those subsidies, in part, obviously are for small carriers, but when those small carriers provide the feeder service ultimately those central airports and main air lines also benefit from it.

As I indicated, I have every reason to believe that the new Secretary of Transportation is going to be sympathetic to this situation. I have discussed this with him and I believe my colleague Senator DIXON has also. We have been in touch. He indicated to me that he is aware of the problem and is sensitive and I might add he is a pilot himself so I have the feeling that we are making progress in that area.

I am pleased to join in cosponsoring the resolution on Essential Air Service [EAS] offered today by the Senator from West Virginia [Mr. ROCKEFELLER].

Ten years after airline deregulation, it is clearer than ever that the benefits would have largely passed the Nation's smaller communities by without the promise of Essential Air Service. The purpose of EAS, which was renewed by Congress last year, is to assure that a basic level of air carrier service be maintained for communities which had already had air carrier service in place before deregulation occurred. Only when no carrier is willing to provide that service is a subsidy necessary.

Air carrier service is now the mode of choice in today's international business climate and essential for passengers in remote rural communities. This is not the time to fall back on the promise of predictable air carrier service to those communities whose economic life is at stake.

This program affects the lives of thousands of citizens and promotes far more in social and economic benefits than its small price tag implies. Only 150 out of 550 eligible communities actually receive subsidized service, and it is my hope that many of these will eventually stand on their own. Unfortunately the EAS appropriation of $25 million for this year fell short by $6.6 million to maintain current services according to the Department of Transportation [DOT]. Last year DOT spent $28.5 million on EAS, but eliminated the program from the fiscal year 1989 budget.

Instead DOT issued a 20-day proposed rulemaking over Christmas setting out criteria for the elimination of service for over 50 communities by March 1, in spite of the purpose of the EAS program. That rulemaking has been postponed for at least 60 days which gives Congress an opportunity to renew our promise to those EAS communities by providing the $6.6 million to maintain those services, and to work with the new administration to improve the program as well. That is why I am urging my colleagues to support Senator ROCKEFELLER's resolution today.

In Illinois both of the EAS communities, Mount Vernon and Sterling Rock Falls, are beginning to experience a turnaround in their economies thanks to the promise of scheduled air carrier service. That recovery is fragile. In Mount Vernon, the General Tire Co., a consortium of Japanese, German, and American interests, is building a $200 million facility. Everbrite is about to open their new plant. One plant, PNC, Inc. has converted an operation with three caretakers into a plant with 180 employees.

The heavy manufacturing in Sterling/Rock Falls is only now recovering from a deep recession. Unemployment has been reduced from 25 percent to 7.1 percent. Companies like the Northwestern Steel and Wire, Illinois Forge, National Manufacturing, Wahl Clippers and Lawrence Brothers all depend on air carrier access to the national and in some cases international carriers as well as to the city of Chicago.

We are becoming top heavy as a nation with population settling in the larger congested urban regions as rural communities are allowed to decline. At a minimum, we need to maintain scheduled air carrier service to the currently subsidized communities. States, local governments, and the private sector, according to the ability to pay, should be allowed to participate with the Federal Government in making the air service possible. This would relieve pressure on the Federal budget, stretch the small amount of dollars further, and continue to support a basic minimum of air carrier service for the most isolated and poorer communities.

Mr. President, I see that the time of 3 o'clock has arrived and I know we are to move into executive session.

I hope that we will act expeditiously on this resolution that the two Senators from West Virginia and others have cosponsored.

Mr. BURNS. Mr. President, I am pleased to join my colleague, the very distinguished Senator from West Virginia [Mr. ROCKEFELLER] as a cosponsor of his sense of the Senate resolution requiring the Secretary of Transportation to refrain from taking any action that would result in reduced Essential Air Service [EAS] subsidies to our rural communities until Congress has the chance to address the $6.6 million funding shortfall for fiscal year 1989.

Congress has continually expressed its support of Essential Air Service by reauthorizing it in 1987 and continually funding it. The Department of Transportation's timing is no mistake and I think it is only fair that the U.S. Senate has a chance to address the funding shortfall if we so choose.

I represent the State of Montana and we have seen rural communities that could be effected by any cutbacks in EAS subsidies. If EAS is terminated, crucial medical services and supplies would be severely curtailed as some rural Montana communities depend on air service for weekly visits from medical technicians. Distance in much of Montana prevent these medical technicians from visiting patients in these communities by surface transportation, their only alternative is by air. Similarly, many small businesses that are located in rural communities depend upon regularly scheduled air service to maintain their business links with their customers and others. If EAS is terminated, many people will lose their jobs in what are already economically depressed areas. The small businesses and farms in eastern Montana rely on air service for delivery of goods and the loss of it would impair their ability to prosper or possible even survive.

Regularly scheduled air service is a fact of life in 20th century America. and those areas without such service labor under a tremendous handicap.

Montana has been particularly hard hit in the transportation services arena. Montana has lost the service of a major portion of its rail capacity, Amtrak service, bus service, and trucking industry. The threatened loss of EAS continues a downward spiral in the quality of transportation services available to the people of Montana.

I am very aware of the budget deficit problems that need to be dealt with this Congress. But cutting EAS to many rural communities is not the place to start. It further hurts the economy of those States most in need of an economic boost and I think most people would agree that reducing revenue is not the answer to reducing the deficit.

I look forward to working with Senator ROCKEFELLER and others who have similar concerns during this Congress and hope that we can resolve this issue in a timely manner.

Mr. REID. Mr. President, I am proud to be an original cosponsor of my distinguished colleague Senator ROCKEFELLER's resolution to protect air service in rural communities. I share his concern and I would like to associate myself with his eloquent remarks regarding the Essential Air Service Program. Indeed, the word "essential" appears in the title of the program for good reason. I was heartened by Secretary-designate Skinner's response to questions posed by Senator ROCKEFELLER this morning in the Commerce Committee hearing on his nomination. He appears to be willing to work with Congress to protect this important program. I sincerely hope the issue can be resolved.

In the State of Nevada, one community receives these subsidies. Ely, NV, in White Pine County is just the kind of rural community that the EAS is designed to protect. The economy there is dependent on the air service, and, in fact, the EAS Program has been the reason for economic growth in the area. Air service in rural America has to be a part of this country's National Transportation Policy. Support for deregulation in the airline industry must be tempered by the realization that we cannot abandon transportation service to our rural communities because they fall on the wrong side of the profit margin.

I travel often throughout Nevada and I am always amazed by the high prices of air service in certain areas. In fact, the cost of air service between Nevada's two largest cities, Las Vegas and Reno, has become prohibitively high and there is only one carrier between these two major metropolitan areas. Something is wrong when my flight from Washington, DC, to Las Vegas costs as much as the trip from Las Vegas to Reno. The Essential Air Service Program has been set up to protect some of these iniquities, and I am a strong supporter of its goals.

SENATE CONCURRENT RESOLUTION 7—SENSE OF CONGRESS RELATIVE TO THE MURDER OF "CHICO" MENDES FILHO

Mr. KASTEN (for himself and Mr. LEAHY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 7

Whereas the murder of Brazilian environmentalist and union leader Francisco "Chico" Mendes Filho has provided outrage and sorrow in the Congress of the United States and around the world;

Whereas Chico Mendes gave his life defending the Amazon forest and the peoples of the forest and creating a more equitable, economic form of preserving the forest;

Whereas the destruction of the Amazon forest is despoiling the largest repository of biological diversity on the planet and contributing to global climate change, gravely threatening the quality of life on the planet for future generations; and

Whereas the death of Chico Mendes and many others since 1980, who, like him, have sought solutions to the global environmental crisis in their daily work, in seeking an equitable distribution and use of land in Brazil, is a tragedy, an abuse of human rights, and a threat to the global environment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) recognizes that the murder on December 22, 1988, of "Chico" Mendes Filho is a profound loss to all those concerned with the global environment and social justice, and presents a challenge to confront the waste and destruction of global natural resources and social injustice with courage and conviction, as Chico Mendes did;

(2) recognizes that Chico Mendes made an important contribution to the protection of the global environment through his defense of threatened tropical forest and of the peoples of the forest and through his success in promoting an ecologically and economically sound alternative for the development of the Amazon, the creation of "extractive reserves; and

(3) urges the Secretary of State to express to the Government of Brazil the concern of the people of the United States at the murder of Chico Mendes and their desire that all those directly and indirectly responsible be brought swiftly to justice.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the Secretary of State.

Mr. KASTEN. Mr. President, I rise today to submit a concurrent resolution honoring one of the most dedicated people ever to defend the world's environment—Francisco "Chico" Mendes Filho of Brazil.

This morning a group of Chico's friends in the U.S. House and Senate gathered at a memorial service in his honor. We must use the slaying of Chico Mendes as an opportunity to rededicate ourselves to the goal of preserving the world's rain forests—and the health of the entire planet.

With these goals in mind, I am submitting this concurrent resolution today.

Mr. LEAHY. Mr. President, it is with profound sadness that I rise to join my colleague in submitting a concurrent resolution expressing the outrage of this Congress over the recent murder of Brazilian environmentalist and union leader, Francisco "Chico" Mendes Filho.

While few of us knew Mendes personally, we were all the beneficiaries of his outstanding work. As founder and leader of Brazil's first rubber tappers union, he labored tirelessly to protect and preserve his country's besieged rain forest from ill-considered exploitation, human settlement, and wanton destruction. Over the years, he earned a reputation within the environmental community as one of its premier spokesmen—a man of passion, and of vision, whose concern for the future of his country's ecological patrimony was unbounded.

Mr. President, for over a decade Mendes strove to preserve one of the last great natural habitats left on Earth. It is a habitat which scientists are only now coming to realize is an essential element in the life cycle of our planet. The principal weapon Mendes used in this crusade was peaceful persuasion. Many of those who opposed his work used fear, intimidation, and ultimately, assassination, to advance their interests. On December 12, after five attempts on his life, Mendes was gunned down by a lone assailant as he left the back door of his home—a fate this courageous man knew he risked every day in his work to save the Brazilian rain forests.

Mr. President, today environmentalists the world over are in mourning, not just for one man lost in the struggle to save the rain forests, but for what has been done to the planet Earth. For today we stand witness to a worldwide environmental crisis of astounding proportions. It is one which threatens to destroy our atmosphere and alter our climate in ways which, until recently, were familiar to most of us only through the works of popular science fiction writers. Unfortunately, as Mendes knew all too well, fiction is in danger of becoming fact.

In Brazil alone, land is being cleared at a rate of 1 acre per minute. This translated into a loss of 80,000 square miles last year—a land area equal in size to New England, New Jersey, and Delaware put together. Already a major portion of the virgin Amazon rain forest has been irreparably lost to future generations. Unbelievably, most of the Amazon was unexplored as recently as 20 years ago.

Mr. President, Francisco Mendes was in the forefront of those who have dedicated their lives to saving our battered environment. In June 1987, he was recognized by the United Nations Environment Program [UNEP], as one of the world's top 50 ecology workers.

He also received a tribute from the Better World Society for his pioneering work.

Mr. President, it is a testatment to the power of bold ideas that 3,000 people turned out for the funeral of Francisco Mendes last December. His admirers came from all walks of Brazilian life—rural workers, environmentalists, politicians, and celebrities. As a result of his death, however, the popular cry for a reform of Brazil's environmental policies has grown more vigorous. It is our duty to see to it that this momentum goes forward and the memory of Francisco Mendes is kept alive.

Mr. President, perhaps, in the years ahead, our children will be able to look back and say that the death of Francisco Mendes Filho, "Chico," marked a turning point in our struggle to save the rain forests of Brazil. Perhaps, his death will not have been in vain.

SENATE CONCURRENT RESOLUTION 8—SENSE OF CONGRESS RELATIVE TO AN INTERNATIONAL AGRICULTURAL TREATY

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry.

S. CON. RES. 8

Whereas worldwide grain supplies reached a record level of 350 million metric tons during the 1980s—almost two years of grain imports;

Whereas world food production has historically increased at a rate of 2.5 percent during the 1980s and world farm output has increased at a rate of more than 3 percent annually;

Whereas approximately one-fifth of the world's cropland is experiencing an intolerable rate of soil erosion;

Whereas the cost of farm programs is a record levels in many nations;

Whereas agricultural export markets are declining due to increased productivity in food importing nations; and

Whereas other grain exporting nations have expressed a need to limit agricultural production: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that the President should initiate multilateral negotiations with all major agricultural producing nations to establish an international agricultural conservation reserve to reduce worldwide grain surpluses and control soil erosion.

(b) The basis for such an international agricultural conservation reserve would be as follows:

(1) All signatory nations would agree not to bring any virgin land into crop production and to return a certain percentage of cropland to its natural state and keep the land out of production for a minimum of 10 years. The amount of land to be taken out of production shall be large enough to bring grain supplies in line with demand while still maintaining adequate food supplies.

(2) Cropland would have to be taken out of production and sound conservation practices implemented on the land to control soil erosion. Land taken out of production would not have to be classified as highly erodible.

(3) An emergency provision would allow a portion of the land of all signatory nations to be put back in production if stocks fell below a level assuring adequate food supplies.

(4) Individual nations could return a portion of their land to production if their production did not meet domestic consumption.

● Mr. PRESSLER. Mr. President, today I am submitting a sense of the Congress resolution urging the administration to initiate multilateral negotiations with all major agricultural exporting nations to establish an international agricultural conservation reserve. An international land reserve would reduce grain surpluses and control soil erosion. Excess grain supplies, high farm program costs, declining export markets, and worldwide soil depletion problems lend urgency to the establishment of such an agreement.

My concurrent resolution expresses the sense of the Congress that the administration should initiate multilateral negotiations on an international agricultural conservation reserve program. All participating nations would benefit. Under this program, the world's grain exporting nations would agree not to bring any virgin land into production and to return an equal percentage of their cropland to grass or other natural cover. The land would be kept out of production for a minimum of 10 years. The resulting decline in production would lead to an increase in grain market prices, as well as significant soil conservation benefits. Emergency provisions would be included to allow land to be brought back into production if grain shortages were projected or a nation's production fell below domestic consumption.

The agreement could also include a provision for an internationally coordinated food aid program. Each participating nation would be required to contribute a certain percentage of production for food aid.

The reasons supporting an international land set-aside are readily apparent. Worldwide carryover grain stocks reached record levels in this decade, a result of increased production and declining export demand. Although U.S. grain production fell in 1988 due to the severe drought, other nations continued to produce grain in excess amounts. Historically, agricultural production has increased at a rate of 2.5 percent annually. During the 1980's, world farm production has increased at a rate of over 3 percent, and food production has outpaced world food demand. Excess food must either be stockpiled or exported.

Huge grain surpluses and intense competition for exports dramatically increased farm program costs in the United States and other grain exporting nations. In 1986 the United States spent $25.6 billion in farm program payments. The European Economic Community spent $25 billion. Although 1988 U.S. farm program costs dropped to approximately $14 billion, the budget deficit crisis compels exploration of new ways to raise grain prices and thus reduce the need for government payments.

Soil erosion, a serious worldwide environmental problem, would also be mitigated by an international land conservation agreement. Approximately one-fifth of the world's cropland is experiencing an intolerable rate of soil erosion. Millions of acres of cropland are lost annually to severe soil erosion, and the productivity of millions of additional acres continues to deteriorate. All nations have land under cultivation that never should have been plowed or cleared of trees. A 10-year conservation reserve program would make great strides in the control of global soil erosion. the environmental benefits from such a program would help to assure future generations an adequate number of productive acres and an adequate food supply.

In conclusion, current farm policies throughout the world continue to encourage farmers through subsidies to deplete valuable soil resources to grow crops already in surplus. Farmers and taxpayers of grain exporting nations in effect are subsidizing food importing nations. So long as world grain stocks remain at excessive levels, farm prices will remain depressed and farm program costs will be a subject of concern. An international agricultural conservation reserve program is the only effective means of reducing grain production and increasing farm prices. I ask my colleagues to join in support of this concurrent resolution to urge the administration to initiate multilateral negotiations of an international agricultural conservation agreement.●

SENATE CONCURRENT RESOLUTION 9—PROVIDING FOR EXPEDITED CONSIDERATION OF CERTAIN LEGISLATION

Mr. HUMPHREY (for himself, Mr. LUGAR, Mr. WALLOP, Mr. NICKLES, Mr. SYMMS, and Mr. COATS) submitted the following concurrent resolution; which was, pursuant to the order of August 4, 1977, was referred jointly to the Committee on the Budget and the Committee on governmental Affairs:

S. CON. RES. 9

Resolved by the Senate (the House of Representatives concurring), That (a) if the President, within three calendar days (excluding Sundays) of the time the President approves any appropriation bill, transmits to both Houses of the Congress, one or more special messages in accordance with subsection (b) proposing to rescind all or part of any items of appropriation provided in the appropriation bill, such special messages shall be considered in accordance with the provisions of this resolution.

(b)(1) Each special message transmitted under subsection (a) shall specify, with respect to each item of appropriation (or part thereof) proposed by the message to be rescinded, the matters referred to in paragraphs (1) through (5) of section 1012(a) of the Impoundment Control Act of 1974 (2 U.S.C. 683(a)).

(2) Each special message transmitted under subsection (a) shall be accompanied by a draft bill or joint resolution that would, if enacted, rescind each item of appropriation (or part thereof) proposed by the message to be rescinded.

(3)(A) Except as provided in subparagraph (B), the President may transmit one special message under subsection (a) with respect to each agency for which an appropriation bill appropriates or otherwise makes funds available. A special message may propose to rescind one or more items of appropriation with respect to the agency to which it relates.

(B)(i) For purposes of subparagraph (A), except as provided in clause (ii), the term "agency" means—

(I) any Executive department (as defined in section 101 of title 5, United States Code), and

(II) any independent establishment (as defined in section 104 of title 5, United States Code),

of the United States Government.

(ii) The President shall incorporate in a single special message all rescissions proposed with respect to any independent establishment—

(I) for which an appropriation bill appropriates or otherwise makes funds available, and

(II) for which the total amount appropriated or otherwise made available for the fiscal year immediately preceding the fiscal year in which the special message is transmitted was less than $100,000,000.

For purposes of subclause (II) of this clause, the total amount appropriated for an independent establishment for a fiscal year shall be determined without regard to any rescission or deferral under this section or under the Impoundment Control Act of 1974, and without regard to any reduction or sequestration under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c)(1)(A) On the day on which a special message proposing to rescind an item of appropriation is transmitted to the House of Representatives and the Senate under subsection (a), the draft bill or joint resolution accompanying such special message shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by the Members of the House designated by the majority leader and the minority leader of the House, and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by the Members of the Senate designated by the majority leader and the minority leader of the Senate. If either House is not in session on the day on which a special message is transmitted, the draft bill or joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which such House is in session.

(B) A bill or joint resolution introduced in the House of Representatives or the Senate pursuant to subparagraph (A) shall be referred on the date of introduction to the Committee on Appropriations of such House. The committee shall report the bill or joint resolution without substantive revision (and with or without recommendation) not later than 5 calendar days of continuous session of the Congress after the date on which the bill or joint resolution is introduced. A committee failing to report a bill or joint resolution within the 5-day period referred to in the preceding sentence shall be automatically discharged from consideration of the bill or joint resolution, and the bill or joint resolution shall be placed on the appropriate calendar.

(C)(i) A vote on final passage of a bill or joint resolution introduced in a House of the Congress pursuant to subparagraph (A) shall be taken on or before the close of the 10th calendar day of continuous session of the Congress after the date of the introduction of the bill or joint resolution in such House. If the bill or joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a bill or joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a bill or joint resolution agreed to in the Senate) shall cause the bill or joint resolution to be engrossed, certified, and transmitted to the other House of the Congress on the same calendar day on which the bill or joint resolution is agreed to by such House.

(ii) Notwithstanding any other provision of this resolution, after the 10th calendar day of continuous session of the Congress after the date of the introduction of a bill or joint resolution pursuant to subparagraph (A), it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the bill or joint resolution (but only on the day after the calendar day on which such Member announces to the house concerned the Member's intention to do so). All points of order against the bill or joint resolution (and against consideration of the bill or joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the bill or joint resolution is agreed to, the respective House shall immediately proceed to consideration of the bill or joint resolution without intervening motion, order, or other business, and the bill or joint resolution shall remain the unfinished business of the respective House until disposed of.

(2) If prior to the passage by one House of a bill or joint resolution introduced in that House under this section, that House receives a bill or joint resolution containing the same provisions from the other House pursuant to subparagraph (C) of paragraph (1), then—

(A) the procedure in the House receiving the bill or joint resolution with respect to the bill or joint resolution introduced in that House shall be the same as if the bill or joint resolution had not been received from the other House; but

(B) the vote on final passage shall be on the bill or joint resolution of the other House.

(3)(A) A motion in the House of Representatives to proceed to the consideration of a bill or joint resolution under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on a bill or joint resolution under this section shall be limited to not more than 4 hours, which shall be divided equally between those favoring and those opposing the bill or joint resolution. A motion to postpone, made in the House of Representatives with respect to the consideration of a bill or joint resolution under this section, and a motion to proceed to the consideration of other business, shall not be in order. A motion further to limit debate shall not be debatable. It shall not be in order to move to table or to recommit a bill or joint resolution under this section or to move to reconsider the vote by which the bill or joint resolution is agreed to or disagreed to.

(C) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill or joint resolution under this section shall be decided without debate.

(D) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of a bill or joint resolution under this section shall be governed by the Rules of the House of Representatives applicable to other bills and joint resolutions in similar circumstances.

(4)(A) A motion in the Senate to proceed to the consideration of a bill or joint resolution under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on a bill or joint resolution under this section, and all debatable motions and appeals in connection therewith, shall be limited to not more than 4 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with a bill or joint resolution under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or joint resolution, except that in the event the manager of the bill or joint resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill or joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a bill or joint resolution under this section is not debatable. A motion to table or to recommit a bill or joint resolution under this section is not in order.

(d) No amendment to a bill or joint resolution considered under this section shall be in order in either the House of Representatives or the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) For purposes of this section—

(1) "item of appropriation" means any numerically expressed amount of budget authority set forth in an appropriation bill;

(2) "appropriation bill" means any general or special appropriation bill, and any bill or joint resolution making supplemental, deficiency, or continuing appropriations;

(3) "appropriation Act" means any appropriation bill that has been approved by the President and become law;

(4) "budget authority" has the meaning given to such term in section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(2)); and

(5) continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 5-day and 10-day periods referred to in subsection (c) of this section. If a special message is transmitted under this section during any Congress and the last session of the Congress adjourns sine die before the expiration of 10 calendar days of continuous session (or a special message is transmitted after the last session of the Congress adjourns sine die), the message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the 5-day and 10-day periods referred to in subsection (c) of this section shall commence on the day after such first day.

(f) The provisions of this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

● Mr. HUMPHREY. Mr. President, I am introducing a concurrent resolution which will provide for expedited consideration of Presidential rescission messages.

This measure was first proposed by Vice President Quayle in 1987. It has since been endorsed by Presidents Reagan and Ford as well as former Senate Majority Leader Howard Baker. In addition, the proposal has been recommended by President Reagan in his last three budget messages to the Congress.

My intent in introducing this measure is simple: I am seeking to strengthen what has heretofore been a toothless tiger—the Presidential rescission. Under the current system, Congress must approve a President's rescission message within 45 days of its transmittal. Absent affirmative action by the Congress on the rescission, the President is obligated to spend the funds. In other words, through sheer inaction, Congress forces the President to make expenditures which he has deemed inappropriate, unnecessary or wasteful.

Under the enhanced rescission proposal, Congress would be required to vote on proposed rescissions. The President would transmit to Congress one rescission message per department or agency of government funded by an appropriations bill within 3 days of signing the spending measure into law. The Appropriations Committee must report the rescission—without amendment—within 5 days or be discharged from further consideration. The full Senate and House must vote on it within 10 calendar days. The point is to provide a means for Congress to address directly proposed rescissions.

This is a modest proposal, all the more so when one considers the historical relationship between Congress and the President on spending matters. It is important to remember that it was only with the enactment of the Congressional Budget and Impoundment Act of 1974 that the President was denied the authority to actually withhold the expenditure of congressionally appropriated funds.

Thomas Jefferson was the first President to impound funds—$50,000 for Navy gunboats. Franklin Roosevelt impounded $500 million Congress appropriated for public works projects. Presidents Kennedy and Johnson reduced spending by over 5 percent through impoundments.

The Budget Act replaced the President's impoundment powers with the rescission process. Predictably, the record of Congress in acting on proposed rescissions is hardly impressive.

President Reagan proposed over $43 billion in rescissions during his 8 years in office; only $16 billion was accepted—virtually the entire amount occurred during his first year in office. From 1983 to 1988 President Reagan requested $20 billion in rescissions; Congress accepted 2 percent—only $400 million in 5 years.

In sum, the enhanced rescission proposal will open a small window of congressional accountability on spending which the President has deemed unnecessary. In essence, we are simply asking the Congress to dispose of the matter directly through a "yea" or "nay" vote under certain expedited procedures. It is a reasonable step toward fiscal accountability.●

SENATE RESOLUTION 9—RELATING TO SENSE OF THE SENATE OR CONGRESS AMENDMENTS

Mr. MITCHELL (for Mr. PRYOR, for himself and Mr. MITCHELL) submitted the following resolution; which was ordered to lie over under the rules:

S. RES. 9

Resolved, That rule XV of the Standing Rules of the Senate is amended by inserting at the end thereof the following:

"6. On a point of order made by any Senator, no amendment expressing the sense of the Senate or the sense of the Congress, or an amendment to such amendment, shall be received unless the amendment is signed by at least twenty Senators.".

SENATE RESOLUTION 10—RELATIVE TO A 15 MINUTE LIMIT ON ROLL CALL VOTES

Mr. MITCHELL (for Mr. PRYOR, for himself and Mr. MITCHELL) submitted the following resolution; which was ordered to lie over under the rules:

S. RES. 10

Resolved, That (a) paragraph 1 of rule XII of the Standing Rules of the Senate is amended by adding after the first sentence the following: "No roll call vote shall exceed 15 minutes in duration. When 15 minutes have elapsed from the beginning of any roll call the Presiding Officer shall ask if there are any other Senators in the Senate chamber wishing to vote or change their votes. If no Senator answers, the Presiding Officer shall announce the decision and the question shall be decided.".

(b) In order to implement the amendment made by subsection (a), the Committee on Rules and Administration shall establish a system in the Senate chamber to signal the expiration of 15 minutes from the beginning of a roll call vote.

SENATE RESOLUTION 11—RELATIVE TO THE GERMANENESS AND RELEVANCY OF AMENDMENTS

Mr. MITCHELL (for Mr. BYRD) submitted the following resolution; which was ordered to lie over under the rule:

S. RES. 11

Resolved, That rule XV of the Standing Rules of the Senate is amended—

(1) by inserting after "MOTIONS" in the caption a semicolon and the following: "GERMANENESS";

(2) by adding at the end thereof the following new paragraph:

"6. (a) At any time during the consideration of a bill or resolution, it shall twice be in order during a calendar day to move that no amendment, other than the reported committee amendments, which is not germane or relevant to the subject matter of the bill or resolution or to the subject matter of an amendment proposed by the committee which reported the bill or resolution, shall thereafter be in order. The motion shall be priviledged and shall be decided after one hour of debate, without any intervening action, to be equally divided and controlled by the Majority Leader and the Minority Leader or their designees.

"(b) If a motion made under subparagraph (a) is agreed to by an affirmative vote of three-fifths of the Senators present and voting, then any floor amendment not already agreed to (except amendments proposed by the Committee which reported the bill or resolution) which is not germane or relevant to the subject matter of the bill or resolution, or the subject matter of an amendment proposed by the Committee which reported the bill or resolution, shall not be in order.

"(c) When a motion made under subparagraph (a) has been agreed to as provided in subparagraph (b) with respect to a bill or

resolution, points of order with respect to questions of germaneness or relevancy of amendments shall be decided without debate, except that the Presiding Officer may entertain debate for his own guidance prior to ruling on the point of order. Appeals from the decision of the Presiding Officer on such points of order shall be decided without debate.

"(d) Whenever an appeal is taken from a decision of the Presiding Officer on the question of germaneness of an amendment, or whenever the Presiding Officer submits the question of germaneness or relevancy of an amendment to the Senate, the vote necessary to overturn the decision of the Presiding Officer or hold the amendment germane or relevant shall be three-fifths of the Senators present and voting. No amendment proposing sense of the Senate or sense of the Congress language that does not directly relate to the measure or matter before the Senate shall be considered germane.".

SENATE RESOLUTION 12—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 12

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Energy and Natural Resources is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,673,547 of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,727,832, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organization thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationary supplies purchased through the Keeper of Stationary, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 13—IMPLEMENTING CLOSED CAPTIONED BROADCASTS OF SENATE PROCEEDINGS

Mr. DOLE (for himself, Mr. MITCHELL, Mr. MCCAIN, Mr. HARKIN, Mr. WILSON, Mr. LEAHY, Mr. DURENBERGER, Mr. DANFORTH, Mr. MURKOWSKI, Mr. BOSCHWITZ, AND Mr. HATCH) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 13

Resolved, That subsection (a) of the first section of Senate Resolution 28, agreed to February 27, 1986, is amended by adding at the end thereof the following: "All coverage under this resolution shall be made available to hearing-impaired individuals via closed captions.".

Mr. DOLE. Mr. President, today I am submitting a resolution which will enable millions of Americans with hearing impairments to tune in to their democracy by requiring closed-captioned broadcasting of Senate floor proceedings. I am very pleased to have the majority leader join me in introducing this resolution, as well as Senators MCCAIN, HARKIN, WILSON, LEAHY, DURENBERGER, DANFORTH, MURKOWSKI, BOSCHWITZ, HATCH, and JEFFORDS. The proposal is identical to one I sponsored last year with several of my colleagues who are joining me today.

Closed-captioned broadcasting allows the audio portion of a program to be displayed in printed form on the television screen. The captions are only received if a person has a special decoding device attached to a televison set.

There is no technological reason why captioning cannot be used to expand the viewing audience of the Senate to include our deaf and hearing-impaired citizens. Real-time, instantaneous captioning has been available since 1982 and is now used in broadcasts of Presidential speeches and press conferences, news and public affairs programs, and even some Senate committee hearings. The House of Representatives also recently approved a proposal to require captioning of its televised proceedings. There would of course be some cost involved in providing this service for the Senate, but I believe it is a small price to pay to make this body accessible to all Americans.

The proposal I am introducing today simply amends the resolution setting forth the rules regarding televising of Senate sessions. It does not specify what type of equipment should be used or whether the captioning should be done in-house or by a commercial service. These and other practical details of implementing the resolution would be worked out by the Senate Rules Committee, which has been exploring the various options for several years.

All the major organizations representing Americans with hearing impairments support closed-captioning Senate proceedings—and for good reason. They recognize that the knowledge gained from observing the legislative process in action makes for a more informed and involved citizenry. And they believe, as I do, that as citizens and taxpayers, hearing-impaired Americans are as entitled to witness the debates of their elected representatives as their fellow Americans who can hear.

Mr. President, we began our experiment with television in the Senate because we believed that the more people participate in our democracy, the stronger it becomes. Our viewers may not always be impressed or entertained by what they see. But they at least have the opportunity to judge for themselves whether they are being well-served by their elected leaders. It is time to extend that opportunity—and right—to the more than 20 million Americans who are deaf or hearing-impaired.

Mr. HARKIN. Mr. President, since television came to the Senate in 1986, I have been working to close caption our floor proceedings. As chairman of the Subcommittee on the Handicapped, and as the brother of a deaf sibling, this subject is of very special importance to me. Today, the distinguished majority and minority leaders have introduced a resolution, which, when adopted, will change the rules of the Senate and allow its proceedings to be closed captioned. I am pleased to be an original cosponsor of this resolution.

Since coming to Congress in 1975, I have initiated and fought for public policies that improve access for Americans who are deaf and hard of hearing. Congress has made considerable progress in this area over the years.

In 1975, Congress established the National Captioning Institute [NCI], and funded the development of decoders.

In 1976, Congress directed the Federal Communications Commission to require television stations to transmit all emergency warnings visually as well as aurally. In addition, the Public Broadcasting Service requested permanent approval of transmission standards for closed captioning.

Also in that year, deaf Americans were provided access to the televised president debates between President Gerald Ford and Governor Jimmy Carter. PBS provided a sign language interpreter for the debates, and later rebroadcasted them with captions.

In the following years, telecommunication devices for the deaf [TDD's] were brought to Capitol Hill and network television was encouraged to close caption more of its programming.

During the 100th Congress, the Senate Rules Committee convened a task force to study the feasibility of close captioning Senate floor proceeding. In 1987, I testified before the Rules Committee, to reaffirm my support and dedication to closed captioning Senate proceedings.

Last year, I held a hearing in conjunction with the release of the Commission on the Education of the Deaf's report. This Commission, created by Public Law 99-371, the Education of the Deaf Act, was established to examine the status of deaf education in this country and to make recommendations on possible improvements within the system.

In this report, the Commission examined prevention and early identification of deafness, elementary and secondary education, Federal postsecondary education systems, research, evaluation and outreach, professional standards and training, and technology. The Commission found that the status of deaf education in this country is unsatisfactory and that "Maintenance of the status quo represents an unwarranted extravagance—especially when we consider that a clearer understanding of the needs of persons who are deaf, coupled with the redirection of some existing funding and priorities, and a modest amount of new funding could result in impressive long-term savings." [p. ix]

In this comprehensive study, the Commission identifies captioning of television as one of the most important technologies for deaf and hearing impaired individuals. The report states, "The deficiencies, referred to earlier, in the successful implementation of publicly stated and legislated policy, lie largely in the failure to [among other things] use, and encourage the use of, the diverse tools being provided by advancing technology, including computers, and electronic equipment and support for TV closed captioning." [p. X]

The Commission also finds that closed captioning is the most effective technology for speeding the attainment of literacy, and more importantly, in helping the deaf person participate in the wider world that is routinely accessible to those who hear. I subscribe to this view.

"TV is the most prevasive and influential means of sharing information in America. Until the 1970's, deaf persons had no access to TV, and were isolated from the major pipeline feeding information to America. The development of captioning made it possible for deaf persons to see what others heard on TV." [p. 112]

It is also important to note that closed captioned television can benefit more than just the deaf and hearing impaired population. It can help hearing children and illiterate adults learn to read. Captioning can also facilitate the acquisition of the English language by those whose first language is not English.

Mr. President, one of the most disturbing findings of the Commission is that some 70 percent of all deaf high school graduates read at the third grade level. This is partially due to the difficulty in recognizing and accommodating the special communication needs of deaf children. These children have have an invisible language disability and oftentimes cannot understand what is being taught. Closed captioning provides visible access to the English language, and facilitates language acquisition which in turn facilitates learning.

There are approximately 22 million Americans who experience partial or total loss of hearing and who stand to benefit from close captioned proceedings. Of that number, 2 million are totally deaf; the other 20 million have varying degrees of hearing loss. As Americans live longer, the number of people with hearing impairments will increase.

Mr. President, as I said in my testimony before the Rules Committee, "we have decided that it is important that we be accountable to our constituents and that they have the opportunity to partake in the legislative process via television. It is no less important that deaf and hard of hearing Americans be afforded that same opportunity."

In sum, Mr. President, we should send the message to the public and to the networks that to us, captioning is routine. As a cosponsor of this resolution, I thank the majority and minority leaders for bringing this proposal before the Senate and I urge its immediate adoption.

SENATE RESOLUTION 14—RELATIVE TO THE BAN ON THE IMPORTATION OF U.S. BEEF BY THE EUROPEAN ECONOMIC COMMUNITY

Mr. DOMENICI (for himself, Mr. WALLOP, Mr. BAUCUS, Mr. D'AMATO, Mr. MCCLURE, Mr. PRESSLER, and Mr. EXON) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 14

Whereas an open and fair system of trade is a cornerstone of the relationship between the United States and the European Community;

Whereas the European Community on January 1, 1989 implemented a ban on all meat treated with growth hormones;

Whereas this action has damaged the domestic beef industry by bringing back to life myths and untruths about American beef;

Whereas the European Community has refused to submit the issue for resolution to a scientific dispute settlement panel under the Standards Code of the General Agreement on Tariffs and Trade of which both the United States and European Community are signatories;

Whereas the European Community's claim that the animal hormone ban is based on health conerns; and the European Community has not submitted evidence that demonstrates that proper application of growth hormones is unsafe for human consumption;

Whereas the U.S Food and Drug Administration's view parallels that of prestigious panel of international scientific experts, within the Codex Alimentarius Commission of the United Nation's Food and Agriculture Organization that concluded that correct use of the hormones being banned by the European Community poses no health hazards;

Whereas the United States, in the face of such unwarranted and unfair trade practices by the European Community, justifably imposed trade sanctions worth approximately $100 million in an amount equal to that of the European Community ban;

Whereas the European Community has threatened new sanctions by imposing a ban on American walnuts and dried fruits worth an estimated $97 million in U.S. trade: Now, therefore, be it

Resolved, That the Senate of the United States recognizing the urgent need to respond to this unprovoked action by the European Community supports the efforts of the President and the U.S. Trade Representative to resolve this dispute. The Senate encourages any and all measures deemed necessary, including requiring the United States Secretary of Defense to order all United States Commissaries and their dependencies in the European Community to buy and sell only U.S. meat and meat products if the European Community implements any counter-retaliatory trade sanctions against the United States. If implemented, these measures should remain in force until such time as the European Community's ban is either rescinded or a negotiated solution is reached.

Resolved further, That the Senate of the United States opposes any and all unfair trade restrictions on U.S. meat by the European Community. The Senate of the United States regrets that the actions of the European Community against the United States

have made retaliation necessary to protect America's vital trade interests. The Senate calls on the European Community to cease its actions and to commence negotiations with the United States to resolve this dispute in a manner befitting the longstanding bonds of mutual friendship and cooperation of these nations.

Resolved futher, That a copy of this resolution will be sent to the President of the United States.

Mr. DOMENICI. Mr. President, over 1 year ago the European Community announced it would impose a trade ban on American beef and beef by-products treated with growth hormones. On January 1, 1989, the Europeans implemented that ban.

This is a ban on beef raised in most of America.

Frankly, I don't understand why the Europeans would do this. American beef is some of the best "good eating" that anyone can enjoy and it provides significant nutritional value. I have difficulty understanding why Europeans would want to banish from their dinner tables American-bred steaks, prime rib, burgers, and roasts.

The European Community's political decision was not only dumb, but it is also an unfair trade practice against the United States that prompted President Reagan to retaliate against the EC's ban.

Since that time the European Community has announced further trade measures against the United States. They have threatened to impose an additional $97 million in tariffs on American walnuts and dried fruits.

At a meeting of the EC Foreign Ministers 2 days ago, they decided to postpone a decision on escalating this beef war. They will meet again to review the situation on February 20.

I am pleased to hear that the European Community is showing signs of coming to its senses and coming to the negotiating table. Nobody, least of all tis Senator, wants a drawn out agricultural trade war.

The U.S. Food and Drug Administration and the well respected United Nations' Food and Agriculture Organization have concluded that correct use of the hormones banned by the European Community poses no health hazard.

Instead of vollying allegations back and forth, why not let an impartial scientific panel of experts under the Standards Code of the General Agreement on Tariffs and Trade make an objective decision? Our Trade Representative has been trying to get the European Community to agree to it, but they have refused.

My good friends Senator WALLOP, Senator BAUCUS and other Senators who are cosponsoring this resolution believe that all parties must work quickly to resolve the beef dispute. I am encouraged by the latest action by the EC.

But, if the EC proves headstrong and implements their latest proposed ban on walnuts and dried fruit, we should be prepared to refocus the beef war on beef and retaliate.

Today, we are introducing a resolution that would call on the President of the United States and the Secretary of Defense to require that U.S. Commissaries in the European Community buy and sell only American meat.

Presently, our Armed Forces in Europe are served only American meat in their mess halls. This resolution would extend that practice to the Commissaries as well, to the tune of $40 to $50 million annually.

This measure would be permitted under the recently enacted Omnibus Trade and Competitiveness Act of 1988. It is also legal under the General Agreement on Tariffs and Trade.

In my own State of New Mexico, in 1987 over $653.9 million of cash receipts were generated by cattle and calves. That means that over 55 percent of total agricultural cash receipts came from cattle, and three-quarters of our agriculture is cattle based.

Mr. President, Senator WALLOP and I are confident that the recovery we have experienced in agricultural exports with a gain of over $7.6 billion in fiscal year 1988 will continue if we send our trading partners the right signals. One of those signals is that we are ready to trade fairly and openly if others do the same.

We are also prepared to demand fairness when our trading partners pursue unfair trade practices.

I ask your support in signaling our commitment, and ask that the current resolution receive the widespread support our cattlemen expect, and our beef industry deserves.

Mr. President, I ask that an article by Senator Baucus be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Jan. 25, 1989]

STANDING TALL IN HORMONE WAR

(By Max Baucus)

The current trade dispute between the United States and the European Community over the EC's ban on imports of meat from animals given growth homones continues to escalate.

The United States retaliated against the community's homone ban on Jan. 1 by blocking $100 million in EC exports to the United States. The community struck back this week when it announced that it plans to counter-retaliate against $100 million worth of U.S. exports on Feb. 20.

The community's threat of counter-retaliation already has sparked widespread calls for the United States to reconsider its position and lift its retaliation. If the counter-retaliation goes forward, these calls doubtless will intensify.

Lifting the retaliation would be a very serious mistake. No one wants to set off a trade war, but this dispute is a critical test of U.S. resolve. If the United States blinks now, it will soon face new trade barriers in Europe and around the world.

The European Community decided to impose the ban ostensibly in response to consumer demands for hormone-free meat. But the ban is nothing more than a smoke screen, a cynical strategy to play upon the public's concern about health while hiding the true intentions of European trade officials. There is simply no scientific basis for Europe's claim that the use of growth hormones by the American meat industry poses any threat to human health.

A number of highly respected scientific bodies, including an arm of the United Nations, have concluded that the low dosages administered by U.S. farmers are completely safe. Europe's refusal to allow an impartial international panel to review the scientific basis for the ban is clear evidence that it is just another brick in the highly protectionist wall Europe has erected around its agricultural sector.

The community's Common Agricultural Policy may be the world's single largest trade barrier. Since the policy came into existence, Europe has effectively banned imports of most agricultural commodities and subsidized its way from being the world's largest agricultural importer to being the world's largest exporter. In total, the community's agricultural policy already may have cost American farmers upwards of $150 billion in lost exports. The hormone ban alone will cost the United States $100 million a year directly in lost exports.

The implications of this new trade barrier reach far beyond U.S. meat exports. Unchallenged, the hormone ban would stand as an invitation to other nations to block American agricultural goods under the guise of health and safety restrictions. The Japanese could easily follow suit and impose similar restrictions on our beef exports to Japan. Other nations could formulate import restrictions related to pesticides or fungicides that would hurt American grain, vegetable and fruit exports. Such trade restrictions would have serious consequences for our economy.

American agriculture is our best export performer. At a time when the United States faces massive trade deficits, we can ill afford to open the door to a whole new set of restrictions on our agricultural exports.

In addition, this trade dispute affects more than just agriculture. As the community goes forward with its Europe 1992 economic unification, there will be a strong temptation to raise new barriers against exports to Europe. Continued economic growth in our country depends on increasing exports.

With the EC the world's largest market, we simply cannot afford to stand idly by when Europe raises new barriers to our products. If we allow Brussels to get away with the hormone ban, we undoubtedly would see a whole series of new restrictions on other U.S. exports to Europe in coming years.

Trade retaliation is always nasty and dangerous business; the United States must not go looking to pick a trade war, but inaction now courts greater trade problems in the future. The hormone ban is simple protectionism. If the United States is going to support free trade, we must stick to our guns—even if that means still another wave of retaliation and counter-retaliation with Europe. We simply cannot afford to back down.

Mr. WALLOP. Mr. President, I would like to join my fellow colleagues in offering this resolution today to emphatically state our resolve that the United States will not stand for, will not tolerate, and will fight against any and all unfair trade sanctions implemented against it under the guise of health or any other false pretense.

The reason for our frustration is obvious: there is no logical or scientifically supported reason behind the European Community's ban of U.S. imported beef. Scientific panels around the world have supported the United States in our determination that the proper use of certain hormones pose no health hazard. Yet, the EC continues its politically motivated directive of banning beef treated with hormones. The line must be drawn. We cannot allow our European trading partners to send out the message that we are vulnerable to their protectionist efforts.

I strongly supported the USTR's decision on January 1, 1989, to retaliate against the EC's unfair trade practice and place a 100-percent ad valorem tariff on a number of EC goods entering the United States. This increase in revenue will supplement the approximate $100 million in revenue lost due to the reduction of beef exports. As well, I feel it vital that the U.S. Senate, which was not in session when this directive went into effect and was, therefore, unable to respond immediately to the actions of the EC, speak loudly on this issue of unfair trade barriers and send a strong message to our trading partners that we will not acquiesce in our effort to fight the battle against unfair trade practices.

Along with supporting any and all efforts by the USTR to end this trade dispute, it is my contention that the Senate should support, upon the counter retaliation by the EC, the order as outlined in the resolution that all U.S. commissaries and their dependencies in the European Community buy and sell only U.S. meat and meat products. While not supporting rigid buy American initiatives, I do, however, believe in this instance that we cannot allow the EC to unfairly ban U.S. beef and subsequently allow our European commissaries to continue to support the EC's domestic cattle industry.

Mr. President, as a cofounder of the Senate Beef Caucus and a Senator from a beef producing State, I strongly believe cattle producers across the United States should have free access to the many beef markets around the world. We have made great strides in our attempt to reduce the friction in our relations with our trading partners caused by unduly trade restriction and barriers. We are not going to allow these unfair actions by the EC to undermine the progress we have made and set us back in our efforts to break down archaic trade barriers that still exist.

However, as our efforts to promote a freer and more unrestricted trading relationship with the countries of the world progress, the United States cannot allow those doors to close at the unsubstantiated whim of the host nation. The 1985 directive passed by the EC is exactly that—the closing of a $100 million market to U.S. beef producers and a dangerous precedent for the United States to allow. The EC continues to claim that the animal hormone ban is based on health concerns, yet scientific evidence does not support these claims. Scientific research and data produced by the U.S. Food and Drug Administration as well as other prestigious international scientific panels have shown no deleterious effect or residue when growth hormones were used as a means to produce larger and leaner cattle at a lower cost.

Mr. President, there is simply no justification for the European Community to have initiated such a protectionist, unfair, and unsubstantiated trade restriction. it is our obligation to break through this newly constructed barrier and send a powerful and potent message to the European Community about the United States's distaste for their actions. I urge my colleagues to support this resolution deploring the European Community ban of U.S. beef and the retaliatory measure contained within.

SENATE RESOLUTION 15—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. PELL, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 15

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Foreign Relations is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,666,656, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,721,004, of which amount not to exceed $45,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later that February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 16—RELATIVE TO FUTURE FUNDING OF THE MUNICIPAL SEWAGE TREATMENT PROGRAM

Mr. LAUTENBERG (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. GRAHAM, Mr. BAUCUS, Mr. WILSON, Mr. PELL, Mr. LIEBERMAN, Mr. SIMON, Mr. REID, Mr. FORD, Mr. SARBANES, Mr. BRADLEY, Mr. D'AMATO, Mr. CRANSTON, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. ADAMS, Mr. BUMPERS, Mr. COHEN, Mr. KERRY, Mr. ROCKEFELLER, Mr. SANFORD, Mr. GORE, Mr. METZENBAUM, and Mr. DASCHLE) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 16

Whereas clean water is a vital resource deserving the most rigorous protection;

Whereas a key component in protecting the Nation's oceans, rivers, lakes, and other waterways is Federal funding for the construction of sewage treatment plants as provided through the Construction Grants and State Revolving Loan Fund Programs of the Clean Water Act;

Whereas the unmet national need for sewage treatment construction has been estimated to be $76,000,000,000;

Whereas Congress, in enacting the Water Quality Act of 1987, authorized $2,400,000,000 for the Construction Grants and State Revolving Loan Fund Programs in fiscal year 1990;

Whereas the amount authorized by Congress is a just and prudent downpayment on a large national need;

Whereas the President's proposed 1990 budget unjustifiably would reduce the $2,400,000,000 that is authorized for the

Construction Grants and State Revolving Loan Fund Programs by $1,200,000,000 in budget authority;

Whereas the One Hundredth Congress, by overriding the President's veto of the Water Quality Act of 1987, rejected the President's earlier attempt to amend and further reduce funding for the construction of municipal sewage treatment plants;

Whereas the State Revolving Loan Fund Program authorized in the Water Quality Act of 1987 will assure an orderly and appropriate transition from the Construction Grants Program;

Whereas tampering with the approach to municipal sewage treatment plant funding, which was enacted by Congress with the support of the American people and through an override of the President's unwise veto, would have a disruptive and negative effect on implementation of the law: Now, therefore, be it

Resolved, That it is the sense of the United States Senate that the President's 1990 budget proposals for municipal sewage treatment funding be soundly rejected, and that Congress through the budget and appropriations process assure the appropriation of the amount authorized for the program by the Water Quality Act of 1987, and further assure that such funds are spent in compliance with the spirit and the letter of the law.

SEC. 2. The Clerk of the United States Senate shall transmit a copy of this resolution to the President with the request that the President further transmit a copy to the Administrator of the United States Environmental Protection Agency.

Mr. LAUTENBERG. Mr. President, today I am joined by Senators BURDICK, MOYNIHAN, BAUCUS, GRAHAM, LIEBERMAN, and others in introducing a sense of the Senate resolution urging the Senate to reject the proposed cut in sewage treatment construction funding. This resolution is virtually identical to one we introduced last year. That resolution, which had 54 cosponsors, passed the Senate Environment and Public Works Committee.

President Reagan's budget would unjustifiably cut $1.2 billion or 50 percent from the $2.4 billion that is authorized for sewage construction funding to States under the Clean Water Act. This act was reauthorized in February 1987 over the President's veto which was based largely on the administration's opposition to sewage treatment funding. It is $750 million less than appropriated by the Congress for fiscal year 1989.

The $2.4 billion authorized by Congress for fiscal year 1990 is part of a multiyear $18 billion package consisting of grants to construct sewage treatment facilities and grants to States to capitalize State revolving loan funds. These State funds are designed to provide a self-sustaining source of funding for sewage treatment facilities.

It is important to note that the Clean Water Act provides for an orderly phaseout of sewage treatment funding by 1994. So this program reflects budget realities.

Properly running sewage treatment plants are a key component in the Nation's effort to protect its coastal waters, rivers, and lakes. But according to EPA, the unmet national need for sewage treatment is $76 billion. New Jersey alone has a need of over $3 billion. The amount authorized by Congress is a just and prudent downpayment on this large national need.

Tampering with the congressionally authorized program will have a disruptive and negative effect on implementation of the Clean Water Act. It would be a severe blow to New Jersey and the Nation as we push to clean up our oceans, rivers, lakes, and coastal areas. This country must turn the tide on water pollution. We must move forward to stem the ravages of beach closings, not turn our backs on our environment and coastal economies.

The sewage treatment budget cut was included in President Reagan's final budget request. President Bush will be proposing adjustments to the Reagan budget. It is essential that he provide full funding for the construction grants and State revolving loan programs as authorized by the Congress. This resolution is designed to send a clear message to President Bush that the Senate will not support the Reagan budget request for sewage construction funding.

During the recent Presidential campaign, President Bush told the Nation that he was an enviromentalist and that he supported increased funding for environmental programs. And of critical importance to my State, President Bush came to the New Jersey shore and saw first hand the effect that polluted water and despoiled beaches can have on our economy and the welfare of our citizens. He called pollution at the shore a national tragedy and promised to act to stop the pollution. It is imperative that the President, who now has his own opportunity to propose budget priorities, not turn his back on all of us who live, work, and visit coastal areas like the shore for recreation.

Mr. President, I ask unanimous consent that a letter I sent President Bush a few weeks ago be inserted at the conclusion of my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 9, 1989.

Hon. GEORGE BUSH,
President-Elect of the United States,
Washington, DC.

DEAR PRESIDENT-ELECT BUSH: I am writing to urge you to reconsider President Reagan's budget proposal to cut funds for sewage treatment facilities construction by 50% from authorized levels.

During the Presidential campaign, you told the nation that you were an environmentalist. You said you wanted to provide increased funding for the environment. And you came to the New Jersey shore. You saw first hand that clean oceans and beaches are a vital national priority. And you saw the effect that polluted water and despoiled beaches can have on the economy of our country and the welfare of our citizens. You told New Jerseyans that pollution at the shore is a "national tragedy" and that you were going to clean up our coastal environment.

President Reagan's 1990 budget proposes to cut $1.2 billion from the sewage construction program Congress authorized in 1987. The construction of sewage treatment facilities is essential to our efforts to protect the nation's waterways, coastal areas and economies. The proposed funding reduction will hurt these efforts. The program Congress enacted provides states with funding to build these critically important sewage facilities while at the same time is sensitive to budgetary concerns by providing for a phase out of Federal funding.

In a few days, you will have the opportunity to correct this short-sighted proposal. You will decide whether to live up to your commitment to clean up our coastal environment or to turn your back on the citizens of New Jersey and the nation who have put their trust in you. You will find that those of us in the Congress are eager to work with you to clean up our coasts.

I urge you to fulfill your campaign promise to clean up our coastal environment. President Reagan's budget need not be the final word. Please give the shore a second by restoring full funding for the sewage treatment program.

Sincerely,

FRANK R. LAUTENBERG.

● Mr. LIEBERMAN. Mr. President, the resolution before us rejecting President Reagans fiscal year 1990 budget proposal for funds to construct sewage treatment plants is of importance to the nation, by home State of Connecticut, and to the fundamental implementation of the Clean Water Act Amendments passed in 1987.

Congress and this last administration have been struggling since 1985 to pass a comprehensive program to assure the citizens of this Nation of one of their most basic interests—clean water.

It has been estimated that the national need for sewage treatment construction funds is as high as $76 billion. For fiscal year 1990 Congress authorized $2.4 billion, a mere 3 percent of our overall national need. Yet the President, in his 1990 budget proposal, reduced the $2.4 billion by one-half, leaving us only $1.2 billion for the purpose of constructing sewage treatment plants, compared to the $76 billion need.

In Connecticut alone, this proposal represents a 38-percent cut in funding from the fiscal year 1989 level, and a 41-percent shortfall from the authorization set by the Water Quality Act of 1987. This will severely impede our ability to provide clean water for Connecticut residents. Connecticut's sewage treatment facilities require, according to State department of environmental protection data, $1.1 billion in modifications in order to bring them up to clean water standards. If

Long Island Sound, our rivers and our streams are going to be cleaned up, and if our beaches are going to be safe for swimming, we must invest more.

As attorney general of Connecticut, I sued towns and cities for pollution caused by antiquated sewage treatment plants. As a Senator, I want to do everything I can to help them make the changes we need to keep our water clean. That is why I support the resolution before us.●

Mr. COHEN. Mr. President, I am pleased to have the opportunity to join as an original cosponsor of this resolution expressing the Senate's support for full funding for the sewer grant program under the Clean Water Act.

It is important that the Federal Government maintain its end of the bargain we struck in the Clean Water Act amendments approved overwhelmingly at the start of the 100th Congress. At that time, we told the States that we would begin phasing out the Federal grant program, but before that process was completed we would help capitalize State revolving loan funds. This was a recognition of the enormity of the sewer problem facing towns and cities throughout the country, which the Environmental Protection Agency estimates will cost $76 billion to address. The $2.4 billion authorized for fiscal year 1990 in the Clean Water Act is but a small step toward the goal of clean water in every town in America.

In my home State of Maine, those towns still in need of complete sewer systems are mostly small, rural villages with no sewer system at all. They do not have the ability to raise the revenue needed to finance the installation of the necessary sewer equipment through local taxes, and they depend on the State and Federal Government to assist them in meeting the requirements of Federal law.

There are several other towns and cities in Maine in need of system upgrades or rerouted systems to prevent the disposal of sewage into lakes and rivers. This is a very serious problem in Maine that threatens to worsen as development pressures increase. It is crucial that we not renege on the commitment we made 2 years ago to assist local communities in meeting the demands of clean water regulations.

Clean water is a gift we tend to take for granted. The fragility of our water supply system is easily forgotten because clean water is so accessible. We drink it, we wash with it, we turn the faucet on and there it is.

We must remember, however, that the loss of a clean water system is something any one of us could experience one day. And so, we have made the commitment to ensure a steady supply of clean water and to enforce strict controls on pollution of our lakes, rivers and oceans. The continued construction of modern sewer systems is a crucial component of that effort, and the funding of the sewer grants program is essential to the fulfilment of our clean water goals.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of a Senate resolution which rejects the administration's 1990 fiscal year funding proposal for the Clean Water Act's construction grants program.

The Clean Water Act Amendments of 1987 authorized a multiyear $18 billion package consisting of construction grants, as well as funding for the gradual transition to the State revolving loan program. By overriding a Presidential veto on this act in 1987, Congress sent the administration a clear message: Federal assistance is desperately needed in cleaning up our Nation's water and in constructing and upgrading sewage treatment facilities. The need from the State's is great—EPA has estimated it to be about $76 billion.

I receive countless letters from municipalities in my State who are seeking assistance from the Federal government in upgrading their sewage treatment facilities. While some are able to receive assistance, there are many who do not.

Overwhelming congressional support for the Clean Water Act has apparently had no impact on the administration. The Clean Water Act authorized $2.4 billion for fiscal year 1990. The administration, however, has only proposed $1.2 billion. This request is also a large decrease from the $1.95 billion which was approved by Congress for fiscal year 1989.

This ridiculously low request is detrimental to the Nation, and is particularly devastating to my own State, New York. New York's share of construction grants funds is 11.16 percent. A $1.2 billion request will yield only $133.9 million to New York. This translates to a loss of $133 million in fiscal year 1990 alone. The congressionally authorized $2.4 billion will yield $267 million to New York.

This resolution is a strong statement of congressional support for the construction grants program. This program deserves its fully authorized amount $2.4 billion. I urge my colleagues to stand behind this resolution and work toward its swift passage.

Thank you, Mr. President.

SENATE RESOLUTION 17—TO AMEND THE STANDING RULES OF THE SENATE

Mr. HUMPHREY (for himself, Mr. PRESSLEY, Mr. GRASSLEY, and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 17

Resolved, That rule XXXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

Notwithstanding any other provision of law, no Senator or employee of the Senate may receive compensation from the Senate in excess of the maximum amount payable for such position on January 1, 1989, unless such increase has been affirmatively approved by a roll call vote of the Senate.

SENATE RESOLUTION 18—REQUIRING 2 DAYS NOTICE OF CONSIDERATION OF BILLS AND JOINT RESOLUTIONS

Mr. MCCLURE submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 18

Resolved, That rule VIII of the Standing Rules of the Senate is amended by adding the following new paragraph:

"3. Except on unanimous consent, it shall not be in order to move to proceed to consideration of a bill or joint resolution or to request unanimous consent to proceed to consideration of a bill or joint resolution unless the Senator making such motion or request has caused his intention of making such motion or request to be announced on the floor on the second day of session preceding the day on which such motion or request is to be made. [If a Senator announces his intention of making such a motion or request and fails to make such motion or request on the appointed day, any other Senator may make such motion or request on that day; if no Senator makes such motion or request on that day, it shall not be in order, except on unanimous consent, for any Senator to announce his intention to make such a motion or request (with respect to the bill or joint resolution in question) until at least 5 calendar days thereafter.] The Chair shall enforce this paragraph on his own initiative and without any point of order being made by a Senator.".

SENATE RESOLUTION 19—SENSE OF SENATE RELATIVE TO PARTICIPATIVE MEMBERS OF THE PRESIDENT'S CABINET

Mr. DIXON submitted the following resolution; which was referred to the Committee on Governmental Affairs.

S. RES. 19

Whereas Members of both Houses of Congress as well as members of both political parties supported the establishment of the Director of National Drug Control Policy as a position having "Cabinet rank";

Whereas the Anti-Drug Abuse Act of 1988 (Public Law 100-690) established the Director of National Drug Control Policy as a position on level with all Secretaries of United States Departments;

Whereas the legislative intent of the Anti-Drug Abuse Act of 1988 (Public Law 100-690) clearly supports the establishment of such a position at the level of Cabinet rank;

Whereas the scourge of drugs continues to ravage the minds of the young, tear apart the fabric of the American family, deplete our Nation's talent pool, and our national treasury;

Whereas a positive signal to the Nation can be sent with the inclusion of the Director of National Drug Control Policy as a

fully participative member of the President's Cabinet; and

Whereas to exclude the Director as a fully participative member of the President's Cabinet would not send the much needed signal to the Nation and to those who traffic in drugs of our seriousness in this fight on the war on drugs and drug abuse: Now, therefore, be it

Resolved, That it is the sense of the United States Senate that the President of the United States recognize and include the Director of National Drug Control Policy as a fully participative member of the President's Cabinet.

● Mr. DIXON. Mr. President, today I am submitting a sense of the Senate resolution which urges the President to recognize and include the Director of National Drug Control Policy, commonly known as the "drug czar" as a fully participative member of the President's Cabinet. We need to send this signal to the Nation that we as a body and as a Government stand foursquare against the scourge of drugs.

The establishment of a Cabinet rank drug czar has its roots in the thousands of pages comprising the Anti-Drug Abuse Act of 1988. It is there, Mr. President, in the committee reports and legislative intent of the bill, that the expressed desire of Members on both sides of the aisle, and Members in both Houses of Congress, in fact, intended this position to have the same rank as the Secretaries of the Cabinet-level agencies. In other words, the drug czar would have the same rank as the Secretary of Defense, Secretary of Commerce, and Secretary of Labor. Those members understood quite clearly the importance that such a position and rank would have. It established a focal point for this Nation's various and important efforts in the constant war against the influx of drugs on our shores, in our cities and towns, and in our children's bodies.

The President himself spoke passionately throughout the fall campaign and thereafter of his steadfast commitment to eradicate drugs and drug abuse from the face of this country. He spoke of the goodness of the American people, their willingness to come together in times of crisis and work for the betterment of the Nation. Surely this is such a crisis.

The appointment of William Bennett as drug czar assured the Nation that the fight against drugs and drug abuse would remain a top priority. He and all of the citizens of this country believed that he would have the access to the President accorded other Cabinet members. It sent all the right signals, Mr. President. It was the proper way to go on this issue. I have to ask what the change of mind or attitude was.

It is my strong belief that the people of the United States, as well as the Members of this body, want this post to have Cabinet-level status. I therefore have submitted this sense of the Senate resolution urging President Bush to recognize and include the drug czar as a fully participative member of the Cabinet. To exclude the drug czar from the Cabinet table sends the wrong signals, when this country is longing for some right signals on this issue. I urge my colleagues to support this resolution.●

SENATE RESOLUTION 20—RELATIVE TO THE PRESERVATION OF U.S. TERRITORY IN THE ARCTIC OCEAN

Mr. HELMS submitted the following resolution; which was referred to the Committee on Foreign Relations;

S. RES. 20

Whereas Wrangell Island became a part of the United States by right of confirmed discovery during the voyage of Captain Thomas Long, a citizen of the United States, of the barque *Nile* in 1867 and by right of first possession formalized during the voyage of Captain Calvin L. Hooper of the U.S. Revenue Marine steamer *Corwin* in 1881;

Whereas the Senate had printed a "Report of the U.S. Revenue Steamer *Thomas Corwin,* in the Arctic Ocean," as Ex. Doc. No. 204 in the 1st Session of the 48th Congress;

Whereas the House of Representatives had printed reports on the cruise of the United States Revenue Marine steamer Corwin in Alaska and the Northwest Arctic Ocean in the 2d Session of the 47th Congress, in the 1st Session of the 49th Congress, and in the 1st Session of the 50th Congress;

Whereas the Senate and House of Representatives of the United States of America approved on March 18, 1878 an Act in aid of a Polar expedition designed by James Gordon Bennett, a citizen of the United States, which authorized the Secretary of the Treasury to issue an American register to the vessel Jeannette, purchased in Great Britain;

Whereas the Senate and House of Representatives of the United States of America approved on February 27, 1879 an Act authorizing the Secretary of the Navy to accept and take charge of the ship Jeannette for the use of a North Polar Expedition;

Whereas Jeannette Island was discovered on May 16, 1881 and formally taken possession of on June 3, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Henrietta Island was discovered on May 24, 1881 and formally taken possession of on June 3, 1881 during the voyage U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Bennett Island was discovered on July 11, 1881 and formally taken possession of on July 29, 1881 during the voyage of U.S. Navy Commander George Washington De Long on the *Jeannette;*

Whereas Wrangell, Herald, Jeannette, Henrietta, and Bennett islands were surveyed by the United States Navy for the United States Coast and Geodetic Survey in 1881;

Whereas the United States Coast and Geodetic Survey placed Wrangell, Herald, Jeannette, Henrietta, and Bennett islands in the District of Alaska;

Whereas beginning in 1900 the United States Geological Survey included Wrangell, Herald, Jeannette, Henrietta, and Bennett islands as part of the District, later Territory, and State of Alaska; and

Whereas unlike the government of Canada and Great Britain, the Government of the United States has never surrendered its sovereignty over these islands; Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that under the United States Constitution any territory, outercontinental shelf, exclusive economic zone, or fishery conservation zone, including the territory described in subsection (b), may only be transferred to any other country—

(1) by treaty in accordance with Article II, section 2, clause 2 of the United States Constitution which states that "[the President] shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; "; and

(2) by enactment of Congress in accordance with Article IV, section 3, clause 2 of the United States Constitution which states that "[t]he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.".

(b) The territory referred to in subsection (a) includes the island of Wrangell, Herald, Bennett, Henrietta, and Jeannette which are located in the Arctic Ocean and the outer continental shelf, of, and the exclusive economic zone surrounding, those islands.

Mr. HELMS. Mr. President, I am deeply concerned that the Department of State is endeavoring to turn over to the Soviet Union five U.S. islands in the Arctic Ocean. These islands are: Wrangell Islands, Herald Island, Jeannette Island, Henrietta Island, and Bennett Island.

There is far more at stake here than the ownership of five small islands covered with ice and snow. What is at stake is how, under the rules of international law, the United States will define its Outer Continental Shelf. If we surrender these islands we will be surrendering an area that amounts to almost half of our entire Outer Continental Shelf.

Moreover, these islands lie in the Arctic between the Soviet Union and the North Pole. If we surrender the islands to Soviet sovereignty we may well be surrendering control of the Arctic Ocean to Soviet nuclear submarines.

The State Department refers to this problem as a boundary dispute involving the 1867 Convention Line established with the purchase of Alaska. It is true that there are substantive issues involving the 1867 Convention Line in the Navarin Basin, south of the Bering Strait. These are questions which ought to be carefully studied, both by the administration and by the Senate.

But the islands are all north of the Bering Strait, in the Arctic Ocean, and deserve to be a focus of separate attention. A glance at the map will show

that this is hardly a "boundary dispute," a term which might imply drawing a line 100 miles one way or another. This is a major issue, substantively different from the Navarin Basin problem, which could determine control of the Arctic Ocean for generations to come.

These islands are U.S. territory and property. They were discovered by U.S. citizens and taken possession of on behalf of the United States. The United States has asserted sovereignty over them. The U.S. Congress has acted upon them as our territory and property. Therefore, it is clear that, under the Constitution, they cannot be alienated by the State Department, without the express consent of both Houses of the U.S. Congress.

The resolution which I am submitting today expresses the sense of Congress that the provisions of the Constitution with regard to the disposition of U.S. territory and property be complied with fully. I hope that the Committee on Foreign Relations will schedule hearings on this resolution at an early date so that all aspects of the issue can be considered. Incredibly, there have never been hearings on this issue; yet the State Department has been blithely proceeding as though this were just a minor issue.

The resolution that I am offering today is simple and to the point. It states that it is the sense of the Senate that under the U.S. Constitution any right, title, or interest of the United States in any territory, Outer Continental Shelf, exclusive economic zone or fishery conservation zone may only be transferred to another country by treaty, within the meaning of article II, section 2, clause 2 of the U.S. Constitution, and by enactment of Congress in accordance with article IV, section 3, clause 2 of the U.S. Constitution.

Mr. President, the President has the power to make treaties, by and with the advice and consent of the Senate, provided two-thirds of the Senators concur. There is no dispute over the President's power to make treaties. All we are saying in this resolution is that this matter is a matter which should be handled by treaty. It is not a matter to be considered as a technical issue settled by an Executive order.

Mr. President, the treatymaking power does not stand alone. Where U.S. territory and property is concerned, there are further requirements. Our Constitution in article IV, section 3, clause 2 states clearly that, "(t)he Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." Nowhere, does our Constitution state that the Department of State has the power to hand over U.S. territory to a foreign power by means of an executive agreement or other similar instrument.

The historical facts about United States sovereignty over these islands are clear. Unfortunately, the Department of State has been spreading all manner of disinformation concerning these islands not only to Members of Congress but also to the public at large.

In a letter to me, the State Department referred to this matter as a maritime boundary issue. It stated that all of these islands are claimed by the U.S.S.R. The State Department went on to say that: "It has been alleged that the United States has claimed sovereignty over the five islands"—it is noteworthy that the State Department states the Soviet claim as an accepted fact, whereas it asserts that "after extensive research, the Department of State has not found any evidence that the Government of the United States has ever formally asserted a claim to any of these islands."

That statement is totally false. In fact, one of my illustrious predecessors representing North Carolina in the Senate, Senator Robert R. Reynolds, dealt with this matter extensively in 1940. The State Department simply has not bothered to look into the historical record. I have spent some months researching that record, including diaries of the period newspaper accounts of the discovery period—including previously overlooked accounts in Honolulu newspapers of the last century—the U.S. Geological Survey, the CONGRESSIONAL RECORD, and other official documents of record.

So let us be clear about the historical record.

Wrangell Island was discovered during the voyage of Captain Thomas Long, a citizen of the United States, aboard the barque "Nile" in 1867. A new account of this confirmed discovery appeared in the Pacific Commercial Advertiser, published in Honolulu on November 9, 1867.

First possession of Wrangell Island was formalized during the voyage of Capt. Calvin L. Hooper of the U.S. revenue marine steamer *Corwin* in 1881. Information about this voyage was printed in Senate Executive Document No. 204 in the first session of the 48th Congress. The title of this report is, "Report of the U.S. Revenue Marine Steamer Thomas Corwin, in the Arctic Ocean." The House of Representatives also printed reports about this voyage during the second session of the 47th Congress; and during the first session of the 50th Congress.

Mr. President, on March 25, 1922, the distinguished Senator Joseph T. Robinson placed a letter in the RECORD written to him by the Captain Commandant of the U.S. Coast Guard, W.E. Reynolds. In his letter, Commandant Reynolds notes that he was a junior officer aboard the *Corwin* and was the officer assigned to carry our flag during the landing on Wrangell Island on August 12, 1881. In the letter he states, and I quote, "The captain and I landed together, being the first to get ashore, I had the flag, and with the captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America."

Mr. President, the words of Captain Reynolds of the U.S. Coast Guard are certainly crystal clear with respect to taking formal possession of Wrangell Island.

Senators should also take note of the following entry in the log book of Captain Hooper, and I quote:

> Friday, August 12, 1881. Lat. 71-04 Long. 177-40 off Wrangle Land. Got underway at 4:00 a.m. After a good deal of bumping and squeezing we reached the land and anchored in a small clear space off the mouth of a small river. Went on shore and took possession in the name of the U.S.

This quotation is contained in a study entitled, "The Discovery of Wrangel Island" by Samuel L. Hooper. It was published by the California Academy of Sciences as Occasional Paper No. XXIV, in San Francisco in 1956.

Prof. John Muir, a member of this expedition, wrote in his book that, and I quote, "A notable addition was made to the national domain when Captain Calvin L. Hooper landed on Wrangell Land and took formal possession in the name of the United States." John Muir, one of our Nation's most famous naturalists, was the founder of the Sierra Club.

The famed arctic explorer Vilhjalmar Steffansson in his book, "The Adventure of Wrangel Island" describing an expedition undertaken in 1921, wrote that, and I quote, "* * * following 1881 * * * the island was United States territory.

The Soviets have, in the past, claimed that a Russian Lieutenant Wrangel discovered the island. This assertion is groundless according to the Lieutenant's own memoirs. Wrangell himself wrote in his book, "The Narrative of a Voyage to the Polar Seas in the Years 1821, 1822, and 1823" that, and I quote, "* * * with a painful feeling of the impossibility of overcoming the obstacles with which nature had opposed us, our last hope vanished of discovering the land which we yet believed to exist * * * we had done what duty and honor demanded, further attempts would have been absolutely hopeless and I decided to return."

Mr. President, the matter of Wrangell Island was before the Senate and the House of Representatives in 1939 and 1940. With the gathering storm of World War II about to engulf our Nation, Members of the Senate and

the House became concerned about our Pacific air routes. A bill was offered in the House by Congressman Maas authorizing and directing the Secretary of the Navy to construct a naval air station on Wrangell Island. The bill, H.R. 4286, was introduced on February 17, 1939, and referred to the Committee on Naval Affairs. The State Department influenced the committee to take no action on the bill.

Mr. President, a similar bill was introduced in the Senate by a distinguished predecessor of mine from the State of North Carolina, Senator Robert R. Reynolds. While no action was taken on the bill, in the following year, Senator Reynolds introduced a resolution and articles relative to ownership of Wrangell Island.

Mr. President, so that our colleagues may have Senator Reynold's resolution and statement for immediate reference, I ask unanimous consent that the statement of Senator Reynolds of Monday, April 8, 1940, be printed in the RECORD at the conclusion of my remarks as exhibit 1.

Mr. President, I ask unanimous consent that a scholarly article entitled, "The Right of American Sovereignty over Wrangell Island," by Mr. David Nolan and Mr. Mark Seidenberg which appeared in the Canadian historical journal published by the University of Saskatchewan, "Musk Ox," be printed in the RECORD at the conclusion of my remarks as exhibit 2.

On March 18, 1878, the Senate and the House of Representatives approved an act in aid of a polar expedition designed by James Gordon Bennett, a U.S. citizen which authorized the Secretary of the Treasury to issue an American register to the vessel *Jeannette* which had been purchased in Great Britain.

On February 27, 1878, the Senate and the House of Representatives approved an act authorizing the Secretary of the Navy to accept and to take charge of the ship *Jeannette* for the purpose of a north polar expedition.

Jeannette Island was discovered on May 16, 1881, and formally taken possession of on June 3, 1881, during the congressionally authorized voyage of U.S. Navy Commander George Washington De Long on the *Jeannette.*

Henrietta Island was discovered on May 24, 1881, and formally taken possession of on June 3, 1881, during this same voyage.

Bennett Island was discovered on July 11, 1881, and formally taken possession of on July 29, 1881, during this same voyage.

Mr. President, there is ample published historical material to verify these facts about the three De Long Islands. For example, Houghton Mifflin Co. published a two volume work in 1883 entitled "The Voyage of the *Jeannette,* The Ship and Ice Journals of George W. De Long." These were edited by his wife, Emma De Long. There is also an extensive collection of clippings and other information about this voyage at the Naval Academy in Annapolis.

Mr. President, I ask unanimous consent that excerpts from Captain De Long's journals relating to Henrietta. Jeannette, and Bennett islands be printed in the RECORD at the end of my remarks as exhibit 3.

Mr. President, I ask unanimous consent that the appropriate citations on these five islands from the bulletin of the U.S. Geologic Survey, No. 187, entitled "Geographic Dictionary of Alaska," written by Marcus Baker, the Secretary of the U.S. Geologic Survey, and published in 1902 be printed in the RECORD at the conclusion of my remarks as exhibit 4.

Senators should note that this "Geographic Dictionary of Alaska" was reprinted in a second edition in 1906 by the U.S. Geological Survey. The same citations to these five islands appear in this edition.

Mr. President, in 1930, the U.S. Geological Survey published its bulletin 817 which was entitled "Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States." This publication was written by Mr. Edward M. Douglas and was a revision and enlargement of the 1923 edition. In the chapter entitled "Additions to the territory of the United States," Wrangell, Bennett, Henrietta, and Jeannette islands are described. Mysteriously and without explanation, or perhaps owing to the influence of the Department of State, these references were deleted from the 1966 and the 1976 edition of this work which were edited by Mr. Franklin van Zandt. According to information reaching my office, Mr. van Zandt had submitted his manuscript for the 1966 edition to the State Department and was told by the State Department to delete the reference to Wrangell, Bennett, Henrietta, and Jeannette islands.

Mr. President, I ask unanimous consent that the appropriate citations to these islands in the 1930 edition of this bulletin be printed in the RECORD at the end of my remarks as exhibit 5.

The giveaway of these five islands to the masters of the Kremlin is not some obsecure action. In fact, back in North Carolilna, folks are concerned about this situation as are other citizens around the country judging by the mail that I have received on the issue.

Mr. President, I ask unanimous consent that an excellent article entitled "U.S. Considering Relinquising Control of Alaskan Islands" which appeared in the Laurinburg Exchange of Laurinburg, NC, on June 5, 1985 be printed in the RECORD at the conclusion of my remarks as exhibit 6.

Mr. President, facts are facts. These five islands are U.S. territory. If the Department of State is endeavoring to give away these islands to the Soviet Union, including the related Outer Continental Shelf areas and economic zone areas, then it is the duty of the Congress to adhere to the Constitution in terms of how territory may be transferred.

Mr. President, this reolution simply expresses the sense of the Senate that the Constitution must be observed in cases where our territory is to be transferred. The resolution outlines the historical facts which I described earlier in order that an accurate description of the sovereign rights of the United States of America over these five islands be presented.

There being no objection, the exhibits were ordered to be printed in the RECORD, as follows:

EXHIBIT 1

[Extension of Remarks of Hon. Robert R. Reynolds of North Carolina in the Senate of the United States, April 8, 1940]

RESOLUTION AND ARTICLES RELATIVE TO OWNERSHIP

Mr. REYNOLDS. Mr. President, under the permission granted me during the course of my remarks, I ask to have printed in the Appendix of the RECORD the resolution (S. Res. 253) to which I referred; a statement which I have prepared with respect to Wrangell Island; an article from the Washington Post of February 26, 1939; and an article entitled "War of Propaganda May Be Already Won."

There being no objection, the matters referred to were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 253

Resolved, That the Secretary of State is requested to make a report to the Senate at the earliest practicable date with respect to whether or not the United States has a valid claim to sovereignty over Wrangell Island.

STATEMENT BY HON. ROBERT R. REYNOLDS OF NORTH CAROLINA

Wrangell Island is, roughly, the size and shape of Jamaica, 80 miles long and 35 miles wide. It is rugged rather than rocky with a maximum elevation of about 2,000 feet. So far as we know, there is no permanent ice of snow, with the snows of winter disappearing completely in summer. The minimum temperature in winter is only a little lower than that of Montreal, about the same as that of Winnipeg, and not nearly so low as that of some of the Russian cities. Because the island is small and surrounded by a small ocean, the warmest summers will not be far different from the month of May throughout some of the northwest sections of Canada and some of the northeast sections of the United States. Essentially it is a prairie land—no trees, and only small bushes. The beach is abundantly supplied with driftwood for fuel and for the building of log houses. It is probably the greatest polar bear country in the world. But bearskins have at present a small commercial value. There are no locations better for the trappings of white and blue foxes, and there are considerable quantities of the remains of the prehistoric elephants—mammoths of that fossil monster may be of some importance. It is an excellent station for the walrus and hair-seal industry. Nothing is

known about the presence or absence of minerals. Great herds of reindeer are owned by natives and whites in Alaska and suitable breeding stock could be purchased at reasonable cost and landed in Wrangell Island.

Probably Wrangell Island could support some ten to twenty thousand herd equally in value to double that numbers of sheep.

Although the commercial value of Wrangell Island is small, it is not negligible. As a matter of fact I should not have been in the least interested in this island, however, but for my belief that within 25 years from now the Polar Ocean will be one of the chief theaters of air commerce. It is true that we of the United States have planty of rich land to develop, both at home and in our Territories, particularly in Alaska, and in speaking of Alaska, may I say that I believe that we have come to need badly a supply station under our own flag somewhere on the northern frontier of Asia such as Wrangell Island, for remember that Asia, Russian territory, is located within a stone's throw of our American Territory of Alaska. Fact is, the Little Diamede Island, which we acquired from Russia together with Alaska and Pribilof in the Aleutian Islands for a consideration of $7,200,000, is only about one-half mile from the Big Diamede Island which belongs to Russia itself.

Every other island on this vast northern frontier of Asia is clearly the property of some other nation, either by discovery or by occupation, but I believe that this one spot, Wrangell Island, is clearly ours and the longer that we let it go and remain in the hands of Russia, as of now, the more difficult will be our chance of obtaining our legal rights.

From a purely commercial standpoint as of now, the island would not be worth anything to us, but as I have heretofore stated, within 25 years from now it would be a very valuable spot, so my chief design, that what I have said and done, shall rest entirely on the grounds of public interest and public spirit.

If one looks at the Polar Ocean on a globe, which is the only way of correctly realizing the situation, you will note that Wrangell Island lies straight across from New York and is almost directly in line between the metropolis of New York and Manila, the capital of the Philippine Commonwealth. Even though it is not strategically the most important island on the northern coast of Siberia, it is the only island to which the United States Government has a claim on that vast frontier.

A couple of years ago when I was in Alaska and at which time I visited Point Barrow, the northernmost point in the Western Hemisphere, as well as Deering, Wainwright. Nome, and Siberian waters, friends of mine there and others whom I have met from time to time and place to place who were familiar with Siberia, impressed upon me how the Japanese were penetrating northward into that great country. And, as a matter of fact, several years ago while in Russia I understood that the Soviet Government was encouraging the immigration of its nationals from the congested cities such as Odessa, Leningrad, and Moscow to Siberia and its northeastern portions on the mainland in the neighborhood of Wrangell Island.

At the present time I am informed that a number of Chuckhees, Russian nationals, are occupying the island as a result of our nationals having been forcibly taken from the island a number of years ago, concerning which incident I shall return to shortly. We have never asked submission of the question to some form of international court, in which case their occupation, coupled with our neglect, could have established ownership, so in this bill I am merely asking that our State Department inquire into the question of whether or not the United States has a valid claim to sovereignty over this island.

It is my information that in September of 1921 several Britishers, together with a small party of Eskimos, landed on Wrangell Island, where they raised the British flag, which they claimed was the third time that the British flag had been placed upon the soil of Wrangell Island. At that time there were some press stories in the United States to the effect that our Government had protested against Britain's occupation of this island, but as to whether or not these statements are authentic I have not been informed. At that time, however, it is my understanding that the Soviet Government of Russia did protest. This protest contained three reasons on account of which Wrangell Island was said to be Russian.

The first reason was discovery of the island by Baron Wrangell a little more than a hundred years ago. Close students of the baron's journey at the time that he was supposed to have discovered Wrangell Island will reveal that he was never anywhere near it. And in addition to that he states in his description definitely that he failed to discover land. Confirmation of this can be obtained easily.

The second Russian claims are on the basis of a landing between the years 1910 and 1915. As a matter of fact, any nation could have claimed Wrangell Island on the basis of a landing in 1910, 1915, or 1921, the latter of which was claimed by the British.

Thirdly, the Russians advance the claim that Wrangell Island is Russian by reason of its immediate proximity to Siberia. The distance from Siberia is about 100 miles, and as to this claim for ownership through proximity might possibly be agreed upon by some future international convention, but it certainly has not been agreed upon in the past.

In the year 1880 or 1881 the New York Herald fitted out a Polar expedition under the command of Lieutenant De Long, an officer on leave of absence from the United States Navy. This was the famous and tragic *Jeannette* expedition, so called after the ship which De Long took north through the Pacific and through the Bering Straits proceeding into the ice which he met northwest of Alaska, firm in the belief that just beyond were the shores of a great continent. Shortly thereafter, while the *Jeannette* expedition was found in the ices of the great Polar region, the American flag was planted on Wrangell Island either by a member of his expedition or by one of the crew of an expedition that went in search of the members of the *Jeannette* expedition.

I claim that Wrangell Island is originally the property of the United States through right of discovery, but it is a principle of international law that claims arising out of the discovery must be followed up within any reasonable time by exploration or occupancy or else it lapses into the territory of a no-man's island.

The British claim some sort of title as of 1854, by way of discovery or otherwise, and the Russians claim title for the same or similar reasons; but, after all, it is not disputed that the American flag was placed on Wrangell Island in 1881 or 1882, and it was actually occupied by the nationals of the United States when the Russian nationals, forcibly and against their will, removed the nationals of the United States from the island to Siberia, and I understand that since then the Russians have occupied the island.

I think it is pretty well conceded—at least, there is no information to the effect—that any human being ever landed on Wrangell Island before the Americans did in 1881, and we know pretty definitely that no landing was made upon the island thereafter for many, many years.

Those who claim to have a knowledge of aerial navigation say that conditions on the whole there are better than in any other area in the world, and, of course, for the time being, we are interested in the acquisition of this island for the reason that, as I have heretofore stated, within 25 years it will be a very valuable spot, as the condition of the island is such that, without great difficulty or excessive expense, airplane bases could be established. Some have ventured that a harbor at one end of the island is so enclosed that aquaplanes could make safe landings, and in the winter, with the airport covered with snow, great passenger and freight planes could land safely on skis. Not only are flying conditions over the polar area on the whole good, according to those who are familiar with this section, but it is much the smaller of the oceans and therefore the easiest ocean to cross. As the settlements creep northward along the great rivers of Siberia and Canada, the polar mediterranean will continually increase in importance through the airways above which connects the various lands.

In conclusion, may I say that Russia is now in the possession of Wrangell Island. I claim that that possession was obtained by force and not by discovery. Of course, on account of Wrangell Island's being in the immediately proximity of Russian territory, it would be easy for Russia to seize and difficult for us to defend, but surely it would be possible to establish the ownership of the island at an international conference. If Russia—or any other country for that matter—then acted contrary to the decision of the conference, the facts would at least be known and the blame would be laid where it was deserved; and again I wish to say that to use Wrangell Island as a base we would have there a short cut for airplanes flying over the top of the globe from New York to Manila instead of around the circumference by such routes as are taken by ships and trains.

Wrangell Island has an area of about 2,000 square miles. Its elevation rises to 2,500 feet, but there is much less land on the south and north. Shoals and sand spits project to sea on the north and southwest. The west and east coast are steep and lofty. The harbor is on the southeast. Tundra covers many parts.

In 1923 a party of Eskimos under an Alaskan trapper were established on Wrangell Island, but Russia, laying stress on the claim made around 1915, forcibly removed the colony in August of 1924 and shortly afterward brought 50 Chuckhees to form a settlement under Soviet officials, and I understand that the colony was visited by Russian airplanes in 1927. At that time these claims were not officially disputed by the United States, according to my information.

Last year I introduced a bill in Congress calling for the establishment of naval bases on Wrangell Island. This resolution was referred to the Naval Committee of the Senate, and no action to date has been

taken thereupon. Fact of the matter is, I think that I was a little premature in the introduction of that resolution. I probably then should have introduced a bill such as I am introducing today, requesting the Secretary of State to make a report to the Senate at the earliest practical date with respect to whether or not the United States has a valid claim to sovereignty over Wrangell Island; and then, after the establishment of this claim, if an international congress awards the island to the United States, then would be the proper time for a bill calling for the establishment of naval bases there. At any rate, last year, when I introduced the aforementioned bill, which was referred to the Naval Affairs Committee of the Senate, there appeared in the Washington Post under date of February 26, 1939, an article entitled "United States Owns Wrangell Island. Not Soviet, Says Reynolds," and the subhead of that story reads. "Retired rear admiral, who planted American flag, revives controversy of Arctic possession." I wish to have this article at this juncture printed as a part of my remarks.

I ask that the resolution be referred to the Foreign Relations Committee, and I hope that we may shortly ascertain the rightful owner of this island, which in the future, I am confident, will prove to be a most valuable possession.

[From the Washington Post, of Feb. 26, 1939]

UNITED STATES OWNS WRANGELL ISLAND, NOT SOVIET, SAYS REYNOLDS—RETIRED ADMIRAL, WHO PLANTED AMERICAN FLAG THERE, REVIVES CONTROVERSY OVER ARCTIC POSSESSION

Because "first come first served" still is the law of the masterless lands, Rear Admiral William Edward Reynolds, retired, believes the Russians ought to get off Wrangell Island.

It is a matter of personal pride to him, for he "came first," in this case, he said, and planted the American flag on that ice-bound spot in the Arctic Sea one August morning in 1881.

There is a first-class international squabble ready to flare up over this disputed land, and it was another Reynolds who started it.

Last Friday Senator ROBERT R. REYNOLDS, of North Carolina, introduced a bill in the Senate to establish a naval air base on Wrangell Island, but there is small chance of doing that while the Russians are there.

It seems that in 1924, taking advantage of a claim they had made in 1916 that had never been officially disputed, the Russians abducted one Charles Wells, an American sailor from Seattle, and 12 Eskimos peacefully engaged in fishing and hunting and otherwise making good America's title to the sport, and replaced them with a colony of enthusiastic Communists.

RESTRAINS HIS PRIDE

This is a pretty intolerable situation for 79-year-old William Reynolds, who retired as rear admiral in the Coast Guard just when this was going on. But, mild-mannered and dignified, he restrained his outraged pride yesterday and spoke of the arrogant Bolsheviks with creditable courtesy.

"I don't know what right they had to take our island," he remarked, "but then I don't know much about international law. I took possession of Wrangell Island for the United States, and we were the first white men that ever landed there. Of course, it's named after a Russian, Baron Wrangell, but he never reached the island; he just saw it."

As a matter of fact, it was something of an accident that led to that historic landing party, the gray-haired seaman admitted. The steamship Corwin, on which he was a junior officer at the time, was not sailing about the Artic looking for new lands for Uncle Sam. She was searching for survivors of the exploring ship Jeannette crushed by ice just before.

They did't find any survivors, but they found a lot of polar bears and walrus, and a good plateau now useful as an airplane landing field, and they presented this chilly spot to the State Department to file away for the future.

FIFTEEN YEARS TOO LATE

Now Senator REYNOLDS has found a use for it, but he is 15 years too late. When, in 1924, Commander M. Davidoff came back in triumph to Vladivostock with Wells and his Eskimos he proudly boasted that once more the proletarian revolution had scored over the "imperialists," who were attempting to "seize the island" because it "would have made an ideal aerial base."

Poor Wells died before he ever got away from Siberia and as Rear Admiral Reynolds is the last survivor of the officers on that historic cruise of the *Corwin*, he is now the only principal of the drama of Wrangell still able to tell the tale.

But Wells' sponsor, Carl J. Lomen, is still very much alive, and so in his claim against the Russian Government for the 167 fox skins and 40 polar bear skins they relieved him of in 1924, not to mention damage against his firm, the Loman Reindeer & Trading Corporation, which brought from an English firm the trading interests in the island just in time to have them seized behind their backs by the conquering Russian revolutionaries.

But after all, the whole thing rests with the State Department, and the State Department isn't interested now. Maybe if we build that air base Senator Reynolds wants there will be a showdown, and the Russians will be forced to admit the validity of Rear Admiral Reynolds' deed, and pay Lomen his damages. Such as least is the hope of Reynolds, Reynolds, and Lomen.

WAR OF PROPAGANDA MAY BE ALREADY WON—HUNGER IN JOBLESS HOME MORE PERILOUS THAN ANY FOREIGN SPY, IS VIEW

The little man, sitting in his little home, and wondering where he can get another pail of coal, will ultimately decide whether we get into war or stay out, asserts Samuel Grafton, writing in the New York Post. He adds:

"We are being told to watch out for propaganda. Good enough. But in the larger sense, this is a false steer. The propaganda fight has already been fought and won by the Allies. The United States now hates Hitler more than it hated the Kaiser in 1916. The toothiest of British lectures can add only a drop to the brimming bucket of our hate.* * *

"History is made when the father of the family says he isn't hungry and slides his food down-table to his children, and the kids take it, trying not to think that's all there is, there isn't any more.

"History is made when the foreman at the plant tells John Smith. American worker, that he can't give him a job until the factory gets another war order, but that the factory isn't getting war orders because the Neutrality Act forbids lending money to the Allies. The muse of history really begins to smirk when John Smith walks down the factory street, feeling the stones through his shoes and wondering why the devil we shouldn't lend money to the Allies when it means a job a man can work at and feed his kids with.

"A decent peacetime job would keep John Smith from making this decision.* * *

"Tracing out the figures nationally, I find that the total of W.P.A. workers has been cut almost in half, from 3,043,367 in February to 1,661,970 in September. The rise in war boom employment doesn't even remotely correspond to this wholesale slaughter of W.P.A. pay envelopes. The cut occurs at a time when a job is the best and most vital antiwar progaganda of all, because it talks to a man 7 days a week and 24 hours a day.

"I have a feeling that we are flunking our national test. We are depending on a Neutrality Act, a dike of words against a sea of need and blood. We are asking men to consult the national interest first, at a time when the interests of their children clamor in their ears. We are asking the little man to be big. That is the measure of the smallness of our approach.

"The stage for war, the stage for our participation, is being set. It is a bare stage and on it are a few kitchen chairs, an empty table, a congealing stove; in one of the chairs sits a man who fears the morning and who will accept any hope that comes. So far, we have been afraid to look at him."

EXHIBIT 2

THE RIGHT OF AMERICAN SOVEREIGNTY OVER WRANGELL ISLAND

(David B. Nolan* and Mark J. Seidenberg**)

ABSTRACT

The dispute over rightful sovereignty to Wrangell Island today continues as an international issue of the Arctic. The Soviet Union, United States, the United Kingdom, and Canada at one time or other have asserted interests over this frozen piece of tundra and mountain. The proximity of the island to both the U.S. and Russia has great strategic value in our push-button nuclear age. The issue itself has implications for the resurgence of American military might, for superpower detente, and for international law.

The history of Wrangell Island is filled with courage and tragedy. It is a tale of kidnapping and death.

The valiant Captain Calvin L. Hooper, the *de facto* governor of the Alaska territory, was the first to land on Wrangell Island. He claimed the island for the United States which perfected this claim through effective occupation in accordance with international law.

The Soviet government seized control of Wrangell Island in 1924 and took American citizens into custody. This act is held to have been in violation of international law and American statutes that sought to protect U.S. territorial rights.

Hence the Soviet Union is believed to have occupied Wrangell Island illegally until the present time. International law does not allow any nation to gain sovereignty in such a fashion. The U.S. sovereignty over Wrangell has never been legally ceded to the Soviet Union, either on account of treaty or due to U.S. inaction.

* * * * *

Extensive exploration of the Arctic did not occur until the nineteenth century. It is not surprising that Wrangell Island, one of the largest yet most inaccessible islands in the Arctic did not become known to the world until this time.

Wrangell Island [2] is located eighty-five miles off the northeast coast of Siberia and two hundrd seventy miles northwest of Cape Lisbourne, Alaska. It straddles the 180° meridian and the 71° parallel and encompasses an area to two thousand square miles. As with other islands in the Arctic Ocean, accessibility is limited by thick fog and sea ice. Impenetrable ice floes block access even to its southern shore for at least ten months of each year.

Four nations have asserted interests over this island—the United States, the Soviet Union, the United Kingdom, and Canada. The superiority of the claim by the United States can best be understood when placed in the perspective of arctic history and international law.

Early recorded explorations into the Arctic did not intend to lay formal claim to and take effective occupatin of, arctic territory. Without these elements sovereignty will not arise over discovered land. The Greek navigator Pytheas of Massila made the first recorded voyage into the Arctic Ocean in the fourth century. B.C.E., but was turned back by fog and ice.[3] The next recorded voyage into the Arctic of any significance was by a Norse chief named Otar who sailed into the White Sea, after passing the Kola Peninsula.[4]

By the sixteenth century, England and other maritime nations sought better trade routes to the Orient than the long and arduous routes around the Cape of Good Hope and Cape Horn. In the year 1553 English merchants organized voyages to China by the Northwest Passage across the top of Europe and Asia.[5] In 1594 the Dutch navigator Willem Barents sailed into the Kara Sea.[6]

A Cossack trader named Simon Dexhnev sailed eastward from the Kolyma River in the summer of 1648. The natives of eastern Siberia told him of a "large country" lying to the north of Chukchi and Alaska. He was the first white man to hear of this land called Beringia.[7]

In 1763, another Cossack named Andreyev heard of this land and traveled to the Medvezhi Ostrova to find it. He claimed to have seen a large land to the East from that island location. However, six years later three Russian surveyors named Leontev, Lesev, and Pushkarov confirmed that there was no land that could be seen from such location.[8] Mirages of islands are not uncommon in the Arctic. This factor, added to the difficulty of obtaining star readings for location determinations in arctic fog, have often made land sightings unreliable.

Baron Ferdinand Petrovich von Wrangell, a lieutenant in the Imperial Russian Navy, also heard the tale of the land's existence from the Chukchi chiefs of Siberia. Between 1820 and 1824 he commanded several expeditions in search of the island but he never saw it, let alone land on or occupy it.[9] In April of 1824, at the end of his last arctic expedition, Wrangell wrote:

"[W]ith a painful feeling of the impossibility of overcoming the obstacles which nature opposed to us, our last hope vanished of discovering the land which we believed to exist. We saw ourselves compelled to renounce the object for which we had been striving through three years of hardships and danger." [10]

Despite this failure, Wrangell gained worldwide fame as an arctic explorer. He later became Governor of Russian America. Yet he was never to land upon the island that would bear his name in his honour.

During the mid-nineteenth century, England, still looking for a short-cut to the Orient, attempted to find a Northwest Passage. In 1845 Sir John Franklin left England with a company of 129 to travel over the top of America to Petropavlovsk, Kamachatka. By September, 1846, the expedition's ships had become locked in an ice pack twelve miles from King William Island.

On 11 June 1847 Sir John Franklin died. On 22 April 1848 the ships *Erebus* and *Terror* were deserted and what was left of their crew started on a hopeless march to safety. No one survived.[11]

By 1848 the Royal Geographical Society became concerned over the ships' disappearance and the British Admiralty agreed to its request to organize a search. The United States and Canada also organized searches for the missing ships.

On 6 August 1849, Captain Henry Kellett, R.N., of H.M.S. *herald,* one of the Franklin search vessels, arrived at a small island west of Cape Lisburne. Upon landing, Kellett took possession and named the island Herald after his ship. He hoisted the Union Jack and claimed the island on behalf of Queen Victoria.[12]

Kellett sighted a large land mass beyond Herald Island to the west which he called Plover in honor of another Franklin relief expedition ship. Whereas no land mass existed at the position noted by Kellett on navigation charts, it may have been a mirage rather than Wrangell Island. In any event, no further landing or exploration was made.

Six years later, on 13 August 1855 Captain John Rogers, in his flagship the U.S.S *Vincennes,* reached the position ascribed to Plover Island, also known as Kellett Land on the Admiralty charts.[13] When there was no land to be seen from the clear horizons, the charts by the Depot of Charts and Instruments of the U.S. Navy were changed accordingly. It should be noted that the Russian author Shvede gives credit to the American, Rogers, for discovering Wrangell Island [14] on that Congressionally authorized voyage.[15]

The United States' legal rights in the northwest of the North American Continent have a foundation in the Treaty of Adamsde Onus of 22 February 1821 which ceded Spanish rights in Oregon Country to the U.S.[16] The United States' claims to northern parts of the Oregon Country (now southern Alaska) are based, in part, upon voyages of discovery and annexation by Don Juan Francisco de la Bodega y Quadra and Don Ignacio Arteiga for the Spanish Government between 1775–1779.[17]

H.I.M. Tsar Aleksandr Pavlovich of Russia issued a ukase in 1821 banning "transaction of Commerce, and the pursuit of whaling and fishing or any other industry • • • all along the North West Coast of America from the Bering Sea to the 51st parallel." [18] This coast was part of the area ceded to the United States by Spain in 1821. The Tsar's ukase prompted U.S. President Monroe, in his message to Congress on 2 December 1823, to proclaim the Monroe Doctrine. A compromise was reached on 11 January 1825. The United States government ceded the coast of America north of the 54°40' parallel to the Imperial Russian Government as part of a Treaty of Navigation and Fisheries of the Northwest Coast.[19]

As well be seen, this accord was superseded by the Seward-de Stoechl Treaty in 1867 which ceded Russian America to the United States. The 1825 treaty has no bearing on sovereignty over Wrangell Island which was undiscovered at the time.

By the middle of the nineteenth century, Russian interests in expansion beyond the Asian mainland waned just as American interest in expanding to the West increased. The loss of the Crimean War illustrated the vulnerability of the Russian Empire at its extremities.

The Russian government, fearing that its American colony was no longer defensible and recognizing its economic liability, sold the North American lands to the United States for 7.2 million dollars on 20 June 1867.[20] This convention between the governments of Russia and the United States ended all Russian claims to sovereignty east of the demarcation line.

On 18 October 1867 the Tsarist double eagle flag was lowered over Novoarkhangelsk, the capital of Russian-America, and the Stars and Stripes was hoisted over the renamed city of Sitka. Alaska was now a possession of the United States.[21]

The Office of the Solicitor, U.S. Department of State, determined after a review of the documents leading up to and including the Seward-de Stoechl treaty "that the Emperor of all the Russias ceded to the United States certain territories, and that the United States on its part entered into no commitment which could be interperted as an understanding not to press claim to any land west of the particular line above described." [22] Therefore, there can be no inference that the United States ceded sovereignty to any as yet undiscovered island to the west of the Diomede Islands.

During this period the American whaling industry expanded into arctic waters. On 14 August 1867 Captain Thomas Long of New London, Connecticut, sailed his whaling bark *Nile* along a trek some thirty miles north of the route navigated by U.S.S. *Vincennes* some twelve years earlier. A seaman named Thomas sighted land (Cape Thomas) to the northeast from the ship's masthead. Captain Long named this territory "Wrangell's Land" as an appropriate tribute to the memory of the Russian explorer who spent three consecutive years above the 69th parallel.[23] Long also was the first to sight the identifying volcano of more than 2000 feet in height on Wrangell Island. He sailed past the southern shore and returned to the port of Honolulu. Between 1868 and 1869 the news of the American discovery of "Wrangell's Land" spread worldwide. Geographical Societies in the United States and Europe honored Captain Long for his discovery.[24]

Other American whalers—the captains Raynor of the *Reindeer,* Philips of the *Monticello,* and Biler of the *Nautilus* also confirmed the sighting of the large land mass discovered by Thomas Long. They spread their belief that Wrangell was not an island but a frozen continent similar to that at the South Pole, a speculation that prompted the New York Herald to outfit an expedition in 1879, led by Naval Lieutenant George Washington De Long, to Wrangell Island and then the North Pole.[25] De Long and his ship, the *Jeannette,* formerly called the *Pandora,* never made it. The *Jeannette* became locked in ice floes and drifted westward past Wrangell Island where it was crushed and sunk in the summer of 1881.

Fearing for the fate of De Long, the U.S. Congress in early 1881 authorized one hundred and seventy-five thousand dollars for a search. The *Jeannette* relief ships, the U.S. Revenue Marine Steamer, the *Thomas Corwin* and the U.S.S. *John Rogers* entered the Bering Sea in the summer of 1881. Commanding officer of the *Corwin* was Captain Calvin Leighton Hooper.

Hooper at the time commanded the Bering Sea Patrol of the U.S. Revenue

Marine, which made him the *de facto* Governor of Alaska. During the spring of 1877 jurisdiction of the District of Alaska was transferred from the Department of War to the Treasury Department. Treasury in turn placed Alaska under the charge of the U.S. Revenue Marine from that year until 1884.[26] Hooper clearly had authority at that time to discover and claim sovereignty over land on behalf of the United States.[27] The *Corwin* also carried aboard a complement of scientists. These included the world renowned naturalist, John Muir, who was later to found the Sierra Club.

The *Corwin* landed on Herald Island in hopes of finding the *Jeannette* or its crew. Unsuccessful in the rescue attempt. Hooper valiantly forced his ship through heavy ice floes to Wrangell Island to the west.[28]

On 12 August 1881, Hooper, Muir, and their party of six made the first recorded landing by man upon Wrangell Island. Edward W. Nelson, a member of the landing party later noted.

"The result of our examination of the Island, so far as we saw, gave not the slightest evidence of its ever having been visited by man before. All subsequent examinations of Wrangell Island by those who have visited it later appear to establish the fact that the landing party from the *Corwin* contained the first men to set foot on this island." [29]

Landing at the mouth of the Clark River on the eastern side of the island. Hooper and his fellow officers raised the American flag and took possession of Wrangell Island in the name of the United States. While Hooper and Muir explored the island, other party members erected a rock cairn and deposited documents recording the significant event. William Reynolds, a member of the party, recalled:

"I had the flag and with the Captain's permission waved it and took possession of the new land in the name of liberty and of the Government of the United States of America. I planted the flag on a bluff a little to the northwest of our landing place and left it there together with a record of our visit." [30]

Hooper called the island "New Columbia." He explained.

"It was believed that as the island had become, by our act of landing upon it, a part of the United States, by selecting a name of national character, no disrespect would be shown to the memory or offense given to the friends of the gallant officer whose name it bore, and that the name given would be adopted by all nations." [31]

The name "New Columbia" never replaced Wrangell, however.

Captain Hooper told Captain L. C. Owens of the American whaler *Belvedere* of his plan to annex Wrangell Island to the United States prior to landing there. The *Belvedere* became the second ship to land at Wrangell on 19 August 1881. "As soon as we got ashore we saw the signal planned by Lieutenant Reynolds, a small American ensign fastened to a slender piece of driftwood, driven into the soil," confirmed a *Belvedere* crew member.[32]

On 26 August 1881 a party from the *Rogers*, the other relief ship, landed on Wrangell Island. They completed an official survey for the U.S. Government on 13 September of the same year. One crew expedition proceeded overland to the mountains, where a general view of land and water could be obtained. Another group found the cairn left by the *Corwin*, and deposited copies of the documents contained therein, taking the originals for the Navy's report. The crew of the U.S.S. *Rogers* also raised the American flag over Wrangell Island.[33] The crew determined that its new U.S. possession was not a continent but a large island.

Major E. W. Clark, the Chief of the United States Revenue Marine Service, informed the U.S. Coast and Geological Survey in 1881 of the annexation of Wrangell Island to the United States. The U.S.C. & G.S. of the U.S. Treasury Department determined that Wrangell Island should be included in the District of Alaska.[34]

Between the years 1881 and 1910 Wrangell Island was visited exclusively by Americans. These were mostly whalers and walrus and seal hunters. On 8 September 1889 the U.S.S. *Thetis* went to Wrangell Island while cruising the Arctic Ocean, "showing the American flag." [35] In the year 1910 Captain Louis Lane sailed the ship *Adler* of Nome, Alaska, to Wrangell Island with a motion picture company from Hollywood, which filmed a polar bear hunt.

For a period of twenty-nine years following Hooper's claim, U.S. and Russian publications recognized United States sovereignty over Wrangell. U.S. Geological Survey Bulletins No. 169 in 1900, No. 187 in 1902, and Nos. 274 and 299 in 1906 included Wrangell Island as part of the U.S. Russian Naval Maps and Encyclopedia at the turn of the century also show the same designation.

In 1910 the Imperial Russian government, interested in compiling hydrographic charts to facilitate shipping routes from Kolyma to Vladivostok, commissioned two steel icebreaking ships, the *Vaigatch* and *Taimyr*. On 16 September 1911 the *Vaigatch* anchored in a cove off Blossom Point at the southwest corner of Wrangell Island while taking shelter from a gale from the northeast.[36] Its captain sent a landing party ashore on 15 September via whaleboat and motor launch to establish the correct astronomical position by celestial observation. The landing party found a coal deposit and erected a ten meter structure to establish the astronomical position of the landing place before leaving.

The Russians then circumnavigated the island, but unfortunately at a distance too far to contribute to the definite outlining of the coast.[37] This was the only visit that the Russians ever made to the Wrangell Island before 1924, nor did they ever make any claim to the island during their stay.

In 1911 Dr. Rollin Harris, an American oceanographer, again raised interest in the possibility of an as-yet-undiscovered arctic continent. He hypothesized the existence of "Harris Land" to explain tidal movements in the Arctic Ocean.

In 1913 the National Geographic Society planned to finance an expedition to the Arctic to find this new land. Sir Robert Borden, Prime Minister of Canada, asked and received permission to finance the expedition for fear that Americans might make new discoveries north of Canada for the United States.[38]

Vilhjalmur Stefansson, a Canadian who had grown up on the plains of North Dakota, was chosen to lead the expedition. The Canadian government directed Stefansson that "any new or partly unknown lands which the expedition would touch would be observed, position fixed, and the British flag would be planted on these lands." [39]

Stefansson's flagship was the whaler *Karluk* under the mastery of Captain Robert A. Bartlett. Bartlett was a U.S. citizen who had commanded the ship *Roosevelt* for the Peary and Henson expedition to the North Pole during the years 1905 to 1909. The *Karluk* suffered the tragic fate of other vessels and became caught in arctic ice, drifted west along the north coast of Alaska, and eventually sank. For two months the survivors walked south across the polar ice cap, arriving at Wrangell Island on 12 March 1914. Two members of the ship's crew, John Munro and Robert Templeman, raised the Canadian flag over Wrangell Island in celebration of Dominion Day, 1 July 1914.

Of course, Wrangell Island had already been formally claimed by the United States, and the previous establishment of U.S. sovereignty served to cut off subsequent rival claims. Furthermore, Great Britain had transferred jurisdiction of her rights to islands in the Arctic Ocean to the Canadian Government in 1880.[40] Therefore, whatever pretention to sovereignty Great Britain might have had to Herald and Wrangell Islands by virtue of the voyage of the H.M.S. *Hearld* in 1849, or the landing on Wrangell in 1914, now belonged to Canada.

The shipwrecked members of the *Karluk* also recognized the prior discovery of Wrangell Island. Bartlett later wrote that "we passed Hooper cairn, which was built by a party from the U.S. Revenue cutter *Corwin* in August, 1881. The cairn, as I could see, was still intact." [41]

Captain Bartlett and an Eskimo crew member, Kakatovik, walked across the ice pack to summon help. Upon Bartlett's reaching Alaska, Captain William E. Reynolds, U.S.R.C.S., immediately ordered a rescue attempt. On 7 September 1914 the American ship *King and Wing* picked up the happy survivors on Wrangell Island (Figure 1). Not knowing that the *Karluk* survivors had already been rescued, the *Thomas Corwin* landed at Wrangell a few days later. The same ship that thirty-three years earlier had carried Hooper to claim the island, re-established the flying of the U.S. flag over Wrangell Island.

After the *Karluk* survivors were transferred to the U.S. Revenue Cutter Bear, they were transported to the ship's home port of Unalaska where the port commander, William Reynolds (who in 1881 had landed on Wrangell with Hopper) told Bartlett that the island was indeed part of Alaska.

On 13 November 1916 a challenge to U.S. sovereignty over Wrangell Island came from a different source. The Imperial Russian Embassy in Washington presented a memorandum to the U.S. Department of State regarding Russia's claim to lands in the Arctic. It claimed that Wrangell Island, Alaska, was one of the islands which "form an extension Northward of the Continental tableland of Siberia." [42] This argument, like that of the sphere of influence, continuity, or sector theory to the Pole has no validity in international law.[43] Before this claim could again be pressed the Imperial Russian Government was overthrown by the Bolsheviks. World events were to continue to play a major part in the issue of sovereignty over Wrangell.

On 7 July 1918 Allied Commanders, and an army that included Japanese troops, assumed protection of the city of Vladivostok. The threat of the Japanese taking an imperialistic hold in eastern Siberia caused concern, just as the expansion of power by the Bolsheviks had done formerly. In 1920 Stefansson became worried that the Japanese government, in their desire to control eastern Siberia, might try to take Wrangell

Island. He observed, "I felt certain that within a year of two they would realize the coming importance of Wrangell Island and would occupy it."

Great Britain, Japan, and the United States were allied against the Bolsheviks. However, if the Japanese (future Pacific rivals to the United States) were to occupy Wrangell Island, it would be difficult to oust them in favor of the Bolsheviks. Therefore, Stefansson met in Ann Arbor, Michigan, with Allen Crawford, a Canadian, and Sir Auckland Geddes, British Ambassador to the U.S., for the United Kingdom to plan an expedition to secure Wrangell Island and also to promote their own economic interests.

Crawford led a party that included four Americans on the American ship *Silver Wave.* When they landed on Wrangell Island on 15 September 1921 the crew raised the Stars and Stripes over the island under Captain Jack Hammer's direction. On 16 September 1921 Crawford raised the Union Jack over Wrangell "in the name of the King and the Empire" as a continuation of Stefansson's "right to the island already established by the Stefansson Canadian Arctic Expedition of 1913-18 and the shipwreck of the *Karluk.*"[45] He did not tell anyone aboard the *Silver Wave* that he had raised the British flag over the island.

In 1922 it became *cause célèbre* in the British and American press that Stefansson and company had "claimed" Wrangell Island, Alaska, as part of the United Kingdom. Anglo-American relations became strained over an island in which Great Britain had shown no interest since the discovery of Herald Island in 1849.

The Crawford party landed with provisions for only six months, saying they planned to sustain themselves with hunting. Stefansson's relief mission in 1922 was blocked by ice floes. When Harold Noice arrived aboard the relief ship *Donaldson* on 20 August 1923 only an Eskimo seamstress named Ada Blackjack survived of the original group. A new party led by Charles Wells of Uniontown, Pennsylvania, continued settlement of the island.

When Stefansson realized in 1924 that the Canadian government would not back a sovereignty claim as to *dominium directum* rights he sold his title and his *dominium utile* interests in Wrangell Island to the Lomen Brothers company of Nome, Alaska (Figures 2(a) and 2(b)). On 13 May 1924 Secretary of State Charles Evans Hughes declared that the Lomen Brothers were the owners of the island (Figure 3). On 18 June of that year, the British Colonial Secretary stated in a confidential dispatch: "The United States Government is thought to have a strong, if not indisputable, claim to the Island."[45a]

On 20 August 1924 the Soviet gunboat *Red October* landed on Wrangell Island, armed with a six-pound cannon and a company of Soviet infantry. The Soviets took Wells by force and the other thirteen Americans on the island and told them they were being taken to Alaska. Instead they were forcibly taken to Vladivostok.[46] The Soviet officials confiscated all the pelts which the trappers had accumulated during the twelve bitter months on the island.[47] Following intervention by the U.S. Consul at Harbin, Manchuria, the Soviets released the twelve Americans still living. The Bolsheviks claimed that Wells had died of pneumonia. His diary was never found.

A year later the Soviets proclaimed Wrangell Island as their territory. But in 1930 the U.S. Department of the Interior publication entitled *Boundaries, Areas, Geographic Centers and Altitudes of the United States and the Several States* expressly included Wrangell Island as an American possession. Since that time no abandonment by the U.S. of its rightful sovereignty has occurred, nor under international law could such abandonment occur following a deprivation of sovereignty by force.

Besides the abducting of Americans on Wrangell Island, the Russians violated federally promulgated Alaskan law that prohibits the exercise of foreign jurisdiction. The Alaskan Organic Act of 1884 adopted Oregon law, which in turn had adopted the Iowa Territory prohibitions against foreign governmental interference with American sovereignty.[48]

In 1973 the State Department reissued the *Hackworth Digest of International Law* which explained, "The United States has not relinquished its claim to Wrangell Island." In the centennial year of the American landing on Wrangell, the United States government's position has not changed. Captain Hooper formally claimed Wrangell Island on 12 August 1881 and the U.S. established effective occupation until the Soviet invasion.

FOOTNOTES

* Dr. Nolan Assistant Counsel to the President of the United States.

** Mr. Seidenberg is Vice-President of an American corporation, living in Seal Beach, California.

[1] The island has also been spelled Wrangel and Vrangel. The U.S. Board of Geographic names, by resolution named 29 July 1901 determined that Wrangell Island, Alaska, in the Arctic Ocean should be spelled with two l's. The island was named in tribute to Ferdinand Petrovich von Wrangell who spelled his own name with two l's when he wrote in the Roman alphabet.

[2] Dermot Cole, "Now We're Losing Wrangel Island." *Fairbanks Daily News Miner,* 1 October 1977.

[3] David Mountfield. *A History of Polar Exploration* (New York: The Dial Press. 1974), pp. 15-16. 19-20.

[4] Ibid., p. 23.

[5] Ibid., pp. 27, 33.

[6] Ibid., pp. 33-39.

[7] Leonid Vasilevich Gromov, *Oskolok Drevnei Beringi* (Moskva: Gos izd-vo geogr. lit-ry, 1960).

[8] Ibid.

[9] Lieutenant Baron Ferdinand Petrovich von Wrangell, I.R.N., *Narrative of an Expedition to the Polar Sea in the Years 1820-1823,* ed. Major Sir Edward Sabine, R.A. (London: James Madden and Co., 1840) pp. 342-359.

[10] "Wrangell Island," *The Geographical Journal,* Vol. 62, No. 6, (December, 1923), p. 441.

[11] Leopold McClintock. *The Voyage of the Fox: Discovery of the Fate of Franklin* (London: J. Murry, 1908).

[12] Bertold C. Seaman, *Narrative of the Voyage of the Herald during 1845-51,* (London: Reeve & Co., 1853), pp. 115-116.

[13] Wilhelm Heine. *Di Expedition in die Seen von China, Japan and Ochotsk under Commodore Colin Reingold und Commodore John Rodgers. in auftrage der Regierung der Jahren 1853 bis 1856* (Leipzig: H. Constenoble, 1858-59).

[14] Evgenni Evgenievich Shevde "Ostrov Vrangelya" *Morskoisornik* God 76. No. 9 (Sept. 1923) pp. i-xiv.

[15] 31 August 1852 (10 Stat. L. 100).

[16] 8 Stat. L. 252.

[17] Francisco Antonio Mourelle, *Journal of a Voyage in 1775* (London, 1781).

[18] John J. Underwood, *Alaska: an Empire in the Making* (New York: Dodd, Mead, 1913) p. 265. It should be noted that Prof. William R. Hunt of the University of Alaska, in his book. *Alaska: A Bicentennial History* (New York: W. W. Norton & Company, Inc. and Nashville: American Association for State and Local History, 1976), p. 30, erred in ascribing the ukase to "Alexander II" (Tsar Aleksandr NIkolaevich of Russia).

[19] 8 Stat. L. 302. For background information concerning counter claims of sovereignty to the Oregon County read Thomas Falconer, *Oregon Questions; or a Statement of the British Claims to the Government of the United States of America.* 2nd Ed. (London: Samuel Clerk, 1845), and Travers Twiss. *The Oregon Question Examined* (London: Longman, Brown, Green and Longman, 1846).

[20] 15 Stat. L. 539.

[21] The name Alaska was gradually established for this region by local use while the Russians officially designated it Russian America. The name Alaska was proposed for official acceptance by W. H. Seward. Non. Charles Sumner, and Maj. General H. W. Halleck after the U.S. Government took possession of the region.

[22] Bretton G. Sciaroni. *The U.S. Claim to Wrangell Island,* Contract Study (No. 1722-620057) prepared for the U.S. Department of State on February 4, 1976, p. 30. Also see, F. M. Anderson, "Memorandum" (November 25, 1924), M. S. Department of State, file 861.0144/75 and S. Wittemore Boggs "Delimination of Seward Areas under National Jurisdiction." *American Journal of International Law,* 45, No. 2 (April, 1951), p. 240. fn 2.

[23] Captain Thomas Long, "Artic Land Discoveries," *The Pacific Commercial Advertiser* (Honolulu), 9 November 1867.

[24] A Polar Continent: Reported Discovery of a Polar Continent in the Arctic Ocean," *New York Times* (7 December 1867); William W. Wheridens, "The New Arctic Continent or Wrangell's Land" (Chicago: American Association for the Advancement of Science, August 1868); K. M. Baer, "Nesholho slov po povodu novothritoy Vrangelyevshoy zemily", *Izvesti Russhovo Georgraficheshovo Obsthestva,* (1968), V4, N7, pp. 333-349.

[25] J. E. Nourse, *American Exploration in the Ice Zones,* (Boston: D. Lothrop and Company), pp. 365-66 and David Mountfield, *A History of Polar Exploration* (New York: Dial Press, 1974), pp. 123-124.

[26] Formal letters of 17 and 24 March 1877 between Secretary of War George W. McCrary and Secretary of Treasury, John Sherman, National Archives, files of the Adjutant General (Microcopy MGGG, reel No. 358).

[27] International law has also recognized the status of private individuals to claim sovereignty on behald of their country. *A* fortiori Hooper in his official capacity had no less authority regarding Wragell Island than in his validiy ordered claim of Wake Island on behalf of the United States in 1898, while in transit after the Spanish Ameircan War as a member of U.S. Pacific forces.

[28] Muir, *The Cruise of the Corwin,* pp. 140-158; Hoper, *Cruise of the Corwin,* 1881, pp. 53-54.

[29] Nelson, *Congressional Record, Senate,* 22 March 1922, p. 4261, col. 2.

[30] William Reynolds, *Congressional Record, Senate,* 25 March 1922, p. 4538, col. 2. Also included under these papers sent from the Secretary of Treasury Andrew W. Mellon to Secretary of State Charles Evans Hughes, 13 April 1922, M.S. Department of State, file 861.0144/7.

[31] Hooper, *Cruise of the Corwin,* 1881, p. 70.

[32] Wrangel Land: A Description of the Island by a Visitor" *San Francisco Chronicle* (16 August 1882). p.3.

[33] Nelson, *Congressional Record, Senate,* 22 March 1922, p. 4261, col., stated the "Rogers Party took possession of the island by right of [Captain Long's] discovery, and that was within a space of a few weeks [of the *Corwin* party taking possession for the United States Government]."

[34] In 1900 the U.S. Geological Survey, at the direction of Henry Gannett, issued U.S. Geological Survey Bulletin No. 169 which included Wrangell Island of the Arctic as part of Alaska. Gannett is known as the father of American map making, and was the Chief Geographer of the U.S.G.S., having started in 1882.

[35] Jean Denuce "les expeditions polaires depuis 1800." Bulletin de la Societe Royale de Geographie D'Anvers (Anvers: J. Van Hille-De Bocher, 1911). p. 336. Also see: Charles Herbert Stockton, "The Arctic Cruise of the USS *Thetis* in the summer and autumn of 1889." *National Geographic Magazine* (1890). v. 2. No. 3. p. 194, and D.W. Knox, Captain, U.S.N. (Ret.), letter to Lt. Comdr. F.W. Mead, U.S.N. (Ret.) dated 31 October 1933.

[36] Blossom Point was named by Lt. R.M. Berry, U.S.N. in 1881 after H.M.S. *Blossom.*

[37] L.M. Starokadomskiy, *Charting the Russian Northern Sea Route: The Arctic Ocean Hydrophic Expedition 1909-1919;* ed. and trans. William Barr, (Montreal: Arctic Institute of North America and McGill-Queen's University Press, 1976) pp. 60-64; Nikolai: Nilolaevich Alekseev, "Ostrov Vrangelya,"

Bulletin of the Far Eastern Branch of the Academy of Sciences of the U.S.S.R. (Vladivostok: 1932) No. 3-4, p. 83; L.V. Gromov, *Ostrov Vrangelya* (Magadan; 1961) p. 24; Vilhjalmur Stafansson, "The Russian Visit to Wrangel Island," appendix 9, *The Adventure of Wrangel Island*, op. cit., pp. 393-394.

[38] Vilhjalmur Stefansson, The Adventure of Wrangel Island, pp. 50-51.

[39] Order-in-Council, approved 22 February 1913.

[40] Gordon W. Smith. "The Transfer of Arctic Territories from Great Britain to Canada in 1880, and some related matters, as seen in official correspondence," *Arctic*, March, 1961, Vol. 14, No. 1, pp. 53-73.

[41] Bartlett, *The Last Voyage of the Karluk*, op. cit., p. 173.

[42] The note of 13 November 1916 stated in part:

"Le Government IMPERIAL profite de cette occasion pour faire ressortir quil considere aussi comme faisant partie integrante de l'Empire les iiles Henriette, Jeannette, Bennett, Herald et Oujedinemia, qui forment avee iiles Nouvelle Siberie, Wrangel et autres situees pres la cote asiatique de l'Empire, une extension vers le nord de la plate forme continentale de la Siberie.

Le Government IMPERIAL na pas juge necessaire de joindre a la presente notification les iles Novaia Zemlia, Kologouev. Kolgouev, Waigatch et autres de moindres dimensions situees pres la cote europeene de l'Empire, etant donne que leur appartenance aux territories de l'Empire se trouve depuis des siecles univesellement reconnue.

[43] "It should be noted that unsupported claims advanced by the Imperial Russian Government in the above note were rejected by the United States in 1902, as part of the "Whaling and Sealing Claims Against Russia." Herbert H. D. Peirce, *Foreign Relations of the United States, 1902*, Appendix 1, (Washington, GPO, 1903), pp. 18 and 107. Fedor Fedorovich Martens, the legal counsel for the Imperial Russian Ministry of Foreign Affairs, rejected the notion that Russian sovereignty extended northward into the Arctic. He contended that the marginal seas north of Russian mainland were *Mare Liberum* from the judicial point of view. F. F. Martens, "Du territoire de l'etat", *Traite de droit international*, trans. Alfred Leo, Paris: 1883) v. 1, pp. 495 496.

[44] Stefansson, *The Adventure of Wrangel Island*, op. cit. p. 95.

[45] Ibid. pp. 128-131.

[45a] Colonial Secretary to Governor General: confidential dispatch No. 537. Cited in Bretton G. Sciaroni. *The U.S. Claim to Wrangel Island*, Contrast Study No. 1722-620057 prepared for the Department of State on February 4, 1976, p. 15.

[46] Affidavit of 22 March 1977 by Hilda Koonuknowrunk Weber, one of the American prisoners.

[47] *Japan Advertiser*, 27 January 1925.

[48] On 7 May 1884 the U.S. Congress passed "An Act providing a Civil Government for Alaska", c. 53, 23 *Stat. at Large 24*. That act adopted Oregon law providing it does not conflict with other provisions of Alaskan law. This Act extended to Alaska "An Act Adopting the Statutes and Laws of the Territory of Iowa and the Common Law." *Oregon Acts and Laws Passed by the House of Representatives at a Meeting Held in Oregon City, August, 1845* (New York: N.A., Phemister Company, 1921) p. 16. It should be remembered that the Act of 12 August 1845 became part of the laws of the Territory of Oregon through "An Act to Establish the Territorial Government of Oregon", of 14 August 1848. c. 177. *Stat. at Large 323* (known as the Oregon Organic Act. Laws of the Territory of Iowa, passed at the Extra Session of the Legislative Assembly, begun and held in the City of Burlington: J. H. M. Kenny, 1840, and Des Moines: Historical Department of Iowa, 1902) c. 85.

EXHIBITS 3

THE VOYAGE OF THE JEANNETTE—THE SHIP AND ICE JOURNALS OF GEORGE W. DELONG, LIEUTENANT-COMMANDER U.S.N., AND COMMANDER OF THE POLAR EXPEDITION OF 1879-1881

The party landed on the island on Thursday, June 2d (Friday, June 3d), hoisted our silk flag, took possession of the island in the name of the Great Jehovak and the United States of America, and, agreeably to my orders, named it Henrietta Island. They build a cairn and placed within it the record which I send with them, and made as much examination of the island and search for vegetation as their limited stay would permit. The island is a desolate rock, surmounted by a snow-cap, which feeds several discharging glaciers on its east face. Dovekies, nesting in the face of the rock are the only signs of game. A little moss, some grass, and a handful of rock were brought back as trophies. The cliffs are inaccessible, because of their steepness. The ice between the ship and the island is something frightful. Road-digging, ferrying, and is attendant loading and unloading, arm-breaking hauls, and panic-stricken dogs made their journey a terribly severe one. Near the island the ice was all alive, and Melville left his boat and supplies, and carrying only a day's provisions and his instruments, at the risk of his life went through the terrible mass, actually dragging the dogs, which from fear refused to follow their human leaders. If this persistence on landing upon this island, in spite of the superhuman difficulties he encountered, is not reckoned a brave and meritorious action, it will not be from any failure on my part to make it known. I issued a general order communicating the names and positions of the two islands: Jeannette Island (our discovery of May 16th), in latitude N. 76°, longitude E. 158° 56'; and Henrietta Island (our discovery of May 24th), in latitude N. 78° 8', longitude E. 157° 43'; and in the evening I ordered a double ration of whiskey served out forward. At ten a.m. I read the Articles of War and inspected the ship, and at 1:30 p.m. I read divine service.

EXHIBIT 4

GEOLOGICAL SURVEY NO. 187 SERIES F, GEOGRAPHY, 27

Bennett; island, in the Arctic ocean, north of the New Siberian islands. Discovered by De Long, in 1881, and named by him, after Mr. James Gordon Bennett.

Henrietta; island, in the Arctic ocean, north of the New Siberian islands. Discovered and so named by De Long in 1881.

Herald; island (856 feet high), east of Wrangell island, Arctic ocean. Discovered and landed upon in July, 1849, by Captain Kellett, of H.M.S. *Herald* and named by him after his ship.

Jeannette; island, northeast of the New Siberian islands, Arctic ocean. Discovered by De Long, in 1881, and named by him after his ship *Jeannette*.

Wrangell; island, off the northern shore of Siberia, northwesterly from Bering strait. The existence of this land was reported by natives, in March and April, 1823, to Baron von Wrangell, who then made an unsuccessful search for it. It was first clearly seen and its shore delineated by Capt. Thomas Long, of the New London whaling bark *Nile*, in August, 1867, and by him called Wrangell's Land. From that date to 1881 it was shown on maps as the south end of a tract extending indefinitely northward and, by some, thought to connect with Greenland across the north pole. Its insular character was established by Berry, in 1881, and since that time it has borne the name of Wrangell island. Possibly Plover island of Kellett, in 1849, may be some peak of this island seen from afar.

EXHIBIT 5

BOUNDARIES, AREAS, GEOGRAPHIC CENTERS AND ALTITUDES OF THE UNITED STATES AND THE SEVERAL STATES

WRANGELL ISLAND

Wrangell Island is in the Arctic Ocean, about 100 miles from the Siberian coast. A harbor in the southeastern part is in latitude 70° 57' N. and longitude 178° 10' W. The island is about 80 miles long and 30 miles wide; its highest point is 2,500 feet above sea level. It was sighted in 1867 by the captain of a United States sailing vessel. In 1881 officers from United States naval vessels landed on the island and claimed it for the United States.[1] According to newspaper reports of October 4, 1926, the Soviet Government had landed a colony of 50 persons on this island, hoisted the Russian flag, and claimed it for that country. An airplane survey is said to have been made and the area found to be 2,925 square miles.

BENNETT, HENRIETTA, AND JEANNETTE ISLANDS

Bennett, Henrietta, and Jeannette Islands were discovered by the DeLong polar expedition and claimed for the United States in 1881, but were only partly explored.

Bennett, the largest of the three, is about 300 miles from the mainland of Siberia, in latitude 76° 38' N., approximate longitude 149° E. This island probably has an area of several hundred square miles, possibly more than 1,000, and altitudes above sea level of 300 feet or more.

Henrietta Island is in latitude 77° 8' N., longitude 157° 45' E., and Jeannette Island in latitude 76° 47' N., longitude 158° 56' E.; each has an area of approximately 50 square miles and an altitude of more tha. 500 feet.[2]

EXHIBIT 6

[From the Laurinburg (NC) Exchange, June 5, 1985]

U.S. CONSIDERS RELINQUISHING CONTROL OF ALASKAN ISLANDS

"The State Department appears ready and willing to surrender five strategic Alaskan islands and hundreds of thousands of square miles of oil-rich Alaskan outer continental shelf to the Soviet Union without full public debate and Senate ratification of a treaty," according to Carl Olson, Executive Vice President of The Conservative Caucus Research, Analysis & Education Foundation, Inc., of Vienna, Virginia.

"This giveaway of literally billions of barrels of America's oil reserves and Alaskan sovereign territory makes the Panama Canal fiasco look insignificant in comparison," Olson declared.

This giveaway was the subject of a high-level State Department delegation which went to Moscow for the week of July 23-27, headed by the department's Legal Adviser Davis Robinson and supported by his staff members Elizabeth Verville and Scott Hajost, and by Harry Marshall and Richard T. Scully of the department's Bureau of Oceans and International Environmental and Scientific Affairs, and by Robert W. Smith of the office of the Geographer.

The enormous size of the giveaway of strategic oil reserves is reflected in official Department of the Interior estimates. The oil-rich outer continental shelf off Alaska is equal in area to six Californias—or three-quarters of the entire U.S. outer continental shelf. Seabeds equal to about twice the size of California lie to the east of the 1867 Convention Line, and seabeds equal to about

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[1] See Arctic Pilot, vol. 1, p. 338, 1917; U.S. Geol. Survey Bull. 299. p. 682, 1906; U.S. Hydrographic Office Chart 906; and Problems of polar research, p. 241, New York, Am. Geog. Soc., 1928.

[2] For further information regarding these islands see The voyage of the *Jeannette*, ed. by Emma DeLong. vol. 2, pp. 679-689, Boston 1883, and 47th Cong., 2d sess., H. Ex. Doc. 108, p. 361, 1883.

four Californias lie to the west in the vicinity of the Alaskan islands of Wrangell, Herald, Bennett, Heneritta, and Jeannette. The estimated hydrocarbon reserves of the seabeds to the east of the 1867 Convention Line are 12.2 billion barrels of oil equivalent. (The Navarin Basin alone contains 1.9 billion barrels of reserves.) To the west of the 1867 line, which has twice the area, the reserves have not been officially estimated, but it would not be unreasonable to place them at twice the amount for the area to the east of the line. Or, in other words, the State Department is contemplating giving away about 25 billion barrels of oil equivalent to the Soviets.

The State Department's basis for the giveaway involves its novel (and incorrect) portrayal of the "U.S.-Russia Convention Line of 1867", which was used in the purchase of Alaska from Russia in 1867 for $7,200,000.

This stance by the State Department appeared in the Federal Register notice of the leasing of the Navarin Basin (p. 10065, March 16, 1964). In paragraph 16, under the heading "Jurisdiction", was the following language: "The differing claims relate to differing depictions of the line established by the 1867 Conventions Ceding Alaska between the United States and Russia. The United States depicts the 1867 Convention Line as the maritime boundary by arcs of great circles while the Soviet Union depicts the 1867 Convention Line as rhumb lines." There is no question in the State Department's position that the 1867 Convention Line is "the maritime boundary".

Contradicting this characterization is a mass of historical evidence and even the State Department's own words. In the State Department's International Boundary Study No. 14 (revised 1965) on "U.S.-Russia Convention Line of 1867", the language is very clear:

"Rather than a boundary per se, this report concerns a convention line which ordinarily appears on official maps in the same manner as a boundary * * *

"Furthermore, in keeping with the policy that the line does not constitute a boundary, the standard symbol for the representation of an international boundary should never be used."

So far, the State Department has failed to explain how the United States has relinquished its claim to the islands and seabeds between 1965 and 1984. No treaty, agreement, or other public understanding had been cited for this surrender of American sovereignty.

Even as late as 1978 the noted authority Dr. William E. Butler, Professor of Comparative Law at the University of London, wrote in the book International Straits of the World, Volume 1 "Northeast Artic Passage as follows: "The Russo-American Convention Line of 1867 is not regarded as a state frontier, and the continental shelf boundary in the Chukchi Sea and northward remain to be negotiated."

The five Arctic Alaskan Islands—Wrangell, Herald, Bennett, Henrietta, and Jeannette—were never considered in the purchase of Alaska. Four has not yet been discovered in 1867. Americans discovered and claimed them on Arctic expeditions in following decades. Herald Islands was discovered and claimed by the British in 1849, and was later acquired by the United States.

Bennett, Henrietta, and Jeannette Islands were discovered and claimed by U.S.N. Commander George Washington DeLong aboard the Jeannette in the 1879-81 expedition. The islands still bear his name (the DeLong Islands), and the U.S. Naval Academy in Annapolis has a monument to that expedition.

Wrangell Island, the largest of the five with an area of 2,800 square miles (the size of Rhode Island and Delaware combined), was discovered and claimed on August 12, 1881, by Captain Calvin Leighton Hooper aboard the U.S. Revenue Marine (Coast Guard) ship Thomas Corwin. Among the landing party on Wrangell Island was the famed explorer John Muir, who wrote of his trip in the book. The Cruise of the Corwin. Various surveys, expeditions, and settlements were made on Wrangell Island in the next four decades by Americans. This ended when the Soviet Union invaded the island with a landing of infantry from the ship Red October on August 20, 1924, and took as prisoners the 14 Americans of the Lomen Brothers Company's fur settlement and confiscated all the gear, pelts, and other property. The 12 surviving Americans were eventually released from their imprisonment in Vladisvostok. the Soviets currently maintain slave labor camps on the island.

It is significant to note that in the State Department's reissue of the book Digest of International Law by Green Haywood Hackworth in 1973, the unequivocal settlements is made:

"The United States has not relinguished its claim to Wrangell Island."

Numerous efforts by various parties, including the owners of Wrangell Island, have been made over the decades to take back their property and collect damages for the unlawful occupation by the Soviet Union. Unfortunately, the State Department has not seen fit yet to honor those claims or even the decision by the Foreign Claims Settlement Commission in 1959 in favor of the Lorne Brothers.

"This impending giveaway of the five islands and the enormous tracts of oil-rich outer continental shelf to the Soviets demands the most searching public scrutiny and debate. It must be made in issues for a national decision-making," Olson stated. "The State Department is not empowered to surrender American real estate and seabeds. Only the Congress has that power. It must be brought up in the form of a treaty, signed by the President, and debated and ratified by the Senate in order to receive the full force of law. The Constitution cannot be ignored in this potentially massive cession of strategic American interests so close to home."

In an ironic comparison with the apparent lenient attitude that the State Department has exhibited toward the Soviets over the seabed boundaries, the State Department has adopted a hardline position toward our ally Canada in the Arctic. This position came to light with the leasing on August 22 of the Diapir Field which borders Canada. The Federal Register announcement of July 23, 1984 (p 29726) noted a "Jurisdictional Dispute" with Canada over some of the blocks being offered. Although the notice did not say so explicitly, the U.S. position is that the seabed boundary should reflect the requidistant" theory of boundaries, while this dispute continues, the three petroleum companies which bid on these leases (Union Oil Co. of Calif., Amoco Production Co. and Shell Western E & P Inc.) will have their bid money deposit lie in escrow. Their total winning bids for the four blocks totalled $6,105,000—a substantial affirmation of the rich nature of the Arctic Alaskan outer continental shelf.

SENATE RESOLUTION 21—RELATING TO THE IMPLEMENTATION OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 21

Whereas Canada and the United States maintain the largest bilateral trading relationship in the world, exceeding $180,000,000,000 in 1988;

Whereas Canada and the United States first signed a free trade treaty in 1854, even before Canada's independence from Great Britain;

Whereas as a result of the hostilities created by the United States Civil War, the 1854 treaty was abrogated by the United States in 1865;

Whereas efforts to restore free trade between Canada and the United States in the 1870's, 1880's, and the 1890's failed to produce an agreement;

Whereas as subsequent effort produced a treaty in 1911, but the Canadian Government of Prime Minister Sir Wilfred Laurier was defeated in an election that determined Canada would not ratify the treaty;

Whereas Canada and the United States were leaders in the formation in 1947 of the General Agreement on Tariffs and Trade, which promotes the liberalization of world commerce;

Whereas Article XXIV of the General Agreement on Tariffs and Trade, which permits the negotiation of free trade area agreements between contracting parties, was drafted against the background of further negotiations between Canada and the United States in 1947 on a possible free trade agreement;

Whereas Canada and the United States successfully implemented an agreement in 1965 that liberalized bilateral automotive products trade;

Whereas on March 17, 1985, President Reagan and Prime Minister Mulroney met in Quebec City and established the goal of a more secure bilateral trade relationship;

Whereas on September 26, 1985, Prime Minister Mulroney announced that Canada would pursue a free trade agreement with the United States;

Whereas on December 10, 1985, President Reagan notified the Congress of his intent to seek an agreement with Canada under the "fast track" negotiating authority and the Committee on Finance of the Senate agreed to such authority in a 10 to 10 vote on April 23, 1986;

Whereas on Janaury 2, 1988, the agreement was signed by President Reagan and Prime Minister Mulroney;

Whereas on September 19, 1988, the Senate passed the implementing legislation by a vote of 83 to 9;

Whereas after an electoral victory by the Progressive Conservative Party of Prime Minister Mulroney on November 21, 1988, the House of Commons and Senate of Canada adopted legislation to implement the free trade agreement; and

Whereas the United States-Canada Free-Trade Agreement became effective on January 1, 1989; Now, therefore, be it

Resolved, That it is the sense of the Senate that—

Whereas

(1) President Reagan and Prime Minister Mulroney are recognized and commended

for their great leadership and courage for signing an agreement that culminates over a century of effort to restore bilateral free trade;

(2) the United States negotiators of the free trade agreement with Canada, including Clayton Yeutter, James Baker, Peter Murphy, and William Merkin, deserve the sincerest congratulations and gratitude of the people of the United States for their successful efforts; and

(3) the Federal Government and its agencies should undertake an effort to educate and assist businesses and individuals in the United States to take full advantage of the commercial opportunities provided by the implementation of the historic free trade agreement with Canada.

● Mr. MOYNIHAN. Mr. President, the term historic is often overused. Particularly, here in the Senate. But that is precisely the nature of the free trade agreement with Canada that became effective on January 1, 1989. In my view, it is the most important bilateral free trade agreement in history, and I rise today to introduce a resolution that recognizes its importance and those, including President Reagan and Prime Minister Mulroney, who were responsible for its negotiation.

The saga that has brought us to the January 1 implementation was difficult. It was also long.

Ultimately, the question of implementation involved an election in Canada, after the appointed Senate of the Canadian Parliament refused to act upon the Canadian implementing legislation.

Not since the British constitutional crisis of 1909 to 1911 has an unelected body of a Parliament blocked such a major legislative program of a House of Commons. Rather than surrender his program to a veto by the House of Lords, Primer Minister Asquith called an election in 1910, and he was returned to power. In the end, the House of Lords capitulated rather than risk having their power diminished further.

The Canadian public followed the British precedent when they returned Mr. Mulroney to office with a majority government on November 21, 1988. As a result, the Canadian House of Commons and Senate adopted the necessary legislation, and the free trade agreement has become a part of history.

The primacy of the free trade agreement in Canada's political debate underlines its profound nature—and its significance to that most important country in the world to us—Canada.

I had the honor of making the motion to report the legislation from the Finance Committee that implemented the free trade agreement with Canada. As the second ranking member of the Finance Committee, I battled long and hard to keep this process moving. In the end, I even had to assure Canadians during their election campaign that under no circumstances would this trade agreement impinge on the nature of their or our social welfare programs.

In reality, this free trade process was initiated over 100 years ago.

Consider that in 1954—even before the independence of Canada from Great Britain—the Governor General of Canada, Lord Elgin, and William L. Marcy, the United States Secretary of State and a former Governor of New York, negotiated a reciprocity treaty. In fact, the initiative for the treaty was launched by President Millard Fillmore in late 1852. Who says tha Fillmore, the lawyer from Buffalo, did little of significance?

The treaty was passed, but the United States abrogated it in 1866, largely because of antagonisms sparked by Great Britain's conduct during the Civil War.

New efforts at a treaty were made in 1871. This time Secretary of State Hamilton Fish, also a New Yorker, was responsible for the negotiations. A draft treaty failed to obtain Senate interest or ratification in 1875, and not long thereafter Canada adopted the highly protectionist "National Policy."

Sporadic interest in free trade again surfaced in the 1880's and 1890's. But the next serious effort was in 1911. An agreement was negotiated in a matter of weeks. This time the Congress was enthusiastic about the agreement—perhaps a bit too enthusiastic. The Speaker of the House, Champ Clark, announced that in his view the agreement was the best way to ensure that the American flag would fly over Canada.

Fear of domination and the new resistance of Canadian manufacturing industries that had grown up behind the high tariffs of the National Policy caused the Laurier government to fall and be defeated over the proposed agreement.

Indeed, the political courage of Prime Minister Mulroney to embark upon the course of free trade given this lesson of Canadian history makes this agreement all the more dramatic.

But, as if this history were not enough, there is more. We must recall that in the wake of the protectionism of the Great Depression, it was Canada and the United States which led the way toward renewed liberalization.

The steps were small at first, tariff agreements in the 1930's and a farm implements agreement during the war.

However, as the GATT system of open trade emerged in 1947, Canada and the United States again considered the possibility of a broad free trade agreement. This time the negotiations were in secret, to avoid the political sensitivity in Canada. They failed at the last minute.

But, they left an important legacy: Article XXIV of the GATT. The same article on free trade areas that forms the basis of this agreement in 1989, some 40 years later. Article XXIV was initially drafted with the possibility of a U.S.-Canada Free Trade Agreement firmly in mind.

Not long thereafter, Canada and the United States did negotiate in 1964 a sectoral free trade agreement in automotive products. It was partly the succeess of this experience that gave Canadians the confidence to negotiate the comprehensive agreement that is now in place.

The latest effort emerged out of the Shamrock Summit between President Reagan and Prime Minister Mulroney in March 1985. By September 1985, Prime Minister Mulroney had decided to proceed toward a full scale free-trade agreement, and the President notified the Congress of his intent to begin negotiations in December of the same year.

However, the Senate almost rejected fast track authority for the negotiations, when the Finance Committee voted 10 to 10 on whether to proceed. In this case, the tie fortunately failed to stop the negotiations. But concerns about lumber subsidies and other annoyances with the administration almost caused this initiative to be stillborn. Chief among them was the worst trade deficit in history.

Fortunately, the negotiations proceeded, and ultimately succeeded. But not before a dramatic staged walkout by the Canadian delegation and some frantic last minute drafting to complete the agreement before the President's negotiating authority expired last January.

Still, politics once again threatened to undermine congressional approval of the agreement. First, because a number of Members felt their States have something to lose in the agreement. It could hardly be an agreement if there were not some losers to go along with the vast number of winners.

And second, because Members were upset by the initial veto of the Omnibus Trade bill over plant closing notification. The resulting resentment was seen to threaten congressional approval of the free trade agreement with Canada.

However, I always believed that cooler heads would previal. The President accepted both the plant closing legislation and the omnibus trade bill. And the Congress voted overwhelmingly to implement the free-trade agreement, and ratify more than a century of effort.

Even so, we had to await the outcome of contending political forces in Canada. In the end, the Canadian people boldly chose the agreement, rather than rejecting it and adding one more example of failure to the historic record.

After all, this agreement is positive for both nations, and it is a boost for

the world trading system. Indeed, the total agreement is in many ways much more significant than the sum of its parts.

We cannot too often remind ourselves that there is no country in the world more important to us than Canada. We share the world's longest undefended border, and a profound commonality of goals and aspirations. Not to mention the world's largest trading relationship.

We export more to the Province of Ontario alone than we do to Japan. Our two-way trade of $180 billion in 1988 was roughly equivalent to the entire GDP Of the Netherlands, or one-third the entire GDP of Canada.

Thus, although we are as interdependent as two nations can be, we must be careful to recall that our relationship with Canada cannot be overlooked. It needs the same attention and work as any other—perhaps more. The agreement before us recognizes our need to build on this most important relationship.

The main elements of the agreement are now probably well known. Tariffs will be eliminated over 10 years. And since Canadian tariffs average over twice those of American tariffs, United States manufacturers should stand to gain increased access to Canadian markets. Tariff elimination should be particularly beneficial for New York's manufacturers of computers, telecommunications equipment, textiles and apparel, furniture and automotive parts.

Canadian investment restrictions will be reduced. United States financial services companies will have greater operating opportunities in Canada. In particular, I am pleased Canada agreed to eliminate the so-called 10/25 rule, which limited the amount of foreign investment in financial services firms. For New York companies, we forsee further success in banking, insurance, and other services.

The agreement also ensures long-term, nondiscriminatory access to Canadian energy supplies. Access to inexpensive Canadian hydroelectric power will significantly reduce energy costs for New York and othr States. I made it a top priority to assure that under the terms of the implementing legislation that New York's hydro imports would not be subject to any restraints on this side of the border.

Still, a number of New York interests remain to be addressed. Canadian restrictions on cultural industries are one. There was some progress. Canada did agree to protect satellite retransmissions. This means that TV stations in Buffalo and Rochester should be paid royalties for programs used by Canadian stations.

A greater North American content requirement for automotive products is another area where work remains to be done. We need a 60-percent requirement, and I hope that United States and Canadian negotiators will soon achieve such a change. We were able to insist on some modifications to the auto pact to maximize the opportunities for United States auto parts producers. And we will see to it that the Customs Service adequately enforced the rule of origin requirements under this agreement so that third countries do not inappropriately benefit.

Overall, it is a very, very fine agreement. The President, Secretary Baker, Ambassador Yeutter, Ambassador Murphy, Deputy Assistant U.S. Trade Representative William Merkin, and all of the other United States negotiators deserve much congratulations. This resolution recognizes their historic contribution. It also calls upon the agencies of the Federal Government to educate and assist United States businesses to take full advantage of the commercial opportunities provided by this agreement.

The studies I have seen, including those by the United States Department of Commerce, the New York State Department of Economic Development, and the Port Authority of New York and New Jersey, conclude that New York will realize significant benefits from the increased trade with Canada which surely will follow the implementation of the agreement.

New York State, as both a center of manufacturing and services exports, is in a unique position to reap the benefits of the agreement with Canada. New York City and Buffalo provide much of the approximately $20 billion in annual United States service exports to Canada. The agreement protects United States service industries against discriminatory treatment.

Meanwhile, upstate New York provides two-thirds of New York's manufactured exports to Canada, with the Rochester area, Monroe County, being the major hub. New York's manufactured exports to Canada represent over 130,000 jobs, and this number should grow under the agreement.

Still, New York industries and workers can expect some increased competition from Canada, and some adjustment will be necessary. Consequently, as I have in the past, I call upon the administration to review the adjustment needs of United States industry that will occur from the agreement, and to adopt a strategy to deal with them. A commitment to adjustment on the part of the administration remains the only method to assure long term support for trade liberalization.

In closing, let me also recognize the great leadership that New Yorkers have shown in support of the free trade agreement. It has been James Robinson, chairman of the American Express Co. of New York, that has organized the business community in support of the agreement.

The Buffalo community has also been enthusiastic about the agreement. Buffalo, I am certain, will emerge as an even greater center of investment, tourism, customs, shipping and marketing activity. This is entirely fitting. Since it was, after all, the vision of a celebrated citizen of Buffalo, President Fillmore, who in 1852 first set us on the path that has brought us to the free trade agreement that is recognized by this resolution.

Historic, indeed!

Mr. President, I urge the Senate to immediately and favorably consider this resolution.●

SENATE RESOLUTION 22—REGARDING THE AMERICAN CIVIL DEFENSE SYSTEM

Mr. SYMMS submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 22

Whereas in this age of nuclear, energy the people of the United States are endangered by nuclear war, nuclear terrorist attacks, and nuclear accidents;

Whereas in the event of nuclear war the people are in the additional danger of starvation during the time before acquisition and food transportation can be restored;

Whereas blast and radiation shelters and food storage methods have been invented which can protect people from these nuclear dangers without evacuation;

Whereas blast and radiation shelters and food reserves have been built to protect the peoples of Switzerland, the U.S.S.R. and some other countries;

Whereas this United States Government has been established to provide for the common defense of the people;

Whereas at present no defensive blast and radiation shelters or distributed food reserves have been built for most of the people in the United States;

Whereas the Department of Defense and the Department of Agriculture have the knowledge and resources to provide this essential protection: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States Department of Defense with the cooperation of the Department of Agriculture should provide immediately to this Congress a report on a program for the building of nuclear blast and radiation shelters and for the storage of at least one year's supply of food for every civilian and every military person in the United States within walking distance of their houses and places of work.

● Mr. SYMMS. Mr. President, when our Founding Fathers charged this Government to "provide for the common defense," they could not have known the awesome burden that charge would place upon us in this nuclear age.

The dangers of nuclear accidents or nuclear terrorist attack and the nearly unimaginable danger of nuclear war preoccupy our thoughts and inject a pervasive element of fear into all of our deliberations. These are dangers

for which a "common defense" is very difficult.

Our enemies know of our fears and seek to exploit them.

Fear, however, does not relieve us of our responsibilities to our country, our people, and our oath of office. It does not relieve us of our responsibilities to posterity as today's guardians of the God-given rights of all peoples to life and liberty.

The same scientists and engineers who have given us the nuclear age have also provided us with means of defense against nuclear disaster for our homeland and our people. There are two elements in that defense—strategic defense and civil defense.

We in this Senate have been divided over the deployment of strategic defense, because it is a new and complicated subject. Certainly, we cannot be divided over the necessity to protect the American homeland.

Civil defense on the other hand, is much less complicated. The several billion dollars' worth of research which we have funded over the past 40 years has definitively proved that our people can be effectively sheltered from the effects of nuclear weapons and can be sustained in the months and years following a nuclear war. Moreover, if one terrorist, with one bomb, comes to one American city, civil defense alone could reduce the casualties by tenfold or more.

This is the knowledge that has caused the people of Switzerland, Sweden, Finland, the U.S.S.R., and the People's Republic of China to commit over 500 billion dollars' worth of resources to the building of civil defense systems and provisions.

These civil defenses have lowered those peoples' fear of nuclear disaster lowered the military danger of a preemptive first-strike and lowered the probability of war.

Today I am entering for your consideration a sense of the Senate resolution concerning civil defense. The resolution expresses our interest in this subject and asks the Departments of Defense and Agriculture to give us the information which we should have about state-of-the-art civil defense.

I believe that we shall find at least some elements of civil defense—such as the proper dispersal of our existing national grain reserves—to be sensible and economically reasonable. Other elements—such as a national shelter system—may seem to be beyond our reach. We must, in any case, have the most complete information on this subject.

Governments representing 30 percent of the people on this Earth and including those of our enemies have chosen civil defense as a primary means of assuring the survival of their people and their nations.

I am sure that you will join me in my belief that the Senate of the United States should give reasonable consideration to the relative merits of a civil defense system for the American people.●

SENATE RESOLUTION 23—RELATING TO CONGRESSIONAL PAY RAISES

Mr. HUMPHREY submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 23

Resolved, That (a) no Senator may accept any increase in the rate of pay such Senator receives unless the Senate has affirmatively approved such increase by a roll call vote.

(b) A Senator shall return to the Treasury any increase in pay paid to a Senator in violation of subsection (a).

SENATE RESOLUTION 24—RELATIVE TO FUTURE FUNDING FOR AMTRAK

Mr. LAUTENBERG (for himself, Mr. SARBANES, Mr. PELL, Mr. EXON, Mr. SIMON, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. BIDEN, Mr. ADAMS, Mr. BRADLEY, Mr. HEINZ, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transporation:

S. RES. 24

Whereas Amtrak, the National Railroad Passenger Corporation, was established by the United States Congress in 1971 to assume operation of rail passenger services in this country;

Whereas Amtrak now operates 220 trains daily over a 24,000-mile route system, and also owns and controls the high speed Northeast Corridor rail line between Washington, D.C., and Boston, Massachusetts;

Whereas Amtrak has and will continue to reduce its dependence on Federal funding which has declined from $896.3 million in fiscal year 1981 to $584 million in fiscal year 1989, a reduction of over 50 percent in constant dollars;

Whereas Amtrak covers an increasing percentage of its total costs from its own revenues, and the revenue-to-cost ratio has improved from 48 percent in fiscal year 1981 to 69 percent in fiscal year 1988 and a projected 70 percent in 1989;

Whereas Amtrak revenues in fiscal year 1988 were $1.1 billion, and increase of 14 percent over 1987, which resulted from increases in transportation, real estate, mail and express, and corporate development revenues over fiscal year 1987;

Whereas Amtrak provided transportation for more than 21.5 million intercity passengers in fiscal year 1988;

Whereas Amtrak generated 5.678 billion passengers miles in fiscal year 1988 and the ratio of passenger miles per train mile (an indicator of the number of passengers riding the average train one mile) increased from 177 in fiscal year 1987 to 189 in fiscal year 1988, reflecting the increased density of passengers on Amtrak trains;

Whereas Amtrak is an ongoing business and any drastic reduction in public support, or the elimination of Federal funds, would force the corporation into bankruptcy and threaten the end of rail passenger service across the country;

Whereas the Federal, and State governments have invested heavily to modernize Amtrak facilities, purchase new rolling stock, and upgrade the high speed Northeast Corridor, which raised the value of Amtrak's net assets to over $3 billion, all of which would have to be sold at scrap value if rail passenger service were eliminated;

Whereas some 22,800 Amtrak employees in 44 States would become unemployed if the corporation received no public funds and was forced into bankruptcy;

Whereas termination of rail passenger service would trigger $2.5 billion in Amtrak liability to pay labor protection to affected employees, and if Amtrak is rendered insolvent, labor would turn to the United States Government for payment of these claims;

Whereas an Amtrak shutdown of the Northeast Corridor would drastically increase the cost, and disrupt the provision of daily commuter service by New Jersey Transit, the Southeastern Pennsylvania Transportation Administration, the Maryland Department of Transportation, and the Massachusetts Bay Transit Authority, for the approximately 180,000 people per day who use these carriers over Amtrak owned and operated rail lines in Washington, D.C., Maryland, Pennsylvania, New Jersey, Delaware, New York, and Massachusetts;

Whereas the shutdown of the Northeast Corridor would disrupt freight service provided by Conrail and other carriers on the corridor, which serve numerous businesses including General Motors, Ford, Chrysler, Dupont, General Foods, and General Electric;

Whereas Amtrak carries more than twice as many passengers between and among the Northeast Corridor stations of New York, Newark, Philadelphia, Wilmington, Baltimore, and Washington, than all airlines combined, and over one third of all air and rail passengers daily between Washington, D.C., and New York alone;

Whereas a shutdown of intercity rail service in the Northeast Corridor would strain already busy and overcrowded airports along the Atlantic seaboard;

Whereas Amtrak provides needed transportation for lower income and elderly travelers and serves numerous locations that have no other means of public intercity transportation;

Whereas both Amtrak's labor and management workers have made efforts to improve productivity, and as such, Amtrak will be the first railroad in this country to operate its trains nationwide under totally revised and modernized work rules;

Whereas all major industrialized Western nations have taken pride in establishing rail service and publicly funding their passenger systems;

Whereas Congress has consistently supported a balanced national transportation network, including the financial support of various modes of transportation, making this country the most mobile in the world and making travel available to persons of all income levels;

Whereas part of this balanced transportation system established by Congress has included the provision of intercity rail passenger service; and

Whereas Congress has voted numerous times to authorize and to appropriate sufficient funds to operate a national rail passenger system and has rejected efforts to eliminate Federal funding for Amtrak: Now, therefore, be it

Resolved, That it is the sense of the United States Senate that—

(1) Amtrak should be supported by the Federal Government at a level that will enable it to continue to operate a national railway system and to continue the progress that has been made to improve its financial performances and service levels; and

(2) the Secretary of Transportation and the Administrator of the Federal Railroad Administration should work closely with Amtrak management to—

(A) identify areas and assist in implementating changes that will further lower Amtrak's dependence on public funding without adversely affecting service; and

(B) insure that safety is given the highest priority possible as part of management's responsibility to provide rail passenger service.

SEC. 2. The clerk of the United States Senate shall transmit a copy of this resolution to the President with the request that the President further transmit copies of this resolution to the Secretary of Transportation and the Administrator of the Federal Railroad Administration.

● Mr. LAUTENBERG. Mr. President, I rise today to introduce a sense of the Senate resolution reaffirming the support of this Body for the National Railroad Passenger Corporation, better known as Amtrak. I'm pleased to be joined today by Senators SARBANES, PELL, EXON, SIMON, MOYNIHAN, GRASSLEY, BIDEN, ADAMS, BRADLEY, HEINZ, and DODD.

Mr. President, the Reagan administration will be remembered for many things. Some good, some bad. One thing this Senator, along with the millions of Americans who depend on passenger rail service, will remember is the 8-year effort to derail Amtrak.

I'm pleased to say that Amtrak has survived this onslaught. In spite of the repeated attempts of the Reagan administration to kill Amtrak, it continues to serve record numbers of passengers. Recognizing the importance of passenger rail service, the Congress has continued to find Federal funds to keep Amtrak alive.

Amtrak is a vital link in our national transportation network. To deny funds for Amtrak is to deny the importance of such a network. That's the policy the Reagan administration endorsed. It's a policy that did not make sense for the last 8 years, and doesn't make sense now.

Let's look at the facts. In 1988, Amtrak served 21.5 million people over 24,000 miles of track in 44 states. Almost 5.7 billion passenger miles were generated in fiscal year 1988, an increase of almost 9 percent over the previous year. In addition, approximately 180,000 commuters in a number of States depend on Amtrak's rails each and every day.

A major percentage of Amtrak's passengers travel in the Northeast Corridor. The importance of Amtrak in my region can hardly be overestimated. Amtrak carries more passengers among the points between Washington and New York than all the airlines combined. Carrying 3,800 passengers each day, Amtrak has become the single largest provider of point-to-point service between Washington and New York.

In my State, thousands of commuters rely on Amtrak service and facilities each day. Without Amtrak, New Jersey would face major disruption of service, or fare increases that would make rail commutation unavailable for those who need it most.

Amtrak service is an indispensible asset. Our roads and airways simply could not absorb the passenger load if Amtrak were eliminated, as has been proposed; for example, it would require over 50 additional flights each day between Washington and New York to handle those passengers now using Amtrak. It is clear that capacity just does not exist.

Amtrak is a tremendous success story. Its growth and success have come in the face of major budgetary constraints. From fiscal year 1981 to fiscal year 1988, Federal support for Amtrak fell from $896.3 million to $584 million, a 50-percent reduction in constant dollars. Yet during that time, virtually all of Amtrak's performance indicators improved. Revenues were up 14 percent in 1988, to $1.1 billion. Revenue-to-cost ratio has improved from 48 percent in fiscal year 1981 to 69 percent in 1988. And more and more riders are being served. Other Federal programs should perform so well.

In spite of all this, the final Reagan administration budget sent to the Congress again calls for the elimination of Amtrak. That would leave 21 million passengers standing on the platform, waiting for trains that wouldn't ever come. As I have before, I intend to fight this short-sighted proposal. I hope the Bush administration will take a more constructive approach, and work with the Congress, Amtrak, and its millions of passengers who depend on its existence, instead of against us.

As chairman of the Appropriations Subcommittee on Transportation, I have worked closely with Amtrak president, Graham Claytor, to make Amtrak less dependent on Federal funding while maintaining and improving service. I can assure my colleagues that Amtrak has every intention to continue these efforts, and that I will work with Mr. Claytor in this endeavor.

Mr. President, pressure on Amtrak has resulted in great savings. That progress should continue. This resolution calls for just that. It would ask the administration to work with Amtrak to make it even more efficient and reliable. It reaffirms the view of the Congress that Amtrak should remain a viable entity, and that adequate funding should be provided.

Mr. President, I urge my colleagues to cosponsor this resolution.●

NOTICES OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a nomination hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, January 26, 1989, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to consider the nomination of Manuel Lujan to be Secretary of the Interior.

For further information, please contact Mike Harvey, chief counsel at (202) 224-0611.

Mr. President, I would like to announce for the public that a nomination hearing has been scheduled before the Senate Committee on Energy and Natural Resources.

The hearing will take place on Thursday, February 2, 1989 at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to consider the nomination of Adm. James T. Watkins to be the Secretary of Energy.

For further information, please contact Mike Harvey at (202) 224-0611.

Mr. JOHNSTON. Mr. President, I would like to announce for the information of the Senate and the public that closed hearings have been scheduled before the full Committee on Energy and Natural Resources to receive comments on the Department of Energy's facilities for defense materials production.

The hearings will take place in room S-407 in the U.S. Capitol in Washington, DC, February 7, 1989 at 2:30 p.m. and February 9, 1989 at 9:30 a.m.

For further information, please contact Mary Louise Wagner at (202) 224-7569.

SPECIAL COMMITTEE ON INVESTIGATIONS

Mr. DECONCINI. Mr. President, I would like to announce that the Special Committee on Investigations of the Select Committee on Indian Affairs will be holding hearings on January 30 and 31, and on February 1, 2, 3, 6, 7, 8, 9, 10, 21, 22, and 23, 1989, in room Senate Hart 216, beginning at 10 a.m. on each day, pursuant to Senate Resolution 381, section 21, agreed February 26, 1988.

Those wishing additional information should contact the special committee at 224-3701.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Tuesday, February 21, 1989, at 9:30 a.m., to mark up Senate committees' funding resolutions for 1989 and

1990. The committee will also consider other legislative and administrative business pending on its agenda.

For further information concerning this business meeting, please contact Carole Blessington of the Rules Committee staff on extension 40278.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, January 25, 1989, at 1:30 p.m., to hold a business meeting on the election of committee chairman; adoption of committee rules; adoption of biennial committee budget; approval of committee agenda for the first session of the 101st Congress; and, approval of the committee hearing schedule of the first session of Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, January 25, 1989 at 2 p.m. in open session to begin hearings on the nomination of John G. Tower to the Secretary of Defense. The nominee will be present.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, January 25, 1989, at 11 a.m. to conduct the committee's organizational meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on January 25, 1989, at 10 a.m. to hold a hearing on the nomination of Samuel K. Skinner, of Illinois, to be Secretary of the Department of Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on January 25, 1989, at 10 a.m. to hold a hearing on the recent trend in corporate restructurings, mounting debt in the corporate sector, and the relationship of these trends to the tax law.

The PRESIDING OFFICER. Without objectiion it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Senate Committee on Energy and Natrual Resources be authorized to meet during the session of the Senate on January 25, 1989, 9:30 a.m. to conduct a business meeting to consider the committee's budget resolution for two-year period, March 1, 1989, through February 28, 1990.

The PRESIDING OFFICER. Without objection it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 25, 1989 at 10 a.m. to hold a hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, January 25, 1989 at 10 a.m. in executive session to discuss issues and procedures related to the nomination of John G. Tower to be Secretary of Defense and to possibly act on organizational and budget items related to the committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UKRAINIAN INDEPENDENCE DAY

● Mr. DECONCINI. Mr. President, January 22 marked the 71st anniversary of Ukraine's proclamation of independence and the 70th anniversary of the unification of the Western Ukrainian National Republic with the Ukrainian National Republic. Although this period of independence only lasted a few short years, the Ukrainian people's quest for freedom and self-determination, despite 70 years of untold suffering under Soviet domination, has not lost its original fervor and spirit.

Recent developments in Ukraine illustrate the Ukrainian people's thirst for freedom and pride in their national identity. Within the last year, Mr. President, we have witnessed a remarkable renaissance of activity in Ukraine. Numerous informal groups, with their own unofficial plublications, having sprung up during the last year calling for greater cultural, linguistic, religious, and national rights for the Ukrainian people. Activists in some of these groups have staged rallies and demonstrations that have drawn up to 50,000 people protesting repression. We have seen a revival of the still-banned Ukrainian Catholic Church with thousands of believers participating in outdoor services commemorating the millennium of Christianity in Ukraine. Even officials, particularly in the Ukrainian Writer's Union, are now calling for greater use of the Ukrainian language and for the removal of the so-called blank spots of recent Ukrainian history. These are just some examples of the resilience of the Ukrainian people and the depth of commitment to their heritage and to freedom.

Mr. President, last November, I participated in the Helsinki Commission's unprecedented human rights meetings with the U.S.S.R. Supreme Soviet in Moscow. During our visit, I had the opportunity to meet wfth leading Ukranian human rights activists, many of them former political prisoners. I was very impressed with their commitment and courage. Recently, some of these individuals—including Vyacheslav Chornovil, Mykhailo Horyn, and Stepan Khmara—were interviewed in an excellent and comprehensive January 22 article that appeared in the Washington Post on recent stirrings in Ukraine. I ask that this article be inserted in the RECORD.

Mr. President, I also ask that a Ukrainian Independence Day proclamation by the city of Tucson, AZ, be printed in the RECORD.

The articles follow:

[From the Washington Post, Jan. 22, 1989]

UKRAINIAN NATIONALISM STIRRING ANEW IN SOVIET "COLONY"

(By David Remnick)

"For us to lose the Ukraine would be the same as losing our head."—LENIN, 1918.

Lvov, U.S.S.R.—For the Soviet empire, the Ukraine is the fire next time. The republic may seem for now an obedient, dormant region of more than 50 million people, but it soon could pose a challenge to centralized Soviet power that would eclipse anything that has happened so far in the Baltic republics or the Transcaucasus.

Especially here in the western part of the republic—where the outlawed Ukrainian Catholic Church and cultural nationalism are strongest—a growing number of activists openly and angrily speak of themselves as a "colonized" people who intend, one day, to fight the "Soviet imperial idea." Resentment is slowly evolving into a movement.

"Right now we are not a strong movement; we don't have anything like the organization you see now in the Baltics," said Vyacheslav Chernovil, a nationalist and former political prisoner. "But a struggle is inevitable, and Moscow will invariably come down hard—much harder than they have in Estonia and Latvia."

Activists here, as well as Soviet and western sources interviewed in Moscow and Kiev, agree that the Kremlin will never show the Ukraine, a republic the size of France, even the limited tolerance it has extended to smaller, non-Slavic republics in the past year. It is a matter not only of history and politics, but of costs and benefits.

"Let's face it, the Soviet empire knows that in the end it can always survive without the Baltics or the Transcaucasus—it's

only a few million people here and there, after all," said Stepan Khmara, a physician in Lvov.

"Moscow could even do without Eastern Europe, because it turns out that this is a very expensive military buffer zone. But Lenin knew it from the start: The empire cannot survive without the Ukraine. There are just too many people, too many resources here. It will inevitably be a fight. The question is: When?"

The Ukrainian challenge may not come soon, but the leadership in Moscow is still playing it safe and strict.

The Ukrainian party chief, Vladimir Shcherbitsky, is 70 years old and was one of the closest allies of the discreited Soviet leader Leonid Brezhnev. And yet President Mikhail Gorbachev has kept the man known here as "The Enforcer" in place.

"Shcherbitsky is Gorbachev's iron man in the Ukraine," said Bogdan Horyn, a leader of the unofficial human rights group here, the Helsinki Union. "He may not be Gorbachev's favorite in the Politburo, but I think he fears what would happen in the Ukraine without Shcherbitsky and the mafia around him."

Knowledgeable sources in Moscow said that while Shcherbitsky will probably not last more than another two or three years, his replacement is likely to follow a similar course. "It's inconceivable that an Estonian-style party leader would get the job," one diplomat here said. "For one thing, the Ukraine doesn't have anybody like that in the ranks."

The other night in Lvov, at a dim apartment decorated with a sparse Christmas tree, a group of Ukrainian nationalists, writers and human rights workers—most of them former political prisoners—spent hours describing a place and an atmosphere never reflected in the official press.

They talked of a republic in a "perpetually worsening" economic crisis, of a Ukraine "that is still the epicenter "gutted" by decades of "imperial centralism" and "Russification." And none of the dozen men and women at the table put much faith in the slogans of reform spoken every day in Moscow or in Gorbachev himself—"a friendly-looking emperor, but an emperor, nonetheless."

And while they said they admired Ronald Reagan and his speeches during the Moscow summit, they could not understand how an American president could seemingly overlook "Moscow's domination of the periphery" and say that the Soviet Union is no longer an "Evil Empire."

"The way we see it, Gorbachev's reforms have nothing to do with internal democracy," Chernovil said. "They are a last bid—a bluff, in a way—to improve the Soviet Union's dynamics with other countries in order to get technology and aid from aborad and improve the economy."

Ivan Makar, who recently served a three-month jail sentence for nationalist activities, agreed. "Gorbachev absolutely fears real democracy," he said. "Look at the crackdown on demonstrations [that began last summer.] Look at the undemocratic road these 'elections' for the Supreme Soviet have taken. Look at how Gorbachev keeps an iron grip on the Ukraine. Even the old Stalinist constitution had more democratic phrases in it than Gorbachev's."

The movement for political and cultural autonomy in the Ukraine may not approach the scale of what happened last year in Estonia, Lativa and Lithuania, but it adds up to a great deal more than a group of people sitting around a table talking. Battles, in some places, have already begun:

Despite the lurking presence of a particularly strong KGB force in the republic, activists staged a number of mass rallies in Lvov and Kiev that have drawn between 5,000 and 50,000 demonstrators protesting political repression, "Russification" and various ecological disasters. At a June 21 rally in Lvov, 50,000 gathered in the Friendship Soccer Stadium to call for creation of an Estonian-style "Popular Front" that would press Moscow for greater economic, political and cultural autonomy.

Since Moscow decreed new restrictions on public demonstrations last July, the KGB and police have denied permission for such meetings and have used dogs and truncheons to break them up as "unsanctioned gatherings." The repression of demonstrations has been especially harsh in the Ukraine and in the neighboring republic of Byelorussia, where party officials have tried to break up the Popular Front and other democratic groups.

The Ukrainian Writers' Union, once a lap dog for Schcherbitsky and ideological orthodoxy, has become a force of opposition, supporting the nascent Popular Front and pushing for the establishment of Ukrainian as the republic's official language.

A well-known dissident literary critic, Ivan Dzyuba, was able to publish an article in the central ideological journal of the Communist Party, Kommunist, that criticizes the dominance of the Russian language and culture in the Ukraine. "We and our Byelorussian brothers are perhaps the only peoples of Europe deprived or higher education instruction in our native languages," he wrote in an article published this month in the newspaper Moscow News.

At a Writers' Union session last month, a prominent poet, Ivan Drach, spoke out openly against Shcherbitsky, the first such defiance of the Kiev leadership at an official meeting.

Although nationalists like Horyn and Chernovil have been working for Ukrainian righs for decades, many activist groups led by younger party members and independents alike have appeared in recent months.

The Lion Society, headed by a 25-year-old Young Communist League official, Orest Sheyka, has battled local authorities for the preservation of long-neglected Ukrainian monuments and natural resources, such as the Dnestr River. "The river is practically dead," Sheyka said in an interview.

Environmental groups, such as Green World and Noosfera, form a growing "Greens" movement modeled on those of Western Europe and the Baltic. At a demonstration in Kiev in November, 8,000 people gathered to attack Shcherbitsky and call on the government to shut down nuclear reactors throughout the republic.

A performance group called Don't Worry has staged many evenings of political cabaret reminiscent of neighboring Poland. And several cultural clubs, such as the Culturological Group in Lvov, are pressing the language issue and are encouraging more schools and universities to emphasize Ukranian history.

History, long and tragic, is everywhere here. Russian czars and general secretaries have dominated the region for three centuries. And nowhere in the Soviet Union does the legacy of Joseph Stalin's repression and Leonid Brezhnev's corruption persist more painfully than in the Ukraine.

Only now are historians here allowed to publish reports about the "great collectivization" of the countryside in the early 1930s, during which millions of Ukrainian farmers were forcibly herded off their lands, sent to labor camps and starved to death during an artificially created famine.

Only now are journalists here beginning to write about how Stalin crushed the Ukrainian Catholic Church in 1946, killing thousands of priests and believers and forcing millions to choose between atheism and the "officially sanctioned" and government-controlled Russian Orthodox Church.

But even now it is impossible here to write about the way Brezhnev and Shcherbitsky purged the intelligentsia in the 1970s and stacked every level of the Ukrainian party organization with complaint appartchiks—a situation that lingers today.

"We look at a place like Estonia with astonishment," said Bogdan Horyn's brother, Mikhail. "We see there Communist Party officials who actually are working in the interests of the people, and then we look at the Ukrainian party and we despair. The party holds nothing for us. It never has."

There have been nationalist, dissident movements here since the early 1960s. More than 24 years ago, Ivan Dzyuba wrote an essay on Moscow's nationalities policy, "Internationalism or Russification?", in which he called for the sort of autonomy that is at the center of the present-day Estonian platform.

Those dissidents even received some limited support from Petro Shelest, the former Ukrainian party chief, who wrote a book supporting the preservation of Ukrainian language and culture. But when Brezhnev purged Shelest in 1972, he replaced him with Shcherbitsky and an even harder line.

Shcherbitsky, for his part, continues to infuriate activists here. He has made no significant concessions on the language issue, insisting on giving his own speeches in Russian. In one speech last month he railed against the use of *glasnost*, as Gorbachev's policy of openness is called, for "anti-Soviet ideas" and "national egotism."

Vitali Korotich, editor of the liberal Moscow weekly magazine Ogonyok and once a rather conservative figure in the Ukrainian Writers' Union, said, "what you are seeing, for the moment, is a standoff in the Ukraine. The leadership is tough, and independent groups are growing. My big concern is that nationalism doesn't become provincialims."

Two events have set off the renewed activistm here: Chernobyl and the political upheaval in the Baltics.

As Ukrainians have learned more about the nuclear accident outside Kiev almost three years ago, they have come to distrust the authorities more than ever. Yuri Shcherbak's remarkable two-part series on Chernobyl, published recently in the journal Youth, revealed, for many, a series of startling, often humiliating details about the disaster. "We even learned that while the leadership refused for days to tell us a word of what had happened, the children of all the Ukrainian party leadership were immediately evacuated," said historian Igor Khomin.

When Estonian intellectuals began to broaden their movement for autonomy from Moscow last year, eventually winning the support of the republic's Communist Party leadership, Ukrainians listened.

"We sent three people to Estonia to see the Popular Front congress and it seemed like a miracle," said Pyotor Kagui, a member of the organizing group for a popu-

lar front in Lvov. "We knew we needed the same thing here."

But in spite of the mass demonstrations in the spring and summer supporting the creation of a democratic Popular Front and the obvious groundswell for change in the Ukraine, the authorities have tightened control to stamp out the spread of support for nationalism or participation in the underground Ukrainian Catholic Church.

At a number of factories, for example, directors have called in foremen and workers for meetings with the following sort of dialogue:

"Do you want a vacation this year?"

"Yes."

"Would you like a raise?"

"Yes."

"Do you need to take Christmas off?"

"Uh . . . no."

At the Progress shoe factory, activists here said, workers were "asked" to sign petitions disavowing participation in nationalist groups. "They know that if they don't go along, there will be trouble," Bogdan Horyn said.

The sense of psychic and political distance from the Baltics is immediately apparent. While in the Baltics, conversations, even with party leaders, are extraordinarily open and fearless, meetings here between nationalists and visiting foreigners are only comfortable on park benches and remote sidestreets. "The old days are still the new days in the Ukraine," Chernovil said.

Victor Morozov, a popular singer and director of the Don't Worry cabaret group, said that while life is slowly changing even in Lvov and there is less fear about performing his political songs on stage, "The sense of how far to go is always within us."

STALIN "WANTED US TO BECOME RUSSIANS AND TO WORSHIP A RUSSIAN GOD"

(By David Remnick)

LVOV, U.S.S.R.—Ivan Hel has been waiting to pray without fear since 1946, the year Joseph Stalin dictated that the Ukrainian Catholic Church must "liquidate itself." An activist for his underground faith, the chairman of the church's defense committee for believers, Hel has spent 18 of his 52 years locked away in Soviet jails and labor camps.

"Until the church becomes legal, I will pray right here with priests and friends. Right here at this table; this is our altar," he said at his apartment recently. "They thought they could order us to disappear, but they were wrong."

Hel and western church sources estimate that there are 4 million Catholic believers in the western Ukraine, as well as 2.5 million Ukrainian Catholics in the United States, 700,000 in Canada and many thousands more in Brazil, Australia, Poland and elsewhere. "Our center is Lvov, but we are like the Jews—a people in diaspora," Hel said.

The authorities, since the rise of Mikhail Gorbachev to power in March 1985, have eased some of the pressure on Catholics here, often overlooking large outdoor masses in villages. But hard-liners still fear the legalization of the church, since it is so tied to the question of Ukrainians' self-awareness and differentiation from Russians.

The history of the church's suppression here has been brutal. In an effort to centralize every aspect of Soviet life, Stalin outlawed Byzantine-rite Ukrainian Catholics, ordering them to "unite" under the umbrella of the Russian Orthodox Church. He severed the Ukrainian church's 350-year-old tie with the Vatican.

More than 2,500 priests were arrested. They either died in labor camps or returned home as invalids. Churches were destroyed or turned over to the Russian Orthodox Church, which has long been tightly controlled by the state.

"Stalin tried to kill our historical memory, our traditions, our faith and our spiritual culture," Hel said. "He wanted us to become Russians and worship a Russian God or no God at all."

Somehow, despite all the repressions over 43 years, the Ukrainian Catholic Church has persisted. Priests train for three years in underground seminar classes that move from apartment to apartment to avoid the local KGB. Masses are held in kitchens, basements, wheat fields.

Meanwhile, the Ukrainian Catholic cardinal at the Vatican and Ukrainian Catholics in the West have long pressed for the legalization of the church in the western Ukraine.

This decade has been one of hope for Ukrainian Catholics: The rise of the Solidarity movement in neighboring Poland and the election of a Slavic pope, John Paul II, have focused attention on the issue. The pope did not attend last year's Kremlin-sponsored celebration of the millennium of Christianity in the region, reportedly because he did not want to offend the large Catholic populations in Lithuania and the Ukraine.

Shortly before the millennium, two underground bishops and a group of nuns, priests and laymen sent a message to the pope, saying, "We consider it useless to remain underground and therefore ask Your Holiness to promote by all possible means the legalization of the Ukrainian Catholic Church in the U.S.S.R."

In a subsequent message to "Ukrainian Catholics on Their Millennium," the pope said in Canada that he spoke "as a brother Slav, sharing to a large degree your spirit and heritage."

Last summer, representatives from the Russian Orthodox Church and the Vatican met in Helsinki to discuss the matter, but very little appears to have come out of the session. Activists here said they are hoping that Gorbachev will make a trip to Rome as early as this spring—a trip that might lead to a meeting with the pope and deal with legal recognition of the Ukrainian Catholic Church.

In a republic where the Soviet hard line has been the custom, it was a sign of hope for believers several months ago when they came across an astonishing article in the atheist journal Man and the World by Vladimir Tencher of Kiev State University's Department of History and Theory of Atheism.

"As seen by much of our youth," he wrote, "atheism has simply become old-fashioned. It is the view of grandfathers and grandmothers."

Gorbachev has promised a new, more liberal law on religious practices in the Soviet Union, but Hel and other activists are waiting to see if that law will embrace their own cause.

"I don't think Gorbachev in his heart wants to do it," Hel said. "He is the product of an imperial, totalitarian system, and his reforms will only strengthen his power and the power of the system. My optimism comes from elsewhere—from the faith of our people and the pressure and moral support of the world outside."

CITY OF TUCSON,
OFFICE OF THE MAYOR.

PROCLAMATION

Whereas, January 22, 1989, will mark the 71st Anniversary of the proclamation of the free and independent Ukrainian National Republic; and

Whereas, the young Ukrainian National Republic fell in 1920 as the first victim of Communist Russia and for more than half of a century Ukraine has suffered untold persecution, man-made famine, religious oppression and outright linguistic genocide in the form of Russification; and

Whereas, the people of Ukraine in 1986 experienced untold sufferings for generations to come from the nuclear disaster at Chornobyl which was under Moscow's control; and

Whereas, on April 23, 1988, the U.S. Commission on the Ukraine Famine reported its findings that the Great Famine of 1932-33 was premeditated genocide against Ukrainians perpetuated by Joseph Stalin and those around him; and

Whereas, on this occasion, it is appropriate to reflect upon our perception and understanding of the Ukrainian people and their aspirations; and

Whereas, today's celebration salutes the determination of the people of Ukraine to live in freedom,

Now, therefore, I, Thomas J. Volgy, Mayor of the City of Tucson, Arizona, do hereby proclaim Friday, January 20, 1989, to be Ukrainian Independence Day in this community, and urge all of our citizens to join those of Ukrainian descent in prayers for peace and freedom throughout the world.

In witness whereof, I have hereunto set my hand and caused the seal of the City of Tucson to be affixed this 20th day of January 1989.

THOMAS J. VOLGY,
Mayor.

Attest:

DONALD L. DE MENT,
City Clerk.●

DONNA HALL

● Mr. McCONNELL. Mr. President, as you know, from time to time I bring to the attention of my colleagues, the story of individuals who dedicate their time to help others. Today, I would like to insert into the RECORD an article from the Lexington Herald-Leader which recognizes the volunteer service of Mrs. Donna Hall. Mrs. Hall was recently awarded the Kentucky Governor's Volunteer Activist Award for 1988 and was named "the Citizen of the Year" by the Herald-Dispatch newspaper in Huntington, WV.

Mrs. Hall received these honors because of the many hours she has dedicated to volunteer efforts in a wide variety of civic endeavors. Numerous educational and civic organizations, including the Huntington Museum of Art, Our Lady of Bellefonte Hospital, the Kentucky Arts and Crafts Foundation, the Prichard Committee for Academic Excellence, the Kentucky Education Foundation and the Kentucky Opera, have benefited from Mrs. Hall's unselfish service. While Mrs.

Hall volunteers her time to several organizations, she is particularly interested in working with education specifically focusing on its relation to the arts. When asked about her volunteer work Mrs. Hall stated, "I feel very strongly that in order to have a successful community, State or Nation, you must have an educated population."

I hope that all of my colleagues in this body will take note of Mrs. Hall's outstanding achievements.

I ask that the article to which I referred be printed in the RECORD.

The article follows:

ASHLAND WOMAN HONORED FOR CIVIC WORK

It was Christmas all through December for Donna Hall of Ashland, wife of John R. Hall, Ashland Oil Inc. chairman and chief executive officer.

Last month, Mrs. Hall, 44, was named a recipient of the Kentucky Governor's Volunteer Activist Award for 1988. She also was named the Citizen of the Year by the Herald-Dispatch newspaper in Huntington, W.Va., for her leadership and volunteer efforts in a wide variety of tri-state and statewide services.

Named with her in the newspaper award was Philip E. Cline, 55, vice president and treasurer of J.H. Fletcher Mining Machine Co

Mrs. Hall served on the boards of the River Cities Cultural Council, the Needlework Guild of America, Our Lady of Bellefonte Hospital, the Huntington Museum of Art, the Kentucky Arts and Crafts Foundation, the Prichard Committee for Academic Excellence, the Kentucky Education Foundation and the Kentucky Opera. She is a patron of the American Council for the Arts.

Mrs. Hall is particularly interested in working with education, especially in relation to the arts. The Halls were married in 1980. Both had been widowed when they met in Chicago while he was there on a business trip. Mrs. Hall was born in Houston and grew up in Macon, Ga. She is a graduate of the University of Georgia.

The governor's award was presented by Martha Wilkinson, wife of Gov. Wallace Wilkinson, at a special ceremony at the Governor's Mansion. The newspaper award will be made this month at a banquet.

Mrs. Hall described the awards as special Christmas gifts and said of her volunteer work: "I feel very strongly that in order to have a successful community, state or nation, you must have an educated population."●

MOTHER MARIANNE OF MOLOKAI

● Mr. INOUYE. Mr. President, last year, I nominated Mother Marianne of Molokai to the National Women's Hall of Fame as a tribute to her brave and generous service as a nurse and hospital administrator. I was particularly moved by her work among the Hansen's disease patients on the island of Molokai in Hawaii. At a time when women's talents as administrators were largely ignored, and when lepers were shunned and isolated, Mother Marianne moved from the State of New York to Hawaii to care for a community of patients afflicted with Hansen's disease. In Hawaii, she established schools and two hospitals, giving special attention to afflicted women and children.

Our ongoing experience with AIDS has demonstrated how easily contagious diseases can ignite our fears and prejudices, and how cultural differences can impede human compassion. Mother Marianne was not deterred by the vast language and cultural differences that separated her from the people of Hawaii and the residents of the settlement on Molokai. She faced and overcame hostility directed toward her as a women in a position of authority and as a stranger to the ways of the islands. She also demonstrated a willingness to work with those outside of her faith in order to ease the suffering of ill and disabled people.

The faith and courage of Mother Marianne remind us that our Nation's strength and accomplishments are in part the results of the quiet sacrifices of men and women of conscience determined to devote their skills to the welfare of others. I hope that her example inspires us to be more open and more appreciative of the contributions of all of our people.●

UKRAINIAN INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, on January 22, 1918, the proud and strong people of Ukraine threw off the chains of oppression and established their independence. One year later the Ukranian Rada passed the Act of Union, uniting all the territories of the Ukraine into one nation, an action inspiring hope in all who cherish freedom.

In honoring the brave Ukrainian patriots of 70 years ago it is fitting that we also pay tribute to those who, against enormous and often life-threatening odds, continue their quest for human liberty. It has been more than a decade since 10 courageous Ukrainians joined together, despite constant harassment and intimidation, to monitor compliance with the Helsinki Accords by forming the Ukranian Helsinki Monitoring Group.

Among those whose lives have been dedicated to the quest for freedom and who serve as an example to all of us are Iosyp Terelia and Danylo Shumuk, who served combined sentences of more than 60 years in prison for their human rights activities. Both left the Soviet Union and came to the West to tell their stories, and have received special recognition by Americans for Human Rights in Ukraine, the Commission on Security and Cooperation in Europe, and Amnesty International. However, others are still incarcerated without cause inside psychiatric facilities; and other suffer in silence and anonymity.

At the same time that we recognize the heroism and personal sacrifice of those being persecuted in their quest for liberty, we must give special recognition to the outstanding accomplishments of those who have brought that same spiritual strength and the rich Ukrainian heritage, here to the United States. The large and active Ukrainian-American community in the United States has made an invaluable contribution to the cultural and economic development of our country through participation in the arts, sciences, politics, business, and other endeavors. We in Maryland are proud to have an active community of Ukrainian-Americans who have enriched our State tremendously with their profound ties to family, church, and community, their hard work, and their involvement in public service.

As we reflect on the accomplishments, hopes, and dreams of Ukrainians everywhere, we must renew our pledge to speak out on behalf of those who still lack the most basic human rights and freedoms. Last year's celebration of the millenium of Ukrainian Christianity, an anniversary of great historical and religious significance, renewed the commitment of all Ukrainians to freedom of religious expression, including that the Ukrainian Catholic Church. The abiding strength and courage of the Ukrainian people give us hope for a brighter future.●

UNITED STATES CONGRESS AND WEST GERMAN PARLIAMENT EXCHANGE PROGRAM

● Mr. DECONCINI. Mr. President, since 1983 the United States Congress and the West German Parliament, the Bundestag, have conducted an annual exchange program in which staff members from both legislatures observe and learn about the workings of each other's political institutions first hand.

This exchange program is one of several sponsored by both pubic and private institutions in the United States and West Germany to foster better understanding of the institutions and policies of both countries.

This year, eight congressional staff members will be selected to visit Germany over the Easter recess period. They will spend about 10 days in Bonn attending meetings conducted by members of the Bundestag, Bundestag staffers, and representatives of political, business, labor, academic, and media institutions. Participants will spend a weekend in the district of a Bundestag member.

A comparable delegation of Bundestag staffers will come to the United States in late June for a 3-week period. They will visit congressional districts over the Fourth of July recess.

Participants should be experienced Hill staffers so that they can contribute to the success of the exchange on both sides of the Atlantic. The Bundestag sends senior staffers to the United States and a number of high ranking members of the Bundestag take the time to meet with our staffers. The United States has tried to reciprocate.

Therefore, participants should have a demonstrable interest in, if not some direct responsibility for, political, security, trade, or environmental issues as they relate to Europe in general and Germany in particular. In addition, U.S. participants will be expected to help plan and execute the program for the Bundestag staffers when they visit the United States. Participants should expect to conduct informative seminars for the Bundestag staffers and host one or two staffers in their Member's district over the Fourth of July.

Applications for participation in the United States delegation will be reviewed initially by the congressional staff group on German-American Affairs. Final selection of the delegation will be made by the U.S. Information Agency.

Senators and Representatives who would like a member of their staff to participate should direct them to submit a resume and statement of qualification to Bob Maynes, Office of Senator DECONCINI, 328 Hart Senate Office Building. Applications should be received no later than Wednesday, February 15.

I urge my colleagues to give serious consideration to this outstanding program.●

"BABE" BUXTON

● Mr. LEAHY. Mr. President, every year on Flag Day, June 14, I think of my good friend Claiton Buxton. "Babe" Buxton was born 80 years ago June 14, 1908. He is one of the fortunate people who gets to celebrate both his birthday and Flag Day.

Babe has been in State service since May 1931, starting in the highway department. From 1940 to 1949 he worked in the purchasing department and in 1949 was elected sergeant at arms of the Vermont General Assembly, a post he held until 1961. He was made director of State buildings from 1961 to 1967. From 1967 to 1976 he was coordinator of construction for the Vermont State Colleges.

For 27 years Babe served as town moderator for the town of Plainfield and held the post of town auditor for 20 years. In addition, Babe served as justice of the peace for over 15 years.

In 1947, Gov. Ernest Gibson created the Old Vermont State Building Council, on which Babe served until 1961. He also served on the Hospital Construction Council for over 15 years.

Babe is the father of two children and the grandfather of three, and is married to the former Albas Loati.

Babe and Albas have been special friends of the Leahy family from the time I was a child. Some of my fondest memories are times when the Buxton family and my parents, Howard and Alba Leahy, and my brother, sister and I would get together with our good friends the Edsons and picnic throughout central Vermont. As children, we considered Babe's constant sense of humor and willingness to tell jokes a special treat. In fact, I know of no Vermonter with a greater store of humor than Babe.

We in the Leahy family have always cherished our relationship with Babe and Albas, and I just wanted to note this special Vermonter for my colleagues here in the Senate.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4, rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participated in programs, the principal objectives of which were educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received requests for determinations under rule 35, for Michael C. Mitchell, a member of the staff of Senator ROTH to participate in a program in China sponsored by the Chinese Culture University, from January 4 to 15, 1989.

The select committee received requests for determinations under rule 35, for Dave Flory, a member of the staff of Senator KASTEN, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 3 to 16, 1989.

The select committee received requests for determinations under rule 35, for Anne Caldwell, a member of the staff of Senator SHELBY, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from January 4 to 12, 1989.

The committee has determined that participation by Mr. Mitchell, Mr. Flory, and Ms. Caldwell in the program in China at the expense of the Chinese Culture University, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Ms. Sharon Waxman, a member of the staff of Senator LAUTENBERG, and Mr. Brian Hanson, a member of the staff of Senator DIXON, who participated in a program in Krakow, Poland, sponsored by the Coordinating Office Abroad of NSZZ *Solidarnosc*, from August 25 to 28, 1988.

The committee has determined that participation by Ms. Waxman and Mr. Hanson, in the program in Krakow, Poland, at the expense of the Coordinating Office Abroad of NSZZ *Solidarnosc*, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for David Apagar, a member of the staff of Senator BRADLEY, who participated in a program in Western Europe, sponsored by the European Parliament and Commission of the European Community, from January 8 to February 1, 1989.

The committee has determined that participation by Mr. Apagar, in the program in Western Europe, at the expense of the European Parliament and Commission of the European Community, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mr. Tom Bauer, a member of the staff of Senator SIMPSON, Mr. Jonathan Stein, a member of the staff of Senator SIMON, Dr. John Starrels, a member of the staff of the Joint Economic Committee, Mr. J. Christopher Brady, a member of the staff of Senator WARNER, Mr. Kirk Robertson, a member of the staff of Senator PRYOR, and Mr. James N. Arbury, a member of the staff of Senator RIEGLE, who participated in a program in West Germany, sponsored by the Konrad Adenauer Stiftung, from November 26 to December 3, 1988.

The committee has determined that participation by Mr. Bauer, Mr. Stein, Dr. Starrels, Mr. Brady, Mr. Robertson, and Mr. Arbury, in the program in West Germany, at the expense of the Konrad Adenauer Stiftung, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mr. Mark W. Weller, a member of the staff of Senator LUGAR, Ms. Judith Wagner, a member of the staff of Senator SIMON, Mr. Brent Franzel, a member of the staff of Senator BOND, who participated in a program in Taipei, Taiwan, sponsored by the Tamkang University, from November 13 to 21, 1988.

The committee has determined that participation by Mr. Weller, Ms. Wagner, and Mr. Franzel in the program in Taipei, Taiwan, at the expense of the Tamkang University, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Greg Billings, a member of the

staff of Senator DASCHLE, who participated in a program in Taiwan, sponsored by the Tunghai University, from November 10 to 19, 1988.

The committee has determined that participation by Mr. Billings, in Taiwan, at the expense of the Tunghai University, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Cynthia Shade, a member of the staff of Senator JOHNSON, who participated in a program in China, sponsored by the Chinese Ministry of Forestry, from October 3 to 8, 1988.

The committee has determined that participation by Ms. Shade, in China, at the expense of the Chinese Ministry of Forestry, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mark Seetin, a member of the staff of Senator BOSCHWITZ, who participated in a program in China, sponsored by the Counselor of the Embassy of the People's Republic of China, from December 3 to 17, 1988.

The committee has determined that participation by Mr. Seetin, in China, at the expense of the Counselor of the Embassy of the People's Republic of China, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mr. Brad Figel, a member of the staff of Senator PACKWOOD, who participated in a program in Japan, sponsored by the Japan Center for International Exchange, from January 8 to 15, 1989.

The committee has determined that participation by Mr. Figel, in Japan, at the expense of the Japan Center for International Exchange, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Ira Wolf, a member of the staff of Senator ROCKEFELLER, who participated in a program in China, sponsored by the Chinese People's Institute for Foreign Affairs, from December 5 to 13, 1988.

The select committee received requests for determinations under rule 35, for Jim Fitzhenry, a member of the staff of Senator HATFIELD, who participated in a program in China, sponsored by the Chinese People's Institute for Foreign Affairs, from December 3 to 14, 1988.

The select committee received requests for determinations under rule 35, for Tim Roemer, a member of the staff of Senator DECONCINI, to participate in a program in China, sponsored by the Chinese People's Institute for Foreign Affairs, from December 4 to 15, 1988.

The select committee received requests for determinations under rule 35, for Marjorie Chorlins, a member of the staff of Senator DANFORTH, to participate in a program in China, sponsored by the Chinese People's Institute for Foreign Affairs, from December 3 to 15, 1988.

The committee has determined that participation by Mr. Wolf, Mr. Fitzhenry, Mr. Roemer, and Ms. Chorlins, in China, at the expense of the Chinese People's Institute for Foreign Affairs, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Tom Bauer, a member of the staff of Senator SIMPSON, Mr. Jack Gerard, a member of the staff of Senator MCCLURE, and Lorne Craner, a member of the staff of Senator MCCAIN, who participated in a program in Taipei, Taiwan, sponsored by the Soochow University, from November 10 to 19, 1988.

The select committee received requests for determinations under rule 35, for Bill LaForge, a member of the staff of Senator COCHRANE, who participated in a program in Taipei, Taiwan, sponsored by the Soochow University, from November 9 to 19, 1988.

The select committee received requests for determinations under rule 35, for Henry J. Kenny, a member of the staff of Senator PELL, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from December 10 to 16, 1988.

The committee has determined that participation by Mr. Gerard, Mr. Bauer, Mr. Craner, Mr. LaForge, and Mr. Kenny, in the program in Taipei, Taiwan, at the expense of the Soochow University, is in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Senator SYMMS, who participated in a program in China, sponsored by the State of Idaho and Northwest Republic of China Trade Consortium of Seattle, which was held from November 12 to 17, 1988.

The committee has determined that participation by Senator SYMMS in the program in China, at the expense of the State of Idaho and Northwest Republic of China Trade Consortium of Seattle, was in the interest of the Senate and the the United States.

The select committee received requests for determinations under rule 35, for Ms. Gina Despres, a member of the staff of Senator BRADLEY, who participated in a program in Tokyo, Japan, sponsored by the Policy Study Group of Japan, from October 30 to November 6, 1988.

The committee has determined that participation by Ms. Despres, in the program in Tokyo, Japan, at the expense of the Policy Study Group of Japan, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mr. Christopher Manion, a member of the staff of Senator HELMS, who participated in a program in Austria, sponsored by the Austrian Federal Economic Chamber, from December 1 to 19, 1988.

The committee has determined that participation by Mr. Manion, in the program in Austria, at the expense of the Austrian Federal Economic Chamber, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Mr. Jay C. Ghazal, a member of the staff of Senator PELL, who participated in a program in Jordan, Israel, Kuwait, and Saudi Arabia, sponsored by the World Affairs Council of Jordan and the Union of Saudi Chambers of Commerce and Industry, from January 6 to 17, 1989.

The committee has determined that participation by Mr. Ghazal, in the program in Jordan, Israel, Kuwait, and Saudi Arabia, at the expense of the World Affairs Council of Jordan and the Union of Saudi Chambers of Commerce and Industry, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Dr. Leonard Weiss, a member of the staff of Senator GLENN, who participated in a program in India, sponsored by the Indian Institute for Defense Studies and Analysis, from December 27, 1988 through January 16, 1989.

The committee has determined that participation by Dr. Weiss, in the program in India, at the expense of the Indian Institute for Defense Studies and Analysis, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Jackie Clegg, a member of the staff of Senator GARN, who participated in a program in South Africa, sponsored by the South Africa Foundation, from December 4 to 16, 1988.

The committee has determined that participation by Ms. Clegg, in the program in South Africa, at the expense of the South Africa Foundation, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Colleen Sechrest, a member of the staff of Senator CRANSTON, Kelly Eversole, a member of the staff of Senator BOREN, and Tom Bauer, a member of the staff of Senator SIMPSON, to participate in a program in Malaysia, sponsored by the U.S.-Asia Institute and the Institute for Strategic and International Studies, from January 5 to 16, 1988.

The select committee received requests for determinations under rule 35, for Steven M. Polansky, a member of the staff of Senator PELL, to participate in a program in China, sponsored by the U.S.-Asia Institute, from December 5 to 15, 1988.

The select committee received a request for determination under rule 35, for James M. Bodner, a member of the staff of Senator COHEN, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs and the U.S.-Asia Institute, from December 5 to 13, 1988.

The select committee received requests for determinations under rule 35, for Keith Luse, a member of the staff of Senator LUGAR, to participate in a program in Malaysia, sponsored by the U.S.-Asia Institute, and the Institute for Strategic and International Studies, from January 4 to 16, 1988.

The committee has determined that participation by Ms. Sechrest, Ms. Eversole, Mr. Bauer, Mr. Polansky, Mr. Bodner, and Mr. Luse, in the program in Malaysia and China, at the expense of the U.S.-Asia Institute, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Judith Freedman, a member of the staff of the Armed Services Committee, and Sarah Sewall, a member of the staff of Senator MITCHELL, to participate in a program in the Middle East, sponsored by the National Council on U.S.-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, from November 9 to 22, 1988.

The committee has determined that participation by Ms. Freedman, and Ms. Sewall, in the program in the Middle East, at the expense of the National Council on U.S.-Arab Relations and the Council of Saudi Chambers of Commerce and Industry, was in the interest of the Senate and the United States.

The select committee received requests for determinations under rule 35, for Evelyn Boyd, a member of the staff of Senator SASSER, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 9 to 18, 1989.

The select committee received requests for determinations under rule 35, for Kolan Davis, a member of the staff of Senator GRASSLEY, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 7 to 16, 1989.

The select committee received requests for determinations under rule 35, for John Balbach, a member of the staff of Senator HUMPHREY, to participate in a program in Namibia, sponsored by the Namibia Foundation, from January 11 to 17, 1989.

The committee has determined that participation by Ms. Boyd, Mr. Davis, and Mr. Balbach, in the program in Namibia, at the expense of the the Namibia Foundation, was in the interest of the Senate and the United States.●

FRANKLIN FAIRBANKS MEDAL AWARDED TO FORMER SENATOR ROBERT T. STAFFORD

● Mr. LEAHY. Mr. President, I am pleased to announce that our recently retired friend and colleague, Senator Robert T. Stafford, has recently received the first annual Franklin Fairbanks Medal, an award presented by the Fairbanks Museum in St. Johnsbury, VT. The Fairbanks Museum has been operating in Vermont's beautiful, rural northeast kingdom since 1891 as an institution dedicated to teaching people of all ages about our natural surroundings. The new Fairbanks Medal is aimed toward individuals exemplifying "lifelong creative and dedicated service to the arts, sciences, or humanities" in Vermont.

I can think of no more worthy first recipient than Bob Stafford. He sets a high standard for future award winners with a distinguished record of public service, especially in the areas of educational and environmental protection. He has helped make and keep Vermont a special place.

Bob Stafford, throughout his long and distinguished career, has been a champion of educational institutions like the Fairbanks Museum. Environmental awareness and a commitment to protecting our natural surroundings and educating our people, themes which are central to the Fairbanks, have been at the heart of his work. Vermont and the Nation will profit far into the future from the environmental protection and education legislation that he worked so hard to pass.

Bob Stafford recognized that individuals, corporations, and governments must act as stewards of our air, water, and land, protecting and preserving them for future generations. As a member and chairman of the Senate Committee on Environment and Public Works, he was a leader in the fight to protect our environment who displayed a vision and a tough preserverance that we in this body came to appreciate and admire.

I salute the Fairbanks Museum, a venerable Vermont institution, for its wise selection. And I once again congratulate my friend Bob Stafford on winning the first Franklin Fairbanks medal, and thank him for his long and continuing service to Vermont and the Nation.●

LEGISLATIVE AGENDA OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. INOUYE. Mr. President, at the conclusion of the 100th Congress I summarized the activities of the Select Committee on Indian Affairs over the preceding 2 years. The record of achievement of the committee, and indeed the Congress, on legislation affecting Indian affairs was dramatic. Major legislation was enacted in the areas of health, housing, education, and economic development. Three bills were enacted resolving claims of Indian tribes to western water, and one was enacted resolving management of water and claims to land in the State of Florida. Many other tribal specific bills were considered. In all, some 84 bills were referred to the Select Committee and 28 were signed into law, either as freestanding statutes or as part of other legislation.

Despite this record of accomplishment, much remains to be done. As I noted at the beginning of my summary last year, during my term as chairman of the Select Committee in the 100th Congress, I traveled to almost every part of Indian country, I have seen the sometimes appalling conditions in which many native people are forced to live. I have seen raw sewage being dumped into drinking water sources, Indian housing and Navajo hogans which have no water or sanitation facilities, native villages in Alaska where the only health care provider has less than 10 weeks of training, Indian children attending schools in classrooms in South Dakota that have asbestos hanging from the ceilings, Indian communities where the rates of alcoholism and substance abuse are as high as 90 percent, epidemic proportions of teenage suicide, and a crisis shortage of physicians and nurses in isolated reservation and rural areas.

Mr. President, the legislation enacted in 100th Congress has not changed these conditions. It represents but a step in the right direction.

Mr. President, in the last Congress the committee placed a high priority on legislation directed at the development of economies on Indian reservations. Many of the problems found in Indian country can be traced directly to the lack of economic opportunities—the lack of jobs. This, in turn, leads to lack of self-esteem with all of the problems that stem from this in any society—alcoholism, neglect of family and sometimes even abuse, high dropout rates from the schools, teenage suicides, and many other problems. Clearly economic development must be given a high priority by this committee and by the Congress.

In the 100th Congress we passed legislation to establish an Indian Development Finance Corporation, an institution modeled on the World Bank and designed to supplement or complement traditional sources of capital in underdeveloped areas. The President saw fit to pocket veto this legislation, contending that adequate sources of capital are available elsewhere and

that this institution would duplicate existing Federal programs. I am convinced that the record shows otherwise. I intend to reintroduce this legislation in anticipation that the concept will receive more favorable consideration from the new administration.

I also intend to introduce legislation to revise what is now called the Buy Indian Act—a law that was first enacted in 1908 and amended in 1910 requiring, as much as is practicable, employment of Indian labor and purchases of the products of Indian industry. This law has, in some measure, been followed by the Bureau of Indian Affairs and the Indian Health Service, and efforts have been made by the Congress to utilize the act in defense procurement. The existing law is, however, clearly outmoded and needs to be rewritten to accommodate modern circumstances.

Finally, in the area of economic development, I look forward to working with my esteemed colleague, the vice chairman of the committee, Senator JOHN MCCAIN, on legislation to provide tax and trade incentives for private investment in Indian country. I understand that this legislation is in the developmental stage but I look forward to lending my full support for this initiative.

Legislation will be introduced to provide a new regulatory framework for administrative approval of contracts between Indian tribes or individual Indians and non-Indian parties. The existing statutory authority found its inception in 1871. The most recent amendment to this framework was added in 1958. Both the judicial and the executive branches of the Federal Government have broadly construed the statutory authority so that its implementation has become unwieldy and intrusive on tribal self-government.

In the last Congress the Select Committee considered legislation to amend the Indian Child Welfare Act of 1978. In the course of the hearings it became clear that there have been problems in the implementation of this act and that some legislation is desirable. Nevertheless, the bill before us was flawed and it did not move forward. I anticipate the development of a new bill—one which will add a child protection component to the bill—and look forward to the introduction of this new bill early in this session of the Congress.

Late in the last Congress, at the request of the administration, legislation was introduced to amend the Indian Civil Rights Act to expand the jurisdiction of Federal courts to review the actions of the governments of the Indian tribes. This legislation would not only overturn a 1978 Supreme Court decision, Santa Clara Pueblo versus Martinez, strongly affirming the sovereign rights of the Indian tribes, it would also condition the recognition of the actions of tribal courts on a restructuring of tribal governments to establish independent judiciaries, and, for the first time, provide authority for the Attorney General to bring actions directly against the governments of the tribes. The tribes strongly opposed this legislation in the last Congress and undoubtedly will strongly oppose such legislation if it is reintroduced in this Congress.

The committee recognizes the need for strengthening the judicial institutions of the tribes. In the last Congress the committee held a general oversight hearing on tribal courts. Among the recommendations the committee received were recommendations for the establishment of a National Tribal Judicial Center to provide resources for the tribal courts, the provision of legal instruction to judges and court personnel, the development of model codes and rules of procedure, to provide for the coordination with the State and Federal judicial systems, and that the Federal Government generally work toward the improvement of the tribal court systems. I anticipate a further hearing on this subject and look forward to the development of legislation to establish this institution.

In the area of Indian cultural recognition and protection of the rights of the Indian people to practice their traditional religions free of encroachment, the committee had before it last year three bills of major significance: one to establish a National Museum of the American Indian to be situated here in the Nation's Capital; a second to provide for the repatriation of skeletal remains and grave goods from their present repositories in museums to Indian people for proper interment; and a third to strengthen the provisions of the existing American Indian Religious Freedom Act. I anticipate the introduction of comprehensive legislation to address these issues.

In the area of claims settlement legislation, the committee is aware of at least 11 separate negotiations presently underway with respect to resolution of Indian claims to water. As each of these negotiations reaches fruition, congressional action will be necessary to ratify the agreements and the Select Committee, as it was in the last Congress, will be actively involved. In addition, one major claim affecting the Puyallup Tribe and the city of Tacoma, WA, is in the final stages of resolution and in all likelihood will be before the committee during this congressional session.

Legislation will also be introduced to address the problem of recognition of tribes which are not currently federally recognized and do not currently enjoy a government-to-government relationship with the United States. While tribes have, from time to time, been newly recognized by the Government during the 20th century, it was not until 1978 that the Department of the Interior, acting in response to proposed legislation, promulgated regulations to establish formal procedures for the extension of recognition to tribes which through the forces of history have been overlooked and unrecognized. Now, 10 years later, it is clear that this regulatory framework is not achieving its objective. The program office at the Bureau of Indian Affairs which is responsible for this task is inadequately staffed, the burdens imposed on the applicant groups appear excessively onerous, and the criteria for recognition is in need of examination. Consideration of this legislation will be a major activity of the committee in this session of the Congress.

Finally, a major policy initiative of the committee in the forthcoming year will be a series of oversight hearings to examine the manner in which the Department of the Interior, other Federal agencies, and the Congress have carried out the trust responsibility of the United States to the Indian tribes and Alaska Natives. This inquiry will direct itself toward the administration, protection and enhancement of natural resources, the provision of services to the Indian people, and the protection and enhancement of the governments of the Indian tribes and Alaskan Native villages.●

ANTI-DRUG ABUSE ACT OF 1988

● Mr. GRAHAM. Mr. President, it was just over 3 months ago that the Congress passed the Anti-Drug Abuse Act of 1988. The legislation, now law, included serious new Federal drug policy initiatives. What the bill did not include was sufficient funds.

To put into effect the various treatment, interdiction, education, and enforcement proposals in the bill, the Congress authorized $2.7 billion. Yet, less than $1 billion was made available at the time of the law's enactment.

I believe we must now prove the sincerity of our actions. The request we are making today is for supplemental funds in order to carry out the promises made in the drug bill. This supplemental appropriations bill would provide the remaining $1.78 billion for fiscal year 1989.

The stakes in this war on drugs are too high. The cost to our own society is unconscionable. Reducing both the demand for and supply of drugs in our country must remain a priority and must remain on the forefront of Congress' and the administration's legislative agenda. We have already entered the battle. It is imperative that we demonstrate that we have entered the battle to win.●

THE 100TH ANNIVERSARY OF ST. ANDREW'S CHURCH

● Mr. BRADLEY. Mr. President, on February 4, 1989, St. Andrew's Church in Westwood, NJ, will celebrate its centennial. I am pleased to offer my congratulations to all who have been associated with St. Andrew's during its long history.

St. Andrew's Church has a long history of providing spiritual guidance and service to its community. Since the first Mass was celebrated in 1879, St. Andrew's Church has grown to meet the spiritual needs of the community. In 1923, the St. Andrew School was opened for children through the fifth grade. Eight years later, the school was expanded to include children up to the eighth grade. In 1962, a new church was built, providing better facilities for the community.

St. Andrew's has planned a series of events to mark their centennial. I ask my colleagues to join me in wishing St. Andrew's Church continued success in the future.●

THE 150TH ANNIVERSARY OF BELLEVILLE

● Mr. BRADLEY. Mr. President, I am pleased to offer my congratulations to the town of Belleville as it celebrates its 150th anniversary.

Belleville was established as a Dutch community on the banks of the Passaic River. Originally a part of the city of Newark, Belleville became a separate community in 1839. The town has witnessed key events in American history. In was the scene of rear guard action during the Revolutionary War. Bullet holes were once visible on the spire of the Reformed Dutch Church. In 1798, the first low-pressure steam engine made in America was manufactured in Belleville. Throughout the 19th and 20th centuries, Belleville continued to share in the tremendous growth that has enveloped Passaic County. It is now a town of over 35,000 that offers a wonderful community in which to live and work.

Belleville will celebrate its 150th anniversary on January 28 with a series of special events. I join the residents of Belleville in celebrating 150 years of progress, and I extend my best wishes to them for continued success in the future.●

LOUIS H. REENS, WILTON SELECTMAN

● Mr. DODD. Mr. President, I rise to bring to my colleagues' attention an outstanding example of public service, that of Louis H. Reens, second selectman of the town of Wilton, CT. Mr. Reens has served his town for nearly 20 years in various positions. He is retiring from the selectman's post, but leaves behind a fine record of volunteerism for his community and for all of us.

In 1969, he was appointed to the planning and zoning commission of Wilton for a 2-year term, during which time he worked for innovative solutions for the town's parks, recreation and conservation commission and acted for several years as its chairman. During that time, he focused his efforts on environmental issues.

Appointed to Wilton's board of selectmen in 1979, Mr. Reens served for nearly five terms. His wise counsel and patience often cast him in the role of compromise builder and peacemaker. His leadership in the town and in the Democratic Party, long the minority in Wilton, will be sorely missed.

Working alongside Mr. Reens, his wife, Paula, has also been a strong volunteer for many years. She has worked throughout Fairfield County for more than two decades to help bring affordable housing to minorities. Through her efforts, nearly 3,000 families have found homes from Trumbull to Greenwich. The dedication to a better quality of life for their neighbors deserves recognition, and I ask that the U.S. Senate join with the town of Wilton in paying tribute to Louis and Paula Reens.●

PEARL BAILEY—AMBASSADOR AND ENTERTAINER

● Mr. DODD. Mr. President, last year I had the honor of serving as a U.S. delegate in the 43d session of the U.N. General Assembly.

It was a special pleasure to serve in the U.S. delegation to the General Assembly with the reknowned Ambassador and entertainer Pearl Bailey. Ms. Bailey's concern for individual rights and her work toward peace and better understanding among the nations of the world have earned her great respect and admiration among her colleagues at the General Assembly. Her honesty and warm smile easily disarm anyone who might disagree with her. Ms. Bailey's tenacity for equal representation and fairness toward the smaller countries are a great example of her excellent diplomatic skills.

It is impossible to talk about Pearl Bailey and not mention her accomplishments as an entertainer. She made her Broadway debut in 1946 in "St. Louis Woman" and subsequently appeared in "Arms and the Girl," 1950, "Bless You All," 1950, and "House of Flowers," 1954. Her greatest success came in 1967, when she starred in the hit musical "Hello Dolly!" for which she received a Tony Award. Ms. Bailey also appeared in several films and had her own television show in 1970–71. But she is best known for her musical talents with songs like "Tired," and "Takes Two to Tango."

Mr. President, I would like to enclose a moving piece by Ms. Bailey on the subject of AIDS, the most difficult health crisis in this country and abroad. I know my fellow Senators will appreciate her compassionate remarks about this awful dilemma that we as a people face.

The article follows:

We the Seekers Shall Be the Finders

(By Pearl Bailey for AIDS)

I thought, it is not fair for you to have this disease. It is not fair for us to sit here in darkness waiting, for answers without even a clue. We need help too.

In some bosom there is faith: In some mind there is a key to open the door. We must falsify the lie that "AIDS" is "unconquerable." Somewhere in the world a man or woman will, by the grace of God, become filled with the knowledge that will save humanity.

Through our combined efforts it can and must be done if mankind is to survive this terrible pestilence. God created mankind. We must not allow "AIDS" to destroy it, or force us to destroy ourselves. The cry for help grows louder, and louder every day. Our ears must grow sharper to the sound of "HELP."

Yes, this trip is worthwhile for mankind's sake. Let us gather together often in love mankind's sake. Let us seek no reward other than life. Let us try to find the truth.

Time is not on our side. God is.

We must keep searching until we find a cure for "AIDS".

We the seekers, shall be the finders.

Today he is frightened (tho he hides it well), questioning, probing, helping others. He wonders why the doctors. Scientists, politicians, and financiers aren't doing more: anything so that he can live. The disgust about the speed and inefficiency is eating at his soul. He said in a recent letter to me, "I am not yet 30 and each day I face life with a virus inside of me that is killing almost all of my friends. I just wish someone from the 'outside' would hear it—would hear me." I call him a brave, young man, waking each day asking God, "Is this the day?"

In the Bible we read of the lepers whom men shunned: some brave souls walked among them. So many times we tend to shrug off good, able souls, thinking we can solve situations from a distance. No! my friends we must take a closer look seeing "the faces," and "the hearts." As I looked into the heart of this boy, I sometimes felt to ask, "How little friend did this occur? Can you help us so we may know more? We are trying to help you. Give us a clue as to the beginning." I remember him telling me of his first knowledge. He said, "When the doctor told me, first, I cried: then I spoke to the Priest," then he said, and he laughed, "I started to sell all my possessions." "One day," he said, "I looked around me and discovered I had sold my bed." I knew then he was telling me all. He was getting ready for death. How dare a disease prepare us in such a cruel, inhuman way.

It was a long journey here, measured more in love than distance. The realization that the world would be here to listen, speak, and search together has made it worthwhile. Hope, faith, love traveled all the way with me. The "outsider" has to become "insider," on the subject of "AIDS."

I've heard it said, "Not in this century will there be a cure." We must say, and believe: "Oh yes there will be." Each nation sitting here has been touched, not one has escaped

this pestilence, "AIDS." Like the "four horsemen," is riding the earth, destroying: with no regard to age, lace, or sex. Those who say, "Not Me," think of all who said the same thing.

Let everyone cry out to God and lift his heart up to him, as if he were hanging by a hair, and a tempest were raging to the very heart of heaven, and he were at a loss for what to do, and there were hardly time to cry out. It is a time when no counsel indeed, can help a man and he has no refuge save to remain in his lonliness and lift his eyes and his heart up to God and cry out to Him. And this should be done at all times for in the world a man is in great danger." (Quote from Martin Buber.)

The recognition of "AIDS" comes closer when it strikes someone dear. I met a young boy who at 25 had reached a large degree of success. At 30, he is reaching out for "life:" "Death" is reaching out for him. He was caught in the dragnet of "AIDS."●

U.S. DISTRICT COURT JUDGE JOSEPH BLUMENFELD

● Mr. DODD. Mr. President, I ask my colleagues to join with me in remembrance of and tribute to a great man who served the public—a witty and wise man whom I was fortunate to know. He was the late U.S. District Court Judge Joseph Blumenfeld, formerly my father's law partner in the years before my father ran for Congress. The association of an Irish-American and a Jew in a law office raised a few eyebrows in those days, but it never gave either of them a moment's pause. They were a good team; they worked hard and remained friends after their careers took them into different branches of the Federal Government. When my father became a Senator and learned of an opening on the Federal bench in Connecticut, he recommended Joe Blumenfeld's name to then-President Kennedy, who appointed him. Judge Blumenfeld became an institution in the judiciary, armed with his fiery humor, his salty impatience for ill-prepared lawyers, and above all his love of justice and the law.

One week before he died, in November, I happened to invite Judge Blumenfeld to a luncheon with other long-time friends of my father. The judge, at 84, was still working, as a senior judge. He said he could not attend because of his difficulty in getting around. We held the lunch despite his passing and talked at length about his life.

I think my colleagues will appreciate hearing the remarks delivered at Judge Blumenfeld's service by Judge Jon O. Newman:

REMARKS BY JUDGE JON O. NEWMAN

It is a privilege to speak these brief words about my dear friend, Joe Blumenfeld. His was a life dedicated to the law. For six decades he rendered service to the law—for 33 years as a practicing attorney and for 27 years as judge of the United States District Court for the District of Connecticut.

He arrived in Hartford from St. Paul, Minnesota, and the Harvard Law School. In a short time he established himself as a premier litigator, equally accomplished in the rough and tumble of the trial courts and the somewhat more subdued atmosphere of the appellate courtroom. He tried cases with the same zest and enthusiasm that enlivened every task he ever undertook. The law firm was Pelgrift, Dodd & Blumenfeld—Delancey Pelgrift, who would continue a distinguished career at the bar, Tom Dodd, who, with Joe's hard work and wise counsel, would become a United States Representative and a United States Senator, and Joe Blumenfeld, who would become one of the Nation's outstanding federal judges.

Joe was called "a lawyer's lawyer." That is said about many attorneys who earn the regard of their colleagues, but with Joe, it was more than a label; it was a recognition that he was the one they turned to to take on the tough cases. In later years, at our frequent lunches with Judge Smith, the judge he held in the highest esteem, and our law clerks, he would reminisce about those years of private practice, about trudging through the snow to courthouses throughout the state to try cases entrusted to him by other members of the bar, or to argue their appeals in Connecticut's Supreme Court. "Let me tell you about this case I tried out in Litchfield," he would begin, remembering in detail the personalities from the courtroom, the facts of the case, and especially the point of law that had engaged his quick mind. Often the story had a humorous twist. Joe could tell stories with the best of them, enjoying the punch line as much as his listeners, and getting a special kick out of those that drew a laugh at his own expense.

In the 1940s, his talents as a litigator earned him a four-year assignment as Special Assistant to the United States Attorney.

Joe Blumenfeld became a federal judge in 1961 and later served three years as Chief Judge. He was just the 16th judge in the history of the District of Connecticut. Joe ascended the federal bench with two characteristics that imbued his work—humility and pride. His humility graced his entire judicial career. He understood full well the authority of his office, but he was never afflicted with the arrogance of power. The robe did not obscure the essence of the man—the gentle wit, the radiant grin, the self-deprecating humor, the warmth of personality.

Yet the humility, genuine as it was, did not displace a pride in who he was and what he was doing. He was proud to be a judge, proud to share a responsibility for maintaining the legal traditions of the United States and defending the ultimate embodiment of American law, the United States Constitution. He took special pride in being the first Jew to become a federal judge in Connecticut. He saw it as a step in the realization of the American dream. Others saw it as well as an exemplary appointment of merit, an individual whose intellect, experience, and compassion superbly qualified him for service on the federal bench.

The promise of those qualifications was soon realized. Right from the start and throughout more than a quarter century of service in the federal judiciary, Joe Blumenfeld gained recognition as one of our great judges. He ran his courtroom with courtesy and dispatch. He presided with dignity, leavened with infectious good humor.

But it was the wisdom and scholarship of his opinions that earned him his stature as a jurist of national reputation. Ruling on a wide range of topics, he wrote with clarity and vision, authoring a number of opinions that are included in the leading law school casebooks.

Joe cared deeply about the law and the institutions of the law. He revered the law. For him, law was mankind's finest expression of the values he deeply cherished—fairness, decency, equality of opportunity, regard for the dignity of each human being.

Always the law was his guide. And the commands of the Constitution were at the core of his abiding faith in the law. A few years ago, receiving an award from the National Conference of Christians and Jews, he spoke with feeling about his reverence for the Constitution and for its guarantee of equality under law. As he spoke, the passion of his convictions welled up within this gentle man, emotion choked his voice, and tears clouded his eyes. Rarely have a heart and a mind been enlisted in such consistent devotion to such enduring principles.

When Joe was honored with the presentation of his portrait, which now adorns the courtroom in which he presided for nearly three decades, he asked himself whether, if he had the chance again to become a judge, he would do so. He answered "yes" in words of utter simplicity that were so characteristic: "The work is hard, but it is important work, it is satisfying, and I enjoy doing it."

To lawyers and to his colleagues on the bench, he was always "Judge B."—the sobriquet that neatly blended the respect he earned with the informality he preferred. To 27 years of law clerks, he was an inspiring figure, always concerned about their careers, always ready to share their joys and sorrows. The twenty assembled here today from across the country bear testament to their high regard for him. And he earned the affection and loyalty of his devoted secretary, Ellen Anderson.

There are many judges who are respected, and surely he was. There are a few who are admired, and surely he was. But rarely can it be said that a judge was loved, yet surely he was. Joe Blumenfeld enriched our lives and our law. And for that we are grateful.●

DECEPTIVE MAIL PREVENTION ACT

● Mr. PRYOR. Mr. President, I am pleased today to join with my distinguished colleague from Pennsylvania, Senator HEINZ, in introducing legislation which I believe is an important step in protecting postal consumers from deceptive "look-alike" mailing practices.

The bill, which we call the Deceptive Mail Prevention Act of 1989, will be referred to the Senate Committee on Governmental Affairs. As the chairman of the Federal Services, Post Office and Civil Service Subcommittee, I am planning a subcommittee hearing on this legislation in late February. I will do all I can to see legislation of this kind, after all interested parties have been heard, advances through the committee so that the Senate can work its will on this matter.

Mr. President, the purpose of the bill is straightforward: to stop those who deceptively associate themselves

with the Government by using official sounding names, seals, and insignias in commercial mailings, misleading mail recipients into thinking they are purchasing from, or contributing to, the Government. The bill declares as unmailable any letter which could reasonably be construed as implying a Government connection where none exists, unless the letter includes both on its face and on the envelope a conspicuous statement that makes it clear there is no Government affiliation with the mailer.

Examples of the kinds of mailing practices which our legislation would deter include: efforts to sell services or products actually available from the Government for free or for less than the offeror charges; offers to save personal benefits such as Social Security with a contribution of money; and the offer of Social Security lottery tickets.

As chairman of both the postal subcommittee and the Senate Aging Committee, I have a particularly unique and compelling perspective from which to view this kind of unethical mailing practice, since our elderly population is disproportionately affected by such schemes. I will not stand by while the U.S. mail, so integral a link in the communications network which binds us together as a nation, is used to prey on the elderly.

The idea for this bill is not a new or novel one, Mr. President. Senator HEINZ introduced similar legislation last Congress. His bill was the subject of discussion among committee staff during the final days of the 100th Congress. It should also be noted that the House of Representatives passed similar legislation during the last session of the 100th Congress.

Mr. President, I intend to work closely with my colleagues to see that the Congress does all it can to eliminate scam operations, which trade on the Government's name, using the U.S. mails as a vehicle for their profits. In doing so, I think we will enhance the confidence that Postal customers have in the mail and in the U.S. Postal Service. I urge my colleagues to join with us in this effort.●

IN TRIBUTE TO MAYOR DENNIS COLLINS, OF BAYONNE, NJ

● Mr. LAUTENBERG. Mr. President, I rise today to honor one of the outstanding public figures in the State of New Jersey: the Honorable Dennis Collins, the mayor of Bayonne.

Mr. President, Mayor Collins has been mayor of Bayonne for 15 years; longer than anyone in the modern history of Bayonne. In that time, he has established himself not only as a highly competent administrator, but as a real leader in the community. His tireless efforts have touched the lives of countless residents of Bayonne.

Mayor Collins is a special man who leads a special city. His service in government began more than 25 years ago when he served as a first ward councilman. Later he was elected as councilman at large, and then president of the city council. Throughout his years in public service, Mayor Collins has consistently demonstrated his deep commitment to Bayonne and the diverse mix of people who live there. His work has been recognized not only throughout our great State, but around the country.

Mr. President, on January 27 there will be a dinner at the Hi Hat Club in Bayonne to honor Mayor Collins. At that time, many of the mayor's friends and constituents will have an opportunity to say thanks for his dedicated service to Bayonne. It should be a worthy tribute to a truly outstanding man.

The people of Bayonne are proud of Mayor Collins and they deserve to be. He represents the best of public service and the best of New Jersey. I am proud to count him as a friend, and want to extend him my most sincere congratulations and best wishes for continued success in the future.●

PASSING OF A FRIEND

● Mr. DODD. Mr. President, it was with great sorrow that I recently learned of the passing of an old and very dear friend. N. Glenn Russell had for a number of years been my barber as he serviced the Brookside area in Kansas City, MO, and Glenn was always eager to discuss politics. Through the years, I came to learn that there was no better place to return and find out what issues were on the minds of Missourians than Glenn's barbershop. Not only was Glenn always in the know, but he was usually correct in his assessment of the situation. And I am not the only one who will mourn Glenn's passing. Glenn was a leader in the Brookside Merchants Association and through his and the other members efforts the area maintained a wholesome, family oriented atmosphere that served as a model for other neighborhood retail organizations within the metropolitan area. We will all miss him very much.●

BICENTENNIAL SIGNIFICANCE OF 1989

● Mr. WARNER. Mr. President, as the 101st Congress convenes and as the Senate prepares to vote to confirm our 61st Secretary of State, I would like to call to the attention of my colleagues how historically significant this year is as the bicentennial of the creation of our Federal Government in 1789.

A number of unparalleled events took place exactly 200 years ago, in 1789—events that brought forth the creation of our Federal Government.

Each of the three branches of our Government traces its origins to momentous milestones in 1789.

I am sure that my colleagues will be fascinated by the numerous accomplishments of our Founding Fathers in that historic year.

In February 1789, George Washington was elected the first President of our Nation.

A month later, our U.S. Constitution officially went into effect.

During the first week of April that year, both the U.S. Senate and House of Representatives held their first official meetings.

Later that month, President Washington was inaugurated in New York City, our first seat of government.

During that summer, the Departments of War, Treasury, and Foreign Affairs, along with the judiciary and the position of Attorney General were established.

The Department of Foreign Affairs was renamed the State Department in September.

In October 1789, our first Chief Justice was sworn in, and President Washington nominated Thomas Jefferson as the first Secretary of State—a move confirmed by the first Members of this great body.

As a Senator from Virginia, I am particularly proud of my home State's role in the creation of our Government.

The geographical center of the then 13 coastal States—all east of the Appalachian Mountains—was only a few miles from my Middleburg home.

Virginia provided our first President; two of the executive's four Cabinet officials; one of the first five Supreme Court Justices; 2 of 24 U.S. Senators; and 10 of 59 U.S. Representatives, including James Madison, the architect of our Constitution.

In addition, Virginia later shared in contributing land for our permanent seat of government here on the Potomac.

As we approach the confirmation of our next Secretary of State, I am remined of the first: Thomas Jefferson.

He was responsible for foreign affairs and, with the exception of military and financial matters, our entire domestic administration.

Allow me to briefly outline Mr. Jefferson's responsibilities as our first Secretary of State:

Formulated and established national foreign policy;

Communicated with foreign representatives in our Nation, and with our representatives abroad;

Coordinated foreign and domestic commerce and trade;

Coordinated international and internal navigation;

Regulated Federal commissions, and the safekeeping of Federal records and the Great Seal;

Promulgated laws;

Communicated with the individual States and territories, Governors, and other Federal officials not associated with the War and Treasury Departments;

Communicated—in the absence of the Justice Department—with Judges and Marshals;

Drafted executive reports to the U.S. Congress—on such subjects as uniform weights and measures, coinage, the mint, and fisheries;

Supervised the printing of the first U.S. Census;

Administrated the first National Patent System;

Formulated the plan for the first mint;

Served as repository of publications and printed materials—the forerunner of our Library of Congress.

I also should note that Secretary Jefferson performed these duties with a staff of four and an annual budget of $8,000, which included his own $3,500 yearly salary.

This is a proud moment in American history, as we pause to pay tribute to our visionary leaders and humble origins 200 years ago.

Our legacy is best described by the words of James Madison, who wrote Thomas Jefferson in June 1789:

> The Federal business has proceeded with a mortifying tardiness * * * We are in a wilderness without a single footstep to guide us. Our successors will have an easier task * * *.

Mr. President, I hope my colleagues will take note of the historic significance of this bicentennial year.●

CHEMICAL WEAPONS ISSUES

● Mr. BIDEN. Mr. President, 1988 will be remembered as a year when peace began to "break out" around the world. It was a year in which the Soviet pullout from Afghanistan began, the INF Treaty entered into force, the four-nation settlement in southern Africa was signed, and a cease-fire in the Iran-Iraq War went into effect.

Unfortunately, often overlooked is the fact that 1988 was also a year in which chemical weapons were unleased with devastating results by one government against its own citizens. This heinous act, has gradually awakened the world to the threat posed by chemical weapons.

These weapons are deadly. A very small amount inhaled or absorbed through the skin can kill within minutes or can cause a slow, agonizing death.

These weapons are indiscriminate. Poison gases can wipe out civilian populations, while on the battlefield military personnel can protect themselves from the lethal effects of these agents.

These weapons are proliferating at a rapid pace. At the start of this decade, there were four nations known to have the capability to produce chemical weapons. Today, nearly two dozen countries are believed to have joined this increasingly nonexclusive club.

These weapons are already in the hands of terrorist states such as Syria and Libya, who are not only likely to use chemical weapons but are certain to export them to terrorist groups such as the PLO and the IRA.

These weapons are cheap and relatively easy to produce. They are often referred to as the "poor man's atom bomb." But there is one enormous difference between chemical and nuclear weapons—chemical weapons are being used, nuclear weapons are not.

This is why it is imperative that the United States act quickly and forcefully to prevent further uses of chemical weapons around the world and to completely ban their production and stockpiling. We in Congress share in President Bush's desire to see that chemical weapons are "wiped off the face of the earth."

Unfortunately, not all nations share this conviction. So, as the leader of the free world, it is incumbent upon the United States to send an unmistakeable message to those nations that may contemplate using chemical weapons—that there will be a stiff price to pay.

The recently concluded Paris Conference provided a good start by focusing attention on this issue. Unfortunately, beyond stating opposition to the use of chemical weapons and affirming a committment to achieving a comprehensive ban on these weapons, the 149 nations attending the Conference were unable to achieve any consensus as to how to resolve this pressing issue. Work at the Geneva Committee on Disarmament to achieve an effectively verifiable ban proceeds, but it is slow and deliberate.

We must send an unmistakable signal now—before it is too late, before some irresponsible nation is tempted to use chemical weapons again—that such behavior will not be tolerated by the international community.

First, the United States must impose sanctions swiftly and completely against any nation that violates the 1925 Geneva protocol. Although an imperfect tool for effecting change, sanctions send a signal and in this case will carry a powerful message to transgressors. Of course, sanctions will be more effective if other nations join us, so we must work to encourage international sanctions as well.

Second, we must move swiftly to conclude a comprehensive ban on the production and stockpiling of these weapons, so that no nation will be allowed to possess any chemical weapons. Those that do will clearly be in violation of international law and will be subject to severe censure and worldwide ostracization.

Third, until chemical weapons are banned, we must coordinate efforts with our allies to tighten current export controls to include precursor chemicals and the technology associated with chemical weapons production. Efforts also must be made to bring the Soviet Union, the East bloc and the newly industrializing nations into this regime.

Finally, we must punish those nations that allow companies in their jurisdiction to supply nations with a chemical weapons capability. Governments should be held accountable for the actions of their citizens and should pay a price if they are lax in stopping prohibited practices.

These are just a few of the interim steps that we can and must take before we conclude an agreement that really does "wipe chemical weapons off the face of the Earth" once and for all.

Two bills being offered today lay a solid foundation for achieving this goal, and I am proud to cosponsor both of them. Senator PELL's bill targets chemical weapons users and mandates sanctions against those nations that engage in this abhorrent practice. His measure sends an unmistakable signal to all nations that the United States will not tolerate such behavior.

Senator DOLE's bill focuses on supplier nations—those who provide others with the ability to produce chemical weapons. It requires American vigilance on the issue of the transfer of technology and material that might provide a nation with a chemical weapons capability.

While I feel strongly that the thrust of the Dole bill is correct—any nation or company that provides such assistance should be penalized—I think it is important that sanctions be imposed equitably. We must be careful that the penalties we impose against foreign transgressors are commensurate with those that are levied against American companies that violate the Export Administration Act. If they are not, our allies will be justified in loudly protesting our sanctions. Such a "do as we say, not as we do" approach would be hypocritical and would severely strain relations. But I am confident that as the legislative process moves forward, we will guard against any such inequities.

It is only through the firm and resolute approaches taken by these two bills that the United States can send a message to the international community that we are committed to removing the blight of chemical weapons from our planet.●

MRS. CAROLINE KALINOWSKI

● Mr. WIRTH. Mr. President, I rise today to honor a fellow Coloradan,

Mrs. Caroline Kalinowski who yesterday celebrated her 100th birthday.

When she was only 16-years-old, Mrs. Kalinowski left her native Poland to begin a new life of opportunity in the United States. Although she only had the equivalent of a third grade education, Mrs. Kalinowski taught herself to read and quickly became an avid follower of current events in the New York Daily News.

After her husband was tragically killed in an explosion in a Pennsylvania coal mine, Mrs. Kalinowski supported her four children by working in a garment factory in Brookly, NY. She continued to work until the age of 72 and lived by herself until the age of 95. When she was 95 she made the decision to join her daughter Mrs. Janine Mayes in Denver, CO.

Mrs. Kalinowski is friendly, enjoys a good joke and is still politically aware. In fact, I am told that she is a fan of President George Bush and was pleased that her birthday coincided with the inaugural festivities. Mrs. Kalinowski's only regret in life was that she never obtained her U.S. citizenship. It is my hope that in her second century this wish becomes a reality. On behalf of all of the citizens of Colorado, let me extend my warmest wishes for her continued happiness.●

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM-14

Under the authority of the order of the Senate of January 3, 1989, the Secretary of the Senate, on January 9, 1989, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975 as modified on April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, the Committee on the Judiciary, and the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report six new rescission proposals totaling $143,096,000.

The rescissions affect programs in the Departments of Housing and Urban Development, Interior, Justice, and Labor.

The details of these rescission proposals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *January 9, 1989.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-371. A communication from the Acting Assistant Administrator of the Environmental Protection Agency (Pesticides and Toxic Substances), transmitting, pursuant to law, a final regulation under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-372. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of the military family housing maintenance function at Carswell Air Force Base, TX, to performance by contract; to the Committee on Armed Services.

EC-373. A communication from the Acting Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on the conversion of the communications-computer operations at the Minneapolis-St. Paul International Airport, MN to performance by contract; to the Committee on Armed Services.

EC-374. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to ensure the proper budgetary treatment of credit transactions of Federal agencies and to improve management of Federal credit programs; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

EC-375. A communication from the President of the United States, transmitting, pursuant to law, a report entitled "Science and Technology Report 1985-1988,"; to the Committee on Commerce, Science, and Transportation.

EC-376. A communication from the Secretary of Transportation, transmitting, pursuant to law, an annual report on all the National Transportation Safety Board's recommendations to the Secretary regarding transportation safety; to the Committee on Commerce, Science, and Transportation.

EC-377. A communication from the Director, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the second annual report required under the Federal Lands Cleanup Act of 1985; to the Committee on Energy and Natural Resources.

EC-378. A communication from the Secretary of the Interior, transmitting, pursuant to law, the eighth annual progress report required under the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

EC-379. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on National Historic Landmarks and National Natural Landmarks that have been damaged or to which damage to their integrity is anticipated; to the Committee on Energy and Natural Resources.

EC-380. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's report on abnormal occurrences at licensed nuclear facilities; to the Committee on Environment and Public Works.

EC-381. A communication from the Under Secretary (Oceans and Atmosphere), Department of Commerce, transmitting, pursuant to law, a report on the Federal plan for ocean pollution research, development, and monitoring for fiscal years 1988-92; to the Committee on Environment and Public Works.

EC-382. A communication from the Acting Chairman, U.S. International Trade Commission, transmitting, pursuant to law, the Commission's 56th quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-383. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, the Department's quarterly report concerning human rights activities in Ethiopia, covering the period October 15, 1988–January 14, 1989; to the Committee on Foreign Relations.

EC-384. A communication from the Executive Director, Navajo and Hopi Indian Relocation Commission, transmitting, pursuant to law, a report on the Commission's accounting and internal control systems during fiscal year 1988; to the Committee on Governmental Affairs.

EC-385. A communication from the President, African Development Foundation, transmitting, pursuant to law, a report on the Foundation's internal control and financial systems; to the Committee on Governmental Affairs.

EC-386. A communication from the Acting Secretary, Department of Agriculture, transmitting, pursuant to law, a report containing a notice of a revision to four systems of records, and notice of a new system of records; to the Committee on Governmental Affairs.

EC-387. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, a report on a proposed new system of records; to the Committee on Governmental Affairs.

EC-388. A communication from the Assistant Secretary for Administration of the Department of Transportation, transmitting, pursuant to law, notice of a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-389. A communication from the Secretary of the Mississippi River Commission transmitting pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1988; to the Committee on Governmental Affairs.

EC-390. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Department of Labor's inspector general for the period April 1 through September 30, 1988; to the Committee on Governmental Affairs.

EC-391. A communication from the President of the United States, transmitting, pursuant to law, a report of the Department of Health and Human Resources regarding the administration of the Radiation Control for Health and Safety Act during the calendar year 1987; to the Committee on Labor and Human Resources.

EC-392. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a study on the availability of liability insurance and other forms of assurance against financial loss which are available to local educational agencies [LEA's] and asbestos contractors; to the Committee on Labor and Human Resources.

EC-393. A communication from the Administrator of Veterans Affairs, transmitting, pursuant to law, a report on the extent to which activities at VA health-care facilities have been performed by contractors under the provisions of the Office of Management and Budget [OMB] Circular A-76 during fiscal year 1988 and the cost savings that resulted; to the Committee on Veterans Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 12. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; referred to the Committee on Rules and Administration.

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Res. 15. An original resolution authorizing expenditures by the Committee on Foreign Relations, to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. BIDEN, Mr. LEVIN, Mr. SPECTER, Mr. MITCHELL, Mr. SIMON, Mr. GRASSLEY, Mr. BOREN, Mr. PRESSLER, Mr. SIMPSON, Mr. MOYNIHAN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Mr. SANFORD, and Mr. HEINZ):

S. 1. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; read the first time.

By Mr. BYRD (for himself, Mr. MITCHELL, Mr. NUNN, Mr. WARNER, Mr. BOREN, Mr. COHEN, and Mr. DANFORTH):

S. 2. A bill to amend the War Powers Resolution to provide expedited procedures for legislation requiring the disengagement of U.S. Armed Forces involved in hostilities or providing specific authorization for their continued engagement in such hostilities, and for other purposes; to the Committee on Foreign Relations.

By Mr. NUNN (for himself, Mr. ROBB, Mr. GLENN, Mr. BREAUX, and Mr. SASSER):

S. 3. A bill to establish a corporation to administer a program of voluntary national service, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. MITCHELL):

S. 4. A bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself, Mr. HATCH, Mr. KENNEDY, Mr. MITCHELL, Ms. MIKULSKI, Mr. CHAFEE, Mr. D'AMATO, Mr. CRANSTON, Mr. HOLLINGS, Mr. PELL, Mr. METZENBAUM, Mr. MATSUNAGA, Mr. SIMON, Mr. HARKIN, Mr. ADAMS, Mr. SANFORD, Mr. REID, Mr. BRADLEY, Mr. BURDICK, Mr. DECONCINI, Mr. MOYNIHAN, Mr. RIEGLE, Mr. LAUTENBERG, Mr. DASCHLE, Mr. BINGAMAN, Mr. SARBANES, Mr. BIDEN, Mr. ROCKEFELLER, Mr. KERRY, Mr. LEAHY, Mr. BAUCUS, Mr. SASSER, Mr. LIEBERMAN, Mr. KERREY, Mr. INOUYE, Mr. BRYAN, and Mr. KOHL):

S. 5. A bill to provide for a Federal program for the improvement of child care, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. MCCONNELL, Mr. BOND, Mr. SYMMS, Mr. KASTEN, Mr. BOSCHWITZ, Mr. BURNS, Mr. DANFORTH, Mr. WARNER, Mr. WALLOP, Mr. LOTT, and Mr. GARN):

S. 6. A bill to grant the power to the President to the appropriated funds within 10 days after the date of enactment of a bill appropriating such funds; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days of continuous session to report or be discharged.

By Mr. DOLE (for himself, Mr. STEVENS, Mr. MCCONNELL, Mr. COCHRAN, Mrs. KASSEBAUM, Mr. LUGAR, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BOND, Mr. BURNS, Mr. DANFORTH, Mr. RUDMAN, Mr. CHAFEE, and Mr. SIMPSON):

S. 7. A bill to amend the Federal Election Campaign Act of 1971 to further restrict contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal elections through "soft money" and independent expenditures, correct inequities resulting from personal financing of campaigns, strengthen the role of political parties, and contain the cost of political campaigns; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. GARN, Mr. HEINZ, Mr. DODD, Mr. MCCAIN, Mr. KASTEN, Mr. JEFFORDS, Mr. ROTH, Mr. BOSCHWITZ, and Mr. COHEN):

S. 8. A bill to amend the Export Administration Act of 1979 to impose sanctions against companies which have aided and abetted the proliferation of chemical or biological weapons, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOLE (for himself, Mr. ARMSTRONG, Mr. KASTEN, Mr. SYMMS, Mr. WILSON, Mr. DURENBERGER, Mr. LUGAR, Mr. HELMS, Mr. ROTH, Mr. MACK, Mr. PRESSLER, Mr. JEFFORDS, and Mr. EXON):

S. 9. A bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. DANFORTH, Mr. DURENBERGER, Mr. GRASSLEY, Mr. MCCAIN, Mr. INOUYE, Mrs. KASSEBAUM, Mr. BURDICK, and Mr. DOMENICI):

S. 10. A bill to amend title XVIII of the Social Security Act to ensure that Medicare-dependent, small rural hospitals receive for a 3-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program; to the Committee on Finance.

By Mr. CRANSTON:

S. 11. A bill to provide for the protection of the public lands in the California desert; to the Committee on Energy and Natural Resources.

S. 12. A bill to establish a Parents as Partners in Learning program, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. MATSUNAGA, Mr. DECONCINI, and Mr. ROCKEFELLER):

S. 13. A bill to amend title 38, United States Code, to increase the rates of disability compensation and dependency and indemnity compensation for veterans and survivors, to increase the allowances paid to disabled veterans pursuing rehabilitation programs and to the dependents and survivors of certain disabled veterans pursuing programs of education, and to improve various programs of benefits and health-care services for veterans; and for other purposes; to the Committee on Veterans Affairs.

By Mr. CRANSTON:

S. 14. A bill to provide for a grant program to assist eligible consortia in providing services to individuals with acquired immunodeficiency syndrome or AIDS-related complex; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. GORE, Mr. WILSON, Mr. BIDEN, Mr. BINGAMAN, Mr. CONRAD, Mr. DODD, Mr. KERRY, Mr. INOUYE, Mr. RIEGLE, Mr. SARBANES, and Mr. PELL):

S. 15. A bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. CRANSTON:

S. 16. A bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself and Mr. HEINZ):

S. 17. A bill to direct the Consumer Product Safety Commission to promulgate fire safety standards for cigarettes and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON:

S. 18. A bill to authorize payments to States to assist in improving the quality of child care services; to the Committee on Labor and Human Resources.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 19. A bill to allow State Governors to file petitions for action under section 301 of the Trade Act of 1974; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. GRASSLEY, Mr. PRYOR, Mr. GLEN,

Mr. COHEN, Mr. NUNN, Mr. ROTH, Mr. SASSER, Mr. BINGAMAN, Mr. KOHL, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. DURENBERGER, Mr. RIEGLE, Mr. SARBANES, Mr. ADAMS, Mr. BURDICK, Mr. MOYNIHAN, Mr. BOREN, Mr. MATSUNAGA, Mr. WIRTH, Mr. DECONCINI, Mr. KENNEDY, and Mr. MITCHELL):

S. 20. A bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes; read the first time.

By Mr. ROTH:

S. 21. A bill to provide the President with line-item veto authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days of continuous session to report or be discharged.

By Mr. PRESSLER:

S. 22. A bill to prohibit all United States military and economic assistance for Turkey until the Turkish Government takes certain actions to resolve the Cyprus problems; to the Committee on Foreign Relations.

By Mr. HUMPHREY:

S. 23. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services; to the Committee on Labor and Human Resources.

By Mr. WALLOP (for himself, Mr. SIMPSON, Mr. STEVENS, and Mr. MURKOWSKI):

S. 24. A bill to clarify that charges and fees may be collected in connection with foreign trade zones at certain small airports; to the Committee on Finance.

By Mr. HELMS:

S. 25. A bill to protect the lives of unborn human beings; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN (for himself and Mr. WILSON):

S. 26. A bill to make certain supplemental appropriations in order to fully fund the Anti-Drug Act of 1988; to the Committee on Appropriations.

By Mr. MOYNIHAN:

S. 27. A bill to establish a federally sponsored program for the restoration, conservation, and management of Onondaga Lake in Onondaga County, New York, and to provide for the sharing of costs of such clean up, and for other purposes; to the Committee on Environment and Public Works.

By Mr. RIEGLE (for himself, Mr. BURNS and Mr. LIEBERMAN):

S. 28. A bill to amend the Internal Revenue Code of 1986 to increase the basic standard deduction for child dependents; to the Committee on Finance.

By Mr. FORD (for himself, Mr. ROTH, Mr. DOMENICI, Mr. NICKLES, Mr. DECONCINI, Mr. COHEN, Mr. SYMMS, Mrs. KASSEBAUM, Mr. NUNN, Mr. MCCONNELL, Mr. BUMPERS, Mr. INOUYE, Mr. BOREN, Mr. COCHRAN, Mr. BOSCHWITZ, Mr. HEINZ, Mr. DASCHLE, Mr. SHELBY, Mr. SANFORD, Mr. WILSON, Mr. DANFORTH, Mr. PELL, Mr. GARN, Mr. WARNER, Mr. PRESSLER, Mr. WALLOP, Mr. CONRAD, Mr. WIRTH, Mr. BREAUX, and Mr. BENTSEN):

S. 29. A bill to provide for a 2-year Federal budget cycle, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

By Mr. WIRTH (for himself, Mr. JOHNSTON, and Mr. BUMPERS):

S. 30. A bill to require for certain requirements relating to the convention of oil shale mining claims located under the General Mining Law of 1872 to leases, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 31. A bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments, and for other purposes; to the Committee on Rules and Administration.

By Mr. THURMOND (for himself, Mr. DECONCINI, Mr. DOLE, Mr. HATCH, Mr. GRASSLEY, Mr. SIMPSON, Mr. D'AMATO, Mr. DOMENICI, Mr. WILSON, Mr. GRAMM, Mr. RUDMAN, Mr. BOREN, Mr. PACKWOOD, Mr. REID, Mr. KASTEN, Mr. LOTT, and Mr. STEVENS):

S. 32. A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary

By Mr. HUMPHREY (for himself, Mr. LUGAR, Mr. THURMOND, Mr. HELMS, Mr. WALLOP, Mr. BOSCHWITZ, Mr. PRESSLER, Mr. NICKLES, Mr. SYMMS, and Mr. COATS):

S. 33. A bill to provide that each item of any appropriation measure that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate bill or joint resolution for presentation to the President; to the Committee on Rules and Administration.

By Mr. HUMPHREY (for himself, Mr. GRASSLEY, Mr. THURMOND, Mr. SYMMS, and Mr. HELMS):

S. 34. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

By Mr. DANFORTH (for himself, Mr. PRYOR, Mr. BOND, Mr. DASCHLE, Mr. DURENBERGER, Mr. BOSCHWITZ, Mr. BURDICK, Mr. DOMENICI, Mr. GRASSLEY, Mr. PRESSLER, and Mr. COCHRAN):

S. 35. A bill to provide for the establishment of rural enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 36. A bill to establish constitutional procedures for the imposition of the death penalty for certain Federal offenses; to the Committee on the Judiciary.

S. 37. A bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979; to the Committee on Finance.

By Mr. WILSON (for himself, Mr. MITCHELL, Mr. DOLE, Mr. PACKWOOD, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. DODD, Mr. ROTH, Mr. INOUYE, Mr. HATCH, Mr. HEINZ, Mr. MATSUNAGA, Mr. STEVENS, Mr. GRAHAM, Mr. D'AMATO, Mr. BRADLEY, Mr. COCHRAN, Mr. GRASSLEY, Mr. SANFORD, Mr. WARNER, Mr. SYMMS, Mr. COHEN, Mr. HATFIELD, Mr. BOND, Mr. RUDMAN, Mr. KASTEN, Mr. MCCAIN, Mr. DANFORTH, Mr. LUGAR, Mrs. KASSEBAUM, Mr. DOMENICI, Mr. ARMSTRONG, Mr. MACK, Mr. BOSCHWITZ, Mr. MCCONNELL, Mr. DECONCINI, and Mr. RIEGLE):

S. 38. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. CHAFEE, Mr. DURENBERGER, Mr. LIEBERMAN, Mr. SIMON, Mr. HARKIN, Mr. METZENBAUM, Mr. KERRY, and Mr. LEAHY):

S. 39. A bill to amend the National Wildlife Refuge Administration Act; to the Committee on Environment and Public Works.

By Mr. BOREN (for himself, and Mr. BENTSEN):

S. 40. A bill to modify the wheat provisions of the Agricultural Act of 1949 by eliminating the Secretary of Agriculture's authority to restrict haying and grazing on idled wheat acreage; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for Mr. NICKLES):

S. 41. A bill to promote the energy security of the United States by amending the Internal Revenue Code of 1986 to encourage the continued exploration for and production of domestic oil and natural gas resources; to the Committee on Finance.

By Mr. DOLE (for Mr. NICKLES):

S. 42. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil and refined petroleum products; to the Committee on Finance.

By Mr. REID (for himself and Mr. BRYAN):

S. 43. A bill to restore the medicare and medicaid law to the provisions in effect before the enactment of the Medicare Catastrophic Coverage Act of 1988 and to establish a Presidential Commission on the Medicare Program; to the Committee on Finance.

By Mr. CRANSTON:

S. 44. A bill to provide assistance and coordination in the provision of child care services for children living in homes with working parents, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SYMMS:

S. 45. A bill to amend chapter 44, title 18, United States Code, to provide clarification of limitations on controls of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself and Mr. RUDMAN):

S. 46. A bill to clarify standards governing bankruptcies and reorganizations of public utility companies under title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. KENNEDY, Mr. MOYNIHAN, Mr. INOUYE, Mr. ADAMS, Ms. MIKLUSKI, and Mr. CHAFEE):

S. 47. A bill to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 48. A bill to amend the Federal Aviation Act of 1958 to provide protection for employees of the airlines and to promote air safety; to the Committee on Commerce, Science, and Transportation.

S. 49. A bill to prohibit the exploration for and extraction of oil and gas in certain areas of the coast of California, and various other purposes; to the Committee on Environment and Public Works.

By Mr. DECONCINI:

S. 50. A bill to amend the Sherman Act and the Clayton Act to modify the application of such acts to international commerce; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself, Mr. GLENN, Mr. METZENBAUM, and Mr. KERRY):

S. 51. A bill to amend title II of the Social Security Act to provide that the combined earnings of a husband and wife during the period of their marriage shall be divided equally and shared between them for benefit purposes, so as to recognize the economic contribution of each spouse to the marriage and ensure that each spouse will have Social Security protection in his or her own right; to the Committee on Finance.

By Mr. INOUYE:

S. 52. A bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes; to the Committee on Armed Services.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 53. A bill to authorize the reformulation of the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, to provide for the amendment of water service and repayment contracts; to the Committee on Energy and Natural Resources.

By Mr. METZENBAUM (for himself, Mr. HEINZ, Mr. PRYOR, Mr. KENNEDY, Ms. MIKULSKI, Mr. DECONCINI, Mr. SHELBY, Mr. HARKIN, Mr. KOHL, Mr. SIMON, Mr. MATSUNAGA, Mr. ADAMS, Mr. PELL, Mr. BURDICK, Mr. GLENN, and Mr. DODD):

S. 54. A bill to amend the Age Discrimination in Employment Act of 1967 with respect to the waiver of rights under such Act without supervision, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. WILSON:

S. 55. A bill to increase the availability of quality affordable child care, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 56. A bill to limit the role of political action committees in Federal elections; to the Committee on Rules and Administration.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 57. A bill to amend the Clean Air Act to control certain sources of sulfur dioxide and oxides of nitrogen to reduce acid deposition, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ (for himself and Mr. GORTON):

S. 58. A bill to amend the Housing and Community Development Act of 1987 to improve the enterprise zone development program, to amend the Internal Revenue Code of 1986 to provide tax incentives for investments in enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 59. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the gain on certain sales of lands subject to ground leases; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. ADAMS, Mr. BRADLEY, Mr. MATSUNAGA, and Mr. WILSON):

S. 60. A bill concerning the naturalization of natives of the Philippines through active-duty service in the Armed Forces during World War II; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 61. A bill to amend the Public Health Service Act to permit schools offering degrees in social work to obtain grants for training projects in geriatrics; to the Committee on Labor and Human Resources.

S. 62. A bill to amend the Public Health Service Act to give the Director of the National Center for Nursing Research certain authorities commenserate with those of the directors of the National Research Institute; to the Committee on Labor and Human Resources.

S. 63. A bill to amend title XVIII of the Social Security Act to provide independence to clinical social workers with respect to services furnished at a comprehensive outpatient rehabilitation facility; to the Committee on Finance.

S. 64. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect to be conducted by a psychiatric nurse practitioner or clinical nurse specialist; to the Committee on Labor and Human Resources.

By Mr. SYMMS:

S. 65. A bill to amend title 23, United States Code, to eliminate a reduction of the apportionment of Federal-aid highway funds to certain States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 66. A bill to amend the Public Health Service Act to permit schools of nursing to obtain grants for training projects in geriatrics; to the Committee on Labor and Human Resources.

S. 67. A bill to establish a temporary program under which parental diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. SYMMS, and Mr. WARNER):

S. 68. A bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO (for himself and Mr. DECONCINI):

S. 69. A bill entitled the Posse Comitatus Improvement Act of 1989; to the Committee on Armed Services.

By Mr. HELMS:

S. 70. A bill to control the spread of AIDS; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 71. A bill to control the spread of AIDS.

S. 72. A bill to direct the Federal Communications Commission to proscribe all obscene and indecent material transmitted by means of intrastate telephone communications by amending the section 223 of the Communications Act of 1934; read the first time.

S. 73. A bill to protect the lives of unborn human beings; read the first time.

S. 74. A bill to restore the right of voluntary prayer in public schools and to promote the separation of powers; read the first time.

By Mr. HELMS (for himself, Mr. THURMOND, Mr. WILSON, Mr. MCCLURE, Mr. SYMMS, Mr. D'AMATO, Mr. ARMSTRONG, and Mr. WALLOP):

S. 75. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes; read the first time.

By Mr. INOUYE:

S. 76. A bill for the relief of Ms. Shon Ning Lee; to the Committee on the Judiciary.

S. 77. A bill for the relief of Ms. Kinisimere Fonua Suschnigg; sons, Georg Cagilaba Suschnigg and Dariush Anthony Suschnigg; to the Committee on the Judiciary.

S. 78. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

S. 79. A bill for the relief of Marivic Neri and Miyoshi Neri; to the Committee on the Judiciary.

S. 80. A bill for the relief of Mrs. Wu Chih-Chu Liao and sons, Chung-Chi, Feng-Yi, and Chi-Hung; to the Committee on the Judiciary.

S. 81. A bill for the relief of Fisi'itetefa P. Ma'ake; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 82. A bill to recognize the organization known as the 82nd Airborne Division Association, Incorporated; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. JOHNSTON):

S. 83. A bill to establish the amount of costs of the Department of Energy's uranium enrichment program that have not previously been recovered from enrichment customers in the charges of the Department of Energy to its customers; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. THURMOND, Mr. GRASSLEY, Mr. LAUTENBERG, Mr. D'AMATO, Mr. COCHRAN, Mr. HELMS, Mr. WILSON, Mr. MCCAIN, and Mr. PRESSLER):

S. 84. A bill to amend title 28, United States Code, to provide Federal debt collection procedures; to the Committee on the Judiciary.

By Mr. BYRD (for himself and Mr. ROCKEFELLER):

S. 85. A bill to authorize the acceptance of certain lands for addition to Harpers Ferry National Historical Park, WV; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself, Mr. MURKOWSKI, Mr. MATSUNAGA, Mr. DECONCINI, Mr. ROCKEFELLER, and Mr. GRAHAM):

S. 86. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans' Affairs health-care facilities to provide the most effective and appropriate services possible to veterans suffering from mental illness, especially conditions which are service-related, through the designation of up to five of its facilities as centers of mental illness research, education, and clinical activities and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. DECONCINI, Mr. HELMS, Mr. WILSON, Mr. DOMENICI, Mr. GRASSLEY, Mr. GRAMM, and Mr. D'AMATO):

S. 87. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. D'AMATO, Mr. HELMS, Mr. WILSON, Mr. GRASSLEY, Mr. DECONCINI, Mr. SIMPSON, and Mr. DOMENICI):

S. 88. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

By Mr. SYMMS (for himself, Mr. BOSCHWITZ, Mr. GRASSLEY, Mr. HELMS, Mr. KASTEN, Mr. GARN, Mrs. KASSEBAUM, Mr. DOLE, Mr. PRESSLER, Mr. ARMSTRONG, and Mr. COCHRAN):

S. 89. A bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. THURMOND:

S. 90. A bill to provide for comprehensive reforms and to achieve greater equity in the compensation of attorneys pursuant to Federal statute in civil and administrative proceedings in which the United States, or a State or local government, is a party; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. LEVIN):

S. 91. A bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. SIMPSON, Mr. SYMMS, Mr. ARMSTRONG, and Mr. WILSON):

S. 92. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 93. A bill to establish an Intercircuit, and for other purposes; to the Committee on the Judiciary.

S. 94. A bill to promote and improve efficient and effective enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 95. A bill to amend title VIII of the Public Health Service Act to require the Secretary of Health and Human Services to establish a scholarship program to enable professional nurses to obtain advanced degrees in professions related to the practice of nursing; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. HATCH):

S. 96. A bill to amend the Public Health Service Act to establish an Office of the Associate Director for Special Populations to place emphasis on needs of women and minorities for the prevention and treatment of alcoholism and alcohol abuse and related problems; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 97. A bill to amend the Public Health Service Act that a student enrolled in a graduate program in psychology shall be eligible for student loans under the health professions student loan program; to the Committee on Labor and Human Resources.

S. 98. A bill to amend the Public Health Service Act to ensure that social work students are eligible for support under the Health Careers Opportunity Program in title VII; to the Committee on Labor and Human Resources.

S. 99. A bill to amend the Public Health Service Act to specify that health maintenance organizations may provide the services of clinical social workers; to the Committee on Labor and Human Resources.

By Mr. ROCKEFELLER (for himself, Mr. INOUYE, Mr. BURDICK, Mr. CONRAD, Mr. SHELBY, and Mr. DASCHLE):

S. 100. A bill to amend title XVIII of the Social Security Act with respect to coverage of, and payment for, services of psychologists under part B of the medicare; to the Committee on Finance.

By Mr. SANFORD:

S. 101. A bill to mandate a balanced budget, to provide for the reduction of the national debt, to protect retirement funds, to require honest budgetary accounting, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days of continuous session to report or be discharged.

By Mr. INOUYE:

S. 102. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress; to the Committee on Governmental Affairs.

By Mr. HUMPHREY:

S. 103. A bill to amend the Tennessee Valley Authority Act; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 104. A bill to authorize a certificate of documentation for the vessel *Liberty*; to the Committee on Commerce, Science, and Transportation.

S. 105. A bill to allow the Internal Revenue Code of 1986 to be applied and administered as if the 3-year basis recovery rule applicable to employees' annuities had not been repealed; to the Committee on Finance.

S. 106. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges; to the Committee on Armed Services.

S. 107. A bill to amend title 20, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

S. 108. A bill to amend the Public Health Service Act to permit the Secretary of Health and Human Services to make certain grants to Native Hawaiian health centers; to the Select Committee on Indian Affairs.

S. 109. A bill to amend title 38, United States Code, to provide for the payment of incentive special pay to Department of Veterans' Affairs psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

By Mr. KENNEDY (for himself, Mr. ADAMS, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. CHAFEE, Mr. COHEN, Mr. CRANSTON, Mr. DECONCINI, Mr. DODD, Mr. GLENN, Mr. GORE, Mr. HEINZ, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. SIMON, Mr. WILSON, and Mr. WIRTH):

S. 110. A bill to revise and extend the programs of assistance under title X of the Public Health Service Act; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 111. A bill to allow the psychiatric or psychological examinations required under chapter 313 of title 18, United States Code, relating to offenders with mental disease or defect to be conducted by a clinical social worker; to the Committee on the Judiciary.

S. 112. A bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to nurse midwives and nurse practitioners, to clarify certain provisions of such chapter with respect to coordination with State and local law, and for other purposes; to the Committee on Governmental Affairs.

S. 113. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 114. A bill to declare certain activities of manufacturers of soft drinks to be unfair acts or practices for purposes of the Federal Trade Commission Act; to the Committee on the Judiciary.

S. 115. A bill to amend titles XVIII and XIX of the Social Security Act to provide that nurse practitioner or clinical nurse specialist services are covered under part B of Medicare and are a mandatory benefit under Medicaid; to the Committee on Finance.

S. 116. A bill to amend title XVIII of the Social Security Act to increase the independence of psychologists with respect to services furnished at a comprehensive outpatient rehabilitation facility; to the Committee on Finance.

S. 117. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

S. 118. A bill to amend title XVIII of the Social Security Act to provide coverage of clinical social workers services when provided on-site at a community mental health center or off-site as part of a treatment plan; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 119. A bill to amend titles XVIII and XIX of the Social Security Act to provide that pediatric nurse practitioner or pediatric clinical nurse specialist services are covered under part B of Medicare and are a mandatory benefit under Medicaid; to the Committee on Finance.

By Mr. KENNEDY:

S. 120. A bill to amend the Public Health Service Act to reauthorize adolescent family life demonstration projects, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 121. A bill to amend title XVIII of the Social Security Act to provide that psychologist services furnished by, or under arrangements made by, a hospice program are covered under Medicare; to the Committee on Finance.

S. 122. A bill to amend title XVIII of the Social Security Act to provide coverage for social worker services furnished at rural health clinics; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. SIMON, Mr. DODD, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. INOUYE, Mr. BRADLEY, Mr. BINGAMAN, Mr. KERRY, Mr. ADAMS, Mr. BURDICK, Mr. WIRTH, Mr. SHELBY, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 123. A bill to provide financial assistance to States and localities for high quality early childhood development programs for prekindergarten children, and for other pur-

poses; to the Committee on Labor and Human Resources.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 124. A bill to amend titles XVIII and XIX of the Social Security Act to provide that clinical social worker services are covered under part B of Medicare and are a mandatory benefit under Medicaid, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 125. A bill to provide direct payment for services of registered nurses as assistants in surgery; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 126. A bill to amend title XVIII of the Social Security Act to provide that a nurse practitioner or clinical nurse specialist may, in collaboration with a physician, certify or recertify the need for certain services, to provide for coverage of certain items and services furnished by a nurse practitioner or clinical nurse specialist, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 127. A bill to amend title 10, United States Code, to authorize the retention of Army, Naval, and Air Force Reserve psychologists in an active status after attainment of an age that would otherwise require separation; to the Committee on Armed Services.

S. 128. A bill to amend title 37, United States Code, to authorize special pay for certain officers of the Armed Forces who obtain certain professional board certifications as psychologists; to the Committee on Armed Services.

S. 129. A bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Navy, and the Surgeon General of the Air Force; to the Committee on Armed Services.

S. 130. A bill to amend title 37, United States Code, to authorize the payment of incentive special pay for nurses in the Armed Forces, to the Committee on Armed Services.

S. 131. A bill to amend title 10, United States Code, to exclude Nurse officers from the computation of authorized grade strength; to the Committee on Armed Services.

By Mr. PRESSLER:

S. 132. A bill to reform the tort law doctrine of joint and several liability; to the Committee on the Judiciary.

S. 133. A bill to amend the Higher Education Act, the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1989, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN:

S. 134. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GLENN (for himself, Mr. DECONCINI, Mr. PRYOR, and Mr. STEVENS):

S. 135. A bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ADAMS (for himself, Mr. RIEGLE, Mr. STEVENS, and Mr. DECONCINI):

S. 136. A bill to amend title 3, United States Code, to establish a single poll closing time in the continental United States for Presidential general elections; to the Committee on Rules and Administration.

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. BYRD, Mr. BINGAMAN, Mr. MOYNIHAN, Mr. DODD, and Mr. REID):

S. 137. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. DURENBERGER:

S. 138. A bill to amend the Internal Revenue Code of 1986 to provide a uniform Federal tax treatment for employer-provided health care benefits for retired employees; to the Committee on Finance.

S. 139. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts withdrawn from individual retirement plans for payment of long-term health care insurance premiums; to the Committee on Finance.

S. 140. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of, and a credit for contributions to, long-term health care savings accounts; to the Committee on Finance.

S. 141. A bill to amend the Internal Revenue Code of 1986 to provide for establishment of a credit for the cost of long-term health care insurance, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER (for himself, Mr. COHEN, Mr. MCCAIN, Mr. BRADLEY, and Mrs. KASSEBAUM):

S. 142. A bill to amend title XVIII of the Social Security Act to establish a program of voluntary certification of long-term care insurance policies and to protect medicare beneficiaries from marketing practices related to such policies, and for other purposes; to the Committee on Finance.

By Mr. INOUYE:

S. 143. A bill to establish the Indian Development Finance Corporation; to the Select Committee on Indian Affairs.

S. 144. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 145. A bill to make requirements for the preparation, and transmittal to the Congress, of Presidential findings for certain intelligence operations and to provide mandatory penalties for deceiving Congress; to the Select Committee on Intelligence.

By Mr. METZENBAUM:

S. 146. A bill to provide comprehensive Federal assistance for day care; to the Committee on Labor and Human Resources.

By Mr. INOUYE:

S. 147. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on Armed Services.

By Mr. PRESSLER:

S. 148. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN:

S. 149. A bill to establish the Economic Policy Council; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 150. A bill to authorize the transportation of motor vehicles owned by Federal employees on Johnson Island to their families in Hawaii; to the Committee on Governmental Affairs.

S. 151 A bill to amend title 5, United States Code, to provide a remote maintenance allowance to certain officers and employees of the United States assigned to Johnson Island; to the Committee on Governmental Affairs.

S. 152. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed during World War II; to the Committee on Armed Services.

By Mr. COATS:

S. 153. A bill to defer congressional pay adjustments until the first March 1 following the beginning of the Congress next following the Congress during which certain actions with respect to pay rates are taken, to provide that appropriations of funds for congressional pay be considered separately from appropriations for other purposes, to require a recorded vote in each House on such appropriation, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EXON:

S. 154. A bill for the relief of Luis A. Gonzalez and Virginia Aguilla Gonzalez; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S. 155. A bill to amend the Impoundment Control Act of 1974 to provide for enhanced recission procedures; to the Committee on the Budget and the Committee on Appropriations, jointly, pursuant to the order of January 30, 1975, as modified on April 11, 1986.

By Mr. CONRAD:

S. 156. A bill for the relief of Merlina Weber; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 157. A bill to remove the study and recommendation of pay increases for Members of Congress from the jurisdiction of the Commission on Executive, Legislative, and Judicial Salaries, and for other purposes; to the Committee on Government Affairs.

By Mr. DECONCINI (for himself and Mr. BRYAN):

S. 158. A bill to prohibit the receipt of honoraria by Senators; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself, Mr. GRASSLEY, Mr. LOTT, and Mr. COATS):

S. 159. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 5, that earned income credit shall not apply to families having such a dependent, and that the dependent care credit shall not apply with respect to such dependents; to the Committee on Finance.

By Mr. THURMOND:

S. 160. A bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict; to the

Committee on Energy and Natural Resources.

By Mr. BOREN (for himself and Mrs. KASSEBAUM):

S. 161. A bill to amend the Internal Revenue Code of 1986 to impose a tax on the importation of crude oil and refined petroleum products; to the Committee on Finance.

By Mr. HELMS:

S. 162. A bill to amend the Internal Revenue Code of 1986 to disallow a personal exemption for a child born alive after an induced abortion; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. SYMMS, Mr. HATFIELD, Mr. GRASSLEY, Mr. HELMS, and Mr. ARMSTRONG):

S. 163. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 164. A bill to transfer certain lands to the South Carolina Commission of Forestry, an agency of the State of South Carolina; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 165. A bill to require the Administrator of Veterans' Affairs to construct a medical research center for the Veterans' Administration and the Medical University of South Carolina in Charleston, South Carolina; to the Committee on Veterans' Affairs.

By Mr. PRYOR:

S. 166. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HARKIN:

S. 167. A bill to amend the Fair Labor Standards Act of 1938 to increase the tip credit, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRESSLER:

S. 168. A bill to promote competition in the distribution and sale to consumers of satellite-distributed television programming; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. GORE, Mr. DANFORTH, Mr. INOUYE, Mr. BUMPERS, Mr. RIEGLE, Mr. PRESSLER, Mr. WILSON, Mr. MCCAIN, Mr. CRANSTON, Mr. BENTSEN, Mr. BRYAN, Mr. WIRTH, and Mrs. KASSEBAUM):

S. 169. A bill to amend the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMM:

S. 170. A bill to permit the Federal Communications Commission to utilize value based assignments in awarding licenses for the use of the electromagnetic spectrum; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (for himself, Mr. BOSCHWITZ, Mr. MCCLURE, and Mr. SYMMS):

S. 171. A bill to amend the Internal Revenue Code of 1986 to provide a variable capital gains tax differential for certain capital assets, to index the basis of capital assets, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER:

S. 172. A bill to amend the Soil Conservation and Domestic Allotment Act to extend the date for entering into contracts under the Great Plains conservation program; to the Committee on Agriculture, Nutrition, and Forestry.

S. 173. A bill to establish a Rural Mobility Task Force in the Urban Mass Transportation Administration; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself, Mr. INOUYE, and Mr. CONRAD):

S. 174. A bill to amend the Internal Revenue Code of 1986 to provide a mechanism for taxpayers to designate any portion of any overpayment of income tax, and to contribute other amounts, for payment to the National Organ Transplant Trust Fund, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 175. A bill to improve the objectivity, reliability, coordination and timeliness of national foreign intelligence through a reorganization of positions, and for other purposes; to the Select Committee on Intelligence.

By Mr. HEINZ:

S. 176. A bill to amend the Foreign Agents Registration Act of 1938 to strengthen the registration and enforcement requirements of that act; to the Committee on Foreign Relations.

By Mr. DECONCINI (for himself, Mr. METZENBAUM, Mr. SIMON, and Mr. PRESSLER):

S. 177. A bill entitled the Cable Compulsory License Non-Discrimination Act of 1989; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 178. A bill to authorize appropriations for the purposes of carrying out the National Violent Crime Program for fiscal year 1990 for other purposes; to the Committee on the Judiciary.

S. 179. A bill to amend the Unfair Act of 1916 and Clayton Act to provide for private enforcement of the Unfair Competition statute in the event of unfair foreign competition, and to amend title 38 of the United States Code to provide for private enforcement of the Customs fraud statute; to the Committee on the Judiciary.

S. 180. A bill to authorize incarceration in Federal prisons of convicts sentenced to life imprisonment under the habitual criminal statute of a State; to the Committee on the Judiciary.

S. 181. A bill to require States to assure that prisoners have training in a marketable job skill and basic literacy before releasing them on parole; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 182. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Finance.

By Mr. HELMS:

S. 183. A bill to facilitate the compensation of American victims of terrorist acts committed by the Palestine Liberation Organization or any of its factions; to the Committee on Foreign Relations.

By Mr. D'AMATO:

S. 184. A bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity (resulting from changes made in 1977 in the benefit computation formula) between those levels and the benefit levels of persons who became eligible before 1979; to the Committee on Finance.

By Mr. DIXON:

S. 185. A bill to amend title 18 of the United States Code to punish as a Federal criminal offense the crimes of international parental child abduction; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. LEVIN):

S. 186. A bill to correct imbalances in certain States in the Federal tax to Federal benefit ratio reallocating the distribution of Federal spending, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 187. A bill to amend the Social Security Act to provide for the improvement of child care, to amend the Internal Revenue Code of 1986 to improve the child care tax credit, and for other purposes; to the Committee on Finance.

By Mr. SYMMS:

S. 188. A bill to amend title XVIII of the Social Security Act to eliminate mandated caps on physicians fees; to the Committee on Finance.

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 189. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans' Affairs to provide funeral transportation, remains transportation, and living expense benefits to deceased medal of honor recipients and their families; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself, Mr. BURDICK, and Mr. HEFLIN):

S. 190. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself, Mr. BURDICK, Mr. HEFLIN, and Mr. MOYNIHAN):

S. 191. A bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay after a reduction in either the amount of compensation or retired pay; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself, Mr. INOUYE, and Mr. CRANSTON):

S. 192. A bill to require the Secretary of Veterans' Affairs to provide for the conduct of a comprehensive study of the psychological problems of Native Americans who are Vietnam veterans; to the Committee on Veterans' Affairs.

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 193. A bill to amend title 37, United States Code, to treat service of members of the uniformed services of the United States at a permanent duty station in Alaska and Hawaii as overseas service for the purpose of determining the eligibility of such members to receive certain educational travel and transportation benefits for their dependent children; to the Committee on Armed Services.

By Mr. MATSUNAGA (for himself, Mr. INOUYE, Mr. STEVENS, Mr. MURKOWSKI, and Mr. BINGAMAN):

S. 194. A bill to upgrade the ground segment of the Search and Rescue Satellite

Aided Tracking System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL (for himself, Mr. HELMS, Mr. KERRY, Mr. MCCAIN, Mr. GORE, Mr. SIMON, Mr. BOSCHWITZ, Mr. DODD, Mrs. KASSEBAUM, Mr. BURDICK, Mr. HUMPHREY, Mr. SANFORD, Mr. BIDEN, Mr. COHEN, Mr. HARKIN, Mr. DOLE, Mr. STEVENS, Mr. MURKOWSKI, and Mr. LUGAR):

S. 195. A bill entitled the "Chemical and Biological Weapons Control Act of 1989"; to the Committee on Foreign Relations.

By Mr. BURDICK (for himself, Mr. DURENBERGER, and Mr. MOYNIHAN):

S. 196. A bill to control emissions of air pollutants from municipal waste incineration units, to provide for the safe disposal of ash produced by such units, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SASSER (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. GRAHAM, Mr. PRYOR, Mr. WIRTH, Mr. PELL, Mr. KERRY, Mr. INOUYE, Mr. BINGAMAN, Mr. REID, Mr. SANFORD, Mr. GORE, and Mr. BUMPERS):

S. 197. A bill to authorize the insurance of certain mortgages for first-time homebuyers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATCH:

S. 198. A bill to amend title 17, United States Code, the Copyright Act, to protect certain computer programs; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 199. A bill to establish an inspector general for the CIA; to the Select Committee on Intelligence.

By Mr. RIEGLE (for himself and Mr. CRANSTON):

S. 200. A bill to amend the Social Security Act to provide for improved procedures with respect to disability determinations and continuing disability reviews and to modify the program for providing rehabilitation services to individuals determined under such act to be under a disability, and for other purposes; to the Committee on Finance.

By Mr. GORE (for himself, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. HOLLINGS, Mr. WIRTH, Mr. SIMON, Mr. KERRY, Mr. REID, Mr. BRYAN, and Mr. SASSER):

S. 201. A bill to respond to the global environmental degradation on by human activities by reversing the trends that are presently altering or destroying vast portions of the biosphere, and to ensure that U.S. policies provide for the protection of the world environment from future degradation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DASCHLE (for himself and Mr. PRESSLER):

S. 202. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota Pumping Division, Pick-Sloan Missouri Basin Program, South Dakota; to the Committee on Energy and Natural Resources.

By Mr. BURDICK (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. LAUTENBERG, Mr. SYMMS, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BAUCUS, Mr. CHAFEE, and Mr. MITCHELL):

S. 203. A bill to authorize research into ground water contamination and remediation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH (for himself and Mr. THURMOND):

S. 204. A bill to provide procedures for calling Federal constitutional conventions under article V for the purpose of proposing amendments to the U.S. Constitution; to the Committee on the Judiciary.

By Mr. SYMMS (for himself, Mr. MCCLURE, and Mr. SHELBY):

S. 205. A bill to amend title XVIII of the Social Security Act to eliminate the reimbursement differential between hospitals in different areas; to the Committee on Finance.

By Mr. SYMMS:

S. 206. A bill to amend the 1986 Tax Act to provide that certain loans between a domestic international sales corporation and a member of the same controlled group of corporations be treated as qualified export assets; to the Committee on Finance.

By Mr. DIXON:

S. 207. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to require expeditious consideration by the Congress of a proposal by the President to rescind all or part of any item of budget authority if the proposal is transmitted to the Congress on the same day on which the President approves the bill or joint resolution providing such budget authority; to the Committee on the Budget and the Committee on Governmental Affairs; jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days of continuous session to report or be discharged.

By Mr. HELMS:

S. 208. A bill to inhibit the proliferation of ballistic and cruise missiles in the Middle East; to the Committee on Foreign Relations.

By Mr. GORE (for himself, Mr. SASSER, Mr. BOREN, and Mr. NICKLES):

S. 209. A bill to amend section 547 of title 11, United States Code, to provide that certain withdrawal transaction made by depositors from certain financial institutions not be avoided as preferential transfers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 210. A bill to extend compulsory OASDI and medicare coverage to State and local government employees hired after December 31, 1989, or performing service after such date not subject to any public retirement system; to the Committee on Finance.

S. 211. A bill to amend the Social Security Act to increase the allocation of employment taxes to the Federal Disability Insurance Trust Fund; to the Committee on Finance.

S. 212. A bill to amend title II of the Social Security Act to require the Secretary of Health and Human Services to provide personal earnings and benefits statements to individuals covered by Social Security, and for other purposes; to the Committee on Finance.

S. 213. A bill to amend the Social Security Act to reduce the effect of the disability benefits offset; to the Committee on Finance.

S. 214. A bill to direct the Secretary of Health and Human Services to develop a prototype of a counterfeit-resistant Social Security card, and to provide for a study and report on the development of such card; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. RIEGLE):

S. 215. A bill entitled the "Social Security Trust Funds Management Act of 1989"; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 216. A bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security income program under title XVI of such Act; to the Committee on Finance.

S. 217. A bill to amend part A of the Social Security Act to reduce the need for emergency assistance payments to provide temporary housing for destitute families eligible for AFDC, and the expense of such payments, by authorizing grants to States for the construction or rehabilitation of permanent housing that such families can afford with their regular AFDC payments; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. HEINZ):

S. 218. A bill to charter the National Academy of Social Insurance; to the Committee on the Judiciary.

S. 219. A bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997; to the Committee on the Budget and the Committee on Governmental Affairs, pursuant to the order of August 4, 1977, with instructions that if one on to report or be discharged.

By Mr. MOYNIHAN:

S. 220. A bill to provide for flexibility in the use of Federal highway program grants authorized under title 23, United States Code, and other Federal infrastructure grants to establish a National Infrastructure Corporation, to provide additional financing for a variety of public works improvements, and for other purposes; to the Committee on Environment and Public Works.

S. 221. A bill to amend title 23, United States Code, to authorize the use of rights-of-way along Federal-aid highways for the construction of transportation systems that will be part of the Federal-aid highway system; to the Committee on Environment and Public Works.

S. 222. A bill to encourage the development of energy plants at the mouth of coal mines, with a specific focus on the economically depressed Appalachian region, by improving the technologies for coal separation and power transmission using superconductivity; to the Committee on Environment and Public Works.

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. DODD, and Mr. KASTEN):

S. 223. A bill to establish a grant program for research, treatment and public education with respect to Lyme disease; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 224. A bill to amend title II of the Social Security Act to waive, for 5 years, the 24-month waiting period for Medicare eligibility on the basis of a disability in the case of individuals with acquired immune deficiency syndrome (AIDS), and for other purposes; to the Committee on Finance.

S. 225. A bill to amend title XIX of the Public Health Service Act to provide for the construction of community mental health centers, and for other purposes; to the Committee on Finance.

S. 226. A bill to amend title XVI and XIX of the Social Security Act to provide for improved mental health care for the chronically mentally ill and the homeless mentally ill, to prevent homelessness among the chronically mentally ill, and for other purposes; to the Committee on Finance.

S. 227. A bill to amend title XVIII of the Social Security Act to exempt certain small rural hospitals from the prospective payment system; to the Committee on Finance.

S. 228. A bill entitled the "Intravenous Substance Abuse and AIDS Prevention Act of 1989"; to the Committee on Labor and Human Resources.

S. 229. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber ammunition; to the Committee on the Judiciary.

S. 230. A bill to establish a remedial education treatment program as an alternative to criminal incarceration for first-time youthful defendants who are determined to be learning disabled as a means of reducing recidivism rates among such defendants; to the Committee on Labor and Human Resources.

S. 231. A bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families With Dependent Children Program, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. CHAFEE, Mr. DODD, Mr. BURDICK, Mr. REID, and Mr. LEAHY):

S. 232. A bill to establish the American Conservation Corps, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 233. A bill entitled the "Hazardous Wastes and Human Health Survey Act"; to the Committee on Environment and Public Works.

By Mr. BOREN:

S. 234. A bill to amend the Internal Revenue Code of 1986 to provide incentives for oil and natural gas exploration, and for other purposes; to the Committee on Finance.

By Mr. GLENN (for himself, Mr. SIMON, and Mr. INOUYE):

S. 235. A bill to protect the rights of persons to due process of law and equal protection of the laws in guardianship proceedings; to the Committee on the Judiciary.

By Mr. DASCHLE:

S. 236. A bill to regulate above-ground storage tanks used to store regulated substances; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 237. A bill to reform the Tongass Timber Supply Fund; to the Committee on Energy and Natural Resources.

By Mr. HELMS (for himself, Mr. PELL, Mr. DOLE, and Mr. BOSCHWITZ):

S. 238. A bill to amend the Arms Export Control Act to impose sanctions against firms involved in the transfer of chemical and biological agents or their related production equipment or technical assistance to Iran, Iraq, Syria, and Libya, and for other purposes; to the Committee on Foreign Relations.

By Mr. RIEGLE:

S. 239. A bill to amend title XVIII of the Social Security Act to waive the late enrollment penalty under Medicare part B for any disabled individual who was covered under his own or his spouse's private-employment-related health insurance; to the Committee on Finance.

By Mr. HEINZ (for himself and Mr. MOYNIHAN):

S. 240. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to modify the calculation of Federal deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985 and to notify the maximum deficit amounts set by the Balanced Budget and Emergency Deficit Control Act of 1985 pursuant to the order of August 4, 1977 referred jointly; to the Committee on the Budget, and the Committee on Governmental Affairs.

By Mr. HELMS:

S. 241. A bill to restore the right of voluntary prayer in public schools and to promote the separation of powers; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. THURMOUND, Mr. WILSON, Mr. MCCLURE, Mr. SYMMS, Mr. D'AMATO, Mr. ARMSTRONG, and Mr. WALLOP):

S. 242. A bill to amend the Federal Election Campaign Act of 1971 to prohibit the use of compulsory union dues for political purposes; to the Committee on Rules and Administration.

By Mr. MCCLURE (for himself, Mr. SYMMS, Mr. STEVENS, Mr. ADAMS, Mr. BOREN, Mr. BURNS, Mr. GRASSLEY, Mr. DASCHLE, and Mr. DURENBERGER):

S. 243. A bill to provide for the extension of regional referral center classification of certain hospitals under the Medicare Program and to continue the payment rates for such hospitals; to the Committee on Finance.

By Mr. GLENN:

S. 244. A bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRYOR:

S. 245. A bill to prohibit the Federal Asset Disposition Association from paying severance pay in excess of certain civil service amounts; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM:

S. 246. A bill to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

S. 247. A bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation program carried out pursuant to such act, and for other purposes; to the Committee on Energy and Natural Resources.

S. 248. A bill to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. SYMMS, Mr. THURMOND, and Mr. PRESSLER):

S. 249. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; to the Committee on Rules and Administration.

By Mr. HELMS:

S. 250. A bill to direct the Federal Communications Commission to proscribe all obscene and indecent material transmitted by means of intrastate telephone communications by amending section 223 of the Communications Act of 1934; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 251. A bill to make a comprehensive investigation into potential changes to the global environment and climate, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM:

S. 252. A bill to encourage employers from closing sites of employment in the United States and relocating overseas, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BINGAMAN (for himself, Mr. LEAHY, Mr. SIMON, Mr. KERRY, Mr. HARKIN, Mr. CONRAD, Mr. BOSCHWITZ, Mr. COHEN, Mr. PELL, Mr. MOYNIHAN, Mr. HEINZ, Mr. BURDICK, Mr. ROCKEFELLER, Mr. CHAFEE, Mr. CRANSTON, and Mr. BRADLEY):

S. 253. A bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 254. A bill to amend title 18 of the United States Code to establish fair competition between the private sector and Federal Prison Industries; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. EXON, Mr. PRESSLER, Mr. BURDICK, Mr. COCHRAN, Mr. ROCKEFELLER, Mr. SIMON, Mr. BUMPERS, Mr. GRASSLEY, and Mr. D'AMATO):

S. 255. A bill to authorize appropriations for the Local Rail Service Assistance Program, to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN (for himself, Mr. DIXON, Mr. COCHRAN, and Mr. GRASSLEY):

S. 256. A bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RIEGLE:

S. 257. A bill to amend the Internal Revenue Code of 1986 to permit individuals to receive tax-free distributions from an individual retirement account or annuity to purchase their first home, and for other purposes; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. D'AMATO, and Mr. KERRY):

S. 258. A bill to amend the National Flood Insurance Act of 1968 to extend the program of flood insurance for structures on land subject to imminent collapse or subsidence; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN (for himself, Mr. ROTH, and Mr. DODD):

S. 259. A bill to provide a White House Conference on International Trade in Services; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. HEINZ, Mr. DANFORTH, Mr. KERRY, Mr. PRYOR, Mr. REID, Mr. RIEGLE,

Mr. SYMMS, Mr. DURENBERGER, and Mr. MATSUNAGA):

S. 260. A bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance programs; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 261. A bill to amend the Trade Act of 1974 to treat acts and practices of foreign countries that diminish the effectiveness of international agreements protecting endangered or threatened species as unreasonable for purposes of applying chapter 1 of title III of the Trade Act of 1974; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. DANFORTH, Mr. BAUCUS, Mr. PELL, Mr. SYMMS, and Mr. KENNEDY):

S. 262. A bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 263. A bill to exclude agent orange settlement payments from countable income and resources under Federal means-tested programs; to the Committee on Veterans Affairs.

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, Mr. CRANSTON, Mr. DIXON, Mr. RIEGLE, Mr. D'AMATO, Mr. LEVIN, Mr. BENTSEN, Mr. SARBANES, and Mr. SIMON):

S. 264. A bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 265. A bill to provide Federal grants to States for programs to identify and aid individuals who have been exposed to the drug diethylstilbestrol [DES]; to the Committee on Labor and Human Resources.

By Mr. D'AMATO:

S. 266. A bill to promote international fairness in the underwriting and distribution of Government securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 267. A bill to authorize the Secretary of the Interior to convey certain lands in Idaho to Mr. and Mrs. Kenneth Blevins of Kuna, ID; to the Committee on Energy and Natural Resources.

By Mr. RIEGLE:

S. 268. A bill to amend the State Dependent Care Development Grants Act to strengthen the program for grants to States for dependent care programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. RIEGLE:

S. 269. A bill to prohibit the disposal of solid waste in any State other than the State in which the waste was generated; to the Committee on Environment and Public Works.

By MR. LEAHY (for himself, Mr. HATCH, Mr. BIDEN, Mr. THURMOND, Mr. DECONCINI, Mr. HUMPHREY, Mr. SIMON, Mr. KENNEDY, and Mr. KOHL):

S. 270. A bill to modify the application of the antitrust laws to encourage the licensing and other use of certain intellectual property; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. NUNN, Mr. BRYAN, and Mr. MACK):

S. 271. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 272. A bill to eliminate the exemption for Congress from the application of certain provisions of Federal law relating to employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HEINZ (for himself, Mr. PRYOR, Mr. WILSON, Mr. MATSUNAGA, Mr. LEVIN, Mr. WALLOP, Mr. BOND, Mr. RIEGLE, Mr. COHEN, Mr. LUGAR, Mr. BURDICK, and Mrs. KASSEBAUM):

S. 273. A bill to amend title 39, United States Code, to designate as nonmailable matter solicitations of donations which could reasonably be misconstrued as a bill, invoice or statement of account due solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SASSER (for himself, Mr. MATSUNAGA, Mr. METZENBAUM, Mr. KERRY, Mr. DECONCINI, Mr. KENNEDY, Mr. CHAFEE, Mr. SANFORD, Mr. DASCHLE, Mr. BURDICK, Mr. INOUYE, and Mr. PELL):

S. 274. A bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime; to the Committee on the Judiciary.

By Mr. SYMMS:

S. 275. A bill to provide that the only pay increase to Members of Congress shall be as pay bonuses if a budget surplus exists at the end of each fiscal year, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DURENBERGER (for himself, Mr. LAUTENBERG, Mr. CHAFEE, Mr. BURDICK, Mr. HEINZ, Mr. MOYNIHAN, Mr. LUGAR, Mr. REID, Mr. BOSCHWITZ, Mr. JEFFORDS, Mr. DODD, Mr. PELL, Mr. KERRY, Mr. GORE, Mr. D'AMATO, Mr. KASTEN, Mr. WILSON, and Mr. GRASSLEY):

S. 276. A bill to establish a Department of Environmental Protection; to the Committee on Governmental Affairs.

By Mr. HUMPHREY:

S. 277. A bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government employees; to the Committee on Governmental Affairs.

S. 278. A bill to make permanent the authority of the Secretary of Defense to reimburse members of the Armed Forces for certain expenses incurred in the adoption of children; to the Committee on Armed Services.

S. 279. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee adoption assistance provided by the employer; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. PACKWOOD, Mr. ADAMS, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. COHEN, Mr. CONRAD, Mr. CRANSTON, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DURENBURGER, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRAHAM, Mr. HARKIN, Mr. HATFIELD, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOYNIHAN, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. HATCH, Mr. BOND, Mr. BOSCHWITZ, Mr. BURNS, Mr. COCHRAN, Mr. HELMS, Mr. KASTEN, Mr. MCCAIN, Mr. MCCONNELL, Mr. ROTH, Mr. STEVENS, Mr. SYMMS, Mr. WILSON, Mr. DANFORTH, Mr. DURENBERGER, Mr. GARN, Mr. GRAMM, Mr. WALLOP, Mr. WARNER, Mr. LOTT, and Mr. MURKOWSKI):

S.J. Res. 2. A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation; to the Committee on the Judiciary.

By Mr. GARN (for himself, Mr. DANFORTH, Mr. DECONCINI, Mr. FORD, Mr. GRAMM, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HUMPHREY, Mr. KASTEN, Mr. LUGAR, Mr. MCCLURE, Mr. MCCONNELL, Mr. NICKLES, Mr. PRESSLER, Mr. SYMMS, and Mr. HATFIELD):

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other purposes; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. SIMON, and Mr. BRYAN):

S.J. Res. 4. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the executive and legislative branches of the Federal Government; to the Committee on Governmental Affairs.

By Mr. CRANSTON:

S.J. Res. 5. A joint resolution to establish a national policy for the taking of predatory or scavenging mammals and birds on public lands, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER (for himself, Mr. GRASSLEY, Mr. REID, Mr. HELMS, Mr. MCCAIN, Mr. DECONCINI, Mr. SIMON, Mr. HUMPHREY, Mr. BOREN, Mr. BURDICK, Mr. THURMOND, Mr. HEFLIN, Mr. KASTEN, Mrs. KASSEBAUM, Mr. HARKIN, Mr. BOND, Mr. COATS, Mr. BRYAN, Mr. DOMENICI, Mr. CONRAD, Mr. DASCHLE, Mr. BOSCHWITZ, Mr. LEVIN, Mr. SHELBY, and Mr. NICKLES):

S.J. Res. 6. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government, and for other purposes; read the first time.

By Mr. SANFORD (for himself and Mr. BRYAN):

S.J. Res. 7. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and

employees of the Federal Government; read the first time.

S.J. Res. 8. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government; to the Committee on Governmental Affairs.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. SIMON, Mr. THURMOND, Mr. GRASSLEY, and Mr. DANFORTH):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution relating to a Federal Balanced Budget; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 10. A joint resolution to designate the month of May, 1989 as "National Foster Care Month"; to the Committee on the Judiciary.

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. HATCH, Mr. GRASSLEY, Mr. STEVENS, Mr. GARN, Mr. MCCONNELL, Mr. KASTEN, Mr. SIMPSON, Mr. COCHRAN, Mr. HELMS, Mr. GRAMM, Mr. LUGAR, Mr. DECONCINI, Mr. HUMPHREY, Mr. ROTH, Mr. SYMMS, Mr. D'AMATO, Mr. PRESSLER, Mr. WALLOP, and Mr. JOHNSTON):

S.J. Res. 12. A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. MCCONNELL, Mr. GARN, Mr. HELMS, and Mr. HEFLIN):

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. CONRAD, Mr. STEVENS, Mr. WILSON, Mr. HOLLINGS, and Mr. PELL):

S.J. Res. 15. A joint resolution to designate the second Sunday in October of 1989 as "National Children's Day"; to the Committee on the Judiciary.

By Mr. PRESSLER:

S.J. Res. 16. A joint resolution to designate the month of November 1989 as "National Alzheimers Disease Month"; to the Committee on the Judiciary.

By Mr. DECONCINI:

S.J. Res. 17. A joint resolution proposing a Constitutional amendment to limit Congressional terms; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 18. A joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of the role he played in saving the lives of more then five hundred United States airmen in Yugoslavia during World War II; to the Committee on Rules and Administration.

By Mr. BURNS (for himself and Mr. BAUCUS):

S.J. Res. 19. A joint resolution to designate November 8, 1989, as "Montana Centennial day"; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. GRASSLEY, Mr. REID, Mr. HELMS, Mr. MCCAIN, Mr. DECONCINI, Mr. SIMON, Mr. HUMPHREY, Mr. BOREN, Mr. BURDICK, Mr. THURMOND, Mr. HEFLIN, Mr. KASTEN, Mrs. KASSEBAUM, Mr. HARKIN, Mr. BOND, Mr. BRYAN, Mr. DOMENICI, Mr. COATS, Mr. BOSCHWITZ, Mr. LEVIN, Mr. SHELBY, Mr. NICKLES, and Mr. DASCHLE):

S.J. Res. 20. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S.J. Res. 21. A joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. EXON (for himself and Mr. BENTSEN):

S.J. Res. 22. A joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. SIMON):

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

By Mr. DECONCINI:

S.J. Res. 24. A bill to designate the period commencing on May 1, 1989, and ending on May 7, 1989, as "National Older Americans Abuse Prevention Week"; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself, Mr. MOYNIHAN, Mr. BOSCHWITZ, Mr. LIEBERMAN, Mr. LEVIN, and Mr. METZENBAUM):

S.J. Res. 25. A joint resolution to designate the week of May 7, 1989, through May 14, 1989, as "Jewish Heritage Week"; to the Committee on the Judiciary.

By Mr. ROTH:

S.J. Res. 26. A joint resolution proposing an amendment to the Constitution of the United States relative to campaign expenditures; to the Committee on the Judiciary.

By Mr. HEFLIN:

S.J. Res. 27. A joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. THURMOND, Mr. PELL, and Mr. SYMMS):

S.J. Res. 28. A joint resolution proposing an amendment to the Constitution of the United States limiting federal taxation of State and local obligations; to the Committee on the Judiciary.

By Mr. SHELBY:

S.J. Res. 29. A joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year; to the Committee on the Judiciary.

By Mr. GRAMM:

S.J. Res. 30. A joint resolution proposing an amendment to the Constitution relating to Federal budget procedures; to the Committee on the Judiciary.

By Mr. DIXON:

S.J. Res. 31. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. DECONCINI, Mr. DODD, Mr. GORE, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. LEVIN, Mr. MURKOWSKI, Mr. STEVENS, Mr. THURMOND, Mr. WARNER, Mr. WILSON, and Mr. WIRTH):

S.J. Res. 32. A joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. HELMS, Mr. MCCAIN, Mr. HUMPHREY, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. THURMOND, Mr. DASCHLE, and Mr. COATS):

S.J. Res. 33. A joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government; to the Committee on Governmental Affairs.

By Mr. BENTSEN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BURDICK, Mr. CHAFEE, Mr. CONRAD, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GRASSLEY, Mr. HEINZ, Mr. HOLLINGS, Mr. HUMPHREY, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. MACK, Mr. MCCLURE, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. PRYOR, Mr. REID, Mr. SANFORD, Mr. SARBANES, Mr. SHELBY, Mr. SIMON, Mr. THURMOND, and Mr. WILSON):

S.J. Res. 34. A joint resolution designating the week of April 14, 1989, through April 22, 1989, as "National Minority Cancer Awareness Week"; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S.J. Res. 35. A joint resolution proposing an amendment to the Constitution relating to increases in the public debt of the United States; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. PRYOR (for himself and Mr. MITCHELL)):

S. Res. 9. A resolution to amend the Standing Rules of the Senate to limit sense of the Senate or Congress amendments; ordered to lie over under the rule.

S. Res. 10. A resolution to amend the Standing Rules of the Senate to impose a strict 15 minute limit on votes in the Senate.

By Mr. MITCHELL (for Mr. BYRD):

S. Res. 11. A resolution to provide for germaneness or relevancy of amendments; ordered to lie over under the rules.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

S. Res. 12. An original resolution authorizing expenditures by the Committee on Energy and Natural Resources; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. MITCHELL, Mr. MCCAIN, Mr. HARKIN, Mr. WILSON, Mr. LEAHY, Mr. DURENBERGER, Mr. DANFORTH, Mr. MURKOWSKI, Mr. BOSCHWITZ, Mr. HATCH, and Mr. JEFFORDS):

S. Res. 13. A resolution to amend Senate Resolution 28 to implement closed caption broadcasting for hearing-impaired individuals of floor proceedings of the Senate; to the Committee on Rules and Administration.

By Mr. DOMENICI (for himself, Mr. WALLOP, Mr. BAUCUS, Mr. D'AMATO, Mr. MCCLURE, Mr. PRESSLER, Mr. EXON, Mr. HARKIN, Mr. BOND, Mr. GRASSLEY, Mr. SYMMS, Mrs. KASSEBAUM, Mr. SIMPSON, Mr. NICKLES, Mr. BURDICK, Mr. CONRAD, Mr. DECONCINI, Mr. DANFORTH, Mr. DOLE, and Mr. LUGAR):

S. Res. 14. A resolution to express the sense of the Senate deploring the European Community's ban of U.S. beef and requiring U.S. Commissaries in the European Community to buy and sell American meat; to the Committee on Finance.

By Mr. PELL, from the Committee on Foreign Relations:

S. Res. 15. An original resolution authorizing expenditures by the Committee on Foreign Relations; to the Committee on Rules and Administration.

By Mr. LAUTENBERG (for himself, Mr. BURDICK, Mr. MOYNIHAN, Mr. GRAHAM, Mr. BAUCUS, Mr. WILSON, Mr. PELL, Mr. LIEBERMAN, Mr. SIMON, Mr. REID, Mr. FORD, Mr. SARBANES, Mr. BRADLEY, Mr. D'AMATO, Mr. CRANSTON, Mr. INOUYE, Mr. LEVIN, Mr. KENNEDY, Mr. ADAMS, Mr. BUMPERS, Mr. COHEN, Mr. KERRY, Mr. ROCKEFELLER, Mr. SANFORD, Mr. GORE, Mr. METZENBAUM, Mr. DASCHLE, and Mr. DIXON):

S. Res. 16. A resolution to express the sense of the Senate regarding future funding of the municipal sewage treatment program under the Clean Water Act; to the Committee on Environment and Public Works.

By Mr. HUMPHREY (for himself, Mr. PRESSLER, Mr. GRASSLEY, and Mr. MCCAIN):

S. Res. 17. A resolution to amend Rule XXXV of the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. MCCLURE:

S. Res. 18. A resolution to amend the Standing Rules of the Senate to require two days' notice of consideration of bills and joint resolutions; to the Committee on Rules and Administration.

By Mr. DIXON:

S. Res. 19. A resolution to express the sense of the Senate to urge the President to recognize and include the Director of National Drug Control Policy as a fully participative member of the President's Cabinet; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. Res. 20. A resolution entitled the "Preservation of U.S. Territory in the Arctic Ocean"; to the Committee on Foreign Relations.

By Mr. MOYNIHAN:

S. Res. 21. A resolution to recognize the implementation of the United States-Canada Free-Trade Agreement; to the Committee on Finance.

By Mr. SYMMS:

S. Res. 22. A resolution expressing the sense of the Senate regarding the American Civil Defense program; to the Committee on Armed Services.

By Mr. HUMPHREY:

S. Res. 23. A resolution to prohibit Senators from receiving a pay raise unless the Senate has affirmatively approved such pay raise by roll call vote; to the Committee on Rules and Administration.

By Mr. LAUTENBERG (for himself, Mr. SARBANES, Mr. PELL, Mr. EXON, Mr. SIMON, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. BIDEN, Mr. ADAMS, Mr. BRADLEY, Mr. HEINZ, and Mr. DODD):

S. Res. 24. A resolution to express the sense of the Senate regarding future funding of Amtrak; to the Committee on Commerce, Science, and Transportation.

By Mr. DOLE (for himself, Mr. STEVENS and Mr. MITCHELL):

S. Con. Res. 5. A concurrent resolution to provide for the use of the Rotunda of the Capitol to inaugurate the display of the POW/MIA flag; considered and agreed to.

By Mr. ROCKEFELLER (for himself, Mr. BYRD, Mr. CONRAD, Mr. BURDICK, Mr. SIMON, Mr. PRESSLER, Mr. DASCHLE, Mr. BURNS, Mr. DURENBERGER, Mr. LEVIN, Mr. KERRY, Mr. METZENBAUM, Mr. EXON, Mr. RIEGLE, Mr. PRYOR, Mr. REID, Mr. BUMPERS, Mr. BENTSEN, Mr. ROBB, Mr. BRYAN, Mr. ADAMS, Mr. BOREN, Mr. BAUCUS, Mr. KERREY, Mr. MCCONNELL, Mr. GRASSLEY, Mr. LEAHY, Mr. HEFLIN, Mr. BINGAMAN, Mr. CRANSTON, Mr. MOYNIHAN, Mr. WIRTH, Mr. SHELBY, Mr. GARN, Mr. COHEN, and Mr. MURKOWSKI):

S. Con. Res. 6. A concurrent resolution on the Essential Air Service Program; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (for himself and Mr. LEAHY):

S. Con. Res. 7. A concurrent resolution expressing the sense of the Congress regarding the murder on December 22, 1988, of Brazilian environmentalist and union leader "Chico" Mendes Filho; to the Committee on Foreign Relations.

By Mr. PRESSLER:

S. Con. 8. A concurrent resolution expressing the sense of the Congress regarding the need for the negotiation of an international agricultural conservation reserve treaty; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HUMPHREY (for himself, Mr. LUGAR, Mr. WALLOP, Mr. NICKLES, Mr. SYMMS, and Mr. COATS):

S. Con. Res. 9. A concurrent resolution establishing procedures for expedited consideration by the Congress of certain bills, and joint resolutions submitted by the President; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that committees may file legislative and executive reports from 12 o'clock noon until 3 p.m. on Monday, January 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROTECTIONS AVAILABLE TO FEDERAL EMPLOYEES

Mr. MITCHELL. Mr. President, earlier today Senator LEVIN and others introduced S. 20, the whistleblower bill. In order to begin the rule XIV procedure, on behalf of Senator LEVIN, I ask that the bill be read the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 20) to amend title V, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

Mr. MITCHELL. Mr. President, I now ask that the bill be read for the second time.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, on behalf of the minority leader and other Senators, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read a second time on the next legislative day.

The majority leader.

DISAPPROVAL OF RATES OF PAY

Mr. MITCHELL. Mr. President, I now ask that Senator SANFORD's disapproval resolution, Senate Joint Resolution 7, be read the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 7) disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government.

Mr. MITCHELL. Mr. President, I ask that the joint resolution be read for the second time.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, on behalf of the minority leader and other Senators, I object.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

RECESS UNTIL 10 A.M. FRIDAY, JANUARY 27, 1989

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess, under the previous order, until 10 o'clock a.m. on Friday, January 27, 1989.

There being no objection, the Senate, at 7:10 p.m., recessed until Friday, January 27, 1989, at 10 a.m.

29-059 O-90-36 (Pt. 1)

CONFIRMATIONS

Executive nominations confirmed by the Senate January 25, 1989:

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD G. DARMAN, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

JAMES ADDISION BAKER III, OF TEXAS, TO BE SECRETARY OF STATE.

DEPARTMENT OF LABOR

ELIZABETH HANFORD DOLE, OF KANSAS, TO BE SECRETARY OF LABOR.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, January 26, 1989, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 27

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Jack Kemp, of New York, to be Secretary of Housing and Urban Development.
SD-538

Finance
To hold hearings on the nomination of Carla A. Hills, of New York, to be U.S. Trade Representative.
SD-215

Labor and Human Resources
To hold hearings to review the education agenda for the 101st Congress.
SD-430

JANUARY 30

10:00 a.m.
Select on Indian Affairs
Investigations Subcomittee
To hold hearings to examine various matters relating to Indian affairs.
SH-216

JANUARY 31

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider the nominations of Samuel K. Skinner, of Illinois, to be Secretary of Transportation, and Robert A. Mosbacher, of Texas, to be Secretary of Commerce, and other pending calendar business.
SR-253

10:00 a.m.
Environment and Public Works
To hold hearings on the nomination of William K. Reilly, of Virginia, to be Administrator of the U.S. Environmental Protection Agency.
SD-406

Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

11:00 a.m.
Small Business
Business meeting, to adopt committee rules of procedure, subcommittee assignments, committee budget for 1989, and other pending committee business.
SR-428A

2:00 p.m.
Governmental Affairs
To hold an organizational meeting, to consider committee rules of procedure, committee budget request, and subcommittee assignments.
SD-342

Select on Intelligence
To hold hearings on the nomination of Richard J. Kerr, to be Deputy Director of the Central Intelligence Agency.
SD-628

FEBRUARY 1

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Finance
To hold hearings on the nomination of Louis W. Sullivan, of Texas, to be Secretary of Health and Human Services.
SD-215

Labor and Human Resources
Business meeting, to consider committee rules of procedure, and S. 4, Minimum Wage Restoration Act.
SD-430

Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 2

9:30 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Adm. James D. Watkins, U.S. Navy, Retired, of California, to be Secretary of Energy.
SD-366

10:00 a.m.
Judiciary
To hold an organizational meeting, to consider committee rules of procedure, committee budget for 1989, and subcommittee assignments.
SD-226

Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 3

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold oversight hearings on certain public building projects.
SD-406

Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 6

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To resume hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 7

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

2:30 p.m.
Energy and Natural Resources
To hold closed oversight hearings on Department of Energy facilities for defense materials production.
S-407, Capitol

FEBRUARY 8

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business
SD-366

Rules and Administration
To hold hearings on proposed committee resolutions requesting funds for operating expenses for 1989 and 1990.
SR-301

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 9

8:30 a.m.
Veterans' Affairs
To hold hearings to review the Veterans Administration proposed budget request for fiscal year 1990.
SR-418

9:30 a.m.
Energy and Natural Resources
To resume closed oversight hearings on Department of Energy facilities for defense materials production.
S-407, Capitol

Rules and Administration
To continue hearings on proposed committee resolutions requesting funds for operating expenses for 1989 and 1990.
SR-301

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings on various matters relating to Indian affairs.
SH-216

FEBRUARY 10

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 14

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Disabled American Veterans.
345 Cannon Building

FEBRUARY 21

9:30 a.m.
Rules and Administration
Business meeting, to consider proposed committee resolutions requesting funds for operating expenses for 1989 and 1990, and other pending legislative and administrative business.
SR-301

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To resume hearings to examine various matters relating to Indian affairs.
SH-216

FEBRUARY 22

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian Affairs.
SH-216

FEBRUARY 23

10:00 a.m.
Select on Indian Affairs
Investigations Subcommittee
To continue hearings to examine various matters relating to Indian Affairs.
SH-216

FEBRUARY 24

930 a.m.
Veterans' Affairs
Business meeting, to consider the Veterans Administration proposed budget request for fiscal year 1990.
SR-418

FEBRUARY 28

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Paralyzed Veterans of America.
345 Cannon Building

MARCH 7

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review legislative recommendations of the Veterans of Foreign Wars.
345 Cannon Building

CANCELLATIONS

JANUARY 26

9:30 a.m.
Small Business
Rural Economy and Family Farming Subcommittee
To hold hearings on the impact of proposed rules changes by the Department of Transportation to cut back the essential air service program and the effects on small businesses in rural communities.
SR-428A

SENATE—*Friday, January 27, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 10 o'clock and 22 seconds a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2 p.m. Tuesday next.

RECESS UNTIL 2 P.M., TUESDAY, JANUARY 31, 1989

Thereupon, at 10 o'clock and 26 seconds a.m., the Senate recessed until Tuesday, January 31, 1989, at 2 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Friday, January 27, 1989*

The House met at 11 o'clock.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of the 100th Psalm:

Make a joyful noise unto the Lord, all ye lands.

Serve the Lord with gladness; come before His presence with singing.

Know ye that the Lord He is God; it is He that hath made us, and not we ourselves; we are His people, and the sheep of His pasture.

Enter into His gates with Thanksgiving, and into His courts with praise; be thankful unto Him, and bless His name.

For the Lord is good; His mercy is everlasting; and His truth endureth to all generations.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Michigan [Mr. UPTON] favor us please by leading us in the Pledge of Allegiance.

Mr. UPTON led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 5. Concurrent resolution to provide for the use of the rotunda of the United States Capitol to inaugurate the display of the POW/MIA flag.

APPOINTMENT AS MEMBERS OF BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION

The SPEAKER. Pursuant to the provisions of 20 U.S.C. 42 and 43, the Chair appoints as members of the Board of Regents of the Smithsonian Institution the following Members on the part of the House:

Mr. MINETA of California;
Mr. WHITTEN of Mississippi; and
Mr. CONTE of Massachusetts.

AUTHORIZING CONSIDERATION OF SUSPENSION OF THE RULES ON THURSDAY, FEBRUARY 9, 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain motions to suspend the rules on Thursday, February 9, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO TUESDAY, JANUARY 31, 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Tuesday, January 31, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT FROM TUESDAY, JANUARY 31, 1989, TO THURSDAY, FEBRUARY 2, 1989, AND ADJOURNMENT FROM THURSDAY, FEBRUARY 2, 1989, TO MONDAY, FEBRUARY 6, 1989

Mr. FOLEY. Mr. Speaker, by direction of the Democratic Caucus, I ask unanimous consent that when the House adjourns on Tuesday, January 31, 1989, it adjourn to meet at 11 a.m. on Thursday, February 2, 1989; and that when the House adjourns on Thursday, February 2, 1989, it adjourn to meet at noon on Monday, February 6, 1989.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES

Mr. FOLEY. Mr. Speaker, I offer a privileged resolution (H. Res. 51) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 51

Resolved, That the following named Members, and Resident Commissioner, be, and they hereby are, elected to the following standing committees of the House of Representatives:

Committee on Agriculture: Roy Dyson, Maryland; H. Martin Lancaster, North Carolina.

Committee on Education and Labor: Nick Joe Rahall II, West Virginia; Jaime B. Fuster, Puerto Rico; Peter J. Visclosky, Indiana; Jim Jontz, Indiana; Kweisi Mfume, Maryland.

Committee on Foreign Affairs: Douglas H. Bosco, California; Frank McCloskey, Indiana; Donald M. Payne, New Jersey.

Committee on Small Business: Eliot L. Engel, New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER OF BOARD OF TRUSTEES TO THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Mr. MICHEL. Mr. Speaker, pursuant to section 1404 of Public Law 99-661, I have today appointed the gentleman from New York [Mr. MARTIN] as a member of the Board of Trustees to the Barry Goldwater Scholarship and Excellence in Education Foundation.

APPOINTMENT AS MEMBER OF BOARD OF TRUSTEES TO THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Mr. FOLEY. Mr. Speaker, pursuant to section 1404 of Public Law 99-661, I have today appointed the gentleman from Mississippi [Mr. MONTGOMERY] as a member of the Board of Trustees to the Barry Goldwater Scholarship and Excellence in Education Foundation.

PERMISSION FOR COMMITTEES TO HAVE UNTIL TUESDAY, FEBRUARY 21, 1989, TO PUBLISH COMMITTEE RULES IN THE CONGRESSIONAL RECORD

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that each committee of the House may have until Tuesday, February 21, 1989, to publish committee rules in the CONGRESSIONAL RECORD in compliance with clause 2(a) of rule XI.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PROVIDING FOR JOINT SESSION OF CONGRESS—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. FOLEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 33) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 33

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on Thursday, February 9, 1989, at 9 o'clock post meridiem, for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON THURSDAY, FEBRUARY 9, 1989

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Thursday, February 9, 1989, for the Speaker to declare recesses, subject to the call of the Chair, for the purpose of receiving in joint session the President of the United States.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMUNICATION FROM THE GENERAL COUNSEL TO THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the General Counsel to the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, January 26, 1989.

Hon. JIM WRIGHT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L of the Rules of the House of Representatives, that in relation to the upcoming trial of *United States* v. *Oliver North* in the United States District Court for the District of Columbia, a number of committees, Members, and employees of the House of Representatives have been or will be served with trial subpoenas for testimony and documents.

After consultation with the General Counsel to the Clerk, the pertinent members will make the determinations required by the rules.

Sincerely,

STEVEN R. ROSS,
General Counsel to the Clerk.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 25

Mr. RHODES. Mr. Speaker, when I introduced House Resolution 25 to ban "honoraria" for Members of Congress, the name of Representative WILLIAM GOODLING was inadvertently added as a cosponsor. I ask unanimous consent that Representative GOODLING's name be removed as a cosponsor of House Resolution 25.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

TAXPAYER SUBSIDIZATION OF LEVERAGED BUYOUTS CHALLENGED

(Mr. BENNETT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, I have introduced H.R. 615, which is an effort to do something about LBO's. Whatever Members may think about leveraged buyouts, one thing is clear: the American taxpayer should not subsidize this practice.

This is a simple bill. It applies only to the large leveraged buyouts.

Mr. Speaker, I hope that Members of the Congress will join me in this idea of not subsidizing this very dangerous procedure which is growing in this country.

Mr. Speaker, I include a copy of my bill, as follows:

H.R. 615

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION OF DEDUCTION FOR INTEREST ON CORPORATE STOCK ACQUISITION INDEBTEDNESS.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by inserting after section 279 the following new section:

"SEC. 279A. INTEREST ON CORPORATE STOCK ACQUISITION INDEBTEDNESS.

"(a) GENERAL RULE.—No deduction shall be allowed for any stock acquisition interest paid or incurred by a C corporation during any taxable year to the extent that such interest exceeds $5,000,000.

"(b) EXCEPTION FOR STOCK PURCHASE TREATED AS ASSET ACQUISITION UNDER SECTION 338.—This section shall not apply in the case of any major stock acquisition which is a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies.

"'(c) STOCK ACQUISITION INTEREST.—For purposes of this section—

"(1) IN GENERAL.—The term 'stock acquisition interest' means—

"(A) any interest on indebtedness incurred or continued in connection with any major stock acquisition, and

"(B) any other interest expense allocable to stock acquired in such an acquisition. Subparagraph (B) shall not apply to interest incurred after the date 5 years after the date of the last acquisition which was part of the stock acquisition.

"(2) ALLOCATION.—For purposes of paragraph (1)(B), the portion of the taxpayer's interest expense allocable to stock acquired in a major stock acquisition is an amount which bears the same ratio to the corporation's interest expense as—

"(A) the corporation's average adjusted bases of stock acquired in such an acquisition, bears to

"(B) the average adjusted bases for all assets of the corporation.

"(3) SPECIAL RULES.—

"(A) STOCK REDEMPTIONS, ETC.—If any stock of a corporation is acquired by such corporation in a major stock acquisition, such stock shall be treated as an asset of such corporation for purposes of paragraph (2).

"(B) COORDINATION RULES.—Rules similar to the rules of section 265(b)(6) shall apply for purposes of paragraph (2).

"(d) MAJOR STOCK ACQUISITION.—For purposes of this section—

"(1) IN GENERAL.—The term 'major stock acquisition' means any acquisition of stock in a corporation (by purchase, redemption, or otherwise) which is pursuant to a plan of the corporation making the acquisition (or any group of persons acting in concert with such corporation) to acquire 50 percent or more (by vote or value) of stock in a corporation.

"(2) ALL PLANS TREATED AS 1 PLAN.—All plans referred to in paragraph (1) by any corporation (or group of persons acting in concert with such corporation) shall be treated as 1 plan.

"(3) AGGREGATION OF ACQUISITION DURING 3-YEAR PERIOD.—All acquisitions during any 3-year period shall be treated as pursuant to 1 plan.

"(4) CONSTRUCTIVE OWNERSHIP RULES.—The rules of section 382(1)(3)(A) shall apply for purposes of this section.

"(e) DOLLAR LIMITATION IN CASE OF CONTROLLED GROUP.—For purposes of subsection (a)—

"(1) all component members of a controlled group (as defined in section 179(d)(7)) shall be treated as 1 corporation, and

"(2) the dollar limitation of subsection (a) shall be apportioned among the members of such group in such manner as the Secretary shall by regulations prescribe."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 279 the following new item:

"Sec. 279A. Interest on corporate stock acquisition indebtedness."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act in taxable years ending after such date.

MR. VIRGIL GULKER

(Mr. UPTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UPTON. Mr. Speaker, I rise today to honor one of my constituents, Mr. Virgil Gulker of Holland, MI, for being the recipient of the "James 1:22

Award" from Christian Herald magazine. This award is given each year to the person who best exemplifies the New Testament Scripture that says "Be ye doers of the Word, and not hearers only." As Mr. Gulker's Representative in Congress, it gives me great pleasure to publicly recognize his many contributions to his fellow man.

Mr. Gulker founded Love Inc. Church Services Network in 1977. His work started in Holland, MI, when he brought together area professionals from throughout the community to develop a uniform organization of church resources citywide. He relied on many different denominations to provide the widest possible range of services. Mr. Gulker stressed that he wouldn't ask churches to duplicate services that were already being provided; instead, the system he designed enabled churches to track the assistance each provided, as well as to determine the real needs of those who participated in their programs. From their inception, their goal was to help those who truly need immediate help, but offer self-help conditions for those who are capable of moving toward independence.

Today, Love Inc. is a connecting link to churches in 56 cities across the country that come together to help those in need. For well over a decade, Virgil Gulker's work to help move people from personal crisis to personal growth has touched the lives of countless people in Holland, and across the country.

Mr. Speaker, I stand before you today to let you know how proud I am to serve as Virgil Gulker's Congressman. He clearly is a shining example of one of the "thousand points of light" about which President Bush speaks so fondly, and I am sure that the President joins me in congratulating him for receiving this important award. Virgil Gulker and his Love Inc. organization is one point of light that has brightened the lives of many Americans and for that he deserves our endearing thanks.

□ 1110

CITIZENSHIP AND NATIONAL SERVICE ACT

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, today, I join U.S. Senator SAM NUNN in introducing the Citizenship and National Service Act, a bill which offers American young people a tremendous opportunity to serve their country in areas where the United States is experiencing tremendous need.

We in America enjoy the benefits of a free and democratic society. But democracy is not free. Democracy will prosper only with the involvement of an educated and committed citizenry. Our program is designed to provide young people with a greater opportunity for education, job training, and home ownership—opportunities which today are out of the reach of many low and moderate income families. These opportunities will be earned benefits.

In 1940, addressing his 30-year class reunion at Harvard, Walter Lippmann said;

> You took the good things for granted, you must earn them again. It is written that for every right you cherish, you have a duty that you must fulfill; for every hope you entertain, you have a task that you must perform; for every good that you wish could happen, you will have to sacrifice your comfort and ease. There is nothing for nothing any longer. With the National Service Act, our young people will be getting something for something.

Beyond national pride and the rewards of involved citizenship, veterans and graduates of the Citizens Corps created by this bill will earn education and housing benefits greater than any benefits offered today by the Federal Government.

As a member of the House Committee on Armed Services, I am deeply concerned about the prospect of a declining pool of youth available for military service. This shortage will threaten the quality of our Armed Forces and to increase the already high costs of personnel. The defense budget cannot withstand the increases in already high levels of compensation that would be necessary to attract sufficient numbers of qualified youth into military service.

In addition, there is a wide range of serious unfulfilled national, State, and community needs in health care, child care, environmental conservation, and assistance to the elderly, to name only a few. Under existing programs, these are problems which are unlikely to be solved by Government or the private sector. Voluntary civilian national service would make a substantial contribution to meeting such needs.

Since 1980, college costs have risen by 40 percent after inflation, while median family income has not kept pace. The proportion of students from blue collar and minority families enrolling in college has decreased. The emphasis of Federal aid has shifted from grants and work-study programs to Federal loans. Student indebtedness has increased by 60 percent. In addition, the default rates on student loans have skyrocketed. All of these factors copled together have created a new class of indentured students.

The Citizenship and National Service Act would serve as an incentive for young Americans to make a positive contribution of service to their Nation and communities and at the same time, it would expand their own opportunities in our society.

Involvement is the key to a well-functioning democracy and the factor that has for so long led our Nation into greatness. National service represents an appeal to the broad values of citizenship rather than to the narrow needs of self interest.

COOPERATION WITHIN THE ADMINISTRATION

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, the President of the United States has launched his administration on a high and optimistic note, his easy access to the public, everybody in the White House, his accessibility to the leadership of the Congress, the way he is expressing himself to the press, his inaugural, all of this demonstrates a new era, one in which the American people can have great confidence.

One thing that he said in the inaugural bears repetition, that we were not sent here to Washington, neither the President nor the Vice President nor the Members of Congress, we were not sent here to bicker, and we ought to be getting down to the business of cooperating, one with another.

□ 1115

I propose today that we extend the normal 100 day honeymoon that is accorded a new President to 1,000 days and during that time to declare a moratorium on bickering. The American public deserves that kind of quiet on the part of the Congress, and progress for the American society will ensue.

Mr. Speaker, there is only one thing about all of what I have said. I believe I am too optimistic.

SOMETHING MUST BE DONE ABOUT THE CRIME WAVE IN THE NATION'S CAPITAL

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I am proud to tell you that I come from a State in this country where violent crime is still something that is very unusual. But I am sad to say that here in this Nation's Capital City that is not the case.

Mr. Speaker, the crime wave that has gripped this Nation's Capital is disgraceful, and something must be done and must be done soon.

Last evening, as I watched the television news, I again became furious. The news is that the night before last three people were machinegunned driving down the road in a van. Last night two separate murders. Yesterday four kids were shot in a schoolyard. This city is seized by fear, gripped by

drug dealers, held hostage by murderers, and somebody needs to do something about it.

Now what is the administration of this city doing? My colleagues watched the same newscast. They are walking out of the grand juries because they are subpoenaed to testify on corruption and drugs.

Mr. Speaker, I think it is time for us to say to the administration of this city, "If you can't run it, we will," and for those who talk about home rule I say, "Don't talk to me about home rule until you clean up this city."

Mr. Speaker, it is a disgrace that the Nation's Capital is not made safe for the American people.

THE FOIA AND CONGRESSIONAL OVERSIGHT

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of California. Mr. Speaker, on January 11, 1989, I became aware of a recent court decision under the Freedom of Information Act. The case involved a reporter's request under the FOIA for certain Federal Bureau of Investigation documents regarding disciplinary action against an FBI agent for actions taken in the course of an undercover operation. The U.S. District Court for the District of Columbia denied the reporter's claim on the basis that the "public interest in assuring proper review of such agency's activities can be adequately addressed by the agency's congressional oversight committees."

As chairman of the subcommittee in the House of Representatives with oversight responsibility for the FBI, I believe that the district court fundamentally misunderstood the nature of the congressional oversight process.

As you know, Mr. Speaker, it has been my privilege to serve on the Committee on the Judiciary in the House of Representatives since 1965 and, since 1971, it has been my privilege to serve as chairman of that committee's subcommittee on Civil and Constitutional Rights.

As a standing committee of the House of Representatives, the Judiciary Committee is charged with responsibility for oversight of the operation of the Federal agencies that administer and execute the laws whose subject matter is within the committee's jurisdiction. Pursuant to House Rule X, the Judiciary Committee exercises its oversight responsibilities through its subcommittees. Since 1973, the Subcommittee on Civil and Constitutional Rights has had oversight responsibility for the Federal Bureau of Investigation. The practice of regular congressional oversight of the FBI has been developed while I have been chairman of the subcommittee.

In carrying out its oversight, the subcommittee seeks to examine the activities of the FBI on a program by program basis. However, the subcommittee does not attempt to review every decision made by the FBI, and could not as a practical matter comprehensively review the FBI's activities. Instead, we investigate matters of concerns that are brought to our attention by members of the public and in particular by the press.

Except for a few legislatively mandated reports and an annual budget submission, the subcommittee does not receive information from the FBI on a routine basis. Instead, we request information on matters of specific interest. Often the matters on which we request information originally come to our attention through reporting in the media, and often that reporting is based on information obtained through the FOIA. Specific instances of possibly improper or questionable FBI action brought to our attention by the media or by members of the public sometimes involve matters not reflected in the FBI's presentations to us.

The subcommittee has never sought to substitute itself for an informed public or an alert press. Nor does the subcommittee see its access to executive branch information as a substitute for the rights of access established by the Freedom of Information Act. To the contrary, the subcommittee relies to a significant extent on the public and the press to bring to our attention matters that merit investigation and legislative response. The congressional oversight process thus depends on the FOIA to an important degree.

The subcommittee is not in a position to assure on its own the public interest in proper review of the FBI's activities. On the one hand, we do not have the resources to investigate all the issues that are brought to our attention. On some issues, the public has to rely on protections and processes other than congressional oversight, which are served by the FOIA. On the other hand, many of the matters that we investigate originally come to light via a citizen's FOIA request or a report in the news media.

As an example of the interaction between the FOIA and the oversight process, I might cite the CISPES case. Last year the FBI, my subcommittee and other congressional oversight committees spent considerable time reviewing the FBI's 1981-85 investigations of CISPES, a group opposed to U.S. foreign policy in Central America. The FBI's investigations raised serious first amendment concerns. My subcommittee had previously looked into the matter. However, our interest was renewed and heightened last year when a public interest group obtained, under the FOIA, a large quantity of FBI documents on the case. The release of these documents generated intense public and congressional interest, which led the Director of the FBI to conduct his own review of the matter and ultimately to institute a series of reforms in the conduct and supervision of similar cases and the handling of informants. The use of the FOIA by the private group played a critical role in renewing congressional oversight on this issue last year, which led the FBI to adopt important internal reforms.

The FBI's so-called Library Awareness Program offers another example of the relationship between the FOIA and our subcommittee's oversight activities: In the fall of 1987, the New York Times reported that the FBI was asking librarians in the New York City area to report on certain library users who might be involved in hostile intelligence activities. We thereafter requested and received from the FBI a briefing on the program. In early 1988, a reporter obtained through the FOIA a transcript of an FBI official's remarks on the program to a library commission. The transcript, which we would not have known of otherwise, raised for us additional questions about the program. It prompted us to hold two hearings on the program and to press the Director to issue guidelines limiting it, which he did in September 1988.

In conclusion, Mr. Speaker, the FOIA and the congressional oversight process serve distinct interests. The FOIA and congressional oversight are sometimes complementary, but the principle of public accountability does not depend solely on the Congress. The public is entitled to direct access to information about its Government and the actions of the Government's agents.

□ 1120

TRIBUTE TO PAGES IN THE U.S. HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore (Mr. BENNETT). Under a previous order of the House, the gentleman from Missouri [Mr. EMERSON] is recognized for 5 minutes.

Mr. EMERSON. Mr. Speaker, when the House of Representatives is in regular session, the pace around here is ordinarily nothing short of hectic, a state with which my distinguished colleagues are familiar. Without the efforts of many, many people, it would be next to impossible to balance the numerous simultaneous commitments with which Members are faced throughout the day. Long hours on the job are familiar to us all, but there is one group in particular that deserves special recognition. I'm speak-

ing of the outstanding young people who serve as pages in the House of Representatives.

Mr. Speaker, today we bid farewell to the pages we have come to know and depend on over the past number of months. I'd like to take this opportunity to commend their fine work and their dedication to their jobs and to thank them for the tireless hours and numerous tasks they've performed over the past semester.

The job is not an easy one, I assure you. Throughout the term, these high school juniors must maintain their studies, attending regular academic classes for several hours every morning before reporting to work. Somehow, they manage to excel, despite the tireless hours. As we know all to well, Congress sometimes remains in session until the late hours of the evening or the wee hours of the morning. The pages, despite their early-morning hours, stay on the job—long after most folks have gone home to bed.

Very often, the job of a page is a thankless one. There's an old saying that we don't realize just what we have until it's missing. Many of us probably don't realize just how much we depend on these young people—a fact which is a tribute to their efficiency. This is the time to recognize the outstanding job they've done. Of course, a new group will arrive to take up where this group leaves off, so it is appropriate to take this moment to say "thank you" to those who are departing.

Mr. Speaker, the young people leaving us are members of a very select group. First and foremost, they are to be commended for their selection for the page program. The competition for these few positions is fierce, and many, many qualified applicants are turned away every year. Our pages are among the top students in the Nation. They are the brightest and the best, and they are some of our most politically active youth. These young people represent the future of our Nation. In a few short years, some of them may well return to walk the halls of the Capitol, having traded their page uniforms for a Member's pin.

I certainly hope that the House pages have enjoyed their stay in Washington as much as we have enjoyed having them here. My first introduction to Capitol Hill was as a page in the House of Representatives many years ago, in the 83rd and 84th Congresses. From the excitement of the infamous shooting in the House Chamber on March 1, 1954, to the memories of House leaders of that day, including Speakers Martin and Rayburn and, yes, Speaker O'Neil who was a freshman in the 83rd, and Speaker WRIGHT who was a freshman in the 84th, to the enduring friendships I made as a young man in Washington, my experiences as a page are unforgettable. Indeed, I regard the page experience as the single best learning experience of my life. it was an absorptive experience. You learn the moves of the House, lore, procedure, character, compromise the legislative process, in ways not found in textbooks.

So, to my young friends: as you pack your bags and prepare to return home, keep in mind that you carry with you my best wishes and those of my colleagues. I am confident that each of you has the capacity to be successful on whatever road you choose to pursue. Thank you for the outstanding service you have performed as pages in the House of Representatives, and best of luck in all of your future endeavors.

Mr. Speaker, I include herewith a list of the departing pages.

1988-89 FALL SEMESTER PAGES

Tammy R. Aimesbury, Charles D. Blackburn, Neva M. Brinlee, Tania M. Butler, V. Adam Carter, Matthew C. Cluney, Gary A. Collis, Rhonda K. Crandall, Beth J. Davidson, Susan E. Feigenbaum, John M. Gibson, John W. Hazel IV, Kathleen A Huvane, Ruby M. Isla, Brendan T. Kelly, Rebecca M. Kislak, Debra J. Klein, Christa M. Lackenmayer, Penny J. Lacer.

Stephanie L. Langer, Amy K. Lewis, Paul C. Lin, Russell A. Loftis, Nancy C. Marcus, Amy H. Mayer, M. Ashley McKinney, Ger Tou Moua, David A. Nida, R. Anders Porter, Peggy Reed, Lea Rice, Maryellen O. Smith, Katherine A. Smolinski, Bom Suek (Sam) Suh, Jessica M. Taylor, Adam J. Tratt, James (Andy) Walker, Jr., Robert E. West, Thomas E. Windish, Brian T. White, Amy E. Wolf, Sasha C. Wozniak, Zakiya J. Wynn.

The SPEAKER pro tempore (Mr. BENNETT). The Chair knows that all Members of Congress, past and present and future, too, are deeply grateful for the work of the pages, deeply grateful for the fine words the gentleman from Missouri has expressed with regard to the pages and the wonderful work they have done here.

COMMUNITY AND JOBS PROTECTION ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, today I am introducing the Community and Jobs Protection Act of 1989. This bill requires large corporations—presently required by section 7(a) of the Clayton Act to receive the approval of the Federal Trade Commission before entering into a merger or acquisition—to file statements with the FTC describing the probable impact of the acquisition on their constituent workers and communities. After the statement is filed, employees or local governments that are likely to be affected by the acquisition may request an FTC investigation into the community impact statement. If, after holding hearings, the FTC determines that the acquisition will have a substantial adverse effect on employment, the corporations will be denied the tax deduction for the interest paid on debt incurred to finance the acquisition.

As we all know, activity in mergers and acquisitions involving American corporations is reaching startling new heights. A number of economists have identified the present activity in mergers and acquisitions as the fourth merger wave in U.S. economic history. The difference between the activity of the 1980's and that of previous merger waves is the heavy reliance on corporate debt and the replacement of equity with that debt.

Corporate debt in the United States has doubled over the past 6 years. The interest payments on that debt account for over 20 percent of the cash-flow of American corporations. Short-term corporate debt—debt that is particularly vulnerable to volatile interest rates—accounts for over half of the corporate debt in this country.

The most recent "megadeal"—a leveraged buyout of RJR Nabisco announced in October and agreed upon in December of last year—serves as an excellent example of the reasons for the concern many of us in Congress have about the effect of the current merger wave on the future of the American economy. The successful bid for RJR Nabisco was finally set at $25.6 billion—the highest price ever paid for a corporation and one that is almost twice as high as the previous record bid. It is my understanding that this deal will be financed by a combination of bank loans, junk bonds, and convertible bonds. When added to RJR Nabisco's debt existing before the takeover, the entire debt for RJR Nabisco will exceed $24 billion. If the interest rate on this debt is equal to 12 percent per year, RJR Nabisco's interest payments will be more than $2.5 billion in the first year. This is approximately twice the net earnings of RJR Nabisco in 1987.

In order to service that debt, the managers of RJR Nabisco have three options: They can generate higher earnings through an increase in sales; they can cut costs significantly to increase profits; or they can sell off some of the assets of the corporation.

Of the three options, increasing sales is the most attractive. Increased sales would stimulate the economy as a whole, would justify the change in ownership and would keep the corporation's labor and capital productive and producing. Unfortunately, it is unlikely that RJR Nabisco's sales will increase sufficiently to allow the corporation to service its debt without resorting to other options. RJR management predicted that profits would more than triple by 1998. The management of RJR Nabisco project that sales in both the tobacco and food divisions will double over the next 10 years. If the growth in sales does not occur as the new owners anticipate, they will be unable to meet their debt-service obligations by relying solely on increased cash-flow.

That leaves the managers of RJR Nabisco with the options of selling assets or cutting costs. They have discussed the sale of assets as one option for retiring that enormous debt. If the new owners of RJR Nabisco can find purchasers for the assets they want to sell and if they succeed in getting the price for those assets on which they bet when compiling their bid for RJR Nabisco, the debt will be

retired quickly and the corporation's debt service obligations will accordingly shrink.

However, in evaluating the probabilities that this plan will succeed, we need to review a little history. RJR Nabisco is itself the product of a recent merger. In May 1985, Nabisco merged with R.J. Reynolds. Management discussions at that time claimed that the emerging corporation would be able to produce more efficiently by taking advantage of economies of scale and joint management and administration. No, it appears that there are diseconomies of scale of sufficient size to justify breaking up, through asset sales, a conglomerate that is just over 4 years old.

Let me point out that the team that is responsible for purchasing RJR Nabisco also bought out Beatrice Foods in 1986, using leveraged funds to finance the acquisition. According to recent articles in the Wall Street Journal and Business Week, this team has been far less successful in finding purchasers for the assets of Beatrice Foods than they had anticipated. While it will not be necessary to default on the Beatrice debt, the team will just about break even. The sale of Beatrice Foods came in at $5.6 billion, less than one-fourth the size of the RJR Nabisco deal. As the name implies, the major product of Beatrice Foods is in food production. Apparently, the food industry is not as eager to buy new assets as had been hoped.

The Nabisco division of RJR Nabisco is also in the food industry and many of the assets that are likely to go on the auction block are food production units—such as the Nabisco line of cookies and crackers, the Del Monte line of canned fruits and vegetables, Nabisco's breakfast cereal products, and the Planters Peanuts division. If those asset sales do not generate the income expected, the team will have to turn elsewhere to find the funds to service the debt of over $24 billion.

As I stated earlier, that "somewhere else" is likely to be in cost cutting and the most vulnerable target for cost cutting these days is in the area of labor. RJR Nabisco has experience with merger-induced layoffs and plant closings. Shortly after R.J. Reynolds Tobacco merged with Nabisco, Inc., in 1985, the new management team closed down the Reynolds headquarters in Winston-Salem, NC, and laid off over 600 workers. RJR Nabisco's decision to cut costs ended a corporate-community relationship that had lasted for well over 100 years. Now, 2 years later, the citizens of Winston-Salem fear further disruption in their community as the newest owners seek to cut costs. While the employees of the Reynolds division will benefit from the high prices they will receive for their Reynolds stock, many of them are convinced that their jobs will once again be cut in an effort to finance the most recent change of ownership of their company.

John Brooks, writing in 1987 about the fourth merger wave, said,

When a corporate takeover results in the liquidation of a company or some of its parts, real jobs are lost, real communities disrupted or destroyed, and real production lost; when a company exists, as so many do, under the constant threat of a takeover, morale may be destroyed, the corporate policy disrupted, and employees at all levels made to live in a state of fear or hysteria.

My own hometown—Pittsburgh, PA—is well aware of the truth of Mr. Brooks's analysis. In 1984, the Gulf Corp. was the subject of a hostile takeover attempt engineered by T. Boone Pickens of Mesa Petroleum. The negotiations and counterbids lasted months, during which time Gulf employees in Pittsburgh and across the Nation were unsure of their future with a company under siege. As we all know, Gulf was ultimately purchased by Chevron, becoming the largest acquisition in American history until last month's buyout of RJR Nabisco. Chevron bought Gulf and paid handsomely for it. In order to cut costs, the Pittsburgh headquarters of the Gulf Corp. was closed and 1,100 Pittsburghers were left unemployed.

I wish I could tell you that the stories of Gulf and Reynolds, the stories of Pittsburgh and Winston-Salem, are unusual, but they are not. Consider these:

Chrysler Corp. purchased AMC in 1984. In 1985, Chrysler management concluded that, because of the AMC acquisition, the corporation now had excess plant capacity. Chrysler is shutting down the plant located in Kenosha, WI, laying off over 5,000 employees in a town of 20,000.

Thatcher Glass Corp. was taken private in 1981. It filed for bankruptcy in 1984, and subsequently dismissed more than 4,000 employees.

In 1982, Allied Corp. purchased Bendix, stripped it of $850 million in assets, closed its corporate headquarters and shut down several divisions, eliminating hundreds of jobs in the process.

Goodyear Tire & Rubber added $2.6 billion to its debt in order to buy back shares held by the public and stock acquired by James Goldsmith in a takeover attempt. It subsequently cut back its operations and reduced its work force by 1,000 people.

A few hours' research in the business section of a library will produce dozens more examples like these. They all lead inevitably to the conclusion that mergers and acquisitions, at best, create uncertainty and fear for affected workers and communities. At worst, they can destroy a thriving town.

I am not opposed to all mergers and acquisitions. Some of them are undertaken with a view toward long-term increases in productivity, rather than short-term market profits. Some create stronger, more competitive corporations. When corporate mergers increase productivity and enhance the efficient use of resources, they should be encouraged.

But those mergers and acquisitions that are motivated by greed and the desire to exploit the market system for easy profits, those that adversely affect communities for the sake of quick gains, are unnecessary, undesirable, and dangerous. Such acquisitions are not in the public interest and should not be encouraged by the regulatory and fiscal policies of the Federal Government.

Accordingly, I am introducing today the Community and Jobs Protection Act of 1989. This bill will not prohibit acquisitions that are found to be economically useful and beneficial to the economy. Such acquisitions will undoubtedly be found to be in the public interest and will be allowed to proceed without hindrance.

However, in those cases in which an acquisition places an undue burden on society, the affected workers and communities will be given an opportunity to request a hearing to assess the impact of the proposed acquisition. If the proposed acquisition is found to have a substantial adverse effect on employment, the participating corporations will not be allowed to take advantage of the corporate interest deduction for debt acquired to finance the acquisition.

When an acquisition is found to be beneficial to the public good, it should be allowed to go forward. But, when a merger or acquisition is proposed which does not benefit society, it should not be subsidized through Federal tax expenditures on interest deductions.

I urge my colleagues to cosponsor the Community and Jobs Protection Act.

I would like to include at this time a copy of the bill:

H.R. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Community and Jobs Protection Act of 1989.

SEC. 2. If two or more corporations propose to merge, if with respect to such merger such corporations are required to file a notification under section 7A of the Clayton Act and if the merger may be reasonably expected to reduce the number of employees employed in an establishment of such a corporation in the county, city, or other jurisdiction in which the establishment is located by more than one hundred employees, each corporation to be involved in the proposed merger shall file, in accordance with section 3, a community impact statement. A community impact statement shall include—

(1) the nature of the business of the establishment of the corporation at which the reduction of employees will take place,

(2) the reasons for such reduction,

(3) any alternative to such reduction,

(4) a plan to minimize the effects of such reduction on the remaining employees in such establishment and on any unit of general local government having jurisdiction over the area in which such reduction will take place,

(5) the economic circumstances of such corporation including the level of profitability of the operation at the establishment of such corporation at which the reduction in employment will take place and any plan for future investments, employment, and production at such establishment, and

(6) the number of employees who will lose their employment as a result of the merger.

SEC. 3. The community impact statement required by section 2 shall be submitted to the Federal Trade Commission, the Department of Justice, to the employees and representatives of each labor organization representing such employees at each corporation involved in the merger, and to each unit of general local government having jurisdiction over an area in which establishment of each such corporation is located. The statement shall be filed on the same date a notification respecting the merger is filed under section 7A of the Clayton Act.

SEC. 4. If, within fourteen days of the submittal of a community impact statement under section 3, the Federal Trade Commission receives a request by a unit of local government which has received the community

impact statement or by at least 10 per centum of the employees of a corporation which filed such statement, the Commission shall conduct an investigation into, and hold public hearings on, the community impact statement. Such an investigation shall include—

(1) the economic reasons for the proposed reduction in employment described in the statement,

(2) the estimated extent of the economic losses to the employees employed in the establishment in which such reduction will occur, including the number of employees who will lose their employment as a result of the merger,

(3) the estimated extent of any economic loss, including a decline in the tax base, of any unit of general local government having jurisdiction over such establishment and any economic loss to any person in the geographic area in which such establishment is located, and

(4) the recommendations of any such unit of local government, any labor union representing employees in each corporation to be involved in the proposed merger, or any other person respecting the proposed merger.

SEC. 5. After an investigation is concluded under section 4, the Federal Trade Commission shall prepare and publish a report containing the findings of the investigation and recommendations as to whether or not legal action should be taken to halt such merger.

SEC. 6. (a) Section 279 of the Internal Revenue Code of 1986 (relating to interest on indebtedness incurred by a corporation to acquire stock or assets of another corporation) is amended by adding at the end thereof the following new subsection:

"(k) SPECIAL RULE FOR OBLIGATIONS ISSUED FOR CORPORATE MERGERS ADVERSELY AFFECTING EMPLOYMENT.—

"(1) IN GENERAL.—If the Federal Trade Commission makes a finding described in paragraph (2) with respect to a corporate merger—

"(A) any obligation issued in connection with such merger shall be treated for purposes of this section as corporate acquisition indebtedness, and

"(B) the excess referred to in subsection (a) with respect to such indebtedness shall be treated as zero.

"(2) FEDERAL TRADE COMMISSION FINDING.—The finding referred to in paragraph (1) is a finding by the Federal Trade Commission, made after an investigation held under section 4 of the Community and Jobs Protection Act of 1989, that a proposed corporate merger will have a substantial adverse effect on employment in a county, city, or other jurisdiction.".

(b) The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

FURTHER UPDATE ON COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

As the gentleman comes down, congratulations on the go-ahead sign the gentleman gave to the country in his new chairmanship.

Mr. GONZALEZ. Mr. Speaker, I thank the Chair very much. That is extremely generous. The Chair had expressed its good wishes, and I for one am particularly very grateful to the Chair, in view of the fact the gentleman from Florida is one of our very senior, very experienced and most able leaders of this House, particularly in the area of defense.

I have honored the gentleman from Florida, let me say.

Mr. Speaker, I have said as of last week that it was my intention to continue to report to my colleagues, and particularly since the assumption of the chairmanship of this very historic and fundamental Committee on Banking.

I said last week, I think there is a very appropriate quote from the great Bard of Avon, Shakespeare, and I am going to refer to it, because at this moment not only would I have to report, but what is happening is the organizational processes that since the Legislative Reform Act of 1974 compels us to follow a well-defined course insofar as the majority of the controlling party Members or the leaders of the majority section of the House are concerned.

I think it is most appropriate, and I remind myself of it, since I have been a very faithful and very patient member of the Banking Committee for the almost 28 years that I have been honored to serve in the U.S. House or Representatives.

Now that I am chairman, as I said last week, it is not my intention to assume any different role or different personality from that which I believe has reflected my sentiments, my votes, and my actions, as a Representative of the 20th District of Texas.

Anyway, I am quoting now:

'Tis a common proof that lowliness is young ambition's ladder whereto the climber upward turns his face; but when he attains the utmost round, he then unto the latter turns his back, looks in the clouds, scorning the base degrees by which he did ascend.

It certainly never has been my experience ever to have turned my back on my origins and the experiences that in a series of elections, from the lowest to the highest rungs of the Representative, legislative-representative bodies, I have been greatly privileged to serve, 3 years, as I said before, on the city council of my native city of San Antonio, 5 years in that great body known as the Texas State Senate, and then going on 28 years in the U.S. House of Representatives, is something that compels me to redouble my efforts, no matter how onerous, to continue what I have done all along and that is have a sustained activity by way of reporting.

□ 1130

As a matter of fact, I would like to advise my colleagues that even while serving on the city council, I took advantage of the then single Spanish-language radio station that offered me, and it was the only one that offered me, an opportunity to report once a week on my activities on the city council. The same opportunity was given the other eight members, but maybe one of the reasons was I was the only one that could fluently express myself in Spanish.

As I reached then the State Senate, I was able, after some effort, to get the consent of one of the television stations in English to allow me to report on a weekly basis during the time the State senate was in session. However, the only Spanish-language TV station in the United States, which was founded in my native city of San Antonio, from the very beginning offered me that opportunity even before my actual election to the State senate, and then following my election to the Congress, all of the three basic, fundamental television stations in English offered me that opportunity, for which I have been extremely thankful.

In the course of the years, one of the stations, the CBS outlet, removed my reporting off, so I am very grateful for the other two on which I still report once a week taping from here, and particularly during the time that the Congress is in session, and that is the two English-language television reports, and the one Spanish-language television report. In the meanwhile, though, there have been several cable TV stations and a couple in Spanish, but they do not offer this opportunity or I would be glad to provide the same report. On the other hand, of the English-language radio stations, not a one is continuing my program. However, all but one, and that means four, of the Spanish-language radio stations continue through thick and thin to offer that opportunity.

Believe it or not, even though the Spanish language as a viable vehicle has really been lost, I want to sort of alleviate the fears of those who think it is necessary to have an English official only type of legislation, because in our daily life in the United States that is the official language. In a way, it is tragic, because I think the multiple cultural heritage of our Nation should not be lost, and that means the language heritage.

In San Antonio, for an example, for 44 years it was the site of the only Spanish-language daily newspaper published in the United States, and it finally had to close its doors in 1953. The reason was very simple. Its basic readership had either grown up or were born in the United States, were grown up and no longer were desirous of reading in Spanish.

In 1934, and this is a very historical note that I do not think has been noted by historians, that history has yet to be written, but because of the raging depression in the United States and the amnesty proclamation of the

President of Mexico at that time, Lazaro Cardenas, in my county alone, 22,000 people went back to Mexico. Of that number, I guess 100 percent of them were the ones who subscribed to the paper. I think it would be interesting to note that in 1928, 1929, 1930, and 1932, La Prensa of San Antonio, the only Spanish-language daily published in the United States, had a greater circulation than either one of the English-language dailies in San Antonio, but that was another world.

Today there is not even a monthly publication in Spanish in San Antonio, so it shows us that even though because of the proximity to Mexico and other countries, the language may be spoken to a certain extent, it can be understood verbally, but as far as reading and writing, I am afraid that heritage has gone by the way.

However, given the freedom in our country, there is no law to prevent anybody, any American, from preserving and cultivating his own individual heritage and language heritage as well as he feels it is wise to do so.

I say all of this because the world has changed, and I have been blessed with good memory and recollection, and I know that we are living in a drastically different, radically different world, very difficult to evolve that period other than as I am trying crudely to do so. The reason I allude to that is that at each step of the way, it has never been my purpose to forget the source of my recognition and election to a public elective office and, therefore, I believe in strict accountability.

In the 35½ years that I have been honored to serve in a public elective office, never has any attack ever been made on my personal integrity; neither can I tell you that I am any richer or any poorer personally than I was when I entered this arena of political effort. The reason was that I have been blessed with everything, a very limpid, clear reason and purpose, for once I discovered that legislative advocacy, which is what I call it, was really my whole interest and devotion, and I call it legislative advocacy, because I believe sooner or later, as our country matures in experience, we will realize that these are special categories of endeavor that more experienced, more mature nations with greater governmental experience have long ago realized.

For instance, in England it never has been a problem just to call anybody a professional politician. As a matter of fact, Winston Churchill considered that a high badge of honor, but the reason is that through the distilled experience, the English realized that there are those in our human endeavor who, by avocation, interest, and personal attributes, are headed to this thing we call public endeavor, so that Winston Churchill, as an early young man, was in the political field and matured and grew in experience, and that niche was recognized and continues to be recognized in the British or English society, much to its credit.

In our country we believe that our badge of honor is the amount of money we have in the bank or our pocketbook. If one is successful in business, our theory is they are going to be successful in everything else, including government, and, of course, the distilled experience of these older and more mature societies is that that is not necessarily true.

Finding myself rewarded by the constituents, I have then tried to evolve some accountability. Since being elected to the chairmanship of this historic committee known as the Committee on Banking, Finance and Urban Affairs, I feel that I have a like or similar responsibility to my colleagues in general, and that means that I consider this no longer a provincial responsibility even though I will continue to report to my constituents, because there are many other multiple duties that I must perform in the defense of the interests of the district. However, now these duties transcend the purely parochial and local, and I wish to render reports on its activities of my stewardship as chairman of this committee.

Some may say that they do not know why I want to be so audacious and presumptuous as to do this; nobody has before. But then I am not casting any reflections on anybody. I am just being true to my own self above all, and I thought that these words and lines from Shakespeare where most apt and appropriate.

□ 1140

And these are what I remind the new, fresh, young Members while we are in the throes of organizing subcommittees and organizing the structure of the committee and all as is called for by the rules adopted in the Reform Act of 1974.

It so happens that I believe there is also an additional dimension to the responsibility of reporting, and that is at this conjunction in our history the jurisdiction of the Committee on Banking, Finance and Urban Affairs is facing some of the most serious issues that it has faced in five decades, 50 years, and it is that that I wish to report on. Plus, I would like at least in my last 5 minutes to devote time to an issue in a way associated with this general issue of banking, but which goes back to something I have been speaking out on with respect to our very, very endangered relationships with the countries with whom we must share our destiny in the new world, and particularly to those south of the border.

In the first place, I believe that every one of my colleagues, as with most that I have met have expressed since the day we met on January 3, your great concern about the so-called FSLIC or the Federal Savings and Loan Insurance Fund or Corporation, which is the insurance fund for the savings and loan industry. The fact is that no explanation can be had in an encapsulated form to be fully understood, where at this juncture it seems that suddenly out of nowhere these are front page issues, and particularly since the flurry and the frenzy and the blizzard of announcements during the latter part of the month of December past, and the indignation that was expressed to me by a goodly number of colleagues on January 3 when we first met about how come, what are we going to do, what is the committee going to do. We are never going to stand by here and allow a taxpayer's bailout under these conditions, and what are the facts behind these stories?

As embarrassing as it was, I had to admit that we as members of the Committee on Banking, Finance and Urban Affairs did not know any more than anybody else, because all we had been receiving from the Federal Home Loan Bank Board were their press releases. So that as soon as we could, which was on January 4, even before the committee was organized, I thought it wise, proper, and responsible to open hearings on one of the issues that had never been discussed as far as I know on the House side, and which had everything to do with events that if they should find themselves in confluence or conjunction could very well shatter the stability of our financial institutional reference in our country.

So we had on January 4 and 5 hearings on the Third World or the lesser developed countries debt situation. Since then I have met with Ambassadors, Finance Ministers, and have confirmed the apprehension that I knew we should have been expressing for some time on our side of this thing. We were very honored. We made history because on the second day we had the Finance Minister of Costa Rica accompanied by the Ambassador from Costa Rica, that country being one of the most stable and the most democratic, in fact I would say that its history of democracy equals ours, and even under greater stress. And even though it is a tiny country, is has a very glorious history. Its neighbors, on the contrary, have been sunk with great degrees of poverty and ignorance, uneducated citizens, whereas Costa Rica sits forth like a jewel in a settting as a hallmark of democracy. They have had free public education for 100 years. They have had completely democratically held and open elections. They have had periods in which that was threatened, but they resolved it. It is the only nation that

does not have a standing army and has never seen fit to do so. The only time they have come near to it is when I expressed my indignation when we compelled, and tried to compel, and tried to force down their throats the presence of our defense contingent, Green Berets, and the like. Fortunately, I think wisdom finally prevailed.

But in any event, the Finance Minister presented very valuable testimony. Any of my colleagues interested, I will be delighted to let them join us and consult with us, and give them copies of the testimony.

In conjunction with that hearing, we had representatives from the private banking sector who gave valuable testimony and expressed their consensus that they were quite aware of the seriousness of the problem, and that they would work to the best of their ability within the private banking system, accommodations and arrangements, to safeguard against any kind of a calamitous development.

We had testimony from Moody's Investors and others who kept the books and keep the books on investing quality and the like. We had the regulators, the comptroller of the currency, and we had the chairman of the Federal Deposit Insurance Corporation. Each gave extremely valuable testimony to our committee.

Also, on the question as to what extent does the Third World debt and the existence of the situation as it impacts the social conditions in those countries, endangering stability and, therefore, the incursion of antagonistic forces that may be antagonistic to the American national interest, impact or threaten to impact on the stability and solidness of our banking system. That is our approach, and that is the fundamental approach we must take.

So if any our colleagues desire to have copies of the testimony by the regulators and other witnesses, please let me know. All Members have to do is pick up the phone and call me at my office.

The other thing was, given the nature of the concern as expressed not only by the Members but their constituents, I think in joinder with the very distinguished and very wonderful colleague, the ranking memer on the minority side, the gentleman from Ohio, Mr. CHALMERS WYLIE, we drafted a letter of invitation to the Chairman of the Federal Home Loan Bank Board to appear before us on Tuesday, January 10. He did appear. We had an all-day session. We had a tremendously good turnout on the part of the membership of the committee, including brand new Members just recently assigned to the committee, and that is actually three in number.

I will say by way of parenthesis that when I first came to the Congress the Committee on Banking, Finance and Urban Affairs was almost half the size of what it is today. So, therefore, we are talking about an entirely different situation from a structural or logistic standpoint.

I might also say the other troubling thing, and I say this for the edification of my colleagues, particularly those who serve on the committee, I was not aware of until I assumed the chairmanship that as of October 1 we were losing $300,000 of the budget assigned to this committee. That is calamitous. I was not aware of it because it was done by way of rescission, and because the former chairman, it was something I was not aware of, had returned to the House committee of appropriate jurisdiction, the Committee on House Administration, that amount of money. I also discovered that six of the personnel slots, staff slots had not been filled.

□ 1150

So that now we find ourselves with a real dilemma. We find ourselves, in comparison to another committee with half of the budget allocated to our committee as distinguished from this other committee. And one other that has considerably more budgetary allocation even though it is by common agreement that this committee now faces the biggest issues it has confronted in 50 years.

So we are kind of coming into the arena with one hand tied behind our backs. But I might say to my colleagues that has been the story of my life. At every juncture it seems that we had to face, in addition to the issues, some very, very troubling obstacles. But with goodwill and with the ever constant faith in the ultimate sense of justice of the majority I am sure we will find a satisfactory resolution.

I say that by way of parenthesis so that my colleagues will understand the size and dimensions of the problems as we are in the throes of organizing the committees and subcommittees.

Final organizational decisions should be over next week, Wednesday, February 1.

But on top of that, time and events will not wait. I had predicted a year ago, and then almost in a shrill voice last May and June, in fact I took this House floor and repeatedly warned against the obvious developing crisis that we would be confronting. My apprehensions were deep because they were based on the statistics that we were able to get. Even though those figures were fragmentary, they were ominous as sufficient to indicate that unless something were done relatively quickly we would have, ultimately, a very, very critical situation.

What I feared the most, which is what I fear today, was the loss of the viability of what we have proudly called our insurance fund system.

We live in such an interrelated world, not only domestically but internationally, that we now also must face additional complications because of forces external to our shores over which we no longer have any control.

So while all of these things now are reaching ahead, the failure to act was, in my opinion, a fatal mistake. But last year was an election year and their was fear on those having to defend their positions back home, with being attacked as being spenders or advocating costly bailouts or whatever you want to call it, losing sight of the fact as we continue to do, that it is not a question of bailing out any particular financial entity, it is a question of saving the viability of our insurance fund system because our constituents are well aware that when they deposit their moneys in an insured depository institution, whether it is a S&L, whether it is a bank, whether it is a credit union, that they have our Government's assurance that they are insured. If the precarious situation confronting the fund is allowed to deteriorate and a loss of confidence results, we will be then confronting a different dimension which will make it extremely difficult to work wisely.

Always my creed has been to work in anticipation, anticipatory action. This is the reason I was so exercised last May and June, particularly in June when the Home Loan Bank Board announced what they called in Texas the Southwest plan. To compound my problems I tried to get action; I went to the then committee chairman. I suggested a course of action, but it was impossible during that period of an election year.

I then did the next best thing one individual could do, I called in our oversight arm known as the General Accounting Office. I asked the General Accounting Office to just evaluate, because nobody knew for sure and they still do not know for sure, what the size of the hole was, not nationally but just in my home State of Texas where the problem seemed to be most virulent.

GAO said, as they always do "yes, we will follow your request." I laid out the parameters of the request but they told me they would probably not have any results until the end of the year, that is at the end of December last.

Last month I was advised it probably would not have been ready until the end of this month. And now that is just in Texas. The reason, the difficulty, as I said in May and in June after the Southwest plan was announced, that the actions taken in line of what was available to the managers of the Board—which incidentally, again by way of parentheses, a reform of which I had been advocating since 1966 when we had the first credit crunch. It was obvious then that institutions in the special category, put together by the

Congress for a special purpose in the 1930's, would be the most vulnerable if you had instability or continuing instability in the markets and interest rates.

That experience in June 1966 should have been obvious but we were all happily going along believing that it would be endless, that America, as it enjoyed after the war, would forever and ever be able to continue with two cars in the garage, all the creature comforts we could conceivably imagine, that we could continue at a pace of production in basic industries, steel and the like, automobiles, as if the world was the same, as if it had been set in concrete as of 1959, 1960.

But it was obvious to anyone who was following—and this is the reason I opted to stay on the Committee on Banking—I have had in the past opportunity to go on the Committee on Rules, the Committee on Ways and Means, the Committee on Appropriations, all of which are the centers of attraction to any one of us because they are supposed to be the power, the power bodies. But I opted to stay because in the State senate of Texas I was chairman of the committee on banking; on the city council of San Antonio I made finances, and the interpretation and deciphering of the city's budget—which incidentally the city budget can be just as complicated as a Federal budget—my primary purpose.

So it soon developed that as a lonely member of the city council I was the only one who could analyze that budget and even take on the finance director of the city.

As a result, for example, the only 3 years in the history of the city council of San Antonio that the firemen and policemen received each year for 3 consecutive years an across-the-board wage increase were those 3 years I was on the city council.

When I proposed the first one, the city manager said "We don't have any money," very much like we are told today. And again the question was priorities. If we set a perverse priority system, no matter how much we think we are saving, it is false economy. So that on a municipal level the primary municipal functions are fire, police, and health.

□ 1200

The policemen were receiving a salary of $160 a month, as well as firemen, and the policemen were not even given allowance for uniforms but had to pay it out of their pocket.

I had served as chief juvenile probation officer and intimately became acquainted with the law enforcement proponent, fully advised as to their sufferings and their dangers, and on some occasions, accompanied them when they faced serious bodily harm or death. So I was able to look at the city manager and the finance director and say, "Yes, you do have the money if it is the will of this council to so decide, and here is where you will find the money." With that having been answered, the council passed across the board and the second year I said we still had to keep on going because all the time when there is a downward turn in the economy, those serving in a public capacity, teachers, firemen, and the like, are the first to suffer the cut. When there is an upturn, they are the last to get caught up with. This is obvious. It is like the public school system, it will always be under attack from here or their or somewhere because it is like a lonely tree out there under a lightning storm, it will be hit. It is a good, good object for those who have whatever pet peeves they have to take them out on, and it is a sorry story of our public servants in our great democracy that they are the last to be caught up and they are the first to go down, so that in any event, I just give that as an illustration of what being prepared to understand the intricacies of finances.

I was told that I could get on the Armed Services Committee, I wouldn't be able to serve my district. I had, thank goodness, 5 years' experience in the State senate, and I knew that was not so, and in our great, wonderful system it was not what committee you were assigned to or what it was labeled, as so many of my young colleagues in the Banking Committee seem to think, it is what we do. It is where our interest is. It is what we want to do. We all have no more power than voice and vote, but how we exercise it, my colleagues, is the thing, and I was able to come here in my first year, even before I was sworn in we had a calamitous announcement that a defense activity was about to be lost. Well, we did not lose it. I called on the resources available and we won it, my first year. I was advised that the biggest employer, Kelly Air Force Base, was about to have another cutback which it suffered in 1959. It had no jet engine capability. The overreciprocating piston engine was being phased out. We went to work. What happened? I did not have to belong to the Armed Services Committee. We were able to prove that Kelly Air Force had some advantages such as the largest hangar in the world, and we were able to get the first C-5-A management assignment, and from there, other jet engine and cargo engine facilities. Whereas the time I was sworn in to this Congress, employment was even less than 9,000 at Kelly. Today it is 18,000.

Now I am not trying to say that I singlehandedly, because my experience had been that if we do not interfere politically the managers in defense or any other administration will do a fine job, but what I was interested in doing was making sure that no external forces, political or otherwise, would militate against the proper interests of that activity, in the then manorial, now known as logistics, would be detrimental to the component known as Kelly Air Force Field facility.

The same in other areas, I came to the Congress and it was obvious to me that we had to do something and had basic legislation because neither the city nor the State governments were doing anything about their firemen and policemen type of basic pension, or any kind of a policy that would provide anything in the way of insurance in the case of death while on duty of either a policeman or a fireman, so I introduced the first bill to that effect in 1964, and in a new Congress in 1965, reintroduced it. I could not even get a hearing because they said it was calamitous to think they would have jurisdiction to go in and do this for States and the cities. The cities would not do it. Then came the riots; 1966-67, and then I had a call from the then-chairman of the subcommittee, later chairman of the Committee on the Judiciary, and he said, "Henry, we had an experience wherein the firemen went out to try to put down a fire in the riot, they were fired upon, sniped upon, and I remember you had a bill, the bill came out of the subcommittee that year, got out of the committee that year, but never got on the House floor." To make a long story short, it took 11 years before it finally got out of the House, out of the Senate, over to the President, and then when the President signed it, there were no appropriated funds.

Finally, the next Congress, the 11th year, the Congress appropriated funds. Ironically, the first payout was a policeman in my hometown of the city of San Antonio who was killed by a 15-year-old teenager, and he had left a wife and four kids. When I was in San Antonio, juvenile officer, and I was together with a patrolman by the name of Ellis, and he got shot full in the face with a shotgun, I had to go later on and attend the funeral, because I was with him and his companion when he was shot, and we had to pass the hat around so that we could raise some funds for the wife and a couple of kids. There was nothing, nothing else. The pension fund, as such, as absolutely nothing and that was on retirement.

The State did it, I was the author of the still-basic State fire and policy pension fund laws in the State of Texas, so that part of that was that they were investing these funds and playing the stock market. Very dangerous. So in our restructing of that law, we had to understand the fine points of financing and the difference between that and gambling and invest-

ment, and it is to my horror, we are faced now with the calamitous results of this money mania that has swept over our Nation.

I have said, and I will repeat now, even though it sounds shocking to some, that we should not be at all surprised as to the predicament we are confronted with. As a matter of fact, I am troubled more because there is no awareness of the real, real threat to the whole standard of living of America, to the continuation of a future destiny of world leadership for our country, and that is the threat which is real and present and which I foresaw from the very beginning in 1979 and took this floor and referred to, and so certainly now that I have assumed the chairmanship, it is my full intention that this will be right on the front burner. Why? Because the Congress is charged, not the administration, not the President, with the coinage and the value of our money. But that control and power has been lost, and I have said repeatedly, and for which I have been ridiculed and ignored, which is fine, but now the only thing I can do as a chairman, and I have said the only real power of a chairman in my book is to set the agenca, to mark the course, to blaze a trail, and then the membership in its wisdom and majority, because I am sworn to the democratic principle.

□ 1210

Every time I have had the power to hold the gavel, I have appealed to my record of action, not when I was seeking it but when I was actually exercising that power, to show that that is indeed what I believe in, what I subscribe to and act in accordance with.

So in this case why should we not have been worried in 1979? It was at the Bonn economic summit meeting. Jimmy Carter was President; it was not Reagan. Later on, when I was critical of Reagan, everybody said I was partisan. But I was equally critical then. Why? Because it was at that economic summit meeting that the communique's last sentence was: "We agree in principle with the EMS, the European Monetary System, and the ECU, the European Currency Unit."

I am not trying to breed hostility. I am just saying that while we have had a mindset, it is one that is far removed from the existence of the real world as it has been developing. It is a mindset that has our conception of Europe as a 1948, or at the latest, a 1959 Europe, and that Europe is gone forever.

We are not even prepared to face now the desires of a great people, the German people, in their unquenchable desire to reunify. Oh, sure everybody says that will never be. But look at what was said after the Treaty of Versailles, when it would have been obvious to anybody who had any kind of perspicacity or sentiments of knowledge of both basic human pride and basic human desires that the subjugation of a people in such a obviously outrageous manner could not last. And it did not last. But with it came the collapse of a world arrangement, and with it came the consequent collapses in our country that were the direct causes, as well as some of the underlying causes, of what we called then the Depression of the 1930's.

We have had, as I have reported here ad infinitum, the same forces back in place, in a different scene, with different personalities, in the sense that the countries that existed before World War II have undergone changes. Some of them are not even in existence now. Some of the countries that existed at the time of World War I disappeared after World War I. But the essential elements were the same. The United States was the only creditor Nation in the First World War, and we were the only creditor Nation in the Second World War. Now the United States is the biggest debtor Nation, as of 4 years, in the whole world.

What has been keeping this so-called prosperity going? Borrowed money, the infusion of foreign funds. Investors do not come in pro bono. They are not coming in here because they want to sustain what they call America's debt spree. They came in because they invest that money in assets that we have in our country, in Government bonds, bills, and the like. They are the ones that have been suffering the debt we have piled up.

Now, in the meanwhile, as to the fluctuation in the value of the dollar, we no longer have control of these external forces that impact on that situation. So let us assume, as I foresaw in August 1979, that the system was fleshed out as it is already. The ECU unit, the Europeans Currency Unit, is worth $1.25, maybe a little bit more by now. It is in place. If a student at the University of Bologna in Italy, which now wants to call itself the University of Europe, wants, he can get a grant of 5,000 ECU's and go and study in Paris or in Brussels or in Germany. And it is likewise with the other citizens. By 1992 it is expected that what the Treaty of Rome had visualized, on top of the emergence of the integrated financial system, would be an economic system will be in place. Notwithstanding to the contrary a refusal on the part of Great Britain to join, it will be in place. Frankly, it can be looked upon, if we keep dozing and sleeping, as a danger, or it can be looked upon as a great opportunity.

But while Europe is integrating, we are disintegrating domestically. This is what I have been yelling about. So now we have the specific symptomatic crisis in the S&L's. On February 6, 1986, the GAO told us that the size of the whole that would be required to replenish the insurance fund known as FSLIC was $23.5 billion. Just yesterday the chairman of the FDIC said it would be more like somewhere between $80 billion and over $100 billion. But it keeps shifting, and as I warned last May, as long as it is unattended and the schemes put together by the Home Loan Bank Board continue that noxious course of compounding on a geometric, progressive basis, the size of that whole grows. I estimated in June, and said so publicly on and off the House floor, that that amount would be no less than $1 billion per month.

Now, what has that got to do with this other subject matter of ECU and EMS? Everything. That is because they have created an exchange unit of great stability. If we indulge ourselves with the idea, with relations to gold, for instance, that the currencies have been demonitized, I want to remind my colleagues that I said we repealed the 1932 act that as far as I knew, we were the only ones holding to that thesis. Certainly the French never had. They were holding on to whatever they could in gold reserves.

Then to my astonishment, the Secretary of the Treasury, Bill Simon, announced that not only was he going to prove that gold was no longer a factor, he would have sales of our gold stock on a bid basis. When I pointed out that that gold would end up in the central vaults of France and other countries, he said, "No, we are not going to permit any bidders for that." I said, "My God, how naive can we be? What is wrong with getting an independent bidder and then he actually ending up selling what he rightfully now has, what we have made possible for him to possess, to that central bank?"

So with the gold reserves that the group of 10 or even the group of 6 have, and which they still consider as an integral part of the reserve behind it, they have developed a very, very stable exchange unit. The dangerous thing was that the Japanese moved in to the use of that in what I thought was a substantial way just about 7 or 8 months ago. So if the dollar—and God forbid, but us be realistic because it can happen—should lose further, and it is already out as the currency unit, they may lose confidence even further. Suppose that the instability, the loss of confidence of these foreign investors in the value of their dollars held as investments, takes hold, then what is the meaning of that to us? I will tell you what it is, I say to my colleagues. It means that we now, strapped as we are with the public debt and the massive individual debt, will have to pay our debts not in our currencies but in their currencies. And I cannot begin to tell my colleagues what that implies.

Yes, there are a lot of nice soft-sounding words, there is soft soap we hear from some of the spokesmen over there in Europe who say, "No, we are not troubled at all about the dollar's instability." That is fine. But the guy who has that investment is not telling us that. I am telling you that, because I read foreign journals, and I have communications from individuals who are sitting on the boards of some of these big financial institutions on foreign shores, and I want to assure my colleagues that at no time should we expect anyone to look after our national interests first and foremost other than ourselves.

□ 1220

What I am saying is that it is either through misadventure, or inattention or inadvertence this that this is what has happened. Our decisionmakers, I believe, have made such grievous errors, whether out of whatever motivations, that in effect have eroded the inherent fiscal and monetary stability of our system. It is my intention, as chairman of this committee, to give for the first time full consideration to this issue, which is complex, but which up to now has hitherto been completely unaddressed, and I mean unaddressed by either one of our two bodies.

Mr. Speaker, my record will show my fears expressed consistently and, in fact, to the point where I have been both heavily criticized and ridiculed even by my own hometown papers, but that does not bother me. We are in a democracy, and I have enough judgment to know how to analyze criticism, determine its source and distinguish between the constructive and the malicious.

But what I am saying to my colleagues is that with that backdrop and with the lack of awareness on the average minds of our leadership, both congressional as well as executive branch, I think it will be compelling and a compulsory thing for us to at least have some attention while we agitate on this other more severe and more immediate crisis facing us domestically never forgetting that in today's world we cannot, we cannot, separate either. We live in such a contracted world that it is difficult to advise my colleagues how at the press of a button we can have anywhere from $300 to $400 billion chasing each other from London, to New York, to Paris, to Bonn, to Tokyo. The bad thing is that it is doing the same thing on a multiple, international front as some of our leading, huge corporate interests have been doing on the domestic, and that is trading what is known in industry as equity for debt.

Mr. Speaker, back home my father used to say, "You're broke, and you ain't going to get a loan from the bank unless you have collateral," and what we have now is the greatest reservoir of corporate debt in the history of any country. But in the meanwhile these what they call megadollars chasing each dollar are not chasing each other in the course of legitimate international trade, or the production of goods or the creation of employment opportunities, but money chasing money to make money on the speculative, highly volatile international exchange markets.

In 1971, when President Nixon took us off the so-called gold exchange, nobody in this country; I saw no newspaper that said that the President in effect has devalued the dollar in effect by 10 percent, but that is what he did in 1971, and unfortunately these are areas which for too long have been considered as if they are secret abodes of the high priests of bankers and banking and corporate finesse, but they are not any more than mathematics should be. Any human being, and in fact I would say that the average nonbanker could have shown a lot more wisdom, than the leading bankers have revealed in the last two decades, certainly a decade and a half, but the people are still sovereign, and, as I keep saying and said all along, "My colleagues, the Congress is not here for your convenience. The Banking Committee isn't here for the convenience of the banking industry, financial industry, corporate industry. We're here because we are the national, constitutionally-instituted, policymaking body, and our approach is the greatest interest of the greatest number of the basic national interest involved in a sound and safe financial system, fiscal and monetary, and that's it."

Mr. Speaker, we have forgotten our origins in the sense that we forgot to look at the laws the Congress allowed in order to afford the great privilege of chartering a bank, and those words are:

"You are chartered for public need and convenience."

"It be worthy," in the words of Shakespeare, "to not turn our back, look in the clouds scorning the base degrees by which we and you, the powerful financial leaders and accumulators of great wealth, have ascended."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. EMERSON, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on January 31.

Mr. GONZALEZ, for 60 minutes, on February 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. EMERSON) and to include extraneous matter:)

Mr. GILLMOR in two instances.
Mr. GUNDERSON in two instances.
Mr. MILLER of Washington.
Mr. MOORHEAD.
Mr. BEREUTER in two instances.
Mrs. MORELLA in two instances.
Mr. FIELDS.
Mr. MICHEL.
Mr. RINALDO.
Mr. BROOMFIELD in two instances.
Mr. MARLENEE.
Mr. STANGELAND.
Mr. SMITH of New Jersey.
Mr. COLEMAN of Missouri.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. LEHMAN of Florida.
Mr. GARCIA in two instances.
Mr. ROYBAL.
Mr. SHARP.
Ms. PELOSI.
Mr. TRAFICANT in three instances.
Mr. FRANK.
Mr. PEASE.
Mrs. BOXER.
Mr. TORRICELLI.
Mr. FAZIO.
Mr. THOMAS A. LUKEN.
Mr. LANTOS in two instances.
Mr. LAFALCE.
Mr. PALLONE.
Mr. LIPINSKI.
Mr. WISE.
Mr. STARK.
Mr. ROE.
Mr. BERMAN.
Mr. DOWNEY.
Mr. RANGEL.
Mr. BROWN of California.
Mr. WALGREN.
Mr. MINETA.
Mr. ANDREWS.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 5. Concurrent resolution to provide for the use of the rotunda of the U.S. Capitol to inaugurate the display of the POW/MIA flag; to the Committee on House Administration.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 26 minutes p.m.), under its previous order, the House adjourned until Tuesday, January 31, 1989, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first, second, third, and fourth quarters of calendar year 1988 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Federal Republic of Germany, United Kingdom, and France, Feb. 5–14, 1988:											
Delegation expenses	2/11	2/14	France				1,269.57		2,507.60		3,777.17
Committee total							1,269.57		2,507.60		3,777.17

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Oct. 31, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Delegation to Thailand, visit China and Philippines, Apr. 2–9, 1988:											
Delegation expenses	4/2	4/3	Thailand				99.42		1,269.49		1,368.91
Visit to France, Turkey and Germany, Apr. 1–9, 1988:											
Hon. Patricia Schroeder: Military transportation							2,436.28				2,436.28
Ms. Deborah R. Lee: Military transportation							2,436.28				2,436.28
Ms. Pam Solo: Military transportation							2,436.28			2,436.28	
Delegation expenses	4/3	4/5	Turkey				916.98		12.63		929.61
Visit to Saudi Arabia and Italy, May 20–22, 1988:											
Hon. Beverly B. Byron: Military transportation							1,159.84				1,159.84
Hon. Beverly B. Byron: Military transportation							1,159.84				1,159.84
Committee total							10,644.92		1,282.12		11,927.04

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Oct. 31, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dan Rostenkowski	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Michael Andrews	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Bill Archer	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Guy Vander Jagt	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Dick Schulze	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Thelma Askey	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Virginia Fletcher	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Charles Mellody	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80
Rufus Yerxa	4/7	4/10	Italy		884.00		660.85		127.95		1,672.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, Oct. 4, 1988.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Guy Vander Jagt	7/28	8/1	France		1,040.00		4,097.00				5,137.00
Thelma Askey	7/25	7/27	Switzerland	959.70	624.00						624.00
	7/18	7/25	England	206.15	361.52						361.52

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial transportation							1,280.97				1,280.97
Timothy Hanford	8/5	8/8	Canada				324.63				324.63
Margaret Hostetler	8/28	9/2	Hungary	41,363.50	767.26		2,266.00		150.00		3,183.26
Frank Phifer	6/30	7/1	England	289.94	495.00		47.81				542.81
Committee total					3,287.78		8,016.41		150.00		11,454.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. E de la Garza	8/14	8/17	Mexico	927,450	450.00						450.00
Commercial transportation							263.00				263.00
Hon. E de la Garza	8/31	9/2	Mexico	288,288	126.00						126.00
Commercial transportation							516.00				516.00
Hon. E de la Garza	6/29	7/2	Costa Rica	41,648.00	552.00						552.00
Commercial transportation							1,128.00				1,128.00
Anita R. Brown	8/13	8/20	Pakistan	18,763.26	1,035.50						1,035.50
Staff delegation	8/20	8/25	Bangladesh		815.00						815.00
	8/25	8/30	Thailand		535.00						535.00
	8/30	9/1	Hong Kong	5,127.20	657.00						657.00
Commercial transportation							3,485.00				3,485.00
Laverne Hubert	8/13	8/20	Pakistan	18,763.26	1,035.50						1,035.50
	8/20	8/25	Bangladesh		815.00						815.00
	8/25	8/30	Thailand		535.00						535.00
	8/30	9/1	Hong Kong	5,127.20	657.00						657.00
Commercial transportation							3,485.00				3,485.00
Jacqueline Parke	8/13	8/20	Pakistan	18,763.26	1,035.50						1,035.50
	8/20	8/25	Bangladesh		815.00						815.00
	8/25	8/30	Thailand		535.00						535.00
	8/30	9/1	Hong Kong	5,127.20	657.00						657.00
Commercial transportation							3,485.00				3,485.00
Staff delegation other expenses			Hong Kong				[3] 55.22				55.22
Committee total					10,255.50		12,417.22				22,672.72

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Rental car.

E de la GARZA, Chairman, Oct. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Alexander		7/26	Honduras				541.00				541.00
Hon. Bernard Dwyer	8/7	8/8	Panama		14.04						14.04
Military transportation							1,552.00				1,552.0
Hon. Alan Mollohan	8/7	8/8	Panama		14.04						14.04
Military transportation							1,552.00				1,552.00
Hon. John Murtha	8/7	8/8	Panama		14.04						14.04
Military transportation							1,552.00				1,552.00
Delacroix Davis	8/22	8/24	Iceland		286.50						286.50
	8/24	8/25	Norway		206.00						206.00
	8/25	9/2	Germany		1,452.50						1,452.50
Commercial transportation							3,630.00				3,630.00
Richard N. Malow	8/18	9/3	Italy, Spain, England		2,203.00						2,203.00
Commercial transportation							3,059.16				3,059.16
Terry R. Peel	7/14	7/15	England		251.00						251.00
	7/15	7/16	South Africa		75.00						75.00
	7/16	7/20	Mozambique		590.00						590.00
	7/20	7/21	Malaui		129.00						129.00
	7/21	7/22	Kenya		110.00						110.00
	7/22	7/23	France		245.00						245.00
Commercial transportation							5,792.00		113.00		5,905.00
John Plashal	8/7	8/8	Panama		14.04						14.04
Military transportation							1,552.00				1,552.00
Committee total					5,604.16		19,230.16		113.00		24,947.32
Surveys and Investigations staff:											
Donna L. Brown	7/11	7/15	Panama		435.00		899.00		41.39		1,375.39
	8/6	8/11	Spain		611.00		2,599.00		81.00		3,291.00
	8/11	8/18	Italy		675.50						675.50
	9/18	9/30	Japan		1,787.75		2,749.00		50.85		4,587.60
Sharon A. Cekala	8/11	8/17	Italy		613.00		2,599.00		93.71		3,305.71
John P. Chase	7/11	7/15	Panama		435.00		899.00		36.50		1,370.50
	8/6	8/11	Spain		611.00		2,599.00		74.00		3,284.00
	8/11	8/18	Italy		676.00						676.00
	9/18	9/24	Japan		1,046.25		2,464.28		102.85		3,613.38

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	9/24	9/30	Philippines		463.00						463.00
William P. Haynes	7/11	7/15	Panama		435.00		899.00		37.40		1,371.40
	8/6	8/11	Spain		611.00		2,897.00		50.50		3,558.50
	8/11	8/18	Italy		781.00						781.00
	9/18	9/24	Japan		1,046.25		2,416.00		40.75		3,503.00
	9/24	9/30	Philippines		463.00						463.00
Robert J. Reitwiesner	9/21	9/24	Japan		402.50		2,416.00		56.07		2,874.57
	9/24	9/28	Philippines		306.25						306.25
Martha M. Valencia	7/11	7/15	Panama		435.00		899.00		34.30		1,368.30
	8/6	8/11	Spain		611.00		2,699.00		36.25		3,346.25
	8/11	8/18	Italy		781.00						781.00
	9/18	9/30	Japan		1,787.75		2,749.00		85.65		4,622.40
Graham W. Van Note	7/11	7/14	Panama		316.50		517.00		15.00		848.50
	9/24	9/30	Japan		585.50		2,259.00		52.54		2,897.04
Committee total					15,915.25		32,559.28		888.76		49,363.29

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMIE WHITTEN, Chairman, Oct. 26, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Italy, Bahrain, Saudi Arabia, Turkey, and Greece, July 15–26, 1988:											
Hon. William L. Dickinson	7/15	7/17	Italy		372.00						372.00
	7/17	7/19	Bahrain		208.00						208.00
	7/19	7/21	Saudi Arabia		360.00						360.00
	7/21	7/22	Turkey		141.00						141.00
	7/22	7/26	Greece		500.00						
Military transportation							5,422.94				5,422.94
Mr. Peter M. Steffes	7/15	7/17	Italy		372.00						372.00
	7/17	7/19	Bahrain		208.00						208.00
	7/19	7/21	Saudi Arabia		360.00						360.00
	7/21	7/22	Turkey		141.00						141.00
	7/22	7/26	Greece		500.00						
Military transportation							5,422.94				5,422.94
Mr. Stephen K. Conver	7/15	7/17	Italy		372.00						372.00
	7/17	7/19	Bahrain		208.00						208.00
	7/19	7/21	Saudi Arabia		360.00						360.00
	7/21	7/22	Turkey		141.00						141.00
	7/22	7/26	Greece		500.00						
Military transportation							5,422.94				5,422.94
Mr. Andrew K. Ellis	7/15	7/17	Italy		372.00						372.00
	7/17	7/19	Bahrain		208.00						208.00
	7/19	7/21	Saudi Arabia		360.00						360.00
	7/21	7/22	Turkey		141.00						141.00
	7/22	7/26	Greece		500.00						
Military transportation							5,422.94				5,422.94
Delegation expenses	7/17	7/19	Bahrain						146.41		146.41
Visit to Philippines, Republic of Korea, and Japan, July 18–25, 1988:											
Hon. Marvin Leath	7/18	7/20	Philippines		252.00						252.00
	7/20	7/24	Korea		592.00						592.00
	7/24	7/25	Japan		130.00						130.00
Military transportation							5,324.18				5,324.18
Hon. David O'B. Martin	7/18	7/20	Philippines		252.00						252.00
	7/20	7/24	Korea		592.00						592.00
	7/24	7/25	Japan		130.00						130.00
Military transportation							5,324.18				5,324.18
Mr. Williston B. Cofer	7/18	7/20	Philippines		252.00						252.00
	7/20	7/24	Korea		592.00						592.00
	7/24	7/25	Japan		130.00						130.00
Military transportation							5,324.18				5,324.18
Visit to United Kingdom, Federal Republic of Germany, and Italy, Sept. 9–13, 1988:											
Hon. Robert E. Badham	9/3	9/8	United Kingdom		1,235.00						1,235.00
	9/8	9/11	Germany		375.00						375.00
	9/11	9/15	Italy		714.00						714.00
Military transportation							1,786.00				1,786.00
Commercial transportation							5,781.00				5,781.00
Visit to Panama, Nicaragua, Honduras, and El Salvador, Aug. 25 to Sept. 1, 1988:											
Hon. Ike Skelton	8/25	8/29	Panama		624.00						624.00
	8/29	8/30	Nicaragua		140.00						140.00
	8/30	8/31	Honduras		92.00						92.00
	8/31	9/1	El Salvador		127.00						127.00
Returned to U.S. Treasury					86.00						86.00
Military transportation							2,353.42				2,353.42
Mr. Henry J. Schweiter	8/25	8/29	Panama		624.00						624.00
	8/29	8/30	Nicaragua		140.00						140.00
	8/30	8/31	Honduras		92.00						92.00
	8/31	9/1	El Salvador		127.00						127.00
Returned to U.S. Treasury					150.00						150.00
Military transportation							3,422.40				3,422.40
Visit to Republic of Germany, July 29 to Aug. 2, 1988:											
Hon. Thomas M. Foglietta	7/29	8/2	Republic of Germany		555.00						555.00
Commercial transportation							3,539.00				3,539.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Visit to Bermuda, Aug. 10–11, 1988:											
Mr. Peter M. Steffes	8/10	8/11	Bermuda								
Commercial transportation							344.00				344.00
Visit to Honduras, Aug. 21–24, 1988:											
Hon. Tommy F. Robinson	8/21	8/24	Honduras		448.00						448.00
Commercial transportation							521.37				521.37
Visit to France, Italy, United Kingdom, and Ireland, Aug. 23 to Sept. 7, 1988:											
Hon. Herbert Bateman	8/23	8/25	France		300.00						300.00
	8/25	9/3	Italy		1,829.50						1,829.50
	9/3	9/5	United Kingdom		494.00						494.00
	9/5	9/7	Ireland		368.00						368.00
Military transportation							1,481.32				1,481.32
Committee total					19,024.50		62,668.63		146.41		81,839.54

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LES ASPIN, Chairman, Oct. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE, AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. George Wortley	7/3	7/5	Lima, Peru		402.00		[3] 670.70				1,072.70
	7/5	7/7	Bogota, Colombia								
	7/7	7/9	Panama City, Panama		188.00						188.00
	7/9	7/10	San Jose, Costa Rica		138.00						138.00
	7/10	7/12	San Salvador, El Salvador		127.00						127.00
Hon. Richard Lehman	8/19	8/21	Rome, Italy		390.00		[4] 2,840.42				3,230.42
	8/22	8/26	Johannesburg/Cape Town, South Africa		527.00						527.00
	8/26	8/27	Gaborone, Botswana		52.75						52.75
	8/27	8/28	Victoria Falls, Zimbabwe		89.04						89.04
	8/28	8/30	Athens, Greece		288.00						288.00
Hon. John LaFalce	9/24	9/26	Berlin, Germany		184.00		[4] 709.00				1,419.00
Hon. Chalmers Wylie	9/25	9/27	Berlin, Germany		368.00		[4] 1,051.00				1,813.00
Hon. Alfred McCandless	9/24	9/30	Berlin, Germany		1,104.00		[4] 709.00				2,971.00
Hon. George Wortley	9/25	9/27	Berlin, Germany		552.00		[4] 290.00				2,298.00
Robert Browne	9/24	9/29	Berlin, Germany		736.00		[4] 2,235.00				3,023.00
William Danvers	9/24	9/30	Berlin, Germany		736.00		[4] 1,562.00				3,304.00
Ben Crain	9/24	10/1	Berlin, Germany		736.00		[4] 2,287.00				3,683.00
Godfrey Briefs	9/24	9/30	Berlin, Germany		1,104.00		[4] 2,200.00				842.00
Nelle Temple	9/22	9/30	Berlin, Germany		1,288.00		[4] 2,395.00				893.00
Committee total					9,009.79		16,949.12				25,958.91

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military travel.
[4] Commercial.

FERNAND J. ST GERMAIN, Chairman, Sept. 30, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Peter Storm	8/13	8/18	Ghana		625.00						625.00
	8/18	8/25	Nigeria		945.00						945.00
Commercial transportation—American Airlines							3,128.00				3,128.00
John R. Multop	9/25	9/30	Federal Republic of Germany		920.00						920.00
Commercial transportation—Pan American Airlines.							2,262.00				2,262.00
Rebecca Schmidt	9/16	9/22	Federal Republic of Germany		1,008.00						1,008.00
Military transportation							2,535.28				2,535.28
Dalena Wright	7/13	7/20	Thailand		1,727.00						1,727.00
	8/4	8/8	Thailand								
	7/20	7/28	Vietnam		2,250.00						2,250.00
	7/28	8/4	Cambodia				[3] 544.98				544.98
Commercial transportation—Northwest Airlines							2,165.00				2,165.00
John Canatsey	7/18	7/20	Philippines		252.00						252.00
	7/20	7/24	Korea		592.00						592.00
	7/24	7/25	Japan		130.00						130.00
Military transportation							5,324.18				5,324.18
Committee total					8,449.00		15,959.44				24,408.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Local transportation, Vietnam and Cambodia.

WILLIAM H. GRAY III, Chairman, Oct. 27, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael F. Barrett	9/6	9/6	Bermuda		212.00						212.00
Commercial air fare							344.00				344.00
Bruce Chafin	9/6	9/6	Bermuda		424.00						424.00
Commercial air fare							344.00				344.00
Peter D.H. Stockton	9/6	9/6	Bermuda		424.00						424.00
Commercial air fare							344.00				344.00
Dennis B. Wilson	9/6	9/6	Bermuda		424.00						424.00
Commercial air fare							344.00				344.00
Committee total					1,484.00		1,376.00				2,860.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman, Nov. 23, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
L. Bang-Jensen	9/6	9/9	Guatemala		[3] 321.00						321.00
S.E. Biegun	7/3	7/5	Peru		402.00						402.00
	7/5	7/7	Colombia		[3] 131.00				180.44		311.44
	7/7	7/9	Panama		[3] 188.00						188.00
	7/9	7/10	Costa Rica		138.00						138.00
	7/10	7/12	El Salvador		254.00						254.00
Military transportation							670.00				670.00
Hon. B. Blaz	7/3	7/5	Peru		402.00						402.00
	7/5	7/7	Colombia		[3] 131.00				180.44		311.44
	7/9	7/10	Costa Rica		138.00						138.00
	7/10	7/12	El Salvador		254.00						254.00
Military transportation							670.00				670.00
Committee total					2,547.00		1,341.40		360.88		4,249.28
M. Bowman	8/14	8/18	Ghana		562.50						562.50
	8/18	8/24	Nigeria		810.00						810.00
	8/24	8/26	Ivory Coast		380.00						380.00
Commercial transportation							1,385.00				1,385.00
R.K. Boyer	8/29	9/4	Greece		864.00				236.63		1,100.63
Commercial transportation							4,977.00				4,977.00
T. Bruce	8/9	8/11	Cuba		132.00				1,036.66		1,168.66
Commercial transportation							678.00				678.00
R. Bush	8/19	8/28	People's Republic of China		1,402.00						1,402.00
	8/28	8/30	Hong Kong		438.00						438.00
Commercial transportation							2,444.00				2,444.00
D. Calabia	7/15	7/17	Malaysia		296.00						296.00
	7/17	7/20	Thailand		2,250.00						2,250.00
	7/20	7/28	Vietnam				302.98				302.98
	7/28	8/04	Cambodia				242.00				242.00
Committee total					7,134.50		10,028.98		1,273.29		18,436.77
	8/04	8/07	Thailand		375.00						375.00
Commercial transportation							4,451.00				4,541.00
Hon. G.W. Crockett	6/30	7/2	Guatemala		210.00		13.38				223.38
	7/2	7/3	Belize		180.00						180.00
	7/3	7/5	Costa Rica		278.00						278.00
Commercial transportation							1,517.00				1,517.00
Hon. R.K. Dornan	8/21	8/23	People's Republic of China		606.00						606.00
	8/23	8/24	Mongolia		328.00						328.00
	8/25	8/31	Soviet Union		450.00						450.00
	8/31	9/4	Poland		322.00						322.00
	9/4	9/6	England		247.00						247.00
Commercial transportation							1,975.00				1,975.00
M.M. Dymally	7/3	7/5	Antigua		308.00						308.00
Commercial transportation							1,166.00				1,166.00
Committee total					3,304.00		9,212.38				12,516.38
	7/28	8/1	Trinidad/Tobago		435.00						435.00
Commercial transportation							1,319.00				1,319.00
	9/21	9/22	Jamaica								
Commercial transportation							1,073.00				1,073.00
R.M. Hathaway	7/3	7/5	Peru		402.00						402.00
	7/5	7/7	Colombia		[3] 216.00				180.44		396.44
	7/7	7/9	Panama		[3] 103.00						103.00
	7/9	7/10	Costa Rica		[3] 98.00						98.00
	7/10	7/12	El Salvador		254.00						254.00
Military transportation							670.70				670.00
V. Johnson	6/30	7/2	Guatemala		[3] 175.00		13.38				188.38
			Belize		[3] 110.00						110.00
	7/3	7/5	Costa Rica		168.00						168.00
Commercial transportation							1,517.00				1,517.00
Committee total					1,954.00		4,593.08		180.44		6,734.52
R. McBride	8/9	8/11	Cuba		132.00				1,036.66		1,168.66
Commercial transportation							678.00				678.00
Hon. D.A. Mica	8/9	8/11	Cuba		132.00				1,036.66		1,168.66
K. Nakamura	7/5	7/10	Philippines		[3] 527.00						527.00
Commercial transportation							3,871.00				3,871.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
R.S. Oliver	7/31	8/3	Austria		585.00						585.00
Commercial transportation							4,233.00				4,233.00
P.S. Robertson	9/2	9/3	Japan		150.00						150.00
	9/3	9/6	Thailand		320.00						320.00
	9/4	9/5	Vietnam		125.00						125.00
Military transportation							13,227.37				13,227.37
Committee total					1,971.00		22,009.37		2,073.32		26,053.69
S. Roth	7/5	7/10	Philippines		[3] 642.67						642.67
Commercial transportation							3,871.00				3,871.00
	8/14	8/20	Soviet Union		[3] 800.00						800.00
Commercial transportation							4,457.72				4,457.72
D. Schlieker	8/29	9/4	Greece		864.00		236.63				1,100.63
Commercial transportation							4,977.00				4,977.00
Hon. L. Smith	8/29	9/3	Greece		720.00		236.63				956.63
Commercial transportation							5,257.00				5,257.00
Hon. S.J. Solarz	7/3	7/5	Peru		402.00						402.00
	7/5	7/7	Colombia		[3] 216.00				180.44		396.44
	7/7	7/9	Panama		206.00						206.00
	7/9	7/10	Costa Rica		138.00				29.85		167.85
	7/10	7/12	El Salvador		127.00						127.00
Military transportation							670.70				670.70
Committee total					4,115.67		19,706.68		210.29		24,032.64
Hon. S.J. Solarz	8/14	8/19	Soviet Union		1,100.00						1,100.00
	8/19	8/28	People's Republic of China		1,402.00						1,402.00
	8/28	8/29	Hong Kong		219.00						219.00
	8/29	9/5	Thailand		314.00						314.00
Commercial transportation (one-way)							4,704.00				4,704.00
Military transportation (one-way)							6,265.67				6,265.67
T. Verstandig	8/29	9/4	Greece		864.00				236.63		1,100.63
Commercial transportation							4,977.00				4,977.00
Committee total					3,899.00		15,946.67		236.63		20,082.30
Grand total for 3d quarter											112,105.58

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

DANTE B. FASCELL, Chairman, Oct. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
James E. Lewin	7/14	7/17	Germany	622.35	337.50					622.35	337.50
	7/17	7/19	United Kingdom	194.48	329.50					194.48	329.50
	7/19	7/20	Spain		106.00						106.00
	7/21	7/28	Italy	1,293,632	952.00		2,415.00				3,367.00
Charles C. Wheeler III	7/14	7/17	Germany	622.35	337.50					622.35	337.50
	7/17	7/17	United Kingdom	194.48	329.50					194.48	329.50
	7/19	7/20	Spain		106.00						106.00
	7/21	7/28	Italy	1,293,632	952.00		2,415.00				3,367.00
Committee total					3,450.00		4,830.00				8,280.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JACK BROOKS, Chairman, Nov. 10, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Timothy Glidden, staff	8/21	8/26	Canada		800.00						800.00
Marie Howard, staff	8/23	8/25	France		300.00			1,038.8	159.82		459.82
	8/25	9/3	Italy	2,560.160	1,829.50		[3] 4,401.79				6,231.29
Committee total					2,929.50		4,401.79		159.82		7,491.11

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military.

MORRIS K. UDALL, Chairman, Nov. 3, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hayden Gregory, staff	8/24	8/29	Costa Rica		690.00				189.86		879.86
	8/29	9/1	Honduras		276.00				131.79		407.79
Commercial transportation							1,128.00				1,128.00
Rafael Maestri, staff	8/24	8/29	Costa Rica		690.00						690.00
	8/29	9/1	Honduras		184.00				47.15		231.15
Commercial transportation							875.00				875.00
Committee total					1,840.00		2,003.00		368.80		4,211.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Ron de Lugo	8/23	8/25	France		300.00				159.92		459.82
	8/25	9/3	Italy		1,829.50						1,829.50
	9/3	9/5	England		494.00						494.00
	9/5	9/7	Ireland		368.00		[3] 4,401.79				4,769.79
Richard J. Sullivan	8/23	8/25	France		300.00				159.92		459.82
	8/25	9/3	Italy		1,829.50						1,829.50
	9/3	9/5	England		494.00						494.00
	9/5	9/7	Ireland		368.00		[3] 4,401.79				4,769.79
Dorothy A. Beam	8/23	8/25	France		300.00				159.92		459.82
	8/25	9/3	Italy		1,829.50						1,829.50
	9/3	9/5	England		494.00						494.00
	9/5	9/7	Ireland		368.00		[3] 4,401.79				4,769.79
Cheri Lee Roe	8/23	8/25	France		300.00				159.92		459.82
	8/25	9/3	Italy		1,829.50						1,829.50
	9/3	9/5	England		494.00						494.00
	9/5	9/7	Ireland		368.00		[3] 4,401.79				4,769.79
Committee total					11,966.00		17,607.16		639.28		30,212.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Total cost military transportation.

GLENN M. ANDERSON, Chairman, Oct. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Nancy J. Jeffery	8/21	8/26	Canada		800.00						800.00
Commercial air							698.45				698.45
Nelson L. Milder	8/21	8/26	Canada		800.00						800.00
Commercial air							698.45				698.45
Kitty H. Rising	8/21	8/26	Canada		800.00						800.00
Commercial air							698.45				698.45
Harland L. Watson	8/21	8/26	Canada		800.00						800.00
Commercial air							698.45				698.45
Louis Ventre, Jr	8/21	8/26	Canada		800.00						800.00
Commercial air							698.45				698.45
Paul C. Maxwell	8/28	9/3	Japan	222,306	1,659.00			15,200	111.76	237,506	1,770.76
Commercial air							4,449.00				4,449.00
James C. Greene	9/3	9/10	England	294.32	1,482.00					294.32	1,482.00
Commercial air							641.00				641.00
Anthony C. Taylor	9/4	9/11	England	735.81	1,235.00					735.81	1,235.00
Commercial air							839.00				839.00
Patricia G. Garfinkel	9/18	9/24	Finland	4,370.45	985.00					4,370.45	985.00
Hon. Robert A. Roe	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Hon. Manual Lujan, Jr	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Hon. James H. Scheuer	8/29	8/30	Italy	615,390	438.00					615,390	438.00
Hon. Tom McMillen	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Hon. James A. Hayes	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dr. Harold P. Hanson	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Robert C. Ketcham	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Robert W. Maitlin	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Robert E. Palmer	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Harriet J. Smith	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Charles E. Cooke	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
James R. Miller	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Shirley J. Watson	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Kathy E. Guilfoy	8/23	8/25	France		300.00			1,038.8	159.82	1,038.8	459.82
	8/25	9/3	Italy	2,560,160	1,829.50					2,560,160	1,829.50
	9/3	9/5	England	294.32	494.00					294.32	494.00
	9/5	9/7	Ireland	256.61	368.00					256.61	368.00
Military air							4,401.79				4,401.79
Committee total					48,688.50		66,644.52		2,189.42		117,522.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ROBERT A. ROE, Chairman, Oct. 31, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
John J. LaFalce	9/12	9/13	Mexico		268.00		593.00				861.00
Donald F. Terry	9/12	9/13	Mexico		268.00		564.00				832.00
	9/24	9/26	West Germany		368.00		709.00				1,077.00
Committee total					904.00		1,866.00				2,770.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN J. LaFALCE, Chairman, Dec. 8, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Guy Vander Jagt	7/28	8/01	France		260.00		4,097.00				4,357.00
Thelma Askey	7/25	7/27	Switzerland	959.70	624.00						624.00
	7/18	7/25	England	206.15	361.52						361.52
Commercial transportation							1,280.97				1,280.97
Timothy Hanford	8/05	8/08	Canada				324.63				324.63
Margaret Hostetler	8/28	9/02	Hungary	41,373.50	767.26		2,266.00		150.00		3,183.26
Frank Phifer	6/30	7/01	England	289.94	495.00		47.81				542.81
Committee total					2,507.78		8,016.41		150.00		10,674.19

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Bill Richardson	6/30	7/8	Africa		953.88						953.88
	7/8	7/9	Europe		455.00						455.00
Commercial air							5,735.00				5,735.00
Calvin R. Humphrey, staff	6/30	7/8	Africa		953.88						953.88
	7/8	7/9	Europe		455.00						455.00
Commercial air							5,735.00				5,735.00
Hon. Henry J. Hyde	7/14	7/21	South America		967.50						967.50
Commercial air							2,834.00				2,834.00
Thomas S. Smeeton	7/14	7/21	South America		967.50						967.50
Commercial air							2,629.00				2,629.00
Delegation expenses									56.56		56.56
Hon. Bud Shuster	7/17	7/18	Europe		1,402.00						1,402.00
	7/21	7/26									
	7/18	7/20	Africa		270.00						270.00
Commercial air							5,735.00				5,735.00
Hon. Bob McEwen	7/17	7/18	Europe		97.00						97.00
	7/18	7/20	Africa		270.00						270.00
Commercial air							5,735.00				5,735.00
Louis H. Depart, staff	7/17	7/18	Europe		358.00						358.00
	7/21	7/22									
	7/18	7/20	Africa		270.00						270.00
Commercial air							5,735.00				5,735.00
Louis H. Dupart, staff	8/17	8/25	Central America		733.00						733.00
Commercial air							461.00				461.00
Diane S. Dornan, staff	8/17	8/25	Central America		839.00						839.00
Commercial air							681.00				681.00
Hon. Dan Lungren	8/31	9/3	North America		252.00						252.00
Commercial air							591.00				591.00
Diane S. Dornan, staff	8/31	9/3	North America		252.00						252.00
Commercial air							536.00				536.00
Committee total					9,495.76		36,407.00		56.56		45,959.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LOUIS STOKES, Chairman, Oct. 12, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HUNGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Tony Hall	9/20	9/23	Bangladesh		NA		6,476.80				6,476.80
Tony Gambino	9/20	9/23	Bangladesh		NA		4,665.00				4,665.00
Committee total							11,141.80				11,141.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICKEY LELAND, Chairman, Nov. 17, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Catherine H. Cosman	7/10	7/16	U.S.S.R.		1,330.00		[3] 1,724.00				3,054.00
Mary Sue Hafner	8/23	8/28	Poland		568.00		[3] 2,425.00				2,993.00
Richard E. Combs	9/13	9/24	U.S.S.R.		690.00		[4] 4,774.00				5,464.00
Robert S. Oliver	9/13	9/24	U.S.S.R.		690.00		[4] 4,774.00				5,464.00
Ronald J. McNamara	4/17	8/4	Austria		16,794.00		[3] 1,205.00				17,999.00
Michael J. Ochs	4/28	6/17	Austria		7,650.00		[3] 795.00				8,445.00
Robert A. Hand	4/10	4/24	Switzerland		2,240.00		[5] 618.50				2,858.50
	4/24	8/4	Austria		14,923.00		[5] 618.50				15,541.50
Erika B. Schlager	6/8	7/30	Austria		7,956.00		[3] 964.00				8,920.00
Samuel G. Wise	7/4	8/6	Austria		[6] 2,494.50		[3] 1,473.00				3,967.50
	9/4	9/30	Austria		[6] 1,903.50		1,225.00				3,128.50
Committee total					53,961.00		6,899.00				60,860.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Round trip commercial.
[4] Round trip commercial and in-country transportation.
[5] One-way commercial
[6] One-half per diem.

STENY H. HOYER, Oct. 21, 1988.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Richard Fiesta	11/10	11/13	France	8,991.47	1,483.00		2,468.64				3,951.64
	11/13	11/22	Germany		219.00		62.00				281.00
Carole Stringer	11/26	12/1	France	6,457	1,100.00		2,309.00				3,409.00
Eric Jensen	11/26	12/1	France	6,457	1,100.00		2,308.00				3,408.00
Beth Buehlmann	11/26	12/1	France	6,457	1,100.00		2,308.00				3,408.00
Committee totals					5,002.00		9,455.64				14,457.64

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

AUGUSTUS F. HAWKINS, Chairman, Jan. 23, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT COMMITTEE ON HUNGER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jeffrey Clark	10/15	10/19	Kenya		309.00						
	10/19	10/21	Uganda		400.00						
	10/21	10/23	Kenya		309.00						
	10/23	10/27	Ethiopia		821.79						
	10/27	11/1	Sudan		24.51						
	11/1	11/3	United Kingdom		405.00		3,039.04				
Stephen Morrison	10/15	10/19	Kenya		309.00						
	10/19	10/21	Uganda		400.00						
	10/21	10/23	Kenya		409.00						
	10/23	10/27	Ethiopia		821.79						
	10/27	11/1	Sudan		24.51						
	11/1	11/3	United Kingdom		405.00		3,039.04				
David Lonie	10/15	10/19	Kenya		309.00						
	10/19	10/21	Uganda		400.00						
	10/21	10/23	Kenya		309.00						
	10/23	10/27	Ethiopia		821.79						
	10/27	11/1	Sudan		24.51						
	11/1	11/3	United Kingdom		405.00		3,039.04				
Ann Schonfield	10/15	10/19	Kenya		309.00						
	10/19	10/21	Uganda		400.00						
	10/21	10/23	Kenya		309.00						
	10/23	10/27	Ethiopia		821.79						
	10/27	11/1	Sudan		24.51						
	11/1	11/3	United Kingdom		405.00		3,039.04				
Committee total					18,154.40		12,156.16				

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICKEY LELAND, Chairman, Jan. 4, 1989.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1988

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ronald J. McNamara	8/28	12/23	Austria		16,481.00		946.00				17,427.00
Robert Hand	9/17	10/28	Austria		5,399.00		946.00				6,345.00
	11/9	12/3	Austria		3,139.00						3,139.00
	12/5	12/9	Switzerland		800.00						800.00
	12/9	12/21	Austria		1,704.00		946.00				2,650.00
Samuel G. Wise	10/10	11/4	Austria		1,713.00		1,154.00				2,867.00
	11/10	11/11	Austria		192.00		2,624.00				2,816.00
Hon. Steny H. Hoyer	11/10	11/11	Austria		192.00		2,223.00		321.00		2,736.00
R. Spencer Oliver	11/10	11/11	Austria		192.00		3,934.00				4,126.00
Samuel G. Wise	11/11	11/14	Copenhagen		609.00		567.00		123.00		1,299.00
Hon. Steny H. Hoyer	11/11	11/14	Copenhagen		609.00		567.00		123.00		1,299.00
R. Spencer Oliver	11/11	11/14	Copenhagen		609.00		567.00		123.00		1,299.00
Hon. Bill Richardson	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Hon. Donald Ritter	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Hon. Christopher Smith	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Hon. John Porter	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Richard E. Combs	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Jane S. Fisher	11/12	11/14	Copenhagen		406.00		2,317.00		123.00		2,846.00
Orest S. Deychakiwsky	11/12	11/14	Copenhagen		406.00		2,297.00		123.00		2,826.00
Catherine H. Cosman	11/12	11/14	Copenhagen		406.00		2,297.00		123.00		2,826.00
Michael J. Ochs	11/12	11/14	Copenhagen		406.00		2,616.00		123.00		3,145.00
Peter Asanasenko	11/12	11/14	Copenhagen		406.00		2,123.00		123.00		2,652.00
Judith Ingram	10/31	11/7	Romania				2,995.00				2,995.00
	11/7	11/11	Hungary		664.00		24.00		41.00		729.00
	11/11	11/20	U.S.S.R.		1,650.00						1,650.00
Mary Sue Hafner	11/11	11/20	U.S.S.R.		1,850.00		4,052.00				5,902.00
Jesse L. Jacobs	11/11	11/20	U.S.S.R.		1,850.00		2,942.00				4,792.00
Beth Ritchie	11/11	11/20	U.S.S.R.		1,850.00		5,229.00				7,079.00
Hon. Steny H. Hoyer	11/14	11/20	U.S.S.R.		1,000.00		4,435.00				5,435.00
Hon. Bill Richardson	11/14	11/20	U.S.S.R.		1,000.00		4,961.00				5,961.00
Hon. Christopher Smith	11/14	11/20	U.S.S.R.		1,000.00		4,961.00				5,961.00
Hon. Donald Ritter	11/14	11/20	U.S.S.R.		1,000.00		4,961.00				5,961.00
Hon. John E. Porter	11/14	11/20	U.S.S.R.		1,000.00		4,961.00				5,961.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1988—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Richard E. Combs	11/14	11/20	U.S.S.R.		1,000.00		3,435.00				4,435.00
Catherine H. Cosman	11/14	11/20	U.S.S.R.		1,000.00						1,000.00
Orest S. Deychakiwsky	11/14	11/20	U.S.S.R.		1,000.00						1,000.00
Jane S. Fisher	11/14	11/20	U.S.S.R.		1,000.00		3,435.00				4,435.00
Michael J. Ochs	11/14	11/20	U.S.S.R.		1,000.00						1,000.00
R. Spencer Oliver	11/14	11/20	U.S.S.R.		1,000.00						1,000.00
Samuel G. Wise	11/14	11/20	U.S.S.R.		1,000.00		1,110.00				2,110.00
Peter Asanasenko	11/14	11/19	U.S.S.R.		1,000.00						1,000.00
	11/19	11/20	France		170.00						170.00
Erika B. Schlager	11/11	11/12	Czechoslovakia		160.00		2,385.00				2,545.00
	11/12	11/15	Austria		576.00		104.00				680.00
	11/15	11/18	Czechoslovakia		480.00						480.00
Samuel G. Wise	11/20	11/21	Austria		2,201.00		578.00				2,779.00
	9/4	11/4	Austria						2,335.00		2,335.00
Committee total					60,150.00		88,277.00		4,296.00		152,723.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

STENY H. HOYER, Jan. 23, 1989.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

391. A letter from the Secretary of Housing and Urban and Development, transmitting a report of a violation of the Anti-Deficiency Act, which occurred in connection with funds available for HUD's research and technology appropriation for fiscal year 1987, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

392. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-256, "Full Gospel Tabernacle Church Equitable Real Property Tax Relief Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

393. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-250, "Official Correspondence Regulations Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

394. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-249, "District of Columbia Minority Bank Encouragement Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

395. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-293, "District of Columbia Long-Term Ombudsman Program Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

396. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-292, "Educational Institution Licensure Commission Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

397. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-291, "Uniform Trade Secrets Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

398. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-290, "Day Care for Children in Foster Care Placement Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

399. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-289, "District of Columbia Spouse Equity Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

400. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-244, "Franchising Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

401. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-303, "District of Columbia Government Comprehensive Merit Personnel Act of 1978 Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

402. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-296, "Emergency Assistance Program Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

403. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-295, "Child Care Services Assistance Fund Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

404. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-294, "Persons with a Disability Parking Privilege Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

405. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-273, "Housing Production Trust Fund Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

406. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-271, "Confirmation Procedures and Sanctions Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

407. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-265, "Office of Employee Appeals Appointment Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

408. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-264, "Community Residence Facilities Licensure Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

409. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-245, "District of Columbia Occupational Safety and Health Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

410. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-236, "Victims Rights Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

411. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-300, "Closing of a Public Alley and Abandonment of an Easement in Square 488, S.O. 86-267," and Report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

412. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-257, "Young's Memorial Church of Christ Holiness Equitable Real Property Tax Relief Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

413. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-252, "District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988," and report, pursuant to D.C. Code, section 1-

233(c)(1); to the Committee on the District of Columbia.

414. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-251, "Health-Care Decisions Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

415. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-253, "Closing of a Public Alley and Establishment of an Easement in Square 1983, S.O. 85-243, Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

416. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-254, "District of Columbia Fire Department Compensation System and Salary Schedule Adjustment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

417. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-258, "Fire Department of the District of Columbia Compensation System and Salary Schedule Temporary Adjustment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

418. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-259, "Association for Community Based Education Equitable Real Property Tax Relief Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

419. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-255, "Officer Kevin J. Welsh Memorial Bridge Designation Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

420. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-263, "District of Columbia Hospital Records Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

421. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-279, "Prohibition of Discrimination in the Provision of Insurance Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

422. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-241, "Real Property Tax Rates for Tax Year 1989 Amendment temporary Act of 1988," purauant to D.C. Code, Section 1-233 (c)(1); to the Committee on the District of Columbia.

423. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-280, "Division of Park Services Act of 1988," and report purauant to D.C. Code, Section 1-233 (c)(1); to the Committee on the District of Columbia,

424. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-275, "Frigid Temperature Protection Amendment Act of 1988," and report, purauant to D.C. Code, Section 1-233 (c)(1); to the Committee on the District of Columbia.

425. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-274, "Residency Preference Amendment Act of 1988," and report, purauant to D.C. Code, Section 1-233 (c)(1); to the Committee on the District of Columbia.

426. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-276, "Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1983 Amendment Act of 1988," and report, purauant to D.C. Code, Section 1-233 (c)(1); to the Committee on the District of Columbia.

427. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-277, "Closing of a Public Alley in Square 1453, S.O. 86-253, Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

428. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-278, "Closing of a Public Alley and Establishment of an Easement in Square 209, S.O., 78-47, Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

429. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-285, "Technical Amendments Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia. .

430. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-281, "D.C. General Hospital Hospice Program Establishment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

431. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-243, "Commission on Housing Production Establishment Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

432. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-242, "Authorization to Enter an Interstate Corrections Compact Temporary Act of 1988," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

433. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-239, "Pet Ownership Nonrestriction Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

434. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-301, "District of Columbia Solid Waste Management and Multi-Material Recycling Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

435. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-288, "Coalition for the Homeless Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

436. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-287, "Exodus Missionary Baptist Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

437. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-286, "Emory United Methodist Church Equitable Real Property Tax Relief Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

438. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-240, "Clinical Laboratory Act of 1988", and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

439. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-302, "Commission on Youth Affairs Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

440. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-299, "Washington Metropolitan Area Transit Regulation Compact Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

441. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-298, "Free Clinic Assistance Program Act of 1986 Amendment act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

442. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-297, "Motor Vehicle Operator's Permit Revocation Amendment Act of 1988," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

443. A letter from the Secretary of Education, transmitting a copy of final regulations—preschool grants for Handicapped Children's Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

444. A letter from the Secretary of Education, transmitting a copy of final regulations—regional educational laboratories, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

445. A letter from the Secretary of Health and Human Services, transmitting a compilation and analysis of State activities in implementing the first year of the Child Abuse and Neglect Prevention Challenge Grant Program, pursuant to 42 U.S.C. 5116a(1), 5116g; to the Committee on Education and Labor.

446. A letter from the Secretary of Labor, transmitting the Department's annual report of the Longshore and Harbor Workers' Compensation Act for the period October 1, 1986, through September 30, 1987, pursuant to 33 U.S.C. 942; to the Committee on Education and Labor.

447. A letter from the Administrator, Energy Information Administration, transmitting the Energy Information Administration's annual report for calendar year 1988, pursuant to 15 U.S.C. 790f(a)(2); to the Committee on Energy and Commerce.

448. A letter from the Secretary of Energy, transmitting the Ninth Annual Report of the Department of Energy, pursuant to 42 U.S.C. 5562, 5564, 5907(e), 5914, 5914 nt., 6371h(b), 6372h(b), 6806, 7007(c), 7135(b)(5), 7267, 8235g(b); to the Committee on Energy and Commerce.

449. A letter from the Inspector General, Federal Emergency Management Agency, transmitting the annual report of progress in implementating requirements of the Superfund Amendments and Reauthorization Act, pursuant to Public Law 99-499, section

120(e)(5) (100 Stat. 1669); to the Committee on Energy and Commerce.

450. A letter from the Commissioner, General Services Administration, transmitting the annual report of progress in implementating requirements of the Superfund Amendments and Reauthorization Act, pursuant to Public Law 99-499, section 120(e)(5) (100 Stat. 1669); to the Committee on Energy and Commerce.

451. A letter from the Acting Assistant Secretary of State for Legislative Affairs, transmitting a report on behalf of the President, that he has exercised the authority granted him under section 451(a)(1) of the Foreign Assistance Act of 1961, as amended, to provide additional assistance for the U.N. peacekeeping forces for Southern Africa, pursuant to 22 U.S.C. 2261(a)(2); to the Committee on Foreign Affairs.

452. A letter from the Director, Defense Security Assistance Agency, transmitting the fiscal year 1988 Annual Report on the Operation of the Special Defense Acquisition Fund, pursuant to 22 U.S.C. 2795b(a); to the Committee on Foreign Affairs.

453. A letter from the Secretary of State, transmitting a listing covering all sales and licensed commercial exports of major weapons or weapons-related defense equipment which the administration considers eligible for approval during the calendar year 1989, pursuant to 22 U.S.C. 2765(a); to the Committee on Foreign Affairs.

454. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting its 1989 Report on the United States Information Agency and the activities of the U.S. Government concerning public diplomacy, pursuant to 22 U.S.C. 1461 nt.; to the Committee on Foreign Affairs.

455. A letter from the Agency Director, U.S. Arms Control and Disarmament Agency, transmitting the fiscal year 1990 arms control impact statement, pursuant to 22 U.S.C. 2576(b)(2); to the Committee on Foreign Affairs.

456. A letter from the Chairman, Administrative Conference of the United States, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

457. A letter from the President, African Development Foundation, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

458. A letter from the Chairman, Consumer Product Safety Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

459. A letter from the Director, Office of Management and Budget, transmitting a copy of "Statistical Programs of the United States Government, Fiscal Year 1989," pursuant to Public Law 99-591, section 814(a) 100 Stat. 3341-336; to the Committee on Government Operations.

460. A letter from the Director, Federal Emergency Management Agency, transmitting a report of actions taken to increase competition for contracts during fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

461. A letter from the Director, Institute of Museum Services, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

462. A letter from the Secretary of Agriculture, transmitting notification of a revised records system and a rescission of two other systems of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

463. A letter from the Secretary of Education, transmitting a report of actions taken to increase competition for contracts during fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

464. A letter from the Secretary of Housing and Urban Development, transmitting a report of actions taken to increase competition for contracts during fiscal year 1988, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

465. A letter from the Acting Chairman, United States International Trade Commission, transmitting a report on the evaluation of its systems of internal accounting and administrative control in effect during fiscal year 1988, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

466. A letter from the Secretary of Energy, transmitting the 1988 Annual Report of the Bonneville Power Administration, pursuant to 16 U.S.C. 839(h)(12)(B); to the Committee on Interior and Insular Affairs.

467. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

468. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

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471. A letter from the Committee on Mining and Mineral Resources Research, transmitting the 1989 update to the national plan for research in mining and mineral resources, pursuant to 30 U.S.C. 1229(e); to the Committee on Interior and Insular Affairs.

472. A letter from the Chairman, Board of Directors, Panama Canal Commission, transmitting the Commission's report, including unaudited financial statements, covering the operations of the Panama Canal during fiscal year 1988, pursuant to 22 U.S.C. 3722; to the Committee on Merchant Marine and Fisheries.

473. A letter from the Postmaster General, transmitting a copy of the 1988 Comprehensive Statement on Postal Operations which discusses postal programs and policies, pursuant to 39 U.S.C. 2401(g); to the Committee on Post Office and Civil Service.

474. A letter from the Deputy Secretary of Transportation, transmitting a preliminary status report on the long-term airport capacity needs study, pursuant to 49 U.S.C. app. 2203 nt.; to the Committee on Public Works and Transportation.

475. A letter from the Deputy Secretary of Transportation, transmitting a report on the methods of air traffic control which might be utilized at the Grand Canyon Airport, pursuant to Public Law 100-223, section 315 (101 Stat. 1532); to the Committee on Public Works and Transportation.

476. A letter from the Administrator, Federal Highway Administration, transmitting the second status report of the demonstration projects authorized in section 149(a) of the act, pursuant to Public Law 100-17, section 149(j)(1) (101 Stat. 202); to the Committee on Public Works and Transportation.

477. A letter from the Secretary of Transportation, transmitting the 1988 annual report on Highway Safety Improvement Programs which discusses the progress and effectiveness of the hazard elimination and rail-highway crossings programs administered by the Federal Highway Administration, pursuant to 23 U.S.C. 130 nt.; 23 U.S.C. 152(g); to the Committee on Public Works and Transportation.

478. A letter from the Architect of the Capitol, transmitting his report to the members of the Commission for the Judiciary Office Building on the review of bid proposals for development of Squares 721 and 722 in the District of Columbia (Judiciary Office Building), pursuant to Public Law 100-480; to the Committee on Public Works and Transportation.

479. A letter from the Secretary of Health and Human Services, transmitting the third annual report on the impact of the Medicare hospital prospective payment system, pursuant to 42 U.S.C. 1395ww nt.; to the Committee on Ways and Means.

480. A letter from the Chairman, Federal Election Commission, transmitting a copy of the Commission's January 26 reconsideration of its November 28 and 30 appeal of the OMB's fiscal 1990 passback, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Administration.

481. A letter from the Secretary of Labor, transmitting a copy of the report on Employment and Training Programs for Veterans—Program Year 1986 and Fiscal Year 1987, pursuant to 38 U.S.C. 2009(b); jointly, to the Committees on Education and Labor and Veterans' Affairs.

482. A letter from the Acting Assistant Secretary of Defense (Production and Logistics), transmitting a report on the metric transition program, pursuant to Public Law 100-418, section 5164; jointly, to the Committees on Science, Space, and Technology and Armed Services.

483. A letter from the Chairman, National Critical Materials Council, transmitting a draft of proposed legislation to amend the National Critical Materials Act of 1984, and for other purposes; jointly, to the Committees on Science, Space and Technology and Armed Services.

484. A letter from the Acting Executive Director, United States Holocaust Memorial Council, transmitting a draft of proposed legislation to authorize appropriations to carry out the programs of the United States Holocaust Memorial Council, pursuant to 31 U.S.C. 1110; jointly, to the Committees on

Post Office and Civil Service, House Administration, and Interior and Insular Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS (for himself, Mr. PICKLE, Mr. MATSUI, Mr. WATKINS, Mr. STENHOLM, Mr. BUSTAMANTE, Mr. FROST, Mr. LAUGHLIN, Mr. MCCURDY, Mr. BARTON of Texas, Mr. SARPALIUS, and Mr. HALL of Texas):

H.R. 658. A bill to amend the Internal Revenue Code of 1986 to provide incentives for oil and natural gas exploration, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS (for himself, Mr. PICKLE, Mr. HALL of Texas, Mr. MCCURDY, Mr. WATKINS, Mr. ENGLISH, Mr. BUSTAMANTE, Mr. CHAPMAN, Mr. BRYANT, Mr. COLEMAN of Texas, Mr. STENHOLM, Mr. FROST, Mr. LELAND, Mr. LAUGHLIN, Mr. COMBEST, Mr. TAUZIN, Mrs. BOGGS, Mr. HAYES of Louisiana, Mr. BARTON of Texas, Mr. BROOKS, and Mr. SARPALIUS):

H.R. 659. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil or refined petroleum products; to the Committee on Ways and Means.

By Mr. MCCURDY (for himself, Mr. BONIOR, Mr. BATES, Mr. PENNY, Mr. JONES of Georgia, Mr. FLIPPO, Mr. SCHAEFER, Mr. STENHOLM, Mrs. KENNELLY, Mr. GIBBONS, Mr. SISISKY, Mr. LANCASTER, and Mr. DARDEN):

H.R. 660. A bill to establish a corporation to administer a program of voluntary national service, and for other purposes; jointly, to the Committees on Education and Labor, Armed Services, and Veterans' Affairs.

By Mr. GONZALEZ:

H.R. 661. A bill to establish a Visa Review Board within the Department of State to review denials of certain visa applications; to the Committee on the Judiciary.

H.R. 662. A bill to amend the Internal Revenue Code of 1986 to reinstate the deductions for State and local general sales taxes and State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels; to the Committee on Ways and Means.

H.R. 663. A bill to repeal the changes made by the Tax Reform Act of 1986 which expanded the penalty taxes on early distributions from retirement plans; to the Committee on Ways and Means.

By Mr. ARCHER (for himself, Mr. ANDREWS, Mr. THOMAS of California, Mr. PICKLE, Mr. COMBEST, Mr. DELAY, Mr. STENHOLM, Mr. BARTON of Texas, and Mr. SMITH of Texas):

H.R. 664. A bill to amend the Internal Revenue Code of 1986 to provide incentives for oil and natural gas exploration and production, and for other purposes; to the Committee on Ways and Means.

By Mr. ATKINS (for himself, Mr. LEVINE of California, Mr. STARK, Mr. HANSEN, Mr. MARTINEZ, Mr. TRAFICANT, Mr. BOSCO, Mr. LEVIN of Michigan, Mr. FAUNTROY, Mr. ACKERMAN, Mr. WHITTAKER, Mr. GARCIA, Mr. STUDDS, Mr. FOGLIETTA, Mr. BATES, Mr. HAYES of Illinois, Mr. SCHEUER, Mr. NIELSON of Utah, and Ms. PELOSI):

H.R. 665. A bill to amend the Drug-Free Schools and Communities Act of 1986 to require that grant funds provided under the act be used to provide education relating to the use of tobacco products, and to prohibit the sale of cigarettes to minors; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. BENNETT:

H.R. 666. A bill to allow an obsolete Navy drydock to be transferred to the city of Jacksonville, FL, before the expiration of the otherwise applicable 60-day congressional review period; to the Committee on Armed Services.

H.R. 667. A bill to improve contracting procedures for procurements of advisory and assistance services by the Federal Government, and for other purposes; to the Committee on Government Operations.

By Mrs. BENTLEY (for herself, Mr. YOUNG of Alaska, Mr. COBLE, Mr. HOCHBRUECKNER, Mr. MANTON, Mr. FOGLIETTA, Mr. HUTTO, Mr. MILLER of Washington, Mr. CARDIN, Mr. AKAKA, Mr. MCGRATH, Mr. KOLTER, Mr. MCMILLEN of Maryland, Ms. PELOSI, Mr. SMITH of Florida, Mr. SCHEUER, Mr. HORTON, and Mr. SOLOMON):

H.R. 668. A bill to establish a mechanism to provide funding for nonprofit organizations for merchant marine memorials; to the Committee on Merchant Marine and Fisheries.

By Mr. BERMAN:

H.R. 669. A bill to prohibit the transfer or possession of assault weapons; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 670. A bill to require States to increase high school completion rates, to establish a program of grants to States for purposes of increasing such rates, and for other purposes; to the Committee on Education and Labor.

By Mr. BERMAN:

H.R. 671. A bill to amend title 17, United States Code, relating to remedies in copyright infringement actions; to the Committee on the Judiciary.

By Mr. BERMAN (for himself, Mr. EDWARDS of California, Mr. MARTINEZ, Mr. MATSUI, Mr. MINETA, Mr. ROYBAL, and Mr. TORRES):

H.R. 672. A bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States; to the Committee on the Judiciary.

By Mr. BOUCHER (for himself and Mr. BLILEY):

H.R. 673. A bill to implement the recommendations of the Interagency Committee and the Technical Study Group on Cigarette and Little Cigar Fire Safety, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BRENNAN:

H.R. 674. A bill to require the recommendations of the President regarding the report and recommendations of the Commission on Executive, Legislative, and Judicial Salaries to be approved by law before taking effect, to require congressional approval of any increase in the rates of pay of Members of Congress, and to establish an effective date for any approved recommendation or increase; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. BRENNAN (for himself, Mr. BENNETT, Mrs. LOWEY of New York, Mr. OLIN, Mr. SHAYS, Mr. SKAGGS, Ms. SLAUGHTER of New York, Mr. SMITH of New Hampshire, Mr. CARPER, and Mrs. UNSOELD):

H.R. 675. A bill to prohibit Members of Congress from accepting honoraria; to the Committee on House Administration.

By Mr. BROOMFIELD (for himself, Mr. STENHOLM, Mr. RITTER, Mr. COX, Mr. PETRI, Mr. WOLF, Mr. SCHUETTE, Mr. SMITH of Florida, Mr. ARMEY, Mr. FASCELL, Mr. KOLTER, Mr. HENRY, Mr. DEFAZIO, Mr. SKEEN, Mr. HASTERT, Mrs. BENTLEY, Mr. MARTIN of New York, Mr. ROE, Mr. WILSON, Mr. LEATH of Texas, Mr. BONIOR, Mr. PARRIS, Mr. DYMALLY, Mr. TORRES, Mr. LAGOMARSINO, Mr. ACKERMAN, Mr. SOLOMON, Mr. BEREUTER, and Mr. LEHMAN of Florida):

H.R. 676. A bill to encourage the rendering of emergency medical care on certain commercial aircraft by relieving licensed physicians of liability for the provision of such care; to the Committee on the Judiciary.

By Mr. BROWN of California (for himself, Mr. ROE, Mr. WALGREN, Mr. BOEHLERT, Mr. ACKERMAN, Mr. BORSKI, Mrs. BOXER, Mr. CARPER, Mr. CLARKE, Mr. COELHO, Mr. COOPER, Mr. DELLUMS, Mr. DYMALLY, Mr. FRANK, Mr. GEJDENSON, Mr. HENRY, Mr. LELAND, Mr. MCCLOSKEY, Mr. MARKEY, Mr. MINETA, Mr. MOAKLEY, Mr. MOODY, Mrs. MORELLA, Mr. MURPHY, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. PENNY, Mr. STARK, Mr. TOWNS, Mr. VALENTINE, and Mr. VENTO):

H.R. 677. A bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan; jointly, to the Committees on Agriculture and Science, Space and Technology.

By Mr. COLEMAN of Missouri (for himself and Mr. WILLIAMS):

H.R. 678. A bill to make a correction in the Education and Training for a Competitive America Act of 1988; to the Committee on Education and Labor.

By Mr. COYNE (for himself, Mr. GUNDERSON, Mr. FOGLIETTA, Mr. TRAFICANT, Mr. EVANS, Mr. PENNY, Mr. DELLUMS, Mr. HAYES of Illinois, Mr. RANGEL, Mr. KOLTER, Mr. KLECZKA, Mr. WALGREN, Mr. COSTELLO, Mr. SMITH of Florida, and Mr. CROCKETT):

H.R. 679. A bill to require community impact statements by certain corporations involved in mergers which will result in reducing the number of persons employed in any community by at least 100 individuals, and for other purposes; jointly, to the Committees on Education and Labor, Ways and Means, and the Judiciary.

By Mr. CRAIG (for himself, Mr. BARTON of Texas, Mr. VALENTINE, Mr. ROBINSON, Mr. KOLTER, Mr. DERRICK, Mr. NELSON of Florida, Mr. YOUNG of Alaska, Mr. ROE, Mr. TALLON, Mr. HILER, Mr. PETRI, Mr. HAMMERSCHMIDT, Mr. VANDER JAGT, Mr. ROBERTS, Mrs. VUCANOVICH, Mr. HATCHER, Mr. LAGOMARSINO, Mr.

MARTINEZ, and Mr. PAYNE of Virginia):

H.R. 680. A bill to provide for the extension of regional referral center classification of certain hospitals under the Medicare Program and to continue the payment rates for such hospitals; to the Committee on Ways and Means.

By Mr. DOUGLAS (for himself, Mr. SMITH of New Hampshire, and Mr. SMITH of Vermont):

H.R. 681. A bill to clarify standards governing bankruptcies and reoganizations of public utility companies under title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. DREIER of California:

H.R. 682. A bill to amend the Internal Revenue Code of 1986 to repeal the restrictions on retirement savings deductions added by the Tax Reform Act of 1986 and to allow up to a $2,000 deduction for retirement savings for a nonworking spouse; to the Committee on Ways and Means.

By Mr. DURBIN (for himself, Mr. ROE, Mr. MADIGAN, Mr. NAGLE, Mr. LEACH of Iowa, Mr. JOHNSON of South Dakota, Mr. FRANK, Mr. COSTELLO, Mr. LAGOMARSINO, Mr. TORRES, Mr. BATES, and Mr. FAUNTROY):

H.R. 683. A bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and for other purposes; to the Committee on Government Operations.

By Mr. FRANK:

H.R. 684. A bill to provide law enforcement authority for the Federal Protective Service, and for other purposes; jointly, to the Committees on Public Works and Transportation and the Judiciary.

By Mr. GILMAN:

H.R. 685. A bill to amend title 38, United States Code, to extend eligibility for burial allowance to certain additional veterans and to increase the burial plot allowance for veterans from $150 to $300; to the Committee on Veterans' Affairs.

H.R. 686. A bill to amend the Internal Revenue Code of 1986 to eliminate the age requirement for eligibility for the one-time exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. GUNDERSON:

H.R. 687. A bill to exempt educational institutions from user fees on permits for industrial use of specially denatured distilled spirits; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 688. A bill to amend the Internal Revenue Code of 1986 to encourage the coverage of older Americans by private long-term care insurance; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. HANCOCK:

H.R. 689. A bill to provide that no elected or appointed officer or employee of the Government shall receive any increase in pay unless the Federal budget is in balance; jointly, to the Committees on Post Office and Civil Service and Armed Services.

By Mr. HENRY:

H.R. 690. A bill to provide for the payment to former members of the Armed Forces held as prisoners of war during the Korean conflict of amounts attributable to leave accrued and lost while in a missing status; to the Committee on Armed Services.

H.R. 691. A bill to provide that the exception from the hospital insurance tax for service performed by an election official or election worker shall apply where remuneration for such service is less than $500 in a calendar year; to the Committee on Ways and Means.

H.R. 692. A bill to provide that the new nondiscrimination requirements for coverage and benefits under certain statutory employee benefit plans will not take effect until the Internal Revenue Service issues regulations to implement such requirements; to the Committee on Ways and Means.

By Mr. KOLTER:

H.R. 693. A bill to amend the Motor Vehicle Information and Cost Savings Act to require that passenger motor vehicle repair businesses supply customers with information respecting the origin of parts installed and the cost of available parts and for other purposes; to the Committee on Energy and Commerce.

By Mr. LaFALCE (for himself, Mr. CONTE, Mr. SKELTON, Mr. McDADE, Mr. COOPER, Mr. IRELAND, Mr. ECKART, Mr. HILER, Mr. STENHOLM, Mr. PETRI, Mr. NOWAK, Mr. BALLENGER, Mr. HAYES of Illinois, Mr. SCHUETTE, Mr. PRICE, Mr. ARMEY, Mr. SMITH of Iowa, Mr. HASTERT, Mr. TORRES, Mr. THOMAS of California, Mr. FOGLIETTA, Mr. HANSEN, Mr. SLATTERY, Mr. BATEMAN, Mr. OLIN, Mr. BOEHLERT, Mr. ENGLISH, Mr. EMERSON, Mr. HATCHER, Mr. UPTON, Mr. LANCASTER, Mr. HANCOCK, Mr. MFUME, Mr. MAZZOLI, Mr. BILBRAY, Mr. RAY, Mr. BRYANT, Mr. HEFNER, Mr. ACKERMAN, Mr. COSTELLO, and Mr. ERDREICH):

H.R. 694. A bill to increase the amount of deduction for health insurance costs of self-employed individuals; to the Committee on Ways and Means.

By Mr. LENT (for himself, Mr. DOWNEY, Mr. MRAZEK, Mr. McGRATH, Mr. HOCHBRUECKNER, Mr. SCHEUER, Mr. McCANDLESS, Mr. SHAW, Mr. LEWIS of California, Mr. DORNAN of California, Mr. BROWN of California, Mrs. ROUKEMA, and Mr. DANNEMEYER):

H.R. 695. A bill to provide primary commercial television service by very high frequency television stations to metropolitan areas with large populations that do not currently receive such service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEVINE of California (for himself, Mr. PORTER, Mr. BERMAN, and Mr. SCHUMER):

H.R. 696. A bill to provide for the imposition of sanctions against any country that uses chemical or biological weapons in violation of international law or against its own citizens, to encourage multilateral efforts to prevent the proliferation of such weapons, and for other purposes; jointly, to the Committees on Foreign Affairs; Banking, Finance and Urban Affairs; Ways and Means; and Public Works and Transportation.

By Mr. THOMAS A. LUKEN:

H.R. 697. A bill to repeal the Medicare Catastrophic Coverage Act of 1988; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MATSUI:

H.R. 698. A bill to provide for the temporary suspension of duty on certain magnetic video tape recordings; to the Committee on Ways and Means.

By Mr. MAVROULES:

H.R. 699. A bill to provide Federal assistance for economic stabilization and local community development in areas affected by defense base closures and the termination of major defense contracts, and for other purposes; jointly, to the Committees on Armed Services; Banking, Finance and Urban Affairs; and Education and Labor.

By Mr. MAVROULES (for himself and Mr. FRANK):

H.R. 700. A bill to amend the Federal Water Pollution Control Act to establish a grant program for operation and maintenance of certain treatment works; to the Committee on Public Works and Transportation.

By Mr. MRAZEK:

H.R. 701. A bill to amend the Legislative Reorganization Act of 1946 to allow any Member of Congress to elect to receive a reduced salary; jointly, to the Committees on House Administration and Post Office and Civil Service.

By Mr. OLIN:

H.R. 702. A bill to amend the Federal Rules of Civil Procedure with respect to sanctions for the violation of rule 11; to the Committee on the Judiciary.

By Mr. PEPPER (for himself, Mr. FASCELL, Mr. HUTTO, Mr. LEHMAN of Florida, and Mr. SMITH of Florida):

H.R. 703. A bill to authorize the Secretary of the department in which the Coast Guard is operating to carry out a pilot program to establish and maintain a Coast Guard junior reserve officers training program in Dade County, FL; to the Committee on Merchant Marine and Fisheries.

By Mr. POSHARD:

H.R. 704. A bill to nullify the recent pay increase for Members of Congress; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. RANGEL (for himself, Mr. GILMAN, Mr. COUGHLIN, Mr. ENGLISH, Mr. FAUNTROY, Mr. GUARINI, Mr. SCHEUER, Mr. TRAFICANT, Mr. SMITH of Mississippi, Mr. DORNAN of California, Mr. WYDEN, and Mr. SMITH of Florida):

H.R. 705. A bill to make certain supplemental appropriations in order to fully fund the Anti-Drug Abuse Act of 1988; to the Committee on Appropriations.

By Mr. RANGEL (for himself, Mr. GILMAN, and Mr. FRANK):

H.R. 706. A bill to establish certain grants programs relating to acquired immune deficiency syndrome among intravenous substance abusers, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RINALDO:

H.R. 707. A bill to require the Administrator of the Federal Aviation Administration to issue an environmental impact statement, and to conduct an air safety investigation with respect to issuance of the Expanded East Coast Plan, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROE:

H.R. 708. A bill to amend title XVIII of the Social Security Act to authorize payment under the Medicare Program for certain services performed by chiropractors; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SANGMEISTER:

H.R. 709. A bill to nullify the recent pay increase for Members of Congress; jointly,

to the Committee on Post Office and Civil Service and House Administration.

By Mr. SAXTON:

H.R. 710. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion from gross income of certain retirement benefits received by taxpayers who have attained age 65; to the Committee on Ways and Means.

By Mr. SHARP:

H.R. 711. A bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 712. A bill to amend title XVIII of the Social Security Act with respect to payment for capital-related costs for inpatient hospital services under the Medicare Program; to the Committee on Ways and Means.

By Mr. APPLEGATE:

H.J. Res. 93. Joint resolution to designate April 28, 1989, as "National Day of Remembrance of the 749 American Victims of Operation Tiger"; to the Committee on Post Office and Civil Service.

By Mr. APPLEGATE (for himself, Mr. MCEWEN, Mr. BATEMAN, Mr. BATES, Mr. BEVILL, Mr. BROWN of Colorado, Mr. BUNNING, Mr. COBLE, Mr. COELHO, Mr. COLEMAN of Texas, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DYMALLY, Mr. ENGLISH, Mr. ERDREICH, Mr. FLIPPO, Mr. GILMAN, Mr. HAMMERSCHMIDT, Mr. HATCHER, Mr. HEFNER, Mr. HILER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. JONES of Georgia, Mr. KASICH, Mr. LANCASTER, Mr. LEWIS of California, Mr. MANTON, Mr. MATSUI, Mr. MAZZOLI, Mr. MICHEL, Mr. MONTGOMERY, Mr. NEAL of North Carolina, Mr. OWENS of New York, Mr. ROBERTS, Mr. ROE, Mr. SCHUETTE, Mr. DENNY SMITH, Mr. SOLOMON, Mr. SYNAR, Mr. TAUKE, Mr. WALGREN, Mr. WOLF, Mr. WOLPE, and Mr. BENNETT):

H.J. Res. 94. Joint resolution designating April 9, 1989, as "National Former Prisoner of War Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. ATKINS:

H.J. Res. 95. Joint resolution designating the first Sunday of August as "National Day of Peace"; to the Committee on Post Office and Civil Service.

By Mr. COLEMAN of Missouri:

H.J. Res. 96. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. EMERSON:

H.J. Res. 97. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. EMERSON (for himself, Mr. CONTE, Mr. GINGRICH, Mr. HAYES of Louisiana, Mr. KASICH, Mr. NELSON of Florida, and Mr. NIELSON of Utah):

H.J. Res. 98. Joint resolution to designate February 11, 1990, as "World Marriage Day"; to the Committee on Post Office and Civil Service.

By Mr. FIELDS:

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution requiring that Federal judges be reconfirmed by the Senate every 10 years; to the Committee on the Judiciary.

By Mr. GUNDERSON:

H.J. Res. 100. Joint resolution to require the U.S. Fish and Wildlife Service develop a plan to halt the illegal harvesting of migratory waterfowl; to the Committee on Merchant Marine and Fisheries.

By Mr. HAMMERSCHMIDT:

H.J. Res. 101. Joint resolution to designate October 10, 1989, as "National Smoke Detector Day"; to the Committee on Post Office and Civil Service.

By Mr. HAWKINS (for himself and Mr. DREIER of California):

H.J. Res. 102. Joint resolution to designate April 1989 as "National Recycling Month"; to the Committee on Post Office and Civil Service.

By Mr. THOMAS A. LUKEN (for himself, Mr. ARMEY, Mr. BARTON of Texas, Mr. BILIRAKIS, Mr. BLILEY, Mr. BUNNING, Mr. DEWINE, Mr. HENRY, Mr. HOLLOWAY, Mr. HOPKINS, Mr. HYDE, Mr. IRELAND, Mr. KANJORSKI, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LIVINGSTON, Mr. DONALD E. LUKENS, Mr. MAZZOLI, Mr. MOLINARI, Mr. MURPHY, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. STAGGERS, Mr. STALLINGS, Mr. SUNDQUIST, Mr. TAUKE, Mr. TAUZIN, Mr. TRAXLER, Mr. YOUNG of Alaska, and Mr. MOLLOHAN):

H.J. Res. 103. Joint resolution proposing an amendment to Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. THOMAS A. LUKEN (for himself and Mr. HAMILTON):

H.J. Res. 104. Joint resolution to designate October 6, 1989, as "German-American Day"; to the Committee on Post Office and Civil Service.

By Mr. MCCANDLESS:

H.J. Res. 105. Joint resolution disapproving the pay increases recently recommended by the President, except those for the judicial branch; to the Committee on Post Office and Civil Service.

By Mr. MARLENEE:

H.J. Res. 106. Joint resolution to designate November 8, 1989, as "Montana Centennial Day"; to the Committee on Post Office and Civil Service.

By Ms. OAKAR:

H.J. Res. 107. Joint resolution designating April 1989 as "National Barbershop Quartet Month"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE (for herself, Mr. STALLINGS, Mr. MARTIN of New York, Mr. HEFNER, Mr. GILMAN, Mr. MATSUI, Mr. MCDADE, Mr. MCEWEN, Mr. BERMAN, Mr. HILER, Mr. ROE, Mr. KOSTMAYER, Mr. MCCLOSKEY, Mr. BOSCO, Mr. SPRATT, Mr. LEHMAN of Florida, Mr. DANNEMEYER, Mr. BEVILL, Mr. NEAL of North Carolina, Mr. JONES of Georgia, Mr. TRAXLER, Mr. HORTON, Mr. GUNDERSON, Mr. OLIN, Mr. WOLF, Mr. FLAKE, Mrs. COLLINS, Mr. MCGRATH, Mr. SISISKY, Mr. DE LA GARZA, Mr. LIPINSKI, Mr. OWENS of Utah, Mr. DYMALLY, Mrs. ROUKEMA, Mrs. LLOYD, Mr. FAWELL, Mr. SCHUETTE, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. CALLAHAN, Mr. LAGOMARSINO, and Mr. WALSH):

H.J. Res. 108. Joint resolution designating the week beginning May 14, 1989, as "National Osteoporosis Prevention Week of 1989"; to the Committee on Post Office and Civil Service.

By Mr. TAUKE (for himself and Mr. SMITH of New Hampshire):

H.J. Res. 109. Joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government, and for other purposes; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. FOLEY:

H. Con. Res. 33. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union; considered and agreed to.

By Mr. ANDREWS (for himself, Mr. ARCHER, Mr. STENHOLM, Mr. COMBEST, Mr. BUSTAMANTE, Mr. FROST, Mr. WATKINS, Mr. MATSUI, Mr. LAUGHLIN, Mr. MCCURDY, Mr. SARPALIUS, and Mr. HALL of Texas):

H. Con. Res. 34. Concurrent resolution expressing the sense of Congress concerning the formulation of a national energy policy; to the Committee on Energy and Commerce.

By Mr. EMERSON (for himself, Mr. MCCURDY, and Mr. DORNAN of California):

H. Con. Res. 35. Concurrent resolution expressing the sense of the Congress regarding the flagrant and malicious desecration of the U.S. flag; to the Committee on the Judiciary.

By Mr. MICHEL:

H. Con. Res. 36. Concurrent resolution to provide for the use of the rotunda of the Capitol to inaugurate the display of the POW/MIA flag; to the Committee on House Administration.

By Mrs. ROUKEMA (for herself, Mr. AUCOIN, Mr. MICHEL, Mr. WYLIE, Mr. ANNUNZIO, Mr. ARMEY, Mr. ASPIN, Mr. BALLENGER, Mr. BARTLETT, Mr. BARTON of Texas, Mrs. BENTLEY, Mr. BEVILL, Mr. BLILEY, Mr. BONIOR, Mr. BOSCO, Mrs. BOXER, Mr. BRYANT, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. BUSTAMANTE, Mr. CAMPBELL of Colorado, Mr. CARR, Mr. CHENEY, Mr. CLARKE, Mr. COBLE, Mr. COLEMAN of Texas, Mrs. COLLINS, Mr. COSTELLO, Mr. COURTER, Mr. COX, Mr. CRAIG, Mr. DANNEMEYER, Mr. DAVIS, Mr. DEFAZIO, Mr. DE LUGO, Mr. DEWINE, Mr. DORNAN of California, Mr. DOUGLAS, Mr. DWYER of New Jersey, Mr. ECKART, Mr. EMERSON, Mr. ERDREICH, Mr. FASCELL, Mr. FAWELL, Mr. FAZIO, Mr. GALLO, Mr. GILMAN, Mr. GILLMOR, Mr. GOODLING, Mr. GORDON, Mr. GRANT, Mr. GUNDERSON, Mr. HANSEN, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HAYES of Illinois, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mrs. JOHNSON of Connecticut, Mr. JONTZ, Mr. KANJORSKI, Mr. KOLTER, Mr. LANCASTER, Mr. LENT, Mrs. LLOYD, Mr. LEHMAN of California, Mr. MADIGAN, Mr. MANTON, Mr. MARLENEE, Mr. MCCANDLESS, Mr. MCCRERY, Mr. MCEWEN, Mr. MCGRATH, Mr. MILLER of Ohio, Mr. MOLINARI, Mr. MOORHEAD, Mrs. MORELLA, Mr. MRAZEK, Mr. NAGLE, Mr. NELSON of Florida, Mr. NOWAK, Mr. OLIN, Mr. OWENS of New York, Mr. PACKARD, Mr. PALLONE, Mr. PAYNE of Virginia, Mr. PICKETT, Mr. PORTER, Mr. POSHARD,

Mr. PURSELL, Mr. RINALDO, Mr. ROE, Mr. ROSE, Mr. ROWLAND of Connecticut, Mrs. SAIKI, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHUETTE, Ms. SCHNEIDER, Mr. SHAYS, Mr. SHUSTER, Mr. SMITH of Florida, Mr. SMITH of New Hampshire, Mr. STAGGERS, Mr. TALLON, Mr. TORRES, Mrs. VUCANOVICH, Mr. WALSH, Mr. WEBER, Mr. WHEAT, Mr. WILLIAMS, and Mr. WOLPE):

H. Con. Res. 37. Concurrent resolution expressing the sense of the Congress that the current Federal income tax deduction for interest paid on debt secured by a first or second home should not be further restricted; to the Committee on Ways and Means.

By Mr. SIKORSKI (for himself, Mr. PORTER, Mr. MCCURDY, Mr. BRYANT, Mr. OBEY, Ms. SCHNEIDER, Mr. LANTOS, Mr. SCHEUER, Mr. BUECHNER, Mr. FAUNTROY, Mr. STUDDS, and Mr. DOUGLAS):

H. Con. Res. 38. Concurrent resolution expressing the sense of the Congress regarding the murder on December 22, 1988, of Brazilian environmentalist and union leader "Chico" Mendes filho; to the Committee on Foreign Affairs.

By Mr. FOLEY:

H. Res. 51. Resolution designating membership on certain standing committees of the House; considered and agreed to.

By Mr. ROSTENKOWSKI (for himself and Mr. ARCHER):

H. Res. 52. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by the Committee on Ways and Means in the 1st session of the 101st Congress; to the Committee on House Administration.

By Mr. McDADE:

H. Res. 53. Resolution amending the Rules of the House of Representatives to prohibit Members, officers, and employees from accepting honoraria; to the Committee on Rules.

By Mr. SMITH of New Hampshire:

H. Res. 54. Resolution providing for the consideration of a joint resolution (H.J. Res. 88) disapproving the pay increase for Members of Congress recommended by the President; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 12 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COLEMAN of Texas:

H.R. 713. A bill for the relief of Bruce C. Veit; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 714 A bill to waive certain time limitations with respect to awarding the Medal of Honor to Rudolph Salais Vela; to the Committee on Armed Services.

By Mr. MATSUI:

H.R. 715. A bill for the relief of the Junior Achievement of Sacramento, Inc.; to the Committee on the Judiciary.

By Mr. VANDER JAGT:

H.R. 716. A bill for the relief of James C. Pope; to the Committee on the Judiciary.

PRIVATE RESOLUTION

By Mr. WYLIE:

H. Res. 55. Resolution expressing the congratulations of the House of Representatives to Mr. Donald Richard Newkirk of Worthington, OH, on the occassion of his 30th anniversary with the Ohio Hospital Association and his retirement from such association, and offering its best wishes to him, his wife Peggy, and their children; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. FAUNTROY, Mr. MARTIN of New York, Mr. MOLLOHAN, Mr. MOAKLEY, Mr. LEWIS of Georgia, Mr. HENRY, Mr. DYMALLY, Mr. KLECZKA, Mr. ROSE, Mr. TOWNS, Mr. WHEAT, Mr. COYNE, Mrs. MARTIN of Illinois, Mr. DAVIS, Mr. SLATTERY, Mr. DE LUGO, Mr. BONIOR, Mr. FAZIO, Mr. WATKINS, Mr. STANGELAND, Mr. HAWKINS, Mr. COSTELLO, Mr. TRAFICANT, Mr. MCEWEN, Mr. WEBER, Mr. MAZZOLI, Mr. ROE, Mr. PAYNE of New Jersey, Mr. BUSTAMANTE, Mr. RAHALL, Ms. PELOSI, Mr. DORNAN of California, Mr. LA FALCE, Mr. BUNNING, Mr. HALL of Ohio, Mr. FAWELL, Mr. LANCASTER, and Mr. SCHUETTE.

H.R. 14: Mr. DORGAN of North Dakota, Mr. BROWN of California, Mr. DWYER of New Jersey, Mr. MINETA, Mr. SKAGGS, Mr. SIKORSKI, Mr. EDWARDS of California, Mr. MCDERMOTT, and Mr. RAHALL.

H.R. 25: Mr. MINETA.

H.R. 37: Mr. UDALL, Mr. FASCELL, Mr. FAZIO, Mr. VENTO, Mr. GALLO, Mr. FORD of Michigan, Mr. SMITH of Florida, Mrs. MARTIN of Illinois, Mr. OWENS of New York, Mr. ROE, Mrs. ROUKEMA, Mr. ATKINS, Mr. GORDON, Mr. PEPPER, Mr. GEPHARDT, Mr. GOODLING, Mr. FOGLIETTA, Mrs. MORELLA, Mr. HAYES of Louisiana, Mr. LIPINSKI, Mr. BONIOR, Mr. NELSON of Florida, Mr. MCHUGH, Mrs. COLLINS, Mr. SMITH of Vermont, Mr. MANTON, Mr. MCDERMOTT, Mr. DWYER of New Jersey, Mrs. UNSOELD, Mrs. BENTLEY, Mr. MRAZEK, Mr. BEILENSON, Mr. MCGRATH, Mr. HOCHBRUECKNER, Mr. LEWIS of Georgia, Mr. MORRISON of Connecticut, and Mr. HUGHES.

H.R. 40: Mr. FUSTER, Mr. BROWN of California, Mr. DEFAZIO, Mr. FASCELL, Mr. BRYANT, Mr. DWYER of New Jersey, Mrs. PATTERSON, Mr. KOSTMAYER, Mr. SHARP, Mr. FAWELL, Mrs. SCHROEDER, Mr. BUNNING, Mr. SMITH of Vermont, Mr. GRANDY, Mr. UPTON, Mr. ARCHER, Mr. HANSEN, Mr. JACOBS, and Mr. RAHALL.

H.R. 42: Mr. ATKINS, Mr. LELAND, Mr. CLAY, Mrs. COLLINS, Mr. FLAKE, and Mr. NEAL of North Carolina.

H.R. 75: Mr. FAUNTROY and Mr. GRANT.

H.R. 76: Mr. GRANT.

H.R. 77: Mr. ATKINS and Mr. FASCELL.

H.R. 83: Mr. RAY, Mr. FRANK, and Mr. FAUNTROY.

H.R. 84: Mr. RANGEL, Mr. OBERSTAR, Mr. DONNELLY, and Mr. MACHTLEY.

H.R. 85: Mr. FRANK, Mr. SCHUETTE, Mr. PENNY, Mrs. MEYERS of Kansas, Mrs. COLLINS, Mr. ATKINS, Mr. BATES, Mr. STUDDS, Mr. BROWN of California, Mr. BRENNAN, Mr. HAYES of Illinois, and Mr. COELHO.

H.R. 86: Mr. GILMAN, Mrs. ROUKEMA, Mr. RINALDO, and Mr. RANGEL.

H.R. 87: Mr. BERMAN, Ms. PELOSI, Mr. SMITH of Iowa, and Mr. FOGLIETTA.

H.R. 88: Mr. LAGOMARSINO, Mr. MARTINEZ, Mr. FAZIO, Mr. HUGHES, Mr. RAY, and Mr. SMITH of Florida.

H.R. 89: Mr. WEISS.

H.R. 90: Mr. JONTZ, Mr. FROST, Mrs. COLLINS, and Mr. ARMEY.

H.R. 140: Mr. DWYER of New Jersey, Mr. MCDERMOTT, Mr. FLAKE, Mr. WOLPE, Mr. DYMALLY, and Mr. CROCKETT.

H.R. 145: Mr. DELLUMS, Mr. JONES of Georgia, Mr. VENTO, Mr. LANTOS, Mr. LIPINSKI, Mr. FAUNTROY, Mr. DWYER of New Jersey, Mr. MURPHY, Mr. SABO, Mr. COYNE, Mr. KOLTER, Mr. HOCHBRUECKNER, Mr. WALGREN, Mr. SPENCE, Mr. PALLONE, Mrs. BENTLEY, Mr. FORD of Tennessee, Mr. OLIN, Mr. ACKERMAN, Mr. FROST, Mr. MURTHA, Mrs. BOXER, Mr. HAYES of Illinois, Mr. SKELTON, Mr. DOWNEY, Mr. DYMALLY, Mr. FLAKE, Mr. BORSKI, Mr. STAGGERS, Mr. PEPPER, Mr. DARDEN, Mr. PENNY, Ms. PELOSI, Mr. SIKORSKI, Mr. SAVAGE, Mr. FRANK, Mr. KOSTMAYER, Mr. BOUCHER, Mr. WHITTAKER, Mr. KLECZKA, Mr. DONNELLY, Mr. TORRES, Mr. PERKINS, Mr. FASCELL, Mr. COSTELLO, and Mr. HAMILTON.

H.R. 149: Mr.HAYES of Louisiana and Mrs. BYRON.

H.R. 150: Mr. NEAL of Massachusetts, Mr. FAUNTROY, Mr. BERMAN, Mr. BATES, Mr. DORNAN of California, Mrs. COLLINS, Mr. FRANK, Mr. SMITH of Florida, Mr. GUNDERSON, Mr. ARMEY, Mr. THOMAS A. LUKEN, Mr. HORTON, Mr. LAFALCE, Mrs. BOXER, Mr. MCDERMOTT, Mr. COSTELLO, Mr. RANGEL, Mr. WILSON, Mr. DYMALLY, Mr. MCGRATH, and Mrs. KENNELLY.

H.R. 152: Mr. MOAKLEY, Mr. FAUNTROY, Mr. COSTELLO, Mr. FRANK, Mr. STANGELAND, Mr. ROE, Mr. COYNE, Mr. SMITH of Florida, Mr. FOGLIETTA, Mr. OWENS of New York, Mr. THOMAS of Georgia, Mr. FLORIO, Mr. DYMALLY, Mr. DE LUGO, Mr. KOLTER, Mrs. COLLINS, Mr. MARTINEZ, Mr. HORTON, Mr. DWYER of New Jersey, and Mr. ROWLAND of Connecticut.

H.R. 169: Mr. SENSENBRENNER, Mr. SCHAEFER, Mr. HEFLEY, Mr. DENNEY SMITH, and Mr. HASTERT.

H.R. 218: Mr. DE LUGO, Mr. BEILENSON, Mr. OWENS of New York, Mr. ROE, and Mr. MARTINEZ.

H.R. 219: Mr. DE LUGO, Mr. DYMALLY, and Mr. CLAY.

H.R. 283: Mr. ACKERMAN, Mr. HORTON, Mr. CLINGER, Mr. DYMALLY, Mr. OXLEY, Mr. JONES of Georgia, Mr. HAMMERSCHMIDT, Ms. OAKAR, Mr. ROE, Mr. LAGOMARSINO, Mr. ANTHONY, and Mr. APPLEGATE.

H.R. 286: Mr. EMERSON, Mr. HASTERT, and Mr. APPLEGATE.

H.R. 289: Mr. FAZIO, Mr. FRANK, Mr. ACKERMAN, Mr. BERMAN, Mr. STARK, Mrs. COLLINS, Mr. HORTON, Mrs. MORELLA, Mr. TORRES, Mr. VENTO, Mr. BOSCO, Mr. OWENS of New York, Mr. EVANS, Mr. MARTINEZ, Mr. DE LUGO, Mr. SIKORSKI, Mr. SCHEUER, Mr. GORDON, Mrs. SAIKI, Ms. OAKAR, Mr. ATKINS, Mr. FOGLIETTA, Mr. LEVINE of California, Mr. WAXMAN, Mr. BLAZ, Mr. WEISS, Mr. RANGEL, and Mr. MCDERMOTT.

H.R. 303: Mr. MADIGAN, Ms. KAPTUR, Mr. PACKARD, Mr. HEFLEY, Mr. RINALDO, Mr. RAVENEL, Mr. PALLONE, Mr. DEWINE, Mr. BEVILL, Mr. OWENS of Utah, Mr. HATCHER, Mrs. SAIKI, Mr. PARRIS, Mr. QUILLEN, Mr. DUNCAN, Mr. GINGRICH, Mr. LEWIS of Florida, Mr. DENNY SMITH, Mr. HALL of Texas, Mr. MAVROULES, Mr. LIPINSKI, Mr. STOKES, Mr. LEWIS of Georgia, Mr. DANNEMEYER, Mr. ACKERMAN, and Mr. GORDON.

H.R. 305: Mr. SPRATT.

H.R. 328: Mr. DANNEMEYER, Mr. COBLE, Mr. LAGOMARSINO, Mr. HANSEN, and Mr. UPTON.

H.R. 329: Mr. DANNEMEYER, Mr. SENSENBRENNER, Mr. SPRATT, Mr. HOLLOWAY, Mr. COBLE, Mrs. VUCANOVICH, Mr. MCEWEN, Mr. WOLF, Mr. LAGOMARSINO, Mr. HANSEN, and Mr. UPTON.

H.R. 330: Mr. DANNEMEYER, Mr. SENSENBRENNER, Mr. OXLEY, Mr. SPRATT, Mr. COBLE, Mr. MCEWEN, Mr. LAGOMARSINO, Mr. HANSEN, and Mr. UPTON.

H.R. 332: Mr. PORTER, Mrs. BENTLEY, Mr. COSTELLO, Mr. ARMEY, Mr. SCHAEFER, Mr. SHUMWAY, Mr. HEFLEY, Mr. COMBEST, and Mr. HASTERT.

H.R. 347: Mr. GALLO.

H.R. 350: Mr. GALLO, Mr. NATCHER, and Mr. SOLOMON.

H.R. 377: Mr. BURTON of Indiana, Mr. MARTIN of New York, Mr. ERDREICH, Mrs. LLOYD, Mrs. COLLINS, Mr. WELDON, Mr. WALSH, Mr. BEVILL, Mrs. PATTERSON, Mr. JONES of North Carolina, Mr. WOLF, Mr. LAGOMARSINO, Mr. GILLMOR, Mr. MURPHY, Mr. MCCRERY, Mrs. BENTLEY, Mr. MCGRATH, Mr. HASTERT, Mr. MCEWEN, Mr. DOUGLAS, Mr. CAMPBELL of Colorado, Mr. ROE, Mr. BEREUTER, Mr. PENNY, and Mr. DEFAZIO.

H.R. 381: Mr. PACKARD, Mr. DORNAN of California, Mr. KOLTER, Mrs. BENTLEY, Mr. MCGRATH, Mr. EMERSON, and Mr. LAGOMARSINO.

H.R. 401: Mr. RITTER, Mr. RAY, Mr. JAMES, Mr. DANNEMEYER, Mr. CLARKE, Mrs. BYRON, Mr. HOUGHTON, Mrs. PATTERSON, Mr. SLATTERY, Mr. ROHRABACHER, Mr. GINGRICH, and Mr. HEFLEY.

H.R. 423: Mr. BROOMFIELD, Mr. NEAL of Massachusetts, Mr. GALLO, Mr. PENNY, Mrs. COLLINS, Mr. SPRATT, Mr. EMERSON, and Mr. CAMPBELL of Colorado.

H.R. 436: Mr. BUSTAMANTE, Mr. EDWARDS of California, Mr. LEHMAN of Florida, and Mrs. SAIKI.

H.R. 500: Mr. SMITH of Vermont and Mr. PALLONE.

H.R. 518: Mr. CHANDLER, Mr. TAUKE, Mr. HEFLEY, Mr. FAWELL, Mr. NIELSON of Utah, Mr. ROWLAND of Connecticut, Mr. DUNCAN, Mr. THOMAS of California, Mrs. SMITH of Nebraska, Mr. MCEWEN, Mr. BARTLETT, Mr. BARNARD, Mr. ARMEY, Mrs. JOHNSON of Connecticut, Mr. SENSENBRENNER, Mr. KASICH, Mr. RHODES, Mr. SCHUETTE, Mr. UPTON, Mr. BROWN of Colorado, Mrs. MEYERS of Kansas, Mrs. VUCANOVICH, Mr. DERRICK, Mr. COOPER, Mr. NOWAK, Mr. BROOMFIELD, and Mr. CAMPBELL of California.

H.R. 563: Mr. NATCHER, Mr. APPLEGATE, Mrs. BENTLEY, Mr. MAVROULES, Mrs. PATTERSON, Mr. KENNEDY, Mr. STAGGERS, Mr. TALLON, Mr. YATES, Mr. PASHAYAN, Mr. PEASE, Mr. DYMALLY, Mr. NEAL of North Carolina, Mr. HAWKINS, Mrs. MORELLA, Mr. FASCELL, Mr. LEWIS of Georgia, Mr. FOGLIETTA, Mr. ROWLAND of Connecticut, and Mr. GRANDY.

H.R. 565: Mr. HOCHBRUECKNER.

H.R. 567: Ms. KAPTUR, Mr. LEVINE of California, Mr. OWENS of New York, Mr. HUBBARD, Mr. JONES of North Carolina, Mr. HUGHES, Mr. AUCOIN, Mr. TALLON, Mr. FOGLIETTA, Mr. CROCKETT, Mr. ACKERMAN, Mr. TORRES, Mr. DURBIN, and Mr. MCDERMOTT.

H.R. 578: Mr. GOODLING, Mr. MCGRATH, and Mr. ACKERMAN.

H.R. 579: Mr. MCEWEN, Mr. PARRIS, Mr. GALLEGLY, Mr. FAWELL, Mrs. VUCANOVICH, Mr. UPTON, and Mr. HYDE.

H.R. 586: Mr. UPTON, Mr. LANTOS, and Mr. ATKINS.

H.R. 594: Mr. STUDDS, Mr. KENNEDY, Mr. FOGLIETTA, Mr. MCDERMOTT, Mr. TORRES, Mr. RICHARDSON, Mr. SLATTERY, Mr. MCCURDY, Mr. SMITH of Vermont, Mr. FORD of Tennessee, Mr. OWENS of Utah, Mr. BUECHNER, Mr. COELHO, Mr. PALLONE, Mr. FAZIO, Mr. DURBIN, Mr. SHAW, Mr. MARKEY, Mr. BATES, Mr. MINETA, Mrs. KENNELLY, Mr. HUTTO, Mr. DICKS, Mr. DARDEN, Mr. WAXMAN, Mr. MAZZOLI, Mr. PEASE, Mr. HUGHES, and Mr. MORRISON of Connecticut.

H.R. 622: Mr. GALLEGLY, Mrs. VUCANOVICH, and Mr. LAGOMARSINO.

H.R. 623: Mrs. VUCANOVICH and Mr. WEBER.

H.R. 624: Mr. TAUZIN, Mrs. VUCANOVICH, and Mr. WEBER.

H.R. 625: Mr. PARRIS and Mrs. VUCANOVICH.

H.R. 626: Mr. TAUZIN and Mrs. VUCANOVICH.

H.R. 634: Mr. BLAZ, Mr. HANSEN, Mr. BATEMAN, Mr. HANCOCK, Mr. BOEHLERT, Mr. BRYANT, Mr. SLAUGHTER of Virginia, Mr. EMERSON, Mr. HEFNER, Mr. LAGOMARSINO, Mr. JAMES, and Mr. COSTELLO.

H.J. Res. 21: Mrs. COLLINS, Mr. DE LUGO, Mrs. MORELLA, Mr. DORNAN of California, Mr. MARTINEZ, Mr. DYMALLY, Mr. FAZIO, Mr. CLAY, Mr. MRAZEK, Mr. ACKERMAN, Mr. ROE, Mr. FAUNTROY, Mr. STOKES, Mr. VOLKMER, Mr. GILMAN, Mr. BRYANT, and Mr. MCDERMOTT.

H.J. Res. 31: Mr. GILMAN, Mr. DWYER of New Jersey, Mr. MCDERMOTT, Mr. JONTZ, Mr. FLAKE, Mr. WOLPE, Mr. PEASE, Mr. BRYANT, Mrs. KENNELLY, Mr. APPLEGATE, Mr. MORRISON of Connecticut, Mr. FROST, Mrs. UNSOELD, and Mr. WYDEN.

H.J. Res. 34: Mr. ROWLAND of Connecticut, Mr. HEFLEY, Mr. WILSON, Mrs. MEYERS of Kansas, Mr. LEWIS of Florida, Mr. MCEWEN, Mrs. JOHNSON of Connecticut, and Mr. GORDON.

H.J. Res. 62: Mr. DANNEMEYER, Mr. SENSENBRENNER, Mr. BAKER, Mr. SPRATT, Mr. COBLE, Mr. LAGOMARSINO, Mr. HOCHBRUECKNER, Mr. UPTON, and Mr. HANSEN.

H.J. Res. 74: Mr. ROE, Mr. FAUNTROY, Mr. TOWNS, Mr. BERMAN, Mr. ROSE, Mr. MATSUI, Mrs. COLLINS, and Mr. OWENS of New York.

H.J. Res. 82: Mrs. BENTLEY, Mrs. BOXER, Mr. CONTE, Mr. CROCKETT, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FAZIO, Mr. HORTON, Mrs. PATTERSON, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, Mr. ANDERSON, Mr. BERMAN, Mr. BLILEY, Mr. BOUCHER, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CHANDLER, Mr. CLAY, Mr. WOLF, Mr. COLEMAN of Texas, Mr. DEFAZIO, Mr. DORGAN of North Dakota, Mr. FROST, Mr. GONZALEZ, Mr. GUARINI, Mr. HAMMERSCHMIDT, Mr. HEFNER, Mr. HENRY, Mr. HOAGLAND, Mr. HOYER, Mr. HUBBARD, Mr. HYDE, Mr. INHOFE, Mr. JONES of Georgia, Mr. JONTZ, Mr. KASICH, Mrs. KENNELLY, Mr. KLECZKA, Mr. KOSTMAYER, Mrs. LLOYD, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCEWEN, Mr. MCGRATH, Mr. MCHUGH, Mrs. MARTIN of Illinois, Mr. MILLER of Ohio, Mr. MINETA, Mr. MOORHEAD, Mr. MORRISON of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. PALLONE, Mr. PASHAYAN, Ms. PELOSI, Mr. PEPPER, Mr. SAWYER, Mr. SMITH of Vermont, Mr. SOLOMON, Mr. VOLKMER, and Mr. YOUNG of Alaska.

H.J. Res. 83: Mr. HOCHBRUECKNER and Mr. HUGHES.

H.J. Res. 91: Mr. LAGOMARSINO and Mrs. VUCANOVICH.

H. Con. Res. 30: Mr. CHANDLER, Mr. SKELTON, Mr. AUCOIN, Mr. INHOFE, Mr. PEASE, Mr. MCEWEN, Mr. ROYBAL, Mr. HATCHER, Ms. SCHNEIDER, Mr. PASHAYAN, and Mr. WOLF.

H. Res. 17: Mr. SMITH of Vermont.

H. Res. 23: Mr. STARK, Mr. SCHEUER, Mr. AKAKA, Mr. GUARINI, Mr. FASCELL, Mr. FAUNTROY, Mr. HUGHES, Mr. LEVINE of California, Mr. ORTIZ, Mr. SMITH of Florida, Mr. TOWNS, Mr. TRAFICANT, Mr. COUGHLIN, Mr. OXLEY, Mr. DORNAN of California, Mr. INHOFE, Mr. SHAYS, Mr. WYDEN, Mr. LEWIS of Florida, Mr. DOWNEY, Mr. MURPHY, Mr. COLEMAN of Texas, Mr. BOUCHER, Mr. DYMALLY, Mr. ROE, Mr. VALENTINE, Mr. LEATH of Texas, Mr. NEAL of Massachusetts, Mr. BEVILL, Mr. ACKERMAN, Mr. MAZZOLI, Mr. MORRISON of Connecticut, Mr. HOCHBRUECKNER, Mr. LELAND, Mr. VANDER JAGT, Mr. MCCURDY, Mr. GOSS, and Ms. PELOSI.

H. Res. 24: Mr. DANNEMEYER, Mr. SENSENBRENNER, Mr. MCEWEN, Mr. COBLE, Mr. LAGOMARSINO, Mr. WOLF, Mr. HOCHBRUECKNER, Mr. HANSEN, and Mr. UPTON.

H. Res. 25: Mr. DANNEMEYER, Mr. SENSENBRENNER, Mrs. VUCANOVICH, Mr. INHOFE, Mr. LAGOMARSINO, Mr. HANSEN, and Mr. UPTON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 25: Mr. GOODLING.

PETITIONS, ETC.

Under clause 1 of rule XXII,

19. The Speaker presented a petition of the United Filipino-American WWII Veterans Association, Inc. Los Angeles, CA, relative to citizenship for Filipinos who served honorably in the U.S. Armed Forces; which was referred to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

QADHAFI AND TERRORISM: THE DESERT COYOTE CONTINUES HIS BATTLE AGAINST THE WEST

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BROOMFIELD. Mr. Speaker, I want to share with my colleagues a disturbing State Department factsheet documenting Colonel Qadhafi's continuing involvement with terrorism. I commended President Reagan's April 1986 military operation against Libyan terrorist training facilities in response to Libya's direct involvement in the 1986 bombing of a disco in West Berlin that resulted in the death of two U.S. Army sergeants and injuries to 64 other Americans. However, I am concerned that Qadhafi has begun to play the role of "terror master" again. The wily colonel has recently added a new arrow to his quiver of terrorist tools.

Thanks to the good work of our intelligence services, Qadhafi's schemes to obtain poison chemicals for his terrorist and military plots have been revealed to the world. While the spread of chemical weapons is a threat to all of us, I cannot imagine a national leader who is more unpredictable and diabolical in his international intrigues and terrorist plots than Qadhafi.

While our allies around the world should march shoulder to shoulder with our Government in our efforts to shut down Qadhafi's poison factory, I believe that America may be forced to act alone in order to stem the colonel's efforts to add a terrible weapon to his already formidable arsenal. While diplomacy may prove to be the best solution to this most recent threat, and international cooperation in the struggle against the terrorism menace is essential, I believe that other options should not be ruled out by the administration in dealing with the Rabta chemical facility.

I urge my colleagues to carefully read the following excerpts from the Department of State factsheet concerning Libyan terrorism:

LIBYA'S QADHAFI CONTINUES SUPPORT FOR TERRORISM

LIBYA UNCHANGED

Despite a public posture of moderation, Libya continues to support terrorism. It has given aid to terrorist groups. It has also participated directly in at least one operation in Senegal. Libyan operatives have been active worldwide, especially in Africa, Latin America, and the Caribbean. Libya maintains training camps for foreign dissident groups. It has permitted the Palestinian terrorist group, the Abu Nidal Organization (ANO), to establish its headquarters in Libya. Libya has also abused diplomatic privileges by shipping arms through the diplomatic pouch and by storing explosives at its diplomatic missions.

Libyan leader Mu'ammar Qadhafi considers himself an agent of historical forces. He is implacably committted to ending US and other Western influence in the Third World, to unifying the Arab world, and to destroying the state of Israel. He sees Israel, the US, and other Western countries as barriers to his goals. To achieve these ends, Libya has employed threats, terrorism, and military aggression.

Since the US airstrikes in 1986 and Libya's military defeat in Chad in 1987, however, many believe Libya has chosen to operate through surrogate terrorist groups willing to strike at Western targets, rather than become directly involved in terrorism. For example, Libya has appealed to groups it supports to attack US and other Western targets. Qadhafi has also relied increasingly on aggressive diplomacy and on offers of cooperation and outright bribes. In the past, however, when Qadhafi has turned from subversion and terrorism to more conventional forms of diplomacy, he has eventually resumed his violent ways.

SUPPORT TO TERRORISTS

Qadhafi has provided safehaven, money, arms and at times logistical support over the years to Palestinian groups such as the Popular Front for the Liberation of Palestine—General Command and to other groups, both pro- and anti-PLO. These groups have conducted most of their operations against Israel and the occupied territories. The ANO, which transferred its headquarters to Libya in 1987, frequently conducts its operations outside the Middle East, including in Europe. Recently, the ANO has resumed its operations with deadly consequences.

The ANO conducted the July 1988 machinegun and grenade attack on the Greek cruise ship, The City of Poros. An apparently accidental car explosion earlier that same day in Athens was probably caused by a bomb intended for an attack planned to complement the cruise ship incident. Libya has been linked to these incidents. For example, a submachinegun recovered from the cruise ship and another from the bomb damaged car were purchased by Libya in 1976. According to Greek officials, a known ANO member linked to the attacks used a Libyan passport to enter Greece.

ANO terrorists have confessed to the May 1988 submachinegun and grenade attacks at the Acropole Hotel and Sudan Club in Khartoum that killed eight and wounded scores of other people. Under interrogation, they said they had come to attack US and British targets.

The ANO is also believed responsible for a car bomb which exploded prematurely in May near the Israeli Embassy in Nicosia, Cyprus, killing one of the two terrorists involved. An ANO gunman also confessed to the March 1988 attack on an Alitalia Airlines crew at the airport in Bombay in which a machinegun jammed and explosives failed to detonate—later claiming he intended to hit a US crew.

Several other groups that Libya supports have conducted terrorist operations against US and Western targets. At the time of the second anniversary of the US airstrikes against Libya, there was a series of attacks against US targets that were linked by circumstantial evidence to Libya. Just prior to these attacks, Qadhafi publicly predicted that progressives around the world would strike US facilities, but later denied any Libyan responsibility.

The Japanese Red Army (JRA) was responsible for the April 14, 1988 bombing outside a USO club in Naples. The attack—claimed under the covername "Organization of Jihad Brigades" and specifically linked to the US bombing raids of Libya two years before—killed five people including one US servicewoman and injured at least 20 persons. Italian authorities have linked the car used in the attack to a known JRA terrorist who was implicated in the June 1987 attack against the US Embassy in Rome.

A US Air Force communications facility near Torrejon, Spain was bombed on April 15, 1988. The US suspects involvement by Libyan sympathizers.

On April 14, 1988 gunmen set off explosives in the USIS binational center in Medellin, Colombia. The attack was claimed by members of the 19th of April Movement (M-19), which has received training and money from Libya.

The Revolutionary Movement Tupac Amaru (MRTA) claimed responsibility for two attacks against USIS binational centers on April 16, 1988 in Lima, Peru. While MRTA claimed these attacks were a protest against a Peruvian-Shell Oil Company agreement, we note that in 1986 it claimed responsibility for several attacks on US targets in Peru to protest US policy towards Libya shortly before the airstrikes.

A group with ties to Libya is the prime suspect in the April 19, 1988 bombing near the USIS binational cultural center in San Jose in which several were injured.

French authorities in late 1987 intercepted a 150-ton Libyan arms shipment, including surface-to-air missiles, intended for the Provisional Irish Republican Army (PIRA) in Northern Ireland. There is conclusive evidence that this shipment—the equivalent of 60 large truck-loads of munitions—originated in Libya. PIRA has used the SEMTEX explosives obtained from Libyan shipments in destructive bombing campaigns against both military and civilian targets in the UK and Western Europe. Last October, police uncovered a munitions cache believed to have come from an earlier Libyan shipment. The cache, hidden at a retirement home in West Belfast, included a Warsaw Pact-type flamethrower capable of incinerating a vehicle at up to 80 yards.

AGAINST HIS OWN

Although Qadhafi has intermittently—including in 1988—offered amnesty to Libyan dissidents, such expatriates continue to be targets of Libyan attacks. Eleven dissidents were killed in the first phase of executions ending in 1981. Another series of planned attacks were uncovered during 1984 and 1985. Assassins in these cases have sometimes used handguns supplied in country by Libyan diplomats. In 1987 two Libyan dissidents were assassinated in Europe and an attempt was made on the life of a third. In

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

that last case, Austrian officials identified the local Libyan diplomatic mission as supporting the attack. In the fall of 1987, France and Switzerland both expelled Libyan agents suspected of plotting terrorist actions.

MIXING CHARM WITH VIOLENCE

Libya has a record of seeking to destabilize moderate Arab and African governments committed to a negotiated peace in the Middle East or linked to the West. During the 1983-1987 period, Libyan-backed assassination plots against President Mubarak of Egypt, former President Numeiri of Sudan, President Mobutu of Zaire, and President Habre of Chad were thwarted. On occasion, Qadhafi has alternated between plotting against moderate Arab and African leaders and reconciling with them to improve his own image.

QADHAFI'S DIPLOMATIC OFFENSIVE: REACHING FOR RESPECTABILITY

To recoup lost influence, Libya has undertaken a concerted diplomatic campaign to improve relations with the PLO, with its Arab neighbors, and with key African states, while preserving its traditional contacts with dissident, subversive, and terrorist groups in such countries. Libya now maintains an active relationship with all the North African states, and has recently resumed diplomatic relations as well with Chad, Zaire, and Senegal. In September 1987, Libya agreed to a cease-fire in its conflict with Chad over the Aozou Strip. While Libya has proclaimed its willingness to settle for a negotiated solution to this dispute, its continued occupation of the Aozou strip and its repeated overflights of Chadian territory indicate otherwise.

Libyan efforts are underway to reestablish a broader diplomatic presence elsewhere in Africa, including in such countries as Liberia, Sierra Leone and The Gambia. Qadhafi, determined not to be outdone by Arab rivals, hosted several visits to Tripoli by PLO leader Yassir Arafat, summits for rival Palestinian groups, and announced he intended to assume the financial responsibilities in the West Bank set aside last year by Jordan.

THE DRIVE FOR INFLUENCE

In Europe: Libya has sought to expand its influence in Europe by using the promise of economic and commercial benefit—principally in the petroleum sector—as political leverage. For example, Libya seeks to solicit ministerial visits through promises of progress on outstanding commercial issues such as unpaid Libyan debts. Libya also seeks to purchase political goodwill by holding out the prospect of expanded financial opportunities for companies and nationals of such countries. Libyan ability to keep such promises is limited, however, especially in view of the continued downturn in the international petroleum market. Libya is also pressing to regain the level of diplomatic representation it had in Europe prior to 1986 both for the respectability that will confer and to restore its security apparatus in Europe.

In Africa: Since late 1987, Libya has tried to increase its influence in Africa by combining aggressive diplomacy with intimidation. Qadhafi's long-term objectives are to weaken Western influence and to woo pro-Western regimes. Africa offers operational advantages—porous borders and an existing Libyan infrastructure—and has been a focal point for recent Libyan activity. Libya's commitment to supporting terrorist attacks against Western interests is reflected in an incident that occurred in Dakar last year, when the government of Senegal arrested two Libyan operatives on February 20, 1988 for carrying weapons and explosives into the Dakar airport from Benin. Subsequent to the arrests of these two, Benin expelled the head of the Libyan People's Bureau. The two were believed to have been planning to attack Western targets in Senegal.

Libya frequently uses friendly countries as bases to assist subversives or dissidents in countries hostile to Libya. Such countries have also served as transit points for dissidents enroute to Libya for military and political training. The most noteworthy example in recent years involves Libya's support to Chadian dissidents in Sudan. In the Senegal case, the territory of the country of Benin was used by Libya to smuggle arms, supplies and money into Senegal.

Elsewhere, Kenya ordered five Libyan diplomats out of the country in April 1987 in connection with a Kenyan court conviction on espionage charges of four Kenyan students recruited by a Libyan diplomat. Three Gambians working with Libya were convicted in June 1988 for plotting against the government in The Gambia.

In Latin America: Since as early as 1973, Libya has provided training to insurgent groups and political support to a broad spectrum of dissident organizations in Latin America and the Caribbean. Libya has provided support to the Sandinista regime in Nicaragua. Libya employs its People's Bureaus in Panama, Nicaragua, and Cuba to collect information and to encourage willing subversive organizations to carry out attacks. It appears to use Panama as its base in the Western Hemisphere. Libya uses Cuba as its transportation hub.

Several Latin groups Libya supports are prime suspects in recent strikes against US targets. Although there exists no evidence of direct Libyan involvement in these attacks, the timing and associations lead us to suspect a Libyan link in the four attacks in April of last year on binational centers in Columbia, Peru, and Costa Rica. All of these attacks occurred on or near the second anniversary of the 1986 US bombing of Libya.

In the Pacific and Asia: Qadhafi has sought to expand his influence in Asia and in the Pacific at the expense of the West by sponsoring radical individuals and groups whose activities exacerbate local problems. Libya has given paramilitary training and finanical support to dissident groups in Indonesia, New Caledonia, Thailand, and the Philippines, including in the latter the Moro Liberation Front. Two terrorists groups linked to Libya, the ANO and the JRA, have conducted operations against Western interests in Asia.

An ANO member attacked the Alitalia crew bus in Bombay on March 25, 1988. Although there is no indication that Libya ordered the attack, it has provided logistical support to ANO operations in Asia before—most notably the attempt to hijack Pan American Flight 73 in Karachi in 1986.

The JRA launched several nearly simultaneous attacks against the US, Canadian, and Japanese Embassies in Jakarta in 1986 which coincided with the Tokyo economic summit.

Libya's efforts to establish an infrastructure capable of supporting terrorism, however, have been weakened by its inability to open new embassies and by Australia's closing of the Libyan People's Bureau in May 1987. The Australian Prime Minister said at the time, "There is no plausible explanation in terms of geography or legitimate national interest for Libyan activity in this region".

In the United States: Libya also has attempted to seek influence illegally within the United States and may have been involved in possible acts of subversion there as well.

In July 1988, two alleged Libyan intelligence agents along with four other Libyans and one Moroccan were indicted before a federal court in Alexandria, Virginia on charges of conspiring to violate the US economic embargo against Libya. The defendants, who were associated with the People's Committee for Libyan Students, had diverted funds which were to be used for supporting Libyan students in the US to financing political activities such as anti-American demonstrations in the US and conferences of American dissidents in Libya. The defendants—with the exception of alleged Libyan intelligence agent Mousa Hawamda who fled after posting bail—pleaded guilty to the charges.

Last April, police in New Jersey apprehended Yu Kikumura, a member of the Libyan-linked JRA, who had three anti-personnel bombs in his car. The bombs were likely intended for a terrorist attack coinciding with the second anniversary of the US retaliatory air strikes on Libya. Kikumura was found guilty of transporting explosives by a US District Court in late November 1988.

In Chicago in December 1987, the leader and four other members of the "El Rukns" street gang were convicted of planning terrorist activities in 1986 and were sentenced to prison terms ranging from five to 80 years. The gang members, who had obtained an anti-tank rocket, had plans to target airplanes and government facilities, as well as to assassinate American politicans. According to US prosecutors, the gang claimed it expected to receive $2.5 million from Libya's Colonel Qadhafi in return for its actions. Although Libya was not charged in the case and its officials denied any involvement, gang members were known to have had contact with Libyan representatives.

OUTLOOK FOR LIBYAN INVOLVEMENT WITH TERRORISM

Support for terrorism has been a consistent feature of Libyan foreign policy for nearly twenty years. Past experience with Qadhafi suggests he will shift away from his current diplomatic offensive when its fails to produce desired results. If the past is indicative, Libya will continue to share with international terrorists and with other extermist groups the goal of supplanting US and other Western influence worldwide, but particularly in the Middle East. As recently as September, in response to a question from the Western media about Libyan arms shipments to the PIRA, Qadhafi replied that it was Libya's policy to support such groups, since they were legitimately involved in the struggle against colonialism. Libya's continuing support for organizations such as the PIRA and the ANO, as well as its links to the JRA, will keep it squarely in the ranks of state sponsors of terrorism.

CHEMICAL WEAPONS—A NEW DIMENSION TO THE THREAT

Evidence now indicates that Libya is on the verge of undertaking full-scale production of chemical warfare agents. A large complex in a remote area about 80 kilometers southwest of Tripoli, near Rabta, has been constructed for this purpose. When this site is fully operational, it will be the largest chemical warfare agent production plant in the Third World—potentially

making tens of tons per day of mustard gas and nerve agents.

An adjacent metal fabrication facility is equipped with precision materials to manufacture components for a variety of air- and ground-delivered munitions. Other facilities are involved with filling and storing chemical weapons.

In a speech delivered in October 1988, Libyan leader Qadhafi claimed that the facility at Rabta was intended to produce pharmaceuticals—not chemical warfare agents. Qadhafi also proposed opening the complex for international inspection. Contrary to Qadhafi's assertion, however, this site was clearly intended primarily for chemical warfare production. The specialized equipment, building design, and security there far exceed the requirements of a commercial plant. Because it would be relatively easy for Libya to disguise the plant's true purpose by modifying the piping and other internal features of the plant before opening it for inspection—particularly inspection by non-experts—a one time inspection of the sort offered by the Libyans would be inadequate.

The prospect of Libya's acquisition of a chemical weapons capability is profoundly disturbing given reports Libya used chemical weapons during 1987 in its war with Chad. It is also disturbing in light of Libya's continuing support for terrorism and Libya's history of transferring weapons to others. The United States has called on all nations to halt any contributions they might be making to Libya's chemical weapons program.

A BILL TO AMEND THE INTERNAL REVENUE CODE OF 1986

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GILMAN. Mr. Speaker, I am pleased to reintroduce today legislation to allow all homeowners the option to keep, tax free, up to $125,000 of the profits, from the sale of a principal residence regardless of age. As many of my colleagues are aware, the current eligibility for the one-time capital gains tax exemption extends to only those 55 years of age or older.

While the economic recovery in this last decade has sharply reduced the overall rate of inflation, housing costs has continued to rise more rapidly than incomes or prices for most other commodities. At a time when low- and middle-income couples are in positions to save less, and are limited in their investments by the 1986 Tax Reform Act, a home is more than shelter. It is their future economic security.

My bill would allow Americans the freedom to decide at which point in their lives they could best utilize the one-time exclusion: A young family making the move from their starter home to a larger residence; middle-aged parents wanting to send their children to college and needing access to the capital of their single most valuable investment; or single, recently divorced or widowed homeowners who may no longer be able to afford or need a multiperson residence.

This bill would also have the direct effect of freeing up the housing market in cases where homeowners a few years under age 55 are holding onto their homes so as to be able to take advantage of the one-time exclusion. This increased availability would in turn foster lower cost housing and enable those who could not previously afford to own their own home a better opportunity to do so.

Mr. Speaker, some of my colleagues are considering an elimination or reduction of the one-time capital gains tax exemption as a deficit reduction alternative. I believe they are moving in the wrong direction. I request that the full text of my bill be inserted at this point in the CONGRESSIONAL RECORD and I invite my colleagues to review and cosponsor this important measure.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the section heading and subsection (a) of section 121 of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individul who has attained age 55) are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his prinicpal residence for periods aggregating 3 years or more."

(b)(1) Paragraph (1) of section 121(d) of such Code (relating to special rules) is amended by striking out "age, holding, and use" each place it appears and inserting in lieu thereof "holding and use".

(2) Paragraphs (2) and (3) of section 121(d) of such Code are each amended by striking out "subsection (a)(2)" each place it appears and inserting in lieu thereof "subsection (a)".

(3) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"Sec. 121. One-time exclusion of gain from sale of principal residence."

(4) Sections 1033(h)(3), 1034(l), 1038(e)(1)(A), 1250(d)(7)(B), and 6012(c) of such Code are each amended by striking out "by individual who has attained age 55".

(c) The amendments made by this Act shall apply to sales or exchanges after December 31, 1988, in taxable years ending after such date.

SAVE THE MORTGAGE INTEREST TAX DEDUCTION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. AuCOIN. Mr. Speaker, I'm pleased to announce today that I am joining my colleague, MARGE ROUKEMA, in the introduction of a resolution expressing the sense of the House of Representatives that the home mortgage interest deduction should not be curtailed.

The housing industry is crucial to the Nation's economic health, and the mortgage interest deduction is the most important incentive we have for construction and homeownership. Unfortunately, for the first time in half a century, the percentage of people in the United States owning their homes has declined. Young families trying to capture their share of the American dream are particularly hard hit. The percentage of people in the United States between the ages of 25 and 29 who own their own home has declined from 43 percent in 1976 to only 38 percent in 1987.

Despite this alarming trend, there are some in the Congress who clearly want to further limit the mortgage interest deduction. And, as pressures begin to build to raise revenues, those pressures are going to get more intense, thus making this target more inviting.

There are some who say that this will never happen. Well, that's what many people were saying a few years ago, but in the 1986 Tax Reform Act the Congress actually capped this once sancrosant deduction at $1 million. Now, this obviously doesn't affect Main Street America. But it is the proverbial camel's nose under the tent and it's time to stop the camel dead in its tracks.

As we introduce this resolution, I want to take this opportunity to thank the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, who has given me his personal assurances that he will personally oppose any further tampering with this deduction. But, despite his assurances and his considerable influence, I'm not ready to declare total victory and tell the troops to go home.

This resolution will serve as a message to those who would seek to curtail this important deduction. I'm pleased that my colleague from Oregon, PETER DEFAZIO, has agreed to cosponsor my measure. The bottom line of this resolution is simple: it would be the sense of the House of Representatives that the law regarding the Federal income tax deduction for mortgage interest should not be further restricted. I urge my colleagues to cosponsor this important measure.

UNDER THE GUN, UNDER THE KNIFE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FOGLIETTA. Mr. Speaker, I would like to draw my colleagues' attention to an editorial written by Steve Lopez, that recently appeared in the Philadelphia Inquirer. The article addresses the issue of gun control, but from an unusual perspective. In light of the tragic California playground murders, I highly recommend the following article to my colleagues:

UNDER THE GUN, UNDER THE KNIFE

(By Steve Lopez)

It was 8:30 p.m. Christmas Eve. Dr. Julieta Grosh had just sewn up a stabbing victim. Before she could rest, her next patient came through emergency at Temple University Hospital.

He was 20 years old and he had been shot in the neck. His carotid artery was blown away and blood was filling his neck.

"His neck was virtually blowing up before our very eyes," Grosh says.

"He was conscious, saying the usual things: I don't want to die. Help me."

By 2 a.m. Christmas Day, she was done with him. Grosh took a vein from his leg and made him a new artery. He would be fine, leaving the hospital in time for New Year's Day.

He was one of 238 gunshot victims treated at Temple in 1988, half of them by Grosh. It cost about $10,000 to save his life, and he had no medical insurance. Which makes him typical of gunshot victims at Temple and at hospitals across the country.

It's an issue you seldom hear about in gun-control debates. What is the cost and who is paying? According to a study published in the Nov. 25 Journal of the American Medical Association, the cost is staggering, and the public is paying.

A HEFTY TAB

The cost is at least $1.5 billion a year, and taxpayers are picking up 85.6 percent of the tab, according to Michael J. Martin, the San Francisco doctor who wrote the medical journal article. Only 14.4 percent of gunshot victims have private insurance or can pay out of their own pocket.

"I was just interested in finding out who's paying," says Martin, who conducted the study for the Clinical Epidemiology Program at the University of California in San Francisco.

"If we're paying for the inquiries, we should have a say on the availability of firearms. The issue of firearm restrictions is not simply one of individual rights any longer, since taxpayers pay the majority of costs."

Martin and two other doctors studied 1984 statistics from San Francisco General Hospital, where all gunshot victims are taken in that city. It cost $905,809 to treat 131 patients.

That doesn't include ambulance services, physician fees or follow-up care. Adding those in, and extrapolating for a nationwide figure. Martin estimated the 1984 cost of treating firearms injuries at $1 billion. There were 62,075 firearm injuries nationwide that year, and 31,351 deaths.

Adding four years of inflation and rising medical costs, Martin says, the 1988 cost is "at least $1.5 billion, probably much higher."

RISING TIDE

Grosh, a Temple surgeon for 18 years, says there are more and more gunshot patients at her hospital all the time. It used to be mostly stabbing victims, but no more.

Often she'll work a gunshot patient, head home, and before she can get to sleep, she's called back to the hospital for another.

She says the bullets she cuts out of people keep getting bigger, ripping wider paths through the bodies.

"Not long ago I did a neck, I lost him on the table. I'd never seen a bullet like that. It was huge and it had like crustaceans on it. . . . And they're getting more accurate. We're getting a lot of chest work lately."

Grosh says she carried a gun for protection when she was a student, but after what she's seen, she never will again. She joined a gun-control group formed by the wife of James Brady, who was shot in the attempt on President Reagan's life.

EMOTIONAL TOLL

"It's because of seeing this, it sounds like a cliche, but this carnage. When you have to tell a mother her 15-year-old is dead, or a cop's wife, I don't care how many times you've done it, it's awful. And if the person didn't have a gun, it wouldn't have happened.

"This is bull—, if you'll excuse my French, when they say guns don't get us killed, people do. That's bull—. Family members are killing each other, children are being killed. We even saw a case here once where a couple was fighting over drugs, one of them pulled a gun, the other shielded himself with a child and the child was blown away."

Total 1988 costs for Temple hospital—one of several that treats gunshot victims in Philadelphia—were not available. But since it cost nearly $1 millon in 1984 to treat 131 gunshot victims in San Francisco, the cost of treating Temple's victims in 1988 could be $2 million or more.

Grosh says Martin's figure—85.6 percent of the costs are picked up by a government program or simply eaten by public hospitals—sounds about right for Temple.

"A lot of it is just written off. The hospital's always in the red."

Grosh is glad we're into January now. Every year, she says, it seems a lot of people shoot each other over the holidays.

ILLEGAL HARVESTING

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GUNDERSON. Mr. Speaker, today I am introducing legislation, which I first introduced in April 1988, to require the U.S. Fish and Wildlife Service to develop to plan to halt the illegal harvesting of migratory waterfowl. While it is clear that illegal harvesting is not the sole cause of the dramatic declines in the duck population, it nonetheless is a contributing element to this problem which deserves serious attention.

It is no secret what first spurred me to introduce this legislation. In February 1988, the St. Paul Pioneer Press reported a grim story of lawbreaking and wildlife slaughter. Although the articles focused on illegal duck harvesting in Louisiana, I soon learned that the problem was nationwide. Law enforcement officials from the U.S. Fish and Wildlife Service with whom I met described the situation as critical.

In response to the dramatic reductions in the duck population—the total duck population has declined at a rate of more than 20 percent since the year 1969—the U.S. Fish and Wildlife Service has taken some important actions. This past fall, the Service instituted a major cutback in the hunting season, reducing its length by 25 percent. In addition, bag limits have been cut from four to three in most parts of the country. Reports also have indicated that the Service has stepped up its enforcement of the wildlife laws. I welcome these actions and what appears to be a renewed emphasis in this area.

I also believe that my legislation would be an important addition to what the U.S. Fish and Wildlife Service has already accomplished, by placing a clearer focus on the illegal harvesting question. The bill would require the U.S. Fish and Wildlife Service to:

Research and develop methods to accurately determine the number of migratory waterfowl that are being harvested illegally each year in the United States;

Develop a plan to increase its law enforcement presence and better coordinate its efforts with those of appropriate States agencies in efforts to halt illegal harvesting of migratory waterfowl; and

Recommend whether the Pittman-Robertson funds should be withheld from States that are not in compliance with U.S. Fish and Wildlife Service regulations on illegal harvesting.

The Fish and Wildlife Service is required to report its findings and recommendations to the House Committee on Merchant Marine and Fisheries and to the Senate Committee on Environment and Public Works within 90 days of enactment.

Mr. Speaker, I urge my colleagues in the House to examine this issue and give full consideration to cosponsoring my legislation. Congress in 1989 must place a greater priority on environment issues than it has over the past few years. Setting the groundwork for halting the illegal harvesting of migratory waterfowl would be a good start.

NEW EAST-WEST AGREEMENT FOR PROTECTION OF HUMAN RIGHTS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BEREUTER. Mr. Speaker, on January 16, 35 nations, including the United States and the Soviet Union and all European countries except Albania, signed a new East-West agreement that is being widely hailed for its protection of human rights. The new agreement ends this session of the Conference on Security and Cooperation in Europe [CSCE] and allows members of NATO and the Warsaw Pact to begin the conventional stability talks on conventional forces in March. As part of the accord, the signatories also agreed to a Soviet proposal to hold a human rights conference in Moscow in 1991, a long-sought Soviet goal. Outgoing Reagan administration officials characterized the agreement as the most significant new accord on human rights since the Helsinki Final Act was signed in 1975.

Although the signing of this pact was indeed a significant occasion and produced some of the strongest commitments yet from the Soviet Bloc to respect human rights, hardliners in several Warsaw Pact countries have already violated the pledges their governments undertook in Vienna. Unfortunately, these developments do not bode well for the effectiveness of the new CSCE agreement. Against this backdrop, it is incumbent upon the Bush administration to ensure that the Soviet Union and its allies comply with this agreement. If they do not, our policies must be adjusted accordingly.

Three articles about the CSCE accords have recently come to my attention. I urge my colleagues to read a January 18 editorial, "Human Rights Emphasis Doesn't End With Shultz," in the Omaha World-Herald. I also commend to them a January 10 editorial, "Rethinking Human Rights," in the Washington Times, and a January 10 op-ed piece, "Is

Moscow Due That Rights Session?" by the distinguished gentleman from Oklahoma [Mr. EDWARDS] in the same newspaper. These three articles provide an excellent overview of the opportunities and problems which arise from the new agreement.

[From the Omaha World-Herald, Jan. 18, 1989]

BAKER FOLLOWS THE THEME: HUMAN RIGHTS EMPHASIS DOESN'T END WITH SHULTZ

Secretary of State George Shultz, in a speech at the Vienna human rights conference, touched on one of the basic themes of the Reagan years. Eastern European nations, he said, must comply with human rights agreements if they want better relations with the United States.

A similar theme emerged in the testimony of James Baker, who will succeed Shultz in the Bush administration, to the confirmation panel of the Senate Foreign Relations Committee. One of America's chief foreign policy tasks, Baker said, is to inspire constructive and responsible behavior on the part of the Soviet Union.

The point is crucial. The more repression and police-state tyranny the Soviet bloc countries carry on within their borders, the less they can be counted on to respect the rights of people in other countries.

There is something about authoritarian rulers, especially when they are driven by ideology, that often manifests itself in attempts to extend their power. That was the pattern with Adolf Hitler, Josef Stalin, Benito Mussolini and General Tojo of Japan. It has been a characteristic of the reigns of Fidel Castro, Moammar Gadhafi, Kim Il Sung and Ho Chi Minh.

Shultz did not miss the irony in the fact that Czechoslovakia and East Germany signed human rights protocols at almost the same time their troops and secret police units were putting down human rights demonstrations. Scores of people in Prague and Leipzig were abused in violation of the Helsinki Accords. The contradictions in such behavior, as Shultz pointed out, are glaring.

The Soviet Union and its allies—especially Poland, Romania and Hungary—are deeply in debt to Western nations. Their economies, top-heavy with the steel, coal and cement plants that the Stalinists considered essential, cannot compete on the world market. The standard of living falls while debt mounts. Sparks of political pluralism flash amid the dissatisfaction, too often to be put out.

Change, however, is in the air. Hungary has announced a bold plan to allow non-Communist parties to compete in elections against the Communist regime. Top Polish officials have considered legalizing the Solidarity union for a two-year trial period. The Soviet Union has scheduled national elections March 26 for a new national assembly, with an option for multicandidate races.

The Soviet bloc desperately needs Western investments and loans. It also needs new markets for its goods—if the goods can be improved to the point of being marketable. Mikhail Gorbachev, moreover, wants good relations with the West to help him reduce the burden of financing the world's largest military machine.

The Cold War with the United States has been a staggering burden for the Soviets. The Armenian earthquake, poor grain harvests and the war in Afghanistan have added to Soviet woes.

By signaling his essential agreement with Shultz, Secretary-designate Baker made it clear that the American insistence on human rights progress will continue. The day when Eastern Europe reacts to human rights demonstrators with water cannon, clubs and tear gas has been too slow to fade.

[From the Washington Times, Jan. 10, 1989]

RETHINKING HUMAN RIGHTS

Ronald Reagan crowned his "new thinking" about the Soviet Union by promising that his successor would attend a human rights conference in Moscow in 1991. This gives the Bush administration two years to do something that no president has done this century: define clearly what the United States means by "human rights" and use that definition as a measuring stick of Soviet human-rights progress.

President Reagan and the State Department report that virtually all political and religious prisoners in the Soviet Union have been freed and that less than a dozen Soviet citizens are being denied emigration to join their families. The State Department reports that the Soviets have stopped jamming the Voice of America and that Jewish emigration is at its highest since 1980. "They have made significant progress [on human rights]," State Department spokesman Phyllis Oakley says. "I think that's clear . . ."

Maybe, maybe not. As George Orwell observed in his essay, "Politics and the English Language," words like human rights, democracy, and *freedom* mean one thing to Westerners and something entirely different to Soviets. Traditionally, "human rights" conferences have served to obscure these differences, rather than to highlight them, and have rendered these terms progressively more meaningless as a result.

The United States learned this lesson in the recent past. In 1979, the US and Soviet Union had for years been celebrating detente. Human rights in the Soviet Union appeared to be improving, President Carter signed the SALT II accord and hugged Leonid Brezhnev, and US-Soviet trade was at its all-time zenith. Soon after, the Red Army stormed into Afghanistan and began a genocidal campaign that has claimed millions of innocent lives.

Observing human rights conditions in the Soviet Union should remind us that the litmus test for a sound foreign policy is whether it serves the just interests of the United States, not whether it moves a foreign power to allow press freedom, religious observances or political gatherings. Otherwise, American national security policy will be hostage to the whims of whatever clever communist aparatchik is in power.

Ronald Reagan has observed this caveat with respect to international treaties, which the Soviets routinely violate. Ironically, he hasn't been as scrupulous in discussing human rights, because he has accepted Soviet human-rights rhetoric without determining whether deeds matched words.

That's a shame, because a sound definition of human rights can crystallize the most important difference between the Soviet and American systems, the difference upon which a realistic foreign policy must rest. We say that men are free by nature; that they have inalienable, God-given rights to life, liberty and the pursuit of happiness. We believe that government derives its legitimacy from the consent of the governed. The Soviets take an opposite view. They regard freedom and rights as gifts from the state. Their constitution says as much. We say the state exists to serve man. They say man exists to serve the state.

The United States has been embarrassed in the past when it has interpreted Kremlin gestures as signs of moral and political convergence. We hope Secreteary of State-designate James Baker will make full use of the opportunity to define human rights clearly, in terms of economic, political and cultural freedoms—and will use that definition to call the Kremlin's bluff when it comes to terms such as "democracy" and "freedom." We also hope that the Bush administration will judge the Soviet Union not on the basis of right rhetoric, but on the basis of actual behavior in matters of our own national interest.

[From the Washington Times, Jan. 10, 1989]

IS MOSCOW DUE THAT RIGHTS SESSION?

(By Mickey Edwards)

[Mickey Edwards, a Republican representative from Oklahoma, is chairman of the House Republican Policy Committee.]

The recent decision by President Reagan to endorse the Soviet Union's claim that it is a legitimate host for a 1991 conference on human rights goes far beyond a bit of backroom cheerleading for Soviet President Mikhail Gorbachev's campaign for internal reform: It recognizes the Soviet state—yesterday's "evil empire"—as a guarantor of the rights of its citizens and a striver for full recognition of human dignity. That's quite a leap and one that raises the question of whether the Russians have indeed moved so far in so short a time.

Is the Soviet Union, in fact, a born-again believer in human rights?

One thing is certain: In the words of a once-popular novelty song, strange things are happening. And nowhere stranger than behind the Iron Curtain. In fact, a visit to the Soviet Union today is a roller-coaster experience. A single week in Moscow and Leningrad can shock your system with alternating currents of surprise, joy and despair.

As vice chairman of the House Subcommittee on Foreign Operations, I recently returned from a week-long series of meetings with Soviet leaders in Moscow and in Leningrad. I had been invited to take part in talks between members of the Helsinki Commission on Human Rights and members of the Supreme Soviet.

The fact that the meetings were even taking place was momentous. Although there is no real parallel between the U.S. Congress, with its separate and considerable powers, and the Soviet version of a legislature, this was nonetheless the first time members of Congress and the Supreme Soviet had met together on a substantive issue. It was also the first time any representatives of the United States had been invited by the Soviets to discuss human rights questions. For years, in fact, the Soviets had denounced every mention by the United States of Russian human rights violations as interference in the U.S.S.R.'s internal affairs.

Not only had the Russians initiated the meetings, but it was clear from the outset that the topic was not to be human rights in general, but Soviet policy toward its own citizens. Two or three times the Soviet delegates made half-hearted attempts to suggest parallel human rights deficiencies in the United States (homelessness, for example, and the arrest of clergymen who participated in the Salvadoran sanctuary movement), but those were fleeting blips on the screen.

The Soviets understood very well that we were there to talk about them—about Jews

in Kharkov, Catholics in the Ukraine, political prisoners in the Soviet Gulag, denial of emigration permits. They understood that these talks were asymmetrical, and they accepted that.

There were excuses, of course (abuses were invariably blamed on earlier regimes), and at times the Soviets were more than a little disingenuous. ("Gosh, we'd sure like to learn what you folks do to make sure you always know what your constituents are thinking.")

There was even some fervent advocacy of an occasional Soviet viewpoint (for example, the Russians firmly believe—as do many Americans, I suspect—that journalists ought to be held accountable for the truth of their reports). But the clear message (whether it was sincere is a separate matter) was one of Soviet eagerness to confess failings and to try to do better.

In many ways, this new openness in discussing human rights was a heady and disorienting experience.

There, at one lunch, were representatives of the Ukrainian Catholic Church (which has been denied recognition by the Soviet state), and of the Russian Orthodox Church (which is increasingly accepted by the Russians as a de facto "house religion," even though it, too, feels the sting of the government's restrictions on religious practice). And, on the other side of the table, sharing their borsht and black bread, were official representatives of the Soviet State—the people who deny the Russian people the full range of religious experience.

And there was a reception in Moscow at which top party and government leaders mingled, for the first time, with refuseniks, dissidents and leaders of the semirevolutionary movements in Lithuania and Estonia. Here, the publishers of underground journals; there Ivan Laptev, the ebullient editor of Izvestia.

So what does all this mean? Not long ago, Russians marked (and some celebrated) the millennium of Christianity in Russia. Has *the* millennium—the proverbial "that will be the day"—arrived as well?

On that, a few words of caution:

For one thing, there is less a willingness to accept responsibility for current and ongoing Soviet repression than there is a willingness to concede that Stalin and Leonid Brezhnev did things wrong. At one point, sitting across from Mr. Laptev in the conference room at Izvestia, I was driven in frustration to ask if he foresaw a day when Soviet citizens might be as free to criticize current policies as they now are to find fault with policies of the past.

His answer was something about the difficulty in getting information about current policy, particularly in the areas of defense and foreign affairs.

And there is an unwillingness to move from the specific to the general. In my remarks to the closing plenary session of our four-day meeting in Moscow, I cautioned that this country's interest was not limited to the emigration of a few specific individuals, but to general acceptance of the principle that any citizen should be free to leave whenever he or she chooses that we were concerned not only about specific instances of religious prohibitions but about the general principle of religious freedom for all Soviet citizens. While the Russians have begun to move toward satisfaction of U.S. demands in the specific cases we continually put forth, there is less progress toward accepting such freedoms as a general principle of government.

In assessing how much of the so-called Gorbachev reforms are real, we must break them down into three separate components: glasnost (or openness), perestroika (or restructuring) and democratization.

On the first, there is no question that there is a change in Russia. Soviet citizens have more access to the news, more ability to critize their leadership, more freedom of expression. It is clearly not a Western-style definition of freedom, but there is certainly more freedom than before. Russian citizens remain highly skeptical, referring to similar relaxations during the Nikita Khrushchev years, and they ask such questions as: "If a cannibal begins to use a knife and fork, is that progress?", but that there has been some progress in opening the society is beyond doubt.

There has been less success with economic restructuring. Russian workers have developed a shoulder-shrugging indifference to their assignments, and years of cynicism aren't easily washed away. Despite Mr. Gorbachev's speeches and shakeups in the Politburo, shelves remain empty and long lines remain standard experiences for big-city shoppers.

Russian dissidents I met with in Moscow and Leningrad give President Reagan much of the credit for the new Soviet reforms.

As they see it, when Mr. Reagan declared at Reykjavik his intention to push forward with development of the Strategic Defense Initiative, and Mr. Gorbachev vowed to participate in an escalated high-tech competition, the Soviet leader found that his lagging economy simply wasn't up to it.

The response, as they see it, was a new push for an economic restructuring, which simply failed to get off the dime, largely because of worker apathy. So, to try to stimulate the economy, the scenario goes, Mr. Gorbachev was forced to try to find a way to give Russian workers some sense that they had a stake in the success of his reforms. And thus Mr. Reagan gave birth to glasnost.

Whatever Mr. Reagan's role, it seems evident that without a revived sense of involvement by Soviet farmers, clerks and factory workers, perestroika isn't going anywhere.

Buy if there is some progress in opening the society, and less in hyping the economy, there is virtually none in introducing true democratization.

One Leningrad couple described the Gorbachev efforts as "putting lipstick on a corpse." One example in Leningrad: a disrupted silent vigil, which resulted in participants languishing in Soviet jails for up to two weeks, a great improvement over going to the Gulag but not democracy as we know it.

Dissidents we talked to laughed about the so-called "elections" for local party leaders, in which each candidate would have to be approved in advance by the party. In fact, they said, the result might even be a worsening of the economy, since workers might be expected to vote against whichever candidate seemed most likely to make them work harder and produce more.

Democratization in the broader sense of self-determination is clearly not in the cards any time soon, as revealed in the recent Gorbachev crackdown on the Soviet Union's Baltic republics, which had the temerity to suggest that, absent matters of foreign policy and national defense, they would pretend to be relatively autonomous, much like states in the United States. That is clearly not what the Kremlin's leaders had in mind.

It is impossible to return from the Soviet Union without a recognition that things have indeed changed, enough so that that vast country which has for so long been an enigma to those of us on this side of the Iron curtain now seems to be an even greater enigma to those inside the country, where iron-clad rules have been replaced by confusion and the nation's leaders are seen to be walking a tightrope but with no indication of whether there is a net below. Russia has indeed changed.

But is also seems clear that acceptance of the Soviet Union as an equal partner in the struggle for human rights is greatly premature. It is one thing to respond to worldwide pleas and allow more refuseniks to leave; it is something altogether different to accept, as freedom-loving countries do, that all citizens are free to leave if and when they choose. It is one thing to grant a permit for a Bible study here or a church bazaar there; it is something altogether different to accept the right of people to worship where, when and how they please.

This is a Soviet Union in which, to advance democratization, government leaders purge the names of their predecessors from public buildings. It is a Soviet Union in which earnest, and probably sincere, officials talk human rights while they bug the hotel rooms even of guests invited to talk about human rights.

They're trying, but they still don't quite get it.

Should the United States encourage the Soviet Union to continue to move toward a Western style of governing?

Without question. But is is simply wrong—and probably counterproductive—to give the Russia of today the American stamp of approval as a legitimate partner in the struggle for human rights.

The Bush administration should rethink this one and suggest that the United States will grant Mr. Gorachev his long-sought legitimacy only when Russia indeed understands and champions the full range of freedoms for its long-suffering people.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONOR NETTIE LARK

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Nettie Lark.

Nettie Lark has dedicated most of her adult life to the education and cultural enrichment of children. She was born in Mobile, AL. She received her undergraduate degree from Alabama State University, master's degree from Jersey City State College, post graduate work at Bank Street College and Fordham University. Presently, she is working on an advanced degree at Brooklyn College. Her educational career started in the Montclair public schools and Seton Hall University High School Head Start. Her second educational experience was in the State of Maryland. While working there, she organized the first female drill team and the first Black Studies Club at her school.

Also, she was appointed department chair. During the summer months, Mrs. Lark taught in Upward Bound at the University of Maryland.

After the CEDAR component was added, she became the administrative assistant. Later she moved to South Carolina, where she became head of an in-shcool suspension program. After 2 years, she was selected to attend Johns Hopkins University or training to help administer a pilot program in the Columbia Public Schools. Her main responsibility was to train teachers how to use different learning strategies to improve their students' academic performance.

While living in South Carolina, Mrs. Lark met and married Charles Lark, who was a teacher in Brooklyn. She became an instant mother to 10-year-old Courtney who is now a freshman at Delaware State College. The family moved to Brooklyn in 1982. Within a few years she became a regular appointed teacher. Most of her educational experience was in East New York at Public School 224 and 260 where she became known as a tough disciplinarian, an excellent teacher, and a dedicated community worker. While at Public School 224, Mrs. Lark was a cluster teacher with administration duties. She organized an African Dance Group in each school which rehearsed before school, after school, and during the lunch hour. Presently, Mrs. Lark is employed in the most improved school district in the city, District 16, where Dr. Minta Spain is the superintendent. She is working in the early childhood unit at the district office.

Extracurricular activities include being a member of the Concord Baptist Church, the Sisterhood of Concord, Delta Sigma Theta Sorority, Phi Delta Kappa, New York State Association of Black School Educators, United Federation of Teachers, East Flatbush Friends of Education, Jack and Jill of America, Inc., and Bedford Stuyvesant Lioness Club.

Some of Mrs. Lark's awards for outstanding community service and excellence in education were given by the following organizations: Kappa Alpha Psi—presented by a Maryland Chapter and Congressman John Conyers, University of Maryland LINKS, porfiled by WBOC TV and WJZ TV, Jack and Jill, Brooklyn Teens and Mothers, and the PTA of Public School 224.

Mrs. Lark's favorite motto is: Obstacles are what you see when you take your eyes off the prize.

U.S.-U.S.S.R. HIGH SCHOOL EXCHANGE PROGRAM

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mrs. MORELLA. Mr. Speaker, I would like to take this opportunity to say how proud I am of Bethesda-Chevy Chase High School [B-CC] and its principal, Nancy H. Powell. B-CC, one of our country's preeminent public secondary institutions, found in my congressional district, is among the first schools in the United States to participate in the newly estabished U.S.-U.S.S.R. High School Academic Partnership Program. Members may recall that this program, created to help improve Soviet-American relations, is one of the results of the Moscow summit last May.

For the next month, 15 Soviet students from Moscow School No. 45 will attend B-CC and live with American families. Next month, 11 Russian language students will go to the Soviet Union to attend classes at the Moscow school and live with Soviet families for a month. When this 3-year program has been completed, 1,500 students from each of our countries will have visited and studied in the other. Clearly such a program has manifest benefits, most important among them the establishment of a better understanding of each other's country, culture, and beliefs.

I would like to welcome to the United States Margarita Babayan, Pavel Cherenkov, Yelena Kareyeva, Pavel Kollakov, Marina Kurennaya, Nikolai Levchenko, Kseniya Manyushis, Maria Maysuradze, Anastasia Nemirovskaya, Natalia Oreshina, Natalia Patkina, Nikita Pisnyachevskiy, Aleksei Rybnikov, Aleksei Sorokin, and Olga Vasyukova, as well as their teachers, Aleksandr Zalmanovich Bessmertnyi and Olga Konstantinovna Postnikova.

The host families, all of whom reside in the Eighth Congressional District, are David and Ludmila Asher and their son, Jacob; Jim and Judy Blaha and their daughter, Amber; Bob and Diane Ursano and their daughter, Anna; Ronald and Mary Dee Bombick and their son, Andrew; Ross and Natalie Cannon and their daughter, Stacy; Judith Plesset and her son, Aaron Gee-Clough; Marilyn Hathway and her son, Steven; Robert and Joyce Hershey and their daughter, Kendra; Gary and Monique Milhollin and their son, Elliott; Edward and Anne Roy and their sons, Christian and John; David and Debbie Shipler and their daughter, Laura; Jerry and Louise Weiner and their son, Aaron; Peter and Sydney Tredick and their daughter, Heather; Joan Wallace and her sons, Dave and Ted Bardach; Sherry Drilling and her daughter, Stephanie; Jenny Portlock and her son, Philip; and Alan and Cathy Olson and their son, Nels.

B-CC students who will be traveling to the Soviet Union are Maia Bloomfield, Stacy Cannon, Lisa Cooper, Naida Ferroukhi, Star Hill, Peter Mansfield, Elliott Milhollin, Gabriel Miller, Kevin Moyers, Courtney Smith, and Jennifer Williams. Accompanying them will be B-CC teachers James J. Biedron and Regina Massarotti.

I know that all of those who participate will find this to be an interesting and exciting experience, and I look forward to welcoming a new group of exchange students in the near future.

AMBASSADOR JEANE KIRKPATRICK SPEAKS OUT ON HUMAN RIGHTS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LANTOS. Mr. Speaker, once again our articulate former United Nations Ambassador, Jeane Kirkpatrick, has spoken out with great force and intelligence on the critical importance of human rights. In a column printed in the Washington Post of January 23, and the San Francisco Chronicle of January 26, she argues that "Human rights violations have created more dead, more homeless, more human misery than all the weapons of mass destruction."

Furthermore, she emphasizes the important point that human rights is not just a secondary consideration in our foreign policy. Human rights is the most important element in our international relations. As Ambassador Kirkpatrick explains, "Where people enjoy the right to criticize their government, to form associations and to emigrate, governments become responsive to their citizens. Democracies do not start aggressive wars."

Mr. Speaker, I urge my colleagues to give thought to this most thoughtful article by my good friend Jeane Kirkpatrick.

ABOVE ALL, HUMAN RIGHTS

(By Jeane Kirkpatrick)

If the promises are kept and the commitments honored, the East-West Accord on Human Rights signed in Vienna this week by the United States, Canada and all European countries except Albania will prove far more important that the INF and START treaties combined.

After all, INF and START reduce only the numbers of certain kinds of nuclear weapons. In this violent century, more millions of people have died at the hands of their own governments than in war.

The lack of great marches and the absence of international campaigns make it easy to miss or to forget that the greatest mass murders have been conducted by governments against their own unarmed populations; in the man-made famine of the Ukraine, in Stalin's gulag, in the Holocaust, in Pol Pot's murderous "utopia," in China's Cultural Revolution, in Ethiopia's "villagification" program. Additional thousands more have been slaughtered by Uganda's Idi Amin, by the Syrians at Hama, by the Ayatollah Khomeini, by the Argentine generals in the "dirty war."

Human rights violations have created more dead, more homeless, more human misery than all the weapons of mass destruction.

Moreover, as Andrei Sakharov has emphasized, the relationship between human rights, democracy and war is integral and crucial. Where people enjoy the right to criticize their government, to form associations and to emigrate, governments become responsive to the citizens. Democracies do not start aggressive wars.

Still, the impression persists that weapons of mass destruction—nuclear, chemical, biological—are more threatening than repressions. As a result, more excitement is generated by an agreement between two powers to eliminate only one category of weapons than by the solemn promise of 35 to permit free speech, press, association and emigration.

Of course the Vienna agreement—like the INF treaty—may be violated. Indeed, Czech policy used force to put down a peaceable demonstration before the ink was dry on Czechoslovakia's pledge to permit free association. Soviet and Eastern European governments repeatedly violated the promises contained in the Helsinki Final Act, then arrested Helsinki monitors for commenting on the violations.

It can be argued that promises solemnly repeated and systematically violated breed cynicism rather than progress. Nevertheless, it is potentially important that the Soviet Union has agreed in principle to honor political and civil rights in these accords.

Communist governments are not the only one that violate human rights in the modern world, but today the most systematic, pervasive denial of free speech, press, association, emigration and due process are found in Eastern Europe, Cuba, Nicaragua, Vietnam, Afghanistan, Mozambique, Ethiopia and other members of the "world socialist system."

Individual freedom has never been conceived as part of "the revolution" carried out in the name of Marx, Lenin and the socialist fatherland. Until recently the Soviet Union has persistently rejected the very idea that citizens could have rights against their governments.

When the United Nations in its early years drafted the Universal Declaration on Human Rights, Soviet delegate V.T. Tepliaiov sought to delete as unnecessary and undesirable most of the rights found in the French, American and British constitutions. These rights, he argued, might be appropriate enough for a capitalist state, but were inappropriate in social states—where the division between the individual and society had been overcome.

At that time, Soviet Deputy Foreign Minister Andrei Y. Vishinsky put it this way: "The rights of human beings cannot be considered outside the pregrogative of governments. The very understanding of human rights is a government concept."

This approach did not die easily. In this early meetings with Ronald Reagan, Mikhail Gorbachev aggressively sought to avoid any discussion of human fights, and in these conversations (as in his book, "Perestroika") Gorbachev expressed disdain for Western conceptions of civil and political liberty.

Soviet "democracy" is not the same as that of the West, he said. Soviet rights are not the same, they are superior. The very existence of socialism guarantees the rights of citizens, he argued.

"In the U.S.S.R. freedom of speech and the press are primarily guranteed by the fact that the media all belong to the people and are not owned by private individuals or companies," said Gorbachev, ignoring the undoubted fact that state ownership of media gurantees the expression of only official opinions.

The Soviet Union's new endrosement of political and civil liberties is potentially important because each new affirmation makes repression more embarrasing, harder to defend. Each conference that focuses on these commitments can become a demonstration that tyranny is even more dangerous than war, and becomes an opportunity to remind the world that; as Father Morrison of Guyana wrote, "No country is so poor it cannot afford freedom or expression."

NEW ENGLAND ELECTRIC, CONSERVATION LAW FOUNDATION UNVEIL CONSERVATION INITIATIVE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FRANK. Mr. Speaker, increasingly both public officials and private citizens have become aware of the grave environmental dangers posed by the greenhouse effect, and consequently of the even greater need than we have previously had to employ the best possible methods of conservation in our use of energy. For that reason, I was particularly pleased to read the recent announcement by the New England Electric System about an impressive program to promote conservation which NEES developed with the Conservation Law Foundation of New England. The leaders of both organizations are entitled to congratulations for their innovative and impressive approach. For working together so well, for advancing the important goal of conservation in a way that will promote economic development, and for their commitment to even further improvements, they deserve not only praise, but emulation. I earnestly hope that our utility companies elsewhere in the country will follow the model of the NEES in this important area. And I hope that they will be fortunate enough to have an organization as skillful and responsible as the Conservation Law Foundation to work with if they do that.

Mr. Speaker, I ask that the announcement by the New England Electric System and the Conservation Law Foundation of this very important initiative be printed here, so that others may not only learn of it, but be encouraged by it.

NEW ENGLAND ELECTRIC, CONSERVATION LAW FOUNDATION UNVEIL CONSERVATION INITIATIVE

New England's second largest utility and a leading environmental group today announced several new aggressive energy efficiency programs to reduce electric power demand in the region. Under the programs, offered by New England Electric System (NEES) companies, and developed in cooperation with the Conservation Law Foundation of New England (CLF), the utility will provide technical assistance and energy efficient hardware to increase energy efficiency in new construction projects as well as in existing homes, businesses and factories.

"New England Electric has been actively addressing conservation and load management since 1976. In the past two years, we took a major step forward with our 'Partners in Energy Planning' program, a comprehensive five year program of conservation and load management. As part of that effort, we invited the Conservation Law Foundation, a leading regional advocate of conservation, to review our conservation and load management programs and help us evaluate and develop new programs," said Joan T. Bok, chairman and chief executive officer of New England Electric System.

"Under these programs, NEES will be going beyond traditional utility conservation efforts," noted Douglas Foy, CLF executive director. "The NEES companies will be providing engineering design services and paying for energy efficiency—just like they pay for a power plant. NEES's proposed level of hands-on direct investment in conservation is unprecedented and should be a model for utilities nationwide."

Today's announcement is the result of a unique six month cooperative effort between New England Electric and the Conservation Law Foundation. Under the new and enhanced programs announced today, NEES will

Support and help plan energy efficient features in up to half of all new commercial buildings and industrial facilities built in its service territory over the next decade, resulting in energy savings per building of at least 20 percent above the levels required by the Massachusetts building code; a similar program for electrically heated homes is under development.

Implement the demonstration phase of a program for its residential customers who have limited or fixed incomes. The program, initially in a targeted geographic area for 5,000 residential customers who fall within 175 percent of federal poverty guidelines, will involve the direct installation of energy efficient products and services.

Help educate large businesses and industries about comprehensive energy accounting and management procedures, and pay for replacements of building and plant lighting, motors, air conditioners, etc. with high efficiency models.

"The success of our conservation and load management effort to date can be seen in our results. Within two years, we have achieved reductions and contracts for the near future that represent 56 percent of our goal to reduce peak demand for electricity by 230,000 kilowatts by 1991. While we are spending a considerable amount of money on conservation and load management programs, the cost is less or comparable to traditional supply based alternatives," Bok said. "Additionally, as a result of our cooperative effort with the CLF, we are increasing our conservation and load management program's goal to reduce peak demand by at least 300,000 kilowatts by 1991. By the year 2007 we expect that our conservation and load management efforts will reduce peak demand by 938,000 kilowatts, which is the equivalent of 1,172,000 kilowatts of generation capacity."

"Beyond these significant kilowatt savings, conservation and load management are part of a sound environmental policy," said Bok. "Our concern for the environment has been an integral part of our conservation and load management planning."

New England Electric System is a public utility holding company headquartered in Westborough, Mass. Retail subsidiaries include: Massachusetts Electric Company, The Narragansett Electric Company in Rhode Island, and Granite State Electric Company in New Hampsire. It also has a wholesale generating subsidiary, New England Power Company.

The Conservation Law Foundation is the New England region's leading nonprofit environmental law organization.

TRIBUTE TO THE FIRST CONGREGATIONAL CHURCH OF NEWTON FALLS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the First Congregational Church of Newton Falls (OH), in recognition of the church's 185th anniversary. It is with great pleasure that I stand today to honor the church in their celebration.

Only 28 years after the battle for independence, and 1½ years after Ohio had obtained statehood, the Reverend Joseph Badger traveled to the Connecticut Western Reserve. On September 12, 1804, he gathered a group of settlers to celebrate the first service of Holy Communion in the area, calling his gathered church The Church of Jesus Christ of Newton. Today, led by the Reverend Garred W. Johnston, the First Congregational Church of Newton Falls carries on the fine tradition of worship started by Reverend Badger 185 years ago.

I ask that the House join me today in honoring the First Congregational Church of Newton Falls. May they continue to serve the spiritual and cultural needs of their community with the same zeal and dedication as they have shown in the last 185 years. Let us extend to them our heartiest congratulations on their anniversary and wish them the best of luck in the future.

A FRAMEWORK FOR EXTENDING CREDIT TO THE SOVIET UNION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GARCIA. Mr. Speaker, during the last Congress, my subcommittee, the Banking Subcommittee on International Finance, Trade, and Monetary Policy held a hearing on extending credit to the Soviet Union. Subsequently, I introduced legislation that provided a framework for the United States and its allies, as to how credit could be offered to the Soviets without having it undermine the Western alliance.

Bill Danvers, the staff director of my subcommittee, wrote an article for the Journal of Commerce on this subject that discussed this legislation. I am submitting Bill's article for the RECORD.

[From the Journal of Commerce, Dec. 22, 1988]

AN EAST-WEST ECONOMIC AGENDA

(By William C. Danvers)

During the past several weeks European financial institutions are reported to have provided the Soviet Union with access to nearly $9 billion worth of credit.

In order to ensure that Western security, human rights and economic concerns are not undermined by this dramatic upsurge in lending to the Soviets, the United States must enter into discussions with our allies that will lead to a complete accounting of the extent of these financial transactions with the Soviets, as well as lay the groundwork for a common allied strategy regarding economic relations with the Soviet Union.

Legislation outlining the framework for such a policy was introduced during the last Congress. The bill would require an annual report to Congress from the U.S. Department of the Treasury on the extent of all Western and Japanese financial dealings with the Soviets.

At the same time, it would require the Secretary of the Treasury to enter into negotiations with other members of the Organization of Economic Cooperation and Development to establish, if necessary, guidelines for lending to the Soviets, or at the very least, to set up a more exact system of accounting for these transactions.

Since U.S. banks hold less than 2% of all Western loans to the Soviets, a coordinated effort on the part of Western nations and Japan is crucial to get a full picture of the extent of Soviet access to hard currency or Western capital.

While official U.S. policy states that as long as all credit extended to the Soviets is not subsidized it is acceptable, the real question about such lending is whether or not it runs counter to allied interests.

The factual basis for the question was presented by General Coline Powell, the head of the National Security Council, in a speech Nov. 8. Gen. Powell noted that the recent increase in availability of Western capital for the Soviet Union involved lines of credit, not loans, and that they do not violate agreements among the allies.

"It does not appear," the general observed, "that these relatively small amounts of borrowing tied to the purchase of Western consumer goods will have any discernible effect on Soviet military preparedness or on the security of the West."

The real policy question facing the United States and its allies, then, lies in whether or not the credit is used to promote internal reforms in the Soviet Union that will reinforce Soviet leader Mikhail Gorbachev's stated desire to move away from military spending toward a policy more oriented to the consumer and the building of nonmilitary infrastructure.

There are clear benefits to helping Mr. Gorbachev implement such a policy. A more open Soviet economy would enhance East-West trade, providing an additional market for Western goods and services.

Increased emphasis on the purchase of consumer goods could lead to reduced Soviet defense expenditures and, in turn, greater potential for improved relations between NATO and the Warsaw Pact.

In addition, improved economic and security relations could encourage further progress in Soviet Union rights policies, including increased emigration rights for Soviet Jews. Certainly in the past when superpower tensions have eased under the umbrella of successful arms control and regional security negotiations, there have been observable improvements in Soviet human rights policy.

It follows, then, that under present circumstances there are potential benefits to be derived from extending credit to the Soviet Union for the development of consumer goods. It is important, however, that this credit be used to upgrade the quality and quantity of consumer goods in the Soviet Union and not as a means to prop up an ineffective agricultural system and consumer industries.

The effective allocation of credit to the Soviet Union must, therefore, be coupled with internal economic reforms. This, in turn, underlines the need for a more informed knowledge of Soviet creditworthiness.

Tests of creditworthiness must include more information on how the Soviets are using imports obtained on credit, the likely success of consumer-related reforms and progress from the point of view of an integrated import and restructuring strategy.

While there has been a divergence of opinion between the United States and Western allies on the issue of credits to the Soviet Union, it is most important to remember that Western nations have a common interest in security, human rights, and economic concerns.

Arms control, nuclear and conventional, has always been the central issue of concern in East-West relations. It is time for economic relations to assume a position of similar importance.

Just as arms control discussions among the United States and Europe have moved from a broader approach to a more direct discussion of defense allocation and verification, so too Western economic relations with the Soviets must move toward a more coordinated approach among Western nations with an emphasis on the verification and transparency of the extention of credits to the restructuring of the Soviet civilian economy.

There is a need to get more information on Western financial dealings with the Soviet Union as well as to use the information for informed, coordinated policies related to creditworthiness and security.

The best legislative alternative is to emphasize the disclosure of East-West financial transactions within the framework of inter-allied cooperation, thereby offering a middle ground on this issue that reflects the approach that President Reagan has adopted concerning arms control: trust but verify.

THE CASE OF CHICO MENDES

HON. MORRIS K. UDALL

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. UDALL. Mr. Speaker, today I would like to call to the attention of my colleagues the case of Chico Mendes who was murdered December 22, 1988, in the village of Xapuri in the Amazon region of Brazil. Chico Mendes was a seringueiro, a rubber tapper who fought against the ongoing destruction of the Amazonian rain forest by cattle ranchers, landowners, and international developers.

He was one of the first people to organize resistance against the large scale destruction of the single most important forest area in the world. As the leader of the "extractive reserves" movement he worked to set aside reserves throughout the Amazon to save parts of the rain forest from destruction through cattle ranching and development. He died because he posed a threat to a group of people apparently oblivious to the prospects of a major ecological disaster in years to come.

Unfortunately, the case of Chico Mendes is not an isolated incident. All over the world, courageous people who stand up against the destruction of their base of living, and our

ecosystem as a whole, get intimidated, arrested, and even killed.

I urge the Brazilian Government, and governments throughout the world, to protect those who work for the preservation of undeveloped land. It is not only a matter of human rights but also a matter of enormous ecological importance.

LET'S ELIMINATE THE APPEARANCE OF IMPROPRIETY BY BANNING THE ACCEPTANCE OF HONORARIA

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BRENNAN. Mr. Speaker, legislation I am introducing today will eliminate a practice which has increasingly cast an unfavorable light on the Congress—the practice of accepting up to $2,000 in speaking or appearance fees.

These fees or gifts have become widespread among the various interest groups and our constituents are growing tired of the shadow cast on Congress by this practice. I am one Member of Congress who has chosen not to accept honoraria. While I in no way question the integrity of any Members of Congress who now accept honoraria, the practice should clearly be abolished to avoid impropriety, or even the appearance of impropriety.

As holders of the public trust, we must continue to go to great lengths to avoid conflicts of interest. These speaking fees or gifts are not given to us because of our great oratorical flair or significant insights into complex public issues, instead they have become an accepted and widely practiced means to curry favor and attempt to gain influence, or at least access, to Members. In recent years we see that prepared remarks are no longer needed to pocket the fees, Members only need to show up at an event, in some cases, and make their presence known.

In our positions, we will always be lobbied by groups with an interest in legislation before Congress. But offering and accepting money, which the Member of Congress can use in any way he or she likes, adds an unsavory dimension to the practice of lobbying and being lobbied.

The elimination of honoraria fees will restore a form of equity to the Congress, in which all Members will receive the same Government-approved salary, without these supplemental fees from outside groups. And most importantly, by banning honoraria, we can remove a shadow which is cast upon Congress at a time when the ethical behavior of Government officials is increasingly viewed with a skeptical eye.

I urge my colleagues to join me in eliminating an ethically questionable practice by cosponsoring my legislation to ban the acceptance of honoraria.

THOUGHTS ON THE PAY RAISE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. CLAY. Mr. Speaker, as expected, the President's recommendation to increase the salaries of Members of Congress and other Government officials has raised a storm of controversy. I was particularly impressed by Mike Royko's comments on this issue and I am happy to recommend his recent column to my colleagues.

[From the Chicago Tribune, Dec. 13, 1988]

CONGRESS PAY ISN'T A BALLPARK FIGURE

(By Mike Royko)

The most popular position to take on pay raises for congressmen is that we shouldn't give these political scoundrels one extra nickel.

As Patrick Buchanan, the conservative columnist, angrily put it while ranting about "Beltway Bandits":

"Currently, members of Congress receive $89,500 a year, five times what the average American earns."

That's an interesting statistic, but I'm not sure what it means.

I'm certain that Buchanan, with his speaking fees and TV shows, rakes in 30 or 40 times what the average American earns. He probably makes at least five or six times what the average congressman is paid.

Does that mean that Patrick Buchanan is a more valuable creature than 30 or 40 average Americans? Or five or six congressmen?

Possibly, although as fierce as Buchanan is, I wouldn't swap a good watchdog for him, and all a good dog costs is the price of table scraps.

Actually, I don't have any strong feelings against congressmen getting pay raises. I've known some congressmen who weren't worth $8.95 a year. Others would be a bargain at $895,000 a year. So maybe it balances out.

That's the problem with trying to decide who's worth how much.

In Chicago, a garbage collector makes about $25,000 a year, and a cop about $33,000.

Compare that to Sylvester Stallone, who took in $63 million over the last two years without emptying one smelly can or firing anything but blanks.

Is Stallone worth 910 cops and 1,240 garbage collectors? Or even one cop and one garbage collector?

Without garbage collectors and cops, we'd have disease and anarchy. Without Sylvester Stallone? Well, we'd still have Arnold Schwarzenegger, who made only $43 million in 1987-88.

Or consider Goose Gossage, who pitches for the Cubs. His employers paid him $1,235,000 for last summer's work. All Gossage did for that money was make Chicagoans unhappy.

It happens that I work for the same corporation that owns the Cubs. They paid me much less than they paid Gossage, although I probably made just as many Chicagoans unhappy as he did. For that matter, I've been making them unhappy since Gossage was a mere tyke.

But do I resent being paid less than Gossage? Of course not. That's because Gossage earned about 15 times as much as Dan Quayle, which seems fair.

That's the trouble with juggling numbers, as Pat Buchanan did with his "five times what the average American earns."

The fact is, the average congressman is not the average American. He is better educated, smarter, reads more, watches fewer game shows and soap operas on TV, knows more about law, foreign affairs, national problems and assumes greater responsibilities. So why shouldn't a congressman be paid as much as a weak-hitting utility infielder?

In the big federal spending picture, a raise for congressmen is just pocket change. The Pentagon will spend more than the entire congressional raise on a few airplanes that don't fly.

Yet, the average person becomes outraged at the thought of a public official—any public official—wanting a pay hike.

We demand good judges, yet we pay them less than they could earn chasing an ambulance. We want good governors to manage our states, but become indignant if they ask to be paid more than the manager of a small factory.

Isn't it kind of goofy that the president of the United States—the most powerful man in the world when he's awake—is paid less than a mediocre point guard in the National Basketball Association? Or a network anchorman? Or some local disc jockeys?

Or consider that Elvis Presley made about $15 million this year. That's not bad for someone who has been dead for 11 years.

That's the salary of 180 congressmen. Or 45 United States presidents. Although I'm not a big fan of George Bush, I hope that he will contribute more to this nation during the next four years than a deceased rock singer.

The key to the public pocketbook seems to be entertainment. Americans don't mind spending a collective fortune on anything that will amuse or divert them. That's why athletes and other entertainers become vastly wealthy. Michael Jackson, Bill Cosby, Bruce Springsteen, Madonna, they're all in the $20 million to $50 million a year range. Some golfer recently picked up more than a million in a weekend.

But we bang the table at the thought of a congressman making what any of the entertainers pay for a car.

Congress ought to wise up. Instead of going on C-Span and holding debates, they ought to learn to dance, sing and slam-dunk a ball.

AMERICANISM CONTEST WINNERS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. PEASE. Mr. Speaker, again this year, I would like to draw your attention to the following three essays composed by several young Ohioans who expressed their views on what the word "Americanism" means to them. These three individuals are the winners of an annual contest that is sponsored by the Americanism Foundation of Norwalk, OH, in my own 13th District.

WHAT AMERICANISM MEANS TO ME

(By Mark Metzger)

What is Americanism? Is it God? No. Is it our culture? Perhaps. Is it freedom? Maybe.

Is it baseball and a cold, Sunday beer? Probably not. Well, you say, these are American things. Why who could be an American and not like baseball? Americanism is a unique, truely American, combination of all these things—and many more. What it means to me and how it influences our lives is the subject of the following essay.

Americanism is only half of the true United States. In the following paragraphs, let us compare Americanism and the other half, which we shall call America.

Americanism has a cousin called America. They are related, but each is represented by different aspects of American life. Well, then, what is America? America is the outer, busy surface of the United States. America is segregation. It is the homeless. It is the prostitutes, the druggies, the bums. It is the small-scale farmer trying to maintain a way of life. It is the pain, the tears, the anguish. It is the inner workings of our government. It is crime, and war, and hate. It can be the United States' dark side. It is the United States' overalls.

America stands for the good things as well. America is our government's policies. It is our technology and expansion. It is our demand for knowledge and our urge to conquer outer space. America stands for development and prosperity.

Americanism is the United States' slower moving, inner surface. It is formed around small groups or individuals. Americanism is teamwork. It is Autumn, Winter, Summer, and Spring. It is the family farm. It is Mardis Gras. It is watermelon and the Fourth of July. It is a beautiful sunrise or a magnificent sunset. It is an evening drive in the country. It is the Rocky Mountains and the plains. Americanism is fields of swaying wheat, a national park, or the Redwood forests. Americanism is also Manhattan's skyline. It is the bustle of New York and Los Angeles. It is Jazz. It is homemade appple pie. It is the American Dream.

Americanism can be found in an American's inner feelings. Americanism is the pride in one's own accomplishments. It is the enjoyment of having put in a good day's work. It is patriotism and pride. Americanism is the feeling of independence; the knowledge of good and bad. Americanism is the closeness of families and a respect for religious freedom. It is the feeling of America. It is America's tuxedo.

Americanism is the one we brag about. We put it in our travel magazines and feature articles. We store it in books and museums. We tell the world: "We're home."

These two comparsions are purely black and white, but I believe they give an overall picture of what the United States is and the differences between Americanism and our outer surface, America. Both are descriptions of our culture, but Americanism goes deeper; into the heart of our country.

Americanism affects our daily lives with great but sometimes unnoticeable force. It gives a luster to America and gives us something to be proud of. You experience it everywhere. In the city or the country; driving home from work; taking a vacation. Whether you're alone or with a group, you are bound to see it and be affected by it. Your local park is a great place to feel it. You see families having fun; taking a picnic on the grass, hiking, or laughing over a good game of baseball. You also feel the peace and solemn beauty of nature.

Americanism is based on the family. Without the structural unit of the family, a major component of the feeling would be lost. The family symbolizes togetherness and teamwork. It stands for peace and brotherhood. These are the basics of Americanism, or Canadanism, or almost any other country's culture in the world. Communism, however, does not center around the family, but rather around the state and the government. This is the single, most leading cause of the tension between the United States and the Soviet Union.

We couldn't have true Americanism without the principles of freedom, either. Freedom and the family combine for better growth and development. Americanism stands for creativity and individuality, both of which, are brought about through freedom.

Americanism, then, is the important and beautiful things we feel, or build, or marvel at. Americanism deals not only with the United States, but reaches out to all the nations of the world, symbolizing freedom and security. Americanism cannot be attained, for we already have it. It needs only to be developed, and is extended and nourished by every infant born in this nation.

WHAT AMERICANISM MEANS TO ME

(By Jayme L. Mathias)

Now, for the first time in my life, I am reflecting on something that I have never thought about before—what Americanism really means to me.

Americanism is really hard for me to describe. I think that it is a feeling, a responsibility, that we have that makes us aware of the problems we face in our society today. Americanism is what compels us to do what is right, to help others in our daily lives, and to make our lives of value to ourselves and those around us.

Mere words cannot fully describe the meaning of Americanism in my life. I have always seen Americanism as actions, not words.

Perhaps many in our society view Americanism as the actions of heroes who gave up everything they had and sacrificed their lives in service to our country.

I view Americanism differently. I don't see Americanism through wartime heroes as often as I see it displayed by those heroes living in our own day and age. The ones in our lives who escape our attention, but will always be there, remembered by their acts of courage and caring.

To those, the silent heroes, I dedicate this essay, for they are living symbols of what Americanism really is.

Americanism is shown in so many different ways in our daily lives and the lives of those around us, and yet so many times it goes unnoticed or ignored by many of us.

One person, an old, full-blooded American Indian, that I met once is the most outstanding memory that I have of a person who really demonstrated Americanism. Iron Eyes Cody, the Indian Chief on "Ernest Goes to Camp" dedicated his life toward the preservation of America's natural resources. Iron Eyes strived for years to hold onto his tribe's culture and its customs. He also started many services like the "Keep America Beautiful" and the "Hometown U.S.A." programs to preserve America's beauty for future generations. He sets an example in his daily life for everyone to follow.

Another silent hero, Fr. Bruce Ritter, has dedicated his life toward helping the homeless or troubled teenagers of New York City. Fr. Ritter rounded up enough support to start the Convenant House, a place for these unoriented teens to live and learn. By getting these kids off the streets, educating them, and teaching them responsibility; this great man has saved and redirected countless lives from falling into corrupt, evil ways.

These men are only a few of the many heroes in our society who dedicate themselves to God, their country, or others.

Without these living legends, the dream of Americanism would soon burn out.

We can all become heroes but first we must strive to set a good example and give more to others in our country than they have given to us.

WHAT AMERICANISM MEANS TO ME

(By Robert Crawford)

To the unsaved people in the world, Americanism merely means freedom to have fun and do as you please a long as it satisfies you. They act wild and party in the name of patriotism, when it's just an excuse to do wrong and claim it as your freedom and your right. Probably the most well known phrase that symbolizes the world's ungodly phylosophy is "If it feels good, do it."

This great country was once founded upon the principles of God and led by great men of God, such as George Washington, John Locke, Abraham Lincoln, Thomas Jefferson, and the list goes on and on. America was founded for the sole principle of having the freedom to live christian lives, pleasing to God and worshipping God as we please. This is Americanism, loving God's chosen country because it gives us the freedom to do right not wrong.

It is no coincidence that the greatest nation in the world was founded on God's infallible book—The Bible. Why, we even state this on our currency with the well known phrase, "In God We Trust".

In the book of Genesis, chapter twelve, verses two and three, we find the account of God telling Abraham to make a nation. God said that He would bless those who bless it and curse those who curse it. That is the way that America is. God placed his hand of blessing on it from the start, only now we have turned away from God, causing him to bring judgment of us. America is heading for a fall unless we turn back to God.

I attend a Christian school and go to church three times a week. I worship God as I want and do as I want. Where else can you do this but in America? What does Americanism mean to me, freedom to do what God has instructed me to do and not being ashamed to do it.

THE 60TH BIRTHDAY OF BARBI WEINBERG

HON. HENRY A WAXMAN

OF CALIFORNIA

HON. HOWARD L. BERMAN

OF CALIFORNIA

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. WAXMAN. Mr. Speaker, it is our profound honor to call to your attention and the attention of our esteemed colleagues a signal event both for our community and for an individual of particular distinction: The 60th birthday of Barbi Weinberg.

Barbi Weinberg is indisputably one of the most involved, dedicated, persistent, and ef-

fective leaders in our Nation. Mrs. Weinberg has had a major impact not only on her local community but on the affairs of the State of California, our Nation, and, indeed, in the international arena.

One of the areas which has most concerned Barbi Weinberg and her husband, Lawrence, has been peace in the Middle East. The Weinbergs have labored tirelessly for an end to the conflict which has plagued that region for 40 years. Barbi Weinberg has seen a strong and secure Israel as the keystone to peace and stability in the Middle East.

Mrs. Weinberg is the president of the important research establishment, the Washington Institute for Near East Policy. Mrs. Weinberg has long been active in the American-Israel Public Affairs Committee [AIPAC]. She currently serves on AIPAC's executive committee and is a former vice president of this respected American voice for understanding of Israel's problems and promoting the close relationship between the United States and Israel, based on shared values and interests.

In the Los Angeles Jewish community, Larry and Barbi Weinberg have given their time and talents to virtually every worthy group. Barbi Weinberg is a past president of the Jewish Federation Council of Greater Los Angeles. Barbi was the first woman to head this umbrella organization which encompasses scores of agencies and organizations serving more than 600,000 Jews in southern California.

While Barbi Weinberg has been preoccupied with Middle East affairs and the responsibilities of local Jewish leadership, she has also made an impact in other areas. In 1984, she served on the board of the Los Angeles Olympic Organizing Committee. She has also been active in local and statewide democratic party activities.

Barbi and Larry Weinberg are the proud parents of two sons and two daughters—Jeff and his wife Susan, Jim, Jan and her husband Phil Zakowski, and Julie and her husband Rand Fishbein. The Weinberg family now counts seven grandchildren with reliable predictions of additions in the near future.

Mr. Speaker, each of us has had the delightful experience of working with Barbi Weinberg on projects of mutual concern. Each of us has benefited much from her keen intelligence, wise sense of tactics, and, above all, resoluteness. Barbi and Larry Weinberg epitomize the active, involved citizen Alexis De Tocqueville saw at the very heart of American democracy.

We ask every Member of this House to join us in saluting Barbi Weinberg on the auspicious occasion of her 60th birthday. We further ask that the House extend to Mr. and Mrs. Lawrence Weinberg its sincere expression of appreciation for their civic contributions and its best wishes to the entire Weinberg family for good health and continued spirited involvement in public affairs.

CHARLES STUZIN: KEEPING ON TOP BY LOOKING AHEAD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LEHMAN of Florida. Mr. Speaker, Dade County is well known for the rapid change which has affected our area over the past three decades. This has been the cause for the demise of many businesses that were not about to adapt to changing conditions.

To find a business in our area that was handed down from father to son that not only has adapted to change, but uses it as a positive force for growth and innovation, is rare indeed. But this is exactly the case with Citizens Federal Bank under the enlightened direction of David Stuzin and, today, his son Charles.

I have known this family for many years. I can well recall when Dave Stuzin started Citizens Federal Savings & Loan in Hialeah, and I have seen Charlie learn from his father and grow into an important force in south Florida banking.

This month, Florida Trend magazine profiles Charles Stuzin, and I would like to share this article with my colleagues. I hope it might add a little different perspective on the current savings and loan crisis.

CITIZENS FEDERAL GETS THE LAST LAUGH

(By Phillip Longman)

"Before long," Charles Stuzin says his father told him in 1967, "there will come a day of reckoning."

David Stuzin had just returned from England, where he had made a discovery that shook his faith in the future. As founder and head of Citizens Federal Savings and Loan Association of Miami—now Citizens Federal Bank—he had turned a tidy profit for 15 years and thought he understood his business. He merely did just what every other thrift executive in the United States had done, at government insistence, for more than a generation: take in short-term deposits and use the money to write fixed-rate home mortgages for as long as 30 years.

But while in England, David Stuzin learned that his counterparts abroad thought he was nuts, and indeed, that the United States was the only country in the world where thrifts engaged in such risky practice. "What if inflation and interest rates rose substantially in the 1970s?" Stuzin was asked by the British thrift executives he met. Deposits are the raw materials of a thrift industry, they said, while mortgages are the finished product. By offering fixed rate mortgages, Stuzin and the U.S. thrift industry as a whole were operating like a manufacturing company that guarantees prices for up to 30 years while having no idea what the cost of its raw materials will be in the meantime.

Stuzin had never looked at his business this way before, and when he returned home he took immediate action. Making use of an obscure, temporary loophole in the law then governing the nation's S&Ls, Stuzin started doing what none of his competitors would try for more than a decade: writing adjustable rate mortgages that freed the thrift of risk of future inflation. As interest rates rose in the late 1960s, Citizens found a ready market for its newfangled product. All went well until Congress found out what the thrift was up to and quickly voted to close the loophole at the insistence of more traditional S&Ls.

Since then, Citizens has come to be known as the thrift that always zigs when others zag. David Stuzin died in 1982, but his son Charles continues in his iconoclastic tradition, sometimes inviting the ridicule of other thrift executives, but almost always laughing last. "Citizens is a horse of another color," says Paula S. Johannsen, an analyst with Williams Securities in Tampa. Yet despite, or more accurately, because of its eccentricity, Citizens has been consistently profitable. "In the hardest of times for the S&L industry, these guys have never lost money," says Tim Rayl of Gulfstream Financial, one of the few analysts left in Florida who bothers to follow the ailing industry closely these days.

Citizens earned $11.4 million last year. Through November, its earnings are up 15%. With $3.5 billion in assets, and a regulatory net worth of 8.5%, Citizens is among the fastest growing and most solvent of Florida's thrifts.

"I never follow what other companies are doing," Stuzin says today. A prime example of the soundness of that business philosophy—at least as applied to the U.S. thrift industry—came at the beginning of this decade. Having pioneered adjustable rate mortgages in the late 1960s, Citizens prospered in the early 1980s by avoiding them, just as ARMs were becoming all the rage.

"It was the only strategy to go with if you used common sense," Stuzin recalls, before hastening to assert his respect for his less-fortunate competitors. Like other thrifts, Citizens Savings was being punished severely by the rapid rise in interest rates, just as his father had predicted. But having been prevented by government regulation from offering ARMs at the beginning of the great inflationary bubble of the 1970s, the Stuzins saw no sense in offering them now. If rates stayed high, they reasoned, Citizens would go down the tubes, regardless. And no matter what happened to interest rates, adjustable rate mortgages would never earn enough to cover Citizens' underperforming assets from the past. So the Stuzins loaded up with as many 30-year, fixed-rate mortgages as they could write and prayed rates would decline. They did, and Citizens blasted on to easy street. By April 1983, Citizens' stock was selling for $51 a share—after a two-for-one split—up from $8 to $10 a share they are getting on their savings.

In 1986, Stuzin realized that out-of-state banks had already grabbed 10% of all Florida deposits. "I thought to myself, 'They're taking our share of the pie. We can't compete if they have the initiative. We have to play their game.'" Yet even those who could follow Stuzin's logic this far were astounded by his next move. In July 1986, Citizens bought a small, insolvent thrift called Equitable Federal Savings based outside of Columbus, Ohio—a state not only beset by industrial decline, but recently traumatized by the collapse of most of its state-chartered thrifts after the ESM Government Securities scandal. Stuzin says that no sooner had he announced the deal than a Wall Street Journal reporter called to question his sanity; Florida Trend and other Florida publications also criticized his judgment. But two years later, Stuzin has turned Equitable around, just as the Midwest is at last rebounding.

Meanwhile, Stuzin also has picked up the deposits and offices of two other insolvent

thrifts: Centennial Savings and Loan of Guerneville, California, outside San Francisco, and Ultimate Savings Bank of Richmond, Virginia. The Centennial deal will give Citizens the right to branch throughout California. By acquiring Ultimate, Citizens has entered one of the strongest, yet little-noticed markets in the country. "I personally can think of no better place for a Miami thrift to come," says John McCartney, director of Institutional Sales for Branch, Cabell & Co., a Richmond brokerage firm. Though Citizens does not report its out-of-state operations separately, Stuzin says all three institutions have become profitable, in part because Stuzin acquired only their deposits and not their bad loans.

What is Citizens' next move? Stuzin says he's open to buying more bankrupt thrifts up North if the price and the place are right. He also plans to continue attracting capital by issuing medium- and long-term debt securities and by leveraging his growing portfolio of mortgage-backed securities. The only option not open to him, Stuzin says, is selling more stock in the company, so long as the performance of the rest of the thrift industry continues to scare off investors and depress prices. For now, Citizens remains closely held by the Stuzin family, who continue to make money their own way.

EMERGENCIES IN THE AIR

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BROOMFIELD. Mr. Speaker, 28 colleagues have joined me as original cosponsors of the In-Flight Emergency Medical Assistance Act. Late in the 100th Congress I introduced this bill which would permit licensed physicians the freedom to act in a genuine emergency.

When a heart attack or similar life-threatening emergency takes place while the victim is traveling in the air, very special circumstances apply. On flights of long duration it can often be hours before a victim is transported to a hospital or medical facility. Most commercial flights will have an average two or three medical doctors among the list of passengers, unfortunately standard malpractice laws still apply to any treatment rendered by a doctor. This bill, which the American Medical Association has fully endorsed, would free licensed physicians from constraining malpractice liability when treating an in-flight emergency.

Fear of a malpractice lawsuit could prevent a well-qualified professional from giving the kind of assistance that saves lives. The In-Flight Emergency Medical Assistance Act will not tolerate grossly irresponsible actions: It will give doctors needed freedom to act to the best of their abilities.

During the 99th Congress legislation was introduced which resulted in the inclusion of a comprehensive medical kit on commercial flights. However, any physician who uses this kit in an emergency situation risks full malpractice liability.

Mr. Speaker, I urge prompt consideration of this worthy bill. It is unfortunate that a physican's Hippocratic oath has too often run up against a wall of tort laws. Let's not wait for a needless tragedy to stir Congress to action.

IN COMMEMORATION OF UKRAINIAN INDEPENDENCE DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GILMAN. Mr. Speaker, I rise to pay tribute to the Ukraine and the aspirations of its people on the 71st anniversary of the Ukraine's short-lived independence.

Because of its strategic geographical position and rich resources, the Ukraine has always been viewed as a coveted prize of aggressors from the Mongols to the Tzars, and more recently the Soviet Communists.

In 1917, the Russian Autocratic government disintegrated and the Ukrainian National Republic proclaimed its independence from foreign domination and declared its existence. With this declaration, Ukrainians demonstrated to the world that Moscow cannot represent the ethnic heterogeneity that is the Soviet Union. Kiev represented the democratic concept of government based on respect for human rights and the dignity of man. Moscow represented totalitarianism and the g-dless force of destruction.

After the Ukrainian Declaration of Independence, the bloody Russian-Ukrainian War lasted for four terrible years. The Ukrainian freedom fighters were crushed by the Soviet Red Army. Since the Soviet occupation of that land, over 10 million Ukrainians have died in the defense of their country.

On the occasion of the 71st anniversary of Ukrainian independence, we pay special tribute to the brave men and women of the Ukraine who are carrying forward, at great personal danger and great personal sacrifice the struggle for independence and freedom. The spirit of the Ukrainian people is as strong today as it was in 1918.

Let me also pay special tribute to the millions of Ukrainian Americans who have done so much to make America the great nation it is today. They have toiled in the farms and fields, they have sweated in industry. Many have even made the ultimate sacrifice * * * the gift of their lives in the defense of liberty and democracy around the globe.

Mr. Speaker, although many years have passed since January 22, 1918, the flame of freedom burns stronger than ever before. With the human rights reforms currently being implemented by the Soviet leadership hope exists as never before that the final battle in the war between Athens and Sparta will be won, and the citizens of the Ukraine will once again hear the words of their own national anthem being sung.

CRASH OF AIR NATIONAL GUARD F-4 AIRPLANE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. AuCOIN. Mr. Speaker, several weeks ago, Mr. Speaker, an antiquated Air National Guard F-4 crashed in rough seas off the coast of my district. Coast Guard Air Station Astoria, which has one of the Coast Guard's most challenging search and rescue assignments, received the distress call. Despite a valiant effort in heavy seas by a Coast Guard Swimmer Petty Officer Kelly Mogk and others, one of the two Guardsmen died in the crash.

Since the crash, many questions have been rasied concerning the equipment used by the Coast Guard. Some of the questions are mine—reliability of the HH-65, the much publicized failures of the Lycoming powerplant, the ability of the HH-65 to carry more than one swimmer, a crew, and rescue victims.

I intend to get answers to these questions. But what is beyond question is the bravery and expertise of the search and rescue crews. Part modern-day Rough Riders, part samaritans, part adventurer—all heart and guts.

As a further evidence of the courage and skill of our Coast Guard crews, I urge my colleagues to read the following account of another rescue, told by Dr. Richard Breemer of Newport, OR, who was a firsthand witness to the life saving rescue of two Oregon loggers.

DECEMBER 28, 1989.

Dear Congressman AuCoin: On Wednesday, the 21st of December, I was a witness to and participated in a very impressive rescue by Coast Guard helicopter of a logger from a ridge in East Lincoln County, and I am writing this letter so that this brave and skillful helicopter crew can get some of the credit that is due them. LinCom was called that morning and advised that two loggers had been injured on a job in East Lincoln County—one very seriously, who was unconscious from the time of injury.

Lincoln County Ambulance Unit Lincoln 3 and a Quick Response Team from East Lincoln County were both dispatched to this very remote site, Life Flight was called and the Coast Guard was notified. Life Flight, on arriving in the area, found the weather to be too foul for them and landed at the football field in Philomath. A Coast Guard helicopter, crewed by Capt. Mike Lovett, Commanding Officer of Group North Bend, with co-pilot Lieut. Pat Monarch and crew of Petty Officer First Class Jeff Hanson were in the air off the Coast at Newport and dispatched immediately to the site of the accident.

Upon arriving at the site, they found that the injured parties were a few hundred yards away from a landing where the helicopter could put down, but the terrain was very rough and it appeared the best bet for getting the badly-injured man out would be to lift him out with the helicopter. Capt. Lovett flew back to Newport to refuel to have enough fuel for lifting the patient out and getting him to a hospital, and while he was at Newport he asked Fire Chief Don Rowley to summon some EMTs to make the trip with him in case help could be rendered to the patient in the helicopter. When

Rowley put this call out, I was doing paper work at my desk and a helicopter ride sounded considerably more interesting than shuffling papers, so I responded to the airport and Dietmar Goebel, a Newport fireman and EMT, and I flew in the helicopter to the site of the accident.

It is overly generous to call the weather that day "rotten" as we flew in canyons with clouds on both sides of the canyons and the ground temperature at the landing site was 33 degrees. When Capt. Lovett landed the helicopter, Dietmar and I got out and walked down to the location of the injured loggers. The two injured men were being cared for by very capable paramedics from Lincoln Ambulance, headed by Gary DeHart, and from working with Gary in the past, I was comfortable that all of the proper pre-hospital treatment had been initiated and it was very obvious that the most important consideration at that point, some two to three hours after the injury, was to get the seriously-injured gentleman to a hospital, preferably one with a neurosurgeon on the staff.

I watched from the helicopter landing site while Capt. Lovett and his crew hovered the chopper over the site of the injured loggers, dropped a line and hoisted the party with the head injury up into the chopper. They then returned the chopper to the landing site and picked me up and we departed. About the only functional thing I did on the whole trip was recognize Highway 20 from the air, advise Capt. Lovett to turn right and follow this to Corvallis and then point out the hospital to Capt. Lovett when we arrived at Corvallis, since he knows the area of the Coast very well from the air but not the Valley.

The injured logger, a 33 year old gentleman from Corvallis named Ronald Fuller, was found to have not only a significant head injury when he arrived in Corvallis but to have a crushed kidney and significant inter-abdominal bleeding. While paramedic DeHart had appropriately started an IV in this gentleman prior to transportation, I don't think that Mr. Fuller would have survived the 2½ to 3 hours it would have taken to get him out by carrying him across very rugged terrain and then driving over very rough roads to Corvallis. In short, I feel that the evacuation by helicopter saved his life. Unfortunately, on the date of this letter (December 28) Mr. Fuller was still unconscious at Corvallis, but he is alive and I believe that Capt. Lovett and his crew get direct credit for that fact.

"What's the big deal?" someone might ask, "The Coast Guard helicopters pick people up out of the water all of the time and fly them to hospitals or to shore." The difference is the weather and terrain made the risk of this mission a whole different magnitude. Had the weather closed in the ends of any of the canyons we were flying in, there really wouldn't be anywhere to go, unless one was fortunate enough to be over some sort of a landing area, and I assure you there weren't very many of them around on the ground in that area. While the Coast Guard's very sophisticated helicopters are equipped for instrument fight, flying through clouds when the ground temperature is 33 degrees is terribly dangerous, as helicopters ice up just like fixed-wing aircraft do, only they tolerate icing even less well than fixed-wing aircraft.

Some were dubious as to the need for a helicopter station here in Newport with a station 100 miles south in North Bend and another 140 miles north in Astoria. Participation in this mission has certainly served as a convincer for me. The final argument regarding the value of the Coast Guard helicopters is in the answer to the following question—"Just how much is a human life worth?"

Sincerely,

RICHARD K. BEEMER, M.D.,
Newport, Oregon.

TRIBUTE TO L. STANLEY CRANE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FOGLIETTA. Mr. Speaker, I rise to honor L. Stanley Crane. Mr. Crane's career stands as an example to all of us of how the intelligence and perserverance of one man can be instrumental in orchestrating the success of a major company, and ensuring that that company makes a significant contribution back to the community.

Crane recently retired as chairman and chief executive officer of the Philadelphia-based Consolidated Rail Corporation. Conrail has established the L. Stanley Crane professorship of engineering at George Washington University, Crane's alma mater, in tribute to Crane's distinguished 51 year railroad industry career.

Crane guided Conrail from financial hardship into profitability in the early 1980's, when Conrail was still under Federal Government ownership. This was achieved partly by pursuading this body to alter legislation so the Conrail could cut down those operations that were not profitable. He then led the transfer of Conrail from Federal Government ownership into the private sector in the mideighties.

Crane came to Conrail after an already successful career in the railroad industry. His many accomplishments have included significant contributions to railroad engineering as well as his achievements as an executive.

The establishment of the L. Stanley Crane professorship at the George Washington University is a fitting tribute to Crane, who was named a trustee of George Washington University in May 1978 and was elected vice chairman of the Board of trustees in 1986. He still serves as vice chairman.

I am sure that I join many other Philadelphians and Members of Congress in honoring Crane and wishing him well upon his retirement.

EDUCATIONAL INSTITUTIONS SHOULD NOT BE HINDERED BY EXCISE TAXES

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GUNDERSON. Mr. Speaker, through passage of the Omnibus Budget Reconciliation Act of 1987, a new tax was placed on our educational institutions. For the first time, educational institutions became subject to excise taxes on the experimental or research-related use of denatured distilled spirits.

In 1988, Congress amended this law by exempting certain educational institutions from the excise taxes. The institutions exempted were those which procure less than 25 gallons of specially denatured distilled spirits for experimental or research use but not for consumption or sale. While this provision took us in the right direction, it did not go far enough.

Our educational institutions, which are striving to become more competitive academically and make scientific advances with commercial applications, should not be hindered by excise taxes. That is why I am introducing legislation today to exempt from the excise tax all scientific universities, colleges of learning, and institutions of scientific research which use distilled spirits for experimental or research purposes but not for consumption or sale.

Science should not be impeded by government failures to come to grips with Federal spending. The Omnibus Reconciliation Act of 1987 was a masterful job of deficit reduction through too great a reliance on tax increases and not enough emphasis on spending reductions. I voted against this bill and urge my colleagues to consider its many provisions and begin in earnest the process of undoing those which unfairly tax our society.

SEED MONEY FOR DEMOCRACY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BEREUTER. Mr. Speaker, the National Endowment for Democracy was established in 1983 to strengthen democratic values and institutions around the world through nongovernment efforts. It receives an annual appropriation from the U.S. Congress.

The Endowment has supported democracy in many parts of the world by contributing to the development, and in some cases the very survival, of a wide array of free institutions, such as political parties, business associations, trade unions, public policy institutions, cooperatives, and civic organizations. Democracy now has a chance to grow and flourish in Chile, Argentina, Peru, the Philippines, and South Africa, to mention a few of the countries where Endowment grants have made a difference. The Endowment has also been active in Eastern Europe, especially in Poland.

The Endowment recently celebrated its fifth anniversary, and it has compiled a record to which we can all point with pride. The Endowment has established a global program of assistance in response to requests from hundreds of organizations and has worked to strengthen new democracies, support democratic transactions, open closed societies, and aid proponents of peaceful democratic change in countries wracked by conflict and violence.

Fortunately, the Endowment's fifth anniversary did not pass unnoticed. I would like to command to the attention of :ny colleagues two recent, articles, George Will's column from the December 19th Washington Post, "Seed Money for Democracy," and a December 23rd Wall Street Journal editorial, "An Ideology for All Seasons." I would also like to extend my personal congratulations to the En-

dowment on its fifth anniversary, and more importantly, on the contributions it has made to democratic development since 1983. I look forward to even greater contributions from the Endowment in the years ahead.

[From the Washington Post, Dec. 18, 1988]

SEED MONEY FOR DEMOCRACY

(By George Will)

LOS ANGELES—The National Endowment for Democracy, one of this decade's good deeds, last week celebrated its fifth birthday as quietly as it does its works and with the scant public acclaim that usually comes to institutions that are unobtrusively useful.

This private and bipartisan grant-making body, which is funded by Congress, was originally viewed with suspcion by people too fastidious to countenance any U.S. "interference," however delicate, in the "internal affairs," however, promising, of any nation, however, situated. Today's NED's spending is the biggest bargain in government. It is one reason why the percentage of the world's population classified by Freedom House as living in "free" countries is 38.3 percent an all-time high.

The people at NED know too much about the complexities of popular government to claim inordinate credit for the undeniable progress of democracy in this decade. But they are teachers of the learned art of democracy. They know how to prepare the stony ground of authoritarian societies for the seeds of democratic skills—organization, mass persuasion.

NED's mission is to direct open support, financial and technical, to groups working to enrich the institutions of civil society beneath the brittle crust of oppressive regimes. NED contributed to the crumbling of that crust in Chile in October.

In the referendum against the Pinochet dictatorship, democracy won a narrow (54 percent) victory because of a huge turnout (92 percent of the electorate). The margin of victory can reasonably be credited to polling and other assistance from American political consultants organized by NED. Funds from NED helped 200,000 poor voters acquire the small photographs required of voters. This cost just $25,000.

NED is one reason why Poland today has a thousand independent cultural institutions—publishers of books and periodicals, film-makers, schools. Such small efforts can, cumulatively, crack political concrete.

Carl Gershman, NED's president, believes that for many centuries many factors—"the Crusades, which decimated the nobles; the printing press, which spread knowledge to all classes; the discovery of America, which gave opportunity to millions"—have had a tendency to help democracy. But he also knows that a tendency is not an inevitability. And he knows that this century, with its most important political innovation, totalitarianism, has posed the danger that new tendencies (bureaucratization, refinements of terror, propaganda, and other means of social control) might mean that democracy is an arrangement accessible only to a minority of privileged nations.

The year 1975 was pivotal. Indochina fell to communism and Indira Gandhi's state of emergency turned the world's largest democracy into the world's second-largest dictatorship. But regimes in Portugal, Spain and Greech were democratized. For the first time in history, Western Europe was cleansed of dictatorship.

Larry Diamond of the Hoover Institution, writing in The Washington Quarterly, notes that since then there has emerged "a kind of global *Zeitgeist* for democracy." Starting from various points, there have been varieties of progress in the Philippines, South Korea, Taiwan, Thailand, the Dominican Republic, Grenada, Haiti, Argentinia, Bolivia, Brazil, Ecuador, El Salvador, Guatemala, Honduras, Peru, Uruguay, Nigeria, among other nations.

In North Atlantic nations, democracy often came gradually and from above, with the slow widening of competition among elites. Today the task in the Third World is the transition from authoritarianism by means of gradualism from below. What Diamond calls the "efflorescence of associational life" requires "the reconstruction of a boundary between the state and civil society." Such reconstruction is NED's speciality.

Authoritarian regimes become porous as civil society becomes enriched with independent business, labor, religious, cultural and other mediating institutions serving as buffers between the individual and the state. As the autonomy of society grows, so do channels for articulating interests. Something else grows—the most potent solvent of hegemonic regimes, the broad and rapid diffusion of ideas, aspirations, information and awareness of possibilities.

Modernization destabilizes all but modern—pluralistic and democratic—societies and regimes. Modernization accelerates the circulation of people and information and the evaluation of political consciousness. This confronts authoritarian regimes (South Korea has been a case study) with what Diamond calls "a legitimacy contradiction, a kind of Catch-22."

If such regimes do not produce socioeconomic dynamism, they lost legitimacy because such progress is their justification for monopolizing power. If they do produce dynamism, it has political repercussions in intensified demands for participation, which the regimes cannot satisfy without liquidating themselves.

NED is a forthright but deft instrument for helping others bring about peaceful liquidations. Yet its tiny budget ($15.8 million), the source of so much leverage, has been repeately cut. Surely the government can find a more eligible target for frugality.

[From the Wall Street Journal, Dec. 23, 1988]

AN IDEOLOGY FOR ALL SEASONS

Human bondage has not been banished from the world, but in this Christmas season 1988 the signs of its lessening are encouraging. As modern communications open up once-benighted areas, ruling elites find it increasingly difficult to suppress what 18th-century philosophers defined as the "rights of man."

Political pluralism, albeit in somewhat chaotic form, has emerged in Mexico. Chile's Pinochet allowed a vote that will lead to a free presidential election next year. Two-party politics has emerged in South Korea. The Philippines and Argentina have fought off attempted military coups. Poland's Communists are edging, however slowly and reluctantly, toward recognition of Solidarity and other non-party groups. Long-suppressed national aspirations in the Baltic states have been given voice. Mikhail Gorbachev himself pays lip service to pluralism. Freedom House describes 39% of the world's population as "free," the highest on record.

The rights of man, as enunciated by Madison, Jefferson et al, were of course the intellectual underpinnings for the American experiment. The ruling elites of Europe at that time sneered at these new "populists" and described democracy as "mobocracy." But by the 20th century, democracy was the guiding light of Western Civilization, so much so that the word was often employed where it didn't fit. Woodrow Wilson's 1917 war cry, to make the world "safe for democracy," sounded like a utopian bad joke 20 years later. After World War II, a series of highly undemocratic new governments, mostly flaunting Marxist banners, chose to proclaim themselves "democratic republics." They gave the "rights of man" a new interpretation, defining them as the "right" to be protected by the state against capitalism and other expressions of economic freedom.

During the philosophical confusions in the United States of the 1970s, cynical voices could be heard saying that the democratic principles so central to the American experiment were not exportable. Not a few went even further to argue that Marxism was the wave of the future and that the American experiment was in decline.

Such ideas still flourish in academia, if nowhere else (see yesterday's discussion in this column of Stanford's new curriculum). But American foreign policy has taken a new and positive tack. Ronald Reagan, in his Westminster speech in 1982, made it clear that the encouragement of democracy would be a guiding principle of U.S. foreign policy. A year later, with bipartisan support in Congress, the National Endowment for Democracy (NED) was formed as an independent but federally supported instrument for that end.

The NED operates in the open, funneling most of its grants through four institutes, operated by the AFL-CIO, the U.S. Chamber of Commerce and the Republican and Democratic parties. Among other things, the money helps finance "mediating groups" in non-free countries, fostering the pluralism that might eventually find expression in political democracy. Sometimes the money goes to intermediate organizations—in Sweden or West Germany, for example—that support groups seeking free expression in Communist lands.

Authoritarian and totalitarian regimes believe that mediation between the people and government should be the exclusive prerogative of the ruling party. But groups spring up anyway. Hoover Institution researcher Larry Diamond, writing in the latest edition of The Washington Quarterly, sees a "kind of global zeitgeist for democracy," adding that it is the only form of government that commands "widespread and deep legitimacy."

NED President Carl Gershman says democracy actually is "anti-ideological" in the sense that it protects individuals against enforced conformity. Interviewed by Ken Adelman in the Washingtonian in November, he remarked that "people are coming to see political democracy as a value in itself, that it's the best way to achieve economic growth, national integration and stability." Mr. Gershman thinks democracy faces some tough times ahead even where it has a foothold, but then it always has.

One NED insight is that pluralism takes many forms, often through groups that are not nominally political but that become part of a social and political process. The hunger for democratic self-expression is universal.

Critics of today's American foreign policy nonetheless complain that the U.S. is exporting "ideology." In a sense, they are right. But with the world full of willing

buyers, that does not seem to us like a bad thing.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONOR CARL I. BUTLER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman Edolphus "Ed" Towns held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Carl I. Butler.

Mr. Butler has had 25 years of diverse experience in sales, management, organization, training, and supervision of production and skilled personnel. He has served as Deputy Commissioner of the New York City Department of Sanitation as well as Special Assistant to the Commissioner, and Secretary of this Department.

Mr. Butler presently serves as President of the North Brooklyn Civic Association. He was twice elected State Committeeman of the 56th Assembly District in Brookyn, NY. He has served as a member of the board of directors of such organizations as Medgar Evers College, Bedford-Stuyvesant Restoration Committee, Catholic Charities, and the L.B.J. Health Center.

Among his many honors and awards are his designations as Man of the Year by the Bedford-Stuyvesant Senior Citizens, Berean Baptist Church, and the Salvation Award. He served in the U.S. Army during the Korean war and received the Bronze Star, United Nations Medal, and the Korean Service Medal.

Mr. Butler is married and has two children and enjoys excellent health.

THE 71ST ANNIVERSARY OF UKRAINE'S DECLARATION OF INDEPENDENCE

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mrs. MORELLA. Mr. Speaker, Sunday, January 22, marked the 71st anniversary of Ukraine's declaration of independence and the 70th anniversary of the unification of the Western Ukrainian Republic and the Ukrainian National Republic. This declaration was embodied in the fourth universal put forward in 1918 by the Ukrainian Central Rada [council].

This document evolved from the third universal issued November 7, 1917, by the Ukrainian National Republic. Besides announcing the creation of a sovereign Ukrainian state, the third universal asserted the state's social and political principles. Among these were many of the same freedoms embodied in our own Bill of Rights and in the French Declaration of the Rights of Man, including freedom of speech, press, religion, and assembly. The third universal also endorsed minority rights, the security of individuals and property, and the 8-hour workday.

The third universal merits further attention and consideration because its proclamation of autonomy within the Russian empire is similar to demands being made today by various nationalities within the Soviet Union, not only in the Ukraine, but also in the Baltic States and in Armenia.

I hope that all Members this week will commemorate this historic occasion and take this opportunity to learn more about Ukrainian history and about these historic documents.

STOP THE EXPORT OF AMERICAN JOBS—OPPOSE THE FAA DECISION ON FOREIGN REPAIR OF U.S. AIRCRAFT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LANTOS. Mr. Speaker, the recent decision by the Federal Aviation Administration [FAA] to permit expanded use of foreign repair stations seriously threatens the safety of millions of American air passengers and the livelihood of thousands of American workers.

Undoubtedly, the Government's primary responsibility to assure that maintenance standards are being met is best accomplished when the U.S. Government retains oversight over a domestic maintenance program as opposed to a system which is primarily international. Yet, in December 1988, new Federal Aviation Administration regulations took effect that permit repairs and maintenance on U.S. airline aircraft to be conducted overseas. Previously, U.S. airline aircraft were maintained at foreign repair stations only if the aircraft were used in international service. The new regulations now permit U.S. aircraft operated domestically to be completely maintained at foreign repair stations.

Aircraft maintenance and repair controls have provided our Nation's air transport industry with an enviable safety record. These regulations were flexible and allowed exceptions in those limited instances where overseas repair was a necessity. The U.S. air transport industry's outstanding safety record is due in large part to the strict control and surveillance exerted by the FAA over the maintenance, inspection and repair of U.S. aircraft. What possible safety benefits can be gained by unilaterally permitting U.S. aircraft to be routinely maintained abroad?

I am also concerned, Mr. Speaker, that at a time of massive trade deficits we are unilaterally exporting American jobs. Through this ill-conceived and counter-productive FAA decision, the jobs of thousands of trained American machinists and mechanics are put at risk.

Mr. Speaker, we must oppose this effort to loosen airline maintenance practices by permitting wholesale maintenance of U.S. aircraft abroad. Clearly, a liberalization of these rules will have an adverse impact on safety and would be unfair to U.S. businesses and workers.

Our colleague, NORM MINETA, chairman of the Aviation Subcommittee, has introduced legislation to terminate the amendments to the foreign repair station rules which permit expanded use of foreign repair stations and would therefore prohibit foreign maintenance and repair of U.S. aircraft. H.R. 145 would terminate the effectiveness of these regulatory changes and return the regulations to their previous formulation upon enactment of the bill. I am a proud cosponsor of H.R. 145 and will do all I can to fight for swift enactment of this bill. I urge my colleagues to join me in cosponsoring H.R. 145.

TRIBUTE TO ROFEH INTERNATIONAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FRANK. Mr. Speaker, one of the most socially useful organizations which is headquartered in my congressional district is Project ROFEH, which is directed by Grand Rabbi Levi Y. Horowitz, the Bostoner Rebbe, of the New England Chassidic Center. The center is an important religious organization, and as part of its overall religious work, it provides a number of important services to meet the spiritual and physical needs of a very wide range of people.

ROFEH International is one of the most significant of these. It is a medical referral organization, which provides indispensable help to sick people in taking advantage of the great medical resources of the Boston area. ROFEH provides people with referrals to the appropriate medical specialists and facility, and provides to those who travel to Boston from far away a total range of services from housing, transportation, and food through interpreters and the kind of friendship that is so important to those who are ill.

In November, the New England Chassidic Center held its annual dinner, at which large numbers of people paid tribute to Grand Rabbi Horowitz, and helped to support the important work of the center. Among the highlights of that dinner were the presentation of two awards—to Mr. Joseph Hyman, as the man of the year of the New England Chassidic Center; and to Dr. Kurt Isselbacher, as the recipient of the ROFEH International "Harry Andler Memorial Award."

Mr. Speaker, this was a significant occasion and the two recipients are people who are very much deserving of the praise they received. I ask that we print here the program descriptions that were given that night of Mr. Hyman and Dr. Isselbacher for their great charitable work.

NEW ENGLAND CHASSIDIC CENTER

In the words of the Center's renowned spiritual leader, Grand Rabbi Levi Y. Horowitz, the Bostoner Rebbe, Shlita, Mr. Joseph Hyman is one "whose life's motto has been concern for his fellow man", as shown by the involvement with ROFEH International. His idealism, so consonant with that of the Chassidic tradition, makes this honor a most appropriate one.

Born in Detroit to parents who came from Minsk and Guryava, both in the heart of Chassidic Poland, Mr. Hyman was raised in

Detroit where he received his education in the Detroit public schools, continuing on to Wayne State University to receive his B.S. He then moved to Boston and received his M.S. from Northeastern University. In 1986, he was honored by his alma mater and presented with the Wayne State distinguished Engineering Alumni Award.

In 1956, during a vacation trip to New York, Joseph met Phyllis Cohen and they were married within the year. The Hymans have four children; Miriam, Edward, Leah, and Beth. They are blessed with one grandchild, Jeremy. Throughout their marriage and life together, Phyllis has been and continues to be, a force and an inspiration behind Joseph's numerous projects.

Mr. Hyman's career evolved around engineering. In 1961 he joined AVCO as Program Manager to work on a RADAR reflector program in support of the Minuteman ICBM Program. After leaving AVCO in 1967 he founded HYCOR in Woburn, which specializes in developing and producing RADAR and Optical Countermeasures for the Department of Defense and other friendly countries. It was at HYCOR that Mr. Hyman developed unique methods of packaging and dispersing hundreds of millions of thin hairlike filaments which are used to confuse and decoy RADAR homing missles. These techniques, called Chaff, are used on all U.S. Navy Capital ships and on many ships of NATO and other friendly Navies. During the 1973 Yom Kippur War, while using Chaff, not one of Israel's Navy ships was hit by the 69 Soviet-built missiles fired by the Egyptians.

Mr. Hyman, with all of his fine qualities, is an unassuming unpretentious person. How apt is the rabbinic dictum "Whoever shuns honor, honor will pursue him."

ROFEH INTERNATIONAL "HARRY ANDLER MEMORIAL AWARD"

Dr. Kurt J. Isselbacher is one of the world's leading physicians and teachers. Dr. Isselbacher is Chief, Gastrointestinal Unit at Massachusetts General Hospital as well as Director of the Massachusetts General Hospital Cancer Center. Throughout his medical career spanning almost 40 years, Dr. Isselbacher has been honored by medicine's leading societies and associations. An alumnus of Harvard College and Harvard Medical School, Dr. Isselbacher continues to devote his energies and renowned talents to helping his patients and sharing his research by authoring and co-authoring many articles in prestigious medical journals.

This award is presented annually to a member of the Greater Boston medical community for Outstanding Humanitarian service combined with the Highest Professional Merit.

Dr. Isselbacher's efforts on behalf of ROFEH International are but one facet of his contribution to the field of medicine which has brought him great stature and recognition. His involvement with ROFEH International typifies the selfless and altruistic devotion which characterize all of Dr. Isselbacher's achievements. Dr. Isselbacher has unselfishly devoted much of his precious time and effort to the care of patients sponsored by ROFEH International.

TRIBUTE TO LOUIS FRANCIS (RED) ANGELO

HON. JAMES A TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TRAFICANT. Mr. Speaker, I rise in order to pay tribute to an outstanding citizen of my 17th Congressional District of Ohio, Mr. Louis Francis "Red" Angelo. It is seldom that we have the occasion to honor such a fine man and member of his community. I am proud to have the opportunity to do so today.

Red has deep roots in my 17th District of Ohio. He grew up in Youngstown, OH, in depression years. He attended Youngstown Rayen High School and Youngstown University where he was a true standout in both school's football programs. After receiving his masters degree, Red returned to Youngstown as a teacher and a coach at Youngstown Chaney High School.

At Chaney, Red made his finest contributions to his community. He served as a teacher form 1949 to 1987. He also served as coach of the school's baseball, basketball, track, football and golf teams and ultimately as the school's athletic director. His efforts earned many rewards. His football teams won three city titles, and his golf teams won seven consecutive city championships.

Most importantly several young people have benefited from Red's influence. While several of Red's players were able to further their athletic futures because of Red, still more of his players and students benefited from his guidance, his leadership, and the fine example of hard work and dedication that he so embodied.

Red has been honored for his work several times. Three times he has been named Youngstown football coach of the year. In 1986 he was inducted into the Youngstown State University Sports Hall of Fame, and he is soon to be welcomed into the Curbstone Coaches Hall of Fame.

Mr. Speaker, today let us add to Red's list of accolades. Please join me in paying tribute to Louis Francis Angelo. I am honored to represent such a fine man. May his future be as bright and special as his past has been.

IN MEMORY OF AL RABY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. GARCIA. Mr. Speaker, my friend Al Raby died in Chicago last November. I consider myself better for having been his friend, and I am proud to note his many accomplishments so that the fight for civil rights continues.

The first word that comes to mind to describe Albert would be steadfast. When he started out for a goal, he didn't rest until it was accomplished. He considered all the ways that a goal would be best met, and most beneficial and then worked steadily toward that accomplishment. Then, he would work toward another goal, not resting on his latest success. Perhaps he was able to do this because there was a connection among all his goals, equal treatment under law for all people regardless of creed, color or sex. He was an individual who was able to inspire unity of purpose among diverse groups of people.

Al first began his work for civil rights in 1962. He was an active member of Teachers for Integrated Schools in Chicago, where the city's heavily segregated school system and housing patterns were infamous. He helped form the Coordinating Council of Community Organizations that led the fight for school desegration. In 1966, Al persuaded the Rev. Dr. Martin Luther King, Jr. to bring the Southern civil rights movement to Chicago. Although some consider the city a defeat for Dr. King, others mark that event as the beginning of a movement that resulted in the election of Mayor Harold Washington 17 years later. It shouldn't be a surprise that Mayor Washington's campaign manager in 1983 was none other than Al Raby.

Al served in the Peace Corps in Ghana during the Carter administration before returning to Chicago to manage the campaign. He was appointed to the Human Relations Commission after the mayor's death in 1987, and he was a partner in the Haymarket Group, a political and public relations consulting firm. Most recently he was the cochairman of a group of black and Jewish leaders formed to ease tensions strained earlier in 1988 by anti-Semitic remarks made by a black aide to the current mayor.

I am saddened that Al was only 55 when he died, Chicago and the Nation need more people like him. But with Al's memory I am certain there are many who will take up the cause and contribute to ongoing victories in the continuing struggle for civil rights.

INTRODUCTION OF H.R. 39, ARCTIC NATIONAL WILDLIFE REFUGE WILDERNESS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. UDALL. Mr. Speaker, I am proud to introduce again legislation to extend wilderness protection for Alaska's Arctic National Wildlife Refuge to include the 1.5-million-acre coastal plain.

H.R. 39 and other legislative efforts aimed at opening up this environmental jewel to the heavy risks of oil and gas exploration and development have been the subject of intense and thorough scrutiny in many committees of many Congresses. Under the able leadership of Chairman GEORGE MILLER, the Subcommittee on Water and Power Resources held 12 hearings in the last Congress, including 2 in the villages of Kaktovik and Arctic.

The wealth of information and opinion generated by those hearings convince me more than ever that permanent protection for this spectacular Arctic wilderness is the only responsible course for us. In addition, the ominous implications of overdevelopment for the very survival of the planet are gaining world-

wide attention and offer lessons that should not be ignored when making policy for the Arctic National Wildlife Refuge [ANWR]. Most especially, it should be increasingly obvious that destruction of our most special places in pursuit of an outmoded energy policy is just plain foolish.

Anyone who has been to ANWR's coastal plain knows of its stark beauty. This fragile swath of permafrost between the Brooks Range and the Beaufort Sea is anything but a barren wasteland, however.

It nurses an abundance of life, astounding in its diversity and even more astounding in its ability to cling to life in the most precarious of circumstances. The term "wildlife refuge" has special meaning here for the caribou and the mighty polar bear, the wolves, foxes, and seals as well as the more than 100 species of birds and fish that occupy this magnificent place. This 100 miles of the ANWR coastal plain is the only stretch of the Alaska coastline above the Arctic Circle that is not now under active oil and gas leasing, exploration and development, or available to it.

For some time now, however, geologists have identified the coastal plain as a highly prospective oil and gas province. The data supporting this assertion cannot be lightly dismissed, but it is extremely sketchy and based on the most preliminary geophysical work. Members of my committee are sadly familiar with such hot prospects: in the years when the Alaska Lands Act was under consideration, the National Petroleum Reserve-Alaska, to the west of ANWR on the North Slope, was considered just as hot a prospect. To date, 39 wells have been sunk in NPR–A without a drop of oil discovered and no one talks about its future as an oil province. Much less is known about the geophysics of ANWR as only one well has been drilled there and its data is secret.

We do know, however, that given the enormous costs of exploration, development and transportation of oil and gas in the Arctic, discovery of supergiant fields is essential if ANWR is to be economically developable. Medium and even large-sized fields will not do it. Furthermore, oil prices will have to rise well above $30 per barrel before any sized field becomes economic. Both these factors further increase the probability that sufficient quantities of economically recoverable oil do not exist in the subsurface of ANWR's coastal plain.

For many the key question in the ANWR debate in whether oil and gas operations can be conducted in the Arctic in a way that will cause only acceptable environmental degradation. Development advocates maintain that development is compatible with the Arctic environment and they point to Prudhoe Bay as an example of an environmental success story. But the work of the House Interior Committee in the last Congress shows that it will take more than pretty pictures of caribou snuggling up to the Trans-Alaska Pipeline to make this case.

In my opinion, the really responsible answers to the environmental questions are not "yes" and "no," but "maybe," "we don't know yet," and "wait and see." Independent biologists and scientists tell us that the operations at Prudhoe Bay are having an unmistakable effect on the Arctic environment—wildlife habitat disturbed, populations displaced and disrupted, air and water pollution increasing, spills of toxic chemicals and wastes pervading the permafrost, and so on. Many of these changes greatly disturb scientists, but being careful people, they are unwilling to draw definitive conclusions.

Nor have any of these insults to the environment resulted in a catastrophe, at least not yet. But to declare, as the oil industry has done, that Prudhoe Bay proves that a massive industrial civilization can be moved into the Arctic at no significant cost to the environment is self-serving at best and grossly premature at least.

For the truth is that we simply don't know what Prudhoe Bay's long-term effects will be. Nor do we know the results of the cumulative effects of placing additional strains on this very fragile environment, by authorizing development in ANWR and elsewhere on the North Slope.

The work of Representative MILLER's subcommittee indicated clearly that there is inadequate information now available to answer the many vital questions posed by possible ANWR development. The study mandated by Congress in 1980 and completed by the Reagan administration in 1987 fell far short of the tasks assigned to it and, in my opinion, lacks the credibility and the solid information Congress said it needed in order to make a wise decision. It seems to me that it would be very much in order for the new administration of President Bush to revisit that report.

The issue raised in the ANWR debate cannot be easily resolved. They do not lend themselves to definitive answers. Much depends on one's inclinations and values. Throughout all the debates over all the years, however, one fact has remained indisputable by proponents and opponents alike.

And that is that if we allow the Arctic National Wildlife Refuge to be invaded by all the accoutrements of the oil and gas industry, no matter how carefully planned and phased and limited and contrived, the wildness of a very special place will be lost forever.

I have listened to people talk of being on the coastal plain of the refuge. And as they look out over the unbroken expanse of tundra and being overwhelmed by the power of that experience. They talk of seeing a bear and wondering whether they might be the first human being that bear has ever seen. I have been there myself, and I know this to be real.

This is not something quantifiable, certainly not in monetary terms. It is not even easily identifiable. But it is very precious nonetheless and we will be much the less if we squander it. I think the world is coming more and more to realize this, in place after place, and to value it. My prayer is that we learn to value this place sufficiently before it is too late.

THE PAY RAISE PROCESS NEEDS TO BE REFORMED BY REQUIRING A RECORDED VOTE TO APPROVE A PAY RAISE, NOT TO BLOCK ONE

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BRENNAN. Mr. Speaker, long before I was sworn in as a Member of Congress a procedure was established concerning congressional pay raises. This procedure changed the process from voting affirmatively to receive a raise to requiring a vote by both Houses to prohibit a raise from becoming effective. This process is wrong and needs to be reformed.

Legislation I am introducing today will correct the pay raise procedure by requiring an affirmative vote by both Houses, and if successfully enacted, the pay raise will not take effect until the succeeding Congress. Therefore, we will have to take a democratic up-or-down vote on the issue and permit our constituents to cast judgment on our decisions. Another provision of my legislation relates to the automatic increases for Members of Congress being tied to adjustments for civil service employees. My bill will sever this linkage and keep Federal civil service employees from being affected by congressional pay issues.

I have received a message, loud and clear, from my constituents in Maine. That message says to change the pay raise process. We are sent to Washington to represent our district's views and the views of the Nation. While representing those views, we must make tough choices and cast an affirmative or negative vote. I do not believe there can be any issue considered too tough for us to take an identifiable position on. Therefore, I am introducing this legislation today to alter the current pay raise process and restore a hands on approach to an important issue in the eyes of our constituents.

I urge my collegues to join me in cosponsoring this legislation and bring true pay raise reform.

TRIBUTE TO ST. VALENTINE'S PARISH OF BLOOMFIELD, NJ, ON ITS 90TH ANNIVERSARY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest pride that I rise today to salute a great house of worship and an outstanding parish in my Eighth Congressional District of New Jersey which, for nearly a century, has not only served as a beacon of faith to countless numbers of people in the greater northern New Jersey area, but also a pillar of service to the community.

I am speaking of St. Valentine's Parish of Bloomfield, NJ, which will be marking a truly historic occasion on Friday, February 4, 1989. On that day, Mr. Speaker, the St. Valentine's

Parish will be celebrating the 90th anniversary of its founding with a gala dinner-dance at the Wayne Manor in Wayne, NJ.

Mr. Speaker, I know that this event will be a great tribute and a tremendous source of pride to St. Valentine's inspirational clergy; Rev. Msgr. Richard F. Groncki, pastor; Rev. Dennis Reiff, parochial vicar; Rev. John J. Donohue, in residence; Rev. Charles J. Miller, weekend associate, and Sister Joan Schmidt, CSJ, and Sister Margaret Harrison, OP, Pastoral Associates for Catechetics.

Mr. Speaker, the special committee charged with organizing this historic event has been working vigorously to ensure its overwhelming success, and I am certain their efforts will be rewarded. For the RECORD, this outstanding group includes Chairperson Joan Conroy, Harry Rogucki, John Yannuzzi, Marybeth Levandoski, Michael Levandoski, Jeanne Watson, Rita Lynch, George Rauth, Jean Drone, Mary Ann Zadrozny, and John Zitka.

I would also like to take this opportunity to cite the excellent work of the St. Valentine Athletic Club, which in 1989 is celebrating its 66th anniversary, and its dedicated officers; Edwin Byke, president; Al King, vice president; Frank Dabice, secretary; Joseph Reardon, treasurer; Ken Donofrio, sergeant at arms; Rich Hansen, Sr., trustee; Jim Bell, trustee, and Stephen Szczepanski, trustee.

Mr. Speaker, St. Valentine's has been such a vital part of the spiritual lives of so many people from the greater northern New Jersey area since its founding in 1899 that I would like to tell St. Valentine's story by citing from its official history:

In 1898 there were over 90 Polish families in Bloomfield and Nutley, then known as Franklin, and even two societies: St. Valentine Mutual Benefit Society and the Joseph Poniatowski Society. The St. Valentine Society took the initiative in the founding of the parish. At a meeting held in the Jan Lewandowski Meeting Hall on April 26, 1898, a resolution was passed to found a Roman Catholic Parish in Bloomfield to be named "St. Valentine". A committee, comprised of Stanislaw Karow, President, Franciszek Romanowski, Vice President; Franciszek Luczak, Recording Secretary; Franciszek Zbikowski, Financial Secretary; Jan Lewandowski, Treasurer; Jozef Kuczenski, Jan Wronski, Andrzei Czubaj, Piotr Pieciulewicz and Jan Sanok, Trustees, was established to approach the Most Rev. Michael Wigger, Bishop of Newark, for permission to establish a parish. Permission was granted. A committee was established to found a Roman Catholic Parish in Bloomfield with the title of "St. Valentine".

In July 1898, the Hope Chapel and grounds on Hoover Avenue, then called Franklin Avenue, were purchased from the Broughton Presbyterian Society. Included was the carpeting, seating and stove for a total cost of $1,875. The monies for this project were loaned by the following committee members: Franciszek Romanowski, Andrzej Czubaj, Jan Sanok, Antoni Jezierny, Jan Lewandowski, Franciszek Luczak, Piotr Pieciulewicz and Jan Kliminski, the balance supplied by the St. Valentine Society. The Society had taken title to the Hope Chapel and site on October 24, 1898. Soon, thereafter, a sacristy was added to the building, an altar and a confessional were erected, and the building was made ready to serve as a Catholic Church.

The history of the parish indicates that there was a question as to whether the parish should be "Polish National" or "Roman Catholic". Both factions, comprised of good and understanding people, had a cooperative meeting of minds and decided that the Parish be "Roman Catholic". The Bishop, however, did not have a Polish priest to assign to the parish. The committee, therefore, traveled to Newark, Passaic and into New York seeking a Polish priest. In the meantime, St. Valentine Roman Catholic Church was incorporated at Sacred Heart Rectory, Bloomfield on February 16, 1899. The Officers upon incorporation were Bishop Wigger; Rev. John O'Connor, Vicar General; Rev. Joseph Nardiello, Pastor of Sacred Heart Church; Jan Lewandowski and Jan Sanok, lay Trustees.

The first priest, Rev. Konstanty Lazinski, was assigned to St. Valentine's in March 1899. He was followed shortly thereafter by the Rev. Jan Adamowski and later by Rev. Jan Stankiewicz.

Title to the land and Church was turned over to the parish by the St. Valentine Society on July 13, 1899. The church was situated on the present parking lot on Hoover (Franklin) Avenue at the corner of East Passaic Avenue. The parish was then comprised of about 100 families.

In 1900 Rev. Alexius Iwanow was assigned to St. Valentine Parish as the first pastor. The parish embarked on a road of steady development and expansion. The parishioners were happy and assisted to the best of their ability. The Parish Committee made house collections for a 50 cent monthly assessment. The Sunday collections averaged $28. In 1901, Father Iwanow took a loan of $3,000. A rectory was built which later became the parish convent.

Ludwik Cieslinski was the parish organist in 1899. Among his successors were A. Zabrzewski, S. Sokolowski and Fabian Okulski. The first choir was organized in 1904 under the name of "The Harmonia Choir".

At a parish meeting on May 14, 1905, a resolution was passed to build a new church with a seating capacity of 360 at a cost of $15,000. The first church was moved next to the rectory on East Passaic Avenue and converted into a school taught by lay teachers. In 1912, the Interior of the church was painted and a new altar was installed at a cost of $1,300. Also, a new home and property on the corner of Hoover and East Passaic Avenues was purchased and converted into a rectory. The old rectory on East Passaic Avenue was converted into a convent for the Felician Sisters who began teaching in the Parochial School in 1918. The "Harmonia Choir" adopted a new name, "St. Valentine Choir," and Sylvester Gutkowski became the church organist.

The parish grew and expanded rapidly. Many more Polish and Lithuanian families settled in Bloomfield. Families from the surrounding communities of Nutley, Belleville, Orange, West Orange, Pine Brook and other neighborhoods became parishioners. After 20 years as Pastor, Father Iwanow resigned in February 1921. The Most Rev. John J. O'Connor, Bishop of Newark, appointed the Rev. Bronislaus A. Socha as the second Pastor. Father Socha was an alumnus of Seton Hall College and the Diocesan Seminary. Father Socha soon formed a fund raising organization for the purpose of raising building funds. The first church, later to become the first school, became the Parish Hall, where social gatherings were held. The need of an organization for the young men of the parish was filed when St. Valentine's Athletic Club was organized in September 1923. In addition to the Polish language, the English language was introduced for the Sunday Gospel and parish announcements. At a parish meeting on January 20, 1924, Father Socha presented architectural plans for a new school building. With 400 families in the parish and $17,000 on hand, Father Socha began the construction of a $100,000 modern building with eight classrooms, a parish auditorium, meeting rooms and club rooms. A ground breaking ceremony was held on April 27; the cornerstone of the new building was put in place on July 6. The first gathering in the new parish hall was held on July 8. The first church was demolished and the St. Valentine Athletic Club moved into new facilities in the school building. The school was opened on September 8, 1925. The first principal was the very capable and energetic Sister Mary Veronica, CSSF. The tuition was 75 cents a month per child. The annual parish dues was increased from $3 to $5.

A "Little Flower Club" for young ladies of the parish was founded.

In 1927, the town administrators approved a resolution to build an incinerator on the parking lot across from the present church. Under the leadership of Father Socha, a committee was formed to protest the building of the incinerator. After a lengthy legal process, the town abandoned the project.

Report cards for academic and behavior grades were introduced with the school year in 1929. By 1930, the parish had grown to such an extent that four Masses on Sunday became necessary. A complete renovation of the church and extension of the convent was undertaken at a total cost of $15,000. The blessing of the renovated church took place on October 19, 1930. The new school held its first graduation in June, 1932. There were 350 students enrolled.

During the Second World War, 514 men and women of the parish served in the Armed Forces of the United States and 18 of them made the supreme sacrifice for our Country. The school children placed high in the "Schools at War" bond selling campaign with a total of $66,951.75 in War Bonds sold among the parishioners. St. Valentine School was designated a bomb shelter and storage place for food provided by the American Red Cross.

The school year 1943 saw the opening of the first kindergarten class.

The entire parish plant underwent extensive repairs, redecorating and enlargement at a total cost of $50,000, $15,000 of which was borrowed from the Archdiocese of Newark. The parish Catholic Youth Organization was chartered in 1945. The first issue of the Parish Bulletin was published on January 1, 1946. An average of 800 copies of the bulletin was distributed every Sunday. The steady growth of the parish made it necessary to increase the number of Sunday Masses to five in September, 1947. A Parent-Teacher Association was organized the same year. The PTA furnished the kindergarten and arranged outings and amusements for the students.

The school cafeteria, fully equipped and renovated by the PTA was opened on March 20, 1950. Hot lunches were served at a charge of 20 cents. The ground breaking for a new convent and an addition to the school took place in July, 1952. The convent cornerstone was laid and the addition to the school dedicated on October 17, 1953. Father Socha was elevated to the rank of Domestic Prelate with the title of Rt. Rev. Monsignor at a ceremony in Sacred Heart

Cathedral, Newark, on December 5, 1954. With permission from the Archbishop, the parish proceeded with plans for a new church building in October 1955. Ground was broken for the new church on May 3, 1958. in June 1958, the track of land on East Passaic Avenue (opposite the present church), was purchased from the Town of Bloomfield.

The former baptistry was converted into chapels of reconciliation (confessionals) and the cry room became a Sunday sacristy. In order to facilitate the celebration of baptism at Sunday mass, a cross aisle was arranged in the nave of the church and a new baptismal font erected at the crossing. In Lent of 1983, reception of communion under the form of wine was introduced at all Sunday masses. After a survey, the time of the vigil mass was changed from 7 PM to 5:30 PM.

1984 marked the 85th anniversary of the parish, the 60th anniversary of the school building and the 25th anniversary of the new church. A contest among the students of the parish was held to select a slogan for the anniversary year. The winning slogan was "85 Years of Growing With Love" submitted by Brenda McManus, a fifth grade student in St. Valentine School. The observance of the 85th anniversary year was opened with a celebration of Evening Prayer followed by a reception of February 26, 1984. A dinner dance was held on March 3.

In March 1983, an adult initiation team was formed. Four people expressed a desire to be received into the Roman Catholic Church at St. Valentine's. For the first time in the 85 year history of the parish, adults were baptized and received into full communion with the Catholic Church during the celebration of the Easter Vigil of 1984.

With the approval of the Parish Council, an educational program was held on the concept of tithing and tithing was introduced as a means of parish support on April 1, 1984. An 85th anniversary commemorative medallion was struck. These were blessed and made available on September 30, 1984 after an Evening Prayer service commemorating the 25th anniversary of the laying of the cornerstone of the church. In November 1984 the Felician Sisters took up residence in a house at 97 North Spring Street. The house was purchased by the parish as a convent facility.

The rectory property at 217 Hoover Avenue was sold to a developer. The money from the sale was used to renovate the former convent at 125 North Spring Street into a new rectory facility. The parish offices were relocated and the priests took up residence in the new rectory on February 1, 1985.

Mr. Speaker, I appreciate this opportunity to present the history of this distinguished parish which has remained dedicated to helping others and guiding them spiritually. As St. Valentine's celebrates 90 years of providing unwavering spiritual guidance to the people of the Bloomfield area, I know that you and all of our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance St. Valentine's has provided its community, State, and Nation.

FAIR TELEVISION SERVICE ACT OF 1989

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. DOWNEY. Mr. Speaker, I am very pleased to be re-introducing today, along with my distinguished colleague from Long Island, NORMAN LENT, and 12 other cosponsors, the Local Television Service Act of 1989. This bill is designed to remedy a void in television service for Long Island and other similarly situated areas. This remedy is long overdue, and I am hopeful that it can receive speedy consideration in Congress.

The importance of television in our daily lives cannot be denied. Polls continue to indicate that television is the principal source of news and entertainment for most Americans.

Congress recognized the value of broadcasting when it enacted the Communications Act of 1934. Section 307(b) of that law required the Federal Communications Commission to distribute broadcast licenses throughout the country in a way that would be "fair, efficient, and equitable."

The FCC tried to honor that mandate when it assigned television licenses to communities throughout the country in 1952. The Commission understandably assigned the most powerful television stations to the largest cities. In making these choices, the Commission had to distinguish between very high frequency [VHF] television channels (2–13) and ultra high frequency [UHF] channels (14–69). VHF channels generally have a more powerful signal and are therefore able to serve a larger audience than UHF channels. Consequently, the FCC generally assigned the VHF channels to the largest cities.

These assignments were to have a direct bearing on the program service which the American people would receive. For the broadcaster's principal obligation was and is to serve its community of license. Outlying areas are deemed to be of only secondary importance.

No VHF stations were assigned to any communities on Long Island in 1952. This omission was hardly surprising at the time. Long Island has a small population, and the communities of any size in the western portion were deemed to be little more than suburbs of New York City.

Much has changed for Long Island since the FCC made its television assignments in 1952. Long Island has now become a major population center of 2.6 million people with its own distinct social, economic, and political needs and interests—a stature reflected in the Census Bureau's designation of Nassau and Suffolk Counties as a separate primary metropolitan statistical area. No longer can it be said that Long Island is simply an extension of New York City.

Despite its many advances, broadcast technology cannot accommodate these population changes. It is not possible to establish a new VHF television station that can be assigned to a community on Long Island. To do so would result in impermissible interference to existing VHF television stations. Nor is there any refuge in an FCC order requiring one of the New York City stations to relocate to Long Island. Such an order would not only create the impossible task of selecting the particular broadcaster to move; of equal significance, however the selection was made, it would be unfair to require one broadcaster to bear the brunt of the FCC's inability in 1952 to foresee the dramatic changes that Long Island would experience over the next few decades.

Nassau and Suffolk Counties are not the only large PSMA to face this dilemma. Indeed, four other PMSA's have a population in excess of 1 million: the Bergen-Passaic County PMSA in New Jersey; the Anaheim-Santa Ana PMSA in California; the Riverside-San Bernadino PMSA in California; and the Fort Lauderdale-Hollywood-Pompano Beach PMSA in Florida.

The Local Television Service Act of 1989 offers a practical solution to the problem faced by Long Island and other PMSA's of more than a million persons which do not have a locally-assigned VHF television station. The bill draws upon Congress's experience in providing New Jersey with its first VHF television service in 1982. In adding a new section 331 to the Communications Act at the time Congress did not require any broadcaster to move from New York City or Philadelphia to New Jersey; rather, the legislation simply promised a new 5 year license to any broadcaster who would make the move voluntarily. This benefit was enough to inspire RKO to relocate channel 9 from New York City to Secaucus, NJ.

Similarly, the Local Television Service Act of 1989 does not require any broadcaster to relocate to Long Island or other underserved PMSA's; rather, the bill offers a positive incentive—insulation from any competing applications for one 5-year term. In other words, a broadcaster who decides voluntarily to relocate its station or have the community of license hyphenated with community in the underserved PMSA (so that the broadcaster's primary service area will include that hyphenated community) will not have to face a competing application for at least 5-years. This provision will not only protect the broadcaster, it will serve the public's interest as well. The insulation from competition will afford the broadcaster an opportunity to develop a record of substantial service to the community thus entitling it to a "renewal expectancy" under FCC policies.

There is no illusion that this voluntary incentive will immediately result in the relocation or hyphenation of television stations in all, or perhaps even any, of the affected PMSA's. For that reason, the bill also directs the FCC to conduct a study to explore other ways in which television program service for these large PMSA's can be improved. The bill requires the Commission to report its findings to Congress within 12 months after enactment.

Although the legislative process may result in refinements, we should not doubt the need for this legislation. "The life of the law," Supreme Court Justice Oliver Wendell Holmes once observed, "has not been logic; it has been experience." However logical the FCC's table assignments for television may have appeared in 1952, experience has proven—at

least for Long Island and four other PMSA's—that it is inadequate to serve the needs of a changing society. For example, monitoring studies by the Long Island Coalition for Fair Broadcasting—a broad-based civic group that has worked on this issue for almost 10 years—show that the New York City VHF television stations are providing better coverage of issues and events in their community of license than to the outlying areas in Long Island. While this approach may satisfy the stations legal obligations, it does little for the citizens who live on Long Island.

The time has now come for the law to adapt to this experience. The Local Television Service Act of 1989 performs that function—and it does so in a way that advances the public good without imposing any private burdens. I therefore hope and expect that this legislation will receive the careful consideration it deserves and lead the way for better television service for millions of citizens on Long Island and elsewhere.

THE TIME IS NOW FOR A HUMAN LIFE AMENDMENT

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LUKEN. Mr. Speaker, 16 years ago this week, the Supreme Court handed down a landmark decision that allows the almost unrestricted right to an abortion. On Monday, 67,000 citizens from all across the country came to Washington to march in protest of that decision. Other prolife Americans participated in hundreds of rallies, prayer services, and other prolife events. Today, I am introducing an amendment to the Constitution that will guarantee a right to life for all persons, regardless of age, health, function, or condition of dependency, including unborn children.

The protection and sanctity of innocent human life ranks in the highest level of moral culture. Our Nation was founded with this principle among others. Yet in 1973, the Supreme Court ruled that a human fetus is not a person in the constitutional definition of the word, because nowhere in the Constitution does the work "person" have "prenatal application."

Despite the legalizaiton of abortion 16 years ago, the opposition continues to mount. Abortion is an issue that simply will not fade away. One of the reasons is the continuing medical research that is providing insight into fetal life. With regular frequency we see now information on the advances in prenatal surgery or the publication of an important study of life before birth. Several forms of fetal distress and some genetic problems can now be detected and treated by prenatal medicine. A fetus likely to be born prematurely can receive drugs that accelerate the maturation of the lungs, and drugs are available to correct irregular heart rhythms of the unborn. Blood transfusions have been given to unborn children and physicians have been able to detect and treat the inability of a fetus to assimilate necessary vitamins.

This year, the Supreme Court will be hearing the case of Webster versus Reproductive Health Services. This case, out of Missouri, may prove to be the landmark case to overturn Roe versus Wade that we have been waiting for, working for, and praying for, for 16 years.

In the Sunday Washington Post, Bob Woodward reviewed the controversy over the Supreme Court's power to have decided to legalize abortion in Roe versus Wade. He writes that legal scholars, "have argued that the court was legislating social policy and exceeding its authority as the interpreter, not the maker, of law." Not that this argument is new, but new evidence—the internal court memorandums—show us that legislative powers deemed the exclusive power of the Congress by our Constitution, may have been violated 16 years ago. I believe that now is the time to bring the lawmaking power on this most controversial issue back to the correct branch of the Government.

My amendment will recognize the unborn child as a person under the laws of our Constitution. If this amendment is adopted as part of the Constitution, laws would permit medical intervention to save a woman's life, but would require that a reasonable effort be made to save the life of the unborn as well.

In the words of President Bush spoken before 67,000 marchers,

I think the Supreme Court's decision in *Roe* v. *Wade* was wrong and should be overturned. * * * America needs a human life amendment.

THE INTRODUCTION OF H.R. 670, THE SCHOOL COMPLETION AND INCENTIVES ACT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. PEPPER. Mr. Speaker, today, I am reintroducing my bill to set a national goal to improve our high school completion rate by the year 2000. The measure calls on the State to submit plans and provides States with the incentives and resources to meet their goals. My aim is to make it the policy of the United States that all Americans should complete a high school education.

The bill safeguards that funds will be used in the schools that most need assistance and insures that graduation requirements will not be lowered.

One of the most important features of the bill is the support it provides for local experiments. Many ways have been tried; many more should be; no one approach works universally. The reasons kids drop out are legion: family problems, pregnancy, drugs, short-term economic incentives, discipline problems, academic failure, hopelessness all encourage abandoning school. My bill requires coordination with other programs—including workfare, counseling, remedial instruction, new disciplinary approaches, and drug prevention efforts. It also encourages coordination with private efforts like those of wealthy philanthropists who select a class and guarantee the college costs of all who complete high school.

I have been asked, "Why is CLAUDE PEPPER interested in dropouts?" For most of my career in public life, I have been associated with the concerns of the elderly. The first bill I introduced in the Forida Legislature allowed the senior citizens to fish without paying a license fee. This was in the days before Social Security and Medicare; even a few precious dollars out of meager pension was too much to spare just to enjoy fishing. I was not yet 30 when my bill became law and I had gained recognition as a public official interested in the elderly.

You may therefore wonder why am I—now 88 years old and just entering my middle age—disturbed about dropouts. Aristotle' view suggest an answer. "Education," he remarked, "is the best provision for old age."

But the facts about dropouts are disturbing enough on their own: about one-quarter of our children are not finishing high school, the situation is not improving, and dropout rates in the inner cities are nearly double the national norm. By the most conservative estimates, we are producing between 750,000 and 1 million new dropouts each school year.

History clouds the dismal significance of these figures. As a nation, we have struggled to attain the ideal of universal education. In this we have been an exception among developed nations and our progress should make us proud. In 1900, only 7 out of every 100 of the 17-year-olds were graduated from high school. Today the completion rate is 73 percent.

After steady improvement, however, our progress has stalled. We achieved our highest completion rate, 77 percent, in the 1969 school year and we have slipped and stagnated below 75 percent since then. There is no reason to believe this is our natural limit. Canada's completion rate is in the mid-1980's, Japan has a better than 90 percent rate, and with a large-scale national effort, I'm convinced we can improve.

The young people, particularly black and Hispanic inner-city kids, roughly half of whom will drop out before they complete high school, deserve better. We fail in our duties to those children by not enabling them to complete high shcool. As a consequence, they face enormous obstacles to success. Dropouts are more likely to be unemployed than their high school educated cohorts. In 1985, 90 percent of men with only a high school education, age 25 to 64, either had a job or were looking for work. Only 76 percent of male same-age dropouts participated in the labor force. Dropouts are also more likely to suffer periodic losses of employment and to be relegated to the lowest paying, lowest status occupations throughout their working lives. They earn 78 percent of the average earnings of those with high school degrees and only 56 percent of the average earnings of the college-educated.

Granted, no one believes that dropouts are economically disadvanted solely because they do not complete high school. The very factors, including character, leading one to drop out are doubtless economic disadvantages in themselves. No consensus has emerged on the relative importance of family background, or talent, or motivation, as opposed to years in school, as a predictor of economic success. Still, no serious study suggests that less than

50 percent of the differences in earnings between dropouts and high school graduates can be accounted for by the independent effects of staying in school.

The individual dropout is not the only one to lose. Society incurs costs when education is cut short: we bear the burden in wasted opportunities and weakened economic growth, in additional crime, in welfare dependency, and in the perpetuation of inequality. The social costs are discernible and large, even if difficult to quantify precisely. We pay additional welfare, unemployment compensation, health and crime-related expenditures and our national income and economic activity are reduced, resulting in lost tax revenues. Beyond the costs reflected in public budgets, dropouts tend not to participate in politics and other community affairs, to society's detriment, and the children of dropouts often suffer the same disadvantages, representing a troublesome decline in social mobility.

Dropouts are less productive workers than those who finish school, they will earn substantially less income over their lifetimes, so we can extrapolate that the Nation's productive capacity is diminished and our national income is reduced. A 1985 study estimates that each year's class of dropouts will forgo earnings of $228 billion over their lifetime. True, we likely would not recoup the full amount if everyone completed high school. But to recapture only one-fourth, or $57 billion, would be substantial; this deflated figure represents more than $70,000 for each dropout added to the economy.

It is estimated that dropouts cost us another 5 percent of lost income, or $11.5 billion, in additional welfare payments, unemployment compensation, crime costs, and health care demands. Behind that figure is the incalculable damage to our social fabric caused by the crime and welfare dependency attributed to dropping out.

Consider a now-familiar image: a group of idle teenagers, out of school and out of work, stands on a city street corner in the middle of the day. The picture evokes both fear and pity. Fear because young dropouts and more likely to engage in criminal activity including illicit drugs; as a group they are the most likely candidates to find themselves involved with the police, the courts, and our penal system. The tangle of connections between academic failure and criminal behavior is deep, disturbing, and difficult to ignore.

We feel pity because the tragic legacy is too often passed down from parent to child. Children are must more likely to be poor if their parents do not complete high school. About 40 percent of all children in two-parent families live in poverty when neither parent has completed high school. If both parents have completed high school, the poverty rate is only 7 percent. And poor children are three times more likely than their better-off peers to drop out themselves. Dropout parents are the surest indication that the child will be subjected to the harsh cycle of proverty and despair.

Some will argue we cannot affort to mount a large-scale, national effort. I say we cannot afford not to. Dropouts add to the deficit. A recent study estimated that new dropouts from 1 year's class, over their lifetime, will cost us $68 billion in lost tax revenues. James Catterall's December 1985 Stanford study, "On the Social Costs of Dropping Out of School," and the Education Department's "Schools that Work: Educating Disadvantaged Children" document the cost to society if we fail to address the problem. While the savings are not immediate, dealing with the dropout problem has a place in long-term deficit reduction.

This is a propitious time to act. President Bush plans to make his administration the education Presidency. Dr. Lauro Cavazos will be the Secretary of Education and Dr. Cavazos has indicated that the dropout problem is one of his priorities. It would be a shame not to accept the challenge. I plan to press for hearings and legislative action at the earliest possible time. The Education and Labor Committee has agreed to hold hearings in Miami on February 13. The measure will be one of my top legislative priorities.

We owe it to the children, and to ourselves, to act now and to act decisively.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONOR ANA V. JEFFERSON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman Edolphus "Ed" Towns held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Anna V. Jefferson.

Ms. Jefferson is an experienced administrator, educator, and advocate with an impressive number of accomplishments, awards, and honors.

Among her many professional achievements was being a member of the New York State Senate, representing the 22d senatorial district from 1983 to 1984. She was also a member of the New York City Board of Education, from 1969 to 1982. While there, she aided in the formulation and implementation of a new computer system to supplant the outdated manual payroll system.

Ms. Jefferson received the Von King Community Service Award at the mayor's office in 1985, the Community Service Award from Brooklyn's Bridge Street AME Church, and Who's Who of American Women, among numerous others.

She is a member of many community and professional organizations such as the NAACP, the National Order of Women Legislators, National Association of Black State Senators, and the Brooklyn Women's Political Caucus.

TRIBUTE TO THE YOUNGSTOWN (OH) WORLD'S FAIR GYMNASTIC TEAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to a very special group of young people, the Youngstown World's Fair Gymnastic Team, and their coaches. This wonderful organization recently represented my 17th Congressional District, and the United States, at the World's Fair Expo in Brisbane, Australia. It is with great pleasure that I stand to honor them today.

The Youngstown World's Fair Gymnastic Team was 1 of only 12 gymnastics teams nationwide selected by the U.S. Association of Independent Gymnastic Clubs to represent the United States and perform at the 1987 World's Fair Expo in Brisbane. The hard work of the gymnasts and their familles is truly to be commended, for the many hours the gymnasts spent in practice were supplemented with a great many hours by both the gymnasts and their families in organizing various fundraisers to help pay for their trip.

I pay tribute especially to the owner of the Youngstown Gymnastic Center, Barb Gallagher, the team's coaches Judy Mamrak, Greg Dew, and Kathy Meshula, and the team members who attended the World's Fair Expo: Christina Camardese and Lori Kolenich of Youngstown; Julie Colella of Poland; Susan Eckman and Michelle Will of Boardman; Erin Gallagher, Kerri Gallagher, and Shannon Gallagher of Petersburg; Candice Garrett of Leetonia; Nicole Giannios, Chris Meshula, and Torey Votaw of Canfield; Mindy Morrow of Washingtonville, Debbie Newell and Stacy Rish of Struthers; and Emily Miller of Salem.

Mr. Speaker, I ask that the House join me today in expressing my heartiest congratulations to the Youngstown World's Fair Gymnastics Team. Their efforts brought a great deal of pride to their community and honor to their country. Let us extend to them our deepest appreciation for a job well done, and our best wishes for their continued success in the future.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY: 1989 REPORT

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MICHEL. Mr. Speaker, the United States Advisory Commission on Public Diplomacy has issued its 1989 report. The bipartisan commission includes: Edwin J. Feulner, Jr., Chairman; Tom C. Korologos, Vice Chairman; Hershey Gold; Louis B. Susman; Priscilla L. Buckley; and Richard M. Scaife.

In order to give you some idea of the achievements and the goals of USIA, I wish to insert in the RECORD "A Message from the

Chairman" by Edwin J. Feulner and the "Summary of Recommendations and Findings." I know our colleagues will find this report as interesting and informative as I have:

A MESSAGE FROM THE CHAIRMAN

The 1980s have been good years for public diplomacy. They have been years of positive change as the United States comes to grips with the strategic implications of the communications revolution in its foreign policy. They have also been years of revitalization for the United States Information Agency.

In this report, my colleagues and I have taken a longer term view of USIA's policies and programs than in the past. We have done so in the belief that it is time to pause and reflect carefully on recent gains—to identify those that hold promise of enduring value and to point out continuing concerns.

Throughout, we have sought to address fundamental questions.

How should USIA consolidate and institutionalize the public diplomacy initiatives of the Reagan administration?

What considerations ought to guide the Bush administration in dealing with more complex information environments and rapid technological change?

Why should the American people support international information and cultural programs, and how can we achieve a broader consensus for them?

Each of my colleagues brings unique perspectives to our examination of public diplomacy, and all have developed a deep appreciation of its long-term value. Most of us have served several terms on the Commission, and this report contains the principal recommendations developed during many rewarding years of association with USIA, its people and its programs, and with each other. I thank my fellow Commissioners for their many contributions to this report and their tireless efforts on behalf of the Commission during my tenure as Chairman.

Two other individuals played an important part in the work of the Commission: former Vice Chairman E. Robert (Bob) Wallach, who served from 1982 to 1988, and former Commissioner Herbert Schmertz, who served from 1984 to 1988. We extend our appreciation to both for their distinguished service and their many contributions to the mission of public diplomacy.

Where USIA stands today can be attributed in considerable measure to the efforts of Director Charles Z. Wick. His tenure generated an extraordinary investment in the Agency's future. He moved USIA into the age of satellite television and made things happen for the Agency in Washington and overseas. As USIA's oversight Commission, we spent many hours with Director Wick. We shared his commitment to public diplomacy even when we differed with him. We salute his achievements.

Public diplomacy depends on the efforts of hundreds of men and women who serve their country often under conditions of great hardship and personal risk. The Commission has met many of these talented individuals at home and abroad. They are performing vital and difficult work, and we hold them in high esteem.

"Opinions," Lord Palmerston said, "are stronger than armies." Americans have understood the importance of ideas in shaping world events since the Declaration of Independence. And for the past eight years the United States has been led by a President who fully understood that development of public support for sound policies requires effective, skilled communication.

We wish the Bush administration well and express the hope that it will build on the solid foundation provided by President Reagan and USIA so that we as a nation may realize the full potential of public diplomacy and make the commitment to it that is needed.

EDWIN J. FEULNER, JR.,
Chairman, December, 1988.

SUMMARY OF RECOMMENDATIONS AND FINDINGS

PUBLIC DIPLOMACY'S MISSION AND STRUCTURE

Public diplomacy is a strategic component of United States foreign policy. It should be treated and funded accordingly.

The international information and educational exchange programs of the United States government have been carried out overseas as integrated, coordinated programs since World War II. The strength of U.S. public diplomacy lies in the skillful, comprehensive use of all of its major programs through a single organization.

USIA's reorganization in 1977 followed the most extensive Congressional hearings ever held on public diplomacy. It has proven to be a wise, farsighted, and cost-effective achievement.

To avoid misunderstanding and semantic confusion, the Commission recommends the Department of State discontinue use of the term public diplomacy to characterize public affairs programs in the United States.

U.S.-SOVIET PUBLIC DIPLOMACY

The quantity, quality and extent of Soviet public diplomacy activities have increased dramatically under General Secretary Mikhail Gorbachev.

By adopting Western public relations techniques and skillfully exploiting the image of a more open society, the Soviets have improved relations with the media in many countries and have greatly increased receptivity to their public diplomacy.

Glasnost and the current atmosphere of change in the Soviet Union and Eastern Europe are generating extraordinary opportunities for the United States with important implications for the funding, staffing, and content of USIA's programs.

The United States should pursue increased access and opportunities in the Soviet Union: more open cities, fewer travel restrictions, more opportunities for U.S. journalists to interview Soviet officials, greater flow of U.S. materials to Soviet citizens, more opportunities for American officials to provide timely public affairs comment in the Soviet media, and increased U.S.-Soviet exchanges in all fields.

Soviet disinformation continues and requires constant vigilance and prompt exposure.

UNDERINVESTMENT IN PUBLIC DIPLOMACY

The United States continues to underinvest in international information and cultural programs, despite substantial increases in funding during the 1980s. Investment in public diplomacy is smaller today in real terms than two decades ago.

Public diplomacy requires additional resources to modernize aging facilities, to capitalize on new communications technologies, to meet the challenges of *glasnost* and improved Soviet policy advocacy, and to take advantage of program opportunities.

USIA'S ADVISORY ROLE

The President, the Secretary of State, and the National Security Advisor should treat public diplomacy as a central element in the planning and implementation of foreign policy.

In too many instances, USIA is not called upon to advise the National Security Council and the Department of State on the public affairs consequences of proposed policies.

The National Security Council's Special Planning Group (SPG) and International Information Committee (IIC) have not played the public diplomacy coordinating role intended by NSDD 77. Routine and effective coordination between USIA, other foreign affairs and defense agencies, and the White House Press Office is essential. The NSC should devise a coordinating structure with which it is comfortable and use it regularly.

RESEARCH

Commitment to public opinion research in foreign policy decision-making remains largely ritualistic, despite enhancement of USIA's research capability and increased use of research findings by policymakers.

USIA should tailor its research more closely to the needs of field posts and resume country studies of media habits and telecommunications trends.

USIA should give greater emphasis to attitudinal research outside of Western Europe and Japan.

USIA should develop an Agency-wide program evaluation strategy, increase the proportion of funds devoted to program evaluation and media habits research, and use all available research findings in establishing program and resource priorities.

SUMMITS AND PUBLIC DIPLOMACY

Public diplomacy should be treated as a strategic element in summit planning. Comprehensive and coordinated public diplomacy strategies for superpower summits should be developed at the highest levels of the White House, the Department of State, and the U.S. Information Agency.

Summit public diplomacy requires early guidance on U.S. policy goals; early decisions on summit themes; analysis of the anticipated public opinion impact of proposed U.S. policies; assessment of potential public affairs strategies of other nations and planned responses to them; reports on foreign public opinion and media trends; close cooperation between policymakers and the public diplomacy community; and a well-conceived plan of public affairs activities.

NATIONAL ENDOWMENT FOR DEMOCRACY

The National Endowment for Democracy is contributing effectively to the spread of democratic values and institutions abroad. It should be given adequate resources and broad bipartisan support.

CONGRESS AND PUBLIC DIPLOMACY

The Department of State should provide USIA with timely notice of overseas travel by Congressional delegations to permit optimum participation by Members of Congress and Congressional staff in public diplomacy programs.

ADVISORY COMMISSION

The President should appoint members of the U.S. Advisory Commission on Public Diplomacy on a bipartisan basis for overlapping fixed terms. Congress should amend the Commission's authority to require that this be done consistent with the statutory mandate of the past 40 years.

VOICE OF AMERICA

The Voice of America's shortwave broadcasting system will continue to be a vital national asset and a primary means of reach-

ing audience in many party of the world well into the next century. VOA modernization remains an urgent priority.

The multi-year shortwave modernization program announced by President Reagan in 1982 has been impeded by lengthy site negotiations with foreign governments, delays in hiring technical staff, USIA's inexperience with major acquisitions and large-scale engineering projects, frequent turnover in VOA Directors early in the program, increased cost estimates, and unrealistic Office of Management and Budget (OMB) and Congressional spending limitations.

The National Security Council, USIA, and Congress should reexamine VOA's modernization program in terms of national needs, broadcast requirements, resource priorities, and alternative signal delivery systems. This should include early policy review of OMB limitations on the shortwave modernization program.

New communications technologies, declining shortwave listernership in some parts of the world, and competition from other broadcasters and media are challenging VOA to seek alternative transmission systems and develop more competitive programming. Increased resources are needed if VOA is to do this well.

VOA should expand its use of medium wave, FM, cable, Worldnet transponders, leasing and facilities barter arrangements, direct and package program placement, and dial-in audio services; continue to examine Direct Broadcast Satellite (DBS) and other technologies; give high priority to program experimentation; and ensure the findings of program reviews and audience research are applied to programming and modernization decisions.

VOA's editorials "present the policies of the United States clearly and effectively" as required by the VOA Charter. Efforts to tailor them to regional concerns and vigilance to assure their congruence with U.S. policies should continue.

VOA Europe and VOA Bandeirantes in Brazil are successful experiments in placement programming. VOA should pursue similar transnational partnerships in Asia, Spanish-speaking Latin America, and other areas where shortwave listenership has declined.

VOA's International Training Center for journalists and broadcasters in the developing world is contributing to the free flow of information, creating a large alumni network trained in all aspects of broadcasting, and fostering national networks patterned on VOA's programming principles and journalistic practices. The Center should be given high priority and adequate resources.

TELEVISION

Television is a powerful force in shaping international events. Through Worldnet, USIA's satellite television network, the United States has taken the lead in using television to advocate its policies and develop understanding of American society and values. Worldnet deserves adequate funding and bipartisan support.

Worldnet's satellite system and placement of more than 150 Television Receive Only (TVRO) dishes at USIA's posts is a significant achievement. USIA should given high priority to completing its worldwide network of 185 TVROs.

Worldnet's "interactive" dialogues provide foreign journalists and other specialized audiences direct access to U.S. policymakers and American experts via satellite television. The Commission comments USIA for developing this effective instrument of public diplomacy.

Worldnet has passed successfully through the inevitable growing pains of its first five years. The United States is best served if it is viewed on its merits as an essential and rapidly maturing element of public diplomacy.

Termination of Worldnet's daily program service deprives the United States of an important communications tool, adversely affects USIA's credibility with indigenous television stations and government officials, and forecloses options to future administrations in conducting public diplomacy by satellite. The Commission strongly urges Congress to provide legislative relief quickly.

USIA should prepare a statement of mission and a comprehensive development plan for Worldnet.

The National Security Council should examine the U.S. government's use of satellite television as an instrument of public diplomacy and issue a directive clarifying Worldnet's long-term goals and appropriate institutional role.

USIA should pursue use of satellite subcarrier technology to integrate delivery of VOA programs, the Wireless File, data and facsimile transmission and other services. Worldnet and the Voice of America should seek all appropriate opportunities to coordinate programming and signal delivery.

TV Marti, a proposal to broadcast U.S. government television programs to Cuba from a tethered balloon in the Florida Keys, has far-reaching implications for public diplomacy and the national interest. Funding for TV Marti should be contingent on Congressional hearings, authorizing legislation, and thorough interagency review of technical, legal, regulatory, policy, and programming issues. Funds for TV Marti should be appropriated separately and not taken from VOA's modernization budget or other public diplomacy accounts.

WIRELESS FILE

Through computerized data transmission of the Wireless File and experiments with direct delivery of File copy to foreign media organizations, USIA has greatly enhanced the quality and value of one of its most useful media products.

US-INFONET

The Commission finds US-INFONET, USIA's automated information and policy guidance system, to be a highly promising new service and recommends that it be made available to all overseas posts as quickly as local communications capabilities permit.

EXHIBITS

Carefully focused multimedia exhibits, accompanied by language-qualified American guides, are a highly effective means of communicating with millions of Soviets and East Europeans about life in the United States. USIA should give high priority to a national exhibition for China.

The U.S. should not participate in world's fairs unless it is prepared to commit the resources needed for a top quality American presence. Funding for world's fairs should not be drawn from other public diplomacy programs.

The National Security Council should respond to the findings of the World's Fair Task Force and provide a clear statement of the U.S. government's role in international expositions.

The Director of USIA should be a member of the Christopher Columbus Quincentenary Jubilee Commission.

EXCHANGE OF PERSONS

The Commission finds that international educational and cultural exchange programs administered by USIA in cooperation with private organizations provide an understanding and appreciation of the United States and are among the most effective tools of public diplomacy.

Budget reductions threaten to undermine gains made during the 1980s and USIA's ability to strengthen intenational exchange programs as intended by Congress.

The Fulbright scholarship program develops trust and good will in ways that further U.S. interests. It remains a vital and innovative model for other international educational exchanges.

USIA's increasing reliance on short-term grants for American lecturers appears less likely to achieve long-term Fulbright program objectives. The Commission encourages the Agency to assess the use of these grants.

Overseas academic counseling and domestic foreign student outreach programs are important to U.S. interests. They should be given additional resources.

Funding for the Central American undergraduate exchange program should be restored to its FY 1986 level.

Additional private sector participation in exchange programs with the Soviet Union is in the national interest. The number of U.S. and Soviet high school students participating in exchanges should be increased.

U.S.-Soviet educational exchanges should emphasize the social sciences and humanities. Reciprocity should be maintained in academic fields and overall numbers of grantees.

The Commission strongly supports negotiations with the Soviet Union for an American cultural center in Moscow.

USIA should expand its bilateral academic and cultural exchanges with the countries of Eastern Europe.

USIA's posts should use their developing automation capabilities to maintain involvement of former International Visitors and East-West center participants in post programs.

BOOK PROGRAMS

U.S. government support for book dissemination and translation programs is inadequate in countries where information about the U.S. is least available through alternative media and where Soviet distribution of low-cost subsidized books remains widespread. The Commission encourages renewed direct involvement by USIA in the donated books program and development of data on overseas markets for American titles.

SECURITY AND PUBLIC DIPLOMACY

Maintaining a secure environment for U.S. diplomats abroad should continue to be a high national priority.

Legislation and policies relating to diplomatic security must take fully into account USIA's public diplomacy mission, the need for public access to USIA's facilities, and the desirability that USIA give visible evidence of the free and open society it represents.

Direct appropriations to USIA or separately identified funds in the Department of State's appropriations legislation are required to provide adequate resources for USIA's diplomatic security needs.

Personal contact and reasonable access to facilities are essential to public diplomacy. Replacement of foreign national employees

with Americans, unrealistic rules on fraternization and contact reporting, overbroad "core chancery" policies, and restrictive chancery co-location regulations threaten to cripple USIA's programs just as new opportunities are occurring in many communist countries.

MEDIA AND ADVOCACY SKILLS TRAINING

The Commission strongly reaffirms its recommendation that USIA and the Department of State provide media and advocacy skills training for all Ambassadors, Public Affairs Officers and other embassy officials likely to serve as foreign policy spokespersons prior to and during their service abroad.

FOREIGN LANGUAGE TRAINING

Foreign language proficiency is vital to effective public diplomacy. Current language training programs, personnel policies, and funding levels do not provide an adequate supply of officers with the professional fluency required for today's public diplomacy needs. The Commission recommends that USIA undertake a thorough review of its language policies.

USIA OFFICER ASSIGNMENTS

The Commission finds continued underrepresentation of USIA officers in ambassadorial and other senior positions in embassies and consulates. We recommend again that the President and the Secretary of State correct this imbalance.

USIA's officers should be assigned to a greater number and wider range of positions in the Department of State and the National Security Council. A major program of interagency officer rotation would benefit both public diplomacy and the policymaking process.

FOREIGN SERVICE TIME-IN-CLASS

The Commission finds that experienced and highly qualified Foreign Service Officers have been involuntarily retired under the "time-in-class" provision of the Foreign Service Act when need for their service continues. Congress and the foreign affairs agencies should consider revision of "time-in-class" requirements for the good of the service and to create expectations of a full career among highly qualified Foreign Service Officers.

AUTOMATION AND TELECOMMUNICATIONS PLANNING

USIA has moved to a position of relative strenth in its development of automation and telecommunications capabilities. continued progress will require adaptation of new technologies into a coherent automation plan and Agency leadership that devotes personal interest and necessary resources to field and headquarters needs.

INTERNATIONAL CULTURAL AND TRADE CENTER

The International Cultural and Trade Center complex that will complete the Federal Triangle in central Washington, D.C. is an ideal permanent home for USIA, which is now located in eight headquarters buildings. The Advisory Commission supports the finding of the United States International Cultural and Trade Center Commission that USIA's mission uniquely qualifies it to be the Center's primary tenant.

A NATIONAL ENERGY POLICY

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. ANDREWS. Mr. Speaker, today I am introducing pieces of legislation with several of my colleagues; a resolution calling for a national energy policy based on a core supply of domestic energy, the Energy Security Tax Act, and the Energy Security Incentive Act. Together with a fourth bill I will soon introduce the Alternative Fuels Incentive Act, these will serve as a framework for a comprehensive national energy policy.

I have been working an energy policy framework over the last several years. In the 100th Congress I introduced the Energy Security Tax Act, the Energy Security Incentive Act, and the Alternative Fuels Incentive Act. These bills are supported by independent producers and integrated companies alike. My proposals will spur domestic oil and gas production, efficiency, conservation, economic growth, price stability, and clean air.

Our country has gone without a comprehensive energy policy for too long. The results of this lack of direction are clear—wild fluctuations in energy prices, a nearly crippled domestic petroleum industry, surging imports, reduced conservation efforts, increased environmental degradation, and a growing threat to our national security.

The steady erosion of our domestic petroleum industry particularly concerns me. U.S. oil production has fallen to its lowest level in 24 years, 8.1 million barrels a day, while energy consumption continues to climb. Only half of the oil and gas drilling rigs operating 3 years ago are active today. We are rapidly approaching the point where 50 percent of the oil consumed in this country will flow through foreign rigs and by the turn of the century that dependence is likely to rise to 70 percent.

Our increased dependence on foreign oil presents significant national security concerns which we must address now. We are allowing OPEC to get back in the saddle again. As the cartel reasserts control, we will be increasingly at the mercy of the sheiks, the mullahs, and the Qadhafis. We are hastening the arrival of that day by allowing our domestic industry to be dismantled. We must not allow this progression to continue.

The Secretary of Commerce recently made a finding that petroleum imports threaten to impair U.S. national security. Proposals masquerading as good energy policy, most notably raising the Federal tax on gasoline, would make matters worse. Higher gasoline taxes will push petroleum prices at the wellhead lower, discouraging the exploration and production efforts we need to reverse the trend of recent years.

The first measure I am introducing today is a resolution calling upon President Bush to fulfill his campaign promise to develop a national energy policy based upon preserving a domestic core supply of energy. The core-supply concept would ensure a stable supply of domestically produced oil and gas as a secure foundation for satisfying our Nation's vital and fundamental need for energy. Petroleum's share of the core supply should be defined as 20 million barrels per day equivalent of natural gas, natural gas liquids, and crude oil.

The other two bills I am introducing today are designed as initial steps to implement a core-supply energy policy. The Energy Security Tax Act will impose a variable fee on imported crude oil and petroleum products. The amount of tax would be the difference between the then current price of oil and $22 per barrel. In the case of imported refined products and petrochemical feedstocks, an additional $2.50 differential will be imposed to compensate for the environmental costs domestic refiners must pay. A floor price for oil will generate price stability, benefiting both producers and consumers.

An import fee would stimulate drilling activity, arrest the decline in U.S. oil production, and add to proven reserves. Our dependence on imports would be mitigated, putting a significant dent in our trade gap. In addition, the revenues gained from an import fee would have a major impact on the budget deficit. If the price of oil were to remain at $17 per barrel, the Energy Security Tax Act could raise upward of $50 billion over 5 years.

Sure, an oil import fee will impose some short-term costs on the U.S. economy, but far less than the sustained long-term costs down the road if we allow our domestic industry to further erode. And in only a short time an oil import fee of the magnitude I am proposing would generate positive net benefits to the U.S. economy. And all the benefits accrue to Americans. We can pay ourselves now, or we can pay OPEC later.

The second bill, the Energy Security Incentive Act, will also encourage our domestic oil and gas industry to realize its full potential. Hydrocarbons extraction is one of the most heavily taxed industries in the United States. The average effective Federal tax rate for U.S. oil companies has been well above that of firms in other industries during the 1980's. Repeal of the windfall profit tax helps, but is not sufficient. Other nations are lowering their taxes on energy production and attracting investment capital to develop their resources. If our tax system is not competitive, U.S. resources will not be developed. Our economy will be the loser and our national security will suffer.

The Energy Security Incentive Act will create an oil and natural gas exploration and production credit, an oil production credit for maintaining marginal wells, and provide other incentives to our industry. For example, the bill treats geological, geophysical, and surface casing costs like intangible drilling costs; repeals the net income limitation on percentage depletion; increases the percentage depletion allowance; repeals the "transfer rule" and recapture provisions; removes intangible drilling costs from the minimum tax; and provides for a nonconventional fuel credit for tight sands gas.

This measure, also introduced by Senator BOREN, will help the struggling independents who drill about 85 percent of all wells in the United States and who have been responsible for close to half of the additions to U.S. oil reserves in recent years. The incentives I am

proposing are quite modest, yet they will trigger considerable additional investment in exploratory drilling and enhanced recovery from older fields where much oil remains to be exploited.

For the longer term we should be working to make natural gas our Nation's primary energy source. The principle alternatives to oil—coal and nuclear energy—present environmental problems that we may not be able to overcome. Natural gas, on the other hand, is efficient and environmentally attractive. Use of domestic natural gas has no negative impact on the Nation's trade balance and supplies are plentiful. According to the Department of Energy, the United States has a natural gas resource base in the lower 48 States adequate for more than 60 years at the present rate of consumption.

Natural gas is already widely used in the commercial and industrial sectors. The transportation sector represents an excellent opportunity for gas to increase its share of the energy mix. If we were to convert one-half of our 16 million fleet vehicles to operate on compressed natural gas, we could slash our oil imports by 500,000 barrels a day and increase annual domestic gas consumption by 1 trillion cubic feet.

Along these lines, I plan to introduce legislation soon to promote alternative fuels use in the transportation sector. My Alternative Fuels Incentive Act will encourage fleet owners to switch to natural gas and other clean-burning fuels. I am currently reviewing various options for this legislation.

Mr. Speaker, it is time to make a serious commitment to preserving the ability of the U.S. oil and gas industry to respond to our future energy needs. The risks to our national security and economic well-being are growing. I look forward to working with my colleagues on both sides of the aisle and with the administration to turn this situation around.

MONTANA CENTENNIAL DAY

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MARLENEE. Mr. Speaker, on November 8, 1989, the Big Sky State of Montana will celebrate its 100th year as a State. I rise today to recognize this momentous occasion for the citizens of America's great 41st State—Montana.

From the majestic Rocky Mountains of the west, to the millions of grain acres in the east; from the expansive national forests rich with wildlife, to the mines of gold, silver, palladium, copper and other precious minerals from the cores of Mother Earth; Montana has forever been viewed as the ultimate outdoorsman's paradise.

Her history is forever intertwined with the great expansion westward in the 1800's. Lewis and Clark's introduction of Montana to the world, in their famous 2-year journey in the early 1800's, proved to be the opening of the floodgates for the rush of settlers heading west. The railroads and wagon trains carried early homesteaders to Montana in search of vast fields, prosperity, and overwhelming beauty. Often in the face of harsh winters and merciless droughts, they pushed farther westward to find a renewed way of life for their families.

This centennial celebration marks the recognition of a State whose people are proud of their heritage and of their contributions to America. A people who see themselves as the heart of America—always beating with the strong, hard-working ideals that America was founded on.

Mr. Speaker, I would like to end with a quote from a famous American writer—John Steinbeck. He describes Montana like Montanan's view their precious land:

"It seems to me that Montana is a great splash of grandeur. The scale is huge, but not overpowering. The land is rich with grass and color, and the mountains are the kind I would create if mountains were ever put on my agenda. * * * Montana has a spell on me. * * * Of all the states it is my favorite and my love."

REMEMBERING FRANCISCO "CHICO" MENDES FILHO

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MOODY. Mr. Speaker, I join with my colleagues today in remembering Francisco "Chico" Mendes Filho, who was murdered on December 22, 1988.

Mr. Mendes spent his life organizing rubber tappers in Brazil to save the irreplaceable tropical rain forests from destruction by harmful farming and "development" projects. In 1987 he won a Global 500 award from the United Nations Environmental Program for his work. His violent death by the son of disgruntled ranchers is a blow to the rubber tappers' movement in Brazil and also to the environmental community worldwide.

Brazil's tropical rain forests have been described as the world's lungs. If they are destroyed, we cannot long survive. After a summer when the United States endured the worst air quality ever recorded, new attraction is being focused on the greenhouse effect, global warming, and ozone depletion. At the core of these problems are too much pollution and the destruction of green plants and thus the Earth's natural ability to absorb the pollution. We need to attack the problem from all sides, but perhaps the most vital component is protecting the tropical rain forests in the Amazon. Chico Mendes dedicated his life to this end.

About 30 percent of the world's remaining rain forests are in Brazil; 12 percent of the country's forests are already gone, destroyed by subsistence farmers, cattle ranchers, and government agencies clearing the land for timber, minerals, and electricity. While each faction has a reason for using the forest, each is destroying its own livelihood and that of the rest of the world.

Each acre of rain forest that is cut down and burned represents more carbon pollution sent into the atmosphere, less pulled out and recycled into oxygen, and the destruction of fragile ecosystems and life forms that may not exist elsewhere. If we eliminate the rain forests, we may never have the chance to learn about the countless species of plants and animals that exists in this unique "living laboratory" of science.

Mr. Mendes succeeded in creating four "extractive reserves" in Brazil, more than 5 million acres preserved only for extracting rubber, resin, nuts, and other products that don't destroy the forest. His lifelong goal was to make more of these reserves; now it's up to the rest of the environmental movement to attain this goal.

The tropical rain forests are in the Amazon, but saving them from destruction is an international need. The United States needs to join with Brazil, Costa Rica, and other Latin American countries to solve the economic crises that lead to rain forest destruction and to create a program to protect the rain forests, for all our sakes.

We see the path we must take. Chico Mendes has blazed the trail for us. He gave his life for the sake of his precious rain forest and for the sake of the rest of the world. It is now up to us to follow his lead and to work together to ensure that Chico Mendes did not give his life in vain. He will be missed.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONOR ALBERTO BRYAN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TOWNS. Mr. Speaker, on Saturday, September 24, 1988, the Women's and Men's Caucuses for Congressman EDOLPHUS "ED" TOWNS held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Alberto Bryan.

Alberto Bryan, the distinguished principal of I.S. 291 for the past 5 years, has received many scholastic honors and awards such as those from the New York University School of Education, Department of Foreign Languages and Bilingual Education, and the University of the State of New York Education Department.

Mr. Bryan is also a member of the National Association of Panamanian Educators, the Council of Supervisors and Administrators, the East New York Lions Club, and Fordham University Alumni Association, among many others.

Mr. Bryan's wife, Imogene Wison Bryan, is a teacher of science at Eastern District High School. Their daughters, Shalina and Litha Amarilis are attending college, at New York City Community College and Bethune Cookman College, respectively.

His present goal is to increase on yearly basis math and reading scores of the students of I.S. 291.

INTRODUCTION OF THE INTRAVENOUS SUBSTANCE ABUSE AND AIDS PREVENTION ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. RANGEL. Mr. Speaker, today I am reintroducing the "Intravenous Substance Abuse and AIDS Prevention Act." I am joined by my colleague BENJAMIN A. GILMAN. Senator DANIEL PATRICK MOYNIHAN will be introducing a companion bill in the Senate.

When I first introduced this bill, there were only 38,000 AIDS cases and 25 percent were associated with intravenous drug abuse. By the end of 1988, nationwide there were more than 82,000 AIDS cases. A growing proportion of these cases—now over 27 percent—are attributable to intravenous drug abuse. Particularly alarming is the fact that most pediatric and female AIDS cases are associated with IV drug use.

Although some additional funding for drug abuse treatment for IV drug abusers was provided in the Anti-Drug Abuse Act of 1988, the amounts authorized are not sufficient to address the problem at hand, based on the recommendations of the President's Commission on the HIV Epidemic. The bill I am introducing will increase the resources for IV drug abuse treatment and related counseling and testing services for those at risk of contracting AIDS because of their drug use by authorizing a grants program of $200 million to fund such services.

Moreover, it would also establish two grants programs of $100 million, each, to fund services for pregnant women and their children and for prevention programs in high risk communities in order to reduce the possibility of AIDS transmission.

Specifically, the bill authorizes $200 million for the Secretary of Health and Human Services to make grants to public and private nonprofit entities to provide treatment services to intravenous substance abusers. The grants will enable the programs to make available to such abusers, and to their sexual partners, counseling and education services to prevent the transmission of AIDS and testing to determine AIDS infection.

Priority for the services will be given to geographic areas where the incidence of the intravenous substance abuse is substantive relative to the incidence in other areas and, simultaneously, the incidence of AIDS infectionis relatively substantial. Seventy-five percent of the funding under this section of the act will be reserved for such areas. Another 25 percent of the funding will be directed toward communities where the incidence of intravenous drug use is substantial and the incidence of AIDS is not, but the development of AIDS may be prevented if sufficient treatment, counseling, and education services are provided to intravenous drug users.

One hundred million dollars is authorized for demonstration projects to reduce or prevent the incidence of AIDS infection in infants and to provide support to infants who have such infections. Priority is to be given to communities where the incidence of infant AIDS infection is substantial and the incidence of AIDS among intravenous drug users is high. Secondary consideration will be given to communities where the incidence of AIDS infection among intravenous substance abusers is substantial.

Services that may be provided under this grant program include: prenatal care for women who are intravenous drug users; services and financial assistance to parents of children infected with AIDS; services and financial assistance to encourage foster care for infants with AIDS; counseling, education, and testing services for women who are intravenous drug users and who are pregnant or at risk of becoming pregnant, to prevent the transmission of AIDS; and counseling, education, and testing services for women who are the sexual partners of intravenous drug abusers and who are pregnant, or at risk of becoming pregnant, to prevent the transmission of AIDS.

One hundred million dollars is provided for grants for projects to prevent the spread of AIDS related to intravenous substance abuse. Because the minority community is being disproportionately affected by AIDS related to IV-drug abuse, the bill gives preference to programs providing services to minority populations in any geographic area where there is substantial intravenous substance abuse. Projects funded under this provision would include education and counseling outreach projects for intravenous substance abusers and school-based and mass media efforts.

If we are ever to stop the AIDS epidemic, then we must arrest the spread of this disease among IV drug users and prevent the transmission of AIDS to the children and sexual partners of IV drug users. This bill will help us do just that. That is why I am reintroducing it today. I would urge each of you to join me as a cosponsor of this bill.

VOTER OPINIONS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. YATRON. Mr. Speaker, at this time I am pleased to have the opportunity to share with my colleagues the results of a questionnaire that I have conducted among the voters of Pennsylvania's Sixth Congressional District. This annual questionnaire provides important information on the aggregate views of my district and I am grateful for the overwhelming response I received. The voter's thoughts and opinions on a number of issues facing the 101st Congress and the Nation are as follows:

PARENTAL LEAVE

The U.S. Congress is currently considering legislation that would give employees up to ten weeks of unpaid leave to care for newborn, newly adopted or very sick children and parents. Should employers be required to provide this period of unpaid leave for parents?

(1): (a) Yes—62%

(b) No—38%

(2) In your mind, what is the biggest crisis facing our Nation?

(a) Budget Deficit—30%.

(b) Trade Deficit—5%.

(c) Drugs—44%.

(d) External military threats—3%.

(e) Unemployment—2%.

(f) Education—8%.

(g) Other—Write In—8% (most write-in's have mentioned the environment as biggest crisis).

DRUG TESTING

The drug problem in the U.S. has reached epidemic proportions. A number of remedies have been proposed to address this problem. Many observers have advocated the use of mandatory drug testing. Should private employers be allowed to require their employees to take tests to detect drug use as a condition of employment or promotion?

(3): (a) Yes—77%.

(B) No—23%.

CAMPAIGN FINANCE REFORM

In recent years, the cost of campaigns for the U.S. House of Representatives and Senate have skyrocketed. To control these high costs, the Congress is considering various reforms in the present campaign finance system. Which of the following ways of financing campaigns for the House and Senate do you prefer?

(4): (a) Provide public funding through a $1 checkoff on income tax forms—23%.

(b) Don't provide public funds but place overall limits on Political Action Committee (PAC) contributions—67%.

(c) Do not reform current system—10%.

STRATEGIC DEFENSE INITIATIVE

The U.S. is now conducting research on space-based defense systems against incoming nuclear missiles. This program is known as the Strategic Defense Initiative [SDI], but is better known as Star Wars. SDI supporters say the program is needed to protect the U.S. from nuclear attack; critics argue that SDI is too costly and can never be effective. How do you feel about the program?

(5) Do you support continued research?

(a) Yes—71%.

(b) No—29%.

(6) Do you favor early deployment?

(a) Yes—41%.

(b) No—59%.

(7) Does SDI research help other areas of scientific research and development?

(a) Yes—79%.

(b) No—21%.

(8) The Congress is now considering an increase in Federal minimum wage, now set at $3.35 per hour. Should the minimum wage be increased?

(a) Yes—64%.

(b) No—36%.

SPENDING PRIORITIES

Review the following areas of Federal spending and indicate whether they should be increased, decreased or remain the same.

(9) Agriculture:

(a) Increased—34%.

(b) Decreased—27%.

(c) Same—39%.

(10) Defense:

(a) Increased—17%.

(b) Decreased—32%.

(c) Same—51%.

(11) Housing:

(a) Increased—31%.

(b) Decreased—27%.

(c) Same—42%.

(12) Medicare:

(a) Increased—52%.

(b) Decreased—8%.

(c) Same—40%.

(13) Social Security:

(a) Increased—45%.

(b) Decreased—6%.
(c) Same—49%.
(14) Veterans' Programs:
(a) Increased—40%.
(b) Decreased—9%.
(c) Same—51%.
(15) Education:
(a) Increased—52%.
(b) Decreased—9%.
(c) Same—39%.
(16) The Congress is examining the possible expansion of Medicare to provide coverage for the costs of home health care and for long-term care in a nursing home. This new program may require an increase in social security taxes. Do you favor a national program to provide long-term health care for senior citizens?
(a) Yes—69%.
(b) No—31%.
(17) Should companies be required to give sixty days notice in the event of a plant closing?
(a) Yes—72%.
(b) No—28%.
(18) The U.S. has been a powerful defender of democracy and liberty around the world. Our defense expenditures work not only to protect our own national security but also to check anti-democratic forces in other countries. Given how much we spend to help defend the free world, do you think any policy changes are in order?
(a) Our NATO allies and Japan should be forced to assume a greater share of their own defense costs—73%.
(b) Other nations reimburse the U.S. for the protection our presence provides—23%.
(c) No changes should be made; as a superpower, we are obligated to assume a greater share of the cost of defending the world against anti-democratic forces—4%.

OPPOSITION TO A GAS TAX FOR DEFICIT REDUCTION

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. STANGELAND. Mr. Speaker, some people are suggesting we increase the gas tax to cut the Federal budget deficit. Clearly, Congress must tackle the budget problem, but to levy a new Federal gasoline tax on the American public is not the solution.

Increased gas taxes could endanger the Nation's highway system, according to detailed testimony before the House Public Works and Transportation Committee. Such a tax would break the longstanding compact between highway users and Federal and State governments to support a pay-as-you-go system. America's transportation needs already exceed available funding; increased motor fuel taxes should not be siphoned off to address other social problems.

Besides, the more we increase Federal taxes, the less leverage we leave States to manage their own programs. For example, Minnesota already has a 20-cent-per-gallon tax on top of the 9 cents per gallon Federal tax. By doubling the Federal tax, Congress could, in effect, preempt the State from raising revenues to meet its growing infrastructure needs.

A new gas tax could also be inflationary. Individual consumers and the economy in general would suffer. For example, a 30-cent-per-gallon gas tax could put 525,000 people out of work by 1990, cut income tax revenues by nearly $2.7 billion annually, and raise the Consumer Price Index by nearly 1 percent. That same increase could double the tax burden of a two-driver family in Minnesota from $378 to $814, according to 1986 figures from the Federal Highway Administration.

Perhaps most importantly, this deficit reduction scheme would be unfair. The tax is regressive; it hits poor families much harder than others. The Congressional Budget Office indicates lower income groups pay more than 1.6 percent of their income to gas taxes while high income groups pay only 0.2 percent of their income.

The inequity would be just as great for small town America. Those who live in Western and North Central States, where long distance driving is inevitable, would have to shoulder much more of this new tax burden. Rural America would, on the average, pay 40 percent more than big city dwellers under the proposed taxing scheme.

Why should a resident of Minnesota have to pay twice as much as a resident of the District of Columbia to reduce the deficit? Rural Americans already have very limited transportation options. Why penalize as further by imposing a heavy-handed Federal tax on one of our only modes of transportation?

The gas tax may seem like an easy fix to an awful dilemma. After all, some people claim it will, in one fell swoop, erase billions from the deficit, end our growing dependence on foreign oil, and ease our choking problems with auto emissions and air pollution. But such a quick fix rarely holds up in the light of serious scrutiny. And this is the case with the gas tax.

A new Federal levy on gasoline will jeopardize our Nation's highway and infrastructure system, cause economic disruption, and break faith with rural and low-income Americans. I urge my colleagues to continue on the road to deficit reduction, but to use a different vehicle; the gas tax option just won't get us where we want to go.

THE EAST COAST AIRCRAFT NOISE ABATEMENT ACT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. RINALDO. Mr. Speaker, I rise today to introduce a bill I hope will bring relief to thousands of my constituents who have been bombarded with aircraft noise since the implementation of the Federal Aviation Administration's expanded east coast plan. I strongly urge my colleagues to support the "East Coast Aircraft Noise Abatement Act."

The FAA devised the expanded east coast plan, or EECP, to deal with the growing problems of congestion and delays at major metropolitan airports along the east coast. The EECP involved the creation of new "highways in the sky" that are intended to disperse aircraft more safely and efficiently.

Unfortunately for residents of my district, these new air routes into and out of the New York-New Jersey metropolitan area's three major airports have caused an alarming level of aircraft noise over communities which never before experienced such problems. The residents of my district are fair people who don't mind sharing the burdens as well as the benefits of economic growth. They feel now, though, and I concur, that their communities are shouldering an unfair amount of the region's noise burden.

I have been struggling with this problem for well over a year now, with mixed results. The FAA has pledged to do what it can to ease the noise over these communities, but its actions have been piecemeal at best. A careful examination of the history of this problem reveals that if the FAA had fulfilled its planning responsibilities in the first place, much of the outcry over the EECP could have been avoided.

Under current law, the FAA need not issue an environmental impact statement for flight path changes over 3,000 feet in altitude, a cap I feel has long been outdated. It is the intent of the law, however, that the FAA should anticipate problems such as the public outcry which accompanied the EECP, and take steps in the planning process to ensure that the views of concerned citizens are taken into account. This did not happen. No environmental impact statement was issued and residents were not consulted on the EECP until the plan was basically rammed down their throats.

The bill I am introducing today would take steps to rectify the noise problem over New Jersey. It would require the FAA to go back to the drawing board and issue an environmental impact statement based on an analysis of flight path changes it should have undertaken in the first place. It would also require an investigation of air safety over New Jersey since the implementation of the EECP.

Based on these two studies, the FAA would be required to report to Congress on proposed modifications in the plan, or to explain why such alterations are not necessary. Finally, the bill would stipulate that, in the future, the FAA must issue an environmental impact statement for all such changes over urbanized areas to an altitude of 10,000 feet. This last provision is intended to ensure that the FAA does not repeat its mistakes in developing similar plans for other regions of the country.

Mr. Speaker, several analyses done over the course of the past year point up the need for a comprehensive examination of EECP changes. A study commissioned by the Port Authority of New York and New Jersey found significant increases in noise levels over the affected communities. A General Accounting Office report concluded that the FAA could have done much more to anticipate the public outcry caused by the plan, and recommended the issuance of the environmental impact statement required in this bill.

The FAA's bits and pieces approach to this problem is not sufficient. Justice demands a thorough reevaluation of the implementation of the EECP, and a concrete set of proposals to make changes in the plan. I urge my colleagues to help me work toward this end.

WOMEN'S AND MEN'S CAUCUSES FOR CONGRESSMAN ED TOWNS HONOR B. MITCHELL ALTER, ESQ.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TOWNS. Mr. Speaker, on Sauturday, September 24, 1988, the Women's and Men's Caucuses for Congressman Edolphus "Ed" Towns held their annual dinner dance at the Fleur De Lis Restaurant. As part of this annual event, the caucuses chose to honor Attorney B. Mitchell Alter.

Mr. Alter received a B.A. degree from New York University as well as J.D. degree from Brooklyn Law School. From 1975 to 1977, he was on the staff of the Bedford Stuyvesant Community Legal Services Corp.

Now engaged in private practice, he is a senior partner in the five attorney firm of Alter & Barbaro.

IMPROVE NUTRITION MONITORING

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. WALGREN. Mr. Speaker, this week Members of Congress in both the House and the Senate are reintroducing the National Nutritional Monitoring Act of 1989, a bill identical to that which passed both the House and the Senate with overwhelming bipartisan votes but was pocket vetoed by President Reagan last November in one of the sillier actions of the last Administration. Their objections fall of their own weight.

The bill provides no new spending—only good management of present spending. The bill would bring what is now a multitude of independent, uncoordinated efforts into a coordinated system where, for the first time some responsibility would be able to be placed on those directing these efforts on behalf of the taxpayer. it is strange to think that perhaps fear of some actual accountability for spending tax dollars was the real reason this bill was vetoed by the Reagan administration.

Obviously, a good nutritional monitoring system is essential to the development of sound food, nutritional, and health policies at all levels of government. This bill requires a comprehensive plan to insure that those nutrition monitoring and research activities which will have the greatest payoff will be given priority and be pursued through cost-effective procedures.

The bill was not developed in a vacuum. Many of the features were recommended by a broad range of food, nutrition, and health experts in testimony before Subcommittees of the Science, Space, and Technology Committee and the Agriculture Committee. The bill incorporates recommendations of the National Academy of Sciences and even the Reagan administration's Joint Nutrition Monitoring Evaluation Committee—which was discontinued after their first report was published in 1986.

Let me quote the Joint Nutrition Monitoring Evaluation Committee's recommendations, all of which were incorporated into the bill passed overwhelmingly by both Houses of Congress last year and reintroduced this week.

The committee recommended we: Establish a mechanism for learning more about the data needs of users, especially Federal agencies; Increase the availability of nutrition information from Federal surveys; Improve comparability of data; Improve timely publication data; Continue and expand efforts to study the factors that influence food intake and nutrition status, especially among high-risk groups; Increase research to improve methods for assessing dietary intake and nutritional status; and Provide adequate resources to the national nutrition monitoring system to implement these recommendations.

Although some progress in developing a coordinated nutrition monitoring system has been made over the past 8 years, each Federal agency involved in collecting and disseminating nutritional and health information continues to follow their own agenda. The result has been waste, delay and duplication. We have a long way to go in this area. In fact, the 1988 Surgeon General's Report on Nutrition and Health stated that—

However, much more detailed information is needed to continue to identify changes in the national diet that will lead to better health for the Nation. Gaps in our knowledge of nutrition suggest future research and survillance needs.

The report gave the following examples of research and surveillance that should be addressed: How nutrient requirements translate into healthful dietary patterns; the development of biochemical markers of dietary intake to monitor the effects of dietary intervention; and the establishment of a nutrition surveillance system that will make it possible to monitor population—specific and State—specific occurrences of nutrition-related risk factors. These goals are the objectives of the National Nutrition Monitoring and Related Research Act of 1989.

History mandates that a legislative mandate is necessary to assure a National Nutrition Monitoring System exists over time to serve the needs of the public, State and local governments, and the private sector. Nutrition monitoring data are useful indicators of the economic and social health of our Nation.

In addition, nutritional and health information have a wide variety of uses and users, representing all sectors of society. Systems which relate to nutrition monitoring data, such as food production, health care, and intervention and education programs, are national in scope. Thus, there is wide agreement that a comprehensive nutrition monitoring program must be a Federal responsibility. Congress must assure that present and future efforts are in the best interests or our citizen's health and economic well-being.

I look forward to working with the Bush administration to shape a proposal which will advance our knowledge of the relationship of diet and health and result in information necessary to maintain a healthy America. I urge my colleagues to join me in support of the National Nutrition Monitoring and Related Research Act of 1989.

NUTRITIONAL STATUS OF THE NATION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BROWN of California. Mr. Speaker, today I introduced H.R. 677, the National Nutrition Monitoring and Related Research Act of 1989, on behalf of Representatives ROBERT ROE, DOUG WALGREN, SHERWOOD L. BOEHLERT, and 27 of our colleagues. This is not a new bill. The identical bill, S. 1081, was passed by the House on October, 12, 1988, by a vote of 311 to 84 and by unanimous consent in the Senate on October 18, 1988. Senator BINGAMAN and his colleagues also introduced this week the bill as passed by the House and Senate in the 100th Congress. The joint introduction of this bill represents our commitment to enhance this Nation's nutrition and health status monitoring system and to ensure passage of the bill early in the 101st Congress.

Why must we reintroduce this bill? Because, on November 8, 1988, President Reagan pocket vetoed the bill on the basis that "The bill would create a substantial amount of unnecessary and complex Federal bureaucracy that would hamper the achievement of the bill's goals." Quite to the contrary, the bill did not create a new bureaucracy or mandate a program administrator, but sought to fix responsibility for the coordination of current Federal nutrition monitoring activities and make more effective use of Federal and State expenditures in this area.

Apparently the President did not realize the recommendations of the Department of Agriculture and the Department of Health and Human Services appear to be based on the desire to protect each department's turf rather than on the benefits which could be realized by the public. This costly and long-term battle over nutrition jurisdiction among the departments has curtailed advancement of nutrition knowledge, and is one of the major reasons why passage of the legislation we are introducing today is imperative.

The bill asks for Federal nutrition monitoring activities to do no more than what is being accomplished, without a legislative mandate, for Federal global research. The President submitted with the fiscal year 1990 budget request a report, "Our Changing Planet: A U.S. Strategy for Global Change Research." The report, developed by an interagency group of the Federal Coordinating Council for Science, Engineering, and Technology, presents an initial strategy for a comprehensive long-term plan, budget estimates by agency and by research activity. The strategy will be expanded into a comprehensive plan in 1989.

USDA and DHHS developed a joint implementation plan for a comprehensive National Nutrition Monitoring System in 1981 and an operational plan for a National Nutrition Moni-

toring System in 1987. However, the major objective of the implementation plan was never achieved. The critical events identified in the operational plan are not developed in a strategic manner necessary to guide actions. Neither plan identified the budgetary resources needed to carry out the critical events, mechanisims to coordinate DHHS and USDA activities with those of other federal agencies, nor lead agency responsibility for the total system or individual goals as defined. The major purposes of the legislative proposal we are introducing today is to have in place a plan which will integrate the activities of all federal agencies involved and identify priorities and estimated resources required, so that Congress and the public can determine the appropriateness of the activities and the level of expenditures requested.

In addition to a coordinated plan and associated budget, the National Nutrition Monitoring and Related Research Act of 1989 includes five major components, inadequate or absent at the present time, which could make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the benefits of current Federal efforts. These five components include:

First, methods research to reduce the cost and improve the accuracy of the Nation's nutrition monitoring capabilities, as well as the assessment of the health of individuals;

Second, technical assistance to State and local government so that data they collect could make a contribution to the Federal system, and likewise, national data could be more helpful to States in allocating limited food and health resources;

Third, Advisory Council to provide scientific and technical advise and provide a forum for recommendations of groups who use and depend on Federal nutritional status data;

Fourth, Dietary Guidance to be published periodically and to be consistent among Federal agencies; and

Fifth, assessment of the appropriate Federal role in assuring that medical students and physicians have access to training in nutrition and its relationship to health.

The passage of this bill is essential to assessing the nutritional and health status of our citizens, to advancing our knowledge of the relationship between diet and health, and developing sound policies to guide nutrition research, education, and intervention programs. I urge my colleagues to join in sponsoring the National Nutrition Monitoring Act of 1989.

THE COMPREHENSIVE AIRCRAFT NOISE ACT OF 1989

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. SMITH of New Jersey. Mr. Speaker, last week I joined with Congresswoman ROUKEMA to introduce H.R. 546, the Comprehensive Aircraft Noise Reduction Act of 1989, legislation designed to address the problems created by aircraft noise.

As many of my colleagues are aware, in 1987 the Federal Aviation Administration implemented a new air traffic plan on the east coast known as the expanded east coast plan, or EECP, in order to alleviate airport delays and congestion in our skies. Unfortunately, the result of the FAA's action has been the disruption of the peace and quiet of communities located up to 60 miles away from the nearest airports.

Mr. Speaker, while the FAA had good intentions, little consultation was given to the impact the new plan could have on the surrounding environment. Consequently, within weeks of implementation of the EECP, residents throughout the New York-New Jersey metropolitan area began complaining about a new intrusion into their lives, airplane noise pollution. Since then, literally thousands of citizens have complained to the FAA, the Governor, the Congress, and even to the President. Quiet neighborhoods are now being bombarded by jet noise from dawn to dusk. In some New Jersey towns, such as Freehold and Marlboro, residents have been bothered by planes flying directly over their homes as late as 2 a.m.

In response to the problems created for New Jersey as well as the lack of a national policy on this subject, Congresswoman ROUKEMA and I, along with others, introduced the Comprehensive Aircraft Noise Reduction Act of 1989. I am particularly pleased that at my urging, Congresswoman ROUKEMA broadened this bill to ensure that the residents of central New Jersey—that is, western Monmouth, Middlesex, and northern Mercer Counties—would be included within the scope of this legislation.

As introduced, H.R. 546 would require the FAA to report to Congress within 30 days on a plan to reduce noise levels caused by the expanded east coast plan in all regions of New Jersey. In addition, the FAA will be required to report to the Governor of New Jersey every 60 days on progress being made in this regard. The FAA would also be required to negotiate with the Defense Department regarding unused airspace over the Atlantic Ocean. Currently, there is a significant amount of airspace reserved for military use, even though there is no present or future need for it.

H.R. 546 would require the FAA to produce a national plan to begin phasing out the use of older and louder aircraft, called stage II aircraft. Although it is the stated policy of the Department of Transportation to help the aviation industry retire stage II planes, there have not yet been any concrete proposals issued. This bill requires the Secretary of Transportation, in consultation with the Secretary of Treasury, to submit such a plan to Congress within 6 months. Finally, H.R. 546 requires the FAA to issue an environmental impact statement for all future comprehensive air traffic plans which change routes under 19,000 feet.

Mr. Speaker, some aircraft noise is unavoidable, however the volume and frequency of the noise and the manner in which it effects certain communities can be adjusted and moderated by FAA flight patterns. Unfortunately however, the FAA instituted the expanded east coast plan without taking into account the tremendous impact which the jet noise has had upon so many communities in New Jersey. Subsequent studies conducted by the Port Authority of New York and New Jersey and by the General Accounting Office have verified the extent to which aricraft noise has become a problem in communities far from Newark Airport and have also implied that the FAA erred when they chose to overlook this possible impact. In fact, according to a report prepared by the General Accounting Office:

> . . . [the] FAA should have expected the negative reaction of New Jersey residents. In this regard, FAA could have been more sensitive to environmental concerns by conducting an environmental assessment before implementing its plan.

Had such an assessment taken place, Mr. Speaker, I believe that modifications could have been implemented to the Plan which would have reduced the impact upon peaceful New Jersey communities without compromising the necessary improvements in air traffic management.

Mr. Speaker, the Comprehensive Aircraft Noise Reduction Act of 1989 provides reasonable remedies to problems surrounding air traffic in and out of Newark, Kennedy, and La Guardia Airports and at the same time promulgates a reasonable national approach to aircraft noise abatement. Since the FAA will be implementing similar plans on the west coast as well as in the midcontinent area, I would advise my colleagues that this is not simply a local or regional problem. Chairman ANDERSON has expressed interest in pursuing this mattter in the House Public Works and Transportation Committee and I look forward to hearings on this issue early in the 101st Congress.

ANTHONY LONGHETTI RETIRES

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LEWIS of California. Mr. Speaker, I rise today to pay tribute to a truly remarkable man, Deputy Chief Anthony Longhetti. I have known Anthony for many years and would like to compliment him on his numerous contributions to San Bernardino County and wish him well during his retirement.

Anthony Longhetti was born on January 28, 1929 in Pittsburg CA. He was educated at the University of California, Berkeley, where in 1950 he gruaduated with a bachelor's degree in technical criminology. On November 26 of that same year, he married his lovely wife, Alma, with whom he has two children.

Deputy Chief Longhetti continued his education at the University of Minnesota's School of Chemistry were he worked as a crime laboratory analyst and assistant laboratory director for the Minnesota State Bureau of Criminal Apprehension. After several years of living in Minnesota, Anthony moved to San Bernardino County to become crime laboratory director at the San Bernardino County Sheriff's Department. He remained in this position until 1983 when he became deputy chief, in command of

the Scientific Investigations Bureau—Crime Laboratory and Identification Division.

His wide experience in the criminalistics field, including toxicology and analytical chemistry, microanalysis, firearms identification, document examination and crime scene reconstruction, Anthony has qualified as an expert witness in each of these areas in State, Federal, and military courts.

In addition to his extensive professional work in criminalistics, he taught basic courses in the field, sharing his knowledge with students at various California colleges and universities.

Deputy Chief Longhetti distinguished himself not only in his profession but in the community as well. He held presidential posts in the following local organizations: Kiwanis Club, Little League, YMCA, Easter Seal Society, and statewide Jaycees, as well as an elected member of the board of education in Rialto, CA.

Please join me in this salute to Anthony Longhetti. May he reflect on his years with San Bernardino County with great pride and enjoy the years ahead as he enters into this well deserved retirement.

UKRAINIAN INDEPENDENCE DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LIPINSKI. Mr. Speaker, it was 71 years ago this week, when in the face of the Bolsheviks seizing of power, Ukraine's National Assembly met in Kiev and proclaimed the independence of their people. On January 22, 1918, the Ukrainian Central Rada proclaimed Ukraine an independent, sovereign state. Of course, the nation's self-government was short-lived, as it was crushed and absorbed by the Soviet Union. Today, 71 years later, Ukrainians still must cope with being one of many occupied republics in the illegitimate Soviet empire.

Observing Ukrainian Independence Day is particularly meaningful in light of the current situation in the Soviet Union. I personally enjoyed honoring the January 22 anniversary along with the Ukrainian Congressional Committee of Illinios, and I would like to express to them my appreciation for being named Ukrainian Man of the Year.

It is observances like Ukrainian Independence Day which highlight the consistent irony in the highly publicized and lauded initiatives of perestroika and glasnost. Concessions to nationalist sentiments, such as limited participation in elections, have been evident in the Soviet Union, from the Baltic States to Ukraine to Armenia. However, we must remember that what Ukrainians and other nationalists justifiably call for is not concessions, but autonomy. The peoples of Ukraine, Armenia, and the Baltic States were unjustly consolidated into the Soviet Union, and they are calling for their due independence. Despite all the years of Soviet Russian domination of Ukraine, the yearning for freedom is still strong. As long as this call for freedom exists, we can not afford to be satisfied with the preliminary results of Gorbachev's reform.

The Ukrainian call for autonomy and personal freedom is very simple, and includes the same rights which Americans hold so dear. The third universal of the Ukrainian National Republic, issued in 1917, proclaims the rights to freedom of speech, press, religion, assembly, and minorities, among others. Today, even these basic universal rights are not guaranteed in the Soviet Union. Exercise of nationalist self-determination and full religious freedoms still are unaccepted by Moscow.

On Ukrainian Independence Day, it is appropriate to remember that the call for autonomy and basic human rights in the Soviet Republics is still strong, and still not satisfactorily addressed by the Soviet Union. This should always play a role in our assessment of the current Soviet situation.

SAN FRANCISCO, THE TEAM OF THE 1980's.

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mrs. BOXER. Mr. Speaker, I rise to pay tribute to an exceptional group of people. With their Super Bowl XXIII victory in Miami Sunday, the San Francisco 49ers by consensus became the team of the 1980's. They may also be a team for the ages.

The 49ers are remarkable not only for their determination and skill but also for their humanity off the field. How many times have we seen a winning coach after a football game embrace the losing coach and walk off the field with his arm around him. Bill Walsh coaches football with a level of skill that few could match. He also knows off the field the value of friendship that makes life meaningful.

Ronnie Lott has been the soul of the 49er defense since his first season. Off the field he is readily found visiting a sick child in a hospital. Joe Montana's contributions to the community include taking time out of a very hectic season to appear on national television for a missing child. We need more of these fitting examples for our Nation's young, blending the best of sport and life.

And finally, who can think of this team without the indelible image etched in the last 3½ minutes resulted in the most thrilling conclusion to a Super Bowl in the 23-year history of the game. The title of a song from my youth comes to mind in describing the team in that last few minutes—"Poetry in Motion." They are a team for the 1980's—a team for the ages.

The Cincinnati team was very tough—tougher than anyone predicted. I compliment their team and the entire 49er organization.

THE 100TH ANNIVERSARY OF ARMSTRONG NURSERIES

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MOORHEAD. Mr. Speaker, I appreciate this opportunity to recognize and congratulate Armstrong Garden Centers, Inc., on the occasion of its 100th anniversary. In the area of landscaping, Armstrong is a landmark southern California name.

The southern California history of Armstrong Garden Centers began in 1889 when John S. Armstrong moved from Ontario, Canada, to Ontario, CA. The business expanded rapidly with prominent operations in the 22d Congressional District.

Since its creation this organization and its people have done a great deal to beautify and improve the environment for many southern Californians. Armstrong is renowned for its efforts on behalf of roses and fruit trees. There are no questions or problems dealing with soil, irrigation, plant pathology, pest control, or design that Armstrong is not capable of answering or solving. Mr. Speaker, Armstrong is a fine and enduring organization to which its 100th anniversary will attest.

IN MEMORY OF THOMAS PERRY ADAMS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. DIXON. Mr. Speaker, on October 16, 1988, Los Angeles' black community lost one of its most active members and role models. I rise today to mourn the passing of Thomas Perry Adams.

Tom Perry was truly a 20th century Renaissance man. After his honorable discharge from the Army in 1954, he completed his undergraduate degree at UCLA. An outstanding athlete, he played on the 1955 UCLA football team and in the 1956 Rose Bowl game. Tom was also a founding and lifetime member of the UCLA Black Alumni Association, where he served as the first president. While attending UCLA, Tom Met Lois Yvonne Payne, whom he married in 1958.

Tom furthered his education at Southwestern Law School, and after his admittance to the California State Bar in 1969, he became a Los Angeles deputy city attorney. In 1972, he entered private practice, where as an associate with the Honorable Charles A. Pope, and later with Halvor T. Miller, Esquire, he focused primarily on criminal defense and probate law. He also served as judge pro tempore in Southgate Municipal Court on many occasions.

Tom was devoted to the community's youth, serving on the Baldwin Hills Little League Association's board of directors and coaching the Giants team for 10 years. He was a Cub Scout leader at Overland Avenue School, and served as a volunteer with the Woodcraft Rangers.

Mr. Speaker, in both his professional career and personal life, Thomas Perry Adams enriched the lives of many Angelenos. Therefore, I ask my colleagues in the U.S. House of Representatives to join me in extending sincere condolences to his mother, Blossie Adams, his wife, Yvonne, and children Gregory and Dana.

A TRIBUTE TO THE UNDERWATER ADVENTURE SEEKERS ON THEIR 30TH ANNIVERSARY

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FAUNTROY. Mr. Speaker, the Underwater Adventure Seekers were organized in the District of Columbia on February 25, 1959, and is celebrating its 30th anniversary this year in promoting safe water sports and diving activities.

The Underwater Adventure Seekers promotes the conservation of aquatic life through various programs and activities, and is the oldest black sports scuba diving club in the world.

This organization has trained over 1,500 divers and more black divers than any diving club in the world. As part of its training programs, it assists students in the University of the District of Columbia Marine Science and Oceanography Programs through the sponsorship of field trips and other learning experiences; and

The Underwater Adventure Seekers provide instruction in swimming and other water activities to groups of all ages, and it provides rescue divers to Federal and local agencies in disasters when trained and experienced divers are needed.

Underwater Adventure Seekers is celebrating its 30th anniversary with a photography exhibition and banquet on February 25, 1989 at the Georgetown Holiday Inn, and its members are to be congratulated and commended for 30 years of service to the Washington, DC community.

CLEANING UP OUR NATION'S OILSPILL LIABILITY LAWS

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MILLER of Washington. Mr. Speaker, as the 101st Congress gets underway it is important to focus on some of the unfinished business from last term. Near the top of our agenda should be cleaning up our Nation's oil-spill liability laws.

Just before Christmas a tug boat collided with a barge carrying 213,000 gallons of bunker oil. This oil was spilled into the Pacific Ocean off the coast of Washington State. The damage was initially thought to be minimal. The oil was supposed to wash out to sea and gradually disappear in the Pacific Ocean. But, Mr. Speaker, Mother Nature did not cooperate. Instead that oil has fouled beaches along the coast of Washington State and Vancouver Island. Thousands of shore birds died. Miles of beaches were scarred by tar. The spill has also harmed our relations with our Canadian neighbors, who blame our Government for desecrating hundreds of miles of beaches on Vancouver Island.

Last February another barge carrying 300,000 gallons of heavy fuel oil capsized and sank in the Guemes Channel; 46,000 gallons spilled into Puget Sound. And, last year other major oilspills were reported on the Monongahela River, in the Delaware River, in Savannah Harbor and in Cook Inlet in Alaska. Across our Nation, fisheries and wildlife habitat are contaminated, businesses are disrupted and people living near the spill are inconvenienced.

We should recognize, Mr. Speaker, that oil spilled on beaches like those on the coast of Washington has a long-term effect. It does not go away quickly. Habitat that is fouled may take years to rehabilitate, tourists scared away may not come back for years. And the physical costs of a cleanup are substantial. The recent spill in the Guemes Channel cost over $3 million to cleanup. Yet, under Federal law, liability exposure for the barge operator is only $125,000. Some companies, like ARCO, quickly stepped forward to help defray the costs but under Federal law, they did not have to.

Mr. Speaker, one way to reduce the danger of oilspills is to let the shippers know that they are going to be held accountable for the real costs of a spill, not just a tiny fraction. A bill to do this was approved by the House Committee on Merchant Marine and Fisheries last session. That bill, "The Comprehensive Oil Pollution Liability and Compensation Act," would have established a new comprehensive set of rules to provide prompt, adequate, and equitable compensation to those who suffer from oilspills.

"The Comprehensive Oil Pollution Liability and Compensation Act" would also encourage prompt cleanup of oilspills and create mechanisms to reimburse Federal, State, and local governments for the costs of cleaning up a spill. It would have imposed strict "joint and several" liability for those transporting or producing oil and other long needed reforms in Federal law. Most importantly, "The Comprehensive Oil Pollution Liability and Compensation Act" would have established a clear and predictable legal and regulatory framework for claimants, spillers, insurers, and Government officials.

Mr. Speaker, as a member of the Merchant Marine and Fisheries Committee, I supported this bill. I spoke in favor of it in this Chamber. But, unfortunately, the bill died in the Public Works Committee. The bill was not a new idea. The House has been working on a reform package for almost a decade. "The Comprehensive Oil Pollution Liability and Compensation Act" had widespread support from the administration, from Industry, from environmental groups, and coastal States. It should have been passed into law last session. Mr. Speaker, I urge this House to promptly consider a new legislation to modernize our outmoded oilspill statutes.

TRIBUTE TO GEORGE DERN

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Mr. George Dern. Mr. Dern is this year's recipient of the Professional Community Service Award, an award presented each year by the Bernardi Multipurpose Senior Center to a local business person of the San Fernando Valley who has positively contributed to the welfare and betterment of the senior citizen community.

Mr. Dern has served the southern California community for many years. His pleasant personality and willingness to be helpful have endeared him to both his colleagues in the pharmacy business and the public he has served so well. His generous contributions of time and efforts has enhanced the lives of many senior citizens. The hours of volunteer counseling on matters regarding medications, their uses, benefits and effects, and the regularly scheduled lectures at the Bernardi Multipurpose Senior Center on important senior concerns have positively affected the lives of many. He makes himself available to the center's staff and senior members to consult on any matters regarding health and prescriptions. In addition, he is also the longtime supporter and underwriter of the newsletter at the center.

George Dern is a native of Worcester, MA. He attended the Massachusetts College of Pharmacy in Boston and is licensed in both the States of California and Massachusetts. He is married and is the proud father of three sons.

It is my distinct honor to ask my colleagues to join me in saluting Mr. George Dern, an invaluable member of my community.

STATE ENERGY CONSERVATION PROGRAMS IMPROVEMENT ACT OF 1989

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. SHARP. Mr. Speaker, today I am introducing the State Energy Conservation Programs Improvement Act of 1989, a bill to update and streamline three State and local assistance programs administered by the Department of Energy. Similar legislation is being introduced in the Senate today.

These programs were originally created by Congress to improve the energy efficiency of our economy and reduce our dependence on imported oil. Today another important reason for these programs is the looming specter of global warming.

We should not forget, however, that these programs also provide needed assistance to help people, schools, hospitals, and small businesses cut their energy bills.

The Weatherization Assistance Program provides insulation and other conservation services to low-income households, thereby reducing their need for other types of ongoing public assistance. The Institutional Conservation Program pays part of the cost for making schools and hospitals more energy efficient, thereby increasing the percentage of their budgets that they can spend on teaching and healing. The State Energy Conservation Plans provide States with targets for increasing their energy efficiency through programs that are

tailored to the specific needs of consumers and businesses in each State.

All three programs are 10 or more years old and have produced many successes. The Weatherization Program has already upgraded 3 million low-income houses, resulting in average energy savings of 10 to 20 percent each. Since its inception, the ICP Program has provided over 21,000 grants to local schools and hospitals to reduce their energy costs. The SECP Program has resulted in a number of innovative programs that are tailored to specific States' needs such as a program to encourage the use of alternative vehicle fuels in California, a Louisiana research and demonstration program to reduce energy use in the commercial fishing fleet and a Maine "interest rate buy-down" on energy conservation loans to small businesses, industry, and nonprofit organizations.

Despite these successes, some of the requirements in these programs no longer make sense, and there are new activities that States could successfully undertake to reduce the burden of energy costs on their citizens. These programs need new goals and greater flexibility to deal with the changed energy realities of the 1980's and 1990's.

One of these realities is that we must weigh the environmental impacts of all energy decisions we make. The specters of global environmental problems such as acid rain, ozone depletion, and climatic warming are all very troubling. And, while scientists and others can argue over the ramifications of these trends and the need for more comprehensive solutions, all available evidence suggests that greater energy efficiency is at least a partial remedy that does not commit us to costly crash programs and that saves consumers money.

I am under no illusions that this legislation is the answer to global warming or other environmental threats, but let us start taking the small steps needed to deal with these problems. One of the first steps should be reviewing and upgrading the conservation programs we already have in place.

A second reality we in Congress need to deal with is that the United States set a record for energy consumption last year after 14 years of roughly stagnant demand. Not only did total consumption set a new record in 1988, but the energy efficiency of the economy as a whole declined last year for the first time since 1973. For the first time, the Nation began to backslide on the tremendous gains in efficiency we made since the first Arab oil embargo—gains that have made a major contribution to reducing demand for energy and driving prices down.

This increase in consumption has implications for our economy as well as our environment. Imports of energy have been increasing at the same time that our balance of trade has worsened. If our economy becomes less energy efficient, our manufactured products will become less competitive in the world market, thereby making the trade deficit worse.

The Department of Energy's State and local assistance programs make a positive contribution to the schools, hospitals, low-income households, businesses, and farms that use their services. These programs can also make a positive contribution to our environment and our economy. However, to make the biggest possible contribution, these programs should be brought up to date. That is the purpose of this legislation, and I urge its swift passage.

THE SENSELESS MURDER OF FRANCISCO MENDES FILHO

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. OBEY. Mr. Speaker, today a number of my colleagues and I introduced a concurrent resolution regarding the murder in Brazil of Francisco Mendes Filho, an Amazonia labor leader who worked diligently and unselfishly to save one of the world's greatest resources, the Amazon Rain Forest.

I am heartened by the response of the U.S. Congress as well as by the American people regarding the tragic murder of a man who struggled during his lifetime to advocate and organize workers practicing rubber tapping, an occupation which allows for sustainable economic growth using the great resources of the Amazon without exploitation. Under his leadership, rubber tappers in the western Amazon were successfully organized to work against the shortsighted bulldozing of the rain forest for cattle-raising operations.

On Wednesday, January 25, environmental and human rights leaders paid tribute to Chico's memory with a memorial service at St. Peters Catholic Church and on the Capitol steps. I regret that illness kept me from participating, however, I was pleased to hear that a good number of leaders from both the House and the Senate were able to take part in this timely and important tribute.

My heart goes out to the family and friends of Chico Mendes. Without a doubt, the world will miss this farsighted individual and will be watching and supporting those in Brazil who will ensure that Chico Mendes' work will be carried on, and that his killers will be brought to justice.

I urge my friends and colleagues to join us in cosponsoring this concurrent resolution.

TRIBUTE TO CARL R. HARTMANN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. TORRICELLI. Mr. Speaker, it is with admiration and respect that I rise today to pay tribute to Carl R. Hartmann, a lifelong resident of Wallington, NJ. Carl has held a special place in both his county and his community in his service as Bergen County clerk since 1973, and as Wallington Borough clerk since 1972.

Active in many areas of public service, Carl is a U.S. Army veteran, a member of the New Jersey National Guard, and the past commander of VFW Pavlick-Koster Post 2640.

Carl's activism on behalf of others and his sense of commitment to his borough, and to Bergen County, are qualities that we have all come to admire and respect. I, therefore, take pride in recognizing the many accomplishments of this fine friend and public servant. Carl has served as a member of Wallington's Fire Department, the Wallington Emergency Squad, and is presently a member of the Exempt Firemen's Association. He has involved himself with all aspects of community life by also serving on the Wallington Borough Council, the Wallington Recreation Commission, and as the former president of the Wallington Planning Board. Currently, Carl is president of the John F. Kennedy Memorial Library.

The responsibility and concern Carl has for others is a continuation of his father's own years of public service as a councilman in Wallington for 15 years. The tradition of serving has been passed on through the generations, as is evident in Carl's sons, Robert and Mark, and his daughter, Dorothy. His children are as active and involved in their community as their father and grandfather were, and just as dedicated and giving.

Carl Hartmann is indeed a man who deserves our respect and appreciation. It is with great honor and pleasure that I am able to pay tribute to him as he leaves his post as Bergen County clerk. I wish him continued health and happiness in the many more productive years to come, and am proud to call him my friend.

UKRAINIAN INDEPENDENCE DAY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FEIGHAN. Mr. Speaker, earlier this week, on January 22, we marked the 71st anniversary of Ukrainian Independence Day. On January 22, 1918, after the Bolsheviks took power in Russia, the Ukrainian Central Council issued the Fourth Universal, proclaiming Ukraine's independence from Russia by saying, "People of Ukraine: by your own power, your will and your word, a free Ukrainian republic now exists in your land."

Exactly 1 year later, the Ukrainian Parliament passed the Act of Union which incorporated all Ukrainian land—the Western Ukrainian National Republic and the Ukrainian National Republic—into one nation.

Tragically, however, the Ukrainian National Republic fell to the Communists in the early 1920's after 3 long years of military struggle, and was divided between the Soviets in the East and the Poles in the West.

During this period of independence, the Ukrainian people were able to live under freedoms completely unknown to them before or since that time. The Third Universal of the Ukrainian National Republic, issued in November 1917, proclaimed the same freedoms for Ukrainian citizens that we find in our own bill of rights. During this time, Ukrainian citizens were able to enjoy the freedoms of speech, press, religion, assembly, and others.

Despite the Soviet domination of the Ukrainian people since the early 1920's, however, the spirit of freedom and democracy lives on in the hearts of the Ukrainian people. On

behalf of the Ukrainian community of Greater Cleveland and Ohio, I want to send a message of hope and courage to those living in Ukraine today. I also want to call upon my colleagues in the United States Congress to help protect the human rights of these brave people.

A TRIBUTE TO CHICO MENDES

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Ms. PELOSI. Mr. Speaker, I rise today to pay tribute to Francisco "Chico" Mendes Filho, who recognized the significance of our planet's threatened rainforests and worked to preserve them. On December 22, 1988, Chico Mendes was murdered by those who have chosen to ignore the importance of global ecology in order to pursue profit.

Two-thirds of the world's living species inhabit tropical rainforests, yet an average 74,000 acres of these lands are destroyed every day. Brazilian scientists report that 20 million acres of virgin rainforests are burned each year in the Amazon Basin. These fires have produced huge quantities of carbon dioxide polluting the Earth's atmosphere and eliminating much of the plant life that normally consumes the heat-trapping greenhouse gas.

Chico Mendes worked to organize "extractive reserves" where rubber trappers like himself could continue to harvest the rubber without destroying the resources of these areas. His method was to make a series of incisions at the base of rubber trees allowing the sap to leak out without cuting the trees down. This method protected the fragile jungle soils and the plant and animal life that depend on the livelihood of the rainforest.

Chico Mendes was an extraordinary man who fought for a cause in his forest that affected us all. Man did not create the web of life, but is a strand in the web. Each strand affects the whole web. Chico Mendes, in his work to ensure the preservation of rainforests strengthened the web of life. His movement lives on with new strength and relevance as we continue the work of Chico Mendes to protect our planet.

TRIBUTE TO GEORGE CASE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. PALLONE. Mr. Speaker, notice was made recently of the death in his hometown of Trenton, NJ, of George Case, a major league baseball player of uncommon ability. Shirley Povich, who for so many years covered the Washington Senators as a sports writer before his long tenure as sports editor of the Post, recalled for all of us in Thursday's editions the excitement and base stealing skill which George Case brought to the game of baseball. For those who remember George Case's brilliant feats on the diamond, herewith is Mr. Povich's column:

A CASE OF SPEED AND BASEBALL SMARTS

(By Shirley Povich)

It was a skimpy obituary they gave George Case the other day when he died at the age of 73 in his hometown of Trenton, N.J. The treatment was too short and too innocent of his place in baseball as the fastest man in spikes, unpardonably lacking a sense of the game's history. It was, sadly, a brushoff.

George Case, for nine years the pride of the Washington Senators, deserved better. If he wasn't in the super-great class of Lou Gehrig or Jimmy Foxx or Ted Williams, George Case was nevertheless a name, a famous one in baseball. He was the unchallenged speedster of his time, reigning as the No. 1 concern of American League catchers and pitchers, too, when he was on base. For five straight seasons (1939-43) he led the league in base stealing.

On base, George Case was the focus of every fan in the ballpark. Would he or wouldn't he? He created excitement simply by taking his lead off the bag. And when he went it was in his own style, not the arm-flailing and scrambling fashion of most other base stealers. Case ran with a trackman's gliding whoosh. And as an outfielder he was known to outrun a fly ball.

The supposedly unassailable American League record of 61 steals by Ben Chapman was matched by Case in 1943. In a 1946 match race with Gil Coan, the rookie hailed as the fastest man ever in a Washington uniform, Case, then with Cleveland, was clocked for the 100 yards in 10 flat, in full uniform and baseball spikes on grass. Compare it with Jesse Owens' world record of 9.4 for the distance in track suit and on a running track.

Case evoked testimonials with regularity. From Hap Hardell, Georgetown University track coach: "Put him in the starting blocks and running shoes, and you've got an Olympic gold medalist." White Sox manager Jimmy Dykes: "He's the most dangerous one-run man in the league. I tell my pitchers, first thing, keep Case off base." Cleveland Manager Lou Boudreau expressed his gladness when Case was traded to his team in 1946: "I won't have to worry any more about that pest."

Clyde Milan, the Senators coach and the man who broke Ty Cobb's season-high base stealing record and was thus an authority on speed, said in 1938: "I've seen 'em all, Cobb, Eddie Collins, Burt Shotton, Max Carey, Maurice Archdeacon and Evar Swanson and George would leave 'em in the ruck."

Case was picked up "for a few hundred dollars" by Joe Cambria in 1936 when he was playing semipro ball around Trenton. Previously Case had walked into the Philadelphia Athletics' tryout camp but was quickly dismissed by Connie Mack. Trouble was, young Case told Mack he was a pitcher. Nothing about being an outfielder he was to become.

The Senators got their first good look at him in 1937 when, after completing a series with Philadelphia, they moved down to Trenton for an exhibition game. That excursion gave cause for a smart-aleck Washington baseball writer, whose name is modestly withheld, to write, "Washington crossed the Delaware today and got clobbered, 12-5 by their Trenton farmhands," Case got three hits. The Senators also learned that in that minor league, Case had beaten out 25 of the 27 bunts he laid down.

Once, on a promise the story would not be told until after his retirement, Case said, "Stealing against the Red Sox and Tigers was the easiest. Jimmie Foxx and Rudy York, their first basemen, didn't bother much on the pickoff throws from the pitcher. They just took lazy half swipes at me and then threw the ball back. I could take longer leads."

He would not have gotten a big jump on the old Senators right-hander Alvin Crowder, who once explained why he rarely threw to first. "I don't have to bother about that. The runners know who I am and that I've got a good move," Crowder said. "I look over there and cock my head the same way every time, holding the ball against my chest. Then if I see the base runner there's no need to throw. But if I look over there and I don't see him he's too far off the bag and he belongs to me."

In 1943 with two games left and both men tied at 56, who would win the base stealing title? Case or Wally Moses of the White Sox? No problem. Case stole five bases in the next 18 innings. George was capable of things like that. He gave to the game an excitement that was within only a few to give. He made a place for himself among the most shining traditions of baseball. And this week, George Case evokes another thought: Thanks for the memories.

In the AL, he was a threat to beat out any ground ball he hit. His respectable .286 careet batting average was beefed up by his leg hits, and he still holds the AL record for hitting into only five double plays in a season in which a player has been in 150 games or more. His speed panicked more infielders, provoking more infield errors, than did any other man.

Like every other base stealer, Case admitted he stole more on pitchers than on catchers, but he also confessed, "I'm licked when that pitcher takes the ball to his chest and just holds it there, just staring at you. You're tense out there on your toes, and this drains you and kills your speed. Not all pitchers know that, though."

PILOT PROGRAM FOR VETERANS

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LEWIS of Florida. Mr. Speaker, this week I reintroduced legislation to establish a pilot program under which the Department of Veterans' Affairs will contract with public and private health facilities to provide care for veterans. This pilot program, to be conducted initially in 10 counties throughout south Florida, will determine whether this type of arrangement can be used nationwide.

In my home State of Florida, 15,000 veterans move in each year from other parts of the country. Forty-one percent of these veterans are over the age of 65. However, despite these numbers, Florida has only three VA hospitals. In Palm Beach County, where a fourth hospital to serve over 160,000 veterans is scheduled for completion in 1992, veterans must make a round trip of nearly 200 miles to the nearest VA facility in Miami. This same situation exists in many rural areas of the United States.

My legislation gives immediate relief to veterans by providing them with accessible

health care until a local VA facility is available. This bill will also establish whether private contracts can serve various parts of the country, without the expense of building a major health facility.

We must not foreget the sacrifices our veterans have made for our country. Enactment of this legislation will ensure that the special health care needs of our veterans are not ignored.

REQUIRE RECONFIRMATION OF FEDERAL JUDGES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FIELDS. Mr. Speaker, today I am introducing a proposed amendment to the Constitution requiring that Federal judges be reconfirmed by the U.S. Senate every 10 years.

Presently, Mr. Speaker, Federal judges serve life terms once they are appointed. The only constitutional mechanism for removal of these judges is impeachment. As we all know, impeachment is a long and arduous process. Historically it has been exercised on only 10 occasions, resulting in actual removal from office of only five judges.

In the absence of any other effective formal procedure for removal, Federal judges have been elevated to a stature unprecedented and unequaled by any other Federal official. Consequently, and to the citizenry's misfortune, there is no procedure for the removal of a judge who may be dysfunctional, dishonest or in any other way unfit to fulfill his or her constitutional responsibilities.

According to article III of the Constitution, supreme and lower court judges are appointed to office for a term of good behavior. I certainly recognize and compliment the wisdom of the framers of the Constitution who, by separating judical officials from the political process, preserved and defined the principle of separate, but equal, branches of government.

However, I continue to believe that this separation has resulted not in a more effective judicial system, but rather in a greater disparity between the various branches of government. The life tenure of these judges has them less, not more, accountable for their actions and decisions.

Moreover, the increasing use by these judges of their judicial power as a means of effecting social policy is troubling. Our judicial system was established to interpret the law, not to formulate national policy. However, within the past fifteen years, many of our Federal judges have taken to backdoor legislating on such controversial issues as school prayer and busing, and abortion. In my own State of Texas such backdoor legislating has occurred on such issues as prison overcrowding and the provision of educational services to illegal aliens. The perpetrator of overreaching judicial bounds has been Federal Judge William Wayne Justice.

I sincerely believe that neither this legislative body nor the American citizenry can stand by and watch this transgression of constitutional authority. National policy decisions should not be promulgated by our courts, but rather should be duly deliberated and decided by the people's elected representatives in Congress.

Mr. Speaker, I urge expeditious consideration of this legislation so that our Nation can once again be assured of three separate, but equal, branches of government.

A TRIBUTE TO AUDRAIN WEATHERL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Audrain Weatherl, who retired on December 31, 1988, after 40 years of active work in tunneling and the Laborer's International Union. He distinguished himself in his craft, the most dangerous in construction, in his service to his union and in his many public contributions such as his work with the Cal-OSHA Program.

Aud Weatherl was born in Detroit, the son of an auto worker. He graduated valedictorian of his class in 1942 and joined the Laborer's International Union of North America and remained a member while joining other mining unions. He also married his high school sweetheart that year and they later had two children, Daniel and Priscilla.

In 1947, at the age of 24, Aud was hired on in the mines at Rock Springs, WY and began his long career working underground. Mining jobs in copper and coal took him all over the west and taught him the art of tunneling. He had tunneling jobs throughout the USA and the world, from Colorado, Arizona, Peru, Australia, Wyoming to California. Wherever, he went Aud joined the union—United Mine Workers, Mine, Mill and Smelter Laborers—taking an active part.

In 1960, Aud became a business agent for Laborers Local 185 in Sacramento, CA to represent the "tunnel stiffs." And in 1966, the international union selected him as the international representative, representing tunnel workers everywhere. during this period, Aud became a nationally recognized authority on the worker and safety aspects of tunneling. He testified before congressional committees on tunnel safety. He also testified before and worked with the California State Legislature and administration to help improve what he considers to be the best occupational health and safety program for workers throughout the country.

In 1984, the International Laborers appointed Aud to be the assistant regional manager for the four-State—California, Arizona, Nevada and Hawaii—sector where he served until his retirement last month. In addition, he remained president of his home local union, 185, for 15 years and continued to work on the Cal-OSHA advisory committee.

To tunnel stiffs throughout the world, Aud Weatherl was known as "Mr. Underground Union." He was the one tunnel workers called whenever they had a problem. Aud has spent his life working in tunnels and helping to improve the health and safety programs of his fellow tunnel stiffs. He has a right to be proud of his association with and support work for the tunnel and mines unions and occupational healh and safety units under the Cal-OSHA program.

Mr. Speaker, Aud's friends and colleagues do not really believe he will completely retire from his work, I am sure Aud's family and friends agree that he exemplifies the spirit of a true laborer, and as Shakespeare said:

I am a true Laborer, I earn that I eat, get that I wear, owe no man hate, envy no man's happiness, glad of other men's good.

A BILL MAKING A TECHNICAL CORRECTION IN THE EDUCATION AND TRAINING FOR A COMPETITIVE AMERICA ACT OF 1988

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. COLEMAN of Missouri. Mr. Speaker, I am today introducing a bill which makes a correction in the Education and Training for a Competitive American Act of 1988. Identical legislation was passed by the House during the final weeks of the 100th Congress but was not considered by the Senate. This bill has bipartisan support on the Education and Labor Committee. I particularly appreciate the cooperation of Chairman HAWKINS and Mr. WILLIAMS, chairman of the Postsecondary Subcommittee, in getting an early resolution of this unfinished legislative business of the last Congress.

This bill corrects a technical error made in writing the conference report on the Omnibus Trade and Competitiveness Act of 1988. In the report, the Access Demonstration Programs were inadvertenly authorized for only 1 year, fiscal year 1988, rather than for the 4-year period of authorization, beginning in fiscal year 1989 and ending in fiscal year 1992, which was agreed to by both House and Senate conferees.

This bill makes a simply, purely technical change, correcting the drafting error and providing for the full, 4 years of authorization for the Access Demonstration Program which was originally intended.

Access is a vitally needed program which is designed to expand the college, vocational, and career opportunities of rural high school students attending schools in agricultural communities which are encountering fundamental economic and social changes.

Access, now a pilot project in northwestern Missouri, provides in-school support services for counselors, teachers, and school administrators, targeting those rural schools with the greatest need, particularly those serving low-income, disadvantaged students. Access has been successful in involving parents, business and community leaders, and the resources of the state universities in providing counseling and educational programs for rural high school students.

NATIONAL OSTEOPOROSIS PREVENTION WEEK

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Ms. SNOWE. Mr. Speaker, I am pleased to introduce, on behalf of myself and of my colleagues, legislation to designate the week of May 14 through 20, 1989 as "National Osteoporosis Prevention Week."

Since 1985, "National Osteoporosis Prevention Week" has been signed into law by the President. Led by the National Osteoporosis Foundation, groups around the country have worked during this week to inform the public about the risks of Osteoporosis, and the need to prevent the development of this painful disease. Last year, over 50 national organizations in the fields of health, education, youth, women, and aging and numerous Federal agencies joined in support of this important week. Through their coordinated efforts, the message about osteoporosis reached 50 million poeple during Prevention Week. This year over 80 public and private organizations have joined in the effort to mobilize information to all ages about what can be done to prevent the development of this disease and how we can protect ourselves once it has developed.

Known as the silent disorder, osteoporosis is characterized by a thinning of the bones, a condition that affects 25 million Americans and causes 1.3 million fractures a year. Because it is now believed that osteoporosis is as much a product of ones lifestyle as it is a genetic predisposition, "National Osteoporosis Prevention Week" focuses attention on all stages of ones life.

For example, childhood and young adulthood are critical times in building maximum bone mass which decreases the later effects of bone loss. Thus, a diet rich in calcium and stressing weight bearing exercise are essential during this period. During middle age, regular exercise and restrictions on smoking and alcohol can keep bones strong. Menopause is a crucial time for women since the onset of osteoporosis is generally after menopause. In fact, according to some estimates, postmenopausal women can lose as much as 38 milligrams of calcium a day resulting in approximately a 1-percent overall calcium loss each year. One-third to one-half of all postmenopausal women will develop some degree of osteoporosis.

For the over-75 population, 50 percent will have some degree of bone loss. Thus, in the later years, fall proofing ones environment is of prime importance by decreasing the risk of fractures through falls. Fractures, paraticularly hip fractures, not only lead to increased mortality, but also cause an increased incidence of institutionalization and/or increased dependence on others in the community. By 2050, with the aging of the population, the number of hip fractures is expected to double or even triple. The cost of these hip fractures in 1988 exceeded $10 billion in health care costs and lost wages. In the future, these costs are expected to increase even higher.

Thus, the message of Prevention Week is to provide the information each of us needs at each stage of our lives to make informed decisions about how to keep our bones healthy.

Only a few short years ago, osteoporosis was a word that was hardly known to the general public. It is my hope that osteoporosis again will be lost to our vocabularies because it will become a disease of our past, not of our future. In keeping with that hope, I want to salute the efforts of those organizations that have worked with the National Osteoporosis Foundation on behalf of National Osteoporosis Prevention Week.

NATIONAL OSTEOPOROSIS PREVENTION WEEK—1989

PREVENTION WEEK COSPONSORS

Alliance for Aging Research.
American Academy of Orthopedic Surgeons.
American Academy of Physical Medicine and Rehabilitation.
American Association of Retired Persons.
American College of Obstetricians and Gynecologists.
American Dietetic Association.
American Hospital Association, Section for Maternal and Child Health.
American Medical Association.
American Medical Association Auxiliary.
American Medical Women's Association, Inc.
American Red Cross.
American Running & Fitness Association.
American Society for Bone and Mineral Research.
Association for the Advancement of Health Education.
Future Homemakers of America.
Girl Scouts of the U.S.A.
Girls Clubs of America, Inc.
The Gerontological Society of America.
National Association of State Units on Aging.
National Council on Patient Information and Education.
National Council of Jewish Women.
National Consumers League.
National Council on the Aging, Inc.
National Dairy Council.
National Rural Health Network.
New Ventures of Wisconsin, Inc.
Nurses Association of the American College of Obstetricians and Gynecologists.
President's Council on Physical Fitness and Sports.
Prevention Leadership Forum.
Public Voice for Food and Health Policy
Society for Nutrition Education.
U.S. Department of Agriculture, Extension Service.
U.S. Department of Health and Human Services: Administration on Aging, Bureau of Maternal and Child Health and Resources Development, Food and Drug Administration, National Institute on Aging, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institute of Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse, National Institute of Diabetes and Digestive and Kidney Diseases, and Office of Disease Prevention and Health Promotion.
Wellness Councils of America.
YMCA of the USA.

FRIENDS OF PREVENTION WEEK

Allegheny Regional Hospital, Clifton Forge, VA.
AMI Brookwood Medical Center, Birmingham, AL.
AMI West Alabama Hospital, Northport, AL.
Antelope Valley Hospital Medical Center, Lancaster, CA.
Baptist Hospital of Miami, Miami, FL.
Battle Creek Health System, Battle Creek, MI.
Bayonne Hospital, Bayonne, NJ.
Cape Fear Memorial Hospital, Wilmington, NC.
Columbia Hospital for Women Medical Center, Washington, DC.
Community Hospital, North Las Vegas, NV.
DeKalb General Hospital, Decatur, GA.
Elmwood Medical Center, Jefferson, LA.
Firelands Community Hospital, Sandusky, OH.
Hospital for Special Surgery, New York, NY.
Kennedy Memorial Hospitals—University Medical Center, Stratford Div., Stratford, NJ.
Lenox Hill Hospital, New York, NY.
Loma Linda University Medical Center, Loma Linda, CA.
Lubbock General Hospital Foundation, Lubbock, TX.
Martha Jefferson Hospital, Charlottesville, VA.
Midland Hospital Center, Midland, MI.
Millcreek Community Hospital, Erie, PA.
Mission Hospital Regional Medical Center, Mission Viejo, CA.
Montgomery Regional Hospital, Blacksburg, VA.
Mother Frances Hospital, Tyler, TX.
Providence Medical Center, Portland, OR.
Sacred Heart Hospital and Rehabilitation Center, Norristown, PA.
Saint Jerome Hospital, Batavia, NY.
Saint John's Mercy Medical Center, Creve Coeur, MO.
Saint Joseph's Care Group, Women's & Children's Services, South Bend, IN.
Saint Luke's Hospital, Chesterfield, MO.
Sierra Medical Center, El Paso, TX.
The Staten Island Hospital Foundation, Staten Island, NY.
Sunnyside Community Hospital, Sunnyside, WA.
Western Reserve Care System, Youngstown, OH.
Woman's Health Institute, Houston, TX.

PARTNERS IN PREVENTION

Coca-Cola Foods.
The Dannon Company, Inc.
Lederle Laboratories.
Marion Laboratories, Inc.
Mead Johnson Laboratories.
The Merck Company Foundation.
Mission Pharmacal.
Norwich Eaton Pharmaceuticals, Inc.
Parke-Davis.
Pfizer Pharmaceuticals.
Procter & Gamble Co.
Sandoz Pharmaceuticals Corporation.
SmithKline Beckman Foundation.
Squibb Corporation.
3M Foundation.
Warner-Lambert Company.
Wyethe-Ayerst Laboratories.
The Upjohn Company.

HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. LAFALCE. Mr. Speaker, on behalf of myself and 39 cosponsors, I am today reintroducing legislation to provide a 100-percent tax

deduction for the health insurance costs of the self-employed. This bill is identical to the bill I introduced in the last Congress, H.R. 3065, which had nearly 100 cosponsors.

The bill amends the Internal Revenue Code of 1986 to allow self-employed individuals, primarily the sole proprietors and partners in many of the Nation's small unincorporated businesses, to deduct the full cost of health insurance for themselves and their families.

This legislation will rectify a fundamental inequity in the Tax Code which serves to discourage self-employed business owners from offering health benefits to their employees. All employers are entitled to deduct as a business expense the cost of providing health insurance coverage to their employees. The owner of an incorporated business may also deduct the full cost of his or her own health insurance. In the case of an unincorporated business owner, however, his health insurance costs were fully taxable under the law as it existed prior to enactment of the 1986 tax bill.

The Tax Reform Act of 1986 addressed the unequal treatment between self-employed individuals and owners of corporations by allowing the self-employed to deduct 25 percent of the costs of health insurance for themselves and their families, provided they offer comparable health benefits to their employees. While this is a step in the right direction, it does not go far enough. Moreover, it is temporary; the 25-percent deduction will expire at the end of this tax year.

Mr. Speaker, there is no justification for continuing this unequal treatment of health insurance costs based on the legal form of a business. The lack of a full business deduction for the health insurance costs of the self-employed is a major disincentive for those business owners to provide health benefits for themselves and their employees.

We are all familiar with the alarming health insurance gap in this country. It is estimated that almost 37 million Americans have no health insurance of any kind, public or private. Nearly half of the uninsured population, more than 18 million people, are workers. The vast majority of these uninsured workers are employed by small businesses. In fact, recent studies show that nearly half of all uninsured workers are employed in firms with less than 25 employees.

It is imperative that we provide all of the voluntary incentives we can to encourage employers, especially small business owners, to provide health insurance benefits. This bill will provide a significant tax incentive for the self-employed to provide health benefits for themselves, their families, and their employees, and represents an important first step toward our goal of expanding health insurance coverage among the working uninsured.

AGRICULTURAL COMMODITY-BASED PLASTICS DEVELOPMENT ACT OF 1989

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. DURBIN. Mr. Speaker, today I am introducing legislation which addresses an important environmental problem while encouraging the development of alternative uses of our Nation's agricultural products.

The Agricultural Commodity-Based Plastics Development Act of 1989 will promote the development of degradable plastics by increasing Federal Government purchases of degradable plastics products, especially agriculture-based products.

Mr. Speaker, throughout the world, there is a growing awareness of the need for degradable plastics. Every product we use today that is made of conventional plastics will still be with our descendants hundreds of years from now, because conventional plastics take centuries to degrade. One of our most enduring legacies for our posterity is our plastic waste.

And while it survives, plastic waste is not benign. A recent study of the Atlantic Ocean off the Northeast coast found that, on each square mile of ocean, more than 40,000 pieces of plastic are floating on the surface. This plastic waste is a hazard to fish and other aquatic wildlife, which ingest or become entangled in plastic products and die.

At the same time, plastic waste is taking up a growing share of the diminishing space in our Nation's landfills. In 15 years, plastic waste as a percentage of the volume of all municipal waste more than doubled, from 15 percent in 1970, to 31 percent in 1985. I have been told that the cost of purchasing and preparing one new acre of landfill is $500,000. So as we fill up our landfills with cheap plastics, we make inevitable the purchase of new landfills at extraodinarily high costs.

Degradable plastic products can reduce these waste problems, because degradable plastics can degrade in as little as 6 months to 2 years.

The most promising degradation technology relies on the use of corn starch, which breaks down under the right environmental conditions and hastens the degradation of the plastic in which it is embedded. Because degradable plastic products are agriculture-based, they can also provide an important new market for our Nation's farmers. This technology has the potential to utilize hundreds of millions of bushels of corn each year, which will boost our rural economy and help to restore American agriculture's prosperity.

The legislation I am introducing, which has also been introduced in the Senate by Senator GLENN of Ohio, creates incentives for the development of degradable plastics technology by providing preferential procurement by the General Services Administration of degradable plastics products, with special emphasis on degradable plastics made from agricultural products. The bill provides $20 million in each of the next 3 years, to pay for the small differential between the cost of degradable plastics and conventional plastics.

Mr. Speaker, this measure will benefit the American farmer, improve our environment, and reduce our solid waste problem. It will help show that degradable plastic is a practical technology, which should lead to much wider use of degradable plastic products. I urge my colleagues to join me as cosponsors of this legislation, and I look forward to working with them to address these important national issues.

SAM AND ERNESTINE SPRIGG'S 50TH WEDDING ANNIVERSARY

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. WISE. Mr. Speaker, today marks a very special day for two of my constituents, Sam and Ernestine Sprigg of Crawford, WV. In today's world it is indeed an occasion to celebrate a 50th wedding anniversary. Mr. and Mrs. Sprigg represent the fabric of our society in their commitment to each other. Mr. and Mrs. Sprigg have shown the same commitment to the community as they have shown to their family. Sam Sprigg is retired from the West Virginia Department of Transportation and Ernestine Sprigg served as postmaster of the Crawford post office for a number of years before retirement. These people have served their community and the fine State of West Virginia not only in their working lives but in their community involvement. Sam Sprigg is well known in Lewis County for his hospitality and Ernestine Sprigg is a constant presence in her church work and the Crawford Extension Club.

It is my pleasure to ask my colleagues to join me in offering my congratulations and warmest best wishes to Mr. and Mrs. Sprigg.

WHY PLANT TREES

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. KOSTMAYER. Mr. Speaker, last November 12, I joined a number of my constituents in Bucks County, PA, who are members of the Bucks Alliance for Nuclear Disarmament [BAND] in a tree planting ceremony to protest the enormous discrepancy between our Nation's defense and environmental protection budgets.

By planting seedlings that morning, we tried to show in a modest way that our continued survival on this planet depends as much on finding a solution to problems such as global warming, acid rain, and ozone depletion as it does on continuing to build up our nuclear arsenal.

Mr. Speaker, I commend the members of the alliance for their dedication to peace. They deserve our thanks for focusing attention on the fact that our choice to increase defense spending at the expense of other important programs carries with it a high cost to the health and well-being of our Nation's citizens.

I hope my colleagues will take time to read the following remarks by Mr. Paul Zimmerman, organizer of the tree planting and an article entitled "Why Plant Trees" compiled from the 1988 World Watch Report.

STATEMENT BY PAUL D. ZIMMERMAN, ORGANIZER, NATURAL SECURITY DAY

Welcome to Natural Security Day. It's thrilling to see so many of us here on this glorious morning. Our presence is our statement. Today, we are speaking with our hands and backs and shovels and shoes.

Grandmothers and grandchildren, nurses and teachers, students, taxpayers, Bucks County citizens, we are expressing our love for our planet, our connection to our land, and our dedication to our community.

And we are calling for new priorities for our Nation.

We are demanding that funds now spent preparing for nuclear war be shifted to combat a greater and more immediate threat to our security—the crisis of our environment.

This past summer, we suffered the greatest ozone pollution in the history of the Delaware Valley. That means our kids, our parents, our loved ones smoked the equivalent of two packs of cigarettes a day—we also suffered the first awful impact of the greenhouse effect in drought and heat. Foreign submarines did not invade our shores—but noxious garbage, dumped among our undersea life, shut those shores down.

The response of our Federal Government to this clear and present danger? To cut enviromental funding this coming year by 10 percent.

We're told that money is tight. But, in 1989, the Pentagon budget will rise by 4 percent, even though we are already spending at the same wartime level, in constant dollars. As we did during the Vietnam and Korean conflicts.

There are those who will argue that a wartime economy is necessary for our survival.

We say:

We cannot survive spending 52 cents of every Federal dollar on the Pentagon and less than 2 cents on our environment.

We cannot survive spending less than a penny of each tax dollar protecting our air, our land, and our water.

We cannot survive spending less in a full year combatting acid rain than we spend in one minute blowing up a nuclear device under the Nevada Desert.

But, thank God, in a democracy, we have choices.

For 121 million dollars, we can chose to plant one MX missile in the gound or plant 611 millon two-year seedlings.

We can choose to start paying more to our Federal parks system, to our U.S. Wildlife Service and our Nation's Forest Service than we spend researching space weaponry.

What we need now is a national tree-planting initiative, an ozone defense force, an acid rain treaty.

We dedicate the forest that we're about to plant to a saner, healthier future. By the spring, these beautiful trees will start replenishing the air we breathe. They will start refurbishing our ozone shield. They will one day provide a safet habitat for our birds and beasts. And they will enhance the beauty of our world.

They will also bear witness, into the next century, of our call for a new enlightened vision of national security. For that, we thank you, pines and locusts, rain trees and sweetgums lindens and dogwoods, and tulip populars. We're all in it together.

WHY PLANT TREES?

No change in the biosphere is more dramatic than the degree to which human activities have reduced forested ecosystems to remnants. The worldwide warming that threatens to raise the Earth's average temperature by 1.5-4.5 degrees celsius (2.7-8.1f) by 2050 is generating some of the most difficult questions political leaders have faced. If projected warming is to be minimized, the build up of carbon dioxide and trace gases that contribute to the greenhouse effect must be slowed, and quickly. In 1987 fossil fuel combustion emitted some 4.5 billion tons of carbon into the atmosphere while deforestation released on the order of 1 billion to 2.6 billion tons.

If remaining forest are better managed and new plantings begin to meet a substantial share of human needs, stabilizing the earth's forested areas could reduce global carbon emissions by some 1.5 billion tons, more than a fifth of 1986 emissions.

Two barriers stand in the way of ensuring that this happens. One is the gross misallocation of capital implicit in military expenditures of $900 billion annually worldwide. The other is the unmanageable "third world" debt that burdens the world economy. These obstacles must be overcome to free up the funds on the scale needed to ensure stabilization of the biosphere.

Since 11 million hectors of land (an area the size of Austria) are being cleared each year, we must make this issue a national priority, then an international one. The U.S. needs to adopt an international code of conduct similar to that of Great Britian in order to stop the rape-and-run policy that is encouraged by present World Bank and Inter-American Development Fund programs. We should also encourage a trade policy that bans the importation of any wood taken from unsustainable forests that are clear-cut, not reforested, without effective erosion programs, or are taken from areas too large to be properly managed.

The U.S. Congress is on the verge of passing a model bill on tropical forest management and is recognizing the need to preserve the plants, animals, insects, and other flora and fauna contained in forest ecosystems. Sen. Roth of Delaware and Congressman Gus Yatran of Pennsylvania are sheparding this bill through Congress and need to be supported in their efforts. The bill would require that any U.S. assistance would not finance penetration roads, large scale dams, and colonization schemes.

Global warming and the greenhouse effect may seem to present insurmountable problems. However, every tree planted, every legislative action enforced, every hand extended across political boundaries to remedy this impending catastrophe, turns the problem into an opportunity for world peace and a clean, healthy environment.

TRIBUTE TO FORTY-NINERS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. MINETA. Mr. Speaker, it is with great honor and pride that I take this opportunity to salute a truly great sports organization, the San Francisco Forty-Niners. On Sunday, January 22, 1989, the Forty-Niners and Cincinnati Bengals treated football fans across the Nation and around the world to a spectacular Super Bowl in Miami, FL. The Forty-Niners won the contest in dramatic fashion in the final minute of play by besting the Bengals on a Joe Montana touchdown pass to John Taylor with just 34 seconds remaining on the clock.

To say that the Forty-Niners are a great team would not suffice somehow. Throughout the rugged National Football League season, they were tested week after week, and only the hardiest of fans would have given the team much chance of achieving its third Super Bowl title in this decade. But Montana, Jerry Rice, and Roger Craig led the charge through the playoffs and to a thrilling, come-from-behind victory in football's biggest game. They exemplified the sportsmanship and courage of which all great teams are distinguished.

It is a great pleasure and source of pride for the people of my district to play host to the Forty-Niners training camp and administrative office in Santa Clara. I ask my colleagues in the House to join me in saluting owner Edward DeBartolo, Jr., coach Bill Walsh, and the entire San Fancisco Forty-Niners organization for its outstanding championship play this year and throughout the decade. They are truly the "Team of the Eighties."

EPA GRANTED PERMIT TO CONTRACTING FIRM WITH VIOLATIONS STILL PENDING FOR HAZARDOUS WASTE INCINERATOR TO BE BUILT IN VERNON, CA

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. ROYBAL. Mr. Speaker, I would like to bring to the attention of my colleagues the following procedures, or lack thereof, which took place regarding the installation of a hazardous waste incinerator in a neighboring district to my own 25th District located in Los Angeles. On September, 15, 1988, nine of my California colleagues and myself wrote a letter to Mr. Daniel W. McGovern, Administrator, Region IX, of the Environmental Protection Agency [EPA], asking them to deny the California Department of Health Services' [CDHS] decision made in July 1988, granting California Thermal Treatment Service [CTTS] a permit to operate this incinerator until conducting an environmental impact review [EIR].

The South Coast Air Quality Management Distrtict [SCAQMD] concluded that initial favorable reuslts from a risk assessment and performance evaluation precluded the need for an EIR. Also, CDHS claimed that the CTTS will destroy 99.99 percent of the hazardous materials to be burned. Our concern, among others—is what happens to the remaining 0.01 percent of the hazardous materials to be burned, 24 hours a day, 7 days a week? After the calculation is tallied, this leakage will result in the contamination of the air in the San Gabriel Valley, and in residents of Vernon and adjacent communities being exposed to 2.24 tons of unincinerated hazardous waste per year.

After another permit was issued by the EPA in November 1988, Congressman MARTINEZ, Congressman HAWKINS, and myself wrote to Mr. Lee Thomas, Office of the Administrator, of the EPA to express our concerns, joining the city of Los Angeles, Mothers of East L.A., Concerned Citizens of South Central, Assemblywoman Lucille Roybal-Allard, State senator, Art Torres, and Margarito Guiterrez over the issuance of the Resources Conservation and Recovery Act [RCRA] permit. This

letter of December 15, 1988, prompted the following response: EPA would "place our letter in support of those petitions in the administrative record for appropriate consideration by the Administrator."

Unfortunately, that letter was considered to be of no avail to the representatives, nor to the well-being of our citizens. We remain concerned. Why can't there be a full-fledged EIR? Yes, it is one more study—an extensive study which should not be slighted. At a time when the world is recognizing the environmental consequences of our modern technological inventions, our local, State, and Federal regulatory agencies must use the proven methods or reports available to determine exactly what amount, this 0.01 percent, damage will do to an already fragile air quality. We, in the Los Angeles metropolitan area, currently face the most severe air pollution conditions and believe that we cannot afford even a 0.01-percent air contamination.

Recently we learned from the Los Angeles Times, that the parent company which received the permits for Vernon Incinerator has been cited dozens of times for health and safety violations at infectious waste incinerators in Garden Grove and Long Beach. The article went on to state.

Twin medical waste incinerators operated by Security Environmental Systems, Inc., in Garden Grove were shut down in 1986 under pressure from the SCAQMD (the same agency which gave them a favorable performance evaluation for the Vernon Incinerator), has racked up 20 violation notices in the last 6 years, according to air district files.

Many other incidents which cause the citizens of Los Angeles grave concern are cited in the same articles. The company officials have often denied access to inspectors, and the inspectors have had to dodge outbursts and threatening behavior from the company officers. Overall the firm has received 49 violations from 1978 to 1987 involving the Garden Grove and Long Beach waste burners—some of which are still pending.

Further, I am shocked at the officials' responses. One EPA official stated, "We didn't look into it in great detail." Another State Department of Health Services official said, "I personally did not delve much into it." Other statements called the charges of violations "irrelevant." My dear colleagues, I don't think that "irrelevant" should ever be used in the same text discussing a company's authorization to operate a hazardous waste incinerator.

Before a hazardous toxic waste incinerator is installed, our citizens deserve every available safety review and precaution offered by the agency, specifically the one agency created to protect us. The construction of this incinerator will be harmful to the local residents and many of them are children who will have to breathe and be exposed to this toxic environment on a daily basis. The builder of this incinerator, who has been guilty of other violations and still possess control, insist a full EIR should not be completed. This hazardous waste incinerator should not be built.

MEDICARE INPATIENT HOSPITAL CAPITAL EXPENDITURE AMENDMENTS OF 1989

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 27, 1989

Mr. STARK. Mr. Speaker, I am today reintroducing the medicare inpatient hospital capital expenditure amendments. The bill is designed to limit Medicare's reimnbursement of hospital capital-related expenses to support of only those institutions and services which are truly needed.

Given the Reagan administration's fiscal year 1990 budget, I believe that this proposal is particularly timely. The Reagan administration had proposed to pay hospital capital costs under Medicare at cost minus 25 percent.

I wish to make clear that, absent any other alternative, I will support the 25-percent reduction. The capital cost explosion in Medicare demands a strong response. However, I am concerned that the Reagan administration approach may not be the best alternative we can devise.

I believe there is a better way and that is to establish a system whereby each State makes deliberate, considered decisions about the levels of capital expenditures each hospital should incur. A limit would be established so that the States' decisions would not result in capital expenditures higher than the budgeted level.

Such a system would assure that needed hospitals would receive a level of capital reimbursement necessary for renovation or expansion.

Capital expenditures by hospitals appear to be out of control. Over the last 5 years, with an increase in inflation of 17 percent as measured by the GNP deflator, expenditures by Medicare to reimburse hospitals for their capital expenditures rose 76 percent during the same period. Looking at it another way fixed assets per hospital bed—often referred to as bricks and mortar—rose about 12 percent per year while total assets—including moveable equipment—rose about 14 percent annually.

Moreover, if no action is taken, Medicare's aggregate payments to hospitals are estimated to rise at an average rate of 11 percent per year between 1989 and 1993. This will rise Medicare capital payments per case from $482 to $661, an increase of 37 percent.

These increases will occur while use of hospital facilities reaches ever higher levels of inefficiency. Average occupancy for hospitals is now just over 64 percent for staffed beds, having dropped from a level of about 75 percent over the last decade. In other words over one-third of the hospital beds in the Nation which are staffed are standing idle every single day.

What is perhaps most disturbing is that 54 percent of all hospitals have an occupancy rate below 50 percent and only 5 percent of hospitals have an occupancy rate above 80 percent.

The cost of these empty beds is startling. The Reagan administration's private sector initiative known as the Grace Commission estimated that each of these empty staffed beds cost $40,000 per year, a very conservative estimate based upon 1979 costs. Nevertheless, this estimate produces a total of almost $14 billion in wasted resources.

Equipment and services have been proliferating at a very high rate as well. In many cases hospitals have expanded services beyond the capacity which can be sustained, leading to situations in which the volume of service provided is below the level necessary to maintain the competence of the staff.

This is especially true with respect to cardiac care. For example, in Arizona the relaxation of capital expenditure review laws has led to an increase in the number of open heart surgery units from 7 to 17 in just 2 years. During this period charges for open heart surgery increased 50 percent.

Of much greater concern is that an investigation by an Arizona newspaper revealed that death rates for open-heart patients in Phoenix jumped sharply after capital reviews were dropped. The highest mortality rates were found in hospitals which on average did not meet the minimum volume standard of 200 procedures per year generally accepted as the level necessary to maintain competence. These hospitals suffered a mortality rate twice that of the group of hospitals above the minimum volume.

The normal rules of economics do not appear to apply in any meaningful way to hospitals. A good example of this has occurred in Houston, TX which has been suffering through a recession related to the drop in oil prices. Since a capital expenditure review law was relaxed in 1985, nine new hospitals have opened. There is currently $1.5 billion in hospital construction in progress and occupancy rates in Houston have fallen from 75 percent prior to deregulation to below 60 percent today. In Houston hospital expansion is going forward notwithstanding the fact that the community's ability to pay for more and more hospital facilities is severely constrained.

Hospital capital expenditures ignore the normal rules of economics in another important respect as well. More capacity to provide more services does not lower prices as it does in other areas of the economy—it simply raises volume and expenditures. Health economists discovered some time ago a phenomenon called the "Roemer effect"; that is, the more hospital beds and services built, the more hospital beds and services used. Hospital utilization rates are higher when the supply of beds and services is high. Therefore, the high rate of excess capacity in beds and services leads directly to unnecessary admissions and procedures.

Given the high rate of expansion of specialized cardiac units, it is not surprising that a recent article in the Journal of the American Medical Association found that 14 percent of heart bypass surgery was unnecessary and 30 percent was questionable. Bypass operations doubled from 137,000 in 1980 to 284,000 in 1986.

The so-called procompetitive health care strategy employed by the Reagan administration has paid insufficient attention to questions surrounding access to hospital services. Although we have clearly over-invested in the

hospital industry as a whole, many hospitals, including public hospitals and those serving the indigent, are undercapitalized. We have failed in our attempts to regionalize expensive tertiary services such as intensive neonatal care and burn units. We have developed adequate trauma networks in only two States, while many which have been developed in other States, including my own State, California, are now falling apart.

Protecting access to health services in the Nation's rural areas demands our special attention. Average occupancy in rural hospitals has dropped from 52 percent in 1983 to below 40 percent in 1988. Occupancy has been decreasing the fastest in the smallest hospitals, rural hospitals with less than 100 beds.

These data suggest that rural patients are voting with their feet and driving the extra miles to obtain care at the nearest regional hospital with its broader range of services. No amount of throwing additional money at these small rural hospitals through increases in the PPS rates will assure their survival in the face of this phenomenon. What is needed is a creative effort in every region of the country to find ways to assure access and to redefine the role small rural hospitals will play in a well-planned, rational system of rural health care.

The question of how to reimburse hospitals for their capital costs and how to restrict unnecessary capital expenditures has occupied a great deal of attention in the Congress over the last few years. The prospective payment system was adopted in 1983 as the method of hospital operaing cost payment. Payment for capital-related expenses was not included in PPS due to uncertainty about the impact of including capital reimbursement in the system. Capital continues to be reimbursed on a retrospective cost basis.

Congress directed the Secretary of Health and Human Services to study and report to the Congress on a proposal to include capital in the prospective payment system. The report was submitted in March 1986, proposing a system for capital costs which would pay hospitals a flat amount per Medicare admission based upon the actual national average capital payment per admission at that point in time. This system was to be implemented October 1, 1986. Given concerns about the impact of this proposal on specific hospitals, Congress first delayed its implementation until October 1, 1987, and then again until October 1, 1991.

During the same period, based upon promises that market competition would slow the medical arms race, the Reagan administration successfully ended Federal support for capital review programs.

This has left us with the worst of both worlds. On the one hand, we have in effect told the States that we no longer care about their efforts to restrain hospital capital expenditures, leaving 14 States to drop their capital review programs, while many others focus on reviews of nursing homes where the States have a much more direct financial interest. On the other hand, we have retained a retrospective cost-based reimbursement system which creates distortions which demand correction.

The retrospective cost-based or cost passthrough system assures that hospital managers will be insensitive to interest rates or to less-expensive alternative methods of financing. Because cost-based reimbursement exceeds actual costs in the first several years after a capital project is put into service, cost-based reimbursement includes strong incentives to begin new projects. This leads hospitals to invest in facilities that are not needed by the population served, thereby creating additional excess capacity. The passthrough also creates strong incentives to substitute capital for labor or other operating costs, particularly as operating cost reimbursement is controlled through prospective payment and capital payments are not.

Medicare's present reimbursement methodology contains another perverse feature, as well. Medicare pays hospitals for capital based on Medicare's proportionate share of inpatient services provided by the hospital. The approach is insensitive to whether or not the hospital is full or half-empty. For example, if a 400-bed hospital has half of its beds filled by Medicare patients and half filled by non-Medicare patients, Medicare will pay for about half of the hospital's capital costs. However, if the same hospital has one quarter of its beds filled with Medicare patients, one quarter with non-Medicare patients, and one half of its beds empty, Medicare will still pay half of the capital costs for its entire plant. In essence, Medicare is subsidizing the hospital for its empty beds.

I have argued in the past that the best way to deal with these sets of problems is to pay hospitals a single rate for both capital and operating costs, based upon average costs per admission, adjusted for case mix, labor costs, and other factors. Unfortunately, this proposal has engendered the violent opposition of the hospital industry and has not been enacted. Wide variation in hospital-specific capital costs has also raised questions about the effect such a proposal may have on access to individual hospitals.

The proposed legislation I am reintroducing today is an effort to provide a comprehensive response to the various issues surrounding the capital expenditure dilemma. It represents an effort to balance the need to provide appropriate incentives within individual hospitals versus the need to guide the entire hospital care delivery system in an efficient manner, taking into account the population's need for services.

My proposal requires each State with an urban hospital occupancy rate below 85 percent and a rural occupancy rate below 75 percent to establish a system to review and approve the capital expenditures of new hospitals which cost more than $1 million or which create new beds or services. If the State did not create such a system, Medicare would not reimburse hospitals in the State for their capital expenditures.

In response to those who would point out that capital expenditure review systems have not been as effective as we had hoped in the past, my bill provides the essential missing ingredient in assuring the success of these programs—an overall limit on capital expenses against which competing proposals can be evaluated.

The bill imposes a limit on the amount of new capital which can be approved annually in a state equal to the amount Medicare would have spent on fixed assets if payments were made on a per admission basis. Reimbursement for the capital expenses of fixed assets would continue on a cost basis for both old and new capital. Reimbursement for moveable equipment would be on an allowance basis with the allowance based upon the average proportion of total cost attributable to capital costs for moveable equipment in fiscal year 1987. The allowance would be phased in over 3 years.

The capital target for fixed assets would be derived from the proportion of total Medicare reimbursement represented by average capital costs in fiscal year 1987. The target would increase each year as Medicare admissions and the hospital update factor increase. The Secretary would be authorized to make exceptions and provide adjustments as needed.

In order to assure that the capital expenditure review process is based upon an explicit assessment of the need for investment in health care in a State, the bill requires each State to develop an inpatient hospital plan. The plan would address access to hospital facilities, identification of hospitals and parts of hospitals which should close in order to reach the occupancy targets, regionalization of inpatient services, the special needs of public and other disproportionate share hospitals, and the special needs of AIDS patients.

The bill would treat rural facilities differently from urban facilities in recognition of the unique circumstances facing rural hospitals. The States would not be required to review the capital expenses of rural hospitals if the State developed a plan for rural health. The plan would provide a strategy for stabilization of rural health care through regionalization of services, development of alternatives to traditional inpatient hospital facilities, and recognition of the unique transportation needs of rural communities, regarding both emergency and nonemergency health needs.

An important component of my bill is that it would allow Governors to designate local review agencies to provide for review of capital investment proposals at the local or regional level. I have included this provision, notwithstanding the problems in coordination which have occurred in the past with similar structures, because I believe something very important has been lost in the health care system over the last several years with all the talk about competition and market share.

Health is a community affair, one about which everyone in a community ought to have a right to speak. Decisions about hospital care are not ones which should be closely held in the powerful hands of administrators, doctors, or trustees. We should have a forum in which communities may debate the future of health care in that community. After all, well over half the revenue of hospitals is derived from public sources. It seems unreasonable to deny the public the right to debate capital investment decisions supported by their own money. My bill would allow, but not require, the designation of agencies at the local level to perform this role.

Reimbursement of capital costs is the most important remaining area in which the Congress has not reached consensus regarding Medicare hospital payment policy. My bill presents an effort to provide a new approach which mixes the best of the old and the new in order to provide a reasonable, orderly response to the need for a hospital capital investment policy.

A summary of the bill follows:

MEDICARE INPATIENT HOSPITAL CAPITAL EXPENDITURES AMENDMENTS

SUMMARY

I. Payments for capital-related costs of inpatient hospital services

Medicare payments to hospitals for their capital-related costs would end in a state on October 1, 1990 unless:

(a) The state entered into an agreement to review proposed capital expenditures in the state, or

(b) The average occupancy of licensed hospital beds exceeded 85 percent in urban areas and 75 percent in rural areas in the state.

II. Requirements for State capital expenditure review

The State would be required to establish a process for capital expenditures reviews which met the following requirements:

(a) All proposed capital expenditures by hospitals in urban areas of the state exceeding $1 million would be reviewed;

Approvals would not exceed the capital-payment ratio limitation (described below);

(c) Reviews would consider the relationship of the proposed expenditure to the Inpatient Hospital Facilities Plan (described below); the need of the population served for the proposed service, equipment, or facility; the availability of alternative, less costly, or more effective methods for providing the service; and the extent to which the proposed services would be available to all the residents of the service area, particularly the indigent;

(d) Reviews would be performed consistent with procedures and criteria established in regulation, decisions would be made in public meetings, opportunity would be afforded for public hearings, and the state would provide for appeal;

(e) Any decision of the state regarding a review would be based solely on the agency's review and record of the review; and

(f) An application for an expenditure would include a timetable for completing the review and any approval could be withdrawn if the state found that a good faith effort to meet the timetable was not being made.

III. Capital-payment ratio limitation

State approvals of proposed capital expenditures for other than moveable equipment (and, at the states's option, for other than rural facilities) would be limited by a capital-payment ratio limitation.

The Secretary would establish a limit for each state for each fiscal year in order to assure that the ratio of capital payments to operating cost payments did not exceed the national level of that ratio in fiscal year 1987. The effect would be that capital payments could grow to faster than DRG payments.

In establishing the limit, the Secretary would project the estimated amount of DRG payments and capital payments in the state for future years when new capital projects would come on line. The Secretary would also take into account the impact of capital reimbursement for moveable equipment paid on a fixed basis (described below.)

In consultation with the Prospective Payment Assessment Commission, the Secretary would be authorized to adjust the ratio from time to time to take into account unforeseen circumstances and changes in medical practice.

IV. Inpatient hospital facilities (IHF) plan

Each IHF plan would be designed to assure that the needs of the states' residents for inpatient hospital facilities are met; include occupancy targets; and be developed in consultation, with appropriate mental health, mental retardation, alcoholism, and drug abuse authorities.

Each plan would be required to identify which hospitals would be closed in order to meet the occupancy targets, provide for regionalization of inpatient services, and address the special needs and circumstances of disproportionate share hospitals and AIDS patients.

V. Rural hospital capital expenses and rural health plan

The state would not be required to review proposed capital expenditures for rural hospitals in the state. If the state chose not to review rural facilities, its capital expenditure limit would be adjusted accordingly to exclude rural expenditures.

The state would be required to develop a rural health plan which would have as its major focus the assurance of access to inpatient and other health services by low density rural populations. The plan would be required to address, at a minimum:

(a) The regionalization of services;

(b) Alternatives to traditional inpatient hospital facilities; and

(c) The need for special emergency and other health-services related transportation needs.

VI. Local review

The State review plan may provide for designation of local review agencies to assist in reviewing capital expenditures. If local agencies were designated, the state review agency would be required to take into account the recommendations of the local agencies regarding proposed capital expenditures.

VII. Reimbursement for capital expenditures

Reimbursement for approved and existing capital expenditures for fixed assets would continue to be made on a cost pass-through basis. Reimbursement for new and existing capital expenditures for moveable assets would be made through a fixed add-on to per admission payments for operating costs. The add-on would be phased in over three years.

VIII. Federal support for State capital expenditure review

The bill would authorize grants to states from the Part A Medicare Trust Fund.

Each State would receive, on a 75/25 matching basis an amount equal to .70 per person if the state chose not to designate local review agencies and $1.00 per person if the state so chose; however, no state could receive less than $1.0 million nor more than $7.5 million without local agencies or less than $1.25 million nor more than $10 million with local agencies.

HOUSE OF REPRESENTATIVES—*Thursday, January 31, 1989*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, gracious God, that when we have those opportunities to be Your good people doing good things in our world, we may not easily fall to the excuses that keep us from truly hearing Your word and acting upon it. May not the fear of possible disappointment or difficulty slow us from demonstrating the courage that You would have us show by loving and serving You and all people, now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Missouri [Mr. SKELTON] will kindly lead the Members in the Pledge of Allegiance.

Mr. SKELTON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

TRIBUTE TO THE HONORABLE BILL NICHOLS

(Mr. SKELTON asked and was given permission to address the House for 1 minute.)

Mr. SKELTON. Mr. Speaker, what does one say about the death of a close friend? In the case of my good friend Bill Nichols, the first place to begin is to talk about Bill Nichols the man. He was a quiet fellow, the kind of retiring southern gentleman who thought long and hard before he spoke. He was also a man of his word, a loyal friend and colleague who played the game of politics in an honorable fashion. Another important characteristic of the man was his independence. He listened to many, but in the end when Bill Nichols decided to act he did so after consulting his own conscience. Maybe most important of all, Bill Nichols was a quietly religious man. He took part every Thursday in our congressional prayer breakfasts and derived strength and comfort from those weekly get togethers.

These personal qualities can be seen in the accomplishments of Bill Nichols the legislator. Substance, not style, is what mattered to Bill Nichols. One need only look no further than the time and effort he devoted to his work on the Armed Services Committee. When Bill Nichols spoke, people listened—on the Hill, at the Pentagon, and elsewhere in Government.

Elected chairman of the Investigations Subcommittee in 1982 Bill Nichols had the sad task of investigating the Beirut bombing of the Marine barracks that led to the death of 241 American servicemen. From that came his interest in defense organization, to make the system work better if he could. Years of patient work on defense matters culminated in 1986 with the passage of the most sweeping reorganization of the Department of Defense since its creation in 1947. Those of us on the Armed Services Committee, in recognition of Bill Nichols constant devotion to the welfare of the armed services, named the measure the Bill Nichols Department of Defense Reorganization Act of 1986. Now known as the Goldwater-Nichols Act, it was a substantial accomplishment and symbolized our recognition of a man who had given so much in the line of duty to his country.

Yes, like many of his generation Bill Nichols served his country in World War II. He used to say that he had put "a little bit of time in the service—combat time." He crossed the beaches at Normandy and lost his leg in the subsequent fighting, earning both the Bronze Star and Purple Heart. Maybe this is why Bill Nichols identified so readily with the men and women who serve our country in uniform.

It says something about Bill Nichols that he died in his office, early in the morning, at a time when many would have expected him to be enjoying a well-deserved break from his duties. He will be missed by those of us who had the good fortune to work with him. He was a wise man, an able counselor, and a good friend. His presence here on Capitol Hill will be missed. The country has lost a devoted public servant.

LET US NOT COUNT ILLEGAL ALIENS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, after the 1980 census, California gained extra congressional seats due to illegal immigrant populations. Those seats should have gone to Georgia and Indiana.

There is something fundamentally wrong when voters in States with large numbers of illegal aliens have a greater voice in choosing representatives in Congress. In addition, we are granting representation to individuals who would be deported if our laws were enforced.

Today, I, along with 42 original cosponsors, am introducing legislation to correct this ridiculous situation. My bill will direct the Census Bureau to exclude illegal aliens from the count used for reapportionment of the House.

This is not an anti-immigrant bill. This is simply a bill designed to provide fair and equal representation for the legal residents of this country.

I invite all my colleagues to join me as cosponsors.

OUR COMMITMENT TO THE NATION'S DEPOSITORS

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, last week the Treasury Department announced it was considering imposing a user fee on deposits at savings and loans, banks and credit unions in order to inject new funds into the Federal deposit insurance funds.

Many of us in Congress and the general public responded quickly to deflate this trial balloon, the Treasury's action has unwittingly led some people to withdraw, and many to consider withdrawing, their funds from federally insured institutions.

In order to reassure the American people that their funds are not in jeopardy, and in order to encourage them to leave them in their local financial institutions, I am today introducing legislation reaffirming that the full faith and credit of the U.S. Government stands behind the deposit insurance funds.

This legislation is identical to legislation passed nearly unanimously by the Congress in 1982 to resolve a similar crisis of confidence.

I invite all of my colleagues to demonstrate their commitment to our Nation's depositors by cosponsoring this legislation.

Mr. Speaker, since Federal deposit insurance was first enacted over 50 years ago, no one has ever lost a penny

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in insured funds. The 101st Congress can and must demonstrate its commitment that all funds up to the $100,000 limit are safe, and will continue to remain safe.

STOP ANY FURTHER CUTS IN MEDICARE

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, as uncharacteristic as it is for a conservative to be saying this, I rise today to urge those individuals working on the budget process here in this House, across in the other body, as well as in the White House, to give very serious considerations to not making any further cuts in Medicare.

Mr. Speaker, we have a crisis that is almost upon us, and it seems as if we only address something when it becomes a crisis.

In my home city of Tulsa, OK, two of our four major hospitals had a major operating loss last year, and here on the Hill we found only 3 weeks ago that there are some top officials suggesting we go to a socialized medicine system for the United States of America similar to that which they have in Canada, that which they have in Great Britain.

Mr. Speaker, what do we find as being the most offensive thing about a socialized system? It is that Government will determine who is going to be rejected in receiving health delivery systems. Not medical decisions, but Government decisions.

This is something that cannot happen in the United States of America, and I suggest to my colleagues that in the crisis that is upon us right now that hospitals are giving serious considerations to a rejection system that is taking place at the present time.

So, Mr. Speaker, I urge all my colleagues to join in a resolution to stop any further cuts in Medicare.

INTRODUCTION OF THE NORTHERN CALIFORNIA HIGH TECHNOLOGY EXPORT ASSISTANCE ACT

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, today I proudly join my very good friends and distinguished colleagues from California [Mr. EDWARDS and Mr. PANETTA], in introducing the Northern California High Technology Export Assistance Act.

Northern California's Silicon Valley Area is home to many of America's premier high technology companies. These companies are a crucial part of our Nation's high technology future, and they have the potential to lead the fight in restoring U.S. competitiveness in world markets.

But Silicon Valley's high technology firms have been struggling with the difficult problem of trying to comply with a U.S. export licensing system that is complex and often confusing.

This bill will establish a regional export licensing office in northern California to provide high technology exporters with assistance in interpreting and complying with U.S. export control laws—assistance that is currently unavailable in Silicon Valley or northern California.

I respectfully urge the consideration of my colleagues for this important pro-trade legislation.

MOST SAVINGS AND LOANS ARE HALE AND HEARTY

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, the American public can be assured that the proposed fee on deposits in savings and loan institutions is a dead duck. And that same public can be assured that the viability and sincerity of the savings and loan institutions generally across the country generally are intact, and they need not worry about the full faith and credit of those institutions. There are some that are in trouble because of mismanagement and some other local problems, but this is not obtained across the Nation.

In Pennsylvania, for instance in my own area, most of them, or all of the institutions, are intact, and the report recently issued indicates that from the standpoint of management and fiscal integrity the savings and loan institutions are hale and hearty.

Mr. Speaker, the public confidence in the savings and loan institutions and the Congress of the United States will solve the outstanding problems as they occur.

IN SUPPORT OF THE NORTHERN CALIFORNIA HIGH TECHNOLOGY EXPORT ASSISTANCE ACT

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute.)

Mr. EDWARDS of California. Mr. Speaker, I am pleased to join my California colleagues, Mr. MINETA and Mr. PANETTA, in introducing a bill to establish a regional export licensing office in northern California.

For exporters in northern California, obtaining an export license from an agency in Washington can be both frustrating and sometimes costly. The Bureau of Export Administration has made progress in streamlining the licensing process, but the problems of time and distance still remain obstacles for northern California businesses in their efforts to obtain export licenses.

A northern California office would provide Silicon Valley exporters with much-needed local assistance in applying for export licenses. A regional office already established in Los Angeles receives over 300 calls per day, with 40 percent of those coming from northern California. Northern California exporters submit three out of five of all California licensing requests—worth some $26 billion a year.

There is a great deal of debate these days about how the Government can best encourage improvements in the number of U.S. exports overseas. Establishment of a northern California export licensing office is one of the most direct ways the Federal Government can assist U.S. exporters. I urge my colleagues to join me in support of this measure.

□ 1210

POSSIBLE BUDGET SAVINGS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, if there is one thing the election of George Bush tells us, it is this: Americans don't want new taxes.

Over the last 20 years, every dollar of revenue raised has been followed by $1.85 in increasing spending. The truth is, tax hikes have never balanced the Federal budget.

How can the deficit problem be solved? Not by simply slashing programs or raising taxes, but by making tough choices.

For example, it is time to look at whether Europe and Japan should bear more of their defense burden. Today, America spends $180 billion to defend these countries.

Presidents Kennedy and Johnson were able to cut between 5 and 8 percent in wasteful spending from their budget each year, using the rescission power. If the President applied this power to the current budget, savings could amount to between $50 and $80 billion annually.

These are only a few of the strategies we can employ in our deficit fight. Congress and the administration can solve the deficit problem if we establish priorities, weed out waste, and manage the taxpayers' money more wisely.

INTRODUCTION OF BILL DECLARING JUNE 23, 1989, AS COAST GUARD AUXILIARY DAY

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, today Mr. JONES of North Carolina, Mr. TAUZIN, Mr. DAVIS of Michigan, and I are introducing a House resolution authorizing and requesting the President to issue a proclamation designating June 23, 1989, as "U.S. Coast Guard Auxiliary Day".

For 50 years, auxiliarists have been helping others by teaching boating safety courses, providing courtesy marine examinations, and, of course, assisting disabled boaters. The fellowship that comes from sharing similar interests and goals is the glue that holds the auxiliary together. The Coast Guard auxiliary is one of the most effective voluntary organizations in our Nation.

There is no greater thrill to a distressed boater than to have an auxiliary vessel arrive, and a "hearty thank you" is the only pay an auxiliarist ever expects. Auxiliarists are truly the boater's friend and the friend of an estimated 70 million Americans who enjoy water-related recreation each year.

With the ever-increasing number of recreational boaters, the voluntary efforts of the Coast Guard auxiliary will become even more important than today. I believe it is time that we recognize the personal sacrifices of the 30,000 members of the auxiliary and I ask my colleagues to support this resolution.

CENTRAL CATHOLIC HIGH SCHOOL'S CHAMPIONSHIP SEASON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, last August 15, some 65 students reported for the first practice session of the football season at Central Catholic High School in Pittsburgh. In many ways, it promised to be a football season like any other: These dedicated young men—like their predecessors in past years—were committed to practice hard, play hard, and do their best, and head coach John Fischetti was ready to guide them through the season.

No one could have predicted that Central Catholic would have a historic championship season that would culminate in its winning the Quad A–PIAA State Championship on a freezing day last month.

Central Catholic's season began with two scrimmages held with new opponents, Montour and North Hills; but the first regular season exhibition game was with Central Catholic's longtime rival, North Catholic. Central won that game 34 to 13, a sign of things to come. Indeed, they ended the season with 10 victories, 2 ties, and only 3 losses.

The climax of the season came at Penn State's Beaver Stadium on December 10 when Central Catholic was pitted against Cedar Cliff High School of Harrisburg, which was the eastern regional champion. The first half of the game was harrowing, and Central Catholic was behind by 7 to 0 at half-time. But they came from behind in the second half to win with a score of 14 to 7. Every Pittsburgh football fan will remember that day.

I would like to congratulate John Fischetti, head coach; Dave Saville, Bill Morton, Tony Velgich, and Rick Capretta, the assistant coaches; Larry Michelangelo, the athletic director; Brother Martin Zewe, Central Catholic's principal; and, most important, every player on the winning team. They did an excellent job and they have made Pittsburgh proud.

THE CONGRESSIONAL PAY RAISE

The SPEAKER pro tempore (Mr. GIBBONS). Under a previous order of the House, the gentleman from North Carolina [Mr. COBLE] is recognized for 60 minutes.

Mr. COBLE. Mr. Speaker, I doubt that I will use the entire 60 minutes, but I want to visit informally for the next few minutes with my colleagues and with the viewers.

I have no detailed text. I have no precise notes from which to read, but this will rather be informally executed.

I want to discuss the very delicate and fragile subject of the proposed salary increase. This is a matter that has elicited much discussion back in my district, but I hear virtually nothing said about it on Capitol Hill.

□ 1220

I am reminded of the old adage which goes that everyone wants to go to heaven but no one wants to die. By the same token, everyone in the Congress, I suppose, wants a pay raise, but no one wants to discuss it, and I think as the 30-day deadline continues to tick away, we in fact need open and notorious discussion about this matter.

Mr. Speaker, I will share what happened to me last Saturday night in my district. I attended a rally at one of my high schools for the purpose of raising money for the muscular dystrophy foundation or fund, and I called one of my friends and asked him to solicit to this very worthwhile goal. He told me he would contribute, and he then said to me surprisingly, "I think the proposed salary increase should be approved." He said, "I think you people in the Congress deserve more than you are making in salary." He said, "I am sure there are some up there who do not," and I am equally certain that he is correct.

There are 540 Members in both bodies, and I am sure that some in that group probably do not deserve what they are being paid in exchange for the performance of their duties. I am conversely, however, in agreement with my constituent when I say that most of us, I think, do deserve it, but I think that is not the issue.

Mr. Speaker, I think the issue is that we are going too much too soon. It is my belief, based upon discussions with many constituents in my district, that most of the people in America probably would not disagree with our receiving a modest increase in salary. I believe furthermore, however, that the proposed increase exceeds the parameters of modesty. It is almost, after all, close to a 50-percent proposal, and I think given our other fiscal problems on this Hill and in this country, it is perhaps grabbing too much of the pie in one fell swoop. I repeat, I think most of the people would not object to a modest proposal to provide an increase for those of us who serve in the Congress.

Mr. Speaker, another feature, I think, that words against us in this area is that our image when it comes to handling Government money, and incidentally I like the impersonal way that we refer to "Government money;" Government money, after all, is money that belongs to taxpayers, and our image is not an enviable one. In fact, I think that we are probably regarded lightheartedly when it comes to this, because we do not have a good track record on spending money prudently and wisely in this body. In fact, that is part of our problem now is because of almost a half a century of imprudence and recklessness when it comes to spending money; we have been content with collecting $5 million on the one hand and spending $10 million on the other.

Mr. Speaker, just as an example, and these are just things I have observed recently, and Lord only knows how many people in this town are driven to work in chauffeured limousines, highly ranking military officials, highly ranking Government officials, some Members of Congress, I am sure. Incidentally, I am not chauffeured to work. I chauffeur myself to work in my own automobile, and I doubt that those others who are chauffeured to work have any more taxing mental problems plaguing them than I have plaguing me.

My point is that would be a good exercise to decommission all of those chauffeured limousines, let folks drive to work for themselves. This is a symbolic gesture that I think would be well received back in our respective districts.

I ran into a workman in this very building about a year ago, and I said to him, "How are you doing today?" He said, "I am doing fine." He said "You would be doing fine, too, if you had 15 people performing the work that 3

could perform," and then he said, "Well, it might require 5, but," he said, "we are on a job right now that 5 of us could take care of, but 15 are assigned to do it and half of us are standing around doing nothing."

Mr. Speaker, I read the other day that the third Member of this body has now been paid in excess of $1 million in his retirement congressional pension fund. Is this the sort of thing that is well-received back home? It would not be well-received if I were back home receiving it—the grandfather clause, and we all are familiar with it, that permits Members of Congress, if they qualified datewise when it become effective, to keep dollars that approximate $1 million in amount in campaign contributions to apply to their own personal use. Certainly this is a violation of the spirit of the law if not in fact the letter. These are the sorts of things that, I think, we must first correct before we start talking about a 50-percent proposal in hiking our salary accordingly.

Last summer a dairy farmer in may district visited me. In fact, I had his family on this very floor, and each time I see them they remind me of it, how proud they were to be here, but when he prepared to go back home, Mr. Speaker, he called me aside in my office, and he said, "HOWARD," he said, "if I had one penny out of every dollar that is wasted in this town in 1 day," and I interrupted him and I said, "Billy, you would never have to milk another cow."

My point is people readily see the waste that goes on in this town, and in this body, and I think that we first need to correct that before we start talking about a salary increase in the magnitude that is being discussed.

Mr. Speaker, I have heard, and I am trying to do this in such a way as to annoy neither the proponents nor the opponents of the pay raise, I am trying to put both sides of the coin forward, and that is why I gave my illustration at the outset that my constituent back home is in fact in favor of it and thinks we are entitled to it, and I want that on the table. But many of the opponents of the salary increase say to turn it back, do not take it. That is hardly the solution, because if the salary increase does, in fact, become effective, then at that time it becomes the prescribed salary for Members of the Congress. That is the salary that is paid for serving in this body, so I think it is foolhardy to indicate that if one does not want it, turn it back in, because the damage has been done once the effective date comes in to play and if, in fact, the law activates at that time.

There has been other discussion about whether or not Federal judges and other top-ranking officials in the Government should be fed from the same spoon as those of us in the Congress, and I think they should. I do not see what is special about Federal judges or top Government officials. After all, public service by definition means sacrifice. What has become of the willingness to sacrifice in discharging public service? I think many people overlook that. Yes, I think the Federal judges and the top Government officials should also have to wait in line for a salary increase of the proportion that is proposed in the matter that is under discussion now.

Mr. Speaker, I just believe, and I am about to wind down, but I think as we approach the deadline, I think we must be ever mindful, and we must be ever cautious, about what we are about to do.

I wrote to the Speaker of the House last month about a week before Christmas, and I urged the Speaker in my letter to please see to it that a recorded vote was taken on this issue prior to the expiration of the 30-day deadline. Members may recall that if no action is taken in the 30 days, and the 30 days expires, then it becomes automatic, and I think that is another feature that is troubling and bothersome to my constituents, the fact that we are not willing to stand and be counted. If this matter is brought forward for a vote, a recorded vote is taken, and these names are illuminated on the wall behind me.

□ 1230

And then we can see who votes for it and who votes against it. That at least is accountability.

Incidentally, I want to thank the Speaker for the letter I received from him yesterday, as did all of my colleagues, indicating that those of my colleagues who want a vote on this matter, if we would simply return the survey to the Speaker by I believe the deadline is today, he said that if a majority requested a recorded vote that there would indeed by a recorded vote. I thank the Speaker for having sent that to us. But I want to find some fault with the way he is going about it. I do not think it is a good precedent to establish to permit the membership to determine whether or not we have a recorded vote. If this occurs, in fact, who knows when next week or next month another sensitive, controversial, delicate piece of legislation may surface, and some Member may say my gosh, we do not want a recorded vote on this, let us take a vote, and if most of the membership oppose it, then we will have a voice vote and go on about our business.

I think that is a bad precedent and I hope that the Speaker will not be guided by that if, in fact, a majority does vote not to have a recorded vote.

In closing, Mr. Speaker, I simply want to say that as we go into the waning days of this 30-day bomb that is ticking away I want us to proceed very cautiously. I want us to proceed very deliberately, because the damage that could arise if this pay raise does become effective without a recorded vote, the resulting damage could be irreparable to this Congress. The people in the hinterland, in my district, in your districts, I assure my colleagues, do not like the way it has been handled thus far. We still have time to bring the ship about and avoid the reefs and the shoals that await us if we continue to be reckless in our pursuit.

Mr. Speaker, I yield back the balance of my time.

ST. DON BOSCO: EDUCATOR TO THE WORLD

The SPEAKER pro tempore. (Mr. GIBBONS). Under a previous order of the House, the gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 30 minutes.

Mrs. ROUKEMA. Mr. Speaker, today, January 31, is the 101st anniversary of the death of St. Don Bosco, a pioneer of education for poor youth whose vision and work has grown from his northern Italy of the mid-19th century to over 100 countries.

Born in extreme poverty in 1815 in Savoy, that part of northern Italy which straddles the Alps, and ordained in 1841, he founded the Order of St. Francis of Sales, known more commonly today as the "Salesians." In 1859, with Sister Mary Mazzarello, he founded a congregation of nuns, the Daughters of Mary, Help of Christians.

Today, the fathers, brothers and sisters of these orders number about 40,000 persons, providing education, religious instruction, and recreation to tens of thousands of young boys and girls, men and women giving hope, opportunity, faith and purpose to their lives. This is true throughout Latin America and the Caribbean, Africa, Asia, the Near East, the South Pacific, Europe and North America.

Don Bosco was a priest who heard a special call to bring all young people to an awareness that God truly loves them. By word and by action, he stood against the age and reached out to the orphaned and abandoned children of the streets of his northern Italy. He taught them trade skills. He restored their dignity. He gave them a living faith.

Don Bosco's philosophy was practical: love the young. This sincere identification with the young effected confidence and trust that would reach thousands of boys and girls in his lifetime. Today, it reaches several million boys and girls.

Don Bosco's legacy lives on in a way that even he, a man of great vision, may never have imagined. Archbishop Fulton J. Sheen once told the Sale-

sians: "The Salesians remind me of the multiplication of the loaves and fishes. The growth of your society is nothing short of a miracle. You have worked out a very practical solution to today's educational problems. You work for the poor. You teach trades. You know how to keep youngsters happy. Stick to that sort of work and the miracle will go on."

Mr. Speaker, that miracle has gone on. From Sodertaije in Sweden, just below the Arctic circle, to Ushuaia, just above the Antartic Circle, from New York to San Francisco, to Hong Kong, Bangkok, Rangoon, Calcutta to Cairo, they bring their loving help to over 2 million boys and girls.

The statistics are almost overwhelming: Orphanages, 220; clinics and hospitals, 219; nurseries, 864; schools, 3,104, of which 5 are located in my congressional district.

And, the Salesians give their lives and their work freely, receiving no salaries.

This miracle is not remote. It occurs here in the United States, and it occurs in my State of New Jersey. In my congressional district, the Salesians have schools and other facilities in Ramsey, Newton, Mahwah, Haledon, and North Haledon. Elsewhere in the State, they have schools in New Brunswick, Dunellen, Elizabeth, Paterson, Philipsburg, Atlantic City, and Kenilworth. Our State is stronger, better for that education.

Don Bosco would have enjoyed thoroughly living in our age. It is well known that he embraced technology with open arms. The printing press in his school in Turin was the most modern in that city. His machines and books appeared in the great national exhibition of industry, science and art in 1884.

He took his place in the world of technology, for he put his Salesians in the marketplace. He wanted to build "good citizens" for the new society: Citizens who would be tradesmen, teachers, professionals of every kind, farmers, mechanics and the like. He embraced knowledge and truth wherever it was to be found: In the universities, in schools, in industry.

Mr. Speaker, Don Bosco and the Salesians have made an invaluable and indelible mark on the march of civilization. His legacy is a master lesson to Congress as we address the problems of contemporary society.

Mr. HALL of Ohio. Mr. Speaker, as my colleagues know, I have devoted much of my work in Congress to the plight of those who are hungry, both in the United States and overseas. My work on the House Select Committee on Hunger has brought me into much contact with those addressing the hunger problem, both by short-term relief and long-term development assistances.

I have become increasingly aware of the critical importance of agricultural education throughout the lesser developed areas of the world. If done properly, agricultural schools at the high school and college levels can have real impacts on the economies, societies, even the governments of their areas. Their graduates manage farms, provide agricultural extension services and the education to others that brings. Family incomes among farming communities are increased, sometimes by an average of four to five times, a matter of profound importance when we are seeking to move farmers in many areas away from the drug-related agriculture upon which they have become dependent. The building of middle classes in these countries can help foster democratic movements. Pressures of the cities are reduced as families, especially the young, remain in the rural areas and smaller communities.

Agricultural education is little different from any education, and it must be enhanced constantly. Failures to introduce diversified crops, to introduce new technologies, to bring aboard knowledgable faculties, to manage the school and its finances effectively, to improve or update curriculums, to assure job placements for the graduates, all may result in failure.

The agricultural schools of the Salesians, sometimes called Salesian schools and sometimes called Don Bosco schools, after the founder of the Order of St. Francis de Sales, Giovanni Melchior Bosco, or John Bosco, are making an important contribution today, as they have since the last century. In Latin America alone, they have agricultural schools in Argentina, Brasil, Uruguay, Peru, Colombia, Chile, Bolivia, Ecuador, Venezuela, and the Dominican Republic. The same is true in Africa, although much more work must be done there, for the Salesian presence is not as longstanding as it is in Latin America, and in Asia.

Many thousands of students are studying in their schools today, learning through "hands on" education what makes crops grow, yields increase, and so forth. They learn what to avoid, as they learn what also to do. As students they begin contributing to the betterment of their people.

Don Bosco was dedicated to the betterment of the human condition; he worked tirelessly, yet confidently and genially, to improve that condition. In doing so, he brought together a congregation, first of men, then of women, to assure the continuation of that work. As one of his biographers wrote, he was "dedicated to the betterment of the human condition because God is at work in that world, and he felt he had no other choice but to be there, too."

This is a model needed not just among youth but also among all people, of all ages, and I want to join my colleagues on this the 101st anniversary of St. John Bosco's death in recognizing his accomplishments and thanking his followers for their contribution to relieving world hunger.

THE AMERICAN CONSERVATION AND YOUTH SERVICE CORPS ACT OF 1989

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to introduce along with Representatives MATTHEW MARTINEZ, MORRIS UDALL, SILVIO CONTE, BILL RICHARDSON, CONSTANCE MORELLA, ROBERT LAGOMARSINO, and a total of 64 distinguished colleagues, the American Conservation and Youth Service Corps Act of 1989. This measure, which would establish a national program of matching grants to State and local youth service and conservation corps as well as education and training assistance, is based on two separate measures from the 100th Congress: Representative UDALL's H.R. 18, the American Conservation Corps Act, and my H.R. 460, the Voluntary National Youth Service Act. I am very pleased that my good friend and colleague, Representative MARTINEZ, chairman of the Subcommittee on Employment Opportunities, who has always been a strong supporter and who guided the measure through his subcommittee last session, has signed on as an original cosponsor and pledged to move this bill. In addition, I am delighted that my distinguished Senate colleague, Senator DODD, is introducing a companion measure today, and I look forward to working with him to enact this legislation.

Youth service is an issue that is attracting more and more attention, both here in Congress and around the country. Already, thousands of young people are working full time in over 50 full-time youth service and conservation programs throughout the States. Thousands more participate in these corps on a part-time basis, while many others are taking part in programs connected with their schools and colleges. Many of these programs are growing, and many other new ones are being created. Here in Congress, several youth service measures were introduced in the 100th Congress, and more are expected in this Congress. President Bush, during his campaign, voiced support for a youth service proposal similar to the one being introduced today.

I firmly believe that America's youth are the most precious natural resource we possess. However, our economy still often does not provide enough opportunity to find a productive and respectable place in society. Consequently, the lives of scores of young people have been damaged or destroyed by drugs, alcohol, and crime. Moreover, even many of those youth who are gainfully employed have turned increasingly inward, more concerned with making and spending money for personal gain than with the condition of their fellow person. We as a society are partly to blame for this lack of opportunity on the one hand and of social responsibility on the other, and we as a society can and must do something about this.

There are three important factors which seem relevant to the above concerns. First, while overall unemployment has been declining for some time, as of January 1, there were still nearly 2.5 million youth from 16 to 24 without jobs, and these comprised over 37 percent of all unemployed. While total national unemployment is not 5.5 percent, youth joblessness is twice that, 11 percent, with rates of 9.3 percent for whites, 13.6 percent for Hispanics, and 23.8 percent for blacks. While there are some indications that the employ-

ment picture for youth is improving, there is still a long way to go, and many of the newly created jobs are still low-paying, low-potential service sector tasks.

Second, the tightening of Federal purse strings over the past 8 years has shifted the burden for social programs to States and localities, which simply do not have the resources to compensate for lost funding. The private sector, which was to step in and fill the gap, has certainly made contributions but has been unable to cover all the bases. Consequently, vital community services have been cut back, significantly cut back in many areas. The large Federal budget deficit still facing us means that this trend is unfortunately likely to continue.

Finally, the Carnegie Foundation for the Advancement of Teaching released a report a few years ago on the state of higher education that indicated a lack of creativity and civic responsibility among college students. While this trend is changing, and groups such as Campus Compact are actively encouraging college youth to do public service work, the pressure of repaying student loans is forcing many graduates to pursue careers in which they will be guaranteed high salaries. Public service jobs are routinely bypassed for more lucrative private sector positions. A national voluntary youth service and conservation corps program, especially one with an education component such as is included in our amendment, could go a long way toward encouraging college students to do public service work, during and after their formal education.

I raise these concerns today because I believe that a national youth service corps program of the type before you today would have a direct impact on all of these areas, and would be a key component of a system of national service. Such a program would be an innovative means of restoring lost social services to our communities and performing vital conservation tasks. It would also provide youth with a constructive alternative to unemployment, and to solely pursuing personal gain, that would serve as a powerful lesson in citizenship. I firmly believe that if we can demonstrate to our young people that society badly needs and values their services, we can go a long way toward relieving the problems outlined above. In addition, recent surveys have shown strong support for voluntary youth service among the American people. For example, a Gallup poll taken in December 1987, showed 83 percent favoring the establishment of a voluntary program allowing youth to enroll in either civilian or military service.

As you know, there is clearly a large number of pressing unmet human, social, and environmental needs that could be met by a national youth service program. Richard Danzig and Peter Szanton, in their recent book, "National Service: What Would It Mean?" estimated that up to 3.5 million positions could be filled by youth service workers each year to help fill the gaps without displacing current workers. These included over 1 million in education, over 700,000 in the health field, nearly 1.5 million in child care, over 165,000 in conservation and the environment, and 250,000 in criminal justice and public safety.

In addition to meeting many pressing needs, we will, by offering an opportunity to perform public service, meet the needs of many youth for a useful role in society and meaningful transition to adulthood. Millions of young volunteers and corps members have already discovered a greater sense of purpose and a renewed spirit of brotherhood through participation in community service projects. The value of such projects is evident to many young people. A recent survey in Minnesota found that approximately 75 percent of Minnesota high school students would support a statewide voluntary youth service program, and that about 50 percent would actually participate. When youth enthusiastically enroll in the California Conservation Corps, whose motto is "Hard Work, Low Pay, Miserable Conditions," they must clearly be involved for much more than the money, and participants gain at least as much as the recipients of the services.

As I stated at the outset, State and locally initiated youth service programs such as the California corps have sprung up all over the country. At last count, there were 33 year-round State and local service and conservation corps and, including summer programs, a total of 50 in operation involving over 50,000 young people, and this number is growing rapidly. Although the scope and form varies considerably from one program to another, they all share a common dedication to the ideals of renewed activism, social responsibility, and helping youth reach their potential.

In the 98th Congress, I first introduced the Voluntary National Youth Service Act, which would establish a program of matching grants to States and localities operating youth service programs. The Subcommittee on Employment Opportunities held hearings on this and on other youth service measures in September 1985 and June 1987. This bill would begin an incremental process of developing a nationwide voluntary youth service program dedicated largely to serving human and social needs. It would be well-complemented by an American Conservation Corps [ACC], a similar program of matching grants for Federal and State conservation programs in a modern version of the New Deal's famed Civilian Conservation Corps. ACC bills were acted on by both the 98th and 99th Congresses. In the 98th, both the House and Senate passed ACC bills, but the measure was pocket-vetoed by the President. In the 99th, the House and Senate passed somewhat differing versions of the bill, and these could not be reconciled before Congress adjourned.

In the 2d session of the 100th Congress, Mr. UDALL graciously consented to combine his ACC bill and my youth service measure into one unified proposal. Mr. MARTINEZ held four hearings on this measure, dubbed the Martinez-Panetta amendment to H.R. 18, last spring, and his subcommittee marked up and passed the amended version of H.R. 18 last October. Numerous changes and improvements were made during and after the amendment's consideration. Representative MAJOR OWENS, the chairman of the Subcommittee on Select Education, the other education and labor panel with jurisdiction, sent a letter to Representative HAWKINS discharging the measure. However, neither the full Education and Labor Committee nor the Interior Committee had the opportunity to take up the measure before Congress adjourned.

Numerous changes and improvements were made during and after the amendment's consideration, and the freestanding bill being introduced now is the result of this process. The program to be created by this bill would be called the American Conservation and Youth Service Corps, and will consist of an American Conservation Corps and Youth Service Corps. Each of these will be very similar to the programs that would have been established, respectively, by H.R. 18 and H.R. 460 in the 100th Congress. Both programs will be open to young people from 16 to 25 for year-round participation and from 15 to 21 only for the summer component. While open to all eligible youth, special efforts would be made to recruit and enroll those who are economically disadvantaged, as defined by the Job Training and Partnership Act. During their service in the program, participants must be directly paid at least 50 percent, and up to 110 percent, of the minimum wage. Their total benefits, however, must be at least 100 percent and not more than 160 percent of minimum wage, thereby guaranteeing that no program could provide a wage and benefits package below the minimum wage. The balance of these benefits would be provided under a new youth skills enhancement section applying to both parts of the corps, and which requires participating agencies to including a training and education component in their programs. The measure would also establish a national commission on youth service opportunities based on measures introduced by Representatives TORRICELLI and SIKORSKI.

To describe the programs in greater detail, the American Conservation Corps would operate both Federal and State grant components. Work projects would include conservation of forests, public lands, and wildlife; revitalization of urban areas and preservation of historic and cultural sites; erosion and pest control, and development and maintenance of recreational sites; and energy conservation and production of renewable energy. The ACC would have separate portions operated by the Interior and Agriculture Departments. States would be required to provide a 50–50 match of Federal funds, and to provide a mechanism for participation by local government and nonprofit organizations.

Work programs under the Youth Service Corps could include opportunities in nonprofit social service organizations, nursing homes, hospices, hospitals, schools, libraries, day care centers, parks, or State and local government agencies. Other service categories could include the rehabilitation or improvement of public facilities, literacy training, weatherization and basic repairs to low-income housing, and other energy conservation projects. While, as you can see, there is some overlap with ACC projects, YSC programs focus more on meeting human and social as opposed to environmental needs. In addition, the YSC will be administered through the ACTION agency, which oversees Federal volunteer service programs, by a new Assistant Director created for this purpose. Unlike the Conservation Corps, this Assistant Director would, as in H.R. 460, be authorized to make matching grant not only to

States but to localities as well to maximize local participation.

The title on youth skills enhancement, an important component shared by the service and conservation sections, significantly strengthens the education and training components of both H.R. 18 and H.R. 460. This title requires that all agencies and projects receiving assistance under this act use at least 10 percent of available funds to provide in-service training and education, including remediation, basic skills enhancement, high school equivalency, and college classes. An additional 10 percent must be used for postservice educational assistance and training. The assistance provided can include vouchers, scholarships, grants, and adult education and skills classes. The act also requires a skills assessment of all participants when they enroll as well as vocational counseling during service, and requires that any eligible youth who have dropped out of school enroll in a high school equivalency program in order to participate.

This title ensures that participating youth will receive not only valuable work experience and the opportunity to serve, but equally valuable education and training as part of their youth and conservation service, and they will therefore be able to build on and make the most of their term of service. In addition, job training programs under the Job Training and Partnership Act [JTPA] may refer eligible youth to the corps, the JTPA and other current training and service providers may in turn participate.

Dropout youth who are ineligible for the Conservation and Youth Service Corps shall be referred to relevant education and training systems, and State job training coordinating councils [SJTCC's] shall have a 30-day period for comments on applications submitted under both the service and conservation programs. A maximum of 15 percent of funds may be used for administrative purposes, and project and administrative funds for local programs must, except for a very small amount, be passed through. In addition, a maximum of 5 percent is set aside for part-time demonstration programs of no more than 15 hours per week. This takes account of the many such programs, especially those operating in schools and school districts, that are springing up around the country, and involving many more in community service projects.

To prevent the program from adversely affecting employment of current workers, extensive antidisplacement and nonduplication provisions modeled on those of the Community Service Renewal Act have been developed and included. I feel that these provisions, which were developed in cooperation with representatives of the American Federation of State, County, and Municipal Employees, provide ample protection for current and future workers from any possible displacement by youth service workers. Finally, the Commission on National Service Opportunities would provide a valuable opportunity to use the experience of these service and conservation programs to actively study the whole question of national service.

This youth service/conservation measure would lend needed support to existing programs to expand their scope, while encouraging other States and localities to launch new programs. The focus would be largely at the State and local levels, yet a national program would supply the coherence. This type of incremental approach, preserving and encouraging local autonomy and diversity, is the type favored by many youth service organizations, such as the National Association of Service and Conservation Corps, as the beginning of a national program. It is also similar to the approach embodied in the Youth Engaged in Service [YES] Foundation proposed by President Bush during his campaign. As proposed, this Foundation also envisions a system of matching grants for a variety of youth service and volunteer projects. I look forward to working with the President, and to those who support his idea in Congress, as this proposal is developed.

Mr. Speaker, this bill would not create another job training program. While these are certainly very important, the corps strongly emphasizes service, to communities, States, and our country. This call to service is not issued lightly, and it is the entire Nation, in the long run, which stands to gain the most from the more outward-looking citizenry that would develop from such a program. A national conservation and youth service corps program would offer young adults a renewed opportunity to earn a sense of pride and self-respect, and fulfill many pressing national human, social, and environmental needs. Fellow colleagues, I fervently hope that Congress will take timely action, and build on extensive previous efforts, to create the American Conservation and Youth Service Corps as part of a national system of service.

IT'S TIME TO REQUIRE STATES TO PROVIDE REFORMS IN PRIVATE ADOPTION PROCEDURES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, more and more prospective parents seem to be bypassing licensed agencies in favor of independent or private adoptions. Independent adoptions, which are legal in all but a handful of States, generally are arranged through a third party. This "facilitator" is frequently a lawyer or doctor.

There are many reasons for the popularity of independent adoptions. The adopting couple faces less of a waiting period for a healthy infant. Many requirements such as age, religion, infertility, length of marriage, and housing may not be present in independent adoption. The biological mother receives many advanages. Medical and personal expenses are paid for by the adoptive couple, and in some cases, an additional cash payment will be made to the biological mother. The child is placed directly in a home, instead of spending a period of time in foster care, which may happen in agency adoptions. Independent adoption is seen as more personal and confidential.

Nevertheless, there are serious problems with independent adoption. The interests of the couple are often put above the welfare of the child. The adoptive parents may be inadequately prepared or unsuitable. The biological mother may be pressured to give up her child, and may be unaware of her legal rights. In some extreme cases, independent adoption may be little more than baby selling, which is illegal in all States.

In agency adoptions, a licensed professional must investigate the prospective home before placement occurs. This is not always true in an independent adoption. In many States, the home study does not occur until after the child has been placed. This does not guarantee that the child will be placed in a secure, permanent home. In the event that a post-placement home study receives a negative recommendation, the court is reluctant to remove the child, feeling that it may cause more damage than good.

The facilitator is usually not trained to determine the best home or parents. Few doctors or lawyers are trained to assess the ability of adoptive parents to provide for the emotional needs of the child. Instances occur where the adopting couple is not screened at all.

An example of this is the death of Lisa Steinberg in New York City. The birth mother gave Joel Steinberg, a lawyer, $500 to arrange for her child to be adopted by a family in Manhattan. Steinberg and his girlfriend, Hedda Nussbaum, kept the child without completing adoption procedures. The child was found unconscious on November 2, 1987, in Steinberg's apartment, and she died 2 days later. Yesterday, Steinberg was found guilty of first-degree manslaughter.

In letters from constituents and in studying the situation, I believe that the area of independent, private adoptions does require some establishment of minimum standards. The health and safety of thousands and thousands of babies is at stake each year, and clearly there are some abuses.

Therefore, I am introducing a bill to link Federal payments of Social Security title IV-E funds to a State's willingness to enact reform legislation in this area by the year 1993. My bill will require that at a minimum, the following areas must be addressed and approved by the Secretary of Health and Human Services:

In any type of adoption, the prospective parents and their home should be investigated by a licensed agency that is trained to assess the ability of the couple to provide for the emotional needs of the child.

Independent adoption sometimes borders on "baby selling" since there may be no limitations to the amount of money that the birth mother or lawyer can receive. An itemized declaration of all costs should be submitted to the court during the adoption proceedings. This will help control the great amount of money which gives independent adoptions a bad name.

In many independent adoptions, the birth mother does not have her own legal representation, and is often unaware of her legal rights. The lawyer of the adopting couple is under no obligation to inform the birth mother of her rights or alternatives. Many women are discouraged from changing their minds about the adoption. They are unaware that there are other options open to them, such as temporary foster care or keeping the child with outside support. Only after researching all of her

options, can a mother decide that adoption is the best choice for her.

All parties involved in this sensitive matter should be guaranteed legal representation. As part of the birth mother's expenses, the prospective couple should be required to pay fees for the birth mother to have her own counsel, if she cannot afford one.

Many States do not require a social and medical history of the biological parents to be submitted. Many experts suggest that adopting parents have the right to accurate information about the child's background to plan for the child and help the child grow up with a sense of identity. The child has a right to his medical history in the event of future illness. This is a complex and emotional subject, however, and I believe that it is the kind of question which should be addressed in hearings on this legislation and on the general issue of adoption policy. Therefore, my bill does not require the States to take any action in this area. Perhaps the testimony of expert witnesses can give us guidance on these questions.

States have different requirements for the deadline to file the adoption petition. It is possible for the placement never to be finalized, leaving the child in legal limbo. No one is held responsible for bringing the placement to the attention of the court and mandating its finalization or for the removal of the child. A couple afraid that the court will not approve their adoption, may never bring the adoption to court, leaving the child with questionable legal status within the family. The adoption petition should be filed not later than 1 year after the placement to prevent this from occurring.

I hope that this bill, inspired by some inquiries and concerns expressed by constituents who attempted private adoptions, will help lead to hearings on this whole issue. If the hearings reflect on a national scale the kinds of problems some of my constituents have encountered, then clearly we should enact this legislation.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mrs. ROUKEMA, for 30 minutes, today.

Mr. CAMPBELL of California, for 45 minutes, on February 2.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mr. HOAGLAND, for 15 minutes, on February 2.

Mr. OWENS of Utah, for 60 minutes, on February 2.

(The following Members (at the request of Mrs. ROUKEMA) to revise and extend their remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. RHODES.

Mr. GILMAN.

Mr. THOMAS of California in two instances.

Mr. ROUKEMA.

Mr. MORRISON of Washington.

Mr. LEWIS of California.

Mrs. MARTIN of Illinois.

Mr. SCHULZE.

Mr. MCEWEN.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. EDWARDS of California.

Mr. FLORIO in two instances.

Mr. FRANK.

Mr. KANJORSKI.

Mr. ROE.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. LEHMAN of Florida.

Mr. CROCKETT.

Mr. STARK in five instances.

Mr. DONNELLY.

Mrs. KENNELLY.

Mr. CLEMENT.

Mr. APPLEGATE.

Mr. HUBBARD.

Mr. WALGREN.

ADJOURNMENT

Mrs. ROUKEMA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 40 minutes p.m.), under its previous order, the House adjourned until Thursday, February 2, 1989, at 11:00 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

485. A letter from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting notification of the decision to convert to contractor performance the commissary resale warehouse function at Mather Air Force Base, California, which was found to be the most efficient and cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); Public Law 100-202, section 8074 (101 Stat. 1329-75); to the Committee on Appropriations.

486. A letter from the Chairman, Commodity Futures Trading Commission, transmitting a draft of proposed legislation entitled, "The Futures Trading Act of 1989"; to the Committee on Agriculture.

487. A letter from the Acting Comptroller General of the United States, transmitting a review of the President's second special impoundment message for fiscal year 1989, pursuant to 2 U.S.C. 685 (H. Doc. No. 101-24); to the Committee on Appropriations and ordered to be printed.

488. A letter from the Secretary of Transportation, transmitting a report of a violation of the Anti-deficiency Act in account 69x8020, State and Community Highway Safety Program, for fiscal years 1986 and 1987, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

489. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled, "Review of the University of the District of Columbia Contract Number GA/A88110 (Dow, Lohnes & Albertson)", pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

490. A letter from the Potomac Electric Power Company, District of Columbia, transmitting a copy of the Balance Sheet of Potomac Electric Power Company as of December 31, 1988, pursuant to D.C. Code, section 43-513; to the Committee on the District of Columbia.

491. A letter from the Secretary of Education, transmitting a copy of Final Funding Priorities for Certain New Direct Grants Awards under the Office of special Education, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

492. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Portugal (Transmittal No. 7-89), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

493. A letter from the Assistant Secretary of State for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more, to Egypt (Transmittal No. MC-5-89, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

494. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of the price and availability estimates provided to foreign countries, and requests received for Letters of Offer during the quarter ending December 31, 1988, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

495. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting a listing of gifts by the U.S. Government to foreign individuals during fiscal years 1987 and 1988, pursuant to 22 U.S.C. 2694(2); to the Committee on Foreign Affairs.

496. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio free Europe/Radio Liberty for the period October 1, 1987, through September 30, 1988, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on Foreign Affairs.

497. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting the Commission's annual report on contract competition covering

fiscal year 1988, pursuant to 419; to the Committee on Government Operations.

498. A letter from the Director, National Science foundation, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

499. A letter from the Chairman, Copyright Royalty Tribunal, transmitting the annual report for the fiscal year ending September 30, 1988, pursuant to 17 U.S.C. 808; to the Committee on the Judiciary.

500. A letter from the Deputy Secretary of Transportation, transmitting a report describing the Coast Guard's planned fiscal year 1989 drug interdiction level of effort using funds made available in regular appropriation acts; to the Committee on Merchant Marine and Fisheries.

501. A letter from the Assistant Secretary of the Army (Civil Works), transmitting the second review and comments of projects authorized under the Water Resources Development Act, 1986, pursuant to Public Law 99-662, section 903(a)(2) (100 Stat. 4184); to the Committee on Public Works and Transportation.

502. A letter from the Deputy Secretary of Transportation, transmitting a revised estimate of the cost to complete the National System of Interstate and Defense Highways for the fiscal years ending September 30, 1991, and September 30, 1992, pursuant to 23 U.S.C. 104(b)(5); to the Committee on Public Works and Transportation.

503. A letter from the Deputy Secretary of Transportation, transmitting activities under the Commercial Space Launch Act and any legislative recommendations for fiscal year 1988, pursuant to 49 U.S.C. app. 2621(a); to the Committee on Science, Space and Technology.

504. A letter from the Deputy Secretary of Transportation, transmitting the Department's report on aircarft design and equipment which minimize incidence of fire or explosion, pursuant to 49 U.S.C. app. 1421 nt.; jointly, to the Committee on Public Works and Transportation and Science, Space, and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PANETTA (for himself, Mr. UDALL, Mr. MARTINEZ, Mr. CONTE, Mr. FUSTER, Mr. FAUNTROY, Mr. BEILENSON, Ms. PELOSI, Mr. DICKS, Mr. MOAKLEY, Mr. ROYBAL, Mr. WALGREN, Mr. HAYES of Illinois, Mrs. BOGGS, Mr. KASTENMEIER, Mr. BILBRAY, Mr. JONTZ, Mr. TORRES, Mr. PALLONE, Mr. BOSCO, Mr. TALLON, Mr. BERMAN, Mr. DWYER of New Jersey, Mr. DEFAZIO, Mr. BATES, Mr. FOGLIETTA, Mr. MINETA, Mr. FROST, Mr. DERRICK, Mr. PEPPER, Mr. BLAZ, Mr. LEVINE of California, Mr. SIKORSKI, Mr. MORRISON of Connecticut, Mr. TRAXLER, Mr. DYMALLY, Mr. LIPINSKI, Mr. SMITH of Florida, Ms. SCHNEIDER, Mr. TRAFICANT, Mrs. BENTLEY, Mr. LAGOMARSINO, Mr. ROE, Mrs. BOXER, Mr. MCDERMOTT, Mr. LEWIS of Georgia, Mr. MFUME, Mr. ACKERMAN, Mr. CROCKETT, Mr. FAZIO, Mr. TOWNS, Mr. BUSTAMANTE, Mr. STUDDS, Mr. SCHUMER, Mr. CLARKE, Mr. ATKINS, Mr. ROBINSON, Mr. TORRICELLI, Mr. WISE, Mr. RAVENEL, Mr. SHAYS, Mr. SOLARZ, Mr. RICHARDSON, Mr. KOLTER, Mrs. MORELLA, and Mr. HUGHES):

H.R. 717. A bill to establish the American Conservation and Youth Services Corps consisting of the American Conservation Corps and the Youth Service Corps, to provide for education and training of participants in such corps, to establish the Commission on National Service Opportunities, and for other purposes; jointly, to the Committees on Education and Labor and Interior and Insular Affairs.

By Mr. ANDREWS (for himself, Mr. STARK, Mr. CHANDLER, Mr. WAXMAN, Mr. SYNAR, Mr. HANSEN, Mrs. COLLINS, Mr. BATES, Mr. MRAZEK, Ms. SCHNEIDER, Mr. ACKERMAN, Mrs. BENTLEY, Mr. LIPINSKI, Mrs. ROUKEMA, Mr. ATKINS, Mrs. BOXER, and Mr. OBERSTAR):

H.R. 718. A bill to amend the Internal Revenue Code of 1986 to increase Federal excise taxes on tobacco products and to provide that a portion of the revenues from such increase be used for programs to discourage cigarette smoking and tobacco use particularly by youth; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. ARCHER:

H.R. 719. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets; to the Committee on Ways and Means.

By Mr. ATKINS (for himself, Ms. SNOWE, Mr. ACKERMAN, Mr. AUCOIN, Mr. BEILENSON, Mr. BERMAN, Mr. CARDIN, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. FRANK, Mr. GEJDENSON, Mr. GREEN, Mr. KOSTMAYER, Mr. LEHMAN of Florida, Mr. LELAND, Mr. MATSUI, Mr. MINETA, Mr. MOODY, Mrs. MORELLA, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Ms. PELOSI, Mr. PEPPER, Mr. PORTER, Mrs. SAIKI, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SMITH of Florida, Mr. SOLARZ, Mr. UDALL, Mr. WAXMAN, Mr. WHEAT, and Mr. WYDEN):

H.R. 720. A bill to provide that restrictions may be applied to family planning programs that receive U.S. assistance only to the extent that the same restrictions apply to domestic family planning programs funded under title X of the Public Health Service Act; to the Committee on Foreign Affairs.

By Mrs. BOXER:

H.R. 721. A bill to amend the act of August 24, 1935, to require payment bonds for all contracts with the United States; to the Committee on the Judiciary.

By Mr. COURTER (for himself, Mrs. ROUKEMA, Mr. RINALDO, and Mr. PALLONE):

H.R. 722. A bill to impose a 10-year moratorium on oil and gas leasing in certain areas off the coast of New Jersey; to the Committee on Interior and Insular Affairs.

By Mr. DYMALLY:

H.R. 723. A bill to improve the collection of housing-related data in the decennial census; to the Committee on Post Office and Civil Service.

By Mr. FISH (for himself, Mr. SOLOMON, Mr. ROWLAND of Connecticut, Mrs. JOHNSON of Connecticut, and Mr. MARTIN of New York):

H.R. 724. A bill prohibiting the use of certain expedited procedures in the consideration of applications for the construction of certain natural gas pipelines; to the Committee on Energy and Commerce.

By Mr. FISH (for himself, Mr. MANTON, Mr. GILMAN, Mr. MORRISON of Connecticut, Mr. ACKERMAN, Mr. ATKINS, Mr. BATES, Mr. BERMAN, Mr. BORSKI, Mr. CARPER, Mrs. COLLINS, Mr. COYNE, Mr. DELLUMS, Mr. DORNAN of California, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. FAUNTROY, Mr. FEIGHAN, Mr. FLAKE, Mr. FRANK, Mr. GARCIA, Mr. HOCHBRUECKNER, Mr. HUGHES, Mr. JACOBS, Mr. KANJORSKI, Mr. LENT, Mrs. MARTIN of Illinois, Mr. MAVROULES, Mr. MOAKLEY, Mrs. MORELLA, Mr. MRAZEK, Mr. NOWAK, Mr. OWENS of New York, Mr. RINALDO, Mr. ROE, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, and Mr. WALSH):

H.R. 725. A bill to provide for adherence with the MacBride Principles by United States persons doing business in Northern Ireland; jointly, to the Committees on Foreign Affairs, Ways and Means, and Rules.

By Mr. FRANK:

H.R. 726. A bill to permit certain Federal employees who retired or became entitled to receive compensation for work injury before December 9, 1980, to elect to resume coverage under the Federal employees' group life insurance program; to the Committee on Post Office and Civil Service.

H.R. 727. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income that portion of a governmental pension which does not exceed the maximum benefits payable under title II of the Social Security Act which could have been excluded from income for the taxable year; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 728. A bill to require certain flammable liquid storage facilities to have overflow alarm systems, and for other purposes; to the Committee on Education and Labor.

H.R. 729. A bill to amend the Consumer Products Safety Act to strengthen the authority of the Consumer Product Safety Commission over amusement parks; to the Committee on Energy and Commerce.

H.R. 730. A bill to provide Federal grants to States for programs to identify and aid individuals who have been exposed in the drug diethylstilbestrol [DES]; to the Committee on Energy and Commerce.

H.R. 731. A bill to provide for the temporary suspension of duty on tamoxifen citrate for a 3-year period; to the Committee on Ways and Means.

H.R. 732. A bill to temporarily suspend the duty on methyl and ethyl parathion; to the Committee on Ways and Means.

By Mr. HALL of Ohio (for himself, Mr. WOLF, Mr. ATKINS, Mr. BENNETT, Mr. BORSKI, Mr. FAUNTROY, Mr. FAWELL, Mr. HAYES of Illinois, Mr. HUTTO, Mr. MCEWEN, Mr. STAGGERS, and Mr. TALLON):

H.R. 733. A bill to establish a commission to examine the issues associated with the teaching of values in elementary, secondary, and postsecondary schools and in institutions of higher learning; jointly, to the Committees on Education and Labor and Rules.

By Mr. LAGOMARSINO:

H.R. 734. A bill to disallow the Secretary of the Interior from issuing oil and gas leases with respect to a geographical area located in the Pacific Ocean off the coastline of the State of California; to the Committee on Interior and Insular Affairs.

H.R. 735. A bill to modify the provision of law which provides a permanent appropriation for the compensation of Members of Congress, and for other purposes; jointly, to the Committees on Appropriations, House Administration, and Rules.

By Mr. LEHMAN of California (for himself, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. FAUNTROY, Mr. HUBBARD, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. GARCIA, Mr. SCHUMER, Mr. MORRISON of Connecticut, Ms. KAPTUR, Mr. CARPER, Mr. TORRES, Mr. KLECZKA, Mr. NELSON of Florida, Mr. KANJORSKI, Mr. KENNEDY, Mr. FLAKE, Mr. MFUME, Mr. PRICE, Mr. NEAL of Massachusetts, Mr. COELHO, Mr. EDWARDS of California, Mr. HAWKINS, Mr. ROYBAL, Mr. DELLUMS, Mr. STARK, Mr. MILLER of California, Mr. MINETA, Mr. WAXMAN, Mr. PANETTA, Mr. MATSUI, Mr. MARTINEZ, Mr. BATES, Mr. BOSCO, Mrs. BOXER, Mr. ACKERMAN, Mr. ATKINS, Mrs. BOGGS, Mr. BRYANT, Mrs. COLLINS, Mr. CONYERS, Mr. COSTELLO, Mr. DE LUGO, Mr. DONNELLY, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FASCELL, Mr. HEFNER, Mr. KASTENMEIER, Mr. LEHMAN of Florida, Mr. LELAND, Mr. LEVIN of Michigan, Mr. LIPINSKI, Mrs. LLOYD, Mr. MACHTLEY, Mr. MOAKLEY, Mr. MOODY, Mr. MURPHY, Mr. OBERSTAR, Mr. OWENS of New York, Mr. PERKINS, Mr. RANGEL, Mr. ROE, Mr. SABO, Mr. SAVAGE, Mr. STOKES, Mr. STUDDS, Mr. SYNAR, Mr. TOWNS, Mr. WALSH, Mr. WEISS, Mr. WILLIAMS, Mr. WISE, Mr. WOLPE, and Mr. YATES):

H.R. 736. A bill to require the clear and uniform disclosure by depository institutions of interest rates payable and fees assessable with respect to deposit accounts; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LEHMAN of California (for himself, Mr. HERGER, Mr. COELHO, Mr. HANSEN, Mr. MILLER of California, Mr. PASHAYAN, Mr. HUNTER, Mr. ROBERT F. SMITH, Mr. NIELSON of Utah, Mr. LAGOMARSINO, and Mr. CAMPBELL of Colorado):

H.R. 737. A bill to amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN of California (for himself, Mr. COELHO, Mr. THOMAS of California, and Mr. PASHAYAN):

H.R. 738. A bill to authorize the construction of the Mid-Valley Unit of the Central Valley Project; to the Committee on Interior and Insular Affairs.

By Mr. McDADE:

H.R. 739. A bill to require the Secretary of the Treasury to establish a national lottery and to provide that not less than 50 percent of the receipts from such lottery be used to reduce the Federal debt; to the Committee on Ways and Means.

H.R. 740. A bill to require a recorded vote on any pay adjustment for Members of Congress; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. MURPHY:

H.R. 741. A bill to amend the Internal Revenue Code of 1986 to provide for application of the Medicare supplemental premium for individuals newly entitled to Medicare based on the number of months of Medicare coverge in a taxable year; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 742. A bill to require that the National League of Families POW/MIA flag be displayed at each U.S. diplomatic or consular post and military installation; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. PEASE:

H.R. 743. A bill to establish a framework for the conduct of negotiated rulemaking by Federal agencies; to the Committee on the Judiciary.

By Mr. PETRI (for himself, Mr. GOODLING, Mr. BALLENGER, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BROOMFIELD, Mr. BUECHNER, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CLINGER, Mr. COBLE, Mr. COYNE, Mr. EMERSON, Mr. ERDREICH, Mr. FAWELL, Mr. FOGLIETTA, Mr. FRENZEL, Mr. GAYDOS, Mr. GEKAS, Mr. GUNDERSON, Mr. HAMMERSCHMIDT, Mr. HARRIS, Mr. HYDE, Mr. KOLTER, Mr. LANCASTER, Mr. LEWIS of Florida, Mr. McDADE, Mr. MARLENEE. Mrs. MEYERS of Kansas, Mr. MONTGOMERY, Mr. MURTHA, Mr. OXLEY, Mr. PARRIS, Mr. PORTER, Mr. RAVENEL, Mr. RITTER, Mr. SHAYS, Mr. SHUSTER, Mr. DENNY SMITH, Mr. SMITH of New Hampshire, Mr. TAUKE, Mr. WALGREN, and Mr. WALKER):

H.R. 744. A bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens; to the Committee on Post Office and Civil Service.

By Mr. SCHIFF:

H.R. 745. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. SCHNEIDER (for herself, Mr. ARMEY, Mr. ATKINS, Mr. BAKER, Mr. BARTLETT, Mr. BARTON of Texas, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BLILEY, Mr. BOEHLERT, Mr. BROWN of California, Mr. BRYANT, Mr. CHANDLER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COMBEST, Mr. CRAIG, Mr. DEWINE, Mr. DICKINSON, Mr. DICKS, Mr. DORNAN of California, Mr. DOWNEY, Mr. EDWARDS of California, Mr. FAWELL, Mr. GEJDENSON, Mr. GOODLING, Mr. HAMILTON, Mr. HANSEN, Mr. HAYES of Illinois, Mr. HAYES of Louisiana, Mr. HEFNER, Mr. HENRY, Mr. HUBBARD, Mr. HUNTER, Ms. KAPTUR, Mr. KOLBE, Mr. KOLTER, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. McCANDLESS, Mr. McHUGH, Mr. McMILLAN of North Carolina, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mrs. MEYERS of Kansas, Mr. MOLINARI, Mr. MORRISON of Connecticut, Mr. NOWAK, Mr. OLIN, Mr. PORTER, Mr. RAY, Mr. RINALDO, Mr. SCHAEFER, Mr. SHAYS, Mr. SLAUGHTER of Virginia, Mr. STENHOLM, Mr. SWIFT, Mr. VENTO, Mr. WOLF, Mr. WOLPE, Mr. INHOFE, Mrs. SAIKI, Mr. MARTIN of New York, Mr. DORGAN of North Dakota, Mr. MRAZEK, Mr. FRANK, Mr. WHEAT, Mr. HEFLEY, and Mr. HARRIS):

H.R. 746. A bill to establish a commission to advise the President on proposals for national observances; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE (for himself, Mr. RUSSO, Mr. RANGEL, Mr. VANDER JAGT, Mr. BROWN of Colorado, Mrs. JOHNSON of Connecticut, Mr. SHAW, Mr. SUNDQUIST, Mr. COUGHLIN, Mr. KASTENMEIER, Mr. SHAYS, Mrs. MORELLA, Mr. HORTON, Mr. AUCOIN, Mr. BEREUTER, Mr. JONTZ, Mr. WOLF, Mr. BRENNAN, Mr. ROTH, Mr. LEWIS of Georgia, Mr. SOLOMON, Mr. COLEMAN of Texas, Mrs. SMITH of Nebraska, Mr. DE LUGO, Mr. GALLO, Mr. OLIN, Mr. BUNNING, Mr. QUILLEN, Mr. MARTIN of New York, Mr. ROE, Mr. BOEHLERT, Mr. MURPHY, Mrs. ROUKEMA, Mr. PENNY, Mr. LAGOMARSINO, Mr. DYMALLY, Mr. CRAIG, Mr. HUGHES, Mr. HASTERT, Mr. LEHMAN of California, Mr. EMERSON, Mr. WEISS, Mr. RINALDO, Mr. DEFAZIO, Mrs. BENTLEY, Mr. FORD of Michigan, Mr. RHODES, Mr. NEAL of North Carolina, Mr. SMITH of Vermont, Mrs. BOXER, Mr. RICHARDSON, Mr. PURSELL, and Mr. TAUKE):

H.R. 747. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans; to the Committee on Ways and Means.

By Mr. SKAGGS (for himself, Mr. CAMPBELL of Colorado, Mr. EMERSON, Mr. OWENS of Utah, Mr. NIELSON of Utah, Mr. HUGHES, Mr. HOCHBRUECKNER, and Mr. LANCASTER):

H.R. 748. A bill to require that any pay adjustment for Members of Congress be made by a recorded vote; to provide that any such adjustment be deferred until the start of the Congress following the Congress in which it is enacted into law; and for other purposes; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. SPRATT:

H.R. 749. A bill to transfer certain lands to the South Carolina Commission of Forestry, an agency of the State of South Carolina; to the Committee on Merchant Marine and Fisheries.

By Mr. STALLINGS (for himself and Mr. MORRISON of Washington):

H.R. 750. A bill to amend title V of the Housing Act of 1949 to permit the Secretary of Agriculture to provide loans and grants for the purpose of providing housing for farm laborers who are legally admitted to the United States for temporary residence; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 751. A bill to amend title XIX of the Social Security Act to assure appropriate coverage and payment for inpatient hospital services under the Medicaid Program; to the Committee on Energy and Commerce.

H.R. 752. A bill to amend part E of title IV of the Social Security Act to provide that States enact a comprehensive adoption reform program by 1993 as a condition of receiving Federal payments for foster care and adoption assistance; to the Committee on Ways and Means.

H.R. 753. A bill to amend title XVIII of the Social Security Act to assure appropriate provision and coordination of emergency medical services under statewide trauma and emergency medical services plans; to the Committee on Ways and Means.

H.R. 754. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on an employer's cost of providing medical benefits to his employees and to amend the Social Security Act to provide support for hospitals in meeting indigent care costs;

jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. THOMAS of California:

H.R. 755. A bill to amend the Congressional Budget Act of 1974 to improve the congressional budget process; to the Committee on Rules.

By Mr. ARCHER (for himself, Mr. SHAYS, Mr. IRELAND, Mr. GALLO, Mr. MARLENEE, Mr. BRENNAN, Mr. HALL of Texas, Mr. BILIRAKIS, Mr. FRENZEL, Mr. DANNEMEYER, Mr. GIBBONS, Mr. SUNDQUIST, Mr. BUECHNER, Mr. LIGHTFOOT, Mr. GOODLING, Mr. SENSENBRENNER, Mr. RAVENEL, Mr. SOLOMON, Mr. DONALD E. LUKENS, Mr. SHUMWAY, Mr. SCHUETTE, Mr. OXLEY, Mr. DREIER of California, Mr. BUNNING, Mrs. VUCANOVICH, Mr. CRAIG, Mr. HILER, Mr. VANDER JAGT, Mr. COMBEST, Mrs. MEYERS of Kansas, Mrs. BENTLEY, Mr. BENNETT, Mr. GALLEGLY, Mr. FISH, Mr. LEWIS of Florida, Mr. COURTER, Mr. RIDGE, Mr. HEFLEY, Mr. TAUZIN, Mr. BARTON of Texas, Mr. SMITH of Texas, Mr. HANSEN, Mr. SMITH of New Hampshire, Mrs. JOHNSON of Connecticut, Mr. HOPKINS, Mr. PETRI, Mr. INHOFE, Mr. FAWELL, Mr. HASTERT, Mr. SHAW, Mr. KYL, Mr. ARMEY, Mr. BLAZ, Mr. PARRIS, Mr. CHANDLER, Mr. BARTLETT, Mrs. MARTIN of Illinois, Mr. MOORHEAD, Mr. NIELSON of Utah, Mr. SAXTON, Mr. WILSON, Mr. HYDE, Mr. MCEWEN, Mr. UPTON, and Mr. BLILEY):

H.J. Res. 110. Joint resolution proposing an amendment to the Constitution of the United States allowing an item veto in appropriations bills; to the Committee on the Judiciary.

By Mr. HUTTO (for himself, Mr. JONES of North Carolina, Mr. TAUZIN, and Mr. DAVIS):

H.J. Res. 111. Joint resolution designating June 23, 1989, as "United States Coast Guard Auxiliary Day"; to the Committee on Post Office and Civil Service.

By Mr. MORRISON of Washington (for himself, Mr. ACKERMAN, Mr. AKAKA, Mr. AUCOIN, Mr. BARTON of Texas, Mr. BENNETT, Mr. BEVILL, Mr. BLILEY, Mr. BOUCHER, Mr. CALLAHAN, Mrs. COLLINS, Mr. CONTE, Mr. COYNE, Mr. DE LA GARZA, Mr. DICKS, Mr. DYMALLY, Mr. FASCELL, Mr. FLORIO, Mr. FRENZEL, Mr. FUSTER, Mr. GUARINI, Mr. GUNDERSON, Mr. HATCHER, Mr. HEFNER, Mr. HENRY, Mr. HUGHES, Mr. INHOFE, Mr. LAGOMARSINO, Mr. LEHMAN of Florida, Mr. LEWIS of Georgia, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MANTON, Mr. MARTIN of New York, Mr. MILLER of Washington, Mr. MONTGOMERY, Mr. NEAL of North Carolina, Mr. NELSON of Florida, Mr. OWENS of New York, Mr. RHODES, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROBINSON, Mr. ROE, Mr. ROSTENKOWSKI, Mrs. SAIKI, Mr. SCHUMER, Mr. SMITH of New Hampshire, Mr. SPENCE, Mr. SPRATT, Mr. TOWNS, Mr. TRAXLER, Mr. UDALL, Mr. VANDER JAGT, Mr. VENTO, Mr. WALGREN, Mr. WILSON, Mr. WOLF, Mr. RAHALL, and Ms. KAPTUR):

H.J. Res. 112. Joint resolution designating April 23, 1989, through April 30, 1989, as "National Organ and Tissue Donor Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MURPHY:

H.J. Res. 113. Joint resolution disapproving the pay increases for executive, legislative, and judicial branch positions recently recommended by the President; to the Committee on Post Office and Civil Service.

By Mr. OBERSTAR (for himself, Mr. KILDEE, Mr. SIKORSKI, Mr. STANGELAND, Mr. WEBER, Mr. PENNY, Mr. GUNDERSON, Mr. STALLINGS, Mr. TAUZIN, Mr. SKELTON, Mr. COYNE, and Mr. MAZZOLI):

H.J. Res. 114. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. SKELTON:

H.J. Res. 115. Joint resolution to designate September 15, 1989, as "National Respect for the Elderly Day"; to the Committee on Post Office and Civil Service.

By Mr. WYDEN:

H.J. Res. 116. Joint resolution to disapprove the pay adjustment recommended by the President for Members of Congress, and to require a recorded vote on any future pay adjustment for Members of Congress; jointly, to the Committees on Post Office and Civil Service, House Administration, and Rules.

By Mr. COMBEST (for himself, Mr. ROE, Mr. HENRY, Mr. FRANK, Mr. BURTON of Indiana, Mr. SKEEN, Mr. ENGLISH, Mr. EMERSON, Mr. JONTZ, Mr. NIELSON of Utah, Mr. ROWLAND of Connecticut, Mrs. PATTERSON, and Mr. MCCRERY):

H. Con. Res. 39. Concurrent resolution expressing the sense of the Congress regarding the taxation of State and local government bonds; to the Committee on Ways and Means.

By Mrs. JOHNSON of Connecticut (for herself, Mr. OBERSTAR, Mrs. BOXER, Mrs. COLLINS, Mr. ROWLAND of Connecticut, Mr. DERRICK, Mr. JOHNSON of South Dakota, Mr. MOAKLEY, Mr. MARTINEZ, Mr. RHODES, Mr. MARTIN of New York, Mr. GORDON, Mr. WHITTAKER, Mr. OWENS of New York, Mr. BATES, Mr. COSTELLO, Ms. OAKAR, Mr. MRAZEK, Mr. TRAFICANT, Mr. DEFAZIO, Mr. EMERSON, Mr. RINALDO, Mr. CROCKETT, Mr. KOLTER, Mr. OLIN, Mr. DE LUGO, Mr. SAXTON, Mr. CRAIG, Ms. SCHNEIDER, Mr. PETRI, Mr. DYMALLY, Mr. GRANT, Mr. BORSKI, Mr. YOUNG of Florida, Mr. ERDREICH, Mrs. PATTERSON, Mr. KENNEDY, Mr. ROE, Mr. FRANK, Mr. MURPHY, Mr. HENRY, Mr. VALENTINE, Mr. THOMAS A. LUKEN, Mr. ROBERT F. SMITH, Mr. MORRISON of Washington, Mr. ROBERTS, Mr. DUNCAN, Mr. ATKINS, Mr. YATRON, Mr. SMITH of Florida, Mr. GARCIA, Mr. CAMPBELL of Colorado, Mr. EVANS, Mr. HEFNER, Mr. RAHALL, Mr. BONIOR, Mr. HASTERT, Mr. MFUME, Mr. WOLPE, Mr. NELSON of Florida, Mr. SKELTON, Mr. STUDDS, Mr. BAKER, Mr. SPRATT, Mr. DAVIS, Mr. DIXON, Mr. STOKES, Mr. HUGHES, Mrs. MORELLA, Mr. YOUNG of Alaska, Mrs. BENTLEY, Mr. INHOFE, Mr. COUGHLIN, Mr. MCCLOSKEY, Mr. KOSTMAYER, Mr. KASTENMEIER, Mr. CARPER, Mr. BROOKS, Mr. FAUNTROY, Mr. MINETA, Mr. BUSTAMANTE, Mr. KILDEE, Mr. LEACH of Iowa, Mr. COMBEST, Mr. RAVENEL, Mr. ROSE, Mr. FLORIO, Mr. UDALL, Mr. STENHOLM, Mr. BUNNING, Mr. HAYES of Illinois, Mr. ENGLISH, Mr. GALLO, Mr. JONTZ, Mr. YATES, Mr. PALLONE, Mr. HALL of Texas, Mr. DYSON, Mr. FOGLIETTA, Mr. DARDEN, Mr. CARDIN, Mr. NOWAK, Mr. GILMAN, Mr. ROBINSON, Mr. NAGLE, Mr. ANNUNZIO, Mr. POSHARD, Mr. RANGEL, Mr. HEFLEY, Mr. BOEHLERT, Mr. QUILLEN, Mr. GLICKMAN, Mr. NEAL of North Carolina, Mr. ENGEL, Mr. HOLLOWAY, Mr. MACHTLEY, Mr. FEIGHAN, Mrs. BYRON, Mr. HANSEN, Mr. VOLKMER, Mr. CLARKE, Mr. BOUCHER, Mr. LANCASTER, Mr. KANJORSKI, Mr. GUNDERSON, Mr. LEWIS of Florida, Mr. MANTON, Mr. LAGOMARSINO, Mr. COURTER, Mr. FISH, Mr. WEISS, Mr. STALLINGS, Mr. SMITH of Vermont, Mr. CONYERS, Mr. MILLER of Ohio, Mr. KYL, Mr. HUBBARD, Mr. LAUGHLIN, Mrs. VUCANOVICH, Mr. CHENEY, Mr. MCMILLEN of Maryland, Mr. ROWLAND of Georgia, Mr. ORTIZ, Mr. NEAL of Massachusetts, Mr. HOPKINS, Mr. BALLENGER, and Mr. TRAXLER):

H. Con. Res. 40. Concurrent resolution expressing the sense of Congress regarding reductions in payments to hospitals under part A of the Medicare Program; to the Committee on Ways and Means.

By Mr. KANJORSKI (for himself, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. NEAL of North Carolina, Mr. HUBBARD, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. GARCIA, Mr. FRANK, Mr. LEHMAN of California, Ms. KAPTUR, Mr. ERDREICH, Mr. CARPER, Mr. TORRES, Mr. KLECZKA, Mrs. PATTERSON, Mr. MCMILLEN of Maryland, Mr. KENNEDY, Mr. FLAKE, Ms. PELOSI, Mr. MCDERMOTT, and Mr. NEAL of Massachusetts):

H. Con. Res. 41. Concurrent resolution expressing the sense of the Congress that the full faith and credit of the United States stands behind the Federal deposit insurance funds; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEASE (for himself, Mr. BERMAN, Mr. STARK, Mr. STUDDS, Mr. SABO, Mr. FAUNTROY, and Mr. TRAFICANT):

H. Con. Res. 42. Concurrent resolution expressing the sense of the Congress that the tax rate on capital gains should not be reduced; to the Committee on Ways and Means.

By Mr. BROWN of Colorado (for himself, Mr. RHODES, and Mr. LAGOMARSINO):

H. Res. 56. Resolution to amend the Rules of the House of Representatives to make its proceedings more open, representative, and accountable, and to authorize and direct certain standing committees of the House to report legislation by October 1, 1990, to apply the National Labor Relations Act, the Fair Labor Standards Act of 1938, and the Occupational Safety and Health Act of 1970, to the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. GUARINI:

H. Res. 57. Resolution establishing the House of Representatives Foreign Student Intern Program; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. MORELLA:

H.R. 756. A bill for the relief of Shelton Anthony Smith; to the Committee on the Judiciary.

By Ms. SNOWE:

H.R. 757. A bill for the relief of Richard W. Ireland; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 22: Mr. PERKINS.

H.R. 29: Mr. CAMPBELL of California.

H.R. 58: Mr. ROWLAND of Connecticut, Mr. MCGRATH, Mr. DANNEMEYER, Mr. NELSON of Florida, Mr. COMBEST, Mr. BUECHNER, Mr. LAGOMARSINO, Mrs. MEYERS of Kansas, Mr. THOMAS of California, Mr. PORTER, Mr. PAYNE of Virginia, Mr. CLEMENT, Mr. COURTER, and Mr. CONTE.

H.R. 60: Mr. DUNCAN, Mr. HATCHER, Mr. LANCASTER, Mr. UPTON, and Mr. RHODES.

H.R. 63: Mr. MONTGOMERY, Mr. FIELDS, Mr. EMERSON, Mr. FAWELL, Mr. BARTLETT, Mr. SUNDQUIST, Mr. HYDE, and Mr. HUGHES.

H.R. 113: Mr. HENRY, Mr. ROE, Mr. SHAYS, Mr. LIPINSKI, Mr. HASTERT, and Mr. MCEWEN.

H.R. 145: Mr. PAYNE of Virginia, Mr. TOWNS, Mr. UNSOELD, Mr. STUDDS, Mr. SLATTERY, Mr. MCNULTY, Mr. TRAFICANT, Mr. CLEMENT, Mr. BUSTAMANTE, Mr. ATKINS, Mr. MARTINEZ, Mr. RAHALL, Mr. GAYDOS, and Mr. ROE.

H.R. 243: Mr. PACKARD, Mr. LENT, Mr. DOUGLAS, Mr. ROWLAND of Connecticut, Mr. ROE, Mr. HARRIS, Mr. SMITH of New Hampshire, Mr. HOUGHTON, Mr. OWENS of New York, Mr. SOLOMON, Mr. DORNAN of California, Mr. ARMEY, Mr. HASTERT, Mr. SENSENBRENNER, Mr. DUNCAN, Mr. RINALDO, and Mr. CRAIG.

H.R. 244: Mr. GALLEGLY and Mr. STUMP.

H.R. 272: Mr. MORRISON of Washington.

H.R. 293: Mr. VENTO, Mr. DELLUMS, Mr. FAWELL, Mr. LEVIN of Michigan, Mr. ATKINS, Mr. ACKERMAN, Mr. LEHMAN of Florida, Mr. RANGEL, Mr. HAYES of Illinois, Mr. FAUNTROY, Mr. LEWIS of Georgia, Mr. OWENS of Utah, Mr. GIBBONS, Mr. WEISS, Mr. FOGLIETTA, Mrs. BOXER, Mrs. COLLINS, Mr. CHANDLER, Mr. STARK, Mr. BORSKI, and Mr. SOLARZ.

H.R. 469: Mr. CAMPBELL of California.

H.R. 534: Mr. MARTINEZ, Mr. SENSENBRENNER, Mrs. COLLINS, Mr. SLATTERY, Mr. MRAZEK, Mr. SPRATT, Mr. FOGLIETTA, Mrs. MEYERS of Kansas, Mr. ATKINS, Mr. LEVINE of California, and Mrs. BOXER.

H.R. 537: Mr. ARMEY, Mr. RINALDO, Mr. SAWYER, Mr. LEATH of Texas, Mr. ROYBAL, Mr. MCGRATH, Mr. BUECHNER, Mr. BLAZ, Mr. LANCASTER, Mr. PORTER, and Mr. RANGEL.

H.R. 563: Mr. JACOBS, Mr. YOUNG of Alaska, Mr. GARCIA, Ms. SCHNEIDER, Mr. HUGHES, Mr. HAMILTON, Mrs. SCHROEDER, Mr. SIKORSKI, Mr. COURTER, Mr. HUTTO, Mr. FLORIO, Mr. TORRES, Mr. ATKINS, Mr. BEILENSON, Mr. MARTINEZ, Mr. SCHUMER, Mr. HUBBARD, and Mr. VENTO.

H.R. 567: Mr. DINGELL.

H.R. 596: Mr. ERDREICH, Mr. PORTER, Mr. SKEEN, Mr. PARRIS, Mr. SMITH of Florida, Mr. SCHUETTE, Mr. LAGOMARSINO, Mr. KOLTER, and Mrs. LLOYD.

H.R. 646: Mr. COBLE, Mr. DEFAZIO, Mr. SMITH of Florida, Mr. DENNY SMITH, Mr. LAGOMARSINO, and Mr. GALLO.

H.J. Res. 55: Mr. GALLEGLY.

H.J. Res. 56: Mr. DENNY SMITH, Mr. WALKER, Mr. THOMAS of Georgia, and Mr. SHARP.

H.J. Res. 88: Mr. JOHNSON of South Dakota, Mr. SMITH of Mississippi, Mr. HOCHBRUECKNER, Mrs. MEYERS of Kansas, Mr. HEFNER, Mr. SLAUGHTER of Virginia, Mr. LANCASTER, Mr. ROHRABACHER, Mr. GLICKMAN, Mr. KASICH, Mr. BROWN of California, and Mr. KOLBE.

H. Con. Res. 1: Mr. WAXMAN and Mr. RANGEL.

H. Con. Res. 26: Mr. ROBERT F. SMITH, Mr. HARRIS, Mr. DENNY SMITH, Mr. MARLENEE, Mr. COSTELLO, Mr. STALLINGS, Mr. ROBERTS, Mr. LEHMAN of California, Mr. SCHAEFER, Mr. GUNDERSON, Mr. PENNY, Mr. DEWINE,, Mr. FOLEY, Mr. ERDREICH, Mr. JOHNSON of South Dakota, Mr. QUILLEN, Mr. PORTER, Mr. COMBEST, Mr. LIGHTFOOT, Mr. HEFLEY, Mr. LIPINSKI, Mrs. MARTIN of Illinois, Mr. DURBIN, Mr. LEATH of Texas, Mr. OLIN, Mr. WALSH, Mr. MCEWEN, Mr. HASTERT, Mr. CHANDLER, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. SLATTERY, and Mr. EMERSON.

H. Res. 41: Mr. ANDREWS, Mr. BORSKI, Mr. BURTON of Indiana, Mr. COX, Mr. EVANS, Mr. GLICKMAN, Mr. HATCHER, Mr. LANCASTER, Mr. LAUGHLIN, Mr. QUILLEN, Mr. ROWLAND of Connecticut, Mr. SMITH of Texas, Mr. STUMP, and Mr. TAUKE.

PETITIONS ETC.

Under clause 1 of rule XXII,

20. The SPEAKER presented a petition of President of the House of Representatives of the Republic of Cyprus, relative to the Universal Declaration of Human Rights; which was referred to the Committee on Foreign Affairs.

SENATE—*Tuesday, January 31, 1989*

The Senate met at 2 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Reverend John Stait, personal assistant to the Chaplain, will lead the Senate in prayer.

PRAYER

The Reverend John Stait offered the following prayer:

And ye shall know the truth, and the truth shall make you free.—John 8:32.

God of truth, righteousness and justice, may this Word from the Bible be a reality in our lives. Help us to see we are never more free than when we are a slave to truth—that we experience maximum independence when we live in dependence on Thee—and we are never more bound and dependent than when we try to live independent of Thee.

Gracious Father, forgive the ease with which we surrender to tyrants because we will not be captive to Thee. Lead us in the freedom that emancipates from all tyrants which enslave and destroy.

We pray in His name who is truth incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The Senate will be in order.

Under the standing order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROCEDURE ON CONSIDERATION OF NOMINATIONS TODAY

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that at 3 p.m. today, the Senate go into executive session to consider the nomination of Carla Anderson Hills, to be U.S. Trade Representative, under a time agreement of 40 minutes equally divided between the Senator from Texas [Mr. BENTSEN] and the Senator from Oregon [Mr. PACKWOOD], or their designees; provided that no motions be in order and that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business, to the nomination of Robert Adam Mosbacher, to be Secretary of Commerce, under a time agreement of 40 minutes equally divided between the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Missouri [Mr. DANFORTH], or their designees; provided that no motions be in order and that at the conclusion or yielding back of time the nomination be temporarily laid aside and that the Senate proceed, without any intervening business, to the nomination of Samuel Knox Skinner, to be Secretary of Transportation, under a time agreement of 40 minutes equally divided between the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Missouri [Mr. DANFORTH], or their designees.

Provided further; that no motions be in order and that at 5 p.m., the Senate proceed without any intervening business to a 30-minute vote on the nomination of Carla Anderson Hills, and upon completion of that vote, the Senate proceed without any intervening business to a 10-minute vote on the nomination of Robert Adam Mosbacher, and that upon completion of the vote, the Senate proceed without any intervening business to a 10-minute vote on the nomination of Samuel Knox Skinner.

Provided further, that upon the disposition of these nominations, the motion to reconsider, en bloc be laid upon the table, the President be immediately notified of the confirmation of the nominations, and that the Senate return to legislative session.

The PRESIDENT pro tempore. Is there objection to the several requests of the majority leader?

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Mr. President, reserving the right to object, I had one request on this side that the vote occur at 4:45.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I renew the unanimous-consent request as previously stated.

The PRESIDENT pro tempore. Is there objection to the several requests submitted by the majority leader? The Chair hears no objection. It is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on all three nominations with one show of seconds.

The PRESIDENT pro tempore. Is there objection? There being no objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask for the yeas and nays en bloc.

The PRESIDENT pro tempore. Is there a sufficient show of seconds?

There is a sufficient show of seconds.

The yeas and nays were ordered.

SENATE SCHEDULE

Mr. MITCHELL. Mr. President, for the information of Senators, I will describe the proposed legislative schedule for today and the remainder of the week.

As indicated in the unanimous-consent request, we will proceed at 3 o'clock to executive session to consider the three nominations of Mrs. Hills, Mr. Mosbacher, and Mr. Skinner.

There will be 40 minutes of debate on each of the nominees, and the votes will occur back to back beginning at 5 o'clock. The first vote will be 30 minutes; the next two votes will be 10 minutes each.

Between the time I and the distinguished Republican leader will conclude our remarks and 3 o'clock, I will, following his remarks, request unanimous consent for a period of morning business.

PROPOSED SALARY INCREASE

Mr. MITCHELL. Mr. President, as I have said publicly many times, I plan to have a vote on the pay raise in the Senate prior to the expiration of the 30-day deadline for consideration of the President's pay recommendations,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

which deadline is midnight, February 7.

The Governmental Affairs Committee is holding hearings on various resolutions relating to the pay raise on today and tomorrow. It is my intention to bring the matter before the Senate on Thursday or Friday of this week. Senators should be prepared to discuss and vote on this issue then. Eleven proposals relating to the pay raise were introduced last Wednesday by five principal sponsors.

I am talking to the sponsors and am consulting with the Republican leader regularly, in an effort to determine the best and most fair way to proceed to consideration of this issue. Not surprisingly, each of the sponsors with whom I have talked to to date would like his resolution to be considered by the Senate. I will continue to talk to the Republican leader and other Senators, in an effort to determine the most fair and appropriate manner for the Senate to consider this matter, and I will keep Senators advised promptly as these discussions proceed.

Mr. President, I now yield to the Republican leader.

Mr. DOLE. I thank the majority leader. We discussed procedures on the pay raise during our policy luncheon, and I indicated that I hoped the 11 chief sponsors of these 11 different resolutions, Democrats and Republicans, might come together somehow so we can agree on which course or courses to follow. There may be more than one. Some may insist on a vote on each of theirs, but hopefully at the time we vote we can reduce the number.

I am pretty certain what the outcome is going to be: The pay raise is going to be rejected. I do not know how many times we need to do that. Some have different ways of doing it, but I hope that we can do it on Thursday, if at all possible. Some of my colleagues would rather not do it on Friday, but I know the majority leader has a problem, depending on what comes out of committee. So we will certainly cooperate with the majority leader.

In the meantime, I will try to assemble Members on this side who have resolutions, hoping that we might be able to come to some agreement on which one or ones might be offered. If we could take it up, say, Thursday afternoon, at 2 o'clock or later, it might be that we could complete action on it that day. I will be in touch with the majority leader, and I certainly wish to cooperate in every way possible. We will be available for any consultation he may wish.

Mr. MITCHELL. I thank the distinguished Republican leader.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, for speeches only, for a period not to extend beyond 3 p.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

THE NFL'S TEAM OF THE EIGHTIES

Mr. WILSON. Mr. President, I rise to make a statement celebrating the National Football League's "team of the eighties," and I make this statement on behalf of myself and my colleague from California, Senator CRANSTON.

Quite understandably, Mr. President, it is with great pride that we honor the Super Bowl XXIII champion San Francisco 49'ers. On January 22, 1989, the 49'ers defeated the Cincinnati Bengals 20 to 16 to win the most exciting Super Bowl yet. With their unequalled third Lombardi trophy of the decade, the 49'ers have solidified their claim as "The NFL's team of the eighties."

With 3 minutes and 10 seconds left in the game, and with 92 yards between them and the end zone, quarterback Joe Montana led the 49'ers on one of his patented comeback drives. In 11 plays consuming a little over 2½ minutes, San Francisco drove down the field and hit pay dirt. The winning score came on a 10-yard pass from Montana to wide receiver John Taylor.

San Francisco was led by Super Bowl Most Valuable Player Jerry Rice, in addition to the superb quarterback, Joe Montana.

Rice, who was last year's National Football League Player of the Year, caught 11 passes, tying a Super Bowl record. Those 11 passes netted 215 yards, a new Super Bowl record, and he also scored one touchdown.

Joe Montana, the Super Bowl's highest rated quarterback, added to his reputation as being the game's best pressure quarterback by passing for 357 yards, also a new Super Bowl record. The Associated Press offensive Player of the Year, Roger Craig, contributed 74 rushing yards and 101 receiving yards in 8 catches.

In particular, I would like to pay a special tribute to head coach Bill Walsh. After 31 years, he announced his retirement from coaching. Coach Walsh has joined Vince Lombardi as the only head coach to retire after winning a Super Bowl. Bill Walsh has led the 49'ers to six straight playoff appearances and three Super Bowl victories. In his 10 years as head coach of the 49'ers, he rebuilt the team into a powerhouse and compiled an impressive 102-63-1 record.

Once again it is on behalf of not just Senator CRANSTON and myself but I think all those who are football fans, and more importantly who appreciate the kind of contest that we saw in the Super Bowl, the sportsmen have another role beyond that of simply providing us tremendous entertainment and spectacle on television. They have a role as literally role models for the young. I think that in this Super Bowl we saw this discharged as well. So in addition to fine play we saw two teams that were superbly coached. We saw two teams put out an enormous effort and there is much in that to tell America's youth.

So it was with pardonable pride and with a good deal more that we celebrate these three championships in this decade by a team that truly deserved the title "the National Football League Team of the Eighties."

I might say I am looking forward to providing the team, if they are able to be here at the appropriate moment, and they are expected to visit the White House on Friday, with some, I am told superb Cincinnati chili which I have won in a gentleman's wager with Senator GLENN who, of course, was putting the honor of Cincinnati on the line with that bet, and perhaps there will be enough because of his generosity not only to feed the 49'ers but interested Senators who wish to participate in that victory feast.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Nevada [Mr. REID].

CAMPAIGN REFORM

Mr. REID. Mr. President, during these opening days of the 101st Congress, I have reflected on my 2 years in the Senate. In doing so, I am reminded of the song, "I Could Have Danced All Night." When it comes to campaign finance reform, that night can stretch into 53 long hours. Last year on this issue we literally debated all night, considered amendments all day, and concluded in a stalemate, after 53 hours of dancing, dancing, for nothing.

The debate raged nonstop for 2½ days. We got nowhere. The forces opposing reform got what they wanted: negative campaigns, lots of 30 second spots assaulting character, and expensive campaigns where money reigns supreme.

Now, those who oppose campaign spending measures are already threatening filibuster. Again.

Mr. President, we cannot allow a repeat performance. We must abandon this ritual dance around the campaign reform dance floor.

In the last 14 years, the cost of a campaign for the U.S. Senate has increased by 555 percent. We are overwhelmed by the need to raise money for the next election.

Yet when asked to change the system we criticize, too many of us run scared. We want reforms, but not until our next election is concluded. When will this end, Mr. President? Have we made any progress? The answer, I think, is "no."

My election in 1986 was a hard-fought race. My opponent and I to-

gether spent $4.5 million in the relatively small State of Nevada.

This past November, the Senate candidates from Nevada spent well over $6 million. In just 2 years, Nevada's Senate campaign cost jumped a staggering $1.5 million. The price of candidacy grows increasingly prohibitive with each passing year. In 1986, congressional campaign spending reached a total of $451 million.

Scores of campaign spending proposals were submitted in the 100th Congress. I introduced one of those bills—a measure to toughen the enforcement powers of the Federal Election Commission, and I cosponsored S. 2. Numerous recommendations will again be submitted for consideration. It is time to act.

Escalating spending makes elections a mockery. Vast sums of campaign-bound money casts a shadow over the democratic system of which we are so proud. As our campaign treasuries swell, we find innovative, ingenious methods of using that money.

The technological revolution has arrived in campaigns. Campaigns are run by computers. Demographic indicators dictate targets and messages. "Grassroots" now means sending electronically processed mailgrams. When I started in politics it used to mean person-to-person contact. The technology is so advanced that we can group people into lifestyle clusters and send them letters with a personal touch.

How ironic, Mr. President, that we now use computers to personalize our campaigns.

Current spending constraints are woefully inadequate. What kind of system allows for independent expenditures of millions of dollars with no restrictions? Independent expenditures have increased by 1,000 percent since 1976.

In the Nevada Senate race this year, I was shocked to see a last-minute infusion of over half a million dollars by special interests. They inundated the airwaves and flooded the mailboxes. Nevada was not the only State subject to this final blitz of independent spending.

One of the largest independent expenditures in Nevada was attributed to a special interest group of foreign automobile dealers. They paid for all kinds of advertising—TV, radio, and mailers. The subject of their efforts was neither trade nor commerce—it was Social Security. I understand that most independent expenditures are protected under the umbrella of "freedom of speech." But where do we draw the line? We must draw it.

When do Americans begin to feel that they no longer have a say in who governs our country? When does the democratic process break down?

The disintegration of the democratic fabric is apparent at all levels of government campaigns. In New York City, Donald Trump is talking about spending $2 million of his own money for television commercials in the New York mayors race. He wants to make sure his candidate wins. What happened to the concept of one man, one vote? What kind of incentive do Americans have to participate and vote when a small number of individuals and groups can exert such influence over the outcome?

When Jimmy Carter was President, he observed this crisis of confidence in our electoral process.

He spoke of a Congress "twisted and pulled in every direction by hundreds of well-financed and powerful special interests." His prediction of disillusionment was broadly criticized. But he was right.

In recent elections, nearly half of the voting population has not participated.

The integrity of the Congress is at stake. The health of our country is before us. How can we effectively represent our constituents and serve our country when we are pressured to raise what amounts to a minimum of $10,000 a week for every week of our 6-year term? And this monumental undertaking would only fund a campaign of $3 million. That figure is well below the going rate to successfully fund a Senate race. We must take campaign finance reforms off the shelf this year. To my colleagues, I emphasize: there is no time like the present.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator CHAFEE be permitted to submit and ask immediate consideration for a resolution honoring Mr. Bailey Guard and there be no amendments or motions in order with respect to the resolution and that there be a time limitation of 5 minutes on consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island.

BAILEY GUARD COMMENDATION

Mr. CHAFEE. Mr. President, under the present conditions I send to the desk a resolution. It is presented on behalf of myself, Senator BURDICK, and all the present and past members of the Environment Committee and including the distinguished occupant of the chair, the distinguished majority leader and, as I mentioned, those who previously served in the committee, including Senator SIMON. I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 27) commending Bailey Guard for his dedicated, faithful, and outstanding service to the United States Senate and the Nation.

Mr. CHAFEE. Will the Chair be good enough to alert me when I have used 3 minutes?

The PRESIDING OFFICER. The Chair will comply.

Mr. CHAFEE. Thank you Mr. President.

Bailey Guard has served 32 years on the Senate staff. A part of that time was as a staff director and minority staff director of the Environment Committee. Part of it was as administrative assistant to the honorable John Sherman Cooper, the Senator from Kentucky, who many of us know so well.

Previous to coming to the Senate, Bailey Guard served our Nation with distinction during World War II as a B-17 and B-29 pilot instructor.

I know I speak for many Members of the Senate, and certainly all of those who have had the opportunity to serve on the Environment Committee, when I salute Bailey Guard for the excellent job that he has done. He has been knowledgeable, he has been calm, he has been constructive, and he always clearly understood the issues, which are extremely complicated, as we all know, in that committee. Whether they were dealing with clean air or clean water, RCRA, Superfund, or whatever it might be, he was always willing to go out of his way, to go that extra mile not only for the Republican side of the Environment Committee but also for the Democratic side as well.

So, Mr. President, it just seems little that we can do to recognize this distinguished gentleman who served so well and so long—32 years.

I convey this message with heartfelt thanks to him, and we recognize as well his family for the wonderful service that he has given to us all.

Mr. MITCHELL. Mr. President, in behalf of the distinguished chairman of the committee, Senator BURDICK, myself, and all of the Democrats who are cosponsors of the resolution, as well as all of the Members of the Senate, I join Senator CHAFEE in commending Bailey Guard for the high quality of his service.

Some years ago Woody Allen made a movie called Zelig, which was based on the premise that if one associates with people over a long period of time, one acquires the attritubes of those associates. Bailey Guard is a living example of the validity of that premise. He associated with Senator John Sherman Cooper, Senator Robert Stafford, and Senator JOHN CHAFEE over a long career in public service and in the process, on his own and through that association, represented fairness, character, and integrity, the qualities which have exemplified the careers of Senators Cooper, Stafford, and CHAFEE.

Mr. Guard was the ultimate of fairness, responsibility, and dedication of public service on the committee. We all commend him for his service. We

all will miss him. And, for his good and ours, I hope he continues to associate with Senator CHAFEE so he will continue to maintain those attributes.

Mr. CHAFEE. Mr. President, now I know how the distinguished majority leader became the majority leader. In commending Bailey Guard, he also lauded three individuals at the same time. That is pretty good. And who can argue with the appraisal that he gave? So we send Bailey Guard on with the very best wishes for good health and happiness in the future.

Mr. SYMMS. Mr. President, I am pleased to join with the majority leader and Senator CHAFEE in sponsoring this resolution which really is too little to say thanks to Bailey Guard.

Today, we are saying goodbye to a man of competence and integrity who has been a devoted employee and our trusted friend. As pointed out here, Bailey Guard worked for more than 32 years on the Senate staff. For 22 years, he has been the Republican staff director of the Environment and Public Works Committee.

I have had the pleasure of working with Bailey on a variety of highway construction issues, water resources, and environmental legislation. He has always been fair and direct.

Given his direct responsibilities, when I came on the committee, to Chairman Stafford, he often approached some of the committee's legislation from a different vantage point directly opposite of my own. Nevertheless, he was unfailingly courteous, forthright, and helpful to me and my staff. And that attitude made possible a professional relationship which has meant a great deal to this Senator.

Business aside, I count Bailey Guard among the kindest and most decent people I have known. I wish him a full and happy retirement. In closing, Mr. President, I say Godspeed to Bailey and Elza Guard.

Mr. BURDICK. Mr. President, Bailey Guard has worked for the Senate of the United States since November 27, 1956. For most of that time, he was either minority or majority staff director of the Committee on Environment and Public Works. Much to the regret of many, today he is retiring from a long and honorable service.

Bailey began his 32 years of service in the office of Senator John Sherman Cooper of Kentucky. In 1967, he became minority staff director of what was then the Committee on Public Works, and headed the Republican staff of that committee for the next 21 years.

Over the span of 17 Congresses, Bailey worked for only four Members of the Senate. John Sherman Cooper, Howard H. Baker of Tennessee, James Buckley of New York, and Robert T. Stafford of Vermont. But in another sense he has worked for every member of the Public Works Committee since 1967, both minority and majority.

When I first became a member of the Committee on Public Works in 1973, our friend and former colleague Jennings Randolph was chairman, and former majority leader Howard Baker was ranking member. The committee had a reputation for addressing issues in a nonpartisan manner. I soon learned that this was nothing less than the truth.

Under the leadership of Senators Randolph and Baker, and later Stafford and BENTSEN, the committee produced a myriad of legislative initiatives through a consensus of the members based on thoughtful, nonpartisan consideration of the issues. Some of the major public works and environmental legislation enacted in those years are the Clean Air Act, the Clean Water Act, Superfund, the Safe Drinking Water Act, and measures affecting highways, water resources, public buildings, economic development, fish and wildlife, nuclear regulation, and disaster relief.

Bailey Guard played a key role in the nonpartisan atmosphere of the committee. Democratic staff directors changed over the years; leadership of the Republican staff remained with Bailey. With intelligence, honesty, and humor he assisted and advised staff and Members on both sides of the aisle. His enthusiasm never waned, and he maintained his strong belief in the integrity of the Senate as an institution.

Mr. President, I hope Bailey will enjoy a well-deserved, fruitful retirement, and I wish him and his lovely wife Elza every good thing in the years ahead.

Mr. DOMENICI. Mr. President, a good friend is leaving the staff of the U.S. Senate. After a period of service that dates back to November 1956—a period that spans 18 Congresses—Bailey Guard is retiring as Republican staff director of the Committee on Environment and Public Works.

We will miss him greatly, for he has added immeasurably to the workings of this body, to the civility and effectiveness of this institution.

When I was elected to the U.S. Senate, I was selected to serve on what is now the Committee on Environment and Public Works. I was the young kid on the block, and I needed a lot of guidance. Bailey provided it. He did so with great skill and understanding of how the Senate operates, and how Members can serve effectively.

I am certainly in his debt. I know practically every one of my colleagues is, too.

A clear indication of how much we all counted upon Bailey is the fact that he was never a one-member staffer. Before most other committee staff members, he reached out to help all of us, not simply the member for whom he worked. He offered advice that was honest and straightforward.

Bailey Guard joined the staff of the Senate as an employe of our good friend, Senator John Sherman Cooper. Bailey served Senator Cooper until Senator Cooper's retirement at the beginning of 1973.

When Senator Cooper retired, Senator Howard Baker wisely retained Bailey as staff director for the Republicans on the committee. A few years later, Senator James Buckley did the same thing when he became ranking member. And, of course, so did Senator Robert Stafford, who took on the role of ranking member, and later chairman, in 1977.

The confidence that each showed in Bailey says something about Bailey, but it also says a great deal about the intelligence that each of those members showed in retaining Bailey.

Bailey's mark on legislation over that long span of time is also remarkable. He had a great impact on all the environmental legislation over the past two decades: The Clean Air Act, the Clean Water Act, solid waste, and Superfund laws. But his role has gone far beyond that, into issues such as highway policy, nuclear policy, ocean pollution, Federal building policy, disaster assistance, and so much more.

Bailey has been a magnificent employe to the Members of the Senate. He also, I know, has been a wonderful leader to those whom he hired.

Before closing, I do want to mention one other thing about Bailey, which most of you do not know. During World War II, he trained bomber pilots, teaching hundreds of pilots who fought for this Nation. And for 2 years of the period, he was stationed in Rosewell, NM. Bailey's two daughters were born at St. Mary's Hospital in Roswell.

And so as you leave us, Bailey, we certainly extend to you and Elza, your three children, and your grandchildren, the very best. You did a magnificent job, and this Nation thanks you.

Mr. SIMON. Mr. President, I would like to take just a minute to join my colleagues on the Senate Environment and Public Works Committee to pay tribute to Bailey Guard.

During his 22 years of service for the committee, substantial changes have been made in the Nation's attitude and approach to environmental responsibility. In large part that progress is due to the frequently unacknowledged, staff, like Bailey Guard, whose commitment and dedication to sound stewardship reach far beyond election cycles and carry the institutional memory and record from one Congress to the next.

I particularly remember Bailey's role in the 1986 Clean Water Act and Water Resources Development Act. As a native of Park Ridge, IL, Bailey was quite familiar with the needs of the Metropolitan Sanitary District of Chicago. He was also committed to carrying through on the policies and principles legislated in the 1986 act. I cannot say the Bailey was thrilled with the task before us. But I can say that without his personal efforts, the final

compromise could not have been reached. Those efforts, on behalf of Mr. Stafford, were much appreciated.

There is much said about public service and there are a lot of misconceptions about the glamor of it all. In his inaugural address, President Bush touched on the importance of these unelected, unthanked employees. And I agree with him. The Bailey Guards of this Nation deserve our respect and gratitude.

As Bailey leaves this body, I want to extend my best wishes to him and his family. I especially want to thank him for the years of service to his country and for his efforts in making Government a tool of the people.

Mr. DIXON. Mr. President, I rise today to honor Bailey Guard on the occasion of his retirement from the Senate Environment and Public Works Committee. Bailey, a native of Park Ridge, in the great State of Illinois, has had a long and distinguished career with the Environment Committee, serving as a clerk and its staff director in the minority and majority since 1977.

When Bailey retires we will be losing someone with a historical memory of the Senate. Bailey has served on the Environment and Public Works Committee under four Republican chairmen: Senator John Sherman Cooper of Kentucky, Senator Howard Baker, Jr. of Tennessee, Senator James Buckley of New York, and Senator Robert Stafford of Vermont. Many great works have been produced out of that committee during Bailey's tenure there. In addition to Federal highway acts, nuclear regulatory and major public works acts, Bailey has played no small part in such significant legislation as the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Resource Recovery and Conservation Act, and the creation of Superfund.

Bailey Guard is truly a great American for his dedication to the country as a soldier in World War II, where he served as an USAF B-17 and B-29 pilot instructor, and as an employee of the U.S. Senate since 1956. I am proud to acknowledge that he hails from my State of Illinois, and I wish him comfort and enjoyment in his retirement.

Mr. DURENBERGER. Mr. President, today we say goodbye to a true friend of the Senate. Bailey Guard, for more than two decades the Republican staff director of the Environment and Public Works Committee, was a friend to each member who served on the committee and friend to the institution which is the Senate as he saw to the faithful execution of our rules and traditions. He is retiring today with an admirable record of long service to this body we all love.

The Senate is served by all kinds of people. Some stop here only briefly on the way to other careers. Some are driven by a particular issue, concern or challenge which they put into bills and resolutions and oversight reports. Some come to serve the interests of a single member and his or her agenda. And some—it is usually those like Bailey Guard who have the privilege of long association with the Senate—put the needs of this great deliberative body at the top of their own agenda.

Issues come and go. Members come and go. But the fundamental principles on which this institution operates are a long heritage that must be tended carefully if the Senate is to continue serve the Nation effectively. It his ability to understand and uphold those principles over many years, during the terms of many Members, and through the storm of many contentious legislative struggles which has made Bailey Guard such a valuable asset to the Environment Committee and to the U.S. Senate.

The Senate is a special place. Sometimes one has to be gruff in defending the interests of this body. And Bailey can be gruff. Sometimes what this place needs most is the simple kindness of a good-hearted human being. Bailey is a ready friend. And sometimes this place needs to hear the unvarnished honesty of plain common sense. And Bailey has always shown his common sense in ample measure.

Mr. President, it is a privilege to be heard as a cosponsor of this resolution honoring Bailey's service in the Senate. It is but small return for all that he has given over the years. We wish all of the best for Bailey, his wife Elza, and their family in the years ahead.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the resolution.

The resolution (S. Res. 27) was agreed to.

The preamble was agreed to.

The resolution (S. Res. 27), with its preamble, reads as follows:

S. RES. 27

Whereas Bailey Guard became an employee of the Senate of the United States on November 27, 1956, and since that date has ably and faithfully upheld the high standards and traditions of the staff of the Senate of the United States for a period that included eighteen Congresses;

Whereas Bailey Guard has served as Staff Director and as Minority Staff Director of the Committee on Environment and Public Works from January 1, 1966, until the present;

Whereas Bailey Guard served prior to 1966 as Administrative Assistant to The Honorable John Sherman Cooper of Kentucky;

Whereas Bailey Guard served his Nation with great honor and valor during World War II as a B-17 and B-29 pilot instructor;

Whereas Bailey Guard faithfully discharged the difficult duties and responsibilities of his positions on the staff of the Senate of the United States with great efficiency, devotion, and dedication;

Whereas Bailey Guard's clear understanding of the challenges facing the Nation has left his mark on landmark legislation in the areas of the environment, public works, economic development, and agriculture;

Whereas Bailey Guard is retiring from the Senate of the United States on January 31, 1989: Now, therefore, be it

Resolved, That the Senate of the United States commends Bailey Guard for his exemplary service to the Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Bailey Guard.

HABEAS CORPUS REFORM ACT OF 1989

Mr. GRAHAM. Mr. President, the Constitution of the United States affords every individual specific protections in judicial proceedings. Those constitutional protections are being jeopardized under the pretense of a legitimate search for justice.

Our courts are increasingly burdened by frivolous and dilatory petitions which impede the timely disposition of legitimate claims—including legitimate habeas corpus requests.

On January 25, joined by my colleagues Senator NUNN, MACK, and BRYAN, I introduced the Habeas Corpus Reform Act of 1989. The Habeas Corpus Reform Act is designed to protect prisoners' right while it protects the integrity of our judicial system.

The bill proposed includes a number of reforms of the current Federal habeas corpus process.

For State prisoners: it imposes a 1-year limit on habeas corpus applications, normally running from exhaustion of all possible State habeas corpus petitions and appeals.

For Federal prisoners: it imposes a 2-year limit on Federal habeas corpus applications, normally running from the time of final judgment on the original Federal determination of guilt.

This legislation also clarifies present law—establishing the requirement that a State prisoner must ordinarily raise all claims in accordance with State rules of procedure or be barred from asserting such claims in a Federal habeas corpus proceeding, and clearly states that a Federal habeas court petition may be denied on the merits without requiring prior exhaustion of State remedies.

Finally, this legislation seeks to relieve the administrative burden on district courts and simplify the appellate process by providing that an appeal from the district court in a habeas corpus proceeding may not be taken unless a certificate of probable cause is issued by a circuit judge.

There are at least four reasons that establish an urgent need for the reforms that this legislation would provide.

First, the number of petitions filed is increasing at an alarming rate.

Beginning in the late 1970's, the filing of Federal habeas corpus petitions by State prisoners increased significantly; 1987 filings of 9,524 surpassed the all-time peak figure and

represented an increase of 35 percent over the 1978 filings.

Given recent trends, 1988 will probably reflect the highest number of State petitions ever filed for Federal habeas corpus relief.

Second, a significant number of these petitions simply duplicate earlier litigation.

According to a Department of Justice study of six district courts and one circuit court, more than 30 percent of the State prisoner habeas corpus petitions were filed by persons who had filed one or more previous Federal habeas corpus petitions. More than 44 percent had previously filed at least one petition in State court.

Third, Federal district courts and courts of appeals are unable to keep up with these increases. In 1986, in both Federal district courts and U.S. courts of appeals, the number of habeas corpus cases filed exceeded the number of habeas corpus cases resolved.

Although State habeas corpus petitions in 1985 constituted less than 8 percent of all Federal appeals filed, they constituted almost 19 percent of the backlog in Federal courts.

Fourth, many petitions are filed years after the crime, when evidence is stale or nonexistent. The Department of Justice study found that almost one-third of the habeas corpus petitions were filed more than 10 years after conviction.

In response to this crisis, Chief Justice William Rehnquist has appointed a commission to survey habeas corpus reform proposals. This commission, headed by retired Supreme Court Justice Lewis Powell, has begun to gather information on the extent of the problem and is expected to report to Congress later this year.

Last year the Anti-Drug Abuse Act of 1988 included a provision to ensure that habeas corpus reform proposals receive timely action in the 101st Congress.

In section 7323 of the Act it was provided:

Beginning on the date the Chief Justice of the United States forwards to the Committees on the Judiciary of the Senate and the House of Representatives the report and recommendation of the Special Committee on Habeas Corpus Review of Capital Sentences, appointed by the Chief Justice of the United States and chaired by Justice Lewis Powell, the chairman of the Committee on the Judiciary of the Senate shall have 15 days of session thereafter to introduce a bill to modify Federal habeas corpus procedure after having fatihfully considered the report and recommendations of the Special Committee. If no such bill is introduced by the chairman within the 15-day period, such bill may be introduced by the ranking minority member of the committee within an additional 10 days of session.

We hope the Habeas Corpus Reform Act of 1989 will offer focus to the public debate and complement the efforts of the Powell Commission.

Habeas corpus is a cherished constitutional right of all Americans. Our proposal will enhance the potential of habeas corpus to achieve justice expeditiously through a reduction of unseemly litigation and delay.

It will bring us closer to timely justice for society and the accused.

Our responsibility is to ensure that the system works in the way it was origianlly intended, with equal and timely dispensation of justice in all habeas corpus cases.

Mr. President, I ask unanimous consent that the text of S. 271 be printed in the RECORD, to be followed by a statement in support of S. 271.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 271

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Habeas Corpus Reform Act of 1989".

SEC. 2. FINALITY OF DETERMINATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. APPEAL AND REVIEW.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"(a)(1) In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"(2) There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"(b) An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding if the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. PROCEDURES UNDER RULE 22 OF THE FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"RULE 22.

"HABEAS CORPUS AND SECTION 2255 PROCEEDING

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. STATE CUSTODY; REMEDIES IN FEDERAL COURTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending section (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.";

(2) by amending subsection (d) to read as follows:

"(d) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

SEC. 6. FEDERAL CUSTODY; REMEDIES ON A MOTION ATTACHING SENTENCE.

Section 2255 of title 28, United States Code, is amended by—

(1) striking the second paragraph which begins "A motion for such relief" and the penultimate paragraph which begins "An appeal may be taken"; and

(2) adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

[From the Florida Times-Union, Jan. 28, 1989]

LEGISLATION COULD CUT THE FLOW OF INTERMINABLE LEGAL APPEALS

The execution of Ted Bundy has brought an outpouring of philosophical opinions concerning the mentality and motivations of this mass sex killer whose only public show of remorse, if any, surfaced shortly before he was put to death last Tuesday.

The final chapter in the ugly saga of Bundy also has rekindled interest in a more practical side of the Bundy case: how he was able through legal maneuvers to evade his ultimate date with the electric chair for almost 10 years.

One day after Bundy's execution, two U.S. senators, Bob Graham, D-Fla., and Sam Nunn, D-Ga., filed legislation in Congress to limit the power of federal judges to review appeals in state capital-punishment cases. Its purpose is to limit the time for filing and disposing of death-row appeals.

The idea is by no means new. For example, former U.S. Sen. Lawton Chiles, D-Fla., won Senate approval in 1985 of similar legislation, which became bogged down in the House of Representatives. Chiles' bill placed a three-year limit on post-conviction legal questions a defendant could raise based on existing issues, as opposed to new evidence.

Under the proposed new legislation, a convicted killer would have one year after exhausting state remedies to file a federal attack on a conviction, and two years to challenge a federal order denying such an appeal.

"No one," Graham said, "is well-served by excess court delays." He noted the sharp rise in death-row appeals, to nearly 10,000 a year. Graham has firsthand knowledge of the subject. During eight years as Florida governor, he signed 155 death warrants, all but 16 of them—including three for Bundy—blocked by appeals. Graham's successor, Gov. Bob Martinez, has signed 64 death warrants, four resulting in executions, including Bundy's.

But the proposal to cut federal appeal time has its dissenters, as it has had in the past. Larry Spalding, who heads the state's publicly funded bureau to provide legal help to indigent Death-Row inmates, says federal judges are in a better position to rule objectively in death-case appeals because they are not subject to election, as are state judges.

It is a matter of record that death-row appeals ultimately wind up in the federal courts and are decided there. No one can argue with a defendant's right to appeal. But allowing the system to be manipulated by frivolous appeals only frustrates the ends of justice. That is not the purpose or intent of the law. It calls for change.

The PRESIDING OFFICER. The Senator from Idaho.

TRIBUTE TO THE LATE PRESIDENT CHIANG CHING-KUO OF THE REPUBLIC OF CHINA

Mr. SYMMS. Mr. President, last November after the election I had the opportunity to accompany Ruby Chow & Associates, a trade group and delegation from Seattle, WA, with people from the State of Oklahoma, Washington State, and my own State of Idaho, to the Republic of China on Taiwan. It was an enjoyable experience. My good friend Jim Hertz from Idaho, a friend and associate, and I were the two people from Idaho on the trip.

Much as I had expected, that island country was exceedingly prosperous, as evidenced by her $6,000 per capita income, her $74 billion foreign reserve, her mumerous downtown skyscrapers and well-groomed business executives going about their business in sleek European and American cars. Taiwan's economic success, I was told more than once by business and political leaders, is due to the leadership of their late President Chiang Ching-kuo and to the planning of Minister K.T. Li, architect of Taiwan's continuous economic expansion and growth.

Taiwan's economic success is matched by her progress in political liberation. Martial law and one party rule have given way to the national security law and the establishment of the opposition party—the Democratic Progressive Party. In fact, street demonstrations against the ruling party or government agencies have been so commonplace that many citizens yearn for the more tranquil times of the past.

During my visit with President Lee Teng-hui in his Presidential office, President Lee assured me that Taiwan would continue her process of democratization. A Cornell-educated scholar turned statesman, President Lee spoke glowingly of his own and his country's affection for the United States, of his strong desire to strengthen with the United States, of his opposition to any Taiwanese independence movement and lastly of his hope for a reunified China under the principles of freedom, democracy, and equal distribution of wealth.

President Lee is a courtly gentleman of deep Christian faith and personal modesty. He was born on Taiwan and enjoys immense popularity among his people. His leadership is bold and inspiring. After having successfully presided over the 13th National Party Congress and having installed a youthful Cabinet last summer, he challenged his countrymen to seek new approaches to old problems. In recent months, Taipei has returned to the Asian Development Bank, has established formal ties with the Bahamas and has upgraded its unofficial ties with France and Egypt. Additonally, Taipei has allowed her citizens to have much greater people-to-people and other cultural contacts with their friends and relatives on the mainland. All these new actions indicate a nation and a people with increasing confidence in themselves.

Most government and business leaders expressed reasonable satisfaction with the current working relationship between Taipei and Washington. What irked them and made them feel unappreciated was the continuing U.S. pressure on them to appreciate their currency, even though it has appreciated more than 40 percent in the last 18 months and their trade surplus with the United States had been reduced from US$16 billion to about US$10 billion in 1988.

Citizens in my State have noticed a great difference in the openness of their markets for our produce and other goods that they have exported to Taiwan. It is becoming a bigger and better market all the time for Idaho producers of many various crops and products.

The Taiwanese have asked that their currency be allowed to remain stable for 6 months and then be revalued should their trade surplus with the United States continue to grow. They also have asked that the United States not threaten retaliatory measures against them as a way of settling trade disputes.

While I think the United States has some justifiable concerns, I believe we have an obligation to listen to their side of the story. For example, not too many of us realize that Taiwanese factories are mostly small or at best medium-sized enterprises, as compared to their counterparts in Japan or in South Korea; thus, Taiwan's economy is much less able to withstand any sustained economic upheaval. Seventy percent of Taiwan's output would suffer adversely, I was told, if there were any further appreciation of their currency. If their exports were to

shrink overnight, social dislocations would result, thus jeopardizing Taiwan's democratic reforms and inviting unwanted military attention from the Chinese mainland.

Mr. President, in the 1990's, the Pacific rim countries, including Taiwan, will play an ever increasing role in this global economy and will affect the well being of every American. Let us nourish our traditional friendship with the Republic of China. Yes, we have trade conflicts with them and will continue to have them. But let us solve them harmoniously without rancor or acrimony. To threaten them with retaliatory measures, such as evoking section 301, would be counterproductive and contrary to the interests of the alliance we have formed with the Republic of China over many years. The bottom line is that an economically strong and democratic Taiwan is in the United States' best interests.

Mr. President, on the first anniversary of the passing of our friend, the late President Chiang Ching-kuo of the Republic of China, I wish to join my friends in the United States Congress in paying tribute to Mr. Chiang, unquestionably one of the 20th century's great world leaders, and at the same time, in assuring President Lee Teng-hui that his advice and counsel will be sought through his representative in Washington: Minister Ding Moushih, whose many years in the diplomatic service will most assuredly benefit both Taipei and Washington.

Also, Mr. President, I would strongly urge President Bush to travel soon to the Republic of China in Taiwan and reassure those fine people of our continued friendship and support.

Mr. President, I ask unanimous consent to have printed in the RECORD some figures and facts on trade with the United States from the ROC on foreign exchange, and how they have reduced tariffs on 3,803 items in 1988, and their determination to shrink that deficit with the United States.

I thank my colleagues for their indulgence.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TRADE WITH THE UNITED STATES

The ROC is the fifth largest trading partner of the United States. In 1988, the ROC imported from the United States a total of $13.002 billion, or an increase of 74 percent over the 1987 figure; exports to the U.S. amounted to $23.427 billion, or a 1 percent decrease compared with the 1987 figure. The ROC recorded a trade surplus of $10.425 billion with the U.S., a reduction of 16.5 percent compared with that of 1987.

In 1988, the ROC's imports from the U.S. constituted 26.19 percent of total imports, while 38.7 percent of the ROC's total exports went to the U.S. market, a decline from 47.8 percent in 1986, and 44.15 percent in 1987.

FOREIGN EXCHANGE

The ROC's foreign exchange reserves amounted to $74 billion at the conclusion of 1988. The New Taiwan dollar (NT$) has appreciated 46.58 percent against the U.S. dollar since the Plaza Accord meeting in September 1985. The exchange rate adjusted from NT$40.53 = US$1 on September 21, 1985, to NT$27.65 = US$1 on January 23, 1989.

TARIFF REDUCTION

The ROC cut tariffs on 3,803 items of imports in 1988, and has stated its determination to shrink by 1992 its average nominal import tariff rate to 7% and its average effective import tariff rate to 3.5%.

HELSINKI COMMISSION CODEL TO U.S.S.R.

Mr. GRASSLEY. Mr. President, this past November I had the opportunity to accompany the Helsinki Commission to the Soviet Union. The purpose of this historic trip was to discuss human rights with members of the Supreme Soviet. We traveled at the invitation of Soviet leadership.

Congressman STENY HOYER and Senator DENNIS DECONCINI led the delegation, and I especially want to commend them for their leadership. This was the first time a congressional delegation held a dialog with Soviet officials on the sensitive subject of human rights. And Congressman HOYER and Senator DECONCINI made sure we were well prepared to hold the Soviets to our subject.

During our week-long meetings we discussed a wide range of issues—from freedom of religion and the press to freedom to travel and emigrate. The Soviets noted their own progress—emigration is the highest it has been since the late 1970's. And, in the last 2 years, hundreds of political prisoners have been released. As of now, it looks like General Secretary Gorbachev's glasnost and perestroika have made some difference.

One of the clearest signals of the changes underway in the Soviet Union came at a lunch hosted by our delegation. We invited our Soviet hosts to share a meal with us and Soviet dissidents and refuseniks. The Soviets, apparently ready to face their harshest critics—those people who have not been able to emigrate—accepted our terms.

Several refuseniks—among them, Yuli Kosharovsky and Abe Stolar—sat opposite the very Soviet leaders who have repeatedly dashed their deepest hopes. For the first time, Kosharovsky spoke directly with Rudolf Kuznetsov, the head of the all union office of visas and registration—the agency which grants or denies the right to leave. Kosharovsky praised Soviet leadership for this human rights dialog. But he noted the progress yet to be achieved.

Many citizens are stil denied the right to leave because of some secrets allegedly possessed by some family member. In fact, the week we were there, young Slava Uspensky—age 19—got a refusal until 1996, all because his grandmother supposedly worked on classified matters at the Ministry of Agriculture. Incidentally, she retired in 1976, so her secrets will follow Slava for 20 years, if the Soviets have their way.

And still others cannot leave because a parent will not give permission. The Soviets, in some form of perverse interpretation of family responsibility, require a parent to release an adult child, seeking to emigrate, from any obligations which may—or may not—arise in the future. This rule effectively drives a wedge between family members.

Soviet leadership told us in no uncertain terms—that secrecy rules would continue to play a part in emigration decisions and these financial releases would still be required, even under new legislation which we hope the Soviets pass very shortly.

So the dialogue was unprecedented and historic. For the first time, the Soviets listened to our criticisms without denouncing them as an unwarranted interference with internal affairs. They willingly revisited their history, finding fault with the lack of attention to individual rights.

But in spite of this new attitude, there are many issues still to be resolved. While the Soviets may show us a church, religious freedom does not yet exist. While their newspapers begin to print more criticisms, the fact remains that all the printing presses are owned and operated by the Government. And while some political prisoners have been freed, other citizens are still harassed and arrested for expressing their views.

We in the Congress must continue to be vigilant. We are the best hope for getting the Soviet Government to secure fundamental human rights for their citizens. We must keep the pressure on and demand recognition of individual rights across the board, not just in particular cases.

Former Secretary of State Shultz rewarded the Soviets for the improvements they have made in the human rights arena. The Soviets will host a Human Rights Conference in 1991 as part of the Helsinki review process. Secretary Gorbachev wanted this conference very much. To win it, he satisfied many of our conditions: he ended the radio jamming, he released many political prisoners, he resolved many of the divided family cases, and he improved emigration. It proves that our strong and firm human rights policy gets results.

But there is still a long way to go in the Soviet Union before religious freedom exists, before open emigration is achieved, before justice is dispensed fairly. So even though Secretary Gorbachev has won his Human Rights Conference, he must understand that we are not yet satisfied. There is much progress to be achieved. We will continue to seek full performance by Secretary Gorbachev of the Helsinki commitments. Deeds, not words, must be the measuring stick.

We must remember that the Soviet Union is not and has no intention of becoming a democracy. Moscow will continue to dictate policy. So long as that principle guides the Soviet Union, the human rights of its citizens will depend upon the whim of those who sit at the top.

PRESIDENT REAGAN'S FAREWELL ADDRESS: DON'T FORGET AMERICAN HISTORY

Mr. HELMS. Mr. President, President Reagan in his January 11 farewell address to the Nation counseled the American people not to forget American history. Mr. Reagan is absolutely right: If we forget our history, we cannot for long maintain our freedom.

Too often, the struggle to institute representative government in the British settlements in North America during the 17th century is forgotten or just dimly remembered. This struggle laid the foundation of American liberty and I am convinced that we must renew, as a top priority, this important part of our history.

Let me quote what President Reagan said. I thoroughly agree with him.

> Finally, there is a great tradition of warnings in Presidential farewells, and I've got one that's been on my mind for some time * * * we've got to teach history based not on what's in fashion but what's important. * * * If we forgot what we did, we won't know who we are. I am warning of an eradication of the American memory that could result, ultimately, in an erosion of the American spirit.

The President's wise counsel reflects the thinking of many Americans who are deeply concerned about what can be described as an eradication of the American memory. Such an eradication of the American memory, if unchecked, will lead not only to an erosion of the American spirit; it will lead ultimately to a loss of American liberty. Thus, it is enormously important that we understand the miraculous formative period of our Republic—from the beginning of the 17th century to the year 1789—when the foundations of American liberty and self-government were laid down.

Mr. President, another distinguished President—John Adams—was concerned in his day about a proper understanding of our formative period. In a letter written in 1818 to his friend, Judge Tudor, President Adams observed:

> * * * the principles and feelings which produced the Revolution ought to be traced back for two hundred years, and sought in the history of the country from the first plantations in America.

Mr. President, with the 101st Congress we are entering our third century as a sovereign and independent constitutional Republic. It is appropriate, therefore, to reflect on President Reagan's warning and on President Adams' words.

I am sure that Senators would agree that the unique character of American Government derives from two fundamental first principles, two pillars of our Government: local self-government and national union. Both of these principles emerged in our formative period. Today I will comment on the development of representative government based upon the principle of local self-government.

THE ESTABLISHMENT OF REPRESENTATIVE GOVERNMENT IN 17TH CENTURY BRITISH NORTH AMERICA

During the 17th century, representative government was instituted in 21 British settlements in North America and in the Caribbean. Virginia, in 1619, was the first to establish representative government; John Pory was the first Speaker of the House of Burgesses. New York, in 1683, was the last to establish representative government.

Americans today have inherited the tradition, the principles, and the practices of almost 400 years of local self-government which those who came before us fought and died to defend. Our institutions of representative government are unique in the world and must be perpetuated. Our institutions can be perpetuated only if we are firmly grounded in our own history and know how and why these institutions actually developed in practice.

Our history makes it self-evident that representative government is not an abstract ideal. Nor is it a mere classroom theory. Representative government is, rather, a form of government which has been practiced here for almost four centuries.

AMERICAN HISTORY AND POLITICAL CULTURE ATTACKED

Mr. President, in the life of nations, a frequent recurrence to first principles of government is necessary in order to secure and to promote the common good and the common defense. Today, we confront moral and political crises at home while our national security is perilously threatened from abroad as at no time in the past.

During this century, American political culture has been under a systematic attack. As part of a settled design, alien concepts of government—particularly Marxism in its various forms—have been and are being introduced into our society. The object has been to subvert our traditional political institutions and to erase the true political history of this Republic and its institutions.

The chief instruments of this campaign against America—against its culture, its institutions, its history—have been the large tax-exempt foundations, our schools and universities, and the print and electronic media. American history has been distorted, manipulated, and eradicated by any number of teachers, intellectuals, and journalists. The hidden purpose of this campaign is the gradual overturning of our political institutions and the eventual formation of a world government on the ruins of once sovereign and independent states including our own.

Mr. President, representative government was established in the New World by men and women determined to exercise and to defend their liberties and to transmit these liberties unimpaired to their posterity. Today, as President Reagan has warned us, we need to defend our institutions and our way of life through a deepened understanding of our own history.

The heritage of local self-government that patriotic men and women have bequeathed to us is priceless. It is a living heritage of principles, practices, and institutions which govern our lives to this day.

We must never forget that it was the accumulated experience of local self-government for more than 150 years which enabled the Founding Fathers to establish the form of Government which we enjoy today under our Constitution.

Too often, we overlook these 150 years of early American history and culture. These years constitute the formative period of our Nation. The experience gained in respresentative government during these years provided the basis for national union and the basis for the establishment of our constitutional Republic.

BRIEF CHRONOLOGY OF THE RISE OF SELF-GOVERNMENT IN BRITISH NORTH AMERICA

Mr. President, based upon the date of the first representative assembly in each settlement, what follows is a basic chronology of the rise of self-government in British North America. In 17th-century England, the New Year was said to commence on March 25 rather than January 1. In the brief description that follows I have adjusted the years to reflect our current practice. While the current calendar adds 10 days to the 17th century calendar, I have left the months and days in the old style of reckoning.

In Virginia, English settlement was first established in 1607. The first representative assembly opened on July 30, 1619. There were 22 delegates. A bicameral legislature was instituted prior to 1660.

In Bermuda, English settlement was first established in 1612. The first representative assembly opened on August 1, 1620. There were 16 deputies. The legislature remained unicameral.

At Massachusetts Bay, English settlement was first established in 1628. The first representative assembly opened on May 14, 1634. There were 24 deputies. The legislature became bicameral in 1644.

In Maryland, English settlement was first established in 1634. The first representative assembly for which we have records opened on January 25, 1638. There were 24 deputies. There is reason to believe that an earlier assembly may have occured but this has not yet been documented. The legislature became bicameral in 1650.

In Connecticut, English settlement was first established in 1636. The first

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representative assembly opened on May 1, 1637. There were 12 deputies. The legislature became bicameral in 1698.

At Plymouth, English settlement was first established in 1620. The first representative assembly opened on March 5, 1639. There were 17 deputies. The legislature remained unicameral.

At New Haven, English settlement was first established in 1638. The first representative assembly met in June 1639. There were 4 deputies. The legislature remained unicameral.

In Barbados, English settlement was first established in 1627. The first assembly met in 1639. There were 22 deputies. The legislature became bicameral in 1639.

In St. Christopher, English settlement was first established in 1624. The first representative assembly met in 1642. There were 24 deputies. The legislature became bicameral in 1672.

In Antigua, English settlement was first established in 1632. The first representative assembly met during 1644. We do not know the exact number of deputies. The legislature became bicameral 1682.

In Rhode Island, English settlement was first established in 1637. The first representative assembly opened on May 19, 1647. There were 24 deputies. The legislature became bicameral in 1696.

In Montserrat, English settlement was first established in 1632. The first representative assembly was held after 1654. We do not know the number of deputies. The legislature became bicameral in 1696.

In Nevis, English settlement was first established in 1628. The first representative assembly was held in 1658. We do not know how many deputies there were. The legislature became bicameral after 1672.

In Jamaica, English settlement was first established in 1655. The first representative assembly met on January 20, 1664. There were 20 deputies. The legislature became bicameral in 1664.

In North Carolina, English settlement was first established in 1663. The first representative assembly met in 1665. There were 12 deputies. The legislature became bicameral in 1691.

In South Carolina, English settlement was first established in 1670. The first representative assembly met in July 1671. There were 20 deputies. The legislature became bicameral in 1691.

In East Jersey, English settlement was first established in 1664. The first representative assembly opened on May 26, 1668. There were 10 deputies. The legislature became bicameral in 1672.

In West Jersey, English settlement was first established in 1675. The first representative assembly opened on November 21, 1681. There were 34 deputies. The legislature became bicameral in 1696.

In New Hampshire, English settlement was first established in 1633. The first representative assembly opened on March 16, 1680. There were 11 deputies. The legislature became bicameral in 1692.

In Pennsylvania, English settlement was first established in 1682. The first representative assembly opened on December 4, 1682. There were 42 deputies. The legislature remained unicameral.

In New York, English settlement was first established in 1664. The first representative assembly opened on October 17, 1683. There were 18 deputies. The legislature came bicameral in 1691.

Reviewing the rise of representative government in British North America and in the Caribbean we can discern the influence of Virginia, Massachusetts Bay, and Barbados in particular. Trade and commerce closely linked the British settlements as did marriages and intercolonial migration. Political developments in each area—and in England and the Continent—were closely observed and this knowledge added to the common store of experience in local self-government.

It is fair to say that Virginia paved the way for American liberty by establishing representative government in 1619. In New England, the example of Massachusetts Bay influenced directly the development of representative government in Connecticut and in Plymouth. Indirectly, it influenced New Hampshire, East Jersey, New York, and Nova Scotia. Barbados directly influenced the development of representative government in all of the Leeward Islands, Jamaica, and South Carolina.

Mr. President, all Americans can be proud of our centuries-long heritage of local self-government. I hope that we and our posterity remain free and perpetuate our institutions of representative government. The American people owe a debt of gratitude to President Ronald Reagan for the warning in his farewell address against the eradication of our historical memory. Studying the formative period of our great Republic—1607 to 1789—is a good place to begin to put President Reagan's words into individual action.

I yield the floor.

SECRETARY FRANK CARLUCCI

Mr. NUNN. Mr. President, as President Bush's new administration takes office, I want to take a moment to congratulate a member of President Reagan's Cabinet for his exceptional service to the country.

Frank Carlucci's distinguished career of over three decades of public service stands as an inspiration to all those working for the Federal Government today and those young people considering Government service as a career in the future. After joining the State Department as a Foreign Service officer in 1956, Frank Carlucci rose through the ranks of the Foreign Service, eventually serving as Ambassador to Portugal during the mid-1970's.

Before 1981, Frank Carlucci served three successive Presidents of both political parties—President Nixon, President Ford, and President Carter—in key management positions in the Office of Economic Opportunity, the Office of Management and Budget; the Department of Health, Education and Welfare; and the Central Intelligence Agency. In all, Frank Carlucci has been nominated by four Presidents to serve in a total of seven positions requiring confirmation by the U.S. Senate. This is certainly a testament to his outstanding abilities and his distinguished career of Government service.

During the 8 years of President Reagan's administration Frank Carlucci has made an extremely important and valuable contribution to our national security—first as Deputy Secretary of Defense under Secretary Weinberger; then as Assistant to the President for National Security Affairs; and since November 1987 as Secretary of Defense.

As Deputy Secretary of Defense from 1981 to 1983, Secretary Carlucci was the driving force behind a series of 32 initiatives—later dubbed the "Carlucci initiatives"—to reform and improve the Defense Department's procurement process. These initiatives, such as stable budgeting and greater use of multiyear procurement, still stand as a health prescription for the continuing problems of the Defense acquisition system.

In January 1987 President Reagan brought Frank Carlucci back into Government service as Assistant to the President for National Security Affairs. Frank Carlucci's firm and steady hand went a long way toward rebuilding and restoring the National Security Council staff in the aftermath of the Iran/Contra revelations.

With Secretary Weinberger's retirement in 1987, President Reagan nominated Frank Carlucci to be Secretary of Defense. Although there was only a little more than a year left in the Reagan administration, Frank Carlucci moved with his customary energy and dedication to meet the challenges and address the problems he found in the Defense Department. He was a key administration spokesman for the INF Treaty in the Senate ratification debate, and later in implementing the treaty. He brought a sense of fiscal realism to the planning and budgeting process in the Pentagon. Working with Congress he developed the process that will result in the first closure in over a decade of unneeded military bases around the country. And throughout his tenure, he maintained a close and productive relationship with the Congress.

Mr. President, Frank Carlucci took over the Department of Defense in a period of declining defense budgets, and he inherited a 5-year Defense plan

that had to be radically adjusted. His stewardship of the Defense Department has laid the foundation for the Bush administration to adjust to inevitable fiscal constraints without doing grave damage to our defense capabilities. In short, Frank Carlucci took on a difficult job and he did it well.

I congratulate Frank on his outstanding career in the service of our country and extend my best wishes for the future to him and his wife Marcia.

THE FISCAL CONDITION OF THE NATION'S HOSPITALS

Mr. MITCHELL. Mr. President, the Congress has before it the formidable task of reducing the Federal deficit. In the coming months we will be called upon to make difficult decisions about reductions in many important domestic programs. While I am committed to making significant progress in reducing the deficit this year, I am concerned about the serious adverse impact further reductions in Medicare payments to hospitals will have on their fiscal viability.

According to the American Hospital Association, this year more than 50 percent of the Nation's hospitals will lose money treating Medicare patients. In 1989, the average hospital operating margin from Medicare will be minus (−) 5.5 percent. More than 26 percent of all hospitals will have losses of 20 percent or more.

In my home State of Maine, with a population of slightly over 1 million, there is a shortfall of more than $60 million between costs of services provided by hospitals to Medicare patients and reimbursements to hospitals for those services from the Federal Government.

The shortfall in Medicare payments to hospitals is no longer limited to rural hospitals; one out of every two urban hospitals will lose money treating Medicare patients. This year all categories of hospitals, except those over 685 beds, will lose money from Medicare.

The prospective payment system has been successful in controlling the costs of hospital services under Medicare. Hospitals have become more efficient and have provided more cost-effective services. But, over 400 hospitals have closed since PPS began in 1982—nationally, a hospital is closing every 5 days. While some of these closings represent more efficient delivery of acute care services, many of the most recent closings jeopardize access to care for all patients, not only Medicare beneficiaries.

Under current law, hospitals are scheduled to get the full market basket update for Medicare reimbursement. The fiscal year 1990 Reagan budget proposes a 1.5-percent reduction in market basket for all hospitals as part of an overall reduction in the Medicare Program of more than $3 billion. While the Congress has not yet seen the Bush administration's fiscal year 1990 budget, I expect that it will also include a significant reduction in Medicare spending.

It is probable that Congress will ultimately be forced to make reductions in Medicare as part of the overall effort to reduce the deficit. As we examine the specific proposals for savings in the program, it is my intention to work diligently within the context of the total budget to assure an update in Medicare payments to hospitals as close to full market basket as possible.

While striving for cost containment in the Medicare Program we must not allow access and quality of care to be jeopardized. I will work with my colleagues to achieve a reasonable balance that will allow the Nation's hospitals to continue to provide quality health care for the elderly and for all Americans.

THE 51ST INAUGURATION

Mr. BYRD. Mr. President, when we as a nation recently inaugurated a new President of the United States we also commemorated the 200th anniversary of the first Presidential inauguration. From the flags representing 1789, 1889, and 1989, which draped the west front of the Capitol, to the Bible upon which Presidents George Washington and George Bush each took their oath of office, we were strongly reminded of the great continuity of our political institutions and traditions. It was a stirring moment.

Before these memories fade as we plunge into the work of the 101st Congress and the new Presidential administration, I wish to pay tribute to Senators WENDELL FORD, chairman of the Joint Congressional Committee on Inaugural Ceremonies, and TED STEVENS, ranking Republican member of the Senate Rules Committee for their superb planning of this event, and for the tasteful and decorous manner in which the inaugural ceremonies were conducted. Having attended many Presidential inaugurations during my three-dozen years in Congress, I was impressed by the carefully orchestrated and impeccably implemented program. Even the weather cooperated to make it a memorable day.

I also want to extend my congratulations to Mike Ruehling, the executive director of the joint committee, and to the many other staff members and citizens who contributed to this bicentennial celebration. We Americans, regardless of party, had much to be proud of as we witnessed the 51st consecutive Presidential inauguration. From 1789 to 1989, our system has permitted the peaceful transfer of political power, through the free vote of the people. That fact is indeed worth celebrating, and Senators FORD and STEVENS are to be commended for helping us to celebrate it in such an appropriate manner.

FAREWELL SENATE LUNCHEON HONORING SECRETARY OF STATE GEORGE P. SHULTZ

Mr. KENNEDY. Mr. President, on January 18, Senator LUGAR and I had the honor to host a luncheon for Members of the Senate to pay tribute to George P. Shultz as he completed his distinguished service to the Nation as Secretary of State. A large number of Senators from both sides of the aisle were present to join in commending Secretary Shultz for his achievements in foreign policy and for the excellent bipartisan working relationship he established with the Senate. I believe that the proceedings at the luncheon will be of interest to all of us, and I ask unanimous consent that they may be printed in the RECORD.

There being no objection, the proceedings were ordered to be printed in the RECORD, as follows:

PROCEEDINGS AT THE LUNCHEON IN HONOR OF SECRETARY OF STATE GEORGE P. SHULTZ, HOSTED BY SENATOR EDWARD M. KENNEDY AND SENATOR RICHARD G. LUGAR, IN THE SENATE CAUCUS ROOM ON JANUARY 18, 1989

SENATOR KENNEDY

I want to welcome everyone to this luncheon. If you read your New York Times yesterday, you might have noticed a photograph of Secretary Shultz in Vienna on page 12 and another photograph of Senator Lugar in Korea on page 3. All of us were holding our breath as to whether our guest of honor and our co-host were going to be able to make it here today.

I think all of us in this room understand very well that aside from the President of the United States, Secretary Shultz is the most popular man in Washington. All of us feel very fortunate to have the opportunity to be one of the very selected few that will have the chance to say good-by to Secretary and Mrs. Shultz. We'll have more to say in just a moment. Senator Lugar.

SENATOR LUGAR

We're grateful you're here—and why don't we just be seated for our lunch.

SENATOR KENNEDY

Again, we are grateful that all of you could be here today to join in this tribute to Secretary Shultz. I would like to speak briefly about four of his accomplishments. First of all, there is the remarkable progress in moving toward arms control that he has achieved for us and for the world, and in moving us away from the possibility of nuclear confrontation. In particular, there is the success of the INF negotiations.

Secondly, I think of the progress that has been made in the cause of freedom in three very important countries of the world—in Chile, the Philippines and Korea—and in other parts of the world as well.

Thirdly, I think of the regional confrontations, whether in Southern Africa and Namibia, in the Persian Gulf, or in Afghanistan, and the important progress that has been made there.

And finally, in the area of human rights, with the signing of the treaty this week in Vienna, we know that there will be further progress toward liberty and human rights in Eastern Europe as well as in the Soviet Union. These are all areas of extraordinary achievement, and Secretary Shultz deserves great credit for them.

When President Kennedy was in Newport in 1962, he spoke to the Australian crew, which was there as the challenger for the

America's Cup. He toasted the Australians, and he said, "Although the two crews may be flying opposing colors, they also race with each other against the wind and the sea."

Perhaps we can use the symbolism of sailing here. We sometimes tack in different directions, but all of us share a common goal in terms of our national interest. And all of us appreciate the respect that Secretary Shultz has shown for Congress as an institution. It was really what the Founding Fathers intended in the shaping and the fashioning of American foreign policy. And I am sure that if George Shultz had been alive two hundred years ago, he would have been one of the Founding Fathers.

Mr. Secretary, in this room are men and women of the Senate who have worked with you over the past six years. We have valued your friendship, we have welcomed the opportunity to work with you, and I would ask all of us now to raise our glasses and toast an outstanding patriot, a true statesman, and one of the great Secretaries of State of the United States of America. Secretary Shultz.

Mrs. Shultz, will you rise too and receive the accolades you richly deserve as one of our real stateswomen?

Since the election, large numbers of tourists have been going to the State of Maine to be close to the heart of power. Recently George Mitchell has become a very popular national leader—and I'm proud to introduce him now. George Mitchell.

SENATOR MITCHELL

Thank you very much, Ted. Of the many thousands of introductions I have received, I can say with total accuracy that yours is the most recent.

Mr. Secretary, I am pleased to join Senator Kennedy, Senator Lugar, and all of our colleagues in paying tribute to you today. For most human beings, life is essentially a quest—to first acquire, and then retain, self-respect and the respect of others. There is no single route to gaining respect. In my view, no better route exists than that of public service.

Mr. Secretary, you have exemplified the best of public service in American democracy. You served with dignity, with integrity, and with selflessness and loyalty that remind all of us who aspire to respect that they are their own rewards. All of us here have enjoyed, on a personal level, our relationship with you. And on a professional level, and as public servants ourselves, we have welcomed your success. You leave office having earned the friendship and respect of all who have come into contact with you. But perhaps, more importantly, because of your accomplishments, to which Senator Kennedy alluded, you leave with the sure knowledge that all across this country—indeed throughout the world—there are millions of people who have never met you, perhaps have never even heard your name, but whose lives will be safer and better because of your efforts. No person could ask for anything more than that in life. You have our best wishes and our gratitude. Thank you very much.

SENATOR KENNEDY

We have been fortunate in the Senate to have our own true statesman in foreign policy, the Senator from Indiana. Perhaps more than any other member of this body, he contributed to the achievements of the Secretary of State and has the greatest insight into those achievements—my friend, Senator Lugar.

SENATOR LUGAR

It's an honor to co-host with Ted this luncheon for Secretary and Mrs. Shultz. I would just make three points about the Secretary.

The first, I suppose, is obvious, but so important. We have been involved in the Foreign Relations Committee in hearings on Jim Baker, and in thinking through with him what the Constitution calls for in foreign policy and the relationship between this body, the Secretary of State, and the President of the United States.

George Shultz always instinctively understood the Constitution and what was involved, and he enjoyed, I believe, his consultation with each one of us. Certainly, he was invaluable in coming, not only to the committee but to S-407 and to every place in which we wanted to meet—in small and large groups—to think through the important matters of the country, or at least to be briefed on what the Administration's thoughts were.

Beyond that, he understood, as someone who had served in the Executive Branch, the responsibility that lies with the President, and how important the perceptions and the realities are in that respect. He has performed a magnificent service in uniting the Congress and the Executive in times when those roles were not well understood, and still are not. He gives to his successor an opportunity to improve upon that record, but it is a very, very strong and solid record of consultation, and of regard and confidence.

The second thought I have is that George Shultz is a patriot in the very best sense of the word. Each one of us who has travelled abroad has visited with persons who have a very high regard for George Shultz. In fact, I cannot recall the head of a single country on this earth, whether it be friend or foe of the United States, that does not have a very high regard—if not a sense of friendship—with our Secretary of State. Perhaps there is one exception. I think it's fair to say, that each of them would represent to those of us who asked that the Secretary always carried the United States flag proudly. He carried our position and our portfolio—with no doubt whatever as to whose interest he was serving. And he did so with a grace and with a good humor and a lot of energy in ways that made friends. But at the same time, very clearly, the position of the United States of America was enhanced in each case.

And finally, I would just say his efforts were not only constitutional and patriotic, but they were indefatigable. The Secretary was asked in this past year why, in the intractable situation in the Middle East, he was still doing shuttle diplomacy—going from capital to capital and leader to leader. Many journalists suggested that it was an exercise in futility, that any Secretary of State ought to understand that, and that to keep raising the hopes of the world was ridiculous. But the Secretary simply pointed out that he was only going to be a Secretary of State once, that there were only a few more months and weeks available, and furthermore, that the need was imperative for the United States of America to have a presence and to be obviously pushing and pushing and always trying. It's only those cases in which we did not have a presence that people began to ask questions.

The Secretary's presence has made an enormous difference in the legacy he passes along. As we reviewed some of the issues with Secretary Baker, it is apparent that in almost every way Secretary Shultz has tried to tidy up affairs and give the new Administration every break in terms of having either a clean slate or a better one on which to work. So for all of this, we are grateful to you, Mr. Secretary, and this luncheon is at least a small way in which we offer our tribute today. We thank you.

It's my privilege now to introduce our Republican Leader, who has worked so closely with the Secretary and who has made such a difference in these constitutional procedures that I mentioned—Senator Bob Dole.

SENATOR BOB DOLE

Mr. Secretary, Mrs. Shultz. I guess the question I've always had is—where do you get your laundry done? I turn on my TV at night and you're in Cairo; I turn it on in the morning and you're in London; and some days you're even in Washington. You've either got a big wardrobe or a fast laundry, and I want to check it out before you leave town.

But like everyone in this room, I've had many, many opportunities to work with Secretary Shultz. In fact, he's invited me to come to breakfast to talk over issues—but he eats at 7:00 a.m. I said no thanks, I don't get hungry until about 8:30. So he did make every effort. And I can recall the meetings in my office—whether it was arms sales or arms control or something else. I can recall the Secretary's determination to remain an independent voice when he thought some in the Administration were pushing him a bit too far. I can recall a lot about George Shultz—his tireless efforts and his leadership—that made us all proud to be Americans. There were frustrations. And I'm certain there were frustrations sometimes when the Senate would hold up 25 or 30 ambassadors for three or four weeks. I know that was frustrating, because you used to call me from around the world—collect.

But I can also say that you've had an impact on part of my family. When Elizabeth was asked to be Secretary of Labor, she recalled that George Shultz had been Secretary of Labor, and she concluded the job must have great appeal and must be a good job. And that's a true story. Her hearings are tomorrow afternoon, and we hope she can slip through again—if you can work on Senator Kennedy.

But in any event, I want to say on behalf of myself and my colleagues who have served and worked with you that we appreciate your leadership. As I said in my letter to you at the end of the year, you're a great American and a great patriot, and you make us proud. Jim Baker has big shoes to fill, as I said yesterday.

And I pay tribute to Mrs. Shultz as well, because she also covered the world for America, for all of us, and we appreciate that too.

So George, you deserve a rest. You deserve a little time off. If it gets too boring out there, you can always run for Governor of California. Thank you.

SENATOR KENNEDY

Now, it is my privilege to introduce a statesman on our side of the aisle in the Senate, the distinguished Chairman of the Senate Foreign Relations Committee, Senator Claiborne Pell.

SENATOR PELL

I just want to express congratulations to Secretary Shultz for the work he did and for his cooperation with our committee. He was a man of strong conviction. He would agree to disagree, but he didn't change his mind very often. I think we had a good relationship based on frankness. We each knew what we were doing. The Committee felt it was doing the right thing, the Secretary knew he was—but usually some kind of compromise worked out. We weren't able to work out the house for the Secretary or his successors. But we had other successes that I think we shared. So I just wanted to ex-

press my regret that you're leaving, and hope to stay in touch with you.

SENATOR KENNEDY

We have a little gift on behalf of all of us. It's an Irish Waterford Crystal globe. We've taken the liberty of adding a Baccarat Crystal tiger contemplating the globe. I would like to read the inscription: "Presented to Secretary of State George P. Shultz by Members of the United States Senate in appreciation of his wisdom, guidance, dedication, and achievement in the nation's service and in the cause of democracy, peace and understanding among all nations." Mrs. Shultz will you come up too? You're a legend for your service as well.

SECRETARY SHULTZ

I can't tell you how much I appreciate this luncheon. The fact that you're here; the wonderful things that have been said—and we'll certainly treasure this great gift.

I have appreciated very much the relationships I've had with all the people in this room. We have worked on a bipartisan basis around the globe. When I see calls that we should return to a bipartisan foreign policy, I can only respond that, basically, I think we've got one, and we've had one. We have a few exceptions—one in particular where we haven't had a bipartisan approach, and I think the fact that the results are unsatisfactory shows how important it is to obtain a strong, broad base of support. I was very struck in reading Jim Baker's testimony to note the heavy emphasis he laid on that, and I believe properly so.

You spoke of our orientation to the interests of the United States—the recognition that you are here to do everything you can for our country, and so am I. Trusting each other—that is where we come from. And if we have differences, it is not a difference about that objective, it's a difference about how we get there. And since we do have that firm and solid conviction about our country, it makes it possible to work through these differences and come out the right way.

I can't say I've always enjoyed testifying. Basically, the process of public testimony is an excellent thing. But I'd have to say that I have benefitted the most, and enjoyed the most, the sessions we've had in S-407—sometimes with small groups, sometimes with, as I remember, as many as 75 or 80 Senators present in a more informal back and forth. Those have been excellent, and I've really appreciated the opportunity to have such sessions with you.

But I would like to wind up here by giving an example of something that always sticks in the mind as the right attitude, and comes through to me as showing the attitudes in the United States Senate. I've had the privilege for a long time—decades—of knowing Mike Mansfield. And, of course, in his capacity as Ambassador to Japan, we've worked very closely together. I used to have in my office a big globe—you know the kind that has a light inside and you can see all around the world. When I first became Secretary of State and new ambassadors were going off to their posts or came back for consultations, I'd talk to them—and then I'd say at the end of our consultation, "I know you've been investigated and confirmed by the Senate, and the President's nominated you and all that, but you've got one more test you have to pass." Usually their face would stiffen up a little bit. I'd say, "Well, you have to go over to that globe and show me that you can find your country on the globe." So, they'd go over and they'd spin it around, and unerringly put their finger on the place they were going.

One day, about 4 or 5 months after I became Secretary of State, Mike Mansfield came in and we had a good talk about Japan, and I said to him, "Well, Mike, I have to apply this rule to everybody equally, and I know you've been out there for a long while, but before you can go back, you have to go over and show me that you can locate your country on the globe." So Mike went over and he spun the globe around, put his hand on the United States and said, "That's my country." And it is a thought that stuck with me, that this wonderful man, different from any other person who came in, reacted to that question that way.

I've always thought of that incident when I have worked with the Members of the Senate or the House. And as I have tried to think of my role, I remembered Mike Mansfield saying, "That's my country"—not just a piece of geography, but a set of values and ideas, things we stand for.

So I am deeply grateful for this luncheon and the expression of support and recognition and friendship and public service that we all undertake together. Thank you Ted and Dick and George and Bob and all of you for being here. I appreciate it very, very much.

BIOGRAPHICAL DIRECTORY OF THE UNITED STATES CONGRESS

BICENTENNIAL EDITION

Mr. BYRD. Mr. President, last Thursday it was my pleasure, as chairman of the Senate Bicentennial Commission, to accept the first volumes of the bicentennial edition of the "Biographical Directory of the United States Congress, 1774-1989," and to present copies to Senators MITCHELL and DOLE.

The new "Biographical Directory," last published in 1971, was authorized in 1985 as a major component in the celebration on Congress' 200th anniversary. For this bicentennial edition, the authorizing resolution directed the Historical Offices of the Senate and House to revise and expand the existing entries as well as to add the necessary new ones. Within those offices, the volume's two chief editors have been hard at work ever since. Particular credit is due to Dr. Kathryn Jacob, editor of the Senate entries, and to Dr. Bruce Ragsdale, who edited the House entries. I might add that this volume represents the first time since the directory's inception in 1859 that professional historians have had a hand in its preparation. It is much the better for their critical skills.

Within the 2,100 pages of this handsome work can be found biographies of the more than 11,000 men and women who have served in the Congress of the United States. I commend this volume to my colleagues. Our own biographies therein make us as one with all of our predecessors. There is much in the directory to interest every American, but the bicentennial edition will prove to be an especially invaluable aid to scholars. What better way to celebrate the 200th anniversary of this great institution than with a volume that provides the essential first step to understanding the careers of those who have served during Congress' first two centuries.

TERRY OLSON MOVES TO OMB

Mr. HOLLINGS. Mr. President, for the last 2 years Ms. Terryle "Terry" Olson has been the secretary of the Commerce, Justice, State, the Judiciary Subcommittee which I chair on the Committee on Appropriations. Previous to joining the subcommittee, Terry worked for the late Senator Milton Young of North Dakota and Senator GORTON of Washington. Next Monday, Terry will begin important new duties with the Associate Director of Legislative Affairs of the Office of Management and Budget.

Mr. President, I want to publicly thank Terry for all her help over the last 2 years. I am sure I speak for Terry's numerous Senate friends in wishing her well in her new assignment.

THE SUCCESS OF THE INAUGURAL CEREMONY

Mr. FORD. Mr. President, it has been a great honor and privilege for me to serve as chairman of the Joint Congressional Committee on Inaugural Ceremonies for the Bicentennial Presidential Inauguration. After the inaugural ceremony had concluded last Friday, President Bush told me how pleased he was that the day had gone so well, and I would like to thank all the people who worked so long and hard behind the scenes to make the 1989 Presidential inauguration such a success.

First and foremost, I'd like to thank the members of the joint inaugural committee staff, Mike Ruehling, the executive director, and his assistants, Lisa Dodge and Stephen Gray. I would also like to thank the members of my personal staff and members of the Rules Committee staff who so ably assisted in planning and carrying out the day's activities. In particular, I would like to note the efforts of Gail Martin, who did such a splendid job coordinating the inaugural luncheon, with the assistance of Carol Blessington and Kimberly Austin.

The contributions of the Senate Sergeant at Arms, Henry Giugni; his assistant, Patty McNally; the House Sergeant at Arms, Jack Russ; and his assistants, Bob Fischer and Elaine Connolly; and all the men and women of their staffs who joined in this effort should be recognized, as well as those of George White, the Architect of the Capitol; Tom Ward, the inauguration's supervising engineer; Don Sarles; and the entire Architect's staff, which was responsible for building the inaugural stands, decorating the Capitol's west front, and coordinating so many other details essential to the program.

The inauguration was so capably recorded for posterity by Senate Photographic Studio director Alan Porter, House Office of Photography director Keith Jewell, and Senate Recording Studio director Jim Grahne, and their respective staffs.

Security arrangements worked smoothly, as did vehicular and pedestrian movements, thanks to a truly outstanding job by the U.S. Capitol Police. My appreciation goes out to Chief Frank Kerrigan, Assistant Chief Harry Grevey, Inspector Jim Dameron, Lt. Ray Carson, officers Rich Wolford, Scott Flax, and Larry Thompson, and the entire police force. In addition, the Joint Inaugural Committee received outstanding support from the U.S. Secret Service, especially Director John Simpson, and Special Agents Jim Varey and Jim Peacock.

The most comprehensive ever medical plan for an inauguration was developed and implemented under the direction of the attending physician, Dr. William M. Narva, and Robert F. Moran and Gene Early of his staff. This was a significant first which will serve as a blueprint for future inaugurations.

Once again, credentials for the more than 7,000 media that covered the inauguration were processed expeditiously and with efficiency by Max Barber, superintendent of the Senate Radio-TV Gallery; Bob Peterson, superintendent of the Senate Press Gallery; Maurice Johnson, superintendent of the Senate Press Photographers' Gallery; and Roy L. McGhee, superintendent of the Senate Periodical Press Gallery. Media arrangements for the luncheon were coordinated by Ruth M. Tate, superintendent of the House Radio-TV Correspondent's Gallery.

Numerous compliments have been received regarding the design and content of the ceremony program. These materials demonstrate the highest degree of talent and professionalism and were produced by the Government Printing Office. In participation, I would like to single out Charles Cook, John Sapp, DiAnn Baum, Walter Burrows, Robert Colvin, and Jimmy Payne for their significant contributions.

The Senate Historian, Richard Baker, was of invaluable assistance in researching the history of past inaugurals for the editorial program text. The Senate Curator, James Ketchum, likewise was a source of constant and beneficial advice and counsel, as was his associate, Diane Skvarla.

I would also like to thank the military district of Washington's Office of Ceremonies and Special Events, including its director, Tom Groppel, Maj. Mark Keegan, Jr. Maj., Tom Bishop, and the hundreds of other men and women of the Armed Forces who made important contributions to the Inaugural Ceremonies.

The Joint Inaugural Committee also enjoyed a productive working relationship with the American Bicentennial Presidential Inaugural Committee, including the cochairpersons, Penne Korth and Bobby Holt; the executive director, Stephen M. Studdert; and Craig Helsing, Paul Powell, and Bill Fritts of the Congressional Liaison Office; and individual group coordinators, Karen Castleman, Ardis Johnson, Judy McLennan, and Ray Briscuso, among countless others. We also received outstanding cooperation and assistance from the staffs of President Bush and Vice President Quayle in coordinating all aspects of the ceremony.

Finally, I would like to thank my colleagues, Senator Majority Leader GEORGE MITCHELL, Senator TED STEVENS, Speaker JIM WRIGHT, House Majority Leader THOMAS FOLEY, and House Minority Leader ROBERT MICHEL for their active involvement in helping the Joint Congressional Committee on Inaugural Ceremonies fulfill its mandate.

Many, many others had a role in making the events of the day go smoothly. It would be impossible to thank them all by name, but to each and to all, I extend my heartfelt thanks on behalf of the Joint Congressional Committee on Inaugural Ceremonies and the entire Congress for a job well done.

SOME BASIC PRINCIPLES FOR HANDLING THE THRIFT CRISIS

Mr. DIXON. Mr. President, over the last week, the thrift crisis has hit the public consciousness in a way it never has before, because the administration started talking about taxing savings. A number of administration officials evidently forgetting their grounding in the Richard Darman "Duck" test, tried to tell the American pubic that charging savers for each $100 they have on deposit at a thrift, bank or credit union is a user fee instead of a tax. Unfortunately for the administration, however, the so-called fee "quacked," making it all too clear that it was a duck of the tax variety.

The American public was not fooled. They know it is a tax, and they don't like it. They know they did not cause the thrift crisis, and they know what the administration seems to have forgotten—that we need to encourage people to save more, not less.

This is supposed to be a savvy administration. It is filled with people with years and years of Washington experience. Yet, the first proposal they make has the effect of undermining people's confidence in our deposit insurance system, confidence that has been built up so laboriously over the last 50 years and more.

It is almost impossible to understate the seriousness of the thrift crisis. Fully one-third of the savings and loan industry is in real jeopardy, and the economic condition of another third is marginal. The crisis would be much more serious, however, without the existence of deposit insurance. Without deposit insurance, we would be facing a savings and loan system that has totally collapsed; without deposit insurance that collapse would probably cause our whole eocnomy to collapse.

The administration has been faced with overwhelming opposition to its savings tax "option." Instead of taking the opportunity to try to restore the confidence in the deposit insurance system its mistake so dangerously undermined, though, the administration fudged, instead, talking about how congressional leaks are undermining bipartisan cooperation to solve the underlying crisis.

Even worse, the administration floated a new option—increasing deposit insurance premiums that banks and S&L's pay and combining that with a somewhat lower tax on savings. That is the same thing. It is still a disincentive to save. It demonstrates that the administration has not learned its lesson from last week's controversy.

I am the first to say that we should be trying to find a bipartisan solution to this problem, and I want to work with the administration. However, congressional opposition to the savings tax was not based on a partisan desire to score points at the administration's expense. The strong, bipartisan, congressional opposition was based on one simple fact—the idea was simply terrible and has no place in any proposed solution to the thrift crisis.

The Treasury Department knows what is needed. The problem is that they are trying to avoid the options that make the best public policy sense in order to try to sneak through the next budget year without having to reconsider the President's campaign pledge not to increase taxes.

Treasury knows that it will take between $50 and $100 billion—and perhaps even more—to resolve the thrift crisis, and Treasury knows that this money should be spent over the next 3 years or so. To keep faith with the no-tax campaign pledge, however, they are trying to keep the spending "off-budget," whether that makes sense or not. To try to keep that pledge, Treasury is being forced to consider departing from the basic principles that should guide a solution to this problem.

I have not discussed the thrift problem with the Treasury Department or with any other administration official. They have not asked for my advice. Nonetheless, in the spirit of bipartisan cooperation that I truly believe must guide us in resolving this issue, I am going to take this opportunity to talk briefly about the basic principles upon which a solution to the thrift problem should be based.

The first principle is that the solution should be cost effective. The sums involved in resolving the thrift crisis are staggering. We need a solution that attempts to minimize costs. If we borrow money to finance a solution, therefore, as we must, interest costs must be held to the absolute minimum.

I have read in the newspapers that Treasury is considering a $90 billion bonding plan. If that plan is to be cost effective, we must be sure that the bonds are issued at Treasury bonding rates. If the bonds cost 1 percent more

than Treasury bonds, the additional cost would be $18 billion over their likely 20-year life. If the bonds are only 50 basis points over the cost of Treasury bonds—one-half of 1 percent in English—the cost would still be $9 billion greater over 20 years.

Interest costs are likely to be between $7 and $9 billion a year even if we are able to borrow at Treasury rates. It would be extremely poor public policy to inflate that cost by another $450 million to $900 million annually.

There is another aspect of cost effectiveness that is also worth discussing briefly—having sufficient resources to minimize the overall cost. That means having enough resources to refinance and reduce the costs of the transactions FLSIC has already completed. FSLIC's solutions to date have been extraordinarily expensive, and the financing costs and the tax costs can be significantly reduced if they are refinanced. FSLIC completed over $38 billion of these deals by the end of December. Frankly, in my view, they were not good deals. To take just one example, five troubled savings and loans, losing $560 million annually, were sold by FSLIC to a new party. All the troubled loans were guaranteed by FSLIC, so the acquiring party was essentially purchasing a "clean" thrift. The purchaser agreed to put in slightly more than $300 million to capitalize the new thrift, but received in return tax breaks worth more than $900 million. That is the kind of deal I think must be refinanced and it is the kind of deal that can be refinanced with real cost savings to FSLIC and the Treasury.

The second principle is that as much of the financing as possible should come from the savings and loan industry. It is the savings and loan insurance fund that is in trouble, and the savings and loan industry must, therefore, do everything it can to restore the fund. This will help reduce the risk that the taxpayer will have to finance some part of the solution; at the very least, it will help minimize any taxpayer participation that might prove to be necessary.

As we seek to maximize the savings and loan industry's contribution, however, we must keep in mind that burdening the industry too greatly will create further insolvencies and create incentives for the industry to continue risky practices that we are trying to end. Thrifts are already paying 20.8 cents per $100 in insured deposits as an insurance premium. That is 12.5 cents higher than banks are paying for their insurance, and we need to be careful not to raise thrifts' cost to the point that they are no longer competitive.

That leads to the third principle, which is that any solution should not create potential new problems. Unfortunately, it seems that Treasury is already considering violating this principle. Today's New York Times is carrying a story indicating that Treasury is considering raising deposit premiums for thrifts and banks. That creates risks for thrifts that I have already briefly described. It also creates real risks for the banking industry and depository institutions generally. There is already a considerable likelihood that the FDIC premium will be increased because the FDIC fund needs the money. Raising the premium now will help ensure that the FDIC fund never faces the kind of problems FSLIC is facing now. However, the FDIC fund will not have available to it the resources it will need if those resources are diverted to solve the current FSLIC problem. Further, banks and other depository institutions will be handicapped in their ability to compete with institutions like mutual funds and other sectors of the financial services industry.

The fourth principle is that we need to go after those whose negligence and criminal behavior contributed to this problem. Some savings and loan executives treated their thrifts like they were Atlantic City casinos. Others were nothing more than thieves. They should be prosecuted to the full extent of the law. We should be sure that they have not profited from their greed, their negligence, or their criminal behavior.

The fifth principle is that the solution should contain the kind of reforms necessary to ensure that we are never faced with this kind of problem again. This means raising thrift capital standards to the bank level; they are currently only half the bank level, and over half the industry doesn't even meet these lower standards. This means separating FSLIC from the Home Loan Bank Board to eliminate the conflict between the Board's role to promote the thrift industry and FSLIC's role as insurer. This means the kind of regulatory reform that will rein in the kind of excessive risk-taking we have seen.

Finally, any solution should be on-budget. I think we undermine our own credibility and the budget process to even consider spending $90 billion or more over the next 3 years without including those sums in the budget. If the budget process is to work, if we are ever to eliminate the persistent budget deficits, we need to be honest. This is too much money to try to hide. We should be honest with the American people.

This is by no means a complete solution to the thrift crisis. It is not even a complete outline. These principles, however, will help produce the best public policy solution, and as the late Mayor Richard J. Daley of Chicago often said, "good government is good politics." I hope the administration will take his admonition to mind and practice a bit of good government. I am confident that if they do, they will find the kind of bipartisan cooperation they are seeking.

A TRIBUTE TO JUDGE SEYMOUR GELBER

Mr. NUNN. Mr. President, today I rise to pay tribute to a very deserving gentleman and jurist—Judge Seymour Gelber of Miami, FL. Judge Gelber is slated to retire soon from the bench in Miami where he has served 15 years on the 11th judicial circuit for Dade County. He retires as the chief judge of the juvenile court division which he has served with a tremendous commitment to south Florida's young people.

As he retires, Judge Gelber leaves the bench with an impressive record of public service. He has served as a chief assistant district attorney, a faculty member at the University of Miami Law School and, finally, as a juvenile court judge.

During my tenure as a legislator, I have been involved in drafting legislation designed to help our state and local government officials fight the war against drugs. I am heartened to know of Judge Gelber and of his remarkable efforts in this important arena. As a community leader in Miami's war against drugs, he has been an innovator and an educator. From a model juvenile drug rehabilitation center, which bears his name, to dozens of delinquency programs he has initiated, the south Florida area has been greatly enriched through his efforts.

Judge Gelber has not given his entire focus to our drug problem. He has also somehow found a great deal of time to address the greater problem of juvenile delinquency. He has expressed, through his many speeches and publications, his belief that we, as a society, need to demand an aggressive and intelligent community response to the problems associated with juvenile delinquency.

Today, I salute Judge Gelber and the Miami Boys Club which he has so selflessly served. I also thank him for his tireless efforts for the public good. I offer him my best wishes and God's blessing as he and his wife, Edith, enter well-deserved retirement from public service.

NATIONAL COMMUNITY COLLEGE MONTH

Mr. RIEGLE. Mr. President, as many of my colleagues know, February is National Community College Month. Community colleges play a major role in educating millions of students in this country, many of whom would otherwise not have the opportunity to pursue higher education. I would like to take a few moments to acknowledge the importance of these schools to our country.

More than half of all freshmen today choose community colleges to continue their education. That's more than 5 million students across the country.

Community colleges help make higher education affordable and con-

venient for many students who might not otherwise have the opportunity to broaden their knowledge and improve their skills. Tuition at a community college averages half the cost of public 4-year colleges and universities and many students are able to save money by living at home.

Community colleges are able to meet the diverse needs and interests of their students by offering specialized services. They have been involved in innovative partnerships with businesses and industries, as well as local elementary schools and high schools to develop programs that address the interests of their communities.

Because of their community orientation, community colleges attract diverse student bodies. They offer full- and part-time programs to meet the needs of young and old, men and women, students right out of high school, students returning to school, workers seeking retraining, and seniors seeking a personal enrichment.

As America changes, community colleges change with it. Through their flexible approach to education, they provide vital educational opportunities to many people and help us meet the challenges we face as a Nation. I am pleased today to pay tribute to their successes and achievements.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Ms. MIKULSKI). Morning business is now closed.

EXECUTIVE SESSION

EXECUTIVE OFFICE OF THE PRESIDENT

The PRESIDING OFFICER. The Senate will now go into executive session to consider the nomination of Carla Hills to be U.S. Trade Representative with time thereon for debate limited to 40 minutes.

The clerk will report the nomination of Mrs. Hills.

The legislative clerk read the nomination of Carla Anderson Hills of California to be U.S. Trade Representative, Executive Office of the President, rank of Ambassador.

The Senate proceeded to consider the nomination.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The chairman of the Finance Committee.

Mr. BENTSEN. Madam President, I have the pleasure of rising to support the nomination of Carla Hill as U.S. Trade Representative. The Finance Committee favorably reported her nomination by a unanimous vote on January 27th.

I think the United States faces one of the toughest trade challenges it has ever faced. The era that is coming is not one so much of military confrontation, but one of economic competition. Much of it will be with some of our best allies and our best friends, who are able, tough competitors despite the decline in the value of the dollar. That is an action that we should have taken and one that I was supporting and pushing for a long time. I recall when Secretary Regan was in the administration. He felt that no action should be taken to bring the dollar down. He kept saying that the strength of the dollar represented the strength of America. He was also saying the budget deficit did not make any difference. Fortunately, you had Secretary Baker who came in and reversed that policy insofar as the strength of the dollar and brought about the G-7 meetings. We made considerable progress in trying to get the dollar more back in balance. But further limitation in the dollar and bringing down its value is not an answer that is going to be very productive in the future, in my opinion. We have to do more to increase the productivity of our country, a reawakening of our country.

Europe today is moving toward economic union in 1992—bringing down barriers within that great market with well over 300 million people, making it the largest consumer market in the world. I believe it is going to offer us great opportunities and also some problems. It is my hope that we will see some of the protectionism that we have had in the past in the European Community disappear as Europeans begin to participate in that exercise. Having the advantage of that kind of a market, and the competition that results therefrom, will make Europeans less concerned about competition from abroad. It is my hope that we will see a further opening up of that market to U.S. producers.

In countries all around the globe, we have seen American exporters of goods and services running into disabling limitations, barriers to our products, protection for industries within that country that in many instances they felt were not competitive at the moment, but wanted to protect them until they were.

Furthermore, we have seen in some of those countries—we have seen this in Taiwan, we have seen it in South Korea—is not the acquiescence, not the kind of cooperation, that we felt should come about in trying to get the dollar and their currencies back into a relative balance that would be productive for both sides. We have seen the Central Bank, particularly in Taiwan, bring about the largest surplus of any country that even approached its size and manipulating that currency to the benefit of its own producers.

To try to deal with these kinds of challenges, the 1988 Omnibus Trade Act gives additional tools and power to the Chief Executive. We have strengthened his hand and his authority in working out trade agreements. We also strengthened the hand of the USTR within the administration, ensuring that the USTR becomes the chief spokesman on trade.

As significant a turning point in our trade policy as the 1988 Act is, it is not in itself self-executing. It needs an administration that is determined to set a positive course on trade, to do what is necessary to bolster legitimate U.S. commercial interests. It will also take a tough, effective USTR.

I have looked closely at Mrs. Hills' record. I think the President has made an excellent choice. Mrs. Hills has the experience and the skills to be an able trade negotiator, and a forceful trade advocate for U.S. trade policy and U.S. interests. She is a seasoned antitrust lawyer. She understands business, both through her work representing business clients and her service on corporate boards. She also is a proven leader and administrator, having served previously as Secretary of the Department of Housing and Urban Development and as Assistant Attorney General. She is a superb lawyer.

Believe me, Mrs. Hills will have to be good at what she does because there will be no time for learning on the job at leisure. A good example of that is the fact that the Japanese Prime Minister is coming over here early, at a time when we have some concerns and controversy with the Government of Japan in talking about our agreements, what we have done on superconductors, what we might be talking about on section 301, and its application.

I hope we will have time to get our forces in order and that Mrs. Hills has time to add to her staff, and be prepared to be a participant in any negotiations that might take place.

The 1988 act requires a number of crucial trade decisions to be made within the first 6 months of the new administration, and a breakthrough in the Uruguay round negotiations is being sought by the beginning of April. That is not going to be easy. We are not particularly optimistic about it. It means she is going to have to put together her team very quickly and begin moving on those issues immediately. That is why I had agreed to try to hold her confirmation hearing early, hold it on January 4. She was quite ready to do that. But as I recall, the administration and the executive branch had not completed the paperwork at that point and, therefore, we were not able to do it then.

But at the confirmation hearing last Friday I was impressed—and I believe other committee members were as well—with the way that Mrs. Hills answered the questions. She was forthright, she was direct, she was to the point, and she was not evasive in her answers.

I am especially encouraged by one aspect of her testimony before the committee. She acknowledged that developing and implementing an effective U.S. trade policy is going to take a very close partnership, a communica-

tion, a working together between the executive branch and the Congress. Under the Constitution neither branch can do the entire job. It is a divided responsibility. While the Congress has the authority to regulate international commerce, it cannot negotiate international agreements. The President has the authority to negotiate with foreign countries but he cannot implement the results of those trade agreements without coming back to the Congress for us to enact the domestic legislation to make them fruitful. Mrs. Hills has pledged to work hard to sustain and enhance that kind of a partnership.

In addition, Mrs. Hills expects to work closely with the business community in forging trade policies, to get the input from those who are facing the competition. She also told the Finance Committee that she will make use of the strengthened tools given the USTR in the Trade Act, including section 301. That is going to be controversial as we go along. There will be many countries that have had protectionist barriers that are going to want very much to find an exception to the application of section 301.

All these commitments contrast sharply with the go-it-alone attitude of the last administration. When Congress struggled to establish a coherent trade policy for this country, the Reagan administration was indifferent. When we drafted what was to become the Omnibus Trade Act, that administration opposed our efforts. Mrs. Hills' testimony gives me reason to hope those days are behind us. The Finance Committee plans to hold her to her commitment to working together, and I look forward to combining our efforts to make America economically strong and vigorous.

For that reason, I plan a series of intensive Finance Committee hearings early this year on oversight of implementation of the Trade Act and the progress of the Uruguay round negotiations. The committee will want to keep close tabs on the administration's trade activities and to exchange views with Mrs. Hills on trade policy.

The challenges ahead will certainly put Mrs. Hills to the test. But I have confidence in her ability, and so does the Finance Committee by the unanimous vote that was cast. I think she is going to be a forceful advocate and a tough negotiator for our side. I urge the Senate to confirm this nomination. Let us put her to work.

Mr. PACKWOOD. Madam President, I will not add to what the chairman has said in terms of the obligations of this position that Carla Hills is about to undertake or the seriousness of the job. I simply comment in the following manner on her character.

Every now and then we get new members of the Cabinet come on whom we do not know. Sometimes they are rough-cuts and, given a number of years, they turn out to be polished stones. Others, after a couple of years, still turn out to be rough-cuts. So we do not know ahead of time. But in this case, we start with a polished gem. This women we know.

We dealt with her a decade and a half ago when she was Secretary of Housing and Urban Development. We have seen her as Assistant Attorney General for the Civil Division of the U.S. Department of Justice. We have seen her as assistant U.S. attorney. This is an experienced person, who comes to us fully prepared for this job. I do not have the slightest doubt in the world that she is going to be dynamite as our U.S. Trade Representative.

We could not ask for more at the start; and, 2, 3, 4, or 5 years from now, if she is still in the job, we will say, "Aren't we lucky to have had this person?"

So I enthusiastically and overwhelmingly second the chairman's comments about her and say that we are lucky in this country to have her again available for public service.

Madam President, the time on our side is under my control. I ask unanimous consent that the remainder of the time on this side be under the control of Senator DANFORTH, who is the ranking member on the Trade Subcommittee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I thank the Chair.

Mr. THURMOND. Madam President, will the Senator yield me 5 minutes?

Mr. DANFORTH. I yield 5 minutes to the Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in strong support of the nomination of Carla Hills to be U.S. Trade Representative [USTR].

Mrs. Hills has had distinguished academic, political, and civic careers. She received her bachelor's degree from Stanford University, her law degree from Yale University and studied at Oxford University.

Before coming to Washington, Mrs. Hills served for 3 years as assistant U.S. attorney, Civil Division, Los Angeles and later cofounded a law firm in Los Angeles where she was a partner from 1962-74. While in California, she served as an adjunct professor at the University of California at Los Angeles Law School where she taught antitrust law and wrote a book on antitrust law.

Mrs. Hills has also had a distinguished career of public service in Washington. From 1975-77, she served ably in the Ford administration as the Secretary of Housing and Urban Development and before that at the Department of Justice as Assistant Attorney General, Civil Division (1974-75). Both in the administration and at Justice, she was only the third woman to hold such a position. Further in 1976, Time magazine named her 1 of the 10 women of the year. Currently, Mrs. Hills is a comanaging partner of the Washington, DC, office of the law firm of Weil, Gotshal & Manges.

In addition to her impressive professional career, Mrs. Hills has also served on a number of corporate boards, professional organizations and commissions. While in California, she was president of both the Federal Bar Association and the Women Lawyers Association. She currently serves on the Board of International Business Machines Corp., Corning Glass Works and the Federal National Mortgage Association.

In addition, she has been chairman of the Urban Institute since 1983 and is a member of the Executive Committee of the American Agenda, cochaired by Presidents Ford and Carter. She has also served as Vice Chairman of President Reagan's Commission on Housing and as a member of President Reagan's Commission on Defense Management. Previously, she served as a trustee of the Brookings Institution, the Rand Corp. and as a member of the Trilateral Commission.

Once confirmed as USTR, Mrs. Hills will have the challenging job of representing the interests of the United States in negotiations in the international trade arena and will be instrumental in shaping our trade policy. With an estimated trade deficit of $135 billion for 1988, Mrs. Hills certainly has her work cut out for her. However, she will be, without a doubt, a tough negotiator and represent the United States well.

I urge my colleagues to support the nomination of Mrs. Hills.

Mr. BENTSEN. Madam President, I yield 3 minutes to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the chairman of the Finance Committee for yielding.

Madam President, I am pleased to rise in strong support of the nomination of Carla Hills to be the U.S. Trade Representative. This position is one of the most demanding jobs in Washington, and it has assumed even greater importance as the role of international trade has grown in our economy. Mrs. Hills has an extraordinary set of credentials, too exhaustive to recount at this time. Suffice it to say, I am confident that she will do an outstanding job in representing the United States in this critical position.

Mrs. Hills will be entering this position at a difficult time. She will be succeeding an outstanding U.S. Trade Representative, Clayton Yeutter, whom the Bush administration is indeed fortunate to retain as Agriculture Secretary. One of her key tasks will be the implementation of the provisions of the Omnibus Trade Act in a forthright yet judicious manner. In addition, she will be in charge of overseeing the first year implementation of the free-trade agreement with Canada. While the agreement has become effective, a number of major issues will most likely be confronted

during its early stage. As if these tasks were not sufficiently daunting, multilateral negotiations in the Uruguay round are at a critical point. Progress in these complex discussions will require American negotiators who are able to argue forcefully our trade agenda while at the same time weighing the legitimate views of our trading partners. I am confident that Mrs. Hills can fill such a leadership role on behalf of the United States.

Madam President, Mrs. Hills' nomination was approved by the Finance Committee last Friday without dissent and I urge my colleagues to confirm her nomination here on the Senate floor. As a member of the Finance Committee and its Trade Subcommittee chairman during the 101st Congress, I look forward to working with Mrs. Hills as our next U.S. Trade Representative.

I thank the chairman for yielding.

I yield the floor.

Mr. DANFORTH. Madam President, I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Madam President.

I thank my friend from Missouri. Three minutes is inadequate to do the kind of job that is warranted in praise of this appointment, but 30 minutes would also be inadequate. Perhaps 3 hours would.

So let me just say that as you have already been told by the chairman of the Finance Committee not only in her performance before the committee has she been forthcoming, but she has demonstrated the qualities that have led her repeatedly into public service, won her a reputation as a lawyer, but more importantly won her a reputation as someone who is straightforward, who despite the demeanor of a gentlewoman has the guts of a lion.

Let me just say that Carla Hills is every bit the person necessary to fill the very large shoes that will be left behind by Ambassador Yeutter. She is tough minded. She is a skilled and tough negotiator.

I have known her personally for many years, first when she was the Secretary of the Department of Housing and Urban Development and I was mayor of San Diego. I was struck then by her grasp not only of the law that affected her responsibilities but indeed of the practicalities that made her responsibilities so challenging.

She dealt with those responsibilities not only with tremendous energy both physical and intellectual but with a kind of no nonsense determination to get the job done that is required in her new role as the U.S. Trade Representative.

She understands what is required of her.

I return to her skills as a negotiator to her tough mindedness.

Let me take a moment of my 3 minutes to quote from her statement to the committee.

Finally, on the unilateral front I will not hesitate to act when necessary and appropriate to fight unfair trade practices of foreign governments. Retaliation cannot be the goal of our policy. In fact, it signals the failure of our efforts to open foreign markets. But the credible threat of retaliation provides essential leverage in our marketing opening efforts. Thus actual retaliation will be used, albeit reluctantly, to preserve the credibility of this threat.

I think that is a very succinct statement of philosophy. It is a pragmatic philosophy. It is a tough philosophy. It was what is needed to guide the energy of this truly remarkable woman.

I look forward to working with her. The chairman has indicated that she has evinced an eagerness to work with the Congress.

It is a partnership that we must have in order to be successful for the American people to open those markets and to end those unfair trading practices.

By background and experience but perhaps most especially, Madam President, by character, this nominee is superbly qualified to be the U.S. Trade Representative, one of the more challenging responsibilities in this Government.

I thank the Chair and I thank my friend from Missouri.

Mr. DANFORTH. Madam President, in her testimony before the Finance Committee last week, Carla Hills noted that the U.S. Trade Representative's strategic goals are to open markets abroad for our competitive goods and services, to enhance the protection of intellectual property rights, and to "create an ever-expanding multilateral trading system based upon equitable and enforceable rules." These objectives are absolutely in keeping with the philosophy underlying the Omnibus Trade Act of 1988. Mrs. Hills has said that she is dedicated to full implementation of the terms of the Omnibus Trade Act, and I believe that she will do this. Her stated preference for a multilateral approach, coupled with certain bilateral and plurilateral efforts as well as selective unilateral action, is clearly the right approach for U.S. trade policy. She is right on target when she emphasizes the importance of a credible threat of retaliation as a means to enforce our rights and gain access to closed foreign markets. Finally, I applaud her commitment to sustain and enhance the critical relationship between the executive branch and Congress. In my mind, consultation—and coordination of policies between the branches—are essential elements of a successful U.S. trade policy.

Mrs. Hills is widely regarded as intelligent, thoughtful and tough—essential traits for this country's top trade negotiator. Yet some have voiced concerns about her lack of experience in the trade field, and others have raised the specter of potential conflicts of interest arising from her previous professional and business activities. I am convinced that these concerns are unfounded: Mrs. Hills clearly has a solid understanding of the complex issues before her, and she will undoubtedly be able to address effectively any issue which comes before her. In addition, there is no doubt in my mind that she will perform her duties while adhering to the highest of ethical standards, a commitment which she definitively made before the Finance Committee.

The array of trade issues facing us—a persistent and unsustainable trade deficit; the Uruguay round of multilateral negotiations; the completion of Europe's internal market by 1992; the need to enforce the terms of our free trade agreements with Canada and Israel strictly; and the importance of further improving our bilateral trade relationships with Japan, Korea, Taiwan, Brazil, and others—is immense. These issues will require a team of clear thinking and tough negotiators to ensure that U.S. interests are defended in an increasingly competitive international trading environment. Carla Hills is an excellent choice to lead that team.

Mr. BENTSEN. Madam President, I suggest the absence of a quorum to be charged equally to both sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Madam President, I rise to strongly support the nomination of Carla Hills to be U.S. Trade Representative.

When I first became interested in the international trade issue many years ago, the conventional wisdom held that it was permanent backburner issue.

The events of the last few years have put the lie to this conventional wisdom. In the last two Congresses, trade has been one of the most contentious, high-profile issues that Congress has faced.

But, thanks to Senator BENTSEN's extraordinary work in maneuvering the omnibus trade bill into law, the conventional wisdom now is that we should move trade back to the backburner; after all, the big trade bill was passed.

Once again, the conventional wisdom is dead wrong.

Senator BENTSEN has put us on the right road, but we still have a way to go.

The U.S. trade deficit is on the way back up, we have a major international trade negotiation underway, and the provisions of the Omnibus Trade Act will come into play in the next few

months. In short, trade is on the way back to the front-burner.

And, once confirmed, Mrs. Hills and her staff will confront a monumental challenge; the challenge of developing and implementing—perhaps for the first time—a truly comprehensive trade strategy for the United States.

As I see it, this comprehensive trade policy should include at least three elements: First, a comprehensive trade negotiating strategy for the United States; second, a commitment to fulfill the requirements of the Omnibus Trade Act; and third, a plan for addressing some of the major trade policy challenges on the horizon, such as Europe 1992.

Perhaps the most important element of this trade policy is a trade negotiating strategy. The only way to liberalize trade is to conclude multilateral or bilateral trade agreements which obligate nations to reduce trade barriers.

The United States must devote considerable time and resources to this task. We have a major GATT round underway, and are in the process of implementing the United States-Canada Free-Trade Agreements.

Within the next few months, the President—with help from Mrs. Hills—must evaluate the prospects of the current GATT round, and decide whether to pursue bilateral trade agreements with some of our major trading partners, like Japan and Mexico.

Mrs. Hills will also be responsible for implementing many provisions of the Trade Act. Over the next few months, the Telecommunications, Intellectural Property, and "Super-301" provisions of the Trade Act take effect.

I attach particular importance of the Super-301 provision. This provision is the heart of the Trade Act. It was written to address the problem created by nations, like Japan, Korea, and Taiwan, that maintain an extensive array of trade barriers. The provision requires USTR to designate the priority nations and priority trade barriers that USTR will concentrate upon. USTR is then obligated to begin negotiations under section 301 to open these markets.

Obviously, it will be politically difficult to target some nations—especially Japan—as priority nations under super 301. Certainly, there will be those at the State Department and elsewhere within the administration that would prefer to look the other way for political reasons.

But the letter and intent of the law are clear. Opening the markets of nations, like Japan, Korea, and Taiwan, is the most difficult and persistent trade policy challenge that we face. I expect this administration to have a comprehensive strategy for addressing this challenge in place by the super 301 deadline of May 30, if not before.

In the case of Japan, I believe that a super 301 negotiation with Japan should be used as a springboard to open a broad economic discussion with Japan with goal of establishing a broad agreement on economic and trade policy.

Trade negotiations and task of implementing the Trade Act will put significant demands on USTR resources, but USTR must still devote some resources to addressing the trade policy problems on the horizon. Foremost among them is Europe 1992.

Over the last few months, I have met with a number of business and political leaders regarding the European Communities' plan to eliminate all internal trade barriers by 1992.

I am convinced the Europe 1992 could be a boon to the United States. But I am also convinced that United States interests could suffer during the internal negotiations among European Community member nations leading up to 1992. With many European businesses under great pressure from increased intra-EC competition, there will be a great temptation to raise new trade barriers against imports from outside the EC.

We cannot allow ourselves to be distracted by other events. We must devote time and resources to carefully monitoring EC 1992, anticipating problems, and developing a strategy for responding to those problems.

The Congress expects a great deal from Mrs. Hills. In short, we expect her to develop, in consultation with us, a national trade strategy.

I believe Carla Hills is up to the task. She is a tough negotiator with an excellent reputation. President Bush has made an excellent choice.

I wish her the best of luck, and strongly urge my colleagues to vote to confirm her as the next United States Trade Representative.

Mr. HOLLINGS. Mr. President, today we will be voting on the nomination of Mrs. Carla Hills to be the U.S. Trade Representative. When Mrs. Hills was nominated by the President, questions were raised about conflicts of interest she and her husband might have in the discharge of her duties as U.S. Trade Representative. Mrs. Hills was courteous enough to visit with me a couple of weeks ago. We had an excellent discussion and in the course of that talk, Mrs. Hills assured me that there would be no conflict, either with her prior representation of foreign clients or with her husband's business activities. It is my understanding that she has said the same thing to the Finance Committee in the course of her confirmation hearings. She said she has removed all actual or apparent conflicts of interest with her new position. She has also said that her husband has agreed to terminate all of his business affiliations and investments that could create a conflict of interest with her potential job as USTR.

During the course of my meeting with Mrs. Hills, I discussed the necessity of strong enforcement of our trade laws. Mrs. Hills agreed with me that this was vitally important. She further assured me that she will vigorously negotiate and enforce our bilateral textile and apparel agreements. This is especially important because in 1989, 15 of our 41 bilaterals must be renewed.

With these assurances, I will be pleased to vote for Mrs. Hills' confirmation.

Mr. CHAFEE. Mr. President, I am pleased to speak today in support of the nomination of Carla A. Hills to be the U.S. Trade Representative.

Each one of us shares an understanding that one of the most critical issues facing the economy and security of the United States is international trade and investment. We must be prepared to address a number of important international economic challenges in the weeks and months ahead. One of the most important challenges facing the United States, in general, and the U.S. Trade Representative, in particular, is the Uruguay round of multilateral negotiations on the General Agreement on Tariffs and Trade.

Carla Hills possesses the broad understanding of economic and social issues and of the importance of trade and investment policy that are necessary for working to safeguard our Nation's economic and security interests. In addition, she has the leadership ability necessary to build an excellent staff within the Office of the U.S. Trade Representative and to gain domestic and international respect and confidence that are necessary to effectively negotiate on international trade and investment.

We are currently involved in some very important and sensitive negotiations resulting from the mid-term review of the Uruguay round, and many challenges face the USTR during the next few months in this area. The Uruguay round of negotiations will establish the rules that govern trade in goods and services, investment opportunities, and intellectual property protection under which American businesses will operate through at least the end of this century.

I cannot stress enough the importance of developing a strong negotiating team to ensure that the Uruguay round is completed on time and that our interests are well served. We must also have this team in place to address the challenges our country will face during the next 4 years as the Europeans move toward completing their 1992 initiative.

In view of the important issues which must be addressed in the near future, I urge my colleagues to approve the nomination Carla Hills.

Thank you, Mr. President. I yield the floor.

Mr. BYRD. Mr. President, I am pleased to join the distinguished chairman of the Senate Finance Committee, Mr. BENTSEN, in supporting the nomination of Ms. Carla Hills as the U.S. Trade Representative. The Senate worked hard and long, under

Mr. BENTSEN's leadership, during the 100th Congress to enact a sweeping new trade law, which included broader authority for the Office of the Trade Representative. The distinguished minority leader, Mr. DOLE, and myself, along with Senators DANFORTH and RIEGLE, offered an amendment to that bill, known as the "Super 301" provision, which gives the Trade Representative new tools to identify countries which unfairly discriminate against U.S. products, through formal and/or informal barriers to markets. After a period of time to negotiate the removal of such barriers, evidenced by the appropriate increase in market shares for the products identified by the Trade Representative, retaliatory action is required to be initiated to the extent that the resolution of the problem is not satisfactory. The intent of the provision is to remove unfairness from the playing field of international commerce, not to give any undeserved advantage to American companies.

I am very pleased that Ms. Hills testified before the Senate Finance Committee, in her confirmation hearing, that she would use all of the tools under the Omnibus Trade and Competitiveness Act, that she would be the USTR with a "crowbar," if necessary, and initiate unilateral retaliatory action. We hope that such action with a crowbar will not be necessary, but if it is, I certainly expect it to be taken.

Mr. President, the trade statistics continue to be unacceptable and adverse to the United States. As reported in the Post of this past Sunday, January 29, 1989, the "* * * export-driven improvement in the massive U.S. trade deficit, which started late in 1987, is stalled," and many experts fear "is likely to remain at more than $100 billion in the foreseeable future," and that "once again trade will drag down the U.S. economy."

The trade deficit situation cannot be acceptable as a permanent feature of the international economic balance. Unfairness is, of course, not the only problem facing us. We as a nation need to strengthen our trading skills, our aggressiveness, and our basic competitiveness. We need to redouble our efforts in advance technology development and to take a good look at the strength of our industrial base. As Ms. Hills points out in her statement to the committee, we need to save more and consume less. If there are appropriate ways for the public sector to help U.S. industry that are directly related to our national security, such as in computers, in aircraft, and machine tools, and in the era of superconductivity, for instance, we should act decisively.

Ms. Hills lays out the tough problems on the United States trade agenda, in our relations with both Europe and Japan, in particular, and she states her intention to work closely with the Congress and its oversight committees to meet these challenges.

We expect the Office of the USTR to be decisive, to make hard decisions when necessary, and in return, that office should know that we in the Senate will provide the support and the backing to make the hard decisions stick. I look forward to a new vigor and to close consultation and cooperation with Ms. Hills, as she assumes her new responsibilities and exercises the tools that have been made available by the Congress in the exercise of her responsibilities.

Mr. SPECTER. Mr. President, I congratulate President Bush on his selection of Carla Hills, Esq., as U.S. Trade Representative, and I am pleased to express my support and vote for her confirmation today.

My confidence in Carla Hills' ability and integrity arises from having known and worked with her for many years, including mutual contacts from the Yale Law School from which we both graduated although she is many years younger than I.

She is well-qualified for the position as the U.S. Trade Representative, as reflected in her impressive list of accomplishments and experiences. Currently, she is comanaging partner of the Washington, DC, office of the law firm of Weil, Gotschal & Manges. Prior to this practice she served as Secretary of the U.S. Department of Housing and Urban Development during the Ford administration. She also served as Assistant Attorney General for the Civil Division of the U.S. Department of Justice during the Ford administration for 2 years.

Carla Hills' qualifications extend well beyond these I have mentioned. Time magazine, for example, recognized her unique qualifications and named her as 1 of the 10 "Women of the Year" in 1976. Her biography reflects that she also cofounded a law firm in which she was a partner for 12 years, taught as an adjunct professor of law at the University of California at Los Angeles, edited and coauthored the Antitrust Adviser in 1971, and served in numerous professional associations, including as president of both the Federal Bar Association and the Women Lawyers Association in Los Angeles. These experiences, in addition to her service on the boards of many major corporations and as a trustee of many respected institutions, including the Brookings Institution, attest to her ability to serve in her new capacity as the U.S. Trade Representative.

This position as the U.S. Trade Representative is especially critical at this point in the ongoing GATT negotiations. Although important agreements were reached at the Montreal midterm review last December, which was held to assess the progress of the Uruguay round and to outline the objectives for the remaining 2 years of the round, we still have many goals to accomplish. The office of the U.S. Trade Representative has stated that disciplining international agriculture and including under the GATT adequate intellectual property standards and effective enforcement are critical elements to the success of the Uruguay round. I am confident that Carla Hills will be a tough negotiator who will accomplish much in promoting the trade interests of the United States and assuring that free trade be fair trade.

I support the nomination of Mrs. Hills to this post. If confirmed by the Senate, as I am sure she will be, I have every confidence that she will perform the new duties with exceptional skill, as she has in the other positions she has held in the past.

Mr. DURENBERGER. Mr. President, I rise to offer my strong support for the nomination of Mrs. Carla Hills to be U.S. Trade Representative [USTR]. I believe last week's 18-0 vote in the Senate Finance Committee endorsing Mrs. Hills' nomination reflects the committee members' confidence that she will vigorously enforce our trade laws and will serve as a skilled negotiator with our trading partners in the critical trade negotiations that lie ahead.

Mr. President, the United States stands at an important crossroads in its trading relations with the rest of the world. Ever since the end of the Second World War, the United States has been the world's most open market. While this has been of great benefit to the American economy, our open market has also served as the catalyst for unprecedented economic growth in all corners of the globe.

However, as many of our trading partners' economies have developed over the past 43 years, trade practices have evolved which have prevented American industries, especially agriculture, high technology, and services, from gaining reciprocal access to export markets. While such practices may have been tolerable when many of these countries were in their early development stages, they no longer are acceptable.

In the next few years, the United States will be working with its trading partners at the Uruguay round of the GATT to eliminate most of these unfair barriers and to end unfair government subsidies. I believe that if the world trading system is going to continue to expand; if unfair trading practices are to be eliminated, and if protectionism is going to be stifled, the Uruguay round must be successful. And it will be the responsibility of Mrs. Hills and her staff to ensure that American interests will be best represented at these negotiations.

I do not think that anyone would suggest that Mrs. Hills faces an easy task. Yet I am confident that her excellent sense of judgment and her skills as a negotiator will serve her well in the difficult negotiations that lie ahead. In her confirmation hearings she indicated that her No. 1 priority will be to "pry open" foreign markets. She does not seek an unfair ad-

vantage for American industry; instead she will work to achieve a level playing field of international trade. That is the goal that all of us sought to achieve when we passed the Omnibus Trade Act, and I am sure that Mrs. Hills will do her best to achieve that result.

Mr. President, in succeeding Clayton Yeutter as USTR, Mrs. Hills follows a man who has earned the respect of Members on both sides of the aisle for his diligence and excellent judgment in dealing with international trade issues. I am sure that Mrs. Hills will carry on the excellent tradition that has been established by such former Special Trade Representatives as Clayton Yeutter, Bob Strauss, and Bill Brock.

I urge my colleagues to strongly support Mrs. Hills' nomination.

Mr. DOLE. Mr. President, I am pleased to support the nomination of Carla Hills for the important position of U.S. Trade Representative.

Mrs. Hills is well known to us. She has served in the Federal Government as a distinguished Secretary of the Department of Housing and Urban Development and as the Assistant Attorney General, Civil Division, in the Department of Justice. In both cases, she was only the third woman to hold such a position.

More importantly, since returning to the private practice of law, she has continued to volunteer her services in the public interest, serving on President Reagan's Blue Ribbon Commission on Defense Management and as Vice Chairman of his Commission on Housing. In addition, her positions on the boards of directors of several U.S. multinational corporations have given her firsthand experience with the critical issue of U.S. competitiveness in world markets and with the impact of Federal trade policy on the success of our exporting businesses. Such broad experience is essential in anyone who is to undertake the difficult task of negotiating on behalf of our agricultural and industrial producers to ensure that they are given a fair change.

When Mrs. Hills appeared before the Senate Finance Committee last week, I submitted tough questions designed to determine her commitment to defending U.S. interests vigorously both in negotiations and, where warranted, through unilateral action. Her responses indicate that she will be a positive force for free and fair trade, but a tough destroyer of trade barriers worldwide. Her extensive experience both in and out of government has given her the rare ability to judge when to negotiate and when to insist. Following her appearance, the Finance Committee voted unanimously to recommend the confirmation of Carla Hills as the U.S. Trade Representative.

The Senate has just successfully confirmed Richard Darman to head the Office of Management and Budget so that he can begin immediately to reduce our budget deficit. I hope that we can act as promptly on the nomination of Carla Hills so that she can get to work on the other deficit.

I believe that Mrs. Hills will make an outstanding contribution as our Trade Representative, and I look forward to working with her in the future.

The PRESIDING OFFICER. The time under the control of Senator BENTSEN has expired.

Mr. DANFORTH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair will advise the Senator from Missouri that there are approximately 4 minutes and 25 seconds remaining under his control.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF COMMERCE

NOMINATION OF ROBERT ADAM MOSBACHER, OF TEXAS, TO BE SECRETARY OF COMMERCE

The PRESIDING OFFICER. Under the previous order, the Senate shall proceed now to the consideration of Robert Adam Mosbacher of Texas, to be the Secretary of Commerce. The clerk will report the nomination.

The legislative clerk read as follows:

The nomination of Robert Adam Mosbacher of Texas, to be Secretary of Commerce.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, on behalf of the Committee on Commerce, Science, and Transportation, I am happy to report that by unanimous vote we have favorably reported the nomination of Robert A. Mosbacher to be the Secretary of Commerce.

Right to the point, Madam President, I find him to be an outstanding nominee. We discussed all the particular items that come before the Commerce Department, which has a many-faceted responsibility.

Mr. Mosbacher is a well-respected and quite successful businessman. He is a former vice chairman of the American Business Conference and has been active in oil industry groups and charities. He has long been a close friend and adviser to President Bush.

Although he has never held a Government post, his many years in business have given him firsthand experience in understanding and meeting the challenges that face American industry. During Mr. Mosbacher's confirmation hearing before our committee, I was impressed by both his intelligence and his determination to deal with the urgent issue now before the Commerce Department—issues such as foreign trade barriers, declining U.S. leadership in technology, and the pollution choking our coasts and oceans.

All too often in the past, the Department of Commerce has not served as the strong, active advocate of American business and competitiveness that it should be. I belive that if Robert Mosbacher builds on the solid accomplishments of outgoing Secretary Bill Verity, then he has a historic opportunity to strengthen the Department's performance and to become an outstanding Secretary of Commerce.

Clearly, now is the time to act to preserve and enhance our industrial capacity and our world technological leadership. We need to recognize the realities of world trade and face some of the obvious facts about doing business in this new global marketplace. And fact No. 1 is that we do not have free trade. We have been in a trade war for years, and our Government has refused to get in there and compete. We must start competing. We must begin enforcing some of the trade laws already on our books. We must recognize that Government can and must have a role.

The Secretary of Commerce can be a vital player in the administration on these and many other issues. I am confident that Mr. Mosbacher will be such a player.

Madam President, before closing I want to discuss one other subject. The public interest group Common Cause has objected to Mr. Mosbacher's confirmation. They allege no illegality on his part, but they do not like the fact that he has raised large amounts of so-called soft money for the Republican Party.

I agree with Common Cause on one point: the campaign finance laws need reform. To that end, I have proposed a constitutional amendment to give Congress the legal authority to reasonably regulate political contributions and spending.

But I do not agree with Common Cause about Mr. Mosbacher. The question before the Senate is whether he is qualified by background and character to be Secretary of Commerce. Common Cause's action has raised the question of whether Mr. Mosbacher has done anything illegal or improper as a political fundraiser. Mr. President, he has not. I may not like the current campaign finance laws, but all of the evidence before the Commerce Committee suggests that Mr. Mosbacher has operated entirely within the law. Both major parties have raised large amounts of soft money, and current rules neither limit the size of soft money contributions nor require political parties to disclose the names of their contributors. I applaud both parties for voluntarily releasing names, but I repeat that the parties are not legally required to do so.

I was pleased to offer Common Cause an opportunity to testify at the Mosbacher hearing, but I cannot agree to delaying the nominee's confirmation when it is clear that he followed existing law. The fault regarding campaign finance laws lies with Congress, not Mr. Mosbacher.

In my judgment, Senators should focus on Mr. Mosbacher's background and qualifications as an individual. I believe that when they do, they will agree with the Commerce Committee that Robert Mosbacher should be confirmed as Secretary of Commerce.

Mr. Mosbacher will face many issues at the Department of Commerce.

Primarily, with respect to trade, it has been put into the back corner, within our Commerce Department. I say that advisedly, because our own Congress has done it, and our own committee, to some extent, with the trend in past years whereby we were the Committee of Interstate and Foreign Commerce. Then we were the Committee of Foreign Commerce. Now we have cut out much of the committee's traditional role in trade, and we have got commerce, science, and transportation. Until I took over, in the last Congress, we didn't even have a Subcommittee on Trade.

Problems have resulted. Today, we find, No. 1, that in case of the dumping laws, under the Commerce Department's International Trade Administration, that the industry of America is deterred from filing a dumping case because they have to provide all the proprietary information of their particular technology.

So the question is then, to them: Shall we reveal all our technology, just to stop this one dumping case? Or, is it to our monetary advantage to let them go ahead and continue because we still have the product in the main.

Second, with respect to the law regarding a related party, we allow the foreign importer to also factor in the service, the sales and promotional and salary costs to the sale of a particular commodity in trying to determine the price here in the United States as compared to that, let us say, back in Tokyo. And, on that score, of course, if you sell an item for $100 in Tokyo, you can move it into the American market at $80 or $85, and still add on all of these promotional and sales costs, bring it up to $100, and not be liable for dumping. That is something peculiar to the United States and our own Department of Commerce. That is not the case with our trading partners.

I have discussed that with Mr. Mosbacher.

Specifically with respect to the National Oceanic and Atmospheric Administration there has been diminished administration interest, over the past 10 years, in the oceans. We in Congress have tried our best to speak out on this. I am confident, now, that we have Mr. Mosbacher's attention with respect to oceans issues and coastal zone management. He has been very active in the State of Texas with respect to the oceans. He is a good sailor himself. He knows the value of the environment and the coastal zone area, and that they should be developed in a judicious fashion. He is very keen on the oceans programs, and I am confident that we will have an outstanding administrator, in Mr. Mosbacher.

Additionally, with respect to some of the other particular subjects, there is the chance, now, for the Department of Commerce to lead with respect to exports and with respect to the domestic transfer and commercialization of our technology.

With respect to our exports, he is very much interested in enhancing this office, and also in the development itself, and transfer of technology. To the credit of the last Congress, under the helpful leadership of my ranking colleague on the other side, Senator DANFORTH, the Commerce Committee included in its part of the omnibus trade bill a provision reorganizing the Bureau of Standards into the Institute of Standards and Technology.

We also have provided for the appointment of an Under Secretary of Technology. We also authorized legislation of some 12 technology transfer centers at campuses around America. And under the leadership of Secretary Verity, we have already announced three.

These developments, then, take the Department of Commerce not only into the position of sales agent, but also of enhancing production. We find that we must take a note from our successful agricultural programs years back. They put in, at the university campuses, the regional research centers, the extension services, the experimental stations. Tomorrow morning, if I wanted to plant a victory garden, they would send a farm agent out right here in the District of Columbia.

It is succeeding, we are taking a page from Agriculture's book in this regard, and I found Mr. Mosbacher well briefed on this particular score. Otherwise, he has a good feel, rather than a resentment toward tourism and travel programs; he has a good feel for the value of the U.S. Travel and Tourism Administration. It is only a $13 million program reaping some $27 billion in foriegn tourism in the United States of America. And he, like I, believes that—if we can under the constraints of the deficit and debt—we ought to be doubling that and putting in a greater effort. Because it pays off for every bit of that particular investment.

I want to further discuss only one thing, Madam President, and that has to do with the listing of campaign contributions. Mr. Mosbacher is a close friend of President Bush and has handled some of his financing in the campaigns. In campaigns on both sides of the aisle, Republican and Democrat in America, we have had what they call soft money, namely not direct contributions to the candidates themselves, but corporate and individual contributions in excessive amounts to the different parties, Republican and Democratic, or to the entities that were running similar campaigns in behalf of the candidates.

Those particular contributors were not publicly listed at the time. Our friends from Common Cause asked that they be made public. Mr. Mosbacher has now given what I thought was a complete list. Common Cause now comes back and says, "Well, there are certain corporate contributions still unaccounted for." Whether or not Mr. Mosbacher does that is not of concern to me in that he has obeyed my law, and if there is a deficiency or delict or lack, it is us in Congress and the laws we write. I ought to buy a mirror and jump on me for not providing improved campaign finance laws.

I do not believe in a fellow obeying the law and then me coming up and deriding him, rebuking him for not doing what some other organization wants. Common Cause's particular concern is with the Congress. I have asked them to be a little bit more evenhanded. When we had my distinguished colleague from Texas, Senator BENTSEN come in they did not raise any question, when he was to be sworn in as Senator, about what was the soft money during the Dukakis-Bentsen campaign. I have not asked the Democrats to list it. Why the Republicans?

I think this is a peripheral, ancillary issue that should be brought up under the aegis of campaign reform financing. I do have a bill to be introduced in the morning. It will be sponsored by myself and Senator SPECTER in a bipartisan fashion with the cosponsors we had last time for a constitutional amendment to allow Congress to control or otherwise regulate expenditures in Federal elections. I think in this fashion we will get back to limits as intended to be established under the 1973 law and do exactly what we had hoped to have been done then.

But that peripheral item should not have been brought, I believe, into this man's nomination. Yet he has responded as best he can, as I understand it now, and I am confident, knowing him from these particular meetings and studying his background and watching him handle himself at our hearing before the Commerce Committee, Senators will find that Mr. Mosbacher believes in the integrity of the election process, he believes in government in the sunshine, and he also believes in adhering to the law.

I could well imagine if I had been in a similar state and was asked at the time, "Do I have to be listed?" and I would say, "No, you don't have to be listed under the law," then at a particular appointment time saying, "Wait a moment. Why are you not listed?" He is constrained between the loyalty he made in the solicitations and the loyalty that he would like to

have for integrity regarding campaign laws.

I am confident he would go along with my proposed constitutional amendment and with Congress putting in the provisions that Common Cause would seek.

So that having been said, I am delighted to support his nomination enthusiastically, subject to his commitment to respond to requests to appear and testify before any duly constituted committee of the Senate, and I yield to my colleague, Senator DANFORTH.

Mr. DANFORTH. Madam President, I begin by expressing my appreciation to our Chairman, Senator HOLLINGS, for the speedy and skillful job he had done in bringing the nominations of both Robert Mosbacher and Samuel Skinner to the floor of the Senate. He has acted in the fashion to which we have become accustomed. He has done an excellent job with both of these nominations.

Madam President, if I could describe the perfect credentials for a Secretary of Commerce, I would describe Robert Mosbacher's credentials. The ideal candidate for Secretary of Commerce would be a person who is experienced in the world of commerce, somebody who has a broad, deep experience in business, somebody who has been a successful person in business. That is Robert Mosbacher. He has been very successful in business. He has been successful in the energy business, which has been a tough business recently in his home State of Texas.

If I were describing a Secretary of Commerce, I would describe somebody who knows his way around politics, and again that is Bob Mosbacher. He understands politics. He has been a participant in the world of politics. He knows how the political world works.

Finally and ideally—and this would be somebody who would be very hard to find in any administration—I would want a Secretary of Commerce who has the ear of the President of the United States in a very special way. Some departments of our Government do not need any special advocate with the President because the matters before those departments are so pressing that the President must take them up. Other departments require a somewhat stronger voice from Cabinet members. Bob Mosbacher, through his long-term, close, personal relationship with the President of the United States will bring to the Commerce Department a person who can communicate the concerns of his Department to the President and, more than that, a person who can be an effective advocate for American business in the White House. I think Bob Mosbacher is central casting's answer to the ideal Secretary of Commerce.

I have had the opportunity to visit with him about his nomination. We had the chance to talk about a wide range of issues. I believe that he is a person who is well versed in the issues and a person who understands the priorities that face the businesses of our country and their dealings with the world around us.

Secretary-designate Mosbacher and I talked about some specific sectors of our economy. For example, how can it be that the United States of America had a huge surplus in telecommunications trade just 5 years ago, a multibillion dollar surplus in telecommunications, and that surplus has in 5 years been transformed into a deficit?

Telecommunications is a matter that is specifically within the jurisdiction of the Department of Commerce. There is an Assistant Secretary of Commerce for Communications. The NTIA is a part of the Commerce Department, and Secretary Mosbacher understands the difficulty, the problems, and the challenges of the telecommunications industry.

I believe that he will analyze those problems, and be an advocate for the kinds of policies that will bring some light to the future of American telecommunications. Similar situated is the aerospace industry—America is the premier producer of aircraft in the world. Yet, because of the trade practices of friendly countries around the world, the aerospace industry has not had the access to foreign markets that we would expect. The subsidy of the Airbus by European governments is a good example of this problem. The FSX, the fighter aircraft agreement with Japan—these are examples of trade practices inhibiting a major sector, a very promising sector of our economy. Again, the Commerce Department has a special interest in that section.

Similarly, in high technology much publicity has been given to the fact that in the area of semiconductors, the United States has lost its ability to compete. Why is this the case? I see in Bob Mosbacher a Secretary of Commerce who can focus on some of these sectors and who can do so in a very broad way.

So many of the efforts that we have in the Federal Government take a fraction of an industry's problem and deal with that fraction. The Commerce Department has the capability of looking at an entire sector of the economy, in dealing with that sector, and fashioning broad solutions to the problems. Having spoken with Mr. Mosbacher, I can tell the Senate that he understands both the role of his Department and the problems of American business.

He has spoken specifically about the Foreign Commercial Service and the need to have a strong, active, and aggressive Foreign Commercial Service promoting American products and services in the world market. Again, this can be very helpful in improving our position in international trade.

Because of his understanding of the issues, because of his own success in the world of business, because of his political savvy, and because of his personal relationship with the President of the United States, I cannot imagine a better nominee for Secretary of Commerce than Bob Mosbacher. And I am delighted to support his nomination.

Mr. HOLLINGS. Mr. President, to the distinguished Senator from Montana I yield such time as he may need.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Montana is recognized.

Mr. BURNS. I thank the Senator very much. Mr. President, thank you very much. I appreciate this.

I rise today in support of Robert A. Mosbacher, President Bush's nominee for the next Secretary of Commerce. I met with Mr. Mosbacher in my office, and we had quite a conversation there on issues that we are faced with in the West, and especially in our own State of Montana, expecially transportation where we have to deal with a lot of assets. His answers display the kind of sensitivity that I would expect from anybody who is going into this position. He would address the problems of westerners, and I would expect that of any Secretary of Commerce.

Mr. Mosbacher was forthright in his appearance before the Committee on Commerce, Science, and Transporation. No one could ask for more. If he did not know the answer, he surely knew the resource in which to find the answer.

I believe he will serve President Bush, this administration, and this Congress with distinction, and will measurably improve the quality of services offered by the Department of Commerce.

Mr. Mosbacher has stated that he will be accessible to all Members of this Congress. And I will take his word for that. I, for one, intend to work closely with the Secretary of Commerce on many issues that come before Congress that affect us in Montana.

Mr. President, I intend to vote for Mr. Mosbacher's confirmation. I urge other Senators to do likewise.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, the distinguished nominee, Secretary-designate Mosbacher, was presented by our senior colleague, Senator BENTSEN, and by Senator GRAMM of Texas. I am momentarily waiting to see if either of them wish to speak now. I know it is sort of short notice the way we brought these nominations up. I ask unanimous consent that, if they do not arrive under the scheduled unanimous-consent time agreement, their statements be included in the RECORD as if delivered on the floor.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. HOLLINGS. Awaiting that, Mr. President, I want to speak on the point made by Senator DANFORTH, whom I am incidentally most grateful to. He has been chairman of our com-

mittee. He understands it. It was he who facilitated, along with us and all in the committee working together, which in all candor was a very easy job with Robert Mosbacher.

On the matter of telecommunications, it is particularly nettling to this Senator as chairman of the Commerce Committee that I cannot always get the attention of the Commerce Committee on telecommunications and on high-definition television, where as a member of the Subcommittee on Defense Appropriations I can. I have $30 million over there in the Defense Department. We just had a wonderful time. We talked about the needs of communcations like we had a Commerce Committee meeting. But when we talked about it in Commerce, it was all blind. There was no chance for any moneys much less paying any sustained attention to it.

So this is the kind of thing that I talked with Secretary-designate Mosbacher about, that we give attention to our fundamental responsibilities because in a vacuum of this kind if we do not the other Departments are going to take over. That is bad. It is really a higgledly-piggledly, kind of catch-as-catch-can. We do a little bit on telecommunications with sematech. We come in under the proposition of developing superconductors. Now we are going into other communications, such as high-definition television technology.

We have limited time, and I want to yield to my senior colleague at this time.

Mr. THURMOND. Mr. President, I wish to thank my able colleague.

Mr. President, I rise today in strong support of the nomination of Robert A. Mosbacher by President Bush to be Secretary of Commerce.

Mr. Mosbacher is a distinguished individual, who is well qualified to be Secretary of Commerce. As chairman of the board of Mosbacher Energy Co., he has considerable business experience in the oil and gas industry. Regarding his formal education, he received a bachelor of science degree from Washington and Lee University in Virginia and attended the Choate School in Wallingford, CT. He also holds an honorary law degree from Washington and Lee University.

Apart from his business career, Mr. Mosbacher is involved in many civic, charitable, and professional organizations. He is a founding member and vice chairman of the American Business Conference, on the board of the Boys Clubs of America, and past president of the American Association of Petroleum Landmen. Most recently, he was the national finance chairman for President Bush's campaign.

If confirmed, and I am sure he will be, Mr. Mosbacher will have to grapple with a wide variety of issues regarding our huge trade deficit, the National Weather Service, the National Oceanic and Atmospheric Administration, tourism, and the 1990 Census. If the United States is to be truly competitive in the international trade arena, we must continue to develop and use new technology. In addition, we must open foreign markets to our products. In shaping our trade policy, I am sure that Mr. Mosbacher will respond to the needs of American industries, especially those like the textile industry that have been hard hit by massive foreign imports. I am sure that he will make a diligent effort to reduce the enormous trade deficit we currently face.

I strongly urge my colleagues to support this nomination, and feel that our Nation is fortunate to have a man of his broad business experience and outstanding qualifications to serve in the highly important position to which he has been appointed.

Mr. HOLLINGS. Mr. President, I yield such time as necessary to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Republican leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, I thank my colleague from South Carolina.

Mr. President, I rise in support of the nomination of Robert A. Mosbacher to be the new Secretary of Commerce under the Bush administration. As in the case of all of his nominations, President Bush has made an outstanding appointment in Bob Mosbacher for Commerce Secretary.

The United States is facing challenging times internationally. Our trade deficits reflect the fact that we are losing our competitive edge in world markets. These times will require leadership that will make a difference, and Bob Mosbacher is that man.

The New Secretary comes from the business world, where he has been a great success as chairman of the board of Mosbacher Energy Co., an independent oil and gas producer.

Perhaps most important, Bob Mosbacher is best known to be a world-class sailor—he won the 1971 World and North American Championships, as well as the Mallory Trophy and Southern Ocean Racing Championship.

I believe this qualifies him to be the next Secretary of Commerce—he knows how to navigate through challenging waters, and this experience will serve him well as he faces his new responsibilities during difficult times.

Further, he knows how to make a difference in the financial and business world. Not only has he built up a very successful business, but he was instrumental in the election of George Bush as our new President.

Mosbacher served as national finance chairman for the fund for America's future and for the George Bush for President committee.

His fundraising talents are legendary, but a lot of this success comes because he knows the players in the American business community first-hand. He also understands the importance of investment in research and development. Bob Mosbacher will take a long-term view of rebuilding our Nation's competitiveness.

Mr. President, I have great confidence that Bob Mosbacher is the right man at the right time to develop a strategy to eliminate our trade deficit and aggressively pursue policies that will expand our export markets. During his confirmation hearing, he promised to strongly, fairly and objectively enforce our antidumping and countervailing duty laws.

Most of all, Bob Mosbacher will see to it that our international trade relationships reflect a two-way street. The United States is clearly open for business, and we expect reciprocity and fair treatment from our active trading partners and major competitors.

I look forward to working with Bob Mosbacher as Secretary of Commerce and encourage all of my colleagues to support this nomination.

I have known Bob Mosbacher and known of his business interests and his political interests. It is a fact that he knows the system [as someone already expressed on the floor]. I know it better than some, because he was on the other side of a race I had an interest in last year. He is very effective, I learned. He certainly does a good job. I think he brings all that ability to the Cabinet.

He is a businessman. If there is any place we need somebody with sharp business skills, it is in the Commerce Department. So I am very pleased to support this nomination.

As I said, I have known Bob Mosbacher, for a long, long time, and I have known him as a friend. Unless I am mistaken, I believe he will have a strong vote of support.

I thank both Senator HOLLINGS and Senator DANFORTH for their expeditious handling of this nomination. It seems to me that it is important to have not only Cabinet officers confirmed as quickly as possible, but also subcabinet and others, so that we can get on with the work that needs to be done. We need to give the new administration some time, and I think progress is being made on nearly every front.

Mr. HATFIELD. Mr. President, today I am pleased to support Robert Mosbacher as Secretary of Commerce in the new Bush administration. Mr. Mosbacher's distinguished career uniquely qualifies him to hold this highly visible position in the President's Cabinet. As a longtime businessman and owner of his own company, Mr. Mosbacher will be prepared to deal with a host of trade-related issues including American productivity, foreign protectionism, the trade deficit, high technology and communications, and others.

With regard to a particular issue affecting my home State, I was pleased to learn that Mr. Mosbacher is considering reversing former Secretary Verity's decision not to establish regional

offices of the Bureau of Export Administration in Portland, OR, and the Boston, MA/Nashua, NH, area. In his response to a question submitted by Senator PACKWOOD during his confirmation hearing before the Commerce Committee, Mr. Mosbacher indicated that he would establish the offices providing adequate funding is available. While I am pleased with this positive development, I would like to point out that the statement of the managers in the fiscal year 1989 Commerce Appropriations Act provided the Department of Commerce with $775,000 for the establishment of the two regional offices. Accordingly, I would expect Mr. Mosbacher to proceed in carrying out the intent of Congress.

Mr. President, the nomination of Mr. Mosbacher is another example of President Bush's ability to select the most qualified and capable individuals to carry out the new administration's policies. I look forward to working with Secretary Mosbacher in the coming months, and am pleased to be able to vote for his confirmation as Secretary of Commerce.

Mr. SPECTER. Mr. President, I congratulate President Bush on his selection of Robert A. Mosbacher as Secretary of the U.S. Department of Commerce, and I am pleased to express my support and vote for his confirmation today.

My confidence in Bob Mosbacher's ability and integrity arises from having known and worked with him for approximately 9 years, on political, public policy, and business issues.

He is well-qualified for the position as Secretary of Commerce, as reflected in his impressive list of accomplishments and experiences. Bob Mosbacher has had 40 years of experience in a moderate-sized family company that is principally engaged in the discovery and development of oil and gas in the United States and abroad. His personal familiarity with the risks and the opportunities of enterprise, in addition to his knowledge of the factors that enhance or deter investment and innovation, provide keen insight to lead the Commerce Department to spur American productivity and competitiveness.

A graduate of the Washington and Lee University, Bob Mosbacher has received many honors for his outstanding service, including his alma mater's honorary doctor of laws degree, the National Society to Prevent Blindness 1984 Man of Vision Award, the Texas Mid-Continent Oil and Gas Association Distinguished Service Award, the University of Texas Cancer Foundation's Distinguished Service Award, and the National Alliance of Businessmen's recognition of exemplary service.

This position as the Commerce Secretary is especially critical in many of the Nation's business matters, including international trade, economic growth, and technological advancement. The Commerce Department provides vital assistance to enhance the competitiveness of U.S. businesses in the world economy, works to prevent unfair foreign trade competition, assists the development of minority businesses, and supports research and development in the scientific, engineering, and technological areas. I am confident that Bob Mosbacher will be an effective leader in these important areas.

I support the nomination of Bob Mosbacher to this post. If confirmed by the Senate, as I am sure he will be, I have every confidence that he will perform the new duties with exceptional skills, as he has in the other positions he has held in the past.

Mr. BYRD. Mr. President, in selecting his Cabinet, President Bush has made some good choices.

Among those choices I number the President's designation of Robert A. Mosbacher to be his Secretary of Commerce.

A native of the Northeast and a graduate of Washington and Lee University in Virginia, Mr. Mosbacher has made his professional and business marks primarily in Texas. There he has labored successfully as an independent oil and natural gas producer—in energy-industry parlance, a wildcatter—and has won the admiration and respect of colleagues and competitors alike. In addition, Mr. Mosbacher serves on the boards of directors of Texas Commerce Bancshares and the New York Life Insurance Co., giving him an ongoing, overall perspective on national and international finance and commerce.

Moreover, Mr. Mosbacher has shared his time and interest with a wide number of civic and charitable organizations, and is a member of the boards of the Boys Clubs of America; the Aspen Institute for Humanistic Studies; the American Hospital in Paris; the Center for Strategic and International Studies at Georgetown University; the Texas Heart Institute; the Choate School in Walingford, CT; and the Woodrow Wilson International Center for Scholars.

Also, for many years, Robert Mosbacher has played an active and important role at the highest levels of national Republican Party organizing and finance, and evidence of the scope of his interests, as well as of his commitment to our country and of his patriotism.

Mr. President, I believe that Robert Mosbacher will make an outstanding Secretary of Commerce, especially at this time when we are working to enlarge our role in international trade, and I heartily look forward to his assuming that role in the President's Cabinet.

Mr. MATSUNAGA. Mr. President, I rise to speak in support of the nomination of Robert Mosbacher to be Secretary of Commerce. I believe that his success in the business world and broad knowledge of our economy form the basis for him to be an effective voice for America's commercial interests in the Cabinet.

In my view, the backbone of America's economy is its small business, the segment of the business world that provides most of the jobs and employment growth for our economy. I urge Mr. Mosbacher to make certain that the views of small businessmen and women across the country are both heard and taken into account when policy decisions are made at the Commerce Department.

The Commerce Department is one of the key agencies in our international trade police process and I hope that Mr. Mosbacher will work to strengthen its participation in such deliberations. At present, there is a staffing emergency in two critical foreign trade areas at the Commerce Department. The International Trade Administration currently is unable to fill many of its existing positions due to a shortage of funds. This funding shortfall means ITA has important positions vacant while at the same time talented employees are leaving ITA for other jobs because of promotion blockages. As a consequence, many agency employees are forced to cover two or three positions simultaneously. The net result is that the voice for business in our trade negotiations is less weighty. Given the visibility that Congress has placed on international trade, these are vacancies we can ill-afford.

A second critical funding problem concerns the Foreign Commercial Service. The Foreign Commercial Service is the frontline of America's export promotion activities around the globe. Those of us who favor the aggressive promotion of U.S. exports as a better solution to our trading problems than protectionism, view with alarm the current FCS funding crisis. At present, the United States has only 140 Americans overseas promoting U.S. exports. This is a ludicrous figure compared to any of our major trading partners. Countries such as Japan have thousands of employees working on export promotion with budgets many times that of FCS.

What is even more alarming is that the absolute size of the FCS is getting smaller, not larger. In fiscal year 1985, after the budgetary crunch had already commenced, FCS had close to 200 officers. Today only 140 of the remaining 153 FCS positions abroad are filled. I urge Mr. Mosbacher to make it a high priority to obtain the funds necessary to staff fully this important corps of officers. In addition, Mr. Mosbacher's goal should be to make the U.S. Foreign Commercial Service into an operation that is not just fully staffed, but second to none in the world for excellence in export promotion activities.

Mr. President, I believe that Mr. Mosbacher has the demonstrated ability to serve as an effective Secretary of Commerce. I am pleased to support his

nomination and urge my colleagues to do the same.

Mr. BENTSEN. Mr. President, I join with my colleagues on the Commerce Committee, Senator HOLLINGS and Senator DANFORTH, in support of the nomination of Robert Mosbacher to be Secretary of Commerce. I had the privilege of introducing Bob Mosbacher to the Commerce Committee and moving his nomination to be reported to the floor of the Senate. I did so because I have the utmost confidence in the man and his ability to preside over the Commerce Department.

I have known Bob Mosbacher for over 25 years. Much has been made over the fact of his Texas roots. Make no mistake about it. Bob Mosbacher is a Texan, but in fairness, and to allow others of my colleagues to share in his success story, I should mention that he was born in New York and attended college in Virginia. For the past 40 years, he has been an oil executive, and he has been a success at it.

But his present address and business acumen do not of themselves give us enough insight into why he is an excellent choice to be Secretary of Commerce. I think Bob Mosbacher will make a fine Commerce Secretary because he has far ranging international business experience.

Being a sailor himself, Bob Mosbacher has a keen appreciation for what it takes to have an effective National Oceanic and Atmospheric Administration. He also is aware of the acute competition in the world community in matters of new technology. I think that he welcomes that challenge because he is driven to excel and to promote excellence in others.

His experience in business means that he is no newcomer to the world of international transactions and the need for a visible and aggressive U.S. presence in the international business community, especially with the advent of new technologies such as robotics, superconductivity, biotechnology, and high definition television, to name only a few.

The Commerce Department plays a central role in helping our investors of these pioneering technologies bring them to market. I have confidence that Bob Mosbacher will be a strong voice at the Cabinet table to give these kind of issues the type of priority they deserve.

Mr. President, rarely does time and circumstance meet with the man so precisely. In this appointment, they have come together. Bob Mosbacher is a man of integrity, sound judgment, acute business acumen, and a willingness to serve his country. He exemplifies the kind of new activism, cooperative spirit, and imagination in government President Bush has promised the American people. I think that, in time, he will come to be regarded as one of our outstanding Secretaries of Commerce.

Mr. GORTON. Mr. President, I am pleased to rise today to support the confirmation of Robert A. Mosbacher to be the Secretary of Commerce. Last week, I had the opportunity to question and listen to Mr. Mosbacher's confirmation hearing before the Senate Commerce Committee. During his long career in the oil and gas industry, Mr. Mosbacher has shown himself to be a fine manager, which will serve him well as the Secretary of Commerce.

Mr. Mosbacher was questioned regarding his views on international trade, technology policy, fisheries issues and ocean and science policies. I was impressed with his commitment to support U.S. economic growth and international competitiveness. He repeatedly stressed his support for expanding overseas markets for American goods and services. I believe he will be a strong advocate for the exporting community. During his questioning, he acknowledged that U.S. trade policy needed to be better coordinated between the different agencies. Within the Commerce Department's jurisdiction, he pledged to work toward more efficient coordination of export expansion and promotion, national security controls, effective administration of unfair trade laws and the aggressive use of our Foreign Commercial Services offices.

The National Oceanic and Atmospheric Administration [NOAA] represents close to 50 percent of the Commerce Department's budget. It is responsible for the critical issues of weather forecasts, predicting global and environmental changes, and improving the quality of the coastal environment which is so important to the fishing industry. Yet, too often, the very important issues within NOAA's jurisdiction do not seem to receive the level of attention and support at the Secretary's level and within the administration that they should receive. As a member of the Commerce Committee, I expressed my desire to be consulted with regard to the selection of the new NOAA Administrator. I also stated my deep concern over the President Reagan's budget request which called for the slashing of the National Marine Fisheries Service budget from $175 million per year to only $99 million. Mr. Mosbacher has given me his commitment to be responsive on both of these issues.

In closing, let me just reiterate my strong support for Mr. Mosbacher's nomination and my desire to work with him on the critical issues within the Commerce Department's jurisdiction.

Mr. HOLLINGS. Mr. President, what time remains?

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired. The time remaining under the control of the Senator from Missouri is 9 minutes.

Mr. DANFORTH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

DEPARTMENT OF TRANSPORTATION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the nomination of Samuel K. Skinner to be Secretary of Transportation.

The clerk will report the nomination.

The assistant legislative clerk read the nomination of Samuel Knox Skinner, of Illinois, to be Secretary of Transportation.

Mr. HOLLINGS. Mr. President, today the Senate is considering the nomination of Samuel K. Skinner to be Secretary of Transportation. I am pleased to favorably recommend Mr. Skinner's confirmation based on my personal observations, as well as the unanimous recommendation of the Commerce Committee, which met earlier today and voted in favor of his confirmation.

I had not met Sam Skinner prior to his selection by President Bush to serve as the new Secretary of Transportation. However, since that time, I have had a number of opportunities to meet and talk with Mr. Skinner. We have had opportunities to discuss his background and his views regarding our Nation's transportation policy. I have also had a number of opportunities to discuss Mr. Skinner's nomination with individuals who have known and worked with him over the years, individuals who feel strongly that he has the potential to be an extremely effective Secretary of Transportation. Through this process, I have become convinced, as have my colleagues on the committee, that Sam Skinner is qualified to serve and should be confirmed by the Senate as the new Secretary of Transportation.

Support for any nominee for the position of Secretary of Transportation is not a decision that can be taken lightly. Given the breadth of responsibility within the Department of Transportation [DOT], this is a position which warrants careful examination. The challenges within the Department are numerous. The Secretary of DOT is charged with coordinating modal administrations with authority for aviation, motor and rail carriers, the maritime industry, passenger autos, mass transit, hazardous materials, and pipeline safety. The Department is also charged with supervising highway construction and is increasingly relied upon in the fight against drugs, through Coast Guard interdiction efforts. Competing demands and limited resources will pose a continuing challenge.

In my opinion, the members of the Commerce Committee have been thorough in examining Sam Skinner's qualifications to be Secretary of DOT. Mr. Skinner has been cooperative in

this effort, in meeting with members individually, in testifying before the Commerce Committee at the confirmation hearing held on February 25, and in responding to to an extensive series of pre- and post-hearing questions submitted by the committee and its members.

Mr. Skinner emerged from this process in a very favorable light. His candor is refreshing.

I would like to commend Mr. Skinner upfront for his work to resolve a question raised by the distinguished Senator from Ohio, Senator METZENBAUM, regarding certain of Mr. Skinner's actions as U.S. attorney for the northern district of Illinois. Mr. Skinner served as U.S. attorney from 1975 through July 1977, after having served within the office as an assistant U.S. attorney from 1968 to 1975. To the best of my knowledge, the questions raised by Senator METZENBAUM have been satisfactorily addressed by Mr. Skinner. However, I feel they need to be discussed on the floor in order to set the record straight. I am also hopeful that Mr. Skinner's efforts in seeking to resolve this matter may be instructive as to how he might address controversies that arise within the Department.

Senator METZENBAUM has been concerned for some time with the manner in which the artificial sweetener, NutraSweet, gained Federal approval. It is Senator METZENBAUM's strong conviction that NutraSweet gained approval without full consideration of its potential health impacts on the American public. As part of his extensive investigation into this matter, Senator METZENBAUM raised a question concerning actions taken by Mr. Skinner as a former U.S. attorney charged with handling a portion of this matter. Specifically, Senator METZENBAUM questioned Mr. Skinner's failure to convene a grand jury to investigate allegations raised by the U.S. Food and Drug Administration [FDA] concerning alleged fraudulent testing of Aspartame—more commonly known as NutraSweet—by its manufacturer, the G.D. Searle Co. Mr. Skinner subsequently accepted a partnership position with Sidley & Austin, the law firm which represented G.D. Searle when this matter was under investigation within the U.S. attorney's office. Senator METZENBAUM initially questioned whether Mr. Skinner's accepting a position with Sidley & Austin was in any way connected with Mr. Skinner's actions in the NutraSweet matter. After reviewing the record, I am convinced that these matters were not connected and, I believe, Senator METZENBAUM is also now convinced of this.

Let me review a few key events. The committee's record of this matter indicates that in April 1976, the FDA wrote to then-U.S. attorney Sam Skinner informing him of an FDA investigation into the alleged false reporting of testing data by the G.D. Searle Co., the manufacturer of Aspartame and Aldactone, another product at issue. After being contacted by the FDA, Mr. Skinner assigned the matter to assistant U.S. attorneys within his office, who involved themselves for some months in investigating the matter. In January 1977, the FDA formally requested that a grand jury be convened to investigate Searle.

In reviewing this with Mr. Skinner, Senator METZENBAUM questioned why Mr. Skinner did not submit the matter to a grand jury before the formal FDA request in January 1977. Mr. Skinner testified that he felt he handled this properly by assigning his staff to do background work prior to a formal FDA request and while the FDA continued to review this matter administratively. For his part, Senator METZENBAUM was concerned about this time period since a strong argument could be made that the statute of limitations on one of the alleged offenses would run out in October 1977, a period of only 9 months following the formal FDA grand jury request.

In addressing his actions in this matter, Mr. Skinner testified that on February 21, 1977, he first learned that he would not be reappointed U.S. attorney by President Carter. Shortly after that, several law firm approached him regarding the possibility of joining their firms. One of these was Sidley & Austin, the law firm representing G.D. Searle in regard to the NutraSweet investigation brought to the attention of the Chicago U.S. attorney's office by the FDA.

Mr. Skinner stated before our committee that immediately after his initial employment discussion with Sidley & Austin, he recused himself from the Searle matter so as to avoid any conflict of interest. In a memo dated March 8, 1977, Mr. Skinner addressed his recusal, assigned the matter to his assistants, including his first assistant, and indicated that the decision with respect to submitting the matter to a grand jury should await the arrival of his successor as U.S. attorney. However, it was to be 4 months until his successor, Mr. Thomas Sullivan, was sworn in. Senator METZENBAUM questioned whether this was as an inordinate delay, particularly in light of the statute of limitations issue. It was also 4 months after writing the letter of recusal that Sam Skinner became a partner at Sidley & Austin, a position which he has held since that time.

In responding to this matter, Mr. Skinner testified that in recusing himself from the Searle investigation he should have sent a copy of his recusal memo to the Justice Department in Washington and to the FDA. However, he did not do so for reasons which he attributes to a lack of familiarity with the recusal process.

In summary, Mr. Skinner testified before our committee that he probably made mistakes in regard to the recusal memo, by not sending a copy to Washington in accordance with Justice Department regulations and in stating within the recusal memo that a decision as to presenting the matter to a grand jury should await his successor's appointment within "several weeks." However, for his part, Mr. Skinner notes that he directed his assistants to do preliminary work during this time and that this matter continued to be handled within the U.S. attorney's office. He cites as authority for this a memorandum sent to him for informational purposes only in April of 1977, in which his First Assistant handling the matter stated that he would proceed with this case since it would be "inappropriate" to delay the decision on submitting the Searle matter to a grand jury and that in his opinion "a grand jury investigation should be undertaken at the earliest practicable time."

Finally, the record indicates that the ultimate decision as to whether or not to prosecute in the Searle matter—and no prosecution was ultimately undertaken—was made by Mr. Skinner's successor as U.S. attorney, Thomas Sullivan, a Carter administration appointee who came on board in July 1977. And, while the FDA stated that it would have reached a different conclusion in regard to prosecution, it is clear to me that it was Mr. Sullivan's decision not to prosecute in this matter. Sam Skinner was not involved in this decision.

To clarify this, I personally talked with Mr. Sullivan who stated that Mr. Skinner had absolutely nothing to do with the case whatever after Sullivan took over as U.S. attorney. It was Sullivan who ultimately ordered the investigation dropped in December 1978 following investigation because, in Sullivan's view, it was not a proper case to bring. There was insufficient evidence that Searle had committed any crime. Mr. Sullivan told me that Mr. Skinner had "absolutely and firmly nothing to do with the case." Furthermore, he considers Mr. Skinner to be a man of impeccable integrity who did not act improperly in any way.

I believe that in his lengthy discussions with Mr. Skinner, Senator METZENBAUM reached a similar conclusion regarding Mr. Skinner's integrity. In my opinion, the record is clear and it is not one that cause me to question either Mr. Skinner's integrity or his fitness to serve as Secretary of Transportation. To the contrary, Sam Skinner has demonstrated absolutely forthrightness in addressing this matter with Senator METZENBAUM, with me, and with members of the committee. And, while I know that Senator METZENBAUM has continuing concerns over the NutraSweet approval and investigation process, by addressing this matter directly, Mr. Skinner was able to resolve what otherwise would have been a lingering controversy. He is to be commended for this.

I have spent a considerable amount of time detailing events because I feel

it is necessary to set the record straight. However, I would like to conclude my remarks by discussing the task for which Mr. Skinner has now been nominated. From all appearances, Sam Skinner, is well suited for the duties of Secretary of Transportation.

Going to the Department of Transportation involves a great deal of responsibility since the Department has authority for a whole host of programs, including aviation, motor and rail carriers, the maritime industry, passenger autos, mass transit, hazardous materials, pipeline safety, Coast Guard. All these things Mr. Skinner spoke of in a knowledgeable fashion when he testified before the Commerce Committee.

On the matter of the Coast Guard, for years it has been sort of the stepchild in the Department because it originally did not vest in that particular Department. However, the Coast Guard handles itself extremely well, with limited personnel and a limited budget.

Yet squeaky wheel gets the grease in this political game in Washington. Since it was not squeaking, the Coast Guard has often been underfunded. In reality, we extend the constitutional limits or, let us say, jurisdiction of the United States, geographical limits, by one-third, some 13 years ago, when we extended the fisheries jurisdiction and thereafter by executive order of President Reagan, the economic zone to 200 miles. So immediately a one-third addition to the size of the United States was handed over to the jurisdiction and police responsibility of the Coast Guard. This additional responsibility must be addressed straightforward, including with the necessary resources.

We have given them less personnel than what they had 10 years ago. The first order of business last year was that they were cut $100 million, and we all know how the drug problem has exascerbated in the last several years. At our hearing, I wanted to make certain that Sam Skinner understood this particular problem, and he does. He is very knowledgeable on this score.

The distinguished Senator, my ranking member, who cooperated and helped lead the way throughout the entire process, went right through the matter of random drug and alcohol testing in public transportation with Mr. Skinner.

We all know from our experience that those engaged in public transportation are due and owing the highest degree of care under the law, not just ordinary care of a regular driver on the highways and/or any pilot, private pilot in the airways or otherwise.

In the legislation we introduced and that was adopted by the Senate in the last Congress, we wanted random drug testing for safety-sensitive transportation workers—the truck drivers, the airline pilots, the train conductors, trainmen and crews, and so forth, and not only on the matter of controlled drug substances but also on those uncontrolled. We particularly wanted to include liquor. However, in the rules issued the Department of Transportation, alcohol was not included. In our opinion that is a serious omission. Mr. Skinner assured us that he intends to address this problem and develop a meaningful policy dealing with the problem of alcoholism.

I have gone into aviation thoroughly, and I would say the majority of the questions by our colleagues on the committee dealt wtih aviation safety.

In the deregulation of the airline industry we did not mean to deregulate safety. Safety is an issue which must be given careful attention.

We must deal with problems like that which may have been a contributing factor in the recent Midlands crash in England, in which the cross wiring of engine and cargo fire warning and extenguishing systems may have been at issue. It is my understanding that the FAA is this afternoon putting out an order requiring that they go back to the planes already sold and have them inspected for this.

I welcome that action by Mr. McArter, the Administrator of the Federal Aviation Administration. Incidentally, I understand that he is leaving and Mr. Skinner will be receiving a new administrator in this particular regard.

So we will be going into that with the new Administrator. But Sam Skinner did not hesitate. He wants these inspections. He wants not only safety but he is aware, too, of the hub operation that brings about monopolistic practices. I am sure my distinguished senior colleague will be touching on that.

The maritime industry and hazardous materials transportation, were other issues that were gone into over an extensive hearing participated in by our entire membership.

I was also very pleased to have Mr. Skinner presented to the committee by both of our Senators, Senator DIXON and Senator SIMON and our leading Congressmen on the other side of the Capitol Mr. ROSTENKOWSKI, the chairman of our Ways and Means from Chicago, and the distinguished minority leader, Mr. MICHEL. They were all hardy in approbation, lavish in the praise, as the saying goes.

I am confident, Mr. DIXON, Mr. SIMON, Mr. LAUTENBERG, and others will also want to be heard today regarding this outstanding nominee.

The record has been clear insofar as Sam Skinner's outstanding tenure at the U.S. attorney's office is concerned. This tenure is appropriate to note since Mr. Skinner himself pointed out that his law enforcement background has relevance to duties he will undertake as Secretary, particularly in relation to Coast Guard drug interdiction efforts.

In addition, Sam Skinner comes to the Department of Transportation having served as chairman of the Regional Transportation Authority of Northeastern Illinois from 1984 until shortly after his selection by President Bush as Secretary-designate. In this role, Mr. Skinner oversaw the Nation's second-largest mass transit system, an experience that should suit him well in addressing transit and other issues within DOT.

Sam Skinner is also a licensed private airplane pilot and I am hopeful that this experience has also given him a strong base upon which he may make decisions relating to this critical industry, in terms of issues such as safety and infrastructure.

Let me conclude by stating that I have expressed some concerns about the policies that have been adopted in recent years by the administration and independent agencies in regard to deregulation. I have supported deregulation and will continue to do so where regulation is unnecessary and merely serves to create paperwork and feed the bureaucracy. However, deregulation does not mean no regulation. It does not mean ignoring congressional policies. Nor does it authorize agencies to proceed pell mell down the road pursuing only their own fanciful ideas that the best regulation is no regulation. I would like to think that we have seen enough of this and that, in the future, there will be an increasing interest by the executive branch in working with Congress to achieve common objectives. I would particularly like to think this will be true in the case of Sam Skinner and with a Department of Transportation administered by Sam Skinner.

In testifying before the Commerce Committee, Mr. Skinner stated that his first goal as Secretary would be to put into place a comprehensive departmental plan—a blueprint, if you will—for dealing with the Nation's transportation needs, looking at the strengths, weaknesses, and the synergy that exists between the various modes of transportation. I believe in and support his commitment to promoting a comprehensive transportation policy, just as I believe him when he says that it is his intention to work with Congress.

With this straightforward approach, and subject to his commitment to respond to requests to appear and testify before any duly constituted committee of the Senate, I would recommend that Mr. Skinner's nomination be confirmed. The members of the Senate Commerce Committee have unanimously recommended his confirmation.

Sam Skinner holds the potential to be a trusted member of the President's cabinet and a forceful Secretary of Transportation. I look forward to working with him in this capacity.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, like Senator HOLLINGS, I approached the

Skinner nomination with great care, read the views of many people who have worked with Sam Skinner over the years, listened to every word of his testimony before the Senate Commerce Committee, and came through the process believing that this is a singularly well qualified person to be Secretary of Transportation.

One thing that was remarkable about the hearing, which lasted about 2 or 3 hours, was the tone of the comments by Senators who participated in the hearing. The universal view, as far as I could ascertain it, was that here was a person who in appearing before the Senate Commerce Committee was an all star. His way of handling the committee and his way of responding to questions really set him apart from the ordinary, run-of-the-mill witness.

He is smart; he is responsive to questions; he is reasonable. He gives every indication of being fair minded.

As I looked through the background report on Sam Skinner, I saw that person after person who had known him over the years testified to his tremendous ability and personal character.

Here is a person with an outstanding reputation in every way. He is a lawyer by training. He served for a number of years as assistant U.S. attorney for the northern district of Illinois. He served for 2 years as U.S. attorney for the northern district of Illinois. He was vice-chairman of the President's Commission on Organized Crime. He has practiced law since 1977 with one of the great law firms of our country, the Chicago-based firm of Sidley & Austin.

He has also served as the chairman of the regional transportation authority of northeastern Illinois, which is the Nation's second largest mass transportation system. He is a private pilot with a personal interest in the operation of our airports.

During the course of the hearings, he expressed concern about the use of alcohol and drugs in public transportation. He indicated a keen awareness of that problem. He was very well versed on the problem of increased concentration in the American aviation industry, particularly the problem of concentration at our hubs.

I think the most impressive single thing about the testimony of Sam Skinner was his expressed desire to produce an overall national plan with respect to transportation. As I said in my remarks about Mr. Mosbacher, we in the Government suffer from a propensity to look at problems on a piecemeal basis, to deal with emergencies as they crop up, to put out fires as they arise. It is very rare that we in Government can take a long view of the overall needs of the country.

Mr. Skinner has stated in his testimony and he has stated privately before his confirmation hearing, the one thing he wants to do is take the long view of America's overall transportation needs and formulate a plan that deals with such matters as revitalizing our infrastructure and the challenges of transportation deregulation.

He is a person of breadth, a person of depth, and a person of skill and great character. I think that he is a 10 strike as far as the Bush administration is concerned.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield 4 minutes to the distinguished Senator from Illinois.

I only have 12 minutes left. I am going to try to fit in my colleagues as they come to the floor and maybe borrow a little time.

The PRESIDING OFFICER. The Senator from Illinois, Mr. SIMON, is recognized for 4 minutes.

Mr. SIMON. I thank my colleague from South Carolina and I thank you, Mr. President.

I am pleased to join in saying I think the appointment of Sam Skinner is a superb appointment. Much of his background has been pointed out already.

I think the point that Senator DANFORTH just made about his willingness to take a long-term look at things really is important. We get so bottled down in going from one election to another and, frankly, in private America we go from one stockholders' meeting to another or one quarterly report to another. We need to do more long-range planning, particularly in transportation, in all modes of transportation.

He knows this mass transit field. There is no question in my mind that we are ignoring the great needs in mass transit in this Nation. He headed our Regional Transit Authority. As a pilot himself, he understands the safety problems.

And while my friend from South Carolina and my friend from Missouri do not go through O'Hare Airport as much as many of us go through O'Hare Airport, it is the busiest airport in this country and it is not as safe as it ought to be. We do not have the air traffic controllers there we ought to have. We do not have the technicians, we do not have the equipment we ought to have there. In terms of problem occurrences this year, we have had about six times as many as we have had at the next airport that has problems, Atlanta. We can do much better.

I am pleased to say that my colleagues have helped me on an amendment here and I am meeting now monthly with the FAA where they are giving me reports on what they are doing to improve the situation at O'Hare. But Sam Skinner understands that.

He is a person who I think has executive skills. Now we do not find out what those skills are really until you are tested in a Cabinet post. But I think you are going to find that he is going to be tested and tried and come out very, very well.

Then, finally, Mr. President, and my colleagues, I have absolutely no question about his integrity, his willingness to stand up and do the tough things that need to be done. When I say "integrity," I do not mean just not stealing money. I mean leveling with us on the needs of this country and where we have to go and how we build a better America in terms of transportation.

I think it is a superb appointment, Mr. President, and I trust that we will approve the nomination unanimously.

If I have any time left, I yield it back to the Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague from Illinois.

I yield 5 minutes to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. I thank the distinguished manager. I will try to condense my remarks, perhaps one of the more difficult assignments I have had since I have been here.

Mr. President, I rise to join my colleagues in support of the nomination of Samuel Skinner for Secretary of Transportation.

Over the last few weeks, I have had a chance to meet with him, to understand how he sees things, and review his experience. And for him it was an important period to learn about the ways of the Congress and the relationship that we might have.

He brings some important skills and experiences to his new job. For the last 4 years he has served as chairman of the Regional Transportation Administration of Northeastern Illinois. Coming from Chicago, he is also aware of the important role that Amtrak plays in a balanced national transportation system, an appreciation that has been sadly lacking in the last 8 years.

Throughout those years, we saw a pattern of neglect; a stubborn denial of the need for a balanced national transportation network. The administration pushed shortsighted policies, pitting one transportation mode against another, without an appreciation for the Nation's long-term needs.

Well, if we are going to keep this country on the move, we have to turn this around. Our infrastructure nationally is in a dangerous condition. It is estimated that it will take about $90 billion a year, just to meet present needs. Mr. Skinner himself has warned of an "infrastructure failure" if the pattern of Federal disinvestment continues. It cannot. His views and his experience in addressing the diverse transportation needs in Chicago are a sign of welcome change.

Mr. President, as chairman of the Transportation Appropriations Subcommittee, I plan to be working very closely with the next Secretary of Transportation. My experiences with him to date bode well for a constructive working relationship.

There are many challenges ahead in transportation. In urban areas like New Jersey, we must promote and encourage the development of mass transit facilities, to keep our cities from choking on growth and auto exhaust. We have to, at the same time, make sure that we have an adequate highway system and that we are doing everything that we can to make those roads safe—safe from excessive speeds, safe from the tragedy of drunk driving. At the same time, as part of the transportation portfolio, we have to keep the Coast Guard and its functions afloat.

The Nation's aviation system suffers from a range of problems. There are serious questions about security, how to protect our passengers from the threat of terrorism. We must get the program for modernizing the air traffic control system back on track.

And, Mr. President, we need to make sure that the benefits of deregulation—lower fares and increased choices for consumers—are not stifled by increasing market concentration and reduced competition.

Mr. President, throughout the confirmation process, Mr. Skinner has shown that he has the ability to work with Congress to move ahead with a solid transportation agenda. I look forward to working with him and wish him well. I join my colleagues in supporting this nomination and expect a speedy confirmation.

Mr. THURMOND. Will the distinguished Senator yield 5 minutes to me?

Mr. DANFORTH. Yes, I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina, Mr. THURMOND, is recognized for 5 minutes.

Mr. THURMOND. Mr. President, today, I rise in support of the nomination by President Bush of Samuel K. Skinner to be Secretary of Transportation.

Mr. Skinner brings to Washington significant transportation experience gained from his service for 4 years as chairman of the board of directors of the Regional Transportation Authority of Northeastern Illinois, the second largest public mass transportation system in the United States.

Mr. Skinner received his undergraduate degree in accounting from the University of Illinois and his law degree from Depaul University College of Law. Before attending law school, he served as an officer in the U.S. Army and worked in various marketing and managerial positions at IBM.

Mr. Skinner began his career in public service as an assistant U.S. attorney for the northern district of Illinois. While an assistant U.S. attorney, he twice received the Department of Justice Outstanding Service Award. In 1975, Mr. Skinner was appointed U.S. attorney for the northern district of Illinois by President Gerald R. Ford. His appointment marked the first appointment of a career prosecutor in the history of the northern district of Illinois.

While U.S. attorney, Mr. Skinner was a member of the Department of Justice White-collar Crime Committee and the U.S. Attorney General's Advisory Committee. In 1983, President Reagan appointed him to the President's Commission on Organized Crime where he was Vice Chairman.

After serving as U.S. attorney, Mr. Skinner joined the international law firm of Sidley and Austin where he is a senior partner in the Chicago office.

In Illinois, Mr. Skinner has served as chairman of the Illinois Capital Development Board, the Governor's Fraud Prevention Committee and the Governor's Task Force on Energy Conservation and Coal Conversion. Additionally, he has served on many boards and civic committees. Currently, he is a member of the board of directors of Lake Forest Hospital.

Mr. Skinner's legal background and extensive transportation experience well equip him to serve as Secretary of Transportation. I urge my colleagues to support his nomination.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

Without objection, the time will be equally divided.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I yield such time as I have remaining to my distinguished colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON] is recognized for 2 minutes.

Mr. DIXON. Mr. President, I thank my colleague and friend, the distinguished chairman of the Commerce Committee, and my friend from Missouri, the distinguished ranking member, for giving me this opportunity to speak in support of Sam Skinner's nomination as Secretary of Transportation. I have known Sam for many, many years. He is surely one of the outstanding nominees of this new administration, and I consider him a close, personal friend.

I think one of the indications of the high regard in which Sam Skinner is held by the people of Illinois is the fact that the distinguished Republican leader from the House, BOB MICHEL, of Peoria, and the distinguished chairman of the House Ways and Means Committee, DAN ROSTENKOWSKI, of Chicago, a Republican and Democrat—and the distinguished other Senator from our State, PAUL SIMON, and this Senator, all appeared at the hearings to express our very high regard for Sam Skinner. Those of us who know him consider him to be a Cabinet nominee of the highest quality, and I believe his background supports this conclusion.

Sam has been a senior partner of Sidney & Austin, an internationally renowned law firm in Chicago. Since 1984, he has presided as chairman of the board of directors of the Regional Transportation Authority of Northeastern Illinois, the second largest public mass transportation system in the country.

As U.S. attorney for the northern district of Illinois, he served for 9 years under three Presidents. The integrity and professionalism with which he carried out all of his duties was and remains today unquestionable. During his tenure as U.S. attorney, Secretary-designate Skinner was a member of the Departmetnt of Justice White-Collar Crime Committee and the Attorney General's Advisory Committee. In 1983, President Reagan appointed him to the President's Committee on Organized Crime, on which he served as Vice Chairman.

Throughout his private and public life Sam Skinner has pursued the highest standards of excellence for himself and this Nation. After serving in the Army, Sam won the IBM outstanding salesman of the year award. As a law student, he became a member of the University of Chicago's prestigious law review. He won numerous awards including Outstanding Young Citizen Award from the Chicago Junior Chamber of Commerce and outstanding alumni of DePaul University.

As chairman of Chicago's RTA, Sam has brought new respect for innovative, cost-effective approaches to urban transportation problems. In a time of budget constraints and increasing capital and operating needs in urban areas, he has developed short- and long-run strategic plans that have put RTA on an even fiscal keel. He knows how to get the most bang out of each scarce dollar, which makes him an especially good choice in this era of continuing budget crisis.

Most of Sam's adult life has been dedicated to positive public service. He has served as chairman of the Illinois Capital Development Group, the Governor's Fraud Prevention Commission, and the Governor's Task Force on Energy Conservation and Coal Conservation.

In short, Sam Skinner is one of the most dedicated, hard-working men I know of. I can personally attest to his forthrightness and vigilance in the service of honest, good government. Mr. President, there is no one I can recommend higher for this Cabinet post.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I have fond memories of a certain former Secretary of Transportation—the longest serving Secretary at DOT. So, it is hard for me to imagine anyone being capable of filling Elizabeth's shoes.

But from everything I know and have heard about Samuel Skinner, he has the background and the proven ability to become a superb Secretary of Transportation.

As chairman of the board of directors of the Regional Transportation Authority of Northeastern Illinois—the second largest public mass transportation system in the country—Sam Skinner has had to deal with some of the knottiest problems confronting DOT—that of creating policies to cope with the challenges of finding affordable, comprehensive transportation for our Nation's major population centers.

In addition, Sam Skinner is an instrument rated pilot himself, so he is well aware of the issues relating to air travel and safety.

Sam Skinner has a long record of service in his home State of Illinois, including 9 years in the office of the U.S. attorney for the northern district of Illinois. He has also served at the chairman of the Illinois Capital Development Bank, the Governor's Fraud Prevention Commission, and the Governor's Task Force on Energy Conservation and Coal Conversion.

Mr. President, the Department of Transportation will have some very difficult problems to contend with in the coming months. But I have every confidence that Sam Skinner is up to the job and will lead the Department in a direction that will affirm the American people's confidence in our extensive and varied transportation system. Therefore, I urge my colleagues to unanimously support the nomination of Sam Skinner.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I will be happy to yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON].

(The remarks of Mr. DIXON pertaining to the introduction of legislation appear in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. BYRD. Mr. President, I am pleased to express my support for the nomination of Mr. Samuel K. Skinner, to be the Secretary of Transportation.

Mr. Skinner brings to the Department of Transportation on-hands-experience in dealing with transportation issues. His tenure as the chairman of the Northeastern Illinois Regional Transportation Authority has given him a realistic view of the complexity of our transportation networks, and I am pleased to know that he is interested in developing a national transportation policy that involves all forms of transportation.

A good transportation system is a keystone to building a more prosperous future for West Virginia and other States. One element of a modern transportation system is reliable and reasonable air transportation.

In my own discussions with him in this regard, I was pleased to learn of his willingness to work with the Congress on resolving the funding shortfall for the Essential Air Service Program. This program has enabled 5 West Virginia communities, and over 100 others nationwide, to provide regularly scheduled air service.

Adequate funding for Amtrak and the local Rail Service Program, programs targeted for budget cuts, are also of importance to me. I have noted that in his confirmation hearings before the Senate Commerce Committee, Mr. Skinner expressed the desire to work toward finding a way to help Amtrak become self-sufficient. Again, I welcome his willingness to work with the Congress to address these problems.

Finally I want to say a word about airline deregulation. Airline deregulation has hurt West Virginia. We have suffered a loss of airline service. For example, in Charleston, WV, we have gone from having four major carriers service the city to having two major carriers and several commuter airlines.

Mr. Skinner stated at his confirmation hearing that he intends to review the impact of airline deregulation and competitiveness. I look forward to him doing this. According to a report that I requested from the Congressional Research Service, the quality and frequency of major carrier service to and from Charleston, WV, had declined while the average cost of a coach seat had either tripled or quadrupled.

I also hope that he will look at airline deregulation and its impact on airline safety, particularly in regard to commuter airlines. We are finding that as major carriers merge or move out of an area commuter airlines are taking their places.

In 1988, I received the three studies I had requested from the General Accounting Office regarding commuter airline safety—one on the Airport Certification Program, one on commuter pilot training, and one on commuter pilot hiring practices—all of which confirmed my suspicions that there are serious safety concerns with our commuter airlines. I am hopeful that the Secretary will review these studies and implement the recommendations as quickly as possible.

Again, Mr. Skinner has already demonstrated his willingness to work with the Congress on the myriad of transportation issues which will continue to confront us in the 101st Congress, and I look forward to working with him.

Mr. SIMPSON. Mr. President, I have so very much enjoyed meeting and visiting with Sam Skinner. He comes to us from the Regional Transportation Authority of Northeastern Illinois—and he seems to be adjusting quickly and in good fashion to our way of business here. He will like it here.

He has testified before the Commerce Committee as well as the Environment and Public Works Committee. And he has fielded our questions regarding many important issues to us all: essential air service, Amtrak, airline deregulation, the Federal Highway Program, drug testing regulations, speed limit issues. The list is endless. But he has answered our questions honestly and frankly and with a sense of good humor, and I like that.

This appointment as Secretary of Transportation marks a return to public service for Sam. He served for 10 years in the Office of the U.S. attorney for the northern district of Chicago before turning his attention to the Public Mass Transportation System. He has a career chock full of accomplishments and prestigious honors, including receiving the Department of Justice outstanding service award on two occasions.

I find Sam to be a thoughtful individual, a man of integrity, fairness; firmness, and humor and great dedication—not only to George Bush, but to our country. He is a fine candidate and will prove to be a very wise choice for Secretary of Transportation by President Bush. I look forward to working with him.

Mr. President, Bob Mosbacher comes to us from Houston, TX—a man who is a long-time friend and confidant of President Bush.

He is a very successful businessman. He understands business and trade, and "booms and busts". He is product of the domestic oil and gas industry—an industry that is full of rewards—and great hazards—but also demands intelligence, and determination, integrity, dedication, and just an ability and desire to make things work. Bob Mosbacher is this kind of a man, embodying all of these characteristics and more.

He is all but a one-dimensional business man: Bob has a long record of public service and dedication to civic and charitable organizations. His lifetime is filled with events and opportunities whereby he shared his knowledge and reached out to help others. Bob understands the business world, but balances that knowledge with a compassion toward others that is so very important. He has also lent his many talents to the Republican Party over the years. And Bob is also a sailor—not many of those in Wyo-

ming—showing the same dedication and enthusiasm and accomplishment for that sport that he gives to every other aspect in his life—and that he will surely bring to his position as Secretary of Commerce.

I look forward to working with Bob Mosbacher and I take this opportunity to welcome him and his gracious and talented wife, Georgette, to Washington.

Mr. President, I rise to lend my strong support to the nomination of Mrs. Carla Hills as our new U.S. Trade Representative. Having already served our Nation so well as a Cabinet member, she brings a wealth of knowledge and experience to a difficult but most important position.

While we continue to make progress on our serious trade deficit, much work remains to be done. Carla Hills is an intelligent, bright, tough, skilled negotiator who will represent us well in the rugged negotiations ahead.

What we so often forget in these discussions of trade policies is that we are dealing with our friends—Japan and the European Community. We would do ourselves and the world economy serious harm if those negotiations are not handled with the utmost diplomacy and skill. As a tenacious and effective lawyer I'm very confident of Carla Hills ability there.

While "free trade" is an ideal—not a reality—we must take the necessary steps to gain access to our trading partners' markets. If that means some tough medicine, we must be willing to take that route, being ever mindful that there are no winners in trade wars.

Carla Hills will do an excellent job. She is a fine lady, patient, fair, and able. She will make us very proud.

Mr. BURNS. Mr. President, I rise to add my support to the nomination of Samuel K. Skinner to be Secretary of Transportation in the new Bush adminstration. Mr. Skinner will oversee an agency that has tremendous impact on many of the people of my own State of Montana. The Transportation Department contains the Federal Aviation Administration, the Federal Highway Administration, and the Federal Railroad Administration, among other important Government agencies. Clearly, Mr. Skinner will have a considerable impact upon the people of my State of Montana as they travel. I like people who set goals—Mr. Skinner has done that—has knowledge, talent, and skills to achieve those goals.

I have met and talked with Mr. Skinner and believe that he has the qualifications needed for the important assignment President Bush has selected for him. During his confirmation hearings, Mr. Skinner displaced a good working knowledge of the issues that are critical to my State of Montana. His reply to the question of continuing the essential air service leaves considerable room to work out an equitable solution that is fair to all the parties.

Mr. President, I will vote in favor of Mr. Skinner's confirmation and urge other Senators to do likewise. I yield the floor.

Mr. SASSER. Mr. President, I rise today to speak on the nomination of Samuel Skinner to be Secretary of Transportation.

Mr. Skinner brings a wealth of business and management talent to his new position. He will need all of his skill and his experience as he faces the issues confronting his Department.

In particular, I am concerned about the aviation industry. The intent behind the Airline Deregulation Act of 1978 was to foster competition in the airline industry. What we have seen instead is cut-throat takeovers and buyouts of airlines that equals the worst of the "merger-mania" that has occurred in other sectors of the economy.

There are indications that competition is decreasing as the airline industry is narrowed down to fewer and fewer independent airlines. Fares have increased significantly in the past few months and show no indication of being lowered as the industry had indicated would be the case. In addition, there are still significant problems with airline safety and with scheduling and service.

There is another issue that has concerned me for some time and to which the new Secretary and Congress will have to pay close attention. That is the increasing development of so-called "hubs."

Increasingly, airlines are establishing these hubs and using them as a central routing point for their flights. Experts in the industry feel that this practice will lead to increased fares and decreased competition.

As the hub airline routes more and more of its flights through the hub, other airlines that use the airport, particularly regional airlines, may find it more and more difficult to compete. The end result could be market domination by a single airline, less competition and higher fares.

This is of particular concern in my State of Tennessee. Many of the communities of my State are served by a single carrier. They are one stop on a route for that airline. If the traffic on the route is disrupted at some point by the hub of another airline, it may well seriously affect the viability of that route for the airline.

This is an issue that Secretary Skinner will have to consider. It is also a matter that the Senate may well address in the months to come. I wish Secretary Skinner well in his new assignment and I look forward to working with him on this and other issues.

Mr. CHAFEE. Mr. President, today the Senate is considering the nomination of Samuel K. Skinner to be Secretary of the Department of Transportation. Mr. Skinner has a tough job ahead of him, but it will also be an exciting and rewarding one as he meets the challenges that will face the Secretary of Transportation.

The Environment and Public Works Committee held an informational hearing with Mr. Skinner on January 26, recognizing the Senate Commerce, Science, and Transportation's responsibility for reporting Mr. Skinner's nomination. The Environment and Public Works Committee has jurisdiction over the Federal-aid highway program and this is the largest single program within the Department of Transportation. Therefore, the committee has a great deal of interest in Mr. Skinner's views, his philosophy of management, and how decisions should be made. During our hearing, I was pleased to hear Mr. Skinner's pledge consult with Congress very closely when decisions are made. I believe he will include us in his decision-making process, and he will have to make some important decisions very soon.

Mr. Skinner spoke of his commitment and sensitivity to environmental issues during his responses to questions asked at the committee's hearing. I was encouraged by that. As Secretary of Transportation, he will soon have an opportunity to test his commitment to the environment. The Secretary will have to decide shortly whether the corporate average fuel economy [CAFE] standards should be relaxed for model year 1990.

Last year Secretary Burnley made the decision to relax the CAFE standards for model year 1989. This was done at a time when the evidence available suggested that standards should be tightened in order to control the problem of global climate changes that occur because of the emission of gases such as carbon dioxide from motor vehicles. Now Secretary Skinner will be faced with a similar choice, and, if he is serious about environmental protection, he will reject the petition to relax CAFE standards. The greenhouse issue is a serious one and I hope the new Secretary of Transportation will be a part of the solution we are seeking to this problem. We must use every means available to us to reduce harmful global climate changes, and the CAFE standards play a very important role in that effort.

After listening to Mr. Skinner's testimony before the Environment and Public Works Committee, I am confident that he recognizes what a serious decision this is, and that he will consult with us before he makes it.

I believe Mr. Skinner's education and experience will serve him well as Secretary of Transportation and I look forward to working with him as he develops a national transportation plan for our Nation.

Mr. GORTON. Mr. President, I am pleased to rise today to support the confirmation of Samuel K. Skinner to be the Secretary of Transportation. Last week, I had the opportunity to question and listen to Mr. Skinner's

confirmation hearing before the Senate Commerce Committee. I was extremely impressed with his forthright attitude and his knowledge of issues within the Transportation Department's jurisdiction.

The Secretary of Transportation is responsible for a wide range of transportation programs including aviation, motor and rail carriers, the maritime industry, passenger autos and mass transit. Authority for the Coast Guard also lies within his jurisdiction. It is hard to think of anyone whose daily life is not touched by the decisions made within this department.

During his confirmation hearing, Mr. Skinner expressed his desire to formulate a comprehensive national transportation policy. He recognizes that our Nation's infrastructure must not be neglected if we are going to continue our economic growth and move with vigor into the next century. In response to questioning, he stated that he would work to ensure that funds in the airport and airways trust fund be utilized for their dedicated purposes. He will also look at the issue of airline concentration at hub airports to ensure that the goals of airline deregulation are not thwarted. This was an area which I expressed a personal concern in seeing addressed as I feel that consumer choice and price competition has been seriously eroded in certain hub cities. This harms all who must travel to those cities for personal or business reasons.

Mr. Skinner served as chairman of the Regional Transportation Authority of Northeastern Illinois, the Nation's second largest mass transportation system. Given the urgency of addressing the transportation needs of the Puget Sound area, I am pleased that we will be able to work with somone of his caliber and background.

I found Mr. Skinner to be very impressive during his confirmation hearings and I look forward to what I believe will be his overwhelming approval by the Senate today.

Mr. BAUCUS. Mr. President, today I will vote in favor of the confirmation of Samuel Skinner to become Secretary of Transportation.

As many of my colleagues know, I have been very concerned about Mr. Skinner's position on essential air service. I threatened to hold up his confirmation until I was satisfied that he would allow Congress time to pass a supplemental appropriation before enacting a DOT proposal to eliminate air service to many rural communities throughout the country.

After several meetings and conversations with Mr. Skinner, I am satisfied that he will work with me and other Members of Congress to solve the funding shortfall problem without resorting to cutting service.

Mr. Skinner has also agreed to come to Montana and see first hand how critical air service is to the economic vitality of communities served by the Essential Air Service Program. I think the trip will be a real eye-opener.

I look forward to working with Mr. Skinner and hope that we can solve the essential air service funding problem once and for all.

EXECUTIVE OFFICE OF THE PRESIDENT

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Under the previous order, the hour of 5 p.m. having arrived, the question is, "Will the Senate advise and consent to the nomination of Carla A. Hills, of California, to be U.S. Trade Representative"? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 100, nays, 0, as follows:

[Rollcall Vote No. 4 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

DEPARTMENT OF COMMERCE

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Robert Adam Mosbacher, of Texas, to be Secretary of Commerce? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows

[Rollcall vote No. 5 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

DEPARTMENT OF TRANSPORTATION

The PRESIDING OFFICER. The question now is, Will the Senate advise and consent to the nomination of Samuel Knox Skinner, of Illinois, to be Secretary of Transportation? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 100, nays 0, as follows

[Rollcall Vote No. 6 Ex.]

YEAS—100

Adams	Garn	McConnell
Armstrong	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Gorton	Mitchell
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grassley	Nickles
Boren	Harkin	Nunn
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Pell
Breaux	Heflin	Pressler
Bryan	Heinz	Pryor
Bumpers	Helms	Reid
Burdick	Hollings	Riegle
Burns	Humphrey	Robb
Byrd	Inouye	Rockefeller
Chafee	Jeffords	Roth
Coats	Johnston	Rudman
Cochran	Kassebaum	Sanford
Cohen	Kasten	Sarbanes
Conrad	Kennedy	Sasser
Cranston	Kerrey	Shelby
D'Amato	Kerry	Simon
Danforth	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Lieberman	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	Wilson
Exon	Matsunaga	Wirth
Ford	McCain	
Fowler	McClure	

So the nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider the nominations en bloc is

laid on the table. The President will be notified of the confirmation. And the Senate will return to legislative session.

The majority leader.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 114, a bill to declare certain activities of manufacturers of soft drinks to be unfair acts for purposes of the Federal Trade Commission Act, be jointly referred to the Committee on the Judiciary and the Committee on Commerce, Science and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT REFERRAL OF NOMINATIONS

Mr. MITCHELL. Mr. President, as in executive session, I ask unanimous consent that the following two nominations received by the Senate on January 3, 1989, be jointly referred as indicated:

Lew W. Cramer to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service—to the Committees on Commerce, Science, and Transportation and Banking, Housing, and Urban Affairs.

Becky Norton Dunlop to be Assistant Secretary for Fish and Wildlife, Department of the Interior—to the Committees on Energy and Natural Resources and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

EXTENSION OF TIME FOR DEPUTY LEGAL COUNSEL

Mr. DOLE. Mr. President, I ask unanimous consent that the President pro tempore of the Senate have a period of 90 days from the beginning of the first session of the 101st Congress to announce the appointment of the Deputy Legal Counsel of the Senate, pursuant to 2 U.S.C. 288 and Public Law 96-576.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF THE RECORD

Mr. DOLE. Mr. President, on January 25, Senator GRAMM of Texas introduced S.J. Res. 30, a constitutional amendment to require a balanced budget. On page S176 of the CONGRESSIONAL RECORD for that day, Senator GRAHAM of Florida is incorrectly listed as the author of that resolution. I ask unanimous consent that the permanent RECORD be corrected to reflect Senator GRAMM's authorship of the legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTION OF WHIPS

Mr. CRANSTON. Mr. President, I simply rise to announce today there were regional caucuses of the Democrats to elect deputy whips and assistant deputy whips, for four of the regions, and the people who were elected were as follows:

For the West, the deputy whip, Senator WIRTH, the assistant deputy whip, Senator ADAMS; for the South, the deputy whip, Senator GRAHAM, the assistant deputy whip, Senator ROBB; for the Midwest, the deputy whip, Senator HARKIN, the assistant deputy whip, Senator DASCHLE; and for the East, the deputy whip Senator LEAHY, the assistant deputy whip, Senator MIKULSKI. We expect to have a lot of activity and help from those people on matters on the floor and it will by no means be all of a partisan nature. When we are working as a bipartisan team on the floor as we often will; they will be helping see that we pass legislation we have agreed to and the Bush administration wishes as well as the Democratic program.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Chair has about six announcements that need to be made.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276(h)-276(k), as amended, appoints the Senator from Connecticut [Mr. DODD] as chairman and the Senator from Texas [Mr. GRAMM] as vice chairman of the Senate Delegation to the Mexico-United States Interparliamentary Group during the 101st Congress.

The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 1928a-1928d, as amended, appoints the Senator from Delaware [Mr. ROTH] as vice chairman of the Senate Delegation to the North Atlantic Assembly during the 101st Congress.

The Chair, on behalf of the Vice President, pursuant to the provisions of 20 U.S.C., sections 42 and 43, reappoints the Senator from New York [Mr. MOYNIHAN] as a member of the Board of Regents of the Smithsonian Institution.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair announces on behalf of the majority leader, pursuant to Public Law 99-660, as amended by Public Law 100-436, the appointment of the Senator from New Jersey [Mr. BRADLEY] to the National Commission to Prevent Infant Mortality.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Sec. 403(a)(2) of Public Law 100-360, appoints the following Senators to the U.S. Bipartisan Commission on Comprehensive Health Care: the Senator from Arkansas [Mr. PRYOR], vice the former Senator from Montana [Mr. MELCHER]; and the Senator from West Virginia [Mr. ROCKEFELLER], vice the Senator from Maine [Mr. MITCHELL], resigned.

The Chair, on behalf of the President pro tempore, pursuant to Sec. 1505(a)(B)(ii) of Public Law 99-498, appoints the Senator from New Mexico [Mr. BINGAMAN] to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

MESSAGES FROM THE HOUSE

At 2:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of 20 United States Code 42 and 43, the Speaker appointed as members of the Board of Regents of the Smithsonian Institution, the following Members on the part of the House: Mr. MINETA, Mr. WHITTEN, and Mr. CONTE.

The message also announced that pursuant to section 1404 of Public Law 99-661, the minority leader appointed Mr. MARTIN of New York as a member of the Board of Trustees to the Barry Goldwater Scholarship and Excellence in Education Foundation on the part of the House.

The message further announced that pursuant to section 1404 of Public Law 99-661, the majority leader appointed Mr. MONTGOMERY as a member of the Board of Trustees to the Barry Goldwater Scholarship and Excellence in Education Foundation on the part of the House.

At 3:36 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 33. Concurrent resolution providing for a joint session of Congress to receive a message from the President on the State of the Union.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-394. A communication from the President of the United States, transmitting pursuant to law, a report on policy regarding conservation activities on nonfederal land;

to the Committee on Agriculture, Nutrition, and Forestry.

EC-395. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the Department's FY 1990-94 Five Year Defense Program; to the Committee on Armed Services.

EC-396. A communication from the Directorate of Stockpile Management, Defense Logistics Agency, Department of Defense, transmitting, pursuant to law, a revision to page 9 of the September 30, 1988 Statistical Supplement Stockpile Report to the Congress; to the Committee on Armed Services.

EC-397. A communication from the Secretary of the Army, transmitting, pursuant to law, the Annual Report of the United States Soldier's and Airmen's Home for Fiscal Year 1986; to the Committee on Armed Services.

EC-398. A communication from the Director, Office of Management and Budget, transmitting, pursuant to law, a report on offsets in military exports; to the Committee on Banking, Housing, and Urban Affairs.

EC-399. A communication from the Special Counsel, U.S. Merit Systems Protection Board, transmitting, pursuant to law, a report of the Administrator of Veterans Affairs, setting forth the findings and conclusions of the Administrator's review of allegations of questionable medical practices by a former staff surgeon at the Veterans Administration Medical Center, Spokane, Washington; to the Committee on Governmental Affairs.

EC-400. A communication from the Secretary to the Board, U.S. Railroad Retirement Board, transmitting, pursuant to law, a report on the Board's fiscal year 1988 activities to increase competition and reduce the number and dollar value of non-competitive contracts; to the Committee on Governmental Affairs.

EC-401. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on Exotic Species in Agriculture; to the Committee on Commerce, Science, and Transportation.

EC-402. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report documenting the attempt made to determine the effect of the use of unattended radar on highway safety; to the Committee on Commerce, Science, and Transportation.

EC-403. A communication from the Secretary of Transportation, transmitting, pursuant to law, the 1988 Annual Report on Highway Safety Improvement Programs; to the Committee on Commerce, Science, and Transportation.

EC-404. A communication from the President of the United States, transmitting, pursuant to law, the 1987 Annual Report on the Administration of the Federal Railroad Safety Act; to the Committee on Commerce, Science, and Transportation.

EC-405. A communication from the Assistant Secretary (Legislative Affairs), Department of State, transmitting, pursuant to law, a report on Application of Travel Restrictions to Personnel of Certain Countries and Organizations; to the Committee on Foreign Relations.

EC-406. A communication from the Chairman, National Mediation Board, transmitting, pursuant to law, the report of the National Mediation Board for Fiscal Year 1988; to the Committee on Governmental Affairs.

EC-407. A communication from the Secretary of Education, transmitting, pursuant to law, a report regarding Final Regulations and Regional Educational Laboratories; to the Committee on Labor and Human Resources.

EC-408. A communication from the Secretary of Education, transmitting, pursuant to law, a report regarding Final Regulations and Preschool Grants for Handicapped Children's Program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PRYOR, from the Special Committee on Aging, without amendment:

S. Res. 25. An original resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. SASSER, from the Committee on the Budget, without amendment:

S. Res. 26. An original resolution authorizing expenditures by the Committee on Budget; to the Committee on Rules and Administration.

By Mr. INOUYE, from the Select Committee on Indian Affairs, without amendment:

S. Res. 28. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 29. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 30. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. Res. 32. An original resolution authorizing expenditures by the Committee on Environment and Public Works; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of January 25, 1989, the following executive reports of committees were submitted on January 30, 1989, during the recess of the Senate:

By Mr. BENTSEN, from the Committee on Finance:

Carla Anderson Hills, of California, to be U.S. Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Robert Adam Mosbacher, of Texas, to be Secretary of Commerce; and

Samuel Knox Skinner, of Illinois, to be Secretary of Transportation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably four nomination lists in the Coast Guard which appeared in full in the CONGRESSIONAL RECORD for January 3, 1989, and, to save the expense of reprinting them on the Executive Calendar, ask that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself and Mr. KERREY):

S. 280. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

S. 281. A bill to authorize the Secretary of the Interior to modify the construction, operation, and maintenance of the O'Neill unit, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Energy and Natural Resources.

By Mr. COHEN:

S. 282. A bill for the relief of Pandelis Perdikis; to the Committee on the Judiciary.

By Mr. PELL:

S. 283. A bill to provide for the establishment of the U.S. Coast Guard as an independent agency for certain purposes, to transfer certain functions of the Secretary of Transportation to the Commandant of the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WARNER (for himself and Mr. ROBB):

S. 284. A bill to remove a restriction from a parcel of land in Roanoke, VA, in order for that land to be conveyed to the State of Virginia for use as a veterans' nursing home; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 285. A bill to amend the Export Administration Act of 1979 to require the maintenance of an export assistance office in northern California; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 286. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM:

S. 287. A bill to separate the management of the Federal Savings and Loan Insurance Corporation from the Federal Home Loan Bank Board; to the Committee on Banking, Housing, and Urban Affairs.

S. 288. A bill to provide for risk-based deposit insurance premiums; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. LEVIN, Mr. METZENBAUM, Mr. SIMON, Mr. BURDICK, Mr. SHELBY, and Mr. CONRAD):

S. 289. A bill to provide for the registration of foreign interests in U.S. property,

and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S. 290. A bill relating to decennial censuses of population; to the Committee on Governmental Affairs.

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 291. A bill to require that the Director of the Office of Management and Budget include a reference to Easton, PA, in the official title of the metropolitan statistical area of which it is a part; to the Committee on Governmental Affairs.

By Mr. BAUCUS:

S. 292. A bill to require the initiation of trade negotiations with Japan; to the Committee on Finance.

By Mr. D'AMATO:

S. 293. A bill to amend the Judicial Survivor's Annuity Act to eliminate the requirement that a Federal justice or judge, who is assassinated, must serve a specific period of time before his or her survivors become eligible for benefits under this act; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 294. A bill to amend the Harmonized Schedule of the United States to exclude certain waste and scrap metals from a provision regarding the return of metal to the United States; to the Committee on Finance.

S. 295. A bill to temporarily suspend the duty on 1,5 naphthalene diisocyanate; to the Committee on Finance.

S. 296. A bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products; to the Committee on Finance.

By Mr. D'AMATO:

S. 297. A bill for the relief of Joan Daronco; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. NICKLES, Mr. REID, Mr. HATCH, Mr. HELMS, Mr. DECONCINI, and Mr. BRYAN):

S. 298. A bill to amend the Federal Salary Act of 1967 to extend the time period before Presidential recommendations for congressional pay increases take effect; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. HUMPHREY, Mr. REID, Mr. BRYAN, Mr. HATCH, Mr. HELMS, Mr. DECONCINI, Mr. SIMON, Mr. DOMENICI, and Mr. BOND):

S. 299. A bill to provide that the recommendations of the President for Congressional pay increases shall become effective after approval by joint resolution of the Congress; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. HELMS):

S. 300. A bill to amend the Federal Salary Act of 1967 to extend the time period before Presidential recommendations for Congressional pay increases take effect, to change the schedule for appointments of the Commission on Executive, Legislative, and Judicial Salaries, and to change the times for submission of reports; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. NICKLES, and Mr. HELMS):

S. 301. A bill to amend the Federal Salary Act of 1967 to change the schedule for appointments of the Commission on Executive, Legislative, and Judicial Salaries and the times for the submission of reports; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself, Mr. STEVENS, Mr. SYMMS, Mr. BURDICK, Mr. MCCLURE, Mr. SIMON, Mr. BIDEN, Mr. SHELBY, Mr. DECONCINI, Mr. INOUYE, Mr. DODD, Mr. KASTEN, Mr. MOYNIHAN, Mr. HEFLIN, Mr. FORD, Mr. HELMS, Mr. D'AMATO, Mr. BOREN, Mr. EXON, Mr. DASCHLE, Mr. CONRAD, Mr. HARKIN, Mr. COCHRAN, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. WARNER, Mr. BUMPERS, Mr. RIEGLE, Mr. BREAUX, Mr. PELL, Mr. COATS, Mr. REID, Mr. METZENBAUM, Mr. SANFORD, Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER):

S. 302. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. RIEGLE, Mr. GRASSLEY, Mr. DECONCINI, and Mr. ROTH):

S. 303. A bill to establish a framework for the conduct of negotiated rulemaking by Federal agencies; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 304. A bill to promote nondiscrimination in State medical licensure and medical reciprocity standards; to the Committee on Labor and Human Resources.

By Mr. DIXON (for himself, Mr. GARN, Mr. GRAHAM, and Mr. WIRTH):

S. 305. A bill to modernize and reform the regulation of financial services, to strengthen the enforcement authority of depository institution regulating agencies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENTSEN (for himself, Mr. DOLE, Mr. BAUCUS, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. DURENBERGER, Mr. INOUYE, Mr. PRYOR, Mr. DASCHLE, Mr. RIEGLE, Mr. HEINZ, Mr. DANFORTH, Mr. DOMENICI, Mr. GORE, Mr. BINGAMAN, Mr. BURNS, Mr. MCCLURE, Mr. WALLOP, Mr. SHELBY, Mr. GRAMM, Mr. MCCONNELL, Mr. WARNER, Mr. THURMOND, Mr. KASTEN, Mr. MCCAIN, Mr. PRESSLER, Mr. COCHRAN, Mr. GRASSLEY, Mr. STEVENS, Mr. D'AMATO, Mr. HATFIELD, Mr. RUDMAN, Mr. NICKLES, Mr. MURKOWSKI, Mr. SYMMS, and Mr. BUMPERS):

S. 306. A bill to amend the Social Security Act to make certain modifications in the medicare program with respect to payments made under such program to hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 307. A bill to provide for the standardization of advertised yields on savings accounts and investments, to require the uniform disclosure of the key costs of such accounts and investments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 308. A bill to authorize certain securities for bank holding companies and to authorize additional powers for safe bank holding companies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MATSUNAGA:

S. 309. A bill for the relief of Vasikaran Ratnarajah; to the Committee on the Judiciary.

S. 310. A bill for the relief of Imelda Villanueva Locquiao; to the Committee on the Judiciary.

S. 311. A bill for the relief of Masayoshi Goda, his wife Nobuko Goda, and their children, Maki Goda and Eri Goda; to the Committee on the Judiciary.

S. 312. A bill for the relief of Ikechukwu J. Ogujiofor, Joy I. Ogujiofor, and Godfrey, I Ogujiofor; to the Committee on the Judiciary.

S. 313. A bill for the relief of Masami Kawata; to the Committee on the Judiciary.

By Mr. BOSCHWITZ:

S. 314. A bill for the relief of Maria Elena Rodrigues-Huitzil and Maria Leticia Rodriguez-Huitzel; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. GRASSLEY, Mr. MCCAIN, Mr. HUMPHREY, Mrs. KASSEBAUM, Mr. MACK, and Mr. HELMS):

S. 315. A bill to provide that Members of Congress shall vote on any increase in the rates of pay of Members of Congress; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 316. A bill to amend the Housing and Community Development Act of 1974 with respect to the eligibility of Indian tribes for urban development action grants; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON (for himself, and Mr. MCCLURE):

S. 317. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself, Mr. BRADLEY, Mr. BOREN, Mr. DECONCINI, Mr. GARN, Mr. INOUYE, Mr. MCCAIN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. NICKLES, Mr. STEVENS, and Mr. WILSON):

S. 318. A bill to facilitate the national distribution and utilization of coal; to the Committee on Energy and Natural Resources.

By Mr. GARN (for himself and Mr. HATCH):

S. 319. A bill to effect an exchange of lands between the U.S. Forest Service and the Salt Lake City Corp., within the State of Utah and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. HARKIN, Mr. COCHRAN, Mr. MOYNIHAN, Mr. WILSON, and Mr. SANFORD):

S. 320. A bill to provide that certain individuals with physical or mental impairments are allowed to continue Medicare coverage at their own expense; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. BURDICK, Mr. CONRAD, and Mr. COCHRAN):

S. 321. A bill to revise provisions of law that provide a preference to Indians; to the Select Committee on Indian Affairs.

By Mr. REID:

S.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 22d amendment; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. CHAFEE, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. MCCLURE, Mr. MACK, Mr. PRESSLER, Mr. WARNER, Mr. WILSON, Mr. LUGAR, Mr. HUMPHREY, Mr. HEINZ, Mr. STEVENS, Mr. NICKLES, Mr. THURMOND, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. BURNS, Mr. DOMENICI, Mr. DANFORTH, Mr. HELMS, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. COATS, Mr. BENTSEN, Mr. CONRAD, Mr. HOLLINGS, Mr. INOUYE, Mr. MATSUNAGA, Mr. SHELBY, Mr. MOYNIHAN, Mr. PRYOR, Mr. GLENN, Mr. NUNN, Mr. BRADLEY, Mr. SIMON, Mr. BUR-

DICK, Mr. LEVIN, Mr. SARBANES, Mr. SANFORD, Mr. PELL, Mr. GORE, Mr. GRAHAM, Mr. REID, Mr. ROCKEFELLER, Mr. WIRTH, Mr. FOWLER, Mr. EXON, Mr. BREAUX, Mr. DIXON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. METZENBAUM, Mr. ROBB, Mr. RIEGLE, Mr. CRANSTON, Mr. SIMPSON, Mr. GORTON, and Mr. LEAHY):

S.J. Res. 37. Joint resolution designating the week beginning May 14, 1989, as "National Osteoporosis Prevention Week of 1989"; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. DANFORTH, Mr. BURDICK, Mr. CONRAD, Mr. INOUYE, Mr. NUNN, Mr. STEVENS, and Mrs. KASSEBAUM):

S.J. Res. 38. Joint resolution to designate February 11, 1990, as "World Marriage Day"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. DURENBERGER):

S.J. Res. 39. Joint resolution to designate April 6, 1989, as "National Student-Athlete Day"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself, Mr. BUMPERS, Mr. BURDICK, Mr. LAUTENBERG, Mr. LEVIN, Mr. WILSON, Mr. FOWLER, Mr. WIRTH, Mr. DODD, Mr. INOUYE, Mr. SANFORD, Mr. DOMENICI, Mr. GRAHAM, Mr. MOYNIHAN, Mr. EXON, Mr. SYMMS, Mr. GARN, Mr. HATFIELD, Mr. GORTON, Mr. REID, Mr. LUGAR, Mr. MURKOWSKI, Mr. SASSER, Mr. BRYAN, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. PRYOR, Mr. GORE, Mr. LIEBERMAN, Mr. D'AMATO, Mr. MACK, Mr. JEFFORDS, Mr. PACKWOOD, Mr. WARNER, Mr. DOLE, Mr. COCHRAN, Mr. BENTSEN, Mr. ROTH, Mr. CHAFEE, Mr. STEVENS, Mr. MCCLURE, Mr. ADAMS, Mr. KOHL, Mr. CONRAD, Mr. HOLLINGS, Mr. ROBB, Mr. RIEGLE, Mr. CRANSTON, Mr. DURENBERGER, and Mr. DASCHLE):

S.J. Res. 40. Joint resolution to authorize the President to proclaim the last Friday of April 1989 as "National Arbor Day"; to the Committee on the Judiciary.

By Mr. SPECTER:

S.J. Res. 41. Joint resolution to designate April 1989 as "Fair Housing Month"; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself and Mr. WIRTH):

S.J. Res. 42. Joint resolution to designate March 16, 1989, as "Freedom of Information Day"; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. LUGAR, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. HEFLIN, Mr. PELL, Mr. CRANSTON, Mr. KERRY, Mr. MURKOWSKI, Mr. INOUYE, Mr. WILSON, Mr. SHELBY, Mr. GARN, Mr. WIRTH, Mr. NUNN, Mr. GRAMM, Mr. ROTH, Mr. JEFFORDS, Mr. THURMOND, Mr. BURDICK, Mr. SANFORD, Mr. LEVIN, Mr. BENTSEN, Mr. BOREN, Mr. GORE, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. WARNER, Mr. DECONCINI, Mr. SASSER, Mr. MOYNIHAN, Mr. BUMPERS, Mr. COCHRAN, Mr. SARBANES, Mr. LEAHY, Mr. JOHNSTON, Mr. KOHL, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. MCCLURE, Mr. PRESSLER, Mr. BRYAN, Mr. DASCHLE, Mr. MACK, Mr. ROCKEFELLER, Mr. DOLE, Mr. DURENBERGER, Mr. SPECTER, Mr. BRADLEY, Mr. GLENN, Mr. CHAFEE, Mr. ROBB, Mr. BREAUX, Mrs. KASSEBAUM, Mr. LOTT, Mr. STEVENS, Mr. BOND, and Mr. HEINZ):

S.J. Res. 43. Joint resolution designating April 9, 1989, as "National Former Prisoners of War Recognition Day"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 44. Joint resolution designating the week of April 9, 1989, as "Crime Victims Week"; to the Committee on the Judiciary.

By Mr. PRYOR (for himself, Mr. GRAHAM, Mr. GLENN, Mr. BRADLEY, Mr. BURDICK, Mr. INOUYE, Mr. JOHNSTON, Mr. SHELBY, Mr. REID, Mr. KOHL, Mr. BENTSEN, Mr. BUMPERS, Mr. CONRAD, Mr. CRANSTON, Mr. GORE, Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. WIRTH, Mr. HEINZ, Mr. PRESSLER, Mr. GRASSLEY, Mr. WILSON, Mr. CHAFEE, Mr. WARNER, Mr. BOSCHWITZ, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. JEFFORDS, Mr. KASTEN, Mr. LUGAR, Mr. MACK, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. STEVENS, Mr. THURMOND, and Mr. WALLOP):

S.J. Res. 45. Joint resolution designating May 1989 as "Older Americans Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PRYOR, from the Special Committee on Aging:

S. Res. 25. An original resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. SASSER, from the Committee on the Budget:

S. Res. 26. An original resolution authorizing expenditures by the Committee on the Budget; to the Committee on Rules and Administration.

By Mr. CHAFEE (for himself, Mr. BURDICK, Mr. SIMPSON, Mr. MOYNIHAN, Mr. SYMMS, Mr. MITCHELL, Mr. DURENBERGER, Mr. BAUCUS, Mr. WARNER, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. BREAUX, Mr. HUMPHREY, Mr. REID, Mr. GRAHAM, Mr. LIEBERMAN, Mr. BENTSEN, Mr. BIDEN, Mr. DIXON, Mr. DOLE, Mr. DOMENICI, Mr. GORTON, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, and Mr. SIMON):

S. Res. 27. A resolution commending Bailey Guard for his dedicated, faithful, and outstanding service to the U.S. Senate and the Nation; considered and agreed to.

By Mr. INOUYE, from the Select Committee on Indian Affairs:

S. Res. 28. An original resolution authorizing expenditures by the Select Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

S. Res. 29. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

S. Res. 30. An original resolution authorizing expenditures by the Committee on Banking, Housing, and Urban Affairs; to the Committee on Rules and Administration.

By Mr. PRESSLER:

S. Res. 31. A resolution designating the month of November 1989, as "National Alzheimer's Disease Month"; to the Committee on the Judiciary.

By Mr. BURDICK, from the Committee on Environment and Public Works:

S. Res. 32. An original resolution authorizing expenditures by the Committee on Environment and Public Works; to the Committee on Rules and Administration.

By Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. STEVENS, Mr. REID, Mr. DASCHLE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. HEFLIN, Mr. COCHRAN, Mr. PRESSLER, Mr. PELL, Mr. SARBANES, Mr. KERRY, Mr. SHELBY, Mr. D'AMATO, Mr. BRYAN, Mr. ADAMS, Mr. DECONCINI, Mr. CHAFEE, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. BIDEN, Mr. WILSON, Mr. HARKIN, Mr. BUMPERS, Mr. WARNER, Mr. LUGAR, Mr. FORD, Mr. COHEN, and Mr. KENNEDY):

S. Con. Res. 10. A concurrent resolution to express the sense of the Congress with respect to continuing reductions in the Medicare Program; to the Committee on Finance.

By Mr. McCAIN (for himself and Mr. BOSCHWITZ):

S. Con. Res. 11. A concurrent resolution provided for fair employment practices in the Senate; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EXON (for himself and Mr. KERRY):

S. 280. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Niobrara River in Nebraska as a component of the National Wild and Scenic Rivers System; to the Committee on the Environment and Public Works.

NIOBRARA RIVER SCENIC RIVER DESIGNATION ACT OF 1989

● Mr. EXON. Mr. President, today I am again introducing the Niobrara Scenic River Designation Act.

This legislation represents the collective effort of landowners along the Niobrara River in Nebraska—one of the most beautiful places in this great country of ours. It would designate a 76-mile stretch of this river as a national scenic river and preserve this area essentially as it is today for generations to come.

Eight years ago, farm and ranch landowners along this stretch of river began to organize in order to formulate the proposal I am introducing today. In the spring of 1985, a group of these landowners met with me in Lincoln, NE, and I agreed to sponsor their proposal.

Following that introduction, a group of Nebraskans sought to develop a State plan for protecting the river. As such, I agreed to hold off on scenic river designation for a time. Unfortunately, their efforts have not come to fruition, and I believe it's high time we move forward with this tailor-made bill which is supported by owners representing a majority of the land involved.

The purpose of scenic designation is to preserve the free-flowing condition

of this portion of the Niobrara River and the beauty of the associated landscape for the benefit and enjoyment of future generations. I have on many occasions referred to the Niobrara River as the Crown Jewel of Nebraska.

The shear beauty of this place is difficult to convey with words, but those who have seen it know exactly what I mean. I want to be sure that this natural heirloom is passed on to future generations.

Scenic rivers are free of impoundments, with shorelines and watersheds still mostly undeveloped, but still accessible by roads. Scenic designation is less restrictive than a wild river designation and would retain the character of the area in basically its present condition. The Interior Department would be allowed to purchase scenic easements from landowners along the shoreline to ensure that the beauty of this area is preserved.

At the same time, Mr. President, this legislation would ensure that an appropriate balance be maintained between the goals of preservation and development. For decades, Nebraska farmers and ranchers have helped to feed America and the world. Agriculture is our State's lifeblood and most important industry. Yet, American agriculture and the rural lifestyle is threatened today by circumstances familiar to us all.

This legislation accomplishes this needed balance by specifically providing that it will not hinder the innovative groundwater recharge plan to provide irrigation water to those who need it in north-central Nebraska. In a few moments, I will introduce legislation here in the U.S. Senate authorizing this groundwater recharge plan as a substitute for the Norden Dam which was voted down by the House of Representatives in 1982.

While most of the components of this irrigation project would be downstream from and unaffected by this 76-mile portion of the Niobrara to be designated as scenic, the springview component of the project falls within this area. Therefore, this bill provides specific authority for that portion of the project to be built within the scenic area.

Mr. President, there are several other provisions of this legislation where deviations from the basic Wild and Scenic Rivers Act of 1968 have been made. In fact, the Niobrara Scenic River Designation Act contains significant features which are tailored specifically to the needs and desires of the landowners and others in the area. We have asked for and included sound suggestions for improvements by all involved. I renew my plea for constructive suggestions.

For example, the bill contains a Niobrara Scenic River Advisory Council composed of farm and ranch landowners, State and local government representatives and others who will play an important role in developing and reviewing the Interior Department's management plan for the area. This will ensure local input and review of the management plan which will implement scenic river designation.

This bill specifically instructs the Secretary of the Interior that existing land use practices-including established agricultural and livestock operations, timber management practices and private campgrounds—will be compatible which scenic designation. Additionally, provision is made for replacement and additional structures and the normal activities of existing irrigation projects will not be affected. The use and allocation of water rights by the State of Nebraska will also not be affected.

The Interior Department may also share in the expenses of conservation and streambank erosion control as well as local government functions such as litter control, law enforcement and road maintenance.

The latter option, assistance with road maintenance, is one that I believe could prove very worthwhile for local taxpayers. The Niobrara is immensely popular with Canoeists. With any influx if visitors comes increased demands on public services such as roads. It only makes sense to provide specific authority for the Secretary of help with such expenses and I am particularly pleased this provisions is spelled out in the bill.

It is the intention of the landowners along the Niobrara that this be a cooperative venture—with as little involvement with farm and ranch operation as possible—with the Federal Government.

While the bill provides for the purchase of scenic easements from landowners, private land would still remain the property of landowners and on the tax rolls. These easements would be purchased on a willing-seller basis except for extreme circumstances where activities occur which pose a substantial threat to the values for which the river was designated. Landowners will continue to control access to their land for hunting, fishing and camping which would continue to be at each landowner's prerogative rather than Federal control. The idea behind this legislation is to create a limited partnership with the Federal Government.

Mr. President, the Niobrara Scenic River Designation Act indeed represents a well thought-out balance between preservation and development. Its cost is low; $3.5 million will be authorized for the purchase of scenic easements and $1.0 million authorized for development, principally at the public access sites at bridge crossings. This investment in our future is a bargain with enormous return.

Scenic river designation also holds great promise in terms of local economic development. Visitors spend money and residents of the area will have an opportunity to meet their needs through the sale of a variety of goods and services. An analysis by a respected expert on such matters predicts this designation will generate $4 million of additional sales or output in local counties, resulting in a $1.2 million increase in net income and about 60 jobs.

This entire undertaking represents one of the most important and pleasurable duties of a U.S. Senator. It is truly democracy at work since it is a joining together of citizens with a common purpose who have petitioned their Government to enact their wishes into law. This bill is their bill. They wrote it and I am privileged to be their elected representative who can help them achieve the goal for which they have worked so long and hard.

My new colleague from Nebraska, Senator BOB KERREY, supports this legislation and has joined me as a cosponsor. I am pleased that identical legislation has been introduced in the House by Representative PETER HOAGLAND and that Nebraska's Governor has voiced her support. I hope the rest of the Nebraska congressional delegation will join me in this endeavor once they have had the time to study it and talk to the landowners as I have been able to do.

Mr. President, the Niobrara River Valley is one of the most beautiful areas in our great country. I wish I could take every Member of the Senate up there. It is rich in ecological diversity and supports an abundance of wildlife—from bald eagles to whitetailed deer to whooping cranes. Canoeing and fishing also abound. Farms and ranches along the valley are constant reminders of Nebraska's agricultural heritage and current role as one of America's principal food-supplying States.

As President John F. Kennedy said in 1961, "It is our task in our time and in our generation to hand down undiminished to those who come after us, as was handed down to us by those who went before, the natural wealth and beauty which is ours." This is the spirit in which I introduce this legislation today and hope that this collective effort becomes law.

Mr. President, I ask unanimous consent that the text of the bill and a letter on the subject be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Niobrara River Scenic River Designation Act of 1989".

SEC. 2. DESIGNATION OF RIVER.

Subsection (a) of section 3 of the Wild and Scenic Rivers Act (89 Stat. 111; 16 U.S.C. 1274(a)) is amended by adding at the end thereof the following:

"( ) NIOBRARA, NEBRASKA.—(A) The segment from Borman Bridge Southeast of

Valentine approximately 76 miles downstream to the bridge crossing the Niobrara on State Highway 137, as generally depicted on the map entitled 'Boundary Map, Proposed Niobrara Scenic River Valley Corridor, 1985'; to be classified as as a scenic river and administered by the Secretary of the Interior, in consultation with the Niobrara Scenic River Advisory Council, established by section 3 of the Niobrara River Scenic River Designation Act of 1989.

"(B) After consultation with the Niobrara Scenic River Advisory Council, with State and local governments, and with the interested public and within one year from the date of enactment of this paragraph, the Secretary shall take such action as is required under subsection (b) of this section with respect to development of a management plan. Boundaries of the river valley corridor shall include land within 880 yards of each side of the Niobrara River. Inclusion of additional area within the boundaries may be added; however, no land or interest in land may be acquired within the expanded boundaries without the consent of the owner thereof.

"(C) In addition to those values specified in section 1(b) of this Act which are associated with the Niobrara River Valley, the Secretary is hereby directed through the management plan to protect the pastoral landscape and the established farming and ranching lifestyles of the rural people who depend upon the land in this unique area.

"(D) Notwithstanding any other provision of this Act, a diversion dam and pumping station may be constructed on the Niobrara River to provide water for an 8,000 acre tract near Springview consistent with the report of the State of Nebraska authorized by Public Law 98-63, entitled Nebraska State-led O'Neill Unit Alternatives Study and dated January 31, 1985.

"(E)(i) Notwithstanding any provision to the contrary contained in section 6(a) of this Act, no land or interest in land may be acquired for purposes of the river designated under this paragraph without the consent of the owner, except that a conservation easement in no more than 5 percent of the privately owned acreage within the designated river corridor and within 880 yards of the river (other than established farmsteads which are presently occupied) may be acquired without the consent of the landowner if activities are occurring or threatening to occur in the area to be acquired which pose a substantial threat to the integrity of the river and the values for which it was designated. Subsurface rights, including natural gas and petroleum resources, may not be acquired by the Secretary without the consent of the owner thereof. Provision shall be made to allow the surface activities necessary for the economical exploration for and the development of natural gas and petroleum resources.

"(ii) In recognition of the special river recreational values of the upper portion, public access easements may be acquired at the following locations: Berry Bridge, Allen Bridge, Brewer Bridge, Rockford Bridge, Norden Bridge, and Meadville Bridge. However, any public access easement that would be within one-quarter mile of an occupied residence and on the same unit of property must be acquired on a willing-seller basis only. In the lower portion, public access easements may be acquired only on a willing-seller basis at the following locations: Highway 183 Bridge, Riverview Bridge, Carns Bridge, and Highway 137 Bridge. Such locations shall not be used for purposes of public camping and shall not exceed 5 acres per locations. Nothing in this clause shall preclude the acquisition of other lands for public recreational use with the consent of the owner thereof. Easements for scenic overlooks adjacent to existing public roads may be acquired with the consent of the landowners thereof within the river valley. No interests in land in the segment from the Borman Bridge to the Cornell Dam may be acquired without the consent of the owner thereof.

"(iii) A donation of land or interests in land within and beyond the specified boundaries of the designated river corridor may be accepted by the Secretary if such donation contributes to the purposes of this paragraph.

"(F)(i) The Secretary shall permit existing land use practices as conducted by present owners or operators within the designated river corridor on the date of enactment of this paragraph, including established agricultural and livestock operations, timber management practices, and private campgrounds. Structures in place or under construction at the time of designation shall be considered compatible with such designation, and repair or replacement of said residential, farmstead, agricultural (including private irrigation and fencing systems), fish hatchery and recreational facilities, bridges and other structures shall not be foreclosed. Normal activities within established farmsteads and regarding established residences shall not be subject to restriction.

"(ii) Nothing in this subparagraph shall authorize the Secretary to control hunting, fishing, or camping on or public access to private property within the designated scenic river boundaries unless these rights are purchased from the landowner. Individuals owning more than 40 acres of land within the designated river corridor on the date of the enactment of this paragraph shall be permitted to relocate their primary residence, build an additional residence or farmstead (for family farm and ranch purposes), or build one residence or cabin (if none now exists) on their property within 880 yards of the river. Any additional new nonagricultural structures beyond established farmsteads may be subject to screening or setback requirements established to preserve the scenic values of the river corridor. Continued operation and maintenance of the Cornell Dam powerworks shall be permitted, although public safety markers and portage facilities may be provided.

"(G) The Secretary may enter into cooperative agreements with local units of government for maintenance of existing access and other roads within the designated river corridor, law enforcement, control of trespass, litter control, interpretive programs, and other associated visitor services.

"(H) The Secretary may share in the expense of instituting conservation and streambank erosion control practices on private land which will contribute to and enhance scenic or natural values or contribute to the protection of agricultural land, established bridges, and resources of historical or archaeological significance within the river corridor.

"(I) For purposes of carrying out the provision of this paragraph with respect to the river designated by this paragraph, there are authorized to be appropriated $3,500,000 for acquisition of interests in lands and $1,000,000 for development.".

SEC. 3. ESTABLISHMENT OF NIOBRARA SCENIC RIVER ADVISORY COUNCIL.

(a) ESTABLISHMENT.—In order to carry out the provisions of this Act, the Secretary shall establish a Niobrara Scenic River Advisory Council to consist of eleven members appointed by the Secretary—

(1) three of whom shall be owners of farm or ranch property within the upper portion of the designated river corridor between the Borman Bridge and the Meadville Bridge;

(2) three of whom shall be owners of farm or ranch property within the lower portion of the designated river corridor between the Meadville Bridge and the bridge on Highway 137;

(3) one of whom shall be a canoe outfitter in the upper portion of the designated river;

(4) one of whom shall be a representative of the State of Nebraska;

(5) two of whom shall be representatives of the affected county governments or natural resources districts; and

(6) one of whom shall be a representative of a private citizens conservation organization whose purposes include the philosophy of river conservation.

At least five of the six landowners appointed to the Council under clauses (1) and (2) shall be residents of Brown, Cherry, Keya Paha, or Rock Counties.

(b) TERMS OF MEMBERS.—The terms of appointment to the Council shall be five years and no individual shall serve more than two terms.

(c) ROLE OF COUNCIL.—The Advisory Council shall participate in and have a significant role in the development and review of the management plan for the river designated in this Act, and in the formulation and review of subsequent agency plans including annual operation and maintenance plans.

(d) CHAIRPERSON; VACANCIES; REASONABLE EXPENSES.—The Secretary shall designate one of the members of the Advisory Council, who is a permanent resident of Brown, Cherry, Keya Paha, or Rock Counties, to serve as Chairperson. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act on vouchers signed by the Chairperson.

COLORADO STATE UNIVERSITY,
DEPARTMENT OF AGRICULTURAL AND RESOURCE ECONOMICS,
Fort Collins, CO, October 26, 1987.

Mr. GREG PALLAS,
Executive Assistant, Senator J. James Exon, Nebraska, U.S. Senate Office Building, Washington, DC.

DEAR MR. PALLAS: This is in response to your request for information on the expected regional economic impact of possible designation of a 76 mile section of the Niobrara as a wild, scenic, and recreational river.

I was born in Seward County, and lived in the state for 38 years. Some years ago when I was on the staff of the University of Nebraska, I assisted the wild and scenic river study team in assessing the recreation potential of the river. I boated a section of the river with an interagency group of scientists. Later, I prepared information for an association of local ranchers who were interested in protecting a section of the Niobrara. This experience prompts me to apply my expertise as a recreaton resource economist in an attempt to answer your questions to the best of my knowlege.

I will draw on the results of my comprehensive study of 11 potential wild and scenic rivers (1984) and my textbook entitled, Recreation Economic Decisions: Comparing Benefits and Costs (1986).

The designation of 76 miles of river is expected to generate approximately $4 million of additional output or sales in the local counties. This would result in about $1.2 million increase in net income, adding about 60 new jobs. Additional taxes would be at least $200,000 per year.

These estimates are based on the following assumptions. Annual recreation use of the 76 miles section will increase by 228,000 recreation visitor days of 12 hours. This is equal to 40 percent of the reported use per mile for potential wild and scenic rivers in Colorado, owing to differences in size and characteristics. Expenditures will average $14.50 per visitor day in 1897 dollars, 50 percent in the local region and 50 percent enroute and where they live. In addition, 5 percent of expenditures for durable consumer goods such as boats and related recreation equipment will be made in the local region. The regional multiplier is 2.0, consistent with recreation impacts of comparable sites. Net income is assumed to equal 30 percent of direct and indirect output or sales, and taxes 5 percent. New employment is assumed to be equal to total net income divided by $20,000. Of course, the actual experience in the local region of the Niobrara river may vary which would change the estimated regional impact. However, each of these assumptions is based on the best available information for comparable recreation sites, adjusted to Niobrara River conditions.

In addition, there may be a substantial economic impact on the Nebraska economy outside of the local region. Without designation and management of the Niobrara as a wild and scenic river, existing and potential residents of the state who engage in this type of recreation activity may be forced to travel out of state to do so. If we assume that they would be inclined to use the Niobrara instead, then designation could generate up to $20.6 million of additional output and sales in the state outside of the local region of the river. This would result in net income of $6.2 million, adding about 309 new jobs. Additional taxes would amount to more than $1 million.

Sincerely yours,

RICHARD G. WALSH,
Professor.

By Mr. EXON (for himself and Mr. KERREY):

S. 281. A bill to authorize the Secretary of the Interior to modify the construction, operation, and maintenance of the O'Neill unit, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Energy.

MODIFICATION OF THE O'NEILL UNIT

● Mr. EXON. Mr. President, today I am introducing legislation requiring the Secretary of the Interior to modify the principal features of the authorized O'Neill unit of the Pick-Sloan Missouri River Basin Program, replacing the decades old dam and reservoir components of the project with an innovative ground water recharge plan.

These modifications are designed to implement the recommendations of the State-led study of less costly, less environmentally harmful alternatives as required by Public Law 98-63. This study was conducted by the State's water experts as a preliminary evaluation of workable alternatives to the use of a dam and reservoir.

The State recommends an O'Neill unit project that can be built to meet the water needs of north central Nebraska without the use of a costly and controversial dam and reservoir. The State plan recommended to the Bureau of Reclamation could be built in a third of the time, at less than half the cost.

The "consensus" proposal meets two important criteria: Preservation of the existing authorization and resolution of the conflicts and opposition to the dam and reservoir components of this long debated water project for north central Nebraska.

This project, originally authorized in 1954 and again reauthorized in 1972, has been plagued with fatal problems. The project narrowly escaped deauthorization by the House in 1980 by only two votes. Recognizing the perils facing the authorized projects, Nebraskans began the process of searching for a workable alternative.

An entrenched bureaucracy resisted any efforts to design a more acceptable alternative. The 1982 House vote to terminate all funding for the Norden Dam again underscored the need to find an acceptable alternative. In 1983, I called for a study which relied upon the State's leadership and expertise in advancing an economical and environmentally sound alternative.

This study, conducted by the director of the Nebraska Department of Water Resources, was released in January of 1985. The report, entitled "Nebraska State-Led O'Neill Unit Alternative Study" provides the basis of the changes to the O'Neill unit which my legislation seeks to implement.

The search for an alternative was based upon a firm belief that failure to do so will end all water development opportunities for north central Nebraska.

I greatly appreciate the Bureau's recognition that alternatives which meet the water needs of north central Nebraska without the use of a costly dam and reservoir must now be considered if we are to have any project at all.

Our choice is not between the old Norden Dam or an alternative. The choice, quite simply, is between an alternative or nothing at all.

It is now clear that the original decades old concept for the O'Neill unit will never prevail.

I am proposing legislation to modify the features of the authorized project, eliminating the dam and reservoir and replacing those features with ground water recharge components consistent with the State's recommendations.

This project can offer benefits to the entire Nation. The drought of 1988 proved the value of having an efficient, effective, and environmentally sound irrigation delivery system in place. Doing so makes long-term sense for the State of Nebraska and the Nation. The drought highlighted the fact that we must make good use of our water resources.

Mr. President, this legislation offers a unique opportunity for the future of water development in our Nation. It is an opportunity for the Bureau of Reclamation to move forward into the future. We have been building water projects over the past 80 years in the same way, using costly and controversial surface impoundments. This legislation offers an opportunity to head down a new, more affordable water development path.

This legislation will reduce the cost of this water project by more than half of the original cost. With Federal dollars becoming more constrained, these modifications to the authorized project may offer a model for other Federal projects using new technology to meet an age-old problem in a less costly and less environmentally harmful manner.

Certainly, this new direction for the O'Neill unit would not be entirely possible without the support of the local reclamation district as well. It has been a long and trying journey for these Nebraskans who have been waiting 30 years for this project.

In addition, this project is located on the Niobrara River, the only remaining east-west running river on the northern Great Plains unimpeded by a major reservoir. This is a beautiful and biologically unique area which must be preserved and I have proposed to do just that in the scenic river legislation I just introduced. The Niobrara River is a treasure of Nebraska. With this project, water development and conservation can exist together.

Mr. President, I urge the Senate's favorable and prompt consideration of this legislation which not only will save the Nation's taxpayers hundreds of millions of dollars but will also help pave the way for affordable and environmentally sound water development in the year's ahead.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to modify the O'Neill unit, Pick-Sloan Missouri Basin Program, Nebraska in accordance with the amendments made by this Act.

SEC. 2. Section 401 of the Reclamation Project Authorization Act of 1972 (Public Law 92-514) is amended to read as follows:

"SEC. 401. (a) The Neill unit, previously authorized as an integral part of the Pick-Sloan Missouri Basin program by the Act of August 21, 1954 (68 Stat. 757), is reauthorized as a unit of that project for the purposes of providing irrigation water for more than ninety thousand acres of land, flood control, fish and wildlife conservation and development, public outdoor recreation, and for other purposes. The construction, operation, and maintenance of the O'Neill unit shall be subject to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto). The principle features of the unit shall include an infiltration gallery system or similar system for extracting water from the Niobrara River alluvium, pipeline conveyance and distribution system, pump station, injection wells or other system for ac-

complishing groundwater recharge, Pick-Sloan Missouri River Basin power, and other necessary works needed to effect the aforesaid purposes, and shall be generally consistent with the report of the State of Nebraska authorized by Public Law 98-63, entitled 'Nebraska State-led O'Neill Unit Alternatives Study' and dated January 31, 1985."

By Mr. PELL:

S. 283. A bill to provide for the establishment of the U.S. Coast Guard as an independent agency for certain purposes, to transfer certain functions of the Secretary of Transporation to the Commandant of the Coast Guard, and for other purposes; to the Committee on Commerce, Science and Transporation.

U.S. COAST GUARD ACT OF 1989

Mr. PELL. Mr. President, I am today reintroducing legislation—legislation which I first introduced in the closing days of the 100th Congress—to remove the U.S. Coast Guard from the Department of Transportation and to establish it as an independent agency of the Federal Government.

The Coast Guard is charged with fulfilling some of the most basic functions of Government and with providing essential services to the people. Indeed, in recent years, the Congress has added significantly to the duties and responsibilities of the Coast Guard. Today the Coast Guard has the major responsibility not only for the traditional functions of search and rescue and maritime safety, but also for interdiction of illegal drug shipments, for enforcement of marine environmental protection laws, for enforcement of fishery conservation laws, and for the coastal defense of the Nation.

The status of the Coast Guard as just one of many administrative units of the Transportation Department is hampering the Coast Guard in fulfilling its responsibilities. As a result of its placement within the Transportation Department, the Coast Guard has found itself in the middle of national priority and budgetary squabbles between the administration and Congress involving efforts to protect, reduce, or eliminate funding in the Federal budget for important transportation programs such as Amtrak, highway and airline safety, and urban mass transportation.

The net result has been that the Coast Guard has borne much of the brunt of budget reductions which have occurred within the annual appropriations for the Department of Transportation. The impact on the Coast Guard has been unfortunate, usually unintended, but nevertheless servere. For example, last year, the Coast Guard was required to absorb on short notice more than $100 million in cuts from its fiscal year 1988 budget. Funds for such high-priority functions as drug interdiction were slashed by 55 percent, and vessels and stations available for search and rescue to protect the lives and equipment of fishermen were reduced as well.

Fortunately under the recently enacted budget for fiscal year 1989, the Coast Guard was able to resume many of the critical drug interdiction efforts, and restore operations from key search and rescue stations closed earlier in 1988. Nevertheless, the Coast Guard, so long as it remains an administrative unit of the Department of Transportation, will be subject to severe budget reductions as a result of continuing budget disagreements between the administration and the Congress.

Establishing the Coast Guard as an independent agency would help eliminate these problems. It would free the service from entanglement with entirely irrelevant budget considerations within the Department of Transportation. The bill will give the Coast Guard the stature and the visibility necessary to permit consideration of its funding needs at a higher and more appropriate level of national policy.

Important in this consideration of the Coast Guard's future, Mr. President, will be the results of a study by the General Accounting Office which I along with the leadership of the House of Representatives and the Senate requested late last year during consideration of the omnibus drug and abuse legislation of 1989. This study which is to be reported to the Congress by November 30, 1989, will review all options for Coast Guard reorganization, including the creation of a separate department for the service. I ask unanimous consent that the text of this letter requesting the GAO study be printed at the conclusion of my remarks.

Mr. President, I am reintroducing this legislation at this time with the hope that the budgetary concerns of the Coast Guard will be the focus of serious examination by my colleagues in the 101st Congress. I welcome cosponsors to this important legislation, and I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Coast Guard Act of 1989".

SEC. 2. DEFINITIONS.

As used in this Act, unless otherwise provided or indicated by the context—

(1) the term "Coast Guard" means the United States Coast Guard as established under section 1 of title 14, United States Code;

(2) the term "Commandant" means the Commandant of the Coast Guard appointed under section 44 of title 14, United States Code;

(3) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(4) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(5) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

SEC. 3. AMENDMENTS TO CHAPTER 1 OF TITLE 14, UNITED STATES CODE.

(a) COAST GUARD AS MILITARY SERVICE AND INDEPENDENT ESTABLISHMENT.—Section 1 of title 14, United States Code, is amended to read as follows:

"§ 1. Establishment of Coast Guard

"(a) The Coast Guard as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times. For purposes of all Federal laws, the Coast Guard shall be treated as an independent establishment as defined under section 104 of title 5, except when operating as a service in the Navy.

"(b) For purposes of the preparation and submission of the budget submitted by the President to the Congress under the provisions of section 1105(a) of title 31, the Coast Guard shall be treated as an independent establishment as defined under section 104 of title 5.".

(b) RELATIONSHIP TO NAVY DEPARTMENT.—Section 3 of title 14, United States Code, is amended to read as follows:

"§ 3. Relationship to Navy Department

"Upon the declaration of war or when the President directs, the Coast Guard shall operate as a service in the Navy, and shall so continue until the President, by Executive order, determines the Coast Guard shall act as an independent establishment as defined under section 104 of title 5. While operating as a service in the Navy, the Coast Guard shall be subject to the orders of the Secretary of the Navy who may order changes in Coast Guard operations to render them uniform, to the extent he deems advisable, with Navy operations.".

(c) DEFINITION OF SECRETARY.—Section 5 of title 14, United States Code, is amended to read as follows:

"§ 5. Secretary defined

"As used in this title, the term 'Secretary' means—

"(1) the Secretary of Defense or the Secretary of the Navy, as applicable, when the Coast Guard is operating in the Department of Defense or Department of the Navy; and

"(2) the Commandant of the Coast Guard when the Coast Guard is performing functions which prior to the date of the enactment of the United States Coast Guard Act of 1989, would have been performed while operating in the Department of Transportation.".

SEC. 4. TRANSFERS.

There are transferred to the Commandant all functions which the Secretary of Transportation exercised before the date of the enactment of this Act with regard to the Coast Guard and all related functions of any officer or employee of the Department of Transportation.

SEC. 5. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The Commandant may appoint and fix the compensation of such officers and employees, including investigators, attorneys, and administrative law judges, as may be necessary to carry out the functions of the Commandant and the Coast Guard. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Commandant may obtain the services of experts and consultants in accordance with section

3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for grade GS-18 of the General Schedule under section 5332 of such title. The Commandant may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 6. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this Act, the Commandant may delegate any of the functions transferred to the Commandant by this Act and any function transferred or granted to the Commandant after the effective date of this Act to such officers and employees of the Coast Guard as the Commandant may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Commandant under this section or under any other provision of this Act shall relieve the Commandant of responsibility for the administration of such functions.

SEC. 7. REORGANIZATION.

The Commandant is authorized to allocate or reallocate any function transferred under section 4 among the officers of the Coast Guard, and to establish, consolidate, alter, or discontinue such organizational entities in the Coast Guard as may be necessary or appropriate.

SEC. 8. RULES.

The Commandant is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Commandant determines necessary or appropriate to administer and manage the functions of the Commandant or the Coast Guard.

SEC. 9. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 1531 of title 31, United States Code, shall be transferred to the Coast Guard. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 10. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this Act. The Director shall provide for the termination of the affairs of all entities terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SEC. 11. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this Act, the transfer pursuant to this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this Act.

(b) EXECUTIVE SCHEDULE POSITIONS.—Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Coast Guard to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(c) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this Act, shall terminate on the effective date of this Act.

SEC. 12. SAVINGS PROVISIONS.

(a) EFFECT ON PREVIOUS DETERMINATIONS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act; and

(2) are in effect when this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Commandant, a court of competent jurisdiction, or by operation of law.

(b) CONTINUATION OF PROCEEDINGS.—(1) The provisions of this Act shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before the Department of Transportation, which relates to the Coast Guard, or any office thereof with respect to functions transferred by this Act; but such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Commandant by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary of Transportation and the Commandant are authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) EFFECT ON LEGAL ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this Act do not affect actions commenced prior to the effective date of this Act, and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) NO ABATEMENT OF ACTIONS OR PROCEEDINGS.—No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Transportation with respect to functions transferred by this Act shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Transportation with respect to functions transferred by this Act, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this Act, or other proceedings may be asserted by or against the United States or the Commandant, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) SUBSTITUTION.—If, before the date on which this Act takes effect, the Department of Transportation, or any officer thereof in his official capacity, is a party to an action, and under this Act any function of such Department, Office, or officer is transferred to the Commandant, then such action shall be continued with the Commandant substituted or added as a party.

(f) JUDICIAL REVIEW.—Orders and actions of the Commandant in the exercise of functions transferred to the Commandant by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Department of Transportation, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Commandant.

SEC. 13. SEPARABILITY.

If a provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 14. TRANSITION.

With the consent of the Secretary of Transportation the Commandant is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department of Transportation with respect to functions transferred to the Coast Guard by this Act; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this Act.

SEC. 15. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the United States Coast Guard—

(1) to the Secretary of Transportation shall be deemed to refer to the Commandant of the Coast Guard; and

(2) to the Secretary shall be deemed to refer to—

(A) the Secretary of Defense or the Secretary of the Navy, as applicable, when the Coast Guard is operating in the Department of Defense or Department of the Navy; and

(B) the Commandant of the Coast Guard when the Coast Guard is performing functions which prior to the date of the enactment of this Act, would have been performed while operating in the Department of Transportation.

SEC. 16. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress, the Commandant of the Coast Guard shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act to—

(1) title 14, United States Code;
(2) title 5, United States Code;
(3) title 10, United States Code;
(4) title 37, United States Code; and
(5) any other provision of law.

(b) SUBMISSION TO THE CONGRESS.—No later than 6 months after the effective date of this Act, the Commandant shall submit the recommended legislation referred to under subsection (a).

U.S. SENATE,
Washington, DC, October 21, 1988.

Mr. CHARLES A. BOWSHER,
Comptroller General of the United States, General Accounting Office, Washington, DC.

DEAR MR. BOWSHER: We respectfully request that you conduct a comprehensive review of all options for United States Coast Guard reorganization including the creation of a separate department for the purpose of enhancing the capabilities, manpower and equipment of the United States Coast Guard in order to substantially increase the long-term role of the Coast Guard in drug interdiction and enforcement efforts and to ensure a steady and assured source of funding for this important mission.

The results of this evaluation should be reported to the Congress by November 30, 1989.

We appreciate your attention to this matter and look forward to the successful completion of this study.

Sincerely,

Robert C. Byrd, Majority Leader, U.S. Senate; Robert Dole, Republican Leader, U.S. Senate; Claiborne Pell, Chairman, Foreign Relations Committee, U.S. Senate; Jim Wright, Speaker, House of Representatives; Thomas S. Foley, Majority Leader, House of Representatives; Robert H. Michel, Republican Leader, House of Representatives.

By Mr. WARNER (for himself and Mr. ROBB):

S. 284. A bill to remove a restriction from a parcel of land in Roanoke, VA, in order for that land to be conveyed to the State of Virginia for use as a veterans' nursing home; to the Committee on Energy and Natural Resources.

REMOVAL OF RESTRICTIONS ON USE OF CERTAIN LAND

● Mr. WARNER. Mr. President, I am pleased to be joined by my Virginia colleague, Senator ROBB, in introducing legislation today that would remove a restriction from a certain parcel of land in Roanoke—land that is now standing vacant—in order for that land to be conveyed to the Commonwealth of Virginia for use as a State veterans home.

Mr. President, the city of Roanoke, VA was kindly given a 16.8-acre parcel of land near Salem, VA, by the Department of the Interior in 1980 for park and recreational purposes. When the contract for this transaction was drawn up, there was a standard provision included that barred future use of this land for anything other than recreational purposes. This means that, the city of Roanoke, which wants to convey this land to the Commonwealth of Virginia for the purpose of building a State veterans home, cannot do so under the terms of the contract. This legislation merely enables the Secretary of the Interior to execute such instruments as may be necessary to remove the restrictions on the land.

Mr. President, there has long been a need for a State home for veterans in Virginia. Our fair Commonwealth is home to 677,000 veterans. Twenty-five of these veterans are World War II veterans with an average age of 66 years.

This home would be established by the Commonwealth for veterans who are disabled by age, disease, or other factors and are incapable of earning a living because of their disability. While 35 other States have a total of 55 State veterans homes, Virginia has none.

Mr. President, I have been following this matter very closely, as I strongly believe that Virginia's veterans not only deserve but have gained a right to this professional care. In that regard, I have contacted the Veterans' Administration and have discussed the status of efforts for such a home for Virginia. While they could, of course, make no commitment, they did indicate that conditions look very favorable for Virginia in attempting to secure matching funding for a State home. I also contacted the Governor of Virginia to urge his expeditious support, and the support of the Virginia General Assembly for this worthwhile project. I have also contacted the Department of the Interior, in an attempt to determine if there is any administrative process to remove the restrictions.

My fellow Virginia colleague, Representatives JIM OLIN, who introduced this measure in the House of Representatives, has made an excellent recommendation. He suggests that the Commonwealth of Virginia name his home in honor of the former Congressman from the Fifth District of Virignia—a man who was truly concerned about this Nation's defense and her veterans—Dan Daniel. I fully concur in that recommendation, and urge the support of my colleagues for this legislation so that Virginia may join the 35 other States that already have State veterans homes.●

By Mr. CRANSTON (for himself and Mr. WILSON):

S. 285. A bill to amend the Export Administration Act of 1979 to require the maintenance of an export assistance office in nothern California; to the Committee on Banking, Housing, and Urban Affairs.

MAINTENANCE OF AN EXPORT ASSISTANCE OFFICE IN NORTHERN CALIFORNIA

Mr. CRANSTON. Mr. President, I rise today to introduce the nothern California High Technology Export Assistance Act. This bill will be of tremendous benefit to small- and medium-sized high technology companies—the companies that are our greatest weapon in our fight to eliminate the trade deficit.

Last year we passed the Omnibus Trade and Competitiveness Act—a bill I strongly supported. This legislation has strengthened our trade laws and set forth a comprehensive national trade policy for the first time. The reforms to our export control laws that several of my colleagues and I got included in the trade bill are already having a positive effect on the high technology export community. But there is more to do.

The bill I'm introducing today requires the Secretary of Commerce to open an export assistance office in northern California. The office, under the jurisdiction of the Bureau of Export Administration [BXA], would help exporters and potential exporters comply with the Export Administration Act [EAA] and the regulations issued under it. For anyone unfamiliar with the EAA, let me tell you that complying with it is no easy task—the law and regulations fill a binder several inches thick. Most large firms have many employees who concentrate solely on EAA work. If necessary, they can afford to fly to Washington or hire local lawyers to straigthen things out for them. But it's not that easy for small firms; the FAA presents an intimidating and sometimes insurmountable obstacle to exporting for them.

Mr. President, let me make it clear that I fully support the intent of the EAA. We must control our exports for national security purposes. Our technological lead is essential to our defense. However, I have been a leading advocate of reforming the EAA so that our commerical exports are not needlessly wrapped up in a bureaucratic maze. If the Soviets want to buy Pac-Man, I don't see any danger in that. We shouldn't try to stop it and we shouldn't make our exporters fill out forms and wait months for an answer.

Prior to passage of the omnibus trade bill, the list of controlled items has expanded rapidly and the Department of Defense [DOD] has exerted what I felt was more than the appropriate level of influence. The High Technology Trade Enhancement Act (S. 652), a bill I introduced in the 100th Congress, was a significant reform of the EAA. Its intent was to decontrol and delicense items where such action wouldn't endanger national security and to end the Defense Department's de facto veto authority over the export control system. I'm extremely pleased that the bulk of my bill was included in the omnibus trade bill, which was signed into law August

23, 1988. Among other things, the new trade law clarifies that DOD should only be reviewing licenses for national security reasons, not foreign policy, and it provides a timetable for resolving disputes between Commerce and DOD. The law also eliminates all licenses to Cocom countries certified to have effective control systems, eliminates virtually all reexport licenses within Cocom, delicenses to the PRC Green Line for all Cocom/5(k) countries, and revises the foreign availability procedure. Probably the most important thing the trade law does is to firmly establish Commerce as the lead agency on export control matters. And because of an amendment I offered, it also authorizes the Secretary of Commerce to open regional export assistance offices.

This bill takes that provision one step further and requires an office in northern California. Why do we need an office in northern California? One look at the statistics and the answer is clear: One-half of the State of California is responsible for over 16 percent of the entire Nation's export license applications. Of the 95,698 applications submitted nationwide in 1988, the 15,479 from northern California were for exports valued at almost $27 billion. That's almost 25 percent of the total national value.

Let me review, for a moment, the history behind this bill. In 1986, I first introduced legislation calling for a western regional export licensing office. I reintroduced that bill as S. 13 on the first day of the 100th Congress. The reason was simple: The 3,000 miles and three time zones between Washington and California presented an intolerable carrier for our exporters. I wanted our exporters—particularly the ones doing the bulk of our high value, high technology exports—to know that the Government is on their side, not their adversary. It was only logical to have export administration officials on the west coast, where the exporters are.

Later in 1987, Congressman BERMAN offered a version of my bill as an amendment to the trade bill. While the bill languished in conference for months, the Commerce Department recognized the need to provide better services to western exporters and agreed to open an export assistance office in the Los Angeles area. Convinced that the new Electronic License Submission Program negated the need for actual licensing on the west coast, Congressman BERMAN and I dropped the language requiring a western licensing office from the final trade bill. My amendment authorizing $4 million for regional offices was part of the conference agreement. The funding for the Newport Beach office, however, came from BXA's operating budget.

Last fall the Appropriations Committee provided $1 million for BXA regional offices, but did not heed my advice to fund the program fully at $4 million or to establish an office in northern California. The appropriations bill requires offices in Portland and Boston and calls for a study of other potential locations. While I'm frustrated that the study hasn't been completed yet, I'm confident the facts will prove the case for a northern California office.

I was pleased to join several hundred exporters for the grand opening of the new office in Newport Beach last June, and I can honestly say the office has been a tremendous success from day one. I recently received a report on the office from Under Secretary Paul Freedenberg. He states that since last June, the office has handled over 30,000 phone calls and over 600 in-house consultations. The office receives an average of 300 calls daily, which generally concern regulation interpretations, assistance with commodity classifications, and requests for licensing information from companies new to exporting. I am told the staff has undertaken a number of outreach activities to keep exporters informed on ever-changing export control issues. These activities include miniseminars, briefings, and events sponsored by trade associations.

If the Newport Beach office is so successful, why is one needed in northern California too? As I stated earlier, the licensing statistics make the case by themselves; in 1986, northern California alone produced more license applications than the combined total of 35 other States. To further make the case, however, I quote from a July 26, 1988, Freedenberg letter to Congressman LES AUCOIN, "approximately 40% (of the calls received in Newport Beach) are from northern California, specifically the San Jose, Santa Clara, and San Francisco area." In a more recent letter to me, Freedenberg states that the success of the office "has not been without its costs. Twenty percent of the staff have resigned due to the workload and attempting to manage the increasing volume of calls while still conducting outreach activities will be somewhat problematic." The need for an office is reinforced by Freedenberg's statement that, "the presence of the office has increased the compliance of companies in the region." And that's what it's all about, because export controls are useless if companies don't know about them or how to comply with them.

I know there will be skeptics who say we can't afford another office or that it duplicates functions of the International Trade Administration's district offices. I strongly disagree with both of these arguments. Clearly we must restrain Government spending to get the Federal deficit under control. But we must also prioritize our spending and recognize that our economic security and our national security are interdependent. We must do everything we can to promote the international competitiveness of our exporters. This bill is one small step in that direction. The cost of this office, which should be less than $500,000, would be more than made up by the increase in exports and additional tax revenue. Time and money would be saved by both exporters and the Commerce Department. For example, last year over 5,000 licenses were returned without action to exporters by the Commerce Department. Having a local office where exporters can learn how to apply properly will greatly reduce that number and expedite the process for everyone.

Regarding the potential duplication of duties by ITA, let me simply say that is not the case. Congress made a point of separating the functions of export administration from trade administration. ITA and BXA have different mandates and serve different constituencies. I fully support the ITA district offices—in fact, I think they are woefully underfunded and understaffed—but that doesn't mean we don't need BXA officials in the field as well. Perhaps they can be co-located to conserve resources.

The need for a northern California office has been endorsed by the California World Trade Commission, which is the bipartisan State entity responsible for trade policy, and Advanced Micro Devices, one of the Nation's leading semiconductor manufacturers. Grey Mignano, executive director of the Trade Commission writes,

> [We] hope you will consider introducing legislation to establish an office in what can truly be considered the foremost key high technology area.

Cliff Jernigan, director of government affairs at AMD states that "AMD and other high tech companies in the Bay Area would be appreciative of such an effort" to open a northern California office. Karen Murphy, export licensing manager of National Advanced Systems in Santa Clara, has praised the Newport Beach office and said, "a northern California office would be of tremendous benefit not only to the current exporting community but to potential exporters as well * * * greater knowledge will increase the professionalism of the industry." I am confident that, as word of this effort spreads, more and more companies—particularly small companies whose voices are seldom heard in Washington—will endorse this bill.

I am pleased to report that this bill has bipartisan and bicameral support. I am joined today by my colleague Senator WILSON, and Congressman MINETA, EDWARDS, and PANETTA are introducing companion legislation in the House of Representatives. I look forward to working with them, the high technology community, and the administration to see this important piece of legislation enacted.

I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 15 of the Export Administration Act of 1979 (50 U.S.C. App. 2414) is amended by adding at the end the following:

"(d) NORTHERN CALIFORNIA REGION OFFICE.—

"(1) IN GENERAL.—The Secretary shall establish and maintain an office in the northern region of the State of California to provide assistance to exporters and potential exporters in complying with the requirements of this Act and regulations issued under this Act.

"(2) DUTIES.—The office established and maintained under this subsection shall, among other things—

"(A) provide access to the electronic license submission network of the Department of Commerce,

"(B) provide counseling on license preparation.

"(C) supply guidance in the design and operation of multiple shipment export license control systems, and

"(D) maintain for sale or distribution an adequate supply of all standard application forms, supporting documents, and copies of the regulations prescribed by the Secretary.".

(b) Section 14 of the Export Administration Act of 1979 (50 U.S.C. App. 2413) is amended by inserting before the semicolon at the end of subsection (a)(17) the following: ", including a detailed accounting of the activities of all regional, district, or field offices".

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 286. A bill to establish the Petroglyph National Monument in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

PETROGLYPH NATIONAL MONUMENT

● Mr. DOMENICI. Mr. President, I rise today to reintroduce legislation to designate a portion of the Northwest Mesa Volcanic Escarpment in Albuquerque, NM, as the "Petroglyph National Monument." This legislation is needed to protect the escarpment and the thousands of ancient rock carvings it contains from being destroyed by rapidly encroaching development.

Mr. President, this week's Newsweek magazine declared Albuquerque to be one of America's "Hot Cities"—the best places in the country to live and work.

Newsweek aptly described Albuquerque as a delicate balance built on the land, an urban oasis that has experienced steady but measured growth.

Newsweek particularly noted Albuquerque's emphasis on quality of life projects, most notably open space acquisition to preserve its breathtaking landscape. Because of Albuquerque's dedication to preserving its environment, we have been able to preserve the Sandia Mountains, which stand guard on the eastern edge of the city, and the cottonwood bosque through which the Rio Grande snakes as it flows through the middle of Albuquerque on its long, lazy trek to the Gulf of Mexico.

Finally, Newsweek let America in on one of America's best-kept secrets:

Albuquerque boasts a North American rarity: a thriving present built atop a visible anicent past. Carved along the base of the volcanoes on the city's western edge are petroglyphs dating back tens of thousands of years.

It is this magnificent resource, Albuquerque's Northwest Mesa Volcanic Escarpment and the petroglyphs upon it, that the legislation that I am introducing today will protect.

Some 190,000 years ago, a series of volcanic eruptions along a 5-mile fissure in the Earth spewed lava in thin, but broad sheets toward the Rio Grande. Later eruptions covered the earlier lava flows. creating over time a 17-mile long, serpentine cliff—the Northwest Mesa Volcanic Escarpment—that sweeps up from the desert, rising 100 feet at some points, and that is capped by five steep volcanic cones.

The escarpment is strewn with large, dark basalt boulders. As you approach the escarpment, you might be surprised to discover a face peering back at you from the rocks. And then you would see an eagle to your felt, a snake to your right, a lizard in front, a squirrel in back of you. These are a few of the many petroglyphs carved into the rock.

As long as 3,000 years ago, an inhabitant of the Rio Grande Valley first picked up a rock and used it to peck out a geometric pattern on one of the boulders on the escarpment, creating the first petroglyph.

In the ensuring centuries, the Indian people of the Rio Grande Valley carved thousands more petroglyphs: Men, crosses, circles, stars, birds, flute players, serpents, and a world of other figures.

By the time that the first Spanish explorer, Vasquez de Coronado, arrived in the area in 1540, over 15,000 Indian petroglyphs stretched along the 17 miles of the escarpment. The early Spanish settlers carved their symbols into the escarpment, creating their own petroglyphs.

The petroglyphs left by the Pueblo Indian inhabitants and the early Spanish settlers of the Rio Grande Valley are an important visual record of the early history of Albuquerque.

Mr. President, unfortunately the Northwest Mesa Volcanic Escarpment and the petroglyphs are threatened by development.

Buildings have been constructed at the base of the escarpment, and hundreds of petroglyphs have already been destroyed. In order to prevent further destruction of the escarpment and the petroglyphs, we must act to preserve this area soon. If we delay, this magnificent resource, which forms a scenic boundary of Albuquerque and contains an important part of the city's history, will be lost.

The people of Albuquerque have already preserved the Sandia Mountains and the cottonwood bosque along the Rio Grande. Now, it is time to preserve the West Mesa Escarpment in order to protect our scenery and our history.

Mr. President, in 1986, at my request, the Congress directed the National Park Service to conduct a study of the Northwest Mesa Volcanic Escarpment and the petroglyphs.

The Park Service found approximately 15,000 petroglyphs on the escarpment, most of which were created between 1300 and 1650 A.D. There are also at least 65 archaelogical sites along the escarpment, dated as far back as 10,000 B.C.

According to the report: "It is important to protect the integrity of the petroglyphs for future research and study. To move or destroy the rock art and the physical setting would greatly reduce the quality of the resources."

The report also states that preservation of the escarpment will protect the scenic quality of Albuquerque.

The Park Service concludes that the escarpment is threatened by development pressures and immediate action is needed to preserve the escarpment. It recommends taking action to protect these resources using all available public and private capabilities.

The National Park Service outlines three alternatives for preserving the area:

First, a national monument under National Park Service control;

Second, a national monument jointly managed by the National Park Service, the State of New Mexico, and the City of Albuquerque; and

Third, joint management of the area by the State and the city with the cooperation of private landowners and technical and financial assistance from the Federal Government.

The report states that, because of the costs and geographic aspects of the area, an intergovernmental approach would be the most effective method for protection of the escarpment.

The National Park Service estimates that a national monument protecting the petroglyphs would attract as many as 400,000 visitors a year, two-thirds of whom would be from out of State. These visitors would contribute an estimated $1.7 to $3.3 million to the local economy.

Following the conclusion of the National Park Service study, I convened an advisory group of conservationists, land owners, government officials, and other concerned citizens, enabling them to provide information and views on the various alternatives to the New Mexico congressional delegation as we wrote the legislation to protect the escarpment.

Last year, the ad hoc advisory group presented its report to me. The advisory group supported the creation of a national monument. It made specific boundary recommendations, proposed provisions to be included in the legislation, and developed innovative propos-

als for land acquisition along the escarpment. Their work was essential in putting together a reasonable plan or the protection of this area.

While these efforts were underway, the city of Albuquerque was also working to protect the escarpment. In 1987, the city adopted a Northwest Mesa escarpment plan. The plan recommends the conservation of the escarpment for the purpose of preserving the petroglyphs and maintaining the volcanic cliffs as public open space.

The city's escarpment plan proposes public ownership, through a phased acquisition program, for the escarpment and critical surrounding areas. It also provided immediate protection for the escarpment by imposing various zoning and construction restrictions, such as height and density limitations and buffer zones between development and the escarpment.

In addition, in 1987 the city instituted a one-fourth-cent sales tax for a variety of projects to enhance the quality of life in Albuquerque. From the tax, $14 million is earmarked for open space acquisition along the escarpment.

The city recently initiated its acquisition program. It has already acquired 62 acres along the escarpment and is working with landowners to acquire additional property through purchase and donation.

The State of New Mexico has been involved in the effort to preserve the escarpment through its ownership of the existing Indian Petroglyph State Park on the escarpment. Althouth the partk is a State park, it is owned and operated by the city of Albuquerque and, thus, is a State park in name only.

In 1987, the New Mexico State Senate passed a memorial that directed the State Government to assist the National Park Service and the city in the preparation of their respective plans for the preservation of the escarpment. The memorial also mandated that the State determine what its ultimate role should be in the effort to protect the escarpment.

The State supports preservation of the escarpment. It has agreed to assist with land acquisition associated with the expansion of Indian Petroglyph State Park. Last year, the State legislature authorized $300,000 for the acquisition of land to expand the park. This year, bills have been introduced in the State legislature to earmark an additional $5.7 million for acquisition of lands to expand the State park.

Mr. President, the city of Albuquerque and the State of New Mexico have begun the process of protecting Albuquerque's Northwest Mesa Volcanic Escarpment and its historic petroglyphs. Now it is time for the Federal Government to establish its role in this project.

Former Congressman—and now Secretary of the Interior-designate—Manuel Lujan and I worked together to develop the Petroglyph National Monument legislation, which we introduced last year. However, because it was introduced late in the session, it was not enacted into law.

The new Congressman from Albuquerque [Mr. SCHIFF] and I have worked on the revised bill, which I am introducing today. Congressman SCHIFF, who shares my dedication to preserving the escarpment, will be introducing this same bill in the House of Representatives. We are pleased to be joined by my colleague Mr. BINGAMAN.

The bill does the following:

First, declares that the petroglyphs are significant, that the State of New Mexico and city of Albuquerque have shown great leadership in the protection of the petroglyphs, that the Pueblo Indians and the Atrisco heirs have shown a strong interest in the preservation of the escarpment, and that the National Park Service has no unit specifically established for the preservation of rock art.

Second, establishes the Petroglyph National Monument containing approximately 5,150 acres.

Third, provides for the inclusion in the national monument of an additional 1,950 acres of lands after the State of New Mexico and the city of Albuquerque have acquired those lands. Thus, ultimately the national monument will include the lands identified as "Alternative 2" by the Park Service, plus the Southern Geologic Window and the Zuris Mann site.

Fourth, allows the National park Service to acquire lands in the national monument by donation, purchase, or exchange. State and City lands may only be acquired by donation or exchange. The bill also allows the city and the State to acquire lands in the Federal area, then exchange the land for Federal lands in their areas.

Fifth, authorizes the National Park Service to enter into cooperative agreements with the State of New Mexico and the city of Albuquerque for the administration of their lands within the national monument.

Sixth, authorizes the National Park Service to enter into cooperative agreements with public entities, Indian tribes, and nonprofit entities for the interpretation of the petroglyphs outside the national monument. This will allow the National Park Service to provide technical and financial assistance to the State of New Mexico and the city of Albuquerque for the management of their areas along the escarpment.

Seventh, allows the National Park Service to provide immediate protection to threatened areas of the escarpment thru acquisition by donation of leasehold interests of escarpment land.

Eighth, directs the National Park Service to develop a general management plan for the monument in three years. The plan shall include an identification of lands that need to be protected by the State of New Mexico and the city of Albuquerque, estimated visitor use, an interpretive program, a plan to implement the American Indian Religious Freedom Act, and a monument development plan.

Ninth, directs the National park Service to study other Rio Grande style rock art sites in New Mexico, then report to Congress on the condition of those resources.

Tenth, allows nonexclusive access to the monument by Indian people for traditional cultural and religious purposes.

Eleventh, establishes a six-member Advisory Commission for the monument consisting of representatives of the State, the city, the All Indian Pueblo Council, Westland Development Co., and others.

Twelveth, amends the El Malpais National Monument Act approved last year to include Petroglyph National Monument in the Masau Trail, the automobile touring route linking historic and prehistoric sites throughout New Mexico.

Mr. President, when I introduced this legislation last year, I stated that the bill needed refinement. Although not all the issues have been resolved and the bill will certainly be improved in the committee review process, most issues have been resolved through a willingness of all parties to work together to preserve this magnificent resource.

It is now time for Congress to act to save the petroglyphs by establishing a national monument that all Americans can enjoy.

Support for Petroglyph National Monument is strong. All interested parties support this legislation. In particular, I want to note the work of the Friends of the Albuquerque Petroglyphs, who have been instrumental in developing and promoting the national monument concept.

Westland Development Co., Inc. and the heirs of the Atrisco Land Grant also have been both helpful and accommodating. In 1692, the King of Spain created the Atrisco Land Grant on the escarpment. A good portion of the land in the area is still owned by the heirs of the Atrisco Land Grant, through their corporate entity, Westland Development Co., Inc. They have made innovative suggestions for Federal acquisition of the area that need to be examined.

Mr. President, nature has provided a beautiful backdrop for Albuquerque, with the Sandia Mountains on the east, the Rio Grande and the bosque in the middle, and the Northwest Mesa Volcanic Escarpment on the west. The people of Albuquerque have already preserved the mountains and the bosque. Now they want to preserve the Northwest Mesa Volcanic Escarpment.

This legislation will preserve the escarpment by creating Petroglyph National Monument. I hope that the Senate will act on it quickly before this magnificent resource is lost.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act shall be cited as the "Petroglyph National Monument Establishment Act of 1989".

(b) The Congress finds that—

(1) the nationally significant Las Imagines National Archeological District on Albuquerque's Northwest Mesa Volcanic Escarpment contains more than fifteen thousand documented prehistoric and historic petroglyphs;

(2) this district also contains approximately 65 other archeological sites;

(3) the State of New Mexico has shown great leadership by recognizing the importance of the archeological resources of the Northwest Mesa Volcanic Escarpment through the establishment of the Las Imagines National Archeological District;

(4) the city of Albuquerque has played a significant role in the preservation of the natural, cultural, and recreational resources of the Northwest Mesa Volcanic Escarpment;

(5) the Middle Rio Grande Pueblo Tribes have shown a strong and sincere interest in preservation of their heritage through protection of the Northwest Mesa Volcanic Escarpment;

(6) the Atrisco Land Grant, now held by Westland Development Co., Inc., a corporation whose stock is owned primarily by heirs of the Atrisco Land Grant, has played a significant role in the settlement of the Northwest Mesa Volcanic area since the grant's formation in 1692 and has shown a strong interest in the preservation of their traditional lands;

(7) the National Park System has no unit established for the specific purpose of protecting, preserving, and interpreting prehistoric and historic rock art; and

(8) it is appropriate that such a unit be established at the Northwest Mesa Volcanic Escarpment near Albuquerque, New Mexico.

SEC. 2. (a)(1) In order to preserve, for the benefit and enjoyment of present and future generations, that area in New Mexico containing the nationally significant Northwest Mesa Volcanic Escarpment, the Las Imagines National Archeological District, a portion of the Atrisco Land Grant, and other significant natural and cultural resources, there is hereby established the Petroglyph National Monument (hereinafter referred to as the "monument") as a unit of the National Park System. The monument shall consist of approximately 5,150 acres generally known as the Atrisco Unit and as depicted on the map entitled "Boundary Map, Petroglyph National Monument", numbered NM-PETR-80,010 and dated January 1989, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, in the office of the mayor of the city of Albuquerque, New Mexico, and in locations throughout the monument as appropriate.

(2) Upon application by the city of Albuquerque, New Mexico, to include the lands described on the map referred to in paragraph (1) as the Piedras Marcadas Unit and upon a determination by the Secretary of the Interior (hereinafter referred to as the "Secretary") that all lands and all interests therein have been acquired, the Secretary is authorized to extend the boundaries of the monument to include such lands by publication of a notice in the Federal Register.

(3) Upon application by the State of New Mexico to include the lands described on the map referred to in paragraph (1) as the Boca Negra Unit and upon a determination by the Secretary that all lands and all interests therein have been acquired, the Secretary is authorized to extend the boundaries of the monument to include such lands by publication of a notice in the Federal Register.

(b) Within 6 months after the enactment of this Act, the Secretary shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a) of this section. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, in the office of the mayor of the city of Albuquerque, New Mexico, and in the monument office: *Provided,* That the Secretary may from time to time, after completion of the plan referred to in section 5(a) of this Act, make minor adjustments to the boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 3. (a) The Secretary is authorized to acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State of New Mexico or a political subdivision thereof may be acquired only by donation or exchange. Where the surface and subsurface estates of any private lands to be acquired are separately owned, the Secretary shall not accept title to the surface estate of such lands until he has acquired the subsurface estate underlying the lands. (b) The Secretary may exchange lands within the area described on the map referred to in section 2 as the Piedras Marcadas Unit for lands owned by the city of Albuquerque, New Mexico, within the area described on the map referred to in section 2 as the Atrisco Unit. The Secretary may exchange lands within the area described on the map referred to in section 2 as the Boca Negra Unit for lands owned by the State of New Mexico within the area described on the map referred to in section 2 as the Atrisco Unit. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal value.

SEC. 4. (a) The Secretary shall administer the monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and this Act.

(b) The Secretary is authorized to enter into cooperative agreements with either the State of New Mexico or the city of Albuquerque, New Mexico, under which the Secretary may manage and interpret any lands owned by the State of New Mexico or the city of Albuquerque, New Mexico, within the boundaries of the monument.

(c) In order to encourage a unified and cost effective interpretive program of the natural, cultural, and recreational resources of the West Mesa Escarpment and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such agreements shall include, but need not be limited to, provision for the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside the boundaries of the monument, with the agreement of the owner or administrator thereof. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to those programs.

(d) Prior to acquiring ownership of land or any other form of interest in land within the boundaries of the monument, the Secretary is authorized to acquire a leasehold interest in such land by donation from its owners for the purpose of providing immediate protection against trespass and vandalism and initiating any resource inventories necessary to carry out the purposes of this Act.

SEC. 5. (a) Within 3 years from the date funding is made available for the purposes of this section, the Secretary, in cooperation with the city of Albuquerque and the State of New Mexico, shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the monument consistent with the purposes of this Act, including, without limitation—

(1) a description of lands and interests in lands adjacent or related to the monument whose protection by appropriate State or local governmental entities is deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of this Act;

(2) a statement of the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(3) a general interpretive program;

(4) a plan to implement the joint resolution entitled "American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996); and

(5) a general development plan for the monument and the estimated cost thereof.

(b) The management plan shall be prepared in consultation with the appropriate Indian tribes and their traditional cultural and religious authorities, the heirs of the Atrisco Land Grant, and the New Mexico State Historical Preservation Office.

(c) The Secretary shall undertake research on other Rio Grande style rock art sites in New Mexico and provide the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, within 3 years of the date funding is made available for the purposes of this section, a report that—

(1) lists various locations of Rio Grande style rock art;

(2) identifies the ownership of the rock art;

(3) identifies the condition of the resources; and

(4) identifies the appropriate type of technical assistance needed for the protection and care of these resources.

The report shall be updated and transmitted to such committees every 2 years thereafter.

SEC. 6. In recognition of the past use of the monument by Indian people for traditional cultural and religious purposes, the Secretary shall insure nonexclusive access to the monument by Indian people for such traditional cultural and religious purposes, consistent with Public Law No. 95-341 (42 U.S.C. 1996). As part of the plans prepared pursuant to section 5, the Secretary, in consultation with appropriate Indian tribes and their traditional cultural and religious authorities, shall define the past cultural and religious uses of the monument by Indian people.

SEC. 7. (a) There is established the Petroglyph National Monument Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall be composed of 6 members appointed by the Secretary for terms of 5 years as follows:

(1) one member, who shall have professional expertise in historic preservation, appointed from recommendations submitted by the Governor of the State of New Mexico;

(2) one member, who shall have professional expertise in historic preservation, appointed from recommendations submitted by the mayor of the city of Albuquerque, New Mexico;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the All Indian Pueblo Council;

(4) one member, who shall have professional expertise in the history and management of land grants, appointed from recommendations submitted by the Westland Development Co., Inc.

(5) two members, one of whom shall have professional expertise in historic preservation and one of whom shall have professional expertise in Indian rock art.

(b) Any member of the Commission may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Four members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from time to time, meet with persons concerned with Indian history and historic preservation and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. Sections 9(c) and 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary on the management and development of the monument. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the monument.

(h) The Commission shall cease to exist 10 years after the date of its first meeting.

SEC. 8. The first sentence of section 202 of Public Law 100-225 (16 U.S.C. 460uu-12) is amended by deleting "and Zuni-Cibola National Historical Park" and inserting "Zuni-Cibola National Historical Park, and Petroglyph National Monument.".

SEC. 9. There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.●

● Mr. BINGAMAN. Mr. President, I am pleased today to join my colleague, Senator DOMENICI, in introducing the Petroglyph National Monument Establishment Act of 1989.

This legislation would create the Petroglyph National Monument along the West Mesa escarpment outside Albuquerque, NM, as a unit of the National Park System. It authorizes acquisition of lands and provides for inclusion, upon application, of lands owned by the city of Albuquerque and the State of New Mexico within the proposed boundaries. The Secretary of the Interior is authorized to enter into cooperative agreements with Federal, State, and local public departments and agencies to manage and interpret the monument and its resources.

The National Trust for Historic Preservation has identified this area as one of the 11 most endangered historic places in our country. The rock art remains remarkably intact but is being subjected to ever-increasing damage because of its accessibility and the rapid encroachment of the city of Albuquerque, which is approaching the edge of the West Mesa escarpment. Damage by gunfire, attempts to remove the rocks, and use of heavy equipment for residential and commercial development are but a few of the many threats to this unique historic area.

It has been estimated that between 15,000 and 17,000 petroglyphs can be found along the 17-mile-long volcanic escarpment of the West Mesa. This area, called the Las Imagines National Archaeological District, is one of the most richly endowed prehistoric rock art sites in the United States, perhaps even in the world. The rock art is dramatic, complex, and unique in content. Figures are numerous and bold.

The religious roots of Pueblo and Hispanic cultures also are visible along this escarpment. Many petroglyphs are from the Pueblo III and Pueblo IV periods, dating from 1300 to 1650 A.D. Some of the rock art dates to the Archaic period. I great number of the figures are of continuing significance to the Pueblo people. Cruciform petroglyphs carved by early Spanish colonists are found on the same sites as prehistoric Indian rock art.

The city of Albuquerque, State of New Mexico, the National Park Service, and public spirited groups such as the Friends of the Albuquerque Petroglyphs, the Albuquerque League of Women Voters, and the Albuquerque Chapter of the Sierra Club, have worked hard to preserve this unique area, and I applaud their dedication. Yet, there is a need for immediate Federal action if we are to save it for future generations.

This legislation will enable us to protect critical segments of the escarpment and immediately adjacent lands with a working partnership between the city of Albuquerque, State of New Mexico, and Federal Government. I encourage my colleagues to preserve this national treasure by supporting this bill.●

By Mr. HARKIN (for himself, Mr. LEVIN, Mr. METZENBAUM, Mr. SIMON, Mr. BURDICK, Mr. SHELBY, and Mr. CONRAD):

S. 289. A bill to provide for the registration of foreign interests in United States property; to the Committee on Commerce, Science, and Transportation.

FOREIGN OWNERSHIP DISCLOSURE ACT

● Mr. HARKIN. Mr. President, I am introducing today the Foreign Ownership Disclosure Act of 1989 which addresses the critical need to establish a centralized and reliable source of data regarding the rise of foreign ownership in the United States. Joining me as original cosponsors are Senators CARL LEVIN, Mr. HOWARD METZENBAUM, Mr. PAUL SIMON, Mr. QUENTIN BURDICK, Mr. RICHARD SHELBY, and KENT CONRAD. Congressman JOHN BRYANT introduced a similar bill on January 3.

The purpose of this bill is to require the systematic registration of most foreign-owned interests in our country. For "significant interests" of more than 5 percent in a U.S. business or real estate property valued at over $5 billion, the bill asks for basic information about themselves and about the investment to the Department of Commerce. This information concerns the owner's address, nationality, address, industry, the percentage of interest and its market value, and the name, location and industry of U.S. property.

The bill further requires that if the foreign investor has an interest of 25 percent or more in U.S. business with assets or annual sales of over $20 million—what is termed a "controlling interest"—that investor must disclose the same kind of information currently required of U.S. companies whose stock is traded on U.S. exchanges. Such basic financial data includes the balance sheet, income statement, statement of changes in financial condition, overall statement of sales, assets, operating income, location of U.S. facilities and the identity and nationality of the directors and officers.

The Foreign Ownership Disclosure Act limits access to this data to authorized persons in the Department of Commerce, General Accounting Office, designated State agencies, con-

gressional committees, and selected researchers approved by the Secretary of Commerce.

Mr. President, Paul Krugman, an MIT economist, recently suggested that "the political issue of the 1990's is going to be the foreign invasion of the United States."

While Professor Krugman's characterization of foreign ownership as an "invasion" may be overstated, he is on the mark in his assessment of the growing economic—and political—importance of the foreign investment issue.

In the last 7 years, foreign ownership of U.S. assets has tripled to $1.5 trillion. That inflow ranks as one of the greatest financial transformations of the post-war era, helping turn us from the world's largest creditor into its largest debtor.

For the average American, the result is that today many "American" brands no longer are. Carnation is now owned by the Nestle group of Switzerland, Standard Oil of Ohio belongs to British Petroleum of the United Kingdom. We shop at Supermarkets owned by Germans [A&P], and when we buy our hamburgers from Hardee's, the answer to the question "Where's the beef . . . from?" is Canada.

The reasons for this transformation are many. The United States has lost ground competitively and foreign companies are entering to replace them. Six years of U.S. trade deficits have put billions of dollars into foreign hands. The 3-year decline in the value of the dollar has made buying American a bargain for Japanese and German investors holding other, stronger currencies.

The foreign investment boom signals a dramatic shift in America's global economic role. For nearly four decades following World War II, the United States did most of the buying, enjoying its position as the foremost exporter of capital and the world's supreme economic and technological power.

In 1985, however, the United States became a net debtor nation. A year later, our foreign debt rose to $263.6 billion—the United States had now become the world's largest debtor nation. To finance our budget deficits and prevent them from worsening through higher interest costs, the United States became increasingly reliant on foreign capital.

In the short run, the influx of foreign capital has financed the Reagan administration's massive budget deficits, kept inflation down and halted an even more dramatic decline of the dollar, and helped create jobs and financial opportunities.

We have yet begun to consider the possible long-term impact, however. Felix Rohatyn calls the growth of foreign investment "an addiction," whose withdrawal could produce "convulsion" in our domestic economy. With greater dependence on foreign investors, according to Senator William Proxmire, "you loose some part of your sovereignty * * * you loose your independence."

Yet, despite America's deepening dependence on foreign capital, no one knows the full extent of foreign investment in the United States. For this reason, I have introduced Foreign Ownership Disclosure Act of 1989.

This bill is a very modest proposal. It certainly is not designed to discourage foreign investment in the United States. The bill places no new restrictions, limitations, preconditions, or preclearance requirements of any kind on any foreign investment in the United States. It simply requires disclosure of significant foreign interests in U.S. businesses and real estate through registration with the Department of Commerce.

I repeat, this is only a modest proposal. It does not cover Treasury bonds or any other debt. It requires only that those who invest in real estate and business in this country tell us who they are and how much they own. The bill does not require anything more than what is required of publicly held businesses in the United States.

It is a policy which foreign investors should not fear, and which Americans should welcome.

This bill is not designed to discourage foreign investment in the United States. Clearly, foreign direct investment can bring—and has brought—benefits to our economy by creating employment opportunities for American citizens or providing needed capital infusions for faltering U.S. firms. But the short-term advantages of foreign investment should not prevent us from considering the long-term effects on our economy and national security.

Over time, as ownership of our economic assets is transferred overseas, so is the authority to make important business and economic decisions affecting the prosperity and independence of our Nation.

Meanwhile our economy is becoming so dependent on foreign capital that many respected economists, including former Federal Reserve Chairman Paul Volker, have warned that a major withdrawal of that capital—whether in response to a change in economic outlook or to a political controversy—could send us into an economic tailspin.

Other problems arise because of our current lack of information. We often cannot even determine with confidence whether a foreign investor is a legitimate business, a hostile nation like Libya, Iran, or the Soviet Union, or a drug trafficker.

Our ignorance of the real interests behind foreign investments here has allowed our economy to become a haven for capital flight from the Third World, an unwitting accomplice in grand theft from the poorest people in the poorest countries in the world. Over the past 2 years, clear evidence has surfaced that Ferdinand and Imelda Marcos and their cronies secretly invested billions of dollars here through an elaborate financial network of dummy corporations and agents. Evidence came to light on these investments not from any Government data source, but from Marcos' own financial documents confiscated by his successors and by U.S. Customs.

We are also endangering our national security by not knowing more about foreign investors operating here. In the mid-1970's, the Soviet Union secretly attempted to acquire three banks in northern California. The Soviet Government was after sensitive advanced American technological information concerning the many high-technology companies that owed money to the banks. The acquisitions were already well underway, but the Soviets abandoned the attempt as soon as a Hong Kong financial newsletter reported it.

We were able to prevent this sophisticated attempt at espionage, but despite our laws, not because of them.

NEED FOR IMPROVED REPORTING

A hodgepodge of Federal agencies collects information on foreign investment in the United States, in a hodgepodge of bureaucratic formats, under the authority of a hodgepodge of uncoordinated laws.

As many as 16 different Government agencies now collect data on foreign investments, including the Departments of Commerce, Treasury, Agriculture; the Securities and Exchange Commission, the Internal Revenue Service, and the Federal Trade Commission. Among the laws providing for collection of this information, there is the International Investment Survey Act, the Domestic and Foreign Investment Improved Disclosure Act, and the Foreign Agricultural Investment Disclosure Act.

But none of these sources provides comprehensive information. In one case, the information is organized only under the name of the foreign-owned U.S. company, so that every U.S. company on record at the agency would have to be checked independently in order to determine the U.S. holdings of a particular foreign investor.

The Bureau of Economic Analysis collects accurate data, but its information is kept confidential—even from other Government agencies and from Congress—and it publishes only the most general aggregate statistics.

In 1980, the House Government Operations Committee found that, with regard to data collection on foreign investments, "of the most major host countries of the world, we would be at the bottom, even among the industrialized countries. * * * There are very few major countries in the world today that are as naive and ignorant concerning the size and nature of foreign investment in their countries as the United States is."

Little has changed since than. Most nations of the world, including the

Western industrialized nation, not only require disclosure of this information and more, but impose preclearance requirements and other restrictions and limitation on foreign investments. Even Switzerland keeps a public registry of Swiss companies with foreign ownership.

Japan's preclearance process seems one of the most stringent, in part because it is the most explicit. The Ministry of Finance, the Foreign Exchange Ministry, and other ministries screen each proposed investment, taking comments from potential Japanese competitors. Any ministry can deny the proposed investment outright or can demand alterations in it as a condition for approval. Japan also flatly prohibits foreign ownership of more than 25 percent in any of its high-technology companies.

CONCLUSION

We are living through a special time in our country. For the first time since World War I, we have become a net debtor nation. We are experiencing unprecedented inflows of foreign investment into the United States. Foreign interests have bought Treasury securities, provided capital necessary to finance the massive budget deficits accumulated over the past 7 years, and built factories and purchased plants left idle by their American competitors.

Allan Sloane wrote in an article in Forbes that the United States is acting like an underdeveloped country because "advanced countries typically export capital to the rest of the world, while underdeveloped countries import capital."

The dramatic rise in foreign investments has provoked Malcolm S. Forbes to call for the creation of a "Board of Knowledgeables" to review purchases of major U.S. companies by foreigners. Financier Felix Rohatyn, in a speech before the Economic Club of Washington, called American dependence on foreign capital a potential threat to our national security, suggesting we may soon find it necessary to establish a legal mechanism to review foreign acquisitions in certain industries.

I am not calling for either alternative. Rather, my bill merely requires basic disclosure to help America know the precise levels and source of foreign investment in the United States. It would not limit investments, it just allows us to track them.

The bill will not discourage foreign investments. Business people bring their money here because it is a good place to invest, not because the United States offers anonymity.

Foreign investment has become too important to the American economy for us to remain blind to it. We are not trying to stifle foreign investment, but only to understand it. To begin shaping an appropriate national policy in response not just to the impact of foreign capital on the U.S. economy but to the underlying reasons for our growing dependence on overseas money, we must begin accumulating basic information. Where is the money coming from? Who really owns the assets? What are accurate figures on the extent of foreign investments?

Successful companies in the private sector would not dream of making decisions without first reviewing adequate information.

Why shouldn't our Government?

Policymakers and the American public need the information necessary to assess and analyze the impact of foreign capital on the U.S. economy.

Simply, the American people deserve to know who owns America.

I ask unanimous consent that a copy of the Foreign Ownership Disclosure Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Foreign Ownership Disclosure Act of 1989".

SEC. 2. REGISTRATION OF FOREIGN-HELD INTERESTS IN UNITED STATES PROPERTY.

(a) INTERESTS ACQUIRED AFTER EFFECTIVE DATE.—Any foreign person who, after the effective date of the regulations prescribed pursuant to subsection (j), acquires directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise;

shall register that interest with the Secretary within 30 days after the acquisition.

(b) INTERESTS ACQUIRED BEFORE EFFECTIVE DATE.—Any foreign person who, on the effective date of the regulations prescribed pursuant to subsection (j), holds directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise,

shall register that interest with the Secretary within 180 days after the effective date of such regulations.

(c) CONTENTS OF REGISTRATION.—Each registration required under subsection (a) or (b) shall be in such form and in accordance with such procedures as the Secretary may require by regulation and shall contain the following:

(1) The identity, address, legal nature, industry, and nationality of the foreign person.

(2) The date on which the foreign person acquired the interest.

(3) The relation of the foreign person to the United States property.

(4) The name, location, and industry of the United States property.

(5) The market value of (A) the assets of a United States business enterprise or (B) a United States real property.

(6) The percentage size of the interest acquired.

(d) ADDITIONAL DISCLOSURE FOR CONTROLLING INTERESTS.—If the interest registered under subsection (a) or (b) is a controlling interest in a United States business enterprise, the foreign person shall, by an amendment to the registration made within 180 days after registering such interest, provide the Secretary with the following additional current information:

(1) With respect to the foreign person, an English translation of so much of the information listed in subparagraphs (A), (B), and (C) of paragraph (2) that is publicly disclosed in the home country of the foreign person.

(2) With respect to the United States business enterprise—

(A) a—

(i) balance sheet and income statement;

(ii) statement of changes in financial condition; and

(iii) statement of sales, assets, operating income, and depreciation by industrial segment,

prepared in accordance with Generally Accepted Accounting Procedures or in accordance with Statutory or Regulatory Accounting Principles and accompanied by explanatory notes and any current auditor's statements and reports;

(B) the location of all facilities within the United States; and

(C) the identity and nationality of each director and executive officer.

(e) ANNUAL REPORTS.—(1) Within 90 days after the end of each calendar year, a foreign person who has registered an interest in United States property under this section, and who, at any time during such calendar year, held directly or indirectly—

(A) a significant interest in such property, shall report to the Secretary any changes in the information required under subsection (c) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph; or

(B) a controlling interest in such United States business enterprise, shall report to the Secretary any changes in the information required under subsections (c) and (d) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph.

(2) Any report filed under this section shall be in such form and in accordance with such procedures as the Secretary may require by regulation.

(f) SUBSTITUTION OF OTHER DOCUMENTS.—(1) To the extent a foreign person has prepared other documents which contain information required under this section with respect to an interest required to be registered or reported under this section, the foreign person may provide a copy of such other documents (or the relevant portions thereof) for the purposes of complying with the requirements of this section.

(2) With respect to any interest required to be registered or reported under this section which a foreign person acquires or holds solely through, or by virtue of acquiring or holding a significant or controlling interest in, a United States business enterprise which is an issuer whose securities are registered under the Securities Exchange Act of 1934 and which has filed the material required to be filed by such United States business enterprise pursuant to sections 12, 13, 14, and 15(d) of such Act, the foreign person may, in lieu of providing the information otherwise required under this section, provide the Secretary with a copy of the most recent annual and periodic reports, statements, and notices filed pursuant to such Act.

(g) CIVIL PENALTY.—Any foreign person who is late in registering an interest or reporting changes with respect to an interest in accordance with subsections (a) through (f) shall be subject to a civil penalty of not more than $10,000.

(h) CRIMINAL PENALTIES.—(1) Any foreign person who willfully fails to register an interest or submit a report in accordance with

subsections (a) through (f), or who willfully submits false or misleading information in the registration or report, shall be fined not more than $10,000, or shall be imprisoned not more than 1 year, or both.

(2) Any foreign person previously convicted of a violation under paragraph (1) who subsequently is convicted of a pattern or practice of violations under paragraph (1) shall be subject to forfeiture of all interests in United States property with respect to which such violations were committed.

(i) INVESTIGATIVE ACTIONS.—The Secretary may undertake such investigative actions as the Secretary considers necessary to monitor compliance with this section. For the purposes of conducting such investigations the Secretary shall have the same powers and authorities as the Federal Trade Commission under sections 9 and 10 of the Federal Trade Commission Act.

(j) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish for notice and public comment regulations to carry out this section. The final regulations prescribed to carry out this section shall take effect not later than 180 days after such date of enactment. Such regulations shall—

(1) establish forms and procedures for making the disclosures required by this section; and

(2) establish procedures for indexing, and providing access to, the information disclosed under this section.

(k) REPORTS TO CONGRESS AND THE PRESIDENT.—The Secretary shall transmit in June of each year, beginning in 1989, a report to the President and the Congress describing—

(1) the extent to which foreign persons hold significant or controlling interests in United States properties, the nationality of those foreign persons, the industries in which those interests are concentrated, and the social, economic, and other effects in the United States of such foreign interests;

(2) the effectiveness and efficiency of the registration and reporting requirements contained in this section in providing the information required under this section and the extent to which the information provides a comprehensive description of the presence of foreign capital in the United States economy;

(3) other Federal data collection activities that overlap with, duplicate, or complement the registration and reporting requirements established under this section and that could be consolidated or eliminated without compromising the quality of data collected; and

(4) in the case of the first annual report, the feasibility of establishing a system to track individual transactions representing other capital flows into the United States.

(l) REGISTRY OF FOREIGN-HELD INTERESTS.—(1) Not later than 365 days after the effective date of the regulations prescribed pursuant to subsection (j), the Secretary shall compile (and thereafter keep current) a registry of interests registered or reported under this section and the information contained in such registrations or reports. The registry shall index the information for retrieval by—

(A) the name and nationality of any foreign person who registers or reports an interest under subsections (a) through (f) and the standard industrial classification number or numbers (as issued by the Director of the Office of Management and Budget) of any such foreign person; and

(B) the name of the United States property in which any interest registered or reported under this section is held, the standard industrial classification number or numbers of any such United States property, and the State in which any such United States property is located.

(2) Access to the information in the registry shall be available only in accordance with paragraph (3) and only to—

(A) officials or employees designated to perform functions under this Act, including consultants and persons working on contracts awarded pursuant to this Act, under procedures established by the Secretary of Commerce;

(B) committees or subcommittees of the Congress, under procedures established by the committee or subcommittee;

(C) duly authorized officials and employees of the General Accounting Office, under procedures established by the Comptroller General;

(D) a single agency of each State, as designated by State law, under procedures established by that State in conformance with the procedures established by the Comptroller General under subparagraph (C); and

(E) persons performing qualified research, under procedures established by the Secretary of Commerce by rule or regulation.

(3) The procedures established under paragraph (2) for access to the information in the registry shall be sufficient to prevent disclosure to any unauthorized person of any such information which specifically identifies any interest registered or reported under this section, any foreign person holding such an interest, or any United States property in which such an interest is held, except that duly authorized officials and employees of the General Accounting Office may disclose such information to a committee or subcommittee of the Congress.

(m) DEFINITIONS.—As used in this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) The term "United States business enterprise" means—

(A) any sole proprietorship, branch, partnership, associated group, association, estate, trust, corporation, or other organization organized under the laws of the United States or of a State or that has its principal place of business in the United States; and

(B) any two or more enterprises described in subparagraph (A) which are acting in concert.

(4) The term "United States property" means—

(A) any United States business enterprise; and

(B) any real property located in the United States, including any minerals therein. For purposes of paragraph (6), contiguous properties in which a foreign person holds an interest shall be considered both separately and in the aggregate as one property.

(5) The term "foreign person" means—

(A) any individual who is not a citizen of the United States;

(B) any business enterprise that is organized under the laws of a foreign government or which has its principal place of business outside of the United States;

(C) any foreign government or any agency or instrumentality of a foreign government; and

(D) any two or more persons acting as a group for the purpose of acquiring or holding any interest referred to in subsection (a) or (b) (and each foreign person in such group), if any foreign person or persons described in subparagraph (A), (B), or (C) of this paragraph hold an equity or ownership interest in such group of 25 percent or more, or the equivalent of such an interest.

(6) The term "significant interest" means any equity or ownership interest that exceeds 5 percent of the total equity or ownership interests in a United States property that (i) has assets or, in the case of real property, is an asset, in the United States with a market value in excess of $5,000,000, or (ii) had gross sales from the United States in the most recent fiscal year in excess of $10,000,000.

(7) The term "controlling interest" means an equity or ownership interest that exceeds 25 percent of the total equity or ownership interests in a business enterprise that—

(A) has assets in the United States with a market value in excess of $20,000,000; or

(B) had gross sales from the United States in the most recent fiscal year in excess of $20,000,000.

(8) The terms "acquire" and "hold", when used with respect to an interest, refer to the ultimate beneficial owner, who must register and report such interest regardless of whether it is held directly or through a nominee or other financial intermediary. Such terms do not refer to a nominee or other financial intermediary who holds such interest on behalf of the ultimate beneficial owner.

(9) The term "equity or ownership interest" shall not include—

(A) any note, bond, debenture, loan, obligation, or other evidence of indebtedness, any put, call, straddle, option, or privilege on any debt, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any debt; and

(B) any mineral interest other than an interest in fee simple absolute or a reversionary interest.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "branch" means the operation or activities carried out by a person in a different location in its own name, rather than through a separately incorporated entity.

(n) EFFECTIVE DATES.—(1) Subject to paragraph (2), this section shall take effect on the effective date of the regulations prescribed under subsection (j).

(2) Subsection (j) of this section shall take effect on the date of the enactment of this Act.●

By Mr. HEINZ:

S. 290. A bill relating to decennial censuses of population; to the Committee on Governmental Affairs.

DECENNIAL CENSUSES OF POPULAITON

● Mr. HEINZ. Mr. President, I rise today to correct a badly flawed portion of the upcoming census. The census will completely ignore thousands of Americans serving their Nation overseas. This injustice has significant implications for several States—including my home State of Pennsylvania. At the heart of the issue is the fact that the findings of the decennial tabulation of the Nation's population may trigger a major redrawing of the country's political map.

It is my belief, Mr. President, that the census should be a completely accurate reflection of America's citizenry. The methodology used must ensure that all U.S. citizens be counted. It almost defies belief that a large block of our Nation's population—our service men and women on temporary assignment overseas—will not be counted. By excluding them from the talley, these people literally lose their voice in Congress.

A number of States will be affected adversely by this count. States such as Alabama, Michigan, Missouri, and North Carolina could suffer a direct loss of representation. Connecticut, as well as my home State of Pennsylvania, will definitely be affected if the policy does not change.

Other States, notably California and Texas, stand to gain seats. I have no quarrel with such a shift if it reflects a true change in population. I do take issue, however, with denying citizens their representation simply because the census doesn't want to take the time to count overseas personnel and their families. Pennsylvania, for example, has 23,000 military personnel serving their country overseas. While they put themselves on the front line abroad, we reward them by taking away their basic right of representation at home.

Mr. President, my legislation restores our overseas personnel to the ranks of the represented—where they belong. It is the same effort I took up here in the Senate last Congress and one which was initiated by Congressman TOM RIDGE in the House. By including overseas military personnel in the census, this bill takes the necessary steps toward ensuring an equitable census.

I invite my colleagues to support this measure, and join me in cosponsoring this important legislation.●

By Mr. HEINZ (for himself and Mr. SPECTER):

S. 291. A bill to require that the Director of the Office of Management and Budget include a reference to Easton, PA, in the official title of the metropolitan statistical area of which it is a part; to the Committee on Governmental Affairs.

INCLUSION OF EASTON, PA, IN STATISTICAL AREA

● Mr. HEINZ. Mr. President, today I am introducing legislation to correct what I believe to be an unfair and unwarranted insult to many residents of eastern Pennsylvania. Easton, a vital community of hard-working and justifiably proud people, has been stricken from the official title of the metropolitan statistical area of which it is a part. In taking this action, the Office of Management and Budget has effectively made Easton "unofficial."

Easton is one of three major communities which make up the Lehigh Valley, an area which also includes Allentown and Bethlehem. All three are contiguous, just minutes from each other by car. The international airport which serves the area includes all three towns in its designation. Despite all of this, Easton will not be identified as part of the MSA for census-taking purposes. OMB, in their adjustment of the classification, has succeeded in creating a designation that is only two-thirds accurate in describing the area.

Mr. President, I would like to point out that this exclusion—while not amounting to too much in terms of OMB's methodology—certainly has made the people of Easton feel as though they have taken a back seat to the two larger surrounding communities in the valley.

The bill I am introducing is designed to correct this situation by requiring OMB to include a reference to Easton in the official title of the metropolitan statistical area. This legislation was introduced last year on the House side by Congressman DON RITTER and by myself here in the Senate. The intent of this legislation is not to seek possible gains. Rather, it is a bill designed to restore Easton to its rightful place in the official designation of the Lehigh Valley.●

By Mr. BAUCUS:

S. 292. A bill to require the initiation of trade negotiations with Japan; to the Committee on Finance.

INITIATION OF TRADE NEGOTIATIONS WITH JAPAN

● Mr. BAUCUS. Mr. President, I rise today to re-introduce legislation that directs the administration to begin negotiations with Japan aimed at addressing the many pressing bilateral economic problems that plague the United States-Japan relationship.

On the eve of Prime-Minister Takeshita's visit to the United States, the time is ripe to reconsider the United States—Japan bilateral economic relationship.

The world's two economic superpowers simply must address the economic problems that threaten their bilateral relationship and the health of both economies; namely, the $50-plus billion bilateral trade deficit and the unequal distribution of the security burden.

The current approach to dealing with these problems simply is not working. Whenever an economic dispute arises—normally over a Japanese trade barrier—the same pattern is played out.

Both sides threaten and bluster. Normally, after many months of hard bargaining, an agreement is reached. But only at the cost of much goodwill on both sides.

And as soon as one dispute is settled another arises.

The current approach is a failure. The problems are simply too big to be addressed through an endless series of hunt-and-peck bilateral negotitions—often over relatively minor issues. And the costs of continuing on this course are simply too high.

We must strike a new course.

I believe the new course should be a major bilateral economic and trade agreement that addresses many of the outstanding economic issues and establishes a dispute settlement procedure to enforce the agreement and address future disputes.

I ask unanimous consent that an article I recently authored on this topic be included at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAX BAUCUS: PACIFIC OVERTURE—A RISING STAR IN THE U.S. SENATE TELLS WASHINGTON TO QUIT NICKEL AND DIMING THE JAPANESE AND ADOPT A WHOLESALE APPROACH TO SMOOTH ECONOMIC AND SECURITY RELATIONS

The bilateral relationship between the U.S. and Japan is the most important in the world, bar none. That statement by U.S. Ambassador to Japan Mike Mansfield may strike some ears as hyperbolic, but it merely reflects economic reality. The U.S. and Japan are the world's economic superpowers.

Unfortunately, the bilateral relationship is in disarray.

A series of economic problems, most notably a $60 billion bilateral trade imbalance and an unequal security burden, has triggered a seemingly endless round of bilateral disputes—mostly over Japanese trade barriers. Several of these disputes already have flared to nearly trade-war proportions.

The U.S. has chosen to address each bilateral problem that arises—through a separate bilateral negotiation. This strategy has serious shortcomings.

First, U.S. objectives has been poorly chosen. Second, the seemingly endless series of disputes has given the Japanese people the impression that the U.S. is a tireless complainer that blames all of its problem on Japan. Most important, the U.S. government has allowed each Federal agency to conduct independent negotiations with Japan without establishing a central agenda. As Ambassador Mansfield puts it, this "nickel and diming" of Japan is creating more problems than it solves.

A way to ease Washington-Tokyo tensions may lie in a free-trade agreement modeled after the U.S.-Canada agreement. Given the pervasivesness of Japanese trade barriers, a true FTA is probably not in the U.S.' best interests. But a wholesale approach to bilateral trade and economic problems is desperately needed.

A U.S.-Japan accord should have three major elements: agreements on macroeconomic coordination, trade and burden-sharing.

Probably the most important function the pact could serve is establishing a framework for closer economic coordination between the world's two largest economies—a kind of G-2. The Reagan Administration has already taken a first step toward such an arrangement in the Baker-Miyazawa Accord of 1986.

Given the importance of trade flows to the bilateral economic relationship, the immediate goal of the G-2 should be the control and reduction of the trade imbalance.

The U.S. and Japan should set trade-flow targets that would increase trade while restoring some balance to it. Both nations should be obligated to employ macroeconomic policy (tax policy, fiscal policy, monetary policy and exchange rates) to meet the targets. Obivously, both nations must retain flexibility in manipulating these policy

tools, but both can afford to give trade flows much greater emphasis in the formulation of economic policy.

The long-term pressure of meeting the trade-flow targets would benefit both economies. The targets would encourage Japan to confront some of its fundamental problems. If Japan were committed to meeting the targets, reform of its distribution system or increasing consumer demand would likely be more attractive options than permanently keeping the yen high or deficit spending.

The opportunities yielded up by a Washington-Tokyo agreement also would encourage American businesses and the U.S. Government itself to become more export-oriented.

Further, to eliminate exchange-rate fluctuations, target zones should be established and enforced by central banks in both nations to prevent the yen/dollar exchange rate from losing touch with underlying economic conditions. Such a step could prevent trade imbalances from being inflated by excessive movement of the exchange rate. Stabilizing exchange rates also would greatly facilitate planning by export businesses in both nations.

A G-2 could lead the rest of the world by example and necessity into further multilateral economic coordination. The Baker-Miyazawa Accord's invitation to other nations to participate after it has been established has merit. As a practical matter, once a G-2 was functioning, other nations would be left with the choice of joining the process or largely letting the U.S. and Japan dictate the shape of the world economic environment. And, as long as the U.S. and Japan made it clear that they would not allow new members to bog down decisionmaking or implementation, wider participation would be extremely helpful in managing the world economy.

As is obvious from the numerous disputes over Japanese trade barriers, individual trade barriers must be addressed as well as the trade imbalance. Even if the trade deficit is reduced, there will be numerous disputes over such problems as Japanese industrial targeting, the Japanese distribution system, repeated dumping by Japanese companies, and other trade concerns.

These issues are best approached through a trade agreement that has two main elements: a series of understandings on major trade problems, and a new formal dispute settlement procedure. Principles could be negotiated to impose discipline on some of the major trade-distorting practices. Taking a page from the 1986 semiconductor agreement market-share targets might be established in critical sectors.

To resolve future trade disputes and enforce agreed-upon trading rules, a U.S.-Japan Trade Commission (modeled on the U.S.-Canada Trade Commission established by the Washington-Ottawa FTA) should be established. The Commission would attempt to settle trade disagreements through consultations. If they failed, panels of jointly chosen experts would apply the agreement's established principles and GATT rules to the dispute. The details of the process must be left to the negotiators. But the general dispute settlement procedure in the Canada-U.S. FTA seems a workable model.

This obviously stops short of a free-trade agreement between Tokyo and Washington. But the combination of macroeconomic coordination to rein in the trade imbalance and new rules and a dispute settlement process would do much to dissolve U.S.-Japan trade tensions.

The final prong of a U.S.-Japan agreement should address the problem of burden sharing. Perhaps the most difficult part of the U.S.-Japan economic equation is the unequal security burden. The basic problem is simple: The U.S. devotes 6½% of its GNP to Western security, Japan devotes about only 1%. Unfortunately, the obvious solution to the problem—increasing Japanese military spending—raises serious concerns both inside and outside Japan. Nonetheless, until this underlying disparity is address, the U.S. will be at an economic disadvantage.

The best solution to this problem is encouraging Japan to further increase direct payments to the U.S. to partially offset U.S. military spending and to further increase its foreign assistance, preferably through multilateral agencies. Though they may not be popular in Japan, direct payments ease the unequal security burden without creating significant foreign-policy problems.

Japan already plans to significantly expand foreign assistance in the coming years. But it must go further. For example, as part of an economic accord, Japan might agree to plow back a large portion of its current-account surplus into assistance for the indebted Latin American countries. Japan also should take steps to open its market to LDC exports that it now largely shuts out.

Some elements of this accord should be addressed in a formal bilateral agreement; others might best be carried out as informal executive commitments. But all of these economic issues should be discussed in a single, high-level negotiation, and not on an issue-by-issue basis.

An accord like the one outlined is overwhelmingly in the interests of the U.S. and Japan. Japan relies on the U.S. as a market for 40% of its exports, and the U.S. is the ultimate guarantor of Japanese security vis-à-vis the Soviet Union. The U.S. now owes Japan $250 billion and is borrowing from Japan almost daily to support its budget deficit. In short, both nations have a substantial stake in the economic prosperity of the other.

Beyond the direct benefits, a U.S.-Japan accord could have certain strategic benefits. For example, bilateral talks between the U.S. and Japan aimed at concluding a sweeping economic accord would be a powerful counter to fears that the EC's 1992 project will impose barriers against non-EC goods and services. If the U.S. and Japan move toward a closer bilateral economic relationship, both would have more leverage to prevent the EC from shutting them out.

Moreover, pursuing a bilateral agreement with Japan could reinvigorate the now-mired Uruguay Round of GATT talks: It would put various U.S. trading partners, now safely dragging their feet, on notice that they may be left behind if they don't negotiate in the Uruguay Round.

The next U.S. President has a unique opportunity to strike a new course in U.S.-Japan relations. No agreement can end all of the U.S.'s economic problems. But an agreement that addresses the major bilateral economic problems and ends the bickering is within reach. The U.S. and Japan must forge a new relationship—an economic partnership.

Mr. BAUCUS. Mr. President, the events of the last few months have only intensified the need for a United States-Japan bilateral agreement as outlined in this bill. I would like to highlight four factors in particular: First, the apparent deadlock in the Uruguay Round of GATT talks; second, the implementation of the Omnibus Trade Act; third, the expanding United States-Japan trade deficit; and fourth, the increasing Japanese interest in this approach.

First, the Uruguay Round of GATT negotiations appears to be floundering. Disputes between the United States and the European Community over agricultural subsidies and between the United States and the developing nations over intellecutal property are threatening to scuttle the negotiations.

GATT negotiations must remain a critical element of U.S. trade policy. But the current stalemates demonstrate that we can no longer afford to put all of our eggs in one basket. Bilateral negotiations with major trading partners, such as Japan, are a vital insurance policy against the breakdown of the round. Further, active bilateral negotiations spur foot draggers to negotiate seriously in the GATT for fear of being left behind.

The second factor I would like to note is the implementation of the Omnibus Trade Act. The Super-301 provision of the new trade law directs the administration to begin negotiations with nations that maintain an extensive array of trade barriers against U.S. exports. The objective of these negotiations would be eliminating the trade barriers. If the negotiations are unsuccessful, the administration is directed to retaliate against the exports of that nation.

As the administration has conceded, no nation maintains a more costly and pervasive array of trade barriers than Japan. Thus, Japan is the most likely candidate for identification under the "Super 301" provision.

Simply put, this means that the United States is almost certain to enter into a major trade negotiation with Japan driven by the mandates of the new trade law.

I suggest we use this opportunity to begin a major negotiation with Japan that addresses all elements of the economic relationship including trade. The trade negotiations can be conducted under the rubric of Super-301, with talks on economic coordination, burden sharing, and dispute settlement occurring on a parallel track.

The third factor I would like to point out is widening of the United States-Japan bilateral trade deficit. The bilateral trade imbalance was down $5 billion in 1988 from 1987, but began to widen again in the fourth quarter of 1988. Most economists project that the deficit may increase back to a $55 to $60 billion level in 1989.

The U.S. economy simply cannot sustain $55 to $60 billion hemorrhages indefinitely. And the deficit can only be controlled and reduced if Japan and the United States agree to address their economic problems in a comprehensive fashion.

Finally, the idea of a bilateral economic accord has gained increasing popularity in Japan. I have watched with interest as the issue has been discussed in the Japanese press. In fact, it is rumored that Prime Minister Ta-

keshita may propose some sort of bilateral dispute settlement mechanism during his visit to Washington later this week.

Certainly, I welcome discussions on this topic. But we must really address our bilateral problems rather than paper them over. If a Japanese proposal represents an honest attempt to address bilateral economic problems in a forthright manner, President Bush should welcome it with open arms. But if it represents merely an attempt to circumvent the Trade Act and establish another endless series of negotiations, we should reject it.

We need real change, not a diplomatic fix.

Mr. President, I strongly urge President Bush and his advisers to examine the proposal embodied in this bill, and begin negotiations with Japan modeled on this proposal.

We simply cannot afford to wait much longer.

I ask unanimous consent that the full text of the bill appear following my statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEGOTIATIONS.

(a) IN GENERAL.—The President shall take action to initiate negotiations with Japan for the purpose of entering into one or more agreements that meet the objectives described in subsection (b).

(b) OBJECTIVES.—The objectives of the negotiations conducted under subsection (a) shall be—

(1) to increase economic coordination between the United States and Japan for the purpose of eliminating any imbalance on the current account between Japan and the United States by—

(A) controlling and eliminating the budget deficit of the United States,

(B) stimulating consumer demand in Japan, and

(C) controlling fluctuations in the rate of exchange between the currency of the United States and the currency of Japan;

(2) to liberalize trade and improve dispute settlement procedures, including—

(A) the elimination of remaining major trade distortions and formal trade barriers of Japan,

(B) the full enforcement of all commitments made in previous trade agreements to which the United States and Japan are parties,

(C) the disciplining of other informal trade barriers, including the distribution system of Japan, exclusive Japanese business relationships, administrative guidance, and the Japanese patent system,

(D) with respect to critical economic sectors, the concluding of sectoral agreements similar to the United States-Japan Semiconductor Agreement of 1986, and

(E) the establishment of a joint trade commission between the United States and Japan (similar to the Canada-United States Trade Commission established under the United States-Canada Free-Trade Agreement) to—

(i) apply the rules established under—

(I) the General Agreement on Tariffs and Trade, and

(II) any other trade agreement to which the United States and Japan are parties,

to trade disputes through formal consultations and arbitration, and

(ii) oversee implementation of any current or future trade agreements between the United States and Japan; and

(3) to improve allocation of the strategic burden between the United States and Japan to offset the disproportionate defense burden of the United States through—

(A) an increase of direct contributions by Japan to the United States for reimbursement of military expenditures by the United States,

(B) an increase in the amount of funds expended by Japan for foreign assistance, particularly through multilateral agencies, and

(C) an increase of imports into Japan from developing nations.

(c) SPECIAL RULES.—

(1) The position of the United States in the negotiations conducted under subsection (a) that are undertaken to meet the objectives described in subsection (b)(2) shall be consistent with the requirements and time limitations provided under section 310 of the Trade Act of 1974.

(2) During the period in which negotiations are conducted under subsection (a), the United States Trade Representative shall undertake regular consultations with the Congress in accordance with the consultation requirements of subtitle A of title I of the Omnibus Trade and Competitiveness Act of 1988.

(3) The President shall—

(A) strive to integrate other Pacific Rim countries into any agreement entered into with Japan as a result of negotiations conducted under subsection (a), and

(B) regularly consult with other Pacific Rim countries during the course of such negotiations.

SEC. 2. GATT CONSISTENCY.

Any agreement entered into by the United States with Japan as a result of the negotiations conducted under section 1(a) shall be consistent with the General Agreement on Tariffs and Trade.●

By Mr. D'AMATO:

S. 297. A bill for the relief of Joan Daronco; to the Committee on the Judiciary.

RELIEF OF JOAN DARONCO

● Mr. D'AMATO. Mr. President, I rise today to reintroduce two bills: a bill for the relief of Mrs. Joan Daronco, widow of recently slain Federal district court judge Richard J. Daronco, and a related bill to correct the flaw in the Judicial Survivors' Annuity Act which necessitates that relief. By a twist of fate, Mrs. Daronco faces denial of benefits payable under the judicial survivors' annuity fund for the sudden, tragic death of her husband. The private bill will allow her to receive benefits even though the requisite 18-month vesting period had not run.

As my colleagues may recall, on May 21, 1988, Judge Richard Daronco was accosted by a gun brandishing assailant while mowing his lawn. He was pursued and gunned down in cold blood. Thereafter, the assailant turned the 38-caliber Smith & Wesson revolver on himself.

The gunman, Charles Koster, was a retired police officer whose senseless acts were motivated by revenge for an adverse ruling disposing of his daughter's sexual discrimination suit against a bank. It is ironic that a man sworn to uphold the law ended his life through a violent violation of that law.

Judge Daronco was a friend. I was privileged to recommend him to President Reagan for appointment to the bench. He was a wise and accomplished jurist who was a fine addition to the District Court for the Southern District of New York. Unfortunately, after less than 1 year of service, to the shock of us all, he was cut down.

The judge left his wife, Joan, and five children. These survivors, however, could be denied death benefits unless the private measure is adopted because Judge Daronco was snatched from the bench by his killer's bullet before his benefits vested. It is appropriate that Congress direct that benefits be justly paid.

To obviate the need for private relief in the future, I am also introducing a bill to amend current law to eliminate the 18-month vesting period where, as in this case, the judge was the victim of assassination.

It would be perversely unjust to allow murder to thwart the purpose of the judicial officer's annuity fund. It is equally unjust not to correct the law now to avoid a recurrence of this circumstance in the future.

I urge my colleagues to support these measures.●

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. NICKLES, Mr. REID, Mr. HATCH, Mr. HELMS, Mr. DECONCINI, and Mr. BRYAN):

S. 298. A bill to amend the Federal Salary Act of 1967 to extend the time period before Presidential recommendations for congressional pay increases take effect; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. HUMPHREY, Mr. REID, Mr. BRYAN, Mr. HATCH, Mr. HELMS, Mr. DECONCINI, Mr. SIMON, Mr. DOMENICI, and Mr. BOND):

S. 299. A bill to provide that the recommendations of the President for congressional pay increases shall become effective after approval by joint resolution of the Congress; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, and Mr. HELMS):

S. 300. A bill to amend the Federal Salary Act of 1967 to extend the time period before Presidential recommendations for congressional pay increases take effect, to change the schedule for appointments of the Commission on Executive, Legislative, and Judicial Salaries, and to change the times for submission of reports; to the Committee on Governmental Affairs.

By Mr. GRASSLEY (for himself, Mr. PRESSLER, Mr. NICKLES, and Mr. HELMS):

S. 301. A bill to amend the Federal Salary Act of 1967 to change the schedule for appointments of the Commission on Executive, Legislative, and Judicial Salaries and the times for submission of reports; to the Committee on Governmental Affairs.

CONGRESSIONAL PAY

● Mr. GRASSLEY. Mr. President, I rise today to introduce four bills to reform the process by which Congress awards itself a pay raise. The process, or lack of process as the case happens to be, makes a mockery of the legislative system. Today, the first working day of Congress, allows people who oppose the pay raise only 7 legislative days to get a resolution of disapproval passed through both Houses of Congress. That, for all practical purposes, is impossible. It's hard enough to get simple legislation all the way through Congress in 7 days, let alone complex and controversial legislation.

That is the focus of these bills which I am introducing today. As many of you may be aware, I introduced other legislation today with Senator PRESSLER which not only addresses the pay raise process, but also takes some very firm action against the current proposed pay raise. That legislation, as well as these bills, are necessary if Congress hopes to restore the public's faith in the institution of Congress.

The introduction of this legislation, as well as the resolution referred to earlier, guarantees that the pay raise issue will see lots of congressional activity well after February 7, the date the pay raise automatically goes into effect if not rejected by Congress.●

By Mr. PRYOR (for himself, Mr. STEVENS, Mr. SYMMS, Mr. BURDICK, Mr. MCCLURE, Mr. SIMON, Mr. BIDEN, Mr. SHELBY, Mr. DECONCINI, Mr. INOUYE, Mr. DODD, Mr. KASTEN, Mr. MOYNIHAN, Mr. HEFLIN, Mr. FORD, Mr. HELMS, Mr. D'AMATO, Mr. BOREN, Mr. EXON, Mr. DASCHLE, Mr. CONRAD, Mr. HARKIN, Mr. COCHRAN, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. WARNER, Mr. BUMPERS, Mr. RIEGLE, Mr. BREAUX, Mr. PELL, Mr. COATS, Mr. RIED, Mr. METZENBAUM, Mr. SANFORD, Mr. CRANSTON, Mr. ROCKEFELLER, and Mr. SPECTER):

S. 302. A bill to amend title 39, United States Code, with respect to the budgetary treatment of the Postal Service, and for other purposes; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget the Committee on Governmental Affairs.

BUDGETARY TREATMENT OF THE POSTAL SERVICE

Mr. PRYOR. Mr. President, as you may recall, during the final days of the 100th Congress we fell just short of obtaining Senate floor consideration of S. 2449, legislation to take the U.S. Postal Service "off budget." Due to the tremendous support for that bill—74 consponsors—I am today introducing an identical measure and being joined by 35 original cosponsors.

The legislation will provide that the receipts and disbursements of the Postal Service Fund not be included in the President's budget for purposes of calculating the Federal deficit; and, that the fund not be taken into account in making calculations under the 1985 Gramm-Rudman-Hollings Deficit Control Act.

The issue here is whether postal policy, financing, and operations are to be driven by political considerations associated with attempts to reduce the Federal deficit; and, whether we want to continue distorting the budget deficit picture by including the unique postal revenue-based fund in our calculations.

S. 2449 was reported out of the Senate Governmental Affairs Committee in July 1988 with only one dissenting vote. Senators may also recall that in April of last year, 85 Senators voted for an amendment to the budget resolution supporting the proposition that the Postal Service should not be a pawn in deficit reduction efforts. The House also passed H.R. 4150, a bill to remove the Postal Service from the unified budget, by a vote of 390 to 16.

As was the case with S. 2449, our new bill would take effect in fiscal year 1990, so as not to be violative of the 2-year deficit reduction agreement reached last winter. Also, it differs from last year's House-passed bill in that it does not increase postal borrowing or long-term debt authority. Finally, the bill makes clear that by placing the Postal Service in an "off budget" status, Congress does not relinquish any of its authority to oversee the budget and operations of the Postal Service.

I hope my colleagues will join us in an effort to ensure that the U.S. Postal Service, so integral a link in the communications network that binds us together as one nation, remains free to serve our constituents without the inefficiency of political pressure.

Mr. HEFLIN. Mr. President, I am pleased to be an original cosponsor of S. 302 a bill to remove the U.S. Postal Service from the Federal budgetary process. I was a cosponsor of identical legislation introduced last year (S. 2449). It was reported out of the Senate Governmental Affairs Committee by a vote of 13 to 1. I also voted for an amendment to the budget resolution which would have taken the U.S. Postal Service "off budget." It passed the Senate by a vote of 85 to 8.

Last year, the House passed similar legislation, H.R. 4150, by a vote of 390 to 16. We had 75 cosponsors of S. 2449 prior to final adjournment of the 100th Congress; however, we were unable to obtain floor action on it. This year, we hope to be very successful in our efforts to get this bill passed in the Senate.

Mr. President, you will recall that under the Postal Reorganization Act of 1970, the U.S. Postal Service was created as a semi-independent government corporation which would operate on business-like principles. It was to determine its own expenses—including wages—to meet postal needs. Also, it was to make its own capital improvements and raise its own revenues to cover its costs.

Consistent with the intent of reorganization, the business-type postal budget was separated from the overall Federal budget beginning in fiscal year 1974. Only the annual appropriation to finance preferred-rate mail—which is defined by Congress—was included in the Federal budget. Then, for fiscal year 1986, the administration moved the Postal Service back on budget. Subsequently, Gramm-Rudman-Hollings put all previous "off-budget" accounts back "on-budget" and mandated that they be included in calculating Federal deficit totals. It is my understanding that the OMB views the provisions of Gramm-Rudman-Hollings as foreclosing any administrative restoration of "off-budget" treatment for the Postal Service.

As was the case last year with S. 2449, our new bill differs from the House-passed version in that it would take effect in fiscal year 1990. As such, it would not abrogate the 2-year deficit reduction agreement. It also differs from the House bill in that it would not increase postal long-term debt authority or borrowing.

Finally, Mr. President, our new bill makes it very clear that Congress would not relinquish any of its authority to oversee the postal budget and operations by removing it from the unified budget.

Mr. President, I hope that the Senate can move efficiently and expeditiously to pass this new postal "off budget" legislation.

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation which will allow the Postal Service to be considered independently from the Federal budget process. In effect, it will take the Postal Service "off-budget."

The legislation being introduced today is identical to S. 2449 which died at the end of the last Congress. That bill garnered the cosponsorship of 74 Senators. Companion legislation in the House passed by a vote of 390 to 16.

The original intent behind the creation of the Postal Service back in 1971 was to enable the postal system to assess its own needs and then finance itself accordingly without having to compete with other Federal programs for funding from the Federal budget. The way that the process works now leaves the Postal Service open to political influence when budget-cutting decisions are made.

One of the best arguments for keeping the budget for the Postal Service separate from the Federal budget is that the postal budget is prepared in accordance with generally accepted ac-

counting principles, unlike the more politically influenced Federal budget.

In the past 18 years we have witnessed an astounding increase in the volume of mail handled by the Postal Service. Back in 1971, the Postal Service handled 86.8 billion pieces of mail. The volume at the end of fiscal year 1988 ballooned to 160.5 billion pieces of mail. the projected volume for fiscal year 1990 is 170 billion! This increase in volume has been coupled with the lowest postage rates in the industrialized world.

Allowing the Postal Service to fall prey to the political budgetary process in Congress could revert this Nation's mail service to standards to which we as a nation are not accustomed. This legislation will not allow that to happen. I am confident that once my colleagues have had an opportunity to take a good look at this legislation, they will be convinced of its merits and worked toward its swift passage.●

By Mr. LEVIN (for himself, Mr. COHEN, Mr. RIEGLE, Mr. GRASSLEY, Mr. DECONCINI, and Mr. ROTH):

S. 303. A bill to establish a framework for the conduct of negotiated rulemaking by Federal agencies; to the Committee on Governmental Affairs.

NEGOTIATED RULEMAKING ACT

● Mr. LEVIN. Mr. President, I rise today to introduce the Negotiated Rulemaking Act of 1989. The cosponsors of this bill are Senators COHEN, RIEGLE, GRASSLEY, DECONCINI, and ROTH.

Last year, this bill's predecessor passed the Senate by unanimous consent, but was not voted on in the House because of the crush of last minute business. This year, I hope we can obtain early action by both Houses of Congress.

The purpose of the bill is to improve the Federal regulatory process by encouraging agencies to use negotiated rulemaking where appropriate. Negotiated rulemaking is a drafting technique which uses negotiation to develop Federal rules. The basic approach is straightforward. An agency that has decided to develop or revise a Federal regulation can invite those who will be affected by this regulation to join the agency in forming an ad hoc committee to devise a mutually acceptable rule. If the affected parties agree to participate and reach a consensus with agency representatives, the committee formally presents a draft rule to the agency. The agency reviews the draft, makes any needed adjustments, and then publishes it in the Federal Register as a proposed rule for public notice and comment under existing rulemaking procedures.

This process, called "reg neg" by veteran users, first attracted congressional interest in 1980. At that time, several bills were introduced to encourage agencies to try the process. None were enacted, in order to allow agencies time to experiment with reg neg on their own and to develop a track record which Congress could evaluate when considering legislative alternatives.

Nine years later we have that track record. A number of agencies, including the Environmental Protection Agency, the Labor Department and the Transportation Department, have used negotiated rulemaking to develop rules on such issues as wood burning stoves, pesticides, MDA exposure limits, and working hours for airline pilots. Numerous parties have participated in the process—industry, labor, environmental groups, consumers and others. Participants have worked together not only to develop the regulations in question, but also to learn when negotiated rulemaking should be used and how it works best.

In a hearing before the Governmental Affairs Committee in May of last year, witnesses testified about the Government's experiences to date. Agencies, rulemaking participants, mediators and scholars agreed, without exception, that negotiated rulemaking has proven itself to be not only viable, but a very effective process when properly employed. Praise for the process included statements that, when used in the proper circumstances, negotiated rulemaking resulted in agency rules that were more effective, less costly, fairer in impact, quicker in achieving final status, and less subject to challenge in court. That's quite a track record.

And word is getting around in Congress. Provisions are beginning to appear on an ad hoc basis in various bills directing agencies to use reg neg procedures when developing regulations in certain areas. Examples from last session are H.R. 5, the Elementary and Secondary School Improvement Act, now Public Law 100-297, which directs the Education Secretary to use reg neg to develop regulations required by the act; and H.R. 1414, the Price-Anderson Amendments Act, which directs the Nuclear Regulatory Commission to use reg neg to resolve certain indemnification issues involving radiopharmaceuticals.

WHY A STATUTE IS NEEDED

Some may wonder, if agencies are already successfully using reg neg and Congress is already incorporating it into legislation, why a statute is needed at all. There are several compelling reasons. First, some agencies have decided, despite what other agencies are doing, that they lack the authority to try negotiated rulemaking. A statute is needed to remove any doubt about these agencies' authority to use the process and to serve as Congress' endorsement of negotiated rulemaking activities.

Second, agencies which have never tried reg neg need guidance on how to proceed. It is not obvious, for example, how an agency should conduct a negotiated rulemaking so that it is consistent with other laws governing Federal administrative practice, such as the Administrative Procedure Act and the Federal Advisory Committee Act. Deciding whom to include on a rulemaking committee, how to handle requests for additional members, how to notify the public of a committee's existence and activities, and other procedural issues are difficult. Agencies without reg neg experience face a daunting task in designing their first project—they must individually search the literature, locate the experts, identify the issues, and develop their own reg neg program. A statute is needed to ease the learning curve and the procedural complexities by gathering key information in one place, resolving the major procedural issuses in ways proven effective, and providing specific means to obtain additional expert advice. Legislation that takes these steps will make it easier for agencies to try reg neg for the first time and make it more likely that they will do so.

A third reason for enacting a statute is that even experienced agencies would benefit from a document which collects the wisdom of reg neg experts and presents general rules on how to conduct a negotiated rulemaking fairly and effectively. A reg neg statute which spells out, for example, the most appropriate ways to establish, operate, and terminate rulemaking committees will help ensure that agencies administer these committees uniformly in the most fair and effective ways yet devised.

Finally, given that Congress is beginning to employ reg neg in legislation, a statute reflecting the collected wisdom on how best to use this process is needed to serve as a common reference.

BALANCING FLEXIBILITY WITH EXPERT GUIDANCE

Negotiated rulemaking requires people to voluntarily meet together and hammer out their differences on a Federal regulation. Its hallmark is an ability to respond with flexibility to the dynamics of the people involved and the regulation under consideration in each instance. To bind the process too tightly, with too many procedural rules, would be to destroy its best features. That means that any statute on negotiated rulemaking must walk a fine line, providing needed guidance to agencies while avoiding inflexible provisions and unnecessary redtape.

The bill I am introducing today is designed to balance those concerns. It provides a framework of general rules of conducting a negotiated rulemaking and establishes mechanisms for agencies to obtain expert advice on particular points. It avoids rigid procedural requirements and explicitly permits further experimentation. The bill has undergone intense scrutiny by the reg neg community and emerged with a carefully constructed set of provisions whose content is the product of many expert reviews.

This refinement process continued even after passage of the Senate bill last year. The act being introduced today reflects several improvements over last year's legislation:

First, FACA provisions: The major change in the bill from last year is a decision to simplify and strengthen the language requiring agencies that sponsor negotiated rulemaking committees to comply with the Federal Advisory Committee Act.

Second, codification: A technical revision was made to include the bill's key provisions in title 5 of the United State Code, in the chapter on administrative rulemaking. This technical change has required the sections to be renumbered and, in some cases, reworded.

Third, judicial review: Language has been added to the section on judicial review to make it clear that regulations which are the product of negotiated rulemaking procedures are to be accorded no greater deference by a court than regulations which are the product of other rulemaking procedures.

Fourth, Federal notice: Language has also been added to the section requiring agencies to publish a notice in the Federal Register of an intent to establish a negotiated rulemaking committee. A new paragraph (8) requires that notice to explain how a person may apply, or nominate another person, for membership on the committee.

There are also a few minor differences in the wording of certain provisions to clarify their meaning without making substantive changes. I ask unanimous consent that the text of the bill be printed in full after my remarks.

The potential benefits of negotiated rulemaking have become clear. Instead of affected parties spendings their time and resources litigating a regulation drafted and imposed by an agency, the affected parties and agency spend their energies constructively developing a proposed rule together. The potential result is not only a rule which will become effective in less time, but also a rule which will be better substantively, since it will reflect the involvement of the interests who will be affected by it.

Nine years ago, there was insufficient evidence that the potential benefits of negotiated rulemaking would actually accrue. Now, we have a track record of success. Congress needs to extend that record of success by encouraging more agencies to try negotiated rulemaking under procedures which will guide but not inhibit the process. That is the goal of the Negotiated Rulemaking Act of 1989, and I hope my colleagues will join me in ensuring that this legislation receives early attention and action during the 101st Congress.●

● Mr. COHEN. Mr. President, today I am pleased to join with Senator LEVIN in introducing the Negotiated Rulemaking Act of 1989. I believe that this bill, which is a revised version of legislation that passed the Senate unanimously last year, will go far in encouraging a more open, cooperative, and efficient process of proposing regulations.

Negotiated rulemaking, or "reg neg" as it has come to be called, is the process by which an agency invites affected parties to sit down with the agency and to work with it in developing a proposed rule. Using the "reg neg" process, the agency can invite affected parties to form an ad hoc committee to devise a mutually acceptable draft regulation. After hammering out proposed areas of agreements, the committee presents a draft regulation to the agency. The agency then reviews the draft and publishes it, with any necessary revisions, as a proposed rule for public notice and comment in the Federal Register.

Since 1980, several agencies have used negotiated rulemaking voluntarily and have found it to be a very valuable process. Far from slowing down the process, "reg neg" has actually, in many circumstances, made the regulatory process more efficient, less costly, and fairer to parties affected by proposed rules. Perhaps the most important effect of regulatory negotiation is that it makes the regulatory process less adversarial than conventional rulemaking. By working together to reach consensus on proposed rules before they are published, agencies and diverse groups can come together sooner, perhaps avoiding the extreme positions and even costly litigation that occurs when the Government and interested parties are working at odds with each other.

I am sure that the concept of regulatory negotiation can, at first glance, sound somewhat dry, and even bureaucratic, to my colleagues. It can, however, have real life consequences. It has already been used to develop regulations in areas such as work hours for airline pilots, woodburning stoves, and pesticides. Many outside Government will benefit from its use, including consumer groups, industry, environmental groups and labor. By bringing these important voices into the process earlier, the Government is encouraging cooperation, rather than confrontation, from parties interested in proposed regulations. The Government also benefits, since negotiated rulemaking can, in the appropriate circumstances, result in more effective rules with less overall cost and less litigation.

The legislation we are introducing today will encourage the use of regulatory negotiation by agencies in appropriate circumstances. This bill, while keeping "reg neg" a voluntary alternative to conventional rulemaking, will give guidance to agencies on how to conduct negotiated rulemaking and will remove any doubt about agencies' authority to use this process.

I hope that the Senate will act swiftly to consider and pass this worthy measure and that the House will also act on this issue this year. The Government, the private sector and the consumer can benefit from negotiated rulemaking, and we should encourage its use.●

● Mr. ROTH. Mr. President, I am pleased to join my colleague, Senator CARL LEVIN, as an original cosponsor of the Negotiated Rulemaking Act of 1989. This legislation spells out the procedures to be followed by agencies using advisory committees to develop proposed agency rules.

Several agencies, most notably the Environmental Protection Agency and the Departments of Labor and Transportation, have successfully experimented with this approach. The use of advisory committees comprised of parties affected by and interested in the agencies' rules can help to develop consensus for a proposed rule and thereby avoid litigation over the rule. The Administrative Conference of the United States has studied this process and recommended that it be used by other agencies as well. This legislation is intended to encourage agencies' use of negotiated rulemaking procedures, where appropriate, by clarifying the legal requirements for their use.

Legislative efforts to encourage the use of negotiated rulemaking have been advanced in this body for several years. During the last Congress, legislation very similar to the bill being introduced today was passed unanimously by the Senate. Unfortunately, it was not acted upon by the House of Representatives prior to adjournment. I am hopeful that our efforts during this 101st Congress will culminate in enactment of the Negotiated Rulemaking Act. I commend Senator LEVIN for his hard work and perseverance with respect to this issue, and trust that with his leadership we will reach our goal.●

By Mr. MOYNIHAN:

S. 304. A bill to promote nondiscrimination in State medical licensure and medical reciprocity standards; to the Committee on Labor and Human Resources.

EQUAL OPPORTUNITY FOR MEDICAL LICENSURE AND RECIPROCITY ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce "The Equal Opportunity for Medical Licensure and Reciprocity Act of 1989."

Simply put, this legislation will prohibit States from discriminating against graduates of foreign medical institutions. One's qualifications to practice medicine are not and should not be determined on the basis of national origin, but rather by objective tests of acumen. Passage of this bill will ensure that no person who is qualified, by experience and training, to practice medicine will be denied a license simply because he or she was trained beyond our shores.

This country owes a great debt to graduates of foreign medical institutions. In our inner cities as well as our

rural areas, foreign medical graduates have willingly filled positions of great need, ministering to the poor, often accepting woefully low reimbursements for services rendered. In my own State of New York, many emergency rooms and rural health clinics would be forced to close were it not for the presence of capable medical personnel trained abroad. Given the invaluable role these fine doctors play in delivering health services to the poor of our nation, it is unconscionable and wholly unacceptable that many States have taken of a sudden to denying licenses to fully-qualified foreign medical graduates.

I want to make it absolutely clear that this legislation in no way preempts a State's right to conduct licensure procedures in any way the State sees fit—so long as such procedures treat each applicant equally and do not discriminate against applicants based on where the applicant obtained his or her medical degree.

I urge my colleagues to support this important piece of legislation, and I ask unanimous consent that the full text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Equal Opportunity for Medical Licensure and Reciprocity Act of 1989.

SEC. 2. The Purpose of this Act is to provide that any person that is a medical school graduate of a medical school outside the United States shall be given equal access to practice medicine within any jurisdiction in the United States. Discrimination against any graduate of a medical school outside the United States shall not be tolerated in licensure, reciprocity, jobs, promotions, hospital privileges, reimbursement, residency, medical staff academic appointments, and professional society membership. The Department of Health and Human Services shall enforce the provisions of this law.

SEC. 3. Any person who is a practicing and licensed physician in any one state of the United States and who is a graduate from a medical school outside the United States shall not be denied equal access to practice medicine within any jurisdiction in the United States.

SEC. 4. For any person who is a practicing and licensed physician in any one state of the United States, no provision of law, regulation, policy, or requirements for obtaining or maintaining a license to practice medicine shall discriminate against a person who is a graduate of a medical school outside the United States because of such person's status as a graduate of such a medical school.

SEC. 5. Any person who is a medical graduate from a medical school outside of the United States and has undergone postgraduate training in the United States and obtained a license to practice medicine in any State of the United States shall not be subjected to any conditions or requirements which materially differ in any respect from such conditions or requirements as applied to graduates from medical schools within the United States in relation to the following:

(a) any examination required as a condition to practice medicine or to continue the practice of medicine in the United States;

(b) any requirements or qualification criteria necessary to obtain or maintain medical board certification in the United States;

(c) access to residency training positions at any medical school, hospital or other medical facility within the United States;

(d) access to any form of financial assistance from the United States Government or any agency thereof to be provided to a medical graduate or to be provided to any person or entity where such financial assistance is in any way based on the status or origin of a medical graduate;

(e) State and jurisdictional standards and evaluation criteria for determining the method or manner of granting reciprocity to any medical graduate to practice medicine in such State or jurisdiction;

(f) membership in any public medical association or organization;

(g) any other such circumstances concerning the licensing of medical providers and/or the professional requirements within the medical system of the United States;

(h) that no Federal law shall be construed to require or permit discrimination in the payment for health care services which are furnished (or ordered to be furnished) by or under the supervision of a physician, solely on the basis that individual's qualification as a physician is based on the graduation from a medical school located outside the United States;

(i) no retroactive laws or regulations shall be applied to any practicing and licensed physician of the United States who is a graduate of a medical school located outside the United States; and

(j) information about the medical school from which the foreign medical graduate has graduated, which is either available or not available, will not affect the decision about the Foreign Medical Graduate's licensing, reciprocity, jobs, promotions, hospital privileges, reimbursements, residency, training, fellowship, professional membership, or in any other manner.

SEC. 6. The above provisions shall be equally applicable to conditions and requirements relating to any medical specialty as well as the general practice of medicine.

SEC. 7. The Secretary of Health and Human Services may not make a grant, loan guarantee, or interest subsidy under any provision of law to, or for the benefit of any school of medicine, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary of Health and Human Services that the School of medicine will not discriminate in any way against any physician that is not a graduate of a medical school located within the United States.

SEC. 8. A State shall adopt medical licensure and medical reciprocity standards which provide equal opportunity to any person who is a graduate of a medical school which is within the United States, and to any person who is a graduate of a medical school outside the United States and such person has completed the United States postgraduate training and obtained a license to practice medicine in any State of the United States.

SEC. 9. The Secretary of Health and Human Services shall develop regulations to carry out the provisions of this Act.●

By Mr. DIXON (for himself, Mr. GARN, Mr. GRAHAM, and Mr. WIRTH):

S. 305. A bill to modernize and reform the regulation of financial services, to strengthen the enforcement authority of depository institutions regulating agencies, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

PROXMIRE FINANCIAL MODERNIZATION ACT

Mr. DIXON. Mr. President, on March 1 of last year, the moratorium on further actions by the Federal banking regulators on bank asset powers issues expired. The very next day, March 2, the Senate Banking Committee voted to report S. 1886, the Proxmire Financial Modernization Act of 1988, to the Senate floor by an 18 to 2 margin. By the end of the month, March 30 to be exact, the full Senate endorsed the committee's action, passing the bill by an overwhelming 94 to 2 vote with virtually no amendments.

The Senate therefore kept its part of the promise the Congress made in 1987 during debate on S. 790 and H.R. 27, which ultimately became law as the Competitive Equality Banking Act of 1987. That bill did not address fundamental banking law reform issues, but section 203(a) stated that—

It is the intent of the Congress, through the Committee on Banking, Housing, and Urban Affairs of the U.S. Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives to conduct a comprehensive review of our banking and financial laws and to make decisions on the need for financial restructuring legislation in the light of today's changing financial environment both domestic and international before the expiration of such moratorium.

For a variety of reasons, however, the House of Representatives was unable to complete action on its financial services reform legislation before the 100th Congress adjourned last October. Redeeming the pledge Congress made in 1987, therefore, is unfinished business that must be addressed early in the 101st Congress.

To begin that process, I am today introducing, together with my good friends and committee colleagues, Senators GARN, GRAHAM, and WIRTH, the Proxmire Financial Modernization Act of 1989.

It is important to remember, as we begin this process once again, that we are not in front of the reform process. In fact, unfortunately, we are well behind the fundamental changes in technologies and markets that make the need for reform so compelling.

It is also important to remember that the failure to enact these greatly needed reforms does not and cannot prevent reform from occurring. Congressional failure to act simply redirects the reform process into other channels. Because Congress has not acted, the Federal regulators and the Federal courts have been forced to act.

"Forced" is the proper word to describe the regulators' and the courts' activity in the reform process. They have been forced by the fundamental changes that have occurred and are

continuing to occur in financial markets. They have been forced by the pressure for change that these financial revolutions have generated. They have been forced because they have the applications and the lawsuits in front of them and Because, unlike the Congress, they do not have the luxury of saying that they are not going to decide a question.

I strongly believe that Congress should take control of the financial reform process, but we should not be surprised by continuing efforts to creatively interpret existing law if we allow the law to lose touch with economic reality.

Change in the law is overdue; the Proxmire Financial Modernization Act of 1989 represens a moderate, wellthought-out approach that begins the reform process using a procompetition approach, while guarding the safety and soundness of our banking system.

The Proxmire Financial Services Modernization Act of 1989 is identical to S. 1886 as it passed the Senate last year, with a few minor modifications to bring the bill up to date. For example, the management interlock and home equity provisions are dropped because they became law last year in separate actions. In the corporate debt underwriting sections of the bill, the 6-month delayed effective date is dropped to reflect the fact that additional time has passed and because the Federal Reserve has acted on additional section 20 applications and granted securities affiliates of bank holding companies the right to underwrite corporate bonds.

Given the extensive legislative history already available on this bill, I do not want to take the time of the Senate now to describe it in detail. There is an exhaustive committee report on the bill, and there was a solid Senate floor debate. Instead, I want to address only one issue—does this bill deregulate?

The answer to that is simple—no. The bill permits bank holding companies to own affiliates that engage in a variety of securities activities. However, those securities activities are fully subject to every bit of securities regulation that applies to the rest of the securities industry. In addition, the bill mandates tough new statutory standards and regulations strengthening bank capital and regulating the transactions between a banking affiliate of a bank holding company and a securities affiliate. These restrictions are designed to protect banking organizations from the risks attributable to the activities of the securities affiliate, and to ensure that the securities affiliates do not have unfair competitive advantages over other securities firms.

The bottom line is that this bill does not deregulate; it does just the opposite. It provides for additional regulation to police the new authorities it contains. It is in the best tradition of reform legislation. It is procompetition, while strengthening the ability of the cop on the beat to uncover and deal with any problems that might arise.

This legislation is the result of over 83 days of hearings, testimony from over 457 witnesses, and over 18,000 pages of transcripts during the last 8 years. It is a solid bill, which is the reason it passed by such a strong margin in 1988.

This is the bill that was hammered out over many months in the last Congress with the direct involvement of virtually every member of the Senate Banking Committee.

I have already heard rumblings, Mr. President; I know there are those that would like to derail the Proxmire Financial Modernization Act of 1989 in the hope of getting either a much narrower bill or a renewal of the moratorium. To them, I simply want to repeat what I said last year: It will not happen.

Section 203(b) of the Competitive Equality Banking Act of 1987 makes that point crystal clear. It states:

> It is the intent of the Congress not to renew or extend the moratorium established under section 201 whether or not subsequent banking legislation is passed by the Congress.

Let me repeat that for my colleagues. The moratorium will not be renewed even if there is no further action on banking legislation.

This is one Senator, Mr. President, that intends to do everything he can to see that we live up to that promise. I look forward to working with the other members of the Senate Banking Committee, the members of the full Senate, and my colleagues in the House of Representatives toward enactment of the kind of reform legislation that addresses the real problems facing the financial services industry. The Proxmire Financial Modernization Act is that kind of legislation. I strongly believe it should be quickly enacted.

I want to say only one more thing before I conclude, Mr. President. As my colleagues know, this legislation was authored by the distinguished chairman of the Senate Banking Committee, Bill Proxmire, in the last Congress. It is the Senate's great lost that he has retired and is not on the floor here today to reintroduce his bill.

I was pleased to work with Bill in developing this legislation in the last Congress, and I am proud to be introducing it today. I want him, and all my colleagues, to know that I will work hard and long to see that this measure that bears his name is given the kind of priority attention that it deserves.

As I stated before, enactment of this bill is long overdue. The Proxmire Financial Modernization Act should be promptly passed by the Senate and the House and signed by the President. With the help of all my colleagues in the Senate and the House, it will be.

Mr. President, I ask unanimous consent that a copy of the bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Proxmire Financial Modernization Act of 1989".

(b) TABLE OF CONTENTS.—

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

Sec. 101. Amendments to the Banking Act of 1933.
Sec. 102. Authorization for bank holding companies to acquire securities affiliates.
Sec. 103. Definition of securities affiliate.
Sec. 104. Ninety-one day rule for securities affiliate applications.
Sec. 105. Effect on State laws prohibiting the affiliation of banks and securities companies.
Sec. 106. Amendment to the Federal Reserve Act.
Sec. 107. Securities affiliations of FDIC-insured banks.
Sec. 108. Authorization for national banks to underwrite municipal revenue bonds, sponsor unit investment trusts, and distribute investment company securities.
Sec. 109. Amendments to the International Banking Act of 1978.
Sec. 110. Diversified financial holding companies.
Sec. 111. Study on harmonizing the regulation of banking and securities organizations.
Sec. 112. Study of the national payments system.
Sec. 113. Congressional vote on whether to permit securities affiliates to underwrite equity securities.

TITLE II—EXPEDITED PROCEDURES

Sec. 201. Expedited procedures for forming a bank holding company.
Sec. 202. Exemption of certain bank holding company formations from registration under the Securities Act of 1933.
Sec. 203. Expedited procedures for bank holding companies to seek approval to engage in nonbanking activities.
Sec. 204. Reduction of post-approval waiting period for bank holding company acquisitions.
Sec. 205. Reduction of post-approval waiting period for bank mergers.
Sec. 206. Bankers' banks.

TITLE III—BROKERS AND DEALERS

Sec. 301. Definition of broker.
Sec. 302. Definition of dealer.
Sec. 303. Power to exempt from the definitions of broker and dealer.
Sec. 304. Requirement that banks falling within the definitions of broker or dealer place their securities activities in a separate corporate entity.
Sec. 305. Effective date.

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

Sec. 401. Custody of investment company assets by affiliated banks.
Sec. 402. Affiliated transactions.

Sec. 403. Borrowing from an affiliated bank.
Sec. 404. Independent directors.
Sec. 405. Additional SEC disclosure authority.
Sec. 406. Definition of broker.
Sec. 407. Definition of dealer.
Sec. 408. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 409. Definition of broker.
Sec. 410. Definition of dealer.
Sec. 411. Notification and consultation.
Sec. 412. Publicity.
Sec. 413. Effective date.

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY

Sec. 501. Short title.

PART A—REGULATION OF BANKS

Sec. 511. Amendments to the Federal Deposit Insurance Act.
Sec. 512. Penalty for violation of "Change in Bank Control Act".
Sec. 513. Reports.

PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

Sec. 521. Definition of institution-related party.
Sec. 522. Cease and desist orders.
Sec. 523. Service corporations.
Sec. 524. Temporary orders.
Sec. 525. Removal and suspension.
Sec. 526. Retention of jurisdiction.
Sec. 527. Penalties.
Sec. 528. Civil penalty.
Sec. 529. Definitions.
Sec. 530. Reports of condition.
Sec. 531. Technical amendments.
Sec. 532. Penalty for failure to report.
Sec. 533. Repealer.

PART C—CREDIT UNIONS

Sec. 541. Amendments to section 206.
Sec. 542. Amendments to section 205.

TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS

Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Definitions.
Sec. 604. Disclosure of yields and terms of accounts.
Sec. 605. Account schedule.
Sec. 606. Disclosure requirements for certain accounts.
Sec. 607. Distribution of schedules.
Sec. 608. Payment of interest.
Sec. 609. Regulations.
Sec. 610. Administrative enforcement.
Sec. 611. Civil liability.
Sec. 612. Credit unions.
Sec. 613. Review of disclosure requirements for open-end management investment companies.
Sec. 614. Effect on State law.

TITLE VII—INSURANCE ACTIVITIES

Sec. 701. Short title.
Sec. 702. Amendments to the Bank Holding Company Act of 1956 relating to insurance activities.
Sec. 703. Amendments to the National Bank Act.
Sec. 704. Effective date.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of hostile acquisitions of United States banks.
Sec. 802. Limitations on grandfathered nonbank banks owned by bank holding companies.
Sec. 803. Joint marketing restrictions.
Sec. 804. Industrial banks.
Sec. 805. Status of certain registered investment company.
Sec. 806. Amendment to the Federal Power Act.
Sec. 807. Expedited funds availability.
Sec. 808. Payroll tax filing service organizations.
Sec. 809. Effectuating the principle of national treatment for banks.
Sec. 810. Effectuating the principle of national treatment for brokers and dealers.
Sec. 811. Study of merger of commerce and banking.
Sec. 812. Increased penalties under the Bank Holding Company Act.
Sec. 813. Financial consumers associations.

TITLE I—SECURITIES AFFILIATES OF BANK HOLDING COMPANIES

SEC. 101. AMENDMENTS TO THE BANKING ACT OF 1933.

Section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933 are repealed.

SEC. 102. AUTHORIZATION FOR BANK HOLDING COMPANIES TO ACQUIRE SECURITIES AFFILIATES.

Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following new paragraph:

"(15)(A) SECURITIES AFFILIATES.—Shares of a securities affiliate which may, in accordance with this paragraph, do one or more of the following:

"(i) Engage in underwriting, distributing, or dealing in securities of any type.

"(ii) Engage in securities brokerage, private placement, investment advisory, or other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940.

"(iii) Engage in, or acquire the shares of a company engaged in, any activity that is not described in clause (i) or (ii) of this subparagraph, if another provision of this section permits a bank holding company or subsidiary thereof to engage in that activity or acquire those shares, and—

"(I) the Board permits the bank holding company to engage in that activity or acquire those shares through the securities affiliate, or

"(II) that provision permits the bank holding company or a subsidiary thereof to engage in that activity or acquire those shares without the Board's approval.

"(B) APPLICATION REQUIREMENTS.—

"(i) Except as provided in subparagraph (D)(ii) of this paragraph, a bank holding company shall not directly or indirectly acquire or retain shares of a securities affiliate under this paragraph without complying with this subparagraph.

"(ii) The following provisions shall apply during the 4 years following the date of enactment of the Proxmire Financial Modernization Act of 1989:

"(I) A bank holding company shall not acquire or retain shares of a securities affiliate pursuant to this paragraph without the Board's prior approval.

"(II) In acting on an application under this paragraph, the Board shall apply the criteria specified in this subparagraph, in subparagraphs (C) and (D)(i) of this paragraph, and in paragraph (8)(B)(iv) of this subsection.

"(III) The Board shall not approve an application under this paragraph unless the Board is satisfied that the bank holding company possesses the managerial resources to conduct the securities activities safely and soundly. In making that determination, the Board shall take into account the experience of management and its record of successfully managing the bank holding company or enterprises engaged in activities that are the same as or similar to those authorized for securities affiliates under this paragraph.

"(iii) Beginning 4 years after the date of enactment of the Proxmire Financial Modernization Act of 1989, a bank holding company seeking to acquire or retain shares pursuant to this paragraph shall comply with paragraph (8)(B) of this subsection. In making a determination under that paragraph, the Board shall apply the criteria specified in clause (iv) of that paragraph and in subparagraphs (C) and (D)(i) of this paragraph.

"(C) CONCENTRATION OF RESOURCES.—

"(i) The Board shall disapprove any acquisition pursuant to this paragraph that would result in the affiliation of—

"(I) a bank holding company or bank that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $30,000,000,000, with

"(II) an investment banking organization that has, or had on average during any of the 8 calendar quarters preceding the date of the application, total assets of more than $15,000,000,000.

"(ii) The dollar limitations in clause (i) of this subparagraph shall be adjusted annually after December 31, 1989, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this subsection.

"(D) INVESTMENT IN A SECURITIES AFFILIATE.—

"(i) A bank holding company shall not acquire control of a securities affiliate pursuant to this paragraph if the acquisition would reduce the bank holding company's capital below the minimum level established by the Board for bank holding companies.

"(ii) A bank holding company that has acquired control of a securities affiliate pursuant to this paragraph shall not directly or indirectly make any additional equity investment in the securities affiliate unless it gives the Board prior written notice of the proposed investment and—

"(I) the Board issues a written statement of its intent not to disapprove the notice; or

"(II) the Board does not disapprove the notice within 30 days after the notice is filed.

"(iii) The Board may disapprove a notice filed under clause (ii) if the Board finds that the investment would reduce the bank holding company's capital below the minimum level established by the Board or would otherwise be unsafe or unsound or inconsistent with the bank holding company's obligation to serve as a source of strength to its subsidiary banks.

"(E) CAPITAL STANDARDS.—(i) In determining whether a bank holding company complies with the capital requirements or guidelines established by the Board for bank holding companies—

"(I) the bank holding company's capital and total assets shall each be reduced by an amount equal to the amount of the bank holding company's equity investment in any securities affiliate, and by an amount equal to the amount of any extensions of credit by the bank holding company to any securities affiliate that are considered capital for purposes of any capital requirement imposed on the securities affiliate pursuant to section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)(3)),

"(II) the assets and liabilities of the securities affiliate shall not be consolidated with those of the bank holding company, and

"(III) the bank holding company's total assets and total liabilities shall each be reduced by an amount equal to the amount of the bank holding company's extensions of credit to any securities affiliate, excluding

extensions of credit described in subclause (I).

"(ii) Clause (i) of this subparagraph does not apply to the extent that the Board determines by order that an item described in that clause relates to activities that are not described in clause (i) or (ii) of subparagraph (A) of this paragraph.

"(F) LIMITATIONS ON SECURITIES AFFILIATES AND THEIR AFFILIATES.—

"(i) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly—

"(I) extend credit in any manner to the securities affiliate or a subsidiary thereof,

"(II) purchase for its own account financial assets of the securities affiliate or a subsidiary thereof,

"(III) issue a guarantee, acceptance, or letter of credit, including an endorsement or a standby letter of credit, for the benefit of the securities affiliate or a subsidiary thereof, or

"(IV) extend credit in any manner to any investment company advised by or the shares of which are distributed by the securities affiliate.

"(ii) Clause (i)(I) of this subparagraph does not apply to any extension of credit by a bank or insured institution made to acquire or sell any securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies if—

"(I) the extension of credit is to be repaid on the same calendar day,

"(II) the extension of credit is incidental to the clearing of transactions in those securities through that bank or insured institution, and

"(III) both the principal of and the interest on the extension of credit are fully secured by securities of the United States or its agencies or securities on which the principal and interest are fully guaranteed by the United States or its agencies.

"(iii) No bank or insured institution affiliated with a securities affiliate shall directly or indirectly extend credit, or issue or enter into a standby letter of credit, asset purchase agreement, indemnity, guarantee, insurance, or other facility, for the purpose of enhancing the marketability of a securities issue underwritten or distributed by the securities affiliate.

"(iv) No bank holding company or subsidiary thereof (other than a securities affiliate) shall knowingly extend or arrange for the extension of credit, directly or indirectly, secured by or for the purpose of purchasing any security while, or for 30 days after, that security is the subject of a distribution in which a securities affiliate of that bank holding company participates as an underwriter or a member of a selling group.

"(v) No bank or insured institution affiliated with a securities affiliate shall, directly or indirectly, extend credit to an issuer of securities underwritten by the securities affiliate for the purpose of paying the principal of those securities or interest or dividends on those securities. Nothing in this clause prohibits an extension of credit for a documented purpose (other than paying principal, interest, or dividends) if the timing, maturity, and other terms of the credit, taken as a whole, are substantially different from those of the underwritten securities.

"(vi)(I) No officer or director of a securities affiliate shall serve at the same time as an officer or director of any affiliated bank or insured institution.

"(II) Notwithstanding subclause (I) of this clause, an officer or director of a securities affiliate may serve at the same time as an officer or director of an affiliated bank or insured institution if the securities affiliate and the affiliated bank or insured institution are subsidiaries of a bank holding company that has total banking assets of not more than $500,000,000.

"(III) The dollar limitation in subclause (II) of this clause shall be adjusted annually after December 31, 1989, by the annual percentage increase in the Consumer Price Index as described in paragraph (8)(C) of this section.

"(IV) The Board may, by order or by regulation, grant exemptions from subclause (I) of this clause. In determining whether to grant such exemptions, the Board shall consider the size of the bank holding companies, banks, and securities affiliates involved, any burdens that may be imposed by subclause (I), the safety and soundness of the banks and securities affiliates, and other appropriate factors, including unfair competition in securities activities or the improper exchange of nonpublic customer information.

"(vii) Pursuant to regulations issued by the Securities and Exchange Commission, a securities affiliate shall prominently disclose in writing to each of its customers—

"(I) that the securities affiliate is not a bank or insured institution and is separate from any affiliated bank or insured institution; and

"(II) that securities sold, offered, or recommended by the securities affiliate are not deposits, are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution.

"(viii) No bank, insured institution, or subsidiary thereof shall express an opinion on the value of, or the advisability of purchasing or selling, securities underwritten, distributed, or dealt in by an affiliated securities affiliate unless the bank, insured institution, or subsidiary discloses to the customer that the securities affiliate is underwriting, distributing, or dealing in the securities.

"(ix) No bank, insured institution, or subsidiary thereof shall disclose to an affiliated securities affiliate, nor shall a securities affiliate disclose to an affiliated bank, insured institution, or subsidiary thereof, any nonpublic customer information (including an evaluation of the creditworthiness of an issuer or other customer of that bank, insured institution, subsidiary, or securities affiliate) without the consent of that customer.

"(x) A securities affiliate shall not underwrite or distribute securities secured by or representing an interest in mortgages or other obligations originated by an affiliated bank, insured institution, or subsidiary thereof unless those securities—

"(I) are rated by an unaffiliated, nationally recognized statistical rating organization;

"(II) are issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association; or

"(III) represent interests in securities described in subclause (II) of this clause;

"(xi) Each appropriate Federal banking agency and the Securities and Exchange Commission shall establish a program for—

"(I) enforcing compliance with this paragraph by banks or insured institutions or securities affiliates under its supervision; and

"(II) responding to any complaints from customers about inappropriate cross-marketing of securities products or inadequate disclosure.

"(xii) Nothing in this paragraph limits—

"(I) any authority of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the Securities and Exchange Commission; or

"(II) any disclosure or registration requirements under the securities laws, as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)).

"(G) SECURITIES AFFILIATES APPROVED UNDER PARAGRAPH (8).—

"(i) Effective after the expiration of 180 days after the date of enactment of this paragraph, no bank holding company may engage in, or retain the shares of any company engaged in, activities of the type described in subparagraph (A)(i) of this paragraph on the basis of the Board's approval of an application under paragraph (8) of this subsection—

"(I) unless the bank holding company obtains the Board's approval to retain the shares of that company pursuant to this paragraph; or

"(II) except to the extent that those activities are specifically authorized by statute for a national bank and involve securities that are expressly described in that statute, or that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(ii) The Board shall, after the date of enactment of this paragraph, disapprove any notice by a bank holding company under paragraph (8) of this subsection to engage in, or acquire the shares of a company engaged in, any activity that is described in subparagraph (A)(i), except to the extent that the activity is described in clause (i)(II) of this subparagraph.

"(H) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A bank holding company that acquires control of a securities affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or insured institution that it controls or any subsidiary thereof to engage, directly or indirectly, in the United States—

"(i) in activities described in subparagraph (A)(i) (except to the extent that those activities are described in subparagraph (G)(i)(II)); or

"(ii) in underwriting or distributing securities backed by or representing an interest in mortgages or other obligations originated or purchased by the bank or its affiliates.

"(I) COMPLIANCE WITH RISK-BASED CAPITAL STANDARDS.—

"(i) Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not commence any of the following activities unless each of its affiliated banks is in compliance with any applicable risk-based capital standards issued by the appropriate Federal banking agency:

"(I) underwriting, distributing, or dealing in unsecured corporate debt securities that at the time of issuance have a maturity of one year or more; or

"(II) underwriting, distributing, or dealing in equity securities other than those issued by an investment company registered under the Investment Company Act of 1940.

"(ii) A bank is in compliance with the capital standards described in clause (i) if that bank is in compliance with a schedule for achieving compliance with those standards prescribed by the appropriate Federal banking agency.

"(J) DEFINITIONS.—For purposes of this paragraph—

"(i) a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the

International Banking Act of 1978 (12 U.S.C. 3101)), shall be considered a bank;

"(ii) each shareholder of or participant in a company that controls a bank described in section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) or in a similar statute of any State, and each subsidiary of such a shareholder or participant, shall be treated as if it were a subsidiary of that company;

"(iii) the term 'appropriate Federal banking agency' means the agencies referred to in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) with respect to banks referred to in that section and the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) with respect to insured institutions;

"(iv) the terms 'deal in' and 'dealing in' do not include purchasing or selling securities for the account of another person; and

"(v) the term 'securities' does not include insurance and the term 'securities activities' does not include insurance activities.

"(K) PHASE-IN OF OR SEPARATE CONGRESSIONAL VOTE ON CERTAIN SECURITIES ACTIVITIES.—Notwithstanding subparagraph (A) of this paragraph, a securities affiliate shall not—

"(i) engage before 180 days after the date of enactment of the Proxmire Financial Modernization Act of 1989, in underwriting, distributing, or dealing in securities issued by an investment company registered under the Investment Company Act of 1940; or

"(ii) engage in underwriting, distributing, or dealing in equity securities, other than those issued by an investment company registered under the Investment Company Act of 1940, except as authorized pursuant to a joint resolution pursuant to section 113 of the Proxmire Financial Modernization Act of 1989.".

SEC. 103. DEFINITION OF SECURITIES AFFILIATE.

Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company that—

"(1) is engaged in the United States pursuant to section 4(c)(15)(A) of this Act in one or more of the activities described in that section; and

"(2) is registered as a broker or dealer under the Securities Exchange Act of 1934.".

SEC. 104. NINETY-ONE DAY RULE FOR SECURITIES AFFILIATE APPLICATIONS.

(a) NINETY-ONE DAY RULE.—Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "paragraph (8)" in the penultimate sentence and inserting in lieu thereof "paragraph (15)".

(b) SUNSET PROVISION.—The penultimate sentence of section 4(c) of the Bank Holding Company Act of 1956 (as amended by this Act) is repealed, effective 4 years after the date of enactment of this Act.

SEC. 105. EFFECT ON STATE LAWS PROHIBITING THE AFFILIATION OF BANKS AND SECURITIES COMPANIES.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended by inserting before the final period the following: ", except that no State may prohibit the affiliation of a bank or bank holding company with a securities affiliate solely because the securities affiliate is engaged in activities described in clause (i) or (ii) of section 4(c)(15)(A) of this Act.".

SEC. 106. AMENDMENT TO THE FEDERAL RESERVE ACT.

Section 23B(b)(1)(B) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(1)(B)) is amended by inserting "and for 30 days thereafter" after "during the existence of any underwriting or selling syndicate".

SEC. 107. SECURITIES AFFILIATIONS OF FDIC-INSURED BANKS.

(a) SECURITIES AFFILIATIONS.—Section 18(j)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)) is amended to read as follows:

"(3) SECURITIES AFFILIATIONS.—

"(A) GENERAL RULE.—Except as provided in section 4(c)(15) of the Bank Holding Company Act of 1956, an insured bank shall not be an affiliate of any company that directly or indirectly acts in the United States as an underwriter or dealer of any security, other than a security that a national bank is specifically authorized by statute to underwrite or deal in and—

"(i) that is expressly described in that statute; or

"(ii) that a regulation promulgated by the Comptroller of the Currency pursuant to that statute before November 18, 1987, expressly describes as being authorized for a national bank to underwrite or deal in.

"(B) EXCEPTIONS.—This paragraph does not apply to—

"(i) an insured bank that is described in subparagraph (D), (F), (H), or (I) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)); or

"(ii) a foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), solely because it has an insured branch in the United States.

"(C) GRANDFATHER PROVISION.—This paragraph does not prohibit—

"(i) the continuation of an affiliation that existed on March 5, 1987; or

"(ii) any affiliation by an insured bank that has an affiliation that would be prohibited if it were not covered by clause (i) of this subparagraph.

"(D) TRANSITION RULE.—An affiliation that becomes unlawful as a result of the enactment of the Proxmire Financial Modernization Act of 1989, may continue until the expiration of one year following the date of enactment of such Act.

"(E) ACTIVITIES CONDUCTED DIRECTLY BY INSURED BANK.—Nothing in this paragraph restricts an activity that is conducted directly by an insured bank and is subject to section 21 of the Banking Act of 1933 (12 U.S.C. 378).

"(F) DEFINITIONS.—As used in this paragraph—

"(i) The term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).

"(ii) The term 'company' has the meaning given to that term in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)).

"(iii) The term 'dealer' has the meaning given to that term in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)).

"(iv)(I) Except as provided in subclause (II) of this clause or except in the case of a contract of insurance, the term 'security' has the meaning given to that term in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

"(II) The Board of Governors of the Federal Reserve System may by regulation exempt from the definition of 'security' a banking product that has been traditionally and customarily originated or handled by national banks (such as loan participations, mortgage notes, and certificates of deposit) if the exemption is consistent with the purposes of this paragraph and of section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) The term 'underwriter' has the meaning given to that term in section 2(11) of the Securities Act of 1933 (15 U.S.C. 77b(11)).".

(b) CONFORMING AMENDMENT.—Clause (i) of section 408(m)(1)(A) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)) is amended by inserting after "clause (iii) of this subparagraph," the following: "and in section 18(j)(3) of the Federal Deposit Insurance Act,".

(c) TECHNICAL AMENDMENT.—Section 18(j)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(4)(A)) is amended by striking "or any provision of section 20 of the Banking Act of 1933" and inserting "or any provision of paragraph (3) or (6) of this subsection".

(d) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING MUNICIPAL REVENUE BONDS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following new paragraph:

"(6) LIMITATIONS ON CERTAIN ACTIVITIES INVOLVING CERTAIN MUNICIPAL SECURITIES.—

"(A) UNDERWRITING OR DISTRIBUTION BY AFFILIATE OF INSURED BANK.—No affiliate of an insured bank shall underwrite or distribute securities described in subparagraph (C) of this paragraph unless that insured bank, as well as any affiliated insured institution (as defined in section 408(a)(1) of the National Housing Act), complies with section 4(c)(15)(F)(iii) of the Bank Holding Company Act of 1956 in the same manner and to the same extent as if the insured bank were a bank and the affiliate were a securities affiliate for purposes of section 4(c)(15)(F)(iii).

"(B) UNDERWRITING OR DISTRIBUTION BY INSURED BANK.—An insured bank that underwrites or distributes securities described in subparagraph (C) of this paragraph shall not take any action with respect to those securities that would violate subparagraph (A) of this paragraph if those securities were underwritten or distributed by an affiliate of the insured bank.

"(C) CERTAIN MUNICIPAL SECURITIES DESCRIBED.—Securities are described in this subparagraph for purposes of this paragraph if—

"(i) a national bank could underwrite those securities only pursuant to the sentence of paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) that refers to an obligation issued by or on behalf of or guaranteed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing; and

"(ii) no State, territory, or possession of the United States, political subdivision thereof, or the District of Columbia pledges its full faith and credit for payment of the entire principal of and interest on the securities.

"(D) DEFINITION OF 'AFFILIATE'.—For purposes of this paragraph, the term 'affiliate' has the meaning given to that term in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)).".

SEC. 108. AUTHORIZATION FOR NATIONAL BANKS TO UNDERWRITE MUNICIPAL REVENUE BONDS, SPONSOR UNIT INVESTMENT TRUSTS, AND DISTRIBUTE INVESTMENT COMPANY SECURITIES.

(a) AUTHORIZATION.—Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"The limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to an obligation issued by or on behalf of or guaran-

teed by a State, territory, or possession of the United States, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing. Notwithstanding the preceding sentence, such limitations and restrictions shall apply to a private activity bond (as defined in section 141 of the Internal Revenue Code of 1986) unless—

"(1) a State, territory, or possession of the United States or political subdivision thereof, or the District of Columbia, pledges its full faith and credit for payment of the entire principal of and interest on such bond; or

"(2) the interest on such bond is excluded from gross income under section 103(a) of the Internal Revenue Code of 1986, and the issuer, or the governmental unit on behalf of which such bond was issued, is the sole owner, for Federal income tax purposes, of the facility to be financed from the proceeds of such bond.

For purposes of the foregoing sentence, any bond described in section 1312(c)(2) of the Tax Reform Act of 1986 to which section 141(a) of the Internal Revenue Code of 1986 does not apply (by reason of section 1311, 1312, or 1313 of that Act), shall not be treated as a private activity bond.

"If the association is not an affiliate of a securities affiliate (as the terms 'affiliate' and 'securities affiliate' are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)), the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing for its own account, securities shall not apply to—

"(1) the securities of unit investment trusts (as defined in section 4(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(2)) holding only securities that the association is specifically authorized by statute to underwrite and that are expressly described in that authorizing statute, or expressly described as being authorized for a national bank to underwrite in a regulation promulgated before November 18, 1987, by the Comptroller of the Currency pursuant to that authorizing statute, and

"(2) the distribution of securities issued by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) that are not sponsored, managed, or controlled by the association or any affiliate of the association.".

(b) TECHNICAL AMENDMENT.—The sixth sentence of paragraph Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking out "or general obligations of any State or of any political subdivision thereof,".

SEC. 109. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) RESTRICTIONS ON UNITED STATES BANKING ACTIVITIES OF LARGE FOREIGN BANKS THAT ACQUIRE LARGE INVESTMENT BANKING ORGANIZATIONS WITH UNITED STATES OFFICES.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsection:

"(e)(1) No foreign bank or foreign company described in paragraph (2) of this subsection shall—

"(A) acquire or retain control of a bank,

"(B) establish or maintain a branch or agency in a State, or

"(C) acquire or retain control of a commercial lending company organized under State law.

"(2) A foreign bank or foreign company controlling a foreign bank is described in this paragraph for purposes of paragraph (1) if—

"(A) the foreign bank or foreign company became an affiliate of an investment banking organization (as that term is used in section 4(c)(15)(C)(i)(II) of the Bank Holding Company Act of 1956) after the date of enactment of the Proxmire Financial Modernization Act of 1989;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign bank or foreign company had been a bank holding company at the time of the transaction;

"(C) the affiliation has not been terminated; and

"(D) the investment banking organization maintains an office or subsidiary in a State.".

(b) RESTRICTIONS ON UNITED STATES INVESTMENT BANKING ACTIVITIES OF LARGE FOREIGN INVESTMENT BANKING ORGANIZATIONS THAT ACQUIRE LARGE BANK HOLDING COMPANIES OR BANKS.—Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended by inserting after subsection (e) (as added by subsection (a)) the following:

"(f)(1) No foreign investment banking organization (including any of its subsidiaries or affiliates) described in paragraph (2) shall acquire or retain control of a securities affiliate.

"(2) A foreign investment banking organization (including any of its subsidiaries or affiliates) is described in this paragraph for the purposes of paragraph (1) if—

"(A) the foreign investment banking organization became an affiliate of a bank holding company or bank after the date of enactment of the Proxmire Financial Modernization Act of 1989;

"(B) section 4(c)(15)(C) of the Bank Holding Company Act of 1956 would have required the Board to disapprove the transaction that resulted in the affiliation if the foreign investment banking organization had been required to file an application or notice under section 4(c)(15); and

"(C) the affiliation has not been terminated.".

(c) TECHNICAL AMENDMENT.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "affiliate," after "(13) the terms" and by inserting "securities affiliate" after "control,".

SEC. 110. DIVERSIFIED FINANCIAL HOLDING COMPANIES.

(a) DEFINITION.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(o) DIVERSIFIED FINANCIAL HOLDING COMPANY.—For purposes of this Act, the term 'diversified financial holding company' means a company that directly or indirectly controls any bank and that is described in each of the following paragraphs:

"(1) ENGAGES ONLY IN FINANCIAL ACTIVITIES.—The company engages only in activities that are—

"(A) permissible for bank holding companies under section 4 of this Act (12 U.S.C. 1843); or

"(B) permissible under section 4(i)(4).

"(2) 80-PERCENT TEST.—On average during the preceding calendar year, the company devoted 80 percent or more of its consolidated assets to activities that are permissible under paragraph (8), (13), (14), or (15) of section 4(c) of this Act, excluding—

"(A) activities conducted by any entity described in subparagraph (A) or (B) of paragraph (3) of this subsection; and

"(B) insurance activities that are permissible under section 4(c)(13) but not permissible under section 4(j), to the extent that those activities exceed 10 percent of the company's consolidated assets.

"(3) LIMIT ON FDIC-INSURED BANKS, FSLIC-INSURED INSTITUTIONS, AND SUBSIDIARIES THEREOF AS PERCENTAGE OF ASSETS.—On average during the preceding calendar year, 20 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof; and

"(B) insured institutions and any subsidiaries thereof.

"(4) GLOBAL LIMIT ON DEPOSITORY INSTITUTIONS AND THEIR SUBSIDIARIES AS PERCENTAGE OF ASSETS.—On average during the preceding calendar year, 40 percent or less of the company's consolidated assets consisted of the following entities in aggregate:

"(A) insured banks and uninsured banks (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any subsidiaries thereof;

"(B) insured institutions and any subsidiaries thereof, and uninsured institutions (as defined in section 408(a)(1)(B) of the National Housing Act (12 U.S.C. 1730a(a)(1)(B)) and any subsidiaries thereof;

"(C) foreign banks (as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)) and any subsidiaries thereof; and

"(D) other depository institutions, whether or not in the United States, and any subsidiaries thereof.

"(5) ELECTION.—The company has filed with the Board a written notice of its intent to be treated as a diversified financial holding company.".

(b) IN GENERAL.—Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) is amended by adding at the end thereof the following new subsection:

"(i) DIVERSIFIED FINANCIAL HOLDING COMPANIES.—

"(1) STATUS.—A diversified financial holding company shall not be considered a bank holding company.

"(2) APPLICABLE LAW.—Except as provided in paragraph (4) or (6) of this subsection, a diversified financial holding company shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company.

"(3) INTERMEDIATE HOLDING COMPANIES.—

"(A) A subsidiary of a diversified financial holding company is not a bank holding company because it controls a bank.

"(B) If a subsidiary of a diversified financial holding company controls a bank, that subsidiary shall be subject to any provision of the United States Code relating to bank holding companies in the same manner and to the same extent as if it were a bank holding company, except to the extent that the diversified financial holding company is not subject to that provision.

"(4) AUTHORITY TO CONTINUE TO ENGAGE IN NONCONFORMING FINANCIAL ACTIVITIES.—Notwithstanding subsection (a) of this section, a diversified financial holding company may engage in, or acquire or retain direct or indirect ownership or control of shares of any company engaged in, any activity described in paragraph (5) of this subsection (other than an activity described in subsection (c)(15)(A)(i) of this section) in which the diversified financial holding company was lawfully engaged in the United States, directly or through a subsidiary, as of February 1, 1989.

"(5) DEFINITION OF FINANCIAL ACTIVITIES.—The following activities are described in this

paragraph for purposes of paragraph (4) of this subsection:

"(A) insurance underwriting activities;

"(B) insurance agency activities;

"(C) real estate brokerage activities;

"(D) real estate investment and development activities;

"(E) travel agency activities; and

"(F) any other activities that the Board has determined to be financial.

"(6) EXEMPTION FROM EXAMINATION AND CAPITAL REQUIREMENTS.—

"(A) Except as provided in subparagraph (B) of this paragraph, a diversified financial holding company, and any subsidiary (other than a bank) of that bank holding company, shall not be subject to inspection or examination or to reporting or capital requirements established by the Board under this Act or the International Lending Supervision Act of 1983.

"(B) The Board may examine or require reports of any company that has filed a notice under section 2(o)(5) of this Act, and any nonbank subsidiary thereof, in order to—

"(i) determine whether that company is a diversified financial holding company;

"(ii) assure compliance by that company or nonbank subsidiary with the provisions of this Act, the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972), and sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c, 371c-1); or

"(iii) assure that the safety and soundness of that company's subsidiary banks are not threatened by the activities or condition of that company or its nonbank subsidiaries whenever the Board determines that emergency conditions exist requiring such assurance.

"(7) RESTRICTIONS ON JOINT MARKETING.—No subsidiary bank of a diversified financial holding company shall—

"(A) offer or market products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15) of this section, or

"(B) permit its products or services to be offered or marketed in connection with products or services of an affiliate that are not permissible for bank holding companies to provide under subsection (c)(8) or (c)(15).

"(8) RESTRICTIONS ON LENDING TO AFFILIATES ENGAGED IN NONCONFORMING ACTIVITIES.—If a company engages in any activity pursuant to paragraph (4) of this subsection, subsection (c)(15)(F)(i) of this section shall apply with respect to that company in the same manner and to the same extent as if the company were a securities affiliate.

"(9) DIVESTITURE OF SUBSIDIARY BANKS.—

"(A) If a company that has filed a notice under section 2(o)(5) of this Act fails to maintain the capital of each of its subsidiary banks at or above the level established for that bank by the appropriate Federal banking agency, the Board shall notify the company of the capital deficiency and provide the company 30 days in which to restore the capital of the bank to the level required by the appropriate Federal banking agency.

"(B) If the Board determines that the company is unable to restore the capital of its subsidiary bank to the required level, the Board may issue an order requiring the company to terminate its ownership or control of the bank within 180 days of the date of the order.".

SEC. 111. STUDY ON HARMONIZING THE REGULATION OF BANKING AND SECURITIES ORGANIZATIONS.

(a) FINDING.—The Congress hereby finds that authorization for banks to be affiliated with securities firms pursuant to section 102 of this Act and the provision of banking-type services by firms affiliated with securities firms calls for steps to be taken toward the promotion of regulatory equity between such firms. Among the most important tasks necessary to achieve this goal are the development and harmonization of capital adequacy and financial condition reporting requirements applicable to such firms. To that end, the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board"), the Securities and Exchange Commission, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Commodity Futures Trading Commission shall review and coordinate their respective rules applicable to capital adequacy, reporting requirements, and transactions with affiliates on an ongoing basis in order to move in an orderly fashion toward greater compatibility and consistency.

(b) STUDY.—The agencies referred to in subsection (a) shall study the issues set forth below and prepare a joint report to the Congress within one year of the enactment of this Act setting forth the results of their study and any recommendations they may have for implementing their conclusions. The issues to be studied are—

(1) the advisability and effect of requiring the consolidated application of prudential standards and reports of financial condition on companies controlling banks or securities firms;

(2) the appropriate techniques, to the extent necessary, for supervision of financial interrelationships of banks and securities firms with their affiliates;

(3) the direction of efforts to achieve international harmony and convergence of capital adequacy and financial condition reporting standards for banks, securities firms, and companies controlling banks and securities firms;

(4) the effect of the conduct of financial activities across national borders on the provision of securities services within the United States and on the supervision of such services within the United States;

(5) the advisability of establishing a permanent international framework for developing and implementing global policies to better harmonize financial market regulation, including capital adequacy standards; registration and reporting standards for banks and securities firms (including associated activities in futures markets), and companies controlling banks and securities firms; direct trading, clearing, and funds transfer mechanisms; routine exchange of information to facilitate international market surveillance of capital positions, trading activity, intercompany transfers, and potential abusive practices; exchange of information to facilitate the investigation of individual enforcement cases; dealing with international market emergencies; and approval of new products and services;

(6) the nature and techniques used in the supervision of banks, securities firms, and companies controlling banks and securities firms; and

(7) the impact of financial services competition from firms that are neither banks nor securities firms.

(c) CONSULTATION.—With due regard for the existing agreement and understandings between bank supervisors on an international level regarding capital adequacy of banks, the agencies referred to in subsection (a) on an ongoing basis shall—

(1) each review their respective rules applicable to capital adequacy and reporting of financial condition;

(2) develop proposed revisions to those rules that would move toward the harmonization of such rules;

(3) provide such proposed revisions to the other for comment and discussion; and

(4) discuss in detail, in the report required by subsection (d), any proposed revisions on which the agencies disagree.

(d) REPORTING.—No later than September 30 of each year, the agencies referred to in subsection (a) shall submit a joint annual report to Congress covering their progress toward the goals set forth in subsection (a) and recommending amendments to law, if any, that they believe would be necessary or advisable in order to attain those goals.

SEC. 112. STUDY OF THE NATIONAL PAYMENTS SYSTEM.

(a) FINDING.—It is the finding of Congress that the continued smooth and efficient functioning of the large-dollar payments system of the United States, including systems that provide for the delivery of securities against payment, is essential to the growth and stability of the economy of the United States and other nations and that the recent growth in the volume of payments due to new technology and changes in the financial services industry suggest that consideration of the mechanism by which large-dollar payments in the United States are made is necessary.

(b) STUDY.—The Board of Governors of the Federal Reserve System is hereby directed to study and prepare a report on the steps necessary to ensure the integrity and reliability of large-dollar payments systems in the United States, including the current status of the mechanism by which large-dollar payments are made in the United States and the steps that appear necessary or advisable to strengthen the reliability and safety and soundness of that mechanism over time. Such report shall be presented to Congress within one year of the passage of this Act.

(c) CONSULTATION.—The Board is directed to consult with the providers of large-dollar payment services, the users of such services, the vendors of equipment used in the provisions of such services, and the regulators of all of the above in conducting the study.

SEC. 113. CONGRESSIONAL VOTE ON WHETHER TO PERMIT SECURITIES AFFILIATES TO UNDERWRITE EQUITY SECURITIES.

(a) DEFINITION AND SUBMISSION OF JOINT RESOLUTION.—

(1) JOINT RESOLUTION DEFINED.—For purposes of this section, a joint resolution means a joint resolution introduced pursuant to the procedures described in this section—

(A) the matter after the resolving clause of which is as follows:

"That section 4(c)(15)(K) of the Bank Holding Company Act of 1956 is repealed.";

(B) which does not have a preamble; and

(C) the title of which is "Joint Resolution pursuant to the Proxmire Financial Modernization Act of 1989".

(2) SUBMISSION TO THE CONGRESS.—On the first day of the first session of the 102d Congress, the Secretary of the Treasury shall submit the joint resolution to the Congress, together with a specific legislative recommendation on whether or not securities affiliates should be permitted to underwrite, distribute, and deal in equity securities. The recommendation shall be prepared by the Secretary of the Treasury in consultation with the Comptroller General of the United States, the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, and shall be limited solely to the issue of whether the powers prohibited under section 4(c)(15)(K)(ii) of the Bank Holding Company Act of 1956 shall be authorized.

(b) PROCEDURE FOR HANDLING JOINT RESOLUTION.—

(1) Within 30 days of the date of submission by the Secretary of the Treasury, such joint resolution as defined in subsection (a) of this section shall be introduced (by request) in the House by the Speaker of the House for himself and the minority leader of the House or by Members of the House designated by the Speaker and the minority leader, and shall be introduced (by request) by the majority leader of the Senate for himself and the minority leader of the Senate or by Members of the Senate designated by the majority leader and the minority leader.

(2) Such joint resolution introduced in the House of Representatives shall be referred to the appropriate Committee or Committees, and such joint resolution introduced in the Senate shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(3) If any Committee of either House to which the joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the Committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(4) Not later than 90 calendar days after the first day of session of the 102d Congress, it shall be in order to move to proceed to the consideration of such joint resolution.

(5)(A) A motion in the House of Representatives to proceed to the consideration of such joint resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on such joint resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the joint resolution shall be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(C) Motions to postpone made in the House of Representatives with respect to the consideration of such joint resolution and motions to proceed to the consideration of other business shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to such joint resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this paragraph, consideration of such joint resolution in the House of Representatives shall be governed by the Rules of the House of Representatives applicable to other joint resolutions in similar circumstances.

(6)(A) A motion in the Senate to proceed to the consideration of such joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on such joint resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 20 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with such joint resolution shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of such joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of such joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion in the Senate to further limit debate on a resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, the joint resolution is in order in the Senate.

(7) In the case of a joint resolution described in subsection (a), if prior to the passage by one House of a joint resolution of that House, that House received the joint resolution with respect to the same matter from the other House, then—

(A) the procedure in that House shall be the same as if the joint resolution had been received from the other House; but

(B) the vote on final passage shall be on the joint resolution of the other House.

(8) The vote on passage of the joint resolution in each House shall occur on or before April 1, 1991.

TITLE II—EXPEDITED PROCEDURES

SEC. 201. EXPEDITED PROCEDURES FOR FORMING A BANK HOLDING COMPANY.

Section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof "(B)",

(2) by inserting before the period at the end of the second sentence the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after the reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if, immediately following the acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company".

SEC. 202. EXEMPTION OF CERTAIN HOLDING COMPANY FORMATIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933.

Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), if the acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank for shares of a newly formed bank holding company and receive, after that reorganization, substantially the same proportional share interests in the bank holding company as they held in the bank, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law.".

SEC. 203. EXPEDITED PROCEDURES FOR BANK HOLDING COMPANIES TO SEEK APPROVAL TO ENGAGE IN NONBANKING ACTIVITIES.

Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraphs (C), (D), and (E) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) through (G), and any cross references thereto as clauses (i) through (vii), respectively; and

(3) by striking out all that precedes "purposes of this subsection it is not" and inserting in lieu thereof the following:

"(8)(A) ACTIVITIES CLOSELY RELATED TO BANKING.—In accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph, shares of any company whose activities the Board has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto, after taking into account technological or other innovations in the provision of banking or banking-related services.

"(B) NOTICE REQUIREMENTS.—

"(i) No bank holding company shall engage in any activity or acquire the shares of a company pursuant to this paragraph, either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of that proposal and, within that period, the Board has not issued an order—

"(I) disapproving the proposal, or

"(II) extending the time period in accordance with clause (iii) below.

"(ii)(I) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written statement of its intent not to disapprove the proposal.

"(II) The Board shall publish in the Federal Register notice of receipt of a notice under this paragraph involving insurance and provide a reasonable period for public comment. The Board shall issue an order involving any such notice.

"(III) No notice under this paragraph is required for a bank holding company to establish de novo an office to engage in any activity previously authorized for that bank holding company under this paragraph or to change the location of an office engaged in that activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice, except that the Board may require only such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the notice under the criteria specified in clause (iv). If the Board requires additional relevant information beyond that provided in the notice, the Board may by order extend the time period provided in clause (i) of this subparagraph until it has received that information, and the activity that is the subject of the notice may be commenced within 60 days of the date of that receipt unless the Board issues a disapproval order as provided in clause (i). Such an extension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in the notice by a bank holding company or subsidiary

thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(C) INSURANCE ACTIVITIES NOT CLOSELY RELATED TO BANKING.—For".

SEC. 204. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK HOLDING COMPANY ACQUISITIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by adding before the period at the end of the fourth sentence thereof the following: "or if no adverse comment has been received regarding section 4(c)(8)(C) or section 4(j) of this Act, such shorter period of time as may be prescribed by the Board with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 205. REDUCTION OF POST-APPROVAL WAITING PERIOD FOR BANK MERGERS.

Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting before the period at the end of the last sentence thereof the following: "or such shorter period of time as may be prescribed by the agency with the concurrence of the Attorney General, but in no event less than 5 days".

SEC. 206. BANKERS' BANKS.

(a) BANKERS' BANKS AND BANK HOLDING COMPANIES.—

(1) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by inserting "or their holding companies" after "is owned exclusively (except to the extent directors qualifying shares are required by law) by depository institutions".

(2) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by inserting—

(A) ", directly or through a holding company," after "which is owned", and

(B) "or their holding companies" after "other depository institutions" each place it appears in paragraph (b)(1).

(b) TECHNICAL AMENDMENT ON BANKERS' BANKS AND DEPOSIT INSURANCE.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by striking "bank described in the last sentence of section 2(c)" and inserting "a bankers' bank as described in section 5169 of the Revised Statutes (12 U.S.C. 27)".

(c) LIMIT ON LOANS SECURED BY SECURITIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking "10 percentum" in each place it appears and inserting in lieu thereof "15 percent".

TITLE III—BROKERS AND DEALERS

SEC. 301. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) 'BROKER'.—

"(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) EXCLUSION OF BANKS.—Such term does not include a bank unless the bank publicly solicits such business or is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as a percentage of assets under management) in excess of the bank's incremental costs directly attributable to effecting such transactions (hereinafter referred to as 'incentive compensation').

"(C) BANK ACTIVITIES.—A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) Enters into a contractual or other arrangement with a broker or dealer registered under this title pursuant to which the broker or dealer will offer brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) bank employees perform only clerical or ministerial functions in connection with brokerage transactions unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization;

"(III) bank employees do not receive incentive compensation for any brokerage activities unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization; and

"(IV) such services are provided by the broker or dealer on a basis in which all customers are fully disclosed.

"(ii) Engages in trust activities (including effecting transactions in the course of such trust activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a) or for State banks under relevant State trust statutes or law unless the bank—

"(I) publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it effects transactions in securities, and

"(II) receives incentive compensation.

This clause does not apply to securities safekeeping, self-directed individual retirement accounts, or managed agency or other functionally equivalent accounts of a bank.

"(iii) Effects transactions in exempted securities, other than municipal securities, or in commercial paper, bankers' acceptances, or commercial bills.

"(iv) Effects transactions in municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Bank Holding Company Act of 1956.

"(v) Effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries.

"(vi) Effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 that attempts to maintain a constant net asset value per share and has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less.

"(vii) Effects transactions for the account of any affiliate of the bank, as the term 'affiliate' is defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a), treating all banks as member banks for purposes of such definition.

"(viii) Effects sales (I) as part of a primary offering of securities by an issuer, not involving a public offering, pursuant to sections 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and (II) exclusively to: a bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Securities Act of 1933; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; an insured institution, as defined in section 401 of the National Housing Act; an employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of $5,000,000; an employee benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974, established and maintained by a State, its political subdivisions, or any agency or instrumentality of a State or its political subdivisions exclusively for the benefit of its employees or their beneficiaries that is governed by fiduciary principles comparable to those contained in such Act, if (i) the plan has total assets in excess of $25,000,000, and (ii) investment decisions for the plan are made by a plan fiduciary, as defined in section 3(21) of such Act, that is a bank, as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940; a corporation with total assets in excess of $50,000,000 and net worth in excess of $5,000,000, as reflected on financial statements prepared in accordance with generally accepted accounting principles; an organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000; a foreign bank, broker, dealer, insurance company, or government or government agency; or a natural person with a net worth exceeding $5,000,000. The dollar limitations in this clause shall be adjusted annually after December 31, 1989, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics.

"(ix) Effects fewer than 1,000 transactions per year in securities other than transactions referenced in clauses (i) through (viii) of this subparagraph, if the bank does not have a subsidiary or affiliate registered as a broker or dealer under section 15 of this title.".

SEC. 302. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5) 'DEALER'.—

"(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) EXCEPTIONS.—Such term does not include—

"(i) any person insofar as that person buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities other than municipal securities; (II) buys and sells municipal securities and does not have a securities affiliate as provided in

section 4(c)(15) of the Bank Holding Company Act of 1956; (III) engages in trust or fiduciary activities (including buying and selling securities for investment purposes in the course of such trust or fiduciary activities); or (IV) engages in the issuance or sale through a grantor trust or otherwise of securities backed by or representing an interest in obligations (other than securities of which the bank is not the issuer) originated or purchased by the bank, its affiliates, or its subsidiaries.".

SEC. 303. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer', if the Commission finds that such exemption is consistent with the public interest, the protection of investors, or the purposes of this title.".

SEC. 304. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended to read as follows:

"(a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This section shall not preclude a subsidiary of a bank or an affiliate of a bank holding company, other than a bank, as those terms are defined in the Bank Holding Company Act of 1956, that is registered in accordance with subsection (b) of this section from acting as a broker or dealer to any extent otherwise permissible by law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

SEC. 305. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

TITLE IV—BANK INVESTMENT COMPANY ACTIVITIES

SEC. 401. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended by striking "trusts" the first place it appears and inserting in lieu thereof "trusts, but, where any such bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "not affiliated with such underwriter or depositor, or where such bank is so affiliated, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))".

SEC. 402. AFFILIATED TRANSACTIONS.

Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(A)" immediately before "a principal underwriter"; and

(2) inserting ", or (B) the proceeds of which will be used to retire an indebtedness owed to a bank where the bank or an affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such registered company" after "for the issuer".

SEC. 403. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered open-end company to borrow from any bank if such bank or any affiliated person thereof is an affiliated person, promoter, or sponsor of, or principal underwriter for, such company, except that the Commission may, by rules and regulations or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 404. INDEPENDENT DIRECTORS.

(a) INTERESTED PERSON.—Section 2(a)(19)(A)(v) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)(v)) is amended by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof "1934 or any person that, at any time during the preceding 6 months, has acted as custodian or transfer agent or has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company, or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person, and".

(b) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof "bank and its subsidiaries or any one bank holding company and its affiliates and subsidiaries, as those terms are defined in the Bank Holding Company Act of 1956, except".

(c) The provisions of subsection (a) of this section shall become effective after one year following the date of enactment of this title.

SEC. 405. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended to read as follows:

"SEC. 35. (a) It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof or has been insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or is guaranteed by or is otherwise an obligation of any bank or insured institution. If a bank holding company, bank, or separately identifiable division or department of a bank, or any affiliate or subsidiary thereof, is an investment adviser, organizer, sponsor, promoter, principal underwriter or an affiliated person of a registered investment company, or a bank or an affiliated person of a bank is offering or selling securities of a registered investment company, or the name of an investment company is that of, or similar to that of, a bank, pursuant to regulations adopted by the Commission, after consultation in writing with the appropriate Federal banking agencies, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), any person in issuing or selling securities of such investment company may be required to disclose prominently that the investment company and any security issued by it is not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is not guaranteed by an affiliated bank or insured institution, and is not otherwise an obligation of such a bank or insured institution.".

SEC. 406. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 407. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 408. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking "investment company" and inserting "investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company acts as an investment adviser to a registered investment company unless the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank itself shall be deemed to be the 'investment adviser' "; and

(2) by adding at the end thereof the following: "For purposes of this paragraph, a separately identifiable department or division of a bank shall mean a unit that—

"(A) is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) there are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser

activities and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of the Act and rules and regulations thereunder.".

SEC. 409. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 410. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 411. NOTIFICATION AND CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 210 the following new section:

"NOTIFICATION AND CONSULTATION

"SEC. 210A. (a) IN GENERAL.—The Commission, prior to the examination of, the entry of an order of investigation of, or the commencement of any disciplinary or law enforcement proceedings against, any bank holding company, bank, or department or division of a bank that is a registered investment adviser shall give notice to the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), of the identity of such bank holding company, bank, or department or division and the nature of such proposed action and shall consult in writing with such appropriate Federal banking agency concerning any such proposed action, unless the protection of investors requires immediate action by the Commission and prior notice or consultation is not practical under the circumstances, in which case notice shall be given and the appropriate Federal banking agency shall be notified and consulted as promptly as possible thereafter.

"(b) EXAMINATION RESULTS.—The Commission and the appropriate Federal banking agency shall exchange the results of any examination of any bank holding company, bank, or department or division of a bank that is a registered investment adviser.

"(c) EFFECT ON OTHER AUTHORITY.—Nothing herein shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any provision of law.".

SEC. 412. PUBLICITY.

Section 210(b) of the Investment Advisers Act of 1940 is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by adding the following paragraphs after paragraph (2):

"(3) in the case of any State or Federal Government official or agency or any self-regulatory organization, as defined in section 3(a)(26) of the Securities Exchange Act of 1934, for law enforcement or regulatory purposes; or

"(4) in the case of any foreign government official or agency for law enforcement or regulatory purposes.".

SEC. 413. EFFECTIVE DATE.

This title shall take effect upon the expiration of 270 days after the date of its enactment.

TITLE V—STRENGTHENED ENFORCEMENT AUTHORITY

SEC. 501. SHORT TITLE.

This title may be cited as the "Enforcement Powers Improvement Act of 1989".

PART A—REGULATION OF BANKS

SEC. 511. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank";

(B) "director, officer or other person"; and

(C) "director, officer, employee, agent or other person";

each place they appear and inserting "institution-related party";

(2) at the end of paragraph (1) of subsection (b), by striking the period and inserting: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the appropriate Federal banking agency deems appropriate. Such order may place limitations on the activities or functions of the bank or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (c), by inserting the following sentence: "Such order may place limitations on the activities or functions of the bank or any institution-related party.";

(4) at the end of subsection (c), by adding the following new paragraph:

"(3) Whenever a notice of charges specifies that an insured bank's books and records are so incomplete or inaccurate that the appropriate Federal banking agency is unable with reasonable effort to determine the financial condition of that bank or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that bank, the agency may issue a temporary order requiring cessation of any activities the agency deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (b) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the agency determines by examination or otherwise that the bank's books and records are accurate and capable of reflecting the financial condition of the bank.";

(5) in subsection (e), by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever the appropriate Federal banking agency determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured bank or business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) such insured bank or business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its depositors have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of such insured bank or business institution,

the agency may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank.";

(6) in subsection (e), by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively, and by amending paragraph (3), as redesignated, to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written order to such effect served upon such party, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any bank where the party involved is presently associated.";

(7) after paragraph (5) of subsection (e), as redesignated, by inserting the following new paragraph:

"(6) Any person who is subject to a removal, suspension, or prohibition order pursuant to this subsection or subsection (g) shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company,

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company (as those terms are defined in the National Housing Act), and

"(E) any institution chartered under the Farm Credit Act of 1971,

unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (f), by striking "(e)(4)" in subsection (f) and inserting "(e)(3)", and by striking "(e)(1), (e)(2), or (e)(3)" and inserting "(e)(1) or (e)(2)";

(9) in subsection (i), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting after "(i)" the following new paragraph:

"(1) The jurisdiction and authority of the appropriate Federal banking agency to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured bank.";

(10) in the first sentence of subsection (i)(3)(i), as redesignated, by inserting after

"this section" the following: "or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank";

(11) by amending subsection (j) to read as follows:

"(j) PENALTY.—Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (e) or under subsection (g) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency—

"(1) participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof or any other institution described in paragraph (1) of this subsection; shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (e) of this section may prohibit any act that would violate this subsection.";

(12) by amending subsection (k) to read as follows:

"(k) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' means—

"(A) the appropriate Federal banking agency, as provided in subsection (q) of section 3 (12 U.S.C. 1813);

"(B) the Federal Home Loan Bank Board, acting either in its own name or as operating head of the Federal Savings and Loan Insurance Corporation, in the case of a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation, or the subsidiary of such an institution, a Federal savings bank or a subsidiary of such a savings bank, a savings and loan holding company, or a subsidiary of a savings and loan holding company;

"(C) the National Credit Union Administration Board in the case of a depository institution whose accounts are insured by the National Credit Union Share Insurance Fund; and

"(D) the Farm Credit Administration in the case of an institution chartered under the Farm Credit Act of 1971.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the appropriate Federal banking agency (i) with the consent of the bank or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (h) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (iv) under paragraph (1) or (3) of subsection (g) of this section.

"(3) The term 'institution-related party' means a director, officer, employee, agent, or other person participating in the conduct of the affairs of an insured bank or a subsidiary of an insured bank, or any person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 7(j).

"(4) The term 'insured institution' means an insured bank or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation."; and

(13) by adding at the end thereof the following new subsection:

"(t) EFFECT ON OTHER AUTHORITY.—The authority granted to the Federal banking agencies under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

(b) INCREASED PENALTY FOR PARTICIPATION BY CONVICTED INDIVIDUAL.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended to read as follows:

"PENALTY FOR PARTICIPATION

"SEC. 19. Except with the written consent of the Corporation, no person who has been convicted, or who is hereafter convicted of any criminal offense involving dishonesty or a breach of trust shall serve as the director, officer, or employee of an insured bank or shall participate in the conduct of the affairs of such bank. For each knowing violation of this section, the bank or the individual involved shall each be subject to a penalty of not more than $1,000 for each day such prohibition is violated, which the Corporation may recover for its use.".

SEC. 512. PENALTY FOR VIOLATION OF "CHANGE IN BANK CONTROL ACT".

Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended to read as follows:

"(16)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under such authority. The penalty may be assessed and collected by the appropriate Federal banking agency by written notice. As used in this paragraph, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing upon request made within 10 days after receipt of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the date of such order and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States as miscellaneous receipts.".

SEC. 513. REPORTS.

(a) AMENDMENT TO THE BANK PROTECTION ACT OF 1968.—Section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1882) is amended by striking in the first sentence of subsection (b) the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

(b) REPORTS OF CONDITION; FORM; CONTENT; DATE OF MAKING PUBLICATION; PENALTY FOR FAILURE TO MAKE REPORTS; PENALTIES FOR FALSE OR MISLEADING REPORTS.—Section 5211 of the Revised Statutes (12 U.S.C. 161) is amended—

(1) by striking, in the fifth sentence of subsection (a), "within ten days after the receipt of a request thereof from him;" and inserting "within the period of time specified by him;";

(2) by striking "; penalties" in the heading of subsection (c); and

(3) by striking the last sentence of subsection (c).

(c) NATIONAL BANKS.—Section 5213 of the Revised Statutes (12 U.S.C. 164) is amended by striking the first sentence and inserting "Every association which fails to make, obtain, transmit or publish any report or information required by the Comptroller under section 5211 of the Revised Statutes (12 U.S.C. 161) or which submits any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected.".

(d) STATE NONMEMBER BANKS.—Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the last sentence and inserting "Every such bank which fails to make or publish any such report within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of

not more than $1,000 for each day during which such failure continues or such false or misleading information is not corrected. Such penalty shall be recoverable by the Corporation for its use, and may be collected by the Corporation by suit or otherwise.".

(e) FEDERAL RESERVE MEMBERS.—Section 9 of the Federal Reserve Act (12 U.S.C. 324) is amended by striking the fourth sentence and inserting "Every bank which fails to make such reports within the period of time specified by the Board of Governors of the Federal Reserve System or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such false or misleading information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by section 8(i)(3) of the Federal Deposit Insurance Act.".

(f) BANK HOLDING COMPANIES.—Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by inserting after the word "thereto" in the first sentence "or any company which fails to make such reports as are required by this chapter or any regulation or order issued pursuant thereto within the period of time specified by the Board or which submits or publishes any false or misleading report or information,".

PART B—REGULATION OF SAVINGS AND LOAN ASSOCIATIONS

SEC. 521. DEFINITION OF INSTITUTION-RELATED PARTY.

(a) NATIONAL HOUSING ACT.—Section 407 of the National Housing Act (12 U.S.C. 1730) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such institution";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution";

(E) "director, or other person";

(F) "director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution";

(G) "director or officer or other person";

(H) "director or officer thereof or other person participating in the conduct of its affairs"; and

(I) "director or officer or other person participating in the conduct of its affairs", and

(2) by inserting in lieu of each such phrase the phrase "institution-related party".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(f)) is amended—

(1) by striking the following phrases:

(A) "director, officer, employee, agent or other person participating in the conduct of the affairs of such association";

(B) "director or officer";

(C) "director, officer, employee, agent, or other person";

(D) "its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association";

(E) "director, officer, or other person";

(F) "director or officer of an association, or other person participating in the conduct of the affairs of such association"; and

(G) "director or officer or other person", each place that such phrases appear, and

(2) by inserting in lieu of each such phrase the phrase "association-related party".

SEC. 522. CEASE AND DESIST ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by striking the period at the end of paragraph (1) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Corporation deems appropriate. Such order may place limitations on the activities or functions of the institution or any institution-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Corporation under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by striking the period at the end of paragraph (2)(A) and inserting ", including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the association or any association-related party necessary to correct the conditions resulting from any such violation or practice. The authority granted to the Board under this subsection shall be in addition to, and not restricted by, any other authority provided by Federal or State law".

SEC. 523. SERVICE CORPORATIONS.

Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking the phrase "affiliate service corporation" and inserting the phrase "service corporation or any subsidiary of a service corporation, whether wholly or partly owned,".

SEC. 524. TEMPORARY ORDERS.

(a) NATIONAL HOUSING ACT.—Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) in the first sentence of paragraph (1), by striking the phrase "or any institution any of the accounts of which are insured" and inserting the phrase "with respect to the served institution";

(2) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the institution or any institution-related party.";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) Whenever a notice of charges specifies that an institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable efforts to determine the financial condition of that institution or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any activities the Corporation deems appropriate until completion of proceedings conducted under subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by inserting the following sentence after the first sentence of subparagraph (A) of subsection (d)(3): "Such order may place limitations on the activities or functions of the association or any association-related party.".

(2) by redesignating subparagraph (C) as subparagraph (D).

(3) by inserting after subparagraph (B) the following:

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that association or the details or purpose of any transaction or transactions that may have a substantial effect on the financial condition of that association, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under subsection (d)(2) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (B) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association.".

SEC. 525. REMOVAL AND SUSPENSION.

(a) NATIONAL HOUSING ACT.—Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(1) by striking paragraph (2) and amending paragraph (1) to read as follows:

"(1) Whenever, in the opinion of the Corporation—

"(A) any institution-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order, which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured institution or other business institution, or has committed or engaged in any act, omission or practice which constitutes a breach of its fiduciary duty;

"(B) such insured institution or other business institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach or the institution-related party has received financial gain by reason of such violation, practice, or breach; and

"(C) such violation, practice, or breach involves personal dishonesty on the part of the institution-related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution or other business institution,

the Corporation may serve on such institution-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any insured institution.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4) respectively, and by amending paragraph (3) of subsection (g) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may if it deems it necessary for the protection of the institution or the interests of its savings account holders or of the Corporation, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the institution. Such suspension or prohibition shall become effective upon service of such order upon the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (6) of this subsection, shall remain in effect pending the completion of the administrative proceeding pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon the institution with which the party involved is presently associated."; and

(3) by inserting after paragraph (4) of subsection (g) (as so redesignated) the following:

"(5) Any person who, pursuant to this subsection or subsection (h), is removed, suspended, or prohibited from participation in the conduct of the affairs of an insured institution or a service corporation or a subsidiary of a service corporation of an insured institution, whether wholly or partly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(A) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25 of the Federal Reserve Act,

"(D) any insured institution,

"(E) any service corporation or subsidiary of a service corporation of an insured institution, whether wholly or partly owned,

"(F) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(G) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(H) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) is amended—

(1) by striking subparagraph (B) and amending subparagraph (A) to read as follows:

"(4)(A) Whenever, in the opinion of the Board—

"(i) any association-related party, directly or indirectly, has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any association or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of its fiduciary duty;

"(ii) such association or other business institution has suffered or will probably suffer substantial financial loss or other damage or the interests of savings account holders have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the association-related party has received financial gain by reason of such violation, practice, or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of the association-related party, or demonstrates willful or continuing disregard for the safety or soundness of the association or other business institution,

the Board may serve upon such association-related party a written notice of its intention to remove such party from office or to prohibit the party's further participation in any manner in the conduct of the affairs of any institution.";

(2) by redesignating subparagraphs (C) through (E) as subparagraphs (B) through (D) respectively, and by amending subparagraph (C) (as so redesignated) to read as follows:

"(C) In respect to any association-related party or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the association. Such suspension or prohibition shall become effective upon service of such order upon the association-related party and, unless stayed by a court in proceedings authorized by subparagraph (F) of this paragraph, shall remain in effect, pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this subparagraph shall also be served upon the association with which the party involved is presently associated."; and

(3) by inserting after subparagraph (D) of subsection (d)(4) (as so redesignated) the following:

"(E) Any person who, pursuant to this subsection or subsection (d)(5), is removed, suspended, or prohibited from participation in the conduct of the affairs of an association or a service corporation or a subsidiary of a service corporation of an association, whether partly or wholly owned, shall also be removed, suspended, or prohibited from participation in the conduct of the affairs of—

"(i) any insured bank (as that term is defined in the Federal Deposit Insurance Act),

"(ii) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(iii) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(iv) any association or any institution insured by the Federal Savings and Loan Insurance Corporation,

"(v) any service corporation or subsidiary of a service corporation of an association or an institution insured by the Federal Savings and Loan Insurance Corporation,

"(vi) any savings and loan holding company or subsidiary of a savings and loan holding company,

"(vii) any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, and

"(viii) any institution chartered under the Farm Credit Act of 1971,

without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act, to continue participation in the affairs of such institution.".

SEC. 526. RETENTION OF JURISDICTION.

(a) NATIONAL HOUSING ACT.—Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting the following after paragraph (1):

"(2) The jurisdiction and authority of the Corporation to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an institution."; and

(2) by inserting after "this section" in the first sentence of paragraph (4)(A) of subsection (k) (as redesignated) the following: "or any of the provisions of this title, or any regulation issued pursuant thereto,".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(8) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)) is amended—

(1) by redesignating subparagraph (A) as subparagraph (B) and subparagraph (B) as subparagraph (C), and by inserting the following at the beginning of subsection (d)(8):

"(A) The jurisdiction and authority of the Board to proceed under this section against any association-related party shall not be affected by resignation, termination of employment, or other separation of such person from an association."; and

(2) by inserting after "this subsection" in the first sentence of the redesignated paragraph (8)(C)(i) of subsection (d) the following: "or any of the provisions of this Act, or any regulation issued pursuant thereto,".

SEC. 527. PENALTIES.

(a) NATIONAL HOUSING ACT.—Section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) is amended to read as follows:

"(p) PENALTIES.—(1) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (h) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency, as that term is defined in section 8(k) of the Federal Deposit Insurance Act—

"(A) participates in any manner in the conduct of the affairs of any insured institution, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any service corporation of an insured institution or subsidiary of a service corporation, any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as these terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, or any institution chartered under the Farm Credit Act of 1971, from which that person has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in re-

spect to any voting rights in such institutions; or

"(B) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank or any other institution described in paragraph (i) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.

"(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution or shall participate in the conduct of the affairs of such institution who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the institution or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d)(12) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(12)) is amended by striking paragraphs (A) and (B) and inserting the following:

"(12) PENALTIES.—(A) Any person against whom there is outstanding and effective any order served upon such person under subparagraph (C) or (D) of paragraph (4) or under (5) who, directly or indirectly, without the prior written approval of the appropriate Federal regulatory agency (as that term is defined in section 8(k) of the Federal Deposit Insurance Act)—

"(i) participates in any manner in the conduct of any association or institution insured by the Federal Savings and Loan Insurance Corporation, any insured bank (as that term is defined in the Federal Deposit Insurance Act), any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956), any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), any depository institution whose accounts are insured by the National Credit Union Share Insurance Fund, any association or other institution insured by the Federal Savings and Loan Insurance Corporation, any service corporation of an association or institution insured by the Federal Savings and Loan Insurance Corporation or subsidiary of a service corporation, or any institution chartered under the Farm Credit Act of 1971, from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents or authorizations in respect to any voting rights in such institutions; or

"(ii) votes for a director, or serves or acts as a director, officer, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any insured bank, or any other institution described in subparagraph (A)(i) of this subsection;

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (d)(4) of this section may prohibit any act that would violate this subsection.

"(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association or shall participate in the conduct of the affairs of such association who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each knowing violation of this prohibition, the association or the individual involved shall be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

SEC. 528. CIVIL PENALTY.

Section 407(q)(17) of the National Housing Act (12 U.S.C. 1730(q)(17)) is amended to read as follows:

"(17)(A) Any person who violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil money penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed. The penalty may be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Corporation's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within 20 days from the service of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) All penalties collected under authority of this section shall be paid into the Treasury of the United States.".

SEC. 529. DEFINITIONS.

(a) NATIONAL HOUSING ACT.—Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by redesignating subparagraphs (B) through (D) of paragraph (1) as subparagraphs (C) through (E), respectively;

(2) by striking subparagraph (A) of paragraph (1) and inserting the following:

"(A) The term 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Corporation (i) with the consent of the institution or the institution-related party concerned; (ii) with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (iii) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in subsection (j); or (v) an order issued under subsection (h) of this section.

"(B) The term 'institution-related party' means a director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution or of any service corporation or any subsidiary of a service corporation or an insured institution, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 408 of this title; and any person who has filed or is required to file a change-in-control notice with the Corporation under subsection (q) of this section. For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'institution-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (4) and inserting the following:

"(4) As used in subsections (e), (f), (g), (h), and (p) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended—

(1) by redesignating paragraphs (2) through (4) of paragraph (13)(A) as paragraphs (3) through (5) respectively; and

(2) by striking paragraph (1) of paragraph (13)(A) and inserting the following:

"(1) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the association or the association-related party concerned; (B) with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection;

(C) with respect to which the action of the court in which such a petition is filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in paragraph (7)(B); or (D) under paragraph (5) (A) or (C) of this subsection.

"(2) The term 'association-related party' means—

"(A) a director, officer, controlling person, employee, agent, or other person participating in the conduct of affairs of an association or of any service corporation or of any subsidiary of a service corporation of an association, whether partly or wholly owned, or of any savings and loan holding company or any subsidiary of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act, or of any association with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act and the National Housing Act; or

"(B) any person who has filed or is required to file a change-in-control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 407 of the National Housing Act.

For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, 'association-related party' includes an employee or officer with management functions, an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity."; and

(3) by striking paragraph (14) and inserting the following:

"(14)(A) As used in paragraphs (2), (3), (4), (5), and (12) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, and any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.

"(B) As used in this subsection, the terms 'Federal savings and loan association' and 'association' include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this Act, the Federal Home Loan Bank Act, and the National Housing Act.

"(C) References in this subsection to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in institutions over which the Board has any statutory power of examination or supervision as provided in this paragraph, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. The Board shall have power by regulation to define, for the purposes of this paragraph, terms used or referred to in the preceding sentence and other terms used in this subsection.".

SEC. 530. REPORTS OF CONDITION.

Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by adding at the end thereof the following:

"(u) REPORTS OF CONDITION; PENALTIES.—

"(1) Each insured institution or Federal saving bank shall make reports of condition to the Corporation which shall be in such form and shall contain such information as the Corporation may require. The Corporation may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct.

"(2) Any insured institution or Federal saving bank which fails to obtain and furnish any report or information required by the Corporation under this section within the period of time the Corporation specifies or which submits any false or misleading report or information shall be subject to a penalty of $1,000 each day during which such failure continues or is not corrected. Such penalty shall be assessed and collected in the manner as prescribed by section 407(q)(17) of this title.".

SEC. 531. TECHNICAL AMENDMENTS.

(a) NATIONAL HOUSING ACT.—Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended by striking "(1), (2), (3), or (4)" from the fifth sentence of paragraph (1) and inserting "(1), (2), or (3)".

(b) HOME OWNERS' LOAN ACT OF 1933.—Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) is amended by striking "(A), (B), (C) or (D)" from the fifth sentence of subparagraph (5)(A) and inserting "(A), (B) or (C)".

SEC. 532. PENALTY FOR FAILURE TO REPORT.

Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end of subsection (b)(2) thereof the following: "Every savings and loan holding company which fails to make such reports within the period of time specified by the Corporation or which submits or publishes any false or misleading report or information shall be subject to a penalty of $1,000 for each day during which such failure continues or such information is not corrected; such penalty to be assessed and collected in the same manner as prescribed by subsection (j)(4) of this section.".

SEC. 533. REPEALER.

Section 5(d)(15) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(15)) is repealed, and section 5(d)(16) (12 U.S.C. 1464(d)(16)) is redesignated as section 5(d)(15) (12 U.S.C. 1464(d)(15)).

PART C—CREDIT UNIONS

SEC. 541. AMENDMENTS TO SECTION 206.

(a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by striking the following phrases:

(A) "director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(B) "director, officer, committee member, employee, agent, or other person";

(C) "director, officer, committee member, or employee";

(D) "director, officer, or committee member";

(E) "director, committee member, or officer";

(F) "director, committee member, officer, or other person";

(G) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union";

(H) "officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union";

(I) "director, committee member, or officer or other person";

(J) "director, officer, committee member, or other person"; and

(K) "director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union";

each place they appear and inserting "institution-related party";

(2) at the end of paragraph (1) of subsection (e), by striking the period and inserting the following: "including, without limitation, reimbursement, restitution, indemnification, rescission, the disposal of loans or assets, guarantees against loss, or other action the Board deems appropriate. Such order may place limitations on the activities or functions of the credit union or any institution-related party necessary to correct the conditions resulting from any such violation or practice.";

(3) after the first sentence of paragraph (1) of subsection (f), by inserting the following sentence: "Such order may place limitations on the activities or functions of the credit union or any institution-related party.";

(4) in subsection (f), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) Whenever a notice of charges specifies that any insured credit union's books and records are so incomplete or inaccurate that the Board is unable with reasonable effort to determine the financial condition of that credit union or the details or purpose of any transactions that may have a substantial effect on the financial condition of that credit union, the Board may issue a temporary order requiring cessation of any activities the Board deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (3) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the credit union's books and records are accurate and capable of reflecting the financial condition of the credit union.";

(5) by striking paragraph (2) and amending paragraph (1) of subsection (g) to read as follows:

"(1) Whenever the Board determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with any insured credit union or other business institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty, or by conduct or practice has evidenced his personal dishonesty or unfitness to continue as an institution-related party; and

"(B) such insured credit union or other business institution has suffered or will probably suffer substantial financial loss or other damage, or the interests of its insured members have been or could be seriously prejudiced by reason of such violation, practice, or breach, or the institution-related party has received financial gain by reason of such violation, practice, or breach,

the Board may serve upon such institution-related party a written notice of its intention to remove such party from office or to prohibit his further participation in any manner in the conduct of the affairs of any insured credit union.";

(6) in subsection (g), by striking "(A)" and striking subparagraph (B) in paragraph (7), and by redesignating paragraphs (3)

through (7) of subsection (g) as paragraphs (2) through (6), respectively, and by amending paragraph (3) (as so redesignated) to read as follows:

"(3) In respect to any institution-related party referred to in paragraph (1) or (2) of this subsection, the Board may, if it deems necessary for the protection of the credit union or the interests of its members, by written order to such effect served upon such party, suspend that party from office or prohibit that party from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such order on the institution-related party and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraphs (1) and (2) of this subsection and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against such party, until the effective date of any such order. Copies of any order issued pursuant to this paragraph shall also be served upon any institution where the party involved is presently associated.";

(7) in subsection (g)(6), as redesignated, by striking all that follows "National Housing Act)," and inserting "and any institution chartered under the Farm Credit Act of 1971, unless the party involved has received the prior written approval of the appropriate Federal regulatory agency to continue such affiliation or to continue participating in the affairs of such institution.";

(8) in subsection (g)(5) (as redesignated), by striking "(4)" and inserting "(3)", and by striking "(1), (2), or (3)" and inserting "(1) or (2)";

(9) by redesignating paragraph (1) of subsection (k) as paragraph (2), by redesignating paragraph (2) of subsection (k) as paragraph (3), and by inserting after "(k)" the following:

"(1) The jurisdiction and authority of the Board to proceed under this section against any institution-related party shall not be affected by the resignation, termination of employment, or other separation of such person from an insured credit union.";

(10) in the first sentence of paragraph (3)(A) of subsection (k) (as redesignated), by inserting after "this section" the following: "or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union", and by striking "subsection (e), (f), or (q)" and inserting "subsection (e), (f), or (p)";

(11) by amending subsection (l) to read as follows:

"(l) Any person against whom there is outstanding and effective any order served upon such person under paragraph (3) or (4) of subsection (g) or under subsection (i) who, directly or indirectly, without the prior written approval of the Board—

"(1) participates in any manner in the conduct of the affairs of—

"(A) any insured institution,

"(B) any bank holding company or subsidiary of a bank holding company (as those terms are defined in the Bank Holding Company Act of 1956),

"(C) any organization organized and operated under section 25(a) of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act,

"(D) any savings and loan holding company or subsidiary of a savings and loan holding company (as those terms are defined in the National Housing Act), or

"(E) any institution chartered under the Farm Credit Act of 1971,

from which he has been suspended, removed, or prohibited, or solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorization in respect to any voting rights in such institution; or

"(2) votes for a director, or serves or acts as a director, officer, committee member, employee, or agent, or otherwise participates in any manner in the conduct of the affairs of any insured institution, any bank holding company or subsidiary thereof, or any other institution described in paragraph (1) of this subsection,

shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $5,000 or imprisoned for not more than one year, or both. Any order issued under subsection (g) of this section may prohibit any act that would violate this subsection.";

(12) by striking subsection (m) and redesignating subsections (n), (o), (p) and (q) of this section as subsections (m), (n), (o) and (p) respectively; and

(13) by adding at the end thereof the following:

"(q) DEFINITIONS.—As used in this section:

"(1) The term 'appropriate Federal regulatory agency' has the same meaning as in section 8(k) of the Federal Deposit Insurance Act.

"(2) The terms 'cease-and-desist order which has become final' and 'order which has become final' mean a cease-and-desist order or other order issued by the Board (A) with the consent of the credit union or the institution-related party concerned; (B) with respect to which no petition for review of the action of the agency has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (j) of this section; (C) with respect to which the action of the court in which such a petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in that paragraph; or (D) under paragraphs (1) or (3) of subsection (i) of this section.

"(3) The term 'institution-related party' means a director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of an insured credit union.

"(4) The term 'insured institution' means an insured credit union, as defined in section 101, or a depository institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

"(5) The term 'violation' includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(r) EFFECT OF OTHER LAW.—The authority granted to the Board under this section shall be in addition to, and not restricted by, any other authority provided by Federal or State law.".

SEC. 542. AMENDMENTS TO SECTION 205.

Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended—

(1) in the first sentence of subsection (d), by inserting after the phrase "insured credit union" "or shall participate in the conduct of the affairs of such insured credit union";

(2) by striking the second sentence of subsection (d) and inserting "For each knowing violation of this subsection, the credit union or the individual involved shall each be subject to a penalty of not more than $1,000 for each day this prohibition is violated, which the Board may recover for its use."; and

(3) in the first sentence of paragraph (2) of subsection (e), by inserting a period after the word "standards" and striking the phrase "and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures".

TITLE VI—TRUTH IN SAVINGS AND INVESTMENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Truth in Savings and Investments Act".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition among depository institutions and investment companies would be improved, and the ability of the consumer to make informed decisions regarding accounts and investments would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest and earnings are paid and fees are assessed.

(b) PURPOSE.—It is the purpose of this title to require the clear and uniform disclosure of—

(1) the rates of interest and yields which are payable on accounts and investments; and

(2) the fees that are assessable against accounts and investments,

so that consumers can make meaningful comparisons among the competing claims of depository institutions and investment companies.

SEC. 603. DEFINITIONS.

For the purposes of this title—

(1) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(4) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(5) MULTIPLE RATE ACCOUNT.—The term "multiple rate accounts" means any account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

(6) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" shall be equal to the total amount of interest that would be received on a $100 deposit under the terms described in paragraphs (3) and (4) of section 605(c) over a year, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

SEC. 604. DISCLOSURE OF YIELDS AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution relating to any account which includes any reference to a specific rate of interest payable on amounts held in such account, or to a specific yield or rate of earnings on amounts so held, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield (which shall be noted in greater prominence than any other stated rate).

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement of any penalty imposed for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions are limited during such period; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 605. ACCOUNT SCHEDULE.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, yields, and other terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The schedule for each class may be in the form of separate schedules or one comprehensive document. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charges, or penalties (or the method by which such amounts will be calculated), and the conditions under which any such amounts will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON YIELDS.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1), (3), and (4) shall be provided for each period during which a different annual rate of simple interest is in effect (or, if applicable, the method for computing such information).

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to give consumers the ability to readily understand the terms of the accounts offered.

SEC. 606. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall by regulation prescribe such modifications in the disclosure requirements under this title relating to annual percentage yields as may be necessary to carry out the purposes of this title in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 607. DISTRIBUTION OF SCHEDULES.

(a) IN GENERAL.—Any schedule required under section 605 shall be—

(1) mailed to holders of the account not more than 90 days after the effective date of the initial regulations prescribed by the Board under this Act;

(2) made available to any person upon request; and

(3) provided to any potential customer before an account is opened or a service is rendered.

(b) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 605(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account not later than 10 days after the date of the initial deposit.

(c) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 605(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(3) This subsection does not apply to changes in annual percentage yields of variable rate accounts.

(d) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 608. PAYMENT OF INTEREST.

(a) DETERMINATION OF BALANCE ON WHICH INTEREST IS CALCULATED.—Except as provided in subsection (b), interest shall be calculated on the principal balance in an interest-bearing account at a depository institution by using the average daily balance method, which is the sum of each day's closing balance divided by the number of days in the period.

(b) SPECIAL RULE FOR CREDIT UNIONS.—Subsection (a) shall not apply to an account at a depository institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act if the depository institution—

(1) calculates the accrual of interest or dividends by a method other than the method described in subsection (a) with respect to all funds, including cash, deposited in such account; and

(2) provides notice of interest payment policy in the manner required by section 605(e) of the Expedited Funds Availability Act.

(c) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this title.

(d) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (c) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting interest.

SEC. 609. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Board, after consultation with each agency referred to in section 610(a) and after providing public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this

title. The regulations may contain any classification, differentiation, or other provision, and may provide an exception for any class of accounts which, in the judgment of the Board, may be necessary or proper to carry out the purposes of this title, to prevent circumvention or evasion of the requirements of this title, or to facilitate compliance with the requirements of this title.

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this title. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this title may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this title if the depository institution—

(A) uses any appropriate model form or clause published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this title; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—The Board shall adopt model disclosure forms and clauses after giving appropriate notice and opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 610. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act;

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of Federal credit unions; and

(4) the Federal Trade Commission Act, by the Federal Trade Commission in the case of State-chartered credit unions.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS TITLE TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each agency may exercise, for purposes of enforcing compliance with any requirement imposed under this title, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this title does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this title.

SEC. 611. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this title or any regulation prescribed under this title with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the total amount of an award in a class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this title if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a depository institution's obligation under this title is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 610 for any failure to comply with any requirement imposed under this title with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this title shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this title with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 610.—This subsection shall not limit or otherwise affect the enforcement power under section

610 of any agency referred to in subsection (a) of such section.

SEC. 612. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this title shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this title, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 613. REVIEW OF DISCLOSURE REQUIREMENTS FOR OPEN-END MANAGEMENT INVESTMENT COMPANIES.

The Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 66. REVIEW OF DISCLOSURE REQUIREMENTS FOR YIELDS AND TERMS.

"Not later than January 1, 1989, and annually thereafter, the Commission shall consult with the Board of Governors of the Federal Reserve System (and any other agency it deems appropriate) to review the regulations prescribed under this title and the Securities Act of 1933 and the regulations prescribed under the Truth in Savings and Investments Act to determine whether such regulations are providing consumers the ability to effectively compare savings and investments options. If at any time as a result of such review, the Commission finds its regulations are not providing consumers the ability to effectively compare savings and investments options, it shall modify its regulations to insure that consumers have such ability.".

SEC. 614. EFFECT ON STATE LAW.

(a) IN GENERAL.—The provisions of this title shall supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts. The Board is authorized to determine whether such inconsistencies exist.

(b) BALANCE ON WHICH INTEREST IS CALCULATED.—The provisions of this title shall supersede any provisions of any State law relating to the determination of the balance on which interest is calculated to the extent such State law specifies the manner for determining the balance on which interest is calculated.

TITLE VII—INSURANCE ACTIVITIES

SEC. 701. SHORT TITLE.

This title may be cited as the "Bank Holding Company and National Bank Improvements Act of 1989".

SEC. 702. AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956 RELATING TO INSURANCE ACTIVITIES.

(a) DEFINITION.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end thereof the following new subsection:

"(p) INSURANCE ACTIVITIES.—For the purposes of this Act, the term 'insurance activities' means providing insurance as principal, agent, or broker.

(b) INSURANCE ACTIVITIES.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) by adding at the end thereof the following subsection:

"(j) INSURANCE ACTIVITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section or section 3 of this Act (but subject to paragraphs (2) and (3)), a bank holding company or any bank or nonbank subsidiary or affiliate thereof shall not engage in insurance activities in the United States, except that a bank holding company or any bank or nonbank subsidiary or affiliate thereof may provide insurance—

"(A) pursuant to subsection (c)(8) of this section;

"(B) through a State bank or subsidiary thereof to the extent permissible under clause (i), (ii), (iii), (v), or (vi) of subsection (c)(8)(C) and under State law;

"(C) if—

"(i) the insurance is provided by a State bank subsidiary of a bank holding company, or by a subsidiary of that State bank;

"(ii) that bank or subsidiary thereof is located in the one State where the operations of that bank holding company's banking subsidiaries are principally conducted for purposes of section 3(d) of this Act;

"(iii) the insurance activities engaged in by the bank or subsidiary thereof are authorized by State law; and

"(iv) the insurance is provided only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; or

"(D) pursuant to section 5136 or 5136B of the Revised Statutes.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to insurance activities of any company or institution pursuant to section 3(f) or the proviso to subsection (a)(2) of this section.

"(3) AUTHORITY TO CONTINUE CERTAIN ACTIVITIES.—Notwithstanding any other provision of this section, a bank holding company may continue to—

"(A) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank was acquired after December 31, 1984, and before March 2, 1988, pursuant to Board approval under section 3(d) of this Act;

"(ii) the bank provides insurance only to residents of that State, natural persons employed in that State, or natural persons otherwise present in that State; and

"(iii) such insurance insures against the same types of risks as insurance provided by the bank or subsidiary as of the day before its acquisition by the out-of-state bank holding company or as of March 2, 1988, or against functionally equivalent risks;

"(B) provide title insurance coverage through a State bank or subsidiary thereof if the bank was required to be empowered to provide title insurance as a condition of its initial chartering under State law;

"(C) continue to engage in any insurance activity lawfully engaged in prior to the date of enactment of this subsection, in the State of Indiana and in any State contiguous thereto, if the bank holding company or subsidiary thereof is located in the State of Indiana and was acquired on June 30, 1986, pursuant to Board approval under section 3(d) of this Act issued on May 28, 1986;

"(D) engage in any insurance activity through a State bank or subsidiary thereof if—

"(i) the bank is described in clauses (i) and (ii) of subparagraph (A); and

"(ii) the insurance activity of the State bank or subsidiary thereof is limited (I) to life, accident, and health insurance activities for which it has been licensed prior to March 2, 1988, pursuant to State law enacted after July 20, 1987, and in effect prior to September 28, 1987, and (II) to the State in which it has been licensed; or

"(E) provide through a State bank, or subsidiary thereof, pursuant to authorization by the appropriate State banking regulator prior to March 2, 1988, financial guaranty insurance. For purposes of this subparagraph, the term 'financial guaranty insurance' means insurance against the risk of default on State and local government debt obligations, corporate debt and other monetary obligations, pass-through securities (other than those secured by mortgages on real property which are insurable by a mortgage guaranty insurer), and installment purchase agreements executed as a condition of sale, but such term does not include life, property, or casualty insurance. This subparagraph does not preclude any interested party from challenging the legality of these described activities under section 4(c)(8) of the Bank Holding Company Act of 1956, as in effect on March 2, 1988.

"(4) DEFINITIONS.—

"(A) INSURANCE.—For purposes of this subsection and subsections (c)(8) and (c)(15)(J)(iv) of this section, the term 'insurance' means—

"(i) traditional insurance products and services;

"(ii) variable annuity contracts; and

"(iii) variable life insurance contracts.

"(B) RESIDENT.—For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and—

"(i) companies incorporated in, or organized under the laws of, the State,

"(ii) companies licensed to do business in the State, and

"(iii) companies having an office in the State."; and

(2) in subsection (c)(8)(C)(iv), by inserting immediately before the semicolon at the end the following: ", except that—

"(I) the authorization to provide insurance pursuant to this clause shall terminate if control of the company providing the insurance is acquired by a bank holding company—

"(a) on or after October 15, 1982, in a transaction requiring Board approval under section 3(d) if the bank holding company did not obtain board approval to engage in such insurance activities under this section prior to March 2, 1988; or

"(b) on or after March 2, 1988;

unless such acquiring company is a successor or is and continues to be a bank holding company with total assets of $50,000,000 or less; and

"(II) no company that is an affiliate of a company providing insurance pursuant to this clause shall provide insurance pursuant to this clause on or after March 2, 1988, unless such affiliated company itself meets the requirements of this clause.".

SEC. 703. AMENDMENTS TO THE NATIONAL BANK ACT.

(a) Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended—

(1) by inserting "(a) IN GENERAL.—" immediately before "Upon duly making and filing"; and

(2) by adding at the end thereof the following new subsection:

"(b) LIMITATION ON INSURANCE POWERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a national bank, or subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of a national bank, may not engage in insurance activities in the United States except to the extent that the insurance is limited to assuring the repayment of the outstanding balance due on any specific extension of credit by the national bank in the event of the death, disability, or involuntary unemployment of the debtor and except to the extent provided in section 5136B of this title.

"(2) EXCEPTIONS.—Paragraph (1) does not prohibit (A) any company engaged in municipal bond guarantee insurance activities pursuant to authorization by the Comptroller of the Currency on or before May 2, 1985, from continuing to engage in such activities, or (B) any company lawfully engaged in title insurance activities as of March 2, 1988, from continuing to engage in such activities, if such activities are limited to the State in which the bank is located, and if the bank is not acquired after March 2, 1988, by a bank holding company the principal banking operations of which are conducted in another State.

"(3) INSURANCE DEFINITION.—The term 'insurance' has the meaning given to that term in section 4(j)(4) of the Bank Holding Company Act of 1956.

"(4) INSURANCE ACTIVITIES DEFINED.—The term 'insurance activities' means providing insurance as principal, agent, or broker.".

(b) Chapter 1 of title LXII of the Revised Statutes is amended by inserting after section 5136A the following new section:

"SEC. 5136B. LIMITED INSURANCE POWERS FOR NATIONAL BANKS LOCATED IN RURAL AREAS.

"(a) IN GENERAL.—In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance as defined in section 5136(b)(3) so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State. For purposes of this subsection, the term 'residents of that State' includes natural persons who are residents of the State and (1) companies incorporated in, or organized under the laws of, the State, (2) companies licensed to do business in the State, and (3) companies having an office in the State.

"(b) ADDITIONAL LIMITATIONS.—No national banking association described in subsection (a) may—

"(1) assume or guarantee the payment of any premium on insurance policies issued through the agency of the association by the insurance company for which such association is acting as agent pursuant to subsection (a); and

"(2) guarantee the truth of any statement made by an assured in filing such person's application for insurance.".

(c) EFFECT ON CERTAIN COMPANIES.—This section shall not affect the ability of—

(1) a national bank or a subsidiary thereof, located in Oregon or Washington, to continue to engage in insurance activities lawfully engaged in as of March 2, 1988, within the State in which the main office of such national bank is located; or

(2) a national bank chartered in 1882 (or a subsidiary thereof) to continue to engage in insurance activities in which it was lawfully engaged as of March 2, 1988, within 30 miles of such bank's main office if such main office is not within 30 miles of any city that had a population exceeding 150,000 under the 1980 census.

SEC. 704. EFFECTIVE DATE.

The provisions of this title shall take effect on March 5, 1987.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF HOSTILE ACQUISITIONS OF UNITED STATES BANKS.

(a) PURPOSE.—It is the purpose of this section to require the Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") to make a study of the effects that hostile acquisitions in the banking industry could have on the safety and soundness of banking in the United States.

(b) STUDY.—The Board of Governors of the Federal Reserve System, in consultation with the Attorney General, the Comptroller General of the United States, and the Federal Deposit Insurance Corporation, shall prepare a study of the effects that hostile acquisitions in the banking industry could have on the United States banking and financial markets. The study shall pay particular attention to the potential adverse effects on safety, soundness, and stability of banks and the banking industry of hostile acquisitions of United States banking institutions and shall address the following issues:

(1) the effects that hostile acquisitions could have on consolidation within the banking industry, taking into consideration the continuing removal of barriers to interstate banking;

(2) the effects that hostile acquisitions could have on concentration of economic resources generally, and the specific markets for banking and financial services, including securities markets in which banks are eligible to participate;

(3) the effects that hostile acquisitions could have on instability, uncertainty and confidence in banking, and on consumer and small business services;

(4) whether specific regulations are needed to process acquisition applications that proceed on a hostile basis rather than a consensual basis in order to ensure—

(A) the adequacy and quality of capital, particularly with respect to equity capital, and the adverse consequences of the use of debt in hostile acquisitions;

(B) the quality of assets in the surviving institution due to the disposition of assets to meet regulatory capital requirements;

(C) the strength of the surviving institution against unforeseen weaknesses that could have been discovered had adequate due diligence been conducted as is done in a consensual acquisition;

(D) the strength of the target, acquiring, or surviving institutions to withstand the adverse consequences of the use of special defensive and protective steps taken to prevent a hostile acquisition from being consummated;

(5) whether special regulations are needed, once a contested application has been approved, to ensure that the conditions set forth in the approval order are met, and that the consolidation of the two institutions can proceed without undue disruption to either the target or acquiring institution;

(6) whether foreign banks or other potential acquirers of banking resources in the United States should be permitted to make hostile acquisitions of United States banking institutions;

(7) whether the stock market decline and related problems of October 1987 impair the ability of banking institutions to raise capital to conduct or resist hostile acquisitions; and

(8) any other issues which the Board deems necessary and appropriate.

(c) HEARINGS.—The Board and the other governmental agencies involved in the study shall hold public hearings on hostile acquisitions of banking institutions and solicit opinions and testimony as they deem necessary.

(d) REPORT.—Not later than 90 days after the date of enactment of this Act, the Board shall transmit a report containing the results of the study, along with its recommendations for legislation, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 802. LIMITATIONS ON GRANDFATHERED NONBANK BANKS OWNED BY BANK HOLDING COMPANIES.

Section 4(g)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(g)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by inserting at the end thereof the following new subparagraph:

"(C) accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, or make commercial loans, unless authorized to do so by the Board as of August 10, 1987.".

SEC. 803. JOINT MARKETING RESTRICTIONS.

(a) BANK HOLDING COMPANIES.—Section 4(f)(3)(B)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)(B)(ii)) is amended—

(1) by inserting "or subsection (c)(15)" after "subsection (c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under subsection (c)(8)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under subsection (c)(8) or subsection (c)(15)".

(b) SAVINGS AND LOAN HOLDING COMPANIES.—Section 408(p)(2)(A) of the National Housing Act (12 U.S.C. 1730a(p)(2)(A)) is amended—

(1) by inserting "or section 4(c)(15)" after "section 4(c)(8)" the first place it appears; and

(2) by striking "by or through an affiliate (other than an affiliate that engages only in activities permissible for bank holding companies under section 4(c)" and inserting "in connection with products or services of an affiliate that are not permissible for a bank holding company to provide under section 4(c)(8) or section 4(c)(15)".

SEC. 804. INDUSTRIAL BANKS.

(a) CLERICAL AMENDMENT.—Section 2(c)(2)(H)(i)(I) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(i)(I)) is amended by inserting "or deposits" after "demand deposits".

(b) ACTIVITIES AUTHORIZED AS OF MARCH 5, 1987.—Section 2(c)(2)(H)(ii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)(ii)) is amended by inserting after "was not lawfully engaged" the words ", or authorized to engage,".

SEC. 805. STATUS OF CERTAIN REGISTERED INVESTMENT COMPANY.

A corporation, incorporated on March 29, 1985, under the laws of the State of Maryland, and duly registered under the Investment Company Act of 1940 on February 21, 1986, all of the present shareholders of which are savings banks, shall be deemed to have been registered under such Act on the date of its incorporation.

SEC. 806. AMENDMENT TO THE FEDERAL POWER ACT.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended by adding the following at the end of the subsection:

"Any person now holding or proposing to hold the position of officer or director of a public utility and officer or director of a bank, trust company, or banking association is authorized to hold such positions without authorization of the Commission, as long as such bank, trust company, or banking asso-

ciation does not underwrite or participate in the marketing of securities (including commercial paper) of the public utility for which the person serves or proposes to serve as an officer or director.".

SEC. 807. EXPEDITED FUNDS AVAILABILITY.

(a) REASONABLE EXCEPTIONS.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "subparagraph (A), (B), (C), or (F) of subsection (a)(2) or" after "limitation established under"; and

(2) in subsection (d), by inserting "(a)(2)," after "subsections".

(b) DISCLOSURE.—Section 604(f) of such Act is amended by adding the following:

"(4) NOTICE WITH RESPECT TO CASHIER'S, CERTIFIED, AND SIMILAR CHECKS.—A depository institution issuing a check described in section 603(a)(2)(F) in excess of $5,000 shall notify the person to whom it issued that funds may be made available later than the time specified in section 603(a).".

SEC. 808. PAYROLL TAX FILING SERVICE ORGANIZATIONS.

Section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)) is amended—

(1) in clause (i), by inserting after "in trust funds" the following: "or in Treasury tax and loan accounts maintained by a payroll tax filing service organization,";

(2) in clause (iii), by inserting after "third parties or others" the following: ", except for deposits of funds by a payroll tax filing service organization in Treasury tax and loan accounts or in trust pending payment of such funds for Federal, State, or local tax obligations,"; and

(3) in clause (iv)(I), by inserting before the semicolon the following: "except in connection with the transfer by a payroll tax filing service organization of funds held in trust pending payment of such funds for Federal, State, or local tax obligations".

SEC. 809. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BANKS.

The International Banking Act of 1978 is amended by adding at the end thereof the following:

"NATIONAL TREATMENT

"SEC. 15. (a) GENERAL RULE.—If the President or his designee has made a written determination that a foreign country is described in subsection (b) of this section, has transmitted the determination to a Federal banking agency, and has not revoked the determination, the Federal banking agency may, notwithstanding any other provision of law, deny any application by an entity described in subsection (c) that requires the approval of that agency, or disapprove any notice by such an entity that is subject to disapproval by that agency, if—

"(1) that entity is chartered or incorporated or has its principal place of business in that foreign country; or

"(2) any person that directly or indirectly controls that entity resides, is chartered or incorporated, or has its principal place of business in that foreign country.

"(b) DENIAL OF NATIONAL TREATMENT.—A country is described in this subsection for purposes of this section if that country does not accord to United States banks and bank holding companies the same competitive opportunities as it accords to domestic banks and bank holding companies.

"(c) CERTAIN FOREIGN ENTITIES DESCRIBED.—The following entities are described in this subsection for purposes of this paragraph:

"(1) a foreign bank; and

"(2) any other company subject to the Bank Holding Company Act of 1956 under section 8(a) of this Act.".

SEC. 810. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR BROKERS AND DEALERS.

Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by inserting at the end thereof the following new paragraph:

"(11)(A) The following provisions shall apply if the President or his designee has published a written determination that a foreign country is described in subparagraph (B) of this paragraph and has not revoked that determination:

"(i) No person of that foreign country, acting directly or indirectly, shall acquire control of any registered broker or dealer unless—

"(I) the Commission has been given notice 45 days in advance of that proposed acquisition, in such form as the Commission shall prescribe by rule; and

"(II) the Commission has not prohibited that acquisition.

"(ii) The Commission may, by order, extend the notice period with respect to any particular acquisition for no more than 60 days.

"(iii) The Commission, consistent with the protection of investors and the maintenance of fair and orderly markets, may—

"(I) deny any application for registration under this subsection filed by a person of that foreign country; and

"(II) prohibit, by order, any person of that foreign country from acquiring control of a registered broker or dealer, irrespective of when the acquisition was initiated.

"(B) A country is described in this subparagraph for purposes of this paragraph if that country does not accord to United States brokers and dealers the same competitive opportunities as it accords to domestic brokers and dealers.

"(C) A person is a 'person of a foreign country' for purposes of this paragraph if that person, or another person that directly or indirectly controls that person, is a resident of a foreign country, is organized under the laws of that country, or has its principal place of business in that country.".

SEC. 811. STUDY OF MERGER OF COMMERCE AND BANKING.

(a) IN GENERAL.—The Board of Governors shall conduct a study of the need, if any, to continue the separation of full-service banking and commerce in the United States. In carrying out such study, the Board shall consult with all appropriate departments and agencies of the United States and representatives of all segments of the financial services and other industries.

(b) PARTICULAR AREAS OF STUDY.—In carrying out the study under this section, the Board shall in particular examine—

(1) the economic, regulatory, and consumer issues involved in continuing or eliminating the separation of banking and commerce;

(2) the competitive issues involved in eliminating the separation of banking and commerce, including the adequacy of antitrust and other laws relating to the maintenance of other competition; and

(3) organizational issues, particularly with respect to the appropriate types and structures of organizations that may engage in full-service banking, financial services, and commercial activities.

(c) REPORT REQUIRED.—Not later than one year after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall transmit the report required by this section to the Congress.

SEC. 812. INCREASED PENALTIES UNDER THE BANK HOLDING COMPANY ACT.

(a) Section 8(a) of the Bank Holding Company Act of 1956 is amended by striking "$1,000" and inserting "$50,000", by striking "$10,000" and inserting "$100,000", and by striking "one year" and inserting "three years".

Section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)) is amended by striking "$1,000" and inserting "$5,000".

SEC. 813. FINANCIAL CONSUMERS ASSOCIATIONS.

(a) NATIONAL BANKS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured banks, as defined in section 3 of the Federal Deposit Insurance Act, to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, national banks shall comply with the insert requirements.

(b) SAVINGS AND LOAN ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding the following new subsection:

"(t) FINANCIAL CONSUMERS ASSOCIATIONS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured institutions as defined in section 401 of the National Housing Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, associations, as defined in subsection (d), shall comply with the insert requirement.".

(c) CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding the following new section:

"FINANCIAL CONSUMERS ASSOCIATIONS

"SEC. 130. Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured credit unions as defined in section 101(7) of this Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, Federal credit unions shall comply with the insert requirement.".

● Mr. GARN. Mr. President, I rise today to join the senior Senator from Illinois in cosponsoring the reintroduction of the Proxmire Financial Modernization Act. As most observers of financial legislation know, Senator Proxmire and I introduced the original version of this bill in the last Congress, and it eventually passed the full Senate by the overwhelming margin of 94 to 2. The bill was the product of a hard-fought compromise in the Banking Committee built on a voluminous hearing record and many months of intense negotiations. Unfortunately, it died at the end of the last Congress when the House of Representatives failed to act.

Before I describe the key aspects of the bill, let me say that I did not agree then and do not agree now with every

aspect of it. But it was obviously a sound compromise since so many of my colleagues subsequently voted for it. That is the principal reason why I support its reintroduction today. We in this body may not return to these issues any time soon because of the problems of the thrift industry, but sooner or later we will have to. When we do, this bill will be the marker, the reminder of a consensus that was reached to address some very thorny problems. Rather than begin all over again, we should use this consensus and build on it to usher our financial system into the modern era.

In essence, the Proxmire Financial Modernization Act would repeal key sections of the 56-year-old Glass-Steagall Act, replacing them with a very carefully conceived statutory framework that would dramatically change the financial institution landscape. Bank holding companies would be permitted to engage in the full range of securities activities other than corporate equities, but only through separately capitalized holding company subsidiaries called securities affiliates. Stringent safeguards or "firewalls" would be imposed between the bank and its securities affiliate for two very important reasons: to prevent the bank's exposure to undue risk, and to prevent the securities affiliate from using the bank's Federal benefits—like deposit insurance and access to the payments system—to gain an unfair competitive advantage over securities companies that are not affiliated with banks.

Taken as a whole, this new financial structure would permit U.S. bank holding companies to regain their international competitive position without compromising the fundamental safety and soundness of the system. This is absolutely critical in an era where other countries are targeting financial services as the next major U.S. industry to challenge. We cannot continue to hamstring our best financial competitors and expect them to survive, let alone excel. This legislation addresses that problem.

This bill also contains provisions, requested by all of the bank and thrift regulatory agencies, which strengthen their enforcement powers. In light of the continuing studies which demonstrate that fraud and insider abuse are key elements in many bank and thrift institution failures, the importance of these amendments appears obvious.

The bill also contains several provisions intended to provide additional consumer protection, primarily in the form of additional disclosure requirements. Thus, for example, depository institutions would be required to make detailed disclosures of yields and rates and fees in deposit account advertisements.

With respect to insurance, the bill includes a carefully crafted compromise title that essentially permits bank holding companies to engage in insurance activities through State bank subsidiaries in States that authorize such activities for their banks. The bank holding company would have to have its principal banking operations in that State, and the insurance products would have to be sold to residents of that State, persons employed in that State, or persons otherwise present in that State. This title also resolves controversies involving the insurance powers of national banks.

Finally, the bill includes certain amendments designed to streamline the application procedure under the Bank Holding Company Act. This amendment, which has been suggested by the Federal Reserve Board, will substantially relieve the regulatory burden placed upon the banking industry and at the same time allow the Federal Reserve to make better use of its staff.

Mr. President, while this bill ought to be enacted, it is also true that Congress has dragged its heels for too long on this issue. It has had many opportunities to act, and has seized none of them. In the meantime the regulators, like the Federal Reserve Board in its recent section 20 decision, have moved forward cautiously with determinations that provide an extremely limited amount of new competitive opportunities for banks and bank holding companies. That is entirely appropriate. They have a legal duty to act with reasonable promptness on applications before them, consistent with their interpretations of statutes; their determinations have been conservative and prudent; in my own view they have been sound on the merits; and as mentioned above, Congress simply has not demonstrated that it is prepared to act on these issues any time soon.

Let me conclude by reiterating a key point: this bill represents a carefully constructed compromise among many conflicting interests. I certainly believe it could be improved, while at the same time I am fully aware that others would like to dilute it and load it up with regressive provisions. If we begin to take the latter course, I will not feel bound by this compromise product, however much sense it might make to a broad range of interests.

I believe that Congress must address these issues, and this bill reflects the type of consensus that we will most certainly need.●

By Mr. BENTSEN (for himself, Mr. DOLE, Mr. BAUCUS, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. DURENBERGER, Mr. INOUYE, Mr. PRYOR, Mr. DASHLE, Mr. RIEGLE, Mr. HEINZ, Mr. DANFORTH, Mr. DOMENICI, Mr. GORE, Mr. BINGAMAN, Mr. BURNS, Mr. MCCLURE, Mr. WALLOP, Mr. SHELBY, Mr. GRAMM, Mr. MCCONNELL, Mr. WARNER, Mr. THURMOND, Mr. KASTEN, Mr. MCCAIN, Mr. PRESSLER, Mr. COCHRAN, Mr. GRASSLEY, Mr. STEVENS, Mr. D'AMATO, Mr. HATFIELD, Mr. RUDMAN, Mr. NICKLES, Mr. MURKOWSKI, Mr. SYMMS, and Mr. BUMPERS):

S. 306. A bill to amend the Social Security Act to make certain modifications in the Medicare Program with respect to payments made under such program to hospitals located in rural areas, to improve the delivery of health services to individuals residing in such areas, and for other purposes; to the Committee on Finance.

EQUITY FOR RURAL HOSPITALS ACT

Mr. BENTSEN. Mr. President, today, I am introducing the Equity for Rural Hospitals Act of 1989, a bill I consider essential to the well-being of Medicare beneficiaries and all Americans in rural areas who depend on their local hospitals for the delivery of health care. I am pleased to be joined by my distinguished colleague, the minority leader from Kansas, Senator DOLE, along with 12 of my colleagues from around the country, in introducing this bill. The Equity for Rural Hospitals Act provides both urgently needed short-term relief for the escalating problems faced by rural hospitals and long-term structural reforms as well.

In 1988, 43 rural hospitals closed across the United States, bringing the total number of closures in rural areas since 1984 to 159. My home State of Texas has the unfortunate distinction of having led the Nation in closures with 18 hospitals closing their doors last year. But my concern goes well beyond the borders of my own State, Mr. President. Hospital administrators surveyed recently by Touche Ross suggest that as many as 600 hospitals could close their doors in the next 5 years. In particular, almost 60 percent of the administrators of rural hospitals believe their institutions are vulnerable to financial failure. This is an intolerable situation which requires immediate attention.

Rural hospitals are the cornerstone of the health care delivery system in their communities. Without them, people residing in small, often isolated areas can be denied vital health care services. This is particularly true for older Americans enrolled in Medicare; the elderly comprise 12 percent of the Nation's population as a whole, but 25 percent of the population of rural areas. The elderly use more health services and are less likely to seek health care outside their communities, according to recent studies. The closure of community hospitals does not just affect the elderly, however. Patients who suffer acute illnesses or injuries frequently require medical stabilization at a local hospital before being transferred to a tertiary care facility. In reality, a rural hospital closure has a far-reaching effect on every aspect of community life. A major source of employment is lost. Without a hospital, it is difficult to attract physicians. Rural communities with no

hospital can also experience difficulty in attracting new industry.

Each year since the creation of the Medicare prospective payment system [PPS], the financial status of most rural hospitals has gotten worse. According to recent analyses by the Prospective Payment Assessment Commission [PROPAC], over half of rural hospitals are losing money treating Medicare patients. In the third year of the system, rural facilities, which account for half the Nation's hospitals, made up almost 80 percent of the institutions that fared worst under PPS. Major changes in health care delivery under PPS have contributed to the current situation. There have been dramatic reductions in both the number of patients admitted to the hospital and the average length of an inpatient stay. Small rural hospitals have been forced to spread their fixed operating costs over fewer patients, although may of these costs—24-hour laboratory services, emergency room, and the like—are the same as those facing larger hospitals in urban areas.

These problems were compounded by the way in which PPS was originally designed. I have heard time and time again from administrators of rural hospitals that they believe the system's most unfair and unjustified feature is the differential of about 12 to 13 percent between what Medicare pays rural and urban hospitals. The basis for this differential was that, historically, rural hospitals have on average incurred lower costs. No one is arguing that Medicare should ignore the higher costs incurred by hospitals where the more complex cases are treated or where higher wages drive up average costs. However, Mr. President, the basic PPS system should not systematically penalize rural hospitals because they have been able to deliver quality health care at lower costs.

PPS is not working for small rural hospitals, and it needs to be modified if they are going to survive.

Specifically, Mr. President, the bill calls for eliminating the current differential between Medicare PPS rates for urban and rural hospitals in favor of a single national rate for all hospitals. Because such a change would have a substantial financial impact on the more than 5,000 hospitals participating in PPS, the new national rate would be phased in over a period of 4 years beginning in fiscal year 1992. The bill requires the Secretary of HHS to conduct a thorough analysis of each special feature of PPS and to develop a legislative proposal that would treat rural and urban hospitals equitably while recognizing legitimate cost differences among institutions. For example, Mr. President, one issue of concern to many hospital administrators in urban areas is that PPS in no way recognizes the severity of a patient's illness. All patients with the same diagnosis generate the same Medicare payment, even though urban hospitals often tend to treat more severely ill patients. I hope that the Secretary's report will yield a better understanding of any shortcomings facing all hospitals—urban and rural—under PPS. This bill takes an important step toward making PPS more equitable for all hospitals. The Secretary's report would be due to Congress early in 1991, leaving ample time for analysis by CBO and PROPAC.

However, the Nation's most vulnerable rural hospitals cannot wait until 1991 for action. Therefore, on an interim basis, the bill provides financial relief for rural hospitals with fewer than 100 beds that depend on Medicare for 70 percent or more of their revenues. While these hospitals would remain on PPS, and would continue to have the opportunity to benefit financially from any management improvements, they would be protected from financial losses in treating Medicare patients. Mr. President, PPS is simply not working for small hospitals. Until more permanent relief can be assured under the single national rate, I am deeply concerned that institutions which are significant sources of care for the elderly not be forced to close their doors.

Another feature of PPS which bears reexamination is the special status accorded 360 sole community hospitals [SCH's]. These hospitals qualify for special status under guidelines issued by the Secretary of Health and Human Services, because they are isolated by location, weather conditions, travel distance, and lack of other facilities. They are paid a special rate comprised of 75 percent of their own hospital-specific costs and 25 percent of the PPS rate for their region. Over time, the shortcomings of this special payment formula have become clear, and indeed PROPAC tells us that many hospitals that might qualify as SCH's do not apply for this status because of flaws in the current system. For example, hospital-specific costs for each case have gone up much faster than increases allowed by Congress as the volume of cases declines, and the regional PPS rate in many cases is well below the national rate all hospitals receive.

Therefore, Mr. President, S. 306 requires the Secretary of HHS, where it would be to the SCH's financial advantage, to recompute SCH rates to use more recent information on hospital-specific costs per case and national, rather than regional, PPS rates. I hope this will make SCH status more attractive to many hospitals, particularly in the South, where this valuable option has been underused. The bill also requires the Secretary of HHS to take into account the time it takes individuals to travel to the next nearest hospital—as well as distance—and a hospital's market share in determining whether it qualifies for SCH status.

Mr. President, I am concerned not only with the problems of isolated rural hospitals, but also with the special problems facing rural facilities which are located close enough to an urban area that they are forced to compete with more generously compensated hospitals for the same labor and materials. The Committee on Finance in recent years has received numerous requests for special treatment from rural hospitals in this situation, especially because the Health Care Financing Administration [HCFA] has refused to use its administrative authority to grant relief for even the most legitimate inequities faced by these border hospitals. I must confess my disappointment and frustration at the last administration's willingness to take administrative action in this area, despite repeated requests from myself and many other Members of the Senate. As a result, the bill calls for the creation of a Medicare Geographic Classification Review Board which will examine the requests of rural border hospitals who believe they are unfairly treated by Medicare. I believe this is preferable to continuing to legislate case-by-case exceptions for border hospitals.

The bill we are introducing today expands two demonstration programs created in the 1987 budget reconciliation bill that have proved to be of great interest to rural hospital administrators. Within the last 2 weeks, HCFA has announced its plans for awarding 2-year transition grants to about 90 rural hospitals where creative managers will be investigating ways to modify the types of services they deliver to improve service to their communities. There has been tremendous interest in these grants from rural hospital administrators, who have been working on their own with limited resources to explore creative ways to diversify, such as adding outpatient facilities and converting acute-care beds to long-term care use. However, many institutions will be unable to qualify because the program received only $8.9 million in fiscal year 1989, although $15 million was authorized. Under the bill, the program's authorization would be extended through fiscal year 1992, and its authorization increased to $25 million annually. Further, the Secretary of HHS would be permitted to waive the program's limit of $50,000 annually for each hospital should such a waiver help the hospital actually implement changes in its mission.

Studies of rural hospitals that have been forced to close show that one important factor is an absence of physicians in the community. Physician shortages are particularly severe in the smallest, most isolated rural areas. Even the most generous reimbursement system does a rural hospital little good if no doctors exist to treat the community's patients and to refer patients to the hospital. Physicians—most of whom are trained in urban teaching facilities—have little exposure to clinical practice in small rural communities and are unlikely to con-

sider practicing in an unfamiliar environment. Therefore, Mr. President, the bill also expands from 4 sites to 10 a demonstration program created in last year's reconciliation bill that makes it easier for teaching hospitals to send resident physicians to rural areas during their training. Under these demonstrations, Medicare will help pay any additional costs the teaching hospital may incur. I believe that this expansion is warranted not only by the high level of interest already expressed by at least 80 rural hospitals, but because of the benefit to resident physicians who will gain valuable clinical experience and rural communities which will be served by an additional primary care provider.

Finally, Mr. President, S. 306 recognizes the importance of nursing to the Nation's health care system. It is well known that we face a nursing shortage of crisis proportions in this country, and I am particularly concerned about the effects of this shortage on rural communities. I am pleased that we were able to include in the tax technicals bill enacted shortly before the end of the last Congress a demonstration project to promote graduate clinical training for nurses, legislation that was one of my highest priorities last year. Under those demonstrations, hospitals that cooperate with nursing schools to offer expanded clinical training opportunities for nurses can qualify for Medicare payments for stipends, supervision and classroom costs for 5 years. In this bill, I am proposing to create new demonstrations focusing on clinical training for undergraduate nurses. By easing the financial burdens facing providers, schools and students, these demonstrations will encourage students to enter the nursing profession and, at the same time, expand clinical training opportunities, thereby putting students at the bedside to provide patient care.

Mr. President, the Senate Finance Committee will consider S. 306 during this Congress, and I encourage my colleagues to join me and the Republican leader as cosponsors of this important measure.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equity for Rural Hospitals Act of 1989".

SEC. 2. ELIMINATION OF AVERAGE STANDARDIZED AMOUNTS FOR HOSPITALS IN DIFFERENT AREAS AND CREATION OF SEVERITY ADJUSTMENT.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereinafter referred to as the "Secretary") or the designee of the Secretary shall design a legislative proposal to eliminate the system of determining separate average standardized amounts for subsection (d) hospitals (as defined in section 1886(d)(1)(B) of the Social Security Act) classified as being located in large urban, other urban, or rural areas under section 1886(d)(2)(D) of such Act. Such proposal shall include—

(1) a transition period from the current system of determining separate average standardized amounts to a system based on one single rate beginning in fiscal year 1992, with such single rate to be completely in effect by fiscal year 1995;

(2) recommendations, where appropriate, for modifying, eliminating, or maintaining additional payments or adjustments for teaching hospitals, rural referral centers, sole community hospitals, disproportionate share hospitals, and outlier cases under title XVIII of the Social Security Act; and for creating additional payments or adjustments where deemed appropriate by the Secretary;

(3) recommendations, where appropriate, for modifying reimbursement for hospitals other than subsection (d) hospitals;

(4) a recommendation for a methodology to reflect the severity of illness of different patients within the same Diagnoses Related Group (as determined in section 1886(d)(4)(B) of the Social Security Act); and

(5) an impact analysis of the proposed elimination of separate average standardized amounts on hospitals according to the following characteristics: urban or rural (as defined in section 1886(d)(2)(D) of the Social Security Act), teaching, disproportionate share, bed size, medicare volume, sole community status, region, and such other characteristics that the Secretary deems significant.

(b) REPORT AND STUDY.—(1) The Secretary shall submit a report (on the proposal described in subsection (a) to the Congress no later than October 1, 1990.

(2) The report described in paragraph (1) shall be reviewed by the Prospective Payment Assessment Commission and the Congressional Budget Office. The Prospective Payment Assessment Commission and the Congressional Budget Office shall each submit a report including an impact analysis as described in subsection (a)(6) containing the results of their study to the Congress no later than April 1, 1991.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

SEC. 3. INTERIM PROVISION TO ENSURE ADEQUATE PAYMENTS FOR INPATIENT HOSPITAL SERVICES FURNISHED BY MEDICARE-DEPENDENT, SMALL, RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5) of the Social Security Act (42 U.S.C. 1395ww(d)(5)) is amended by adding at the end the following new subparagraph:

"(G)(i) For cost reporting periods beginning after September 30, 1989, and ending before October 1, 1991, the Secretary shall provide for an additional payment amount for each medicare-dependent, small, rural hospital (as defined in clause (ii)) to ensure that the total of the payments made to the hospital under this section (including this clause) for any such cost reporting period is at least equal to the reasonable costs associated with the hospital's operating costs of inpatient hospital services for medicare beneficiaries for that period. In determining the reasonable costs of a hospital under the previous sentence, the Secretary may not apply limits which would limit reimbursement based on average costs incurred by hospitals. In the case of a hospital receiving payments on a periodic interim basis under section 1815(e)(1) and entitled to additional payment amounts under this subparagraph, such additional payment amounts shall be included in the payments made under section 1815(e)(1).

"(ii) In clause (i), the term 'medicare-dependent, small, rural hospital' means, for a cost reporting period with respect to which such clause applies, a subsection (d) hospital—

"(I) that is receiving payments based on the rural standardized amount and has no more than 100 beds; and

"(II) for which period at least 70 percent of inpatient hospital services (determined, at the hospital's option, on a per diem basis or on a discharge basis) are attributable to inpatients who are entitled to benefits under part A.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

SEC. 4. MODIFICATIONS WITH RESPECT TO SOLE COMMUNITY HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(C)(ii)) is amended—

(1) by striking the first sentence and inserting the following new sentence: "With respect to a subsection (d) hospital which is a "sole community hospital", payment under paragraph (1)(A) for any cost reporting or fiscal year beginning on or after October 1, 1989, shall be equal to the sum of—

"(I) 75 percent of the greater of the hospital's target amount (as defined in subsection (b)(3)(A), but determined without the application of subsection (a)), or a target amount determined by the Secretary in the same manner, but using information from the most recent cost reporting period or periods available; and

"(II) 25 percent of the greater of the applicable regional or national DRG prospective payment rate determined under subsection (d)(3).."; and

(2) by adding at the end thereof the following new sentence: "In determining the factors that constitute a sole community hospital for purposes of the preceding sentence the Secretary shall consider—

"(I) the time needed to travel to the nearest alternative source of appropriate inpatient care;

"(II) in those cases where the Secretary determines a hospital's eligibility for sole community hospital status using criteria related to such hospital's share of beneficiaries eligible for benefits under this title or total population of such beneficiaries in the area served by the hospital, the Secretary shall then take into account the total number of patients (whether or not such patients are eligible for benefits under this title) who seek health services unavailable in the area served by such hospital, without regard to the number of beds in such hospital; and

"(III) such other factors that the Secretary considers relevant.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the date of enactment of this Act.

SEC. 5. ESTABLISHMENT OF MEDICARE GEOGRAPHICAL CLASSIFICATION REVIEW BOARD.

(a) ESTABLISHMENT OF BOARD.—Section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established the 'Medicare Geographical Classification Review Board' (hereinafter in this paragraph referred to as the 'Board').

"(B)(i) The Board shall be composed of 5 members appointed by the Secretary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Two of

such members shall be representatives of subsection (d) hospitals classified as located in a rural area under paragraph (2)(D). At least 1 member shall be a member of the Prospective Payment Assessment Commission, and at least 1 member shall be knowledgeable in the field of analyzing costs with respect to the provision of inpatient hospital services.

"(ii) The Secretary shall make all appointments to the Board as provided in this paragraph within 60 days after the date of the enactment of the Equity for Rural Hospitals Act of 1989.

"(C)(i) The Board shall consider the application of—

"(I) any subsection (d) hospital, or

"(II) any subsection (d) Puerto Rico hospital,

located in a rural area requesting that the Board classify such hospital as a hospital located in a urban area for purposes of determining the hospital's average standardized amount under paragraph (2)(D). Such application shall specify which Metropolitan Statistical Area the requesting hospital would like to be classified in, and shall be submitted no later than January 31, of the year in which such hospital requests reclassification.

"(ii)(I) The Board shall render a decision either accepting or denying the application of a hospital located in a rural area to be reclassified as a hospital located in a urban area by June 1, of the year in which such applying hospital submits an application as described in this paragraph. The Board in rendering such decision shall take into consideration and make specific findings on the record regarding the criteria published by the Secretary as described in subparagraph (D).

"(II) A decision of the Board shall be final unless the unsuccessful applicant appeals such decision to the Secretary by July 1, of the year in which such applicant unsuccessfully applied for reclassification pursuant to this paragraph. The Secretary in considering the appeal of an applicant shall receive no new evidence but shall consider the record as a whole as such record appeared before the Board. The Secretary shall issue a decision either affirming or reversing the decision of the Board by September 1, of the year in which such unsuccessful applicant appeals a decision of the Board pursuant to this section. The decision of the Secretary in either affirming or reversing the decision of the Board shall be final and shall not be subject to judicial review.

"(iii) A decision of the Board or a decision of the Secretary, if a decision of the Board is appealed to the Secretary, shall become effective in the first fiscal year following the year in which such decision is rendered, and if such decision is in favor of the applying hospital, such hospital shall be reclassified by the Secretary as being located in an urban area for purposes of subsection (d) and section 1815 (e)(1).

"(D)(i) The Secretary shall publish guidelines to be utilized by the Board in rendering decisions on the applications of applying hospitals. Such criteria to be published by the Secretary shall include the following:

"(I) A comparison of wages, taking into account occupational mix, between a hospital located in a rural area applying for reclassification as a hospital located in a urban area, and hospitals located in the urban area into which such applying hospital would be reclassified.

"(II) An examination of whether the applying hospital is located in a county that, on the basis of the most recent data published by the Bureau of the Census, meets requirements of the Office of Management and Budget for inclusion as an outlying county of a Metropolitan Statistical Area, without regard to any requirement by the Office of Management and Budget that certain data for qualification be from the decennial census.

"(III) Consideration of the effects on access to inpatient hospital services by medicare beneficiaries should an applying hospital not be reclassified as urban.

"(ii) The Secretary shall publish the criteria described in clause (i) by July 1, 1989.

"(E)(i) The Board shall have full power and authority to make rules and establish procedures, not inconsistent with the provisions of this title or regulations of the Secretary, which are necessary or appropriate to carry out the provisions of this paragraph. In the course of any hearing the Board may administer oaths and affirmations. The provisions of subsections (d) and (e) of section 205 with respect to subpenas shall apply to the Board to the same extent as such provisions apply to the Secretary with respect to title II.

"(ii) The Board is authorized to engage such technical assistance and to receive such information as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Board such secretarial, clerical, and other assistance as the Board may require to carry out its functions.

"(F)(i) Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. All members of the Board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(ii) The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

(b) EFFECTIVE DATE.—The provisions of this section shall become effective upon the date of enactment of this Act.

SEC. 6. MODIFICATIONS IN GRANT PROGRAM FOR RURAL HEALTH CARE TRANSITION.

(a) IN GENERAL.—Section 4005(e) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in paragraph (3)(A) by inserting "to the Administrator and a copy of such application" after "an application";

(2) in paragraph 3(b) by striking "any application" and all that follows through "accompanied by" and inserting in lieu thereof "to the Secretary";

(3) in paragraph (6) by striking "A grant" and all that follows through "2 years" and inserting in lieu thereof the following: "A grant to a hospital under this subsection may not exceed $50,000 a year, unless the Secretary determines that an amount in excess of $50,000 a year is necessary to assist a hospital receiving such a grant in implementing a project as described in paragraph (1). A grant to a hospital under this subsection may not exceed 3 years"; and

(4) in paragraph (9) by striking "$15,000,000 for each of the fiscal years 1989 and 1990" and inserting in lieu thereof "$25,000,000 for each of the fiscal years 1990, 1991, and 1992".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989.

SEC. 7. INCREASE IN RURAL HEALTH MEDICAL EDUCATION DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 4038 of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) in subsection (a) by striking "enter into agreements with four sponsoring" and all that follows through "rural areas" and inserting in lieu thereof the following: "enter into agreements—

"(1) with 4 sponsoring hospitals submitting applications under this subsection; and

"(2) with 6 sponsoring hospitals submitting applications under this subsection without regard to the requirements contained in subsection (c),

to conduct demonstration projects to assist resident physicians in developing field clinical experience in rural areas.";

(2) in subsection (c) by striking "subsection (a)" and inserting in lieu thereof "subsection (a)(1)"; and

(3) in subsection (e) by striking "Each demonstration project" and all that follows through "three years" and inserting in lieu thereof the following: "Each demonstration project under—

"(1) subsection (a)(1) shall be commenced not later than 6 months after the date of enactment of this Act, and

"(2) subsection (a)(2) shall be commenced not later than 6 months after the date of enactment of the Equity for Rural Hospitals Act of 1989, and

shall be conducted for a period of 3 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 8. TREATMENT OF CERTAIN NURSING EDUCATION PROGRAMS.

(a) DEMONSTRATION OF JOINT NURSING UNDER GRADUATE EDUCATION PROGRAMS.—

(1) The Secretary of Health and Human Services shall provide for demonstration programs under this subsection in each of 5 hospitals for cost reporting periods beginning on or after July 1, 1990, and before July 1, 1995.

(2) Under each demonstration project, subject to paragraph (4), the reasonable costs incurred by a hospital pursuant to a written agreement with an educational institution for the activities described in paragraph (3) conducted as part of an approved educational program that leads to a bachelor's degree in nursing, shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on the same basis as if they were allowable direct costs of a hospital-operated approved educational program (other than an approved graduate medical education program).

(3) The activities described in this paragraph are the activities for which the reasonable costs of conducting such activities are allowable under title XVIII of the Social Security Act if conducted under a hospital-operated approved educational program (other than an approved graduate medical education program), but only to the extent such activities —

(A) are directly related to the operation of the educational program conducted pursuant to the written agreement between the hospital and the educational institution; and

(B) take place in a year of an undergraduate nursing program during or after which clinical training has begun.

(4) The amount paid under a demonstration program under this subsection to a hos-

pital for a cost reporting period may not exceed $200,000.

(5) The Secretary shall report to the Congress, by not later than January 1, 1996, on the demonstration programs conducted under this subsection and on the supply and characteristics of nurses trained under such programs.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect upon the date of enactment of this Act.●

Mr. DOLE. Mr. President, I am very pleased to join with my very distinguished colleague from Texas, Senator BENTSEN in introducing this legislation.

As this Senator noted last week when introducing S. 10, the rural hospitals in this country are facing hard times—and as a result the people who depend on them for services may be faced with a life threatening dilemma. In those parts of the country where there are a number of large, remote areas with low population density, ready access to care becomes critical. Those of you who come from more populated areas than my own may think that 30 miles is no great trial, but let me tell you that if the weather is bad or the road conditions poor—30 miles may as well be 300 for all the good it does.

There is a problem in rural America which we had a hand in creating—so it falls to us to help resolve it.

When we first put the Medicare prospective payment system into place we acknowledged that this new system might well have a negative impact on some rural hospitals and our fears have been proven out. Since 1983, 188 rural hospitals have closed—and more are teetering on the brink of disaster.

Granted there are a number of reasons behind these closures, some of which we cannot solve, but we can provide some assistance. This bill attempts to do just that.

First we address the payment system itself by requiring that we move toward a national rate. We recognize that in doing this we must also finally take account of the so-called severity difference which exist.

While we move toward this new rate we also propose taking particular care of the very small and isolated rural hospitals. We cannot allow our health care system to further decline during this transition.

As important as these payment changes are—we must also address some of the other problems being faced by rural hospitals and rural communities—including a shortage of health manpower. The bill also provides funds for efforts at training and retention.

Mr. President, Senator BENTSEN is to be commended by leading this important effort. I urge each of my colleagues to consider carefully our proposal. Nothing about it is written in stone. We welcome your comments and suggestions. Our intention is not to do harm to all the other hospitals. What we hope to achieve is equity.

Mr. BAUCUS. Mr. President, I am pleased to join today with Senators BENTSEN, DOLE, and others in introducing the Equity for Rural Hospitals Act of 1989.

I have spoken here many times over the years on the shaky status of rural health care and rural hospitals.

And I have worked to modify Medicare to make it fairer for rural America.

In 1986 I introduced the Rural Health Care Improvement Act. And in 1987, the Rural Health Care Viability Act.

Last year, along with my colleagues Senators ROCKEFELLER and DASCHLE, I introduced the Rural Health Payment Reform Act of 1988.

PREVIOUS SUCCESSES

Each of these proposals was an effort to restore some fairness to Medicare's treatment of rural health care.

Many of the provisions in these bills have become law.

To name a few examples:

My first rural health bill contained a provision establishing an Office of Rural Health Policy at HHS. That Office is now up and running.

My second rural health proposal required that new Federal regulations include an analysis of their effect on rural health care before they are implemented. That policy is now in place.

Other provisions of my rural Health Care Viability Act strengthened financial protections under PPS for sole community hospitals, and increased reimbursement for rural health clinics.

We have had some significant successes. But there is a great deal of work yet to be done.

THE EQUITY FOR RURAL HOSPITALS ACT OF 1989

The bill we are introducing today is a big step in the right direction for rural America.

The bill directs the Secretary of Health and Human Services to make a fundamental change in PPS to move hospital payments to a single national rate.

As the system is set up now, rural hospitals get paid significantly less from Medicare for providing the same service. Once this bill has been fully implemented, rural hospitals will finally get their fair share from Medicare. Rural hospitals will no longer be treated as second-class hospitals.

This change will be phased in over a period of several years, to be completed by 1994.

Many will say that's not soon enough.

They are right. Too many rural hospitals are too close to the edge of failure to hold out that long.

So in the meantime, the bill provides that rural hospitals with 100 or fewer beds, that are heavily dependent on Medicare, will receive additional payments to ensure that they are able to meet their costs for Medicare patients.

The bill also contains provisions modifying Medicare's treatment of sole community hospitals. It creates a Medicare Geographical Classification Review Board to make determinations about hospitals' urban or rural status.

The bill increases the authorization for the rural health transition grants program. It helps resident physicians to develop field clinical experience in rural areas, where doctors are desperately needed. Finally, the bill expands demonstration programs for hospitals that provide settings for nurses to do clinical training.

NEED FOR THE BILL

Mr. President, rural America badly needs this legislation.

In my own State of Montana, we have about four hospitals for every 10,000 square miles. That's one-fourth the national average density of hospitals.

The people of Montana cannot afford to lose even one of those hospitals. But on the whole, rural hospitals are much more likely to fail than urban hospitals.

In 1984, the first year of the Medicare prospective payment system, nearly 25 percent of all rural hospitals in America with fewer than 50 beds experienced losses under PPS. All other hospitals as a group enjoyed a 12-percent profit.

By 1986 more than half of these small rural hospitals were losing money, according to the Prospective Payment Assessment Commission.

More and more studies have shown that rural hospitals nationwide are in perilous condition.

Under the leadership of my former colleague from Montana, Senator John Melcher, the Senate Aging Committee published an excellent report last fall on rural health care. That report said that as many as 600 rural hospitals may close in the next few years.

Similarly, the American College of Health Care Executives estimates that 10 percent of the Nation's 7,000 hospitals will be forced to close in the next decade.

When a rural hospital closes, there is seldom another hospital "down the road" for people to use. Especially in Montana.

In Montana, hospitals are spaced far apart. They are very small. And they fight every day for their survival.

Of Montana's 65 hospitals, 51 have fewer than 90 beds. About half have fewer than 30 beds. Two hospitals in Montana have just six beds.

Twenty-four of Montana's 32 hospitals with fewer than 30 beds posted losses from operations in 1987. Twenty of those still lost money after nonoperating funds from local taxes, gifts and endowments, and interest income were added.

Small rural hospitals are continually threatened by difficulties such as the physician shortage, failure to pass licensure inspection, declining utiliza-

tion and revenue, and Medicare outliers.

Because of their small size, rural hospitals are more sensitive to change in reimbursement, regulation and utilization than their larger counterparts.

The margin of financial safety for most rural hospitals is extremely small. Small rural hospitals are simply not able to take advantage of the "law of large numbers" that is at the heart of PPS. Sharp revenue declines often cannot be offset by the cost saving measures that larger facilities can use.

Mr. President, rural health care is an important issue in Montana. But the viability of rural hospitals is very much a national problem.

Maintaining quality health care in communities separated by vast distances and among sparse populations is a concern in almost every part of the Nation.

Enactment of this legislation will help to make sure that the health care needs of rural Americans are provided for by making Medicare's treatment of rural hospitals fairer.

CONCLUSION

Mr. President, I am pleased to be an original cosponsor of the Equity for Rural Hospitals Act of 1989. I commend my colleagues for the hard work they have done on this extremely important legislation.

The bill will go a long way toward ensuring basic fairness for rural hospitals.

I encourage my colleagues to join us in supporting this needed bill.

Mr. MITCHELL. Mr. President, I rise today in support of the Equity for Rural Hospitals Act of 1989, legislation introduced by Senator BENTSEN and Senator DOLE, which is intended to eliminate many of the existing inequities in the Medicare prospective payment system which affect rural hospitals.

Since the implementation of the Medicare prospective payment system in 1983, the Nation's rural hospitals have experienced an increasingly difficult time in continuing to provide access to quality care in rural areas.

The differential in Medicare payment to rural hospitals has been at the center of the difficulties faced by small rural hospitals in Maine and across the country. Senator BENTSEN'S bill includes a provision which requires the Secretary to design a legislative proposal to eliminate Medicare's current disparity between payment rates for hospitals in rural, large urban, and other urban areas.

While the implementation of such a payment scheme will be difficult in these times of fiscal austerity, it is important that we develop the methodology to eventually achieve this goal.

The Secretary would also be required to recommend a severity adjustment to reflect differences in severity among cases in the same diagnosis-related group. The lack of a severity adjustment has been one of the most serious shortcomings in the prospective payment system.

Other provisions in this bill expand demonstration programs to encourage physicians to do their clinical training in rural areas and provide expanded Medicare payments for training undergraduate nurses. Clearly, the shortage of physicians who are willing to serve in rural hospitals and nurses in all health care settings seriously jeopardize access to quality care for the elderly living in rural areas.

I join Senator BENTSEN as a cosponsor of this bill because I am very concerned about the fiscal viability of our small rural hosptials. In Maine, most of our hospitals are reimbursed at the rural rate. Many of our elderly citizens must travel great distances in inclement weather to receive acute care services in hospitals that are struggling to survive.

We must make sure that all citizens, including those living in rural America, continue to have access to quality care. The legislation we are introducing today will help to achieve that important goal.

Mr. PRYOR. Mr. President, I am pleased to join Senators BENTSEN and DOLE in introducing the Equity for Rural Hospitals Act of 1989. They and their staffs should be commended for developing this important initiative which represents an all important first step toward addressing many of the inequities and difficulties rural communities and their hospitals face in assuring access to needed health care services.

Mr. President, rural hospitals are at the very core of the rural health care system. Like never before, however, many of these hospitals are facing enormous financial pressures, an increasing number without success. Between 1980 and 1987, 161 rural community hospitals were forced to close, while over 500 more are believed to be on the brink of closure. In fact, just last year, 43 out of the recordbreaking 81 community hospitals that closed were rural hospitals. It's my understanding that 3 of those 43 rural hospitals were located in my home State of Arkansas.

As chairman of the Senate Special Committee on Aging, I am deeply concerned about the impact rural hospital closures are having on the elderly. Older Americans make up a large and growing percentage of the rural population and rural hospitals play a particularly vital role in their lives. And for that same reason, Medicare reimbursement policies are of increasing importance to rural hospitals.

Recognizing the importance of the need to develop a constructive Federal rural health care policy, the Aging Committee has been very active in focusing congressional and public attention on this important issue. In fact, in 1988 alone, I had the pleasure of chairing one of the three hearings we held on this issue in Pine Bluff, AR. In addition, at the end of the year, the committee released a substantive report entitled "The Rural Health Care Challenge" that has come to be known in some health policy circles as the rural health care bible.

Our hearings and report repeatedly focused attention on the unfair fact that, for the exact same diagnosis, rural hospitals are reimbursed by Medicare at a significantly lower rate than their urban counterpart. Not surprisingly, rural hospitals are not faring well under this discriminatory reimbursement system. In fact, in fiscal years 1984, 1985, and 1986, about 83 percent of all hospitals that were losing money under Medicare were located in rural areas. Even more startling, over half of those hospitals losing money were rural facilities with less than 50 beds, and 75 percent of them were rural hospitals with less than 100 beds.

Mr. President, the bill being introduced today would correct a number of the serious inequities in Medicare reimbursement policies that are adversely affecting the Nation's rural hospital system. First and foremost, this bill would require the Secretary of Health and Human Services to develop a proposal by October 1990 for phasing out over a 4-year period Medicare's rural-urban reimbursement differential. The Secretary's proposal also would include recommendations for improving the special considerations provided to teaching hospitals, rural referral centers, sole community hospitals, disproportionate share hospitals, and outlier cases, as well as a recommended financial adjustment to reflect severity among cases in the same diagnostic-related group.

In addition, under this legislation rural hospitals with 100 beds or less that treat a disproportionately large number of Medicare patients would be provided an additional payment in fiscal years 1990 and 1991. Also, Medicare payments would be provided to sole-community hospitals that more accurately reflected the costs they face and a board established to review applications submitted by rural hospitals located near urban areas for reclassification into those areas.

A number of other provisions aimed at improving the financial health of rural hospitals are included in this legislation. Importantly, increased funding for rural health care transition grants would be authorized and opportunities enhanced for physicians and nurses to gain clinical experience in rural areas.

Mr. President, this legislation represents an important first step toward ensuring that hospital care is available to Americans living in rural areas, and I applaud the chairman of the Senate Finance Committee and the Senate minority leader in this effort. The problems confronting the rural health care system and many and, as I know the sponsors of this bill fully understand, more remains to be done in this

area. For example, I remain deeply concerned about the severe shortages in rural health care personnel and believe we may want to consider expediting the proposed elimination of the Medicare urban-rural differential.

I look forward to continuing to work with Senator BENTSEN and Senator DOLE, as well as other members of the Finance Committee and the Senate and House Rural Health Caucuses, to resolve these and other pressing concerns facing our Nation's rural health system.

Mr. DASCHLE. Mr. President, I rise today to cosponsor the Equity for Rural Hospitals Act of 1989, a bill that attempts to remove the urban bias in Medicare's payment system. In cosponsoring this bill, I would like to commend Senators BENTSEN and DOLE for their strong commitment to improving the plight of health care in rural America and ensuring that Medicare lives up to its promise of providing quality health service to all Americans.

The need to provide assistance to rural hospitals is now greater than ever because our Nation's rural hospitals, the core of our health system, are being challenged like never before. The statistics are sobering: since 1980, 161 rural community hospitals across the country have been forced to close their doors, and many more than that—an estimated 600—currently are on the brink of closure.

Of all of the factors that have combined to cause the demise of rural hospitals, Medicare is clearly one of the most significant, and one of the few factors amenable to Federal intervention. The fact that Medicare pays rural hospitals from 12 to 40 percent less per procedure than it pays hospitals in urban areas is largely responsible for the fact that over 80 percent of all hospitals losing money under Medicare in the last several years were located in rural areas.

During a recent rural health care tour that I conducted in South Dakota, I witnessed firsthand the challenges that our rural providers face. As I visited rural hospitals all over the State and met with rural hospital administrators and others involved in health care delivery, the same message was confirmed over and over: inadequate Medicare payments have contributed to a serious decline in hospital revenues and the reduction in access to care for rural residents.

In my home State of South Dakota, 54 of our hospitals are rural, and most of them lost money on Medicare in 1988, with average profit margins for small rural hospitals of negative 5 percent. Closing the Medicare payment gap between urban and rural payments could very well be the key step needed to save these small, rural hospitals from closing their doors to the community. With 16 counties in my State already without a hospital, South Dakota, as well as many other rural States, can ill afford to lose more providers.

This legislation takes an important step toward payment equity by calling for a complete elimination of the urban-rural Medicare differential. While a single national rate is being developed, the bill also calls for interim financial relief for sole community hospitals and the small rural hospitals that are most dependent on Medicare payments. Though these measures cannot guarantee the solvency of all of our rural hospitals, they will help to ensure that payments to rural hospitals reflect the true cost of doing business.

I am also pleased that this bill includes a provision expanding the Rural Health Care Transition Grant Program. This program provides assistance to small, rural hospitals in planning and implementing projects to strengthen their capability to provide quality care to Medicare beneficiaries. This kind of assistance is important given the multitude of pressures that rural hospitals face these days, including shifting demographics, declining hospital admissions, and the steep rise in uncompensated care. Transition grants will help our hospitals learn to adjust their operatiosn in response to the rapidly changing rural health care environment.

Finally, the bill addresses the shortage of physicians and nurses in rural areas through a number of demonstration grants. Any initiative that aides rural hospitals must tackle the problem of shortages, since rural hospitals cannot provide care to their communities without the personnel to deliver the services. I am pleased that this bill attempts to deal with this important problem, though a comprehensive solution to the problem of personnel shortages must be sought in the future.

In sum, this bill is not a proposal that will completely reverse the problems that rural areas face, but it does represent an important step in the direction of reforming the Medicare payment system. Most importantly, this bill highlights the need for rural payment equity and makes the statement that rural Americans should no longer be asked to settle for less in health care than their urban counterparts.

I believe that this legislation deserves support. We must let our rural citizens know that Medicare intends to keep its social compact with senior citizens. I urge my colleagues to assist in winning approval for this measure.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 307. A bill to provide for the standardization of advertised yields on savings accounts and investments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TRUTH IN SAVINGS AND INVESTMENTS ACT

● Mr. DODD. Mr. President, in today's busy world the last thing people need is to be forced to spend hours trying to decide which savings account offers the best return. Yet the banking deregulation of the early 1980's which has greatly increased savings opportunities for consumers has also fostered a broad array of noncomparable terms and conditions. The result is that consumers have to spend too much time trying to determine the best account and, even then, often choose the wrong one.

The legislation I am introducing today, the Truth in Savings and Investments Act, is designated to give consumers the information they need to determine the best account for them quickly. It requires the disclosure of a standardized annual percentage yield, so that the higher advertized figure will always produce a greater return. In addition, it requires the disclosure—in the English language—of key additional cost items, such as minimum balance requirements and penalties for early withdrawal.

This legislation is the successor to S. 1507 from the 100th Congress, whose provisions were incorporated in S. 1886, the Proxmire Financial Modernization Act of 1988, which passed the Senate but was not acted on by the House.

The need for this legislation is clear to anyone who has ever tried to decipher advertisements for savings certificates or for mutual funds. On August 5, 1987, the Consumer Affairs Subcommittee which I chaired conducted hearings on the problem. The subcommittee heard testimony about how consumers are often not given such relevant information as the basis of compounding, the minimum balance required to receive interest, and whether the interest is paid on an average or low balance. The importance of the balance calculation method can be seen from testimony that revealed that the same interest rate can produce returns on the same average balance that vary from $44.93 to $75.30, depending upon whether one uses a low balance method or a day of deposit to day of withdrawal method.

In addition, the subcommittee saw examples of "free accounts" that were not free and accounts that advertised the same rate of interest and the same annual percentage yield, but somehow paid consumers different amounts of interest in dollars and cents.

One peculiarly egregious example of misleading information was the use by some depository institutions of the "investable balance" method, whereby banks pay the disclosed rate of interest on only a portion of the money in the account, usually citing the need to put a certain portion into reserves for the Federal Reserve System. We don't let supermarkets claim they are selling consumers a pound when they are only selling 14 ounces and we shouldn't let depository institutions

pay interest on less than the full balance.

One further complication for consumers has been the difficulty in comparing the returns on savings accounts with those on mutual funds, particularly money market mutual funds, which consumers have more and more viewed as competitors for their funds. Problems have arisen because of the lack of comparability—whereas savings accounts guarantee a specific rate of return into the future, mutual funds can only talk about past performance. In addition, up until a year ago there was not a standardized yield definition for most mutual funds.

The intent of the legislation is to clear up all of these problems by establishing standardized methods for calculating the balance to which interest is applied; requiring the disclosure of one standardized yield figure; banning the use of the investable balance method; and requiring the disclosure of other key cost items.

All advertisements would have to disclose the annual percentage yield, the period for which the yield will be in effect, all minimum balance and time requirements, the minimum amount of the initial deposit; include a statement that regular fees and other conditions could reduce the yield; and, if appropriate, state that there is a penalty for early withdrawal. The bill prescibes narrower requirements with respect to advertisements through the broadcast and electronic media.

In addition, the legislation requires depository institutions to maintain and distribute at appropriate intervals more comprehensive schedules of all relevant terms and conditions.

A new provision of the legislation calls for the disclosure of the information necessary for consumers to verify the accuracy of the interest earned. Thus, the periodic statements would have to disclose the average daily balance, the periodic rate of interest and the number of days in the period, just as is done on credit card statements.

Finally, the legislation addresses the relationship between depository institution accounts and mutual fund accounts. Because the Securities and Exchange Commission has recently adopted regulations that require mutual funds to follow the same kind of rules this bill requires banks to, the legislation does not impose any immediate duty on the SEC. However, it does require the SEC to consult annually with the Federal Reserve Board to review the regulations prescribed under this bill and those prescribed by the SEC to make sure that they provide consumers with the ability to effectively compare savings and investments options. At any such time as the SEC determines that its regulations do not provide true comparability, the bill instructs the SEC to modify its regulations to assure that consumers can make effective comparisons.

Mr. President, adoption of this legislation will make it far easier for people in our hectic society to make rational investment decisions rapidly. Similar legislation passed both Houses in the last Congress and has widespread support among the affected parties. I hope we will be able to act quickly in this Congress to arm consumers—including ourselves—with the information necessary to make wise investment decisions expeditiously.●

By Mr. DODD:

S. 308. A bill to authorize certain securities for bank holding companies and to authorize additional powers for safe bank holding companies; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL MODERNIZATION AND SAFE BANK ACT

● Mr. DODD. Mr. President, today I am introducing the Financial Modernization and Safe Bank Act, which is designed to modernize the laws governing financial services while assuring the integrity of Federal deposit insurance.

For almost the entire decade of the 1980's, the Congress has been struggling with these two objectives that often seem to be at odds with one another. On the one hand, the imperative for change seems to come from all directions:

It comes from the inflation of the 1970's that gave rise to the explosion of money market funds and the elimination of deposit interest rate ceilings;

It comes from product innovations such as commercial paper and securitized loans that have deprived banks of some of their most secure and lucrative loans;

It comes from new technology that has made the cost of "informational" business such as banking, insurance, and securities so inexpensive that they are increasingly attracted to each other's businesses;

It comes from "loophole lawyers" who have brought us the "nonbank bank" and the "South Dakota loophole," devices through which nonbanking businesses have been able to circumvent the restrictions that prevented them from getting into the banking business, and through which banks are planning to get into previously prohibited insurance activities;

It comes from the disparity in regulation among states and nations that have wiped out many of the barriers to geographic expansion by banks and blurred or sometimes obliterated the lines between commercial banking and investment banking; and

It comes from decisions from Federal bank regulators that have permitted banks to get into the securities and other businesses.

These events are not reversible.

On the other hand, it is not possible to simply deregulate the financial services industry completely because Federal deposit insurance provides that depositors will be protected from bank failures. Therefore, we have an obligation to the taxpayers to preserve the integrity of that insurance. While many banks and thrifts have gotten into trouble just engaging in the banking business—from overcommitments in lending to lesser developed countries and the agricultural and oil sectors, to outright fraud and mismanagement—some have also misused the new powers granted them through Federal and State laws. We simply cannot afford to let what has happened to the S&L industry happen to the commercial banking industry, nor can we afford to let it reoccur in the S&L industry.

The problem then is how to reconcile the need to modernize our financial laws and the protection of our deposit insurance system. In the last Congress, the Senate adopted S. 1886, the Proxmire Financial Modernization Act. It sought to achieve this delicate balance by granting banks certain new phased-in securities powers while at the same time requiring banks to conduct these new activities out of separate subsidiaries with so-called firewalls among the different subsidiaries to prevent abuses.

I believe the Proxmire bill has much to commend it. In fact, given the realities of today's marketplace, the securities powers authorized by that bill are the minimum that we need to grant to enable banks to compete. Therefore, title I of my bill consists of the securities provisions of the Proxmire bill.

At the same time, it is difficult to draw rational lines between securities powers and other businesses in terms of safety and soundness and in terms of what is taking place in the real world while we wrestle with these problems. I think the realities of the marketplace will force a far broader integration of financial services.

Moreover, the protections built into the Proxmire bill are largely efforts to hedge our bets. We hope banks won't get into trouble in these new areas if we set certain capital standards, require that the securities activities be conducted out of a separate subsidiary and prohibit certain relationships between the securities subsidiary and the bank. However, I'm not sure we can ever have enough regulators to enforce the rules the Proxmire bill set up to try to prevent problems. I remain skeptical that the Proxmire rules would prevent a bank from helping out a troubled affiliate in a time of crisis.

Therefore, I have added an additional title to my bill that seeks to address both of these issues. It is called the Safe Bank Holding Company Act, and it is modeled on the work pioneered by Robert Litan of the Brookings Institution and Profs. Jack Guttentag and Richard Herring of the University of Pennsylvania's Wharton School. What it says is if a bank wants to get into any business beyond those permissible today under the Bank Holding Company Act, or those securities activities authorized under title I of this bill, the bank must agree to become a safe

bank. A safe bank is one that invests its deposits in highly liquid and highly marketable instruments, such as obligations of the U.S. Government and obligations guaranteed by the U.S. Government. Thus, depositors' money would be very safe—and so would the Federal deposit insurance funds.

Once a bank had agreed to become a safe bank, then it would be free to establish separate subsidiaries to engage in any other business it wished. These subsidiaries would be separately capitalized, with no funds coming from the bank. Further, the bank would not accept deposits from any of its nonbank affiliates nor would it extend credit to any of its nonbank affiliates.

The major advantages to the bank would lie in its ability to diversify its portfolio and to cross-market bank products with the other subsidiaries' products.

The advantages to the Government and the public would also be considerable. Inasmuch as this approach involves a true two-way street—one which would not only permit safe banks into other businesses but would also permit nonbanking businesses to enter the banking business if they agreed to convert the bank to a safe bank—it would permit the maximum amount of competition. It would also permit modernization of our financial services laws with the closest thing possible to a fail-safe device to protect against abuses that could bankrupt the deposit insurance funds.

Mr. President, I have studies numerous proposals to modernize our banking laws and many of them have much to comment them. However, before we permit any significant increase in new bank activities, I believe we must devise the strongest possible provisions to assure protection of depositors and, ultimately, of U.S. taxpayers. At the same time, such protections must not be so restrictive as to deny banks and other businesses the synergistic benefits of integration.

I think the legislation I am offering today strikes the best balance of these objectives of any I have seen to date. However, I don't want to suggest that I have completed my search for the best possible legislation. I will continue to keep an openmind in assessing other proposals and I will be very interested in the reaction to this bill from my colleagues and from all people interested in a strong, safe, and competitive financial services industry.●

By Mr. JOHNSTON (for himself and Mr. McCLURE) (by request):

S. 317. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and natural Resources.

ESTABLISHMENT OF COMMONWEALTH OF GUAM

● Mr. JOHNSTON. Mr. President, today I am reintroducing the Draft Commonwealth Act of Guam at the request of the Delegate from Guam, the Honorable BEN BLAZ. This legislation is identical to the bill, S. 2178, which I introduced in the 100th Congress along with my colleague from the Committee on Energy and Natural Resources, Senator MCCLURE. At the time of introduction of this legislation last year I made several points which it is appropriate to recall.

This legislation has its origins in plebiscites held in Guam to determine what political relationship the people of Guam desire with the United States. In 1982, Commonwealth status was overwhelmingly selected, with 73 percent of the vote. Following initial meetings between representatives of Guam, then-Delegate Won Pat and Governor Bordallo, and Congressmen MORRIS UDALL and Manuel Lujan of the House Committee on Interior and Insular Affairs, Guam established a commission on self-determination which developed this legislation. Its provisions were approved in plebiscites in Guam in 1987.

It is important to be aware of the meaning of the term "Commonwealth," because use of the term may obscure the purpose of the legislation. As an unincorporated territory, the basis of Guam's government is the Organic Act of Guam which was passed by Congress in 1950. At that time, and continuing today, Guam has no voting representation in Congress, however. Thus, Guam has no direct input into the laws that govern much of the island's affairs. For others, "Commonwealth" suggests more State-like treatment than exists for Guam as an unincorporated territory. Such treatment would allow the people of Guam the opportunity to develop and adopt a constitution, and thereby reduce the role of the Federal Government in local affairs.

More importantly, however, this legislation goes beyond establishing a Commonwealth and proposes a set of provisions designed to resolve a set of issues which exist in relations between the Federal Government and Guam. Accordingly, it may be better to think of the legislation as a "Federal Relations" act than as a "Commonwealth" Act.

This bill is very broad in its scope, covering issues such as: the applicability of Federal law, foreign affairs, defense, trade, courts, taxation, immigration, labor, transportation, telecommunications, land, utilities, and financial assistance. Some of the provisions my colleagues may find controversial, as I do. For example, section 202 states:

> Except as otherwise intended by this Act, no Federal law, rules, or regulations passed after the date of this Act shall apply to the Commonwealth of Guam unless mutually consented to by the United States and the Government of the Commonwealth of Guam.

This section goes well beyond the limitations on Federal authority that currently exist in either the States or the territories. I am interested in the rationale for the provision and whether less sweeping language would meet the concerns of Guam.

I strongly support the objectives of this legislation, to review Federal-Guam relations, resolve a number of issues which currently trouble those relations, and provide the people of Guam greater self-government as a commonwealth of the United States. I urge my colleagues in the Senate to support this process of establishing a new relationship between the Federal Government and Guam. The people of Guam, although they are not represented in the Senate, are citizens of the United States and their concerns deserve our careful and sympathetic consideration.

Shortly after I introduced this measure last year, I wrote to the administration requesting their views on the legislation. Just 3 weeks ago, I again requested those views in anticipation of the bill's reintroduction. Unfortunately, the administration still has not provided detailed comments on the Draft Act. Instead, last week the outgoing Assistant Secretary for Territorial and International Affairs, Mrs. Janet McCoy, sent the following report in response to my request for administration views. I ask unanimous consent that the report be printed in the RECORD at the conclusion of my remarks.

I appreciate the Assistant Secretary's prompt response to my request. However, the report raises several questions. First, the comments in the letter are very general. I had hoped that after 8 months of review that the administration would be able to provide specific comments, and perhaps make counterproposals in response to specific agency concerns.

Second, the report does not appear to represent the views of the Federal Interagency Task Force on the Guam Commonwealth, other agencies, or OMB. The report states that it presents the "views of the Interior Department." This is unsettling because the process of interagency review and response to the legislation, if it is to be meaningful, must involve all interested agencies and represent an administration consensus. I am unclear as to whether the other Federal agencies, and the task force, support these views of the Department or not. I will be writing to the new administration in an effort to clarify this situation.

Finally, I am also concerned by the Assistant Secretary's description of the proposed plan of action. This plan features "discussions among Federal agencies and between Task Force and Guam representatives." Although there is no mention of it, I hope that there is a place for Congress in these discussions. After all, it is Congress which must next consider this legislation. Congressional staff participation in such discussions would help develop congressional understanding of the positions of Guam and of Federal agen-

cies on the various provisions of the bill.

Obviously, there is a new administration now in office and I urge their commitment to the review and eventual enactment of a Guam Commonwealth Act. This effort is extremely important to Guam. On the other hand, we cannot fail to recognize how important this effort is to the Federal Government. We have an enormous interest in improving relations with Guam and we have a responsibility to respond to the concerns of the people of Guam.

Mr. President, the people of Guam request our consideration of this legislation which represents their aspirations for future relations with the Federal Government. I am pleased to introduce this act in the 101st Congress and I look forward to working with the representatives of Guam during its consideration by Congress. I urge the commitment of my colleagues to this most important effort.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, DC, January 19, 1989.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your request for an update on the Department of the Interior's coordination of a Federal interagency review of S. 2178 (H.R. 98), a bill "To establish the Commonwealth of Guam, and for other purposes." This report presents the initial views of the Interior Department and a proposed plan of action for a detailed review of the legislation.

The Federal Interagency Task Force on the Guam Commonwealth bill was created and chaired by the Department of the Interior, which has administrative oversight for Federal relations with the Territory of Guam. The Task Force's purpose is to coordinate the detailed reviews of more than two dozen Federal agencies whose responsibilities are affected by the proposed legislation.

We strongly urge the enactment of legislation, acceptable to the Congress and the Administration as well as the people of Guam, to achieve the general goal of Commonwealth status for Guam. Because it is not yet possible to comment definitively on all provisions of this bill, we cannot now offer recommendations for enactment of this legislation. But, as will be explained, we will at the earliest possible date offer to you specific and informed recommendations on all sections of the bill.

At this point, however, we want to make it clear that we agree with the people of Guam that it is both appropriate and timely that they be accorded a new political status, affording them the right of self-government under a constitution they adopt. A Commonwealth of Guam should become a reality.

By our understanding of the term, Commonwealth does not describe or provide for any specific political status or relationship. It has, for example, been applied both to states and territories. When used in connection with areas under U.S. sovereignty that are not states, the term broadly describes an area that is self-governing under a constitution of its own adoption and whose right of self-government will not be unilaterally withdrawn by Congress. All other aspects and/or components of such a Commonwealth status depend on the Federal statute or other agreement establishing that relationship. Commonwealth, however, does not mean Free Association. Commonwealth status does not diminish the full and undivided sovereignty of the United States over the Commonwealth. In particular, Commonwealth status does not diminish the foreign relations and defense powers of the Federal Government or the legislative powers of the Congress, except to the extent that Congress specifically agrees not to exercise them in order to safeguard the institutions of self-government.

Since 1950, when organic legislation for the island was first enacted by the Congress, Guam has been an unincorporated territory, governed pursuant to a Federal Organic Act. That Act has often been amended, perhaps most notably in 1968 when the people of Guam were authorized to elect their chief executive.

In 1976, Federal legislation (90 Stat. 2899) authorized the people of Guam to organize their local government pursuant to a constitution they would draft and adopt. It was anticipated that that constitution would supersede those provisions of the Organic Act relating to local self-government. A constitution, drafted under that authorization, was, however, rejected by Guam voters in a 1979 referendum.

The structure of the government of Guam, therefore, is still based on the Organic Act, in the traditional manner of territories of the United States, except that the governor is elected by the people of Guam and not appointed by the President. We adhere to the principle expressed in the 1976 Federal law that the people of Guam should be permitted to structure their local government through democratic processes and a constitution within the framework of the Constitution of the United States.

The people of Guam consider Commonwealth status to be a more sophisticated and substantial legal regime than status under the existing Organic Act. They conceive Commonwealth status as involving not only a greater measure of self-government, but also as constituting a more dignified status in the American political family. The Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, for example, though under U.S. sovereignty, have powers that Guam does not now have.

Many of the Guam Commonwealth proposals address fundamental and justifiable concerns, reflecting significant social, political and economic undercurrents in the territory. The overall Commonwealth movement represents a broadly based political consensus in Guam. The core idea of that consensus is that the present relationship with the Federal Government should be addressed and enhanced through legislation reflecting the freely expressed desires of Guam's people.

The people of Guam, who are particularly mindful of the Commonwealth status of their neighbors in the Northern Mariana Islands, are anxious to improve their own political status. Compared to the people of Guam, the citizens of the Northern Mariana Islands are relative newcomers to the American political family. The negotiations of free association status for other islands of the former Trust Territory also spurred Guam's guest.

But even without regard to those comparisons, and in absolute terms, it is clear to us that after almost 40 years of Organic Act status, and close to a century of association with the United States, the people of Guam are ready for the benefitis and responsibilities of increased self-government. They contribute in highly significant and commendable ways to the nation's welfare, particularly to national defense. Guam's status should reflect the high degree of loyalty that the territory's U.S. citizens feel for their country and the political maturity that they have achieved.

The Federal Interagency Task Force on the Guam Commonwealth Bill convened in June. Its members have preliminary analyzed the Act, provided initial reviews of the bill's impact on their responsibilities, suggested how some issues could be alternately approached, and developed a plan of procedure for an in-depth review of the many aspects of the legislation.

S. 2178 (H.R. 98) is necessarily a long, complicated and unique piece of legislation, touching upon all major aspects of the relationship between Guam and the Federal Government. Some provisions of the bill seem to us desirable and correct. We adhere to the principle underlying the 1976 legislation that the people of Guam should be vested explicitly with the authority to create their own constitution for the Commonwealth of Guam. We believe it is important that any Commonwealth Act be the subject of a referendum in which all of the qualified voters of Guam would be entitled to participate.

We also agree with the principle that Guam should be authorized to enact its own income tax law, to replace the Federal income tax laws applicable to Guam under the Organic Act. Indeed, in the 1986 Tax Reform Act, Congress provided the procedure to allow such authority, provided administrative safeguards are in place.

Several Task Force members, including Defense, Treasury, United States Trade Representative, Justice and State have expressed significant policy concerns with aspects of the bill. In the view of some of these agencies, certain provisions are not compatible with Commonwealth status. These departments and other Task Force members have therefore asked for revisions of some provisions as well as clarification of the language, history, intent and implications of a number of other provisions. Task Force members have also expressed a need to reconcile some provisions with the framework of the Constitution of the United States and the context of the relationship between the Federal Government and the areas under the sovereignty of the United States that are not states.

While the text of the bill presents problems, there is a clear recognition and realistic understanding in Guam that the specifics of a revised relationship, when enacted, may well vary significantly from the bill as introduced and this perspective is shared by the members of the Task Force.

Moreover, some Task Force members have additional interagency policy coordination responsibilities. For example, Federal trade agencies through the Trade Policy Staff Committee (TPSC) and the Trade Policy Review Group (TPRG) process will need to review the trade sections of the bill to develop the Executive Branch position on that portion of the proposed act.

It is extremely important, therefore, to continue to ensure a responsive and constructive approach to Guam's status proposal to provide the serious interagency consideration, coordination and careful response called for by this strategically sensitive proposal. Thus, we have drawn up a procedural framework for conducting and coordinating the necessary reviews and discussions among Federal agencies and between Task Force and Guam representatives.

The meetings between the Task Force and Guam representatives are not intended to be and will not be political status negotiations. Their purpose is not to negotiate an executive agreement but to enable the Executive Branch to comment intelligently on the Guam Commonwealth Bill and to formulate an overall Administration position which cannot be done without direct contact and dialogue with representatives of Guam. Moreover, these meetings can assist in the legislative process be eliminating misunderstandings, working out problems, achieving consensus, determining areas of agreement, and defining the few issues, if any, on wich a meeting of minds cannot be reached.

We are proposing a general schedule of meetings and study deadlines and suggesting associated working groups within the Task Force to deal with interrelated issues and provisions, under the aegis of the Department of the Interior. Our plan is to bring together, in a series of however many meetings may be necessary, representatives of Guam and pertinent Federal agencies, to permit full discussions and exchanges of information on all subjects and issues raised in S. 2178 (H.R. 98).

Federal agencies will, through that means, be able to learn from Guam's representatives, in detail and with precision, what Guam seeks to achieve by pertinent sections of the bill. Guam's representatives simultaneously, will be able to learn, in detail and with precision, what the concerns of Federal agencies are, in light of the bill's language.

We will undertake, where necessary, to draft alternate language that will meet the objectives and concerns of both entities. Although I do not wish to underestimate the problems involved, we have every expectation that we will succeed in most, and perhaps all, cases.

In any instance in which we are not able to agree with Guam's representatives as to how a problem may be appropriately addressed by Federal legislation, Guam's representatives would, of course, be free to make known their differing views to the Congress—certainly during the hearing process, but at such other times and through such other means as they might choose.

When our meetings are completed, we shall provide Congress with the definitive views of the Executive Branch on the Guam Commonwealth legislation, together with such alternative, proposed legislative language as may be appropriate to implement those views.

We are confident that the recommendations for the enactment of Guam Commonwealth legislation arrived at through this procedure will protect the interest of both Guam and the United States, and be enlightened and fair to the people of Guam.

Sincerely,

JANET J. MCCOY,
Assistant Secretary,
Territorial and International Affairs.●

By Mr. JOHNSTON (for himself, Mr. BRADLEY, Mr. BOREN, Mr. DECONCINI, Mr. GARN, Mr. INOUYE, Mr. MCCAIN, Mr. MATSUNAGA, Mr. MURKOWSKI, Mr. NICKLES, Mr. STEVENS, and Mr. WILSON):

S. 318. A bill to facilitate the national distribution and utilization of coal; to the Committee on Energy and Natural Resources.

DISTRIBUTION AND UTILIZATION OF COAL

● Mr. JOHNSTON. Mr. President, today I am introducing legislation that would grant the power of Federal eminent domain for the construction of coal slurry pipelines deemed to be in the national interest. Enactment of this bill would facilitate the construction of coal slurry pipelines and provide an important alternate means of transporting domestic coal.

Excessive coal haulage rates result in unnecessarily high electric utility bills for consumers, contribute to the foreign trade deficit, and diminish the competitiveness of our domestic coal industry in the world marketplace. Approximately two-thirds of domestic coal is hauled by rail, and a substantial amount of that coal is captive to one rail carrier.

Unduly high rail rates give a competitive edge to foreign coal-producing nations. Coal imports into the United States are on the rise. The Energy Information Administration [EIA] (Annual Outlook for U.S. Coal 1987, (DOE/EIA-033, May 22, 1987)) projects that our imports of steam coal are expected to rise from 1.3 million tons in 1983, to 5 million tons in 1995, to 7 million tons by the year 2000. According to EIA, most of these imports are projected to come from Colombia and Canada into Florida and west coast States, and have a cost advantage due to low ocean transportation costs relative to United States rail costs.

Coal imports cost us not only business revenues, but jobs. EIA projects tha Colombian coal will, in 1995, displace 2.5 million tons of Kentucky coal, at a cost of 600 miners' jobs, and 0.3 million tons of West Virginia coal. Canadian coal is projected to displace 1.1 million tons of Utah coal, at a cost of 230 miners' jobs, and 1 million tons of Wyoming coal.

Concurrently with these negative developments with respect to coal imports, the United States is suffering losses in terms of the coal export market. The United States has historically been the world's leading coal exporter, but in 1984 lost this position to Australia. By the year 2000, the United States is expected by the EIA to fall to fourth place among exporters of steam coal, with its market share projected to decline also, from 18 percent in 1986, to 12 percent in 2000.

The Energy Information Administration [EIA] (Quarterly Coal Report October-December 1987 (DOE/EIA-0121 (87/4Q) May 1988)) reports that the U.S. coal exports for 1987 totaled 79.6 million short tons, a 6.9-percent-decrease from 1986. The downturn was in large part due to continued price competition from other coal-exporting countries.

A recent report by the National Coal Council confirms that haulage rates are the major factor contributing to this problem, stating that the total cost of transporting export coal is the most significant factor affecting international competitiveness of the U.S. coal industry. Coal slurry pipelines would help to reduce these excessive haulage rates. The Energy Information Administration estimates that by 1995 coal pipeline rates would be anywhere from $12 to $20 per ton less than railroad rates.

My bill would facilitate construction of coal slurry pipelines by granting Federal eminent domain authority for those pipelines found by the Secretary of Energy to be in the national interest. The bill provides, among other things, for: First, small and independent coal producer access to the pipelines; second, the primacy of State water law; third, compliance with environmental control laws; fourth, antitrust review; and fifth protection for historic, wildlife, and conservation areas.

The bill is the same as S. 801, favorably reported by the Senate Committee on Energy and Natural Resources last Congress, with the exception that it does not include an amendment adopted by the committee pertaining to section 2(c) of the Mineral Leasing Act, which currently bans railroads from leasing Federal coal.

Similar legislation to provide Federal eminent domain authority has been considered by the Congress previously. Coal slurry pipeline legislation was approved by the full Senate in 1974. In addition to favorably reporting the bill last Congress, the Senate Energy and Natural Resources Committee favorably reported coal slurry pipeline legislation in the 97th and 98th Congresses.

Mr. President, the bill I am introducing today would result in substantial savings to consumers, create thousands of new jobs in construction, manufacturing, and service-related industries, and help to increase the competitiveness of U.S. coal. I urge my colleagues to support this measure and to join me as cosponsors of the legislation.

I ask unanimous consent that the text of this bill be printed in the CONGESSIONAL RECORD, followed by a section-by-section summary of the bill.

There being no ojection, the material was ordered to be printed in the RECORD, as follows:

S. 318

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Coal Distribution and Utilization Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) the continuing dependence of the United States on foreign sources for petroleum and petroleum products entails grave national security risks, results in major balance-of-payments deficits, and increases inflation and unemployment in the domestic economy;

(2) the United States possesses extensive coal reserves that must be produced, distributed, and utilized to reduce the Nation's dependence on imported petroleum;

(3) domestic coal reserves cannot be developed and used for fuel unless adequate

transportation systems and facilities exist for the efficient and economic distribution of large quantities of coal across great distances to markets in interstate and foreign commerce at competitive prices;

(4) the Nation's coal distribution system must include interstate coal pipeline distribution system that will assist the Nation in the development and efficient utilization of coal resources;

(5) the construction of interstate coal pipeline distribution system to distribute domestic coal will be facilitated by granting the power of eminent domain to certain interstate coal pipeline distribution systems;

(6) the construction of interstate coal pipeline distribution systems is a public use that justifies granting the Federal power of eminent domain to those systems for which a determination of national interest has been made pursuant to this Act;

(7) the water resources of the States are necessary for the development of other resources within those States, and State water laws or terms and conditions of permits and authorizations for the appropriation, use, and diversion of water that restrict, limit, or condition the export of water in interstate coal pipeline distribution systems are reasonable and permissible means for the protection of the resources and the public interests of States;

(8) State water law and interstate compacts are carefully balanced and structured systems for the allocation of water;

(9) the national interest is best served by developing interstate coal pipeline distribution systems pursuant to those State water laws, interstate compacts, and laws governing the interstate allocation of water, including, notwithstanding any adverse impact such law may have on interstate commerce, laws relating to or prohibiting the export or use of water within or outside the State granting or denying such export or use; and

(10) the need for a national coal distribution system is subservient to the national interest in the primacy of State water law, interstate compacts, and laws governing the interstate allocation of water.

(b) The purpose of this Act is to facilitate the development of interstate coal pipeline distribution systems by granting the Federal power of eminent domain to those interstate coal pipeline distribution systems that are determined to be in the national interest: *Provided*, That such development is subject to State water law, interstate compacts, and laws governing the interstate allocation of water.

DEFINITIONS

SEC. 3. For the purposes of this Act the term—

(1) "coal" means any of the recognized classifications of coal, including anthracite, bituminous, semibituminous, subbituminous, and lignite;

(2) "interstate coal pipeline distribution system" means any pipeline system the economic purpose of which is the distribution of coal in a liquid or solid state—

(A) from one or more points outside a State to one or more points within a State or between two or more points within a State through another State, or

(B) from one or more points within Alaska to one or more points in a foreign country. Such a pipeline system shall be deemed to be in interstate or foreign commerce if coal that enters the pipeline system is delivered for commercial use in a State other than Alaska, in a territory of the United States, or in a foreign country. An interstate coal pipeline distribution system includes line pipe, valves, pumping stations, water supply pipelines, and such dewatering facilities as are necessary. Such systems shall not include rail, port, highway, or other ancillary coal-gathering or coal-storage facilities.

(3) "private lands"means any interest in any land other than interests—

(A) owned by the United States or agency thereof or owned by any State or any political subdivision thereof;

(B) held in trust by the United States for an Indian or Indian tribe or owned by an Indian or Indian tribe subject to a restraint against alienation imposed by the United States; or

(C) owned by a regional or village corporation established under the Alaska Native Claims Settlement act, as amended, if such land was transferred to such corporation pursuant to said Act;

(4) "right-of-way" means such interest in private lands, excluding any interest in water, as may be necessary for construction, operation, and maintenance of an interstate coal pipeline distribution system;

(5) "Secretary" means the Secretary of Energy or his successor;

(6) "State" means a State of the United States and the District of Columbia; and

(7)(A) "State water law" includes but is not limited to all substantive and procedural State constitutional provisions, statutory law, judicial decisions, administrative regulations, and administrative decisions authorized by the State which apply to water; and

(B) in the case of any State water law which might be argued to be invalid as an improper burden, interference or regulation of interstate commerce, such State water law shall not be deemed to be invalid for that reason insofar as such law applies to the export or use of water within or outside the State granting or denying the export or use of water for any interstate coal pipeline distribution system. State water law includes both existing law and that new law properly enacted or created in the future.

EMINENT DOMAIN AUTHORITY

SEC. 4. (a) AUTHORITY TO MAKE NATIONAL INTEREST DETERMINATION.—(1) Upon application of any person proposing to construct an interstate coal pipeline distribution system, who has filed and secured approval of a water permit or acquired other approriate authorization to control, reserve, appropriate, purchase, transfer, use, export, divert, dedicate or claim water under State water law as provided in section 5, or who proposes to construct any interstate pipeline distribution system using a transport medium other than water, the Secretary shall determine whether the construction of such system is in the national interest.

(2) The determination of the Secretary under paragraph (1) shall be based on the record as a whole, taking into consideration each of the criteria set forth in subsection (b).

(b) FINDINGS.—In making a determination under subsection (a) the Secretary shall make findings concerning the extent to which the system—

(1) would help meet national needs for coal distribution and utilization considering, among other matters, alternative routes, or means of distributing coal;

(2) would enhance competition and provide new market outlets and opportunities for coal producers, including small and independent producers;

(3) would contribute to the national security by encouraging the displacement of imported petroleum, petroleum products, and coal with domestic coal;

(4) would result in economic benefits including—

(A) reduced coal transportation costs;

(B) reduced wholesale and retail electric rates; and

(C) enhanced reliability of supplies of both coal and electric energy; and

(5) would affect the environment, compared to the environmental impacts of alternatives, including—

(A) railroad transportation;

(B) alternative pipeline routes; and

(C) coal utilization facilities, including electric generating plants at coal mine sites and coal gasification plants.

(c) SMALL AND INDEPENDENT COAL PRODUCER ACCESS.—(1) For purposes of protecting small and independent coal producers, the Secretary shall require, as a condition of his determination under subsection (a), that the applicant, prior to application, shall offer to make available to such producers the lesser of—

(A) 10 per centum of the total pipeline capacity of the proposed interstate coal pipeline distribution system; or

(B) that portion of the total capacity necessary to satisfy the total interstate coal pipeline distribution system transportation demand of all such small and independent producers located in the geographic region (as determined by the Secretary) served by such pipeline;

under the same terms and conditions as other contracting entities.

(2) For purposes of this subsection, the term "small and independent coal purducer" means a coal producer, or a broker or cooperative that represents individual coal producers—

(A) who produced two hundred thousand tons or less of coal during the calendar year preceding the calendar year in which the application is filed, and

(B) are not affiliated with any other company. For purposes of this subparagraph, a coal producer shall be treated as affiliated with another company if such company controls, is controlled by, or is under common control with such coal producer. The term "control" shall have the same meaning provided by section 10102 of title 49, United States Code.

(b) PROCEDURES.—(1) Any decision under subsection (a) shall be made after notice and opportunity for presentation of written data, views, or arguments in accordance with section 553 of title 5 of the United States Code. If the Secretary, in his discretion, decides to hold hearings, the Secretary shall expedite such hearings and proceedings, and shall schedule all hearings, proposed findings and conclusions, exceptions and any recommended decisions so that the Secretary's final decision under this section shall be issued and completed within eighteen months from the date of receipt of a complete application, except that the Secretary may, for good cause, extend such eighteen-month period for additional periods of not more than ninety days.

(2) Within thirty days after receipt of an application for a determination under this section, the Secretary shall determine whether the application contains all of the information required for its consideration whereupon he shall, within seven days, publish notice of receipt of the application in the Federal Register. The Secretary shall further notify the Governor of each State in which the interstate coal pipeline distribution system will be located. Each notification shall identify the lands over which the interstate coal pipeline distribution system is to be constructed or operated and the water source to be used. If the Secretary determines that all of the required information is not in the application, he shall immediately notify the applicant of all the deficiencies in the application and provide a reasonable period of time for such applicant to provide additional information.

(3) Each applicant for such a determination shall reimburse the Secretary for administrative and other costs incurred by the Secretary in processing the application in such manner as the Secretary shall, by rule, prescribe.

(e) ANTITRUST REVIEW.—(1) Not later than ten days after any application for a determination under this section is received by the Secretary, the Secretary shall notify the Attorney General of the filing of such application and shall provide the Attorney General with a copy of such application and such other information as the Attorney General may request. The Attorney General shall conduct an antitrust review to determine the likely effects upon competition of approval of such application, and not later than one hundred and twenty days after the date of receipt of such notification shall advise the Secretary of the results of such review, including, but not limited to, findings, and recommendations concerning such terms and conditions as the Attorney General deems necessary to protect and promote competition. No application may be determined to be in the national interest under this section if the Attorney General advises the Secretary in writing that, on the basis of such review, approval of such application is not consistent with the antitrust laws.

(2) For the purpose of paragraph (1), the term—

(A) "antitrust laws" has the meaning such term has under section 1 of the Clayton Act (15 U.S.C. 12); and

(B) "antitrust review" has the meaning the term "antitrust investigation" has under section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311).

(f) EMINENT DOMAIN AUTHORITY.—(1) Any person proposing to build an interstate coal pipeline distribution system, the construction of which has been determined by the Secretary to be in the national interest, may, after making good faith efforts to acquire such rights-of-way by negotiations between such person and private landowners, acquire rights-of-way over, under, upon, or through private lands by exercise of the power of eminent domain in the United States district court for the district in which such lands are located or in the appropriate court of the State in which such lands are located. In any action or proceeding to acquire rights-of-way under this section, such action or proceeding shall conform to the laws, practices, and procedures relating to the general eminent domain law of the State where the property is situated, except that in the case of any such State law, practice, or procedure, the effect of which would prohibit any acquisition under this section, or which discriminates against interstate coal pipeline distribution systems, such State law, practice, or procedure shall not be applicable.

(2) Nothing in this section shall be construed to permit any person to acquire any water rights through the exercise of the power of eminent domain granted under this Act.

(3) No interstate coal pipeline distribution system constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

(4) Unless there is no feasible and prudent alternative to the acquisition of a right-of-way and reasonable planning is made to minimize harm resulting from the acquisition, no such right-of-way may be acquired through exercise of the power of eminent domain under this Act if such right-of-way is over, under, upon, or through—

(A) lands of National, State, or local historic significance as determined by the Federal, State, or local officials having jurisdiction thereof; or

(B) lands held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954 primarily for wildlife refuge, sanctuary, recreational or natural resource conservation purposes.

(g) ALTERNATIVE ROUTES.—(1) Nothing in this section shall be deemed to prohibit the applicant from amending his application to request a right-of-way over any alternative route.

(2) The Secretary may require the relocation of any right-of-way sought pursuant to this Act upon a showing that—

(A) such is necessary to enable the United States to realize fully the value of its mineral interest;

(B) such alternative route is available; and

(C) such relocation would not result in unreasonable expense.

(h) PAYMENT FOR FEDERAL COAL.—(1) Each application for a determination of national interest filed pursuant to subsection (a) shall list each instance where the proposed right-of-way crosses lands wherein the United States maintains a mineral interest regarding coal (hereinafter referred to as "Federal coal"). Not later than ten days after any such application is received by the Secretary, the Secretary shall notify the Secretary of the Interior of the filing of such application and shall provide the Secretary of the Interior with a copy of such application and such other information as the Secretary of the Interior may request.

(2)(A) The Secretary of the Interior shall evaluate the effects of approval of such application upon the ability of the United States to realize the value of such mineral interest as a result of approval of the application.

(B) The Secretary of the Interior shall—

(i) establish terms and conditions necessary to minimize the impact of such right-of-way on the establishment of logical mining units; and

(ii) determine the extent to which alternative routes are available which would minimize the impact of granting the right-of-way on the ability of the Federal Government to realize the value of Federal coal.

(C) The Secretary of the Interior shall establish the fair market value of the Federal coal precluded from being recovered as a result of the proposed right-of-way. The Secretary of the Interior shall also establish the amount of reduction of the fair market value of Federal coal which will be more costly to recover as a result of the proposed right-of-way.

(3) The Secretary shall thereafter establish such terms and conditions requiring the applicant to pay the United States the amount established by the Secretary of the Interior pursuant to subparagraph (C).

(i) RULES AND REGULATIONS.—The Secretary shall promulgate such rules and regulations as are necessary for the expeditious exercise of the authority granted in this section.

(j) ADDITIONAL REQUIREMENT.—In implementing this section, the Secretary shall be subject to the provisions of section 210 of Public Law 90-537, as amended (43 U.S.C. 1511).

PRIMACY OF STATE WATER LAW

SEC. 5 (a) No person, legal entity, or governmental entity (including the United States, a State or subdivision thereof), their agents, permittees, licensees, or transferees, or any interstate coal pipeline distribution system, shall control, reserve, appropriate, purchase, transfer, use, divert, dedicate, dispose of, distribute, acquire, exercise, export or claim water, or any right or interest therein, for export or use within or outside the State granting or denying the export or use of water in an interstate coal pipeline distribution system, unless such control, reservation, appropriation, purchase, transfer, use, diversion, dedication, disposal, distribution, acquisition, exercise, export or claim takes place pursuant to and in compliance with the State water law of that State. Such State water law shall be enforced even though enforcement would result in the failure to build an interstate coal pipeline distribution system, and even though it would result in uneven and disparate effects on interstate commerce.

(b) In full recognition of its powers under Article I, section 8, of the United States Constitution, Congress expressly delegates to the States the power to regulate the use or export of water in interstate coal pipeline distribution systems, through State water laws, notwithstanding any adverse impact such delegation may have on interstate commerce or on any interstate coal pipeline distribution system. This delegation expressly includes but is not limited to provisions of State water law which provide for the establishment or exercise of terms or conditions (including terms or conditions terminating use or relating to or prohibiting the export of water) on permits or authorizations for, interests in, or rights to control, reservation, appropriation, purchase, transfer, use, diversion, dedication, disposal, distribution, acquisition, exercise, export or claim of water for the export or use in any interstate coal pipeline distribution system.

(c) Nothing in this Act shall—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to its apportioned share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect water rights of any Indian or Indian tribe which were established by the setting aside of a reservation by treaty, executive order, agreement or Act of the Congress.

(d) No waters to which a Federal right can be asserted shall be used or exported in any interstate coal pipeline distribution system, unless authorized pursuant to and subject to State water law in the same manner as provided for in subsection (a).

APPLICATION OF STATE AND LOCAL LAW

SEC. 6. (a) Nothing in this Act shall impair the validity of or in any way preempt the applicability of a State water law to an interstate coal pipeline distribution system even if such applicability discriminates against or would have the effect of prohibiting the location, construction, operation, or maintenance of such pipeline.

(b) Nothing in this Act shall impair the validity of or preempt any State or local law, regulation, or rule of law pertaining to the location, construction, operation, or maintenance of an interstate coal pipeline distribution system except where such State or local law, regulation, or rule of law discriminates against interstate coal pipeline distribution systems.

UNDERGROUND CONSTRUCTION

SEC. 7. All coal pipelines granted Federal powers of eminent domain, pursuant to the provisions of this Act, for rights-of-way and

extensions thereof shall, to the maximum extent practicable, consistent with environmental protection, safety, and good engineering and technological practices, be located underground, and the person holding such right of Federal eminent domain shall replace sufficient topsoil on disturbed areas so that a vegetative cover, comprised of native species where practicable, can be reestablished at least equal in extent of cover as that which sustained the natural vegetation in the area.

CONTINUING JURISDICTION OF STATE PUBLIC UTILITY COMMISSIONS

SEC. 8. Nothing in this Act shall be construed to require any forms of automatic passthrough of, or preempt the ratemaking authority of any State utility regulatory agency or the Federal Energy Regulatory Commission with respect to costs related to construction, operation, and maintenance of any interstate coal pipeline distribution system, whether or not such costs have been provided for by contract between a utility and the interstate coal pipeline distribution system operator.

APPLICABILITY OF ENVIRONMENTAL CONTROL LAWS

SEC. 9. Any interstate coal pipeline distribution system authorized under this Act shall be subject to the requirements of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 et seq.), and any other applicable State and Federal environmental control laws.

WATER DISCHARGE REQUIREMENTS

SEC. 10. With respect to any proposed pipeline distribution system using water as the transport medium, prior to the issuance of any findings pursuant to section 4 of this Act, the Secretary shall notify the Administrator of the Environmental Protection Agency of his consideration of the application for a determination under subsection (4)(a). The Secretary and the person applying for such determination shall provide such information as the Administrator shall require to conduct a review of the ability of the proposed interstate coal pipeline distribution system to comply with Federal water discharge requirements. The Administrator shall have one hundred and twenty days from the date of receipt of such notification to conduct such review and to advise the Secretary with respect thereto. The Secretary shall not issue any findings pursuant to section 4 unless he has received a report from the Administrator of the Environmental Protection Agency advising that, in the judgment of the Administrator, it can reasonably be expected that the water discharge can meet the requirements of the Federal Water Pollution Control Act.

ACCESS TO COAL PIPELINE TRANSPORTATION CONTRACTS

SEC. 11. (a)(1) By failing a contract between a prospective shipper and a pipeline carrier with the Federal Energy Regulatory Commission (hereinafter referred to as the Commission), within ten business days of signing said contract, any person operating or proposing to operate an interstate coal pipeline distribution system may enter into contracts with one or more shippers of coal to provide transportation under specified rates, terms, and conditions but may not unreasonably discriminate by refusing to enter into similar contracts under similar rates, terms, and conditions with other shippers who are seeking service from the same origin areas to the same terminus areas and are ready, fit, willing, and able to enter into such contracts in a contemporaneous period. The term "ready, fit, willing, and able" as used in this section includes, but is not limited to, financial fitness. Such contract filing shall include all rates, terms, and conditions of said contract.

(2) Service under a contract executed pursuant to paragraph (1) of this subsection is deemed to be a separate and distinct class of service. Persons operating interstate coal pipeline distribution systems shall be obligated to perform only those duties specified by the terms and conditions of any such contract in connection with the services provided under such contract. Service under such contracts shall not be interrupted for the purpose of prorating or allocating to other shippers the pipeline capacity committed to service under such contracts.

(b)(1) Any person operating or proposing to operate an interstate coal pipeline distribution system who files contracts under this section for the transportation of a volume of coal which is less than the volume of coal that would totally obligate the capacity of the pipeline shall, in the sixty-day period beginning on the date of the filing of such contract, enter into contracts with shippers who are ready, fit, willing, and able to enter into such contracts under rates, terms, and conditions similar to the rates, terms, and conditions contained in the contract that has been so filed. That person shall enter into such similar contracts in the chronological order in which binding written offers to enter into such similar contracts are submitted to such person. The obligation imposed by this subsection shall remain in effect—

(A) until the capacity of the pipeline is totally committed for providing transportation under contracts approved under this section, or

(B) until the end of the sixty-day period, whichever occurs first.

(2) Not later than the thirtieth day following the end of such sixty-day period, a shipper of coal may file a complaint with the Commission on the grounds that the person operating the interstate coal pipeline distribution system is violating this subsection.

(3) If, following a notice and an opportunity for a hearing, but not later than the thirtieth day following the filing of a complaint in accordance with paragraph (2) of this subsection, the Commission finds that the person is violating this subsection and has, with respect to the complaining shipper, an obligation under this subsection to enter into a contract, the Commission shall order that person to provide the service specified in the offer under such rates, terms, and conditions contained in the contract that is filed with the Commission under paragraph (1) of this subsection. In addition, if the Commission finds that a person is violating this subsection by entering into contracts with shippers of coal pursuant to paragraph (1) of this subsection in an order other than the order in which binding offers are submitted, the Commission shall establish the proper order of such for approval under subsection (c) of this section.

(4) The Commission may not approve, under this section, any contract for the transportation of coal by pipeline—

(A) if approval of such contract will result in the total tonnage of coal obligated to be transported by the pipeline in any period under contracts approved under this section exceeding the maximum capacity of the pipeline in such period; or

(B) if the provision of coal transportation services under such contract would result in a destructive competitive practice.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the short title.

Section 2 sets forth the findings and purpose of the bill which is to facilitate the development of interstate coal pipeline distribution systems by granting the Federal power of eminent domain to those systems that are determined to be in the national interest. Any such development shall be subject to State water law, interstate compacts, and laws governing the interstate allocation of water.

Section 3 sets forth the definitions.

Section 4 sets forth procedures for granting and acquiring the Federal power of eminent domain. Subsection (a) requires the Secretary of Energy to determine whether the construction of the proposed interstate coal pipeline system would be in the national interest. Prior to a determination, the applicant must file and secure approval of any necessary water permit or other necessary authorization relating to water. The intent of the remaining provisions of the section is self-explanatory.

Section 4(b) requires the Secretary of Energy to make findings on five specified criteria as a basis for determining whether the pipeline is in the national interest. The criteria include meeting national needs for coal distribution and utilization, competition, national security, economic benefits, and the environment.

Section 4(c) sets aside a portion of the capacity of the pipeline for small and independent producers, defined as those who produce 200,000 tons of coal or less, and are not affiliated with other companies.

Section 4(d) provides for procedures and time limitations on proceedings required for the Secretary to make a national interest determination.

Section 4(e) requires the Attorney General to conduct an antitrust review to determine the likely effects upon competition of approval of the application for an interstate coal pipeline system. No application may be determined to be in the national interest if the application is not consistent with the antitrust laws.

Section 4(f) authorizes the use of Federal eminent domain power to those persons whose applications for constructing an interstate coal pipeline system have been determined to be in the national interest. Nothing in the section is to be construed to permit any person to acquire any water right through the exercise of the power of eminent domain granted under the Act. This provision imposes certain limitations on rights-of-way that may be acquired by exercising the power of eminent domain The remaining provisions of the section are self-explanatory.

Section 4(g) permits the applicant to amend its application to request a right-of-way over any alternative route. The Secretary may also require the relocation of any right-of-way under certain circumstances.

Section 4(h) requires the Secretary of the Interior to evaluate the effects of a proposed interstate coal pipeline system upon the ability of the United States to recover the value of certain affected mineral interests. The Secretary shall require the applicant to pay the fair market value of coal precluded from being recovered and the reduction in fair market value of coal which will be more difficult to recover as a result of the proposed right-of-way.

Section 4(i) requires the Secretary of Energy to promulgate rules and regulations necessary to exercise the authority provided for in this section.

Section 4(j) is self-explanatory.

Section 5(a) expressly prohibits any person, legal entity or governmental entity (including the United States and States or local governmental bodies) from controlling, reserving, appropriating, purchasing, transferring, using, diverting, dedicating, disposing of, distributing, acquiring, exercising,

exporting or claiming water or any right or interest therein, for export or use within our outside the State granting or denying such export or use in an interstate coal pipeline distribution system, unless such export or use take place pursuant to and in compliance with the State water law of such State. State water law is to be enforced even if it means that an interstate coal pipeline distribution system could not be constructed, and even if it results in uneven and disparate effects on interstate commerce.

Section 5(b) is a clear and express statement of the intent and policy of Congress, acting in recognition of and pursuant to its Commerce Clause powers, to delegate to the State the power to regulate the export or use of water in any coal slurry pipeline distribution system, through State water laws, in a manner which might otherwise not be permissible. This delegation expressly includes, but is not limited to, the provisions of State water law which provide for the establishment or exercise of terms or conditions on permits or authorizations for, interests in, or rights to control, reservation, appropriation, purchase, transfer, use, diversion, dedication, disposal, distribution, acquisition, exercise, export or claim of water for the export or use in any interstate coal pipeline distribution system, notwithstanding any adverse impact such delegation may have on interstate commerce or any interstate coal pipeline distribution system.

Section 5(c) provides that this Act shall not impair the validity of or preempt any provision of State water law or of an interstate compact governing water, alter any State's share of surface or ground water as determined by past or future interstate compacts, legislative action or judicial decisions, preempt any State or Federal law or interstate compact dealing with water quality or disposal, confer upon any non-Federal entity the ability to exercise any Federal right to waters of any stream or to any ground water, or affect water rights of any Indian or Indian tribe, as set forth.

Section 5(d) prohibits any interstate coal pipeline from using water to which a Federal right can be asserted, unless such use is authorized pursuant to State water law.

Section 6(a) provides that nothing in this measure shall impair the validity of or preempt in any way the applicability of State water law to interstate coal pipeline distribution systems even if such law prohibits or discriminates against the location, construction, operation or maintenance of such pipelines.

Section 6(b) provides that State and local laws and regulations are not preempted by S. 801, unless such laws discriminate against interstate coal pipeline distribution systems.

Section 7 requires underground construction, to the maximum extent practicable, of interstate coal pipeline systems. This section also requires the replacement of topsoil in disturbed areas.

Section 8 provides that nothing in this measure requires any forms of automatic passthrough if, or preempts the ratemaking authority of any State utility regulatory agency or the Federal Energy Regulatory Commission with respect to costs associated with the interstate coal pipeline system.

Section 9 provides that interstate coal pipeline systems authorized by this bill are subject to the requirements of the Federal Water Pollution Control Act, as amended, and other applicable State and Federal environmental control laws.

Section 10 requires, with respect to any proposed coal pipeline distribution system using water as the transport medium, the Administrator of the Environmental Protection Agency to conduct a review of the ability of any interstate coal pipeline system to comply with Federal water discharge requirements. The Secretary shall not make findings pursuant to section 4 unless the Administrator reasonably expects that the water discharge from the proposed system can meet the requirements of the Federal Water Pollution Control Act.

Section 11(a) provides that any person who proposes to operate an interstate coal pipeline system, and files with the Federal Energy Regulatory Commission a contract between a prospective shipper and a pipeline carrier within ten business days of signing the contract, may enter into contracts with one or more shippers of coal to provide transportation under specified rates, terms and conditions, but may not unreasonably discriminate against other shippers.

Section 11(b) provides that in cases where the pipeline operator files a contract under this section for the transportation of a volume of coal which is less than the total pipeline capacity the operator shall enter into subsequent contracts with shippers in the chronological order in which written offers are submitted, provided the shipper is "ready, fit, willing, and able". This section also provides a shipper with the right to file a complaint with the Commission if access to the pipeline is unfairly denied by the pipeline operator. This provision further provides that the Commission may not approve a contract if it would result in a transportation obligation that exceeds the maximum capacity of the pipeline, or if it would result in a destructive competitive practice.●

By Mr. GARN (for himself and Mr. HATCH):

S. 319. A bill to effect the exchange of lands to the U.S. Forest Service and the Salt Lake City Corp. within the State of Utah and for other purposes; to the Committee on Energy and Natural Resources.

THE SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1989

● Mr. GARN. Mr. President, I am pleased to rise today to introduce legislation with my colleague from Utah, Senator HATCH.

This bill is entitled the Salt Lake City Watershed Improvement Act of 1989. Essentially, it is a land exchange between the U.S. Forest Service and the city of Salt Lake which, if adopted by the Congress, will promote more efficient management and protection of the city's watersheds on the north and east benches of the Wasatch Range. The areas affected by the exchange are Ensign Peak through City Creek and Red Butte over to Parley's Canyon.

The legislation would transfer 8,950 acres of national forest land to the city and 8,935 acres of Salt Lake City land to the Forest Service.

The bill, as written will maintain the Utah State antidegradation policy, and the congressional act of 1914 which prohibits mining after that date. Management of pre-1914 claims will remain under Federal jurisdiction.

The protection of the city's water supply has been one of my primary concerns since the late 1960's when I was Salt Lake City's water commissioner. This particular bill, like earlier efforts to prevent development in Little Cottonwood Canyon, will keep Salt Lake City's water among the purest in the Nation.

From a management standpoint, Senator HATCH and I believe both the Forest Service and the city will enjoy a much easier time of providing stewardship over these lands.

Mr. President, I hope the Senate Energy and Natural Resources Committee and the full Senate will act promptly on this measure.●

By Mr. DURENBERGER (for himself, Mr. HARKIN, Mr. COCHRAN, Mr. MOYNIHAN, Mr. WILSON, and Mr. SANFORD):

S. 320. A bill to provide that certain individuals with physical or mental impairments are allowed to continue medicare coverage at their own expense; to the Committee on Finance.

DISABLED AMERICANS WORK INCENTIVE ACT OF 1989

● Mr. DURENBERGER. Mr. President, I am honored to come before you today to introduce the Disabled Americans Work Incentive Act of 1989. I first want to express my great admiration and gratitude to Deborah McKeithan without whom this bill would not exist. Her courage, dedication, and perseverance has taught us about the valuable contributions that disabled Americans can make in our society if given the same chances that everyone else have.

The Disabled Americans Work Incentive Act will remove the disincentives in the Medicare law which act as a barrier for those disabled individuals who attempt to go back to work and find that they cannot get health insurance or are defined as "uninsurable" by their employers and do not qualify for their employers health care benefit plan.

Under current law, disabled individuals can work for a 2-year trial period and still remain eligible for Medicare. However, after that period, he or she faces a choice: Quit work and go back on disability insurance or continue to work but without health insurance coverage. For an individual suffering from a chronic disability, health insurance is essential. Thus, there really is no choice.

This bill would allow disabled individuals to continue their coverage under Medicare after the 2-year limit by paying a reasonable premium. The cost for the premium for part A of Medicare would be equal to the current premium for voluntary enrolled elderly beneficiaries. The part B premium would be equal to four times the premium for enrollees covered under current law. Current law is 25 percent, four times is self financed. Total premiums would not exceed 8 percent of ones income.

The Report of the Disability Advisory Council indicates that "The availability of employer health insurance benefits and other employee benefits is a significant factor in promoting job retention and job application by

people with physical or mental impairments." The Council also found that two-thirds of all Americans with disabilities between the ages of 16 and 64 are not working. Of these who are not working, another two-thirds said they would like to work. If current law unchanged, we will not fully benefits from the work of Clint Schultz, a young quadraplegic in Minnesota who has a masters degree in rehabilitation counseling. Clint would like to be employed full-time, working for the rights of the handicapped at the State level in Minnesota, but the risk of going uninsured would be so devastating that full-time employment is out of the question. Mr. President, we cannot afford to waste the contributions and talent that people like Deborah McKeithan and Clint Schultz can make to our work force simply because current programs act as disincentives to those who want to work.

There are obvious financial and social benefits to society when disabled people work. More and more we are able to see the benefits of integration as people with disabilities are able to learn from and develop relationships with nonhandicapped individuals and have greater opportunities to exercise choice in their lives. Outlays for SSDI benefits are also reduced as individuals leave the SSDI rolls and gain self-sufficiency and independence.

I urge all of my colleagues to join me in securing passage of this important legislation. Mr. President, I request that the full text of the legislation be included as part of the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. PERMITTING CERTAIN INDIVIDUALS WITH PHYSICAL OR MENTAL IMPAIRMENTS TO CONTINUE MEDICARE COVERAGE AT THEIR OWN EXPENSE.

(a) IN GENERAL.—Part A of title XVIII of the Social Security Act is amended by adding at the end the following new section:

"CONTINUED HOSPITAL INSURANCE BENEFITS FOR UNINSURED INDIVIDUALS WITH PHYSICAL OR MENTAL IMPAIRMENTS

"SEC. 1819A. (a) Every individual who—

"(1) has not attained the age of 65,

"(2) was entitled to benefits under this part under section 226(b), but such entitlement was terminated because the individual engaged in substantial gainful activity,

"(3) is determined, on an annual basis, to continue to have the physical or mental impairment upon which the benefits described in section 226(b)(2) were based,

"(4) has been entitled to or enrolled for benefits under this part for each month (other than a month in which the individual is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's or the individual's spouse's current employment) since the first month in which the individual was entitled to benefits under this part, and

"(5) is not otherwise entitled to benefits under this part,

shall be entitled to enroll in the insurance program established by this part.

"(b) An individual may enroll under this section only in such manner and form as may be prescribed in regulations, and only during an enrollment period prescribed in or under this section.

"(c)(1) An individual's initial enrollment period shall begin on the first day of the third month before the month in which the individual first satisfies the requirements of subsection (a) and shall end 7 months later.

"(2) In any case where the Secretary finds that an individual's enrollment or nonenrollment under this section is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Federal Government, or its instrumentalities, the Secretary may take such action (including the designation for such individual of a special initial or subsequent enrollment period, with a coverage period determined on the basis thereof and with appropriate adjustments of premiums) as may be necessary to correct or eliminate the effects of such error, misrepresentation, or inaction.

"(3)(A) In the case of an individual who—

"(i) at the time the individual first satisfies subsection (a) is enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or the individual's spouse's) current employment, and

"(ii) has not elected to enroll under this section during the individual's initial enrollment period,

there shall be a special enrollment period described in subparagraph (C).

"(B) In the case of an individual who—

"(i) has enrolled in the program under this part during the individual's initial enrollment period or is described in subparagraph (A)(i),

"(ii) has enrolled in this program during any subsequent special enrollment period under this paragraph during which the individual was not enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of the individual's (or individual's spouse's) current employment, and

"(iii) has not terminated enrollment under this section at any time at which the individual is not enrolled in such a group health plan by reason of the individual's (or individual's spouse's) current employment,

there shall be a special enrollment period described in subparagraph (C).

"(C) The special enrollment period referred to in subparagraphs (A) and (B) is the period beginning with the first day of the first month in which the individual is no longer enrolled in a group health plan described in section 1862(b)(3)(A)(iv) by reason of current employment and ending 7 months later.

"(d)(1) The period during which an individual is entitled to benefits under this part by reason of this section (in this section referred to the individual's 'coverage period') shall begin on whichever of the following is the latest:

"(A) In the case of an individual who enrolls pursuant to subsection (c)(1)—

"(i) before the month in which the individual first satisfies subsection (a), the first day of such month,

"(ii) in the month in which the individual first satisfies subsection (a), the first day of the month following the month in which the individual so enrolls,

"(iii) in the month following the month in which the individual first satisfies subsection (a), the first day of the second month following the month in which the individual so enrolls, or

"(iv) more than one month following the month in which the individual first satisfies subsection (a), the first day of the third month following the month in which the individual so enrolls; or

"(B) In the case of an individual who enrolls during a special enrollment period pursuant to subsection (c)(3)—

"(i) in the first month of the special enrollment period, on the first day of such month, or

"(ii) in a month after the individual's first month of the special enrollment period, the first day of the month following the month in which the individual so enrolls.

"(2) An individual's coverage period shall continue until the individual's enrollment has been terminated—

"(A) at the close of the month following the month in which the individual files notice that the individual no longer wishes to participate in the insurance program established by this part,

"(B) at the end of a grace period (described in the third sentence of section 1838(b)) for nonpayment of premiums, or

"(C) as of the close of the last month for which the individual meets the requirements of subsection (a) for enrollment under this section.

"(3) No payments may be made under this part with respect to expenses of an individual enrolled under this section unless such expenses were incurred by the individual during a period which, with respect to the individual, is a coverage period.

"(e)(1) Except as provided in paragraph (2), the monthly premium of each individual under this section is the monthly premium determined under section 1818(d).

"(2)(A) Subject to subparagraph (B), in the case of an individual with respect to whom the monthly premium under this subsection (and, if applicable, the monthly premium under section 1839(g)) exceeds 8 percent of 1/12th of the adjusted gross income of the individual (as defined by the Secretary), the Secretary shall provide for a proportional reduction in the amount of each such monthly premium so that the sum of such monthly premium does not exceed 8 percent of 1/12th of such adjusted gross income.

"(B) In no case shall a monthly premium be reduced under subparagraph (A) so it is less than 25 percent of the monthly premium otherwise determined.

"(f) Payment of the monthly premiums on behalf of any individual who meets the conditions of subsection (a) may be made by any public or private agency or organization under a contract or other arrangement entered into between it and the Secretary if the Secretary determines that payment of such premiums under such contract or arrangement is administratively feasible.

"(g) Amounts paid to the Secretary for coverage under this section shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.".

(b) BUY-IN TO PART B COVERAGE.—

(1) Section 1837 of the Social Security Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(j) Notwithstanding any other provision of this section, the enrollment periods for an individual who is eligible to enroll for benefits under this part only because of enrollment for benefits under section 1819A are the enrollment periods provided under that section.".

(2) Section 1838 of such Act (42 U.S.C. 1395q) is amended by adding at the end the following new subsection:

"(f) Notwithstanding subsection (a), in the case of an individual who is eligible to enroll for benefits under this part only because of

enrollment for benefits under section 1819A, the coverage period shall be the coverage period described in that section.".

(3) Section 1839 of such Act (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) In the case of an individual who is eligible to enroll for benefits under this part only because of enrollment for benefits under section 1819A, notwithstanding any other provision of this section, but subject to section 1819A(e)(2), the monthly premium is 4 times the monthly premium established under subsection (e) or (b) (as the case may be) for that month.".

(c) BENEFITS SECONDARY TO OTHER EMPLOYER BENEFITS.—Section 1862(b)(3)(A)(iii) of the Social Security Act (42 U.S.C. 1395y(b)(3)(A)(iii)) is amended by adding at the end the following new sentence: "Such provisions also shall apply to an individual during any period in which the individual is eligible for benefits under this title only because of an enrollment under section 1819A.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in months beginning after the end of the 60-day period beginning on the date of the enactment of this Act with respect to individuals whose entitlement to benefits under part A of title XVIII of the Social Security Act by virtue of section 226(b) of such Act is terminated after the end of such period.●

By Mr. INOUYE (for himself, Mr. MCCAIN, Mr. BURDICK, Mr. CONRAD, and Mr. COCHRAN):

BUY INDIAN ACT AMENDMENTS OF 1989

● Mr. INOUYE. Mr. President, I am pleased to introduce today the Buy Indian Act Amendments of 1989.

The advantages of promoting Indian economic development through the use of Government purchasing powers was first recognized as early as 1908, when the Buy Indian Act was first adopted. The program was designed to allow the Secretary of the Interior to grant preference to Indians in the purchase of goods and services with funds appropriated for the benefit of Indians. Although the act was well-intentioned, there were ambiguities as to when and where it applied and a record of inconsistency in its implementations.

The Indian Affairs Committee held oversight hearings on the Buy Indian Act and other Government preference programs during the 100th Congress. On the basis of this record it was clear that the law needed to be updated, expanded in its applications and congressional directions given to insure that maximum benefits are obtained while addressing the problems of abuse. The opportunity for abuse, which has occurred primarily in the form of a proliferation of fronts, or non-Indians using Indian owned businesses to obtain Federal contracts, has been under investigation by the Special Committee on Investigations of the Select Committee on Indian Affairs. I anticipate that the special committee will provide extensive documentation of the problems and that we will be able to respond to their findings through this legislation.

The legislation I am introducing today clarifies and strengthens the current Buy Indian Act. It restates current law as it appears in section 47 of title 25 of the United States Code. The bill also recodifies and enhances the Indian preference in employment and training provisions that now appear as section 7(b) of the Indian Self-Determination Act. In doing so, it clarifies the definition of eligible Indian businesses and recognizes and strengthens the ability of tribes to enforce their own preference laws as the most effective means of policing abuses. It is also important to note that the recent Supreme Court decision regarding the legality of States to offer minority contracting would not in any way impact the buy Indian preference, which is protected through the trust relationship between the Federal Government and Indian nations.

This bill is based on proposals formulated by the Council of Tribal Employment Rights Organizations and the National Indian Contractors Association. I commend these two organizations for their initiative in endeavoring to correct the abuses to the act.●

● Mr. MCCAIN. Mr. President, I am joining Chairman INOUYE today in sponsoring legislation to revise the Buy Indian Act. The Select Committee on Indian Affairs conducted numerous hearings on Indian economic development during the 100th Congress. In addition, during this decade, both President Reagan and Secretary Hodel commissioned and received several official recommendations and reports detailing the need for changes in Federal law and policy to enhance the opportunities for the development of reservation economies.

The so-called Buy Indian Act is a vague, one-sentence statute which was originally enacted in an appropriations bill in 1908. In 1986, Secretary Hodel's Task Force on Indian Economic Development found that there was "a lack of central BIA guidance in implementing the Buy Indian Act, and that BIA administration of the act in the field sometimes produceed arbitrary and unfair results." The task force recommended numerous changes in the Buy Indian Act to clarify its scope and to increase opportunities for Indian owned business enterprises. The bill which we are introducing today incorporates these recommendations as well as those received by tribal representatives during the 100th Congress.

In addition, this bill is aimed at eliminating the problem of fronts in buy Indian contracting. Fronts are characterized by non-Indians utilizing Indian owned businesses to obtain Federal contracts. The Special Committee on Investigations has been examining this problem and will soon begin taking testimony which will highlight the need for corrective legislation. It is my hope and expectation that the full Committee on Indian Affairs will defer final consideration of the bill we are introducing today until such time as the special committee has completed its investigation of possible abuses of the current Buy Indian Act. The findings and recommendations of the special committee may very well lead to further refinements in the Buy Indian Act to ensure that it truly operates for the benefit of Indian people. In the interim, I am hopeful that the bill which we are introducing today will provide Indian tribes with an opportunity to focus on and participate in our efforts to provide a workable statutory basis for the administration of procurement activities involving Indian owned businesses.●

By Mr. REID:

S.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 22d amendment; to the Committee on the Judiciary.

REPEAL OF TWENTY-SECOND AMENDMENT TO THE CONSTITUTION

Mr. REID. Mr. President, former President Ronald Reagan recently called on Congress to repeal the 22d amendment.

I agree: President Reagan was right. The 22d amendment, which limits Presidents to two terms, is undemocratic, unnecessary, and unfair.

It tells the people of this country that they cannot elect a President to a third term—in other words, that it would be a mistake to do three times what they had already done two times before.

Senators can serve more than two terms. Members of Congress have no limits on how long they serve. Supreme Court Justices are appointed for life. Why do we force upon the President and the voters a restriction that we have never chosen for ourselves or other Federal officials?

In 1957, Senator Richard L. Neuberger of Oregon introduced before this body a resolution to restore to the American people the right to reelect a President to more than two terms. Senator Neuberger summed it up well when he said:

> The idea of imposing a constitutional limit of two terms on the Presidency was conceived primarily by political opponents of the only President in our history who, in a supreme national crisis, was elected to more than two terms.

Today, I am introducing a resolution to return to the people the right to elect the President of their choice. I urge my colleagues to join me in this effort to restore democracy in America.

By Mr. GRASSLEY (for himself, Mr. CHAFEE, Mr. DOLE, Mr. DURENBERGER, Mr. GARN, Mr. MCCLURE, Mr. MACK, Mr. PRESSLER, Mr. WARNER, Mr. WILSON, Mr. LUGAR, Mr. HUMPHREY, Mr. HEINZ, Mr. STEVENS, Mr. NICKLES, Mr. THURMOND, Mr. JEFFORDS, Mrs. KASSEBAUM, Mr. BURNS, Mr. DOMENICI, Mr. DANFORTH, Mr. HELMS, Mr. BOSCHWITZ, Mr. COCHRAN, Mr.

COATS, Mr. BENTSEN, Mr. CONRAD, Mr. HOLLINGS, Mr. INOUYE, Mr. MATSUNAGA, Mr. SHELBY, Mr. MOYNIHAN, Mr. PRYOR, Mr. GLENN, Mr. NUNN, Mr. BRADLEY, Mr. SIMON, Mr. BURDICK, Mr. LEVIN, Mr. SARBANES, Mr. SANFORD, Mr. PELL, Mr. GORE, Mr. GRAHAM, Mr. REID, Mr. ROCKEFELLER, Mr. WIRTH, Mr. FOWLER, Mr. EXON, Mr. BREAUX, Mr. DIXON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. METZENBAUM, Mr. ROBB, Mr. REIGLE, Mr. CRANSTON, Mr. SIMPSON, Mr. GORTON, and Mr. LEAHY):

S.J. Res. 37. Joint resolution designating the week beginning May 14, 1989, as "National Osteoporosis Prevention Week"; to the Committee on the Judiciary.

NATIONAL OSTEOPOROSIS PREVENTION WEEK

● Mr. GRASSLEY. Mr. President, today I am introducing legislation which would designate the week of May 14-20, 1989, as National Osteoporosis Prevention Week 1989. I am joined in this by Senators CHAFEE, DOLE, BENTSEN, CONRAD, DURENBERGER, HOLLINGS, GARN, INOUYE, MCCLURE, MACK, PRESSLER, WARNER, WILSON, LUGAR, HUMPHREY, HEINZ, STEVENS, NICKLES, THURMOND, JEFFORDS, KASSEBAUM, BURNS, DOMENICI, DANFORTH, HELMS, BOSCHWITZ, COCHRAN, COATS, MATSUNAGA, SHELBY, MOYNIHAN, PRYOR, GLENN, NUNN, BRADLEY, SIMON, BURDICK, LEVIN, SARBANES, SANFORD, PELL, GORE, GRAHAM, REID, ROCKEFELLER, WIRTH, FOWLER, EXON, BREAUX, DIXON, LIEBERMAN, MIKULSKI, METZENBAUM, ROBB, REIGLE, CRANSTON, SIMPSON, GORTON, and LEAHY.

This is the fifth year I have had the honor of introducing legislation to call attention to the problem of osteoporosis, one of America's major public health problems.

Osteoporosis is a condition in which bone tissue becomes progressively thinner as a result of calcium loss which accompanies the aging process. This bone degeneration is commonly associated with low calcium levels and estrogen loss. Although it can affect men as well, it primarily affects older women. Most at risk are thin, caucasian women, who tend to lose bone mass at twice the rate of older men.

Osteroporosis is a fairly common condition. It affects about 25 million Americans, mainly post-menopausal women and older people.

This condition is a major contributing factor in most bone fractures in the elderly. The National Osteoporosis Foundation estimates 1.3 million fractures a year are directly attributable to osteoporosis. This cost America over $10 billion in 1988 and, as the population ages, the cost is expected to increase.

Bone fractures in the elderly, particularly the type of hip fractures associated with osteoporosis, heal slowly. When an elderly person suffers a hip fracture they seldom recover fully. It often means an end to their independence. A hip fracture often leads to institutionalization and is associated with higher rates of mortality among those who suffer them. It is estimated that more than 50,000 older women die each year from complications of hip fracture—a number higher than the number who die annually from breast cancer.

Although there is no known treatment for osteoporosis, many scientists believe that it can be prevented. Studies show that as many as 80 percent of bone fractures resulting from osteoporosis could have been avoided with increased intake of calcium and estrogen. Fifty percent could have been prevented with increased calcium alone.

In this sense, osteoporosis is not just a concern of the elderly. The time to act to prevent osteoporosis is in youth. Because calcium loss is an inevitable part of the aging process, the more bone mass a person accumulates while still young the more protected they are from deformity and fracture when they are old. Therefore, prevention efforts should be directed especially at young women, not only because they are at the highest risk of developing it, but also because of their roles as mothers in instilling good nutrition habits in their children. It is entirely appropriate that the theme of this year's prevention week is "Build a Stronger Future."

I must emphasize that, because osteoporosis probably can be prevented, educational efforts, such as this resolution, can be particularly helpful in reducing the eventual incidence of this condition. Education is one of the most powerful weapons we have against this. Media campaigns and educational efforts of the event's cosponsoring organizations have reached over 10 million Americans in previous years. I ask unanimous consent that the groups and organizations joining the National Osteoporosis Foundation in this effort be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NATIONAL OSTEOPOROSIS PREVENTION WEEK—1989—PREVENTION WEEK COSPONSORS

Alliance for Aging Research.
American Academy of Orthopaedic Surgeons.
American Academy of Physical Medicine & Rehabilitation.
American Association of Retired Persons.
American College of Obstetricians and Gynecologists.
American Dietetic Association.
American Hospital Association, Section for Maternal and Child Health.
American Medical Association.
American Medical Association Auxiliary.
American Medical Women's Association, Inc.
American Red Cross.
American Running & Fitness Association.
American Society for Bone and Mineral Research.
Association for the Advancement of Health Education.
Future Homemakers of America.
Girl Scouts of the U.S.A.
Girls Clubs of America, Inc.
The Gerontological Society of America.
National Association of State Units on Aging.
National Council on Patient Information and Education.
National Council of Jewish Women.
National Consumers League.
National Council on the Aging, Inc.
National Dairy Council.
National Rural Health Network.
New Ventures of Wisconsin, Inc.
Nurses Association of the American College of Obstetricians and Gynecologists.
President's Council on Physical Fitness & Sports.
Prevention Leadership Forum.
Public Voice for Food & Health Policy.
Society for Nutrition Education.
U.S. Department of Agriculture, Extension Service.
U.S. Department of Health and Human Services: Administration on Aging, Bureau of Maternal and Child Health and Resources Development, Food and Drug Administration, National Institute of Aging, National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institute of Arthritis and Musculoskeletal and Skin Diseases Information Clearinghouse, National Institute of Diabetes & Digestive & Kidney Diseases, Office of Disease Prevention and Health Promotion.
Wellness Councils of America.
YMCA of the USA.●

By Mr. BOND (for himself, Mr. DANFORTH, Mr. BURDICK, Mr. CONRAD, Mr. INOUYE, Mr. NUNN, Mr. STEVENS, and Mrs. KASSEBAUM):

S.J. Res. 38. Joint resolution to designate February 11, 1990, as "World Marriage Day"; to the Committee on the Judiciary.

WORLD MARRIAGE DAY

● Mr. BOND. Mr. President, marriage is truly the mortar in the foundation of American life. Although the changing times and tides of our society have taken their toll on the institution of marriage, its basis in trust, commitment, and most importantly love, ensure that this institution will remain a pillar of our civilization. There are more married couples today than ever in the history of the United States. The latest statistics show that 54.6 million married couples reside in America. The institution of marriage has been recognized as a stabilizing influence on society and has had a meaningful impact on lives of individuals. While many Americans have been discouraged over the past two decades as the marital values of lifelong commitment and growth seem to have eroded, today I share with you a spark of optimism; the divorce rates which rose through the sixties and seventies have begun to stabilize in the eighties.

In order to commemorate the strenthening role that marriage has played in America, Senator DANFORTH and I are cosponsoring this resolution to designate February 11, 1989, as "World Marriage Day." Many of us can attest to the virtues of marriage: companionship, fulfillment, and sup-

port. Marriage is one of the most important decisions that any individual makes, and its vow is one of the most sacred. I encourage my colleagues to support this resolution honoring married couples striving for a meaningful fulfilling union.●

By Mr. BRADLEY (for himself and Mr. DURENBERGER):

S.J. Res. 39. Joint resolution to designate April 6, 1989, as "National Student Athlete Day"; to the Committee on the Judiciary.

NATIONAL STUDENT ATHLETE DAY

● Mr. BRADLEY. Mr. President, I rise today with my colleague from Minnesota, Mr. DURENBERGER, to introduce a resolution designating April 6, 1989, as "National Student Athlete Day."

Mr. President, this day will focus attention on the positive role that sports can have on the physical and mental development of young people. Within the proper framework of a school program, sports can build confidence, cooperation, integrity, and maturity. These qualities are necessary for our future leaders.

In spite of all the positive aspects of sports, over emphasis on sports can cause serious harm to young people, even those who pursue sports professionally. The single-minded devotion to athletics among our Nation's schools and colleges too often leads to exploitation and abuse of the student athlete. Only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expect a professional sports career of less than 4 years. Too many young people sacrifice academic achievement to the dream of professional athletics. And all too frequently schools are willing accomplices—demonstrating no interest in students' academic progress and keeping students eligible even when their real academic achievement levels do not warrant it. Students must realize that education is a lifelong asset, and schools have to remember that their primary responsibility is education.

Last year, 44 States proclaimed April 6 as Student Athlete Day. With the help of a broadened observance of National Student Athlete Day, educators will be able to promote the role of sports within education to stress the need for a balance between academics and athletics. This effort will direct young people away from the idea that sports can be a substitute for education. The programs planned include professional athletes, who have returned to college to complete their degree, speaking to students about the importance of education. Since athletes are role models for many young people, the day will stress the positive role sports can play in development of personal character. Athletes will also speak frankly about the dangers of alcohol and drug abuse that threaten our society.

In supporting this important effort we, the U.S. Senate will join with coaches, parents, and educators throughout the Nation to encourage the pursuit of excellence in both academics and athletics.

On behalf of Senator DURENBERGER and myself I ask unanimous consent that the attached resolution be placed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 39

Whereas, the student-athlete represents a role model worthy of emulation by America's youth;

Whereas, the past athletic successes of many of America's business, governmental and educational leaders dispell the myth that successful athletes are one-dimensional;

Whereas, such worthy values and behaviors as perseverance, teamwork, self-descipline and commitment to a goal are fostered and promoted by both academic and athletic pursuits;

Whereas, participation in athletics, together with education, provides opportunities to develop valuable social and leadership skills and to gain an appreciation of ethnic and racial groups different from one's own;

Whereas, in spite of all the positive aspects of sport, overemphasis on sport at the expense of education can cause serious harm to an athlete's future;

Whereas, the pursuit of victory in athletics among our nation's schools and colleges too often leads to exploitation and abuse of the student-athlete:

Whereas, less than 1 in 100 high school athletes ever play Division I college athletics;

Whereas, while college athletes in general graduate at the same rate as other students, less than 30 percent of scholarship athletes in revenue producing sports ever graduate;

Whereas, only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expend a professional-sports career of less than 4 years;

Whereas, thousands of America's youth sacrifice academic achievement to the dream of professional athletics;

Whereas, the practice of keeping athletes eligible for participation on a team, even at the high school level, must be abandoned for a policy of ensuring a meaningful education and degree;

Whereas, coaches, parents and educators of student-athletes must express high expectations for academic performance as well as for athletic performance; and

Whereas, there is a need in this Nation to reemphasize the "student" in the term "student-athlete": Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1989, is designated as "National Student-Athlete Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies, and activities.●

By Mr. BRADLEY (for himself, Mr. BUMPERS, Mr. BURDICK, Mr. LAUTENBERG, Mr. LEVIN, Mr. WILSON, Mr. FOWLER, Mr. WIRTH, Mr. DODD, Mr. INOUYE, Mr. SANFORD, Mr. DOMENICI, Mr. GRAHAM, Mr. MOYNIHAN, Mr. EXON, Mr. SYMMS, Mr. GARN, Mr. HATFIELD, Mr. GORTON, Mr. REID, Mr. LUGAR, Mr. MURKOWSKI, Mr. SASSER, Mr. BRYAN, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. PRYOR, Mr. GORE, Mr. LIEBERMAN, Mr. D'AMATO, Mr. MACK, Mr. JEFFORDS, Mr. PACKWOOD, Mr. WARNER, Mr. DOLE, Mr. COCHRAN, Mr. BENTSEN, Mr. ROTH, Mr. CHAFEE, Mr. STEVENS, Mr. MCCLURE, Mr. ADAMS, Mr. KOHL, Mr. CONRAD, Mr. HOLLINGS, Mr. ROBB, Mr. RIEGLE, Mr. CRANSTON, Mr. DURENBERGER, and Mr. DASCHLE):

S.J. Res. 40. Joint resolution to authorize the President to proclaim the last Friday of April 1989 as "National Arbor Day;" to the Committee on the Judiciary.

NATIONAL ARBOR DAY

● Mr. BRADLEY. Mr. President, in 1970, 1972, and again last year, Congress legislated and the President proclaimed the last Friday in April as "National Arbor Day." Today, I am introducing a joint resolution which will once again recognize this important day. I am pleased that 50 of my colleagues have joined me in sponsoring this legislation.

Trees are one of our Nation's most important natural resources. They provide the raw materials for our basic industries, stabilize our environment, and add natural grace to our surroundings. The establishment of a National Arbor Day reminds all our citizens of the vital presence of trees, whether in urban areas or in distant wilderness.

Man's impact on the environment and on the future of our planet is increasingly evident. The importance of trees as a natural resource should compel us to act promptly on the problem of forest decline. Scientists have observed declines, serious damage, and death of a number of species of trees in large areas of Europe and the United States. Damage to forests has ranged from decline in growth of several species of pine in southern New Jersey to widespread damage to the ponderosa pine in southern California.

Because we are concerned about damage to our forests and our trees and because we need to acknowledge the contribution that trees make to our health and well-being, I urge the Congress to designate April 28, 1989, as "National Arbor Day." I encourage my colleagues to join us in this effort. I ask unanimous consent to have the joint resolution printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 40

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue

a proclamation designating the last Friday of April 1989 as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.●

By Mr. SPECTER:

S.J. Res. 41. Joint Resolution to designate April 1989 as "Fair Housing Month"; to the Committee on the Judiciary.

FAIR HOUSING MONTH

Mr. SPECTER. Mr. President, today. I am introducing a joint resolution to designate April 1989 as "Fair Housing Month." April 1989 will mark the 21st anniversary of the Congress' historic passage of title VIII of the Civil Rights Act of 1968, which is commonly referred to as the Fair Housing Act.

This resolution is similar to resolutions I introduced in the 99th and 100th Congresses.

The Fair Housing Act was passed at a time of great turmoil in our Nation. We had just experienced the shock of the assassination of Martin Luther King and the ensuing violent expressions of frustration and outrage in our cities. Congress responded to this turmoil by passing landmark legislation, which announced a national policy of nondiscrimination in housing. That policy lives on today.

Although the act represented an important step in the Federal Government's efforts to prohibit and end discrimination in housing, debate grew about whether the act's provisions need strengthening and how best to strengthen them.

In 1988, two decades later, Congress enacted the Fair Housing Amendments Act, which Senator KENNEDY and I introduced. This bill represented the first significant reform governing discrimination in housing since 1968, and was endorsed by President Reagan and Vice President Bush. The Federal Government now has authority to file suit in an individual housing discrimination case, and families with children and the handicapped now are protected.

The resolution I am introducing today, in commemorating the historic passage of the Fair Housing Act, reaffirms our commitment to a national policy of fair housing for all Americans.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 41

Whereas the year 1989 marks the 21st anniversary of the passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the "Federal Fair Housing Act", declaring a national policy to provide fair housing throughout the United States;

Whereas Title VIII of the Civil Rights Act of 1968 was amended by the "Fair Housing Amendments Act of 1988" to provide stronger enforcement and a broader protected class;

Whereas the Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, or handicap;

Whereas fairness is the foundation of our way of life and reflects the best of our traditional American values;

Whereas invidious discriminatory housing practices undermine the strength and vitality of America and the American people; and

Whereas in this 21st year since the passage of the Fair Housing Act, all Americans must work to continue to improve the Fair Housing Act by strengthening enforcement provisions, by extending the protections of the Act to all our citizens, by assuring there are no victims of discriminatory housing practices, and by making the ideal of fair housing a reality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 1989, as "Fair Housing Month" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the month with appropriate ceremonies and activities.

By Mr. PACKWOOD (for himself and Mr. WIRTH):

S.J. Res. 42. Joint resolution to designate March 16, 1989, as "Freedom of Information Day"; to the Committee on the Judiciary.

FREEDOM OF INFORMATION DAY

● Mr. PACKWOOD. Mr. President, I rise today to introduce a joint resolution which authorizes the President to proclaim March 16, 1989, as "National Freedom of Information Day."

March 16 marks the anniversary of James Madison's birthday. Mr. Madison, our fourth President and father of the Bill of Rights, is the American most responsible for many of the constitutional freedoms we enjoy today, in particular, freedom of speech and the press.

James Madison is considered the architect of our Bill of Rights, yet his contribution to our democratic society is all too often overlooked. Mr. Madison understood the importance of free speech and a free press to a democratic government. He knew intuitively that if the American people had access to information about their Government, that Government would be more responsive to their desires. His vision of a society where everyone could openly express their thoughts has helped preserve the other freedoms guaranteed by the Constitution.

Thanks to the efforts of Mr. Madison and others like him, Americans can speak their convictions without fear of censure. A National Freedom of Information Day will remind the American people and the rest of the world that our freedom of expression plays a vital role in both shaping our country and preserving our liberties.

By proclaiming Madison's birthday as "National Freedom of Information Day" we will reaffirm the significance we attach to our most precious liberties. I urge my colleagues to join me in honoring Madison and the principles for which he stood.●

● Mr. WIRTH. Mr. President, I am pleased to join as an original cosponsor of the resolution introduced by my colleagues from Oregon, Mr. PACKWOOD, to designate March 16, 1989, as "National Freedom of Information Day."

In 1919, Woodrow Wilson, perhaps somewhat tongue in cheek, sang the praises of the free exchange of ideas by saying:

I have always been among those who believed that the greatest freedom of speech was the greatest safety, because if a man is a fool, the best thing to do is to encourage him to advertise the fact by speaking. It cannot be so easily discovered if you allow him to remain silent and look wise, but if you let him speak, the secret is out and the world knows that he is a fool.

While President Wilson knew one of the benefits provided by James Madison's inclusion of the freedoms of speech and the press in the Bill of Rights, newspaper publisher William Randolph Hearst viewed the value of the free exchange of ideas with more gravity:

When free discussion is denied, hardening of the arteries of democracy has set in, free institutions are but a lifeless form, and the death of the republic is at hand.

As our country was being formed, Mr. Madison envisioned a new society led by a government open and accesible to the people that it served. He wanted Americans to enjoy what he called a "peculiar" freedom to scrutinize their government. This freedom could only be exercised when the people had access to information about what their Government was doing—access to the truth. The ability to readily obtain and disseminate information is what Mr. Madison secured for us through the Bill of Rights. Freedom of information would ensure that the U.S. Government remain forever by and for the people, as the Constitution states. Our citizens, empowered with information, can hold officials accountable for their actions and make electoral decisions based on honest and open debate. James Madison recognized that a government, faced with an informed society and an active press, must be responsible to its citizens.

As our Government grew, it collected more information about its citizens. Congress then saw the need to pass the Freedom of Information Act to ensure that individuals could have access to the information the Government gathers about them. By enacting the Freedom of Information Act, we declared that Government should work for our citizens, and not against them. Americans have a right to know what records the Government maintains on them, and, with rare exception, a right to obtain those records.

In some societies, the notion of asking questions and receiving an honest answer or holding government officials up to public scrutiny was considered radical, almost unthinkable. As citizens of the United States, we often condemn the lack of these freedoms in other societies.

Yet today many Americans take these freedoms for granted. We sometimes forget that the freedom of information and the opportunity to openly exchange ideas from a foundation for most of our other constitutional freedoms. That is why I believe a "National Freedom of Information Day" in 1989 would serve as a reminder to Americans of the vital roles these liberties have played in shaping this country.●

By Mr. GRAHAM (for himself, Mr. HEINZ, Mr. LUGAR, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. HEFLIN, Mr. PELL, Mr. CRANSTON, Mr. KERRY, Mr. MURKOWSKI, Mr. INOUYE, Mr. WILSON, Mr. SHELBY, Mr. GARN, Mr. WIRTH, Mr. NUNN, Mr. GRAMM, Mr. ROTH, Mr. JEFFORDS, Mr. THURMOND, Mr. BURDICK, Mr. SANFORD, Mr. LEVIN, Mr. BENTSEN, Mr. BOREN, Mr. GORE, Mr. GORTON, Mr. GRASSLEY, Mr. HATCH, Mr. WARNER, Mr. DECONCINI, Mr. SASSER, Mr. MOYNIHAN, Mr. BUMPERS, Mr. COCHRAN, Mr. SARBANES, Mr. LEAHY, Mr. JOHNSTON, Mr. KOHL, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. MCCLURE, Mr. PRESSLER, Mr. BRYAN, Mr. DASCHLE, Mr. MACK, Mr. ROCKEFELLER, Mr. DOLE, Mr. DURENBERGER, Mr. SPECTER, Mr. BRADLEY, Mr. GLENN, Mr. CHAFEE, Mr. ROBB, Mr. BREAUX, Mrs. KASSEBAUM, Mr. LOTT, Mr. STEVENS, and Mr. BOND:

S.J. Res. 43. A joint resolution designating April 9, 1989, as "National Former Prisoners of War Recognition Day"; to the Committee on the Judiciary.

NATIONAL FORMER PRISONERS OF WAR RECOGNITION DAY

● Mr. GRAHAM. Mr. President, today, on behalf of the Senator from Pennsylvania, Senator HEINZ, and myself, legislation designating April 9, 1989, as "National Former Prisoners of War Recognition Day" has been introduced. The 9th of April is an appropriate day to recall America's former prisoners of war since, on that day, in 1942, Bataan fell and thousands of American soldiers were taken prisoner by enemy troops in the Philippines. What followed was the grim, forced march that led to the death of many of those captured. The survivors faced such brutality in prisoner-of-war camps that most were left with permanent disabilities.

There are an estimated 80,000 former prisoners of war in the United States from World War II and other conflicts. These men and women who were captured and imprisoned overseas while serving in our military are owed our respect and our recognition. They have given more than most Americans will ever be called on to give for their country. Through their courage and their sacrifice they have taught us about patriotism, about perseverance, about character.

I hope you will join me, Senator HEINZ, and the 60 Members of this body who have already cosponsored this important resolution. By honoring the American patriots who suffered the hardships of prisoners of war, we acknowledge our debt to them and to the ideals they fought for.●

● Mr. HEINZ. Mr. President, I rise to sponsor, along with my colleague, Senator BOB GRAHAM of Florida, legislation to designate April 9, 1989, as "National Former Prisoner of War Recognition Day." This effort, identical to one undertaken in the last Congress, serves to underscore the importance of the individuals known as POW's and the sacrifices they endured in the cause of freedom.

In his farewell address, former President Ronald Reagan warned Americans against ignorance of their history and their heritage. Mr. President, the experiences of former prisoners of war is an especially vital part of that lesson, and serves as an object lesson on the meaning of self-sacrifice.

Thus, it is fitting to designate April 9 as a day to remember. It is the anniversary of the fall of Bataan—a name synonymous with suffering endured in captivity and a symbol of man's cruelty to other men. We must never forget those who perished or the individuals who still suffer from the horrors of deprivation and torture. It is for this reason that Senator GRAHAM and I led the effort here in the Senate during the last Congress to secure benefits for former POW's for disabilities they continue to suffer from.

Mr. President, I am heartened by the support for this measure by my colleagues here in the Senate. I ask that those who seek to recognize these valorous POW's to join us as cosponsors of this legislation. Americans should be aware of the special sacrifices made for them through a national day of recognition.●

By Mr. THURMOND:

S.J. Res. 44. Joint resolution designating the week of April 9, 1989, as "Crime Victims Week;" to the Committee on the Judiciary.

CRIME VICTIMS WEEK

Mr. THURMOND. Mr. President. I am pleased to introduce today legislation which would designate the week of April 9-15, 1989, as "Crime Victims Week."

It is a sad legacy that over the past few weeks, nearly 35 million Americans were victimized annually by criminal acts; 6 million individuals per year are raped, robbed, beaten, or murdered. The impact of crime is devastating to innocent victims and their families. In addition to the physical injuries and the financial losses, the victim is further scarred with the emotional loss of one's sense of dignity, security, and trust in other human beings. It is disturbing that the likelihood of becoming a victim of violent crime is now greater than that of being injured in an automobile accident.

Further compounding the pain and anguish victims must endure has been an historical insensitivity to their plight. The criminal justice system has oftentimes ignored the rights of victims before making crucial decisions regarding their cases or failed to notify them that a defendant had been released on bail. While the system offered legal representation and other forms of aid to the accused, it offered minimal assistance to the victim in recovering from the tremendous burden resulting from victimization.

Six years ago, the President's Task Force on Victims of Crime presented an agenda to correct these injustices and restore balance to the criminal justice system. At the Department of Justice, an Office for Victims of Crime was established within the Office of Justice Programs for the purpose of helping States implement the task force's recommendations. The Federal Government began awarding fines collected from convicted Federal offenders to the States to aid victims of crime. In addition, the National Victims Resource Center within the Office for Victims of Crime was established to provide information on victim assistance programs and laws. Largely as a result of these efforts, community programs for victims have grown in number and now every State has a designated agency responsible for victim services.

Much progress is being made to help the victims adjust, but much more needs to be done. Through the continued efforts of State and local governments and private organizations and concerned citizens, the trauma suffered by the innocent victims of crime will be eased.

I urge my colleagues to support this measure and to join me in focusing America's attention on the plight of crime victims.

I ask unanimous consent that the text of the resolution be printed at the end of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 44

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas millions of Americans are victims of crime each year;

Whereas many of those crime victims are traumatized further by the physical, psychological, and financial burdens resulting from their victimizations;

Whereas the sensitivity of our Nation's criminal justice system must be improved when working with crime victims and their families;

Whereas much progress has been made to correct these injustices by implementing in the Federal, State, local, and private sectors

the recommendations of the President's Task Force on Victims of Crime; and

Whereas the continuation of these efforts must be encouraged to ensure the restoration of balance to our Nation's criminal justice system and the fair and compassionate treatment of crime victims and their families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 9, 1989, is designated as "Crime Victims Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies and activities.

By Mr. PRYOR (for himself, Mr. GRAHAM, Mr. GLENN, Mr. BRADLEY, Mr. BURDICK, Mr. JOHNSTON, Mr. SHELBY, Mr. REID, Mr. KOHL, Mr. BENTSEN, Mr. BUMPERS, Mr. CONRAD, Mr. CRANSTON, Mr. GORE, Mr. HOLLINGS, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. LIEBERMAN, Mr. MATSUNAGA, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. RIEGLE, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. WIRTH, Mr. HEINZ, Mr. PRESSLER, Mr. GRASSLEY, Mr. WILSON, Mr. CHAFEE, Mr. WARNER, Mr. BOSCHWITZ, Mr. BURNS, Mr. COCHRAN, Mr. D'AMATO, Mr. DOLE, Mr. DURENBERGER, Mr. JEFFORDS, Mr. KASTEN, Mr. LUGAR, Mr. MACK, Mr. MCCLURE, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. STEVENS, Mr. THURMOND, and Mr. WALLOP):

S.J. Res. 45. Joint resolution designating May 1989, as "Older Americans Month"; to the Committee on the Judiciary.

OLDER AMERICANS MONTH

Mr. PRYOR. Mr. President, as chairman of the Special Committee on Aging, I am introducing today a joint resolution to designate the month of May as "Older Americans Month." I am pleased to be joined by Senator HEINZ, the ranking member of the Aging Committee, as well as other members of the committee including Senators GLENN, BRADLEY, BURDICK, JOHNSTON, SHELBY, REID, GRAHAM, KOHL, PRESSLER, GRASSLEY, WILSON, and WARNER. Recognition of May as "Older Americans Month" is a longstanding tradition of the Congress, going back to 1963.

"Older Americans Month" pays tribute to the immense contributions—both past and present—of our Nation's elderly. Older Americans are an ongoing source of vitality, creativity, productivity, and inspiration for us all. Recognizing the wealth of resources that we have in our senior citizens is but one purpose of "Older Americans Month."

It also gives us a chance to rededicate ourselves to solving the problems of housing, economic security, and health care that face so many older Americans. In the 100th Congress, we worked together to formulate a catastrophic health care bill that will assist thousands of older Americans. With that notable achievement behind us, we face many more challenges in improving the quality of life of the elderly—better pension benefits, safe and affordable housing, and improved access to a range of health care services, including home and community-based long-term care. Commemorating "Older Americans Month" gives us an opportunity to demonstrate our commitment to these issues.

I urge my colleagues to join me in honoring our Nation's senior citizens by supporting this resolution to designate May as "Older Americans Month."

Mr. HEINZ. Mr. President, it is a pleasure to join with my colleague Senator PRYOR, the new chairman of the Senate Aging Committee, in introducing a joint resolution designating May as "Older Americans Month."

Every year we designate the month on May to stop and recognize the unique contribution, tremendous resource, and growing challenge presented to the Nation by Americans who have celebrated their 65th birthday. One out of eight of us, 28 million in all, have passed that remarkable milestone. They are a group that, in actuality, is not a group at all but rather a collection of individuals of all shapes, sizes, and types; some rich, some poor; some living alone, some with spouses and families; some in rural areas and some in urban; but all having attained the unique perspective gained from over 6½ decades of experience, insight, and accomplishment.

I want to thank Senator PRYOR and my other colleagues for sponsoring this triubte to the contributions of older Americans and the challenge which we as a nation must face to improve the quality of life in an aging society.

As we look to the future, we see the growing role that older Americans will play in America's future—as workers, as leaders, as grandparents, as caregivers, and as the cared for. Older Americans as a group are living longer and growing older. In fact, one-fourth of those who were age 65 in 1980 could expect to survive to at least age 90. While many older Americans will continue as productive members of society, others may require increasing amounts of care as they grow older. We must ensure that all older Americans have the jobs, adequate housing, and necessary medical care and adequate retirement income they have earned and that they justly deserve.

So, Mr. President, I am pleased to be a cosponsor of this resolution and urge the Congress to act quickly to designate May as "Older Americans Month."

ADDITIONAL COSPONSORS

S. 1

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1, a bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes.

S. 3

At the request of Mr. NUNN, the names of the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 3, a bill to establish a corporation to administer a program of voluntary national service, and for other purposes.

S. 8

At the request of Mr. DOLE, the names of the Senator from Delaware [Mr. BIDEN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 8, a bill to amend the Export Administration Act of 1979 to impose sanctions against companies which have aided and abetted the proliferation of chemical or biological weapons, and for other purposes.

S. 9

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 9, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 10

At the request of Mr. DOLE, the names of the Senator from Nevada [Mr. REID], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 10 a bill to amend title XVIII of the Social Security Act to ensure that Medicare-dependent, small rural hospitals receive for a three-year period at least their reasonable costs for inpatient hospital services furnished under the Medicare Program.

S. 23

At the request of Mr. HUMPHREY, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Idaho [Mr. MCCLURE], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 23, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 26

At the request of Mr. MOYNIHAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Arizona [Mr. DECONCINI], the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mr. GRAHAM], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KERRY], and the Senator from Con-

necticut [Mr. LIEBERMAN] were added as cosponsors of S. 26, a bill to make certain supplemental appropriations in order to fully fund the Anti-Drug Abuse Act of 1988.

S. 32

At the request of Mr. THURMOND, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 32 a bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes.

S. 35

At the request of Mr. DANFORTH, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 35, a bill to provide for the establishment of rural enterprise zones, and for other purposes.

S. 69

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. WILSON], was added as a cosponsor of S. 69, a bill entitled the Posse Comitatus Improvement Act of 1989.

S. 136

At the request of Mr. ADAMS, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 136, a bill to amend title 3, United States Code, to establish a single poll closing time in the continental United States for Presidential general elections.

S. 137

At the request of Mr. BOREN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Colorado [Mr. WIRTH], the Senator from Illinois [Mr. SIMON], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 137, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

S. 148

At the request of Mr. PRESSLER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 148, a bill to require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

S. 155

At the request of Mr. ARMSTRONG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 155, a bill to amend the Impoundment Control Act of 1974 to provide for enhanced rescission procedures.

S. 158

At the request of Mr. DECONCINI, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 158, a bill to prohibit the receipt of honoraria by Senators.

S. 168

At the request of Mr. PRESSLER, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 168, a bill to promote competition in the distribution and sale to consumers of satellite-distributed television programming.

S. 169

At the request of Mr. HOLLINGS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Alaska [Mr. STEVENS], and the Senator from Washington [Mr. GORTON], were added as cosponsors of S. 169, a bill to amend the the National Science and Technology Policy, Organization, and Priorities Act of 1976 in order to provide for improved coordination of national scientific research efforts and to provide for a national plan to improve scientific understanding of the Earth system and the effect of changes in that system on climate and human well-being.

S. 190

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 190, a bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay without reduction in the amount of the compensation and retired pay.

S. 191

At the request of Mr. MATSUNAGA, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 191, a bill to amend section 3104 of title 38, United States Code, to permit service-connected disabled veterans who are retired members of the Armed Forces to receive compensation concurrently with retired pay after a reduction in either the amount of compensation or retired pay.

S. 216

At the request of Mr. MOYNIHAN, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Michigan [Mr. RIEGLE], were added as cosponsors of S. 216, a bill to establish the Social Security Administration as an independent agency, which shall be headed by a Social Security Board, and which shall be responsible for the administration of the old-age, survivors, and disability insurance program under title II of the Social Security Act and the supplemental security program under title XVI of such act.

S. 223

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 223, a bill to establish a grant program for research, treatment and public education with respect to Lyme disease.

S. 231

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 231, a bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families With Dependent Children Program, and for other purposes.

S. 232

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 232, a bill to establish the American Conservation Corps, and for other purposes.

S. 248

At the request of Mr. METZENBAUM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 248, a bill to amend title 18 of the United States Code to provide increased penalties for certain major frauds against the United States.

S. 253

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 253, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

S. 256

At the request of Mr. HARKIN, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Illinois [Mr. SIMON], the Senator from Missouri [Mr. BOND], the Senator from North Dakota [Mr. BURDICK], the Senator from Arizona [Mr. DECONCINI], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 256, a bill to direct a study by the Secretary of Agriculture of the classification of anhydrous ammonia as a poisonous gas for purposes of the Hazardous Materials Transportation Act, and for other purposes.

S. 260

At the request of Mr. MOYNIHAN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 260, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance programs.

S. 262

At the request of Mr. MOYNIHAN, the names of the Senator from Georgia [Mr. FOWLER] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 262, a bill to amend the Internal Revenue Code of 1986 to remove certain limitations on charitable contributions of certain items.

S. 271

At the request of Mr. GRAHAM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 271, a bill to reform procedures for collateral review of criminal judgments, and for other purposes.

S. 277

At the request of Mr. HUMPHREY, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 277, a bill to amend title 5, United States Code, to provide child adoption benefits for Federal Government employees.

S. 279

At the request of Mr. HUMPHREY, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 279, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income employee adoption assistance provided by the employer.

SENATE JOINT RESOLUTION 6

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 6, a joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government, and for other purposes.

At the request of Mr. PRESSLER, the names of the Senator from Tennessee [Mr. GORE], the Senator from Maine [Mr. COHEN], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 6, supra.

SENATE JOINT RESOLUTION 7

At the request of Mr. BAUCUS, his name was added as a cosponsor of Senate Joint Resolution 7, a joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government.

SENATE JOINT RESOLUTION 15

At the request of Mr. PRESSLER, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 15, a joint resolution to designate the second Sunday in October of 1989 as "National Children's Day."

SENATE JOINT RESOLUTION 20

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 20, a joint resolution disapproving the recommendations of the President relating to rate of pay of certain officers and employees of the Federal Government, and for other purposes.

At the request of Mr. PRESSLER, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Tennessee [Mr. GORE], the Senator from Maine [Mr. COHEN], and the Senator for Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 20, supra.

SENATE JOINT RESOLUTION 32

At the request of Mr. PACKWOOD, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kansas [Mr. DOLE], the Senator from Michigan [Mr. RIEGLE], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Indiana [Mr. COATS], the Senator from Ohio [Mr. METZENBAUM], the Senator from Rhode Island [Mr. PELL], the Senator from North Dakota [Mr. CONRAD], the Senator from Washington [Mr. GORTON], the Senator from Montana [Mr. BAUCUS], the Senator from California [Mr. CRANSTON], the Senator from South Dakota [Mr. DASCHLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Nebraska [Mr. KERREY], the Senator from New York [Mr. MOYNIHAN], the Senator from Texas [Mr. BENTSEN], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Massachusetts [Mr. KERRY], the Senator from Montana [Mr. BURNS], the Senator from Virginia [Mr. ROBB], the Senator from Nevada [Mr. REID], the Senator from Wisconsin [Mr. KOHL], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. PRESSLER], the Senator from North Carolina [Mr. SANFORD], the Senator from Utah [Mr. HATCH], the Senator from Georgia [Mr. NUNN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 32, a joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 33

At the request of Mr. PRESSLER, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Florida [Mr. MACK], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 33, a joint resolution disapproving the recommendations of the President relating to rates of pay of certain officers and employees of the Federal Government.

SENATE JOINT RESOLUTION 34

At the request of Mr. BENTSEN, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from California [Mr. Cranston], the Senator from Nebraska [Mr. EXON], the Senator from Washington [Mr. GORTON], the Senator from Massachusetts [Mr. KERRY], the Senator from Oregon [Mr. PACKWOOD], the Senator from Michigan [Mr. RIEGLE], the Senator from Virginia [Mr. WARNER], the Senator from Colorado [Mr. ARMSTRONG], the Senator from Alaska [Mr. STEVENS] the Senator from Montana [Mr. BAUCUS], the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Arkansas [Mr. BUMPERS], the Senator from Indiana [Mr. COATS], the Senator from Indiana [Mr. LUGAR], the Senator from Illinois [Mr. DIXON], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Virginia [Mr. ROBB], the Senator from Colorado [Mr. WIRTH], the Senator from Louisiana [Mr. BREAUX], the Senator from Montana [Mr. BURNS], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 34, a joint resolution designating the week of April 14, 1989, through April 22, 1989, as "National Minority Cancer Awareness Week."

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska [Mr. STEVENS], was added as a cosponsor of Senate Concurrent Resolution 6, a concurrent resolution on the Essential Air Service Program.

SENATE RESOLUTION 16

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut [Mr. DODD], the Senator from Texas [Mr. BENTSEN], and the Senator from Arizona [Mr. DECONCINI], were added as cosponsors of Senate Resolution 16, a resolution to express the sense of the Senate regarding future funding of the municipal sewage treatment program under the Clean Water Act.

SENATE RESOLUTION 24

At the request of Mr. LAUTENBERG, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], and the Senator from New Mexico [Mr. BINGAMAN], were added as cosponsors of Senate Resolution 24, a resolution to express the sense of the Senate regarding future funding of Amtrak.

SENATE CONCURRENT RESOLUTION 10—SENSE OF CONGRESS WITH RESPECT TO REDUCTIONS IN THE MEDICARE PROGRAMS

Mr. SIMON (for himself, Mrs. KASSEBAUM, Mr. DURENBERGER, Mr. STEVENS, Mr. REID, Mr. DASCHLE, Mr. BINGAMAN, Ms. MIKULSKI, Mr. HEFLIN, Mr. COCHRAN, Mr. PRESSLER, Mr. PELL, Mr. SARBANES, Mr. KERRY, Mr. SHELBY, Mr. D'AMATO, Mr. BRYAN, Mr. ADAMS, Mr. DECONCINI, Mr. CHAFEE, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. BIDEN, Mr. WILSON, Mr. HARKIN, Mr. BUMPERS, Mr. WARNER, Mr. LUGAR, Mr. FORD, Mr. COHEN, and Mr. KENNEDY) submitted the following concurrent resolution; which was referred to the Committee on Finance.

S. CON. RES. 10

Whereas Medicare is an integral part of our nation's Social Security System;

Whereas Medicare provides needed health insurance coverage for 33 million of our nation's most vulnerable elderly and disabled citizens;

Whereas the Medicare Hospital Insurance Trust Fund is expected to produce an annual net surplus for the Medicare Part A program through 1998;

Whereas Medicare has been the target of budget reductions for each year since fiscal year 1982;

Whereas the General Accounting Office (GAO) recently estimated in the fiscal years 1981-1986 Medicare payments to hospitals had been reduced by $17.3 billion and there have been additional substantial cuts in Medicare Part A expenditures Included in the Omibus Budget Reconciliation Acts for fiscal years 1987, 1988, and 1989;

Whereas the Prospective Payment Assessment Commission in its March 1, 1988 testimony before the House Ways and Means Committee stated that in 1988 it is likely that the average PPS margin will fall below zero; and

Whereas further budget reductions threaten the financial viability of the delivery systems serving Medicare beneficiaries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This concurrent resolution may be cited as the "Protect Medicare 90 Concurrent Resolution".

SEC. 2. SENSE OF CONGRESS REGARDING MEDICARE PAYMENTS TO HOSPITALS.

It is the sense of Congress that Medicare payments to hospitals for fiscal year 1990 should not be reduced below the levels provided in current law for such fiscal year so that the medicare program can continue to meet the necessary costs of assuring continuing access to high quality health care services for the 33,000,000 elderly and disabled beneficiaries participating in the Medicare program.

Mr. SIMON. Mr. President, I rise today to submit a concurrent resolution expressing the sense of Congress regarding Medicare budget cuts. The resolution simply states that Medicare payments to hospitals for fiscal year 1990 should not be reduced below the levels provided in current law.

I am joined in this effort by 30 of my colleagues in the Senate and approximately 150 House Members in the companion legislation.

We are all appreciative of the difficult decisions that must be made in the coming months with regard to the budget. It is my sense that the Medicare hospital insurance trust fund has already contributed substantially to our deficit reduction efforts. Since 1982 we have reduced Medicare hospital spending $53 billion below project levels. We cannot continue to target the program for substantial cuts without accepting the consequences of those decisions.

Increases in Medicare payments to hospitals have not kept pace with the increases in what hospitals must pay for goods and services. And the gap is widening. I have met with administrators of some of the hospitals suffering. They have done as must as they can to cut costs. They have cut salaries, including their own, and they are struggling for survival.

All categories of hospitals are losing money under Medicare. Even without further Medicare cuts in fiscal year 1990, more than one-fourth of all hospitals next year will lose more than 25 percent under Medicare. It is happening in the inner city of Chicago to hospitals like St. Anne's and Provident. It is happening in rural areas where there's just not another hospital around the corner. And when those hospitals close, the doctors often relocate. One of the consequences of these cuts is that we are averaging one hospital closing every 5 days.

Increasing hospital closures signal diminished access to quality medical care for our poor and elderly, especially in the inner city and rural areas.

Every American family understands the grim reality that if the cost of food, shelter, and clothing exceeds the family's income, bankruptcy and foreclosure are just around the corner. It is just common sense that hospitals cannot keep their doors open when they continue to lose money.

Is this the intent of recent budget cuts? If we were to go about the business of closing hospitals, would we choose Cairo, St. Anne's, Provident and Utlaut Memorial? It is my sense that we would not. That is not to say that we do not have a problem with excess bed capacity. Healthcare delivery is changing and it is my sense that the hospitals are critically aware of that and are trying to make the changes necessary to increase facility utilization. However, excess bed capacity cannot be used as an argument to legitimize these drastic cuts, nor to justify the indiscriminate closings.

There are a lot of questions about the impact of these cuts as well as about the actual savings that are achieved by the reimbursement method.

I don't think we know that these cuts are saving us money in the long run. Are these smart savings? I've asked the GAO to take a look at this whole question of rural and urban reimbursement. Is it saving us or costing us? If we save a few dollars by paying a lower rate and that community loses a hospital, we've lost jobs, health insurance and access to care. People in that town drive further for care and may well end up in a metropolitan area where we will pay the higher rate.

It is the poor and least fortunate among us who are picking up tab here. I am not aware of rich, suburban hospitals with low Medicare and Medicaid patient mixes that are having troubles.

During the next year several reports concerning access to health care and particularly rural health care will be sent to Congress. One year from now we will be in a much better position to gauge the impact of these budget cuts. I suggest we wait until we have the answers to some of these questions before we consider slashing the Medicare budget once again.

Mr. President, I am pleased to be joined in this effort by the distinguished Senator from Kansas, Mrs. KASSEBAUM and the Senator from Minnesota who has been a leader in this area. I thank them for their assistance and support.

I ask unanimous consent that certain articles be inserted in the RECORD.

[From the Chicago (IL) Daily Southtown Economist Aug. 31, 1988]

TWO STATE HOSPITALS CLOSED

CHICAGO.—A large innercity hospital and a tiny rural one Tuesday joined the growing number of community hospitals acrosss the nation forced to close their doors because they can't make ends meet.

St. Anne's Hospital which has 437 beds, is the 10th community hospital in Chicago to shut down since 1986, officials said. It will close its doors within a few weeks after 85 years of service to the West Side, said spokeswoman Candace Huslebus-Fong.

White Hall Hospital, an acute-care facility with 30 beds in southwestern Illinois, is the sixth small rural hospital to shut down in the state since 1986, said Kenneth Robbins, president of the Illinois Hospital Association.

"The fact that both of them were forced to close was no coincidence at all, but the result of conscious decisions of federal and state governments to underfund the Medicare and Medicaid programs that pay for health care for the elderly and the poor." Robbins said.

In 1987, a record 79 community hospitals shut down across the nation and five of them were in Illinois, said Jan Shulman, a spokeswoman for the American Hospital Association.

In Illinois, "the blame lies with a General Assembly that is unwilling to adequately fund the program (Medicaid) and with a nation that is unwilling to come to grips with the need to design a way to provide adequate health care for those who can not pay for their own care," Robbins said.

[From the Modesto (CA) Bee, Aug. 31, 1988]

HOSPITAL TO CLOSE

CHICAGO.—One of the area's largest innercity medical centers announced Tuesday it is closing because it cannot pay its bills. St. Anne's Hospital which has 437 beds on the city's West Side, is the 10th community hospital in Chicago to close in the last three years, officials said.

[From the Chicago (IL) DeFender, Sept. 1, 1988]

ST. ANNE'S HOSPTIAL TO CLOSE

St. Anne's Hospital will be shuttered as early as next month, the 10th ailing hospital here to close in the past four years, unless outraged area lawmakers can perform some miracles of their own.

Officials of Ancilla Systems Inc., which runs St. Anne's and seven other Midwest hospitals, confirmed the closing at a Tuesday news conference, attributing the shutdown to slow Medicaid reimbursement and insurmountable financial losses.

The 435-bed hospital has provided medical care on the city's West Side for 85 years. The facility will immediately downgrade its emergency room to a standby facility, will cease all medical and surgical procedures and is making arrangements to discharge or transfer all of its patients.

St. Anne's becomes the 10th Chicago hospital to close since 1984 and the third in the city this year. The announcement was followed by political calls to save the facility.

State Sen. Richard Newhouse, D-Chicago, said he will ask Gov. James R. Thompson to come up with a plan to save the inner-city hospital, while state Rep. Robert LeFlore

Jr., D-Chicago, pledged to seek an increase in Medicaid and Medicare funding in the Illinois Legislature. Even Rep. Dan Rostenkowski, D-Ill., the leader of the powerful House Ways and Means Committee mourned the closing.

"This hospital has provided critical service to the West Side community for more than 85 years," Rostenkowski said in a news release. "It is beyond unfortunate that the current climate of health-care financing drives hosptials such as these—good hospitals dedicated to serving those unable to pay—into insolvency."

St. Anne's officials said the facility has collapsed under the burden of $1.7 million in debt owed it by the Illinois Medicaid program.

Founded as a Roman Catholic hospital in 1903, St Anne's was served by the Sisters of the Congregation of Poor Handmaids of Jesus Christ, who assisted doctors and nurses in ministering to patients' spritual needs.

Cardinal Joseph Bernardin issued a statement calling the closing a great loss to the community.

"I also express personal regret that the reason the sisters decided to close was the inability of the hospital to remain financially viable because reimbursement for services to the poor is inadequate to cover costs," Bernardin said.

Medicare and Medicaid have drastically reduced state and federal commitments, while there has been a large increase in indigent patients, said Alethea Caldwell, president of Ancilla Systems. Following a round of staff layoffs last spring, St. Anne's was operating with only 115 of its beds filled.

[From the Carrollton (IL) Gazette-Patriot, Sept. 1, 1988]

WHITE HALL HOSPITAL TO CLOSE THIS WEEK

White Hall Hospital will discontinue providing medical service after Sept. 2 in a move which will cost approximately 52 employees their jobs, the hospital's Board of Directors announced last week.

The announcement said the hospital corporation will not be disbanded, but that the facility will no longer offer acute care or emergency services. The move follows revelations in recent months of crippling debts accumulated by the hospital, attributed to declining patient loads and reduced reimbursements from the state and federal government for treatment provided indigent persons.

Closure of the hospital will mean readjustments for the Greene County Ambulance Service, because the hospital maintained a 24-hour radio dispatch service for ambulance calls. Persons requesting ambulance services called a number which rang at the hospital, and dispatch personnel relayed the call by radio to volunteer EMT crews in the nearest community with an ambulance vehicle.

With the hospital to close, both the White Hall Police Dept. and the Roodhouse Police Dept. reportedly volunteered to move the raido dispatch equipment to their headquarters, and serve as the new relay point for ambulance calls. Also volunteering the use of his office to assist on a temporary basis with the radio dispatch function was White Hall physician, Dr. Abbas Assar, and a similar offer to handle dispatching on a temporary emergency basis was extended by Passavant Hospital in Jacksonville.

However, the Ambulance Committee of the Greene County Board was reported this week to be considering asking Boyd Memorial Hospital in Carrollton to take over the radio dispatch role. Ironically, Boyd Memorial declined to serve in that capacity when the county Ambulance Service was formed several years ago.

Officials said action on the matter is anticipated at the next meeting of the County Board Sept. 14.

Hospital administrator Glenn Klein characterized closure of White Hall Hospital without disbanding its corporate structure as an attempt by the Board of Directors to send a message to the community.

"We are keeping the corporation alive in order to give the town a chance to respond," he said. "We will also stop increasing our indebtedness and make an effort to get receivables collected."

At a series of public meetings in recent months conducted on the hospital crisis, officials revealed the hospital to be about $1 million in debt and losing almost $3,000 a day. Later, a citizen planning committee was named to chart the future of health care in the north-county area, and that group continues to meet.

According to Klein, federal and state licenses will be kept intact in case the community planning committee decides to start rural health clinic.

"I believe the community has concluded that the town doesn't need a 30-bed hospital," he said. "The rural health clinic is the obvious way to go. With almost full funding from Medicare and Medicaid, the clinic should do well if they decide to have one here."

Klein blamed state and federal government policies for forcing closure of the hospital.

"The government is phasing out small hospitals by added controls, only partial funding, and regulations," he said. "We're here today only because of our staff and the quality of their services.

"We cut costs from almost $6,000 a day to only about $2,000," Klein said. "The staff has sacrificed greatly and we have almost no full-time employees."

[From the Schiller Park (IL) Post, Sept. 6, 1988]

ST. ANNE'S ENDS 85 YEARS OF SERVICE

Four hundred and thirty-seven bed St. Anne's Hospital located on the city's west side, after 85 years of serving all who entered her doors, has announced plans to discontinue its acute care operations. The hospital has petitioned the Illinois Health Facilities Planning Board for permission to, in effect, transfer certain key services to St. Elizabeth's Hospital, its nearby affiliate.

Both hospitals are members of Ancilla Systems, a multi-hospital company sponsored by the Poor Handmaids of Jesus Christ (PHJC) religious congregation, whose commitment, for more than 100 years, has been to alleviate sickness with special sensitivity to the poor. Ancilla Systems, in addition to its inner city presence in Chicago, operates hospitals in East St. Louis, Illinois, and Gary and East Chicago, Indiana, among other sites.

Sr. Kathleen Quinn, Provincial of the Poor Handmaids of Jesus Christ, said, "We began examining our mission to the inner city and how to continue serving the poor and powerless back in 1984. At that time, we recognized that we would not be able to continue our mission in Chicago without making changes in our approach to health care delivery. Since that time, reimbursement structures have continued to decline, as both Medicare and Medicaid have drastically reduced state and federal commitments to providing for the health care needs of the public, including the community residents using St. Anne's services. Philanthropic efforts have overlooked the needs of the residents, and the Cook County Commissioners continue to push for a new hospital, rather than contract with community-based providers for the in-patient needs of the county health care recipients."

Alethea Caldwell, president and CEO of Ancilla Systems, said "The closure has significant economic impact on the community and the employees of St. Anne's. It is also a symptom of the lack of a national health care policy in, and the solution to, the under funded access to health care for the poor."

Sr. Judian Breitenbach, PHJC, Chairperson of the Ancilla Systems Board, stated, "We will continue to focus our efforts to serve the west side; first, through various services at the St. Anne's Professional Office Building and secondly; through our continued presence at St. Elizabeth's Hospital, approximately four miles east of St. Anne's." She added, "Our commitment to enhance Catholic health care in the areas we serve will continue as we look for partners to help us meet the health needs of the community formerly served by St. Anne's.

"While we continue to provide those outpatient services we can identify as necessary, we must focus our very scarce resources, both financial and otherwise, on strengthening St. Elizabeth's Hospital, seeking other health care partnerships, and solidifying our future role in health delivery in Chicago," Caldwell further stated.

The hospital will immediately downgrade its emergency department to stand-by and cease all hospital medical/surgical admissions. The hospital and its medical staff are making arrangements for the appropriate discharge and transfer of its remaining medical and surgical patients.

[From the Chicago, (IL) Independent Bulletin, Sept. 15, 1988]

HOSPITALS FACE FINANCIAL STRESS AND CLOSINGS

A 437-bed Chicago Hospital and a 30-bed facility in south central Illinois closed their doors forever in September, bringing to 14 the number of Illinois hospitals that have shuttered in the past two years.

St. Anne's Hospital, Chicago, and White Hall Hospital, White Hall, both served large numbers of poor patients.

They are the latest victims of a combination of financial problems stemming from Medicaid reimbursements that don't keep pace with the costs of providing care for poor patients.

However, the real problem with these closings is the areas in which the hospitals were located. Of the 14 hospitals that have closed since 1986, most fell victim to financial problems because of Medicaid. And they are the hospitals that the state of Illinois most needs.

St. Anne's is located in an area of Chicago the federal government has said is already medically underserved.

The same was true for nine other Chicago hospitals that have closed since 1986.

Patients who once went to White Hall Hospital now will have to travel more than 15 miles to reach the next closest facility.

The financial stress that contributed to the closing of these institutions is unparalleled in recent history.

Illinois hospitals today are beset with Medicare cut backs; a half-billion-dollar burden of indigent care; spiraling liability premiums plus related costs; and a regulatory climate, that squeezes hospital resources, which should be spend on patients.

At St. Anne's, 42 percent of the patients were Mediaid recipients. At White Hall, 35 percent of the patients served were on Medicaid. According to federal law passed in December 1987, disproportionate share pay-

ments are to be made to hospitals that are dependent on Medicaid for their financial existence.

The Illinois Department of Public Aid has not paid a nickel of the estimated $15 million needed to keep disproportionate share hospitals, such as St. Anne's and White Hall, solvent.

Illinois' $15 million disproportionate share allowance was to take effect July 15, 1988.

[From the Quincy (IL) Herald-Whig, Oct. 28, 1988]

GLOOMY MOOD MATCHES DAY AT HANNIBAL HOSPITAL

(By Cherry Brieser)

HANNIBAL, MO.—Hospital employees filed into the former St. Elizabeth's Hospital chapel Thursday for the sad, but not unexpected announcement that a sixth round of staff reductions were being made at the Hannibal Regional Health Care Center.

Cathy Crane, a 29-year-old LPN, attended the 2 p.m. meeting after receiving a phone call at her home that morning, informing her she'd been cut back to five days of work every two weeks.

"They're cutting our hours back so we can't afford to live," said Crane, who worked three years at Levering Hospital before that facility and St. Elizabeth's merged to become Hannibal Regional.

Employees munched half-heartedly on cookies and sipped coffee, their spirits as melancholy as the overcast, dreary autumn weather.

At a press conference the same day, administrator Robert Mabry said the cuts were the final staff changes expected to result from the merging of the two facilities. About 25 employees were laid off and the hours of 35 others were reduced.

This week's cuts were based on seniority and job classification, saving $750,000 to $800,000 a year.

If hospital patients census increases, part-time staff will be called to work extra hours and laid off people rehired when vacancies occur, administrators say.

This week's layoffs and five previous ones were prompted by a drop in patients and growing hospital deficits. The 150-bed St. Elizabeth's currently averages about 85-90 patients daily.

At Levering Hospital, six blocks away, preparations are underway to find new housing for elderly patients in the 24-bed Omni Care Unit before the hospital closes Dec. 21.

"It's a real difficult time," said Jessie Wilson, interim director of nursing. In charge of the nursing program at Hannibal-La Grange College, Wilson was brought in earlier this month as a consultant to help hospital staff through the transition period.

Wilson met privately with three employees at Levering Hospital Thursday morning and informed them of the layoffs.

"We've been talking to employees all along," Wilson said. "They knew it was coming. They can get on with their lives now."

Reaction varied from anger to requests to be rehired later, Wilson said.

Employees are going through loss, shock, anger and depression, Wilson said. Morale is low "even for employees not affected," Wilson said. The health care center now employs about 375 people.

The merging of the two Hannibal hospitals was necessary for the survival of a health care system in the community, Wilson said.

But she acknowledges the problems of building a cohesiveness between two different hospital staffs. "Each hospital has its own personality and philosphy. It's like splitting up two families."

"We now have to have a time for healing," Wilson said.

[From the Chicago Tribune, Aug. 31, 1988]

DOMINO EFFECT IS SEEN IN CLOSING OF HOSPITALS

(By Jean Latz Griffin)

The spate of hospital closings in inner-city neighborhoods is likely to have a domino effect in which poor patients forced out of each shuttered hospital will turn to the remaining hospitals and overwhelm the financial resources of those facilities, health-care experts predict.

Already 10 Chicago hospitals have closed their doors since 1986, including a West Side hospital that Tuesday formally announced the end of an 85-year tradition of service.

All those hospitals were in low-income neighborhoods and had large numbers of patients dependent on the state's underfunded and chronically late Medicaid program and the federal government's low-paying Medicare program.

If the trend continues, health experts say, Chicago could be stripped of its network of community hospitals, where emergency rooms provide treatment for victims of accidents and violence as well as routine care for families who often have no private physicians.

"What we are seeing is a gradual erosion of our nation's medical infrastructure," said William Cox, vice president of government services for the St. Louis-based Catholic Health Association.

Cox and other national and state health-care leaders—as well as local and state politicians—came to the lobby of St. Anne's Hospital, 4950 W. Thomas St., on Tuesday to talk about what its closing meant in relationship to health care in Chicago.

St. Anne's will phase out its operations over the next two weeks.

Three major culprits were cited by health officials and politicians in the demise of community hospitals in Chicago:

The state Medicaid system that pays hospitals too little and too late for their care of the poor.

The federal Medicare system that pretends health care for the elderly costs less than it does. The federal programs pay a set rate for treatment across the country, often shortchanging high-cost areas like Chicago.

The Cook County Board, whose members continue to talk about a new $1.2 billion hospital, ignoring the many small, private hospitals that could be included in a comprehensive network of health care to replace the physically decrepit Cook County Hospital.

"How many more hospitals are going to close?" asked State Sen. Miguel del Valle (D., Chicago). "Are we waiting to hit rock bottom? In some of my communities, we've hit it. It is amazing that all of this is going on at a time when we have a County Board that is thinking of building a new hospital."

Kenneth Robbins, president of the Illinois Hospital Association, predicts that at least "a half a dozen" more hospitals in Chicago "are in imminent danger" of closing because of increased financial pressures. He said two or three are likely to close in the next six months.

Robbins declined to name the hospitals, but he said they were among the 23 hospitals in Chicago that have more than 25 percent of their patients dependent on Medicaid and Medicare. That is considered the upper limit for a financially viable hospital, Robbins said.

The closing of St. Anne's and the nine other Chicago hospitals has made the existence of the remaining facilities even more precarious.

"When one hospital closes, others must take their patients in," Robbins said. "When many of those patients are Medicaid patients, and Illinois continues to fail to pay for their care, that exacerbates an already dangerous situation. You have a domino effect."

Nearly 80 percent of poor patients in the Chicago area are treated at private hospitals. The unreimbursed cost to those hospitals of their care is currently $300 million, according to the Metropolitan Chicago Health-care Council.

Many of the hospitals that have closed are in good physical shape. That has prompted several Chicago politicians to call on the Cook County Board to contract with such hospitals for services rather than build a new Cook County Hospital.

[From the Skokie (IL) Weekend Life, Sept. 10, 1988]

HOSPITAL WOES: COOK COUNTY NEEDS A LOT MORE THAN BAND-AIDS FOR THIS

(By Greg Hinz)

About this time last year, the papers were filled with stories about how taxpayers were about to be socked for hundreds of millions of dollars to build a new County Hospital.

Lately, the story has been the closing of one inner-city hospital after another, from Cuneo in Uptown in July to St. Anne's on the West Side two weeks ago.

What happened in between? The apparent answer is, not much, beyond one grand game of political chicken. Much of Chicago appears headed toward Third World standards when it comes to the quality of medical care. And though it's the South and West Side poor who will suffer most as a result, it's us taxpayers up here who eventually will end up with the very weighty bill.

What's to be done? The answer rests with some folks named George Dunne, Richard M. Daly, James Thompson, George Bush and Michael Dukakis.

The story begins with County Hospital, the hulking, aged West Side behemoth that everyone, including thrifty County Board President Dunne, concedes has to be replaced.

Even Dunne seemed jolted when a county consultant a year ago said it might take $500 million to replace "County" with a new facility of up to 900 beds. A lot of folks immediately asked if it wouldn't be cheaper to instead work out something with the financially failing Provident Hospital, and build a much smaller county unit.

Ever since, Dunne's county government has been eyeball-to-eyeball with the Federal unit that owns the now-defunct Provident facility.

"Dunne wants to get it for free, but the feds might sell to anybody who makes an offer," explains Mary McDonald, the Lincolnwood Republican who heads the County Board's hospital subcommittee. "Nothing will happen until that gets cleared up."

When and how that "clear up" will occur might be a good question for Gov. Thompson to put to his good friend Bush, the vice president and GOP presidential nominee. It also might be interesting to hear Dukakis' thoughts on whether the feds can help out strapped county taxpayers.

If no one has blinked at the Provident staredown, nothing at all has happened on an alternate idea, to establish a network of small, dispersed county health clinics rather than building one new white elephant.

That plan comes from Quentin Young, former medical chief at County and not one of Dunne's favorite people.

Young says such a network, particularly, if it includes contracts with other, failing South and West Side hospitals, could save money while providing better care. Dunne, rightfully cautious about the cost, has replied that the county might not have the legal authority to do that, even though it already has three clinics in Englewood and other areas.

Young has won some backing from County Commissioner Chuck Bernardini, the Lincoln Parker who tries to be both fiscally prudent and socially aware. In February, he introduced a resolution to study the idea. But Dunne promptly shunted it to State's Attorney Daley.

It now has been seven months since Daley was asked to give his legal opinion of the idea—and there's no indication when Richie will say anything. "Some legal questions are much more complicated than others," says Daley spokesman Terry Levin.

Indeed.

Meanwhile, the financial pinch is tightening for the declining number of Chicago hospitals that will accept the poor and Medicaid patients.

According to McDonald, County is getting more and more difficult, expensive cases, such as premature infants who need $100,000 or more each in treatment. And the patient load at County's Fantus Clinic is up 13 percent, to about 1,700 people a day, in just the past year, McDonald says.

Ten Chicago hospitals have closed since 1985. The major reason is that the state has been slow and cheap in its Medicaid reimbursements, forcing private hospital after private hospital into bankruptcy.

The only way out is for either the state to pay more to private hospitals, or for County to accept everyone as the hospital of last resort. Or for the poor to go without treatment.

But Dunne political ally Mike Madigan, the speaker of the Illinois House, has fought the state tax hike that might permit the first. The county's ability to pay for the second is restricted by property-tax realities. That leaves the third.

According to Young, it's not uncommon now for people to go to County with a serious but non-emergency condition and be given an appointment nine months in the future. And that doesn't include what McDonald says will be a huge number of new AIDS cases among poor minorities in the next few years.

So County crumbles, private hospitals fail, everybody studies and watches.

With all due respect to the hard-working County staff and to Dunne, who has to hustle to find the money to pay them, here's a little advice: If you're poor, better not get sick.

[From the Chicago Station WLS-TV, Channel 7, Eyewitness News, Aug. 30, 1988]

ST. ANNE'S HOSPITAL CLOSING ITS DOORS

(By Floyd Kalber, Coanchor)

As expected, St. Anne's Hospital on Chicago's West Side announced today that it is closing its doors. The eighty-five-year-old hospital says it simply cannot pay its bills. Well, that's because it's not getting paid for treating Medicare and Medicaid patients from the State of Illinois. The state alone owes St. Anne's over a million dollars.

William Cox (Catholic Hospital Association): We bear witness this morning to the abject failure of public policy leaders in this country, in this state, to adequately grapple with the problem of funding health-care services for the poor and the elderly.

Kalber: Last April, the hospital, St. Anne's, laid off sixty percent of its staff. Since then it has only used a hundred and fifteen of its four hundred beds. The hospital is going to close in two to three weeks, the tenth hospital to close down in Chicago in just the last three years.

[From the Alton (IL) Telegrpah, Aug. 25, 1988]

LONG CAREER AT WHITE HALL

In 1961, Roberta Blake was a graduate nurse just starting at White Hall Hospital. Little did she know that 27 years later, as director of nursing, she would see the hospital close.

"Sad is the best word to describe how I feel," she said. "It's the passing of an era. The only times I've been off work over those years is when I had my children."

Blake said that years ago, the hospital building was a house.

"The emergency room was upstairs, and there was a large stairway leading to it with a banister. Sometimes when the doctors came in, they'd bring their children, and they would slide down that banister. I can remember delivering babies without the use of fetal monitors and other modern equipment. We did the best we could, and it usually turned out OK."

Blake's association with the hospital began in 1958, when she was a senior at White Hall High School.

"Three boys in our class, Marc Drake, Harry McCracken and Robert Scheir, were killed in a car wreck that year. They were driving to Winchester to get their tuexdos for the prom and were hit by a train.

"They were all brought here to the hospital. Our class had only 52 graduates, but at our 30th reunion this year, 38 showed up. We feel we were close over the years because of the tragedy."

Blake said she will rest for a few months before taking another job.

[From the Chicago Tribune, Aug. 30, 1988]

ST. ANNE'S EXPECTED TO JOIN LIST OF SHUTTERED HOSPITALS

(By Jean Latz Griffin)

St. Anne's Hospital on the West Side is expected to announce on Tuesday that it is closing its doors after 85 years of service, making it the 10th community hospital in Chicago to close within the last three years.

Most of the shuttered hospitals have been in poor, inner-city neighborhoods.

"Yes, it is closing," said Ald. Danny Davis (29th), a member of the hospital's board of directors.

"It is most unfortunate, but sometimes you have no choice; you can't get blood out of a turnip," said Davis, whose ward is adjacent to the hospital and whose constituents rely heavily on it for care. "I was not at the board meeting when the vote was taken, but I would have voted to close it."

St. Anne's 4949 W. Division St., like the nine other Chicago hospitals that have closed since 1985, has suffered financially from late and in adequate federal reimbursement for the services they provided to poor patients.

Hospitals hit the hardest are those that have so few patients with private medical insurance that they cannot ride out the underpayment and slow payment from state and federal Medicaid programs.

The Illinois Medicaid program owes St. Anne's $1.7 million, according to Ancilla Systems Inc., which owns the hospital.

About 40 percent of the hospital's patients rely on Medicaid or Medicare to pay their bills, according to a statement made by hospital president Philip Karst in April, when St. Anne's laid off 60 employees to meet expenses. The hospital has been using only 115 of its 437 beds.

Ancilla spokeswoman Candace Hulsebus-Fong declined to confirm or deny Davis' statement that the hospital would close.

"All the information will come out at our press conference Tuesday morning," she said. "But it's tough to make it on our Medicaid load."

The closing is part of a national trend.

Last year, a record 79 of the nation's 5,800 hospitals closed, and half of those were in inner-city neighborhoods. In Illinois, 80 percent of the state's Medicaid patients seek care in 20 percent of the state's 238 hospitals, nearly all in Chicago and East St. Louis, according to national and state hospital groups.

Davis and State Rep. Robert LeFlore Jr. (D., Chicago) will hold a news conference on Tuesday to talk about the closing.

"It is unjust to the community, especially the indigent," LeFlore said. "I don't think County Hospital will be able to absorb all the poor people. St. Anne's closing will put an extra burden on County."

The 10 hospital closings have not depleted the Chicago metropolitan area of hospital beds. In 1987, the hospital occupancy rate was 62 percent, slightly below the national average of 64 percent.

But the location of the closed hospitals has drained health care and jobs from people who can least afford to lose either: poor black and Hispanic families, often mothers alone with children. Those families often use hospital emergency rooms for routine care because they have no family doctors.

Eight hospital closings through May resulted in the loss of more than 3,000 jobs, according to the Illinois Hospital Association.

Mary Thompson Hospital on the West Side closed in April with a debt of $5 million after 123 years of service to the poor. In the last two years, three hospitals closed within a 2-mile radius in an impoverished area on the South Side. Englewood closed in February, Provident went bankrupt in 1987 and Woodlawn closed in 1986.

On the Near North Side, Henrotin and Chicago Center have closed. Frank Cuneo Memorial Hospital in Uptown closed in July. An outpatient clinic is still there. On the Near Northwest Side, Walther Memorial and Booth Memorial hospitals have closed.

Four rural hospitals have closed in Illinios in the last two years.

"We do not have a comprehensive health plan for the city where resources are strategically placed to meet the needs of our citizens," Davis said. "Without such a plan, institutions just kind of hang out there on their own."

Davis said the county should find a way to get more of the tax money earmarked for the poor into local, community hospitals rather than funneling so much into Cook County Hospital.

"The sisters at St. Anne's have done an outstanding job and have put forth every effort to keep the institution alive and meet the medical needs of the community, especially the poor," Davis said. "Unfortunately the health policies of our state and county mitigate against places like St. Anne's remaining alive and viable."

Davis said that the board of directors has struggled for months to find another solution to the deepening financial crisis of the hospital.

[From the Chicago Sun-Times, Aug. 31, 1988]

ST. ANNE'S CLOSING HITS LIKE DEATH IN THE FAMILY

(By Tracey Robinson)

The announcement Tuesday of the closing of the 85-year-old St. Anne's Hospital on the West Side spread through the hallways like news of a death in the family.

"This was like a funeral," said Kathy Hayden, a nurse at St. Anne's for 13 years. "So many people are going to lose touch. It was the loyalty of the workers to St. Anne's that kept us together."

Stunned and teary-eyed, some 400 St. Anne's employees exchanged hugs, phone numbers and addresses after learning that the doors will close within weeks because of heavy financial losses.

Many nurses and physicians shared fond memories of the years spent helping patients in the West Side community. Most patients will be transferred to neighboring West Suburban, Loretto or Cook County hospitals, officials said.

"So many people are going to fall between the cracks," said Betty Hall, a nurse at the hospital for almost 40 years. "We tried to stay open as long as we could."

Saving the 437-bed hospital was a lost cause without additional Medicaid funding, officials said Tuesday. The hospital is owed about $1.7 million in Medicaid reimbursements by the state.

Ald. Danny K. Davis (29th) called for a partnership between the Cook County Board and small private hosptials to help struggling facilities keep their doors open.

But the lack of Medicaid funding was not the only source of the hospital's problems, said Edward Duffy, state Public Aid Department director. The hospital, with an average of 97 patients daily, no longer could fill its beds.

"Hospitals like St. Anne's are the steel mills of the hospital industry," Duffy said. "People don't use hospitals like they used to. I could have tripled my rates (reimbursements) but that would not have kept that hospital open."

Death of the financially ailing hospital at 4950 W. Thomas seemed imminent for months. But many employees and residents said they were hurt and angry because they were the last to hear news of the closing, given at a morning press conference.

"Everybody assumed that things were coming downhill fast," said nurse Kathleen Greco, who has worked there 11 years. "But the administration would not confirm anything until the last moment. I thought things could have been handled better. We deserved that much."

For many St. Anne employees, it was the only job they knew. When the hospital hit hard times, the staff took pay cuts, worked double shifts and frequently volunteered its skills to keep the facility afloat.

"We stayed on despite fewer and fewer raises," Greco said. "We were loyal." She recalled the time during the 1970s when all of the hospital beds stayed full. "Doctors and nurses flocked here because it was a good place to work," she said.

Another St. Anne's nurse, Mary Ellen DeJesus, a 13-year veteran of the hospital, said the hospital was the most likely place she would see her relatives. "My entire family worked here," she said. "Most of them were born here."

RECENT HOSPITAL CLOSINGS

Booth Memorial, 5040 N. Pulaski—1985;
Chicago Center, 426 W. Wisconsin—1985;
Henrotin, 111 W. Oak—1986;
Woodlawn, 6060 S. Drexel—1986;
Walther Memorial, 1116 N. Kedzie—1987;
Provident, 500 E. 51st St.—1987;
Englewood, 60th and Green—1988;
Mary Thompson, 140 N. Ashland—1988;
Cuneo, 750 W. Montrose—1988;
St. Anne's 4950 W. Thomas—1988.

[From the Reno (NV) Gazette-Journal, Aug. 31, 1988]

LATEST HOSPITALS TO CLOSE CONTINUE NATIONAL TREND

A quiet trend made news Tuesday with the twin closings of a large hospital in Chicago and a tiny hospital in White Hall, Ill.

The Chicago hospital, St. Anne's, becomes the largest private facility to close in five years. It was 85 years old and had 437 beds.

In White Hall, a tiny town in the southwestern section of the state, it was the 30-bed acute care center.

Seventy-nine community hospitals closed last year. If federal hospitals and special service clinics are included, the figure jumps to 96.

"There has been a gradual but persistent erosion in our national health care system," said William Cox, vice president of the Catholic Health Association.

The effect has been felt in cities and rural communities across the nation. Community hospital closings have crept up every year since 1983, and in the past three years, 240 hospitals have closed.

[From the Chicago Tribune, Sept. 12, 1988]

ST. ANNE'S HOSPITAL WORKERS THROW A WAKE FOR VANISHING JOBS

(By Constanza Montana)

Nurses, secretaries and a security guard from St. Anne's Hospital on the West Side returned to their old watering hole Sunday to say goodbye to their jobs and to each other.

"This is a rest-in-peace party for St. Anne's," said nurse Mary Ellen Ginie as she and about 40 other employees from the hospital gathered in the back garden of the Still Chicago tavern, 5960 W. Grang Ave., to bury their employment woes and eulogize their friendship.

Ginie has worked as a nurse at St. Anne's, 4950 W. Thomas St., for 18 years and is looking for a new job since the hospital's recent announcement that it will close its doors after 85 years of service. "I'm history now, but I'm still taking it pretty bad," she said. "My son was born there. I was born there. My father died there."

When St. Anne's phases out its service, it will join nine other hospitals in Chicago's low-income neighborhoods that have been forced to shut down since 1986 because of tardy and miserly Medicaid payments and a federal Medicare system that shortchanges high-cost areas like Chicago, according to health officials.

Joyce Webster, 39, a secretary at St. Anne's for 15 years, lost her job last Monday. "When it first happened, I felt real upset," she said, while sipping a beer. "I cried every day. I wasn't angry about the job . . . but about the people that I worked with. Some of them, I'll probably never see again."

Webster said she would prefer to work at a hospital again, but will look for employment at a fast-food restaurant if it becomes necessary. "I'll work two jobs to make ends meet before I go on public aid," she said.

Last Wednesday was Terri Yak's last day at St. Anne's. But the eight-year veteran nurse said she is getting accustomed to layoffs. Yak wears a charm around her gold necklace that says "#1 nurse." Her colleagues gave it to her about three years ago, the second time she was laid off from St. Anne's, she said.

"I've been laid off twice and I've come back each time," Yak said "Strike three and you're out. But there's no coming back this time."

Although Yak has worked at other hospitals and now works in the emergency room at Loretto Hospital, 645 S. Central Ave., St. Anne's will always hold a special place in her heart. Not only were her two children born there, but she will miss her colleagues as well as the patients.

At St. Anne's "you have a good time working," Yak said. "You work your rear-end off, but you just don't care because you're with your friends and you're always learning something new," she said.

Yak and other nurses reminisced about their former patients while eating pretzels and peanuts at the picnic tables. "Sheila, the asthmatic, she's been coming in for years," Yak said. "She came back the other day and she was just sobbing my shoulders off" when she heard about the closing, Yak said.

Faye Harvell, 56, has worked as a surgical nurse for 28 years at St. Anne's. She thought she would retire from there, she said. Sept. 2 was her last day there. "I'm in shock and I don't know why I'm not kicking and screaming," she said.

Now Harvell must find work elsewhere because "my husband is retired and he's on a fixed income," she said.

Ron Richardson, 35, is still working as a security guard at St. Anne's while it phases out its psychiatric and emergency units. At the gathering Sunday, he wore a gray tombstone T-shirt that said "I survivied St. Anne's Hospital, R.I.P. 1903-1988."

[From the Wilmette (IL) Weekly, Sept. 7, 1988]

ST. ANNE'S CLOSING TO IMPACT HOSPITALS

(By Dan Obermaier)

Oak Park Hospital will get more obstetrics patients and West Suburban Medical Center will see a slight increase in emergency room patients following closure of St. Anne's Hospital on the West Side, officials predict.

But the feared "domino effect"—in which poor patients and the medical funding crisis ripple out to strain and fold other community hospitals—probably won't have a severe impact here, say executives at the local medical institutions.

Citing financial pressures due in part to lacking Medicaid and Medicare funds, St. Anne's announced last week it will phase out operations this month after serving the area for 85 years. Most doctors on the closing hospital's staff are expected to join St. Elizabeth's Hospital, to the east of St. Anne's on the west side and bring their patients with them.

But in addition to patients admitted by staff physicians, St. Anne's also served large numbers of poor who sought emergency room care in lieu of costly doctor's office visits. These patient's are expected to scatter to Loretto Hospital, Cook County Hospital and Rush-Presbyterian-St. Luke's Medical Center in Chicago and in lesser numbers to suburban hospitals.

"I suppose suburban hospitals will get a portion of them," said Candy Fong, vice-president of St. Anne's parent company.

West Suburban will probably receive one or two additional emergency-room patients a day as a result of St. Anne's demise, estimated Kim Matson-O'Malley, planning and marketing vice-president.

"There isn't too much service area overlap between us and them," she said. "We aren't expecting that much of an impact."

Matson-O'Malley acknowledged fears among Chicago hospitals that closings could

snowball, with poor patients radiating out to other hospitals and draining their financial resources. But she does not expect the additional patients at West Suburban to create a financial drain.

In poorer areas, when one of these hospitals closes, it passes on the problem to other nearby community hospitals," she said. "When we first heard about (St. Anne's), we reacted. But when we looked at the actual information as to where the patients come from, we were relieved to see there's not much overlap.

Among factors that lessen the impact of St. Anne's closing, she said, is the relatively small number of patients the hospital has served recently as it has geared down. The hospital reported that of its 437 beds, only 114 were operational, and when the closing announcement came Aug. 30, only 79 patients were there.

At Oak Park Hospital, the obstetrics unit will feel the most impact of St. Anne's closing, said President Willis Fry. Six former St. Anne's staff members—three obstetricians and three family practitioners who perform deliveries—have been granted emergency admitting privileges at Oak Park and are seeking permanent privileges, he said.

St. Elizabeth's Hospital is supposed to pick up St. Anne's staff but doesn't have an obstetrics unit, Fry notes. Physicians at St. Anne;'s have to find another place for deliveries, he said, and some are choosing Oak Park Hospital because it belongs to some of the same HMOs as St. Anne's.

The shift could prove a boon for the obstetrics unit, which the hospital plans to downscale because it lacks patients. "Right now, it's way too big," Fry said. "We have 30 beds and 15 would probably serve us adequately."

Fry said he has "no idea" how many new patients the unit—or the hospital as a whole—will admit because of St. Anne's closing. But he notes that St. Anne's delivered more than 700 babies a year. "That's a lot of babies."

But "as far as I'm concerned, 15 beds will still be adequate, even with this influx," he said.

Fry said he could not predict the financial implications, if any, of St. Anne's demise. "It depends on how many (additional Medicaid) patients we get," he said.

That is a very definite concern be it obstetrics or anything. If you suddenly get a large influx of Medicaid patients, that could be a real concern," he said.

[From the Chicago (IL AHA News) Sept. 5, 1988]

CHICAGO HOSPITAL CLOSES; CITY'S 10TH IN THREE YEARS

Chicago's St. Anne's Hospital last week closed its acute-care services as a first step toward full closure, making it the 10th hospital to be shuttered in the city since 1985.

The hospital, which is owned by Ancilla Systems Inc., Elk Grove Village, IL., Sept. 1 also downgraded its emergency services to standby.

Ancilla officials are seeking state approval to transfer St. Anne's psychiatric services to another of its Chicago hospitals.

The date of complete closure of the 437-bed hospital will depend on the state's decision concerning the psychiatric-services transfer and how quickly St. Annes 96 current patients can be transferred to other facilities, an Ancilla official said.

Alethea Caldwell, Ancilla's president and CEO, said the major factors that forced the facility's closure were competition, the hospital's high overhead costs, and underpayment and delayed payments from Medicaid.

Medicaid patients accounted for more than 50 percent of the average census of St. Anne's, which had previously closed all but 115 of its beds, according to Caldwell.

"The system could afford to pick up some of the [hospital's financial losses] as a part of our mission, but we couldn't absorb all of it," Caldwell said, although she declined to reveal St. Anne's or Ancilla's latest financial results.

Caldwell said Ancilla plans to maintain an outpatient facility to continue to serve St. Anne's patients.

[From the Chicago (IL) AHA News, Sept. 12, 1988]

CHICAGO'S 10 METRO CLOSURES HIGHLIGHT URBAN-HOSPITAL FRAGILITY

Chicago's St. Anne's Hospital soon will boast a new addition to its facade—a sign that reads "Closed."

Such sobering signs have become an all-too-familiar sight in the Windy City. When the 85-year-old Roman Catholic institution closes this month, St. Anne's will become the fourth Chicago hospital to close this year and the 10th since 1985.

"It is unjust to the community, especially the indigent," said one state lawmaker.

There's a common denominator in the closures: inadequate payments for care provided for a high number of Medicaid and Medicare patients, according to hospital officials.

And heatlh care experts say the denominator is so common that Chicago—and the rest of the country—will see an increasing number of hospitals fold, with no type or size of hospital being immune.

"The system is going to somehow 'skinny down,'" said Raymond J. Cisneros, national director of health care services in the Boston office of Touche Ross & Co.

"The big problem is we don't have a national plan, so the hospitals that do close may not be the ones that *should* close," he said, noting that the nation's struggling urban hospitals provide the greatest amount of care to the medically indigent.

St. Anne's, for example, received payment for more than 50 percent of its patients through the state's underfunded Medicaid program; Medicare patients comprised an addititional 25 percent.

In Illinois, that means St. Anne's received only 72 cents on the dollar for services provided to Medicaid patients and only 89 cents on the dollar for Medicare patients, according to figures provided by the Naperville, IL-based Illinois Hospital Association (IHA).

"We not only have a low-pay problem in Illinois, we have a slow-pay problem and a no-pay problem," said Roger A. Quick, the IHA's executive vice president and chief operating officer.

"Hospitals here, at one point, waited up to 100 days to receive payment for care they had provided," he added. "And between April 26 and the new fiscal year July 1, the state completely exhausted its Medicaid appropriation and stopped paying."

That was enough to drive a number of troubled hospitals, including St. Anne's, over the edge. Medicaid alone owed St. Anne's more than $1.7 million.

Underpayment by the federal Mediccare also exacerbates problems for struggling urban hospitals such as St. Anne's, experts say.

Between 40 percent and 50 percent of all U.S. hospitals currently lose money treating Medicare patients, according to AHA President Carol M. McCarthy.

The high number of hospital closures "is clearly a sign of today's economic instability," she said.

A study to be released this month by the St. Louis, MO-based Catholic Health Association (CHA), for example, found that about 70 percent of the nation's Roman Catholic hospitals will post negative Medicare operating margins in fiscal 1989.

Such margins will average −6.8 percent, and more than one-fifth of those hospitals will post Medicare operating margins of −20 percent, according to William J. Cox, the CHA's vice president of government services.

Because of reimbursement problems Cox and the IHA's Quick predict that the closure of a hospital—such as St. Anne's—that serves a high number of Medicaid and Medicare patients could create a "dominio effect" on neighboring facilities.

"Those patients have to go somewhere," Quick said. "The next hospital suddenly may find itself with a higher percentage of public-pay patients, and then it will be under the same conditions that forced the first hospital to close."

Whether the domino theory holds true, the number of hospital closures in both inner-city and rural areas will continue to climb for at least several more years, according to Ross Mullner, director of the Center for Health Services Research at the University of Illinois' School of Public Health, Chicago.

That's saying a lot; 79 hospitals closed in 1987, bringing the total of closed U.S. hospitals since 1980 to 363.

Besides increased closure, Mullner also expects the average bed size of shuttered hospitals to grow.

In 1987, for example, the average size of an urban hospital that closed was 86 beds, and closed rural facilities averaged 61 beds. In contrast, St. Anne's had 437 licensed beds.

"We're eating away at larger hospitals," Mullner said.

Hospitals with more than 150 beds that close have several common features, according to Steven C. Renn, vice president of Health Care Investment Analysts, Baltimore.

These larger hospitals generally show steady declines in occupancy, often in excess of 10 percent a year; tally more than 20 percent—and often 40 percent—of total admissions as Medicaid patients; and collect less than 70 cents on each dollar they charge for care.

"Unlike what you see in other industries, these hospitals don't suddenly tank it; they crumble and deteriorate for a number of years," Renn said.

However, Jefferey C. Goldsmith, president of Health Futures Inc., Bannockburn, IL, still sees a lot of excess capacity in the U.S. hospital system.

"I think we're still in the early stages of consolidation," he said. "And Chicago is just an example of what we'll see all over the country."

LINDA OBERMAN.

[From the Peoria (IL) Catholic Post, Sept. 11, 1988]

POLITICAL HYPOCRISY IN AID

The Washington Letter on page 11 of this issue highlights a problem that's serious in more ways than one. As the column points out, hospitals, caught in the trap of cuts in Medicare and Medicaid reimbursement, are closing all over the country.

In Chicago alone, 10 community hospitals, all in low income neighborhoods, have closed since 1986. And across the country 240 have closed since 1985 and another 680 are expected to close in the next five years.

But not mentioned in the column is the hypocrisy involving the nation and especially our own State of Illinois.

Just this year our state suddenly told Illinois hospitals, pharmacies and others involved in the Medicaid program of state payment for the qualifying poor that they would have to wait some extra months for payment of their bills.

For some smaller hospitals and certain pharmacies this was an impossible burden. Some of the druggists simply had to refuse to accept the Medicaid patients' prescriptions.

But an even bigger problem, it seems to me, was the fiction obvious in the reason the state gave for the move.

The state did not say it had no money. It said it must preserve its reputation for credit by not draining more cash from its bank accounts.

But who's kidding whom? While the excuse sounds good, it is hypocrisy to suggest that cash on hand has any meaning when it is achieved by not paying one's bills. And that hypocrisy is doubled when not paying the state's own bills means that another innocent party, the hospital or the pharmacy, falls heir to the state's bad credit record.

Adding insult to the injury is the fact that the state already has been paying the hospitals only half of what it costs for the Medicaid patient, if the hospital can hang on long enough to wait for the check.

The spokesperson for the most recently closed Chicago hospital said Medicaid had been accounting for 40 percent of the hospital's revenues—and Medicare for another 20 percent.

William Cox, a vice president of the American Hospital Association points out that cuts in medical reimbursement have been for Congress a "politically painless" way to balance a budget. To stop the camouflage, he says, hospitals must speak up as did the elderly to stop the same kind of game with Social Security.

Society, through its government, has an obligation to make health care available to the poor. But it should shoulder that obligation honestly and not only pretend to do so.

Msgr. R.G. Peters.

[From the Alton (IL) Telegraph, Sept. 2, 1988]

End of an Era—White Hall Fearful Over Loss of Hospital

(By Ralph Helenthal)

White Hall Hospital officially closes today, but the effects of the closing are already starting to ripple through the community.

Wednesday the hospital closed the emergency room at 1 p.m. An hour later, Kristy Caskey, 10, was hit by a car while riding her bicycle.

"I wanted to send her to our hospital," said mother Judy Caskey, who worked in the Hospital pharmacy until it closed this week, "but I was told the emergency room was already closed. It really upset me.".

Kristy was taken to Boyd Memorial Hospital in Carrollton, 10 miles away. The girl's injuries were not severe, and she was not admitted to the hospital.

"What will we do when an accident is serious?" Caskey asked. "Kristy's was fairly minor. We need something here where injuries can be treated."

According to Administrator Glenn Klein, the emergency room was closed "because we ran out of supplies. We had thought the room might be open through Thursday, but that became impossible. Additionally, some equipment went back, so we had to shut down the laboratory, X-ray and pharmacy areas."

Last week, the hospital's board of directors announced the hospital's closing because of mounting debts of almost $1 million. A planning committee is deliberating the future of health care in the area.

"I've been getting a lot of phone calls asking me why I didn't save the hospital," Klein said. "I don't know what else we could have done under the circumstances. We cut costs to the bone and still lost it. This community had only one fundraiser in the last 10 years, and that won't keep a hospital open very long."

According to Roberta Blake, director of nursing, the closing could not have come at a worse time.

"Friday, Dr. Ludwig Dech will be marking 30 years in the community. I hate to see the hospital close on that anniversary. If we had known earlier, maybe we could have set the date at another time."

According to Caskey, old myths in the community are beginning to die.

"Folks used to say that our hospital was just a band-aid station. They're finding out now how much we'll miss it."

[From the Chicago (IL) Sun-Times, Sept. 16, 1988]

Clinic Urged by Neighbors of St. Anne's

(By Lillian Williams)

Neighbors of the shuttered St. Anne's Hospital Thursday called for the establishment of a medical clinic at the site to restore both health services and jobs.

The 437-bed hospital closed last Thursday due to financial woes, caused particularly by slow Medicaid reimbursements from the state.

"Our community didn't know about the closing until we saw it on the news," said Jacqueline Reed, coordinator of a committee to save the hospital.

"We at least need a medical clinic at the hospital and an emergency room," Reed said Thursday after a rally in front of the hospital, 4949 W. Division.

Reed and other residents have formed a committee to seek financial backing to restore some services at St. Anne's. They met with Cook County Board President George W. Dunne earlier this week, but came away with little hope that county government would assist them, Reed said.

"Dunne said he didn't want to give false hopes, and he didn't foresee an affiliation between our group and the County Board," Reed said. "But we'll . . . pursue our goals."

Ald. Danny K. Davis (29th) said the hospital closing further erodes the economic base of the Austin community. "We need jobs," Davis said at the rally.

The closing also means residents are left without an emergency room facility, no cancer-testing clinics and 600 fewer jobs, Reed said.

"Our community feels stepped on," Reed said.

Hospital Industry Ill

(By Jeff Paine)

The role of hospitals in providing health care is changing, and the driving force behind the change is increasing cost.

For years, the cost of health care has increased faster than the general rate of inflation: more than 10 percent, compared to about 4 percent. In 1986, Americans spent about $458 billion on health care. While final figures for 1987 are not yet in, the amount is projected at more than $500 billion. This year the amount is expected to increase to about $550 billion. Roughly a third of that is for hospital care and hospital-related expenses.

Health care now constitutes 10.8 percent of the gross national product, the amount the consuming public spends for goods and services each year.

"Five years ago you could pretty much describe the hospital industry as healthy. Maybe with a head cold, but pretty healthy," said Chuck Von Vorst, president of the Carle Foundation Hospital in Urbana.

"Today, there are definite signs of disease in the industry," he added. "There is no question that there are hospitals closing that shouldn't be closing. If we keep losing needed hospitals, we are going to find that access health care is being denied to a great many people."

Local health care will be denied to the poor, the elderly and the rural because while Illinois has an excess of about 15,000 hospital beds, the places that are losing their hospitals are places that generally do not have extra beds: specifically, rural communities and inner cities.

Of the 14 Illinois hospitals that have closed their doors since the beginning of 1986, five have been located in rural areas and nine have been located in urban areas.

The Illinois Hospital Association recently estimated that another 25 hospitals in the state are in immediate danger of financial collapse. The Illinois Health Care Cost Containment Council, a government agency created two years ago to monitor health care costs, plans to release a similar study later this year.

All hospitals have been suffering from the same problems: low occupancy, a shortage of physicians, trained nursing and support staff, rising malpractice insurance rates, high costs for new diagnostic and treatment equipment, a shift to outpatient services and delays and reductions in Medicare and Medicaid payments.

"It's not just one or two things that determine the financial viability of a hospital," said IHCCCC spokesman Penny Kendall. "There are a lot of factors, from indebtedness to payroll to reimbursement to utilization. Hospitals are in business to generate money to keep their doors open. The problem is how to make enough money to keep the doors open."

One way is to cut costs. Another is to raise rates, and in the past that is how hospitals kept up with increases in their own expenses. When Medicare, the government's health insurance system, was founded in 1966, it paid on a "cost-plus" formula, allowing each hospital to be reimbursed for its own expenses, plus a slim profit margin.

But in 1983, that formula was abandoned in favor or a "flat fee" formula based on Diagnostic Related Groups, "DRGs" group similar illnesses together. For a given DRG illness, a hospital or physician would receive a set amount from Medicare, regardless of what it cost to treat the illness.

In theory, the limit would force hospitals and physicians to control costs and reduce unnecessary care in order to make a profit.

"The problem is that health costs continue to rise," said Jeanne Corrigan, spokesman for the Illinois Hospital Association. "The problem has been growing and getting worse. The government policy, or rather the lack of policy, has been determined for the last five years by budget constraints. If the government has the money, it will pay. If it doesn't, it will pay less.

"That really hurts those health care programs and those hospitals that depend heavily on Medicare and Medicaid payments," she said.

While Medicare and Medicaid patients nationally make up about 40 percent of hospital caseload. Medicare and the state's Medicaid patients may make up 75 percent of the patient of hospital caseload, Medicare and the state's Medicaid patient may make

up 75 percent of the patient mix at some Illinois hospitals.

The elderly and the poor make up the majority of Medicare and Medicaid patients, and are often concentrated in rural areas and inner cities. For example, roughly 70 percent of the patient mix at Paris Community Hospital is Medicare or Medicaid, while less than 50 percent fit that description at Sarah Bush Lincoln Health Center in Mattoon.

"While Medicare is supposed to pay 100 percent of the DRG, because of budget limits it's been about 85 to 89 percent," Corrigan said. "With the state's Medicaid payments, it's even worse; about 72 percent. Hospitals that treat large numbers of elderly or poor people can't help but have money problems."

This year, the state's Medicaid program ran out of funds in late April. Next spring, the system is expected to run out of funds again. Losing those funds would be enough to push several more hospitals and nursing homes "over the edge," Corrigan said.

Because hospitals depend so heavily on Medicare and Medicaid, they cannot pass along all of the loss to other health care consumers and purchasers.

[From the Rock Island (IL) Argus, Nov. 2, 1988]

AUDITORS: MERCER HOSPITAL IN SERIOUS FINANCIAL TROUBLE

(By Mirl Ascarell)

ALEDO.—The Mercer County Hospital is in serious financial trouble, and there is "substantial doubt about the hospital's ability to continue in existence," according to an audit report.

"I would like to emphasize that the hospital is in serious financial trouble," James Tillotson, a partner in the Davenport auditing firm of McGladrey and Pullen, told the board, on Tuesday. "Drastic action needs to be taken to begin to turn things around."

OPERATING DEFICIT

According to the audit report, the hospital incurred an operating loss of $884,232 in fiscal 1988, up $213,826 from the previous year.

Even after the non-operating revenue was factored in, the red ink stayed on the books with a net loss, for 1988, of $581,882, up $159,329 from the previous year, according to the report.

The loss came despite an increased subsidy of $114,538 from the Mercer County Board, which agreed to pay the hospital's share of its employee retirement benefits and to increase the hospital's tax levy from $10,000 to $50,000.

Total assets for 1988 equaled $1,163,763, the report said.

Noting the last two years "have been very hard on the hospital," Mr. Tillotson said the first thing hospital officials must do "is to hire a very good and competent administrator."

On this suggestion, the facility already has taken action, by hiring Bruce Peterson, currently assistant administrator at Jane Lamb Health Center, Clinton, Iowa. Since Phillip Forslund left the post, in September, to take another job, the Aledo facility has been without a permanent administrator. Personnel Director Nancy Brown has been serving as acting administrator.

Mr. Peterson is scheduled to begin working at the Mercer hospital on Jan. 3.

AFFILIATE

Addressing the staffing problems the hospital has been experiencing, the audit report noted the facility "has experienced turnover in key administrative and financial positions and seems to be having some difficulties in recruiting qualified personnel to fill the vacated positions."

The auditing firm recommended the hospital's "management should consider the benefits of an affiliation with a major Quad-City hospital." Mr. Tillotson explained this does not mean the Mercer facility should merge with another hospital. The suggestion only refers to a sharing of staff recruiting information and personnel.

"Such an affiliation could help to improve the recruiting efforts as well as take some of the operational pressure off the current employees," the report said.

The audit report also noted six other areas needing attention:

"As of June 30, 1988, the hospital had approximately $900,000 invested in certificates of deposit issued by financial institutions in the state of Texas. In addition, approximately $800,000 of these investments have original maturities in excess of five years."

Given the financial instability of some financial institutions and their susceptibility to failure caused by interest rate fluctuations or downturns in local economies, the auditors recommend Mercer hospital management evaluate the institutions it invests with closely before renewing existing certificates or purchasing new ones.

"Higher interest rates tend to correspond to higher risk associations," the report said.

It also questioned the advisability of having such a large portion of invested funds tied up in long-term certificates. Should the hospital need to use the money, it would be forced to pay a substantial early withdrawal penalty.

The report also noted "Even though the principal is insured, if a financial institution fails, the lost interest will make a substantial difference in the ultimate yield of the investment."

"The aging of the hospital's accounts receivable has continued to deteriorate in the last year."

Between June 30, 1986, and June 30, 1988, the number of days revenue is tied up in patient receivables has increased from 38 to 54, meaning the hospital loses the interest it could have earned if it had invested the money.

The report also noted bad debt expense increases as older accounts become increasingly difficult to collect.

The auditors recommend hospital management review the billing system, collection policies and write-off procedures in use in the business office as well as the hospital's entire cash management policies and systems. An eye should be given to accelerating billing and collection procedures, improving deposit procedures, monitoring accounts receivable and cash balances, planning cash flow, tracking disbursements and reviewing check-clearing procedures utilized by banks.

"The development of formal cash management policies and systems could help to generate additional funds for the hospital," the report said.

Increasing competition between hospitals, declining occupancy rates and pressures from third-party payors make it imperative the hospital continue to review and update its present strategic plan and goal, which were established last year.

Doing so will "position the hospital in a manner which will allow it to react quickly to its continuously changing environment," the report said.

"Currently, the hospital is not maintaining adequate documentation of the Medicare bad debts for deductibles and coinsurance, in order for them to qualify for Medicare reimbursement."

The auditors recommend such recordkeeping begin.

In light of the operating deficit the auditors recommend the hospital conduct an operations diagnosis of the facility's major departments, evaluating the performance of each on employee productivity, financial management, quality control, materials management, organization and supervision, human resource management, management of information and communication, and workplace and physical layout.

"The results of such a study should help to improve the operational and financial performance of the hospital," the report said.

Between June 30, 1987, and June 30, 1988, "there was a significant increase in third-party contractual adjustment expense." Third party contracts include Medicare, Medicaid and HMO/PPO.

The report said approximately 34 percent of the facility's patient revenue comes from Medicare. This means, if the hospital is to increase revenue by raising rates, it must do so in areas which are not heavily affected by third-party contracts.

"Rate increases are very sophisticated management decisions that should consider reimbursement systems, cost of providing the service and local competitive prices," the report said.

The hospital's ability to continue in existence is dependent upon its ability to achieve profitable operations and to restructure its existing debt agreements," the auditors concluded.

DISCLOSE SITUATION

Mr. Tilotson advised the board, "It is in your best interest to disclose the situation that the hospital is in, so you still have time to turn this situation around."

Among those who need to be informed of the hospital's financial problems are the lending institutions that have loaned money to the hospital, he said.

Mercer County Hospital's financial problems are not unique. More than a fifth of the nation's 2,700 rural hospitals are projected to close by 1990, according to a recent study headed by Roth Muttner of the University of Illinois at Chicago.

In general, administrators at rural hospitals cite declining rural populations and the federal government's Medicare reimbursement program. Under the terms of the program, rural hospitals receive a smaller reimbursement from the federal government for the services they perform for Medicare patients than do their urban counterparts.

[From the Chicago (IL) Tribune, Sept. 16, 1988]

U.S. ASKS APPROVAL TO AUCTION OFF BANKRUPT PROVIDENT HOSPITAL

(By William Recktenwald)

The U.S. attorney's office has asked a federal judge to allow the government to auction off the now-closed Provident Hospital.

In a foreclosure motion filed Wednesday before U.S. District Judge Marvin Aspen, the government, on behalf of the Department of Housing and Urban Development, asked that the South Side hospital building and its equipment be sold, said Assistant U.S. Atty. John Brennan.

A. U.S. bankruptcy judge rejected efforts by the New Provident Community Hospital Association on Aug. 8 to take control of and reopen the hospital at 500 E. 51st St., Brennan said.

HUD is owed about $12 million by the hospital and has the first lien on the property in the bankruptcy, Brennan said. That debt grew out of a HUD guarantee of the mortgage when the 98-year-old Provident group constructed its new hospital in the early 1980s, Brennan said.

A sale, if approved by Aspen, could occur within three or four months, Brennan said.

The U.S. Department of Health and Human Services also is owed about $13 million by the hospital but is not a party to the foreclosure motion, Brennan said.

Provident's total debts are about $42 million, Brennan said.

If the property is auctioned, Brennan said that HUD could start the bidding process for as much as $12 million by using its debt rather than coming up with cash.

"The whole point of going to foreclosure is to cut your losses," Brennan said.

The facility and equipment probably will be sold as one package by the U.S. marshal's service in an open auction, Brennan said.

The hospital closed last year after a yearlong effort by its board to raise enough funds to stave off creditors.

The New Provident group's proposal for reopening the facility had relied on $6 million in city funds that fell through because the group had no assets to use as collateral.

Federal Bankruptcy Judge Robert Ginsberg had characterized their plan as "little more than a dream."

It is possible that Cook County could bid for the hospital to help augment its aging and out-of-date County Hospital structure on the West Side.

Some members of the Cook County Board have discussed opening a Cook County Hospital branch there so that South Side residents would not have to travel as far and wait as long at County Hospital, where patients are accepted regardless of their ability to pay.

If Aspen approves the auction of the facility and its equipment, the U.S. marshal's service, which will handle the actual sale, must give 30 days' notice, Brennan said.

RESEARCHERS REPORT 600 RURAL HOSPITALS MAY BE FORCED TO CLOSE

URBANA, IL.—As many as 600 of the nation's 2,700 rural hospitals may soon be forced to close because they cannot adapt economic fluctuations or keep pace with technological advances, a researcher said Wednesday.

Ross Mullner, director of the University of Illinois Center for Health Services Research, said failure of rural hospitals will send ripple effects through their communities in both health and economic terms.

"In many rural areas already hard-hit by economic fluctuations, the loss of jobs and out-migration, the closing of a hospital represents the loss of a vital component of the local economy," Mullner said. "That loss can be devastating."

The study showed rural hospitals are more likely to close if they cannot adapt to changes in the local economy caused by increased farm debt, declining land values and lack of outside employment opportunities; variations in the health care marketplace; and the advancement of health care technologies.

"A hospital must have the necessary personnel, resources, access to capital markets, and overall competitiveness to invest in new professionals and provide services demanded by an increasingly knowledgeable and cost-conscious population."

Aggravating the problem, he added, has been a Medicare pricing system that pays a lower fixed amount for certain diagnoses and procedures to rural hospitals than to their urban counterparts.

"This lower payment is due to the incorrect perception that rural hospitals have lower labor costs and less expensive case mixes," he said. "In truth, labor costs and patient mixes in rural hospitals in many cases are very similar to those in urban hospitals."

Mullner said a rural hospital that must be closed will have a far greater effect on its community than a closure in a city.

"'Without hospital facilities, health care professionals have less incentive to remain in a (rural) area, thereby reducing the availability of health care even further. In addition, many rural hospitals are major sources of employment and income, often second only to the educational system," he said.

Some relief may be possible for rural hospitals through their own action. Mullner said many rural hospitals could be designated as Sole Community Hospitals, a federal classification based on isolation from other hospitals that allows for economic adjustments.

"Studies have found that many hospitals who deserve this designation do not apply," he said, "possibly because their administrators are reluctant to deal with federal bureaucracy or because they don't know about the designation and what it entails.

[From the Alton (IL) Telegraph, Sept. 16, 1988]

WHITE HALL HOSPITAL CORP. PLANNING TO FILE FOR BANKRUPTCY

(By Ralph Helenthal)

The White Hall Hospital corporation will file for Chapter 7 bankruptcy in federal court.

Board Chairman Robert Moulton said Thursday that assets—including the building—will be sold. Moulton said he does know the method of sale that will be used.

The hospital recently closed laying off 52 employees. Reasons given for the closing included a debt of almost $1 million and a declining patient population. Administrator Glenn Klein said the hospital was losing almost $3,000 a day.

"One of our board members said at the meeting, 'For something new to begin, something old must go,' " Moulton said.

About 80 area residents attended a meeting of the health-care planning committee Thursday night. The committee was created in the wake of the hospital's closing to determine health care options in the county.

Chairman Jim Ballard said a fund-raiser or other moneymaking activities would be necessary if the group decides to purchase the hospital building.

The committee has been considering the rural health care system, Ballard said. Under the system, the town would have emergency services and X-ray facilities. It is funded almost fully by both Medicare and Medicaid.

Ballard said other options also are being studied.

"We will need to raise money," Ballard said. "If we cannot come up with a solution to the health care problem, the money will be refunded."

The planning committee has been petitioning the Greene County Board to join the Passavant Area Hospital Emergency Medical Services System. Emergency medical technician and paramedic training would be included in the program.

Greene County Board member James "Deak" Guis told the crowd the board was "very concerned about the emergency medical services program at Passavant. We are studying the program and asking questions. I expect the board to make a commitment soon."

[From the Chicago Station WMAQ-TV, Channel 5 News, Aug. 30, 1988]

CLOSING OF ST. ANNES'S HOSPITAL

RON MAGERS, coanchor: It is now official: After eighty-five years of service on the west side of Chicago, St. Anne's Hospital is shutting its doors. Channel Five's Phil Walters has more on why this latest surrender signals an inner city health care crisis.

PHIL WALTERS reporting: Ron, there were thirty-eight thousand patients a year being treated at St. Anne's. And now they have to go somewhere else. The doors are closing.

Sister KATHLEEN QUINN (Poor Hand Maids of Christ): After much prayer and thought and concern, approval has been given to close the acute care operations of St. Anne's Hospital.

WALTERS: Today it is St. Anne's. What hospital tomorrow?

KEN ROBBINS: (Illinois Hospital Association): I think you have at least another two or three that could go with . . .

WALTERS: St. Anne's joins nine other inner city Chicago hospitals closed in just three years—six thousand five hundred jobs gone in all, two hundred million dollars in lost wages.

EARL BIRD (Health Care Council): These hospitals all had one thing in common: They treated large numbers of the poor and the elderly.

WALTERS: And when these hospitals fold, the patients take the problems of inadequate Medicaid payments to new hospitals.

ROBBINS: You have now exasperated an already dangerous problem in the hospital that is receiving these new patients.

UNIDENTIFIED REPORTER'S VOICE: A domino effect?

ROBBINS: Yes, absolutely.

WILLIAM COX (Catholic Health Association): The long and short of it is that the demand for health care services is up. The government is willing to pay less for those services, and that's a formula for disaster, as we've seen today.

[From the Marion IL Daily Republican, Nov. 28, 1988]

WHAT OTHERS SAY—RURAL HOSPITALS ARE THREATENED

URBANA.—As many as 600 of this nation's 2,700 rural hospitals may be forced to close in the near future, creating widespread impacts on their communities in both health and economic terms.

"A hospital is not an isolated institution," noted Ross Mullner, associate professor and director of the Center for Health Services Research, School of Public Health Services Research, School of Public Health, University of Illinois at Chicago.

Along with David G. Whiteis, a research associate at the school, Mullner recently completed a study in closing rural hospitals.

The research was supported by the University of Illinois Institute of Government and Public Affairs and published in the Policy Forum, a publication partially supported by the University of Illinois Cooperative Extension Service.

"If rural hospitals are to survive, private initiatives must be supported by a public policy that enables hospitals to adapt to a changing and increasingly competitive marketplace;" Mullner.

"Initiatives must buttress the competitive strength of the rural, hospital system and maintain needed health care in rural communities. Only through public-private partnerships can the goals of hospital vitality and excellent community health in rural areas are realized."

The challenges now posed to the survival of rural community hospitals are a "matter of grave concern," he added.

"Without hospital facilities, health care professionals have less incentive to remain in an area, thereby reducing the availability of health care even further," he noted.

"In addition, many rural hospitals are major sources of employment and income,

often second only to the educational system."

The study defines rural community hospitals as all community hospitals outside metropolitan areas. Community hospitals are those which are not federally-owned, in which the average patient stay is 30 or fewer days, and whose facilities and services are open to the public. They may be privately-owned, for-profit institutions; privately-owned, not-for-profit institutions; or owned and managed by a state or local government.

"For both urban and rural community hospitals, the rate of closure has risen steadily throughout the 1980s," Mullner said. "During the first half of the decade, urban closures exceeded rural ones but in 1986, rural closures outpaced urban ones for the first time. The next year, the closures were evenly divided between the two but the overall number was 30 percent greater than the average number earlier in the decade."

The study determined that rural hospitals are more likely to close if they are less able to adapt to fluctuations in the economy, to keep us with the health care technology and trends in the healthcare marketplace, and to meet the changing needs and demands of patients.

"A hospital must have the necessary personnel, resources, access to capital markets, and overall competitiveness to invest in new technology," he said. "It also must be able to attract skilled professionals and provide services demanded by an increasingly knowledgeable and cost-conscious population."

"To attract sufficient patients, a hospital must offer a service mix appropriate to community needs and reasonably priced. To remain competitive, the service mix must also be profitable."

Aggravating the condition of rural hospitals, he believes, has been a Medicare pricing system that pays a lower fixed amount for certain diagnoses and procedures than for the same ones in urban hospitals.

Without some type of action, the trend seems clearly set. More rural hospitals are destined to close.

"In many rural areas already hard-hit by economic fluctuations, the loss of jobs, and out-migration, the closing of a hospital represents the loss of a vital component of the local economy," Mullner said.

"That loss can be devastating."

[From the Daily (University of Illinois) Illini, Nov. 29, 1988]

UI-C Study Suggests Solutions to Rural Health Care Crisis

(By Ed Bannon)

Unless policies are adopted that contribute to the survival of hospitals in rural areas, these communities could suffer snowballing effects, according to a study by an administrator at the University's Chicago campus.

Often economies in rural areas are hit twice. A hospital closes and then industry and health care organizations are less attracted to build in those areas, according to the study done by Ross Mullner, director of the Chicago campus' Center for Health Services Research and School of Public Health, with David Whiteis, a research associate at the school.

The great distance to a hospital also makes preventive health care less convenient, the study said.

But preventive health care is now more important to farmers because farming has become the occupation with the highest fatality rate, said Lee Wagner, student net coordinator for Prairie Fire, a public-interest group located in Des Moines, Iowa.

Central Illinois rural communities are feeling the effects of the poor rural health industry.

"The economy (in Paxton) is not nearly as good as when the community had the hospital," said Lou Petterchak, organizer for the Champaign County Health Care Consumers. Economic troubles forced the Paxton Community Hospital to close in September of 1987.

Nationwide, 164 rural hosptials have been forced to shut down since 1980, and as many as 600 more closings are projected by 1990, according to the study.

The study analyzes the causes of the rise in rural hospital closures and suggests possible solutions.

The Federal Prospective Pricing System—the office that determines the amount of money the government will reimburse a hospital for different diagnoses of Medicare patients—allocates less money to rural hospitals than to urban hospitals, the study said.

In fact, in some cases the level of reimbursement is only 40 percent that of urban hospitals, Mullner said.

False perceptions that rural hospitals have lower labor costs and less expensive case mixes are some reason for the lower reimbursement rates, the study said.

"The amount should be the same if nothing else," Wagner said.

Some rural hospitals could obtain Sole Community Hospital designations because of their isolation from other medical facilities, which would make them eligible for higher Medicare reimbursements, Mullner said.

But the study also found that many hospitals do not seek out the designation, possibly because they are not fully aware of the program or because they are unwilling to deal with federal red tape.

Self help, though, is not the only solution to the problem, according to the study.

The study recommends that Illinois create an Office of Rural Health to implement state policies toward rural health centers, the study said.

"Expansion and diversification would be encouraged (by the office) while delivering needed services to communities," the study said.

The proposed office could also finance the purchase of advanced medical technology, which is sorely needed, according to the study.

"A smaller patient source makes expensive modern equipment hard for rural hospitals to get," Wagner said.

The study also suggests that research be done to determine whether a swing-bed program would benefit faltering rural hospitals or further strengthen well-established hospitals.

The program increases the efficiency of a hospital, allowing use for both short-term and long-term stays, Mullner said. Otherwise, the hospital has to allocate beds for each use, increasing the amount of vacant beds.

Besides Medicare problems and the high cost of modern equipment, an increase in out-patient procedures has hurt hospitals, according to health care sources.

"Many of the procedures that used to take a few days are now out-patient procedures. Hospitals are becoming clinics," Petterchak said.

However, hospitals could make up this loss by raising charges for these procedures, according to Mullner.

[From the Lincoln, IL, Courier Nov. 28, 1988]

Small Town Copes With Loss of Hospital

White Hall.—In this tranquil farm town, folks are accustomed to life without a movie house. Now, they'll have to cope without a more precious commodity—a hospital.

White Hall Hospital, a Main Street fixture for nearly eight decades, is out of business. A "gone fishing" sign is tacked above the entrance.

"Everybody's scared to death," said businessman Jim Ballard. "What if a kid is run over? Or someone has a heart attack? You're pretty much left alone. It's a great loss."

"It's like you're losing your identity," said Dr. Ludwig Dech, a silver-haired physician who was on White Hall's staff 30 years. "Who in the medical community is going to locate where you don't have a hospital?"

White Hall has joined the growing list of farm towns that have struggled throughout this decade, losing people, businesses and, finally, a life-and-death resource: the hospital.

"The question is not whether hospitals will close, but which ones are going to close, who's going to make the decision . . . and what's going to be left," said Robert Van Hook, executive director of the National Rural Health Association.

The number of rural hospital closings has jumped from seven in 1983 to 40 in 1987, Van Hook said. Forty percent of last year's closings, he said, were in Texas, Arkansas and Louisiana.

From 1981 to 1986, admissions to rural community hospitals fell 24 percent—from 8.4 million to 6.4 million, the American Hospital Association says.

In 1986, the group reports, occupancy averaged 55 percent; it was less than 40 percent among hospitals in Texas and those with fewer than 50 beds.

"The whole system is going into shock," said Glenn Klein, a consultant hired this year as White Hall's administrator. "There's not enough money in the system to cover the people."

He should know. White Hall Hospital averaged 40 percent occupancy and lost almost $500,000 last year. It provided $911,000 in care for which it wasn't reimbursed.

What's ailing America's rural hospitals is similar to what's crippling urban ones: declining demand and money. But in small towns, the major obstacle seems to be Medicare, which serves the elderly, a large chunk of rural hospital patients.

Under federal rules, rural hospitals receive less per Medicare patient than urban ones. The rural-urban difference is, on average, 36-37 percent, Van Hook said.

Medicare pays by diagnosis, so a city hospital treating a stroke victim would receive $4,055, while a rural hospital would receive $2,990, said Tim Size, executive director of the Rural Wisconsin Hospital Cooperative.

The dual scale, established in 1983, assumes treatment costs are lower in small-town hospitals. Although rural hospitals are somewhat cheaper, Van Hook acknowledged, the difference shrivels as cases become more complex and the patient load drops.

"Being underpaid each of the last six years, it's taken its toll," Van Hook said. "You can't buy new equipment. You can't raise nurses' salaries. You can't make the improvements."

The White Hall area, like many that have witnessed the steady exodus of their young people, has a large elderly population. Almost one in five Greene county residents

is 65 or older; nearly 10 percent of all county residents receive public aid.

Those factors helped sink the 30-bed hospital. Last year, 85 percent of hospital patients were Medicare or Medicaid recipients or indigent, Klein said.

"When your reimbursement is primarily Medicare and Medicaid, you have a rope around your neck," Klein said, explaining that White Hall last year received 49 cents for every dollar of services provided.

Already, the loss of rural hospitals has people worried about treatment delays.

"When you have to have to go 50-60-70 miles, things get very difficult if you're about to deliver a baby. . . . If you're bleeding or if something's wrong . . . you don't need a hour or two-hour ride," Van Hook said.

And when a small town loses its hospital, it also loses doctors and nurses and struggles to replace them, hampered by having less money to offer and fewer amenities. "We don't have opera every Saturday night," Van Hook said. "We often don't have theater. Many times we don't even have McDonalds."

To combat their financial problems, rural hospitals are deversifying. Some in Iowa are offering adult day care or turning cafeterias into catering services.

For the 3,000 residents of White Hall, there wasn't time to diversify.

"We did not realize the need to change until it was too late," Klein said, noting that local hospitals have been losing patients for years to regional hospitals with more services and specialists.

Still, the hospital didn't give up easily.

In the late 1970s, it remodeled to meet government standards. A few years ago, it recruited three doctors, Klein said, reopened an obstetrics unit at their request and purchased a building three miles away in Roodhouse for a clinic.

"We guaranteed them a good living," Klein said. "We helped them in recruiting their patients. . . . People thought this would be something they could use to build and expand on."

But the doctors notified the hospital board in December they had decided to stop delivering babies. "It was almost a stab in the back," Klein said.

Two of the doctors still have hours at the Roodhouse clinic. The remaining doctors working full-time in White Hall said it would be too stressful to handle deliveries alone and be on call 24 hours a day.

Even then, the hospital kept trying. It cut staff. It reduced inventory. It failed.

"This not only affects us emotionally and sentimentally," said Bob Moulton, hospital board president. "It also affects us economically. We lost a payroll of $864,000."

That will hurt Main Street. But the impact could go well beyond.

The town no longer has a medical center to stabilize emergency patients. The nearest hospital is 10 miles away, but the ambulances making the trip are staffed by county medical technicians, untrained in such critical tasks as inserting intravenous tubes.

"Ten miles without primary care services are darn dangerous miles," Klein said. The nearest trauma center is 27 miles distant, and Klein said its 40-minute ride is potentially fatal for an accident or heart attack victim.

When White Hall closed in early September and filed Chapter 7 bankruptcy, Klein said, many couldn't believe it.

"The community, for many years, had a wait-and-see attitude. The community could have saved the hospital and kept it open," he said, but "there was no point in doing that. We didn't have the patients."

[From the Chicago Sun-Times, Aug. 23, 1988]

CAIRO, ILL., LOSES EMERGENCY CARE; RESIDENTS SCARED

(By Lillian Williams)

Cairo is a sleepy Mississippi River town on the verge of medical disaster, and the townsfolk say they're scared to death.

"If I had a heart problem, I'd have to depend upon the good Lord to help me," said Donald Ames, 62, businessman and life-long Cairo resident.

The trouble is that Cairo, once a booming Downstate railroad town, has lost its only hospital emergency room.

The emergency room closed on Aug. 8 after a state subsidy ran out. Residents have no place to turn.

Even the town's one hospital, St. Mary's, boarded its doors two years ago. There are no private ambulance carriers, and Cairo shares the only public ambulance with other towns of Alexander County.

Residents lucky enough to catch the ambulance are forced to ride at least 35 miles to the nearest hospitals in Paducah, Ky., or Cape Girardeau, Mo.

"It's devastating to our community," said Angela Greenwell, president of the Chamber of Commerce. "It's almost a scandal to think people will be deprived of emergency medical services."

Already, several near-misses in medical care have occurred, said Sarah Jane Clarke, director of a Cairo community action agency.

"One lady needed the ambulance, but the ambulance was in another county helping with an emergency there," Clarke said. "She was suffering from kidney failure. It took two to three hours for a helicopter in Missouri to get her to a hospital.

"A gentleman had a heart attack. . . . It took two hours before he was reached by trained medical personnel."

Surprisingly some Cairo residents take the blame for the crisis. "We sat on our fannies and let this happen," said Clarke, mother of five and a life-long Cairo resident.

Clarke and others say Cairo residents were aware of a deadline when the state no longer would support the emergency room. They were also aware that the state had urged them to find a solution during the last 18 months.

"Everybody takes the attitude of 'let George do it,' " Clarke said.

Al Grant, a top state health official, said the state's funding lapsed on June 30 and that an agreement with Cairo officials called for them to work out alternatives.

"Now Cairo is faced with the situation that many communities have faced for years—and some forever—that don't have a hospital," said Grant, assistant to the director of the Illinois Department of Public Health.

At a town meeting on Monday, residents were expected to debate a proposal for a private firm to reopen the hospital.

It's the first step in reviving a community also plagued by 20 percent unemployment and an average household income of $9,569, well below the national norm.

"We've fallen on our knees, but we have not fallen to our face," said Greenwell, predicting better times for the town.

MED CENTER CLOSED IN CAIRO

CAIRO, IL.—An emergency medical care center serving two economically depressed counties in deep Southern Illinois closed its doors at 8 a.m. Monday because expected state funds were not provided, officials said.

Fred Bernstein, executive director of Community Health and Emergency Services Inc., which operated the center, said the board decided on July 28 to close the center after learning the state had not budgeted the needed $375,000 to operate the center for the fiscal year that started July 1.

The center had been providing emergency room service for 19 months through more than $650,000 in funding provided by the state since the Southern Medical Center in Cairo closed because of red ink in December 1986.

CHES met with the staff of Gov. James R. Thompson last week, hoping for the release of some discretionary funds to tide the center over, but none was allotted, Bernstein said.

"The bottom line is that with the failure to approve a tax increase, the soft or discretionary money has dried up," said Bernstein.

[From the Chicago (IL) Sun-Times, Sept. 4, 1988]

AN AUTOPSY ON ST. ANNE'S MIGHT SAVE OTHER HOSPITALS

Once again another Chicago area hospital with a proud past has closed its doors, depriving its mostly poor clientele of access to convenient medical care. This time it is St. Anne's probably the largest private hospital yet in the country to go out of existence.

There is no need to mince words. It is a tragedy. It is a tragedy for the people it served. It is a tragedy for the people it employed. It is a tragedy, we believe, that could have been averted. And it is a tragedy that, with prompt and proper attention to the problem, does not have to occur again.

A post-mortem will not do any good for St. Anne's, but it could help focus attention on the fatal combination of ailments that finally felled this 85-year-old, 437-bed West Side institution, and perhaps help save some others that are flundering.

Two other Chicago-area hospitals preceded St. Anne's to this fate this year alone. Six more had passed into history since 1985. And at least half a dozen others are believed to be in a terminal state, with some unlikely to survive beyond 1988.

As at other inner-city hospitals, most of the patients at St. Anne's were dependent on government to pay for their treatment and the government paid neither fully nor promptly.

At the federal level, the Medicare system underpays by about 7 to 10 percent because of a formula that even with some adjustments pays at general the same rate all across the country—as if costs everywhere were the same. This cheats high-cost areas like Chicago.

At the state level, Medicaid pays only 73 percent, and pays it late because of its own budgetary problems. St. Anne's was owed about $1.7 million in Medicaid reimbursements.

Total unreimbursed care in Illinois last year is estimated at about $500 million. Hospitals outside poor areas generally pass on the unreimbursed expenses to their paying patients. Hospitals like St. Anne's have no such possibility. Furthermore, when they close down, the same government-dependent patients shift to other hospitals, bringing the problem with them. Thus reasonably institutions find themselves under new strains, and in danger of going under.

This vicious cycle must be broken before it threatens the entire public health system. And the way to do it is precisely by remembering that what we need is a *system*. Hospital A, Hospital B, Hospital C may each have individual identities and a glorious past, but if they want to ensure a future—a future of any kind at all—they must be interlinked in some manner.

Cook County, for example, is considering building a mammoth new hospital building to replace the existing one, with a price tag of $1.2 billion. Why spend so much money on building *one* facility in *one* location when other hospitals have under-utilized bed capacity? Isn't it better to build a smaller replacement building for the Cook County Hospital and use other area hospitals as satellite centers? This is an idea that has been kicking around for some time. Its time has come.

Another way to provide new funds for ailing hospitals would be through employer-paid insurance. Many of the indigent who use Medicaid have jobs, however low their wages. Generally, however, the employers of such people do not provide health insurance. At the urging of hospital groups, the House Ways and Means Committee of Rep. Dan Rostenkowski (D-Ill.) is now looking into this.

With more-efficient use of tax dollars through a systemic approach and with a new source of revenue, there is an excellent chance that the poor will not be deprived of medical care. Otherwise, with lawmakers continuing to refuse to raise taxes to pay for indigent care, institutions like St. Anne's will continue to die. And eventually the overwhelmed survivors will have to be rescued at much greater cost by the same taxpayers whose ire the legislators are now trying to avoid.

[From the Chicago (IL) Daily Southtown Economist, Sept. 7, 1988]

HOSPITAL FAILURES AFFECT SURROUNDING COMMUNITIES

CHICAGO.—Inner-city hospitals collapsing in financial failure are likely to topple their shaky neighbors in a "domino effect" hastened by growing tides of poor people and eroding government support, authorities say.

Rural hospitals are shutting down at an equal rate and are leaving large gaps in the availability of health care, authorities say.

Two Illinois hospitals last week announced they would close—a 437-bed facility on Chicago's West Side and a 30-bed institution in rural southwestern Illinois—becoming casualties in an accelerating national trend.

"It's a fragile environment for hospitals," said Jan Shulman, a spokeswoman for the American Hospital Association, which allied a record 79 hospital closings nationwide last year, five in Illinois.

Twenty-five more of the state's 226 remaining hospitals fit the profile of endangered institutions, most of them located in Chicago and one in East St. Louis, said Kenneth Robbins, president of the Illinois Hospital Association.

Typically, the shaky hospitals are in poor, inner-city neighborhoods, with 25 percent of their patients poor people covered under Medicaid. 30 percent to 40 percent elderly people covered under Medicare, and 5 percent to 10 percent indigent people who have no method of payment, Robbins said.

Currently the state pays hospitals only 73 cents for every dollar the hospitals spend treating Medicaid patients, and the federal government pays only 90 cents for every dollar spent treating Medicare patients, he said.

"Nearly 60 percent of all community hospitals lost money providing patient-care services in 1986." Shulman said.

"There's a certain domino effect that accompanies the closing of any hospital," Robbins said.

Edward Duffy, outgoing director of the Illinois Department of Public Aid, says surplus beds as much as inadequate government support are to blame for many of the troubles facing hospitals. He cited the soon-to-be closed St. Anne's Hospital on the West Side as an example, noting that it has been using only about one-quarter of its 437 beds.

[From the Chicago Tribune, (IL) Sept. 4, 1988]

HOSPITAL CLOSINGS NOT LIMITED TO CITY

RURAL AREAS HAVE SAME PROBLEM, AND POOR SUFFER IN BOTH CASES

(By Jean Latz Griffin)

Susan Schofield and her brother, David Beem, had come home to the dusty farm town of White Hall, Ill., Wednesday to move their elderly mother—struggling to breathe and wracked by a gangrenous leg—from her familiar bed to another hospital 25 miles away.

"This shouldn't have happened," said Schofield, of Tampico, wiping away tears as her mother was loaded into the ambulance. "My mother is critical. She is much too sick to be moved. I can't believe this."

White Hall Hospital—all 30 beds, laboratory, X-ray department, emergency room and surgery—was closing, and Essie Cunningham, 70, was its last patient.

Nurses in black armbands bid Essie farewell as they wheeled her past the empty rooms. Already, 81-year-old Jule Gray had been taken home by his wife. The two senile women who had lived at White Hall for two years had gone to a nursing home.

As soon as the town's dentist finished the last oral surgery in the small operating room, all medical care here would cease. Everything would be over but the cleanup.

"It breaks my heart," said Margaret Gansz, a nurse's aide at White Hall for 18 years. "We are a family here."

About 260 miles northeast of White Hall in a tough Chicago neighborhood, Freddie Zaia was just as upset that his hospital—St. Anne's in Austin—was closing.

"I got shot in a gang-bang right in front of this store nine months ago," Zaia said. "I was in the hospital 22 days, most of the time in the ICU [intensive care unit]. Nobody thought I'd make it."

Zaia, who says he is "28 or 29, somewhere in there," pulled up his shirt to show an inch-wide and foot-long scar from the surgery after the shooting.

"I still got a bullet in my back, so I have to go for X-rays a lot," Zaia said. "I know St. Anne's is losing money, but I wish they'd stay open. Eileen is my favorite nurse. It's a good hospital."

On the same day last week, Tuesday, White Hall Hospital and St. Anne's Hospital announced they were closing their doors after more than 80 years of service to their communities.

White Hall had only 7 patients among its 39 beds; St. Anne's had only 115 patients in 437 beds. In each case, nearly 80 percent of those patients relied on Medicaid or Medicare to pay their bills.

The most-used facility in both hospitals was the emergency room. St. Anne's saw 100 patients a day; White Hall sometimes as many as a dozen. Yet fewer than 10 percent of those patients were admitted.

St. Anne's and White Hall represent two facets of the changing nature of health care in America—the decline of large, inner-city community hospitals and the withering of the country's small, rural hospitals.

"Our actual need here is not of a full-scale hospital," said White Hall administrator Glenn Klein. "To try to keep this place going the way it was would be like trying to keep a dinosaur going."

Even before the pain of loss cases, people in Austin and White Hall are trying to determine just what kinds of health care they truly need, and how to get it.

In White Hall, located midway between Springfield and St. Louis in Greene County, a 23-member community planning committee has been meeting for four weeks to decide if White Hall and its neighbor, Roadhouse, should apply to the state for funds to develop a Rural Health Clinic. And, true to its county roots, the committee on Aug. 4 voted to use the $1,032 earned at the dunk tank during the Fourth of July celebration for its expenses.

In Austin, on Chicago's West Side, things are more complicated. Several local politicians would like the Cook County Board to take over St. Anne's and the nine other hospitals that have closed in the past three years as satellites for Cook County Hospital. A social service agency is investigating the possibility of converting the hospital into a skilled care nursing home. There also is talk of converting many of the medical/surgical beds to an expanded psychiatric ward.

In some ways, White Hall and Austin couldn't be more different. Most of White Hall's 2,800 residents are elderly, retired and white. More than 80 percent of the 138,000 people who live in Austin are black or Hispanic and 43 percent are under 20 years old. A lazy two-lane highway winds its way through White Hall. CTA buses fume their way through Austin.

But on a deeper level, the level where decisions are made about health care, the two communities are remarkably similar. Both have high rates of unemployment and poverty; few people in either place have private medical insurance.

And the closing of both hospitals will have effects beyond health care. White Hall cannot afford to lose the 52 jobs that the hospital provided. The closing of St. Anne's will add about 500 more jobs to the 7,500 already lost in Chicago in the last three years due to hospital closings.

Both hospitals were built for other times, when the economy was better, more babies were being born, and the worlds of government and medicine were far apart. But those times are gone.

Of the 79 hospitals that closed in the last year in the nation, half were in rural areas and half were in the inner city.

Part of the problem is that both rural and inner-city hospitals serve poor patients. With government health care programs paying less than $1 for every $1 of health care given, hospitals with large numbers of poor patients find themselves on a downward spiral that eventually leads to financial collapse.

Some Chicago health care experts predict that the closing of St. Anne's and other inner-city hospitals will have a domino effect: Poor patients will be sent to fewer and fewer hospitals, thus overloading their ability to stay afloat.

But others, particularly the growing numbers of people who watched health care costs skyrocket over the last 20 years and then began to take steps to bring them into line, say the demise of the White Halls and the St. Annes of the country may be just what the cost analyst—if not the doctor—has ordered.

Hospitals, they say, are trying to cover the cost of operating large, out-of-date facilities by overcharging patients.

Government and insurance companies are trying to determine the best price they can get for medical care, regardless of a hospital's overhead cost. If one side effect is to push the least economical hospitals out of business, well, that's letting the marketplace function as it should, they say.

"You have several hospitals around St. Anne's that are operating at about 60 percent capacity," said Marilyn Plomann, executive director of the Illinois Health Care Containment Council. "They need St. Anne's patients. That closing may be the ticket to survival to those other hospitals."

But in White Hall and Austin, "those other hospitals" may not be what people have learned to trust.

Going to a different hospital often means finding new doctors or entering what is perceived as nearly alien territory—whether it is an area controlled by a different street gang in Chicago or the site of generational feuds in rural Illinois.

Asked why she would not go to Boyd Hospital in Carrollton 10 miles away, 15-year-old Ginny Allen looked appalled that anyone could seriously suggest such an idea.

"I'm an old-fashioned country girl, and my mama raised me up with Dr. Dech," Ginny said. Dr. Ludwig Dech has practiced in White Hall and Roodhouse for 30 years.

"He's the only one ever cared spit about me," said Ginny

"I understand him, and he understands me. He sewed up my thumb when it got caught in the lawnmower. He fixed my ankle when I sprained it running track. I don't like the attitude over at Boyd."

[From the Chicago Catholic, Sept. 2, 1988]

MONEY WOES CLAIM ST. ANNE'S HOSPITAL

WEST SIDE FACILITY VICTIM OF SLOW AND INSUFFICIENT STATE, FEDERAL PAYMENTS

(By Bob Reszek)

They gathered at St. Anne's Hospital Aug. 30 to eulogize yet another health care facility which will close its doors shortly because of financial problems stemming from lack of government funding.

The West Side institution was 85 years old when the life support system was unplugged.

Authorities of Ancilla Systems announced at a press conference St. Anne's, 4950 W. Thomas St., will discontinue its acute care operations within the next few weeks. An exact date will not be determined until approval from the Illinois Health Facilities Planning Board and a timetable for the transfer of beds and patients to St. Elizabeth's Hospital, 1431 N. Claremont Ave., can be finalized. St. Elizabeth's is also an Ancilla Systems facility.

Sister Kathleen Quinn, provincial of the Poor Handmaids of Jesus Christ which sponsors Ancilla Systems and its seven other Midwestern health care facilities, delivered the opening statement. St. Anne's will thus become the 10th Chicago-area hospital to close within the last three years.

Calling it a very difficult and well-thought-out decision. Quinn said, "We began examining our mission to the inner city and how to continue serving the poor and powerless back in 1984. At that time, we recognized that we would not be able to continue our mission in Chicago without making changes in our approach to health care delivery."

"Since that time," Quinn continued, "reimbursement structures have continued to decline, as both Medicare and Medicaid have drastically reduced state and federal commitments to providing for the health care needs of the public, including the community residents using St. Anne's services.

"Philanthropic efforts have overlooked the needs of the residents, and the Cook County commissioners continue to push for a new hospital, rather than contract with community-based providers for the inpatient needs of county health care recipients."

St. Anne's is owed more than $1.7 million in Medicaid reimbursements by the state.

The closing of St. Anne's will eliminate more than 400 full- and part-time jobs. The facility, which originally housed 437 beds and was cut down to 115 in cost-saving measures, currently services 97 inpatients.

In a statement from the Archdiocesan Pastoral Center issued that same morning, Cardinal Bernardin said: "The closing of St. Anne's Hospital is a great loss to the city of Chicago and the archdiocese. In expressing my gratitude to the sisters of the congregation of the Poor Handmaids of Jesus Christ who served this community for many years, I also express personal regrets that the reason the sisters decided to close was the inability of the hospital to remain financially viable because reimbursement for services to the poor is inadequate to cover costs. To prevent the trend of closure of hospitals that serve large numbers of the poor, it is important that all people of good will work in the private and public sectors to correct this condition. In keeping with the Catholic Church's commitment to its Catholic health care mission, especially in serving the poor, inpatient health care services under Catholic auspices will still be available to the community at other local Catholic hospitals."

Alethea Caldwell, president and chief executive officer of Ancilla Systems, said St. Anne's depended on 75 to 80 percent federal funding—the average for inner-city hospitals is closer to 66 percent. It was one of a number of hospitals across the state severely affected by late Medicaid reimbursements, which were pushed back from April 26 to July 1.

"The decision to cease operations at St. Anne's is not solely financial," she explained. "The redundancy of Catholic providers in their particular area, coupled with insufficiant sources of capital, have contributed to this reorganization of services.

"As long as other sources of Catholic health care remain available, St. Anne's does not serve this part of our mission alone. As a member of the Cardinal's initiative known as the Catholic Health Alliance of Metropolitan Chicago, we have now entrusted the preservation of Catholic health care to its membership."

Caldwell added, "We hope this will be an example, a lesson to focus on future changes. We hope it will be government—local, state and federal—working together to solve the problem because it is a problem."

Other hospitals closed in the city of Chicago since 1984 include Booth Memorial, Chicago Center, Cuneo, Englewood, Henrotin, Mary Thompson, Provident, Walther Memorial and Woodlawn. All closings with the exception of Booth Memorial have occurred since 1986. All had one thing in common: They treated large numbers of the poor and elderly.

The closing of St. Anne's means community residents requiring health care will opt for one of two alternatives—either seek new doctors and travel greater distances or postpone treatment until the next medical crisis forces a decision.

According to Earl C. Bird, president of the Metropolitan Chicago Healthcare Council, "Two thirds of the hospitals located in the city of Chicago are losing money on patient care, and the losses are increasing. For the first six months of 1988, the losses averaged 11 cents on each dollar of care provided. In 1987 for the same period the losses were 7 cents on each dollar of care provided."

Bird said the reason for the drops is because "Medicare and Medicaid are not paying their share of the costs of caring." Bird pointed out Medicare pays only 93 cents on the dollar of cost and Medicaid is even lower at 73 cents on the dollar of cost. To complicate matters, he said, the Chicago Health Systems Agency estimates close to 600,000 people in the city or one in five are without health insurance for at least part of the year.

"Contrary to popular belief," Bird said, "80 percent of all low-income patients are cared for by private hospitals in the Chicago area. This tab now exceeds $300 million to private hospitals in the "metropolitan area."

Father Leroy A. Wickowski, coordinator of the archdiocesan Health/Hospital Affairs office, said, "I think there has to be greater government funding to cover the costs. The question is how much can (hospitals) absorb and still be able to continue. It is a problem and we would try to have our (Catholic) hospitals work together to strengthen themselves."

Ken Robbins, president of the Illinois Hospital Association, also announced at the press conference White Hall Hospital in downstate Greene County will cease operations. It likewise serves large numbers of poor people. He issued a plea to legislators to act now and prevent futher closings.

"Our lawmakers must have the vision and the conscience to provide sufficient funds to ensure that no more hospitals meet the same tragic fate," Robbins said.

Robbins claimed health care funding today is "$70 million short." He said Congress passed a law last year requiring funding be made available to hospitals depending on 25 percent or more Medicare. Robbins added the state should be spending about $15 million for those particular hospitals, when in reality it currently allows for $5 million.

Bill Cox, vice president of government services for The Catholic Health Association of the United States, also pointed the finger at the government, saying a CHA survey indicated "the federal government, since 1982, has reduced Medicare spending 23.1 percent or by $48 billion over its earlier estimates. Almost all of these cuts have been achieved through reduced Medicare payments to hospitals."

"The long and short of it is the demand for health care systems is up and government funding for it is short. And that's a disaster," Cox said.

Bird later revealed 23 hospitals in the Chicago area are identified as endangered, with at least six in "imminent danger." He would not name any facilities in particular, but did warn "if changes don't occur, then three-quarters are in ultimate danger."

Another press conference later in the morning featured various political figures, including state Sens. Richard H. Newhouse Jr. (D., Chicago) and Miguel del Valle (D., Chicago), state Rep. Robert LeFlore Jr. (D., Chicago), and Chicago Aldermen Danny K. Davis and Percy Giles. Newhouse indicated he would continue lobbying in the statehouse to keep the hospital open.

The problem is evident nationwide. A record 79 of the country's 5,800 hospitals closed, with more than half coming from inner-city communities.

RECENT HOSPITAL CLOSINGS

1. Booth Memorial, 5040 N. Pulaski, 1985.
2. Chicago Center, 426 W. Wisconsin, 1985.
3. Henrotin, 111 W. Oak, 1986.
4. Mary Thompson, 140 N. Ashland, 1988.
5. Walther Memorial, 1116 N. Kedzie, 1987.
6. Provident, 500 E. 51st., 1987.
7. Englewood, 60th and Green, 1988.
8. Woodlawn, 6060 S. Drexel, 1986.
9. St. Anne's 4949 W. Division, 1988.
10. Cuneo, 750 W. Montrose, 1988.

[From the New York Times, Aug. 21, 1988]

SMALL INNER-CITY HOSPITALS IN UNITED STATES FACE THREAT OF FINANCIAL FAILURE

(By Isabel Wilkerson)

CHICAGO August 20.—Across the country, small community hospitals in poor inner cities appear on the brink of failure, squeezed by fluctuations in state and Federal Medicaid reimbursements and a rise in indigent patients depending on them, health policy experts say.

These hospitals, which are privately run and serve a specific community, are often the only place where poor residents can get routine medical care. But now financially troubled themselves, some of these hospitals are barely able to provide even marginal service.

At the Roseland Community Hospital on the South Side of Chicago and struggling to stay open, the CAT scanner broke down for the fourth time this year the other day. Once again officials had to transfer patients to another hospital, knowing they could not afford to replace a machine that was used when it was bought.

Roseland's troubles underscore the difficulty of running a hospital in a community that itself is falling apart. With 162 beds, Roseland is the only hospital in a densely packed 40-square-mile swath of inner-city Chicago. Its neighbors are ramshackle taverns on 111th Street, where the community's many unemployed residents watch the world from the sidewalk in their kitchen chairs.

WE'RE ALL THEY HAVE

"We're not like other communities where you look out the window and see five other hospitals," said Denise R. Williams, president and chief executive officer of Roseland. "For the poor people in this community, we're all they have."

But as the community has declined in the last decade from a middle-class neighborhood to a poor and working-class one peppered with boarded-up bungalows, so have the fortunes of the hospital. Like many other small, inner-city hospitals, Roseland is trying to stave off bill collectors and fix equipment that breaks down frequently at a time when it is anxiously trying to attract better-off patients whose insurance can pay for the hospital's services.

The fate of hospitals like Roseland is a major concern of health policy experts who say that without these hospitals poor Americans may have dangerously limited access to health care. A shortage of inner-city hospitals could result for the poor in even lower life expectancies and higher infant mortality rates, they say.

"It's a double-barreled problem," said one of the experts, Alexander Williams 3d, senior vice president of the American Hospital Association. "Many of these hospitals are not the kind of hospitals that would attract people, poor or not, from outside the community. The high-cost, socially difficult and unpopular patients are the ones they're caring for. They are likely to have no full-pay patients and a large number of patients who are unable to pay at all."

Last year a record 79 of the nation's 5,800 hospitals closed across the country while few, if any opened. About half of those hospitals that closed were in inner cities. Indigent patients, many of them uninsured, are overloading a shrinking number of hospitals already financially strained by rising costs. Unable to pay for routine visits to a doctor, they usually show up at emergency rooms sicker than other patients, requiring the costliest procedures.

VIRTUALLY ALL IN LOW-INCOME AREAS

In Illinois, 80 percent of the state's Medicaid patients are concentrated in 20 percent of the state's 238 hospitals. Virtually all of those strained community hospitals are in low-income neighborhoods of Chicago and East St. Louis. At 28 of those hospitals, Roseland included, 27 percent or more of the patients are on Medicaid, according to the Illinois Hospital Association—which adds that 12 percent of the patients at a typical Illinois hospital are on Medicaid.

Many of these hospitals face almost certain death. "Either these hospitals are going to close or they're going to change their mission," said Gerard Anderson, director of the Center for Hospital Finance and Management at Johns Hopkins University in Baltimore. "If you're starting to have more than 25 percent Medicaid, you're in trouble.

At Rosland, nearly 90 percent of its 4,000 patients each year are either uninsured or public aid from the state or Federal government, including 50 percent who are on Medicaid. The hospital loses money on almost every patient it admits because Medicaid in Illinois pays a flat per diem rate rate well below the cost of treatment.

Before the early 1980's, when Medicaid generally reimbursed hospitals based on expenditures, hospitals were virtually assured of breaking even. Now many states, seeking to contain costs, are basing their payments on either standardized limits for certain diagnoses or, as in Illinois and California, a set number of days for which the state will reimburse hospitals that care for Medicaid patients.

The hospitals say the changes are pushing them toward bankruptcy, but state health officials say many troubled hospitals are merely being mismanaged. "Our program is not intended to keep hospitals in business, but to buy quality care for poor patients," said Martha Thompson, chief of the Bureau of Hospital Services at the Illinois Department of Public Aid.

QUESTIONS AMOUNT OF PAYMENTS

Citing an average occupancy rate of 60 percent in the city's hospitals, Ms. Thompson asked, "if a hospital has only one patient, should we pay $10,000 a day for the hospital to meet its operating costs?"

But hospital administrators say that efficiency alone does not make up for the rise in uninsured patients seeking care for which the hospitals get no compensation. Adjusted for inflation, hospitals across the country lost $7 billion caring for indigent patients in 1976, more than twice the $2.8 billion lost in 1980, according to the American Hospital Association. In 1986, at least 31 million people, and perhaps as many as 37 million, had no private or public health insurance, according to the Federal Census Bureau.

Complicating the problem for hospitals heavily dependent on Medicaid are the delays and instability of many state programs.

Last spring Illinois, like several other states, ran out of money for Medicaid and except for sporadic emergency aid to the neediest hospitals, halted Medicaid reimbursements for nearly three months.

There were immediate repercussions. The day the suspension was announced, Mary Thompson Hospital, a 203-bed West Side facility with 80 percent of its patients on public aid, announced it was shutting its doors. Last month Chicago's Frank Cuneo Hospital, where 88 percent of the patients were on public aid, closed. It was losing $2 million a year.

"These hospitals have little elasticity—something happens and the hospitals living close to the edge can easily go under," said Mr. Williams of the American Hospital Association.

FOLLOWS A NATIONWIDE TREND

It is a trend playing out all over the country. Last fall, when West Virginia halted Medicaid payment for six months, one hospital closed, several stopped admitting patients and many others came close to bankruptcy.

"What we're seeing is the cumulative effect of losses," said Alan Sprintz, executive senior vice president of the Chicago Health Care Council, an association of about 94 Chicago hospitals. "It's a mutation of what has happened at rural hospitals. Now a lot of inner-city hospitals are cutting staff and services."

That is what Roseland did. To make up for an operating loss of nearly $1 million over the last two years, the hospital has cut 100 staff positions, eliminated unnecessary supplies and now it periodically closes floors.

For years Roseland was the butt of jokes among community residents who used to say that if they ever were in an automobile accident. Roseland was the last place they wanted to go. Now that the hospital has fallen on hard times, the 70,000 people of the Roseland area remember the times it came through, like when children at the grade school came down with food poisoning last year and were taken to the hospital, five minues away.

"I'll do anything to keep it going," said Willie Lomax "We need that hospital."

Last year he and other community leaders went to local bank and got approval for a line of credit for the hospital to tide it over. Still, when Illinois ran out of Medicaid money this year and Roseland had to go nearly four months without a regular Medicaid payment, the hospital used money it has earmarked for new equipment to cover immediate expenses and stopped paying most of its bills. It did so despite an emergency payment of $647,000 from the state.

STARTING TO PLAY HARDBALL

"Now the suppliers are nervous," said Denise Williams of Roseland Community Hospital. "They've had a lot of hospitals file Chapter 11. They play hardball when you start talking slow."

As public and private insurers grow more discriminating in their hospital coverage, hospitals are competing for well-insured patients. Now even struggling hospitals like Roseland are talking about market share and customer relations to reduce their dependence on Medicaid.

"We want to dilute our public aid load," Ms. Williams said "We're trying to attract all types of patients. We don't have the shiny new facilities and amenities to attract full-pay patients. But we're brushing up on our customer relations and we're marketing new programs."

But physically, Roseland is a difficult sell. It is a 64-year-old facility of cinder block walls and linoleum floors. It has no gift shop—just a small display case with dusty trinkets in the lobby. And when equipment like the $500,000 CAT scanner breaks down, as it often does, Roseland must transfer patients to other hospitals for routine procedures.

"Then the patients figures, if they have to tranfer to another hospital for a basic procedure," Ms. Williams said, "why don't they just stay at the other hospital?"

To overcome such obstacles, the hospital has restudied the population it serves and has renovated the emergency room, started an after-hours pediatric care unit and strengthened its obstetrical and gynecologi-

cal services to meet the needs of the community's many children and women.

Eventually, Ms. Williams said, Roseland may follow troubled hospitals like St. Mary's in East Louis that joined a well-endowed hospital system to stay open.

But many wonder if that will be enough. "The hospital is slowly suffocating," said Dr. Quentin Young, a professor of preventive medicine at the University of Illinois medical school who is president of the Health and Medicine Policy Research Group, a citywide research group studying Roseland "These hospitals need nurture. As long as you look to marketplace solutions, you will have Roseland closings down."

ANCILLA SYSTEMS,
Elk Grove, IL, August 30, 1988.

CHICAGO, ILL.—Four hundred and thirty-seven bed St. Anne's Hospital located on the city's west side, after 85 years of serving all who entered her doors, has announced plans to discontinue its acute care operations. The hospital has petitioned the Illinois Health Facilities Planning Board for permission to, in effect, transfer certain key services to St. Elizabeth's Hosptial, its nearby affiliate. Both hospitals are members of Ancilla Systems, a multi-hospital company sponsored by the Poor Handmaids of Jesus Christ (PHJC) religious congregation, whose commitment, for more than 100 years, has been to alleviate sickness with special sensitivity to the poor. Ancilla Systems, in addition to its inner city presence in Chicago, operates hospitals in East St. Louis, Illinois, and Gary and East Chicago, Indians, among other sites.

Sr. Kathleen Quinn, Provincial of the Poor Handmaids of Jesus Christ, said, "We began examining our mission to the inner city and how to continue serving the poor and powerless back in 1984. At that time, we recognized that we would not be able to continue our mission in Chicago without making changes in our approach to health care delivery. Since that time, reimbursement structures have continued to decline, as both Medicare and Medicaid have drastically reduced state and federal commitments to providing for the health care needs of the public, including the community residents using St. Anne's services. Philanthropic efforts have overlooked the needs of the residents, and the Cook County Commissioners continue to push for a new hospital, rather than contract with community-based providers for the inpatient needs of the county health care recipients."

Alethea Caldwell, president and CEO of Ancilla Systems, described the efforts that had been made by the hospital to downsize operations and reduce costs in an effort to remain financially viable, bringing its acute care services to the current 115 bed level. She stated, "There is a need for St. Anne's to continue serving its patients, even at its downsized level, filling the medical gap which exists within the community. This largely Medicaid reimbursed patient base, averaging in excess of 50%, has occupied the 115 beds at a fairly steady level. However, despite this need, St. Anne's cannot sustain this amount of indigent care at the current reimbursement levels. Therefore, in order to be socially responsive to today's health care environment and to safeguard System assets, which must insure that the mission to serve the health care needs of the inner city poor are met, both in Chicago and in the other three Ancilla regions, governance and management have determined that the facility must discontinue operations.

"The closure has significant economic impact on the community and the employees of St. Anne's. It is also a symptom of the lack of a national health care policy in, and the solution to, the under funded access to health care for the poor."

Sr. Judian Breitenbach, PHJC, Chairperson of the Ancilla Systems Board stated, "The overbedded condition of the health care environment in Chicago seems to indicate that there are plenty of unused services for the people of St. Anne's neighborhood upon which to draw. However, the high infant mortality rates of the inner city continue to remain unimproved and emergency rooms around the city do not always afford access to care for our city's poor. We will continue to focus our efforts to serve the west side; first, through various services at the St. Anne's Professional Office Building and secondly, through our continued presence at St. Elizabeth's Hospital, approximately four miles east of St. Anne's." She added, "Our commitment to enhance Catholic health care in the areas we serve will continue as we look for partners to help us meet the health needs of the community formerly served by St. Anne's."

Caldwell further stated, "The decision to cease operations at St. Anne's is not solely financial. The redundancy of Catholic providers in this particular area, coupled with insufficient sources of capital, have contributed to this reorganization of services. As long as other sources of Catholic health care remain available, St. Anne's does not serve this part of our mission alone. As a member of the Cardinal's initiative known as the Catholic Health Alliance of Metropolitan Chicago, we have now entrusted the preservation of Catholic health care to its membership.

"While we continue to provide those outpatient services we can identify as necessary, we must focus our very scarce resources, both financial and otherwise, on strengthening St. Elizabeth's Hospital, seeking other health care partnerships, and solidifying our future role in health delivery in Chicago."

Philip J. Karst, president and CEO of St. Anne's, added, "St. Anne's is a proud and noble institution which has long stood in the Austin community area providing care and helping to heal the sick who have passed through her doors."

Mr. SARBANES. Mr. President, I am pleased to join in sponsoring this resolution expressing the sense of the Congress that Medicare payments to hospitals for fiscal year 1990 not be reduced below current law levels. As you know, on October 1, 1983, a new method of Medicare payments for hospitals—Medicare part A—called the prospective payment system [PPS] went into effect. Subsequently, payments to hospitals have been made on a prospective basis; that is, fixed payment rates are determined in advance of the provision of hospital services. Unless excluded from PPS, Medicare participating hospitals are paid a specific amount for inpatient services provided to Medicare beneficiaries based on the patient's classification into one of 471 diagnosis related groups [DRG's].

Unfortunately, PPS rate updates have not kept pace with hospital costs. In fact, since 1983 PPS rate increases have fallen significantly below the rate of increase in the hospital marketbasket, an index established by the Health Care Financing Administration [HCFA] to measure changes in the price of goods and services purchased by hospitals. Average hospital operating margins have dropped steadily from a high of 15 percent in the first year of PPS to zero in 1988. Employing HCFA's accounting methods, the Consolidated Consulting Groups of Washington, DC, project that in fiscal year 1989 more than half of all hospitals will suffer losses treating Medicare patients.

The budget proposal for fiscal year 1990 submitted to Congress by the previous administration would further exacerbate this pressing problem. The Reagan administration proposed to cut Medicare reimbursement for hospital capital costs in fiscal year 1990 by $1.6 billion, allow inflation increases under PPS of only 3.2 percent instead of the projected 4.7-percent hospital inflation rate, and reduce Medicare's indirect medical education payment [IMEP] for teaching hospitals from the current level of 7.7 percent to 4.05 percent.

These proposed reductions come on top of already greatly reduced Federal support for the Medicare Program. The previous administration submitted proposals repeatedly to Congress which would drastically undermine the Federal Government's commitment to ensuring access to quality health care for our Nation's elderly and disabled citizens—in fact, its fiscal year 1987 budget proposal alone would have made a 5-year cut in Medicare of $54.5 billion. While I am pleased that Congress was able to turn back many of these proposed cuts, the Congressional Budget Office estimates that Medicare still sustained reductions of at least $35.9 billion from fiscal years 1981 through 1987.

As you know, my own State of Maryland has been at the forefront of efforts to hold down health care costs and is the home of the longest running hospital rate regulation program in history. The success of the Maryland program is confirmed by noting that since the inception of rate regulation, Maryland hospitals have consistently held their cost increases below national averages, moving from 24 percent above average cost per equivalent admission in 1976 to 6 percent below average in 1987.

However, reductions in Federal support for Medicare have also taken a heavy toll on hospitals in Maryland. This is illustrated in the first three quarters of 1988 when the average profit margin of Maryland hospitals fell to less than one quarter of the national average. Further cuts in Medicare reimbursements to hospitals could seriously jeopardize my State's ability to retain its current waiver permitting Medicare and Medicaid participation in rate regulation reviews. Maryland's waiver status has been an important variable in enabling Maryland hospitals to keep inflation in health care to reasonable levels. In addition, the waiver has allowed Maryland to remain one of the few States where the burden of uncompensated

care is shared equally by all payor groups. In turn, patients pay basically the same price for a hospital service regardless of the type of payment or insurance. This has enabled Maryland citizens to avoid the "dumping syndrome" experienced by many poor and elderly people in other States. Losing this assurance would be a major step backward in the health care of the people of my State.

Mr. President, it has been said that the measure of a civilized society is how well it cares for those who are unable to care for themselves. The Medicare Program was established to ensure the availability of quality and affordable health care to every older or disabled American. Granting Medicare part A a 1-year hiatus in cutbacks would provide hospitals with some critically needed financial stability. It would also allow Congress to undertake a careful and thoughtful review of the impact of the substantial policy changes instituted in the Medicare Program since 1981 on access to quality health care for our most vulnerable populations. We owe the citizens of this Nation nothing less and I urge the prompt consideration and passage of this important resolution.

Mr. LIEBERMAN. Mr. President, we must ensure that our elderly and disabled citizens have access to quality health care. The cuts in Medicare payments to hospitals have begun to take their toll, forcing many to reduce services or, in some cases, to close completely.

In Connecticut, a number of hospitals have experienced Medicare shortfalls because of reductions in Medicare payments. For example, St. Mary's Hospital in Waterbury, CT, accepts all patients who seek care. As a consequence, 45 percent of its patients are Medicare recipients. According to Sister Marguerite Waite, president of the hospital, St. Mary's suffered a 12-percent deficit in its Medicare reimbursement for the care of Medicare patients. That deficit could rise to 20 percent or more by 1993.

Given this situation, I am pleased to join today with Senators SIMON, KASSEBAUM, and DURENBERGER in supporting a resolution which urges that Medicare payments to hospitals for the fiscal year 1990 not be reduced below current levels. This 1-year reprieve will allow the Government to carefully consider the impact of Medicare payment policies on institutions like St. Mary's and on the disabled and elderly population they seek to serve so well.

Mrs. KASSEBAUM. Mr. President, I am pleased to join Senators SIMON and DURENBERGER in reintroducing a resolution we sponsored last September expressing the sense of the Congress that no further cuts be made in Medicare part A during the coming fiscal year.

We are introducing this resolution in order to help assure that payments to hospitals are adequate to maintain the promise of the Medicare Program to offer quality health services to the 33 million elderly and disabled persons who depend upon it. For a number of reasons, the ability of hospitals to deliver on this promise is being seriously challenged.

The Medicare hospitals prospective payment system was initiated in 1983. Among other things, the prospective payment system [PPS] was intended to encourage greater productivity and efficiency in hospital operations. Such a change was needed, as the previous system of reimbursement was not effective in bringing costs under control.

Hospitals have responded to this challenge. However, payments to hospitals under PPS have never been fully adjusted to reflect cost increases in the so-called hospital marketbasket of goods and services. Each year, Congress has cut back the marketbasket adjustment.

Again this year, the budget submitted by former President Reagan proposes a PPS update of marketbasket minus 1.5 percent. This proposal, along with other recommendations in the administration's fiscal year 1990 budget, would result in Medicare part A spending levels falling more than $3.5 billion below that provided by current law. It remains to be seen what adjustments President Bush might make in the Reagan proposals.

It is important to recognize that the reductions which have already been made have begun to take their toll. The General Accounting Office has estimated that, during the period from 1981 to 1986, expenditures for Medicare part A have been reduced by about $17 billion below the level they would have reached had previous growth trends continued.

As a consequence, we are seeing growing numbers of hospitals placed in precarious financial situations. In 1987, 79 hospitals closed their doors nationwide. Last year, this number increased to 85. This situation is likely to worsen. The Prospective Payment Assessment Commission found that nearly half of the Nation's hospitals operated at a loss in 1988. The Commission has also estimated that, on average, it will cost hospitals more to care for Medicare patients than Medicare will pay this year. Although tight Medicare payment levels are not the sole explanation for these financial difficulties, they are an important factor.

It seems to me we need to call a timeout and pull our Nation's hospitals off the front lines of the budget battle. Our resolution proposes exactly that—a 1-year reprieve from budget-driven policymaking. By putting aside our pursuit of hospital budget savings, we will not only provide needed relief from financial pressures but will also be able to better focus our attention on other issues raised by the prospective payment system.

Coming from the State of Kansas, I have been especially concerned that rural hospitals have not fared well under prospective payment. Small rural hospitals have been particularly affected.

In my State, the overwhelming majority of hospitals are small and rural. Of the 142 Kansas community hospitals, 85 percent are located in rural areas and nearly 60 percent have fewer than 50 beds. About 20 percent have between 50 and 100 licensed beds, while another 11 percent have bed sizes between 100 and 200. Fewer than 10 percent of Kansas hospitals have more than 200 licensed beds.

I have had the opportunity to discuss the Medicare situation with a number of hospital administrators, physicians, and Kansans of all ages. Medicare accounts for 53 percent of rural hospital revenues and for 43 percent of the revenues of urban hospitals, and there is a lot of concern in the State about what continued cutbacks will mean for local hospitals and local communities.

Community support for local hospitals is exceptionally strong. The Kansas Hospital Association has undertaken an educational effort promoting the theme "Communities and Hospitals—Staying Healthy Together." This campaign has struck a responsive chord in my State, where nearly half of all hospitals are State or local government hospitals. Nationally, 27 percent of hospitals are owned by State or local governments. The willingness of Kansas citizens to support higher mill levies and other additional taxes to keep their hospitals going attests to the central role which they see hospitals playing in the life of their communities.

Congress has begun to address the question of equitable treatment of rural hospitals, but much more remains to be done. Other refinements are needed in prospective payment as well. By assuring that an adequate pool of funding is available for hospitals, our resolution should help this process by allowing us to concentrate on fine-tuning the system rather than on putting out budget brush fires.

Our Nation's hospitals have an outstanding record in providing quality health care services to our elderly and disabled. We must see that they have the ability to build upon this record. I am pleased that a number of Senators have already agreed to join our efforts, and I hope that all our Senate colleagues will support this resolution.

Mr. DURENBERGER. Mr. President, in 1983 we made a commitment to the beneficiaries of Medicare. We promised to keep Medicare solvent, and we did. We also made a promise to the hospitals, that we would reward them if they controlled costs and utilization. The hospitals have kept their end of the bargain, but we have not. From February 1983 through February 1989 annual updates for hospitals totaled only 12.4 percent while the marketbasket increased 28.3 percent.

We have not rewarded them. In fact some hospitals are suffering because they kept up their end of the bargain and we didn't. Therefore, I rise today to call for the protection of the Medicare Program from the unfair and unreasonable reductions being proposed in the Reagan budget. This program has carried the burden of budget reconciliation for the past 5 years and now is at the point where the services for the most vulnerable people in our society, the elderly and the disabled are jeopardized.

Mr. President, the Medicare Program is a fundamental component of the economic security of the 33 million elderly and disabled in our country. These people depend on the Medicare Program for the majority of their health services and this security must not be undermined.

Clearly, the Medicare Program has done its share to help accomplish necessary budget deficit reductions. It is now time to stop further cuts until we better understand the consequences of these actions and can develop initiatives that will refine the fiscal management of this program. My concerns over these budget cuts are not just based on the need to live up to our commitment to the elderly and disabled, although that is fundamental, but also stem from evidence that the health care delivery system is showing signs of serious deterioration.

Eighty-one community hospitals closed during this past year, for the second consecutive year the highest number of hospital closings ever recorded. According to data released by the American Hospital Association, the majority of these closures are in rural and inner city areas, areas where the elderly are concentrated and are most vulnerable. In my State, Minnesota, a total of 13 hospitals have closed since 1983. There are several more now operating with major deficits and will be forced to close if payment under the Medicare Program is further reduced. For example, in my State take a rural town like Blue Earth, MN. More than 65 of their total incoming patients are on Medicare. Certainly this hospital and others like it cannot take any further reductions in Medicare and continue as they are. We have taken $53.8 billion out of hospitals to contribute to the deficit reduction since 1983. Enough is enough. These hospitals derive a high proportion of their income from Medicare patients and therefore even small changes in reimbursement has a devastating effect on their budgets.

That is why I and more than 22,000 others in my State of Minnesota signed a petition demanding fair and more equitable payment for hospitals and physicians in urban and rural areas.

For the past 6 years, payment rates to hospitals under Medicare have fallen well below increases in their operating costs. As a consequence, more and more of these hospitals are experiencing negative Medicare operating under margins PPS.

A recent report by the Prospective Payment Assessment Commission indicates that almost 36 percent of our hospitals had negative operating margins during the third year of PPS, up from 18 percent during the first year of the program. Moreover, this trend has continued during 1988 exacerbating the overall financial problem of these institutions. The PROPAC Commission notes that: "This could jeopardize the financial viability of many hospitals and ultimately threaten Medicare beneficiaries access to high quality hospital care." We are slowly but surely destroying our hospital system by causing these institutions to use up their reserves and delay needed capital improvements. Some are being forced to close. Others are continuing to find ways to survive, but are being forced to reduce services and shift costs to other payers. All are in jeopardy of compromising the quality of their care if Medicare payments are not stabilized.

The effects of Medicare budget cuts on rural and inner city health care is particularly troublesome. Rural residents tend to be older and poorer. Consequently, rural hospitals often depend on Medicare and Medicaid for a larger share of their revenue, often more than 50 percent. Reductions in these funds therefor has a dramatic effect on their operating budgets. Moreover, these hospitals are often serving constituents who are experiencing the financial crisis of American agriculture and therefore they have limited opportunity to make up these deficits from other sources. When these hospitals close, access to basic health service is seriously compromised. It is difficult to recruit and retain physicians in rural areas and it is doubly difficult when the hospital closes. This is especially true since the reductions in the Medicare Program have unduly effected rural physicians often paying them only half that paid for the same procedure in urban areas.

The inner city problem was probably best illustrated by the closing of St. Annes Hospital in Chicago during this last fall. This hospital was located in a predominantly poor, underserved area of Chicago. After valiant attempts to cut costs by reducing staff and beds, the hospital was forced to close. Payment from the Medicare and Medicaid Programs were simply too low to sustain operations and there were no other sources of funds. This same scenario is being played out in most other large metropolitan areas including New York, Los Angeles, and Houston.

Clearly there needs to be some restructuring of our hospital system. The health care field is undergoing dramatic change, much of it caused by changing practice styles and cost containment efforts in the public and private sectors. Hospitals must be given an opportunity to adapt to these changes rather than being financially starved into closure. There is good evidence that they are rising to the challenge. Studies by the Center for Health Services Research at the University of Minnesota show that hospitals, and rural hospitals in particular are diversifying, restructuring and developing networks of health services to better serve the needs of their communities. During this past year I initiated the Rural Health Care Transition legislation to assist in this process. We need to protect payment under the Medicare Program while hospitals under go this restructuring.

This isn't solely a hospital issue. Any further reductions in Medicare payments to physicians will exacerbate the physician distribution problem. Across the board cuts, or caps on payments to physicians will not only heighten the geographic inequities that currently exist, but will force some in the most underserved areas to close their practices.

While access to high quality health services is being eroded by budget cuts, the elderly are being required to pay more both for coverage under the program and for the services they receive. According to a GAO report the average out of pocket cost per Medicare enrollee for Medicare covered services increased by 73 percent for part A hospital and nursing home services and 36 percent for part B physician services between 1980 and 1986. Moreover they are paying more than ever before for the part B premium costs.

Mr. President, the Medicare Program was designed as part of an American commitment to provide basic economic security for our elderly and disabled. We are not living up to that commitment and promise. Instead we have asked them to carry a disproportionate and unfair burden to deal with the budget deficit. These reductions have eroded coverage under the Medicare Program and are threatening the financial vitality of the health care delivery system. This is especially true in rural and inner city areas where the service needs are the greatest and the financial resources are the most constrained. We must prevent further cuts in this program while we reevaluate the prospective payment system and develop better more fair reimbursement methods. To otherwise will do severe damage to our health care system while denying services to the weakest and poorest among us. We have already begun to affect the muscle and bone of the system. Let us not take it to the bone marrow.

Mr. CHAFEE. Mr. President, I am pleased today to join Senators SIMON, DURENBERGER, and KASSEBAUM in introducing a resolution expressing the sense of the Senate that part A of the Medicare Program should not be subjected to additional budget reductions in 1990.

I have joined in this effort because I believe it would give us the opportunity to look at health care differently.

Like education, good health care is an investment in our most critical national resource: people. It is time that we gave health care the same high priority in the budget that we give it in our rhetoric.

Over the past 5 years the Medicare Program has borne the brunt of Congress' efforts to reduce the Federal deficit. In just 6 years time, this program has contributed more than $30 billion toward savings to reduce the deficit. Each year, on a bipartisan basis, the Finance Committee, which has jurisdiction over this program, has restricted the funds for reimbursement of hospitals, physicians, and other health care providers. However, at the same time concern about the quality of care provided by these individuals and institutions has increased.

We can only do so much so fast without sacrificing the quality of care provided and Medicare beneficiaries' access to that care. Assumptions that Medicare cuts will not affect beneficiaries are highly questionable. If we continue to decrease Medicare reimbursement, quality and access will be adversely affected. These cuts will have an impact on Medicare beneficiaries.

A moratorium on Medicare part A changes for 1 year will give us time to take a look at the results of our actions over the past 5 years and will give us the chance to explore future changes in the program.

The cost of the Medicare Program is still increasing at an unacceptable rate and we must continue to look at how the program can be changed to slow these increases down. Changes may have to be made in the Medicare system to ensure the long-term stability of the Medicare trust fund. However, these changes must be based on good health care policy decisions, rather than budget decisions.

It may be that the Congress as a whole will not agree to this resolution. In that event, changes may have to be made in the program to achieve necessary savings. If that is the result, I will certainly do my best to ensure that our decisions are sound. As the Finance Committee considers any changes to the Medicare Program, my goal will be to ensure that the Medicare Program continues to provide quality health care at a reasonable cost to beneficiaries while adequately reimbursing providers.

I urge my colleagues to join me in this effort.

SENATE RESOLUTION 25—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. PRYOR, from the Special Committee on Aging, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 25

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $1,200,008, of which amount (1) not to exceed $33,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $800 may be expended for the training of the professsional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $1,213,792, of which amount (1) not to exceed $33,000 may be expended for the procurement of services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $800 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long-distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 26—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE BUDGET

Mr. SASSER, from the Committee on the Budget, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 26

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraph 1 of rule XXVI of the Standing Rules of the Senate, the Committee of the Budget is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $3,313,130, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) The expenses of the committee for the period March 1, 1990, through February 28, 1991, under this resolution shall not exceed $3,382,402, of which amount (1) not to exceed $20,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $2,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long-distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 27—COMMENDING BAILEY GUARD FOR HIS SERVICE TO THE SENATE

Mr. CHAFEE (for himself, Mr. BURDICK, Mr. SIMPSON, Mr. MOYNIHAN, Mr. SYMMS, Mr. MITCHELL, Mr. DURENBERGER, Mr. BAUCUS, Mr. WARNER, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. BREAUX, Mr. HUMPHREY, Mr. REID, Mr.

GRAHAM, Mr. LIEBERMAN, Mr. BENTSEN, Mr. BIDEN, Mr. DIXON, Mr. DOLE, Mr. DOMENICI, Mr. GORTON, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 27

Whereas Bailey Guard became an employee of the Senate of the United States on November 27, 1956, and since that date has ably and faithfully upheld the high standards and traditions of the staff of the Senate of the United States for a period that included eighteen Congresses;

Whereas Bailey Guard has served as Staff Director and as Minority Staff Director of the Committee on Environment and Public Works from January 1, 1966, until the present;

Whereas Bailey Guard served prior to 1966 as Administrative Assistant to the Honorable John Sherman Cooper of Kentucky;

Whereas Bailey Guard served his Nation with great honor and valor during World War II as a B-17 and B-29 pilot instructor;

Whereas Bailey Guard faithfully discharged the difficult duties and responsibilities of his positions on the staff of the Senate of the United States with great efficiency, devotion, and dedication;

Whereas Bailey Guard's clear understanding of the challenges facing the Nation has left his mark on landmark legislation in the areas of the environment, public works, economic development, and agriculture;

Whereas Bailey Guard is retiring from the Senate of the United States on January 31, 1989: Now, therefore, be it

Resolved, That the Senate of the United States commends Bailey Guard for his exemplary service to the Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Bailey Guard.

SENATE RESOLUTION 28—ORIGINAL RESOLUTION REPORTED TO AUTHORIZE EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 28

Resolved, That, in carrying out the duties and functions imposed on it by Section 105 of S. Res. 4, Ninety-Fifth Congress, agreed to February 4 (legislative day, February 1), 1977, as amended, the Select Committee on Indian Affairs (hereafter in this resolution referred to as the "Select Committee") is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990 through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the Select Committee for the period March 1, 1989 through February 28, 1990, under this resolution shall not exceed $1,887,941, of which (1) an amount not to exceed $174,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1990 through February 28, 1991, expenses of the Select Committee, under this resolution, shall not exceed $1,021,116, of which amount (1) not to exceed $4,846 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.)

SEC. 3. The Special Committee on Investigations (hereafter in this resolution referred to as the "Special Committee"), a duly authorized subcommittee of the Select Committee, is authorized from March 1, 1989 through February 28, 1990, to study or investigate any and all matters pertaining to problems and opportunities of Indians and the Federal administration of mineral resources, including but not limited to State Governments, Indian education, health, special services, and other Federal programs, and related matters.

(b) For the purpose of this section, the Special Committee is authorized from February 28, 1989 through February 28, 1990, in its discretion (1) to adopt rules (not inconsistent with this resolution and the Standing Rules of the Senate) governing its procedures, to be published in the CONGRESSIONAL RECORD, (2) to make investigations into any matter within its jurisdiction, (3) to make expenditures from the contingent fund of the Senate, (4) to employ personnel, (5) to sit and act at any time or place during the sessions, recess, and adjourned periods of the Senate, (6) to hold hearings and to take staff depositions and other testimony, (7) to require, by subpoena or order, the attendance of witnesses and the production of correspondence, books, papers, and documents at hearings or at staff depositions, (8) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (9) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services or personnel of any such department or agency.

(c) The Chairman of the Special Committee or any member thereof may administer oaths to witnesses and, at staff depositions authorized by the Special Committee, oaths may be administered by any individual authorized by local law to administer oaths.

(d) Subpoenas authorized by the Special Committee may be issued over the signature of the Chairman, or any member of the Special Committee designated by the Chairman or the member signing the subpoena.

(e) The Special Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate through the Select Committee at the earliest practicable date, but not later than February 28, 1990.

SENATE RESOLUTION 29—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 29

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $3,694,395, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $11,900 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $3,769,571, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(j) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $12,400 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable data, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 30—ORIGINAL RESOLUTION REPORTED, AUTHORIZING EXPENDITURES BY THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 30

Resolved, That in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Banking, Housing, and Urban Affairs is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Commitee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,560,816 of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such Committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,614,125 of which amount (1) not to exceed $1,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 31—DESIGNATING NATIONAL ALZHEIMER'S DISEASE MONTH

Mr. PRESSLER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 31

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 45 percentum of all nursing home admissions; at an annual cost of more than $80,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease and recognition of national organizations such as the Alzheimer's Disease and Related Disorders Association and The American Health Assistance Foundation may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate of the United States of America, That the month of November, 1989, is designated as "National Alzheimer's Disease Month." The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Mr. PRESSLER. Mr. President, today I am honored to submit a resolution designating the month of November 1989 as National Alzheimer's Disease Month.

Contrary to the belief of earlier generations, Alzheimer's is not a normal part of the aging process. The Alzheimer's dementia is a tragic progressively debilitating disease. Promoting greater awareness and understanding of this disease, which currently afflicts more than 2½ million Americans, is vital to national efforts in Alzheimer's education and research. Furthermore, a familiarity with Alzheimer's and related dementias provides those who have not been touched by this disease the ability to give compassionate, informed support to others.

Currently, Alzheimer's costs our Nation over $80 billion a year—but approximately only $60 million is expended for research into the cause and cure of this heartbreaking disease. In this age of modern science, where once fatal diseases have been all but eliminated from the population, I believe we can discover the causes of and a cure for Alzheimer's. The Alliance for Aging Research, an organization composed of scientists, industry, and policymakers, in a 1987 report entitled "Aging Research on the Threshold of Discovery," predicted that we will understand the "underlying genetic mechanism involved in Alzheimer's" in the next 10 years. However, this exciting prospect may not become a reality without increased national awareness of Alzheimer's and a greater commitment to research.

National Alzheimer's Disease Month establishes a time for understanding the suffering of Alzheimer's victims and their families. In addition, it provides us with an opportunity to pay tribute to organizations which have developed support networks across the country. Americans should know about the wonderful work of the Alzheimer's Disease and Related Disorders Association, Inc., the American Health Assistance Foundation and other organizations. These organizations have taken the lead in providing support for the victims of Alzheimer's and their families, as well as spurring research efforts. Many of our colleagues joined me in cosponsoring a similar resolution last year, which I am pleased to say was signed into law by President Reagan on November 5, 1988. I hope they will join me again this year to battle the disease which has taken the personality, love, memories and life of too many of the Nation's elderly.

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Thursday, February 2, 1989, at 9 a.m., in SR-301. The committee will consider the report on the procedures for the impeachment trial of U.S. District Judge Alcee L. Hastings in the Senate, and two original resolutions relating to this matter.

For further information regarding this meeting, please contact Jack Sousa, Rules Committee chief counsel, on 224-5648.

Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, February 8, and Thursday, February, 9, 1989, at 9:30 a.m. on each day, to receive testimony from committee chairmen and ranking minority members on their 1989 and 1990 committee funding resolutions.

For further information concerning these hearings, please contact Carole Blessington of the Rules Committee staff on extension 40278.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DURENBERGER. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint hearing with the House Interior and Insular Affairs—Indian Affairs Office—on February 7, 1989, beginning at 9:45 a.m., in 1324 Longworth House Office Building, on the fiscal year 1990 budget for Indian programs.

Those wishing additional information should contact the Select Com-

mittee on Indian Affairs at 224-2251, or the House Indian Affairs Office at 226-7393.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, January 31, beginning at 10 a.m., to hear William Kane Reilly, nominated by the President-elect to be Administrator of the U.S. Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL SUBCOMMITTEE ON INVESTIGATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Special Committee on Investigations of the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on January 31, 1989, at 10 a.m. to hold hearings pursuant to Senate Resolution 381, section 21, agreed February 26, 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, January 31, 1989, at 9:30 a.m., on a hearing relative to the report of the 1989 Commission on Executive, Legislative, and Judicial Salaries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 31, 1989, at 2 p.m. in executive session to continue hearings on the nomination of John G. Tower to be Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, January 31, 1989, at 2 p.m. to hold an open confirmation hearing on Richard Kerr to be the Deputy Director of the Central Intelligence Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, January 31, 1989, at 10 a.m. to conduct oversight hearings on the problems of the Federal Savings and Loan Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ON THE ARREST OF CZECH DISSIDENT VACLAV HAVEL

● Mr. MOYNIHAN. Mr. President, I rise to bring to the attention of this body the arrest of Czechoslovakian playwright Vaclav Havel on January 15, 1989. Havel, whose works have been banned in Czechoslovakia for 20 years, was detained for "hooliganism"; that is, peacefully demonstrating for change in Prague. For this crime, he faces as much as 2 years in prison.

This body should note that Havel's arrest—1 of 15 that day—occurred on the last day of the Vienna meeting of the Conference on Security and Cooperation in Europe. Little more than an hour after the Government of Czechoslovakia solemnly agreed in Vienna that "civil, political * * * and other rights and freedoms are of paramount importance and must be fully realized by all appropriate means," it crushed the smallest expression of dissent at home. Perhaps their memories are short. More likely, they are extremely selective.

Then-Secretary of State George Shultz protested the incident, as did many like-minded people. The PEN American Center wrote an eloquent letter on Havel's behalf, one which speaks for itself. I ask that it be printed at this point in the RECORD.

The letter follows:

PEN AMERICAN CENTER,
New York, NY, January 23, 1989.

Mr. GUSTAV HUSAK,
President, Czechoslovak Socialist Republic, Prague-Hrade, C.S.S.R.

Mr. MILOS JAKES,
General Secretary of the Central Committee of the Communist Party of Czechoslovakia, Nabreszi L. Svobody, Prague 1, Czechoslovak Socialist Republic.

DEAR PRESIDENT HUSAK AND GENERAL SECRETARY JAKES: On behalf of the 2,100 members of the PEN American Center, we wish to register the strongest possible protest against the January 15 arrest and detention of peaceful demonstrators in Wenceslas Square, including our colleague, the eminent playwright Vaclav Havel. It is outrageous that Havel faces charges of "hooliganism" and a possible two-year prison sentence for exercising rights to freedom of expression protected by international human rights covenants to which Czechoslovakia is a signatory.

It is particularly ironic that just as these arrests took place, your emissaries were in Vienna signing another human rights accord that includes specific provisions barring retaliation against those who monitor human rights. In protesting the arrest of Havel and others, we wish to call attention once again to the impending trial of the poet Ivan Jirous, who was arrested in October and charged with "assaulting state officials" because he signed a letter protesting human rights violations.

The international literary community cares very deeply about what happens to these colleagues because, as Havel has written, "creation is related to freedom," and we feel with him that the loss of either is intolerable.

Indeed, the sacrifice to oppression of even one creative voice, in whatever country, must necessarily engage the attention and concern of writers, poets and playwrights around the world. We therefore urge the immediate release of Vaclav Havel, Ivan Jirous and all others who have been imprisoned for the exercise of freedom of expression.

Respectfully,

Susan Sontag, President; Hortense Calisher, Past President; Alan Ginsberg, Vice-President; Maureen Howard; Norman Mailer, Past President; Victor Navasky; Grace Paley; Faith Sale, Co-Chair, Freedom-to-Write Committee; Rose Styron, Co-Chair, Freedom-to-Write Committee; Kurt Vonnegut; PEN AmericanCenter.●

CAPITAL GAINS RATE CUT WOULD ENCOURAGE EQUITY FINANCING

● Mr. KASTEN. Mr. President, many in Congress are increasingly concerned about the surge in corporate mergers and buyouts, financed by great amounts of debt and creative financing techniques. From $11 billion in transactions over the 5 years prior to 1983, $160 billion in leveraged buyouts [LBO] have been completed in the 5 years since. The recent, high publicized $25 billion LBO of RJR-Nabisco, which shocked and awed America, has prompted calls in Congress to do something about LBO's. Congress uncertainty about whether—and how—to respond was summed up by Ways and Means Chairman DAN ROSTENKOWSKI: "There's an appetite here on the Hill to do something about it [but] we shouldn't have a meat ax approach. There are some good things that come out of buyouts." Indeed, the empirical studies of LBO's that I am familiar with seem to indicate that they are beneficial to the competitiveness of our economy, and that most companies that undergo a leveraged buyout are more profitable and efficient afterward.

I welcome the congressional debate on LBO's. It has created an opportunity to look into the current Tax Code to determine if there is an undesirable bias in the law favoring debt financing over equity. In my view, there is a bias against equity because interest payments on corporate debt are deductible for businesses and dividend payments to stockholders are not. Our Tax Code imposes multiple layers of taxation on income that is saved and invested. An individual's return from investment in commercial enterprises is taxed once at the corporate level and then again at the individual level when dividends are received.

The more popular policy responses to the LBO issue and the debt-equity question are: One, reduce the corporate interest deduction; two, allow a dividends deduction; and three, reduce the burden of double taxation with a

debt-equity swap. There are problems with all of these options. Cutting back corporate interest deductions would raise the cost of capital for U.S. firms, and facilitate foreign takeover bids. Instituting full or partial dividend deductions in return for partial elimination of interest deductions would not lower the overall cost of capital for U.S. firms vis-a-vis foreign firms. Allowing the deductibility of dividends would reduce the burden of double taxation and lower the cost of capital—but many are concerned about the political potential static revenue loss for the Treasury.

I believe the most effective way to solve the double taxation problem, reduce the cost of capital, and help encourage equity financing is to reduce the high capital gains tax rate. Taxing capital gains is yet another form of double taxation of investment. The Tax Code taxes investment income twice by taxing both the future income stream and the capitalization of that stream or the capital gain. The high capital gains tax rate reduces the after-tax return to investment—particularly equity investment.

A lower capital gains tax rate would refocus financial markets toward long-term equity investing and away from maximizing either interest income through junk bonds or short-term gains through commodity options. Many prominent business leaders and Government officials have advocated this approach. In testimony before the Finance Committee last week, Alan Greenspan, the chairman of the Federal Reserve, said the lowering the tax rate on capital gains would help encourage equity financing. In an article in Friday's Wall Street Journal, Edson Spencer, the former chairman of Honeywell, said that capital gains rate cut would curb LBO breakups by restoring the decisionmaking process of American business toward long-term rewards.

Two days ago, I introduced a bill S. 171, to reduce the capital gains tax rate to encourage entrepreneurship, capital formation, productivity growth, and job creation; target the tax incentive soley to equity investments; and partially index capital gains to help eliminate unfair taxation on purely inflationary gains. Specifically, the bill provides for a 50-percent capital gains exclusion from ordinary income tax rates. The differential would apply to investment in equities—direct investments in corporate stock and purchases of corporate stock sold by other investors. In the years for which the annual inflation rate exceeds 4 percent, capital gains would be indexed by adjusting the basis of all assets sold or exchanged.

By restricting the capital gains differential to equities, my bill would promote high-risk, long-term, growth-oriented investment, not tax shelters and collectibles trading. It equalizes the tax burden between equity and debt capitalization—and reduces the overall cost of capital.

Mr. President, the answer to the LBO question can be found by re-examining how our Tax Code impacts income that is saved and invested. I believe that after a thorough investigation of the double taxation problem, most Members will agree that further tax adjustments are needed—and that capital gains tax reform is an essential first step.

Mr. President, I ask that Mr. Spencer's article be printed in the RECORD: The article follows:

[From the Wall Street Journal, Jan. 27, 1989]

CAPITAL-GAINS SHIFT COULD CURB LBO BREAKUPS

(By Edson W. Spencer)

Takeovers are hurting the international competitiveness of American business. Hostile attacks on well-managed companies and the overloading of balance sheets with high-cost debt are weakening U.S. companies and playing into the hands of foreign competitors.

The market may no longer be the best measure of the value of a company. Now Wall Street forecasts break-up values to show that companies should be bought by takeover artists and then split into pieces to maximize short-term shareholder gains.

Such break-up scenarios ignore the benefits to shareholders that management has developed over a long period to obtain the synergies from related businesses, not all of which increase earnings at the same time. It ignores the advantages of building a portfolio of businesses that can benefit shareholders over different phases of the business cycle. It ignores new evidence from some LBOs where the crown jewels can be sold at a premium but the cats and dogs remain to lower the total return on the deal. It ignores the rising number of highly leveraged companies whose debt and the interest charges drive the company toward insolvency. It ignores the impact of junk-bond interest rates on long-term bond holders.

A more serious problem is the limited amount of equity the deal makers put in relative to the high-leverage, high-interest debt left for the surviving company to pay off. Good divisions are sold, generally to competitors. Long-range expenses for marketing, manufacturing efficiencies and research and development are cut. Interest charges eat into profits. The company's ability to compete is severely weakened.

Foreign competitors of U.S. companies are the real beneficiaries of the weakening of corporate America. This is particularly true in the case of Japan and the emerging Asian industrial powers, but it also applies to some extent to West Germany and other European countries. While many companies in those countries also are highly leveraged, they have stable shareholders, strong bank support and use leverage as a lower cost of capital than equity in the expansion of the business.

In those countries, large blocks of shares are held by banks and sister companies interested in long-term growth of the company rather than in short-term enhancement of share value. There is very limited quarterly-earnings pressure from pension and endowment funds unlike the U.S., where comparisons of the quarterly performance of pension portfolios with peers is the accepted measurement of fund performance.

Accounting rules and practices in other countries favor conservative reserves and high cash flows, while keeping taxes and profits lower than is expected of American managers. This enables foreign competitors to place less emphasis on short-term earnings and more on investments in research and development and in building market share.

Ask a Japanese CEO to rate his stakeholders and he will put his employees first, his customers second and his shareholders third. In contrast, U.S. takeover law says that if a business is to be sold, the board's job is to get the highest price, regardless of the effect on employees and customers, or on the communities affected by the sale of a company.

At last Congress appreciates the problem and is discussing remedies, albeit not very good ones. Trying to lower the cost of equity relative to debt by making dividends tax deductible rather than taxing them twice is fine in principle but would result in a high revenue loss for the Treasury. Imposing a threshold interest rate beyond which junk bonds would pay a penalty is an unnecessary intrusion of regulation and could penalize occasional legitimate users of high-cost debt.

President Bush should expand on an idea from Candidate Bush, and ask Congress to pass a new capital-gains tax. Assets held 12 months or less would be subjected to a short-term capital gains tax of 50%. Assets held one to two years would pay a 30% rate. Assets held two to five years would pay 15%, and assets held more than five years, nothing. The tax should apply equally to pension funds and other non-profits. It would apply to foreign shareholders.

There are many advantages. First, the tax could be constructed to be at least revenue neutral, if not revenue positive. Second, it penalizes speculators and arbitrageurs by making takeovers more expensive. Third, it benefits the farmer, the small businessman and the entrepreneur who have built their enterprises over a long period of time from small beginnings to businesses that be sold at a good capital gain. Finally, a balance will be restored between short- and long-term investments and the decision process that strengthens the future of a competitive America by enabling the owner-shareholder to shift his attention, and that of management, to long-term rewards. This may not completely level the playing field, but it is a shift that will help our international competitiveness.

Managers are pressured to make the wrong decisions for short-term reasons. President Bush needs to introduce a capital-gains tax bill that will turn our attention to building the long-term competitive strengths of America.●

BELLEVILLE, NJ, CELEBRATES 150 YEARS

● Mr. LAUTENBERG. Mr. President, I rise to honor the town of Belleville, an historic New Jersey town. On January 28, 1989, the citizens of Belleville will celebrate its 150th birthday.

Belleville's founders were Dutch. Instrumental in its founding was Peter Minuit, who purchased New Amsterdam from the Indians in 1613. In 1626, the Dutch settlers established an Indian trading post across the Hudson, and in 1633 settled Bergen—now New Jersey City. They expanded to Hackensack, to Acquackanonk, now Passaic, and to Second River, today known as Belleville.

Belleville has played an important role in New Jersey history. During the Revolutionary War, Second River maintained fierce loyalty to the New World and was subjected to many British raids during the conflict. Gen. George Washington and his troops passed through Second River on November 22, 1776. During his stay in Newark, General Washington planned strategy which led to the crossing of the Delaware and the capture of the Hessians in Trenton. These events were important turning points in the Revolutionary War.

Second River played an important role in the industrial revolution as a result of its location at the junction of two rivers. In Second River, Josiah Hornblower, a distinguished citizen, used the first steam engine in the United States in copper mining in 1753. In 1797, he and Nicholas Roosevelt and Col. John Stevens built the first steamboat in New Jersey. Second River's contribution to industry continued as it provided waterpower to run the water wheel of the Hendrick's Copper Mill, and access to the Passaic where coal and supplies could be brought in by boat from New York. At one time the plant was turning out 350 tons of sheet and bolt copper per year.

On June 26, 1797, under the leadership of Josiah Hornblower, the citizens of Second River changed its name to Belleville, French for "Beautiful Village." On February 23, 1839, Belleville, which included parts of the present towns of Bloomfield and Nutley was set aside and a township committee was established.

For 150 years Belleville has contributed greatly to the State of New Jersey and today this tradition continues. From its early beginnings it has evolved into a 20th century metropolitan community about to come into the 21st century. It boasts strong economic growth supported by an outstanding transportation system, Government and education facilities.

The history of this outstanding community would not be complete without acknowledging its citizens and the leaders of today. I extend my best wishes for a grand celebration to Mayor Michael P. Pizzi and to Commissioners Vincent J. Frantantoni, Joseph Fornarotto, Joseph F. McGreevy, and Angelo C. Risoli. May Belleville continue to thrive into the 21st century to celebrate its bicentennial.●

MEDICARE RESOLUTION

● Mr. D'AMATO. Mr. President, I rise today in support of a Medicare resolution which aims to promote accessible, quality health care for our own senior citizens. I am joining Senators KASSEBAUM, DURENBERGER, and SIMON in this bipartisan effort, and I commend them for their commitment to this cause.

This resolution results from numerous budget reductions affecting our Nation's hospitals. Unfortunately, the fiscal year 1990 budget contributes to threaten hospitals. The PPS update factor is 1.5 percent below the market-basket. In addition, the budget proposes to reimburse hospitals only seventy-five percent of capital-related costs. Currently Medicare reimburses up to 85 percent of these costs. These reductions are proposed at a time when projections indicate that in 1989 more than half of the Nation's hospitals will experience negative Medicare operating margins. The elderly will be the true victims of these reductions and trends.

As the 101st Congress faces the prospect of an administration budget proposal that includes up to $6 billion in additional medical cuts, I am pleased to be a part of an effort to protect our hospitals from bearing too much of the burden of our Federal deficit. This resolution ensures that Medicare payments to hospitals will not be reduced below current services levels. Without this resolution, the ability of our hospitals to provide accessible quality health care for our seniors may be threatened.

I thank my colleagues, Senators KASSEBAUM, DURENBERGER, and SIMON, for their support and dedication to this worthy cause. I look forward to working with them to protect those health care institutions which struggle to meet the health care needs of our frail elderly.●

POSSE COMITATUS IMPROVEMENT ACT OF 1989

● Mr. DECONCINI. Mr. President, I rise today to congratulate my good friend and colleague, Senator AL D'AMATO, on his introduction of the Posse Comitatus Improvement Act of 1989, and I'm pleased to add my name as a cosponsor of this important legislation.

Senator D'AMATO has been tireless in his efforts to insure that the Federal Government, including the Department of Defense, be in the forefront of providing assistance and cooperation in the battle against illegal drugs. Senator D'AMATO's legislation would further strengthen the role of the DOD in a war this country cannot afford to lose—the fight against illegal drugs.

In the 100th Congress, I worked closely with Senators D'AMATO, WILSON, NUNN, STEVENS, and others during consideration of the fiscal year 1989 Defense Authorization Act to draft an amendment that would elevate the Department of Defense to the lead role in the war on drugs. That amendment attempted to utilize the assets of the military, especially in the areas of surveillance, detection, and tracking of maritime vessels and aircraft.

The legislation directed the President to deploy radar surveillance aircraft along the Southern border of the United States to search for drug smugglers; it required the Navy to work with the Coast Guard to search out and apprehend marine vessels and aircraft attempting to deliver their payloads of poisons on our shores; and it gave the National Guard the authority and resources to assist individual States and law enforcement agencies in their drug enforcement efforts.

Although the amendment overwhelmingly passed the Senate last year, several critical provisions were dropped in conference. I don't believe it requires a great deal of expertise to understand that to have any chance of stopping the flow of drugs coming across our borders we must be willing to adopt tough measures—including increased use of our military.

The Posse Comitatus Improvement Act would restore last years' original Senate language. We will not win a battle by only providing half the troops with half the ammunition required.

Mr. President, there is one provision in Senator D'AMATO's legislation which is of particular importance to an area I believe requires immediate attention—the 2,000-mile Southwest border which is today the No. 1 route for drugs being smuggled into the United States. This provision would require the Defense Department to provide at least 2,000 additional hours of airborne radar surveillance support dedicated to spotting drug smugglers.

At the present time the Southwest border has one aerostat radar balloon operating and six additional balloons are scheduled to be on line by the end of 1989. The U.S. Customs Service also provides radar surveillance but has a limited number of assets. Defense Department support would fill a serious void in radar coverage along the border and would held to funnel traffickers to ground crossings which make apprehension easier.

Finally, in the past it has been a yearly struggle to get the President and the Department of Defense to understand the important Congress places on military involvement in the war on drugs. This legislation would require that the Secretary of Defense include a drug interdiction program in the DOD's 5-year defense play and that the President submit a budget request for drug related programs through fiscal year 1991.

I believe the use of the military for drug interdiction and enforcement could have a major impact on drug trafficking. By combining the resources, expertise, and manpower of the Department of Defense with local, State, and Federal law enforcement agencies now involved in the fight, the United States will finally have a real war on drugs.●

HOBBLING OURSELVES IN INTERNATIONAL SERVICES TRADE

● Mr. WILSON. Mr. President, like many of my colleagues, I am concerned about our country's balance of trade in both goods and services, especially our bilateral imbalance with Japan. The Congress has worked hard to address the problem, as witnessed by the successful passage of the trade bill in the last Congress.

Telecommunications services are an increasingly important part of our trade policy, both because of their significance to our economy, and because we have a real opportunity to excel in this field. Japan changed its laws several years ago to permit as much as one-third foreign ownership interest in companies providing competition in Japanese international telecommunications. The U.S. Government worked hard for that change and even harder to prevent Japanese backsliding.

Although the path has been long and difficult, an American company has now succeeded in obtaining Japanese Government and industry approval to participate in the Japanese end of an important new telecommunications project. Pacific Telesis Group has successsfully negotiated an option to acquire a significant percentage of International Digital Corp. [IDC], which is authorized to provide competition to KDD, Japan's international carrier. IDC is the only company planning to compete by building its own fiber optic cable across the Pacific Ocean. This is one of the first times that this trade agreement has actually been implemented in Japan.

It is a great irony, therefore, that Pacific's efforts to move forward with its participation are now being impeded at the United States rather than the Japanese end. The 1984 AT&T consent decree requires that Pacific seek permission from the U.S. district court to participate in IDC. In December 1987, Pacific requested a positive recommendation from the Department of Justice, and in November 1988, the Department responded favorably, recommending to the U.S. district court that the company be permitted to participate.

No final action has yet been taken. Pacific's original option expired without a decision by the district court. Because of our official failure to act before that date, major U.S. trade and foreign policy interests have been jeopardized. Failure at this end to approve proposals for United States industry participation in the Japanese market will leave the clear impression that we do not really care, and such failure will have major adverse consequences for our ability to advance United States interests in both the short and the long run.

Pacific has now been able to negotiate an extension on its rights to acquire the IDC until February 23 of this year. It would be a great loss, not simply to that company, but more importantly to the credibility and effectiveness of our trade policy with Japan, if we are not able to complete our own required reviews before that time.

Even beyond the question of timing, I think it is inappropriate for us to allow a regulatory gordian knot to thwart efforts by American companies to establish a foothold in Japan, and I believe that the Senate should act to address conflicts between legitimate domestic antitrust concerns and our broader international trade and foreign policy interests—both in telecommunications and other critical United States industries.●

CONGRATULATIONS TO SENATOR BAUCUS ON HIS HANDLING OF TAX BILL

● Mr. BENTSEN. Mr. President, I want to take this opportunity to congratulate the senior Senator from Montana, Mr. BAUCUS, on his handling of the tax technical corrections bill last year. Last August, I asked Senator BAUCUS, in his capacity as chairman of the Subcommittee on Taxation and Debt Management of the Committee on Finance, to guide this bill through a demanding legislative process. He did the job. First, Senator BAUCUS led the full Finance Committee in the adoption of a difficult and lengthy committee amendment that incorporated tax initiatives of many Members of the Senate. Next, as time was running out on the 100th Congress, Senator BAUCUS devoted his time and energy to making sure the bill came to the Senate floor. Senator BAUCUS managed the bill during 3 full days of floor debate, during which over 100 proposed floor amendments were disposed of, and after which the bill passed by a vote of 87 to 1. Finally, Senator BAUCUS served as acting chairman of a very tough conference, and brought the conference report back to the floor just in time for enactment before sine die adjournment.

On several occasions, it looked as though the technical corrections bill might die, but Senator BAUCUS was determined to keep it alive. This bill gives American taxpayers a taxpayer bill of rights; it removes the unfair diesel tax and heifer tax from American farmers; it extends a number of important provisions that would otherwise have expired, including the research credit and the mortgage revenue bond program; and it corrects technical mistakes in the 1986 Tax Reform Act, as well. I, for one, am delighted that we have adopted the technical corrections bills, and that we have put that business behind us. I want to thank my friend MAX BAUCUS for the good work he did, and to congratulate him on a job well done.●

ROCHESTER INSTITUTE OF TECHNOLOGY AND NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

● Mr. D'AMATO. Mr. President, I rise today to honor a special organization from my home State of New York. Next month, the Rochester/Monroe County Convention and Visitors Bureau will be presenting its annual "Tourism Civic Award" to the Rochester Institute of Technology [RIT], with special recognition and emphasis to one of its nine colleges, the National Technical Institute for the Deaf [NTID].

Each year thousands of people visit the Rochester area. Its attractions include several museums, sports fishing on Lake Ontario, and the wineries in the nearby Finger Lakes region. Next year, Rochester will play host to the U.S. Open Golf Tournament. With visitors spending over $119 million in the area last year, tourism is understandably an important part of the community. The Convention and Visitors Bureau, since 1981, annually gives an award to companies, institutions, or individuals who have demonstrated outstanding commitment toward the tourism industry. This year, RIT will receive this award.

RIT is a competitive institution in Rochester, NY, offering more than 230 career-oriented programs. With a student population numbering more than 13,000 RIT is the Nation's 13th largest private college or university. NTID, in its 21st year, is the world's only technological college for deaf students. The institute consists of three colleges, the School of Visual Communication Careers, the School of Business Careers, and the School of Science and Engineering Careers, which offer certificate, diploma, and associate degree programs. The school has a respected reputation—its graduates have a 95-percent placement rate.

Each year both RIT and NTID attract people to the Rochester community for seminars, commencements, special weekends, and various other school-related functions. Also, NTID attracts a special group of visitors for its functions for the deaf and hearing impaired. In fact, Rochester is becoming the center for deaf-related meetings, conventions, and seminars. In 1990, Rochester expects about 3,000 visitors when it hosts the International Congress on the Education of the Deaf.

I commend RIT and NTID for their special contributions to Rochester and Monroe County. As a member of NTID's national advisory group, I am especially proud to send my personal congratulations on this occasion.

BROOKHAVEN SCIENTIST WINS FERMI AWARD

● Mr. MOYNIHAN. Mr. President, I rise today to call our colleagues' attention to the achievements of Dr. Rich-

ard B. Setlow of East Quogue, NY. Dr. Setlow, a biophysicist at Brookhaven National Laboratory, is one of the two winners of the 1988 Enrico Fermi Award, the highest scientific award given by the U.S. Department of Energy, recognizing "exceptional and altogether outstanding scientific achievement in the development, use or control of atomic energy." Dr. Setlow is being honored for his contributions to the fields of radiation biophysics and molecular biology.

Dr. Setlow has been at the forefront of scientific research for many years. Almost 30 years ago Dr. Setlow discovered the process of DNA repair in cells and together with his colleagues demonstrated that ultraviolet light induces structural defects in DNA that can cause biological damage. He has served on advisory boards of the National Academy of Sciences, the Office of Technology Assessment, and the Food and Drug Administration, and served as president of the Biophysical Society and of the Comite International de Photobiologie. His leadership has contributed greatly to the direction of biomedical research in the United States.

I ask that I may have printed in the RECORD, a copy of the press release which highlights further, Dr. Setlow's remarkable achievements.

The press release follows:

BROOKHAVEN SCIENTIST WINS FERMI AWARD

UPTON, NY.—Richard B. Setlow, a biophysicist at Brookhaven National Laboratory, is one of two winners of the 1988 Enrico Fermi Award. The second recipient is physicist Victor F. Weisskopf, of Cambridge, Massachusetts. Each recipient will receive a presidential citation, a gold medal and a $100,000 honorarium.

The Fermi Award, which dates back to 1954, is the highest scientific award given by the U.S. Department of Energy. It recognizes exceptional and altogether outstanding scientific and technical achievement in the development, use or control of atomic energy.

Dr. Setlow is being honored for his contributions to the fields of radiation biophysics and molecular biology. His citation reads: "For his pioneering and far-reaching contributions to the fields of radiation biophysics and molecular biology, beginning with the discovery and conceptualization of the process of DNA repair that have had an impact on research in genetics, recombination, mutation and carcinogenesis."

Secretary of Energy John S. Herrington announced the Fermi Award winners in Washington, D.C. on December 23. In congratulating Dr. Setlow on his award, Brookhaven Lab Director Nicholas Samios said, "I think it's marvelous that Dick Setlow has won this prestigious award. Dick is a biophysicist, and the award is being given for his contributions to the life sciences, demonstrating once again the unity of all the sciences."

A native New Yorker, Richard B. Setlow received his A.B. from Swarthmore College in 1941 and his Ph.D. in physics from Yale University in 1947. From 1941 to 1961 he taught physics and biophysics at Yale University. In 1961, he went to the Biology Division at Oak Ridge National Laboratory, in Tennessee. In 1974, he joined the staff of the Biology Department at Brookhaven National Laboratory and was named chairman in 1979. Since 1986, he has served as Brookhaven's Associate Director for Life Sciences.

In the early 1960's, Dr. Setlow discovered the processes of DNA repair in cells. (DNA is the basic substance of the chromosome, which carries hereditary characteristics.) With his coworkers at Oak Ridge, Dr. Setlow was the first to demonstrate that ultraviolet light induces structural defects in DNA that can cause biological damage. He then showed that in normal bacterial cells, these lesions can be excised from DNA. This discovery of excision repair showed for the first time that the genetic material is subject to biochemical turnover, a notion disputed at that time by most geneticists.

Setlow's trailblazing work, which he has vigorously continued even during his years of administrative duties at Brookhaven Lab, stimulated a veritable explosion of research activity that has led to the discovery of other DNA repair mechanisms, not only in bacteria, but in all organisms, including humans. Scientists now believe that the genetic stability of cells is maintained by a variety of intricate biochemical mechanisms, among which repair plays a central role. In addition, certain genetic diseases in humans are the result of inherited deficiencies in DNA repair. Thus, Dr. Setlow's original discoveries laid the basis for what has become one of the most fruitful, far-reaching and intellectually important areas of modern biology and medicine.

As a science administrator, Dr. Setlow has established, within the biology departments at both Oak Ridge and Brookhaven, research laboratories that have developed international recognition. He has served on various advisory boards to the National Academy of Sciences, the Office of Technology Assessment and the Food and Drug Administration. Setlow has also served as president of the Biophysical Society and president of the Comite International de Photobiologie. His leadership in these roles has contributed significantly to the direction of biomedical research in the United States.

Dr. Setlow is a resident of East Quogue, New York.

Brookhaven National Laboratory is managed by Associated Universities, Inc. under contract with the U.S. Department of Energy.●

SUSAN BRUNS NAMED RHODES SCHOLAR

● Mr. SYMMS. Mr. President, as our educational system is of utmost importance of the citizens of the United States, I am pleased to recognize Susan Bruns, the first Rhodes Scholar from the University of Idaho in 52 years.

Susan has been an exceptional student all of her life. She has never received less than an "A" on any report card. Besides being an outstanding student, she is a member of the Delta Delta Delta women's fraternity, has interned for both U.S. Senator JAMES MCCLURE and First Interstate Bank, and between semesters tutors minority children in New Jersey.

From the town of Eden, ID, with a population of 396, this finance major is an example to all students in and out of Idaho, and I ask that the article from the Idahoan about Miss Bruns be printed in the RECORD.

[From the Idahoan, Dec. 13, 1988]

NOT YOUR AVERAGE EGGHEAD

(By Christopher Smith)

Susan Bruns is a typical University of Idaho student. She's from a small Idaho farming town. Today she's cramming for final exams. Yesterday she received a campus parking ticket.

She's also a Rhodes Scholar.

The first UI winner in 52 years of the prestigious scholarship named after British colonialist Cecil Rhodes, Bruns doesn't picture herself in the musty stereotype of the cerebral highbrow.

"My mother always said I was 'book smart'—she didn't think I had a lot of common sense," the 22-year-old senior said today between final examinations. "I have never seen myself—and I hope others don't see me—as some kind of an enigma. People who are associated with the genius of the caliber of Einstein are often seen as some kind of eccentric and I don't see myself that way at all."

Still, the UI business finance major has never gotten less than an "A" on a report card. At least, "not to date. That starts this week," she jokes. "I take a final this afternoon and I have two on Wednesday including a semester computer project that I worked a total of one weekend on."

Such disclosures of human frailty won't shock academicians. But Bruns is an unpretentious scholar who says she feels no external pressure.

"I really don't feel any different after winning this award," she says. "I'm still the same Susan I woke up with last week. My grade point is a goal I set for myself and I don't feel pressure from other people."

And the Delta Delta Delta women's fraternity member dispels the myth of a scholar's monastic lifestyle.

"You should talk to my friends," she laughs. "Usually when I feel I need to get away, I make that time for myself. I don't keep my head buried in a book."

In the course of maintaining an outstanding academic record, Bruns has found time to serve internships with U.S. Sen. James McClure and First Interstate Bank, plus tutor minority children in New Jersey between semesters.

Now, three days away from earning a diploma, she is ready to head for sanctuary. It is named, appropriately enough, Eden.

"The road sign on the way into town says, 'Population 396'," Bruns says of her hometown in southern Idaho's Magic Valley. One of three daughters of a retired farmer, she plans to spend the next nine months "getting reacquainted with my parents" and assorted nieces and nephews before heading to Oxford University in England for two years on her Rhodes Scholarship.

While her parents "have not always understood the things I wanted to do, they did not set goals for me. They would have been just as happy if I had gone to a community college."

But Bruns came to the UI, where she enrolled as a journalism major. An economics class for honors students taught by Dr. Richard Coffman changed that, inspiring her to switch her field of study to business. Yet she is a nonconformist student of business finance.

"I've known for a while that I didn't want to spend my life trying to beat the other guy on (financial) return," she muses. "I'm not your high-powered finance person, but I still thoroughly enjoyed my major because I came from a farming background where I knew absolutely nothing about corporate finance."

And economics, Bruns believes, is at the core of understanding a government she hopes someday to be a part of.

"I would like very much to work for the national government, and that's loosely defined," she said, noting that she may pursue political office in the future. But in that endeavor, she hopes to fulfill the wishes that Cecil Rhodes had for the recipients of his scholarships.

"If you read Cecil Rhodes' will, you see that in the kind of person he was looking for, he placed a great emphasis on the person who took an interest in their fellow human being," she said. "My greatest professors and the people I have most admired have had that quality. They've taken an interest in me as well as their fellow human beings and I wanted to pattern myself after that."●

WE'RE BEING TOO EASY ON DRUG-USING ATHLETES

● Mr. SIMON. Mr. President, during the period between the last Congress and the present one, our colleague Senator DENNIS DECONCINI had an article in USA Today about the use of drugs by athletes.

He suggested strongly that the National Football League and others ought to be much tougher in their standards.

I could not agree more.

I recall when I was a boy that my heroes were those of the athletic world. That continues to be the case today.

A 30-day suspension, for example, for someone found guilty of using cocaine is simply intolerable.

I do not suggest that Government ought to be interfering and playing a role. But I want to join my colleague Senator DECONCINI in urging the professional athletic groups to be much tougher on the matter of drug use.

I ask that the DENNIS DECONCINI article from USA Today be printed in the RECORD.

The article follows:

WE'RE BEING TOO EASY ON DRUG-USING ATHLETES

(By Senator Dennis DeConcini)

At a time when Americans should have been celebrating the spirit of Olympic competition, we were daunted with headlines of illegal drug use.

Several disgraced athletes hastily departed from Seoul, minus their medals and possibly their careers, because they tested positive for various banned substances.

Was the punishment handed to these athletes too harsh?

I don't think so.

I believe the International Olympic Committee should be commended for strictly enforcing its tough anti-drug policy. Now it is time for professional and collegiate sports organizations in this country to follow that good example.

As role models for young people, professional and collegiate athletes should be the first to spread the anti-drug message.

Letting athletes off with just a slap on the wrist for drug use is a crime in itself—it sends the wrong message. Our national sports leagues have neglected to establish and enforce adequate drug policies.

Currently, the National Football League imposes no penalties after the first positive drug test. On the second offense, the player receives only a 30-day suspension, with possible loss of pay and perhaps drug rehabilitation, both at the discretion of team officials. Steroid use carries only a possible suspension after the second offense.

The National Basketball Association has put forth a better effort than most. Its policy of testing all rookies and first-year players for cocaine and heroin use, with one-year suspensions after positive results, is a step in the right direction. Several players have even been suspended for two years or more.

This is a strong policy, but not yet strong enough.

I propose that all athletes at the professional and collegiate levels be tested yearly for illegal drugs, steroids and excessive alcohol use.

If a college athlete tests positive for a banned substance, he should automatically lose a year of eligibility, and should not be alowed to "red-shirt" that year.

A professional athlete's first failed drug test should result in suspension without pay for a year and a mandatory drug rehabilitation program. After a second failed test, an athlete should be banned from the sport for life.

With tough drug policies in professional and collegiate athletics, we can show kids that drug use is not glamorous—it is dangerous and will not be tolerated.

We need to send a strong message.

If you use mind-altering or performance-enhancing drugs, you will not be allowed to compete in sports at any level.●

COSPONSORSHIP OF THE ACT FOR BETTER CHILD CARE SERVICES OF 1989

● Mr. D'AMATO. Mr. President, I am pleased to join my colleagues, Senator DODD, Senator HATCH, and others in sponsoring the Act for Better Child Care Services of 1989.

Senators DODD and HATCH were leaders on the child care issue in the last Congress. I commend both of them for their dedication and commitment to addressing the need for affordable, quality child care. Because of time constraints last year, the full Senate was unable to craft an acceptable legislative compromise on the issue.

I am encouraged by the bipartisan willingness to devise a workable solution to the child care question. I feel certain that during the 101st Congress the Senate will be able to accomplish this worthy goal.

Millions of families will benefit from such legislation. We must not lose sight of the fact that fewer than 10 percent of families are what was once considered the "typical American family" with the mother staying home and the father working. The upsurge in the number of women in the work force has been dramatic: In 1950 only 12 percent of women with children under age 6 worked, today 57 percent do.

The family is the cornerstone of our Nation. Today's children, who will come of age in the 21st century, are our Nation's future. Many of them will have to overcome obstacles like broken homes, poverty, drugs, and troubled schools with high dropout rates. Studies show that early childhood intervention is the best hope for "at risk" children. We owe to these children the best in child care and must make it affordable to their parents.

I look forward to working with those on the Labor and Human Resources Committee in reaching a compromise on this issue.●

UKRAINIAN INDEPENDENCE DAY

● Mr. BRADLEY. Mr. President, I am honored to join with many of my colleagues in the United States Senate to pay tribute to the brave Ukrainian people on the occasion of the 71st anniversary of Ukrainian independence and the 70th anniversary of the unification of the Western Ukrainian National Republic with the Ukrainian National Republic. On this day of celebration I applaud the Ukrainian people in their long struggle for freedom, human rights, and national independence.

Although the Ukrainian National Republic endured only 3 years after the January 22, 1918, declaration of freedom, the Ukrainian love of freedom has not been diminished. It is as prevalent in the hearts of Ukrainians today as it was before the Soviet takeover in 1921. Over the past 71 years the Ukrainian people have suffered almost insurmountable deprivation and degradation, yet the Soviet regime's efforts to deprive the Ukrainian people of their national identity, culture, and religious traditions have not extinguished the strong Ukrainian spirit.

Although the hardships endured by the Ukrainian people are many, the Soviet induced famine of 1932 is one that deserves our attention. The world knows little about this catastrophe, but only one famine has ever been recorded which claimed more lives. Yet what makes this famine unique is not its magnitude, but the fact that it resulted from man-made causes.

The Soviet Union, led by Stalin, artificially created this famine to crush the Ukrainian people and break their independent spirit and strong sense of nationalism. The Soviets seized and exported the bulk of the Ukrainian grain crop of 1932-33 and even established border patrols to prevent food from coming into the Ukraine. These actions ordered by Stalin, led to mass starvation which the Soviet Government has taken great pains to conceal. To this day the Soviet Government continues to deny the magnitude of this tragedy. It is my sincere desire that the report issued by the Ukrainian Famine Commission will preserve the memory of those who died by giving this forgotten holocaust a secure place in history.

Despite the attempt of the Soviet Union to dominate the Ukraine their national spirit thrives. They are a people who are not willing to submit to their powerful adversary. We, as a Nation, must not forget our struggle

for freedom and on this day of recognition let us rededicate ourselves to the cause of freedom as we support those who are now speaking out against oppression. I join my colleagues in praising the spirit of the Ukrainian people and speaking out against the deplorable human rights violations inflicted on these courageous people in their quest for freedom and human dignity.●

SALUTE TO A HERO

● Mr. SYMMS. Mr. President, we so seldom hear of true heroes today that I am honored to share with you one from my home State of Idaho. Last November, Jay Sines rescued three people from a burning home, risking his own life twice.

Jay Sines heard Cindy Breithaupt's cries for help. Seeing the smoke from the fire which was engulfing her home, he instructed his wife to phone the fire department, then drove to the fire. Upon hearing that two children and a man were trapped inside, Jay climbed through a broken window to rescue them. Twenty-two-month-old Ryan grabbed him as he fumbled in the dense smoke, and Jay handed him safely out to his mother. He then found Leonard and attempted to help him out, but Leonard was trapped. Jay then climbed back outside to catch his breath.

Suddenly, Angela's cries stopped and her mother, Cindy, became hysterical. Jay climbed back inside, determined to save the child. This time, aided by a flashlight, he discovered Angela, and managed also to free Leonard, thus ensuring the safety of everyone involved.

Mr. President, I ask that an article from St. Maries Gazette Record detailing Jay Sines' heroic actions be printed in the RECORD.

The article follows:

[From St. Maries Gazette Record, Nov. 23, 1988]

JAY SINES RESCUES THREE IN TWO TRIPS INTO FIERY HOME

Leonard Thaut, his daughter, Angela, and son, Ryan, owe their lives to Jay Sines' interest in his dog.

After getting home from work early Saturday morning, Mr. Sines took his Samoyed puppy out to play. It was while he was outside that he heard Cindy Breithaupt's screams for help.

At approximately the same time Mr. Sines took his dog outside, Ms. Breithaupt woke up and discovered the fire that was engulfing the mobile home where she and Mr. Thaut lived with their children, Angela and Ryan.

Had Mr. Sines not been outside about 12:30 Saturday morning he may not have heard Cindy Breithaupt's screams for help as her mobile home burned with Mr. Thaut and her children trapped inside. The mobile home is several hundred yards from Mr. Sines' house.

Mr. Thaut and Ms. Breithaupt had been in bed less than 30 minutes when Ms. Breithaupt woke up and discovered the fire. Her screams woke Mr. Thaut.

"I sat up in my bed and all I could see were black clouds all over. I couldn't see an inch in front of my face," Ms. Breithaupt said.

Ryan Thaut, 22 months, was sleeping in the same bedroom with his parents. His sister, Angela, seven weeks old, was sleeping in her bedroom about ten feet away. According to Ms. Breithaupt, when Mr. Thaut woke up he ran to get Angela. While he was getting their daughter, Ms. Breithaupt used her fists to break the window in their bedroom.

"The smoke was so thick I could barely see the window," Ms. Breithaupt said. After she broke the window out she crawled through it expecting Mr. Thaut to hand her the children.

"I jumped out the window and waited for him to hand out the baby, but he never did," Ms. Breithaupt said.

SHE WAS UNABLE TO GET BACK INSIDE THE TRAILER

When Mr. Thaut did not come to the window with the children, Ms. Breithaupt tried to get back into the house. She was unable to pull herself back into the house because the window is more than 5½ ft. above the ground. Ms. Breithaupt said that is when she began screaming for help. It is probably those screams that Mr. Sines heard.

"At first I thought somebody was being attacked when I heard the screams, but when I looked up I saw the fire," Mr. Sines said.

Mr. Sines ran to his house and told his wife, Toni, to call the fire department. He ran back to his car, realized he didn't have his car keys, ran back to the house to get them and then back to his car again. Despite the distance and the slight delay, Mr. Sines was the first person on the scene.

"When I got there she (Ms. Breithaupt) was breaking windows with her bare hands," Mr. Sines said.

Understandably shaken, Ms. Breithaupts' account of what happened next isn't the same as Mr. Sines reported later. One thing she is certain of; when she told Mr. Sines her children and Mr. Thaut were trapped inside, he didn't hesitate before going into the smoke-filled trailer to save them.

"He didn't hesitate a second, he went right through the window into the trailer," Ms. Breithaupt said.

What seems to this point to be a movie script for an Indiana Jones movie departs drastically from what the usual Hollywood fare offers. Instead of facing a wall of flames with plenty of light and air, Mr. Sines said he was swallowed by darkness and suffocated by a wall of acrid smoke.

"The smoke was so thick you couldn't see anything. It practically knocked me down. Then the little boy grabbed me," Mr. Sines said.

BABY HIDDEN IN SMOKE; LEONARD WAS PINNED

After Mr. Sines handed Ryan out to his mother he got down on his hands and knees trying to find the baby.

"It was awful frustrating. I could hear the baby crying but I couldn't find it. I knew it was right in front of me but I couldn't find it . . . it was awful frustrating," Mr. Sines said.

After failing to find the baby, Mr. Sines attempted to lift Mr. Thaut out the window but was unable to move him. He said later he believed he was pinned under a chair so it was impossible to move him. Unable to move Mr. Thaut or find the baby and suffering from smoke inhalation, Mr. Sines climbed out the window to recover.

"The smoke is worse than you can ever imagine. It's pitch black, it's hot, the smell is so bad you can hardly stick your head in," Mr. Sines said.

But he did "stick his head in" a second time.

When Mr. Sines came out the window, a neighbor, Lester Opresik went into the trailer to save the baby and Mr. Thaut. The smoke drove him back.

That is when seven-week-old Angela did something that may have saved her life. She stopped crying. Ms. Breithaupt was convinced when her baby stopped crying that she had succumbed to the smoke.

"When she stopped crying I thought she had died, I got pretty excited," she said.

"When the baby quit crying and her mother got so hysterical, I went back in," Mr. Sines said.

Using a flashlight provided by a police officer at the scene, Mr. Sines was able to find the baby, which was wrapped in a blanket, probably by Mr. Thaut when he grabbed her out of her bed.

Mr. Sines said if Mr. Thaut had not have been able to get the baby to the window before he collapsed from the smoke, he would not have been able to save them.

"I got his upper body up on top of the cabinet then they held on to him while I got underneath and pushed him the rest of the way out," Mr. Sines said.

Mr. Sines followed him out and the danger of someone losing his life in the fire was over.

Mr. Sines, however, continued to help. After recuperating a second time, he moved Mr. Thaut's motorcycle and snowmobile away from the trailer so they wouldn't be destroyed in the fire.

LUNGS, EYES DAMAGED PROGNOSIS NOT CERTAIN

Mr. Thaut, who is 22, is in intensive care on a respirator at Sacred Heart hospital.

"I think they're still in doubt as to how much lung damage he has," Daryl Thaut, Mr. Thaut's father said. "Right now they're concerned with getting the oxygen level in his blood stabilized."

Mr. Thaut's eyes are also extremely sensitive to light, his father said.

"They say his retinas are burned, they don't know how severe that is yet," Daryl Thaut said. He said the damage to his eyes and his lungs was caused by the smoke.

Ryan and Angela were treated and released. Ms. Breithaupt has several stitches around her hand and wrist. She apparently cut herself breaking the bedroom window with her fists.

Daryl Thaut said this Thanksgiving means more to him than any other.

"Jay is the only reason my son and his family are alive today. He made this Thanksgiving for us. It's only through him that it is possible, really," he said.

Ms. Breithaupt said she has been overwhelmed with the concern shown by the community.

"Everyone has helped us so much. They've offered us everything we need, we really want to thank everyone," Ms. Breithaupt said. "Of course, we owe the world to Jay for what he did for us."

SALUTE TO A HERO

There are heroes and heroines among you. You know them, but you do not recognize them as such. Each day they go to work, do their job and, against tremendous odds and in horrible conditions, doggedly provide for their families, their children. They don't fuss or complain; they do their duty. They are heroes and heroines—the grind-it-out, wear-it-out kind.

There is another kind of hero—a kind we seldom meet or know—one who faces the ultimate test. It is not often that any of us, short of war and the battlefield, are asked to put our very lives on the line to help or

to save another person. That is the ultimate heroism—to offer your own life to save that of another.

Last week in St. Maries, such a hero performed. Jay Sines offered to give his life to save the life of another. Not just once, but twice, he looked Death in the face, defied Death and saved another life.

Jay piled into a flaming mobile home through a broken window and rescued a child. He got out; got a breath and piled in again. He saved another child. He went back again—and saved a man's life. All through flame and smoke and confusion which would have scared most of us into fear-paralyzed immobility.

One does not often know an "ultimate" hero but here we have one.

All should stand in awe.—Robert Hammes●

COMMEMORATION OF THE MARIAN CATHOLIC HIGH SCHOOL MARCHING BAND

● Mr. SIMON. Mr. President, it gives me great honor to pay tribute to the members of the Marian Catholic High School Marching Band for their outstanding accomplishments in the realm of interschool competition. The Spartan Marching Band of Marian Catholic High, located in Chicago Heights, IL, has the distinction of reigning as the 1988 Grand National Champion of the nationwide competition sponsored by the Marching Bands of America [MBA] at the Silverdome in Pontiac, MI. This achievement alone would deserve our attention, but it is greatly accentuated by the fact that the Spartan Marching Band has been awarded this honor in 3 of the past 4 years.

This year's competiton in Pontiac, MI was attended by 54 bands from across the Nation. After 2 long days of displaying its talents to an audience of music enthusiasts, Marian High School defended its national champion status with the performance of a lifetime. The victory was made even sweeter by the Spartan's final score of 95.80 points, breaking the alltime record by 2.5 points!

Beyond this year's national competition, the Spartan Band has won the Illinois State Championship in its class for 5 of the past 6 years. Along with the Grand National Championship award, Marian Catholic High School received the trophy as "AA" division champions. First place achievement awards were presented to the band in several categories including: Best use of flags; best coordinated auxiliary; best winds section; and best overall general effect.

Under the direction of Greg Bimm, the assistant directorship of Bob Page, and the auxiliary coordination of Debbie Tulley, Marian Catholic High School Marching Band has provided spectacular entertainment, and has been a great source of pride to its community, the State of Illinois, and the Nation as a whole. All too often we forget the countless hours and the total dedication required to produce an impressive work of art. These talented young men and women who dedicate themselves to a skillfully coordinated and musically replete performance are nothing short of artists with a profound commitment to their craft.

Mr. President, I hope my colleagues will join me in congratulating the Marian Catholic High School Marching Band for its truly impressive and distinguished record of accomplishment, and in wishing the members and the leaders of the band our best for continued success in the years to come.●

FRANK BRUNEEL

● Mr. SYMMS. Mr. President, Frank Bruneel is a successful businessman, husband, and father. The owner of 11 retail tire stores, 2 retread shops, and 1 main warehouse, Bruneel cares about small business and is the chairman of the Idaho Employers Council. He is also a strong member of the Lewiston community, having been a past member and chairman of both the Lewiston School Board and the Lewiston Planning and Zoning Committee.

Bruneel was born and raised in Boise, ID. He and his wife Sharon have 8 children and 13 grandchildren. After moving to Lewiston, he started his first business there in 1966. Bruneel is active in his chosen religion and has held leadership positions in his congregation.

I am proud to count Frank among my friends and was delighted to see the Lewiston Tribune run a feature article on Frank's accomplishments. This newspaper story highlights many of the reasons behind Frank's successes and I ask to have it printed in the RECORD.

The article follows:

[From the Lewiston Tribune, Oct. 16, 1988]

A DOZEN QUESTIONS FOR FRANK BRUNEEL, OWNER OF BRUNEEL TIRE & AUTO SERVICE CENTER

Full name: Frank C. Bruneel.

Birth date and place: May 4, 1935, Boise.

Marital status/family: Married: Sharon; eight children, Debra, Lezlie, Vanessa, Craig, Frank, Suzanne, Alison and Zachary.

Education: Graduated Boise Senior High School—1955.

Current employment: Bruneel Tire & Auto Service Center.

Residence: Lewiston.

Responsibilities: Maintain a stable business with satisfied customers and provide growth opportunities for our employees.

Hobbies/outside interests: Working outside at home, skiing, helping my kids achieve their goals.

Goals: Be a good husband and father and raise a family of self-reliant children. Keep in reasonably good physical condition.

Q. 1. Since you decided against trying for another term on the Lewiston School Board, have you considered running for any other elected office?

A. I may in the future, consider running for an office if I am qualified and can manage the time in my personal affairs to do so.

Q. 2. Recognizing that hindsight is always 20-20, would you have voted for or against the school board's decision to run the recent school levy as a permanent one?

A. I would have voted against the levy. I do not believe that the Legislature will have the incentive to fund education adequately as long as districts continue to "Band-aid" the funding process with increased taxes on property owners. I favor broadening of the existing sales tax to allow increased tourism and out-of-state money to help fund our education needs.

Q. 3. While you were serving on the school board, did you feel the Lewiston Tribune covered education at Lewiston fairly and completely?

A. Generally yes, but the Tribune appears to be harsh toward the school board and its position at times. Until you've sat in the seat you don't have full view of all the facts involved.

Q. 4. If your best friend were shopping for tires for his car, would you recommend retreads or new tires?

A. It would depend on which of my friends it is and his or her driving habits, type of vehicle and the funds available. I am a strong proponent of retreads.

Q. 5. Do you have any hidden talents?

A. I am a good cow milker.

Q. 6. In 1986, you were selected as Idaho's nominee for a national small business person's award. What kind of business motto do you work by that you can credit with your success at Bruneel Tires?

A. "We Go the Extra Mile." We hope we treat people honestly and fulfill a need they have, with service and products of value. A business transaction has to be good for both or all parties involved.

Q. 7. With stores in several towns, including a new one opened in the last couple of years at Pullman and the downtown Lewiston store's move to new quarters, Bruneel Tire seems to be enjoying a business boom. Is there any more expansion in store for the business in the next couple years?

A. Yes, we intend to grow in areas that we feel have potential for us and our people.

Q. 8. What are some of the best things about living in the Lewiston-Clarkston Valley?

A. The size of the community and geography of the area. It's great to go to the airport, barbershop, bank, Post Office, City Hall, shopping, doctor,—all within 10 minutes of home.

Q. 9. What are some of the worst things?

A. The political balance of the area. I'd like to see a more balanced party split. I don't believe we have the best or most responsive government when it is so one-sided, be it Republican or Democrat. A one-sided Republican county gets no better candidates than the way we are here. We need good capable leaders to manage our government today as much as ever.

Q. 10. As a former school board member, what do you think about non-traditional school years such as a year-round school year or alternate full days for kindergarteners?

A. I am not a big supporter of kindergarten although I think it is important to be available as a parental choice. I favor the present school year. As a parent, I want my kids to work for their own welfare and to have various work and education experiences. I feel that this can best be accomplished within the traditional school year. As parents, we need time to raise our kids ourselves, to teach them correct values and morals. That is our job—not the school's job.

Q. 11. Did you ever consider any such ideas for Lewiston?

A. No.

Q. 12. As a member of the Lewiston business community, do you agree or disagree with the programs of the Port City Action Corp. and the Main Street program?

A. They may be good for downtown—but time will tell. It is hard to make water run uphill. The downtown area has lost some opportunities in the past. I am not for propping up a plan with "free" tax dollars if the program will not carry itself. I would suggest pooling local funds to provide very low cost or no-charge rent to Fred Meyer or similar stores, and provide 500 car parking. Then all downtown benefits. The Anchor tenant would make money and so would the rest of town as property values would increase rather than decrease.●

COMMON SENSE AND SOUND ECONOMICS

● Mr. SIMON, Mr. President, during the time between our sine die adjournment and the beginning of this session, an article by Herbert Stein appeared in the New York Times that has a great deal of common sense to it and sound economics. I do not agree with every point in the article, particularly a movement at this time toward the value-added tax; but all of us ought to be able to agree to 90 percent of what he says.

I ask that Herbert Stein's article be printed in the RECORD.

The article follows:

[From the New York Times, Oct. 23, 1988]

TAX THE RICH, THEY CONSUME TOO MUCH

(By Herbert Stein)

Congratulations. The American people have awarded you their highest honor. They have also placed in you their most sacred trust. I would like to offer you some suggestions on the most serious economic problems you will face in discharging your new responsibilities.

The country faces no immediate crisis. There is no need for you to rush a dramatic program into effect in your first 100 days. But the country does face major choices that will affect our security, our incomes and the quality of our lives for years to come. You should take the time to develop a philosophy, a stance, a set of priorities by which you can be guided not just for 100 days but for four years or more. You need to assess the state of the nation and make a candid evaluation of its assets and deficiencies.

STILL A RICH COUNTRY

The United States is a very rich country. On your Inauguration Day the gross national product will almost certainly be running at a rate in excess of $5 trillion a year. In real terms it will be twice as high as it was 23 years go. But we are not using that income well and not getting from it the things we should. Of course, even a rich country cannot do everything, and its natural that some desires are not met. That is not the problem. The problem is that some very important needs are not being met while less important ones are.

Four principal needs are not being adequately meet:

We are now spending about 6½ percent of the G.N.P. on defense. National discussion seems to have gravitated to agreement that defense spending should be held constant in real terms, which would reduce it to 5½ percent of GNP by 1993.

But the agreement to freeze defense spending is not based on any comprehensive, realistic evaluation of our national security situation. The agreement is based on the comfortable but surely false assumption that we "cannot afford" to do more.

In fact the most comprehensive recent review of our national security situation, the Report of the Commission on Integrated Long-Term Strategy, concluded that 3 percent annual growth in real defense expenditures would be required to permit us to "acquire the systems needed to maintain the current world posture, cope with some occassional new threats and retain some needed flexibility" and "also incorporate the capabilities called for" by this review.

Investment in the United States owned by Americans is now about 15 percent of G.N.P.—a much lower proportion than it was 10 or 15 years ago. Total investment in the United States is at a fairly high level, but much of this investment is owned, directly or indirectly, by foreigners. We are fortunate that the rest of the world wants to invest here and should do nothing to discourage the inflow of foreign capital. But that foreign capital will not yield future capital income to Americans. We are not making the same investment in the income of our children as our parents made in our income. That is especially worrisome because productivity has been growing less rapidly than it used to do. While we do not know the causes of this slowdown very well, we do know that one of the most reliable ways to accelerate the growth of the national income is to raise the rate of investment. The importance of speeding up the growth of national income is raised by the fact that we have to look forward to a time, not so far off when the national income will have to support a much larger number of retired people. The main reason for the low level of investment owned by Americans is that a large proportion of private saving is absorbed by the Federal budget deficit.

The proportion of the population with incomes below the official poverty line has leveled off at around 14 percent. That is higher than at any time in the 1970's, although lower than at the beginning of the 1960's.

The 14 percent figure is controversial, but there seems little doubt that the decline in the poverty ratio has at least slowed if not stopped. Also, there is no doubt that the proportion of children living in poverty is especially high, which has ominous implications for the future. The hope that the reduction of unemployment, and supply-side incentives, would soon result in a significant reduction in the poverty rate seems much less realistic today than it did eight years ago. Consumption by poor people, including their medical care, financed by their own earnings and from government assistance, amounts to about 2 or 3 percent of G.N.P.

EDUCATIONAL DEFICIENCIES

There is common agreement that the educational attainment of the American people, although possibly improving, is still in a miserable condition. Much concern with education today relates to its effects on economic productivity. That is important, but much more is involved. As Jefferson said, "Whoever expects to be ignorant and free, in a state of civilization, expects what never was and never will be."

We are in danger of becoming a nation of highly intelligent machines and highly ignorant people. The nation spends about 6½ percent of the G.N.P. on education. Our educational deficiencies are not entirely due to inadequate expenditures, but they will not be fixed without more expenditures.

These four areas—defense, investment, consumtpion by the poor and education—absorb about 30 percent of the G.N.P. To say that they are getting too small a share means that other areas, however worthwhile, are getting too much. Mainly this means that the consumption by people who are not poor, which absorbs about 55 percent of G.N.P.—and their medical care, which absorbs about 10 percent—are getting too much of the G.N.P. Per capita consumption of the non-poor has increased rapidly in the past decade—faster than output per capita—and cannot realistically be called inadequate. And the United States devotes more of its national income to health care than other industrial countries without getting superior results in health conditions as measured by longevity or illness.

NATIONAL OUTPUT

This points directly to what needs to be done. Some part of the national output needs to be diverted from the consumption and medical care of not-poor people to defense, investment, education and the incomes of the poor. But this also points directly to the difficulty. The people who have to make some sacrifice are the large majority of the voters. That is precisely why we have the present misallocation of the national output. It is politically attractive to support the consumption level of the vast majority of middle—and upper—income Americans by transfer payments, subsidies and tax relief at the expense of defense, investment, education and care for the poor.

A great deal was made of patriotism in the Presidential campaign. Now that you have been elected it is time to put some content into that word. It is time to ask the 86 percent of the American people who are not poor to give up some small part of the increase in their consumption in order to fortify the national security, to provide more adequately for the future growth of the national income, to improve the lot of the poor among us.

REDUCING CONSUMPTION

If you choose to follow this course you will need to find a way to reduce the growth of consumption by the non-poor. This means taxes and transfer payments and subsidies for the middle and upper income people. Mainly this means the middle-income people, because there are so many of them and their consumption is so large a part of the total. This taboo may be less rigid than it seems. After all, since the big tax cut of 1981, President Reagan has signed bills raising annual tax revenues by about $175 billion and has retained his enormous popularity and his reputation as a tax fighter. Perhaps it is not so much the taxes that people dislike as the talk about them. But still there are serious political risks and you will have to decide whether to lead the country or run for the next election.

TAX INCREASES

You should ask your Treasury, budget and economic officials to prepare a list of tax increases and expenditure cuts amounting to, say, $100 billion a year that in your opinion would have the least adverse economic effect. That will give you specific options to think about. Specificity is especially important in considering taxes. Thinking about taxes in general leads inevitably to the conclusion that raising taxes is economically harmful and counterproductive. But looking at specific taxes reveals that the harm to production and efficiency is not equal for all, that some would do little harm and that some would be beneficial.

I believe that the list would include the following, among other items: Increase of excises on alcohol, tobacco and gasoline; inclusion of half of Social Security benefits in taxable income; inclusion of fringe benefits, including medical care in taxable income;

limitation of the deductibility of home mortgage interest; reduction or elimination of Medicare subsidies, and the reduction or elimination of farm subsidies.

You should not accept balancing the budget as the necessary or sufficient goal of budget policy. The goal for the deficit or surplus should be derived from the goal for investment. In my opinion the goal for the end of your first term should be not a balanced budget but a surplus.

Another way to look at the deficit-surplus issue is to recognize that by 1993 the Social Security trust funds will be running a surplus of about $100 billion a year. That is a rough indication of the amount that needs to be saved and invested to meet the future claims of retired people. But if the unified budget is balanced, the Social Security surplus is not being saved but is being used to finance the deficit in the rest of the Government. The existence of the Social Security surplus points to the need for a surplus in the unified budget.

These suggestions reflect my own priorities. I understand that upon reflection you may conclude that your priorities are different. That is a matter of values and judgments to which no precise and conclusive answer can be given. What is undeniable is that the Federal Government exerts a major influence on the "grand" divisions of the national output. The future of the nation depends on how the Government exercises that influence.

GOVERNMENT'S ROLE

Sixty years ago, in the time of Calvin Coolidge, the Federal Government spent about 3 percent of the G.N.P. In the past 25 years or so we have entered a new era, in which the Federal Government has a critical role in the allocation of the entire national output. It is now spending about 25 percent of the G.N.P., but its influence extends far beyond its own expenditures. Its budget deficit or surplus has a dominant effect on the amount of private investment. Its taxes and regulations strongly affect the amount and character of private consumption and production.

We can argue about whether this influence of the government should be a little larger or a little smaller. It is never going back to being as small as it was even 25 years ago. It falls to you to be the first President to recognize this role explicitly and deal with it systematically.●

911 DISPATCHER'S COOL HELPS RESCUE BABY

● Mr. SYMMS. Mr. President, 911 is a valuable emergency telephone service that most of us have at our disposal. The value of this service recently became very clear to John and Karen Thompson, whose newborn son stopped breathing.

Les Gholson, with the Ada County, Idaho, Sheriff's Department, took the Thompson's emergency call. Less directed John and Karen through the steps of cardiopulmonary resuscitation for an infant, and the baby was breathing by the time paramedics arrived.

Les, through her calm and professional manner, was instrumental in saving this baby's life. She is one of the many unsung heros who are there when we need them.

The story of Les Gholson's lifesaving efforts was highlighted in an article in the Idaho Statesman, which I ask be printed in the RECORD.

[From the Idaho Statesman, Jan. 4, 1989]

DISPATCHER'S COOL HELPS RESCUE BABY

(By Julie Stutts)

Les Gholson said she was just doing her job.

When John and Karen Thompson called 911 to say their baby, who had just been born at home, wasn't breathing, Gholson went to work.

A dispatcher for the Ada County Sheriff's Department, Gholson had Mr. Thompson administer CPR to their newborn son within seconds after he called and minutes before paramedics could arrive.

Tuesday night, the infant was reported in critical condition in the neonatal unit at St. Luke's Regional Medical Center. A hospital spokesman said the Thompsons did not wish to talk about the ordeal.

"The job the dispatchers did was excellent," said Darby Weston, an intensive-care paramedic. "That did as much to save the baby's life as anything that was done."

The baby was born Monday at the home of Thompson's parents in Garden City. A few minutes later, at 12:58 p.m., Thompson called 911.

Told the baby wasn't breathing, Gholson's co-worker, Lindy McPherson, dispatched an ambulance. Then Gholson instructed the couple in cardiopulmonary resuscitation.

"One breath of air and five compressions," she said. "Make sure the head's tilted back a little bit. Now when he does that air, can you see the chest rise?"

Replied Mrs. Thompson: "Yes the chest rose. He (Mr. Thompson, performing CPR) said the chest is moving up and down. He says it's not breathing but it's got a heartbeat."

Gholson reassured her. "OK, we just want to make sure we keep getting air into it. The best thing for you to do is relax as much as you can, help is coming. One breath of air and five compressions."

Gholson said Tuesday she has learned to expect the unexpected in her job.

"I don't know how I kept my voice so calm," said Gholson, a dispatcher for seven years. "My heart was racing 100 mph."

Paramedic Weston said the Thompsons were "just people in a bad situation having a home delivery and things didn't go right."

While the baby was being taken to the hospital, another ambulance was called to take Mrs. Thompson to the hospital, where she was treated and released.

Both paramedics and dispatchers agree that emergencies carry even more stress when they involve children.

"A brand-new baby that's dying is about as much stress as there is," Weston said. "Calls like that are either the ultimate devastation or the ultimate reward. This call worked out; the baby is doing much better."●

ENTREPRENEURIAL SPIRIT OF IDAHO'S JOSE VALDEZ

● Mr. SYMMS. Mr. President, the entrepreneurial spirit is alive and well in Idaho. There are many examples of people who have struck out on their own and done well in business, and the success of a man from my home State of Idaho, Mr. Jose Valdez, is a classic case.

Jose has a family tortilla business, and after 14 years has made his first million. Jose Valdez scrimped and saved. With a $3,000 bank loan and a desire to succeed, Jose has gone out and done just that, succeed.

Jose knew what he wanted to do. He had a dream. He worked hard and he saved. Jose Valdez is proof that Americans can and will continue to succeed as long as we nourish the free enterprise system that allows them to make their dreams come true.

The story of Jose Valdez's success was highlighted in an article from the Idaho Statesman. I ask that it be printed in the RECORD.

The article follows:

FORMER FARM HAND MAKES $1 MILLION IN TORTILLA BUSINESS

(By Sue Ann Tanzer Roberts)

Fourteen years ago, Jose Valdez, a Wilder hops farm hand, told local bankers he needed $8,000 to start a tortilla business.

Valdez had no capital, a seventh-grade education and had never made a tortilla.

They turned him down.

He put his dream on hold for three years, keeping his job on the farm, scrupulously saving and gradually buying equipment for his tortilla factory. Using his equipment as collateral, Valdez was finally able to secure a $3,000 loan for his first truckload of corn.

Jose Valdez's Casa Valdez corn and flour tortillas just broke the $1 million sales mark this year. Caldwell's Rotary Club has awarded him the prestigious Dave Johnson Rotary Award for "excellence in business and community development."

"I already have plans to throw a party. We could have done it (made a million) years back, but I might not have survived.

"I've taken it step by step. As the years have gone by, I have tried to do what I could handle without too much outside help," says Valdez against the din of whirring stainless steel tortilla making machines.

Not much outside help has meant strong support from his wife, Maria, and four children, all of whom have worked at the plant, son, Joe Jr., 23, as production manager, son Jaime, 20 as stone grinder and apprentice.

Jesse, 14, sweeps the floor, and Jorge, 9, "just comes over and asks for money," Papa Valdez says with a smile. Marie and daughter-in-law Patricia keep the books.

The patriarch's first recollection of tortillas is at age 8 when his family, living in an Edinburg, Texas barrio, fell on hard times.

His father, a bricklayer, couldn't find work.

Every day at noon, Valdez's mother, who had five children, would grind corn on a charcoal grey stone, cook it and ship up a batch of hot tortillas to fill two baskets.

"I went around the neighborhood with a basket selling them to our neighbors for a nickel," the now 44-year entrepreneur recalls.

"I remember my mom cooking the corn in a pail then making the tortillas. She'd make them every day," he says.

Valdez never helped her make the bread substitute, but he knew a good tortilla when he tasted one. And he still has the grinding stones, passed down three generations, in the front office.

After taking migrant worker jobs in Texas, Idaho and Arizona, Valdez ended up back in the Wilder and Caldwell area picking beets, wheat and onions. For 13 years he ran a crew at Ray Obendorf's hops field in Wilder. He trained himself in every aspect of the work so he could run a similar field someday.

"That helped me a lot in the sense that I started to learn how to communicate with and work with people," Valdez recalls.

But Valdez always had a dream bigger than field work.

He had several friends in the tortilla business and knew this is what he wanted to do. He visited their factories in California and decided he could do it as well, if not better.

From the day he opened his doors for business in 1977 in a converted upholstery business at the corner of Chicago and 5th Streets in Caldwell until today, Valdez's business has steadily increased.

In 1977, he processed 300 pounds of corn every other day, yielding 548 dozen tortillas. "When I first started, I hardly had any competition. There was a market for it. We didn't know too much about marketing. We did know that the best thing to do was to start selling tortillas."

He opened the present 80x80-foot beige cinderblock factory and small retail Mexican food outlet adjacent to it about four years later and today about 8,100 dozen corn tortillas and 4,500 dozen flour tortillas roll off the yards of conveyor belts nine hours a day with the help of 18 workers.

Casa Valdez tortillas are shipped to Albertson's, Smith's Food King, M&W, Paul's and most independent groceries in the Treasure Valley, Magic Valley, Eastern Oregon and Idaho Falls.

His tortillas also are eaten by patrons of restaurants like Acapulco in Boise, Charro and El Rinconcito in Nampa and Maria's and Si Bueno in McCall.

Soon, Valdez will expand into the Salt Lake City area, possibly building a tortilleria there.

"There's a good market for tortillas. Mexican food is popular everywhere. Anyone can fix up a dish. It's inexpensive, and it tastes good," says Valdez, supervising son Jaime as he carefully regrooves the grinding surface of a large lava stone used to grind corn.

"It's a touchy business. You've got to have everything right—the oven temperature, the stones . . ." Valdez says.

Valdez has his eye on two markets: the Mexican Market, those who use tortillas instead of silverware, he says, and the Anglo-American Market, where his product is used in other ways.

"The housewife is so creative that she likes to experiment with a tortilla. She'll think about what she likes and puts a tortilla with it," he says.

After 11 years, Valdez will soon offer a new product, tortilla chips, how restaurants already are processing his extra thin corn tortillas.

"I never thought I was going to get this far. It's been a lot of hard work, but it's paid off. Long hours don't bother me. It's a challenge," says the 44-year-old entrepreneur.●

LBO'S AND THE CAPITAL GAINS SOLUTION

● Mr. BOSCHWITZ. Mr. President, I would like to share an article by my good friend Edson Spencer, the former chairman of Honeywell, which appeared in the Wall Street Journal. I think my colleagues—many of whom have expressed genuine concern about corporate takeovers and leveraged buyouts—will find it of interest.

As my colleagues will recall, the tax code used to allow a 60-percent exclusion for capital gains. After tax reform, capital gains are treated no differently for tax purposes than ordinary income. Any incentive to make long-term investments was eliminated from the code.

As Mr. Spencer points out, the value of some American companies are currently being based, not on their long-term potential and ability to weather business cycles, but rather on their current market price. The use of leveraged buyouts can result in heavily indebted companies.

The best solution to this problem may be quite simple: Promote long-term investment and planning by reducing the capital gains tax. Mr. Spencer supports a proposal which may be one way a capital gains cut could be accomplished. He proposes that marginal tax rates on short-term capital gains be increased as the price for enacting a reduction in long-term capital gains rates.

I have long advocated a capital gains differential which encourages long-term investment and recognizes the risks taken and sacrifices made, by small businesses, farmers, and entrepreneurs. In fact, my bill, S. 444, which I will be introducing shortly, embodies the graduated rate approach. Further, as a founder of the capital gains coalition here in Congress, I am anxious to hear debate on alternative approaches to reducing the capital gains tax. I recommend Mr. Spencer's comments to my colleagues as an interesting approach to an important issue.

Mr. President, I ask that Mr. Spencer's article, "Capital-Gains Shift Could Curb LBO Break-Ups" be printed in the RECORD.

The article follows:

CAPITAL-GAINS SHIFT COULD CURB LBO BREAK-UPS

(By Edson W. Spencer)

Takeovers are hurting the international competitiveness of American business. Hostile attacks on well-managed companies and the overloading of balance sheets with high-cost debt are weakening U.S. companies and playing into the hands of foreign competitors.

The market may no longer be the best measure of the value of a company. Now Wall Street forecasts break up values to show that companies should be bought by takeover artists and then split into pieces to maximize short-term shareholder gains.

Such break-up scenarios ignore the benefits to shareholders that management has developed over a long period to obtain the synergies from related businesses, not all of which increase earnings at the same time. It ignores the advantages of building a portfolio of businesses that can benefit shareholders over different phases of the business cycle. It ignores new evidence from some LBO's where the crown jewels can be sold at a preminum but the cats and dogs remain to lower the total return on the deal. It ignores the rising number of highly leveraged companies whose debt and the interest charges drive the company toward insolvency. It ignores the impact of junk-bond interest rates on long-term bond holders.

A more serious problem is the limited amount of equity the deal makers put in relative to the high-leverage, high-interest debt left for the surviving company to pay off. Good divisions are sold, generally to competitors. Long-range expenses for marketing, manufacturing efficiencies and research and development are cut. Interest charges eat into profits. The company's ability to compete is severely weakened.

Foreign competitors of U.S. companies are the real beneficiaries of the weakening of corporate America. This is particularly true in the case of Japan and the emerging Asian industrial powers, but it also applies to some extent to West Germany and other European countries. While many companies in those countries also are highly leveraged, they have stable shareholders, strong bank support and use leverage as a lower cost of capital than equity in the expansion of the business.

In those countries, large blocks of shares are held by banks and sister companies interested in long-term gowth of the company rather than in short-term enhancement of share value. There is very limited quarterly-earnings pressure from pension and endowment funds unlike the U.S. where comparisons of the quarterly performance of pension portfolios with peers is the accepted measurement of fund performance.

Accounting rules and practices in other countries favor conservative reserves and high cash flows, while keeping taxes and profits lower than is expected of American managers. This enables foreign competitors to place less emphasis on short-term earnings and more on investments in research and development and in building market share.

Ask a Japanese CEO to rate his stakeholders and he will put his employees first, his customers second and his shareholders third. In contrast, U.S. takover law says that if a business is to be sold, the board's job is to get the highest price, regardless of the effect on employees and customers, or on the communities affected by the sale of a company.

At last Congress appreciates the problem and is discussing remedies, albeit not very good ones. Trying to lower the cost of equity relative to debt by making dividends tax deductible rather than taxing them twice is fine in principle but would result in a huge revenue loss for the Treasury. Imposing a threshold interest rate beyond which junk bonds would pay a penalty is an unnecessary intrusion of regulation and could penalize occasional legitimate users of high-cost debt.

President Bush should expand on an idea from Candidate Bush, and ask Congress to pass a new capital-gains tax. Assets held 12 months or less would be subjected to a short-term capital gains tax of 50%. Assets held one to two years would pay a 30% rate. Assets held two of five years would pay 15%, and assets held more than five years, nothing. The tax should apply equally to pension funds and other non-profits. It would apply to foreign shareholders.

There are many advantages. First the tax could be constructed to be at least revenue neutral, if not revenue positive. Second, it penalizes speculators and arbitrageurs by making takeovers more expensive. Third, it benefits the farmer, the small businessman and the entrepreneur who have built their enterprise over a long period of time from small beginnings to businesses that can be sold at a good capital gain. Finally, a balance will be restored between short- and long-term investments and the decision process that strengthens the future of a competitive America by enabling the owner-share-holder to shift his attention, and that of management, to long-term rewards. This may not completely level the playing field, but it is a shift that will help our international competitiveness.

Management is pressured to make the wrong decisions for short-term reasons.

President Bush needs to introduce a capital-gains tax bill that will turn our attention to building the long-term competitive strengths of America.●

MEL RICHARDSON

● Mr. SYMMS. Mr. President, today, I would like to honor an outstanding Idaho citizen. Mel Richardson has been a political and business leader in southeastern Idaho for 30 years.

Mel concluded his long career with KID radio and TV 2 years ago when he unsucessfully ran for a seat in the U.S. Congress. Now, Mel is heading to Boise as the district 32 State congressmen.

During his career with KID, he interviewed many influential people including Ronald Reagan. Even with this demanding work schedule, he has always found the time to serve his church and his community exceptionally well. In 1966, he became the first mayor of Ammon, ID, currently serves on several community service committees, and has held many administrative positions in his church.

Mr. President, I ask that an article from Idaho Today, in which Mel Richardson's story was illustrated, be printed in the RECORD.

The article follows:

MEL RICHARDSON THEN AND NOW

(By Kent Baum)

You've just walked into a Southeast Idaho restaurant. Heads turn and the crowd is stirring. Someone recognizable just walked in. Someone that east Idahoans have come to know for 30 years in the forefront of the public eye.

Chances are it's Mel Richardson. In Southeast Idaho, few people have been as noticeable from the Pocatello to Island Park stretch as Richardson.

His warm features and that voice . . . you know that voice, "the Voice of the Vikings, this is KID's 30 minutes, Let's Go Fishing." Mel Richardson's unique style worked in harmony with Southeast Idaho and its residents in a way that put the listener at ease. "Uncle Mel" was the guy that everybody wanted to just sit down and shoot the breeze with.

Today, Mel is a man in transition. After completing a long and distinguished career as the man behind the mike with KID radio and in front of the camera with KID TV, he hoped to cap his public life with the title of U.S. Congressman. A little over two years ago Mel Richardson fell just short of defeating Richard Stallings, the incumbent Democrat from Rexburg.

"The undecided made the difference," said Richardson in retrospect. "Stallings was the incumbent. The undecided usually votes for the man in the office."

Today, Mel is headed once again for legislative aspirations. This time successful, Richardson is the District 32 State Congressman. "While Boise isn't Washington D.C. and the pay isn't as good," reminds Richardson. It signals the rebirth of his presence before the public. Something that started in Idaho in 1958.

Born in Salt Lake City and raised in that area, Richardson pursued the communication field by entering and graduating from a radio school in Burbank, California in 1952.

"I had many job offers to work for larger stations but was told that I should start out with the smallest station I could find," says Richardson. "I started working for a station in Brigham City, Utah." It was there that Richardson became a "jack of all trades" while working as a program director, sports director and as Richardson notes. "I even had to sweep the floors and do anything else that came with the job."

Then Richardson got an opportunity to manage the radio station KLGN in Logan, Utah.

After two to three years of working at KLGN, Richardson found an opportunity to work in television. In 1958, he had an offer to work at a station in Billings, Montana.

Mel and his wife Dixie decided to go up and check out Billings and the station. On their way the Richardsons passed through Idaho Falls. Both took a liking to and decided to check out the local station KID about any job openings.

"They had an opening for me but the pay was not as good as what I would have wished," says Richardson. "After we got up to Billings we liked it, but when we went back home to make our decision we were attracted to Idaho Falls even more when we passed thru it. We stopped into KID again and this time they offered me even more money to work for them. I took that opportunity and that's where we have been for the past 30 years."

Mel and Dixie found a home with KID and Idaho Falls. "We loved the people here," says Richardson. "I loved KID, it was a great organization to work for."

In those 30 years Richardson had many opportunities to leave KID and Idaho Falls for the bright lights of Los Angeles, Seattle, Salt Lake City, etc.

He even had the opportunity to join a radio state in Minneapolis, Minnesota to broadcast the NFL Minnesota Vikings' game of the week. But he and his wife were contented to stay and raise a family in a community the size of Idaho Falls.

"We thought and evaluated the situation (moving) and felt that, everything that we wanted was right here and 30 years later we're still here and we haven't regretted it one bit."

Richardson reflects on many of his friends in media that made different decisions. "They'd say, 'Hey Mel, you got to go with us, we are going to move on to such and such a city' but after a few years they've come back, telling me that I did the right thing by staying here and that it was a dog eat dog world out there and that it wasn't as enjoyable as it was here."

As a sportcaster and Sports Director for KID Radio's AM and FM stations, Mel has been well known throughout eastern Idaho. He has been named "Voice of the Vikings" and was Ricks College's sportscaster for many years. In 1980 Richardson was named "Man of the Year" by Ricks College. He has also broadcasted games for Idaho Falls. Boise State and Utah State Universities as well as many local high school athletic events.

Those opportunities and others have afforded Richardson a chance to meet and interview many famous sports personalities like NBA's Danny Ainge, guard for the Boston Celtics, NFL quarterbacks Danny White of the Dallas Cowboys, Steve Young of the San Francisco 49ers, Robbie Bosco formerly of the Green Bay Packers now an assistant coach of Idaho State University, Gifford Nielson former quarterback of the Houston Oilers, former defensive linemen Rosie Grier, Merlin and Phil Olsen of the Los Angeles Rams, Jason Buck defensive end for the Cincinnati Bengals, Harmon Killibrew of the Minnesota Twins, Dale Murphy of the Atlanta Braves, BYU football coach LaVell Edwards, basketball coaches Ladell Anderson of BYU, and Bobby Knight of Indiana.

Richardson has hosted many of Southeast Idaho's prominent radio and television programs like KID's 30 Minutes, Mel's Sports Scene, Lets Go Fishing, Channel 3 Reports and Probes.

But it hasn't been sports alone that has given Richardson a rather famous circle of acquaintances. Richardson got involved in a program called the "Public Affairs Director" and which gave him the opportunity to interview many famous people. People like President Elect George Bush, Former U.S. Presidents, Harry S. Truman and Gerald Ford, Secretary of State Alexander Haig, Pat Boone, Senator Robert Dole, Lowell Thomas, Jack Klugman, David Kennedy, former cabinet member under President Nixon, Utah Senator Orin Hatch, Keith Nyborg, Ambassador to Finland, Mrs. Richard (Pat) Nixon, all of Idaho's Senators, Governors, and Congressmen that were in office in recent years. And during his own congressional campaign Richardson met briefly with President Ronald Reagan in Washington, D.C.

Richardson not only interviewed the elite of society but he has also talked with the seamier side of our culture. He has visited with drug pushers, terrorists and a frightening and graphic interview with a Black Panther leader.

"A most interesting interview of how that leader spent time with Fidel Castro in Cuba learning on how to become a terrorist and come into the United States to set up bases in the Intermountain West," says Richardson. "He began seeing what their government (Cuba) was doing and how they were treating the prisoners in their prisons. So he left Cuba and traveled all over visiting the different governments of the world and how they operated."

Outside of broadcasting Richardson has been involved in many community, church, and public services. Richardson became the first mayor of the City of Ammon, 1966–1969. He has served several years as the State director for the Heisman Trophy. Richardson is currently a member of the Idaho Centennial Committee, Director for the Bonneville Crime Stoppers, Member of the Board of Directors of the Idaho Falls Child Development Center, Commissioner of the Bonneville County Parks and Recreation Commission, Member of the Governor's on Children and many others.

He has served in many administrative positions in the Church of Jesus Christ of Latter-day Saints for the past 30 years.

Mel's wife Dixie, has also been involved in the Idaho scene. She has helped her husband on the campaign trail, been involved with community, church and professional activities, as well as raising a family of five. Currently, she is a staff assistant and Idaho Falls office manager for U.S. Senator Steve Symms.

After years of asking politicians the questions as a journalist. Why did the Richardsons decide to sit on the other side of the Table? "Becoming Mayor of Ammon got me interested in politics," Richardson says.

This company has been marketing the "Easy Vend" candy machines nationally and has generated over a half a million dollars in sales in its first year. They have also been helping other businesses develop their inventions and have been looking at some "fast food" products to market.

Richardson is also the president and owner of another company called "Ameri-Tech" which markets the new "foil" type of insulation called "Radiant Barrier" for homes and businesses.

"It is an exciting new product," says Richardson. "Radiant Barrier is a special foil developed by NASA, that reflects radiant heat. It is good in the summer in that it reflects the unwanted heat away and yet during the winter it reflects the inside heat back in." The 7R group has also been looking at a similar product that has an actual "R" value of insulation.

"The best thing about this marketing company is the ability for me to work with my four sons," says Richardson. "I guess that is the dream of a lot of dads wish to be in. We have gotten along well and it has been a great experience working with them."

Outside of his business endeavors, Richardson is still doing some broadcasting work in his spare time.

About working as a state congressman, Richardson commented: "I'm really excited to go to the Idaho State Legislature in Boise coming this January 8th. I'm impressed with the caliber of people serving in the Legislature. They're not in it for the money nor are they in it for personal gain. They are service minded and are giving of their time."

What is in Richardsons future? Besides heading off to Boise, he has been asked to become a motivational speaker for businesses, banquets, seminars, etc. "That appeals to me. We are trying to develop our company (7R) so that my boys can be involved in it and at the same time I can have time to do the speaking engagements."

"I'm upbeat of what is happening in Idaho," says Richardson. "There is going to be more money in the (state of Idaho) budget this year because of the increased business in this state. There is a good feeling across the nation about our economy and as we put these things together, there is an exciting future for the businessman."

From broadcasting to business, from politics to church work. Richardson is a man who's dared to dream big with accomplishments to show.●

KENTUCKY VIETNAM-ERA VETERANS' BONUS PAYMENTS

● Mr. FORD. Mr. President, on December 9, 1988, the Kentucky General Assembly adopted a resolution urging the U.S. Congress to amend current law to remove the offset provisions of veterans' benefits affecting the Kentucky Vietnam-era veterans' bonus payments. I submit the resolution in its entirety for my colleagues consideration.

The resolution follows:

SENATE CONCURRENT RESOLUTION No. 7

Whereas, the Commonwealth of Kentucky has enacted a Vietnam-era veterans' bonus as a token of appreciation for service by its men and women in defense of this great country; and

Whereas, in 1979, the United States Congress enacted into law P.L. 95-588, provisions of which will have the effect of offsetting, on a dollar for dollar basis, the bonuses of some 350 Kentucky veterans who are receiving disability payments for a non-service-connected disability and the bonuses of an additional 350 widows/widowers thereof; and

Whereas, similar veterans' bonuses paid previously by other states were exempted from these offset provisions by virtue of specific language which appeared in all pre-1979 veterans' benefit law: Now, therefore, be it

Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

SECTION 1. The Kentucky General Assembly hereby urges the United States Congress to amend 92 Stat. 2497 with all due promptness to exempt all veterans' bonus payments made by states from these offset provisions.

SEC. 2. The Kentucky General Assembly further orders that a copy of this concurrent resolution be delivered forthwith to each member of the Kentucky Congressional delegation.●

RECOGNITION OF THE LIFETIME ACHIEVEMENTS OF DR. RALPH A. TESSENEER

● Mr. McCONNELL. Mr. President, I rise today in recognition of one of Kentucky's foremost educators at the close of his career. Dr. Ralph A. Tesseneer has been associated with Northern Kentucky University [NKU] in various capacities for nearly 20 years. For many of us, it is difficult to think of NKU without thinking of Ralph.

At the end of my remarks, I will insert an excellent article which appeared in the Kentucky Post on January 25, 1989, describing Ralph Tesseneer's many achievements. However, a few points bear emphasis at the outset.

Ralph served as acting president of what was then known as the Northern Kentucky State College from 1975 to 1978, a period which witnessed the school's expansion into full university status. Most recently, I have had the pleasure to work with Ralph in his capacity as special assistant to the president and liaison for Federal-State legislation. Ralph has served NKU with great distinction over the decades, and will be sorely missed.

Mr. President, I now ask that the Kentucky Post article be made a part of the RECORD.

The article follows:

[From the Kentucky Post, Jan. 25, 1989]

NKU's TESSENEER TO CLOSE LONG CAREER

(By Connie Remlinger)

Dr. Ralph Tesseneer, who has been associated with Northern Kentucky University for nearly 20 years and once served as acting president, is retiring effective May 1.

Tesseneer was to announce his retirement today at the university's board of regents meeting.

Tesseneer, who will be 65 on April 23, has discussed his retirement with several people: "I thought if I talk about it with enough people, I wouldn't change my mind. Ordinarily we go until we are 70 years old, but I knew if I waited until then, I wouldn't do anything but retire."

Tesseneer said he plans to go into public relations.

He came to Northern in 1970 when it was known as Northern Kentucky State College and was off Dixie Highway in Covington. The current campus is in Highland Heights.

"The school was not very big then. We had a lot of fun on that campus," said Tesseneer, who was then vice president for academic affairs and dean of the college.

Tesseneer served as acting president from 1973 until 1976 after President Frank Steely left the position amid controversy.

That period was the high point of Tesseneer's career.

"That's the year we got university status and funding for the administration and business and education buildings," he said.

Tesseneer, a native of Russellville, Ala., received his undergraduate degree from Tufts University, Medford, Mass., and his master's degree from Peabody College of Vanderbilt University, in Nashville, Tenn.

He received his doctorate degree from Louisiana State University. Tesseneer was director of the extension services at Murray State in Murray, Ky., before he came to Northern.

At Northern, Tesseneer was special assistant to the president and president of the Northern Kentucky University Foundation from July 1, 1976, to August 1, 1987.

When Tesseneer stepped down as chairman of the foundation, a road leading to the foundation's Research Park was renamed Tesseneer Drive. The honor was in recognition for Tesseneer's dedication to the development of the Research Park and his service to the foundation.

Most recently he has served as legislative liaison for Northern and special assistant to President Leon Boothe.

Said Boothe, "Dr. Tesseneer has been one of the cornerstones of the university in coming in 1970 and in having served in so many important and diverse roles.

"He's been a pillar of the community as well as the university. While we will miss him personally and professionally, we wish him the best as he embarks on a new phase of his life."●

SEVENTY-FIRST ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE OF THE UKRAINE

● Mr. METZENBAUM. Mr. President, last week marked the 71st anniversary of the declaration of independence of the Ukraine. On January 22, 1918, the Irainian Central Council declared its unconditional independence, and proclaimed the establishment of a Ukrainian National Republic. This momentous event marked the third time that Ukrainians had achieved self determination over a period dating back to the ninth century.

The spirit of independence that has survived long periods of foreign domination over the past eight centuries lives on today in the Ukraine, and in Ukrainian communities around the world. Ukrainian language, culture, and political organization attest to the durability of Ukrainians as a people—even as they have suffered under nearly 70 years of Soviet domination. Ukrainians cannot use their native language today in schools or to transact business; Ukrainian culture is muted by the homogenizing strictures of Soviet society; and the Ukrainian people continue to have their futures determined for them by commissars and bureaucrats in Moscow.

The real proof of glasnost will come when Ukrainians and the other subjugated Soviet republics receive the self-determination and independence to which they are entitled.

On this anniversary, Ukrainians dearly appreciate the value of independence.

Mr. President, I am proud to represent one of the most active communities of Ukrainian-Americans in our country. Ukrainians have built active cultural and religious organizations in Ohio, while making a tremendous contribution of their talent and energy to our great State. As is the case with all American immigrant communities, the preservation if Ukrainian heritage enriches our entire Nation every day.

Mr. President, on this anniversary of freedom, I salute the Ukrainians of Ohio and around the world. I know that the fortitude which has preserved them over a millennium will make them thrive long into the future.●

ANNIVERSARY OF UKRAINE'S DECLARATION OF INDEPENDENCE

● Mr. SIMON. Mr. President, on January 22, 1989, the people of the Ukraine and Ukrainian Americans celebrated the 71st anniversary of Ukraine's Declaration of Independence and the 70th anniversary of the Unification of the Western Ukrainian National Republic with the Ukrainian National Republic. I would like to take this opportunity to congratulate Ukrainians wherever they may be on this occasion.

On November 7, 1917, the Ukrainian Central Rada issued the Third Universal announcing the creation of a sovereign Ukrainian state. It outlined the rights of all Ukrainian citizens including the freedom of speech, press, religion, assembly, and minorities, the same freedoms as found in the Bill of Rights. Within 4 weeks of the Central Rada's proclamation of the Third Universal, the Bolshevik-controlled Moscow Council for People's Commissars declared war on the Ukraine National Republic. In response the Central Rada on January 22, 1918, issued the Fourth Universal, an unconditional Declaration of Independence for Ukraine.

Three years of war and terror followed which resulted in the loss of those freedoms. After 1920, an independent Ukrainian National Republic ceased to exist.

Since that time, Moscow has tightened control to suppress the spread of nationalism and the outlawed Ukrainian Catholic Church. The repression of demonstrations has been especially harsh in the Ukraine, where party officials have tried to break up the Popular Front and other democratic groups.

The present situation in the Ukraine must improve. It is one of several important tests of Mr. Gorbachev's glasnost and his declared policy of greater freedom for all Soviet citizens.

On this occasion I would like to express my hope and concern that in the near future the Ukrainian people will be permitted to express their religious and political views openly and without fear.●

CABINET-LEVEL DEPARTMENT FOR EPA

● Mr. HEINZ. Mr. President, I rise today to express my support for S. 276, a bill to raise the status of the Environmental Protection Agency [EPA] to a Cabinet-level department.

Perhaps more than any other Federal agency, EPA bears responsibility for protecting and improving the quality of life of every American citizen. Since its creation in 1970, when EPA dealt with such pressing national issues as raw sewage and industrial wastes in our rivers and lakes, the number and significance of environmental problems has grown significantly. EPA's domestic regulatory efforts range from controlling the content of household cleaning fluids to automobile emission standards, to chemical and powerplant waste management.

On the basis of the range and complexity of these national issues alone, EPA warrants Cabinet-level status, so that environmental concerns will be placed directly before the President of the United States.

There is an established tie between the health of our environment and the health of our citizens, Mr. President. If CFC's are not regulated, for example, and there is even a modest growth in their use, EPA estimates that over the next four generations of Americans, the resultant depletion of the ozone layer will cause 153 million cases of skin cancer, over 3 million deaths, and over 18 million cases of cataracts.

A comparably alarming statistic is the effect of lead in our air and drinking water. Despite a 94-percent reduction in lead air emissions over the last decade, the Public Health Service estimates that almost one in five of urban preschool children have high levels of lead in their blood, which causes lower IQ's and developmental problems. EPA estimates that over 42 million Americans have excess lead in their drinking water, causing hypertension among 130,000 middle-aged men, lowering the intelligence of 240,000 children and increasing the risk of miscarriage and problem pregnancies among 680,000 women.

Obviously, an efficient, effective EPA can mean the difference in life and death. Yet the agency too often finds its perogatives given a low priority by others. In Pennsylvania, for example, the Army used property it later sold to Fairview Township in York County to landfill a wide variety of substances—including hazardous ones. The Army failed to inform the EPA or local officials of the potential danger, and for 7 years Marsh Run Park was used by 600 children as a soccer field. When EPA finally was apprised of the danger, it withheld the information from the public.

It is hard to avoid drawing the inference that EPA was at best going along to get along with the Secretary of Defense, and at worst, intimidated by the Cabinet ranked department. Equal status could prevent future Marsh Runs.

Mr. President, the EPA's role as environmental watchdog has expanded in another critical direction over the past 18 years. Issues like global warming, ozone depletion, biological diversity, or pesticide-contamination in the food chain are international issues requiring Presidential commitment and involvement that can be supported only by a Cabinet-level Department of Environmental Protection. For example, felling virgin forests in the Amazon ultimately can hurt farmers in my home State of Pennsylvania and throughout America. With only agency status behind it, the EPA can do little more than point a warning finger; with a Cabinet position, it could shake a Federal stick in international negotiations on global warming.

The EPA deserves credit for almost two decades of progress in cleaning up our environment. Despite substantial growth in our economy and the number of automobiles, air and water pollution are down an average of 40 percent since 1970. For example, industrial water pollutants have decreased by roughly 70 percent.

What is frightening, Mr. President, is the changing nature of the enemy in our battle for the environment. It is now international in scope and more subtle in substance. Ten years ago we fought uncontrolled air pollution that made people sick and darkened noontime skies. Today, we face threats we cannot see, smell, nor in some circumstances, abate or mitigate, especially without full national and international cooperation. We cannot see the depletion of the ozone layer or the buildup of toxics in the food chain, for example. Yet these silent killers stalk every nation on Earth.

I look forward to working with the cosponsors of this bill and my colleagues on the Government Affairs Committee to make EPA a Cabinet-level department and to ensure that environmental issues are placed directly before the President and receive the priority policy position they deserve.●

LOVE NEWARK—A COMMUNITY TAKES PRIDE IN ITS CITY

● Mr. LAUTENBERG. Mr. President, I would like to call my colleagues' attention a successful community effort in Newark, NJ, called Love Newark. Originally titled, "Love Newark, Keep It Clean" it was initiated about a decade ago as an antilitter campaign by the city of Newark and the Greater Newark Chamber of Commerce in response to the urban dilemma of inner city cleanup problems.

Today, the Love Newark Committee has expanded from an antilitter program to a full-scale civic endeavor with the involvement of all citizens taking pride in the community. The Love Newark Committee works year round coordinating cleanup efforts. To

make a clean city a reality, a 5-year master plan was developed. In addition, a successful media campaign was waged. Clean up programs and recycling activities were encouraged, and the "Gold Broom" Award Program was developed for businesses, institutions and residents that keep their property clean.

All segments of the community are involved: city government, schools, churches, volunteers, residents of neighborhoods. Businesses and labor unions provide financial support and many volunteers throughout the city provide their services. This endeavor has contributed greatly to public awareness of the importance of pride in a clean city, achieved not just by Government, but by the combined efforts of all citizens working together.

On February 10, the Love Newark Committee will host its second annual fundraising dinner in honor of this effort. I extend best wishes to Arthur Ashe, this year's guest speaker and congratulations to this years honorees: The Honorable Henry Martinez, president of the Newark Municipal Council; Arthur Guida, manager of external affairs for New Jersey Bell and immediate past chairman of Love Newark; Barbell Bell, executive director of the Boy's and Girl's Club of Newark; and to Msgr. William Linder, chairman of the New Community Corp.

I commend Richard Levine, chairman of the committee, and Mayor Sharpe James for their roles in promoting this outstanding project. The city of Newark has been beautified by the tireless efforts of these individuals and many volunteers and citizens. May this successful community beautification continue for years to come.

THE PRESIDENT'S REMARKS TO THE SENIOR EXECUTIVE SERVICE EMPLOYER

● Mr. STEVENS. Mr. President, in his first speech outside of the White House, President Bush addressed 3,700 employees in the Senior Executive Service last week at Constitution Hall. This meeting between the Chief Executive and the Senior Executive Service was a first for two reasons. The occasion was the first time that the Senior Executive Service was ever brought together as a group and the first time that a President, while in office, has called together and addressed this group.

The Senior Executive Service serves as an interface between the President's 3,000 political appointees and the 2.2 million civil servants asked to carry out the policies of the President. The desire and the willingness of the Chief Executive to address this group so early in his administration sends a clear message that the Bush administration realizes the worth and the importance of the Federal work force.

President Bush emphasized three major points in his remarks: the importance of an ethical commitment from both career and non-career employees, the need for all appointees to build a spirit of teamwork between political and career officials, and the view that the Senior Executive Service is a valuable asset and one of our great resources in Government today.

President Bush's words of appreciation will go a long way toward educating the public about our dedicated public servants as well as gesturing to Congress on the importance of major issues in the civil service area before us.

Mr. President, I ask that the text of the President's speech be reprinted in the CONGRESSIONAL RECORD.

The text is as follows:

REMARKS BY THE PRESIDENT TO SENIOR EXECUTIVE SERVICE EMPLOYEES

Thank you so much. All right, here we go. Thank you so very much. Mr. Vice President—thank you for that very warm welcome, Mr. Vice President and members of the Cabinet and designees and ladies and gentlemen. Let me first recognize especially the recipients of the Presidential Distinguished Rank Award who are with us here today.

And it's great to be here with all of you, the men and women whom I regard as certainly among America's finest. You're the first group that I am addressing as President outside the White House and you're one of the most important groups I will ever speak to.

And you know, I wanted to be fully briefed before I came so I asked one of my staff, "When does open season begin?" (Laughter.) And he says, "for you, sir, it begins as soon as the honeymoon ends." (Laughter.)

We're all wise in the ways of Washington, especially you who have served this country with such distinction. And we know there are ups and downs. But I must say, there is a nice feeling around today in the country. I think people, when a new president comes in, do root for him regardless of partisan politics. That comes up tomorrow. But for today, why, I think there's a good mood out there and I thank you for that welcome to me and to the members of my Cabinet and designees and others that are here with us on this platform. Pundits agree, regardless of party, that of all the candidates I had the best Form 171. (Laughter.) I—but seriously—(applause.)

But really what we do have in common is that each of us is here to serve the American people. Each of us is here because of a belief in public service as the highest and noblest calling. And each one of us, on our first day, took, a solemn oath: We pledged to defend the Constitution of the United States, and that is exactly what we shall do.

And our mandate comes from the people, because as Abraham Lincoln said, "No man is good enough to govern another man without that other's consent." And so now that the people have spoken I'm coming to you as President and offering my hand in partnership. I'm asking you to join me as full members of our team. I promise to lead and to listen; and I promise to serve beside you as we work together to carry out the will of the American people.

Our principles are clear—that government service is a noble calling and a public trust. I learned that from my mom and dad at an early age, and I expect that that's where many of you learned it—there or in school. There is no higher honor than to serve free men and women; no greater privilege than to labor in government beneath the Great Seal of the United States and the American flag.

And that's why this administration is dedicated to ethics in government and the need for honorable men and women to serve in positions of trust. Yesterday, I appointed a commission—bipartisan commission, headed by Judge Wilkey and former Attorney General Griffin Bell, to develop ethics reform proposals which will include all branches of the federal government. The guiding principle will be simply to know right from wrong; to act in accordance with what is right and to avoid even the appearance of what is wrong. Our duty is to serve, and my strong conviction is that we must do it only for the right reasons, as you do, out of a sense of service and love of country. Government should be an opportunity for public service, not private gain.

And I want to make sure that public service is valued and respected because I want to encourage America's young to pursue careers in government. There is nothing more fulfilling than to serve your country and your fellow citizens and to do it well. And that's what our system of self-government depends on.

And I've not known a finer group of people than those that I have worked with in government. You're men and women of knowledge, ability, and an integrity. And I saw that in the CIA, I saw that when I was in China, I saw it at the United Nations. And for the last eight years I saw that in every department and agency of the United States government. And I saw that commitment to excellence in the federal workers I came to know and respect in Washington, all across America, and indeed around the world. You work hard, you sacrifice, you deserve to be recognized, rewarded, and certainly appreciated. I pledge to try to make federal jobs more challenging, more satisfying, and more fulfilling. I'm dedicated to making the system work and making it work better.

Starting eight years ago I led a task force to remove unnecessary regulation of the private sector, to free up the energies of the American people. But I think we also need to continue to remove unnecessary and counterproductive regulation of federal workers and senior executives. I believe that there is tremendous pent-up energy in the federal government, a powerful force for good, that needs to be released, and I want to be the President to do that, to release the federal manager from bureaucratic bondage so that together we can, as I said on the steps of the Capitol, use power to serve people.

I think Connie Horner has done an outstanding job at OPM, at the Office of Personnel Management. And I'm delighted that my new Director of OPM will be Connie Newman. She is an outstanding executive. I have great confidence in her, and I think she's learned a few things on her way up since 1962. That's the year she began in federal service as a clerk-typist at the Department of the Interior. And just as the award winners here today represent the best and brightest, I think in choosing Connie I found one of the best and brightest, as well.

Now, as the Cabinet secretaries staff their agencies, particularly the senior position, they'll be looking for ability, for people committed to fulfilling the mandate we received from the American people and to doing it with excellence. And if we find that the best choice for an appointment is a career government executive, I am for that and I hope that my selection of Tom Pickering to be our Ambassador at the United Nations is underlining that point.

I have a conservative vision of government; I ran and was elected on those terms. And I see no strain or tension between those values and the values of a professional civil service whose highest principle is one of patriotism, whose foremost commitment is to excellence, whose experience and expertise is in itself a national resource to be used and respected. I urge all my appointees to build a spirit of teamwork between the political and career officials.

And each of you has a special role to play here. You've reached the top of your profession and you're skilled managers, knowledgeable in your fields, respected by your colleagues. And I'm asking you to join with our political appointees not only in setting an example of cooperation but, again, one of excellence as well.

To those who work outside Washington, I would send a special message. At times it may be frustrating when it seems that the head office is thousands of miles away and the message is not getting through. But if I may, I'm going to issue a verbal executive order: We're going to listen. Because the heart of our government is not here in Washington; it's in every county office, every town, every city across this land. Wherever the people of America are, that's where the heart of our government is.

And since, in any organization, so many of the best ideas come from the bottom up, I hope the people in this room will listen, listen closely to the people who work for you. The civil servants on the front lines know what works because they're right there. Whether they're working with disadvantaged children, promoting American exports, or managing our public lands, they are in touch with the American people.

And there's much we need to accomplish for America. There is a mandate to fulfill. And there are problems to solve. We have work to do in promoting education, protecting the environment, and certainly in fighting crime. We have work to do in our cities and on our farms, and we have a war on drugs to win. We must provide for the common defense, strive for a lasting peace, and we must keep our economy growing so it can keep producing jobs and opportunity. Above all, we have a compact with the American people; they pay for excellent government and they deserve to receive it. And together we can assure that that is done.

And there's one more thing we need to do. The government is here to serve, but it cannot replace individual service. And shouldn't all of us who are public servants also set an example of service as private citizens? So I want to ask all of you—and all the appointees in this administration—to do what so many of you already do—to reach out and lend a hand.

Ours should be a nation characterized by conspicuous compassion, generosity that is overflowing and abundant. And you can help make this happen outside of your workplace, in your communities and your neighborhoods, in any of the unlimited opportunities for voluntary service and charity where your help is so greatly needed.

Well, I'm honored to be with you, to work with you—you here in Washington, your colleagues in the federal service around the nation. They're some of the most unsung heroes in America. The United States is the greatest nation in the world because we fulfill that mission of greatness one person at a time, as individuals dedicated to serving our country.

And as we embark on this great new chapter in our nation's history, I want to tell you, came over here to tell you that I am proud of you and very glad that we will be working to write this chapter together.

Thank you all and God bless you in your important work. Thank you very, very much. (Applause.)●

MAY IS OLDER AMERICANS MONTH

● Mr. SARBANES. Mr. President, I am extremely pleased to join in sponsoring legislation to designate May 1989 as "Older Americans Month." This designation, a tradition for more than a quarter of a century, pays tribute to the invaluable contributions older persons make to their families, their communities, and our Nation.

I am happy that Older Americans Month is celebrated annually in Maryland and throughout our country. Each May, senior organizations, community groups, and state and local governments join together to focus on the importance of older citizens in our society and to express appreciation and respect for the achievements of older Americans and their continuing role in the life of our Nation.

In the last two decades, the older population has grown more than twice as fast as the rest of the population. In 1986, one in five was at least 55 years old, and one in eight was at least 65. In my own State of Maryland, those aged 65 and over comprise more than 10 percent of the State's population. This represents an incredible resource to our society as older citizens continue to contribute their skills and talents in all aspects of our Nation—business, government, community, artistic, and scientific.

Older Americans who have contributed so much to our country throughout their lives seek to live in dignity and independence during their retirement years. It is my firm belief that we as a society have an obligation to ensure that they can achieve that goal. To that end, I have strongly supported programs vital to the health and well-being of older citizens such as Social Security, retirement programs, Medicare, and the Older Americans Act. Older citizens are contributing an immeasurable amount of their time, energy, and experience to our Nation. It is only right that we, in turn, work hard to ensure that they are able to meet their health, nutrition, housing, and energy needs.

I urge my colleagues to support this resolution designating May as "Older Americans Month" and look forward to the celebration in May honoring the valuable contributions that older citizens make to our country.●

RETIREMENT OF JUDGE DOUGLAS K. AMDAHL

● Mr. DURENBERGER. Mr. President, I rise today to ask my colleagues to join me in a salute to one of the greatest, most determined legal minds ever to come out of the great State of Minnesota. The date February 1, 1989, marks the retirement of Douglas Amdahl, who has served for 7 years as the chief of the Minnesota State Supreme Court.

His contributions to the State's legal system are many. Indeed they reflect the wisdom of a brilliant mind that has held a position in the State's judicial system since 1961. His years of service in the Hennepin County district court, on the State's sentencing guidelines commission and on the supreme court contain the Amdahl tradition of taking the tough stand when necessary, yet ultimately instilling in his decisions and words the compassion and responsibility he learned as a young boy, growing up in rural Minnesota.

At this time, I submit for the RECORD a sketch of Judge Amdahl's career, as it was written by Dan Oberdorfer, of the Star Tribune:

The material follows:

AMDAHL TO LEAVE BEHIND A LONG-LASTING LEGACY

After almost three decades on the bench, Douglas K. Amdahl will take off his black robe at the end of this month and head straight for the small back-yard woodworker's shop he dearly loves.

As he retires to make way "for someone with new ideas and more enthusiasm than I have left," the 69-year-old chief justice will leave a state court system that has undergone historic changes under his seven-year stewardship, years when Minnesota's once cumbersome system of justice leaped into the computer era.

Amdahl, the son of a harnessmaker turned small-town shoe repair shopkeeper—he says he might have become a shoe repairman himself but for the things farmers step in—is stepping down after an illustrious career as one of Minnesota's most respected jurists.

Amdahl's legacy as chief justice will be long-lasting because of the creation of the Minnesota's new Court of Appeals, the ground-breaking for a new judicial building near the state Capitol, the unification of county and district court benches throughout Minnesota and the completion of a court computer system that is now being sold around the world.

Although Monday he will reach 70, the mandatory retirement age for judges, he has yet to complete plans for what he will do after Jan. 31, his official last day. He wants to ensure time for fishing and hunting, two favorite pastimes he has missed in the crunch of work the past few years. And Amdahl is considering what he calls interesting offers to teach law, fabulous offers from large corporate firms, and the opportunity to continue to serve the people as a retired judge.

But where will such an acclaimed chief justice spend the majority of his time after leaving the state's highest court?

"I'll be down in the little barn," he said with a smile, point to a shed in the back yard of the small home along Minnehaha Creek where he and his wife, Phyllis, raised their two children.

It is in that shed, which Amdahl built himself, that he makes the mosquito houses that have become his trademark—tiny replicas of bird houses that he gives friends.

Last week, wearing jeans and a plaid flannel shirt that bulged slightly around the middle—from a string of testimonial dinners he has attended recently, he said—Amdahl scrambled down to the shed for a few hours during the Martin Luther King Jr. holiday. The chief discovered that for the first time

in eight years he had no pressing judicial chores, and he wanted to finish the tiny walnut carts he'll fill with cookies and give to court employees before he leaves.

The people who know him best say Amdahl has brought a unique combination of talents to the high court. He lacks any of the stuffiness associated with the ornate offices of the high-ceilinged court, yet he is comfortable standing his gound during tense negotiations with the high and mighty.

Jack Davies, for years the chairman of the Senate Judiciary Committee where he was known for stubbornly defending his positions, said he was dead set against the creation of the Court of Appeals. A few sessions with Amdahl turned him around. "He convinced me the Supreme Court was being destroyed, that it could not survive without help." Davies said.

Now a full-time professor at William Mitchell College of Law, Davies added: "Amdahl is very businesslike in his approach to the problems of the judicial system. He never uses fancy language. We were never, in any way, misled by Amdahl. He has only the appropriate kind of ego, the kind that causes him to do his job as well as he can."

Said Ramsey County District Judge David Marsden, who served with Amdahl on the Minnesota Sentencing Guidelines Commission. "He is the total opposite of pomposity. He is very humble. He has taken on tough, controversial issues and assumed personal responsibility for them to an unusual extent."

Probably Amdahl's most visible contribution to the judiciary is the state Court of Appeals. He personally lobbied for it, in the process drawing criticism and eventually an investigation by the state judicial ethics panel, which probed his fund-raising efforts for the court and for the Minnesota Constitutional Bicentennial Committee. The panel formally rebuked him for the bicentennial fund-raising, saying it was inappropriate for a judge.

The appeals court has vastly speeded the process of justice in Minnesota. Before the Court of Appeals was created, only the Supreme Court heard appeals. It was swamped, and half of its cases took more than 15 months to decide, even though many cases were answered with yes/no decisions.

Now, even though there has been an explosion of litigation handled by the appellate courts, less than five months elapses between filing and decision in the typical appellate case. And, while the appeals court is pumping out decisions with astonishing rapidity, the Supreme Court is able to sit back and issue carefully considered opinions that serve as guideposts for attorneys working with the ever-changing law.

As he leaves the court, Amdahl suggests that the challenge facing his successor, Associate Justice Peter Popovich, is to fine-tune the internal operations of the court. Amdahl said the court's decision-making process could be streamlined, and the assignment of duties could be improved.

Although Amdahl has been a judge since 1961, he came to the profession almost by accident.

Considered a pragmatic jurist who adheres to common sense principles, not dogma, Amdahl began his legal career in night law school after serving in World War II. When the war ended, he wanted to be a teacher, but after just a short time teaching business in Mankato, he became disillusioned by the size of his classes. He could handle 10 students, not 50.

Amdahl said he observed that law was playing a greater role in business and enrolled in what is now called William Mitchell College of Law. After graduation, Amdahl went into private practice with George Scott, later a Supreme Court justice himself, forming the firm of Amdahl and Scott.

In 1955, Scott, then an assistant attorney general, sought to be appointed Hennepin County attorney. According to Amdahl, the county board was split evenly, and the swing vote agreed to throw his support behind Scott if Amdahl would join the office as the civil division chief, providing the county board with legal advice. Among his projects was the Hennepin County Government Center, still barely on the drawing boards.

On Saturdays, assistant county attorney Amdahl invited questions from townships that had legal problems. Some Saturdays the office looked like a dentist's waiting room. "I'd hate to have someone check to see if we gave the right answers," Amdahl said, "but we certainly gave a lot of answers."

In 1961, he applied for, and received his first appointment to the bench. For 19 years he sat as a Hennepin County district court judge, years that he described as "much, much, much more fun" than his time on the Supreme Court. He liked the job, he said, because he was dealing with people directly, and because he often saw the effect of his decision immediately.

In that time, also, Amdahl served on the Sentencing Guidelines Commission, and was one of the key people in developing statewide guidelines for the time offenders should serve behind bars.

When Gov. Al Quie elevated Amdahl to a Supreme Court associate justice in 1980, Amdahl quickly found himself reading briefs and writing decisions and rarely interacting with others. "Terribly lonely job," Amdahl said.

The next year, however, Quie named Amdahl to be chief justice, a job more to Amdahl's liking. The chief justice's position, as the steward of the state justice system, involves much more contact with outside groups.

Looking back, Amdahl's main regrets are his failure to write dissenting opinions in a few cases before the Court of Appeals was created. Refusing to identify the cases, he said he had been hoping similar issues would arise, so he could correct his error.

Uncharacteristically, the legal community speaks almost in a unified voice praising the job Amdahl has done as chief justice. Only in private do a handful of lawyers say he made a better district court judge than chief justice, and that Amdahl's court was too prone to side with the prosecution over the defense in criminal cases, not a view shared universally among defense attorneys.

Quie, the Independent-Republican former governor, said Amdahl represents one of the remaining legacies of his governorship, and Gov. Rudy Perpich, Quie's DFL successor, follows with equal praise. The state judiciary is "a much better system because of Amdahl," Perpich said. "He doesn't respond to political pressure. He does what is best for the state."●

ANNIVERSARY OF UKRAINIAN INDEPENDENCE

● Mr. LEVIN. Mr. President, last week marked the 71st anniversary of Ukraine's declaration of independence. On January 22, 1918, Ukraine was established as an independent and sovereign nation. Under the leadership of the Ukrainian Central Rada (Council) in Kiev, an autonomous Ukraine became reality for the first time since the late 18th century. A year later, in 1919, a union was established between the Western Ukrainian National Republic and the Ukrainian National Republic. Unfortunately, Ukrainian independence was a short-lived reality.

No sooner did Ukraine proclaim its independence than the young state was attacked from every direction: From the west by Poland and Romania; from the south by the White Guard Russians of General Denikin; and from the north by the Red Army of Lenin and Trotsky.

By 1922, the Soviets had established control over Ukraine. In subsequent years, the Soviet Government sought to eradicate the national identity, culture, and religious traditions of the Ukrainian people. Even today, attempts to assert Ukrainian independence are met with punishment.

The resilience of the Ukrainian people after almost 70 years of Soviet domination should serve as an inspiration to all those who cherish freedom. The people of Ukraine insist on the right to practice the religion of their forebears, and to speak their national language. Many have risked imprisonment and even their lives courageously resisting the Russification of their culture.

The Ukrainian Helsinki Monitoring Group is one of the strongest human rights organizations in the Soviet Union despite the fact that its members have spent time in Soviet prisons, asylums, and concentration camps.

On this anniversary of the independence of a great nation, we should all pay special tribute to the brave men and women who, at great personal risk, have maintained the struggle for freedom and dignity. For the Ukrainian people the dream of freedom is still alive.●

HEARINGS BY THE SPECIAL COMMITTEE ON INVESTIGATIONS OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. McCAIN. Mr. President, yesterday the Special Committee on Investigations of the Select Committee on Indian Affairs began several weeks of hearings to inquire into the allegations of fraud and mismanagement of the Federal Government's trust responsibility for Indian people and their resources. We anticipate that these hearings will result in legislative proposals to ensure greater accountability in the management of Federal funds and tribal trust assets. Because of the importance of these hearings, I want to take this opportunity to share my opening statement with the other Members of the Senate.

I ask that a copy of my statement be printed in the RECORD.

STATEMENT OF SENATOR JOHN MCCAIN

Mr. Chairman, the Special Committee on Investigations was established during the 100th Congress in response to public allega-

tions of fraud and mismanagement of the federal government's trust responsibility for Indian people and their lands and resources. I believe that Senator Inouye best described the purpose of the Special Committee when he stated that:

"I think that we would all agree that those who are charged with the responsibility of administering Indian programs and services, be they federal instrumentalities, state agencies, or tribal governments, must be accountable—first, to those for whom a trust responsibility has been established—the Indian people—as well as accountable to the Congress and the American people. This accountability must be achieved, and I believe, can best be realized, by Indian people working with the Congress and with federal agencies to identify the need for change, and to initiate reform where it may be necessary. The establishment of a Special Committee on Investigations, I believe, will provide us with the capacity to more effectively and expeditiously realize this objective."

As we begin these public hearings I believe that it is very important to reflect upon the purpose of the Special Committee and to bear it in mind as we proceed. In many respects, the work of this committee is a continuation of previous federal efforts to address the problems which confront Indian people. During this century there have been numerous task forces and commissions established by both the Congress and the President to examine the status of Indian affairs and make recommendations for improvements. In some instances, important laws and policies have been developed and instituted as a result of these prior inquiries. However, it is clear to even the most casual observer that more can and must be done to ensure that the administration of the trust responsibility at all levels of government is carried out in a way that most effectively serves the beneficiaries of the trust—the Indian people—within the available resources of the federal and tribal governments.

Mr. Chairman, I would like to take some time to place the work of this Committee in historic perspective. Our constitution confers on the Congress the ultimate authority and responsibility for the relations between the federal government and the tribes. With this authority and responsibility comes the duty to ensure the fulfillment of the trust. These are not passing whims or fancies of the day. They are solemn legal and, I believe, moral obligations which are deeply embedded in our history as a nation. The renowned scholar, Felix Cohen, perhaps said it best:

"Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall our political faith * * *."

The very 1st Congress spent much of its time in 1789 and 1790 enacting legislation relating to Indians. During that Congress, the War Department was established and was delegated substantial responsibility over Indian Affairs. The Northwest Ordinance was enacted with the famous pledge that "the utmost good faith shall always be observed toward Indians." The first of several Trade and Intercourse Acts were enacted to prohibit the acquisition of Indian lands by non-Indians without federal approval. During this same period, Secretary of War Henry Knox advised President Washington on the military necessity for negotiating treaties with the Indian nations that occupied and possessed the territory which now comprises the United States. Secretary Knox recommended and the President and the Congress adopted a policy of negotiating with tribes as nations. Knox believed that this policy was also necessary to distinguish the national character of the new American government from the previous conduct of the British colonial government toward the Indian nations. Secretary Knox stated that:

"But, in future, the obligations of policy humanity, the justice, together with that respect which every nation sacredly owes to its own reputation, unite in requiring a noble, liberal, and disinterested administration of Indian affairs."

For most of the next one hundred years, the Congress and the President exerted considerable effort to negotable, ratify and implement treaties between the United States and the Indian Tribes. In 1832, the responsibility for Indian affairs was shifted from the Department of War to the Department of the Interior and the Commissioner of Indian Affairs became responsible for negotiating the treaties and implementing their provisions.

The treaties between the United States and the Tribes all vary in some particulars. However, they all also contain some common principles and provisions. The underlying concept of every treaty was that the tribes agreed to cede vast land areas to the United States while reserving to themselves a permanent homeland. In return for the ceded lands, the United States promised to provide protection against encroachment by non-Indians. Tribes were assured that they could continue to govern their own affairs free from interference by local authorities. Many of the treaties promised federal assistance in the development of agriculture, education, health and various economic pursuits.

The treaty era formally ended in 1871 when the Congress declared that the United States would no longer negotiate treaties with the Tribes. Soon thereafter, in 1887, Congress enacted the first of a series of allotment acts. Under these laws, the reservations were to be broken up into parcels owned by individual Indians. The intent of Congress was to encourage Indian people to become farmers and promote the non-Indian concept of individual ownership of land. Much has been written about both the purpose and the effects of the allotment acts. It is not my purpose here to revisit the controversy which surrounds these laws. However, it is important to understand the consequences of the allotment era if we are to understand the situation of Indian people today.

When the allotment process began in 1887 there were about 138 million acres of land in Indian ownership. When the allotment era ended in 1934, there were 52 million acres of land left in Indian ownership. In less than 50 years, 86 million acres of land passed out of Indian ownership. Perhaps of even greater significance was the fact that the allotment program devastated Indian cultures and traditional forms of governance. The legacy of the allotment era is with us today in many forms. Checkerboard jurisdictions and fractionated land ownership are but two consequences of the allotment era which hinder proper management of Indian resources and the exercise of Tribal self-governance.

The allotment era was replaced with a renewed federal emphasis on tribal self-governce with the enactment of the Indian Reorganization Act in 1934. Tribes were encouraged to adopt constitutions and reassert control over their internal affairs. Some federal efforts were made to consolidate the tribal land base and to improve the management of tribal natural resources. Most tribes expended great effort to reassert their inherent sovereign powers of self-governance and to once again take control of their reservations.

During the 1950's federal policy shifted again. Congress began the era of termination with the adoption of House Concurrent Resolution 108. Although the Indian Reorganization Act was not repealed, it became official federal policy to terminate the existence of federally recognized tribal governments. Like the allotment policy of an earlier era, the termination policy led to disastrous results. President Nixon best summarized the situation in his 1970 Special Message to the Congress on Indian Affairs:

"* * * The removal of Federal trusteeship responsibility has produced considerable disorientation among the affected Indians and has left them unable to relate to a myriad of Federal, State and local assistance efforts. Their economic and social condition has often been worse after termination than it was before * * * The very threat that this [trust] relationship may someday be ended has created a great deal of apprehension among Indian groups and this apprehension, in turn, has had a blighting effect on tribal progress. Any step that might result in greater social, economic or political automony is regarded with suspicion by many Indians who fear that it will only bring them closer to the day when the federal government will disown its responsibility and cut them adrift.

"In short, one extreme policy, forced termination, has often worked to produce the opposite extreme: excessive dependence on the federal government. In many cases this dependence is so great that the Indian community is almost entirely run by outsiders who are responsible and responsible to federal officials in Washington, D.C., rather than to the communities they are supposed to be serving."

The termination era officially ended when House Concurrent Resolution 108 was finally repudiated and repealed during the 100th Congress. Our current federal policy of tribal self-determination came about in 1975 as a result of the proposal contained in President Nixon's Special Message to Congress in 1970. The goals of the self-determination policy are to reduce federal domination of Indian programs and services while strengthening tribal capabilities and capacities for self-governance. As we know from the hearings held on the Self-determination Act during the last Congress, the policy has generally worked and has been enthusiastically embraced by the Tribes.

Mr. Chairman, I have gone on at some length here and I have not even touched upon the substantial body of law relating to Indian affairs which has been developed by the federal courts. I do want to say that the courts have been much more consistent in their handling of Indian affairs than has been the case here in the Congress. The courts have been extremely diligent in their protection of the inherent authority of the Tribes to regulate their own affairs. They have also been consistent in their view that the Congress possesses the ultimate authority and responsibility for Indian Affairs.

As we exercise our authority and seek to discharge our responsibility, I believe it is important that we avoid the mistakes of the past. In this regard, it is abundantly clear that abrupt swings in federal policy toward Indians have always produced negative results. I believe that many of the situations which we will examine in these hearings are a result of prior inconsistent federal policies. Caution and careful deliberation are necessary if we are to formulate effective policies for the efficient administration of the federal trust responsibility. Our purpose here is to ensure that all levels of govern-

ment possess the integrity, accountability and capability to meet the needs of Indian citizens. We must make certain that the Indian people are receiving the full benefit to be derived from their trust lands and resources as well the full benefits of programs and services which are intended for their assistance and well-being. Our work in this Committee should ultimately lead to recommendations which further these purposes. Our overriding goal should be to strengthen and improve the capacity of the federal and tribal governments to effectively and efficiently provide necessary programs and services to the Indian people.

I am hopeful that these hearings will lead to positive recommendations for improvements for consideration by the full Congress.●

LEGAL CHALLENGE TO TOSHIBA-KONGSBERG SANCTIONS

● Mr. GARN. Mr. President, suit has been filed in the Court of International Trade in New York challenging the constitutionality of the so-called Garn amendment which I sponsored in the Omnibus Trade and Competitiveness Act of 1988. Oral arguments were heard on January 10 in the case of Arjay Associates, Inc., and other versus Ronald Reagan and the United States of America. This suit, filed by nine U.S. distributors of Toshiba Machine plastic injection molding machines, argues that the amendment is a bill of attainder. A final decision is expected by the end of February.

I cannot say that this challenge is unexpected. During consideration of this issue in the Senate, I acknowledged that some had raised constitutional questions about the portion of my amendment that would impose sanctions against Toshiba and Kongsberg for their part in selling controlled technology to the Soviet Union. I also recognized that any provision of law that placed a direct and substantial financial burden on companies would be challenged regardless of the merits.

What I do take issue with in this case is that the complaint argues not only that the provision is unconstitutional but that I urged its enactment while recognizing its "likely unconstitutionality" and with no other purpose than to punish two individual firms. I would therefore like to set the public record straight on my intentions and the intent of Congress on these two issues.

On the first point, it is true that when I proposed my amendment I acknowledged that constitutional questions had been raised about the retroactive portion of the legislation. However, I did not act nor did the Congress finally adopt the amendment in the belief that these sanctions were unconstitutional. In the first place, they are very much in keeping with the traditions of U.S. trade law and export control policy in which denial of import or export privileges is routinely applied as a trade remedy or penalty for violation of law. Furthermore, my colleagues and I received an analysis prepared by the American Law Division of the Congressional Research Service at the request of the Senate Banking Committee which concluded that the amendment was constitutional. I ask that it be printed in the RECORD following my statement.

The CRS memorandum argued that the "Commerce clause" and the "power of the purse" assigned to Congress in the Constitution provide ample legal basis for the sanctions imposed by my amendment. The memorandum finds no "due process" flaw in the amendment and notes that while the focus of congressional power over foreign commerce "on two specified companies may appear analogous to constitutionally prohibited legislative adjudication, it is actually similar to the trade embargoes which are currently in place against a number of countries." While I have repeatedly admitted that I cannot adequately judge the legal merits of these arguments, we in the Congress acted with advice in hand that the amendment derived its authority from "explicit and expansive powers" in the Constitution.

The plaintiffs also argue "the sanctions imposed upon TMC [Toshiba Machine] serve no rational, nonpunitive purpose, and Congress never made any pretense that they would." On this point, I believe the facts demonstrate that the sanctions serve a clear public policy objective and that the Congress intended that they should.

The broad objective of U.S. export control policy and of these sanctions is to protect our national security by controlling the sale of militarily critical technology to the Soviet Bloc. The United States and her allies have pursued multilateral cooperation to control these technologies since World War II through a coordinating mechanism knows as the Coordinating Committee for Multilateral Export Controls or COCOM. Agreements reached in COCOM are implemented through the laws and regulations of individual participating nations.

The U.S. system, while certainly not flawless, is most rigorous and imposes tough criminal and administrative penalties on violators. Some other countries take a more relaxed approach to regulation and have substantially weaker penalties. This asymmetry in the COCOM Network holds the potential for incidents like the Toshiba-Kongsberg sale involving foreign technology or diversion of U.S. technology through other countries. This weakness in the system has been recognized as a serious problem during the 15 years that I have dealt with export controls in the Senate. For this reason, successive administration and the Congress have pursued efforts to strengthen the COCOM system.

Over the last 4 or 5 years, Congress has focused on the remedy of imposing restrictions on foreign violators in the form of denial of U.S. trading privileges as a means of toughening eforcement of COCOM rules, akin to the sanctions in the Garn amendment. In 1985, the Congress provided the President with discretionary authority to impose trade penalties for foreign violators in an amendment to the Trade Expansion Act of 1962. However, the President's ability to impose sanctions was effectively barred by a requirement for negotiation and agreement on sanctions within COCOM.

To ease these restrictions, the Banking Committee included a second sanctions provision in its amendments to the trade bill during legislative markup of trade-related matters within the committee's jurisdiction on May 19, 1987. This provision gave the President full discretion to impose Government procurement sanctions on foreign export control violators for up to 5 years. Even as this effort was underway, the Banking Committee was exploring the full details of the Toshiba-Kongsberg incident. It was the policy debate over this case at a June 17, 1987, committee hearing that triggered my efforts to pass the Garn amendment.

The first reason for taking even stronger steps was the unprecedented severity of the violation which set a new standard for illegal sales. Toshiba Machine and Kongsberg Trade shipped extremely sophisticated machine tools to the Soviets capable of fabricating very quiet ship and submarine propellers. The companies knew that the machines were far in excess of allowable COCOM limits and took deliberate steps to evade detection of their crime. Most importantly, despite clear evidence of a flagrant violation, little action was evident on the part of the U.S. or foreign authorities to deal effectively with the technology loss.

I became convinced that if credible enforcement action was lacking in even a case as severe as this one, the international business community could never take COCOM export controls seriously. Therefore, I proposed legislation that became the "Multilateral Export Control Enhancement" section of the new trade law. It rewrites U.S. export control policy to require substantial trade penalties against foreign persons guilty of severe violations of multilateral export control rules.

As is clear from the pending case, section 2443 of the trade law specifies that certain companies be sanctioned, including Toshiba Machine. However, I think the public record also clearly shows that such sanctions were intended to put teeth into the multilateral control regime in the same way that penalties ranging from denial of export privileges to fines and jail terms apply to violators of U.S. law. In fact the primary reason that sanctions against specific companies were placed in a separate section 2443 was to isolate the broader policy from legal challenges likely to be aimed at any provision, regardless of its merits, that imposes costs on U.S. firms.

Let me close by restating that my intent was always to make sanctions a central element of a revised export control policy that would protect U.S. national security by stopping serious control violations by foreign firms. When such sanctions are imposed, they inevitably have collateral impact on innocent U.S. and foreign firms in the form of lost sales and supply disruptions. I am sorry this is so. Certainly the trade conferees labored long and hard to limit that impact while achieving our broader policy objectives, but some costs remained as the unfortunate side effect but the legitimate cost of designing a policy to stop technology leakage to our adversaries.

I believe these sanctions are already working. They have certainly gotten the attention of Japan, Norway, and the rest of our COCOM allies. In fact, more has been done to tighten export control laws and improve enforcement throughout COCOM since I proposed this amendment than happened in the previous 14 years I have worked on this issue. I hope that the court finds that the advice on which we acted was correct and that broader public policy objectives are served by this legislation so that the sanctions may remain part of U.S. national security policy.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, November 9, 1987.

From: American Law Division.

Subject: Analysis of Congressional Power to Impose Sanctions Upon Corporations Based on Actions Taken by Subsidiaries, and the Application of Such Power to Foreign Corporations.

This memorandum is in response to your request to analyze the criminal or civil liability of a corporation for actions taken by a subsidiary, and to analyze the application of sanctions to a foreign corporation based on actions taken by a subsidiary, when such actions were not deemed prohibited by United States law at the time of their commission. Specifically, this memorandum will address constitutional issues which are raised by those provisions of the Senate Omnibus Trade Act, H.R. 3, 100th Cong., 1st Sess. (1987) which provide for sanctions against the Toshiba Corporation and Kongsberg Vaapenfabrik (KV) based on their alleged diversion of submarine-related technology to the Soviet Union.

On June 30, 1987, the Senate passed by voice vote an amendment to the Omnibus Trade Act, S. 1420 (now H.R. 3), which, under a perfecting amendment offered by Senator Garn (hereinafter Garn amendment), provides for sanctions against the Toshiba Corporation, KV (companies incorporated in Japan and Norway respectively), and any other firm found to have violated export control regulations issued by a country pursuant to agreements of the Coordinating Committee (hereinafter COCOM), where the violations have the result of substantially enhancing Soviet or Eastern Bloc defense capabilities.[1] The Garn amendment prohibits for two to five years, at the discretion of the President, the importation into the United States of products manufactured by Toshiba Corporation or KV, and any parent, subsidiary, affiliate, or successor companies. The amendment also debars these firms from contracting with the United States Government.[2]

Although the Garn amendment specifies Toshiba Corporation as subject to the sanctions to be imposed, the diversion of submarine technology to the Soviet Union may have been performed solely by a subsidiary of Toshiba Corporation called Toshiba Machine. Toshiba Machine, established in 1938, is a private company, incorporated in Japan, engaged in the production of, among other products, machine tools and numerical controllers, which were involved in the diversion.[3] The Toshiba Corporation owns a controlling 50.1% interest in Toshiba Machine, but it has denied having directed or of having knowledge of its subsidiary's illegal activities. While the subject technology diversion appears to have violated Japan's regulations implementing COCOM rules, no allegations have been made that Toshiba Machine or the Toshiba Corporation have violated any United States laws by their actions. Concerns have been raised that for the Congress to impose sanctions on the Toshiba Corporation for activities that were not previously barred under United States law may be a violation of the Constitution. Specifically, Senator Garn himself expressed concern that a "retroactive" ban on the importation of Toshiba products and Toshiba's debarment from government procurement opportunities might not withstand constitutional scrutiny.[4] This statement would suggest a concern that the Garn amendment would be interpreted as an *ex post facto* law, or as a bill of attainder.

Concerns have also been raised about the imposition of sanctions on the Toshiba Corporation without a showing that some officer, director, or employee knew of the diversion by Toshiba Machine. An argument might be made that without sufficient constitutional nexus, application of sanctions to Toshiba Corporation for the actions of Toshiba Machine was a violation of due process. The appearance that this amendment is an enforcement of another country's laws, and problems of extraterritorial jurisdiction under United States law also raise concerns. There is also a question whether the imposition of sanctions, even if constitutional, is not a departure from established U.S. precedents in criminal and tort law regarding the liability of a parent corporation for violations by a subsidiary.

ALTERNATIVE CONSTITUTIONAL BASES FOR THE GARN AMENDMENT

1. Congressional Power To Regulate Commerce and To Enter Into Contracts

The U.S. Constitution provides that the Congress shall have the power to regulate commerce with foreign nations and among the several states.[5] This power has been used by the Congress to regulate many aspects of international trade, and as trade assumed increasing importance to the United States, the commerce power of the Congress was expanded accordingly.[6] Today, the commerce clause has become the basis for far-reaching regulation over a variety of areas, and the courts have been reluctant to find that Congress has over-stepped the limits of its power under the clause.[7] There is reason to believe that the courts are even less likely to restrict congressional power over foreign commerce than over interstate commerce.[8]

The question of whether congressional power over foreign commerce is broad enough to cover prohibitions in the importation of products from a particular source was settled early in the history of the United States.[9] The power of the Congress to prohibit specific articles from importation has also been well established.[10] The commerce power of Congress is "complete in itself and may be exercised to its utmost extent" consistent with due process of the law.[11]

The proposed prohibition on the importation of specified products manufactured by Toshiba appears fully consistent with the powers of Congress to regulate foreign commerce, and there appears to be no "due process" defect in the application of the proposed "sanctions" to both the Toshiba Corporation and Toshiba Machine. To fulfill the due process requirement, the Congress must have a rational basis for any deprivation of life, liberty, or property caused by the imposition of the sanctions.[12] The legislative history of the Garn amendment indicates that the importation ban is intended to serve U.S. economic and military needs by discouraging companies from exporting or failing to prevent subsidiaries from exporting technology in violation of COCOM.[13] Further, as per the discussion on page six *supra*, there appears to be no right to import into the United States or right to contract with the United States Government.

The debarment of Toshiba from government contracts would appear to be based on the congressional appropriations power or "power of the purse". Rooted in Congress's authority to pay debts and provide for the general welfare,[14] the appropriations clause provides that no monies may be expended without congressional approval.[15] Congress has broad discretion to determine the purpose of appropriations, as well as the terms and conditions under which they are made.[16] Debarment of a company from the U.S. Government contracting authority has substantial precedent, and courts have indicated that it is not a right but a privilege to enter into contracts with the U.S. Government.[17] Consequently, there would not seem to be a bar to prevent Congress from declining to appropriate monies to award Toshiba future contracts.[18]

2. Congressional Power to Enact Criminal Legislation

Questions have been raised whether the Garn amendment as applied would be covered by the constitutional prohibition against bills of attainder or *ex post facto* laws,[19] which are historically prohibitions on abuses of the criminal law system. A bill of attainder is an act of the legislature which inflicts punishment upon persons supposed to be guilty of crimes without any judicial proceeding.[20] This prohibition, which is essentially an implementation of the separation of powers between the two branches, was intended to prevent the Congress from sitting as a criminal court. Similarly, *ex post facto* law are criminal and penal statutes which are retroactive in application.[21]

Although the amendment sponsors refer to the provision of the amendment as "sanctions", there is a question as to whether the bills provisions can be considered to arise from the powers of the Congress to legislate against criminal activity. The Constitution only expressly authorizes criminal punishment for certain specified offenses such as conspiracy, felony on the high seas, treason and counterfeiting. The ability of the Congress to create, define, and punish crimes is generally considered to be derived from the "necessary and proper" clause.[22] The amendment, however, does not appear to regulate an activity which fits into the traditional categories of a federal "crime".

Unlike traditional federal crimes, the Garn amendment imposes sanctions on activities which appear to involve neither federal property, United States citizens, nor crossing United States state or federal borders. Further, a key element of the offense

Footnotes at end of article.

is that the diversion is done in violation of the COCOM regulations of the country which has jurisdiction over the alleged violation. It would appear unusual for a United States crime to be based on the language and interpretation of a foreign country's export laws.

There would also appear to be serious questions whether the "crime" of diversion is subject to the jurisdiction of the United States. Where a prohibited criminal act is performed by an alien outside the United States, courts have held that the crime must be intended to produce substantial harmful effects within the U.S. jurisdiction, or threaten the U.S. state's security.[23] Further, the activity must be generally recognized as a crime or tort in countries with reasonably developed legal systems, or the impact of the activity must be directly foreseeable. It is beyond the scope of this memorandum to examine whether the courts would enforce a law preventing the transferral of Japanese technology to the Eastern Bloc by a Japanese company, utilizing no instrumentalities of the United States, but it would appear that the amendment's jurisdictional basis could be brought into question.

3. Analysis of Competing Basis of Constitutional Authority

Although the Garn amendment would appear to have alternative constitutional bases, the commerce power offers an explicit and expansive power on which the amendment can derive its authority. Congress, in determining what is in the interests of the national welfare, is presumably aware of the actions of other sovereign nations and their citizens, and the impact that these actions have on the United States. In considering how to exercise its power over foreign commerce, the Congress must necessarily consider past acts which have affected the economy or security of the United States, and exercise its power accordingly. While the focusing of that power on two specified companies may appear analogous to constitutionally probibited legislative adjudication, it is actually similar to the trade embargoes which are currently in place against a number of countries.[24] Consequently, the prohibitions against retroactive or overexpansive enforcement of the criminal law would not appear to serve as a bar to the enforcement of the amendment's provision.

APPLICATION OF SANCTIONS AGAINST PARENT COMPANIES BASED ON ACTION OF SUBSIDIARY

As noted above, the application of an importation ban and debarment of a foreign company appears within the powers of the Congress under the Commerce and appropriations clauses. It has been suggested, however, that application of the proposed sanctions against the Toshiba Corporation absent evidence that its officers, directors, or employees were aware of the diversion by the subsidiary Toshiba Machine, is inconsistent with the manner in which corporate responsibility would be allocated in the United States criminal or civil proceeding.

It appears, based on state and federal caselaw, that there is a limited set of circumstances under which a court is required to hold a parent company liable for the actions of its subsidiaries. In cases involving "wrongful acts" by the subsidiary or "torts", liability may attach under theories of actual complicity by the parent corporation, or by a showing that the subsidiary was a mere instrumentality or agent of the parent company. Criminal liability appears to require similar bases, although courts have appeared willing to allow the Congress to impose a stricter duty of liability on parent corporations for violations of criminal statutes based on facts indicating that the subsidiary was acting as an agent for the parent corporation.

1. Civil Liability of a Parent Corporation for a Wrongful Act of its Subsidiary

Generally, the mere fact that a parent corporation owns a majority of the stock of a subsidiary corporation is not sufficient to impose liability on that company for wrongful acts performed by the subsidiary corporation.[25] However, if the separate identity of the subsidiary is determined to have been abused by the parent corporation, and a court finds that the parent corporation has exercised a degree of control beyond that normally necessary to maintain a parent-subsidiary relationship, then a court may "pierce the corporate veil" and hold the parent corporation liable.

The issue of excessive control by a parent company is separate from a determination that a parent corporation was itself a tort-feasor, and subject to suit. In a suit for tort filed against a subsidiary, a parent company could be joined as a codefendant under traditional theories of joint liability. Thus, if evidence exists that a tort was the result of concerted action between a subsidiary and a parent company, the parent company may be liable for the tort of the subsidiary.[26] Express agreement is not necessary, and knowledge of the joint tortfeasors actions may be used as evidence of a "tacit understanding".[27] Mere knowledge of the commission of a wrong may not itself be sufficient to impart liability absent some legal duty to prevent the tort.[28]

A finding that codefendants were under a common duty and failed to exercise care in the execution of that duty may also be the basis for finding a joint liability. For example, the failure of two defendants to keep jointly owned property safe may lead to joint liability for damages caused thereby.[29] Further, if there is a master-servant relationship between two entities for the purposes of the transaction in question, a master may be vicariously responsible for the tort of a servant.[30]

Absent some finding that the parent company was involved in the commission of the tort, the alternative basis for liability of the parent company would require evidence that the parent corporation has controlled the subsidiary to such a degree as to make it a mere instrumentality and that the tort was an act of the parent corporation accomplished through a controlled agency.[31] The factors which would tend to prove a theory of instrumentality are acts imposed upon the subsidiary which are beneficial to the parent corporation and indicate a degree of control beyond that normally necessary to maintain the relationship as a stock-holder.

Generally, stock ownership is insufficient to constitute a subsidiary as an alter-ego or instrumentality of a parent.[32] However, other intercorporate connections in addition to stock ownership have been considered in determining that a subsidiary was acting in a parent company's shoes. Among the factors that have been considered are (1) the presence in both corporations of the same officers or directors; (2) common shareholders; (3) financial support of the subsidiary's operations by the parent corporation; (5) the fact that the subsidiary was organized with a grossly inadequate capital structure; (6) a joint accounting and payroll system; (7) the subsidiary lacks substantial business contacts with any except the parent; (9) the property of the subsidiary is used by the parent corporation as its own; (10) the individuals who exercise operating control over the subsidiary exercise it in the interest of the parent; (11) failure to observe the formal requirements attributable to the operation of the subsidiary.[33] If the parent exercises an extensive measure of control over a subsidiary, so that the latter is merely a business conduit or if the parent causes wrong through the subsidiary, then the parent corporation may be held liable for the torts of its subsidiary.

2. Criminal Liability of a Parent Corporation for Wrongful Acts by a Subsidiary

A corporation may be held liable for the acts of its agents if the conduct which comprises the criminal act is undertaken within the scope of the agent's authority.[34] The agent need not have been authorized to commit a crime, but he must be acting within the scope of his real or apparent authority.[35] When a subsidiary of a corporation is acting as an agent for the parent corporation, the corporation may be liable for crimes committed by the subsidiary based on the same rules as regards agents generally.

Although it is clear that a corporation may be charged for willful criminal violations of its officer, directors, employees or agents,[36] it would appear to be within the power of Congress to expand a corporation's responsibility for criminal acts beyond traditional notions of agency. For instance, Congress may constitutionally impose criminal liability upon a business entity for acts or omissions of its agents within the scope of their employment, even if the acts were contrary to express instructions.[37] Courts have imposed criminal liability upon a corporation for acts undertaken by employees which benefited the employees, and were done without the actual or constructive knowledge of the rest of the corporation, based on prevention of injury to the public interest.[38] Further, the failure of a corporation's officers to detect an on-going conspiracy which it had unwittingly become involved as a result of a merger was held sufficient basis to hold the corporation criminally liable.[39]

Where a company was in the business of developing potentially harmful products for distribution in interstate commerce, it was held that the company could be held responsible for the acts of a distributor who adulterated the product to be shipped. In *United States* v. *Parfait Powder Puff Co.*,[40] the Seventh Circuit held that the liability of the defendant, a manufacturing company, was imputed from the violations by a distributor of the Food, Drug and Cosmetic Act, which penalizes anyone who commits certain acts or "causes" them to be committed.[41] The court disregarded arguments whether the distributor was an agent or an independent contractor, and noted that the defendant had engaged in the distribution of the article into commerce. The fact that the defendant had used another company as an "instrumentality" would not relieve the farmer of the burden of being held responsible for the criminal violations.[42] The court noted that Congress had, in balancing hardships, preferred to place the burden upon those who had the best opportunity to inform themselves of the conditions that existed.[43]

3. The Hypothetical Application of Criminal or Civil Penalties to the Toshiba Corporation

As noted previously, there would appear to be problems characterizing the sanctions which are proposed by the Garn amendment as founded in congressional powers to create criminal or civil penalties. However, the hypothetical question may be raised whether a United States company with the characteristics of Toshiba Corporation, with a relationship similar to the relationship between the Toshiba Corporation and Toshiba Machine, would be held liable for illegal

technology diversion by the subsidiary. This inquiry is beyond the scope of this memorandum. However, it would appear that some activities between the two companies that would justify "piercing the corporate veil" would have to exist before either civil or criminal penalties would attach under existing court precedent and United States law. The caselaw would appear to indicate, however, that Congress could impose a positive duty upon a company to prevent illegal technology diversion by subsidiaries, and consequently could hold a U.S. parent company criminally or civilly liable for the action of its subsidiaries.

KENNETH R. THOMAS,
Legislative Attorney,
American Law Division.

FOOTNOTES

[1] 133 Cong. Rec. S8996 (daily ed. June 30, 1987) (statement of Senator Garn).

[2] The amendment provides exemptions for defense articles and services, for spare and component parts essential to United States production, and for goods and services deemed to be essential to national security. 133 Cong. Rec. S8996 (daily ed. June 30, 1987). The amendment also gives the President the power to limit sanctions if the President determines that the parent, affiliate, or subsidiary has not itself violated COCOM controls, the government in question has reached agreement with the United States on improved export procedures, improved internal controls have been instituted at the firm, and the sanctions are either proportionate to any damage to the United States military interests, or compensation is made to the United States. *Id.*

[3] R. Ahearn & R. O'Rourke, Toshiba-Konigsberg Technology Diversion: Issues for Congress 7 (August 17, 1987) (CRS Issue Brief).

[4] 33 Cong. Rec. S9002 (daily ed. June 30, 1987) (remarks of Senator Garn).

[5] U.S. Const. art. I, sec. 8, cl. 3.

[6] L. Henkin, Foreign Affairs and the Constitution 69 (1972). In general, the expanded power to regulate foreign commerce was the incidental beneficiary of the extensive development of Congress's power to regulate interstate commerce. *Id.*

[7] *Id.* at 70. Areas in which Congress has regulated under the commerce clause include trade and finance, transportation and communication, labor and management and crime punishment. *Id.*

[8] *Brolan v. United States*, 236 U.S. 216, 222 (1915); *Champion v. Ames*, 188 U.S. 321, 373 74 (1903).

[9] *United States v. Williams*, 28 Fed. Case 614, 620-623 (D. Mass. 1808) (Congressional ban on importation of all trade with Europe upheld).

[10] *Weber v. Freed*, 239 U.S. 325 (1915).

[11] *U.S. v. Carolene Products Co.*, 304 U.S. 144 (1937).

[12] *U.S. v. Carolene Products Co.*, 304 U.S. 144, 149 (1937).

[13] 33 Cong. Rec. S8999 (daily ed. June 30, 1987) (statement of Sen. Glenn).

[14] U.S. Const. art. I, sec. 8, cl. 1.

[15] U.S. Const. art. I, sec. 9, cl. 7.

[16] *Cincinnati Soap Co. v. United States*, 301 U.S. 308 (1937); GAO, *Principles of Federal Appropriations Law* (1982).

[17] *Perkins v. Lukens Steel Co.*, 310 U.S. 113, 126 (1939); *but see* Whelan, J. & Pasley, R., *Federal Government Contracts* (1975).

[18] The amendment exempts contracts entered into before May 1, 1987 and some existing defense contracts. 133 Cong. Rec. S8996 (daily ed. June 30, 1987). The United States might still be liable for any contracts entered into by the government after May 1.

[19] U.S. Const. art. I, sec. 9, cl. 3.

[20] *United States v. Brown*, 381 U.S. 437, 441-42. (1964).

[21] *Banker Trust v. Blodgett*, 260 U.S. 647, 650, (1923). The amendment would appear not to be an example of an *ex post facto* law, as the bar on Toshiba products will not be the result of a judicial proceeding examining past conduct. The implementation of the ban on Toshiba products can be acted upon by the Executive immediately upon passage of the legislation.

[22] U.S. Const. art I, sec. 8, cl. 18. "The Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers . . .".

[23] *Restatement (Revised) of Foreign Relations of Law of the United States* Sec. 402(1)(c) & Sec. 403(3)(1965).

[24] *See e.g.* 15 C.F.R. Sec. 385 (1987) (ban on trade with North Korea, Vietnam, Cambodia and Cuba).

[25] Fletcher Encyl. Corp. Sec. 4877.1 (Perm. Ed.)

[26] *See* Keeton, W. & Dobbs, D., Prosser and Keeton on the Law of Torts 323 (1984).

[27] *Id.*

[28] *Duke v. Feldman*, 226 A.2d 345 (Md. 1987); *Ramirez v. Chavez*, 226 P.2d 143 (Ariz. 1951).

[29] *See e.g. Schaffer v. Pennsylvania R. Co.* 101 F.2d 369 (1939) (negligence of watchman hired by two railroads jointly imputed to both).

[30] W. Prosser & W. Keeton, *supra* at 327.

[31] Annot., 7 ALR3d 1343 (1966).

[32] *Miller v. Bethlehem Steel Corp.*, 189 F. Supp. 916 (D.C. W Va. 1960).

[33] Annot., 7 ALR3d 1355 (1966).

[34] *United States v. Johns-Manville Corp.*, 231 F.Supp. 690 (E.D. Penn. 1964); Brickey, K., Corporate Criminal Liability: A Primer for Corporate Counsel, 40 Bus. Law. 131 (1984).

[35] *United States v. American Radiator & Standard Sanitary Corp.*, 433 F.2d 174, 204-05 (3d. Cir. 1970).

[36] *U.S. v. Hougland Barge Line, Inc.*, 387 F.Supp. 1110 (D.C. Pa. 1974); *Boise Dodge, Inc. v. U.S.*, 406 F.2d 771 (1969).

[37] *U.S. v. Hilton Hotels Corp.*, 462 F.2d 1000 (9th Cir. 1972).

[38] *Standard Oil Company of Texas v. United States*, 307 F.2d 120 (5th Cir. 1962)

[39] *U.S. v. Wilshire Oil Co. of Texas.* 427 F.2d 969, 973 (1969).

[40] 63 F.2d 1008 (7th Cir. 1949).

[41] 21 U.S.C. Sec. 331 (1982).

[42] *Id.* at 1009.

[43] *Id.* at 1010.●

PROPOSED CONSTITUTIONAL AMENDMENT TO PROTECT INTEREST EARNED ON STATE AND POLITICAL SUBDIVISION BONDS FROM FEDERAL TAXATION

● Mr. THURMOND. Mr. President, I rise today to express my support as an original cosponsor for Senate Joint Resolution 28, a proposed constitutional amendment that will restore constitutional protection from Federal taxation of interest earned on bonds issued for a public purpose by States or their political subdivisions.

The Supreme Court on April 20, 1988, struck down, in South Carolina versus Baker, a number of earlier decisions upholding the tax-exempt status of State, city, county, school district, and other political subdivision bonds.

I believe, as many others, that this decision was not correctly decided and that such bonds are tax exempt under the 10th amendment to the Constitution and the doctrine of federalism.

The power of the individual States to raise revenue by their own means apart from the Federal Government is consistent with our Constitution. Yet, the recent Supreme Court decision continues an all too apparent erosion of the doctrine of federalism and expands the power of the Federal Government beyond that which is allowed under our Constitution.

The proposed constitutional amendment would prohibit the Congress from imposing taxes on interest earned from bonds issued for a public purpose by the States or their political subdivisions.

Although we believe that the current language will resolve the situation, Senator ROTH and I are open to suggestions from our colleagues and others which will improve upon this proposed constitutional amendment.

Mr. President, this proposed constitutional amendment will allow the States and their political subdivisions to continue the practices of issuing bonds as an important fiscal tool and free from Federal intervention. These bonds provided much needed revenues for the construction of schools, hospitals, roads, and other worthy public projects.

I urge my colleagues to support this resolution and its swift passage so we may submit it to the States for their ratification.●

RECOGNIZING THE DISTINGUISHED SERVICE OF COL. DAVID L. DONLEY

● Mr. DIXON. Mr. President, I take this opportunity to express my regard and respect for Col. David L. Donley, who after 29 years of distinguished service is retiring from the U.S. Air Force. Colonel Donley served his country as the Deputy Chief of Staff of Aerospace Sciences in the Headquarters Air Weather Service at Scott Air Force Base in Belleville, IL. Colonel Donley was responsible for directing Air Weather Service programs for improving the quality and accuracy of weather support provided by seven weather wings to Army, Air Force, and other DOD operations worldwide. Those who know him and worked with him will miss his hard work and strong effort in this capacity. I know that Colonel Donley can look with pride upon his years of service and I wish him well in the future.●

RECESS UNTIL 2 P.M., THURSDAY, FEBRUARY 2, 1989

Mr. MITCHELL. Mr. President, I move that the Senate stand in recess until 2 p.m. on Thursday, February 2, 1989.

The motion was agreed to and, at 6 p.m., the Senate recessed until 2 p.m., Thursday, February 2, 1989.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 31, 1989:

DEPARTMENT OF COMMERCE

ROBERT ADAM MOSBACHER, OF TEXAS, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

SAMUEL KNOX SKINNER, OF ILLINOIS, TO BE SECRETARY OF TRANSPORTATION.

EXECUTIVE OFFICE OF THE PRESIDENT

CARLA ANDERSON HILLS, OF CALIFORNIA, TO BE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

TEACHING VALUES

HON. TONY P. HALL
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. HALL of Ohio. Mr. Speaker, today I am introducing, with bipartisan support, legislation to create a commission on Values Education to help determine how we can better prepare people to become productive members of society. The purpose of this legislation is to examine the issues associated with the teaching of values in the schools, and to identify the consensus of basic values that Americans want promoted in the schools.

Over the last year, I have spoken to parents, teachers, school administrators, students, and people in different professions and of many backgrounds who support teaching civic values in our schools. I am convinced that Americans want to promote our common values, values like honesty, integrity, tolerance, self-respect, and respect for others. A set of common values were practiced by our Founding Fathers and are at the roots of our democracy.

Mr. Speaker, an estimated 3,000 hate-related crimes against persons of a particular race or religion have been documented by the Center for Democratic Renewal. More than 130,000 teachers are assaulted by their students each school year. In the last 15 years, the rate of teen suicides has gone up by 50 percent. By the end of high school 61 percent of our students will have used drugs in some form at some time.

In addition, more than 100 high level government officials have faced allegations of questionable activities, and business ethics scandals are being compared to the reckless 1920's. Our country has faced Watergate, Abscam, and Irangate.

I fear that our Nation is plunging into a national moral recession. We are raising a generation of children who have lost sight of the common values that help distinguish between right and wrong. A mastery over academic subjects alone will not prepare the next generation with the tools necessary to carry on our society's basic ethical values.

Mr. Speaker, our Founding Fathers practiced values that are timeless. Our country's past struggles and equality, justice, and tolerance and the lessons learned should not be ignored. The 1960's and 1970's saw a move toward "values free" teaching in which students were given the options but no guidance toward answers. Now, many educators agree that schools should teach civic values and take clear positions on right or wrong behavior.

While family, churches, and synagogues should be the primary source of one's values, schools should help prepare students to distinguish between right and wrong, and to make tough choices when there are gray areas or when values seem to conflict.

Recently, many public officials have called for a return to our basic values, but very little is said about how to do this. My bill can start the process by creating a bipartisan national Commission on Values Education to examine what people are saying and what local school districts are doing. While education should remain a local concern, the Federal Government has always played a support role, and it should develop a coherent Federal policy to stimulate local action with respect to values. The Commission will report back to Congress and the President within a year with its recommendations.

Mr. Speaker, for the benefit of our colleagues, I submit the following bill:

H.R. 733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commission on Values Education Act of 1989".

SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to establish a commission to examine the issues associated with the teaching of values in elementary, secondary, and post-secondary schools, and in institutions of higher learning;

(2) to recommend to the President and to Congress how the Federal Government, through executive action and legislation, can promote the teaching of values in American schools, including (but not limited to) encouraging the offering of independent courses on values, and the integration of values in existing courses;

(3) to explore and assess a variety of approaches to teaching values;

(4) to identify those values supported by a consensus of Americans as essential to a complete education and preparation for becoming productive members of society, and which may be appropriately endorsed and promoted by the Federal Government; and

(5) to identify the ways in which judgments of values and of right and wrong are implicated in matters of public and private concern.

SEC. 3. FINDINGS.

The Congress finds that—

(1) many Americans no longer make determinations of right and wrong as to their own actions or the actions of others, and this phenomenon crosses economic, social, religious, and age lines, and is evident in matters of both public and private concern;

(2) institutions of education, which have traditionally played a role in assisting students to make such determinations, have abdicated this responsibility;

(3) this abdication is evident in a national epidemic of incidents in which people have failed to consider the ethics governing their behavior, in governmental and political activities, scientific research, and business and commerce;

(4) statistics show alarming increases in the incidence of teenage pregnancy, drug and substance abuse, and suicide among both young people and adults;

(5) polls reflect that Americans overwhelmingly prize values such as honesty, but believe that people are less honest today than in the past;

(6) this national moral recession has impaired the proper functioning of our system of democratic government;

(7) leaders across a wide spectrum of political, social, and religious beliefs believe that education for democracy must extend to education in moral issues, and have called for strengthening the teaching of democratic values; and

(8) while education remains the responsibility of local and State government, the Congress and Federal Government may appropriately provide assistance to educational agencies and institutions attempting to include values education in their curriculums.

SEC. 4. ESTABLISHMENT.

There is hereby established a Commission on Values Education, hereafter in this Act referred to as the "Commission".

SEC. 5. DUTIES.

The Commission shall—

(1) consider the widest range of values for inclusion in the consensus of values that should be taught, including traditional Judeo-Christian values, honesty, integrity, tolerance, self-discipline, self-respect, civility, importance of family, justice, equality, the rule of law, individual rights, the common good, love of country, love of knowledge, responsibility and accountability, protection of oneself and others from degradation and abuse;

(2) conduct interviews, meetings, hearings, and conferences in various regions and localities in the United States to gather the opinions of a wide variety of individuals, including educators and educational administrators, students, parents, philosophers and theologians, civic, religious, and professional leaders, social service professionals, political leaders, persons prominent in the arts, entertainment, and sports, and concerned citizens;

(3) report its findings and recommendations to Congress and the President not later than one year after the enactment of this Act;

(4) include in such report its recommendations for specific legislation or executive actions, as well as broad policy goals and objectives;

(5) include in such report a recommendation as to the establishment within the Federal Government of a clearinghouse for current programs and ideas on values education;

(6) include in such report a recommendation to Congress as to the appropriateness of institutional changes in the House of Representatives and the Senate, including the establishment of a Select Committee on Values Education;

(7) seek the cooperation, advice, and assistance of the Department of Education and such other Federal, State, and local agencies, and private and religious organizations, institutions, and associations, as may

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

be helpful in carrying out its purposes and duties;

(8) recognize those individuals and institutions which have demonstrated outstanding success in teaching values; and

(9) identify the potential of values education for reducing the incidence of such problems as those mentioned in section 3(4) of this Act.

SEC. 6. MEMBERSHIP AND APPOINTMENT OF COMMISSION.

(a) MEMBERSHIP.—The Commission shall be composed of 17 members as follows:

(1) Seven members each appointed by the Speaker of the House of Representatives and the majority leader of the Senate, in consultation with the respective minority leaders, from among individuals who are broadly representative of, but not restricted to, the following groups:

(A) professional educators and educational administrators;

(B) parents of students at elementary, secondary, and postsecondary levels;

(C) students at secondary and post-secondary levels;

(D) philosophers, theologians, and religious leaders;

(E) State and local elected and appointed government officials, including members of State and local boards of educations;

(F) persons prominent in sports, the arts, and entertainment;

(G) persons active in business, the professions, or civic activities;

(H) social service professionals; and

(I) the general public.

(2) One member each of the House of Representatives and the Senate, designated by the Speaker of the House and the majority leader of the Senate, respectively.

(3) The Secretary of Education or his designee.

(b) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Members of the Commission shall be appointed for the life of the Commission.

(d) CO-CHAIRS OF THE COMMISSION.—The Speaker of the House and the majority leader of the Senate shall each designate one of their appointees as co-chair of the Commission.

SEC. 7. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 8. POWERS.

(a) MEETINGS.—The Commission shall first meet not more than 30 days after the date on which members are appointed, and the Commission shall meet thereafter upon the call of the chair or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of co-chair of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The co-chairs of the Commission shall select an executive director of the Commission, who shall be paid at a rate no greater than that payable for grade GS-18 of the General Schedule.

(e) STAFF.—The executive director shall appoint such staff members as may be necessary to perform the work of the Commission. In allocating authorized, appropriated, and contributed funds, priority shall be given to those activities, such as hearings and conferences, designed to elicit the broadest public participation in the Commission's deliberations, rather than to the payment of professional staff.

(f) GIFTS AND BEQUESTS.—The Commission is authorized to accept, use, solicit, and dispose of donations of money, property, or personal services to perform the duties hereinbefore described. No donation may be accepted which prescribes or limits the purpose for which it may be used, or which exceeds $25,000 in the case of an individual donor, or $100,000 in the case of a corporation, partnership, association, or other organization or business association.

(g) USE OF SERVICES AND FACILITIES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(h) PERSONNEL FROM OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out its duties.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $300,000 for fiscal year 1989, and such sum as may be necessary for fiscal year 1990. Amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 10. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of its final report to the Congress.

SEC. 11. CONGRESSIONAL HEARINGS REQUIRED.

Within 90 days after the submission of the Commission's report to the Congress, the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate shall conduct hearings on such report and the recommendations contained therein and shall report to their respective houses on the results of those hearings within 30 days after the completion of the hearing.

DOE APPLIANCE RULE

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Ms. SCHNEIDER. Mr. Speaker, as my colleagues well know, we are faced with a formidable list of environmental concerns such as acid rain, urban smog, ozone depletion, and the global greenhouse effect. It is incumbent upon us to seek ways to alleviate these problems while at the same time spurring economic productivity.

One clear area of opportunity is in establishing appliance efficiency standards. As you know, this body overwhelmingly passed the National Appliance Energy Conservation Act in the 99th Congress. I am sorry to report that the Department of Energy's first proposed rule mandated by the NAECA is woefully insufficient.

On January 30, 1989, I submitted the following comments to the Department of Energy on behalf of myself and 53 of my colleagues in the House of Representatives.

Re Department of Energy's "Three Products Rulemaking," Docket No. CAS-RM-87-102.

DEAR SIRS: This Proposed Rulemaking is the first major DOE action in response to the National Appliance Energy Conservation Act of 1987 (NAECA). This law mandated the setting and periodic review for increasing minimum appliance efficiency levels for refrigerators, freezers, televisions and small furnaces. This rulemaking is of utmost important for alleviating major environmental problems like acid rain and the global greenhouse effect, for reducing energy consumption and foreign oil imports, and for saving consumers billions of dollars. A more realistic rulemaking would achieve more than 14,000 Megawatts of power savings or the equivalent of 14 large coal or nuclear plants, or over $15 billion in consumer savings as well as significant reductions within the decade of ozone-depleting chlorofluorocarbons used in refrigerators.

Moreover, the outcome of this rulemaking establishes a significant precedent for guiding the future process by which energy efficiency standards for other appliances will be set.

Given the multiple benefits which follow from a well-crafted rule, we are dismayed at the failure of DOE's rulemaking to adhere to the mandate established by Congress. DOE correctly notes on page 48799 that "any new or amended standard is required to be designed so as to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified." The proposal simply does not meet its own legal mandate.

The Notice of Proposed Rulemaking is fundamentally flawed in three important ways: (1) its failure to base the proposed rule on the supporting analysis; (2) its refusal to evaluate all commercially feasible technologies as the basis for establishing appropriate standards; and, (3) the use of biased economic parameters that make reasonable applicance efficiency improvements appear less beneficial than they really are.

In the case of both refrigerators and television sets, DOE's own analysis shows higher levels of technologically feasible and economically justified energy efficiency than those subsequently found in the proposed rule. This is in direct conflict with the legislative mandate. DOE has arbitrarily set weaker standards than those specified. In order to do the minimum to obey the law, DOE is obligated to set standards for refrigerators and freezers at "Engineering Design Level" 11, which is between its "Standard Levels" 4 and 5. However, DOE's proposed rule sets a range of possible standards from "no change" to "Standard Level" 3, with a "no standard level" for televisions. The results of this ruling will create a loss of at least 4.6 quads of savings over the next 23 years or 2800 megawatts annually of lost energy due to inefficiency.

The second major shortcoming of the proposed rule is DOE's refusal to give fair consideration to numerous energy efficient technologies, particularly those that eliminate dependence on ozone-depleting chlorofluorocarbons (CFC) The notice dismissed

many of these available technologies with unsubstantiated and cursory remarks. Savings due to the use of new technologies has been predicted to exceed 14,000 megawatts worth of electric power, including 1 billion barrels of oil and gas equivalent, approximately the amount of yield expected to be gained from the proposed California coast drilling project. This failure is particularly egregious given the detailed responses provided to DOE through the Advanced Notice of Rulemaking.

The third major failing of the notice is the arbitrary selection of 7% as the forecasted discount rate for the next twenty five years. The inflated estimate is not purely a harmless exaggeration. It seriously biases the economic analysis against energy efficiency improvements in favor of new energy supply.

While we agree with DOE recommendations for small furnaces, we find the proposed rule unacceptable for refrigerators, freezers and televisions. This is a matter of precedence and must be taken seriously. The legal mandate calls for maximum efficiency that is technologically feasible and economically justified. This mandate must be fulfilled through rulemaking calling for the higher efficiency standards noted above.

MEDICARE TRAUMA CARE AND EMERGENCY SERVICES QUALITY ASSURANCE ACT OF 1989

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, today I am reintroducing legislation to amend Medicare to provide for the creation of trauma networks in every State.

There has been great improvement in the quality of emergency care in the United States, but not enough attention has been given to the very specialized problems of trauma. One out of every 12 deaths in the U.S. is from trauma and it is estimated that 80 percent of the severely injured never get appropriate care.

In fact, only 10 percent of American communities are served by an effective trauma system.

Trauma is not an age-specific disease. Severe injury affects all age groups. Trauma is the No. 1 killer of children under 14 and is responsible for four-fifths of the deaths that occur between ages 15 and 24.

Seniors, as well, are especially vulnerable to deaths and handicaps from accidents. Approximately 30,000 persons age 65 or older die of injuries each year. Patients over age 65 have two to three times the risk of dying from their injuries than those under age 65.

When treating trauma victims, time is of the essence. The key word is "prompt." Trauma experts speak of the "golden hour" after injury during which the victim's life could be saved by proper treatment, but too often is not. Immediate treatment saves lives and restores the victim to an optimal functional level.

Today, unfortunately, prompt treatment for trauma is not the norm. Due to the lack of an organized structure in which to deliver effective and efficient treatment, appropriate trauma care is often delayed. Preventable death or disability is a common outcome.

Trauma centers are hospitals with highly-skilled surgical teams on duty around the clock. Patients suffering life-threatening injuries are rushed to these centers where the trauma team's quick response can save their lives.

Trauma systems organized on a regional basis have been shown to reduce preventable deaths from injury and to improve patient outcomes. For example, in Orange County, CA prior to the organization of the trauma system, preventable deaths reached 34 percent; following organization of the system, preventable deaths dropped to 15 percent. Similar examples are available from around the country.

The treatment of trauma victims is expensive. Given the rapid growth in charity care to the poor and uninsured and tight reimbursement by private and public payers on behalf of the insured, hospitals have found that being a trauma center is less an honor and a mark of distinction than it is an invitation to red ink.

For example, the trauma systems in Los Angeles County, CA and in my own area of Alameda County, CA are under severe stress due to the increasing indigent care loads which the trauma system brings to the hospitals. I am also reintroducing today legislation to deal directly with this problem entitled the Hospital Indigent Care Assistance Act of 1989. In addition, the trauma legislation calls for a study to determine the adequacy of Medicare's payments for trauma, with particular emphasis on outlier payments.

I believe that an up-to-date regional trauma care system is within our grasp. In my view it is entirely appropriate for the Medicare program to insist that the elderly are treated for trauma in the appropriate setting. The only way this can happen is for each State to develop such a system and to require hospitals to participate in it based upon the role the system sets out for them. That is what the legislation I am introducing today would do and I commend it to my colleagues' attention.

A summary of the bill follows:

MEDICARE TRAUMA CARE AND EMERGENCY SERVICES QUALITY ASSURANCE ACT OF 1989

SECTION-BY-SECTION DESCRIPTION

I. Reductions in Medicare Payment for States Without Trauma Plans.

Provides that the Medicare weighting factor under the prospective payment system for trauma-related cases in hospitals in states without and trauma and emergency services plan will be considered to be zero. This will have the effect of reducing payment to zero but the hospital will still have an obligation to provide the service.

A hospital in a state with a plan will be required to provide evidence satisfactory to the Secretary that it complies with the standards and guidelines of the plan.

II. Development of Statewide Trauma and Emergency Medical Service Plans.

A trauma plan must provide for designation of hospitals as trauma centers, specify standards for pre-hospital care and emergency transport, and specify standards for inter-hospital transfers.

The plan must be developed by an agency of state government designated by the Governor.

The plan must establish standards and criteria for the designation of Level I, II, and III trauma centers, taking into account geography, transport system capabilities, trauma center distribution, and population density.

III. Grants to States for Development and Implementation of Statewide Trauma and Emergency Medical Services Plans.

The Secretary shall make grants from the Medicare Part A Trust Fund to states to develop and implement statewide trauma and emergency medical services plans.

Each state may receive up to five cents per capita under this authority subject to a matching requirement of 60 cents in State funds for every 40 cents in Medicare funds.

IV. Study and Report.

The Secretary is required to study and report to Congress by March 1, 1991 on the adequacy of payment under Medicare for trauma discharges including payment for outliers.

TRIBUTE TO BAKERSFIELD COLLEGE

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. THOMAS of California. Mr. Speaker, I rise today to pay tribute to an educational institution in my 20th District of California, Bakersfield College, whose football team last month won the coveted Potato Bowl and emerged as community college national champions. The runnin' Renegades secured the No. 1 ranking with the last-ditch 30-to-24 victory over another Golden State 11 from Fullerton College.

There is something particularly noteworthy about this momentous achievement for coach Carl Bowser and his players. Much attention in this country is paid to the big, major college football teams where players are given scholarships covering their tuition and boarding costs. For many of these players, football is an all-consuming passion leaving little room for the academics for which these colleges exist.

This is not the case at Bakersfield Community College, where the students are on their own and taking the initiative in getting an education that will help them later in life. That is the goal of community colleges, and it is with that spirit of independence and seriousness that the Renegades won the national championship. It is a testament to this team that they embody in its purest sense the term "student-athlete."

The Renegade victory is particularly pleasing to me inasmuch as I taught for 9 years at BC and am currently on leave as a professor in the political science department. I am extremely proud of the team, its coach, and its loyal fans. This was a total effort by a group of young people who are well aware of the ingredients for success on the football field and in life.

KEEP NEW JERSEY SHORE PROTECTED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. FLORIO. Mr. Speaker, I would like to turn the attention of my colleagues to a fellow Member, Mr. BILL HUGHES, to commend Mr. HUGHES for speaking out and bringing attention to a problem which concerns all of us in the New Jersey delegation. That problem is the preservation of the Jersey shore.

The shoreline of our great State has taken a beating lately, and those of us from New Jersey have had to fight to keep it beautiful. I was pleased to join Mr. HUGHES as he spearheaded the effort to curtail sewage dumping, and was likewise grateful to have his support and involvement in controlling the problem of medical waste which plagued our beaches this past year.

Now, once again, it seems our shoreline may face another threat, and that is the intrusion of offshore oil drilling. This threat cannot go unnoticed, and I would like to ask that the following editorial of December 23, 1988, from the Gloucester County Times of Woodbury, NJ, be included in this RECORD.

DON'T RISK ADDING OIL TO N.J. SHORE MESS

New Jersey beaches have been fouled by medical wastes, sewage, rotting lumber and other assorted forms of garbage in recent months—but not by oil.

Let's keep it that way.

The lack of oil contamination could be interpreted as a tribute to the care taken by companies that drilled for oil and gas in the Atlantic Ocean off the New Jersey coast.

The fact is there's been no drilling in the area since 1983; so there's been no chance of an accident that could cause environmental damage. Some people in the federal government would like to renew the drilling. Others, quite rightly, oppose the renewal of the offshore gas and oil exploration program.

Last year, the Interior Department published an inquiry in the Federal Register to assess industry interest in again leasing and exploring in the offshore area from Rhode Island to North Carolina. Several oil companies responded.

The Interior Department is now working on an environmental impact statement that is to be completed early next year. When that is ready, the agency could again lease tracts to companies interested in drilling exploratory wells.

There are valid economic and environmental grounds for halting further exploration for oil in the Mid-Atlantic region.

Tourism is a major industry in New Jersey. For our state, maintaining a clean environment is far more than an elitist concern for nature. It is a dollar-and-cents issue that affects jobs and investment.

The seafood industry, which has been badly hurt by pollution of the ocean, bays and wetlands, also is important to New Jersey's economy.

If major oil resources were located off the New Jersey coast, perhaps—under a national policy of energy conservation and self-sufficiency—new offshore exploration could be justified. That is not the case. We lack a national energy policy, and evidence indicates only meager oil and gas deposits in the area.

Between 1976 and 1983, 32 exploratory wells were drilled in the mid-Atlantic region. Only five produced oil or gas, and none in amounts sufficient to be profitable.

Why risk further environmental damage to our shores when the probable benefits are so small?

"The ecosystem is certainly as stressed as it can possibly be without being in serious jeopardy from offshore drilling," said Cindy Zipf, coordinator of Clean Ocean Action, a coalition of environmental groups.

Rep. William Hughes, D-2d Dist., also has spoken out against the Interior Department's plans. He says the new five-year program is too heavily weighted toward drilling in environmentally sensitive areas, and does not provide enough protection for marine and coastal resources.

A lot of effort is going into making sure New Jersey has no repeat performances of last summer's episodes of ocean and beach contamination. More needs to be done, including preventing development at the shore from ruining the very features that draw people to it. We do not need the additional threat of contamination from an accident at an offshore oil well.

THE RESCUE OF THE FREIGHTER SHIP, "YARRAWONGA"

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. MURTHA. Mr. Speaker, I would like to recognize the heroic actions of the three United States squadrons stationed in the United Kingdom who performed an extraordinary rescue mission under the most extreme weather conditions in the North Atlantic.

On January 14, 1989, crewmembers from the 21st Special Operations Squadron [SOS], the 67th Special Operations Squadron, and Det 4, 1730 Pararescue Squadron stationed at RAF Woodbridge, UK rescued 32 sailors in the North Atlantic Ocean, 500 miles off the coast of Ireland. The Cypriot registered freighter, *Yarrawonga,* was in imminent danger of breaking up due to hurricane-force winds, high seas, and its inability to maneuver because of lost boiler power. The 827 foot freighter had already sustained holes as large as 200 square meters due to the weather conditions.

On the afternoon of January 13, 1989, British and United States rescue coordination centers requested that MH-53J Pave Low helicopters from the 21 SOS and HC-130 helicopter refueling tankers from the 67 SOS, rescue the *Yarrawonga's* crew. These two squadrons, part of the 39th Special Operations Wing at Eglin AFB, FL, and the Air Force Special Operations Command—also known as 23d Air Force—at Hurlburt Field, FL, are specially trained for night, adverse weather flying over extended distances. The 67 SOS had to call HC-130 tankers to refuel the helicopters. No other foreign or domestic resources could have effected this mission.

The crews were forced to postpone the operation until the morning of January 14, 1989, to let the storm abate. The day of the rescue the winds were still blowing approximately 50 to 60 knots with 30 to 40 foot waves. The helicopters were met at the freighter by an HC-130 tanker from Iceland—the freighter was 720 NM south of Iceland—to refuel before attempting the pickup. The MH-130 could not land on the ship, so pararescuemen [PJ's] were lowered onto the ship to aid the sailors. Amidst the gusting winds and wet, heaving deck, the PJ's proceeded to put three people at a time on the hoist to be lifted into the helicopter. Extreme caution and concentration was required during the extraction to preclude slamming the victims into the ship while the freighter and the helicopter were being buffeted by the wind and seas. The Pave Low helicopters were then refueled by a second HC-130 tanker this time from RAF Woodbridge, and flew to Shannon, Ireland.

The heroic effort by these special operations crewmembers saved 32 human lives in extremely dangerous weather conditions. They are to be commended for their actions and the pride and honor they have brought to themselves and to the United States of America. These crewmembers were:

Overall Mission Commander: Goodwin, William E., LTC.

Assistant Mission Commander: Stafford, Kenneth, Maj.

HC-130 CREWS

A/C: Odom, John R. III, Lt Comr (U.S. Coast Guard).
CP: Lawson, Randolph S., 1 Lt.
Nav: Frank, Bruce D., Capt.
Flight Engineer: Lawrence, Ralph T., SSgt.
Radio Operator: Pikora, Thaddeus T., MSgt.
Loadmaster: Brech, Brian A., TSgt.
PJ: Coats, Bryan K., Sgt.
PJ: Hewett, George A., Jr., SSgt.
Crew Chief: Bonner, Charles H., A1C.
Crew Chief: English, Franklin J., SrA.
A/C: Weiss, Steven W. Maj.
CP: Young, Kevin G., Capt.
Nav: Dudley, Robert B., Capt.
Flight Engineer: Todd, Richard W., TSgt.
Radio Operator: Thomas, John O., TSgt.
Loadmaster: Wells, Ricky J., TSgt.
PJ: Sheets, Robert R., SSgt.
PJ: McPhee, Michael E., SSgt.
ACM (Scanner): Stewart, Robert, Maj.

MH-53J CREWS

AC: Freeman, David Capt.
CP: Headrick, Richard D., Capt.
CP: Shozda, Mathew J., Capt.
Flight Engineer: Roiz, Mario M., SSgt.
Flight Engineer: Parris, LeRoy E., SSgt.
PJ: Jaso, Emillio Jr., TSgt.
PJ: Vanlue, Jack A., SSgt.
Gunner: Taylor, William, Sgt.
Flight Surgeon: Litz, Henry A., LTC.
AC: Jones, Dennis M., Capt.
CP: London, Charles R., Maj.
CP: Hunt, Bobby Lee, Maj.
Flight Engineer: Wheeler, Ronald D., Sgt.
Flight Engineer: Lucas, John P., A1C.
Gunner: Blackwood, Cordis D., TSgt.
PJ: Elson, Stephen B., SSgt.
PJ: Teeple, Christopher J., SSgt.
Flight Surgeon: Neel, Richard L., Maj.

TRIBUTE TO PARAMEDIC ANDREA CAMERLO

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. KOLTER. Mr. Speaker, in Armstrong, Westmoreland, Butler, and Allegheny Counties, Andrea Camerlo, Paramedic II of the Freeport Volunteer Fire Co. and Ambulance Service, is regarded as one of the best paramedics assisting other ambulance services. She assists other services at least twice a week. There is almost never a day that she is not involved in some type of activity for the Freeport Ambulance Service.

The senior citizens in the Freeport, PA area call her their "Guardian Angel" because of her frequent trips to their senior citizen apartment complex in emergency situations and because of her calm manner in attending them.

She is the only paramedic in Armstrong County to be awarded the "Paramedic of the Year" award twice, in 1985 and again in 1988. She has also received the "Most Active Ambulance Personnel" award of the Freeport Ambulance Service where she is assistant ambulance corps commander, and one of the most active each year.

Andrea has paid for her own training as an E.M.T., Paramedic I and II. She is also qualified in intubation, a complicated procedure involving the introduction of tubes into the body. She is a paramedic preceptor for the Freeport Ambulance Service and other local services and volunteers to help train new paramedics in the field.

Andrea joined the Freeport Ambulance Service in 1982. She heads the ambulance billing committee which provides most of the funds needed for day to day operation, spending at least 10 to 12 hours per week doing billing and paper work. She handles the scheduling of routine ambulance transfers through Rainbow Control.

Despite being hospitalized and ill for over a month this year, she has participated in over 240 civic activities. Freeport and the Allegheny Kiski Valley of the Fourth Congressional District are fortunate to have a volunteer of her caliber.

GAS TAX

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. McEWEN. Mr. Speaker, Congress will soon be heavily involved in budget negotiations and in searching for ways to address the deficit. One of the proposals for reducing the deficit has been to increase the gas tax—a proposal that should immediately be rejected.

Gas taxes have been used for years to fund transportation projects. The pay-as-you-go approach helped to build the interstate highway system that we are so proud of today. This approach makes sense, so that those who use our transportation systems, most, pay for what they use.

Expanding the use of the gas tax to raise revenue for the general fund, and thereby reduce the deficit, would not only be extremely regressive, but also has the potential of damaging our economy and reducing the amount of gas tax revenues available for the individual States to use on their own transportation projects.

The deficit is a problem that must be addressed by this Congress, this year. But the answer does not lie in a tax that unfairly penalizes those people who live in rural communities or those involved in industry dependent on the availability of motorfuels.

My own district covers 16 counties, including a great deal of rural farmland. My constituents don't have the choice of utilizing mass transit—they are forced to drive to get to work and carry out their daily lives. They should not be forced to make up for the overspending that has occurred in many other areas of government.

Recently House Resolution 41, a resolution expressing opposition to the notion of a gas tax, was introduced in the House of Representatives. I hope all of my colleagues will join in cosponsoring this resolution.

We need to find a fair and equitable way of solving the deficit problem, and increasing the gas tax is not the answer.

MID-VALLEY UNIT ACT

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. LEHMAN of California. Mr. Speaker, today I am joined by my California colleagues, the Honorable CHIP PASHAYAN, TONY COELHO, and BILL THOMAS in introducing legislation to authorize the construction of the Mid-Valley Canal as an integrated unit of the Federal Central Valley project. Once constructed, the canal will transport up to 500,000 acre-feet of surface water to help reduce ground water overdraft in the Mid-Valley service area.

The 2.8 million acres in Fresno, King, Kern, Madera, Merced, and Tulare Counties that make up the Mid-Valley service area is one of the most productive regions in the world, producing a wide variety of crops. Although a significant portion of the acreage is planted to permanent crops, a variety of other crops are also produced. For several decades, both ground water overdraft and stored surface water supported the irrigated agriculture practices required in the semiarid region. Through the use of sophisticated irrigation technologies and conservation practices, the Mid-Valley service area has maximized the efficient use of the supply that is now available.

However, recent hydrological studies of regional groundwater aquifers indicate that there could be as much as 440,000 acres of this productive farm land forced out of production despite efforts to conserve. In fact, ground water overdraft is estimated to be 1.5 million acre-feet annually. Only additional surface water can prevent the economic loss that such acreage reductions will bring.

The Mid-Valley unit, in addition to some new construction, will rely primarily on existing facilities and transfer agreements as a means to transport additional surface supplies available in the Sacramento-San Joaquin Delta.

The Bureau of Reclamation has been performing the necessary feasibility studies and is expected to release that report early this year. The status report released in 1987 provided the opportunity for a field hearing and it is anticipated that further hearings will be scheduled to coincide with the release of the feasibility study.

The following is the text of the bill:

H.R. 738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mid-Valley Unit Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is need for a federally constructed project to serve approximately 4 million acres of irrigated agricultural lands located in Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, California;

(2) there is presently an overdraft of groundwater in these counties that would be alleviated by providing irrigation, municipal, and industrial water supplies;

(3) a federally constructed project would facilitate optimum conjunctive use and reuse of surface and underground water supplies enhancing the agricultural stability of the San Joaquin Valley; and

(4) fish and wildlife resources and outdoor recreation opportunities would be enhanced by construction of a project.

SEC. 3. AUTHORIZATION.

(a) AUTHORIZATION.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"), acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof supplementary thereto), is authorized to construct, operate, and maintain the Mid-Valley Unit as an addition to and an integral part of the Central Valley Project, California, upon completion of a favorable Planning Report/EIS on the San Joaquin Valley Conveyance Investigation.

(b) PRINCIPAL WORKS.—The principal works of the Mid-Valley Unit shall consist of pumping plants, pumping generator plants, power plants, power transmission facilities, canals, channels, levees, drains, flood control works, pipelines, regulating reservoirs, off-stream and on-stream storage reservoirs, deep wells and pumps, and distribution systems and facilities consistent with the recommendations of relevant planning documents. The Secretary is authorized and directed to utilize, whenever feasible, existing water supplies and conveyance and storage facilities.

(c) PROVISION OF WATER.—The Secretary is authorized to provide water supplies for the irrigation of approximately 4 million acres of land in Merced, Madera, Fresno, Tulare, Kings, and Kern Counties, as identified in the Planning Report/EIS on the San Joaquin Valley Conveyance Investigation.

SEC. 4. FISH AND WILDLIFE ENHANCEMENT AND RECREATION.

The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the Mid-Valley Unit shall be in accordance with the provisions of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) and the Federal Water Project

Recreation Act (79 Stat. 213; 16 U.S.C. 4601-12 et seq.).

SEC. 5. WATER DELIVERY AND STORAGE AGREEMENTS.

(a) IN GENERAL.—The Secretary is authorized and directed to—

(1) execute a contract with the State of California or other persons for the wheeling, delivery, exchange, and storage of water through the facilities of the State Water Project of California or other facilities for use in the Mid-Valley Unit; and

(2) execute contracts with the State of California or other persons for the construction or enlargement of conveyance and storage facilities for joint use.

(b) COSTS.—For the purposes of allocating the costs associated with the contracts referred to in subsection (a)—

(1) the portion of any facility utilized pursuant to a contract referred to in subsection (a)(1) shall be treated as an integral part of the Central Valley Project and the costs associated with such utilization shall be treated as operation and maintenance costs of a component of the Central Valley Project; and

(2) the portion of any facility constructed or enlarged pursuant to a contract referred to in subsection (a)(2) shall be treated as an integral part of the Central Valley Project and the costs associated with such construction or enlargement shall be treated as a reimbursable capital repayment obligation of the Central Valley Project.

SEC. 6. LOCAL COST-SHARING AGREEMENTS.

The Secretary may enter into agreements with the Mid-Valley Water Authority, a California Joint Powers Authority, for the provision of all or any portion of the authorized distribution facilities as the local contribution to the cost of the project.

SEC. 7. STATE AND LOCAL PUBLIC INTEREST.

In locating and designing the works and facilities authorized for construction by this Act, and in acquiring or withdrawing any lands as authorized by this Act, the Secretary shall give due consideration to relevant reports by the State of California, and shall consult with local interests who may be affected by the construction and operation of the works and facilities or by the acquisition or withdrawal of lands, through public hearings or in such manner as in his discretion may be found best suited to a maximum expression of the views of such local interests.

SEC. 8. AUTHORIZATION OF FUNDS.

There is authorized to be appropriated for construction of the Mid-Valley Unit as authorized in this Act, the sum of $, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

PUERTO RICO: A MAJOR BUYING POWER FROM THE UNITED STATES

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. FUSTER. Mr. Speaker, I am certain that my colleagues are aware of the special relationship that exists between Puerto Rico and the United States—a form of political association called commonwealth that benefits both San Juan and Washington. But my colleagues may not be aware that Puerto Rico, with a population of only 3.3 million, is one of the leading markets for American goods in the world.

These are some comparisons, as compiled by my good friend Scott Runkle, whose Washington-based public relations firm disseminates constructive information about the ongoing progress of the Commonwealth of Puerto Rico:

Puerto Rico bought $7,344 million from the U.S. in 1987.

This exceeds the combined purchases of Brazil, Argentina, Colombia and Chile—leading American customers in South America, with an aggregate population of 228 million.

It also tops the combined purchases from the United States of Italy, Austria, Portugal and Greece, whose total population is 85 million.

Puerto Rico buys more from the U.S. than all the Near East Arabic countries, including oil-rich Saudi Arabia.

It buys more American goods than all the African countries combined, whose population is reported (by the U.N.) to be 645 million.

The island Commonwealth's ability to purchase so much from the United States reflects its rapidly expanding economy. Puerto Rico had a per capita income in 1940 of only $121 and was called the "poorhouse of the Caribbean". Now its per capita income of over $5,000 is the highest in the Hemisphere, excepting only the United States and Canada. Its GNP grew by 10% over the last two years—5.1% in fiscal year 1987 and 4.9% in fiscal 1988 (ending last June).

The industrial sector, with over 2,000 manufacturing plants, provides 42% of the island's net domestic income of $22.5 billion. It is the powerhouse of the economy, seconded by booming tourism trade which generated over $1 billion gross income last year. New industrial investment totaled $3 billion over the last three years; last year alone, 249 new industrial plants and projects were promoted to expand the island's manufacturing base.

Economic statistics alone do not reflect the enormous change in Puerto Rico. Students enrolled in higher education courses totaled 12,497 in 1950; in 1987 this figure reached 158,620. In a few decades, a new generation of well-educated, middle-class Puerto Ricans have become industrialists, bankers, engineers and professionals, a far cry from the bare-footed cane cutters of 40 years ago. In industrial plants, 90% of managers are now Puerto Ricans, and Puerto Rico has trained so many graduate engineers that NASA has recruited and employed 145 of them. Life expectancy soared from 46 years in 1940 to 74 years today.

PUERTO RICO'S OUTREACH TO AID DEVELOPMENT IN CARIBBEAN

Nor is Puerto Rico concerned only about its own progress. It has also launched an ambitious, far-reaching program to aid Caribbean and Central American countries to expand their own economies and train their personnel in a wide range of skills. This outreach has already made Puerto Rico the "keystone" of the Caribbean Basin Initiative, according to the U.S. Department of Commerce's spokesman, who adds: "We have our hats off to Puerto Rico." In two years, Puerto Rican promotional efforts have led to creation of 54 new industrial plants in 11 Caribbean Basin countries, with an investment of more than $55 million and creation of nearly 10,000 badly-needed jobs.

PURCHASES FROM THE UNITED STATES BY VARIOUS COUNTRIES, 1987

Country	Purchases from United States (millions) [1]	Population (millions) [2]	Per capita purchases
South America:			
Argentina	$1,090.3	32.9	$33
Brazil	4,039.9	150.4	27
Chile	796.2	13.1	61
Colombia	1,411.5	31.8	44
Bolivia	140.3	7.3	19
Ecuador	620.7	12.7	49
Paraguay	183.2	4.2	44
Peru	814.1	25.1	32
Uruguay	91.6	3.1	30
Puerto Rico	7,344.0	3.3	2,225
Europe:			
Austria	548.7	7.5	73
Belgium/Luxembourg	6,189.7	9.9	625
France	7,743.2	55.4	140
Denmark	892.7	5.2	172
Greece	401.8	10.2	39
Ireland	1,810.4	3.8	476
Italy	5,529.7	57.4	96
Netherlands	8,216.7	14.7	559
Portugal	581.3	10.4	56
Spain	3,148.3	40.5	77
Sweden	1,893.5	8.2	231
Norway	841.9	4.2	200
Near East:			
Iraq	96.6	18.5	5
Israel	3,130.2	4.7	666
Jordan	365.0	4.3	85
Lebanon	93.2	3.0	31
Saudi Arabia	3,373.4	13.5	250
Syria	93.2	12.8	7
Yemen	115.5	7.5	16
United Arab Emirates	619.0	1.6	387
Kuwait	504.6	1.7	297

[1] Source: FT990 publications by U.S. Department of Commerce.
[2] Source: Population Division of the United Nations.

VIC FAZIO: A MEMBER'S MEMBER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. MANTON. Mr. Speaker, I want to call to the attention of my colleagues an article that appeared in this week's edition of National Journal regarding our colleague, VIC FAZIO. The article, which is entitled "Trouble Shooting Insider," details VIC's many tasks and accomplishments during his 10 years in the House. All of us who have had the pleasure of working with VIC know he is a skilled legislator. VIC knows how to extend the realm of the possible in politics and yet still achieve a result which is sound public policy. In this era, that is a talent which is rare indeed.

Mr. Speaker, I commend this article to my colleagues and ask that it be reprinted in the RECORD at this point.

TROUBLE-SHOOTING INSIDER

Rep. Vic Fazio, D-Calif., has been a leading congressional spokesman for the proposed 50 per cent pay raise for top federal officials, including Members of Congress. As a result, he was ready for the considerable criticism directed at him by some constitu-

ents, columnists and Washington-based interest groups.

What bothers Fazio, however, is the impression that he regularly does the congressional leader's dirty work. Whatever the appearance, many Members would gladly change places and fill Fazio's role as one of the House's chief dealcutters and facilitators.

Unlike some influential lawmakers who select an issue and carefuly nurture it, Fazio is a trouble-shooter who usually deals with several at a time. That reflects both his self-starting propensity and his committee assignment—Appropriations, where members deal with the nuts and bolts of government and have little time for lofty policy debate. His activities there stem chiefly from his chairmanship of the Legislative Branch Subcommittee, which dishes out the $1.8 billion congressional budget, along with a variety of funds that affect California, notably defense and public works projects. His expertise in internal House matters also includes the subject of ethics, in which he is a leader in developing the reform package that the House is expected to consider in the coming weeks.

Fazio's skill in managing tasks has made him a popular resource for House leaders and rank-and-file Members alike. "He's Mr. Insider who understands the outside," said Majority Whip Tony Coelho, D-Calif. "Vic is the one who brings home the bacon for California. . . . People like him and go to him for their needs." The two are close friends, and Fazio was Coelho's campaign chairman in his 1986 bid for Whip.

One of many times when Fazio has helped his home state score a major victory at the Appropriations Committee came last year, when he led the effort to impose a one-year moratorium on California offshore oil drilling. The proposal has been strongly opposed by Louisiana Members, who argue that each energy-producing state should produce its fair share.

Pamela A. Barry, director of the California Democratic Congressional Delegation, said Fazio has succeeded because "he is a quick learner, he has an incredible grasp of information and he works both sides to find an effective compromise." Although the reach of the state's delegation—the largest, by far, in the House and still growing—sometimes offends other Members, California's voting strength makes the delegation difficult to ignore.

When his state's interests and the House's institutional problems are at stake, Fazio is willing to work with Republicans. But he also plays a leadership role on partisan fronts. He leads the fund-raising efforts of a committee of House Democrats from California and is working with colleagues to prepare for the state's critical 1991 House redistricting. And he has been active nationally in helping Democrats prepare for redistricting; with the backing of Speaker Jim Wright of Texas, Fazio heads "Impact 2000," a House Democratic group that raises money for, among other things, targeting legislative races in key states.

Perhaps to keep open his contacts with all sides, Fazio plays down his political partisanship. "I don't feel comfortable in being a strong ideologue," he said in a recent interview. "I'm a cementer. My comfort is working with people to attain a goal once the task is defined."

RELIEVING THIRD WORLD DEBT IN U.S. INTEREST

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. FRANK. Mr. Speaker, the terrible effect of crushing debt on many of the nations of Latin America is by far the most serious problem we face in this hemisphere. I never agreed with the enormous, negative consequences which President Reagan saw in the Sandinista government's continuation in power. But as I think about his assertions of our interest in combating the spread of radical, antidemocratic, regimes in the hemisphere, of the exacerbation this would cause of our immigration problems, of the undermining of democracy that would result, and of the terrible conditions in which people in Latin America would be forced to live, it seems clear that the role which Ronald Reagan mistakenly ascribes to the Sandinistas in fact is being played by the crushing debt burden of Argentina, Brazil, Mexico, and many other Latin America countries.

It is essential that the U.S. Government take the lead in reducing this debt burden. As long as the countries of Latin America are forced by a variety of pressures—including that of our own Government—to try to keep up full payments on this debt, the result will be increased poverty, destabilization, and a discrediting of democracy. The Baker plan did little to alleviate this situation. It is essential that our Government now take the lead in working with the banks that hold this debt to bring about a substantial reduction, recognizing the reality that it will not all be repaid, and taking affirmative steps so that the economies of our neighbors to the south do not continue to be devastated by the efforts to do what we all know cannot—and should not be done.

While our reasons for relieving this debt burden are many, and include I would hope a humanitarian impulse to prevent the continued lowering of living standards that this debt helps inflict on many of the poorest people in our hemisphere, there are self-interested reasons of a legitimate sort for America in reducing the debt burden. The people who are burdened by this debt in Latin America are among our natural customers in the world. And if their economies are free to begin once again to grow and to consume in a reasonable way, American growers, producers, and workers will be among the prime beneficiaries. For instance, the American Soybean Association recently sent to all of us in the Congress a thoughtful letter calling for a "conditional write-down of debt engaging the participation of industrialzed nations, lending institutions, and debtor developing countries." The American Soybean Association correctly pointed out that U.S. soybean farmers are especially hard hit by the debt crisis."

I cannot think of a more pressing case where enlightened self-interest requires a change in our policy. Instead of continuing to act as a collector for large—and now profitable and secured—commercial banks, our Government should be working with these banks to press them to accept reality, and write down the debt for a variety of strategic, commercial, and humanitarian reasons.

Mr. Speaker, as one example of the need for this, I ask that the American Soybean Association letter on the subject be printed here.

AMERICAN SOYBEAN ASSOCIATION,
Washington, DC, January 17, 1989.

Hon. BARNEY FRANK,
House of Representatives
Washington, DC.

DEAR REPRESENTATIVE FRANK: The Third World debt crisis deserves and is receiving international attention. Leaders from Japan and France have separately forwarded relief proposals, Soviet leader Gorbachev addressed the issue in his U.N. speech, and leaders of indebted Latin American nations have met to discuss possibilities for an effective resolution. U.S. soybean farmers are also concerned about the problem of Third World debt. We urge the U.S. to assume the leading role in organizing an innovative, long-term solution.

The debt crisis has intensified a myriad of problems around the globe. The foreign debt of developing nations like Brazil has led directly to tropical deforestation. Forest burning and clearing is in turn responsible for a significant percentage of the global warming trend. This greenhouse effect has dangerous implications for the U.S. agricultural sector, including greater frequency of droughts and major crop losses.

In addition to these environmental threats, the debt crisis threatens our national security. Third World nations burdened with unpayable debt cannot develop economic or political stability. Infant democracies are endangered, and human rights are violated. Resentment and unrest are growing trends in many crucial Latin American political circles.

The need to acquire foreign exchange for debt payments encourages rash, destructive measures. Indebted developing nations are forced to adopt an "export at all costs" philosophy that curbs imports and ignores the malnourished of the Third World in favor of export earnings. U.S. farmers lose a potential marketplace for their goods and face greater competition in third-country markets from heavily subsidized exports of the Third World.

U.S. soybean farmers are especially hardhit by the debt crisis. Two of the largest debtors, Brazil and Argentina, are also our largest competitors. Even though both nations have widespread poverty and malnutrition, they must export their production of soybeans to gain the foreign exchange to service their foreign debts. Brazil and Argentina's debt-induced export dumping of their production causes U.S. farmers to lose more and more markets abroad.

The problem will not be successfully resolved without intervention. Third World nations cannot and will not repay the staggering amount of debt owed. The United States should develop and help implement a satisfactory solution. We believe that a reevaluation of the Baker plan is in order.

We maintain that the most effective plan for resolving the crisis includes a conditional write-down of debt engaging the participation of industrialized nations, lending institutions and debtor developing countries. Debt forgiveness and future lending plans are essential and must require recipient countries to pursue sound environmental, political and economic policy if the crisis is to be managed effectively.

International, multilateral cooperation is necessary to effect a long-term resolution.

Now is the time for concerted action by governments, religious groups, environmentalists, humanitarians, and the agricultural sector. We urge the 101st Congress and the new Administration to begin work toward an expedient solution.

Sincerely,

JAMES ADAMS,
President.

THE INTRODUCTION OF A BILL TO PROVIDE FOR THE DISPLAY OF THE NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG AT U.S. DIPLOMATIC OR CONSULAR POSTS AND U.S. MILITARY BASES WORLDWIDE

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation to require each U.S. diplomatic or consular post and U.S. military base to fly the National League of Families POW/MIA flag until a sufficient accounting of our missing men in Indochina is made. Our country is still suffering from the scars of Vietnam. However, for most of this suffering is a memory that we tend to forget about when going about our busy lives. The stark memories of Vietnam are brought back to us at certain times, such as, a visit to the popular Vietnam Memorial in Washington, DC, or by movies and television shows depicting the Vietnam war. However, for one group of Americans the suffering and pain of Vietnam is not just a faded memory. It is a daily pain that they must endure because their father, son, husband, or brother is missing and unaccounted for in Vietnam, Cambodia, or Laos. Over 2,000 Americans are still listed as missing in action. These families live with a constant stream of questions about the location and welfare of their loved ones.

To its credit, the Reagan administration took a fairly active position on the POW/MIA issue. During the dedication for the Unknown Soldier from the Vietnam war, President Reagan declared "an end to America's involvement in Vietnam cannot come to an end before we've achieved the fullest accounting of these missing in action" and again rededicated this task as a "highest national priority." Since 1982 the administration has held high level negotiations with the Governments of Vietnam and Laos. As a result of these talks, remains of some Americans the Vietnamese listed as "died in captivity" in South Vietam have been returned. These are the first remains to be returned since the end of the war. Continued efforts are needed until all of the soldier are accounted for. It is my hope that the Bush administration will continue the efforts of the Reagan administration in this endeavor.

I introduced this measure to provide a symbol to the world that we have not forgotten those brave individuals who sacrified for our country. The flying of the National League of Families POW/MIA flag over Federal buildings is not unprecedented. In fact on POW/MIA Recognition Day, it flies over the U.S. Capitol, the White House, the Departments of State and Defense, and the Veterans' Administration. While military bases are already encouraged to fly the National League of Families POW/MIA flag on appropriate days, it would be more powerful if the flag was to fly at all times.

Strong bipartisan support for continued pursuit of the POW/MIA issue has been formed in Congress. To this end, Congress has passed legislation directing the President to secure a full accounting of Americans missing in Southeast Asia. In addition, in order to keep the issue of POW-MIA's current in the minds of the administration and the American people, Congress has passed legislation designating "POW/MIA Recognition Week". I believe that this legislation, which I am introducing today, will add to the past congressional efforts.

While such measures can do little to relieve the pain for American families that have suffered the loss of a loved one, I believe they represent an appropriate expression of our unending commitment to answering the MIA question. I urge my colleagues to join me on this measure which will provide a constant international reminder that there are still Americans unaccounted for in Indochina and that our commitment to them remains.

The following is the text of the bill:

H.R. 742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISPLAY OF POW/MIA FLAG.

The National League of Families POW/MIA flag shall be displayed at each United States diplomatic or consular post and military installation until the President determines that there has been the fullest possible accounting of the Americans who are imprisoned, missing, or unaccounted for as a result of the conflict in Southeast Asia.

SEC. 2. MANNER OF DISPLAY.

The National League of Families POW/MIA flag displayed pursuant to section 1 shall be displayed in such size and place as the Secretary of State or the Secretary of Defense may determine consistent with section 3 of the Joint Resolution entitled "Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America" (36 U.S.C. 175).

DEALING WITH COMMEMORATIVES

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Ms. SCHNEIDER. Mr. Speaker, in the 100th Congress I introduced legislation to establish a commission to advise the President of the United States on the enactment of commemorative events. Representative Whitehurst introduced this same bill in both the 98th and 99th Congress. This legislation attracted a bipartisan group of over 200 cosponsors in the 100th Congress. I and my colleagues who supported this legislation want to establish a more efficient, fair, and cost-effective procedure for considering commemorative events.

The present system for dealing with commemoratives consumes too much of the valuable time of Members and their staff. Given the large Federal budget deficit, the growing number of failing savings and loans, and costly environmental cleanup programs, Congress has more than enough work to do in the coming 2 years without having to deal with an inordinate number of nonsubstantive pieces of legislation.

I do not believe the present system best insures the impartial review of commemorative proposals. Under the current system of designating commemorative days, weeks, and years, Members or staff who are sufficiently persistent can often obtain the requisite number of cosponsors to pass commemorative legislation. While I do not feel qualified to judge the value of commemorating "National Dairy Goat Awareness Week," an independent commission would insure that all groups would gain an impartial hearing, and that the commemorative events endorsed by our Government would represent the values that we as a people feel are important.

The present system is not the most cost-effective system for considering commemoratives. I estimate that the proposed commission would cost 30 percent less than the present system. This would result in savings of several hundreds of thousands of dollars. During these times of budget crunches, all wasteful procedures should be reexamined and made to be more cost effective.

Fifteen years ago during the 90th Congress, only one-twentieth of the total number of bills enacted were commemoratives. During the 100th Congress, over one-third of the bills passed were commemoratives. The time has come to rationalize the procedure for dealing with commemoratives.

HOSPITAL INDIGENT CARE ASSISTANCE ACT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, I am today reintroducing the Hospital Indigent Care Assistance Act. This is a bill to provide critical financial support to the Nation's safety net hospitals burdened by the costs of uncompensated care.

Between 35 and 37 million Americans are without health insurance. When illness strikes, these individuals are often unable to receive physician care in the community. Instead they must either receive emergency or outpatient care from a hospital or delay care until they must be treated as an inpatient. In either care, the hospital ends up footing the bill.

A recent Robert Wood Johnson Foundation study on access to care found that access to care for these uninsured Americans has declined since the foundation's last study in 1982. This decline was particularly harsh for the poor and minorities. Thirteen and one-half million Americans reported not receiving medical care for financial reasons.

In 1986 U.S. hospitals provided approximately $8 billion in uncompensated care. Vir-

tually all of that care was given by public and not-for-profit hospitals.

While public hospitals have about 21 percent of all hospital beds, they provide 55 percent of all charity care. In large metropolitan areas these hospitals account for only 6 percent of beds, but provide 22 percent of charity care.

However, this is not simply a question of support for public hospitals. Slightly less than half of the Nation's 100 largest metropolitan areas have public hospitals. Most of the Nation relies upon voluntary, not-for-profit hospitals to act as the safety net for the poor and uninsured.

The problem is that the ability of these hospitals to cope is stretched to the breaking point. Medicare and Medicaid have attempted to reduce the dramatic rates of increase in hospital payments incurred by those two programs. Private payers have pushed for discounts and rate reductions as part of their cost containment efforts.

And although these policies make sense in isolation, they do make it ever more difficult for the safety net hospitals to discharge their responsibilities to the uninsured.

Signs of this stress are increasing. For example, virtually every week brings an article from the Los Angeles Times indicating that another hospital is closing its emergency room or pulling out the trauma network. This is often characterized as an emergency care problem, but it isn't; it is an indigent care problem. The reason these hospitals are taking this step is because the trauma system brings them more indigent patients than the hospital can handle financially.

Clearly, the whole system of health care financing demands reform. I have introduced legislation, the "Employee Health Benefits Improvement Act," which would require every employer to provide health insurance to their employees. It is also clear that the Medicaid program which provides health care to less than half the poor requires reform and significant expansion. However, I do not expect either of these actions will occur overnight.

We need to act quickly to assure the financial stability of the Nation's safety net hospitals. We must act to assure continued access to necessary medical care who cannot afford it. The Hospital Indigent Care Assistance Act of 1989 will direct critical care to the hospitals which have demonstrated their commitment to care for the less fortunate in our society.

A summary of the bill follows:

HOSPITAL INDIGENT CARE ASSISTANCE ACT OF 1989

SUMMARY

I. Hospital Indigent Care Trust Fund

The Trust Fund is funded through a one percent excise tax on the amounts paid by employers for health benefits. The tax would provide approximately $1.5 billion to the fund in 1990.

II. Hospitals Eligible for Support

A. Hospital Eligibility:

A hospital is eligible for support if:

i. more than 10% of inpatient days are attributable to Medicaid, *or* more than 10% of total charges are uncompensated care charges; and

ii. the hospital has patient care revenues less than patient care operating expenses.

B. Allowable Indigent Care Costs:

Indigent care costs are defined using existing Medicare allowable cost definitions and methods plus labor and delivery service charges and costs.

III. Adjustments for State and Local Support of Indigent Care

Allowable indigent care costs are decreased for hospitals that receive state or local tax support for patient care by one half of the dollar amount of the tax support.

For hospitals in a state with a Medicaid program that provides benefits above the national average, the allowable indigent care costs are increased in proportion to the Medicaid program's contribution to reducing hospital uncompensated care.

IV. Distribution of Funds

Each eligible hospital receives up to fifty percent of allowable indigent care costs in the first year. Thereafter, the percentage is adjusted to reflect available funds in the fund. No eligible hospital will receive more payment than is necessary to assure that the hospital breaks even on patient care.

V. Study

The bill provides for a two-year study of indigent care.

SALUTE TO THE KERN COUNTY ECONOMIC OPPORTUNITY CORP. [KCEOC]

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. THOMAS of California. Mr. Speaker, I rise today to salute the Kern County Economic Opportunity Corp. [KCEOC], which is in its 25th year of dedicated service to the low-income community in Kern County. The KCEOC motto—"Helping People to Help Themselves"—is devoted to promoting self-sufficiency and to the continuing battle against the cycle of dependency engulfing those in poverty in America.

The KCEOC was established in Kern County as a private nonprofit corporation and given the responsibility for planning, developing, and implementing programs designed to encourage maximum participation of Kern County's low-income communities.

The agency is involved with a diverse set of programs designed to meet community needs, including emergency homeless assistance, emergency crisis intervention, low-income home energy assistance, Head Start, and women, infants, and children; and also operates a medical facility, the Family Health Clinic.

The KCEOC Board of Directors is the policy-making body of the agency and current board members are: Andre Binns, John Nilon, Fuchsia Ward, Doris Cruz, Lisa Green, W.G. "Gus" Davidson, Joel Heinrich, Barbara Bartenstein, Michael Worthing, Lois Stott, Annette Thompson, Christine Morris, Sheila Alexander, Jonathon Webster, Carmen Torres, Bea Wren, Johnnie Hunt, Peggy Rangel, Dick Noreen, and Lottie Woodruff.

I want to congratulate this group of constitutents and let my colleagues know that the determination to make the world a better place to live is alive in Kern County today. With dedication and hard work, the KCEOC has made a difference in the lives of many Kern County residents.

FLORIO HONORS NICHOLAS A. VIRGILIO

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. FLORIO. Mr. Speaker, I'd like to take this opportunity to pay tribute to the life and work of an outstanding poet and individual, Nicholas A. Virgilio.

Nick Virgilio, born and raised in Camden, NJ, was a master of Haiku poetry, as well as one our our Nation's most beloved Haiku poets. He graduated from Camden High School in 1946, spent 2 years in the U.S. Navy, and graduated from Temple University in Philadelphia in 1952.

Virgilio spent several years as a disc jockey before accidentially discovering Haiku poetry in 1962 at the Rutgers University library in Camden. Working diligently in his basement, Virgilio perfected his art to the point where he was considered among the world's best writers of Haiku. His most famous poem is:

Lily: out of the water . . .
out of itself.

In 1987, this poem appeared on the cover of the New York Times Book Review, has been translated by the Crown Prince of Japan and is unequaled in the English language.

Like Camden's most famous poet, Walt Whitman, Nick Virgilio produced only one book, entitled "Selected Haiku." In it he manages to capture both the beauty and hardness of life. As is stated on the back cover of his book:

These are haiku that call you back repeatedly to events and people who deserve remembering, to moments when something rare and special happened, even if the rest of the world passed it by. Sometimes they are moments of grief or bitterness; sometimes they offer a fleeting beauty, or a gust of comedy, or an abiding tenderness.

On January 3, 1989, Nick Virgilio died suddenly. His passing represented a great loss, not only for our community, but for admirers of poetry and literature throughout the world. At his funeral, in Camden's Sacred Heart Church, he was eulogized as someone who brought honor to Camden, as well as to the entire Nation.

Mr. Speaker, I am certain that my colleagues would join me in paying tribute to Nick Virgilio, a great American poet whose work will continue to inspire generations to come.

CATHOLIC SCHOOLS WEEK

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. MURTHA. Mr. Speaker, I would like to take a moment to recognize the outstanding work that the many Catholic schools across

the United States do in educating children of the Catholic faith. Education grows increasingly difficult in our country, as our youth face more and more distractions that compete with learning in the schools. The dedication and devotion of the teachers, the principals, and the administrators of our Catholic schools should be admired, as these individuals strive to help children gain a good education as well as learn about Catholic values and faith.

As many Catholic schools across the country celebrate Catholic Schools Week from January 29 to February 4, I would like to add my congratulations and admiration for the effort that Catholic schools are putting into education today. Education is the cornerstone on which our country has been built and continues to grow, and I salute all those involved in Catholic education for their contributions to this most important of all work.

TRIBUTE TO PENNSYLVANIA ELKS STATE ASSOCIATION

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. KOLTER. Mr. Speaker, I rise to pay tribute to two events being honored by the Pennsylvania Elks State Association: the 175th anniversary of the Battle of Lake Erie, and the Elks National Patriotism Week held February 13 to 17, 1989.

September 10, 1988 marked the 175th anniversary of the Battle of Lake Erie, which was of great significance because it was the first time in 500 years that a British fleet was defeated in a major engagement. This battle also ensured that the United States would maintain control of Detroit and the Great Lakes. The only surviving vessel of this victorious battle was the U.S. brig *Niagara*. This year she is to be dismantled, rebuilt, refitted and floated to her new dock in Erie Harbor, PA to receive recognition. Please join me and the Pennsylvania Elks State Association in remembering this significant battle and its sole surviving ship, the U.S.S. *Niagara*.

I also ask my colleagues to join me and the 1.5 million Elks in the United States in celebrating Elks National Patriotism Week. During this week, the Elks are asking Americans to fly our Nation's flag to promote pride in our country. The Elks are committed to preserving our heritage and they ask all Americans to join with them in assuring that the fires of patriotism burn forever in this Nation.

TRIBUTE TO MR. RICHARD L. HUMMEL

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. McEWEN. Mr. Speaker, I rise today to join the Ohio Young Farmers Association in honoring a gentleman who retires this year from his position as executive secretary-treasurer of the Ohio Young Farmers Association. Mr. Richard L. Hummel has spent much of his life serving the farmers of Ohio in many capacities. At this time I would like to share with my colleagues the contributions this man has made to Ohio agriculture.

Mr. Hummel served on behalf of his Nation in the Army during that great fight for humanity, World War II. Upon returning to his country, Mr. Hummel found his way to the Ohio State University, from where he graduated in 1950 with a bachelor of science degree in agriculture education. This degree created the foundation upon which much of his work in agriculture was built. In 1967, Mr. Hummel returned to OSU to receive his masters degree. Education is as important in agriculture as in any other profession, a fact Mr. Hummel acknowledged for the next 15 years. During this time, he taught vocational agriculture in Spencerville, OH. The students benefited from his commitment to agriculture, learning from him the many skills necessary to succeed in this highly competitive and dangerous area. The excellence of his teaching was recognized by his election as vice president of Ohio Vocational Agriculture Teachers Association [OVATA] in 1961, and as president of OVATA in 1962.

As an educator and a proponent of Ohio agriculture, Mr. Hummel continued to serve the farmer after achieving this position. He became the executive secretary-treasurer for the Ohio Young Farmers Association in 1966, a position he has held until this year. Surely the longevity with which he has held this position is a tribute both to his commitment to his work as well as evidence of the rock solid faith his fellow farmers have in him and his abilities. At the Ohio Young Farmers convention to be held this February, Mr. Hummel will be honored for the work to which he has dedicated so much of his life. His many years of work in agriculture education as well as his devotion to the young, new farmers of Ohio ensures that Ohio agriculture will continue strong and well into the next generation. Although his shoes will be difficult ones to fill, I join his devoted colleagues in wishing him a long, enjoyable, and prosperous retirement.

AMENDING THE STOCK RAISING HOMESTEAD ACT OF 1916

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. LEHMAN of California. Mr. Speaker, today I am reintroducing "Rancher's Rights" legislation from the 100th Congress to amend a little-known, but very important law known as the 1916 Stock Raising Homestead Act. The rights that my bill will provide to split-estate private land owners are simple and fair.

The old 1916 law, which my legislation will address, has created a unique land ownership pattern where the surface is privately owned and the subsurface rights are retained by the Federal Government. In an attempt to promote settlement of the West, the Federal Government encouraged the homesteading of 70 million acres nationwide under the old 1916 act. However, the Government retained the subsurface mineral rights.

Most of the land claimed under the 1916 act is now used for rangeland grazing. However, it is clearly impossible to mine subsurface minerals without disturbing the privately owned surface. In this situation the surface owner is left virtually unprotected from loss of productive range due to legal hardrock mining operations. Under existing law, private landowners have few, if any of the surface protections that the Federal Government gives itself when it is a surface owner.

My bill will clarify the ranchers rights by amending the Stock Raising Homestead Act in the following manner:

First, the bill will require a written notice to the private land owner prior to entering property for the purpose of prospecting; and

Second, the bill will require the posting of a bond, to be held by the Secretary of the Interior, to ensure the compensation for damage to grazing operations should that occur; and

Third, the bill will require a plan of mining operations, including a program for reclamation and mitigation of surface damages, to be approved by the Secretary of the Interior. The plan may also include a negotiated agreement between the miner and the surface owner.

Fourth, finally, the bill will require the Secretary of the Interior to simplify the procedures by which the private surface owner may also acquire title to the subsurface.

Mr. Speaker, my legislation will give private split-estate landowners some very basic rights. The right to be notified if their property is entered and the right to compensation for damage to their surface property. While the majority of miners respect the private landowner's property, a few do not. The Federal Government recognizes this and has reserved these same rights for itself and others.

Mr. Speaker, my bill is a fair one which merely balances the need for mineral exploration with the unmet needs of the private owner of split-estate lands. I urge my colleagues to support my legislation.

H.R. 151

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. DONNELLY. Mr. Speaker, on January 3, I introduced H.R. 151, legislation which is designed to impose additional limitations on the use of tax-exempt bonds to provide residential rental housing. In general, the bill requires that housing so financed meet certain low income set-aside requirements in the case of bonds used by nonprofit 501(c)(3) organizations. The legislation also limits the ability of State or local governments to issue bonds used to finance residential rental housing within their jurisdiction. As expected, the legislation has generated an enormous amount of controversy; especially controversial is the legislation's effective date. As drafted, it generally applies to bonds issued after the date of introduction.

Let me say, Mr. Speaker, that I am somewhat mystified over the hue and cry which has arisen over the January 3 effective date. Yet I am told that my bill has essentially shut down segments of the municipal bond market; bond

counsel are hesitant to give an opinion that a bond is tax exempt with my legislation pending. This is so even though the Committee on Ways and Means has not, since I have been a Member of the House of Representatives, chosen a retroactive date for a bond provision that reaches back to a point in time of introduction of legislation by a junior member of the committee. In fact, I would expect that the committee would follow that tradition. Absent evidence of any abuse or a rush to market, I further expect that I would not oppose a change in the effective date to the date of committee action on my legislation.

The Congress, in the Technical and Miscellaneous Revenue Act of 1988 [TAMRA], provided that a bond used directly or indirectly to provide residential rental property for family units would not qualify as a 501(c)(3) bond. However, three exceptions to this rule were provided. Under these exceptions, such bonds could still qualify as 501(c)(3) bond if they: First, were used to provide residential rental property for family units as the first use of such property; second, meet the low income targeting rules of section 142(d) of the Code, or; third, provide certain substantially rehabilitated property.

Section one of H.R. 151 would provide a technical correction to the 1988 act. The correction provides rules for property financed with taxable debt—or equity—which is later refinanced with tax-exempt debt. The provision is generally effective for obligations issued after October 21, 1988. To the extent that this effective date may be unfair to issuers, I intend to offer, at the appropriate time, an amendment to change the effective date to obligations issued after January 3, 1989. No inference would be intended as to the proper treatment of bonds issued between October 21, 1988 and January 3, 1989.

Section two of H.R. 151 provides that to be a qualified 501(c)(3) bond proceeds generally must be used to provide residential rental projects which meet the low income requirements of section 142(d). An exception is provided in the case of an issue by a general purpose governmental unit which is primarily secured by the full faith and credit of such unit. Except as expressly provided in the legislation regarding continuing care facilities, the bill follows present law definition of housing (see, e.g., Treas. Regs. 1.103-8(b)(8)(i)).

Section three of H.R. 151 would treat as an arbitrage bond any bond used for the development of residential rental property located within the jurisdiction of the issuer if the yield on the property over the term of the issue is materially higher than the yield on the issue. Where the yield on the property is lower than the yield on the bond over the term of the issue then the arbitrage bond restrictions will not apply. For example, if rents fall short of debt service, operating and maintenance costs—as evidenced by some form of subsidy—the yield on the property will be below the yield on the bond. Even where the yield on the property is materially higher the restrictions will not apply where the property meets the low income targeting requirements or where the bond is issued by a general purpose governmental unit secured by the full faith and credit of the issuer.

The amendments made by sections two and three of the bill are effective for bonds issued after January 3, 1989. A transitional exception is provided for property where construction, reconstruction or rehabilitation of the facility began before that date—or where a binding contract to incur significant expenditures for these purposes was executed before that date—and was completed after January 3, 1989. In addition, the facility must have been described in an inducement resolution or other similar document before that date. Under the transitional exception, bonds must be issued by December 31, 1991 and the property placed in service by December 31, 1992.

The purpose of the January 3 effective date was to put bond issuers on notice that I think the committee should legislate in this area. A prospective date might well have caused a rush to market of the very types of issues which I feel are inappropriate. A retroactive date would penalize issuers who already completed transactions which were acceptable under the law at the time of issue. In this same concern, I provided transitional relief for those transactions that were well along in the pipeline though not yet issued by the January 3 date. The main theory behind transition relief is to hold harmless those who have acted in substantial reliance on the law as it stood at the time of their action.

It has come to my attention that some issuers which may have acted in such reliance may not qualify for transiton relief as provided in H.R. 151. Therefore, I am announcing today that I would offer an amendment to my proposal to expand transitional relief to such individuals. However, I would not accept a relief provision which grants such a blanket exception that any nebulous plan or plan which had been considered even only on an informal basis would be able to escape application of the new restrictions.

For example, where the issuer of a bond had incurred at least 30 percent of the total projected issuance costs with respect to the issue on or before January 3, I feel transition relief should be granted. In contrast, a general discussion of investment in a project by the board of a 501(c)(3) organization which is unaccompanied by substantial cost incurred by that board would not qualify the project for relief.

Following are five discrete factors which would justify expansion of the transition relief already provided in H.R. 151. If any one of these five criteria were met as of January 3, transiton relief should and will be extended. These five criteria are:

One, in the case of 501(c)(3) bonds, the board of directors—for other comparable governing board—of the 501(c)(3) organization approved the project;

Two, in the case of governmental bonds, the issuer of the bonds—or an agency or instrumentality of the issuer—approved the project or the issue of the bonds;

Three, the project had been described in an inducement resolution—or other comparable document of preliminary approval—or the issuer had taken other similar official action (see, Treas. Regs. 1.103-8(l)(5)(v)) with respect to the project to be financed by the bonds;

Four, the issuer of the bond had incurred at least 30 percent of its total projected issuance costs with respect to the issue of the bonds, or;

Five, the issuer of the bonds or the 501(c)(3) organization on whose behalf the bonds were to be issues had incurred more than 50 percent of the total design expenditures for the project (i.e., architectural fees, etc.).

To qualify for transition relief, the project financed by the bonds would have to be placed in service by December 31, 1992.

To summarize, then, if a bond is issued after January 3, 1989, and meets at least one of the five tests specified above, and the project is placed in service by December 31, 1992, I do not intend for sections two and three of my legislation to apply to that bond issue. If H.R. 151 is considered by the Committee on Ways and Means, I would immediately move to expand the transition rule currently in the bill as described in this statement.

In closing, I would note that I fully expect the full cooperation of the Committee on Ways and Means in consideration and refinement of this legislation. This bill is an attempt to improve the efficacy and efficiency of tax-exempt bonds in this area. I fully expect that further modifications may be offered during consideration to eliminate or reduce the unnecessary issuance of 501(c)(3) bonds for certain residential rental housing.

VETERANS FUNERAL BENEFITS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. GILMAN. Mr. Speaker, Friday I reintroduced legislation which seeks to restore much-deserved furneral benefits previously afforded to all our veterans.

As many of my colleagues are aware, prior to 1981, a burial allowance of up to $300 was provided in all cases where a veteran died: first, of service-connected disability; second, if he was a veteran of any war; third, if he was discharged for a disability incurred or aggravated in the line of duty; or fourth, if he was in receipt of—or entitled to except for receipt of retirement pay—disability compensation.

Under the Omnibus Reconciliation Act of 1981, the veterans' burial benefits were decreased significantly by limiting funeral benefits to veterans receiving pension or compensation benefits, or was in a VA-supported health facility at the time of death. That reduction mistakenly placed an economic value on a benefit that was given by Congress to ensure that all veterans would be buried with dignity and respect, regardless of their income or social standing at time of death. It is also in direct violation of a longstanding principal held by the American Legion which calls for equal benefits for equal service.

My legislation restores the pre-1981 eligibility for veterans for the purposes of receiving funeral benefits, increases the amount of those benefits from $300 to $400, and increases the plot allowance from $150 to $300.

The death of a loved one is always a difficult, trying time. Whether that individual suffered from a long illness or was taken suddenly, it is extremely difficult for families to prepare emotionally and financially for such a loss. In these times, the cost of a burial has increased dramatically, often becoming a tremendous financial burden on the families of these veterans during their time of grief. The average cost of a funeral, not including a casket, headstone, or grave, is approximately $2,000. It is my sincere hope that my legislation will help defray a portion of these burdensome costs.

It is only right therefore that we restore these benefits and fulfill the obligation that we made to our Nation's veterans at the time of their induction into the service of their country, to provide them with reasonable compensation for their funeral costs. Reinstating these deserved benefits to our veterans is essential to fulfill our obligation to all those who have fought and risked their lives to protect the ideals and people of our great Nation.

Following is the full text of the Veterans' Burial Benefits Act of 1989. I hope my colleagues will share this bill with the veterans groups in their congressional districts, and I invite them to cosponsor this important legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Veterans' Burial Benefits Act of 1989".

SEC. 2. ELIGIBILITY FOR BURIAL ALLOWANCE.

Subsection (a) of section 902 of title 38, United States Code, is amended to read as follows:

"(a) Where a veteran dies—

"(1) of a service-connected disability; or

"(2) who was—

"(A) a veteran of any war;

"(B) discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty; or

"(C) in receipt of (or but for the receipt of retirement pay would have been entitled to) disability compensation;

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $400 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term 'veteran' includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.".

SEC. 3. INCREASE IN THE BURIAL PLOT ALLOWANCE.

Paragraphs (1) and (2) of section 903(b) of title 38, United States Code, are amended by striking out "$150" each place it appears and inserting in lieu thereof "$300".

THE STORY OF THE PLEDGE OF ALLEGIANCE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. EDWARDS of California. Mr. Speaker, I want to take this opportunity to commend an article to my colleagues which appeared in the Christian Science Monitor last fall. The piece explains how the Pledge of Allegiance came to be written by Francis Bellamy in 1892.

Barbara Bellamy Wright, who is the granddaughter of Francis Bellamy and a relative of mine, wrote the article. She has worked long and hard to teach anyone who would listen about the origins of the pledge and its meaning. This article is only the most recent of her many efforts.

As we all know, the Pledge of Allegiance received a great deal of attention during the recent Presidential election. Now that the clamor over it has subsided, it seems a good time for all of us to reflect on the true meaning of the pledge and its significance for our Nation. I hope my colleagues enjoy the piece as much as I did.

The text of the article follows:

[From the Christian Science Monitor, Oct. 6, 1988]

A PLEDGE FOR COLUMBUS DAY

(By Barbara Bellamy Wright)

The pledge of allegiance was written in 1892 by my grandfather, Francis Bellamy. It was written for a nationwide public school celebration of the 400th anniversary of the discovery of America—Columbus Day.

On that day in every schoolhouse in the land there would be a flag-raising ceremony and the schoolchildren would salute their flag. Let's see how the pledge came to be written in 1892. . . .

The time was ripe for a reawakening of patriotism, and the leaders of this movement felt it should begin in the schools with a national public school celebration. This plan was launched in the editor's office of the Youth's Companion—a magazine read from cover to cover by every schoolchild. Bellamy was appointed chairman of the celebration, and he went to Washington to persuade President Harrison to proclaim Columbus Day a national holiday. Harrison gave this presidential proclamation in 1892:

"I, Benjamin Harrison, President of the United States of America, do hereby proclaim Friday, October 21, 1892, the four hundredth anniversary of the discovery of America by Columbus, as a general holiday for the people of the United States. Let the American flag fly over every schoolhouse in the land and the exercises be such as shall impress upon our youth the patriotic duties of American citizenship."

For this national holiday—Columbus Day—there needed to be a flag-raising ceremony at every schoolhouse in America. A salute to the flag was needed. This salute was written by Bellamy. Here, in his own words, is the story of how the pledge to the flag was written:

"It was a warm evening in August 1892 in my office at the Youth's Companion in Boston that I sat down to write the words of the Salute to the Flag. I worked on it for three hours and threw into the wastebasket many attempts.

"The first words I decided on were "I pledge allegiance to my flag.' I felt that pledge was a better school word than vow or swear. Then, should it be 'country,' 'nation,' or 'Republic'? Republic won because it distinguished the form of government chosen by our founding fathers. So I added 'And to the Republic for which it stands.'

"Then I felt that I must describe the Republic so I added one line 'one Nation, indivisible' for the Civil War between the States had settled that the States could not be divided. Then we should close by a line telling what the big united idea of the American people was—so I included that in the last line 'With liberty and justice for all.'

"As the final line, it seemed to assemble the past and to promise the future.

"And there is the story of how I wrote the pledge. The first time I heard it was on Columbus Day 1892 when 6,000 high school boys and girls in Boston, roared it out together. It thrilled me."

What happened to the original pledge of 23 words? In 1924, adding the words "to the flag of the United States of America" seemed a logical addition, since after the turn of the century there were thousands of immigrants arriving at U.S. shores, taking their oath of allegiance to their new country as they became American citizens. This ceremony included the pledge to the flag, and it was important that when they were saluting the flag they were not saluting the flag of their country which they had left behind. This was done with the approval of my grandfather.

In 1954, the second change occurred long after he died. By an act of Congress the pledge was changed. "One Nation, indivisible" became "one nation under God, indivisible." My grandfather would have objected strongly to this change, as it changed the fundamental meaning. He had considered that "one Nation, indivisible" conveyed the deep meaning that after the Civil War our nation could not be divided.

In his early years, Bellamy had been a Baptist minister, and he remained always a man of religious character. The "under God" addition tampered with the original meaning of the pledge as well as spoiling its rhythmic cadence.

Francis Bellamy was born May 18, 1855, in Mount Morris, N.Y., son of a Baptist minister, the Rev. David Bellamy. He graduated from the University of Rochester in 1876, then attended Rochester Theological Seminary, where he was ordained in 1879. In 1891 he gave up his Baptist ministry in Boston to devote his time and energy to young people. He then joined the staff of the Youth's Companion in Boston and immediately became active with the editor, James Upham, whose campaign was to revive patriotism among the youth of America.

In his later years, he moved to Tampa, Fla, with his wife. In his last speech to the Tampa Chapter of the Daughters of the American Revolution on Flag Day 1931, he reminded them:

"The pledge was not a thing to which I could attach my name by copyright. It was a free contribution of my brain and heart for the awakening of ardent love of the Flag and a stirring duty toward the Republic for which it stands. It was born out of my own love for the flag and for all the lofty Americanism it represented." It was a "Creed of patriotism."

THE CONGRESS SHOULD VOTE ON FEDERAL PAY INCREASES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. WALGREN. Mr. Speaker, as everyone knows, nothing short of the inauguration of a new President has attracted as much public attention as the proposed pay increases for Members of Congress and other top Federal officials.

I would like to share with you, and other Members of the House, a letter from one of my constitutents that represents the kind of circumstances we in Congress must be guided by.

Middle America simply cannot understand why Federal officials should have salaries that are far above ordinary incomes.

This widowed constituent must get by on $6,000 a year—in many ways because the Congress failed to prevent her being unfairly reduced to poverty by her husband's medical bills. Over half of the households in Penn Hills, one of the largest communities in my district, have incomes under $12,000. The Congress could make a difference for the better in their lives. But, in a very real sense, we have not.

Mr. Speaker, now is not the time for large increases in pay. If the budget had been brought into balance; if we were not reducing support for college education; if we had done something more than just ignore the unfair Social Security cuts of notch babies; if we had distributed the cost of catastrophic health care coverage more fairly instead of hitting a small group with a whopping tax increase; if those on minimum wage had not lost nearly one-third of their purchasing power with no adjustment for inflation over the last several years; if the 4 percent Social Security cost-of-living increase was not simply given with one hand, and then taken away by another through increased Medicare fees * * * There is a long list of grievances that Congress should be fixing—but we are not.

As a Representative from western Pennsylvania, it is absolutely clear that allowing large salary increases to go into effect with no opportunity for the Congress to vote puts all Members of Congress in the position of looking as if they are just "playing the public for all they can get." That is certainly not why I have spent my time in public service and I, and many others, object to being put in that position.

Mr. Speaker, I realize that the rules that bind you as Speaker do not give you power to simply "schedule" a vote in the House on any issue as is so easily done by any Member in the Senate. But I urge you to use all the influence of your office with others in leadership, both Republican and Democratic, to bring this question to the floor for a vote. Nothing short of a vote will clear the air in the eyes of my constituents. I would like to make the following letter from a constituent from my district part of the RECORD.

Dear Congressman, the enclosed article from the Pittsburgh Press states very clearly how I feel about the 50% salary increase you are about to receive. I am not against a pay raise but it should be restricted to a "cost-of-living increase just as the rest of us have to make do with. I pay for everything just as you do. So I do without important things such as dental work (which I've needed for two years). I pay for my Medicare and Blue Cross supplemental insurance ($61.50 per month) but I cannot get the care I need because many specialists won't accept it. There is no help to get into a Senior Citizens Apartment building supposedly built for low income people like me because the waiting list will take years to work through.

I didn't ask to be in this situation. When my husband died I paid all his Medical bills (he was ill for three years) and raised my children. I'm now trying to manage on $534.00 Social Security and am paying $300.00 of that each month for rent. That doesn't leave much does it?

Do you realize how well I could do on the $12,000.00 you received last year? I wouldn't have to debate how to pay my bills and eat until the 3rd of next month. I feel so sorry for the families trying to live on minimum wage—even with both parents working—why won't the government raise it at least to $4.00 per hour—even that isn't enough.

Why am I angry about your 50% salary increase? You should take "cost-of-living" the same as the rest of us and tighten your belt as I do every month. I am not alone in this feeling—there are many of us.

The government can no longer afford the "cheese and butter" program which did help out a little. Where is it finding the money for your salary increase? What more are you going to deprive us of? It doesn't balance out does it?

If you insist on letting this happen then please have the decency to vote on it.

PRENATAL CARE FOR THE POOR IS INADEQUATE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, one of the most moving writers in the health field today is journalist Peter Aleshire, whose columns appear in the Oakland Tribune. On December 6, 1988, he wrote a column entitled "Prenatal Care for the Poor is Inadequate."

It is an excellent description of why we must not endure 4 more years of Reagan-era health "policy."

The article follows:

[From the Tribune, Dec. 6, 1988]

PRENATAL CARE FOR THE POOR IS INADEQUATE

(By Peter Aleshire)

Yvonne Baker, two days old, is beautiful—despite everything.

She's a heartbreaker squinting at the world through blue-black eyes. Her tiny, wrinkled hand can't quite encircle my little finger.

She smiles, too, timeless as the first light of day.

She's so beautiful. But then, I'm a sucker for babies—especially babies that almost didn't make it.

Still, there's something terribly wrong here. I feel like I've wandered into a grim Gary Larson cartoon where everything is turned on its head.

You see, because her mom couldn't find a doctor to take care of her until the last possible moment, Yvonne missed being born dead by the smallest of chances.

Oh, you mutter, another column about the growing lack of prenatal care in the richest, most medically extravagant country in the history of the planet.

I'm sorry to nag, but I'm morbidly fascinated by the contradiction of the nation with the most expensive medical system having a higher infant death rate than 16 other countries.

It's largely because nearly a third of the women in the United States giving birth each year receive little or no prenatal care—which raises the risk of a dead baby eightfold.

And it's getting worse, partly because of a sharp rise in the number of Americans without medical insurance and partly because welfare programs now cover only 40 percent of the families in poverty.

Even so, I'd probably quit harping, except that I keep coming across people like Yvonne and her parents—Clayton and Laura Baker.

Laura is 41. She moved to Arizona from Colombia 16 years ago. Last year, she married Clayton, 52, a New York City bus driver.

Her English was almost as limited as his Spanish, but somehow they hit it off. They're one of those seemingly ill-matched couples that convince you that love really will save us after all.

Clayton decided to take his early retirement, and move out West with his new bride. He has medical coverage through his pension plan. Laura is disabled because of previous medical problems, so she is covered by Medicare.

Clayton thought he was sterile because of a case of mumps in adulthood, so when Laura missed her period, began to feel listless and developed skin rashes, they didn't figure she was pregnant.

They went to a doctor who told them she had a orange-sized tumor in her uterus.

A month later, she was back at the doctor—who said her tumor was now the size of a grapefruit.

But because Laura could now feel her "tumor" moving, she told the doctor she thought she was pregnant.

Stunned, the doctor referred her to an obstetrician.

Sure enough, she was pregnant.

The obstetrician refused to take care of her because Medicare pays only about half the average $1,800 rate for prenatal care and delivery.

She went to another obstetrician. He said he'd take Medicare, but only if the couple paid an extra $250 a month—which was about 15 percent of their income. They offered $100. He told them to go away.

They were also rejected by a health clinic because Clayton made too much money.

Fortunately, a nurse there referred them to another doctor who did agree to take them.

Almost too late. A week after the appointment, Laura's water broke. The doctor was able to keep her going for another month—despite the high risk of an infection.

At 34 weeks, the baby quit moving. Because the doctor had warned her what to look for, Laura rushed to the hospital. The baby was delivered Cesarean section.

Like I said, she's beautiful.

But it could have been a disaster. Had Laura not, just barely, found a doctor, Yvonne would have been dead, or one of

those $400,000 intensive care babies with lifelong handicaps.

You see why I can't drop it?

Besides, I made the mistake of holding Yvonne. Her whole head fits in the palm of my hand. She looked right at me.

How could I not write this?

ANNIVERSARY OF THE ENGLISH BILL OF RIGHTS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. CLINGER. Mr. Speaker, shortly before the Christmas holidays I had the distinct pleasure of attending a ceremony marking the 300th anniversary of the English Bill of Rights.

Great Britain's Ambassador to the United States, Sir Antony Acland, spoke at this ceremony, noting that the American Bill of Rights was modeled after the English Bill of Rights and expressing hope that the ideals embodied in these documents will be preserved. As we celebrate the Bicentennial of our Constitution, I ask that Sir Antony Ackland's remarks be recorded in the CONGRESSIONAL RECORD.

REMARKS BY HIS EXCELLENCY SIR ANTONY ACLAND, AMBASSADOR, GREAT BRITAIN

Secretary Marsh, Chief Justice Burger, General Vuono, Ladies and Gentlemen, I am greatly privileged to be able to participate in these splendid and moving ceremonies this afternoon, and I feel greatly honoured to have been asked to be reviewing official. May I begin therefore by thanking all those involved in the planning of this event and I congratulate each and every one on parade for their quite extraordinary smartness and precision. For all of us present it will remain a most memorable occasion.

You, Secretary Marsh, and you, Chief Justice Burger, have explained as does the programme of events why we are here. The immediate reason of course is, as you have said, that 300 years ago today there began the final act of a drama that lead a year later on 16 December 1689 to the proclamation of the English Bill of Rights. Some may ask, however, what relevance a 300 year old document has today in a world preoccupied by nuclear weapons, by the challenges of our global economy, by war, by revolution or by natural disaster.

The answer is that that 300 year old document still enshrines the common ideals and interests which Britain and America continue to share. The English Bill or Rights was a precursor of your own Declaration of Independence from the Government of the British King George III, and of your own Bill of Rights.

Your President Woodrow Wilson, when speaking to another King George—George V—put his finger on what it is that really unites our two countries: "You must not" he said to the King "speak of us who came over here as cousins, still less as brothers; we are neither. Neither must you think of us as Anglo-Saxons, for that term can no longer be rightly applied to the people of the United States. Nor must too much importance be attached to the fact that English is our common language. No, there are two things which can establish closer relations between your country and mine. They are community of ideals and of interests."

That is a good phrase—community of ideals and of interests—and that is the key to why we are celebrating the English Bill of Rights today. The principles which it enshrines and which we later incorporated into the American Constitution and the American Bill of Rights (which included the first ten amendments to the Constitution enacted 102 years after the English Bill)—those principles are still the basis on which our two societies are founded. The idea of a compact between ruler and ruled; that the ruler exercises power, no longer by divine right from God but by the will of the people expressed through Parliament, or through Congress; that each person should be free to practice his own religion; that trial should be by jury; that laws should not be suspended and that armies should not be raised except with the consent of Parliament or Congress; that elections should be regular and free and that those elected should be able to debate freely within their assemblies.

These shared ideals and interests have been, and are still, the key to the modern relationship between our countries. It is why we have twice fought side by side in this century. It is most strongly in the interests of both the United States and of Britain that these ideals should be maintained that that is why, Secretary Marsh, Chief Justice Burger, Ladies and Gentlemen, we are proud to be celebrating this anniversary here today.

UKRAINIAN INDEPENDENCE DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. HOYER. Mr. Speaker, this month, Ukrainian-Americans are commemorating the 71st anniversary of the proclamation of Ukrainian independence and the 70th anniversary of the unification of the Western Ukrainian National Republic with the Ukrainian National Republic. Although Ukrainian independence was short lived, the Ukrainian striving for freedom and human dignity continues to this day. Indeed, seven decades of repression, including Stalin's 1932-33 manmade famine and numerous purges of the Ukrainian intelligentsia, have not extinguished the Ukrainian people's thirst for freedom.

This quest for freedom, Mr. Speaker, is very much in evidence today. Demonstrations with thousands of participants calling for greater autonomy and personal freedoms, and informal groups, many with their own unofficial publications, promoting Ukrainian culture and the preservation of the environment, have all become commonplace. Ukrainian Catholics have become increasingly active in pressing for legalization of their long-suppressed church. Even officials, especially members of the writers union, are arguing for greater use of the Ukrainian language and a more accurate portrayal of Ukrainian history under Soviet Rule.

Despite these encouraging steps and a somewhat freer climate, repression of Ukrainian activists continues. Anatoly Ilchenko, a 34-year-old former math teacher and member of the Ukrainian Helsinki Union continues to languish in the psychiatric hospital in Mykolaiv for gathering signatures on a petition calling for the removal of nuclear powerplants from Ukraine.

And just recently, on January 20, leading Ukrainian Catholic activist Stepan Khmara, with whom I met during the Helsinki Commission's November meetings with the Supreme Soviet in Moscow, was jailed for 15 days for allegedly having illegally led an unauthorized meeting. Mr. Khmara was arrested following a public gathering in Chervonohrad to select candidates for the Congress of People's Deputies in which his name had been put forward as a candidate. Actions such as these on the part of the authorities call into question the Soviet Government's moves toward democratization.

These repressive actions, however, will not stop Ukrainian strivings for greater human rights and freedoms. These rights and freedoms are enumerated in international agreements, including the Vienna conclusing document, agreed upon by the 35 Helsinki Final Act signatories on January 15. I can assure you that the Helsinki Commission, on which I serve as Cochairman, will monitor closely Soviet human rights behavior in light of the commitments it made in Vienna and will support efforts by Ukrainians to achieve the noble goals of greater rights and freedoms enumerated in the Helsinki and Vienna agreements.

LEGAL SERVICES CORPORATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. HUBBARD. Mr. Speaker, I want to share with my colleagues a letter I received last week from my good friend Rick Johnson, who lives in my home county at Symsonia, KY.

Mr. Johnson, a prominent attorney at both Mayfield and Paducah in my congressional district, wrote me and expressed his genuine concern about attempts to reduce Federal funding for the Legal Services Corporation.

While Rick Johnson is correct in recognizing the need for fiscal restraint by the Congress, he points out in his letter to me that because this is a time when the "proverty rate continues to increase," it is imperative that the Congress protect the legal rights of those living in poverty by fully funding the Legal Services Corporation.

Mr. Johnson's letter to me appears below:

January 17, 1989.

Congressman CARROLL HUBBARD,
Rayburn House Office Building, The Capitol, Washington, DC.

DEAR CARROLL: I am writing you concerning funding for the Legal Services Corporation. It is my understanding from information provided to me by the American Bar Association that last fall a concerted effort was mounted by certain Congressmen to urge a veto of the appropriations bill in which the Legal Services Corporation appeared so that Congress would be forced to accept certain drastic changes in the program. Among those changes were a cut in its appropriation to $250 million, elimination of funding for national support centers, and the introduction of a system of annual com-

petition for all grants. From the copy of the Congressional Record dated September 27, 1988, on page 8425 your name appears with the nay votes.

The purpose of this letter is to encourage you to vote in favor of appropriation that would support the Legal Services Corporation. At a time when the poverty rate continues to increase I think that it is essential that this program continue to be fully funded. I know from personal experience that Western Kentucky Legal Services headquartered for our area in Paducah has a lengthy waiting list and is not able to handle all of the needs of the poor in Western Kentucky. I can assure you that myself and others as practicing attorneys contribute a considerable amount of pro bono work. However, the need is so great that it is impossible for the private bar to meet these demands.

I recognize the need for fiscal restraint with our current budget problems. It is my wish that you recognize the needs of the Legal Services Corporation when you are evaluating the next budget.

Sincerely,

RICK JOHNSON.

PROMISES DELIVERED

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. LEHMAN of Florida. Mr. Speaker, over the last 25 years Metropolitan Miami has not been the most tranquil of urban areas. We have only recently had another reminder of the violence that can so easily occur when the underlying causes of poverty and injustice are not adequately addressed.

In the midst of this, however, we do not despair. We have a strong community and many excellent leaders. I would like to bring to the attention of my colleagues the hard work of one such leader, T. Willard Fair, who heads the Urban League of Greater Miami.

In December, Mr. Fair was honored throughout our community and by the national Urban League for his 25 years of leadership and service. I have some personal knowledge of how well-deserved the many tributes to him are. As a member of our Urban League board of trustees, I served with T. for several years, including during the difficult times of school desegregation. Since being elected to Congress, I have had the pleasure of working with him on a number of projects.

T. knows his constituency from the ghetto to the downtown establishment. He knows when to play hard ball and when to compromise. In my judgment, no one understands and expresses better than T. Willard Fair the experience of black Americans. Not least of all he is a joyous man, and a lot of fun in an often gloomy world.

Following is an editorial from the Miami Herald which pays tribute to the accomplishments of T. Willard Fair.

PROMISES DELIVERED

The Urban League of Greater Miami today celebrates 25 years of T. Willard Fair's leadership. During that time, he and the organization have grown and changed in ways that reflect the needs of Dade's evolving black community.

In the early years, the organization joined with the NAACP and others to fight for open public accommodations, to get blacks into jobs held previously only by whites, into housing, and into agencies like the United Way, which now helps fund the league. As a social-service agency, the Urban League dealt with people's everyday problems that seem petty compared with the community's woes today.

Under the never-boring, often-controversial, sometimes-infuriating Mr. Fair, the local Urban League is among its national peers, most progressive. Its programs attacking the problems of illegal drugs, epidemic dropout rates, stubborn poverty, and scarce affordable housing are innovative. They enjoy the broad support and assistance of government and private industry—the establishment that once was cool to Mr. Fair's often-hot rhetoric. Former critics now admit that he has fashioned, in his own way, an agency that tends to deliver what it promises.

Today the league is a partner with the Dade public schools in developing better ways to teach inner-city students, and with Merrill Lynch in guaranteeing money for college or work for 25 first-graders if they finish high school. It also teaches youths better values, registers their parents to vote, and fights black-on-black crime, drug pushers, and the crack houses that they inhabit.

Under Mr. Fair's leadership, the league is building new homes and creating decent, affordable housing from dilapidated shells from Homestead to an area of Liberty City so troubled that its nickname is Germ City. It is rehabilitating more than 250 apartments in Overtown and Liberty City, and it manages 366 apartments. By the end of next year, the league hopes to have rehabilitated 500 units.

To Mr. Fair and the Urban League of Greater Miami, congratulations. You both have come a long way. Keep it up!

ASSURING EQUITABLE PAYMENT FOR HOSPITAL SERVICES BY THE MEDICAID PROGRAM

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, I am today reintroducing legislation to assure equitable payment for hospital services by the Medicaid Program.

The Medicaid Program is designed to assure access to needed health services by the poor. Unfortunately, hospital reimbursement methodologies employed by many States, particularly my own State of California, may be seriously jeopardizing that goal. Recent reports regarding the State of Illinois indicate that State may be underreimbursing hospitals by as much as 35 percent.

My bill will mandate that States pay no less than 90 percent of what Medicare would have paid for similar cases, after adjusting for differences in the age and sex of the two programs' beneficiaries.

I have taken this step after watching with dismay the actions of the State of California during the last 5 years regarding Medicaid hospital reimbursement. Operating under a waiver granted by the Reagan administration, California has established a process by which hospital payments are set through secret negotiations between each hospital and the State. This has allowed the State to set hospital payment levels in a totally arbitrary fashion.

This approach is led to disarray in the hospital delivery system in the State. Many hospitals report little or no increases in payment levels since initial contracts were signed in 1984. If the State proposes unreasonably low levels of a reimbursement, the hospital has no recourse but to threaten not to participate. Today 10 percent fewer California hospitals accept Medicaid than in 1983. The loser, of course, is the Medicaid beneficiary who cannot gain access to needed hospital services.

Analysis of the amounts paid by the Medicaid Program in California illustrate the problem. Although the HCFA market basket index for goods and services purchased by hospitals has increased 21.4 percent since 1984, California Medicaid payments have increased only 9.15 percent. This does not take into account the fact that the Medicaid patients seen in California hospitals are sicker today than they were in 1984.

California, an affluent State with relatively high health care costs, now spends less per Medicaid recipient than do all but three other States.

My bill would preclude arbitrary hospital payment policy. The bill will provide needed fiscal relief to those hospitals which are providing care to the most vulnerable members of our society.

A further problem in State Medicaid programs is that 11 States also impose arbitrary limits on inpatient hospital services under their Medicaid programs. Some of these States limit the number of days per hospital stay while others limit the number of hospital days covered per year.

The result is that reimbursement ceases for poor patients with no other means of paying for their hospital stay, whether the patient continues to need continued hospital care or not.

I am sure that no one believes that Medicaid coverage for hospital care should cease based solely on an arbitrary limit, particularly when that limit can be as low as 12 days per year, as it is in the State of Alabama. My bill would prohibit limitations on needed inpatient care for any reason other than medical necessity.

I believe strongly that hospital reimbursement by public programs should be lean, but fair. What is not fair, at a time when hospitals must shoulder approximately $8 billion in uncompensated care costs for the poor our society can't or won't cover, is to short change them for the people that we do.

A summary of the bill follows:

MINIMUM HOSPITAL PAYMENTS AND BENEFITS UNDER MEDICAID OUTLINE

I. ASSURANCES IN STATE MEDICAL ASSISTANCE PLAN

As part of the State Medical Assistance Plan, the Governor of the State must provide assurances satisfactory to the Secretary that Medicaid reimbursement to hospitals in the State for inpatient services will equal or exceed the mandatory minimum established by this legislation.

II. EVALUATION OF STATE MINIMUM HOSPITAL PAYMENT

The Secretary shall evaluate each State Medical Assistance Plan to insure that Medicaid payments to hospitals in the State are no less than 90% of payments which would have been made by Medicare for the same cases and volume.

In making this evaluation the Secretary shall adjust for differences in case mix, volume, the age and disability of the populations covered by the two programs, and other relevant factors developed by the Secretary.

The Secretary shall include in the evaluation Medicare's payments for capital, graduate medical education, and disproportionate share.

The Secretary may require the collection of data from hospitals sufficient to carry out this provision.

III. LONG-STAY OR HIGH-COST CASES (OUTLIERS)

States could not restrict reimbursement for long-stay cases on grounds other than medical necessity.

ACHIEVEMENTS OF DOMINIC V. AGOSTINO

HON. ALAN B. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. MOLLOHAN. Mr. Speaker, I rise today to ask my colleagues to join with me in recognizing and celebrating the many achievements of Dominic V. Agostino, president and founder of Aladdin Food Management Services of Wheeling, WV. The year 1988 marked the 10th anniversary of this successful and compassionate company.

Mr. Agostino was born in Brooklyn, NY, the son of immigrant parents. After service in the Marine Corps, Mr. Agostino pursued a career as a baker and later as a college food service manager. Following 18 years with ARA Food Services, Mr. Agostino decided it was time to launch his own business.

He and three partners each put up $1,000 and formed a new food management company dedicated to the principles of high quality service, reasonable cost, and a commitment to the well-being of every employee. They named their company Aladdin Food Management Services.

The early days were a struggle as the fledgling company labored mightily to carve a niche in the marketplace from its headquarters in the basement of Mr. Agostino's West Virginia home.

Despite this humble beginning, word soon spread about a food service company that provided excellent service at a low cost and, by the early 1980's, business began to rise dramatically.

Initially, Aladdin concentrated on college and university food service, but as its reputation grew, Aladdin began contracting with hospitals and nursing homes, businesses and industrial organizations, prisons, convents, and even country clubs.

By 1988, sales had grown to over $15 million annually and the future was exceedingly bright.

Today, Aladdin has between 1,300 to 1,400 full- and part-time employees in West Virginia, western Pennsylvania, and eastern Ohio, and the company's ambitious growth plans promise to add hundreds of new jobs in these hard-pressed areas in the years ahead.

That is good news for the local economies and also for those whom Aladdin hires. Because of the company's progressive and humanistic personnel policies, virtually few ever leave the company. In fact, since the company's beginnings in 1978, only three managers have departed and no district manager has ever left.

The company offers many recognition and financial awards to its people and operates in a family-like atmosphere where the attitude is "we care for our own."

Mr. Agostino believes in dealing with employee shortcomings in a supportive rather than a derogatory way. He follows a philosophy of getting rid of the fault, not the person.

In recognition of his lifelong commitment to ethical business practices and the success of Aladdin Food Management Services, Mr. Agostino was honored recently as the first recipient of the Humanitarian of the Year Award presented by the Center for Business and Entrepreneurial Management at Saint Mary's College in Winona, MI.

In the presentation ceremony, Brother Herman E. Zaccarelli, director of the center, said that Mr. Agostino's career is a testament to the simple belief that if you set your priorities right and then stick to them, good things will happen.

The Center for Business and Entrepreneurial Management at Saint Mary's College of Minnesota was launched in September 1987 to serve the continuing career education needs of professionals in a variety of business, nonprofit, and institutional settings. The center offers business and entrepreneurial seminars, research and consulting services, an on-campus conference center, fully accredited professional self-study courses, and state-of-the-art publications.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK 1989

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. MORRISON of Washington. Mr. Speaker, I am again privileged to introduce a joint resolution authorizing and requesting the President to issue a proclamation designating April 23 through April 29 of this year as National Organ Tissue Donor Awareness Week. I am delighted to be jointed by over 50 of my colleagues as original cosponsors, most of whom have joined me in successfully sponsoring this important resolution for the past 6 years.

The purpose of this special week is to educate Americans about the importance both of becoming a donor and of sharing this decision with their family. By making the wish to donate known, loved ones will be shown how a tragedy can be turned into many years of life and happiness for another person. Gallup surveys conducted in 1987 indicate that almost 50 percent of individuals aware of organ donation are willing to become organ donors under appropriate circumstances. Encouraging folks to officially follow through with a pledge and a discuss this decision with their family members is what National Organ and Tissue Donor Awareness Week is all about.

According to sources compiled by the American Council on Transplantation, there are some 66,000 individuals in the United States who qualify as potential beneficiaries of kidney, heart, liver, or heart/lung transplants. Some 20,000 folks are acutally waiting for the chance to receive a transplant. Unfortunately, at present only one in five Americans has pledged to become a donor. Though we're making progress each year, these statistics make it clear that many more folks need to be reached.

So once again, I invite and encourage my colleagues to join me in sponsoring National Organ and Tissue Donor Awareness Week and to help millions of Americans learn how they can make a miracle.

CRISIS DETAILED IN HISTORIC PRESERVATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mrs. KENNELLY. Mr. Speaker, the National Park Service's recent report on the historic preservation tax credit clearly documents the unexpectedly severe adverse affect of the 1986 Tax Reform Act on historic preservation projects throughout the country. To quote the report, "A slow decline in tax incentive use in fiscal year 1986 became a dramatic drop in fiscal year 1987 when the new law took effect. In fiscal year 1988 this decline continued. . . ."

I urge all of my colleagues who are concerned with historic preservation and the revitalization of our cities and towns to obtain a copy of this report. I am, however, inserting in the RECORD at this point the highlights of the report for your information.

REPORT HIGHLIGHTS

The number of approved projects in FY 1988 was 1,092, down 43% from FY 1987's 1,931 projects. The number of projects is now at about one-third the pre-Tax Reform Act level of more than 3,000 projects per year.

During FY 1988 the use of historic rehabilitation tax incentives continued to decline in response to the Tax Reform Act of 1986, which went into effect January 1, 1987, although the number of applications being received appeared to be levelling off by year's end.

Investment in tax projects in FY 1988 was approximately $866 million, down by 20% from the $1.1 billion invested in FY 1987. As with the number of projects, the yearly investment is now about one third of the pre-Tax Refrom Act levels of more than $2 billion per year.

The proportion of project applications that were denied declined significanly in FY 1988, from 8.6% to 7.5%, belying a peception that the Secretary's Standards are being applied more stringently.

A sample of approved projects indicates that about three quarters of the projects would not have been undertaken if the tax incentives had not been available.

Housing continued to be the most popular use of tax act projects, with about half of all projects used for this purpose.

Since the program's inception in 1976, approximately 20,000 projects representing an investment of $13 billion have been certified.

	Fiscal years—										
	1977–78	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Projects approved	512	635	614	1,375	1,802	2,572	3,214	3,117	2,964	1,931	1,092
Dollars invested (millions)	$140	$300	$346	$738	$1,128	$2,165	$2,123	$2,416	$1,661	$1,084	$866

*Note: Figures are estimated maximum private investment, assuming all approved projects are completed.

IN HONOR OF AL FAVOINO OF ORANGE COUNTY, NY

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. FISH. Mr. Speaker, it is with pride that I rise in honor of a long-time friend, Albert A. Favoino, of Newburgh, Orange County, in my congressional district in New York. On February 4, the town of Newburgh Republican Committee will hold a Lincoln Day dinner at which it will honor Mr. Favoino as its "Man of the Year." His long-time service in government and civic activities makes him eminently deserving of this award.

Mr. Favoino is an Orange County legislator who served as chairman of the body from 1982 to 1987. As chairman of the Stewart Airport Committee, he has been instrumental in forming a foreign trade zone in Orange County. He has also participated in district and regional boards protecting fish and wildlife, serving the aging and enhancing justice and public safety.

These government activities have been complemented by a wealth of civic activities. He is board member and treasurer of St. Luke's Hospital and a member of the YWCA board of directors. From 1978 to 1979 he was chairman of a campaign that raised more than $1 million for a new YWCA building.

Mr. Favoino also has been active in the Elks Lodge, the Knights of Columbus, the American Legion and the chamber of commerce. And throughout his activities he has remained a devoted family man, with a wonderful wife, Juanita, and daughers Janie and Sue.

Mr. Speaker, I wish Al Favoino the best at the Lincoln Day dinner and throughout the year.

CONSTITUENT TURNS IN NRA CARD

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, The following letter to the editor of the Alameda Times is a typical reaction of my constituents to the National Assault Weapons Association's support for assault weapons—weapons commonly used by drug dealers, violent criminals, terrorists, and psychopaths. Legislation concerning cop-killer bullets, plastic guns, a 7-day waiting period—all matters supported by law enforcement and all the major police organizations—have been opposed continually by this group's national leadership. A group of us will soon be introducing legislation to ban the sale of assault rifles. I hope that all the true sportsmen and women who are members of the NRA will support this effort.

NRA Is Irresponsible

Editor: I recently mailed a clipping of the attack and murders at the Cleveland Elementary School in Stockton to the National Rifle Association, along with my current membership card. I no longer want to be associated with the organization.

Of all the parties involved possessing the power to restrict or complicate the ready availability of assault rifles, the National Rifle Association is the one group that could have done it without hurting the honest, law-abiding sportsman. Instead, they have chosen to simply resist and sabotage all efforts to solve a serious problem, one that has now killed five innocent children and terrorized an entire community. And, a new generation of amoral drug dealers has been armed.

As far as I am concerned the NRA is an accessory to murder. Its pig-headed attitude toward reasonable legislation killed those children just as surely as the cheap AKM-47 used to do the job.

Would this have happened if the killer had to go through the Director Civilian Marksmanship program to get his weapon? How many drug dealers would go through all that? What if they had to pay $700 or more as you do for other assault rifles (ones that are seldom heard of in the newspapers), instead of $299?

I wish those in charge at the NRA were made to live in the projects and other "choice" areas of the Bay Area where dope and machine guns (usually altered semi-automatics) rule. Maybe then they'd see that there is something seriously wrong in America.

Is is apparent that the only interests that the NRA has been looking after are those of the armaments industry. Its refusal to act responsibly is going to cost the sportsmen that it professes to protect in the form of hastily formed and passed legislation that will prove to be more reactionary than reasonable and effective.

CONGRATULATIONS TO SHAWANO BASKETBALL AND VOLLEYBALL TEAM

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. ROTH. Mr. Speaker, we all realize the vital role that sports play in our lives. Through sports we learn how to excel as individuals, and work together as a team. These valuable lessons are important on and off the court. Players learn to depend on each other, and bring out each other's strengths. This is all part of the spirit that makes great teams.

Every once in a while a team comes along that defies all the odds. The Shawano, Wisconsin High School girls basketball and volleyball team has not lost a game in 11 months and is working for its second State volleyball championship.

The key to the success of this team does not rest with just one or two players. Instead it evolves from a team effort. "They play so well together," remarked an opposing coach, "that's what makes them so good, that players complement one another."

All of the Shawano players would be stars if they did not play together on the same team. Christi Burden, Wendy Jung, Deb Sazama, Melanie Shively, and Lora and Karan Schmeichel are all outstanding athletes. The fact that they all play for the same team is astounding.

The girls basketball coach, Dean Martin, and their volleyball coach, Matty Mathison, agree that they have never seen such talent assembled onto one team before. They are quick to point out, however, that talent alone cannot guarantee an unbeaten season. It will take hard work and a complete team effort.

I would like to congratulate the Shawano girls team for their outstanding achievements in the last two seasons. The memories that they take away from these games will always remind them of their great accomplishments. I wish them the best of luck for the rest of the season.

[From the Green Bay Press Gazette, Jan. 25, 1989]

Shawano Girls Preside Over Courts—Six Player Nucleus Unbeaten in Volleyball, Basketball This Year

(By Kevin Isaacson)

Asked when Shawano last lost a girls basketball or volleyball game, Christi Burden is puzzled.

"I guess I don't really remember," said Burden. "It's sometime last year, I guess."

Forgive her. It's been awhile—nearly 11 months—since the Indians lost 63-59 to Antigo in a Class A girls basketball regional tournament game.

Since then, Shawano has:

Finished the Bay Conference season unbeaten in 18 volleyball matches and gone on to win the Class A state volleyball championship.

Defeated its first 14 basketball opponents, including a 102-51 victory over Clintonville on Tuesday.

"They are the most talented girls that I've ever coached," said volleyball coach Matty Mathison. I've never, ever had that many aggresive girls at one time."

Burden and five classmates—Wendy Jung, Deb Sazama, Melanie Shively and twins Karen and Lora Schmeichel—form the nucleus of the basketball and volleyball teams that have compiled records of 33-3 and 35-1, respectively, the past two seasons.

"With these girls, we can have a bad outing and still win," said basketball coach Dean Martin.

Burden, a four-year starter in both sports, is unquestionably the Indians' standout. An all-state selection in volleyball, Burden is averaging 17 points per basketball game. She has accepted a basketball scholarship to the University of Wisconsin-Green Bay.

"One-on-one, nobody's going to stop her," said Gene Spindler, Seymour's basketball coach.

But Spindler and other area coaches say Shawano's success stems from a lack of dependence on Burden not present in her first three varsity seasons.

"They play so well together," said West De Pere Coach Jerry Draves. "That's what makes them so good, that the players complement one another."

Few teams in Bay history, said Draves, have fielded a front line with talent rivaling Shawano's 5-foot-9 Burden, 5-10 Sazama and 6-0 Jung. Martin, in his first year as Shawano coach, believes that talent, coupled with other players' willingness to play supplemental roles, has kept Shawano unbeaten.

"We have some players that stand out, but they all have things they do well," said Martin. "We have a lot of good role players."

Role players? Most state coaches would feel fortunate to field just a smidgen of Shawano's senior stockpile, said Penny Gillespie, volleyball coach at Seymour.

"A school can have a Sazama or a Burden," said Gillespie. "But to have all those players at one school at one time, that's really unique."

The breadth and diversity of talent allowed Mathison to toy with lineups and game plans.

Said Mathison: "If they could stop Burden, then we'd go to Wendy Jung. Or to Deb (Sazama). We always had another option."

Martin has the same flexibility.

If Burden is double-teamed, Shawano can work the basketball to Jung (18 ppg), Sazama (12 ppg) or three-point threats Lora Schmeichel and Heidi Thaves.

If Martin needs rebounding? The 6-foot Jung averages 12, Sazama and Burden each average seven and sophomore Carey Koeller might be the team's best leaper.

What about quickness? A halfcourt trap keyed by Burden and the Schmeichel twins is difficult to beat. And reserves Shively and senior Nicky Bowman, a transfer from Gresham, and state-level sprinters.

"They complement each other so well," said Draves. "When you can bring players like Bowman and Thaves off the bench, you have a good team."

Said Spindler: "How can you beat them? Good luck. When they've got all their pistons going at full tilt, I don't know if it's possible."

No one beat Shawano in volleyball though Kaukauna came incredibly close. The Ghosts won the opener of the best-of-three Class A title match and led 13-0 in the second game. Shawano scored 15 consecutive points to win the second game 15-13, then took the decisive game 15-3.

"They had pretty much conceded. Even their coach (Mathison) has admitted she was preparing to finish second in the state," said Gillespie. "I think that 'brush with death' game them a new outlook."

The near-defeat in state volleyball. Gillespie said, helped Shawano skirt a post-tournament letdown, generating instead renewed competitive spirit.

"It might have shown them how close to being mortal they are," said Gillespie. "At one time they might have been getting used to winning, but I don't think they take it for granted anymore."

Martin said the volleyball campaign taught his players to handle pressure and others' expectations. He said the Indians' current No. 3 ranking in the state Class A coaches poll isn't discussed, and isn't a problem.

"A lot of teams . . . a high ranking would bother them," said Martin. "These kids are kind of used to being on top."

Martin won't predict an unbeaten season or a second state championship, but says he'd like to coach against Hartland Arrowhead, the top-ranked public school, in the WIAA Class A state tournament in March. No Shawano girls basketball team has played in a sectional or state tournament game.

"We'd like to be there," said Martin. "But we have a lot of teams to play to get there."

Shawano has been tested just twice—by Seymour (62-59) and Green Bay Southwest (55-50)—but Martin, Draves and Spindler agree an opponent with a dominating center and quick guards could defeat the Indians.

"They haven't been in many close games this season. Can they respond if a big girl neutralizes Wendy Jung? What happens if they get in foul trouble? said Draves.

Jung has an answer.

"There's something in us that kicks in when we're down. It kicks in, and the next thing you know, we're winning," she said. "It won't let us lose."

STUDENT LOAN INTEREST

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. WOLPE. Mr. Speaker, today I am introducing legislation to correct a tremendous error in the Tax Reform Act of 1986. By classifying student loan interest as consumer rather than investment interest, the Tax Reform Act made student loan interest nontax deductible. Education our youth is the purest form of investing in the future of our country. My legislation reinforces this principle by making student loan interest tax deductible.

Escalating education costs place an enormous financial burden on our students. Graduate students in particular may incur debts so large that their initial payments on loans consist mainly of interest. Allowing a tax deduction of this interest could actually be a matter of economic survival for several higher education graduates; 255 of my colleages sponsored this legislation in the 100th Congress.

Mr. Speaker, deducting student loan interest is a step in the right direction for our Nation's students.

INTRODUCTION OF THE AIRCRAFT NOISE REDUCTION ACT OF 1989

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mrs. ROUKEMA. Mr. Speaker, I have introduced the Aircraft Noise Reduction Act. For nearly 2 years now, my constituents and others in New Jersey have been plagued by the roar of aircraft noise due to an ill-conceived plan drafted and implemented by the Federal Aviation Administration [FAA].

In 1987 and 1988, the FAA implemented the Expanded East Coast Plan [EECP], which was designed to reduce delays at east coast airports by creating additional "highways in the sky." While the goal of the plan was an admirable one, execution of the EECP sparked waves of complaints from residents of northern, western, and central New Jersey about increased noise levels from aircraft. Unfortunately, the FAA implemented the plan without public hearings and without sufficient study with regard to its short-term and long-term environmental effects. Simply, the FAA is guilty of a lack of coordination, communication, and cooperation, which, as we all know, is integral to good public policy.

Comprehensive reports by the Port Authority of New York and New Jersey and the General Accounting Office [GAO] sustaintiate the thousands of citizens complaints. Despite this and repeated promises to the New Jersey congressional delegation, the FAA has refused to take meaningful and substantive action to mitigate the noise pollution problem in New Jersey. Therefore, the time has come for Congress to force the FAA to do what it has claimed for months it would do administratively.

My legislation would require the FAA to implement a comprehensive aircraft noise reduction plan for New Jersey. It would also require the FAA to execute a plan with the Department of Defense on rerouting civilian aircraft to unused military airspace off of the New Jersey coast.

I would like to stress, however, that my bill is not only of interest to New Jersey; rather, it is national in scope. My bill will help protect States in the Midwest and the West from the mistakes the FAA made with the EECP. As many of you know, the FAA is planning a "Mid-Continent Plan" and "West Coast Plan". Therefore, my bill would require the FAA to conduct environmental impact statements in both instances. It would also require the FAA to hold a series of public hearings prior and subsequent to implementation of these plans. These provisions will serve to prepare these

commuities in advance of the proposed air route changes.

Finally, my legislation also requires the FAA to set a schedule for retiring the Nation's noisiest and oldest stage II aircraft. Many aviation experts agree that the FAA has been dilatory in developing and executing this much-needed policy. My bill requires the FAA to establish a stage II retirement timetable and to explore financial incentives for the airlines to beat the mandated deadline. This section of the bill will also benefit New Jersey and all the States.

I invite all my colleagues to join several other Members of my home State delegation in cosponsoring this legislation. I am sure you will agree that this is an issue which Congress must address.

ST. JOHN'S CHURCH CELEBRATES 90 YEARS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. KANJORSKI. Mr. Speaker, I rise today to ask my colleagues to join with me in celebrating the 90th anniversary of St. John's Catholic Church in Larksville, PA.

It was early in 1898, when the Catholic families of the area began building a church—with enthusiasm and only $75 between them. They felt that once others in the area saw the structure being built, more funds would be donated. When it became apparent that the needed funds were not forthcoming, the families turned to Bishop O'Hara of Scranton for assistance. Bishop O'Hara vigorously solicited donations from local coal miners, most of whom were Polish immigrants who had settled in the Wyoming Valley region. With the help of the entire community, Bishop O'Hara raised the money needed and the church was completed.

Masses were held in December 1898 by Rev. R.A. Nowicki, the first pastor of St. John's Church. He was followed by several pastors over the years until Father Kopicki took the flock. Father Kopicki put all his heart into the task, sharing his love of music with the parishioners; soon, St. John's had a youth choir that became renowned throughout the diocese. The young pastor also decided that a parish school was needed. In June 1936, St. John's Catholic School held it first eighth grade graduation. Father Kopicki died in 1952, but his limitless energy and dedication to St. John's Church and the citizens of Larksville is still honored today.

Since 1971, Rev. John Masakowski has been the pastor of St. John's Church. Over the years, Father John has renovated the entire church from the inside out; his many efforts include the construction and dedication of the Statue of Our Lady of the Pines, which was commissioned for the parish's Diamond Jubilee celebration.

Mr. Speaker, churches act to hold our community together, providing a place of worship, understanding, and compassion. St. John's has played a central role in the lives of many Larksville residents over the last 90 years, and I can only pray that it will continue to do so for many years to come.

THE TRUTH ABOUT CRIME

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. STARK. Mr. Speaker, let's not fool ourselves: our national drug dilemma will require continual refinement of, and improvement in, our current Federal antidrug policies.

Before we know it, the 101st Congress will again be held responsible for developing yet another antidrug bill designed to end this crisis. Congress' addiction to election-year politics will not be rehabilitated anytime soon.

The encouraging news is that more Members, individuals, citizens' groups, and members of the media are beginning to call for a new direction in drug and crime reduction policies. Several recent, responsible publications and newspaper editorials have touched on some basic tenets of the relationship between drugs, guns, and related crime and have suggested realistic, constructive legislative proposals. The New York Times has offered some thoughtful editorials on this subject, including the following January 2, 1989, essay:

[From the New York Times, Jan. 2, 1989]

THE TRUTH ABOUT CRIME

A recent report from the American Bar Association contains a noteworthy confession: Criminal justice can't control crime. The A.B.A.'s appeal for more acceptance of that uncomfortable point deserves wide attention.

The recent Presidential campaign carried the crime issue to ugly extremes, like passionate support of capital punishment and exaggerated outrage over prison furloughs. The A.B.A. report demonstrates the irrelevance of such issues.

The report refers to Federal studies showing that of 34 million crimes believed committed in 1986, only a few hundred thousand resulted in prison terms. Only a few dozen involved the death penalty. The vast majority were never even reported to police. Yet courts are strained and prisons severely crowded. There is no realistic hope that more prosecution and imprisonment can ever contain crime.

Impatience with constitutional restraints on police is just as irrelevant as the debate over capital punishment or prison furloughs. The ban on improperly seized evidence and limits on interrogation—favorite bugbears of the law-and-order lobby—are factors only in the comparative handful of crimes seriously investigated.

Still, the debate over such issues persists, as if change would reduce crime. Criminal justice officials interviewed for the A.B.A. study describe this misperception as frustrating, even dangerous. The study suggests three ways to think more sensibly and, realistically about criminal justice policy:

First, coordinate forces. A big police offensive of the sort used successfully in some New York City neighborhoods might eliminate the sale of drugs in a particular neighborhood. But unless the courts and jails can afford to handle the surge of new cases, they will have to fall back on expedients—easy plea bargains, early releases—that mock justice.

Second, attack drugs on a broad basis. "While law enforcement has little effect on drug use," the report states, "drug prosecutions have had a profound effect on the criminal justice system." Drugs are often behind the surging caseloads that force courts and prisons to cheapen justice. Well beyond law enforcement, the problem involves international diplomacy, medicine, social work and education. It demands a well-coordinated national strategy.

Third, remember criminal justice's educational role. Millions absorb powerful lessons from their experiences as jurors, witnesses and crime victims. Police and the courts bear a heavy responsibility to treat them with respect. Crime victims especially need sympathy and support.

Facing a frustrated public, few officials are willing to state the truth: There is no easy way to control crime. Blaming criminal justice may distract attention, but ultimately all society suffers from the spread of confusion and false hopes.

NO JUSTICE IN EL SALVADOR

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. CROCKETT. Mr. Speaker, I want to comment to the attention of my colleagues an excellent article from the Detroit Free Press, written by Tony Rothschild, special assistant in my district office, following his recent trip to El Salvador with a delegation sponsored by the Central American Refugee Center of San Francisco. The delegation traveled to El Salvador to investigate the circumstances surrounding the September 21, 1988, massacre of seven men and three women near the town of San Sebastian, El Salvador.

Witnesses said the massacre was carried out by members of the Salvadoran Army's Fifth Brigade. Senior U.S. Embassy officers have said that there is "considerable evidence" implicating the military in the murders. As has become the norm in most murder cases in El Salvador, the judge has resigned under pressure. Even the U.S. Embassy has become so frustrated with the lack of any recognizable judicial process, that an Embassy official was recently quoted as saying that—

The San Sebastian case was such a large event involving so many people and bodies that if there has been a real will to get to the bottom of it early on, it could have been done.

Mr. Rothschild's article poses one of the questions that we must confront as we debate U.S. policy toward El Salvador: "Does our support of the Government of El Salvador further the cause of freedom?" I would argue that it has not.

Under the Administration of Justice Program, the United States has provided significant levels of assistance to the Salvadoran judiciary, including over $9 million just in the last year. But the real problem with the Salvadoran judicial system is not a lack of resources or know-how, it is a total lack of political will.

The Subcommittee on Western Hemisphere Affairs, which I have the honor to Chair, will be looking closely at the administration's request for further funding for El Salvador's judicial system during its review of the fiscal year 1990 foreign assistance programs. Progress—or lack of it—in the San Sebastian case, and

in the cases of other murdered Salvadorans and Americans, will clearly be a factor in the subcommittee's deliberations.

I have written to U.S. Ambassador William Walker, asking him to make it clear to the Salvadoran Government and the military that our aid program in El Salvador—now the fifth largest worldwide—cannot continue in the face of this blatant disregard for justice.

I hope that the Bush administration and this Congress will endorse the article's conclusion that—

We must redirect our resources toward a political settlement and provide aid for true economic reform. That is the only hope to keep El Salvador alive.

I urge my colleagues to read this important article.

[From the Detroit (MI) Free Press, Dec. 29, 1988]

SALVADORAN DEPENDENCE ON U.S. MEANS STRIFE, VIOLENCE WILL CONTINUE

(By Tony Rothschild)

The Salvadoran Army claimed it was a guerilla ambush.

El Salvador's attorney general's office has said otherwise. It has claimed that the army was responsible.

The American embassy has said it has been monitoring the situation. And the Detroit papers hardly reported the incident.

About the only thing that is clear is that on Sept. 21, 10 people were murdered in the hamlet of San Francisco.

Alarmed by an escalation of political killings in El Salvador during the last year, the Central American Refugee Center of San Francisco, Calif. (CARECEN), organized a delegation that went to El Salvador in October to investigate the deaths. The delegation included attorneys, immigrant rights workers, a nun from the Archdiocese of San Francisco, Calif., and me.

While in El Salvador, we interviewed witnesses, Salvadoran and U.S. officials, including the chief of the Fifth Brigade of El Salvador's Army, the highest-level U.S. adviser attached to the Fifth Brigade, U.S. embassy officials, the chief of the High Command of the Salvadoran armed forces and the member of the attorney general's staff in charge of the investigation.

After studying the evidence, and the various versions of the killings, we concluded that 10 peasants were executed by members of the Jiboa Battalion of the army of El Salvador, and that they were operating under orders from high-level military officials of the Fifth Brigade. We also found evidence of a cover-up at the top of the High Command of the armed forces.

These are grave conclusions, but they rest on the results of the forensic reports that established that the peasants died from gunshot wounds to the back of the head, fired from a distance of 5 to 10 centimeters. And although, according to army officials, the peasants were flanked on all sides by the battalion, not one soldier was shot during the claimed FMLN (Farabundo Marti Liberation Front) ambush.

In what the Attorney General's Office called an attempted cover-up of the massacre, FMLN flags, guns and leaflets were found near the bodies.

And according to the Attorney General's Office, one peasant, seen wearing overalls when taken away by the army, was later found dead wearing guerilla clothing.

The Attorney General's Office has issued arrest warrants for four soldiers. Yet, it has not interviewed nor is it pointing a finger of responsibility at any commanding officers. There is little hope for justice: After eight years of reports, not one officer has been convicted in connection with the murder of civilians.

The U.S. Embassy has downplayed the massacre, possibly because it has the potential of angering Congress and threatening funding for the Reagan-Bush policy of trying to win the war—a policy that, after eight years, has, by all accounts, failed. Nonetheless, U.S. tax dollars pour into El Salvador while the country sinks deeper and deeper into poverty and despair.

Why should the Detroit papers be expected to keep the public informed of another atrocity in El Salvador? The United States sends El Salvador more than $1 million per day to fund the war (more per capita than any other country except Israel). That should raise the average taxpayer's eyebrows. There is, however, a far more compelling reason.

During my two visits to El Salvador, I have discovered that U.S. influence is so widespread and U.S. citizens have become such an integral part of the civil war that they are risking their lives everyday. The Maryknoll nuns murdered by the army and the American advisers who were shot by the guerillas during the early 1980's are testimony to our involvement. Of course these deaths received widespread coverage; what does not get widespread coverage are the thousands of Salvadoran deaths that become our responsibility—including the recent massacre in San Francisco.

How are we responsible? Most of what we give in aid pays for the bills of the government—advisers for the military and weapons for war. We have created a total dependence on United States assistance.

Salvadoran dependency on the United States is resented in the same way an addict resents drugs. An addict knows that drugs are bad but takes them to survive. Yet it is a survival that slowly destroys.

The wealthy Salvadoran landowners are dependent. They could not remain in power without millions of dollars of military equipment and training. Every battalion has American advisers who help plan day-to-day operations.

The right-wing ARENA (National Republican Alliance) Party is dependent. ARENA, known as the party of the death squad, played on anti-U.S. sentiment to win the March elections against the U.S.-backed Christian Democratic Party. Yet, to keep the money, advisers and weapons coming, ARENA depends on the U.S. Embassy to smooth over its death-squad image, to sell the need for future aid to Congress.

Does our support of the government of El Salvador further the cause of freedom?

Hardly. Any Salvadoran citizen who criticizes the government puts his or her life in danger. U.S. officials have been unable or unwilling to stop the thousands of killings by the military and right-wing death squads.

As a result, these Salvadorans—particularly the refugees returning to their villages and the countryside in recent months—are dependent on a vast network of Americans opposed to U.S. policy for protection.

Returning refugees would not succeed in rebuilding their communities without American and other international volunteers living in their villages, serving as witnesses to any kidnappings or other human rights violations and reporting them to Congress.

At the same time, the non-governmental Human Rights Commission in El Salvador, which has lost two directors to assassination, could not continue without U.S. volunteers living and working in the commission offices.

The families of those massacred on Sept. 21 are dependent on U.S. delegations, like ours, to investigate. We hope our report will help bring those responsible to justice

El Salvador is addicted to, and dying from, the Reagan-Bush Central America policy. While American non-governmental volunteers from the United States have been trying to break the Salvadoran addiction to U.S.-supported violence, we must redirect our resources toward a political settlement and provide aid for true economic reform. We must all "just say no" to the civil war. That is the only hope to keep El Salvador alive.

TRIBUTE TO EDWARD SMITH

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. BORSKI. Mr. Speaker, I rise today to pay tribute to Edward Smith, a long-time Democratic activist.

Ed Smith has been a Democratic committeeman in the 33d ward in northeast Philadelphia for 35 years. It is this kind of loyalty that has made the Democratic Party a force to be reckoned with in the Northeast for decades.

Life-long residents of Philadelphia, Ed Smith and his wife Agness have a daughter, three grandchildren and two great-grandchildren. Ed is also a member of Machinists Local 159.

Over the years, Ed Smith has put in countless hours working for his neighborhood, his party and his country. I am proud to share the same party affiliation with this man.

I join Bill Stinson, 33d ward leader, and everyone in the 33d ward in paying tribute to Ed Smith's 35 years of hard work and dedication as Democratic committeeman.

CONGRESSIONAL SALARY ACT OF 1989

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. SKAGGS. Mr. Speaker, today, Mr. BEN NIGHTHORSE CAMPBELL, Mr. BILL EMERSON, Mr. WAYNE OWENS, Mr. HOWARD C. NIELSON, Mr. GEORGE J. HOCHBRUECKNER, Mr. WILLIAM J. HUGHES, Mr. MARTIN LANCASTER, and I are introducing legislation that would reestablish the responsibility of Congress to set its salaries.

Under current law, Members of Congress can have their salaries raised without a vote. The public will never understand or accept a system where Congress does not deal directly and responsibly with the issue of its own salaries. The controversy surrounding implementation of the Quadrennial Commission's recent recommendation underscores the need for reform of our current system.

The legislation that we are introducing today—the Congressional Salary Act of

1989—would make two important changes in this system. First, this bill would require a separate, recorded vote on any change in pay for Members of Congress. This would preclude a salary increase without a vote, as can now occur. Second, this bill provides that any increase in congressional pay take effect only after the succeeding general election. No one would be put in the self-serving position of voting on an immediate raise. Instead, with any change in compensation taking effect after an intervening election, the votes could evaluate all candidates in light of the salary to be paid in the new Congress.

To keep the people's trust in Congress and in our system of government, we must make decisions in an open and respectable manner. The changes we are proposing would ensure this and would let the people hold us accountable for the decisions we make.

THE JOE HOOPER MEMORIAL BILL

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. CHANDLER. Mr. Speaker, I rise today to introduce a bill to name the alcohol and substance abuse treatment wing of the Seattle Veterans' Administration Medical Center after Joe Hooper.

As a staff sergeant during the Vietnam war, Hooper became the most decorated soldier in United States history.

He was awarded the Medal of Honor for rescuing wounded men in the face of heavy machinegun fire, and neutralizing a North Vietnamese position singlehandedly. He then refused medical attention for his own wounds until all of his men were treated.

Tragically, Joe Hooper died 10 years later from a much more elusive and persistent enemy—alcoholism.

Naming the alcohol and substance abuse treatment wing of the VA medical center after Hooper not only memorializes him, it sends a strong message to those seeking treatment for this deadly disease.

NEGOTIATED RULEMAKING ACT OF 1989

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. PEASE. Mr. Speaker, today I am introducing the Negotiated Rule Making Act of 1989, a bill which is aimed at providing an alternative to the present adversarial rule making process employed in Federal agencies. Presently, rules promulgated by agencies of the Federal Government are often the subject of protracted litigation. These court battles tend to be time-consuming, costly affairs that are often unnecessary. In certain cases, the process of rule making can be accomplished more fairly and efficiently through direct negotiations between the various interested parties.

My bill would establish an optional procedure through which interested parties could negotiate a compromise rule. Under this procedure, an agency would publish a notice in the Federal Register signaling its interest in establishing a negotiated rule making committee. Interested persons would have at least 30 days to comment and to apply for membership on the committee. If the agency then determines that rule making through negotiation is feasible and appropriate, it will establish a committee comprised of representatives of each interested party. The committee would then be responsible for negotiating a rule that is acceptable to all parties within a fixed period. The services of a facilitator may be employed.

Five hundred thousand dollars are authorized to be appropriated annually for fiscal years 1990–92. Funds may be used to cover the costs of facilitators, administrative expenses, and compensation and travel expenses for committee members whose membership on the committee is necessary and who certify a need for financial assistance.

Senator LEVIN, chairman of the Governmental Affairs Subcommittee on Oversight of Government Management, has introduced identical legislation in the Senate. I invite my colleagues to cosponsor the bill that I am introducing in the House.

A TRIBUTE TO LOU HOLTZ

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. APPLEGATE. Mr. Speaker, it is indeed a distinct privilege and pleasure to bring to your attention and that of my colleagues in the House of Representatives, a very special occasion in the Upper Ohio Valley this Saturday, February 4, 1989. It is on that day that the Nation's premier college football coach, Lou Holtz, of Notre Dame, comes home to be honored by his many, many friends and admirers in East Liverpool, OH, for his outstanding list of accomplishments, not the least of which is winning the 1988 national college football championship.

Born in Follansbee, WV, on January 6, 1937, just across the Ohio River from my congressional district, Lou's family soon moved to East Liverpool where he spent his childhood days. He attended St. Aloysius Grade School and East Liverpool High School where he played football. While he may not have been the best player, he had more enthusiasm and heart than anyone, an attribute that continues today. He is a graduate of Kent State University and the University of Iowa.

Lou's first coaching assignment came in 1960 as an assistant coach at the University of Iowa. It wasn't long before his leadership skills and indepth football knowledge was recognized and was awarded a head coaching position at the college of William and Mary in 1969. He went on to be the head coach of North Carolina State, the New York Jets professional football team, the University of Arkansas, and finally the University of Minnesota, before realizing a life long dream of coaching the Notre Dame Fighting Irish.

Coach Holtz's record of 141 wins, 75 losses and 5 ties has earned him Coach of the Year honors on more than one occasion by a whole host of associations, not the least of which is Football News, CBS Sports, the Washington, DC Touchdown Club, the Football Writers Association of America and the Walter Camp Foundation. His teams have played 14 post season bowl games and won 7 of them. Two were ties.

But even more important than his outstanding list of accomplishments and achievements which is well known to many, is the impact he has had on so many, many football players and fans alike. He is recognized for his drive, determination, and dedication, but he has been able to relay this to his players and they are better people for having played for him.

Mr. Speaker, I know that I carry with me the congratulations of all of my colleagues in the House in congratulating Lou Holtz, one of this country's all time great football coaches.

IN HONOR OF A UNIQUE PUBLIC SERVANT—ERV RENNER

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. BOSCO. Mr. Speaker, I rise today to pay tribute to a very special man and a unique public servant, Erv Renner of Ferndale, CA. I urge my colleagues to join me in paying tribute to this selfless and dedicated American.

Ervin C. Renner is retiring in January 1989 as a Humboldt Country Supervisor. Mr. Renner has served the people of Humboldt County for the past 16 years, and he served as the county's Veterans' Service Officer-Public Guardian for 16 years prior to that.

Additionally, he served his country in World War II, and returned home a double-amputee from injuries he received in the Battle of the Bulge.

Mr. Renner's dedication to his fellow man and to his country began as a young Army recruit and has continued for many decades. The seriousness of his war injuries at no time has stopped him from giving 100 percent of himself to his family, community, and country.

Mr. Speaker, I will join Erv and his friends and family for a special celebration of his service to the community on February 4. I understand that Erv has already heard from President Reagan and President Bush on the occasion. It will be my honor to relay to Erv Renner the appreciation and the best wishes of this body.

NASHVILLE ISRAEL BOND TESTIMONIAL DINNER TO NOAH LIFF

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. CLEMENT. Mr. Speaker, I am proud to join the Nashville State of Israel Bonds Com-

mittee in paying tribute to Noah Liff, a distinguished member of our Nashville community.

At a dinner last November, the committee presented Noah with the Israel 40th Anniversary Award Medal for his longtime service to a wide variety of civic, cultural, and professional organizations in Nashville and for his support and leadership of the Israel bond campaign in Nashville.

Noah is probably best known in our community as the chairman of the WLPN Educational Foundation. In years past, however, he has also served as chairman of the Metro Action Commission, vice president of Circle Theatre, vice president of Theatre Nashville, and has served on the boards of Advent Theatre and the W.O. Smith School of Music.

During these years, he also was district chairman, of the development program of the Boy Scouts of America, a board member of the Nashville Area Chamber of Commerce, and an original founder of the YWCA's Shelter for Domestic Violence. He is also a founder of the YWCA's Displaced Homemaker Program. In 1986 he was a member of Leadership Nashville and currently serves on its alumni board.

Noah has served in several positions of national prominence. From 1978 to 1980, Noah was national president of the Institute of Scrap Iron and Steel and also served at that time on the Industry Advisory Board for the U.S. Chamber of Commerce.

On several occasions, he has headed the Israel bond campaign in Nashville and has served as campaign chairman for the United Jewish Appeal, both in Nashville and in Santa Barbara, CA. He has served on the Board of the Jewish Federation in Nashville and this past year served as chairman of the Israel Tennis Center for Nashville.

Noah is currently serving on the Board of the Easter Seal Society of Tennessee and is a life member of the Canby Robinson Society, as well as the Alexis deTocqueville Society of Nashville.

Mr. Speaker, as you can see, Noah's service to the community is extensive. It reflects his true love for Nashville and her citizens. It also reflects his interest in world affairs and his commitment to working toward peace in the Middle East.

I am proud to join Noah's friends and family and the State of Israel Bonds Committee in saluting him.

UKRAINIAN DECLARATION OF INDEPENDENCE

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. RHODES. Mr. Speaker, I rise today to commemorate the 71st anniversary of the Declaration of Independence for all Ukrainian people by the Ukrainian Central Rada on January 22, 1918. I cannot stress how important this event is in the context of past and present events, especially: the establishment of the first Christian Church in Eastern Europe in Kievan Rus', or present-day Kiev in the Ukraine; the struggle to overcome the Mongol invasion of the Ukraine in the 13th century; the forcible partition of the Ukraine between Russia and Poland in the 17th century; the seizing of the Ukraine by the Bolsheviks following the Revolution; most terrifying and tragic of all, the forced collectivization and starving to death of 7 million Ukrainian men, women, and children during the 1930's under the rule of Stalin; and presently, the domination and attempts at cultural "Russification" by the U.S.S.R.

The Ukrainian people have, throughout their history of domination, kept alive their dreams of freedom. They have held the spirit of Christianity within their souls for a millennium, culminating in the celebration last year of 1,000 years of Christianity in the U.S.S.R.

Today, they are denied the hope and promise of General Secretary Gorbachev's glasnost and perestroika reforms. While some small semblance of national patriotism is reluctantly tolerated in the Baltics and Transcaucasus; for example, Latvia and Estonia, the Soviet Government knows full well how important the fertile lands of the Ukraine are to the nation, especially during their current economic difficulties. Just as fearful to the Kremlin are the political implications of 50 million nationalists being allowed any room to speak out and voice their concerns to the world.

As the Washington Post stated in its front page story this past Sunday, January 22, the U.S.S.R. could never survive without the Ukraine. Indeed, Lenin said in 1918: "For us to lose the Ukraine would be the same as losing our head." These words echo even now over the vast heartland of the Ukraine, where its people yearn for the most rudimentary signs of sovereignty.

Mr. Speaker, it means so much to those who have struggled for innumerable generations against external oppression to know that this august body supports their basic right to the freedoms and liberties we enjoy here at home. To those Ukrainians now watching and waiting for the world's response to their plea for recognition; to those Ukrainian-Americans throughout the country and at home in Congressional District 1, which I represent; to all who look to this great Nation as an example of the fulfillment of the dreams of freedom and liberty, I urge my colleagues to join me this day in recognition of the Ukrainian peoples' struggle and in affirmation of our expectations that the promise of glasnost and the reforms of perestroika be extended to those in need of it most.

MS. ADEL M. MARTINEZ, OF LOS ANGELES, RECEIVES THE COMMUNITY SERVICE AWARD OF 1988

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1989

Mr. DIXON. Mr. Speaker, it is with great admiration and praise that I rise today to congratulate Ms. Adel M. Martinez who is receiving the Community Service Award of 1988 from the Neighborhood Youth Association [NYA] of Los Angeles. Ms. Martinez' compassion and unyielding devotion to assisting at-risk families in our communities stands as a true inspiration to us all. While other caring, determined individuals have become frustrated and have abandoned their struggle against escalating levels of narcotic use, gang violence, and crime in our cities, Ms. Martinez has genuinely dedicated her life to social change. Thousands of people are able to lead quality, hopeful lives thanks to the work of this exceptional woman.

As executive director of the NYA since 1974, Ms. Martinez has led her coworkers in helping children, adolescents, and adults, particularly from low-income areas, to reject the lifestyle that surrounds them daily. The NYA has replaced these negative influences with counseling, education, social support, job training, and even job placement.

Under her leadership, the NYA was honored as the Outstanding Social Work Agency of the Year by the California Chapter of the National Association of Social Work and has received commendations from the City Council of Los Angeles and the United Way, for creative and innovative programming for high-risk youth.

Ms. Martinez, a native of Chicago, developed an interest in social service at George Williams College in Illinois where she received a bachelor's degree in community organization and group work education. She subsequently worked at the Mary McDowell Settlement House, and at the Trumbull Park Community Center. She moved to Los Angeles in 1964 and became an organizer for community development programs in Watts and East Los Angeles. After obtaining a master's degree in social work from UCLA in 1972, she became the west area director for the NYA, and then was promoted to the position of executive director. Ms. Martinez has served as cochairperson of the Trabajadores de la Raza, the West Area Latino Consortium, and the Southern California Women's Substance Abuse Task Force. She is an active member of the National Association of Social Workers [NASW], chaired the NASW national committee on minority affairs from 1978 to 1981 and served as the treasurer from 1981 to 1983.

Ms. Martinez has received a multitude of honors and awards throughout her career. Her most recent honors include the Humanitarian Award from the Human Relations Commission of Los Angeles, for her work among hardcore delinquents, and troubled youth in the Venice/West Los Angeles and Harbor District areas; and the Social Work Award from the Los Angeles Chapter of the Trabajadores de la Raza for her contributions to the Chicano/Latino community.

Today's award, the Community Service Award of 1988, stands as further acknowledgment of Ms. Martinez' unyielding compassion, caring, and dedication to helping others. Congratulations Ms. Martinez. May we celebrate your accomplishments for years to come.